



AGENDA
Jefferson County Planning Commission
Tuesday, August 13, 2019 7:00 PM

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

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

1. Approval of Meeting Minutes: July 9, 2019.
2. Citizen Communications: If you wish to comment, please sign-in to speak for issues that are not on the agenda or items that are not open for public comment. Items not open for public comment will be so noted.
3. Request for postponement.
4. **Public Hearing:** Request by Ancient Oaks Estate (File #: 19-11-PCW). Applicant is requesting a waiver from Section 24.113.B.10 of the Subdivision and Land Development Regulations to waive the Preliminary Plat requirement for an Archaeological Study. The property is designated as Tax District: Shepherdstown (07); Tax Map: 20; Parcel: 8; Zoned: Rural; Size: 43.62 acres.
5. **Public Hearing:** Request by Frances & Edward Kurz (File #: 19-12-PCW). Applicant is requesting a waiver from Section 20.201.A.2 that requires a 50' access easement, for both entrances off of Middleway Pike. The property is designated as Tax District: Shepherdstown (07); Tax Map: 19; Parcel: 27 & 37.2; Zoned: Rural; Size: 12.2 & 4 acres.
6. **Public Hearing:** Request by Burr Park Lot 16 (Holtzman Oil Corp.) (File #: 19-13-PCW). Applicant is requesting a waiver from Section 22.208A and Appendix B Section 10.6 of the Subdivision and Land Development Regulations that require sidewalks along the road right-of-way (Wiltshire Road and War Admiral Boulevard) for non-residential site development.

There is no public comment for the following items.

7. **Discussion and Possible Action** on proposed text amendment (ZTA19-01) regarding proposed revisions to Article 2 Definitions; Section 8.14 Rural Reception/Event Facility; and Appendix C to create a process to allow event facilities in new rural structures (draft language included). Public Hearing held on July 9, 2019; public comment was left open for written comments two weeks (attached); public comment closed on 7/23/19.
8. **Review and Approval** of the Planning Commission's FY 2019 Annual Report to the County Commission per WV Code §8A-2-11. The Planning Commission is required by State Code to make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction. (To be distributed at the meeting)
9. Reports from Legal Counsel
10. Planner's Memo.
11. President's Report
12. Actionable Correspondence
13. Non-Actionable Correspondence

DRAFT
Meeting Minutes
Jefferson County Planning Commission
July 09, 2019

The Jefferson County Planning Commission met on July 09, 2019 with the following Commission members present: Steve Stolipher, Vice President; Wade Louthan, Secretary; Ralph Lorenzetti, County Commission Liaison; Jack Hefestay, Ron Thomas, Mike Shepp and J Ware. Staff members present included: Jennifer Brockman, County Planner; Jonathon Saunders, County Engineer; Alexander Beaulieu, Zoning Administrator; Nathan Cochran, Assistant Prosecuting Attorney and Rachael Burke, Planning Clerk.

Donnie Fisher, President and Ray Bruning were absent with prior notification.

Mr. Stolipher called the meeting to order at 7:01pm.

1. Approval of the June 11, 2019 Meeting Minutes: The meeting minutes were approved with no objections.
2. Citizen Communications. None.
3. Request for postponement. None.
4. **Public Hearing:** Concept Plan for Rocky Ridge (File #19-7-SD). A proposed Residential Major Subdivision, including 132 townhouse units, a mini storage facility (four units 260' long, varying depth) and a boat and RV parking area. The property is designated as Tax District: Middleway (07); Tax Map: 01, Parcel: 1.2; Zoned: Residential Light Industrial Commercial; Size: 16.6 acres.

Ms. Brockman stated the correct acreage is 23.6 acres (two parcels of 16.6 and 7 acres). She provided an overview of the project location, the zoning, the recommendations of the Future Land Use Guide, and explained the collaboration required with Berkeley County as the property lies in both counties. The required stormwater management facilities and water and sanitary sewer utilities will fall under the review and jurisdiction of Berkeley County and the lot layout and building plans will be reviewed by Jefferson County.

Paul Raco, Local Land Use Consultant, spoke on behalf of the applicant, Joshbeen Grewal and his engineer, Trever Lloyd, with Cheat Road Engineering. He provided a general overview of the proposed project, stating that the actual breakdown of 1 to 3 bedroom townhomes could change slightly at Preliminary Plat, but any change would impact the required parking. He reviewed the concept of centralized open space and pocket recreation areas around the parcel, including open greenspace. He noted that the design presented is less than the maximum density the zone would allow and that the applicant developed this design to provide adequate open and recreational space. He pointed out the mini storage buildings location and stated that this commercial space will have a shared entrance with a gate to separate the commercial area from the residential space.

Mr. Raco stated that a green buffer will be added for privacy along the Hospice of the Panhandle property line and to separate the commercial storage area from the townhouse lots. He pointed out that there will be pockets of parking throughout the community to serve the various sections of townhouse. And that the road design proposed to use T-turn around areas instead of cul-de-sacs near Hospice in order to retain more of the green area. He responded to the staff comment regarding interconnectivity with the adjacent properties stating that Hospice Lane is a private road which this development is permitted to use but it is not open to additional traffic from other properties. Mr. Raco also explained that the proposed project

meets all the zoning requirements as it relates to historic resources on the property. He stated that there is no anticipation of variances needed at this time and that the applicant will be working with both Jefferson and Berkeley Counties to ensure all standards are being met.

Planning Commissioners asked questions about the use of the T-turnarounds by trash pick-up services; accommodations for the school bus stop; response to JCHLC comments related to the living fence concept between the historic resources and the residential development; the age of the historic resources; the extent of services by Berkeley County Public Water and Sewer services; which were addressed by Mr. Raco and Ms. Brockman.

Mr. Raco explained future land use map refers to this section as preferred growth to be served by Berkeley County.

Mr. Raco explained that there has been a meeting with both counties and Ms. Brockman explained that Berkeley County utilities have stated they plan to serve this townhome community.

Ms. Brockman reviewed the outside agency comments, including the fact that the West Virginia Department of Highways (DOH) determined that a Traffic Impact Study is not required for this development; the GIS road name comments; and comments from the Historic Landmarks Commission (JCHLC). She also explained staff comments, including connectivity.

Mr. Stolipher opened the floor to public comment. The following people spoke:

- Margaret Cogswell, CEO Hospice of the Panhandle 320 and 330 Hospice Ln.
- Walt DeWalt, CFO Hospice of the Panhandle
- Ken Lowe, representing FO Day

Mr. DeWalt and Ms. Cogswell were concerned about traffic flow on Hospice Lane, road upkeep, about the impact on their business and suggested a construction road. The purchase agreement discusses a road maintenance agreement which needs to be formalized. They do not want any future interconnectivity with other adjoining properties to the South 100 acres. They would like to see a Traffic Study completed. They will send comments in writing to Planning.

Mr. Raco, representing the applicant, answered questions and concerns regarding the design intended to keep the recreation noise away from Hospice. He explained the setbacks were established to create a large separation and density was reduced from the 200 units originally proposed. He also stated they would provide a maintenance agreement for Hospice Lane.

Mr. Stolipher closed Public Hearing.

Planning Commission asked questions about requirements of the Planning Commission at the Concept Plan stage, according to the Subdivision Regulations.

Ms. Brockman stated the applicant and outside agencies are allotted time to give input and the Planning Commission's role is to direct the preparation of the Preliminary Plat with any recommended conditions. They are not permitted by regulations to require anything greater than the ordinance requires. The applicant could proffer things, such as the landscape buffer, which can then become a condition of approval.

Mr. Shepp made a motion to accept the Concept Plan as submitted with a recommendation that the developer proceed to Preliminary Plat; work with WVDOH to see if there is a possibility of a construction entrance; and to not provide interconnectivity with the adjacent property to the South. Ron Thomas seconded the motion

During Planning Commission discussion of the motion, Mr. Hefestay expressed concerns with high density in this area, the closed grocery, and stated that area is not built to support this type of housing. He also explained Rockwool traffic could cause congestion in this area and expressed further concerns with WVDOH responsiveness.

Mr. Cochran clarified WVDOH controls everything to do with traffic lights and turn lanes. This is not within our jurisdiction.

Mr. Louthan stated we do not have the jurisdiction to deny this request if it meets zoning requirements.

Discussion ensued with other Planning Commission members and they agreed proposed project meets the current zoning and subdivision requirements.

A vote was taken; the result was 6 for, 1 against (Jack Hefestay).

5. **Public Hearing:** Request by Lutman Properties, LLC. (File #: 19-9-PCW). Applicant is requesting a waiver from Section 20.201 of the Subdivision and Land Development Regulations to process the first five lots of a proposed cluster subdivision using the Minor process. The property is designated as Tax District: Shepherdstown (09); Tax Map: 20; Parcel: 8; Zoned: Rural; Size: 72.21 acres.

Ms. Brockman reviewed the location and explained the proposed project is a 14 lot cluster subdivision, but the applicant would like to process the first 4 lots as a Minor Subdivision.

Mr. Raco spoke on behalf of the applicant. The Comprehensive Plan recommended that all Cluster Subdivisions should be considered Minor Subdivisions; however, this revision has not yet occurred. The applicant chose to process this waiver request so that the neighborhood would be aware that while they are only processing 4 lots and a residue at this time, the full build out is proposed to be 14 lots. He reviewed the residue designation, per the ordinance.

Mr. Lorenzetti asked if there are any structures on the property. Mr. Raco stated he is unaware of any.

Mr. Stolipher opened the floor to public comment.

The following people spoke:

- Chris Gorman
- Denise Ryan
- Tony Russo

They expressed concerns about proximity to existing homes, greenspace being further divided and the road access.

Mr. Raco addressed these concerns by explaining that the proposed cluster lots would average 2.5 acres, with 36 acres in open space. He also stated that the greenspace is not a permanent farmland easement, which would provide assurance of preservation, but is a

greenspace required by the current Subdivision Regulations. The first 4 lots meet standards of ordinance for a minor subdivision. They will meet the DOH standard for the development entrance for the first 4 and get new permits if any new lots are added.

Planning Commission asked if they did more than 4 lots and a residue, would the road be fully built out. Mr. Raco stated it would.

Mr. Stolipher closed Public Comment.

Mr. Shepp made a motion to approve the waiver as requested by the developer to process the first 5 lots as minor subdivision. Mr. Louthan seconded the motion, which carried unanimously.

6. **Public Hearing:** Request by Seneca Crossing, LLC. (File #: 19-10-PCW). Applicant is requesting a waiver from Section 20.102B to allow early grading and potentially a footing and foundation permit for the proposed Seneca Crossing Business Park and Lot 1 Site Plan for Berkeley Medical Center. The property is designated as Tax District: Shepherdstown (09); Tax Map: 8; Parcel: 50; Zoned: Residential Light-Industrial Commercial; Size: 4.5 acres.

Ms. Brockman explained in the status of the review process for the Seneca Crossing subdivision, Lot 1 Site Plan, and ROCS Site Plan.

Mr. Raco spoke on behalf of applicant, Seneca Crossing, LLC. He stated that the Planning Commission already held a Public Workshop for two Concept Plans related to this property: a 3-lot commercial subdivision and a site plan for Lot 1. Lot 1 will be doing business as Berkeley Medical Center. The Site Plan is approved but waiting for the subdivision to be finally approved, which is awaiting WVDOH final approval, which has required 8 sets of plan reviews including the approval of a turn lane that was brought up in the Concept Plan stage. The project is striving for interconnectivity and will be sharing their entrance with ROCS. ROCS is on the third review by Staff which also requires WVDOH approval as part of their project. The Preliminary Plat, the Site Plan and SWM are all close to final approval and the development is asking to be permitted to obtain grading permits prior to final approval. He then provided examples of projects we have permitted to do this and stated that the risk to the County is low due to the required bond.

Mr. Mike Shepp asked about why the application stated 'potentially' requesting a footing and foundation permit and Mr. Raco clarified that the building permit will be listed in the name of the property owner, Seneca vs. Berkeley Medical Center.

Mr. Lorenzetti asked about timeframe and Mr. Raco stated they would be willing to add a timeline to the project.

Mr. Stolipher opened the floor to Public Comment.

The following people spoke:

- Mark Dorsh – Martinsburg Pike
- Ken Lowe – The Waltz Property

Mr. Stolipher closed public comment.

Mr. Raco and Eric Lewis responded to a comment about surveying stakes located off site and stated that they will resolve this. The Plat does reflect the easement for Mr. Lowe according to Mr. Lewis.

Mr. Bruning made a motion to approve the waiver for Seneca Crossing, LLC. from Section 20.102B of the Subdivision and Land Development Regulations to allow early grading and potentially a footing permit with the conditions outlined by staff.

- a. A grading permit is issued to allow the owner to perform site grading in preparation for the building pad and related improvements. This permit is subject to the requirements of the sediment and erosion control plan submitted and approved as part of the grading plan and building permit application and a NPDES permit is obtained; and
- b. The building permit is issued only for the footers and foundations of the proposed buildings (building construction will stop at the foundations until the site plan is approved); and
- c. The owner/Developer assumes all risk for “jump-starting” the project and understands that the final site plan design approved by the Planning Commission might necessitate some changes and additional construction cost; and
- d. the developer will provide bonding of all proposed site improvements related to sediment and erosion control/SWM pertaining to the permit.

Mike Shepp seconded the motion. Mr. Lorenzetti asked about a time period be added, amending motion to add a maximum of 6 months to have this work completed or it be rolled into the total bond for the entire project at that time. A vote was taken, which carried unanimously.

7. **Public Hearing:** Proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA19-01. The text amendment, in accordance with WV Code 8A and Article 12 of the Zoning Ordinance, proposes revisions to Article 2 Definitions; Section 8.14 Rural Reception/Event Facility; and Appendix C to create a process to allow special event facilities in the Rural, Residential Growth, and Village zoning districts.

Mr. Stolipher explained that public comment will be received for this amendment at tonight’s meeting and for two weeks following the meeting.

Ms. Beaulieu explained that the Planning Commission had previously amended the zoning ordinance to allow the reuse of existing barns and agricultural structures for these purposes but, due to building code issues, the office has received a number of requests to be able to construct a new structure for uses like rural reception event facilities and that that the language included in the packet reflects these types of requests.

The Planning Commission asked questions clarifying for the current zoning standards and staff explained some of the current zoning requirements. If the text is changed significantly after public comment, then the Public Hearing will be re-advertised with the new text.

Mr. Stolipher opened the floor for public comment. The following people spoke:

- Doug Rockwell
- Tina Reddington 414 Kidweiler Rd., Ridgefield Farm owner

Mr. Rockwell was concerned about changes in the rural district and Ms. Reddington wanted the Commission to consider extending the time permitted in the proposed language due to there being two weekend days available for these events.

Mr. Stolipher reiterated that the public comment period would be left open for two weeks.

8. **Public Hearing:** Proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA19-02. The text amendment, in accordance with WV Code 8A and Article 12 of the Zoning Ordinance, proposes revisions to Appendix C: Principle Permitted and Conditional Uses Table to change the provision for Churches in the IC Zone from Not Permitted (NP) to a Conditional Use (CU).

Ms. Beaulieu explained that this text amendment was proposed by a church which began operations in the Industrial Commercial zone without realizing it was prohibited in that zone. She also answered questions from the Planning Commission and made her recommendation.

Mr. Stolipher opened the floor to Public Comment.

The following person spoke:

- Gerald Fitzwater

He is the pastor that made this request and asked that the Planning Commission allow them to stay in their location.

Ms. Beaulieu explained there is no way to approve just this location. If it is not permitted in the Ordinance, it means it is prohibited. Since there are other institutional uses which are permitted, she stated the Conditional Use was the best option. The landlord never contacted our office for this tenant change.

Mr. Stolipher closed public comment.

Mr. Hefestay made a motion recommended approval of the proposed text amendment, stating that this request is consistent with the Comprehensive Plan and can proceed to County Commission for their action. Ron Thomas seconded the motion which carried unanimously.

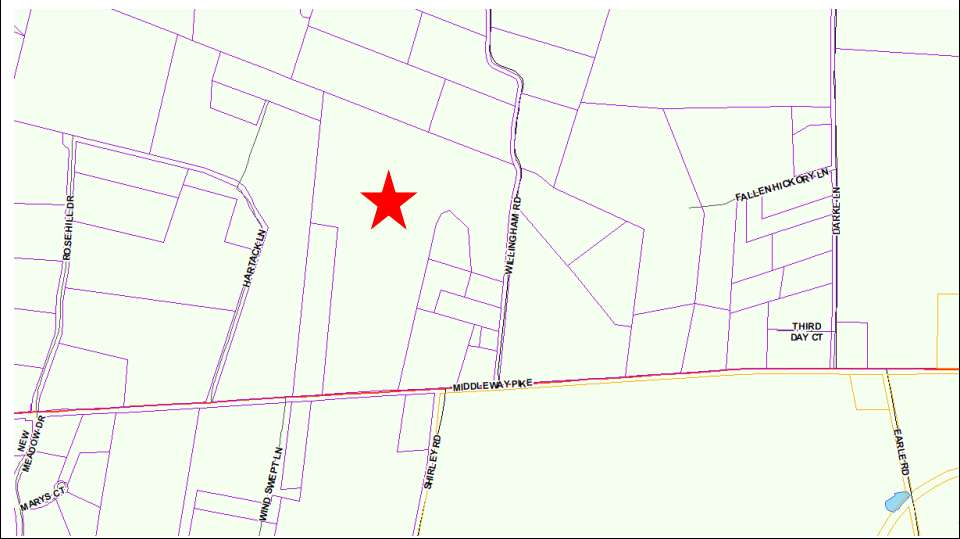
9. Reports from Legal Counsel. None.
 10. Planner's Memo: Update on RFQ – Ms. Brockman reported that three responses to the RFQ were received and that the Committee met and ranked them on 7/9/19. All 3 firms will be interviewed. She reviewed this process and criteria/ranking. All will be interviewed before asking for proposal and cost estimate. The Committee will try to get on the recommended firm on one of the August County Commission agendas.
 11. Actionable Correspondence. None.
 12. Non-Actionable Correspondence: None.
- Mr. Stolipher closed the meeting at 9:07 PM.

Staff Report
 Jefferson County Planning Commission Meeting
 August 13, 2019

Ancient Oaks Subdivision Waiver Request (File #19-11-PCW)

Item #4

Public Hearing: Request by Ancient Oaks Estate (File #: 19-11-PCW). Applicant is requesting a waiver from Section 24.113.B.10 of the Subdivision and Land Development Regulations to waive the Preliminary Plat requirement for an Archaeological Study.

APPLICANT:	Roberts Land Surveying
OWNER/DEVELOPER:	Larry H. & Donna K. Boyd
SURVEYOR/ENGINEER:	Roberts Land Surveying
PROPERTY LOCATION:	North side of Middleway Pike, West of Willingham Drive
LEGAL DESCRIPTION:	Tax Dist.: Middleway (07) Tax Map: 20; Parcel 8; Size: 43.96 acres
	
ZONING DISTRICT:	Rural
SURROUNDING ZONING:	North: Rural East: Rural South: Rural West: Rural
LOT AREA:	43.96 Acres
PROPOSED ACTIVITY:	8-Lot Major Cluster Subdivision
APPROVALS:	PC Concept Plan Approved (8 Lot Cluster Subdivision): 02/13/18 Waiver for Separate Access for Greenspace Approved: 03/12/19 Preliminary Plat Approved by Staff: 04/16/19 Preliminary Plat deemed complete by PC: 05/14/19 Preliminary Plat Public Hearing: 07/09/19

Staff Report
Jefferson County Planning Commission Meeting
August 13, 2019

1. Site Background:

The applicant has received conditional approval for the Preliminary Plat for an 8-Lot Cluster Subdivision on the 43.63-acre property located on WV 51 (Middleway Pike) west of Willingham Road. The proposed cluster development includes seven (7) proposed clustered lots, 2 acres each, off a proposed cul-de-sac to be named Ancient Oaks Court, and a 28.66-acre greenspace (including 1.47 acres of stormwater management area). The property is zoned Rural and is developing under the Cluster Provisions of the Zoning Ordinance, which requires processing as a Major Subdivision.

The Planning Commission held a Public Hearing on July 9, 2019 for the Preliminary Plat for this proposed development and found the only outstanding item to be related to the requirement of Section 24.113.B.10 "Historic Resource Preservation. A Phase I archaeological study is required. A historic resources impact study shall also be included." The Planning Commission voted to approve the Preliminary Plat provided this requirement was addressed or a waiver was approved.

2. Summary of the Request:

The applicant has submitted a request to waive the Phase I Archaeological Study which is required with the submission of a Preliminary Plat by the Subdivision Regulations. At the Concept Plan submission, applicants are required to reach out to various outside agencies, including the Jefferson County Historic Landmarks Commission (HLC). At that time, the Jefferson County HLC noted that there are no identified historic structures located on this property but there are some in the vicinity. The applicant reached out to the State Historic Preservation Office (SHPO) for assistance in determining whether there are any known resources on the property requiring a Phase I Study. Staff followed up with SHPO and they were only able to report that no known reports have been conducted on the property and that their office does not make recommendations on the need for such studies. The applicant is requesting that this requirement be waived in light of the fact that there are no known resources on the property.

3. Waiver Requirements:

The applicant addresses the following requirements found in "Division 24.300 Waivers" of the Subdivision Regulations:

Waivers from the minimum standards in these Regulations may be granted by the Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria:

- (1) that the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature;
- (2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- (3) that the waiver, if granted, will be in keeping with the intent and purpose of these Regulations; and
- (4) that the waiver if granted will result in a project of better quality and/or character. Process and procedural waivers shall be reviewed and found consistent with the above criteria prior to approval.

Staff Report
Jefferson County Planning Commission Meeting
August 13, 2019

4. Staff Comments:

Staff understands that the requirement for a Phase I Archaeological Study conducted anywhere in a County with as many historic resources as Jefferson County has the potential to identify previously unknown historic resources; however, lands which have historically been used for agricultural purposes have generally been so disturbed as to make it difficult to identify any new resources. This is a particularly difficult requirement for cluster subdivisions with a relatively small number of lots being created. Staff recommends that the Planning Commission collaborate with the SHPO and Jefferson County HLC to amend this requirement to create a requirement that balances the cost of development with the anticipated results.

5. Staff Recommendation:

Staff recommends that, based on the input from the Jefferson County HLC and SHPO, that this waiver may be a reasonable request for these seven large rural lots.



Jefferson County, West Virginia
 Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 E. Washington Street, 2nd Floor
 P.O. Box 716
 Charles Town, West Virginia 25414

File #: 19-11-PCW
 Mtg Date: 8/13/19
 Date Rec'd: 7/18/19
 Fees Paid: 100.00
 Staff Int: PBB
 List of Adjoiners:

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

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

Planning Commission Waiver Request

Waivers must comply with Division 24.300 of the 2008 Subdivision Regulations, as amended.

Property Owner Information

Owner Name: LARRY + DONNA ROYD
 Business Name: _____
 Mailing Address: 303 Willingham Rd. Charles Town WV 25414
 Phone Number: 304-582-7009 Email: _____

Applicant Contact Information

Applicant Name: _____ Same as owner:
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Consultant Information

Name: Michael S. Roberts
 Business Name: Roberts Land Surveying
 Mailing Address: 2068 Palmer Road, Hedgenville, WV 25427
 Phone Number: 304-671-5406 Email: MIKER002395@FRONTIER.COM

Physical Property Details

Physical Address: _____ Vacant Lot:
 Tax District: Middleway Map No: 20 Parcel No: 5
 Parcel Size: _____ Deed Book: 979 Page No: 478
 Zoning District: _____

On a separate sheet of paper sketch the shape and location of the lot. Show the location of the intended construction or land use and indicate building setbacks, size, and height. Identify existing easements, roads, buildings, structures, or land uses on the property. Sign and date the sketch.

Included Not applicable (include a vicinity map if a sketch is not applicable)

What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?

Section 24.113B10

Briefly Describe the Nature of Your Waiver Request:

Since 06 May 2019, we have rec. no response from the State of WV.

Therefore, we ask that the Phase I Arch & Historic Study be WAIVERED.

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

N/A

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

N/A

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

Study was done on the county level.

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

N/A

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

Larry H. Boyd 7/18/19
Property Owner/Applicant Signature Date

Donald K. Boyd 7/18/19
Property Owner/Applicant Signature Date

Notification Requirements

The subject parcel shall be posted with a minimum of one 28" x 22" placard at least 14 days prior to the public hearing. The placard(s) will be prepared by the Staff and posted by the applicant. Adjacent property owner name and address information shall be provided by the applicant so that notification letters can be mailed by Staff least 14 days prior to the public hearing.

Public Hearing Date

Date Placard Posted

Date Adjoiners Mailed

Planning Commission Determination

Approved

Denied

Date: ___ / ___ / ___

Staff Report
 Jefferson County Planning Commission Meeting
 August 13, 2019

Frances & Edward Kurz Waiver Request (File #: 19-12-PCW)

Item # 5

Public Hearing: Request by the applicants, Frances & Edward Kurz, to waive Section 20.201.A.2 of the Subdivision and Land Development Regulations for the following:

- A) To reduce the access easement width from 50' to 30' to allow for a minor subdivision on Parcel 27; and,
- B) To reduce the access easement width from 50' to 20' to allow for a minor subdivision on Parcel 37.2.

APPLICANT	Frances & Edward Kurz				
OWNER/DEVELOPER	Same				
CONSULTANT	N/A				
PROPERTY LOCATION	25 and 46 Foxwood Farm Drive, Kearneysville, WV 25430				
LEGAL DESCRIPTION & ZONING DISTRICT	Tax District: Middleway (07); Tax Map: 19; Parcels: 27 and 37.2; Size 12.2 acres and 4.0 acres; Zone: Rural				
ADJACENT ZONING DISTRICTS	<table style="width: 100%; border: none;"> <tr> <td style="text-align: center; width: 50%;">North: Rural</td> <td style="text-align: center; width: 50%;">East: Rural</td> </tr> <tr> <td style="text-align: center;">South: Rural</td> <td style="text-align: center;">West: Rural</td> </tr> </table>	North: Rural	East: Rural	South: Rural	West: Rural
North: Rural	East: Rural				
South: Rural	West: Rural				
PROPOSED ACTIVITY	Possible Minor Subdivisions on each property				
APPROVALS	Merger Plat (M17-27) approved 12/14/17				

Staff Report
Jefferson County Planning Commission Meeting
August 13, 2019

1. Summary of the Request:

The applicant is requesting a waiver from Section 20.201.A.2 of the Subdivision Regulations that requires a 50' access easement for all Minor Subdivisions. The applicant is proposing to divide each parcel into two lots and a residue provided they can receive WV DOH and Board of Health approvals. The request is to allow the eastern access to remain 20' and the western access to remain 30' because increasing the access easements to 50' along these two property lines would create setback issues for the existing home and structures on Parcel 27.

2. Site Background:

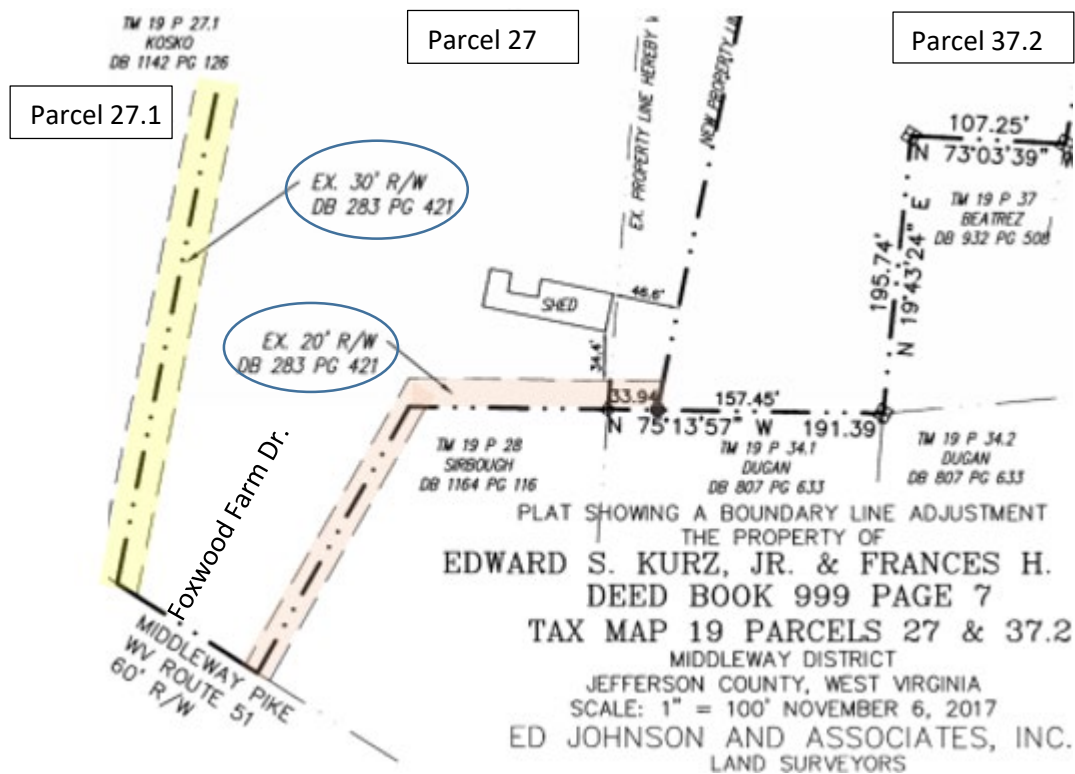
The applicant owns two (2) properties – Parcel 27 consists of 12.2 acres and Parcel 37.2 consists of 4.0 acres, after a merger approved in December 2017:

- Parcel 27 has approximately 118 feet of frontage on Middleway Pike and is occupied by a house and a barn. There are two (2) easements along the side lot lines on the southern portion of the property:
 - 15' of a 30' access easement runs along 350' of the western property line and provides access to the lot to the west;
 - 10' of a 20' access easement runs along 213' of the eastern property line and is the approximate location of Foxwood Farm Drive.

The house on Parcel 27 is addressed off Foxwood Farm Drive.

- Parcel 37.2 has no road frontage on Middleway Pike and is currently addressed off Foxwood Farm Drive.

There are currently three (3) dwelling units accessing Foxwood Farm Drive.



Staff Report
Jefferson County Planning Commission Meeting
August 13, 2019

Because both of these lots existed prior to October 5, 1988 and have not been divided, they possess the rights to divide through the Minor Subdivision Process provided that the applicant can meet the access requirements. Section 5.7.D.3 of the Zoning Ordinance permits each lot to create two (2) lots and a Residue during any five-year period utilizing the Minor Subdivision process.

3. Discussion of Subdivision Regulations:

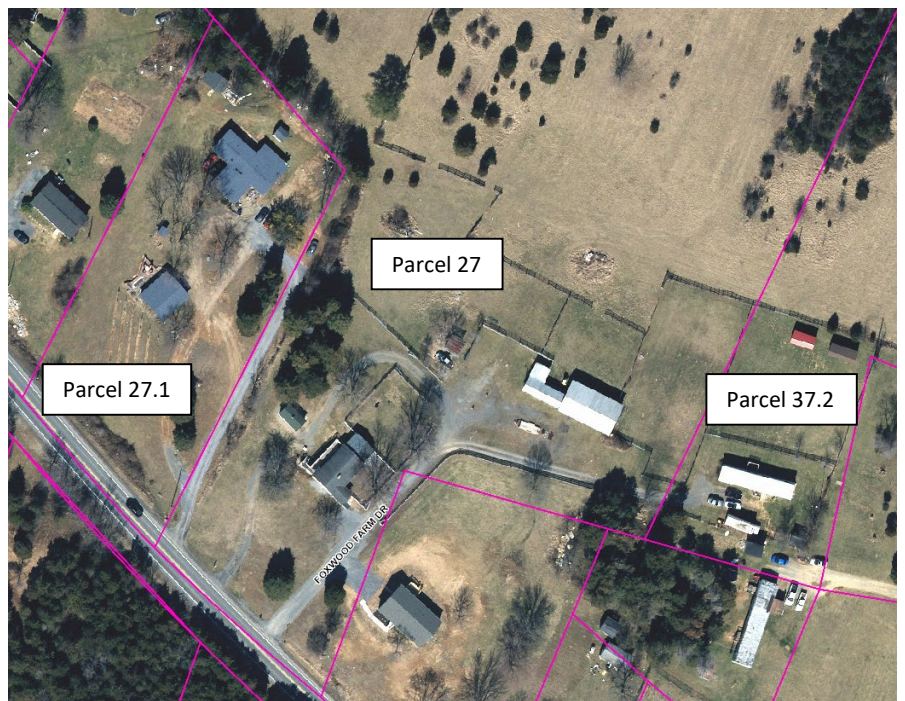
The Minor Subdivision process is found in Section 20.201.A of the Subdivision Regulations. Section 20.201.A.2 requires that all lots "...shall have motor vehicle access via a 50' access easement...". This access easement must connect to a to a WVDOH road/major subdivision road per Table 2.2-1 and serve no more than 5 lots.

Foxwood Farm Drive currently serves three (3) lots; therefore, two (2) additional lots would technically be permitted except this access easement cannot be widened to the required 50' due to the location of the existing home and barn. The applicant is requesting a reduction from 50' to 20' to allow for two additional lots to be subdivided from Parcel 37.12.

The western 30' access entrance straddles the property line of Parcel 27 and serves Parcel 27.1. The applicant is requesting a reduction from 50' to 30' to allow for two additional lots to be subdivided from Parcel 27. While increasing this easement to 50' may result in a setback violation for the existing accessory structure on Parcel 27, it may be feasible to relocate this structure to avoid this violation.

Note that on July 10, 2018 the Planning Commission approved a request to lift the single family restriction from Parcel 27.1, located to the west of Parcel 27. The purpose of lifting the single family restriction was to operate a farm winery from this location. While the property is not yet open to the public, the current property owner has planted a vineyard in the front of the property. The existing 30' access easement is also the approved access for the vineyard.

It may be possible to utilize the western access easement for a future minor subdivision on Parcel 27, if it were widened to 50', provided that the WVDOH would permit the access.



Staff Report
Jefferson County Planning Commission Meeting
August 13, 2019

Waiver Requirements:

The applicant provides a minimal response to the requirements found in “Division 24.300 Waivers” of the Subdivision Regulations. Waivers from the minimum standards in these Regulations may be granted by the Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria:

- (1) that the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature;
 - (2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
 - (3) that the waiver, if granted, will be in keeping with the intent and purpose of these Regulations; and
 - (4) that the waiver if granted will result in a project of better quality and/or character.
- Process and procedural waivers shall be reviewed and found consistent with the above criteria prior to approval.

4. Staff Recommendation:

Planning and Zoning staff recommends that the waiver be granted to allow the Foxwood Farm Drive access easement to remain as 20’ for a future minor subdivision.

Staff believes that the western access, which might be the best to serve future subdivision of Parcel 27 if a WV DOH highway entrance permit can be obtained for this location, should be required to meet the required 50’ access easement standard.



Jefferson County, West Virginia
 Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 E. Washington Street, 2nd Floor
 P.O. Box 716
 Charles Town, West Virginia 25414

File #: _____
 Mtg Date: 8/13/19
 Date Rec'd: 7/22/19
 Fees Paid: 100.00
 Staff Int: RBB
 List of Adjoiners:

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

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

Planning Commission Waiver Request

Waivers must comply with Division 24.300 of the 2008 Subdivision Regulations, as amended.

Property Owner Information

Owner Name: Edward & Frances Kurz
 Business Name: _____
 Mailing Address: P.O. Box 778 Jenwood, WV 25428
 Phone Number: (304) 274-1600 Email: franstreasures@frontier.com

Applicant Contact Information

Applicant Name: Frances Same as owner:
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Consultant Information

Name: N/A
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 25 Foxwood Farm Dr. Kearneysville, WV 25430 Vacant Lot:
 Tax District: 07 Map No: 19 Parcel No: 272 37.2
 Parcel Size: 12 ac. & 4 ac. Deed Book: 999 Page No: 17
 Zoning District: Rural

On a separate sheet of paper sketch the shape and location of the lot. Show the location of the intended construction or land use and indicate building setbacks, size, and height. Identify existing easements, roads, buildings, structures, or land uses on the property. Sign and date the sketch.

Included Not applicable (include a vicinity map if a sketch is not applicable)

What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?

20.201.A.2

Briefly Describe the Nature of Your Waiver Request:

Request to waiver 50ft access with width for both entrances in order to subdivide both lots.

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

private road

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

permits will be received before subdividing

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

Not exceeding the numbers of lots permitted per lot.

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

to retain buildable area in the front of the parcel.

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

Francis W. Kurz 7/22/19

Property Owner/Applicant Signature Date

Property Owner/Applicant Signature Date

Notification Requirements

The subject parcel shall be posted with a minimum of one 28" x 22" placard at least 14 days prior to the public hearing. The placard(s) will be prepared by the Staff and posted by the applicant. Adjacent property owner name and address information shall be provided by the applicant so that notification letters can be mailed by Staff least 14 days prior to the public hearing.

Public Hearing Date

Date Placard Posted

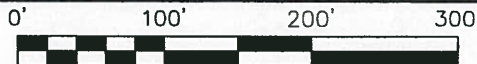
Date Adjoiners Mailed

Planning Commission Determination

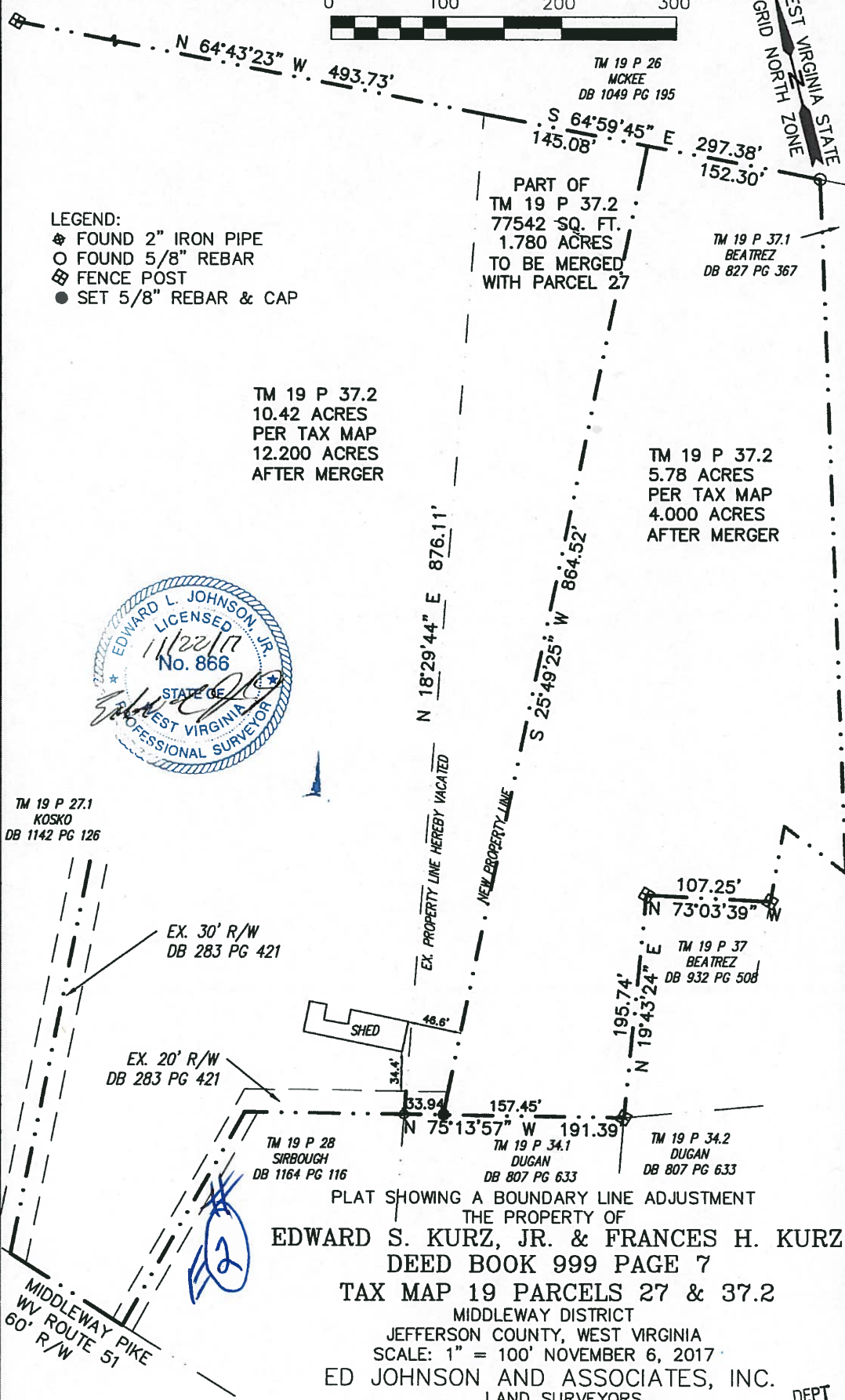
Approved

Denied

Date: ___ / ___ / ___



WEST VIRGINIA STATE
GRID NORTH ZONE

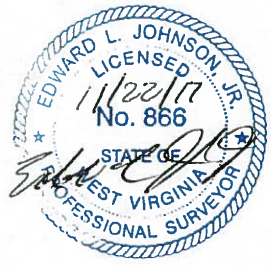


- LEGEND:
- ◆ FOUND 2" IRON PIPE
 - FOUND 5/8" REBAR
 - ⊠ FENCE POST
 - SET 5/8" REBAR & CAP

PART OF
TM 19 P 37.2
77542 SQ. FT.
1.780 ACRES
TO BE MERGED
WITH PARCEL 27

TM 19 P 37.2
10.42 ACRES
PER TAX MAP
12.200 ACRES
AFTER MERGER

TM 19 P 37.2
5.78 ACRES
PER TAX MAP
4.000 ACRES
AFTER MERGER



TM 19 P 27.1
KOSKO
DB 1142 PG 126

EX. 30' R/W
DB 283 PG 421

EX. 20' R/W
DB 283 PG 421

TM 19 P 28
SIRBOUGH
DB 1164 PG 116

TM 19 P 34.1
DUGAN
DB 807 PG 633

TM 19 P 34.2
DUGAN
DB 807 PG 633

TM 19 P 37
BEATREZ
DB 932 PG 508

PLAT SHOWING A BOUNDARY LINE ADJUSTMENT
THE PROPERTY OF
EDWARD S. KURZ, JR. & FRANCES H. KURZ
DEED BOOK 999 PAGE 7
TAX MAP 19 PARCELS 27 & 37.2
MIDDLEWAY DISTRICT

JEFFERSON COUNTY, WEST VIRGINIA
SCALE: 1" = 100' NOVEMBER 6, 2017
ED JOHNSON AND ASSOCIATES, INC.
LAND SURVEYORS
674 ACORN CIRCLE
HARPERS FERRY, WEST VIRGINIA 25425
(304)725-6060

DEPT
OF
P&E

Staff Report
 Jefferson County Planning Commission Meeting
 August 13, 2019

Holtzman Oil Corp. Waiver Request (#19-13-PCW)

Public Hearing: Request by Burr Park Lot 16 (Holtzman Oil Corp.) (File #: 19-13-PCW). Applicant is requesting a waiver from Section 22.208A and Appendix B Section 10.6 of the Subdivision and Land Development Regulations that require sidewalks along the road right-of-way (Wiltshire Road and War Admiral Boulevard) for non-residential site development.

APPLICANT:	Holtzman Oil Corp.
OWNER/ DEVELOPER:	Epic at Burr Park, LLC.
CONSULTANT:	Gordon, Todd Heck
PROPERTY LOCATION:	Burr Industrial Park, Lot 16A&16B
LEGAL DESCRIPTION & ZONING DISTRICT	<p style="text-align: center;">District: Charles Town (02); Map: 1; Parcels: 69 & 69.1 Size: 3.25 & 2.45 acres; Zone: Industrial-Commercial</p>
SURROUNDING PROPERTIES ZONING	<p>North: City of Ranson South: Industrial-Commercial East: City of Ranson West: City of Ranson</p>
PARCEL HISTORY:	<p>3/18/04: Merger Plat Lots 16A, 16B & 17 (PB20 PG 79) 9/5/96: Burr Industrial Park Lots 16A,6; 17A,B,C; 18A,B (PB14 PG30) 3/1/91: Burr Industrial Park, Phase 1 (Lots 1-44) (#88-68) (PB10 PG10)</p>

Staff Report
 Jefferson County Planning Commission Meeting
 August 13, 2019

WAIVERS/VARIANCES:	7/25/19: BZA Variance (19-17-ZV) from Appendix B and Section 4.11E to allow the proposed modified planting standard 7/25/19: BZA Variance (19-16-ZV) from Section 10.4B.2 to increase the permitted freestanding business sign height from 35' to 65' 3/12/96: Variance allowing Lot 16B to access external roads
PROPOSED ACTIVITY:	19-4-S: Construction of a Gas Station, Large with ~4,700 sq. ft. convenience store and associated fuel pumps.

1. Site Background:

The subject parcel is Lot 16A&16B within Phase 1 of the Burr Industrial Park; recorded on March 1, 1991 (Plat Book: 10; Page: 10). A revised plat was subsequently recorded on September 5, 1996 (Plat Book 14; Page 30), which reconfigured the lots in this portion of the Industrial Park as a result of the eminent domain action by the West Virginia Department of Transportation, Division of Highways for the construction of the new WV 9. On March 18, 2004, a merger plat was recorded which revised the configuration of Lots 16 A and B and Lots 17 A and B. There is currently a site plan under review to permit a large gas station on Lots 16A and 16B with proposed accesses to Wiltshire and War Admiral (pending WV DOH approval) as well as access to the internal subdivision roads via an existing cul-de-sac.

2. Summary of the Request:

The applicant is requesting a waiver from Section 22.208A and Appendix B, Section 10.6 of the Subdivision and Land Development Regulations that requires sidewalks along the road Right-of-Way to support all non-residential subdivision/site development. The applicant is requesting to not install the required sidewalk along both Wiltshire Boulevard and War Admiral Drive.

3. Recommendations of *Envision Jefferson 2035 Comprehensive Plan*:

It should be noted that the interconnectivity of businesses and neighborhoods was identified as an important objective of the *Envision Jefferson 2035 Comprehensive Plan* and, as such, the waiver of the required sidewalk, needs to be carefully considered. While the following excerpts from the Comp Plan are not requirements, they should be taken into consideration when reviewing this waiver request and may indicate the need to clarify this provision of the Subdivision Regulations in the future.

Comprehensive Plan Excerpts

Goals 12 and 13 relate to Transportation. Under Goal #13, which states “Provide a Variety of Options for Mobility and Accessibility for Jefferson County Residents and Visitors, including Public Transportation and Pedestrian/non-motorized Opportunities within the County and Between Neighboring Counties and States” (p. 202), the following objectives particularly relate to the provision of sidewalks:

Objective #4: Implement a network of sidewalks, shared roadways, and trails that are available to residents of Jefferson County and that connections along the trails/pathway are extended into adjoining neighborhoods, communities, and counties.

Objective #5: Require that sidewalks are constructed (or that at a minimum, easements are provided) within and connecting to existing and new development within the UGBs, PGAs, or Villages.

Staff Report
Jefferson County Planning Commission Meeting
August 13, 2019

Under Subsection 2E “Transportation” there is a discussion of “Sidewalks and Trails” (p. 114) which includes the following benefits to sidewalks and trails:

“The increased availability of sidewalks and trails would encourage:

- greater transportation options;
- health, wellness and safety of residents;
- reduced transportation costs for both communities and for residents; and
- a greater sense of community.”

The Transportation Recommendations (Goals 12 & 13) Section (p. 116) includes the following

“#7 Strengthen provisions in the County’s Subdivision and Land Development Regulations to accomplish the following:

- a. Provide for the incremental construction of sidewalks and bicycle and pedestrian paths in and between new and existing neighborhoods as development occurs.
- b. Require commercial developers to enhance sidewalks, bicycle, and pedestrian paths accessibility, and visibility within their developments.
- c. Strive to provide connectivity between bike and pedestrian paths that pass through or connect to adjacent new and existing residential developments. (*emphasis added*).

#8 Coordinate with planning efforts underway by a variety of stakeholder groups to identify and build a series of multi-use trails connecting the County’s municipalities, villages, schools, and parks, as well as developing connections to adjacent counties for commuter and recreational purposes”.

The section entitled “Implementation Tools” includes numerous proposed actions for the Planning Commission including the development of opportunities for “interconnectivity for roads, sidewalks, and trails to other neighboring developments and property” to be required which, in turn, will reduce the traffic volumes on the primary roads.

4. Requirements of Subdivision and Land Development Regulations:

The Jefferson County Subdivision and Land Development Regulations includes a number of references and recommendations regarding the provision of sidewalks for both residential and non-residential developments, including those that follow.

Article 21 Subdivision and Development Design; Division 21.200 Site Plan Requirements

Section 21.204 Pedestrian Circulation:

“All proposed site plans shall provide a safe, efficient, and attractive pedestrian environment. The criteria for this include:

A. Access to Adjoining Property. The access to adjoining properties shall provide for continued pedestrian access to adjoining commercial properties. Where the adjoining use is residential, the connections shall be to any street's or stub street's sidewalks.

B. Crossings. Crossings of roads or drives shall be clearly identified and signed to provide safe pedestrian crossings. Landscaping shall not interfere with sight distances. Traffic calming measures shall be encouraged in any locations where pedestrian crossings are proposed. . . .” (*emphasis added*).

Staff Report
Jefferson County Planning Commission Meeting
August 13, 2019

Article 22 Infrastructure and Grading; Division 22.200 Streets

Sec. 22.208 Sidewalks:

“**A. Location of sidewalks.** Sidewalks shall be provided along at least one side of streets in all zone districts. In the Rural District when residential density in the proposed development is less than three (3) units per acre and/or when lot frontage is greater than 80 feet, sidewalks are not required. Sidewalks shall be located within townhouse or multi-family residential developments and any non-residential subdivisions and/or site plans. Sidewalks shall be located in the platted street right-of-way, a minimum of one foot from the property line. Walks shall also be installed in pedestrian easements as may be required by the Planning Commission.” (emphasis added).

Appendix B - Engineering Standards

Section 10.6 Curbs, Gutters, & Sidewalks⁴

- “A. Stormwater management using low impact development technology (LID) and landscaping or curb and gutter systems as well as sidewalks shall be provided to support multi-family residential and non-residential subdivision/site development. On a case by case basis, the Office of Planning and Zoning will review alternatives to traditional sidewalks; such alternatives may include hard surface trails or meandering paths. Planning and Zoning Staff may allow a 10 foot pedestrian/bike easement(s) in-lieu of installation of a sidewalk, trail or path when in the judgment of Staff an easement(s) may be a preferred option. Where curbs and gutters are provided to convey stormwater from impervious areas to stormwater management facilities; they shall be in accordance with Appendix B, Section 2.2.K.2, Roadway Curbs & Gutter. (emphasis added).
- B. Internal site sidewalks and ramps shall be provided where necessary to convey pedestrian traffic from parking areas to buildings; and shall be in accordance with Appendix B, Section 2.2.K, Curbs, Gutters, & Sidewalks.
- C. Sidewalks shall be provided where required to continue existing public sidewalks or where required to provide pedestrian conveyance between existing developments on either side of the proposed site”.

5. Staff Comments:

While Section 10.6A of the Subdivision Regulations does provide that on a case by case basis, the Office of Planning and Zoning may consider alternatives to traditional sidewalks and that Planning and Zoning Staff may allow a 10 foot pedestrian/bike easement(s) in-lieu of installation of a sidewalk, Staff generally does not administratively approve the use of an easement only for a commercially or industrially zoned property or in an area with urban level density and therefore required the submittal of this waiver request. For this reason, Staff directed the applicant to apply for a waiver for consideration by the Planning Commission.

While War Admiral Drive is not currently a road along which much pedestrian traffic occurs, this stretch of the road leads into the Ranson Urban Growth Boundary and is included in an area identified as potential Urban Growth Boundary Expansion in the *Envision Jefferson 2035 Comprehensive Plan*. Residential and non-residential growth is anticipated to occur along the southwest side of WV 9 both north and south of Wiltshire Boulevard as utilities become more readily available in this area.

Staff Report
Jefferson County Planning Commission Meeting
August 13, 2019

While it should be noted that there is a regional bike path on the northeast side of WV 9, this path will not serve to provide pedestrian connectivity to growth on the southwest side of WV 9 and the Planning Commission should consider planning for future growth that is anticipated in this area in the *Comprehensive Plan*. This appears to be an area which requires planning for the future provision of pedestrian interconnectivity as the adjoining areas develop with commercial/industrial uses and residential developments. The recommendations of the *Comprehensive Plan* regarding providing pedestrian interconnectivity makes this recommendation for existing as well as proposed development. The question always becomes how to begin to meet this goal in an area that is already partially developed without this feature. At a minimum, the provision of an easement along the frontage of this property allows for the potential for future pedestrian interconnectivity as other properties along this road develop or redevelop.

6. Waiver Requirements:

The applicant is requesting that the requirement for providing a sidewalk along the property frontage be waived. They have addressed the following requirements found in “Division 24.300 Waivers” of the Subdivision Regulations in their attached application:

Waivers from the minimum standards in these Regulations may be granted by the Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria:

- (1) that the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature;
- (2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- (3) that the waiver, if granted, will be in keeping with the intent and purpose of these Regulations; and
- (4) that the waiver if granted will result in a project of better quality and/or character. Process and procedural waivers shall be reviewed and found consistent with the above criteria prior to approval.

7. Staff Recommendation:

Staff prefers to see the beginning of an interconnected sidewalk for this area of the County; however, if the Planning Commission is inclined to approve this waiver, staff recommends that a 10’ easement be provided by deed or plat for the potential future development of a pedestrian walkway along Wiltshire Boulevard and War Admiral Way.



Letter of Transmittal

To Jefferson County Planning
116 E. Washington Street
Charles Town, WV 25414

Date July 23, 2019
Shipped Via Fedex
Project Name Burr Business Park Lot 16
Project No. 3382 Phase No. 0101
Subject Plan Submission
From Justin Emery

County No./ Town No.

We are sending you Print(s) Correspondence(s) Electronic Media Originals
 Submission 1st 2nd 3rd Other

Copies	Date	Description
1		Sidewalk Waiver Request and Check(\$100.00)

These are transmitted For your use As requested For approval For review and comment
 Other _____

Comments

Please contact our office at 304-725-8456 with any questions.

Signature of Receipt _____ Date _____

cc:

C:\Users\cwilliams\Documents\Templates\Transmittal.doc

RECEIVED

JUL 24 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

www.gordon.us.com

PROGRAMMING AND PLANNING
CIVIL ENGINEERING
LANDSCAPE ARCHITECTURE
SURVEY AND MAPPING
SECURITY CONSULTING

CHANTILLY: 4501 Daly Drive, Chantilly, VA 20151 — Phone: (703) 263-1900

MARTINSBURG: 148 South Queen Street, Suite 201, Martinsburg, WV 25401 — Phone: (304) 725-8456



June 28, 2019

Jefferson County Planning & Zoning
116 East Washington Street
Charles Town, WV 25414

Subject: Burr Park Lot 16A & 16B – Sidewalk

Reference: Gordon Project No: 3332-0101
Jefferson County No: _____

Per Appendix B, Section 10.6.C of the Subdivision Regulations, "Sidewalks shall be provided where required to continue existing public sidewalks or where required to provide pedestrian conveyance between existing developments on either side of the proposed site."

We hereby request that staff to allows this project to be in conformance with the previously approved waiver associated with Burr Industrial Park and to provide in-lieu of inter-parcel sidewalk a 10' wide pedestrian access easement along the sites frontage . Burr Industrial park was approved under this exception, however lots 16A & 16B however were not included within the limits of this variance. Lots 16A/16B have now become part of the larger Burr Park development and to retain continuity with the rest of the development we believe this lot should be included with the same rights/restrictions associated with the previously approved waiver.

Should there be any questions please contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Justin Emery".

Justin Emery, PE
Design Engineer

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JUL 24 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING



Jefferson County, West Virginia
 Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 E. Washington Street, 2nd Floor
 P.O. Box 716
 Charles Town, West Virginia 25414

File #: 19-13-PCW
 Mtg Date: 8/13/19
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 Fees Paid: 100.00
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 List of Adjoiners:

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

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

Planning Commission Waiver Request

Waivers must comply with Division 24.300 of the 2008 Subdivision Regulations, as amended.

Property Owner Information

Owner Name: _____
 Business Name: EPIC at Burr Park, LLC
 Mailing Address: 17037 Bold Venture Dr. Leesburg, VA 20176
 Phone Number: (703) 969-1197 Email: _____

Applicant Contact Information

Applicant Name: Dexter Mumaw Same as owner:
 Business Name: Holtzman Oil Corp.
 Mailing Address: 57 Main Street Mt. Jackson, VA 22842
 Phone Number: (540) 333-2479 Email: _____

Consultant Information

Name: Todd Heck
 Business Name: Gordon
 Mailing Address: 148 S. Queen Street, Martinsburg, WV 25401
 Phone Number: (304) 725-8456 Email: _____

Physical Property Details

Physical Address: No Address Current Assigned Vacant Lot:
 Tax District: Charles Town Map No: 1 Parcel No: 69/69.1
 Parcel Size: 5.02 Ac Deed Book: 1103 Page No: 3
 Zoning District: _____

On a separate sheet of paper sketch the shape and location of the lot. Show the location of the intended construction or land use and indicate building setbacks, size, and height. Identify existing easements, roads, buildings, structures, or land uses on the property. Sign and date the sketch.

Included Not applicable (include a vicinity map if a sketch is not applicable)

What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?

Appendix B, Section 10.6.C

Section 22.208A & Appendix B Sect. 10.6

* Change verified via e-mail 7/29/19 RBB

Briefly Describe the Nature of Your Waiver Request:

Provide no sidewalk along the frontage of the site since not sidewalk has been/will be proposed with future development within Burr Business Park.

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

Provide no sidewalk will allow for a larger amount of green space and less concrete producing additional run off to the existing stormwater management facility.

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

Since no sidewalk current exists within the Burr Park development this site not installing a sidewalk to nowhere along the frontage would not adversely effect the public health, safety, or welfare.

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

The intent to provide sidewalks along the frontage of parcels is to increased the walk ability of the community, however since Burr Business park was designed with industry in mind walk ability is not a major concern to people visiting the park for work.

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

No sidewalk currently exist within the development, therefore not providing sidewalk within our site will help retain the uniformity that has been held so far within the park development.

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

 7/9/19
Property Owner/Applicant Signature Date

Property Owner/Applicant Signature Date

Notification Requirements

The subject parcel shall be posted with a minimum of one 28" x 22" placard at least 14 days prior to the public hearing. The placard(s) will be prepared by the Staff and posted by the applicant. Adjacent property owner name and address information shall be provided by the applicant so that notification letters can be mailed by Staff least 14 days prior to the public hearing.

Public Hearing Date

Date Placard Posted

Date Adjoiners Mailed

Planning Commission Determination

Approved

Denied

Date: ___ / ___ / ___

7/10/19

Accessory use
Farm distillery

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JUL 09 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

~~Use~~ A use which is incidental and subordinate to a farm distillery and is located on the same parcel of land as the distillery. This accessory use shall be limited to a gathering of individuals for a celebratory ceremony, reception or similar activity for which no fee (admission, ~~and~~ parking, ect.) is charged. This ~~use~~ accessory use

to attend

the attendance at this accessory use shall not exceed ^{(a) in attendance 150 individuals people} ~~100~~ people, including

employees; (b) ~~can~~ occur more frequently than once in 7 days and (c) exceed one day in duration. This accessory use may

occur within a ^{building} structure, outside of a building structure or both inside and outside of a structure. building and a rental fee for each

use may be charged by the farm distillery owner. Food service may be offered during an accessory use.

Appendix C. use for rental list

From: [Theresa Lock](#)
To: [Planning Department](#)
Subject: Re: newly purchased property (may 2018)
Date: Monday, July 22, 2019 5:54:09 PM

Hi Alex,
Thanks again for speaking with me.

RE: Event venue facility combined with a campground.

Our interest in a text amendment is to address the issues with the current legislature that talks about the ability to turn an existing structure into an event venue. We, on the other hand, want to create an event venue from scratch (so-to-speak) in order to ensure that the proper planning and building codes are followed. Including but not limited to, parking requirements, fire systems, structural load, traffic/county road concerns. However, we want to make sure that all the investment on the building of such venue is justified by having guidelines to follow through zoning, licensing etc.

As you indicated, it is our legal right on rural property to pursue the campground that would allow us up to 10 cabins, caretaker home, small campground store and amenities such as an event pavilion. However, because we are certain that the event venue/event pavilion will generate more revenue, it may quickly require us to change the designation from campground to event facility to keep us compliant with zoning ordinances.

Our intention is to allow for the maximum number of attendees which would be no more than 300 persons, with parking at a ratio of 1 spot per 2 attendees (as per the guidelines). We expect that the campground and event pavilion will stay open year-round and events can be scheduled 7 days a week. Our goal is to marry the two ideas (campground/event venue) to allow the guests to stay in our cabins after their event, if they so desire. We want to make sure we construct the business in the right manner, taking into consideration all zoning requirements from the start.

It seems to me that the reasoning behind the Conditional Use Permit vs the “right” on Rural property with respect to the event venue and campground is due to the impact on surrounding neighbors/businesses/roads. Our event venue will be located on a major state road (route 115), .4 miles west of New Route 9. This road has minimal traffic due to the New Route 9. There are very few neighbors, and the business closest to us is very supportive and is looking forward to our new business venture because it will definitely impact their business positively (Torlones).

I’m not sure this is what you were looking for – but there ya go!
I hope our comments help with the text amendment.



Theresa Lock
CFO/HRM
CorePartners, Inc.
203 Broadway Street, Suite 310
Frederick, MD 21701
www.corepartners.com
Phone: 301.695.2673 x102
Cell: 304.550.7344



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

RECEIVED

JUL 23 2019

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

July 20, 2019

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

Dear Honorable Commissioners

Please accept these comments on the proposed amendments concerning Agricultural Event Center Zoning Ordinance Amendments. As you know, I have worked closely with the Planning Commission and State Legislature regarding the use of Existing and New Structures on an Agricultural property for other uses such as Agritourism which includes things like Event Centers. As such, I have several comments on the proposed amendments concerning these uses.

Firstly, I believe that the Ordinance should be abundantly clear that existing structures (existing as of the date of this amendment) can be used for any type of use without the need for Site Plan since they already exist. Currently there are a lot of interpretations that need to be made by Staff when uses on Farms are being evaluated. During the past meetings of the current Planning Commission, it seems clear that Agricultural Properties should be given flexibility regarding the repurposing of buildings for other uses.

Here are some suggestions regarding the current amendments:

1. When defining or describing Event Facilities, Agricultural, there should be no limit on the number of events or number of days if the structure is still to be utilized for Agricultural Uses or purposes on a part time basis. This is easily tracked and enforced as opposed to trying to limit it to 1 day per week. Who will be enforcing the fact that a rehearsal dinner may take place on Friday and the wedding on Saturday? The way it is proposed now, someone will need to be verifying that weekend events don't have public coming for two days over the weekend. The idea is to make these types of uses on farms more like a destination for the weekend. The farm is preserved, and alternate methods of income are provided for the farmer;
2. Event Facilities, Agricultural should be added to the definition of Agricultural Uses in the Ordinance. Currently, "Commercial Agricultural Enterprise", "Agritourism Tourism" and "Farm Vacation Enterprise" are all already included in that definition, so it seems clear that the County has already indicated that all these related uses are considered agricultural. By adding 'Event Facilities, Agricultural' to the definition of Agricultural Uses in the Ordinance, it will help clarify the fact that the County recognizes that these uses, and structures are considered Agricultural, as well;
3. Section 4.5 (attached) should be clarified to state that Agricultural Uses and Agricultural Uses' Facilities are exempt from site planning requirements; and,
4. Section 4.10 (attached) should also be expanded to be clear that Agriculture and Agricultural Uses do not need to prepare or submit a site plan. This can be accomplished in Section 4.10A. Currently that section does not list the need for Agricultural Uses, but last year there was a question why it didn't specifically list Agriculture. Based on the exclusion of Agriculture in 4.10,

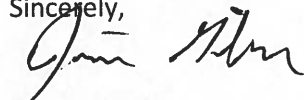
the idea was to consider Agricultural as Commercial in order to fit it into a listed category under 4.10A. My belief was that the exclusion of Agriculture in 4.10 meant that Agriculture didn't have to prepare a site plan. The Commission should take this opportunity to clarify 4.10's application on Agricultural Uses.

I feel that the recent push for Agritourism on Farm Use properties at the State and Local levels is an indication that both the State and County wants to do everything they can to promote the preservation of Farmland. I really believe that the attempt started in 2005 when the definition of Agricultural Uses was added or expanded in the Zoning Ordinance. The new legislation that allows Agritourism Facilities on Farm Use property to continue to be taxed as Agricultural and exempt from the application of Building Codes supports this notion. It is my understanding that legislation encourages the use of existing structures on farms for agritourism uses if they are structurally sound and that the Fire Marshall's office approves them for Fire Protection and Ingress/Egress.

Some of the things that have been proposed and approved on Farms in the past year or so show an intent of the farmer to be innovative when it comes to related commercial uses or agritourism on their properties. It is important to allow these types of uses without making them cost prohibitive. Accordingly, these proposed changes to the amendments should help with that effort.

If you have any questions, please feel free to contact me at 304/279-2688. Thank you.

Sincerely,



Jim Gibson
304/279-2688

Adult Theater¹⁵

A theater, concert hall, auditorium, or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities.

Adult Use⁷

Uses that are commonly associated with adults only, including but not limited to: bars, lounges, dance clubs, stripping establishments, adult book stores, clubs, adult arcades, adult cabarets, adult motion picture theaters, massage parlors, sexual encounter establishments or other similar businesses.

Affordable Housing^{17, 21}

Housing units where the occupant is paying no more than 30 percent of Jefferson County median gross income for housing costs, including taxed and utilities.

Aggrieved or Aggrieved Person^{17, 21}

A person who is denied by the Planning Commission or the Board of Zoning Appeals, in whole or in part, the relief sought in any application or appeals, or has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the county or municipality may suffer.

Agricultural Use^{17, 21, 23}

The use of land for a bona-fide farming operation. This includes:

1. Commercial Agricultural Enterprise;
2. Agriculture, Ranching;
3. Aquaculture;
4. Apiculture;
5. Horticulture;
6. Viticulture;
7. Fish, meat, poultry and game birds processing, provided that fifty percent (50%) of the meat processed must be raised on the site farm of the processing facility for minimum periods of three (3) months for beef and pork and two (2) months for lamb and poultry;
8. Animal Husbandry; including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals;
9. Poultry husbandry and the production of poultry, game birds and poultry products;
10. Dairy production and processing of dairy products;
11. Equestrian uses;
12. The production of field crops including but not limited to tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, mushrooms, timber, pasturage, Christmas trees, maple sap, woody biomass, compost;
13. Pick your own farm products;
14. Agricultural tourism;
15. Farm vacation enterprise;
16. Farm brewery and winery subject to the requirements for such a use in Article 8;
17. Rental of garden plots;
18. Community supported agriculture;

- F. Jails, prisons, and/or penal institutions shall be prohibited in all zoning districts except the Industrial-Commercial District and the Major Industrial District.^{5, 27, 32}
- G. No gambling or casino type game of chance (video or mechanical) that provides any type of payoff or remuneration shall be permitted anywhere in Jefferson County unless expressly and explicitly permitted and authorized by the West Virginia Code as amended. Such use shall only be permitted in the Industrial-Commercial District and the Major Industrial District and shall be processed as a Conditional Use through the Board of Zoning Appeals.^{6, 23, 27, 32}

This prohibition does not apply to betting on horses or pari-mutuel betting on horses. Furthermore, this prohibition does not apply to such uses that existed at the time of the adoption of this ordinance. Approval of a Conditional Use shall not supersede this prohibition in any zoning district other than the Industrial-Commercial District or the Major Industrial District.^{23, 27, 32}

- H. For parcels located east of the Shenandoah River or which are in a natural, undisturbed condition within 1000 feet of the Potomac and Shenandoah Rivers and Opequon Creek, no use shall be permitted without adherence to the requirements for retention of land in a natural, undisturbed area as spelled out in Section 22.504 of the Jefferson County Subdivision and Land Development Regulations.^{5, 23}
- I. No sales of fireworks are permitted outside of the Industrial-Commercial, Residential-Light Industrial-Commercial, General Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts, and are subject to the requirements of for such use in Article 8.^{8, 23, 27}
- J. Vehicle signs left parked or standing on a public right-of-way, public property or private property.¹²
- K. Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall only be permitted in the Industrial-Commercial District.^{23, 27}

No conditional use permit shall be approved for any of these adult uses in any zoning district. This provision does not apply to any specific existing use that legally qualifies as a nonconforming use.^{15, 16, 27}

- L. Salvage yards unless established in accordance with the Jefferson County Salvage Yard Ordinance.²³
- M. Heavy industrial uses listed as Conditional Uses (CU) in Section 5.6B and Appendix C , Principal Permitted and Conditional Uses Table of this Ordinance are permitted only in the Industrial-Commercial District and the Major Industrial District and require approval of the Board of Zoning Appeals in accordance with Section 6.3.^{23, 27, 32}
- N. No above ground chemical storage tanks shall be permitted within an area defined by one (1) mile upstream of any public water intake and within one-quarter (1/4) mile of any waterway serving the public water intake; provided, however, that agricultural tanks that are regulated by WV Code Chapter 19 are exempt from this provision.²⁷

Section 4.5 Agricultural Uses Permitted Generally

Except for compliance with distance requirements for a building set forth in Section 4.6, nothing in this Ordinance shall prohibit the use of land for agricultural purposes or the construction or use of building or structures incidental to the use for agricultural purposes.

2. Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance. Existing structures (which existed prior to the adoption of this text amendment) within the protection radius may be converted to a non-residential use in accordance with Appendices B & C and shall comply with applicable district regulations as required by Article 5.

Section 4.7 Essential Utility Equipment

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

Section 4.8 Buildable Lot

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

Section 4.9 Traffic Visibility Across Corner Lots

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

Section 4.10 Site Plan Requirements

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.^{23, 26}
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.²³
- D. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.^{10, 17, 21, 23}

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.²⁷

A. Commercial Development²⁷

1. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a 50 foot or greater unscreened green space buffer or a 15 foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

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Planner's Memorandum Planning Commission Meeting August 13, 2019

1) RFQ for Consultant to Assist with Ordinance Updates

PC Committee and staff met with top candidate to discuss scope of work so that applicant can prepare proposal and cost estimate – expected to be submitted by 8/9/19 for discussion at 8/29/16 CC meeting

2) Zoning Ordinance Text Amendments

- a) ZTA19-02 Churches in IC zone (CC PH scheduled for 8/29/19 11 a.m.)
- b) ZTA19-01 Event Venue in new structures (PC PH closed 7/23/19; follow up discussion 8/13/19)
- c) Revise Article 10 “Provisions for Signs” to incorporate procedures for various signs
- d) WV45 Gateway Design Standards (ZTA17-02) requested by Corp of Shepherdstown
- e) Revise Section 5.7D.2 “Clustering” to address issues with current requirements
- f) Revise and coordinate Section 4.11 “Landscaping, Screening and Buffer Yard Requirements” and Appendices A and B which are in conflict in some areas
- g) Revise Article 11 “Off-Street Parking Standards” to address more diverse land uses

3) Subdivision Regulation Text Amendments

- a) Incorporation of Improvement Location Permit Ordinance into Subdivision and Land Development Regulations
- b) Subdivision and Land Development Regulations Amendments (STA18-01) – reorganization and update to current processes

4) Upcoming PC meetings

- a) Next Regular Meeting: **September 10, 2019**

