



Agenda

Jefferson County Planning Commission

Tuesday, December 8, 2020, 7:00 PM

All Citizens that desire to speak must sign-in **prior** to the Agenda Item being addressed. This meeting will NOT be a live broadcast on our website. Instead, it will be accessible through a live ZOOM Meeting. If you wish to participate in Citizen's Communication or public comment for one of the agenda items, please type your name, address, and agenda item # in the chat function at the start of the meeting.

****Please use the following information to join the ZOOM Meeting****

Join Zoom Meeting: <https://us02web.zoom.us/j/81659958265>

Meeting ID: 816 5995 8265

Dial by your location: +1 301 715 8592 US (Germantown)

Find your local number: <https://us02web.zoom.us/u/keiyFa5cho>

1. **Approval of Meeting Minutes:** November 10, 2020.
2. **Citizen Communication:** 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 are noted below.
3. **Request for postponement.**
4. **Public Hearing:** Postponed from the 11/10/2020 meeting. Request by applicant, Brickstreet Homes, LLC, for a waiver from Section 20.201A.2 to reduce the required 50' wide access easement to 40' for a proposed two lot (one lot and residue parcel) minor subdivision. Brickstreet Homes, LLC. Property Owner: Shaun Alexander. Property Location: Sites Farm, Lot 1B, 10668 Leetown Rd., Kearneysville. Tax District: Middleway (07); Tax Map: 14; Parcel: 20.4 (Parcel ID: 07001400200004); Size: 4.85 acres; Zoning District: Rural; **File: 20-9-PCW.**
5. **Public Hearing:** Request by applicant, David Acly, for a waiver from Section 20.201, which allows for a total of five (5) lots to process as a minor subdivision. Five lots have previously been approved from this parent parcel. The applicant is proposing to create an additional three lots (two lots and a residue parcel) as a minor subdivision as opposed to a processing a major subdivision. Property Owner: David Acly. Property Location: Avon Bend Subdivision, Lot 3C: vacant lot on the southeast corner of King Lear Dr. and Stratford Ln. Tax District: Kabletown (06); Tax Map: 9; Parcel: 27 (Parcel ID: 06000900270000); Size: 5.9 acres; Zoning District: Rural; **File: 20-12-PCW.**
6. **Public Hearing:** Request by applicant, Al Cobb, for a waiver from Section 20.201, which only allows for a total of five (5) lots to process as a minor subdivision. Two lots have previously been approved from this parent parcel. The applicant is proposing to create an additional five lots (four lots and a residue parcel) as a minor subdivision as opposed to a processing a major subdivision. Applicant: Al and LeAnne Cobb. Property Owner: Margaret Link (estate). Property Location: Link Minor Subdivision, Lot 3: vacant lot located .43 miles west of Shepherdstown Pike on the south side of French Road. Tax District: Shepherdstown (09); Tax Map: 2; Parcel: 11.4 (Parcel ID: 09002000110004); Size: 44.78 acres; Zoning District: Rural; **File: 20-13-PCW.**

There is no public comment for the following items.

7. Reports from Legal Counsel

- a) Discussion of Jefferson County Circuit Court Civil Action #20-C-125 and 20-C-132-137.
Discussion / Action

8. Planner's Memo

9. President's Report

10. Actionable Correspondence None.

11. Non-Actionable Correspondence None.

Meeting Minutes
Jefferson County Planning Commission
November 10, 2020

The Jefferson County Planning Commission met on November 10, 2020 at 7:00 p.m. with the following Commission members present: Mike Shepp, President; Donnie Fisher, Vice President; Wade Louthan, Secretary; Ralph Lorenzetti, County Commission Liaison; Steve Stolipher, Ron Thomas, Shane Roper, and Jack Hefestay. Staff members present included Jennifer Brockman, County Planner; Jonathon Saunders, County Engineer; Alexandra Beaulieu, Zoning Administrator; and Nathan Cochran, County Attorney. J. Ware was absent without notification.

By order of the President, the Planning Commission meeting was held virtually via ZOOM. Access information was made available on the agenda and packet, which were posted to the County website.

Mr. Shepp called the meeting to order at 7:00 p.m. Mr. Shepp verified that there was a quorum at the start of the meeting. Ms. Beaulieu conducted a roll call for the members whose names were not visible in the list of attendees.

1. Approval of the Meeting Minutes: October 13, 2020. Approved as submitted.
2. Citizens Communication: Citizens were able to sign up for this item utilizing the chat function in ZOOM. There were no citizens signed up to speak.
3. Request for postponement. Ms. Brockman informed the Commission that Mr. David Leonard with Brickstreet Homes LLC requested a postponement until the December 8, 2020 meeting for Item # 7 (20-9-PCW) meeting. The Commission acknowledged the request.
4. Public Workshop: Concept Plan for Summit View Estates. The proposal consists of the re-subdivision of Lot 28 into three (3) total lots and the required 224 acres of associated green space on adjacent Parcels 6 & 7, under Section 5.7D.2 Cluster Provisions. Property Owner: Hy-Crest Farms, LLC. Property Location: Summit View Estates, Lot 28 Located at the end of Keith Dr. Tax District: Kabletown (06); Tax Map: 15; Parcel: 3.3 (Parcel ID: 06001500030003); Size: 8.5 acres; Zoned: Rural; File: 20-18-SD.

Mr. Shepp recused himself from taking action on this item, as he is the surveyor for the project. Mr. Fisher had not yet joined the meeting for this item; therefore, Mr. Stolipher presided over this portion of the meeting.

Ms. Brockman provided a brief history of the property and an overview of the property's density rights. Ms. Brockman reviewed the comments received from outside agencies.

Mr. Paul Raco with P.J. Raco Consulting explained the nature of the proposal to the Commission.

Mr. Stolipher opened the public hearing. Ms. Carmen Creamer spoke in opposition to the project. Mr. Stolipher closed the public hearing.

Mr. Thomas made a motion to accept the concept plan as complete, contingent upon approval from the Division of Highways and the Health Department. Mr. Hefestay seconded the motion, which carried six (6) in support; one (1) opposed (Mr. Lorenzetti); and one (1) recusal (Mr. Shepp).

Mr. Shepp resumed his position as President.

5. Public Workshop: Concept Plan for a Shepherdstown Professional Center (a Major Nonresidential Site Development). The proposal consists one two-story building with 5,100 sf retail space (first floor) and 5,100 office space (second story); one 6,000 sf single-story building divided into six (6) 1,000 sf retail/office units and associated parking spaces and signage. Property Owner: Rankin Properties, LLC. Property Location: Vacant parcel on the northeast corner at the intersection of

Potomac Farms Dr. and Kearneysville Pike (Route 480). Tax District: Shepherdstown (09); Tax Map: 8; Parcel: 8.1 (Parcel ID: 09000800080001); Size: 3.56 acres; Zoning District: General Commercial; File: 20-7-SP.

Mr. Lorenzetti recused himself from Agenda Items #5 and #6, stating his wife worked in Shepherdstown.

Ms. Brockman provided a brief history of the property and an overview of the proposal. Ms. Brockman reviewed the comments received from outside agencies.

Mr. Dick Klein with Alpha Associates explained the nature of the project to the Commission.

Mr. Shepp opened the public hearing. There were no public comments. Mr. Shepp closed the public hearing.

Mr. Stolipher made a motion to accept the concept plan as complete with no conditions. Mr. Fisher seconded the motion, which carried unanimously with seven (7) in support and one (1) recusal (Mr. Lorenzetti).

6. Public Hearing: Waiver from Section 20.204 to process a Minor Site Plan with a Concept Plan instead of the required Major Site Plan for the Shepherdstown Professional Center (File: 20-7-SP). Property Owner: Rankin Properties, LLC. Property Location: Vacant parcel on the northeast corner at the intersection of Potomac Farms Dr. and Kearneysville Pike (Route 480). Tax District: Shepherdstown (09); Tax Map: 8; Parcel: 8.1 (Parcel ID: 09000800080001); Size: 3.56 acres; Zoning District: General Commercial; File: 20-10-PCW.

Ms. Brockman provided an overview of her staff report to the Commission.

Mr. Dick Klein with Alpha Associates explained the nature of the request to the Commission.

Mr. Shepp opened the public hearing. There were no public comments. Mr. Shepp closed the public hearing.

Mr. Stolipher made a motion to approve the waiver with no conditions. Mr. Louthan seconded the motion, which carried unanimously with seven (7) in support and one (1) recusal (Mr. Lorenzetti).

7. Public Hearing: Waiver from Section 20.201A.2 to reduce the required 50' wide access easement to 40' for a proposed two (2) lot minor subdivision. Applicant: Brickstreet Homes, LLC. Property Owner: Shaun Alexander. Property Location: Sites Farm, Lot 1B, 10668 Leetown Rd., Kearneysville, WV. Tax District: Middleway (07); Tax Map: 14; Parcel: 20.4 (Parcel ID: 07001400200004); Size: 4.85 acres; Zoning District: Rural; File: 20-9-PCW.

At the request of the applicant, this item was postponed until December 8, 2020.

8. Public Hearing: Variance request from Section 2.1B of the 1979 Subdivision Ordinance (parent to child exemption) to lift the single family restriction to allow for an Accessory Dwelling Unit (In-Law Suite). Property Owner: Kristen Espinosa. Property Location: 6485 Summit Point Road, Charles Town, WV. Tax District: Kabletown (06); Tax Map: 3; Parcel: 1.7 (Parcel ID: 06000300010007); Size: 5.25 acres; Zoning District: Rural; File: 20-4-PCV.

Ms. Brockman provided an overview of her staff report to the Commission.

Ms. Espinosa, property owner, and Mr. Ben Espinosa, explained the nature of the request to the Commission.

Mr. Lorenzetti inquired as to whether the proposed in-law suite would be detached. Mr. Espisnosa confirmed that the in-law suite would be detached. Mr. Lorenzetti inquired as to whether the structure complied with setbacks. Ms. Brockman stated that a building permit would be required and as part of the permit application, the property owner would be required to demonstrate conformance with the setbacks.

Mr. Shepp opened the public hearing. There were no public comments. Mr. Shepp closed the public hearing.

Mr. Hefestay made a motion to approve the waiver with no conditions. Mr. Thomas seconded the motion, which carried unanimously.

9. Public Hearing: Waiver from Section 20.201A.2, which requires all lots in minor residential subdivision to have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots. The applicant is proposing a two (2) lot subdivision, which will create a total of six (6) lots on the existing access easement (Fiddlers Way). Property Owner: Fiddlers 1, LLC. Property Location: Sunset View, Lot 3, 54 Fiddlers Way, Shepherdstown, WV. Tax District: Shepherdstown (09); Tax Map: 5; Parcel: 8.16 (Parcel ID: 09000500080016); Size: 4.25 acres; Zoning District: Residential Growth; File: 20-11-PCW.

Ms. Brockman provided an overview of her staff report to the Commission, noting that one of the lots accessing Fiddlers Way was created as a parent-to-child lot.

Mr. Paul Raco with P.J. Raco Consulting explained the nature of the proposal to the Commission.

Mr. Shepp opened the public hearing. Ms. Donna Catt, located at 50 Andover Ct.; Mr. and Ms. Richard and Stacey Hunt, located at 56 Fiddlers Way; and Mr. and Mrs. Jeff and Patrice Wishmyer, located at 92 Fiddlers Way, each spoke in opposition to the request. Mr. Shepp closed the public hearing.

Mr. Raco provided a rebuttal, addressing some of the questions made during public comment.

In response to some of the public comments, Mr. Thomas expressed concerns regarding the majority of the residents objecting to the request based on road maintenance issues. Mr. Thomas inquired as to whether a road maintenance agreement is required by the County. Ms. Brockman confirmed that for a minor subdivision, a road maintenance agreement is not required by the County. Mr. Stolipher recommended that the homeowners work together to develop a road maintenance agreement to balance equal contribution to upkeep of the road.

Mr. Stolipher made a motion to approve the waiver with no conditions. Mr. Thomas seconded the motion, which carried unanimously.

10. Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment by property owner James W Van Evera III (et al) to rezone the subject parcel from Residential Growth to Residential-Light Industrial-Commercial is consistent with the Envision Jefferson 2035 Comprehensive Plan. Property Owner: James W Van Evera III Et Al. Applicant: Bob Franks, Sheetz Inc. Property Location: 7948 Middleway Pike, Shepherdstown, WV. Properties on south side at the intersection of Martinsburg Pike (Route 45) and Maddex Farm Dr. District: Shepherdstown (09), Map: 8; Parcels: 10.2, 13, 14, 15.2; Total Size: 22.17 ac; Proposed Areas: 5.4 ac.

Mr. Lorenzetti recused himself from this agenda item, stating his wife worked in Shepherdstown.

Ms. Brockman provided a detailed overview of her staff report to the Commission, noting that their role in this application was to make a recommendation to the County Commission as to whether the request to rezone the subject parcel is or is not consistent with the Envision Jefferson 2035 Comprehensive Plan. Ms. Brockman explained that the County Commission would hold a public hearing on the requested rezoning on December 3, 2020 at 2:00 PM.

Mr. Stolipher made a motion to recommend to the County Commission that the requested rezoning is consistent with the Envision Jefferson 2035 Comprehensive Plan. Mr. Hefestay seconded the motion, which carried unanimously.

11. Discussion and Possible Action: Proposed revision to the 1979 Subdivision Variance Policy (enacted 10/4/07) regarding notice requirements.

Ms. Brockman explained the purpose of the suggested edit to the variance policy, noting that the additional time would allow the adjacent property owner letters to arrive in a timely manner.

Mr. Lorenzetti made a motion to accept the revised 1979 Subdivision Variance Policy as presented by Staff. Mr. Thomas seconded the motion, which carried unanimously.

12. Discussion and Possible Action: 2021 Planning Commission Meeting Schedule

Ms. Brockman requested that the Commission accept the 2021 Planning Commission Meeting Schedule, noting that the proposed Schedule included the revised 1979 Subdivision Variance Policy dates.

Mr. Roper made a motion to accept the 2021 Planning Commission Meeting Schedule as presented by Staff. Mr. Lorenzetti seconded the motion, which carried unanimously.

13. Reports from Legal Counsel

Mr. Cochran stated that a lawsuit had been filed against the County Commission and the County Clerk regarding the solar facilities text amendment.

14. Planner's Memo

Ms. Brockman provided an overview of her memo, noting that the next meeting date is scheduled for December 8, 2020.

15. President's Report. None.

16. Actionable Correspondence. None.

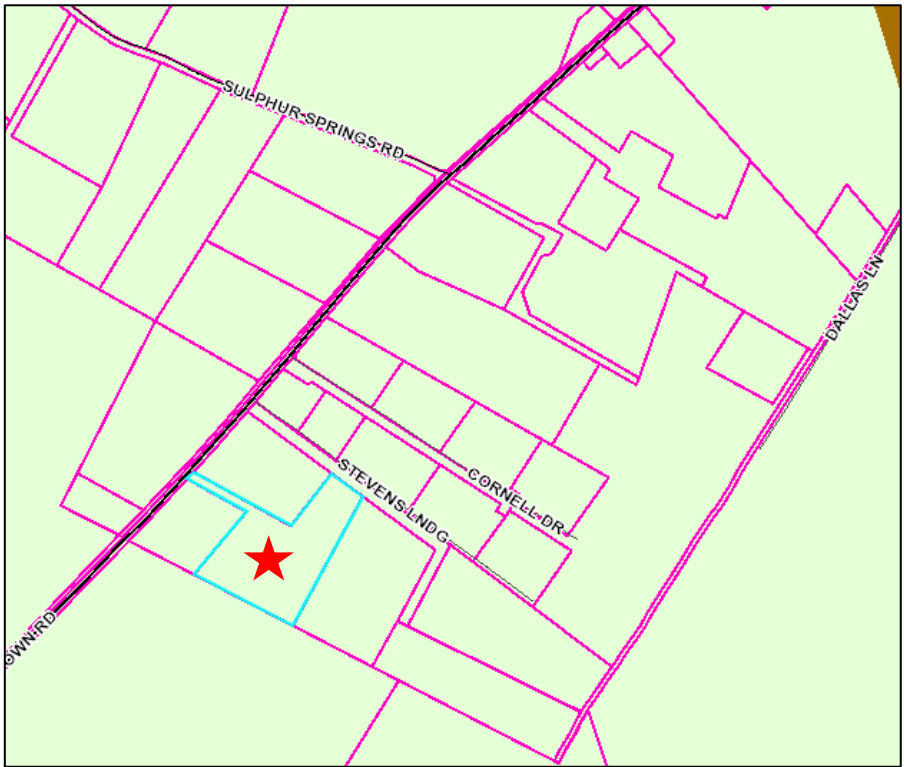
17. Non-Actionable Correspondence. None.

Mr. Hefestay made a motion to adjourn the meeting at 8:27 a.m., which carried unanimously.

Staff Report
 Jefferson County Planning Commission Meeting
 Postponed from November 10, 2020
 to December 8, 2020

Brickstreet Homes, LLC Waiver (20-9-PCW)

Item #4: Public Hearing: Request by applicant, Brickstreet Homes, LLC, for a waiver from Section 20.201A.2 to reduce the required 50' wide access easement to 40' for a proposed two (2) lot minor subdivision.

Applicant	Brickstreet Homes, LLC	
Owner/Developer	Shaun Alexander	
Property Location	Sites Farm, Lot 1B, 10668 Leetown Rd., Kearneysville, WV	
Legal Description & Zoning District	Tax District: Middleway (07); Tax Map: 14; Parcel: 20.4; Zone: Rural 	
Adjacent Zoning Districts	North: Rural South: Rural	East: Rural West: Rural
Proposed Activity	Subdividing Parcel 20.4 into 2 lots (1.09 acres and 3.76 acres)	
Approvals	Phillip and Pamela Stevens Minor Subdivision, Lots 1-A and 1-B (Recorded on 01-19-1984 in Deed Book 520, Page 628)	

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 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 or 12 Family Transfer lots. The request is to allow one additional lot (1.09 acres) to access the existing 40' wide access easement created in 1984 located off Leetown Road.

Staff Report
Jefferson County Planning Commission Meeting
Postponed from November 10, 2020
to December 8, 2020

Brickstreet Homes, LLC Waiver (20-9-PCW)

Under the provisions of Section 5.7D3 of the Zoning Ordinance, the subject parcel has the right to process another lot and a residue (for a total of 2 lots); however, because the access easement is only 40' wide, a waiver from the required 50' width is necessary. Currently Lot 1-A has a nonexclusive access easement to Leetown Rd over the 40' pipestem of Lot 1-B. This request would allow the proposed 1.09-acre lot to use this access as well.

Relevant Site Information:

When Lot 1-A and Lot 1-B were created under the 1979 Subdivision Regulations, it would have been permissible to create another lot on the required 40' access easement under the Minor Subdivision process in effect at that time. In 2008, the access easement requirement was changed to 50'; therefore, this waiver is required. Steven's Landing Road to the north of this property does not provide access to this property and is a private road accessing nearby lots.

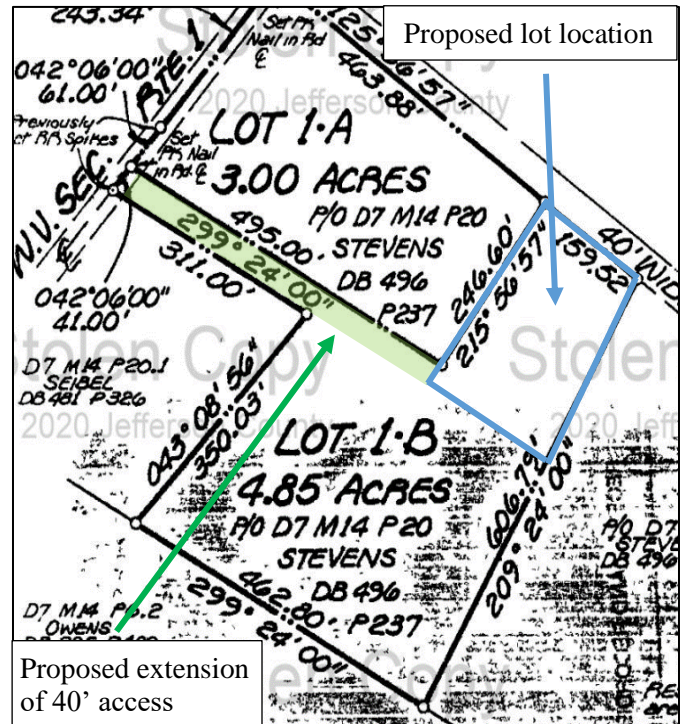
Waiver Requirements:

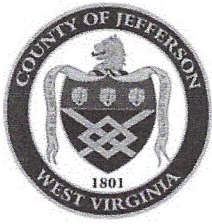
The applicant provided a response to the requirements found in "Division 24.300 Waivers" of the Subdivision Regulations in the waiver application. Waivers from the minimum standards in these Regulations may be granted by the Planning Commission only when the Planning Commission finds that granting a 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:

Staff acknowledges that the applicant is unable to widen the existing pipestem and/or easement serving Lots 1-A and Lot 1-B without acquiring property from the adjoining property owners along the access easement. When these lots were created in 1984, 3 lots would have been permitted on the 40' access 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 3 lots on the existing 40-foot access easement.





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 #: 20-9-PCW
 Mtg Date: 11-10-20
 Date Rec'd: 10/5/20
 Fees Paid: 100.00
 Staff Int: jth
 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: Shawn Alexander
 Business Name: IDLE 68 Leetown LLC
 Mailing Address: 140 B Purcellville Gateway Dr Ste 881 Purcellville, VA
 Phone Number: 202 423 1348 Email: shawnent@gmail.com 20132

Applicant Contact Information

Applicant Name: David Leonard Same as owner:
 Business Name: BrickStreet Homes LLC
 Mailing Address: 36 Bakerton Rd. Harpers Ferry, WV 25425
 Phone Number: 304 671-4085 Email: david.brickstreet@gmail.com

Consultant Information

Name: David Leonard
 Business Name: same as above
 Mailing Address: _____
 Phone Number: 304 671 4085 Email: _____

Physical Property Details

Physical Address: 10668 Leetown Rd. Kearneysville, WV 25430 Vacant Lot:
 Tax District: 7-Middleway District Map No: 0014 Parcel No: 0020.4
 Parcel Size: 4.85 acres Deed Book: 1042 Page No: 534
 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?

20.201 A 2

Briefly Describe the Nature of Your Waiver Request:

would like to use existing 40' access
 for subdividing one lot.

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

We would be willing to pay road maintenance fee.

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.

We will have low traffic. Keep the new house near to wooded area to reduce visibility.

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

due to low traffic, 50' access would not be needed.

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

We will construct a new house on the property tastefully. We will use new construction materials and build something of nice quality. This will be a custom build.

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.

Quint Powell 10/5/2020
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.

11-10-2020
Public Hearing Date

10-27-2020
Date Placard Posted

10-27-2020
Date Adjoiners Mailed

Planning Commission Determination

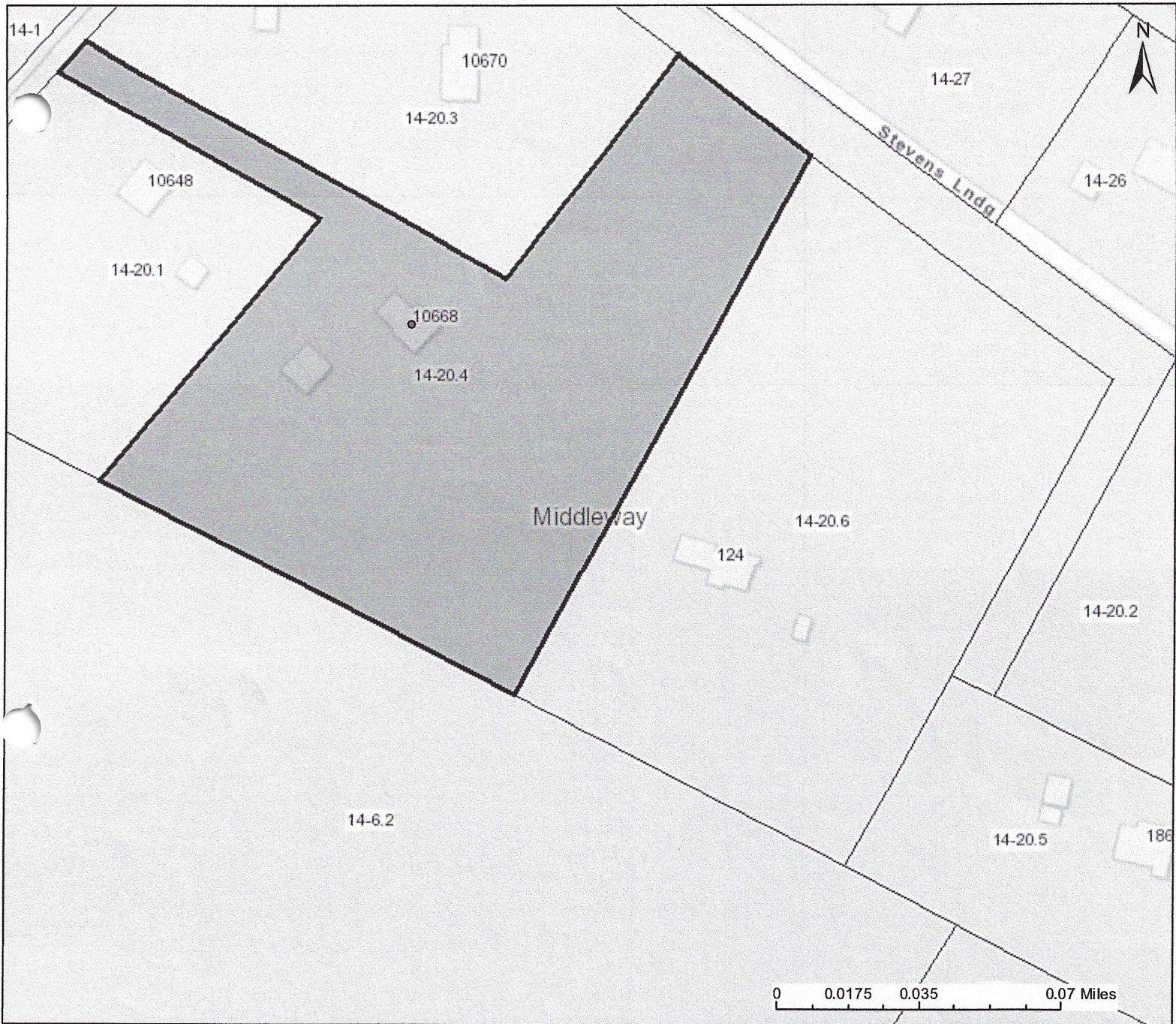
Approved

Denied

Date: ___ / ___ / ___



PARCEL ID: 19-07-0014-0020-0004



User Notes:

Legend

- Districts
- WVParcels

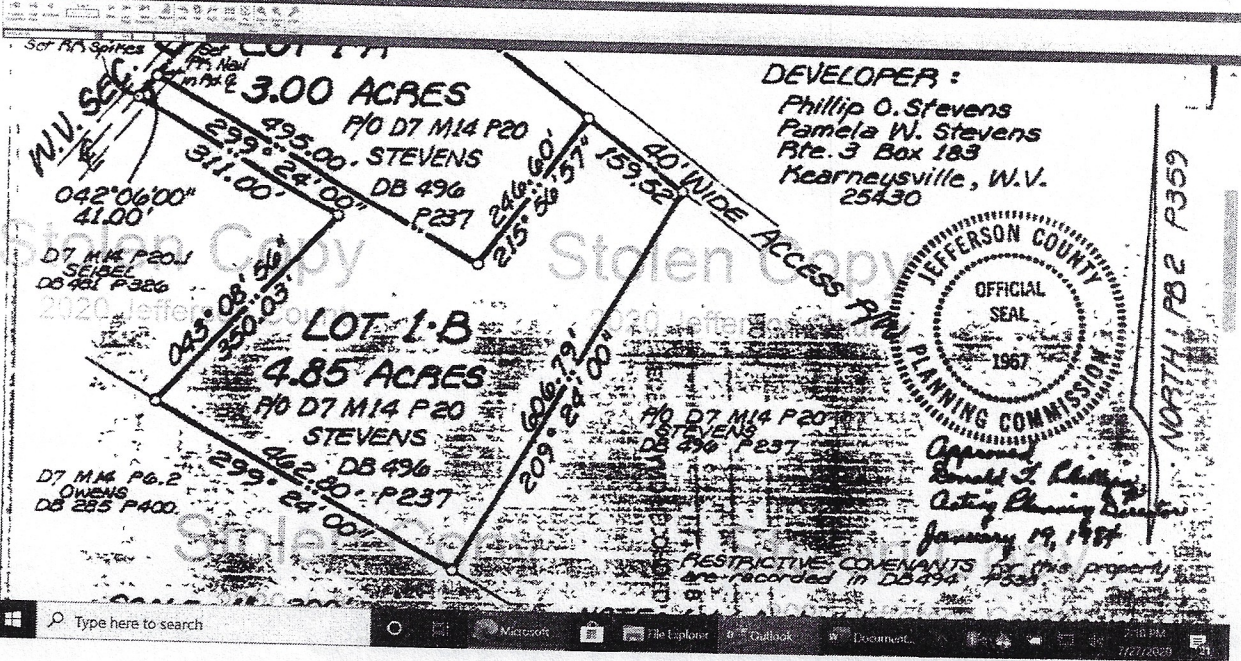
Map created on September 28, 2020

Owner(s):
BURKETT ERNEST L & APRIL A

Address:
10668 LEETOWN RD

Class Type:
Residential

Legal Description:
LT 1B (4.85 AC.) SITES FARM



Public
Comments
Received

20-9-PCW

October 29, 2020

Jefferson County Planning and Zoning
116 East Washington Street, Suite 200
Charles Town, WV 25414

To Jefferson County Planning Department:

This is to reply to the letter I received in the mail regarding a waiver for Section 10201A.2 for Brickstreet Homes LLC (20-9-PCW).

My concern about extending the pipeline (driveway) to make another driveway to access the lot to be subdivided for a new home for Sites Farm, lot 1B, is the water runoff from the proposed driveway. I already deal with water runoff from the driveway to Steven's Landing from the opposite side of our property. We have had a dry summer so at first look it doesn't seem like much of a problem, but when we have a regular spring or summer season with rain, areas of that side of my property can stay wet for weeks, not allowing me to mow, and the rock ledge that runs along the back of our property forms a hill and washes gravel from their road into my yard and the same will happen with this proposed driveway. This rock ledge runs from Lot 1A through Lot 1B. The runoff I deal with that runs along Steven's Landing is along the far side of my property. This new driveway would be 55' from my house and my well is between the house and the proposed driveway. We have a depression in this area and I am concerned that water will collect there. I know from past experience of living here for almost 32 years and maintaining the current driveway and mowing this area for the Coffman's and Burkett's, the ground is soft there. So, to put a driveway in, let alone running heavy equipment that will be needed to clear the wooded lot and build a home, that area will have to be built up to support the traffic and the weight of the trucks and equipment. Thus, creating the same water runoff problem, only this time it is near my house.

I am retired and live on a fixed income and I don't have the extra money to hire an engineer and relandscape to counteract the runoff problems this will cause.

I humbly thank you for listening to my concerns.

Sincerely,

David Crosby
Sites Farm, Lot 1A, Kearneysville
Mailing address:
10670 Leetown Rd
Kearneysville, WV 25430
304-728-4077

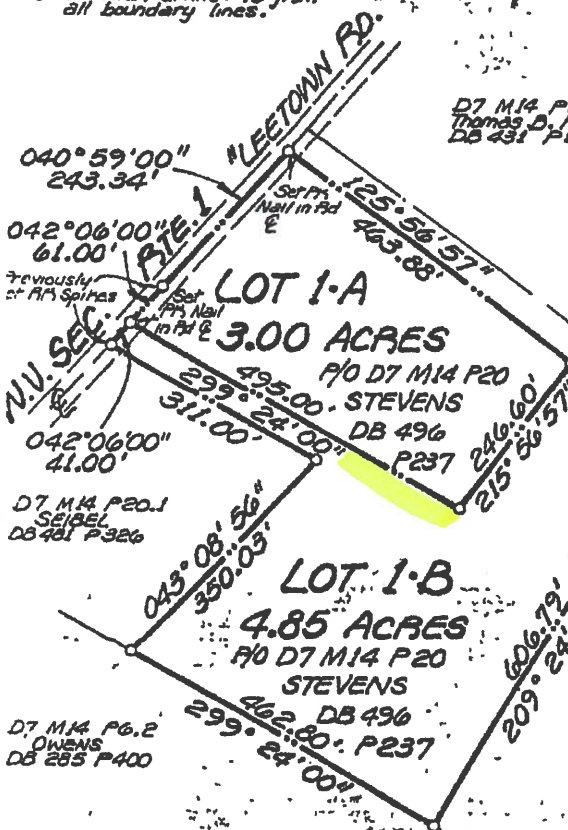
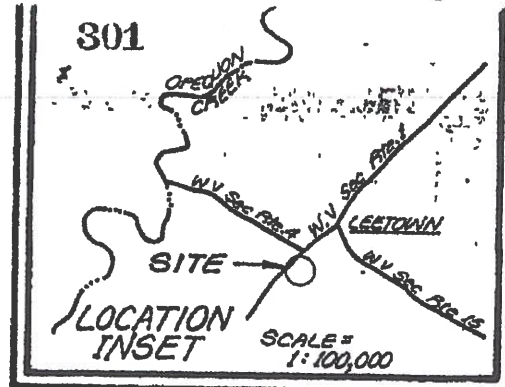
RECEIVED

OCT 29 2020

**JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING**

* included in PC Packet 11/10/20 - JTT

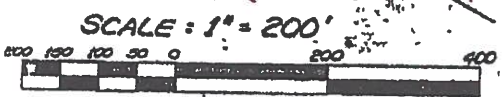
1. Unless otherwise labeled, all corners are Set 5/8" Rebars.
2. This plat meets or exceeds surveying standards as set forth in Chap. 30 of the W.V. Code.
3. Setback Limits: 75' from all boundary lines.



DEVELOPER:
 Phillip O. Stevens
 Pamela W. Stevens
 Rte. 3 Box 183
 Kearneysville, W.V.
 25430



Approved
 Donald J. Williams
 Acting Planning Director
 January 19, 1984



RESTRICTIVE COVENANTS are recorded in DB 494 P 336.

NOTE: Lot 1-A shall have a nonexclusive access easement to Rte. 1 over the 40' pipestem of Lot 1-B. Any other access to Rte. 1 for Lot 1-A shall be prohibited.

SURVEY PLAT showing
 LOT'S 1-A & 1-B
 from the property of
 Phillip O. & Pamela W.
 Stevens

MIDDLEWAY DISTRICT
 JEFFERSON COUNTY, W.V.
 NOVEMBER, 1983

Charles K. Sager
 Charles K. Sager, LLS



Phillip O. Stevens
 Phillip O. Stevens
Pamela W. Stevens
 Pamela W. Stevens

APPALACHIAN SURVEYS, INC. P.O. Box 35 CHARLES TOWN, W.V.

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

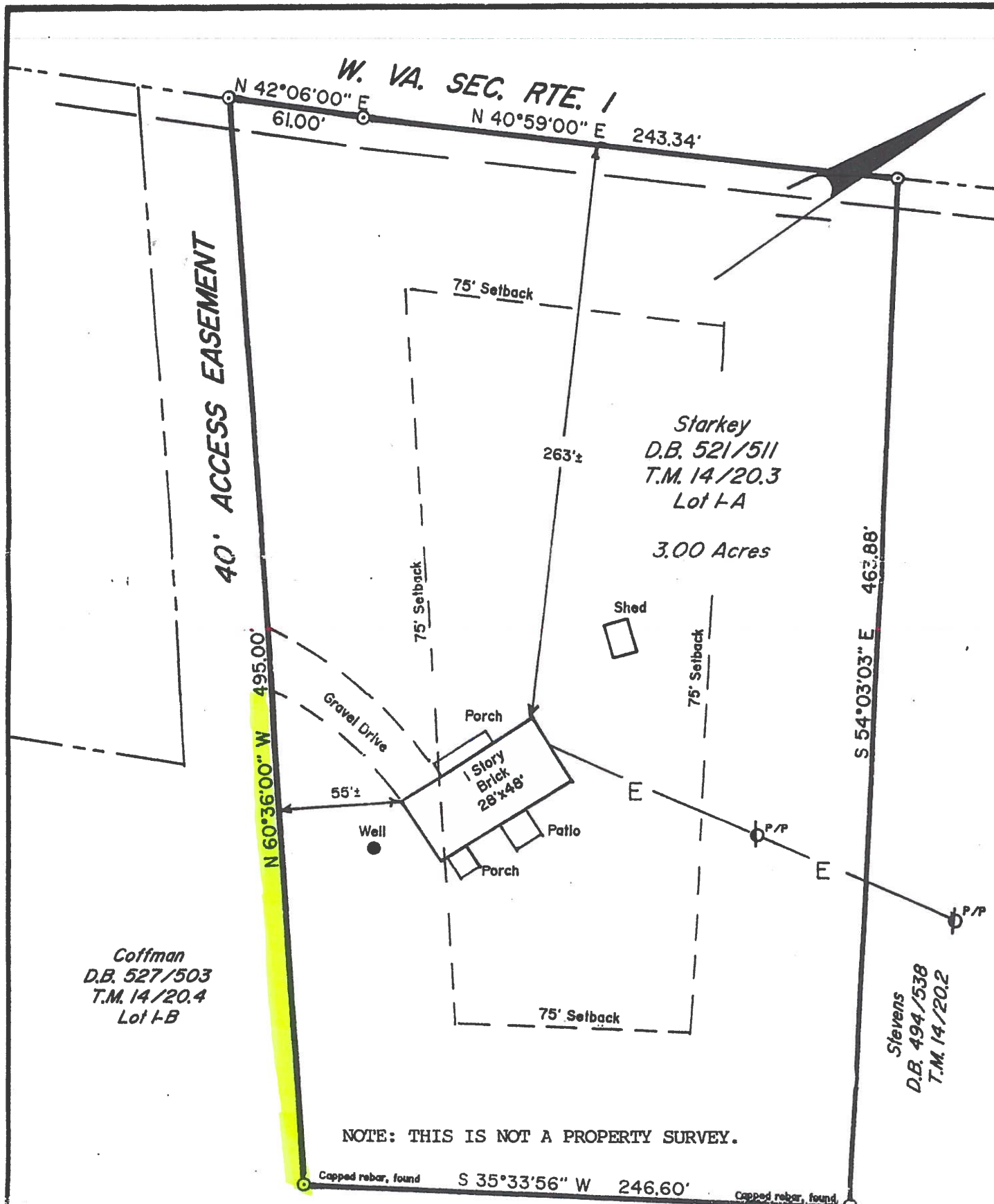
On JAN 19 1984, at 4:00 P.M., the foregoing
 Document was received in my said office and duly admitted
 to record.

Test,

John E. Ott
 Clerk of County Commission

No. 84-183

5201628



NOTE: THIS PROPERTY IS MAPPED ON FEMA PANEL #540065 0042 B, ZONE C. IT IS NOT MAPPED IN A FLOOD ZONE.

PLAT OF HOUSE LOCATION SURVEY
for **DAVID G. & JAY RENEE CROSBY**

Showing improvements to Lot 1-A parcel on plat by Charles K. Sager dated November 1983 in Deed Book 520 page 628 standing in the name of Joseph W. Starkey as recorded in the Office of the County Clerk of Jefferson County in

WRITTEN COMMENTS REGARDING PUBLIC HEARING ON NOVEMBER 10, 2020

SUBJECT: BRICKSTREET HOMES, LLC (20-9-PCW)

APPLICANT NAME: SHAUN ALEXANDER

PROPERTY OWNER: DAVID LEONARD, BRICKSTREET HOMES, LLC

PROPERTY LOCATION: SITES FARM, LOT 1B, 10668 LEETOWN RD, KEARNEYSVILLE, WV 25430

PARCEL ID: 07001400200004; SIZE: 4.85 AC; ZONING DISTRICT: RURAL

NATURE OF REQUEST: WAIVER FROM SECTION 20.201A2 TO REDUCE THE REQUIRED 50' WIDE ACCESS EASEMENT TO 40' FOR A PROPOSED TWO (2) LOT MINOR SUBDIVISION

NOTICE OF PUBLIC HEARING STATES:

“The site will be posted with a green and white placard. Additionally all adjoining property owners have been notified of this meeting by mail.”

Stephen E. and Amy M. Chrisman residing at 124 Stevens Landing, Kearneysville, WV 25430 (an adjoining property to the above location) **have not been notified of this meeting by mail (as of Sunday, November 1, 2020), as required by the Notice of Public Hearing.**

Exemption from increasing Easement from the existing 40-foot easement to the now-required 50-foot easement is requested. This Easement is requested to enable **two additional 1-acre lots to be subdivided from the original 4.85 acre lot** noted above as “SITES FARM, LOT 1B”.

PURCHASER stated that the covenants for this property are over 80 years old and, therefore, can be ignored. Restrictive covenants in the deed pertaining to the sale of 25 acres to Phillip O. Stevens and Pamela W. Stevens were recorded January 4, 1982 in Deed Book 494; Page 538. This is considerably less than 80 years old.

Further, as adjacent property owners in a rural area with no public water or sewer creates significant concerns regarding three residential homes sharing 4.85 acres with three separate wells and three separate septic systems. It does not seem feasible or advisable for this type of development to be permitted on this 25-acre tract of land, currently with 5 homes, with the smallest parcel containing approximately 3 acres. It is also a concern of this property owner that the driveway and residence will be closer than the 75-foot from the property line requirement that is established by the covenants and listed in the deed to the property. This property owner's septic is located close to the adjacent area for the requested subdivision and driveway.

While property owners involved realize that this may not be the only forum to be informed of this objection, it should be part of the consideration for permitting this requested easement exemption. **Being fully informed of the potential health risks implied by this intention to build**

additional homes on this insufficient parcel should be considered by a court of law or planning and zoning commissions and would have a significant negative impact on property values for homes that have existed on the adjacent parcels since 1981. It is the intention of Stephen and Eric Chrisman to strongly object to this request and the Office of Planning and Zoning are hereby notified of this objection.

Sincerely,

Stephen E. and Amy M. Chrisman
Property Owners
124 Stevens Landing
Kearneysville, WV 25430

WRITTEN COMMENTS REGARDING PUBLIC HEARING ON NOVEMBER 10, 2020

SUBJECT: BRICKSTREET HOMES, LLC (20-9-PCW)

APPLICANT NAME: SHAUN ALEXANDER

PROPERTY OWNER: DAVID LEONARD, BRICKSTREET HOMES, LLC

PROPERTY LOCATION: SITES FARM, LOT 1B, 10668 LEETOWN RD, KEARNEYSVILLE, WV 25430

PARCEL ID: 07001400200004; SIZE: 4.85 AC; ZONING DISTRICT: RURAL

NATURE OF REQUEST: WAIVER FROM SECTION 20.201A2 TO REDUCE THE REQUIRED 50' WIDE ACCESS EASEMENT TO 40' FOR A PROPOSED TWO (2) LOT MINOR SUBDIVISION

NOTICE OF PUBLIC HEARING STATES:

"The site will be posted with a green and white placard. Additionally all adjoining property owners have been notified of this meeting by mail."

Phillip O. Stevens and Pamela W. Stevens residing at 274 Stevens Landing, Kearneysville, WV 25430 (an adjoining property to the above location) **has not been notified of this meeting by mail (as of Thursday, October 29, 2020), as required by the Notice of Public Hearing.**

Exemption from increasing Easement from the existing 40 foot easement to the now-required 50 foot easement is requested. This Easement is requested to enable **two additional 1-acre lots to be subdivided from the original 4.85 acre lot** noted above as "SITES FARM, LOT 1B".

PURCHASER stated that the covenants for this property are over 80 years old and, therefore, can be ignored. Restrictive covenants in the deed pertaining to the sale of 25 acres to Phillip O. Stevens and Pamela W. Stevens were recorded January 4, 1982 in Deed Book 494; Page 538. This is considerably less than 80 years old.

Further, as adjacent property owners in a rural area with no public water or sewer creates significant concerns regarding three residential homes sharing 4.85 acres with three separate wells and three separate septic systems. It does not seem feasible or advisable for this type of development to be permitted on this 25-acre tract of land, currently with 5 homes, with the smallest parcel containing approximately 3 acres.

While property owners involved realize that this may not be the only forum to be informed of this objection, it should be part of the consideration for permitting this requested easement exemption. **Being fully informed of the potential health risks implied by this intention to build additional homes on this insufficient parcel should be considered by a court of law or planning and zoning commissions and would have a significant negative impact on property values for homes that have existed on the adjacent parcels since 1981. It is the intention of Phillip O. and Pamela W. Stevens to strongly object to this request and the Office of Planning and Zoning are hereby notified of this objection.**

Planning Department

From: Planning Department
Sent: Wednesday, November 4, 2020 11:49 AM
To: 'Pamela Stevens'
Subject: RE: Public Hearing on November 10, 2020 at 7:00 p.m.

Good morning,

Thank you for your comments. They will be included in the 11/10/2020 Planning Commission packet.

Please be advised that the property located at 274 Stevens Landing does not meet the definition of an adjacent or confronting property owner; therefore, a letter was not mailed to this address.

Thank you and have a nice day.

Sincerely,

Jennilee Hartman
Zoning Clerk
304-728-3228

From: Pamela Stevens <pamelawstevens@gmail.com>
Sent: Monday, November 2, 2020 9:45 PM
To: Planning Department <PlanningDepartment@jeffersoncountywv.org>
Subject: Public Hearing on November 10, 2020 at 7:00 p.m.

Regarding the Applicant SB, 10668 Leetown Road, Kearneysville WV 25430, please see the attached letter of objection to this request.

Please confirm receipt of this email and the attached letter requesting this request be denied.

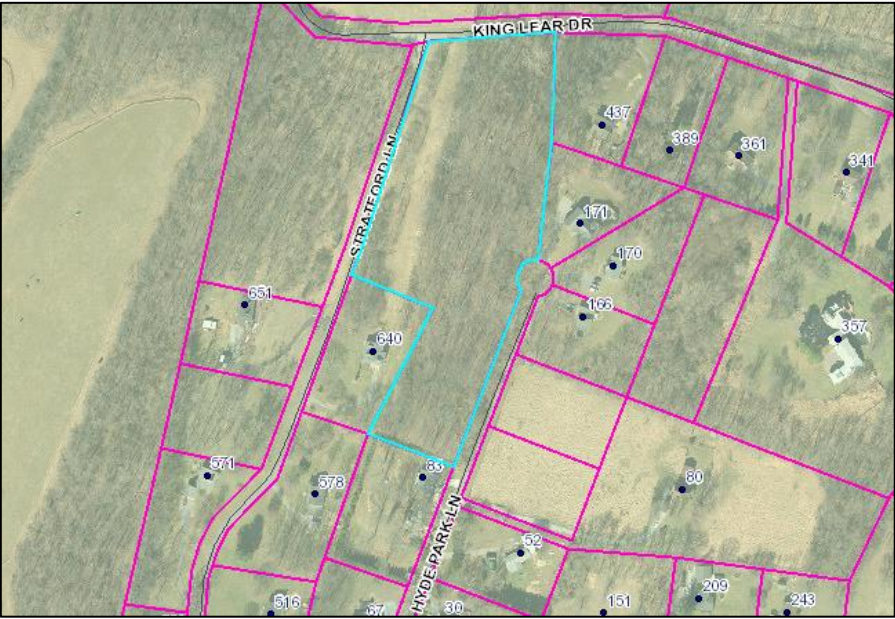
Phillip O. Stevens and Pamela W. Stevens
Property Owners of adjacent Sites Farm acreage
274 Stevens Landing, Kearneysville, WV 25430

pamelawstevens@gmail.com

Staff Report
 Jefferson County Planning Commission Meeting
 December 8, 2020

David Acly (File #: 20-12-PCW)

Item # 5: Public Hearing: Request by applicant, David Acly, for a waiver from Section 20.201, which allows for a total of five (5) lots to process as a minor subdivision. Five lots have previously been approved from this parent parcel. The applicant is proposing to create an additional three lots (two lots and a residue parcel) as a minor subdivision as opposed to a processing a major subdivision.

Applicant	David Acly
Owner/Developer	Same
Consultant	None
Property Location & Information	<p>Avon Bend Subdivision, Lot 3C: vacant lot on the southeast corner of King Lear Dr. and Stratford Ln, Charles Town Parcel ID: 06000900270000; Size: 5.9 acres; Zoning District: Rural</p> 
Adjacent Zoning Districts	<p style="text-align: center;"><i>North:</i> Rural <i>East:</i> Rural <i>South:</i> Rural <i>West:</i> Rural</p>
Proposed Activity	Create an additional three lots (two lots and residue parcel)
Previous Approvals	<p>Daniel Duncan MSD, Lots A, B, C-Residue (PC File #93-23)</p> <ul style="list-style-type: none"> • recorded 07/28/93 in PB11/PG45 <p>Daniel Duncan MSD, Lots C-1, C-2, and C-3 Residue (PC File #98-30)</p> <ul style="list-style-type: none"> • recorded 02/02/99 in PB16/PG43

Summary of the Request:

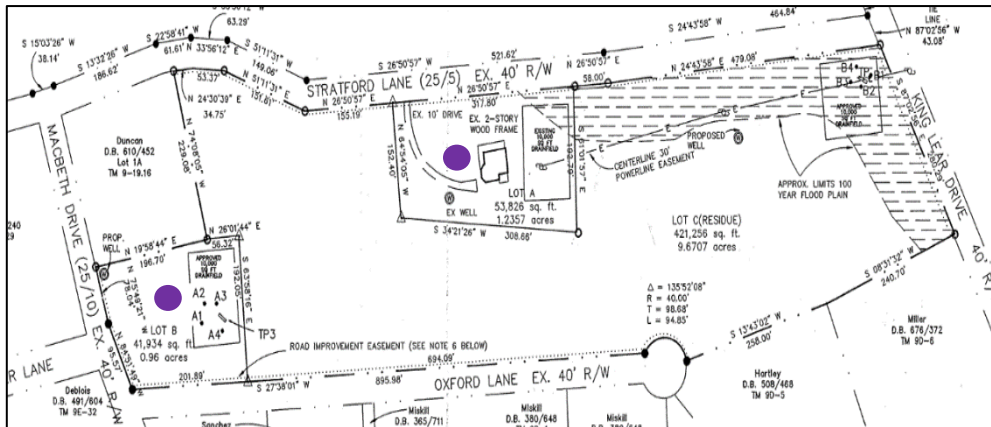
The applicant is requesting a waiver from Section 20.201 which states that “subdivision of a parent parcel beyond the maximum lots allowed to be created via the minor process after October 5, 1988 shall be classified as a Major subdivision and processed accordingly, unless a waiver is applied for and approved by the Planning Commission.” It further states that Minor Subdivisions are those that do not require the development of new off-tract infrastructure, the extension of existing off-tract infrastructure,

Staff Report
Jefferson County Planning Commission Meeting
December 8, 2020

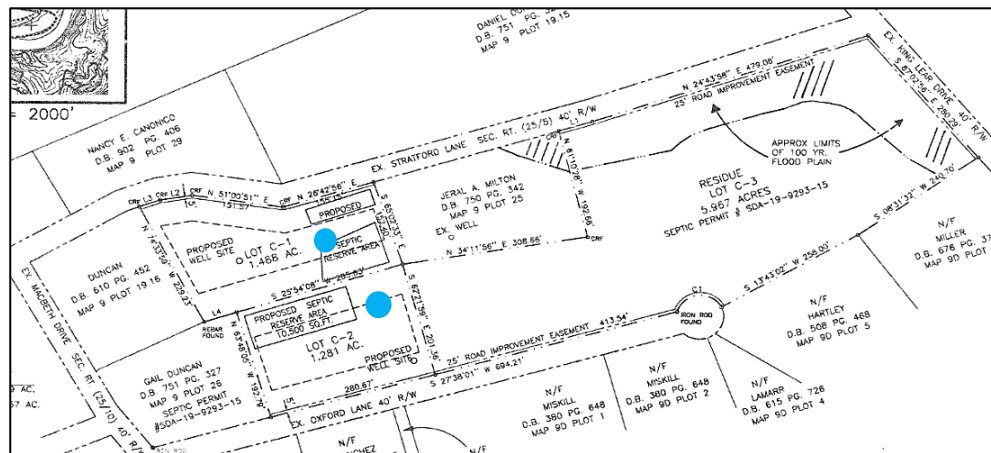
David Acly (File #: 20-12-PCW)

or the creation of common areas, and result in the creation of five (5) residential lots or less, including the parent parcel or residue, from contiguously owned parcels of record.

In this case, the “parent parcel” has already been divided into 4 lots and a residue (5 total lots) since 1988 and therefore does not have the right to create three additional lots (two lots and a residue parcel) under the Minor Subdivision process. It does, however, have the right to divide two additional lots and a Residue per Section 5.7D.3 of the Zoning Ordinance which allows two lots and a residue every five years. The proposal is to divide the subject parcel into two lots and a residue parcel, which would require processing as a Major Subdivision. The applicant is requesting approval of a waiver to process these lots as a Minor Subdivision because each of the lots are proposed to access a West Virginia Division of Highways Right-of-Way.

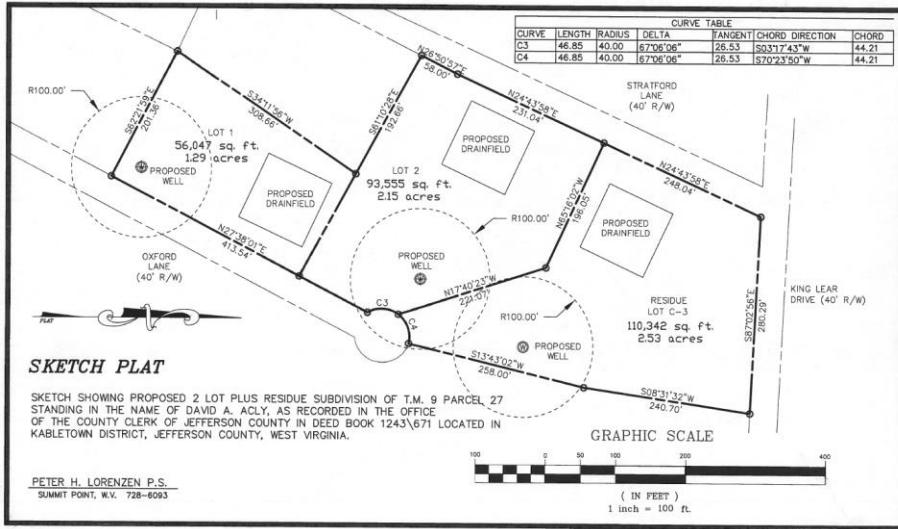


Daniel Duncan MSD (#1)
PB11/PG45 (1993)



Daniel Duncan MSD (#2)
PB16/PG43 (1999)

Staff Report
Jefferson County Planning Commission Meeting
December 8, 2020
David Acly (File #: 20-12-PCW)



Proposed Subdivision

Waiver Requirements:

The applicant provides a response to the requirements found in “Division 24.300 Waivers” of the Subdivision Regulations, which is attached to the 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:

Planning and Engineering staff concur that because the proposed subdivision does not require the development of new off-tract infrastructure, the extension of existing off-tract infrastructure, and each new lot is located on a WV DOH right-of-way, that is reasonable to process as a Minor Subdivision.



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 #: 20-12-PCW
 Mtg Date: 12-08-20
 Date Rec'd: 11-17-20
 Fees Paid: \$100 ch# 1001
 Staff Int: AB
 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: David Aely
 Business Name: _____
 Mailing Address: 1213 Mare st Ranson WV 25438
 Phone Number: 304-886-1449 Email: davidaely@gmail.com

Applicant Contact Information

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

Consultant Information

Name: _____
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: _____ Vacant Lot:
 Tax District: 06-Kable town Map No: Tax map 9 Parcel No: 0027
 Parcel Size: 5.967 Deed Book: 751 Page No: 325
 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?

I Am looking to waive Section 20.201. A parcel may only be subdivided a total of 5 times as a minor subdivision

Briefly Describe the Nature of Your Waiver Request:

I Am requesting to split my current lot of 5.967 Acres into two lots with a residue. Intent to build three homes on said lots afterwards

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 Building of the homes would Add value to the homes Around The Area. Also The county would Receive upwards of \$20,100 in new home impact Fees. It would Benefit the public by creating Jobs while the house are under construction

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 Land IS currently in a Subdivision (Avon Bend) I would keep within all the By-laws when Building. Addition homes would Add to the HOA Annual Income. I have Attached and Approve letter From the HOA

I would Also work with Residents to Figure Best way to Pave Lane

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

If granted All three homes will Comply with All ordinances and Set Backs I have Attached a Map of My Intent

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

If granted the three new construction homes will add Value to every home In the Area Intent is approx 1.5 Acres per lot and Roughly 2100sq houses

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.

David A. Cy  11/15/2020
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.

12-08-2020
Public Hearing Date

11-24-2020
Date Placard Posted

11-24-2020
Date Adjoiners Mailed

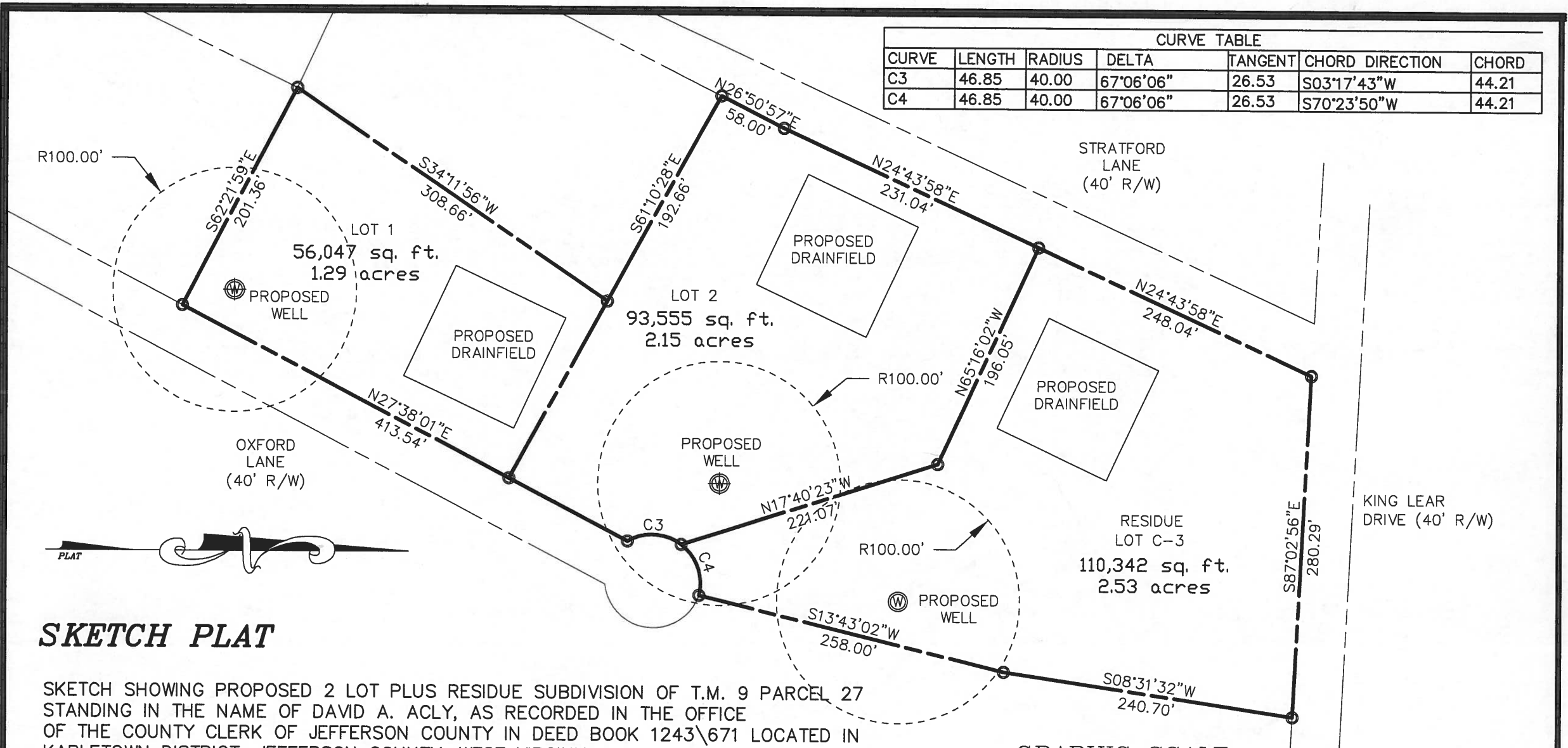
Planning Commission Determination

Approved

Denied

Date: ___ / ___ / ___

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	TANGENT	CHORD DIRECTION	CHORD
C3	46.85	40.00	67°06'06"	26.53	S03°17'43"W	44.21
C4	46.85	40.00	67°06'06"	26.53	S70°23'50"W	44.21



SKETCH PLAT

SKETCH SHOWING PROPOSED 2 LOT PLUS RESIDUE SUBDIVISION OF T.M. 9 PARCEL 27 STANDING IN THE NAME OF DAVID A. ACLY, AS RECORDED IN THE OFFICE OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOK 1243\671 LOCATED IN KABLETOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA.

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



(IN FEET)
1 inch = 100 ft.



Avon Bend Owners' Association, (ABOA), LLC
PO Box 1011
Charles Town, WV 25414

November 15, 2020

To Whom It May Concern:

The 2020 ABOA Board of Directors met regarding Mr. David Acly's request for HOA approval of subdividing Lot 3C. Per Mr. Acly, he has discussed the waiver submission with the neighbors that border his property and they have no objections to his request. We as a board are also in agreement to the waiver request as long as the ABOA governing documents are adhered to which, includes the homes meet the minimum requirements in the covenants. Specifically no trailers and the lots should be a minimum of 1 acre.

Please feel free to contact me if you have further questions.

A handwritten signature in black ink that reads "Jo Ann Wynn". The signature is written in a cursive style with a large, looped 'J' and 'W'.

Jo Ann Wynn
ABOA President
Cell Phone: 304-676-4424.

<https://sites.google.com/site/avonbendownersassociation/>

2 Atch

- 1) ABOA By-laws
- 2) ABOA Covenants

Cc: David Acly
1213 Mare Street
Charles Town, WV 25414

AVON BEND COVENANTS

The parties of the second part, in accepting this conveyance, accept the same subject to the restrictions and conditions hereinafter set forth, and, for themselves, their heirs, successors and assigns, covenant that they shall faithfully observe and perform the restrictions and conditions as follows:

1. No trailer shall be erected on the premises and the said tract or parcel herein conveyed shall not be subdivided into smaller parcels or lots less than one acre in area. No building other than a single detached dwelling shall be erected or placed upon said lot and such building shall never be used or occupied for any purpose other than that of a private residence exclusively. As appurtenant to the residence, and to be used only in connection with it, a carport or garage may be erected on any lot, whether the same be attached or detached from the said dwelling.
2. No dwelling shall be erected on any lot unless the same be provided with an automatic garbage disposal connected to the plumbing in said dwelling and indoor toilet facilities of a flush type with a septic tank with underground drain pipes, constructed in accordance with state and county health regulations.
3. No dwelling shall be erected on any lot unless it contains a minimum floor area of 400 square feet, if the same be a one-story dwelling, and if the same be more than a one-story dwelling, it shall contain a minimum floor area of 700 square feet, excluding there from porches and patios.

The restrictions imposed herein shall inure to the benefit of the party of the first part, its purchasers and its successors and assigns, of lots or subdivision hereafter made, platted, or sold by the said Avon Bend, Inc. from the residue of the tract known as Avon Bend.

BY-LAWS
OF
AVON BEND OWNERS ASSOCIATION, INC.

ARTICLE 1 - NAME

Section 1

The name of the organization shall be Avon Bend Owners Association, Inc., hereinafter referred to as the Association.

ARTICLE II - OBJECTIVES AND PREROGATIVES

Section 1

The objectives of the Association shall be to promote the general welfare and interests of the property owners or purchasers of property in the community of Avon Bend, assure the proper maintenance of the State road system through an active liaison with the West Virginia State Highway Department, and maintain the Avon Bend Park Area dedicated for use of property owners January 13, 1971 (Deed Book 324, Page 386) and the Lisa Pond Area dedicated for use of property owners in 1984.(Deed Book 302, Page 134). The Association's activities shall be on a non-partisan and non-sectarian basis. The Association may enter into contracts, borrow moneys, acquire and hold real and personal property as well as mixed, release or dispose of such property, receive gifts of money or other property and have such further rights and privileges as are by the laws of West Virginia pertaining to Corporations. No real property may be purchased or sold with out the prior approval of 60% of the general membership.

Section 2

There shall be no corporate stock.

ARTICLE III - MEMBERSHIP

Section 1

Every property owner or future purchaser of property is a member; upon approval and acceptance of these by-laws by an affirmative vote of a majority of property owners present at the July 7, 1979 meeting. Officers and members shall be an owner or purchaser of at least one (1) lot in Avon Bend, Jefferson County, West Virginia.

Mailing address: 203 General Rogers Road, Avon Bend, Charles Town, West Virginia 25414.

ARTICLES IV - OFFICERS

Section 1

The Association officers shall consist of a President, a first Vice President, a second Vice President, a secretary, a Treasurer, and a Junior Past President; who, with the exception of the Junior Past President shall be elected at the Association's January semi-annual membership meeting to serve for a term of one (1) year. No Association Officer shall serve in any one position for more than three (3) consecutive years.

Section 2

The duties and powers of the officers shall be as follows:

A. The President shall be the Association Chief Executive Officer. His duties shall be those customarily performed by the President of an organization, whether or not herein enumerated, and shall include the appointment and removal of all committee chairperson, and the signing of all written contracts and obligations of the association.

B. The Vice President, in the order named, shall perform duties of the President in the later's absence and upon request, shall assist him or her in the performance of his duties.

(1) The First Vice President shall normally serve as Chairperson of the Facilities Committee, whose functions are described in Article VII Section 3.

(2) The Second Vice President shall normally serve as Chairperson of the Security Committee, whose functions are described in Article VII Section 4.

C. The Secretary shall keep and preserve a correct and complete record of the proceedings of the Association and of the Board of Directors, and a roll of attendance at all meetings. The Secretary shall be custodian of all correspondence, the Corporate seal, membership list, and By-Laws, and shall incorporate therein all duly adopted amendments. All records so kept shall be available for inspection under reasonable conditions by any member of the Association. The secretary shall conduct all correspondence pertaining to the Association, at the direction of the President.

D. The Treasurer shall be the custodian of the Association's funds. The Treasurer shall render statements and collect membership and association fund fees. He shall receive all moneys of the Association, issue receipts therefore, and deposit the same in the name of the Association in such bank or depository as the Board of Directors shall designate. The Treasurer shall, upon request, furnish the secretary with a list of members delinquent in payment of association fees. The Treasurer shall sign all checks of the Association. The Treasurer shall submit a budget and/or financial report at each Board of Directors meeting and general membership meeting. The Treasurer will furnish bond in such amount as the Board of Directors shall deem sufficient to protect the financial interest of the Association,

in which event the Association shall pay the premium therefore. The Treasurer shall file all tax forms required by the Federal, State or local governments.

E. If the Past Junior President is not nominated by the nominating committee to serve on the Board of Directors, then a 4th director may be elected by the Association or Board of Directors.

F. The Officers shall receive no monetary compensation for the performance of their duties as officers or members of the Board of Directors.

Section 3

Should an officer become delinquent in the payment of his Association Fees or fails to attend three (3) consecutive meetings of the Board, he shall be asked to resign and will be replaced by an interim officer appointed by the Board of Directors to serve until the next general membership meeting, (Article VI).

Section 4

In the event the nominating committee is unable to either be constituted for a given election year or is unable to deliver nominations for the following year's officers and directors, the following must take place:

A. The President of the current year must write a letter to each of the members expressing the seriousness of the situation and the consequences of failure to elect. Delivery of this letter by door-to-door delivery is the preferred method. The president will allow a 30-day extension to solicit and receive nominations.

B. If the letter solicitation is successful, the President will inform the community at the meeting held for election.

C. If the letter solicitation fails, the President will appoint officers from among the sitting Board and Officers.

(1) Minimum Officers will consist of President, Treasurer, and Secretary.

(2) Minimum Board members will consist of two (2) Directors.

(3) Positions held prior to failure of the nominating committee will not imply appointments under this circumstance, in other words, the prior Treasurer is not necessarily the appointed Treasurer.

(4) If the President is unable to appoint these minimums, procedures for dissolving the Association in 4F below must commence.

D. In the first meeting of the new Officers and Directors, the new President will produce a "Continuing Resolution"

(1) The Continuing Resolution will reduce the expenses of the Association to the minimum essential to maintain the legal and safe status of Association property. It shall not allow any new activity unless it is specifically necessary to fulfill this requirement.

(2) The Continuing Resolution will be established for a length of time deemed necessary to either reestablish the proper elected officers and directors or begin dissolving the incorporated Association. There shall be no Continuing Resolution established for six (6) months for one period or eighteen (18) months total for consecutive periods.

E. Additionally, during the first meeting the President will divide the membership list into mutually agreeable sections among the Board and Officers. Officers and Directors will proceed to solicit nominations from each member on their list in any way that ensures communication. Visits and phone calls are preferred. Mass mailing is prohibited unless certified. At least 90% of the Association membership must be reached using this method.

(1) If a slate of nominees is achieved in this process, normal turnover of the Board and Officers shall begin effective the next general meeting (January or July). (See Article VI, Section I)

(2) Adjustment of terms to resynchronize to the normal terms of these Bylaws is allowable, not to exceed 11 months.

F. If the effort to solicit nominations fails, the President will begin dissolving the Association.

(1) A second effort to communicate to the membership will commence as in Section 4 E above, this time to inform them of the steps to dissolve and the reasons for it. During this effort, if the goals of 4E are achieved, the dissolving can cease and reestablishment of the Board and Officer under 4 E can begin.

(2) The President shall direct the Treasurer to cease purchase of all goods and utilities. During this period, the only authorized expenses shall be for Association taxes, insurance that protects the membership and officers, and legal fees associated with dissolving the Association.

(3) The remaining Board and Officers shall agree on an attorney to begin the orderly shut down and dissolving of the Association.

(4) The President will meet with the attorney and receive advice on the shut down. The President will then produce a sequence of events, concluding in the dissolving of the Association. This sequence of events will be annotated with approximate calendar dates.

(5) A third communication to the membership like 4F(1) above will be conducted, this time to communicate the sequence of events. During this effort, if the goals of 4E are achieved, the dissolving can cease and reestablishment of the Board and Officers under 4E can begin.

(6) If the entire sequence of above events is completed and the membership still fails to nominate, the last step before completion shall be a fourth communication advising Association members of dissolution. Failure at this point to nominate will result in the dissolution of the Association and disposal of all assets. The legal advice agreed on will spell out the precise order, timing, and events of this circumstance. Insurance and these By-Laws shall remain in force until the actual dissolution is legally declared.

ARTICLE V - BOARD OF DIRECTORS

Section 1

The Board of Directors shall consist of the six (6) officers of the association (Article IV Section 1) and three (3) members elected by the Association or Board of Directors (Article IV Section 3)

Section 2

If a Director fails to attend three (3) consecutive meetings of the Board, or is delinquent in the payments of his Association Fees, or otherwise fails to perform his duties, his office may be declared vacant by the President, after his having been granted an opportunity for a hearing by the Board of Directors.

Section 3

Vacancies on the Board of Directors shall be filled by a majority vote of the remaining Directors at a specially called Board of Directors meeting. The newly elected Director shall hold office until the next regular general membership meeting .

Section 4

The Board of Directors shall meet at least every three months. The President may call a special meeting of the board at any time upon giving forty-eight (48) hours notice.

Section 5

The Board of Directors shall be vested with the authority for the general direction and control of the affairs of the Association. Their authority shall extend to, but not be limited to the following:

- A. Transacting the Association' s business, including construction expansion, maintenance and repair of the Association's property and facilities.
- B. Establishing, publishing and enforcing reasonable rules for the use of the Association' Property and facilities.
- C. Fixing the amount and character of and approving surety bonds required of any persons handling or having custody of the Associations funds.

- D. Authorizing the incurring of obligations and payments of such obligations.
- E. Authorizing investments for the Association.
- F. Preparing and submitting in writing to the membership semi-annually a financial report.
- G. Providing for competent audit of the Association's books and records at least once a year by a person other than an officer or director.
- H. Selecting the depositories for the Association's funds.
- I. Filling vacancies in the Board of Directors by a majority vote of the Board at a regular or specially called board meeting, subject to re-election or election of a new member at the next full association meeting.
- J. Approving the Treasurer's proposed budget for presentation at the annual general membership meeting.
- K. Providing for adequate liability insurance coverage.

Section 6

In addition to the specifically enumerated powers and duties above, the Board of Directors shall exercise all other powers and perform all other duties customarily pertaining to such office, consistent with these By-Laws and applicable Federal, State and local laws.

ARTICLE VI - MEETINGS

Section 1

There shall be semi-annual general membership meetings, open only to members and their immediate families as defined in Article III, which shall be held on a weekend afternoon, during the months of January and July of each year, at such time and place designated by the President. The January meeting shall be for the purpose of electing officers and directors, and presentation of the proposed budget for the following year, and general discussion. The July meeting shall also be for the election of newly appointed Directors or Officers (Article V, Section 3) and for the transaction of such other business as may come before said meeting.

Section 2

The right to vote shall be limited to property owners who have paid association fees in full for the current year, and limited to two (2) votes for each property owner (i.e. husband and wife 2 votes: partners 2 votes, more than two owners 2 votes, property in the names of two children or more 2 votes).

Section 3

Election shall be by ballot, either cast in person or mailed and postmarked within five (5) days of the meeting and received by the date of the meeting. Absentee ballots must be signed, dated and contain lot number in order to be valid. A majority of the votes cast shall be required to elect.

Section 4

The term of office of all officers shall commence immediately before the adjournment of the general meeting at which elected.

Section 5

It shall be mandatory that the President call special meetings of the general membership (a) whenever a majority of the board deems it necessary; (b) upon presentation to the board of a written request of ten percent (10%) of the members of the association. Said meetings shall be called within thirty (30) days of receipt of said request by the board. For special meetings, notices shall indicate the purpose of the meeting.

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Section 1

The president may appoint the chairperson of such standing and special committees as the board shall specify as necessary. Standing and special committee chairperson shall serve for one (1) year or until their successors are duly appointed or they themselves are otherwise released.

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Section 5

Audit Committee (Refer to Article IX)

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Section 1

A Nominating Committee consisting of a minimum of five (5) members shall be appointed by the president subject to the approval of the Board of Directors at least sixty (60) days prior to the January semi-annual membership meeting.

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The names and address of members who are nominated for office by the nominating committee and who concur in such action must be filed with the Secretary at least forty-five (45) days prior to the January semi-annual meeting.

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Nominations for any office will be received from the floor at all semi-annual general membership meetings. The nominee must concur in such action during the meeting or by specific written statement.

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Additional nominees who have followed the proper procedure shall be placed on the ballot in alphabetical order below the candidates submitted by the nominating committee.

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The Audit committee shall inspect and audit the records of the treasurer at least annually and submit the report in writing at the annual meeting in January. A minimum audit will:

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C. Each expenditure from the checking account is approved by:

(1) two authorized signatures on each check and

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Section 1

The corporate seal of the association shall have inscribed thereon the name of the corporation, the date of incorporation, and the word "Incorporated".

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Section 1

A quorum at any regular or special meeting of the association other than a directors meeting, shall consist of four (4) officers and 10% of the members. This is to include proxy votes in accordance with Article VI, Section 3.

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- A. Approval of minutes of preceding meeting.
- B. Report of Treasurer.
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- D. Unfinished business.
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F. Adjournment.

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Attendance shall be taken at all meetings of the Association.

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Section 1

These by-laws may be amended, altered or repealed in whole or in part by a majority of votes received from members as defined under Article III, which votes may be made by ballot, either cast in person or mailed and postmarked within five (5) working days of the meeting and received by the day of the meeting, at any duly authorized special meeting, provided the recommended change is announced at least thirty (30) days prior to the meeting at which said change is to be voted on. All ballots must be signed, dated and contain lot number or numbers in order to be valid.

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A quarterly newsletter may be mailed to all members to inform them of the general business of the association.

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All complaints received in written form will be acknowledged and action taken by the Board of Directors or if action is deferred, the complainant shall be so informed.

Public
Comments
Received

Planning Department

From: Avon Bend Owners Association <info.boa@gmail.com>
Sent: Wednesday, November 18, 2020 2:41 PM
To: Planning Department
Cc: David; shellharper@ymail.com; 'Dan Duane'; lindjord323@yahoo.com; actionjoe@gmail.com; ladyngrid@gmail.com; John and Jo Wynn; Chihuahua Mom; Debbie Wilson; Gerry and Cathy Pierce; Joanna Perry; John and Jen Glymph; John Wynn; Norman & Cindy Rezmer; Whetstone, Bert
Subject: Waiver Request ABOA Lot C-3 (Acly)
Attachments: Acly_Request_Waiver.pdf; ABOA_BY_LAWS.pdf; AVON_BEND_COVENANTS.pdf

TO WHOM IT MAY CONCERN:

Attn: Jennilee Hartman

Mr. Acly contacted the ABOA Board requesting our approval of his waiver to subdivide his property and construct three new homes. It is the Boards position that we have no objections as long as any future construction meets county regulations and the minimum standards stated in our covenants. It was also our understanding that Mr. Acly had canvassed the neighbors and they had no objections, but it was brought to our attention today that not all of his neighbors are in agreement with his plans. We have advised the neighbors to participate in the upcoming ZOOM hearing on December 8 at 7:00 pm to voice any concerns / objectives they may have. It is also my understanding that approx. 10 neighbors that border the plat will be contacted by mail and be giving this information on the hearing. This is a public hearing (no invites) and all interested can attend via zoom.

The responsibility of the ABOA Board is restricted to enforcing our By-Laws and Covenants, and not representing either parties objectives with regards to this matter. I've attached our original memo as well as the ABOA governing documents for reference.

I've included the neighbors that expressed concerns to me today:

Lucia Duane: Lot F2, F1
Denise & Richard (Dick) Lindjord, Lot 211
Marchele (Shell) Harper, Lot A

Jo Wynn
ABOA President
Cell Phone: 304-676-4424

PO Box 1011
Charles Town, WV 25414
Voice Mail: 304-607-2371



<https://sites.google.com/site/avonbendownersassociation/>



Avon Bend Owners' Association, (ABOA), LLC
PO Box 1011
Charles Town, WV 25414

November 15, 2020

To Whom It May Concern:

The 2020 ABOA Board of Directors met regarding Mr. David Acly's request for HOA approval of subdividing Lot 3C. Per Mr. Acly, he has discussed the waiver submission with the neighbors that border his property and they have no objections to his request. We as a board are also in agreement to the waiver request as long as the ABOA governing documents are adhered to which, includes the homes meet the minimum requirements in the covenants. Specifically no trailers and the lots should be a minimum of 1 acre.

Please feel free to contact me if you have further questions.

A handwritten signature in black ink that reads "Jo Ann Wynn". The signature is written in a cursive style with a large, looped "J" and "W".

Jo Ann Wynn
ABOA President
Cell Phone: 304-676-4424.

<https://sites.google.com/site/avonbendownersassociation/>

2 Atch

- 1) ABOA By-laws
- 2) ABOA Covenants

Cc: David Acly
1213 Mare Street
Charles Town, WV 25414

AVON BEND COVENANTS

The parties of the second part, in accepting this conveyance, accept the same subject to the restrictions and conditions hereinafter set forth, and, for themselves, their heirs, successors and assigns, covenant that they shall faithfully observe and perform the restrictions and conditions as follows:

1. No trailer shall be erected on the premises and the said tract or parcel herein conveyed shall not be subdivided into smaller parcels or lots less than one acre in area. No building other than a single detached dwelling shall be erected or placed upon said lot and such building shall never be used or occupied for any purpose other than that of a private residence exclusively. As appurtenant to the residence, and to be used only in connection with it, a carport or garage may be erected on any lot, whether the same be attached or detached from the said dwelling.
2. No dwelling shall be erected on any lot unless the same be provided with an automatic garbage disposal connected to the plumbing in said dwelling and indoor toilet facilities of a flush type with a septic tank with underground drain pipes, constructed in accordance with state and county health regulations.
3. No dwelling shall be erected on any lot unless it contains a minimum floor area of 400 square feet, if the same be a one-story dwelling, and if the same be more than a one-story dwelling, it shall contain a minimum floor area of 700 square feet, excluding there from porches and patios.

The restrictions imposed herein shall inure to the benefit of the party of the first part, its purchasers and its successors and assigns, of lots or subdivision hereafter made, platted, or sold by the said Avon Bend, Inc. from the residue of the tract known as Avon Bend.

BY-LAWS
OF
AVON BEND OWNERS ASSOCIATION, INC.

ARTICLE 1 - NAME

Section 1

The name of the organization shall be Avon Bend Owners Association, Inc., hereinafter referred to as the Association.

ARTICLE II - OBJECTIVES AND PREROGATIVES

Section 1

The objectives of the Association shall be to promote the general welfare and interests of the property owners or purchasers of property in the community of Avon Bend, assure the proper maintenance of the State road system through an active liaison with the West Virginia State Highway Department, and maintain the Avon Bend Park Area dedicated for use of property owners January 13, 1971 (Deed Book 324, Page 386) and the Lisa Pond Area dedicated for use of property owners in 1984.(Deed Book 302, Page 134). The Association's activities shall be on a non-partisan and non-sectarian basis. The Association may enter into contracts, borrow moneys, acquire and hold real and personal property as well as mixed, release or dispose of such property, receive gifts of money or other property and have such further rights and privileges as are by the laws of West Virginia pertaining to Corporations. No real property may be purchased or sold with out the prior approval of 60% of the general membership.

Section 2

There shall be no corporate stock.

ARTICLE III - MEMBERSHIP

Section 1

Every property owner or future purchaser of property is a member; upon approval and acceptance of these by-laws by an affirmative vote of a majority of property owners present at the July 7, 1979 meeting. Officers and members shall be an owner or purchaser of at least one (1) lot in Avon Bend, Jefferson County, West Virginia.

Mailing address: 203 General Rogers Road, Avon Bend, Charles Town, West Virginia 25414.

ARTICLES IV - OFFICERS

Section 1

The Association officers shall consist of a President, a first Vice President, a second Vice President, a secretary, a Treasurer, and a Junior Past President; who, with the exception of the Junior Past President shall be elected at the Association's January semi-annual membership meeting to serve for a term of one (1) year. No Association Officer shall serve in any one position for more than three (3) consecutive years.

Section 2

The duties and powers of the officers shall be as follows:

A. The President shall be the Association Chief Executive Officer. His duties shall be those customarily performed by the President of an organization, whether or not herein enumerated, and shall include the appointment and removal of all committee chairperson, and the signing of all written contracts and obligations of the association.

B. The Vice President, in the order named, shall perform duties of the President in the later's absence and upon request, shall assist him or her in the performance of his duties.

(1) The First Vice President shall normally serve as Chairperson of the Facilities Committee, whose functions are described in Article VII Section 3.

(2) The Second Vice President shall normally serve as Chairperson of the Security Committee, whose functions are described in Article VII Section 4.

C. The Secretary shall keep and preserve a correct and complete record of the proceedings of the Association and of the Board of Directors, and a roll of attendance at all meetings. The Secretary shall be custodian of all correspondence, the Corporate seal, membership list, and By-Laws, and shall incorporate therein all duly adopted amendments. All records so kept shall be available for inspection under reasonable conditions by any member of the Association. The secretary shall conduct all correspondence pertaining to the Association, at the direction of the President.

D. The Treasurer shall be the custodian of the Association's funds. The Treasurer shall render statements and collect membership and association fund fees. He shall receive all moneys of the Association, issue receipts therefore, and deposit the same in the name of the Association in such bank or depository as the Board of Directors shall designate. The Treasurer shall, upon request, furnish the secretary with a list of members delinquent in payment of association fees. The Treasurer shall sign all checks of the Association. The Treasurer shall submit a budget and/or financial report at each Board of Directors meeting and general membership meeting. The Treasurer will furnish bond in such amount as the Board of Directors shall deem sufficient to protect the financial interest of the Association,

in which event the Association shall pay the premium therefore. The Treasurer shall file all tax forms required by the Federal, State or local governments.

E. If the Past Junior President is not nominated by the nominating committee to serve on the Board of Directors, then a 4th director may be elected by the Association or Board of Directors.

F. The Officers shall receive no monetary compensation for the performance of their duties as officers or members of the Board of Directors.

Section 3

Should an officer become delinquent in the payment of his Association Fees or fails to attend three (3) consecutive meetings of the Board, he shall be asked to resign and will be replaced by an interim officer appointed by the Board of Directors to serve until the next general membership meeting, (Article VI).

Section 4

In the event the nominating committee is unable to either be constituted for a given election year or is unable to deliver nominations for the following year's officers and directors, the following must take place:

A. The President of the current year must write a letter to each of the members expressing the seriousness of the situation and the consequences of failure to elect. Delivery of this letter by door-to-door delivery is the preferred method. The president will allow a 30-day extension to solicit and receive nominations.

B. If the letter solicitation is successful, the President will inform the community at the meeting held for election.

C. If the letter solicitation fails, the President will appoint officers from among the sitting Board and Officers.

(1) Minimum Officers will consist of President, Treasurer, and Secretary.

(2) Minimum Board members will consist of two (2) Directors.

(3) Positions held prior to failure of the nominating committee will not imply appointments under this circumstance, in other words, the prior Treasurer is not necessarily the appointed Treasurer.

(4) If the President is unable to appoint these minimums, procedures for dissolving the Association in 4F below must commence.

D. In the first meeting of the new Officers and Directors, the new President will produce a "Continuing Resolution"

(1) The Continuing Resolution will reduce the expenses of the Association to the minimum essential to maintain the legal and safe status of Association property. It shall not allow any new activity unless it is specifically necessary to fulfill this requirement.

(2) The Continuing Resolution will be established for a length of time deemed necessary to either reestablish the proper elected officers and directors or begin dissolving the incorporated Association. There shall be no Continuing Resolution established for six (6) months for one period or eighteen (18) months total for consecutive periods.

E. Additionally, during the first meeting the President will divide the membership list into mutually agreeable sections among the Board and Officers. Officers and Directors will proceed to solicit nominations from each member on their list in any way that ensures communication. Visits and phone calls are preferred. Mass mailing is prohibited unless certified. At least 90% of the Association membership must be reached using this method.

(1) If a slate of nominees is achieved in this process, normal turnover of the Board and Officers shall begin effective the next general meeting (January or July). (See Article VI, Section I)

(2) Adjustment of terms to resynchronize to the normal terms of these Bylaws is allowable, not to exceed 11 months.

F. If the effort to solicit nominations fails, the President will begin dissolving the Association.

(1) A second effort to communicate to the membership will commence as in Section 4 E above, this time to inform them of the steps to dissolve and the reasons for it. During this effort, if the goals of 4E are achieved, the dissolving can cease and reestablishment of the Board and Officer under 4 E can begin.

(2) The President shall direct the Treasurer to cease purchase of all goods and utilities. During this period, the only authorized expenses shall be for Association taxes, insurance that protects the membership and officers, and legal fees associated with dissolving the Association.

(3) The remaining Board and Officers shall agree on an attorney to begin the orderly shut down and dissolving of the Association.

(4) The President will meet with the attorney and receive advice on the shut down. The President will then produce a sequence of events, concluding in the dissolving of the Association. This sequence of events will be annotated with approximate calendar dates.

(5) A third communication to the membership like 4F(1) above will be conducted, this time to communicate the sequence of events. During this effort, if the goals of 4E are achieved, the dissolving can cease and reestablishment of the Board and Officers under 4E can begin.

(6) If the entire sequence of above events is completed and the membership still fails to nominate, the last step before completion shall be a fourth communication advising Association members of dissolution. Failure at this point to nominate will result in the dissolution of the Association and disposal of all assets. The legal advice agreed on will spell out the precise order, timing, and events of this circumstance. Insurance and these By-Laws shall remain in force until the actual dissolution is legally declared.

ARTICLE V - BOARD OF DIRECTORS

Section 1

The Board of Directors shall consist of the six (6) officers of the association (Article IV Section 1) and three (3) members elected by the Association or Board of Directors (Article IV Section 3)

Section 2

If a Director fails to attend three (3) consecutive meetings of the Board, or is delinquent in the payments of his Association Fees, or otherwise fails to perform his duties, his office may be declared vacant by the President, after his having been granted an opportunity for a hearing by the Board of Directors.

Section 3

Vacancies on the Board of Directors shall be filled by a majority vote of the remaining Directors at a specially called Board of Directors meeting. The newly elected Director shall hold office until the next regular general membership meeting .

Section 4

The Board of Directors shall meet at least every three months. The President may call a special meeting of the board at any time upon giving forty-eight (48) hours notice.

Section 5

The Board of Directors shall be vested with the authority for the general direction and control of the affairs of the Association. Their authority shall extend to, but not be limited to the following:

- A. Transacting the Association' s business, including construction expansion, maintenance and repair of the Association's property and facilities.
- B. Establishing, publishing and enforcing reasonable rules for the use of the Association' Property and facilities.
- C. Fixing the amount and character of and approving surety bonds required of any persons handling or having custody of the Associations funds.

- D. Authorizing the incurring of obligations and payments of such obligations.
- E. Authorizing investments for the Association.
- F. Preparing and submitting in writing to the membership semi-annually a financial report.
- G. Providing for competent audit of the Association's books and records at least once a year by a person other than an officer or director.
- H. Selecting the depositories for the Association's funds.
- I. Filling vacancies in the Board of Directors by a majority vote of the Board at a regular or specially called board meeting, subject to re-election or election of a new member at the next full association meeting.
- J. Approving the Treasurer's proposed budget for presentation at the annual general membership meeting.
- K. Providing for adequate liability insurance coverage.

Section 6

In addition to the specifically enumerated powers and duties above, the Board of Directors shall exercise all other powers and perform all other duties customarily pertaining to such office, consistent with these By-Laws and applicable Federal, State and local laws.

ARTICLE VI - MEETINGS

Section 1

There shall be semi-annual general membership meetings, open only to members and their immediate families as defined in Article III, which shall be held on a weekend afternoon, during the months of January and July of each year, at such time and place designated by the President. The January meeting shall be for the purpose of electing officers and directors, and presentation of the proposed budget for the following year, and general discussion. The July meeting shall also be for the election of newly appointed Directors or Officers (Article V, Section 3) and for the transaction of such other business as may come before said meeting.

Section 2

The right to vote shall be limited to property owners who have paid association fees in full for the current year, and limited to two (2) votes for each property owner (i.e. husband and wife 2 votes: partners 2 votes, more than two owners 2 votes, property in the names of two children or more 2 votes).

Section 3

Election shall be by ballot, either cast in person or mailed and postmarked within five (5) days of the meeting and received by the date of the meeting. Absentee ballots must be signed, dated and contain lot number in order to be valid. A majority of the votes cast shall be required to elect.

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Planning Department

From: Shell Harper <shellharper@ymail.com>
Sent: Sunday, November 29, 2020 6:45 PM
To: jennifer miller; Planning Department
Subject: Re: Project File 20-12-PCW Dec. 8 meeting

Thank you. Sound great.

[Sent from Yahoo Mail for iPhone](#)

On Sunday, November 29, 2020, 6:08 PM, jennifer miller <pikemiller@msn.com> wrote:

Dear Jefferson County Planning Department,

I am writing in regards to Project File 20-12-PWC. It is my understanding the waiver request for a land parcel in Avon Bend subdivision (Kabletown) will be reviewed on December 8. The building waiver being requested is to further subdivide land that has already been subdivided.

I object to the building waiver under review for the following reasons:

- The land parcel in question has caves and sinkholes.
- There is possible karst topography in the area that requires consideration prior to building, especially considering the run-off/pollution to Bullskin Run Creek.
- The land has already been divided, and was divided with one home in mind for the reasons listed above.
- The *further* subdivision of the land parcel as requested in the waiver should require the development of streets and infrastructure (thus a Major Subdivision).

Thank you for considering my concerns as this building waiver is under review.

Jennifer Miller
Avon Bend resident since 1998

Planning Department

From: Brynn Harris <butrflygirl1126@yahoo.com>
Sent: Monday, November 30, 2020 11:41 AM
To: Planning Department
Subject: Acly Waiver Request - Stratford Lane - Lot C-3

Follow Up Flag: Follow up
Flag Status: Flagged

To Whom it may concern :

I am writing concerning the request to subdivide David Aclys lot on Stratford Lane in Avon Bend

My name was on the list of adjacent property owners that Mr. Acly claimed to have spoken to (I reside at 578 Stratford Lane). Mr. Acly never spoke to me regarding his plans to develop 3 homes and I did not agree to this plan of his.

My concern with this development is the underlying geology. There is a partially mapped cave under this property that extends towards my property. Disruption for grading and development could potentially cause further sink hole development and property damage to the surrounding lots.

I also would like to express concern over septics in the 100 year flood plain and potential contamination of our well water.

It is my understanding that the waiver will allow Mr. Acly to develop 3 houses without being responsible for potential damage. Please take this as my written documentation that I do not agree with the plan to split the property into 3 lots

Thank you for your time. I will be attending the Zoom meeting on 12-8. Please contact me with questions.

Sent from my iPhone
Brynn Harris, P.G.
Project Geologist
Seismic Surveys, Inc.
Office: 301.663.6630
Cell: 240.578.1030

Marchele D. Harper
640 Stratford Lane
Charles Town, WV 25414
360-739-4379 / shellharper@ymail.com

RECEIVED
December 1, 2020
Office of Planning & Zoning

30 November 2020

To the Members of the Jefferson County Planning Commission

This letter is in response to Project File 20-12-PWC which is scheduled for a ZOOM meeting on 8 December 2020. It is my understanding that since this property has already been divided five times it does not fall under the 20.201 Minor Subdivision Ordinance and should be under the 20.202 Major Subdivision Ordinance meeting those requirements as stated.

This property is very fragile and rezoning for two or more lots would be detrimental to the environment and the surrounding properties. This property is approximately six acres and is made up of the following:

- A karst topography, defined as a landscape formed from the dissolution of soluble rocks, such as limestone, dolomite and gypsum. It is characterized by underground drainage systems with fissures, sinkholes and caves and can result in cave-ins, sinkholes and the contamination of groundwater.
- This particular property falls under the karst definition consisting of steep inclines, exposed limestone outcroppings, trees that are several hundred years old and the Milton Cave.
- The Milton Cave has been partially mapped and is approximately 38' deep and 100' long. The opening is located on the flat portion of this land just above the floodplain. The unmapped portion of this cave is approximately 50' or more and runs North to South. An additional cave (unmapped) has also been discovered with its opening on an adjacent property.
- The lower portion of this property is located in the floodplain of Bullskin Run. It also consists of a 40' right-of-way through the middle of the property, which grants access to the Power Company for maintenance and repair of the power lines.
- Hyde Park Lane, located on the upper portion of this property, is a one lane gravel County road. The proposed three homes will use Hyde Park Lane for entrance and egress. In its current state, this road will not support the increased traffic required to build these homes; i.e., heavy trucks, equipment, deliveries, worker vehicles, etc. Hyde

Park Lane residents will experience a crumbling road bed, increased dust, pot holes and a disruption to the access to their homes.

My property, 640 Stratford Lane, borders this aforementioned property on two sides, the left side property line and rear property line as shown in the property sketch attached to the Waiver. My property consists of a 1700's log cabin, the original homestead in this area, and an addition that was added in the 1940's. The cabin itself sits on a foundation of rocks gleaned from the land and Chestnut hand-hewn logs chinked by the original homesteaders. This home has been here for approximately 250 years and has survived through the early times, the Civil War and the fires that raged through this area. It is part of Charles Town's history and deserves to be protected, which is my intention.

My major concern is the impact of building a home directly behind and on top of the incline that backs to my property. The result, of which, has a high probability caused by severe land disturbances; such as the removal of trees on this incline and the digging, or blasting, required for a foundation. Such activity would compromise the foundation to my home by causing landslides, flooding and sinkholes that would be devastating. The installation of a septic field on the hill above me puts not only my well and water in jeopardy but also the surrounding neighbors. Also due to the karst topography of this property contamination of the groundwater and the result leaching into Bullskin Run is a very important environmental issue.

I am requesting the Planning Department seriously consider this Waiver and decline the request; thus maintaining the current zoning of one house on this lot. Any further development of this lot should be done under the 20.202 Major Subdivision Ordinance and adhere to those requirements.

My concerns are based on the fragility of this land, the environmental damage and the direct impact to my property, the surrounding properties and the community. I urge the members of the Planning Department to come out and look at this property. A sketch on a flat piece of paper does not do it justice.

I want to thank you for your consideration and if you have any questions regarding my concerns, please feel free to contact me.

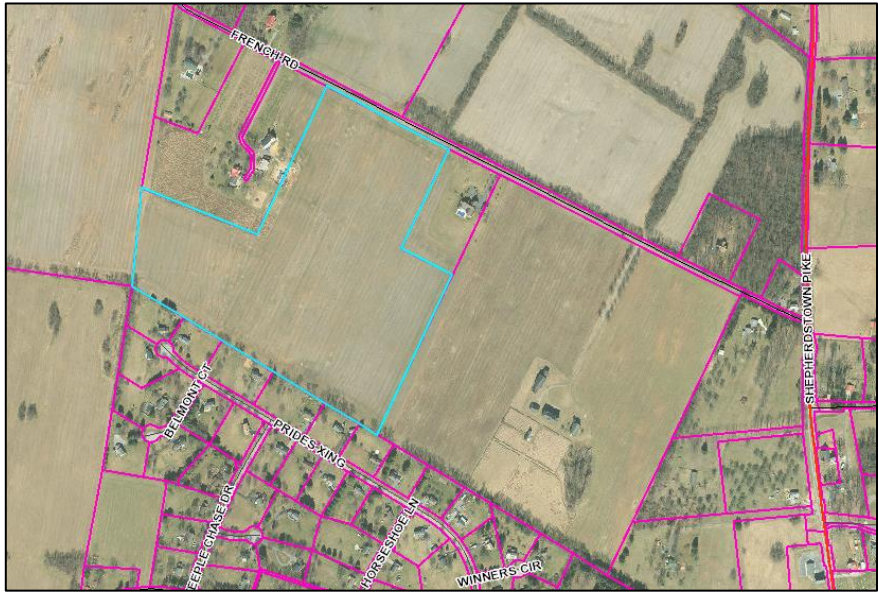
Sincerely,

Marchele D. Harper

Staff Report
 Jefferson County Planning Commission Meeting
 December 8, 2020

Link-Cobb (File #: 20-13-PCW)

Item # 6: Public Hearing: Request by applicant, Al Cobb, for a waiver from Section 20.201, which only allows for a total of five (5) lots to process as a minor subdivision. Two lots have previously been approved from this parent parcel. The applicant is proposing to create an additional five lots (four lots and a residue parcel) as a minor subdivision as opposed to a processing a major subdivision.

Applicant	Al and LeAnne Cobb
Owner/Developer	Margaret Link (estate)
Consultant	Paul Raco, PJ Raco Consulting, LLC
Property Location & Information	<p>Link Minor Subdivision, Lot 3: vacant lot located .43 miles west of Shepherdstown Pike on the south side of French Road Parcel ID: 09002000110004; Size: 44.78 acres; Zoning District: Rural</p> 
Adjacent Zoning Districts	<p style="text-align: center;"><i>North:</i> Rural <i>East:</i> Rural <i>South:</i> Rural <i>West:</i> Rural</p>
Proposed Activity	Create an additional five lots (four lots and residue parcel)
Approvals	<p>Margaret Link MSD, Lots 1 (15 ac) and 2-Residue (44.77 acres)</p> <ul style="list-style-type: none"> • Recorded 05/13/02 in PB 19; PG 36 <p>Lot A: 4.88 acre parent to child (59.85 residue)</p> <ul style="list-style-type: none"> • Recorded 12/14/01 in DB 955, PG 189 <p>Margaret Link MSD, Lots 1 (60 ac.) and 2-Residue (65+ ac.)</p> <ul style="list-style-type: none"> • Recorded 05/30/91 in PB 10, PG 23

Summary of the Request:

The applicant is requesting a waiver from Section 20.201 which states that “subdivision of a parent parcel beyond the maximum lots allowed to be created via the minor process after October 5, 1988 shall be classified as a Major subdivision and processed accordingly, unless a waiver is applied for and approved by the Planning Commission.” It further states that Minor Subdivisions are those that do not require the development of new off-tract infrastructure, the extension of existing off-tract infrastructure,

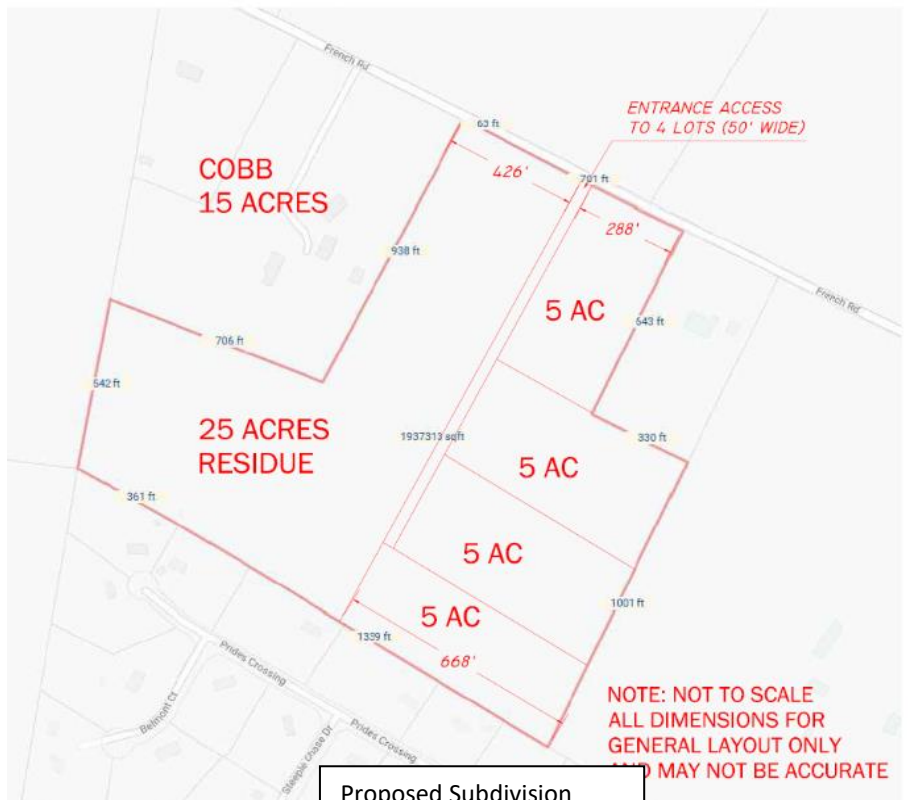
Staff Report
 Jefferson County Planning Commission Meeting
 December 8, 2020

Link-Cobb (File #: 20-13-PCW)

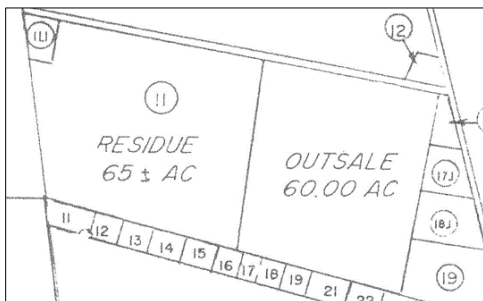
or the creation of common areas, and result in the creation of five (5) residential lots or less, including the parent parcel or residue, from contiguously owned parcels of record.

In this case, the “parent parcel” has already been divided into 2 lots and a residue (3 total lots) since 1988 and therefore only has the right to process two additional lots and a residue under the Minor Subdivision process, utilizing the 1 lot/15 acres provision (Section 5.7D.1) of the Zoning Ordinance, or under Section 5.7D.3, two lots and a residue every 5 years. The Parent to Child lot created in 2001 does not impact the remaining development rights.

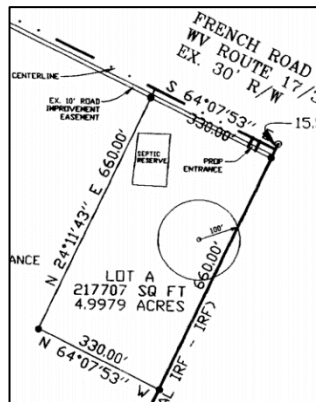
The applicant does not have the right to create the proposed five additional lots (four lots and a residue parcel) under the Minor Subdivision process. The proposal to divide the subject parcel into four lots and a residue parcel requires processing as a Major Subdivision. The applicant is requesting approval of a waiver to process these lots as a Minor Subdivision because the four new lots are proposed to access a shared 50’ access easement that no other lots use and the residue will utilize the adjoining property’s access. The two previously approved lots have separate access points to French Road (WV17/3).



Previous Divisions:



Margaret Link MSD ([PB 10/PG 23](#))
(1991)



Lot A: parent to child
([DB 955/PG 189](#))
(2001)



Margaret Link MSD ([PB 19/PG 36](#))
(2003)

Staff Report
Jefferson County Planning Commission Meeting
December 8, 2020

Link-Cobb (File #: 20-13-PCW)

Waiver Requirements:

The applicant provides a response to the requirements found in “Division 24.300 Waivers” of the Subdivision Regulations, which is attached to the 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:

Planning and Engineering staff concur that because the proposed subdivision does not require the development of new off-tract infrastructure (other than the required 50’ access easement to serve the four lots), the extension of existing off-tract infrastructure, and is located on along a WV DOH right-of-way, that it is reasonable to process as a Minor Subdivision. Additionally, the proposed division will not exceed the allowable density for the subject parcel.



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

File Number: 20-13-PCW
 Staff Initials: jth
 Sketch Received: yes
 List of Adjoiners: yes
 Fees Paid: 100.00

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

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

Waiver Request

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

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

Property Owner Information

Name: Margaret Link (Estate)
 Mailing Address: 241 French Road, Shenandoah Junction WV 25442
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

Applicant Contact Information

Name: Al and LeAnne Cobb and Paul J Raco, P.J. Raco Consulting LLC
 Mailing Address: 806 French Road, Shenandoah Junction, WV 25442
 Phone Number: Same Email: _____

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

Name: P.J. Raco Consulting, LLC
 Mailing Address: P.O. Box 548, Charles Town, WV 25414
 Phone Number: 304/676-8256 Email: pjraco.consulting@gmail.com

Physical Property Details

Physical Address Vacant Parcel on French Road next to 806 French Road, Shenandoah Junction, WV 25442
 Tax District: Shepherdstown Map No: 20 Parcel No: 11.4
 Parcel Size: 44.78 Acre +- Deed Book: WB20 Page No: 628

Zoning District (please check one)

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

Received 11/17/2020 -jth

Place Date Stamp Here

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

Section 20.201

Briefly Describe the Nature of Your Waiver Request:

See Attached

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.

See Attached

See Attached

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.

See Attached

See Attached

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

See Attached

See Attached

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

See Attached

See Attached

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

Pamela L. Wilner 11-8-20

Signature of Property Owner

Date

Signature of Property Owner

Date

To Be Completed By Office

12/8/20 Date of Public Meeting/Public Hearing

11/24/20 Date Property to be Posted By

Official/Administrative Body

11/24/20 Date Adjoiner Letters to be Mailed

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

Approved Denied

Margaret Link (Estate)
Request for Waiver
Jefferson County Subdivision Ordinance
Section 20.201
November 17, 2020

Brief Description:

The owner, Ms. Margaret Link is deceased, and the Applicant, the Cobbs, are exercising their right that Ms. Link gave them of first refusal on this 45 acre parcel. This property surrounds the Cobb's house and the 15 adjacent acres they purchased from Ms. Link in 2002. The purpose of the purchase is to provide an additional 25 acres to be merged to their farm. To facilitate this purchase to add the property to their farm, they would like to create four 5 acre parcels to offset the cost.

Although the proposal is only 4 lots and the ordinance allow 5 lots as a Minor, because Ms. Link created a 60 acre parcel in 1991 and the Cobb's 15 acre parcel in 2002. These were the only two lots created as Minor Subdivisions from the parent parcel. The 60 acre parcel created in 1991 is not a part of the area that is being subdivided now and the 15 acre parcel created in 2001 is the Applicant's property and it already has a separate entrance. Also, instead of creating a permitted parcel of 25 acres as the residue of this transaction, they are merging the property to the Cobb's 15 acre existing parcel. As such, they are losing any additional rights on this property.

The parcel could develop into an additional 6 lots including the residue. However, with this application, the Applicant is only proceeding with 4 lots and merging the balance of land to their farm, thus extinguishing the additional 2 lots permitted under the current ordinance.

Typically, the ordinance looks at the history of the property through 1988 to prevent loopholes and the creation of multiple minor subdivisions that stack onto the existing minor subdivisions. In this case, the only two parcels that were created do not fit that criteria as they were a 60 acre parcel and the Applicant's 15 acre parcel created over 29 years and 18 years ago, respectively. The proposed 4 lots will not share an access to either of those parcels, so the intent of the ordinance is not compromised. As a matter of fact, with the merger of the 25 acre balance of the property to the previously approved 15 acre Minor Subdivision lots, it provides a complete separation from the proposed 4 lots.

Based on the above, the Applicant respectfully believes that the creation of the four lots is consistent with the intent of the Minor Subdivision provisions; and, in fact, meets the balance of the Minor Subdivision standards. Accordingly, the Applicant requests the Commission's approval of the waiver.

Margaret Link (Estate)
Request for Waiver
Jefferson County Subdivision Ordinance
Section 20.201
November 17, 2020

Four Criteria:

1. *Explain how the design of the Project will provide public benefit in the form in the reduction of Public maintenance costs, greater open space, parkland consistent with the County Park Plans or benefits of a similar nature;*

The creation of the additional 4 lots allows the balance of the 25 acres to be preserved by merging it to the Applicant's existing 15 acre parcel. This will allow the expansion of the Applicant's farm property. Furthermore, because of the merger, the Applicant is abolishing 2 of the existing property rights that go along with this property.

There is not public cost associated with the request or subdivision since they will access a privately maintained road with a maintenance agreement. It will also take land out of Farm Use Tax Classification and shift it in to 4 lots of Residential Taxes and four houses that will contribute Impact Fees to Schools, Ambulance, Parks and Sheriff.

Regarding County Parks, the property is in the same area of the County as Sam Michaels Park, so the new homeowners will utilize those facilities. Plus, the Parks' Impact Fee will contribute to Capital Costs of the County Parks' Program.

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

If the waiver is granted, it will have no adverse effect on public health, safety, or welfare since Health Department approval for each septic and well with water testing conducted and submitted for the Building Permit Process. Also, the Department of Highways will need to approve the entrance. Additionally, since the residue will be merged to the Applicant's land, it will reduce the amount of entrances needed since the residue could access the State Road with a separate entrance. The Applicant is choosing to forgo that possibility. Finally, about public safety and welfare, the houses will need to comply with Building Codes and proper full plans' review.

Regarding the adjacent property owners, the parcel qualifies as a Minor in all other ways. The two previous lots that were approved 29 and 18 years ago are not really a factor in this decision since they were so large, and the 15 acre parcel is being enlarged with the merger of the residue of this subdivision. In fact, the Applicant could create 2 additional lots under the Current Zoning ordinance, but is electing to only request 4 lots, while extinguishing those additional rights.

If the waiver were denied, the subdivision would look exactly the way it does since the 4 lots still qualify as a Minor for road construction, etc. Nothing (but processing time) is left on the table allowing this subdivision to proceed as a Minor in terms of construction.

All other requirements for a Minor Subdivision are met if the waiver is granted.

3. *Explain how the waiver, if granted, will be keeping with the intent and purpose of this ordinance;*

The creation of one additional lot on this property qualifies as a Minor Subdivision for all purposes, other than the fact that two other large lots were created many years ago that have no impact on the proposed new lots. The ordinance requires road improvement for subdivisions over 5 lots. In this case, there will only be 4 lots on the access easement which meets the regulations and thus the intent of the Ordinance.

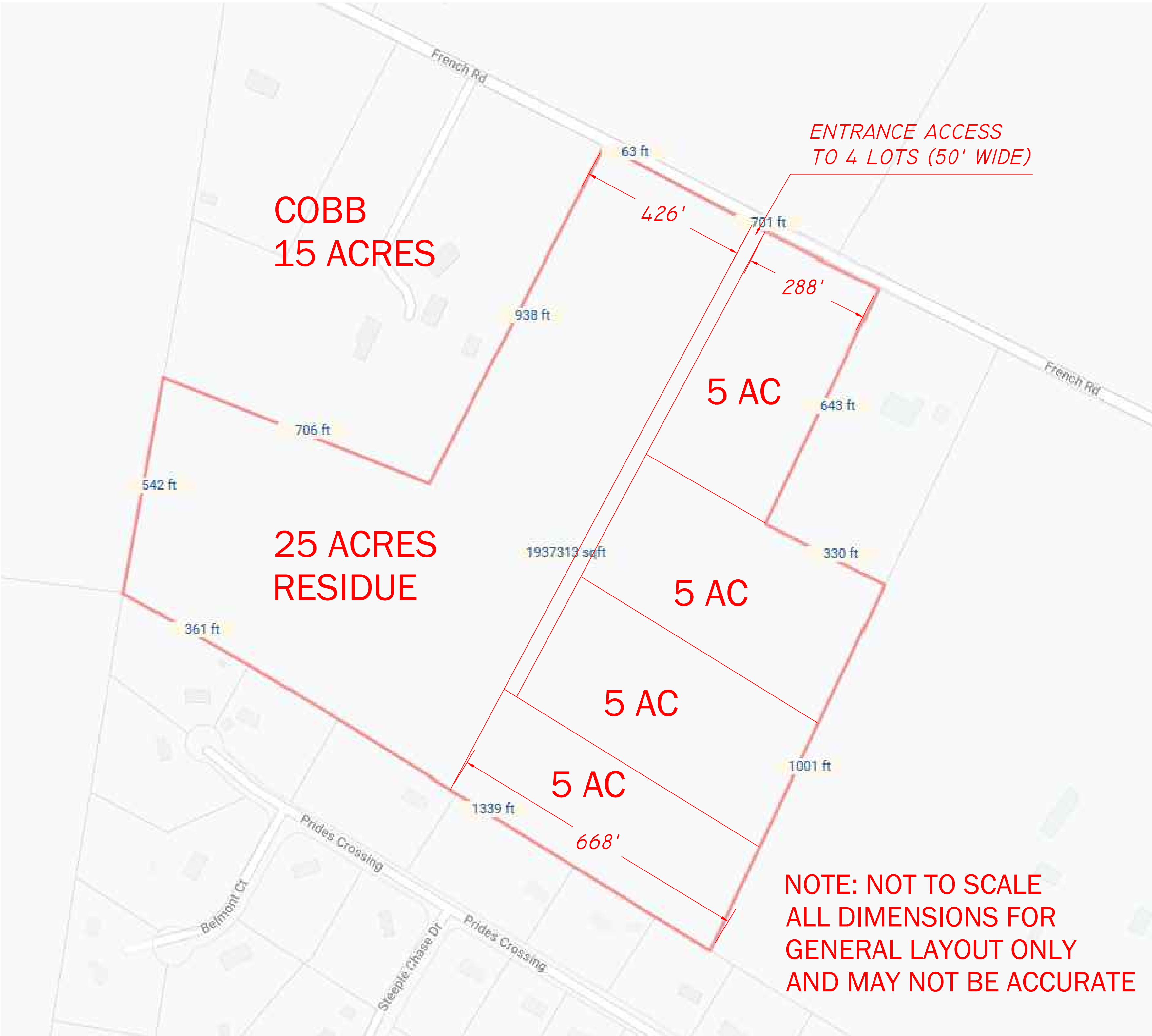
As stated above, there is really no standards of the ordinance that is being ignored with this request. If this request were denied, it would only add time and money to the project that would not affect the outcome if a Major process were required. A waiver request is the process that allows the Minor process to be utilized in circumstances like this where nothing would be gained with the Major process. Time should not be the penalty for a proposal that meets the intent of the Ordinance as a Minor Subdivision.

The purpose of the requirement is to make sure that the owner does not process multiple minor subdivisions that would be contrary to the standards. In this case, the first lot was a 60 acre farm lot created in 1991, and the second lot was the 15 acre lot that the Applicant owns which was created in 2002. These previously approved lots are not really the typical scenario that was envisioned to apply to the Minor Subdivision limitation. As reported in the PPC Memo the Staff seems supportive of this request to allow processing as a Minor.

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

There is nothing to gain to process anything more than a Minor subdivision since the proposed 4 lots otherwise qualifies as a Minor. Additionally, the Applicant is preserving the Residue (and giving up the ability to create 2 more lots) by merging the 25 acre Residue to their already existing property. A Major process would only add time and money for the creation of the 4 lots that would not be required to put a road in under the Major process if this waiver were denied. Thus, nothing would be gained by the major process. Furthermore, the approval will allow the Applicant to preserve the additional 25 acres as a part of their farm if the waiver is granted.

Accordingly, the Applicant respectfully requests that the Planning Commission grant the waiver to allow these additional lots as a Minor Subdivision. existing. Thank you.



Public
Comments
Received

Planning Department

From: David Gray <oaklaneent@gmail.com>
Sent: Monday, November 30, 2020 2:09 PM
To: Planning Department; David Gray
Subject: [Possible Spam] Link (20-13-PCW) Minor Subdivision Waiver

Follow Up Flag: Follow up
Flag Status: Flagged

Hello, Let me first state my disappointment with this proposal. It is unfortunate that another large parcel of fertile Jefferson County farmland is about to be lost, forever. Over the last few years the County has pretty much allowed anyone to build anything - without planning - or infrastructure - or maintenance considerations for those who have lived and supported this community for decades.

French Road is a country road - barely wide enough to accommodate two passing cars. It is not marked or signed, there are no curbs or gutters (or even ditches). The County continues to collect hefty property taxes - and offers little to no road maintenance or infrastructure amenities. The brums of the road are crumbling, and there are potholes. Exactly how are four additional families (with multiple cars/drivers) going to improve this situation?

The County does not provide water and sewer. The County is not providing or promoting an updated communications capability (e.g., cableTV, High-speed internet). All infrastructure improvement expenses have been born by the individual homeowners.

The County is not providing planning and enforcement of the permits they have issued. In particular, I recently discovered that an Agricultural Permit basically has no expiration - so an agricultural project can languish for years uncompleted. For an example of this condition look no further then Mr. Cobb's Barn improvement. This project appears to have stalled in recent months. Will this new subdivision become Mr. Cobb's latest unfinished "project". These abandoned projects are eye-sores to his neighbors.

I understand that there are land ownership rights - and that you roll the dice when you move into a rural area, with the potential for development. I don't know the style or size of the proposed homes - but I'm not excited about looking at the back of four additional houses - and the stuff that comes along with backyards.

If you want to see the effects of a poorly managed subdivision, look no further than Steeplechase, which borders my southern fence line. My property line has become the dumping ground for all "the junk" (dead cars, discarded Christmas trees, unused pallets - you name it) the homeowners want out of their view. So, if someone can guarantee me this subdivision will be any different - I'm willing to look at the plan.

Providing a Waiver for a Minor Subdivision (and lesser improvement requirements) - - ENCOURAGES a lesser quality subdivision. I believe this project is underfunded - as demonstrated by the fact that Mr. Cobb had to go outside to muster additional funds to complete the purchase. I fear this project will drag on for years - disrupting my family's quality of life. My property is under Farmland Protection - I've made my commitment to the community - and its future..

Of course the County doesn't really care what happens. They don't live near-by, they won't have to tolerate all the noise and trash that comes with building multiple homes "next door". The County is happy - they've increased their tax base.

So, Yes I'm against the Waiver. If additional homes must be built - then make the subdivision an "Improvement" to the area. Nothing I've seen in the applicant's responses indicate they want to build a better neighborhood - only that they want to reduce their costs. And finally, I'm curious what impact this letter will have on some of the other items I've mentioned.

Thank You for your time
David Gray
(858) 663-1093



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Planner's Memorandum Planning Commission Meeting December 8, 2020

1) Status of Engineering, Planning and Zoning County Offices during COVID-19 Virus Pandemic (from website):

DUE TO THE INCREASED NUMBER OF COVID-19 CASES IN THE COUNTY AND CONFIRMED CASES WITHIN THIS BUILDING, BEGINNING TUESDAY, DECEMBER 1, 2020 WE WILL BE SERVING THE PUBLIC BY TELEPHONE, MAIL, EMAIL AND APPOINTMENTS ONLY.

ONLY TWO (2) PEOPLE WILL BE ALLOWED IN THE BUILDING AT A TIME. YOU MUST WEAR A MASK TO ENTER THE BUILDING AND KEEP AT LEAST A SIX (6) FOOT SOCIAL DISTANCE.

TO MEET WITH STAFF MEMBERS YOU WILL NEED TO CONTACT OUR OFFICES AT THE TELEPHONE NUMBERS LISTED BELOW OR VIA EMAIL TO SCHEDULE AN APPOINTMENT. IN MANY INSTANCES YOU WILL BE ABLE TO HAVE A SAME DAY APPOINTMENT AND/OR WE MAY BE ABLE TO ASSIST YOU WHILE YOU WAIT. YOU MAY ALSO LEAVE ITEMS IN THE BLUE BIN. PLEASE BE SURE YOU HAVE INCLUDED THE CONTACT PERSON'S NAME AND PHONE NUMBER; PROPERTY OWNERS/PROJECT NAME; AND, PERMIT/PROJECT NUMBER ON ANY ITEMS YOU LEAVE.

2) Greenway Ordinance/Regulation Amendment Update

- a) Staff is trying to coordinate a response to Greenway regarding the status of the revised version of the Sub Regs.
- b) After PC review and input, a Public Hearing before the Planning Commission and County Commission will be required in order to result in the revised, reorganized Subdivision Regulations that meet the needs and expectations of the Planning Commission.

3) Status of Zoning Ordinance Text Amendments

- a) ZTA20-01: Text Amendment re: Commercial Cemeteries in the Rural Zone (CC Public Hearing scheduled for 12/3/20 @ 1:30 p.m.)
- b) ZTA20-02: Text Amendment re: Commercial Drive Through in RLIC district (CC Public Hearing scheduled for 12/3/20 @ 1:45 p.m.)

4) State of Zoning Map Amendment

20-1-Z: Request to rezone a 5.4 acre portion of the property located at 7948 Martinsburg Pike, Shepherdstown, WV from Residential Growth (RG) to Residential-Light Industrial-Commercial (RLIC) (CC Public Hearing scheduled for 12/3/20 @ 2:00 p.m.)

5) Upcoming PC meetings

- a) Next Regular meeting: **January 12, 2021**