



Agenda  
Jefferson County Planning Commission  
Tuesday, June 14, 2022 at 7:00 PM

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**By order of the President of the Jefferson County Planning Commission,  
this meeting will be held both in-person and virtually via ZOOM.**

**In-Person Meeting Location:** County Commission Meeting Room located in the lower level of the Charles Town Library (side entrance on Samuel Street)  
200 East Washington Street, Charles Town, WV 25414

**ZOOM Meeting Information:** Meeting ID: 892 6497 2650  
Meeting Link: <https://us02web.zoom.us/j/89264972650>  
Call-In Option: 301-715-8592  
Find your local number: <https://us02web.zoom.us/u/kcH5EHtm9Z>

*Virtual meeting can be accessed from desktop, laptop, iPad, or from a phone. You will be prompted to download the software or install the ZOOM app.*

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1. Approval of Meeting Minutes: May 17, 2022 and Special Meeting May 26, 2022
  2. Request for postponement.
  3. **Public Workshop:** Concept Plan for Stonecrest (FKA Green Hill) Major Residential Subdivision consisting of 320 Single Family Lots on Flowing Springs Rd. Applicant: DR Horton-Bill Sudeck; Property Owner: Flowing Springs Road, LLC.; Property Location: Flowing Springs Rd, east of Daniels Road, Charles Town, WV; Parcel ID: 02000300090000; Size: 104.98 acres; Zoning District: Residential Growth; File: 22-11-SD.
  4. **Public Workshop:** Concept Plan for Berryville Pike Telecommunications Tower consisting of 179' Monopole Telecommunications Tower (AT&T). Applicant: New Cingular Wireless (dba AT&T Mobility); Property Owner: 340 Rainbow LLC; Property Location: 3511 Berryville Pike; Parcel ID: 06001100010002; Size: 9.31 acres; Zoning District: Industrial-Commercial; File: 21-8-SP.
  5. **Public Workshop:** Concept Plan for The Church of The Ascension site development which consists of 4 phases: Phase 1: a 10,338 sq. ft. church and 3,600 sq. ft. ancillary building for church related functions, required parking spaces, Stormwater Management facility and necessary utilities; Phase 2 (approximately 2 years): additional parking area; Phase 3 (approximately 5 years): cemetery area; Phase 4 (approximately 7-10 years): housing accommodations for church staff and/or missionaries. Applicant/Owner: Church Of The Ascension Property; Property Location: corner of Border Road and Bunkhouse Rd Kearneysville WV; Parcel ID: 07000400090000; Size: 20.49 acres; Zoning District: Rural; File: 22-3-SP.
  6. **POSTPONED- Public Hearing:** Rock Ferry Station Lot 32 Final Plat Amendment. This proposal is to modify the 300' conservation buffer area on Lot 32. Applicant: Clint Curtis; Property Owner Clint Curtis & Cassandra Maximin; Property Location: Vacant Parcel on Eagle Landing Rd Harpers Ferry, WV; Parcel ID: 06002200140032; Size: 3.26 acres; Zoning District: Rural; File: 22-4-FPA.
  7. **Public Hearing:** Request for waiver from Section 20.201B2 of the Subdivision Regulations, pertaining to the 5-year Family Transfer requirement. Applicant- Jeanine Jalil; Owner Aiman Jalil; Property Location: 229 Bethany Lane, Charles Town, WV; Parcel ID: 06002100070005; Size: 4.53 ac; Zoning District: Rural; File: 22-12-PCW.
  8. **Public Hearing:** Request for waiver from Section 20.201 of the Subdivision Regulations, requesting to process a 6-Lot Subdivision as a minor subdivision instead of as a Major Cluster Subdivision development. Applicant/Owner: Wilbert & Sharon Kidwiler; Property Location: 1044 Kidwiler Rd, Harpers Ferry, WV; Parcel ID: 04000400270000; Size: 29.93 ac; Zoning District: Rural; File: 22-13-PCW.
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9. **Reconsideration of Waiver Request 22-7-PCW based on additional information provided by the applicant:** Request for waiver of Section 20.201A.3 to waive the requirement related to the extension of off-site utilities to allow for a proposed two lot minor subdivision. Applicant: Bob Franks, Sheetz, Inc. Property Owner: Guy Chicchirichi; Property Location: NE of US 340 & Augustine Ave. Intersection, Charles Town, WV; Parcel ID: 02001600010000; Size: 4.42 ac; Zoning District: Highway Commercial (3.02ac) Rural (1.4 ac); File: 22-7-PCW.
10. **Public Hearing:** Request for waiver of Section 24.113.B.10 to waive the requirement requiring an Archaeological Study for all Major Subdivision Preliminary Plats. Applicant: Bob Franks, Sheetz, Inc. Property Owner: Guy Chicchirichi; Property Location: NE of US 340 & Augustine Ave. Intersection, Charles Town, WV; Parcel ID: 02001600010000; Size: 4.42 ac; Zoning District: Highway Commercial (3.02ac) Rural (1.4 ac); File: 22-14-PCW.
11. **Public Hearing:** Request for waiver of Appendix B, Section 2.2.C.1 related to the geometric and pavement design requirements of Table 2.2-1 Roadway Design Standards for inter-parcel subdivision roads. Applicant: Bob Franks, Sheetz, Inc. Property Owner: Guy Chicchirichi; Property Location: NE of US 340 & Augustine Ave. Intersection, Charles Town, WV; Parcel ID: 02001600010000; Size: 4.42 ac; Zoning District: Highway Commercial (3.02ac) Rural (1.4 ac); File: 22-15-PCW
12. **Public Hearing:** Request for a waiver of Section 20.102.B of the Subdivision Regulations, which requires subdivision plats to be approved by the Planning Commission, recorded, and surety posted for required improvements in accordance with these Regulations and the Comprehensive Plan, before development of the land is commenced. Applicant/Property Owner: DR Acquisitions LLC. (Kings Crossing) Property Location: West of Charles Town Road, South of St James Catholic Church; Parcel ID: 0200170022; Size: 86+ acres; Zoning District: Residential Growth. File 22-16-PCW.

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

13. **Discussion and Action:** For the Planning Commission to vote to approve or deny either:
    - a. The Augustine Avenue Sheetz Preliminary Plat Application as complete in accordance with Sections 24.113 and 24.114 of the Subdivision Regulations for the purpose of scheduling a Public Hearing. File: 22-17-SD (Subdivision); **OR,**
    - b. The Augustine Avenue Sheetz Major Site Plan Application as complete in accordance with Sections 24.122 and 24.123 of the Subdivision Regulations for the purpose of scheduling a Public Hearing. File: 21-4-SP (Site Plan).Applicant: Bob Franks, Sheetz, Inc. Property Owner: Guy Chicchirichi; Property Location: NE of US 340 & Augustine Ave. Intersection, Charles Town, WV Parcel ID: 02001600010000; Size: 4.41 ac; Zoning District: Highway Commercial/Rural.
  14. **Update** on Zoning Ordinance text amendment File# ZTA22-01 related to Solar Energy Facilities.
  15. **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 discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.
  16. **Planner's Memo**
  17. **President's Report**
  18. **Actionable Correspondence**
  19. **Non-Actionable Correspondence**
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Meeting Minutes  
Jefferson County Planning Commission  
May 17, 2022

The Jefferson County Planning Commission met on May 17, 2022 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Matt Knott, Vice President; Wade Louthan, Secretary; Steve Stolipher County Commission Liaison; Jack Hefestay, Donnie Fisher, J. Ware, and Shane Roper (via ZOOM). Ron Thomas was absent with notice.

Staff members present included Alexandra Beaulieu, Zoning; Tanya Lyons Planning Clerk; Jonathan Saunders County Engineer; Nathan Cochran, County Attorney; and Via Zoom- Jennifer Brockman, County Planner;

The Planning Commission meeting was held as a hybrid meeting. The Hybrid meeting information was made available on the agenda and packet, which were posted to the County website.

Mr. Shepp called the meeting to order at 7:00 pm. and confirmed that a quorum was present.

**1. Approval of the meeting minutes:**

Hearing no objection, Mr. Shepp approved the April 12, 2022 and April 19, 2022 minutes as presented.

**2. Request for postponement.** None.

**3. Public Workshop:** Concept Plan for Sam Michaels Park Master Plan consisting of the layout for full build-out of park. Applicant: Jefferson County Parks and Recreation. Property Owner: Jefferson County Commission. Property Location: 235 Sam Michaels Lane Shenandoah Junction, WV. Parcel ID: 02000300120000; Size: 137.87 acres; Zoning District: Rural. File: 22-2-SP.

Due to technical issues there was no audio available until 2:42 into the meeting.

Ms. Jennifer Myers, Director, Jefferson County Parks and Recreation, reminded the Planning Commission that she had previously presented the Sam Michaels Park Master Plan to them in 2019. In order to move forward with the engineering for a Site Plan to begin to implement the Master Plan, this Concept Plan, based on the Master Plan, is the next step. The Parks and Recreation Commission was recently awarded an earmark from Senator Capito's office which will enable them to move forward with Phase 2 of the Amphitheatre project. The Parks and Recreation Commission also has a few grants pending. In order to move forward with these projects, they will need a new Site Plan that addresses stormwater management design and this Concept Plan is the first step. The Parks and Recreation Commission have also undertaken a project that would enable them to connect to the public sewer service available across Job Corps Road which would support the project.

Ms. Myers also provided an overview of the future build out of the park which will occur in phases as funding is available. There are plans for more parking and baseball fields, trails, maintenance building, a community event center to use for more classes or citizens can rent out the place for parties etc.

Ms. Alex Beaulieu presented the staff report describing the location of the property and providing an overview of the requirements of the Zoning Ordinance and Subdivision Regulations. The Concept Plan is showing that the Site Plan will be completed in phases. Following approval of the Concept Plan by the Planning Commission, Parks and Recreation can then administratively

process a Minor Site Plan for each phase which will address the required stormwater management plans and other requirements Each Site Plan will require approval of WVDOH entrance permits and approval from the Charles Town Utility Board for the sanitary sewer service.

Mr. Shepp opened the Public Workshop. The following people spoke:

1. Teresa Kirsch - 13420 Carters Creek Place, Chesterfield VA

Her property is right across the street and she wanted more information about the extension of the sewer line and if it would impact their property. Ms. Jennifer Myers said that they are working with the Charles Town Utility Board (CTUB) about installing a Pump Station and that the new line would only be going through the Park property.

Mr. Shepp advised Ms. Kirsch to reach out to CTUB for more information about the sewer line.

2. Bill Dunn 745 Apple Cross Rd Harpers Ferry, WV (on Zoom)

Mr. Dunn's property abuts the east side of Sam Michael's Park with a clear view to the Amphitheatre. He expressed concerns about the noise level from the amphitheater that impacts his family and his neighbors. He stated that he had raised this issue before and that a sound study had been proposed but never completed. He supports development of the park but is concerned that a 1500 seat amphitheater will greatly impact his neighborhood.

Ms. Myers informed the Planning Commission that they have planted trees along the eastern boundary of the park, which will take a few years to grow. They have also worked with the bands to cut off by 9:00 pm during the week and 10:00 pm on the weekends.

Mr. Shepp asked if any Planning Commission members had any questions. Mr. Knott asked if any expansion is planned in the next year. Ms. Myers stated that the next phase to be built is the Concession Stand/Ticket Booth and a Restroom Facility. Additionally 2 wings that will be delegated for storage. This is currently phase 2 out of the proposed 10 phases related to the amphitheater.

Mr. Hefestay asked how many nights a week or season are there concerts. Ms. Myers stated that there are free concerts on scheduled on Thursday nights between May 26 and the last week of July. There is one ticketed event scheduled for late July. Also rentals could happen Thursday, Friday and Saturdays for events and they are hoping to expand to get more people booking.

Mike Shepp asked for a motion related to the Concept Plan and Proceed to the Site Plans.

Mr. Matt Knott made a motion to approve the Concept Plan as presented and to authorize the applicants to proceed to the Site Plan phase. Mr. Jack Hefestay seconded the motion. The motion was approved unanimously.

4. **Public Hearing:** Request for a waiver of Section 24.113.B.10 of the Subdivision Regulations, which requires an Archaeological Survey for all Major Subdivision Preliminary Plats for Kings Crossing Subdivision. Applicant/Property Owner: DR Acquisitions LLC. Property Location: West of Charles Town Road, South of St James Catholic Church. Parcel ID: 0200170022; Size: 86+ acres; Zoning District: Residential Growth. File 22-10-PCW.

The Applicant's consultant, Mr. Jason Gerhart with Integrity Federal Services, and the applicant, Matt Stare with DR Acquisitions, introduced themselves.

Ms. Alex Beaulieu presented the staff report noting that the Concept Plan has already been

approved. This is a request to waive the requirement to prepare a Phase 1 Archeological Study with the Preliminary Plat. The staff has agreed that it is a reasonable request with a recommendation that in the future the Planning Commission amend this requirement.

The Applicant Jason Gerhart explained that the applicant waited until this point in the review of the project so that the Jefferson County Historic Landmarks Commission (JCHLC) would have an adequate time to provide any comments. The JCHLC had no comments or concerns about this proposal.

Mike Shepp opened the Public Hearing. The following people spoke:

1. Stacy Tabb-248 Willowdale Drive Shepherdstown (Zoom)

Ms. Tabb spoke as a concerned citizen noting that this type of waiver has been approved previously and she believes that some people don't know why this is necessary to do because there are a lot of historical landmarks in the county. She believes that it is important to have these studies should be done by a 3<sup>rd</sup> party that knows what to look for before we get too far into the subdivision design. Ms. Tabb would like the Planning Commission to deny these requests related to waiving the Archaeological Studies.

Mr. Shepp noted there were no other members of the public signed up to speak.

Mr. Stolipher moved to approve the waiver as submitted. Mr. Knott seconded the motion.

Mr. Jack Hefestay stated that the Planning Commission agenda packets are available online and if the Historical Landmarks had anything to say that they would have objected to the Planning Commission moving forward, so he believes they should approve this waiver as submitted.

Mr. Jason Gerhart also reminded the Planning Commission that the Jefferson County Historic Landmarks Commission does have an opportunity to comment at the Concept Plan stage and that they provided a letter specific to this project at that time.

Mr. Mike Shepp closed the Public Hearing and called for the vote on the previously made motion, which was seconded. The motion was approved unanimously.

5. **Public Hearing:** Preliminary Plat Public Hearing for Kings Crossing Major Residential Subdivision consisting of 404 lots (177 SFD and 227 SFA) and associated infrastructure. Applicant/Property Owner: DR Acquisitions LLC. Property Location: West of Charles Town Road, South of St James Catholic Church. Parcel ID: 0200170022; Size: 86+ acres; Zoning District: Residential Growth. File: 21-8-SD.

Ms. Alex Beaulieu provided an overview of the staff report and noted that the staff recommended approval with the following conditions: WVDOH approval of the required Traffic Impact Study (TIS) and issuance of the Highway Entrance Permit; and Charles Town Utility Board approval of both on water and sanitary sewer utility design and connections. She also noted that a Preliminary Plat vests the project for 5 years.

The applicant's consultant, Mr. Jason Gerhart, commented that the staff presentation addressed all of their concerns. He noted that the Traffic Impact Study has been approved by the WVDOH, with a few minor comments/amendments to be addresses. The applicants have applied for two entrances on WV115 and they have gone through 2 rounds of comments by the WV DOH. The approved permits should be received soon. Regarding the water and sewer, the Charles Town Utility Board has the plans and are going through the sequencing of the pump station connections

to connect to a force main. The City of Charles Town did approve the plan to submit to the State Health Department for the final construction approval. They are awaiting the final approved permit to submit for staff to sign off on the Preliminary Plat.

Mr. Shepp opened the Public Hearing. The following people spoke:

1. Elizabeth Ricketts- 309 W. Washington St Charles Town (Zoom)

Ms. Ricketts questioned if there are sidewalks included in this Subdivision because people are going to want to walk and do it safely. Ms. Ricketts recommends that the Planning Commission work with the Metropolitan Planning Organization (HEPMPO) and the WV Division of Highways because the roads will need to be improved. She noted that it is already a dangerous road with all the hills and with 2 new added entrances it will be even more dangerous.

There were no other speakers signed up and Mr. Shepp closed the Public Hearing.

Mr. Steve Stolipher made a motion to approve the Preliminary Plat as submitted with the two conditions noted by staff. Mr. Jack Hefestay seconded the motion and it was approved unanimously.

6. **Public Hearing:** Request for a waiver of Section 20.203B of the Subdivision Regulations, which requires a Site Plan when the footprint of any addition or a new structure (building and/or parking lot) is greater than 1,200 square feet. Applicant/Property Owner: Krop Properties/Tina Krop. Property Location: 640 War Admiral Blvd, Charles Town. Parcel ID: 02000100270001; Size: 4.70 acres; Zoning District: Industrial-Commercial. File: 22-9-PCW

Ms. Alex Beaulieu presented the staff report explaining that the applicant currently has a Zoning Certificate to operate seasonally with administrative approval. They have an approved site plan that would allow them to move forward with year-round operation including paved parking. They are requesting to be able to temporarily continue to utilize the current grass and gravel parking with Tents and Food Trucks that will be open year round until they can afford to move forward with the site improvements. The staff recommends if the Planning Commission is inclined to approve this request, that there be a set time frame to complete the site plan improvements. The planning staff recommends 2 years after the approval, if Mr. Saunders is agreeable to that.

The applicant, Ms. Tina Krop, clarified that she and her husband got a divorce and she needs a little bit more time to get her finances together.

Mr. Shepp opened the Public Hearing. There was no public comment. Mr. Shepp closed the Public Hearing.

Mr. Stolipher made a motion to approve the waiver request with a 24-month time frame per the staff recommendation. Mr. Louthan seconded the motion; which was approved unanimously.

7. **Public Hearing:** Proposed text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA22-01, to allow Solar Energy Facilities to process as a Principal Permitted Use in areas located inside the Urban Growth Boundary and Preferred Growth Area as delineated on the Future Land Use Guide in the County's Comprehensive Plan; and as a Conditional Use in areas outside of the Urban Growth Boundary and Preferred Growth Area. The text amendment proposes revisions to Article 2 Definitions; Article 8 Supplemental Use Regulations (creation of Section 8.20 Solar Energy Facilities); and Appendix C Principal Permitted and Conditional Uses Table.

Mr. Shane Roper and Mr. Steve Stolipher recused themselves for this agenda item as well as Items 8 and 10b.

Ms. Alex Beaulieu provided a brief overview of the proposed draft of the text amendment. The amendment includes revisions to the definitions and the supplemental use regulations, as well as revisions to Appendix C.

Mr. Shepp opened the Public Hearing. The following members of the public spoke during the public hearing:

1. Braden Houston – 68 Chestnut St, Newton, Massachusetts, OPD Energy

Mr. Houston stated that OPD Energy is one of the developers representing a potential solar project and that they are supportive of the Ordinance amendment as written.

2. Ms. Mary Vandevander - 67 C Edward Lane, Charles Town

Ms. Vandevander spoke in support of renewable energy sources due to climate change and is supportive of solar companies locating in the County and that she hoped the County will lead the way

3. Delegate Wayne Clarke - 397 Diggs Street

As a Member of WV House Energy Committee, Mr. Clark spoke in support of bringing Solar into Jefferson County through the proposed amendment. He stated that this is going to bring Jefferson County into the forefront of economic diversification with additional business that will help with the growth of the County and Eastern Panhandle.

4. Mr. Rockwell – Myerstown Road, WV

Mr. Rockwell requested to save his comments until the end of the hearing.

5. Rodney Rice – 3327 Winchester Rd Martinsburg WV (Zoom)

Mr. Rice spoke as the Business Manager of the International Brotherhood of Electrical Workers (IBEW) in support of bringing solar into the County.

6. Rob Reckert – 327 N Center St., Cumberland, MD (Zoom)

Mr. Reckert spoke on behalf of the Atlantic States Regional Council of Carpenters, representing 90-100 Carpenters in the Eastern Panhandle. He spoke in support of the solar text amendment.

7. Stacy Tabb - 248 Willowdale Dr., Shepherdstown, WV (Zoom)

Ms. Tabb provided an overview of the history of the use of solar energy across the country. She expressed concern about the size of utility scale solar and recommended amending the text amendment to include limiting solar to be in close proximity of existing transmission lines and to include a provision for the passage of wildlife through the solar panel project sites.

8. Ken Lowe – 233 Lowe Dr Shepherdstown, WV (Zoom)

Mr. Lowe called as a real estate broker supporting a new endeavor that has not been announced yet. He spoke in support of the proposed text amendment.

9. The Planning Commission invited Mr. Rockwell back up to speak. Mr. Rockwell stated he did not have any additional comments to present beyond what he submitted in writing and included in the Planning Commission's agenda packet.

Mr. Shepp closed the Public Hearing.

8. **Discussion and Possible Action:** Consideration of and possible action on a recommendation related to the text amendment to the Jefferson County Zoning and Land Development Ordinance, File #ZTA22-01, regarding Solar Energy Facilities.

Mr. Shepp opened the discussion and referred the Commission members to the public comments presented during the hearing. He noted that the County had been discussing how to address utility scale solar for about it for three years.

Mr. Shepp proposed an amendment to the draft text to direct the Zoning Administrator to incorporate a provision that clarifies for projects located both within and outside the Urban Growth Boundary and Preferred Growth Area, a conditional use permit and concept plan would be permitted to process concurrently with a requirement that any changes imposed by the Board of Zoning Appeals during the Conditional Use Permit hearing would need to be reflected on the Concept Plan.

After discussion as to whether this determination could be made by the Zoning Administrator, Mr. Shepp withdrew his amendment and made a motion to approve the Solar Text Amendment as written and to forward the draft amendment to the County Commission for them to schedule a Public Hearing.

Mr. Hefestay seconded the motion.

Mr. Shepp amended his motion to include that the Planning Commission finds the draft text amendment is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Hefestay accepted this modification to the motion, which carried unanimously.

9. **WITHDRAWN - Public Hearing:** Request for a waiver of Section 20.201A.2 (a) to allow a lot in a proposed minor subdivision to utilize an existing 20' access easement (Tabernacle Lane) without obtaining an additional WV DOH permit. Applicant: Mission Tabernacle Church. Property Owner: Charlotte Beahm; Property Location: 382 Mission Rd., Harpers Ferry, WV. Parcel ID: 02021A00140000; Size: 1.37 acres; Zoning District: Rural. File: 22-11-PCW.]

#### 10. **Reports from Legal Counsel**

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.

Mr. Nathan Cochran – Nothing further to add; currently in litigation and have filed a motion for a protective order related to the matter of discovery, which has not been acted upon.

- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.

Mr. Nathan Cochran stated that those cases are currently under negotiations as to resolution. They are wrapped together with the current text amendment and waiting to be resolved.

11. **Planner's Memo** - Next Meeting is June 14, 2022
12. **President's Report** - None
13. **Actionable Correspondence** - None

14. **Non-Actionable Correspondence** - None

Mike Shepp motioned to adjourn the meeting; Mr. Jack Hefestay seconded the motion, which carried unanimously. The meeting was adjourned at 7:54 pm.

These minutes were prepared by Tanya Lyons, Planning Clerk.



Meeting Minutes  
Jefferson County Planning Commission  
May 26, 2022

The Jefferson County Planning Commission met on May 26, 2022 at 7:00 p.m. with the following Planning Commission members present via ZOOM: Mike Shepp, President; Wade Louthan, Secretary; Jack Hefestay, Ron Thomas, Steve Stolipher, and Shane Roper.

Matt Knott, Vice President, and J Ware were absent with notice. Donnie Fisher was absent without notice.

Staff members present included Jennifer Brockman, County Planner, and Nathan Cochran, County Attorney.

The Planning Commission meeting was held as a virtual meeting. The virtual meeting access information was made available on the agenda and packet, which were posted to the County website.

Mr. Shepp confirmed that a quorum was present and called the meeting to order at 7:02 pm.

**1. Reports from Legal Counsel**

Review and Discuss Jefferson County Circuit Court case number 2021-C-109, including determining the Planning Commission's future course of action in the case.

Mr. Cochran explained that there have been some developments related to this Circuit Court case that required a response and that he needed to discuss potential action related to the case with the Planning Commission.

Mr. Mike Shepp made a motion to go into Executive Session to receive legal advice on Circuit Court Case # 2021-C-109. Mr. Jack Hefestay seconded the motion, which passed unanimously.

The Commission logged off the ZOOM call during the Executive Session.

At 7:18, Mr. Hefestay made a motion to come out of Executive Session, seconded by Mr. Ron Thomas, which passed unanimously. Mr. Shepp confirmed that all members in attendance had rejoined the meeting.

Mr. Thomas made a motion to direct Counsel to file a writ of prohibition to the Supreme Court related to Jefferson County Circuit Court case number 2021-C-109; Mr. Steve Stolipher seconded. Mr. Shepp stated that he believed that given the circumstances, the Planning Commission had no other choice in this matter. The motion passed unanimously.

Mr. Hefestay motioned to adjourn the meeting at 7:20 p.m. Mr. Shepp seconded the motion, which carried unanimously.

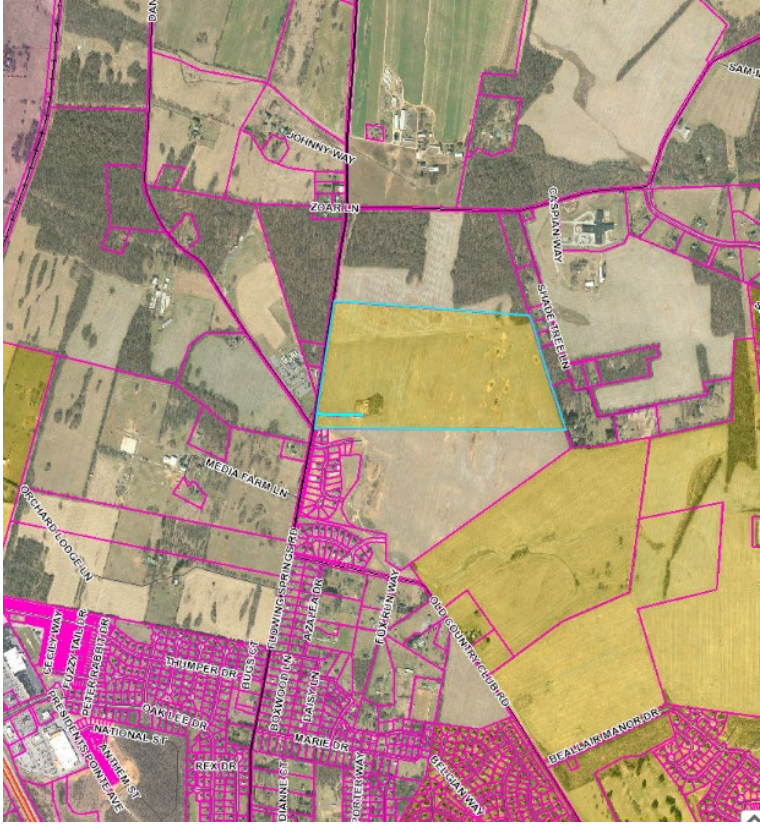
These minutes were prepared by Jennifer Brockman, County Planner.



**Staff Report**  
 Jefferson County Planning Commission  
 June 14, 2022

**Stonecrest Major Subdivision Concept Plan Public Workshop (22-11-SD)**

**Item #3: Public Workshop:** A Concept Plan for Stonecrest (FKA Green Hill) Major Residential Subdivision consisting of 320 Single Family Lots.

Owner	Flowing Springs Road, LLC
Applicant	DR Horton-Bill Sudeck
Consultant	Mark A. McDonald, Integrity Federal Services
Property Location & Information	<p style="text-align: center;">Flowing Springs Rd, east of Daniels Road, Charles Town, WV;                  Parcel ID: 02000300090000; Size: 104.98 acres; Zoning District: Residential Growth</p> 
Adjoining Zoning:	North, East, West: Rural; South; Rural and Residential Growth
Proposed Request:	Stonecrest Major Subdivision proposed to consist of 320 single family detached lots on 104.98 acres to be served by public water and sewer.
Previous Approvals:	3-17-22: County Commission approved Zoning Map Amendment (22-1-Z) for this property from Rural to Residential Growth. This property had a previously approved Conditional Use Permit (CUP) and Preliminary Plat both of which expired in 2010.
Concept Plan Status:	Submitted: 04/06/22 Sufficiency Letter, with conditions: 04/11/22 Subdivision name changed from Green Hill to Stonecrest: 05/17/22

**Introduction and Summary of Request**

The applicant is proposing the development of a Major Subdivision consisting of 320 single family detached home lots on 105+/- to be served by public water and sewer by the Charles Town Utility Board.

## Staff Report

Jefferson County Planning Commission

June 14, 2022

### Stonecrest Major Subdivision Concept Plan Public Workshop (22-11-SD)

The property is located east of Flowing Springs Rd, near the intersection with Daniels Road, just north of the Aspen Green Subdivision.

The overall density for this development is 3.0 dwelling units per gross acre for the entire 105-acre property and 4.9 dwelling units per net acre for the 65.36-acre portion of the property which will be occupied by homes. The minimum lot area for properties served by public water and sewer in the Residential Growth zone is 6,000 square feet with a required area per dwelling unit of 10,000 square feet. The average lot size for the 320 lots is 8,897 square feet.

This proposed development meets the “Medium Density Residential” category, which is defined by the *2035 Envision Jefferson Comprehensive Plan* as “three units to 6.99 units per acre and reflects land occupied by a single development or a mixture of densities and housing types, including single-family detached, duplex, condominium, or townhome development. This type of development pattern would be required to be served by a public water and sewer system.” All Major Residential Subdivisions require processing a Concept Plan as well as a Preliminary and Final Plats.

#### Access

Stonecrest Subdivision proposes two access points to Flowing Springs Road (WV 17) which will require WV DOH approval. This conforms with Section 21.102C and Appendix B Section 2.3A.3 of the Subdivision Regulations which requires all residential subdivisions with more than 30 lots to have a minimum of two access points from existing roads.

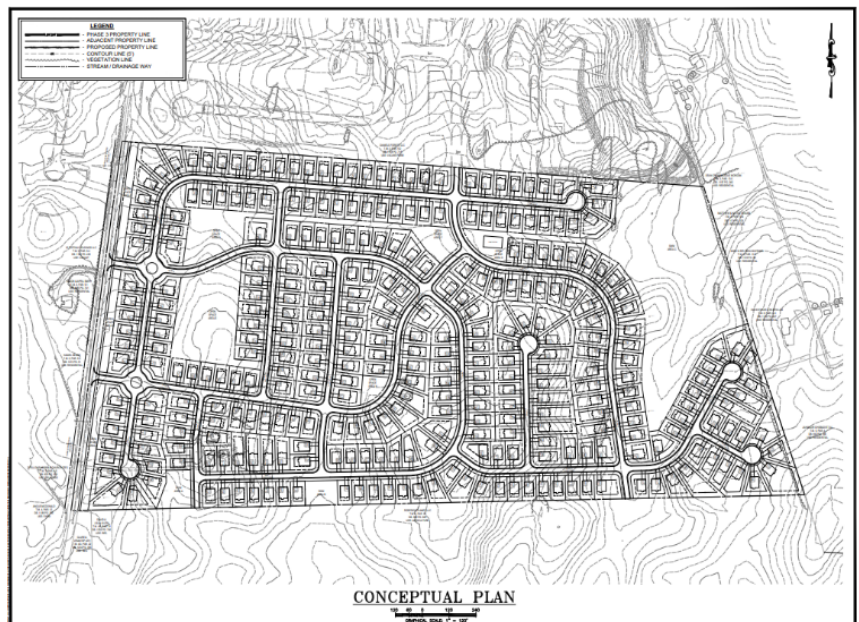
Sec. 21.102D of the Subdivision Regulations also requires that “where the adjoining land is vacant, the subdivision shall provide stub streets to the property line. Connections shall be made to all properties that are not vacant or have stub streets in place. The access shall be to properties on all sides. . . .”

Sec. 22.208 of the Subdivision Regulations requires sidewalks along at least one side of the streets in this subdivision.

The Stonecrest Subdivision Concept Plan meets this requirement and proposes the required interconnectivity to the vacant land to the north and to the stub streets provided in the Aspen green Subdivision to the south.

#### Cul-de-Sac

The proposed layout of this subdivision includes an interconnected network of streets as well as some cul-de-sacs. Section 22.206.B of the Subdivision Regulations limits cul-de-sacs to a maximum of 800 feet and serving 24 lots. The proposed layout for the Stonecrest Subdivisions Concept Plan meets this requirement.



**Staff Report**  
 Jefferson County Planning Commission  
 June 14, 2022

**Stonecrest Major Subdivision Concept Plan Public Workshop (22-11-SD)**

Open Space

Section 21.105 of the Subdivision Regulations requires that 7% of any development with a density of 4-6 units per acre be reserved for open space or parkland. The Concept Plan proposes 7.19 acres for Active Open Space Areas. Up to 60% of this requirement may be met with passive open space in the Residential Growth District.

Waivers/Variations

The applicant is not requesting any waivers of the requirements of the Subdivision Regulations.

**Subdivision Category**

The subdivision associated with this Concept Plan is governed by the Subdivision Regulations. Section 20.202 of the Subdivision Regulations states that any subdivision of land that requires the development of streets (public or private) or easements of access to the lots, or common area and/or includes the creation of more than five residential lots or more than two non-residential lots and/or requires the development of new off-tract infrastructure or the extension of existing off-tract infrastructure is classified as a Major Subdivision. Stonecrest Subdivision is processing as a Major Subdivision.

Major Subdivisions require the processing of a Concept Plan (Sections 24.110 - 24.112), which requires a Public Workshop; a Preliminary Plat (Sections 24.113 – 24.115), which requires a Public Hearing; posting of a surety/bond for all improvements (Division 24.500); and a Final Plat (Section 24.116 – 24.188), which is administratively reviewed and approved.

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

In accordance with the current Subdivision Regulations, the Major Subdivision 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 “complete” (i.e. meeting all submission requirements of Section 24.110 of the Jefferson County Subdivision and Land Use Regulations). These requirements, as well as the current review status for each requirement for the proposed 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 subdivision is situated. b) Density calculations. c) Site resource map	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 on Concept Plan

**Staff Report**  
 Jefferson County Planning Commission  
 June 14, 2022

**Stonecrest Major Subdivision Concept Plan Public Workshop (22-11-SD)**

<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>	<p style="text-align: center;">On Concept Plan:  <u>WV DOT ADT Counts</u>                  Flowing Springs Rd: 4,119;  <u>Trip Generation:</u>                  Average Daily Trips: 1,920                  and 224 Peak Hour Trips;  <u>Key intersection:</u> 5<sup>th</sup> Ave and                  Flowing Springs Rd;                  No Problem Area</p>
<b>Traffic Study</b>	<p>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.</p>	<p style="text-align: center;">WV DOH will need to determine whether a Traffic Impact Study is required.</p>
<b>6. Agency Reviews</b>	<p>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.</p>	<p style="text-align: center;">Letters to required agencies provided. Responses received are below.</p>
<b>D. Department</b>	<p>The Department review shall include the following:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol>	<p style="text-align: center;">Staff determined that the proposed Concept Plan meets the requirements of the Zoning Ordinance and the Subdivision Regulations as a Major Subdivision.</p>
<b>E. /F. WVDOH</b>	<p>The WVDOH approval is necessary prior to preliminary plat approval. The County defers to the WVDOH requirements and approval. The WVDOH shall determine whether a traffic impact study will be required during the preliminary plat stage.</p>	<p style="text-align: center;">WV DOH Highway Entrance Permit approval will be required for both entrances. An e-mail stating that the TIS has been approved was received.</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 style="text-align: center;">The applicant intends to provide the lots with public water (from JUI) and sewer (from CTUB). CTUB sent an e-mail to this effect.</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 style="text-align: center;">See below</p>
<b>I. Approval</b>	<p>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 shall accept or deny the concept plan as complete.</p>	<p style="text-align: center;">Planning Staff accepts the Concept Plan as complete, with minor outstanding comments.</p>

**Staff Report**  
 Jefferson County Planning Commission  
 June 14, 2022

**Stonecrest Major Subdivision Concept Plan Public Workshop (22-11-SD)**

<b>J. Effect</b>	Upon accepting the application as complete, Planning staff shall place it on the next possible Planning Commission agenda as a public workshop. Staff shall advertise the public workshop in a local newspaper and the applicant shall post notice on the property in accordance with the Subdivision Regulations.	The Concept Plan was scheduled for a Public Workshop consistent with this requirement.
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**Concept Plan Review**

1. External Agency Reviews (attached)

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

- The Jefferson County Health Department sent an e-mail stating that the subdivision will be connected to the City of Charles Town's public water and sewer and will not require any permits from the Health Department.
- Charles Town Utility Board (CTUB) sent an e-mail stating that JUI will be providing water to this development and CTUB will be providing sanitary sewer service.
- The West Virginia Division of Highways sent an e-mail to the consultant stating that the TIS for this project has been approved. The approved copy of the TIS will be submitted to the County with the Preliminary Plat.

As of this date, no other agency review comments have been received. If additional comments are received, they will be provided to the Planning Commission for their consideration.

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.

The Office of Planning and Zoning Staff finds the Concept Plan for the proposed Major Subdivision, located east of Flowing Springs Road, northeast of Charles Town, 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 Subdivision:

- a. WV DOH review and approval of an entrance permit will be required in conjunction with the Subdivision’s Preliminary and Final Plat.
- b. Jefferson Utility Inc. (JUI), Charles Town Utility Board (CTUB), and WV Health Department approval of the extension of public water and sanitary sewer to this property will be required in conjunction with the Preliminary and Final Plat.

Based on the Subdivision Regulations, noted above, this project will process as a Major Subdivision and the next step is to process a Preliminary Plat that meets all of the requirements and standards of the Subdivision Regulations.

## Staff Report

Jefferson County Planning Commission

June 14, 2022

### Stonecrest Major Subdivision Concept Plan Public Workshop (22-11-SD)

#### 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 24.112 of the Subdivision and Land Development Regulations outlines the direction to be provided to the applicant during a Major Subdivision review:

“The Planning Commission shall direct the preparation of a Preliminary Plat subject to conditions to be addressed in the Preliminary Plat application. The purpose of this review is to guide the developer so that when the Preliminary Plat 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 Major Subdivision 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:**

- Jefferson County Health Department e-mail
- IFS/WVDPH e-mail
- CTUB e-mail

**From:** [Demastes, Alexandra N](#)  
**To:** [Planning Department](#)  
**Subject:** Greenhill Subdivision Concept Plan  
**Date:** Wednesday, April 20, 2022 9:22:31 AM

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**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Good morning,

I am a Sanitarian with the Jefferson County Health Department. I have reviewed the Greenhill Subdivision Concept Plan. The Greenhill Subdivision will be connected to the City of Charles Town's public water and sewer. Therefore, they will not require any permits through our office.

Please let me know if you have any questions or concerns.

Thank you,  
Lexi Demastes  
Sanitarian 1  
Jefferson County Health Department  
304-728-8416 ext. 3036  
1948 Wiltshire Rd. Suite 1  
Kearneysville, WV 25430



**From:** [Jason Gerhart](#)  
**To:** [Planning Department](#); [engineering](#)  
**Cc:** [Kirk, Tim](#); [Mark McDonald](#)  
**Subject:** FW: 2022\_05\_05, Green Hill TIS Final, Jefferson County  
**Date:** Monday, June 6, 2022 8:08:53 AM

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**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

To all,

Please see below email from DOH approving the Traffic Study. I have a PDF copy of the full traffic study, but it is 15 MB so I wanted to start with just the approval email. I can either submit a copy now, or include it with our Preliminary Plat, but we wanted to get this to you in advance of the Concept Plan meeting as it generally is a point of discussion.

-Jason

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**From:** Cramer, David E <[david.e.cramer@wv.gov](mailto:david.e.cramer@wv.gov)>  
**Sent:** Tuesday, May 31, 2022 4:10 PM  
**To:** Kirk, Tim <[tkirk@amtengineering.com](mailto:tkirk@amtengineering.com)>  
**Cc:** Donald R Meadows <[donald.r.meadows@wv.gov](mailto:donald.r.meadows@wv.gov)>; Kenneth L Clohan <[kenneth.l.clohan@wv.gov](mailto:kenneth.l.clohan@wv.gov)>; Trixie A Willis <[trixie.a.willis@wv.gov](mailto:trixie.a.willis@wv.gov)>  
**Subject:** Fwd: 2022\_05\_05, Green Hill TIS Final, Jefferson County

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you verify that the attachment and content are safe.

The results of DOH review of this submission indicate you have addressed adequately our previous comments and the TIS is approved as submitted.

If additional information is needed, please let us know.

Dave

## Planning Department

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**From:** kstolipher <kstolipher@ctubwv.com>  
**Sent:** Monday, June 6, 2022 1:22 PM  
**To:** Planning Department  
**Subject:** RE: Stonecrest (AKA GreenHill) Subdivision and Ascension Church Site Plan

**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Jennie,

CTUB will be providing sewer to the Greenhill subdivision. JUI will be serving Greenhill with water and I would assume same for the church as we do not have water facilities immediate to either of these developments.

Thanks,  
Kristen



Kristen M. Stolipher  
Utility General Manager  
Charles Town Utility Board  
661 South George Street, Suite 101  
Charles Town, WV 25414  
Office: (304) 724-7080  
Cell: (304)-904-7359  
Email: [kstolipher@ctubwv.com](mailto:kstolipher@ctubwv.com)

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---

**From:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Sent:** Monday, June 6, 2022 10:05 AM  
**To:** kstolipher <kstolipher@ctubwv.com>  
**Cc:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Subject:** Stonecrest (AKA GreenHill) Subdivision and Ascension Church Site Plan

Kristen

We have Concept Plans in for each of these projects for which you should have received information from the applicants.

I am currently drafting staff reports that need to go out in a few days and I am hoping that you can confirm that you will be serving these properties.

It is possible that it is actually JUI serving the church with water and CTUB is only providing sewer?

I think the applicants have indicated that Stonecrest/Greenhill will be served both water and sewer by CTUB.

I would appreciate any information you can provide me on these projects.

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

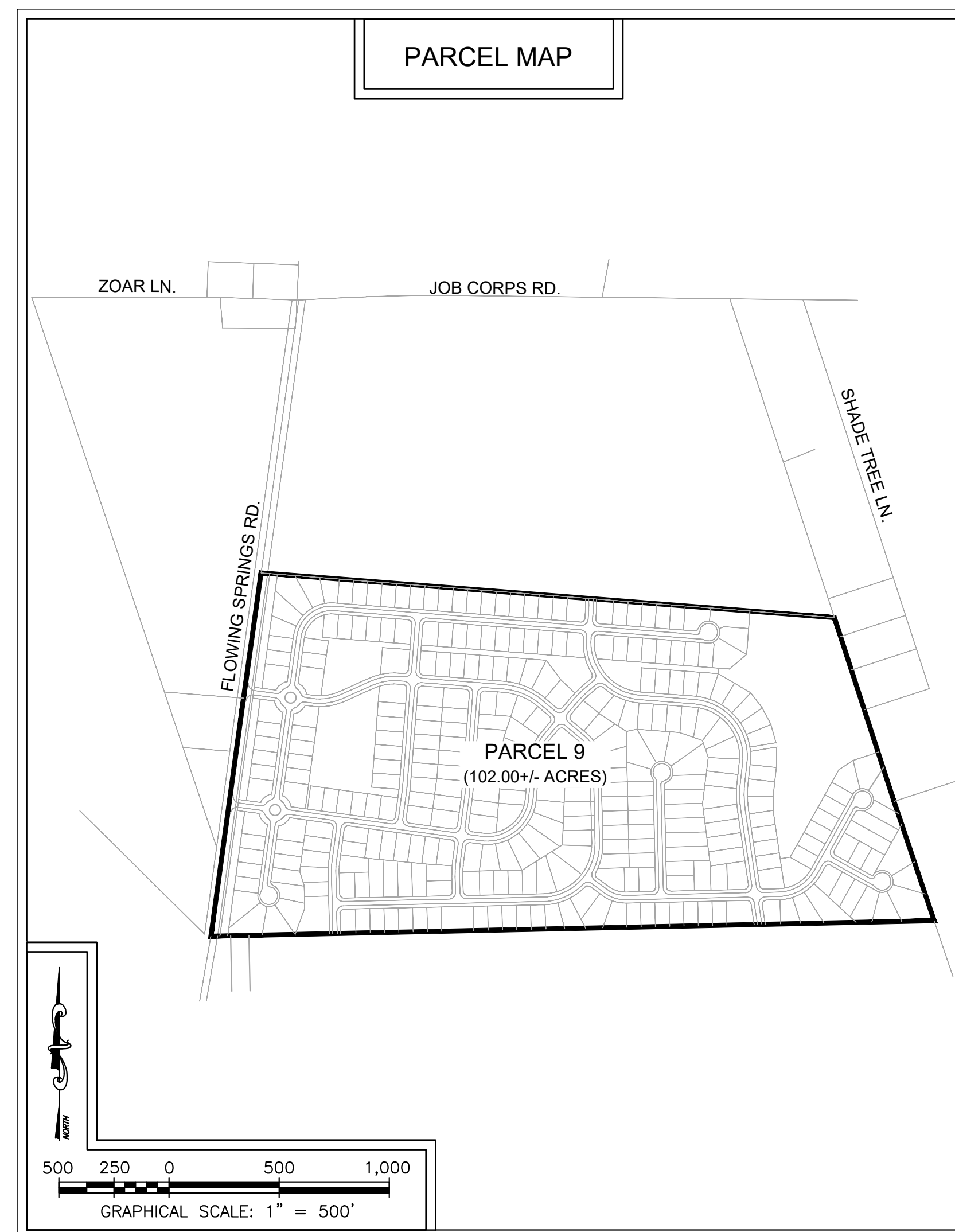
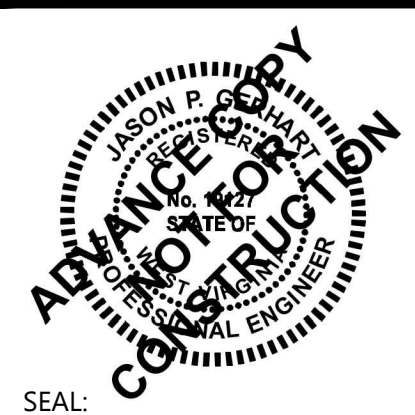
[planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

# CONCEPT PLAN FOR GREEN HILL SUBDIVISION

JEFFERSON COUNTY, WEST VIRGINIA  
CHARLES TOWN DISTRICT  
TAX MAP 3, PARCEL 9  
DEED BOOK 1255, PAGE 569

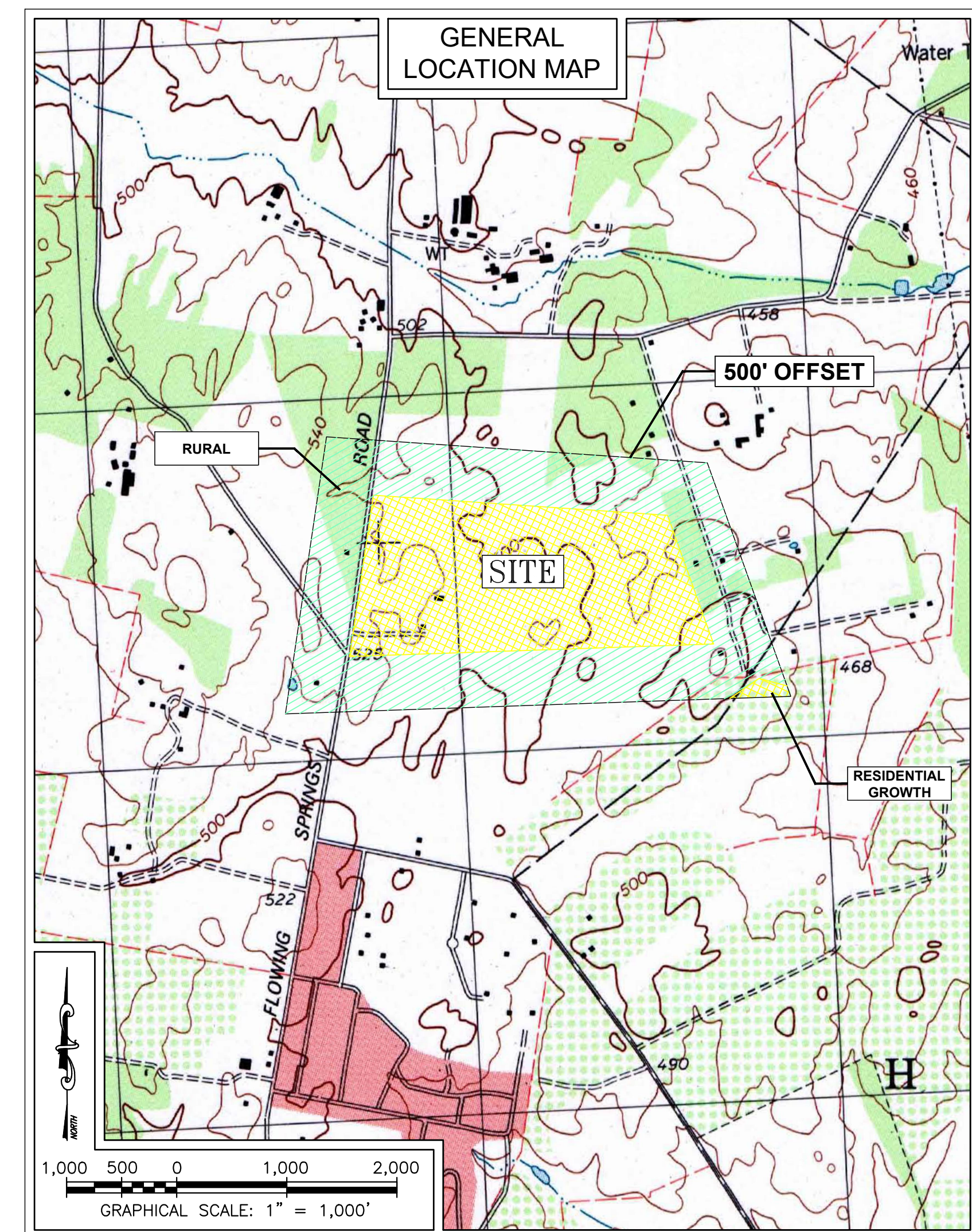
**OWNER**  
FLOWING SPRINGS ROAD, LLC  
21631 RIDGETOP CIRCLE  
STERLING, VA 20166

**APPLICANT/DEVELOPER**  
DR HORTON  
181 HARRY S. TRUMAN PKWY., SUITE 250  
ANNAPOLIS, MD 21401



**CONCEPT PLAN REVIEW CHECKLIST NOTES:**

- B.1. SEE GENERAL LOCATION MAP THIS SHEET FOR ZONING DISTRICTS WITHIN 500' OF THE SUBJECT PROPERTY.
- B.2. - A CONCEPT PLAN ON 24x36 WHITE PAPER CAN BE FOUND ON SHEET 2.  
- SEE SHEET 2 FOR THE LAYOUT OF LOTS, RECREATION AREAS AND ROADS.  
- BUILDING AREAS WILL BE CONFINED TO EACH SINGLE FAMILY DETACHED LOT WITHIN BUILDING SETBACK LINES.  
- ACTUAL BUILDING FOOTPRINTS WILL VARY WITH INDIVIDUAL HOME DESIGN.
- B.3. ZONING INFORMATION:  
a. THE SUBJECT PROPERTY IS LOCATED IN THE (RG) RESIDENTIAL GROWTH ZONING DISTRICT.  
b. DENSITY CALCULATIONS: 4.9 NET DWELLING UNITS PER ACRE (320 UNITS / 65.36 ACRES = 4.9 DUA)  
c. SEE SHEET 2 FOR THE PROPERTY'S "SITE RESOURCES".  
c.1. FIELD SURVEY DATED APRIL 4, 2021 IS PROVIDED BY THE THRASHER GROUP, INC. THE TOPOGRAPHIC CONTOUR INTERVAL IS (2) FOOT. HORIZONTAL DATUM IS NAD83 WEST VIRGINIA STATE PLANE, NORTH ZONE. VERTICAL DATUM IS NAVD83.  
c.2. WOODED AREAS AND WATER COURSES ARE INCLUDED ON SHEET 2. LIMITED AREAS OF ROCK OUTCROPPINGS ARE LOCATED SPORADICALLY THROUGHOUT THE PROPERTY. THERE ARE NO KNOWN HILLSIDES, SINK HOLES OR QUARRIES LOCATED IN THE AREA OF DEVELOPMENT. IT IS POSSIBLE THAT SOME OF THESE FEATURES MAY EXIST AND ARE CONCEALED BY EXISTING VEGETATION OR ARE OUTSIDE THE AREA PROPOSED FOR DEVELOPMENT. ALL STATE, FEDERAL AND LOCAL REGULATIONS WILL BE OBSERVED IF ANY UNKNOWN SITE RESOURCES ARE DISCOVERED DURING CONSTRUCTION.  
c.3. NO DEVELOPMENT WILL OCCUR WITHIN 1,000' OF THE SHENANDOAH OR POTOMAC RIVERS AND THEREFORE IS NOT SUBJECT TO THE HILLSIDE REGULATIONS FOUND UNDER SECTION 22.504 A. OF THE JEFFERSON COUNTY SUBDIVISION AND LAND DEVELOPMENT REGULATIONS.  
c.4. FEMA MAP 54037/0130E DATED 12/18/2009 DO NOT IDENTIFY ANY FLOODPLAINS ON THE SUBJECT PROPERTY.  
d. SEE SHEET 2 FOR ADJACENT PROPERTY INFORMATION.  
B.4. PROPOSAL DESCRIPTION: THE SUBJECT PROPERTY IS ZONED RESIDENTIAL GROWTH. THE REQUESTED CONCEPT PLAN INCLUDES 320 SINGLE FAMILY DETACHED UNITS, OPEN SPACE, STORMWATER MANAGEMENT AREAS AND THE CONSTRUCTION OF ASSOCIATED UTILITIES. SIDEWALKS SHALL BE PROVIDED ON AT LEAST ONE SIDE OF ALL STREETS. NO RESTRICTIVE COVENANTS/CONDITIONS/RESTRICTIONS ARE PROPOSED AT THIS TIME BUT MAY BE PROVIDED AT TIME OF FINAL PLAT.  
B.5. TRAFFIC IMPACT DATA  
a. THE WV DOT ONLINE TRAFFIC COUNTS PROVIDE AVERAGE DAILY TRAFFIC COUNTS FOR THE FOLLOWING LOCATIONS: FLOWING SPRINGS RD = 4,119.  
b. TRIP GENERATION FOR DETACHED SINGLE FAMILY UNITS BASED ON SECTION 24.110(B)5.b. OF THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS ARE AS FOLLOWS:  
PEAK HOUR TRIPS: 320 (DETACHED UNITS) x 0.70 = 224  
AVERAGE DAILY TRIPS: 320 (DETACHED UNITS) x 6 = 1,920  
c. THE NEAREST KEY INTERSECTION AS DEFINED IN THE CONCEPT PLAN CHECKLIST IS FLOWING SPRINGS RD. & E. 5th AVE. INTERSECTION.  
d. THERE ARE NO "HIGHWAY PROBLEM AREAS", AS DEFINED BY THE ENVISION JEFFERSON 2035 COMPREHENSIVE PLAN, WITHIN ONE (1) MILE RADIUS OF THE PROPERTY.  
B.7. AGENCY REVIEWS: LETTERS WERE SENT TO THE REQUIRED REVIEW AGENCIES AS REQUIRED BY THE CONCEPT PLAN REVIEW CHECKLIST. A COPY OF THE LETTERS ARE INCLUDED AS PART OF THIS SUBMISSION.  
B.10. A LIST OF ALL ADJOINING PROPERTIES AND OWNERS ADDRESS'S ARE INCLUDED AS PART OF THIS SUBMISSION. PROPERTY OWNERS INFORMATION IS PROVIDED PURSUANT TO JEFFERSON COUNTY ASSESSOR'S RECORDS.  
E. A LETTER TO WVDH HAS BEEN SENT REQUESTING THE IDENTIFICATION OF ANY ISSUES, DATA REQUIREMENTS OR NOTICE THAT THERE ARE NONE.  
F. PURSUANT TO SECTION 24.119 B.6. OF THE SUBDIVISION REGULATIONS, THE PROPOSED DEVELOPER WILL PROVIDE A TRAFFIC IMPACT STUDY IN ACCORDANCE WITH WVDH CRITERIA.  
G. WATER AND SANITARY SEWER SERVICE WILL BE PROVIDED BY THE CITY OF CHARLES TOWN. PRELIMINARY DISCUSSION WITH THE CITY OF CHARLES TOWN INDICATES THERE IS CAPACITY TO SERVE THE PROPOSED DEVELOPMENT. EXACT CONNECTIONS WILL BE DETERMINED THROUGH COORDINATION WITH THE CITY OF CHARLES TOWN DURING PRELIMINARY PLAT DEVELOPMENT



PARKLAND		
Density - DUA		
Dwellings	Residential Lot Area	Dwelling Units Per Acre
320	65.36	320 / 65.36 = 4.9
Parkland Requirements*		
	% of Site	Land Area (AC)
Required	7	7.14+/- (102 x 0.07 = 7.14)
Provided (Active)	7.04% (7.19 / 102 = 7.04)	7.19+/-

Setbacks - Single Family Detached Dwelling			
Front	Side	Street Side	Rear
25'	12'	15'	20'

LAND AREAS	AREA (AC)
RESIDENTIAL LOT AREA	65.36
INTERNAL ROAD RIGHT-OF-WAY	19.13
STORMWATER MANAGEMENT	9.94
RIGHT-OF-WAY DEDICATION	0.38
ACTIVE OPEN SPACE	7.19
TOTAL	102.00

ACTIVE OPEN SPACE AREAS	AREA (AC)
A	0.46
B	0.37
C	0.42
D	1.46
E	2.76
F	0.82
G	0.66
H	0.24
TOTAL	7.19

\* (CT) = CHARLES TOWN ZONING DISTRICT.

REVISIONS	
NO.	DESCRIPTION

COVER SHEET AND NOTES  
**GREEN HILL SUBDIVISION**  
**CONCEPT PLAN**  
TAX MAP 3, PARCEL 9, D.B. 1255, PG. 569  
02 CHARLES TOWN TAX DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA  
J.C. FILE #XXX-XX

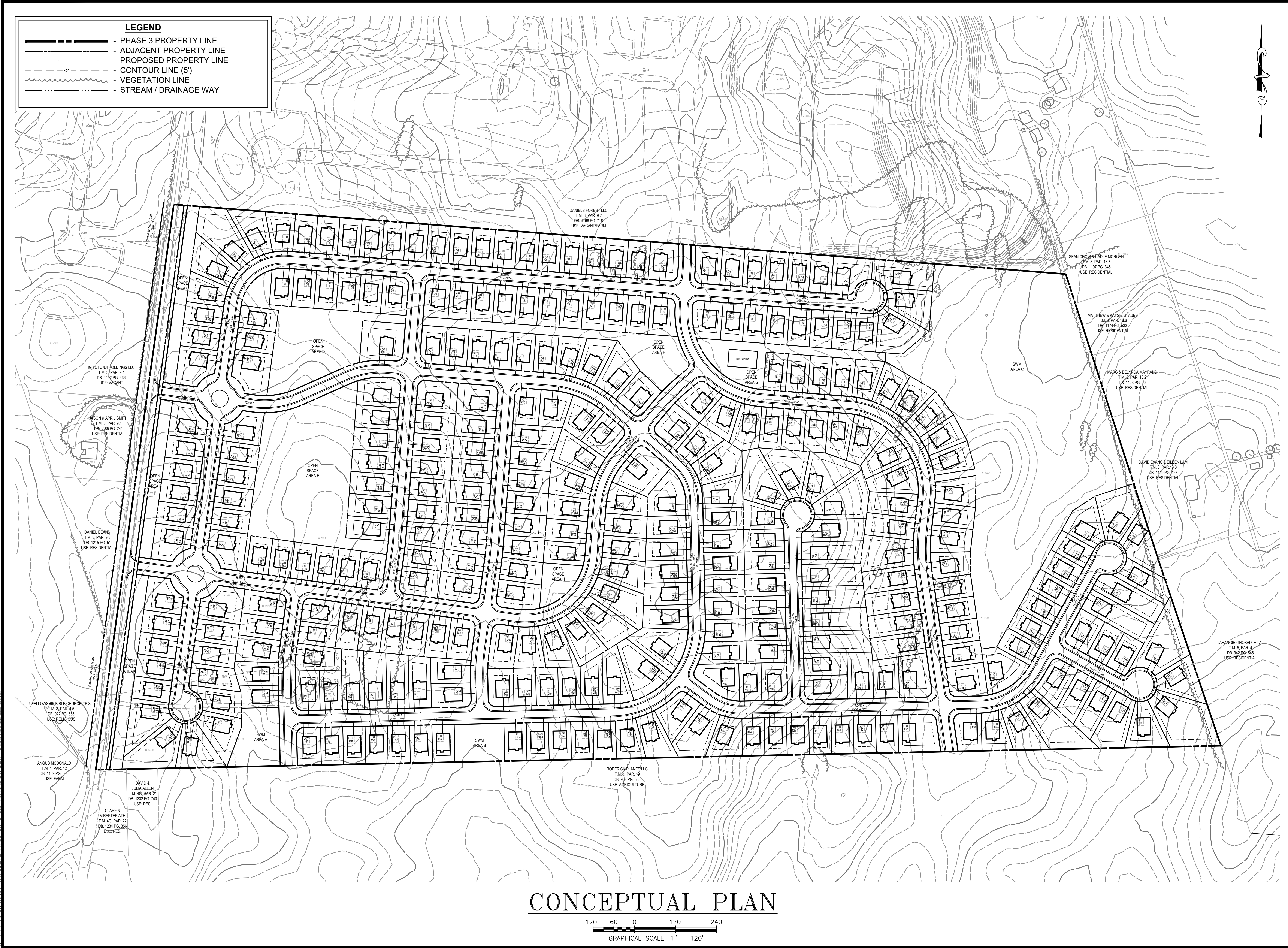
**SHEET INDEX**  
1. COVER SHEET & NOTES  
2. CONCEPTUAL PLAN

JEFFERSON COUNTY PC FILE:

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	VERT.: NA
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DRAWN:	MAM
CHECK:	JPG
CADD:	2582-0103_C-SP01.DWG
NCS:	
SHEET:	1 OF 2

**LEGEND**

- PHASE 3 PROPERTY LINE
- ADJACENT PROPERTY LINE
- PROPOSED PROPERTY LINE
- CONTOUR LINE (5')
- VEGETATION LINE
- STREAM / DRAINAGE WAY



# CONCEPTUAL PLAN



**INTEGRITY FEDERAL SERVICES**

CIVIL ENGINEERING • LANDSCAPE ARCHITECTURE • PLANNING

148 S. Queen Street, Suite 201 • Phone: 304-725-8456  
Martinsburg, WV 25101 • www.ifc-ac.com

**ADVANCED SURVEY CONSTRUCTION**

PROFESSIONAL ENGINEER

SEAL:

REVISIONS	
NO.	DESCRIPTION

CONCEPTUAL PLAN

**GREEN HILL SUBDIVISION**

**CONCEPT PLAN**

TAX MAP 3, PARCEL 9, D.B. 1255, PG. 569  
02 CHARLES TOWNTAX DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA

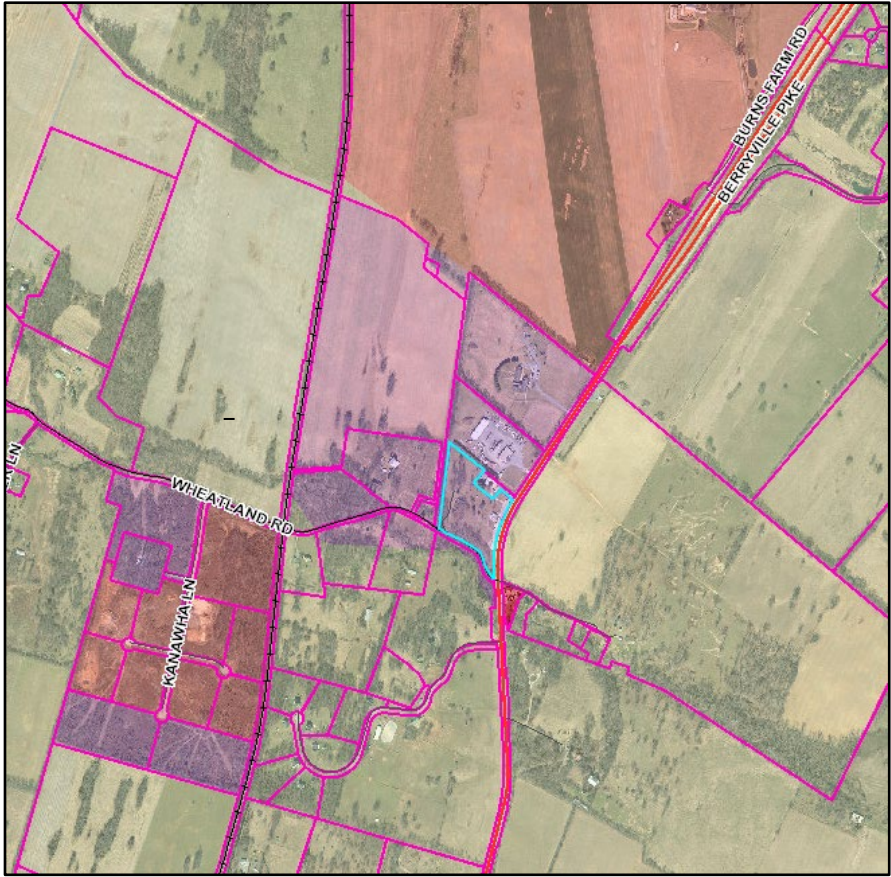
J.C. FILE #XXX-XX

SCALE:	HORIZ: 1"=120'
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JOB:	2582-0103
DRAWN:	MAM
CHECK:	JPG
CADD:	2582-0103_C-SP01.DWG
NCS:	
SHEET:	2 OF 2

Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022

**Berryville Pike Telecommunications Tower Concept Plan (21-8-SP)**

**Item #4: Public Workshop:** Request by AT&T Mobility, LLC for approval of a Minor Site Plan Concept Plan to construct a 179' telecommunications tower (171' monopole with an 8' lightning rod) within a 2,500 square foot (50' x 50') fenced compound.

Applicant	New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC
Owner	340 Rainbow, LLC
Surveyor/Engineer	KCI Technologies, Inc.
Parcel Information and Location	<p style="text-align: center;">3511 Berryville Pike, Charles Town, WV 25414          Parcel ID: 06001100010002; Size: 9.3 acres; Zoning: Industrial Commercial</p> 
Adjacent Zoning	<i>North:</i> Industrial Commercial & Residential-Light Industrial-Commercial <i>South:</i> Rural; <i>East:</i> Rural; <i>West:</i> Industrial Commercial & Rural
Proposed Activity	179' telecommunications tower
Concept Plan Status:	Submitted: 04/27/2022 Sufficiency Letter, with minor comments: 05/09/2022 Resubmitted: 05/31/2022
Previous Approvals	19-16-ZC Temporary sale of legal fireworks conducted from an 8' x 40' container. 21-31-ZC Change in Owner: Nonconforming Use: Mobile Home Park for four (4) mobile homes

Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022

**Berryville Pike Telecommunications Tower Concept Plan (21-8-SP)**

**Summary of Request**

AT&T is proposing to construct a 179’ telecommunications tower (171’ telecommunications tower with an 8’ lightning rod) within a 2,500 square foot fenced compound.

The subject property is owned by 340 Rainbow, LLC and is comprised of approximately 9.3 acres. The parcel includes an existing restaurant (TJs Pit Stop) and a mobile home.

The Concept Plan is the first step required by the Zoning Ordinance, followed by a Minor Site Plan, which is administratively processed. This Staff Report addresses the Concept Plan criteria only.

**Article 4B Purpose Statement**

*The purpose of Article 4B, Wireless Telecommunication Facilities, is to balance the needs of residents of and visitors to Jefferson County for reliable access to wireless telecommunication networks and services with the community’s desire to preserve the County’s rural, historic and agricultural character and the quality of its residential neighborhoods.*

**Site Plan Category**

Article 4B of the Zoning Ordinance requires that a site plan for a proposed Wireless Telecommunications Tower shall process as a minor site plan. Prior to submission of the minor site plan, a Concept Plan is required, subject to a Public Workshop before the Planning Commission.

The Ordinance specifies that submittal and review of a Concept Plan for a tower shall follow the review process and timeline established in Sections 24.119 – 24.122, with certain exceptions.

**Staff Determination of Application Sufficiency**

Prior to scheduling a Concept Plan Public Workshop before the Planning Commission, staff must determine that the plan submitted by the applicant is “sufficient and complete” – i.e. meeting all relevant requirements of the Subdivision Regulations and Section 4B.7 of the Zoning Ordinance.

Because telecommunication towers have unique characteristics that distinguish them from other types of development (such as height and visual impact), the Zoning Ordinance specifies submittal requirements that are required in addition to those for a standard Concept Plan. These requirements are as follows:

<b>Zoning Ordinance Required Item</b>	<b>Description</b>	<b>Comment</b>
<b>a.</b> Dimensions, use, and setbacks	Outside dimensions, use, and setbacks of all existing and proposed buildings, structures, towers, antennas, utility lines, driveways, and parking areas.	Meets ordinance requirements. Fall radius area includes adjoining 0.92 acre commercial parcel under the same ownership (see also note 16 on Page 2 of Concept Plan)
<b>b.</b> Height	Height of the proposed tower measured from ground level at the center of the proposed structure, and height comparison to any nearby buildings or trees, or other applicable structures and natural landforms part of the site’s background and foreground landscape.	In the Industrial Commercial zoning district, the permitted tower height is 199’. The proposed tower is 179’.

Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022

**Berryville Pike Telecommunications Tower Concept Plan (21-8-SP)**

<b>c.</b> Elevations and cross-section	Elevations and Cross-Section: Display topography with all proposed facilities including tower, equipment shelter and existing buildings.	Meets ordinance requirement.
<b>d.</b> Antenna features	Number, size and location of proposed and existing antennas; number of co-locations possible.	Proposed 179' tower will include six antennas at 171' and will allow three future co-locations.
<b>e.</b> Method of camouflage	Method of camouflage (if any).	The proposed tower will be flat gray or galvanized finish.
<b>f.</b> Historic structures	Locations of known historic structures.	Letter from SHPO attached.
<b>g.</b> Development Schedule	A description of the anticipated construction and installation schedule.	See Page 5 of Narrative. Construction expected to begin within a month of obtaining zoning and permitting approvals. It takes 3-4 months for a tower to be constructed and become fully operational.
<b>h.</b> FCC Compliance	Documentation verifying compliance with applicable Federal Communications Commission (FCC) standards and requirements to provide the proposed services.	Provided.
<b>i.</b> Design criteria	Narrative addressing the design criteria of Section 4B.7.	Provided.
<b>j.</b> Balloon test information	Dates, address list, and notice for Balloon Test.	Provided.
<b>k.</b> Balloon test exhibits	Balloon Test exhibits as required in subsection G of Section 4B.7.	Provided.
<b>l.</b> Propagation maps	Propagation maps as required in subsection F of Section 4B.7.	Provided.
<b>m.</b> Additional information	Any other relevant information.	Page 6 of Narrative.
<b>n.</b> Preferred Structures and Locations Policy	Additional application requirements of subsection H (Preferred Structures and Locations Policy)	Page 6 of Narrative.

Other required elements for a Wireless Telecommunications Tower Concept Plan are the same as for a site plan submittal as established in the Subdivision Regulations, Appendix A, Sec. 1.3A, with the exception of Subsections 1.3A.20-22, 24-29, 31-35. Staff deemed the Concept Plan sufficient with minor outstanding comments on May 6, 2022 (Review 1) and June 7, 2022 (Review 2) and placed the Concept Plan on the June 14, 2022 Planning Commission agenda for a public workshop. Average Daily Trip (ADT) figures for the adjoining roads, and data related to the nearest key intersection and highway problem areas per *Envision Jefferson 2035 Comprehensive Plan* are still required.

Excerpts from the full 294 page application are attached. The full application is available for review if desired

**Berryville Pike Telecommunications Tower Concept Plan (21-8-SP)**

**External Agency Reviews**

Most external agency reviews are not applicable, per Section 4B.7 of the Zoning Ordinance. As required by this section, the Jefferson County Historic Landmarks Commission (JCHLC) was made aware of this application filing.

**Planning Commission Public Workshop Scope of Review**

For a Wireless Telecommunications Tower, the Concept Plan Public Workshop is the only Planning Commission meeting during which the Planning Commission reviews the proposed plan. The scope of the Public Workshop includes the following:

1. A demonstration of need, as required by Article 4B;
2. Neighborhood compatibility;
3. Impact on cultural and historic resources;
4. Visual mitigation;
5. The submittal and design criteria of Article 4B;
6. The compatibility of the facility proposal with the Comprehensive Plan; and
7. Any relevant information presented by any person that addresses the purpose and intent of Article 4B.

The applicant addressed the above criteria in the form of a narrative with several exhibits. Individual components have been noted as complete in the chart on page 3 of this report.

**1. A demonstration of need as required by Article 4B**

The purpose of the “demonstration of need” requirement is for the applicant to demonstrate that the proposed tower is necessary for coverage purposes, at the proposed height and at the proposed location. Implicit in this requirement is a demonstration that there are no other feasible alternatives to building a tower, such as co-location of antennas on an existing structure.

**2. Neighborhood compatibility**

Adjacent land uses surrounding the site include residential and agricultural uses, as well as non-residential uses. The parcels immediately surrounding the subject parcel are zoned Industrial Commercial and Rural. The Zoning Ordinance does not provide explicit standards for neighborhood compatibility for wireless facilities.

**3. Impact on cultural and historic resources**

The applicant submitted a copy of the National Environmental Policy Act (NEPA) Report, which includes a letter from the State Historic Preservation Office (SHPO) dated October 26, 2021 (attached). SHPO determined that the proposed project will not have any effect on the identified historic resources or the delineated historic district.

The only outside agency required to be contacted for this Concept Plan is the Jefferson County Historic Landmarks Commission (JCHLC). The JCHLC was notified during the Balloon Test for the site and has been in communication with the State Historic Preservation Office (SHPO) regarding identified historic structures in the vicinity.

The site for the proposed tower is not located in the Harpers Ferry Overlay District or within 1 mile of the Appalachian Trail.

**Berryville Pike Telecommunications Tower Concept Plan (21-8-SP)**

**4. Visual mitigation**

The proposed tower is designed as a 179' monopole tower with six antennas and plans for future co-location of up to three additional providers. The applicant conducted the required balloon test for the Concept Plan. Exhibits depicting the required balloon test and photo simulations of the monopole tower from various locations and distances are attached. The monopole is proposed to be galvanized gray color which is intended to minimize the visual impact.

The application does not show any landscaping around the outside of the leased compound area, which should be discussed as a part of the Workshop. Below is an excerpt from the Zoning Ordinance, addressing fencing requirements for new towers:

**7. Fencing**

Towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The Planning Commission may require as a condition of approval that the fencing be screened by a landscaped buffer of at least 10 feet in width planted along the entire exterior perimeter of the fence. Such a buffer must contain at least one row of native vegetation and form a continuous screen at least 6 feet in height at planting. All buffer yards shall be maintained by the property owner. It will be the responsibility of the property owner to maintain the buffer yard and to replace any trees or shrubs that die.

The Planning Commission may waive or modify the fencing requirement upon a determination that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

**5. The submittal and design criteria of Article 4B**

Article 4B of the Zoning Ordinance states that the required submittal elements for a Wireless Telecommunications Tower Concept Plan shall be the same as for a Site Plan as established in the Subdivision Regulations, Appendix A, Sec. 1.3A (with certain exceptions). In addition, other elements are required such as elevations and cross-section, locations of known historic structures, Balloon Test exhibits, and other information. Staff finds the application complete with regard to the required submittal elements.

Design criteria (height, color, fall zone, lighting and marking, fencing, and other elements) are established in Section 4B.7.J. Staff finds that the proposed tower design meets these criteria. The Zoning Ordinance requires that wireless telecommunication towers be set back from all property lines a distance to 110% of tower height, measured from the base of the structure to its highest point, and allows easements to be acquired on adjacent properties to meet the fall zone requirement. The required fall zone is provided between two contiguous parcels under the same ownership. A note will be required to be placed on the Site Plan stating that should either parcel be conveyed to another party, an easement shall be obtained and recorded between the two parties to satisfy the fall radius requirement.

**6. The compatibility of the facility proposal with the Comprehensive Plan**

**a. Staff Analysis**

The *Envision Jefferson 2035 Comprehensive Plan* includes some discussion of telecommunications facilities under the “Economic Development, Employment, and Infrastructure Element”. The Plan identifies improvements to the County’s

**Berryville Pike Telecommunications Tower Concept Plan (21-8-SP)**

telecommunications network, particularly wireless technology and any advanced technologies, as one of the major public infrastructure projects needed to support the success of future economic growth.

The following recommendations are found under the Infrastructure and Technology Recommendations on pages 93-94 of the Plan:

“9. Collaborate with local economic development agencies and Information Technology (IT) providers to ensure that the current and future needs of small businesses within Jefferson County are met.

- a. Ensure that all areas of Jefferson County are served by high speed wireline and/or wireless services and other advanced technologies.
- b. Encourage private sector investment to improve wireless internet service availability in Jefferson County and the Eastern Panhandle.
- c. Ensure that, as next-generation wireless and cellular services are implemented, Jefferson County collaborates with providers, including any necessary regulatory changes, to ensure that providers are able to provide these services at the same time as other communities in the Washington, D.C. and Baltimore, MD Metropolitan Areas.”

Providing wireless telecommunication services to an area of the County that is currently underserved supports the recommendations of the Comprehensive Plan.

**7. Any relevant information presented by any person that addresses the purpose and intent of Article 4B**

To date, no agency comments have been submitted to our Office.

The Planning Commission may consider testimony at the Public Workshop regarding the purpose and intent of Article 4B of the Zoning Ordinance.

**Staff Recommendation**

The Planning and Zoning Staff finds the proposed AT&T Telecommunications Monopole Tower Concept Plan to be:

- Complete based on the information provided related to the required criteria outlined in the Subdivision Regulations and the Zoning Ordinance; and
- Consistent with the Comprehensive Plan.
- As provided for in Section 4B.7.B.2.J.7 of the Zoning Ordinance, the Planning Commission has the discretion to require that fencing be screened by a landscape buffer of at least 10 feet in width, planted along the entire exterior perimeter of the fence.

**Planning Commission Direction**

The Concept Plan Public Workshop allows for the Planning Commission and the general public to comment on the proposed plan. The Subdivision Regulations outline the procedure:

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

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Berryville Pike Telecommunications Tower Concept Plan (21-8-SP)**

Following the applicant's presentation, staff's explanation, and the solicitation of public comment, the Planning Commission shall:

- Review the Concept Plan for compliance with the standards in Article 4B and, if applicable, provide direction in the form of conditions relevant to the scope of the public workshop and/or unique characteristics of the proposed development site, to be addressed in the Department's approval of the site plan; and
- Determine, by a majority vote, that the Concept Plan application complies with Article 4B of the Zoning Ordinance, and that the application is consistent with the Comprehensive Plan.

The Commission has the option of providing 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.

The Subdivision Regulations outline the direction to be provided to the applicant:

“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 direction provided to the applicant during the Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to the Subdivision Regulations or the Zoning Ordinance in the second year shall be applicable.

Should the Planning Commission vote to find the application consistent with the Comprehensive Plan, the applicant will submit a minor site plan to the Department of Engineering, Planning, & Zoning for administrative review and approval. The site plan shall address the conditions (if any) identified by the Planning Commission.



**Statement of Compliance and Justification for a Concept Plan for  
AT&T's Proposed 179' Monopole Telecommunication Facility  
at 3557 Berryville Pike, Charles Town, West Virginia, 25414**

**Applicant:** New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC  
7150 Standard Drive  
Hanover, Maryland 21076

**Representatives:** Douglas A. Sampson & Gregory E. Rapisarda  
Saul Ewing Arnstein & Lehr LLP  
500 East Pratt Street, Suite 900  
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Samantha Twinam  
SmartLink LLC  
1362 Mellon Rd., Suite 140  
Hanover, MD 21076  
(410) 582-8043  
samantha.twinam@smartlinkgroup.com

**RECEIVED**

APR 27 2022

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

**Property Address:** 3557 Berryville Pike, Charles Town, West Virginia, 25414  
**Property Owner:** 340 Rainbow LLC  
**Tax Map/Parcel ID:** 06 11000100020000  
**Zoning Designation:** Industrial/Commercial  
**Jurisdiction:** Jefferson County, West Virginia  
**Acreage:** 9.31 acres

Pursuant to Section 4B.7 of the Jefferson County Zoning and Land Development Ordinance (“Zoning Ordinance”), New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC (“AT&T”), by its agents Saul Ewing Arnstein & Lehr LLP and SmartLink LLC, submits this Statement of Justification to support its application for a Concept Plan to build a new telecommunications facility (the “Facility”) on a portion of the property located at 3557 Berryville Pike, Charles Town, West Virginia, 25414 (the “Property”). 340 Rainbow LLC owns the Property and has authorized AT&T and its agents to pursue this application, and any other relief, permits, or applications required for the Facility. (See Letter of Authorization attached as Exhibit 1).

This document and attached Exhibits provide justification for AT&T’s application for a telecommunications monopole facility and how it conforms with the Zoning Ordinance. This package, and additional or clarifying evidence to be presented at a public hearing, provide the legal and factual support needed to approve this proposed special exception. Attached are the following exhibits:

## EXHIBITS

Exhibit 1	Letter of Authorization
Exhibit 2	Existing Coverage Radio Frequency Propagation Maps
Exhibit 3	RF Justification Letter
Exhibit 4	Proposed Coverage Radio Frequency Propagation Map at 171'
Exhibit 5	AT&T Wireless Broadband Usage During COVID-19 Crisis
Exhibit 6	AT&T FirstNet Information Sheets
Exhibit 7	Facility Site Plan
Exhibit 8	Photo Simulations of Facility from Balloon Test
Exhibit 9	National Environmental Policy Act Survey by ACER Associates, LLC
Exhibit 10	Affidavit of FCC Compliance and Tower Co-Location
Exhibit 11	AT&T Notification Letter, List of Recipients, and Affidavit of S. Twinam
Exhibit 12	Certificate of Publication
Exhibit 13	AT&T FCC Licenses for Jefferson County, WV

### **I. AT&T GOALS AND NEED FOR IMPROVED WIRELESS SERVICES**

AT&T is licensed by the Federal Communications Commission (“FCC”) to provide wireless telecommunications services in Jefferson County, West Virginia. AT&T has a need to provide and improve the delivery of emergency and non-emergency wireless and broadband services to residents in Jefferson County. (See Existing Coverage Radio Frequency Propagation Map attached as Exhibit 2). The Facility will add and improve wireless broadband services and coverage capacity in and around Charles Town, and will bring the First Responder Network Authority (“FirstNet”) to this part of Jefferson County. (See Radio Frequency Justification Statement attached as Exhibit 3).

AT&T’s proposed Facility will add and improve wireless and broadband services and ensure adequate overlapping coverage between and among existing coverage areas. (See Proposed Coverage Radio Frequency Propagation Map at 171’ attached as Exhibit 4). Ultimately, the proposed site will allow residents, visitors, businesses and emergency personnel of Jefferson County to experience adequate wireless services, better quality calls, and diminished dropped calls, and enhanced first responder services through FirstNet. This includes Washington High School and the Citizens Volunteer Fire Company located off of Citizens Way.

The necessity of accessible and reliable wireless broadband services has never been more clear. According to the FCC, more than half of the families in the United States have only cellular phones, with no “landline” in their home. More than 80% of 9-1-1 calls are made from mobile phones. During the COVID-19 crisis, wireless and broadband services became essential for millions of Americans who were forced to stay home. Since the start of the COVID-19 pandemic, AT&T saw a significant increase in voice calling, instant messaging, text message, and video services. (See AT&T Wireless Broadband Usage During COVID-19 Crisis attached as Exhibit 5). Adequate coverage allowed people to telework, participate in teleconferences, attend virtual school lessons, visit remotely with a doctor or therapist, attend online worship services, and keep in touch with family members and friends.

## **II. First Responder Network Authority (“FirstNet”)**

The primary purpose of the Facility is to bring FirstNet to this portion of Jefferson County. (*See Ex. 3, RF Justification Letter*). FirstNet is a nationwide high-speed broadband communications platform dedicated solely to America’s first responders and emergency personnel. Following the recommendation of the 9/11 Commission, the United States Congress established FirstNet to provide reliable public safety networks across the country and dedicated bandwidth for use by first responders. (*See AT&T First Net Information Sheets attached as Exhibit 6*). The goal was to prevent the pervasive communications failures that occurred during the 9/11 terrorist attacks. The federal government entered into an exclusive contract with AT&T to provide FirstNet services, and FirstNet is only available where AT&T has sufficient wireless coverage. Every U.S. state and territory has opted into in the network.

FirstNet is not currently available in this area, and the adjacent AT&T facilities are not equipped with FirstNet. These adjacent sites are at capacity, and there is insufficient space to install the additional equipment needed for FirstNet on the existing towers. FirstNet is only available where there is sufficient AT&T network coverage. AT&T determined the only way to bring FirstNet to this area of Jefferson County, was with this new Facility.

## **III. The Proposed Telecommunications Facility**

The Facility consists of a 179’ tall monopole (171’ tall monopole with a 8’ tall lighting rod) within a 2,500 square foot (50’ x 50’) equipment compound surrounded by a 8’ board on board fence. (*See Facility Site Plan attached as Exhibit 7 at C-2, C-3 and C-4*). The compound will include space for ground equipment for up to four wireless providers (AT&T and three others). (*See Ex. 7 at C-3*). There are co-location opportunities on the monopole for up to three additional wireless carriers to install their own antennas. (*See Ex. 7, Site Plan at C4*). AT&T will also install a generator (used as backup power in the case of an emergency outage) and an equipment shelter on a concrete pad. (*See Ex. 7 at C-3*).

The location is ideal because the Property is zoned Industrial/Commercial, but is largely surrounded by rural, lightly inhabited farmland. As such, the zoning of the parcel allows for a telecommunications facility in a remote and sparsely inhabited area of the County, significantly reducing any impact. AT&T conducted a visual impact survey and balloon test and determined that the existing vegetation and topography will help screen the Facility and its visual impact will be minimal. (*See Photo Simulations of Facility from Balloon Test attached as Exhibit 8*). The Facility will be unmanned, free of public facilities, and only require occasional visits (about 1 visit per quarter) from an AT&T technician for routine inspections and maintenance. The Facility will have no impact on traffic.

In accordance with Zoning Ordinance Section 4B.7.H.1.b, AT&T searched for existing towers or structures that could provide viable co-location for AT&T’s antennas. Co-locations are preferred locations for AT&T and are must less expensive to bring online. AT&T determined there were no viable towers, electrical transmission towers, or structures in excess of 50 feet that would meet AT&Ts coverage goals and bring improved wireless emergency and non-emergency

services, including FirstNet, to the area. With no viable co-location opportunity, AT&T determined, and its investigation confirmed, that a new tower was required. AT&T determined that the Property was viable from a technical perspective (*i.e.* radio frequency), a zoning perspective (*i.e.* preferred use in commercial/industrial district and compliant with all regulations), and from a land owner perspective (*i.e.* a land owner willing to lease space to AT&T).

**IV. Compliance with Wireless Telecommunication Facility Ordinance Regulations**

Section 4B.7 of the Jefferson County Zoning and Land Development Ordinance outlines the specific application criteria for new telecommunication towers within the County. The criteria and AT&T’s narrative satisfying each criteria are as follows:

**Section 4B.7 Wireless Telecommunication Towers**

*A. Site Plan Required*

*A minor site plan shall be required for all new Towers, as well as for Major Modifications to an existing Facility or Support Structure resulting in a substantial change to the Facility or Structure. In addition to the site plan review requirements of the Subdivision and Land Development Regulations, the site plan shall include all elements of a Concept Plan as established in Subsection B, and shall address conditions established by the Planning Commission in its review of the Concept Plan.*

- **AT&T Response:** AT&T’s site plan complies with the requirements established in the Subdivision and Land Development Regulations, Appendix A, Section 1.3A. (See Ex. 7, Site Plan). The site plans include all elements required by Zoning Ordinance § 4B.7.B.

*B. Concept Plan Submittal and Public Hearing Required*

*In addition to the requirements for a minor site plan, a proposed Tower shall require the submittal of a Concept Plan, subject to the following requirements:*

1. *Required elements for a Wireless Telecommunications Tower Concept Plan shall be the same as for a site plan as established in the Subdivision and Land Development Regulations, Appendix A, Section 1.3A, with the exception of Subsections 1.3A.20-22, 24-29, 31-35.*

- **AT&T Response:** AT&T’s site plan complies with the requirements established in the Subdivision and Land Development Regulations, Appendix A, Section 1.3A. (See Ex. 7).

2. *The following additional elements must be submitted*

- a. *Outside dimensions, use, and setbacks of all existing and proposed buildings, structures, towers, antennas, utility lines, driveways, and parking areas.*

- **AT&T Response:** AT&T has complied with this requirement. (See Ex. 7, Site Plan).

- b. *Height of the proposed tower measured from ground level at the center of the proposed structure, and height comparison to any nearby buildings or trees, or other applicable structures and natural landforms part of the site's background and foreground landscape.*
- **AT&T Response:** AT&T's proposed tower will be 179' (a 171' monopole topped by an 8' tall lighting rod). (See Ex. 7, Site Plan at C2). The comparative height of the Facility to nearby structures and vegetation can be seen on the photo simulations of the Facility (See Ex. 8). There are a large number of mature trees (40-60 feet in height) and rolling topography that helps to screen the Facility.
- c. *Elevations and Cross-Section: Display topography with all proposed facilities including tower, equipment shelter and existing buildings.*
- **AT&T Response:** AT&T has complied with this requirement. (See Ex. 7, Site Plan at C2).
- d. *Number, size and location of proposed and existing antennas; number of co-locations possible.*
- **AT&T Response:** AT&T has complied with this requirement. AT&T will locate its antennas at a height of 171' above ground level. There are co-location opportunities for up to three additional carriers. (See Ex. 7, Site Plan at C4).
- e. *Method of camouflage (if any)*
- **AT&T Response:** AT&T's Facility will be the standard matte gray color. (See Ex. 7, Site Plan at C1). The matt gray finish has consistently been found to create the least visual impact against the skyline.
- f. *Locations of known historic structures.*
- **AT&T Response:** The closest known historical structure is the Beulah Church approximately 450 feet southwest of the Facility. (See, Ex. 7, Site Plan at C-1). AT&T contracted with a third party environmental engineering consultant to analyze the Property, the Facility, and the surrounding areas to complete the required FCC environmental compliance report identifying the impact on environmental resources, prepared in accordance with the National Environmental Policy Act (NEPA). (See NEPA report by ACER Associates, LLC, dated October 29, 2021, attached as Exhibit 9.) The NEPA report determined that the Facility will not affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic places and West Virginia State Historic Preservation Office's database. (See Ex. 9).
- g. *A description of the anticipated construction and installation schedule.*
- **AT&T Response:** AT&T expects the construction of the tower to begin within a month of obtaining zoning and permitting approval. It takes approximately 3-4 months for a tower to be constructed and become fully operational.

*h. Documentation verifying compliance with applicable Federal Communications Commission (FCC) standards and requirements to provide the proposed services.*

- **AT&T Response:** AT&T has certified its compliance with applicable Federal Communications Commission (FCC) standards and requirements at the Facility. (See Affidavit of FCC Compliance and Tower Co-Location attached as **Exhibit 10**).

*i. Narrative addressing the design criteria of this section.*

- **AT&T Response:** AT&T has complied with this requirement through this Concept Plan. AT&T would be happy to provide any additional information required by the County.

*j. Dates, address list, and notice for Balloon Test*

- **AT&T Response:** On August 14, 2021, AT&T conducted a visual impact survey, raising a balloon to a height of 179 feet for a four hour period. (See Ex. 8, Photo Simulations). On July 29, 2021, a notice letter was sent to all property owners within one-quarter mile (1320 feet radius) of the Property that AT&T would conduct a visual impact study on August 14, 2021. (See AT&T Notification Letter, List of Recipients, and Affidavit of Samantha Twinam regarding mailing of notice attached as **Exhibit 11**). Notice of the visual impact test was published in the Spirit of Jefferson Advocate for one week, commencing on August 4, 2021. (See Certificate of Publication attached as **Exhibit 12**).

*k. Balloon test exhibits as required in Subsection G of this Section.*

- **AT&T Response:** AT&T has provided the test exhibits required in Subsection G. (See Exs. 8, 11, and 12).

*l. Propagation maps as required in Subsection F of this Section.*

- **AT&T Response:** AT&T has provided the propagation maps required in Subsection F. (See Exs. 2 and 4).

*m. Any other relevant information.*

- **AT&T Response:** AT&T needs this site to bring necessary FirstNet coverage to this portion of Jefferson County. AT&T's search for existing structures or enhancing its own existing facilities determined that a new facility is required in order to add the necessary equipment to provide FirstNet to this area. (See Ex. 3, RF Justification Statement).

*n. Additional application requirements of Subsection H of this Section.*

- **AT&T Response:** As discussed above, AT&T conducted a thorough search of co-location opportunities, and determined that none was available that would meet AT&T's coverage goals and bring necessary FirstNet coverage to this area of Jefferson County. AT&T's proposed tower is located in the Industrial-Commercial District, a "preferred location" for a tower under Subsection H.

3. *Submittal and review of a Concept Plan shall follow the review process and timeline established in Section 24.119 - 24.122 of the Subdivision and Land Development Regulations, with the following exceptions:*
  - a. *The application shall be exempt from Section 24.120A, Agency Reviews, and Section 24.120D, WVDOH, except as otherwise provided in this Subsection.*
  - b. *Following Staff's determination of the sufficiency of a Concept Plan application:*
    - i. *Staff shall notify the Jefferson County Historic Landmarks Commission of an application filing.*
    - ii. *The Applicant shall provide a copy of the completed Concept Plan application to the Appalachian Trail Conservancy and the National Park Service, if required by the Cultural and Historic Sites Review standards of this Section.*
  - c. *The Concept Plan shall be reviewed at a public hearing conducted at a scheduled Planning Commission meeting. The scope of this public hearing shall include a demonstration of need as required under this Article, neighborhood compatibility, impact on cultural and historic sites, visual mitigation, the submittal and design criteria of this Article, and the compatibility of the facility proposal with the Comprehensive Plan, as well as any relevant information presented by any person that addresses the purpose and intent of this Article. The Planning Commission shall review the proposed Tower for compliance with the standards in this Article and, if applicable, provide conditions relevant to the scope of the public hearing and/or unique characteristics of the proposed development site, to be addressed in Staff's approval of the site plan.*
  - d. *Before Staff may approve a site plan for a Tower, the Planning Commission must find, by a majority vote, that the Concept Plan application complies with this Article, and that the application is consistent with the Comprehensive Plan.*

- **AT&T Response:** AT&T acknowledges the Concept Plan review process and will be happy to provide any additional information or exhibits upon request. AT&T respectfully requests that the Planning Commission find that this Concept Plan is in substantial compliance with the Zoning Code and the Comprehensive Plan.

C. *Retention of Consultants*

*Staff may elect to retain outside consultants or professional services to review a Concept Plan or site plan application for a Tower and to make recommendations on relevant issues including, but not limited to, verification of the applicant's compliance with the provisions of this Article, analysis of alternatives, conditions of approval, and compliance with State and Federal rules and*

regulations at the applicant's expense. Fees charged to the applicant shall not exceed the actual cost of services rendered.

- **AT&T Response:** AT&T acknowledges the Concept Plan review process and will cooperate with any outside consultants retained by Jefferson County.

D. *Applicant's Burden of Proof*

*The applicant for a site plan for any Tower bears the burden of demonstrating by substantial evidence in a written record that a bona fide need exists for the proposed structure at its proposed height and location-as required in Subsection F, "Demonstration of Need", and that it has met all submittal and design criteria in this Article.*

- **AT&T Response:** AT&T submits this Concept Plan to demonstrate the necessary substantial evidence that a bona fide need exists for the Facility at its proposed height and location. AT&T needs the Facility to provide additional and improved wireless coverage and to add FirstNet services to the area. (See Exs. 2-4). As outlined in this Concept Plan, AT&T has met all submittal and design criteria.

E. *Proof of Eligibility*

*Speculative Towers are prohibited. Before an application for a Tower can be processed, a copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licenses to utilize the Tower within six (6) months of issuance of a certificate of occupancy for the Tower. Such demonstration shall include submittal of an affidavit by the FCC licensee(s), and a copy of each wireless provider's FCC license. If such FCC licenses have been provided to Staff in conjunction with previous tower applications, the applicant may certify that such licenses remain in full force and effect.*

- **AT&T Response:** AT&T is licensed to provide wireless services in Jefferson County, WV. (See AT&T's FCC licenses for Jefferson County, WV attached as Exhibit 13.) AT&T has certified that it will comply with all applicable FCC regulations. (*See Ex. 10*).

F. *Demonstration of Need*

*As part of its application submission for a Concept Plan and for a site plan the applicant shall be required to submit propagation maps demonstrating a technical need for its proposed Tower and justifying the height of its antennas on the structure. One propagation map shall depict existing coverage without the proposed site and another depicting coverage with the proposed site. Such maps shall identify all adjacent sites whether existing, approved or proposed, and each map shall be accompanied by an engineer's affidavit attesting to the parameters or variables used to create the map.*

*Such propagation studies shall be submitted in both hard copy and in electronic format to facilitate information sharing, inclusion on the county's web site and to otherwise maximize public awareness.*

- **AT&T Response:** AT&T has submitted the required propagation maps (*See Ex. 2, Existing Coverage and Ex. 4, Proposed Coverage*). AT&T's engineers have certified that the Facility will add and improve wireless broadband services and coverage capacity in and around Charles Town, and will bring FirstNet to this part of Jefferson County. (*See Ex. 3, RF Justification Statement*). The primary purpose of this site is to bring FirstNet to this area of Jefferson County.

G. *Balloon Test*

1. *An applicant shall conduct a balloon or crane test to simulate the maximum height of the proposed Tower. Following the test, the applicant shall submit color photo simulations showing the proposed structure as it would appear viewed from the closest residential property or properties and from adjacent roadways. Photographs should be taken from appropriate locations on abutting properties, along each publicly used road from which the balloon is visible, and from up to five significant structures or locations identified by Staff. A map shall be supplied identifying the location of each photo. Before and after photo exhibits will be presented.*
- **AT&T Response:** On August 14, 2021, AT&T conducted a visual impact survey, raising a balloon to a height of 179 feet for a four hour period. AT&T took photographs from 22 separate locations. AT&T has submitted color photographs showing the test in progress and photo simulations of the Facility made from the balloon test with a map of locations from which the photos were taken. (*See Ex. 8, Photo Simulations*).
2. *Notice of the dates and times of such tests shall be mailed to all property owners within a one-quarter mile (1320 feet radius) from the proposed location, in addition to the Historic Landmarks Commission at least ten (10) days prior to such tests. The applicant shall utilize address and owner information on file at the Jefferson County Assessor's Office. Such notices shall designate a primary date and an alternate date in case of inclement weather. Notices shall state that there is an application to the Planning Commission for a Wireless Telecommunication Tower on the property and provide the file number. Staff shall review and approve the sufficiency of the notice and the list of addresses prior to mailing. An affidavit of mailing accompanied by a list of recipients and addresses shall be included in the application file.*
- **AT&T Response:** On July 29, 2021, a notice letter was sent to all property owners within one-quarter mile (1320 feet radius) of the Property that AT&T would conduct a visual impact study on August 14, 2021. (*See Ex. 11, Notification Letter, List of Recipients, and Affidavit*).
3. *Such notice shall also be published in the legal advertisements section of a newspaper of general circulation in Jefferson County at least ten (10) days prior to such tests. Such notices shall designate a primary date and an alternate date in*

*case of inclement weather. The newspaper's affidavit of publication shall be submitted as part of the application file.*

- **AT&T Response:** Notice of the visual impact test was published in the Spirit of Jefferson Advocate for one week, commencing on August 4, 2021. (See Ex. 12, Certificate of Publication).

4. *In the event the applicant seeks to increase the height of the proposed Tower, or move its location more than one hundred (100) feet laterally, from that stated in its original notices, additional notice shall be required to be given consistent with the above requirements.*

- **AT&T Response:** AT&T has not made any changes to the Facility's height or location since the balloon test was conducted.

#### H. *Preferred Structures and Locations Policy*

1. *Co-location Encouraged. Prior to the approval of the construction of a new Tower, it is the policy of Jefferson County to encourage co-location of wireless facilities in the following locations:*

a. *Co-location of antennas on existing electric transmission towers.*

b. *Co-location and the use of existing or approved towers, buildings or alternative structures such as buildings, water towers, silos, church steeples, and utility poles more than fifty (50) feet in height within a one-quarter mile radius of a proposed Tower, where appropriate.*

- **AT&T Response:** AT&T prefers colocation whenever possible and only proposes a new facility if and when there are no viable co-location options available. There are no existing electrical transmission towers with both a willing landlord and that are of sufficient height to meet AT&T's coverage goals. AT&T was unable to locate any alternative structures in excess of fifty (50) feet in height within a one-quarter mile radius. After confirming there were no co-location opportunities, AT&T looked for a raw land site, that meets, at a minimum, three necessary criteria: (1) compliance with the applicable Jefferson County Zoning and Land Development Ordinance requirements, (2) a land owner willing to lease to AT&T, and (3) a location approved by RF engineers that will meet AT&T's coverage goals for emergency and non-emergency wireless services, including FirstNet. The Property was identified as a location that met all of AT&T's criteria. In addition, the proposed Facility will allow co-location for up to three additional wireless carriers in addition to AT&T.

2. *Preferred Support Structures. In light of Jefferson County's agricultural, and increasingly residential character, it is the policy of Jefferson County that for Facilities located outside the Industrial-Commercial zoning district, support structures for antennas are desired in the following descending order of*

*preference:*

- a. *Silos*
- b. *Other Alternative Structures*
- c. *Monopoles*
- d. *Lattice Towers*

- **AT&T Response:** The Facility is located in the Industrial Commercial zoning district, a preferred location. This provision is inapplicable.

3. *Preferred Locations. For new Towers, it is the policy of Jefferson County to encourage use of the following facilities or locations, in descending order of priority.*

- a. *The Industrial - Commercial District*
- b. *Non-residential areas screened by existing vegetation and located outside of the Industrial-Commercial District*

- **AT&T Response:** The proposed Facility is located in the Industrial Commercial zoning district, a preferred location. It is also non-residential and screened by existing vegetation. (See Ex. 8, Photo Simulations).

4. *Application Requirements. In furtherance of the Preferred Structures and Locations Policy in this Article, the following provisions shall apply to an application for a site plan for a Tower:*

- a. *The application must demonstrate that the proposed Tower is designed structurally, electrically, mechanically and in all other respects to accommodate additional wireless users unless the applicant demonstrates that structure height, topography, or other factors render this requirement unfeasible. An application must include an affidavit from the tower owner affirming that, subject to exceptions for structure height, topography, or other factors which make co-location unfeasible, the Tower is available for co-location.*

- **AT&T Response:** The Facility is designed to accommodate four carriers (AT&T plus up to three future carriers). That includes space for other carriers' antennas on the monopole, and space for accompanying ground equipment in the compound. (See Ex. 7, Site Plans, at C2, C3 and C4). AT&T has affirmed that space will be made for available for co-location of other wireless carriers to co-locate on the Facility, and that the Facility is designed structurally, electrically, mechanically and in all other respects to accommodate additional wireless users (See Ex. 10, Affidavit of FCC Compliance and Tower Co-Location).

b. *A site plan for a Tower shall not be approved if an electric transmission tower with capacity of 230 kV or less is located above, or within twenty-five (25)*

*feet below, the ground elevation of, and within a one quarter mile radius laterally, of a proposed Tower, unless the applicant can demonstrate that:*

- i. Sufficient easements or other interests in real property cannot be obtained to accommodate the Facility on the electric transmission tower;*
  - ii. The electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities;*
  - iii. Reasonable terms, rates, or conditions cannot be negotiated with the electric utility;*
  - iv. The location of the Tower will not allow the applicant to meet coverage or capacity requirements; or*
  - v. Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon existing or approved towers.*
- **AT&T Response:** There is not an electric transmission tower within one-quarter mile radius of the proposed Facility.

*c. Where suitable electric transmission towers are not available for co-location of antennas, a site plan for a Tower located outside the Industrial-Commercial zoning district shall not be approved unless the applicant demonstrates that the equipment planned for the proposed Tower cannot be accommodated on existing or approved towers, buildings, silos or other alternative structures more than fifty (50) feet in height within a one-quarter mile radius of the proposed Tower due to one or more of the following reasons:*

- i. The planned equipment would exceed the structural capacity of the existing or approved tower, building or alternative structures, as documented by a qualified and licensed professional engineer, and the existing or approved tower, building or structure cannot be reinforced modified or replaced to accommodate planned or functionally equivalent equipment at a reasonable cost;*
  - ii. Existing and approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably, as documented by a qualified and licensed professional engineer;*
  - iii. Reasonable terms, rates, or conditions cannot be negotiated with the owner of the structure and/or property;*
  - iv. The location of the structure will not allow the applicant to meet coverage or capacity requirements; or*
  - v. Other unforeseen reasons make it infeasible to locate the planned telecommunications equipment upon existing or approved towers, buildings or alternative structures.*
- **AT&T Response:** The Property is within the Industrial-Commercial zoning district and,

therefore, this provision is inapplicable.

- d. *Antennas associated with an application for a Facility may not be co-located on a tower or other support structure developed as an Exempt Facility pursuant to this Article for the use of an amateur radio operator.*

- **AT&T Response:** This requirement is inapplicable to AT&T's proposed Facility.

*I. Cultural and Historic Sites Review*

1. *In addition to the notification requirements of this Section, an application for a Tower shall comply with the following:*

- a. *An application for a proposed Tower within the Harpers Ferry Overlay District shall be provided, by the applicant, to the National Park Service for review and comment, and the applicant will provide Staff an affidavit certifying delivery.*

- **AT&T Response:** The Facility will not be located within the Harpers Ferry Overlay District.

- b. *An application for a proposed Tower located within one mile of the Appalachian Trail shall be provided, by the applicant, to the Appalachian Trail Conservancy and the National Park Service for review and comment, and the applicant will provide Staff an affidavit certifying delivery.*

- **AT&T Response:** The Facility will not be located within one mile of the Appalachian Trail

*J. Design Criteria*

*Wireless Telecommunication Towers shall comply with the following design criteria:*

1. *Antenna Mounting Preference.*

*Antennas associated with a Tower shall, where practical, be mounted so as to present the smallest possible silhouette, profile or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:*

- a. *Antennas within a cylindrical radome matching the diameter of a monopole.*
- b. *Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the Tower.*
- c. *Antennas mounted as an array arranged around a platform extending from the monopole.*

- **AT&T Response:** AT&T's proposed Facility will comply with these mounting preferences. (See Ex. 7, Site Plan at A1-A5).

2. *Height Restrictions*

a. *Towers in the Industrial-Commercial zoning district shall not exceed 199 feet. Towers in all other zoning districts shall not exceed 100 feet. If a silo is used for a support structure for antennas, the height of the silo shall not exceed 120 feet.*

- **AT&T Response:** The Property is in the Industrial-Commercial zoning district. The proposed height of 179 feet complies with this provision.

b. *Antennas may extend up to twenty (20) feet above the height of existing electric transmission towers if such height extensions are preferable to placement of a new Tower.*

- **AT&T Response:** This requirement is inapplicable to AT&T's proposed Facility.

3. *Fall Zone*

a. *With the exception of silos, Towers shall be set back from all property lines a distance equal to 110% of tower height measured from the base of the structure to its highest point. Additional easements may be acquired on adjacent properties to meet the fall zone requirement.*

- **AT&T Response:** AT&T's proposed Facility exceeds the fall zone setback requirements to all adjacent properties owned by other land owners. (See Ex. 7, Site Plans at C1). The Facility is set back as follows

Northeast:	208'	(complies with required 188')
Southeast:	236'	(complies with required 188')
Southwest:	425'	(complies with required 188')
Northwest:	379'	(complies with required 188')

There is a small, contiguous parcel also owned by 3409 Rainbow LLC, which is only 53 feet from the proposed Facility. As the owner of both continuous properties, the landowner has waived the setback requirement as between its two parcels and desires to have zoning approved with the proposed setbacks. (See Ex. 1, Letter of Authorization from 340 Rainbow LLC).

b. *No residential dwellings may be located in the fall zone on either the primary parcel or in any easement area on adjacent parcels.*

- **AT&T Response:** There are no residential dwellings located within the fall zone of the Facility. (See Ex. 7, Site Plan at C1).

4. *Signage*

*Signage at any ground-based portion of a Facility site shall conform to FCC and FAA standards. No commercial signage is permitted.*

- **AT&T Response:** Signage at AT&T's proposed Facility will comply with the requirements of the FCC and FAA. The Facility will not have any commercial signage.

5. *Lighting & Marking*

*Towers shall not be lighted or marked unless required by the FCC or by the FAA.*

- **AT&T Response:** AT&T's proposed Facility will not be lit or carry any signals and there are no such requirements by the FCC, FAA, or State or Federal authorities. The monopole will not have signals, lights, or illuminations. (See Ex. 7, Site Plan at C-1).

6. *Electrical Supply*

*Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance of a generator shall only take place on weekdays between the hours of 8:00 a.m. and 7:00 p.m.*

- **AT&T Response:** AT&T will comply with this requirement and agrees that the backup generator shall only be used during power outages or for testing and maintenance purpose. AT&T will comply with the Jefferson County maintenance schedule outlined in this section.

7. *Fencing*

*Towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight (8) feet in height. The Planning Commission may require as a condition of approval that the fencing be screened by a landscaped buffer of at least 10 feet in width planted along the entire exterior perimeter of the fence. Such a buffer must contain at least one row of native vegetation and form a continuous screen at least 6 feet in height at planting. All buffer yards shall be maintained by the property owner. It will be the responsibility of the property owner to maintain the buffer yard and to replace any trees or shrubs that die.*

*The Planning Commission may waive or modify the fencing requirement upon a determination that doing so will enhance the overall appearance of the facility without any compromise in safety or security.*

- **AT&T Response:** The Facility will be enclosed within a security fence consisting of a board on board fence 8' in height. (See Ex. 7, Site Plan at C-2).

8. *Tower Color*

Towers shall have a flat gray or galvanized finish unless the Planning Commission determines that another color scheme would be a preferable alternative to address visual

mitigation and such scheme is consistent with FCC and FAA standards for antenna structure marking.

- **AT&T Response:** The proposed monopole will be the standard flat gray color or galvanized finish unless otherwise requested by the Planning Commission. (See Ex. 7, Site Plans at C-1).

#### ***Section 4B.8 Maintenance & Removal Bonds***

*Prior to issuance of a Zoning Certificate, each applicant for a Facility shall be required to execute a standard Maintenance / Removal agreement binding the applicant and its successors and assigns to properly maintain the exterior appearance of, and to ultimately remove such facilities, upon abandonment or cessation of operations. The applicant shall be required to post a bond for this purpose in accordance with the Department of Engineering, Planning, and Zoning schedule of fees and charges. The applicant shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of the Maintenance/Removal agreement have been satisfied. Private business users operating a single Facility at their principal place of business and Governmental Users are exempt from this bond requirement.*

- **AT&T Response:** AT&T will comply with this requirement.

#### ***Section 4B.9 Abandonment & Removal***

- A. Any Facility or Support Structure that is not operated for a period of twelve (12) consecutive months may be referred to the Property Safety Enforcement Agency Board for a determination of the structural soundness of the Facility or Structure.*
- B. If a structure is determined to be unsound, it will be considered abandoned.*
- C. The owner or operator of any Facility or Support Structure shall remove the Facility pursuant to the requirements of the Jefferson County Property Safety Ordinance.*

- **AT&T Response:** AT&T will comply with these requirements and agrees to remove the Facility pursuant to the Jefferson County Property Safety Ordinance if called for.

## **VI. HISTORIC AND ENVIRONMENTAL IMPACT**

AT&T contracted with a third party environmental engineering consultant to analyze the Property, the Facility, and the surrounding areas and complete the required FCC environmental compliance report identifying the impact on environmental resources, prepared in accordance with the National Environmental Policy Act of 1969 (“NEPA”).

A copy of the NEPA report by ACER Associates, LLC, dated October 29, 2021, is attached as Exhibit 9. The NEPA report determined no relevant environmental or historical effects. Specifically, there are no listed or eligible historic properties within the area of potential effect (“APE”). (See Ex. 9, Attachment 7 at 76). Additionally, “no archaeological resources were identified” and the “the project will have no impact on archaeological resources. . .” (See Ex. 9,

Attachment 7 at 81). Acer received a response from the State Historic Preservation Office (SHPO) concurring that there are no historic properties subject to direct effects from the tower. (See Ex. 9, Attachment 9 at 98). “The project will not result in any adverse effects to avoid, minimize, or mitigate.” (See Ex. 9, Attachment 9 at 102).

## **VII. CONCLUSION**

AT&T respectfully requests that Jefferson County grant the requested Concept Plan. If you need further information, please contact our zoning attorney Doug Sampson at 410-332-8661 or [douglas.sampson@saul.com](mailto:douglas.sampson@saul.com).



# **EXHIBIT 1**

April 5, 2022

Jefferson County, West Virginia  
Office of Planning and Zoning  
116 East Washington Street, P.O. Box 716  
Charles Town, WV 25414

**RE: Letter of Authorization  
for Concept Plan Application at 3511 Berryville Pike, Charles Town, WV**

To Whom it May Concern:

I am the authorized representative of 340 Rainbow LLC, the record owner of the real property located at 3511 Berryville Pike, Charles Town, WV 25414, Parcel ID: 06 11 000100020000 (the "Property"). I hereby grant permission to Saul Ewing Arnstein & Lehr LLP, and/or Smartlink LLC, and any and all of their agents and representatives, including but not limited to Douglas A. Sampson, Esquire, Gregory Rapisarda, Esquire, Samantha Twinam and Ryan Foltz to submit to the Office of Planning and Zoning an application for a concept plan to build a new telecommunication facility, including a 179' monopole, at the Property. I give permission for these representatives to file the application, a site plan, and any additional necessary zoning and permitting applications as may be required by Jefferson County. Additionally, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports.

340 Rainbow LLC also owns a contiguous property at 3555 Berryville Pike, Parcel ID: 06 11 000100040000. The planned telecommunications tower will be located approximately 53 feet from the contiguous property, less than the setback required by the Jefferson County Code. As owner of both parcels, 340 Rainbow LLC hereby waives any setback requirements as between its two parcels. 340 Rainbow LLC chose the location of the facility to maximize the setbacks from adjoining properties owned by others, and to create the least impact on the area. If any additional documents are required to memorialize the waiver of the setback from the contiguous property, the representatives identified above are authorized to prepare and file such documents.

Thank you for your cooperation in this matter.

Date: 4/5/22

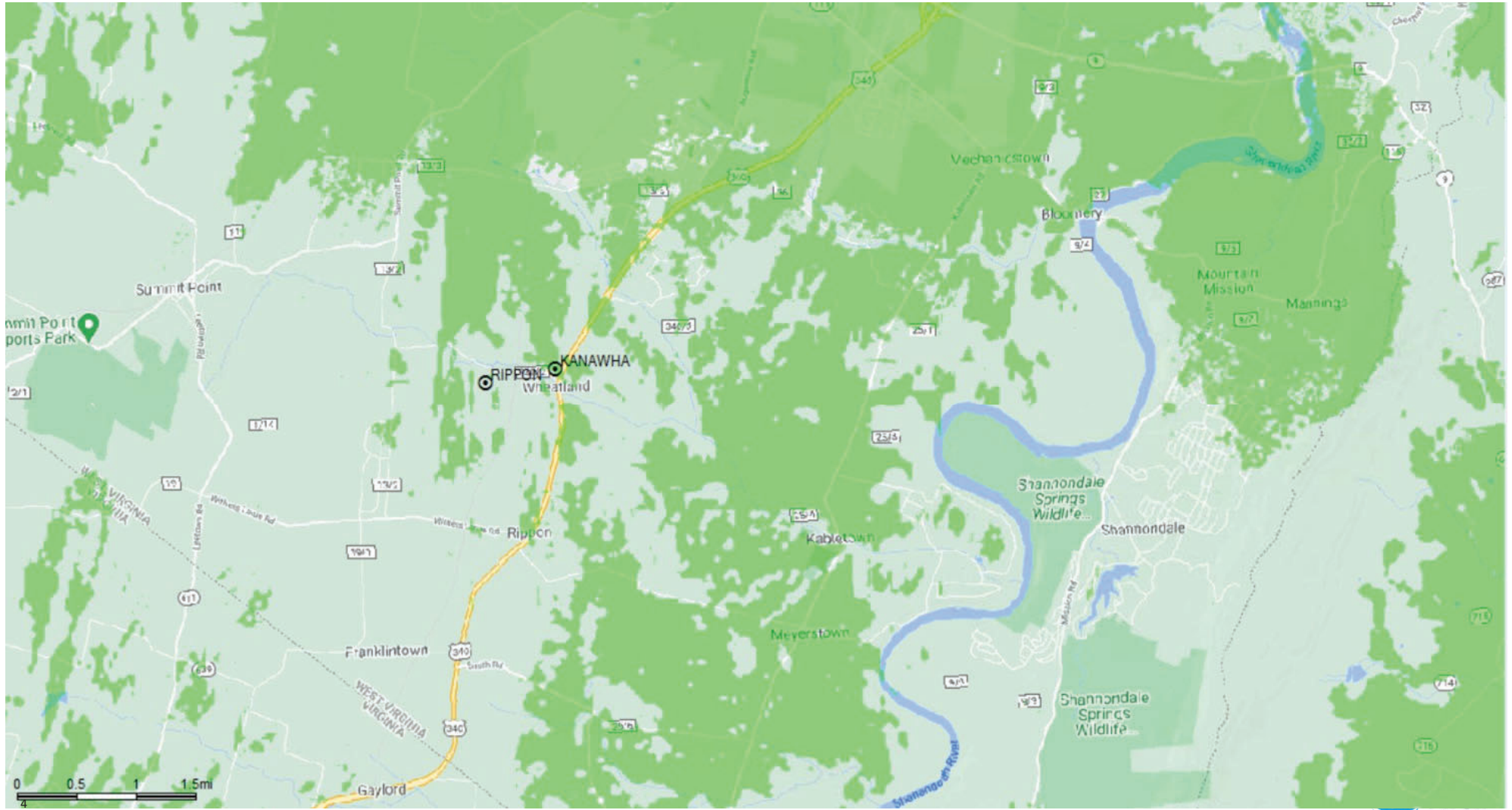
Signature: [Handwritten Signature]

Name: Rob Frogale

Title: Member Manager

# **EXHIBIT 2**

# Proposed AT&T Coverage without Kanawha



# **EXHIBIT 3**



**Jefferson County  
Office of Planning and Zoning  
116 East Washington Street  
Charles Town, WV 25414**

RE: Proposed Tower Installation  
AT&T Site Kanawha  
3557 Berryville Pike, Charles Town, WV 25414

### **RF Justification**

AT&T is committed to a comprehensive deployment of wireless facilities to provide communication services to our customers, including first responders and public safety personnel in the region.

This site will be constructed using Band 14 spectrum, as well as AT&T commercial spectrum. Band 14, better known as FirstNet, is nationwide, high quality spectrum set aside by the government specifically for FirstNet. AT&T looks at Band 14 as public safety's VIP lane. In an emergency, this band – or lane – can be cleared and locked just for FirstNet subscribers. That means only those on the FirstNet network will be able to access Band 14 spectrum, further elevating their connected experience and emergency response.

Local first responders using FirstNet service will be able to utilize a seamless connection when responding to car accidents, fires, search and rescue efforts, and more while connected to Band 14 from this tower location.

AT&T requests that you approve the request by Smartlink LLC to construct the above-described tower.

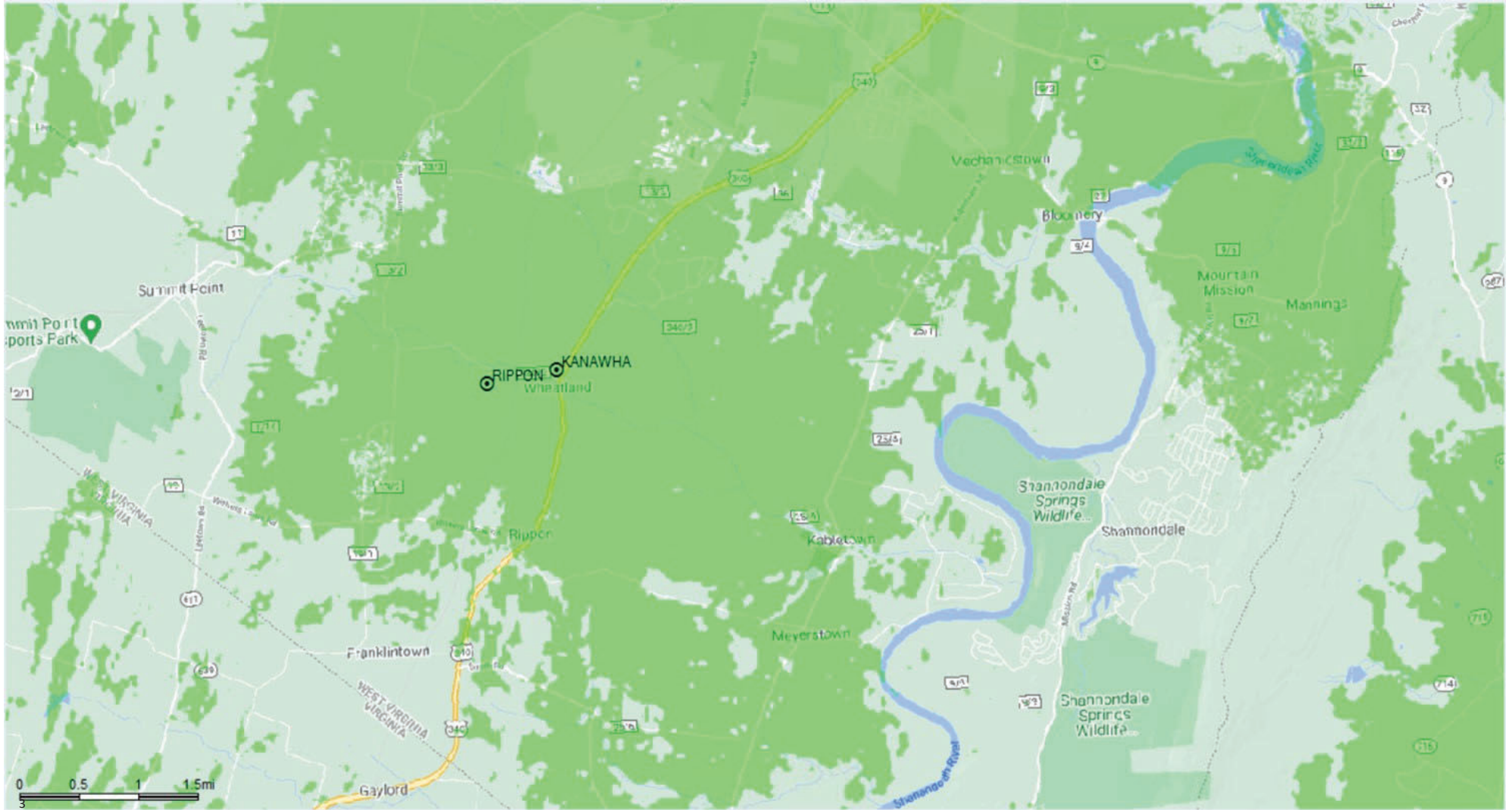
Best regards,

A handwritten signature in black ink that reads "Andy Feeney". The signature is written in a cursive style with a long horizontal flourish at the end.

Andy Feeney  
State President WV

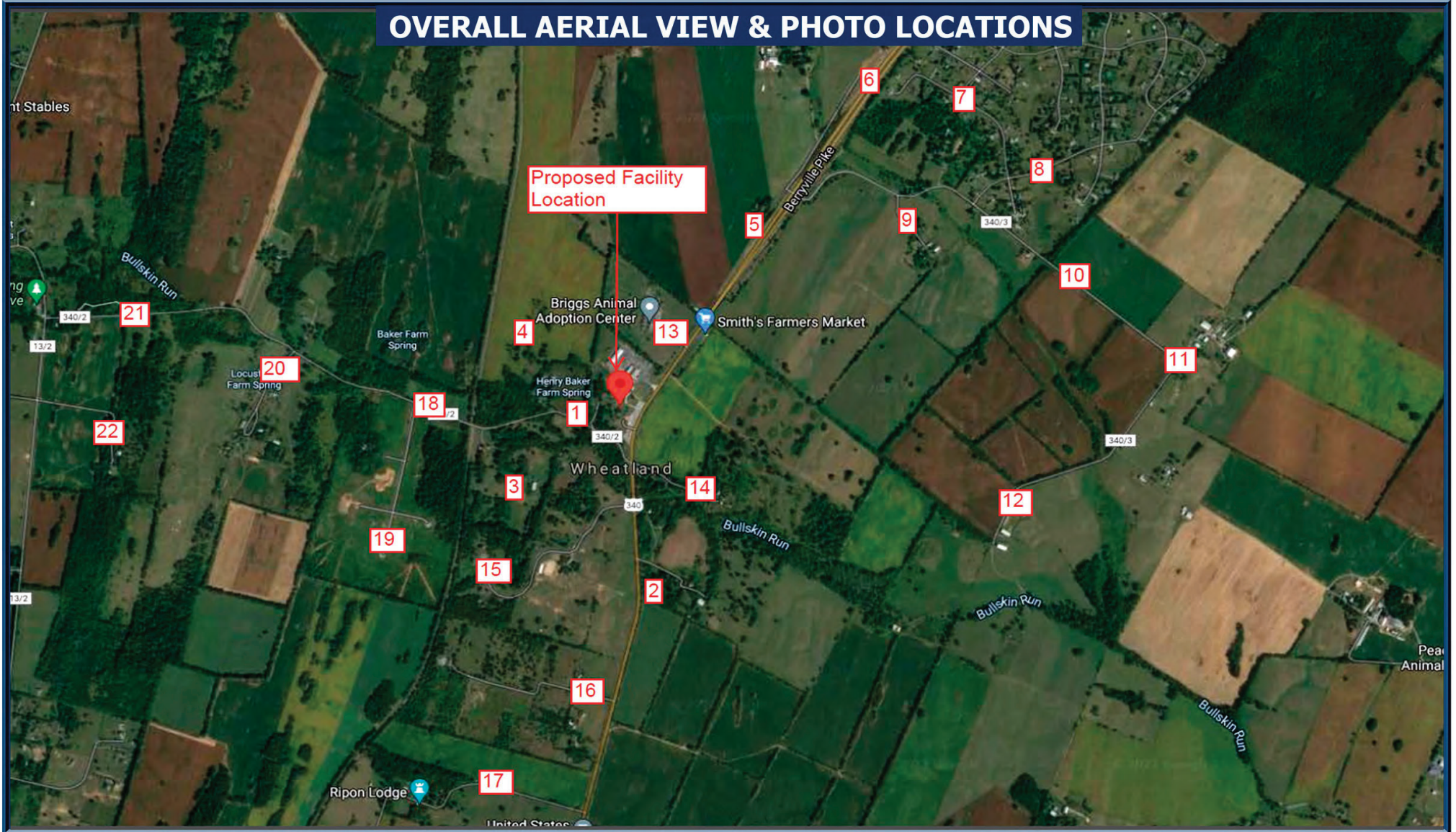
# **EXHIBIT 4**

# Proposed AT&T Coverage with Kanawha @ 171' RC



# **EXHIBIT 8**

**OVERALL AERIAL VIEW & PHOTO LOCATIONS**



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



1362 Mellon Road, Suite 140  
Hanover, MD 21076



Prepared for:

**AT&T Mobility**  
7150 Standard Drive  
Hanover, MD 21076

**SATELLITE VIEW**



**LOCATION 1 EXISTING (not visible)**



**LOCATION 1 PROPOSED (not visible)**





1362 Mellon Road, Suite 140  
Hanover, MD 21076

# KANAWHA

## FA #: 14878905 / SITE ID#: 2544

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414

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AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076



# at&t

Mobility



### LOCATION 2 PROPOSED (zoomed out)



### LOCATION 2 EXISTING (zoomed out)



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



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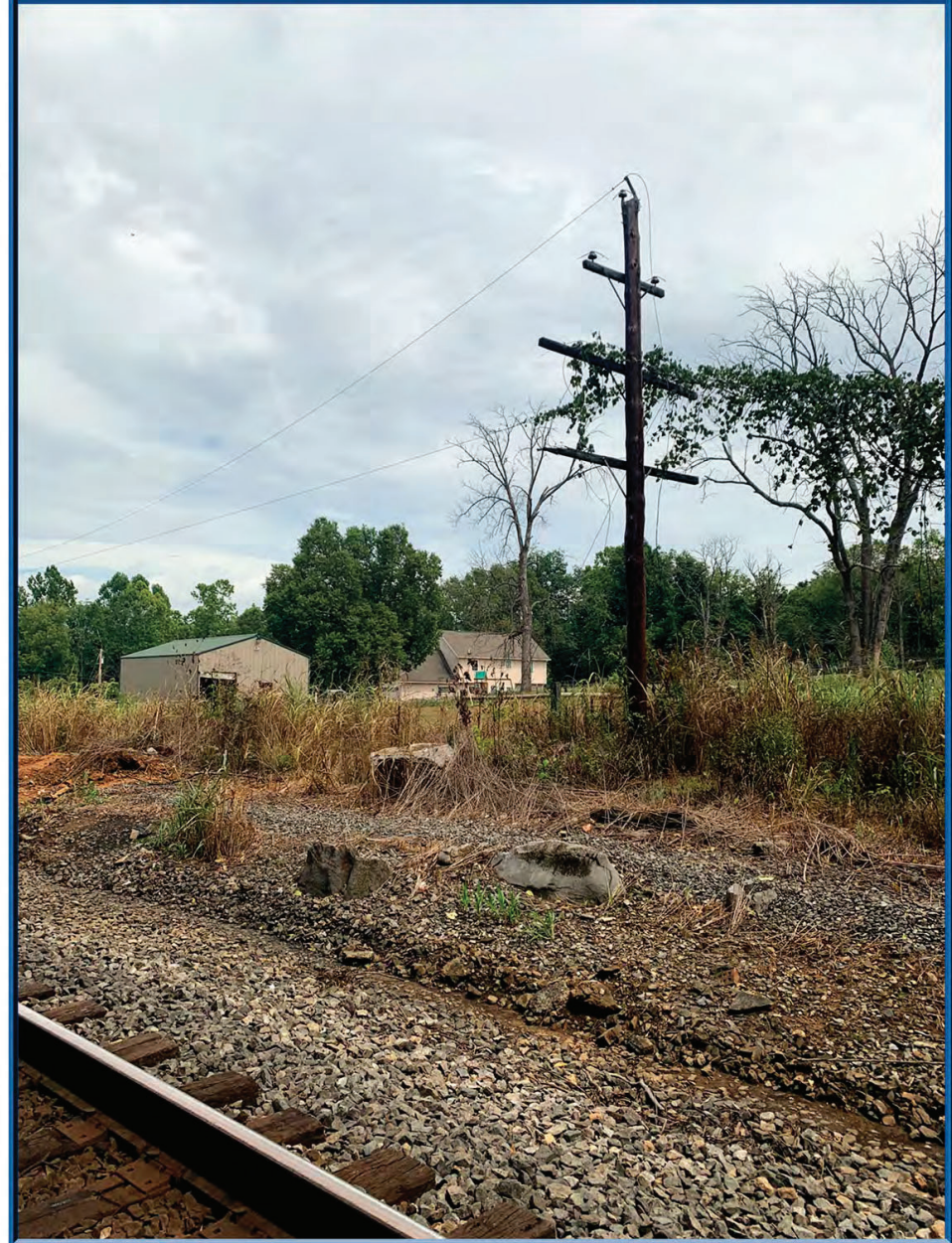
**SATELLITE VIEW**



**LOCATION 3 EXISTING (not visible)**



**LOCATION 3 PROPOSED (not visible)**



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



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Hanover, MD 21076



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Hanover, MD 21076

## LOCATION 4 PROPOSED (zoomed out)



## SATELLITE VIEW



## LOCATION 4 EXISTING (zoomed out)



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

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Hanover, MD 21076



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Hanover, MD 21076

**SATELLITE VIEW**



**LOCATION 5 EXISTING (not visible)**



**LOCATION 5 PROPOSED (not visible)**



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



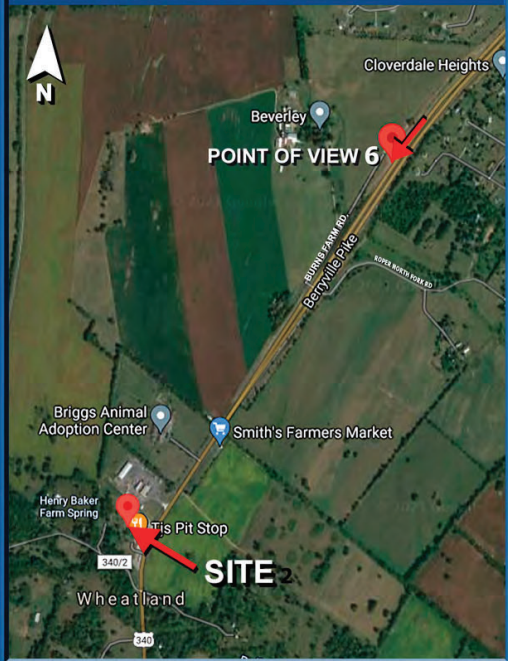
1362 Mellon Road, Suite 140  
Hanover, MD 21076



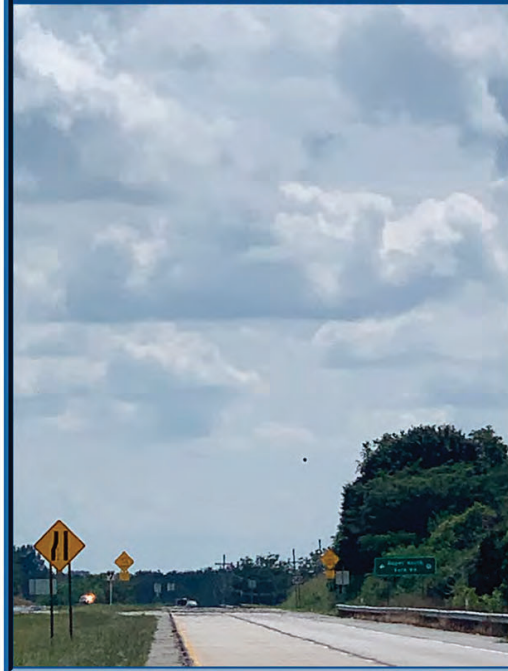
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Hanover, MD 21076

## SATELLITE VIEW



## LOCATION 6 EXISTING



## LOCATION 6 PROPOSED



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



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Hanover, MD 21076



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Hanover, MD 21076

**SATELLITE VIEW**



**LOCATION 7 EXISTING (not visible)**



**LOCATION 7 PROPOSED (not visible)**



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



1362 Mellon Road, Suite 140  
Hanover, MD 21076



Prepared for:

**AT&T Mobility**  
7150 Standard Drive  
Hanover, MD 21076

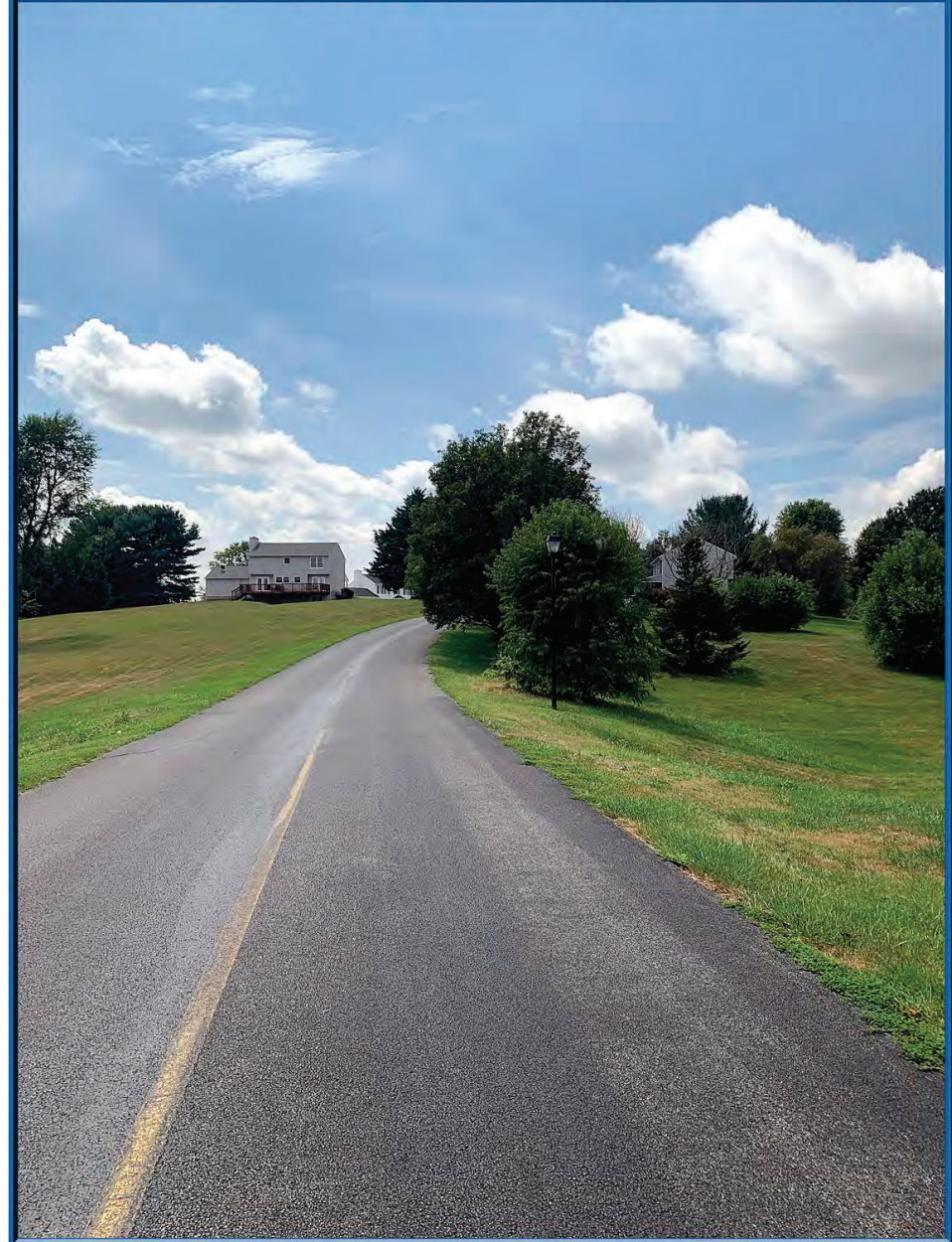
## SATELLITE VIEW



## LOCATION 8 EXISTING (not visible)



## LOCATION 8 PROPOSED (not visible)



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



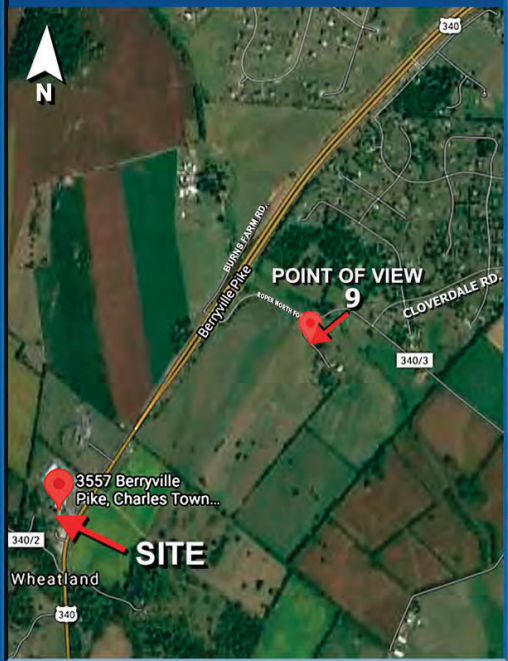
1362 Mellon Road, Suite 140  
Hanover, MD 21076



Prepared for:

**AT&T Mobility**  
7150 Standard Drive  
Hanover, MD 21076

**SATELLITE VIEW**



**LOCATION 9 EXISTING (zoomed out)**



**LOCATION 9 PROPOSED (zoomed out)**



**SATELLITE VIEW**



**LOCATION 10 PROPOSED (zoomed in)**



**LOCATION 10 EXISTING (zoomed in)**



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



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Hanover, MD 21076



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Hanover, MD 21076

**SATELLITE VIEW**



**LOCATION 11 EXISTING (zoomed out)**



**LOCATION 11 PROPOSED (zoomed out)**



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



1362 Mellon Road, Suite 140  
Hanover, MD 21076



Prepared for:

**AT&T Mobility**  
7150 Standard Drive  
Hanover, MD 21076

**LOCATION 12 PROPOSED (not visible)**



**SATELLITE VIEW**



**LOCATION 12 EXISTING (not visible)**



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



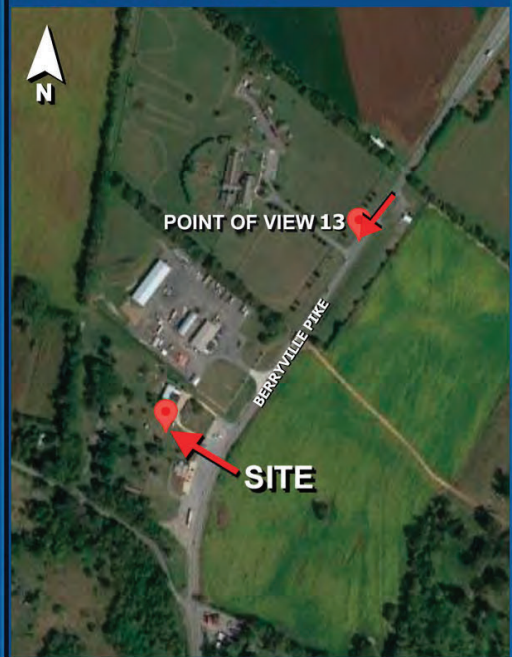
1362 Mellon Road, Suite 140  
Hanover, MD 21076



Prepared for:

**AT&T Mobility**  
7150 Standard Drive  
Hanover, MD 21076

**SATELLITE VIEW**



**LOCATION 13 EXISTING**



**LOCATION 13 PROPOSED**



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



1362 Mellon Road, Suite 140  
Hanover, MD 21076



Prepared for:

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7150 Standard Drive  
Hanover, MD 21076

## SATELLITE VIEW



## LOCATION 14 EXISTING



## LOCATION 14 PROPOSED



# KANAWHA

**FA #: 14878905 / SITE ID#: 2544**

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414



1362 Mellon Road, Suite 140  
Hanover, MD 21076



Prepared for:

**AT&T Mobility**  
7150 Standard Drive  
Hanover, MD 21076

**SATELLITE VIEW**



**LOCATION 15 EXISTING (not visible)**



**LOCATION 15 PROPOSED (not visible)**





1362 Mellon Road, Suite 140  
Hanover, MD 21076

# KANAWHA

## FA #: 14878905 / SITE ID#: 2544

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414

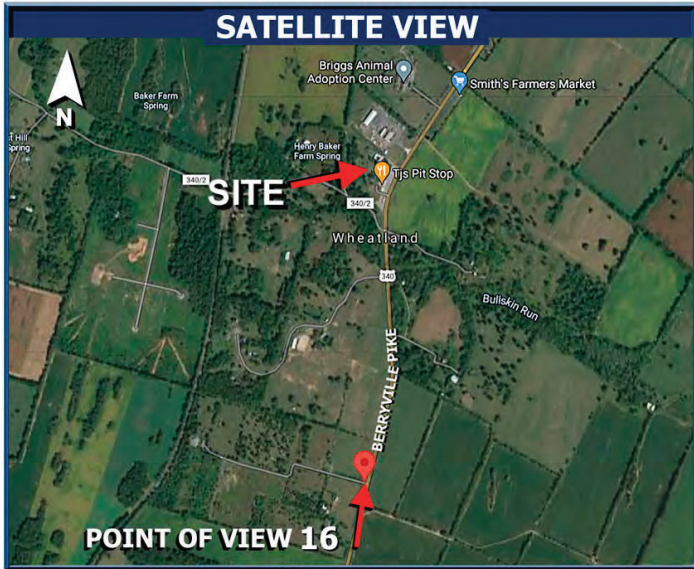
Prepared for:  
AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076



# at&t

Mobility

### SATELLITE VIEW



### LOCATION 16 PROPOSED (zoomed out)



### LOCATION 16 EXISTING (zoomed out)





1362 Mellon Road, Suite 140  
Hanover, MD 21076

# KANAWHA

## FA #: 14878905 / SITE ID#: 2544

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414

Prepared for:

AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076



# at&t Mobility

### SATELLITE VIEW



### LOCATION 17 PROPOSED (not visible)



### LOCATION 17 EXISTING (not visible)





1362 Mellon Road, Suite 140  
Hanover, MD 21076

# KANAWHA

## FA #: 14878905 / SITE ID#: 2544

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414

Prepared for:  
AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076



# at&t Mobility

### SATELLITE VIEW



### LOCATION 18 PROPOSED (not visible)



### LOCATION 18 EXISTING (not visible)





1362 Mellon Road, Suite 140  
Hanover, MD 21076

# KANAWHA

## FA #: 14878905 / SITE ID#: 2544

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414

Prepared for:

AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076



# at&t Mobility

### SATELLITE VIEW



### LOCATION 19 PROPOSED (not visible)



### LOCATION 19 EXISTING (not visible)



**KANAWHA**  
**FA #: 14878905**  
**SITE ID#: 2544**  
3557 BERRYVILLE PIKE,  
CHARLES TOWN, WV 25414



Prepared for:

AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076



1362 Mellon Road, Suite 140  
Hanover, MD 21076

LOCATION 20 EXISTING (not visible)



LOCATION 20 PROPOSED (not visible)



SATELLITE VIEW





1362 Mellon Road, Suite 140  
Hanover, MD 21076

# KANAWHA

## FA #: 14878905 / SITE ID#: 2544

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414

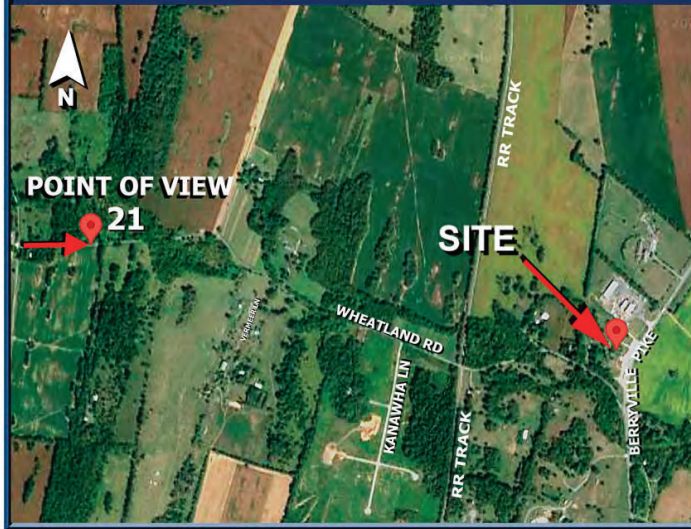
Prepared for:

AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076



at&t  
Mobility

**SATELLITE VIEW**



**LOCATION 21 PROPOSED (not visible)**



**LOCATION 21 EXISTING (not visible)**





1362 Mellon Road, Suite 140  
Hanover, MD 21076

# KANAWHA

## FA #: 14878905 / SITE ID#: 2544

3557 BERRYVILLE PIKE, CHARLES TOWN, WV 25414

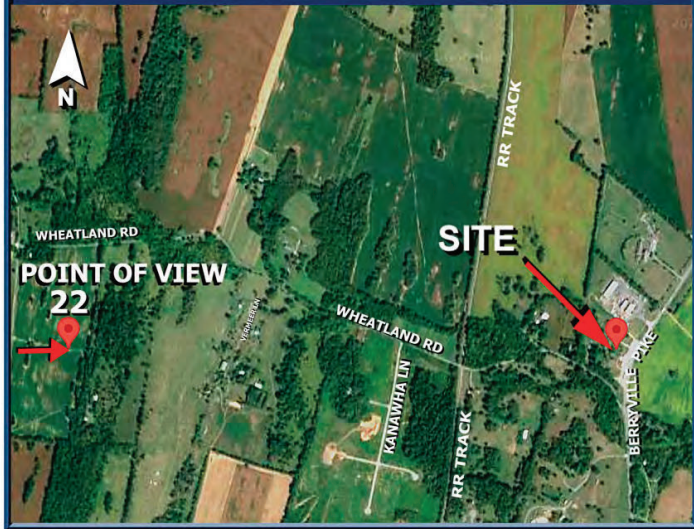
Prepared for:

AT&T Mobility  
7150 Standard Drive  
Hanover, MD 21076



# at&t Mobility

### SATELLITE VIEW



### LOCATION 22 PROPOSED (not visible)



### LOCATION 22 EXISTING (not visible)



# **EXHIBIT 9**



West Virginia Department of  
**ARTS, CULTURE  
AND HISTORY**

**The Culture Center**  
1900 Kanawha Blvd., E.  
Charleston, WV 25305-0300

**Randall Reid-Smith, Curator**  
Phone 304.558.0220 • www.wvculture.org  
Fax 304.558.2779 • TDD 304.558.3562  
EEO/AA Employer

October 26, 2021

Mr. J. Scott Horn  
President  
ACER Associates, LLC  
1012 Industrial Drive  
West Berlin, NJ 08091  
Via email: scotthorn@acerassociates.com

RE: AT&T Mobility, LLC - Kanawha Relo (20210218) Tower Site, 3557 Berryville Pike  
Charles Town, WV 25414; TCNS Notification Number: 229365  
FR#: 21-633-JF & 21-633-JF-1

Dear Mr. Horn:

We have reviewed the above referenced project to determine potential effects on cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to the submitted information, AT&T Mobility, LLC proposes to construct a 171-foot high monopole telecommunications tower (179 feet overall height with 8-foot lightning rod) within a 50-foot by 50-foot fenced tower compound located on property at 3557 Berryville Pike, Charles Town, Jefferson County, West Virginia. Approximately 140 linear feet of underground power conduit will be installed from the proposed transformer to an existing utility pole located to the southwest of the compound. A 6.7-foot by 6.7-foot walk-in equipment shelter and diesel generator on a 12-foot by 16-foot concrete pad will be installed within the fenced compound. A new 12-foot wide access corridor will be constructed for the project.

**Architectural Resources:**

We have reviewed the submitted information. The proposed telecommunications tower will have a final height of 179 feet. Therefore, per 47 CFR Part 1, Appendix C, the visual area of potential effect (APE) is set at .5 miles. We have determined that William Grubb Farm Historic District (NR# 91001735, listed 1991), Beverly Historic District (NR# 10000170, listed 2010) listed in the National Register of Historic Places, and Wheatland Farm (JF-0062-0017), Byrdland Farm (JF-0062-0016) and Beulah Presbyterian Church (JF-0062-0020) which

are eligible for listing National Register of Historic Places either individually or as contributing structures to a district, are located within the proposed project's APE for visual effects.

Per our previous request, the submitted information provided via email correspondence dated September 27, 2021, shares the results and photo simulations of a balloon test conducted on August 13, 2021, to assess the indirect effects (viewshed) the proposed project may have on all five (5) extant properties: NR# 91001735, NR# 10000170, JF-0062-0017, JF-0062-0016, and JF-0062-0020. The balloon test and photo simulations provided demonstrate that the proposed tower project will be visible from most of the above-mentioned properties. However, the simulations show that the project will not be visible from Beulah Presbyterian Church (JF-0062-0020) and publicly accessible portions of Beverly Historic District (NR# 10000170, listed 2010). Further, the proposed tower is no more prominent or visible from William Grubb Farm Historic District (NR# 91001735, listed 1991), Wheatland Farm (JF-0062-0017), and Byrdland Farm (JF-0062-0016) than existing public utilities and infrastructure such as electric and telephone lines, poles and towers.

Therefore, it is our opinion that the proposed project will have *no effect* on Beulah Presbyterian Church (JF-0062-0020) and Beverly Historic District (NR# 10000170, listed 2010). It is also our opinion that the proposed project will have *no adverse effect* to the William Grubb Farm Historic District (NR# 91001735, listed 1991), Wheatland Farm (JF-0062-0017), and Byrdland Farm (JF-0062-0016). No further consultation is necessary regarding architectural resources; however, we do ask that you contact our office if your project should change.

Archaeological Resources:

We remain in concurrence with our prior June 7, 2021 recommendation that the proposed tower project will have no effect on archaeological historic properties. No further consultation is necessary regarding archaeological resources.

Consulting Parties/Public Comment:

We note that your office notified the following organizations via the FCC 620 system on April 5, April 7, April 8 and May 13, 2021, about the proposed project: Bad River Band of Lake Superior Tribe of Chippewa Indians, Cherokee Nation, Delaware Nation, Eastern Shawnee Tribe of Oklahoma, Shawnee Tribe, Tuscarora Nation, Wyandotte Nation, the Jefferson County Historic Landmarks Commission and the Jefferson County Historical Society. As of the time of submission, responses from the Jefferson County Landmark Commission and the Eastern Shawnee Tribe of Oklahoma have been received. The Eastern Shawnee Tribe response was noted as "Other." The response from the Jefferson County Historic Landmarks Commission indicated an interest in involvement during the consultation process.

Subsequent consultation took place with Mr. Martin Burke of the Jefferson County Historic Landmarks Commission and Ms. Lisa Cole of ACER Associates LLC with Mr. Kent Walker of my office on June 3, 2021. Mr. Burke shared concerns over the indirect APE of the project. Notably, the impacts on the visual area of effects of the project are of concern. Both parties concurred on a potential for impacts to the viewshed of the nearby resources. The parties indicated a need for further study of the potential visual intrusion to the surrounding historic viewshed. Mr. Burke requested a balloon test be conducted and a summary of alternative

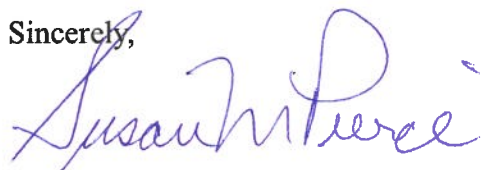
October 26, 2021  
Mr. Horn  
FR#: 21-633-JF-2  
Page 3

locations considered for the proposed tower. Mr. Burke has shared these requests with Ms. Cole of ACER Associates, LLC. Ms. Cole acknowledged receipt of these requests.

Mr. Burke of the Jefferson County Historic Landmarks Commission continued to serve as a consulting party on this project. Requests for additional information have been met with prompt response and Acer Associates LLC has provided all requested information, namely supplemental photo simulations and alternative locations considered for the proposed tower project. Correspondence providing a summary of alternative locations considered for the proposed tower was forwarded to our office by Ms. Lisa Cole of Acer Associates LLC on October 18, 2021, to confirm that potential effects resulting from the proposed project have been minimized while still achieving the communication goals of the proposed tower. This information showed that while alternatives were considered, only the proposed project site was deemed viable due to its proximity to existing tower locations and the willingness of the property owner to allow location on their site. It is our opinion that these measures and responsiveness demonstrate a good faith effort to consult with the appropriate parties and seek public comment on the project. We understand that any further correspondence or comments regarding cultural resources will be sent to our office.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Kent C. Walker, Structural Historian, or Carolyn M. Kender, Archaeologist, at (304) 558-0240.*

Sincerely,



Susan M. Pierce  
Deputy State Historic Preservation Officer

SMP/KCW/CMK

CC: Mr. Martin Burke, Jefferson County HLC (martinburke@frontiernet.net)  
Ms. Lisa Cole, Acer Associates LLC (lisacole@acerassociates.com)

# **EXHIBIT 10**



April 20, 2022


**AT&T's Proposed 179' Monopole Telecommunication Facility  
at 3557 Berryville Pike, Charles Town, West Virginia, 25414**

**AFFIDAVIT OF FCC COMPLIANCE AND TOWER CO-LOCATION**

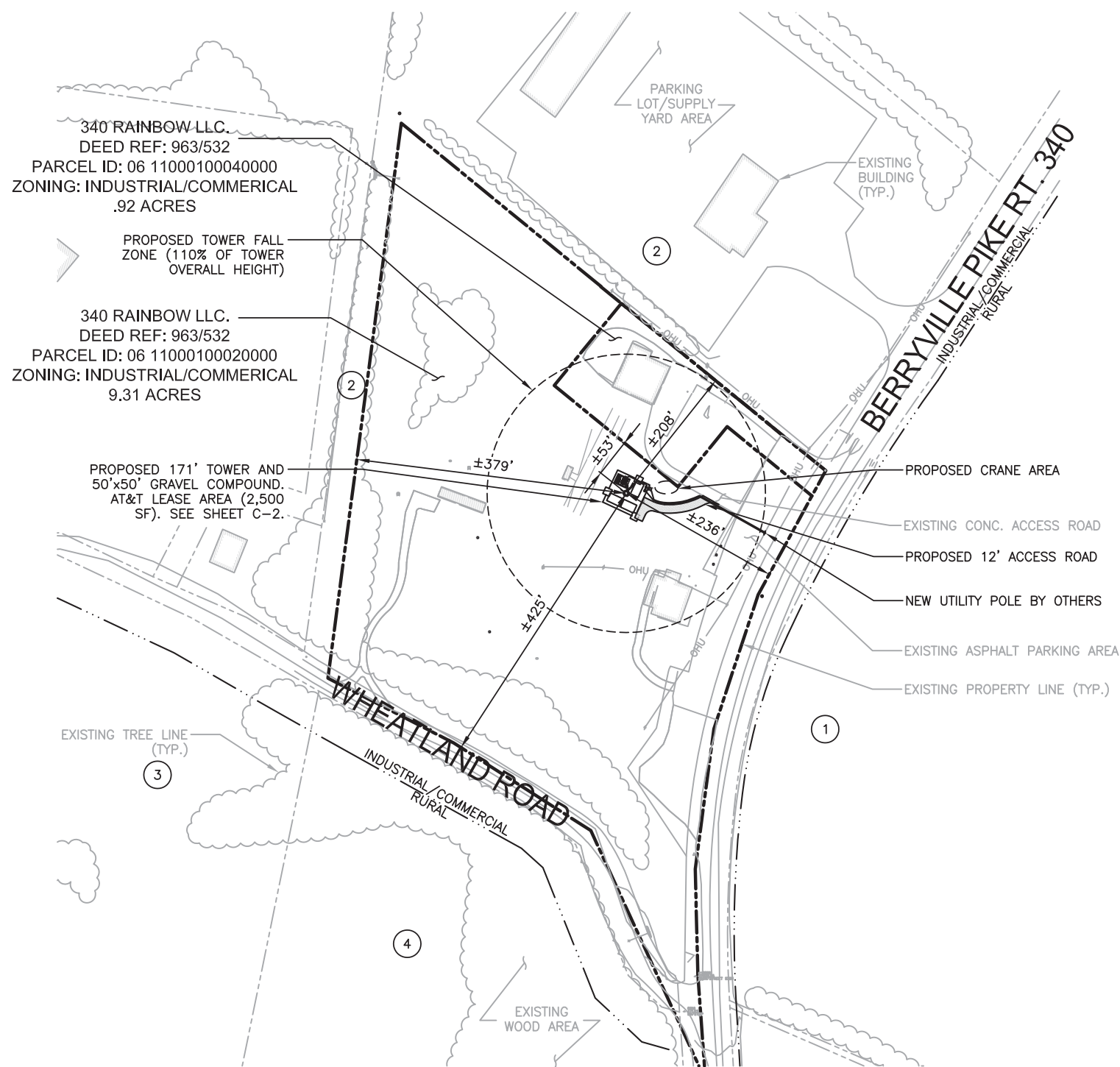
Pursuant to Jefferson County Zoning and Land Development Ordinance Section 4B.7.H.4.a, the undersigned does hereby declare and affirm under the penalties of perjury, and agrees on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC ("AT&T"), concerning the Concept Plan to build a new telecommunications facility (the "Facility") on a portion of the property located at 3557 Berryville Pike, Charles Town, West Virginia, 25414 (the "Property") as follows:

1. The Undersigned is a duly appointed agent of AT&T, the Applicant and wireless provider, and as such is authorized to give this Affidavit and bind AT&T to this Agreement.
2. The Facility, will at all times, comply with applicable Federal Communications Commission ("FCC") standards and requirements to provide the proposed services. The antennas, as proposed and designed for this Facility, comply with all applicable FCC requirements. In addition, the proposed site meets all applicable ANSI/IEEE C95.1-1992 exposure levels, as adopted by the FCC requirements.
3. AT&T has designed the Facility structurally, electrically, mechanically and in all other respects to accommodate additional wireless providers to co-locate on the Facility.
4. Subject to exceptions for structure height, topography, or other factors which make co-location unfeasible, the Facility is available for co-location by other wireless providers.

New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC

By:  (SEAL)  
Jesse Bird Principal Tech Vendor Mgmt  
 Printed Name and Title





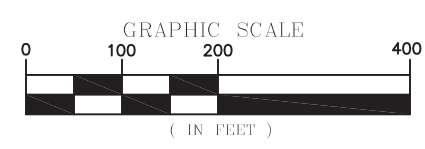
- ① STOLIPHER, DOUGLAS L.  
1599 ROPER NORTH FORK ROAD  
CHARLES TOWN, WV 254141308  
PARCEL ID: 06 1100020000000  
LIBER/FOLIO: 1026/337  
DISTANCE FROM CLOSEST PROPERTY LINE TO MONOPOLE ±261'  
160 AC
- ② W A CHESTER LLC.  
0 P.O. BOX 3841  
CHICAGO, IL 60654  
PARCEL ID: 06 11000100030000  
LIBER/FOLIO: 1062/369  
DISTANCE FROM CLOSEST PROPERTY LINE TO MONOPOLE ±193'  
11.26 AC
- ③ CARLISLE W O JR ET AL  
0 P.O. BOX 103  
RANSON, WV 25438  
PARCEL ID: 06 12001600020000  
LIBER/FOLIO: 935/563  
DISTANCE FROM CLOSEST PROPERTY LINE TO MONOPOLE ±506'  
7.24 AC
- ④ HARRISON, IAN W. & VIRGINIA N.  
154 JENKINS HILL ROAD  
CHARLES TOWN, WV 25414  
PARCEL ID: 06 12001600040000  
LIBER/FOLIO: 944/24  
DISTANCE FROM CLOSEST PROPERTY LINE TO MONOPOLE ±459'  
18.85 AC

**SITE NOTES**

1. APPLICANT/OWNER: AT&T MOBILITY  
CONTACT: JACKSON CLARK  
7150 STANDARD DRIVE  
HANOVER, MD 21076
2. SITE DATA:  
PARCEL #: 06 11000100020000  
WATER DESIGNATION: WELL  
SEWER DESIGNATION: SEPTIC  
ELECTION DISTRICT: 16  
SITE AREA: 9.31 AC.  
SITE ADDRESS: 3511 BERRYVILLE PIKE  
CHARLES TOWN, WV 25414
3. EXISTING USE: MECHANICS SHOP  
PROPOSED USE: MECHANICS SHOP/TELECOMMUNICATION FACILITY
4. ZONING OF SITE IS INDUSTRIAL/COMMERCIAL
5. LIMIT OF DISTURBANCE = 9,958 sq.ft or 0.23 Ac.
6. EXISTING IMPERVIOUS AREA = 41,311 sq.ft
7. PROPOSED IMPERVIOUS AREA = 26,445 sq.ft
8. NEAREST HISTORICAL STRUCTURE IS BEULAH CHURCH WHICH IS ±450' SOUTHWEST OF PROPOSED TOWER.
9. NO COMMERCIAL SIGNAGE IS PROPOSED.
10. TOWER SHALL NOT BE LIGHTED OR MARKED UNLESS SO REQUIRED BY THE FCC AND FAA.
11. TOWER TO BE FLAT GREY OR GALVANIZED FINISH, UNLESS OTHERWISE DETERMINED BY THE PLANNING COMMISSION.
12. ANY FACILITY OR SUPPORT STRUCTURE IS NOT OPERATED FOR A PERIOD OF TWELVE (12) CONSECUTIVE MONTHS MAY BE REFERRED TO THE PROPERTY SAFETY ENFORCEMENT AGENCY BOARD FOR A DETERIORATION OF THE STRUCTURAL SOUNDNESS OF THE FACILITY OR STRUCTURE.
13. NOTIFY WEST VIRGINIA 811 48 HOURS PRIOR TO DOING ANY EXCAVATION IN THIS AREA. THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED BY THE OWNER OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK, AND AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATED AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.
14. PER FEMA FLOOD PLAN MAP 54037C0225E, EFFECTIVE ON 12/18/2009, THERE ARE NO FLOOD PLANES AND THE SITE IS ZONED "X" ON THE STATED MAP ABOVE.
15. THE SITE IS AN UNMANNED TELECOMMUNICATIONS FACILITY. ONE SERVICE VEHICLE WILL BE ON SITE ROUGHLY EVERY 3 MONTHS.
16. PARCELS 1.2 AND 1.4 ARE OWNED BY 340 RAINBOW LLC. SHOULD EITHER PARCEL BE CONVEYED TO ANOTHER PARTY, AN EASEMENT SHALL BE DEDICATED AND RECORDED DOCUMENTING COMPLIANCE WITH THE REQUIRED FALL RADIUS, PURSUANT TO SECTION 4B.7.J.3 OF THE ZONING ORDINANCE. A COPY OF SAID EASEMENT SHALL BE SUBMITTED TO THE OFFICE OF PLANNING & ZONING FOR THEIR RECORDS.

**LEGEND**

- PROPERTY LINE
- - - EX. CONTOUR
- EX. EDGE OF ROAD
- EX. UTILITY POLE
- ▭ EX. BUILDING
- ▨ EX. FEATURES
- INDUSTRIAL/COMMERCIAL EX. ZONING LINE
- RURAL
- EX. TREES
- x-x-x- PROP. FENCE
- PROP. EQUIPMENT
- PROP. MONOPOLE
- T — PROP. TELECOM LINE
- E — PROP. ELECTRIC LINE



PARTIAL SURVEY WAS COMPLETED BY KCI ON MAY 16, 2019, AND AUGMENTED BY SURVEY COMPLETED BY LAND OWNER AND RECEIVED BY KCI ON AUGUST 22, 2019. PROPERTY INFORMATION TAKEN FROM JEFFERSON COUNTY GIS WEBSITE.

**PROPERTY & ZONING PLAN**  
SCALE: 1"=200' (1"=100') ON 22"x34" SHEET

DRAWN BY:	JW	
CHECKED BY:	JM	
APPROVED BY:	GT	
NO.	DATE	DESCRIPTION
A	05/23/19	PRELIMINARY DRAWINGS
B	06/06/19	REVISED PER COMMENTS
C	06/13/19	REVISED PER COMMENTS
D	10/28/19	COMPOUND RELOCATION
E	11/07/19	REVISED PER COMMENTS
F	11/03/20	REVISED TOWER LOCATION
G	11/19/20	REVISED GRAVEL ACCESS
H	05/24/21	POWER ROUTE CHANGE
I	06/02/21	DIMENSION ADDED
J	06/22/21	REVISED PER COMMENTS
O	04/15/22	ISSUED FOR ZONING
1	05/25/22	REVISED PER COMMENTS

KCI TECHNOLOGIES, INC.  
11830 West Market Place, Suite F  
Fulton, MD 20759  
Phone: 410.792.8086

ENGINEER:  
NICHOLAS A. BARRICK, PE  
WV LICENSE NO.: 20290

7150 STANDARD DRIVE  
HANOVER, MD 21076

1362 MELLON RD. SUITE 140  
HANOVER, MD 21076

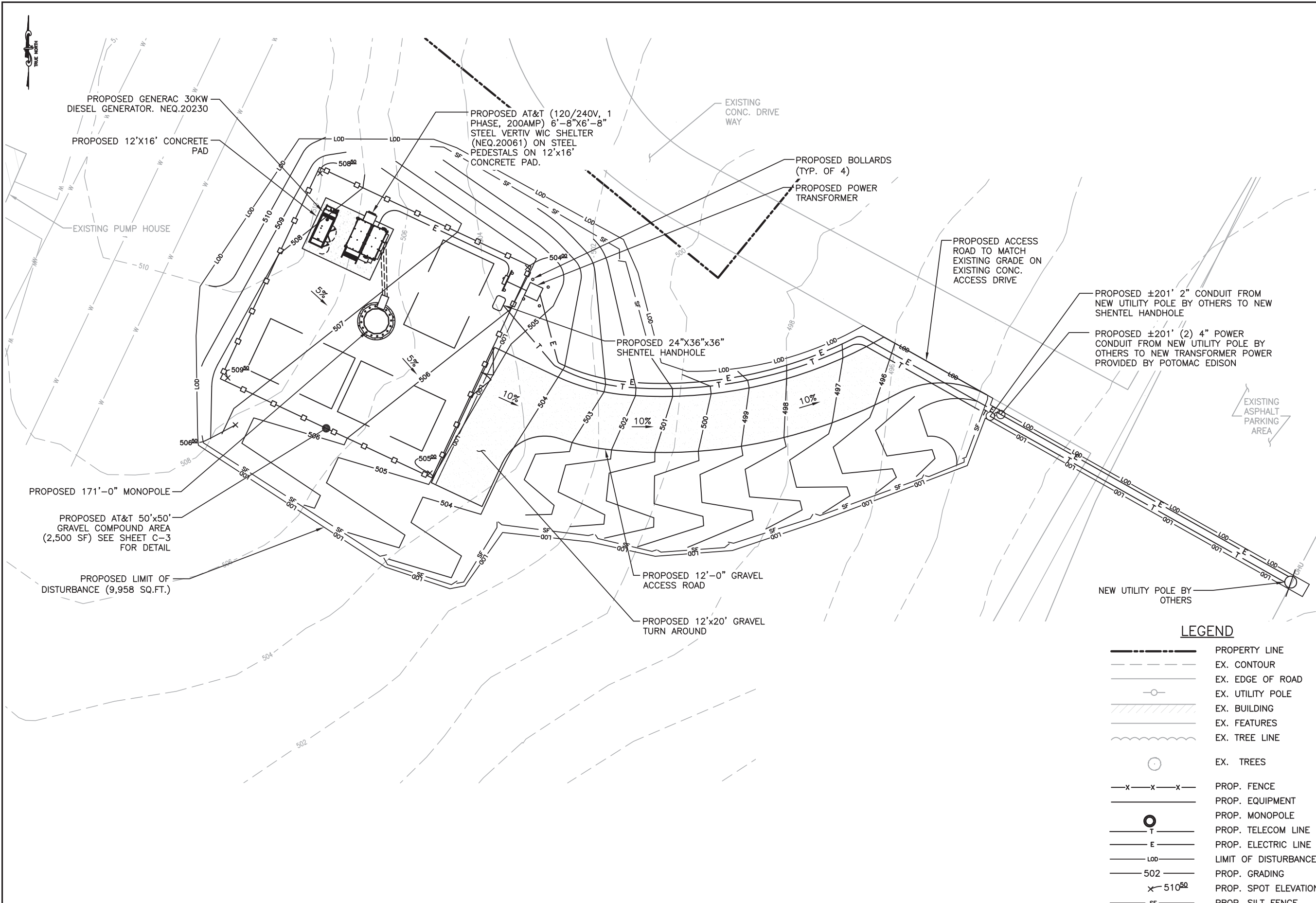
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FA#:14878905  
SITE ID#: 2544  
3511 BERRYVILLE PIKE  
CHARLES TOWN, WV 25414

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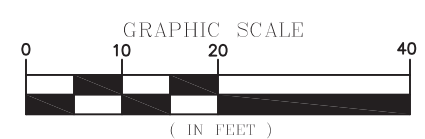
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DATE: 5/25/22  
KCI JOB NUMBER: 011802184.ATT14  
SHEET TITLE

**PROPERTY & ZONING PLAN**

SHEET  
**C-1**



PARTIAL SURVEY WAS COMPLETED BY KCI ON MAY 16, 2019, AND AUGMENTED BY SURVEY COMPLETED BY LAND OWNER AND RECEIVED BY KCI ON AUGUST 22, 2019. PROPERTY INFORMATION TAKEN FROM JEFFERSON COUNTY GIS WEBSITE.

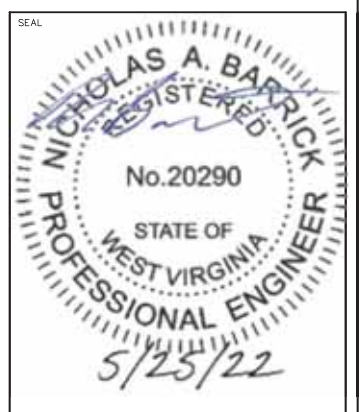


**SITE PLAN**  
SCALE: 1"=20' (1"=10') ON 22"x34" SHEET

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CHECKED BY: JM		
APPROVED BY: GT		
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B	06/06/19	REVISED PER COMMENTS
C	06/13/19	REVISED PER COMMENTS
D	10/28/19	COMPOUND RELOCATION
E	11/07/19	REVISED PER COMMENTS
F	11/03/20	REVISED TOWER LOCATION
G	11/19/20	REVISED GRAVEL ACCESS
H	05/24/21	POWER ROUTE CHANGE
I	06/02/21	DIMENSION ADDED
J	06/22/21	REVISED PER COMMENTS
O	04/15/22	ISSUED FOR ZONING
1	05/25/22	REVISED PER COMMENTS

**KCI**  
TECHNOLOGIES

KCI TECHNOLOGIES, INC.  
11830 West Market Place, Suite F  
Fulton, MD 20759  
Phone: 410.792.8086



ENGINEER:  
NICHOLAS A. BARRICK, PE  
WV LICENSE NO.: 20290

**at&t**  
7150 STANDARD DRIVE  
HANOVER, MD 21076

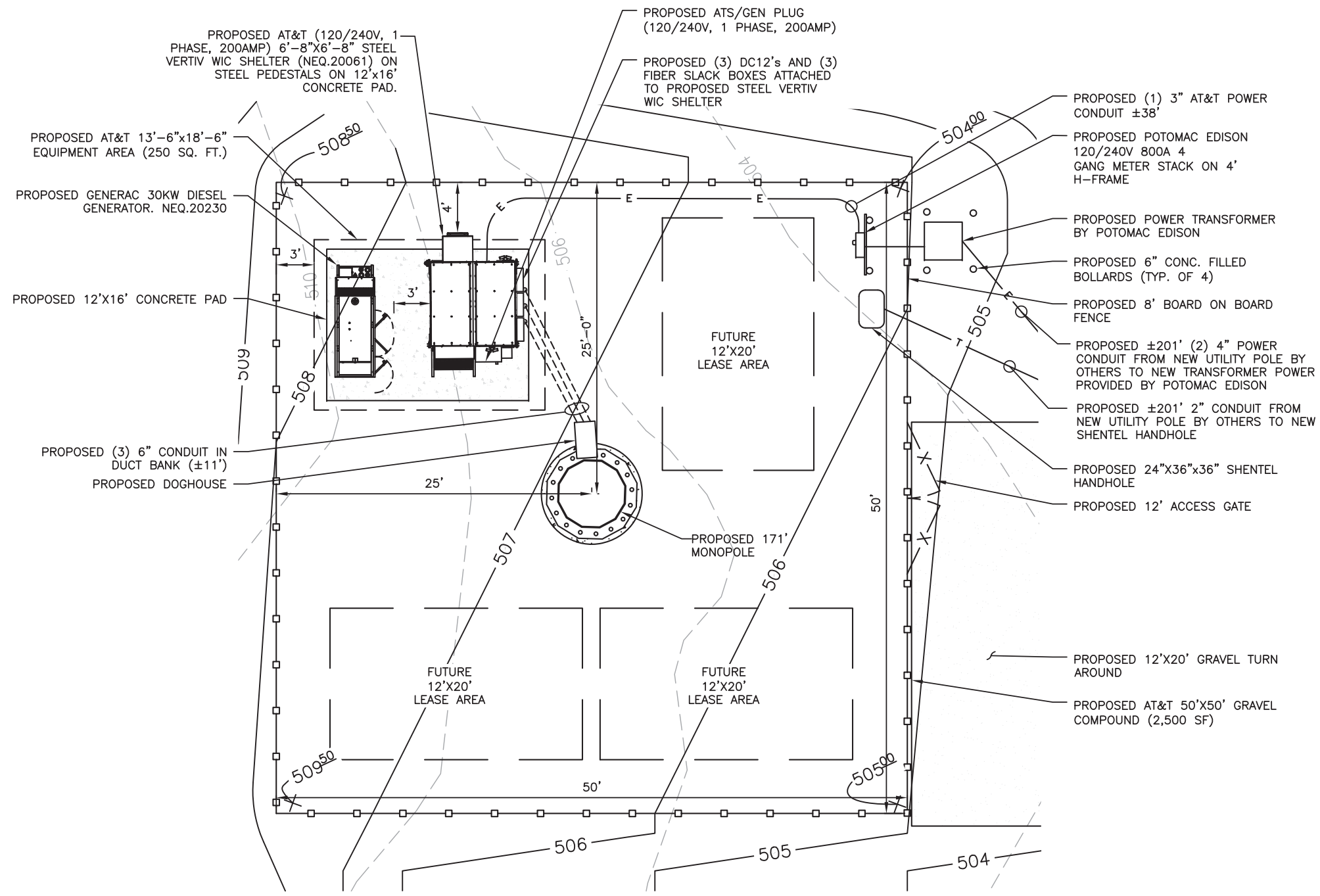
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HANOVER, MD 21076

**KANAWHA**  
FA#:14878905  
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3511 BERRYVILLE PIKE  
CHARLES TOWN, WV 25414

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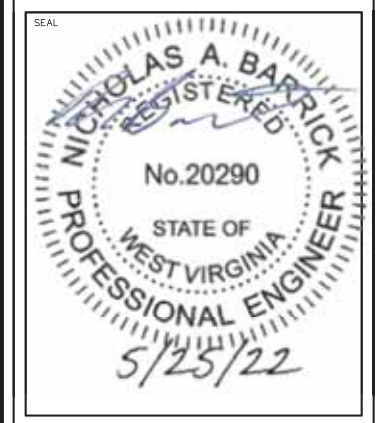
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SHEET  
**C-2**



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APPROVED BY:		GT
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E	11/07/19	REVISED PER COMMENTS
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I	06/02/21	DIMENSION ADDED
J	06/22/21	REVISED PER COMMENTS
O	04/15/22	ISSUED FOR ZONING
1	05/25/22	REVISED PER COMMENTS

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TECHNOLOGIES

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Phone: 410.792.8086



ENGINEER:  
NICHOLAS A. BARRICK, PE  
WV LICENSE NO.: 20290

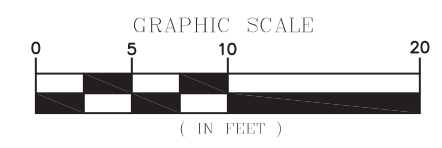
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7150 STANDARD DRIVE  
HANOVER, MD 21076

**smartlink**  
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SITE ID#: 2544  
3511 BERRYVILLE PIKE  
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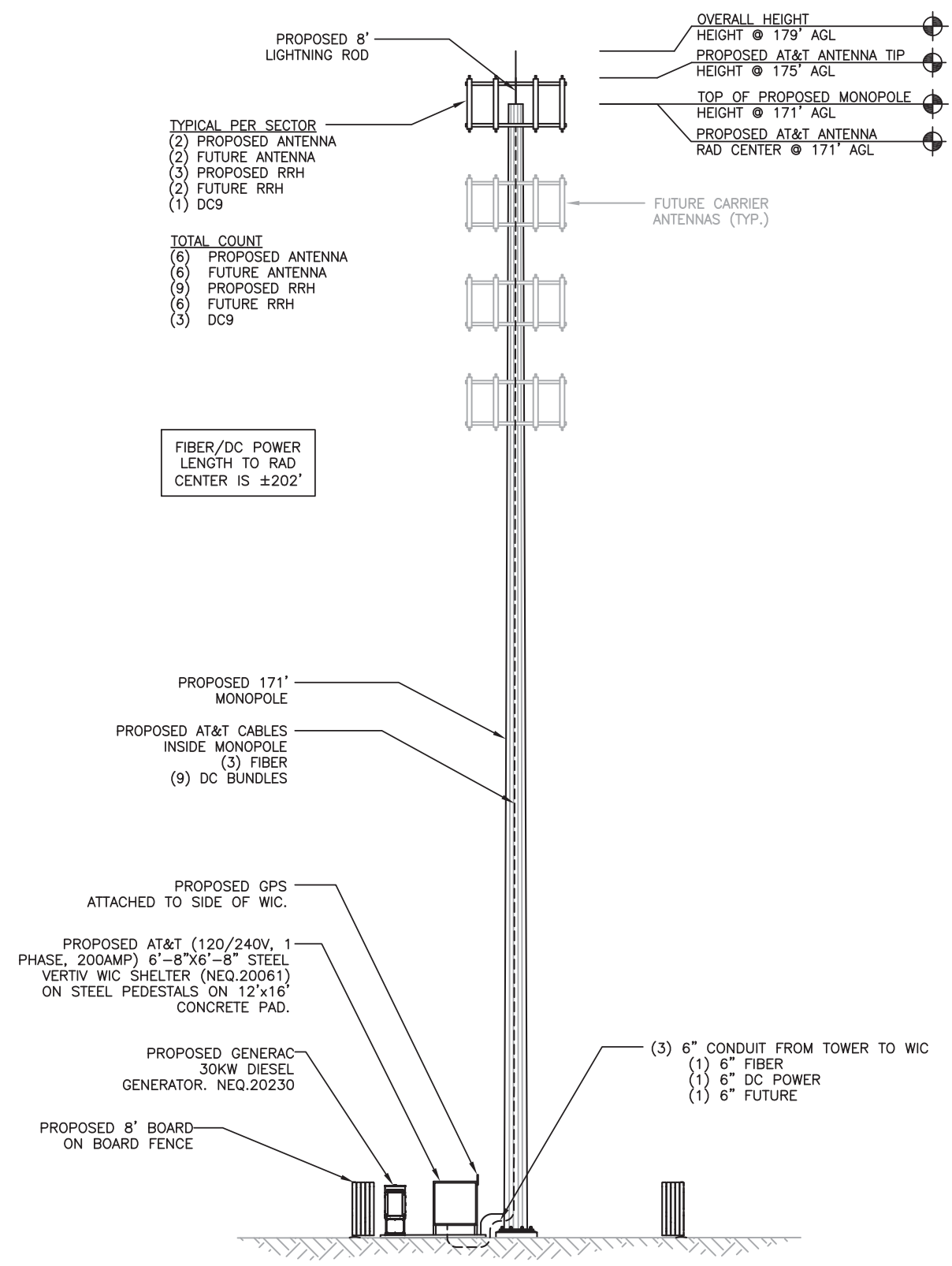
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SCALE:	AS NOTED
DATE:	5/25/22
KCI JOB NUMBER:	011802184.ATT14
SHEET TITLE:	



**COMPOUND PLAN**  
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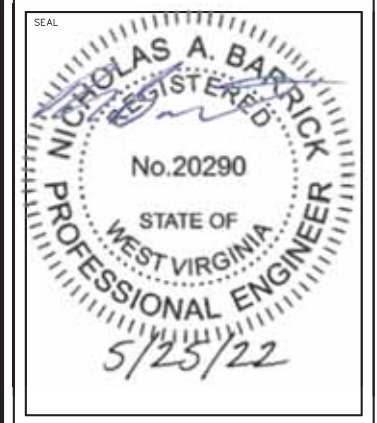
**COMPOUND PLAN**  
SHEET  
**C-3**



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APPROVED BY:	GT	
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O	04/15/22	ISSUED FOR ZONING
1	05/25/22	REVISED PER COMMENTS

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TECHNOLOGIES

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ENGINEER:  
NICHOLAS A. BARRICK, PE  
WV LICENSE NO.: 20290



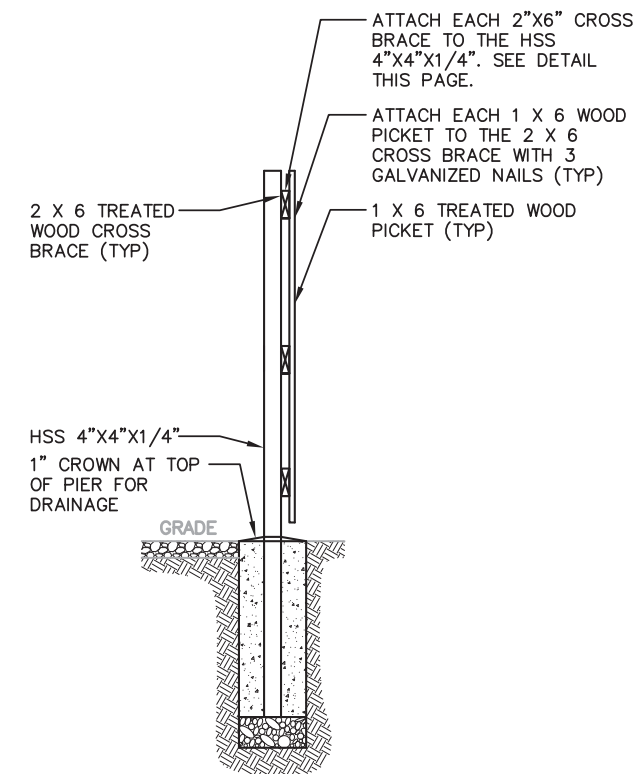
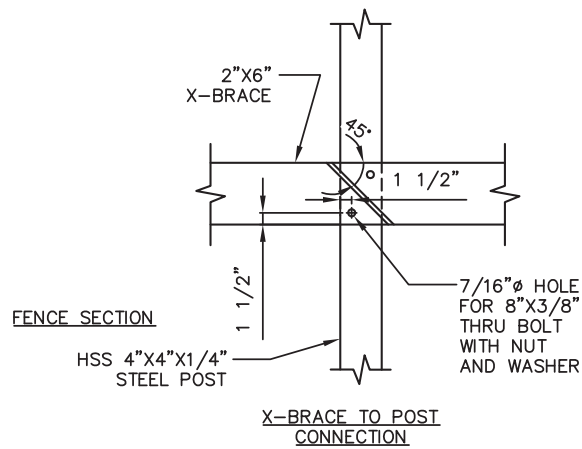
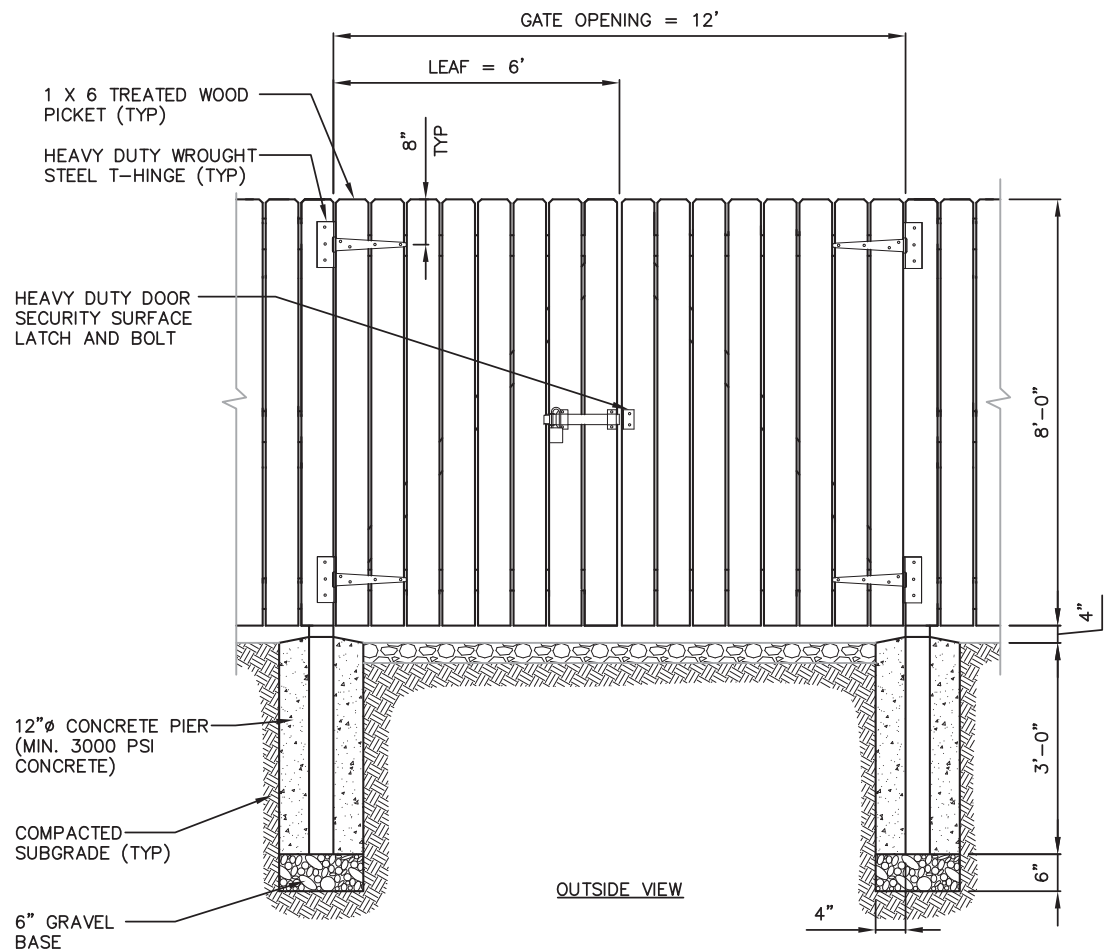
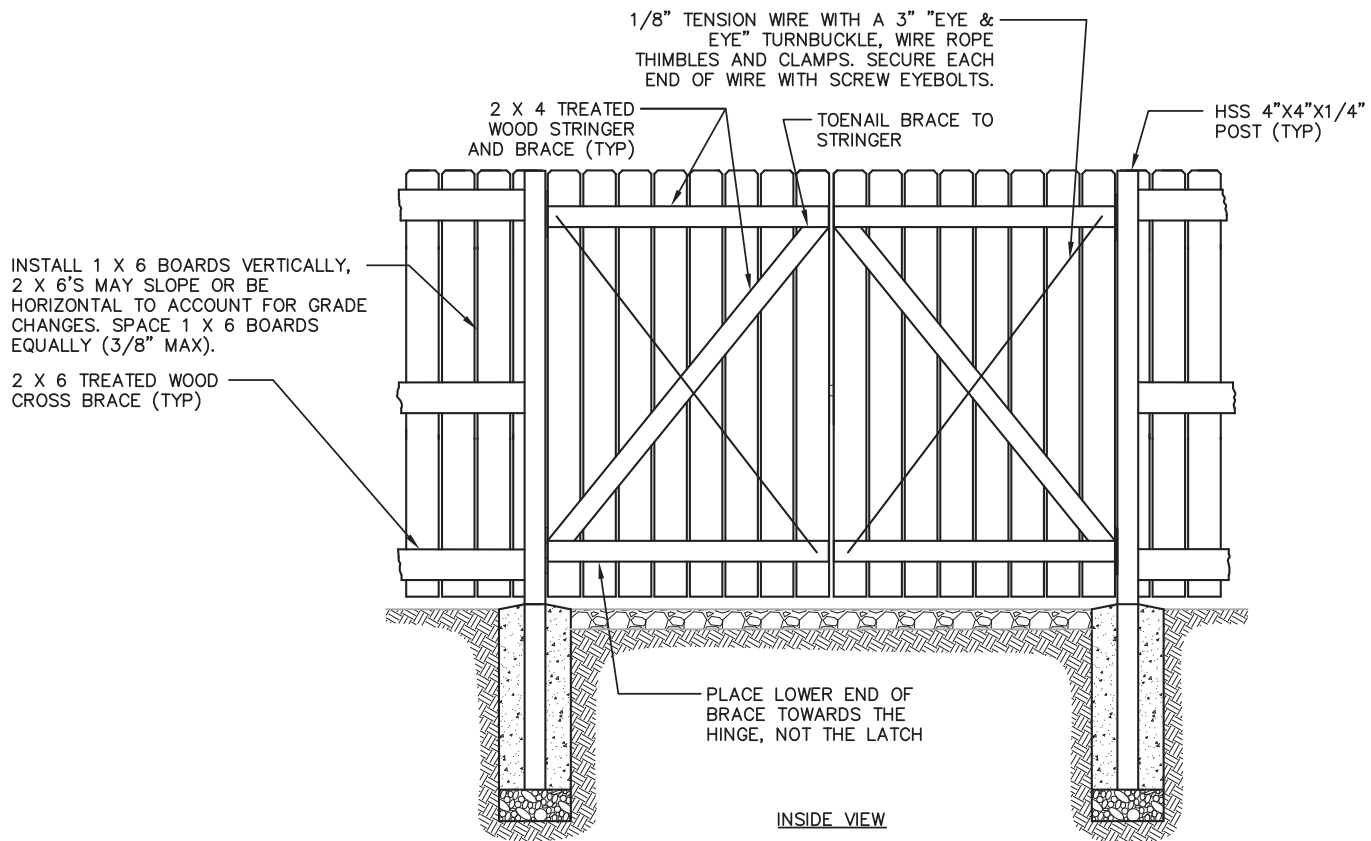
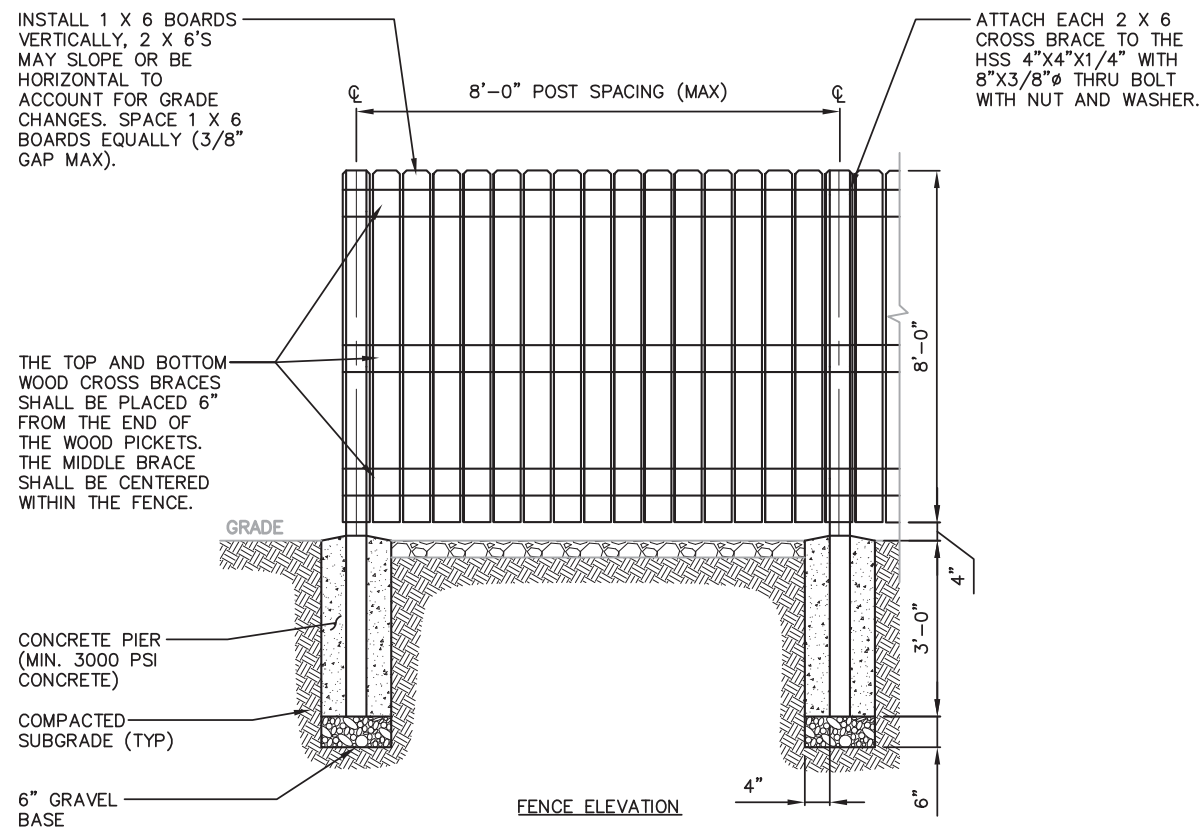
**KANAWHA**  
FA#:14878905  
SITE ID#: 2544  
3511 BERRYVILLE PIKE  
CHARLES TOWN, WV 25414

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DATE:	5/25/22
KCI JOB NUMBER:	011802184.ATT14
SHEET TITLE	

**TOWER ELEVATION**

SHEET  
**C-4**



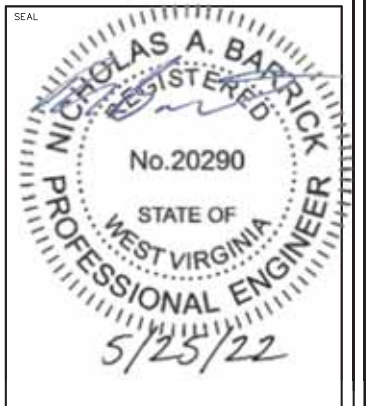
FENCING DETAIL

SCALE: N.T.S.

DRAWN BY:	JW	
CHECKED BY:	JM	
APPROVED BY:	GT	
NO.	DATE	DESCRIPTION
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E	11/07/19	REVISED PER COMMENTS
F	11/03/20	REVISED TOWER LOCATION
G	11/19/20	REVISED GRAVEL ACCESS
H	05/24/21	POWER ROUTE CHANGE
I	06/02/21	DIMENSION ADDED
J	06/22/21	REVISED PER COMMENTS
O	04/15/22	ISSUED FOR ZONING
1	05/25/22	REVISED PER COMMENTS



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ENGINEER:  
NICHOLAS A. BARRICK, PE  
WV LICENSE NO.: 20290



1362 MELLON RD. SUITE 140  
HANOVER, MD 21076

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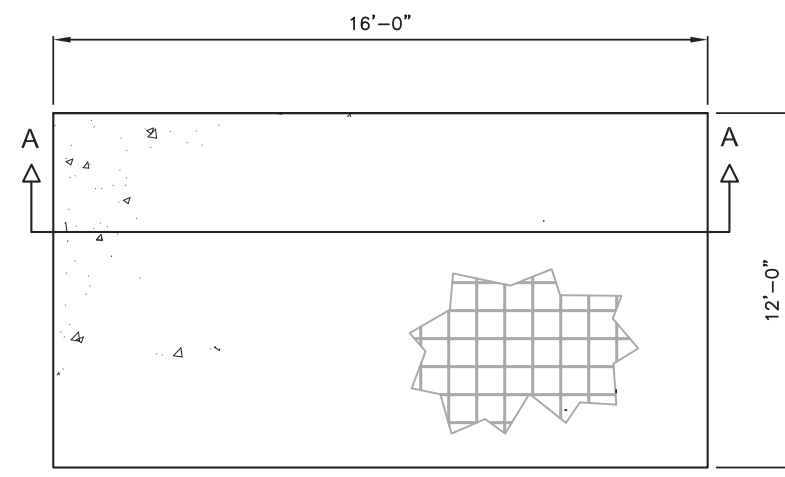
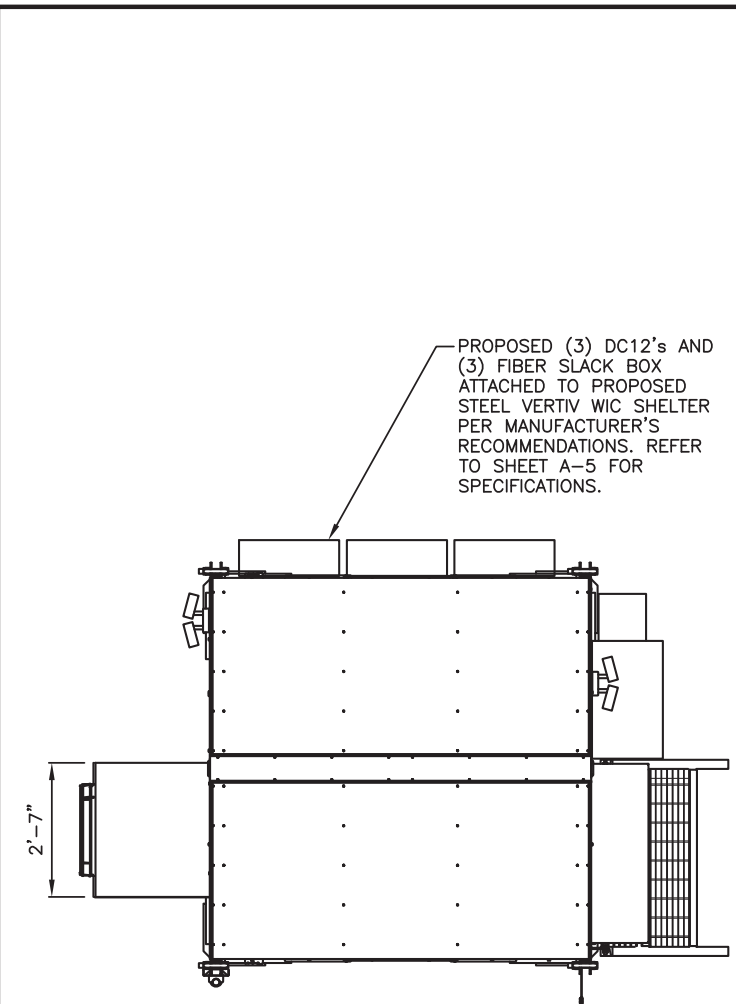
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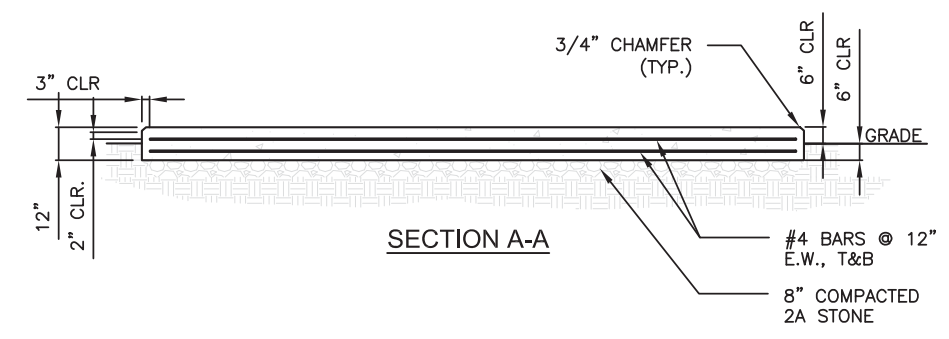
FENCE DETAILS

SHEET

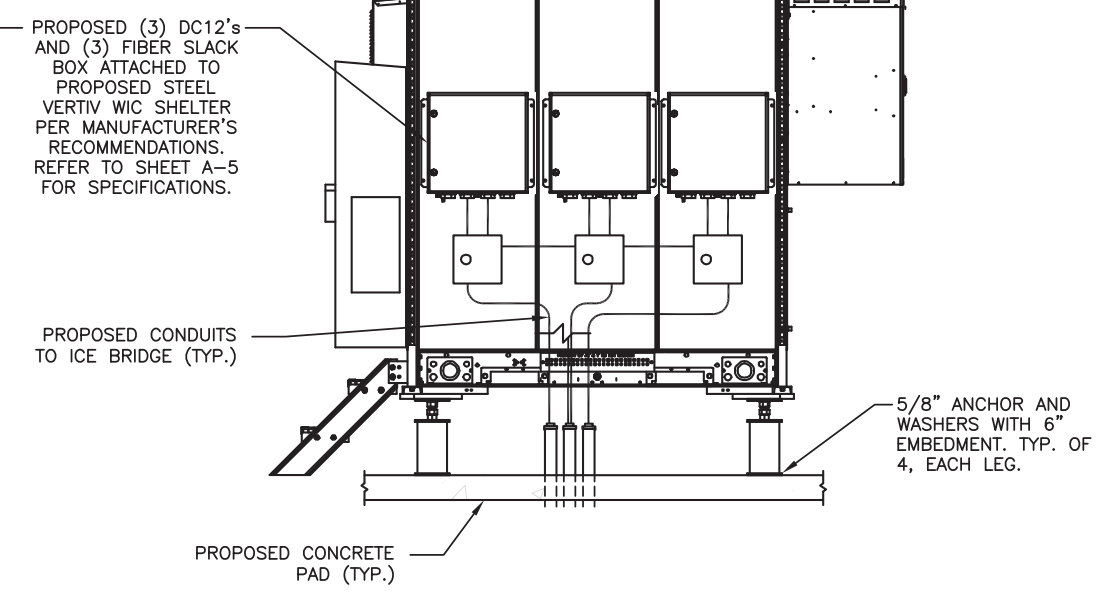
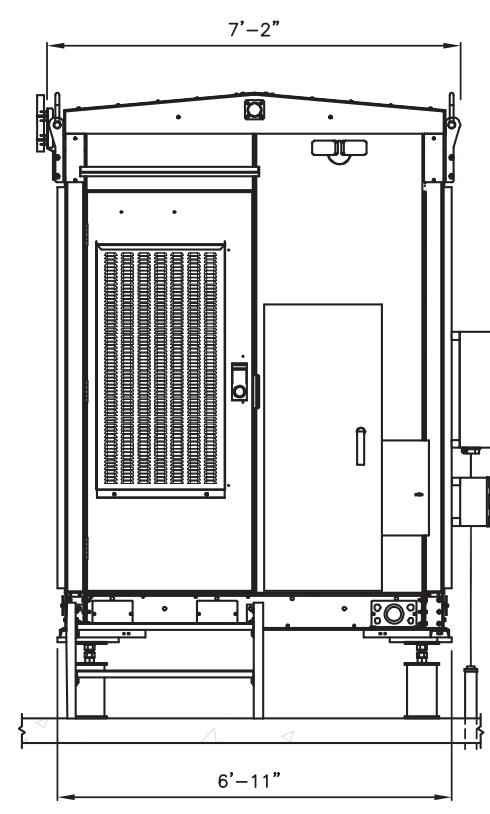
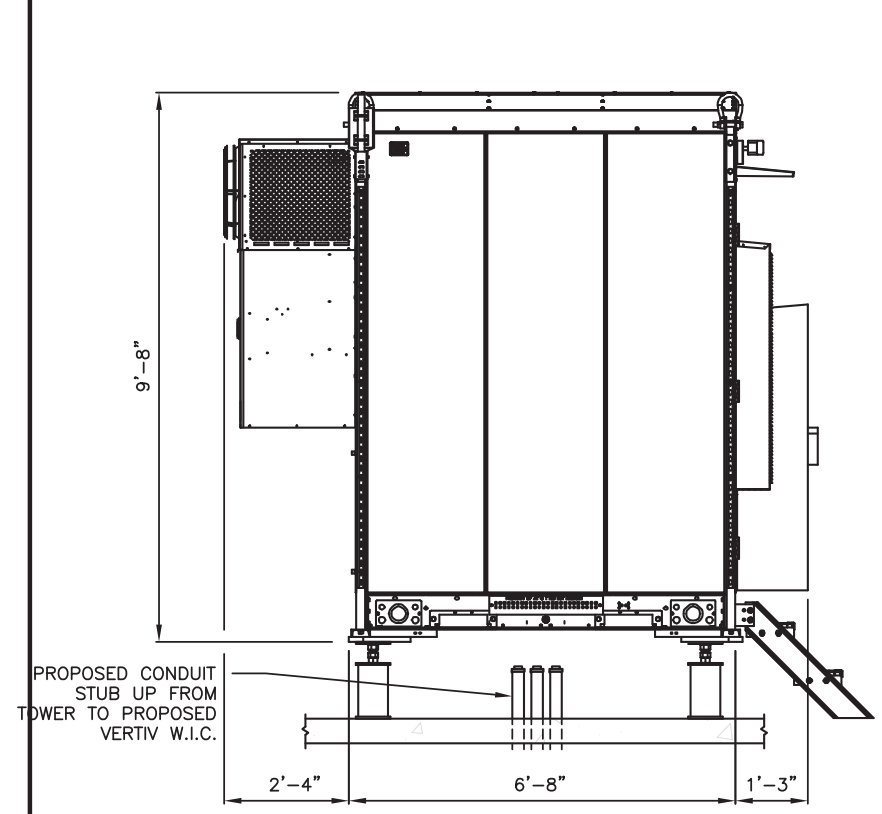
C-5



- WIC SHELTER SLAB NOTES:
1. VERIFY DIMENSIONS WITH WIC MANUFACTURER.
  2. REMOVE ALL LOOSE INORGANIC OR UNSUITABLE SOIL TO UNDISTURBED BEARING STRATA W/ ALLOWABLE SOIL BEARING PRESSURE OF 2000 PSF.
  3. CONCRETE STRENGTH SHALL BE 4000 PSI, MIN.
  4. SLAB SHALL BE LEVEL  $\pm 1/4"$
  5. THE "UNDISTURBED SOIL" BASE SHALL BE COMPACTED TO AT LEAST 95% MODIFIED PROCTOR MAXIMUM DENSITY PER ASTM D 1557 METHOD C.



WIC SHELTER FOUNDATION DETAIL  
SCALE: N.T.S. 1



VERTIV WIC SHELTER NEQ. 20061  
SCALE: N.T.S. 2

DRAWN BY: JW  
CHECKED BY: JM  
APPROVED BY: GT

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**KCI**  
TECHNOLOGIES

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**smartlink**  
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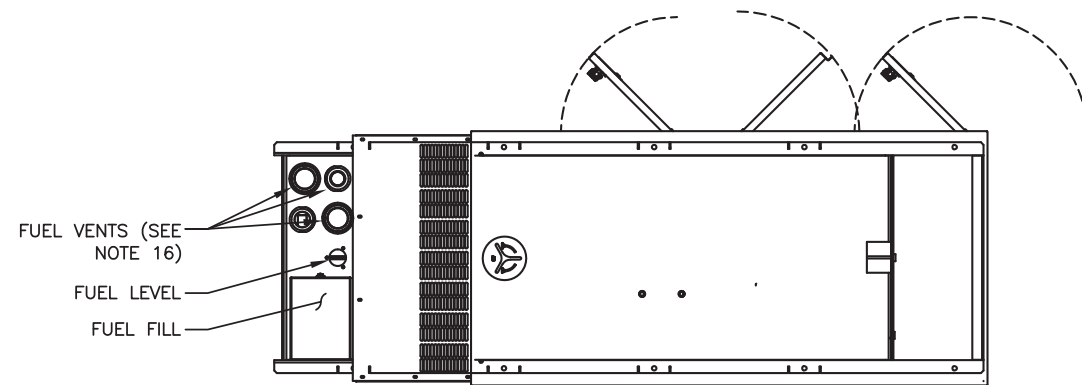
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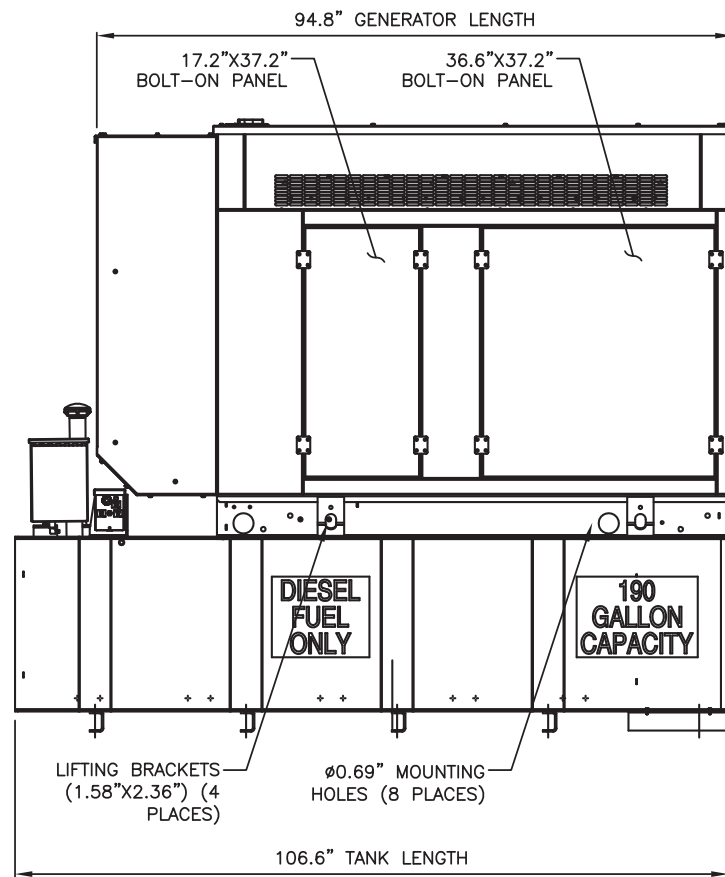
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KCI JOB NUMBER: 011802184.ATT14  
SHEET TITLE

WIC SPECIFICATIONS

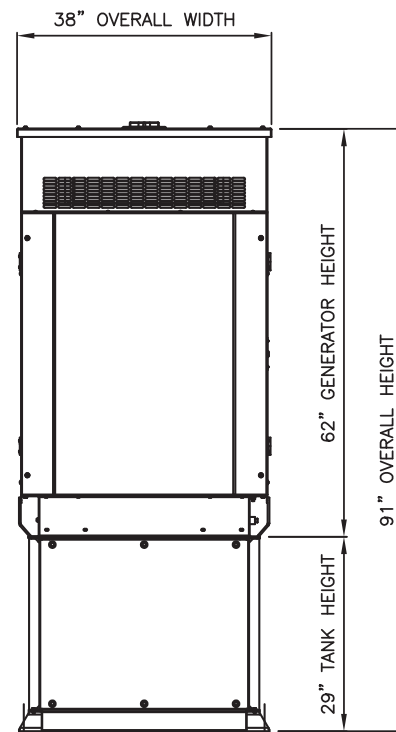
SHEET  
**C-6**



TOP VIEW



LEFT SIDE VIEW



REAR VIEW

NOTES:

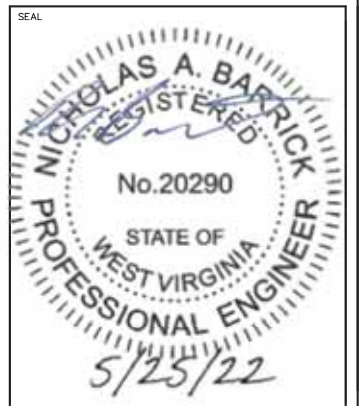
- CONTROL PANEL INCLUDES BATTERY CHARGER WITH THREE PRONG CORD.
- 1500W 120VAC ENGINE BLOCK HEATER WITH THREE PRONG CORD.
- 12 VOLT NEGATIVE GROUND SYSTEM.
- GENERATOR MUST BE GROUNDED.
- CENTER OF GRAVITY & WEIGHT MAY SHIFT SLIGHTLY DUE TO UNIT OPTIONS.
- STUB-UPS: BASE TANK REQUIRES ALL STUB-UPS TO BE IN THE REAR TANK STUB-UP AREA.
- HIGH VOLTAGE STUB-UP AREA INCLUDES THE AC LOAD LEAD CONNECTION TO THE MAIN LINE CIRCUIT BREAKER, THE NEUTRAL CONNECTION, AND AUXILIARY 120/240V CONNECTION.
- CONNECTION POINTS FOR CONTROL WIRES. BOTTOM OF LOW VOLTAGE CUSTOMER CONNECTION BOX HAS KNOCKOUTS FOR 1/2" AND 3/4" CONDUIT FITTINGS.
- MUST ALLOW FREE FLOW OF DISCHARGE AIR AND EXHAUST. SEE SPEC SHEET FOR MINIMUM AIR FLOW AND MAXIMUM RESTRICTION REQUIREMENTS.
- MUST ALLOW FREE FLOW OF INTAKE AIR. SEE SPEC SHEET FOR MINIMUM AIR FLOW AND MAXIMUM RESTRICTION REQUIREMENTS.
- GENERATOR MUST BE INSTALLED SUCH THAT FRESH COOLING AIR IS AVAILABLE AND THAT DISCHARGE AIR FROM THE RADIATOR IS NOT RECIRCULATED.
- IT IS THE RESPONSIBILITY OF THE INSTALLATION TECHNICIAN TO ENSURE THAT THE GENERATOR INSTALLATION COMPLIES WITH ALL APPLICABLE CODES, STANDARDS, AND REGULATIONS.
- 190 GALLON USEABLE CAPACITY BASETANK IS INCLUDED WITH GENERATOR.
- UNIT IS SHIPPED WITH FUEL SUPPLY AND RETURN LINES DISCONNECTED AND PLUGGED BETWEEN ENGINE AND FUEL TANK. THIS HAS BEEN DONE TO FACILITATE PRESSURE TESTING OF THE TANK IN THE FIELD. FOR INFORMATION REGARDING CONNECTING THE FUEL SUPPLY AND RETURN LINES PRIOR TO START UP, SEE THE FUEL TANK FIELD TESTING PROCEDURE (0E5082) SUPPLIED IN THE TANK LOOSE VENTS KIT, WHICH IS SHIPPED WITH THIS GENERATOR.
- SEE DRAWING 0C3850 FOR DISCHARGE DUCT REMOVAL. REMOVAL OF DUCT WILL PROVIDE ACCESS TO MUFFLER FOR SERVICING.
- ADDITIONAL 2" FEMALE NPT PORTS - PLUGGED OR EQUIPPED WITH TOP-MOUNT SWITCHES DEPENDING ON UNIT OPTIONS.

WEIGHT DATA: (INCLUDES EMPTY FUEL TANK)  
GENERATOR: 1358 KG (2995 LBS)  
GENERATOR WITH WOODEN SHIPPING SKID: 1424 KG (3139 LBS)

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APPROVED BY: GT		
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WV LICENSE NO.: 20290



**KANAWHA**  
FA#:14878905  
SITE ID#: 2544  
3511 BERRYVILLE PIKE  
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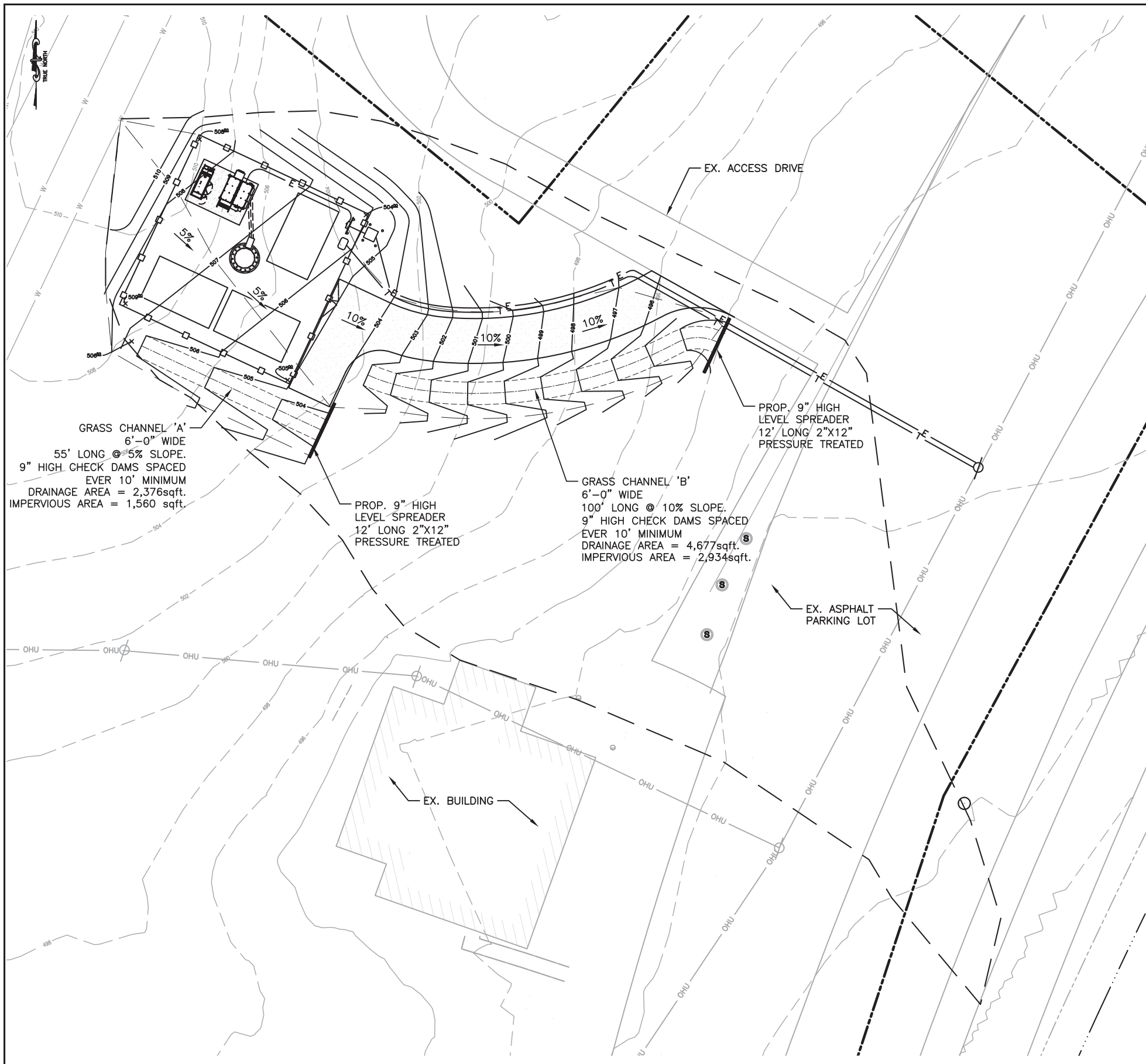
SCALE: AS NOTED  
DATE: 5/25/22  
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SHEET TITLE

GENERATOR  
DETAILS

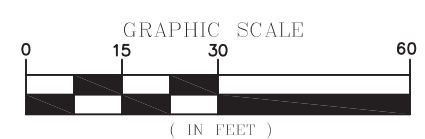
SHEET  
**C-7**

GENERAC - DIESEL 30kW - NEQ: 20230

NOT TO SCALE



PARTIAL SURVEY WAS COMPLETED BY KCI ON MAY 16, 2019, AND AUGMENTED BY SURVEY COMPLETED BY LAND OWNER AND RECEIVED BY KCI ON AUGUST 22, 2019. PROPERTY INFORMATION TAKEN FROM JEFFERSON COUNTY GIS WEBSITE.



### STORMWATER MANAGEMENT NARRATIVE

THE PROPOSED DEVELOPMENT INCLUDES CONSTRUCTION OF A NEW 50'X50' GRAVEL FENCED COMPOUND FOR CONSTRUCTION OF A NEW WIRELESS TELECOMMUNICATIONS FACILITY. THE COMPOUND IS ACCESSED BY A PROPOSED 12' GRAVEL ACCESS DRIVE OFF AN EXISTING DRIVEWAY. THE SITE AREA IS CLEARED IN EXISTING CONDITIONS AND NO TREES OR OTHER ENVIRONMENTAL AREAS WILL BE IMPACTED BY CONSTRUCTION. DRAINAGE PATTERNS WILL REMAIN UNCHANGED FROM EXISTING CONDITIONS TO PROPOSED CONDITIONS. THE SITE AREA DRAINS TO AN THROUGH THE EXISTING ASPHALT PARKING LOT ALONG THE SOUTHERN SIDE OF THE SITE.

LIMIT OF DISTURBANCE: 9,958 SQFT.  
IMPERVIOUS AREA: 26,445 SQFT.

PER JEFFERSON COUNTY STORMWATER MANAGEMENT ORDINANCE SECTION D(1)(a) AND D(1)(b) THE SITE IS REQUIRED TO MEET QUANTITY CONTROL CRITERIA ONLY. QUALITY CONTROL IS NOT REQUIRED SINCE THE PROPOSED IMPERVIOUS AREA IS LESS THAN 5,000 SQUARE FEET AND THE PROPOSED DISTURBED AREA IS LESS THAN 1 ACRE.

THE SITE IS 100% IN KARST TOPOGRAPHY SO THE TABLE 2 REDUCTION FACTORS HAVE BEEN APPLIED TO THE PREDEVELOPMENT RUNOFF PEAK DISCHARGES.

EXISTING CONDITIONS	PROPOSED CONDITIONS (NOT MANAGED)
2-YEAR: 0.08cfs	2-YEAR: 0.12cfs
10-YEAR: 0.15cfs	10-YEAR: 0.23cfs
100-YEAR: 0.25cfs	100-YEAR: 0.42cfs

TO MEET STORMWATER MANAGEMENT QUANTITY REQUIREMENTS, A GRASS SWALE WITH CHECK DAMS FOR STORAGE VOLUME WILL BE CONSTRUCTED ALONG THE SOUTHWEST SIDE OF THE NEW COMPOUND AND ACCESS DRIVE. A LEVEL SPREADER WILL BE INSTALLED AT THE END OF THE SWALE TO PREVENT CONCENTRATED FLOW. THE SWALE WILL BE 6 FEET WIDE AND WILL HAVE 9" HIGH CHECK DAMS CONSTRUCTED FROM PRESSURE TREATED 2x12 BOARDS EMBEDDED INTO THE SWALE EMBANKMENTS. THE LEVEL SPREADER WILL BE CONSTRUCTED FROM PRESSURE TREATED 2X8 BOARDS.

### LEGEND

- PROPERTY LINE
- - - - - EX. CONTOUR
- EX. EDGE OF ROAD
- EX. UTILITY POLE
- ▨ EX. BUILDING
- EX. FEATURES
- ~~~~~ EX. TREE LINE
- EX. TREES
- x-x-x- PROP. FENCE
- PROP. EQUIPMENT
- T --- PROP. MONOPOLE
- E --- PROP. ELECTRIC LINE
- L00 --- LIMIT OF DISTURBANCE
- 502 --- PROP. GRADING
- x 510<sup>50</sup> --- PROP. SPOT ELEVATION
- SF --- PROP. SILT FENCE
- 5% --- PROP. SLOPE

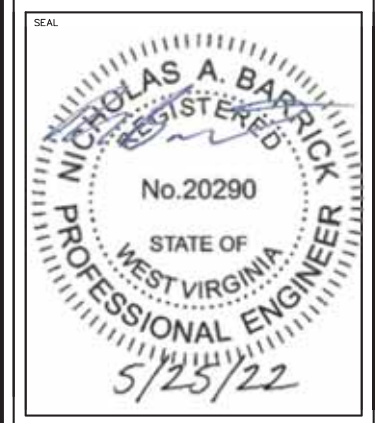
### STORMWATER MANAGEMENT CONCEPT

SCALE: 1"=30' (1"=15') ON 22"x34" SHEET

DRAWN BY:	JW	
CHECKED BY:	JM	
APPROVED BY:	GT	
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WV LICENSE NO.: 20290



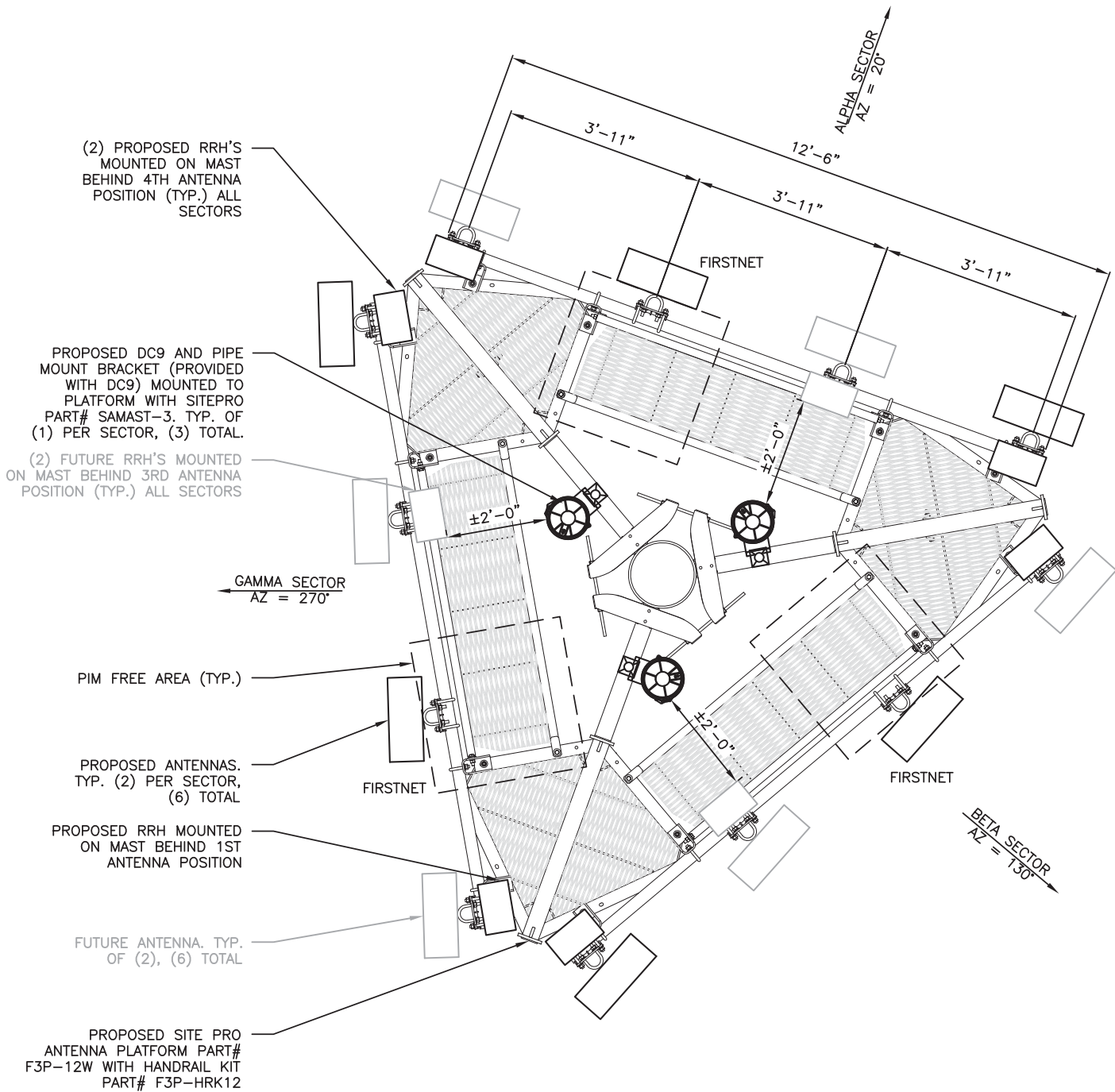
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SHEET TITLE

### STORMWATER MANAGEMENT CONCEPT

SHEET  
**C-8**



(2) PROPOSED RRH'S MOUNTED ON MAST BEHIND 4TH ANTENNA POSITION (TYP.) ALL SECTORS

PROPOSED DC9 AND PIPE MOUNT BRACKET (PROVIDED WITH DC9) MOUNTED TO PLATFORM WITH SITEPRO PART# SAMAST-3. TYP. OF (1) PER SECTOR, (3) TOTAL.

(2) FUTURE RRH'S MOUNTED ON MAST BEHIND 3RD ANTENNA POSITION (TYP.) ALL SECTORS

GAMMA SECTOR  
AZ = 270°

PIM FREE AREA (TYP.)

PROPOSED ANTENNAS. TYP. (2) PER SECTOR, (6) TOTAL

PROPOSED RRH MOUNTED ON MAST BEHIND 1ST ANTENNA POSITION

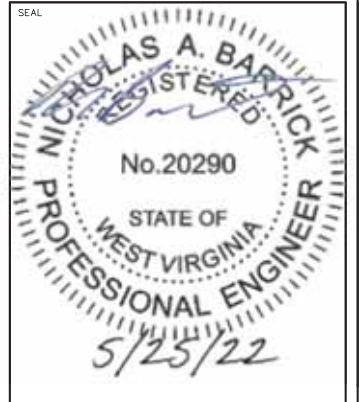
FUTURE ANTENNA. TYP. OF (2), (6) TOTAL

PROPOSED SITE PRO ANTENNA PLATFORM PART# F3P-12W WITH HANDRAIL KIT PART# F3P-HRK12

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APPROVED BY: GT		
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## SECTOR CONFIGURATION

SHEET  
**A-1**

## PROPOSED ANTENNA CONFIGURATION

SCALE: 1"=3' (1"=1.5') ON 22"x34" SHEET)

ANTENNA SCHEDULE									
SECTOR POSITION	STATUS	ANTENNA MANUFACTURE	ANTENNA MODEL	ANTENNA DIMENSIONS	RAD CENTER	AZIMUTH	TMA/RRU QUANTITY & MODEL	FIBER/POWER FEEDERS	TRUNK LENGTH
A-1	FUTURE	-	-	-	-	-	-	-	-
A-2	PROPOSED	COMMSCOPE	NNHH-65C-R4	96x19.6x8.2	171' AGL	20°	(1) B12/14 DUAL BAND RRH 320W (AHLBA) (1) AIRSCALE DUAL RRH4T4R B25/66 320W (AHFIB)	(1) 24 PAIR FIBER-OPTIC TRUNK CABLE (PER SECTOR) (3) 9-C DC TRUNK CABLES (PER SECTOR)	±202'
A-3	PROPOSED	COMMSCOPE	NNHH-65C-R4	96x19.6x8.2	171' AGL	20°	(1) AIRSCALE RRH 4T4R B5 160W (AHCA)		
A-4	FUTURE	-	-	-	-	-	-	-	-
B-1	FUTURE	-	-	-	-	-	-	-	-
B-2	PROPOSED	COMMSCOPE	NNHH-65C-R4	96x19.6x8.2	171' AGL	130°	(1) B12/14 DUAL BAND RRH 320W (AHLBA) (1) AIRSCALE DUAL RRH4T4R B25/66 320W (AHFIB)	(1) 24 PAIR FIBER-OPTIC TRUNK CABLE (PER SECTOR) (3) 9-C DC TRUNK CABLES (PER SECTOR)	±202'
B-3	PROPOSED	COMMSCOPE	NNHH-65C-R4	96x19.6x8.2	171' AGL	130°	(1) AIRSCALE RRH 4T4R B5 160W (AHCA)		
B-4	FUTURE	-	-	-	-	-	-	-	-
G-1	FUTURE	-	-	-	-	-	-	-	-
G-2	PROPOSED	COMMSCOPE	NNHH-65C-R4	96x19.6x8.2	171' AGL	270°	(1) B12/14 DUAL BAND RRH 320W (AHLBA) (1) AIRSCALE DUAL RRH4T4R B25/66 320W (AHFIB)	(1) 24 PAIR FIBER-OPTIC TRUNK CABLE (PER SECTOR) (3) 9-C DC TRUNK CABLES (PER SECTOR)	±202'
G-3	PROPOSED	COMMSCOPE	NNHH-65C-R4	96x19.6x8.2	171' AGL	270°	(1) AIRSCALE RRH 4T4R B5 160W (AHCA)		
G-4	FUTURE	-	-	-	-	-	-	-	-

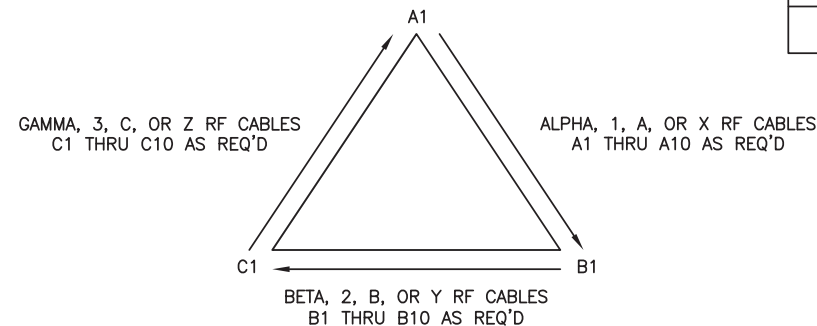
**CABLE SYSTEM & RF SYSTEM DESIGN PLAN NOTES:**

- SECTOR ORIENTATION/AZIMUTH WILL VARY FROM REGION TO REGION AND IS SITE SPECIFIC. REFER TO SEPARATE RF REPORT FOR EACH SITE TO DETERMINE THE ANTENNA LOCATION AND FUNCTION OF EACH TOWER SECTOR FACE.
- THE STANDARD IS BASED ON EIGHT COLORED TAPES - RED, BLUE, GREEN, YELLOW, BROWN, ORANGE, WHITE, AND SLATE (GREY). THESE TAPES SHOULD BE READILY AVAILABLE TO THE ELECTRICIAN OR CONTRACTOR ON SITE.
- USING COLOR BANDS ON THE CABLES, MARK ALL RF CABLE BY SECTOR AND CABLE NUMBER AS SHOWN ON "CABLE MARKING COLOR CONVENTION TABLE".
- COLOR CODE TAPE SHALL BE 3" WIDE AT TOP AND MIDDLE OF TOWER AND 2" WIDE AT THE BOTTOM. ALL JUMPERS SHALL BE INCLUDED.
- ALL COLOR CODE TAPE SHALL BE 3M-35 AND SHALL BE INSTALLED USING A MINIMUM OF (3) WRAPS OF TAPE AND SHALL BE NEATLY TRIMMED AND SMOOTHED OUT SO AS TO AVOID UNRAVELING.
- ALL COLOR BANDS INSTALLED AT OR NEAR THE GROUND SHALL BE A MINIMUM OF 3/4" WIDE.
- ALL COLOR CODES SHALL BE INSTALLED SO AS TO ALIGN NEATLY WITH ONE ANOTHER FROM SIDE-TO-SIDE.

**CABLE IDENTIFICATION NOTES:**

- SUBCONTRACTOR SHALL COORDINATE COLOR CODING WITH THE MASTER COLOR CODE DOCUMENT.
- SUB CONTRACTOR SHALL INSTALL A BRASS IDENTIFICATION TAG (1-1/2" IN DIAMETER WITH 1/4" STAMPED LETTERS AND NUMBERS) ONE AT THE ANTENNA PORT CONNECTION NEAR THE END OF THE JUMPER AND ONE ON EACH END OF THE JUMPER SERVING THE RADIO EQUIPMENT. EACH TAG WILL BE STAMPED WITH "ATT" AND THE ANTENNA PORT IDENTIFICATION NUMBER EXAMPLE BELOW. TAGS SHALL BE ATTACHED WITH CORROSION PROOF UV RESISTANT MRE OR CABLE-TY.

RF DESIGN NOTE:  
THIS ANTENNA AND COAX CABLE SCHEDULE HAS BEEN CREATED USING THE FOLLOWING RFDS DATED 05/06/19, REVISION V2019\_1.0  
ALL ANTENNA DESIGN, ZONING, STRUCTURAL ANALYSIS PERMITS AND COMPLIANCE SUBMISSIONS ARE COORDINATED WITH THE AFOREMENTIONED DOCUMENT.



PROPOSED ANTENNAS	TOTAL
(2) PER SECTOR	(6)
FUTURE ANTENNAS	
(2) PER SECTOR	(6)

PROPOSED RRH (PER SECTOR)	TOTAL
(1) B12/14 DUAL BAND RRH 320W (AHLBA)	(3)
(1) AIRSCALE DUAL RRH 4T4R B25/66 320W AHFIB	(3)
(1) AIRSCALE RRH 4T4R B5 160W ACHA	(3)
FUTURE RRH (PER SECTOR)	TOTAL
(1) FUTURE RRH	(3)

**RF SCHEDULE AND NOTES**

SCALE: N.T.S.

DRAWN BY:	JW	
CHECKED BY:	JM	
APPROVED BY:	GT	
NO.	DATE	DESCRIPTION
A	05/23/19	PRELIMINARY DRAWINGS
B	06/06/19	REVISED PER COMMENTS
C	06/13/19	REVISED PER COMMENTS
D	10/28/19	COMPOUND RELOCATION
E	11/07/19	REVISED PER COMMENTS
F	11/03/20	REVISED TOWER LOCATION
G	11/19/20	REVISED GRAVEL ACCESS
H	05/24/21	POWER ROUTE CHANGE
I	06/02/21	DIMENSION ADDED
J	06/22/21	REVISED PER COMMENTS
O	04/15/22	ISSUED FOR ZONING
1	05/25/22	REVISED PER COMMENTS



KCI TECHNOLOGIES, INC.  
11830 West Market Place, Suite F  
Fulton, MD 20759  
Phone: 410.792.8086



ENGINEER:  
NICHOLAS A. BARRICK, PE  
WV LICENSE NO.: 20290



7150 STANDARD DRIVE  
HANOVER, MD 21076



1362 MELLON RD. SUITE 140  
HANOVER, MD 21076



FA#:14878905  
SITE ID#: 2544  
3511 BERRYVILLE PIKE  
CHARLES TOWN, WV 25414

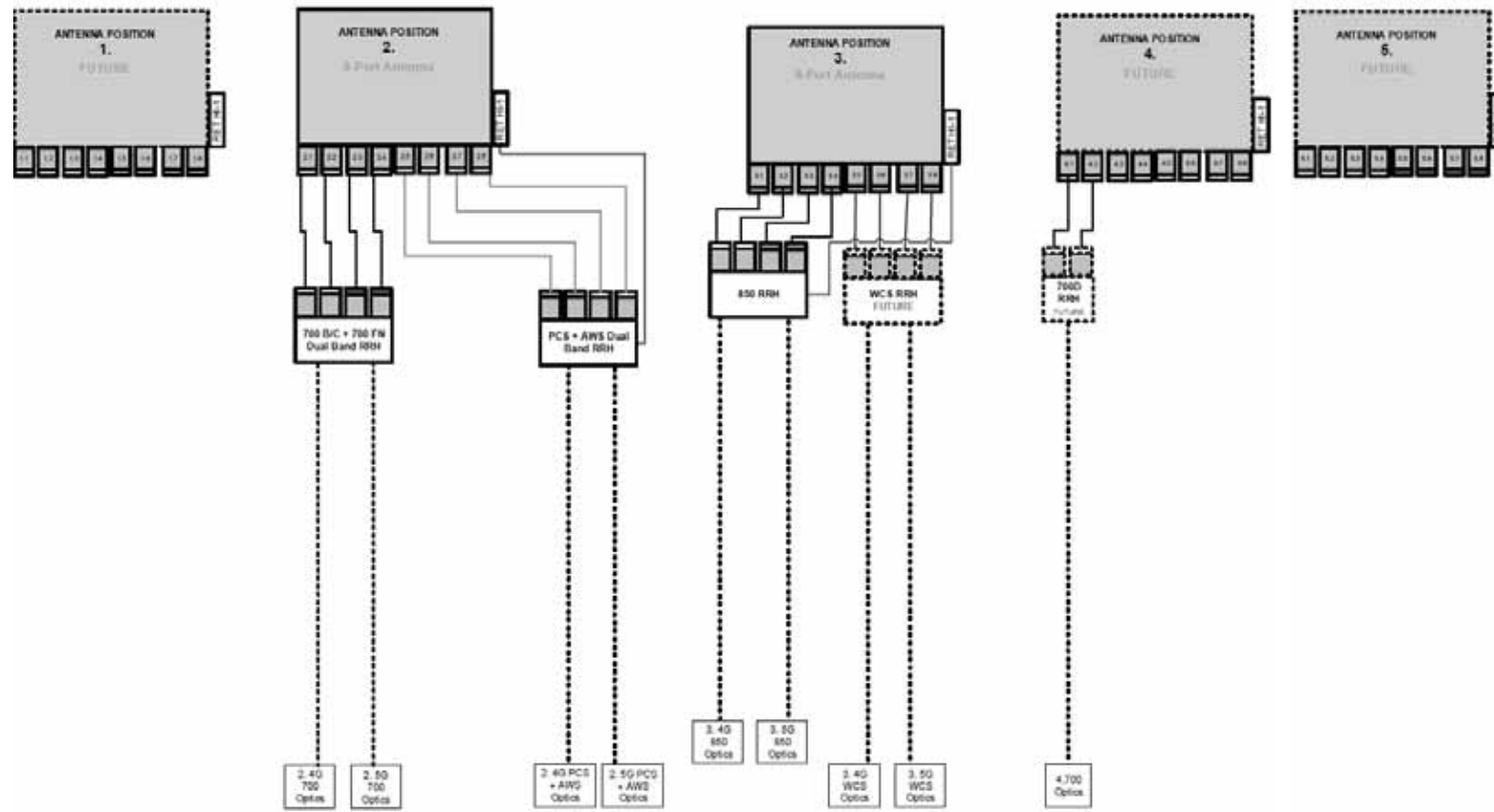
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SCALE:	AS NOTED
DATE:	5/25/22
KCI JOB NUMBER:	011802184.ATT14
SHEET TITLE	

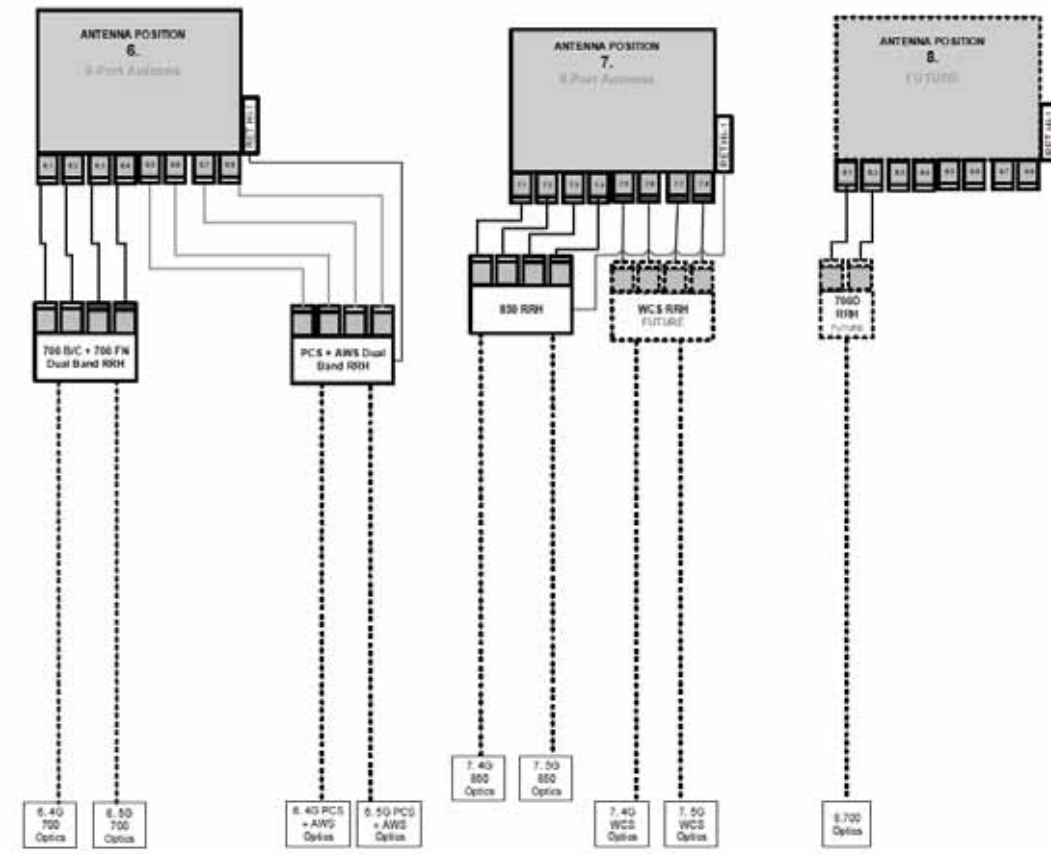
**RF SCHEDULE AND NOTES**

SHEET

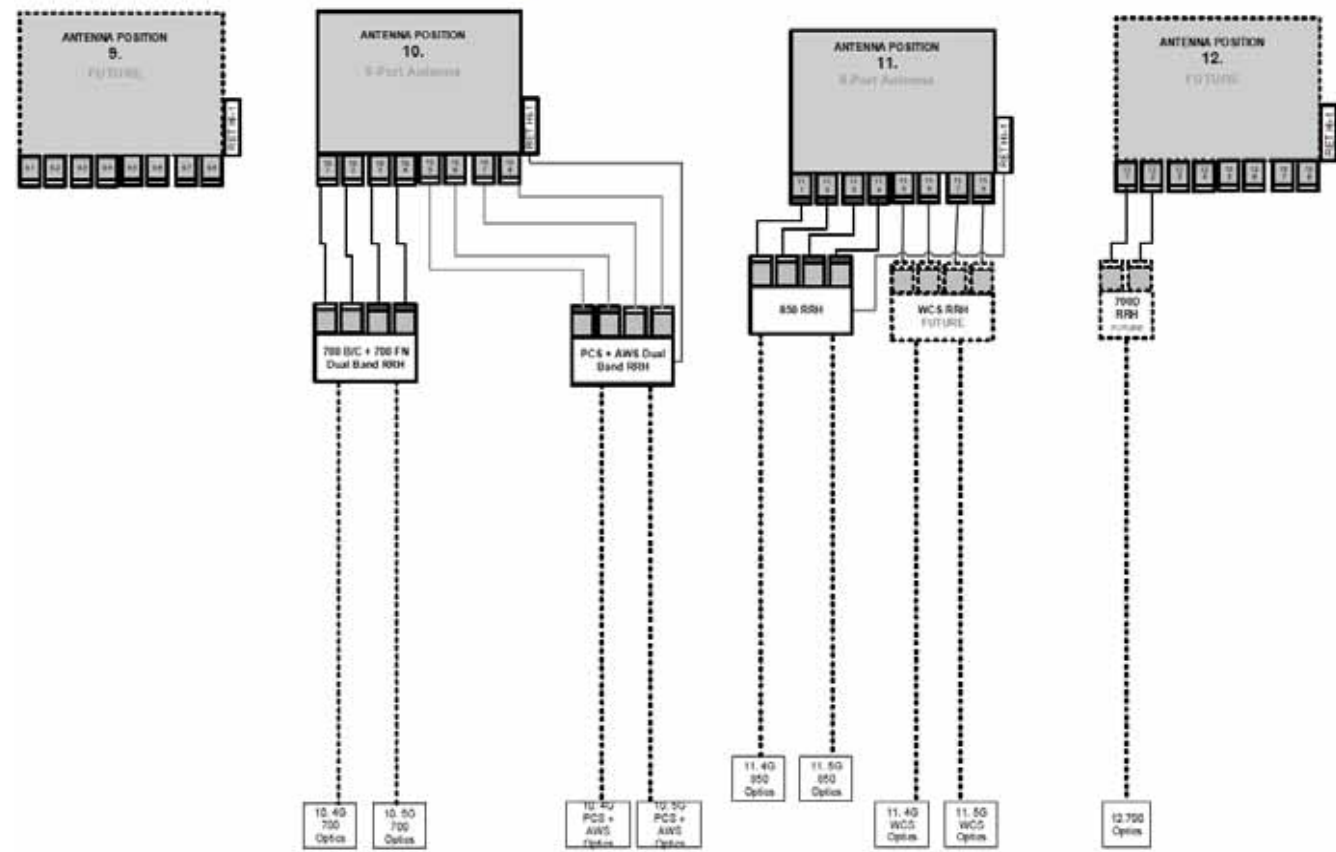
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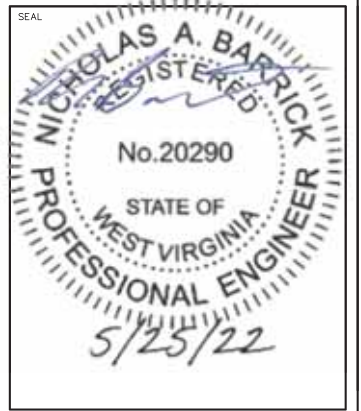


RF DESIGN NOTE:  
 THIS ANTENNA AND COAX CABLE SCHEDULE HAS BEEN  
 CREATED USING THE FOLLOWING RFDS DATED 05/06/19,  
 REVISION V2019\_1.0  
 ALL ANTENNA DESIGN, ZONING, STRUCTURAL ANALYSIS  
 PERMITS AND COMPLIANCE SUBMISSIONS ARE  
 COORDINATED WITH THE AFOREMENTIONED DOCUMENT.

DRAWN BY:	JW	
CHECKED BY:	JM	
APPROVED BY:	GT	
NO.	DATE	DESCRIPTION
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 Fulton, MD 20759  
 Phone: 410.792.8086



ENGINEER:  
 NICHOLAS A. BARRICK, PE  
 WV LICENSE NO.: 20290



**KANAWHA**  
 FA#:14878905  
 SITE ID#: 2544  
 3511 BERRYVILLE PIKE  
 CHARLES TOWN, WV 25414

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 KCI JOB NUMBER: 011802184.ATT14  
 SHEET TITLE

PLUMBING  
 DIAGRAMS

SHEET  
**A-3**



**700 RRH**

SPECIFICATIONS	
LxWxD (IN.)	11.8"x15.7"x4.7"
WEIGHT (LBS.)	46

NOKIA AIRSCALE RRH 4T4R B12/14 320W AHLBA

SCALE: N.T.S.

1



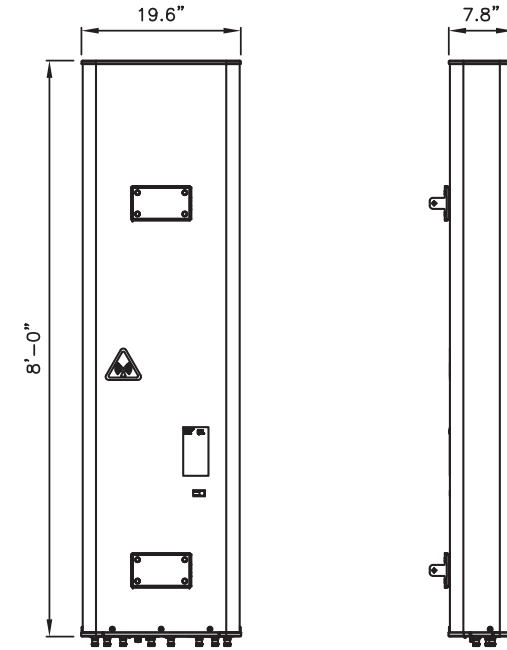
**850 RRH**

SPECIFICATIONS	
LxWxD (IN.)	13.3"x11.6"x6.5"
WEIGHT (LBS.)	16.7

NOKIA AIRSCALE RRH 4T4R B5 160W AHCA

SCALE: N.T.S.

2



SPECIFICATIONS	
LxWxD (IN.)	96.0"x19.6"x7.8"
WEIGHT (LBS.)	121.3

PROPOSED COMMSCOPE NNHH-65C-R4

SCALE: N.T.S.

3



**1900 RRH**

SPECIFICATIONS	
LxWxD (IN.)	11.8"x15.7"x4.7"
WEIGHT (LBS.)	40

NOKIA AIRSCALE RRH 4T4R B25/66 320W AHFIB

SCALE: N.T.S.

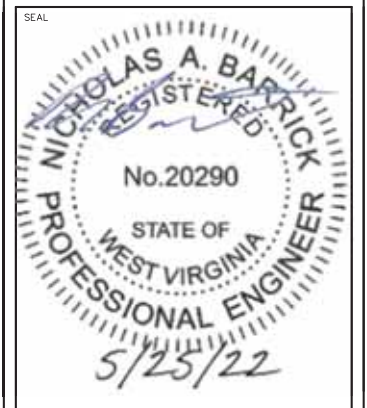
4

RF DESIGN NOTE:  
 THIS ANTENNA AND COAX CABLE SCHEDULE HAS BEEN CREATED USING THE FOLLOWING RFDS DATED 05/06/19, REVISION V2019\_1.0  
 ALL ANTENNA DESIGN, ZONING, STRUCTURAL ANALYSIS PERMITS AND COMPLIANCE SUBMISSIONS ARE COORDINATED WITH THE AFOREMENTIONED DOCUMENT.

DRAWN BY:	JW	
CHECKED BY:	JM	
APPROVED BY:	GT	
NO.	DATE	DESCRIPTION
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ENGINEER:  
 NICHOLAS A. BARRICK, PE  
 WV LICENSE NO.: 20290



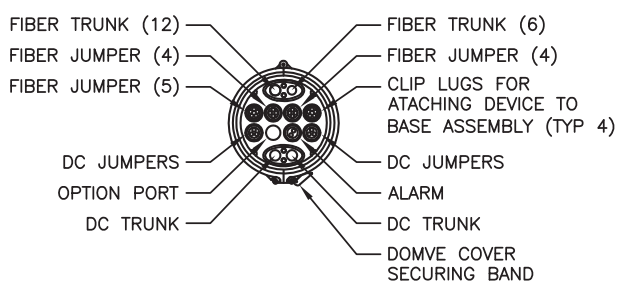
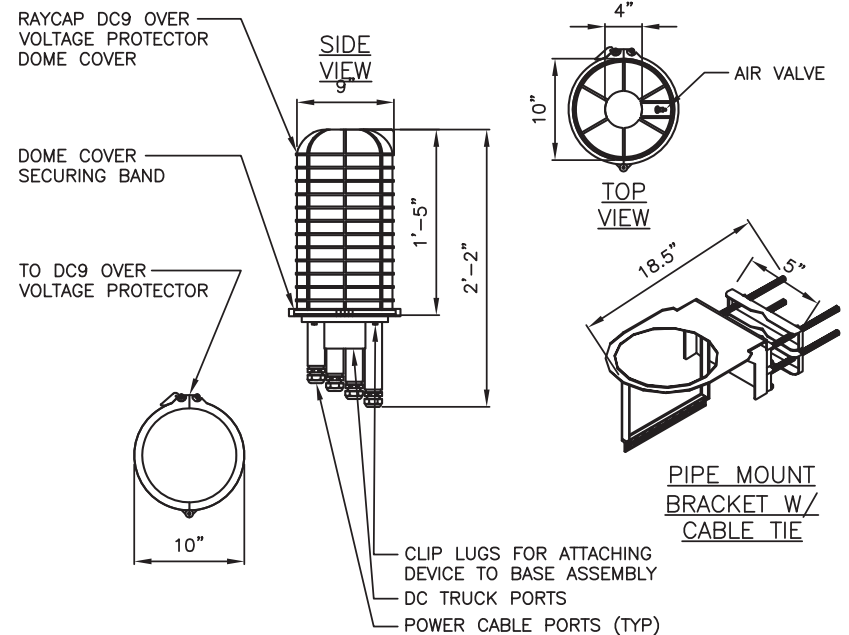
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 DATE: 5/25/22  
 KCI JOB NUMBER: 011802184.ATT14  
 SHEET TITLE

**EQUIPMENT SPECIFICATIONS**

SHEET  
**A-4**



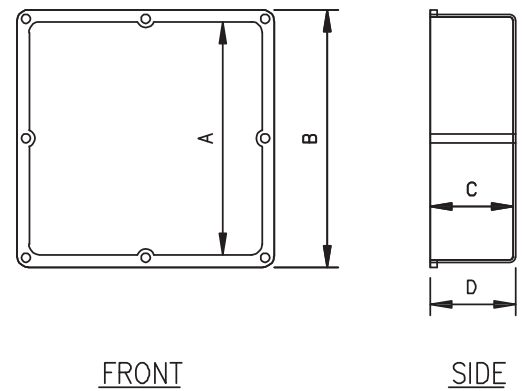
- NOTES:**
1. AT&T SUPPLIES DC6 SURGE DOME AND PIPE MOUNTING BRACKETS. CONTRACTOR SHALL SUPPLY MOUNTING PIPE OR UNISTRUT.
  2. TOTAL WEIGHT: 32.8LBS
  3. TOTAL WEIGHT DOES NOT INCLUDE MAST PIPE.

RAYCAP DC9 FIBER/DC DOME DETAIL 1  
SCALE: N.T.S.



SPECIFICATIONS	
LxWxD (IN.)	26"x24"x8.8"
WEIGHT (LBS.)	56.3

DC12-48-60-0-25E DETAIL 2  
SCALE: N.T.S.



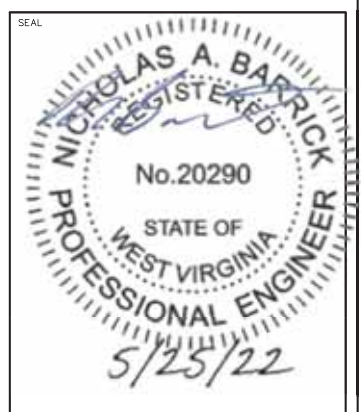
PRODUCT CODE	PART NUMBER	A	B	C	D	GASKET CODE	SCREW CODE	VOLUME
078250	JB12124	12"	12.687"	4"	4.25"			577.4 CID
078251	JB12126	12"	12.687"	6"	6.25"	072749	072513 (8) 072549 (4)	846.0 CID
078252	JB12128	12"	12.687"	8"	8.25"			1,102.0 CID

FIBER/DC SLACK BOX DETAIL 3  
SCALE: N.T.S.

DRAWN BY: JW		
CHECKED BY: JM		
APPROVED BY: GT		
NO.	DATE	DESCRIPTION
A	05/23/19	PRELIMINARY DRAWINGS
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**KCI**  
TECHNOLOGIES

KCI TECHNOLOGIES, INC.  
11830 West Market Place, Suite F  
Fulton, MD 20759  
Phone: 410.792.8086



ENGINEER:  
NICHOLAS A. BARRICK, PE  
WV LICENSE NO.: 20290

**at&t**  
7150 STANDARD DRIVE  
HANOVER, MD 21076

**smartlink**  
1362 MELLON RD. SUITE 140  
HANOVER, MD 21076

**KANAWHA**  
FA#:14878905  
SITE ID#: 2544  
3511 BERRYVILLE PIKE  
CHARLES TOWN, WV 25414

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SCALE:	AS NOTED
DATE:	5/25/22
KCI JOB NUMBER:	011802184.ATT14
SHEET TITLE	

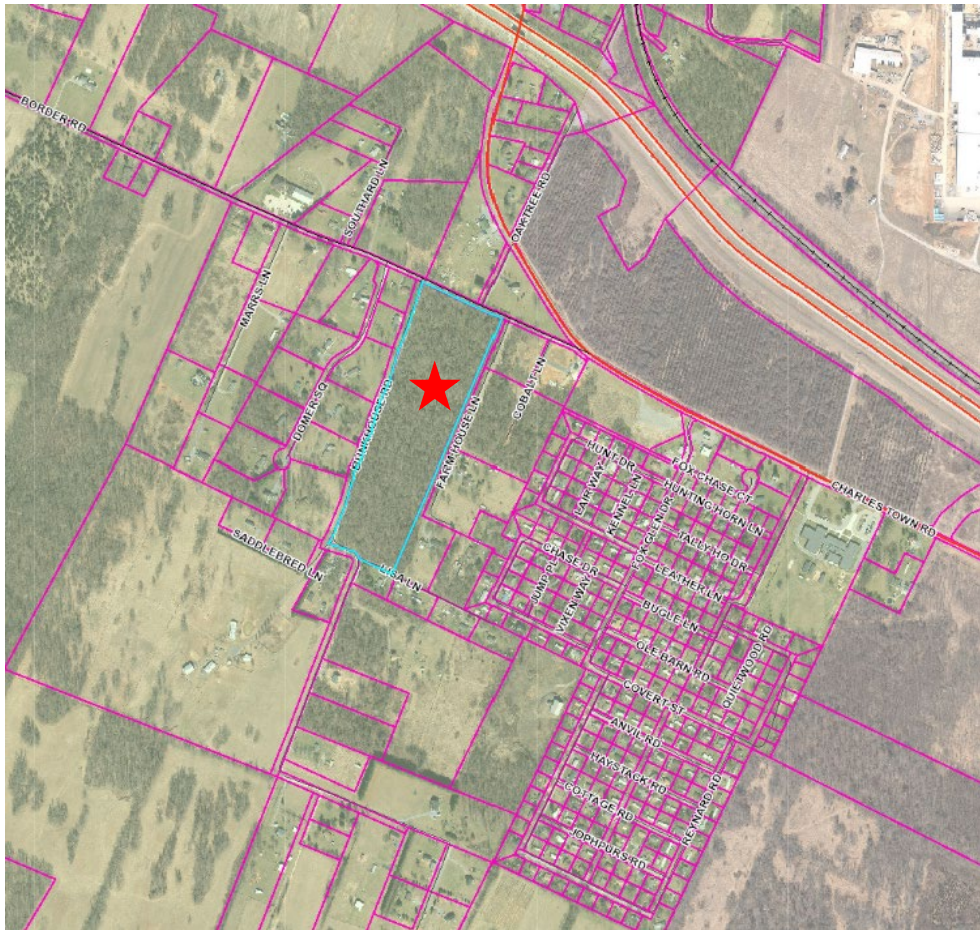
**EQUIPMENT SPECIFICATIONS**

SHEET  
**A-5**

**Staff Report**  
 Jefferson County Planning Commission  
 June 14, 2022

**The Church of The Ascension Concept Plan Public Workshop (PC File: 22-3-SP)**

**Item # 5: Public Workshop:** Concept Plan for The Church of The Ascension site development, which consists of 4 phases.

Owner/Applicant:	Church Of The Ascension Property	
Consultant:	Christopher Waddell, JHA Companies	
Property Location:	Southeast of Border Road and Bunkhouse Road	
Legal Description:	<p style="text-align: center;">Parcel ID: 0700040009; Size: 20.49 ac; Zoned: Rural (R)</p> 	
Adjacent Zoning:	<i>North, South, East, West: Rural</i>	
Proposed Activity:	The Site Development for Ascension Church in four phases	
Concept Plan Status:	Submitted:	05/02/2022
	Sufficiency Letter, with minor comments:	05/05/2022
	Resubmitted:	06/06/2022
Previous Approvals:	N/A	

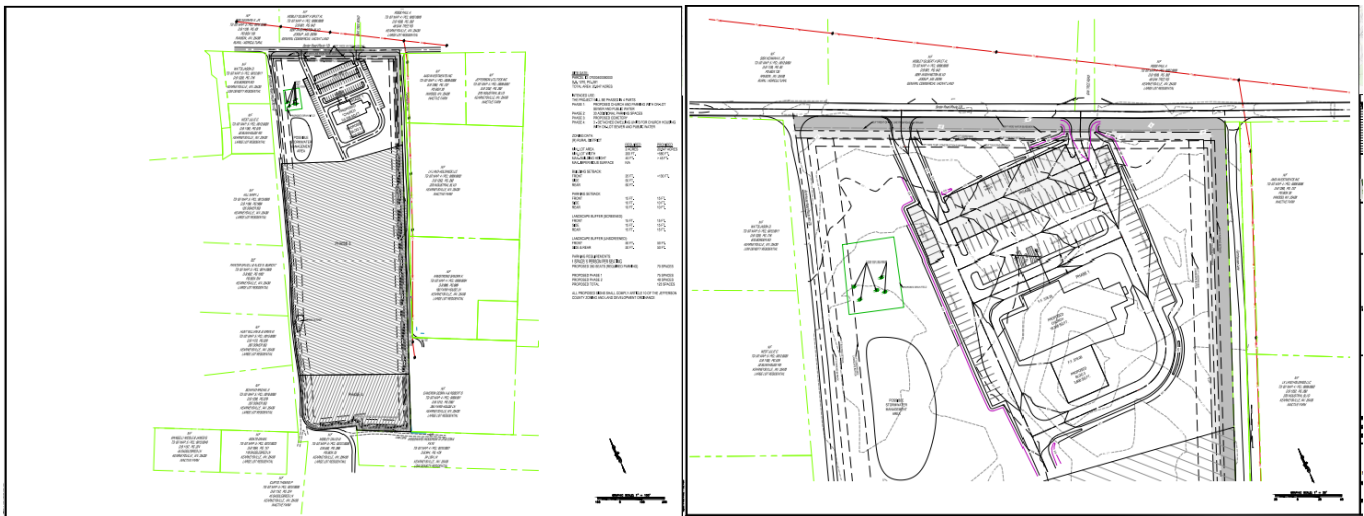
**Staff Report**  
Jefferson County Planning Commission  
June 14, 2022

**The Church of The Ascension Concept Plan Public Workshop (PC File: 22-3-SP)**

**Introduction and Summary of Request**

The Concept Plan for Ascension Church site development discusses the full build-out in the following 4 phases:

- Phase 1: a 10,338 sq. ft. church and 3,600 sq. ft. ancillary building for church related functions, required parking spaces, Stormwater Management facility and necessary utilities;
- Phase 2 (approximately 2 years): additional parking area;
- Phase 3 (approximately 5 years): cemetery area;
- Phase 4 (approximately 7-10 years): housing accommodations for church staff and/or missionaries.



**Site Plan Category**

Section 20.203A.2 of the Subdivision Regulations requires any development consisting of “building(s), both new and additions to existing, where all new structures or new additions to structures located on the parcel total more than 5,000 and less than 250,000 square foot gross floor area (GFA) on any site shall process a Concept Plan with a Public Workshop and all remaining site plan review processes shall be administratively approved.”

Therefore, a Minor Site Plan, with a Concept Plan, will need to be processed that includes engineered stormwater improvements and proposed public water and wastewater facilities. The first step in processing this Site Plan is this Concept Plan and the required Public Workshop. The graphic above depicts the full build-out of Ascension Church, which will occur in four phases over an extended period of time and a close up of the church site itself.

**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 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 full build-out of Ascension Church application, are provided below:

**Staff Report**  
Jefferson County Planning Commission  
June 14, 2022

**The Church of The Ascension Concept Plan Public Workshop (PC File: 22-3-SP)**

	<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
<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.	<u>ADT</u> is 786 for Border Road (WV1/2); 3,451 for WV 115 (Old Charles Town Rd); and 16,581 for WV 9; <u>Trip Generation</u> : Peak Hour Trips est. to be 167 trips; <u>Key intersection</u> : WV1/2 and WV115; No Problem Area
<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.	Jefferson County defers to the WV DOH regarding whether a Traffic Impact Study is required
<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 with a Concept Plan.

**Staff Report**  
 Jefferson County Planning Commission  
 June 14, 2022

**The Church of The Ascension Concept Plan Public Workshop (PC File: 22-3-SP)**

<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 public water by Jefferson Utilities. Sewer will be by an on-site septic system which will require Board of Health approval. Final design will occur with the Site Plan.
<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

**Concept Plan Review**

1. External Agency Reviews (attached)

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

- a. Jefferson County Health Department sent an e-mail stating that the Church of the Ascension will be connected to the public water but will have an on-site sewage disposal system which will require a permit for an on-site sewage disposal system from their office.
- b. Charles Town Utility Board (CTUB) sent an e-mail stating that they will not be serving this project.

As of this date, no other 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 Church of the Ascension phased development plan, located on the southeast corner of the intersection of Bunkhouse and Border Roads, 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, which is expected to be submitted in phases:

- a. WV DOH approval for the proposed entrances, and any Traffic Impact Study recommendations, if required, will be required in conjunction with the Site Plan.
- b. Water utility permits from Jefferson Utility Inc. (JUI) and Jefferson County Health Department approvals of the on-site septic system will be required in conjunction with the Site Plan.

## Staff Report

Jefferson County Planning Commission

June 14, 2022

### The Church of The Ascension Concept Plan Public Workshop (PC File: 22-3-SP)

#### 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:**

- Jefferson County Health Department e-mail
- Charles Town Utility Board (CTUB) email



**From:** [Demastes, Alexandra N](#)  
**To:** [Planning Department](#)  
**Subject:** Church of the Ascension Concept Plan  
**Date:** Friday, May 20, 2022 2:48:26 PM

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**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Good afternoon,

I am a Sanitarian with the Jefferson County Health Department. I have reviewed the Church of the Ascension Concept Plan. Church of the Ascension will be connected to the public water but will have an on-site sewage disposal system. Therefore, Church of the Ascension will be required to apply for a permit for an on-site sewage disposal system through our office.

Please let me know if you have any questions or concerns.

Thank you,  
Lexi Demastes  
Sanitarian 1  
Jefferson County Health Department  
304-728-8416 ext. 3036  
1948 Wiltshire Rd. Suite 1  
Kearneysville, WV 25430



## Planning Department

---

**From:** kstolipher <kstolipher@ctubwv.com>  
**Sent:** Monday, June 6, 2022 1:22 PM  
**To:** Planning Department  
**Subject:** RE: Stonecrest (AKA GreenHill) Subdivision and Ascension Church Site Plan

**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Jennie,

CTUB will be providing sewer to the Greenhill subdivision. JUI will be serving Greenhill with water and I would assume same for the church as we do not have water facilities immediate to either of these developments.

Thanks,  
Kristen



Kristen M. Stolipher  
Utility General Manager  
Charles Town Utility Board  
661 South George Street, Suite 101  
Charles Town, WV 25414  
Office: (304) 724-7080  
Cell: (304)-904-7359  
Email: [kstolipher@ctubwv.com](mailto:kstolipher@ctubwv.com)

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**From:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Sent:** Monday, June 6, 2022 10:05 AM  
**To:** kstolipher <kstolipher@ctubwv.com>  
**Cc:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Subject:** Stonecrest (AKA GreenHill) Subdivision and Ascension Church Site Plan

Kristen

We have Concept Plans in for each of these projects for which you should have received information from the applicants.

I am currently drafting staff reports that need to go out in a few days and I am hoping that you can confirm that you will be serving these properties.

It is possible that it is actually JUI serving the church with water and CTUB is only providing sewer?

I think the applicants have indicated that Stonecrest/Greenhill will be served both water and sewer by CTUB.

I would appreciate any information you can provide me on these projects.

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)











PUBLIC  
COMMENT

JEFFERSON COUNTY, WEST VIRGINIA  
DEPARTMENT OF ENGINEERING, PLANNING AND ZONING  
OFFICE OF PLANNING AND ZONING

DATE: 5-30-2022

TO: JEFFERSON COUNTY OFFICE OF PLANNING AND ZONING

FROM: JEFFERSON COUNTY PROPERTY OWNER

SUBJECT: ASCENSION CHURCH CONCEPT PLAN (FILE: 22-3-SP)

DEAR, JEFFERSON COUNTY OFFICE OF PLANNING AND ZONING

WE ARE ADJOINING PROPERTY OWNERS THAT HAVE SOME POINTS OF INTEREST CONSIDERING OUR INTERESTS IN THIS SITE DEVELOPMENT PROPOSAL.

IT STATED THE CORNER OF BORDER ROAD AND BUNKHOUSE ROAD, KEARNEYSVILLE, WV, WHEN OUR FARM HOUSE LANE ADJOINS THE STATED DEVELOPMENT PROPERTY AND WE MAINTAIN OUR LANE PRIVATELY, WHERE AS BUNKHOUSE IS MAINTAINED BY THE COUNTY.

WHAT IMPACT WILL THE DEVELOPMENT HAVE ON OUR LANE IN ALL FOUR PHASES, ROAD INFRASTRUCTURE, WATER RUNOFF, DUST AND DEBRIS IN GENERAL BUT NOT LIMITED TO NOISE, ROAD USE.

ROBERT S GARRON CAMERON & DEBRA A CAMERON

264 FARM HOUSE LANE

KEARNEYSVILLE WV 25430

SANDY ARMSTRONG

193 FARM HOUSE LANE KEARNEYSVILLE WV 25430

MIKE DOVE

272 FARM HOUSE LANE KEARNEYSVILLE WV 25430

RECEIVED

JUN 02 2022

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

**From:** [Julie West](#)  
**To:** [Planning Department](#)  
**Subject:** Ascension Church Concept Plan (File: 22-3-SP)  
**Date:** Tuesday, June 7, 2022 4:54:39 PM

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**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Concerns for the storm water management area and proposed holding pond being directly across from one home facing Bunkhouse and the other home sits on the corner of Bunkhouse Rd and Border Rd

Or reposition the church to face Farmhouse Rd instead of Bunkhouse Rd. So the storm retention is on the Farmhouse Rd side where there are no homes.

Concerns for driveway entrance if two entrances are needed will one be on Bunkhouse Rd opposite of the two homes mentioned above.

With 20 acres why put the church right in front of two homes on Bunkhouse? The remainder of the property is not across from houses or the homes that are, face Domer Sq.

Julie West  
52 Bunkhouse Rd



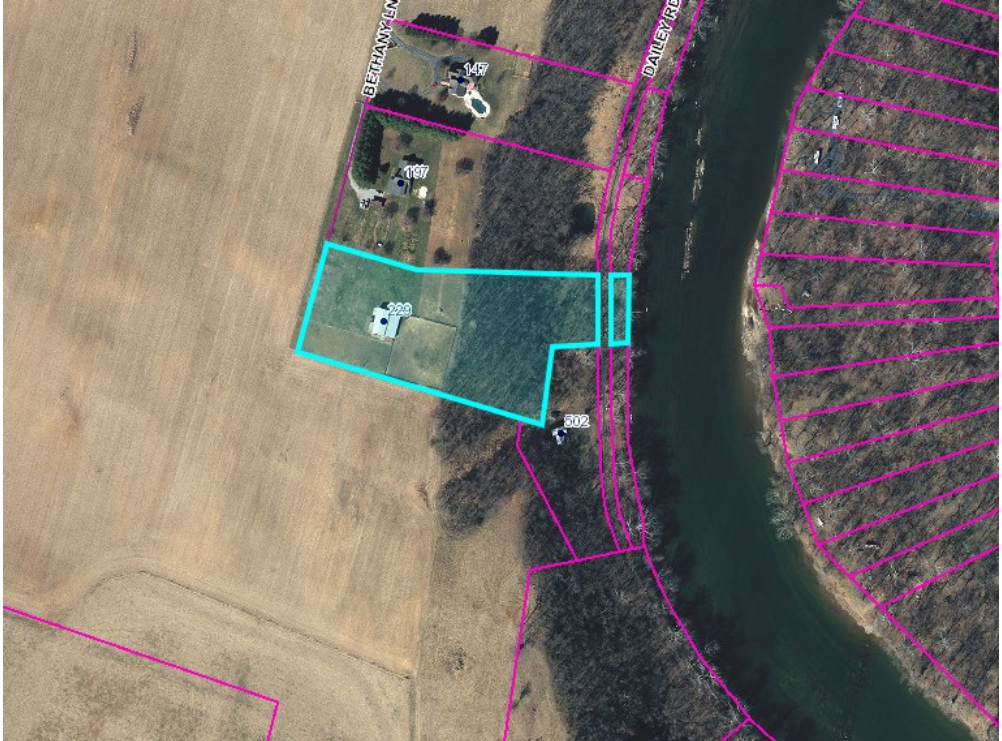
POSTPONED

Item # 6 – Public Hearing:  
Rock Ferry Station Lot 32 Final Plat  
Amendment



Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022  
 Jeanine Jalil Waiver Request (File #: 22-12-PCW)

**Item # 7: Public Hearing:** Waiver from Section 20.201B2 of the Subdivision Regulations, pertaining to the 5-year Family Transfer requirement.

Owner/Applicant:	Aiman Jalil/ Jeanine Jalil
Parcel Information and Zoning District:	<p style="text-align: center;">229 Bethany Ln, Charles Town; Parcel ID: 06002100070005;          Size: 4.53 ac; Zoning District: Rural</p> 
Surrounding Zoning:	<i>North, East, West, &amp; South: Rural</i>
Proposed Activity	Waiver from Section 20.201B2 of the Subdivision Regulations, pertaining to the 5-year Family Transfer requirement.
Approvals:	03-16-20: Single Family Dwelling Approved 10-10-19: Aiman Jalil Family Transfer, File #19-9-SD (PB26/PG21) 05-01-00: Diane Gray & Hugh Hoover Subdivision (PB18/PG39)

**Summary of the Request**

The applicant is requesting permission to be able to transfer the property out of the “family” restriction under which it was created due to the unexpected death of Aiman Jalil.

**Background of Property**

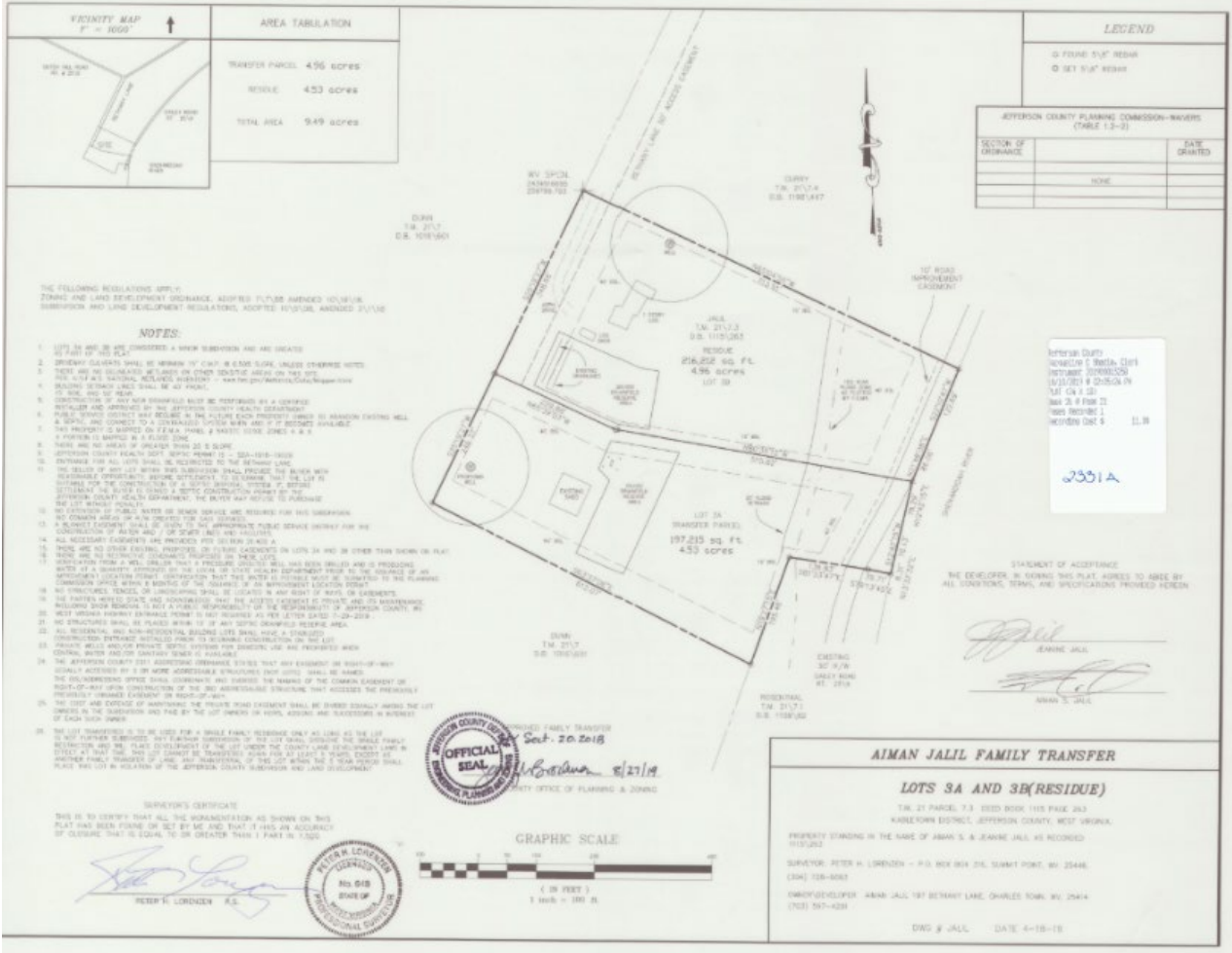
In 2012, the Jalil family purchased the 9.49-acre property, which was Lot 3 of the Diane Gray & Hugh Hoover Subdivision in 2012. In 2019, when they were interested in subdividing the property for the purpose of constructing a new home, it was determined that because Lot 3 was not the residue of the “Lots 3 & 4 (Residue) Diane Gray and Hugh Hoover Subdivision”, it could only be further divided as a Family Transfer.

Because the property was owned jointly by the Jalils, they were able to utilize the Zoning Ordinance’s Family Transfer provision which permits a “spouse to spouse” transfer and required the signatures of

Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022  
 Jeanine Jalil Waiver Request (File #: 22-12-PCW)

both current owners. They understood that family transfers could not be transferred again for at least 5 years and could not be further subdivided except as another family transfer.

This Family Transfer Subdivision was approved in 2019 and subsequently their new house was constructed in 2020. This created the 5<sup>th</sup> lot divided from the parent parcel via the Minor Subdivision process since 10/5/88.



**Zoning and Subdivision Requirements**

The provisions related to Family Transfers are found in both the Zoning Ordinance and the Subdivision Regulations. The Zoning Ordinance determines if a Family Transfer can occur and defines “family” for the purpose of Family Transfers.

The definitions section of the Zoning Ordinance states:

“For the purpose of Family Transfers as permitted in Section 5.7 of this Ordinance and in Section 20.201 of the Subdivision and Land Development Regulations, family members shall be defined as persons related by birth, adoption or marriage and shall be limited to parent-to-child, child-to-parent, spouse to spouse, sibling to sibling, grandparent to grandchild and grandchild to grandparent. Unrelated individuals jointly owning property are not eligible to utilize the Family Transfer provisions of this Ordinance.”

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June 14, 2022  
Jeanine Jalil Waiver Request (File #: 22-12-PCW)

The Zoning Ordinance also requires all family transfers to process in accordance with the minor subdivision provision of the Subdivision and Land Development Regulations.

Section 20.201 “Minor Subdivisions” of the Subdivision Regulations (excerpt below), states that 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, or two (2) nonresidential lots or less, including the parent parcel or residue, from contiguously owned parcels of record may process as Minor Subdivisions.

Subsection B “Family Transfers” details the process by which family transfer subdivisions can be processed. This subsection requires a Deed that identifies the relationship between the grantor and grantee (in accordance with the Zoning definition) and documents that the recipient has not yet received a previous family transfer. It also requires a note in both the deed and on the plat that states:

“The lot transferred is to be used for a single-family residence only as long as the lot is not further subdivided. Any further subdivision of the lot shall dissolve the single family restriction and will place development of the lot under the County land development laws in effect at that time. This lot cannot be transferred again for at least five (5) years; except as another family transfer of land. Any transferal of this lot within the five (5) year period shall place this lot in violation of the Jefferson County Subdivision and Land Development Regulations.”

**Waiver Requirements**

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

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

Process and procedural waivers shall be reviewed and found consistent with the above criteria prior to approval.

**Staff Discussion**

The applicants processed this Family Transfer subdivision with the full intent of complying with the requirements of the Zoning Ordinance and the Subdivision Regulations and intended to live on this property longer than the five-year requirement. The unexpected passing of Mr. Aiman Jalil has put Mrs. Jeanine Jalil in the unexpected position of not being able to retain ownership of the house and having no other family member to which it can be transferred. While staff would not generally support a waiver of this requirement, staff believes that under these particular circumstances that were beyond the control of Mrs. Jalil, a waiver of the five-year requirement is reasonable.

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022  
Jeanine Jalil Waiver Request (File #: 22-12-PCW)

**Sections of Subdivision Regulations under Consideration:**

**Section 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, or two (2) nonresidential 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. A list of all deed transfers since October 5, 1988 shall be submitted with each plat.

**B. Family Transfers**

When family transfers are provided for in a specific zoning district, such transfers shall conform with the following:

1. The Deed shall identify the relationship between the grantor and grantee; and document that the recipient has not yet received a previous family transfer.
2. State in the deed and on the plat:  
“The lot transferred is to be used for a single-family residence only as long as the lot is not further subdivided. Any further subdivision of the lot shall dissolve the single family restriction and will place development of the lot under the County land development laws in effect at that time. This lot cannot be transferred again for at least five (5) years; except as another family transfer of land. Any transferal of this lot within the five (5) year period shall place this lot in violation of the Jefferson County Subdivision and Land Development Regulations.”
3. All lots shall have motor vehicle access via a 50’ access easement, provided that the access easement serves no more than twelve (12) family transfer lots, to either:
  - a. A WV DOH right-of way or easement; or
  - b. A road in a major subdivision that meets county roadway design standards (Table 2.2-1)

However, lots having a minimum road frontage of 200 feet may have single access on an existing WV DOH right-of-way or easement or a road in a major subdivision that meets county roadway design standards (Table 2.2-1). Shared driveway access on the adjoining lines may be required if the distance between the driveways is less than 200 feet.

4. Potable water and sanitary sewer service shall be provided according to the requirements of Appendix B, Engineering Standards. All submissions shall provide a plat approved by the Department of Health or letters of water and sewer availability, as applicable.
5. As used in this subsection, the word “transfer”, as it relates to the five year provision, shall not include:
  - a. Deeds to Trustees to secure a debt, except that no foreclosure can be had thereunder except at public auction and this provision must appear in the deed of trust;
  - b. Judicial sales or tax sales;
  - c. Mortgages;
  - d. Deeds of partition under or pursuant to an order of Court;
  - e. Real estate transferred by will or intestacy.
  - f. Each individual eligible to receive a family transfer as defined in the Jefferson County Zoning and Land Development Ordinance shall receive only one such exempt lot within the County after July 19, 1979.
  - g. Parents who are married are entitled to only one such family transfer parcel



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 #: 22-12-PCW  
 Mtg Date: 06-14-22  
 Date Rec'd: 5-11-22  
 Fees Paid: 100.00  
 Staff Int: jth  
 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: Aiman Jalil  
 Business Name: \_\_\_\_\_  
 Mailing Address: 229 Bethany Lane Charles Town WV 25414  
 Phone Number: 703-597-4201 Email: jajalil@outlook.com

**Applicant Contact Information**

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

**Consultant Information**

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

**Physical Property Details**

Physical Address: 229 Bethany Lane Charles town WV 25414 Vacant Lot:   
 Tax District: 06 kabietown Map No: 21 Parcel No: 19-06-0021-0001-005  
 Parcel Size: 4.53 ac Deed Book: 1231 Page No: 101  
 Zoning District: \_\_\_\_\_

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

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

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

20.201B2 June 19, 2019 Family Transfer

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

My husband passed away on March 23, 2022. I will need to sell our home to continue to provide for my family. I am the sole beneficiary

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.

New homeowner which will not affect anything.

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

Will not change anything currently in place

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

Will not change anything currently in place

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.

Aiman J. J. / J. J. (spouse POA) 05/11/2022
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.

06-14-22
Public Hearing Date

05-31-22
Date Placard Posted

05-27-22
Date Adjoiners Mailed

Planning Commission Determination

Approved [ ]

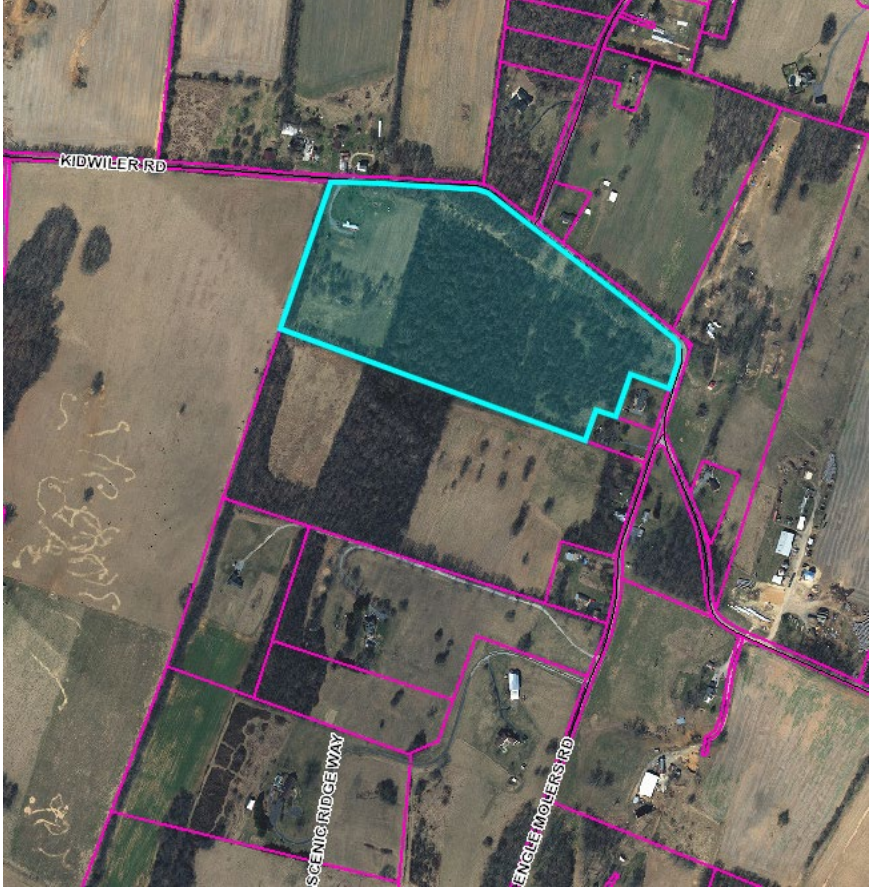
Denied [ ]

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

Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022

**Kidwiler MSD Waiver Request (File #22-13-PCW)**

**Item #8: Public Hearing:** Waiver from Section 20.201 of the Subdivision Regulations, requesting to process a 6-Lot Subdivision as a Minor Subdivision instead of as a Major Cluster Subdivision.

Owner/Applicant	Wilbert & Sharon Kidwiler
Surveyor/Engineer	Ed Johnson and Associates
Property Location	1044 Kidwiler Rd
Property Location & Information	Tax District: Charles Town (04); Tax Map: 04; Parcel: 27; Parcel ID: 04000400270000; Size: 29.93 acres; Zoning: Rural
	
Adjacent Zoning	<i>North, South, East &amp; West: Rural</i>
Proposed Activity:	Request to process as a 6 Lot Subdivision as a Minor Subdivision instead of as a Major Cluster Subdivision.
Previous Approvals	N/A

**Summary of the Request:**

The applicant is requesting a waiver from Section 20.201 of the Subdivision Regulations (see excerpt below) to process the maximum of six (6) lots permitted under Section 5.7D.2 of the Zoning Ordinance as a Minor Subdivision rather than as a Major Cluster Subdivision.

**Relevant Site Information:**

In order to calculate the density of a property, Section 20.201 of the Subdivision Regulations and Section 5.7D of the Zoning Ordinance state that the calculations must be based on the acreage of the property as

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Kidwiler MSD Waiver Request (File #22-13-PCW)**

of October 5, 1988 (the adoption of zoning). As of October 5, 1988, the subject parcel consisted of 29.93 acres and no divisions have occurred since that time. Using this acreage, Section 5.7D.2 of the Zoning Ordinance would allow a total of six lots (five and a residue) to be divided from the property using the cluster provisions, which would also require 14.965 acres to be retained as green space.

The property owner has a buyer interested in a 10-acre portion at the eastern end of the 29.93-acre property which they would like to subsequently divide into four lots. These four lots are proposed to have a separate 50' access easement, pending WV DOH approval. The property owner would also like to be able to divide off a 5-acre lot near their existing home for future construction of a new house. These two lots are proposed to have a separate 50' access easement.

The property owners are willing to subdivide the 10-acre tract for the interested buyer and, using the transfer of development rights provision of the Zoning Ordinance, note on the plat that three additional development rights go with the ten acres (for a total of 4 lots) and the residue retains one additional development right (for a total of two lots). The applicant would like to be permitted to accomplish these divisions on a single plat, creating all 6 lots, or on a plat that creates the 10-acre and 5-acre lots and notes the transfer of development rights to the 10-acre lot for subsequent platting.

Because Section 20.201 of the Subdivision Regulations states that a Minor Subdivision may not create more than five (5) residential lots, they are requesting this waiver to be allowed to create the maximum of 6 lots permitted under the Cluster provisions. The subdivision plat will need to include a note that states the plat is processing under Section 5.7D.2 Cluster provisions and that 14.965 acres would be retained as the required permanent greenspace.

**Cluster Provisions of Zoning Ordinance/Subdivision Regulations**

Section 5.7D.2.b.iv (a) of the Zoning Ordinance, under *Procedures*, states that all parcels utilizing the Cluster Provision must process as a Major Subdivision, which requires a Concept Plan.

iv. Procedures<sup>23</sup>

- (a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.<sup>17, 21, 23</sup>

Section 20.201 of the Subdivision Regulations allow a total of five lots to be divided from a property using the Minor Subdivision process and requires all additional lots to process as a Major Subdivision.

**Waiver Requirements:**

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

- 1) that the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature;
- 2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- 3) that the waiver, if granted, will be in keeping with the intent and purpose of these Regulations; and

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Kidwiler MSD Waiver Request (File #22-13-PCW)**

- 4) that the waiver, if granted, will result in a project of better quality and/or character. Process and procedural waivers shall be reviewed and found consistent with the above criteria prior to approval.

**Staff Discussion:**

Although the Zoning Ordinance requires all Cluster developments to process as a Major Subdivision, because the Subdivision Regulations classify a subdivision with 5 or less residential lots and no off-site infrastructure as a Minor Subdivision, Cluster Subdivisions with a maximum of density of 5 lots have been permitted to process as a Minor Subdivision. Cluster Subdivisions on properties which have density rights allowing more than 5 lots have been required to process the Concept Plan and then may process the first 5 lots as a Minor Subdivision. This is the situation for this property.

As noted earlier, this 29.93-acre property has a maximum build out of 6 lots, including the required greenspace/residue of a minimum of 14.965 acres. If the waiver is denied, the applicant could proceed with a Concept Plan for the 6 lots and then process the first 5 lots as a Minor Subdivision and a Major Subdivision for the 6<sup>th</sup> lot. Because the maximum build-out is 6 lots, the applicant is requesting a waiver to be permitted to process the total of 6 lots permitted under the Cluster provisions as a Minor Subdivision without a Concept Plan. These 6 lots are the maximum permitted under the current regulations, other than Family Transfers which are exempt from the density provision of the Zoning Ordinance.

**Staff Recommendation:**

Because the full build-out permitted under the Cluster provisions of the Zoning Ordinance is 6 lots, including the residue/greenspace, Staff finds that the request to process these lots as a Minor Subdivision is reasonable. Approval should be conditioned on the requirement that the plat clearly states that this subdivision is processing as a Cluster Subdivision and clearly allocates the transfer of development rights provisions and the required 14.965 acres of required greenspace.

**Kidwiler MSD Waiver Request (File #22-13-PCW)**

**Sections of Subdivision Regulations under Consideration:**

**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, or two (2) nonresidential 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. A list of all deed transfers since October 5, 1988 shall be submitted with each plat.

**A. Residential**

All minor residential subdivisions shall conform with the following:

1. A minor residential subdivision divides the property into lots and a residue parcel. The subdivision of the lots creates the residue parcel out of the original parcel.
2. All lots, regardless of the zoning district, shall have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots to either:
  - a. A WV DOH road right-of-way or easement; or
  - b. A road in a major subdivision that meets county roadway design standards (Table 2.2-1)  
However, in the Rural District, lots having a minimum road frontage of 200 feet may have a single access onto an existing WV DOH right-of way or easement or a road in a major subdivision that meets county roadway design standards (Table 2.2-1). Shared driveway access on the adjoining property lines may be required if the distance between the driveways is less than 200 feet
3. Potable water and sanitary sewer service shall be provided according to the requirements of Appendix B, *Engineering Standards*. All submissions shall provide a plat approved by the Department of Health or letters of water and sewer availability, as applicable.



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 #: 22-13-PCW  
 Mtg Date: 6-14-22  
 Date Rec'd: 5-23-22  
 Fees Paid: 100.00  
 Staff Int: T.L.  
 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: WILBERT E. KIDWILER & SHARON L. KIDWILER  
 Business Name: N/A  
 Mailing Address: 1044 KIDWILER ROAD HARPERS FERRY, WV. 25425  
 Phone Number: (304) 876-6692 Email: \_\_\_\_\_

**Applicant Contact Information**

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

**Consultant Information**

Name: EDWARD L. JOHNSON JR.  
 Business Name: EJ JOHNSON & ASSOCIATES INC  
 Mailing Address: 674 ACORN CIRCLE HARPERS FERRY, WV. 25425  
 Phone Number: (304) 279-9924 Email: edjohns40@frontiernet.net

**Physical Property Details**

Physical Address: 1044 KIDWILER ROAD Vacant Lot:   
 Tax District: HARPERS FERRY Map No: 4 Parcel No: 27  
 Parcel Size: 29.93 ACRES Deed Book: 1039 Page No: 316  
 Zoning District: RURAL

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

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

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

20.201, 2008, REQUEST TO PROCESS A 6-LOT SUBDIVISION AS A MINOR SUBDIVISION INSTEAD OF A CLUSTER DEVELOPMENT

Briefly Describe the Nature of Your Waiver Request:

THE KIDWILERS CURRENTLY HAVE A CONTRACT TO SELL A 10-ACRE PARCEL WITH THE AGREEMENT OF TRANSFERRING 3 ADDITIONAL DEVELOPMENT RIGHTS FOR THE PURCHASER TO CREATE A FOUR-LOT SUBDIVISION. THIS, BY ITSELF, CAN BE PROCESSED AS A MINOR SUBDIVISION AND ADMINISTRATIVELY APPROVED BY THE STAFF. MR. KIDWILER HAS EXPRESSED INTEREST IN CREATING ANOTHER 5-ACRE LOT AND WE ARE REQUESTING A WAIVER FROM SECTION 20.201 TO PROCESS THE 6<sup>TH</sup> LOT AS A MINOR SUBDIVISION. THE WAY THAT THE CONTRACT IS WRITTEN IT IS ALREADY A TWO-PLAT PROCESS. THE FIRST WOULD CREATE THE 10-ACRE PARCEL WITH DEVEL. RIGHTS STATED WHICH IS SHOWN AS PLAT #1 ATTACHED. IT WOULD ALSO CREATE THE 5-ACRE PARCEL IF ALLOWED. ONCE TITLE TO THE 10-ACRE PARCEL TRANSFERS THE PURCHASERS WOULD CREATE A 4-LOT SUBDIVISION (ATTACHED A PLAT #2). THE MAXIMUM NUMBER OF LOTS ALLOWED (DENSITY) IS SIX, SO THIS WOULD USE ALL ALLOWABLE LOT

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

THE PROJECT WOULD NOT HAVE ANY BENEFIT TO THE PUBLIC BUT IT WOULD NOT AFFECT IT EITHER. THE LOTS WOULD BE ON A PRIVATELY MAINTAINED ROAD, MAINTAINED BY THE LOT OWNERS, INCLUDING SNOW REMOVAL.

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.

LOTS WILL BE ON A PRIVATELY MAINTAINED ROAD, AS STATED ABOVE. THEY WILL ALSO BE ON WELLS AND SEPTIC SYSTEMS, SO THERE IS NO EXTENSION OF UTILITIES AS FOR ADJOINERS, A GOOD MAJORITY OF THE PARCELS ARE FARMS, TO THE NORTH, WEST AND SOUTH. I DO NOT SEE WHERE ANY OF THE ADJOINING PROPERTY OWNERS WOULD BE BOTHERED, MR. KAWILOR OWNS 100 ACRES NORTH OF THIS PARCEL AND HAS LIVED THERE ALL HIS LIFE.

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

AS STATED, THE MAXIMUM NUMBER OF LOTS ALLOWED IS 6. WE ARE REQUESTING TO BE ALLOWED TO PROCESS HIS LAST LOT AS A MINOR SUBDIVISION. HE CAN CREATE THIS LOT ALREADY BY A CLUSTER BUT IT WOULD BE A LITTLE EXTREME TO HAVE TO CLUSTER WHEN WE ARE GOING TO HAVE A PERFECTLY GOOD MINOR SUBDIVISION THAT WE COULD ADD THE LOT TO.

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

IT WOULD BE MORE PRACTICAL TO GET ALL THE LOTS COMPLETED AT ONE TIME, INSTEAD OF DRAGGING OUT CREATING ONE MORE LOT WITH WORKSHOPS AND MEETINGS.

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.

Wilbur G. Kawilor 5/21/22  
Property Owner/Applicant Signature Date

Sharon L. Kasper 5-21-22  
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: \_\_\_ / \_\_\_ / \_\_\_

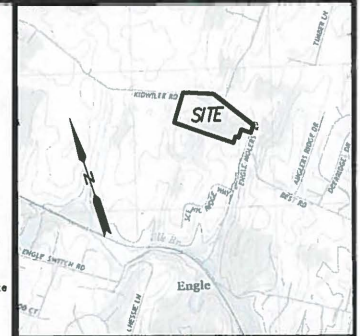
PLAT #1

TRACT BOUNDARY  
PROPERTY LINES OF ADJACENT TRACTS  
RIGHT-OF-WAYS  
RESTRICTION LINES  
EASEMENTS AND OTHER RESERVED AREAS  
FENCE LINE  
DESCRIPTIVE LINES PROPOSED:  
LOT BOUNDARIES  
RIGHT-OF-WAYS  
RESTRICTION LINES  
EASEMENTS AND OTHER RESERVED AREAS

JEFFERSON COUNTY PLANNING COMMISSION - WAIVERS (TABLE 1.2-2)		
SECTION OF ORDINANCE	DESCRIPTION OF WAIVER	DATE GRANTED
	NONE	

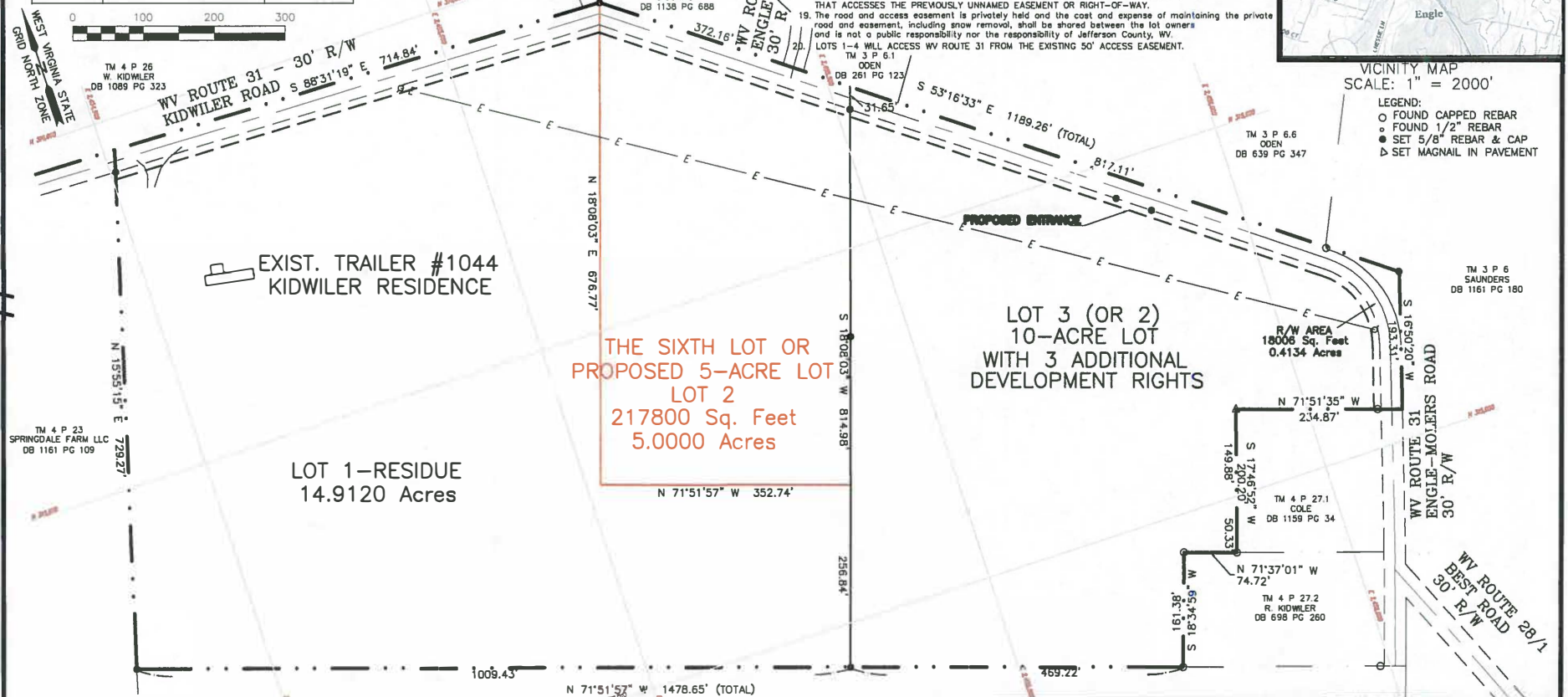
- NOTES:
- PROPOSED EASEMENTS OR RIGHTS-OF-WAYS: 50' ACCESS EASEMENT AND 10' ROAD IMPROVEMENT EASEMENT.
  - THERE ARE NO FUTURE EASEMENTS OR RIGHTS-OF-WAYS PROPOSED.
  - THERE ARE NO LANDS RESERVED FOR PUBLIC OR SEMI-PUBLIC USE.
  - PROPERTY DOES NOT LIE IN A 100-YEAR FLOOD PLAIN AND LIES IN ZONE X OF FIRM COMMUNITY PANEL NUMBER 5403760135E EFFECTIVE DECEMBER 18, 2009.
  - THE SELLER OF ANY LOT WITHIN THIS SUBDIVISION SHALL PROVIDE THE BUYER WITH A REASONABLE OPPORTUNITY, BEFORE SETTLEMENT, TO DETERMINE THAT THE LOT IS SUITABLE FOR THE CONSTRUCTION OF A SEPTIC DISPOSAL SYSTEM. IF, BEFORE SETTLEMENT, THE BUYER IS DENIED A SEPTIC CONSTRUCTION PERMIT BY THE JEFFERSON COUNTY HEALTH DEPARTMENT, THE BUYER MAY REFUSE TO PURCHASE THE LOT WITHOUT PENALTY.
  - THERE ARE NO RESTRICTIVE COVENANTS FOR THESE LOTS.
  - NO WAIVERS HAVE BEEN APPLIED FOR OR GRANTED.
  - THERE ARE NO DRAINAGE EASEMENTS.
  - NO STRUCTURES, FENCES OR LANDSCAPING SHALL BE LOCATED IN THE EASEMENTS.
  - ALL LOTS SHALL HAVE A DRIVEWAY CULVERT WITH A MINIMUM 15" CMP TM 3 P 1.8 O'CONNOR DB 1138 PG 688 OR EQUIVALENT.

- JEFFERSON COUNTY HEALTH DEPARTMENT APPROVAL FOR WELLS AND SEPTIC RESERVES PERMIT SDA
- EXISTING EASEMENTS - NONE.
- VERIFICATION FROM A WELL DRILLER THAT A PRESSURE GROUTED WELL IS DRILLED AND IS PRODUCING WATER AT A QUANTITY APPROVED BY THE JEFFERSON COUNTY HEALTH DEPARTMENT AND/OR THE WEST VIRGINIA BUREAU OF HEALTH SHALL BE SUBMITTED TO THE PLANNING COMMISSION PRIOR TO THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT. CERTIFICATION THAT THE WATER IS POTABLE MUST BE SUBMITTED TO THE PLANNING COMMISSION OFFICE WITHIN 6 MONTHS OF THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT.
- THE PUBLIC SERVICE DISTRICT MAY REQUIRE IN THE FUTURE EACH PROPERTY OWNER TO ABANDON EXISTING WELL AND SEPTIC SYSTEMS AND TO CONNECT TO A CENTRALIZED SYSTEM WHEN AND IF IT BECOMES AVAILABLE.
- ALL RESIDENTIAL AND NON-RESIDENTIAL BUILDING LOTS SHALL HAVE A STABILIZED CONSTRUCTION ENTRANCE INSTALLED PRIOR TO BEGINNING CONSTRUCTION ON A LOT.
- THE U.S. FISH AND WILDLIFE SERVICE NATIONAL WETLANDS INVENTORY MAP INDICATES THAT THERE ARE NO WETLANDS.
- A BLANKET EASEMENT IS GRANTED TO THE APPROPRIATE PUBLIC SERVICE DISTRICT IN ALL ROAD RIGHT-OF-WAYS FOR CONSTRUCTION AND MAINTENANCE OF WATER AND SANITARY SEWER LINES.
- THE JEFFERSON COUNTY E911 ADDRESSING ORDINANCE STATES THAT ANY EASEMENT OR RIGHT-OF-WAY LEGALLY ACCESSED BY 3 OR MORE ADDRESSABLE STRUCTURES SHALL BE NAMED THE GIS/ADDRESSING OFFICE SHALL COORDINATE AND OVERSEE THE NAMING OF THE COMMON EASEMENT OR RIGHT-OF-WAY UPON CONSTRUCTION OF THE THIRD ADDRESSABLE STRUCTURE THAT ACCESSES THE PREVIOUSLY UNNAMED EASEMENT OR RIGHT-OF-WAY.
- THE ROAD AND ACCESS EASEMENT IS PRIVATELY HELD AND THE COST AND EXPENSE OF MAINTAINING THE ROAD AND EASEMENT, INCLUDING SNOW REMOVAL, SHALL BE SHARED BETWEEN THE LOT OWNERS AND IS NOT A PUBLIC RESPONSIBILITY NOR THE RESPONSIBILITY OF JEFFERSON COUNTY, WV.
- LOTS 1-4 WILL ACCESS WV ROUTE 31 FROM THE EXISTING 50' ACCESS EASEMENT.



VICINITY MAP  
SCALE: 1" = 2000'

LEGEND:  
○ FOUND CAPPED REBAR  
○ FOUND 1/2" REBAR  
● SET 5/8" REBAR & CAP  
▷ SET MAGNAIL IN PAVEMENT



A PPR OF D  
JEFFERSON COUNTY  
PLANNING COMMISSION

OWNER'S CERTIFICATE:  
THE DEVELOPER, IN SIGNING THIS PLAT, AGREES TO ABIDE BY ALL CONDITIONS, TERMS AND SPECIFICATIONS PROVIDED HEREON.

WLBERT E. KIDWILER SHARON L. KIDWILER

SURVEYOR'S CERTIFICATE:  
I, EDWARD L. JOHNSON JR., DO HEREBY CERTIFY THAT THE PROPERTY DELINEATED BY THIS PLAT IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT IT REPRESENTS A SURVEY MADE IN THE FIELD WITH A RELATIVE ERROR OF CLOSURE EXCEEDING 1:7,500 AND THAT #5 REBAR WILL BE SET AS SHOWN.

EDWARD L. JOHNSON JR.  
PROFESSIONAL SURVEYOR #866

FINAL PLAT  
LOTS 1-RESIDUE, 2 & 3  
WILBERT E. KIDWILER AND SHARON L. KIDWILER MINOR SUBDIVISION  
DEED BOOK 1089 PAGE 318 TAX MAP 4 PARCEL 27  
HARPERS FERRY DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA  
SCALE: 1" = 100' APRIL 17, 2022

OWNERS/DEVELOPERS  
WLBERT KIDWILER  
1044 KIDWILER ROAD  
HARPERS FERRY, WV 25425  
(703) 217-0035

REVISIONS:  
ED JOHNSON AND ASSOCIATES, INC.  
LAND SURVEYORS  
674 ACORN CIRCLE  
HARPERS FERRY, WEST VIRGINIA 25425  
(304) 725-6060

SHEET 1 OF 1

APPLICABLE ZONING AND SUBDIVISION ORDINANCE  
ZONING ORDINANCE, ADOPTED JULY 7, 1988  
AMENDMENTS: DECEMBER 2, 2021  
SUBDIVISION ORDINANCE, ADOPTED OCTOBER 9, 2008  
EFFECTIVE AMENDMENTS: FEBRUARY 1, 2018

OFFICE OF PLANNING & ZONING

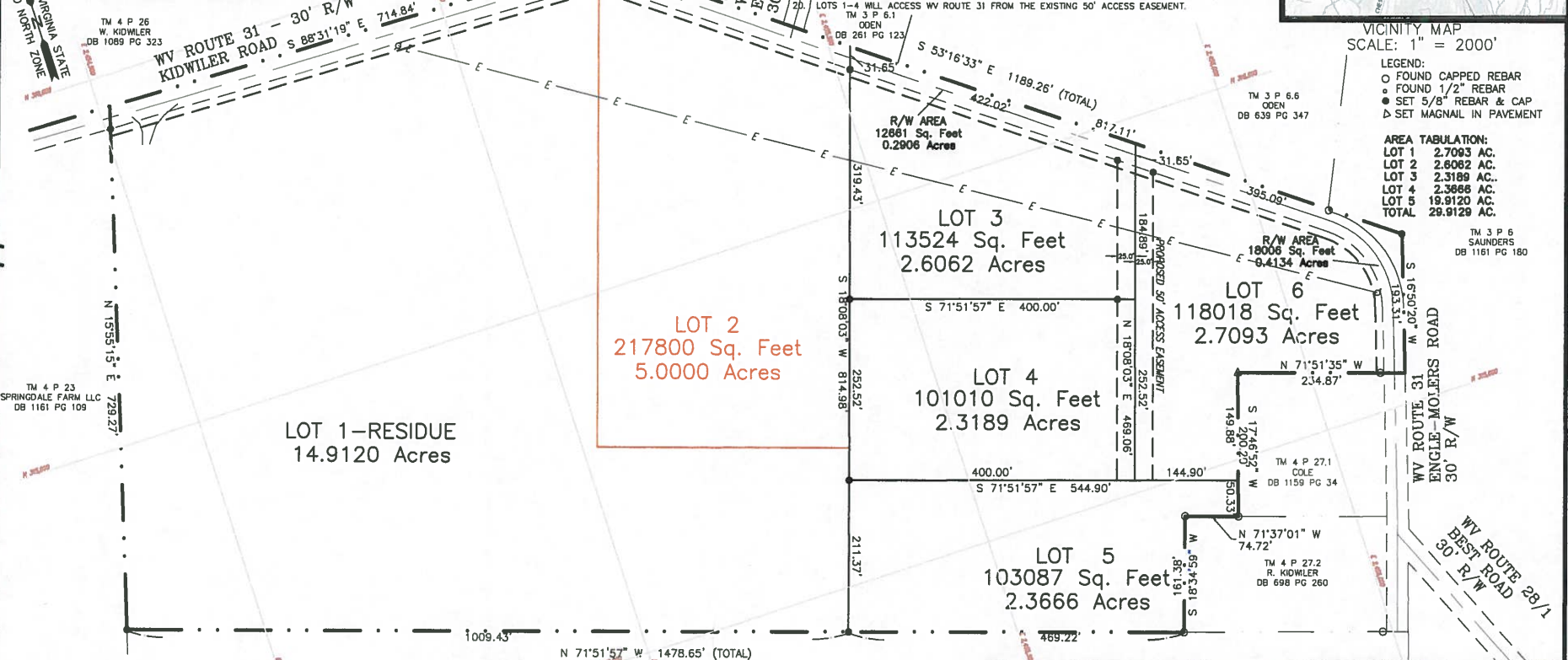
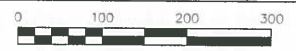
PLAT #2

TRACT BOUNDARY  
PROPERTY LINES OF ADJACENT TRACTS  
RIGHT-OF-WAYS  
RESTRICTION LINES  
EASEMENTS AND OTHER RESERVED AREAS  
FENCE LINE  
DESCRIPTIVE LINES PROPOSED:  
LOT BOUNDARIES  
RIGHT-OF-WAYS  
RESTRICTION LINES  
EASEMENTS AND OTHER RESERVED AREAS

- NOTES:
- PROPOSED EASEMENTS OR RIGHTS-OF-WAYS: 50' ACCESS EASEMENT AND 10' ROAD IMPROVEMENT EASEMENT.
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  - VERIFICATION FROM A WELL DRILLER THAT A PRESSURE GROUTED WELL IS DRILLED AND IS PRODUCING WATER AT A QUANTITY APPROVED BY THE JEFFERSON COUNTY HEALTH DEPARTMENT AND/OR THE WEST VIRGINIA BUREAU OF HEALTH SHALL BE SUBMITTED TO THE PLANNING COMMISSION PRIOR TO THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT. CERTIFICATION THAT THE WATER IS POTABLE MUST BE SUBMITTED TO THE PLANNING COMMISSION OFFICE WITHIN 6 MONTHS OF THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT. THE PUBLIC SERVICE DISTRICT MAY REQUIRE IN THE FUTURE EACH PROPERTY OWNER TO ABANDON EXISTING WELL AND SEPTIC SYSTEMS AND TO CONNECT TO A CENTRALIZED SYSTEM WHEN AND IF IT BECOMES AVAILABLE.
  - A BLANKET EASEMENT IS GRANTED TO THE APPROPRIATE PUBLIC SERVICE DISTRICT IN ALL ROAD RIGHT-OF-WAYS FOR CONSTRUCTION AND MAINTENANCE OF WATER AND SANITARY SEWER LINES.
  - THE JEFFERSON COUNTY E911 ADDRESSING ORDINANCE STATES THAT ANY EASEMENT OR RIGHT-OF-WAY LEGALLY ACCESSED BY 3 OR MORE ADDRESSABLE STRUCTURES SHALL BE NAMED THE OS/ADDRESSING OFFICE SHALL COORDINATE AND OVERSEE THE NAMING OF THE COMMON EASEMENT OR RIGHT-OF-WAY UPON CONSTRUCTION OF THE THIRD ADDRESSABLE STRUCTURE THAT ACCESSES THE PREVIOUSLY UNNAMED EASEMENT OR RIGHT-OF-WAY.
  - The road and access easement is privately held and the cost and expense of maintaining the private road and easement, including snow removal, shall be shared between the lot owners and is not a public responsibility nor the responsibility of Jefferson County, WV.
  - LOTS 1-4 WILL ACCESS WV ROUTE 31 FROM THE EXISTING 50' ACCESS EASEMENT.

JEFFERSON COUNTY PLANNING COMMISSION - WAIVERS  
(TABLE 1.2-2)

SECTION OF ORDINANCE	DESCRIPTION OF WAIVER	DATE GRANTED
	NONE	



APPROVED  
JEFFERSON COUNTY  
PLANNING COMMISSION

OFFICE OF PLANNING & ZONING

OWNER'S CERTIFICATE:  
THE DEVELOPER, IN SIGNING THIS PLAT, AGREES TO ABIDE BY ALL CONDITIONS, TERMS AND SPECIFICATIONS PROVIDED HEREON.

WLBERT E. KIDWILER SHARON L. KIDWILER

SURVEYOR'S CERTIFICATE:  
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EDWARD L. JOHNSON JR.  
PROFESSIONAL SURVEYOR #866

APPLICABLE ZONING AND SUBDIVISION ORDINANCE  
ZONING ORDINANCE, ADOPTED JULY 7, 1998  
AMENDMENTS: DECEMBER 2, 2021  
SUBDIVISION ORDINANCE, ADOPTED OCTOBER 9, 2009  
EFFECTIVE AMENDMENTS: FEBRUARY 1, 2018

FINAL PLAT  
LOTS 3-6  
MINOR SUBDIVISION  
DEED BOOK PAGE TAX MAP 4 PARCEL 27  
HARPERS FERRY DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA  
SCALE: 1" = 100' APRIL 17, 2022

OWNERS/DEVELOPERS  
WLBERT KIDWILER  
1044 KIDWILER ROAD  
HARPERS FERRY, WV 25425  
(703) 217-0035

ED JOHNSON AND ASSOCIATES, INC.  
LAND SURVEYORS  
674 ACORN CIRCLE  
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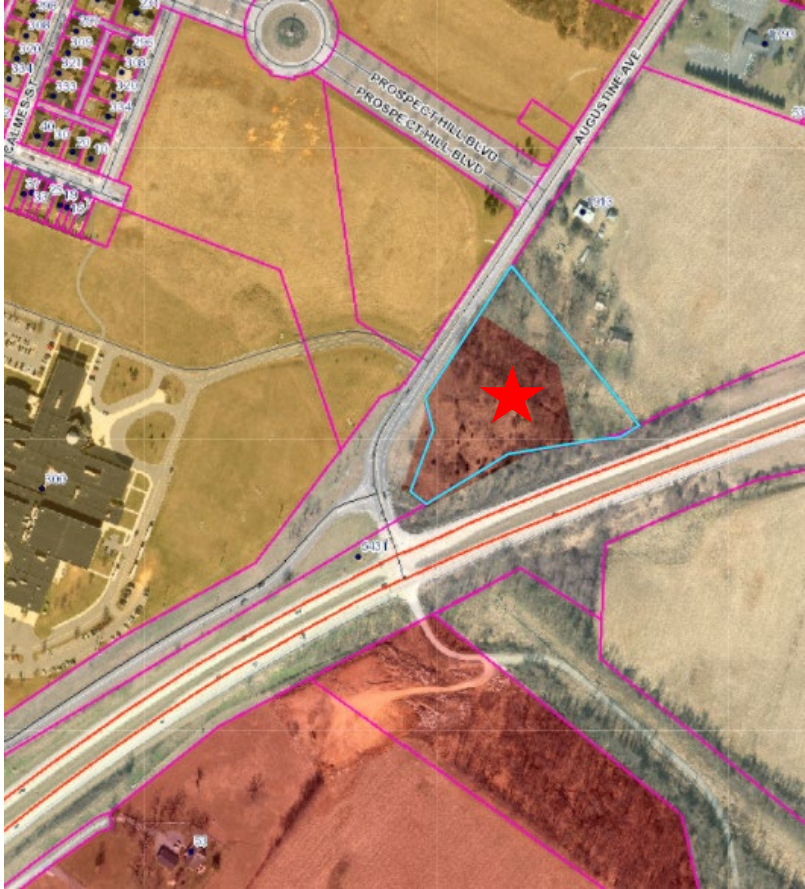
REVISIONS:

SHEET 1 OF 1

Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022

**Reconsideration of Sheetz Augustine Ave MSD Waiver Request (File #22-7-PCW)**

**Item #9: Reconsideration of Waiver Request 22-7-PCW based on additional information provided by the applicant:** Waiver from Section 20.201A.3 of the Subdivision Regulations, to waive the requirement related to the extension of off-site utilities to allow for a proposed two lot Minor Subdivision.

Owner	Guy Chicchirichi
Applicant	Bob Franks, Sheetz, Inc.
Property Location	NE corner of Augustine Ave. & US 340 intersection south of Charles Town
Surveyor/Engineer	Integrity Federal Services, Ben Svedlow
Property Location & Information	<p>Tax District: Charles Town (02); Tax Map: 16; Parcel: 1; Parcel ID: 02001600010000; Size: 4.42 acres; Zoning: Highway Commercial (3.02 acres) &amp; Rural (1.4 acres)</p> 
Adjacent Zoning	<p><i>North/West:</i> Incorporated Town (Neighborhood Residential);  <i>South:</i> Incorporated Town (General Commercial) and County (Rural); <i>East:</i> Rural</p>
Proposed Activity:	Request to process as a Minor Subdivision and accept the water and sewer utility availability as meeting the minor subdivision requirements
Previous Approvals	<ul style="list-style-type: none"> <li>• 21-1-Z &amp; 22-2-Z: two Zoning Map Amendments from Rural to Highway Commercial totaling 3.02 acres of the 4.42 acre parcel (CC approval 3/18/21 &amp; 3/17/22)</li> <li>• 21-4-SP: Concept Plan for Augustine Ave Sheetz Store (PC Approved 6/8/21)</li> <li>• 21-22-ZV: Variance for Augustine Ave Sheetz Store to eliminate the required 60' easement along a limited access highway; and the required landscape buffer requirement along a limited access highway (BZA Approved 5/27/21)</li> </ul>

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Reconsideration of Sheetz Augustine Ave MSD Waiver Request (File #22-7-PCW)**

	<ul style="list-style-type: none"><li>• 22-6-PCW: Waiver from Section 20.201A.2.b to reduce the required road frontage from 200 feet to 161 feet for the proposed residue lot zoned Rural (PC Approved 4/12/22)</li><li>• 22-7-PCW: Waiver from Section 20.201A.3 to waive the requirement related to the extension of off-site utilities for Minor Subdivisions (PC DENIED 4/12/22)</li></ul>
--	--

**Summary of Reconsideration Request**

The applicants met with staff and discussed what they believed was a misunderstanding on the part of the Planning Commission regarding their previous submittal of this waiver which was heard at the April 12, 2022 Planning Commission meeting. Staff agreed that if supplemental documentation was submitted, this item could be reconsidered by the Planning Commission.

Public notice of this reconsideration was included in the on-site posting and adjoining letters for the June 14, 2022 meeting.

The applicant has provided the following supplemental information for the Planning Commission's consideration:

- An explanation of how public water and sewer are being provided to the Rural site without off-site extensions required;
- Documentation from the Charles Town Utility Board (CTUB) of water and sewer availability to both lots;
- WV Office of Environmental Health Series approval of the CTUB extension to serve the Sheetz site and a follow up e-mail that separate approval is not required for a lot that will be passed by the extension of the public water and sewer services.

The applicant will be present at the June 14, 2022 meeting to provide more information and answer any questions the Planning Commission may have regarding this request.

**Effect: Clarification of Process**

Depending on the Planning Commission's action on this request, the process would be as follows:

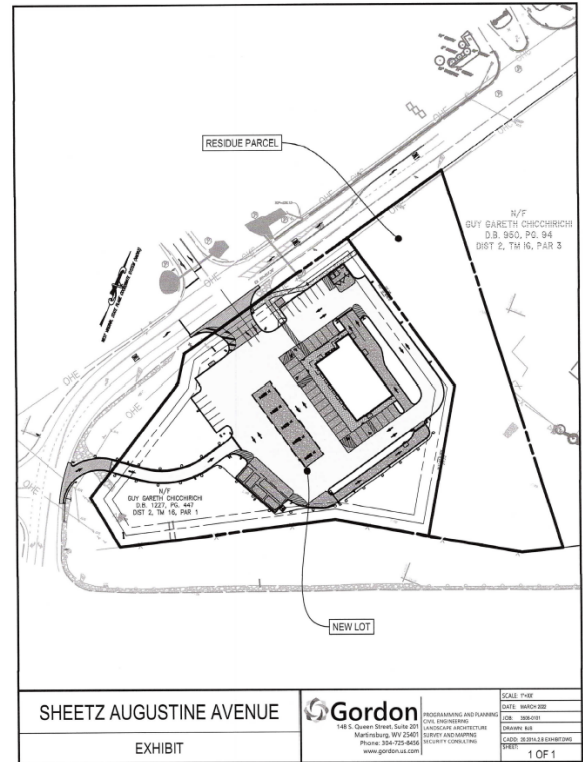
1. Denial of this request would result in the applicant processing as a Major Subdivision in accordance with Section 24.113-24.118 of the Subdivision Regulations. The Planning Commission will then need to take action on Item #10 Waiver Request 22-14-PCW and Item #11 Waiver Request 22-15-PCW. The Planning Commission will also need to take action on Item #13a.; **OR,**
2. Approval of this request would result in the applicant processing as a Minor Subdivision in accordance with Section 20.201 of the Subdivision Regulations. The Planning Commission may disregard Item #10 Waiver Request 22-14-PCW and Item #11 Waiver Request 22-15-PCW. The Planning Commission will need to take action on Item #13b related to the Sheetz Major Site Plan.

**Balance of Staff Report is excerpted from April 12, 2022 Staff Report**

**Reconsideration of Sheetz Augustine Ave MSD Waiver Request (File #22-7-PCW)**

**Summary of the Request:**

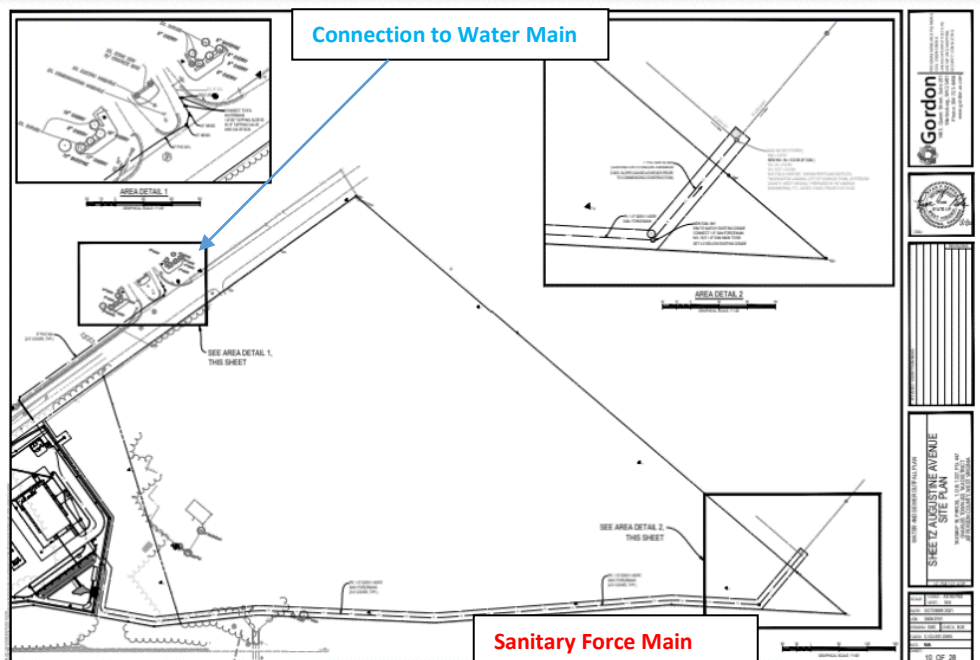
The applicant is requesting a waiver from Section 20.201A.3 (see excerpt below) to allow the proposed subdivision of the 4.42 acre Chicchirichi property into the 3.02 acre Highway Commercial lot for the Augustine Avenue Sheetz and the 1.4 acre Rural residue to process as a Minor Subdivision. One of the key differences between the Minor and Major Subdivision processes relates to the provision of utilities to the property. By definitions, minor subdivisions are those that do not require the development of new off-tract infrastructure or the extension of existing off-tract infrastructure. Therefore, all minor subdivisions require documentation of permit approval from the West Virginia Bureau of Health and/or the Jefferson County Health Department for on-site well and septic sewer systems, or letters of water and/or sewer availability from the relevant public utility providers. This request is to waive this requirement and to allow the applicant to process a minor subdivision without utility approval.



**Relevant Site Information:**

The subject parcel has been partially rezoned to allow for the development of a Sheetz convenience store and gas station at the northeast corner of Augustine Avenue and US 340. As properties cannot be developed with two zoning categories, a subdivision is required to divide off the commercial property from the balance of the rural property. The Augustine Avenue Sheetz Site Plan is processing as a Major Site Plan because it requires the extension of off-site water and sewer utilities. The draft Site Plan for the Augustine Sheetz indicates that a sanitary sewer force main will be along the southern edge of the Chicchirichi property to the Sheetz property and the water main will be extended from the entrance to the Huntfield Subdivision along Augustine Avenue to the Sheetz property.

Therefore, eventually, the 1.4 acre rural residue will have public water and sewer adjoining the property which will not require the off-site extension of utilities, but allow lateral service lines to the property.



**Reconsideration of Sheetz Augustine Ave MSD Waiver Request (File #22-7-PCW)**

**Staff Discussion/Recommendation:**

The applicant is ready to proceed with processing a subdivision plat, if the road frontage [*note: approved 4-12-22*] and utility provider waivers [*previously denied; requested to be reconsidered tonight*] are approved, so that the Site Plan for the Augustine Avenue Sheetz can be approved. There are often timing issues for new developments in areas that utilities and road improvements are planned that can potentially benefit multiple properties in the future. While it may seem reasonable to allow the processing of this subdivision as a Minor Subdivision, it will be important to have conditions on the plat that restrict any potential building permits or site development plans from being approved unless and until the Health Department permits and/or utility provider availability letters can be obtained [*these have been provided in tonight's packet*]. A note to this effect should be required on the Minor Subdivision if the Planning Commission is inclined to approve this waiver request.

**Waiver Requirements:**

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

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

**Reconsideration of Sheetz Augustine Ave MSD Waiver Request (File #22-7-PCW)**

**Sections of Subdivision Regulations under Consideration:**

**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, or two (2) nonresidential 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. A list of all deed transfers since October 5, 1988 shall be submitted with each plat.

**A. Residential**

All minor residential subdivisions shall conform with the following:

1. A minor residential subdivision divides the property into lots and a residue parcel. The subdivision of the lots creates the residue parcel out of the original parcel.
2. All lots, regardless of the zoning district, shall have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots to either:
  - a. A WV DOH road right-of-way or easement; or
  - b. A road in a major subdivision that meets county roadway design standards (Table 2.2-1)  
However, in the Rural District, lots having a minimum road frontage of 200 feet may have a single access onto an existing WV DOH right-of way or easement or a road in a major subdivision that meets county roadway design standards (Table 2.2-1). Shared driveway access on the adjoining property lines may be required if the distance between the driveways is less than 200 feet.
3. Potable water and sanitary sewer service shall be provided according to the requirements of Appendix B, Engineering Standards. All submissions shall provide a plat approved by the Department of Health or letters of water and sewer availability, as applicable.

**Sec. 1.4 Final Plat**

The Final Plat shall be drawn or reproduced on Mylar for recordation. The plat shall be drawn at a scale of one inch (1") equals one hundred feet (100') or larger and shall be eighteen inches (18") by twenty-four (24") in size. More than one sheet may be used provided all sheets are indexed on the cover sheet.

The Final Plat is the plat for recordation of the lots created by the subdivision. The Final Plat shall show or be accompanied by:

28. Note on the plat, the West Virginia Bureau of Health and/or Jefferson County Health Department permit numbers for water/well and septic/sanitary sewer systems; and provide a copy of the approved plans and permits.





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 #: 22-7-PCW  
 Mtg Date: 04-12-22  
 Date Rec'd: 3-17-22  
 Fees Paid: 100.00  
 Staff Int: TL  
 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: GUY CHICCHIRICHI  
 Business Name: N/A  
 Mailing Address: 1316 N. MILDRED ST; RANSON, WV  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Contact Information**

Applicant Name: BOB FRANKS Same as owner:   
 Business Name: SHEETZ, INC.  
 Mailing Address: 5700 SIXTH AVENUE; ALTOONA, PA  
 Phone Number: 814-935-4798 Email: BFRANKS@SHEETZ.COM

**Consultant Information**

Name: BEN SVEDLOW  
 Business Name: INTEGRITY FEDERAL SERVICES  
 Mailing Address: 148 NORTH QUEEN ST; MARTINSBURG, WV 25401  
 Phone Number: 304-725-8456 Email: BSVEDLOW@IFS-AE.COM

**Physical Property Details**

Physical Address: NE OF US 340 AND AUGUSTINE AVENUE INTERSECTION, CHARLES TOWN, WV Vacant Lot:   
 Tax District: CHARLES TOWN Map No: 16 Parcel No: 1  
 Parcel Size: 4.41 AC. Deed Book: 1227 Page No: 447  
 Zoning District: HIGHWAY COMMERCIAL AND 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?**

THIS APPLICATION IS REQUESTING TO WAIVE SECTION 20.201A.3 OF THE 2018 JEFFERSON COUNTY SUBDIVISION ORDINANCE.

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

THE PURPOSE OF THIS APPLICATION IS TO REQUEST TO WAIVE THE REQUIREMENT OF UTILITY APPROVAL.

**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.**

THERE WILL BE NO INCREASE, OR REDUCTION IN COUNTY MAINTENANCE COSTS, AN INCREASE IN PUBLIC OPEN SPACE, OR PARKLAND RESULTING FROM THE GRANTING OF THIS WAIVER REQUEST. DUE TO THE NATURE OF THIS REQUEST, NO IMPACT TO THESE ITEMS CAN BE ACHIEVED TO BENEFIT THE COUNTY.

**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.**

IF GRANTED, THE WAIVER WILL HAVE NO ADVERSE AFFECT TO PUBLIC HEALTHL, SAFETY, OR WELFARE, OR THE RIGHTS OF ADJACENT PROPERTY OWNERS OR RESIDENTS AS THE UTILITIES WILL BE PROVIDED AFTER THE SHEETZ SITE PLAN HAS BEEN APPROVED AND CONSTRUCTION HAS COMMENCED; AND, TO ALLOW THE PROPOSED ONE-LOT SUB-DIVISION TO PROCESS AS A MINOR.


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

IF GRANTED, THIS WAIVER WILL BE KEEPING WITH THE INTENT AND PURPOSE OF THIS ORDANCE BECAUSE AS A CONDITION OF APPROVAL OF THIS WAIVER, ONCE UTILITIES HAVE BEEN INSTALLED IN ACCORDANCE WITH THE SHEETZ SITE PLAN THAT A MINOR PLAT CHANGE WILL BE REQUIRED TO REFLECT THE UTILITIES APPROVAL.

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

IF GRANTED, THIS WILL ALLOW FOR THE SUBSEQUENT APPROVAL OF THE SHEETZ SITE PLAN, ALLOWING THE PROJECT TO CONTINUE TO MOVE FOWARD THROUGH THE PERMITTING PROCESS AND UTLIMATELY BEGIN PROVIDING SERVICES TO THE AREA.

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.

 3/16/22  
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: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

RESIDUE PARCEL

N/F  
GUY GARETH CHICCHIRICHI  
D.B. 950, PG. 94  
DIST 2, TM 16, PAR 3

N/F  
GUY GARETH CHICCHIRICHI  
D.B. 1227, PG. 447  
DIST 2, TM 16, PAR 1

NEW LOT

# SHEETZ AUGUSTINE AVENUE

EXHIBIT



148 S. Queen Street, Suite 201  
Martinsburg, WV 25401  
Phone: 304-725-8456  
www.gordon.us.com

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

SCALE: 1"=XX'
DATE: MARCH 2022
JOB: 3506-0101
DRAWN: BJS
CADD: 20.201A.3 EXHIBIT.DWG
SHEET: 1 OF 1





# INTEGRITY FEDERAL SERVICES

May 24, 2022

Jefferson County Planning Commission  
104 East Washington Street  
Charles Town, WV 25414

Re: Sheetz Augustine Avenue  
INTEGRITY Project: 3506-0101  
County/Town File Number: 22-7-PCW

Dear Planning Commission:

The purpose of this letter is to request a reconsideration of the request to waive the requirement of the extension of existing off-tract infrastructure and allow the proposed subdivision to move forward as a Minor Subdivision Plat as per section 20.201A.3, letters of water and sewer availability have been obtained. The following are additional justification to allow for the approval of this waiver request.

- o At the time of the prior request, the project did not have health department approval for the extension or CTUB availability letters. These items have been obtained to include the residue lot.
- o During the meeting, it was not accurately conveyed to the PC members that the new lot would have available sewer on their lot. A water stub for the lot is provided and the sewer will exist on the lot in the form of a force-main that they will be able to tie into in the future with a grinder pump whenever they would like and not require any additional offsite infrastructure.
- o As discussed with Jefferson County Staff, there is not a better option that fits a project such as this, which has a commercial use with a vacant rural lot to be created without any subdivision roads. It is a gap in the ordinance that warrants the waiver. This is the first time we have encountered this unique situation in nearly two decades of experience working in Jefferson County.
- o The intent of the ordinance is still maintained because the collective project is going through the major site plan process with all the same requirements and number of meetings that have already been held and going through a major subdivision is an undue hardship that was not fully explained to the board previously.

Based on the justifications above, we feel that the request to reconsider and approve this waiver is the best course of action for the Project, County, and Public. To facilitate the approval of this waiver, the availability letters addressing the Sheetz lot and the residue lot along with the Health Department Permit and confirmation email that no changes to the permit are required to accommodate the additional residue lot have been attached to this reconsideration request.



Civil Engineering | Landscape Architecture | Planning  
148 South Queen Street, Suite 201, Martinsburg, WV 25401 • 304-725-8456  
Service-Disabled Veteran-Owned Small Business

Please feel free to contact me at 304-725-8456 or by email at [jgerhart@ifs-ae.com](mailto:jgerhart@ifs-ae.com) if you should have any further questions.

Sincerely,

Integrity Federal Services, Inc. (INTEGRITY)



Jason Gerhart, P.E.  
Director of Engineering

g:\project\admin\0000 standardized forms - ifs\ifs letterhead\ifs comment response letter.docx



# Charles Town Utility Board

661 S. George Street, Suite 101 Charles Town, WV 25414  
Phone: (304) 725-2316 ♦ Fax: (304) 725-7150 ♦ Web: [www.ctubwv.com](http://www.ctubwv.com)

December 16, 2021

**UTILITY  
BOARD**

CHAIRMAN  
*Daryl  
Hennessy*

VICE  
CHAIRMAN  
*Pete  
Kubic*

TREASURER  
*Thomas  
Stocks*

INTERIM  
SECRETARY  
*Ashley  
Stottlemeyer*

*City of Ranson  
Mayor  
Duke  
Pierson*

*Jacquelyn  
Milliron*

UTILITY  
MANAGER  
*Kristen  
Stolipber*

Re: Sheetz – Augustine Avenue

Water/Sewer Availability

Delivered via email to [dsmith@ifs-ae.com](mailto:dsmith@ifs-ae.com)

Dear Mr. Smith:

Pursuant to your request for water and sewer availability for the subject property located on Augustine Avenue we offer the following:

**Water Service:**

The Charles Town Utility Board (CTUB) can furnish water service for the development of a Sheetz service station and convenience store. The Water Capacity Improvement Fees of \$2,576.00 per equivalent dwelling unit (EDU) will apply. CTUB utilizes the WVPSC Residential Usage Equivalent Chart to calculate the EDU's. The Water Capacity Improvement Fee is calculated as follows:

$$500 \text{ Gallons Per Day / Set of Pumps} \times 5 \text{ Set of Pumps} = 2,500 \text{ Gallons Per Day}$$

$$2,500 \text{ Gallons Per Day} \div 150 \text{ Gallons Per Day/ 1 EDU} = 16.66 \text{ EDU}$$

$$16.66 \text{ EDU} \times \$2,576.00 = \mathbf{\$42,916.16}$$

Additionally, a \$500.00 tap fee will be required should the builder want CTUB to perform the tap. Please provide our office with separate checks for the CIF fees and tap fees. A copy of the CTUB Rates, Rules and Regulations can be found at: [www.ctubwv.com](http://www.ctubwv.com).

**Sewer Service:**

CTUB can furnish sewer service for the development of a Sheetz service station and convenience store. The Sewer Capacity Improvement Fees of \$1,127.00 and \$2,875.00 per residential unit will apply. CTUB utilizes the WVPSC Residential Usage Equivalent Chart to calculate the EDU's. The Sewer Capacity Improvement Fee is calculated as follows:

$$500 \text{ Gallons Per Day / Set of Pumps} \times 5 \text{ Set of Pumps} = 2,500 \text{ Gallons Per Day}$$

$$2,500 \text{ Gallons Per Day} \div 150 \text{ Gallons Per Day/ 1 EDU} = 16.66 \text{ EDU}$$

$$16.66 \text{ EDU} \times (\$1,127.00 + \$2,875.00) = \mathbf{\$66,673.32}$$

Additionally, a \$400.00 tap fee will be required should the builder want CTUB to perform the tap. Please provide our office with separate checks for the CIF fees and tap fees. A copy of the CTUB Rates, Rules and Regulations can be found at: [www.ctubwv.com](http://www.ctubwv.com).

If you have any questions, please contact me at (304) 725-2316.

Sincerely,



Travis Markley  
Engineering Technician



# Charles Town Utility Board

661 S. George Street, Suite 101 Charles Town, WV 25414  
Phone: (304) 725-2316 ♦ Fax: (304) 725-7150 ♦ Web: [www.ctubwv.com](http://www.ctubwv.com)

April 20, 2022

Re: Sheetz – Augustine Avenue

**UTILITY  
BOARD**

Water/Sewer Availability

Delivered via email to [jgerhart@ifs-ae.com](mailto:jgerhart@ifs-ae.com)

INTERIM  
CHAIRMAN  
*City of Charles  
Town  
Mayor Bob Trainor*

Dear Mr. Gerhart:

Pursuant to your request for an additional water and sewer availability for the residual parcel adjacent to the proposed Sheetz on Augustine Avenue we offer the following:

VICE  
CHAIRMAN  
*City of Ranson  
Mayor  
Duke  
Pierson*

**Water Service:**

The Charles Town Utility Board (CTUB) can furnish water service for the site as of this date. Ultimate development use will need to be confirmed prior to connection. At that time fees will be established and provided to the developer.

TREASURER  
*Thomas  
Stacks*

**Sewer Service:**

CTUB can furnish sewer service for the development for this site as of the date of this letter. Ultimate development use will need to be confirmed prior to connection. At that time fees will be established and provided to the developer.

INTERIM  
SECRETARY  
*Ashley  
Stottlemeyer*

A copy of the current CTUB Rates, Rules and Regulations can be found at: [www.ctubwv.com](http://www.ctubwv.com).

County Commission  
Representative  
*Jacquelyn  
Milliron*

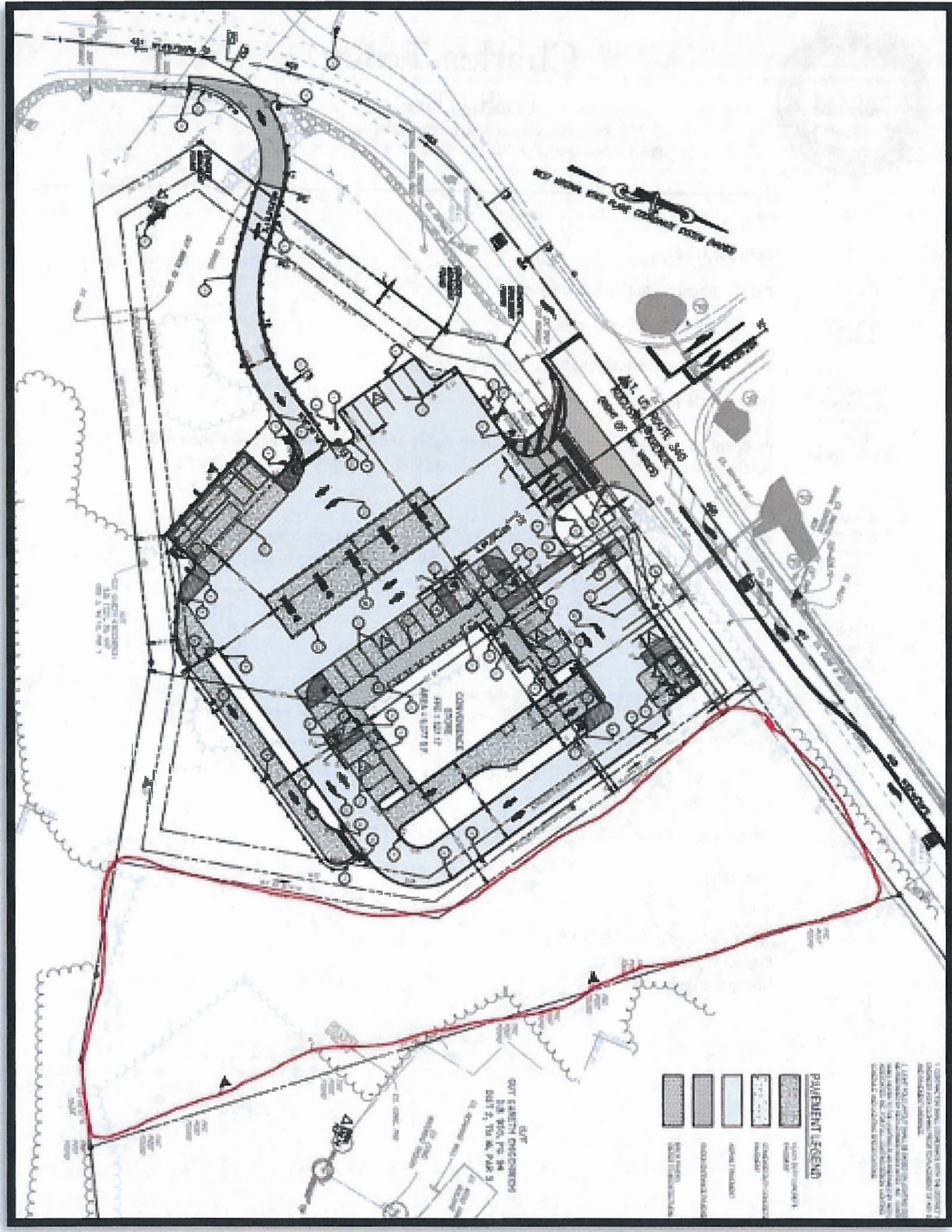
If you have any questions, please contact me at (304) 725-2316.

Board Member  
*Jefferson  
Whitten*

Sincerely,

Kristen Stolipher  
Utility Manager

UTILITY  
MANAGER  
*Kristen  
Stolipher*



**PAYMENT LEGEND**

- STIPPLED SHADING
- HORIZONTAL LINE SHADING
- VERTICAL LINE SHADING
- DIAGONAL LINE SHADING (TL-BR)
- DIAGONAL LINE SHADING (BL-TL)
- SOLID GREY SHADING
- WHITE SHADING

OUT EASTERN DISPOSITIONS  
 SEE PLAN FOR THE  
 BOSTON, THE AL. PLAN 3

1. ALL RIGHTS RESERVED BY THE ARCHITECT. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.

# State of West Virginia

## OFFICE OF ENVIRONMENTAL HEALTH SERVICES

350 CAPITOL STREET, ROOM 313

CHARLESTON, WV 25301-3713

Telephone (304) 558-2981

### PERMIT

(Sewer and Water)

**PROJECT:** Sheetz Store (Augustine Avenue)

**PERMIT NO.:** 20,825

**LOCATION:** Charles Town

**COUNTY:** Jefferson

**DATE:** 2-3-2022

THIS IS TO CERTIFY that after reviewing plans, specifications, application forms, and other essential information that

**Charles Town Utility Board  
661 South George Street Suite 101  
Charles Town, West Virginia 25414**

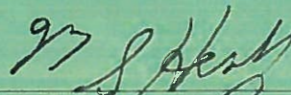
is hereby granted approval to: install approximately 134 LF of 8" and 58 LF of 6" sewer line; one (1) 25 GPM quadplex grinder pump station; approximately 1,604 LF of 2" force main; and necessary manholes and cleanouts. Also, to install approximately 684 LF of 6" water line and all necessary valves and appurtenances.

Facilities are to serve one (1) commercial customer (Sheetz Store & Carwash on Augustine Avenue).

**Note: This permit is contingent upon all new water line being disinfected flushed and bacteriologically tested prior to use.**

Validity of this permit is contingent upon conformity with plans, specifications, application forms, and other information submitted to the West Virginia Bureau for Public Health. Sewage permits become null & void if no construction is started one (1) year after the permit date of issuance. Water permits become null & void if no construction is started four (4) years after the permit date of issuance.

FOR THE DIRECTOR,



William S. Herold, Jr., P.E., Assistant Manager  
Infrastructure and Capacity Development  
Environmental Engineering Division

pc: GORDON  
Jefferson Brady, PE, DEP  
Jim Weimer, P.E., PSC-Engineering Division  
Jefferson County Health Department  
OEHS-EED Kearneysville District Office

## Ben Svedlow

---

**From:** Herold, William S <william.s.herold@wv.gov>  
**Sent:** Thursday, April 21, 2022 4:38 AM  
**To:** Ben Svedlow  
**Subject:** Re: Sheetz Augustine Avenue Permit #20,825 (Water and Sewer)

No updated permit required.

Bill Herold, P.E.  
WVDHHR  
Bureau for Public Health  
Environmental Engineering Division  
350 Capitol Street, Room 313  
Charleston, WV 25301-3713  
Phone: 304-352-5008  
Fax: 304-558-4322

Confidentiality Notice: This message, including any attachments, is for the sole use of the individual or entity named above. the message may contain confidential health and/or legally privileged information. if you are not the above-named recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of this message is strictly prohibited. If you have received this message in error, please notify the sender immediately and destroy all copies of the original message.

On Wed, Apr 20, 2022 at 2:39 PM Ben Svedlow <[bsvedlow@ifs-ae.com](mailto:bsvedlow@ifs-ae.com)> wrote:

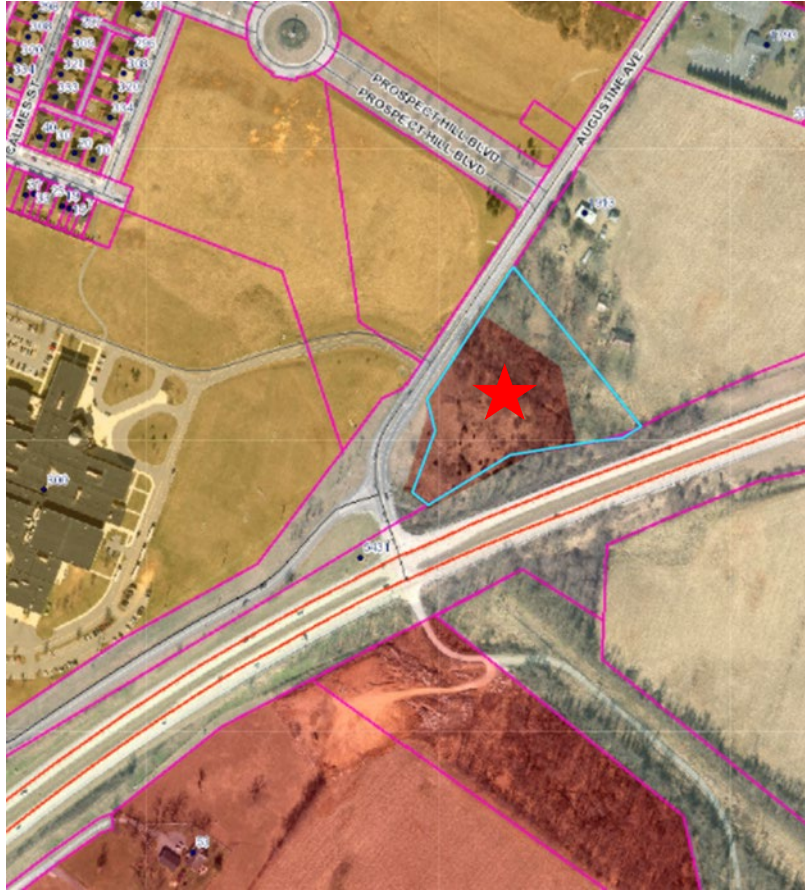
Bill,

The County is asking us to accommodate the residue parcel we are creating for the Sheetz project (Permit #20,825). I have included a snip-it below of the vacant residue lot I am talking about circled in **red**. The Charles Town Utility Board is aware and will get us updated availability letters to address that vacant residue lot tomorrow but I wanted to let you know. Do we need to resubmit for an updated permit? The county told us they would be fine with even just an email if you don't need to issue a new permit but let me know. I attached the current permit you already issued for reference.

Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022

**Sheetz Augustine Ave (Archaeological) Waiver Request (File #22-14-PCW)**

**Item # 10: Public Hearing:** Request by Sheetz, Inc for a waiver from Section 24.113.B.10 of the Subdivision Regulations, which requires an Archaeological Study for all Major Subdivision Preliminary Plats.

Owner	Guy Chicchirichi
Applicant	Bob Franks, Sheetz, Inc
Property Location	NE corner of Augustine Ave. & US 340 intersection south of Charles Town
Surveyor/Engineer	Integrity Federal Services, Ben Svedlow
Parcel Location and Information	<p>Tax District: Charles Town (02); Tax Map: 16; Parcel: 1; Parcel ID: 02001600010000;          Size: 4.42 acres; Zoning: Highway Commercial (3.02 acres) &amp; Rural (1.4 acres)</p> 
Adjacent Zoning	<i>North/West:</i> Incorporated Town (Neighborhood Residential); <i>South:</i> Incorporated Town (General Commercial) and County (Rural); <i>East:</i> Rural
Proposed Activity	Major Subdivision (21-17-SD) between a 3.02-acre Highway Commercial lot and a 1.4-acre Rural lot.
Previous Approvals/Actions:	<ul style="list-style-type: none"> <li>• 21-1-Z &amp; 22-2-Z: two Zoning Map Amendments from Rural to Highway Commercial totaling 3.02 acres of the 4.42 acre parcel (CC approval 3/18/21 &amp; 3/17/22)</li> <li>• 21-4-SP: Concept Plan for Augustine Ave Sheetz Store (PC Approved 6/8/21)</li> <li>• 21-22-ZV: Variance for Augustine Ave Sheetz Store to eliminate the required 60' easement along a limited access highway; and the required landscape buffer requirement along a limited access highway (BZA Approved 5/27/21)</li> </ul>

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Sheetz Augustine Ave (Archaeological) Waiver Request (File #22-14-PCW)**

	<ul style="list-style-type: none"><li>• 22-6-PCW: Waiver from Section 20.201A.2.b to reduce the required road frontage to 161 feet for the proposed residue lot zoned Rural (PC Approved 4/12/22)</li><li>• 22-7-PCW: Waiver from Section 20.201A.3 to waive the requirement related to the extension of off-site utilities for Minor Subdivisions (PC DENIED 4/12/22)</li></ul>
--	--

**Site Background:**

The subject property, located at the NE corner of Augustine Avenue and US 340, has been partially rezoned to Highway Commercial to allow for the development of a Sheetz convenience store and gas station at the northeast corner of Augustine Avenue and US 340. As properties cannot be developed with two zoning categories and the previous waiver #22-7-PCW was denied, a Major Non-residential Subdivision is required to divide off the commercial property from the balance of the rural property. All Major Subdivisions require processing a Preliminary Plat and Final Plat.

Article 24, Section 24.113.B.10 of the Subdivision Regulations requires all Major Subdivisions to submit a Phase I Archeological Study with the submission of a Preliminary Plat. The applicant is requesting a waiver from the required Phase I Archeological Study. A determination for the Planning Commission to vote to approve or deny either the Augustine Avenue Sheetz Preliminary Plat Application as complete in accordance with Sections 24.113 and 24.114 of the Subdivision Regulation OR the Augustine Avenue Sheetz Major Site Plan Application as complete in accordance with Sections 24.122 and 24.123 of the Subdivision Regulation, for the purpose of scheduling a Public Hearing for this application is also on tonight's agenda.

**Summary of the Request:**

The applicant has submitted a request to waive the Phase I Archeological Study, which is required with the submission of a Preliminary Plat by Section 24.113.B.10 the Subdivision Regulations. At the Concept Plan (21-4-SP) 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 sent a letter stating that there is one inventoried Category III Historic Resource just NE of the development parcel (of moderate importance and within the City of Charles Town boundary) and one National Register Category I Historic Resource, Little Elmington and its stone barn, approximately ½ mile due East of the development parcel at 1865 Old Cave Rd. It also noted that the vegetation surrounding Little Elmington will obscure a view of the proposed Sheetz gas station. The letter further stated that the JCHLC had no objections to the proposed Charles Town Sheetz on Augustine Ave. since there are no JC County Historic Resources on the development parcel and the proposed development does not extend beyond the current parcel boundaries.

It should also be noted that the subject property has previously been impacted by the construction of US 340 and the intersection with Augustine Avenue. The applicant is requesting that this requirement be waived in light of the fact of this previous disturbance and that there are no known resources on the property.

**Staff Comments:**

Staff understands that the requirement for a Phase I Archeological 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 and where major road construction has occurred have generally been so disturbed as to make it difficult to identify any new

**Sheetz Augustine Ave (Archaeological) Waiver Request (File #22-14-PCW)**

resources. The applicant could be required to notify the Jefferson County Historic Landmarks Commission (JCHLC) and WVDEP if, during construction, any historic resources are discovered.

**Staff Recommendation:**

Staff recommends that this waiver may be a reasonable request for this Highway Commercial zoned property. This property has been actively farmed and previously disturbed by road construction in this area. It is located within the Charles Town Urban Growth Boundary as identified in the *Envision Jefferson 2035 Comprehensive Plan* and has been zoned to allow commercial development to occur at the intersection of two major roads serving Charles Town and southern Jefferson County. Approval should include 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.]

**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 #: 22-14-PCW  
 Mtg Date: 6-14-2022  
 Date Rec'd: 5-24-22  
 Fees Paid: 100.00  
 Staff Int: TL  
 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: GUY CHICCHIRICHI  
 Business Name: N/A  
 Mailing Address: 1316 N. MILDRED ST; RANSON, WV  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Contact Information**

Applicant Name: BOB FRANKS Same as owner:   
 Business Name: SHEETZ, INC.  
 Mailing Address: 5700 SIXTH AVENUE; ALTOONA, PA  
 Phone Number: 814-935-4798 Email: BFRANKS@SHEETZ.COM

**Consultant Information**

Name: BEN SVEDLOW  
 Business Name: INTEGRITY FEDERAL SERVICES  
 Mailing Address: 148 NORTH QUEEN ST; MARTINSBURG, WV 25401  
 Phone Number: 304-725-8456 Email: BSVEDLOW@IFS-AE.COM

**Physical Property Details**

Physical Address: NE OF US 340 AND AUGUSTINE AVENUE INTERSECTION, CHARLES TOWN, WV Vacant Lot:   
 Tax District: CHARLES TOWN Map No: 16 Parcel No: 1  
 Parcel Size: 4.41 AC. Deed Book: 1227 Page No: 447  
 Zoning District: HIGHWAY COMMERCIAL AND 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?**

Article 24, Section 24.113.B.10 Archaeological Survey

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

Before the Concept Plan was approved, it had also been reviewed by the JC Historic Landmark Commission, who made no indication to suggest potential findings of Archaeological remains. In addition, this site had been previously disturbed as part of the Route 340 highway improvements.

**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.**

With the development of this subdivision, fees and taxes will be paid which will benefit the local parks and other costs within the community. There will also be no impact on the County Maintenance for this.

**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.**

This site had been previously disturbed as part of the Route 340 highway improvements. No artifacts are anticipated within the site. The waiver will have no negative impact on the public health, safety, or welfare of the neighbors. If an artifact has been uncovered, the Applicant will contact the appropriate governing bodies.

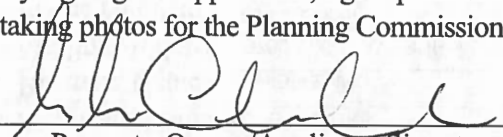
**Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.**

Planning commission and Design Community have all agreed that the intent and purpose of the provision is unclear and undefined. This provision has been routinely waived because of this confusion. Also, this project is primarily a Site Development Plan for a Proposed Sheetz store, that also happens to create one new lot. If the new lot wasn't needed, the Sheets Site Plan would not have this study required.

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

As currently written, the provision does not link to any requirements in the Ordinance. There is no regulations on how the study is to be done, what the study is to entail, or what to do if an artifact is found. Therefore, without further guidelines, the provision is an additional cost without a result. The waiver would allow the construction to begin sooner and open the store sooner, which provides a benefit to the surrounding community by not delaying approval.

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.

 5/24/22  
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: \_\_\_ / \_\_\_ / \_\_\_

# PRELIMINARY PLAT SHOWING SHEETZ AUGUSTINE AVENUE

JEFFERSON COUNTY FILE NUMBER: #S21-4-SP  
CHARLES TOWN DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA

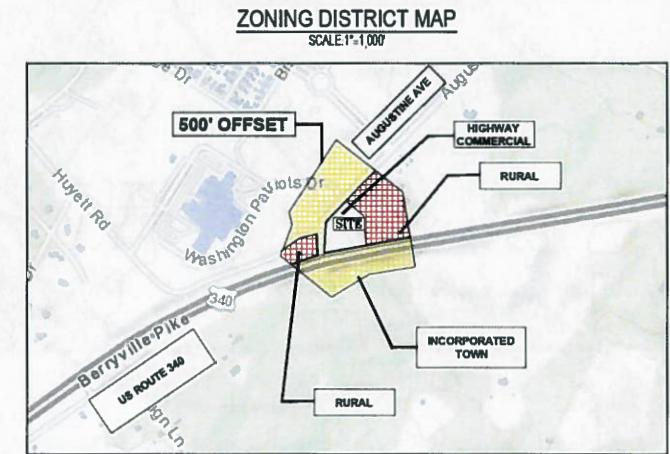
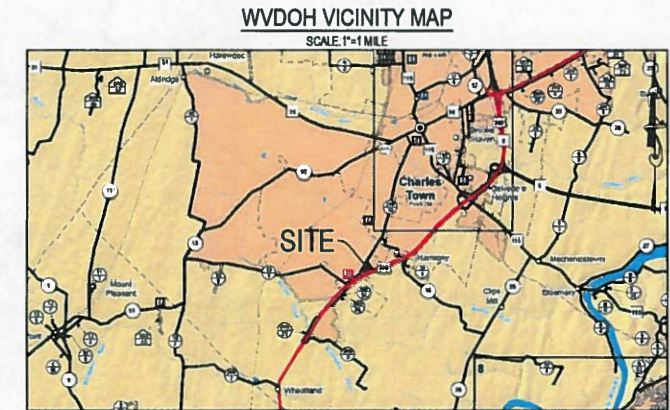
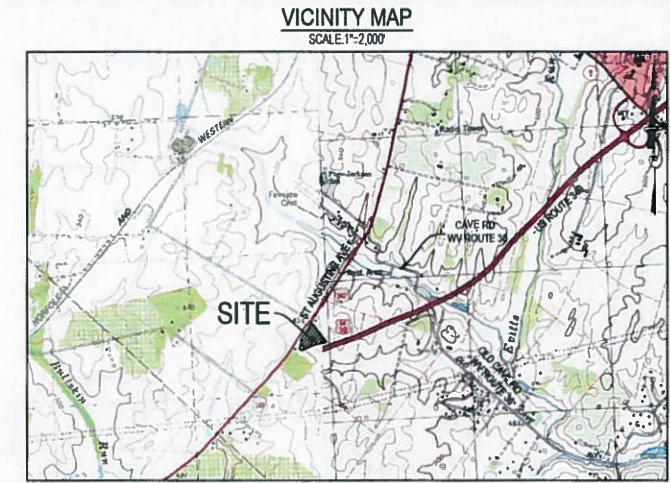
TAX MAP 16, PARCEL 01; D.B. 1227, PG. 447

**OWNER**  
GUY GARETH CHICCHIRICHI  
1316 NORTH MILDRED STREET  
RANSON, WV

**APPLICANT**  
SHEETZ, INC.  
CONTACT: BOB FRANKS  
2700 SIXTH AVENUE  
ALTOONA, PA 16602

**Gordon**  
148 S. Queen Street, Suite 201  
Martinsburg, WV 25401  
Phone: 304-725-8456  
www.gordon.us.com

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



CIVIL LEGEND:	
EXISTING	PROPOSED
BOUNDARY/RIGHT-OF-WAY LINE	BOUNDARY/RIGHT-OF-WAY LINE
ADJACENT BOUNDARY LINE	ADJACENT BOUNDARY LINE
CONCRETE MONUMENT/IRON REBAR	CONCRETE MONUMENT/IRON REBAR
EASEMENT LINE	EASEMENT LINE
ROAD CENTERLINE	ROAD CENTERLINE
HEADER CURB	HEADER CURB
CURB & CUTTER	CURB & CUTTER
EDGE OF PAVEMENT	EDGE OF PAVEMENT
EDGE OF CONCRETE	EDGE OF CONCRETE
EDGE OF GRAVEL	EDGE OF GRAVEL
SIDEWALK	SIDEWALK
GUARDRAIL	GUARDRAIL
BOARD FENCE	BOARD FENCE
CHAIN LINK FENCE	CHAIN LINK FENCE
WIRE FENCE	WIRE FENCE
BUILDINGS	BUILDINGS
RETAINING WALL	RETAINING WALL
MISCELLANEOUS SIGNS	MISCELLANEOUS SIGNS
MAIL BOX	MAIL BOX
SITE LIGHT WITH POLE	SITE LIGHT WITH POLE
BUILDING MOUNTED LIGHT	BUILDING MOUNTED LIGHT
UTILITY POLE	UTILITY POLE
UTILITY POLE GUY WIRE	UTILITY POLE GUY WIRE
OVERHEAD UTILITY LINE	OVERHEAD UTILITY LINE
UNDERGROUND UTILITY LINE	UNDERGROUND UTILITY LINE
OVERHEAD COMMUNICATIONS LINE	OVERHEAD COMMUNICATIONS LINE
UNDERGROUND COMMUNICATIONS LINE	UNDERGROUND COMMUNICATIONS LINE
UNDERGROUND GAS LINE	UNDERGROUND GAS LINE
SANITARY SEWER MAIN	SANITARY SEWER MAIN
SANITARY SEWER FORCE MAIN	SANITARY SEWER FORCE MAIN
SANITARY SEWER MANHOLE	SANITARY SEWER MANHOLE
SANITARY SEWER CLEAN-OUT	SANITARY SEWER CLEAN-OUT
STORM SEWER LINE	STORM SEWER LINE
STORM SEWER MANHOLE	STORM SEWER MANHOLE
STORM SEWER DROP INLET	STORM SEWER DROP INLET
STORM SEWER CURB INLET	STORM SEWER CURB INLET
STORM SEWER RIP-RAP	STORM SEWER RIP-RAP
STORM SEWER END SECTION	STORM SEWER END SECTION
WATER MAIN	WATER MAIN
FIRE HYDRANT	FIRE HYDRANT
WATER VALVE	WATER VALVE
WATER METER	WATER METER
INDEX CONTOUR LINE	INDEX CONTOUR LINE
INTERMEDIATE CONTOUR LINE	INTERMEDIATE CONTOUR LINE
SPOT ELEVATIONS	SPOT ELEVATIONS
TREES/SHRUBS	TREES/SHRUBS
DRIP LINE OF TREES	DRIP LINE OF TREES
LIMITS OF CONSTRUCTION	LIMITS OF CONSTRUCTION
BOIL BOUNDARY	BOIL BOUNDARY



**JEFFERSON COUNTY - COMPLETE LIST OF WAIVERS/VARIANCES**  
(TABLE 12-2)

ORDINANCE	SECTION OF ORDINANCE	DESCRIPTION OF WAIVER OR VARIANCE	DATE GRANTED
ZONING	21-22.2V	VARIANCE TO ELIMINATE REQUIRED 60' EASEMENT AND LANDSCAPE BUFFER ALONG A LIMITED ACCESS HIGHWAY	5/27/21
SUBDIVISION	20.201A.2b	REDUCE RURAL FRONTAGE REQUIREMENT OF 200' TO 161'	4/12/22

**STATEMENT OF ACCEPTANCE:**

THE DEVELOPER, IN SIGNING THIS PLAT, AGREES TO ABIDE BY ALL CONDITIONS, TERMS, AND SPECIFICATIONS PROVIDED HEREON, AND TO COMPLETE ALL THE IMPROVEMENTS REQUIRED BY THE PRELIMINARY PLAT OR SITE PLAN.

BY: \_\_\_\_\_ COUNTY ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_

BY: \_\_\_\_\_ COUNTY PLANNER \_\_\_\_\_ DATE \_\_\_\_\_

SHEETZ, INC.  
2700 SIXTH AVENUE  
ALTOONA, PA 16602

DATE \_\_\_\_\_

**JEFFERSON COUNTY CONSTRUCTION NOTES**  
(TABLE 12-1)

- EROSION & SEDIMENT CONTROL MEASURES SHALL BE IN PLACE AND INSPECTED PRIOR TO PERFORMING ANY SIGNIFICANT EARTH DISTURBING ACTIVITIES AND SITE GRADING.
- EARTH WORK SHALL BE COMPACTED TO THE PERCENTAGES OF MAXIMUM DRY DENSITY IN ACCORDANCE WITH AASHTO 199C, AS SHOWN BELOW:
 

A. ROADWAYS	98%
B. PARKING LOTS FOR HEAVY TRUCKS	98%
C. PARKING LOTS FOR PASSENGER VEHICLES	95%
D. UTILITY LINE TRENCHES	98%
E. BUILDING PADS	100%
- THE ABOVE COMPACTION REQUIREMENTS SHALL BE CERTIFIED BY A PROFESSIONAL ENGINEER OR A SOILS TECHNICIAN UNDER THE DIRECTION OF A PROFESSIONAL ENGINEER, AND ACCEPTABLE TO THE COUNTY ENGINEER.
- CHANGES AND REVISIONS TO THE CONSTRUCTION PLANS AND SPECIFICATIONS SHALL NOT BE MADE UNLESS FIRST SUBMITTED IN WRITING AND APPROVED BY THE COUNTY ENGINEER AND ANY OTHER AGENCIES, AS DEEMED APPROPRIATE.
- WORK ZONE TEMPORARY TRAFFIC CONTROL ALONG A PUBLIC ROAD SHALL BE IN ACCORDANCE WITH WEST VIRGINIA DIVISION OF HIGHWAY REQUIREMENTS AND APPROVAL.
- SEVENTY-TWO (72) HOURS PRIOR TO EXCAVATION IN PUBLIC RIGHT-OF-WAYS OR IN AREAS SERVED BY UNDERGROUND UTILITIES, CALL MISS UTILITY 1-800-245-4848.

**JEFFERSON COUNTY, WEST VIRGINIA**

PRELIMINARY PLAT APPROVAL  
 SITE PLAN APPROVAL

BY: \_\_\_\_\_ COUNTY ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_

BY: \_\_\_\_\_ COUNTY PLANNER \_\_\_\_\_ DATE \_\_\_\_\_

**JEFFERSON COUNTY SITE WORK MILESTONE INSPECTIONS**

THE DEVELOPER SHALL REQUEST COUNTY ENGINEER INSPECTIONS A MINIMUM OF 48 HOURS IN ADVANCE (CALL 304-264-1966). INSPECTIONS SHALL BE REQUESTED ACCORDING TO THE TABLE OF MILESTONES SHOWN BELOW:

- INSTALLATION OF SEDIMENT & EROSION CONTROL DEVICES PRIOR TO BEGINNING SITE GRADING.
- ROADWAY AND/OR PARKING LOT SUBGRADE PROOF ROLL PRIOR TO PLACING STONE BASE.
- ROADWAY AND/OR PARKING LOT STONE BASE DEPTH CHECK PRIOR TO PLACING ASPHALT OR CONCRETE PAVEMENT.
- WATER SYSTEM AND SANITARY SEWER SYSTEM INSPECTION AND APPROVAL BY THE PUBLIC SERVICE DISTRICT/UTILITY PRIOR TO BACKFILLING OF TRENCHES.
- FINAL INSPECTION INCLUDING BUT NOT LIMITED TO: SEEDING & MULCHING, ROADWAY & PARKING LOT PAVING, SIDEWALKS, STORM DRAINAGE AND STORMWATER MANAGEMENT SYSTEMS, TRAFFIC CONTROL SIGNS & PAVEMENT MARKINGS, LANDSCAPING, ETC.

NOTE: THE COUNTY ENGINEER MAY ACCEPT "THIRD-PARTY" INSPECTION AND CERTIFICATION REPORTS IN PLACE OF INSPECTIONS PERFORMED BY THE OFFICE OF ENGINEERING, UPON PRIOR APPROVAL. THIRD-PARTY INSPECTION REPORTS SHALL BE SUBMITTED IN THE FORMAT SPECIFIED BY THE COUNTY ENGINEER.

**LIST OF APPROVALS:**

CHARLES TOWN UTILITY BOARD AVAILABILITY LETTER (WATER) DATED: 12/19/21 (SHEET 2) & 4/20/22 (REBID)	WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES STATE HEALTH PERMITS BUREAU FOR PUBLIC HEALTH PERMIT # 20 895 (WATER & SEWER) DATE: 2-3-2022
CHARLES TOWN UTILITY BOARD AVAILABILITY LETTER (SEWER) DATED: 12/19/21 (SHEET 2) & 4/20/22 (REBID)	WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION WV/DOES PERMIT # WV18111458
WEST VIRGINIA DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS PERMIT # _____ DATED: _____	

**REVISIONS:**

NO.	REVISION NUMBER AND REVISION DESCRIPTION	DATE
1.	COUNTY COMMENTS	01/12/2022
2.	CTUB COMMENTS	04/12/2022
3.	PER UPDATE TO MAJOR SUBDIVISION	04/12/2022

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

**Gordon**  
148 S. Queen Street, Suite 201  
Martinsburg, WV 25401  
Phone: 304-725-8456  
www.gordon.us.com



**REVISIONS**

NO.	REVISION NUMBER AND REVISION DESCRIPTION	DATE
1.	COUNTY COMMENTS	01/12/2022
2.	CTUB COMMENTS	04/12/2022
3.	PER UPDATE TO MAJOR SUBDIVISION	04/12/2022

**COVER SHEET**

**SHEETZ AUGUSTINE AVENUE SITE PLAN**

TAX MAP 16, PARCEL 1; D.B. 1227, PG. 447  
CHARLES TOWN (02) TAX DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA

J.C. FILE #21-4-SP

SCALE: HORIZ: AS NOTED  
VERT: N/A

DATE: OCTOBER 2021

JOB: 3508-0101

DRAWN: DAS CHECK: BJS

CADD: C-GI-001.DWG






NCS: N/A

SHEET: 01 OF 32

**SITE PLAN NOTES:**

1. CONTRACTOR SHALL COORDINATE WITH THE DISTRICT 5 TRAFFIC ENGINEER (KEN CLOWAY) PRIOR TO PLACEMENT OF ANY SIGNING AND PAVEMENT MARKINGS
2. LIGHT POLE LAYOUT SHALL BE BASED ON LIGHTING DESIGN TO BE PREPARED BY RED LEONARD ASSOCIATES, INC. CONTRACTOR SHALL REFER TO THE LIGHTING PLAN PREPARED BY RED LEONARD ASSOCIATES, INC. FOR FULL LIGHTING DESIGN, LIGHTING SCHEDULE, AND LIGHTING SPECIFICATIONS

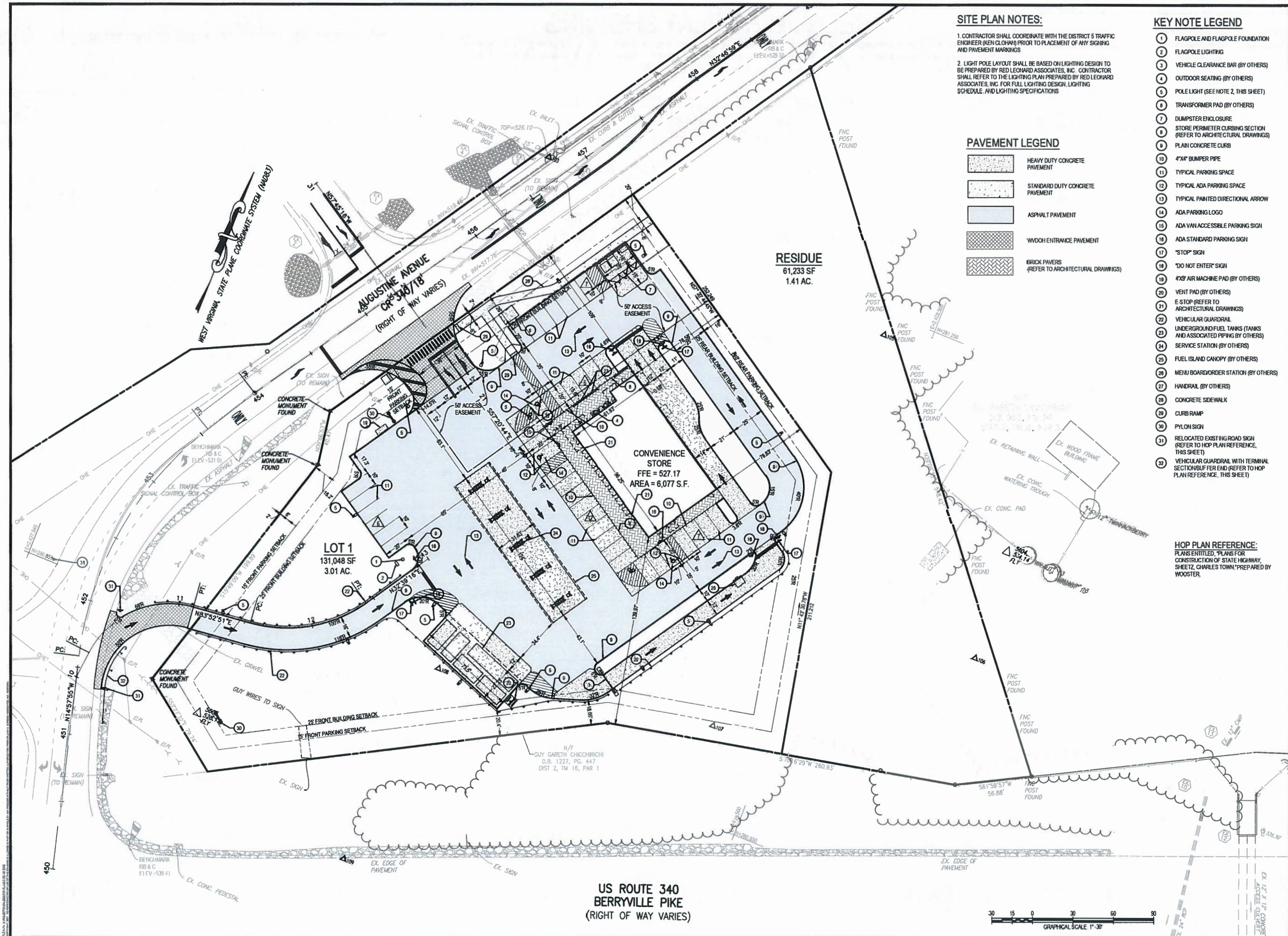
**PAVEMENT LEGEND**

-  HEAVY DUTY CONCRETE PAVEMENT
-  STANDARD DUTY CONCRETE PAVEMENT
-  ASPHALT PAVEMENT
-  WIDOW ENTRANCE PAVEMENT
-  BRICK PAVERS (REFER TO ARCHITECTURAL DRAWINGS)

**KEY NOTE LEGEND**

- 1 FLAGPOLE AND FLAGPOLE FOUNDATION
- 2 FLAGPOLE LIGHTING
- 3 VEHICLE CLEARANCE BAR (BY OTHERS)
- 4 OUTDOOR SEATING (BY OTHERS)
- 5 POLE LIGHT (SEE NOTE 2, THIS SHEET)
- 6 TRANSFORMER PAD (BY OTHERS)
- 7 DUMPSTER ENCLOSURE
- 8 STORE PERIMETER CURBING SECTION (REFER TO ARCHITECTURAL DRAWINGS)
- 9 PLAN CONCRETE CURB
- 10 4"X8" BUMPER PIPE
- 11 TYPICAL PARKING SPACE
- 12 TYPICAL ADA PARKING SPACE
- 13 TYPICAL PAINTED DIRECTIONAL ARROW
- 14 ADA PARKING LOGO
- 15 ADA VAN ACCESSIBLE PARKING SIGN
- 16 ADA STANDARD PARKING SIGN
- 17 "STOP" SIGN
- 18 "DO NOT ENTER" SIGN
- 19 4'X8" AIR MACHINE PAD (BY OTHERS)
- 20 VENT PAD (BY OTHERS)
- 21 E-STOP (REFER TO ARCHITECTURAL DRAWINGS)
- 22 VEHICULAR GUARDRAIL
- 23 UNDERGROUND FUEL TANKS (TANKS AND ASSOCIATED PIPING BY OTHERS)
- 24 SERVICE STATION (BY OTHERS)
- 25 FUEL ISLAND CANOPY (BY OTHERS)
- 26 MENU BOARD/ORDER STATION (BY OTHERS)
- 27 HANDRAIL (BY OTHERS)
- 28 CONCRETE SIDEWALK
- 29 CURB RAMP
- 30 PYLON SIGN
- 31 RELOCATED EXISTING ROAD SIGN (REFER TO HOP PLAN REFERENCE, THIS SHEET)
- 32 VEHICULAR GUARDRAIL WITH TERMINAL SECTION/BUFFER END (REFER TO HOP PLAN REFERENCE, THIS SHEET)

**HOP PLAN REFERENCE:**  
PLANS ENTITLED, "PLANS FOR CONSTRUCTION OF STATE HIGHWAY SHEET, CHARLES TOWN," PREPARED BY WOOSTER.



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NO.	REVISIONS

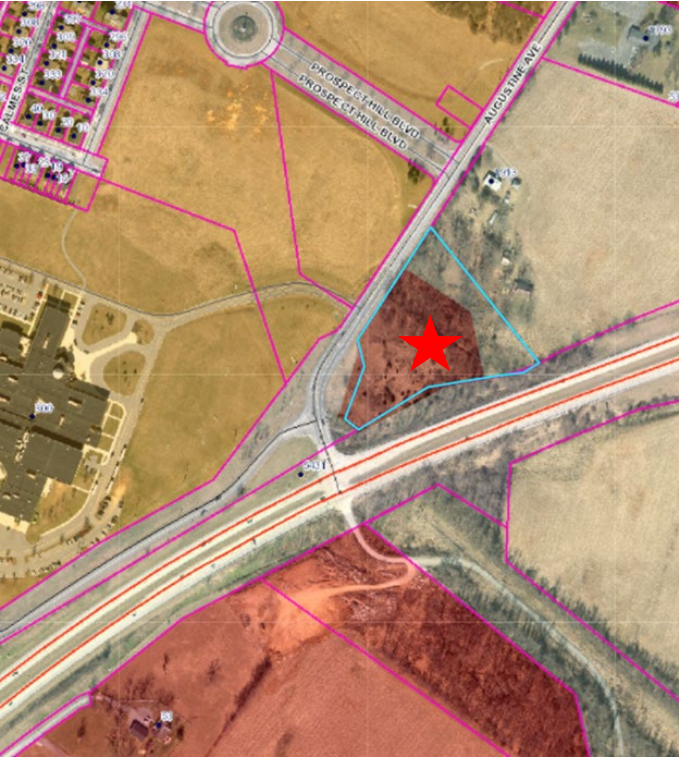
**SITE LAYOUT PLAN**  
**SHEETZ AUGUSTINE AVENUE**  
**SITE PLAN**  
 TAX MAP 16, PARCEL 1, D.B. 1227, PG. 447  
 CHARLES TOWN (02) TAX DISTRICT  
 JEFFERSON COUNTY, WEST VIRGINIA  
 J.C. FILE #21-4-SP

SCALE:	HORIZ: 1"=30'
	VERT: N/A
DATE:	OCTOBER 2021
JOB:	3508-0101
DRAWN:	DAS
CHECK:	BJS
CADD:	C-CS-101 DWG
NCS:	N/A
SHEET:	10 OF 32

Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022

**Sheetz Augustine Ave (Roadway Design) Waiver Request (File #22-15-PCW)**

**Item # 11: Public Hearing:** Request by Sheetz, Inc for a waiver of Appendix B, Section 2.2.C.1 related to the geometric and pavement design requirements of Table 2.2-1 Roadway Design Standards for inter-parcel subdivision roads.

Owner	Guy Chicchirichi
Applicant	Bob Franks, Sheetz, Inc
Property Location	NE corner of Augustine Ave. & US 340 intersection south of Charles Town
Surveyor/Engineer	Integrity Federal Services, Ben Svedlow
Parcel Location and Information	<p>Tax District: Charles Town (02); Tax Map: 16; Parcel: 1; Parcel ID: 02001600010000;          Size: 4.42 acres; Zoning: Highway Commercial (3.02 acres) &amp; Rural (1.4 acres)</p> 
Adjacent Zoning	<p><i>North/West:</i> Incorporated Town (Neighborhood Residential);  <i>South:</i> Incorporated Town (General Commercial) and County (Rural); <i>East:</i> Rural</p>
Proposed Activity	Request to allow a modified road standard for the required interconnectivity between a commercial gas station site and a 1.4 acre Rural lot.
Previous Approvals/Actions:	<ul style="list-style-type: none"> <li>• 21-1-Z &amp; 22-2-Z: two Zoning Map Amendments from Rural to Highway Commercial totaling 3.02 acres of the 4.42 acre parcel (CC approval 3/18/21 &amp; 3/17/22)</li> <li>• 21-4-SP: Concept Plan for Augustine Ave Sheetz Store (PC Approved 6/8/21)</li> <li>• 21-22-ZV: Variance for Augustine Ave Sheetz Store to eliminate the required 60' easement along a limited access highway; and the required landscape buffer requirement along a limited access highway (BZA Approved 5/27/21)</li> <li>• 22-6-PCW: Waiver from Section 20.201A.2.b to reduce the required road frontage to 161 feet for the proposed residue lot zoned Rural (PC Approved 4/12/22)</li> <li>• 22-7-PCW: Waiver from Section 20.201A.3 to waive the requirement related to the extension of off-site utilities for Minor Subdivisions (PC DENIED 4/12/22)</li> </ul>

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Sheetz Augustine Ave (Roadway Design) Waiver Request (File #22-15-PCW)**

**Site Background:**

The subject property, located at the NE corner of Augustine Avenue and US 340, has been partially rezoned to Highway Commercial to allow for the development of a Sheetz convenience store and gas station at the northeast corner of Augustine Avenue and US 340. As properties cannot be developed with two zoning categories and the previous waiver #22-7-PCW was denied, a Major Non-Residential Subdivision is required to divide off the commercial property from the balance of the rural property. All Major Subdivisions require processing a Concept Plan, Preliminary Plat and Final Plat. A Concept Plan was processed for the Augustine Avenue Sheetz Site Plan, which depicted the entire property and the proposed division between the commercially zoned lot and the remaining Rural lot. That Concept Plan has been determined to be sufficient for the Major Subdivision under consideration at this time.

**Subdivision Regulation Requirements:**

Sec. 20.202 of the Subdivision Regulations states that a major subdivision is any subdivision of land that requires the development of streets (public or private) or easements of access to the lots, or common area and/or includes the creation of more than five residential lots or more than two non-residential lots and/or requires the development of new off-tract infrastructure or the extension of existing off-tract infrastructure. Section 21.102 “Streets” requires future connections to all adjoining land for all major subdivisions and states that if the adjoining land is vacant, the subdivision shall provide stub streets to the property line.

Appendix B, Section 2.2C Streets Geometric & Pavement Design states that geometric and pavement design shall be in accordance with Table 2.2-1, Roadway Design Standards; and Subsection 2.c. states that all non-residential (Commercial/Industrial/Institutional) subdivision shall have bituminous asphalt paved roads designed in accordance with Table 2.2-1, Roadway Design Standards. Based on these requirements, a major non-residential subdivision is required to have a county grade road providing access to all lots within a 60- foot right-of-way.

**Summary of the Request:**

The applicant has submitted a request to waive the requirement for county grade road providing access to all lots within a 60-foot right-of-way because the second lot is a 1.4-acre lot zoned Rural and has limited development options. The applicants are proposing to provide a 25-foot access easement to the Rural lot around the back of the Sheetz store, which is proposed to have a two-way commercial road serving the Sheetz property.

**Staff Comments/Recommendation:**

This project presents an unusual circumstance in which a portion of the property rezoned to Highway Commercial and a portion remained as Rural zoning. This is not a typical Major Non-Residential Subdivision and most of the standards and requirements for Major Non-Residential subdivisions do not apply to this development. Staff has worked closely with the applicants to determine the best way to process the division in a way that meets the current development’s requirements and ensures that any future development can be adequately served. While it is not likely that a non-residential development will occur on the Rural property utilizing the proposed 25’ access easement, the easement does provide an opportunity to access the property while future developments are planned for this and adjoining properties.

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Sheetz Augustine Ave (Roadway Design) Waiver Request (File #22-15-PCW)**

It should also be noted that if this property were to process as a Minor Subdivision, a waiver has previously been approved to allow direct access to Augustine Avenue, but the provision of this access easement will also provide additional opportunities to allow development to occur on the Rural property.

**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.

**Sheetz Augustine Ave (Roadway Design) Waiver Request (File #22-15-PCW)**

**Section of Regulations under Consideration:**

**Street Standards for Major Subdivision: Appendix B, Division 2.0**

**Sec. 2.2 Streets**

C. Geometric & Pavement Design.

1. Geometric and pavement design shall be in accordance with Table 2.2-1, Roadway Design Standards; and standard details established by the Chief County Engineer. Items not covered in the standards and details shall be in accordance with West Virginia Division of Highways standards or the latest edition of the American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets, as deemed applicable by the Chief County Engineer.

2. Subdivision roadways shall be as follows:

c. Non-Residential (Commercial/Industrial/Institutional) Subdivision:

A non-residential (Commercial/Industrial/Institutional) subdivision shall have bituminous asphalt paved roads designed in accordance with Table 2.2-1, Roadway Design Standards, and the standard details and pavement sections established by the Chief County Engineer. Non-Residential subdivisions (closed section road) shall have sidewalks along one side of the street and around the cul-de-sac. Sidewalks shall be no closer than one foot from the property line or four feet from the curb face or edge of roadway; and be constructed in accordance with Section 2.2.K.3, Sidewalks & Paths.

Portion of Table 2.2-1 Roadway Design Standards:

<b>Table 2.2-1 Roadway Design Standards<sup>4</sup></b>				
	Residential Local Street Maximum 12 Lot Subdivision	Residential Local Street (Max. 25 lots or units)	Residential Collector Street (Greater than 25 lots or units)	Non-Residential/ Industrial & Commercial Street
ADT	N/A	< or = to 200	>200	N/A
Minimum Turn Lane Width		-	12'	12'
Minimum Horizontal Curve Radius	100'	100'	150'	300'
Minimum Turning Flare Radius at pavement edge	30'	30'	30'	35'
Stopping sight distance	100'	100'	175'	235'
Minimum Road Grade	1.5%	1.5%	1.5%	0.5% w/C&G
	Minimum Road Grade may be 0.50% if 1-1/2' deep x 2' wide flat bottom trapezoidal road drainage ditch provided.			
Maximum Road Grade	10%	9.0%	9.0%	9.0%
Maximum Internal Subdivision Intersection Approach Grade	8%	8%	6%	6%
Pavement Width	20'	20'	22'	26'
Pavement Surface Type	6" Depth Crusher Run Stone	Bituminous Asphalt (per std. detail)	Bituminous Asphalt (per std. detail)	Bituminous Asphalt (per std. detail)
Pavement cross slope	3/8" per ft.	3/8" per ft.	3/8" per ft.	3/8" per ft.
Shoulder Width	3'	3'	3'	4'
Shoulder Type	Crusher Run Stone	Crusher Run Stone	Crusher Run Stone	-
Shoulder cross slope	¼" per ft.	¼" per ft.	¼" per ft.	-
Ditch depth	1.5'	1.5'	1.5'	-
Ditch slope in:	4:1	4:1	4:1	-
Ditch slope out:	2:1	2:1	2:1	-
Ditch Line Treatment	Per Stormwater Management Regulations			
Minimum Road R.O.W. Width	50'	50'	50'	60'
Minimum Cul-de-sac				

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Sheetz Augustine Ave (Roadway Design) Waiver Request (File #22-15-PCW)**

**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, or two (2) nonresidential 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.

A. Residential

All minor residential subdivisions shall conform with the following:

1. A minor residential subdivision divides the property into lots and a residue parcel. The subdivision of the lots creates the residue parcel out of the original parcel.
2. All lots, regardless of the zoning district, shall have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots to either:





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 #: 22-15-PLW  
 Mtg Date: 6-14-2022  
 Date Rec'd: 5-24-2022  
 Fees Paid: 100.00  
 Staff Int: TL  
 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: GUY CHOCCHIRICH I  
 Business Name: N/A  
 Mailing Address: 1316 N. MILDRED ST; RANSON, WV  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Contact Information**

Applicant Name: BOB FRANKS Same as owner:   
 Business Name: SHEETZ, INC.  
 Mailing Address: 5700 SIXTH AVENUE; ALTOONA, PA  
 Phone Number: 814-935-4798 Email: BFRANKS@SHEETZ.COM

**Consultant Information**

Name: BEN SVEDLOW  
 Business Name: INTEGRITY FEDERAL SERVICES  
 Mailing Address: 148 NORTH QUEEN ST; MARTINSBURG, WV 25401  
 Phone Number: 304-725-8456 Email: B S V E L O W @ S - A E . C O M

**Physical Property Details**

Physical Address: NE OF US 340 AND AUGUSTINE AVENUE INTERSECTION, CHARLES TOWN, WV Vacant Lot:   
 Tax District: CHARLES TOWN Map No: 16 Parcel No: 1  
 Parcel Size: 4.41 AC. Deed Book: 1227 Page No: 447  
 Zoning District: HIGHWAY COMMERCIAL AND 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?**

Appendix B, Section 2.2.C.1 Geometric and pavement design shall be in accordance with table 2.2-1, Roadway Design Standards for inter-parcel subdivision roads.

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

A major subdivision typically has County grade subdivision roads to access all lots, and non-residential subdivisions require 60' right-of-ways. Due to the fact that there is one non-residential lot being created and the fact that it has its direct access and the residual lot is vacant, rural, with no proposed use, a subdivision road serves no purpose on this project and isn't what was intended. We would provide a 25' access easement that would wrap around the back of the proposed building. The intent of the Ordinance to provide inter-parcel access is still maintained and staff is supportive of this as well. In addition, after discussion with County Staff, they agree the ordinance never anticipated a 1 lot subdivision in which the new lot is commercial and the residue is rural, vacant land.

**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.**

With the development of this subdivision, fees and taxes will be paid which will benefit the local parks and other costs within the community. There will also be no impact on the County Maintenance for this two-way inter-parcel access easement and result in reduced maintenance cost.

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

The inclusion of an access easement will only allow access to the rural, vacant residue lot. As a result, there will be no adverse affects to public health, safety, or welfare or the rights of adjacent property owners or residents through the inclusion of the access easement.

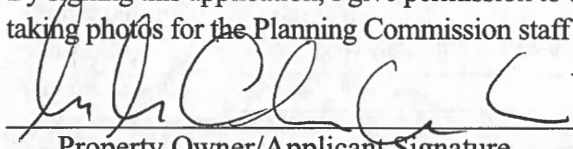
**Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.**

The waiver, if granted, will be in keeping with the intent and purpose of this ordinance as the intent of the access to the adjacent parcel will be met. The Ordinance does not include a provision meeting this proposed project of non-residential lot plus vacant, rural lot.

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

If this waiver is granted, it will result in a project of better quality and character by not including a road that will ultimately not serve anything as the additional lot will ultimately not use the new subdivision road if it were to be provided which warrants this waiver.

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.

 5/24/22  
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: \_\_\_ / \_\_\_ / \_\_\_

**SITE PLAN NOTES:**

1. CONTRACTOR SHALL COORDINATE WITH THE DISTRICT 5 TRAFFIC ENGINEER (KEN CLOHAN) PRIOR TO PLACEMENT OF ANY SIGNING AND PAVEMENT MARKINGS
2. LIGHT POLE LAYOUT SHALL BE BASED ON LIGHTING DESIGN TO BE PREPARED BY RED LEONARD ASSOCIATES, INC. CONTRACTOR SHALL REFER TO THE LIGHTING PLAN PREPARED BY RED LEONARD ASSOCIATES, INC. FOR FULL LIGHTING DESIGN, LIGHTING SCHEDULE, AND LIGHTING SPECIFICATIONS

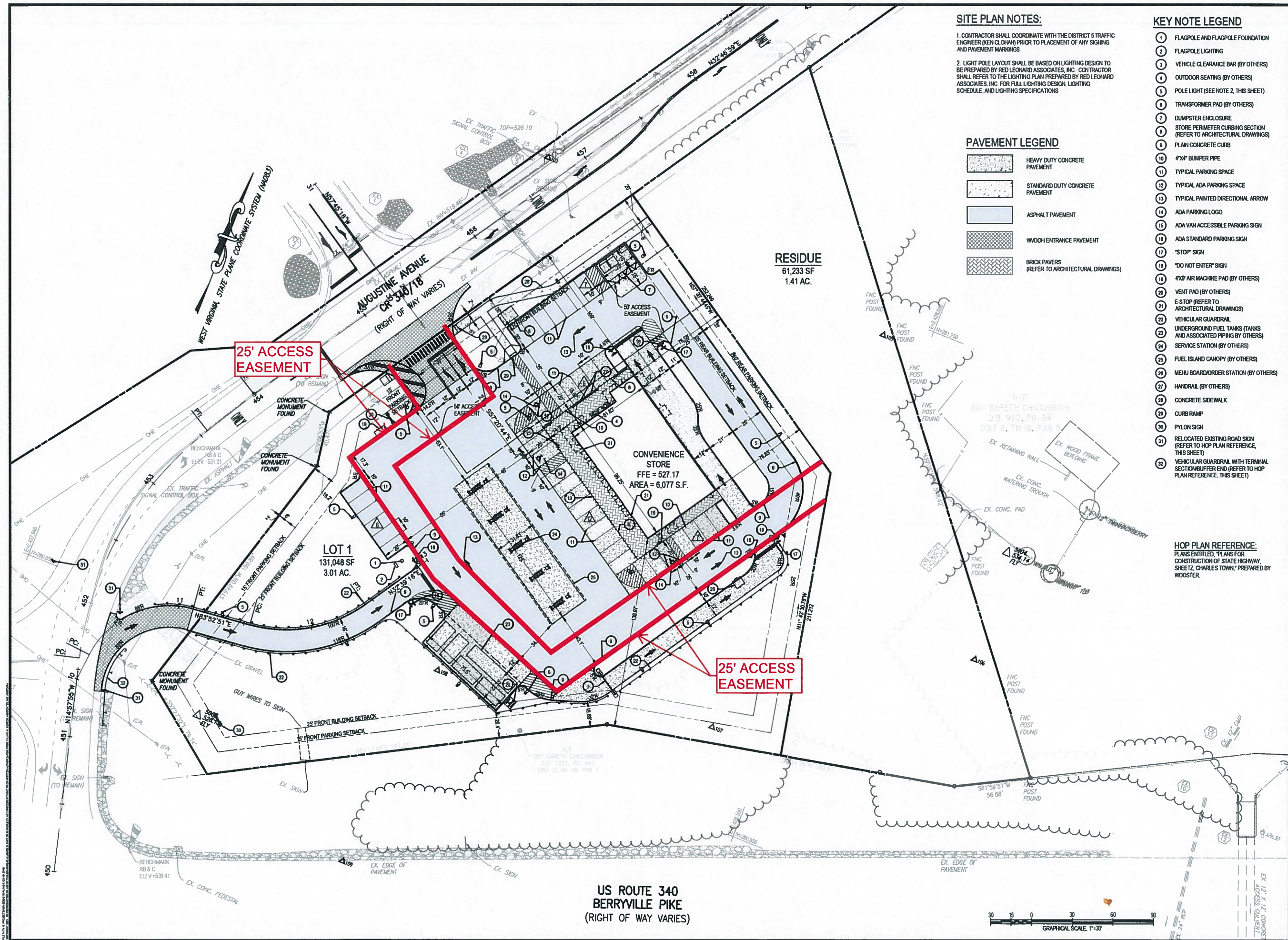
**PAVEMENT LEGEND**

-  HEAVY DUTY CONCRETE PAVEMENT
-  STANDARD DUTY CONCRETE PAVEMENT
-  ASPHALT PAVEMENT
-  WOOD ENTRANCE PAVEMENT
-  BRICK PAVERS (REFER TO ARCHITECTURAL DRAWINGS)

**KEY NOTE LEGEND**

- 1 FLAGPOLE AND FLAGPOLE FOUNDATION
- 2 FLAGPOLE LIGHTING
- 3 VEHICLE CLEARANCE BAR (BY OTHERS)
- 4 OUTDOOR SEATING (BY OTHERS)
- 5 POLE LIGHT (SEE NOTE 2, THIS SHEET)
- 6 TRANSFORMER PAD (BY OTHERS)
- 7 DUMPSTER ENCLOSURE
- 8 STORE PERIMETER CURBING SECTION (REFER TO ARCHITECTURAL DRAWINGS)
- 9 PLANI CONCRETE CURB
- 10 4"X6" BUMPER PIPE
- 11 TYPICAL PARKING SPACE
- 12 TYPICAL ADA PARKING SPACE
- 13 TYPICAL PAINTED DIRECTIONAL ARROW
- 14 ADA PARKING LOGO
- 15 ADA VAN ACCESSIBLE PARKING SIGN
- 16 ADA STANDARD PARKING SIGN
- 17 "STOP" SIGN
- 18 "DO NOT ENTER" SIGN
- 19 4'X8' AIR MACHINE PAD (BY OTHERS)
- 20 VENT PAD (BY OTHERS)
- 21 E STOP (REFER TO ARCHITECTURAL DRAWINGS)
- 22 VEHICULAR GUARDRAIL
- 23 UNDERGROUND FUEL TANKS (TANKS AND ASSOCIATED PIPING BY OTHERS)
- 24 SERVICE STATION (BY OTHERS)
- 25 FUEL ISLAND CANOPY (BY OTHERS)
- 26 MENU BOARD/ORDER STATION (BY OTHERS)
- 27 HANDRAIL (BY OTHERS)
- 28 CONCRETE SIDEWALK
- 29 CURB RAMP
- 30 PYLON SIGN
- 31 RELOCATED EXISTING ROAD SIGN (REFER TO HOP PLAN REFERENCE, THIS SHEET)
- 32 VEHICULAR GUARDRAIL WITH TERMINAL SECTION/BUFFER END (REFER TO HOP PLAN REFERENCE, THIS SHEET)

**HOP PLAN REFERENCE:**  
PLANS ENTITLED, "PLANS FOR CONSTRUCTION OF STATE HIGHWAY, SHEET, CHARLES TOWN (02) TAX DISTRICT WOOSTER."



**Gordon**  
PROGRAMMING AND PLANNING  
CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE  
SURVEY AND MAPPING  
SECURITY CONSULTING  
148 S. Queen Street, Suite 201  
Martinsburg, WV 25401  
Phone: 304-725-8456  
www.gordon.us.com

SEAL: 

NO.	REVISIONS
1	01/17/2022 - COUNTY COMMENTS
2	04/12/2022 - CITY COMMENTS
3	04/22/2022 - PER UPDATE TO MAJOR SUBDIVISION

SITE LAYOUT PLAN  
**SHEETZ AUGUSTINE AVENUE SITE PLAN**  
TAX MAP 16, PARCEL 1, D.B. 1227, PG. 447  
CHARLES TOWN (02) TAX DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA  
J.C. FILE #21-4-SP

SCALE:	HORIZ: 1"=30'	VERT: N/A
DATE:	OCTOBER 2021	
JOB:	3506-0101	
DRAWN:	DAS	CHECK: BJS
CADD:	C-CS-101 DWG	
NCS:	N/A	
SHEET:	10 OF 32	

US ROUTE 340  
BERRYVILLE PIKE  
(RIGHT OF WAY VARIES)

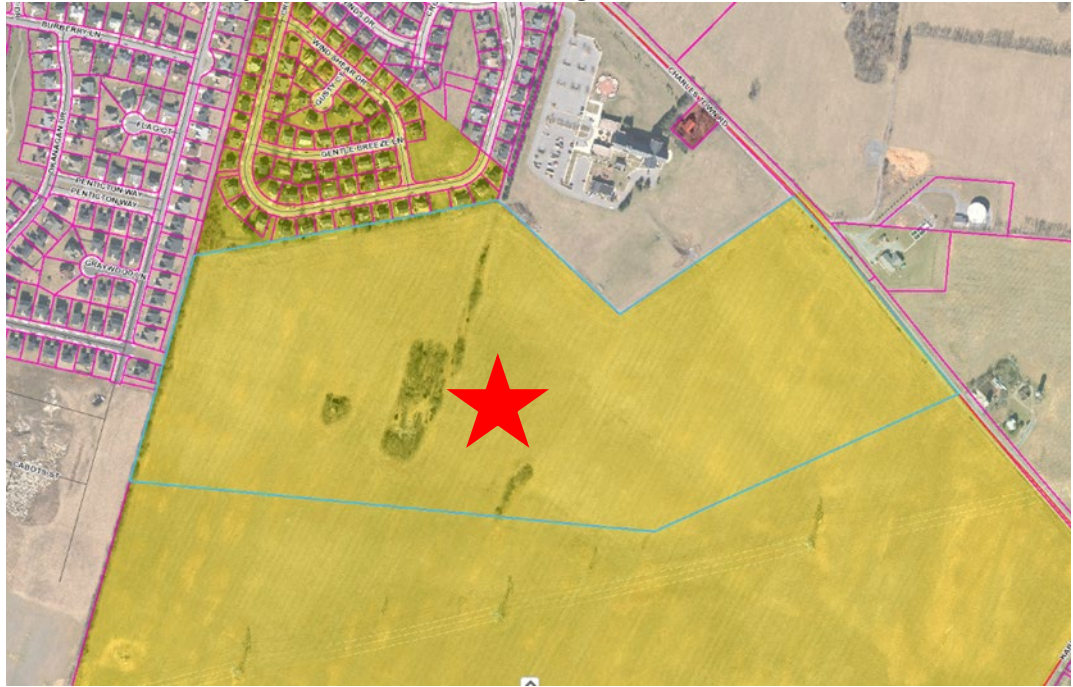




**Staff Report**  
 Jefferson County Planning Commission  
 June 14, 2022

**Kings Crossing Early Grading (File #: 22-16-PCW)**

**Item #12: Public Hearing:** Applicant is requesting a waiver from Section 20.102B to allow for site mass-grading the site prior to the recordation of the final plat, but after approval of the Preliminary Plat and WV DEP approval of the NPDES Permit.

Owner/Developer:	DR Acquisitions LLC
Surveyor/Engineer:	Integrity Federal Services - Jason Gerhart
Property Location:	West of Charles Town Road, next to St. James Catholic Church
Parcel Information and Zoning District:	<p>Tax Dist. Charles Town (02); Tax Map: 17; Parcel: 22 (Parcel ID: 0200170022)                      Total Project Size: 86+ acres; Zoning District: Residential Growth</p> 
Surrounding Zoning:	<p><i>North:</i> Residential Growth (Crosswinds)/Neighborhood Commercial (CT) (Church)  <i>East:</i> Rural/Neighborhood Residential (CT)  <i>South:</i> Residential Growth (undeveloped)  <i>West:</i> Neighborhood Residential (CT) (Norborne Glebe)</p>
Proposed Activity	Major Residential Subdivision (21-8-SD) with 177 single-family detached and 227 attached (townhome) lots (anticipated 404 residential lots).
Previous Approvals:	<ul style="list-style-type: none"> <li>• Kings Crossing Preliminary Plat Public Hearing (PC: 5-17-22; approved)</li> <li>• 22-10-PCW: Waiver of Sect. 24.113.B.10 re: Archaeological Survey (PC Appr 5-17-22)</li> <li>• 21-24-ZV: Variance from Appendix A of the Zoning Ordinance to reduce the side setbacks for the single family detached lots (BZA disapproved 5-27-21).</li> <li>• Kings Crossing Concept Plan Public Workshop (PC: 5-11-21)</li> <li>• 21-13-ZV: Variance from Appendix A of the Zoning Ordinance to reduce the side setbacks for the single family detached lots (BZA disapproved 4-20-21).</li> <li>• 21-6-PCW: Waiver from Section 21.101.A regarding block length (PC Appr. 4-13-21).</li> <li>• 21-7-PCW: Waiver of Section 21.104A regarding min. lot frontage (PC Appr. 4-13-21).</li> </ul>

## Staff Report

Jefferson County Planning Commission

June 14, 2022

### **Kings Crossing Early Grading (File #: 22-16-PCW)**

#### **Subdivision Review Status**

The applicant is proposing the development of a Major Residential Subdivision, known as King's Crossing Subdivision, consisting a mixture of 177 single family detached and 227 single family attached (townhouses) residential lots for a total of 404 lots. The property is located south of St. James Church and Crosswinds Subdivision, south of Charles Town on the west side of WV 115, east of Norborne-Glebe Subdivision.

The overall density for this development is 4.7 dwelling units per gross acre for the 86.0-acre property and 7.67 net dwelling units per acre for the 52.7-acre portion of the property which will be occupied by homes. This meets the "medium density" category, which is defined by the *2035 Envision Jefferson Comprehensive Plan* as "3 to 6.99 units per acre".

In accordance with Section 20.202 of the Subdivision Regulations, King's Crossing Subdivision is processing as a Major Residential Subdivision. Major Subdivisions require the processing of a Concept Plan (Sections 24.110 - 24.112), which requires a Public Workshop; a Preliminary Plat (Sections 24.113 – 24.115), which requires a Public Hearing; posting of a surety/bond for all improvements (Division 24.500); and a Final Plat (Section 24.116 – 24.188), which is administratively reviewed and approved.

The Concept Plan Public Workshop for this Subdivision was held on May 11, 2021. The Preliminary Plat Public Hearing was held on May 17, 2022 and approved conditioned upon WV DOH approval of the required Traffic Impact Study and issuance of the Highway Entrance Permit; and Charles Town Utility Board approval of both water and sanitary sewer utility design and connections. Once these approvals have been received, the Preliminary Plat can be stamped as approved and the Final Plat can be submitted for administrative review and approval. After the bond is posted, the Final Plat can be recorded and lots can be sold.

#### **Subdivision Regulation Requirements**

Section 20.102 "Applicability" of the Subdivision and Land Development Regulations states in subsection "B. Approval Required" that "Before development of the land is commenced, subdivision plats and site plans must be approved by the Planning Commission, recorded, and surety posted for required improvements in accordance with these Regulations and the Comprehensive Plan." There is no provision in the Subdivision Regulations allowing the approval and bonding of a portion of the required engineering design for plats and/or site plans, therefore this waiver is required to process before the Planning Commission.

#### **Summary of the Request**

Applicant is requesting a waiver (22-16-PCW) from Section 20.102B of the Subdivision Regulations to allow for mass-grading of the site to commence prior to the recordation of the Final Plat, but after the approval of the Preliminary Plat and WVDEP approval of the NPDES Permit. The request is to allow initial construction to commence during seasons favorable for site work.

This type of waiver request is different from most waiver requests because the applicant is not requesting a waiver from any standards or procedures in this request. The applicant is planning to meet all standards and processes required in the Zoning Ordinance and Subdivision Regulations. The request is to allow the applicant to split the grading approval and bonding from the remainder of the Final Plat subdivision

## **Staff Report**

Jefferson County Planning Commission

June 14, 2022

### **Kings Crossing Early Grading (File #: 22-16-PCW)**

approval and bonding. In the current Ordinance and Regulations, the applicant is required to have an approved Preliminary Plat before any site grading can occur.

The applicant would like to begin the site grading prior to receiving Final Plat approval. There are other communities whose land development regulations allow for rough site grading, before issuance of a final site plan or issuance of a building permit and it is generally a separate permit process. It is understood that the applicant assumes the risk that during final site plan review, a change could occur which would affect the grading that was previously completed. A bond would be required for any work related to the rough grading that would allow the property to be restored to original condition if the Preliminary Plat is not approved or is not completed.

#### **Waiver Requirements**

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

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

#### **Staff Comments/Recommendation**

The Planning Commission has approved several early grading waiver requests, but most were for site plans and one was for a major non-residential subdivision of 4.5 acre. This is the first early grading waiver request for a major residential subdivision.

A major difference from previously approved early grading waiver is the scale of disturbance. Most of the approved early grading waivers were around 5 acre in size. Kings Crossing, a major residential subdivision, is around 86 acre site but being divided into 3 phases. Each phase is proposed to be around 28 acres. Kings Crossing will be mass grading the roadway, SWM area, and the lots all at same time. Each phase for Kings Crossing will be around 5 times more disturbance and investment cost than what has been previously approved.

The Planning Commission should be cautious approving a waiver with significant up front cost without final approvals. The investment cost into the project should not constitute the project to be vested for future approval. It should be made clear to the applicant that this waiver, if approved, does not guarantee the project’s final approval and the applicant will not hold Jefferson County responsible for any financial lost due to any changes caused by the final approval.

## **Staff Report**

Jefferson County Planning Commission

June 14, 2022

### **Kings Crossing Early Grading (File #: 22-16-PCW)**

The intent of a site plan or a major non-residential subdivision is to bring economic development to Jefferson County with more permanent job opportunities while a major residential subdivision would provide construction job until the project is built out. The previously approved early grading waivers were based on economic growth for Jefferson County.

Engineering recommends denial of the waiver due to the significant risk and cost of jump starting the project without final approval. If the Planning Commission is inclined to approve this waiver, the applicant must agree that this approval does not guarantee final approval of the project and shall agree to the following conditions:

- a. A grading permit is issued to allow the owner to perform site grading. This permit is subject to the requirements of the sediment and erosion control plan submitted and approved as part of the grading plan and building permit application and a NPDES permit is obtained; and
- b. The owner/Developer assumes all risk for “jump-starting” the project and understands that the final Preliminary Plat and Final Plat design approved by the Planning Commission might necessitate some changes and additional construction cost; and
- c. Provide bonding of all proposed site improvements related to sediment and erosion control/SWM pertaining to the 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 #: 22-16-PCW  
 Mtg Date: 6-14-2022  
 Date Rec'd: 5-24-2022  
 Fees Paid: 100.00  
 Staff Int: T.L.  
 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: c/o Matt Stare  
 Business Name: DR Acquisitions LLC  
 Mailing Address: 7945 Wormans Mill Road, Frederick, MD 21701  
 Phone Number: 304-420-6046 Email: mstare@drbgroup.com

**Applicant Contact Information**

Applicant Name: Kings Crossing Subdivision jmb Same as owner:   
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Consultant Information**

Name: Jason Gerhart  
 Business Name: Integrity Federal Services  
 Mailing Address: 148 S Queen St. Suite 201, Martinsburg, WV 25401  
 Phone Number: 304-725-8456 Email: jgerhart@ifs-ae.com

**Physical Property Details** Charles Town Road Charles Town, WV 25414

Physical Address: Charles Town Vacant Lot:   
 Tax District: 86 ac. Map No: 17 Parcel No: 22  
 Parcel Size: \_\_\_\_\_ Deed Book: 994 Page No: 667  
 Zoning District: \_\_\_\_\_

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

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

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

Section 20.102.B

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

We are requesting this waiver in order to begin mass-grading the site prior to the recordation of the final plat, but after approval of the Preliminary Plat and WVDEP approval of the NPDES Permit.

1447

**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 request, if granted, would allow for early grading activities to begin prior to the Planning Commission's approval of the Major Subdivision Final Plat, and would not introduce any adverse impacts to the public. This will allow the development to proceed quicker, including advancing the creation of the open space parcels sooner in the project timeline.

**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.**

This waiver, if granted, will not adversely affect the public health, safety, or welfare or the rights of adjacent property owners or residents as it does not introduce any new elements or procedures to the project. This waiver would allow on-site grading to begin earlier and minimize the impact caused by weather events which results in a reduced project duration.

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

All required permits will be in place prior to performing on-site grading, and a bond covering the disturbance will be posted.

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

This waiver, if granted, will result in a project of better quality and/or character by allowing the on-site grading to start sooner during the summer season when the weather is more favorable to mass grading of the site. This will minimize the downtime of the project caused by weather, site constraints, and other unexpected interruptions.

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.

5/24/22

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

**From:** [Jason Gerhart](#)  
**To:** [engineering](#); [Planning Department](#)  
**Cc:** [Tom Evans](#); [Cameron Heath](#); [Matt Stare](#)  
**Subject:** FW: King's Crossing - WVDOH Charleston 1st Submission  
**Date:** Thursday, June 9, 2022 9:38:25 AM  
**Attachments:** [image001.png](#)

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**CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.**

Good Morning,

I wanted to forward the below approval for DOH for the entry for Kings Crossing. We are working through posting the bond with District 5 before it is formally issued, but it is good to point out for the meeting Tuesday that the plans are approved.

Let me know if there are any questions.

Thanks,  
Jason

---

**From:** Cramer, David E <[david.e.cramer@wv.gov](mailto:david.e.cramer@wv.gov)>  
**Sent:** Thursday, June 9, 2022 9:19 AM  
**To:** Tom Evans <[tevans@ifs-ae.com](mailto:tevans@ifs-ae.com)>  
**Cc:** Donald R Meadows <[donald.r.meadows@wv.gov](mailto:donald.r.meadows@wv.gov)>; Kenneth L Clohan <[kenneth.l.clohan@wv.gov](mailto:kenneth.l.clohan@wv.gov)>; Trixie A Willis <[trixie.a.willis@wv.gov](mailto:trixie.a.willis@wv.gov)>; Alanna J Keller <[Alanna.J.Keller@wv.gov](mailto:Alanna.J.Keller@wv.gov)>  
**Subject:** Re: King's Crossing - WVDOH Charleston 1st Submission

The results of DOH review indicate that our previous comments have been addressed adequately and the DOH conditionally approves the Plans, with the following stipulations:

- "Final" approval of the Plans would occur as part of the permit issuance by District Five. From this point forward, the Developer should coordinate with Ms. Trixie Willis (copied) concerning the process by which an encroachment permit would be issued, when appropriate. This set of Plans should accompany the permit application, and the Developer will need to provide to District Five the necessary bond, in an amount to be established by District Five.
- The Developer will be required to provide full-time construction inspection of the Project and provide DOH with copies of the daily inspection reports, and Developer will provide all materials acceptance, QA/QC, etc. The anticipated construction schedule is to be provided to District Five as part of the permitting process and District Five will provide periodic review of the construction also. The Developer must notify District Five of completion of Project construction so that DOH then may perform final review, with the Developer to address any punchlist resulting. The release of the bond by DOH is a function of the acceptance by DOH of the construction; if we aren't notified of completion or Developer doesn't address any punchlist (or notify DOH of completion of that work), then the DOH acceptance won't be

issued and the bond release (subject to some time period after written DOH acceptance) won't occur.

- Any other pertinent conditions of the Developer's agreement with DOH (e.g., any RW conveyance, permits from other agencies, etc.) are to be addressed by Developer.

If additional information is needed, please let us know.

Dave

On Wed, Jun 8, 2022 at 11:52 AM Tom Evans <[tevans@ifs-ae.com](mailto:tevans@ifs-ae.com)> wrote:

Hello Dave,

I hope you're doing well! The client is asking about the 2<sup>nd</sup> submission review. I was just checking to see if everything else downloaded okay or if you had any questions.

Thanks,  
Tom

---

**From:** Tom Evans

**Sent:** Wednesday, May 11, 2022 9:03 AM

**To:** Cramer, David E <[david.e.cramer@wv.gov](mailto:david.e.cramer@wv.gov)>

**Cc:** Mullenax, Matt <[mmullenax@washco-md.net](mailto:mmullenax@washco-md.net)>; Jason Gerhart <[jgerhart@ifs-ae.com](mailto:jgerhart@ifs-ae.com)>; Kenneth L Clohan <[kenneth.l.clohan@wv.gov](mailto:kenneth.l.clohan@wv.gov)>; Willis, Trixie A <[trixie.a.willis@wv.gov](mailto:trixie.a.willis@wv.gov)>; Matt Stare <[mstare@drbgroup.com](mailto:mstare@drbgroup.com)>; Cameron Heath <[cheath@drbgroup.com](mailto:cheath@drbgroup.com)>

**Subject:** RE: King's Crossing - WVDOH Charleston 1st Submission

David,

Here is a path for the plan and comment response letter addressing the 1<sup>st</sup> submission comments <https://gordonassoc.box.com/s/xsiyrqyb2um2hqybhsi7v4ec1ymrby0t>. Let me know if you have any questions.

Thanks,  
Tom

---

**From:** Cramer, David E <[david.e.cramer@wv.gov](mailto:david.e.cramer@wv.gov)>

**Sent:** Monday, March 21, 2022 2:49 PM

**To:** Tom Evans <[tevans@ifs-ae.com](mailto:tevans@ifs-ae.com)>

**Cc:** Mullenax, Matt <[mmullenax@washco-md.net](mailto:mmullenax@washco-md.net)>; Jason Gerhart <[jgerhart@ifs-ae.com](mailto:jgerhart@ifs-ae.com)>; Kenneth L Clohan <[kenneth.l.clohan@wv.gov](mailto:kenneth.l.clohan@wv.gov)>; Willis, Trixie A <[trixie.a.willis@wv.gov](mailto:trixie.a.willis@wv.gov)>; Matt Stare <[mstare@drbgroup.com](mailto:mstare@drbgroup.com)>; Cameron Heath <[cheath@drbgroup.com](mailto:cheath@drbgroup.com)>

**Subject:** Re: King's Crossing - WVDOH Charleston 1st Submission

Thought I transmitted previously; I apologize for the delay. The results of DOH review of the Plans indicate certain issues need to be addressed before approval can be provided, as follow:

1. On sheet 39:

- for the lane shunts shown along WV 115, the transverse stripes within the islands should be noted as Type V, Yellow, 12" Width, Solid Transverse Stripes. See WVDOT Std Details, Vol II, Sheet TEM-3 for details.
- the markings for Legend Note E are to be changed to Type V (currently shown as Type II).
- for all turn lanes, including those on WV 115 and the two Site Drives, based on the provided storage lengths, all ONLY markings need to be replaced by an appropriate additional Arrow marking; no ONLY markings will be included and all turn lanes would have two sets of arrows.
- since the speed limit for WV 115 is 55 mph through the project area, all STOP bars (Legend Note B) should be 24" in width (currently shown as 12").
- on the Aragon Dr approach to WV 115, Plans currently show a Channelizing Line to be placed from approx. Sta 11+70.5 to Sta 12+00. This marking should be removed and the dash markings (shown as Legend Note E) extended (similar to those on the Grand Palace Dr approach).
- if the white edge lines on the entrances are desired, they should connect with the white edge line on WV 115.
- the skips in the turn lane should be listed as Type V and 8" wide.

1. On Sheet 40:

- add reference to Cases A2 and A3 as needed.
- add skid-resistant pavement for the surface course of asphalt – 6" HMA base.

1. Although the Plans segment the Development into Phases, they include the entire Development as studied within the TIS. A DOH permit issued by District Five may include the stipulations that no construction can proceed beyond Phase 2 without the recommended right-turn lane on the WV 9/US 340 Connector approach to the Roundabout at WV 115 with Citizens Way. The plans appear to be submitted for all three phases at the same time. If the Developer's intent is to complete work for only one phase, the Plans should be submitted for that phase only; provide only relevant plan sheets (3 copies) to District Five when submitting for final review for permit.
2. The TIS recommends a left-turn lane on WV 115 at site drive #2 (Grand Palace Drive) but the plans show the left-turn lane at the other entrance to WV 115.
3. Include sight distance diagrams for both proposed entrances on WV 115 and ensure that both locations are marked in the field for review prior to issuing of the permit.
4. Include a typical section for the widening on WV 115, showing all details including, milling, excavation and final grading.
5. Include cross-sections of widening on WV 115 at 50' stationing.
6. Include stationing for begin and end of taper, turn lane, etc. on WV 115 widening and ensure that the total taper length is speed x width.
7. Extend pavement to the end of the taper on both ends of the widening. Ensure that the existing paved shoulder is removed and full depth asphalt placed where thru traffic is diverted to the existing shoulder area.

8. Include pavement marking details for the Candlewood Dr. approach to US 340 where the current markings are deficient.
9. Address any comments/concerns provided by the other agencies (MPO, County) to whom Developer submitted these Plans (per agreement with DOH).

Please review and address each of these comments and provide an electronic submission of the revised Plans, with a written summary indicating the manner in which each comment was addressed. If additional info is needed, let us know.

Dave

On Mon, Mar 21, 2022 at 2:25 PM Tom Evans <[tevans@ifs-ae.com](mailto:tevans@ifs-ae.com)> wrote:

Thanks, I appreciate it.

---

**From:** Cramer, David E <[david.e.cramer@wv.gov](mailto:david.e.cramer@wv.gov)>  
**Sent:** Monday, March 21, 2022 2:24 PM  
**To:** Tom Evans <[tevans@ifs-ae.com](mailto:tevans@ifs-ae.com)>  
**Cc:** Mullenax, Matt <[mmullenax@washco-md.net](mailto:mmullenax@washco-md.net)>; Jason Gerhart <[jgerhart@ifs-ae.com](mailto:jgerhart@ifs-ae.com)>; Kenneth L Clohan <[kenneth.l.clohan@wv.gov](mailto:kenneth.l.clohan@wv.gov)>; Willis, Trixie A <[trixie.a.willis@wv.gov](mailto:trixie.a.willis@wv.gov)>; Matt Stare <[mstare@drbgroup.com](mailto:mstare@drbgroup.com)>; Cameron Heath <[cheath@drbgroup.com](mailto:cheath@drbgroup.com)>  
**Subject:** Re: King's Crossing - WVDOH Charleston 1st Submission

Checking on this. Will get back to you as soon as I can.

Dave

On Mon, Mar 21, 2022 at 2:16 PM Tom Evans <[tevans@ifs-ae.com](mailto:tevans@ifs-ae.com)> wrote:

Hello David and Matt,

I was checking in on this submission from back in January. Is there anything else you need from us?

Thanks,  
Tom

---

**From:** Tom Evans  
**Sent:** Wednesday, January 26, 2022 1:42 PM  
**To:** Cramer, David E <[david.e.cramer@wv.gov](mailto:david.e.cramer@wv.gov)>; Mullenax, Matt <[mmullenax@washco-md.net](mailto:mmullenax@washco-md.net)>  
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**Subject:** King's Crossing - WVDOH Charleston 1st Submission

David and Matt,

Here is a link to the 1<sup>st</sup> submission of the residential neighborhood King's Crossing for review.  
Please let me know if you need anything else.

<https://gordonassoc.box.com/s/sy0e2rxmvak73n5nmpvobc98j06tl8lj>

Thanks,  
Tom

**Thomas M Evans,**

Project Manager



**INTEGRITY**  
FEDERAL SERVICES

CIVIL ENGINEERING | LANDSCAPE ARCHITECTURE | PLANNING

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Building 5, Room 110  
Charleston, West Virginia 25305  
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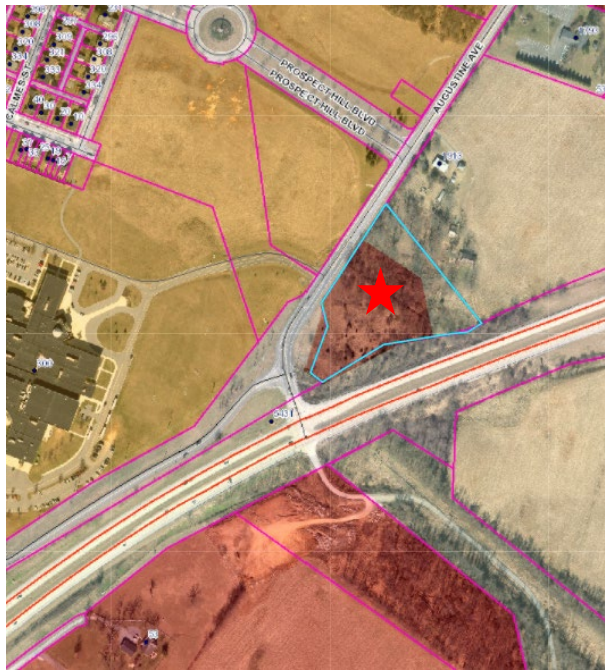


Staff Report  
 Jefferson County Planning Commission Meeting  
 June 14, 2022

**Sheetz Augustine Ave Completeness Determination**

**Item #13: Discussion and Action:** For the Planning Commission to vote to approve or deny one of the following:

- a. The Augustine Avenue Sheetz Preliminary Plat Application (22-17-SD) as complete in accordance with Sections 24.113 and 24.114 of the Subdivision Regulation; **OR**
- b. The Augustine Avenue Sheetz Major Site Plan Application (21-4-SP) as complete in accordance with Sections 24.122 and 24.123 of the Subdivision Regulation, for the purpose of scheduling a Public Hearing for one of these applications.

Owner	Guy Chicchirichi
Applicant	Bob Franks, Sheetz, Inc.
Property Location	NE corner of Augustine Ave. & US 340 intersection south of Charles Town
Surveyor/Engineer	Integrity Federal Services, Ben Svedlow
Property Location & Information	<p>Tax District: Charles Town (02); Tax Map: 16; Parcel: 1; Parcel ID: 02001600010000; Size: 4.42 acres; Zoning: Highway Commercial (3.02 acres) &amp; Rural (1.4 acres)</p> 
Adjacent Zoning	<p><i>North/West:</i> Incorporated Town (Neighborhood Residential);  <i>South:</i> Incorporated Town (General Commercial) and County (Rural); <i>East:</i> Rural</p>
Proposed Activity	Either a Major Subdivision to divide the 1.4-acre Rural lot from the 3.02-acre HC lot <u>OR</u> a Major Site Plan for the Augustine Avenue Sheetz.
Previous Approvals/Actions	<ul style="list-style-type: none"> <li>• 21-1-Z &amp; 22-2-Z: two Zoning Map Amendments from Rural to Highway Commercial totaling 3.02 acres of the 4.42 acre parcel (CC approval 3/18/21 &amp; 3/17/22)</li> <li>• 21-4-SP: Concept Plan for Augustine Ave Sheetz Store (PC Approved 6/8/21)</li> <li>• 21-22-ZV: Variance for Augustine Ave Sheetz Store to eliminate the required 60' easement along a limited access highway; and the required landscape buffer requirement along a limited access highway (BZA Approved 5/27/21)</li> <li>• 22-6-PCW: Waiver from Section 20.201A.2.b to reduce the required road frontage to 161 feet for the proposed residue lot zoned Rural (PC Approved 4/12/22)</li> <li>• 22-7-PCW: Waiver from Section 20.201A.3 to waive the requirement related to the extension of off-site utilities for Minor Subdivisions (PC DENIED 4/12/22)</li> </ul>

**Sheetz Augustine Ave Completeness Determination**

**Site Background/Development Process:**

The subject property, located at the NE corner of Augustine Avenue and US 340, has been partially rezoned to Highway Commercial to allow for the development of a Sheetz convenience store and gas station. As properties cannot be developed with two zoning categories, a subdivision is required to divide off the commercial property from the balance of the rural property. Depending on the Planning Commission action on the previous waiver requests, this may be processing as a Minor or a Major Subdivision.

**Planning Commission Discussion/Decision**

- a. If the subdivision processes as a Major Subdivision, the Site Plan will process as a Minor Site Plan, which is administratively approved.

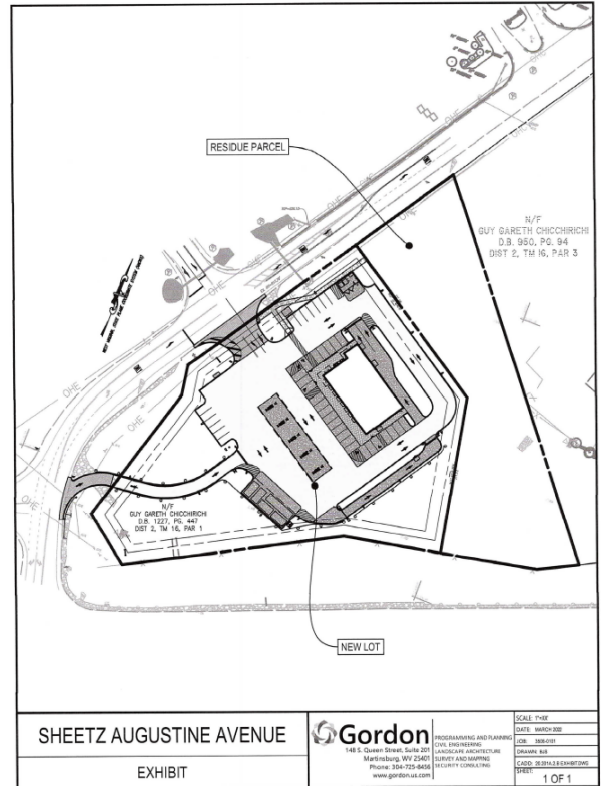
A Major Subdivision requires a Preliminary Plat, approved by the Planning Commission, and a Final Plat, administratively approved.

Sections 24.113 and 24.114 of the Subdivision Regulations require the Planning Commission to find the Augustine Avenue Sheetz Preliminary Plat Application (File: 22-17-SD) as complete for the purpose of scheduling a Public Hearing, within 45 days

**OR**

- b. If the subdivision processes as a Minor Subdivision, the site plan will process as a Major Site Plan, which requires Planning Commission approval.

Sections 24.122 and 24.123 of the Subdivision Regulations require the Planning Commission to find the Augustine Avenue Sheetz Site Plan Application (File: 21-4-SP) as complete for the purpose of setting a Public Hearing within 45 days.



**Preliminary Plat/Site Plan Staff Review**

The Subdivision Regulations require the review of the submitted application and plat and plans by the Department of Engineering, Planning and Zoning as well as the WVDOH and Jefferson County Board of Health (for wells and septic systems). The Department is required to determine whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues and/or variances that can be identified at the Preliminary Plat submission. Additionally, the Department is required to provide a written opinion as to whether the Preliminary Plat meets the site planning criteria specified in Articles 21 and 22 of the Subdivision Regulations and whether the Concept Plan was fulfilled.

The WVDOH approval/encroachment permit is required prior to final Preliminary Plat/Site Plan approval by the Planning Commission. The applicant has been working with the WV DOH regarding their required Traffic Impact Study (TIS) and have revised their site plan design based on WV DOH approval. Approval of the Preliminary Plat or Site Plan should be conditioned upon receipt of the approved TIS and Encroachment Permit prior to being stamped and signed by the County Engineer.

Staff Report  
Jefferson County Planning Commission Meeting  
June 14, 2022

**Sheetz Augustine Ave Completeness Determination**

The property will be served by the Charles Town Utility Board (CTUB) and has received approved letters of water and sewer availability as well as approval from the WV Office of Environmental Health Services regarding the extension of public water and sewer to these lots. A copy of the approved water and sewer extension plans shall be received by the Department of Engineering, Planning and Zoning prior to being stamped and signed by the County Engineer.

Staff has finalized its completeness review and consider the Preliminary Plat and/or Site Plan as “essentially complete”. This staff report serves as the “written opinion” that the Preliminary Plat and/or Site Plan conforms with the Zoning Ordinance requirements, and generally meets the site planning criteria specified in Articles 21 and 22 of the Subdivision and Land Development Regulations.

**Planning Commission Action Required**

The Subdivision Regulations require that, after staff concludes the completeness review, staff shall place the preliminary plat and/or site plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. If the application is found complete or essentially complete, the Planning Commission shall schedule a public hearing within 45 days of that meeting. If the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.

Section 24.113(H) states that if the Major Subdivision “Preliminary Plat and application is incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, or is otherwise impossible, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it”. The Planning Commission may also accept the Preliminary Plat and application as “essentially complete” with the condition that the remaining items identified as necessary by these Regulations (such as the final WV DOH and CTUB approval) be completed prior to final Preliminary Plat approval.

Section 24.122(D) also states that if the Augustine Avenue Sheetz Major Site Plan is incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it.

Upon deeming the application complete or essentially complete, the Planning Commission shall schedule a Public Hearing to receive public comments, concerns, and inputs on the proposed preliminary subdivision plat within 45 days. The Commission’s next regular meeting is on July 12, 2022 which will satisfy this requirement and the 21-day notice requirement can be met.





**Jefferson County, West Virginia**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
116 East Washington Street, 2<sup>nd</sup> Floor  
Charles Town, WV 25414

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

Phone: (304) 728-3228

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Fax: (304) 728-8126

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**Planner's Memorandum**  
**Planning Commission Meeting**  
**June 14, 2022**

**1) Status of Engineering, Planning and Zoning County Offices Contact Information**

The Department of Engineering, Planning and Zoning Mason Building is open to the public.

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 meetings**

Next Regular meeting: **July 12, 2022**

- Public Hearing for Augustine Avenue Sheetz Preliminary Plat (22-17-SD) or Augustine Avenue Sheetz Major Site Plan (21-4-SP)
- 22-3-Z Summit Point Automotive Research Center, LLC request to rezone 772.45 acres from Rural to General Commercial; Planning Commission review and recommendation regarding whether the petition is consistent with the *2035 Envision Jefferson Comprehensive Plan*; County Commission Public Hearing scheduled for July 21, 2022