



AGENDA
Jefferson County Planning Commission
Tuesday, December 12, 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.

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

1. Approval of Meeting minutes:
 - November 14, 2017.
 - November 28, 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.
4. **Public Hearing:** Request by applicant Bradley & Paloma Dugan (PCW#16-06) for a 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'. The proposed lot has 30' of access via a pipestem to Paynes Ford Road. The property is designated as Tax District: Middleway (07); Tax Map: 6; Parcel 1.29. Zoned: Rural.

There is no public comment for the following items.

5. **Discussion and Possible Action:** Petition by Mr. Richard Nickell, in conformance with Section 12.4(b) of the Jefferson County Zoning Ordinance, to amend Section 5.7(D) the Zoning Ordinance Text to allow for the continuation of subdivisions utilizing pre-existing development rights.
6. **Discussion and Possible Action:** Planning Commission action to recommend approval of the proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA 16-02, to the County Commission. 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.
7. **Review and approval:** Revised Planning Commission Meeting schedule due to the approval of the 2018 Holiday Schedule by the County Commission on November 16, 2017.

8. 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.
9. Planners Memo
10. President's Report.
11. Actionable Correspondence.
 - Letter from Corporation of Shepherdstown regarding SDA (Special Design Area)
12. Non-Actionable Correspondence.

DRAFT

Jefferson County Planning Commission
November 14, 2017

The Jefferson County Planning Commission met on November 14, 2017 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Wade Louthan, Secretary; Peter Onozko, County Commission Liaison; Jack Hefestay, and Ron Thomas. Staff members present included Jennifer Brockman, County Planner; Roger Goodwin, Director of Engineering, Planning & Zoning; Jonathan Saunders, County Engineer; Nathan Cochran, Assistant Prosecuting Attorney; and Rhonda Greenholtz, Planning Clerk

Mr. Gene Taylor and Mr. Ray Bruning were absent with prior notification.

Mr. J Ware was absent without prior notification.

Mr. Donnie Fisher called the meeting to order at 7:00 PM.

1. Approval of the October 10, 2017 minutes.
The minutes were approved with no objections.
2. Citizen Communications. None
3. Request for postponement. None
4. A Public Hearing was held by the Planning Commission for applicant Shepherdstown Public Library for a waiver from Section 24.108.C. of the Subdivision and Land Development Regulations which requires a Site Plan be submitted within two years of receiving Concept Plan approval.

Ms. Brockman provided an overview of the history of the project. The project had received Concept Plan approval after the Public Workshop held on October 13, 2015. The Library is processing as a Minor Site Plan with a Concept Plan, which is a two-step process. The Site Plan is administratively approved and no further Public Hearings are held after the Concept Plan. The applicant has worked diligently toward submission of a site plan; however their development is contingent upon acquisition of small parcels from adjoining properties and the installation of the road as a part of the Colonial Hills Phase 3A project. Therefore, it has not been prudent to proceed with the submittal of the Site Plan until those efforts are completed. Staff recommended granting the approval of the request with the provision that any amendments to the Subdivision Regulations or the Zoning Ordinance, if any, which occur within the year be required as a part of the Site Plan submittal.

Mr. Ryan Perks, Gordon, Representative for the applicant, believes the application speaks for itself and is available to answer any questions the Planning Commission may have. Mr. Bob Keller and Ms. Libby Sturm, Representatives for the Library were also present.

Mr. Peter Onoszko inquired as to what stage of construction the project is in.

Mr. Bob Keller responded that the construction of the Library cannot commence until access to the site is achieved through the extension of Lowe Drive. The extension will be constructed with the start of the Colonial Hills Phase IIIA project. The access is expected to be completed in the spring.

Mr. Donnie Fisher opened the floor for public comment.

No public comment was made.

Mr. Fisher closed the floor to public comment.

Mr. Peter Onoszko made a motion to grant the request for a 1 year extension to submit the Site Plan for the Shepherdstown Public Library. Mr. Steve Stolipher seconded the motion. A vote was taken which carried unanimously.

5. A Public Hearing was held on the proposed text amendments to the Jefferson County Subdivision and Land Development Regulations, File# STA16-01. The text amendment, in accordance with WV Code § 8A-4-5 proposes revisions and additions to multiple sections of the Subdivision and Land Development Regulations including Section 20.106, Adjustment of Lot Boundaries; Division 20.200, types of development; Section 20.201, Minor Subdivisions; Section 20.202, Major Subdivisions; Section 20.203, Minor Site Development; and Appendix A, Section 1.4, Final Plat; and Section 1.5, Recordation of Final Plats for Minor and Major Subdivisions.

Ms. Brockman explained that the minor edits proposed by the Planning Commission have been included in the version for the Public Hearing. The Planning Commission's role is to obtain public comment and finalize a version to forward to the County Commissioners to schedule a Public Hearing.

Mr. Fisher opened the Public Hearing for public comment.

No public comment was made.

Mr. Fisher closed the Public Hearing.

Mr. Steve Stolipher made a motion to recommend approval of the proposed text amendment and forward the amendment to the County Commission for the purpose of scheduling a Public Hearing. Mr. Jack Hefestay seconded the motion. A vote was taken which passed unanimously.

6. Discussion was held by the Planning Commission to determine whether the Preliminary Plat Application for Colonial Hills Phase IIIA (File#17-06) can be deemed "complete" in accordance with Sections 24.113 and 24.114 of the Subdivision Regulations for the purpose of scheduling a Public Hearing for this application at the December 12, 2017 Planning Commission meeting.

Ms. Jennifer Brockman provided an overview of the project. Staff has now finalized the “completeness review” and per Section 24.113 of the Subdivision Regulations, and recommends approval of the Preliminary Plat. State law also requires the Planning Commissions to deem the application complete for the purpose of scheduling a Public Hearing. This is the first Major subdivision to process under the new Subdivision Regulations. This is the subdivision that was referred to during the discussion of the Shepherdstown Public Library Site Plan waiver request (Agenda Item #4). Access to the Library site will be provided via the Colonial Hills Phase 3A (townhouse portion) of this project.

As this is not the Public Hearing for the project, the application was not included in the packet. Staff has deemed the plan complete and is requesting that the Planning Commission deem the application complete for the purpose of scheduling a Public Hearing. The Staff report references the criteria that is required to deem the plan “complete”. Staff recommends placing this item on the December agenda. The approval of the Preliminary Plat, after the Public Hearing, allows the applicant to move forward with the Final Plat which is administratively approved.

A discussion ensued which outlined the Major Subdivision review process and clarified the role of the Planning Commission in deeming the Preliminary Plat “complete”.

Mr. Stolipher made a motion to deem the file complete and to schedule a Public Hearing for December 12, 2017. Mr. Hefestay seconded the motion. A vote was taken which carried a 5 to 1 vote with Mr. Onoszko opposing.

7. Review and approval of the 2018 Planning Commission Meeting Schedule.

A motion was made by Mr. Steve Stolipher to accept the 2018 Planning Commission Meeting Schedule. Mr. Ron Thomas seconded the motion. A vote was taken which carried unanimously.

8. 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.

No new updates on this item.

9. Planners Memo.

- Training for the Planning Commission on Signage Laws is scheduled for November 28, 2017.
- Upcoming PC meeting:

Next Regular Meeting: December 12, 2017

Minutes
Planning Commission
November 14, 2017

10. President's Report. None

11. Actionable Correspondence. None

12. Non-Actionable Correspondence. None

Mr. Fisher motioned to adjourn the meeting at 7:32 PM with no objections.

DRAFT

Jefferson County Planning Commission
November 28, 2017

The Jefferson County Planning Commission held a special meeting on November 28, 2017 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Wade Louthan, Secretary; Peter Onozko, County Commission Liaison; Jack Hefestay, Ron Thomas, Ray Bruning.

Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, Assistant Prosecuting Attorney; and Rhonda Greenholtz, Planning Clerk.

Mr. Gene Taylor and Mr. J Ware were absent with prior notification.

Mr. Donnie Fisher called the meeting to order at 7:00 PM.

Section 4.8 of the Bylaws of the Jefferson County Planning Commission requires all PC members to attend a two hour training session annually. Such training may be provided by County staff, by an APA approved or recommended organization and/or through a webinar provided by APA or another authorized organization. The November 28, 2017 meeting was held for the purpose of this training.

The two-hour training on was held on the topic of Signage Laws. The two part presentation included an overview of the recent Supreme Court decision and other relevant legal input related to local sign regulations by the Lead Land Use Attorney with the WVU Law Clinic and a presentation and discussion of the differences between animated signs vs. electronic message boards by a manager from Watchfire Signs who participated by phone.

Presenters included:


Jesse J. Richardson, Jr.
Professor of Law
Lead Land Use Attorney
Land Use and Sustainable
Development Law Clinic
<http://landuse.law.wvu.edu/>
jesse.richardson@mail.wvu.edu

Erik King
Mid-Atlantic Manager
Watchfire Signs
www.watchfiresigns.com
Erik.King@watchfiresigns.com

Staff Report
 Jefferson County Planning Commission Meeting
 December 12, 2017

Dugan Property (PCW#17-05)
Agenda Item # 4

Public Hearing: Request by applicants Dale S. Jr. & Pamela Jo Dugan (PCW#17-05) for a 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'. The proposed lot has 30' of access via a pipe stem from Possum Trot Lane.

APPLICANT:	Dale S., Jr. & Pamela Jo Dugan
OWNER:	Same as above
DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	Ed Johnson and Assoc.
PROPERTY LOCATION:	147 Possum Trot Lane Kearneysville, WV 25430
LEGAL DESCRIPTION & ZONING MAP DESIGNATION:	<p>Tax District: Middleway (07); Tax Map: 6; Parcel: 1.29 Size: 5.678 acres</p> 
ZONING DISTRICT:	Rural
SURROUNDING PROPERTIES:	North: Rural South: Rural East: Rural West: Rural
APPROVED ACTIVITY	Agriculture and Single Family Residence t
APPROVALS:	<p>4/18/88: Two Parent to Child Lots recorded DB 601 PG 722 10/12/16: Final Plat for Lot 1 & Lot 2 - Residue Charles F. & Susan Mellot MSD. Plat Book 25, Page 595. 04/06/17: Boundary Line adjustment approved. Plat Book 25, Page 620</p>

Staff Report
Jefferson County Planning Commission Meeting
December 12, 2017

Background

The property in question is one of four properties, created through a variety of minor plats and mergers, which currently access Possum Trot Lane. Parcel 1.29 currently contains 5.678 acres and is accessed via the end of an existing 30' right-of-way off of a combined 50' access/easement and right-of-way known as Possum Trot Lane. This parcel also includes a 30' pipe stem with frontage on Possum Trot Lane that has historically been utilized to provide farm access to the fields. The applicant is proposing to create a Family Transfer lot from the 5.678 acre parcel and is requesting that the new lot be permitted to access Possum Trot Lane via the 30' pipestem while the balance of the lot will continue to access Possum Trot Lane via the 30' right-of-way. Any future divisions on this access will be required to process as a Major Subdivision.

The Request

Generally, all lots in Minor Subdivisions are required to have motor vehicle access to a road right-of-way via a 50' access easement which extends from the subdivided lots to an existing road right-of-way and which serve no more than five lots. There is a provision, however, for Minor Subdivisions in the Rural District, which states that lots having a minimum road frontage of 200 feet may access directly on an existing road right-of-way having a width of 50 feet. This applicant's request is to utilize the proposed Family Transfer lot's existing 30' road frontage via a pipestem on Possum Trot Lane for a proposed Family Transfer lot.

The applicant is requesting a waiver from Section 20.201(A) 2 of the Subdivision Regulations which includes this provision. The following criteria are required to be addressed when considering a waiver:

The design of the project will provide public benefit in the form of reduction in County maintenance cost, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature.

Minor plats do not require open space or parkland and incur no County maintenance costs. This criteria does not relate to the requested waiver.

The waiver, if granted, will not adversely affect the public health, safety or welfare or the rights of adjacent property owners or residents.

Allowing this property to utilize the 30' pipestem, which is a part of the lot, to access Possum Trot Lane, which provides access to Paynes Ford Road, will not impact the public health, safety, welfare or rights of adjacent property owners. The creation of this lot results in a total of five lots accessing Possum Trot Lane which is the maximum permitted under the Minor Subdivision process.

The waiver, if granted, will be in keeping with the intent and purpose of these Regulations.

The intent of the requirements of Section 20.201A(2) is to require lots created through the minor subdivision process to share an access point onto existing state roads unless adequate road frontage exists. Generally, this shared access is a shared 50' access easement that is created with the first division and which extends from the subdivided lots to an existing road right-of-way (usually a state road right-of-way). When this property first divided, prior to zoning, a 30'/40' right-of-way

Staff Report
Jefferson County Planning Commission Meeting
December 12, 2017

was created, which was ultimately widened to 50' through the use of a parallel easement when Lot 1 was created in 2016. The creation of a Family Transfer lot which will access the existing Possum Trot Lane via a pipestem does not violate the intent or purpose of these Regulations.

It should also be noted that Section 21.104 of these Regulations permits the creation of flag lots (pipestems) with a minimum frontage of 24' based on design and engineering approval. Generally this portion of the Regulations applies to Major Subdivisions but there does not appear to be anything that precludes it from being applied in this circumstance and over-riding the 200 foot requirement for Minor Subdivision in the Rural District.

The waiver, if granted, will result in a project of better quality and/or character.

Permitting one lot to access an internal minor subdivision road (Possum Trot Lane) via an existing 30' pipestem allows this lot to be discrete from the lot from which it is being created, allowing both to have separate access to Possum Trot Lane which generally would be preferred by property owners. Both lots will still utilize the internal minor subdivision road to access Paynes Ford Road which is consistent with the requirements of these Regulations.

Staff Recommendation

Planning staff recommends approval of this waiver.

Engineering Report

**Dugan Minor Subdivision
Waiver to allow the requirement of 200' of frontage along a ROW to be
reduced to 30'.
12/12/2017**

Request:

MR. and Mrs. Dugan, the property owner of parcel 1.29, on tax map 6, in Middleway District, is requesting a waiver from the requirements of the JEFFERSON COUNTY SUBDIVISION AND LAND DEVELOPMENT REGULATIONS (2008), Section 20.201.A.2 Minor Subdivision, as follows:

Access. In the Rural District, lots having a minimum road frontage of 200 feet may front on an existing road right-of-way having a width of 50 feet. Shared driveway access may be required. All other lots, regardless of the zoning district, shall have motor vehicle access to a road right-of-way via a 50' access easement which extends from the subdivided lots to the existing road right-of-way and the access easement serves no more than five (5) lots. Said access easement shall not be permitted along any existing property lines.

The applicant is requesting that the requirement of 200' of frontage be reduced to 30'. Therefore, an existing 30' pipe stem can be utilized as a separate access point.

Findings:

The 30' pipe stem was created in 1984 in Deed Book 526 Page 719.

The applicant wants to subdivide lot via the parent to child process.

The subdivision is proposed to be processed as a minor subdivision.

Conclusion:

The 200' separation of access points is required to decrease chance of conflict with one another. However, the proposed access point appear to be over 200' away from any current access/driveways. Therefore, Engineering recommends approval of this waiver.

2529

THIS DEED, dated this 14th day of June, 1984, by and between CHARLES F. MELLOTT, divorced, party of the first part, and C. FRANK MELLOTT, JR., party of the second part.

WITNESSETH: That in consideration of love and affection, the party of the first part does hereby grant and convey unto the said C. Frank Mellott, Jr., in fee simple, with covenants of general warranty, a certain lot or parcel of land situate in Middleway District, Jefferson County, West Virginia, a short distance west of the Burns' Ford Road (W.Va. Sec. Rte. 3), and described as follows according to a survey and plat by Gerald Van Hafer, Land Surveyor, dated June 3, 1984, copy of which is attached hereto; to-wit:

Beginning at (1), a 5/8" capped rebar set on the western margin of a 30' right of way and N 56° 34' 23" W 214.44 feet from a fence post at an original Mellott corner and the northeast corner of Rodney F. Loy (D.B. 492, P. 87); thence with the north margin of a 30' reserved strip, N 64° 36' 57" W 270.13 feet to (2), a 5/8" capped rebar set; thence N 22° 57' 42" E 341.90 feet to (5), a 5/8" capped rebar set on the southern margin of aforementioned 30' right of way; thence with same the following five courses and distances, S 63° 56' 12" E 170.04 feet to (6), a 5/8" capped rebar set; thence S 23° 30' 06" W 128.29 feet to (7), a fence post; thence S 05° 54' 03" W 79.37 feet to (8), a fence post; thence S 02° 57' 13" E 109.27 feet to (9), a fence post; thence S 13° 02' 56" E 51.51 feet to (1), the place of beginning; containing 1.51 acres, more or less; together with a non-exclusive easement or right of way over the roadways delineated on said plat, for access to and from the lot hereby conveyed and the public road (Rte. 3).

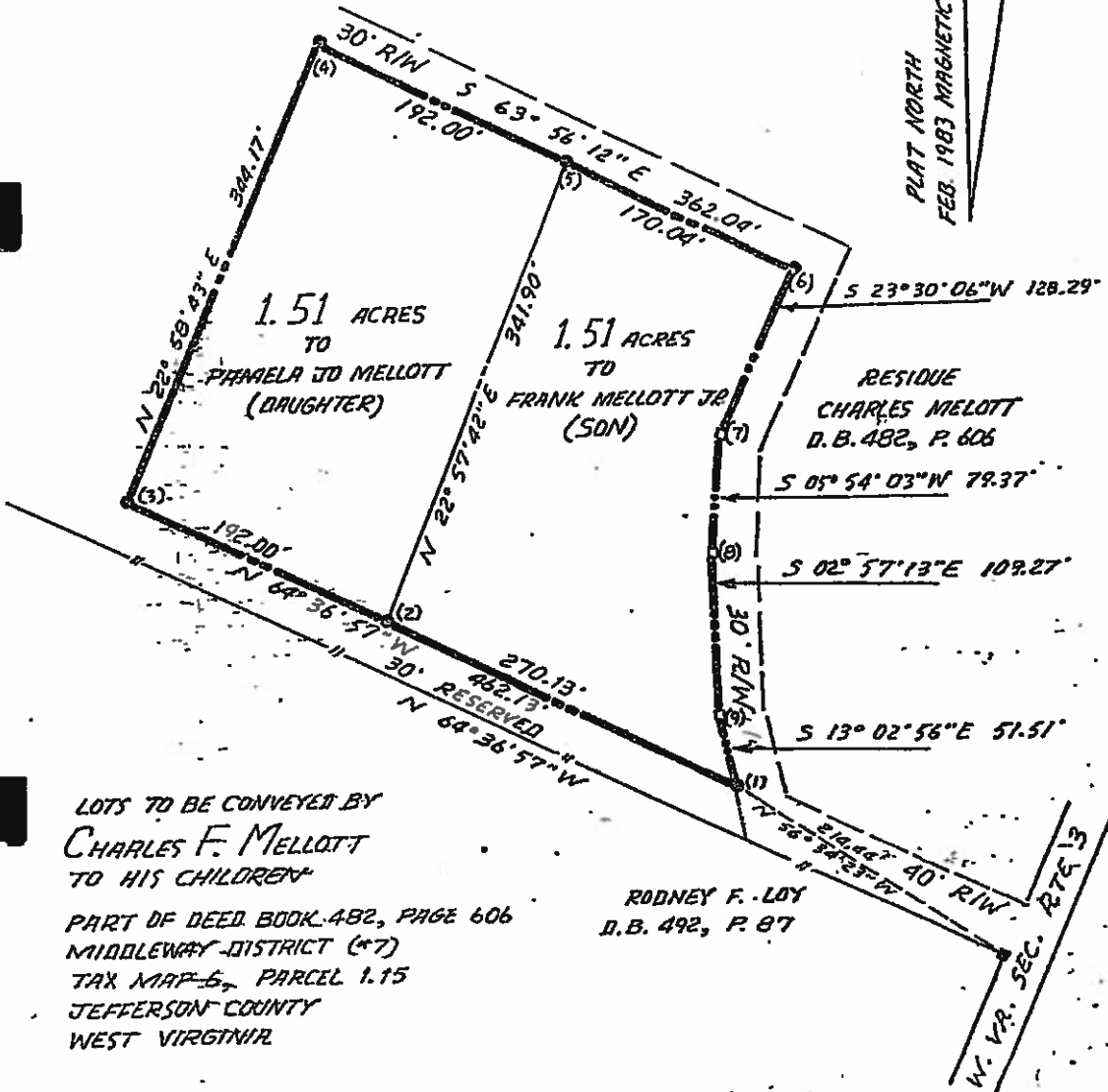
AND BEING a part of the same real estate known as Lot No. 22, Meadow Bluff (21.806 acres) that was conveyed to Charles F. Mellott and Sherry J. Mellott by Hensell Farms, Inc., by deed dated May 4, 1971 and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book No. 327, Page 498; the interest therein of said Sherry J. Mellott having been conveyed to said Charles F. Mellott by deed dated March 9, 1981 and recorded in said Clerk's Office in Deed Book No. 482, Page 606.

Conveyance is subject to utility easements and restrictive covenants of record.

To: C. Frank Mellott, Jr. 7-10-84 #2, Box 245, Newmarket, W.V.

RESIDUE
CHARLES MELLOTT
D. B. 482, P. 606

PLAT NORTH
FEB. 1983 MAGNETIC
7 1/2" ±



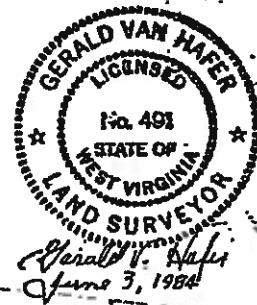
LOTS TO BE CONVEYED BY
CHARLES F. MELLOTT
TO HIS CHILDREN

PART OF DEED BOOK 482, PAGE 606
MIDDLEWAY DISTRICT (*7)
TAX MAP 6, PARCEL 1.15
JEFFERSON COUNTY
WEST VIRGINIA

RODNEY F. LOY
D. B. 492, P. 87

LEGEND:

- 5/8" CAPPED REBAR SET
- FENCE POST
- FENCE POST AT ORIGINAL MELLOTT CORNER



Date: June 3, 1984

Drawn by: G. V. H.

G. V. HAFER
SURVEYING AND ENGINEERING
700 EAST MOLER AVENUE
MARTINSBURG, WEST VIRGINIA

Scale: 1" = 100'

Drawing No. 867-1

DECLARATION OF CONSIDERATION OR VALUE

Under penalty of fine and imprisonment as provided by law, the undersigned Grantor hereby declares that the transfer of real estate included in the document to which this declaration is appended is not subject to the West Virginia excise tax on transfers of real estate for the reason that the same is a deed of gift from parent to child, and therefore exempt.

WITNESS the following signature and seal.

Charles F. Mellott (SEAL)
Charles F. Mellott

STATE OF WEST VIRGINIA,
COUNTY OF JEFFERSON, to-wit:

The foregoing instrument was acknowledged before me this 22ND day of June, 1984, by CHARLES F. MELLOTT, divorced, in my said County and State.

My commission expires 03-27-85



Wayne C. Welty
Notary Public

This document was prepared by Thomas W. Steptoe, Attorney



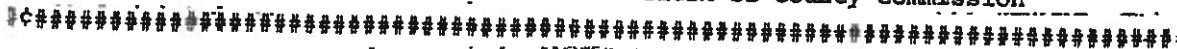
Approved as a Subdivision Exemption, Section 2.12
Jonathan W. Hartley
Planning Director
6/15/84

State of West Virginia, County of Jefferson, Sct.
IN THE CLERK'S OFFICE OF COUNTY COMMISSION:

On JUN 25 1984, at 12:15 P.M., the foregoing Document was received in my said office and duly admitted to record.

Test,

John E. Ott
Clerk of County Commission





JEFFERSON COUNTY, WEST VIRGINIA
Dept. of Engineering, Planning, and Zoning
Office of Planning and Zoning
 116 East Washington Street, P.O. Box 716
 Charles Town, WV 25414
 www.jeffersoncountywv.org

File Number: RW17205
 Staff Initials: rlg
 Sketch Received: ✓
 List of Adjoiners: no
 Fees Paid: 100.00

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
 Fax: (304) 728-8126

Waiver Request

Note: Waivers from the 2008 Amended Subdivision Regulations must comply with Division 24.300 of the Subdivision Regulations.

Sketch on a separate sheet of paper the shape and location of lot. Show the location of the intended construction or land use indicating building setbacks, size, and height. Identify existing buildings, structures, or land uses on the property. Sign and date the sketch. Provide a vicinity map of the area and a list of the adjoining property owner's mailing addresses.

Property Owner Information

Name: Dale S. Dugan JR and Pamela Jo Dugan
 Mailing Address: 147 Possum Trot Lane Kearneysville, WV 25430
 Phone Number: 304-728-0546 Email: _____

Applicant Contact Information

Name: Bradley M. Dugan and Palema Dugan
 Mailing Address: PO Box 777 Charles Town, WV 25414
 Phone Number: 304-661-3545 Email: dugan.bradley@gmail.com

Applicant Registered Engineer(s), Surveyor(s), or Consultant(s)

Name: Ed Johnson (Surveyor)
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 147 Possum Trot Lane Kearneysville WV 25430
 Tax District: Middleway Map No: 6 Parcel No: 1.29
 Parcel Size: Approx. 1.50 acres Deed Book: 601 Page No: 722

Zoning District (please check one)

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Place Date Stamp Here

What Section of the Subdivision Regulations are you Requesting to Waive?

20.201.A.2 which requires lots to have a minimum frontage of 200 ft on an existing right-of-way.

Briefly Describe the Nature of Your Waiver Request:

We would like to use the existing right-of-way pipe stem as an entry way for a new parent to child lot.

Explain how the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County Parks Plan or benefits of a similar nature.

There is really no public benefit. This is a parent to child lot. There is no cost to the County.

Explain how the waiver, if granted, will not adversely affect the public health, safety, or welfare or the rights of adjacent property owners or residents.

This 30' access will only serve this new parent-to-child transfer lot; will not serve adjacent lots.


Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.

This division and proposed access is the most convenient for the parent-to-child transfer, which is the purpose of access requirements.

Explain how the waiver, if granted, will result in a project of better quality and/or character.

It allows for a more direct access to the new parent-to-child lot without having to go through the existing houses' front yards.

Original signature is required. The information given is correct to the best of my knowledge.


Signature of Property Owner

11-20-17.
Date


Signature of Property Owner

11-20-17
Date

To Be Completed By Office

_____ Date of Public Meeting/Public Hearing

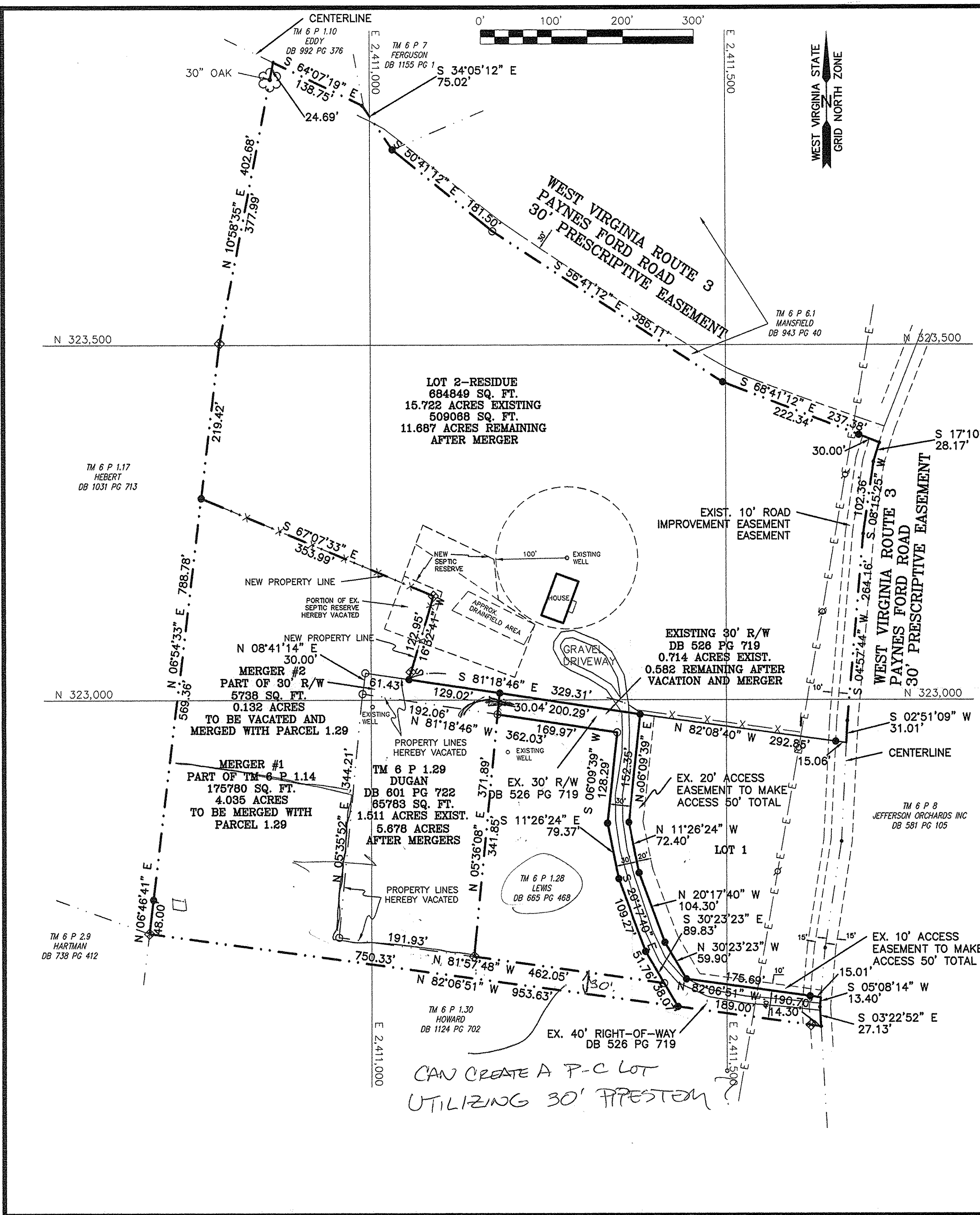
_____ Date Property to be Posted By

_____ Official/Administrative Body

_____ Date Adjoiner Letters to be Mailed

Approved/Denied by a vote of _____ for and _____ against this _____ day of _____,

Approved Denied



WEST VIRGINIA STATE
GRID NORTH ZONE

- LEGEND:
- ⊕ FOUND IRON PIPE
 - FOUND REBAR & CAP
 - SET 5/8" REBAR & CAP
 - ◆ FENCE POST
 - UNMARKED CENTERLINE POINTS



VICINITY MAP
SCALE: 1" = 2000'

AREA TABULATION:

	PARCEL 1.14	PARCEL 1.29	R/W
EXISTING	15.722 AC.	1.511 AC.	0.714 AC.
MERGER #1	-4.035 AC.	+4.035 AC.	N/A
MERGER #2	N/A	+0.132 AC.	-0.132 AC.
FINAL AREA	11.687 AC.	5.678 AC.	0.582 AC.

The land hereby conveyed is adjacent to and contiguous with that certain parcel of land which is owned by the grantees herein, having been conveyed to them by deed of record in the Clerk's Office of said County in Deed Book 601, Page 722, and this conveyance is made for the purpose of adjusting the boundary line(s) of said presently owned land of the grantees.

PAMELA JO DUGAN
DALE SILVER DUGAN, JR.

PLAT SHOWING A BOUNDARY LINE ADJUSTMENT, R/W VACATION AND SEPTIC RESERVE RELOCATION
THE PROPERTY OF
CHARLES F. MELLOTT & SUSAN M. MELLOTT
DEED BOOK 1061 PAGE 108 TAX MAP 6 PARCEL 1.14
AND
PAMELA JO DUGAN & DALE SILVER DUGAN, JR.
DEED BOOK 601 PAGE 722 TAX MAP 6 PARCEL 1.29
MIDDLEWAY DISTRICT JEFFERSON COUNTY WEST VIRGINIA
SCALE: 1" = 100' DECEMBER 12, 2016

ED JOHNSON AND ASSOCIATES, INC.
LAND SURVEYORS
P.O. BOX 1277
331 NORTH GEORGE STREET
CHARLES TOWN, WEST VIRGINIA 25414
(304)725-6060

Proposed Text Amendment
Jefferson County Zoning and Development Review Ordinance
Article 5. Section 5.7D
November 21, 2017

Authority: Article 12, Section 12.4.B.

Applicant: Richard S. Nickell
P.O. Box 490
Shepherdstown, WV 25443

Section of Ordinance: Article 5, Section 5.7.D.

Proposed Amendment: Attached with proposed section in Red

Relevant Envision Jefferson 2035 Comprehensive Plan Support Recommendations:

Page 24:

Rural/Agricultural Areas Rural/Agricultural properties outside the UGBs and PGAs are allowed to develop using the "by right" standard of one lot per 15 acres and a cluster development of one lot per ten acres. Over the past number of years, the Zoning Ordinance has been amended to allow many additional uses in the Rural District to promote more rural agricultural uses and value added operations. The 2008 Subdivision and Land Development Regulations have been amended to reduce the site improvement standards for rural business. This Plan proposes that a holistic review of Rural zoned properties should occur that would allow for greater scope and variety of agriculture related activities and rural recreation. It should be noted that regardless of location, whether in an UGB, GMB, or PGA, all Rural zoned properties shall be permitted to undertake the activities noted above. Additionally, this Plan proposes that the Zoning Ordinance be reviewed and amended to consider a higher density for rural/agricultural lots utilizing the cluster provision instead of allowing rural residential developments via the Condition Use Permit process.

As part of the Envision Jefferson 2035 process, there are no zoning map amendments (rezoning requests) or reductions in existing zoning rights proposed by the County. The existing zoning on any property in the County will not be affected by this process. This Plan, including the Future Land Use Guide, does not propose to reduce the rights of any property owner. The Plan and the Future Land Use Guide propose to retain vested property rights....

Page 30:

Urban Level Development Recommendations (Goal 1)

1. Recognize the existing vested rights, development entitlements, and permitted density levels on properties in Jefferson County.



Jefferson County, West Virginia

Office of Planning and Zoning

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MEMO

TO: Planning Commission
FROM: Jennifer Brockman, AICP, County Planner
DATE: December 12, 2017
RE: Richard Nickell Text Amendment Petition (Agenda Item #5)

Richard Nickell has proposed a Zoning Ordinance text amendment to amend Section 5.7(D) of the Zoning Ordinance. Under the provisions of Section 12.4 "Procedure for Initiating a Zoning Ordinance Text Amendment", there are two ways that a citizen can initiate a text amendment to the Zoning Ordinance. Mr. Nickell has submitted this petition under subsection "B. Text Amendments by Those Other Than County or Planning Commission (Alternate Process)". His application is in conformance with the requirements of this section and includes the proposed text in context with the adopted Zoning Ordinance text and a statement as to why such proposal is consistent with the adopted Comprehensive Plan.

The purpose of the petition on today's agenda is not to consider the merits of the proposed wording at this time, but to determine when and if the Planning Commission can undertake the proposed amendment per the following section of the Zoning Ordinance:

"The Planning Commission, with the advice of staff, can determine if and when to under-take such a request in light of other work plan tasks and development review activities are currently under consideration. If the Planning Commission decides to consider the request, a Public Hearing would be required and the Planning Commission would need to determine if the request is consistent with the Comprehensive Plan in accordance with §8A-7-8(b) et seq of the West Virginia State Code, as amended. The Planning Commission would then make a recommendation regarding the potential text amendment to the County Commission who would also be required to hold a Public Hearing."

The Planning Commission has a number of options including putting the proposed text on a future agenda for a workshop and discussion by the Commission, directing staff to make revisions, scheduling a public hearing, and/or postponing action until a later time.

Mr. Richard S. Nickell
P.O. Box 490
Shepherdstown, WV 25443

November 21, 2017

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

Hand Delivered

In Re: Proposed Text Amendment for the Jefferson County Zoning and Land Development Ordinance
Regarding Vested Development Rights

Dear Commissioners:

Pursuant to Article 12, Section 12.4.B of the Zoning and Land Development Ordinance, I am seeking a Text Amendment to the Ordinance which will allow me to continue subdividing my property utilizing my pre-existing Development Rights. Prior to the Zoning Ordinance being amended earlier this year, I was permitted to finish the last two lots in my subdivision as originally planned when I started the subdivision.

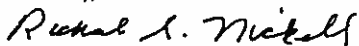
While the new provision that was adopted in March 2017 allowed property owners to double their development rights with 1 lot for every 5 acres of land, it caused a problem for some property owners that started the process using the 1 lot for every 10 acres of land method that was removed in March. This proposed text amendment is consistent with the Comprehensive Plan and is needed to fix what is most likely an unintended consequence of the March amendment. My representative has been meeting with the Staff and we understand that they support this request.

Attached, please find the proposed amendment (new section in Red) and several sections of the Comprehensive Plan that support this request. The most notable sections being the portions that state that the new plan was doing nothing to impact existing vested development rights.

As I was planning to have my remaining lots created by this time, I am hoping that the Commission schedule a Public Hearing as soon as possible to fix what we believe was just an anomaly in the March Amendments.

Thank you for your consideration of this request.

Sincerely,



Richard S. Nickell

Section 5.7 Rural (R) District^{23, 32}

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not served with public water or sewer facilities, although certain size developments processed under the cluster provision of Section 5.7D(2) may choose to do so. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7D. The Envision Jefferson 2035 Comprehensive Plan recommends that the cluster provision of the Zoning Ordinance be the preferred method of residential development in the Rural zoning district.^{8, 23, 32}

A. Principal Permitted and Conditional Uses^{23, 27, 32}

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.^{27, 32}
2. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.^{27, 32}

B. Minimum Lot Area, Lot Width and Yard Requirements²³

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.²⁷
2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.²³
3. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6A.²³

C. Height Regulations

No structure shall exceed 45 feet in height except as provided in Section 9.2.³²

D. Maximum Number of Lots Allowed

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7D.1, 5.7D.2 or 5.7D.3 below. A property owner may use a combination of these Subsections, provided that the number of lots are prorated by density. The density rights for any rural development shall be based on the parcel of record as of October 5, 1988 utilizing the following alternatives:^{8, 32}

1. A property owner may create one (1) lot for every 15 acres with a minimum lot size of three (3) acres.^{17, 21}
 - a. Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.³²
 - b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}
2. Clustering
 - a. Purpose and Intent
 - i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable

siting, access and location of lots on a tract while retaining a portion of the property as green space³².

ii. To provide for a well planned development while minimizing the use of prime agricultural land.

b. Requirements

i. One (1) lot may be subdivided for every five (5) acres.^{17, 21, 23, 32}

(a) Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.³²

(b) A minimum of 50% of the property shall be retained as green space and shall contain no further development rights unless the property is placed in another zone or further subdivision is allowed by ordinance. A note to this effect shall be placed on all cluster subdivision plats.³²

(c) For every additional 5% green space preservation, the following sliding scale may be utilized:³²

55% green space	1 lot per 4.5 acres
60% green space	1 lot per 4 acres
65% green space	1 lot per 3.5 acres
70% green space	1 lot per 3 acres
75% green space	1 lot per 2.5 acres

ii. The residue of a lot divided utilizing either 5.7D.1 or 5.7D.2 prior to the date of adoption of this amendment on March 16, 2017, shall have additional rights based on the provisions of this Subsection, provided that the total lots developed shall not exceed one lot per five acres based on the parent parcel on October 5, 1988 and all other provisions of this Subsection are complied with.³²

iii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.^{17, 21, 32}

(a) Setbacks shall be 25' front, 12' sides, and 20' rear.

(b) All clusters of three (3) or more lots shall be served by an internal road; provided that all clusters utilizing the sliding scale in 5.7D.2.b shall have an internal road with direct access to a public road identified as a Major Collector or a Minor or Principal Arterial on the Envision Jefferson 2035 Comprehensive Plan Roadway Classification Map.²³

(c) Clusters of three (3) or more lots shall not be along an existing public road.

(d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}

iv. Procedures²³

(a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.^{17, 21, 23}

- (b) The Concept Plan for a proposed Cluster Development can be combined with the required submittal and process requirements for a Concept Plan for a Major Subdivision as outlined in the Subdivision Regulations, provided that the Concept Plan includes all requirements of the Concept Plan in the Subdivision Regulations and includes the necessary soils and topographic data, together with a written narrative, required for the analysis listed below.³²
 - (c) The Staff shall review and make a recommendation to the Planning Commission regarding the proposed design and layout of the proposed Cluster Development. Staff shall consider the following when reviewing the Cluster Concept Plan:³²
 - (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
 - (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
 - (d) If the concept plan is approved by the Planning Commission, the applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations and the approved concept plan. The plat shall bear a statement indicating “The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation”.²³
3. If the development rights under Subsections 5.7D.1 and 5.7D.2 above have not been utilized, any property that was a lot of record as of October 5, 1988 may create three (3) total lots (including the residue) during any five year period. Such application may process as a Minor Subdivision, in accordance with the Subdivision Regulations, and shall be exempt from density limitations provided that all subdivision requirements are satisfied. Applications which exceed this number during any five year period shall process under Subsection 5.7D.1 or 5.7D.2 above. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. All lots that qualify under this section must meet subdivision requirements.³²
 4. Subdivisions involving transfers of land between family members known as “Family Transfers”, as defined in Article 2, shall not be subject to the density requirements of this section. All lots that qualify under this section must meet subdivision requirements. Family transfers are not entitled to further subdivide except as another Family transfer.³²
 5. Once the maximum number of lots are created under 5.7D, the property cannot be further subdivided unless the Ordinance is amended to allow such.
 6. Notwithstanding any other provision contained in Article 5, Section 5.7(D), if a property was previously subdivided under the 1 (lot) per ten (10) acre provision, then the property may continue to subdivide, or finish subdividing, utilizing the property’s remaining development rights as they existed at the time the subdivision was processed. These vested rights may be shown on a previously approved Preliminary or Final Plat, Concept Plan or Community Impact Statement, or otherwise contained within the property’s subdivision file(s) within the Department of Engineering, Planning and Zoning.



JEFFERSON COUNTY, WEST VIRGINIA

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MEMO

TO: Planning Commission

FROM: Alexandra Beaulieu, Zoning Administrator

DATE: 12-12-17

RE: Follow up to 09-12-17 PC Discussion regarding ZTA16-02, Historic Preservation

On September 12, 2017 the Planning Commission made additional revisions to the proposed text amendment and requested that Staff coordinate with Legal Counsel to discuss compliance with State Code requirements while considering property rights of individual property owners.

Legal's primary recommendation was to eliminate reference to "Historic Resources" due to ambiguity and to consolidate some of the proposed text to correspond more fluidly with existing regulations.

Below is a summary of the changes for discussion on December 12.

- Elimination of the term "Historic Resource". Replaced with "Historic Site".
- Elimination of the proposed terms/definitions: "Historic Survey" and "Historic Village" because the terms were not referenced anywhere else in the Zoning Ordinance.
- Consolidated the proposed Section 4.14 Historic Preservation with Section 3.4D Historic Landmarks Commission.
- Revised Section 4.6G to clarify the purpose of the protection radius.
- Elimination of the proposed Section 8.19 – Adaptive Reuse which was consolidated and relocated to create a new subsection 7 in Section 6.3 – Conditional Use Permit. The initial thought behind Adaptive Reuse of Historic Structures was to incentivize property owners to maintain historic structures by allowing a process for a use that otherwise would not be permitted. With the recent adoption of the new Conditional Use Permit process, most commercial uses are listed as Conditional Uses in the Rural and Residential Growth zoning districts. Several commercial uses are also listed as Conditional Uses in the Village zoning district. Therefore, Staff determined that the revised Conditional Use Permit process achieved a similar goal and the creation of Section 8.19 was no longer necessary. Staff relocated some of the text proposed in Section 8.19 to Section 6.3 which regulates the Conditional Use Permit process.

Attachments:

- ZTA16-02, Historic Preservation text amendment –Changes Highlighted in Yellow
- ZTA16-02, Historic Preservation text amendment - Final Draft (no highlighting and no strikethrough on proposed text that was deleted [strikethrough retained for current text proposed to be deleted]).

Adaptive Reuse of
Historic Structures³²

Adaptive reuse refers to the process of reusing a historic site or building~~an old site or building~~ for a purpose other than that for which it was built or designed.

Addition, Major

A major addition shall include those additions which will directly affect the function of the site or those areas surrounding the site. Any substantial change of use classification, alteration of on-site parking requirements, potential adverse impacts of off-site storm water drainage, increased demand for public water and sewerage or additions which will cause the rerouting of traffic circulation shall be considered "major additions".

Adjacent/Confronting
Affected Property Owner⁷

The owner of property adjacent to or confronting a proposed development (including the properties across any road, right of way or easement) which will be impacted either positively or negatively by that proposed development. Names and addresses of affected property owners will be taken from current tax records in the Jefferson County Court House.

Adult Arcade¹⁵

An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Bookstore¹⁵

An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specifies sexual activities.

Adult Cabaret¹⁵

A nightclub, bar, restaurant, facility, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions of material that is characterized by any emphasis upon the depiction of specified sexual activities or specifies anatomical areas.

Adult Mini Motion
Picture Theatre¹⁵

An enclosed building with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

Adult Sauna¹⁵

A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an

Battlefield ³²	There are 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.
Bed and Breakfast ²³	A single-family dwelling where lodging is offered for compensation, having no more than seven (7) bedrooms for this purpose, and meeting the requirements for such a use in Article 8 of this Ordinance.
Bicycle Parking Space ²⁷	A volume of space that can accommodate locked storage of one (1) bicycle at a bicycle rack, i.e. a fixture to which one or more bicycles can be securely locked.
Billboard	A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located. (See Sign, Outdoor Advertising)
Blue Ridge Line ¹¹	The common surveyed boundary between Jefferson County, West Virginia and Loudoun County, Virginia.
Board ^{17, 21}	The Jefferson County Board of Zoning Appeals.
Boarding or Rooming House ²⁴	A building other than a Hotel, Motel, Bed and Breakfast, Residential Care Home, Group Residential Home, Group Residential Facility, or Country Inn where lodging is provided for compensation for more than 6 unrelated persons. Meals may or may not be served but are not provided to outside guests. There is one common kitchen facility.
Brewer	Any person manufacturing craft beer from malt and hops by infusion, boiling, and fermentation for sale at wholesale to any licensed distributor.
Brewpub	An establishment owned by a resident brewer in which craft beer is manufactured and sold on premises in accordance with WV State Code licensing requirements. A brewpub may include the incidental sale of food.
Broadcast Tower ²²	A structure situated on a lot that is intended for transmitting television or AM/FM radio signals.
Buffer ⁵	An area on a property defined by a distance from the property line or other specifically designed line such as flood plain, wetland limit or stream bank. Said area is intended to absorb, lessen or neutralize the impacts of one land use from another. The nature of the buffer will depend on the impact(s) being neutralized.
Building	Any structure which is permanently affixed to the land and has one or more floors and a roof. The term building shall include manufactured homes.
Building Line	The line established by law beyond which a building shall not extend as determined by front, side and rear yards, herein.

Condominium ⁵	A common interest community in which portions of the real estate are designated for separate fee simple ownership of cubic air interior spaces and the remainder of the real estate is designated for common ownership solely by the owners of those portions. Said common interest community may be residential, commercial or industrial depending on other provisions of this Ordinance. All such projects are subject to the West Virginia Uniform Common Interest Ownership Act. In the event that a specific requirement within the Uniform Common Interest Ownership Act is inconsistent with a commercial or industrial project, that specific requirement shall not apply.
Contiguous ^{17, 21}	Lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous.
Contractor with No Outdoor Storage ²⁷	Use of a site for the business office of a general contractor or builder engaged in the construction of buildings, either residences or commercial structures. The premises may include an enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products, and interior storage, but which does not use any exterior storage area other than incidental storage.
Contractor with Outdoor Storage ²⁷	Use of a site for the business office of a general contractor or builder engaged in the construction of buildings, either residences or commercial structures. The premises may include an enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products, and interior storage. This use may include outdoor storage of building materials and heavy equipment such as road graders, dump trucks, cement mixers.
<u>Contributing Structure</u>	<u>Buildings, structures, or sites that add to the historical association, architectural quality, or archeological 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.</u>
Convenience Store ²⁷	An establishment, not exceeding 10,000 square feet of gross floor area, engaged in the retail sale, from the premises, of food, beverages and other frequently or recurrently needed items for household use. This land use does not include a gas station.
Convenience Store, Limited ²⁷	A convenience store not exceeding 1,500 square feet of retail floor, with hours of operation limited to the period between 6:00 A.M. and 11:00 P.M.
Convention Center ²⁷	A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including

Group Residential Home²³ A building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence, and complying with all applicable requirements of the state of West Virginia. Per Chapter 17 of the West Virginia Code, as amended, a Group Residential Home shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts.

Harpers Ferry Overlay District²² For purposes of regulating Wireless Telecommunication Facilities, an area bounded on the north by a line running west from the Potomac River shore to and along Engle Switch Road to its intersection with Route 230; thence south along Route 230 to its intersection with the CSX Railroad Valley Line; thence south along said railroad to Milepost 4 on the railroad at its intersection with Millville Road; thence east from that point to and across the Shenandoah River to a point 1000 feet distant on the eastern shore of the said Shenandoah River; then following a line 1000 feet inland from that opposite shore of the Shenandoah River to its confluence with the Potomac River; then along a line 1000 feet inland from the Potomac river shore running east to the Virginia state line; thence north to the Potomac River shore; thence west along the shore of the Potomac River to the point of origin. This district excludes the area within the jurisdictional boundaries of the town of Harpers Ferry and the town of Bolivar.

Heavy Industrial Use²⁷ Manufacturing or other enterprises with significant external effects including but not limited to noise, dust, glare, odors or vibrations, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. This use also includes those land uses characterized by heavy trucking activity or extensive warehousing.

Helipad²⁷ A facility without the logistical support provided by a heliport where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling, or storage of helicopters.

Heliport²⁷ An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

Historic District 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.

Historic Landmark A site, building, structure, or object designated as a "Landmark" either on a national, state, or local register.

Historic Landmarks Commission³² 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.

~~Historic Resource~~²³

~~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.~~

Historic Site/~~Property~~

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, cultural, or archeological value regardless of the value of any existing structure.

~~Historic Survey~~

~~A comprehensive survey involving the identification, research, and documentation of buildings, sites, and structures of any historical, cultural, archeological, 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.~~

Home Occupation,
Level 1^{8, 24}

An occupation conducted in a residential premises, as described in Article 4A of this Ordinance.

Home Occupation,
Level 2^{8, 24}

An occupation conducted in a residential premises, as described in Article 4A of this Ordinance.

Horse Racing Facility²⁷

A facility licensed by the State of West Virginia to offer, for public viewing and amusement, on-site horse racing events with on-site related wagering thereupon. This use can also include the conduct of other occasional special events. In addition to the race course and spectator areas, this use also includes accessory uses (including but not limited to eateries, off-street parking structures, public, community or private utilities, exhibits, and shops). This use may also include the provision of resident employee and guest lodging services for both humans and animals incidental to the visit or stay on the site. This use may also include veterinary care for animals kept or visiting the site.

Hotel/Motel²⁷

A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a Bed and Breakfast, Residential Care Home, Group Residential Home, Group Residential Facility, or Country Inn (as defined in this Ordinance). A hotel/motel may include a restaurant, bar, personal and retail services, and entertainment as accessory uses.

Hunting, Shooting,
Archery and Fishing Clubs,
Public or Private²³

Land owned by an organized group of persons formed as a club that is used for hunting, fishing, shooting, archery and similar types of passive recreation.

Mixed Use Building ³²	A mixed use unit consisting of a commercial or office use and a residential use. The commercial or office use must be located on the first floor.
Mobile Home Park	A lot, site, or parcel of land used or intended to accommodate two (2) or more mobile homes for residential purposes with adequate public or community water and sewerage service meeting Health Department standards. A mobile home park does not include mobile home sales lots, which unoccupied mobile homes are parked for inspection and sale. This term includes all buildings, structures, vehicles, accessories and appurtenances used or intended as equipment in such a park.
Mobile Home, Boat and Trailer Sales ²⁷	Use of a site for the sale, rental or servicing of mobile homes, boats and trailers. This use includes outdoor display of items for sale or rent, and accessory retail sale of merchandise related to mobile homes, boats and trailers. This use does not include a gas station.
Mobile Home ^{23, 32}	A manufactured single family detached home built prior to the Federal Manufactured Home Construction and Safety Standards which became effective June 15, 1976.
Model Home/ Sales Office ²³	A dwelling unit temporarily used for display purposes as an example of dwelling units available for sale in a residential development approved by Jefferson County. Model homes may include sales offices for dwellings within the development.
Modular Home ³²	A single family detached structure built in a factory that meets the State or Local Building Codes where the homes will be sited.
Monopole ^{9, 22}	A support structure constructed of a self-supporting hollow metal tube securely anchored to a foundation.
Motor Vehicle ^{17, 21}	Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or other public ways.
Movie Theater ²⁷	A building containing audience seating and one or more screens and auditoriums intended for the viewing of films. A movie theater may contain a lobby and refreshment stand, and may include service of food and beverages to seated patrons. Incidental use of a movie theater for community events and live performances is permitted. This use does not include an adult use or a bar/nightclub.
Multi-Residential Use	A deeded lot or parcel on which two or more dwelling units is located.
Natural Undisturbed Conditions ⁵	This exists where the terrain has not been altered in form by human activities such as cutting, filling, blasting or leveling and where natural vegetation exists.

National Historic
Landmark

Authorized in 1935 and implemented in 1960, National Historic Landmarks are nationally significant historic places designated by the Secretary of the

	<p><u>Interior because they possess exceptional value or quality in illustrating or interpreting the heritage of the United States.</u></p>
<p><u>National Register of Historic Places</u></p>	<p><u>The National Register of Historic Places, authorized by the National Historic Preservation act of 1966, 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.</u></p>
<p>Natural Vegetation⁵</p>	<p>This occurs when a property is allowed to revert to a wild condition with native plants. No cutting, trimming or cultivation takes place in areas of natural vegetation.</p>
<p>Nature Center and Preserve³²</p>	<p>A land use providing environmental and conservation education for adults and youth.</p>
<p>Neighborhood^{17, 21}</p>	<p>An area generally confined to a one-mile radius from the perimeter of a proposed development.</p>
<p>Nightclub²⁷</p>	<p>A commercial establishment where the primary activity is dancing and musical entertainment and in which alcoholic beverages are dispensed for consumption on the premises. This use may include live entertainment (other than an adult use) that complies with Jefferson County noise restrictions.</p>
<p>Nonconforming Lot³²</p>	<p>A lot or parcel that lawfully existed at the time this Ordinance became effective and which does not conform with the dimensional requirements of the district in which it is located. This includes the dimensions, acreage, and/or access, etc. Any new lines of division within a subdivision of a parcel that is a nonconforming lot shall meet the regulations of this Ordinance.</p>
<p>Nonconforming Use³²</p>	<p>A land use that lawfully existed at the time this Ordinance became effective and which does not conform with the use regulations of the district in which it is located.</p>
<p>Nonconforming Structure³²</p>	<p>A building that lawfully existed at the time this Ordinance became effective and which does not conform with the site coverage, setback, height, open space, or other regulations describing the physical development standards of the district in which it is located. Any new lines of division within a subdivision of a parcel that contains a nonconforming structure shall not create a further nonconformity and shall meet the regulations of this Ordinance.</p>
<p>Non-Residential^{17, 21}</p>	<p>A commercial, industrial, or institutional use.</p>
<p>Nursing or Retirement Home</p>	<p>This term includes rest homes, nursing homes, convalescent homes for children and homes providing chronic and convalescent care.</p>
<p>Open Space³²</p>	<p>Land area to be left undeveloped as part of a natural resource preservation, recreation, bufferyards, or other open space provision of the Subdivision Regulations. Open space excludes areas in lots, street right-of-ways, or parking. Private open space is designed and intended for</p>

Preservation of a
Historic Site

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.

Primary Public
Safety Provider²²

An FCC licensed governmental user that uses wireless telecommunication facilities to provide primary communications for law enforcement, fire, ambulance or related emergency services. Primary Public Service Provider does not include Commercial Wireless Service Providers, or Competitive Local Exchange Carriers (CLEC), who provide telecommunication services on a commercial basis to Primary Public Service Providers, or who deliver emergency calls or messages from its customers to a Public Safety Answering Point (PSAP).

Principal
Permitted Use^{23, 31, 32}

Any use included on the Principal Permitted and Conditional Uses Table (Appendix C) which is or may be lawfully established in a particular district, approved by the Office of Planning and Zoning without requirement of approval by a board or commission, provided the use conforms with all applicable requirements of this Ordinance. Such use does not include Conditional Uses as defined in this Ordinance.

Principal Use²³

The primary or predominant use of any site.

Printing and Publishing²⁷

A printing operation of an industrial scale, involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing. This use may include the production of books, magazines, newspapers and other printed matter.

Private Business User²²

Persons or entities which operate radio facilities (including microwave) requiring an FCC license solely for intra-company communications and who do not employ those facilities to offer fixed or mobile wireless communication services, or point-to-point microwave links for commercial wireline communication services, to third parties for compensation.

Professional Office,
Small³²

A professional office, as defined herein, limited to two professionals/practitioners and related support staff.

Professional Office²⁷

A building used primarily for offices for administrative, executive, professional, research, or similar organizations; and for real estate, advertising, and insurance agencies and similar firms. No merchandise is sold on the premises. An office building may include ancillary services for employees, such as a restaurant or coffee shop. This land use does not include a Medical/Dental/Optical Office.

Prohibited Use

A use that is not permitted.

<u>Protection Radius</u>	<u>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.</u>
Public Highway	Any highway or road in Jefferson County which is part of the Federal or West Virginia public highway system and which is so identified by and numbered on the most recent General Highway Map published by the West Virginia Department of Highways.
Public Safety Facility ²³	Facilities that provide health and safety services to the general public including, but not limited to fire stations, police stations, and emergency medicine or ambulance stations or facilities.
Publicly Owned Facility ²³	Use of a site for government operations or activities, and not otherwise defined as a public safety facility; school, elementary or secondary; school, university or college; school, vocational or professional; hospital; cultural facility; or essential utility equipment.
Recycling Drop-Off Center ²⁷	A building or site used for a drop-off location for temporary storage of recyclable, recoverable or reusable materials such as paper, cardboard, glass, metal, plastic, batteries and motor oil. Processing of materials is limited to separation. This land use is intended for household or consumer use rather than commercial or industrial use.
Research and Development ¹³	Research, development and testing laboratories that do not involve the mass manufacture, fabrication, processing or sale of products.
Residential Care Home ²³	The use of a site for the provision of a family-based facility in a single-family dwelling unit providing 24 hour care in a protected living arrangement with not more than two supervisory personnel and not more than six residents who are suffering from mobility, orthopedic, visual, speech, or hearing impairments, Alzheimer's disease, pre-senile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, cognitive disability, autism, emotional illness, or similar conditions.
Residential ¹	Any detached or attached structure that is used for permanent living quarters and has kitchen facilities.
Restaurant ²⁷	A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building. A restaurant may include the incidental sale of alcohol for on-premises consumption; however, sale of food and non-alcoholic beverages is the principal use of the site. This use does not include the uses Bar or Nightclub.
Restaurant, Fast Food ²⁷	Any establishment whose principal business is the sale of foods and/or beverages in ready-to-consume individual servings, for consumption either inside or outside the restaurant building or for carry-out. Customer orders and/or service may be by means of a window or walk-up counter. A fast food restaurant whose design or method of operation includes a drive-up window or drive-through service or includes service

Section 3.4 Boards and Commissions^{23, 32}

A. Board of Zoning Appeals

1. The Board of Zoning Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their powers and duties shall be provided in Chapter 8A of the West Virginia Code, as amended.
2. Meetings of the Board of Zoning Appeals shall be conducted according to the Rules of Procedure adopted by the Board of Zoning Appeals. In the event of a conflict between this Ordinance and the Rules of Procedure, the Rules of Procedure shall prevail.²
3. The powers and duties of the Board of Zoning Appeals include but are not limited to the following:
 - a. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.³²
 - b. The Board of Zoning Appeals shall consider requests for variances, seasonal use permits, and special exceptions from the terms of this Ordinance.³²
 - c. The Board of Zoning Appeals shall have authority over the issuance or denial of a Conditional Use Permit.³²

B. Planning Commission²³

1. Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Planning Commission and Chapter 8A of the West Virginia Code, as amended.
2. The powers and duties of the Jefferson County Planning Commission include but are not limited to the following:
 - a. Review applications for major site plans, major subdivisions, and waivers from minimum standards, pursuant to the Subdivision and Land Development Regulations;
 - b. Review requests for amendments to the County zoning map and Zoning and Land Development Ordinance;
 - c. Research and recommend to the County Commission improvements to the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations;
 - d. Make recommendations to the County Commission concerning planning and zoning issues;
 - e. Make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction;
 - f. Prepare the Jefferson County Comprehensive Plan and recommend to the County Commission for adoption or amendment.

C. County Commission²³

1. General. The County Commission shall have all powers conferred upon it by the Constitution, the laws of the State of West Virginia, and the County Charter. With respect to development approval and amendments to this Ordinance and the County's Comprehensive Plan, the powers that the County Commission retains and shall exercise include but are not limited to the powers set out in this Section.
2. Approvals. Following a public hearing and the submittal of recommendations by Staff and the Planning Commission, the County Commission may take action on the proposed adoption of, or amendments to, the following, including text, maps, and other elements:

- a. Comprehensive Plan
- b. Zoning and Land Development Ordinance
- c. Subdivision and Land Development Regulations
- d. The Jefferson County Zoning Map
- e. An Urban Growth Boundary in accordance with Chapter 8 of the West Virginia Code, as amended:
 - i. A boundary shall be established by the County Commission in agreement with each individual municipality regarding that municipality's boundary.
 - ii. If the County Commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court.
 - iii. Once the county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality.
 - iv. The County Commission shall review each urban growth boundary at a period not to exceed ten years or upon request of the individual municipality.
3. Hiring. The County Commission shall hire staff of the Office of Planning and Zoning.
4. Appointments. The County Commission shall appoint the members of the Planning Commission and the Board of Zoning Appeals.
5. Fees. The County Commission shall adopt a fee schedule for processing applications pursuant to this Ordinance. The fee schedule may be amended from time to time as determined appropriate by the County Commission.

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.
- ~~2. Review applications for Concept Plans as they relate to protection of identified Jefferson County Historic Resources in accordance with the Subdivision Regulations.~~
- ~~3.2. The Jefferson County Historic Landmarks Commission may make recommendation to the County Commission during a Public Comment period concerning Planning and Zoning issues as they relate to the protection of identified Historic Sites.~~
3. 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 due to the restrictions in WV State Code §8-26A-3 and related statutes.
4. Historic Preservation is not to infringe on the property owner's rights. The Jefferson County Historic Landmarks Commission is encouraged to protect historic sites in Jefferson County by raising capital to purchase historic sites and battlefields at fair market value.
5. This Ordinance encourages the preservation of historic buildings and historic sites and recognizes the Jefferson County Historic Landmarks Commission's Classification of Historic Sites in Jefferson County. All historic sites in Jefferson County are classified by

their Category of Importance, used to determine the level of protection afforded that site.

The categories are as follows:

a. **Category I.** These are the most important historic sites in Jefferson County.

This category includes individually listed National Register structures and properties; Historic Districts including their contributing structures; and Federally recognized Civil War Battlefields. These properties retain a high level of original condition and integrity.

b. **Category II.** These sites are classified as important. This category includes

Jefferson County Landmarks, historic sites that may be National Register eligible, and other Civil War battle sites. Sites 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.

c. **Category III.** These sites have moderate importance.

d. **Category IV.** These are sites that are at least 50 years old, have little or no significance, but are listed on the Landmarks Commission's inventory.

Refer to Section 4.6 for distance requirements and protection radius standards.

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:²⁷
 - 1. Any lot in the Residential Growth District;²⁷
 - 2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;¹
 - 3. Any lot which is part of a recorded subdivision; and
 - 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:^{7, 27}
 - 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.²³
- C. A commercial use (not including parking) located in the Neighborhood Commercial District or the Office/Commercial Mixed Use shall be located at least 25 feet from a land use identified in Section 4.6B.1-3.²⁷
- D. Housing for farm animals and feeding pens shall be set back a minimum of 50 feet from all property lines; excluding chicken coops which may be set back 25 feet from all property lines, if no roosters are housed there.³²
- E. Structure used to store manure shall comply with distance requirements specified in 4.6A.³²
- F. All portions of a kennel land use must be buffered pursuant to Article 4 and set back at least 300' from any other property line that contains a residence. If the adjacent use is a commercial use, setbacks shall conform with commercial setbacks in Appendix B.³²

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 Section 8.19 and Appendix C of this Ordinance.~~

~~a. Protection Radius~~

~~1. National Register structures and properties and historic sites shall be subject to a 300-foot protection radius, as measured from the center of the site of structure(s).~~

~~2. National Register eligible structures shall be subject to a 200-foot protection radius, as measured from the center of the structure(s).~~

~~b.a. Uses permitted within the Protection Radius. Within any area located inside a designated protection radius, Residential Uses as permitted in Appendix C, barns, and accessory structures as defined by this Ordinance may be constructed.~~

Historic Sites are subject to this subsection, unless otherwise specified in this Ordinance. All properties designated as a historic site shall be subject to a protection radius as described in this section when a non-residential development or major residential subdivision is proposed. A protection radius is the area surrounding a historic site not exceeding the boundary lines of the property.

1. **Protection Radius:** Category I historic sites shall be subject to a 200-foot protection radius, as measured from the center of the site or principal structure. When an entire site is placed on the National Register and contains historic structures, preference shall be given to the Property Owner as to whether the protection radius is applied to the center of the principal historic structure or the center of the area of property on the National Register.
2. Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance. Existing structures (which existed prior to the adoption of this text amendment) within the protection radius may be converted to a non-residential use in accordance with Appendices B & C and shall comply with applicable district regulations as required by Article 5.

Section 4.7 Essential Utility Equipment

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this Ordinance. Wireless telecommunication towers, however, shall conform to the requirements of Article 4B.^{7, 22}

Section 4.8 Buildable Lot

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this Ordinance.

Section 4.9 Traffic Visibility Across Corner Lots

On any corner in all districts, there shall be no obstruction to traffic visibility within 35 feet of the intersection of the two street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.²³

Section 4.10 Site Plan Requirements

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.^{23, 26}
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.²³

J. Required landscape buffers for a non-residential use are indicated in Appendix B.²⁷

Section 4.12 Design Standards for Multi-Family Developments²³

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.
- B. Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed 50 percent of the gross land area.
- C. Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least 25 feet from any street right-of-way.

Section 4.13 Development Adjacent to the Potomac and Shenandoah Rivers²³

- A. Any development, other than residential development, that takes place after the adoption of this Ordinance must maintain a 500 foot buffer strip from the existing banks of the Potomac and Shenandoah Rivers.

~~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;~~
- ~~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 the Jefferson County Historic Landmarks Commission's *Classification of Historic Resources* in Jefferson County.~~

~~All historic resources in Jefferson County are classified by their Category of Importance. All sites and structures were surveyed by the Jefferson County Historic Landmarks Commission up through 1957, and classified Category I through IV. 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.~~
- 4.1. ~~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.~~

ARTICLE 4A: HOME OCCUPATIONS AND COTTAGE INDUSTRIES^{8,24}

Section 4A.1 Home Occupation and Cottage Industry, General Standards

- A. A Zoning Certificate is required for a Cottage Industry or Home Occupation pursuant to Section 3.2 of this Ordinance.
- B. A Home Occupation or Cottage Industry shall be clearly incidental and subordinate to the use of the dwelling unit as a residence.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the Home Occupation or Cottage Industry, other than as provided in this Article.
- D. No equipment or process shall be used in a Home Occupation or Cottage Industry which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, at any lot line.
- E. The following land uses cannot be established as a Home Occupation or Cottage Industry:
 1. Boarding or rooming homes.
 2. Bed and breakfast establishments.
 3. Adult uses.
 4. Any business which involves the storage of weapons such as firearms (other than residents' hunting, protection and leisure weapons).¹²
- F. Any need for parking generated by the Home Occupation or Cottage Industry shall be met off street and other than in a required front yard.
- G. No outdoor storage of any kind, visible from a property line or a public or private right-of-way or vehicular access easement, is permitted.
- H. The business owner is responsible for ensuring compliance with all local, state, and federal taxing requirements.
- I. All applicable County, State, and Federal requirements must be met.

Section 4A.2 Exempt Activities

The following land uses do not constitute a Home Occupation or Cottage Industry, and do not require a Zoning Certificate:

Exempt Facilities are allowed by right. Prior to the issuance of a Zoning Certificate, all other types of new Wireless Telecommunications Facilities listed above require approval of a Minor Site Plan as described in the Jefferson County Subdivision and Land Development Regulations and also meeting the submittal and design requirements of this Article. Additionally, Wireless Telecommunication Towers shall require submittal of a Concept Plan and a public hearing to allow for an analysis of demonstration of need, neighborhood compatibility, impact on cultural and historic **sites/resources**, and visual mitigation.

Within ten (10) days of receiving a Concept Plan application for a Facility, Staff shall notify the applicant in writing (1) that the application is sufficient or (2) the particular information needed as required by the provisions of this Article and the Jefferson County Subdivision and Land Development Regulations, to constitute a sufficient application. Once the additional information is received and the application is found to be sufficient, Staff shall notify the applicant of that finding.

Section 4B.3 Exempt Facilities Allowed by Right

This section covers antennas other than those associated with commercial wireless telecommunication facilities, such as facilities associated with governmental users, television and radio broadcast facilities, and private business users requiring an antenna support structure of twelve feet or less. Antennas allowed by right subject to special requirements of this section include:

- A. Amateur radio facilities mounted on supporting structures less than 100 feet in height provided however, that commercial wireless providers and private business users may not co-locate antennas on an amateur radio tower irrespective of its height.
- B. Residential antennas for receiving television or AM or FM radio broadcast signals.
- C. Residential or business customer premise antennas for receiving microwave, satellite or broadcast television signals, provided such antennas are less than one meter (39.4 inches) in diameter and are mounted on a support structure less than twelve (12) feet in height.

Section 4B.4 Concealed Wireless Telecommunication Facilities

Concealed Facilities are permitted in all zoning districts. The Zoning Administrator may issue a Zoning Certificate for a Concealed Facility consistent with the following terms and conditions:

- A. Concealed Facilities are permitted on buildings and alternative structures (other than telecommunication towers).
- B. For purposes of this section antennas mounted on electric transmission towers shall qualify as Concealed Facilities provided that antennas associated with such facilities do not extend more than twenty (20) feet above the top of the supporting structure. Equipment enclosures associated with such facilities may be mounted on the structure, placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad, metal skid or platform, or other foundation and screened so as to make them unobtrusive.
- C. For purposes of this section antennas mounted on an electric distribution pole, utility or street lighting pole or traffic light pole shall qualify as a Concealed Facility provided antennas associated with such facilities shall not extend more than twenty (20) feet above the top of the existing support structure.
- D. Utility poles may be extended up to twenty (20) feet in height to accommodate antennas for a Concealed Facility.

3. Submittal and review of a Concept Plan shall follow the review process and timeline established in Section 24.119 – 24.122 of the Subdivision and Land Development Regulations, with the following exceptions:
 - a. The application shall be exempt from Section 24.120A, Agency Reviews, and Section 24.120D, WVDOH, except as otherwise provided in this Subsection.
 - b. Following Staff’s determination of the sufficiency of a Concept Plan application:
 - i. Staff shall notify the Jefferson County Historic Landmarks Commission of an application filing.
 - ii. The Applicant shall provide a copy of the completed Concept Plan application to the Appalachian Trail Conservancy and the National Park Service, if required by the Cultural and Historic **SitesResources** Review standards of this Section.
 - c. The Concept Plan shall be reviewed at a public hearing conducted at a scheduled Planning Commission meeting. The scope of this public hearing shall include a demonstration of need as required under this Article, neighborhood compatibility, impact on cultural and historic **sitesresources**, visual mitigation, the submittal and design criteria of this Article, and the compatibility of the facility proposal with the Comprehensive Plan, as well as any relevant information presented by any person that addresses the purpose and intent of this Article. The Planning Commission shall review the proposed Tower for compliance with the standards in this Article and, if applicable, provide conditions relevant to the scope of the public hearing and/or unique characteristics of the proposed development site, to be addressed in Staff’s approval of the site plan.
 - d. Before Staff may approve a site plan for a Tower, the Planning Commission must find, by a majority vote, that the Concept Plan application complies with this Article, and that the application is consistent with the Comprehensive Plan.

C. Retention of Consultants

Staff may elect to retain outside consultants or professional services to review a Concept Plan or site plan application for a Tower and to make recommendations on relevant issues including, but not limited to, verification of the applicant’s compliance with the provisions of this Article, analysis of alternatives, conditions of approval, and compliance with State and Federal rules and regulations at the applicant’s expense. Fees charged to the applicant shall not exceed the actual cost of services rendered.

D. Applicant’s Burden of Proof

The applicant for a site plan for any Tower bears the burden of demonstrating by substantial evidence in a written record that a *bona fide* need exists for the proposed structure at its proposed height and location-as required in Subsection F, “Demonstration of Need”, and that it has met all submittal and design criteria in this Article.

E. Proof of Eligibility

Speculative Towers are prohibited. Before an application for a Tower can be processed, a copy of the applicant’s FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the Tower within six (6) months of issuance of a certificate of occupancy for the Tower. Such demonstration shall include submittal of an affidavit by the FCC licensee(s), and a copy of each wireless provider’s FCC license. If such FCC licenses have been provided to Staff in conjunction with previous tower applications, the applicant may certify that such licenses remain in full force and effect.

F. Demonstration of Need

- d. Antennas associated with an application for a Facility may not be co-located on a tower or other support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.

I. Cultural and Historic **SitesResources** Review

1. In addition to the notification requirements of this Section, an application for a Tower shall comply with the following:
 - a. An application for a proposed Tower within the Harpers Ferry Overlay District shall be provided, by the applicant, to the National Park Service for review and comment, and the applicant will provide Staff an affidavit certifying delivery.
 - b. An application for a proposed Tower located within one mile of the Appalachian Trail shall be provided, by the applicant, to the Appalachian Trail Conservancy and the National Park Service for review and comment, and the applicant will provide Staff an affidavit certifying delivery.

J. Design Criteria

Wireless Telecommunication Towers shall comply with the following design criteria:

1. Antenna Mounting Preferences

Antennas associated with a Tower shall, where practical, be mounted so as to present the smallest possible silhouette, profile or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

- a. Antennas within a cylindrical radome matching the diameter of a monopole.
- b. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the Tower.
- c. Antennas mounted as an array arranged around a platform extending from the monopole.

2. Height Restrictions

- a. Towers in the Industrial-Commercial zoning district shall not exceed 199 feet. Towers in all other zoning districts shall not exceed 100 feet. If a silo is used for a support structure for antennas, the height of the silo shall not exceed 120 feet.
- b. Antennas may extend up to twenty (20) feet above the height of existing electric transmission towers if such height extensions are preferable to placement of a new Tower.

3. Fall Zone

- a. With the exception of silos, Towers shall be set back from all property lines a distance equal to 110% of tower height measured from the base of the structure to its highest point. Additional easements may be acquired on adjacent properties to meet the fall zone requirement.
- b. No residential dwellings may be located in the fall zone on either the primary parcel or in any easement area on adjacent parcels.

4. Signage

Signage at any ground-based portion of a Facility site shall conform to FCC and FAA standards. No commercial signage is permitted.

5. Lighting & Marking

Towers shall not be lighted or marked unless required by the FCC or by the FAA.

6. Electrical Supply

Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.

through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.^{5, 7, 23, 27}

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.^{23, 26, 32}
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.^{7, 27}

Section 5.9 Reserved²³

Section 5.10 Village (V) District^{8, 23, 32}

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.²⁷

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. Non-Residential Land Uses in 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 materials 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. Non-Residential Land Uses in 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.

A.B. ~~and~~ Conditional Uses²³

1. ~~Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.²⁷~~

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.^{27, 32}

2. Existing Structures

a. Parking, Building Setbacks, Landscaping, and Signage shall be addressed as part of the Conditional Use Permit application. The reduced setbacks 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.

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. Setbacks²⁷~~

~~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.^{23, 32}~~

~~2. Existing Structures²⁷~~

~~a. The side and rear yard setbacks are 6' for an existing structure to be used for a land use as provided in this Article.~~

~~B.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.

~~C.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.²³

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

~~E. Other Requirements²³~~

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.~~

- scenic features of the site (including but not limited to **historic sites/resources**, mature trees, open spaces, and agricultural landscapes);
9. Encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features and to provide transitions between land uses; and
 10. Mitigate the problems which may be presented by specific site conditions.
- B. Location. This zoning category is intended for use on properties:
1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
 2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.
- C. Permitted Uses
1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.³²
 2. The Planning Commission may restrict land uses shown as permitted or conditional uses in Appendix C, Principal Permitted and Conditional Uses Table, as part of the approval of a Preliminary PND Plan.³²
 3. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.³²
- D. Site Development Standards
1. If not otherwise addressed in the Preliminary PND Plan, 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. However, setbacks and other site development standards may be modified as part of the approval of a PND zoning map amendment request, as described in this article.
 2. Modification of Development Standards Allowed
 - a. The Planning Commission may approve modifications of the development standards of this Ordinance and the Jefferson County Subdivision and Land Development Regulations as part of the approval of a Preliminary PND Plan.
 - b. Modification of these standards pertains only to developments associated with the Preliminary PND Plan for which the modifications are approved.
- E. Additional Requirements
1. A PND development shall include the following mix of uses, measured as follows, after the Open Space requirement is met:
 - a. 10-30% of the land area shall be commercial
 - b. 10-30% of the residential units shall be multifamily (7+ dwelling units per acre)
 - c. 20-40% of the residential units shall be attached/detached (4-6 dwelling units per acre)
 - d. 0-60% of the residential units shall be detached (1-3 dwelling units per acre)
 2. Open Space Requirements
 - a. A minimum of 20% of the total tract area of a PND development shall be composed of common and open space. Up to one-half of the common and open space may be used for active recreation. Acreage within the 100-year floodplain, as designated by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM) or acreage of critical natural environmental features (as defined in this article), may constitute up to 50% of the required common and open space area.

Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the BZA to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use.

7. For Historic Sites, the Historic Landmarks Commission, with the property owner's consent, may visit the property to review the proposed land development plan and use for sites designated as Category I or II. The Historic Landmarks Commission may make reasonable recommendation to the Board of Zoning Appeals on the suitability of a proposed multi-family dwelling or non-residential use for the building seeking a Conditional Use Permit. The Historic Landmarks Commission's recommendations may include the following findings:

a. Compatibility of the proposed use with the historic structure;

b. Any modifications to the building's façade is consistent and compatible with the building's architecture, style, and massing; and

c. Proposed parking and other activities are suitably located so as to preserve the historic character.

The Board of Zoning Appeals may consider these findings and if determined appropriate, may require compliance with some or all of the Historic Landmarks Commission's recommendations as a condition of approval.

- B. The owner or authorized representative of the owner of the property for which the Conditional Use Permit is being requested shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The Conditional Use Permit request shall be filed with the Board at the Office of Planning and Zoning.
- C. Staff will notify the adjacent and confronting property owners of the date, time, and location of the Public Hearing by registered mail. Notification for a Conditional Use Permit must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.
- E. If there are no negative public comments received by the Board, the Board shall issue the Conditional Use Permit but may require reasonable conditions.

Section 6.4 Seasonal Uses^{5, 7, 32}

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing according to the requirements of Section 6.1C. Newspaper notification requirements of Section 6.1B apply. Seasonal uses cannot be approved for longer than one year at a time.^{17, 21, 23}

Section 6.5 Special Exception Uses^{26, 32}

- A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals following a public hearing.
 - 1. The public hearing shall be conducted according to the requirements of Section 6.1C.
 - 2. Such hearing may be continued according to the requirements of Section 6.1D.
 - 3. The public hearing is subject to the notification requirements of Section 6.1B.
- B. The following uses may be approved as a Special Exception:

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:³²

- 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:³²
 - (a) Secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area;³²
 - (b) For a detached accessory dwelling unit, must be located on a property of at least two acres;³²
 - (c) Limited to use by a relative*;³²
 - (d) Sufficient parking available; and³²
 - (e) Approved by the Health Department.³²

**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.³²*

- 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:³²
 - (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;³²
 - (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.³²

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.~~³²

RVs are prohibited as Accessory Dwelling Units.³²

Section 8.16 Reserved³²

I. Noise Standards to operate a Nature Center and Preserve:

This land use is restricted to the noise standards of Section 8.9A.1 of this Ordinance. The Residential Growth District measurement shall apply when the use is adjacent to a lot that contains a residence, or is zoned Rural or Residential Growth.

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 a proposed multi-family dwelling or non-residential use for the building seeking adaptive reuse.

1. **Historic Landmarks Commission Findings.** The Historic Landmarks Commission may 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; 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) 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.²
- 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.~~³²
- 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.^{8, 32}
- 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 the ~~is~~ 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.^{2, 17, 21, 23, 32}

- 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 Certificate²

All Zoning Certificate applications for signs may be approved by the Zoning Administrator if in conformance with the regulations.^{17, 21, 23}

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32}

Zoning District	Development Type ^⓪	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imper-vious Surface Limit	Building Setbacks		Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use									
											A Residential district, or any lot with a residence, school, church, or institution of human care (Distance per Sec. 4.6)						Commercial Use		Industrial Use	
											Distance Front Side Rear	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear			
Industrial – Commercial (IC)**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25			15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)		
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25			15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)		
	Industrial	3 ac***	N/A	75	90%	50 or 25 if adjacent to Industrial Use			25 or 20 if adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)		
Residential-Light Industrial-Commercial (RLIC)	Commercial or Industrial	N/A	N/A	75	80%	See IC District														
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50	See IC District for commercial sites			N/A	50(U) or 15 (S)		N/A	10(S)	N/A	10(S)		
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A		
	Hospitals	10 ac	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A		
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				N/A	See I-C District for commercial or industrial use; Otherwise, N/A							
	Commercial or Industrial**	See IC District																		
Village (V)	Commercial [¥]	N/A	N/A	35	N/A	25	10	40	See IC District											
	Industrial**	See IC District			35	See IC District														
Residential Growth (RG)	Commercial or Industrial**	See IC District			35	See IC District														
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 [£]	10 ^⓪	See I-C District		25	See IC District								
General Commercial (GC)	Commercial	N/A	N/A	75	80%	20	10	25	See IC District											
Highway Commercial (HC)	Commercial	N/A	N/A	75	80%	25	25	25												
Light Industrial (LI)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25												
Major Industrial (MI)	Commercial	N/A	N/A	75	90%	25	10	50												
	Industrial	3 ac***	N/A	75	90%	25	50	50												
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 [£]	10 ^⓪	See IC District											
Planned Neighborhood Development (PND)	Commercial	3 acres	See GC District Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).																	

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

All dimensions are in feet unless otherwise indicated by "ac" (acres).

* Maximum building height is subject to Sec. 9.2.

** If land use(s) approved via the Conditional Use process in accordance with this Ordinance.

*** MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Sec. 5.6E]

**** Schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly.

¥ **Non-Residential Site Development in an existing structure in the Village District shall comply with Section 5.10A.2. Commercial setbacks may be reduced by a variance approved by the BZA based on other structures existing in the neighborhood. Side and rear yard setbacks – 6’ for an existing structure to be used for a land use as provided in Sec. 5.10.**

‡ Setback may be reduced if adjacent to industrial use.

⓪ For an industrial use, no structures, stored materials, or vehicular parking shall be permitted within the buffer yard. For a commercial use, no structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

ⓧ A rear yard setback may be reduced to 10' for a non-residential use abutting a commercial or industrial use at a rear lot line

⓪ Churches in any district: (1) are treated as a commercial use on a lot of greater than 1.5 acres in determining buffer requirements and parking/drive aisle setbacks; (2) building setbacks are 25' (front) and 50' (side/rear); and (3) distance requirements do not apply.

£ For a non-residential use abutting a commercial or industrial use, no side yard setback is required, unless required by Building Code or other law or regulation.

APPENDIX C: PRINCIPAL PERMITTED AND CONDITIONAL USES TABLE^{23, 29, 32, 33}

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Residential Uses													
Accessory Agricultural Dwelling Unit	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.15
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
Home Uses													
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
Institutional Uses													
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	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	
Residential Care Home	P	P	P	NP	NP	P	CU	P	P	P	NP	P	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Institutional Uses Continued													
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	
Industrial													
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	NP	P	NP	
Manufacturing, Limited	NP	P	P	P	P	CU	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 ²	NP	NP	NP	NP	NP	CU ²	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	
Industrial Manufacturing & Processing													
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
Adult Uses													
Adult Uses	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	NP	Sec. 4.4K, Sec. 8.1
Recreational Uses													
Hunting, Shooting, Archery and Fishing Clubs, public or private	NP	NP	NP	CU	CU	NP	NP	P	NP	NP	NP	NP	Sec. 8.8
Commercial Uses													
Adaptive Reuse of Historic Structures	CU	P	P	P	P	P	P	CU	CU	P	P	CU	Sec. 8.19
Antique Shop	P	P	P	P	NP	P	NP	CU	CU	P	P	P CU	
Appliance Sales	NP	P	P	P	CU	P	NP	CU	CU	P	P	NP	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Commercial Uses Continued													Sec. 8.9
Art Gallery or Artist Studio	P	P	P	P	NP	P	P	CU	CU	P	P	P 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	P 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	P 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 ³¹	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	P 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	
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	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Commercial Uses Continued													Sec. 8.9
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
Agricultural Uses*													
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	
Accessory Uses													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

NC Neighborhood Commercial
GC General Commercial
HC Highway Commercial
LI Light Industrial
MI Major Industrial
PND Planned Neighborhood Development

OC Office / Commercial Mixed-Use
R Rural
RG Residential Growth District
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
 - ¹ The Planning Commission may amend the permitted uses for a development in the PND District per Article 5.
 - ² Approval process is per the Salvage Yard Ordinance.

The "Final Draft" excludes any highlighting or strike-throughs for proposed text that was eliminated [strike-through reflecting elimination of current text is shown in blue]

Adaptive Reuse of
Historic Structures³²

Adaptive reuse refers to the process of reusing a historic site or building~~an old site or building~~ for a purpose other than that for which it was built or designed.

Addition, Major

A major addition shall include those additions which will directly affect the function of the site or those areas surrounding the site. Any substantial change of use classification, alteration of on-site parking requirements, potential adverse impacts of off-site storm water drainage, increased demand for public water and sewerage or additions which will cause the rerouting of traffic circulation shall be considered "major additions".

Adjacent/Confronting
Affected Property Owner⁷

The owner of property adjacent to or confronting a proposed development (including the properties across any road, right of way or easement) which will be impacted either positively or negatively by that proposed development. Names and addresses of affected property owners will be taken from current tax records in the Jefferson County Court House.

Adult Arcade¹⁵

An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Bookstore¹⁵

An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specifies sexual activities.

Adult Cabaret¹⁵

A nightclub, bar, restaurant, facility, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions of material that is characterized by any emphasis upon the depiction of specified sexual activities or specifies anatomical areas.

Adult Mini Motion
Picture Theatre¹⁵

An enclosed building with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

Adult Sauna¹⁵

A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an

Battlefield ³²	There are 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.
Bed and Breakfast ²³	A single-family dwelling where lodging is offered for compensation, having no more than seven (7) bedrooms for this purpose, and meeting the requirements for such a use in Article 8 of this Ordinance.
Bicycle Parking Space ²⁷	A volume of space that can accommodate locked storage of one (1) bicycle at a bicycle rack, i.e. a fixture to which one or more bicycles can be securely locked.
Billboard	A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located. (See Sign, Outdoor Advertising)
Blue Ridge Line ¹¹	The common surveyed boundary between Jefferson County, West Virginia and Loudoun County, Virginia.
Board ^{17, 21}	The Jefferson County Board of Zoning Appeals.
Boarding or Rooming House ²⁴	A building other than a Hotel, Motel, Bed and Breakfast, Residential Care Home, Group Residential Home, Group Residential Facility, or Country Inn where lodging is provided for compensation for more than 6 unrelated persons. Meals may or may not be served but are not provided to outside guests. There is one common kitchen facility.
Brewer	Any person manufacturing craft beer from malt and hops by infusion, boiling, and fermentation for sale at wholesale to any licensed distributor.
Brewpub	An establishment owned by a resident brewer in which craft beer is manufactured and sold on premises in accordance with WV State Code licensing requirements. A brewpub may include the incidental sale of food.
Broadcast Tower ²²	A structure situated on a lot that is intended for transmitting television or AM/FM radio signals.
Buffer ⁵	An area on a property defined by a distance from the property line or other specifically designed line such as flood plain, wetland limit or stream bank. Said area is intended to absorb, lessen or neutralize the impacts of one land use from another. The nature of the buffer will depend on the impact(s) being neutralized.
Building	Any structure which is permanently affixed to the land and has one or more floors and a roof. The term building shall include manufactured homes.
Building Line	The line established by law beyond which a building shall not extend as determined by front, side and rear yards, herein.

Condominium ⁵	A common interest community in which portions of the real estate are designated for separate fee simple ownership of cubic air interior spaces and the remainder of the real estate is designated for common ownership solely by the owners of those portions. Said common interest community may be residential, commercial or industrial depending on other provisions of this Ordinance. All such projects are subject to the West Virginia Uniform Common Interest Ownership Act. In the event that a specific requirement within the Uniform Common Interest Ownership Act is inconsistent with a commercial or industrial project, that specific requirement shall not apply.
Contiguous ^{17, 21}	Lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous.
Contractor with No Outdoor Storage ²⁷	Use of a site for the business office of a general contractor or builder engaged in the construction of buildings, either residences or commercial structures. The premises may include an enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products, and interior storage, but which does not use any exterior storage area other than incidental storage.
Contractor with Outdoor Storage ²⁷	Use of a site for the business office of a general contractor or builder engaged in the construction of buildings, either residences or commercial structures. The premises may include an enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products, and interior storage. This use may include outdoor storage of building materials and heavy equipment such as road graders, dump trucks, cement mixers.
<u>Contributing Structure</u>	<u>Buildings, structures, or sites that add to the historical association, architectural quality, or archeological 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.</u>
Convenience Store ²⁷	An establishment, not exceeding 10,000 square feet of gross floor area, engaged in the retail sale, from the premises, of food, beverages and other frequently or recurrently needed items for household use. This land use does not include a gas station.
Convenience Store, Limited ²⁷	A convenience store not exceeding 1,500 square feet of retail floor, with hours of operation limited to the period between 6:00 A.M. and 11:00 P.M.
Convention Center ²⁷	A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including

Group
Residential Home²³

A building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence, and complying with all applicable requirements of the state of West Virginia. Per Chapter 17 of the West Virginia Code, as amended, a Group Residential Home shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts.

Harpers Ferry
Overlay District²²

For purposes of regulating Wireless Telecommunication Facilities, an area bounded on the north by a line running west from the Potomac River shore to and along Engle Switch Road to its intersection with Route 230; thence south along Route 230 to its intersection with the CSX Railroad Valley Line; thence south along said railroad to Milepost 4 on the railroad at its intersection with Millville Road; thence east from that point to and across the Shenandoah River to a point 1000 feet distant on the eastern shore of the said Shenandoah River; then following a line 1000 feet inland from that opposite shore of the Shenandoah River to its confluence with the Potomac River; then along a line 1000 feet inland from the Potomac river shore running east to the Virginia state line; thence north to the Potomac River shore; thence west along the shore of the Potomac River to the point of origin. This district excludes the area within the jurisdictional boundaries of the town of Harpers Ferry and the town of Bolivar.

Heavy Industrial Use²⁷

Manufacturing or other enterprises with significant external effects including but not limited to noise, dust, glare, odors or vibrations, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. This use also includes those land uses characterized by heavy trucking activity or extensive warehousing.

Helipad²⁷

A facility without the logistical support provided by a heliport where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling, or storage of helicopters.

Heliport²⁷

An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.

Historic District

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.

Historic Landmark

A site, building, structure, or object designated as a "Landmark" either on a national, state, or local register.

Historic Landmarks
Commission³²

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.

~~Historic Resource~~²²

~~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.~~

Historic Site/~~Property~~

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, cultural, or archeological value regardless of the value of any existing structure.

Home Occupation,
Level 1^{8, 24}

An occupation conducted in a residential premises, as described in Article 4A of this Ordinance.

Home Occupation,
Level 2^{8, 24}

An occupation conducted in a residential premises, as described in Article 4A of this Ordinance.

Horse Racing Facility²⁷

A facility licensed by the State of West Virginia to offer, for public viewing and amusement, on-site horse racing events with on-site related wagering thereupon. This use can also include the conduct of other occasional special events. In addition to the race course and spectator areas, this use also includes accessory uses (including but not limited to eateries, off-street parking structures, public, community or private utilities, exhibits, and shops). This use may also include the provision of resident employee and guest lodging services for both humans and animals incidental to the visit or stay on the site. This use may also include veterinary care for animals kept or visiting the site.

Hotel/Motel²⁷

A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a Bed and Breakfast, Residential Care Home, Group Residential Home, Group Residential Facility, or Country Inn (as defined in this Ordinance). A hotel/motel may include a restaurant, bar, personal and retail services, and entertainment as accessory uses.

Hunting, Shooting,
Archery and Fishing Clubs,
Public or Private²³

Land owned by an organized group of persons formed as a club that is used for hunting, fishing, shooting, archery and similar types of passive recreation.

Impervious Surface

Any structure, material, or surface which reduces and prevents absorption of storm water into the earth.

Improvements

Modifications to land which increase its value or utility. Improvements include, but are not limited to, buildings and structures, road grading, road surfacing, landscaping, curbs, gutters, storm sewers and drains,

Mixed Use Building ³²	A mixed use unit consisting of a commercial or office use and a residential use. The commercial or office use must be located on the first floor.
Mobile Home Park	A lot, site, or parcel of land used or intended to accommodate two (2) or more mobile homes for residential purposes with adequate public or community water and sewerage service meeting Health Department standards. A mobile home park does not include mobile home sales lots, which unoccupied mobile homes are parked for inspection and sale. This term includes all buildings, structures, vehicles, accessories and appurtenances used or intended as equipment in such a park.
Mobile Home, Boat and Trailer Sales ²⁷	Use of a site for the sale, rental or servicing of mobile homes, boats and trailers. This use includes outdoor display of items for sale or rent, and accessory retail sale of merchandise related to mobile homes, boats and trailers. This use does not include a gas station.
Mobile Home ^{23, 32}	A manufactured single family detached home built prior to the Federal Manufactured Home Construction and Safety Standards which became effective June 15, 1976.
Model Home/ Sales Office ²³	A dwelling unit temporarily used for display purposes as an example of dwelling units available for sale in a residential development approved by Jefferson County. Model homes may include sales offices for dwellings within the development.
Modular Home ³²	A single family detached structure built in a factory that meets the State or Local Building Codes where the homes will be sited.
Monopole ^{9, 22}	A support structure constructed of a self-supporting hollow metal tube securely anchored to a foundation.
Motor Vehicle ^{17, 21}	Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or other public ways.
Movie Theater ²⁷	A building containing audience seating and one or more screens and auditoriums intended for the viewing of films. A movie theater may contain a lobby and refreshment stand, and may include service of food and beverages to seated patrons. Incidental use of a movie theater for community events and live performances is permitted. This use does not include an adult use or a bar/nightclub.
Multi-Residential Use	A deeded lot or parcel on which two or more dwelling units is located.
Natural Undisturbed Conditions ⁵	This exists where the terrain has not been altered in form by human activities such as cutting, filling, blasting or leveling and where natural vegetation exists.

National Historic
Landmark

Authorized in 1935 and implemented in 1960, National Historic Landmarks 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, authorized by the National Historic Preservation act of 1966, is the official list of culturally significant buildings, structures, objects, sites, and districts in the United States. The list is maintained by the U.S. Department of Interior.

Natural Vegetation⁵

This occurs when a property is allowed to revert to a wild condition with native plants. No cutting, trimming or cultivation takes place in areas of natural vegetation.

Nature Center and
Preserve³²

A land use providing environmental and conservation education for adults and youth.

Neighborhood^{17, 21}

An area generally confined to a one-mile radius from the perimeter of a proposed development.

Nightclub²⁷

A commercial establishment where the primary activity is dancing and musical entertainment and in which alcoholic beverages are dispensed for consumption on the premises. This use may include live entertainment (other than an adult use) that complies with Jefferson County noise restrictions.

Nonconforming Lot³²

A lot or parcel that lawfully existed at the time this Ordinance became effective and which does not conform with the dimensional requirements of the district in which it is located. This includes the dimensions, acreage, and/or access, etc. Any new lines of division within a subdivision of a parcel that is a nonconforming lot shall meet the regulations of this Ordinance.

Nonconforming Use³²

A land use that lawfully existed at the time this Ordinance became effective and which does not conform with the use regulations of the district in which it is located.

Nonconforming Structure³²

A building that lawfully existed at the time this Ordinance became effective and which does not conform with the site coverage, setback, height, open space, or other regulations describing the physical development standards of the district in which it is located. Any new lines of division within a subdivision of a parcel that contains a nonconforming structure shall not create a further nonconformity and shall meet the regulations of this Ordinance.

Non-Residential^{17, 21}

A commercial, industrial, or institutional use.

Nursing or
Retirement Home

This term includes rest homes, nursing homes, convalescent homes for children and homes providing chronic and convalescent care.

Open Space³²

Land area to be left undeveloped as part of a natural resource preservation, recreation, bufferyards, or other open space provision of the Subdivision Regulations. Open space excludes areas in lots, street right-of-ways, or parking. Private open space is designed and intended for common use and the enjoyment of the residents. Public open space is

designed and intended for common use and the enjoyment of the residents of Jefferson County.

Parking, Commercial
Offsite Accessory²⁷

Use of a site for the storage of motor vehicles, which is not accessory to any other use on the same or any other lot, and which contains parking space rented to the general public or reserved for individuals by the hour, day, week, or month.

Pawn Shop Services²⁷

An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property. This use does not include a Bank.

PCS²²

Personal Communication Services.

Performing Arts Theater²⁷

An establishment for the performing arts with seating for audiences. Such establishments may include related services such as food and beverage sales and other concessions. Incidental use of a performing arts theater for community events is permitted. This use does not include an adult use or a bar or nightclub.

Personal Services²⁷

Establishments primarily engaged in providing individual services generally related to personal needs of a non-medical type, including barber shops; beauty salons; chiropractic clinics; clothing rental; dry cleaning and laundry services (as defined in this Ordinance); duplicating services; garment repair, pressing, and tailoring; massage therapy provided by licensed massage practitioner; photographic studios; psychic readers; real estate; self-service laundromat; shoe repair; spas; tanning salons; travel agencies; video rental stores and other similar establishments.

Plat²³

A scaled, graphic drawing of a land subdivision project prepared according to the provisions of the Subdivision and Land Development Regulations and this Ordinance. A plat depicts the design and layout of a project as well as the location of existing and proposed property boundaries and easements. A plat also includes all terms, conditions and performance requirements established prior to the approval of a subdivision.

Preliminary Plat²³

A professionally prepared drawing of a proposed subdivision which is not a record plat but which contains detailed information concerning the proposed development, and is prepared according to the provisions of the Subdivision and Land Development Regulations and this Ordinance.

Preschool²³

Use of a site for the provision of pre-elementary educational services on a scheduled basis to children through kindergarten. If the West Virginia Department of Education establishes requirements for a preschool, the land use shall meet these requirements.

Preservation of a

The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. Work,

Historic Site

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.

Primary Public
Safety Provider²²

An FCC licensed governmental user that uses wireless telecommunication facilities to provide primary communications for law enforcement, fire, ambulance or related emergency services. Primary Public Service Provider does not include Commercial Wireless Service Providers, or Competitive Local Exchange Carriers (CLEC), who provide telecommunication services on a commercial basis to Primary Public Service Providers, or who deliver emergency calls or messages from its customers to a Public Safety Answering Point (PSAP).

Principal
Permitted Use^{23, 31, 32}

Any use included on the Principal Permitted and Conditional Uses Table (Appendix C) which is or may be lawfully established in a particular district, approved by the Office of Planning and Zoning without requirement of approval by a board or commission, provided the use conforms with all applicable requirements of this Ordinance. Such use does not include Conditional Uses as defined in this Ordinance.

Principal Use²³

The primary or predominant use of any site.

Printing and Publishing²⁷

A printing operation of an industrial scale, involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing. This use may include the production of books, magazines, newspapers and other printed matter.

Private Business User²²

Persons or entities which operate radio facilities (including microwave) requiring an FCC license solely for intra-company communications and who do not employ those facilities to offer fixed or mobile wireless communication services, or point-to-point microwave links for commercial wireline communication services, to third parties for compensation.

Professional Office,
Small³²

A professional office, as defined herein, limited to two professionals/practitioners and related support staff.

Professional Office²⁷

A building used primarily for offices for administrative, executive, professional, research, or similar organizations; and for real estate, advertising, and insurance agencies and similar firms. No merchandise is sold on the premises. An office building may include ancillary services for employees, such as a restaurant or coffee shop. This land use does not include a Medical/Dental/Optical Office.

Prohibited Use

A use that is not permitted.

<u>Protection Radius</u>	<u>The area surrounding a historic site not exceeding the boundary lines of the property. The size of the protection radius is governed by Section 4.6G of this Ordinance.</u>
Public Highway	Any highway or road in Jefferson County which is part of the Federal or West Virginia public highway system and which is so identified by and numbered on the most recent General Highway Map published by the West Virginia Department of Highways.
Public Safety Facility ²³	Facilities that provide health and safety services to the general public including, but not limited to fire stations, police stations, and emergency medicine or ambulance stations or facilities.
Publicly Owned Facility ²³	Use of a site for government operations or activities, and not otherwise defined as a public safety facility; school, elementary or secondary; school, university or college; school, vocational or professional; hospital; cultural facility; or essential utility equipment.
Recycling Drop-Off Center ²⁷	A building or site used for a drop-off location for temporary storage of recyclable, recoverable or reusable materials such as paper, cardboard, glass, metal, plastic, batteries and motor oil. Processing of materials is limited to separation. This land use is intended for household or consumer use rather than commercial or industrial use.
Research and Development ¹³	Research, development and testing laboratories that do not involve the mass manufacture, fabrication, processing or sale of products.
Residential Care Home ²³	The use of a site for the provision of a family-based facility in a single-family dwelling unit providing 24 hour care in a protected living arrangement with not more than two supervisory personnel and not more than six residents who are suffering from mobility, orthopedic, visual, speech, or hearing impairments, Alzheimer's disease, pre-senile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, cognitive disability, autism, emotional illness, or similar conditions.
Residential ¹	Any detached or attached structure that is used for permanent living quarters and has kitchen facilities.
Restaurant ²⁷	A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building. A restaurant may include the incidental sale of alcohol for on-premises consumption; however, sale of food and non-alcoholic beverages is the principal use of the site. This use does not include the uses Bar or Nightclub.
Restaurant, Fast Food ²⁷	Any establishment whose principal business is the sale of foods and/or beverages in ready-to-consume individual servings, for consumption either inside or outside the restaurant building or for carry-out. Customer orders and/or service may be by means of a window or walk-up counter. A fast food restaurant whose design or method of operation includes a drive-up window or drive-through service or includes service

Section 3.4 Boards and Commissions^{23, 32}

A. Board of Zoning Appeals

1. The Board of Zoning Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their powers and duties shall be provided in Chapter 8A of the West Virginia Code, as amended.
2. Meetings of the Board of Zoning Appeals shall be conducted according to the Rules of Procedure adopted by the Board of Zoning Appeals. In the event of a conflict between this Ordinance and the Rules of Procedure, the Rules of Procedure shall prevail.²
3. The powers and duties of the Board of Zoning Appeals include but are not limited to the following:
 - a. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.³²
 - b. The Board of Zoning Appeals shall consider requests for variances, seasonal use permits, and special exceptions from the terms of this Ordinance.³²
 - c. The Board of Zoning Appeals shall have authority over the issuance or denial of a Conditional Use Permit.³²

B. Planning Commission²³

1. Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Planning Commission and Chapter 8A of the West Virginia Code, as amended.
2. The powers and duties of the Jefferson County Planning Commission include but are not limited to the following:
 - a. Review applications for major site plans, major subdivisions, and waivers from minimum standards, pursuant to the Subdivision and Land Development Regulations;
 - b. Review requests for amendments to the County zoning map and Zoning and Land Development Ordinance;
 - c. Research and recommend to the County Commission improvements to the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations;
 - d. Make recommendations to the County Commission concerning planning and zoning issues;
 - e. Make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction;
 - f. Prepare the Jefferson County Comprehensive Plan and recommend to the County Commission for adoption or amendment.

C. County Commission²³

1. General. The County Commission shall have all powers conferred upon it by the Constitution, the laws of the State of West Virginia, and the County Charter. With respect to development approval and amendments to this Ordinance and the County's Comprehensive Plan, the powers that the County Commission retains and shall exercise include but are not limited to the powers set out in this Section.
2. Approvals. Following a public hearing and the submittal of recommendations by Staff and the Planning Commission, the County Commission may take action on the proposed adoption of, or amendments to, the following, including text, maps, and other elements:

- a. Comprehensive Plan
- b. Zoning and Land Development Ordinance
- c. Subdivision and Land Development Regulations
- d. The Jefferson County Zoning Map
- e. An Urban Growth Boundary in accordance with Chapter 8 of the West Virginia Code, as amended:
 - i. A boundary shall be established by the County Commission in agreement with each individual municipality regarding that municipality's boundary.
 - ii. If the County Commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court.
 - iii. Once the county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality.
 - iv. The County Commission shall review each urban growth boundary at a period not to exceed ten years or upon request of the individual municipality.
3. Hiring. The County Commission shall hire staff of the Office of Planning and Zoning.
4. Appointments. The County Commission shall appoint the members of the Planning Commission and the Board of Zoning Appeals.
5. Fees. The County Commission shall adopt a fee schedule for processing applications pursuant to this Ordinance. The fee schedule may be amended from time to time as determined appropriate by the County Commission.

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.
2. The Jefferson County Historic Landmarks Commission may make recommendation to the County Commission during a Public Comment period concerning Planning and Zoning issues as they relate to the protection of identified Historic Sites.
3. The Jefferson County Historic Landmarks Commission does not have the authority to nominate or designate a historic site for inclusion on the National Register without the property owner's consent and does not have the authority to create a Historic District due to the restrictions in WV State Code §8-26A-3 and related statutes.
4. Historic Preservation is not to infringe on the property owner's rights. The Jefferson County Historic Landmarks Commission is encouraged to protect historic sites in Jefferson County by raising capital to purchase historic sites and battlefields at fair market value.
5. This Ordinance encourages the preservation of historic buildings and historic sites and recognizes the Jefferson County Historic Landmarks Commission's Classification of Historic Sites in Jefferson County. All historic sites in Jefferson County are classified by their Category of Importance, used to determine the level of protection afforded that site. The categories are as follows:

- a. **Category I.** These are the most important historic sites in Jefferson County. This category includes individually listed National Register structures and properties; Historic Districts including their contributing structures; and Federally recognized Civil War Battlefields. These properties retain a high level of original condition and integrity.
- b. **Category II.** These sites are classified as important. This category includes Jefferson County Landmarks, historic sites that may be National Register eligible, and other Civil War battle sites. Sites 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.
- c. **Category III.** These sites have moderate importance.
- d. **Category IV.** These are sites that are at least 50 years old, have little or no significance, but are listed on the Landmarks Commission's inventory.

Refer to Section 4.6 for distance requirements and protection radius standards.

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:²⁷
1. Any lot in the Residential Growth District;²⁷
 2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;¹
 3. Any lot which is part of a recorded subdivision; and
 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:^{7, 27}
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.²³
- C. A commercial use (not including parking) located in the Neighborhood Commercial District or the Office/Commercial Mixed Use shall be located at least 25 feet from a land use identified in Section 4.6B.1-3.²⁷
- D. Housing for farm animals and feeding pens shall be set back a minimum of 50 feet from all property lines; excluding chicken coops which may be set back 25 feet from all property lines, if no roosters are housed there.³²
- E. Structure used to store manure shall comply with distance requirements specified in 4.6A.³²
- F. All portions of a kennel land use must be buffered pursuant to Article 4 and set back at least 300' from any other property line that contains a residence. If the adjacent use is a commercial use, setbacks shall conform with commercial setbacks in Appendix B.³²
- G. Historic Sites are subject to this subsection, unless otherwise specified in this Ordinance. All properties designated as a historic site shall be subject to a protection radius as described in this section when a non-residential development or major residential subdivision is proposed. A protection radius is the area surrounding a historic site not exceeding the boundary lines of the property.
1. Protection Radius: Category I historic sites shall be subject to a 200-foot protection radius, as measured from the center of the site or principal structure. When an entire site is placed on the National Register and contains historic structures, preference shall be given to the Property Owner as to whether the protection radius is applied to the center of the principal historic structure or the center of the area of property on the National Register.
 2. Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance. Existing structures (which existed prior to the adoption of this text amendment) within the protection radius may be converted to a non-residential use in accordance with Appendices B & C and shall comply with applicable district regulations as required by Article 5.

Exempt Facilities are allowed by right. Prior to the issuance of a Zoning Certificate, all other types of new Wireless Telecommunications Facilities listed above require approval of a Minor Site Plan as described in the Jefferson County Subdivision and Land Development Regulations and also meeting the submittal and design requirements of this Article. Additionally, Wireless Telecommunication Towers shall require submittal of a Concept Plan and a public hearing to allow for an analysis of demonstration of need, neighborhood compatibility, impact on cultural and historic ~~sites~~^{resources}, and visual mitigation.

Within ten (10) days of receiving a Concept Plan application for a Facility, Staff shall notify the applicant in writing (1) that the application is sufficient or (2) the particular information needed as required by the provisions of this Article and the Jefferson County Subdivision and Land Development Regulations, to constitute a sufficient application. Once the additional information is received and the application is found to be sufficient, Staff shall notify the applicant of that finding.

Section 4B.3 Exempt Facilities Allowed by Right

This section covers antennas other than those associated with commercial wireless telecommunication facilities, such as facilities associated with governmental users, television and radio broadcast facilities, and private business users requiring an antenna support structure of twelve feet or less. Antennas allowed by right subject to special requirements of this section include:

- A. Amateur radio facilities mounted on supporting structures less than 100 feet in height provided however, that commercial wireless providers and private business users may not co-locate antennas on an amateur radio tower irrespective of its height.
- B. Residential antennas for receiving television or AM or FM radio broadcast signals.
- C. Residential or business customer premise antennas for receiving microwave, satellite or broadcast television signals, provided such antennas are less than one meter (39.4 inches) in diameter and are mounted on a support structure less than twelve (12) feet in height.

Section 4B.4 Concealed Wireless Telecommunication Facilities

Concealed Facilities are permitted in all zoning districts. The Zoning Administrator may issue a Zoning Certificate for a Concealed Facility consistent with the following terms and conditions:

- A. Concealed Facilities are permitted on buildings and alternative structures (other than telecommunication towers).
- B. For purposes of this section antennas mounted on electric transmission towers shall qualify as Concealed Facilities provided that antennas associated with such facilities do not extend more than twenty (20) feet above the top of the supporting structure. Equipment enclosures associated with such facilities may be mounted on the structure, placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad, metal skid or platform, or other foundation and screened so as to make them unobtrusive.
- C. For purposes of this section antennas mounted on an electric distribution pole, utility or street lighting pole or traffic light pole shall qualify as a Concealed Facility provided antennas associated with such facilities shall not extend more than twenty (20) feet above the top of the existing support structure.
- D. Utility poles may be extended up to twenty (20) feet in height to accommodate antennas for a Concealed Facility.

3. Submittal and review of a Concept Plan shall follow the review process and timeline established in Section 24.119 – 24.122 of the Subdivision and Land Development Regulations, with the following exceptions:
 - a. The application shall be exempt from Section 24.120A, Agency Reviews, and Section 24.120D, WVDOH, except as otherwise provided in this Subsection.
 - b. Following Staff's determination of the sufficiency of a Concept Plan application:
 - i. Staff shall notify the Jefferson County Historic Landmarks Commission of an application filing.
 - ii. The Applicant shall provide a copy of the completed Concept Plan application to the Appalachian Trail Conservancy and the National Park Service, if required by the Cultural and Historic ~~Sites~~~~Resources~~ Review standards of this Section.
 - c. The Concept Plan shall be reviewed at a public hearing conducted at a scheduled Planning Commission meeting. The scope of this public hearing shall include a demonstration of need as required under this Article, neighborhood compatibility, impact on cultural and historic ~~sites~~~~resources~~, visual mitigation, the submittal and design criteria of this Article, and the compatibility of the facility proposal with the Comprehensive Plan, as well as any relevant information presented by any person that addresses the purpose and intent of this Article. The Planning Commission shall review the proposed Tower for compliance with the standards in this Article and, if applicable, provide conditions relevant to the scope of the public hearing and/or unique characteristics of the proposed development site, to be addressed in Staff's approval of the site plan.
 - d. Before Staff may approve a site plan for a Tower, the Planning Commission must find, by a majority vote, that the Concept Plan application complies with this Article, and that the application is consistent with the Comprehensive Plan.

C. Retention of Consultants

Staff may elect to retain outside consultants or professional services to review a Concept Plan or site plan application for a Tower and to make recommendations on relevant issues including, but not limited to, verification of the applicant's compliance with the provisions of this Article, analysis of alternatives, conditions of approval, and compliance with State and Federal rules and regulations at the applicant's expense. Fees charged to the applicant shall not exceed the actual cost of services rendered.

D. Applicant's Burden of Proof

The applicant for a site plan for any Tower bears the burden of demonstrating by substantial evidence in a written record that a *bona fide* need exists for the proposed structure at its proposed height and location-as required in Subsection F, "Demonstration of Need", and that it has met all submittal and design criteria in this Article.

E. Proof of Eligibility

Speculative Towers are prohibited. Before an application for a Tower can be processed, a copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the Tower within six (6) months of issuance of a certificate of occupancy for the Tower. Such demonstration shall include submittal of an affidavit by the FCC licensee(s), and a copy of each wireless provider's FCC license. If such FCC licenses have been provided to Staff in conjunction with previous tower applications, the applicant may certify that such licenses remain in full force and effect.

F. Demonstration of Need

- d. Antennas associated with an application for a Facility may not be co-located on a tower or other support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.

I. Cultural and Historic ~~Sites~~~~Resources~~ Review

1. In addition to the notification requirements of this Section, an application for a Tower shall comply with the following:
 - a. An application for a proposed Tower within the Harpers Ferry Overlay District shall be provided, by the applicant, to the National Park Service for review and comment, and the applicant will provide Staff an affidavit certifying delivery.
 - b. An application for a proposed Tower located within one mile of the Appalachian Trail shall be provided, by the applicant, to the Appalachian Trail Conservancy and the National Park Service for review and comment, and the applicant will provide Staff an affidavit certifying delivery.

J. Design Criteria

Wireless Telecommunication Towers shall comply with the following design criteria:

1. Antenna Mounting Preferences

Antennas associated with a Tower shall, where practical, be mounted so as to present the smallest possible silhouette, profile or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

- a. Antennas within a cylindrical radome matching the diameter of a monopole.
- b. Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the Tower.
- c. Antennas mounted as an array arranged around a platform extending from the monopole.

2. Height Restrictions

- a. Towers in the Industrial-Commercial zoning district shall not exceed 199 feet. Towers in all other zoning districts shall not exceed 100 feet. If a silo is used for a support structure for antennas, the height of the silo shall not exceed 120 feet.
- b. Antennas may extend up to twenty (20) feet above the height of existing electric transmission towers if such height extensions are preferable to placement of a new Tower.

3. Fall Zone

- a. With the exception of silos, Towers shall be set back from all property lines a distance equal to 110% of tower height measured from the base of the structure to its highest point. Additional easements may be acquired on adjacent properties to meet the fall zone requirement.
- b. No residential dwellings may be located in the fall zone on either the primary parcel or in any easement area on adjacent parcels.

4. Signage

Signage at any ground-based portion of a Facility site shall conform to FCC and FAA standards. No commercial signage is permitted.

5. Lighting & Marking

Towers shall not be lighted or marked unless required by the FCC or by the FAA.

6. Electrical Supply

Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.

through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.^{5, 7, 23, 27}

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.^{23, 26, 32}
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.^{7, 27}

Section 5.9 Reserved²³

Section 5.10 Village (V) District^{8, 23, 32}

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.²⁷

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. Non-Residential Land Uses in 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 materials 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. Non-Residential Land Uses in 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.

A.B. ~~and~~ Conditional Uses²³

1. ~~Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.²⁷~~

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.^{27, 32}

2. Existing Structures

a. Parking, Building Setbacks, Landscaping, and Signage shall be addressed as part of the Conditional Use Permit application. The reduced setbacks 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.

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. Setbacks²⁷~~

~~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.^{23, 32}~~

~~2. Existing Structures²⁷~~

~~a. The side and rear yard setbacks are 6' for an existing structure to be used for a land use as provided in this Article.~~

~~B.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.

~~C.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.²³

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

~~E. Other Requirements²³~~

~~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.~~

- scenic features of the site (including but not limited to historic sites/resources, mature trees, open spaces, and agricultural landscapes);
9. Encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features and to provide transitions between land uses; and
 10. Mitigate the problems which may be presented by specific site conditions.
- B. Location. This zoning category is intended for use on properties:
1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
 2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.
- C. Permitted Uses
1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.³²
 2. The Planning Commission may restrict land uses shown as permitted or conditional uses in Appendix C, Principal Permitted and Conditional Uses Table, as part of the approval of a Preliminary PND Plan.³²
 3. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.³²
- D. Site Development Standards
1. If not otherwise addressed in the Preliminary PND Plan, 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. However, setbacks and other site development standards may be modified as part of the approval of a PND zoning map amendment request, as described in this article.
 2. Modification of Development Standards Allowed
 - a. The Planning Commission may approve modifications of the development standards of this Ordinance and the Jefferson County Subdivision and Land Development Regulations as part of the approval of a Preliminary PND Plan.
 - b. Modification of these standards pertains only to developments associated with the Preliminary PND Plan for which the modifications are approved.
- E. Additional Requirements
1. A PND development shall include the following mix of uses, measured as follows, after the Open Space requirement is met:
 - a. 10-30% of the land area shall be commercial
 - b. 10-30% of the residential units shall be multifamily (7+ dwelling units per acre)
 - c. 20-40% of the residential units shall be attached/detached (4-6 dwelling units per acre)
 - d. 0-60% of the residential units shall be detached (1-3 dwelling units per acre)
 2. Open Space Requirements
 - a. A minimum of 20% of the total tract area of a PND development shall be composed of common and open space. Up to one-half of the common and open space may be used for active recreation. Acreage within the 100-year floodplain, as designated by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM) or acreage of critical natural environmental features (as defined in this article), may constitute up to 50% of the required common and open space area.

Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the BZA to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use.

7. For Historic Sites, the Historic Landmarks Commission, with the property owner's consent, may visit the property to review the proposed land development plan and use for sites designated as Category I or II. The Historic Landmarks Commission may make reasonable recommendation to the Board of Zoning Appeals on the suitability of a proposed multi-family dwelling or non-residential use for the building seeking a Conditional Use Permit. The Historic Landmarks Commission's recommendations may include the following findings:

- a. Compatibility of the proposed use with the historic structure;
- b. Any modifications to the building's façade is consistent and compatible with the building's architecture, style, and massing; and
- c. Proposed parking and other activities are suitably located so as to preserve the historic character.

The Board of Zoning Appeals may consider these findings and if determined appropriate, may require compliance with some or all of the Historic Landmarks Commission's recommendations as a condition of approval.

- B. The owner or authorized representative of the owner of the property for which the Conditional Use Permit is being requested shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The Conditional Use Permit request shall be filed with the Board at the Office of Planning and Zoning.
- C. Staff will notify the adjacent and confronting property owners of the date, time, and location of the Public Hearing by registered mail. Notification for a Conditional Use Permit must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.
- E. If there are no negative public comments received by the Board, the Board shall issue the Conditional Use Permit but may require reasonable conditions.

Section 6.4 Seasonal Uses^{5, 7, 32}

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing according to the requirements of Section 6.1C. Newspaper notification requirements of Section 6.1B apply. Seasonal uses cannot be approved for longer than one year at a time.^{17, 21, 23}

Section 6.5 Special Exception Uses^{26, 32}

- A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals following a public hearing.
 1. The public hearing shall be conducted according to the requirements of Section 6.1C.
 2. Such hearing may be continued according to the requirements of Section 6.1D.
 3. The public hearing is subject to the notification requirements of Section 6.1B.
- B. The following uses may be approved as a Special Exception:

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:³²

- 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:³²
 - (a) Secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area;³²
 - (b) For a detached accessory dwelling unit, must be located on a property of at least two acres;³²
 - (c) Limited to use by a relative*;³²
 - (d) Sufficient parking available; and³²
 - (e) Approved by the Health Department.³²

**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.³²*

- 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:³²
 - (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;³²
 - (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.³²

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.~~³²

RVs are prohibited as Accessory Dwelling Units.³²

Section 8.16 Reserved³²

D. Noise Standards to operate a Nature Center and Preserve:

This land use is restricted to the noise standards of Section 8.9A.1 of this Ordinance. The Residential Growth District measurement shall apply when the use is adjacent to a lot that contains a residence, or is zoned Rural or Residential Growth.

~~Section 8.19 Adaptive Reuse of Existing Structures³²~~

~~{Reserved}~~

- 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.²
- 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.~~³²
- 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.^{8, 32}
- 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 the ~~is~~ 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.^{2, 17, 21, 23, 32}

- 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 Certificate²

All Zoning Certificate applications for signs may be approved by the Zoning Administrator if in conformance with the regulations.^{17, 21, 23}

APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE^{27, 32}

Zoning District	Development Type [⊖]	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imperious Surface Limit	Building Setbacks		Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use							
											A Residential district, or any lot with a residence, school, church, or institution of human care (Distance per Sec. 4.6)			Commercial Use		Industrial Use		
						Front	Side	Rear	Front	Side	Rear	Distance Front Side Rear	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear
Industrial – Commercial (IC) **	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25		15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)	
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25		15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)	
	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Use		25 or 20 if adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)	
Residential-Light Industrial-Commercial (RLIC)	Commercial or Industrial	N/A	N/A	75	80%	See IC District												
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50	See IC District for commercial sites			N/A	50(U) or 15 (S)		N/A	10(S)	N/A	10(S)
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A
	Hospitals	10 ac	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				N/A	See I-C District for commercial or industrial use; Otherwise, N/A					
	Commercial or Industrial**	See IC District																
Village (V)	Commercial [¥]	N/A	N/A	35	N/A	25	10	40	See IC District									
	Industrial**	See IC District			35	See IC District												
Residential Growth (RG)	Commercial or Industrial**	See IC District			35	See IC District												
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 [£]	10 [⊖]	See I-C District		25	See IC District						
General Commercial (GC)	Commercial	N/A	N/A	75	80%	20	10	25	See IC District									
Highway Commercial (HC)	Commercial	N/A	N/A	75	80%	25	25	25										
Light Industrial (LI)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25										
Major Industrial (MI)	Commercial	N/A	N/A	75	90%	25	10	50										
	Industrial	3 ac ***	N/A	75	90%	25	50	50										
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 [£]	10 [⊖]	See IC District									
Planned Neighborhood Development (PND)	Commercial	3 acres	See GC District Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).															

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

All dimensions are in feet unless otherwise indicated by "ac" (acres).

* Maximum building height is subject to Sec. 9.2.

** If land use(s) approved via the Conditional Use process in accordance with this Ordinance.

*** MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Sec. 5.6E]

**** Schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly.

¥ ~~Non-Residential Site Development in an existing structure in the Village District shall comply with Section 5.10A.2. Commercial setbacks may be reduced by a variance approved by the BZA based on other structures existing in the neighborhood. Side and rear yard setbacks – 6’ for an existing structure to be used for a land use as provided in Sec. 5.10.~~

‡ Setback may be reduced if adjacent to industrial use.

⊕ For an industrial use, no structures, stored materials, or vehicular parking shall be permitted within the buffer yard. For a commercial use, no structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

⊖ A rear yard setback may be reduced to 10' for a non-residential use abutting a commercial or industrial use at a rear lot line

⊖ Churches in any district: (1) are treated as a commercial use on a lot of greater than 1.5 acres in determining buffer requirements and parking/drive aisle setbacks; (2) building setbacks are 25' (front) and 50' (side/rear); and (3) distance requirements do not apply.

£ For a non-residential use abutting a commercial or industrial use, no side yard setback is required, unless required by Building Code or other law or regulation.

APPENDIX C: PRINCIPAL PERMITTED AND CONDITIONAL USES TABLE^{23, 29, 32, 33}

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Residential Uses													
Accessory Agricultural Dwelling Unit	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.15
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	NP	P	P	NP	<u>CU</u> <u>NP</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
Home Uses													
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
Institutional Uses													
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	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	
Residential Care Home	P	P	P	NP	NP	P	CU	P	P	P	NP	P	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Institutional Uses Continued													
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	
Industrial													
Heavy Equipment Repair	NP	NP	CU	CU	P	NP	NP	NP	NP	NP	P	NP	Sec. 8.9
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	NP	P	NP	
Manufacturing, Limited	NP	P	P	P	P	CU	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 ²	NP	NP	NP	NP	NP	CU ²	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	
Industrial Manufacturing & Processing													
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
Adult Uses													
Adult Uses	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	NP	Sec. 4.4K, Sec. 8.1
Recreational Uses													
Hunting, Shooting, Archery and Fishing Clubs, public or private	NP	NP	NP	CU	CU	NP	NP	P	NP	NP	NP	NP	Sec. 8.8
Commercial Uses													
Antique Shop	P	P	P	P	NP	P	NP	CU	CU	P	P	<u>P</u> <u>CU</u>	
Appliance Sales	NP	P	P	P	CU	P	NP	CU	CU	P	P	NP	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Commercial Uses Continued													Sec. 8.9
Art Gallery or Artist Studio	P	P	P	P	NP	P	P	CU	CU	P	P	P 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	P 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	P 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 ³¹	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	P 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	
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	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Commercial Uses Continued													Sec. 8.9
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
Agricultural Uses*													
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	
Accessory Uses													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

NC Neighborhood Commercial
GC General Commercial
HC Highway Commercial
LI Light Industrial
MI Major Industrial
PND Planned Neighborhood Development

OC Office / Commercial Mixed-Use
R Rural
RG Residential Growth District
RLIC Residential-Light Industrial-Commercial District
IC Industrial-Commercial District
V Village District



JEFFERSON COUNTY, WEST VIRGINIA

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

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Charles Town, West Virginia 25414

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2018 MEETING SCHEDULE JEFFERSON COUNTY PLANNING COMMISSION

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 at 7:00 PM.

Regular Meetings

January 9, 2018
February 13, 2018
March 20, 2018
April 10, 2018
May 8, 2018
June 12, 2018
July 10, 2018
August 7, 2018
September 11, 2018
October 9, 2018
November 13, 2018
December 11, 2018

Tentative Meetings*

January 23, 2018
February 27, 2018
March 27, 2018
April 24, 2018
May 23, 2018
June 27, 2018
July 24, 2018
August 21, 2018
September 25, 2018
October 24, 2018
November 27, 2018

*Tentative meetings are held if necessary to conduct Commission business or to meet required deadlines in accordance with the Planning Commission's 4th Tuesday Meeting policy (approved 11/14/17).

Such meeting can be called by the President of the Commission or by a majority vote of the Planning Commission.

Changes in the time or location of the meeting shall be noticed on the County's website at www.jeffersoncountywv.org.

Note: If County offices have been closed due to inclement weather, or if weather conditions make travel unsafe for the public, the Planning Commission meeting may be cancelled. Please check the County's website for possible meeting updates during this time. Thank you.

JEFFERSON COUNTY COMMISSION HOLIDAY SCHEDULE 2018

New Year's Day	Monday, January 1, 2018
Martin Luther King's Day	Monday, January 15, 2018
President's Day	Monday, February 19, 2018
Primary Election	Tuesday, May 8, 2018
Memorial Day	Monday, May 28, 2018
West Virginia Day	Wednesday, June 20, 2018
Independence Day	Wednesday, July 4, 2018
Labor Day	Monday, September 3, 2018
Columbus Day	Monday, October 8, 2018
General Election	Tuesday, November 6, 2018
Veteran's Day	Monday, November 12, 2018
Thanksgiving Day	Thursday, November 22, 2018
Day after Thanksgiving	Friday, November 23, 2018
Christmas Eve	½ Day, Monday, December 24, 2018
Christmas Day	Tuesday, December 25, 2018

IN ADDITION TO THE DAYS LISTED ABOVE, THE COMMISSION WILL OBSERVE AS HOLIDAYS, ANY NATIONAL, STATE OR OTHER ELECTION DAY THROUGHOUT THE COUNTY, AND ALL DAYS WHICH MAY BE APPOINTED OR RECOMMENDED BY THE GOVERNOR, OF THIS STATE, OR THE PRESIDENT OF THE UNITED STATES, AS DAYS OF THANKSGIVING, OR FOR THE GENERAL CESSATION OF BUSINESS, ANY DAY OR PART THEREOF DESIGNATED BY THE GOVERNOR AS TIME OFF, WITHOUT CHARGE AGAINST ACCRUED ANNUAL LEAVE, FOR STATE EMPLOYEES STATEWIDE MAY ALSO BE TIME OFF FOR COUNTY EMPLOYEES IF THE COUNTY COMMISSION ELECTS TO DESIGNATE THE DAY OR PART THEREOF AS TIME OFF, WITHOUT CHARGE AGAINST ACCRUED ANNUAL LEAVE FOR COUNTY EMPLOYEES. ANY ENTIRE OR PART STATE WIDE DAY OFF DESIGNATED BY THE GOVERNOR MAY, FOR ALL COURTS BE TREATED AS IF IT WERE A LEGAL HOLIDAY, AS PROVIDED FOR IN 2-2-1 OF THE WEST VIRGINIA CODE, AS AMENDED.

Date: November 16, 2017

PRESIDENT, JEFFERSON COUNTY COMMISSION



Jefferson County, West Virginia

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

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Planner's Memorandum Planning Commission Meeting December 12, 2017

1) Upcoming Zoning Ordinance Text 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.

c) Parking Standards

d) WV45 Gateway Design Standards

- Staff attended 11/20/17 meeting of Shepherdstown Planning Commission (see letter in Actionable Correspondence)
 - Two design areas divided at water towers?
 - Applicability to WV 230?
 - Use of WVU Community Design Assistance Team?
 - Workshop on this topic at 12/18/17 Shepherdstown PC meeting

2) Upcoming Subdivision Regulation Text Amendments

a) Subdivision Regulations Amendments

- STA 16-01, relating to sections requiring frequent interpretations and issues, including but not limited to processing mergers/lot line adjustments; contents of minor subdivisions, etc., referred to County Commission. CC Public Hearing to be scheduled in early 2018.
- Staff initiated effort on larger amendment including reorganization of Sub Reg. sections is underway.

3) Upcoming PC meeting

- a) Next Special-called Meeting: **December 19, 2017**
re: Colonial Hills Phase 3A Preliminary Plat Public Hearing
- b) Next Regular Meeting: **January 9, 2018**



CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET
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TEL: (304)876-2312
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Jennifer M. Brockman, AICP, County Planner
Alexandra Beaulieu, Zoning Administrator
116 East Washington Street, Suite 200
P.O. Box 716
Charles Town, WV 25414

November 28, 2017

Dear Jennie & Alex-

On behalf of the Shepherdstown Planning Commission and the SDA Guideline Task Force, I want to thank you and Alex for your help and input at the November 20th PC meeting. We are anxious to develop the SDA guidelines and appreciate the opportunity to work with the County in doing so. The following are some take-a-away points from that meeting:

Overview: Rte. 45 is a gateway to Shepherdstown and includes commercial and residential areas. Many of the goals for Rte. 45 west development are like those in the Rte. 340 Gateway Plan. We need to consider SDA standards that address both, perhaps distinguishing between east and west of the water towers. In general, we want to maintain the rural character of Rte. 45 west of the water towers and to promote an entrance into town that benefits the historic downtown to the extent possible. We want to maintain the distinction between the existing development on Rte. 45 in Jefferson County and that of Rte. 45 in Berkeley County.

Design concepts and potential standards: Residential and commercial setbacks, greenspace, lighting, signage, parking location, structure density, pedestrian access.

Partnership opportunity: WVU Community Design Team may be able to assist SDA development. See their [website](#).

Zoning: There is no way to downzone from existing Residential Growth zoning. It is unlikely that up-zoning to commercial would occur on Rte. 45 west since there is no sewer and water capacity and County Comprehensive plan designates the area as low density residential.

Follow-Up: There will be a public workshop on guidelines at the next PC meeting

Question: Can we expand SDA standards to Rte. 230? Many of the same issues/concerns apply.

I believe you were going to present these points to the County Planning Commission. We look forward to hearing back from you regarding their response.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob J. Auer". The signature is written in a cursive style with a prominent loop for the letter 'A' and a horizontal line at the end.

Mayor