



AGENDA  
Jefferson County Planning Commission  
Tuesday, May 1, 2018 7:00 PM

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

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

1. Approval of Meeting minutes:
  - April 10, 2018
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:** Final Plat Amendment to the Lots 1 & 2 – Residue June B Mason Minor Subdivision (PC File #04-30) for the purpose of lifting the Single Family restriction from Lot 1 in accordance with Section 24.202.A of the Subdivision Regulations. The property is designated as Tax District: Shepherdstown (09); Tax Map: 6; Parcel: 1. Zoned: Rural. Applicant Name: William (Billy) Madert.

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

5. Discussion of and Possible Action on Magnolia Springs Subdivision Concept Plan (PC File# 18-05)
  - Staff Memo regarding new information related to PC File 18-05 Concept Plan
  - Letter to Planning Commission (PC) from the Jefferson County Historic Landmarks Commission (JCHLC), dated 4/13/18
  - Letter to PC from Peter Onoszko and Jack Hefestay with a letter attached from the Jefferson County Historic Landmarks Commission date, 4/16/18
  - Belvedere House National Register Nomination, dated 12/16/93
  - SHPO comments on National Register Nomination, dated 4/16/18
  - Zoning Administrator determination related to the applicability of Section 4.4C to Magnolia Springs, dated 4/25/18
  - Letter to PC from Gordon/applicant responding to letter from JCHLC, dated 4/25/18
6. Reports from Legal Counsel and legal advice to the Planning Commission.
7. Planners Memo
  - 3<sup>rd</sup> Quarter Quarterly Report to the County Commission
  - Letter from the Corporation of Shepherdstown regarding (ZTA17-02) Shepherdstown Route 45 Corridor Special Design Area
8. President's Report.
9. Actionable Correspondence:
10. Non-Actionable Correspondence

**DRAFT**

Jefferson County Planning Commission  
April 10, 2018

The Jefferson County Planning Commission met on April 10, 2018 with the following Commission members present: Donnie Fisher, President; Steve Stolipher, Vice President; Wade Louthan, Secretary; Peter Onoszko, County Commission Liaison; Jack Hefestay, Ron Thomas, and Ray Bruning. Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Alex Beaulieu, Zoning Administrator; Nathan Cochran, Assistant Prosecuting Attorney; and Rhonda Greenholtz, Planning Clerk. J Ware arrived at 7:20 PM.

Mr. Mike Shepp was absent with prior notification.

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

1. The minutes from the March 13, 2018 meetings were approved with no objections.
2. Citizen Communications. None
3. Request for postponement. None
4. A Public Workshop was held for a Concept Plan for the proposed Chestnut Manor Subdivision. (PC File# 18-04) A proposed 19 lot Major Cluster Development including a 49.85 green space. Owner/Applicant: Daniel Zappe.

Ms. Jennifer Brockman provided an overview of the project. This project will process as a Cluster Subdivision. One of the key purposes of a cluster subdivision is to preserve prime agricultural land in the Rural Zoning District; however, the land on the mountain does not contain much prime agricultural land because of the topography. The steepness of the terrain in this part of the County generally requires any residential development to be on the flattest areas which potentially contain the best soils. In this circumstance, the green space provision related to the cluster provisions states that, in addition to retaining active or passive farmland, the cluster can be used to preserve steep slopes, hillsides, wooded, and environmentally sensitive areas, which is proposed in this cluster concept plan. Staff supports the concept of preserving the steeper slopes and having the lots on the limited flatter higher quality soils for the proposed Chestnut Manor development. Provisions regarding steep slopes and resource protection will need to be addressed at the Preliminary Plat stage.

Mr. Mike Roberts, Representative for the project, spoke. The project proposes individual wells and septic systems for each lot, interior streets and a single entrance to the subdivision. He also provided an overview of the layout of the proposed lots. The southeast portion of the property is the most desirable area for development as the grade is flatter. The proposed single entrance will be off of Chestnut Hill Road. The property is dissected by two major power line easements, one of which will be used as a buffer to the residential area, and the other will be used to separate the green space area.

Mr. Daniel Zappe, Owner/Developer stated that the lot is wooded and he desires to retain as much of that as possible. Clearing will mainly done for the houses, well and septic systems. The entrance will be split with a median in the middle. Technically this will make two entrances so that emergency services will be able to access the subdivision.

Ms. Jennifer Brockman reported that the staff report is a bit more detailed than typical staff reports due to the Cluster provisions and soils information. Responses were received from the Jefferson County Historic Landmarks Commission (HLC) and the WV Division of Highways (WVDOH) after the agenda packets were mailed to the Commissioners and handouts were provided to the Planning Commission members before the meeting. The WVDOH had indicated that they offer no significant comments at this time but they will work with the applicant on the access permit. The Jefferson County HLC reported that there are three "Category 3" resources in proximity but none on the property and they therefore had no objections to the plan as it has been presented. Staff stated that the regulations require the residue access off the internal road and that a waiver request would be required to be approved before approval of the Preliminary Plat to allow for this lot to have its own access point off of Keyes Ferry.

Mr. Donnie Fisher opened the floor to Public Comment

No Public comment was made.

Mr. Fisher closed the floor to Public Comment.

Mr. Steve Stolipher made a motion to accept the Concept Plan as presented by the applicant with the staff recommendations noted in the staff report.

Mr. Wade Louthan seconded the motion. A vote was taken which carried unanimously (7-0).

5. A Public Workshop was held for a Concept Plan for Magnolia Springs Subdivision. (PC File# 18-05). A proposed 301 lot Major Subdivision. Owner/Applicant: Belvedere Family Trust. The property is designated as Tax District: Charles Town (02); Tax Map: 10; Parcels 8 & 8.6. Zoned: Residential Growth. Size: 67.8 acres [corrected by applicant to 120 +/- acres].

Ms. Brockman provided an overview of the project stating that it is located within the Charles Town Urban Growth Boundary and surrounded by City of Charles Town development. She pointed out two proposed entrances to the subdivision, which are required for subdivisions with more than 30 lots. One access will provide connectivity with Euclid Avenue and one is proposed to extend Citizen's Way across WVDOH right-of-way. The Residential Growth zoning designation allows for high density residential development, including single family and multi-family developments. The applicant is proposing 301 single family detached dwelling units. There is a proposed development adjacent to this property located within the City to be called "Jefferson Heights North". Two (2) 40' rights-of-way cross through the Magnolia Springs property in two separate areas which will serve the Jefferson Heights North property and will require coordination between these two developments. She pointed out the sections of the proposed Allegheny Street and Belvedere Drive which will be constructed as a part of the Jefferson Heights North development. Magnolia Springs is also providing the required future access points to a vacant property to its north which is located within the City and is zoned Commercial. Residue portions of the

Magnolia Springs property exist across US 340 which have no access as a result of WV DOH highway projects. They are included with the acreage but not the proposed development.

Mr. Chad Wallen, Gordon, Representative for the applicant spoke. He pointed out the correct acreage for the property is approximately 120 acres, not the 67 stated in the Staff report. The 108 acres located on the west side of Route 9 are the location of the proposed subdivision. The applicant is looking to build off of the City grid with respect to the existing features of the property. The applicant is proposing to double the open space required by the Ordinance to 14 acres. Five (5) acres are proposed to surround the Belvedere House which will be sold as a separate lot. The applicant is intending to cooperate with the City of Charles Town with respect to the proposed streets: the right-of-way for Allegheny Street is to be increased by 10' and the right-of-way for Belvedere Drive will be expanded by 2' on the Belvedere property and 8' on the opposite side to bring it up to the required 50'.

Ms. Brockman provided an overview of the comments received from outside agencies:

- Office of GIS/Addressing has approved the road name.
- Sheriff's Department supplied a letter regarding their ability to serve the proposed development.
- The Board of Education Transportation Department would like to set up a meeting with the applicant/representative to discuss the location of bus stops and shelters. The alignment of the street is of concern to them. Coordination with the Board of Education before moving ahead with the Preliminary Plat is a recommended condition.
- The WVDOH is reserving their comments until the completion of the Traffic Study for Allegheny Street, which will intersect with Euclid Avenue, and serve both Jefferson Heights North and Magnolia Springs developments. The Citizens Way access will also require WV DOH approval as it will cross a large area of DOH right-of-way.
- Jefferson County Historic Landmarks Commission (distributed at the meeting) objected to the density and the design of the proposed development.
- The City of Charles Town provided comments on the proposed development related to the design of the street lights, the required 10' right-of-way, objecting to one of the waivers the applicant has submitted for consideration after Public Comment for the Concept Plan, requesting extension of the sidewalk along Allegheny Street, and regarding providing bus shelter..

Mr. Donnie Fisher opened the floor up to Public Comment.

Ms. Elizabeth Stacey Carson, Resident of Belvedere Farm Lane spoke in opposition to the development citing concern for traffic flow as the road is very narrow. She feels the development and the proposed new road would have a negative impact on the community.

Mr. Barry Grimm, Resident of Belvedere Farm Lane spoke in opposition to the development stating that a previous minor subdivision was not permitted due to inadequate road width to serve 3 lots. He believes that an entrance from Citizens Way should be a "monumental entrance" and that no entrance to Belvedere Farm Lane would be preferable.

Mr. Guy Chicchirichi, Resident of Charles Town and owner of 4 properties on Belvedere Farm Lane, stated that he believed the Belvedere house should be located on 10 acres instead of the 5 acres proposed to keep the view shed. He is in favor of curbs, gutters and sidewalks.

Mr. Seth Rivard, City Planner, City of Charles Town, spoke that the City of Charles Town has no principal opposition to the subdivision as it is located within the Charles Town Urban Growth Boundary which is keeping with the policies of both Jefferson County and the City of Charles Town. The city also recommends that the connections remain as shown. The 10' ROW dedication and 2' strip ROW dedication that was previously discussed is also agreed to. The City does not support the request of the waiver of curbs and gutters as this an urban area density level area. Future urban level density and infra- structure will occur in this area in the future. The City of Charles Town would like to keep the urban feel of the area. Regarding the other 3 waivers; the City believes that sidewalks should be required on both sides of the streets to provide consistency with the proposed development in the area and street lighting should be in keeping with City Standards for aesthetics. Street light spacing should be 200' apart. Lighting at entrances, intersections and cul-de-sacs would be recommended, preferably no more than 400' apart. Bus shelters should be provided. The City requested there should be a 5 year "sunset clause" as part of the HOA Covenants and Restrictions that will also be put on the Preliminary and Final Plat that would allow the City to acquire, at no cost, all or part of Open Space Areas B and/or D as a Public Park if the land was ever annexed within that time frame. Compatibility should occur between the County and City of Charles Town.

Mr. Fisher closed the floor to Public Comment.

Ms. Brockman clarified that the 40' easement along Belvedere Farm Lane is existing. A 50' right of way is required. This will be discussed with the waivers portion of this meeting unless the applicant can document that a 50' access right-of-way exists.-

Mr. Wallen responded that they will work with the Board of Education (BOA) regarding bus shelter locations. A request for a waiver will be applied for if the 50' easement requirement is unable to be met. A traffic study is currently underway and detailed information will be provided with the completion of the study. The applicant respects the opinion of the Jefferson County Historical Landmark Commission (JCHLC) however, only the existing structure is on the register, not the site. It is believed that the 5 acres reserved is sufficient. Waivers will be discussed under the next agenda items. A discussion with the City has been held to try to identify some common ground. Several comments from the City of Charles Town letter dated 4/10/18 were agreed upon; Item # 1 (connections proposed endure throughout the life of this project); #2 regarding increased right-of-way with the exception of 2' for Belvedere Drive to bring it up to 50'; #3 curbs and gutters will be discussed with the waiver portion of this meeting, #4 the applicant will only provide sidewalks on one side of the street in conformance with the County's requirements – their proposed layout and design will avoid congestion with crosswalks and not increase impervious areas. The applicant agrees with request #5 -- they will match the City's street light shape and style. The spacing will be maintained as provided per the County. #6 bus shelters were discussed earlier and is agreed that they will be provided. #7 the HOA will be the deciding factor as to whether the City will

be able to acquire the open space property if annexed into the City boundary. #8 amenities will be provided but the plans are not at that point in the design stage yet.

Public comment concerns were mainly traffic concerns on Euclid Avenue. Upgrades are planned up to that intersection. If right of way widths cannot be met, the applicant will appear before the Planning Commission with a waiver request for that standard requirement. This would require another Public Hearing where additional public comments can be made. The construction of the sidewalks along the proposed Belvedere Drive and Allegheny Street were not discussed as they are not part of this project, they are part of Jefferson Heights North subdivision plans. Magnolia Springs is dedicating land to that project and the burden of construction should be part of that project.

A discussion ensued between the Planning Commission and Mr. Wallen regarding the existing stream (which is currently being studied); the possibility of the open space being annexed into the City, sidewalks and street lighting requirements.

Mr. Steve Stolipher made a motion to accept the Concept Plan as presented with agreed upon recommendations from County Staff and The City of Charles Town as stated below:

- Coordination with the BOE and City of Charles Town on the design and location of bus shelters.
- It has been acknowledged that a traffic study is underway and once feedback has been received the design of the entryways may be completed. A waiver may be needed if County standards cannot be met.
- 5 acres will be maintained around the historic house located on the property.
- An additional 10' of right-of-way along the proposed Allegheny Street will be provided.
- An additional 2' of right-of-way along proposed Belvedere Drive will be provided
- Sidewalks are to be located along one side of street in accordance with the Subdivision Regulations of Jefferson County.
- Street lighting shall be matched with the City of Charles Town lighting style but meet the County spacing requirements.
- No requirement that the open space land be given to the City if the property is annexed in the city boundary. A provision shall be added that this will be at the discretion of the HOA.
- The construction of the sidewalk along the proposed Allegheny Street and Belvedere Drive will occur up to the point where Allegheny Street is to be used by this project.

Mr. Ron Thomas seconded the motion. The motion passed with a vote of 6 for to 2 against. Mr. Peter Osnozko and Jack Hefestay opposed both stating that they feel a more robust discussion should have been had.

Items 6-9: \*Mr. Fisher announced the following waivers will be heard at one time as they are all related to the previous agenda item "Concept Plan for Magnolia Springs". Owner/Applicant: Belvedere Family Trust. The property is designated as Tax District: Charles Town (02); Tax Map: 10; Parcels 8 & 8.6. Zoned: Residential Growth. Size: 120 +/- acres. Staff

recommendations and motions for the requests are found at the end of the request portion of these minutes. \*

6. A Public Hearing was held for a Waiver Request for Magnolia Springs Subdivision. (PCW#18-03) Applicant is requesting a waiver from Section 21.101.A of the Subdivision Regulations that require a block length to not exceed 6 lots. The applicant is requesting a block length of 12 lots on one side of the street.
7. A Public Hearing was held for a Waiver Request for Magnolia Springs Subdivision. (PCW#18-04) Applicant is requesting a waiver from Section 21.104.A of the Subdivision Regulations that requires a minimum lot frontage width of 80'. The applicant is requesting a minimum lot frontage of 70'.
8. A Public Hearing was held for a Waiver Request for Magnolia Springs Subdivision. (PCW#18-05) Applicant is requesting a waiver from Section 21.306 of the Subdivision Regulations due to shallow block depth, topography and natural resources.
9. A Public Hearing was held for a Waiver Request for Magnolia Springs Subdivision. (PCW#18-06) Applicant is requesting a waiver from Section 2.2.K.1.a of the Subdivision that require Roadway, curbs, gutters and sidewalks be required in residential conventional subdivisions where net residential density is greater than three dwelling units per acre of land where lot frontages are 80' or less. Applicant is requesting curb and gutters not be required if previous waiver (PCW18-04) of lot frontages has been approved.

Ms. Brockman presented a brief overview of the nature of the waivers and asked that the applicant explain the necessity of the requests and then the staff will provide feedback. The requests are integrated into the design of the project.

Mr. Jason Gerhart and Mr. Chad Wallen, Gordon spoke that all these waivers are intertwined.

#6: and #7 Block "lots" along Belvedere Farm Lane and High Street varied between 11 and 14 lots per block and were measured to be approximately 70' to 75' in width. The 80' requirement could be achieved but would result in the lessening of the open space which has been provided (twice the amount required.) It is being requested to be reduced to 70'. If the lots are smaller it is believed that the block length should be allowed to be longer. It would be more in keeping with the surrounding neighborhoods.

#8: It is believed that the required intersection spacing requirement has been met and it is unclear if this waiver is required. The development design includes provisions to protect the intermittent stream that is located on the property. A written determination is requested before full design of the engineering.

#9: The County's Stormwater Management Ordinance supports open ditch section. This is best management practice for infiltration and is better for the environment. Mr. Gerhart added that the curb and gutter was triggered by the lot width.

Ms. Brockman stated this is the first time the regulations for a major subdivision have been used since their adoption in 2008 and it has come to the staff's attention that some sections are unclear or are contradictory. As some sections have never been used, further amendments to the Subdivision Regulations may be necessary.

#6: PCW 18-03 (Block Length): Planning and Zoning staff recommends that the waiver be granted to allow block lengths up to 12 lots on one side of the street, with the condition that pedestrian connectivity be provided to common open space areas. The request results in a subdivision design that integrates open space and parkland into the development and results in open space areas that protect the natural terrain and buffer the stream while still providing adequate interconnectivity to adjoining lots and developments.

#7: PCW18-04 (Lot frontage): Planning and Zoning staff recommend that if the decrease in the lot frontage requirements for this subdivision provides greater open, meets all other land development standards set forth by the County, and does not negatively impact the surrounding neighborhoods, the waiver request meets the criteria for approving such waivers.

#8: PCW18-05 (Intersection Spacing): Planning and Zoning staff recommends that the waiver be granted as the request is consistent with the site design and layout which reflects the topography and provides open space along natural features. Consideration should be given to interconnecting Roads 11 and 16 which may enhance traffic flow and circulation.

#9: PCW18-06 (Curb and Gutter): The stormwater management ordinance encourages the reduction of impervious surface for water quality. A grass swale/ditch can be credited as a water quality structure that filters water as it drains. Therefore, the Engineering Department recommends approval of this waiver due to the decrease in impervious surface.

Mr. Fisher opened the floor to Public Comment

Ms. Elizabeth Carson signed up to speak but declined.

Mr. Seth Rivard, Planner, City of Charles Town spoke on the waiver request regarding curb and gutter. The City believes that if the waiver for the curb and gutter is granted, it is should be off-set by sidewalks on both sides of the streets. The city would also like the developer to install sidewalks along Allegheny Street and Belvedere Drive. .

Mr. Fisher closed the floor to Public comment.

Mr. Chad Wallen responded to Public comment made by Mr. Seth Rivard stating that the full construction of Allegheny Street is not required for this project and that the sidewalk would only be constructed along the section of road that is constructed for Magnolia Springs. Belvedere Drive is also not required for Magnolia Springs. He also responded that having sidewalks on one side of the street ensures that crosswalks would be safer.

Further discussion on the above waiver requests ensued.

The motions to each of the following requests are as follows:

PCW18-03 (Block length):

Mr. Steve Stolipher made a motion to approve the waiver requested as presented to allow the block length to include no more than 12 lots.

Mr. Ron Thomas seconded the motion.

A vote was taken and passed with a vote of 7 to 1. Mr. Peter Onoszko opposed.

PCW18-04 (Lot frontage)

Mr. Steve Stolipher made a motion to accept the waiver request to allow for a minimum 70' lot frontage.

Mr. Ron Thomas seconded the motion.

A vote was taken and passed with a vote of 7 to 1. Mr. Peter Onoszko opposed.

PCW18-05 (Intersection spacing)

Mr. Steve Stolipher made a motion to accept the waiver request as presented to allow intersection spacing to be 175' and not the required 300'.

Mr. Ron Thomas seconded the motion.

A vote was taken and passed with a vote of 7 to 1. Mr. Peter Onoszko opposed.

PCW18-06 (Curb and gutter)

Mr. Steve Stolipher made a motion to accept the waiver request that curb and gutter not be required. Sidewalks are not part of this request.

Mr. Ron Thomas seconded the motion.

A vote was taken which passed unanimously. (7-0)

Reconsideration of Concept Plan for Magnolia Springs Subdivision. (PC File# 18-05)

Mr. Steve Stolipher made a motion to modify the previous motion approving the Concept Plan to clarify that if the city approved the design of Allegheny Street does not meet the County Subdivision Regulation requirements, then the City of Charles Town requirements will prevail.

Mr. Wade Louthan seconded the motion. A vote was taken which carried unanimously (8-0).

Mr. Fisher called for a 10 minute break at 8:55 PM.

The meeting reconvened at 9:05 PM.

10. A Discussion was held for possible action on the public comment received on proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA17-01. The text amendment, in accordance with WV Code 8A and Article 12 of the Zoning Ordinance, proposes revisions to Article 10 Provisions for Signs. The primary

purpose of this amendment is to create provisions to allow electronic signs in Jefferson County. The amendment also includes reorganization of existing text for clarification. *(This item was left open for two weeks after the 3/13/18 Public Hearing for written comments.)*

Ms. Alex Beaulieu gave an overview of public comment received. The majority of comments were a concern for the brightness level (NIT). The manufacturer of the lights can preset the brightness level. She stated that the proposed draft language of 600 NITS was recommended as a starting point for the brightness level at night.

Mr. Ray Bruning suggested reducing the NIT level from the draft's 7,000 during the day to 3,000 during the day and from the draft's 600 at night to 100 at night in rural areas and 150 at night in brighter areas.

Ms. Beaulieu suggested that variances may could be sought for brighter NIT levels.

Mr. Bruning made a motion to amend the text to allow for a brightness of 3,000 NITS during the day and 100 NITS at night.

Mr. Stolipher seconded the motion. A vote was taken which carried unanimously (8-0).

Mr. Onoszko suggested that a comment be included in the packet to the County Commission that explains why there is a need for a sign to be brighter during the day.

Ms. Brockman reminded the Planning Commission that this item will be heard at a Public Hearing held by the County Commission.

Discussion ensued.

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

a) Active Litigation:

- None

12. Planners Memo.

13. President's Report. None

14. Actionable Correspondence. None

15. Non-Actionable Correspondence. None

Mr. Fisher motioned to adjourn the meeting at 9:23 PM with no objections.



Staff Report  
Jefferson County Planning Commission Meeting  
May 1, 2018

**Background**

On October 19, 2004, a minor subdivision plat was recorded that created a 7.65 acre lot (Lot 1) and a 95.41 acre lot (Lot 2 – Residue) (attached). The 7.65 acre lot was later subdivided through the Parent-to-Child Exemption in the 1979 Subdivision Ordinance. In this deed, recorded September 10, 2007, Victoria L. & William S. Madert transferred 1.51 acres to Christine Slater, retaining a 6.14 acre lot (attached).

All of the notes found on the original minor subdivision plat still apply to this 6.14 acre lot. Note # 2, which is the subject of this plat amendment request, states. “Each parcel shown on this plat is restricted to a single family residence unless otherwise approved by the planning commission in conformance with prevailing county land development laws”.

The applicant lives on the referenced 6.14 acre property. In October, 2015, his mother-in-law began living in a 12' x 32' "Tiny House" that was placed near the barn on his property (approximately 200' from the existing home). Water was supplied by a connection to his existing well and the structure is self-contained for septic purposes. When staff met with the applicant in January 2016, he was not interested in pursuing the "child-to-parent" subdivision to create a separate parcel for his mother-in-law to construct her tiny house. While the Zoning Ordinance would permit an attached two-family dwelling, this would also require lifting the single family restriction and an attached unit was not an option the applicant preferred.

On March 16, 2017, the County Commission approved a Zoning Ordinance Text amendment (ZTA16-01) which included a provision for an “In-Law Suite” on a property of at least two acres. An “in-law suite” is defined as “an accessory dwelling unit that is incidental and subordinate to the principal dwelling unit for the purpose of housing a relative of the property owner”, and the requirements are detailed below. In order to utilize this new provision, the single family restriction is required to be lifted by action of the Planning Commission.

**Zoning Ordinance Requirements**

If the Planning Commission approves this minor plat amendment lifting the single family restriction for Lot 1, the applicant can process under the following requirements allowing a second dwelling on the 6.14 acres for his mother-in-law:

“Section 8.15 Accessory Dwelling Unit

An Accessory Dwelling Unit is defined as a secondary dwelling unit that has a separate kitchen, bathroom, and sleeping area, and may be attached to the principal dwelling unit or detached and situated on the same lot as the principal dwelling unit. An accessory dwelling unit is part of the same property as the principal dwelling unit and cannot be bought or sold separately unless subdivided in accordance with the Subdivision Regulations and the Zoning Ordinance. The owner of the accessory dwelling unit is the owner of the principal dwelling unit. The property owner or immediate family member must occupy either the principal dwelling unit or the accessory dwelling unit. Such accessory dwelling unit is permitted only if it meets one of the following criteria:

A. An “In-Law Suite” is an accessory dwelling unit for the purpose of housing a relative of the

**Staff Report**  
Jefferson County Planning Commission Meeting  
May 1, 2018

property owner and must be clearly subordinate to the principal dwelling unit and meet all of the following criteria:

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

*\*Related by blood, marriage, or adoption. Should relative no longer require the use of the Accessory Dwelling Unit, 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."*

**Plat Amendment Requirements**

Section 24.202A of the Jefferson County Subdivision and Land Development Regulations, "Amendment, Modification, and the Vacating of Subdivision Plats", states that the Planning Commission (or staff, in the case of a minor subdivision plat) may approve an amendment to a subdivision plat in the same manner as the plat was originally approved, provided:

1. All of the property that is affected by the amendment is under the ownership of the applicant;
2. The amendment will not affect the ownership or right of convenient access of persons owning other parts of the subdivision; and
3. The amendment complies with all of the standards of these Regulations, including verification of compliance with the Zoning Ordinance.

Because all plats, including Minor Plats, were approved by action of the Planning Commission under the 1979 Subdivision Ordinance, this amendment is required to be placed on the Planning Commission agenda for a Public Hearing and Planning Commission action. The required 30-day public notice has been advertised in the Spirit of Jefferson newspaper.

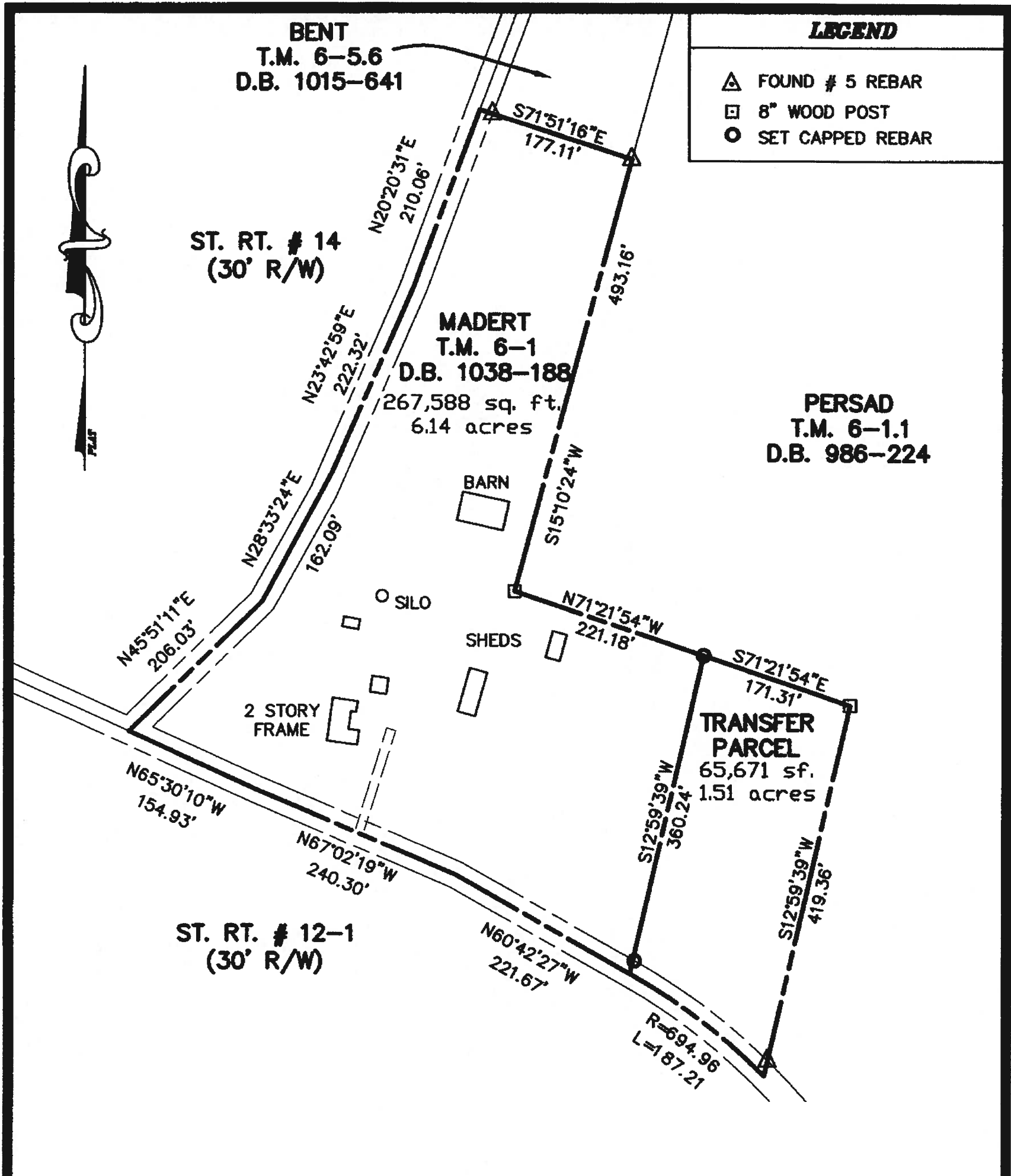
**Recommendation**

It should be noted that lifting this single family restriction allows the property to construct an in-law suite in accordance with Section 8.15A of the Zoning Ordinance.

Staff recommends approving the requested plat amendment to include deleting Note #2 for Lot 1 on PB 21, PG 41 as specified in the request. Staff also recommends that the Planning Commission authorize the staff to review and approve the plat amendment reflecting the requested change prior to recordation.

**Attachments:**

- June B. Mason Minor Subdivision Plat (PC File #04-30), recorded 10/19/04 at PB 21/ PG 41
- Parent-to-Child Exception; recorded 10/3/07 at DB 1042/PG 207



LEGEND	
△	FOUND # 5 REBAR
□	8" WOOD POST
○	SET CAPPED REBAR

## PARENT TO CHILD TRANSFER

PLAT SHOWING PARENT TO CHILD TRANSFER, TAX MAP PARCEL 6-1  
 STANDING IN THE NAME OF VICTORIA L. MADERT ET. AL., AS RECORDED IN THE OFFICE  
 OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOK 1038-188. LOCATED IN  
 SHEPHERDSTOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA. NO SETBACK VIOLATIONS  
 OF THE JEFFERSON COUNTY ORDINANCE WOULD OCCUR AS A RESULT OF THIS TRANSFER.

DWG # 4895

DATE-8/27/07

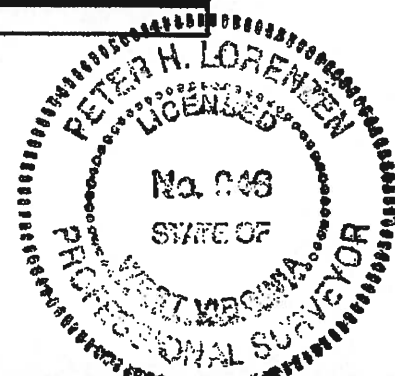
GRAPHIC SCALE



( IN FEET )  
 1 inch = 150 ft.

SURVEYED BY:

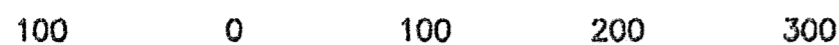
PETER H. LORENZEN P.S.  
 SUMMIT POINT, W.V. 728-6093



NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	TANGENT	CHORD LENGTH	CHORD DIRECTION
C1	15°26'02"	694.96	187.20	94.17	186.64	N 52°59'26" W

COORDINATES ARE ON WEST VIRGINIA STATE GRID NORTH ZONE.  
GRID FACTOR = 0.99993004862

WEST VIRGINIA STATE GRID  
NORTH ZONE

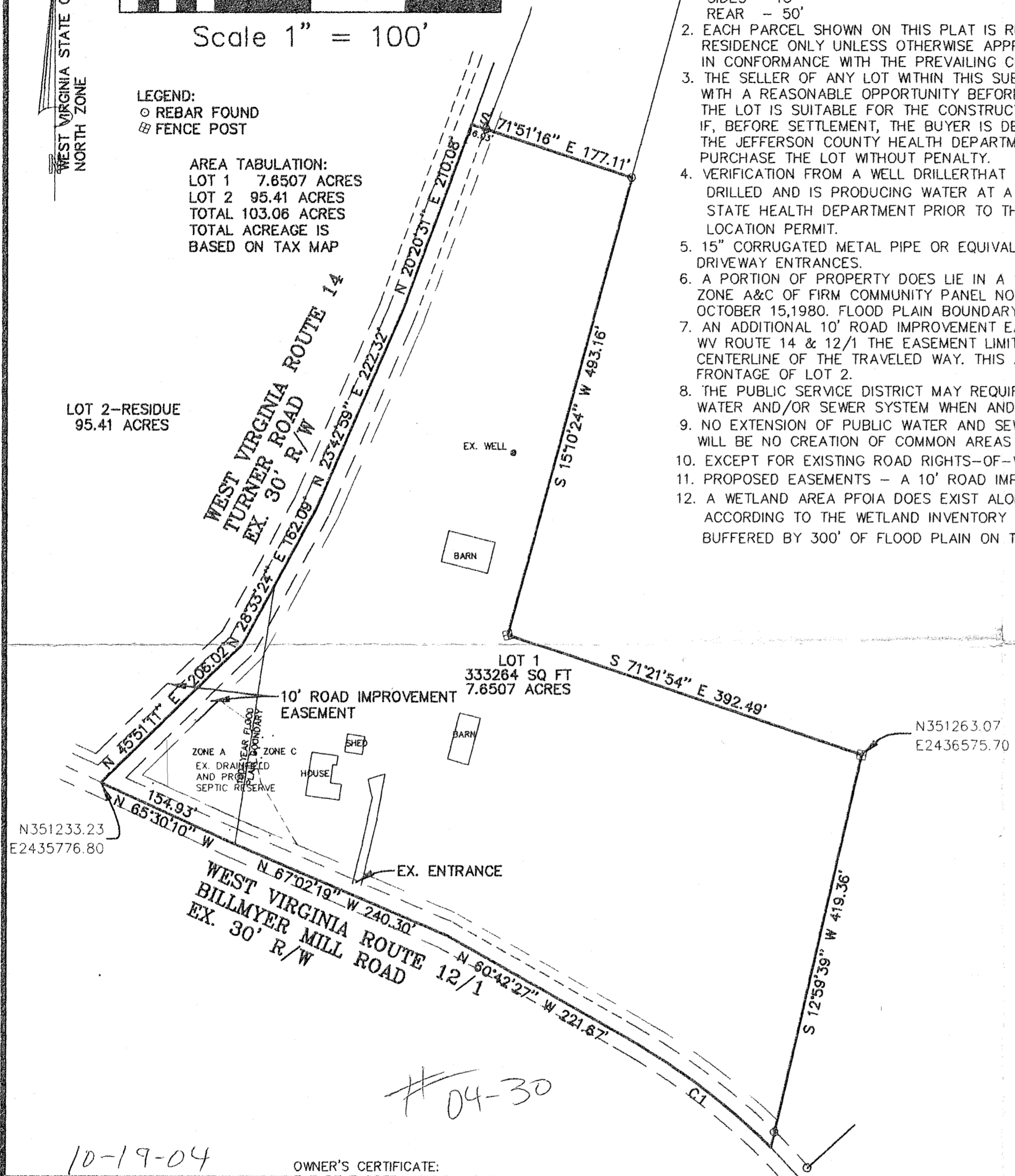


Scale 1" = 100'

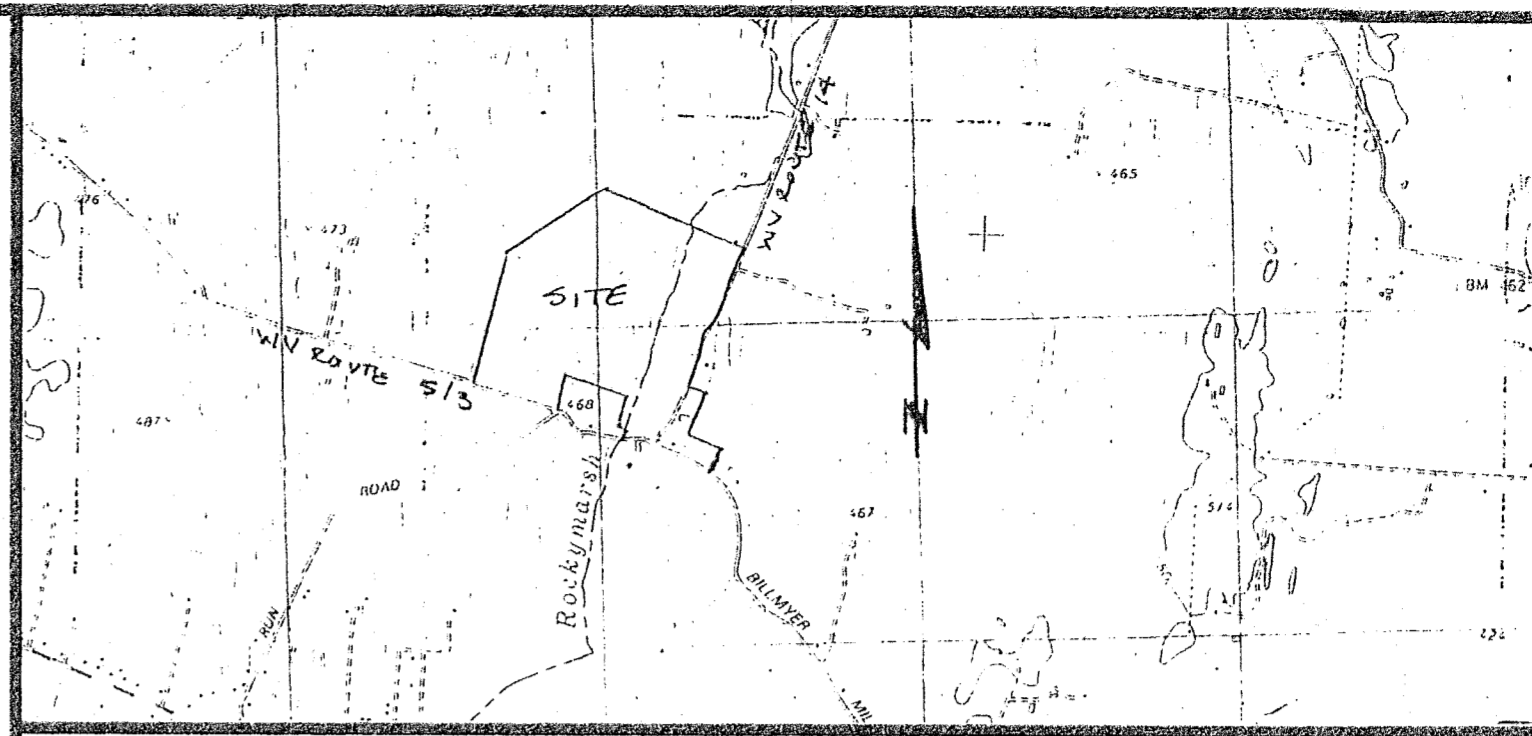
LEGEND:  
○ REBAR FOUND  
⊕ FENCE POST

AREA TABULATION:  
LOT 1 7.6507 ACRES  
LOT 2 95.41 ACRES  
TOTAL 103.06 ACRES  
TOTAL ACREAGE IS  
BASED ON TAX MAP

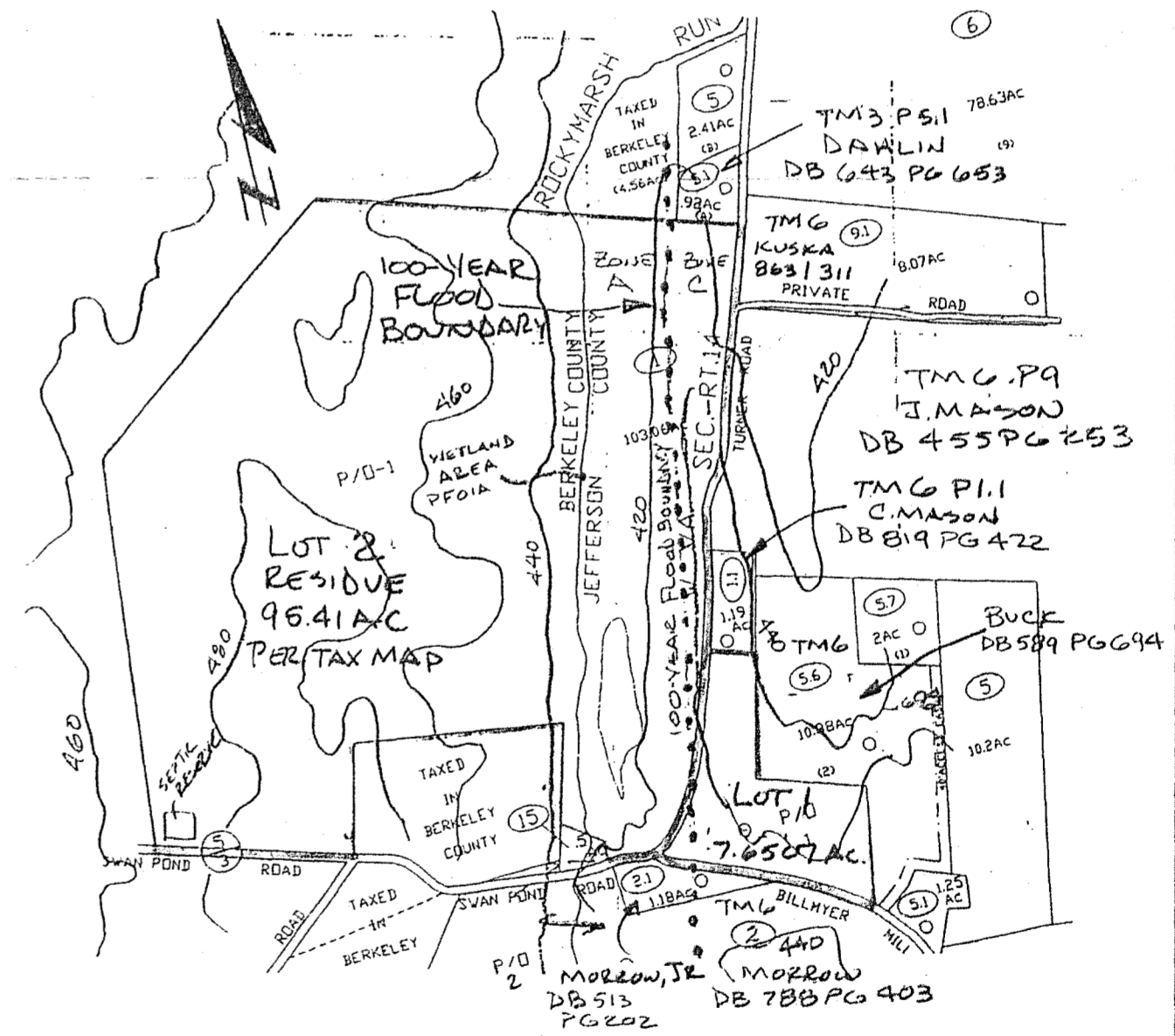
LOT 2—RESIDUE  
95.41 ACRES



- NOTES:
- BUILDING SETBACK REQUIREMENTS PER RURAL DISTRICT REGULATIONS: (EXCEPTING SECTION 9.5(a) OF THE ZONING ORDINANCE)  
FRONT - 40'  
SIDES - 15'  
REAR - 50'
  - EACH PARCEL SHOWN ON THIS PLAT IS RESTRICTED TO A SINGLE FAMILY RESIDENCE ONLY UNLESS OTHERWISE APPROVED BY THE PLANNING COMMISSION IN CONFORMANCE WITH THE PREVAILING COUNTY LAND DEVELOPMENT LAWS.
  - THE SELLER OF ANY LOT WITHIN THIS SUBDIVISION SHALL PROVIDE THE BUYER WITH A REASONABLE OPPORTUNITY BEFORE SETTLEMENT, TO DETERMINE THAT THE LOT IS SUITABLE FOR THE CONSTRUCTION OF SEPTIC DISPOSAL SYSTEM. IF, BEFORE SETTLEMENT, THE BUYER IS DENIED A SEPTIC SYSTEM PERMIT BY THE JEFFERSON COUNTY HEALTH DEPARTMENT, THE BUYER MAY REFUSE TO PURCHASE THE LOT WITHOUT PENALTY.
  - VERIFICATION FROM A WELL DRILLER THAT A PRESSURE GROUTED WELL HAS BEEN DRILLED AND IS PRODUCING WATER AT A QUANTITY APPROVED BY THE LOCAL OR STATE HEALTH DEPARTMENT PRIOR TO THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT.
  - 15" CORRUGATED METAL PIPE OR EQUIVALENT SHALL BE REQUIRED AT ALL DRIVEWAY ENTRANCES.
  - A PORTION OF PROPERTY DOES LIE IN A 100-YEAR FLOOD PLAIN AND LIES IN ZONE A&C OF FIRM COMMUNITY PANEL NO. 540065 0015 B EFFECTIVE OCTOBER 15, 1980. FLOOD PLAIN BOUNDARY IS SCALED.
  - AN ADDITIONAL 10' ROAD IMPROVEMENT EASEMENT SHALL BE DEDICATED ALONG WV ROUTE 14 & 12/1 THE EASEMENT LIMITS WILL BE TWENTY-FIVE (25') FROM THE CENTERLINE OF THE TRAVELED WAY. THIS ALSO APPLIES TO ALL OF THE FRONTAGE OF LOT 2.
  - THE PUBLIC SERVICE DISTRICT MAY REQUIRE HOOKING UP TO A CENTRALIZED WATER AND/OR SEWER SYSTEM WHEN AND IF IT BECOMES AVAILABLE.
  - NO EXTENSION OF PUBLIC WATER AND SEWER SERVICE IS REQUIRED AND THERE WILL BE NO CREATION OF COMMON AREAS AND/OR RIGHTS-OF-WAYS.
  - EXCEPT FOR EXISTING ROAD RIGHTS-OF-WAYS THERE ARE NO EXISTING EASEMENTS.
  - PROPOSED EASEMENTS - A 10' ROAD IMPROVEMENT EASEMENT, NO OTHERS..
  - A WETLAND AREA PFOIA DOES EXIST ALONG ROCKY MARSH RUN ON LOT 2 ACCORDING TO THE WETLAND INVENTORY MAP. THIS AREA WOULD BE NATURALLY BUFFERED BY 300' OF FLOOD PLAIN ON THE JEFFERSON COUNTY SIDE OF THE RUN.



VICINITY MAP SCALE: 1" = 2000'



ADJOINER INSET SCALE: 1" = 800'

APPROVED  
JEFFERSON COUNTY  
PLANNING COMMISSION



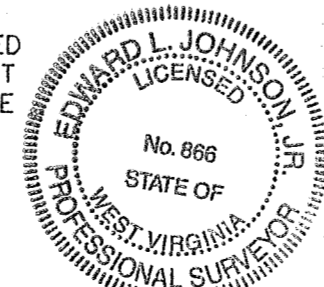
Paul J. Raso, Ltd.  
PAUL J. RASO  
DIRECTOR OF PLANNING, ZONING  
& ENGINEERING

OWNER'S CERTIFICATE:  
THE DEVELOPER, IN SIGNING THIS PLAT, AGREES TO ABIDE BY ALL CONDITIONS, TERMS AND SPECIFICATIONS PROVIDED HEREON.

*June B. Mason*  
JUNE B. MASON  
C/O JOHN W. ASKINTOWCZ, III, ESQ.  
P.O. BOX 1190  
CHARLES TOWN, WV 25414  
304-725-0284

SURVEYOR'S CERTIFICATE:  
I, EDWARD L. JOHNSON JR., DO HEREBY CERTIFY THAT THE PROPERTY DELINEATED BY THIS PLAT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT IT REPRESENTS A SURVEY MADE IN THE FIELD WITH A RELATIVE ERROR OF CLOSURE EXCEEDING 1:7,500 AND THAT #5 REBAR WILL BE SET AS SHOWN.

*Edward L. Johnson Jr.*  
EDWARD L. JOHNSON JR.  
PROFESSIONAL SURVEYOR #866



WVDOH PERMIT NUMBER 5-04-0557  
JEFFERSON COUNTY HEALTH DEPARTMENT  
PERMIT NUMBER SDA-19-0405-05

FINAL PLAT  
LOTS 1 & 2—RESIDUE  
JUNE B. MASON MINOR SUBDIVISION  
TAX MAP 6 PARCEL 1 DEED BOOK 964 PAGE 630  
SHEPHERDSTOWN DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA  
SCALE: 1" = 100' JUNE 15, 2004

REVISED PER PLANNING STAFF  
COMMENTS DATED 9/10/04  
RESUBMITTED 10/05/04

**RESOURCE**  
INTERNATIONAL, LTD.  
CONSULTANTS • SCIENTISTS • SURVEYORS • PLANNERS  
331 NORTH GEORGE STREET • CHARLES TOWN, WV 25414  
(304) 725-7764 • FAX (304) 725-7846

04-30



# JEFFERSON COUNTY, WEST VIRGINIA

## Office of Planning and Zoning

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

P.O. Box 716

Charles Town, WV 25414

[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

[zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

Fax: (304) 728-8126

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### MEMO

**TO:** Jefferson County Planning Commission  
**FROM:** Jennifer M. Brockman, AICP, County Planner  
**DATE:** May 1, 2018  
**RE:** Discussion of and Possible Action on Magnolia Springs Subdivision  
Concept Plan (PC File# 18-05)

---

On April 12, 2018, staff received a letter (Attachment 1) from the Jefferson County Historic Landmarks Commission (JCHLC) questioning the validity of the vote by the Planning Commission (PC) at April 10, 2018 PC Meeting regarding the Magnolia Springs Concept Plan (PC File #18-05). A follow up letter (Attachment 2) was received from Jack Hefestay and Peter Onoszko asking for the JCHLC letter to be addressed quickly.

As a result of these letters, staff conducted further research into the historic significance of the Belvedere House and property and reviewed the National Historic Register nomination form (Attachment 3). Staff also followed up with the State Historic Preservation Office (SHPO) to confirm the National Register designation and was told that the house and a 10 acre area around the house are listed on the National Register of Historic Places (Attachment 4).

Because the information presented to the Planning Commission strongly represented that it was only the structure included on the National Register and not the ten acres surrounding the Belvedere house, Staff with the advice of Legal, felt that it was important to place this information on this Agenda so that the Commission can determine whether this information would have changed the motion and/or the vote to approve this Concept Plan at the April 10, 2018 meeting.

In response to these letters and this research, the Zoning Administrator prepared a written determination regarding whether the Magnolia Springs Concept Plan is in violation of Section 4.4C of the Zoning Ordinance (Attachment 5). She determined that Section 4.4C of the Zoning Ordinance does not apply to the proposed Magnolia Springs Subdivision.

On April 25, 2018, the applicant's engineer sent a letter to the Planning Commission responding to the JCHLC comments and clarifying why they feel the proposed five acres around the Belvedere house preserve the most significant portion of the property and meet the goal of maintaining its historic character (Attachment 6).

Staff would like to remind the Planning Commission that, per Section 24.110D of the Subdivision Regulations, the Department's role in the review of a Concept Plan includes the following:

“1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the concept plan submission. . . .Staff shall identify conditions that would enable the plan to meet the standards. It shall also identify any other zoning issues the developer shall address in a preliminary plat submittal.

2. Staff’s opinion as to whether the plan meets the site development planning or subdivision criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.”

Staff believes that even with the ten acres as part of the National Register nomination, the proposed Magnolia Springs subdivision complies with the requirements of the Subdivision Regulations and the Zoning Ordinance and staff’s recommended conditions from the staff report would not have changed.

Section 24.112 details the Planning Commission’s role at the close of the Concept Plan’s Public Workshop, as follows:

“A. **Direction.** The Planning Commission shall direct the preparation of a preliminary plat subject to conditions to be addressed in the preliminary plat application. The purpose of this review is to guide the developer so that when the preliminary plat application is formally reviewed by the staff, there should not be a whole range of issues being raised for the first time. The developer shall cite conditions and demonstrate that they have been met or otherwise addressed.

B. **Conditions.** In the direction, it is anticipated that there will be numerous conditions from the Department, agencies, and public comment. There may well be public comment that seeks to lower density of the project below that permitted by the Zoning Ordinance, or to deny the project because of concerns outside the scope of the zoning or subdivision regulations. *The applicant may make proffers to address these concerns, but the Planning Commission may not use them as conditions unless they are proffered by the applicant.* (emphasis added).”

This memo is for the Planning Commission’s information and use in determining whether this new information requires the previous approval to be reconsidered.

#### **ATTACHMENTS:**

1. Letter to Planning Commission (PC) from the Jefferson County Historic Landmarks Commission (JCHLC), dated 4/13/18
2. Letter to PC from Peter Onoszko and Jack Hefestay with a letter attached from the Jefferson County Historic Landmarks Commission date, 4/16/18
3. Belvedere House National Register Nomination, dated 12/16/93
4. SHPO comments on National Register Nomination, dated 4/16/18
5. Zoning Administrator determination related to the applicability of Section 4.4C to Magnolia Springs, dated 4/25/18
6. Letter to PC from Gordon/applicant responding to letter from JCHLC, dated 4/25/18



April 12, 2018

Mr. Donnie Fisher,  
President  
Jefferson County Planning Commission  
c/o Jefferson County Office of Planning and Zoning  
PO Box 716  
Charles Town, West Virginia 25414

Dear Mr. Fisher,

The Magnolia Springs Concept Plan presented and approved at the JC Planning Commission meeting April 10, 2018 is not in conformance with the County Zoning Ordinance, specifically **Section 4.4 C. Prohibited Uses.**

Section 4.4 C Prohibited Uses: states:

Any development which would destroy the historical character of a property listed on the West Virginia or National Register of Historic Places shall not be permitted.

Applications that violate the ordinance cannot be approved by the Planning Commission(PC). It is exactly the same situation as an application coming before the PC with a setback violation. It is regrettable this non-conformance was not addressed earlier, but the application should never have been brought to the PC for a public workshop and vote. We request that the Planning Commission vote be nullified immediately.

The Jefferson County Historic Landmarks Commission (JCHLC) would be happy to work with the developer to devise a concept plan for Magnolia Springs that would be acceptable and profitable to all parties and protects the historic character of the site and Belvedere, listed on the National Register of Historic Places. We believe that protecting the historic setting and context of a property, including the degree of open space and building density, must always be considered when planning new construction on a historic site. This entails identifying the formal or informal arrangements of buildings on the site, and whether they have a distinctive urban, suburban, or rural character.

If you have any questions or need additional information, please feel free to contact me.

Sincerely,



Martin Burke

Chair

Jefferson County Historic Landmarks Commission

P.O. Box 23

Charles Town, WV 25414

cc: Nathan Cochran, Attorney, JC Civil Division (via email)  
Chad Wallen, Gordon (via email)  
Hunter Wilson, NLP Finance, LLC (via email)

April 14, 2018

Mr. Donnie Fisher  
President,  
Jefferson County Planning Commission  
c/o Jefferson County Office of Planning and Zoning  
PO Box 716  
Charles Town, West Virginia 25414

RECEIVED

APR 16 2018

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Dear Mr. Fisher:

As members of the Jefferson County Planning Commission we the undersigned request an expeditious reconsideration of the decision taken by the Planning Commission on April 10, 2018 regarding the Magnolia Springs sub-development for the reasons stated in the enclosed letter from Mr. Martin Burke, Chair, Jefferson County Historic Landmarks Commission. It is our opinion that this matter be addressed as soon as practicable so as to allow the developer and the Historic Landmarks Commission to work something out amicably that would be to the benefit of the project while simultaneously preserving the character of Belvedere, a nationally recognized historic place in our county. We recommend that this reconsideration be placed on the agenda for May 1, 2018.

Respectfully,

  
Jack Hefestay  
Member, Jefferson County Planning Commission

  
Peter Onoszko  
Member, Jefferson County Planning Commission

encl

cc: Jenny Brockman  
Martin Burke

United States Department of the Interior  
National Park Service

For NPS use only

National Register of Historic Places  
Inventory—Nomination Form

received **DEC 16 1983**  
date entered

See instructions in *How to Complete National Register Forms*  
Type all entries—complete applicable sections

**1. Name**

historic Belvedere

and/or common

**2. Location**

street & number 811 Belvedere Farm Drive \_\_\_ not for publication

city, town Charles Town vic.  vicinity of

state West Virginia code 54 county Jefferson code 037

**3. Classification**

<b>Category</b>	<b>Ownership</b>	<b>Status</b>	<b>Present Use</b>
<input type="checkbox"/> district	<input type="checkbox"/> public	<input checked="" type="checkbox"/> occupied	<input type="checkbox"/> agriculture
<input checked="" type="checkbox"/> building(s)	<input checked="" type="checkbox"/> private	<input type="checkbox"/> unoccupied	<input type="checkbox"/> commercial
<input type="checkbox"/> structure	<input type="checkbox"/> both	<input type="checkbox"/> work in progress	<input type="checkbox"/> educational
<input type="checkbox"/> site	<b>Public Acquisition</b>	<b>Accessible</b>	<input type="checkbox"/> entertainment
<input type="checkbox"/> object	<u>N/A</u> in process	<input checked="" type="checkbox"/> yes: restricted	<input type="checkbox"/> government
	<input type="checkbox"/> being considered	<input type="checkbox"/> yes: unrestricted	<input type="checkbox"/> industrial
		<input type="checkbox"/> no	<input type="checkbox"/> military
			<input type="checkbox"/> museum
			<input checked="" type="checkbox"/> park
			<input type="checkbox"/> private residence
			<input type="checkbox"/> religious
			<input type="checkbox"/> scientific
			<input type="checkbox"/> transportation
			<input type="checkbox"/> other:

**4. Owner of Property**

name Nancy Wilson Truettner

street & number 811 Belvedere Farm Drive

city, town Charles Town  vicinity of state West Virginia

**5. Location of Legal Description**

courthouse, registry of deeds, etc. Jefferson County Courthouse

street & number George and Washington Streets

city, town Charles Town state West Virginia

**6. Representation in Existing Surveys**

Historic Resource Survey, Charles Town  
title By-Pass Project, by Paul D. Marshall and Associates has this property been determined eligible?  yes  no  
date 1980  federal  state  county  local

depository for survey records Historic Preservation Unit, WV Dept. of Culture & History

city, town Charleston state West Virginia

## 7. Description

<b>Condition</b>		<b>Check one</b>	<b>Check one</b>
<input checked="" type="checkbox"/> excellent	<input type="checkbox"/> deteriorated	<input type="checkbox"/> unaltered	<input checked="" type="checkbox"/> original site
<input checked="" type="checkbox"/> good	<input type="checkbox"/> ruins	<input checked="" type="checkbox"/> altered	<input type="checkbox"/> moved date _____
<input type="checkbox"/> fair	<input type="checkbox"/> unexposed		

### Describe the present and original (if known) physical appearance

The stately mansion "Belvedere," sits at the end of tree shaded Belvedere Farm Drive, outside of Charles Town, Jefferson County, West Virginia, commanding a majestic, panoramic view that has remained virtually unchanged since the farm came into existence in the 18th century.

The Belvedere Mansion as we find it today is a composite of the original house believed to have been built about 1807 by Magnus Tate II, and a larger house built in 1824 by Magnus' son, William. The original smaller house is generally referred to as the kitchen house. Thomas Willis joined the two units together in 1939 although there is no opening between spaces on the second floor. During this work, the remains of a wood sill were found embedded in a masonry foundation, suggesting an earlier log building on the site of the kitchen house.

Both units of the building are designed in the Federal style. The 1807 unit is two-story constructed with an exterior of hand-molded brick. American common brick coursing was used for the north, south, and west facades. Flemish bond coursing is on the east facade. The existing entrance to the kitchen building is a doorway on the north side which is flanked by side lights and has an ornamental transom above. A circular window is located in the gable end above the second floor window. The west facade has a shed roof porch with a dentiled architrave supported by four square wood posts. One interior chimney interrupts the standing seam metal roof of the building. The roof of the original kitchen building is a gable type similar to the earlier Georgian style. The windows are six over six light sash with louvered shutters.

The original kitchen house was about 20 feet wide and 32 feet long with two rooms on each floor and a center chimney serving fireplaces in each room. The 1939 renovation added space to the north end of the building to facilitate the connection of the two buildings and provide bath facilities.

The main section of the house, built circa 1824, is also two stories in height constructed with an exterior pressed brick using Flemish bond on the front and American Common on the north, east, and south. An important feature of both units of the house is a well preserved example of brick corbeled dentil cornice work. Both units of the house rest on a random coursed limestone foundation. The west entry is an excellent example of Federal style architectural detail. The podium entrance has four Doric columns all connected with a wood railing. The door is flanked by sidelights and has an ornamented transom. Three window openings are balanced on the second level with six over six lights and louvered shutters. The center window is tripart aligned above the entrance door. Two attic dormers interrupt the metal roof on the west elevation and all window openings are double sash, six over six lights. The north chimney is inside the north end of the house and the south chimney extends to the outside of the south wall. The 1824 building has a low-pitch hip type roof design typical of the Federal architectural period. The main unit measures approximately 49' x 24' with essentially a "two over two" arrangement and center stair hall between rooms on both floors. Except for a second floor bath located at the end of what was originally the center hall, the original room arrangements are basically unchanged. A small bath room, added in 1978, is located at the point where the two buildings intersect.

Belvedere is a property whose architectural significance and pristine setting make it one of Jefferson County's most noteworthy landmarks.

## 8. Significance

Period	Areas of Significance—Check and justify below			
<input type="checkbox"/> prehistoric	<input type="checkbox"/> archeology-prehistoric	<input type="checkbox"/> community planning	<input type="checkbox"/> landscape architecture	<input type="checkbox"/> religion
<input type="checkbox"/> 1400-1499	<input type="checkbox"/> archeology-historic	<input type="checkbox"/> conservation	<input type="checkbox"/> law	<input type="checkbox"/> science
<input type="checkbox"/> 1500-1599	<input checked="" type="checkbox"/> agriculture	<input type="checkbox"/> economics	<input type="checkbox"/> literature	<input type="checkbox"/> sculpture
<input type="checkbox"/> 1600-1699	<input checked="" type="checkbox"/> architecture	<input type="checkbox"/> education	<input type="checkbox"/> military	<input type="checkbox"/> social/ humanitarian
<input type="checkbox"/> 1700-1799	<input type="checkbox"/> art	<input type="checkbox"/> engineering	<input type="checkbox"/> music	<input type="checkbox"/> theater
<input checked="" type="checkbox"/> 1800-1899	<input type="checkbox"/> commerce	<input type="checkbox"/> exploration/settlement	<input type="checkbox"/> philosophy	<input type="checkbox"/> transportation
<input type="checkbox"/> 1900-	<input type="checkbox"/> communications	<input type="checkbox"/> industry	<input checked="" type="checkbox"/> politics/government	<input checked="" type="checkbox"/> other (specify) local history
		<input type="checkbox"/> invention		

**Specific dates** 1807;1824 **Builder/Architect** unknown

### Statement of Significance (in one paragraph)

"Belvedere," located in a pristine rural setting near Charles Town in Jefferson County, West Virginia, is significant as a fine example of Federal style architecture in a rural area.<sup>1</sup> It is also significant as home to prominent Jefferson County families, particularly the well known Tate family.<sup>2</sup>

### Explanatory Notes

1. "Belvedere," meaning "beautiful view" is situated in one of the most awe inspiring rural settings in West Virginia. From the front porch of "Belvedere" one has an unobstructed view of an immense estate of gently rolling fields to the Blue Ridge Mountains in the distance. From "Belvedere" this vista extends to include four counties, Jefferson County, West Virginia, Washington County, Maryland, and Clarke and Loudoun Counties, Virginia. Although its architectural style and detailing is addressed in Part 7, the Description, it should be noted that "Belvedere" is a significant example of two Federal style building units that are situated in such a manner as to render them architecturally unique in this region of West Virginia.

2. Evidence indicated that the Tate family, a prominent one in local, state, and even national affairs, occupied the present site of "Belvedere" as early as the 1760's. Magnum Tate III is known to have been born there in 1767. The original structure was probably of log construction, though nothing of it remains. The first unit of the present "Belvedere" mansion was constructed in 1807 by Magnus Tate II (1732-1808), who was prominent in the organization of the city of Charles Town and served on its first board of trustees (1787). Of the four sons of Magnus Tate II, all of them born and reared at Belvedere, three of them rose to prominence. George Tate was twice (1803, 1804) elected to represent Jefferson County in the Virginia Assembly. William Tate (1776-1818), who inherited "Belvedere" (then spelled "Belvidere") from his father in 1808, was a member of the first organized bar of Jefferson County, and, like his brother, served two terms (1809, 1812) in the Virginia Assembly. Magnus Tate III (1767-1823) was the most prominent of the three. He served seven terms in the Virginia Assembly (1797, 1798, 1799, 1802, 1803, 1809, and 1810), was twice High Sheriff of Berkeley County, and from 1815 to 1817 was a member of the U.S. House of Representatives.

After the death of William Tate, in 1818, the "Belvedere" estate, one of Jefferson County's largest farms, passed to his son George Tate II, Abigail Humphreys Tate, continued to reside there until her death in 1862. In 1824 the second (now the main section) of the house was constructed, in similar style to the 1807 building. During the Civil War, it is recorded, a Confederate raiding party under Capt. R. Preston Chew, left their horses at "Belvedere" while they raided the Union garrison in Charles Town, making off with 54 prisoners and 75 horses.

"Belvedere" passed from the Tate family to the T. H. Bates family in 1882. Mr. Bates was a prominent Jefferson County attorney. The estate has passed into the prominent Wilson family in the second half of the 20th century and retains not only its architectural

## 9. Major Bibliographical References

Bushong, Millard K., Historic Jefferson County, Carr Publishing Co., Boyce, Va., 1972.  
 Evans, Willis F., History of Berkeley County, West Virginia, privately printed,  
 Martinsburg, WV, 1928.  
 McIlhenny, Hugh Milton, Jr., Some Virginia Families, Stoneburner & Pruffer, Staunton, VA,  
 1903.

## 10. Geographical Data

Acreeage of nominated property Approximately 10 acres

Quadrangle name Charles Town, WV

Quadrangle scale 1:24,000

### UTM References

A 

1	8
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2	5	4	4	8	0
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4	3	5	1	9	6	0
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 Zone Easting Northing

B 

1	8
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2	5	4	5	2	0
---	---	---	---	---	---

4	3	5	2	1	5	0
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 Zone Easting Northing

C 

1	8
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2	5	4	7	2	0
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4	3	5	2	0	8	0
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D 

1	8
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2	5	4	6	8	0
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4	3	5	1	9	2	0
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E 

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F 

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H 

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**Verbal boundary description and justification** Beginning at the point where the southern fence line intersects the western fence-line hedge at the rear elevation of the Belvedere Mansion; thence 600 feet along the fence-hedge north to where said line intersects the Private Belvedere Farm Road; thence approximately 800 feet east along the southern edge of said

### List all states and counties for properties overlapping state or county boundaries

state	code	county	code
N/A			
state	code	county	code

## 11. Form Prepared By

name/title Michael J. Pauley, Historian and Paul D. Marshall, Architect  
Historic Preservation Unit  
 organization WV Dept. of Culture and History date November 18, 1983  
Cultural Center  
 street & number Capitol Complex telephone (304) 348-0240  
 city or town Charleston state West Virginia

## 12. State Historic Preservation Officer Certification

The evaluated significance of this property within the state is:

national  state  local

As the designated State Historic Preservation Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service.

State Historic Preservation Officer signature

title State Historic Preservation Officer

date November 18, 1983

For NPS use only

I hereby certify that this property is included in the National Register

Entered in the  
National Register

date

1/12/84

Keeper of the National Register

Attest:

date

Chief of Registration

**United States Department of the Interior  
National Park Service**

**National Register of Historic Places  
Inventory—Nomination Form**

For NPS use only

received 12/12/83

date entered

Continuation sheet Belvedere

Item number 8

Page 2

ambience but is still the seat of a 273 acre farm that commands, as it always has, on of the area's most pleasant vistas.

Officially declared a Jefferson County Historic Landmark in 197 , "Belvedere" retains an early 19th century character of significance to the region.

**United States Department of the Interior  
National Park Service**

**National Register of Historic Places  
Inventory—Nomination Form**

For NPS use only

received

12/10/83

date entered

Continuation sheet Belvedere

Item number 9

Page 2

Norris, J. E., History of the Lower Shenandoah Valley, A. Warner & Co.,  
Chicago, Ill., 1890.

**United States Department of the Interior  
National Park Service**

**National Register of Historic Places  
Inventory—Nomination Form**

For NPS use only  
received 12/10/83  
date entered

"Belvedere", Jefferson County, West Virginia

Continuation sheet

Item number 10

Page 2

#10 Geographical Data

Verbal boundary description and justification:

farm road to where it intersects the first western fence line; thence approximately 550 feet south along the fence line to its terminus with the southern fence line; thence approximately 800 feet west along the southern fence line to the point of beginning encompassing approximately 10 acres. This boundary allows for the inclusion of the major portion of the lawn fronting on the principal residence, maintaining the integrity of the vista that, historically, gave its name to the property: "Belvedere" - "beautiful view".

**From:** Smith, Jeffrey S  
**To:** [Alexandra Beaulieu](#)  
**Cc:** [Brennan, Jennifer L](#)  
**Subject:** RE: Belvedere - National Register of Historic Places  
**Date:** Monday, April 16, 2018 12:13:16 PM

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Alex,

If you read over section ten (10) of the [nomination](#), you'll see that the nominated parcel includes ten (10) acres as well as the historic building. If you read the final paragraphs in Section eight (8), you'll see that the acreage is historically associated with the building, and that is why it was included as part of the National Register-listed resource. With historic farms like Belvedere, there is often a larger parcel of land - beyond the immediate grounds - that is associated with the resource. So, the confirmation that you seek is found within the nomination.

The "building" resource type that you mentioned is simply a category (one of five resource types) that the NPS uses to classify the primary resource, which is Belvedere.

Jeff Smith  
Structural Historian  
National Register and Architectural Survey Coordinator  
WV State Historic Preservation Office

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**From:** Brennan, Jennifer L  
**Sent:** Monday, April 16, 2018 11:07 AM  
**To:** Alexandra Beaulieu <[abeaulieu@jeffersoncountywv.org](mailto:abeaulieu@jeffersoncountywv.org)>  
**Cc:** Smith, Jeffrey S <[Jeffrey.S.Smith@wv.gov](mailto:Jeffrey.S.Smith@wv.gov)>  
**Subject:** RE: Belvedere - National Register of Historic Places

Alexandra  
This is more a question for our National Register Coordinator, Jeff Smith. I have copied him on this email so hopefully he can clear that up.

Jennifer

Jennifer Brennan  
Structural Historian  
West Virginia State Historic Preservation Office  
304-558-0240 Ext. 138  
[Jennifer.L.Brennan@wv.gov](mailto:Jennifer.L.Brennan@wv.gov)

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**From:** Alexandra Beaulieu [<mailto:abeaulieu@jeffersoncountywv.org>]  
**Sent:** Monday, April 16, 2018 10:54 AM  
**To:** Brennan, Jennifer L <[Jennifer.L.Brennan@wv.gov](mailto:Jennifer.L.Brennan@wv.gov)>  
**Subject:** Belvedere - National Register of Historic Places

Good morning Jennifer,

I was wondering if you could help clarify something for me.

We have a proposed development processing through our Office and the development includes a historic structure (Belvedere). We were informed the structure was the only resource on the National Register; however, the nomination form describes ten acres surrounding the structure. How can our Office confirm if the acreage is included on the register or if it truly is only the structure, as the applicant described to our Office?

The Resource Type just says “Building” which is why we assumed it was just the structure, as the applicant had informed us. But, reading the nomination form, I wonder if there wasn’t more included.

<https://npgallery.nps.gov/NRHP/AssetDetail?assetID=d145b562-144e-40eb-9c35-1ffc35f08801>

I appreciate your assistance.

Alex

Alexandra Beaulieu  
Zoning Administrator  
Jefferson County Office of Planning and Zoning  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)  
304-728-3228



# JEFFERSON COUNTY, WEST VIRGINIA

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Charles Town, WV25414

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[zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

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

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## MEMO

**TO: Jefferson County Planning Commission**  
**FROM: Alexandra Beaulieu, Zoning Administrator**  
**DATE: April 25, 2018**  
**RE: Section 4.4 – Prohibited Uses**

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In response to Mr. Burke's letter on behalf of the Historic Landmarks Commission, dated April 12, 2018, as the Zoning Administrator, I am providing a written determination regarding the applicability of Section 4.4C Prohibited Uses in the Zoning Ordinance to the proposed Magnolia Springs Subdivision. Section 3.4A of the Zoning Ordinance authorizes the Zoning Administrator to administer, enforce and interpret the Ordinance as required by law.

Section 4.4C Prohibit Uses states,

Any development which would destroy the historical character of a property listed on the West Virginia or National Register of Historic Places shall not be permitted.

I have determined that Section 4.4C of the Zoning Ordinance does not apply to the proposed Magnolia Springs Subdivision. Section 4.4C is ambiguous and does not define the criteria for "historical character of a property" nor does it clarify what is meant by "destruction of".

The letter from the Historic Landmarks Commission does not address specifically **how** the proposed subdivision would destroy the historical character of the property; therefore, Staff did not have any criteria to consider when reviewing the Concept Plan.

Further, at the time that Magnolia Springs initially submitted their plans to our Office, the Zoning Ordinance did not contain any requirements for Historic Preservation. When referencing Federal Regulations for historic properties, there is nothing prohibiting development of a property nor is there anything prohibiting the demolition of a historic structure (see attached Section 60.2).

The Belvedere Property is in the Residential Growth zoning district and has been identified for future development on the Future Land Use Guide. The proposed Magnolia Springs appears to comply with the site development standards of the Zoning Ordinance in effect at the time of application with regards to density.

Any member of the public may appeal the Planning Commission's decision to Circuit Court within 30 days. Legal has upheld that the 30 days starts after the minutes are approved; therefore, the 30 day timeframe for an appeal of the Planning Commission's decision begins May 1.

Alternatively, pursuant to Section 6.3 of the Zoning Ordinance and in accordance with the Board of Zoning Appeals' Rules of Procedures, any member of the public may appeal my determination regarding Section 4.4C of the Zoning Ordinance to the Board of Zoning Appeals within 30 days of the date of this letter.

## **Sec. 60.2 Effects of listing under Federal law.**

The National Register is an authoritative guide to be used by Federal, State, and local governments, private groups and citizens to identify the Nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment.

Listing of private property on the National Register does not prohibit under Federal law or regulation any actions which may otherwise be taken by the property owner with respect to the property.

(a) The National Register was designed to be and is administered as a planning tool. Federal agencies undertaking a project having an effect on a listed or eligible property must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment pursuant to section 106 of the National Historic Preservation Act of 1966, as amended. The Council has adopted procedures concerning, inter alia, their commenting responsibility in 36 CFR part 800. Having complied with this procedural requirement the Federal agency may adopt any course of action it believes is appropriate. While the Advisory Council comments must be taken into account and integrated into the decision making process, program decisions rest with the agency implementing the undertaking.

(b) Listing in the National Register also makes property owners eligible to be considered for Federal grants-in-aid for historic preservation.

(c) If a property is listed in the National Register, certain provisions of the Tax Reform Act of 1976 as amended by the Revenue Act of 1978 and the Tax Treatment Extension Act of 1980 may apply. These provisions encourage the preservation of depreciable historic structures by allowing favorable tax treatments for rehabilitation, and discourage destruction of historic buildings by eliminating certain otherwise available Federal tax provisions both for demolition of historic structures and for new construction on the site of demolished historic buildings. Owners of historic buildings may benefit from the investment tax credit provisions of the Revenue Act of 1978. The Economic Recovery Tax Act of 1981 generally replaces the rehabilitation tax incentives under these laws beginning January 1, 1982 with a 25% investment tax credit for rehabilitations of historic commercial, industrial and residential buildings. This can be combined with a 15-year cost recovery period for the adjusted basis of the historic building. Historic buildings with certified rehabilitations receive additional tax savings by their exemption from any requirement to reduce the basis of the building by the amount of the credit. The denial of accelerated depreciation for a building built on the site of a demolished historic building is repealed effective January 1, 1982. The Tax Treatment Extension Act of 1980 includes provisions regarding charitable contributions for conservation purposes of partial interests in historically important land areas or structures.

(d) If a property contains surface coal resources and is listed in the National Register, certain provisions of the Surface Mining and Control Act of 1977 require consideration of a property's historic values in the determination on issuance of a surface coal mining permit.

April 25, 2018

Jefferson County Planning Commission  
c/o Jefferson County Office of Planning & Zoning  
PO Box 716; Charles Town, WV 25414

Subject: Magnolia Springs Concept Plan (Jefferson County PC File 18-05)

Dear Planning Commission Members,

### Request

On April 10<sup>th</sup>, the Planning Commission passed a motion to approve the concept plan for Magnolia Springs. The Applicant requests the Planning Commission maintain their prior motion as it was in accordance with Jefferson County regulations and represents a reasonable approach to the Belvedere house.

### Planning Commission Meeting, April 10<sup>th</sup>, 2018

The applicant presented the Magnolia Springs Concept Plan at the April 10<sup>th</sup> Public Hearing and discussed the historical significance of the Belvedere house as it is classified within the National Register of Historic Places Inventory – Nomination Form prepared by the Historic Preservation Unit of the WV Department of Culture and History dated November 18, 1983. Under section 3 [Classification] it is clearly shown the category is for buildings and not the site. Although there is reference to a parcel (approximately 10 acres) and views, the architecture of the house is obviously the single most important historical factor as it relates to the nomination. The applicant simply stated that the Belvedere house would be preserved on a 5-acre residue parcel.

The nomination form was not presented in its entirety to hide or mislead the Planning Commission in any way but to emphasize the importance of preserving the existing house within the best features of the property. The vista view as referenced in 1983 is not the same view in 2018 with construction of two (2) major roadways (Route 340 & Route 9) located directly in this viewshed.

### Regulatory Overview

In response to the Jefferson County Historic Landmarks Commission letters we offer the following response as it relates to applicable Federal, State, and Local rules and regulations and how they apply to properties on the National Register of Historical Places.

#### 1. Federal Regulations

It is very important to understand how Federal Law protects property owners of historic places and what restrictions, rules, and regulations apply. The following citation is taken from the National Park Service website.

*"Under Federal Law, the listing of a property in the National Register places no restrictions on what a non-federal owner may do with their property up to and including destruction, unless the property is involved in a project that receives Federal assistance, usually funding or licensing/permitting.*

*<http://www.nps.gov/nr/regulations.htm> "*

The property owners have not received any Federal assistance, funding or licensing/permitting.

## 2. West Virginia Regulations

The role and/or authority of the West Virginia State Historic Preservation Office defined below:

*"The West Virginia State Historic Preservation Office (SHPO) is dedicated to preserving and protecting our state's important cultural resources. One way we achieve this is by working with government agencies as projects are developed. When a project requires a government license or permit or makes use of government money, federal and state laws require that the project be sent to the SHPO for review. Once submitted, the SHPO staff determines how that project will affect West Virginia's historic resources and provides comments to the government agency. After the SHPO receives a project for review, the office has 30 days to comment on the project's effects to historic resources. These laws DO NOT apply to private owners of historic properties who are planning alterations to their property unless they are receiving state or federal funds, permits or licenses for the property, or are applying for a state or federal income tax credit."*

## 3. Jefferson County Regulations

The role of the Jefferson County Historic Landmarks Commission as defined by Jefferson County Zoning and Subdivision Ordinances.

Jefferson County Zoning Ordinance

*Section 3.4.D.3 – 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.*

- Emphasis added above. The development of the property is clearly within the rights of the applicant, it is zoned residential growth and the proposed uses are permitted.
- Per the citation provided from federal regulation there are no restriction on what the owner may do with their property, including its destruction.
- Per the citation provided from WV, the State Historic Preservation Officer does not have authority over the proposed project.
- This section of the Zoning Ordinance was adopted after the submission of the concept plan.

*Section 3.4.D.4 - This Ordinance encourages the preservation of historic buildings and historic sites by working with the landowner on a voluntary basis. 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:*

- Emphasis added above, cooperation with the Historic Landmarks Commission is voluntary.
- This section of the Zoning Ordinance was adopted after the submission of the concept plan.

The Historic Landmarks Commission sent a second letter in which they state the approval of the concept plan is invalid since it would destroy the historical character of the property.

- The Zoning Ordinance intentionally set a very high bar when assessing impacts to historical properties. The use must destroy the historic character.
- The applicant acknowledges that Belvedere will be impacted by the development, but there is no interpretation of the concept plan that could meet a reasonable definition of destroy. The nomination is based on a structure, not a site.

*Section 4.4 - Any development which would destroy the historical character of a property listed on the West Virginia or National Register of Historic Places shall not be permitted.*

- The applicant acknowledges the historic resource will be impacted by the proposed development. However, there is no case that can be made to suggest that the building and its historical relevance will be destroyed by the proposed development.
- The applicant directs County Staff to the classification submitted with the national historic register. It is a historic building, not a historic district or site. Given that federal law places no restriction on property owners, the reduction of the "nominated property" from 10 acres to 5 acres cannot be construed as destroying the historical character of a property.

*Section 4.6.G.1 Protection Radius - Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance.*

- Emphasis added, the use for the proposed development is single family houses, which are found under residential uses in Appendix C.
- The Protection Radius does not apply to the application.

Jefferson County Subdivision Ordinance

*Section 23.203.C - Jefferson County Historical Landmarks Commission. This body shall submit a report and findings on whether historical resources exist on the site of the proposed subdivision of site development. If there are, they shall submit findings on whether the proposal meets the requirement of zoning with respect to such structures or places at Concept Plan stage.*

- The role of the Historic Landmarks Commission (HLC) is to evaluate whether a Concept Plan meets the requirements of the Zoning Ordinance. The requirements of this ordinance have been stated above.
- The following pertains to the Historic Landmark Commission letter to the Planning Commission.
  - The citation provided by the HLC in relation to viewshed was written in 1983. Since this description was written two major highway projects have been constructed within the houses viewshed, this was ignored by the HLC.
  - The Belvedere nomination form does not list any barns or contributing structures, reference to these buildings was added at the discretion of the HLC.
  - The HLC cites the National Park Service's rehabilitation standards, these do not apply to the property and can be found nowhere in the zoning ordinance.
  - The HLC commission has not followed their mandated role, their review of the proposed subdivision plan reflects their feelings not the requirements of the ordinance.
  - The proposed plan does not impact the architecture of the structure which is the true basis of the registration.

The Concept Plan presented to the Planning Commission proposed a 5 acre lot for Belvedere that included the best features of the property. The following description is a comparison of the 10 acre property vs. the 5 acre lot. (note that the 10 acres is not legally defined as a parcel in the Jefferson County Tax Maps)

Southern Property Line – this property line is moved to the south to include additional forested area and mature trees. Increasing the land to the south enhances the character and privacy of the Belvedere parcel.

Eastern Property Line – this property line moved 400' to the west, decreasing the front yard area by approximately 2.9 acres (0.9 acres of this area will be contained in a proposed park). This area is significantly lower than Belvedere, the preliminary plat will be graded to limit the visual impact of the houses in this area. The viewshed from the Belvedere house to the Blue Ridge Mountains will remain.

Western Property Line – The property line moved 250' to the west, increasing the size of the Belvedere parcel by approximately 2 acres. This area is heavily wooded and contains numerous trees that likely date back to the construction of Belvedere. The connection between these trees and the house is an unbroken line that represents significant historical context. If the 10 acre parcel was maintained this area would be developed as residential lots.

Northern Property Line – the property line is moved approximately 250' closer to the house, although the distance varies since the parcel lines are not parallel. The movement of this line results in a decrease of 4.6 acres. Much of this land is not visible from the existing house and has little if any contribution to the historic viewshed.

Summary – the applicant acknowledges the importance of the future Belvedere parcel. The parcel lines described in 1983 were selected for convenience, an existing farm lane, a old fence, etc, resulting in a 10 acre parcel. If the road or fence line had been in a different location it may have been a 5 acre parcel.

The Concept Plan places emphasis on preserving native white oaks in a historical landscape opposed to a viewshed of the Route 340 bypass. The decrease in parcel size is largely associated with reduction of land to the north of Belvedere, an area that is not visible from the house and would not have been visible in 1983. The Concept Plan places value on stately open space over an impaired viewshed. The development of the Preliminary Plat will seek to further reduce visual impacts to Belvedere through site grading and landscaping.

There is no case to be made that this Concept Plan is destroying a historic resource. Creating the 5 acre parcel in it's proposed configuration will preserve the more pristine historic landscape as it exists today. The applicant is not violating any Federal, State, or Local regulatory requirements and are fully within their rights to develop this property.

Sincerely,  
GORDON



Chad Wallen, PLA  
Project Manager



View of 340 Bypass and new Route 9



View from Route 9 Offramp to Belvedere

The design of the Belvedere parcel was a careful exercise based on the existing conditions found in 2018 as opposed to the idealic description of the property included in the National Historic Register nomination form. The view from the house looking towards the east is not what was described in 1983. While the Blue Ridge Mountains still command the distant view, the viewshed close to the house is dominated by car and truck traffic on the Route 340 bypass. Cars are always visable from the front porch with the few exceptions when a stop light on 340 creates a break in the traffic flow. While the cars have in impact on the viewshed, it is the noise from this road that has the greatest impact from the front of the house.

While the front view is heavily impacted by time and progress, the back of the house presents a unique opportunity for preservation of a site with significant landscape architectural importance. The lawn is dominated by majestic white oaks that can live 300 years. The spacing and character of these trees indicate that they are part of the natural forest that once covered Jefferson County and may predate the construction of Belvedere.







# Jefferson County, West Virginia

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Charles Town, WV 25414

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## Planner's Memorandum Planning Commission Meeting May 1, 2018

- 1) 3<sup>rd</sup> Quarter Quarterly Report to the County Commission (attached)
- 2) Zoning Ordinance Text Amendments
  - a) Landscape Standards
    - Stakeholder meeting with staff held – draft amendment to be developed.
  - b) Parking Standards
  - c) WV45 Gateway Design Standards (ZTA17-02)
    - Shepherdstown Planning Commission input received 4/4/18 (attached)
    - To be discussed at the 5/1/18 meeting
- 3) Subdivision Regulation Text Amendments
  - a) Subdivision and Land Development Regulations Amendment (File# STA16-01)

Some scrivener's errors related the numbering in Appendix B and the reference to the numbering in Section 20.106 to the Sub Reg Amendment approved 2/1/18 were corrected and re-recorded 2/24/18. A link to the newest version is as follows:

    - <http://www.jeffersoncountywv.org/home/showdocument?id=15056>
  - b) Subdivision and Land Development Regulations Amendments (STA18-01)
    - Staff initiated effort on larger amendment including reorganization of Sub Reg. sections is underway.
- 4) Upcoming PC meetings
  - a) Next Regular Meeting: **June 12, 2018**

# Quarterly Report for Office of Planning and Zoning

3<sup>rd</sup> Quarter – FY 2018 (January 1, 2018 – March 31, 2018)

## PROJECTS UNDERTAKEN/COMPLETED

<b>PLANNING COMMISSION ITEMS</b>		
Planning Commission Meetings:		3 Meetings 3 <sup>rd</sup> Quarter
<b>Subdivision Regulations Text Amendments</b>		<b>1 Total</b>
<b>Status</b>		
STA16-01	Amendments related to sections requiring frequent interpretations and issues, including but not limited to processing mergers/lot line adjustments; contents of minor subdivisions, etc.	CC approved 2/1/18
<b>Zoning Ordinance Text Amendments</b>		<b>4 Total</b>
<b>Status</b>		
ZTA17-03	Proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, Section 5.7(D) Maximum Number of Lots Allowed [in the Rural zoning district].	CC approved with effective date 3/1/18
ZTA17-02	In August, 2017, the County Commission requested that Planning Commission prioritize initiating draft development guidelines for the Shepherdstown Route 45 Corridor Special Design Area (SDA). The Planning Commission directed County Staff to work with the Town of Shepherdstown staff to initiate a discussion that would lead to the guidance of the development of SDA guidelines.	Input from Shepherdstown PC received 4/4/18
ZTA17-01	Proposed amendments to the Jefferson County Zoning and Land Development Ordinance, Article 10, Sign Regulations, for the purpose of creating provisions to allow electronic signs in Jefferson County and reorganization of existing text for clarification.	PC PH held 3/13/18, left open for two weeks for public comment
ZTA16-02	Amendment to the Zoning Ordinance to implement the recommendations of the <i>Envision Jefferson 2035 Comp Plan</i> regarding Historic Resource Demolition and Adaptive Reuse and provisions in the Village Zone	CC approved with effective date 3/29/18
<b>Waiver/Variance from Sub. Regulations (PC)</b>		<b>3 Total</b>
<b>Status</b>		
PCV18-01	Roderick Planes, LLC for Aspen Greens Subdivision Variance from Section 8.2C8 Stormwater Drainage and Erosion Control to decrease the minimum slope of 0.5% to what is shown on the as-built plans 0.27+/-%	Approved 3/13/2018 PC
PCW18-02	Jefferson County Development Authority for TeMa USA Manufacturing Facility Waiver from Section 21.402.D of the Subdivision and Land Development Regulations that requires no permanent encroachments, structures, fences, or landscaping within the easement area in order to pave over sanitary sewer easement	Approved 2/13/2018 PC

PCW18-01	Robert Adkins/Thomas W. Weller Waiver from Section 20.201A(2) that requires all subdivision lots created through the Minor Subdivision Process to 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. Applicant is separating tenant house form parent parcel and wishes to utilize existing driveway onto Route 230 and not share a driveway.	Approved 2/13/2018 PC
<b>Final Plat Amendment (PC)</b>		<b>1 Total</b>
<b>Status</b>		
Final Plat Amendment	Sandra K. Armstrong For the purpose of lifting the Single Family restriction from Lots 1, 2, and 3 (Residue) on the Sandra K. Armstrong Minor Subdivision Plat (PC File #08-20)	Approved 1/9/18 PC
<b>Site Plan Concept Plans (PC Public Workshop)</b>		<b>Total</b>
No site plan concept plans this quarter		
<b>Major Subdivision Concept Plans (PC Public Workshop) 3 Total</b>		<b>Status</b>
18-05	Magnolia Springs Major SD (Belvedere Family Trust) 301 Lot detached single family subdivision Zoned: RG Submitted: 2/21/18	Public Workshop scheduled for 4/10/18
18-04	Concept Plan for Chestnut Manor Cluster (Daniel Zappe) 18 lots plus a 49.85 acre green space/residue Major Subdivision under the Cluster Provision (Section 5.7D(2) of the Zoning Ordinance) Submitted: 2/9/18	Public Workshop scheduled for 4/10/18
17-20	Concept Plan for Ancient Oaks Estates (Larry Boyd) 8 Lot Major Subdivision under the Cluster Provision (Section 5.7D(2) of the Zoning Ordinance) Submitted: 12/30/17	Public Workshop 2/13/18 Concept Plan Approved
<b>Zoning Map Amendments/Rezoning Requests (PC)</b>		<b>1 Total</b>
<b>Status</b>		
Z18-01	Summit Point Ventures, LLC, Property Owner 3.35 acre property at 500 Motorsports Park Circle, Summit Point Request to rezone from Rural (R) to General Commercial (GC)	PC found ZMA to be consistent with Comp Plan 2/13/18; CC PH held 3/15/18; CC approved ZMA 3/29/18
<b>Long Range Planning:</b>		<b>Status</b>
No long range projects this Quarter		

<b>BOARD OF ZONING APPEALS ITEMS</b>		
Board of Zoning Appeals Meetings:		2 meetings 2 <sup>nd</sup> Quarter
<b>Zoning Variance Requests (BZA)</b>		<b>4 Total</b>
		<b>Status</b>
ZV18-04	Nelson Benavides, 43 Wilderness Ct. (Sheridan Estates, Lot 156) Harpers Ferry Variance from Section 5.4B to reduce rear setback from 20' to 11' for the construction of a 20' x 16' pavilion & retaining wall.	Approved 3/22/18 BZA Meeting
ZV18-03	owner: Steven Knott & Margaret Ogg applicant: Dave Lutman, 412 W. Burr Blvd., Kearneysville Variance from Section 5.7D.3 of the current Zoning Ordinance to subdivide more than three (3) lots within a five (5) year timeframe. Applicant is proposing to subdivide a total of five (5) lots via the minor subdivision process.	Approved with conditions 2/22/18 BZA Meeting
ZV18-02	SPARC LLC, 201 Motorsports Park Circle, Summit Point Variance from 4.11A.1 & Appendix B of the current Zoning Ordinance to allow for a 50' unscreened buffer along the south and west boundary lines; and, 0' buffer along properties owned by SPARC to construct three classroom/dormitory trailers as part of the approved Vocational and/or Training Facility for Adults.	Approved 2/22/18 BZA Meeting
ZV18-01	Jefferson County Commission/ JC Convention & Visitor's Bureau 37 Washington Court, Harpers Ferry Variance from Appendix B of the current Zoning Ordinance to reduce the front setback from 40' to 9' to construct the exterior stairs; and, to reduce the front setback from 40' to 14' for the construction of the proposed Jefferson County Convention and Visitors Bureau building expansion.	Approved 2/22/18 BZA Meeting
<b>Conditional Use Permit (CUP) Applications (BZA)</b>		<b>0 Total</b>
		<b>Status</b>
No CUPs this Quarter.		
<b>Special Exception (SE) Applications (BZA)</b>		<b>0 Total</b>
		<b>Status</b>
No Special Exceptions this Quarter.		
<b>Zoning Appeal of Administrative Decision (BZA)</b>		<b>0 Total</b>
		<b>Status</b>
No Administrative Appeals this Quarter		

<b>PLANNING &amp; ZONING STAFF ITEMS</b>		
Pre-Proposal Conference (PPC) Meetings:		23 Total (11 Subdivision & 12 Site Plan)
Information Request Forms (IRFs -- general inquiries from the public; generally provided written responses):		26 Total
Zoning and Land Development Fees Collected:		\$14,670.65
<b>Zoning Certificates Issued</b>		<b>9 Total (8 approved, 1 denied)</b>
		<b>Status</b>
ZC18-09	Michael Feeser 5567 Engle Molers Rd., Shepherdstown Bed and Breakfast Operation - One Bedroom Zone: Rural	Pending
ZC18-08	owner: Corporation of Harpers Ferry applicant: Randy Matson, Hardy Cellular Telephone Co. 217 Prospect Ave., Harpers Ferry Modification of existing antenna array by replacing or adding antenna and radio boxes behind antennas. No new electric required. Height and footprint will not increase. Zone: Rural	Determined to be exempt
ZC18-07	owner: Michael R. Skigen, CPA, Managing Partner applicant: Charles & Cathy Kesner, Kenser Enterprises 197 Halltown Road, Harpers Ferry (outdoors) Outdoor Flea Market - Change in Tenant Zone: RLIC	Approved 3/5/18
ZC18-06	owner: Michael R. Skigen, CPA, Managing Partner applicant: Carlos Marin, Ranson Upholstery, LLC 197 Halltown Road, Harpers Ferry (outdoors) Upholstery Store - Change in Tenant Zone: RLIC	Approved 2/21/18
ZC18-04	Shenandoah Personal Communications, LLC (Shentel) 512 Sandpiper Lane, Shepherdstown Addition of 6 antennas and other ancillary tower mounted equipment to existing 120.0'(±) self-support telecommunications tower. Zone: RG	pending
ZC18-03	T. Todd & Susan B. Hough, Trust 219 Ann Lewis Rd., Charles Town Veterinary Services, Pet Crematory under 1200 sq. Zone: Rural	Approved 2/26/18
ZC18-02	owner: George Rushizky applicant: Kenneth Hardin, Hardy Cellular Telephone Co. 8428 Shepherdstown Pk. Shepherdstown Addition of 6 antennas and other ancillary tower mounted equipment to existing 200.0'(±) self-support telecommunications tower. Zone: Rural	Approved 2/20/18

ZC18-01	owner: Michael R. Skigen, CPA, Managing Partner applicant: Stacey Watson DBA Pavement Supplies WV 197 Halltown Rd. Harpers Ferry Store supplies & service contractors; to sell pavement supply materials in bulk to contractor's (ex: caution tape, rakes, shovels, crack fillers) Zone: RLIC	Approved 2/1/18
<b>Denied Zoning Certificates</b>		<b>NONE</b>
ZC18-05	Michael Feeser 5567 Engle Molers Rd., Shepherdstown Air B&B in guest home Zone: Rural	Denied 3/13/18

<b>Minor Site Plans (Staff)</b>		<b>3 Total</b>	<b>Status</b>
S17-12	Jefferson County Convention and Visitor's Bureau Visitor's Center; Harpers Ferry, WV Addition to existing building (revised in 2017) Submitted: 11/16/17		Under review; awaiting resubmittal
S18-01	TeMa USA Manufacturing Facility; Bardane, WV Construction of 41,598 SF manufacturing facility Submitted: 1/16/18		Approved 3-21-18
S18-02	Priest Field Chapel Expansion Attn: Dana Evans Construction of less than 1,200 SF Pastoral Church Addition - Diocese of Wheeling - Charleston, WV Submitted: 3/8/18		Meets no site plan exception

<b>Minor Subdivisions (Staff)</b>		<b>6 Total</b>	<b>Status</b>
18-07	Stephanie Nan Sills MSD Lot 1 and 2 (Residue) Submitted 3/15/18		Approved 4/10/18
18-06	Paxson MSD Lots 2 (Residue) and 4 Submitted 3/9/18		Pending resubmittal
18-03	Carolyn Umschied MSD Lots 1, 2, and 3 (Residue) Submitted 1/31/18		Approved 2/21/18
18-02	Steven Petty MSD Lots 1 and 2 (Residue) Submitted 1/30/18		Pending resubmittal
18-01	Jeffrey L. Smith MSD Lots 3, 4, and 5 (Residue) Submitted 1/23/18		Approved 4/12/18
17-19	David Lutman MSD Lots 1, 2, and 3 (Residue) Submitted 12/7/17		Approved 1/29/18

<b>Boundary Line Adjustments (Staff)</b>		<b>7 Total</b>	<b>Status</b>
M18-05	JCDA Merger Submitted 2/28/18		Approved 2/28/18
M18-04	Jeffrey & Robin Smith/ Richard & Stacie Tandiski Merger Submitted 2/7/18		Approved 02-12-18
M18-03	Garland Snyder Jr., Vicky T. Ainsworth (aka Teresa Pinson), Janet L. Staubs (aka Lisa Staubs)/Timmy and Lisa Staubs Merger Submitted 2/6/18		Approved 2/8/18
M18-02	Mark Ansel Eddy, Trustee/Timothy Gerhard Merger Submitted 2/5/18		Approved 2/12/18
M18-01	George R. Welsh, Jr. Trustee Merger Submitted 1/11/18		Approved 1/25/18
M17-30	Aldis Merger & Minor Plat Change Submitted 12/28/17		Approved 1/17/18
M17-29	Shepherd Grade LLC Merger & Minor Plat Change Submitted 12/19/17		Approved 1/26/18

<b>Minor Plat Change/Minor Plat Amendment (Staff)</b>		<b>2 Total</b>	<b>Status</b>
3-26-18	Peter Milcetic Minor Plat Change – Mansley Subdivision Lot 1, Septic Reserve Relocation		Approved 3-27-18
3-16-18	Ronald C. Jr and Errika M. Best – Septic Reserve Relocation		Approved 3-16-18

<b>Regional Transportation Planning Meetings</b>		
Eastern Panhandle Transit Authority (EPTA) Board Meetings		1/16/18; 2/20/18
Regional Department of Highways/Planners Meetings		2/28/18
Hagerstown Eastern Panhandle Metropolitan Planning Organization (HEPMPO) Technical Advisory Committee (TAC) Meetings		delayed due to weather
Shepherdstown Bike Path Advisory Committee Meeting		no meetings this quarter

<b>Planning Related Meetings</b>		
Jefferson County Homeland Security and Emergency Management Quarterly Meeting		1/19/18
Jefferson County Homeland Security and Emergency Management Hazard Mitigation Plan Committee Meeting		2/23/18

<b>ITEMS REQUIRING COMMISSION ATTENTION</b>		<b>Status</b>
ZTA17-01	Proposed amendments to the Jefferson County Zoning and Land Development Ordinance, Article 10, Sign Regulations, for the purpose of creating provisions to allow electronic signs in Jefferson County and reorganization of existing text for clarification.	CC PH scheduled for 5/3/18 1:30 pm

<b>PROPOSED PROJECTS/UNDERWAY</b>		<b>Status</b>
ZTA17-02	WV45 gateway design standard recommendations – at the direction of the Planning Commission, staff initiated collaboration with Shepherdstown PC regarding implementing certain recommendations of the <i>Envision Jefferson 2035 Comp Plan</i>	on-going
STA 18-01	Staff initiated effort on larger amendments including streamlining processes and reorganization of Sub Reg. sections	on-going



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JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

## CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET  
P.O. Box 248  
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248  
TEL: (304)876-2312  
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March 28, 2018

Jefferson County Planning Commission  
Jennifer Brockman, County Planner  
P.O. Box 716  
Charles Town, WV 25414

Re: Shepherdstown Route 45 Special Design Area (SDA) Guidelines Outline

Dear Commissioners and Ms. Brockman:

On behalf of the Shepherdstown Planning Commission, I would like to thank you for this opportunity to participate in the development of guidelines for the Route 45 SDA. As was agreed, the town's Planning Commission has drafted a general outline for development along this corridor and looks forward to working with the County in drafting a final ordinance. The following are a set of general guidelines for the County's consideration:

Goal:

*To preserve the rural to low-density residential transitional appearance of Route 45 from the Berkeley County line to the Shepherdstown Preferred Growth Area as a gateway into the Corporation.*

1. No pole mounted signs including advertising billboards
2. Preserve existing clusters of native trees. Existing native trees help to preserve reminders of the pre-development appearance of the area and provide scale to increase visual interest
3. Business signs – no pole mounted signs. Ground level monument style only. Externally illuminated.

4. Subdivision signs - ground level monument style. stone, wood preferred. Externally illuminated.
5. Parking lots over 2 cars to be located in rear of building or screened with vegetation
6. No exposed ridge-top development in East Branch Rocky Marsh Run valley
7. Minimize individual connections to Route 45 from house/apartment complexes
8. Route 45 road design – Accommodate future bike and pedestrian paths
9. Setbacks – Houses to be 100’ minimum from the road.
10. Fencing – to be open style picket, stone or split rail ranch unless located 100’ or greater from Route 45.
11. Accommodate recreational uses of Rocky Marsh Run at Route 45
12. Improve safety at Winebrenner Road intersection
13. Provide vegetative buffers to provide a parkway like character for Route 45. Vegetation to be provided from approved list, provide multiple species for diversity and provide all season color.
14. Encourage the retention and integration of farmland, wetlands, woodlands and meadows into site development as aesthetic and functional features.
15. Commercial development is prohibited in this area through rezoning, conditional use permits, etc.

I trust the County Planning Commission finds this outline useful and its points, amicable. Again, thank you for this opportunity and we look forward to working together in designing a set of guidelines to control and shape future development along this western gateway.

Sincerely,



Andy Beall,  
Planning & Zoning Administrator

cc: Arthur J. Auxer, III, Mayor  
Lori Robertson, Town Recorder  
Deb Tucker, Shepherdstown Planning Commissioner  
Mark Everhart, Shepherdstown Planning Commissioner  
Chris Cafiero, Shepherdstown Planning Commissioner  
Terry Fulton, Shepherdstown Planning Commissioner  
T. Nicole Saunders-Meske, Shepherdstown Planning Commissioner  
Steve Ayraud