



AGENDA  
Jefferson County Planning Commission  
Tuesday, August 8, 2017, 7:00 PM

Planning Commission meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street in the City of Charles Town.

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**All Citizens that desire to speak must sign-in prior to the Agenda Item being addressed.**

1. Approval of Meeting minutes:
  - July 11, 2017.
2. Citizen Communications: If you wish to comment, please sign-in to speak for issues that are not on the agenda or items that are not open for public comment. Items not open for public comment will be so noted.
3. Request for postponement.

**There is no public comment for the following items.**

4. **Review and Discussion** by the Planning Commission on the Public Hearing for the proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA 16-02. The text amendment, in accordance with WV Code §8A-7-13 proposes revisions and additions to multiple sections of the Zoning Ordinance including Section 2.2, Terms Defined; Section 3.4 Boards and Commissions; Section 4.6, Distance requirements; Section 4.14 Historic Preservation; Section 5.10, Village (V) District; Section 8.19, Adaptive Reuse of Historic Structures; Section 10.4, Signs Requiring a Zoning Permit and Appendix C: Principal Permitted and Conditional Uses Table.
5. **Review and Approval** of the Planning Commission's FY 2017 Annual Report to the County Commission per WV Code §8A-2-11. The Planning Commission is required by State Code to make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction.
  - a) Approval of Annual Report of Planning Commission, Board of Zoning Appeals and Office of Planning and Zoning staff activities during FY2017, including graphic depicting FY15-FY17 activities
  - b) Presentation of a summary of the status of the implementation of the recommendations of *Envision Jefferson 2035 Comprehensive Plan* to the Planning Commission for inclusion with the Planning Commission's Annual Report to the County Commission
  - c) Response to request by the County Commission for the Planning Commission to initiate a draft development of standards for the Shepherdstown Route 45 Corridor Special Design Area.
6. Planning Commissioner Training Video  
Video (to be determined. 50 minutes) to meet a portion of training hours recommended by the County Commission (tentative).

7. Reports from Legal Counsel and legal advice to the Planning Commission.

a) Active Litigation:

- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031.

8. Planners Memo

Overview of the Roundtable meeting held on July 25, 2017 at 3:00 PM by County Staff to discuss with Engineers, Surveyors and Consultants the draft Amendments to the Jefferson County Subdivision Regulations. Topics included Boundary Line Adjustments, Family Transfers and the Final Plat checklist.

9. President's Report.

10. Actionable Correspondence.

11. Non-Actionable Correspondence.

- 2017-07-26, Cindy Jo Feeser RE: ZTA16-02

All files are made available for public review Monday through Friday, 9:00 AM to 5:00 PM (excluding Holidays). The Planning Commission welcomes written comments at any time. Submitting a document no later than the Thursday before a scheduled meeting will provide the Commission an advanced opportunity to review your comments prior to the meeting. Please note that documentation and exhibits submitted at a Planning Commission meeting are retained as part of the official record. Feel free to submit your comments to Office of Planning and Zoning.

Any party desiring a transcript of these proceedings will be responsible for providing a competent stenographer at their own expense. Minutes, video and/or audio recordings of past meetings, the Jefferson County Subdivision Regulations, Zoning Ordinance, and Comprehensive Plan, as well as any working proposed amendments are located on the Departments page within the County's website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). Minutes and audio recordings of older meetings that are not on the County's website are available for review in the office.

Draft

Jefferson County Planning Commission  
July 11, 2017

The Jefferson County Planning Commission met on July 11, 2017 with the following Commission members present: Steve Stolipher, Vice President; New Planning Commission Member, Jack Hefestay, Wade Louthan, Gene Taylor, Secretary; Peter Onoszko, Ron Thomas and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, Assistant Prosecuting Attorney; Alex Beaulieu, Zoning Administrator and Rhonda Greenholtz, Planning Clerk

Mr. Donnie Fisher and Mr. J Ware were absent with prior notification.

Mr. Steve Stolipher presided over the meeting in the absence of Mr. Fisher. He called the meeting to order at 7:00 PM.

An introduction of new Planning Commission Mr. Jack Hefetsay was made. Mr. Hefestay replaced Mr. Gary Phalen seat on the Board.

1. Approval of the minutes from the following Planning Commission Meeting  
June 13, 2017. The minutes were approved with no objections.
2. Citizen Communications. None.
3. Request for postponement. None.
4. **Public Hearing:** Public Hearing on the proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA 16-02. The text amendment, in accordance with WV Code §8A-7-13 proposes revisions and additions to multiple sections of the Zoning Ordinance including Section 2.2, Terms Defined; Section 3.4 Boards and Commissions; Section 4.6, Distance requirements; Section 4.14 Historic Preservation; Section 5.10, Village (V) District; Section 8.19, Adaptive Reuse of Historic Structures; Section 10.4, Signs Requiring a Zoning Permit and Appendix C: Principal Permitted and Conditional Uses Table.

Mr. Stolipher provided an overview of the process and procedures for text amendments. This amendment was prepared in cooperation with the Jefferson County Historic Landmarks Commission (JCHLC) and the Jefferson County Zoning Administrator. At their June meeting, the Planning Commission voted to send the draft directly to a Public Hearing.

Mr. Martin Burke with the JCHLC and Ms. Alex Beaulieu, presented the text amendment.

Mr. Stolipher opened the floor to public comment.

Ms. Cynthia Rider voiced concerns that if her property is designated as a core battlefield she would not be able to create 2 homesteads on her property and would not be able to protect wildlife.

Mr. Mike Boltz, Co-Owner of Far Away Farms, LLC spoke in opposition of the proposed text amendment because it would limit the development of his land.

Mr. Mark Dyck, Gordon, Civil Engineers. Mr. Dyck stated that while he appreciates the direction of historic preservation in Jefferson County, he believes that this Ordinance is a huge taking on the land owners in Jefferson County and offered the following comments:

- A map identifying the location of the Category I and Category II facilities as well as battlefields should be included in the Amendment.
- Landowners need to be aware of the new restricted protection areas that will prevent them from doing what historically they could do on their property and they need to be aware of these changes.
- Battlefield locations should be defined on a map.
- The JCHLC has the sole authority to designate the Class I and Class II Category areas. The County Commission and the Planning Commission have no authority over the JCHLC. However well-intentioned they are, they have no oversight making it difficult for property owners to maintain their rights.
- Definitions added appear to be more narrative in form and not needed.
- Property owners should receive notification on new restriction to their properties.
- This Ordinance appears to make it more difficult for adaptive reuse.

Mr. Dyck will be providing written comments to the Planning Commission after this meeting.

Mr. Stolipher closed the floor to public comment and stated that public comment would remain open for two weeks.

5. **Public Hearing:** Request by applicant Roderick Planes, LLC / Aspen Greens Phase IIB (File #PCV17-01) to be represented by Gates Associated, Inc. for a variance from Article 6, Section 6.3 of the 1979 Jefferson County Subdivision Ordinance which requires a public hearing within 24 months of the previous phase. The applicant is requesting a 36-month extension from June 9, 2017 to June 10, 2020, to advance through the Final Plat public hearing for this development. Property location: Northeast of the intersection of Old Country Club Road with Flowing Springs Road. The property is designated as Tax District: Charles Town (02); Tax Map: 4; Parcel: 19; Size: 110.71 acres; CUP approved for 203 lots total; Zoned: Rural (R).

Ms. Jennifer Brockman provided some background on the project for the new Planning Commission members. She explained that this project had not received Preliminary Plat approval at the time that Senate Bill 595 went into effect and therefore did not qualify to receive this extension. This is the only project that did not qualify for this extension.

Mr. Fred Gates, Representative for the applicant, and applicant, Mr. Maurice Gladhill were present. Mr. Gates spoke that the project is continuing to be held up due to the economy and lack of available utilities. Major improvements have been made to Old Country Club and Flowing Springs Roads where the project is located.

Mr. Stolipher opened the floor to Public Comment.

No Public Comment was made.

Mr. Gene Taylor made a motion to approve the extension until June 10, 2020. Mr. Ron Thomas seconded the motion. A vote was taken, which passed unanimously.

6. **Public Hearing:** Request by applicant Family Adventure Resort, LLC. (File#PCW17-03) to be represented by P.J. Raco Consulting, LLC, for a waiver from Appendix B, Table 2.2-1, Roadway Design Standards requiring a 9% maximum road grade for Non-Residential/Industrial & Commercial Streets to allow an increased slope from Alstadts Hill Road to the Clarion Hotel (formerly Cliffside) provided the WVDOH approves the connection. The applicant is also requesting a waiver from Appendix B, Section 2.5.I, Off-Street Parking Standards requiring parking area access driveways and entrances leading from the public road or subdivision street, and also the parking area internal access drives connecting physically separated parking bays, to not exceed an 8% grade. The applicant is only citing this section in the event the road would be classified as an internal access road. The property is designated as Tax District: Harpers Ferry (04); Tax Map: 9; Parcel: 66; Size: 13.95 acres; Zoned: Residential-Light Industrial-Commercial (R-LI-C).

Mr. Paul Raco, PJ Raco Consulting, Representative for Family Adventure Resort, LLC presented the request. He stated that the purpose of the request is to allow the creation of a connection from Aldstadts Hill Road to the site of the new Harpers Ferry Clarion Hotel. This road will not provide direct access to or from WV Route 340. Most of the road is inside the WVDOH right-of-way. Mr. Raco stated that through a discussion with the Engineering Department, a waiver was not necessary as the WVDOH will be approving the entrance permit for this location. The main objective of this connection is to allow River Riders' patrons to be able to have internal access points to the Clarion Hotel without having to exit or enter via Route 340.

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Mr. Jonathan Saunders, County Engineer, presented the Engineering Staff report which recommended granting the waiver request with the condition that the maximum slope be limited to 10%.

Mr. Stolipher opened the floor to Public Comment, no Public Comment was made.

Mr. Stolipher closed the floor to Public Comment.

Mr. Peter Onoszko made a motion to approve the waiver as presented contingent upon receiving WVDOH approval. Mr. Wade Louthan seconded the motion, which carried unanimously.

7. Request by staff for Planning Commission decision as to whether a Final Plat for the Stickel Minor Subdivision, which was approved by the Planning Commission on August 22, 1989 but never recorded, is still valid under the 1979 Subdivision Ordinance or if the current property owner would need to process under the current Subdivision Regulations currently in effect. The property is designated as Tax District: Charles Town (02); Tax Map: 14; Parcel: 4.9 and 4.12. Size: Parcel 4.9 contains 8.048 acres and Parcel 4.12 contains 5.089 acres; Zoned: Rural (R).

Mr. Samuel Byrer, Attorney and Mr. Rusty Morgan, Property Owner, were present to address the Planning Commission. Ms. Beaulieu provided an overview of the request and stated that Mr. Byrer originally contacted the Office of Planning and Zoning when his client, Mr. Morgan, approached him about selling one of his lots. Mr. Byrer was unable to locate the subdivision plat in the courthouse. Staff reviewed the subdivision file (#89-31) and noted that the original plat, which was reviewed under the 1979 Subdivision Ordinance, as amended, received approval by the Planning Commission on August 22, 1989 and approval from the Director of Planning on February 21, 1990. Ms. Beaulieu stated that Mr. Byrer was able to provide documentation that the parcels had been taxed as two legal lots since 1992. She noted that under the 1979 Subdivision Ordinance, final plats were required to be recorded within 90 days of approval. She concluded that either the plat was never recorded or perhaps the plat was indexed incorrectly.

Ms. Beaulieu requested that because the 90 day timeframe expired, the Planning Commission determine whether or not the original approvals under the 1979 Subdivision Ordinance, as amended were still valid or if the property owner would need to submit a subdivision plat under the current Subdivision Regulations. Ms. Beaulieu also noted for the record that Staff identified a few minor errors on the plat. She also stated that it appeared the surveyor's signature was a copy and recommended that should the Planning Commission determine the original approvals to be valid, that the surveyor, Mr. Michael Shepp, sign the plat with an original signature.

Mr. Steve Stolipher made a motion that the referenced Minor Subdivision was legal under the 1979 Subdivision Ordinance, as amended and could be recorded under the original approvals. Mr. Ray Bruning seconded the motion, which carried unanimously.

8. Staff request for clarification on the revised cluster provision in Section 5.7D.2 of the Zoning Ordinance amended March 16, 2017 (discussion and possible action).

Ms. Beaulieu presented the request for clarification stating that as property owners have been trying to determine whether or not the revised provisions provide them with additional development rights, Staff realized that the amended language in the Zoning Ordinance may not be clear. Staff would like clarification from the Planning Commission as to whether the intent of the Ordinance is to calculate the 50% green space based on the acreage which existed in 1988 or if the 50% green space should be calculated based on the existing acreage at the time of application.

Discussion ensued. The Planning Commission determined that the intent of the revised cluster provision was to retain 50% of the land calculating acreage based on the total available in 1988. The Planning Commission directed Staff to draft an amendment that would allow property owners who cannot provide 50% green space another option for additional density.

9. Reports from Legal Counsel and legal advice to the Planning Commission.

- a) Active Litigation:

- Shiloh Citizens Association: Report on legal action in Supreme Court, Docket #15-1031 Possible Executive Session.

Mr. Cochran stated there are no new reports on this case.

10. Planners Memo.

- A Roundtable discussion for the proposed draft Subdivision Regulations meeting is scheduled for July 25, 2017 at 3:00 PM in the Old Charles Town Library meeting room. Planning Commission members are permitted to attend but it is not mandatory and must not result in a quorum. The first round of Amendments are for Boundary Line Adjustments, Family Transfers, Site Plans and Final Plat Checklist. Further edits and the re-organization of the Amendments will be heard at a later date.
- Quarterly reports and a report on the implementation of the *Envision 2035 Jefferson Comprehensive Plan* will be presented at the next Planning Commission meeting.
- The topic and date of the Annual Planning Commission training is to be determined.
- Upcoming PC meeting

Next Regular Meeting: August 8, 2017

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11. President's Report. None

12. Actionable Correspondence. None

13. Non-Actionable Correspondence. None

Mr. Stolipher motioned to adjourn the meeting at 8:10 PM with no objections.



# JEFFERSON COUNTY, WEST VIRGINIA

## Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

P.O. Box 716

Charles Town, WV25414

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## MEMO

**TO: Planning Commission**

**FROM: Alexandra Beaulieu, Zoning Administrator**

**DATE: 08-08-17**

**RE: Follow up to 07-11-17 Public Hearing RE: ZTA16-02, Historic Preservation**

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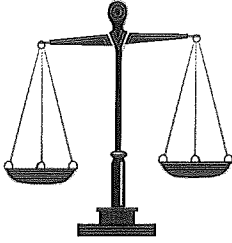
On July 11, 2017 the Planning Commission, in accordance with WV Code §8A-7-13, held a Public Hearing on the proposed draft text amendment to the Zoning Ordinance (ZTA16-02) which proposes revisions and additions to multiple sections of the Zoning Ordinance including Section 2.2, Terms Defined; Section 3.4 Boards and Commissions; Section 4.6, Distances Requirements; Sections 4.14, Historic Preservation; Section 5.10, Village (V) District; Section 8.19, Adaptive Reuse of Historic Structures; Section 10.4, Signs Requiring a Zoning Permit; and Appendix C, Principal Permitted and Conditional Uses Table.

Attached are the written comments received over the two week period left open by the Planning Commission. Verbal comments were also made during the public hearing on July 11, 2017.

In considering both the verbal comments and written comments, Staff made several revisions to the proposed draft amendment. Those revisions are highlighted in yellow.

Attachments:

- Written Comments Received through July 25, 2017
- Staff's proposed revisions in response to public comment



LAW OFFICE  
Of  
RICHARD G. GAY, L.C.

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BERKELEY SPRINGS  
WEST VIRGINIA 25411  
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richardgay@rglawoffices.com

RICHARD G. GAY  
ADMITTED IN WEST VIRGINIA, PENNSYLVANIA, OHIO,  
AND THE DISTRICT OF COLUMBIA

July 10, 2017

Alexandra Beaulieu, Zoning Administrator  
Jefferson County Office of Planning and Zoning  
P.O. Box 716  
116 E. Washington Street, Suite 200  
Charles Town, WV 25414

**RE: PROPOSED TEXT AMENDMENTS TO THE JEFFERSON COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE, FILE #ZTA 16-02, RELATING TO THOSE REVISIONS AND ADDITIONS TO SECTIONS 2.2, SECTION 3.4, SECTION 4.6, 4.14, 5.10, 8.19, 10.4, AND APPENDIX C**

Dear Ms. Beaulieu:

I represent Far Away Farm, LLC, who hereby interposes its objections to any amendments to the Jefferson County Zoning and Land Development Ordinance that specifically attempts to include Far Away Farm, LLC, in any historic preservation, historic district, or other requirement that would increase the burden on their development rights, which have been secured by Far Away Farm through years of litigation with the Jefferson County Planning Commission and others.

It is requested that you call to the attention of the Planning Commission that this same Planning Commission,<sup>1</sup> in a case styled *Far Away Farm, LLC v. Jefferson County Planning Commission, A public body, John Maxey, President, Thomas Trumble, Vice-President, Morgan Etters, Member, Gene Taylor, Member, Kelly Baty, Member, Arnold Dailey, Member, Eric Smith, Member, and Frances Morgan, Commission liason*, Civil Action 11-C-125, entered into an Agreed Settlement Order with Far Away Farm, which provides in pertinent part:

“1. The Planning Commission will re-issue the conditional use permit to Far Away Farm, and all conditions to the existing conditional use permit will attach to the re-issued conditional use permit;

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<sup>1</sup> Not the same individuals, but the institution of the Planning Commission.

2. The developer will agree to proceed under the new subdivision regulations (as enacted on October 9, 2008, and as amended as of August 19, 2010, effective November 2010).”

The Agreed Settlement Order included other provisions. I am enclosing a copy of the signed Agreed Settlement Order for your referral and to remind the Planning Commission that the Agreed Settlement Order exists and is enforceable.

Further, following extensive litigation over whether or not the Planning Commission violated the Open Meetings Act relating to approval of this particular Settlement Agreement, the Circuit Court of Jefferson County, in a case styled *Capriotti, et al. v. Jefferson County Planning Commission, Defendants, and Far Away Farm, LLC, Intervenor*, Case No. CC-19-2011-C-325, the Court held, by Order entered December 22, 2016, *inter alia*:

“In accordance with the originally negotiated settlement agreement between the Planning Commission and Far Away Farms the Court grants 3 years equitable tolling from today’s date, December 15, 2016, to Far Away Farms.”

Far Away Farm has been involved in litigation with this Planning Commission and others for over twelve years in order to secure its rights. I am enclosing a summary list of the proceedings in this underlying case just to refresh the Planning Commission’s recollections about the extent of the opposition and the Court’s Orders in this case upholding Far Away Farm’s rights to develop in Jefferson County, notwithstanding concerted efforts by the Planning Commission, itself, and others, to thwart those efforts.

Far Away Farm views these proposed amendments as yet another attempt to redefine its rights and limit its remedies to development of its land, which were secured by hard earned litigation and have become vested rights in Far Away Farm.

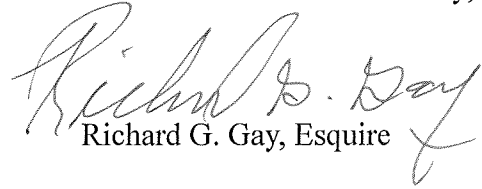
Far Away Farm further reminds the Planning Commission that it was represented by counsel throughout all these proceedings, and, in fact, the Final Order dated December 22, 2016 was prepared by Lydia Lehman, Esquire, then counsel for the Planning Commission.

Far Away Farm requests that the Planning Commission take no action that would prohibit, impede, or otherwise interfere with the rights Far Away Farm has acquired to development of its property, and attempts by others to circumvent those rights through subsequent legislative actions are in contravention of Court precedents and an Agreed Settlement Order that has been to the Supreme Court and affirmed by the Circuit Court of Jefferson, which Final Order was not appealed.

Thank you in advance for your cooperation in advising the Planning Commission of Far Away Farm’s position and the Agreed Settlement Order. If you have any questions, please contact the undersigned.

July 10, 2017

Very truly yours,  
Law Office of Richard G. Gay, LC

  
Richard G. Gay, Esquire

RGG/skf

Enclosure(s)

cc: Far Away Farm, LLC

R. Gay

RECEIVED  
AUG 03 2011  
JEFFERSON COUNTY  
CIRCUIT CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

FAR AWAY FARM, LLC  
Petitioner,

v.

CIVIL ACTION NO.: 11-C-125

JEFFERSON COUNTY PLANNING COMMISSION,  
A public body;  
JOHN MAXEY, President,  
THOMAS TRUMBLE, Vice-President,  
MORGAN ETTERS, Member,  
GENE TAYLOR, Member,  
KELLY BATY, Member,  
ARNOLD DAILEY, Member,  
ERIC SMITH, Member, and  
FRANCES MORGAN, Commission liason,  
Respondents.

AGREED SETTLEMENT ORDER

On the 3rd day of August, 2011, came the parties, Far Away Farm, LLC, by counsel, the Law Office of Richard G. Gay, LC, and the Jefferson County Planning Commission, by counsel, Jefferson County Prosecutor's Office.

WHEREAS, the Planning Commission is currently in litigation in the Circuit Court of Jefferson County, West Virginia in the above-referenced case.

WHEREAS, the Planning Commission has determined that it is in the best interest of the Planning Commission and the citizens of Jefferson County to resolve the issues currently before the court in Civil Action No. 11-C-125 by agreeing to settle the Circuit Court case under the conditions stated below.

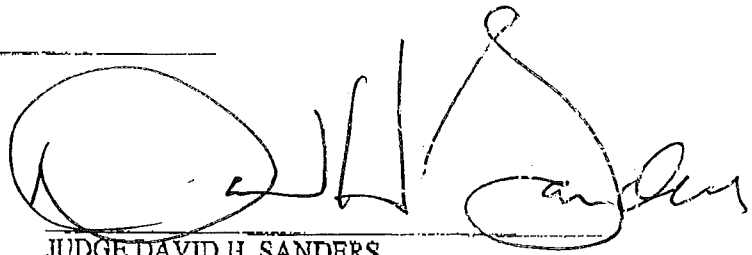
WHEREAS, the parties have agreed to resolve and settle the issues in this case under the following terms and conditions:

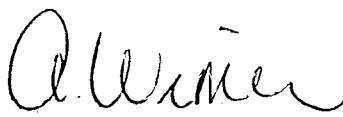
1. The Planning Commission will re-issue the conditional use permit to Far Away Farm, and all conditions to the existing conditional use permit will attach to the re-issued conditional use permit;
2. The developer will agree to proceed under the new subdivision regulations (as enacted on October 9, 2008, and as amended as of August 19, 2010, effective November 2010);
3. Further the Planning Commission agrees that the conditional use permit shall be valid for eighteen (18) months in addition to an eighteen (18) month extension permitted under the Jefferson County Zoning Ordinance, for a total of three (3) years;
4. Because Far Away Far, has submitted extensive documentation in relation to the community impact statement under the prior ordinance, and participated in an extensive public hearing, the Planning Commission agrees that the pre-existing community impact statement serves in lieu of the concept plan, public workshop/comments, and related pre-preliminary plat phase requirements that exist under the new subdivision ordinance;
5. All time lines with respect to the new subdivision regulations and the re-issuance of the conditional use permit will be reset and begin as of the date the Court signs the entry of the Agreed Settlement Order in this Civil Action No. 11-C-125; and

The parties agree this settlement resolves all issues that were raised in Civil Action No. 11-C-125. The case shall be dismissed with prejudice and removed from the docket of the Jefferson County Circuit Court. Further, each party shall bear its own costs and attorney fees incurred to date in this matter.

IT IS SO ORDERED.

DATE: 8/3/11

  
JUDGE DAVID H. SANDERS



3cc  
- L. Gutschell  
- R. Gay  
- S. Gron  
8/4/11  
AW

Agreed:

By: Jefferson County Planning Commission

Donald B. Hays  
President of the Planning Commission

[Signature]  
Jefferson County Prosecutor's Office  
Counsel for Jefferson County Planning Commission

By: Far Away Farm, LLC

[Signature] *Manager*  
Mike Boltz

[Signature]  
Law Office of Richard G. Gay, LC  
Counsel for Far Away Farm, LLC

**I. PROCEDURAL HISTORY AND EVENTS LEADING TO THE CURRENT CASE**

1. On June 23, 2004, Far Away Farm (herein "FAF") filed an application for a Conditional Use Permit (herein "CUP") to allow FAF to develop 122.8 acres in the Rural District for 152 residential lots.

2. On September 22, 2004, the Planning and Zoning Director evaluated the FAF property based on a scoring criteria in the Jefferson County Zoning Ordinance. Based on his evaluation, (called LESA) the FAF property was deemed suitable for development and the Zoning Director issued a LESA score of 46.2, which was passing.

3. On October 29, 2004, Dunleavy and Moore challenged the FAF approval and appealed FAF's successful LESA score to the Board of Zoning Appeals (herein "BZA").<sup>1</sup>

4. On November 30, 2004, FAF filed a Motion to Intervene in the appeal to the BZA.

5. On August 9, 2005, the BZA denied FAF's CUP and on September 15, 2005, the BZA issued its Findings of Fact and Conclusions of Law denying FAF's CUP.

6. On October 12, 2005, FAF appealed the BZA's decision by filing a Petition for Writ to the Circuit Court.

7. On September 18, 2006, the Circuit Court affirmed the decision of the BZA.

8. On January 12, 2007, FAF filed a Petition for Appeal of the Circuit Court's decision to the West Virginia Supreme Court of Appeals.

9. On April 17, 2008, the West Virginia Supreme Court of Appeals reversed the Circuit Court's decision and ordered that the FAF CUP be issued.

10. On September 9, 2008, Dunleavy and the BZA filed a Petition for Writ of Certiorari with the United States Supreme Court of Appeals.

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<sup>1</sup> Dunleavy and Moore have been consistent parties to the ongoing litigation against FAF.

11. On October 6, 2008, the Planning Commission issued the CUP “under duress,” having been ordered to do so by the West Virginia Supreme Court of Appeals. (*Far Away Farm, LLC v. Jefferson County Board of Zoning Appeals*, 222 W. Va. 252, 664 S.E.2d 137 (2008)).

12. On November 10, 2008, the United States Supreme Court denied Dunleavy’s and the BZA’s Petition for Writ of Certiorari.

13. On June 23, 2009, the Jefferson County Planning Commission (herein “Planning Commission”) filed a lawsuit in the United States District Court for the Northern District of West Virginia against Far Away Farm. (*Jefferson County Planning Commission v. Far Away Farm, LLC*, 2009 WL 2617749 (W. Va.))

14. The Complaint in the United States District Court alleged that the West Virginia Supreme Court’s decision in *Far Away Farm, LLC v. Jefferson County Board of Zoning Appeals* violated its rights to due process of law as guaranteed to it by the Fourteenth Amendment to the United States Constitution and by U.S.C. §1983 in denying the Planning Commission’s Motion to Intervene. However, the Planning Commission named FAF as the adverse party, instead of the West Virginia Supreme Court of Appeals.

15. On October 29, 2009, the United States District Court for the Northern District of West Virginia dismissed the case in its Amended Order Granting FAF’s Motion to Dismiss. The Court stated:

“...this Court finds that plaintiff’s claims must be dismissed as an impermissible collateral attack of the judgment in *Far Away Farm, LLC v. Jefferson County Bd. of Zoning Appeals*, 222 W. Va. 252, 664 S.E.2d 137 (W. Va. 2008), as this Court is bound pursuant to the Full Faith and Credit Clause of the United States Constitution to accord the judgment of the West Virginia Supreme the same *res judicata* effect it would receive in West Virginia state courts. As this Court finds that it lacks jurisdiction to entertain the above-styled case, it need not consider the other arguments of the parties.”

16. On November 4, 2009, the Planning Commission filed a Motion for Reconsideration of the Amended Order Granting FAF's Motion to Dismiss.

17. On May 10, 2010, the United States District Court for the Northern District of West Virginia denied the Jefferson County Planning Commission's Motion for Reconsideration. The time for appeal of this decision to the United States Court of Appeals for the Fourth Circuit expired on or about June 9, 2010 and no appeal was filed.

**II. THE EVENTS THAT LED TO THE JEFFERSON COUNTY CIRCUIT COURT CERTIORARI CASE (NO. 11-C-125) THAT LED IN TURN TO THE CLAIM OF AN OPEN MEETINGS ACT VIOLATION IN THIS CASE**

18. Pursuant to a letter of July 26, 2010 from the Jefferson County Department of Planning, FAF's CUP would expire and that the expiration for Final Plat approval was December 19, 2010.

19. On November 9, 2010, FAF requested to be put onto the Planning Commission's agenda for the meeting of December 14, 2010 for the purposes of a Community Impact Statement (herein "CIS") extension and related matters.

20. On December 14, 2010, a hearing was held before the Planning Commission on FAF's request for an extension of time for its CIS and related deadlines. At that hearing, the Commission denied the request for a variance of the expiration date of the Community Impact Statement and related deadlines.

21. After receiving the Staff Report and recommendation to extend FAF's time limits to July 1, 2012, the Planning Commission heard from counsel for FAF.

22. FAF requested that the Planning Commission members who were involved in the Federal lawsuit or any related proceedings against FAF recuse themselves. It is noted on the record that on July 9, 2009, Mr. Maxey voted in favor of the Planning Commission going to

Federal Court against FAF and was supported by Commissioners, Taylor, Trumble, Baty, and Eppers. It is further noted that County Commissioner Morgan, who sits on the Planning Commission, moved the County Commission on June 3, 2010 to approve the thousands of dollars needed to fund an appeal to the Fourth Circuit Court of Appeals from the Federal Court's dismissal of the Planning Commission's lawsuit against FAF.

23. In the alternative, FAF, through counsel, asked that the matter be stayed so that FAF could seek a review of the matter through a writ of prohibition in the Circuit Court or other appropriate tribunal.

24. Counsel for FAF further stated, "This is a definite and direct conflict in my opinion and failure to recuse yourself would be in error." In answer to Mr. Smith's question about who should be recused, counsel stated: "...suppose it would go back to whether or not you have been involved or anyone else has been involved in any other discussions in executive session or discussions with – amongst the Commission regarding the FAF issue and anything related to the lawsuit."

25. Following an executive session and discussions with counsel for FAF, the members voted unanimously not to recuse themselves. This included Planning Commission members Maxey, Trumble, Eppers, Baty, and County Commission member, Frances Morgan, who constituted a majority or 5 out of the 9 members, refused to recuse themselves. The Planning Commission also unanimously refused to stay the case to allow the issue of recusal to be reviewed.

26. FAF, through counsel, also requested an extension of time pursuant to W. Va. Code §8A-5-12(f) which states as follows:

"Any subdivision or land development plan or plat, whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1,

2010, shall remain valid until July 1, 2012, or such later date provided for by the terms of the planning commission or county commission's local ordinance or for a longer period as agreed to by the planning commission or county commission. *Provided*, that the land development plan or plat has received at least preliminary approval by the planning commission or county commission by March 1, 2010."

27. FAF further requested an extension of time based upon the Court's ruling in *Jefferson Utilities, Inc. v. Jefferson County Bd. of Zoning Appeals*, 218 W. Va. 436, 624 S.E.2d 873 (2005).

28. Since FAF's development had been delayed by litigation about 1876 days as of November 5, 2010, it was equitable for additional time to be added to the deadlines under the Zoning and Subdivision Ordinance.

29. In addition to failing to recuse themselves, the Planning Commission by unanimous vote, including the five tainted members, voted to deny the request for an extension of time pursuant to W. Va. Code §8A-5-12(f).

30. The Planning Commission then proceeded to hear a request for a variance which FAF filed at the request of the Planning Commission staff (although counsel made the argument subject to the position that the request for the variance was not needed since the extension of time was mandated pursuant to statutory and case law). Counsel further made the variance argument subject to the position that the request for recusal and stay should be granted pursuant to applicable conflict of interest laws and due process requirements of an unbiased adjudicator.

31. Following the presentation of arguments on the request for a variance, the request for variance was also denied by the Planning Commission.

32. On January 11, 2011, the Planning Commission moved to table acceptance of the December 14, 2010 minutes to the next meeting to give the Attorney and Staff an opportunity to revise the minutes, if necessary, to more closely correspond to the events that evening and to the

legal document (Findings of Fact and Conclusions of Law) that the attorney was preparing.

33. At the January 25, 2011 Planning Commission meeting, the Commission again tabled the approval of the minutes of the December 14, 2010 meeting regarding FAF's variance request.

34. On March 22, 2011, the Planning Commission finally approved the minutes of the December 14, 2010 meeting, however, President John Maxey was not in attendance to sign the Order and, upon information and belief, did not do so until March 31, 2011.

35. Pursuant to an Order dated March 22, 2011, (which FAF did not receive until March 31, 2011) the decision was finally entered as a matter of record.

36. FAF had requested an Order from the Planning Commission following its hearing on numerous occasions. Upon information and belief, FAF believes that the Order was signed after March 22, 2011 since it was not received by FAF until March 31, 2011.

37. FAF thereupon filed a Petition for Writ of Certiorari with the Circuit Court to obtain review of the Planning Commission's actions.

**III. EVENTS AFTER THE PETITION FOR WRIT OF CERTIORARI IN CASE NO. 11-C-125 WAS FILED THAT LED TO THE SUMMARY JUDGMENT FROM WHICH THIS APPEAL ARISES IN CASE NO. 11-C-325**

38. Upon FAF filing the Petition for Writ of Certiorari in Case Number 11-C-125 arising from the December, 2010 meeting of the Planning Commission, and during subsequent briefing, the Petitioners in this case moved to intervene in the FAF Petition for Writ of Certiorari case. (Jefferson County Civil Action No. 11-C-125)

39. A hearing was held on June 28, 2011 wherein the Court heard argument on the issues in the certiorari case and also heard argument on the Motion to Intervene.

40. The parties in the certiorari Case Number 11-C-125 (the Planning Commission

and FAF) meanwhile reached an agreement and settled the lawsuit. The Planning Commission met at a regularly scheduled meeting on or about July 26, 2011 (although the Planning Commission met in executive session to obtain their attorney's advice). FAF had sought an agreement from the Planning Commission granting equitable tolling of the deadlines pursuant to the principles in *Jefferson Utilities, supra*. Instead, the proposed agreed settlement order that came from the July 26, 2011 executive session meeting was a counter-offer to FAF signed by the Planning Commission President and was faxed to FAF's counsel on July 27, 2011 and agreed to by FAF on or about July 29, 2011.

41. The Order memorializing the agreement and dismissing Case No. 11-C-125 was signed by the Circuit Court on August 3, 2011.

42. On October 26, 2011, Petitioners filed a Petition for Writ of Prohibition with the West Virginia Supreme Court of Appeals, seeking to effectively set aside this Court's August 3, 2011 Order.

43. On January 12, 2012, this Court rejected the Petition and dismissed the appellate case.

44. In the meantime, on September 9, 2011, Petitioners filed the lawsuit against the Planning Commission, in Case No. 11-C-325, but did not name FAF as a party.

45. On March 22, 2012, Petitioners notified FAF that the lawsuit from which this appeal arises (in Case No. 11-C-325) was proceeding to trial by sending a letter to FAF's counsel.

46. FAF moved to intervene on April 5, 2012 and was granted intervention status on May 22, 2012.

47. Petitioners moved for summary judgment on April 2, 2012. Both FAF and the

Planning Commission filed counter motions on April 18, 2012.

48. The Jefferson County Circuit Court granted Petitioners' Motion for Partial Summary Judgment, holding that the July 26, 2011 Planning Commission meeting (executive session) violated the W. Va. Open Governmental Proceedings Act, W. Va. Code 6-9A-1, et seq. ("Open Meetings Act" herein)

49. Both FAF and the JCPC filed a petition for appeal with this Court in October of 2012.

50. This Court rejected the appeal as interlocutory, since the Circuit Court's Order Granting Summary Judgment to the Petitioners did not contain a remedy for the supposed violation.

51. The issue of the appropriate remedy therefore came back to the Circuit Court. After argument and further consideration, the Circuit Court corrected its own error in initially granting summary judgment to the Petitioners, and reversed its Order, denying the Motion for Summary Judgment on November 8, 2013.

52. On December 5, 2014, Capriotti, et al. filed a Notice of Appeal of the Circuit Court's November 27, 2013 Order with the West Virginia Supreme Court of Appeals.

53. The West Virginia Supreme Court of Appeals placed the case on the docket and issued a Scheduling Order in the matter setting forth a summary of the deadlines.

54. Briefing by the parties was completed in accordance with the Supreme Court's Scheduling Order.

55. On October 15, 2014, the West Virginia Supreme Court of Appeals issued an Order scheduling the appeal for oral argument for the January 2015 term.

56. On January 28, 2015, the parties argued their cases before the Supreme Court of

Appeals.

57. On February 26, 2015, the West Virginia Supreme Court of Appeals issued its Memorandum Decision with a separate concurring decision by Justice Benjamin with the majority and a dissenting opinion by Justice Davis.

58. On March 30, 2015, the West Virginia Supreme Court of Appeals issued a Mandate of their decision affirming in part, reversing in part the Circuit Court's Order and remanded the case back to this Court for further proceedings regarding the two (2) violations of the Open Meetings Act.

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JEFFERSON COUNTY PLANNING,  
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Dr. James G. Gibson  
201 Needwood Farm Lane  
Harpers Ferry, WV 25425

July 11, 2017

Planning Commission Members  
Jefferson County  
P.O. Box 338  
Charles Town, WV 25414

Dear Commissioners,

Thank you for an opportunity to comment on the proposed amendments to the Jefferson County Zoning Ordinance regarding Historic Preservation. As some of you know, I was a member of the Steering Committee who worked on the Envision Jefferson 2035 Comprehensive Plan. I am also very much for historic preservation by the property owner. In fact, I am in the process of inventorying my farm, house, barns and accessory structures for inclusion on the National Register. However, these proposed amendments give me a reason to re-evaluate that decision until I fully understand the ramifications of the proposed 'protections'. While I believe that Historic Preservation is important, I believe that it should be up to the individual property owner without taking any land rights from other property owners. Additionally, I don't believe that a local historic board should have the authority of review over a property on the National or State lists. Those terms of protection and restrictions are already governed by the property owner and the respective historic body.

Also, as a member of the Steering Committee for the Plan, I wanted to give you my thoughts on some of the recommendations that were made by the committee. While these proposed amendments may seem to address Recommendation 4.a. on Pages 117 and 118 of the Historic Resources section of the Plan, they don't consider the balance of that same recommendation 4. Specifically, there are subparts: b., c., d., and e. that need to be followed in conjunction with subsection a. All of which requires collaboration with other Stakeholders such as the private property owners of the historic sites and the land development community. Recommendation 4 is provided below in its entirety:

**"4. Review and amend the Zoning Ordinance and Subdivision Regulations to improve historic and cultural resource protections.**

- a. Collaborate with the JCHLC to develop and incorporate language into the County Zoning Ordinance that supports the JCHLC's classification of the County's historic resources into four different levels of importance and varying levels of protection.
- b. Collaborate with County residents, Jefferson County's development community, and members of the JCHLC to create voluntary design guidelines and standards related to historic sites to encourage development or redevelopment of properties in a way that would be reflective of the site's historic nature and context, while respecting property owner's rights.
- c. In collaboration with property owners, the development community, and the JCHLC, identify and utilize a series of incentives to encourage the use of the voluntary design guidelines discussed above to ensure the historic integrity of the site is protected.

- d. Identify archaeological and historically significant built resources as part of a developer's Concept Plans.
- e. Collaborate with property owners and the JCHLC to protect historically and/or culturally significant resources during development of a site by providing a credit or reallocation of the density rights on a property or to another property located in Jefferson County in exchange for the retained historic or cultural resource."

Please don't do this is a way that alienates individual property owners that have already taken the steps to be included on a National or State Register/List. Obviously, the individual recommendations of the Comprehensive Plan are not intended to be read in a vacuum. In this case, it requires much more involvement and adherence to all of the recommendations in the Plan regarding Preservation. This process needs to start over with more participation of the public and stakeholders, since the proposed amendments appear to take some individual property rights away from the land owner.

Furthermore, I have attached the complete list of recommendations regarding the Historic Resources and none of them appear to authorize the Historic Landmarks Commission (HLC) to participate in the Planning Process as it is being proposed under 3.4 D. As a matter of fact, the Planning Commission is vested with those duties by the State Code. I don't believe that the State Code enables proposed Section 3.4 D. The Planning Commission is vested with the jurisdiction suggested for the HLC in Section 3.4 D. 2, 3 and 4. If given the powers suggested in that section, the HLC's bylaws could become the new Zoning Ordinance. This is not what was intended. I also believe that adding the authority of the HLC to the Land Use Ordinances was already rejected once. It is fine if the HLC wants to participate as anyone else during land use proceedings; but, granting them authority in the process appears to go beyond the intent of the Plan and the legislators.

Finally, the proposed amendments appear to borrow heavily from the Voter defeated 2008 Zoning Ordinance. This document was rejected by the populace already. Please review the comments on the proposed ordinance in 2008 and you will find many comments against the Historic Preservation proposals found in that document, which help lead to its defeat. The public shouldn't be required to keep following along to see if the amendments are going to surface 9 years later, especially when they voted them down during that election.

Thank you for opportunity to clarify some of my thoughts as a committee member. As a member, I believed that the major goal of the Comprehensive Plan was to support Rural Economic Development and Tourism opportunities. These proposed amendments do not meet that goal without more collaboration with all parties. I believe that discouraging development on Battlefields in Jefferson County without compensation to the land owner is damaging to the person's property rights. Accordingly, please take this amendment off of the table, since I believe that the current ordinance already provides enough protection.

Sincerely,



Jim Gibson  
304/279-2688

cc: Mr. Peter Onoszko, President, County Commission of Jefferson County  
Ms. Stephanie Grove, Jefferson County Administrator

Matt Knott  
408 Alstadts Hill Road  
Harpers Ferry, WV 25425

July 11, 2017

Jefferson County Planning Commission  
P.O. Box 338  
Charles Town, WV 25414

Dear Commissioners:

I am out of town this week, but thank you for an opportunity to comment on the proposed historic amendments to the Zoning Ordinance. As you are aware, I am a member of the Board of Zoning Appeals (BZA). Please be advised that the comments in this letter are exclusively my thoughts as a business owner and are not comments from the BZA.

My family and I own and operate several businesses in Jefferson County including the Clarion Inn, River Rivers, Adventure Park, several Ziplines and a Campground. These businesses are either in the process of preparing site plans or have recently had site plans approved by the Planning Commission. I can honestly tell you that the preparation of a site plan is a very costly and time-consuming process. My point is that these proposed amendments would further limit my ability to develop my property since we are located on Alstadts Hill. The proposed provisions that would 'discourage development' on battlefields and require additional governmental levels of review would most likely cause any future expansion plans to be totally cost prohibitive, even if they are permitted.

These properties are in the Mixed-Use District, which is the zoning classification that allows the most flexibility in types of development. It allows most types of development including high density residential, light industrial uses and nearly every commercial use. These properties are also located in the Preferred Growth Area (PGA) in the Comprehensive Plan. As such, they are approved for Urban Level Growth. Since my properties are surrounded by a battlefield, the additional restrictions in the proposed amendments appear to contradict the Plan which encourages all types of Urban Level Growth on these properties. Therefore, these amendments should be rejected in all PGAs.

The Planning Commission is charged with development reviews. You have been appointed to review applications, waivers and development plans. These are the powers granted to you by the State and the County Commission. The Historic Landmarks Commission is not charged with any authority to review these plans as part of the Planning Commission. Since I recently processed a Map Amendment, I know that the laws require the County Commission to act with the advice of the Planning Commission (not the Historic Landmarks Commission). This was clear during that process. To add a layer of review by another authority that is not governed by regulations approved by the public or County Commission, would not be beneficial to the process (even if it was permitted by law). On the other hand, Health Department and Highway Department approvals are required for new development under rules adopted by the State. The Historic Landmarks Commission is self-governed, which makes it almost impossible for a land owner to know what will be required. In my opinion, this will have an adverse impact on property owners' land use rights.

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Regarding the specific proposal, additional buffers, setbacks and prohibitions would most likely prevent me from further developing our properties into a commercial, recreational tourism resort, which the Comprehensive Plan supports. The ordinance already requires a 200 feet distance requirement from historic structures or districts on the National and State Registers/Lists. These current setbacks and buffers already seem to be enough. The 200 feet distance requirement and associated buffering requirements have been in the ordinance for over 20 years, so why is there a sudden need to change it if no problems have been identified in the past 20 years. Additional layers of regulation and reviews by an agency that is not governed by state or local laws should be discouraged.

Additionally, I believe that much of the proposed language was already rejected by the voters when a new ordinance was proposed nearly a decade ago. Please don't overrule the will of the people and try to put them back in the ordinance through a process that does not allow the public to vote on the proposal.

Finally, you should not approve the change to the zoning chart that requires adaptive reuse of historic structures as a Conditional Use in any of the Commercial Districts including the RLIC District. These uses are already permitted by right in these district with adherence to the appropriate local, state and federal rules. To create an additional approval process and regulations for a separate local list of historic structures or properties that the property owner hasn't even asked to be included, would appear to contrary to an individual's property rights. Accordingly, please do not add the adaptive reuse of a structure as CU in those commercial districts. This could cause an owner in a commercial district to tear down the structure and start from scratch as opposed to going through a costly and time consuming Conditional Use process. This would be counterproductive to the purpose of historic preservation.

Thank you. Please let me know if you have any questions.

Sincerely,

Matt Knott

## Zoning

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**From:** John Allen <johnallenjr@me.com>  
**Sent:** Thursday, July 13, 2017 7:44 PM  
**To:** Zoning  
**Subject:** Historic Preservation Zoning Ordinance

Ms. Alex Beaulieu,

After reading through the proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, I wanted to voice my support for the Historic Preservation Zoning Ordinance. I am the owner of four farms in Jefferson County, all of which are designated as historic by the Jefferson County Landmarks Commission on their historic resource survey. This updated zoning ordinance goes a long way to providing protections for properties like mine. Our beloved county has supported local agriculture for more than 250 years, and I am proud to be continuing in that farming tradition. Our community's rich history is a valuable cultural and economic resource for us and for future generations. I urge the county commission to adopt these changes that will encourage economic development and protect our shared heritage.

Sincerely,

John C. Allen Jr.  
928 Vandalia Lane  
Shepherdstown, West Va.

*hand delivered*

To: The Jefferson County Planning and Zoning Commissioners  
From: Cynthia Rider  
Date submitted: July 20, 2017  
Re: factual information

Factual information for each Planning and Zoning Commissioner by contacting Ms Rider at 304-876-6383.

The seven facts to be explained are in response to the zoning request as presented by Martin Burke on July 13, 2017, specifically to the Shepherdstown area of Jefferson County.

The seven facts pertaining to Mr. Burke's zoning request in the Shepherdstown area include:

1. origin of instigation
2. land involved
3. conflict location
4. maintenance / a National fact
5. level of interest / a National report
6. a deductive comparison
7. informed vs not

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An important conclusion can be drawn from the above seven facts of information. Thank you for your attention and time given to the new zoning matter.

*Cynthia Rider*

To: The Jefferson County Planning and Zoning Commission  
From: Cynthia Rider  
Date: July 25, 2017

A submitted summary of each printed topic presented to the Planning and Zoning Commission on July 20, 2017:

I spoke with some of the commissioners on the seven listed headings and now I want to summarize my words for them.

1. origin of instigation

The whole matter of preserving the Shepherdstown Battlefield only began when a developer purchased a farm up the road from my farm.  
The purchase of the property at the time was not of interest to the US Dept. of interior or of the National Park Service or of the Antietam Park Service or of the Harpers Ferry Park Service or of any Civil War organization or any groups of historians or, and especially, the Jefferson County Historic Landmarks Commission.

The question is as to why none of the above expressed interest to purchase the farm/land when for sale.

The farm/land had been on the market for a number of years having gone through a number of realties. The above mentioned had the opportunity to buy and secure during the time span that the farm/land was on the market or even try to purchase back from The Land Commission needs to the job in maintaining what they currently own and certainly not take ~~of~~ more responsibility or request an overlay zone to tell a private land owner how to maintain his/her privately owned property.

2. land involved

I want to say that the Shepherdstown Battlefield Special Resource Study map is incorrect. This map hangs before the public and it is inaccurate because;  
first, A significant portion of the Shepherdstown Battlefield is not included in the boundary. There is acreage along the River not included in the boundary as indicated.  
second, Thomas McGrath , one of two Civil War historians for the Study from Pennsylvania, met with me on my farm and said to me that soldiers crossed over my land here and there as well as probably camped on my land. So just recently I spoke with a local Civil War historian who told me that soldier's crossing over land or camping

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on the land "does not constitute a battle." I was very grateful to hear this definition of a battlefield.

third, The Jefferson County Landmarks Commission is trying to gain additional private acreage to place within the Shepherdstown Battlefield boundary that is not significant to the actual combat area.

### 3. conflict location

In being accurate, the Combat battle that the Union soldiers had with Confederate soldiers happened at the River. As Union soldiers crossed the River, Confederate soldiers fired on them.

Along the River itself and on the West Virginia riverside is where continued battle exchange took place.

[Just to personal note: A neighbor supposedly having Civil War interest came to my farm at my request and said, "I don't care what you do with your property." He was in and out in less than a minute.]

To note:

The Jefferson County Historical Landmarks Commission already owns the practical area of land for the Shepherdstown Battlefield as secured from landowner Blunt including an old mill foundation along the River combat area and then as secured from Van Evera's tract of land on the River.

It is not practical or significant to scoop up acres outside the Potomac River combat area.

Repeating: The Jefferson County Landmarks Commission owns the area of the Shepherdstown Battlefield with exception of several more acres to the east along the River, which is not shown on the current preservation map, making the battlefield boundary map inaccurate.

### 4. maintenance/a National fact

I thought the United States was 99 billion in debt but was recently informed by a reliable source that our Country is 20 trillion in debt.

Mr. Robert Vogel, the Regional Director, National Capital Region of the National Park Service located in Washington, D.C., met with me a couple years ago and told me the Park Service simply did not have the money for the Shepherdstown Battlefield and then

he put in print “. . . funding would need to be appropriated or available through other means before any land acquisition (including maintenance) could occur.”

On ABC national news several weeks ago this July, it was reported that President Trump gave \$73,000 of his salary along with another donor who made up the difference to total \$100,000 giving to the Antietam Park Service in Sharpsburg for maintenance in restoring a house and repairing of fencing.

Also to note:

There were two Civil War signs along River Road on land owned by the Landmarks Commission, site of the Shepherdstown Battlefield. One of the signs had been damaged from a fallen tree about six years ago and has never been replaced..

The Jefferson County Landmarks Commission is not maintaining the land that they currently own. The area along the River under the current ownership of the Jefferson County Landmarks Commission appears totally ignored of any maintenance attention:

weeds everywhere

locked gate – public access or not

hazardous areas at the old mill foundation and other

graffiti on an old brick foundation

In other words,

The Land Commission needs to do the job of maintaining what they currently own and certainly not take on more responsibility.

##### 5. level of interest/a National report

Just recently on ABC national news, it was reported just recently (July 2017) that people in Charlottesville, VA requested the statue of Robert E. Lee be taken down. The park named for General Lee was changed to another title.

It was reported that about 50 persons showed up at the site of the statue to have the statue kept up while over a 1000 persons showed up shouting to take it down.

Shortly thereafter, the mayor of Baltimore followed regarding Confederate statues to be removed.

The conclusion could be that the current generation wants the prominence of Civil War attention lessened referring to it as a “period of American hatred.”

So though the Shepherdstown Battlefield needs to be acknowledged and the Battlefield itself honored by keeping it well kept, an additional overlay of zoning land is not significant for its historic recognition. In other words, the public interest for additional acres is not practical.

6. a deductive comparison

Based on the reporting facts of #5 above, there are persons who have a deeper interest in certain topics be it

antique cars

coin collecting

knitting

or the Civil War

These particular interests of specialty need not be imposed publically onto another as I am speaking specifically of an expansion of an overlay of zoning as an imposition onto landowners where ever in any county.

I was fortunate to speak with Chairmen of other Historic Landmark Commissions from counties in West Virginia. And, one particularly seemed appalled at the overlay zoning request before our Jefferson County Planning and Zoning. He said that this is "the quickest and easiest way to get land." He continued to say, "it is a lazy way" to overtake land because there are "so many other options but they take work."

He also said this zoning request is "an ugly precedence for other counties" in that it could "tie up land anywhere."

He also said that in such a matter he "would only proceed with the willingness of the landowner."

7. informed vs not

As a Jefferson County landowner, I am being disrespected by the Jefferson County Landmarks Commission and my farm has been disrespected.

On the evening of Tuesday, July 13, 2017, just before the Planning and Zoning meeting, Mr. Burke said to me, "Cynthia, we are not trying to take your land."

But yes Mr. Burke is trying to take my land with his overlay zoning request before the Commission because I will be hindered in what I desire for my land in what I believe is best for it, having been attached to it for 60 years.

Conclusion:

The conclusion of the above seven topics/facts is that landowners have rights and this is something that the Jefferson County Landmarks Commission needs to absorb and understand. It was proven in Jefferson County that after twelve years of litigation, it being ruled that landowners have rights.

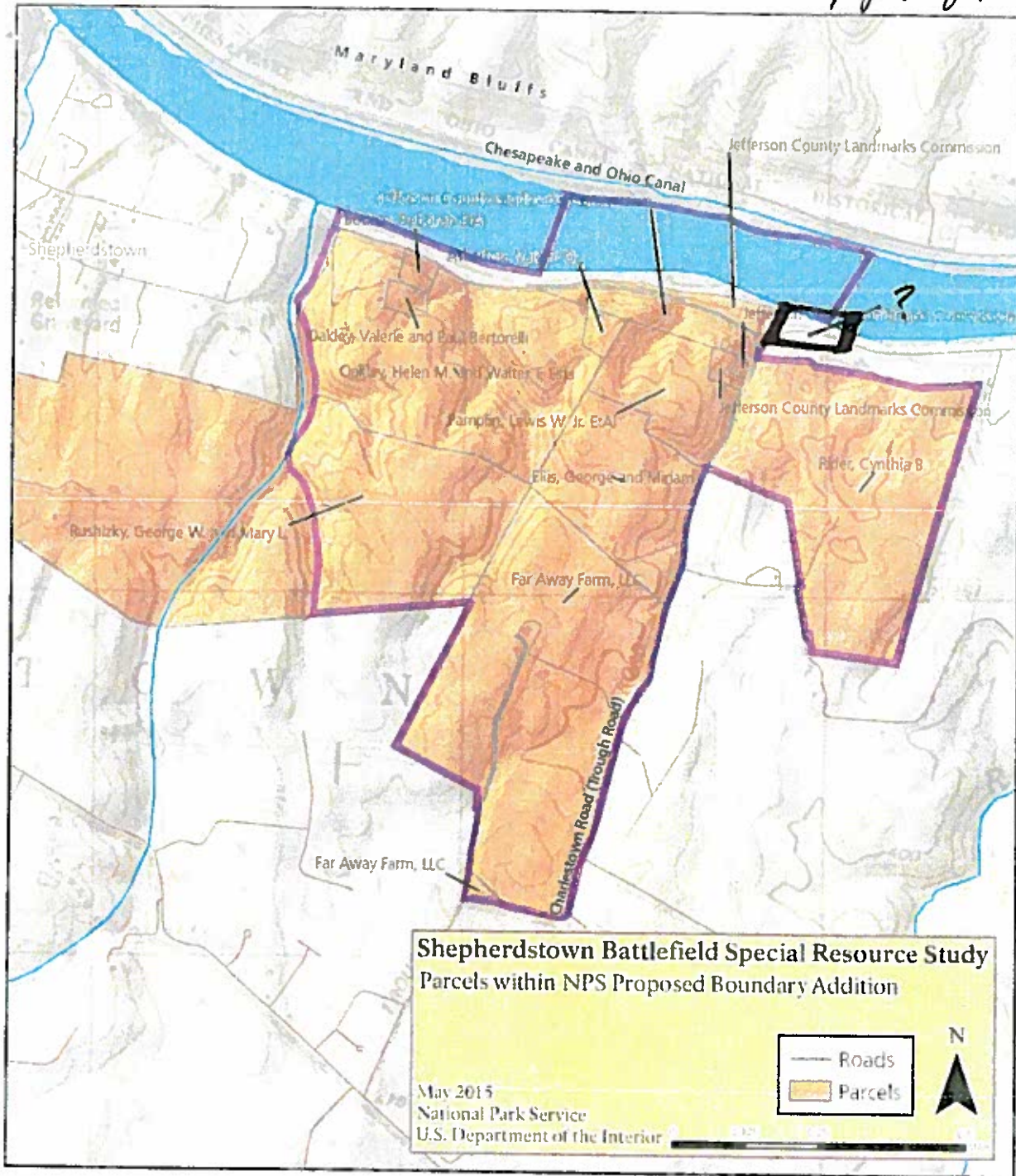
My message to Mr. Burke will be to please maintain what your Commission already owns. Keep it safe and let the public know if assessable or not: where to enter, exit, park, etc.

A special "thank you" to the Planning and Zoning Commissioners for the time and attention regarding this serious matter affecting all landowners in Jefferson County and other West Virginia counties as well.

Cynthia Rider  
July 25, 2017

Adding under:

- # 5 Even more recently reported in national news the controversy in taking down Civil War Statues in Dallas TX
- # 6 I have continued to call persons throughout WV counties, those involved in their County planning or holding a county seat. And Every single one has been stunned<sup>ed</sup> and appalled at the request of the Jeff Co Historic Commission before our Planning and Zoning Commission — one agreeing that is not West Virginia's way of doing things. It has been neat talking to all these persons and I want to continue to make contacts for input. A lot of counties opted not to have a historic commission since non-funded by the State.



East

## Zoning

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**From:** Stephen Alemar <alemars@yahoo.com>  
**Sent:** Monday, July 24, 2017 11:19 AM  
**To:** Zoning  
**Subject:** Historic Landmarks Zoning changes

Dear Commission Members,

The Shepherdstown Battlefield Preservation Association supports, and hopes, that the commission will adopt the zoning revisions proposed by the Jefferson County Historic Landmarks Commission.

Saving battlefields and historic sites within Jefferson County not only increases tourism, supports recreation, generates business, and creates jobs, but also preserves important historical events and industries that helped shape our county, state and country.

Protected sites, like battlefields, also provide sanctuary for wildlife (I have personally seen beavers, bald eagles, large herds of deer, red and grey fox, various snakes, and many other species on the Shepherdstown battlefield), and provides areas for local citizens to enjoy nature and our local history. There is no doubt that many of our citizens have relocated to Jefferson County because of its history, rural nature, and beauty.

Although some property owners may see zoning as an attack on their property rights, it is the duty of the commission to balance the rights of individual property owners with the needs of the greater community, just as a Home Owners Association would protect the value of every members property by imposing certain rules that sustain value. Jefferson County has already recognized this principle by imposing zoning, and has tasked the Jefferson County Historic Landmarks Commission with identifying sites that will sustain value for all citizens of the county. Therefore, we believe

that the proposed Historic Landmarks revisions are appropriate and are good for all citizens of Jefferson County.

I am always available to answer questions and provide additional information.

Sincerely,

Stephen Alemar  
President, Shepherdstown Battlefield Preservation Association

Recommended revisions based on Public Comment  
for review at the 08-08-17 PC Meeting

**Article 2, Section 2.2**

**Adaptive Reuse of Historic Structures** - refers to the process of reusing an old site or building for a purpose other than which it was built or designed for.

**Battlefield** – Federally recognized battlefields in Jefferson County as determined by the Civil War Sites Advisory Commission. ~~For the purpose of this Ordinance, green space includes battlefield core areas.~~

~~**Building Code** – The International Building Code, adopted by Jefferson County.~~

**Contributing Structure** - Buildings, structures, or sites that add to the historical association, architectural quality, or archaeological value of a property or district because (a) they were present during the period of significance and possess historical integrity reflecting their character at the time or potential for yielding historical information; or (b) their potential to qualify independently for the National Register of Historic Places.

~~**Historic Districts** – A geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. Generally a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, objects, or area, which are united by past events or aesthetically by plan or physical development. A district also may be comprised of individual resources which are separated geographically, but are thematically linked by association or history.~~

**Commented [P1]:** Reflect definition in State Code

~~**Historic Landmark** - An object, site, building, structure, or object designated as a "Landmark" either on a national, state or local register. (Also see definition of Landmark)~~

**Commented [P2]:** Reflect definition in State Code

~~**Historic Landmarks Commission** – A five member commission, appointed by the Jefferson County Commission. Powers, Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Historic Landmarks Commission and Chapter 8, Article 26A of the West Virginia Code. A five member commission, appointed by the Jefferson County Commission that advises the County government and general public on matters regarding the preservation of County historic resources. Created by local ordinance and charged with enforcing provisions of local laws governing historic districts and buildings.~~

**Historic Resource** – A site, structure, area, or district possessing historic importance as defined by the U.S. Department of Interior, West Virginia State Historic Preservation Office, Jefferson County Historic Landmarks Commission, or other governmental agency, which may include any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value. The properties may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, engineering works, artifacts or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

**Historic Site** – Any lot, parcel, historic structure, or designated area which has been listed on the West Virginia or the National Register of Historic Places, which may include the location of a significant event, landscape feature, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historical,

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cultural or archaeological value regardless of the value of any existing structure ~~that may yield information on history or prehistory.~~

**Commented [P3]:** Reflect definition in State Code

**Historic Survey** - A comprehensive survey involving the identification, research and documentation of buildings, sites and structures of any historical, cultural, archaeological or architectural importance.

**Historic Village** - Historic village shall be defined as settlements with at least 20 historic sites or structures as identified by the Jefferson County Historic Landmarks Commission.

~~**Landmark**—A designated building, district, site, or structure having historical, architectural, or archaeological significance, as defined by the U.S. Department of Interior, West Virginia State Historic Preservation Office, Jefferson County Historic Landmarks Commission, or other governmental agency.~~

**National Historic Landmark** - Authorized in 1935 and implemented in 1960, are nationally significant historic places designated by the Secretary of the Interior because they possess exceptional value or quality in illustrating or interpreting the heritage of the United States.

**National Register of Historic Places** - The National Register of Historic Places is the official list of culturally significant buildings, structures, objects, sites, and districts in the United States. Authorized by the National Historic Preservation Act of 1966. The list is maintained by the U.S. Department of Interior.

**Preservation** – The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. ~~New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code required work to make properties functional is appropriate within a preservation project.~~

**Protection Radius** – The area surrounding a historic site or historic resource not exceeding the boundary lines of the property. The size of the protection radius is governed by Section 4.6G of this Ordinance.

~~**Reconstruction**—The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.~~

**Commented [P4]:** Not referenced in the document. Not a necessary definition.

~~**Rehabilitation**—The act or process of returning a property to a state of utility through repair or alteration, which makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.~~

**Commented [P5]:** Not referenced in the document. Not a necessary definition.

~~**Restoration**—is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code required work to make properties functional is appropriate within a restoration project.~~

**Commented [P6]:** Not referenced in the document. Not a necessary definition.

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~~Secretary of the Interior's Standards for Rehabilitation—The Standards (Department of Interior regulations, 36 CFR 67) pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior, related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.~~

**Commented [P7]:** Not referenced in the document. Not a necessary definition.

### Article 3: ADMINISTRATION AND ENFORCEMENT

#### Section 3.4 Boards and Commissions

##### (D) Historic Landmarks Commission

1. ~~A five member commission, appointed by the Jefferson County Commission. Powers, membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Historic Landmarks Commission and Chapter 8 Article 26A of the West Virginia Code and Bylaws of Jefferson County Historic Landmarks Commission.~~
2. ~~Review applications for Concept Plans, major subdivisions, and waivers from minimum standards as they relate to protection of identified Jefferson County Historic Resources in accordance with the Subdivision Regulations.~~
3. ~~Review requests for amendments to the County zoning map and may provide input to the Planning Commission.~~
3. ~~Make recommendation to the County Commission concerning pPlanning and Zoning issues as they relate to the protection of identified Jefferson County Historic Resources.~~
4. ~~The Jefferson County Historic Landmarks Commission does not have the authority to nominate or designate a historic structure or site for inclusion on the National Register without the property owner's consent and does not have the authority to create a Historic District per WV State Code, §8-26A.~~

#### Section 4.6 Distance Requirements

- A. Industrial uses are subject to this subsection, unless otherwise specified in this Ordinance. Any uses (not including parking) or buildings subject to compliance with this Section shall be located at least 200 feet from:
1. Any lot in the Residential Growth District;
  2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;
  3. Any lot which is part of a recorded subdivision.
  4. ~~Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.~~
- B. Commercial uses are subject to this subsection, unless otherwise specified in this Ordinance. Adjacent uses (not including parking) or buildings subject to compliance with this Section shall be located at least 75 feet from:

**Commented [P8]:** Proposing to retain this standard (already included in Section 4.6 of current ZO)

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1. Any lot in the Residential Growth District;
2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building.
3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.

**Commented [P9]:** Proposing to retain this standard (already included in Section 4.6 of current ZO)

**G. Historic Resources in all zoning districts.** The level of protection to be afforded to a historic resource is a combination of the importance of the site and the context in which it is found.

The purpose of the protection radius is to preserve the historic character and allow future development that is consistent with the character of the historic site. The protection radius applies to properties with a historic structure or designated as a historic site when a non-residential development or development for a major residential subdivision is proposed. Adaptive reuse of a historic structure shall comply with is permitted conditionally as provided in Section 8.19 and Appendix C of this Ordinance.

**a. Category I**

1. **National Register structures and properties and historic sites.** A 300-foot protection radius, as measured from the center of the site or structure(s), shall meet the open space protection level for Category I historic resources.

~~2. **Federally recognized Civil War Battlefields.** The area of maximum protection is the core battlefield with development being discouraged within that boundary area.~~

~~3. **Historic Districts including contributing structures.** Area of protection will be the boundaries established in the National Register nomination.~~

**b. Category II**

1. **National Register eligible structures and properties, Jefferson County Landmarks, contributing structures, and historic sites.** A 200-foot protection radius, as measured from the center of the site or structure(s), shall meet the open space protection level for Category II historic resources.

- c. Uses permitted within the Protection Radius.** Within any area located inside a designated protection radius, **barns** and accessory structures as defined by this Ordinance may be constructed.

**Section 4.14: HISTORIC PRESERVATION**

The purpose of this section is to:

1. Promote the general welfare by protecting the integrity of historic resources in Jefferson County;
2. Establish a clear process by which proposed changes affecting historic resources are reviewed by the Jefferson County Historic Landmarks Commission and Jefferson County Planning Commission;
3. Mitigate negative effects of proposed land use changes on historic resources;
4. Encourage the continued use of historic resources and facilitate their appropriate reuse;

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5. Tailor protective measures to those clearly delineated historic resources worthy of preservation;
6. Encourage the preservation of historic settings, rural landscapes, and battlefields;
7. Discourage the unnecessary demolition of historic resources; and
8. Minimize development in core battlefields.

This Ordinance encourages the preservation of historic buildings and historic sites and recognizes in accordance with the Jefferson County Historic Landmarks Commission's Classification of Historic Resources, which sets forth a classification system for Historic Sites, Historic Districts, Battlefields, and Structures in Jefferson County.

All historic resources in Jefferson County are classified by their Category of Importance, as determined by the Jefferson County Historic Landmarks Commission. All sites and structures were surveyed by the Jefferson County Historic Landmarks Commission up through 1957 and are classified Category I through IV. The countywide inventory of historic resources is updated semi-annually. The list of inventoried resources and their assigned Category of Importance is available through the Historic Landmarks Commission's website and on the Office of Planning and Zoning website. The countywide inventory of historic resources is updated semi-annually.

All inventoried historic resources are assigned a Category of Importance, used to determine the level of protection afforded that resource. The levels are as follows:

1. **Category I.** These are the most important historic resources in Jefferson County. This category includes; individually listed National Register structures and properties; Historic Districts including their contributing structures; Federally recognized Civil War Battlefields; and National Register eligible properties. These properties retain a high level of original condition and integrity.
2. **Category II.** These resources are classified as important. This category includes Jefferson County Landmarks, historic resources that may be National Register eligible, and other Civil War battle sites. Resources in this Category may have been altered or changed to such a degree that they no longer retain the same level of integrity as the original condition.
3. **Category III.** These resources have moderate importance.
4. **Category IV.** These are resources that are at least 50 years old, have little or no significance, but are listed on the Landmarks Commission's inventory.

through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.<sup>5, 7, 23, 27</sup>

3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores shall be subject to the review and approval of the Board of Zoning Appeals as a Conditional Use in accordance with Section 6.3 of this Ordinance. This requirement shall not apply to a building located within a shopping center shown on an approved site plan.<sup>23, 26, 32</sup>
4. Proposed uses in this zone are exempt from the distance requirements in Sections 4.6A-B if part of a master planned community. This provision shall only apply to the internal use of land under the same ownership.<sup>7, 27</sup>

## Section 5.9 Reserved<sup>23</sup>

## Section 5.10 Village (V) District<sup>8, 23, 32</sup>

The purpose of this district is to allow recognized villages the ability to provide low level services within their boundaries. This district is generally intended to be served with public or private water and sewer facilities based on proposed lot sizes.

Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27</sup>

### A. Principal Permitted Uses

#### 1. Residential Land Uses

- a. Refer to Appendix A for site development standards. If applicable, reduced building setbacks may be permitted in accordance with Article 9.

#### 2. Existing Structures

- a. Building setbacks, parking and drive aisle setbacks, distance requirements, and landscape buffers are not required when a proposed land use is to be located within an existing structure.
- b. When additional parking for an existing structure is required, a Site Plan shall be submitted. Setbacks shall be as required in Section 5.10A.2(a) with the exception that a four (4) foot screened buffer shall be required along the side and rear property lines. The screening may be either vegetative (existing or planted) or opaque fencing and may be placed anywhere within the four (4) foot buffer. At the time of the planting, vegetation shall be at least six (6) feet in height. No structures, vehicular parking, or stored material shall be permitted within the side and rear yard buffers.
- c. As a separate variance, in conformance with Section 6.2 of this Ordinance, the Board of Zoning Appeals shall have the discretion to waive a site plan based on the adequacy and number of existing parking spaces.

#### 3. New structures and expansions to existing structures

- a. All new non-residential structures and expansions to existing structures shall comply with site development standards as required by this Ordinance and process a Site Plan in accordance with the Subdivision Regulations.

### B. ~~and~~ Conditional Uses<sup>23</sup>

- ~~2. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27</sup>~~

1. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to the review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.<sup>27, 32</sup>

~~1.2.~~ Existing Structures

- a. Parking, Building Setbacks, Landscaping, and Signage shall be addressed as part of the Conditional Use Permit application. The reduced setback requirements cited in Section 5.10A.2(a) and (b) shall apply. In lieu of the standard variance process, any proposed deviation from the required parking, building setbacks, landscaping, and signage standards set forth in this Ordinance shall be included in the Conditional Use Permit application and reviewed for approval by the Board of Zoning Appeals.
- b. As a separate variance, in conformance with Section 6.2 of this Ordinance, the Board of Zoning Appeals shall have the discretion to waive a site plan based on the adequacy and number of existing parking spaces.

~~2.3.~~ New structures and expansions to existing structures

- a. All new non-residential structures and expansions to existing structures shall comply with site development standards as required by this Ordinance and process a Site Plan in accordance with the Subdivision Regulations.

~~B. Setbacks~~<sup>27</sup>

~~1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance. The BZA may consider setback variances based on other structures existing in the neighborhood.~~<sup>23, 32</sup>

~~2. Existing Structures~~<sup>27</sup>

- a. ~~The side and rear yard setbacks are 6' for an existing structure to be used for a land use as provided in Appendix C this Article. No front yard setback, parking and drive aisle setback, distance requirement, or buffer is required for existing structures.~~
- b. ~~When additional parking for an existing structure is required, a Site Plan shall be submitted. Additional parking shall be located to the rear of the building. Setbacks shall be as required in Section 5.10B.2(a) with the exception that a four (4) foot screened buffer shall be required along the side and rear property lines. The screening may be either vegetative (existing or planted) or opaque fencing and may be placed anywhere within the four (4) foot buffer. No structures, vehicular parking, or stored materials shall be permitted within the side and rear yard buffers.~~

C. ~~Non-residential Commercial~~ uses shall not cause any odor, dust, smoke, vibration, noise, or electromagnetic interference, which can be detected at or beyond the property line., in accordance with Article 8.

D. Proposed uses in a recognized historic district shall obtain approval from the Historic Landmarks Commission and/or other appropriate state or federal agency prior to processing.<sup>23</sup>

E. There will be no outdoor storage of equipment, materials or other stock.

~~F.~~

~~Other Requirements~~<sup>23</sup>

1. ~~With the exception of setback requirements as specified in this section, Commercial and Light Industrial uses are subject to the requirements of Section 5.6E and the requirements for such standards in Article 8.~~

## Section 8.15 Accessory Dwelling Unit

property as the principal dwelling unit and cannot be bought or sold separately unless subdivided in accordance with the Subdivision Regulations and the Zoning Ordinance. The owner of the accessory dwelling unit is the owner of the principal dwelling unit. The property owner or immediate family member must occupy either the principal dwelling unit or the accessory dwelling unit. Such accessory dwelling unit is permitted only if it meets one of the following criteria:<sup>32</sup>

- A. An “In-Law Suite” is an accessory dwelling unit for the purpose of housing a relative of the property owner and must be clearly subordinate to the principal dwelling unit and meet all of the following criteria:<sup>32</sup>
  - (a) Secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area;<sup>32</sup>
  - (b) For a detached accessory dwelling unit, must be located on a property of at least two acres;<sup>32</sup>
  - (c) Limited to use by a relative\*;<sup>32</sup>
  - (d) Sufficient parking available; and<sup>32</sup>
  - (e) Approved by the Health Department.<sup>32</sup>

*\*Related by blood, marriage, or adoption. Should relative no longer require the use of the **Accessory Dwelling Unit ADU**, the property owner may apply for a Special Exception before the Board of Zoning Appeals to allow for rental to non-relatives. The principal dwelling unit or accessory dwelling unit must be occupied by the property owner or immediate family member.*<sup>32</sup>

- B. An “Accessory Agricultural Dwelling Unit” for agricultural purposes is defined as a dwelling unit that is incidental and subordinate to the principal dwelling unit, which is located on the same lot as the principal building and meets all of the following criteria:<sup>32</sup>
  - (a) is secondary in size to the principal dwelling unit, limited in size to a maximum of 1,700 heated square feet, gross floor area;<sup>32</sup>
  - (b) is located on a property for which the primary use is an agricultural use as defined by this ordinance;
  - (c) is located on a property of at least ten acres in area;
  - (d) is limited to use by a person (and family) who performs agricultural work on the property or acts as a caretaker for the property; and
  - (e) is approved by the Health Department.<sup>32</sup>

One of each type of Accessory Dwelling Unit as defined in this section may be permitted administratively for each property meeting the criteria of Section 8.15 on the effective date of this Amendment. Additional units may be permitted by Special Exception **in accordance with Section 6.5;** ~~which may be approved by the Board of Zoning Appeals following a public hearing. Such public hearing shall be conducted according to the requirements of Section 6.1C; may be continued according to the requirements of Section 6.1D; and is subject to the notification requirements of Section 6.1B. These additional units designed for occupancy by relatives or by farmworkers or caretakers may be approved based on the Board’s evaluation of the size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood.~~<sup>32</sup>

RVs are prohibited as Accessory Dwelling Units.<sup>32</sup>

## Section 8.16 Reserved<sup>32</sup>

## **Section 8.19 Adaptive Reuse of Historic Structures on the Historic Landmarks Commission Inventory**

### **A. Adaptive Reuse of Historic Structures**

The intent of this Section is to provide moderating regulations to permit a historic building to be used in a manner that protects neighbors while ensuring the protection of a historic resource that adds character to the community. The Historic Landmarks Commission shall make recommendations to the Office of Planning and Zoning on the suitability of ~~the a~~ **proposed multi-family dwelling or non-residential** use for the building seeking adaptive reuse. ~~The following are the requirements that must be met before permitting the moderation of the use standards:~~

1. **Historic Landmarks Commission Findings.** The Historic Landmarks Commission ~~may shall~~ visit the property and review the proposed land development plan and use ~~for sites designated as Category I or II.~~ The Commission's recommendation to the Zoning Administrator shall include the following findings:
  - a. The suitability of the proposed use is compatible with the historic structure; and
  - b. Any modifications to the building's façade is consistent and compatible with the building's architecture, style, and massing; and
  - c. That proposed parking and other activities are suitably located so as to preserve the character of the structure and its historical setting; and
  - d. That landscaping ~~is located in such a way that masks parking and air conditioning from general view to protect the character of the historic site but does not hinder view of the historic structure~~ **is consistent with the building and accessory uses, such as parking, and provides continued views of the historic structure while masking parking, air conditioning, or other elements from general view, which would distract from the building and its setting;** and
  - e. If the building facade(s) was modified in the past in a manner out of character with the structure, ~~the Historic Landmarks Commission may recommend that the property owner restore the facade(s) is restored~~ **the Historic Landmarks Commission may recommend that the property owner restore the facade(s)** to its historic condition; ~~however, it shall be at the property owner's discretion to abide by the recommendation or not.~~

- F. A sign not exceeding 25 square feet on a farm, advertising farm products primarily grown on the premises.
- G. Directional or informational signs of a public or quasi-public nature, such as those containing the meeting date of a community or civic club, or the advertising of a public event.
- H. A temporary real estate sign designating the zoning classification of the parcel, not exceeding 20 square feet and being located on the subject property for sale or lease.
- I. Building contractors', subdivision and/or professional person' temporary signs on buildings or land under construction but not to exceed 100 square feet.
- J. Election signs, provided that unsuccessful candidate shall remove signs within 15 days after a primary or special election. All signs shall be removed within 15 days after the general election. Signs shall not interfere with traffic visibility.
- K. All temporary signs shall be removed 30 days after the event, unless otherwise specified in Article 10.

#### **Section 10.4 Signs Requiring a Zoning Permit**

- A. Business and outdoor advertising signs in all zoning districts shall require a Zoning Certificate before placement on any property or building.<sup>2</sup>
- B. Any exterior sign or signs pertaining to the use conducted on the premises, and which is either integral with or attached to the principal building, shall have a sum total area of no more than two square feet for each foot in length of the frontage of the building. No sign shall be attached to the side of the building that faces an adjoining residence. ~~All signs placed on a property whose use is permitted through the approval of a Conditional Use Permit are subject to Section 10.4E.~~<sup>32</sup>
- C. Individual business or industrial establishments may erect a freestanding business sign, provided the lot frontage is at least 40 feet. The freestanding sign shall be located in such a manner that no part of the supporting structure is less than 25 feet from the street right-of-way, and that no part of the sign is closer than five feet to the right-of-way. The total area for any sign or signs on one supporting structure shall not exceed 300 square feet and the total height of the sign structure shall not exceed 35 feet. Businesses or industries having a frontage on more than one street may have an additional freestanding sign for each street frontage, provided that the total area for all freestanding signs does not exceed 600 square feet. Where the lot adjoins a residence and a freestanding sign is on the side of the business lot adjoining the residential lot, the sign shall not face the adjoining residence. ~~Signs whose use is permitted through the approval of a Conditional Use Permit are subject to Section 10.4E.~~ Structures which have more than one use shall be required to use a pylon sign. One is permitted on each street frontage.<sup>8, 32</sup>
- D. All outdoor advertising signs shall be spaced in such a manner that in an Industrial District there shall be a minimum of 300 feet between signs, and in the Rural District, where permitted, such signs shall be located in such a manner that there shall be 1,000 feet between signs. This shall be subject to Section 10.4E.
- E. All signs accessory to a land use subject to the approval of a Conditional Use Permit shall be proposed within the Conditional Use Permit application and assessed by the Board of Zoning Appeals at the required Public Hearing. Such signs shall be maintained at least 1,000 feet between signs. Consideration of the placement of such signs with less than 1,000 foot intervals shall be determined by the Commercial or Residential Uses adjacent to the subject site. Commercial uses adjacent to the subject site may allow spacing intervals of 300 feet. Any ~~variance deviation~~ from ~~theis~~ standards in **Section 10.4** shall require consideration and

approval by the Board of Zoning Appeals as part of the Conditional Use Permit application in accordance with Section 6.3.<sup>2, 17, 21, 23, 32</sup>

- F. No outdoor advertising sign shall be placed closer than 300 feet to an intersection on a dual or proposed dual highway or within 100 feet of any other intersection; provided, however, that such signs may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than caused by the building itself. No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.
- G. All outdoor advertising, excluding billboards subject to Section 10.4H, shall comply with front yard setback provisions in the districts in which they are permitted.
- H. Billboards
  - 1. No billboard shall be closer to any public highway right-of-way than 300 feet.
  - 2. Placement of a billboard must be in a location that is within 800 feet of an existing business.
  - 3. There shall be a minimum of 1000 feet between billboards.
  - 4. A billboard shall be no closer than 500 feet from a church, school, or cemetery.

### **Section 10.5 Zoning Certificate<sup>2</sup>**

All Zoning Certificate applications for signs may be approved by the Zoning Administrator if in conformance with the regulations.<sup>17, 21, 23</sup>

**APPENDIX C: PRINCIPAL PERMITTED AND CONDITIONAL USES TABLE<sup>23, 32</sup>**

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Residential Uses</b>													
Accessory Agricultural Dwelling Unit	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.15
<u>Adaptive Reuse of Historic Structures</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>Sec. 8.19</u>
Dwelling, Single Family	CU	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Single Family, Small Lot	CU	NP	NP	NP	NP	P	NP	NP	P	P	NP	NP	
Dwelling, Two Family	CU	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Duplex	CU	NP	NP	NP	NP	P	NP	NP	P	P	NP	P	
Dwelling, Townhouse	CU	NP	NP	NP	NP	P	P	NP	P	P	NP	<u>CU</u> <u>NP</u>	
Dwelling, Multi-Family	CU	NP	NP	NP	NP	P	P	<u>NP</u> <u>*</u>	P	P	NP	<u>CU</u> <u>NP</u>	<u>*Sec. 8.19</u>
Day Care Center, Small	P	NP	NP	NP	NP	P	NP	P	P	P	P	P	
In-Law Suite	NP	NP	NP	NP	NP	P	NP	P	P	P	NP	P	Sec. 8.15
Mixed Use Building	P	NP	NP	NP	NP	P	P	NP	CU	P	NP	P	
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP	
Model Homes/Sales Office	P	CU	NP	NP	NP	P	NP	P	P	P	NP	NP	Sec. 8.10
<b>Home Uses</b>													
Home Occupation, Level 1	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Art. 4A
Home Occupation, Level 2	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Art. 4A
Cottage Industry	P	NP	NP	NP	NP	P	NP	P	P	P	P	P	Art. 4A
<b>Institutional Uses</b>													
Airport	NP	NP	NP	P	P	NP	NP	CU	NP	CU	CU	NP	
Airfield, Private/Helipad	NP	NP	NP	NP	NP	NP	NP	CU	NP	CU	CU	NP	
Church	P	P	P	P	CU	P	P	P	P	P	NP	P	
Convention Center	NP	P	P	P	CU	P	P	CU	CU	P	CU	NP	
Cultural Facility <sup>29</sup>	P	P	P	P	CU	P	P	P	P	P	P	P	
Day Care Center, Large	P	P	P	P	CU	P	P	CU	P	P	P	CU	
Electric Vehicle Charging Station	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Elementary or Secondary School	P	P	CU	CU	NP	P	P	P	P	P	NP	CU	
Essential Utility Equipment	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 4.7
Group Residential Facility	P	P	P	NP	NP	P	CU	P	P	P	NP	P	
Group Residential Home	P	P	P	NP	NP	P	CU	P	P	P	NP	P	
Heliport	NP	CU	CU	P	P	CU	CU	NP	NP	CU	CU	NP	
Hospital	NP	P	P	P	CU	P	P	P	P	P	NP	NP	
Nature Center and Preserve	NP	NP	NP	NP	NP	P	NP	P	CU	P	NP	P	
Nursing or Retirement Home	CU	P	P	P	NP	P	P	CU	P	P	NP	CU	
Park	P	P	P	P	NP	P	P	P	P	P	NP	P	
Performing Arts Theater	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Preschool	P	P	CU	CU	CU	P	P	P	P	P	NP	CU	
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P	P	
Publicly Owned Facility	P	P	P	P	P	P	P	P	P	P	P	CU	
Recycling Drop-Off Center	CU	P	P	P	P	P	P	NP	NP	P	P	NP	

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards	
<b>Institutional Uses Continued</b>														
Residential Care Home	P	P	P	NP	NP	P	CU	P	P	P	NP	P		
School, College or University	NP	P	P	P	NP	P	P	CU	CU	P	NP	NP		
School, Vocational or Professional	NP	P	P	P	NP	P	P	CU	CU	P	P	NP		
Vocational and Training Facility for Adults	P	P	P	P	P	P	P	P	P	P	NP	NP		
<b>Industrial</b>														
Heavy Equipment Repair	NP	NP	CU	CU	P	NP	NP	NP	NP	NP	P	NP		
Heavy Industrial Uses	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	P	NP	Sec. 8.9	
Light Industrial Uses	NP	NP	NP	P	P	NP	NP	NP	** NP	P	P	NP	Sec. 8.9	
Manufacturing, Heavy	NP	NP	NP	CU	P	NP	NP	NP	NP	P	P	NP		
Manufacturing, Limited	NP	P	P	P	P	PC	NP	NP	NP	P	P	NP		
Printing and Publishing	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Salvage Yards	NP	NP	NP	NP	CU <sup>2</sup>	NP	NP	NP	NP	NP	CU <sup>2</sup>	NP	Sec. 4.4L	
Shooting Range, Indoor	NP	CU	CU	P	P	NP	NP	CU	NP	CU	P	NP		
Shooting Range, Outdoor	NP	NP	NP	CU	CU	NP	NP	CU	NP	NP	CU	NP		
Slaughterhouses, Stockyards	NP	NP	NP	NP	CU	NP	NP	CU	NP	NP	CU	NP		
Transportation Terminal	NP	P	P	P	P	P	P	NP	NP	CU	P	NP		
Vehicle Storage	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP		
Warehousing and Distribution, General	NP	NP	NP	CU	P	NP	NP	NP	NP	CU	P	NP		
Warehousing and Distribution, Limited	NP	P	P	P	P	CU	P	NP	NP	P	P	NP		
<b>Industrial Manufacturing &amp; Processing</b>														
Acid or heavy chemical manufacturer, processing or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP		
Bituminous concrete mixing and recycling plants	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP		
Cement or Lime Manufacture	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP		
Commercial Sawmills	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP		
Concrete and ceramic products manufacture, including ready mixed concrete plants	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP		
Explosive manufacture or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP		
Foundries and/or casting facilities	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP		
Jails and Prisons	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	Sec. 8.7	
Mineral extraction, mineral processing	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP		
Petroleum products refining or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	Sec. 8.11	
<b>Adult Uses</b>														
Adult Uses	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	NP	Sec. 4.4K, Sec. 8.1	
<b>Recreational Uses</b>														
Hunting, Shooting, Archery and Fishing Clubs, public or private	NP	NP	NP	CU	CU	NP	NP	P	NP	NP	NP	NP	Sec. 8.8	
<b>Commercial Uses</b>														
Adaptive Reuse of Historic Structures	CU	CU P	CU P	CU P	CU P	CU P	CU P	CU P	CU	CU	CU P	CU P	CU	Sec. 8.19

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses Continued</b>													<b>Sec. 8.9</b>
Antique Shop	P	P	P	P	NP	P	NP	CU	CU	P	P	<del>P</del> CU	
Appliance Sales	NP	P	P	P	CU	P	NP	CU	CU	P	P	NP	
Art Gallery or Artist Studio	P	P	P	P	NP	P	P	CU	CU	P	P	<del>P</del> CU	
ATM	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Automobile repair, sales and service	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Automobile parts, supplies and tire stores	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Automobile, light truck and light trailer rentals, indoor	P	P	P	P	P	P	NP	CU	CU	P	P	NP	
Automobile, light truck and light trailer rentals, outdoor	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Bail Bond Services	NP	P	P	P	CU	NP	NP	CU	CU	CU	P	NP	
Bank	P	P	P	P	CU	P	P	CU	CU	P	P	<del>P</del> CU	
Bank with Drive-Through Facility	CU	P	P	P	CU	P	P	CU	CU	P	P	NP	
Bar	P	P	P	P	NP	P	P	NP	NP	P	P	NP	
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	CU	CU	P	P	<del>P</del> CU	
Bed and Breakfast	P	NP	NP	NP	NP	NP	NP	P	CU	NP	NP	P	Sec. 8.3
Brewpub	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.5
Business Equipment Sales and Service	CU	P	P	P	CU	P	P	CU	CU	P	P	NP	
Building Maintenance Services	CU	P	P	P	P	P	P	CU	CU	P	P	NP	
Building Materials and Supplies	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Campground <sup>31</sup>	CU	P	NP	NP	NP	P	NP	P	CU	P	P	NP	Sec. 8.17
Car Wash	NP	P	P	P	CU	P	P	CU	CU	P	P	NP	
Commercial Blood Plasma Center	NP	P	P	P	NP	CU	CU	CU	CU	CU	P	NP	
Commercial Uses	NP	NP	NP	NP	NP	NP	NP	NP	**	P	P	NP	Sec. 8.9
Contractor with No Outdoor Storage	P	P	P	P	P	P	P	CU	CU	P	P	NP	
Contractor with Outdoor Storage	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Convenience Store, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Convenience Store	CU	P	P	P	CU	P	NP	CU	CU	PC	P	CU	Sec. 5.8C (RLIC only)
Country Inn	P	P	P	P	NP	P	P	CU	CU	P	P	P	
Custom Manufacturing	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Facility	NP	P	P	P	P	P	P	CU	CU	P	P	NP	
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	NP	CU	CU	P	P	NP	
Exterminating Services	NP	P	P	P	P	P	P	CU	CU	P	P	NP	
Florist	P	P	P	P	CU	P	P	CU	CU	P	P	<del>P</del> CU	
Food Preparation	P	P	P	P	CU	P	P	CU	CU	P	P	NP	
Hotel/Motel	NP	P	P	P	NP	P	P	CU	CU	P	P	NP	
Gambling Facilities	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	Sec. 4.4G
Gas Station, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	NP	
Gas Station	NP	P	P	P	CU	P	P	CU	CU	P	P	NP	
Gas Station, Large	NP	CU	P	P	CU	CU	CU	CU	CU	P	P	NP	
Golf Course	NP	P	P	P	NP	P	P	CU	CU	P	P	NP	
Grocery Store	P	P	P	P	CU	P	NP	CU	CU	P	P	NP	
Horse Racing Facility	NP	NP	NP	P	NP	NP	NP	CU	CU	P	P	NP	

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses Continued</b>													<b>Sec. 8.9</b>
Kennel	NP	P	P	P	CU	P	P	P	CU	P	P	NP	Sec. 8.4
Medical/Dental/Optical Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Medical/Dental/Optical Office	NP	P	P	P	CU	P	P	CU	CU	P	P	NP	
Mobile Home, Boat and Trailer Sales	NP	P	P	P	CU	P	NP	CU	CU	CU	P	NP	
Movie Theater	NP	P	P	P	NP	P	NP	CU	CU	P	P	NP	
Nightclub	NP	P	P	P	NP	P	NP	CU	CU	P	P	NP	
Non Profit Commercial Uses	P	P	P	P	NP	P	P	CU	CU	P	P	NP	
Non-Profit Community Centers	P	P	P	P	CU	P	CU	P	CU	P	P	CU	
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	CU	CU	P	P	NP	
Pawn Shop Services	NP	P	P	P	NP	P	NP	CU	CU	P	P	NP	
Personal Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Professional Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Professional Office	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant, Fast Food, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant, Fast Food	CU	P	P	P	CU	P	P	CU	CU	CU	P	NP	Sec. 5.8C (RLIC only)
Restaurant, Fast Food, Drive-Through	NP	P	P	P	CU	CU	P	CU	CU	CU	P	NP	Sec. 5.8C (RLIC only)
Restaurant, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Retail Sales Limited	P	P	P	P	NP	P	P	CU	CU	P	P	NP	
Retail Sales and Services, General	NP	P	P	P	NP	P	NP	CU	CU	P	P	NP	
Retail Store, Large	NP	CU	P	CU	NP	CU	NP	CU	CU	CU	CU	NP	
Shipping and Mailing Services	P	P	P	P	CU	P	P	CU	CU	P	P	NP	
Storage, Commercial	NP	P	P	P	CU	P	NP	CU	CU	P	P	NP	
Veterinary Services	P	P	P	P	CU	P	P	P	CU	P	P	NP	
Wireless Telecommunications Facilities	P	P	P	P	P	P	P	P	P	P	P	P	Art. 4B
<b>Agricultural Uses*</b>													
Agricultural Uses as defined in Article 2	P	P	P	P	P	P	P	P	P	P	P	P	
Agricultural Repair Center	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P	
Farm Brewery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Winery or Distillery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Market	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P	
Farmer's Market	P	P	P	NP	NP	P	NP	P	CU	P	NP	CU	Sec. 8.6
Feed and/or Farm Supply Center	CU	P	P	P	P	P	P	P	CU	P	P	NP	
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	CU	P	P	NP	
Landscaping Business	P	P	P	P	P	P	P	P	CU	P	P	NP	
Rental of Existing Farm Building for Commercial Storage Structure must have existed for 5 years	NP	P	P	P	P	P	P	P	CU	P	P	NP	
<b>Accessory Uses</b>													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

NC Neighborhood Commercial  
GC General Commercial  
HC Highway Commercial

OC Office / Commercial Mixed-Use  
R Rural  
RG Residential Growth District

LI Light Industrial  
MI Major Industrial  
PND Planned Neighborhood Development

RLIC Residential-Light Industrial-Commercial District  
IC Industrial-Commercial District  
V Village District

P Permitted Uses

NP Not Permitted Uses

CU Conditional Uses (subject to requirements of district and/or other requirements of this Ordinance)

\*\* Accessory Use to a planned residential community, if permitted pursuant to Section 5.4 and processed as a CU

<sup>1</sup> The Planning Commission may amend the permitted uses for a development in the PND District per Article 5.

<sup>2</sup> Approval process is per the Salvage Yard Ordinance.



# Jefferson County, West Virginia

Office of Planning and Zoning  
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## MEMO

**TO: Planning Commission**  
**FROM: Jennifer M. Brockman, AICP, County Planner**  
**DATE: August 8, 2017**  
**RE: Follow up to 07-11-17 Public Hearing RE: ZTA16-02, Historic Preservation**

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The West Virginia Code §8A-2-11, "Planning Commission's Powers and Duties" states that a Planning Commission is required to "make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction". To that end, the attached is an overview of the major activities undertaken over the past fiscal year by the Jefferson County Office of Planning and Zoning, Planning Commission, and Board of Zoning Appeals, prepared by the Office of Planning and Zoning which needs to be approved to be forwarded to the County Commission of Jefferson County by the Planning Commission.

Additionally, staff is recommending that a status report regarding the *Envision Jefferson 2035 Comprehensive Plan* (approved 1/4/15) be made a part of this Annual Report to provide the County Commission with information regarding completed and pending Plan recommendations. This status report for the *Envision Jefferson 2035 Comprehensive Plan* will be distributed at the August 8, 2017 meeting for Planning Commissions information and discussion.

# ANNUAL REPORT FOR PLANNING AND ZONING

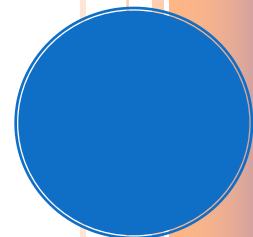
*FY 2017 (July 1, 2016 – June 30, 2017)*

West Virginia Code §8A-2-11, “Planning Commission's Powers and Duties” states that a planning commission is required to “make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction”.

To that end, the following is an overview of the major activities undertaken over the past fiscal year by the Jefferson County Office of Planning and Zoning, Planning Commission, and Board of Zoning Appeals, prepared by the Office of Planning and Zoning and approved to be forwarded to the County Commission of Jefferson County by the Planning Commission on \_\_\_\_\_, 2017.

Additionally, a status report regarding the *Envision Jefferson 2035 Comprehensive Plan* (approved 1/ 4/15) is made a part of this Annual Report to provide the County Commission with information regarding completed and pending *Plan* recommendations.

8/8/2017



# Annual Report for Planning and Zoning

*FY 2017 (July 1, 2016 – June 30, 2017)*

<b>PROJECTS UNDERTAKEN/IN PROGRESS</b>		<b>Status</b>
<b>PLANNING COMMISSION ITEMS</b>		
Planning Commission Meetings: 10 Total		
<b>Subdivision Regulations Text Amendments 2 Total</b>		<b>Status</b>
STA16-01	Staff worked on amendments related to sections requiring frequent interpretations and issues, including but not limited to processing mergers/lot line adjustments; contents of minor subdivisions, etc.	Stakeholder Roundtable scheduled for 7/25/17
STA15-04	Replace Section 7.3 Campground Requirements with a new Division 8.0 regarding Campgrounds Regulations; add Definitions	Approved by CC 9/29/16
<b>Zoning Ordinance Text Amendments 4 Total</b>		<b>Status</b>
ZTA16-02	Staff, in conjunction with the Jefferson County Historic Landmarks Commission, finalized a draft amendment to the Zoning Ordinance to implement the recommendations of the <i>Envision Jefferson 2035 Comp Plan</i> regarding Historic Resource Demolition and Adaptive Reuse	Planning Commission Public Hearing scheduled for 7/11/17
ZTA16-01	Replace nontraditional zoning ordinance with a traditional zoning ordinance and increase the density provisions of the Rural Zoning Cluster Development in Section 5.7; amend various sections related to rural land use throughout the Ordinance	Approved 3/16/17
ZTA15-02	New Article 8, Section 8.17 Campgrounds; new Definitions; Amendments to Appendix C, Principal Permitted Uses	Approved by CC 9/29/16
ZTA14-02	Mass Event Regulations – on-going; PC held second Public Hearing on 12-08-15; CC postponed future Public Hearing until Summer 2016 at their 2/4/16 meeting.	Pending CC PH TBD
<b>Long Range Planning:</b>		<b>Status</b>
No long range projects this Fiscal Year		

<b>Major Subdivision/ Concept Plan (Public Workshop before PC)</b>		<b>1 Total</b>	<b>Status</b>
17-06 (CP)	Colonial Hills Phase 3A (Major Subdivision) Concept Plan: Proposed project is 61 Townhouse Units, open space and storm water management areas and the construction of associated utilities on a 7.92 acre portion of a 27.15 acre parcel.		Approved 4/11/17 PC Meeting
<b>Site Plan/Concept Plan (Public Workshop before PC)</b>		<b>4 Total</b>	<b>Status</b>
S17-05 (CP)	H & G Contracting, LLC Property Concept Plan: Proposed project is a 10,640 sq. ft. retail building (proposed Dollar General) with associated parking on a total proposed 2.4 acre +/- lot.		Approved 5/23/17 PC Meeting
S17-03 (CP)	Grace Baptist Church The proposed project is a two Phase Church Project: Phase 1 is to consist of a 6000 SF Church building on well and septic with a proposed gravel surface parking lot. Phase II will consist of the replacement of the western most parking area with a second 6000 SF Church building and the construction of an additional parking lot		Approved 4/11/17 PC Meeting
S17-01 (CP)	Genesis Center The proposed project, to be located on the Henry property south of Morgan Grove Park, consists of a mixed commercial/residential development in the Neighborhood Commercial zone.		Approved 3/28/17 PC Meeting
S16-06 (CP)	Harper's Ferry Outdoor Resort The proposed project, to be located on the western portion of a 410 +/- acre parcel, in the vicinity of the quarry lake, consists of a total of 160 sites including cabins, RV sites, yurts and tents; a pool, pavilion, boat rentals, water side areas, bath houses and a lodge.		Approved 1/10/17 PC Meeting
<b>Waiver/Variance from Sub. Regulations (PC)</b>		<b>11 Total</b>	<b>Status</b>
PCV#17-01	Roderick Planes, LLC / Aspen Greens S/D Variance from Article 6, Section 6.3 of the 1979 Jefferson County Subdivision Ordinance which requires a public hearing within 24 months of the previous phase; requesting a 36-month extension from June 9, 2017 to June 10, 2020, to advance through the Final Plat public hearing for this development		Public Hearing scheduled for the 7/11/17 PC meeting

PCW#17-03	<p>Family Adventure Resort  Waiver from Appendix B, Table 2.2-1, Roadway Design Standards requiring a 9% maximum road grade for Non-Residential/Industrial &amp; Commercial Streets to allow an increased slope from Alstadts Hill Road to the Clarion Hotel and a waiver from Appendix B, Section 2.5.I, Off-Street Parking Standards requiring parking area access driveways and entrances leading from the public road or subdivision street, and also the parking area internal access drives connecting physically separated parking bays, to not exceed an 8% grade.</p>	<p>Public Hearing scheduled for the 7/11/17 PC meeting</p>
PCW#17-02	<p>Trustees of Grace Baptist Church  Waiver from Section 21.401 to allow existing parking to remain within the 50' access easement along the eastern boundary line of the property.</p>	<p>Approved 6/13/17 PC</p>
PCW#17-01	<p>H &amp; G Catrow Contracting, Inc.  Waiver from Section 20.201B to allow a two (2) lot commercial Minor Nonresidential Subdivision to advance to Final Plat and to process as a Minor Subdivision, to create an approximate 1.5 acre parcel and a 2.25 acre Residue parcel to market and sell to a commercial entity.</p>	<p>Approved 4/11/17 PC</p>
PCW#16-11	<p>CTSS, LLC. (Proposed new Waffle House)  Waiver from Section 21.402.D that requires that no permanent encroachments, structures, fences, or landscaping within the existing WVDOH drainage easement; and a Waiver from Article 20, Section 20.201B and/or 24.110-24.117 to allow a subdivision of two (2) new commercial lots to advance to Final Plat Stage as a Minor Subdivision and to process as a Minor Site Plan.</p>	<p>Approved 1/10/17 PC</p>
PCW#16-10	<p>Asam Family Limited Partnership (Bavarian Inn)  Waiver from Waiver Request from Article 20, Section 20.201B and/or 24.110-24.117 to allow a subdivision of two (2) new commercial lots to advance to Final Plat Stage as a Minor Subdivision, to be approved administratively.</p>	<p>Approved 11/1/16</p>
PCW#16-09	<p>The Conservation Fund  Waiver from requirement for a riparian buffer of 50' from the channel edge of an ephemeral stream in order to construct an aquaculture tank facility to replace a smaller existing tank facility.</p>	<p>Approved 10/11/16</p>
PCW#16-08	<p>CTSS, LLC for Charles Town Self-Storage Expansion  Waiver from Section 20.102(B) requiring approval of a Site Plan prior to commencement of land development.</p>	<p>Approve for early grading and utilities outside of the WVDOH PDE 9/13/16</p>

PCW#16-07	CTSS, LLC. Waiver from Section 21.402.D that requires that no permanent encroachments, structures, fences, or landscaping within the easement area.	Approved contingent upon receiving written WVDOH approval 7/26/16
PCW#16-06	Nina Lynch Waiver from Section 20.201(A)2 of the Subdivision Regulations which allows lots in the Rural District with a minimum road frontage of 200' to front on an existing road right of way having a width of 50' and from Appendix B, Section 2.3(A)1 which requires individual lots to be served by internal subdivision roads.	Approved 7/12/16
PCW#16-05	Jefferson County Convention & Visitors Bureau Waiver from Appendix B, Section 2.5(C) that requires all parking lots and parking bays to be physically separated from the street and confined by curbing, unless other suitable design is approved by the County Engineer.	Approved 7/12/16
<b>Zoning Map Amendments/Rezoning Requests (PC) 2 Total</b>		<b>Status</b>
Z17-02	Harpers Ferry Holdings, LLC, Property Owner 126 Alstadts Hill Road, Harpers Ferry, WV Request to rezone from Residential Growth (RG) to Residential-Light Industrial-Commercial (RLIC)	PC found consistent with Comp Plan on 06/13/17; CC Public Hearing on 06/29/17
Z17-01	Jefferson Realty, LLC / Antonio Colandrea, Property Owner 4843 Middlway Pike, Kearneysville, WV Request to rezone from Rural to General Commercial	CC Approval 04/06/17

<b>BOARD OF ZONING APPEALS ITEMS</b>		
Board of Zoning Appeals Meetings:		11 Total
<b>Zoning Variance Requests (BZA)</b>		<b>30 Total</b>
		<b>Status</b>
ZV17-13	Bernard A. DeMartini Variance Request for a reduction of the side and rear setback distances from 20' to 12' to allow for the construction of a 7' front porch.	Pending Scheduled 07/27/17
ZV17-12	Patricia Dunn Variance Request for a reduction of the rear setback distance from 50' to 30' ' to allow for the construction of a 30'x45' garage.	Approved 06/22/17 BZA Meeting

ZV17-11	Collis Holdings, LLC / Attn. Joseph Collis Variance Request for a reduction of the rear setback distance from 20' to 12' to allow for the construction of a 12'x12' deck.	Approved 06/22/17
ZV17-10	Trustees of Grace Baptist Church Variance Request to allow existing parking and an access drive to remain within the 50' unscreened green space buffer yard along the eastern boundary and to allow a reduction of the side setback building restriction line from 50' to 15'.	Approved 06/22/17
ZV17-09	Suzin & Laurence Wright Variance Request from Section 5.7 for a reduction to a side setback distance, from 15' to 3' to allow for the construction of a 20' x 32' storage shed.	Approved 05/25/17
ZV17-08	WVA 340 LLC (BPizza of West Virginia) Variance Request to allow for the reduction of seven (7) additional parking spaces required by change of use, from a Bank to a Restaurant. Existing Drive-Thru will be converted to patio seating.	Expired
ZV17-07	Timothy Johnson Variance Request from Section 4.10 to waive the requirement of a Site Plan due to the need for a paved parking lot. Applicant requested to utilize existing gravel parking lot as part of Conditional Use Permit.	Approved 05/25/17
ZV17-06	Kathleen Holsinger Variance Request for a reduction of the rear setback distance from 6' to 1' to allow for the installation of a 7' tall fence at the rear of the property.	Approved 05/25/17
ZV17-05	Suzin and Laurance Wright, Property Owners Variance Request for a reduction of the rear setback distance from 50' to 4' to allow for the construction of a 22' x 24' storage shed.	Withdrawn
ZV17-04	David Young, Property Owner Variance Request for a reduction of the rear setback distance from 8' to 6" to allow for construction of a 28' x 20' garage.	Approved 04/27/17 BZA Meeting
ZV17-03	Richard Pauley, Property Owner Variance Request to reduce the side setback from 8' to 6' and the front setback from 20' to 12' to allow for the replacement of an existing mobile home with a new, larger mobile home.	Approved 03/23/17
ZV17-02	Beallair Homes, LLC, Property Owner Variance from Sec 4.18 to allow Townhouse Model Home/Sales Office on Lots 52 - 67, within Phase 2.	Approved 03/23/17

ZV17-01	Michael Witteried, Applicant Linda Conn & Marshall Campbell, Jr., Property Owners Variance Request to reduce building setbacks for a lot that is greater than 2 acres ( 40' Front; 15' Side, and 50' Rear) to the setbacks required for a lot that is 40,000 sq. ft. to 2 acres (25' Front; 12' Side; and 12' Rear).	Approved 02/23/17
ZV16-28	Christina Firaben and Alex Arneson Variance Request for a reduction of side setback from 12' to 10' for a 20' x 24'.	Approved 1/12/17
ZV16-27	CTSS, LLC, owner Variance to eliminate the required four (4) foot west side & rear property line parking setbacks and the 10 foot west side & rear property line landscape buffers; and to eliminate the required 50' landscape buffer when located within 1/3 mile of a controlled access highway.	Approved 1/12/17
ZV16-26	Jacob & Anna Binkley, owner Variance Request to allow the use of an existing barn for Rural Reception Events.	Approved 12/8/16
ZV16-25	Michael & Lori DeCelie, owner Variance Request for a reduction of the rear setback distance from 50' to 15' to allow for construction of a new home in an area that is not in the Flood Plain.	Approved 12/8/16
ZV16-24	William Rinkles, owner Variance Requests requirement that no accessory structures shall be erected within the required front yard and for a reduction of the front setback distance from 40' to 25' to allow for the construction of a 28' x 38' garage	Approved 11/10/16
ZV16-23	Asam Enterprises, Inc. (Bavarian Inn) 3 Variance Requests regarding: the elimination of the required 10' buffer between commercial lots; the reduction of the building setback from 50' to 25'; and the elimination of the access road and parking lot setbacks.	Approved 11/10/16
ZV16-22	Amy Secrist, owner Variance Request for a reduction of the front setback distance from 25' to 10' or 12' to continue allowing placement of an existing sign in the current installation area.	Approved 10/27/16
ZV16-21	Beallair Homes, LLC, owner Variance Request to allow Townhouse Model Home/Sales Office on Lot 51, within Phase 2 of development.	Approved 10/27/16
ZV16-20	Michael Coffman, owner Variance Request for a reduction of the side setback distance from 15' to 8' to allow for the construction of a 24' x 30' Pioneer Pole Building/Garage.	Approved 10/27/16
ZV16-19	David Leighton, owner Variance from Section 9.7 to reduce the rear setback from 12' to 6' to allow for the construction of a 36' x 14' deck.	Approved 9/22/16

ZV16-18	McGee Civil Construction, LLC, owner Variance from various sections and Appendix B related to landscaping and fencing requirements	Approved 9/22/16
ZV16-17	Bavarian Inn Variance from Section 4.6B.2 to reduce the side distance requirement for a commercial use adjacent to a residential use from 75' to 57' to allow for the construction of an addition to the existing Bavarian Inn	Approved 9/22/16
ZV16-16	Jefferson County Convention and Visitor's Bureau, applicant, on behalf of the Jefferson County Commission, owner Variance from Appendix B to reduce the front parking setback from 15' to 0'; and Section 11.1A to allow on-street parking	Approved 7/28/16
ZV16-15	Jefferson County Convention and Visitor's Bureau, applicant, on behalf of the Jefferson County Commission, owner Variance from Appendix B to reduce the front setbacks from 40' to 19.97'	Approved 7/28/16
ZV16-14	Jefferson County Development Authority, owner for lots in Burr/Bardane still in the ownership of JCDA Variance from various sections and Appendix B related to the required front, side and rear building setbacks to 25' for all lots and to reduce the required side and rear landscape buffer to 10' and to allow a modified planting standard; and to allow existing vegetation in lieu of the aforementioned modified planting standard.	Approved 7/28/16
ZV16-13	Beallair Homes, LLC, owner Variance from Section 4.18 to allow a staffed model home on Lot 111, which is located within the interior of the subdivision	Approved 7/28/16
ZV16-12	Beallair Homes, LLC, owner Variance from Section 5.4B1 to reduce the rear setback from 20' to 12' for any residential structures on Lots 112, 127, and 128	Approved 7/28/16
<b>Conditional Use Permit (CUP) Applications (BZA)                      4 Total</b>		<b>Status</b>
CUP17-03	Alisha's Child Care Center (James Shimp, Jr.) Proposed 12-children child care facility within an existing home.	Approved 05/25/17 BZA Meeting
CUP17-02	Middleway Antique Shop & Info Center (Timothy Johnson) Proposed antique shop and information center to be located in an existing building.	Approved 05/25/17 BZA Meeting
CUP17-01	Jonathan Friedlander/ Sharp Best & Brown, LLC Proposed 3,400 square foot, 60-seat, drive through restaurant (Popeye's) with associated parking and signage. The existing site is to be demolished.	Approved 04/27/17 BZA Meeting

CP16-01	Wheatlands Property Management / Jesse Morgan, owner Micro-Brewery with "Tasting Room"; Pub-style Restaurant serving no more than 250 seats, including outside seating; Farm Market/Store; Country Inn or Bed & Breakfast; Professional Office Space; and two (2) Residential Units..	Failed LESA
<b>Seasonal Use Permit (SU) Applications (BZA)</b>		<b>1 Total</b>
<b>Status</b>		
SU17-01 (A-I)	The Middleway Conservancy Association Inc. Proposed Seasonal Use Permit for "Reenactment of the Battle of Smithfield Crossing" to operate from September 8-10, 2017. The event is to consist of a reenactment of civil war camp life, drills, educational activities and public parking	Approved 06/22/17
<b>Zoning Appeal of Administrative Decision (BZA)</b>		<b>1 Total</b>
<b>Status</b>		
AP16-02	Runnymede Homeowners Association Variance Request for a reduction of the side setback distance from 15' to 8' to allow for the construction of a 24' x 30' Pioneer Pole Building/Garage.	Zoning Administrator's Determination Upheld1/12/17

<b>PLANNING &amp; ZONING STAFF ITEMS</b>		
Pre-Proposal Conference (PPC) Meetings: 73 Total (33 Minor Subdivision, 3 Major Subdivision & 37 Site Plan)		
Information Request Forms (IRFs -- general inquiries from the public; generally provided written responses): 259 Total		
Zoning and Land Development Fees Collected: \$29,460.60		
<b>Zoning Certificates (Staff)</b>		<b>44 Total</b>
<b>Status</b>		
See page 15 for detailed list of Zoning Certificates.		39 Approved 3 Pending 2 denied
<b>Minor Site Plans (Staff)</b>		<b>14 Total</b>
<b>Status</b>		
S17-09	Burr Industrial Park - Lot 23 (Steeley Way); owner: JCDA Proposed project consists of the construction of a new 4,800 sq.ft. one-level structure containing 480 sq. ft. of finished space and 4,320 sq. ft. of unfinished space, to be used as an Automobile Repair/Showroom with drive aisles, parking areas and associated structures. Submitted: 05/31/17	Under review

S17-08	Popeye's Restaurant; Owner: Sharp, Best & Brown, LLC, 805 East Washington Street, Charles Town Proposed project consists of the construction of a Popeye's Restaurant with drive-thru and supporting infrastructure, to include parking, lighting, water and sewer services, stormwater management and landscaping Submitted: 05/16/17	Under review
S17-07	Bavarian Inn Brew Pub Addition; Asam Family Limited Partnership, Contact: Christian Asam 164 Shepherd Grade Road Shepherdstown Proposed project: The addition of a Brew Pub to the rear of the building Submitted: 04/28/17	Under review
S17-06	Fellowship Bible Church, Phase 1B; Contact: Rich Beddow 4160 Daniels Road, Shenandoah Junction Proposed project: 4,400 sf pole building for storage/maintenance Submitted: 04/14/17	Under review
S17-05 (CP)	H&G Catrow Contracting, Inc 7174 Martinsburg Pike (Route 45) To be divided into two commercial lots. Proposed project consists of an approximate 10,000 sq. ft. general retail store on a proposed Lot 1 to be served by well and septic. Submitted: Concept Plan 03/24/17; Site Plan not yet submitted	Concept Plan Public Workshop held 4/11/17
S17-04	River Riders/Cliffside Inn Connector Road 408 Allstadts Hill Rd, Harpers Ferry Design and construction of toad connecting River Riders and the Clarion Harpers Ferry Hotel and redesign of Allstadts Hill Road to access Clarion Harpers Ferry Hotel parking lot. Submitted: 02/16/17	Under review with related waiver request; awaiting resubmittal
S17-03	Grace Baptist Church Concept Plan 3160 Charles Town Road, Kearneysville Proposed two Phase Church Project: Phase I: 6000 SF Church building on well and septic with a proposed gravel surface parking lot. Phase II: second 6000 SF building & additional parking Submitted: Concept Plan 02/17/17; Site Plan 4/12/17	Concept Plan Public Workshop held 4/11/17; Site Plan under review
S17-02	Charles Town Waffle House 107 Keyes Ferry Road, Charles Town 2,376 square foot restaurant with 24 parking spaces Submitted: 02/02/17	Approved 5/24/17
S17-01 (CP)	Genesis Center Route 480, Kearneysville Pike (adj. to Morgan's Grove Park) Proposed 3 commercial lots including potential restaurant, general commercial/retail and health care facility and 12 detached single family Villa Units Submitted: 01/23/17	Concept Plan Public Workshop 3/28/17

S16-07	Harpers Ferry Visitor's Center 37 Washington Ct, Harpers Ferry Two-story 1,020 sf visitor center, a 18' x 26' roofed area w/ concrete courtyard & walkways and required Submitted: 12/06/16	withdrawn
S16-06 (CP)	Harper's Ferry Outdoor Resort East Side of Millville Road (Route 27) south of US 340. Re: The proposed project consists of RV spaces, outdoor camping, cabins, a Lodge and outdoor recreational amenities. Submitted: 11/21/16	Concept Plan Public Workshop 1/10/17
S16-05	Whale of a Wash Laundromat Addition 04 Maddex Square Dr., Shepherdstown. 1,690 sq. ft. laundromat addition to an existing car wash Submitted: 10/19/16	Approved 11/28/16
S16-04	David Waddell Construction of a new 7,200 square foot warehouse building on Lot 6, Kramer Subdivision Submitted 8/10/16	Approved 10/17/16
S16-03	The Conservation Fund/Freshwater Institute New 5,478 s.f. Aquaculture Tank Building to replace existing 3068 Sq. ft. hoop structure Submitted 08/04/16	Approved 10/17/16
<b>Minor Subdivisions (Staff)</b>		<b>21 Total</b>
		<b>Status</b>
17-10	Quynn MSD – Lot 3 (Residue) & 4 & 5	Under review – awaiting resubmittal
17-09	Kable MSD – Lot 1 & Residue	Under review – awaiting resubmittal
17-08	Wolfe MSD - Lot 1, 2 & 3 (Residue)	Approved 06/21/17
17-07	Gorman MSD - Lot 1 & Lot 2 (Residue)	Approved 03/17/17
17-05	Lickteig MSD - Lot 1, 2 & 3 (Residue)	Approved 03/15/17
17-04	Everhart MSD - Lot 1 & Lot 2 (Residue)	Under review – awaiting resubmittal
17-03	Bavarian Inn MSD - Lot 1 & Lot 2 (Residue)	Approved 03/27/17
17-02	Lands of CTTS, LLC MSD - Lot A & Lot B	Approved 05/24/17
17-01	Prilliman MSD - Lots 1, 2, 3 & 1A (Residue)	Approved 02/03/17
16-14	Laycock MSD – Lot 3 & 5	Approved 01/09/17

16-13	Zappe MSD – Lot1 & Residue	Approved 01/09/17
16-12	Mellott MSD -- Lot 1 & 2 Residue	Approved 10/17/16
16-11	Shea MSD -- Lot 1 & 2 Residue	Approved 04/10/17
16-10	Guay MSD -- Lot 1 & 2	Under review – awaiting resubmittal
16-09	Lynch MSD/Resubdivision of Lot #1 Merryfield Farm Estates -- Lot 1A & 1B Residue	Approved 09/20/16
16-08	Biller MSD -- Lot 1 & 2 Residue and Merger	Approved 9/27/16
16-07	Eisner MSD -- Lots 1-4 Residue	Approved 01/20/17
16-06	Dodson MSD -- Lot 1 & 2 and Lot 3 Residue	Approved 01/05/17
16-05	Van Camp MSD -- Lot 1 & Lot 2 Residue	Approved 08/17/16
16-04	Boyd MSD -- Lot 1 & Lot 2 Residue	Approved 08/01/16
16-03	D'Angelo MSD -- Lot 1 & Lot 2 (Residue)	Approved 07/06/16
<b>Boundary Line Adjustments (Staff)</b>		<b>34 Total</b>
		<b>Status</b>
M17-16	Sarah W. Shevda/Andrew P. & Sarah C. Fleming Merger	Pending
M17-14	Lots 23 + 24, Hidden River Farm James S. Henry/Danny W. & Sue E. Daniels Merger	Approved 07/13/17
M17-13	James E. Peckham & Loretta A. Peckham Merger	Approved 07/18/17
M17-12	Howard R. Quynn II & Patricia A. Quynn Merger and Minor Plat Change (Septic Reserve Relocation)	Pending
M17-11	Martha J. Wilt/Daniel L. Gilly, Sr. & Sadie Gilly Merger	Approved 05/26/17
M17-10	Lawrence J. Goodwin & Catherine Halvey Goodwin Merger	Approved 04/18/17
M17-09	Harold S. Barlow, Sr./Larry Fritts, Jr. Merger	Approved 04/27/17
M17-08	Nickell Merger	Approved 04/06/17
M17-07	Mellott – Dugan	Approved 04/06/17

M17-06	Abelow Merger	Approved 03/23/17
M17-05	Caseco, LLC Merger	Approved 02/27/17
M17-04	Stuckey Merger	Approved 02/07/17
M17-03	Sheehan – Shipley (Riverside Acres)	Approved 03/13/17
M17-02	James & Lisa Boyer	Approved 02/01/17
M17-01	Borden Farm, LLC – John B. Hammond	Approved 01/04/17
	Quynn Merger	Approved 12/21/16
	Walls Merger	Approved 12/9/16
	Reiter Merger	Approved 1/30/17
	O’Sullivan Farms Merger	Approved 12/15/16
	Liskey Merger	Approved 12/22/16
09-26-16	Wilson-Trout Merger	Approved 10/06/16
	Biller Merger	Approved 10/06/16
09-19-16	Richardson – May Merger	Approved 09/28/16
09-02-16	Gordon – Marino Merger	Approved 09/28/16
09-01-16	Abelow Merger	Approved 09/14/16
08-23-16	Miller – Walls Merger	Approved 08/26/16
08-17-16	Jackson Woods Consolidation Plat	Approved 08/25/16
08-09-16	Seven Springs, Inc – Lot J Tulip Hill	Recorded without approval of P&Z 08-31-16
08-03-16	Oak Meadow, LLC (Lake Parcel)	Approved 08/11/16
07-25-16	Donley Merger	Approved 09/07/16

07-13-16	Nick Sr. to Nick Jr. Merger	Approved 08/02/16
07-06-16	Osprey Holdings, LLC	Approved 07/28/16
05-23-16	Charles Town Self Storage Merger	Approved 07/21/16
05-11-16	D'Angelo Merger	Approved 07/06/16

<b>ITEMS REQUIRING COMMISSION ATTENTION</b>		<b>Status</b>
ZTA14-02	Mass Event Regulations (Zoning Ordinance Text Amendment) PC held second Public Hearing on 12-08-15 and forwarded to CC for action	CC postponed future PH
ZTA16-02	Staff, in conjunction with the Jefferson County Historic Landmarks Commission, finalized a draft amendment to the Zoning Ordinance to implement the recommendations of the <i>Envision Jefferson 2035 Comp Plan</i> regarding Historic Resource Demolition and Adaptive Reuse	Planning Commission to refer to County Commission Fall 2017
STA16-01	Staff continued working on amendments related to sections requiring frequent interpretations and issues, including but not limited to processing mergers/lot line adjustments; contents of minor subdivisions, etc.	Planning Commission to refer to County Commission Fall 2017
<b>PROPOSED PROJECTS</b>		<b>Status</b>
ZTA17-___	Planning Commission's #1 priority text amendment: Revise landscape regulations in Zoning Ordinance.	TBD
ZTA17-___	Planning Commission's proposed text amendment: Revise signage regulations in Zoning Ordinance.	TBD
STA17-___	Planning Commission's proposed text amendment regarding Subdivision Regulation reorganization and streamlining processes.	TBD
US 340 South Small Area Plan	WV DOH held an Informational Workshop/Public Hearing on August 30, 2016 regarding the Preferred Alternative (4A) and the Supplemental Draft Environmental Impact Statement for proposed 5 mile project, constructing a 4-lane divided highway to complete the 2 lane gap section	<i>Envision Jefferson 2035</i> recommends a Small Area Plan for 340S once DOH publishes the Record of Decision

## PLANNING COMMISSION MEMBERS – FY 2017

1. Donnie Fisher, President (term expires 03/31/20)
  2. Wade Louthan, Vice President (term expires 03/31/19)
  3. Clifford (Gene) Taylor, Secretary (term expires 03/31/18)
  4. Ron Thomas (term expires 03/31/20)
  5. Ray Brunning (term expires 03/31/20)
  6. Steve Stolipher (term expires 03/31/18)
  7. Gary Phalen (resigned 5/22/17)
  8. J Ware (term expires 03/31/19)
  9. Peter Osnozko, County Commission Liaison
- Mike Chapman (term expired 03/31/17)
  - Richard (Dick) Childs (term expired 03/31/17)

## BOARD OF ZONING APPEALS MEMBERS – FY 2017

1. J. Tyler Quynn, Chair (term expires 01/01/20)
2. Jeffrey C. Bannon, Vice Chair (term expires 01/01/19, reappointed)
3. Jeffrey Bresee (term expires 01/01/18)
4. Matt Knott (term expires 01/01/20)
5. Ted Schiltz (term expires 01/01/18)
6. Deirdre Catterton, Alternate (term expires 01/01/18)

## DEPARTMENTS OF PLANNING AND ZONING STAFF – FY 2017

1. Jennifer M. Brockman, AICP, County Planner
2. Alexandra Beaulieu, Zoning Administrator
3. Jennilee Hartman, Zoning Clerk
4. Rhonda Greenholtz, Planning Clerk
5. Christine Chalmers, Office Clerk

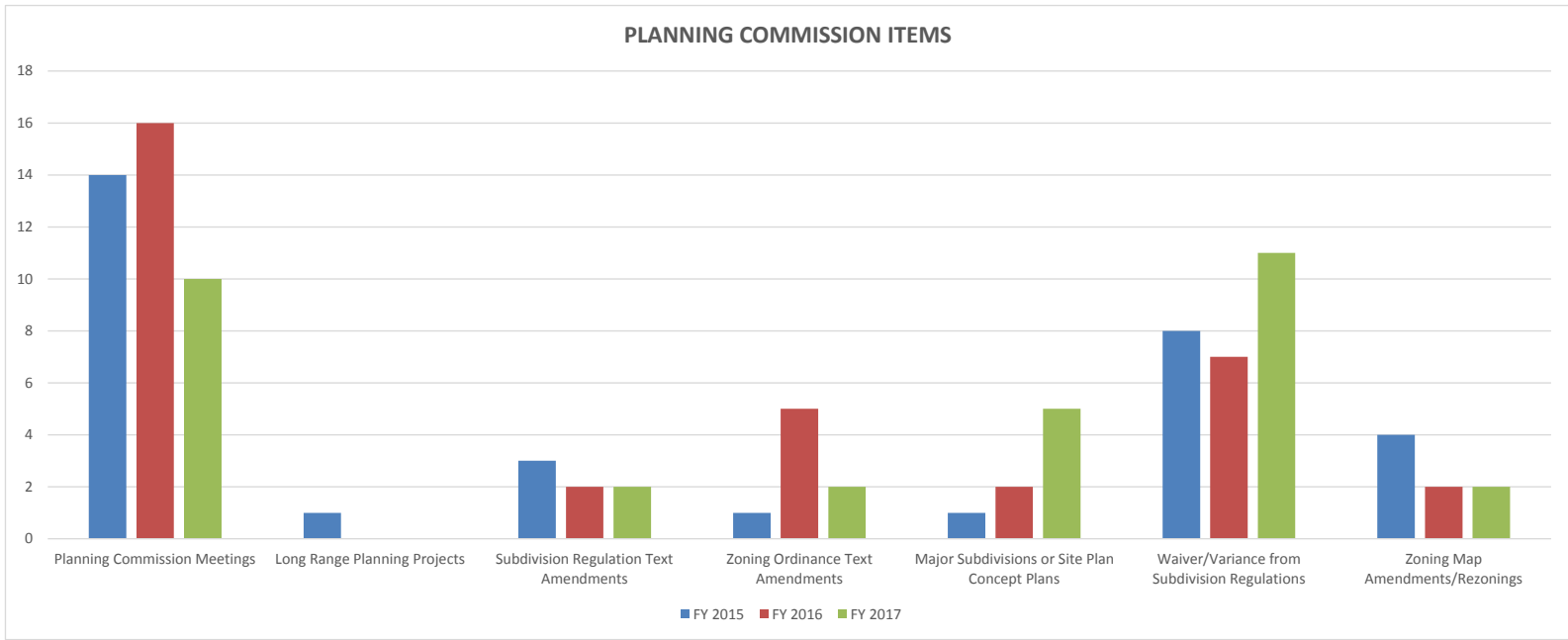
<b>Zoning Certificates Issued</b>		<b>42 Total</b>	<b>Approval Date</b>
ZC17-24	James Gibson Accessory Agricultural Dwelling Unit 201 Needwood Farm Lane, Harpers Ferry, Zone: Rural		Pending
ZC17-23	Behind the Vintage Door, LLC; Contact: Jill Smith & Sharlene Harris Vintage Antique Furniture & Home Décor Shop 35 Halltown Road, Harpers Ferry Zone: Residential-Light Industrial-Commercial		Pending
ZC17-22	Custom Home Solutions; Contact: Todd Lewis Commercial Use / Outdoor Retail Sales 99 Cary Lu Circle; Harpers Ferry, WV 25425 Zone: Residential-Light Industrial-Commercial		Pending
ZC17-21	Wholesale Fireworks Enterprises, LLC Temporary Sale of Fireworks Walmart Parking Lot, 96 Patrick Henry Way Zone: Residential-Light Industrial-Commercial		Approved 06/14/17
ZC17-20	Vincent Petti Childcare Facility (maximum 12 children) 73 Edmond Road, Unit 4, Kearneysville Zone: Industrial-Commercial		Approved 05/08/17
ZC17-19	Blue Ridge Fire Unit, Inc.; Contact: Earl Cogle Restaurant 181 Keys Gap Road, Harpers Ferry Zone: Rural		Approved 04/27/17
ZC17-18	Super Novelty, LLC; Contact: Greg Throckmorton Temporary Sale of Fireworks 155 Berryville Pike; Charles Town Zone: Industrial-Commercial		Approved 05/19/17
ZC17-17	Jittisak Phakam BBQ Stand 36 Bakerton Road, Harpers Ferry Zone: Residential-Light Industrial-Commercial		Pending
ZC17-16	Hagerstown Goodwill Industries, Inc. Relocate existing Store & Donation Center dba Horizon Goodwill Industries at same Shopping Center Charles Town Plaza; 60 Patrick Henry Way, Suite 1 Zone: Residential-Light Industrial-Commercial		Approved 04/26/17
ZC17-15	University of Home Health Change in Tenant. Office Space 130 East Burr Boulevard, Kearneysville Zone: Industrial Commercial		Approved 04/12/17

ZC17-14	American Promotional Events / TNT Fireworks, Applicant Permelynn of Westchester, Inc., Property Owner Temporary sale of legal fireworks Walmart Parking Lot; 96 Patrick Henry Way Zone: Residential-Light Industrial-Commercial	Approved 04/12/17
ZC17-13	Lutman Mobile Homes / David Lutman, Applicant Replace four mobile home units destroyed by fire. 33, 37, 45, & 49 5 <sup>th</sup> Street, Shenandoah Junction, WV Zone: Village	Approved 04/12/17
ZC17-12	Ronal & Alice Smoot, Applicant Accessory Agricultural Dwelling Unit 822 Box Factory Road, Summit Point, WV Zone: Rural	Approved 04/10/17
ZC17-11	T-Mobile, Applicant Tomas LeFevre, Property Owner Cell Tower Co-location (new and relocated antennas and related equipment; no height increase to tower; no ground disturbance). 237 Tel Farm Lane, Kearneysville, WV Zone: Rural	Approved 04/26/17
ZC17-10	Michael Wingard, Applicant Sunnyside Limited PTR / B. Huyett, Property Owner Installation of one backup generator and propane tank. 844 Wheatland Road, Charles Town, WV Zone: Residential-Light Industrial-Commercial	Approved 04/25/17
ZC17-09	Fireworks Now, Applicant Temporary sale of legal fireworks from an 8' x 45' sea-container sales stand. 186 Flowing Springs Road, Charles Town, WV Zone: Residential-Light Industrial-Commercial	Approved 03/28/17
ZC17-08	American Promotional Events / TNT Fireworks, Applicant Temporary sale of legal fireworks in a 20' x 40' tent and storage container. Dates of Operation: 06/18/17 – 07/06/17 154 Wolcraft Way, Charles Town, WV (Gypsy Flea Market) Zone: Residential-Light Industrial-Commercial	Approved 03/27/17
ZC17-07	River Riders, Inc. / Matt Knott, Property Owner Recreational and Commercial Tourism Operation comprised of various indoor and outdoor recreation areas 408 Alstadts Hill Road, Harpers Ferry, WV Zone: Residential – Light Industrial – Commercial	Approved 02/28/17
ZC17-06	Core Mortgage Services, LLC, Applicant Mortgage Services Office 3988 Kearneyville Pike, Shepherdstown, WV Zone: Neighborhood Commercial	Approved 6/22/17
ZC17-05	Blaze Pizza (BPizza of West Virginia), Applicant Change in Tenant. Pizza Restaurant. 91 Saratoga Drive, Charles Town, WV Zone: Residential – Light Industrial - Commercial	Expired/ Incomplete application

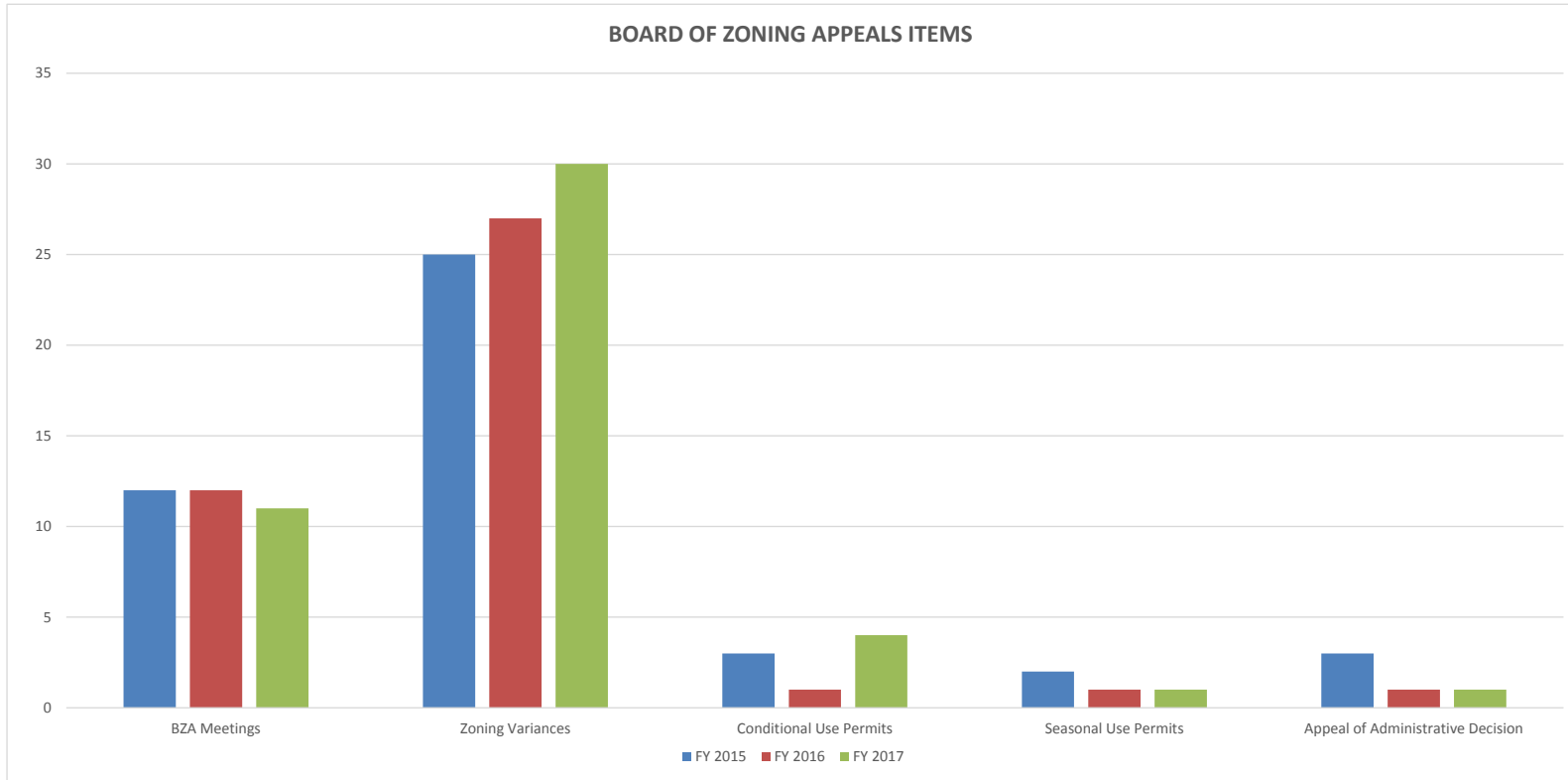
ZC17-04	Second Impressions Boutique, LLC, Applicant Change in Tenant. Consignment Shop. 43 Ruland Road, Suite F, Kearneysville, WV Zone: Industrial-Commercial	Approved 02/17/17
ZC17-03	River Riders, Inc. / Matt Knott, Property Owner Helipad as Commercial Use 408 Alstadts Hill Road, Harpers Ferry, WV Zone: Residential-Light Industrial-Commercial	Approved 02/28/17
ZC17-02	Jay Cameron Clemens & Carolyn De Seen, Property Owner Receptions, Ceremonies, Benefits, Dances/Proms and similar type functions at Wild Goose Farm 2935 Shepherd Grade Road, Shepherdstown, WV Zone: Rural	Approved 01/13/17
ZC16-47	Drive Pros, Applicant Auto Sales and Service 25 Troy Drive, Unit 100, Charles Town Zone: Residential-Light Industrial-Commercial	Approved 1/13/17
ZC16-46	Cornerstone Lawn Services, Applicant Lawn Services / Storage and Light Retail 25 Troy Drive, Unit 101, Charles Town Zone: Residential-Light Industrial-Commercial	Approved 1/12/17
ZC16-45	Andy Colandrea, Applicant Limo Service Business Operation/Home Office 60 Monte Carlo Way, Charles Town Zone: Residential-Light Industrial-Commercial	Determined that no ZC is required 12/14/16
ZC16-44	Spectrum / Seth and Ray Miller, Applicant Expansion of existing Karate class facility to include Unit C 59 Ruland Road, Suites A,B & C, Kearneysville Zone: Industrial-Commercial	Approved: 12/5/16
ZC16-43	AT&T Wireless, Applicant Replacement of 3 antennas on an existing 198' self-support Telecommunications Tower, with related support equipment 237 Tel Farm Lane; Kearneysville Zone: Rural	Approved 12/19/16
ZC16-42	Interstate Sign Co. Inc., Applicant Replace existing Shell signage with BP Sign Face including ROCS/FRESH TO GO/ATM and replace all Canopy signage 78 Somerset Boulevard, Charles Town Zone: Residential-Light Industrial-Commercial	Exempt from ZC requirement 12/21/16
ZC16-40	Jesse Morgan, Applicant Use of Mill Building as a Farm-Brewery; Use of the house as a two- family dwelling unit. 2153 Berryville Pike, Rippon Zone: Village	Approved: 12/5/16

ZC16-39	Shenandoah Personal Communications, LLC ("Shentel"), Applicant Install new antennas and related equipment on existing 120' (+/-) self-support Telecommunications Tower 512 Sandpiper Lane, Shepherdstown Zone: Residential Growth	Incomplete Application
ZC16-38	Kelley & Jennifer Rankin, Applicant Outpatient Physical Therapy, approx. 1,100 square feet 101 Maddex Square Drive, Shepherdstown Zone: Residential-Light Industrial-Commercial	Approved 11/7/16
ZC16-37	James & Lisa Boyer, Applicant Dog Kennel/Cottage Industry 404 Kabletown Road, Charles Town Zone: Rural	Approved 11/1/16
ZC16-36	Jolene Carroll, Applicant Expansion of existing Bakery including additional seating 43 Ruland Rd; Suite J Kearneysville Zone: Industrial-Commercial	Approved 10/13/16
ZC16-35	Linda Lyons, Owner / Sargenti Architects, Applicant Change in Tenant. Retail Pet Supply Store. Jefferson Crossing Shopping Center 91-A Saratoga Dr.; Charles Town, WV 25414 Zone: Residential-Light Industrial-Commercial	Approved 8/30/16
ZC16-34	SUSO 2 Alabama LP, Owner; Mattress Firm Inc., Applicant Change in Tenant. Retail Store specializing in Mattress Sales. 108 Patrick Henry Way; Charles Town, WV 25414 Zone: Residential-Light Industrial-Commercial	Approved 8/30/16
ZC16-33	John Darnell, et al Trustees, c/o T. Neil & Kenna Banks, Owners; Shenandoah Personal Communications, LLC, Applicant Property contains existing 195.0' (+/-) self-support Telecommunications Tower. Shentel to install antennas and equipment inside Existing compound, per plans per code. 3343 Shepherdstown Pike; Shepherdstown, West Virginia 25443 Zone: Rural	Approved 9/15/16
ZC16-32	340 RAINBOW, LLC, Owner / OUR 3 SONS, LLC, Applicant Change in Tenant. Restaurant & Bar. 3511 Berryville Pike; Charles Town, WV 25414 Zone: Industrial-Commercial	Approved 8/10/16
ZC16-31	WV 340, LLC c/o UNIWEST Commercial Realty, Linda Lyons, Owner; Ted Rosner, Applicant Change in Tenant. Seasonal Halloween Retail Shop (August to November 2016) 186 Flowing Springs Road; Charles Town, WV 25414 Zone: Residential-Light Industrial-Commercial	Approved 7/27/16

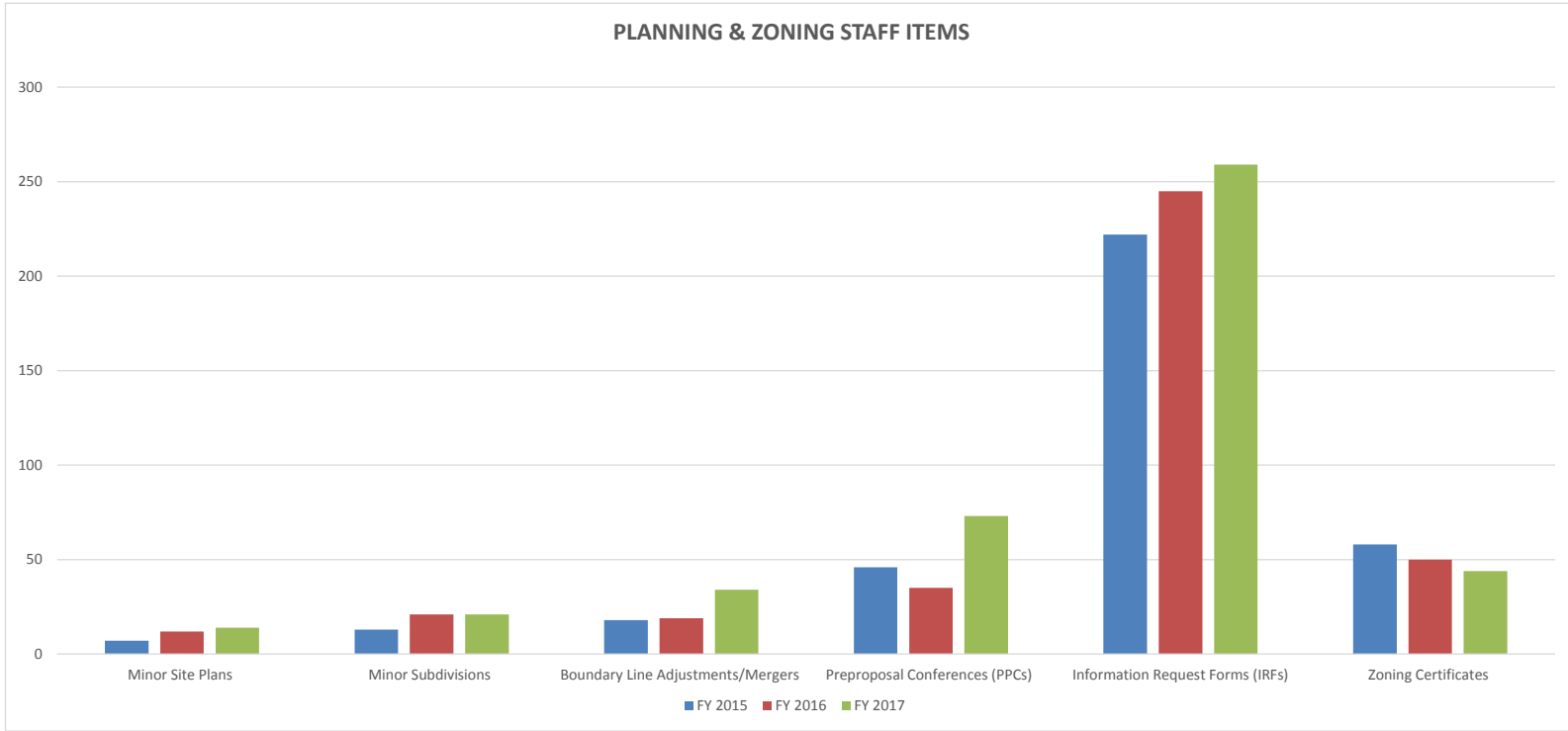
ZC16-30	LAURIE SCOTT - OWNER / APPLICANT A 40' x 8' shipping container for storage of tools and equipment associated with agricultural related activity. 424 Molers Trace; Harpers Ferry, West Virginia 25425 Zone: Rural	Approved 7/26/16
ZC16-29	CC CHARLES TOWN, LLC / OWNER; LARRY KEMPLER / APPLICANT Auto Repair, Sales and Service. Jefferson Business Park; Charles Town, West Virginia 25414 Zone: Residential-Light Industrial-Commercial	Approved 7/8/16
ZC16-23	Hot Spot CT Real Estate LLC, Contact / Brent Jackson, Owner/Applicant Pawn Shop (1 <sup>st</sup> floor); One bedroom/bathroom apartment (2 <sup>nd</sup> floor). 1012 East Washington Street; Charles Town, WV 25442 Zone: Residential-Light Industrial-Commercial	Approved 7/26/16
<b>Denied Zoning Certificates</b>		<b>2 Total</b>
<b>Denial Date</b>		
ZC17-01	Timothy Johnson, Applicant Antique Shop & Information Center 7279 Queen Street, Kearneysville, WV Zone: Village	Denied 01/05/17
ZC16-41	Donald M. Fisher, III, Applicant Outside storage of resident's Landscape Business equipment 79 Hillcrest Drive, Kearneysville Zone: Rural	Use is found to be a "Contractor with Outdoor Storage" Denied 11/29/16



	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Planning Commission Meetings</b>	14	16	10
Long Range Planning Projects	1	0	0
Subdivision Regulation Text Amendments	3	2	2
Zoning Ordinance Text Amendments	1	5	2
Major Subdivisions or Site Plan Concept Plan	1	2	5
Waiver/Variance from Subdivision Regulation	8	7	11
Zoning Map Amendments/Rezoning	4	2	2



	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>BZA Meetings</b>	12	12	11
Zoning Variances	25	27	30
Conditional Use Permits	3	1	4
Seasonal Use Permits	2	1	1
Appeal of Administrative Decision	3	1	1



<b>PLANNING &amp; ZONING STAFF ITEMS</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
Minor Site Plans	7	12	14
Minor Subdivisions	13	21	21
Boundary Line Adjustments/Mergers	18	19	34
Preproposal Conferences (PPCs)	46	35	73
Information Request Forms (IRFs)	222	245	259
Zoning Certificates	58	50	44
Fees Collected	\$48,190.07	\$20,298.61	\$ 29,460.60



# Jefferson County, West Virginia

Office of Planning and Zoning  
116 East Washington Street, 2<sup>nd</sup> Floor  
Charles Town, WV 25414

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## Planner's Memorandum Planning Commission Meeting August 8, 2017

- 1) **Upcoming Zoning Ordinance and Subdivision Regulation Amendments**
  - a) **Landscape Standards**
    - Stakeholder meeting with staff held – draft amendment in progress.
  - b) **Signage**
    - Various amendments including animated vs digital signs to be addressed; sign industry may need early input.
  - c) **Parking Standards**
  - d) **Subdivision Regulations Amendments**
    - Staff overview of outreach meeting with surveying community regarding proposed amendments related to sections requiring frequent interpretations and issues, including but not limited to processing mergers/lot line adjustments; contents of minor subdivisions, etc. held on July 25, 2017.
- 2) **Annual Planning Commission Training**
  - a) 2<sup>nd</sup> hour topic and date to be determined.
- 3) **Upcoming PC meeting**
  - a) Next Regular Meeting: September 12, 2017.

## Zoning

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**From:** Cindy Jo Feeser <schoolnursecindy@hotmail.com>  
**Sent:** Wednesday, July 26, 2017 1:42 PM  
**To:** Zoning  
**Subject:** Re: Historic Landmarks Zoning changes

Dear Commission Members

The Shepherdstown Battlefield Preservation Association supports, and hopes, that the commission will adopt the zoning revisions proposed by the Jefferson County Historic Landmarks Commission.

Saving battlefields and historic sites within Jefferson County not only increases tourism, supports recreation, generates business, and creates jobs, but also preserves important historical events and industries that helped shape our county, state and country.

Protected sites, like battlefields, also provide sanctuary for wildlife (I have personally seen beavers, bald eagles, large herds of deer, red and grey fox, various snakes, and many other species on the Shepherdstown battlefield), and provides areas for local citizens to enjoy nature and our local history. There is no doubt that many of our citizens have relocated to Jefferson County because of its history, rural nature, and beauty.

Although some property owners may see zoning as an attack on their property rights, it is the duty of the commission to balance the rights of individual property owners with the needs of the greater community, just as a Home Owners Association would protect the value of every members property by imposing certain rules that sustain value. Jefferson County has already recognized this principle by imposing zoning, and has tasked the Jefferson County Historic Landmarks Commission with identifying sites that will sustain value for all citizens of the county. Therefore, we believe

that the proposed Historic Landmarks revisions are appropriate and are good for all citizens of Jefferson County.

Sincerely,

Cindy Jo Feeser  
Member, Board of Directors  
Shepherdstown Battlefield Preservation Association