



## AGENDA

Jefferson County Planning Commission  
Tuesday, March 10, 2020, 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: February 11, 2020.
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:** Major Site Plan for the Martinsburg Pike ROCS Site Plan Application (#18-06-S), consisting of a 6,000 sq. ft. gas station with convenience store, including 5 fuel islands and 10 gas pumps. The property is designated as Tax District: Shepherdstown (09); Tax Map: 8A; Parcels: 19, 21 and 23; Zoned: Residential-Light Industrial-Commercial (RLIC); Size: 3.56 acres combined (total of 3 lots).
5. **Public Hearing:** Request by Michael C. Wilson (File #20-1-PCW). Applicant is requesting a waiver from Section 20.201A(2) of the 2008 Subdivision Regulations, as amended, which requires all lots in minor residential subdivisions to have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots. Applicant is requesting to utilize an existing 30' easement (Amnesty Way) to access a proposed two additional lots for a total of 6 lots. The property is designated as Tax District: Shepherdstown (09); Tax Map: 4, Parcel: 5; Zoned: Rural; Size: 22.276 acres.

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

6. Reports from Legal Counsel
7. Planner's Memo
  - Status of Greenway Subdivision and Zoning Ordinance Amendments
8. President's Report
9. Actionable Correspondence
10. Non-Actionable Correspondence
  - Letter from Carmen Creamer



Meeting Minutes  
Jefferson County Planning Commission  
February 11, 2020

The Jefferson County Planning Commission met on February 11, 2020 with the following Commission members present: Steve Stolipher, Vice President; Wade Louthan, Secretary; Ralph Lorenzetti, County Commission Liaison; J Ware, Jack Hefestay, Ron Thomas and Mike Shepp. Staff members present included: Jonathan Saunders, County Engineer and Alex Beaulieu, Zoning Administrator.

Mr. Donnie Fisher was planning to be late with prior notification and ended up not attending.

Mr. Ray Bruning, Mr. Nathan Cochran, County Attorney and Ms. Jennifer Brockman, County Planner were absent with prior notification.

Mr. Stolipher called the meeting to order at 7:00 pm.

1. Election of Planning Commission Officers. Mr. Steve Stolipher nominated Mr. Mike Shepp to be the Planning Commission President. Mr. Wade Louthan seconded the nomination. Mr. Steve Stolipher nominated Mr. Donnie Fisher to be the Vice President. Mr. J Ware seconded the nomination. Mr. Mike Shepp nominated Wade Louthan to continue as Secretary and Mr. J Ware seconded the nomination. A vote was taken for all of these combined nominations, which carried unanimously.
2. Approval of the December 10, 2019 meeting minutes: Mr. Mike Shepp noted a discrepancy to the meeting minutes for item number six. He reviewed his motion regarding the agenda item and clarified that he was not supporting the proposed amendment drafted by Torch specifically, but supporting the discussion of an amendment related to solar farms. Ms. Beaulieu clarified that the motion was to accept the petition to include within the Planning Commission's work plan to develop provisions to allow solar energy facilities to process in the County. She noted that the motion included scheduling a work session to continue discussion on solar energy facilities and essential utilities at their January meeting. Mr. Shepp agreed with the clarification.

Mr. Steve Stolipher made a motion to accept the amended minutes as discussed. Mr. Wade Louthan seconded the motion, which carried unanimously.

Ms. Alex Beaulieu also had a correction to item # 5. She stated that the applicant's representative asked we revise the top of page 2, paragraph 1, 3<sup>rd</sup> sentence. Ms. Beaulieu read the revised sentence as follows, "Additionally, Mr. Raco noted that while the Zoning Ordinance does not require any buffering from the Category II structure, the applicant is proposing to set the proposed development back from the category II historic structure and will adaptively reuse the structure".

Mr. Stolipher motioned to accept the proposed change. Mr. Shepp seconded the motion, which carried unanimously.

3. Citizen Communications. None.
4. Request for postponement. None.
5. **Public Workshop:** Concept Plan for Country Club Commons (File #19-17-SD), formerly known as Breckenridge Commercial Subdivision. A proposed Non Residential Major Subdivision, the owner intends to create 4 lots and a public street for future commercial pad-users. In addition, the developer proposes 2 access points: one right in/out from US340 and one full-access onto Old Country Club Rd (WV Rt. 24). The property is designated as Tax

District: Harpers Ferry (04); Tax Map: 11, Parcel: 11; Zoned: Residential Light Industrial Commercial; Size: 9.54 acres.

Ms. Alex Beaulieu reviewed the Major Non Residential Subdivision. She explained that the proposal included the creation of four non-residential lots with a proposed access onto Country Club Road and a right-in / right-out access onto Route 340. Mr. Beaulieu noted that water and sewer would be provided by Charles Town Utility Board and that the WV Division of Highways would require a Traffic Impact Study.

Mr. Lorenzetti inquired about which surrounding properties had been annexed into the City. Staff explained that the properties across Route 340, where Aldi's is located, had been annexed but that the properties surrounding the subject parcel were within the County's jurisdiction.

Mr. Paul Raco, applicant representative, Mr. Dan Snyder and Mr. Bob Barrack with B.C. Partners were present for the request. Mr. Raco provided an overview of the proposed project and noted that the request was to create up to four non-residential lots, but that the applicant could opt to create less lots, depending on what businesses want to locate there. He noted that the Concept Plan was the first step in the Major Non-Residential Subdivision and that once each of the lots are created, a site plan would process for each individual lot. Mr. Raco explained that the property is zoned Residential-Light Industrial-Commercial which allows most commercial uses by right, with a few exceptions which would require a conditional use permit, subject to review and approval by the Board of Zoning Appeals. Mr. Raco discussed the US 340 East Preferred Growth Area (PGA) and stated that the proposed non-residential subdivision is in compliance with the zoning and consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Raco provided an overview of the WV Division of Highways (DOH) approval process at state and federal level, noting that it is a lengthy process. He also explained that because Route 340 is a federal road, the District, State and Federal transportation offices would review the proposed access.

Mr. Raco provided an overview of the design requirements for the subdivision. He noted that the proposed commercial road is shown as a 50' right of way, which would require a waiver to reduce the required width from 60'. Mr. Raco also noted that the developer did not intend to provide vehicular connectivity through the adjacent residential subdivision, Sleepy Hollow, and that they did not object to providing pedestrian connectivity as long as the residents understood this would require a break in the buffer.

Mr. Ralph Lorenzetti asked about the possibilities for turning lanes and Mr. Raco explained that this will all be determined by DOH.

Mr. J Ware asked about the 20' buffer not extending. Mr. Paul Raco and Ms. Alex Beaulieu explained the requirements about the buffers and distances.

Mr. Mike Shepp asked about the probability of using access as a bypass to Country Club Road to avoid the traffic light.

Mr. Raco explained that motorists could use that the proposed access as a bypass but noted that it may not a bad thing for traffic to drive through a commercial development.

Mr. Mike Shepp opened the floor for public comment.

Ms. Anne Strider, located at 4 Fairway Drive, stated that she is not opposed to a commercial development. She noted that the Sleepy Hollow subdivision predates zoning and wanted to bring attention to potential drainage issues, explaining that water flows from the subdivision, through her lot, and onto the subject parcel. She also stated that her septic is located on the side toward the subject property. Ms. Strider requested that the site be developed in such a way that would not result in stormwater backing up onto her property. She also requested that the developer lessen the impact of noise and light from the site on immediate residential neighbors. Ms. Strider stated for the record that she was not representing the Homeowners Association (HOA), but was personally not in favor of connectivity.

Dr. James Field, located at 40 Fairway Drive, stated that the project would be beneficial and contribute to the betterment of the County. He stated that he serves as the HOA Treasurer and Secretary and requested that the developers be respectful of the residential neighborhood. Mr. Fields stated he was not in support of connectivity because the Sleepy Hollow roads could not support an increase in traffic. He expressed concerns pertaining to noise and light from future businesses and stated that he would prefer there was not a 24-hour business. Mr. Field also stated he was not in support of pedestrian connectivity, noting that if a bar were to locate to one of the parcel, he would not want people to wander into his development. He suggested the developer install fencing and shrubbery.

Mr. Steve Stolipher made a motion to close public comment. The vote carried unanimously.

Mr. Dan Snyder, B.C. Partners, along with Mr. Raco addressed some of the concerns about the stormwater and design associated with this site and the adjacent property. Mr. Raco outlined the Stormwater Management parcels specifically on the plans. He stated the developer does not want to provide vehicular connectivity, and agreed that it was not appropriate for this location. He stated pedestrian connectivity could be discussed further at a later date. Mr. Raco addressed concerns pertaining to noise and light from the site and provided an overview of the landscaping and buffer requirements.

Mr. Raco addressed the DOH e-mail attached to the staff report which incorrectly referenced that the applicant was proposing a 300,000 square feet of retail space and clarified that individual sites could potentially be 30,000 – 35,000 square feet of retail space. He said that even if the site is developed as a single lot, the project would not be 300,000 square feet of space. He concluded that the error in building size listed in the letter would not impact the requirement for a Traffic Impact Study (TIS).

Mr. Dan Snyder, B.C. Partners, addressed concerns pertaining to Stormwater Management and stated that they will convey any water coming from Sleepy Hollow and will retain as required in the regulations. He also noted that with regard to future business, they anticipate uses to be commiserate with residential development.

Mr. Ron Thomas asked about light pollution. Mr. Raco explained that the lights will be lower lights, non-glare, facing downward and that signage will be within the standards of US 340. Mr. Dan Snyder referenced Brunswick Crossing as example of another project developed by B.C. Partners and stated that the builder plans to exceed the ordinance in terms of design.

Mr. Steve Stolipher made a motion to accept the Country Club Commons Concept Plan, with the recommendation that they are not to connect a road to Sleepy Hollow Estates, but a Pedestrian walkway could be considered. Mr. Paul Raco made a statement that a design and

vote would need to come from the HOA, regarding their desires for the walkway. Mr. Ron Thomas seconded the motion, which carried unanimously.

\*Mr. Mike Shepp, President, stated that the Planning Commission would hear agenda item #7 before agenda item #6 and would consider the Martinsburg Pike ROCS Site Plan first.

7. **Discussion and Action:** For the Planning Commission to vote to approve or deny the Martinsburg Pike ROCS Site Plan Application (#18-06-S) as complete in accordance with Sections (24.122 and 24.123) of the Subdivision Regulation, for the purpose of scheduling a Public Hearing for this application. The property is designated as Tax District: Shepherdstown (09); Tax Map: 8A; Parcels: 19, 21 and 23. Zoned: Residential-Light Industrial-Commercial (RLIC); Size: 3.56 acres.

Ms. Beaulieu explained this agenda item is required by the Subdivision Regulations. The Planning Commission has to vote to deem the site plan complete for the purpose of scheduling a public hearing. Staff has found it to be complete at this time.

Mr. Ryan Perks stated that Staff's comments had been received and a revised version of the Site Plan would be submitted for the final review.

Mr. Stolipher made a motion that the site plan is complete for the purpose of scheduling a public hearing for the March Planning Commission Meeting. Mr. Wade Louthan seconded the motion, which carried unanimously.

6. **Work Session:** Petition from landowner Stanley Dunn, represented by Torch Clean Energy, to request that the Planning Commission consider within its work plan a proposed text amendment to the Zoning Ordinance to create a process to allow Solar Farms in the Rural zoning district.

Ms. Beaulieu stated that Sam Gulland, with Torch Clean Energy, was absent due to a scheduling conflict but that he had requested the Planning Commission continue their discussion without him.

Mr. Shepp stated the Planning Commission had a couple of options including creating a subcommittee to continue working on drafting text.

Mr. Stolipher suggested creating a subcommittee to work with the consultants [Sam Gulland and Paul Raco] to work on drafting a text amendment to allow solar facilities to process as an essential utility and not as a conditional use and to create provisions to address some of the Planning Commission's concerns including fencing, screening, and decommissioning.

Mr. Wade Louthan expressed concerns with regard to designating large scale solar facilities as an essential utility.

Ms. Beaulieu stated that the definition of essential utility came out of State code and that she would discuss with Nathan Cochran whether or not it was appropriate to amend the definition. She proposed an alternative option to create a definition for solar energy facilities and if the Planning Commission prefers that such projects be exempt from processing a site plan, they could draft text to explicate that such projects would be exempt. She also noted that based on concerns expressed by the Commission during their December meeting,

solar facilities could be listed as Principal Permitted Uses as opposed to Conditional Uses, and text could be drafted to requirements for decommissioning and minimum design standards such as setbacks and buffer requirements.

Mr. Jonathan Saunders, County Engineer, brought up concerns about creating impervious area and stormwater runoff and stated that exempting such projects from processing complying with stormwater management could create future problems with erosion.

Mr. Stolipher nominated Mr. Wade Louthan, Mr. Shepp nominated Mr. Ron Thomas and volunteered to serve as well. Mr. Shepp confirmed that the subcommittee would be comprised of Wade Louthan, Ron Thomas, and Mike Shepp and that they would work with the consultants and Staff on drafting a text amendment.

Ms. Beaulieu stated she could be available to work with the subcommittee and agreed to coordinate a meeting.

- 8. Discussion and Action:** Call a special meeting for the purpose of holding a Public Hearing on 3/24/2020 regarding Greenway's proposed Text Amendments addressing the reorganization of Zoning Ordinance and Subdivision Regulations (Phase I), which requires public notice in the paper.

Ms. Beaulieu informed the Planning Commission that Staff and the subcommittee would be meeting with Greenway Engineering to review the revisions the next day [March 25] and that if the Planning Commission scheduled the public hearing for March 25, the hearing would be contingent upon the outcome of the meeting on March 25. Ms. Beaulieu stated that calling the public hearing would allow sufficient time to run the legal advertisement, should the revised draft be deemed sufficient for a public hearing.

Mr. Stolipher motioned to schedule a special meeting on March 24. Mr. Louthan seconded the motion, which carried unanimously.

- 9. Reports from Legal Counsel.** Not present.

**10. Planners Memo:**

- a. Quarterly Report Q2 – Mr. Wade Louthan made a motion to move this to the County Commission and Mr. Steve Stolipher seconded, which carried unanimously.

**11. President's Report:** None.

**12. Actionable Correspondence:** None.

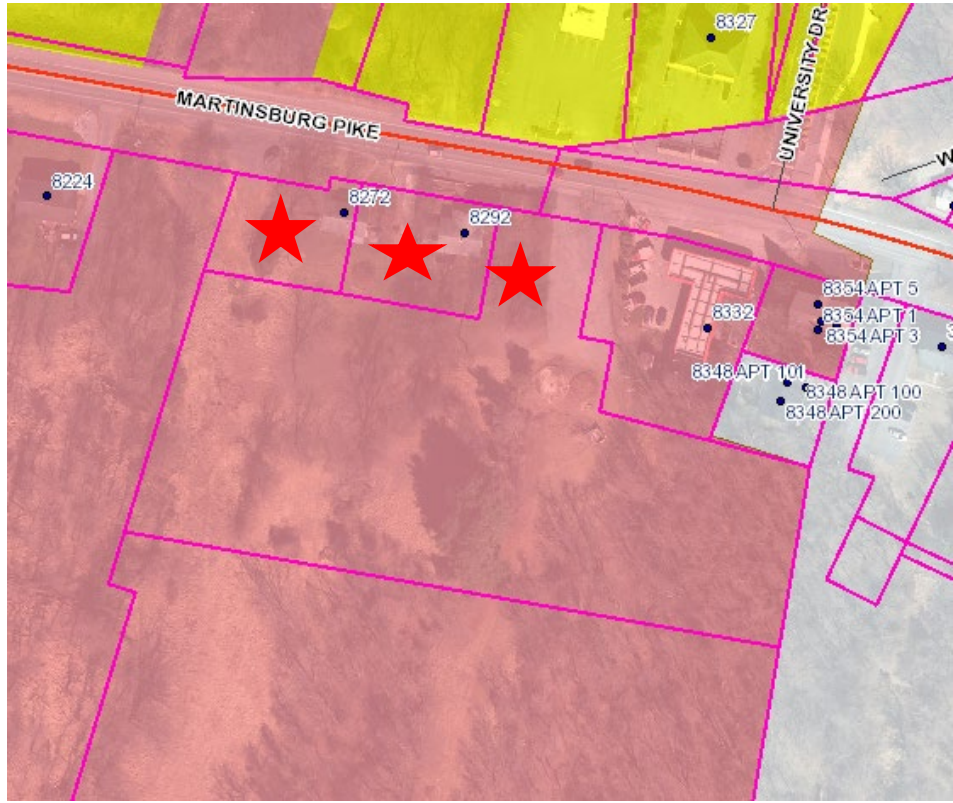
**13. Non-Actionable Correspondence:** None.

Mr. Shepp closed the meeting at 8:05 PM.



Staff Report  
 Jefferson County Planning Commission Meeting  
 March 10, 2020

**Item # 4: Public Hearing:** Major Site Plan for the Martinsburg Pike ROCS Site Plan Application #18-06-S, consisting of a 6,000 sq. ft. gas station with convenience store, including 5 fuel islands and 10 gas pumps.

APPLICANT:	SAB Real Estate 2, LLC.
OWNER/DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	Gordon; Ryan Perks
PROPERTY LOCATION:	Martinsburg Pike (WV45), Lots west of Sheetz (Parcels 19, 21 & 23)
LEGAL DESCRIPTION:	Tax District: Shepherdstown (09); Tax Map: 8A; Parcels 19, 21 and 23
	
ZONING DISTRICT:	Residential-Light Industrial-Commercial (RLIC)
SURROUNDING PROPERTIES:	<i>North:</i> RLIC & Residential Growth <i>South:</i> RLIC <i>East:</i> RLIC & City <i>West:</i> RLIC
LOT AREA:	3.56 acres combined (total of 3 lots)
PROPOSED ACTIVITY:	Construction of a 6,000 sq. ft. gas station with an attached convenience store building. The project includes 5 fuel islands and 10 gas pumps with a canopy, drive aisles, and parking areas with associated drainage structures, SWM facilities and public utilities.

**Staff Report**  
 Jefferson County Planning Commission Meeting  
 March 10, 2020

APPROVALS:	
Concept Plan	Submitted: 09/17/2018 Sufficiency Determination: 09/21/18 & 09/24/2018 County Planner/Zoning Administrator Approval: 10/16/2018 County Engineer Approval: 10/04/2018 Planning Commission Public Workshop & Approval: 11/13/2018
PC Waivers/ BZA Variances	19-14-ZV: Variance related to monument sign setbacks 07/25/2019 19-15-PCW: Early Grading 09/10/19 19-37-ZV: Variance to eliminate the landscaping/buffer requirements; parking/drive aisle & building setbacks for internal lot lines 01/23/20

**Introduction and Summary of Request**

The applicant is proposing the construction of a ROCs gas station with a 6,000 sq. ft. gas station with attached convenience store building, just west of the existing Sheetz, outside of Shepherdstown on WV45. The project includes 5 fuel islands and 10 gas pumps. The proposed use meets the definition of a “gas station, large” including the associated convenience store and is a Principal Permitted Use.

The Concept Plan previously proposed a drive through service window associated with the convenience store which would have required a Conditional Use Permit for this use. This proposed use is no longer included in the Site Plan.

During the Concept Plan review, staff noted that the Site Plan would require merging Parcels 19, 21 and 23, all of which are zoned RLIC, and removing the existing single family residential structures. Instead of merging the Parcels, the applicant chose to pursue variances to eliminate the landscaping/buffer requirements and the parking/drive aisle/building setbacks for internal lot lines, which were approved at the January 23, 2020 BZA meeting.

**Concept Plan Approval**

The Planning Commission held a Public Workshop for the Concept Plan for the proposed Martinsburg Pike ROCS on July 25, 2019 and a Public Hearing for a requested Subdivision Regulations Waiver to allow Early Grading of the site on September 10, 2019.

The Planning Commission approved a motion to accept the Concept Plan as presented, with the following conditions:

- Look into meeting the three written comments which include the monument signage concept, screening the bioretention facility # 2 along WV 45, and extending Back Alley for pedestrian/bike access;
- Meet with the Shepherdstown Historic Landmarks Commission for their input into the design;
- Address Staff Recommendations a – e, below:
  - a. Based on the Subdivision Regulations, noted above, the site plan will process as a Major Site Development.
  - b. The drive-through component is required to process a Conditional Use Permit, which requires approval by the Board of Zoning Appeals, subject to a Public Hearing.

Staff Report  
Jefferson County Planning Commission Meeting  
March 10, 2020

- c. The westernmost shared access crosses an undeveloped property with an approved Final Plat known as Seneca Crossing. This proposed shared access impacts the previously recorded Final Plan which may need to be modified or amended to reflect the proposed shared access shown on this plan set. Such modification may impact both the preliminary plat and final plat and may require processing a Concept Plan for this property to allow this access to occur.
- d. Lots 19, 21 and 23 shall be merged and the existing houses shall be demolished prior to Site Plan approval.
- e. The gas pumps are proposed to be located within a recorded 60' access easement that is the only legal access to Parcel 19.2. No structures are allowed within an easement. All properties shall have at least a 50' easement (60' for commercial). Revisions to this easement as well as the provision of a new 60' alternative easement to the rear property will have to process prior to the Site Plan approval.

**Summary of Request**

The applicant has submitted the Site Plan for Martinsburg Pike ROCS for approval. In accordance with Section 24.122 of the Subdivision Regulations, the Planning Commission deemed the ROCS Major Site Plan application complete on February 11, 2020, provided the outstanding issues discussed at the meeting were addressed. In accordance with Section 24.123 of the Subdivision Regulations, the Planning Commission scheduled this Public Hearing for March 10, 2020, within 45 days of accepting the application as complete. This hearing has been advertised as required in the Subdivision Regulations.

The Subdivision Regulations require the review of the submitted application and plat and plans by the Department of Engineering, Planning and Zoning as well as the West Virginia Division of Highways (WVDOH) and the relevant Public Service Agency, in this case the Corporation of Shepherdstown. The Department of Engineering, Planning and Zoning Staff completed their review of the Site Plan in accordance with the requirements of Section 24.122(B) and Appendix A, Section 1.3 and forwarded the Site Plan to the Planning Commission as “sufficient” with outstanding comments to be addressed to the Planning Commission at their February 11, 2020 meeting. Since the February 11, 2020 meeting, a revised version of the ROCS Site Plan has been reviewed by staff and all outstanding comments in the previous staff report have been deemed to be resolved. Upon approval by the Planning Commission, the Site Plan can be stamped approved by staff.

The WVDOH has approved the required Traffic Impact Study and issued an approved encroachment permit for the full access to be shared with the Seneca Crossing Nonresidential development and a right in/right out serving the ROCS gas station as well as a required turn lane on November 15, 2019.

The Shepherdstown Water and Waste Water Departments will be providing water and waste water service to the Martinsburg Pike ROCS site. The ROCS site plan was originally submitted with off-site infrastructure improvements for sewer which required crossing WV 45; however, as the design progressed, the Corporation of Shepherdstown determined that the site could be served by the mainline sewer in the Seneca Crossing development. This proposed sewer lateral connection is reflected in the most recent submission of the Site Plan. If bonding is not required by the Corporation of Shepherdstown, bonding for these improvements will be required by the County. Approval of availability from Shepherdstown Water and Wastewater was received on July 29, 2019.

Today’s Public Hearing is to receive public comment on the proposed Major Site Plan in accordance with the Subdivision Regulations and WV Code 8A. An 11” x 17” copy of the pages showing the

Staff Report  
Jefferson County Planning Commission Meeting  
March 10, 2020

proposed site layout is included in this packet. The complete file containing the Site Plan and application will be at the Planning Commission meeting should any members wish to review.

**Planning Commission Action Required**

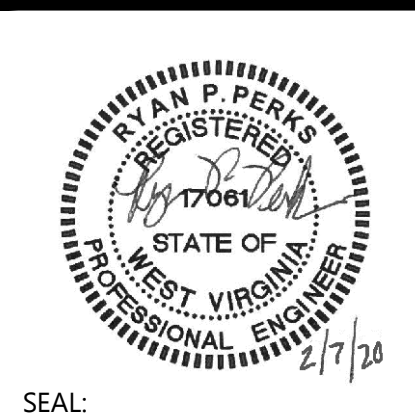
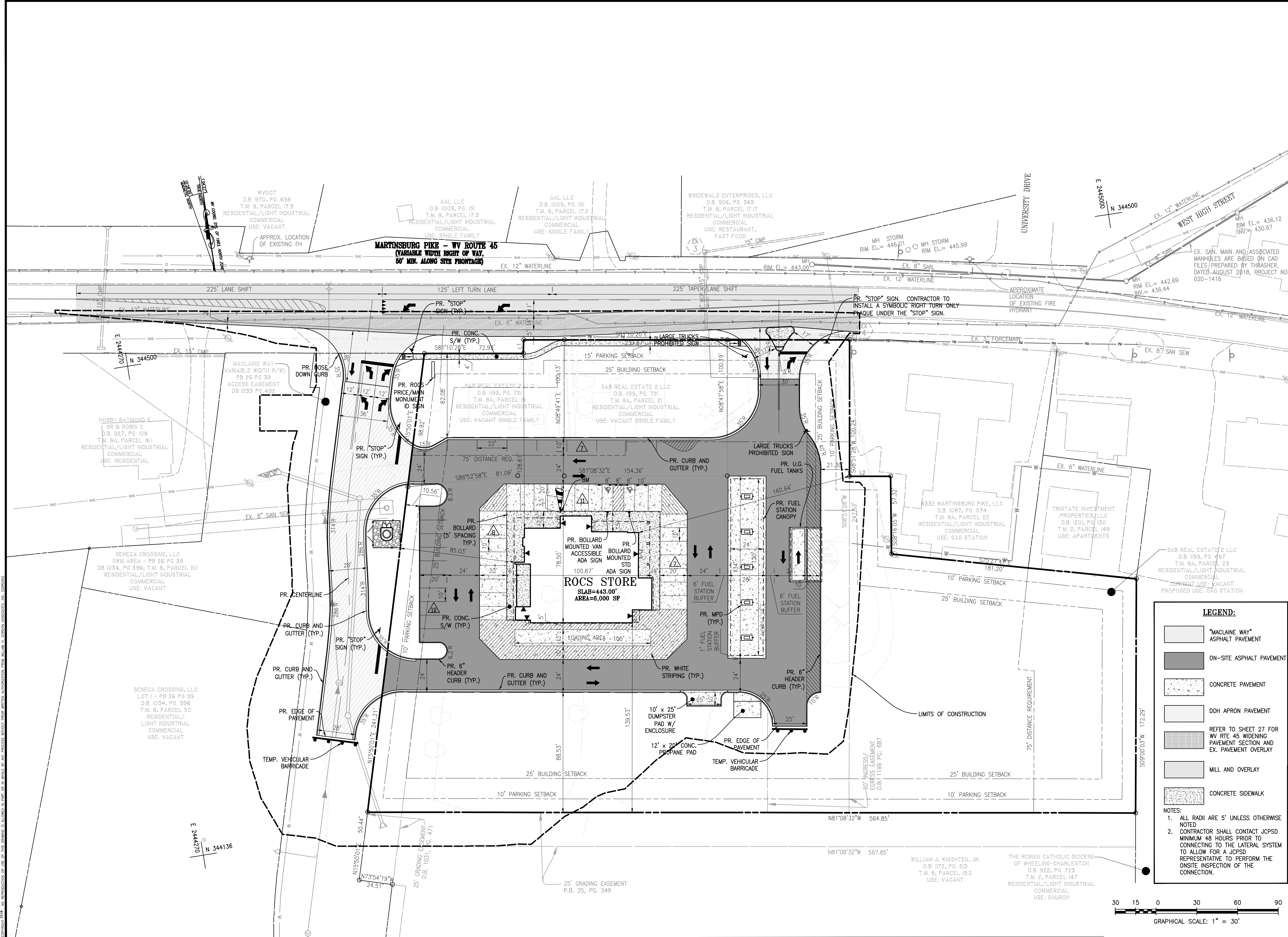
Section 24.123 of the Subdivision Regulations, “Major Site Plan Application - Public Hearing” requires that, within 45 days of accepting the application as complete, the Planning Commission shall conduct a public hearing to receive public comments, concerns, and inputs on the proposed site plan. Today’s hearing meets that requirement and has been advertised in accordance with the Subdivision Regulations. The scope of this public hearing shall be limited to whether the site plan application meets the requirements of the Subdivision Regulations and the Zoning Ordinance.

Section 24.124 of the Subdivision Regulations, “Major Site Plan Application – Approval” states that after the close of the public hearing, the Planning Commission shall either approve the application; approve the application with conditions; deny the application; or hold the application for up to 45 days for additional information. It further states that if the site plan application is consistent with the Concept Plan application and meets all other requirements of the Subdivision Regulations and the Zoning Ordinance and has received sign-off from the agencies specified in Section 24.122(B)(13), Other Agencies, the Planning Commission shall approve the site plan application.

**ATTACHMENT:**

Pages 1 of 28 & 6 of 28 Martinsburg Pike ROCS Site Plan





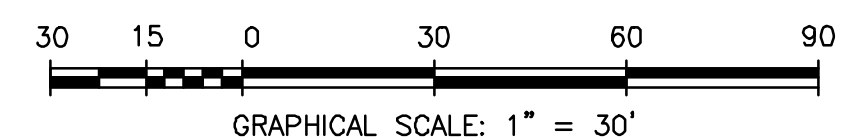
NO.	DATE	REVISIONS
01	02/04/19	REVISED PER WOODH AND COUNTY COMMENTS
02	02/27/19	REVISED PER CORP. OF SHEPHERDSTOWN COMMENTS
03	05/10/19	REVISED PER WOODH COMMENTS
04	08/20/19	REVISED PER WOODH COMMENTS
05	02/07/20	REVISED PER LCP COMMENTS

**MARTINSBURG PIKE  
 ROCS**  
 TAX MAP 8A - PARCELS 19, 21, AND 23  
 SHEPHERDSTOWN DISTRICT  
 JEFFERSON COUNTY, WEST VIRGINIA

**SITE PLAN**

SCALE:	HORIZ: 1" = 30'
DATE:	SEPTEMBER 1, 2018
JOB:	2756-0203
DRAWN:	AC
CHECK:	JG
CADD:	C-CS-101.DWG
NCS:	CS-101
SHEET:	06 OF 28

- LEGEND:**
- "MACLAINE WAY" ASPHALT PAVEMENT
  - ON-SITE ASPHALT PAVEMENT
  - CONCRETE PAVEMENT
  - DOH APRON PAVEMENT
  - REFER TO SHEET 27 FOR WV RTE 45 WIDENING PAVEMENT SECTION AND EX. PAVEMENT OVERLAY
  - MILL AND OVERLAY
  - CONCRETE SIDEWALK
- NOTES:**
- ALL RADI ARE 5' UNLESS OTHERWISE NOTED
  - CONTRACTOR SHALL CONTACT JCPSD MINIMUM 48 HOURS PRIOR TO CONNECTING TO THE LATERAL SYSTEM TO ALLOW FOR A JCPSD REPRESENTATIVE TO PERFORM THE ONSITE INSPECTION OF THE CONNECTION.



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**JEFFERSON COUNTY, WEST VIRGINIA**

**Departments of Planning and Zoning**

116 East Washington Street, P.O. Box 338

Charles Town, WV 25414

www.jeffersoncountywv.org

File Number: 518-06

Staff Initials: RBB

Date Received: 11/28/18

Fees Paid: 2,175.00

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

**Site Plan Review Checklist**

Project Name: Martinsburg Pike ROCS

Major  or Minor  Full  or Limited

**Applicant Contact Information**

Name: Jason Roach SAB Real Estate 2, LLC

Mailing Address: 333 E. John St. Martinsburg, WV 25401

Phone Number: (304) 362-9618 Email: \_\_\_\_\_

**Physical Property Details**

Property Owner Name: \_\_\_\_\_

Physical Address \_\_\_\_\_

City: Shepherdstown State: WV Zip Code: 25448

Tax District: 05 Map No: 8A Parcel No: 19,21+23

Parcel Size: \_\_\_\_\_ Deed Book: 732 Page No: 148

Zoning District: \_\_\_\_\_ 1059 428

**Items Due at Submission:**

1 Copy of Completed Building Permit Application

2 Sets of Plans

Building Permit Fees

2 Copies of SWM Report with Narrative

1 Copy of Checklist

Staff Initials	Returned to:	Date:
RBB	Garden	12-27-18
RBB	Czaden	2/27-19
RBB	Ryan Perkins	2/26/20

	1st Review	2nd Review	3rd Review	4th Review
Submittal Date	11/28/18	2/13/19	6/6/19	2/13/20
County Engineer	12/14/18 JG	2/19/19 JG	6/10/19	2/20/20
County Planner	12/26/18 JMB	2/26/19 JMB	6/14/19 JMB	2/24/20
Zoning Administrator	12-05-18 AB	2-26-19 AB	06-13-19 AB	2/20/20
Assessor's Office				
GIS/ Addressing		2/21/19 JG		

APPROVED FOR:

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BY: \_\_\_\_\_ DATE \_\_\_\_\_

COUNTY ENGINEER                      DATE





Staff Report  
Jefferson County Planning Commission Meeting  
March 10, 2020

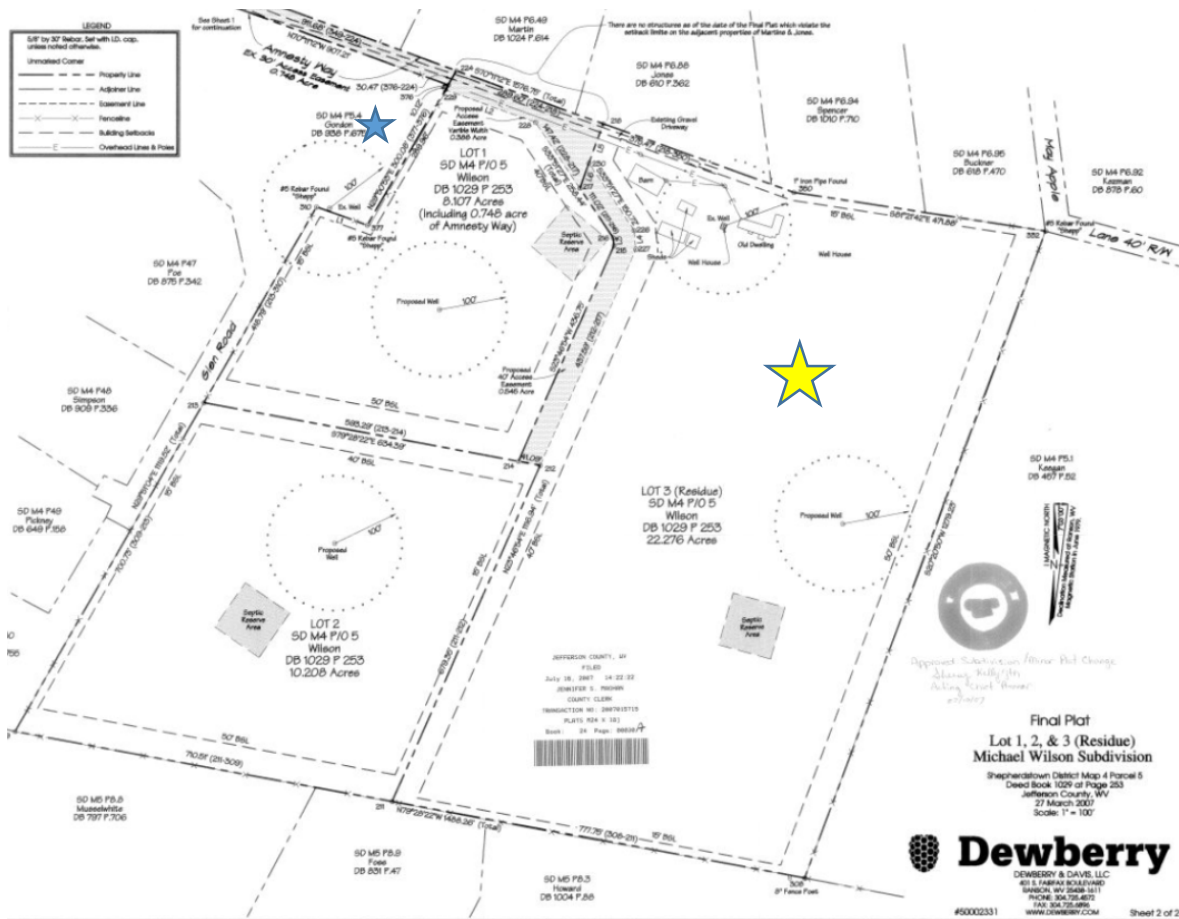
**Summary of the Request:**

The applicant is requesting a waiver from Section 20.201.A(2) of the 2008 Subdivision Regulations, as amended, which requires all lots in all Minor Residential Subdivisions to have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots. The request is to allow the creation of two additional single family lots from Wilson MSD Lot 3(Residue) without being required to widen the existing 30' easement through the Minor Subdivision Process.

Under the provisions of Section 5.7D3 of the Zoning Ordinance, the residue property has the right to process another 2 lots and a residue at this time; however, because there are currently 4 properties, 3 of which were created through the minor process, which access Amnesty Way, the 6<sup>th</sup> division would have to process as a Major Subdivision based on the provisions of Section 20.201 of the Subdivision Regulations if this waiver is not granted.

**Site Background:**

The Michael Wilson property was subdivided through the minor subdivision process in 2007, creating 3 lots. One additional 0.68-acre parcel (Parcel 5.4, blue star below), created in 1972, also accesses the 30' easement known as Amnesty Way. The new lots (Lots 1 and 2, below) created in 2007 have not yet been transferred or constructed on. The lot with the yellow star is proposed to be divided into two lots and a residue.

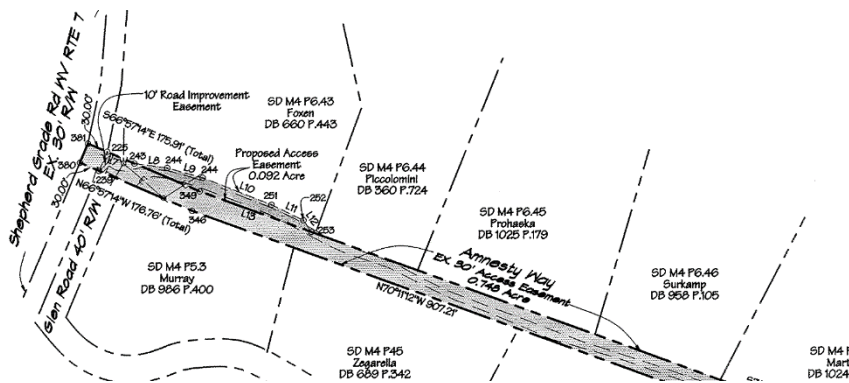
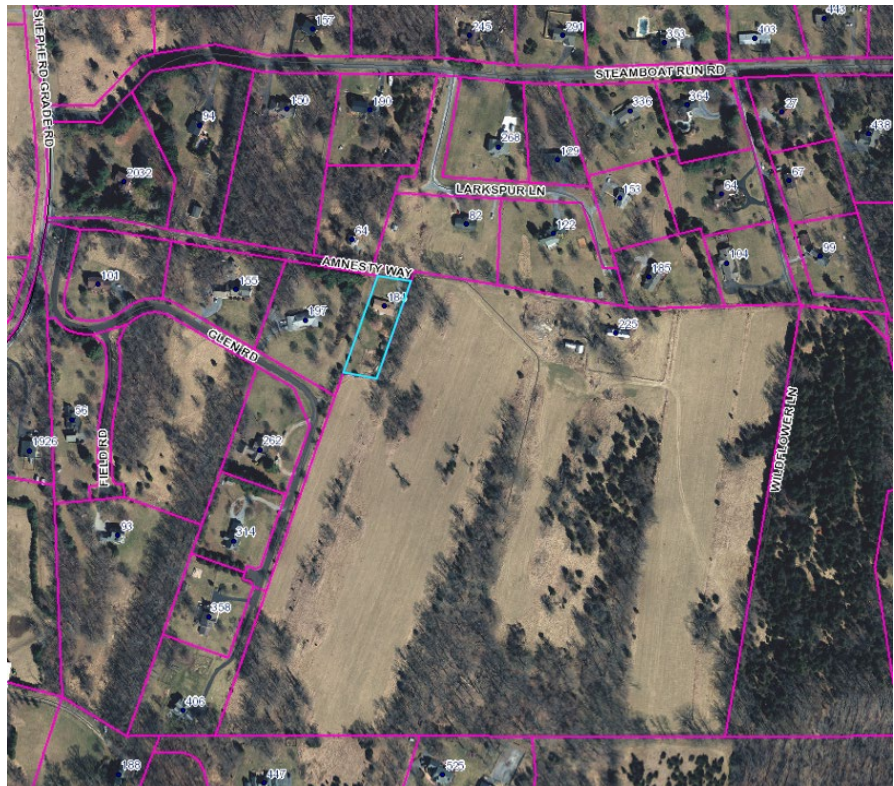


Staff Report  
 Jefferson County Planning Commission Meeting  
 March 10, 2020

Amnesty Way is a narrow easement that runs behind lots that front on Steamboat Run Road (Steamboat Run Subdivision) and lots that front on Glen Road (Shepherd Wood Subdivision).

Glen Road intersects with Amnesty Way near the intersection with Shepherd Grade Road.

In the area near the intersection with Glen Road, the existing Amnesty Way easement is slightly wider than 30' due to an additional easement area platted in 2007 to reflect the roadway alignment (see graphic below).



It should also be noted that the property to the east of the Wilson lot was subdivided into 3 lots in 2018 and that those lots are accessed by Wildflower Lane, a 50' access easement off of Steamboat Run Road. Amnesty Way is not proposed to intersect with Wildflower Lane.

**Discussion of Subdivision Regulations:**

Properties the size of Lot 3 (residue), in the Rural Zoning District, have the right to process as two lots and a residue in accordance with the provisions of Section 5.7D.3 of the Zoning Ordinance and generally process under the Minor Subdivision process found in Section 20.201.A of the Subdivision Regulations. One of the key differences between a Minor Subdivision and a Major Subdivision is that Minor Subdivisions do not require the development of new off-tract infrastructure, the extension of existing off-tract infrastructure, or the creation of common areas and therefore there are no design or construction standards for roads in minor subdivisions. This means that Amnesty Way, which was utilized for the Michael Wilson Minor Subdivision in 2007, has not been constructed to any County

Staff Report  
Jefferson County Planning Commission Meeting  
March 10, 2020

standard. A variance was granted to allow Amnesty Way to be created in a 30' easement to serve that Minor Subdivision in 2007.

Roads which serve more than 5 lots are required to be a part of Major Subdivision and are required to be built in accordance with Table 2.2-1 "Roadway Design Standards" of the Subdivision Regulations. The applicant could process the 6<sup>th</sup> lot by processing a Major Subdivision and designing and constructing Amnesty Way in accordance with the County road standards; however, the 30' easement waiver would still be required. This request is to be able to process two additional lots through the Minor Subdivision process with access to the existing 30-foot easement contained Amnesty Way instead of processing a Major Subdivision and widening the easement.

**Waiver Requirements:**

The applicant provides a response to the requirements found in "Division 24.300 Waivers" of the Subdivision Regulations in the waiver 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.

**Staff Recommendation:**

There are two separate waiver requests related to Section 20.201A(2) of the Subdivision Regulations:

- 1) To be permitted to process a Minor Subdivision on a 30-foot access easement.
- 2) To be permitted to create the 5<sup>th</sup> and 6<sup>th</sup> lots without processing as a Major Subdivision.

Staff acknowledges that the applicant is unable to widen the existing easement for Amnesty Way without acquiring property from the adjoining property owners backing to the easement. If the Planning Commission is inclined to approve this waiver request, staff recommends that the applicant be limited to one additional lot, for a maximum of 5 lots on the existing 30-foot access easement.



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

File #: 20-1-PCW  
 Mtg Date: 3-10-20  
 Date Rec'd: 2-12-20  
 Fees Paid: 100  
 Staff Int: RBB  
 List of Adjoiners:  created

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)  
[zoning@jeffersoncountywv.org](mailto: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: MICHAEL C. WILSON  
 Business Name: \_\_\_\_\_  
 Mailing Address: 620 QUARRY VIEW CT, Unit 407, REISTERSTOWN, MD.  
 Phone Number: 301-412-4726 Email: \_\_\_\_\_  
21136

**Applicant Contact Information (SAME)**

Applicant Name: Tim Wells Same as owner:   
 Business Name: (contact for placard pickup)  
 Mailing Address: \_\_\_\_\_  
 Phone Number: 304 676 8715 Email: \_\_\_\_\_

**Consultant Information**

Name: ED JOHNSON  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: 304-725-6060 Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 308 AMNESTY WAY, SHEPHERDSTOWN, WV Vacant Lot:   
 Tax District: SHEPHERDSTOWN Map No: 4 Parcel No: 5  
 Parcel Size: 22.276 Deed Book: 1629 Page No: 253  
 Zoning District: Rural PB 24; PG 30

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?

20.201A(2)

Briefly Describe the Nature of Your Waiver Request:

Waiver is to add two parcels to the previously approved three parcels. The two lots will maintain the integrity of the surrounding area & the use of the land will be developed consistent with the original plan.

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.

The lots have been maintained consistent w/ the county open space plans and emphasis will continue to maintain these goals for the good of the County's objectives.

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.

The neighboring home owners have been involved in our uses and care of the property since we bought the farm. The upkeep of the property has been a priority and regular upkeep has been one of our objectives.

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

The waiver being requested will be consistent with the purposes of the development which neighbors/developer will be proud of. The lots size and relative location will be complimentary.

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

The property (40 Acres) was a working farm which we saw as an opportunity to develop for our personal use and perhaps for our relatives. We will provide guidelines for use of the property and minimum requirements for houses to be built.

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.

Michael C. Wilson 2.12.20  
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: \_\_\_ / \_\_\_ / \_\_\_





1923 Shirley Rd.  
Summit Point, WV  
25446

February 1, 2020

Jefferson County Commission  
124 E. Washington St.  
Charles Town, WV 25446

**RECEIVED**

**FEB 07 2020**

**JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING**

To the Commission:

My name is Carmen Creamer. I am a property owner and taxpayer in Jefferson County.

On January 23, 2020 I happened to be outside the County's public meeting room when I heard my property mentioned by Martin Burke, speaking inside the room. I went in to find out why my property was being discussed. I was surprised to find myself in a Board of Zoning Appeals for a project I had never heard about. I asked to speak so that I could find out what was being discussed. I was handed a staff report and learned that a variance for a cell tower within sight of my historic property was under discussion. After answering my questions, the Board then allowed the representatives of SmartLink to speak. They stated they were acting for their client, At&T. They claimed they had notified neighbors by letter of the proposed tower, as well as posted a notice of their intent to seek a height variance in the newspaper. They did not state which newspaper. Their main argument for the need of this tower was so that individuals do not lose cell phone service while driving Leetown Road between Summit Point and Middleway. A member of the Board very kindly reminded them that they should have stated that these calls should be made hands free. I asked to speak again and my request was denied. I wanted to inform the Board that I found At&T service already adequate in this part of the county, since I have been a customer of theirs for some years.

The Board of Zoning Appeals, not interested in the testimony of Martin Burke, of the Jefferson County Historic Landmarks Commission, voted in favor of the variance.

I would like to make several observations.

- 1) While my property is included in the staff report handed to me, I received no letter or any other notification of the cell tower proposal from SmartLink.
- 2) The procedure on applying for this variance was in violation of a number of policies and regulations set in place BY THE COUNTY:

- a) Permission for cell tower is to be reviewed by the Jefferson County Planning Commission. This step was not taken. I am not sure how a variance can be granted for a project the Planning Commission has not approved.
  
- b) As part of the Planning Commission review of cell tower placement the Historic Landmarks Commission is asked to comment on the potential for impact on historic resources. This is to make sure the County follows a Federal law (referred to as Section 106) that historic resources are considered in an action, that in this case, requires Federal licensing. I know about this review as a former member of the Historic Landmarks Commission and in my professional career before I moved to this county. This is the information that Martin Burke was giving the Board. When I later asked Martin Burke about this, he told me he was not informed of this project, but happened to see the notice in the paper of the meeting and that was the only reason he was at the meeting. He had not been informed of the meeting by the County.

I was told at the meeting that a variance for cell tower height had not been granted since 2013. I was on the Historic Landmarks Commission at that time. We noticed that that variances were often necessary for towers placed at low elevations just as the current proposed tower is in a lower elevation than much of the surrounding area. Obviously, a much higher cell tower affects more historic properties. It was suggested then that input for the Planning Commission on locations should be sought. If SmartLink had bothered with this step they might have found a better location; in fact, if they sought an industrial/commercial zone they would not have even needed a variance. Issues like this are why the policies and regulations were put in place. I question why the County no longer follows any of them.

In the past, I served as a volunteer on the Historic Landmarks Commission for more than 12 years. I recently was re-appointed to the Commission, only to resign shortly afterwards. One of the reasons for my resignation had a lot to do with increasing number of these types of irregular procedures I saw monthly at Commission meetings. While a member of the County Commission is to attend Historic Landmarks Commission meetings, this happened less and less often. The County Commission is clearly not interested in historic resources, which are a valuable, non-renewable resource. Personally, until recently, I viewed these resources as one of the few valuable resources this county has, and as such, resources that should be protected. I now regret every minute I wasted as a county government VOLUNTEER to try and protect these resources. I think no resident of this county should ever waste their time in such service.

My husband and I have spent almost 30 years repairing and restoring our historic property, which has been in my husband's family for more than 170 years. I now also deeply regret wasting our time, money and effort on a property that is located in this county.

Sincerely,

A handwritten signature in black ink, appearing to read "Carmen W. Creamer", with a long horizontal flourish extending to the right.

Carmen W. Creamer  
(304)725-7770

Cc: Jefferson County Historic Landmarks Commission  
Jefferson County Planning Commission  
John Doyle, West Virginia State Representative  
Paul Espinosa, West Virginia State Representative  
Sammi Brown, West Virginia State Representative  
Patricia Rucker, West Virginia State Senator  
John R. Unger, West Virginia State Senator  
Patrick Morrisey, West Virginia Attorney General  
The Journal  
Herald-Mail  
Spirit of Jefferson County





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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

Charles Town, WV 25414

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

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## Planner's Memorandum Planning Commission Meeting March 10, 2020

### 1) Greenway Ordinance/Regulation Amendment Update

- a) Status Update – PC Committee and staff has continued working with Greenway on the proposed reorganization of the Subdivision Regulations and Zoning Ordinance. It has been determined that the most recent draft is not ready for a work session or hearing and schedule is being modified until the Committee is satisfied with the proposed result.
- b) Tentative Joint Work Session with County Commission has not yet been rescheduled.
- c) Proposed Planning Commission Public Hearing for Phase 1 Reorganization originally called for 3/24/20 has been cancelled and will be rescheduled when the draft is more complete.

### 2) Status of Zoning Ordinance Text Amendments

- a) ZTA19-03: Planning Commission Committee on Solar Farms met on February 20, 2020 to discuss the potential Zoning Ordinance Text Amendment to allow Solar Farms in the Rural District

### 3) Upcoming PC meetings

- a) Next Regular Meeting: April 14, 2020