



# JEFFERSON COUNTY, WEST VIRGINIA

## Departments of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor, P.O. Box 338

Charles Town, WV 25414

File Number: #713-01

Staff Initials: AB

Application Fee: \$ 6,350.00

[www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html](http://www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html)

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

### Zoning Map Amendment (Rezoning)

Pursuant to Article 12, a Zoning Map Amendment is a procedure to amend the official Zoning Map of the County by changing the zoning designation of a property. In order for a proposed amendment to be approved, the County Commission, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of 8A-7-8 et seq of the WV State Code. All Amendments to the Zoning Map require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination.

#### Property owner information

Name of Property Owner: Ann Hunter, James Hunter and Ernest Hunter c/o Ann Hunter

Mailing Address: P.O. Box 123

City: Shenandoah Junction State: WV Zip Code: 25442

Phone Number: 304/876-6078 Email: mesa\_1@frontiernet.net

#### Applicant contact information

Applicant Name: Hunter Family c/o Ann Hunter

Mailing Address: P.O. Box 123

City: Shenandoah Junction State: WV Zip Code: 25442

Phone Number: 304/876-6078 Email: mesa\_1@frontiernet.net

#### Applicant representative

Name of Representative: Annette Van Hilst, R.A., The Crossroads Group

Address of Representative: 22 Van Clevesville Road

City: Kearneysville State: WV Zip Code: 25430

Phone Number: 571/428-7054 Email: agvh@frontiernet.net

#### Physical property details

Physical Property Address: N Side of Old Rt 9 (Rt 115) approx 700 Ft SE of Berkeley/Jefferson County Line

City: Kearneysville State: WV Zip Code: 25430

Tax District: Middleway Map No: 1 Parcel No: 2

Parcel Size: 107 Acres Deed Book: 1033 Page No: 658

# RECEIVED

AUG 14 2013

JEFFERSON COUNTY PLANNING,  
ZONING & ENGINEERING

**Current**  
Zoning  
District

Rural  
(R-A)

Residential  
I Growth  
(R-G)

Industrial  
Commercial  
(I-C)

Residential-  
Light Industrial-  
Commercial  
(R-L-C)

Village  
(V)



<u>Proposed</u> Zoning District	Rural (R-A)	Residential Growth (R-G)	Industrial Commercial (I-C)	Residential- Light Industrial- Commercial (R-L-C)	Village (V)
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

For a Zoning Map Amendment request, the "burden of proof" is on the applicant to show why the proposed zoning is more appropriate than the existing zoning. Accordingly, please explain how the following factors support your proposal.

***Describe your proposed use (and/or project) and describe why the Zoning Map Amendment is necessary for the proposed use (and/or project) described.***

Attached \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

***Describe how the Zoning Map Amendment will be consistent with the objectives and policies of the Comprehensive Plan.***

Attached \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

***Discuss any change(s) of transportation characteristics (i.e., type and frequency of traffic, adequacy of existing transportation routes), and neighborhood characteristics from when the original ordinance was adopted.***

Attached \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

***Do you request that the Planning and Zoning Staff present the petition to the Planning Commission for the purpose of setting the public hearing date?***

***Yes, I request that the Planning and Zoning Staff present the petition***

***No, I prefer to present the petition***

***Plat or Sketch Plan (provide as an attachment to this application)***

The plat or sketch must be pursuant to Zoning Ordinance, Section 7.4 (b). The sketch plan shall include the entire original parcel as it appeared on the date this ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg. 1" = 50', 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational areas, streets, building areas, and other features in relation to each other and to the tract boundaries. Contour lines should be superimposed on the sketch plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes and quarries shall be delineated.

**Is Plat or Sketch Plan attached?**

Yes

No

**Original signature of all property owners is required. The information given is correct to the best of my knowledge (Please attach additional signature page if needed).**

Ann H. Hunter      Aug. 14, 2013  
Signature of Property Owner      Date

\_\_\_\_\_  
Received By

\_\_\_\_\_  
Date

James O. Hunter, Jr.      Aug. 14, 2013  
Signature of Property Owner      Date

\_\_\_\_\_  
Received By

\_\_\_\_\_  
Date

The Planning Commission is required to set a public hearing on the proposed Zoning Map Amendment within 60 days of the date upon which a complete petition is presented to the Planning Commission at a Planning Commission Meeting. A complete petition, and related fees, shall be submitted to Departments of Planning and Zoning for placement on the Planning Commission agenda at least two (2) weeks prior to the meeting date at which the petition will be presented. Upon request, Planning and Zoning staff can present the petition to the Planning Commission on behalf of the applicant for purpose of setting the public hearing date. At the conclusion of the Planning Commission's Public Hearing, or at the next regular Planning Commission meeting, the Planning Commission shall make a recommendation to the County Commission regarding approval or disapproval of the requested Map Amendment. This recommendation shall be forwarded to the County Commission within four (4) weeks of final Planning Commission action.

**The Planning Commission finds this request consistent/inconsistent with the Comprehensive Plan by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against, this day of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.**

*Recommended*

*Not Recommended*

**The County Commission finds this request consistent/inconsistent with the Comprehensive Plan by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against, this day of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.**

*Approved*

*Disapproved*

**Final Determination/Other Comments**

---

---

---

# 713-01

MAP AMENDMENT PETITION  
Article 12, Jefferson County Zoning Ordinance  
Hunter Family:  
Ann Hunter  
James Hunter  
Ernest Hunter  
August 14, 2013

**Owner:**

Hunter, et. al.  
c/o Ann Hunter  
P.O. Box 123  
Shenandoah Junction, WV 25442

**Applicant:**

Ann Hunter  
James Hunter  
Ernest Hunter  
P.O. Box 123  
Shenandoah Junction, WV 25442

**Ordinance Citation:**

Article 12 of the Jefferson County Zoning and Development Review Ordinance as amended on November 10, 2011.

**Map Amendment Definition:**

“An amendment to the Zoning Map which is adopted by reference in the Zoning Ordinance that consists of a change that only applies to a specific property, changing from one existing zoning designation to another existing zoning designation. A map amendment does not permit changes, conditions or alterations to uses permitted within an existing zoning designation as all zoning designations must be uniformly applied to all property which are subject to said designation.”



**Substantiation for the Request:**

1. The property owned by the Hunter family is currently zoned Rural and the Applicants are seeking a map amendment to the Residential/Light Industrial/Commercial District. As explained in this Petition, the Applicants believe that this change is consistent and very much compatible with the 2004 Jefferson County Comprehensive Plan;
2. There have been significant changes in this area, since the Jefferson County Zoning Ordinance was adopted in 1988. These changes include the availability of Public Water and Sewer, a significant rezoning directly north of this property approved by the County Commission and additional growth in the area. These changes are further explained in this Petition; and,
3. The Applicants believe that the Rural Zoning classification is an error in the Jefferson County Zoning Map since the property is located on a Primary Road (Route 9) as defined in the Comprehensive Plan.

**Tax District, Map and Parcel Number:**

Middleway Tax District, Map 1, Parcel 2

**Deed Book Reference:**

Deed Book 1033 at Page 658

**Sketch Plat:**

Attached

**Tract Size:**

107 Acres per deed (104.33 Acres per tax map)

**Discussion on:**

Comprehensive Plan compatibility of the proposed change: Included in this Petition.

Any Change of transportation characteristics and neighborhood from when the original ordinance was adopted: Included in this Petition.

### A. Comprehensive Plan Compatibility

One of the most compelling indications that the requested map amendment is consistent and compatible with the 2004 Comprehensive Plan is the fact that the rezoning of the *adjacent* property to the north was determined to be consistent with the Comprehensive Plan. In 2005, just months after the adoption of the new 2004 Comprehensive Plan, both the Jefferson County Planning Commission and County Commission found that the rezoning of the adjacent 191 acre F. O. Day property was consistent with the Comprehensive Plan. The F. O. Day property did not have direct access onto (old) Route 9, while the Hunter property has a long and direct frontage to old Route 9 (now called Route 115). When the Day property was determined to be consistent with the Plan, new Route 9 was not near completion.

The Comprehensive Plan contains policies, narrative and recommendations that support this map amendment. Some of the Policies found on page 8 of the Comprehensive Plan State:

- *'This Plan encourages new development patterns that foster mixed-use neighborhoods so that a sense of community begins at the subdivision level.'*

In this case, this property is located in a neighborhood that has long been mixed-use. Baker Heights has been the home of the Veteran's Administration Center for decades and the Liberty Business Park has been there for many years. The Liberty Business Park includes the IRS and the Coast Guard. Furthermore, this property is adjacent to 191 acres that the Jefferson County Commission rezoned to Commercial/Industrial in 2005. Finally, the subject property abuts the proposed new Hospice of Eastern Panhandle operations and in-house care facility.

The property is only approximately a half a mile from the mixed-use community of Baker Heights and less than a mile from the Kearneysville Village District. Likewise, Kearneysville is also a mixed-use community.

The requested rezoning would allow the Applicants the flexibility of marketing the property to either residential users to provide needed housing for employees of the nearby VA Center and the Liberty Business Park; or, to business park developers to continue the commercial expansion of the area for other office buildings. From an economic development standpoint, it would behoove Jefferson County to allow the continued expansion of a business park on the Jefferson County side of the 'line'. Since this type of growth is being developed in the area, Jefferson County should start taking advantage of it.

The Residential/Light Industrial/Commercial District designation would allow a mix of commercial and offices uses, while allowing residential units to house the employees in the same area.

- *'This Plan encourages economic development so that residents can live and work in the County.'*

Currently, there is very little vacant land in Jefferson County that is zoned for commercial/office and mixed-use development. The requested change to the mixed-use zone will allow a mixture of these uses to stimulate economic development on Jefferson County's side of the County line.

In the Plan's Statement of Goals found on page 19, the Plan encourages growth and development in areas where infrastructure and public facilities are available. In this case, the property has access to Berkeley County's Public Water and Wastewater Treatment Facilities. In addition to Public Water and Sewer, natural gas is located very close to this property. A current primary goal of the Jefferson County Development Authority is to encourage the expansion of the availability of natural gas into Jefferson County. If permitted to develop into a business park or mixed use development, this property could be a key stepping stone for extending natural gas into Jefferson County. The property is also located within minutes of the Short Road interchange onto the new four lane Route 9. These qualities make the property an ideal candidate for a map amendment.

Finally, the Plan's goals also support commercial activities in the County; in addition to the protection of private property rights. The Hunter family chose not to speculate during the land rush last decade because they wanted to wait until such time that Route 9 was completed and other growth and development took place in the area. As a matter of fact, in the proposed zoning ordinance in 2008, this land was proposed to be zoned as a business park. That in itself is evidence that the County planners believed that this property was prime land for economic development.

The 2004 Comprehensive Plan includes numerous recommendations. However, only several of them are pertinent to this request.

Comprehensive Plan Recommendations:

**Recommendation 3.01 on Page 24:**

*"When adjusting the Zoning Ordinance and Map to conform with the recommendations of this Plan, the County should look closely at the adjacent jurisdictions permitted uses or their fringes..."*

Comment:

In this case, the adjacent jurisdiction is Berkeley County. Although Berkeley County is not zoned, Jefferson County should not ignore the fact that this area has developed into a hotbed of economic development. Because of Berkeley County's economic growth in this area, this neighborhood is now served by Public Water and Sewer. Also, this area has direct access to a primary road (old Route 9) and is just a short drive along good roads to a major interchange on the new four lane Route 9.

There is also a brand new large Sheetz Store and a new Food Lion that were constructed to serve this neighborhood. These two commercial entities are just over the Berkeley border from the subject property. Again, it would be unwise to continue to watch Berkeley County reap the economic benefits of this growth and not allow the same in Jefferson County simply because of the County line.

**Recommendation 3.18 on Page 64:**

“The County should continue to pursue new industrial and commercial development in order to diversify its economy, increase the tax base and thereby mitigate the problems of increasing residential growth, and provide quality employment opportunities in the workforce.”

Comment:

Again, this area has been permitted to develop into a mixed use of residential subdivisions, a business park that contains good federal government jobs and commercial businesses that locate where growth is indicated. Jefferson County is adjacent to this growth and should capitalize on the economic gains that Berkeley County has enjoyed in the same area.

According to page 71 of the 2004 Comprehensive Plan, there is a very small percentage of land that is zoned for commercial or mixed-use in Jefferson County. This percentage is estimated at approximately 5 percent. It is very difficult to achieve the goal of pursuing new industrial and commercial development if the County doesn't create new commercial and mixed-use zones. Because of the adjacent zoning in Jefferson County and the development in this area of Berkeley County, this property would be an ideal parcel of land to include in the mixed-use zone. Besides the proximity to the adjacent development, it also has access to good infrastructure, including water, sewer and roads.



Based on the preceding two major recommendations in the 2004 Comprehensive Plan, this map amendment is consistent and compatible with the Plan.

***B. Change of Neighborhood***

This area of Jefferson County and the adjacent area on Berkeley County have changed significantly since the Zoning Ordinance was adopted in 1988. The following are examples of these changes:

1. The Liberty Business Park was developed on the Berkeley County side of the line and contains major Coast Guard and IRS facilities. This park is less than a ¼ of a mile from the subject property.
2. With the development of the Liberty Business Park, Public Water and Sewer were extended into the area.
3. Several residential developments have been built in this area including Quail Ridge Subdivision and Chapel View Subdivision.
4. Quad/Graphics, a very large industrial printing and distribution facility, was built in Baker Heights in the 90s.
5. In 2005, the County Commission rezoned the 191 acre F.O. Day property which borders this property to the North. The Day property was zoned Rural and the County Commission approved a map amendment to Commercial/Industrial. Two things to note regarding the differences between the properties is that the Hunter property has better access, since it directly fronts Old Route 9, and the new Route 9 wasn't even built when the Day rezoning was approved. As mentioned, both the Jefferson County Planning and County Commissions found this map amendment to be consistent with the 2004 Comprehensive Plan. There have been significant changes to the neighborhood even since the Day rezoning was approved. These changes are described below.
6. The new expanded Sheetz Store was just built in the neighborhood (approximately a ¼ mile away). Ironically, it was relocated from Jefferson County.
7. A new Food Lion (within eyesight) was built almost adjacent to the Hunter property in the neighborhood just on the Berkeley side of the line. New grocery store construction is usually indicative of the growth potential of a neighborhood.

8. The Comfort Suites Hotel was built very close to the subject property.
9. Hospice of the Panhandle has chosen the adjacent property to the northwest for its headquarters and a multi-bed in-house care facility. This facility was a project that was approved by both Jefferson and Berkeley Counties since it straddles the County line. The project which includes over 25,000 square feet of office space and a very large inpatient center is located in both Jefferson and Berkeley Counties. It is also directly accessed from old Route 9. Interestingly, the Hospice property requested a variance to reduce the setback for the complex almost in half along the Hunter property and the Hunter family had no problem with the variance being granted. Needless to say, that development is now very close to the Hunter property line. This project is also nearing completion.
10. The new Route 9 was completed with direct four lane access to Route 81. This route is approximately one mile from the subject property and has a major interchange that services the area. Old Route 9 (Route 115), still considered a Primary Road by the Comprehensive Plan, services the Hunter property and leads into Short Road that has direct access to the new interchange. The property is nearly in between two major interchanges (Shepherdstown Exit and Short Road Exit) to the new four lane Route 9. This makes the property ideal for development.

Summarizing the Change of Neighborhood, it is essential to note the following:

1. Availability of Public Utilities:

Public Water and Wastewater facilities serve this area. Natural gas service is also available in this area and any growth would help facilitate the expansion of natural gas (a priority of the JCDA and its Industrial Park) into Jefferson County. One of the major goals of the Comprehensive Plan states that the Plan should:

‘Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable costs to the community’.

This is certainly an area to achieve this goal. Even in the proposed new Comprehensive Plan process, the preferred growth areas have been mentioned to be located where public water and sewer and good road access is already available. This property definitely meets that criteria. This is another reason that the previous planners picked this property to be in a commercial business park district.

## 2. Growth in the Corridor:

Since the adoption of the original Zoning Ordinance in 1988, this area has grown considerably. The significant growth includes: Quail Ridge and Chapel View Subdivisions; Hospice Offices and Treatment complex; large Sheetz; Food Lion; Quad/Graphics in Baker Heights and the Liberty Business Park. These types of developments along with the existing growth in the Kearneysville and Baker Heights area illustrate that mixed-use development along old Route 9 is very much consistent with the Comprehensive Plan; especially since most of these came after the Plan was adopted in 2004. The map amendment for the subject property would ideally fit into this neighborhood's mixed use.

### C. Change of Transportation Characteristics:

There have been positive changes in the transportation and traffic characteristics in this area. Old Route 9 was very much enhanced just north of the property when Quad/Graphics was developed in Baker Heights. The road was widened and improved to accommodate the large volume of tractor trailer traffic associated with that industry.

However, the major change in transportation characteristics is the finished Route 9. It is the direct four lane link to Route 81 that Jefferson County had been endorsing for many years. This road has opened up both trade routes and commuter routes in and out of Jefferson County. As mentioned previously, The Hunter property has access via good roads (old Route 9 (Route 115)) to both the Short Road and Shepherdstown interchanges onto new Route 9. The Hunter property is located in between these interchanges. The new Route 9 and Public Water and Sewer in this area make this property an ideal property for a mixed-use development.

These changes and improvements to the transportation system have taken place since 1988 when the Zoning Ordinance was adopted; and, most of them have taken place since the 2004 Comprehensive Plan was written. While the Comprehensive Plan is being updated these road improvements should be included in the new Plan. All of these improvements have had a very positive effect on the transportation characteristics and traffic flow in this area and neighborhood. The new Route 9 should be recognized as a driving force for the new preferred growth areas. Accordingly, these changes should have a positive effect on this Petition for a map amendment.

*D. Error in the Original Zoning Map*

Listed below are several reasons why the Hunter property should have been zoned for development in 1988. These reasons have already been discussed in detail in this Petition. However, all of these were true in 1988 when the Zoning Ordinance was adopted. They were also true in 2004 when the Comprehensive Plan was adopted. These are some of the reasons that the adjacent property was rezoned in 2005 and that the Hunter property was shown as a business park on the adopted Zoning Map in 2008. However, irrespective of the error on the Zoning Map, these reasons alone would support the requested map amendment to the mixed-use classification:

1. The property is located on a Primary Road as defined by the Comprehensive Plan. There are only two roads defined as Primary Roads in Jefferson County (Route 340 and old Route 9 (Route 115));
2. The property has access to public water and public wastewater services; and,
3. The property is located between two unincorporated mixed-use communities (Baker Heights and Kearneysville).

Add the other compelling factors including the development of: the Liberty Business Park; Residential Subdivisions; the large Sheetz store, the new Food Lion, Hospice of the Panhandle; and, the new Route 9 and there is no reason why this property should remain zoned 'Rural'.

*E. Conclusion:*

The Hunter family respectfully requests that the County Commission approve this map amendment to the Jefferson County Zoning Map. This Petition cites many reasons why the map amendment should be approved. These reasons include: the consistency of the request to the 2004 Comprehensive Plan; the recent actions of the County Commission regarding rezoning the adjacent property; the fact that the property should always have been classified as a business or mixed-use district; the positive changes in the transportation characteristics in the area, especially the construction of Route 9; the changes in the neighborhood from when the original zoning ordinance was adopted (including the development of a business park nearly across the street; and, the fact that the property has access to Public Water and Sewer. This map amendment will change the zoning classification on the Applicant's property from the Rural District to the Residential/Light Industrial/Commercial District.

*Ann H. Hunter*

Ann Hunter

*Aug. 14, 2013*

Date

*James O. Hunter, Jr.*

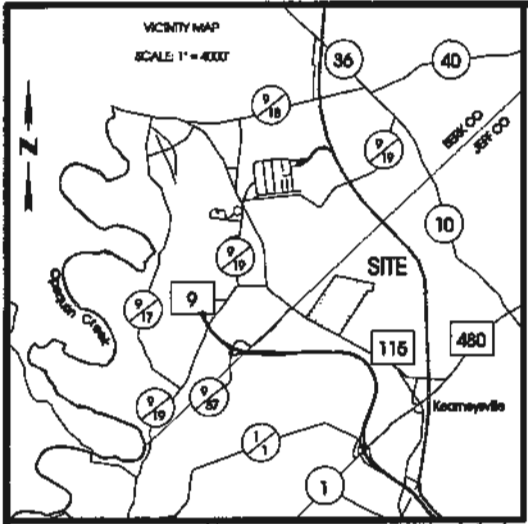
James Hunter

*Aug. 14, 2013*

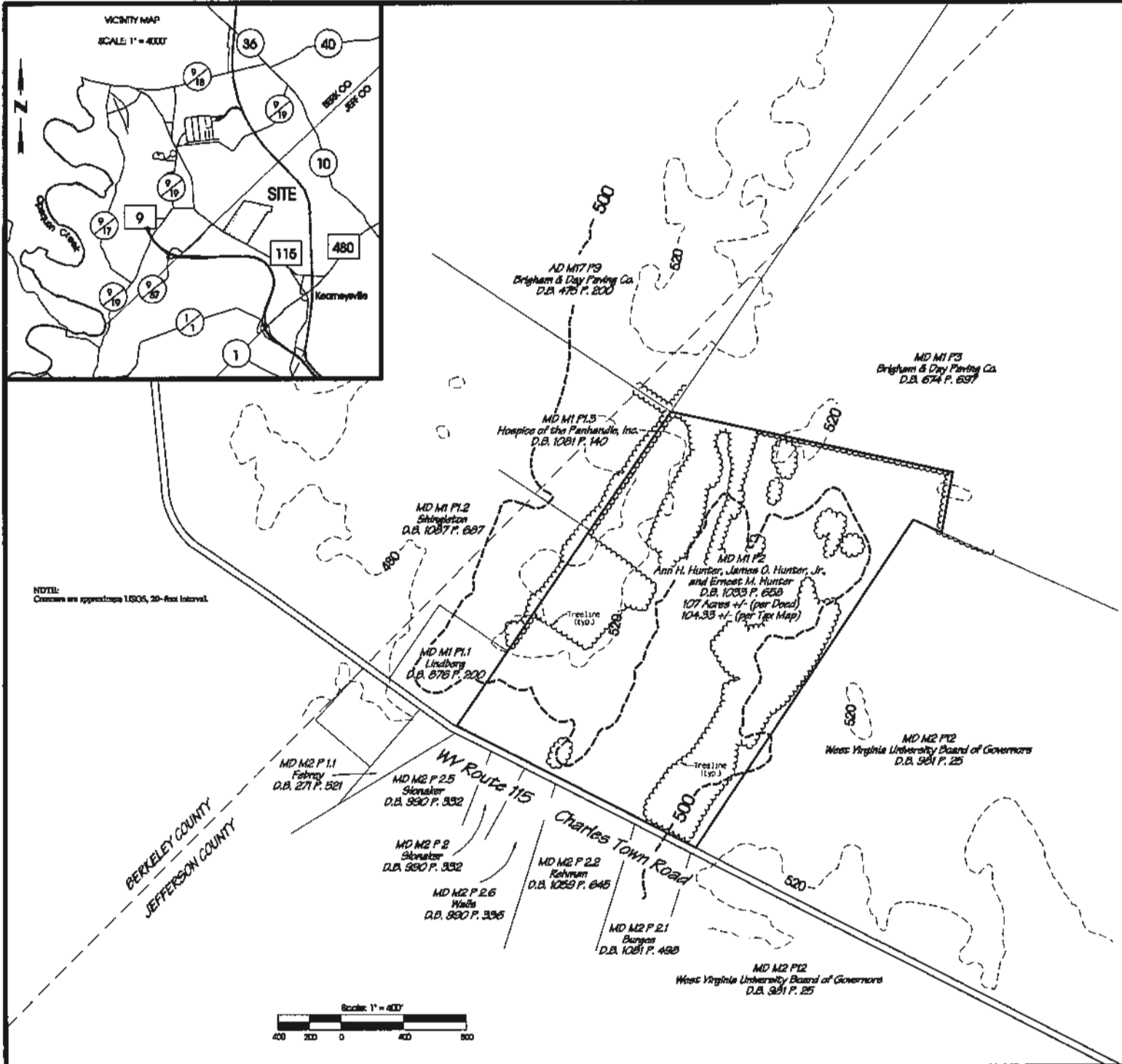
Date

Ernest Hunter

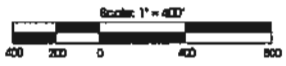
Date



NOTE:  
Contours are approximate 1:500, 20-foot interval.



BERKELEY COUNTY  
JEFFERSON COUNTY



Sketch Showing  
**Proposed Rezoning of  
Hunter Property**

Middleway District  
Jefferson County, WV  
06 August 2013  
Scale: 1" = 400'

**Appalachian Surveys, PLLC**

401 S. FAIRFAX BOULEVARD, SUITE 3  
RAVENNA, WV 26048-1611  
PHONE: 304.794.6008  
FAX: 304.794.5010  
WWW.APPALACHIANSURVEYSPLLC.COM