



## Agenda

Jefferson County Planning Commission

Tuesday, September 14, 2021 at 7:00 PM

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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 only.

If you wish to make a 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.

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1. Approval of Meeting Minutes: August 10, 2021; August 31, 2021; and, revisions to May 11, 2021
2. Request for postponement.
3. **Public Hearing:** Postponed from 08/10/21 meeting. Request to lift the single family restriction from Lot 1 of the John Orndorff Minor Subdivision (PC File 94-11: Note #3), to allow for the construction of a 3 bedroom/2 bath house with 1 bedroom/1 bath in-law suite. Owner/Applicant: Nicole Picciotto; Property Location: John Orndorff Minor Subdivision, Lot 1 (Elmwood Farm), vacant parcel on Peaceful Breeze Ln, Shepherdstown, WV. Tax District: Shepherdstown (09); Tax Map: 12; Parcel: 8; Size: 12.99 ac; Zoning District: Rural; File: 21-12-Q.
4. **Public Workshop:** Concept Plan for Rexroat Agriculture Special Event Facility (weddings and group gatherings); Farm vacation Enterprises (lodging for guests); Pick your own crop, Bed and Breakfast (possible future expansion). Owner/Applicant: Russel and Cyndi Rexroat; Property Location: 191 Myerstown Rd., Charles Town, WV. Tax District: Kabletown (06); Tax Map: 10; Parcel: 3.2; Size: 15.78 acres; Zoning District: Rural; File: 21-6-SP.
5. **Public Workshop:** Concept Plan for Shepherd View Apartment Complex (Minor Site Plan). The proposal consists of 40 2-bedroom apartments in five (5) buildings with associated open space and infrastructure. Owner/Applicant: AAL, LLC; Property Location: 8285 Martinsburg Pk, Shepherdstown, WV. Tax District: Shepherdstown (09); Tax Map: 08; Parcels: 17.2 & 17.3; Size: 3.77 acres (2.21 & 1.56 acres); Zoning District: Residential Growth (eastern half) and Residential-Light Industrial-Commercial (western half); File: 21-9-SP.
6. **Public Hearing:** Waiver from Section 21.401D to allow a 24 ft. pool to be 8 ft. into a platted access easement. Owner/Applicant: Kimberly and Paul Taulton; Property Location: 355 Patriots Way, Harpers Ferry, WV; Tax District: Kabletown (06); Tax Map: 26; Parcel: 1.3; Parcel Size: 3.03 acres; Zoning District: Rural; File: 21-14-PCW.

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7. **Public Hearing:** Waiver from Section 20.201 to allow the subject parcels to process as Minor Subdivision after the applicant processes a transfer of development rights under Section 5.7D.1.b from Parcel 8 to Parcel 12.9. Owner/Applicant: BML LLC; Property Location: 1963 Kearneysville Pike, Shepherdstown, WV; Tax District: Shepherdstown (09); Tax Map: 15; Parcel 8 (88.205 acres per PB26/PG250) and Parcel 12.9 (3.478 acres per PB26/PG209); Zoning District: Rural; File: 21-15-PCW.
8. **Public Hearing:** Waiver from Appendix B, Section 10.5 to allow an approved fitness center to utilize an existing gravel storage lot for approximately 20 additional parking spaces as opposed to a paved surface.. Owner: JD Land Holdings Inc. Applicant: True Performance Fitness LLC; Property Location: 362 W. Burr Blvd. Kearneysville, WV; Tax District: Charles Town (02); Tax Map: 1; Parcel: 74; Size: 3.65 acres; Zoning District: Industrial-Commercial; File: 21-16-PCW.
9. **Public Hearing:** Waiver from Section 24.113.B.10 to waive the Preliminary Plat requirement for an Archaeological Study for the Hunter Hills Subdivision. Owner: Ernest Hunter, et.al. Applicant: Joshbeen Grewal, ILA Properties; Property Location: 4469 Charles Town Road, Kearneysville, WV; Tax District: Middleway (07); Tax Map: 1; Parcel: 2; Size: ~107 acres; Zoning District: Residential-Light Industrial-Commercial; File: 21-17-PCW.
10. **Public Hearing:** Waiver from Section 24.113.B.10 to waive the Preliminary Plat requirement for an Archaeological Study for the Milton's Landing Subdivision. Owner/Applicant: Lutman Land Development; Property Location: 8554 Summit Point Road, Charles Town, WV; Tax District: Charles Town (02); Tax Map: 11; Parcel: 30 and 30.2; Size: 67.6+- acres; Zoning District: Residential Growth; File: 21-18-PCW.

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

11. **Review and Discuss:** First draft of proposed zoning text amendment to create provisions to allow short term rentals to process in Jefferson County (PC File #ZTA21-01). The proposed text amendment to the Zoning and Land Development Ordinance includes revisions to Article 2, Section 2.2 "Definitions"; Article 8, Supplemental Use Requirements (proposed Section 8.16 Short Term Rentals); and Appendix C, Principal Permitted and Conditional Uses Table.
12. **Review and Discuss** the County Commission's directive from 09/02/21 regarding an amendment to the Comprehensive Plan to identify and secure the role of solar facilities throughout the rural and residential zoning districts in Jefferson County, including consideration of an amendment to the Jefferson County Comprehensive Plan in accordance with WV Code 8A-3-11, 8A-3-6, and related statutes to clarify and/or state that solar facilities are principal permitted uses in the rural and residential zoning districts.
  - a. **Discussion and Possible Action** to establish a schedule for the amendment process.

### **13. Reports from Legal Counsel**

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including review of Jefferson County Circuit Court Civil Action No. 2021-C-33.

**14. Planner's Memo**

**15. President's Report**

**16. Actionable Correspondence**

**17. Non-Actionable Correspondence**

- a. Ruthlee Holler Email – Short Term Rentals



Meeting Minutes  
Jefferson County Planning Commission  
August 10, 2021

The Jefferson County Planning Commission met on August 10, 2021 at 7:00 pm with the following Planning Commission members present in person: Mike Shepp, President; Wade Louthan, Secretary; Jack Hefestay, Steve Stolipher, Ron Thomas and Matt Knott; and, the following members present via ZOOM: Shane Roper. Donnie Fisher, Vice President, was absent with notice. J. Ware was absent without notice.

Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, County Attorney, Alice Johns, Planning Clerk.

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

Ms. Brockman conducted a roll call. Mr. Shepp verified that there was a quorum and called the meeting to order at 7:00 pm.

1. Approval of Meeting Minutes: July 13, 2021.

Mr. Shepp called for a vote for the July 13, 2021 minutes. Mr. Louthan moved to approve the minutes as presented. Mr. Stolipher seconded the motion, which carried unanimously.

2. Request for postponement. None.

3. **Public Hearing:** Major Site Plan for the Shepherdstown Sheetz Store 160, consisting of a proposed gas station with a 6,100 square foot Convenience Store with drive-thru, five (5) fueling islands with canopy, car wash, and related improvements. Property Owner: PTM, LLC. Applicant: Sheetz, Inc. Property Location: 7948 Martinsburg Pike, Shepherdstown WV. Tax District: Shepherdstown (09); Tax Map: 8; Parcels: 13, 15.2 and portions of Parcels: 10.2 and 14. Total Project Size: 5.4 acres (after merger); File: 20-10-SP.

Ms. Brockman provided an overview of the request noting that this project had been before the Commission several times, including the rezoning the property, the concept plan, and an Early Grading waiver request.

Ms. Brockman indicated that she had heard from DOH and Shepherdstown Water and that they will approve the project; however, they do not have a permit number at this time. Ms. Brockman suggested that as a condition of approval that the applicant submit the required permit numbers.

Ben Svedlow and Chad Wallen with Gordon were present in person and the applicant Bob Franks was present via ZOOM. Mr. Svedlow provided an overview of the project and the approval process.

Mr. Shepp opened the public hearing.

In addition to his written comments included in the Planning Commission packet, Mr. David Pugh, Shepherdstown resident, raised the following concerns:

- The size of the Sheetz location.
- What the “related improvements” referenced in the Staff Report are.
- Pedestrian safety and indicated the pedestrian bike path ends at the location of the entrance to Sheetz; concern regarding lack of pedestrian crossing at this intersection; noted that the Staff

Report stated that the road could eventually continue to Potomac Farms Drive, and suggested adding a sidewalk or continuing the bike path to the west side of the Sheetz.

- Questioned if this location would encourage tractor trailer traffic off of Shepherdstown bypass.
- Expressed concern about the impact of night lighting on the adjoining residential properties.

Mr. Shepp closed the public hearing.

Mr. Wallen addressed the concerns raised by explaining that related improvements were all the items included on the site plan but not listed individually, such as the carwash, storm water management, and infrastructure. He also stated that they had attempted to provide a pedestrian crossing at this location but the WV DOH requested them to remove it from their plans. Mr. Wallen indicated there would be a road in the future for continuation along Potomac Farm Drive and that they are providing a sidewalk along that road. He indicated that their photometric plan for site lighting showed zero foot candles at the property lines to ensure it wouldn't impact the neighboring properties. As far as tractor trailers are concerned, there is no tractor trailer parking onsite and it shouldn't cause any significant increase in tractor trailer traffic other than deliveries.

Mr. Wallen also responded to other concerns in Mr. Pugh's written correspondence. Mr. Wallen explained the footprint is only about 53% impervious so it is fairly small. He indicated that this project has been vetted a couple of times.

Mr. Stolipher moved to approve the Site Plan as submitted with the condition that staff won't sign the documents until the permits numbers are placed on the plan. Mr. Hefestay seconded, which carried unanimously.

Mr. Hefestay mentioned that this project had been reviewed three times and these comments would have been more appropriate at the beginning. Mr. Shepp agreed and summarized that it would be difficult if not impossible for the applicant to incorporate these comments at this late stage without significant costs to the applicant.

4. **Public Hearing:** Request to lift the single family restriction from Lot 1 of the Trough Bend Subdivision (PC File 01-05: Note #4), to allow for the construction an in-law suite in the basement of a new home for a family member. Owner: Lutman Land Development. Property Location: Vacant parcel on Trough Bend Road, Shepherdstown, WV. Tax District: Shepherdstown (09); Tax Map: 12; Parcel: 11.14; Size: 10.11 ac; Zoning District: Rural; File: 21-11-Q.

Ms. Brockman summarized the request and explained why the Planning Commission action was required.

Mr. Shepp opened the item for public comment. No one had public comment. Mr. Shepp closed the item for public comment.

Mr. Hefestay moved to approve lifting the single family restriction. Mr. Thomas seconded the motion, which carried unanimously.

5. **Public Hearing:** Request to lift the single family restriction from Lot 1 of the John Orndorff Minor Subdivision (PC File 94-11: Note #3), to allow for the construction of a 3 bedroom/2 bath house with 1 bedroom/1 bath in-law suite. Owner: Nicole Picciotto. Property Location: John Orndorff Minor Subdivision (Elmwood Farm), Lot 1, Peaceful Breeze Ln, Shepherdstown, WV; Tax District: Shepherdstown (09); Tax Map: 12; Parcel: 8; Size: 12.99 ac; Zoning District: Rural; File: 21-12-Q.

Applicant was not present. This item was skipped until after item #6 was heard by the Planning Commission.

As the applicant was not present to provide testimony, Mr. Shepp moved to postpone this item until the September 14, 2021 meeting. Mr. Louthan seconded the motion, which carried unanimously.

6. **Public Hearing:** Request for a waiver from Section 20.201.A.2 of the Subdivision Regulations to allow a 6<sup>th</sup> lot to access a 50' access easement (Fennec Fox Lane), which was created as a part of a minor subdivision serving the maximum 5 lots. Owner: Lutman Land Development LLC. Property Location: 7029 Flowing Springs Road and Fennec Fox Lane, Shepherdstown, WV. Tax District: Shepherdstown (09); Map: 17; Parcel: 4.8; Size: 1.54 acres; Zoning District: Rural. File: 21-13-PCW.

Ms. Brockman provided a summary of the request and the complex history of the creation of this access, noting which lots were authorized to use it. There are now five lots that use this access easement. This request is to allow a 6<sup>th</sup> lot to use this access.

Mr. Lutman provided an overview of the request to the Commission, pointing out that the lot in question is crossed by the 50' access easement in question and it seems reasonable that this lot could use this access. He also noted that the Fennec Fox access easement is a safer access to Flowing Springs Road.

Mr. Shepp opened the public hearing.

Ms. Katie Fry, Shepherdstown resident, spoke in support of the request; however, she requested that the applicant pay into the road maintenance agreement, which is \$150 initially and \$75 after the initial year.

Mr. Brian Leuters, Shepherdstown resident, spoke in support of the request; however, he explained that they are updating the covenants to address the two different builders. He indicated that he would like Lutman Land Development to participate in the covenants.

Shaun and Holly Alessi, Shepherdstown residents, spoke in support of the request; yet, expressed concern regarding any construction equipment in the easement and participating in the covenant agreement.

Mr. Shepp closed the public hearing.

Mr. Lutman explained that while he was not the original developer, that he had paved the road a few years ago. Mr. Lutman stated that if there was clear evidence that he damaged the road during construction, that he would repair it. Further, Mr. Lutman proffered to require the property owner to participate in the road maintenance agreement.

Mr. Stolipher moved to approve the waiver with the requirement that the lot pay a 1/6<sup>th</sup> equal share into the road maintenance agreement, without requiring the participation in the covenant agreement. Mr. Thomas seconded the motion, which carried unanimously.

7. **Review and Approval:** Planning Commission's FY 2021 Annual Report to the County Commission per WV Code §8A-2-11. The Planning Commission is required by State Code to make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction.

Ms. Brockman summarized the report and explained this is a compilation of all quarterly reports.

Mr. Hefestay moved to send the Annual Report to the County Commission. Mr. Knott seconded the motion, which carried unanimously.

Mr. Shepp requested that Ms. Brockman present any items from the Planner's Report at this time in case they go into Executive Session under the Report from Legal Counsel.

9. Planner's Report

Ms. Brockman informed the Commission of an Ethics Training occurring on August 11, 2021 and that the next regularly scheduled meeting would be September 14, 2021.

8. Reports from Legal Counsel

Mr. Cochran reported to the Planning Commission that a lawsuit had been filed by Jefferson County Vision against the Planning Commission and stated that he would recommend that the Commission go into Executive Session to receive legal advice on this matter.

Mr. Stolipher moved to go into Executive Session at 7:39 pm to receive legal advice from the attorney on Jefferson County Circuit Court Civil Action No. 21-C-109. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Hefestay moved to come out of Executive Session at 8:11 pm. Mr. Knott seconded the motion, which carried unanimously.

Mr. Shepp authorized Mr. Cochran to prepare a response to Jefferson County Circuit Court Civil Action No. 21-C-109.

Mr. Cochran requested that Mr. Shepp schedule a special meeting to discuss legal matters. The Planning Commission agreed to schedule a ZOOM only meeting for August 24, 2021 at 7:00 pm to discuss only legal issues.

10. President's Report. None.

11. Actionable Correspondence. None.

12. Non-Actionable Correspondence. None.

Mr. Hefestay moved to adjourn the meeting at 8:12 pm. Mr. Louthan seconded the motion, which carried unanimously.

These minutes were prepared by Alice Johns, Planning Clerk.

DRAFT Meeting Minutes  
Jefferson County Planning Commission  
August 31, 2021

The Jefferson County Planning Commission met on August 31, 2021 at 7:00 p.m. with the following Commission members present via ZOOM: Mike Shepp, President; Wade Louthan, Secretary; Jack Hefestay, J Ware, Shane Roper, Ron Thomas, Matt Knott\*, and Steve Stolipher, County Commission Liaison.

The following Commission members were absent with notice: Donnie Fisher, Vice President.

Staff members present included Jennifer Brockman, County Planner; Alexandra Beaulieu, Zoning Administrator; and Nathan Cochran, County Attorney.

*\*Mr. Knott joined the meeting late at 7:12 PM.*

By order of the President, the Special Called Planning Commission meeting was held virtually via ZOOM. Virtual meeting access information was made available on the agenda, which was posted to the County website.

Ms. Brockman conducted a roll call. Mr. Shepp stated that there was a quorum and called the meeting to order at 7:02 PM.

**1. Discuss Jefferson County Circuit Court Civil Action No. 2021-C-109 and review, discussion, and possible revision of minutes from 05/11/21 Planning Commission meeting.**

Mr. Shepp requested that Mr. Cochran address the subject lawsuit. Mr. Cochran stated that the lawsuit was filed by Jefferson County Vision alleging that the Planning Commission went into executive session without identifying the purpose for going into executive session. Mr. Cochran stated that this allegation was based on the meeting minutes which after reviewing the minutes, he confirmed that the minutes do not provide details regarding the specific motion. Mr. Cochran requested that Ms. Beaulieu play the portion of the video recording from the 05/11/21 meeting pertaining to the Planning Commission's motion.

Ms. Beaulieu played the portion of the 05/11/21 video recording, beginning at approximately 1:04:03 into the recording.

Mr. Cochran recommended that the Commission amend their meeting minutes to reflect the exact language from the recording to accurately reflect what occurred at the 05/11/21 meeting.

Mr. Stolipher made a motion to amend the 05/11/21 meeting minutes to reflect what was actually said during the meeting. Mr. Hefestay seconded the motion, which carried unanimously.

**2. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including review of the Jefferson County Circuit Court Civil Action No. 2021-C-33.**

Mr. Shepp requested that Mr. Cochran provide an overview of the court order. Mr. Cochran stated that the Court essentially set aside the amendment. Mr. Cochran suggested that the Commission go into executive session to receive legal advice. Mr. Cochran stated that Mr. Will Rohrbaugh was also present to provide legal advice on the matter.

Mr. Shepp inquired as to whether there would be a quorum with two members recusing themselves. Mr. Stolipher stated that J. Ware was present and that they were at the same location. Mr. Ware stated he was present. Mr. Knott joined the meeting at 7:12 PM and stated he was present for this item.

Mr. Stolipher and Mr. Roper recused themselves from this item.

Mr. Shepp made a motion to go into executive session to receive legal advice regarding civil action number 2021-C-33 at 7:14 PM. Mr. Hefestay seconded the motion, which carried unanimously.

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Mr. Hefestay made a motion to come out of executive session at 7:36 PM. Mr. Thomas seconded the motion, which carried unanimously.

Mr. Shepp stated for the record that Planning Commission members Steve Stolipher and Shane Roper were not in the executive session. Mr. Shepp stated that the Commission would like to authorize the attorneys to proceed as discussed.

Mr. Hefestay made a motion to adjourn the meeting at 7:38 PM. Mr. Knott seconded the motion, which carried unanimously.

These minutes were prepared by Alexandra Beaulieu, Zoning Administrator.

# FINAL MINUTES (Revised Draft 8-31-21)

## Meeting Minutes

### Jefferson County Planning Commission

May 11, 2021

The Jefferson County Planning Commission met on May 11, 2021 at 7:00 p.m. with the following Commission members present: Mike Shepp, President; Donnie Fisher, Vice President; Wade Louthan, Secretary; Jack Hefestay, Ron Thomas (via ZOOM), Steve Stolipher, and Matt Knott. Shane Roper and J Ware were absent with notice.

Staff members present included Jennifer Brockman, County Planner; Alexandra Beaulieu, Zoning Administrator; Jonathan Saunders, County Engineer (via ZOOM); Nathan Cochran, County Attorney, Alice Johns, Planning Clerk.

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

Jennifer Brockman conducted a roll call. Mr. Shepp verified that there was a quorum and called the meeting to order at 7:01 PM.

1. Approval of Meeting Minutes: April 11, 2021. The minutes were approved as submitted.
2. Request for postponement. None.
3. **Public Workshop:** Concept Plan for the Road Runner Wrecker Service Inc. The proposal for the Road Runner Wrecker Service (salvage yard) consists of the following: Sidewalks, curbs, scale house, car crusher, decommissioning rack, 2 AST's, 54 (9' x 40') storage containers, 181 proposed paving. Owner/Applicant: DLGA, LLC; David & Lisa Butcher. Property Location: 2282 Summit Point Road, Summit Point; Tax District: Kabletown (06); Map: 16; Parcel 10; Total Project Size: 25 acres; Zoning District: Rural. File: 21-1-SP.

Jennifer Brockman presented an overview of her staff report to the Commission. This property has historically been a salvage yard. DLGA is the new owner of this property.

Ms. Alexis "Brooke" Walburn, with Greenway Engineering, as the consultant for this project, spoke and explained that this is re-development of an existing non-confirming use. At the April Board of Zoning Appeals (BZA) meeting, the BZA approved a variance request to reduce the required side setback from 50' to 25' for 54 storage units/sea containers, as an accessory use. These sea containers will be stored along the east property line, next to existing storm water management parcel. These sea containers will be relocated off site, filled, then those materials scrapped. The new owner has worked out a plan of corrective action with Department of Environmental Protection (DEP) for previous environmental issues. Ms. Walburn stated that the goal is to bring the facility up to standards and make it much better facility for Jefferson County.

Mike Shepp asked what was there previously. Ms. Walburn explained it was the same facility but changed ownership.

Ms. Brockman referenced a WV DOH email submitted today. WV DOH has no objections but has various requirements that must be met prior to the issuance of an entrance permit. Jefferson County Historic Landmarks Commission also had no objections, as there are no historic structures in that area.

Mr. Shepp opened the item for public comment. There was no public comment. Mr. Shepp closed the item for public comment.

Mr. Steve Stolipher made a motion to approve the Concept Plan, which was seconded by Jack Hefestay and carried unanimously.

Mr. Shepp recused himself from the following agenda item (King's Crossing Major Residential Subdivision; File#21-8-SD).

4. **Public Workshop:** Concept Plan for King's Crossing Major Subdivision. King's Crossing is a Major Residential Subdivision consisting of 404 lots: 175 Single Family Detached, 229 Single Family Attached (Townhouses), 7.43 acres open space, 4.96 acres stormwater management and associated infrastructure. Owner/Applicant: DR Acquisitions LLC. Tax District: Charles Town (02); Tax Map: 17; Parcel: 11. Zoned Residential Growth. Total Project Size: 86 acres. File: 21-8-SD

Ms. Brockman detailed the location of Kings Crossing. Ms. Brockman reminded the Planning Commission of the previously approved waivers which allows 12 lots on one side of a street (21-6-PCW) and reduced required lot frontage to 60'(21-7-PCW). A requested side setback variance was denied by the Board of Zoning Appeals (21-12-ZV).

Mr. Jason Gerhart with Gordon provided an overview of the project. He explained that the project will be completed in phases. The phases will be market driven but expected to be between 50 and 100 lots at a time, starting at the entrance at Charles Town Road (WV 115) and working towards the west with an ultimate connection into Norborne Glebe subdivision. Mr. Gerhart noted that the developer is working with WVDOH who has required a Traffic Impact Study (TIS) to be completed for the subdivision. The developer is proposing one entrance to be roughly across from existing water treatment plant and the second entrance from WV 115) to be closer to the eastern property line where it is flatter and has adequate sight distance in both directions. Expectation is once approvals are obtained, Dan Ryan would like to start construction this fall.

Ms. Brockman explained that the Charles Town Utility Board could service this location. Access to utilities was an issue when this subdivision was proposed in 2005 and 2008. WVDOH may require some highway improvements based on the TIS. The Jefferson County Historic Landmarks Commission indicated that they had no objections to this Concept Plan.

Staff noted key Subdivision Regulation requirements related to access to adjoining land and having two access points. The proposed subdivision is meeting these requirements.

Mr. Donnie Fisher opened the Public Hearing.

Ms. Ashlee Hawse had questions on phasing and start date which were addressed in Mr. Gerhart's presentation.

Ms. Carrie Jenkins questioned what other improvements are being made to local infrastructure. She expressed concern about several fatal accidents in the vicinity. She questioned whether the County's water infrastructure is overwhelmed and what community activities are planning on being added (such as A Movie theatre) and what the time frame is.

Ms. Roxanne Ashbaugh questioned how water and sewer would be affected by these developments. She commented that people who have lived here for years will not be able to afford it.

Mr. Donnie Fisher closed the hearing for public comment.

Mr. Jason Gerhart provided additional information about the project and explained that a Traffic Impact Study is being conducted as required by the WVDOH. The TIS will look at numerous intersections that are areas of concern. This is an on-going process to get WVDOH approval and mitigate the impact of this development. WVDOH approval must occur before the County can approve the project. Charles Town Utility Board is the water and sewer provider. Mr. Jason Gerhart explained that they are coordinating with the Charles Town Utility Board (CTUB) for water and sewer and as far as he knows, CTUB does not have any capacity issues. Finally, Mr. Gerhart explained that Jefferson County requires an impact fee for all new development. Every home that is constructed pays a fee that lessens the burden of tax impact of additional residents to the region.

Ms. Brockman clarified the steps involved in reviewing a Major Residential Subdivision Process. Ms. Brockman explained that today's public workshop would provide direction and/or approval, but could not lower the density or deny the project because of concerns outside of the scope of the Zoning Ordinance or Subdivision Regulations, unless proffered by the applicant. The approval, if granted, would be valid for two years. She clarified that a Major Residential Subdivision also requires the review and approval of the Preliminary Plat at a Public Hearing. The Final Plat is administratively approved.

Mr. Steve Stolipher made a motion to approve the Concept Plan, which was seconded by Jack Hefestay and carried passed 6 to 0, with Mr. Mike Shepp recusing himself.

Mr. Shepp was admitted back into the meeting.

5. **Public Hearing:** Waiver of Section 20.201B.3 of the Subdivision Regulations which requires all lots in Minor Family Transfer Subdivisions to have motor vehicle access via a 50' access easement. The applicant is proposing to utilize an existing 30' access easement known as Round Rock Lane instead of the required 50' access easement for the creation of a family transfer parcel.  
Owner/Applicant: Margaret Hoffman /David Costello, Jr. (Alpha Associates, Inc.). Property Location: across from 309 Round Rock Lane, Charles Town, WV. Tax District: Kabletown (06); Map 22; Parcel 7. Total Project Size: 23.42 acres. Zoning District: Rural. File: 21-9-PCW.

Ms. Brockman provided an overview of the request. The applicant has had two Family Transfers previously approved and are proposing an additional Family Transfer lot. There is a 30 ft access easement that serves lot labeled as Snelson (now owned by Dieffenbacher). The Hoffman's request is to utilize the existing 30' easement, known as Round Rock Lane, instead of the required 50' access easement for the creation of the family transfer parcel.

Mr. David Costello, Jr. with Alpha Associates Inc. and Mr. Colin Hoffman, grandson of Margaret Hoffman, were present. Mr. Colin Hoffman will be receiving the property. Mr. Costello, Jr. explained that Gary Hoffman, who owns Lot B, will not allow the widening of the 30 ft. easement. Additionally, Mr. Costello, Jr. stated that all the lots along Round Rock Lane have the legal access to use the 30 ft. right of way and that the state road it ties into is only 30 ft. wide. Mr. Costello, Jr. stated that the suggestion to widen the alternate exiting 40' access easement to 50 ft. would require the construction of an additional 850 to 900 ft. of additional driveway in that location vs, the use of an existing driveway within the 30' access easement. He further explained that the applicant would share in any future maintenance costs on Round Rock Lane.

Mr. Shepp asked if there was an existing driveway on the existing 30' access easement and if any new construction would be required. Mr. Costello, Jr. replied that yes there was an existing driveway and indicated that no new construction would be required.

Ms. Brockman clarified other portions of the request and explained that there are written public comments that were included as part of the packet.

Mr. Shepp opened the item for public comment.

Mr. Ryan Dieffenbacher explained that earlier he was not in support of this request for two reasons. First, the future liability of the request and it was explained that was not the case. Second, he had some concerns about the 30 ft. easement having an impact on the property value. He further stated that he is willing to work with proposed owners with shared maintenance.

Mr. Mike Shepp clarified that this variance is only for this one individual, and that any additional people who wanted a variance would have to come back to this commission to request it.

Mr. Mike Shepp closed the public hearing.

Mr. Matt Knott asked if both have the right to use the 30' access anyway, couldn't they provide the 50' access in one location and use the 30 ft. access easement? This concept was discussed by the Planning Commission and Mr. Costello, Jr.

Mr. Mike Shepp re-opened the public hearing.

Mr. Gary Hoffman spoke and expressed concerns about the road not supporting construction traffic and stated he was against the waiver. Ms. Kathy Hoffman also expressed concern about the amount of traffic that the 30' easement can handle. Mr. Gary Hoffman questioned whether future lots would be allowed to use the 30' easement as well.

Mr. Mike Shepp closed the public hearing again.

Ms. Brockman clarified that even if this group/body approved this request, they might not get a DOH permit.

Mr. Jack Hefestay made a motion to approve and Mr. Donnie Fisher seconded. The motion passed unanimously.

6. **Miller/ Jefferson Orchard Zoning Map Amendment:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject 238.9-acre (based on a survey) property from Rural to Light Industrial (43.7 acres) and Residential Growth (195.2 acres) is consistent with the *2035 Comprehensive Plan*. Owner/Applicant: Mark Ralston, Jefferson Orchards Inc. Property Location: two vacant parcels located east of Route 480 (Kearneysville Pike) and one mile north of the Route 9 interchange. Tax District: Middleway (07); Map: 3; Parcels: 29 and 35. Combined acreage: approximately 238.9 acres (based on survey). Zoning District: Rural. File: 21-2-Z.

This agenda item was not open for public comment.

Ms. Brockman provided an overview of this request. Ms. Brockman explained the finding that the request is not consistent with the *Envision Jefferson 2035 Comprehensive Plan* because it is

designated as Future Rural/Agricultural and is outside any Preferred Growth Area (PGA) or Urban Growth Boundary.

Mr. Mark Dyck, with Gordon provided comments on the application. He stated that this proposal was not for expansion of Rockwool. He further explained that the demand in Jefferson County is for traditional suburban residential development which was not permitted in Ranson or Charles Town. Mr. Mark Dyck, stated that in this area the roads have changed and that WVDOH will be extending Northport Avenue to WV 480 which will provide secondary access point. The divided two-lane portion of Northport Avenue ends at the properties in question. Mr. Mark Dyck then explained that in 2014, when the Comprehensive Plan was drafted, the nearest access for water was 1.8 miles away. Ranson has now extended water and sanitary sewer within 100 ft. of this property. Natural gas will also be available to new development in this area.

Mr. Mark Dyck also stated that Jefferson County schools enrollment has dropped from 9,066 to 8,419 and that Jefferson County has lost 573 enrolled students. He further stated that in 2012 Kindergarten enrollment was 728, but has dropped to 514 in the current year. Mr. Mark Dyck expressed concern that Jefferson County needs to encourage growth. He stated that the developer of these properties is interested in a mix of single family and townhouse development with a lower density than the Medium Density residential growth recommended for Kearneysville. He also stated that the Light Industrial zone is intended to be for distribution employment and not manufacturing.

[When the applicant had completed his presentation, Mr. Mike Shepp asked the Planning Commission had any questions. Hearing none, Mr. Shepp stated that the applicant had made a powerful argument in their presentation and directed a question to Mrs. Brockman, asking her to clarify if she believed that the Planning Commission could not determine this request to be compatible with the Comprehensive Plan even if they think it is due to the changes in circumstances. Mrs. Brockman began to answer referring the WV Code provision that allows the Planning Commission to determine that it is not consistent; however, the state law allows the Planning Commission to state that there have been changes. At this point, Mr. Nathan Cochran interjected and recommended to Mr. Shepp that the Planning Commission may want to go into Executive Session for the purpose of receiving legal advice regarding the application of the statute in question. Based on this recommendation, Mr. Shepp requested a motion to go into Executive Session.](#)

Mr. Wade Louthan [then](#) made the motion to go into Executive Session, which was seconded by Mr. Jack Hefestay at 8:05 pm.

Mr. Wade Louthan made the motion to come out of Executive Session which was seconded by Mr. Jack Hefestay at 8:25 pm.

Mr. Mike Shepp made the motion to find that the application is not in accordance with the Comprehensive Plan; however, there have been many changes of economic, fiscal or social nature within the area involved which were not anticipated when the Comprehensive Plan was adopted and these changes have substantially altered the basic characteristics of the area. Among those changes are roads, sewer, water, gas, Zoning in Ranson and Rockwool. This was seconded by Donnie Fisher, and the motion passed unanimously.

7. Reports from Legal Counsel

- a. Burke, et al. v. The Jefferson County Planning Commission, et al. (Jefferson County Circuit Court Civil Action #s 33-37)
- b. Burke, et al. v. County Commission of Jefferson County, WV, et al. (Jefferson County Civil Action #s 46-50)

8. Planners Memo:

- a. Revised Second Meeting policy.
- b. The County Commission approved the Solar Text amendment, effective April 13. We have had an application submitted.
- c. For June meeting, there will be two Concept Plans one for Solar and one for Charles Town Sheetz/Augustine Ave.

9. Presidents Report

10. Actionable Correspondence: None

11. Non-Actionable Correspondence: None

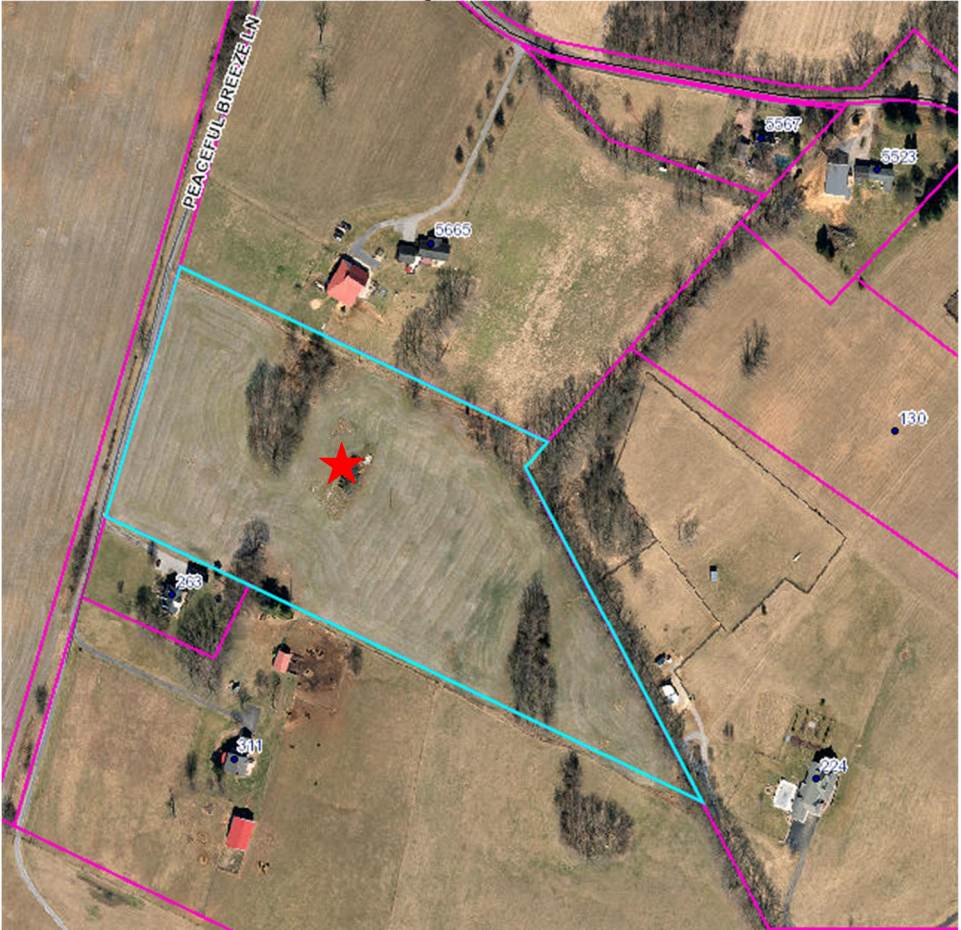
Mr. Jack Hefestay motioned to adjourn the meeting at 8:34 pm which was seconded by Matt Knott, and passed unanimously.

These minutes were prepared by Alice Johns, Planning Clerk.

Staff Report  
 Jefferson County Planning Commission Meeting  
*Postponed from August 10, 2021 to September 14, 2021*

**John Orndorff Minor Subdivision Final Plat Amendment (21-12-Q)**

**Item #3: Public Hearing:** Request by Nicole Picciotto for a Final Plat Amendment to lift the single family restriction (Note #3) from Lot 1 of John Orndorff Minor Subdivision (File #94-11), Peaceful Breeze Ln, to allow for the construction of a 3 bedroom/2 bath house with a detached 1 bedroom/1 bath in-law suite for a family member.

Applicant/Developer:	Nicole Picciotto	
Property Location and Legal Information	<p style="text-align: center;">John Orndorff Minor Subdivision Lot 1, Peaceful Breeze Ln          Tax District: Shepherdstown (09); Tax Map: 12; Parcel: 8; Size: 12.99 ac;          Zoning District: Rural</p> 	
Surrounding Properties:	North: Rural South: Rural	East: Rural West: Rural
Approved Activity:	Single Family Residence	
Approvals:	Residue of Parent to Child Subdivision DB1004/PB197 (Approved 02/14/05) Lot 1 of John M. Orndorff Minor Subdivision (File: 94-11) recorded 10/18/94 at PB13/PG10	

**Overview of Request**

The subject parcel is designated as Lot 1 on the John M. Orndorff Minor Subdivision, which was

Staff Report  
Jefferson County Planning Commission Meeting  
*Postponed from August 10, 2021 to September 14, 2021*

**John Orndorff Minor Subdivision Final Plat Amendment (21-12-Q)**

recorded on October 18, 1994 in Plat Book 13/Page 10. This property is in the Rural Zoning District. At the time the plat was approved, the Subdivision Ordinance required all subdivisions to include a note that restricted each lot to a single-family residence only unless otherwise approved by the Planning Commission in accordance with the County prevailing land development laws. This note is no longer required for subdivisions. This note (Note # 3) is the subject of this plat amendment request.

The applicants would like to lift the single-family home restriction to allow for the construction of a 3 bed/2 bath house with a detached 1 bedroom/1 bath “in-law suite” for the applicant’s sister. A dwelling unit is for a family member (blood relative) and is considered an “in-law suite” in the Zoning Ordinance. Detached in-law suites are permitted in the Rural Zoning District in accordance with Section 8.15A of the current Zoning Ordinance on properties of at least 2 acres in size.

**Zoning Ordinance Requirements**

If the Planning Commission approves this Final Plat Amendment lifting the single-family restriction for Lot 1 of the John M. Orndorff Minor Subdivision, the applicant may apply for a Zoning Certificate to process under the zoning requirements for In-Law Suites/Accessory Dwelling Units in the Rural Zoning District. Section 8.15A of the Zoning Ordinance has various provisions that must be complied with, including, but not limited to, the requirement that the accessory unit must be secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area.

**Plat Amendment Requirements**

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

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

Because all plats were approved by action of the Planning Commission under the 1979 Subdivision Ordinance, this amendment was required to be placed on the Planning Commission agenda for a Public Hearing and Planning Commission action. The required 30-day public notice has been advertised in the July 7, 2021 edition of the Spirit of Jefferson newspaper for the August 10, 2021 Planning Commission meeting.

**Recommendation**

Staff recommends approving the requested Final Plat Amendment to lift the single-family restriction (Note #3) for the sole purpose of constructing an accessory dwelling unit on Lot 1 of the John M. Orndorff Minor Subdivision. If approved, the applicant will need to apply for a Zoning Certificate for the Accessory Dwelling Unit prior to applying for a Building Permit.



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

File #: \_\_\_\_\_  
 Date Rec'd: \_\_\_\_\_  
 Mtg Date: \_\_\_\_\_

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

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

**Final Plat Amendment Application**

A request to amend, modify and/or vacate an approved plat must comply with Section 24.202 of the Jefferson County 2008 Subdivision Regulations, as amended.

**Property Owner Information**

Owner Name: Nicole Picciotto  
 Business Name: \_\_\_\_\_  
 Mailing Address: 336 Stony Ln. Ranson, WV 25438  
 Phone Number: 410-688-9606 Email: ncpicciotto@gmail.com

**Applicant Information**

Applicant Name: Nicole Picciotto Same as owner:   
 Business Name: \_\_\_\_\_  
 Mailing Address: Same as Property Owner  
 Phone Number: 410-688-9606 Email: ncpicciotto@gmail.com

**Consultant Information**

Consultant Name: N/A  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: Lot 1 Elmwood Farm, Peaceful Breeze Ln. Shepherdstown, WV  
 Parcel ID: 19-09-0012-0008-0000 Parcel Size: 12.99 ac  
 Zoning District: Shepherdstown Deed Book: 1014 Page No: 291

**Plat Information**

Plat Title: \_\_\_\_\_ Note No: \_\_\_\_\_  
 Recordation Date: \_\_\_\_\_ Plat Book: \_\_\_\_\_ Page No: \_\_\_\_\_

**Describe the nature of your proposed amendment.**

Lift single family home restriction to allow for 3bed/2bath house with 1bed/1bath Fr-law suite.

Sketch the shape and location of the lot. Show the location of the proposed construction/land use. Include building setbacks, size, and height. Identify existing easements, roads, buildings/structures, or land uses on the property. Note: septic or well relocations require a survey plat and approval by the Health Department.

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

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.

Nicole Picciotto 6/22/21 \_\_\_\_\_  
 Property Owner/Applicant Signature Date Property Owner/Applicant Signature Date

N

Lot 1 Elmwood Farm  
Peaceful Breeze Ln  
Shepherdstown, WV

W

500'

244'

3bd  
2ba  
house

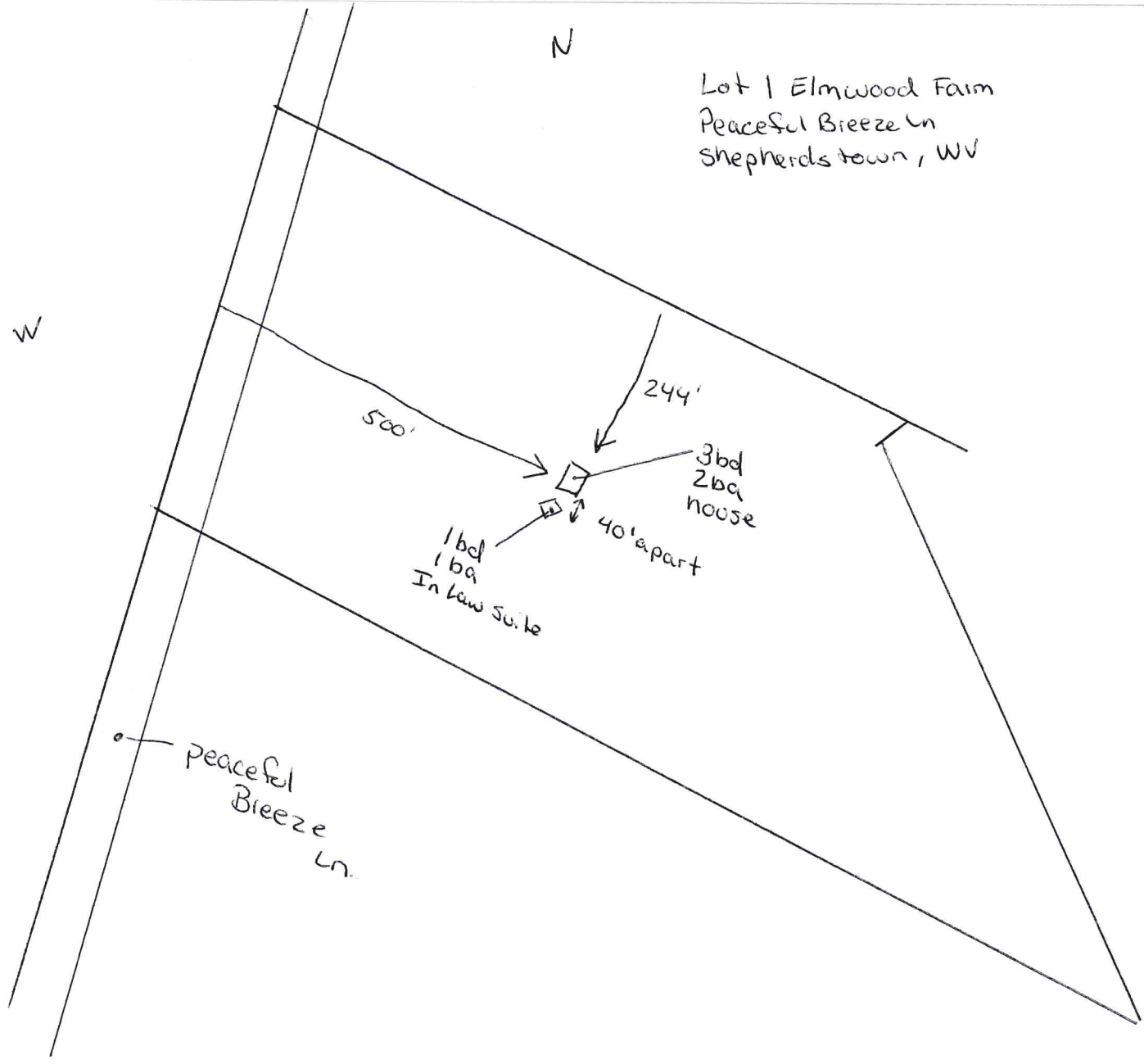
1bd  
1ba  
In law suite

40' apart

E

Peaceful  
Breeze  
Ln.

S



**LEGEND**

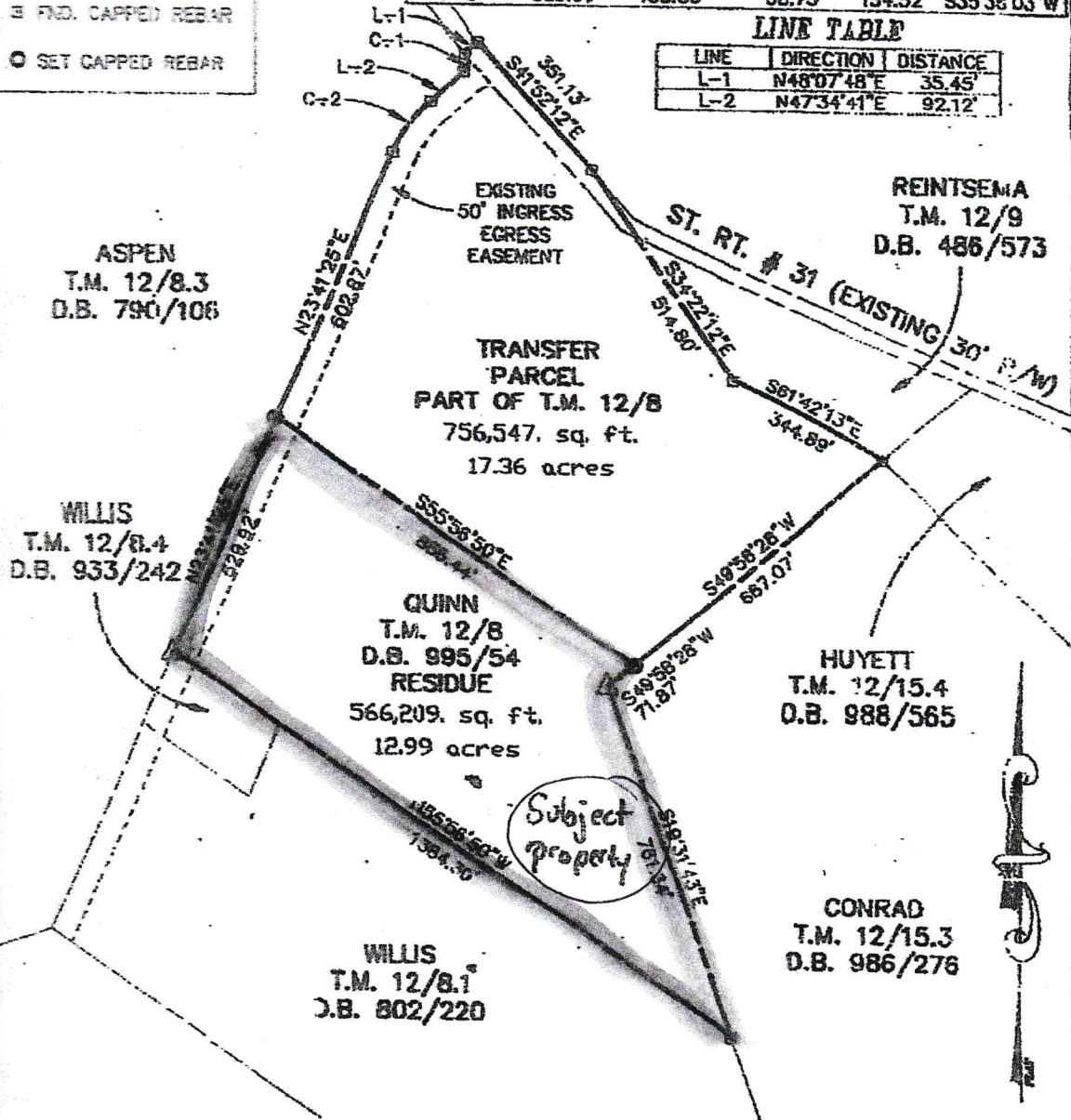
- ▲ 6" WOOD FENCE POST
- FND. CAPPED REBAR
- SET CAPPED REBAR

**CURVE TABLE**

CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING
C-1	25.00'	38.28'	25.01'	35.36'	N02°34'41"E
C-2	325.00'	135.50'	68.75'	134.52'	S35°38'03"W

**LINE TABLE**

LINE	DIRECTION	DISTANCE
L-1	N48°07'48"E	35.45'
L-2	N47°34'41"E	92.12'



**PARENT TO CHILD TRANSFER**

PLAT SHOWING PARENT TO CHILD TRANSFER OF A PORTION OF T.M. 12/8, PROPERTY STANDING IN THE NAME OF JOHN J. JR. & DORETHEA L. QUINN, AS RECORDED IN THE OFFICE OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOK 995/54, LOCATED IN SHEPHERDSTOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA. NO SETBACK VIOLATIONS WOULD OCCUR AS A RESULT OF THIS TRANSFER.

DWG # 4316

DATE-10/18/04

**GRAPHIC SCALE**



( IN FEET )  
1 inch = 300 ft.

SURVEYED BY:

PETER H. LORENZEN & S.





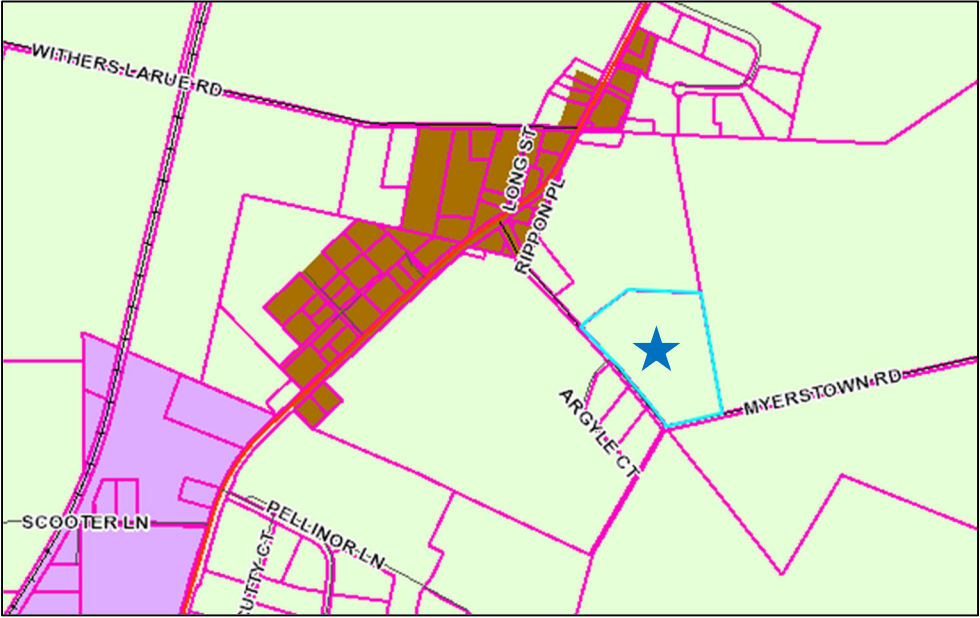
## Staff Report

Jefferson County Planning Commission

September 14, 2021

### Rexroat Special Event Facility (21-6-SP)

**Item #4: Public Workshop:** Concept Plan for the Rexroat Agriculture Special Event Facility (weddings and group gatherings); Farm vacation Enterprises (lodging for guests); Pick your own crop, Bed and Breakfast (possible future expansion).

Owner/Applicant:	Russel and Cyndi Rexroat	
Surveyor/Engineer:	n/a	
Property Location:	191 Myerstown Rd., Charles Town, WV 25414	
Parcel Information and Zoning District:	<p style="text-align: center;">Tax District: Kabletown (06); Tax Map: 10; Parcel: 3.2; Size: 15.78 acres; Zoning District: Rural</p> 	
Surrounding Zoning:	North: Rural East: Rural	South: Rural West: Rural
Proposed Activity:	Special Event Center (see Summary below for a full description)	
Concept Plan Status:	Submitted: 06/25/2021 <i>Deemed Insufficient</i> 07/06/2021 Sufficiency Letter 07/20/2021 Deemed Complete: 07/22/2021 *Due to noticing requirements the Project was postponed from 08/10/21.	
Previous Approvals:	None	

### Introduction and Summary of Request

The applicant is proposing to establish a Special Event Facility. As outlined in the Applicant’s letter to the governing Agencies, the proposal includes the development of a Special Event Facility to accommodate up to 250 people per event. Facilities include a new 5,000 sq ft building, expansion of an existing building up to 2,000 sq ft, and improving two existing buildings for lodging for the Farm Vacation Enterprise. Future expansion includes a Bed and Breakfast option in the main residence and adding additional outbuildings for up to five lodging units. Crop expansion proposal includes a Lavender - Pick your Own Farm Products project. Lavender shrubs will be grown and offered for public sale along with educational workshops.

## Staff Report

Jefferson County Planning Commission

September 14, 2021

### Rexroat Special Event Facility (21-6-SP)

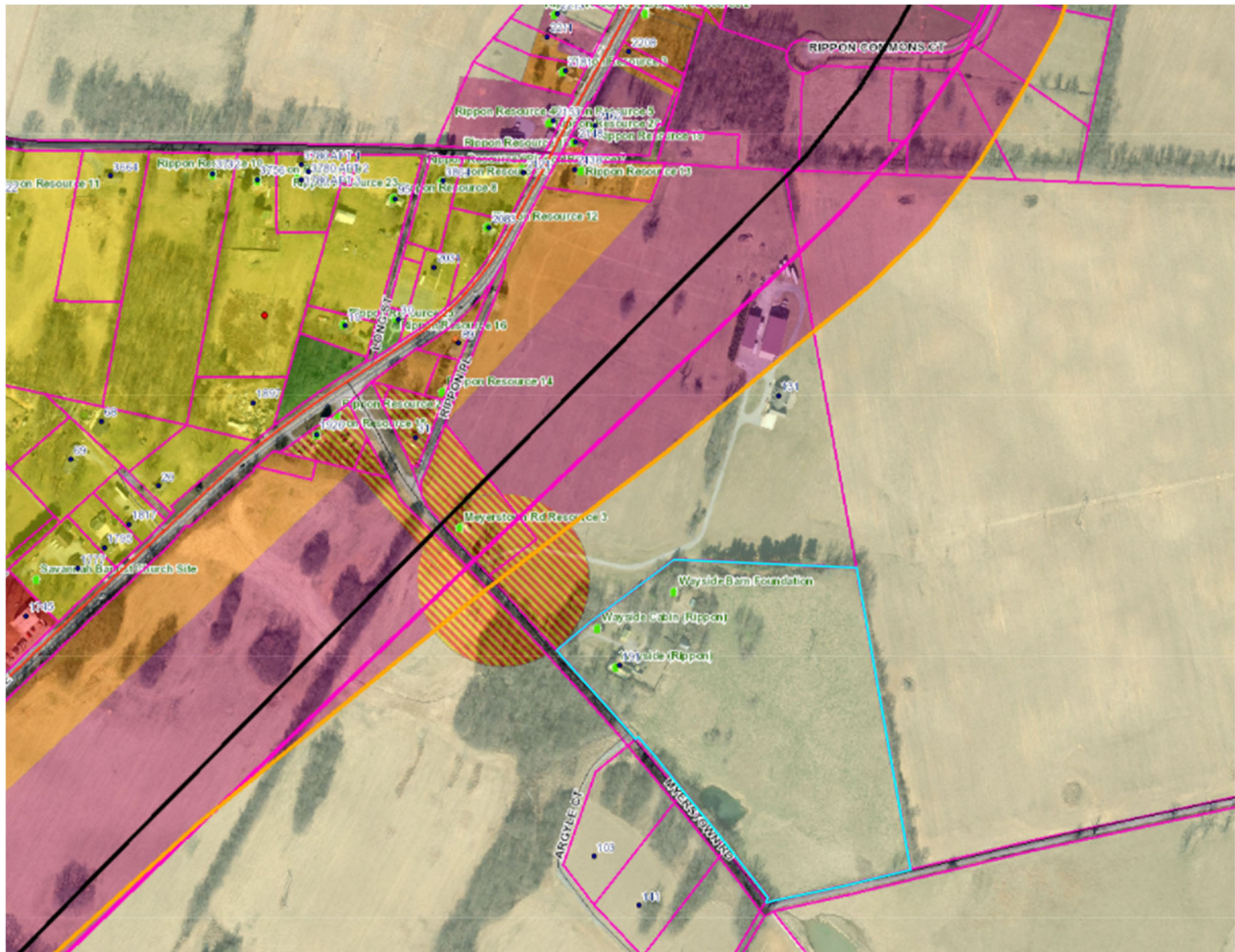
Initial events may be held in tents located on the site of the proposed new building and catered by outside agencies. In this case, Health Department approved, portable bathrooms will be utilized for events.

The proposed land use is defined in Article 2 of the Zoning Ordinance as an “Agricultural Special Event Facility”. **Per Appendix C, this is a Principal Permitted Use in the Rural zoning district.** The land use shall be subject to the criteria outlined in Section 8.14 in the Zoning Ordinance for Special Event Facilities.

This 15.78-acre property is located at 191 Myerstown Road in Charles Town. The subject parcel is located south of Rippon, approximately .2 miles from Berryville Pike. The property has a Farm Use designation through the Assessor’s Office.

#### *Envision Jefferson 2035 Comprehensive Plan*

The property that is proposed for the Special Event Facility is located just outside the US340 South Preferred Growth Area identified in the *Envision Jefferson 2035 Comprehensive Plan*. This area was identified as a growth area due to the proposed widening relocation of US 340 South through the Rippon area to the southern County boundary, which is expected to create some additional growth pressures along this corridor. It was also noted that a percentage of the property along the western edge of US 340 South is currently zoned Industrial-Commercial which could lead to urban level development; however, local public water and sewer service may need to be developed to allow for higher intensity development along this corridor.



## Staff Report

Jefferson County Planning Commission

September 14, 2021

### Rexroat Special Event Facility (21-6-SP)

At the time the *Plan* was approved, the final decision had not been made confirming the final alignment of the road improvement and therefore three alternatives were included in the map above (see legend). In August 2019, the Record of Decision was published identifying the Preferred Alternative (4A), shown in black, as the alignment to be constructed.

#### Berryville Pike DOH Realignments

-  Alternative 4
-  Alternative 4A
-  Alternative 4B

The Urban Level Development Recommendations section of the *Envision Jefferson 2035 Comprehensive Plan* states that development on US 340 South should limit any land uses of a higher intensity than current zoning allows to the area between the existing US 340 right-of-way and the proposed preferred alignment right-of-way. It further recommends that the area to the east of the preferred alignment, where this property is located, should remain zoned Rural, except the intersection of Myerstown Road and the proposed preferred alignment. Therefore, the proposed Agricultural Special Event Facility, as a principal permitted use in the Rural Zoning District is in conformance with the *Comprehensive Plan*.

### Historic Resources

As can be seen on the map above, this property is also occupied by three locally identified County landmarks. The property is known as the Wayside Farm and was evaluated as a part of the Section 106 review of the proposed US 340 widening project. It was determined to be eligible for the National Register by the WV Division of Culture and History (SHPO) in January, 2000. It was also a part of the 2004-2005 Jefferson County historic resources survey. The Jefferson County Historic Landmarks Commission mapping includes the following information about the resource on site:

- The Wayside house, also known as the Heflebower House, was built of brick in approximately 1820 and is identified as a Category II. It also had a later brick addition.
- The Wayside Log Cabin was built in approximately 1820 and served as servants' quarters. It is considered a Category III landmark.
- The Wayside Barn Stone Foundation is at the site of a barn constructed in approximately 1850 and identified as a Category III landmark.

The *Envision Jefferson 2035 Plan* included recommendations to build upon the previously completed inventory and the four levels of importance by amending the Zoning Ordinance to incorporate varying levels of protection. It further recognized that protection of the County's historic structures and landscapes is essential to broadening tourism. While these Zoning Ordinance amendments have not been approved, the proposed use of the land and its historic resources as a rural special event facility supports the Plan's recommendations related to broadening tourism through these historic resources.

### Site Plan Category

Section 4.10C of the Zoning and Land Development Ordinance states that a **Site Plan is not required for any Agricultural Use defined in Article 2.** It also states that agricultural uses which are open to the public established on **parcels of less than 20 acres shall process a Concept Plan** in accordance with the Subdivision and Land Development Regulations. Therefore, a Concept Plan is required for the subject 15.78-acre parcel.

The site development associated with this Concept Plan is governed by the Subdivision Regulations. Section 20.106 of the Subdivision and Land Development Regulations provides the submission

## Staff Report

Jefferson County Planning Commission

September 14, 2021

### Rexroat Special Event Facility (21-6-SP)

requirements for a Minor Site Plan Concept Plan. As there are not explicit requirements for Concept Plans where no site plan is required, this application will be evaluated based on these provisions.

#### Staff Determination of Application Sufficiency and Concept Plan Completeness Review

In accordance with the current Subdivision Regulations, the Concept Plan process incorporates a sufficiency and completeness review in a single step. Upon second submission and review of the applicant's Concept Plan, Staff found the submitted plan "sufficient" (i.e. meeting all requirements of Section 24.106 of the Jefferson County Subdivision and Land Use Regulations). These requirements, as well as the current review status for each requirement for the proposed retail building application, are provided below:

	<b>Description</b>	<b>Status</b>
<b>1. General Location</b>	A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.	Provided
<b>2. Concept Plan</b>	In accordance with the content and formatting guidelines provided in Appendix A, <i>Plan &amp; Plat Standards</i> .	Provided
<b>3. Zoning Information</b>	<ul style="list-style-type: none"> <li>a) Zoning District in which the proposed development is located.</li> <li>b) Density calculations.</li> <li>c) Site resource map</li> <li>d) Use designation for all adjoin and confronting parcels</li> </ul>	Provided
<b>4. Proposal Description</b>	A written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, and development option selected if the development is residential.	Provided in Concept Plan application
<b>5. Traffic Impact Data</b>	<ul style="list-style-type: none"> <li>a) Average Daily Trip (ADT) figures for the adjoining or accessible State road.</li> <li>b) Trip generation figures</li> <li>c) Nearest key intersection that will serve the proposed project as classified by the current Comprehensive Plan.</li> <li>d) "Highway Problem Areas" according to the current Comprehensive Plan that falls within a one-mile radius of the project.</li> </ul>	Provided in Concept Plan narrative: Meyerstown Rd east of Berryville Pike: 331 ADT Trip generation: 188 average per event (based on 250 max attendance)
<b>6. Traffic Study</b>	A traffic study may be required only at the request and direction of the West Virginia Division of Highways. Any required traffic study or a letter from the West Virginia Division of Highways outlining the proposed improvements shall be received with the first submission of the Site Plan.	A Traffic Impact Study is not anticipated but could be required by WV DOH
<b>7. Agency Reviews</b>	The applicant shall distribute the concept plan to all reviewing agencies found in Section 23.203 and 23.204 no later than 7 days after the review.	Letters to required agencies provided. Responses received are below.

**Staff Report**

Jefferson County Planning Commission

September 14, 2021

**Rexroat Special Event Facility (21-6-SP)**

<b>D. Department</b>	<p>The Department review shall include the following:</p> <ol style="list-style-type: none"> <li>Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the Concept Plan submission and any zoning issues the developer shall address in a Site Plan submittal.</li> <li>Staff opinion as to whether the plan meets the Site Plan criteria of these Regulations. The Department shall review the Concept Plan for modifications that would improve the plan.</li> </ol>	<p>Staff determined that the proposed Concept Plan meets the requirements of the Zoning Ordinance and the Subdivision Regulations. Sect. 4.10C of the Zoning Ordinance exempts such projects from submission of a Site Plan.</p>
<b>E./F. WVDOH</b>	<p>WVDOH shall submit a letter to the Office of Planning and Zoning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study is needed, parameters shall be provided. The review shall indicate whether a traffic impact study will be required based on analysis required in Section 24.106.B.5.</p>	<p>WVDOH has not provided any input at this time.</p>
<b>G. Public Service</b>	<p>The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a system that shall be proposed by the developer to best meet the County’s needs in that area of the County.</p>	<p>The narrative indicates that if events take place in tents, bathroom facilities will be provided by Health Dept. approved portable toilets. On-site septic and wells will require Board of Health approval.</p>
<b>H. Recommended Conditions</b>	<p>All reviews shall contain recommended conditions for moving forward to a site plan or reasons why the plan should be denied.</p>	<p>See below</p>

**Concept Plan Review**

1. External Agency Reviews

As of this date, no agency review comments have been received.

2. Staff Recommendation related to Concept Plan

The Subdivision Regulations state that unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning staff is required to accept or deny the concept plan as complete. Upon accepting the application as complete, Planning staff is required to place it on the next possible Planning Commission agenda as a public workshop, which is advertised at least fourteen (14) days in advance of the meeting and posted on the property.

The Office of Planning and Zoning Staff finds the Concept Plan for the proposed Agriculture Special Event Center, and Farm Vacation Enterprises at 191 Myerstown Road to be “complete” based on the information provided related to the criteria above.

## Staff Report

Jefferson County Planning Commission

September 14, 2021

### Rexroat Special Event Facility (21-6-SP)

#### 3. Planning Commission Direction

The Concept Plan Public Workshop allows for the Planning Commission and the general public to review the proposed project prior to commencement of the project. The Subdivision and Land Development Regulations outline the procedure:

1. The applicant makes a short presentation.
2. Staff explains outside agency comments and whether the plan can meet the standards of the Zoning Ordinance.
3. Public comment is solicited.

Following the applicant's presentation, staff's explanation, and the solicitation of public comment, the Planning Commission shall provide direction to the applicant as required under Concept Plan Direction outlined in the Subdivision Regulations. The Planning Commission has the option of providing this direction at the same meeting during which the Concept Plan public workshop takes place, or at a subsequent meeting that occurs within 14 days of the meeting at which the Concept Plan public workshop is closed.

Section 24.108 of the Subdivision and Land Development Regulations outlines the direction to be provided to the applicant during a Minor Site Plan Concept Plan review:

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

The Zoning Ordinance explicitly exempts agricultural projects from having to process a Site Plan; therefore, the next steps would include application for a Zoning Certificate and application for building permits.

It should be noted that the direction provided to the applicant in the Minor Site Plan Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to the Subdivision and Land Development Regulations or the Zoning and Land Development Ordinance in the second year shall be applicable.



Jefferson  
County, West  
Virginia  
Department  
of

**and Zoning**

116 E. Washington Street, 2<sup>nd</sup> Floor, P.O.  
Box 716  
Charles Town, West Virginia 25414

File #:  
Fees Paid: Staff Int.:

Engineering, Planning and  
Zoning **Office of Planning**

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org) Phone: (304) 728-3228 [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org) Fax: (304) 728-8126

**Subdivision or Site Development Application**

**Application Type**  Concept Plan  Final Plat (major/minor)  Preliminary Plat  Site Plan

Project Name: Rexroat

Description: Agriculture Special Event Facility (weddings and group gatherings); Farm Vacation Enterprise (lodging for guests); Pick your own crop; Bed and Breakfast (possible future expansion)

Primary Contact Phone Number (must be a direct line number) Cyndi Rexroat 571-271-2467

**Property Owner Information**

Owner Name: Russel and Cyndi Rexroat

Business Name:

Mailing Address: 191 Meyerstown Rd., Charles Town, WV 25414

Phone Number: 571-271-2467 Email: [cyndirexroat@gmail.com](mailto:cyndirexroat@gmail.com)

**Applicant Information** Same as Owner: Russel and Cyndi Rexroat Applicant Name:

Business Name:

Mailing Address:

Phone Number: Email:

**Registered WV Engineer or Surveyor or Consultant Information**

Contact Name: N/A

Business Name:

Mailing Address:

Phone Number: Email:

**Physical Property Details** Vacant Lot:

Physical Address: 191 Meyerstown Road, Charles Town, WV 25414

Tax District: 06 - Kabletown; Map No 10; Parcel No: 06001000030002

Parcel Size: 15.78; Deed Book: 1240; Page No: 622 [Plat Book: 5, Page: 116](#)

Zoning District: Rural (R)

**Additional Parcels (if any)**

**Physical Property Details** Vacant Lot:  Physical Address:

Tax District: Map No: Parcel No: Parcel Size: Deed Book: Page No: Zoning District:

**Physical Property Details** Vacant Lot:  Physical Address:

Tax District: Map No: Parcel No: Parcel Size: Deed Book: Page No: Zoning District:



Russel and Cyndi Rexroat  
Concept Plan

**Agricultural Special Event Facility**  
**Farm Vacation Enterprise**  
**Pick Your Own Crop**  
**Bed and Breakfast**

1. The property is located at 191 Meyerstown Road, Charles Town, WV. It is in Tax District 06 - Kabletown Map No 10; Parcel No: 06001000030002 and has 15.78 acres.
2. Topographical map with outlines including: entrance, venue areas/buildings, parking areas, set backs. Parking will be on ground/grass for up to 125 cars. A minimum of five accessible parking/drop off areas will be provided on the paved portion of the driveway for those guests with limited mobility. Property layout designs may shift as the proposed project develops, however, all building and parking set-back requirements will continue to conform to the Jefferson County Land and Zoning Ordinance. Parking area will be minimum 9' x 20' x 125(cars) = 22,500 sq ft. Parking will generally run along the fence lines, following set-back requirements, to maintain optimal crop/animal field area.
3. The proposed project will comply with section 8.9.A.1 (noise)

**Proposed Project Details:**

The property is zoned Rural. The proposed uses are identified in the Jefferson County Zoning and Land Development Ordinance, December 17, 2020.

1. Section 8.14 ~ An Agricultural Special Event Facility is permitted in any zoning district on a parcel with an existing farm and shall operate accessory to the property owner's primary residence or caretaker's residence. The minimum acreage required is five acres. *An Agricultural Special Event Facility on a parcel of less than 20 acres shall process a Concept Plan, subject to a Public Workshop before the Planning Commission, in accordance with the Subdivision and Land Development Regulations.*
2. Section 8.3 ~ Bed and Breakfast *A bed and breakfast may contain up to seven bedrooms, and may conduct up to four receptions per year, with one tent per reception. Breakfast is the only meal served, and is served only to overnight tenants and their guests. An owner or designated caretaker must reside on the premises while the bed and breakfast is occupied. Up to two bedrooms may be located in an accessory dwelling unit, provided that the total number of bedrooms associated with the land use does not exceed seven.*
3. Agricultural Use ~ #13 Pick your Own Farm Products
4. Agricultural Use ~ #15 Farm Vacation Enterprise *A farm adapted for use as a rural vacation area, which may include picnicking and sporting areas, fishing waters, camping, scenery, nature recreation areas, and similar uses. The site may contain up to 5 lodging units.*

Proposed projects are the development of a Special Event Facility to accommodate up to 250 people per event. Facilities include a new 5,000 sq ft building, building out an existing building to 2,000 sq ft, and improving two existing buildings for lodging for the Farm Vacation

Enterprise.

Future expansion includes a Bed and Breakfast option in the main residence and adding additional outbuildings for up to five lodging units.

Crop expansion proposal includes a Lavender - Pick your Own Farm Products project. Lavender shrubs will be grown and offered for public sale along with educational workshops.

Initial events may be held in tents located on the site of the proposed new building and catered by outside agencies. In this case, Health Department approved, portable bathrooms will be utilized for events.

**Zoning Information Details:**

The subject property is zoned rural. Boundary map illustrates designations for adjoining/adjacent properties.

**Nearest key intersection:**

340/Meyerstown Rd. Trip information provided by Engineer Jonathon Saunders, “331 ADT per WVDOH traffic counts taken on Myerstown Rd, 0.15 south of the intersection of Berryview Pike.”

**Trip Distribution:**

Estimating Trip Generation and Distribution for a Wedding Venue, by Mike Spack

<http://www.mikeontraffic.com/estimating-trip-generation-distribution-wedding-venue/>

Based on 250 maximum attendance

Average of 75% for the venue capacity = 188 people on average per event (94 cars)

188 x .3 entering trip generation = 56 cars during the hour prior to the event

188 x .12 exiting trip generation = 23 cars during the exit period after the event (traffic will be spread out due to variance of leave times)

*Trip Generation*

*A wedding is a single event at a pre-established time. All of the wedding party and wedding guests will be in attendance at the ceremony. Therefore, the trip generation rate will be based on the capacity of the area within the venue to be used for the ceremony. Typically, a wedding party will rent a venue with a capacity near the size of their wedding. Estimate that 75% of the venue capacity will be the typical size used for trip generation. Estimate that the wedding party and vendors represent 10% of those attending the wedding and that they arrive more than one hour before the ceremony. The remaining 90% will arrive during the one-hour period before the ceremony. Many of the wedding guests travel together as couples, families or groups of friends. Assume there will be 2 to 2.5 guests per vehicle. Using the above factors*

*gives a range of 0.27 to 0.33 for the trip generation factor as a function of the venue capacity. Use an average rate of 0.30 with 100% entering.*

*If the venue does not include a reception area use the same 0.30 rate for the exiting trips. If the venue has a reception area the exiting traffic will be dispersed over a few hours. Use a rate of 0.12 (0.30 x 40%) for the peak hour of exiting vehicles.*

**Agency Contacts:**

All required agencies will be contacted/notified upon submission of an approved Concept Plan.

**Adjoining and Adjacent Property Owners and Property Designations:**

(Properties boundaries are also listed on the plat map)

Joseph and Donna Cepelka  
PO Box 14  
Rippon, WV 25441  
R ~ Active Farm

Douglas and Drew Stolipher  
1599 Roper North Fork Rd  
Charles Town, WV 25414  
R ~ Active Farm

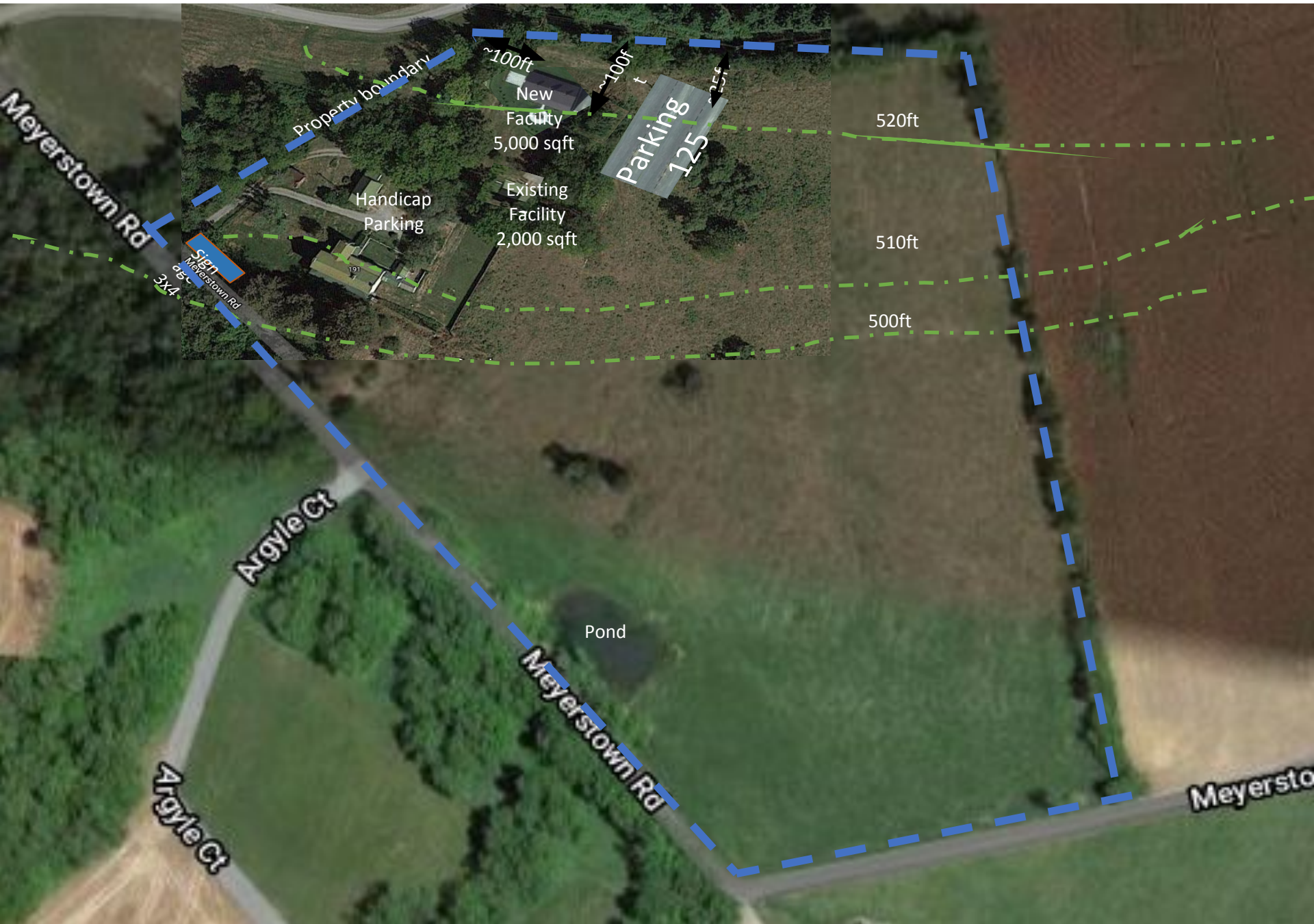
Clarence Hough et al  
620 Old Shennandale Rd  
Charles Town, WV 25414  
R ~ Active Farm

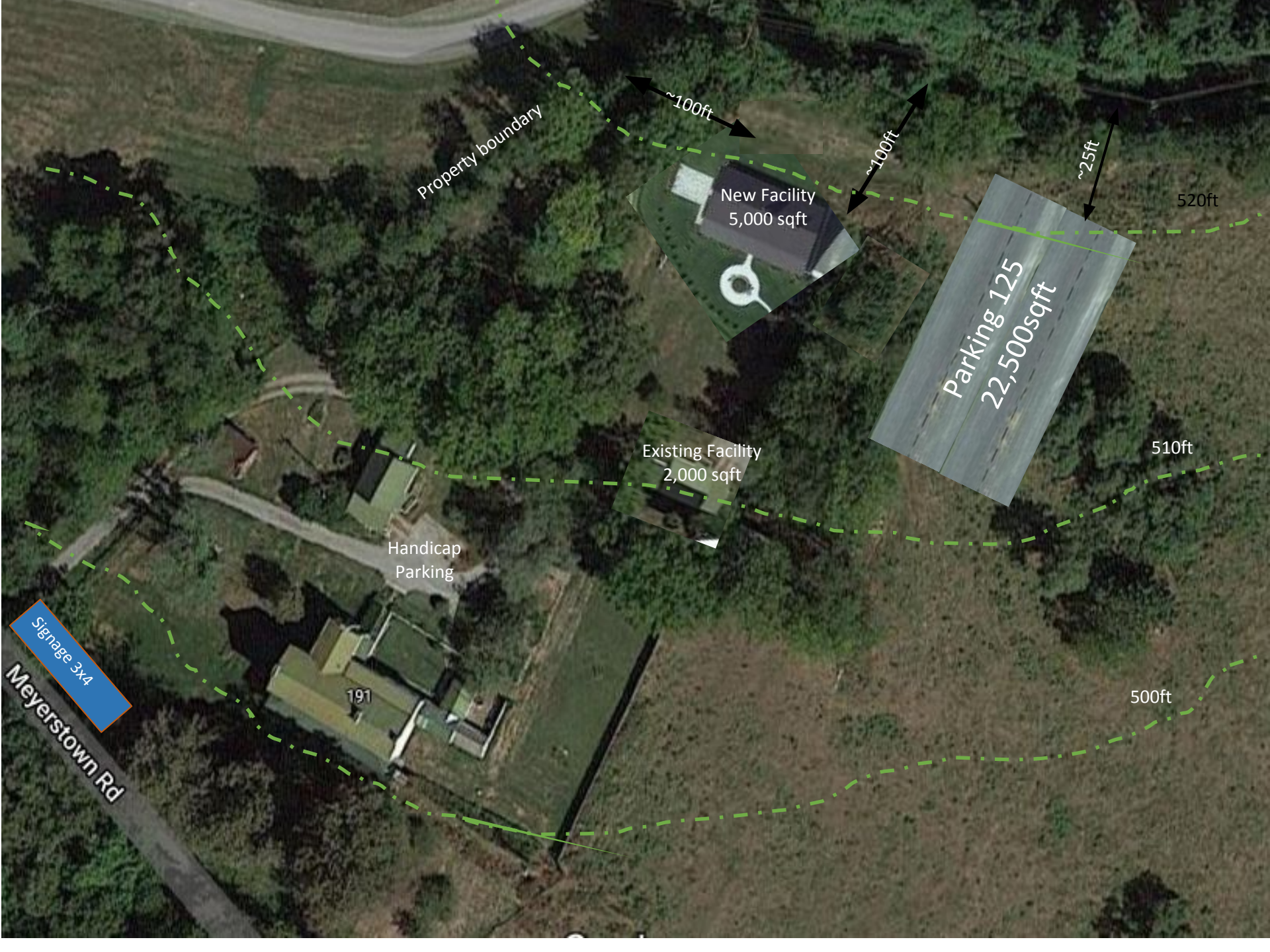
June Adams  
PO Box 99  
Rippon, WV 25441  
R ~ Active Farm

John and Sherry Steen  
103 Argyle Court  
Charles Town, WV 25414  
Residential

Cyrus and Donna Staniec  
141 Argyle Court  
Charles Town, WV 25414  
Residential

Carl Dix et al  
165 Argyle Court  
Charles Town, WV 25414  
Residential





Property boundary

~100ft

~100ft

~25ft

New Facility  
5,000 sqft

520ft

Parking 125  
22,500sqft

Existing Facility  
2,000 sqft

510ft

Handicap  
Parking

500ft

191

Signage 3x4

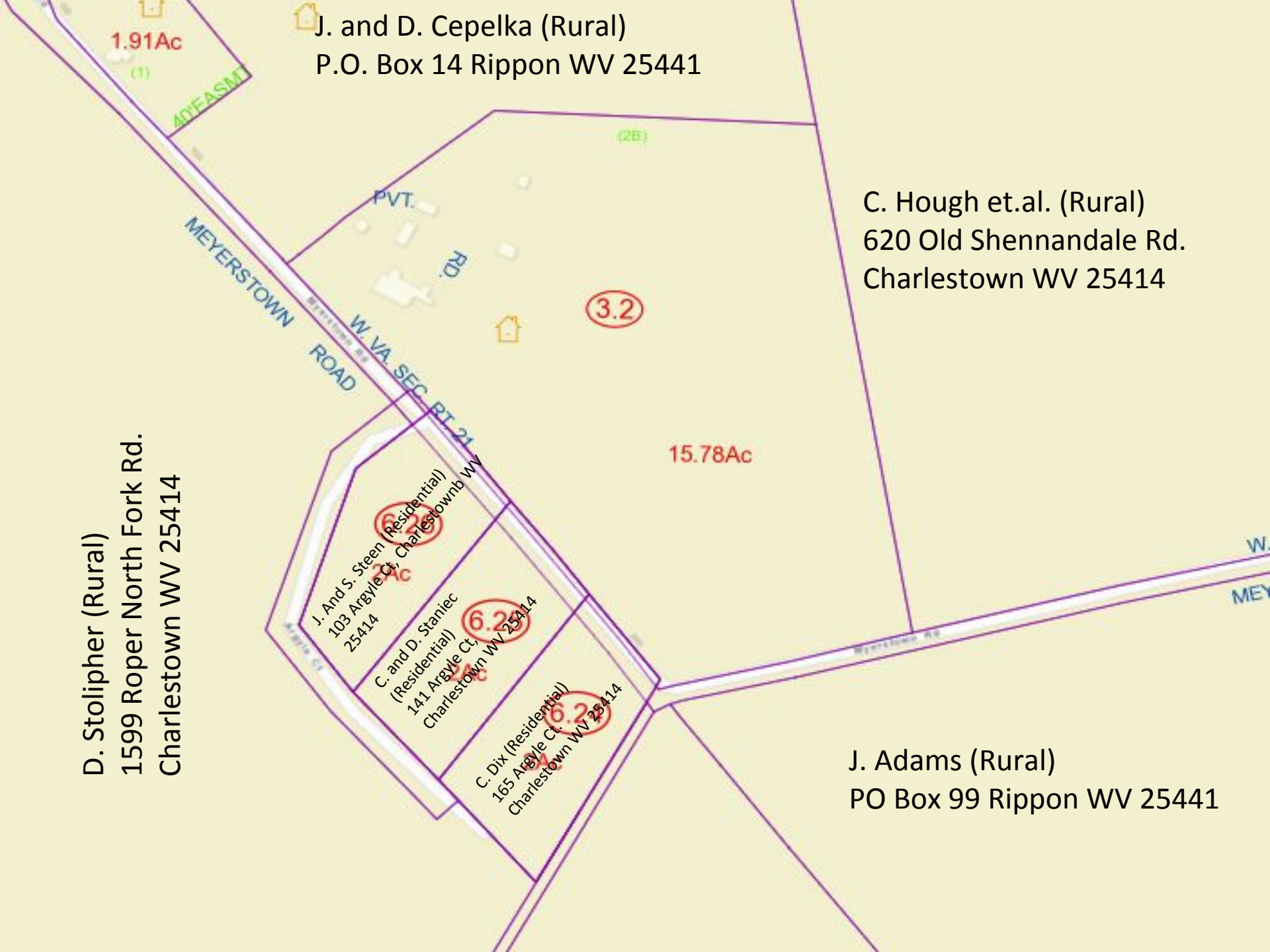
Meyerstown Rd

D. Stolipher (Rural)  
1599 Roper North Fork Rd.  
Charlestown WV 25414

J. and D. Cepelka (Rural)  
P.O. Box 14 Rippon WV 25441

C. Hough et.al. (Rural)  
620 Old Shennandale Rd.  
Charlestown WV 25414

J. Adams (Rural)  
PO Box 99 Rippon WV 25441





26 July 2021

Rexroat Agricultural Event Facility

To Whom It May Concern:

Enclosed is a Concept Plan for Rexroat Agricultural Event Facility, located 191 Meyerstown Rd in Charles Town, WV, 25414 (Parcel 06001000030002). The project includes the development of a Special Event Facility to accommodate up to 250 people per event. Facilities include a new 5,000 sq ft building, building out an existing building to 2,000 sq ft, and improving two existing buildings for lodging for the Farm Vacation Enterprise. Future expansion includes a Bed and Breakfast option in the main residence and adding additional outbuildings for up to five lodging units. Crop expansion proposal includes a Lavender - Pick your Own Farm Products project. Lavender shrubs will be grown and offered for public sale along with educational workshops. Initial events may be held in tents located on the site of the proposed new building and catered by outside agencies. In this case, Health Department approved, portable bathrooms will be utilized for events.

Pursuant to Section 24.106.B.7 of the Jefferson County Subdivision Regulations, *“The reviewing agencies shall conduct reviews of the proposed Concept plan. Agency comments shall be received by the Department [of Engineering, Planning, and Zoning] 14 days prior to the scheduled public workshop. The applicant shall distribute the Concept Plan to all reviewing agencies no later than seven (7) days after the review. Reviewing agencies are found in Sections 23.203 and 23.204. Applicant shall provide a copy of letter sent to outside agencies to the Office of Planning and Zoning within seven (7) days of submission of Concept Plan. If any review agency fails to respond, they shall be deemed by [the Subdivision Regulations] to have approved the Plan.”*

The Planning Commission will hold a Public Workshop on 14 September 2021 at 7:00 PM. Please contact the Department of Engineering, Planning, and Zoning for meeting specifics (time, location, process, etc.).

Written comments pertaining to the project should be submitted to the Office of Planning and Zoning 14 days prior to the scheduled Public Workshop.

Office of Planning and Zoning  
116 E. Washington Street  
P.O. Box 716  
Charles Town, WV 25414  
(304) 728-3228  
[planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

If you have any questions about the project, please contact Cyndi Rexroat [cyndirexroat@gmail.com](mailto:cyndirexroat@gmail.com) or 571-271-2467.

Please forward a copy of any written comments that you send to the Jefferson County Office of Planning and Zoning to Cyndi Rexroat [cyndirexroat@gmail.com](mailto:cyndirexroat@gmail.com), as well.

Thank you for your consideration,

Cyndi and Russ Rexroat

Public  
Comments  
Received



**From:** [Cyrus Staniec](#)  
**To:** [Planning Department](#)  
**Subject:** Re: 21-6-SP Rexroat Concept Plan Materials  
**Date:** Tuesday, September 7, 2021 9:26:44 AM

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Hi, Jennilee

Thanks for forwarding the Rexroat concept plan. We shared it with our neighbors on Argyle Court and discussed it briefly yesterday as we gathered for breakfast. I think we all had similar questions regarding the plan, but I will briefly state Donna's and my reaction to what the concept plan presented:

First, we had no particular issues with the B&B and "Pick Your Own" agriculture aspects.

For the Events Center portion, we had two observations:

1. Adequacy of parking/ parking control. The proposed parking (especially with use of grassy areas) is probably adequate, but we hope that the approach will avoid overflow, since Argyle Court seems to be the only feasible area for any overflow not confined to the Rexroat property.
2. Noise: (This may be a particular concern while the tent is used to host events). I still have to read the details of the county ordinance cited in the plan, but since we are "early to bed and early to rise" people, we hope that noise levels after 9PM will be managed so that they are not disturbing at our property after that time. (The area is "country quiet" right now, so disturbing noise levels would be a significant difference.)

We plan to join the Zoom meeting, so we can bring these points out for discussion, if necessary.

Thanks again,  
Cy and Donna Staniec

On Fri, Sep 3, 2021 at 11:33 AM Planning Department  
<[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)> wrote:

Good morning,

It was a pleasure speaking with you this morning. As requested, please find attached the proposed Concept Plan for the Rexroat project along with its supplemental materials

As a reminder, the Planning Commission public workshop will be held on September 14, 2021 at 7:00 pm via a ZOOM conference. The following is the ZOOM Meeting session information:

Join meeting <https://us02web.zoom.us/j/84301191408>

Meeting ID: 843 0119 1408

Dial by location: 301-715-8592

Please ensure all written comments are submitted to our office by September 7, 2021, for inclusion in the Planning Commission's meeting packet. The final Planning Commission [Agenda](#) and [Packet](#), which will include a detailed Staff Report, will be posted to the County's webpage no later than September 9, 2021.

Feel free to contact our office should you have any follow up questions regarding the project.

Thank you and have a great weekend!

Jennilee Hartman, Zoning Clerk

Office of Planning and Zoning

304-728-3228

**From:** [John Steen](#)  
**To:** [Planning Department](#)  
**Subject:** Rexroat Agricultural Special Event Facility  
**Date:** Tuesday, September 7, 2021 2:45:26 PM

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Hi,

I'm John Steen. My wife Sherry and I live at 103 Argyle Court in Charles Town, across Myerstown Road from Wayside Farm, which is applying to become an agricultural special event facility. Our primary concerns are parking and noise. So we have the following questions for the September 14 Zoom meeting:

1. Will there be music (live band or DJ). Will it be inside or outside? And if outside, in what direction will the loud speakers be pointing? Some of us go to bed early. To minimize the noise, perhaps the loud speakers can be directed east, away from nearby homes.
2. In the event that there are more cars than they can accommodate, where would overflow parking be? There is no parking along Myerstown Road, and some may attempt to park along Argyle Court, which is private.

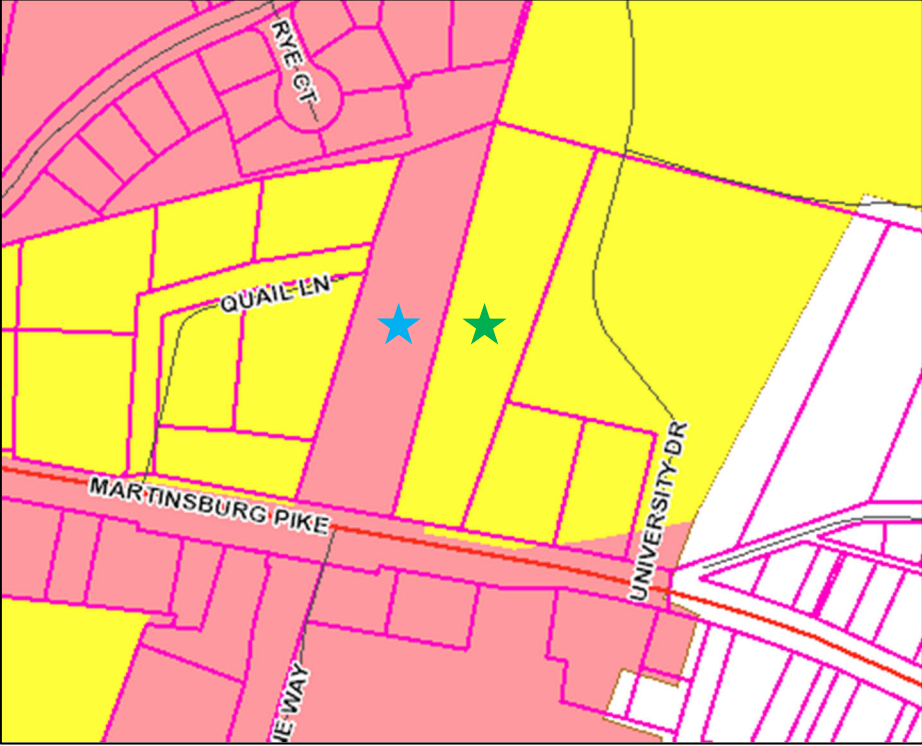
Thank you,

John Steen



**Staff Report**  
 Jefferson County Planning Commission  
 September 14, 2021  
**Shepherd View Apartments**

**Item # 5: Public Workshop:** Shepherd View Apartments Concept Plan: to consist of 40 two-bedroom apartments with associated parking spaces and signage (PC File: 21-9-SP)

Owner:	AAL, LLC	
Consultant:	Paul Raco, P.J. Raco Consulting	
Surveyor/Engineer:	Potesta	
Property Location:	8285 Martinsburg Pike and adjoining lot west of Shepherdstown & University Dr.	
Legal Description:	<p>8285 Martinsburg Pike, Shepherdstown, WV 25443</p> <p>★ Parcel ID: 09000800170002; Size: 1.56 ac; Zoned: Residential Growth (RG)</p> <p>Vacant parcel (adjacent/west of 8285 Martinsburg Pk.)</p> <p>★ Parcel ID: 09000800170003 Size: 2.21 ac; Zoned: Residential-Light Industrial-Commercial (RLIC)</p> 	
Surrounding Properties:	North: RG and RLIC East: RG	South: RLIC West: RG
Proposed Activity:	40 two-bedroom apartments with associated parking spaces and signage	
Concept Plan Status:	Submitted:	07/29/2021
	Sufficiency Letter, with conditions:	08/04/2021
	Resubmitted for Completeness:	08/18/2021
	Deemed Complete:	08/18/2021
Previous Approvals:	06-09 Seneca Crossing North: 25-unit townhome development ( <i>to be vacated</i> )	

**Staff Report**  
 Jefferson County Planning Commission  
 September 14, 2021  
**Shepherd View Apartments**

**Introduction and Summary of Request**

The applicant is proposing the construction an apartment complex consisting of five apartment buildings with 40 2-bedroom apartments on the combined 3.77 acres. The property currently consists of two tax parcels, one of which is zoned Residential Growth and one of which is zoned Residential-Light Industrial Commercial. The properties were previously approved as a 25-unit townhome development known as Seneca Crossing North Side Lots 41-65 (approved 8/28/07; recorded PB24/PG52) which will need to be merged before this application can be approved. The proposed use fall under “Dwelling, Multi-Family” as defined in Article 2 of the Zoning Ordinance. Per Appendix C, a Multi-Family Dwelling is a Principal Permitted Use in both the Residential Growth and the Residential-Light Industrial-Commercial zoning district.

The property is located north of Martinsburg Pike, west of University Drive and the Domino’s Restaurant, across from the new ROCS gas station and the WVU East Clinic. The property has a steep rock outcropping on the western frontage and therefore the access is proposed near the Domino’s property line. The bike path on the north side of WV 45/Martinsburg Pike runs along the frontage of this property. Shepherdstown water and sewer are available in the vicinity of these parcels.

**Site Plan Category**

The site development associated with this Concept Plan is governed by the Subdivision Regulations. Section 20.203A(4) of the Subdivision Regulations states that apartment or multi-family development projects which propose 10 units or more require the applicant to process a Concept Plan with a public workshop and then finish processing as a Minor Site Plan which is administratively approved. It has been determined that this development shall process as a Minor Site Development, with a Concept Plan.

**Staff Determination of Application Sufficiency and Concept Plan Completeness Review**

In accordance with the current Subdivision Regulations, the Minor Site Plan Concept Plan process incorporates a sufficiency and completeness review in a single step. Upon second submission and review of the applicant’s Concept Plan, Staff found the submitted plan “sufficient” (i.e. meeting all requirements of Section 24.106 of the Jefferson County Subdivision and Land Use Regulations). These requirements, as well as the current review status for each requirement for the proposed retail building application, are provided below:

	<b>Description</b>	<b>Status</b>
<b>1. General Location</b>	A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.	Provided
<b>2. Concept Plan</b>	In accordance with the content and formatting guidelines provided in Appendix A, <i>Plan &amp; Plat Standards</i> .	Provided
<b>3. Zoning Information</b>	a) Zoning District in which the proposed development is located. b) Density calculations. c) Site resource map d) Use designation for all adjoin and confronting parcels	Provided

**Staff Report**  
Jefferson County Planning Commission  
September 14, 2021  
**Shepherd View Apartments**

<b>4. Proposal Description</b>	A written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, and development option selected if the development is residential.	Provided on the Concept Plan
<b>5. Traffic Impact Data</b>	a) Average Daily Trip (ADT) figures for the adjoining or accessible State road. b) Trip generation figures c) Nearest key intersection that will serve the proposed project as classified by the current Comprehensive Plan. d) “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.	Provided on Concept Plan: <u>ADT</u> WV45 west of site: 9,272 ADT <u>Trip Generation</u> : Average Daily Trips: 280 ADT Peak Hour Trips: 24 VH
<b>6. Traffic Study</b>	A traffic study may be required only at the request and direction of the West Virginia Division of Highways. Any required traffic study or a letter from the West Virginia Division of Highways outlining the proposed improvements shall be received with the first submission of the Site Plan.	A Traffic Impact Study may be required by the WV DOH; however, we have not heard from them yet.
<b>7. Agency Reviews</b>	The applicant shall distribute the concept plan to all reviewing agencies found in Section 23.203 and 23.204 no later than 7 days after the review.	Letters to required agencies provided. Responses received are below.
<b>D. Department</b>	The Department review shall include the following: 1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the Concept Plan submission and any zoning issues the developer shall address in a Site Plan submittal. 2. Staff opinion as to whether the plan meets the Site Plan criteria of these Regulations. The Department shall review the Concept Plan for modifications that would improve the plan.	Staff determined that the proposed Concept Plan meets the requirements of the Zoning Ordinance and the Subdivision Regulations as a Minor Site Development.
<b>E./F. WVDOH</b>	WVDOH shall submit a letter to the Office of Planning and Zoning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study is needed, parameters shall be provided. The review shall indicate whether a traffic impact study will be required based on analysis required in Section 24.106.B.5.	No response has been received from WV DOH at this time.
<b>G. Public Service</b>	The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a system that shall be proposed by the developer to best meet the County’s needs in that area of the County.	This project is proposed to be served by Shepherdstown Public Works (water and sanitary sewer). Final design will occur with the Site Plan.

**Staff Report**  
 Jefferson County Planning Commission  
 September 14, 2021  
**Shepherd View Apartments**

<b>H. Recommended Conditions</b>	All reviews shall contain recommended conditions for moving forward to a site plan or reasons why the plan should be denied.	See below
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**Concept Plan Review**

1. External Agency Reviews (attached)

Comments have been received from the following agencies (see attached):

- a. Shepherdstown Public Works Dept. has indicated that the water and the sewer would have to be hooked up on Rt. 45 in front of the property. Full plans will have to be approved by the Town.

As of this date, no agency review comments have been received.

2. Staff Recommendation related to Concept Plan

The Subdivision Regulations state that unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning staff is required to accept or deny the concept plan as complete. Upon accepting the application as complete, Planning staff is required to place it on the next possible Planning Commission agenda as a public workshop, which is advertised at least fourteen (14) days in advance of the meeting and posted on the property.

The Office of Planning and Zoning Staff finds the Concept Plan for the proposed Shepherd View Apartment Complex, to be located on the northern side of Martinsburg Pike west of University Drive, to be “complete” based on the information provided related to the criteria above; however, the following standards will need to be addressed prior to approval of the Site Plan:

- a. The previously approved townhouse lots will have to be merged prior to approval of the Site Plan.
- b. Based on the Subdivision Regulations, as noted above, the site plan will process as a Minor Site Development. As a part of a Minor Site Plan, the following design requirements shall be addressed on the site plan:

- i. Sidewalks/Bike paths

Sec. 21.204 of the Subdivision Regulations requires all proposed site plans to provide a safe, efficient, and attractive pedestrian environment including access to adjoining properties, providing for continued pedestrian access to adjoining commercial properties. Where the adjoining use is residential, the connections shall be to any street's or stub street's sidewalks. This Section further requires crossings of roads or drives shall be clearly identified and signed to provide safe pedestrian crossings with traffic calming measures encouraged in any locations where pedestrian crossings are proposed.

Therefore, in this case, it is recommended that a pedestrian/bike connection be made to University Drive and its associated sidewalk, pending approval by the University. It is likely that these apartments will be heavily used by Shepherd students and staff and this connection would benefit the residents and traffic on the street.

- ii. Interconnectivity with adjoining properties

Sec. 21.201 of the Subdivision Regulations states that it is the purpose of these Regulations to encourage connectivity between adjoining uses along arterial and collector roads to reduce the

**Staff Report**  
Jefferson County Planning Commission  
September 14, 2021  
**Shepherd View Apartments**

need for traffic to go onto major roads to reach nearby uses. It further requires that the Department of Engineering, Planning, & Zoning review site plans to ensure that, where interconnections can be made or where adjoining properties have provided for interconnections, the site plan makes the connections. In this case, because the adjoining property is the University, interconnectivity of the road is not feasible; however, the pedestrian/bike connection is encouraged.

- c. WV DOH approval for the proposed entrance and any TIS recommendations, if required, will be required in conjunction with the Site Plan.
- d. Water and sanitary sewer utility permits from the Shepherdstown Public Works Department will be required in conjunction with the Site Plan.

3. Planning Commission Direction

The Concept Plan Public Workshop allows for the Planning Commission and the general public to comment on the proposed plan before complete engineering design and cost are incurred. The Subdivision and Land Development Regulations outline the procedure:

- 1. The applicant makes a short presentation.
- 2. Staff explains outside agency comments and whether the plan can meet the standards of the Zoning Ordinance.
- 3. Public comment is solicited.

Following the applicant's presentation, staff's explanation, and the solicitation of public comment, the Planning Commission shall provide direction to the applicant as required under Concept Plan Direction outlined in the Subdivision Regulations. The Planning Commission has the option of providing this direction at the same meeting during which the Concept Plan public workshop takes place, or at a subsequent meeting that occurs within 14 days of the meeting at which the Concept Plan public workshop is closed.

Section 24.108 of the Subdivision and Land Development Regulations outlines the direction to be provided to the applicant during a Minor Site Plan Concept Plan review:

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

It should be noted that the direction provided to the applicant in the Minor Site Plan Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to the Subdivision and Land Development Regulations or the Zoning and Land Development Ordinance in the second year shall be applicable.

**ATTACHMENTS:**

- Shepherdstown Public Works e-mail (8-3-21)

## Jennilee Hartman

---

**From:** Frank Welch <fwelch@shepherdstown.us>  
**Sent:** Tuesday, August 3, 2021 10:48 AM  
**To:** Jennifer Brockman  
**Subject:** RE: Projects in Shepherdstown area

Jennie,

The water and the sewer would have to be hooked up on Rt. 45 in front of the property.



Frank Welch  
Public Works Director  
Shepherdstown Public Works  
409 E. High St.  
PO Box 248  
Shepherdstown, WV 25443-0248  
Email: [fwelch@shepherdstown.us](mailto:fwelch@shepherdstown.us)  
Phone: 304-876-3322  
Cell: 304-702-2895  
Fax 304-876-9207

---

**From:** Jennifer Brockman  
**Sent:** Tuesday, August 03, 2021 10:28 AM  
**To:** Frank Welch  
**Subject:** RE: Projects in Shepherdstown area

Frank  
Thanks –

All I really need to know is whether the city's water and sewer lines run in front of this property so we can classify this as a major or minor site plan.

Thanks  
Jennie

Jennifer Brockman  
County Planner  
304-728-3228  
[planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

---

**From:** Frank Welch <[fwelch@shepherdstown.us](mailto:fwelch@shepherdstown.us)>  
**Sent:** Tuesday, August 3, 2021 7:37 AM  
**To:** Jennifer Brockman <[jbrockman@jeffersoncountywv.org](mailto:jbrockman@jeffersoncountywv.org)>  
**Subject:** RE: Projects in Shepherdstown area

Jennie,

We have approved Step 2 for the Sheetz project. All their plans have been approved and everything is a go.

As far as the apartment complex, this is the first I've heard of it. That will have to be looked at when we get more information.



Frank Welch  
Public Works Director  
Shepherdstown Public Works  
409 E. High St.  
PO Box 248  
Shepherdstown, WV 25443-0248  
Email: [fwelch@shepherdstown.us](mailto:fwelch@shepherdstown.us)  
Phone: 304-876-3322  
Cell: 304-702-2895  
Fax 304-876-9207

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**From:** Jennifer Brockman <[jbrockman@jeffersoncountywv.org](mailto:jbrockman@jeffersoncountywv.org)>  
**Sent:** Monday, August 02, 2021 5:31 PM  
**To:** Frank Welch <[fwelch@shepherdstown.us](mailto:fwelch@shepherdstown.us)>  
**Cc:** Planning Department <[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)>  
**Subject:** Projects in Shepherdstown area

Frank

Two water/wastewater project questions:

- 1) We have a proposed apartment complex on the two properties that have been for sale just west of Domino's (8285 Martinsburg Pike) – can you tell me whether water and sewer are available along the street in front of the property or if an off-site extension would be required?
- 2) We have the Final Public Hearing for the Shepherdstown Sheetz Site Plan on August 10, 2021, and I was wondering what the status is for the final approval of the water and wastewater plans/permits for the Shepherdstown Sheetz is so that I can report that to the Planning Commission at the Hearing.

Thanks – Have a great day.

Jennie

Jennifer M. Brockman, AICP

County Planner  
Jefferson County Office of Planning and Zoning  
116 E. Washington St  
Charles Town, WV 25414  
304-728-3228  
[planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

# Concept Plan

# Shepherd View Apartments

Owner/Applicant:  
AAL, LLC

July 30, 2021

AAL, LLC  
Concept Plan  
Apartment Complex  
Submission Contents  
July 30, 2021

Owner/Applicant:

AAL, LLC  
164 Shepherd Grade Road  
Shepherdstown, WV 25443

Consultant:

P.J. Raco Consulting, LLC  
Paul J Raco  
P.O. Box 548  
Charles Town, WV 25414  
304/676-8256

Professional Engineer:

Potesta and Associates, Inc.  
Joe Knechtel, P.E.  
15 S Braddock Street  
Winchester, VA 22601

1. General Location is depicted on several attachments including the Concept Plan/Plat and the Application Form. The Property is located at 8285 Martinsburg Pike. The two tax parcels are a total of 3.77 Acres and are described as Parcels 17.2 and 17.3 on Map 8 in the Shepherdstown Tax District.
2. Concept Plan is attached with topographical information at 1 foot intervals. This Concept Plan and support document include the intended uses and a description of the uses. These Apartment Buildings and related uses are Principal Permitted Uses in both the Residential Growth and Residential/Light Industrial/Commercial Districts. The proposed apartment use is defined as Multi-Family Dwellings in the Zoning Ordinance. Since the Apartment Complex is over 10 units, a Concept Plan is required for informational purposes and Public Workshop in front of the Planning Commission.

The Concept Plan also includes a representation of the existing and manmade features as well as the proposed uses. The property is still described as two Tax Parcels on the Assessor's Tax Map. One lot is vacant, and the other lot has an older vacant dwelling on the property that reportedly was used as a Fraternity House.

3. Zoning Information: One of the lots (Parcel 17.2) is zoned Residential Growth and the other lot (Parcel 17.3) is zoned Residential/Light Industrial/Commercial. The proposed uses are permitted within both zoning classifications. These uses are considered Residential, by definition, in the Jefferson County Zoning and Land Development Ordinance. The Sketch Plat depicts all surrounding zoning classifications. Information required as a part of a site resource map is included with the topographical information and includes the natural and manmade features on the concept plan/plat. The FEMA Flood Plain Panel map is also referenced and indicates that the property is not within a special hazard area. There are no known sinkholes, quarries, or significant rock outcroppings. The natural features are generally depicted on the Concept Plan Sketch Plat. Also shown is the referenced contour information and the topography is depicted at 1 foot intervals.

These uses are Principal Permitted Uses on this property and accordingly just needs to process a Concept Plan for the Planning Commission to receive this information and schedule a Workshop. The use is considered Residential. As a Minor Site Development, a Site Plan will be processed administratively after the Concept Plan process.

4. Proposal's Property Information and Description:

Total Acreage: The Tax Map shows two parcels equaling 3.77 acres. The property is vacant with an abandoned dwelling on the one lot. The property is bordered on the west side with several houses; on the east side with the Domino's Pizza Shop and the Access to the Shepherd University Campus; on the North side with Maddex Farm Common Area and the Shepherd University; and the south side with the new WVU Medical Office Building and the new ROCs Convenience Store.

Acreage; Tax District, Map and Parcel Information; and Deed Book and Page:

Acreage is 3.77 +/- Acres

Density is 40 dwelling units on 3.77 acres which equals: 10.61 units per acre. The density will require a minimum of 15% of open/green/park space.

Tax District: Shepherdstown District

Map 8:

Parcels 17.2 and 17.3.

The Project is proposed to contain 40 two bedroom apartments in five buildings with the associated accessory uses, parking, and open space with park amenities. There will be both active and passive park space. If Shepherd

University allows, the project will also contain a walking trail or path to the Campus in the rear.

The areas of improvement are generally shown on the Concept Plan/Plat. However, since this is only a Concept Plan, the final location of the buildings and amenities will be based on engineering once it is completed at the Site Plan stage. Setbacks shall be as required under the Zoning and Development Review Ordinance. These setbacks are depicted on the Concept Plan/Plat.

The apartments will be served by Shepherdstown Public Water and Sewer and approvals will be sought during the Minor Site Plan process.

In the past, this property was approved for 25 townhouse lots, known as Seneca North Subdivision. Upon approval of the Site Plan for the Apartment Complex, the townhouse plat will be abandoned, and the property will be all merged and combined into one parcel prior to moving forward with the apartments.

Upon approval, the project will be bonded to ensure completion of infrastructure and other required improvements.

#### 5. Traffic Impact Data:

The facility is planned for 40 two Bedroom Apartments. Per the Sketch Plat and the Subdivision and Land Development Ordinance, this project will generate 280 Average Daily Trips with 24 vehicles projected during the peak hour. The average daily trips along Route 45 near the site per the WVDOH 2017 Traffic Count is 9,272 vehicles. Pertinent and Required Traffic Information is included below:

##### a. ADT for Accessing State Road:

The following is the updated traffic count number just West of the site from the 2017 WVDOH Traffic Count Map for Jefferson County:

Martinsburg Pike (Route 45)	ADT = 9,272
-----------------------------	-------------

##### b. Proposed Trip Generation per Subdivision and Land Development Ordinance under the Townhouse category:

Peak Hour: 40 Apartments x 0.6 Trips = 24 Vehicles  
Daily Trips: 40 Apartments x 7 Trips = 280 Average Daily Trips

c. Nearest Key Intersection:

The nearest key intersection is indicated on attached Highway Map and is the intersection at the four way stop in Shepherdstown:

1. Minor Arterial Road: Martinsburg Pike -- Rt 45;
2. Minor Arterial Road: South Duke Street -- Rt 480;
3. Major Collector Road, German Street – Rt 230; and,
4. Minor Collector Road, South Duke Street – Rt 480.

d. Highway Problem Areas Within One Mile of Site:

According to the Envision Jefferson 2035 Comprehensive Plan, there is one Highway Problem Area that appears to be within one mile of the site. The Comprehensive Plan Highway Problem Area Map is attached.

This problem area is listed as # 2 on the Map and is indicated as the intersection of Routes 45, 230 and 480 at the four way stop in Shepherdstown. The problem cited in the Comprehensive Plan is: "Road width through historic area limits turn movements."

The required agencies will be notified when Staff approves submission completeness.

The adjacent property owners are shown on the Sketch Plan and adjoining property owners' addresses are included as an attachment.



No.	Date	Eng.	Revision

**SITE INFORMATION:**

TAX PARCEL #	DISTRICT	TM	PARCEL	ACREAGE IN PROJECT AREA
	9	8	17.2	1.56 AC
	9	8	17.3	2.21 AC
				±3.77 ACRES (COMBINED)

**ZONING INFORMATION:**  
 CURRENT ZONING USE: 17.2 - RESIDENTIAL GROWTH (RG)  
 17.3 - RESIDENTIAL/LIGHT INDUSTRIAL/COMMERCIAL (RLIC)

**PROPOSED USE:**  
 DEVELOP A 40 UNIT APARTMENT COMPLEX IN FIVE BUILDINGS, WITH PARK AREA ON 3.77 ACRES ON A CONSOLIDATED PARCEL OF LAND. LAND IS CURRENTLY SUBDIVIDED PER PLAT BOOK 24/PAGE 52-52D.

**DENSITY CALCULATIONS:**

	MINIMUM REQUIRED	PROPOSED
DENSITY (40 DU/ 3.77 ACRES):	NA	10.6
MINIMUM LOT AREA:	20,000SF	164,420SF
AREA PER DWELLING UNIT (ADU):	2,000SF	4,110SF*
IMPERVIOUS AREAS:	NA	62,200SF
% OPEN SPACE (102,220SF/164,420SF):	NA	62%
PARKLAND (% LAND RESERVED FOR OPEN SPACE):	15%	>15%
PARKING SPACES	60**	80
HANDICAP SPACES	4	5
TOTAL	64	85

\*164,422SF/40 DU  
 \*\* 2-BEDROOM DWELLING UNITS AT 1.5 PARKING SPACES PER UNIT

**HIGHWAY PROBLEM AREA:**  
 FOUR-WAY STOP INTERSECTION OF RT. 45 MARTINSBURG PIKE WITH RT. 480 N DUKE STREET AND RT. 230 WEST GERMAN STREET IN SHEPHERDSTOWN, 0.3 MILES FROM PROPOSED SITE. PROBLEM CITED: "ROAD WIDTH THROUGH HISTORIC AREA LIMITS TURN MOVEMENTS." (ENVISION JEFFERSON 2035 COMPREHENSIVE PLAN DATED 2015)

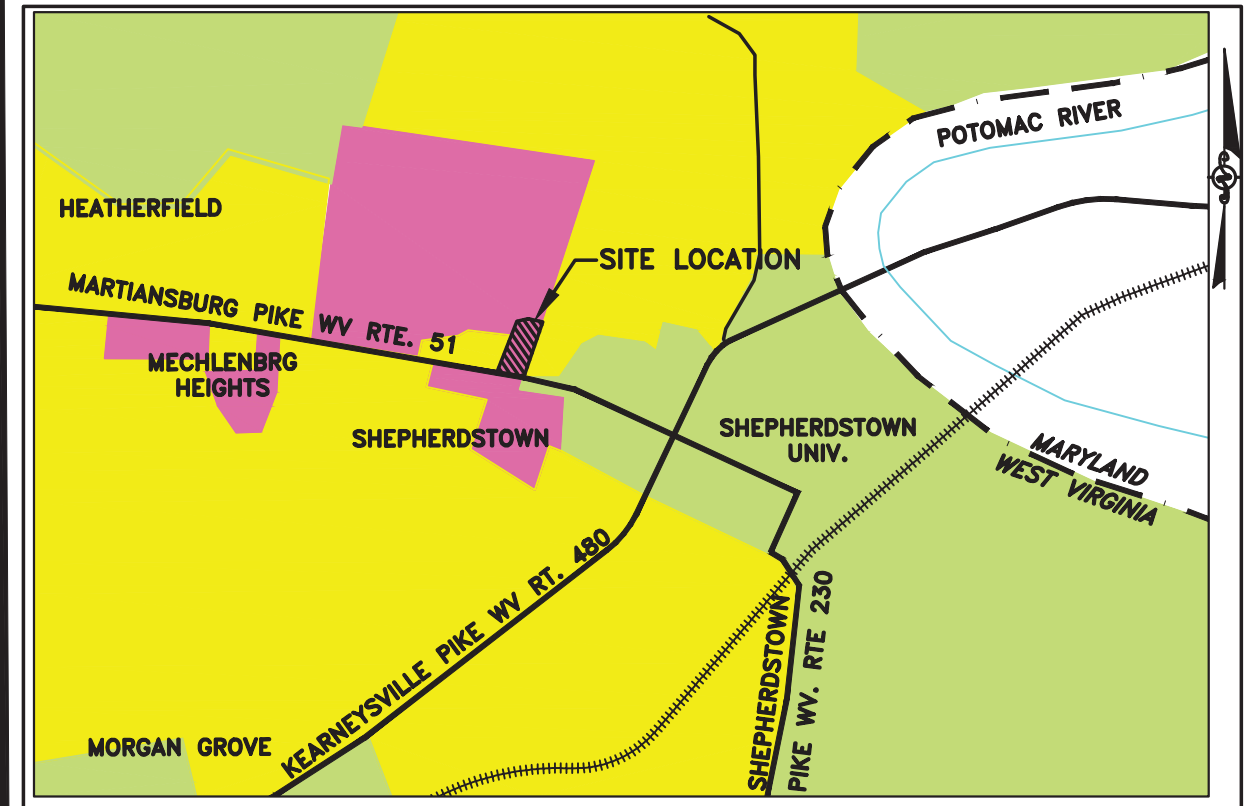
**NEAREST KEY INTERSECTION:**  
 FOUR-WAY STOP INTERSECTION OF:  
 1. MINOR ARTERIAL ROAD: MARTINSBURG PIKE - RT 45;  
 2. MINOR ARTERIAL ROAD: SOUTH DUKE STREET - RT 480;  
 3. MAJOR COLLECTOR ROAD: GERMAN STREET - RT 230; AND  
 4. MINOR COLLECTOR ROAD: SOUTH DUKE STREET - RT 480.  
 LOCATED WITHIN SHEPHERDSTOWN, 0.3 MILES FROM PROPOSED SITE. (ENVISION JEFFERSON 2035 COMPREHENSIVE PLAN)

**TRAFFIC IMPACT DATA:**  
 ROUTE 45 AVERAGE DAILY TRAFFIC COUNT:  
 FROM WVDOT STATION 193005 LOCATED JUST WEST OF THE SUBJECT SITE (2017 COUNT YEAR) = 9,272 ADT

**SITE TRIP GENERATION (PER SECTION 24.119(B)(5)(b.1))**  
 ASSUMED TOWNHOUSE AT:  
 0.6 VEHICLES PER PEAK HOUR PER DWELLING UNIT  
 TO AVERAGE DAILY TRIPS PER DWELLING UNIT

**PROPOSED:**  
 PEAK HOUR TRIPS: 40 DWELLING UNITS X 0.6 = 24 VH  
 AVERAGE DAILY TRIPS: 40 DWELLING UNITS X 7 = 280 ADT

**NOTES:**  
 1. PROPERTY IS IN ZONE X OF THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 540370040E FOR JEFFERSON COUNTY, WEST VIRGINIA AND HAVING AN EFFECTIVE DATE OF DECEMBER 16, 2009  
 2. HILLSIDE DEVELOPMENT NOT APPLICABLE SINCE SITE IS NOT EAST OF THE SHENANDOAH RIVER OR WITHIN 1000 FEET OF THE POTOMAC AND SHENANDOAH RIVERS AND OPEQUON CREEK.  
 3. THERE ARE WOODED AREAS AND NO KNOWN SINKHOLES, WETLANDS, AND STREAMS WITHIN THE SCOPE OF THE PROJECT.  
 4. THE SITE PLAN WILL COMPLY WITH THE BUFFER REQUIREMENTS ESTABLISHED IN APPENDIX A AND SECTION 4.11.C. OF THE ZONING AND LAND DEVELOPMENT ORDINANCE, UNLESS A VARIANCE IS REQUESTED AND GRANTED FROM THIS PROVISION.

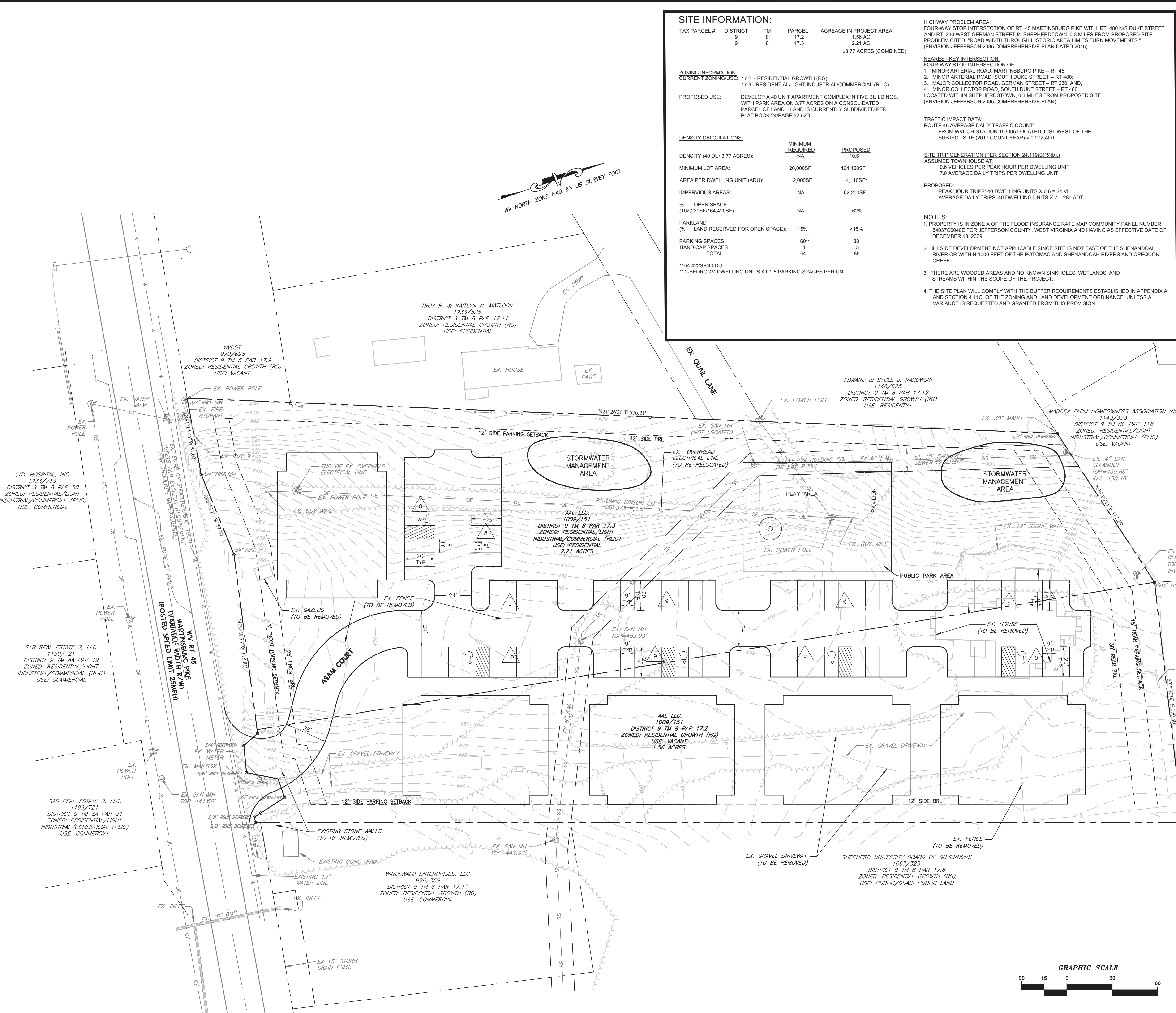


**ZONNING LEGEND**

- RURAL
- RESIDENTIAL/LIGHT INDUSTRIAL/COMMERCIAL
- RESIDENTIAL GROWTH

**LEGEND**

- ADJOINER
- SETBACK LINE
- EXISTING CONTOUR LINE
- EXISTING POWER POLE, OVERHEAD ELECTRIC LINE AND GUY WIRE
- FENCE LINE
- EXISTING SEWER MAIN AND MANHOLE
- EXISTING WATER MAIN WITH VALVE
- EXISTING GAS MAIN
- EXISTING TREELINE
- PROPERTY LINE & REBAR FOUND



**MAPPING REFERENCE:**  
 BASE TOPOGRAPHIC MAPPING AS PROVIDED TO POTESTA & ASSOCIATES, INC. BY AAL, LLC. AND FIELD SURVEY BY POTESTA FIELD CREW ON JUNE 22 THRU 24, 2021  
 HORIZONTAL DATUM IS WV NORTH ZONE NAD-83  
 VERTICAL DATUM IS NAVD-88

**CONCEPT**  
 CAD File No.  
**POTESTA**  
 Drawn  
**POTESTA**  
 Checked  
**POTESTA**  
 Approved  
**AS NOTED**  
 Scale:  
**JUNE 2021**  
 Date:  
 21-0184  
 Project No.

**POTESTA & ASSOCIATES, INC.**  
 ENGINEERS AND ENVIRONMENTAL CONSULTANTS  
 16 South Broadhead St. Winchester, VA 22601  
 TEL: (800) 450-0184 FAX: (540) 450-0182  
 E-Mail: Address: potesta@potesta.com

**POTESTA**  
 Client:  
**AAL, LLC**  
 205 W. LIBERTY STREET  
 CHARLES TOWN, WEST VIRGINIA 25414

**CONCEPT PLAN**  
 SHEPHERD VIEW APARTMENTS  
 SHEPHERDSTOWN DISTRICT  
 SHEPHERDSTOWN  
 JEFFERSON CO., WEST VIRGINIA

**ISSUE DATE: 8/17/2021**  
 Title  
**1 OF 1**  
 Drawing No.

**PRELIMINARY NOT FOR CONSTRUCTION**

File: 21-0184-0184-AAL, LLC - APARTMENT COMPLEX SITE DEVELOPMENT CONCEPT 21-0184-CONCEPT.dwg  
 Plot Date/Time: Aug 17, 2021 11:53am  
 Plot Device: auto



Public  
Comments  
Received



To: Jefferson County Planning Commission, Jefferson County, WV

From: David Pugh, Shepherdstown Area Resident, September 7, 2021

Re: September 14, 2021 Public Workshop; Written Comments for Shepherd View Apartment Complex Concept Plan

Comments:

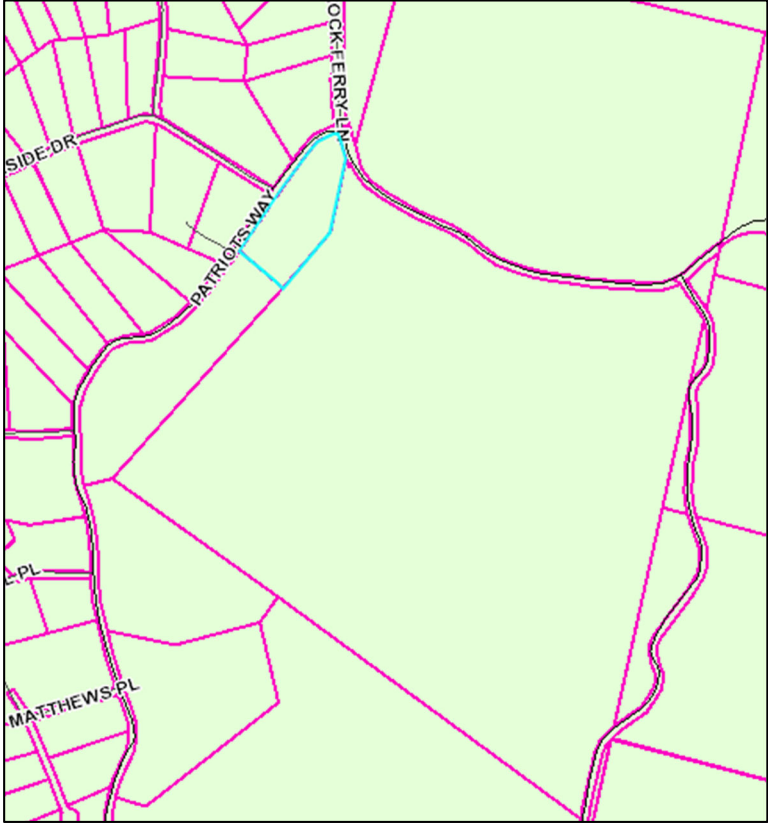
1. First and foremost, the concept of the owners/applicants for the proposed 40 apartments abutting Shepherd University, Historic Shepherdstown, and neighboring homes should be to preserve/protect the aesthetic qualities of the 3.77 acres of trees and hillsides. The existing trees and elevated property could allow the integration of the proposed 5 buildings into the natural setting without creating an eyesore. To be blunt, don't do what Sheetz has done along Rt. 45; something akin to mountain top removal.
2. Plan to significantly exceed the minimum 15% greenspace
3. Plan to maintain the existing natural buffer of trees
4. Plan to preserve the elevated hillside nature of the property
5. The Concept Plan mentions "the Areas of Improvement" regarding building location as a future Site Plan issue. My impression is that it is too late to offer meaningful public comment at that stage.
6. Does the development concept moving forward include a request for a Buffer Variance?
7. The Concept Plan seriously understates the existing and future traffic impact by only mentioning the 4-way stop/nearest key intersection in Shepherdstown as a highway issue. As everyone traveling it knows, while driving east on Rt. 45 approaching Shepherdstown, well before the 4 way stop, there are entry/exit turns for 7 businesses in addition to the main entrance for Shepherd University East campus within a 150 yards of each other. All of the turns can be active at the same time creating an unsafe traffic zone. By contrast, the 4-way stop is quite safe. The apartments will only add to the disorganized traffic flow. Is it time for a traffic circle as recommended by the Regional Transportation Study of Rt. 45? The status quo is untenable. Is proactive planning possible?
8. Pedestrian safety is not addressed. Shepherd University students currently dash across Rt. 45 to go the convenience stores without available cross walks. The University sidewalk system leads students to Rt. 45. encouraging this pedestrian movement. The pedestrian numbers will increase by placing a hundred apartment residents across the street from the convenience stores. What will be done to address this safety issue? If you recall, the pedestrian tunnel built under Rt. 480 connecting the East and West campus is the result of students being hit by cars while crossing Rt. 480 with an existing crosswalk. Can we be proactive here?
9. The idea moving forward should be for the Owners/Developers to contact the nearby homeowners, whose property values and lives will be impacted by the presence of 40 apartments and over one hundred residents, as well as Maddex Farm HOA and

Shepherd University to proactively seek and collaborate on issues that will effect neighboring properties such as: pedestrian safety, night lighting, noise/party restrictions, tree buffers, small signage, etc

10. The concept moving forward should include architectural designs for the apartment buildings which are compatible with the character of the Shepherd University Campus and Historic Shepherdstown.

Staff Report  
 Jefferson County Planning Commission Meeting  
 September 14, 2021  
**Taulton Waiver Request (File #21-14-PCW)**

**Items #6: Public Hearing:** Waiver of Section 24.401D to allow an above ground swimming pool to be located within a platted easement.

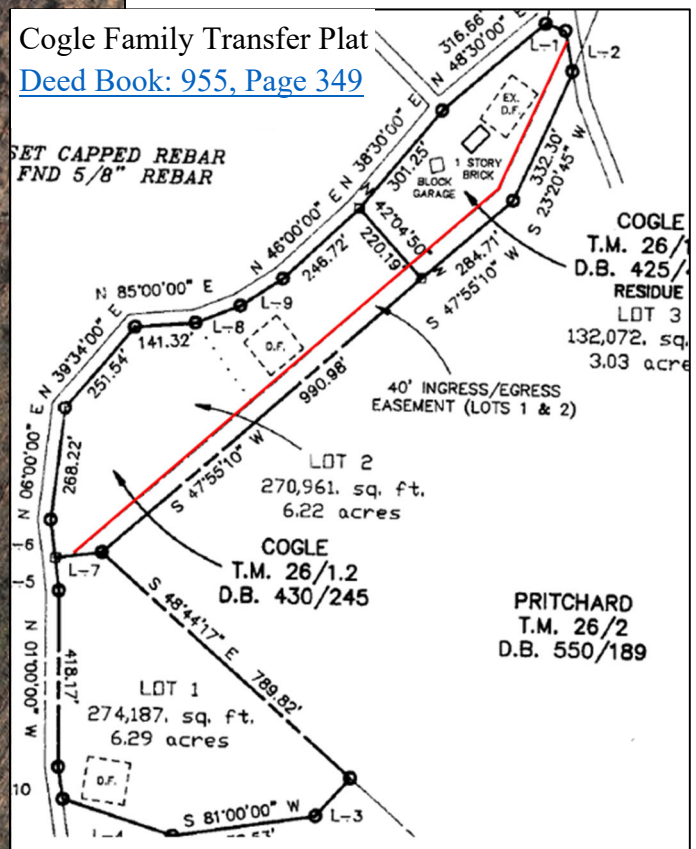
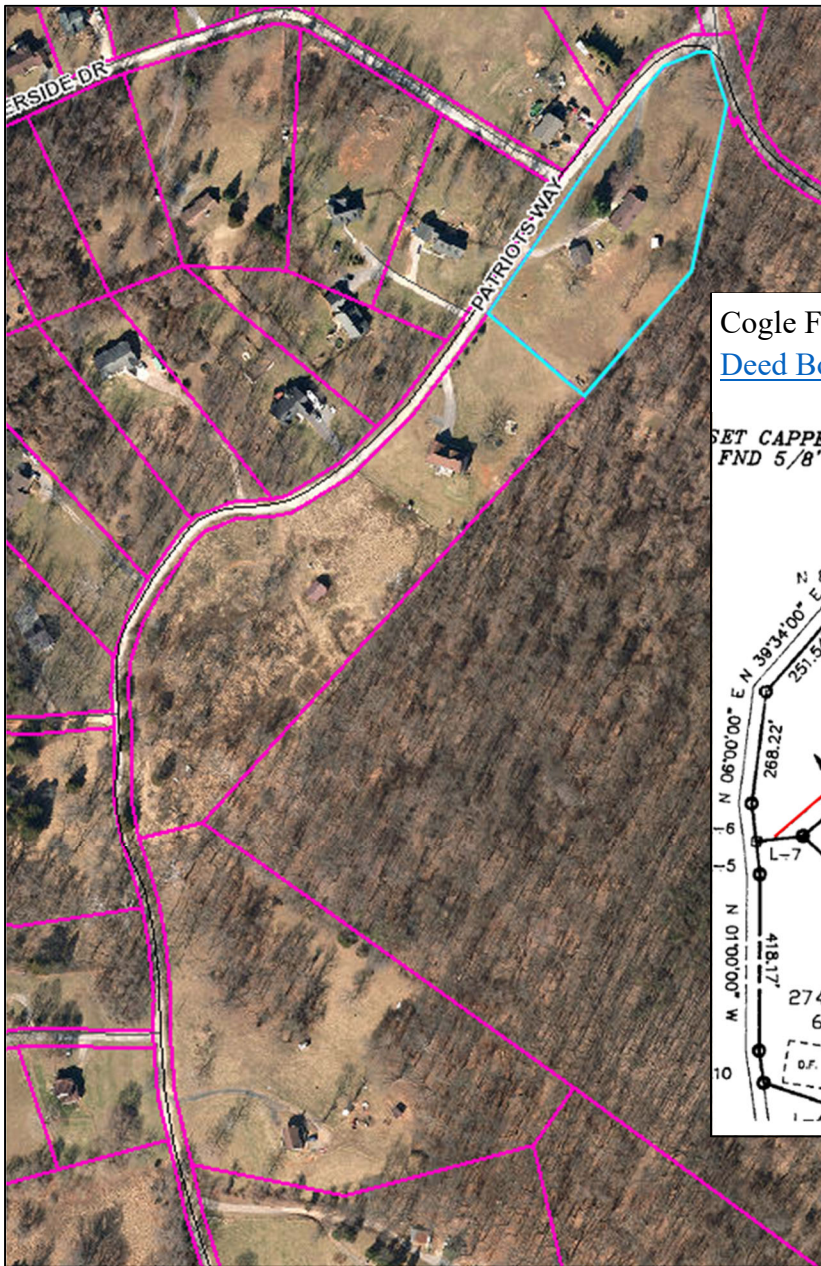
Applicant	Kimberly and Paul Taulton
Property Location & Information	<p style="text-align: center;">355 Patriots Way, Harpers Ferry, WV          Tax District: Kabletown (06); Map: 26; Parcel: 1.3;          Size: 3.03 acres; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Districts: North, South, East, West: Rural
Proposed Activity	Above ground swimming pool
History	12/19/2001: Family Transfer division (Lot 1 & 2 and Lot 3-Residue) ( <a href="#">DB955/PG349</a> )

**Summary of the Request:**

The applicant is requesting a waiver of Section 21.401D to allow an above ground swimming pool to remain within a platted 40' access easement. The pool is currently located approximately 8' into the 40' access easement, which is 32' from the 'rear' property line.

Staff Report  
 Jefferson County Planning Commission Meeting  
 September 14, 2021  
**Taulton Waiver Request (File #21-14-PCW)**

The subject parcel is designated as Lot 3-Residue of a previously approved family transfer, which was recorded on December 19, 2001, in Deed Book 955, at Page 349. This division consisted of the creation of Lots 1 and 2 to be transferred to family members, thus designating the balance of the parent parcel as Lot 3-Residue. At the time the family transfer was processing, it appears that Patriots Way (formerly Burns Drive), was considered a private road; therefore, as part of the approval of the family transfer lots, a 40' access easement was required for the creation of Lots 1 and 2 (see red line on the exhibit below). Since that time, all three lots have been built on and have direct access to Patriot's Way (WV9/10).



Staff Report  
Jefferson County Planning Commission Meeting  
September 14, 2021  
**Taulton Waiver Request (File #21-14-PCW)**

**Staff Comments:**

In researching the waiver request, Staff noted that Patriots Way is now under the ownership of the West Virginia Division of Highways (Route 9/10) and that Lots 1 and 2 have direct access to Patriots Way. In reviewing previous aerial imagery of the property, Lots 1 or 2 have historically not used the platted 40' access easement.

**Staff Recommendation:**

The Planning and Zoning staff informed the applicant that it may be feasible to reduce and/or vacate the entire access easement and that as part of that process, the property owners of Lots 1 and 2 would be required to relinquish their legal right to the access easement. As the applicant has decided to pursue a waiver instead, Staff would recommend that as a condition of approval that the applicant must receive written consent by the property owners of Lots 1 and 2 to allow the above ground pool to remain within the 40' access easement.

---

**Section of Regulations under Consideration:**

Section 21.401D of the Subdivision Regulations states,

*“Encroachments, Structures and Landscaping. No permanent encroachments, structures, fences or landscaping shall be allowed to be located within any easement area.”*

**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.





*Rec'd 100.00 w/*

*21-14 PCW*

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

File #: \_\_\_\_\_  
 Mtg Date: 9/14/21  
 Date Rec'd: 8/23/21  
 Fees Paid: 10000 cash  
 Staff Int: ag  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: Kimberly & Paul Taulton  
 Business Name: \_\_\_\_\_  
 Mailing Address: 355 Patriots Way, Harpers Ferry, WV 25425  
 Phone Number: 240-520-4814 Email: maddysmommy301@gmail.com

**Applicant Contact Information**

Applicant Name: Kimberly & Paul Taulton Same as owner:   
 Business Name: \_\_\_\_\_  
 Mailing Address: 355 Patriots Way, Harpers Ferry, WV 25425  
 Phone Number: 240-520-4814 Email: maddysmommy301@gmail.com

**Consultant Information**

Name: N/A  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 355 Patriots Way, Harpers Ferry, WV 25425 Vacant Lot:   
 Tax District: 6 Map No: 26 Parcel No: 1.3  
 Parcel Size: 3.03 Deed Book: 12.36 Page No: 3.27  
 Zoning District: Kabletown 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?**

~~Sections 21.402D~~ 21.401 *alg*  
 Adopted : Oct 9, 2008 / Amended Feb 1, 2018

**Briefly Describe the Nature of Your Waiver Request:**

This waiver request is to allow our 24ft round above ground pool to stay in its current location. A 40' unused easement is located on our property that we were unaware of until submitting the application for a permit. Our pool is currently located 32' from the property line. We are seeking approval to allow our pool to be 8' into the easement.

**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.**

If the pool is allowed to stay in its current placement it will keep the adjacent properties protected from water that could spill out as a result of an unforeseen accident. i.e. tree falls on pool side.

**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.**

Granting the waiver will not adversely affect public health, safety, or welfare or the adjacent property owners or residents in any way. Currently the pool is in the best possible spot to make sure in the event of an unforeseen accident no property will be affected. The water will go into a contained valley on our property. The property the pool is sitting closest to in 108ac of privately owned property with no standing structures. The water would have to go up and over a hill to get to said property. (Pictures included for reference)

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

This esement has never been put in or used by the 3 lots shown on the plat. All property have private driveways that access the state maintained road (Patriots Way) in front of there home.

The pool currently can not be seen but the adjacent properties and the noise from the kids playing is muffled by my house

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

The pool can not be seen but the adjacent properties and the noise from the kids playing is muffled by my house & trees. If the waiver is granted the pool can be used by many childern to enjoy with direct supervisor. If the waiver is not granted the pool will have to be taken down and disposed of because there is no other location that is safe to place it within the the property lines.

Please note: a nearly 1000 sq ft addition is in the premitting process currently. Pool can not be placed to left or right of house.

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.

8/23/2021

Property Owner/Applicant Signature Date

8/23/2021

Property Owner/Applicant Signature Date

**Notification Requirements**

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

Public Hearing Date

Date Placard Posted

Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

Date: \_\_\_ / \_\_\_ / \_\_\_

August 18, 2021

James & Karen Cogle  
729 Patriots Way  
Harpers Ferry, WV 25425

To whom it may concern.

We, James and Karen Cogle, the property owner of "Lot 1" (729 Patriots Way, Harpers Ferry, WV 25425) as shown on the October 2001 plat survey do approve of the placement of Kimberly and Paul Taulton's pool on "Lot 3" (355 Patriots Way, Harpers Ferry, WV 25425). We have no objections and fully support the pool remaining in its current location within the easement.

Sincerely,



James Cogle

Karen Cogle



Allison and Travis Sowden  
457 Patriots Way  
Harpers Ferry, WV 25425  
August 13th 2021

To Whom it may concern,

We as the owners of Lot 2 residing on 457 Patriots Way Harpers Ferry, WV approve of the placement of Kimberly and Paul Taulton of Lot 3, pool. We are agreeable to the placement of the pool remaining in its current location. We do not object to the placement of the pool. Thank you.

Allison M Sowden

 8/13/21

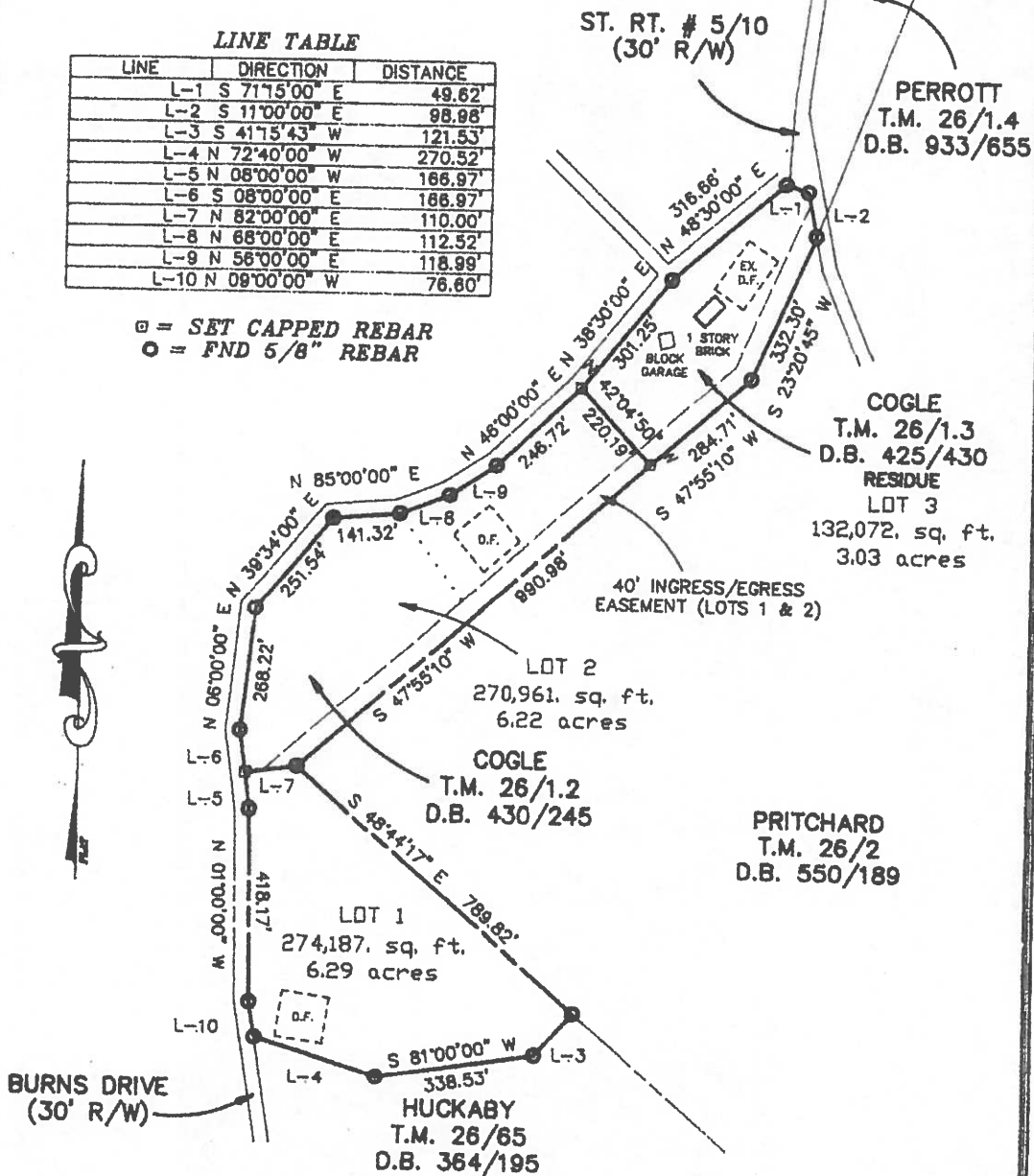
Travis L Sowden

 8/13/21

**LINE TABLE**

LINE	DIRECTION	DISTANCE
L-1	S 71°15'00" E	48.62'
L-2	S 11°00'00" E	98.88'
L-3	S 41°15'43" W	121.53'
L-4	N 72°40'00" W	270.52'
L-5	N 08°00'00" W	186.97'
L-6	S 08°00'00" E	186.97'
L-7	N 82°00'00" E	110.00'
L-8	N 68°00'00" E	112.52'
L-9	N 58°00'00" E	118.98'
L-10	N 09°00'00" W	76.60'

□ = SET CAPPED REBAR  
 ○ = FND 5/8" REBAR



## PARENT TO CHILD TRANSFER

PLAT SHOWING PARENT TO CHILD TRANSFER OF LOTS 1 & 2, T.M. 26/1.2 & 1.3  
 STANDING IN THE NAME OF JAMES T. & KAREN T. COGLE, AS RECORDED IN THE  
 OFFICE OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOKS 425/430 &  
 430/245, LOCATED IN KABLETOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA.  
 NO SETBACK VIOLATIONS OF THE JEFFERSON COUNTY ORDINANCE WOULD OCCUR AS  
 A RESULT OF THESE TRANSFERS.

DWG # 2798

DATE-10/1/01

SURVEYED BY:

GRAPHIC SCALE



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

( IN FEET )  
 1 inch = 300 ft.



*(Handwritten signature)*

Pool is 24' round / 52" Tall

MICHEAL & KIMBERLY TAULTON  
355 PATRIOTS WAY  
HARPERS FERRY, WY. 25425  
3.23 ACRE

SITE PLAN

PAGE:

1/17



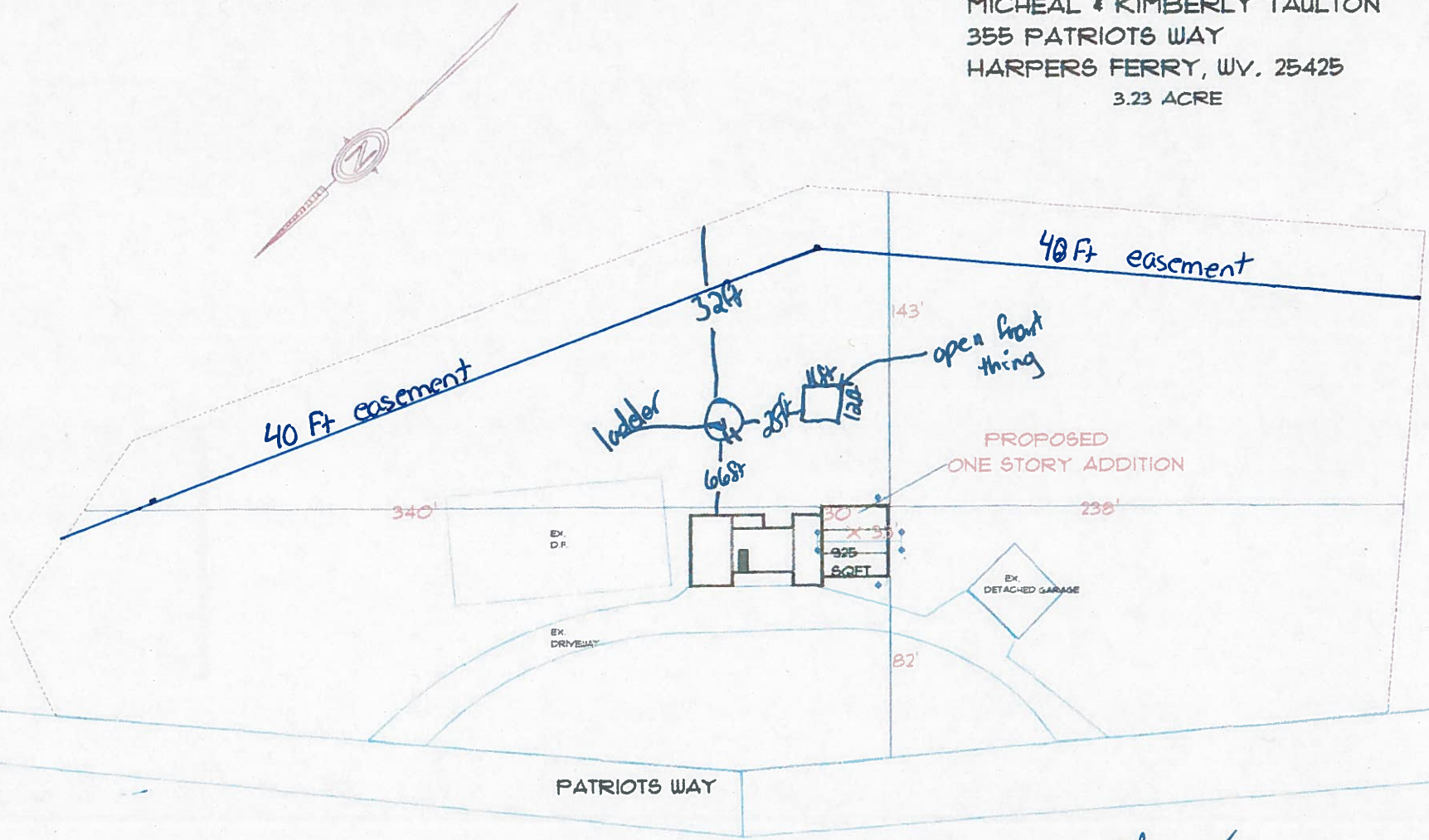
SECTION LETTER  
A  
DATE: Wednesday, March 10, 2021  
SCALE: 0.0143" = 1'-0"  
DRAWN BY: JPG

12412 Cabotin Furnace Rd  
Thurmont, Maryland 21788  
james@gillis.com  
www.gillis.com  
PHONE: 301-399-8706



PREPARED FOR:  
355 Patriot Way  
Harpers Ferry West Virginia 25425

Mike & Kim  
Taulton



SITE PLAN  
1"=70'

*Kim M. Taulton*  
8/3/21

*Mike Taulton*  
8/3/2021

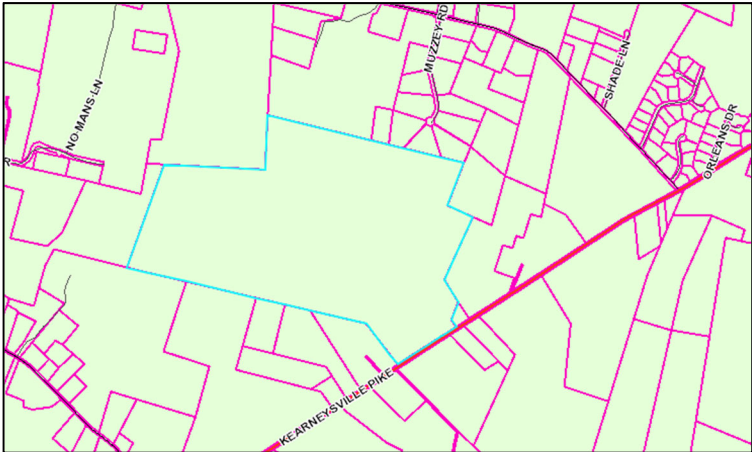
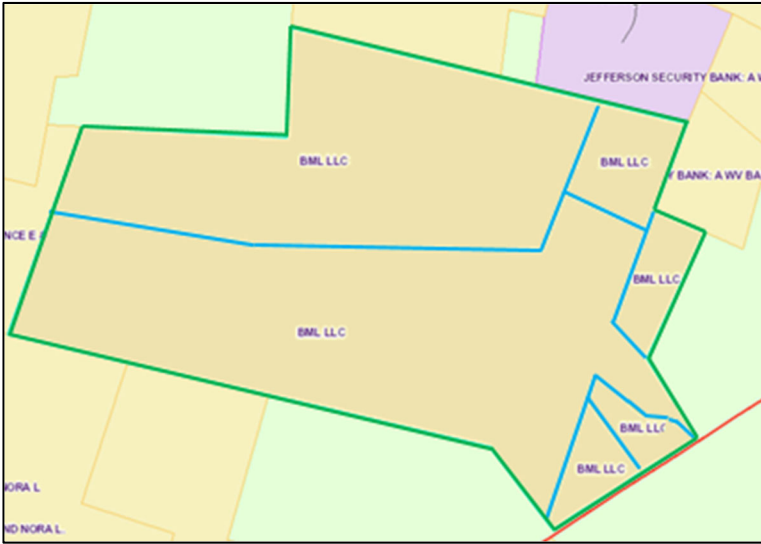
Sorry about this drawing





Staff Report  
 Jefferson County Planning Commission Meeting  
 September 14, 2021  
**BML, LLC Waiver Request (File #21-15-PCW)**

**Items #7: Public Hearing:** Waiver from Section 20.201 to allow the subject parcels to process as Minor Subdivision after the applicant processes a transfer of development rights under Section 5.7D.1.b from Parcel 8 to Parcel 12.9.

Applicant	Brant Lowe, BML, LLC
Consultant	Gary Frey, Surveyor
Property Location & Information	<p style="text-align: center;">1963 Kearneysville Pike, Shepherdstown, WV          Tax District: Shepherdstown (09); Map: 15; Parcel: 12.9 and Parcel 8          Total Project Size: 91.683 acres ; Zoning District: Rural</p>  <p><i>Note: subject parcel's lot layout has changed as follows due to a series of boundary line adjustments and subdivisions which are not currently on the Assessor's site:</i></p> 
Surrounding Properties:	Zoning Districts: North, South, East, West: Rural
Proposed Activity	Residential Minor Subdivision
History	See overview below.

Staff Report  
 Jefferson County Planning Commission Meeting  
 September 14, 2021  
**BML, LLC Waiver Request (File #21-15-PCW)**

**Summary of the Request:**

The applicant is requesting a waiver from Section 20.201 to allow the subject parcels to process as Minor Subdivision after the applicant processes a transfer of development rights under Section 5.7D.1.b of the Zoning Ordinance. The applicant intends on transferring up to five of the remaining density rights from Parcel 8 to Parcel 12.9, which has no development rights at this time.

**Background:**

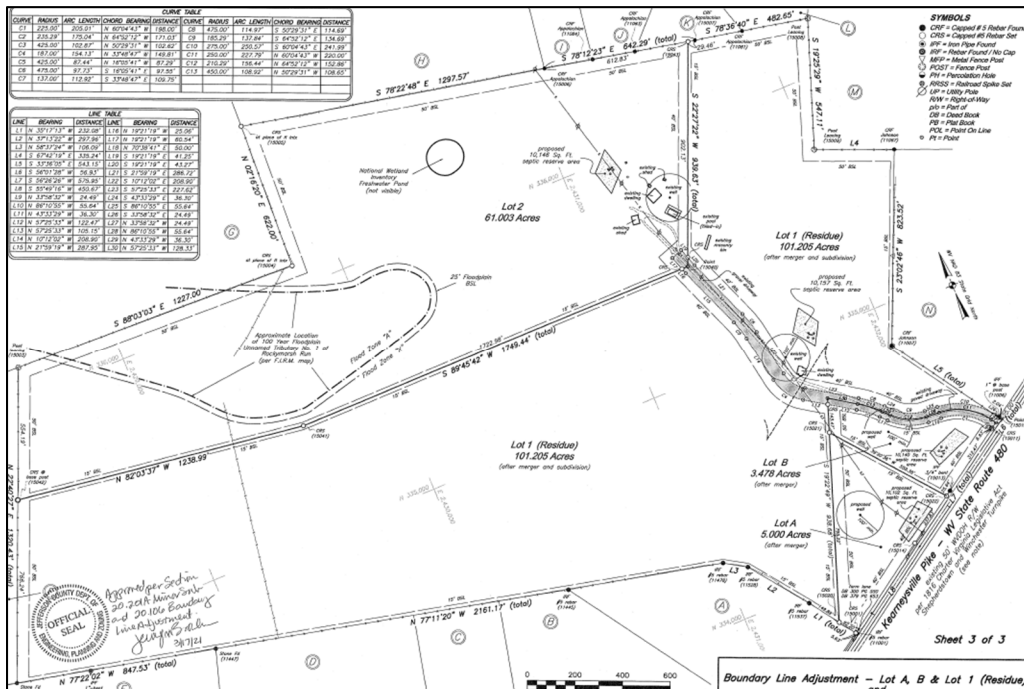
In 2020, the applicant’s surveyor requested a determination regarding the existence of three separate parcels that had historically been considered a single parcel. The Planning and Zoning staff, along with the County’s Mapping Department, reviewed the surveyor’s research and concurred with the findings, that the existing 172.34 acres was legally comprised of three separate parcels. As such, each of the three parcels had the following division rights per the Zoning Ordinance:

Parcels	Parcel 8: 166.68 acres (1988 = 154.73 ac)	Parcel 8.1: 5 acres	Parcel 12.9: 0.66 ac.
Development Rights	<u>Option A: Section 5.7D.1</u> 1 lot / 15 acres (10 total lots); or, <u>Option B: Section 5.7D.2</u> 1 lot / 5 acres (31 total lots), including required 50% greenspace lot (77.37 acres)	<u>Section 5.7D.3</u> two lots and a residue (3 total lots) and another two lots in 5 years	None

Since this determination, the applicant has processed to following projects:

**20-24-SD BML, LLC** (recorded in Plat Book 26, Page 209):

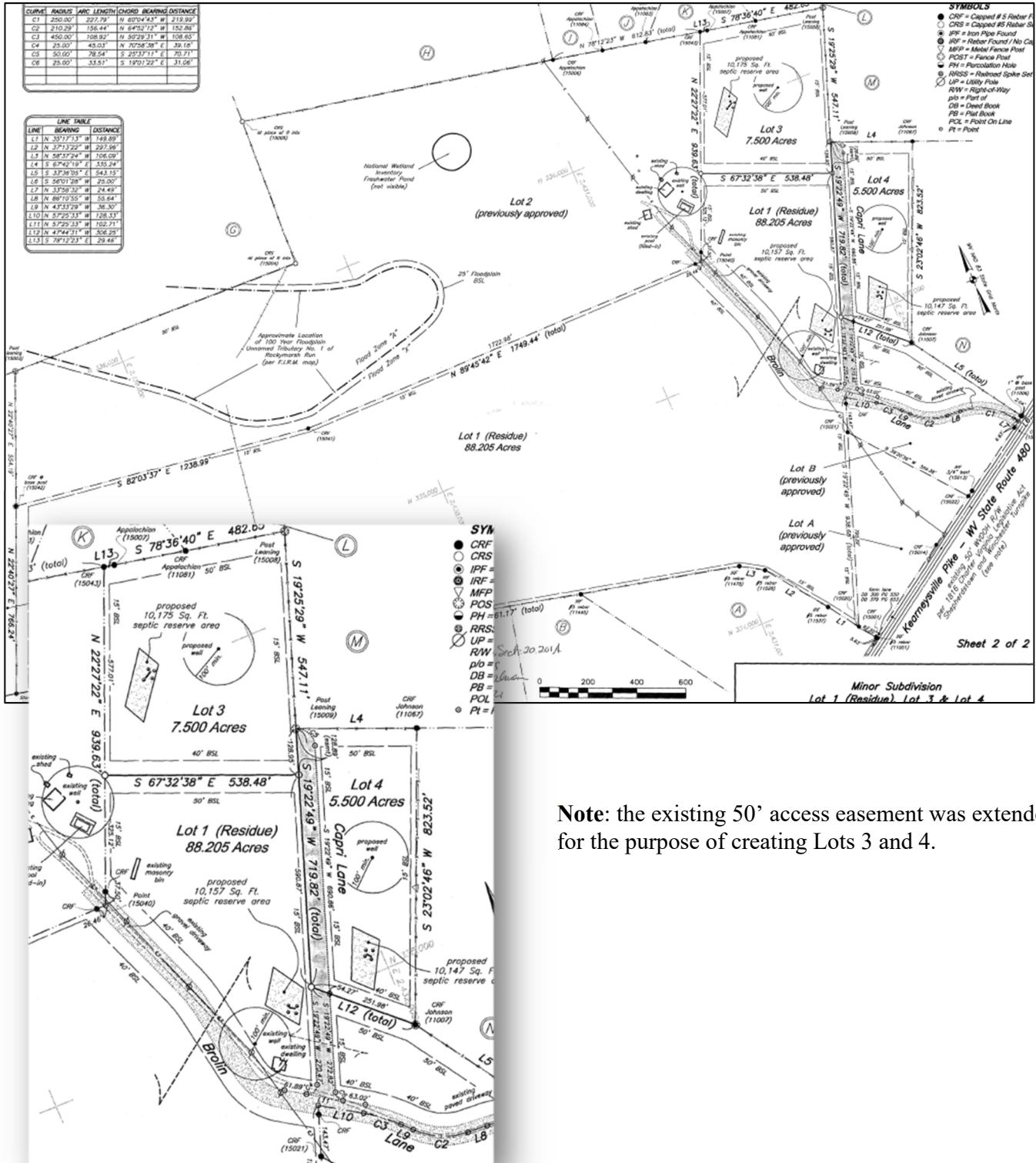
A minor subdivision to create Lot 1-Residue and Lot 2 from the ~166 acre parcel and a boundary line adjustment to enlarge the .66 acre parcel (Lot B) to 3.478 acres. As the required 50% greenspace was not retained during this division, the applicant was advised that future density rights would be based on Section 5.7D.1 of the Zoning Ordinance. As such, the parcel had utilized one (1) of the permitted 10 lots.



Staff Report  
 Jefferson County Planning Commission Meeting  
 September 14, 2021  
**BML, LLC Waiver Request (File #21-15-PCW)**

**21-19-SD BML, LLC** (recorded in Plat Book 26, Page 250):

A minor subdivision to create Lot 1-Residue and Lots 3 & 4 from the remaining ~101 acre parcel (Lot 1-Residue). As of this division, the parcel had utilized three (3) of the permitted 10 lots.

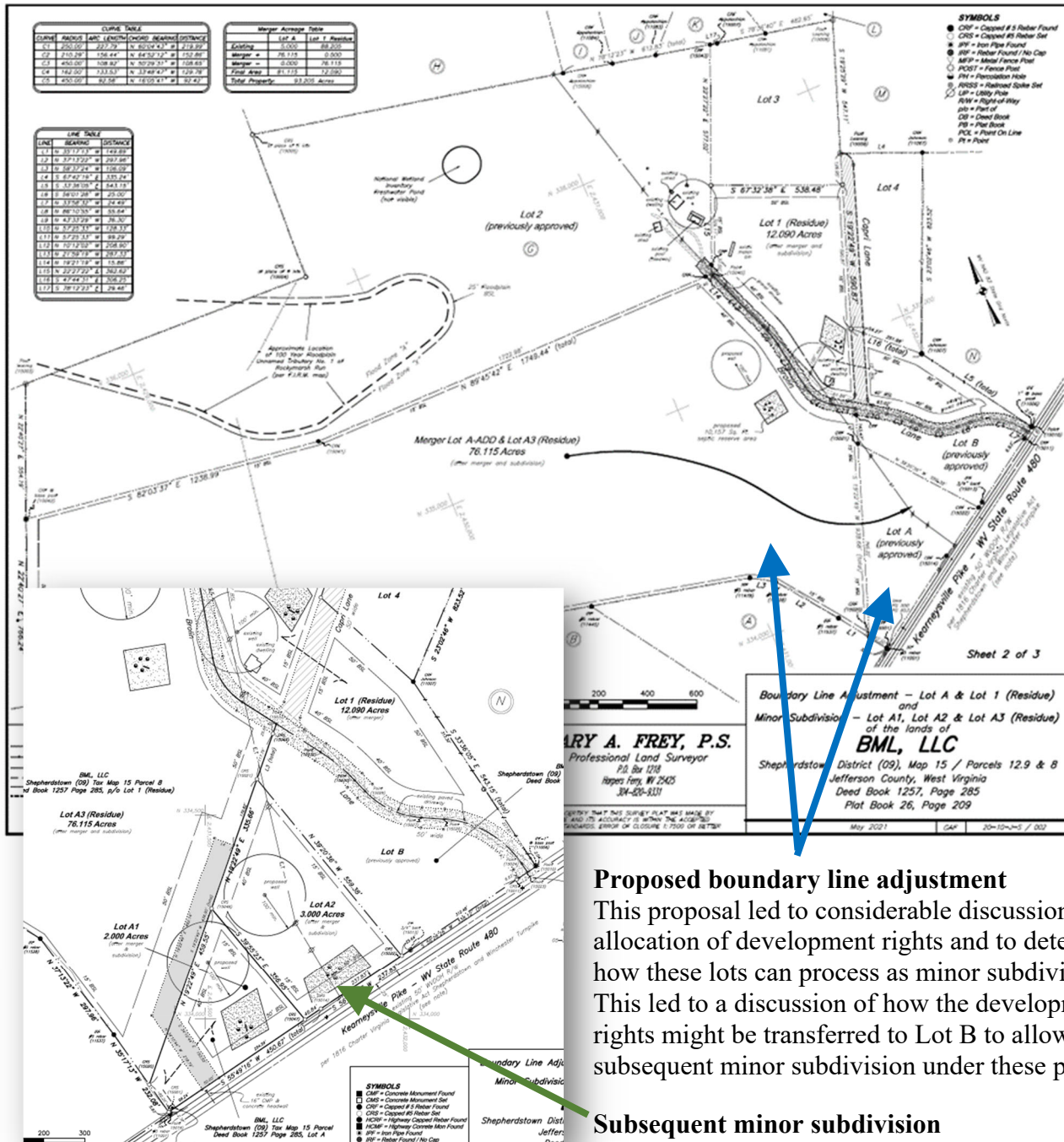


**Note:** the existing 50' access easement was extended for the purpose of creating Lots 3 and 4.

Staff Report  
 Jefferson County Planning Commission Meeting  
 September 14, 2021  
**BML, LLC Waiver Request (File #21-15-PCW)**

**21-24-SD BML, LLC (pending):**

A proposed boundary line adjustment of ~76 acres from Lot 1-Residue to the 5 acre parcel (Lot A) and a proposed minor subdivision of the newly enlarged Lot A into Lot A1, Lots A2, and Lot A3-Residue.



**Proposed boundary line adjustment**  
 This proposal led to considerable discussion of the allocation of development rights and to determine how these lots can process as minor subdivisions. This led to a discussion of how the development rights might be transferred to Lot B to allow a subsequent minor subdivision under these provisions.

**Subsequent minor subdivision**

Staff Report  
Jefferson County Planning Commission Meeting  
September 14, 2021  
**BML, LLC Waiver Request (File #21-15-PCW)**

**Staff Discussion and Recommendation:**

There are two primary components to determining how a residential development may process in the Rural Zoning District under Section 5.7 of the Zoning and Land Development Ordinance. The requirements of both the Zoning Ordinance and the Subdivision Regulations have to be taken into account. Under the provisions of Section 5.7D.1 of the Zoning Ordinance, which this development is being processed under, a property owner may create one (1) lot for every 15 acres, with a minimum lot size of three (3) acres. The maximum number of lots allowed (density) are computed using acreage on record as of October 5, 1988, which is reflected in the table above. This section also contains a statement that “a property owner may transfer rights to adjacent parcels which are owned by the same entity.”

This transfer of development rights provision has been used on a limited basis in Jefferson County and each time it has resulted in a Major Subdivision that included the development rights of a number of farms grouped on to one property, while the other parcels remained agricultural. This combination of lots into Major Subdivisions allows a more cost effective development which requires county road standards and stormwater management requirements to be met.

The subject request is to consider the provisions of Section 20.201 of the Subdivision Regulations which defines a Minor Subdivision as a development that results in the creation of five residential lots or less, including the parent parcel or residue. It states that further subdivision of a parent parcel beyond the maximum lots allowed to be created via the minor process after 10/05/88 shall be classified as a Major Subdivision. The concept of transferring some of a parent parcel’s development rights to an adjoining property does not preclude the fact that all of the lots being created come from the same parent parcel and should therefore be considered a Major Subdivision.

The proposal involved in this waiver request is to be permitted to transfer up to 5 development rights from the original 154+/- parent parcel to the 0.66 acre parcel and then to be permitted to utilize the minor subdivision process to create up to five new lots. Taking into consideration that the adjoining five (5) acre parcel is also permitted to create up to five (5) lots under the Minor Subdivision process (over a five year time period), if this waiver is granted, a total of 15 lots could be created from the existing 172.34 acres, with no engineered road improvements or stormwater management.

Under the major subdivision process the creation of 6 lots up to 12 lots would require a gravel county grade road, and over 12 lots would require a paved county grade road. While Minor Subdivisions do not require any engineered roads, the Subdivision Regulations do state that no more than 5 lots may access an unimproved 50’ access easement under the minor process. Therefore, if this waiver is granted, 15 lots served by 3 separate access easements is the maximum that could be created under the minor process, unless another separate waiver is granted to allow additional lots to utilize the access easements.

To date, the BML subdivisions have two approved DOH entrances and the developer has discussed an additional access with DOH should this waiver be granted to allow them to create up to 15 lots as three Minor Subdivisions. The functionality of these 3 access easements in a manner that ensures that each easement only serves 5 lots is of concern to the staff.

The complexity of the issues created by this waiver request clarify why the transfer of development rights is generally intended to create one unified Major Subdivision development of more than 5 lots rather than three adjoining and inter-related Minor Subdivisions. The actual proposed implementation of how the proposed 50’ access easements would serve the proposed Minor Subdivision lots should be a part of the consideration and discussion that the Planning Commission undertakes when considering this waiver.

Staff Report  
Jefferson County Planning Commission Meeting  
September 14, 2021  
**BML, LLC Waiver Request (File #21-15-PCW)**

---

**Section of Regulations:**

**Sec. 20.201 Minor Subdivisions**

“Minor subdivisions are those that do not require the development of new off-tract infrastructure, the extension of existing off-tract infrastructure, 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. Such subdivisions are approved by the staff. Further 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. . . . .”

**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.



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

File #: 21-15-PCW  
 Mtg Date: 9-14-21  
 Date Rec'd: 8-24-21  
 Fees Paid: 100.00  
 Staff Int: ag  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: BML LLC  
 Business Name: \_\_\_\_\_  
 Mailing Address: PO BOX 332, Kearneysville, WV 25430  
 Phone Number: 304-279-5050 Email: brantlowe@gmail.com

**Applicant Contact Information**

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

**Consultant Information**

Name: Gary Frey P.S.  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: 304-820-9331 Email: gfrey.surveyor@frontier.com

**Physical Property Details**

Physical Address: 1963 Kearneysville Pike, Shepherdstown, WV 25443 Vacant Lot:   
 Tax District: 09 Map No: 15 Parcel No: 12.9  
 Parcel Size: 3.48AC Deed Book: 1242 Page No: 287  
 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?**  
Sec. 20.201 as amended 2018.

**Briefly Describe the Nature of Your Waiver Request:**

Under Section 5.7 D.1.b. of the Jefferson County Zoning and Land Development Ordinance as amended December 17, 2020, development rights may be transferred to adjacent parcels owned by the same owner. Here, two parent parcels were in existence as of October 5, 1988. Today, these two parcels still exist and are currently owned by the same entity. One of the parcels had 10 development rights of which 5 of these rights are being transferred to the other parcel. The requested waiver is for the subdivision of the parcel receiving the development rights to be treated as a minor subdivision with a max of 5 lots instead of a major subdivision. The regulations are unclear as to whether a parent parcel receiving transfer of development rights can process as a minor as opposed to be automatically treated as a major subdivision.

**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.**

Property owner was able to cluster with 31 lots available but chose to preserve the rural feel of the area with a smaller number of lots. Owner wants to keep the rural entrances allowed under the minor subdivision rules as opposed to creating commercial style entrance required under major subdivision rules.

**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.**

Currently the development rights already exist and can be exercised to create the same total number of lots. The transfer of the rights to the other parcel is a tool being exercised to preserve the rural feel of the surrounding area with large lots not less than 3 acres in size. No increase in density above what is currently allowed is being requested.


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

The Ordinance does not explicitly state that transfer of development rights automatically results in subdivision being processed as a major subdivision. If there are more than 5 lots being created it would become a major subdivision. Here the rights being transferred only allow for 5 lots which keeps the subdivision in the minor category.

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

The minor subdivision allows for the preservation of the rural feel that is predominant in surrounding area. The major subdivision should be used for more than 5 lots and will create a commercial look in an otherwise rural landscape.

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.

	24-Aug-21		
Property Owner/Applicant Signature	Date	Property Owner/Applicant Signature	Date

**Notification Requirements**

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

Public Hearing Date

Date Placard Posted

Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

Date: \_\_\_ / \_\_\_ / \_\_\_

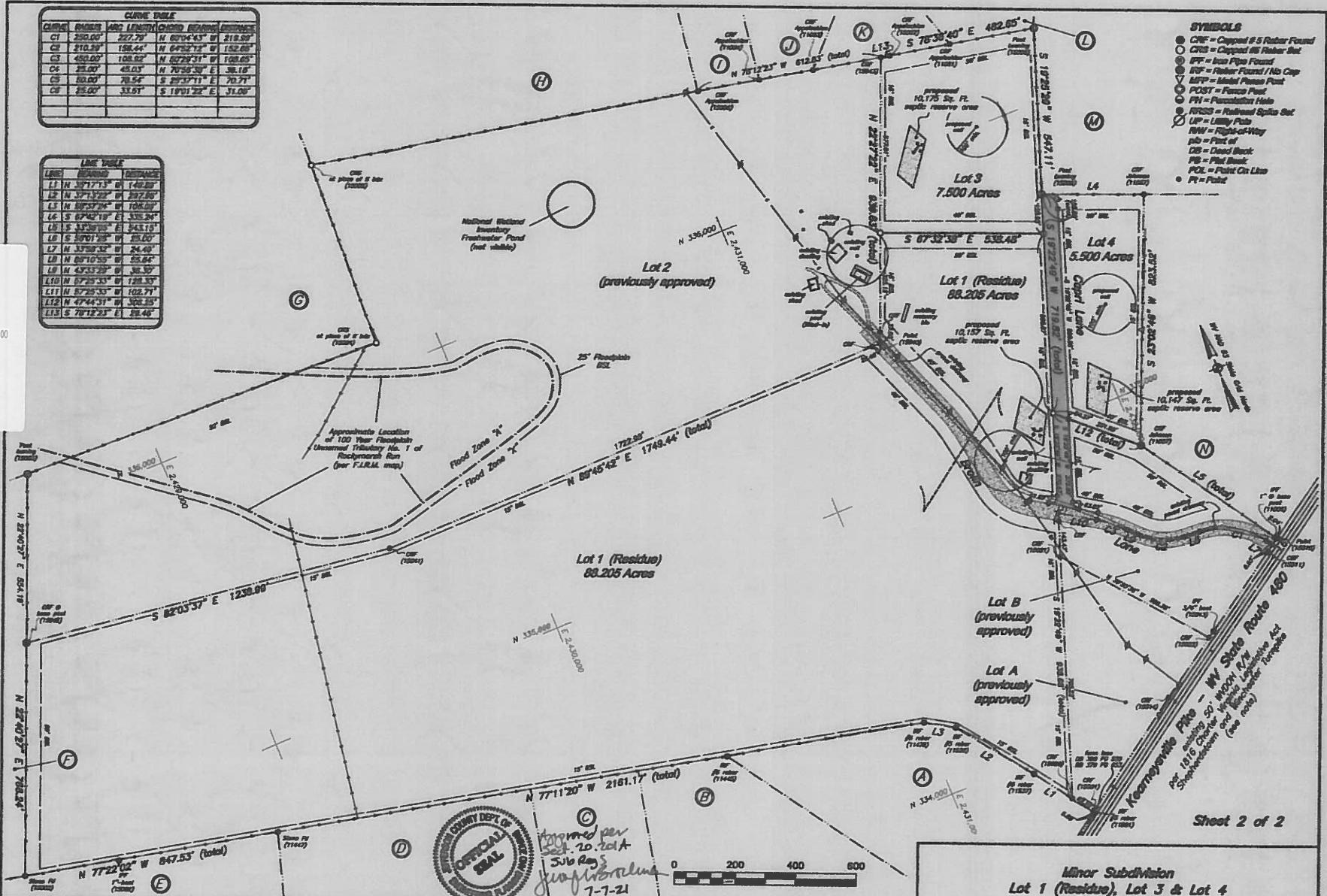
CURVE	CHORD	ARC LENGTH	CHORD BEARING	ARC BEARING
C1	250.00'	227.79'	N 69°45' W	218.59°
C2	210.58'	158.44'	N 64°22' W	152.65°
C3	450.00'	108.02'	N 62°23' W	108.65°
C4	25.00'	48.03'	N 70°36' E	38.16°
C5	30.00'	70.54'	S 29°37' E	70.71°
C6	25.00'	33.61'	S 19°01' E	31.00°

LINE	BEARING	DISTANCE
L1	N 37°17' W	142.53'
L2	N 37°17' W	207.80'
L3	N 89°57' W	108.02'
L4	S 67°42' E	338.24'
L5	S 33°00' E	543.15'
L6	S 39°01' W	28.00'
L7	N 33°08' E	24.40'
L8	N 80°10' W	85.64'
L9	N 49°33' W	38.50'
L10	N 17°25' W	128.33'
L11	N 87°26' W	102.71'
L12	N 47°44' W	308.35'
L13	S 76°12' E	58.44'

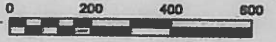
- SYMBOLS**
- CWF = Chopped #5 Rebar Found
  - CWS = Chopped #5 Rebar Not
  - IFF = Iron Pipe Found
  - NFF = Rebar Found / No Cap
  - MFF = Metal Flange Found
  - POFST = Fence Post
  - PFW = Foundation Hole
  - PWS = Railroad Spike Set
  - LUP = Utility Pole
  - RW = Right-of-Way
  - p/b = Part of
  - DS = Dead Stock
  - PS = Post Stake
  - PCL = Point On Line
  - P = Point

Jefferson County  
 Requester: C. Shadle, Clerk  
 Instrument: 2022-000115971  
 7/10/2022 @ 09:40:14 AM  
 LAT: (24 X 18)  
 Book 26 @ Page 250  
 Cases Numbered 2  
 Recording Cost \$ 12.00

Slide 2445B



*Approved per  
 Sect. 20, Code  
 Sub Reg 3  
 Joseph W. Adams  
 7-7-21*



Sheet 2 of 2

**LINE LEGEND**

- E — Overhead Utility
- W — Wire Fence
- B — Building Footprint
- P — Property Line
- M — Meter Property Line
- R — Railroad Line

**JEFFERSON COUNTY - COMPLETE LIST OF OWNERS / INTERESTS**

Ordinance	Section	Description	Granted
		(None)	
No.	Date	Description	
1	6-17-21	JCEPWS comments, DOW permit, GIS road names	



**GARY A. FREY, P.S.**  
 Professional Land Surveyor  
 P.O. Box 1210  
 Rippon Gap, W. 2605  
 WV-260-6331

I CERTIFY THAT THIS SURVEY PLAT WAS MADE BY ME AND ITS ACCURACY IS WITHIN THE ACCEPTED STANDARDS. ERROR OF CLOSURE 1:7500 OR BETTER

Minor Subdivision  
 Lot 1 (Residue), Lot 3 & Lot 4  
 of the lands of  
**BML, LLC**  
 Shepherdstown District (09), Map 15 / Parcel 8  
 Jefferson County, West Virginia  
 Deed Book 1257, Page 285  
 Plat Book 26, Page 209

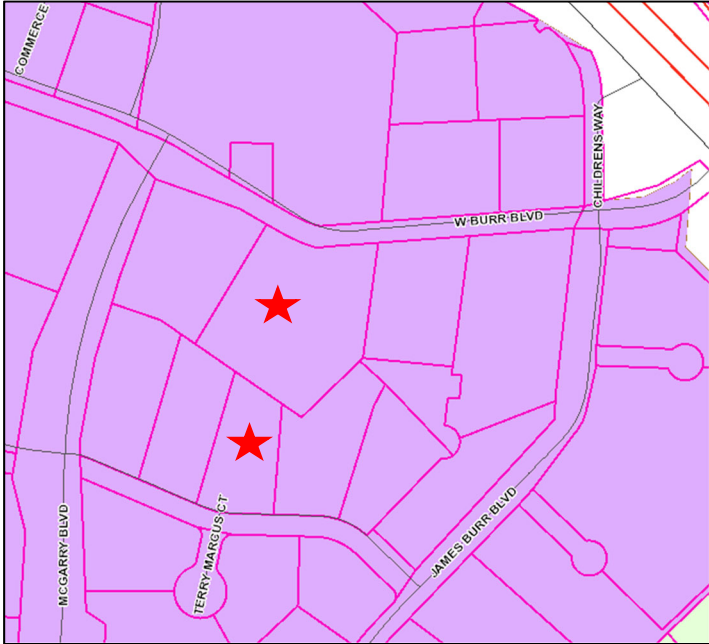
March 2021      GAF      20-10-1-5 / 002



Staff Report  
 Jefferson County Planning Commission Meeting  
 September 14, 2021

**True Performance Waiver Request (File #21-16-PCW)**

**Items #8: Public Hearing:** Waiver from Appendix B, Section 10.5 to allow an approved fitness center to utilize an existing gravel storage lot for approximately 20 additional parking spaces as opposed to a paved surface.

Applicant	True Performance Fitness
Consultant	JD Land Holdings Inc
Property Location & Information	<p style="text-align: center;">362 W Burr Blvd, Kearneysville, WV          Tax District: Charles Town (02); Map: 01; Parcel: 74 and Parcel 126          Total Project Size: 5.2 acres ; Zoning District: Industrial Commercial</p> 
Surrounding Zoning:	North, South, East, West: Industrial Commercial
Activity	Fitness Center
History	<p>Site Plan File S92-04 (original building-warehousing):          08/11/92: Approved Metropolitan Medical Site Plan</p> <p>Site Plan File S08-02 (gravel lot):          08/25/08: Approved Apple Valley Waste Parking Lot Expansion</p>
Waivers/ Variances	<p>01/24/06: PC approved variance to waive the required sidewalks, curbs and gutters in the Burr Business Park (Lots 1-44)</p> <p>07/28/16: BZA approved request to reduce building setback requirements for commercial and industrial development within the Burr Park to 25' for all vacant lots currently owned by the JCDA; to reduce the landscape buffer requirement for commercial and industrial sites adjacent to commercial or industrial uses; to allow a modified planting standard; and to reduce the parking and drive aisle setbacks for a proposed industrial use (ZV16-14).</p>

Staff Report  
Jefferson County Planning Commission Meeting  
September 14, 2021

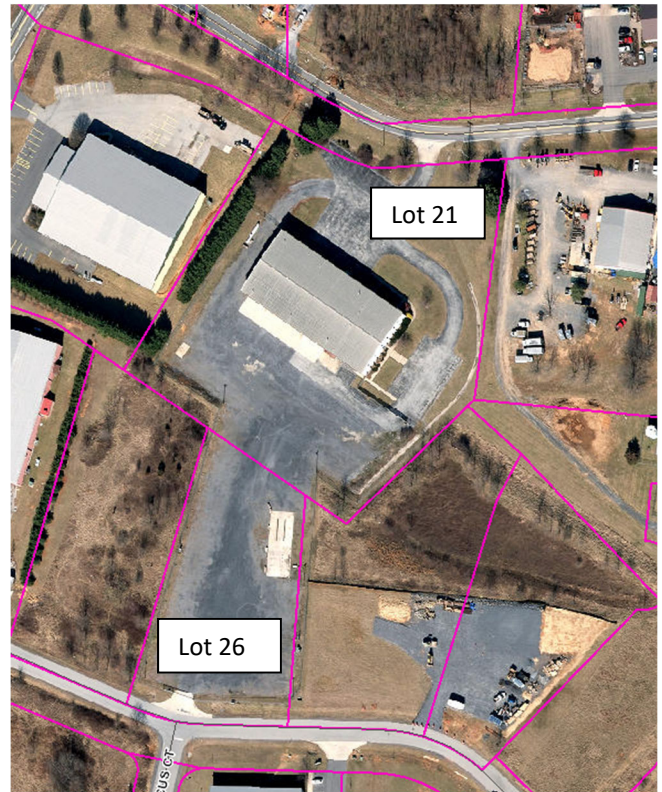
**True Performance Waiver Request (File #21-16-PCW)**

**Site Background**

The subject property is comprised of two lots within the Burr Industrial Park. Lot 21 consists an existing 20,000 square foot office/warehousing facility that was approved 1992 as a medical supplies facility. The site plan was approved with 23 paved parking spaces based on the land use designation at the time.

Lot 26 consists largely of a gravel lot that was approved in 2008 as an expansion to the then Apple Valley Waste facility. This gravel area stored the company’s dump trucks and concrete wash station. Note, as part of this approved site plan, the previously approved “asphalt truck loading area” was converted into additional parking spaces.

True Performance Fitness is currently only located on Lot 21, but both lots have been considered a single development so this report will address the site as a whole.

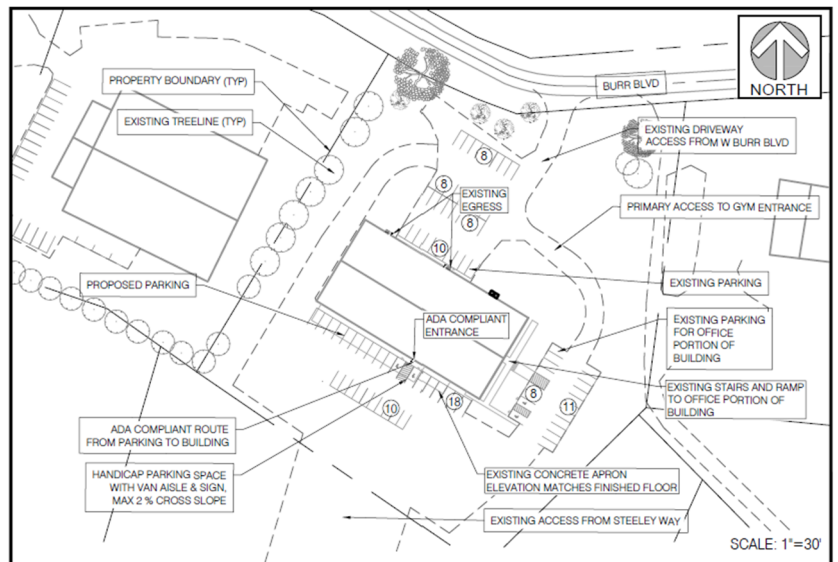


**Summary of the Request:**

The applicant is requesting a waiver from Appendix B, Section 10.5 to allow an expansion of an approved fitness center to utilize an existing gravel storage area to accommodate approximately 20 additional parking spaces, as opposed to a paved surface.

The applicant is currently operating an approved fitness center from the 20,000 square foot structure located on Lot 21. As noted in the applicant’s request, the existing site can accommodate 68 paved parking spaces for public use and another 12 gravel parking spaces for their employees (see graphic).

The applicant is proposing to expand the interior square footage of the fitness center by 4,800 square feet, which necessitates the additional 20 paved parking spaces to be provided. This request is to allow those spaces to be gravel to allow this business to open with the current conditions. The gravel spaces will be located in the area on the south side of the building where 10 spaces are indicated (gravel spaces for employees).



Staff Report  
Jefferson County Planning Commission Meeting  
September 14, 2021

**True Performance Waiver Request (File #21-16-PCW)**

**Staff Discussion and Recommendation:**

The requirement of the Subdivision Regulations that all parking lots, entrances and internal drives for use by the public are required to be paved, either by asphalt or concrete, is for the protection of the customer or public. While the applicants did not answer the required waiver application questions, they provided a good overview of their request and reasoning for the request. They noted that while the parking calculations appear reasonable, the nature of a fitness center is such that their hours are long and there is frequent customer turnover, so that the building is rarely at full capacity. For this reason, it seems reasonable to rely on the 68 available paved parking spaces for their regular customer load and allow the use of the gravel parking area for any additional parking requirements. The applicants also have indicated that they hope to purchase the property in the future and plan to pave all parking at that time.

It does, therefore, appear reasonable to approve this waiver to allow the additional required parking to utilize the gravel area provided the parking spaces are marked to allow the safe flow of traffic through the parking lot.

**Section of Regulations:**

**Section 10.5 Parking Area, Entrance and Internal Driveway Paving**

A. Site Development parking lots, entrances and internal driveways for use by the public shall be bituminous asphalt or concrete paved. Paving sections shall be approved by the Engineer. The minimum acceptable bituminous asphalt paving section is as follows:

- 1 ½" Bituminous Concrete Surface Course
- 2 ½" Bituminous Concrete Base Course
- 9" Graded Aggregate Base Course (placed in 2 lifts)

**Waiver Requirements:**

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. The applicant did not address these requirements, found in "Division 24.300 Waivers" of the Subdivision Regulations, in attached to the application, but provided an overview in a letter format.

- (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.





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

File#: 21-16-PCW  
 Mtg Date: 9-14-21  
 Date Rec'd: 8-23-21  
 Fees Paid: 100-  
 Staff Int: gth  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: RANDIE LAWSON  
 Business Name: JD LAND HOLDINGS INC.  
 Mailing Address: 702 N. MAIN ST. WESTON, WV 26542  
 Phone Number: (304) 634-3444 Email: rlawson@mountainstatewaste.com

**Applicant Contact Information**

Applicant Name: PAUL HOLZBERGER / CHRIS SPIESS / JOHN CUSTER / CRYSTAL SMILES-THARP Same as owner:   
 Business Name: TRUE PERFORMANCE FITNESS LLC  
 Mailing Address: 362 W. BURR BLVD. KEARNEYSVILLE, WV 25430  
 Phone Number: (681) 252-0606 Email: owners@trueperformancefitness.com

**Consultant Information**

N/A

Name: \_\_\_\_\_  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 362 W. BURR BLVD. KEARNEYSVILLE, WV 25430 Vacant Lot:   
 Tax District: 2 Map No: 1 Parcel No: 74  
 Parcel Size: 3.65 ACRES Deed Book: 1102 Page No: 457  
 Zoning District: Industrial commercial

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

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

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

Appendix B Section 10.5

Briefly Describe the Nature of Your Waiver Request:

\*PLEASE SEE ATTACHED DOCUMENT

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.

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.

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

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

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.

*CyL [Signature]*

8/24/2021

Property Owner/Applicant Signature

Date

Property Owner/Applicant Signature

Date

**Notification Requirements**

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

Public Hearing Date

Date Placard Posted

Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

Date: \_\_\_ / \_\_\_ / \_\_\_

**True Performance Fitness, LLC  
362 W. Burr Blvd.  
Kearneysville, WV 25430**

**Jefferson County, WV Dept of Engineering, Planning, & Zoning  
Office of Planning & Zoning  
116 E. Washington St.  
Charles Town, WV 25414**

Our company, True Performance Fitness, LLC, located at 362 W Burr Blvd in Kearneysville, WV, is seeking from the Planning Commission of Jefferson County, WV a variance in the surface parking regulations (Jefferson County Zoning and Land Development Ordinance Section \*\*\*). Our initial application for zoning approval allotted one 9' x 20' per 250 square feet of usable building space. Upon approval, our plans listed 20,000 sqft of usable space with 80 surface parking spaces - 68 paved spaces for public use and 12 gravel spaces for staff. Since that approval, an additional 4,800 sqft of usable space has been added, increasing the necessary number of parking spaces to 100. Given the fact that we have a large unused rear gravel lot (dimensions approximately 120' x 310'), we are seeking to use this gravel for additional surface parking to reach the appropriate number of spaces. The dimensions of this lot would easily allow for additional 50 - 60 parking spaces, more than enough to satisfy the appropriate zoning requirement.

Due to the nature of our business as a fitness center, our facility is open long hours with frequent public turnover. Our building will rarely, if ever, be at full occupancy. Thus, we anticipate the need for full parking capacity to be uncommon. If granted the variance, we are proposing to use the additional 20 gravel public parking spaces only as overflow capacity.

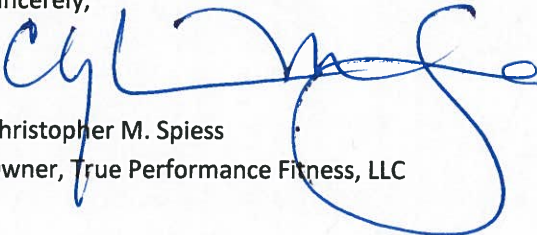
We anticipate minimal impact to our neighbors as the properties adjacent to the rear gravel lot are currently unoccupied and/or undeveloped.

Granting this additional surface parking will allow our company to reach compliance with zoning and allow us to continue to bring a unique fitness experience to the residents of Jefferson County.

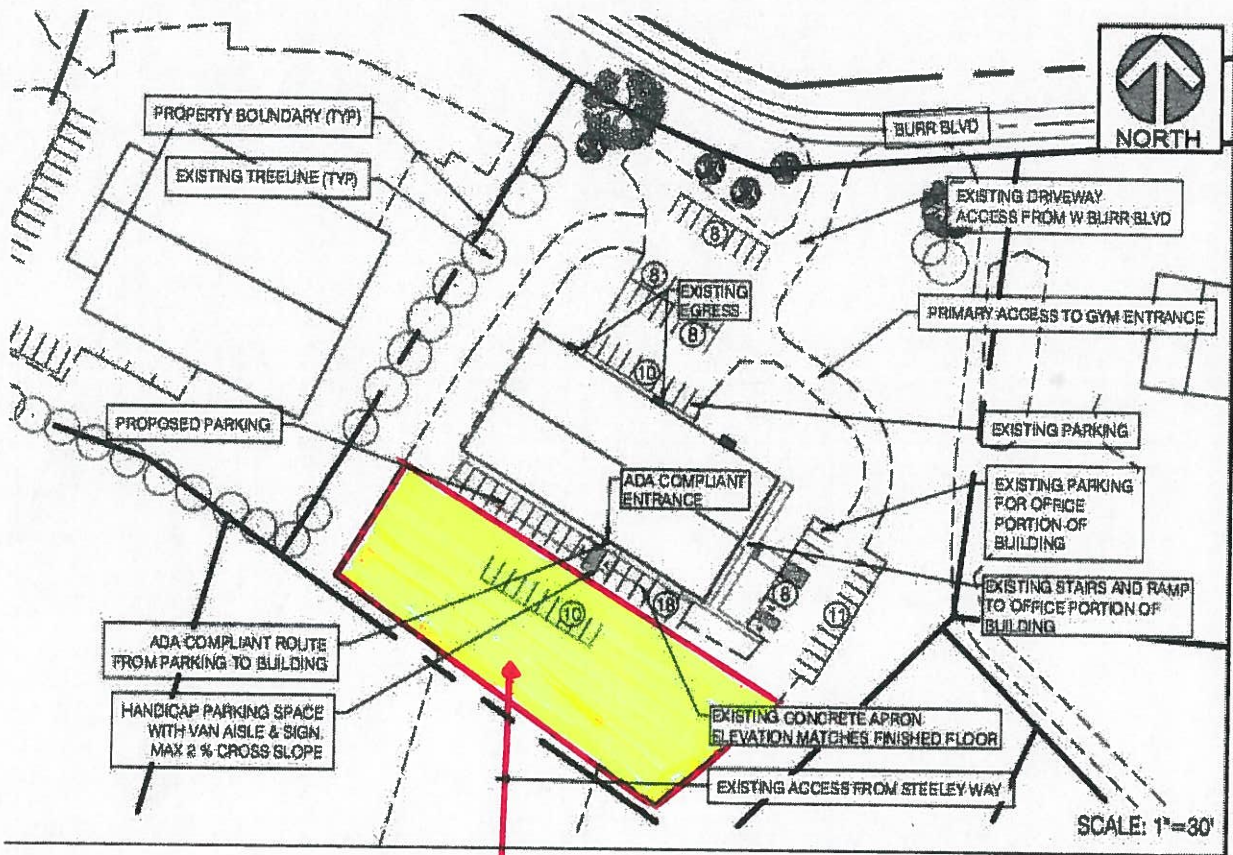
In regards to future development, our company does plan to move from our current lease agreement to an eventual purchase of the property outright. At that time we do plan to pave the entirety of the rear gravel lot with asphalt to allow for more paved surface parking and provide a better overall experience for our customers.

Thank you for time and consideration.

Sincerely,



Christopher M. Spiess  
Owner, True Performance Fitness, LLC



GRAVEL LOT (DIMENSIONS ~ 120' x 310')  
 TO ACCOMMODATE 50-60 ADDITIONAL  
 SURFACE PARKING SPACES

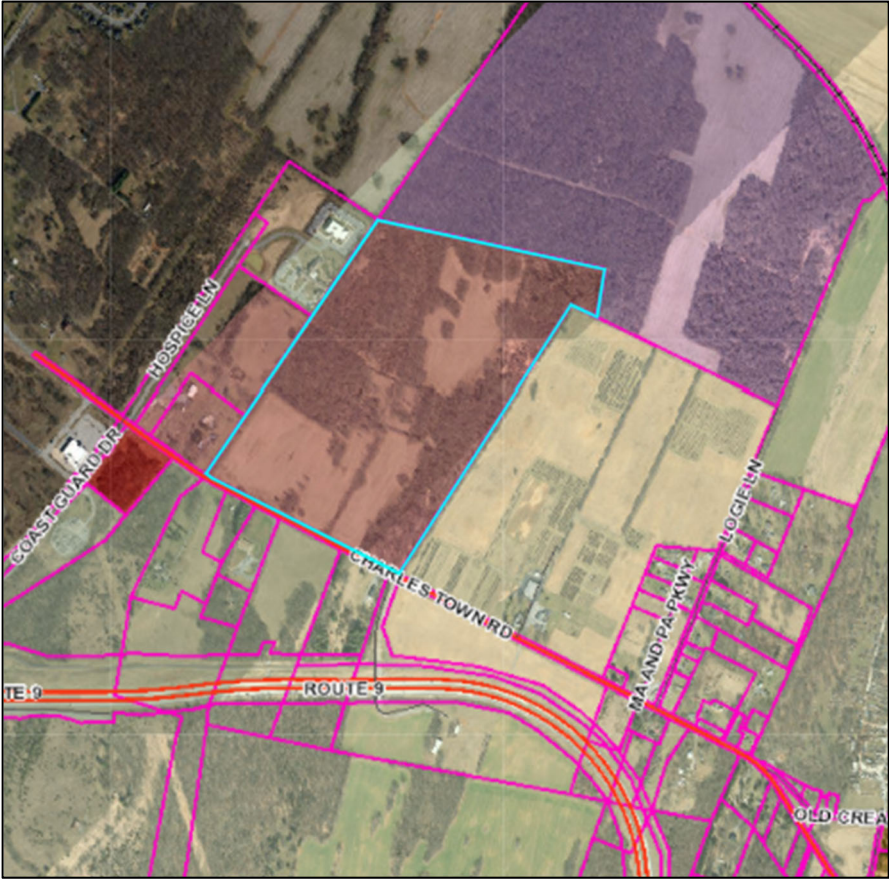
**Staff Report**

Jefferson County Planning Commission

September 14, 2021

Hunter Hills Waiver Request (21-17-PCW)

**Item #9: Public Hearing:** Request by Ernest Hunter, et.al/Joshbeen Grewal ILA Properties, Inc. The applicant is requesting a waiver from Section 24.113.B.10 of the Subdivision and Land Development Regulations to waive the Preliminary Plat requirement for an Archaeological Study for the Hunter Hills Subdivision.

Applicant/Owner	Ernest Hunter, et. al./Joshbeen Grewal ILA Properties, Inc.	
Consultant	Paul J. Raco/P.J. Raco Consulting, LLC	
Property Location & Information	<p>4469 Charles Town Road, Kearneysville, WV                      Tax District: Middleway (07); Map: 1; Parcel: 2; Size: 107+ acres ;                      Zoning District: Residential-Light Industrial-Commercial (RLIC)</p> 	
Adjacent Zoning Districts:	<p><i>North:</i> Industrial Commercial  <i>South:</i> Rural                      Rural/RLIC</p>	<p><i>East:</i> Rural  <i>West:</i></p>
Proposed Activity	Major 642 Unit Subdivision including 171 Townhouse and 471 Single Family Detached Lots.	
Previous Approvals:	Concept Plan Approved	07/13/21: PC Approved
	Z13-01 Zoning Map Amendment to RLIC	02/20/14: CC Approved

**Staff Report**  
Jefferson County Planning Commission  
September 14, 2021  
Hunter Hills Waiver Request (21-17-PCW)

**Site Background:**

The applicant has received approval for the Concept Plan for a Major Subdivision consisting of 642 Unit Subdivision that includes 171 Townhouse Lots and 471 Single Family Detached Lots. The Concept Plan was approved with the following conditions: the project will not be required to connect to the WVU property to the east, the property zoned Industrial-Commercial, or to the Hospice property. The applicant is requesting a waiver from Article 24, Section 24.113.B.10 which requires the submission of a Phase I Archeological Survey with the submission of a Preliminary Plat. The property is zoned Residential-Light Industrial-Commercial (RLIC), and the development is processing as a Major Subdivision.

**Summary of the Request:**

The applicant has submitted a request to waive the Phase I Archaeological Study, which is required with the submission of a Preliminary Plat by Section 24.113.B.10 of the Subdivision Regulations. At the Concept Plan submission, applicants are required to reach out to various outside agencies, including the Jefferson County Historic Landmarks Commission (HLC). At that time, the Jefferson County HLC did not note any concerns. Staff has noted that there are no County identified historic landmarks or structures located on this property, but there are some in the vicinity. The applicant is requesting that this requirement be waived in light of the fact that there are no known resources on the property.

**Staff Comments:**

Staff understands that the requirement for a Phase I Archaeological Study in a County with as many historic resources as Jefferson County has the potential to identify previously unknown historic resources; however, lands which have historically been used for agricultural purposes have generally been so disturbed as to make it difficult to identify any new resources. The applicant has noted that they will walk the property to identify any archaeological sites from the surface and will commit to notifying the County if, during construction, any archaeological resources are discovered.

**Staff Recommendations:**

Staff recommends that that this waiver may be a reasonable request for this 642 Unit subdivision with the requirement that the applicant will notify the County if any resources are found on site during development.

[Staff also recommends that the Planning Commission collaborate with the SHPO and Jefferson County HLC to amend this requirement to create a requirement that balances the cost of development with the anticipated results.]

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**Staff Report**  
Jefferson County Planning Commission  
September 14, 2021  
Hunter Hills Waiver Request (21-17-PCW)

**Section of Regulations under Consideration:**

Sec. 24.113 Major Subdivision Preliminary Plat - Application Submission and Completeness Review

- B. Submission Contents. The submission shall contain the following elements in the number of copies indicated.
10. Historic Resource Preservation. A Phase I archaeological study is required. A historic resources impact study shall also be included.

**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.





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

21-17-PCW

File #: \_\_\_\_\_  
 Mtg Date: 9-14-21  
 Date Rec'd: 8/24/21  
 Fees Paid: 100.00  
 Staff Int: aj  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: Ernest Hunter, et. al.  
 Business Name: \_\_\_\_\_  
 Mailing Address: P.O. Box 123, Shenandoah Junction WV 25442  
 Phone Number: c/o Paul 304/676-8256 Email: \_\_\_\_\_

**Applicant Contact Information**

Applicant Name: Joshbeen Grewal Paul J Raco Same as owner:   
 Business Name: ILA, Inc. P.J. Raco Consulting, LLC  
 Mailing Address: 4115 Charles Town Road, Kearneysville, WV P.O. Box 548, Charles Town, WV 25414  
 Phone Number: 304/676-8256 Email: pjraco.consulting@gmail.com

**Consultant Information**

Name: Paul J Raco  
 Business 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: 4469 Charles Town Road, Kearneysville, WV 25430 Vacant Lot:   
 Tax District: 7 Map No: 1 Parcel No: 2  
 Parcel Size: 107 +- Acres Deed Book: 1033 Page No: 658  
 Zoning District: Residential/Light Industrial/Commercial 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?**

Article 24, Section 24.113.B.10 Archeological Survey

**Briefly Describe the Nature of Your Waiver Request:**

Type text here

**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

**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

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

See Attached

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

See Attached

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.

*Ernest M Hunter* 8-23-21  
Property Owner/Applicant Signature      Date

\_\_\_\_\_  
Property Owner/Applicant Signature      Date

**Notification Requirements**

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

\_\_\_\_\_  
Public Hearing Date

\_\_\_\_\_  
Date Placard Posted

\_\_\_\_\_  
Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Hunter Hills Preliminary Plat  
Waiver Request  
Sections: 24.113B.10  
Jefferson County Subdivision and Site Development Ordinance  
August 24, 2021

**Brief Description:**

This provision requires a Phase I Archeological Report and a Historic Resources Impact Study. Staff and Design Consultants, Surveyors and Engineers have discussed this provision on various occasions since the first Major Subdivision was processed several years ago. The Staff, Consultants and Engineers have all agreed that this provision be removed or significantly altered since it doesn't appear to provide proper guidance on the contents or how the study should be conducted. Staff has agreed that they didn't know the intent of the writers of the ordinance and thought that it may be that whoever wrote the ordinance thought that this study was more like a Phase 1 Environmental Study that basically required a walk through on the property to identify possible trouble areas. So, since the provision is unclear and not in keeping with the original intent of the requirement, this provision has been routinely waived for all projects since the first Major Subdivision. The last attempt at rewriting the Subdivision Ordinance was going to rewrite this provision since it has been waived with Staff support so frequently. So, when the Ordinance Rewrite picks up again, this item will be amended.

Regarding the Historic Resources Impact portion of the project, the JCHLC already reviewed the project during the Concept Plan Stage and did not comment on the property or project. The presumption is that there were no significant historical features on this property to provide comment.

As an area identified by the County as a Preferred Growth Area in the most recent Comprehensive Plan, this area was already reviewed at a basic level by many experts and agencies during the drafting of this plan. After this review, it was determined that this area should be permitted to develop with Urban Level Growth. Furthermore, this property has been owned by the same family for many years and it has been farmed for many of those years without evidence of anything with archeological significance.

Accordingly, the Applicant believes that they comply with the Historic Resource portion of the provision (with the notification to the HLC) and are asking for a waiver based on the lack of specificity of the provision in the Ordinance. Also, regarding the Phase 1 Archeological Study, the Applicant is seeking a Waiver from providing a full Phase 1 Archeological Report and will ensure that they will walk the property to identify any archeological sites from the surface. The Applicant will also commit to notifying the County if during construction, any archeological resources are discovered.



Hunter Hills Preliminary Plat  
Waiver Request  
Sections: 24.113B.10  
Jefferson County Subdivision and Site Development Ordinance  
August 24, 2021

**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 project is in an area that is identified as the Route 9 Preferred Growth Area. This area was established in the Envision Jefferson 2035 Comprehensive Plan. The PGAs are for the development of Urban Level Growth and full development. This property is zoned for high density residential, and this project is a development of affordable housing in the form of Townhouses and small lots.

The project meets the standards for open space and park land. They will be privately maintained and will have no public maintenance cost.

Granting the waiver will allow the project to move forward and will generate a great deal of taxes and Impact Fees that benefit Parks, Emergency Services and Police.

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;*

The granting of the waiver will have no effect on the public health safety or welfare of the neighbors or adjacent property owners. The waiver is to not require an expensive study that will have no impact on how to develop under the existing Preliminary Plat Standards in the Ordinance.

The JCHLC did not comment on the Concept plan or any historic resource on site and the Applicant has conformed with the Standards of the Ordinance regarding screening and buffering.

The Applicant has done his own review of the property regarding any other resource that the Subdivision Ordinance requires to be addressed. Providing an expensive study that the ordinance does not provide any recourse for, is an expense that is not necessary. If any archeological resources are found during grading or construction, the Applicant will immediately notify the County. Although there still isn't any provision in the Subdivision Ordinance that will address the matter.

The property was farmed by the long time owners of the property with tillable crops. During that process, the soil and subsoil have already been disturbed many times with no evidence of archeological remains.

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

After discussion with the Staff, the intent of the provision is unknown. A review of the actual standards found in the Subdivision Ordinance show that there isn't any requirement found in the Standards that would address something in an Archeological Study. Therefore, it would appear to be for the benefit of the Applicant. The Applicant is satisfied with the process and standards identified in the ordinance and plan on meeting the other standards of the ordinance at this time.

The Design Consultants and County Staff agree that this provision needs to be removed or amended since it does not appear to be tied to any requirement in the ordinance. The Planning Commission has granted multiple waivers to this provision every time it was requested.

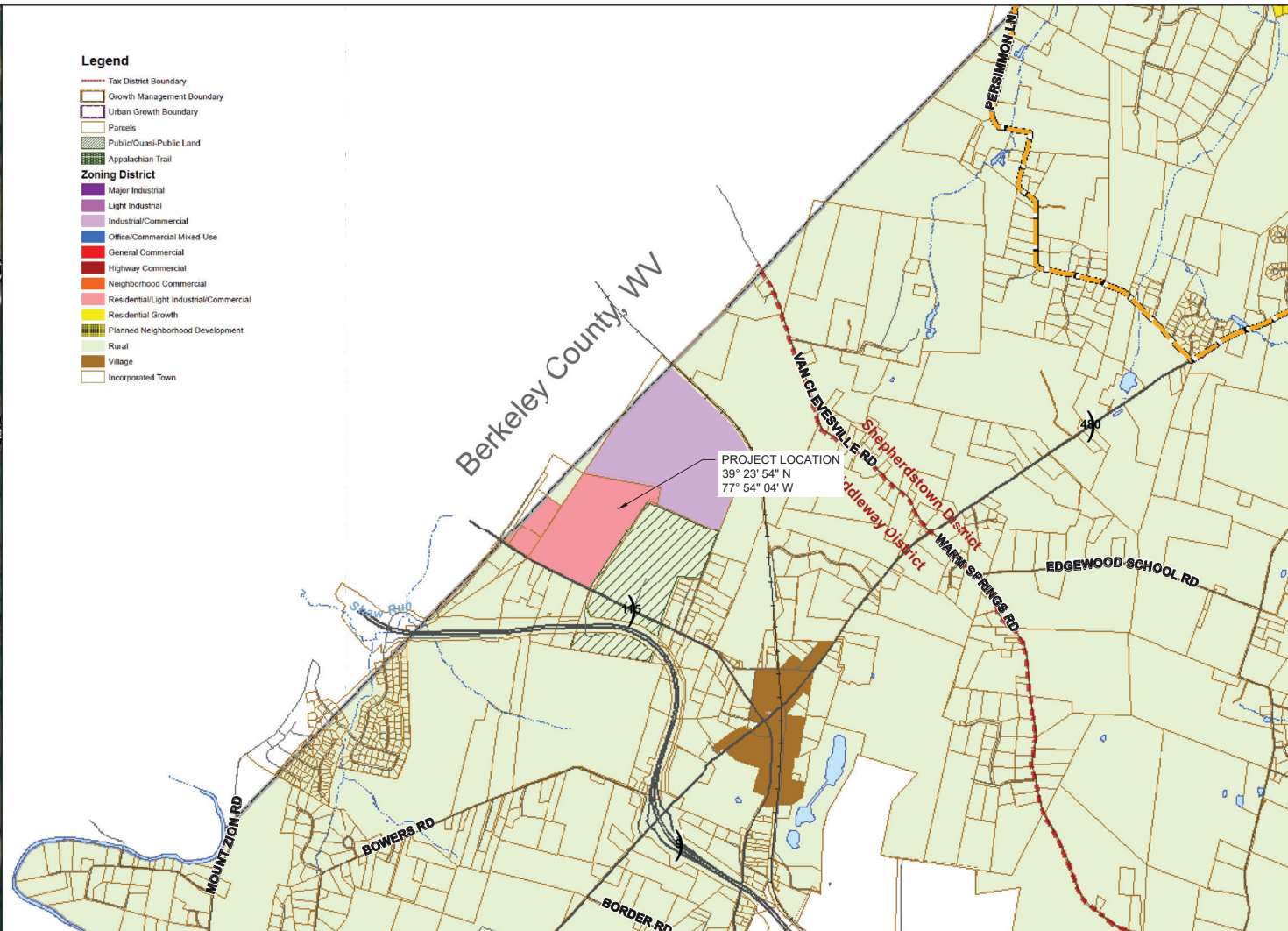
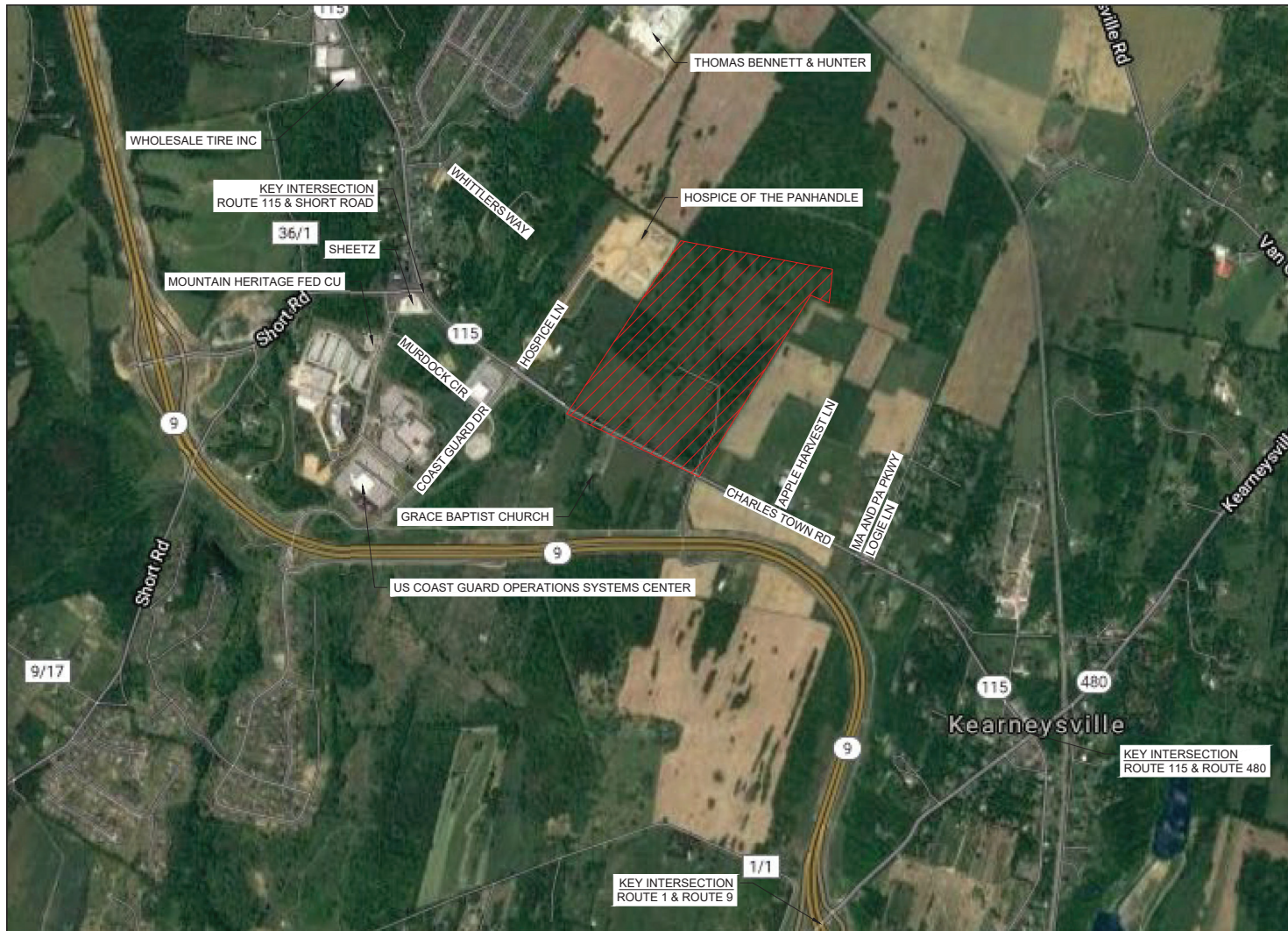
Regarding the Historic Resource Impact, the intent is for the identification of significant historic resources. In this case, the JCHLC did participate in the Concept Plan review and did not make any comment on any historical resource.

Finally, this area is a Preferred Growth Area in the Comprehensive Plan that was developed by experts in all fields in Jefferson County. The assumption is that if there was any indication that this area should be protected or treated specially, then the County would not have identified it as a prime, major development area.

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

There is no purpose identified in the Subdivision Ordinance to provide a study, therefore, neither the County Staff nor the Applicant knows what could be required even if a Study was defined or provided. The project will meet all the defined standards in the ordinance. It is a well designed subdivision in an area that is identified in the Comprehensive Plan as a major development area. Furthermore, it is a development that will provide affordable housing in the area of major employment (Liberty Business Park, Coast Guard, IRS, VA Medical Center, Hospice).

Accordingly, the Applicant respectfully asks that the Planning Commission approve the waiver so that the process can continue in a timely and more cost-effective fashion. The Planning Commission approved the Concept Plan with very little comment. Thank you for your consideration.



- Legend**
- Tax District Boundary
  - Growth Management Boundary
  - Urban Growth Boundary
  - Parcels
  - Public/Quasi-Public Land
  - Appalachian Trail
- Zoning District**
- Major Industrial
  - Light Industrial
  - Industrial/Commercial
  - Office/Commercial Mixed-Use
  - General Commercial
  - Highway Commercial
  - Neighborhood Commercial
  - Residential Light Industrial/Commercial
  - Residential Growth
  - Planned Neighborhood Development
  - Rural
  - Village
  - Incorporated Town

# HUNTER HILLS SUBDIVISION CONCEPT PLAN KEARNEYSVILLE, WV

**OWNER/DEVELOPER INFORMATION**  
 APPLICANT: ILA PROPERTIES, INC  
 OWNER: ERNEST HUNTER, ET AL..  
 POINT OF CONTACT: JOSHBEEN GREWAL  
 ADDRESS: 4115 CHARLES TOWN RD  
 KEARNEYSVILLE, WV 25430  
 PHONE: 571-438-3612  
 EMAIL: ACCOUNTING@JBGBUILDERS.COM

**ENGINEERING INFORMATION**  
 COMPANY: CHEAT ROAD ENGINEERING  
 POINT OF CONTACT: GRIFFIN SEPP  
 ADDRESS: 5011 MID ATLANTIC DR  
 MORGANTOWN, WV 26508  
 PHONE: 304-212-5480

**PROPOSED DEVELOPMENT**  
 171 TOWNHOMES  
 471 SINGLE FAMILY HOUSES

TOTAL AREA: 107 ACRES  
 ZONING: RESIDENTIAL-LIGHT INDUSTRIAL-COMMERCIAL

**AREA BREAKDOWN:**  
 LOT AREA: 67.5 ACRES  
 OPEN SPACE: 13.4 ACRES (10% MINIMUM REQUIRED: 10.7 ACRES)  
 SWM: 2.9 ACRES  
 ROAD ROW: 23.2 ACRES

CS  
 C-100  
 C-101

**SHEETS**  
 COVER SHEET  
 RESOURCE MAP  
 SUBDIVISION CONCEPT

REV NO.	DATE	DESCRIPTION

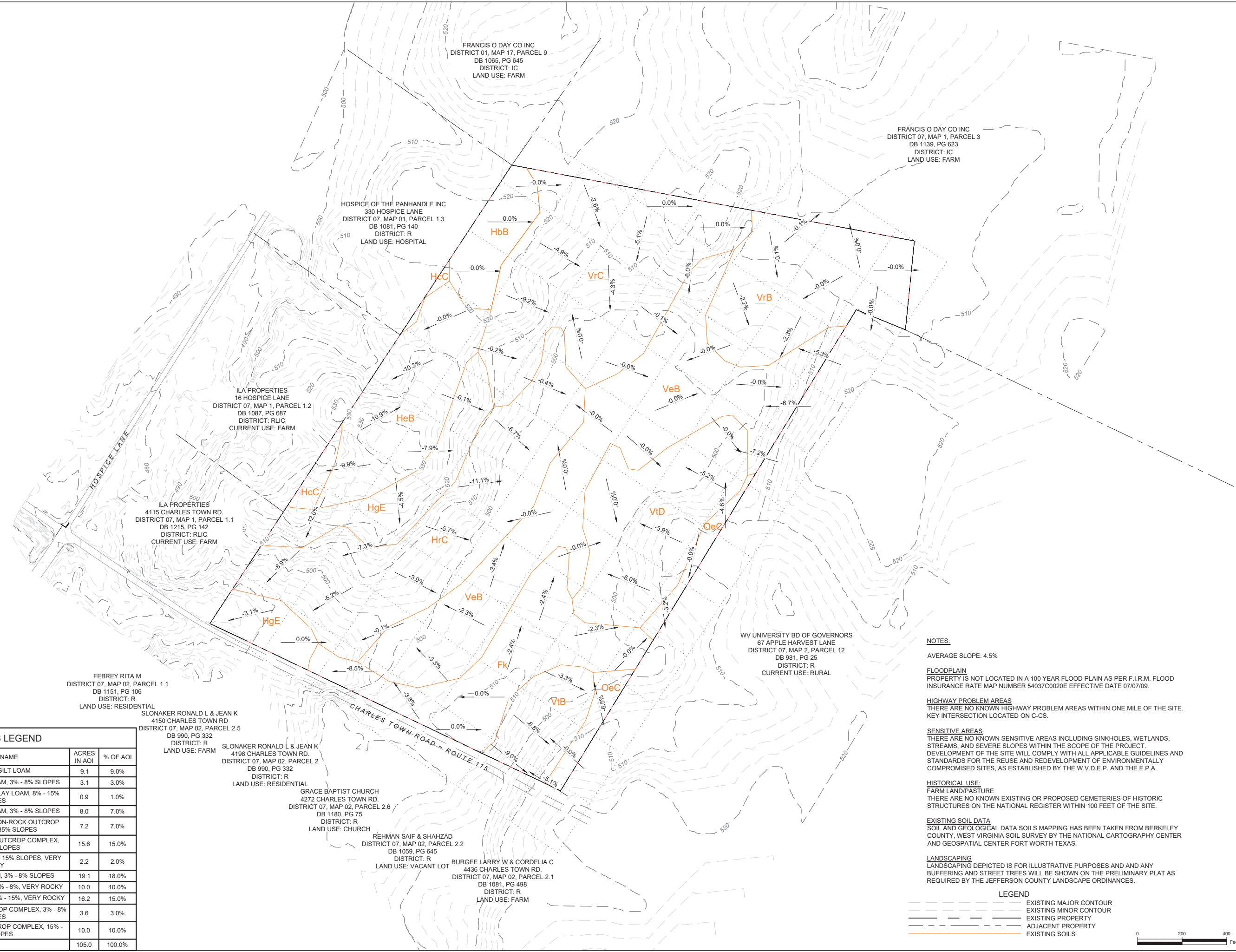


**CHEAT ROAD ENGINEERING, INC.**  
 5011 MID ATLANTIC DRIVE  
 MORGANTOWN, WV 26508  
 PHONE: (304) 212-5480

**HUNTER HILLS SUBDIVISION**  
 DISTRICT: 07 MAP: M1 PARCEL: 2 DB: 1033 PG: 668  
 PROJECT NO: 21-016-100  
 DRAWING FILE:

DRAWN BY:	N. PERSINGER
CHECKED BY:	G. SEPP
SCALE:	AS SHOWN
DATE:	April 21, 2021

COVER SHEET  
 SHEET NUMBER:  
**CS**



SOILS LEGEND			
MAP UNIT SYMBOL	MAP UNIT NAME	ACRES IN AOI	% OF AOI
Fk	FUNKSTOWN SILT LOAM	9.1	9.0%
HbB	HAGERSTOWN SILT LOAM, 3% - 8% SLOPES	3.1	3.0%
HcC	HAGERSTOWN SILTY CLAY LOAM, 8% - 15% SLOPES	0.9	1.0%
HeB	HAGERSTOWN SILT LOAM, 3% - 8% SLOPES	8.0	7.0%
HgE	HAGERSTOWN-OPEQUON-ROCK OUTCROP COMPLEX, 15%-35% SLOPES	7.2	7.0%
HrC	HAGERSTOWN-ROCK OUTCROP COMPLEX, 8% - 15% SLOPES	15.6	15.0%
OeC	OAKLET SILT LOAM, 8% - 15% SLOPES, VERY ROCKY	2.2	2.0%
VeB	VERTREES SILT LOAM, 3% - 8% SLOPES	19.1	18.0%
VrB	VERTREES SILT LOAM, 3% - 8%, VERY ROCKY	10.0	10.0%
VrC	VERTREES SILT LOAM, 8% - 15%, VERY ROCKY	16.2	15.0%
VtB	VERTREES-ROCK OUTCROP COMPLEX, 3% - 8% SLOPES	3.6	3.0%
VtD	VERTREES-ROCK OUTCROP COMPLEX, 15% - 25% SLOPES	10.0	10.0%
TOTAL AOI		105.0	100.0%

**NOTES:**  
 AVERAGE SLOPE: 4.5%

**FLOODPLAIN**  
 PROPERTY IS NOT LOCATED IN A 100 YEAR FLOOD PLAIN AS PER F.I.R.M. FLOOD INSURANCE RATE MAP NUMBER 54037C0020E EFFECTIVE DATE 07/07/09.

**HIGHWAY PROBLEM AREAS**  
 THERE ARE NO KNOWN HIGHWAY PROBLEM AREAS WITHIN ONE MILE OF THE SITE. KEY INTERSECTION LOCATED ON C-CS.

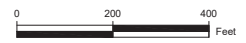
**SENSITIVE AREAS**  
 THERE ARE NO KNOWN SENSITIVE AREAS INCLUDING SINKHOLES, WETLANDS, STREAMS, AND SEVERE SLOPES WITHIN THE SCOPE OF THE PROJECT. DEVELOPMENT OF THE SITE WILL COMPLY WITH ALL APPLICABLE GUIDELINES AND STANDARDS FOR THE REUSE AND REDEVELOPMENT OF ENVIRONMENTALLY COMPROMISED SITES, AS ESTABLISHED BY THE W.V.D.E.P. AND THE E.P.A.

**HISTORICAL USE:**  
 FARM LAND/PASTURE  
 THERE ARE NO KNOWN EXISTING OR PROPOSED CEMETERIES OF HISTORIC STRUCTURES ON THE NATIONAL REGISTER WITHIN 100 FEET OF THE SITE.

**EXISTING SOIL DATA**  
 SOIL AND GEOLOGICAL DATA SOILS MAPPING HAS BEEN TAKEN FROM BERKELEY COUNTY, WEST VIRGINIA SOIL SURVEY BY THE NATIONAL CARTOGRAPHY CENTER AND GEOSPATIAL CENTER FORT WORTH TEXAS.

**LANDSCAPING**  
 LANDSCAPING DEPICTED IS FOR ILLUSTRATIVE PURPOSES AND ANY BUFFERING AND STREET TREES WILL BE SHOWN ON THE PRELIMINARY PLAT AS REQUIRED BY THE JEFFERSON COUNTY LANDSCAPE ORDINANCES.

LEGEND	
	EXISTING MAJOR CONTOUR
	EXISTING MINOR CONTOUR
	EXISTING PROPERTY
	ADJACENT PROPERTY
	EXISTING SOILS



REV/NO	DATE	DESCRIPTION	BY



**CHEAT ROAD ENGINEERING, INC.**  
 5011 MID ATLANTIC DRIVE  
 MORGANTOWN, WV 26508  
 PHONE: (304) 212-5480

**HUNTER HILLS SUBDIVISION**  
 DISTRICT: 07 MAP: M1 PARCEL: 2 DB: 1033 PG: 658  
 PROJECT NO: 21-016-100  
 DRAWING FILE:

DRAWN BY:	N. PERSINGER
CHECKED BY:	G. SEPP
SCALE:	1" = 200'
DATE:	April 21, 2021

**RESOURCE MAP**  
 SHEET NUMBER:  
**C-100**

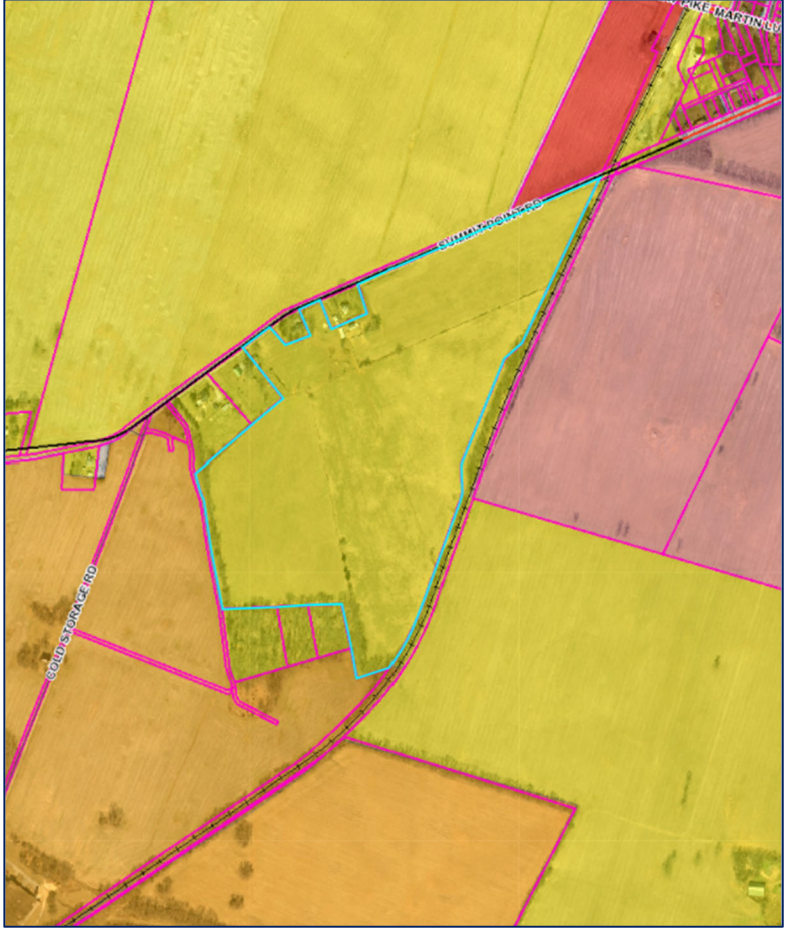




Staff Report  
 Jefferson County Planning Commission Meeting  
 September 14, 2021

**Milton’s Landing Waiver Requests (File #21-18-PCW)**

**Item # 10: Public Hearing:** Request by David Lutman/Lutman Land Development (File#: 21-18-PCW). Applicant is requesting a waiver from Section 24.113.B.10 of the Subdivision and Land Development Regulations to waive the Preliminary Plat requirement for an Archaeological Study.

Applicant	David Lutman/Lutman Land Development
Consultant	Paul J. Raco/P.J. Raco Consulting, LLC
Property Location & Information	<p style="text-align: center;">0.3 miles west of the Summit Point Rd/Washington St intersection          Charles Town (02); Map: 11; Parcel: 30 and 30.2          Size: 67.6+- acres ; Zoning District: Residential Growth</p> 
Adjacent Zoning Districts	<p><i>North:</i> Residential Growth/ General Commercial (CT)  <i>East:</i> Residential Growth/Residential-Light Industrial-Commercial (RLIC)  <i>South:</i> Residential Growth/Neighborhood Residential (CT)  <i>West:</i> Neighborhood Residential (CT)</p>
Proposed Activity	Milton’s Landing Major Subdivision consisting of 51 single family detached (including 1 existing home) on 67.6 +- acres to be served by on-lot well and septic systems.
Previous Approvals	<ul style="list-style-type: none"> <li>• 21-22-SD: Milton’s Landing Concept Plan (Approved 7/13/21)</li> <li>• 20-7-M: Boundary Line Adjustment Tax Map 11 Parcels 30/30.2 (PB26/PG180, 11/16/20)</li> <li>• 21-11-PCW: Waiver of Section 2.3.A.3 “Single Entrance Requirement” (Approved 7/13/21)</li> <li>• 21-12-PCW: Waiver of Section 22.206.B “Lots on &amp; Length of a Cul-de-sac” (Approved 7/13/21)</li> </ul>

Staff Report  
Jefferson County Planning Commission Meeting  
September 14, 2021  
**Milton's Landing Waiver Requests (File #21-18-PCW)**

**Site Background:**

The applicant has received approval for the Concept Plan for a Major Subdivision consisting of 51 single family detached (including 1 existing home) on 67.6+- acres to be served by on-lot well and septic systems. The Concept Plan was approved with the condition that a 10-foot sidewalk easement be provided along the frontage toward Charles Town. The applicant is requesting a waiver from Article 24, Section 24.113.B.10 which requires the submission of a Phase I Archeological Survey with the submission of a Preliminary Plat. The property is zoned Residential Growth and is processing as a Major Subdivision.

**Summary of the Request:**

The applicant has submitted a request to waive the Phase I Archaeological Study, which is required with the submission of a Preliminary Plat by Section 24.113.B.10 the Subdivision Regulations. At the Concept Plan submission, applicants are required to reach out to various outside agencies, including the Jefferson County Historic Landmarks Commission (HLC). At that time, the Jefferson County HLC did not note any concerns. Staff has noted that the existing home located on Parcel 30 is identified as a Category III structure under the County Landmarks system, which is a resource classified as having moderate importance. The applicant is requesting that this requirement be waived in light of the fact that there are no known resources on the property.

**Staff Comments:**

Staff understands that the requirement for a Phase I Archaeological Study in a County with as many historic resources as Jefferson County has the potential to identify previously unknown historic resources; however, lands which have historically been used for agricultural purposes have generally been so disturbed as to make it difficult to identify any new resources. The applicant has indicated that they will commit to notifying the County Historic Landmarks Commission and WV DEP if, during construction, any archaeological finds/remains are discovered.

**Staff Recommendation:**

Staff recommends that this waiver may be a reasonable request for this 51 rural lot subdivision with the requirement that the applicant will notify the County if any resources are found on site during development.

[Staff also recommends that the Planning Commission collaborate with the SHPO and Jefferson County HLC to amend this requirement to create a requirement that balances the cost of development with the anticipated results.]

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Staff Report  
Jefferson County Planning Commission Meeting  
September 14, 2021  
**Milton's Landing Waiver Requests (File #21-18-PCW)**

**Section of Regulations under Consideration:**

**Sec. 24.113 Major Subdivision Preliminary Plat - Application Submission and Completeness Review**

- B. Submission Contents. The submission shall contain the following elements in the number of copies indicated.
10. Historic Resource Preservation. A Phase I archaeological study is required. A historic resources impact study shall also be included.

**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.





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

File #: 21-18-PCW  
 Mtg Date: 9-14-21  
 Date Rec'd: 8-24-21  
 Fees Paid: 100.00  
 Staff Int: [Signature]  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: David Lutman  
 Business Name: Lutman Land Development  
 Mailing Address: 610 N Mildred Street, Charles Town, WV 25414  
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

**Applicant Contact Information**

Applicant Name: See Above and Below Same as owner:   
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Consultant Information**

Name:	<u>Paul J Raco</u>	<u>Chad Wallen</u>
Business Name:	<u>P.J. Raco Consulting, LLC</u>	<u>GORDON</u>
Mailing Address:	<u>P.O. Box 548 Charles Town, WV 25414</u>	<u>148 S Queen Street, Martinsburg, WV 25401</u>
Phone Number:	<u>304/676-8256</u>	Email: <u>pjraco.consulting@gmail.com</u>

**Physical Property Details**

Physical Address: 8554 Summit Point Road Vacant Lot:   
 Tax District: Charles Town Map No: 11 Parcel No: 30 and 30.2  
 Parcel Size: 1.54 Acres +- 67.6 acg Deed Book: 1259 1257 Page No: 181 209  
 Zoning District: Residential Growth 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?**

Article 24, Section 24.113.B.10 Archeological Survey

**Briefly Describe the Nature of Your Waiver Request:**

This provision has been waived consistently by the PC when requested since the requirement is not defined in the Ordinance. The provision requires a Archeological Study and Historic Resources Survey. The Staff, PC and Design Community have all agreed that the provision should be removed or better defined during the next amendments to the Ordinances. The Concept Plan was reviewed by the JC Historic Landmarks Commission and they provided no comment when the Concept Plan was approved by the Planning Commission. This appears to be an indication that there are no significant historic resources on the premises. Furthermore, with regard to the Archeological Study, the property has been farmed with the soil being disturbed over the years. That fact along with the Railroad that was constructed adjacent to the property would indicate that there are no significant Archeological remains. However, if during construction, any are uncovered, the Applicant will notify the Planning Staff and DEP if applicable.

*8/27/21 corrected acres per J Brockman.*

**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.**

This waiver will have no impact on the County maintenance. The Concept Plan was provided to the Parks and Recreation Commission and they had no comment. The houses constructed in the subdivision will provide Impact Fees and taxes for the benefit of the Parks, Emergency Services and Police.

**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.**

Again, the waiver will have no negative impact on the Public Health, Safety or Welfare of the neighbors. The Subdivision will meet all of the other standards of the ordinance. The provision that is being waived is a provision that is undefined and has no effect on the neighbors. The property was farmed, so if there were any archeological remains, most likely they would have already been uncovered. Also, the railroad was constructed next to the property which also disturbed the soils. If anything is unearthed during the construction phase, the County or appropriate State/Federal Agencies will be informed.

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

Staff, PC and Design Community all agree that the 'intent and purpose' of this provision is unclear and undefined. The provision has been routinely waived by all of the Major Subdivisions that have requested after the initial one processed. The Concept Plan was sent to DEP and JC HLC with no adverse comments submitted by these agencies/departments. The Applicant agrees to work with these agencies if, during construction, any archeological finds/remains are unearthed.

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

Currently, as written, the provision doesn't appear to link to any requirement in the Ordinance. There is no direction or instruction in the ordinance on how a study is conducted, what is contained in the study or what will be required if something is found. So, without further clarity in the provision, it is a provision that is costly with no apparent end requirement. The project was designed by a quality, Engineering Company with many and long time ties to Jefferson County Projects.

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.

\_\_\_\_\_  
Property Owner/Applicant Signature      Date

\_\_\_\_\_  
Property Owner/Applicant Signature      Date

**Notification Requirements**

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

\_\_\_\_\_  
Public Hearing Date

\_\_\_\_\_  
Date Placard Posted

\_\_\_\_\_  
Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**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

**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

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

See Attached

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

See Attached

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.



8-13-21

Property Owner/Applicant Signature

Date

Property Owner/Applicant Signature

Date

**Notification Requirements**

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

Public Hearing Date

Date Placard Posted

Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

Date: \_\_\_ / \_\_\_ / \_\_\_









# JEFFERSON COUNTY, WEST VIRGINIA

## Office of Planning and Zoning

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

P.O. Box 716

Charles Town, WV25414

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

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

Phone: (304) 728-3228

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### MEMO

**TO: Planning Commission**

**FROM: Alexandra Beaulieu, Zoning Administrator**

**DATE: September 8, 2021**

**RE: ZTA21-01, Short Term Rentals – 09-14-21 PC Meeting**

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On June 8, 2021, the Planning Commission heard two separate requests to draft an amendment to regulate short term rentals. One request focused on the need to allow short term rentals to occur on a daily basis and to allow more than six (6) unrelated guests in one rental. Another request focused on the need to develop a review process to regulate frequency and location of short term rentals to ensure that residential neighborhoods are protected.

The Planning Commission voted to include as part of their work plan an update to the Zoning Ordinance which would allow short term rentals and directed Staff to draft text that to allow short term rentals to process by right in the County.

#### **Current Ordinance**

Presently, the Ordinance defines Dwelling Unit as follows, “One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, **or rental or lease on a weekly, monthly, or longer basis, occupied by no more than one family**, and containing no more than one independent food preparation area together with facilities for sleeping and bathing.”

Based on this definition, a house or a room/rooms could be rented on a week-to-week basis and would still comply with the definition of dwelling unit.

In addition to the definition of Dwelling Unit listed above, the Ordinance includes provisions to allow Bed and Breakfast operations to be established in a single family dwelling unit by right in the Rural and Village zoning districts, **provided the property owner or a designated caretaker reside on premises while the bed and breakfast is occupied**. A Conditional Use Permit is required for Bed and Breakfast operations in the Residential Growth zoning district. A Bed and Breakfast is not permitted in the Residential-Light Industrial-Commercial (mixed use) zoning district.

Many short term rentals do not meet the definition of dwelling or Bed and Breakfast because property owners often prefer the option to rent the dwelling more frequently than on a weekly basis and do not typically reside on premises or have a designated caretaker residing on premises.

#### **Proposed Text**

The purpose of the proposed text amendment is to create provisions to allow a property owner to rent out an entire house in a residentially zoned area (e.g. Rural, Residential Growth, and/or Village zoning districts) more frequently than on a weekly basis. These types of home sharing / vacation rental options are often perceived as being non-residential in nature, due to the absence of a permanent/long term resident or host on premises.

### **Additional Information**

The Health Department provided a copy of a memo that was drafted by the Office of Environmental Health Services, which includes a summary of their permitting requirements (attached). Based on the memo, if the residence/facility is not the primary residence of the owner, then it is subject to Health Department approval as a lodging facility.

Other factors to consider during this amendment process include:

- Parking – is there sufficient off-street parking to ensure all visitors park on the rental property?
- Occupancy limits – presently, the definition of family includes, “A group of not more than six (6) unrelated persons living together and sharing living areas in a dwelling unit.” The subject text amendment proposes allowing an occupancy of up to two guests per bedroom.
- Traffic concerns should be addressed by the Division of Highways or if within a major subdivision, the Homeowners’ Association (note: the County does not own or have jurisdiction over any roads).
- Noise is regulated by the County’s noise ordinance and enforced by the Sheriff’s Department.

### **Comprehensive Plan**

As noted during the 06/08/21 Planning Commission meeting, the Comprehensive Plan includes several recommendations related to supporting the rural economy and the tourism industry. Members of the Planning Commission recognized that short term rentals may contribute to a successful tourism industry in the County.

Short Term Rentals may not be specifically addressed in the Envision Jefferson 2035 Comprehensive Plan; however, Section 2.C of the Comprehensive Plan is the Tourism Component and includes several recommendations to support the tourism industry. Recommendation 9 states, “Support and promote rural and recreational tourism to help achieve the County’s economic goals.”

Short term rentals can contribute to a successful tourism industry and support the local economy by offering rental options in some of the more quaint, rural areas of the county.

### **Attachments:**

- Excerpts from Envision Jefferson 2035 Comprehensive Plan RE: Tourism
- ZTA21-01, Short Term Rental Provisions DRAFT
- 02-03-2017, Office of Environmental Health Services Memo RE lodging facilities. \*Note, attachment referenced in memo was not included in transmittal from Health Department.
- American Planning Association PAS QuickNotes No. 56 – Regulating Short-Term Rentals
- Agenda packet items related to short term rentals submitted to the PC on 06/08/21.

## 2.C. Tourism

Jefferson County is the gateway to West Virginia from surrounding states and hosts the most visitors in the state of West Virginia. Direct spending related to tourism in Jefferson County approached \$1 billion in 2012, the highest in the state, with Kanawha County the next closest at \$650 million. Jefferson County's proximity to the Washington, D.C. and Baltimore, MD Metropolitan Areas and to the Eastern Seaboard offers a large market to target visitors interested in the many activities and attractions to be found here. Local tourism and recreational opportunities draw in visitors of all ages, unlike other communities whose tourism options might be appealing to only one demographic.

### **Cultural, Rural, Horse Racing, and Gaming Tourism**

Jefferson County has a wide range of activities for visitors, including recreational, heritage and cultural tourism, local and regionally known restaurants, farmers' markets, flea markets, motor sports, horse racing, gambling, music, theater, festivals, and arts events. The County's inventory of significant historical and architectural sites, historical towns and villages, outdoor recreational activities, natural landscapes, and outdoor amenities offer visitors a variety of meaningful and high quality experiences.

The success of the County's tourism industry depends on the preservation and enhancement of the County's rural character, specifically its natural greenspaces and cultural amenities. Many of the attractions that draw tourists to the County are located in areas where the combination of historic and geographic resources enhances the sense of place and provides an authentic rural experience. Among the attractions are the historic communities with their restaurants, specialty shops, festivals, farm markets or direct to consumers on-site farm sales; wayside stands; outdoor recreational activities, and special events such as farm and ghost tours. Market expansion in the County's tourism industry would boost these grassroots ventures.

Numerous artisans and performers call the County home. This is particularly true in the Shepherdstown area where Shepherd University has facilities and established programs, such as the internationally acclaimed American Contemporary Theatre Festival, now in its 26<sup>th</sup> year, and in Harpers Ferry with the annual Don Redman Jazz Heritage concert now in its 11<sup>th</sup> year. Local venues for both performing and visual arts include three theaters and over 40 cultural non-profits that collaborate to sponsor a variety of festivals, fairs, and events where artisans and performers can showcase their talents and wares. The performances, festivals, fairs, and historic and farm tours boost revenue in the County and support a variety of local retail establishments.

In 2012, the three counties in the Eastern Panhandle drew over \$601 million in gambling revenue, representing nearly 54% of all casino and slot revenue in West Virginia. Nearly all of this revenue can be attributed to the Hollywood Casino at Charles Town Races, which provides thoroughbred horse racing and gaming opportunities in the form of table games and slots. In terms of its financial impact, the

Casino is the largest tourism attraction in the County. While there has been robust growth at this facility up to 2012, the recent opening and expansion of gaming facilities located closer to the Washington, D.C. and Baltimore, MD areas has led to a reduction in gaming revenue locally. Nevertheless, the Hollywood Casino at Charles Town Races continues to be an important stakeholder in the community. Thoroughbred horse racing, including the WV Breeders' Classics, has been a critical part of the County's history and continues to be vital to the County's future. Additionally, plans have been announced to develop a 2,500 seat performance venue as a part of the Casino facility. There is also interest in the County for an outdoor entertainment venue or performance center, which could host such things as the National Symphony Orchestra and other music or theatre events.

### **Heritage Tourism**

Jefferson County has played a role in many of the milestones of our Country's history dating back to the era when nomadic Native American tribes hunted and lived in the Eastern Panhandle and proceeding to the founding of our nation. The family of George Washington established 12 estates in the County, eight of which remain, and 75 members of the Washington family are buried in Charles Town cemeteries. In addition, several generals from the Revolutionary War resided here.

Harpers Ferry was established during the Presidency of George Washington as one of only two U.S. Federal armories. The Lewis and Clark expedition, funded under President Thomas Jefferson and which precipitated the westward expansion, was outfitted at the Harpers Ferry Armory. Later, prior to the Civil War, John Brown in 1859 attacked Harpers Ferry with hopes of securing a major munitions stockpile that would lead to a spontaneous uprising by slaves. He was unsuccessful. Brown and several of his associates were captured, tried, and convicted at the Jefferson County Courthouse in Charles Town and hanged a few blocks away on what is now South Samuel Street.

Harpers Ferry and the rest of Jefferson County were critical during the Civil War as they served as a main rail corridor between the eastern and western theatres of the War. The strategic value of the site led to the area changing hands between Union and Confederate forces many times during the war. Over 12,000 Union troops garrisoned at Harpers Ferry surrendered while under attack from Confederate forces led by General Stonewall Jackson. This was the largest surrender of troops on American soil. Without that surrender, the bloodiest battle of the Civil War, Antietam, may have never occurred. The battlefield at Shepherdstown has recently been studied by the National Park Service and was determined to have played an important role in the end stages of the battle of Antietam. In addition Jefferson County served as a staging area during the Shenandoah Valley campaign, which included battlefield sites at Summit Point and Middleway.

Harpers Ferry played a significant role in the African American community after the Civil War, with the establishment of what eventually became Storer College in 1865 as

one of the first public institutions of education for former slaves. Harpers Ferry was also the site of the second meeting of the Niagara Movement in 1906, which eventually led to the founding of the NAACP. Today, the town of Harpers Ferry is surrounded by the Harpers Ferry National Historical Park, a 3.7 square mile area with numerous rehabilitated and rebuilt structures dating from the Civil War era.

Charles Town played a role after the turn of the 20<sup>th</sup> century when the treason trials for coal miners affiliated with the United Mine Workers' West Virginia Coal Mine Wars were held at the same courthouse where John Brown's treason trial was held about 70 years earlier. The acquittal of the mine workers in 1922 was the culmination of two decades of strikes, gunfights, assassinations, and violence over working conditions that occurred in the southern coal fields of West Virginia.

Jefferson County is also a part of a larger historical and cultural landscape known as The Journey Through Hallowed Ground National Heritage Area, a 180-mile long, 75-mile wide area stretching from Gettysburg, PA to Monticello in Charlottesville, VA.

### **Recreational Tourism**

The County is home to a variety of outdoor recreational opportunities for visitors, such as fishing, hunting, hiking, bicycling, auto racing, a wide range of river activities, and other outdoor adventure activities.

Jefferson County is adjacent to the conjunction of two national trails. The first trail is the Appalachian National Scenic Trail, a 2,160-mile long footpath extending from Maine to Georgia, with Harpers Ferry at the midpoint. Additionally, the Chesapeake and Ohio (C&O) Canal National Historical Park, a linear bicycle and walking trail extending from Washington, D.C. to Cumberland, MD is accessible from Jefferson County near Harpers Ferry and Shepherdstown.

Outdoor recreation complements the County's natural, cultural, and built environments. It is anticipated that recreational tourism opportunities in Jefferson County will continue to expand in the coming years. This is particularly true in areas near the Potomac and Shenandoah Rivers, where the numerous outfitters and private outdoor recreation providers in the region are expanding their offerings to visitors and residents. The type and scale of new recreational development should be appropriate to the rural nature of Jefferson County.

The following recommendations support the expansion and enhancement of a variety of tourism activities in Jefferson County.

<b>Tourism Recommendations (Goal 9)</b>	
<b>1.</b>	Create a unique “brand” for the County for all promotional and marketing materials.
	<b>a.</b> Increase awareness of public and private recreational opportunities that are available to visitors and residents of Jefferson County.
	<b>b.</b> Coordinate with the Jefferson County Convention and Visitors Bureau (CVB) to maintain and promote a community calendar.
<b>2.</b>	Develop a robust arts and culture program in Jefferson County by identifying and utilizing a range of public and private funding sources.
<b>3.</b>	Create additional opportunities for arts, cultural, and heritage tourism programs and facilities in Jefferson County.
<b>4.</b>	Establish plans and funding strategies for a county cultural arts center that will incorporate a variety of facilities including studios, galleries, multiple performance spaces, educational and training facilities, and gathering areas.
<b>5.</b>	Use historic and agricultural structures to support tourism for traditional and non-traditional functions that promote preservation of cultural landscapes.
<b>6.</b>	Create a public art program that would encourage the installation of locally produced art in publicly owned facilities and sites.
<b>7.</b>	Coordinate with various local and regional heritage tourism entities to create a trail that connects historic and battlefield sites located in the County and neighboring counties and states.
	<b>a.</b> Collaborate with the Journey Through Hallowed Ground or the Canal Towns Partnership’s efforts.
<b>8.</b>	Coordinate with riverside property owners and river tourism service providers to identify and implement methods that would enhance recreation options along the County’s waterways, including public river access.
	<b>a.</b> When considering additional river recreation activities, rural landowners’ property rights and the quality of life of the individuals and families living along the waterways should be factored into proposed development plans.
	<b>b.</b> Encourage all river recreation activities to occur in a manner which supports the Chesapeake Bay Initiative.
<b>9.</b>	Support and promote rural and recreational tourism to help achieve the County’s economic goals.
<b>10.</b>	Use multi-media technologies to promote tourism, including tourist businesses and the tourism efforts of the incorporated Towns.
<b>11.</b>	Continue to support the Jefferson County Fair and encourage the continued upgrading of fair facilities.

**Article 2 – Definitions**

Short Term Rental – a dwelling unit intended to provide overnight accommodations to guests for periods of less than seven (7) consecutive days. Occupancy shall be limited to not more than two (2) guests/occupants per bedroom.

**Article 8 – Section 8.16 – Short Term Rentals**

A short term rental is permitted anywhere a single family dwelling is permitted. A short term rental shall have no more effect on adjacent properties than a typical residential use. All parking shall be off-street.

A short term rental shall not operate as a special event facility (unless approval through the special event facility provisions is granted) including large gatherings such as family reunions, birthday parties, weddings, business meetings, or other similar gatherings which may include additional guests who are not included in the overnight stay.

All short term rentals shall obtain a Zoning Certificate to reflect compliance with the standards established herein. A sketch depicting that sufficient off-street parking exists for the maximum number of occupants shall be included. One sign not exceeding four (4) square feet in area, may be permitted and shall be included as part of the zoning certificate application. Additionally, as part of the Zoning Certificate application, documentation reflecting approval from the Health Department shall be submitted, if such approval is required by said agency.

Jefferson County shall not enforce or become involved in the enforcement of deed restrictions, covenants, easements, or any other private agreement. It is the responsibility of the property owner to research any private covenants or restrictions relating to the subject property which may be enforced by the parties to the restriction.



<u>Short Term Rental</u> <sup>41</sup>	<u>A dwelling unit intended to provide overnight accommodations to guests for periods of less than seven (7) consecutive days. Occupancy shall be limited to not more than two (2) guests/occupants per bedroom.</u>
Shrub, Evergreen	A low growing, usually several stemmed, woody plant which has foliage that remains green and functional through more than one growing season.
Sign	Any object, device display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.
Sign, Animated	A sign with action or motion, flashing lights, or color change requiring electrical energy, electronic, or manufactured sources of supply, but not including wind actuated elements such as flags, banners, or pennants.
Sign, Billboard <sup>36</sup>	A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located.
Sign, Attached Business <sup>36</sup>	A sign attached to a building/structure which directs attention to a business or profession or to a commodity, service, or entertainment sold or offered upon the premises where the sign is located.
Sign, Electronic <sup>36</sup>	A sign utilizing lights that change to form a static message or graphic wherein the sequence of messages and rate of change is electronically programmed.
Sign, Freestanding Business <sup>36</sup>	A sign supported by a permanent structure, other than a building, that is affixed to the earth and placed on the same parcel of land on which the business commodity, service, or entertainment advertised by the sign is located.
Sign, Inflatable <sup>36</sup>	Any display capable of being expanded by air or other gas and used on a temporary or permanent basis to advertise a product or event.
Sign, Off Premises <sup>36</sup>	A sign structure which directs attention to a business, commodity, service, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located.
Sign, Pylon <sup>36</sup>	A sign which advertises more than one land use on the premises where the sign is located.
Sign, Vehicle	A sign or advertising device which is painted, mounted, affixed or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisements of products and services or directing people to a business or service or other activity on or off the premises or public right-of-way where such vehicle sign is located. This does not include identification signs on vehicles which are moved regularly and used in the normal, day-to-day operation of the business.

- B. An “Accessory Agricultural Dwelling Unit” for agricultural purposes is defined as a dwelling unit that is incidental and subordinate to the principal dwelling unit, which is located on the same lot as the principal building and meets all of the following criteria:<sup>32</sup>
- (a) is secondary in size to the principal dwelling unit, limited in size to a maximum of 1,700 heated square feet, gross floor area;<sup>32</sup>
  - (b) is located on a property for which the primary use is an agricultural use as defined by this ordinance;
  - (c) is located on a property of at least ten acres in area;
  - (d) is limited to use by a person (and family) who performs agricultural work on the property or acts as a caretaker for the property; and
  - (e) is approved by the Health Department.<sup>32</sup>

One of each type of Accessory Dwelling Unit as defined in this section may be permitted administratively for each property meeting the criteria of Section 8.15 on the effective date of this Amendment. Additional units may be permitted by Special Exception in accordance with Section 6.5.<sup>32, 35</sup>

RVs are prohibited as Accessory Dwelling Units.<sup>32</sup>

#### **Section 8.16 ~~Reserved~~<sup>32</sup> Short Term Rentals<sup>41</sup>**

A short term rental is permitted anywhere a single family dwelling is permitted. A short term rental shall have no more effect on adjacent properties than a typical residential use. All parking shall be off-street.

A short term rental shall not operate as a special event facility (unless approval through the special event facility provisions is granted) including large gatherings such as family reunions, birthday parties, weddings, business meetings, or other similar gatherings which may include additional guests who are not included in the overnight stay.

All short term rentals shall obtain a Zoning Certificate to reflect compliance with the standards established herein. A sketch depicting that sufficient off-street parking exists for the maximum number of occupants shall be included. One sign, not exceeding four (4) square feet in area, may be permitted and shall be included as part of the zoning certificate application. Additionally, as part of the Zoning Certificate application, documentation reflecting approval from the Health Department shall be submitted, if such approval is required by said agency.

Jefferson County shall not enforce or become involved in the enforcement of deed restrictions, covenants, easements, or any other private agreement. It is the responsibility of the property owner to research any private covenants or restrictions relating to the subject property which may be enforced by the parties to the restriction.

#### **Section 8.17 Campgrounds<sup>31</sup>**

Campground facilities provide tourism related accommodations for visitors of Jefferson County. The level of amenities at these facilities can vary greatly in relation to the type of camping facility proposed. Campground facilities may include both commercial and non-profit operations. Campgrounds are identified as Principal Permitted Uses in Appendix C in the General Commercial (GC), Residential-Light Industrial-Commercial (RLIC), Industrial-Commercial (IC), and Rural (R) zoning districts.

- A. The following uses are identified as permitted uses within a campground:

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses continued</b>													<b>Sec. 8.9</b>
Bar	P	P	P	P	NP	P	P	NP	NP	P	P	CU	
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	CU	CU	P	P	P	
Bed and Breakfast	P	NP	NP	NP	NP	NP	NP	P	CU	<del>NPP</del>	NP	P	Sec. 8.3
Brewpub	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.5
Business Equipment Sales and Service	CU	P	P	P	CU	P	P	CU	CU	P	P	CU	
Building Maintenance Services	CU	P	P	P	P	P	P	CU	CU	P	P	CU	
Building Materials and Supplies	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Campground <sup>31</sup>	CU	P	NP	NP	NP	P	NP	P	CU	P	P	CU	Sec. 8.17
Car Wash	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Commercial Blood Plasma Center	NP	P	P	P	NP	CU	CU	CU	CU	CU	P	CU	
Commercial Uses	NP	NP	NP	NP	NP	NP	NP	NP	**	P	P	CU	Sec. 8.9
Contractor with No Outdoor Storage	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Contractor with Outdoor Storage	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Convenience Store, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Convenience Store	CU	P	P	P	CU	P	NP	CU	CU	CU	P	CU	Sec. 5.8C (RLIC only)
Country Inn	P	P	P	P	NP	P	P	CU	CU	P	P	P	
Crematorium, Pet <sup>37</sup>	NP	P	NP	P	NP	NP	NP	P	NP	P	P	CU	Sec. 8.19
Custom Manufacturing	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Facility	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Exterminating Services	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Florist	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Food Preparation	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Hotel/Motel	NP	P	P	P	NP	P	P	CU	CU	P	P	CU	
Gambling Facilities	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	CU	Sec. 4.4G
Gas Station, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Gas Station	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Gas Station, Large	NP	CU	P	P	CU	CU	CU	CU	CU	P	P	CU	
Golf Course	NP	P	P	P	NP	P	P	CU	CU	P	P	CU	
Grocery Store	P	P	P	P	CU	P	NP	CU	CU	P	P	CU	
Horse Racing Facility	NP	NP	NP	P	NP	NP	NP	CU	CU	P	P	CU	
Kennel	NP	P	P	P	CU	P	P	P	CU	P	P	CU	Sec. 8.4
Medical/Dental/Optical Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Medical/Dental/Optical Office	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Mobile Home, Boat and Trailer Sales	NP	P	P	P	CU	P	NP	CU	CU	CU	P	CU	
Movie Theater	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Nightclub	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Non Profit Commercial Uses	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Non-Profit Community Centers	P	P	P	P	CU	P	CU	P	CU	P	P	CU	
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Pawn Shop Services	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Personal Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Professional Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Professional Office	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant, Fast Food, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant, Fast Food	CU	P	P	P	CU	P	P	CU	CU	CU	P	CU	
Restaurant, Fast Food, Drive-Through <sup>40</sup>	NP	P	P	P	CU	CU	P	CU	CU	P	P	CU	

Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses continued</b>													<b>Sec. 8.9</b>
Restaurant	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Retail Sales Limited	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Retail Sales and Services, General	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Retail Store, Large	NP	CU	P	CU	NP	CU	NP	CU	CU	CU	CU	CU	
Shipping and Mailing Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
<u>Short Term Rental<sup>41</sup></u>	<u>CU</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>Sec. 8.16</u>
Special Event Facility	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.14
Storage, Commercial	NP	P	P	P	CU	P	NP	CU	CU	P	P	CU	
Veterinary Services	P	P	P	P	CU	P	P	P	CU	P	P	CU	
Wireless Telecommunications Facilities	P	P	P	P	P	P	P	P	P	P	P	P	Art. 4B
<b>Agricultural Uses*</b>													
Agricultural Uses, as defined in Article 2	P	P	P	P	P	P	P	P	P	P	P	P	
Agricultural Repair Center	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P	
Crematorium, Livestock <sup>37</sup>	CU	CU	CU	CU	CU	CU	CU	P	CU	CU	CU	CU	Sec. 8.19
Farm Brewery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Winery or Distillery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Market	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P	
Farmer's Market	P	P	P	NP	NP	P	NP	P	CU	P	NP	CU	Sec. 8.6
Feed and/or Farm Supply Center	CU	P	P	P	P	P	P	P	CU	P	P	NP	
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	CU	P	P	NP	
Landscaping Business	P	P	P	P	P	P	P	P	CU	P	P	NP	
Rental of Existing Farm Building for Commercial Storage Structure must have existed for 5 years	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Special Event Facility, Agricultural	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.14
<b>Accessory Uses</b>													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

NC Neighborhood Commercial

GC General Commercial

HC Highway Commercial

LI Light Industrial

MI Major Industrial

PND Planned Neighborhood Development

P Permitted Uses

NP Not Permitted Uses

CU Conditional Uses (subject to requirements of district and/or other requirements of this Ordinance)

\*\* Accessory Use to a planned residential community, if permitted pursuant to Section 5.4 and processed as a CU

<sup>1</sup> The Planning Commission may amend the permitted uses for a development in the PND District per Article 5.

<sup>2</sup> Approval process is per the Salvage Yard Ordinance.

OC Office / Commercial Mixed-Use

R Rural

RG Residential Growth District

RLIC Residential-Light Industrial-Commercial District

IC Industrial-Commercial District

V Village District

**Alexandra Beaulieu**


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**From:** Beach, Gillian R  
**Sent:** Friday, August 6, 2021 3:17 PM  
**To:** Alexandra Beaulieu  
**Subject:** Re: Short Term Rentals  
**Attachments:** Air B&B Memo.pdf

Office of Environmental Health Services had to get legal interpretations of our regulations and whether air b and bs and other similar short term rentals met the definition of a lodging facility. The interpretation was that if the residence/facility is not the primary residence of the owner, then it is subject to our regulations because it does meet the definition of a lodging facility. If it is the primary residence of the owner and they provide short term lodging AND at least one meal they are also subject to our general sanitation regulations. I have attached a memo from OEHS regarding this decision.

**Gillian Beach, R.S.**

Acting Administrator, Environmental Health Manager  
Jefferson County Health Department  
1948 Wiltshire Rd. Suite 1  
Kearneysville, WV 25430  
(304) 728-8416 ext 3033

	<b>West Virginia Department of Health and Human Resources</b>				
	<b>MANUAL OF ENVIRONMENTAL HEALTH PROCEDURES</b>				
Section	Housing and Institutions	Date	February 3, 2017	Procedure #	<b>H-25</b>
Subject	Guidelines for Permitting and Inspecting Accommodations Made Through Lodging Reservation Web Sites			Page	1 of 1

Attached hereto is a copy of an [Interoffice Memorandum](#) sent to Walt Ivey, Director, OEHS, from Brian J. Skinner, General Counsel. The Memorandum addresses the question of whether persons who list or rent short-term lodging in residential properties with the cost of such accommodation set by the property owner, to others using lodging reservation web sites (*i.e.* Airbnb, Inc.) are subject to the permit and inspection requirements of WV 64CSR18 (General Sanitation).

Legal Counsel’s opinion is, “the language of the General Sanitation rule is circumscribed and cannot be read to include in the definition of a "lodging facility" persons who are providing accommodations, *in their home*, to others for a fee.”

Also, “... as currently promulgated, the General Sanitation rule cannot be read to include in the definition of a "bed and breakfast inn" persons who are providing accommodations to others in their home for a fee, unless the host not only provides sleeping accommodations, but also a breakfast. However persons renting a house or apartment *that is not their residence* may be subject to the provisions of the General Sanitation rule, but only if the house or residence meets one of the definitions included in the general definition of a "lodging facility.”

Questions concerning this memorandum should be directed to Walt Ivey, Director, Office of Environmental Health Services, 350 Capitol Street, Room 313 Charleston, WV 25301-1798, telephone: (304) 558-2981.

References

History

Attachments November 9, 2016 Interoffice Memorandum sent from Brian J. Skinner, General Counsel to Walt Ivey, Director, Office of Environmental Health Services

# QUICKNOTES

## Regulating Short-Term Rentals

The concept of renting rooms or homes on a short-term basis is not new. Many cities have boarding houses that rent rooms by the week or month, just as many small towns and rural areas host bed and breakfasts. And in some tourist hotspots, dedicated vacation rentals are common. However, new online services that facilitate short-term rentals have led to a rapid proliferation of home sharing as an alternative to more traditional visitor lodging arrangements in communities across the country. In many places, this trend has sparked debates about whether or not new regulatory or enforcement mechanisms are necessary to mitigate potential effects on host communities. While different localities are likely to draw varying conclusions about the necessity of new standards or procedures, the following sections provide some context and recommendations for local policy.

### Background

In many communities, home sharing is one facet of a larger trend commonly referred to as the “sharing economy.” This phrase often encompasses a wide range of transactions mediated by websites or mobile technology related to sharing property or services. Because home sharing has the potential to change the character of established residential areas, many communities are taking a closer look at how best to accommodate the demand for new types of lodging without undermining goals related to housing, land use, or transportation.

There are three basic varieties of short-term rentals: (1) hosted sharing, where the primary occupants of a residence remain on-site with guests; (2) unhosted sharing, where the primary occupants of a residence vacate the unit while it is rented to short-term guests; and (3) dedicated vacation rentals, where there are no primary occupants. Home sharing and vacation rental services can provide residents and landlords an easy way to make some extra income and, in some cases, offering residences exclusively as short-term rentals can be far more lucrative than traditional leases. Meanwhile, the properties marketed through home sharing and vacation rental sites often appeal to travelers looking for a more authentic local experience or affordable alternatives to downtown hotels and motels.

For communities with a mature short-term rental market, new regulations or enforcement mechanisms may seem unnecessary. Many of these cities and counties either already have standards and procedures addressing short-term rentals on the books or have decided, based on experience, that such provisions are unnecessary. Similarly, communities with an abundance of affordable rental housing and relatively inelastic demand for conventional short-term lodging space may not feel the need to add new standards or procedures to their codes. This is because home sharing is unlikely to create housing shortages or provide direct competition for hotels and motels. However, in places with a surge in home sharing combined with a shortage of affordable rental housing or unmet demand for rooms in hotels or motels, new standards and procedures may be appropriate.

### Clarify Use Definitions

Many localities explicitly prohibit the rental of rooms or dwelling units for periods shorter than one month, unless owners comply with all applicable local regulations for boarding houses, hotels, motels, or bed and breakfasts. Meanwhile, many other cities and counties explicitly permit the short-term rental of dwelling units, subject to specific operational or location restrictions. However, few localities address short-term rentals in instances where a unit is occupied as a primary residence for the majority of the year. Often this means hosted or unhosted home sharing is either explicitly or implicitly prohibited. Given the prevalence of home sharing, it may make sense to consider adding new definitions for different types of sharing situations, such as hosted or unhosted accessory home sharing and vacation rentals as a primary use.



*In some communities with especially high demand for short-term rentals, landlords may be tempted to take units out of the long-term rental market.*



**American Planning Association**

*Making Great Communities Happen*

## Identify Appropriate Locations

Some cities and counties with mature short-term rental markets permit full-time sharing in zoning districts that include a mix of primary residences and vacation rentals. Others restrict vacation rentals to tourist-oriented districts. One potential risk of permitting home sharing in residential districts is that it may incentivize landlords to take rental properties off the market, creating a shortage of affordable rental housing. Another potential risk is that frequent unhosted sharing and vacation rentals may lead to increased complaints related to noise, traffic, or parking. In areas with high concentrations of home-sharing or vacation rentals, there is also a chance that the fundamental character may change from residential to quasi-commercial.

## Consider New Zoning or Licensing Standards

While some cities and counties have elected to explicitly prohibit home sharing altogether, several others have made recent code amendments to accommodate short-term rentals in residential districts, subject to specific zoning or licensing standards intended to mitigate community impacts. These standards address topics such as registration and record keeping, advertising, fees or taxes, annual limits on the total number of short-term rental nights, spatial concentration, inspections, and insurance coverage.

For example, San Francisco prohibits dedicated vacation rentals and requires residents or landlords to register all hosted and unhosted short-term rental units. It limits unhosted rentals to 90 days per year and requires registrants to pay hotel taxes and carry liability insurance for claims up to \$500,000 (§41A.5.g).

Meanwhile, Portland, Oregon, recently added new standards for accessory short-term rentals to address hosted and unhosted home sharing. For units where no more than two bedrooms are offered as short-term rentals, residents or landlords must obtain an administrative permit and limit unhosted sharing to a maximum of 95 days per year. Accessory short-term rentals offering more than two bedrooms are subject to a conditional use approval process. In both cases, no more than 25 percent of units in multifamily buildings can be used as short-term rentals (§33.207).

In Aspen, Colorado, short-term vacation rentals are permitted by right in most residential districts, provided owners obtain a business license and a vacation rental permit, designate a local property manager, notify any affected home owners association, and pay sales and lodging taxes (§26.575.220).

## Evaluate Enforcement Alternatives

Without data from home-sharing and vacation rental services, communities may be dependent on complaint-driven enforcement of regulations for short-term rentals. Instead, cities and counties may find it beneficial to establish a proactive enforcement system to ensure that registered properties are complying with applicable standards. This may involve routine monitoring of listings on home-sharing service websites. In communities with short-term rental regulations, violators are typically subject to fines or the revocation of registrations or permits.

## Summary

Home-sharing and vacation rental services are growing trends that show no sign of slowing down. While some communities may ultimately decide that short-term rentals do not have a place in established residential districts, there may be no effective enforcement mechanism for a blanket prohibition. Practically speaking, the key is making regulations that are clear, easily enforced, and do not make residents or landlords out to be scofflaws unnecessarily.

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## FURTHER READING

### 1. Published by the American Planning Association

Hutchinson, Nate. 2002. "Short-Term Vacation Rentals: Residential or Commercial Use?" *Zoning News*, March.

### 2. Other Resources

*City Policies for Short-Term Rentals*. 2015. Oakland, California: Sustainable Economies Law Center. Available at [theselc.org/str\\_discussion](http://theselc.org/str_discussion).

Garvin, Elizabeth. 2015. "RMLUI Corner: Thinking About Regulating the Sharing Economy." *Western Planner*, February. Available at <http://tinyurl.com/q4x3zfq>.

National Association of Realtors. 2015. "Field Guide to Short-Term Rental Restrictions." Available at <http://tinyurl.com/pxcdwvc>.

**Agenda Item #5**

Requests for the Planning Commission to consider incorporating within their work plan two possible text amendments to the Zoning and Land Development Ordinance (Discussion / Possible Action):

- A. Consider developing provisions for short term rentals.
  - i. Request from Amy Bowman, landowner
  - ii. Request from Chris Rife, landowner
- B. Consider reducing the setback requirements for lots in the Residential Growth zoning district.
  - i. Request from the Board of Zoning Appeals

## Zoning

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**From:** Amy Bowman <amywrites@yahoo.com>  
**Sent:** Monday, May 17, 2021 2:59 PM  
**To:** Zoning  
**Subject:** Request for Text Amendment to Zoning and Land Development Ordinances

Alex:

I am writing to request a text amendment of definitions found on pages 23-23 of the Jefferson County Zoning and Land Development Ordinances that would allow more than one guest stay per week in a short-term rental and to increase the occupancy to include more than six unrelated persons..

**Dwelling Unit** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a **daily**, weekly, monthly, or longer basis, occupied by no more than one family **except in the case of a short-term rental**, and containing no more than one independent food preparation area together with facilities for sleeping and bathing.

To add a **daily** as a rental option and add "**except in the case of a short-term rental**" to accommodate unrelated tourists traveling together.

**Dwelling, Single Family** Detached building containing not more than one dwelling unit and not occupied by more than one family **except in the case of a short-term rental**. A Single Family Dwelling shall include modular, manufactured and mobile homes as defined herein.

Add "**except in the case of a short-term rental**" to accommodate unrelated tourists traveling together.

**Family** Any of the following cases constitutes a family: A. An individual; or B. Two (2) or more persons related by blood, marriage or adoption, or under approved foster care; or C. A group of not more than six (6) unrelated persons living together and sharing living areas in a dwelling unit **except in the case of a short-term rental**; or D. A group of persons occupying a dwelling unit meeting the definition of a Residential Care Home.

Add "**except in the case of a short-term rental**" to accommodate more than six (6) unrelated tourists traveling together.

Thank you for your assistance today. I will be in touch tomorrow morning to follow-up.

Amy Bowman  
202-271-1688

**Short-term Rental Text Amendment Statement of Consistency with Comprehensive Plan**

Historic and heritage tourism is a significant element of Jefferson County's economy. In the county's Envision Jefferson 2035 Comprehensive Plan and in its Vision Statement, tourism is an essential part the area's economic viability. From the Comprehensive Plan: "There is a well-diversified economic base of manufacturing, services, government, tourism, and agriculture that is not reliant on any single business type."

The proposed text amendment will clarify the county's ordinances to take full advantage of the short-term rental (STR) market by defining the ability of hosts to rent to tourists on a daily basis and to increase the number of unrelated guests allowed to vacation together.

**Leveraging rural landscapes to the county's economic advantage:** According to the Comprehensive Plan, "There must be a viable rural economy to maintain the rural landscape." Many of the county's STR's are located in unincorporated areas or areas zoned rural. A diversified rural economy includes more than traditional farming and agriculture. Tourism and short-term rentals play an important role in maintaining the economies of rural communities.

Travelers from around the world recognize Jefferson County as a hidden vacation destination. Accessible, affordable, beautiful, historical—it checks all the right boxes for modern travelers.

**Regional economic stimulus:** Tourists have proved a welcome source of economic stimulus for communities across the state. In 2018 roughly 900 home-sharing hosts in West Virginia brought in a combined \$10 million in supplemental income. Those numbers have increased steadily year-by-year. In 2019, for example, the annual market growth rate for STR's was 6.9 percent. Post-Covid trends see an increased interest in rural tourism--59 percent of families are more likely to drive instead of fly on their next trip, industry specialists project a return to a roughly 7.0 percent annual industry growth rate. Cabins have increased in popularity by 80 percent. By accepting the proposed text amendment, Jefferson County will be positioned to take advantage of these favorable trends.

**A guaranteed source of revenue for local communities:** Homes used as whole-house STR's are not eligible for the Homestead Exemption and are taxed at a higher rate, bringing in additional real estate tax to the county.

Guests who stay in STR's shop and eat in the county generating much needed revenue for small businesses and tax receipts for the county.

All STR's are required to pay Jefferson County's Hotel Occupancy Tax and remit a 6 percent monthly tax on all stays. In the future, tax collection on the local level will be administered by STR platforms, such as AirBnB and VRBO, taking away uncertainty in collections. West Virginia lawmakers have passed Senate Bill 163, aimed at enforcing the collection of lodging tax from

short-term rental units, such as those offered through the Airbnb online platform.

Officials have projected that the proposed law change contained in Bill 163 would generate thousands of dollars in additional lodging-tax revenue for Eastern Panhandle tourism promotion, parks and recreation, and cultural initiatives.

West Virginia is close to final action on S.B. 163 or similar legislation, which would bring rental marketplaces into the states's marketplace facilitator law with respect to local occupancy taxes.

**Keeping good-paying jobs local:** Lodging dedicated to STR employs local repairmen, painters, gardeners, housekeepers, property managers, and other service providers.

**How STR fits with the county's goals and objectives:**

Goal #6: Encourage the Growth of Jefferson County's Economy and Enable the Creation of High Quality Jobs within the County.

Objective #1: In coordination with the Jefferson County Development Authority (JCDA) and other agencies, work to build and expand existing local businesses and to enable the start-up of new businesses within Jefferson County.

*STR's are small businesses. Many Jefferson County residents are full-time hosts, others supplement retirement income, or use funds for property improvements.*

Objective #5: Provide opportunities to engage local employers with the existing local workforce to enable county residents to work locally.

*STR hosts are employers. We hire local handymen, housekeepers, gardeners, and other service providers.*

Goal #9: Preserve, Promote and Enhance Components of Jefferson County's Natural, Cultural, Built, Historic, Recreational, and Rural Environments that Encourage Tourism.

Objective #1: Collaborate with the Jefferson Arts Council (JAC), Historic Landmarks Commission (HLC), Jefferson County Convention and Visitors Bureau (JCCVB), and other organizations in the creation of a long-range cultural tourism and management plan.

*STR's are an important part of any long-term tourism plan because they can uniquely meet the increasing demand for more and larger tourist accommodations.*

Objective #3: Protect and enhance the viability of natural, cultural, and built environments within Jefferson County while allowing recreational and tourism opportunities.

*Many STR hosts have completed renovations, small and large, of existing structures to provide a welcoming visitor experience.*

STR's are the golden goose, especially in these uncertain, upside-down financial times.

Throttling the goose is not only an economic loser. but a shortsighted cause with untold ripple effects.

Submitted by Amy Bowman  
Resident of Shepherdstown, WV  
Phone: 202-271-1688  
Email: amywrites@yahoo.com  
Address: P.O. Box 835, Shepherdstown, WV 25443

Proposed New Text for Jefferson County Planning and Zoning Ordinances  
June 1, 2021

**Proposed Additional Ordinance/Definitions:**

**A: Proposed Addition: Short-Term Residential Rental (STR)**

- a) A Short-Term Residential Rental (STR) means the commercial use, or the making available for commercial use, of a residential dwelling unit for dwelling, lodging, or sleeping purposes, wherein any individual guest rents or occupies the entire dwelling unit or one or more individual rooms within the unit for a period of less than thirty-one (31) consecutive calendar days.
- b) A separation requirement of one thousand (1,000) feet between an STR and any other STR or bed and breakfast (B&B) in rurally zoned areas
- c) STRs need to comply with the same ADA accommodations that are required for B&Bs.

**Rationale for Short-Term Residential Rental inclusion and how it is consistent with the 2035**

**Comprehensive Plan:** The Envision Jefferson 2035 Comprehensive Plan focuses on the following areas: affordable housing, growth in urban and preferred growth areas, preservation of rural land use.

- 1) Without regulations and clarity on short-term residential rentals (STRs) the rise of STRs could limit available long-term housing with the county like what was seen in Lancaster County Pennsylvania.
  - a) "While the cost of housing in Jefferson County may be lower than much of the Washington, D.C. and Baltimore, MD Metropolitan Areas, other counties in the Eastern Panhandle are more affordable. However, when considering the cost associated with commuting, including lost time and automotive expenses, home buyers relocating to Jefferson County have been willing to pay slightly more to be closer to their place of employment. A factor that can be difficult to quantify is what prospective buyers are willing to pay to have the quality of life that can be found within Jefferson County. While these factors are subjective, those who have decided to buy in Jefferson County rather than other Eastern Panhandle communities have cited the quality of life found in Jefferson County. Reasons cited tend to be a perception that Jefferson County is less congested, has an attractive rural and historical character and that local land use regulations assure homeowners that one of their greatest financial investments, their home, is protected." Page 54 of Envision Jefferson 2035 Comprehensive Plan
- 2) The rise of STRs will also further the decline of affording housing within Jefferson County.
  - a) "A review of housing prices in Jefferson County indicates that a variety of owner-occupied housing options are available to families making between 80% to 120% of the median household income for the County (\$62,418/year); however, options are greatly reduced when compared to the median wages for individuals employed in Jefferson County (\$35,620/year). Additionally, rental options for those making a 100% or a 120% of the median wages are limited to studio, one bedroom and two-bedroom rental units in the County. The affordability of rental or owner-occupied housing in Jefferson County for three or more-bedroom homes is difficult for someone making as much as 120% of the County's median wages for individuals, based on HUD standards. On the other hand, there are some options for affordable rental housing available to low to moderate income residents if they qualify for subsidized rents." Page 56 of Envision Jefferson 2035 Comprehensive Plan
- 3) By limited the number of STRs within rural areas, it preserves the quality of life and rural lifestyle for current and future property owners.
  - a) "Rural Land Use One of the highest priorities of the Envision Jefferson 2035 Steering Committee and the public was the desire to preserve the rural landscapes, heritage, and lifestyle that

attracted many residents to Jefferson County. Comments were received that indicated Jefferson County needs to balance the demands of growth with the protection of agricultural lands. Efforts of the agricultural and artisan communities can create desirable places for tourism to thrive. In these communities, visitors can visit working farms, shop at an artisan studio, and eat at restaurants that are either located on farms or that serve food derived from local enterprises.” Page 34 of the Envision Jefferson 2035 Comprehensive Plan

- b) “Existing Neighborhoods in the Rural Environment While most of the land outside of the Urban Growth Boundaries and/or Preferred Growth Area is zoned as Rural, several pockets of large lot development and rural residential subdivisions coexist within the County’s rural agricultural areas. Home sites in these subdivisions typically have larger lot sizes than in subdivisions in the existing Residential Growth (RG) Zoning District or subdivisions served by water and sewer, but are of a smaller scale than the farms that surround them. Homes in the large lot developments and rural residential subdivisions are typically served by private well and septic systems, with a limited probability that public services will be extended to these properties in the future. The preservation of the quality of life and rural lifestyle for existing and future residents is of great importance for property owners in these communities.” Pages 38-39 Envision Jefferson 2035 Comprehensive Plan
- 4) Too many STRs located in rural and/or residential areas would put undue pressure on local and privately maintained roads discouraging settlement or commerce within those locations. The rural road network was also never designed to handle the additional pressure of non-agricultural or low-density rural area traffic.
  - a) “There is a direct relationship between land use activity and the transportation network. As the level of commercial and/or residential activity that occurs along an existing roadway increases, so does the demand for the roadway to handle an increase in traffic volume. In other cases, roadways are built to meet future anticipated land use activity and related traffic volumes. A corridor that develops too quickly without adequate roadway improvements may be the desired location for the housing and commerce needs of the community, but can frustrate and discourage residents and customers due to traffic congestion.” Page 96 of Envision Jefferson 2035 Comprehensive Plan
  - b) “The County’s rural road network originally evolved serving the needs of the farming community and is not intended to serve the needs associated with the higher traffic volumes and speeds required for large residential subdivisions. At certain seasons of the year conflict can be created between residential traffic and large pieces of slow-moving farm equipment. The LESA/CUP system has not effectively protected the rural road network from this type of development pressure. As such, this Plan recommends utilizing cluster developments as the preferred form of residential development within the rural areas. Limiting suburban development in the rural area helps protect agricultural land use activities. Most of the roads in the County’s rural area are paved, but tend to have narrow widths, excessive horizontal and vertical curvatures, bridge and drainage problems, and poor intersection alignments. These conditions contribute to the safety concerns associated with increasing motor vehicle traffic on the rural roads. The increased residential densities that have occurred in the rural area in the past are producing additional traffic volume and requiring more maintenance of the rural road network of predominantly narrow, two-lane paved roads with existing design issues.” Page 76 of Envision Jefferson 2035 Comprehensive Plan

- c) “Local Road: Low speed, low volume roadways that provide localized access within a neighborhood or subdivision. While there are some state maintained local roadways, most local roads in Jefferson County are privately maintained by homeowners’ associations.” Page 245 of Envision Jefferson 2035 Comprehensive Plan
- 5) Other states and countries have updated zoning ordinances to ensure clarity around this emerging trend and how zoning should be handled to minimize adverse events from STRs.
  - a) “The adverse effects of short-term rentals (STRs) are generally directed at four entities: surrounding individuals, STR users, lodging businesses, and municipal governments. First, in regard to the effects on surrounding residents, an influx of transient visitors into otherwise residential neighborhoods is bound to create problems. Common issues arise from noise disturbances, congestion, parking concerns, and trash disposal.<sup>21</sup> Additionally, STRs contribute to the breakdown of once-residential neighborhoods composed of long-term residents.<sup>22</sup> On a larger scale, the cumulative effect of converting long-term residences into short-term housing is the decrease in housing supply, which inevitably increases housing costs and rental prices.<sup>23</sup>” Page 344-345 in *The Short-Term Rental Economy in Rural Maine Communities* (21. See *Janine Pineo, Short-term Rentals Becoming More Common in Vacationland, ME. TOWNSMAN, June 2017, at 11, 14; Peter McGuire, Maine Towns Pressured To Rein in Short-Term Rentals of Homes as Popularity Grows, PORTLAND PRESS HERALD (Aug. 8, 2016), <https://www.pressherald.com/2016/08/08/maine-towns-pressured-to-rein-in-short-term-rentals-of-homes-as-popularity-grows/> [<https://perma.cc/P8DP-BRPP>]. 22. See *Zale, supra note 1, at 983-85. 23. See Miller, supra note 13, at 169.*”)*
- 6) Clarifies the difference between B&Bs and short-term residential rentals.

**B: Proposed Addition: TRANSIENT OCCUPANCY.**

- 1) Use, occupancy, and/or possession of a dwelling unit or portion thereof for a period of thirty (30) consecutive calendar days or less.

**Rationale for Addition of Transient Occupancy:**

- a) Clarifies the occupancy of a dwelling between residential (31 or more consecutive days) or transient (less than 31 consecutive days)
- b) Ensures that the county taxes all types of transient occupancy locations (hotels/motels, B&Bs, short-term residential rentals) appropriately
- c) Lancaster County (PA) Planning Commission enacted this definition in January 2019 for Elizabethtown Borough Zoning to clarify that occupancy of any dwelling under 31 consecutive days constitutes a non-resident status.
  - i) Lancaster County Pennsylvania is a rural, artisan, and historic area similar to Jefferson County

## Proposed Updates to Existing Ordinances/Definitions:

**A: Proposed Dwelling Unit text update**

One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a **monthly, or longer basis**, occupied by no more than one family, and containing no more than one independent food preparation area together with facilities for sleeping and bathing. **A dwelling shall not include transient occupancy unless otherwise permitted as a bed and breakfast establishment.**

**Rationale for Dwelling Unit text update:**

- 1) Clarifies the occupancy of a dwelling between residential (31 or more consecutive days) or short-term/transient (less than 31 consecutive days) uses
- 2) Clarifies the difference between a short-term residential rental (STR) and a dwelling rental. Which helps to ensure there is no further decline in affordable housing within the county.
  - a) "A review of housing prices in Jefferson County indicates that a variety of owner-occupied housing options are available to families making between 80% to 120% of the median household income for the County (\$62,418/year); however, options are greatly reduced when compared to the median wages for individuals employed in Jefferson County (\$35,620/year). Additionally, rental options for those making a 100% or a 120% of the median wages are limited to studio, one bedroom and two-bedroom rental units in the County. The affordability of rental or owner-occupied housing in Jefferson County for three or more-bedroom homes is difficult for someone making as much as 120% of the County's median wages for individuals, based on HUD standards. On the other hand, there are some options for affordable rental housing available to low to moderate income residents if they qualify for subsidized rents." Page 56 of Envision Jefferson 2035 Comprehensive Plan
- 3) It will help to ensure new and existing residents have available long-term housing options.
  - a) "The adverse effects of short-term rentals (STRs) are generally directed at four entities: surrounding individuals, STR users, lodging businesses, and municipal governments. First, in regard to the effects on surrounding residents, an influx of transient visitors into otherwise residential neighborhoods is bound to create problems. Common issues arise from noise disturbances, congestion, parking concerns, and trash disposal.<sup>21</sup> Additionally, STRs contribute to the breakdown of once-residential neighborhoods composed of long-term residents.<sup>22</sup> On a larger scale, the cumulative effect of converting long-term residences into short-term housing is the decrease in housing supply, which inevitably increases housing costs and rental prices.<sup>23</sup>" Page 344-345 in *The Short-Term Rental Economy in Rural Maine Communities* (21. See *Janine Pineo, Short-term Rentals Becoming More Common in Vacationland, ME. TOWNSMAN, June 2017, at 11, 14; Peter McGuire, Maine Towns Pressured To Rein in Short-Term Rentals of Homes as Popularity Grows, PORTLAND PRESS HERALD (Aug. 8, 2016), <https://www.pressherald.com/2016/08/08/maine-towns-pressured-to-rein-in-short-term-rentals-of-homes-as-popularity-grows/> [<https://perma.cc/P8DP-BRPP>]. 22. See *Zale, supra note 1, at 983-85.* 23. See *Miller, supra note 13, at 169.*")*
  - b) "While the cost of housing in Jefferson County may be lower than much of the Washington, D.C. and Baltimore, MD Metropolitan Areas, other counties in the Eastern Panhandle are more affordable. However, when considering the cost associated with commuting, including lost time and automotive expenses, home buyers relocating to Jefferson County have been willing to pay slightly more to be closer to their place of employment. A factor that can be difficult to quantify

is what prospective buyers are willing to pay to have the quality of life that can be found within Jefferson County. While these factors are subjective, those who have decided to buy in Jefferson County rather than other Eastern Panhandle communities have cited the quality of life found in Jefferson County. Reasons cited tend to be a perception that Jefferson County is less congested, has an attractive rural and historical character and that local land use regulations assure homeowners that one of their greatest financial investments, their home, is protected.” Page 54 of Envision Jefferson 2035 Comprehensive Plan

- c) Lancaster County (PA) Planning Commission enacted this definition in January 2019 for Elizabethtown Borough Zoning to clarify that occupancy of any dwelling under 31 consecutive days constitutes a non-resident status.
  - i) Lancaster County Pennsylvania is a rural, artisan, and historic area like Jefferson County

### **B: Proposed Residential text update**

Any detached or attached structure that is used for permanent living quarters (31 or more consecutive days) and has kitchen facilities.

#### **Rationale for Residential text update:**

- 1) The updated text provides clarity on what constitutes a permanent residence verses a transient/temporary place to stay. When people stay in a place more than 30 days, they are usually looking for permanency.
  - a) “Additionally, this Plan proposes that the Zoning Ordinance be reviewed and amended to consider a higher density for rural/agricultural lots utilizing the cluster provision instead of allowing rural residential developments via the Condition Use Permit process.” Page 24 of Envision Jefferson 2035 Comprehensive Plan
- 2) It further clarifies what is classified as residential for the propose of growth and zoning.
  - a) “Residential Preferred Growth Area - Based on comments received during the Envision Jefferson 2035 public input process, it was determined that it is important to denote the areas where a concentration of existing or approved residential development currently exists but may be not be fully developed and is outside of the Urban Growth Boundary (UGB). One such residential area exists that consists of properties currently zoned for Residential Growth (RG) or which have a vested development right to develop at a low density or medium density residential rate. This core residential area, bounded by Old Country Club Road, Flowing Springs Road, Job Corps Road, Shepherdstown Pike (WV 230) to the railroad tracks, is depicted by a Preferred Growth Area boundary, but is compromised only of future large lot, low density, and medium density residential uses. It is anticipated that this will be a primarily detached single family suburban housing area.” Page 23 of Envision Jefferson 2035 Comprehensive Plan

### **C: Proposed Section 4A.1 Home Occupation and Cottage Industry, General Standards Text Updated**

The following land uses cannot be established as a Home Occupation or Cottage Industry: 1. Boarding or rooming homes. 2. Bed and breakfast establishments or short-term residential rentals (STRs).

#### **Rational for Text Update to Section 4A.1**

- 1) A home occupation or cottage industry is meant to be to support the growth of locate artisans and home businesses not short-term residential rentals (STRs)
  - a) “There are many creative people that live and work in Jefferson County, using their talents to create poetry, pottery, paintings, plays, performances, photographs, novels,

fabric art, sculpture, carvings, installations, music and dance, and the fine art and culture of all forms. The County is home to numerous cultural and historical organizations as well as artist studios, galleries, museums, and theaters which host a number of activities and events throughout the year. These activities and organizations add to the cultural value in the County and provide economic resources for the artisan. This Plan supports the artisan community and its needs for developing a robust economic and cultural community. While most of these types of Cottage Industries and Home Occupations are permitted by right in the Rural District, some more intense uses may require a CUP. This Plan recommends that the use of the CUP in the Rural District be limited to non-residential uses not permitted in the Rural District which are compatible in scale and intensity with the rural environment and that pose no threat to public health, safety, and welfare. Some non-agricultural/non-residential related rural CUPs should only be proposed on a small portion of a rural property to help preserve farmland and open space, and continue agricultural operations. This requires eliminating the Land Evaluation Site Assessment (LESA) system and modifying the CUP process. For additional discussion, see Rural Land Use Planning Section (page 34).” Page 74 of Envision Jefferson 2035 Comprehensive Plan

- b) “Cottage Industry An occupation conducted at a residential premise, as described in Article 4A.5 of the Jefferson County Zoning and Land Development Ordinance. While this designation can encompass a wide range of businesses, it is often used in reference to artisan workshops.” Page 248 of Envision Jefferson 2035 Comprehensive Plan

- WV DOH comments on the TIS about the right in only.

Ms. Brockman also stated that the 2.5 acres will have to be subdivided from the existing parcel; noted that the Subdivision Regulations require sidewalks/ bike paths on at least one side of the street; and require interconnectivity with adjoining properties.

Mr. Mike Shepp opened the Public Workshop.

Ricki Twyford, Charles Town City Councilman spoke in support of the project and the proposed intersection improvements and inquired whether Huyett Rd would be a part of the intersection improvements.

Mr. Mike Shepp closed the Public Workshop.

Mr. Jason Gerhart stated that there are no current plans related to Huyett Rd improvements to Huyett Road because the applicant is currently limited to “right in” access to their site. He also noted that the draft TIS evaluated the US340/Augustine Avenue intersection and that there may be improvements related to the Sheetz project. The WV DOH may also be looking at other safety concerns that have existed prior to this project.

Mr. Jack Hefestay made motion to accept this Concept Plan as presented; the motion was seconded by Donnie Fisher; and passed unanimously.

Mr. Mike Shepp stated that no public comment will be taken for the following Agenda Items.

Mr. Stolipher re-entered the meeting.

5. Requests for the Planning Commission to consider incorporating within their work plan two possible text amendments to the Zoning and Land Development Ordinance (Discussion/Possible Action):

A. Consider developing provisions for short term rentals.

- i. Request from Amy Bowman, landowner
- ii. Request from Chris Rife, landowner

Ms. Alex Beaulieu provided an overview of the two requests above. She explained these are opposing requests. The Zoning Ordinance currently allows residential units to be rented by the week, month or year.. One request is to draft an amendment to address short-term rentals, whether allowing by right on more frequent basis and the other request is to make the requirements more stringent. Currently the definition of “family” in the Zoning Ordinance allows up to six unrelated individuals to occupy a single dwelling unit. Ms. Beaulieu stated that the Planning Commission could form a committee to address the concerns related to short-term rentals or determine that this cannot be undertaken at this time.

- i. The applicants were permitted to make a presentation to the Planning Commission: Amy Bowman and Butch Diehl stated that they are asking the Planning Commission for clarity in the Ordinance regarding the short-term rental provisions and that there is a large market for “home shares.”

Mr. Mike Shepp asked if this discussion related to Air B&Bs. Ms. Bowman stated that the term actually refers to room rental and the definition of dwelling, does not apply to room rental, particularly if there is no access to a kitchen. She further stated that she believes that there are 120 Air B&Bs already in Jefferson County. She and Mr. Diehl are the ambassadors for the County and their guests spend money in Jefferson County. Ms. Bowman stated that there was

law passed in 2018 that requires collection of sales tax. There was a bill that went to Governor Justice and didn't pass; however, they are moving forward with the idea that the state will collect the hotel/motel tax for the County and it will be a guaranteed 6% (similar to how the state has their guaranteed 6%).

Mr. Steve Stolipher made the statement that the hotel/motel tax which is collected is what funds the County Visitors Bureau (CVB), Parks and Recreation and the Historic Landmarks Commission (JCHLC).

Amy Bowman also explained that the Air B&B constituents pay higher real estate taxes. She reiterated that they would like the Ordinance to be clarified for them.

- ii. Ms. Chris Rife spoke and agreed that the ordinance is unclear. She is a home owner in rural neighborhood with five Air B&Bs within one mile radius on a back road that is not paved. Ms. Chris Rife would like more restrictions. The residents of their neighborhood have had to post signage stating private property, due to tenants coming in and out all the time. Ms. Chris Rife is looking for limitations in rural areas.

Mr. Steve Stolipher inquired if there are limitations for different zoning districts. Ms. Alex Beaulieu explained that right now, a dwelling can be rented out for weekly basis, for any district. There are no provisions to allow on daily basis, except for processing as a hotel, or if you reside on the property, to process as bed/breakfast. What is coming into question is renting entire dwellings on a more frequent rate or renting rooms that are not part of a Bed and Breakfast. Ms. Beaulieu reiterated that the request is before the Planning Commission to determine if they want to consider these amendments as a part of their current workplan.

Mr. Steve Stolipher expressed his opinion and stated that Jefferson County is the highest grossing tourist county in the state. He expressed his opinion that the County should clarify the regulations to encourage tourism and that includes Air B&Bs. Mr. Steve Stolipher that, from property rights standpoint, the tourist need to be informed that they cannot trespass on other properties. He also stated that the regulations should address all the zoning districts.

Mr. Stolipher made a motion to ask staff to work on drafting new language and updating the ordinance as part of the current workplan; Donnie Fisher seconded the motion, and it passed unanimously.

B. Consider reducing the setback requirements for lots in the Residential Growth zoning district.

- i. Request from the Board of Zoning Appeals

Ms. Alex Beaulieu provided an overview of this text amendment request. The Board of Zoning Appeals had a zoning variance request related to a proposed subdivision in which the lots were not final platted and the Board they felt they couldn't approve the request. The letter is submitted on their behalf of the Board of Zoning Appeals for the Planning Commission to consider reducing the side setbacks in the RG Zoning District.

Mr. Nathan Cochran, further explained the actions of the Board of Zoning Appeals.

Mr. Jason Gerhart, Gordon, noted that he was available if the Planning Commission had any questions as the variance in question related to the King's Crossing subdivision.

Mr. Stolipher made asked for a motion to ask staff to propose new setbacks in the RG zoning district; Donnie Fisher seconded the motion, and it passed unanimously.



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September 9, 2021

Mike Shepp, President  
Jefferson County Planning Commission  
104 E. Washington Street  
Charles Town, WV 25414

Re: Jefferson County Comprehensive Plan

Dear Mr. Shepp:

As special legal counsel for the Jefferson County Commission (“Commission”), I am writing to inform you of an action taken by the Commission, pursuant to W.Va. Code §8A-3-11, at its meeting on September 2, 2021. By a duly adopted motion, please be advised that the Commission hereby requests that the Jefferson County Planning Commission consider amending the Jefferson County Comprehensive Plan to clarify and/or state that solar facilities are principal permitted uses (PPU’s) in the rural and residential zoning districts.

The Commission further requests that the Planning Commission address this matter in an expedited manner.

Thank you for your consideration of the Commission’s request.

Very truly yours,

s/William F. Rohrbaugh  
WVSB No. 5048



## **WEST VIRGINIA CODE CHAPTER 8A. LAND USE PLANNING.**

### **ARTICLE 3. COMPREHENSIVE PLAN.**

#### **§8A-3-11. Amending comprehensive plan after adoption.**

(a) After the adoption of a comprehensive plan by the governing body, the planning commission shall follow the comprehensive plan, and review the comprehensive plan and make updates at least every ten years.

(b) After the adoption of a comprehensive plan by the governing body, all amendments to the comprehensive plan shall be made by the planning commission and recommended to the governing body for adoption in accordance with the procedures set forth in **sections six, seven, eight and nine** of this article. The planning commission shall hold a public hearing prior to its recommendation to the governing body.

(c) **If a governing body wants an amendment, it may request in writing for the planning commission to prepare an amendment. The planning commission must hold a public hearing within one hundred twenty days after the written request by the governing body to the planning commission is received.**

(d) Within the latter of ninety days or three scheduled meetings after the submission of the recommended amendment to the comprehensive plan to the governing body, the governing body must act by either adopting, rejecting or amending the comprehensive plan.

#### **§8A-3-6. Notice and public participation requirement for a comprehensive plan.**

(a) Prior to recommending a new or amended comprehensive plan to a governing body for adoption, the planning commission shall give notice and hold a public hearing on the new or amended comprehensive plan.

(b) At least thirty days prior to the date set for the public hearing, the planning commission shall publish a notice of the date, time and place of the public hearing as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the area covered by the comprehensive plan.

(c) A planning commission shall include public participation throughout the process of studying and preparing a comprehensive plan and amending a comprehensive plan. **A planning commission shall adopt procedures for public participation throughout the process of studying and preparing or amending a comprehensive plan.**

(d) A planning commission shall request input from other affected governing bodies and units of government.

#### **§8A-3-7. Submission of comprehensive plan.**

(a) After the comprehensive plan is prepared and before it is approved, the planning commission shall hold a public hearing. After the public hearing and approval, the planning commission shall submit the recommended comprehensive plan to the applicable governing body for consideration and adoption.

(b) At the first meeting of the applicable governing body following the submission of the recommended comprehensive plan by the planning commission to the governing body, the planning commission shall present the recommended comprehensive plan to the governing body.

(c) After the presentation of the recommended comprehensive plan by the planning commission to the governing body and prior to adoption, the governing body shall hold a public hearing after giving notice.

(d) At least fifteen days prior to the date set for the public hearing, the planning commission shall publish a notice of the date, time and place of the public hearing as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the area covered by the comprehensive plan.

#### **§8A-3-8. Adoption of comprehensive plan by governing body.**

(a) Within the latter of ninety days or three scheduled meetings after the submission of the recommended comprehensive plan to the governing body, the governing body must act by either adopting, rejecting or amending the comprehensive plan.

(b) If the comprehensive plan is adopted by the governing body, then the governing body may adopt the comprehensive plan as an ordinance or designate what other effect the comprehensive plan may have.

(c) If the comprehensive plan is adopted by the governing body and an ordinance is published, the comprehensive plan may be incorporated by reference in the ordinance and the full text of the comprehensive plan does not have to be published.

**§8A-3-9. Filing the comprehensive plan.**

After the adoption of a comprehensive plan by a governing body, the governing body must file the adopted comprehensive plan in the office of the clerk of the county commission where the comprehensive plan applies. If an adopted comprehensive plan covers more than one county, a certified copy of the adopted comprehensive plan must be filed in the office of the clerk of the county commission of each county covered by the adopted comprehensive plan.



# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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

Charles Town, WV 25414

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## Planner's Memorandum Planning Commission Meeting September 14, 2021

### 1) Status of Engineering, Planning and Zoning County Offices during COVID-19 Virus Pandemic

In accordance with Direction from the Office of the Governor, the Department of Engineering, Planning and Zoning Mason Building is open to the public. Masks must be worn at all times, unless you are fully vaccinated, and social distancing will be observed.

BUILDING PERMITS & INSPECTIONS 304-725-2998 [permits@jeffersoncountywv.org](mailto:permits@jeffersoncountywv.org)

IMPACT FEES 304-728-3331 - [mmason@jeffersoncountywv.org](mailto:mmason@jeffersoncountywv.org)

ENGINEERING 304-728-3257 - [engineering@jeffersoncountywv.org](mailto:engineering@jeffersoncountywv.org)

PLANNING & ZONING 304-728-3228 - [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org),

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

GIS & ADDRESSING 304-724-6759 - [gis@jeffersoncountywv.org](mailto:gis@jeffersoncountywv.org)

### 2) Upcoming PC meeting

#### a) Next Regular meeting: **October 12, 2021**

- Colonial Hills Phase 3B (Townhouses) Concept Plan (21-26-SD) Public Workshop



# Non-Actionable Correspondence



**From:** [Planning Department](#)  
**To:** [Ruthlee holler](#)  
**Subject:** RE: Short term rentals  
**Date:** Monday, August 9, 2021 4:52:00 PM

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Good afternoon,

This email is to confirm that our Office is in receipt of your email submission. If you would like, we can include your email in the September Planning Commission agenda packet under "nonactionable correspondence".

Please be sure to follow along with the amendment process so you can participate in the public hearing once the Planning Commission is ready to schedule a hearing. This will ensure that your comments are considered as part of the record. The Planning Commission agendas are posted on the County's website a week in advance of the scheduled meeting [[click here](#)]."

Please let our office know if you would like your email included in the September Planning Commission packet.

Thank you and have a pleasant evening.

Sincerely,

Jennilee Hartman, Zoning Clerk

Office of Planning and Zoning

304-728-3228

-----Original Message-----

From: Ruthlee holler <eveyeverhart@yahoo.com>

Sent: Monday, August 9, 2021 1:24 PM

To: Planning Department <PlanningDepartment@jeffersoncountywv.org>

Subject: Short term rentals

I would like you to consider the Airbnb issues very carefully. What you decide can change the very way of life in my rural agriculture residents. This short term rentals cause more safety issues than most people realize. The owners come into small group of cabins turn them into year round rentals cabins less than 500 feet apart. They have no building inspections to to over see fireplace safety burning wood ( all our homes put to risk) no fire departments within 3 miles no water hydrants. No limit on how many are within small cabins. Our wells and septic systems are way to close could easily cause problems flowing into Potomac river. My own life has already changed by Airbnb. There are three properties in my tiny community. We have a right away off a 16 foot public road to come into our homes along the river. There is no public

land. Right away is gravel one car size ( if you meet a car you have to pull over in someone's yard to let them pass )and ends at last cabin with no turn around area so it forces cars to turn into residents driveway and back out toward the river ( one icy path could lead to plunging into the river itself) which has happened in the past just due to heavy rain and river mud. I am 70 year old widowed woman. I have lived here since 1978 and in the last year I have had someone sleeping in my car in my driveway. I have had to go out in the night to get Airbnb people off my boat many times off my dock and this story could go on and on. One group of men cussed me because I won't let them swim off my dock. Never has anything like this ever happened before Airbnb. There is no owners on site to talk to when things happen and by the time a owner does come here the renters are gone and new ones in the cabin. This really and truly is a tragedy waiting to happen that by your decisions can be avoided. Please please think about how this short term rentals are a hardship not truly bringing in money to the county by saying tourism. They don't employ staff they don't bring money to restaurant and shops. These are hotel motel business in rural areas People are using them in my area for parties without any guidelines. Again please consider the lasting effects you are creating for Jefferson county. I have raised three generations here one neighbor has owned for six generations. Most have been here for several generations and we have never parked cars on each other or had picnic letting guests go on others property. Airbnb renters are coming with no guidance they come and use our property as if it's all a park for their vacation. Many things look good on paper but when you are actually living in it you feel the harm and know the difference.

Yours kindly. Ruthlee Holler Sent from my iPhone