



**Jefferson County**  
**Board of Zoning Appeals**  
**Thursday, July 28, 2022 at 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Deirdre Catterton, Vice Chair  
Matthew McKinney  
Leeds Corbin  
Steven Guier  
Mikala Shremshock, Alternate

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This meeting will be held both in-person and virtually via ZOOM, which may be accessed from a desktop, laptop, iPad, or from a phone. You may be prompted to download the software or the ZOOM app.

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

**ZOOM Meeting Information:** Meeting ID: 849 5228 8295  
Meeting Link: <https://us02web.zoom.us/j/84952288295>  
Phone Option (Dial by Location): 301-715-8592  
Find your local number: <https://us02web.zoom.us/u/kbbSZVqKEu>

If you wish to participate virtually in public comment for one of the agenda items, please type your name and agenda item # in the chat function at the start of the meeting. Please mute yourself when you are not talking. When participating, please be mindful that your video is streaming to others.

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**All requests are pursuant to the Zoning & Land Development Ordinance.**

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**Approval of Minutes: June 23, 2022**

**Public Hearing – Administer Oath**

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**ITEM #1 FILE #: 22-4-CUP**

**Request:** Request for a Conditional Use Permit to operate a Solar Energy Facility, as defined in Article 2 of the Zoning Ordinance. Project Name: Blake Solar Project. The subject request is for the 270 acre portion of the proposed 516 acre project, which is located outside of the Charles Town Urban Growth Boundary, on the east side of Kabletown Road. The Blake Solar Project capacity at point of interconnection is 80MWac and consists of single-axis trackers, 535W modules, and 3.38MW inverters. The project site contains existing high voltage power lines running through the property and a new substation will be constructed to connect the solar facility with the electric grid.

**Applicant:** Horus West Virginia 1

**Parcel Info:** Thorn Hill LLC, Owner

Vacant parcel on east side of Kabletown Road, located .1 mile south from the intersection of Charles Town Road and Kabletown Road, Charles Town, WV;  
Parcel ID: 02001900140000; Lot Size: 171.59; Zoning District: Rural

**Parcel Info:** Peel Properties WVA LLC, Owner

Vacant parcels on the south side of Charles Town Road, located .2 miles east from the intersection of Charles Town and Kabletown Road, Charles Town, WV.;

Parcel ID: 02001900150003; Lot Size: 51.19; and, Parcel ID: 02001900150002; Lot Size: 46.24;  
Zoning District: Rural

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**ITEM #2 FILE #: 22-23-ZV and 22-24-ZV**

**Request 1:** Variance from Section 4.12B to increase the maximum impervious surface limit from 50% to 60% for the proposed Miller Station Apartment complex.

**Request 2:** Variance from Section 4.11C to eliminate a portion of the required landscape buffer along the southern property line (approximately 475 feet) for the proposed Miller Station Apartment complex.

**Applicant:** Keane Enterprises

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**ITEM #2 FILE #: 22-23-ZV and 22-24-ZV - continued**

Parcel Info: Miller Gerald A Estate, Owner  
Miller Station Nonresidential Subdivision, Lots 1 – 8,  
Vacant lots located on Captain Chews Trace, Charles Town, WV  
Parcel ID: Tax District: 02, Map: 8C, Parcels: 1 – 8. Size: 10 acres (combined);  
Zoning District: Residential-Light Industrial-Commercial

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**ITEM #3 FILE #: 22-25-ZV**

Request: Variance from Section 5.7B of the Zoning Ordinance (as amended 06/28/06) to reduce the rear setback from 50' to 15' for a 20' x 30' accessory structure (detached garage).

Parcel Info: Chad Dinges, Owner  
Michael & Malisa Pindell Pindell MSD, Lot 1, 87 Broadview Ct., Charles Town, WV  
Parcel ID: 06000900040005; Size: 3 acres; Zoning District: Rural

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**ITEM #4 FILE #: 22-26-ZV**

Request: Variance from Section 5.7B of the Zoning Ordinance (as amended 0/15/93) to reduce the side setback from 15' to 5' and the rear setback from 50' to 15' for a 30' x 24' accessory structure.

Parcel Info: Brian and Vanessa McGuigan, Owner  
William Martin MSD, Lot 2, 59 Flat Earth Ln, Harpers Ferry, WV  
Parcel ID: 04000300010011; Size: 1 acres; Zoning District: Rural

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**Zoning Administrator Report**

- a. Monthly Zoning Certificate Activity Report

**Legal Update**

- a. Discussion of the following pending lawsuits:
  - 1. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities)
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions

**Meeting: June 23, 2022**

- 1. Variance from Section 4B.7(J)(2)(a). Owner: Michael Owens. Applicant: SmartLink Group / Bijan Olexo File: 22-21-ZV.
- 2. Variance from Section 5.4B.1. Owner: Beallair Homes, LLC. File: 22-22-ZV.

**DRAFT Minutes**

**Jefferson County Board of Zoning Appeals**

- 1 Meeting Date: June 23, 2022
- 2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held  
3 in-person in the County Commission Meeting Room located in the  
4 lower level of the Charles Town Library; and virtually via ZOOM.
- 5 Board Members Present: Leeds Corbin and Mikala Shremshock, alternate member, were present  
6 in-person. Deirdre Catterton, Vice Chair; Steve Guier, and Matthew  
7 McKinney were present via ZOOM.
- 8 Board Members Absent: Tyler Quynn, Chair, with notification
- 9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; and Jennilee Hartman,  
10 Zoning Clerk (ZOOM)

11 All requests were pursuant to the Jefferson County Zoning and Land Development Ordinance.

12 Mr. Guier moved to call the meeting to order at 2:00 pm. Ms. Catterton called for a vote, which  
13 carried unanimously.

14 Ms. Catterton presided over the meeting in Mr. Quynn’s absence. Ms. Catterton reviewed meeting  
15 protocol for those in attendance.

16 Ms. Beaulieu swore in members of the public who indicated they would be providing testimony.

17 **Approval of Minutes: May 26, 2022**

18 Mr. McKinney moved to approve the minutes with the following edits:

- 19 a) Page 2, Line 14: modify the sentence to read as follows, “...*affect the health, safety, and*  
20 *welfare or property rights of the adjacent property owner and that the request did ~~not~~ arise*  
21 *from special conditions or attributes created by the applicant.*”

22 Ms. Catterton called for a vote, which carried unanimously.

23 **AGENDA ITEM #1 FILE #: 22-21-ZV**

- 24 Request: Variance from Section 4B.7(J)(2)(a) to increase the height of an existing Wireless  
25 Telecommunications Tower (designed as a silo) from 120’ to 130’ to allow additional  
26 antennas (co-colocation) within the existing silo structure.
- 27 Owner: Michael Owens
- 28 Applicant: SmartLink Group / Bijan Olexo
- 29 Parcel Info: 11945 Leetown Rd, Kearneysville, WV  
30 Parcel ID: 07000700060000; Size: 404 ac; Zoning District: Rural

31 Mr. Doug Sampson and Mr. Bijan Olexo, representatives for the request, were present to address  
32 the Board. Ms. Beaulieu provided an overview of her staff report noting that the proposed height  
33 increase appeared to meet the intent of the Zoning Ordinance by allowing additional co-location  
34 opportunities. Mr. Sampson explained the nature of the request. Referring to the propagation maps  
35 included in the packet, Mr. Sampson stated that additional coverage in the area was needed.

36 Mr. Sampson argued that by approving the requested height increase that the telecommunications  
37 provider, A&T, would be able to provide the required services without having to construct a new  
38 tower in the vicinity. Mr. Sampson stated that as the surrounding area was largely agricultural, that  
39 there were no other colocation capabilities within the area. Mr. Sampson explained that the  
40 structure would also be equipped with FirstNet technology, which is dedicated bandwidth for first  
41 responders. Mr. Sampson addressed each of the variance criteria noted in the application.

1 Ms. Catterton opened the public hearing. No members of the public provided testimony. Mr. Guier  
2 moved to close the public hearing. Ms. Catterton called for a vote, which carried unanimously.

3 Mr. McKinney moved to approve the variance with the condition that the applicant is bound by his  
4 testimony. Mr. McKinney added that as colocation is encouraged in the Zoning Ordinance, that the  
5 request is in keeping with the intent of the Ordinance. Ms. Catterton called for a vote, which carried  
6 unanimously.

7 **AGENDA ITEM #2 FILE #: 22-22-ZV**

8 Request: Variance from Section 5.4B.1 and Appendix A to reduce the Front Setback from 25'  
9 to 15'; the Side Setback from 12' to 10'; and the Rear Setback from 20' to 10' for Lots  
10 203-233 & 273-275 in Phase 3 of the Beallair Subdivision.

11 Owner: Beallair Homes, LLC

12 Applicant: Mike Wiley, P.E. / Paul Raco, Consultant

13 Parcel Info: Beallair Subdivision, Phase 3, Lots 203-233 & 273-275

14 Parcel ID: 04010ARESA; Size: 69.3 ac; Zoning District: Residential Growth

15 Mr. Michael Wiley, property owner; and Mr. Paul Raco, representative for the property owner,  
16 were present to address the Board. Ms. Beaulieu provided an overview of her staff report noting  
17 that the applicant had acknowledged that a reduction of the required setbacks would not negate any  
18 platted easements. Mr. Raco presented a detailed history of the Beallair Subdivision and explained  
19 the nature of the request to the Board.

20 Ms. Catterton opened the public hearing. No members of the public provided testimony.

21 Ms. Catterton closed the public hearing.

22 Mr. McKinney expressed concern that granting a blanket variance for multiple lots could be likened  
23 to modifying the Zoning Ordinance rather than a variance. Mr. McKinney continued to explain that  
24 changing the Zoning Ordinance is a legislative function and not the Board's function.

25 Mr. McKinney moved to go into deliberative session at 2:30 pm. Ms. Catterton called for a vote,  
26 which carried unanimously.

27 Due to technical difficulties, the deliberative session did not commence until 2:47 pm. As Mr. Guier  
28 previously indicated that he would be unable to stay past 3:00 pm, Mr. Guier excused himself for  
29 the duration of the meeting.

30 Mr. McKinney moved to come out of deliberative session at 2:57 pm. Ms. Catterton called for a  
31 vote, which carried unanimously.

32 Ms. Shremshock moved to deny the variance as presented. Ms. Catterton called for a vote, which  
33 carried unanimously.

34 **Zoning Administrator's Report**

35 a. Monthly Zoning Certificate Activity Report. The Report was included in the mailed packet.

36 Ms. Beaulieu provided the Board an update on the proposed text amendment regarding Solar  
37 Energy Facilities (ZTA22-01) stating that the text amendment had been approved and included a  
38 Conditional Use component. Ms. Beaulieu noted that the next meeting was scheduled for  
39 July 28, 2022.

40 **Legal Update**

41 a) Discussion of the following pending lawsuit: None.

1       b) Discussion with possible deliberative session and signing of draft Findings/Decisions.

2               **Meeting: April 28, 2022**

3               1. Variance from Sec. 9.6C & 9.7. Owner: T. & K. Staubs. File: 22-11-ZV.

4               2. Variance from Sec. 9.7. Owner: B. King. File: 22-12-ZV.

5               3. Request for a CUP. Owner: J. Staubs. Applicant: Naille. File: 22-2-CUP.

6               4. Request for a CUP. Owner: T. & A. Fridley. File: 22-3-CUP.

7               5. Variance from Sec. 9.7. Owner: C. Ramey. File: 22-14-ZV

8               6. Variance from Appendix A. Owner: K. Petry. File: 22-15-ZV.

9               7. Variance from Sec. 4.11E. Owner: G. Chicchirichi. Applicant: Sheetz. File: 22-16-ZV.

10              Mr. Quynn was provided a copy of the draft Findings for review.

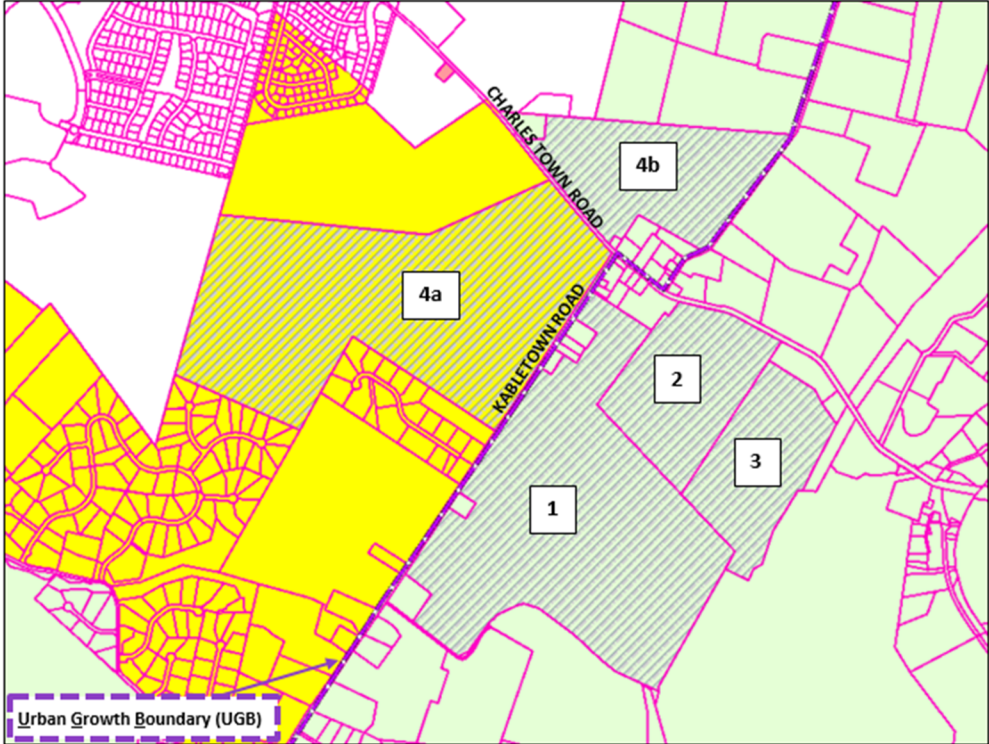
11 Mr. McKinney moved to adjourn the meeting at 3:03 pm. Ms. Catterton called for a vote, which  
12 carried unanimously.



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 July 28, 2022

**Blake Solar Project Conditional Use Permit Request (#22-4-CUP)**

Item #1 Request for a Conditional Use Permit to operate a Solar Energy Facility, as defined in Article 2 of the Zoning Ordinance. Project Name: Blake Solar Project. The subject request is for the 270 acre portion of the proposed 516 acre project, which is located outside of the Charles Town Urban Growth Boundary, on the east side of Kabletown Road. The Blake Solar Project capacity at point of interconnection is 80MWac and consists of single-axis trackers, 535W modules, and 3.38MW inverters. The project site contains existing high voltage power lines running through the property and a new substation will be constructed to connect the solar facility with the electric grid.

Applicant:	Horus West Virginia 1 / Contact: Braden Houston
Owner:	Multiple Owners / See Exhibit Below
Consultant:	Integrity Federal Services / Mark Dyck
Parcel Information / Zoning District:	<p style="text-align: center;">Intersection of Route 115 and Kabletown Road          Multiple Vacant Parcels / See Exhibit Below</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:          North: Residential Growth &amp; Rural; East: Rural          South: Rural; West: Residential Growth</p>
Approvals:	<p>Thorn Hill Subdivision (Parcel 14 – map reference #1)          File #Z01-04: Conditional Use Permit for 182 single family lots.          Issued 03/26/02. (PC File 02-17)          File #02-17: Thorn Hill Subdivision (Lots 1-179) Final Plat          Recorded on 04/25/07 in <a href="#">PB 24, PG 14</a> (A-X)          K&amp;K Properties Minor Subdivision (Parcel 15.2 – map reference #4a &amp; 4b)          File #17-09: K&amp;K Properties MSD, Lot 1 and Residue Final Plat          Recorded on 11/22/17 in <a href="#">PB 25, PG 661</a></p>

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**Blake Solar Project Conditional Use Permit Request (#22-4-CUP)**

Current Applications:		Blake Solar Project	
		<ul style="list-style-type: none"> <li>• Conditional Use Permit Public Hearing: 07/28/22 Board of Zoning Appeal Meeting</li> <li>• Concept Plan Workshop: 08/09/22 Planning Commission Meeting</li> </ul>	
Site Visit Conducted:		No site visit was conducted.	
<b><u>Property Owners / Location</u></b>			
Map Ref #	Property Owner:	Physical Address	Parcel Information:
1.	Thorn Hill LLC	Vacant parcel on east side of Kabletown Road, located .1 mile south from the intersection of Charles Town and Kabletown Road, Charles Town, WV.	Parcel ID: 02001900140000; Lot Size: 171.59; Zoning District: Rural
2.	Peel Properties WVA LLC	Vacant parcels on the south side of Charles Town Road, located .2 miles east from the intersection of Charles Town and Kabletown Road, Charles Town, WV.	Parcel ID: 02001900150003; Lot Size: 51.19; Zoning District: Rural
3.			Parcel ID: 02001900150002; Lot Size: 46.24; Zoning District: Rural
<i>The parcel listed below is not subject to the Conditional Use requirements because it is located within the County's identified Urban Growth Boundary. The parcel information has been included for informational purposes only as it is part of the full project.</i>			
4a.	High Horizons Farm Inc.	Vacant parcel on both the north and south side of Charles Town Road, located .2 miles from the intersection of Charles Town and Kabletown Road, Charles Town, WV.	Parcel ID: 02001900150002; Lot Size (southern portion of property): ~ 185 acres; Zoning District: Residential Growth
4b.			Lot Size (northern portion of property): ~65 acres Zoning District: Rural

**Summary of Request and Purpose of Ordinance Requirements**

Article 2 defines *Solar Energy Facility* as:

“A facility that generates electricity from sunlight by utilization of photovoltaic (PV) technology and distributes the generated electrical power. On-site components of the facility may include solar panels and other accessory components including, without limitation, Essential Utility Equipment, transformers, inverters, cabling, electrical lines, substations, and other improvements necessary to support generation, collection, storage, and transmission of electrical power.”

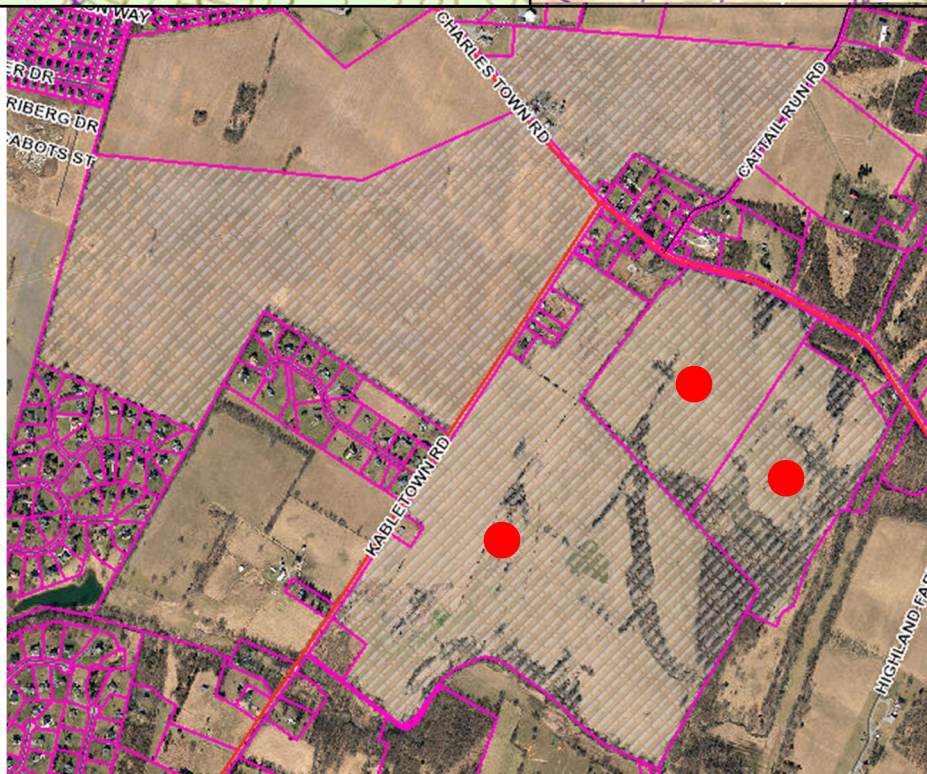
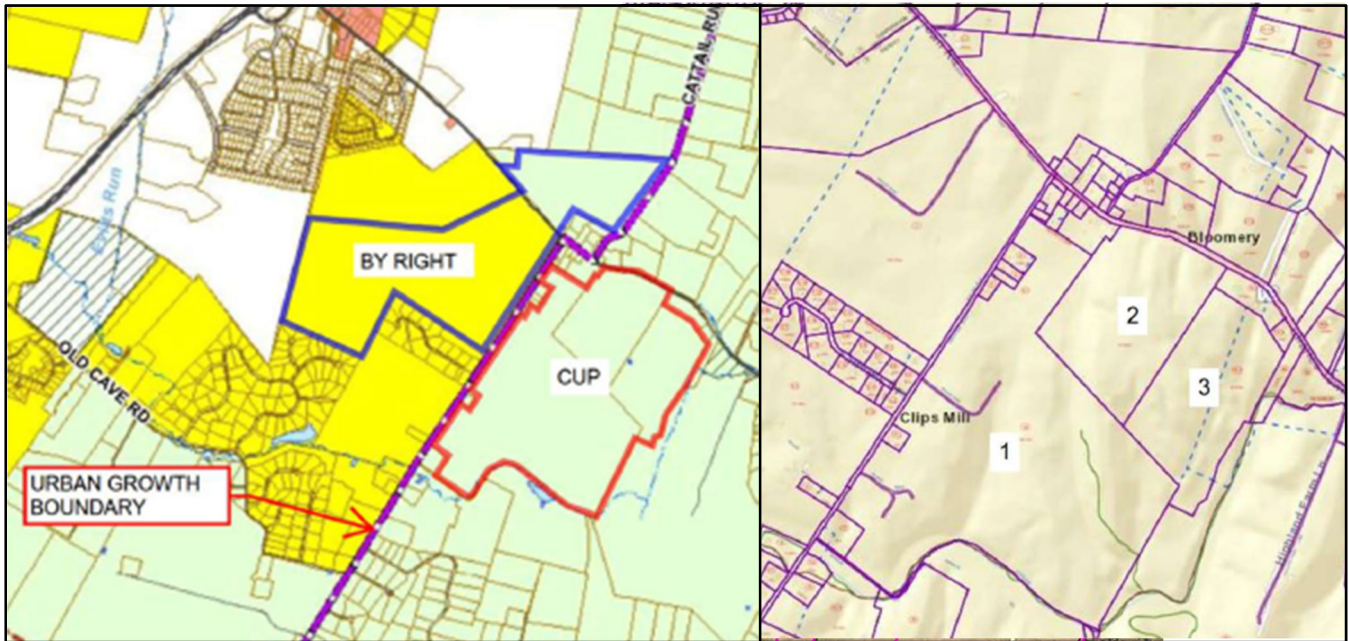
The subject request pertains to the portion of the solar energy facility project that will occur on the 270 acres located outside of the Charles Town Urban Growth Boundary. The full project is proposed to occur on a total of 516 acres, with 246 acres located within the Charles Town Urban Growth Boundary, where solar energy facilities are permitted by right.

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**Property Description**

The subject parcels, comprised of 270 acres total, are currently vacant (see area outlined in red to the left). The larger parcel, comprised of 171.5 acres (denoted as Parcel 1 below), is a platted residential subdivision comprised of 179 single family lots (Thorn Hill Subdivision – Final Plat recorded in Plat Book 24, Page 14).

A portion of the property is located within the delineated floodplain area. No structures or grading are proposed for the areas within the floodplain.



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**Conditional Use Permit Process**

The applicant has provided an executive narrative that details how the proposed project will comply with the criteria outlined in Sections 8.20 and 6.3 of the Zoning Ordinance.

Part 7, Page 15 of the executive narrative includes a brief description of the operating plan as well as the plan for removal at the end operations and states,

“The expected useful life of the Project as initially constructed is 30 years. This can be extended by regular maintenance and replacement of equipment.

Upon decommissioning of the facility, the equipment will be removed down to a depth of 3 feet below grade and any disturbed ground will be restored and reseeded with an approved seed mix....”

Decommissioning and bonding shall be in accordance with the WV Department of Environmental Protection, pursuant to WV State Code §22-32-1, et. sec. or its successor.

Section 6.3 of the Zoning Ordinance states:

“The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit:

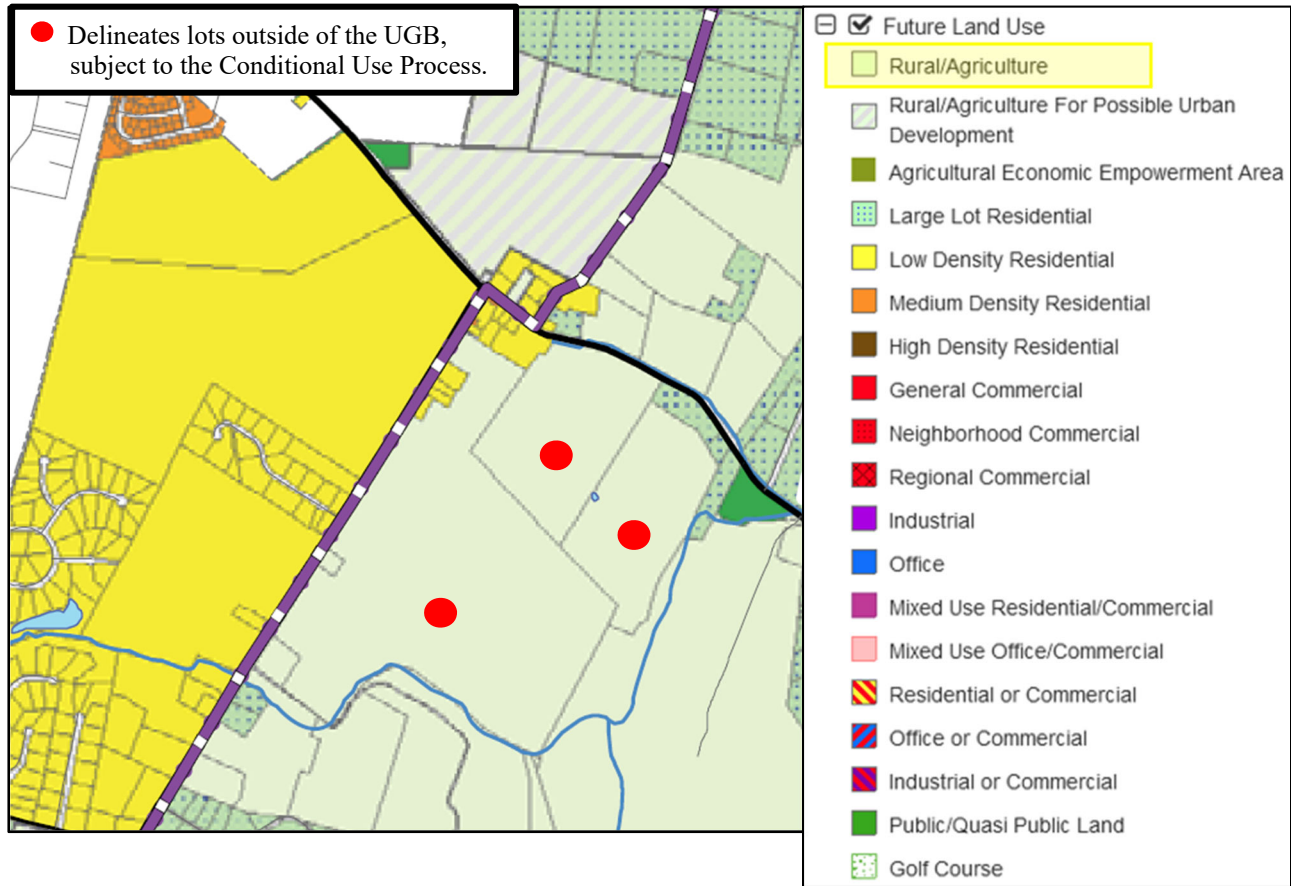
- A. The Board shall consider each Conditional Use Permit request that is filed in accordance with this Ordinance and the procedural requirements of the Board of Zoning Appeals. The Board may require reasonable conditions or special requirements which allows for the proper integration of the proposed uses into the community and are directly related to and incidental to the proposed conditional use permit. The following General Standards shall be considered by the Board in approving or denying the CUP:”

**1. The proposed use is compatible with the goals of the adopted Comprehensive Plan. (Sec. 6.3A.1)**

The subject parcel is shown as “Rural/Agricultural” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide (see exhibit below). The portion of the project subject to this request is located outside of the Charles Town Urban Growth Boundary.

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One theme repeated throughout the Comprehensive Plan is to allow non-residential uses which are compatible in scale and intensity with the rural environment to process as a conditional use (see excerpts below). The Zoning Ordinance was amended in March 2017 to update the Conditional Use Permit process in accordance with the recommendations of the Comprehensive Plan.

The Plan also includes several references to encourage the creation of and the use of renewable energy sources. It should be noted that in April 2022, the County Commission amended the Plan to clarify and state that solar energy facilities are a permitted use in areas located inside of the Urban Growth Boundary and a conditional use in areas outside of the Urban Growth Boundary (see Infrastructure and Technology Recommendation 8 on Page 93 of the amended Plan – listed below). The Zoning Ordinance was subsequently amended to include a new Section 8.20 with provisions to process Solar Energy Facilities.

**Excerpts from the Envision Jefferson 2035 Comprehensive Plan**

“...This Plan further recommends amending the Zoning Ordinance to eliminate the LESA point system and to develop procedures that would allow the use of a more traditional CUP process in the Rural District for non-residential uses. This CUP process should require a public hearing before the Board of Zoning Appeals to determine if the use is compatible in scale and intensity with the rural environment and poses no threat to public health, safety, and welfare.” (Page 36, Rural Land Use)

“Amend the Zoning Ordinance to eliminate the Land Evaluation Site Assessment (LESA) system and to modify the Conditional Use Permit (CUP) process in the Rural Zoning

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**Blake Solar Project Conditional Use Permit Request (#22-4-CUP)**

District, which would be used for compatible non-residential development only.” (Page 39, Recommendation #4.b – Rural Land Use Planning Recommendations (Goal 2))

“This Plan recommends that the use of the CUP in the Rural District be limited to non-residential uses not permitted in the Rural District which are compatible in scale and intensity with the rural environment and that pose no threat to public health, safety, and welfare.” (Page 74, Rural Economic Activities)

“Recommendation 5: Amend the Zoning and Land Development Ordinance to permit additional non-residential rurally compatible uses.

Recommendation 5b: Amend local land use regulations to permit non-agriculturally related commercial uses by the Conditional Use Permit (CUP) process in the Rural zone if the use is agriculturally and rurally compatible in scale and intensity, poses no threat to public health, safety, and welfare, and if the use helps to preserve farmland and open space and continue agricultural operations. (Page 77, Agricultural and Rural Economy Recommendations (Goal 8))”

Recommendation 8: Encourage public entities to utilize alternative and renewable energy sources for a variety of needs, specifically Solar Energy Facilities in areas inside of the Urban Growth Boundary and the Preferred Growth Area as a Principal Permitted Use, and outside of the Urban Growth Boundary and the Preferred Growth Area, by the Conditional Use Process. *(amended by action of the County Commission 04-05-22 and affirmed by the Planning Commission on 04-12-22.)*

8.a Enable the construction of renewable energy generation facilities by residents and businesses.

- 2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare. (Sec. 6.3A.2)**

The applicant has addressed this criteria in Part 9 of their Executive Summary (see pages 17 and 18).

- 3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. (Sec. 6.3A.3)**

The proposed solar energy facility is not anticipated to have any impact on future development and use of adjacent land and buildings.

- 4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance. (Sec. 6.3A.4)**

The applicant shall comply with the buffer requirements established in Section 8.20 of the Zoning Ordinance. The Concept Plan exhibit reflects compliance with the landscaping buffer requirements.

- 5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance. (Sec. 6.3A.5)**

As part of the Conditional Use Permit application, the applicant was informed of this criteria and shall comply with this standard.

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**6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan’s Highway Road Classification Map. (Sec. 6.3A.6)**

Route 115 is classified as a Minor Arterial (primary or four lane road) and Kabletown Road (Route 25) is classified as a Major Collector (secondary road). The applicant has provided trip generation data for Kabletown Road and noted that traffic generated by the facility will be coordinated with the WV Division of Highways as part of approval process for an entrance permit.

**7. Historic Landmarks Commission’s Findings related to the proposed land use. (Sec. 6.3A.7)**

The subject property does not contain any Category I or II historic sites as defined by the Zoning Ordinance; therefore, this criteria does not apply. As part of the Concept Plan process, the Historic Landmarks Commission was notified of the proposed project.

The applicant also conducted an archaeological assessment of the properties. A full copy of the 58 page report is available online for review. A summary of the report is included in the applicant’s executive summary and excerpts of the full report have been appended to the application.

**8. Any signs associated with the proposed Conditional Use shall be reviewed by the Board in accordance with Section 10.6. (Sec. 6.3A.8)**

Section 8.20 of the Zoning Ordinance states that no signage or advertising is permitted on the solar energy facility, other than an identifying sign at the entrance of the facility, which shall be approved administratively in accordance with Article 10.

B. Setback Standards to operate a Nature Center and Preserve:

Enclosed structures over 250 square feet that are solely for the purpose of housing animals shall be setback 50 feet.

All structures and motorized trails shall meet commercial setbacks of 25 feet with the exception that accessory structures under 250 square feet that are associated with the maintenance of the land use shall be setback ten feet.

All non-motorized trails and non-amplified outdoor activity areas shall meet a minimum ten foot setback. Motorized vehicles associated with the maintenance of the land use are permitted within the non-motorized trails.

C. Landscaping Standards to operate a Nature Center and Preserve:

In lieu of this Ordinance's landscaping standards, a ten foot woodland preservation buffer shall be required along the perimeter of the land use. This ten foot buffer is not required along the interior property lines of the land use. There shall be no clearing or cutting within the buffer with the exception of removing dead, dying, and/or diseased trees. The woodland preservation buffer may be used for passive recreation such as pedestrian, bike, or equestrian trails provided that:

1. No trees, shrubs, hedges, or walls are removed.
2. Not more than 20% of the width of the buffer is impervious surface.
3. The total width of the buffer area is maintained.

D. Noise Standards to operate a Nature Center and Preserve:

This land use is restricted to the noise standards of Section 8.9A.1 of this Ordinance. The Residential Growth District measurement shall apply when the use is adjacent to a lot that contains a residence, or is zoned Rural or Residential Growth.

**Section 8.19 Crematorium<sup>37</sup>**

A. Crematorium, Livestock

A Livestock Crematorium shall process as a Conditional Use Permit in all zoning districts other than Rural, unless such use is determined by the Zoning Administrator to be accessory to an active agricultural use.

B. Crematorium, Pet

A Pet Crematorium shall process as a Principal Permitted or Conditional Use in zones as designated in Appendix C. In the Rural Zoning District, a Pet Crematorium may process utilizing the Site Plan Exemption for the Rural District.

**Section 8.20 Solar Energy Facilities<sup>43</sup>**

Solar Energy Facilities shall process as a Principal Permitted Use in areas inside of the Urban Growth Boundary and the Preferred Growth Area as delineated on the Future Land Use Guide in the Comprehensive Plan. Solar Energy Facilities shall process as a Conditional Use in areas outside of the Urban Growth Boundary (UGB) and Preferred Growth Area (PGA).

All projects shall process a Concept Plan in accordance with the requirements listed below under Subsection B. For projects that require processing a Conditional Use Permit, a Concept Plan shall process subsequent to the Board of Zoning Appeals approval.

For projects that will occur across parcels located both inside and outside the County’s UGB/PGA areas, an applicant may choose to process in two phases, with the first phase addressing the parcels located within the UGB/PGA areas as a Principal Permitted Use and the second phase processing a Conditional Use Permit to allow the Board to evaluate compatibility of the second the phase outside of the UGB/PGA areas. Should the Board issue a Conditional Use Permit, a Concept Plan shall process and shall include an exhibit depicting the full-buildout of the entire Solar Energy Facility project.

A Pre-Proposal Conference is recommended for all solar projects, pursuant to the Jefferson County Subdivision and Land Development Regulations.

A. Process for Solar Energy Facilities as a Conditional Use

1. Projects which will occur on properties located outside of the UGB/PGA areas as delineated on the Future Land Use Guide shall process a Conditional Use in accordance with Article 6.
2. In addition to the criteria established in Article 6, the following exhibits shall be included with the Conditional Use Permit application for the Board’s evaluation:
  - a. Submit a sketch depicting the location of the proposed project and delineate the distance of the panels from the external property lines.
  - b. Submit a brief description of the timeline of the lease or operating plan, and an overview of the plan for removal of the solar energy facility. The decommissioning plan and bond shall be in accordance with the West Virginia Department of Environmental Protection (WVDEP), pursuant to WV State Code §22-32-1, et. sec. or its successor.
3. Should the Board issue a Conditional Use Permit, the applicant shall proceed with application for a Concept Plan, pursuant to the criteria listed below under subsection B.

B. Process for Solar Energy Facilities as a Principal Permitted Use

1. A Concept Plan, pursuant to the Minor Site Development Concept Plan standards established in the Jefferson County Subdivision and Land Development Regulations is required; except that after the Planning Commission direction is given, the next steps are Application for a Zoning Certificate and Building Permit. In addition to the Concept Plan requirements outlined in the Subdivision Regulations, the Concept Plan shall also include the following criteria:
  - a. Property or Properties Location;
  - b. Access Points;
  - c. Anticipated location of all proposed components of the Solar Energy Facility. Each proposed solar panel is not required to be shown on the Concept Plan, if compliance with setbacks can be established by what is depicted on the Concept Plan; and
  - d. Landscaping, Buffering, Ground Cover Plan, and Fencing. The landscaping plan shall include a note stating, “It will be the responsibility of the landowner to replace any trees, shrubs, or vegetation that die.”

If the project is to be completed in phases, the Concept Plan shall reflect phasing of the project.

2. Decommissioning Outline

- a. A narrative outlining the decommissioning of the Solar Energy Facility shall be included with the Concept Plan. This narrative shall include a description of the timeline of the lease or operating plan, and a general plan for removal of the Solar Energy Facility.

- b. The company shall provide to the Department of Engineering, Planning, and Zoning proof of application for a decommissioning plan and bond when such application is filed with the WVDEP as required by WV State Code §22-32-1, et. sec. or its successor.
- c. Staff shall be notified by certified mail at least 60 days in advance of the intended decommissioning of the Solar Energy Facility. Staff will place the notice on the next regularly scheduled Planning Commission meeting under “non-actionable correspondence”.
- d. Failure of the Lessee or Property Owner to meet and/or comply with the decommissioning plan as approved by the WVDEP may result in legal action pursuant to Article 3, Section 3.3 of this Ordinance and/or any applicable State Law.

C. Setbacks, Landscaping, and Buffer Standards for a Solar Energy Facility

- 1. Multiple adjacent properties under the same ownership or lease by the same company shall be considered one property for the purpose of these regulations. Internal boundary lines on adjacent properties under the same ownership or lease by the same company are not subject to the setbacks or buffer requirements provided below.
- 2. Setbacks
  - a. Solar Panels
    - i. Front, Side, and Rear Setbacks shall be 100 feet from all external/perimeter property lines and from the edge of the State ROW or Easement of any State Road.
    - ii. The above referenced setback may be decreased to 50 feet provided it includes a six foot high opaque buffer within the setback area comprised of two rows of evergreen trees that are six feet tall at the time of planting or a solid fence. Alternatively, a 50 foot strip of existing, mature woodlands may be allowed in lieu of a planted buffer or fence if documentation is submitted documenting how the existing mature woodlands complies with the required buffer standard.
    - iii. Solar panels and accessory components may be located on a common side or rear lot line of contiguous property owned by the same entity.
  - b. Accessory components, excluding solar panels and underground utilities.
    - i. Front, side, and rear setbacks shall be 25 feet from all external/perimeter property lines and from the edge of the State ROW or Easement of any State Road.
- 3. Landscaping and Buffer Standards
  - a. Solar Panels that are located within 200 feet of any residence, Category 1 Historic Resource, Institution for Human Care, Church, or similar use or structure as determined by the Zoning Administrator, shall provide a 20 foot wide buffer along common property lines. The buffer shall be provided anywhere within the 200 foot radius from the structures/uses herein and is not required to be provided along the entire length of the common property line.
  - b. The buffer screen may be either vegetative or opaque fencing and may be placed anywhere within the buffer area. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. Existing, natural vegetation may be used in lieu of a planted buffer if documentation is submitted to the Zoning Administrator verifying how the existing natural vegetation complies with the required buffer standard.
  - c. Accessory Components (excluding solar panels) that are located within 200 feet of any residence, Category 1 Historic Resource, Institution for Human Care, Church, or similar use as determined by the Zoning Administrator, shall comply with the commercial provisions of

Section 4.11, with the exception that the Zoning Administrator can allow the use of existing, natural vegetation as appropriate to achieve the intent of the required buffering.

#### 4. Security and Access

- a. A security fence with secured gates shall be erected around the operating areas of the Solar Energy Facility with a minimum height of six feet and a maximum height of ten feet.
  - i. Arrangements shall be made with the appropriate Fire Department for Access. A letter documenting approval of access from the Fire Department shall be provided with the Zoning Certificate application. The Fire Department shall respond within 15 days of the date of the letter. If no response is provided, the Fire Department shall be deemed by this Ordinance to have approved the access.
  - ii. Upon three business days' notice by the Department of Engineering, Planning, and Zoning, access shall be provided to Staff.

#### D. A Zoning Certificate based on an approved Concept Plan is required prior to initiating any use regarding Solar Energy Facilities.

In addition to the standards found in Section 8.20, any Zoning Certificate regarding Solar Energy Facilities shall be issued conditioned on all other State Regulations and approvals being granted, including, but not limited to, the WV Public Service Commission, WVDEP applicable NPDES Permits and Decommissioning Bonds, Fire Marshal approval, Building Permits through the Department of Engineering, Planning, and Zoning, and approval of the Stormwater Management Report pursuant to the Jefferson County Stormwater Management Ordinance.

#### E. Stormwater Management

Stormwater Management shall be required in accordance with the Jefferson County Stormwater Management Ordinance. Solar Energy Facilities may be exempt from providing stormwater management if the conditions for granting exemption under Article I.D.2.h of the Stormwater Management Ordinance are satisfied.

#### F. General Requirements

1. Design, construction, and installation of the Solar Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM) or other similar certifying organizations and shall comply with the West Virginia Fire and Building Codes, including compliance with the Jefferson County Building Code.
2. Prior to commencing the transmission of electricity, the Solar Energy Facility shall provide documentation evidencing an interconnection agreement or similar agreement with the applicable public utility or approved entity in accordance with applicable law.
3. Generation of electrical power shall be limited to photovoltaic panels, provided that any on-site buildings may utilize integrated photovoltaic building materials.
4. Solvents necessary for the cleaning of the Solar Panels shall be biodegradable.
5. Internal wiring, excluding that which is on or between the Solar Arrays, connected to substations or between Solar Panels, shall be located underground, except where necessary to mitigate impact to environmental and/or terrain features.
6. Onsite lighting shall be the minimum necessary for security and onsite management and maintenance and shall comply with the standards outlined in the Subdivision Regulations.

7. Photovoltaic Panels shall use antireflective glass that is designed to absorb rather than reflect light.
8. Ground Cover comprised of natural vegetation is required. Ground cover that uses native or naturalized perennial vegetation and that provides foraging habitat that is beneficial for songbirds, gamebirds, and pollinators is encouraged but not required.
9. Collocation of other agricultural activities such as small market hand-picked crops, grazing, and apiary activities are permitted and encouraged.
10. No signage or advertising is permitted on the Solar Energy Facility other than an identifying sign at the entrance of the Facility that shall be approved by the Zoning Administrator in accordance with Article 10. All other signage must be approved by Special Exception by the Board of Zoning Appeals.
11. Solar Energy Facilities shall comply with Article 8, Section 8.9 of this Ordinance.
12. The Solar Energy Facility Use is not considered abandoned until such time it is Decommissioned.
13. Damaged or unusable panels shall be repaired, replaced, or removed within 60 days from discovery of damage; provided, however, longer periods may be approved by the County Engineer due to extenuating circumstances.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning and Zoning**  
**Office of Planning and Zoning**  
 116 East Washington Street, 2<sup>nd</sup> Floor  
 P.O. Box 716  
 Charles Town, West Virginia 25414

File #: 22-4-CUP  
 R'cvd Date: 06 / 22 / 22  
 Mtg. Date: 07 / 28 / 22  
 Fee Paid: \$ 13,800  
 Staff Int.: jth

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

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

**Application for a Conditional Use Permit**

**Project Name**

Blake Solar Project

**Property Owner Information**

Name: See Attached  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_ Mail  Yes  
 Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

**Applicant Information**

Name: Braden Houston  
 Business Name: Horus West Virginia I  
 Mailing Address: 110 Front Street Suite #300 Jupiter, Florida 33477 Mail  Yes  
 Phone Number: 617-530-0029 Email Response: bhouston@opdenenergy.com Response:  No

**Engineer(s), Surveyor(s), or Consultant(s) Information**

Name: Mark Dyck  
 Business Name: Integrity Federal Services  
 Mailing Address: 148 S. Queen Street Suite 201 Martinsburg, WV Mail  Yes  
 Phone Number: 304-725-8456 Email Response: mdyck@ifs-ae.com Response:  No

**Physical Property Details**

Physical Address: See Attached  
 Tax District: \_\_\_\_\_ Map No: \_\_\_\_\_ Parcel No: \_\_\_\_\_  
 Parcel Size: \_\_\_\_\_ Deed Book: \_\_\_\_\_ Page No: \_\_\_\_\_

**Zoning District (please check one)**

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

\* For properties in the Rural Zoning District:  
 Is property located on a primary or secondary road?  Yes  No

Name of Road and/or Route Number: Route 115, Route 25

**State the proposed land use as listed in Appendix C and provide a description of the proposed use.**

Solar power generating facility. See attached for additional detail.

**Please provide any information or known history regarding this property.**

See attached

**Please respond in detail to the following questions to show how the proposed project complies with the criteria located in Section 6.3 of the Zoning Ordinance:**

1. How is the proposed use compatible with the goals of the adopted Comprehensive Plan? *Section 6.3A.1*

See attached

2. How is the proposed use compatible in intensity and scale with the existing and potential land uses on surrounding properties? How will the proposed project mitigate potential threat to public health, safety, and welfare? *Sec. 6.3A.2*

See attached

3. Describe how the proposed site development will be designed such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. *Section 6.3A.3*

See attached

4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance. *Section 6.3A.4*

I am aware of the landscaping buffer requirements and will adhere to them.

I am aware of the landscaping buffer requirements; however, I may be seeking a variance to modify them.

5. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial, Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the Board of Zoning Appeals to review in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use. *Section 6.3A.6*

Applicable (Trip Generation Data attached)

Not Applicable

**The information given is correct to the best of my knowledge. Original Signature Required.**

Multiple See Attached

Property Owner

Date

Property Owner

Date

# CUP Application High Horizons Solar Project

## Property Owner Information

**Map 19 Parcel 14\***

**Charles Town District**

**Deed Book 959      Page 359**

**172.85 acres**

Thornhill LLC

514 Haynes Drive

Chilhowie, VA 24319

Herb Jonkers

Owner Agent Name: \_\_\_\_\_

Owner Agent Signature: \_\_\_\_\_

DocuSigned by:  
*Herb Jonkers*  
3E99976474334A6...  
6/28/2022

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

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

- This parcels is made up of 179 single family lots, road easements and open space. All lots owned by Thornhill LLC, owner Agent signature acknowledges the inclusion of all properties in this application.

**Map 19 Parcel 15.2**

**Charles Town District**

**Deed Book 1202 Page 496**

**51.45 acres**

Peel Properties WVA LLC

4520 East West HEY Suite 200

Bethesda, MD 20814

Denise Peel

Owner Agent Name: \_\_\_\_\_

Owner Agent Signature: \_\_\_\_\_

DocuSigned by:  
*Denise Peel*  
DFC24A8473C741D...  
6/28/2022

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

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

**Map 19 Parcel 15.3**  
**Charles Town District**  
**Deed Book 1202 Page 496**  
**45.86 acres**

Peel Properties WVA LLC  
4520 East West HWY Suite 200  
Bethesda, MD 20814

Denise Peel

Owner Agent Name:

---

Owner Agent Signature:

DocuSigned by:  
*Denise Peel*  
DFC24A8473C741D...  
6/28/2022

---

Date:

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Phone Number:

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Email:

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# **BLAKE SOLAR ENERGY FACILITY**

**CONDITIONAL USE PERMIT**

**JEFFERSON COUNTY  
WEST VIRGINIA**

**June 21, 2022**

**Prepared By:  
INTEGRITY FEDERAL SERVICES**

**Prepared For:  
HORUS WEST VIRGINIA I**

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# Table of Contents

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- Part 1** Executive Summary
- Part 2** Property Information
- Part 3** Proposed Use
- Part 4** Benefit Analysis
- Part 5** Buffers and Setbacks
- Part 6** Stormwater Management
- Part 7** Supplemental Conditions
- Part 8** Traffic Characteristics
- Part 9** Public Health, Safety, Welfare
- Part 10** Adjacent Lands
- Part 11** Comprehensive Plan Compatibility

## **SUPPLEMENTAL INFORMATION**

- Appendix A** – Existing Conditions Map
- Appendix B** – Solar Panel Limits Map
- Appendix C** – Landscape Buffer Map
- Appendix D** – Sketch Plan
- Appendix E** – Adjacent Property Owner List

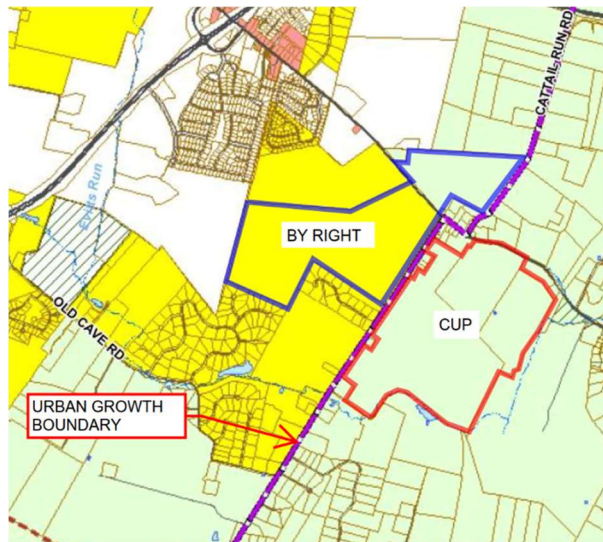
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# Part 1 – Executive Summary

Conditional Use Permits are allowed under Section 6.3 of the Jefferson County Zoning Ordinance. Specific uses and the zones in which they are permitted can be found in Appendix C of the ordinance in the Principal Permitted and Conditional Uses Table.

Conditional Use Permits (CUP) are submitted to the Jefferson County Planning Commission, which forwards the application to the Board of Zoning Appeals for a public hearing and a decision on the application. All adjacent and confronting property owners are notified of the public hearing by registered mail. The proposed solar facility is a permitted Conditional Use in the Rural zoning districts.



Urban Growth Boundary

The CUP is for a 270 acres of the 516 acre Blake Solar Energy Project, a 80MW solar electric generating facility. The portion of the project not included in the CUP application is located on the west side of Kabletown Road. This 246 acre property is located within the Charles Town Urban Growth boundary and permits solar projects by right with the approval of a CUP.

The Blake Project is a solar energy facility located on 519 acres with single-axis trackers, 535W modules, and 3.38MW inverters. The total project capacity at POI is 80MWac. This project will have a capacity factor of 22.4% and will be able to inject 157,257 MWh/year (Year 1 P50 Yield). The project site has existing high voltage power lines running through the property, a

new sub station will connect the solar facility with the electric grid.

This CUP application is an important opportunity for Jefferson County to contribute to green energy and reduce the emission of fossil fuel gases in a meaningful way. As a community the County will be one of the leaders for solar power generation in West Virginia. The project accomplishes this feat while maintaining agricultural land for future generations and protecting adjacent properties through buffers and screening. The project will comply with all State and Federal regulations. The project construction cost is projected to be \$142.4 million. During construction, employee compensation (direct, indirect, induced) is estimated at \$11.2 million or 149 job years.

The CUP will address the following.

#### Comprehensive Plan Compatibility:

- Sustainability Goals/Strategies
- Green Energy
- Protection of Farmland

#### Public Health, Safety and Welfare

- Traffic
- Noise
- Visual Impact
- Adjacent Lands
- Water

#### Site Design Criteria:

- Storm Water
- Buffering and Screening
- Campus Services
- Facilities Management and Engineering (FM&E)

#### Project Layout and Design:

- Existing Conditions
- Adjacent Residential
- Location of Solar Panels
- Buffering and Screening

#### Operations and Decommissioning:

- Decommissioning Plan
- Return to Agriculture

# Part 2 – Property Information

## PARCELS

### Parcel #1

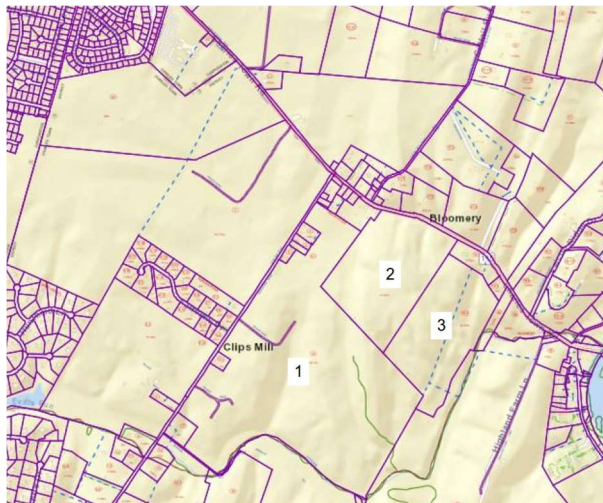
DB 959 Page 359  
Charles Town District 8, Tax Map #19, Parcel #14  
172.85 Acres

### Parcel #2

DB 1202 Page 496  
Charles Town District 8, Tax Map #19, Parcel #15.2  
51.45 Acres

### Parcel #3

DB 1202 Page 496  
Charles Town District 8, Tax Map #19, Parcel #15.3  
45.86 Acres

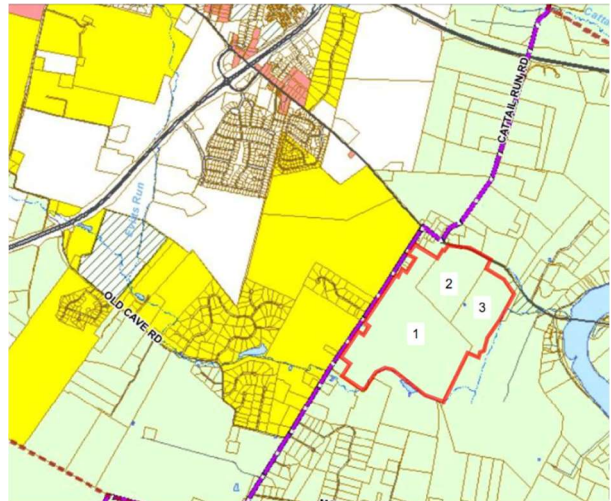


Parcel Map

Parcel #1 includes platted single family lots, road right-of-way, easements and open space. All of these are associated with the Thorn Hill Residential subdivision. Construction on this subdivision was not started and will be merged back to a single parcel if directed by Jefferson County. For the purposes of this application these lots are being treated as a single parcel, Parcel #1.

## ZONING

Parcels #1-3 are located in the Rural District. The Jefferson County Zoning Ordinance permits solar



facilities to be located in both of these districts.

Zoning Map

## SITE CHARACTERISTICS

The parcels are located southeast of Charles Town and front on Charles Town Road (route 115) and Kabletown Road (Route 25). This section of Jefferson County is in a karst geology zone.

### Parcel #1

The parcel is located on the east side of Route 25 and much of the parcel is currently pastureland. Evitts Run is located on the south side of the parcel, several large swales drain much of the parcel to this stream. The topography of the site includes flat areas and those with steeper slopes. Wooded areas are located along the creek and on the areas with steeper slopes. Trees and hedge rows are found throughout the parcel and are mostly associated with property lines, field boundaries and rock outcroppings. There are several old buildings on the property and foundations of structures that have been demolished. A high voltage power line crosses the eastern portion of the property.

### Parcel #2

The parcel is located in the south side of Route 115 and most of the parcel is currently pastureland. The site includes area with steeper slopes, specifically along Route 115. The land is characterized by a central high point that drains to the north and east. Trees and

# Part 2 – Property Information

hedge rows are found throughout the parcel and are mostly associated with property lines, field boundaries and rock outcroppings.

### Parcel #3

The parcel is located on the eastern edge of the assemblage and does not have frontage on a public road. Most of the parcel is pastureland. A small section of Evitts Run abuts a portion of the eastern property line. The parcel has a high voltage power line running through the center of the property. The parcel is approximately 25% wooded with larger section of trees on its southern and eastern boundaries.

### Parcel Images



Parcel #1 – aerial view



Parcel #2 – aerial view



Parcel #3 – Aerial View



Portion of Parcel #1 and #2 showing pastureland and trees

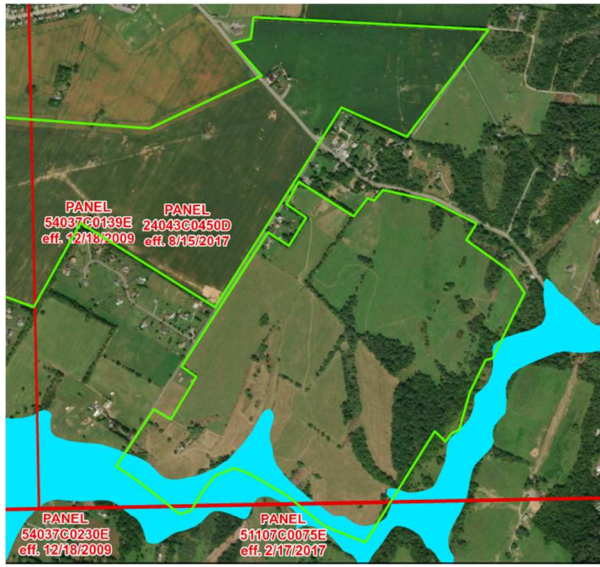


Parcel #3 – power line and Evitts Run

# Part 2 – Property Information

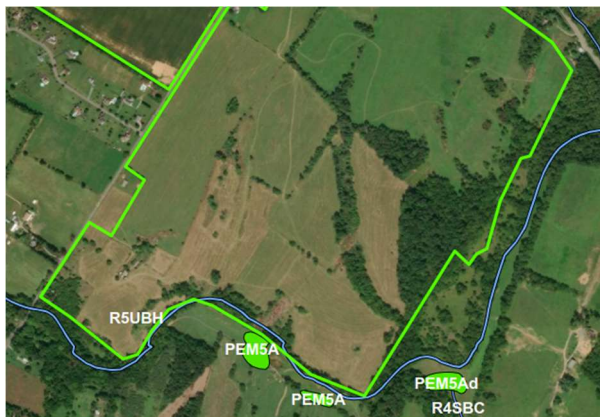
## FLOODPLAIN

Parcel #1 contains approximately 8.1 acres of floodplain associated with Evitts Run. No grading of solar panels are proposed within any floodplain area. The applicant may complete a Letter of Map Revision with FEMA that could reduce the area of the floodplain and allow for the installation of solar panels. Parcel #3 contains approximately 0.7 acres of floodplain associated with Evitts Run. No grading of solar panels are proposed within any floodplain area.



## WETLANDS

The Applicant has completed a review of the National Wetland Inventory maps and an independent wetland delineation for the project. The National Wetland Inventory map identified several offsite wetlands, Evitts Run and an unnamed offsite tributary to the north of Parcel #4.



Blake Solar Energy Facility Conditional Use Permit

## *National Wetland Inventory Map*

The independent wetland study was performed by Terracon, a nationally recognized environmental engineering firm. Their study identified an additional three onsite wetland areas and one stream. Two of the wetland areas were determined to be jurisdictional wetlands whose disturbance would be subject to USACE review and approval.

Wetland A – 0.17 acres (jurisdictional)

Wetland B – 2.91 acres (jurisdictional)

Wetland C – 0.58 acres (non-jurisdictional)



## *Terracon Wetland Delineation*

Wetland C is a manmade farm pond without a significant nexus to an onsite or offsite stream.

## HISTORIC

An archaeological assessment of the parcels was completed by Subterranean Consultants. The assessment included a literature review and pedestrian field survey.

During the literature review, state and county maps and documents were examined to determine if previously recorded archaeological resources were in or around the proposed project area. Field survey was conducted using surface and subsurface techniques, which included visual inspection, judgmental shovel testing of high probability areas, and systematic metal detecting to locate and identify archaeological resources within the project areas.

# Part 2 – Property Information

The following recommendations were generated from the study.

- Previously recorded archaeological site 46JF313 was not identified within the APE in 10 m interval shovel tests placed over the recorded location. Therefore, STC agrees with the original assessment that the site is not eligible for listing in the NRHP.
- Site 46JF137 is likely mismapped and the boundary should be adjusted to reflect the actual location.
- Previously recorded structure JF-0285, which was originally recommended ineligible should remain ineligible.
- Structure STC-Thorn-HS1 identified on the Thorn parcel as a barn and associated milk house is in disrepair and lack architectural distinction. Therefore, STC-Thorn-HS1 is recommended ineligible for the NRHP.
- Archaeological site STC-Thorn-HP1, which included the barn and milk house of STC-Thorn-HS1, did not yield any stratified deposits and archaeologically, the ruins, which consists of several concrete foundation remnants, would not yield and data for future research. Therefore, this site is recommended ineligible under Criterion D.

No further work is recommended on the parcels.

## EXISTING USE

Parcel #1 – pastureland, high voltage power lines, abandoned structures, forested areas

Parcel #2 – pastureland, forested areas

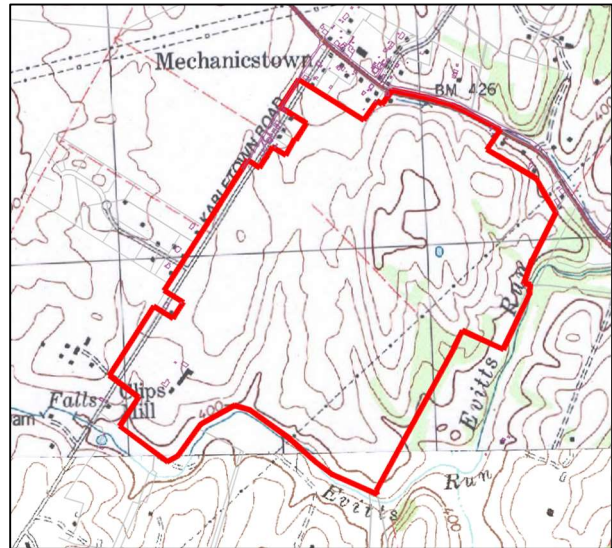
Parcel #3 – pastureland, high voltage power lines, forested areas

## UTILITIES

None of the parcels are served by public water or sewer.

## TOPOGRAPHY

Refer to Appendix A – Existing Conditions Map, USGS map is provided below for a high level overview.



USGS Topographical Map

# Part 3 – Proposed Uses

The CUP proposes a portion of a 8.0MW solar facility with supporting infrastructure and equipment.

## Land Use Analysis

Buffer Areas	30.0 acres
Power Line Easement	8.5 acres
Flood Plain/Evitts	8.8 acres
Run Buffer	
Solar Installation Zone	<u>222.86 acres</u>
<b>CUP Area</b>	<b>270.16 acres</b>

## Buffer Area

A minimum 50' buffer will be provided around the perimeter of the properties. This 50' will be increased to achieve a 150' buffer from any existing offsite residential structure.

**The 150' buffer is a 300% increase over the 50' buffer required by the Jefferson County Zoning Ordinance.**

The buffer will also be increased along Evitts Run to include all floodplain areas. Improvements within the landscape buffer include trees, shrubs, maintenance aisles, underground electric lines and fencing/gates. The majority of this area will be allowed to naturalize creating a dense visual buffer along the entire perimeter of the facility. Maintenance will be limited to that required to upkeep the fencing and maintain vehicular access around the permitter of the site.

The project will provide a minimum of 30 acres of perimeter buffer area.

## Power Line Easement

The existing power line will be maintained and not use for the proposed facility. Maintenance aisles and drainage may be located in the easements.

## Flood Plain/Evitts Run Buffer

No improvements will be placed within FEMA floodplain or within 50' of Evitts Run.

## Solar Installation Zone

The solar installation zone is the area defined by the CUP in which solar panels and accessory equipment may be located. The final location of the panels within these areas will be determined during construction as the slope of the land impacts spacing of the solar panel rows to maximize the efficiency of the installation.

**More than 50% of these of the land within the solar installation zone will be turf between the rows of solar panels.**

The following may be installed in the solar installation zones identified in this CUP:

- Solar panels
- Inverters
- Maintenance aisles
- Underground electrical lines
- SWM facilities
- Landscaping
- Other accessory equipment related to the solar facility.

Impervious surfaces associated with panel support within this area are limited and are estimated at 43,000 sf or 1.0 acres. 99.5% of the surface area in the solar panel fields will be pervious surfaces (turf, maintenance aisles, SWM areas).

Grading will occur within the solar installation zone where topographical conditions need to be modified for solar panel installation.

Portions of the solar installation zone will remain in open space. These areas in which solar panels do not fit and areas with topographical constraints. These areas become part of an expanded perimeter buffer.

## Operation

The project will collect solar energy during the day and be inactive at night. Energy collected from the panels flows to inverters located throughout the property to convert DC power into AC. Energy from the inverters flows to the sub-station which is connected to the high voltage power lines.

The operation will have full time staff who are in charge of maintenance of the facility.

All solar equipment will be located within a 6' chain link security fence. One access point is proposed and is being permitted through WVDOH. Site access will be limited to authorized personnel. Knox Box's will be located at the entry point and key will be provided to Jefferson County emergency personal.

## Part 3 – Proposed Uses

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### Improvements and Structures

The following components are part of the CUP approval.

- Solar panels
- Inverters
- Underground electrical
- SWM
- Vehicular maintenance aisle (gravel and turf)
- Fencing and gates
- Signage at the entries
- WVDOH compliant site access
- Landscaping

Erosion and sediment control will be permitted through WVDEP and be included in the concept plan submitted to Jefferson County.

**The CUP uses will be subject to a concept plan workshop with the Jefferson County Planning Commission after approval of the CUP.**

The workshop is an open hearing and the public is able to attend and participate, including direct interaction with the applicant.

## Part 4 – Benefit Analysis

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The benefits of this project are an important consideration when reviewing the Conditional Use Permit. The following analysis includes the local regional and global importance of green energy and the secondary benefits that will come with the approval of this facility.

### Green Energy

Power generation through the use of fossil fuels has environmental impacts and solar energy is a key strategy to reduce these impacts. The project will not generate emissions and will be a small but locally significant step towards sustainability.

### Employment and Investment

The 142.2M value (total project value) represents one of the largest economic development investments in the history of Jefferson County. This level of investment is a statement that Jefferson County is willing and able to support green industry and jobs. The project will result in high levels of local employment opportunities during construction and ongoing employment after construction is complete.

### Electrical Grid

It is expected that demands on the electrical grid will expand significantly as electric cars replace fossil fuel vehicles. The power generated from this facility will be used locally and regionally and will be an important component of a strong electrical grid in our area. New electrical sources are an important strategy when looking at the future demands that will be placed on our electrical supply.

### Agricultural Uses

Jefferson County historical roots are as an agricultural community. The farm families that that are the heart and soul of this business are rightfully concerned over the loss of farmland to development in Jefferson County over the last 30 years. As the County grew agricultural lands have been developed as subdivisions and businesses, these lands have been converted to non-agricultural uses.

The challenges facing agriculture are competition with large producers both national and international, generational as children leave the family farms and economic as small farms are no longer economically viable.

A great benefit of any solar project is that it does not result in the permanent conversion of farmland to residential, commercial, or industrial uses. The soils that have sustained generations of farm families will be preserved and can be returned to agricultural production. A decommissioning plan will be filed with WV as required by state legislation.

### Environmental

The project will generate electricity without producing emissions.

The project will not require the placement of nitrogen and phosphorous on the land. This will reduce nutrient loading to our streams and rivers.

The project will not require the placement of herbicides or pesticides on the land.

# Part 5 – Buffers and Setbacks

Solar panel setbacks and landscape buffers will screen the project from adjacent properties and roads. The image below shows the ability of the evergreen buffer to screen the solar panels.



Unscreened Solar Panels



Screened solar panels

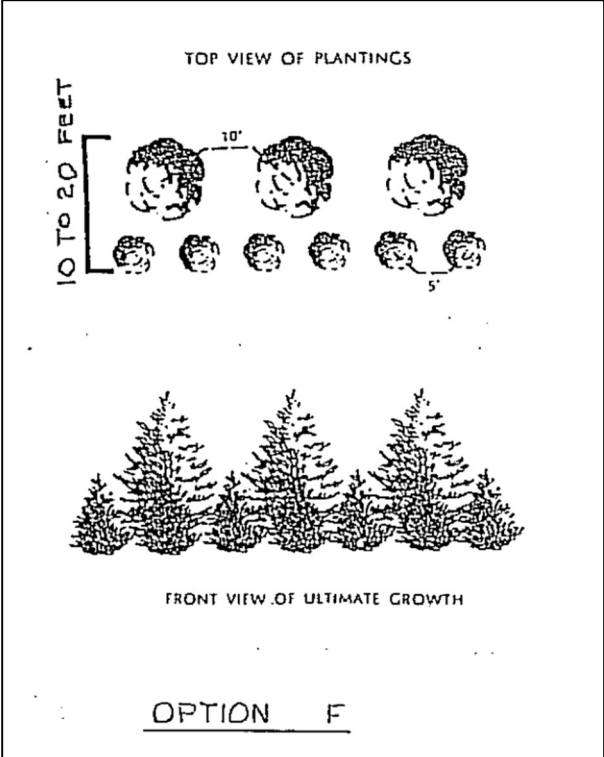
Setbacks

1. All solar panels will have a minimum 50’ setback from adjacent properties and public road rights-of-way.
2. All solar panels will have a minimum 150’ setback from offsite residential structures.
3. All solar panels will have a minimum 50’ setback from Evitts Run.
4. No solar panels will be located in FEMA designated floodplain.
5. See Exhibit C for the solar panel setbacks.

Buffers

Screened landscape buffers will be in compliance with the commercial requirements of Section 8.9.10 and Section 4.11.A of the Jefferson County Zoning Ordinance.

All screened landscape buffer plantings will Option F as permitted by the Jefferson County Zoning Ordinance.



Option F – Jefferson County Zoning Ordinance

In addition to the standard requirements found in the Jefferson County Zoning Ordinance buffers will be enhanced as follows.

1. Solar panels within 500’ of an offsite residential structure will require a screened landscape buffer.
2. Solar panels within 100’ of a public road will require a screened landscape buffer.
3. The screened landscape buffer is not required to be on the property line but must meet the minimum depth requirements as shown on Option F.
4. Site access points are permitted to cross the screened landscape buffer.
5. Screened landscape buffers are not required within the existing high voltage power line easement.
6. A landscape screen will be provided along Kabletown Road regardless of panel location.

# Part 6 – Stormwater Management

---

The Jefferson County Stormwater Management Regulations were modified to address stormwater management for solar energy facilities. Nothing in this section waives State or Federal requirements as they relate to stormwater management and/or erosion and sediment control.

## Stormwater Requirements

1. Stormwater management shall be provided for in accordance with the Jefferson County Stormwater Design Manual.
2. Stormwater compliance will be achieved through the installation of infiltration trenches along the drip line of solar panels.
3. Stormwater measures will be shown on the concept plan presented at the concept plan workshop public meeting.
4. WVDEP NPDES permit is required.

# Part 7 – Supplemental Conditions & Information

---

## Additional Standards

1. This CUP will allow multiple adjacent properties included in the CUP to be treated as a single parcel for the purposes of determining buffer and setback requirements. See Exhibit C for setbacks.
2. Electrical wiring between the solar panels, inverters and sub station shall be located underground.
3. Onsite lighting shall be the minimum necessary for security, onsite management and maintenance.
4. Damaged or unusable panels shall be removed within 60 days from discovery of damage. Longer periods may be approved by the County Engineer.

## Site Plan

1. Upon approval of the CUP the project will be subject to concept plan approval by Jefferson County.

## Bonding

1. Will be in conformance with Jefferson County regulations.

## Maintenance

1. The owner shall not use chemical fertilization other than may be required to initially establish turf and plantings.
2. The owner shall not use herbicides on the property other than required to manage invasive plant species and during the establishment of turf and plantings.
3. The owner shall not use pesticides other than may be required to initially establish turf and plantings.
4. The owner may designate portions of the property as naturalization zones. No maintenance is required in these areas
5. Solvents necessary for the cleaning of the solar panels shall be biodegradable.

## Lease, Operation and Construction Plan

The solar energy facility will be leased and operated by Horus West Virginia I, a subsidiary of OPDEnergy. Horus West Virginia I is responsible for the construction, operation and management of the facility. Construction of the facility will be started immediately after approval of the Concept Plan (required as part of the CUP process) by the Planning Commission. Construction of the project will be completed in a single phase. The project is part of a larger solar energy facility, a portion of which is a principal permitted use. This portion of the project is located immediately to the north of the site on land located within the urban growth boundary.

The expected useful life of the Project as initially constructed is 30 years. This can be extended by regular maintenance and replacement of equipment.

Upon decommissioning of the facility, the equipment will be removed down to a depth of 3 feet below grade and any disturbed ground will be restored and reseeded with an approved seed mix. Some maintenance aisles may be left in place, to the extent their alignments predated the facility construction or if they provide utility to future land use.

Decommissioning and bonding shall be in accordance with the WV Department of Environmental Protection.

# Part 9 – Section 6.3 Compliance

## FUTURE LAND USE ASSESSMENT

Section 6.3 of the Jefferson County Zoning Ordinance contains the general standards for all conditional use permits. These standards are to be considered when approving a CUP.

In the event that a solar energy facility is not constructed it is probable that a more intense land use will occur within 10 years. This alternate land use should be a consider when evaluating the impact of the facility on the adjacent lands.

### Parcel #1 – High Probability of Intense Development

- The property is currently subdivided as a single family residential subdivision
- The property has potential access to water and sewer utilities from the City of Charles Town.
- The property shares a common boundary with land designated for residential development.
- Impact – traffic, public infrastructure required, students, storm water

### Parcel #2 – Low Probability of Intense Development

- The property has frontage on a Minor Arterial Road
- Property has close proximity to the City of Charles Town
- Impact – traffic, public infrastructure required, students, storm water

### Parcel #3– Low Probability of Intense Development

- Property has close proximity to the City of Charles Town
- Property is adjacent to lands with high probability of development.
- Impact – traffic, public infrastructure required, students, storm water

Overall, the largest percentage of the property has a high probability that it will be developed with a intense residential use. The development of Parcel #1 would likely trigger the development of Parcel #2 and #3.

## COMPREHENSIVE PLAN

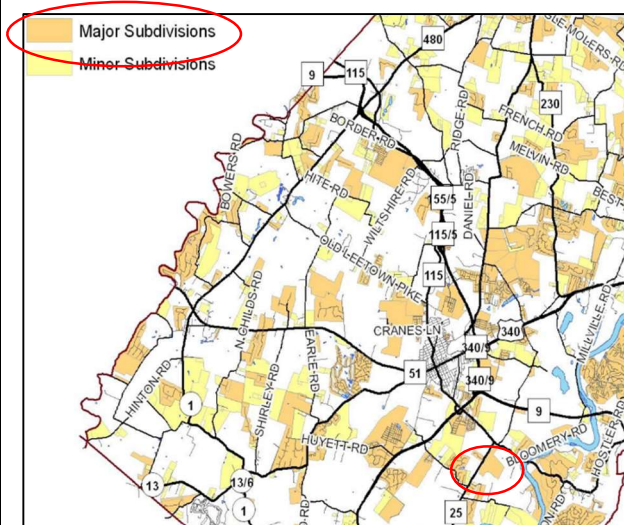
The Applicant has reviewed the Comprehensive Plan (CP) and has found strong support for the proposed CUP.

The following summary is an evaluation of the pertinent sections of the CP, with citations that support the CUP.

### Comprehensive Plan – Land Use and Growth Management

**Intense Development** - the CP recognized that intense development would occur on most the land that is subject to the CUP. Parcel #1 is identified as a major subdivision (see below). The proposed use is less intense than that projected by the Comprehensive Plan.

Comprehensive Plan Citation (map)



Major/Minor Subdivision Map

**Viewsheds** - in Jefferson County, viewsheds have historically been used as a reason and method to oppose development. The CP tells the public that viewsheds are not meant to be a factor in denying conditional use permits. The CUP proposes a less intense use of the land than a major subdivision and mitigates viewshed issues through the proposed screening and buffers.

### Citations

*“Designation of a viewshed is not intended to preclude development from occurring, rather to encourage the*

## Part 9 – Section 6.3 Compliance

*layout and scale of structures in a manner that minimizes the effects on the viewshed.”*

### **Comprehensive Plan – Economic Development, Employment and Infrastructure**

The Comprehensive Plan guides Jefferson County to pursue a robust diversified economic strategy. The proposed solar power facility would bring significant investment to Jefferson County without creating more demand for services. The facility will be part of the rural economy, only pausing agricultural use on the property without permanent conversion of the farmland. The CUP preserves agricultural land in the County.

Additionally, the recommendations found in the Comprehensive Plan direct the County to enable the construction of renewable energy facilities.

#### **Citations**

*“Recommendation 10/11-8 Encourage public entities to utilize alternative and renewable energy sources for a variety of energy needs, specifically Solar Energy Facilities in areas inside of the Urban Growth Boundary and the Preferred Growth Area as a Principal Permitted Use, and outside of the Urban Growth Boundary and the Preferred Growth Area, by the Conditional Use Process.”*

*“Recommendation 10/11-8.a Enable the construction of renewable energy generation facilities by residents and businesses.”*

*“Recommendation 8-5 Amend the Zoning and Land Development Ordinance to permit additional non-residential rurally compatible uses.”*

*“It is widely recognized that many of the resources that we rely on to heat, cool, and light homes, power electronics, provide transportation fuel, and other daily needs are finite. Consequently, there has been an increasing need to assess the viability of alternative and renewable energy sources that may assist in maintaining the quality of life of Jefferson County’s residents and businesses.”*

*“There are efforts underway at the local and state level to encourage the conservation of energy and the utilization of alternative energy sources.”*

*“There must be a viable rural economy to maintain the rural landscape.”*

*“One of the more significant issues expressed by County residents involved in the Envision Jefferson 2035 process was maintaining the rural economy and small town lifestyle of Jefferson County. It is important that this discussion not be framed by the concept of preservation but of creating opportunities for farms to be economically viable.”*

### **Comprehensive Plan – Finance and Public Safety**

The Comprehensive Plan promotes a diverse economy and the development of alternate energy projects.

#### **Citations**

*“A healthy economic future of the County will be based on the balance of a diversified commercial, industrial, and residential tax base.”*

*Recommendation 24-1 Develop policies that result in a well-balanced tax base that is not overly reliant on residential taxes, but is diversified by the presence of a robust commercial and industrial tax base.*

*Recommendation 24-14 Consider implementation of alternative energy systems as they become more efficient and cost effective in facilities owned and maintained by the County or other public entities.*

### **Comprehensive Plan – Goals**

The CP ends with a list of goals and objectives. The comprehensive plan endorsed the creation of renewable energy facilities.

#### **Citations**

*“Goal #10 - Objective #9: Encourage the creation of and use of a variety of energy sources (including renewable energy) within Jefferson County in ways that respect the character of the County.”*

### **INTENSITY AND SCALE**

The proposed CUP is a low intensity use that does not generate traffic, noise or pollution. Once constructed it will be less intense than the existing agricultural uses which have seasonal periods of intense use and activity.

# Part 9 – Section 6.3 Compliance

The evaluation of scale typically applied to the size of structures and/or the density of residential use. In the CUP there is no increase of scale with all of the solar panels either buffered/screened or buffered, physically separated from adjacent properties and roads. The scale is less than if the properties were developed for residential uses.

The project poses no threat to the public health safety and welfare. The solar energy facility will be a quiet neighbor screened from adjacent properties. There is a strong argument that the project will enhance public safety through the strengthening of the power grid.

### **USE AND DEVELOPMENT OF ADJACENT LANDS/BUILDINGS**

The proposed use has no impact on the use and development of adjacent lands/buildings. It cannot be impacted by development on adjacent lands and would not be a factor in the approval of projects on the adjacent properties.

### **NEIGHBORHOOD CHARACTER**

The neighborhood character is defined by the use of the land, typically residential, commercial, industrial, etc. Neighborhood character is an important consideration to determine how uses relate and impact one another. For example, the construction of a large shopping center on the property would change the neighborhood character.

Since the proposed use is a passive one, with no traffic, additional residents or the additional impacts of a commercial use it will have a small impact on the neighborhood character. All panels will be setback from public roads and existing residences.

The CUP specifically directs the applicant to safeguard surrounding properties by implementing landscape buffer requirements. The 150' landscape buffer (from residential

structures) proposed in this CUP is more than required by ordinance.

The CUP will not have a significant impact on the neighborhood character. It reduces the impact that would be permitted by right in the single family major subdivision recorded on Parcel #1.

### **ROADWAY ADEQUACY AND TRAFFIC**

Route 115 is classified as a Minor Arterial highway in the Jefferson County Comprehensive Plan.

Parcel #2 has frontage on Route 115

Route 25 is designated as a Major Collector in the Jefferson County Comprehensive Plan

Parcel #1 has frontage on Route 25.

Per the Conditional Use Permit form the Applicant is required to provide trip generation data, including Average Daily and Peak Hour trips for the BZA to review.

The majority of the traffic generated by the facility will occur during the construction stage. This traffic will be coordinated with the WVDOT as part of the entry permit approval process. The trip generation for a solar energy facility is very low. The site will be maintained by a single employee, although additional trip can be expected for the maintenance of the site.

Average Daily Trips – 16

- Trips are based on the projects four entries having two trips per day each.

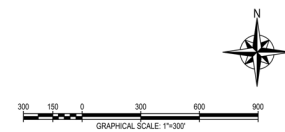
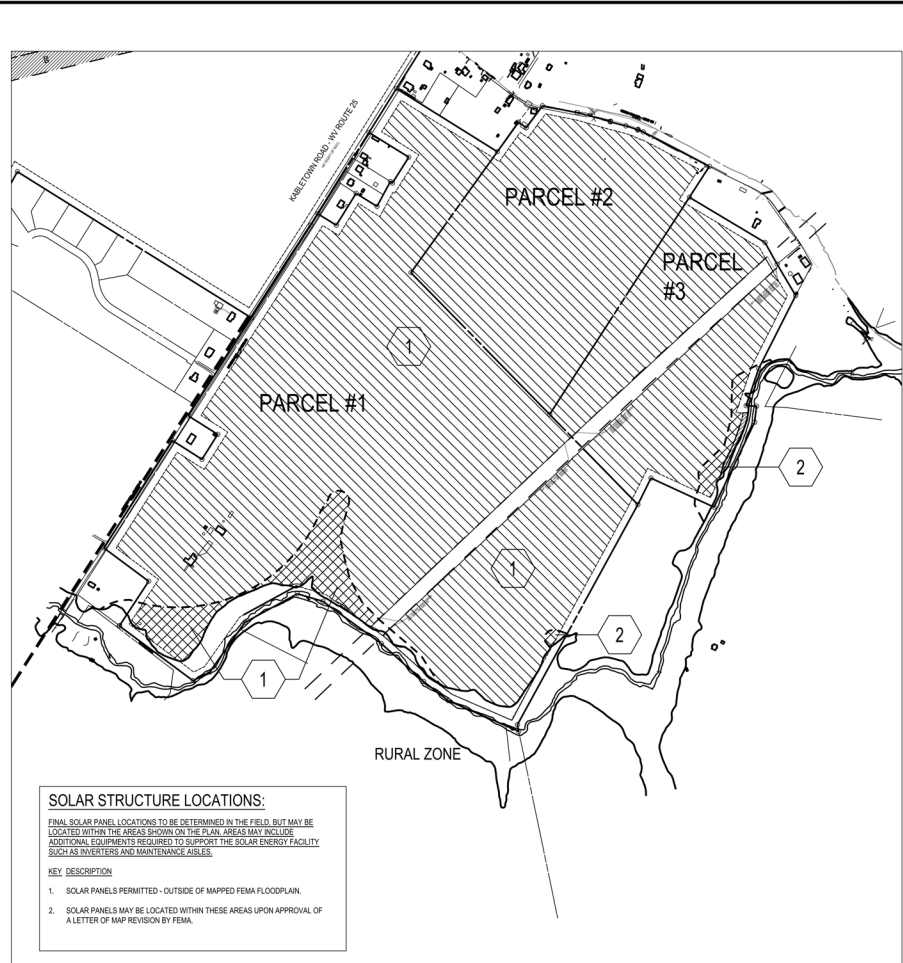
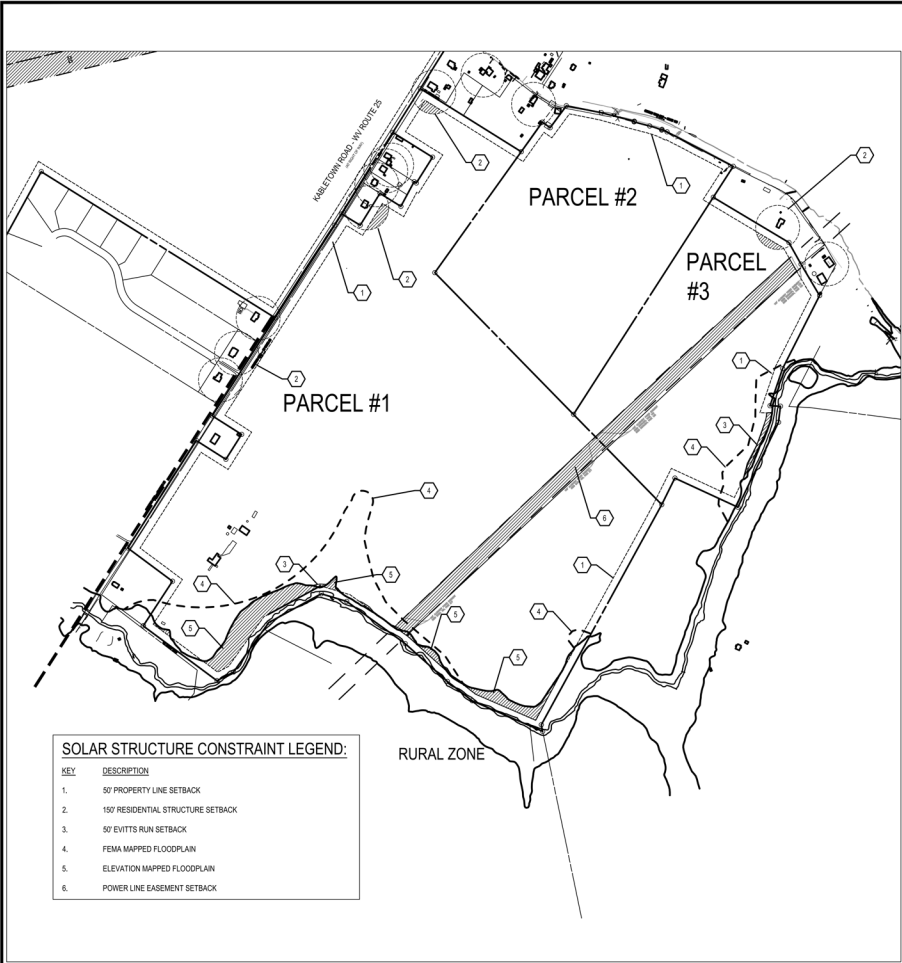
Peak Hour trips – 4

- 25% of the average daily trips were used to calculate the peak hour trips.

### **HISTORIC SITES**

The subject properties are not historic sites. See Part 2 of this Application for additional details.





NOT FOR CONSTRUCTION  
 REFERENCE ONLY

SEAL:

REVISIONS

SOLAR STRUCTURE LOCATIONS  
**BLAKE SOLAR PROJECT**  
 MULTIPLE PARCELS  
 JEFFERSON COUNTY, WEST VIRGINIA

J.C. FILE 8000.XX

SCALE: HORIZ.: AS NOTED  
 VERT.: AS NOTED  
 DATE: JUNE 17, 2022  
 JOB: 3514-0101  
 DRAWN: ACS CHECK: PJC  
 CADD:  
 NCS: N/A  
 SHEET: 2 OF 5









**Archaeological Assessment of the High Horizons, Peel, and  
Thorn Parcels in Mechanicstown, West Virginia**  
Jefferson County

November 18, 2019

Prepared for:

Terracon Consultants, Inc  
Lawrenceville, GA 30043

Prepared by:

Subterranean Consultants  
Heflin, Alabama 36264

*Billy J. McCarley*

Billy J. McCarley, MA, RPA  
Principal Investigator

## MANAGEMENT SUMMARY

Subterranean Consultants (STC) conducted a Phase I archaeological survey of three parcels of land (**High Horizons Parcel** [Parcel ID 19-02-0019-0001-0000], **Peel Parcel** [Parcel ID 19-02-0019-0015-0003], and **Thorn Parcel** [Parcel ID 19-02-0019-0014-0000]) in the vicinity of Mechanicstown, WV. Archaeological survey was conducted between October 26, 2019 and November 12, 2019. Survey was conducted for Terracon Consultants, Inc., to locate and identify archaeological resources and to assess resource significance based on National Register of Historic Places (NRHP) criteria (36CFR Part 60.4 [a-d]).

Archaeological assessment included a literature review and pedestrian field survey. During the literature review, which took place on October 23, 2019, state and county maps and documents were examined to determine if previously recorded archaeological resources were in or around the proposed project area. Field survey was conducted using surface and subsurface techniques, which included visual inspection, judgmental shovel testing of high probability areas, and systematic metal detecting to locate and identify archaeological resources within the project areas.

### Results

Background Research: Review of the West Virginia Archaeological Site File revealed that one isolate (46JF341) and a 500 ft. by 500 ft. (5 acres) previously recorded cemetery (46JF137) is previously recorded on the Thorn parcel and two isolates (46JF396 and 46JF397) and one site (46JF313) are previously recorded on the Peel parcel. See results on 46JF137 as field survey and research has identified that the original site boundary was arbitrary and mismapped. In addition, there is one previously recorded early twentieth century extant structure (JF-0285) located on the High Horizons parcel and two mid-twentieth century structures and associated ruins (Architectural inventory Form STC-Thorn-HS1; Archaeological Site STC-Thorn 1) identified during the current survey on the Thorn parcel. Additionally, according to the West Virginia Historic Preservation Office Interactive Map, the Battle of Charles Town boundary intersects a small portion of the western boundary of the High Horizons parcel. Prior to fieldwork, STC placed a call to West Virginia State Historic Preservation Office for a discussion of this result. After speaking with one of the division archaeologists, STC was informed that the established boundary for the Battle of Charles Town is informal and not accurate as defined on the research maps online. Therefore, STC designed a fieldwork plan that included metal detecting and pedestrian survey of the entire High Horizons parcel and pedestrian survey and shovel testing of high probability areas of the remaining Peel

and Thorn parcels.

Archaeological Field Survey: Close interval shovel tests were conducted at isolates 46JF341, 46JF396, and 46JF397, at site 46JF313, and around the perimeters of previously recorded structure JF-0285 and newly identified STC-Thorn-HS1. High probability landforms, areas along Evitts Run, locations identified on the West Virginia SHPO map indicating structures that are no longer extant. Probing was conducted along 46JF137 at 2-m intervals and the perimeter was shovel tested at 15 m intervals. In addition, the grass was removed from the surface of 46JF137 to identify possible burial shafts. No archaeological materials were identified at any of these locations. However, there are archaeological ruins (STC-Thorn-1) at STC-Thorn-HS1 (barn and mill), which will also be registered as temporary archaeological site number STC-Thorn-1. Because of the Battle at Charles Town is indicated by an informal boundary along the western portion of the High Horizons parcel, the entire 244.48-ac parcel was metal detected using natural 100 cm plow rows as sweep distance in southwesterly transects. The High Horizons parcel was recently plowed and harvested, and soil surface visibility varied between 75 and 80 percent. Therefore, judgmental shovel tests were conducted throughout the 244.48-ac parcel along with 10-m interval walking and inspection transects. No archaeological materials were identified during metal detecting, pedestrian survey, or shovel tests.

None of the structure JF-0285 previously recorded and extant on the High Horizons parcel exhibits distinction according to a 2005 assessment by Taylor and Taylor Associates and was not considered eligible for the NRHP. STC-Thorn-HS1 also lacks distinction and is currently in disrepair. There were no archaeological materials (i.e., artifacts, cultural deposits, features, or human remains) located within any of the parcels surveyed.

## **Recommendations**

Previously recorded archaeological site 46JF313 was not identified within the APE in 10 m interval shovel tests placed over the recorded location. Therefore, STC agrees with the original assessment that the site is not eligible for listing in the NRHP. Site 46JF137 is likely mismapped and the boundary should be adjusted to reflect the actual location. Previously recorded structure JF-0285, which was originally recommended ineligible should remain ineligible. Structure STC-Thorn-HS1 identified on the Thorn parcel as a barn and associated milk house is in disrepair and lack architectural distinction. Therefore, STC-Thorn-HS1 is recommended ineligible for the NRHP. Archaeological site STC-Thorn-HP1, which included the barn and milk house of STC-Thorn-HS1, did not yield any stratified deposits, and, archaeologically, the ruins, which

consists of several concrete foundation remnants, would not yield and data for future research. Therefore, this site is recommended ineligible under Criterion D. No further work is recommended on the High Horizons, Peel, or Thorn parcels.

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## CHAPTER 1. INTRODUCTION

Subterranean Consultants (STC) conducted a Phase I archaeological survey of three parcels of land (High Horizons Parcel [Parcel ID 19-02-0019-0001-0000], Peel Parcel [Parcel ID 19-02-0019-0015-0003], and Thorn Parcel [Parcel ID 19-02-0019-0014-0000]) in the vicinity of Mechanicstown, WV (Figures 1-2). This archaeological assessment was conducted between October 26, 2019 and November 12, 2019. Survey was conducted for Terracon Consultants, Inc., to locate and identify archaeological resources and to assess resource significance based on National Register of Historic Places (NRHP) criteria (36CFR Part 60.4 [a-d]). Billy McCarley, MA, RPA, served as field director and principal investigator for the archaeological field survey and reporting (Appendix A). Fieldwork was conducted over a period of 20.5 days, ten hours per day by a crew of ten.

This technical report contains six chapters. Chapter one introduces the project and report. Chapter two presents the environmental context of the project area, which includes the paleoenvironment, physiographic province, and soils. Chapter three presents the cultural context. Chapter four presents the methodology utilized during survey. Chapter five presents the results of research and field work, and chapter six concludes with recommendations.

### **Area of Potential Effect**

The archaeological survey area was equal to the area of ground disturbing activity (APE for direct effects), which would be three parcels: High Horizons, Peel, and Thorn parcels. The High Horizons Parcel (Parcel ID 19-02-0019-0001-0000) totals 244.48 acres. The Peel Parcel (Parcel ID 19-02-0019-0015-0003) totals 51.25 acres, and the Thorn Parcel (Parcel ID 19-02-0019-0014-0000) totals 159.7 acres.

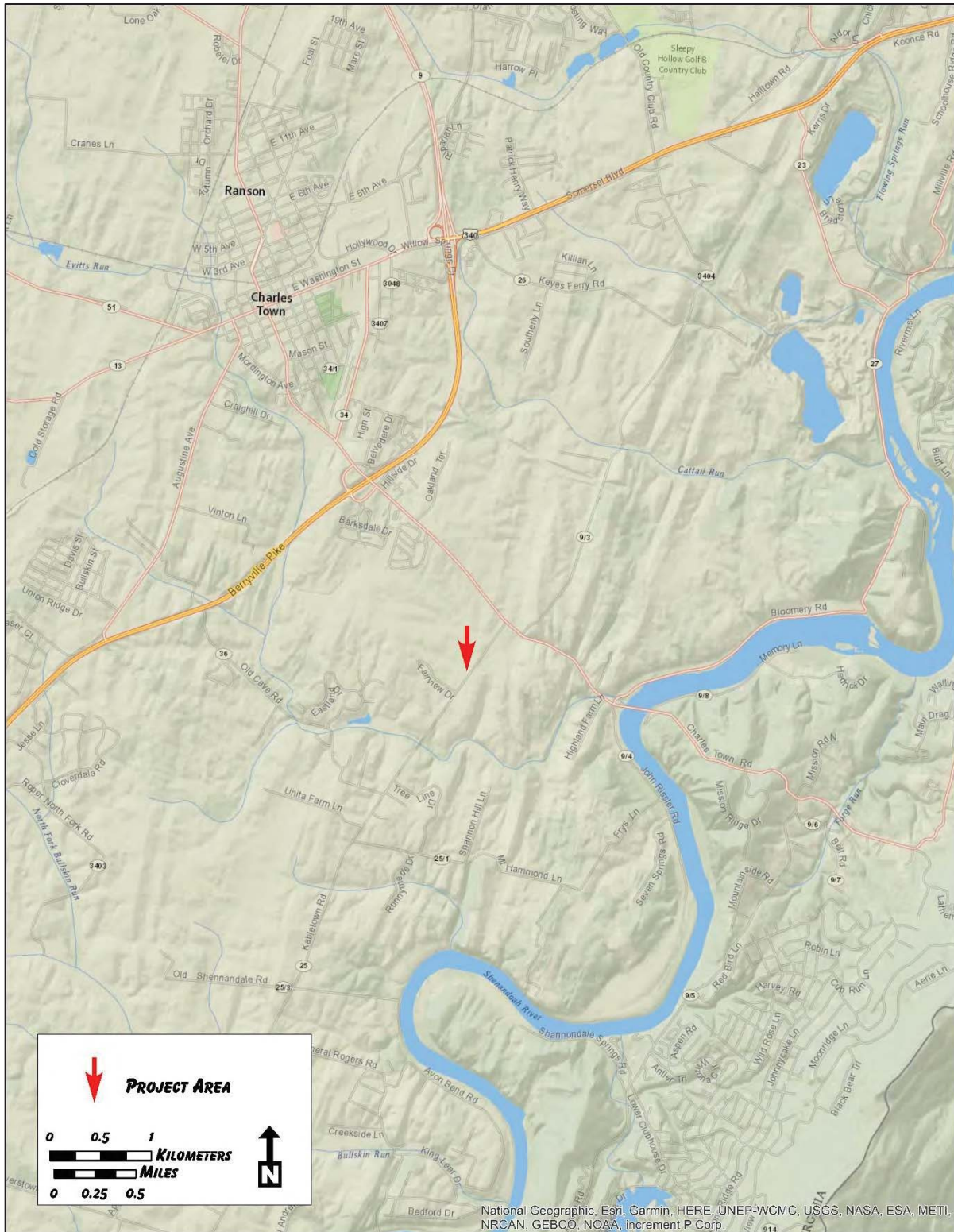


Figure 1: National Geographic's basemap depicting project vicinity.

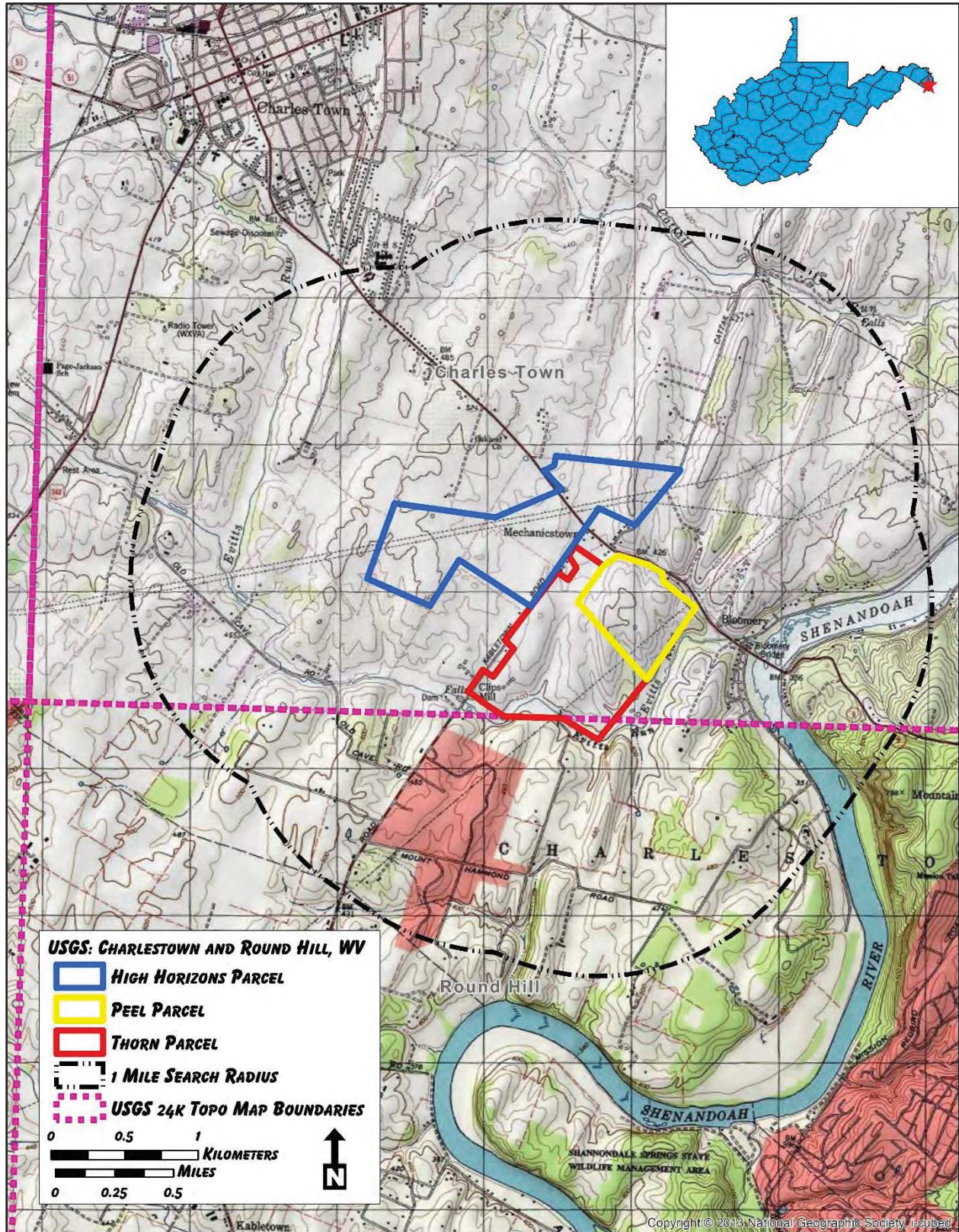


Figure 2: Project area APEs depicted on a USGS topographic map.

## CHAPTER 2. ENVIRONMENTAL CONTEXT

### Paleoenvironment

Flora and fauna began a northward migration by 14,500 B.C., reaching the midcontinent by 10,500 B.C. (Delcourt 1979). Mixed coniferous-deciduous forests provided a refuge for the Native Americans who were practicing deforestation as early as 3000 B.C. to protect valuable nut-producing trees (Gremillion 2004:60). Competing vegetation was removed, and nut tree stands were carefully managed to encourage growth near important settlements (Hammett 1992). Prior to the historic period (1600 to 1776), which represents the modern environment of the current survey area, Native Americans living in the region throughout the Holocene relied heavily on fleshy tree fruits such as acorns, hickory nuts, and walnuts. Beechnuts, chestnuts, butternuts, and hazelnuts were consumed, as well, but in smaller numbers (Gremillion 2004:62). Herbs, shrubs, small trees, and vines such as dewberry, blackberry, wild strawberry, grapes, persimmons, maypop, and elderberry were harvested to supplement carbohydrate needs (Gremillion 2004:62).

The whitetail deer was the most important source of meat during the Holocene throughout North America. An increase in deer population during the middle to late Holocene in North America was a direct response to Native American subsistence habits of deforestation and vegetative manipulation. As open fields and clear forests expanded from slash and burn methods, so did the white-tailed deer. Elk and Bison were hunting near the region. However, climate conditions rendered them extinct by the end of the 18th century in the region (Gremillion 2004:64; Haines 1975:75). Other mammals occurring during the Holocene include the black bear, raccoons, the fisher and least weasel, river otter, spotted and striped skunk, the bobcat and mountain lion, and the eastern cottontail (Gremillion 2004:64).

Wild turkey and the northern bobwhite roamed the forest floors, providing easy game for Native camps. The Cooper's hawk, red-shouldered hawk, turkey vulture, barn owl, eastern screech-owl, great horned owl, and barred owl served less as food sources and more as symbolic representations of the upper world (Gremillion 2004). Economically, fish from slow-moving streams provided high yielding protein in exchange for a low amount of energy expenditure. This, in terms of effort to yield ratio, was the most economic resource for Native Americans of the Holocene living along the current survey region; Fork-tail catfish, sunfish, bass, buffalo fish, freshwater drum, and garfish were all valuable resources (Walker 2000).

Modern vegetation in the area consists of floodplain meadow of clover, hay, and mint. Wooded areas include mixes of sycamore, walnut, and maple. Most of the project area was recently used for grazing cattle, growing hay, and/or corn cultivation.

## **Physiography**

The project area is located along rolling agricultural hills of southern Jefferson County in east West Virginia. The project area lies along the Great Valley of the Ridge and Valley Province. The Great Valley district lies between the North Mountain and the Blue Ridge Province. It consists of complexly folded and faulted alternating bands of limestone and dolomite that span east-west. Evitts Run flows through the southern and eastern portion of the project area 450 m east and into the Shenandoah River. Geology in the project area consists of Cambrian-age limestone and dolomite with intermittent mixes of sandstone and shale (Fenneman 1928).

## **Soils**

According to the Web Soil Survey (2019), Poplimento silt loam soils occur along tilled corn fields and grass uplands of the project area. Poplimento soils were formed in residuum from shale, limestone, and siltstone of the weathered Valley and Ridge mountains. The upper horizons contain well drained textures of dark yellowish-brown silt loam with subsoil generally occurring at between 17 and 40 centimeters below the surface (cmbs). Typically, subsoil is strong brown silty clay loam (United States Department of Agriculture, Soil Conservation Service [USDA, SCS] 1973).

## CHAPTER 3. CULTURAL CONTEXT

### Introduction

Because of the noticeable changes in cultural traditions and practices temporally, we can, with some degree of accuracy, divide prehistoric cultures into time periods, and, within those time periods, into sub periods. Each period represents varied changes in subsistence approaches, lithic and ceramic technologies, sociopolitical activities, and settlement patterns. Three precontact cultural periods are represented in the following chapter: *PaleoIndian* Period, *Archaic Period*, *Woodland Period*. Context will conclude with historic context.

### Paleo-Indian Period (12,000 to 8,000 B.C.)

We begin to see human activity in West Virginia as far back as 12,000 B.C. These groups are not well represented in the region, perhaps due to the natural processes of the harsh environment over long periods of time (Gardner 1974). Nonetheless, the *PaleoIndians* of the region were living in tundra or park-tundra environments after the retreat of the Wisconsin glacier. Post glacial retreat Spruce woodlands followed, and by 8,000 B.C. broadleaf forests created an environment in which the flora and fauna flourished (Gardner 1974). The *PaleoIndians* were highly mobile hunter-gathers who followed migrating megafauna. Traveling in small nomadic groups, they lived in temporary open-air camps. The West Virginia *PaleoIndians* are closely identified with the Clovis big game hunters of the plains. The tools of the *PaleoIndian* period of the area are large, fluted, bifacial points and unifacial chipped stone tools (Gardner 1974).

The Flint Run Complex in Virginia is a good example of PaleoIndian temporary base camps in the region. *PaleoIndian* base camps tend to have heterogeneous artifact assemblages, in contrast to smaller special purpose sites that were occupied by smaller groups for shorter periods of time to make use of seasonally available resources. Base camps were tied to quarry sites where high-quality cryptocrystalline lithic materials were extracted for stone tool manufacture. Smaller camps and special use sites radiate from the base camps in varying distances.

*PaleoIndians* placed an emphasis on hunting Pleistocene-age megafauna such as mammoth and mastodon. However, because of the lack of large megafauna in the region, late *PaleoIndian* groups likely hunted deer, elk, and possibly caribou. Diagnostic projectile point forms include Clovis, Mid-Paleo, and Dalton-Hardaway (Gardner 1974).

### **Archaic Period (8,000 to 3,000 B.C.)**

By the time of the Holocene epoch, West Virginia had transcended the major cold of the Pleistocene (Tuck 1978). The megafauna was gone, and modern flora and fauna were present. Cultural change was taking place, and group interactions can be seen throughout the region. At *Early Archaic* sites, notched and re-sharpened points, a decline in formal, well-made stone tools, and an increase in number of sites are evident. *Early Archaic* groups, although still mobile, began to operate from a centralized base camp, which remained in place for a very short period. By the middle and late *Archaic* periods, long-distance trade networks were established, warfare was on the rise, and people living in the region took refuge from the elements in upland deciduous forests. While the *Middle Archaic* people were still egalitarian, social order is evident by the *Late Archaic Period*. Projectile points are the primary means of identifying *Archaic* sites. Notched and bifurcate points were replaced by square and contracting stemmed points (Funk 1978). Most of the *Archaic* sites in the region are located on level floodplains, with a few being on dissected uplands, and almost none are located on hillsides (Funk 1978).

### **Woodland Period (3,000 B.C. to A.D. 1,600)**

The Early Woodland periods was a time when the indigenous people of the region became less reliant on hunting and gathering and began to settle more and more into seasonal camps. Technological advances in tools and household goods are seen in the archaeological record from this time period. Knives and projectile points became smaller due to continued decrease in hunting of large animals, and pottery became more abundant to store horticultural goods and gathered nuts. To accomplish daily tasks in the most efficient way, small settlements were evenly dispersed across the land to further employ collective resource gathering (Tuck 1978).

While the Woodland period cultures across the region were mostly egalitarian hunter-gatherers practicing horticulture, the cultural tradition encompasses several traits that include an increased reliance on seed collection and cultivation, semi-sedintarianism, and increased mortuary ceremonialism (Tuck 1978). It is perhaps the increases in ceremony and seed cultivation that brought on the use of widespread pottery, which was needed for storage and sometimes used for burials (Tuck 1978). *Early* and *Middle Woodland* sites are associated with the Adena and Hopewell people, who practiced highly organized trade and socio-political associations. The Adena tradition is a precursor of the Hopewell tradition (Griffin 1978). The Adena utilized rock/mineral, copper,

mica, and shell in the construction of mortuary items. The Adena PP/Ks were leaf shaped and stemmed (Cresap, Kramer, and Adena Stemmed). In the Ohio Valley, Adena mounds were mostly used for mortuary purposes and not settlement (Griffin 1978).

Between A.D. 1 and A.D. 350, the Hopewell traits (*Middle to Late Woodland*) are identified in West Virginia. These, like the preceding Adena, focus on mound construction, mortuary practices, and specialized goods. Hopewell mounds are usually in groups, and domestic settlement, like the Adena, is still separate from burial mounds (Griffin 1978). The Hopewell mounds were built, over time, to cover burials on the ground surface (Griffin 1978). As the bodies accumulated, the mound grew. Hopewell earthworks also include hilltop geometric enclosures. The Hopewell culture placed zoned rocker-stamped pottery with grave goods in most burials. Tubular pipes made of Barite are exclusive to the Hopewell tradition. Also found in context with Hopewell sites are bear canines, shark teeth, pearls, conch shell dippers, and modified human remains. Decorations on stone, bone, and pottery include the Spoonbill bird and crosshatched zones. Copper breastplates, ear spools, bracelets, finger rings, and celts are all items exclusive in the Hopewell sphere (Griffin 1978).

### **Historic Period (A.D. 1,600 to Present)**

Around 1600, the Delaware and Shawnee moved into present-day West Virginia, and the Iroquois Confederacy had become a power in the region (Callender 1978). The Confederacy alliance was five Iroquois-speaking nations (Mohawk, Oneida, Onondaga, Cayuga, and Seneca). When English colonists landed at Jamestown, Virginia in 1607, the British and French both claimed present-day West Virginia (Williams 1993). By 1722, the British secured three treaties which opened the western Virginia frontier to European settlement. In 1722 and 1744, respectively, the Treaty of Albany and the Treaty of Lancaster were negotiated with the Iroquois Confederacy, and in 1752, the Treaty of Logstown was negotiated with the Delaware and Shawnee. However, these treaties were the beginning of the removal of American Indians from ancestral lands in West Virginia (Williams 1993).

In 1754, hostilities broke out between English and French troops in western Pennsylvania. English troops were ambushed by the French at Fort Necessity, and defeats in the French and Indian War forced the construction of forts in the South Branch Valley. Between 1756 and 1758, American Indians pounded Fort Evans in present-day Berkeley County, forts Seybert and Upper Tract in

present-day Pendleton County, and multiple settlements in the Monongahela, New River, and Greenbrier valleys. After the Revolutionary War ended in 1783, settlers poured into western Virginia, with most American Indians moving their villages westward into Indiana (Williams 1993).

By the early eighteenth century, EuroAmericans began arriving in the area. Settlers arrived from the Tidewater area of Virginia bringing the plantation culture into the area. By 1742, William Vestal built the Bloomery furnace to make bar iron (Bushong 1941). After Vestal's furnace was constructed more iron furnaces were built along the Shenandoah and Potomac River in Jefferson County. On January 8th, 1801, Jefferson County was formed from present day Berkeley County, which was formed from Frederick County, Virginia in 1738. The Virginia General Assembly passed an act to create the new county in 1801, naming it Jefferson to honor Thomas Jefferson.

By 1833, the Chesapeake and Ohio Canal was extended to Harpers Ferry followed by the expansion of the Baltimore and Ohio Railroad in 1834 into Jefferson County. Subsequently in 1835 the Winchester and Potomac Railroad was built and connected to the B&O Railroad at Harpers Ferry (Bushong 1941). The establishment of these railroads, canal and additional roads allowed for the economic expansion of Jefferson County, with the government producing 1,500 muskets and 1,800 rifles annually (Brown 1852). Because of this economic ability of Harpers Ferry and the B&O Railroad, West Virginia was formed from Virginia during the war on June 20th, 1863 (Bushong 1941).

During and after the Civil War the Jefferson County economy slowed as the Armory at Harpers Ferry ceased operation. In addition, Vestal's Bloomery furnace and its neighbor the Shenandoah furnace were no longer an economic benefit to the region. In the mid-nineteenth century, iron deposits were found to be very plentiful around Lake Superior and the extensive train network made it economical to transport. Therefore, Jefferson County economy depended heavily on agriculture. The richness of the soil in the Shenandoah Valley and the abundance of waterpower lead to the establishment of numerous mills in the region (Bushong 1941).

### **Previously Recorded Resources**

There are three previously recorded isolated finds (46JF341, 46JF396, and 46JF397), one archaeological site (46JF313), and one standing structure (JF-0285) recorded within the project area direct effects APE defined in chapter one. In addition to these resources, there are 20 isolated

finds and ten archaeological sites within 1 mile of the current APEs. There are two previously recorded archaeological sites partially in the current APE (Cherubin and Bodor 2005; Botham et al. 2014).

**Table 1: Previously Recorded Archaeological Site within 1 Mile.**

Site	Period	Affinity	Landform	Description
46JF56	Prehistoric	Unknown	Sink	Cave visited by George Washington in 1748. Signature on wall
46JF133	Historic	1801-1850	Upland	White and slave cemetery
46JF137	Historic	1801-1850	Upland	Cemetery with slave component
46JF310	Prehistoric	Woodland	Sideslope	Lithic Scatter
46JF313	Prehistoric	Unknown	Hilltop	Lithic Scatter
46JF316	Prehistoric	Unknown	Hilltop	Lithic Scatter
46JF317	Prehistoric	Unknown	Sideslope	Lithic Scatter
46JF502	Historic	1801-present	Floodplain	Vacant Structure
46JF503	Historic Prehistoric	1700-present Unknown	Floodplain	Vacant structure and lithic scatter
46JF504	Historic	1801-present	Terrace	Evitts Run Dam
46JF505	Historic	1780-1840	Floodplain	Pearlware Scatter
46JF506	Historic	1762-1840	Floodplain	Tableware Scatter

**Table 2: Previously Recorded Isolates within 1 Mile (continues).**

Isolate	Period	Affinity	Landform	Description
46JF227	Prehistoric	Archaic	Floodplain	Rhyolite Flake
46JF341	Prehistoric	Unknown	Broad Uplands	Lithics
46JF362	Prehistoric	Unknown	Hillside	Lithics
46JF363	Prehistoric	Unknown	Hillside	Lithics
46JF364	Prehistoric	Unknown	Hillside	Lithics
46JF365	Prehistoric	Unknown	Floodplain	Lithics
46JF366	Prehistoric	Unknown	Floodplain	Unrecorded
46JF369	Prehistoric	Archaic	Hillside	Lecroy lithics
46JF370	Prehistoric	Unknown	Hillside	Lithics
46JF371	Prehistoric	Unknown	Hillside	Lithics
46JF372	Prehistoric	Unknown	Hillside	Lithics
46JF373	Prehistoric	Unknown	Hillside	Lithics
46JF374	Prehistoric	Unknown	Hillside	Lithics
46JF375	Prehistoric	Unknown	Hillside	Lithics
46JF376	Prehistoric	Unknown	Unknown	Lithics
46JF377	Prehistoric	Unknown	Hillside	Lithics

**Table 3: Previously Recorded Isolates within 1 Mile (continued).**

Isolate	Period	Affinity	Landform	Description
46JF379	Prehistoric	Unknown	Hillside	Lithics
46JF396	Prehistoric	Unknown	Broad Hilltop	Lithics
46JF397	Prehistoric	Unknown	Broad Hilltop	Lithics
46JF402	Prehistoric	Unknown	Hillside	Lithics

One previously recorded historic structure (JF-0285) is located within the High Horizons parcel. The structure was identified during a Jefferson County 2004-2005 survey. It is identified as an I-House with a stone foundation constructed in 1870. The house is described as “vernacular residence of wood construction with the exterior surfaces clad in stucco. The main portion of the house has a laterally oriented gable roof penetrated on the 3-bay facade by a centered gable. The main entrance is centered on the facade, suggestive of a central-passage interior plan, and is shielded by a hip-roofed porch with replacement wood supports and balustrade. Fenestration is flat-topped, with replacement sash. An exterior gable-end brick chimney with corbeled top is on the southeast gable end.” The house lacks architectural distinction and is not eligible for the NRHP (Taylor 2005).

### Survey Expectations

According to the previously recorded sites within 1 mile of the project area, prehistoric sites are identified on hilltops or just off hilltops on side slopes. Of the six previously recorded archaeological sites with a prehistoric component, two are on hilltops and are considered insignificant lithic scatters; two are on side slopes, one with a Woodland component and one unknown and both not considered significant. One prehistoric site is a cave located on a sink, and one is in a floodplain. Of the seven previously recorded historic archaeological sites, two are cemeteries with an African American slave component located on uplands, two are vacant structures located in floodplains, one is a dam located on a terrace, and two are ceramic scatters along floodplains. Considering the previously recorded archaeological sites within 1 mile and historic land use, there is a low to medium probability that archaeological materials would be located within the current project area, which are flats to rolling hills.

## CHAPTER 4. METHODOLOGY

### Research Design

The objective of this study was to discover and evaluate previously unrecorded or recorded NRHP-eligible archaeological sites within the project area. To obtain the most accurate and reliable results, a research design was used. Previously recorded prehistoric and historic archaeological sites were researched to understand regional settlement patterns. Data from the previously recorded archaeological sites were used (i.e., cultural affinity, landform occurrence, proximity to water, artifact type, etc.) to study probability of further occurrences along the survey area. A sampling strategy was developed based on landform and proximity to other archaeological sites. This study presents two research questions:

- 1) Are prehistoric sites common along agricultural fields heavily plowed?
- 2) If so, can site type be associated with soil types?

### Records Review

STC reviewed historic aerial photographs and topographic maps, the West Virginia Archaeological Site File, the National Register of Historic Places (NRHP), and National Historic Landmark (NHL) databases to determine the presence of previously recorded cultural resources within the project APE or within 1 mile. Soil maps were examined to determine soil profiles throughout the project area to understand expected subsoil depths.

### Field Survey Methods

This Archaeological investigation was completed and generally followed the 2018 West Virginia Historic Preservation Office *Guidelines for Phase I, II, and III Archaeological Investigations and Technical Report Preparation*. Field investigations of low probability areas included a 100% visual surface inspection of the entire project area. All surfaces, including animal burrows and fallen tree root clusters, within the survey area were inspected for the presence of rock shelters, caves, mines, quarries, chimney falls, historic wells, petroglyphs, or other standing structures.

Walking transects were spaced 10 m apart. Shovel tests were placed in 15-m transects and spaced 15 m apart. Shovel tests were approximately 50-cm (18-in) in diameter and excavated until subsoil or impenetrable substrate (i.e. bedrock or clay) was reached. All soil matrices removed was screened

using a 6-mm (.25-in) hardware cloth screen. In areas near potential military activity, metal detecting was employed utilizing 100 cm metal detecting sweeps following naturally occurring corn stalk rows. Garrett Ace 350 metal detectors were utilized with 12-inch dept capability; discrimination was set to zero. When a location pinged in the field, it was marked with a plastic flag and separated using a handheld Garrett wand.

Each shovel test was recorded noting its location, depth, soil profile, artifact yield, general conditions, and other pertinent information. Each test was given a field designation; if materials are recovered, then each would be catalogued using a discrete provenience. Soil conditions (i.e., textures and colors, stratigraphy), topography, and shovel test locations were recorded in the field. Field notes, maps, photographs, and artifacts-if recovered-were transported to STC's lab for analysis.

### **Artifact Analysis and Curation**

No cultural materials were discovered. However, if they had been, they would have been collected for analysis. Non-diagnostic artifacts would be tabulated and assessed in the field and placed back where they are found. Selective disposal of artifacts would be employed where redundant or large quantities of common items are discovered (i.e., abundant amounts of gravels, chert-gravels, charcoal, etc.). Fieldnotes, photographs, maps, and report will be curated and transported to the Archaeological Collections Facility of West Virginia within 60 days of the accepted final archaeological report.

## CHAPTER 5. RESULTS

### Project Area History

According to the 1883 *Map of Jefferson County, West Virginia* (Smith 1883) the current structure (JF-0285) located on the High Horizons parcel was present and owned by Elina Perry. The remainder of the parcel was owned by Sameul Middlekauff and/or Mechanicstown. There was one structure on the Peel parcel belonging to J.F. Craighill, and one structure on the Thorn parcel belonging to John F Myers (Figure 3). The 1941 USGS Charles Town map was viewed and the John F Myers (Thorn parcel) structure and Elina Perry (JF-0285, High Horizons parcel) remain in place. However, the J.F. Craighill structure (Peel parcel) is no longer present (Figure 4).

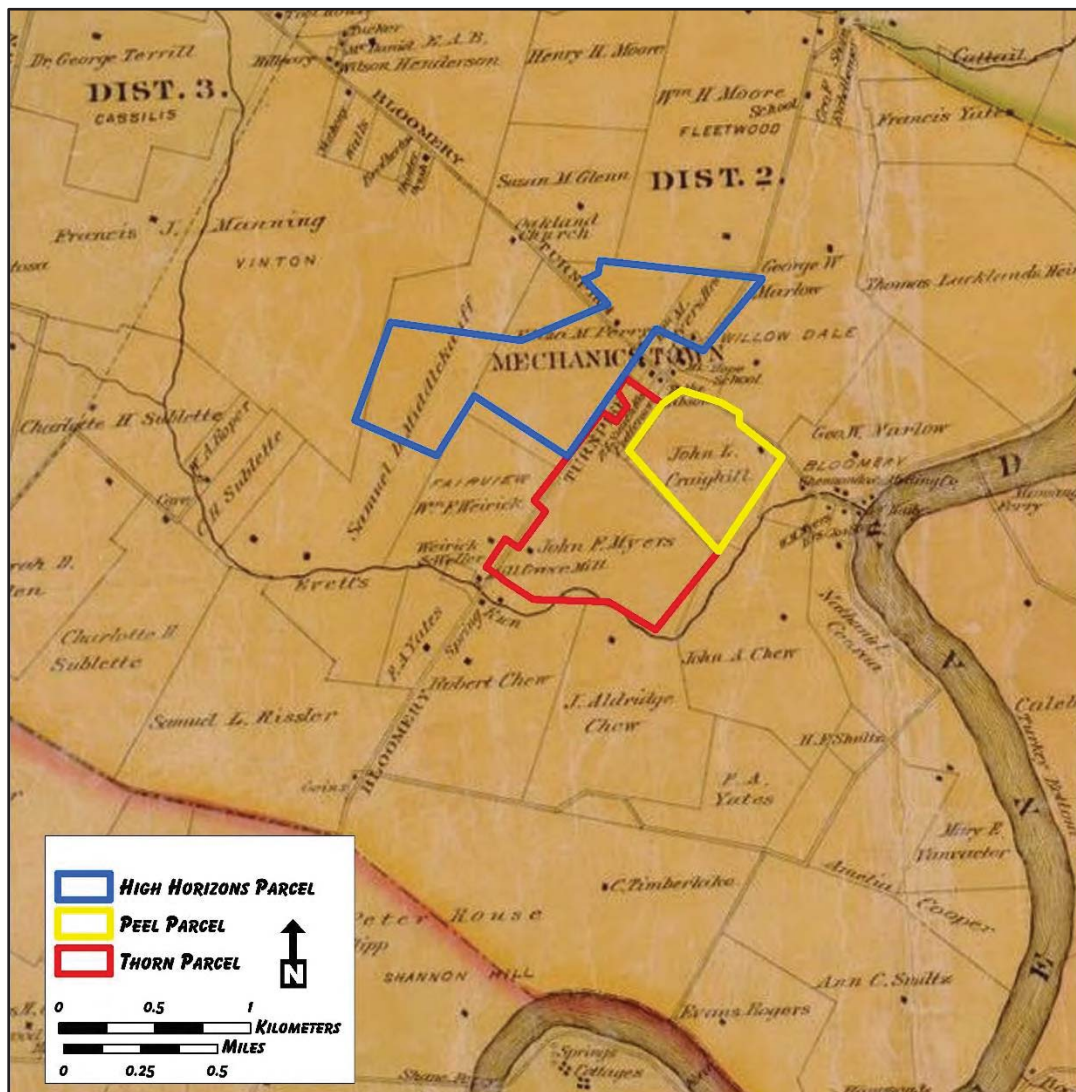


Figure 3: APEs depicted on an 1883 landowner map.

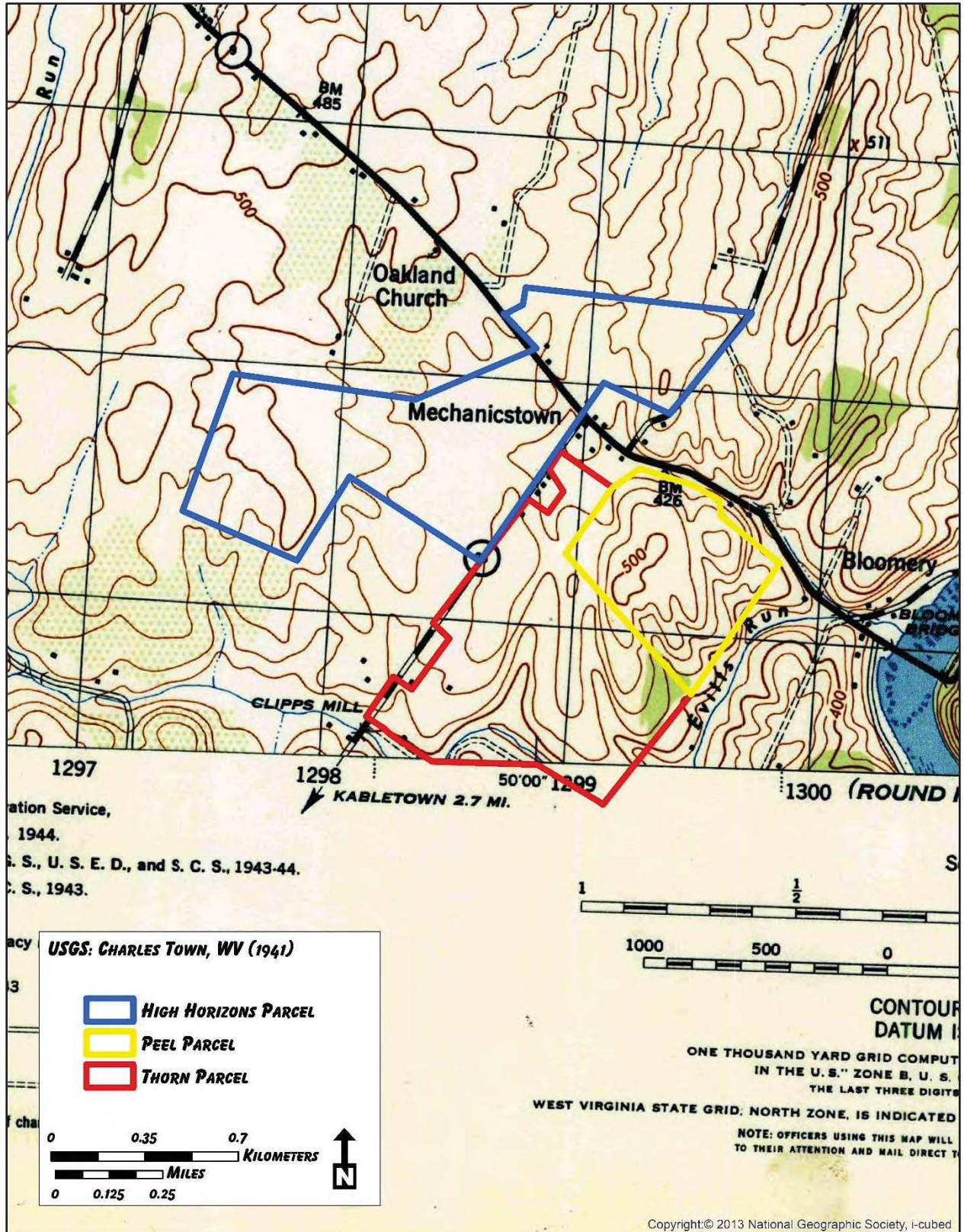


Figure 4: APEs depicted on a 1941 USGS topographic map.

## 5.2 Field Survey

Three parcels of land were surveyed for this project (High Horizons, Peel, and Thorn). The High Horizons parcel is 244.48 acres. The Peel parcel is 51.25 acres, and the Thorn Parcel is 159.7 acres (Figure 5).

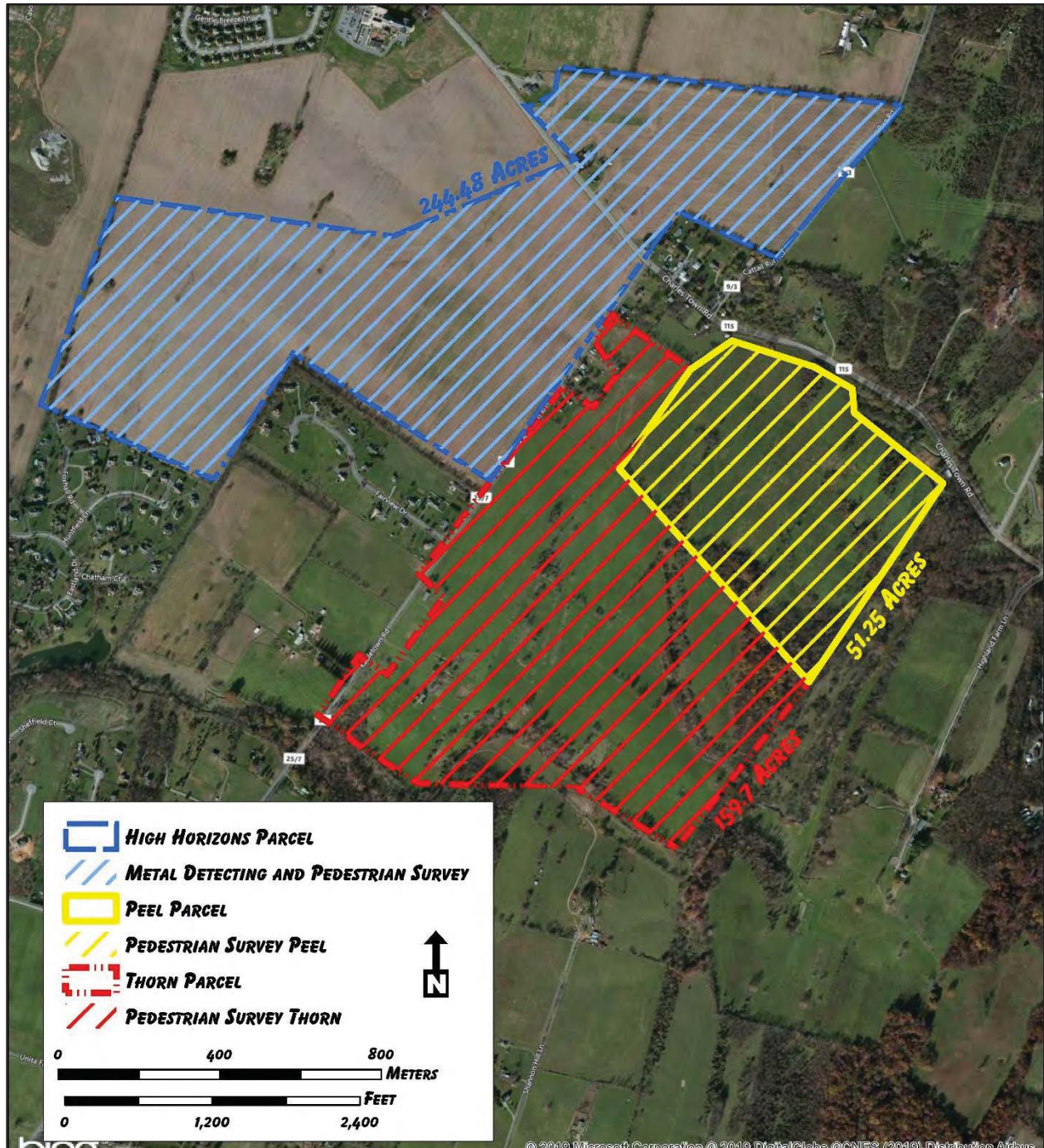


Figure 5: Project areas consisting of the High Horizons, Peel, and Thorn parcels.

### *High Horizons*

The High Horizons parcel consisted of flat to rolling agricultural fields recently plowed and cultivated for corn. Soil surface visibility varied between 75 and 80 percent. Corn stubs were present throughout the project area, and plow disturbance was visible on the surface. Large transmission lines spanned through the western boundary of the High Horizons parcel (Figure 6; see Figure 2).



**Figure 6: From north of the lease (right) facing south.**

The entire parcel was pedestrian surveyed using 10 m walking transects. Seven hundred eighty-nine judgemental shovel tests were conducted at 15 m intervals, including 14 shovel tests around the perimeter of an existing structure (JF-0285) (Figure 7-10) (see Appendix for form). The structure is not eligible for the NRHP. In addition, the entire parcel was metal detected to determine the potential of the presence of military sites along the parcel. Shovel testing was conducted at high probability areas at or near historic structures indicated on the West Virginia SHPO map. While these structures are not present, the area was tested because of the probability that the area may yield archaeological materials. The western portion of the parcel was also shovel tested because of its proximity to potential military activity (Battle at Charles Town). Soils throughout included 5 cm of strong brown (7.5 YR 4/6) silt loam over 15 cm of strong brown (7.5 YR 5/8) silty clay. At the existing structure, three shovel tests were conducted along the lawn and 11 were conducted on the perimeter of the property. Shovel tests around the perimeter were 5 cm

of strong brown (7.5 YR 4/6) silt loam over 15 cm of strong brown (7.5 YR 5/8) silty clay. Shovel tests in the grass were 5 cm of very dark brown (7.5 YR 2.5/2) loam/O horizon/grass over 15 cm of strong brown (7.5 YR 5/8) silty clay. Metal detecting yielded multiple modern bottle tops, aluminum scraps, and can remnants. However, none of the metal was historic in nature. There were no archaeological materials (i.e., culturally modified artifacts, deposits, features, or human remains) within identified in shovel testing along the High Horizons parcel.



**Figure 7: 1883 structure located on High Horizons parcel.**



**Figure 8: Representative soil profile along the High Horizons Parcel.**



Figure 9: High Horizons parcel, shovel tests, and metal detecting strategy depicted on a Bing aerial photograph (Bing 2019).

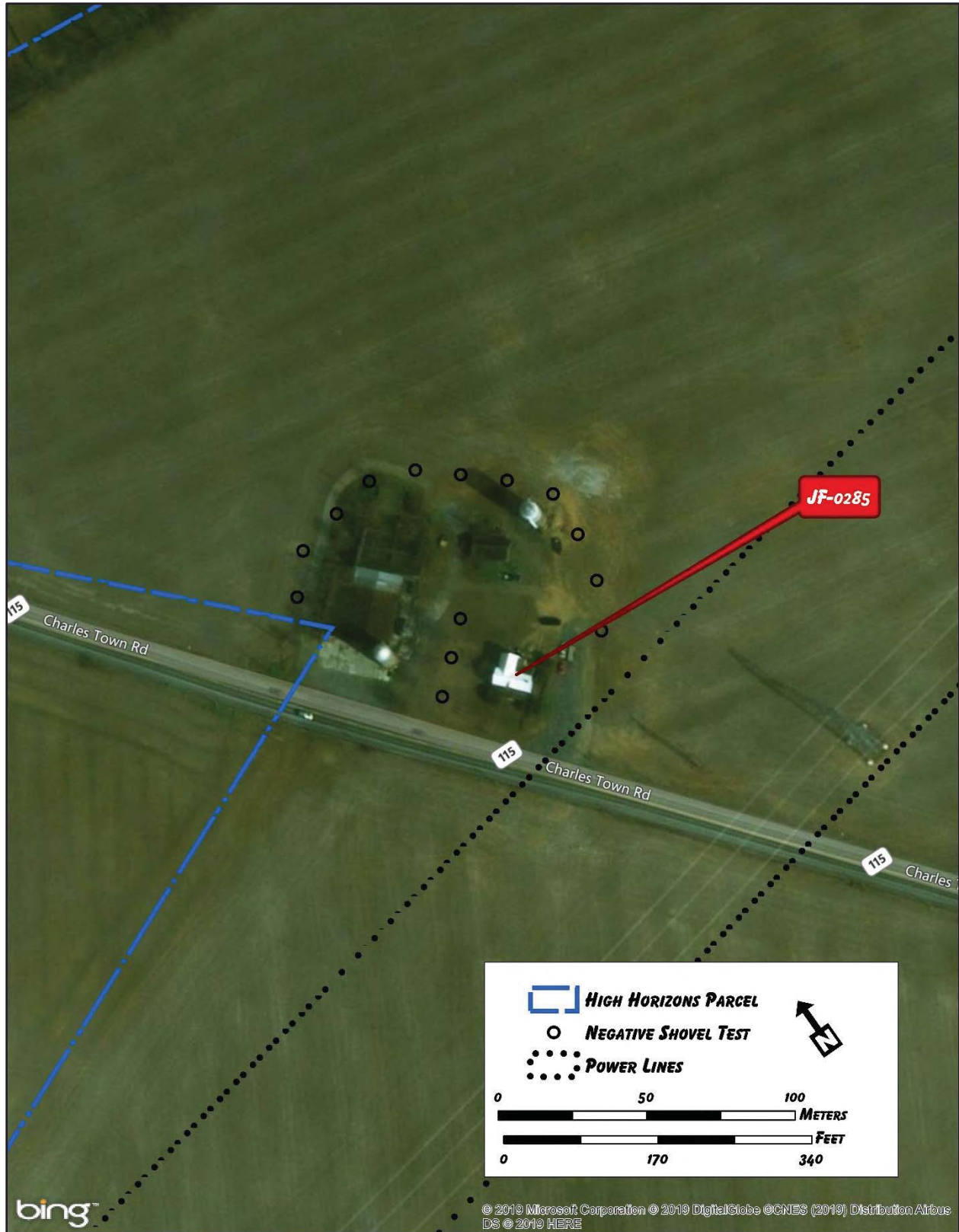


Figure 10: Shovel testing at JF-0285 and supporting structures.

### *Peel Parcel*

The Peel parcel consisted of vacant rolling to hilly grass fields. There was no soil surface visibility along the Peel Parcel (Figure 11). One previously recorded archaeological site (46JF313) and two isolated finds (46JF396 and 46JF397) are located on the Peel Parcel (Figure 12). There is one large transmission lines spanning through the eastern boundary of the Peel parcel, and the northeast, east, and southern portion of the parcel slope more than 20 percent (see Figure 2 and Figure 12).



**Figure 11: Peel parcel project area.**

The entire peel parcel was pedestrian surveyed using 10 m walking transects. Shovel testing was not conducted on excessive slope or along an existing powerline corridor. Shovel testing strategy was conducted based on predictability of sites occurring on landforms conducive to settlement. High probability areas such as this were shovel tested at 15 m intervals and previously recorded sites and isolates were tested at 10 m intervals. Two hundred sixty-six shovel tests were conducted at 15 m intervals, and 120 shovel tests were conducted along previously recorded site 46JF313 and Isolates 46JF396 and 46JF397 at 10 m intervals (Figure 13; see Figure 12). Shovel tests were 5 cm of very dark brown (7.5 YR 2.5/2) loam/O horizon/grass over 15 cm of strong brown (7.5 YR 5/8) silty clay. There were no archaeological materials (i.e., culturally modified artifacts, deposits, features, or human remains) within identified in shovel testing along the Peel parcel.



Figure 12: Peel parcel, shovel testing strategy, and previously recorded site and isolates.

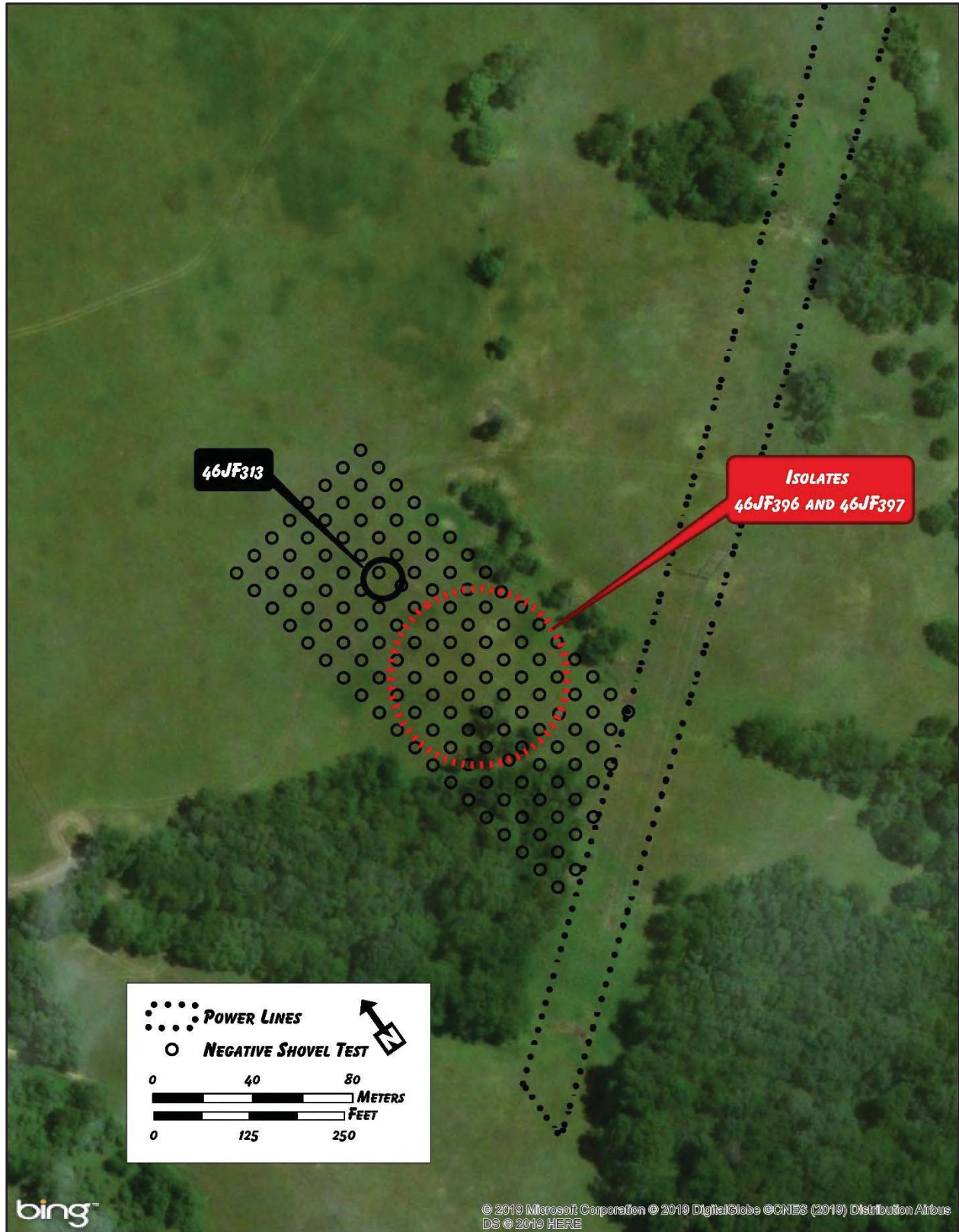


Figure 13: Shovel testing strategy at previously recorded site 46JF313 and isolates 46JF396, and 46JF397.

### *Thorn Parcel*

The Thorn parcel consisted of vacant rolling to hilly grass fields. There was no soil surface visibility along the Thorn parcel (Figure 14).



**Figure 14: Thorn parcel and APE conditions.**

The entire Thorn parcel was pedestrian surveyed using 10 m walking transects. Shovel testing was not conducted on excessive slope (Figure 15). Shovel testing strategy was conducted based on predictability of sites occurring on landforms conducive to settlement. High probability areas along Evitts Run were shovel tested at 15 m intervals. In addition, an existing barn and ruins were identified in the southwest portion of the parcel. Shovel testing was conducted around the perimeter at 15 m and a temporary site number (STC-Thorn-HP1) was given to the ruins and a site form added in the appendix (Figures 16-17). One hundred ninety-eight shovel tests were conducted at 15 m intervals along Evitts Run, and 32 STs were conducted at 15 m intervals over a previously recorded isolate (46JF341) in the northwest portion of the parcel (Figure 15). Shovel tests along the creek and at the isolate were 5 cm of very dark brown (7.5 YR 2.5/2) loam/O horizon/grass over 15 cm of strong brown (7.5 YR 5/8) silty clay. Shovel tests at the existing structure were 5 cm (0-5 cmbs) of very dark brown (7.5 YR 2.5/2) loam/O horizon/grass, (5-20 cmbs) 15 cm of strong brown (7.5 YR 5/8) silty loam, followed by 10 cm (20-30 cmbs) of reddish yellow (7.5 YR 6/8) clay. There were no archaeological materials (i.e., culturally modified artifacts, deposits, features, or human remains) identified in shovel tests (see Figure 15).



Figure 15: Thorn parcel, shovel testing strategy, and existing structure depicted on an ESRI base map.



**Figure 16: Barn and associate structures located on the Thorn parcel.**



**Figure 17: Ruins associated with an existing barn on the Thorn parcel.**

Site STP-HP1 consists of a barn, milk house, and concrete stove, all constructed between 1956 and 1958. In addition, there are various concrete ruins surrounding the barn, milk house, and stove. No portions of the barn, milk house, stove, or ruins are extraordinary. Shovel tests conducted around the perimeter yielded no archaeological materials, and the ruins are not likely to yield any data for future research under Criterion D. Therefore, STP-Thorn-HP1 is considered ineligible for listing in the NRHP.

Site **46JF137** was previously recorded within the southern boundary of the Thorn Parcel by C Hulse according to the site form. The boundary is approximately 500 ft. by 500 ft. and the site is described as “four headstones near a historic house complex.” However, the current location of the recording is not associated with any headstones or house complex. In fact, the current location contains mill remnants from an associated milk barn (Figure 18, see Figures 15-17).



**Figure 18: Current location of 46JF137 with piled mill remnants in the background.**

The entire current location was probed with a metal probing rod and the grass surface was removed to identify potential grave shafts (Figure 19)



**Figure 19: Grass surface removed from the surface at 46JF137.**

No headstones or burials were identified at the current location. This is likely because the original recording was mismapped and the recorded location boundary was arbitrarily expanded onto the current project area (Figures 20-22). The boundary, based on description from the site form, should be placed approximately 500 ft. south of the current location off the Thornhill parcel and onto the George and Kery Fries parcel. During field survey, the remains of a residential complex was identified on the Fries parcel from the Thornhill parcel, and the 1941 USGS topographic map depicts a drive and structure on the Fries parcel that are in line with the description identified on the site form. Therefore, based on fieldwork and research, site 46JF137 is mismapped and should be relocated 500 ft. south of the current location. In addition, the boundary should be reduced to reflect the actual size of the site.

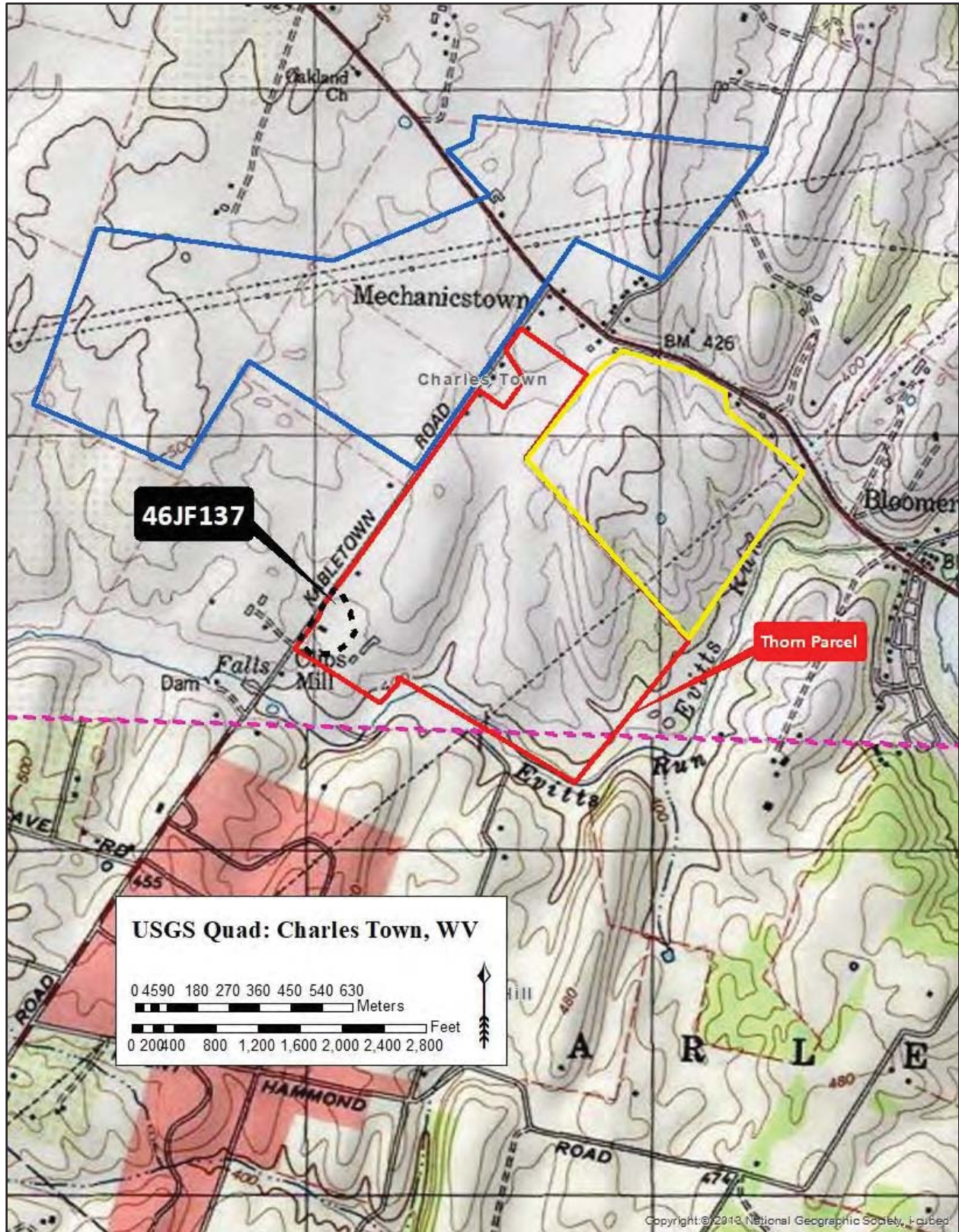


Figure 20: Current recorded location of site 46JF137.

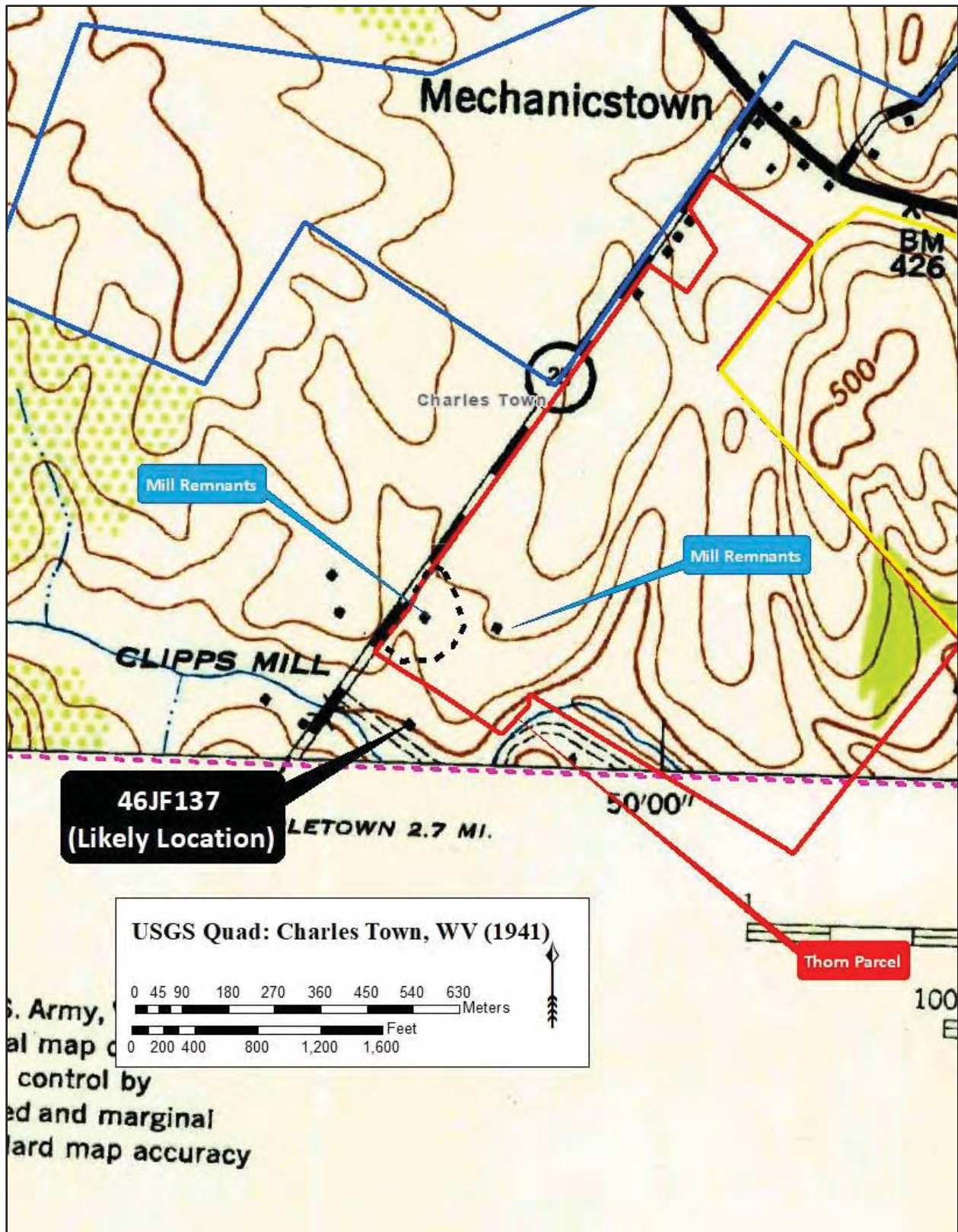


Figure 21: Likely location of site 46JF137 based on fieldwork and research depicted on the 1941 topographic map.

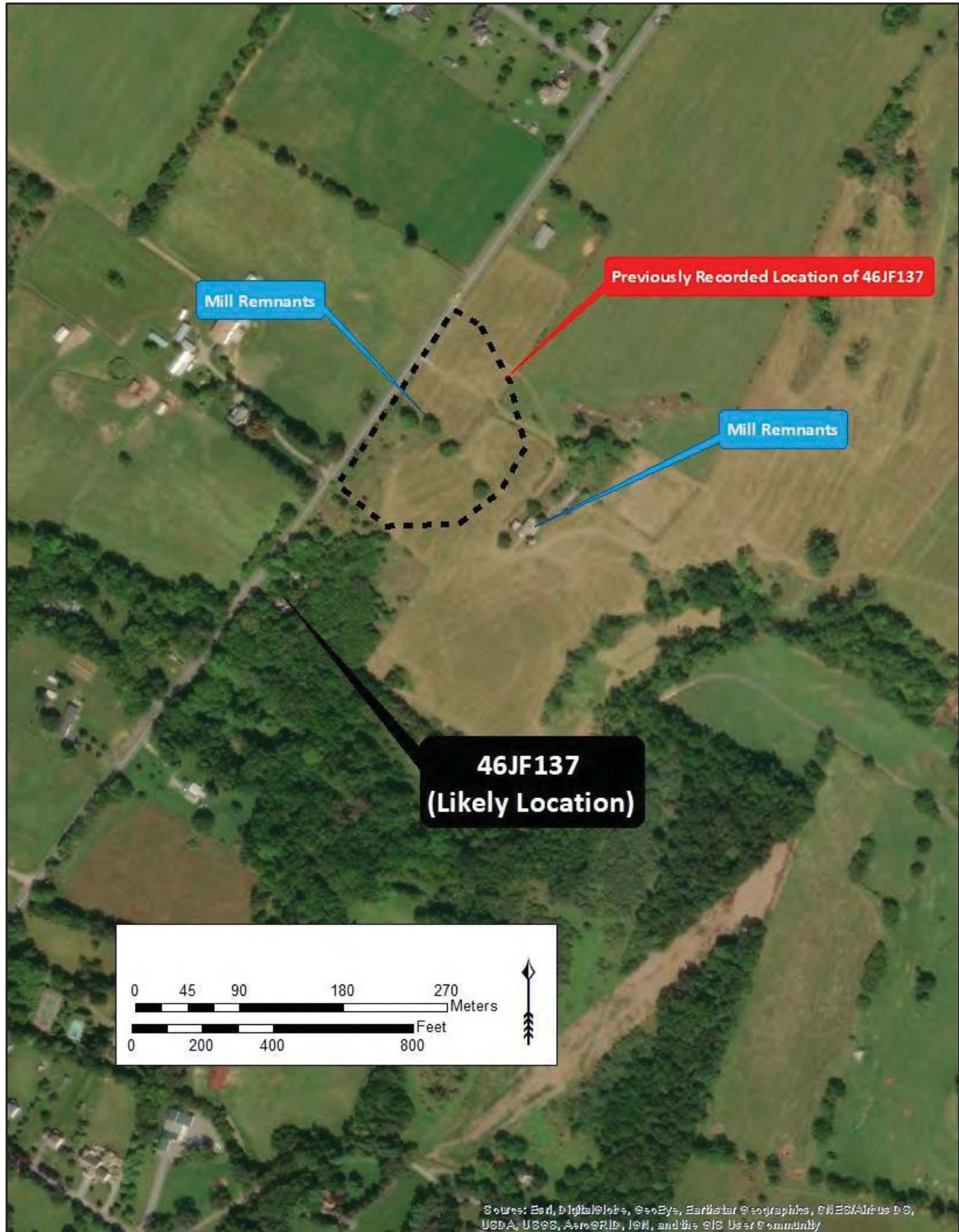


Figure 22: Aerial photograph depicting recorded location of 46JF137 and recommended location.

## CHAPTER 6. CONCLUSION

Based on the results of the fieldwork and subsequent analysis, no archaeological materials were identified within the project area APE for direct effects. This is likely due to the heavy agricultural use throughout the project area. In addition, previously recorded site 46JF137, a cemetery with four head stones, was not identified on the Thorn parcel and is likely mismapped. The boundary should be modified to reflect that fieldwork and research has not identified it in its current recorded location. Because of the absence of archaeological materials within the project area, STC recommends that no archaeological resources will be adversely impacted by the proposed project and no further work is needed.

Should buried artifacts, human remains, cultural sites or ground features be unexpectedly unearthed during ground disturbing activities, all construction should immediately cease, and the resources be examined by a professional archaeologist. Additionally, all appropriate authorities-including all pertinent tribal entities and the state historic preservation office -should be notified.

## **22-4-CUP Blake Solar Project Pubic Comment**

- Submitted 2022-07-12 by M. Hamilton
- Submitted 2022-07-21 by P. Fanelli
- Submitted 2022-07-21 by F. Stone
- Submitted 2022-07-21 by J. Stone



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(681) 252-1991

July 12, 2022

Subject: Blake Solar 22-4 CUP

Dear Zoning Appeals Board:

I reviewed the **Blake Solar Conditional Use Permit Application** and additional clarification may be needed:

- Page 1 of the application indicates that the Zoning District is **Rural**. Subsequent pages indicate that 246 acres are within the Charles Town **Urban Residential Growth Boundary**.
- Homes have already been built in some of the *Residential Growth District*. Will the existing homeowners be compensated if property values are decreased?
- CUP 22-4 estimates that this project has a 30 year life. The CUP states "During construction, employee compensation (direct, indirect, induced) is estimated at \$11.2 million or 149 job years". The Benefit Analysis discusses the advantages of green energy in general, but there is **no mention of a benefit or impact on Jefferson County and its residents.**
- The West Virginia Secretary of State's Office indicates that *Horus West Virginia I* was licensed on 7/25/2019 as a **foreign, for profit**, electric utility.
  - To meet this objective, is **Blake Solar** generating power for the electric grid and then selling an equivalent amount of energy to industrial customers at a profit? Often this is referred to as an "offset" where-by industries obtain green energy credit to counterbalance their environmental pollution. How does this benefit Jefferson County?
  - WV Secretary of State's License indicates *Horus West Virginia I* principal office is located in St. Mary's, Florida, but a Web search fails to physically locate any *Horus company*.
- CUP 22-4 provides the following contact information: Braden Houston, Horus West Virginia I, 110 Front Street Suite #300 Jupiter, Florida 33477; phone (617) 530-0029; email bhouston@opdenergy. The company listed at this address is: *Capital Strategies Investment Group, LLC*. (OPD Energy is a Spanish company).

West Virginia as a fossil fuel producer felt that the EPA exceeded its authority as a Federal agency. Recently the Supreme Court ruling "West Virginia vs EPA", essentially restricted the power of the EPA to create environmental laws, as the Court stated that was the responsibility of Congress. This may place some of the EPA Green Energy provisions in question. Jefferson County may seek guidance from County residents, Congressman Alex Mooney, WV Attorney General Patrick Morrissey, and WV Treasurer Riley Moore.

Clarification is needed for CUP 22-4 approval. *Horus WV I* proposes a 30 year life; contact information provided is inconsistent. Accurate contact information is needed for the life of the contract to promptly address operational, financial, and contractual issues.

Respectfully,

Michael T Hamilton

## Zoning

---

**From:** Zoning  
**Sent:** Thursday, July 21, 2022 12:26 PM  
**To:** 'Philip Fanelli'  
**Subject:** RE: Question Submittal for July 28th 2022 BZA Meeting

Good afternoon,

This email is to confirm receipt of your email related to the Blake Solar Project (File #22-4-CUP) Conditional Use Permit. Your comments will be included in the Board of Zoning Appeals meeting packet for their consideration.

Thank you and have a nice day.

Jennilee Hartman, Zoning Clerk  
Office of Planning and Zoning  
304-728-3228

**From:** Philip Fanelli <philip.fanelli28@gmail.com>  
**Sent:** Thursday, July 21, 2022 12:13 PM  
**To:** Zoning <Zoning@jeffersoncountywv.org>  
**Subject:** Question Submittal for July 28th 2022 BZA Meeting

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

Good Afternoon,

When discussing plans for commercial scale solar applications, are there any plans to install a complimentary battery bank to enable renewable energy storage? Benefits include being able to use battery capacity during peak demand, which can save money by avoiding spinning up expensive peaker plants. Another key benefit of battery storage gives the energy reliability that solar lacks during low light hours, smoothing the energy curve that solar naturally has. For grid storage applications I recommend the tesla megapack. They have delivered more than 5 GigaWh of storage capacity and their solution is scalable to whatever size the project requires.

Thank you for reading my question. I hope this helps for future and current projects.

Respectfully,

Philip Fanelli  
Citizen of Jefferson County WV since 2009

7/20/2022

Regarding: Blake Solar Project  
Kabletown Road  
Charles Town, WV 25414

From: Francis Stone & Justin and Abigail Stone  
Parcel: 15

To: Board of Zoning Appeals

The purpose of this letter is to formally express that we do not support the approval of the conditional use permit for the Blake Solar Project. We own parcel 15 which is 4.5 acres on which the historic Craig Hill home, built in 1800, is located. We feel that the installation of the Solar Farm will have negative impacts on the wildlife, water supply, property value, and historic authenticity.

When we purchased the properties we did so with the understanding that the adjacent land could only be used for agricultural or residential purposes. The solar farm does not fall under either category which is why they are seeking the conditional use permit. We feel that it is unacceptable for the board to approve this application. The clearing and land use of this large project will have an adverse impact on native vegetation and wildlife on our property and surrounding properties.

The spring house at the bottom of the property running along RT. 115 is not only the original spring house from the 1700's it is still used today to supply the water to the residence located on the property. We are extremely concerned about the impact the project will have on the drainage and water run off into the spring and water retention pond. By clear cutting and grading the above land all of the water runoff will be directed to the low lying properties. After speaking to various health officials we are concerned that an increase in surface water or a decrease in underground spring water could introduce surface bacteria which could contaminate the water supplied to the residence. We also feel that this could negatively impact the water flow coming out of the natural spring which originates on the parcels identified as parcels 2 and 3 of the application.

In addition to environmental and health impacts we are very concerned about the visual impact to the property. The home sits above a portion of the proposed project and will have a clear view of the solar panels. This is a historic property and was bought with the intention of restoring the original aesthetics of the home. The proposed land buffer will not be able to hide the view from above the solar panels. This will have a negative impact on both the historic and assessed property value of the home.

As taxpayers in this county we feel that it is unacceptable to change the zoning usage of such large parcels. The urban growth boundary was created for this exact reason, to prevent land usage in this manner. This land was purchased with the understanding that the zoning would not allow projects of this magnitude. We feel it is the duty of the Board of Zoning Appeals to uphold the Urban Growth Boundary and deny the application for the conditional use of Parcels 1, 2, and 3.

Thank you for your time and consideration.

Francis Stone

Justin & Abigail Stone

304-283-8607

7/20/2022

Regarding: Blake Solar Project  
Kabletown Road  
Charles Town, WV 25414

From: Justin and Abigail Stone  
Parcels: 15.1 & 40

To: Board of Zoning Appeals

The purpose of this letter is to formally express that we do not support the approval of the conditional use permit for the Blake Solar Project. We own parcel 40 which is 3.4 acres that includes water frontage on both sides of Evitts Run. As of June 24, 2022 we purchased parcel 15.1 from Mary Lou Evans. We feel that the installation of the Solar Farm will have negative impacts on both our land and property value.

When we purchased the properties we did so with the understanding that the adjacent land could only be used for agricultural or residential purposes. The solar farm does not fall under either category which is why they are seeking the conditional use permit. We feel that it is unacceptable for the board to approve this application. The clearing and land use of this large project will have an adverse impact on native vegetation and wildlife on our property and surrounding properties.

We are extremely concerned about the impact it will have on the drainage and water run off into Evitts Run and onto our property. By clear cutting and grading the above land all of the water runoff will be directed to the low lying properties of which we own two. On page 12 of the proposal it states:

*“FLOODPLAIN Parcel #1 contains approximately 8.1 acres of floodplain associated with Evitts Run. No grading of solar panels are proposed within any floodplain area. The applicant may complete a Letter of Map Revision with FEMA that could reduce the area of the floodplain and allow for the installation of solar panels. Parcel #3 contains approximately 0.7 acres of floodplain associated with Evitts Run. No grading of solar panels are proposed within any floodplain area.”* We feel that the statement regarding the Letter of Map Revision with FEMA is a clear indication that if this application is approved they intend to complete this letter to reduce the floodplain areas and install solar panels. This will have both a visual and environmental impact on all land below *parcel 1* along Evitts Run.

In addition to environmental impacts we are very concerned about the visual impact to the properties. The proposed land buffer will not be able to hide the view from above the solar panels and along the power lines. The planting of vegetation any higher than 6’ per First Engery

guidelines is not allowed so there will be no visual buffer that could prevent the viewing of the solar panels. This will have a negative impact on the visual and assessed property value of the home and surrounding land.

As taxpayers in this county we feel that it is unacceptable to change the zoning usage of such large parcels. The urban growth boundary was created for this exact reason, to prevent land usage in this manner. This land was purchased with the understanding that the zoning would not allow projects of this magnitude. We feel it is the duty of the Board of Zoning Appeals to uphold the Urban Growth Boundary and deny the application for the use of Parcels 1, 2, and 3.

Thank you for your time and consideration.

Justin & Abigail Stone

304-886-6064

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
**22-23-ZV Miller Station Apartments**

Item #2      **Request 1:** Variance from Section 4.12B to increase the maximum impervious surface limit from 50% to 60% for the proposed Miller Station Apartment complex.

Property Owner:	Miller Gerald A Estate c/o Paul Schleifman	
Applicant:	Keane Enterprise / Contact: Andy Shuckra	
Consultant:	Morris & Ritchie Associates, Inc. / Contact: Todd Heck, Principal	
Parcel Information & Zoning District:	Miller Station Subdivision, Lots 1 – 8, located on Captain Chews Trace, Charles Town, WV Tax District: Charles Town (02), Map: 8C, Parcels: 1 - 8; Combined Lot Size: 10 acres Zoning District: Residential-Light Industrial-Commercial	
	*White areas are located within the City of Ranson	
Surrounding Properties:	Zoning Map Designation: North: Residential Growth East: Residential-Light Industrial-Commercial South: Residential-Light Industrial-Commercial & City of Ranson West: City of Ranson	
<b>History:</b>		
<b>File #</b>	<b>Project Name</b>	<b>Recording Info</b>
01-31-SD	Miller Station Commercial Subdivision	<a href="#">PB 20, PG 23</a>
Variations/Waivers:	None	
Approved Activity:	Eight Commercial Lots	
Site Visit Conducted:	No	

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
**22-23-ZV Miller Station Apartments**

**Staff Overview**

The applicant is requesting a variance from 4.12B to increase the maximum impervious surface limit from 50% to 60% for the proposed Miller Station Apartment complex, which consists of seven Multi-Family Garden Style Apartment Buildings with 218 units total, a community building/leasing office, associated parking spaces, SWM facilities, and signage.

A key purpose of regulating impervious surface area in the Zoning Ordinance is to promote and preserve open space, as well as to regulate density for residential development. Additionally, establishing a maximum limit reduces the volume of stormwater runoff created by impervious surfaces.

Density for multi-family development is based on a minimum area per dwelling unit of 2,000 square feet. The subject lot is approximately 436,259 square feet (10 acres), which would allow for a maximum density of 218 units (see applicant’s table below).

<b>Maximum Allowed Density</b>		
Total Lot Area	436,259	SF
Permitted Area per dwelling unit	2,000	SF
TOTAL LOT AREA (436,259 SF) / (2,000 SF) = 218.13		
Max Dwelling Units	218.13	
Proposed Dwelling Units	218	Units

Parking is based on the number of bedrooms per unit (see applicant’s parking tabulations below). The proposed design includes a combination of one, two, and three bedroom units and based on the total number of bedrooms requires that 345 parking spaces be installed, of which 16 of those are required to be ADA compliant. The applicant is proposing to provide 371 parking spaces, which exceeds the required number of parking spaces by 26 and creates an additional 4,680 square feet of impervious area (not including drive aisles).

<b>Miller Station Apartments Tabulations</b>				
Apartment Unit / Type		Parking Per Unit	Parking Required	*Parking Provided
50 Units	1 Bedroom (22.9%)	1.25	63	-
108 Units	2 Bedroom (43.6%)	1.5	162	-
60 Units	3 Bedroom (33.6%)	2	120	-
<b>218 Total Units</b>			<b>345</b>	<b>371</b>
<b>Notes:</b>				
*Proposed Parking subject to final design				
* (16) ADA Parking Spaces provided				

While the proposed project design complies with the minimum area per dwelling unit requirements, the overall design exceeds the impervious area limitations by approximately 6.6% (see applicant’s land coverage calculations below). **Note:** the request to increase the impervious area limit by 10% is to account for additional sidewalks if a pending waiver is denied by the Planning Commission. Should the Planning Commission grant the pending waiver to eliminate a portion of the required sidewalks, then impervious area calculations show that the proposed design exceeds the limits by 6.6%.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
 22-23-ZV Miller Station Apartments

Land Coverage			
	SF	AC	%
<b>*Max Land Coverage Allowed</b>	218,129.50	5.01	50.0%
<b>**Proposed Land Coverage</b>	246,821.21	5.67	56.6%
*Per section 4.12.B impervious surfaces coverage is based on residential structures, parking areas, and interior streets.			
** A variance has been requested to allow up to 60% impervious surfaces.			

The County Engineer stated that any stormwater runoff from the site should be less than or meet the pre-conditional runoff with the final approved design and stated that engineering does not oppose the request.



It is feasible to comply with the requirements of the Ordinance by modifying the proposed design including a reduction in building square footage, parking, etc. **Note:** in the Residential-Light Industrial-Commercial zoning district, the impervious surface limit for non-residential development is 80% and the site was previously approved for eight non-residential lots (Project File #01-31).

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. No conditions of approval have been identified.

Staff Report  
Jefferson County Board of Zoning Appeals  
July 28, 2022  
**22-23-ZV Miller Station Apartments**

**Section of Ordinance to be Considered:**

Section 4.12 Design Standards for Multi-Family Developments<sup>23</sup>

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.
- B. Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed 50 percent of the gross land area.
- C. Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least 25 feet from any street right-of-way.



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

File Number: 22-23-ZV  
 Staff Initials: jth  
 Meeting Date: 07-28-22  
 Fees Paid (\$100 or \$150): 100.00

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

Phone: (304) 728-3228

**Zoning Variance Request**

*Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Miller Gerald A Estate c/o Paul S. Schleifman  
 Mailing Address: 4202 Blue Barrow Rd., Ellicott City, MD 21042  
 Phone Number: 410-461-7382 Email: \_\_\_\_\_

**Applicant Contact Information**

Name: Andy Shuckra, Keane Enterprise  
 Mailing Address: 44031 Pipeline Plaza, Suite100  
 Phone Number: 571-223-0001 Email: ashuckra@keaneenterprises.com

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

Name: Todd Heck, Principal Morris & Ritchie Associates, Inc.  
 Mailing Address: 604 South King Street, Suite 200 Leesburg, VA 20175  
 Phone Number: 540-974-2976 Email: theck@mragta.com

**Physical Property Details**

Physical Address: Captain Chews Trce. (See Attached for associated parcels which be subject to a merger plat)  
 City: Charles Town State: WV Zip Code: \_\_\_\_\_  
 Tax District: Charles Town District Map No: 8C Parcel No: Parcels 1-8  
 Parcel Size: (Total = 10.04 AC) Deed Book: 613 Page No: 71

**Zoning District (please check one)**

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

Received 06/24/22 - jth

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: 4.12.B

Briefly describe the nature of the variance request:

To increase the impervious surface coverage for interior streets, parking areas and residential structures from 50% to 60% of the gross land area.

If this request is for a setback variance, please check one of the following:

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

The variance request will not adversely affect the adjacent property as the proposed improvements will be contained on-site and the modest increase of the impervious areas will be mitigated though the proposed SWM / BMP program that will be provided.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

The requested variance is necessary to allow for a meaningful internal pedestrian sidewalk system connecting the proposed apartment buildings and supporting amenities and parking areas.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

This variance is a modest 10% increase and does not create any kind of hardship. This requested change in the variance will be included and treated as part of the SWM/BMP program and therefore no negative impacts will be brought on by this request.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

The intent of the Zoning Ordinance is to limit the amount of impervious surface. We believe this request is in the best interest of the development as it will allow for adequate parking, amenities and pedestrian connective.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, 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. The information given is correct to the best of my knowledge.

6/20/22

Signature of Property Owner

Date

Signature of Property Owner

Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

07/28/22

Date of Public Hearing

07/13/22

Advertising Date

07/13/22

Placard Posting Date

# MILLER STATION

## CONCEPT PLAN

### JEFFERSON COUNTY, WV

#### CONCEPT PLAN NOTES:

- SEE GENERAL LOCATION MAP THIS SHEET FOR ZONING DISTRICTS WITHIN 500' OF THE SUBJECT PROPERTY.
- 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 SETBACK LINES.
- ACTUAL BUILDING FOOTPRINTS MAY VARY WITH FINAL ARCHITECTURAL DESIGN.
- ZONING INFORMATION: SEE TABS THIS SHEET
- SEE SHEET 2 FOR THE PROPERTY'S 'SITE RESOURCES'.
- ALL STATE, FEDERAL AND LOCAL REGULATIONS WILL BE OBSERVED IF ANY UNKNOWN SITE RESOURCES ARE DISCOVERED DURING CONSTRUCTION.
- THERE ARE NO FLOODPLAINS ON THE SUBJECT PROPERTY PER FEMA MAPS.
- SEE SHEET 2 FOR ADJACENT PROPERTY INFORMATION.
- PROPOSAL DESCRIPTION: THE REQUESTED CONCEPT PLAN INCLUDES 218 MULTIFAMILY UNITS, OPEN SPACE, STORMWATER MANAGEMENT AREAS AND THE CONSTRUCTION OF ASSOCIATED UTILITIES. SIDEWALKS SHALL BE PROVIDED. NO RESTRICTIVE COVENANTS/ CONDITIONS/ RESTRICTIONS ARE PROPOSED AT THIS THE BUT MAY BE PROVIDED AT THE OF FINAL PLAT.
- TRAFFIC IMPACT DATA
  - SEE TRAFFIC ANALYSIS MEMO PREPARED BY AHT DATED 6/1/2022 AND REVISED THROUGH 7/1/2022
  - THE HV DOT ONLINE TRAFFIC COUNTS PROXIMATE AVERAGE DAILY TRAFFIC COUNTS FOR THE FOLLOWING LOCATIONS: ROUTE 340 = 3020/DI
  - PROPOSED TRIP GENERATION FOR MULTIFAMILY UNITS BASED IIE TRIP GENERATION MANUAL AND SECTION 24.10(C)(2)(b) OF THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS ARE AS FOLLOWS:
    - PEAK HOUR TRIPS: 218 (MULTIFAMILY UNITS) x 0.80 = 175
    - AVERAGE DAILY TRIPS: 218 (MULTIFAMILY UNITS) = 106
- THE NEAREST KEY INTERSECTION AS DEFINED IN THE CONCEPT PLAN CHECKLIST IS ROUTE 340 AND PATRICK HENRY WAY
- THERE ARE NO "HIGHWAY PROBLEM AREAS", AS DEFINED BY THE DIVISION JEFFERSON 2038 COMPREHENSIVE PLAN, WITHIN ONE (1) MILE RADIUS OF THE PROPERTY.
- A LIST OF ALL ADJOINING PROPERTIES AND OWNERS ADDRESSES ARE INCLUDED AS PART OF THIS SUBMISSION. PROPERTY OWNERS INFORMATION IS PROVIDED PURSUANT TO JEFFERSON COUNTY ASSESSOR'S RECORDS.
- 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 SITE PLAN DEVELOPMENT.
- EXISTING CONDITIONS HAVE BEEN BASED ON COMPILATION OF GIS INFORMATION, FIELD SURVEY DATA AND PLANS OF RECORD. THE TOPOGRAPHIC CONTOUR INTERVAL IS 20' FOOT. HORIZONTAL DATUM IS NAD83 WEST VIRGINIA STATE PLANE, NORTH ZONE. VERTICAL DATUM IS NAVD83.



GENERAL LOCATION MAP

OWNER  
MILLER GERALD A ESTATE  
C/O PAUL S. SCHLEIFMAN  
4202 BLUE BARROW RD.  
ELLCOTT CITY, MD 21042  
410-461-7382

APPLICANT  
KEANE ENTERPRISE, INC.  
C/O ANDY SHUCKRA  
P.O. BOX 1573  
ASHBEURN, VA 20146  
ASHUCKRA@KEANEENTERPRISES.COM

PREPARED BY  
MORRIS & RITCHIE ASSOCIATES, INC.  
604 SOUTH KING STREET, SUITE 200  
LEESBURG, VIRGINIA 20175  
CONTACT: TODD HECK  
703-944-4047  
THECK@MRA.GA.COM

ZONING SUMMARY	
ZONING DISTRICT	RESIDENTIAL LIGHT INDUSTRIAL COMMERCIAL (R-LI-C) (ADMINISTERED UNDER RESIDENTIAL GROWTH (RG) DISTRICT)
LAND USE	MULTI-FAMILY (SUBJECT TO SECTION 4.12)
LAND USE SUBTYPE	PUBLIC / CENTRAL WATER AND SEWER
MIN. LOT AREA	20,000 SF
EXISTING LOT AREA	4,36,259 SF 10.02 AC
AREA PER DWELLING UNIT	2,000 SF
MAX UNITS	218 (436,259 / 2,000 = 218.12)
PROPOSED UNITS	218
MAX BUILDING HEIGHT	40 FT (SUBJECT TO SECTION 9.2)
PROPOSED BUILDING HEIGHT	40 FT / PROPOSED BUILDINGS WILL BE (3) STORY
Section 9.2 Building Height Limitations Building height limitations shall not apply for public utilities, agricultural uses, communication poles and towers, chimneys, steeples, water tanks, electric generating plants, electric transforming or switching equipment, flagpoles, fire or observation towers, monuments, or to tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building, hospitals, schools, colleges and public buildings. Commercial wireless communications facilities shall comply with Article 4B.7, 10, 22	
SETBACKS	FRONT 25 FT SIDE 12 FT (FOR EXTERIOR ONLY) STREET SIDE 15 FT REAR 30 FT
PARKING / DRIVE AISLE	FRONT 15 FT SIDE 12 FT REAR 15 FT
SCREENED BUFFERS	FRONT 15 FT (SUBJECT TO SECTION 4.11) SIDE 12 FT REAR 15 FT
SECTION 4.12 DESIGN STANDARDS FOR MULTIFAMILY DEVELOPMENTS Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational uses shall be within the 100 year Floodplain. A Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed 50 percent of the gross land area. (SEE CALCULATIONS ON LAYOUT) B C Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least 25 feet from any street right-of-way.	
SECTION 21.205 OF THE SUBDIVISION REGULATIONS 15% OF THE LAND IS REQUIRED TO BE RESERVED FOR OPEN SPACE (10 ACRES X 15% = APPROX. 1.5 ACRES) UP TO 80% MAY BE MET WITH PASSIVE OPEN SPACE AND THE REST HAS ACTIVE RECREATION AND WILL BE DETAILED ON FUTURE SITE PLAN.	

Maximum Allowed Density	
Total Lot Area	436,259 SF
Permitted Area per dwelling unit	2,000 SF
TOTAL LOT AREA (436,259 SF) / (2,000 SF) = 218.13	
Max Dwelling Units	218.13
Proposed Dwelling Units	218 Units

Miller Station Apartments Tabulations				
Apartment Unit / Type	Parking Per Unit	Parking Required	*Parking Provided	
50 Units 1 Bedroom (22.9%)	1.25	63	-	
108 Units 2 Bedroom (43.6%)	1.5	162	-	
60 Units 3 Bedroom (33.6%)	2	120	-	
<b>218 Total Units</b>		<b>345</b>	<b>371</b>	

Notes:  
\*Proposed Parking subject to final design  
\*\* (16) ADA Parking Spaces provided

Land Coverage			
	SF	AC	%
<b>*Max Land Coverage Allowed</b>	218,129.50	5.01	50.0%
<b>**Proposed Land Coverage</b>	246,821.21	5.67	56.6%

\*Per section 4.12.B impervious surfaces coverage is based on residential structures, parking areas, and interior streets.  
\*\* A variance has been requested to allow up to 60% impervious surfaces.

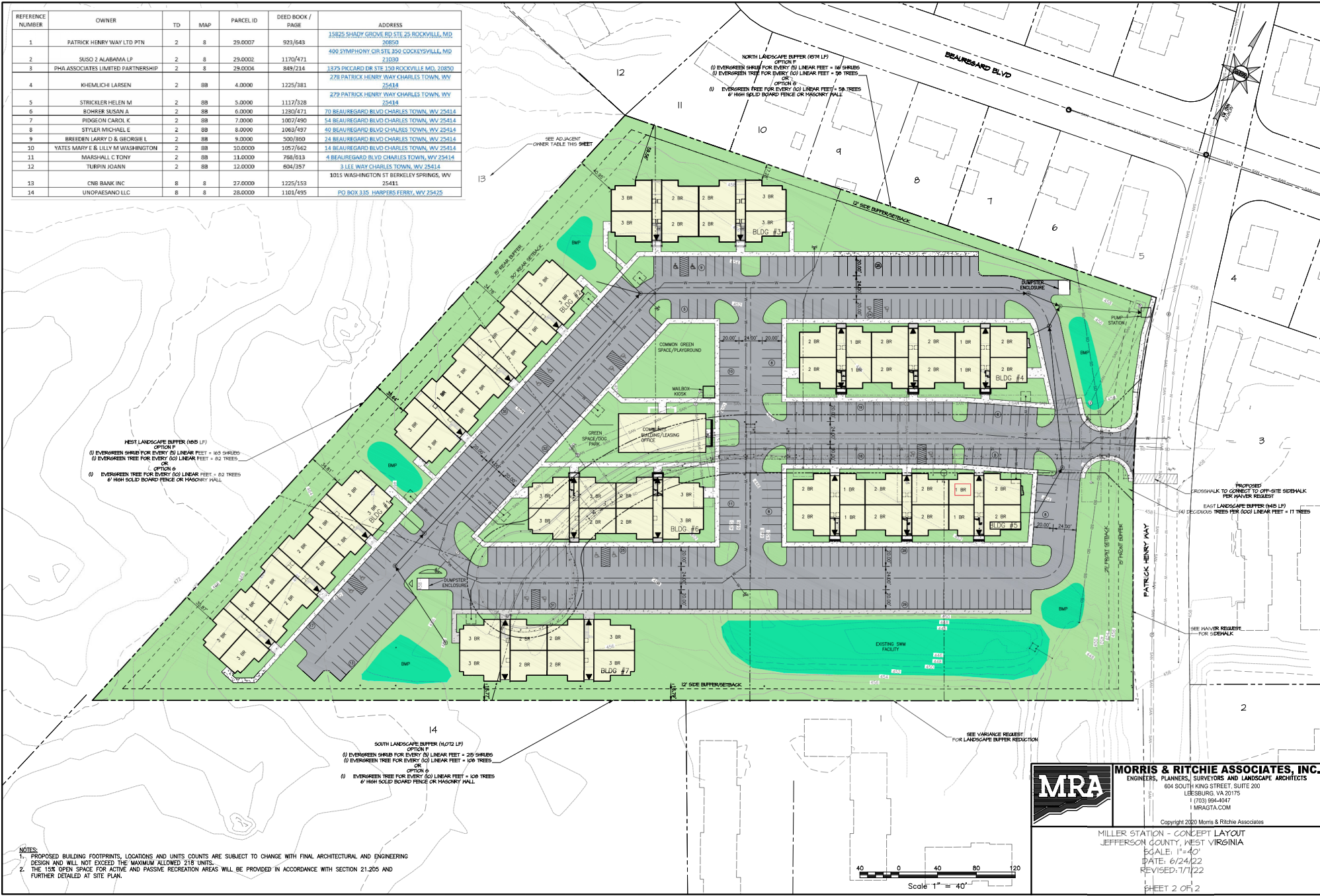
Sheet List Table	
Sheet Number	Sheet Title
1	COVER SHEET & NOTES
2	CONCEPT PLAN

**MORRIS & RITCHIE ASSOCIATES, INC.**  
ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS  
604 SOUTH KING STREET, SUITE 200  
LEESBURG, VA 20175  
(703) 944-4047  
MRA.GA.COM

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MILLER STATION - CONCEPT LAYOUT  
JEFFERSON COUNTY, WEST VIRGINIA  
DATE: 6/24/22  
REVISED: 1/1/22

REFERENCE NUMBER	OWNER	TD	MAP	PARCEL ID	DEED BOOK / PAGE	ADDRESS
1	PATRICK HENRY WAY LTD PTN	2	8	29.0007	923/643	15825 SHADY GROVE RD STE 25 ROCKVILLE, MD 20850
2	SUSO 2 ALABAMA LP	2	8	29.0002	1170/471	409 31MPHONTY CIR STE 350 COCKEYSVILLE, MD 21030
3	PHI ASSOCIATES LIMITED PARTNERSHIP	2	8	29.0004	849/214	1375 PIRCARD DR STE 100 ROCKVILLE MD, 20850
4	KHEMUCHI LARSEN	2	8B	4.0000	1225/381	278 PATRICK HENRY WAY CHARLES TOWN, WV 25414
5	STRICKLER HELEN M	2	8B	5.0000	1117/328	272 PATRICK HENRY WAY CHARLES TOWN, WV 25414
6	BOHRER SUSAN A	2	8B	6.0000	1280/471	70 BEAUREGARD BLVD CHARLES TOWN, WV 25414
7	RIDGEMAN CAROL K	2	8B	7.0000	1007/480	14 BEAUREGARD BLVD CHARLES TOWN, WV 25414
8	STYLER MICHAEL E	2	8B	8.0000	1063/497	40 BEAUREGARD BLVD CHARLES TOWN, WV 25414
9	BREEDEN LARRY D & GEORGIE L	2	8B	9.0000	500/360	24 BEAUREGARD BLVD CHARLES TOWN, WV 25414
10	YATES MARY E & LILLY M WASHINGTON	2	8B	10.0000	1057/662	14 BEAUREGARD BLVD CHARLES TOWN, WV 25414
11	MARSHALL C TONY	2	8B	11.0000	786/613	4 BEAUREGARD BLVD CHARLES TOWN, WV 25414
12	TURBIN JOANN	2	8B	12.0000	604/357	3 LEE WAY CHARLES TOWN, WV 25414
13	CHB BANK INC	8	8	27.0000	1225/153	1015 WASHINGTON ST BERKELEY SPRINGS, WV 25411
14	UNOPASSANO LLC	8	8	28.0000	1101/495	PO BOX 335 HARPERS FERRY, WV 25425



**WEST LANDSCAPE BUFFER (60' LF)**  
 OPTION F  
 (1) EVERGREEN SHRUB FOR EVERY (10) LINEAR FEET = 163 SHRUBS  
 (2) EVERGREEN TREE FOR EVERY (10) LINEAR FEET = 92 TREES  
 OR  
 OPTION G  
 (1) EVERGREEN TREE FOR EVERY (10) LINEAR FEET = 80 TREES  
 & HIGH SOLID BOARD FENCE OR MASONRY WALL

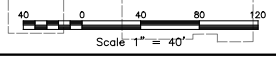
**NORTH LANDSCAPE BUFFER (60' LF)**  
 OPTION F  
 (1) EVERGREEN SHRUB FOR EVERY (10) LINEAR FEET = 146 SHRUBS  
 (2) EVERGREEN TREE FOR EVERY (10) LINEAR FEET = 90 TREES  
 OR  
 OPTION G  
 (1) EVERGREEN TREE FOR EVERY (10) LINEAR FEET = 58 TREES  
 & HIGH SOLID BOARD FENCE OR MASONRY WALL

**SOUTH LANDSCAPE BUFFER (162' LF)**  
 OPTION F  
 (1) EVERGREEN SHRUB FOR EVERY (10) LINEAR FEET = 255 SHRUBS  
 (2) EVERGREEN TREE FOR EVERY (10) LINEAR FEET = 108 TREES  
 OR  
 OPTION G  
 (1) EVERGREEN TREE FOR EVERY (10) LINEAR FEET = 108 TREES  
 & HIGH SOLID BOARD FENCE OR MASONRY WALL

**EAST LANDSCAPE BUFFER (145' LF)**  
 (1) DECIDUOUS TREES PER (100) LINEAR FEET = 11 TREES

SEE VARIANCE REQUEST FOR LANDSCAPE BUFFER REDUCTION

- NOTES:**
1. PROPOSED BUILDING FOOTPRINTS, LOCATIONS AND UNITS COUNTS ARE SUBJECT TO CHANGE WITH FINAL ARCHITECTURAL AND ENGINEERING DESIGN AND WILL NOT EXCEED THE MAXIMUM ALLOWED 218 UNITS.
  2. THE 15% OPEN SPACE FOR ACTIVE AND PASSIVE RECREATION AREAS WILL BE PROVIDED IN ACCORDANCE WITH SECTION 21.205 AND FURTHER DETAILED AT SITE PLAN.

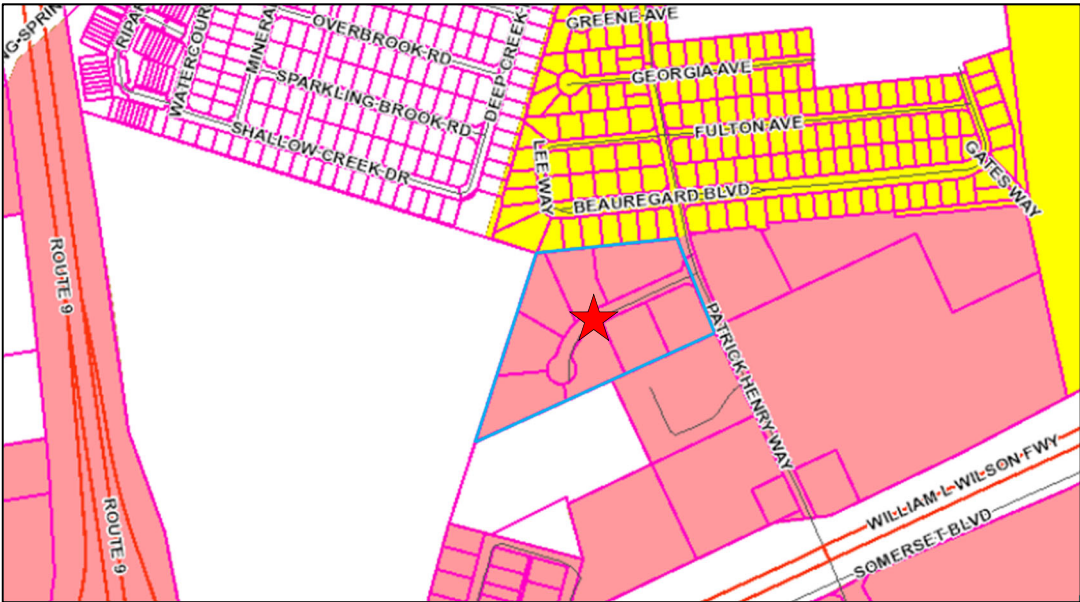


**MRA** MORRIS & RITCHIE ASSOCIATES, INC.  
 ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS  
 604 SOUTH KING STREET, SUITE 200  
 LEESBURG, VA 20175  
 1 (703) 994-4047  
 1 MRAS@A.COM  
 Copyright 2020 Morris & Ritchie Associates

MILLER STATION - CONCEPT LAYOUT  
 JEFFERSON COUNTY, WEST VIRGINIA  
 SCALE: 1"=40'  
 DATE: 6/24/22  
 REVISED: 7/17/22  
 SHEET 2 OF 2

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
**22-24-ZV Miller Station Apartments**

Item #2 **Request 2:** Variance from Section 4.11C to eliminate a portion of the required landscape buffer along the southern property line (approximately 475 feet) for the proposed Miller Station Apartment complex.

Property Owner:	Miller Gerald A Estate c/o Paul S. Schleifman	
Applicant:	Keane Enterprise / Contact: Andy Shuckra	
Consultant:	Morris & Ritchie Associates, Inc. / Contact: Todd Heck, Principal	
Parcel Information & Zoning District:	Miller Station Subdivision, Lots 1 – 8, Located on Captain Chews Trace, Charles Town, WV Tax District: Charles Town (02), Map: 8C, Parcels: 1 - 8; Combined Lot Size: 10 acres Zoning District: Residential-Light Industrial-Commercial	
		
	*White areas are located within the City of Ranson	
Surrounding Properties:	Zoning Map Designation: North: Residential Growth East: Residential-Light Industrial-Commercial South: Residential-Light Industrial-Commercial & City of Ranson West: City of Ranson	
<b>History:</b>		
<b>File #</b>	<b>Project Name</b>	<b>Recording Info</b>
01-31-SD	Miller Station Commercial Subdivision	<a href="#">PB 20, PG 23</a>
Variances/Waivers:	None	
Approved Activity:	Eight Commercial Lots	
Site Visit Conducted:	No	





Staff Report  
Jefferson County Board of Zoning Appeals  
July 28, 2022  
**22-24-ZV Miller Station Apartments**

**Section of Ordinance to be Considered:**

C. Multi-family Development<sup>27</sup>

1. All multi-family adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have, along common property lines, screened green space buffers as follows:
  - a. Front and rear: a minimum of 15 feet
  - b. Side: a minimum of 12 feet



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

File Number: 22-24-ZV

Staff Initials: jth

Meeting Date: 07-28-22

Fees Paid (\$100 or \$150): 100.00

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

Phone: (304) 728-3228

**Zoning Variance Request**

*Variances from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Miller Gerald A Estate c/o Paul S. Schleifman  
 Mailing Address: 4202 Blue Barrow Rd., Ellicott City, MD 21042  
 Phone Number: 410-461-7382 Email: \_\_\_\_\_

**Applicant Contact Information**

Name: Andy Shuckra, Keane Enterprise  
 Mailing Address: 44031 Pipeline Plaza, Suite100  
 Phone Number: 571-223-0001 Email: ashuckra@keaneenterprises.com

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

Name: Todd Heck, Principal Morris & Ritchie Associates, Inc.  
 Mailing Address: 604 South King Street, Suite 200 Leesburg, VA 20175  
 Phone Number: 540-974-2976 Email: theck@mragta.com

**Physical Property Details**

Physical Address: Captain Chews Trce. (See Attached for associated parcels which be subject to a merger plat)  
 City: Charles Town State: WV Zip Code: \_\_\_\_\_  
 Tax District: Charles Town District Map No: 8C Parcel No: Parcels 1-8  
 Parcel Size: (Total = 10.04 AC) Deed Book: 613 Page No: 71

**Zoning District (please check one)**

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

Received 06/24/22 - jth

Place Received Date Stamp Here

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: 4.11.C

*Briefly describe the nature of the variance request:*

To eliminate the portion of the landscape buffer yard (approximately 475 LF) that is directly adjacent with similar use (existing multifamily buildings) on the adjacent property and in direct conflict with overhead electric lines and the existing on-site SWM / BMP facility.

*If this request is for a setback variance, please check one of the following:*

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

*Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:*

The variance request will not adversely affect the adjacent property as the proposed improvements are more than 100' from the adjacent buildings, there is existing vegetation on the adjacent property to screen the like uses and there approximately 5-10' vertical elevation difference from between the properties.

*In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?*

The requested variance is necessary since there is no available planting area along the perimeter property line as trees are not permitted on embankments of SWM facilities and there are conflicts with the overhead electric lines that prohibit plantings.

*How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?*

This variance will not create hardship as the proposed use is the same as the existing adjacent use and the request is only for the area of the buffer yard where is existing conditions prohibit plantings.

*How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?*

The intent of the Zoning Ordinance is to provide screened green space buffers along common property lines. The buffer yards will be provide where feasible but for the portion that is already subject existing utilities.

*Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.*

By signing this application, 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. The information given is correct to the best of my knowledge.

6/20/22

Signature of Property Owner

Date

Signature of Property Owner

Date

*Notification Requirements (to be completed by staff)*

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

07/28/22

Date of Public Hearing

07/13/22

Advertising Date

07/13/22

Placard Posting Date

# MILLER STATION

## CONCEPT PLAN

### JEFFERSON COUNTY, WV

#### CONCEPT PLAN NOTES:

- SEE GENERAL LOCATION MAP THIS SHEET FOR ZONING DISTRICTS WITHIN 500' OF THE SUBJECT PROPERTY.
- 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 SETBACK LINES.
- ACTUAL BUILDING FOOTPRINTS MAY VARY WITH FINAL ARCHITECTURAL DESIGN.
- ZONING INFORMATION: SEE TABS THIS SHEET
- SEE SHEET 2 FOR THE PROPERTY'S 'SITE RESOURCES'.
- ALL STATE, FEDERAL AND LOCAL REGULATIONS WILL BE OBSERVED IF ANY UNKNOWN SITE RESOURCES ARE DISCOVERED DURING CONSTRUCTION.
- THERE ARE NO FLOODPLAINS ON THE SUBJECT PROPERTY PER FEMA MAPS.
- SEE SHEET 2 FOR ADJACENT PROPERTY INFORMATION.
- PROPOSAL DESCRIPTION: THE REQUESTED CONCEPT PLAN INCLUDES 218 MULTIFAMILY UNITS, OPEN SPACE, STORMWATER MANAGEMENT AREAS AND THE CONSTRUCTION OF ASSOCIATED UTILITIES. SIDEWALKS SHALL BE PROVIDED. NO RESTRICTIVE COVENANTS/ CONDITIONS/ RESTRICTIONS ARE PROPOSED AT THIS THE BUT MAY BE PROVIDED AT THE OF FINAL PLAT.
- TRAFFIC IMPACT DATA
  - SEE TRAFFIC ANALYSIS MEMO PREPARED BY AHT DATED 6/7/2022 AND REVISED THROUGH 7/1/2022
  - THE HV DOT ONLINE TRAFFIC COUNTS PROXIMATE AVERAGE DAILY TRAFFIC COUNTS FOR THE FOLLOWING LOCATIONS: ROUTE 340 = 3020/DI
  - PROPOSED TRIP GENERATION FOR MULTIFAMILY UNITS BASED IIE TRIP GENERATION MANUAL AND SECTION 24.10(C)(2)(b) OF THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS ARE AS FOLLOWS:
    - PEAK HOUR TRIPS: 218 (MULTIFAMILY UNITS) x 0.80 = 175
    - AVERAGE DAILY TRIPS: 218 (MULTIFAMILY UNITS) = 106
- THE NEAREST KEY INTERSECTION AS DEFINED IN THE CONCEPT PLAN CHECKLIST IS ROUTE 340 AND PATRICK HENRY WAY
- THERE ARE NO "HIGHWAY PROBLEM AREAS", AS DEFINED BY THE DIVISION JEFFERSON 2038 COMPREHENSIVE PLAN, WITHIN ONE (1) MILE RADIUS OF THE PROPERTY.
- A LIST OF ALL ADJOINING PROPERTIES AND OWNERS ADDRESSES ARE INCLUDED AS PART OF THIS SUBMISSION. PROPERTY OWNERS INFORMATION IS PROVIDED PURSUANT TO JEFFERSON COUNTY ASSESSOR'S RECORDS.
- 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 SITE PLAN DEVELOPMENT.
- EXISTING CONDITIONS HAVE BEEN BASED ON COMPILATION OF GIS INFORMATION, FIELD SURVEY DATA AND PLANS OF RECORD. THE TOPOGRAPHIC CONTOUR INTERVAL IS 20' FOOT. HORIZONTAL DATUM IS NAD83 WEST VIRGINIA STATE PLANE, NORTH ZONE. VERTICAL DATUM IS NAVD83.



GENERAL LOCATION MAP

OWNER  
MILLER GERALD A ESTATE  
C/O PAUL S. SCHLEIFMAN  
4202 BLUE BARROW RD.  
ELLCOTT CITY, MD 21042  
410-461-7382

APPLICANT  
KEANE ENTERPRISE, INC.  
C/O ANDY SHUCKRA  
P.O. BOX 1573  
ASHBURN, VA 20146  
ASHUCKRA@KEANEENTERPRISES.COM

PREPARED BY  
MORRIS & RITCHIE ASSOCIATES, INC.  
604 SOUTH KING STREET, SUITE 200  
LEESBURG, VIRGINIA 20175  
CONTACT: TODD HECK  
703-944-4047  
THECK@MRA.GA.COM


ZONING SUMMARY	
ZONING DISTRICT	RESIDENTIAL LIGHT INDUSTRIAL COMMERCIAL (RLI-C) (ADMINISTERED UNDER RESIDENTIAL GROWTH (RG) DISTRICT)
LAND USE	MULTI-FAMILY (SUBJECT TO SECTION 4.12)
LAND USE SUBTYPE	PUBLIC / CENTRAL WATER AND SEWER
MIN. LOT AREA	20,000 SF
EXISTING LOT AREA	4,36,259 SF 10.02 AC
AREA PER DWELLING UNIT	2,000 SF
MAX UNITS	218 (436,259 / 2,000 = 218.12)
PROPOSED UNITS	218
MAX BUILDING HEIGHT	40 FT (SUBJECT TO SECTION 9.2)
PROPOSED BUILDING HEIGHT	40 FT / PROPOSED BUILDINGS WILL BE (3) STORY
Section 9.2 Building Height Limitations Building height limitations shall not apply for public utilities, agricultural uses, communication poles and towers, chimneys, steeples, water tanks, electric generating plants, electric transforming or switching equipment, flagpoles, fire or observation towers, monuments, or to tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building, hospitals, schools, colleges and public buildings. Commercial wireless communications facilities shall comply with Article 4B.7, 10, 22	
SETBACKS	FRONT 25 FT SIDE 12 FT (FOR EXTERIOR ONLY) STREET SIDE 15 FT REAR 30 FT
PARKING / DRIVE AISLE	FRONT 15 FT SIDE 12 FT REAR 15 FT
SCREENED BUFFERS	FRONT 15 FT (SUBJECT TO SECTION 4.11) SIDE 12 FT REAR 15 FT
SECTION 4.12 DESIGN STANDARDS FOR MULTIFAMILY DEVELOPMENTS Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational uses shall be within the 100 year Floodplain. A Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed 50 percent of the gross land area. (SEE CALCULATIONS ON LAYOUT) B C Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least 25 feet from any street right-of-way.	
SECTION 21.205 OF THE SUBDIVISION REGULATIONS 15% OF THE LAND IS REQUIRED TO BE RESERVED FOR OPEN SPACE (10 ACRES X 15% = APPROX. 1.5 ACRES) UP TO 80% MAY BE MET WITH PASSIVE OPEN SPACE AND THE REST HAS ACTIVE RECREATION AND WILL BE DETAILED ON FUTURE SITE PLAN.	

Maximum Allowed Density	
Total Lot Area	436,259 SF
Permitted Area per dwelling unit	2,000 SF
TOTAL LOT AREA (436,259 SF) / (2,000 SF) = 218.13	
Max Dwelling Units	218.13
Proposed Dwelling Units	218 Units

Miller Station Apartments Tabulations				
Apartment Unit / Type	Parking Per Unit	Parking Required	*Parking Provided	
50 Units 1 Bedroom (22.9%)	1.25	63	-	
108 Units 2 Bedroom (43.6%)	1.5	162	-	
60 Units 3 Bedroom (33.6%)	2	120	-	
<b>218 Total Units</b>		<b>345</b>	<b>371</b>	
<b>Notes:</b>				
*Proposed Parking subject to final design				
** (16) ADA Parking Spaces provided				

Land Coverage			
	SF	AC	%
<b>*Max Land Coverage Allowed</b>	218,129.50	5.01	50.0%
<b>**Proposed Land Coverage</b>	246,821.21	5.67	56.6%
*Per section 4.12.B impervious surfaces coverage is based on residential structures, parking areas, and interior streets.			
** A variance has been requested to allow up to 60% impervious surfaces.			

Sheet List Table	
Sheet Number	Sheet Title
1	COVER SHEET & NOTES
2	CONCEPT PLAN

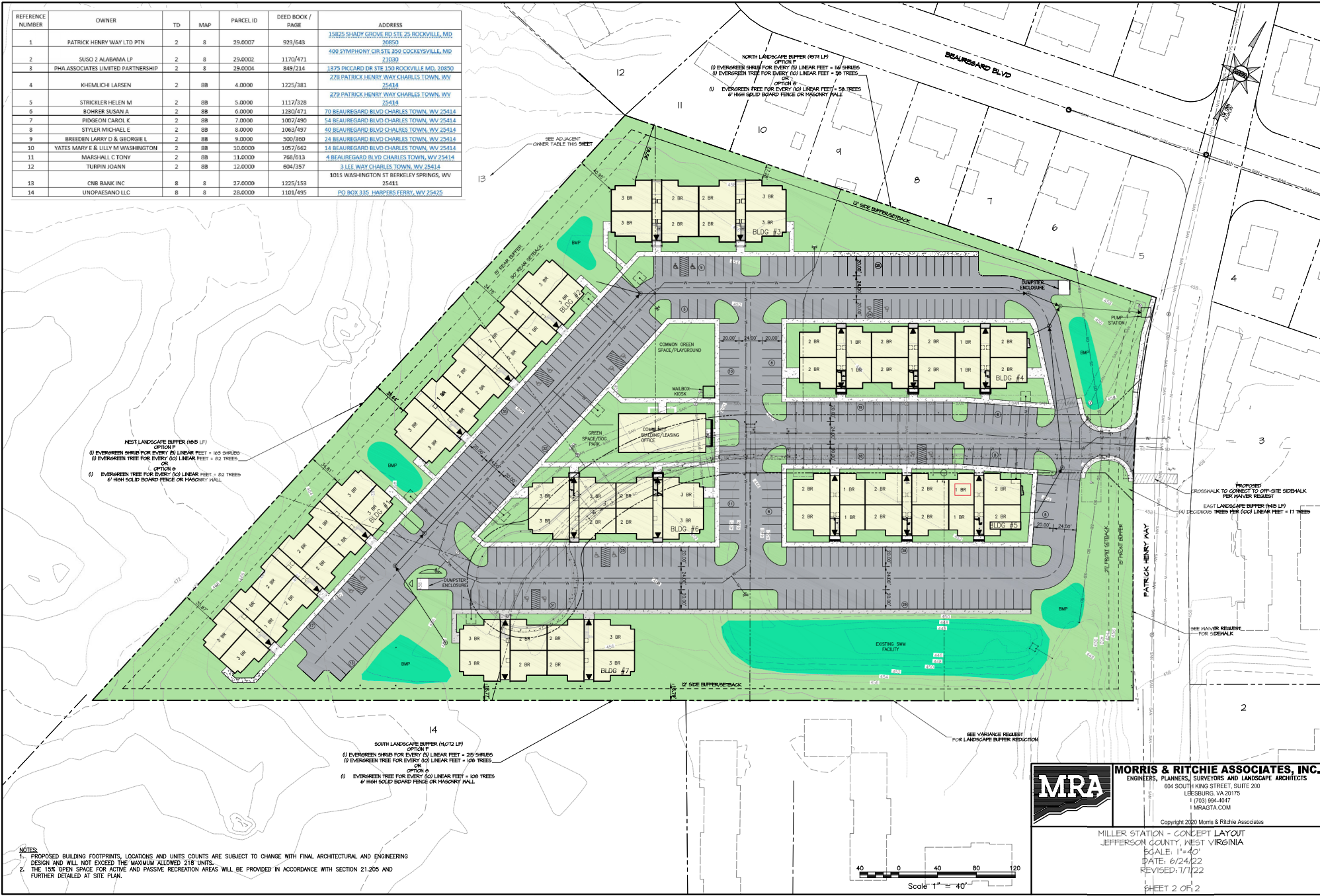


**MORRIS & RITCHIE ASSOCIATES, INC.**  
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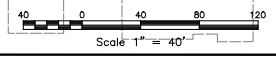
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MILLER STATION - CONCEPT LAYOUT  
JEFFERSON COUNTY, WEST VIRGINIA  
DATE: 6/24/22  
REVISED: 1/7/22

REFERENCE NUMBER	OWNER	TD	MAP	PARCEL ID	DEED BOOK / PAGE	ADDRESS
1	PATRICK HENRY WAY LTD PTN	2	8	29.0007	923/643	15825 SHADY GROVE RD STE 25 ROCKVILLE, MD 20850
2	SUSO 2 ALABAMA LP	2	8	29.0002	1170/471	409 31MPHONE CIR STE 350 COCKEYSVILLE, MD 21030
3	PHI ASSOCIATES LIMITED PARTNERSHIP	2	8	29.0004	849/214	1375 PINECARD DR STE 100 ROCKVILLE MD, 20850
4	KHEMUCHI LARSEN	2	8B	4.0000	1225/381	278 PATRICK HENRY WAY CHARLES TOWN, WV 25414
5	STRICKLER HELEN M	2	8B	5.0000	1117/328	272 PATRICK HENRY WAY CHARLES TOWN, WV 25414
6	BOHRER SUSAN A	2	8B	6.0000	1280/471	70 BEAUREGARD BLVD CHARLES TOWN, WV 25414
7	PIGSON CAROL K	2	8B	7.0000	1007/480	14 BEAUREGARD BLVD CHARLES TOWN, WV 25414
8	STYLER MICHAEL E	2	8B	8.0000	1063/497	40 BEAUREGARD BLVD CHARLES TOWN, WV 25414
9	BREEDEN LARRY D & GEORGIE L	2	8B	9.0000	500/360	24 BEAUREGARD BLVD CHARLES TOWN, WV 25414
10	YATES MARY E & LILLY M WASHINGTON	2	8B	10.0000	1057/662	14 BEAUREGARD BLVD CHARLES TOWN, WV 25414
11	MARSHALL C TONY	2	8B	11.0000	786/613	4 BEAUREGARD BLVD CHARLES TOWN, WV 25414
12	TURBIN JOANN	2	8B	12.0000	604/357	3 LEE WAY CHARLES TOWN, WV 25414
13	CHB BANK INC	8	8	27.0000	1225/153	1015 WASHINGTON ST BERKELEY SPRINGS, WV 25411
14	UNOPASSANO LLC	8	8	28.0000	1101/495	PO BOX 335 HARPERS FERRY, WV 25425



- NOTES:**
1. PROPOSED BUILDING FOOTPRINTS, LOCATIONS AND UNITS COUNTS ARE SUBJECT TO CHANGE WITH FINAL ARCHITECTURAL AND ENGINEERING DESIGN AND WILL NOT EXCEED THE MAXIMUM ALLOWED 218 UNITS.
  2. THE 15% OPEN SPACE FOR ACTIVE AND PASSIVE RECREATION AREAS WILL BE PROVIDED IN ACCORDANCE WITH SECTION 21.205 AND FURTHER DETAILED AT SITE PLAN.

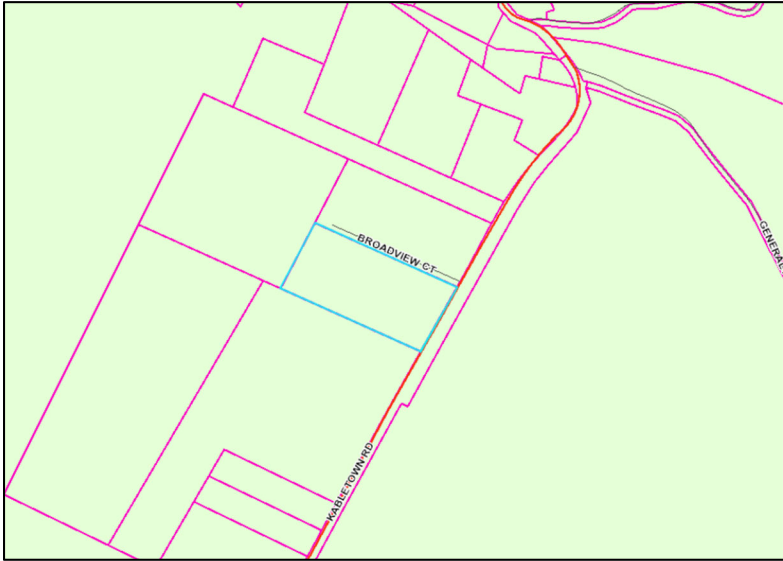


**MRA** MORRIS & RITCHIE ASSOCIATES, INC.  
 ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS  
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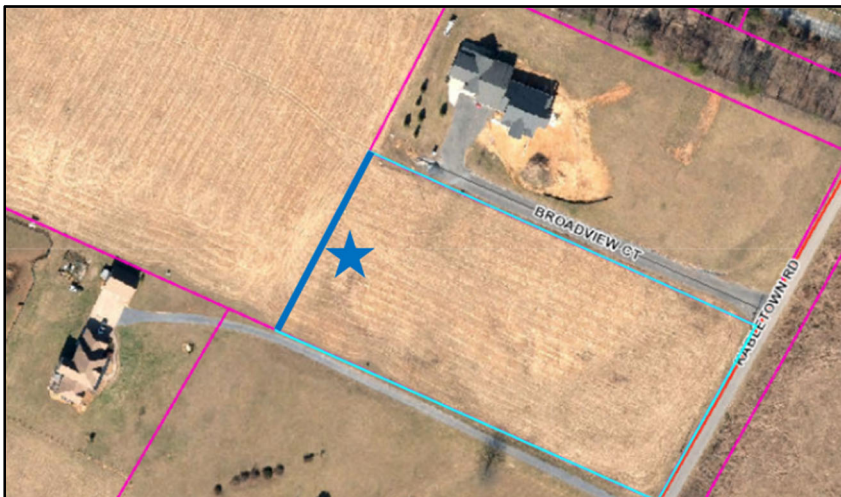
MILLER STATION - CONCEPT LAYOUT  
 JEFFERSON COUNTY, WEST VIRGINIA  
 SCALE: 1"=40'  
 DATE: 6/24/22  
 REVISED: 7/17/22  
 SHEET 2 OF 2

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
**22-25-ZV Dinges Variance Request**

Item #3 Variance request from Section 5.7B of the Zoning Ordinance (as amended 06/28/06) to reduce the rear setback from 50' to 15' for a 20' x 30' accessory structure (detached garage).

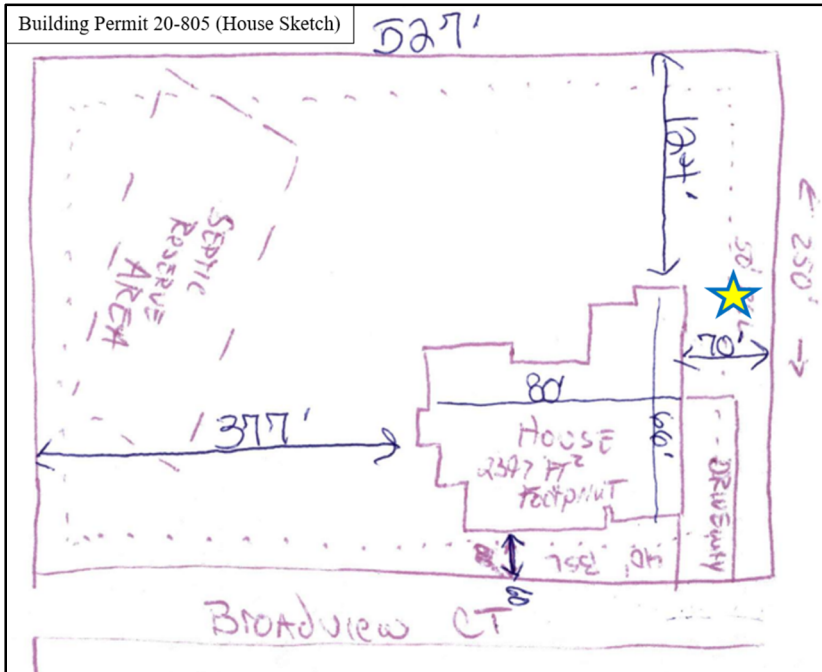
Owner/Applicant:	Chad Dinges
Parcel Information and Zoning District:	<p>Michael &amp; Malisa Pindell Pindell MSD, Lot 1, 87 Broadview Ct., Charles Town          Parcel ID: 06000900040005; Size: 3 acres; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: North, South, East and West: Rural
History:	06/18/08: Michael and Malisa Pindell MSD recorded in <a href="#">PB 25, PG 41</a>
Waivers/Variances:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	Site visit not conducted

**Staff Overview**



The subject parcel is designated as Lot 1 of the Michael and Malisa Pindell Minor Subdivision, which was recorded on June 18, 2008 in [Plat Book 25, Page 41](#). The applicant is requesting to construct a 20' x 30' accessory structure for personal storage approximately 15' from a plated 50' rear setback.

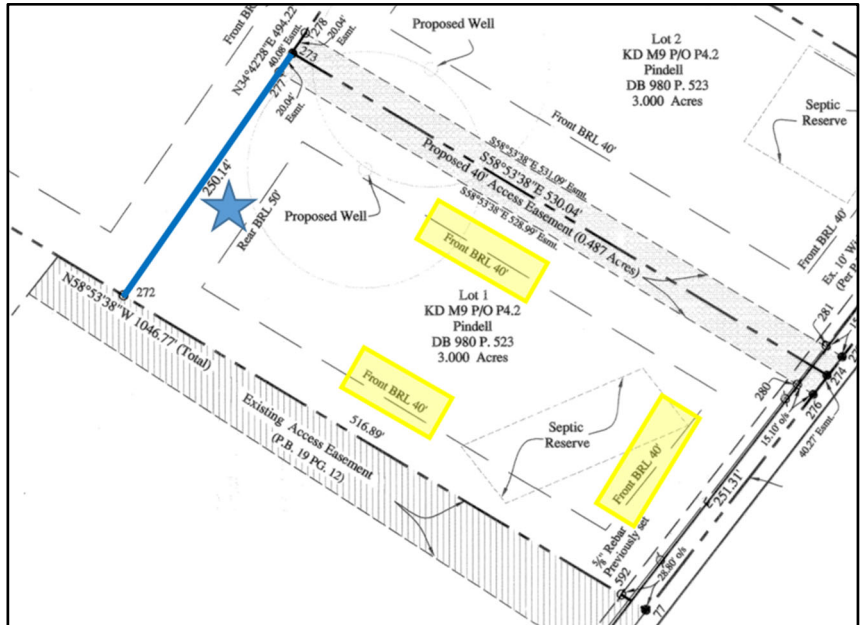
Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
**22-25-ZV Dinges Variance Request**



The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention purposes; and to allow room for utility easements.

Based on the acreage of the property, it may be feasible to comply with the Ordinance; however, the buildable area is encumbered by three front yard designations and a platted septic reserve area. The applicant has represented that the proposed location was selected to avoid the platted septic reserve area.

*\*Note: the applicant represented that the subject property line should be designated as a side yard. This is incorrect as it is parallel to the property line that fronts Kabletown Road and is, therefore, designated as a rear yard, subject to a 50' rear setback. If the subject lot were being created under the current Zoning Ordinance, pursuant to the definition of Corner Lot, the northern property line fronting Broadview Court or the southern property line fronting a platted access easement could be designated as a side yard with a 15' side setback; however, the lot was created in 2008 and subject to three front yard designations – one along Kabletown Road, one along Broadview Court, and one along a platted access easement.*



**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. No business may be operated from this structure.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
**22-25-ZV Dinges Variance Request**

**SECTION OF ORDINANCE TO BE CONSIDERED:**

SECTION 5.7 Rural District

(b) Minimum Lot Area, Lot Width and Yard Requirements

Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in Article 5.4(b).

[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard Depth</u>	<u>Side Yard Depth</u>	<u>Rear Yard Depth</u>
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	50	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50





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

File Number: 22-25-ZV  
 Staff Initials: gt  
 Meeting Date: 7-28-22  
 Fees Paid (\$100 or \$150): 100

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

Phone: (304) 728-3228

**Zoning Variance Request**

*Variations from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: CHAD DINGGS  
 Mailing Address: P.O. Box 40 Rippon, WV 25441  
 Phone Number: 304-839-5706 Email: IMAGE05@FRONTIERNET.NET

**Applicant Contact Information**

Name: SAME AS ABOVE  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

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

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

**Physical Property Details**

Physical Address: 87 BROADVIEW COURT  
 City: Charles Town State: WV Zip Code: 25414  
 Tax District: 06-Kabletown Map No: 9 Parcel No: 4.5  
 Parcel Size: 3.00 Acres Deed Book: 1268 Page No: 438

**Zoning District (please check one)**

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**RECEIVED**

JUL 01 2022

JEFFERSON COUNTY PLANNING  
 ZONING & ENGINEERING

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Sec 5.7

Briefly describe the nature of the variance request:

Request for variance to rear property 15ft. to add detached garage.  
Garage 20ft from nearest easement. Garage 20x30

If this request is for a setback variance, please check one of the following:

Front Setback  Side Setback  Rear Setback  Reduction From 50 ft to 15 ft

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

This request only impacts one adjacent 6.9 acre tract property in minor  
subdivision. The setback affects the side of my lot and the front of the  
adjoining lot. The building site of the 6.9 acre lot is several 100ft away.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

The septic reserve is located on the lower side of lot and does not  
allow for any structure elsewhere on the property.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

If the boundary line was labeled as side instead of rear the 15 ft required  
setback would be sufficient.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

The ordinance is not compromised by this variance request because no  
property owners will be adversely affected. Also, this should be a side  
boundary not rear.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, 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. The information given is correct to the best of my knowledge.

Chal M. Deringer 7-1-22  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

07-28-22  
Date of Public Hearing

07-13-22  
Advertising Date

07-13-22  
Placard Posting Date

Parcel Address Flood Zone



0 100 200ft

Scale - 1: 2,257  
39.215478,  
-77.860745

Click on a parcel to view its information

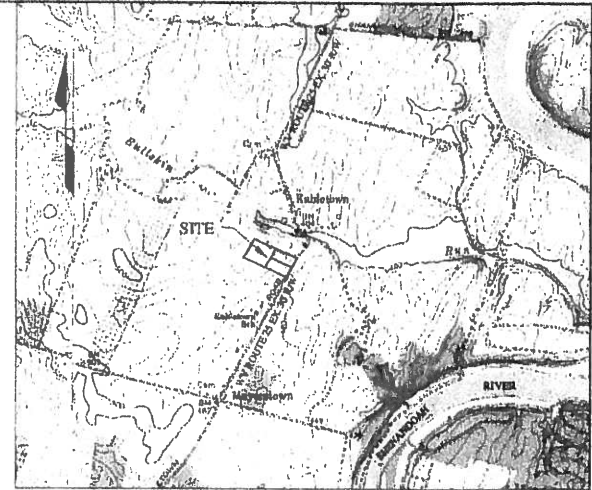


**LEGEND**

- 5/8" by 30" Rebar, Set with I.D. cap, unless noted otherwise.
- Unmarked Corner
- Boundary Line
- - - Adjoiner Line
- - - Easement Line
- - - Building Setbacks
- - - Overhead Lines & Poles

**NOTES:**

1. Building Restriction Limits: 40' front, 15' side, and 50' rear per JCPZC. Accessory structures under 144 s.f. in size shall have a 6' setback limit. Attachments to units may not project into required yard more than 4' width, 10' length max. Except as provided for in the exceptions within Article 9 of the Jefferson County Ordinance.
2. 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 construction of a septic disposal system. If, before settlement, the buyer is denied a septic system construction permit by the County Health Dept., the buyer may refuse to purchase the property without penalty.
3. Lots 1, 2, & 3 (Residue) on this plat shall be restricted to a single family residence only, unless otherwise approved by the Planning Commission in conformance with the prevailing county land development laws.
4. Verification from a well driller that a pressure grouted well has been drilled and is producing water at a quantity approved by the local or State Health Department, that is required prior to the issuance of an Improvement Location Permit. Certification that this water is potable must be submitted to the Planning Commission Office within 6 months of the issuance of an Improvement Location Permit.
5. Public Service District may require hooking up to a centralized system when and if it becomes available.
6. By graphic plotting only, this property is in Zone "C" per F.I.R.M. map 540063 0066C date 02 August 1993. Exact designation can only be determined by an elevation certificate. Based on the above information, this property is not in a special flood hazard area.
7. WV Route 25 is currently a 30' Right of Way. There is an existing 10' wide strip to allow for future widening (Per P.B. 19 PG. 12) to make a 40' Right of Way.
8. A blanket easement shall be given to the appropriate Public Service District in all subdivision rights of way for the purpose of constructing water and/or sewer lines and facilities.
9. Driveway culverts to be 15' round CMP or equivalent arch CMP unless noted otherwise, or deemed not necessary at discretion of County Engineer.
10. There are no Restrictive Covenants.
11. WV DOH Highway Entrance Permit #5-08-0093.
12. Jefferson County Health Department Permit #SDA-1907 08-30
13. There are no Existing, Proposed, or Future Right-of-Ways or Easements hereon, except as shown.
14. There are no remnants or landlocked parcels created by this minor subdivision.
15. There are no reservations of public land or semi-public use.
16. The deed shall require common maintenance of the access.
17. There are no known wetlands.
18. Lots 1, 2, & 3 shall be restricted to entrance through the 40' Access Easement, unless otherwise approved by the Planning Commission in conformance with the prevailing county land development laws.



LOCATION INSET  
SCALE: 1"=2000'

JEFFERSON COUNTY, WV  
FILED  
June 18, 2008 11 45 37  
JCHIFFER S. BIGHAN  
COUNTY CLERK  
TRANSACTION NO 2008012161  
PLAT 124 X 181  
Book 25 Page 00841



JCPZC Approval P.C. File No. \_\_\_\_\_

Jefferson County Department of Planning & Zoning

**SURVEYOR'S CERTIFICATION:**  
The perimeter of Lots 1, 2 & 3 as shown hereon has been established by a network of traverse control having a relative error of closure of 1:7500 or better.

Matthew R. Jones, PS

**STATEMENT OF ACCEPTANCE:**  
The owner/developer, in signing this plat, agrees to abide by all conditions, terms, and specifications provided hereon.

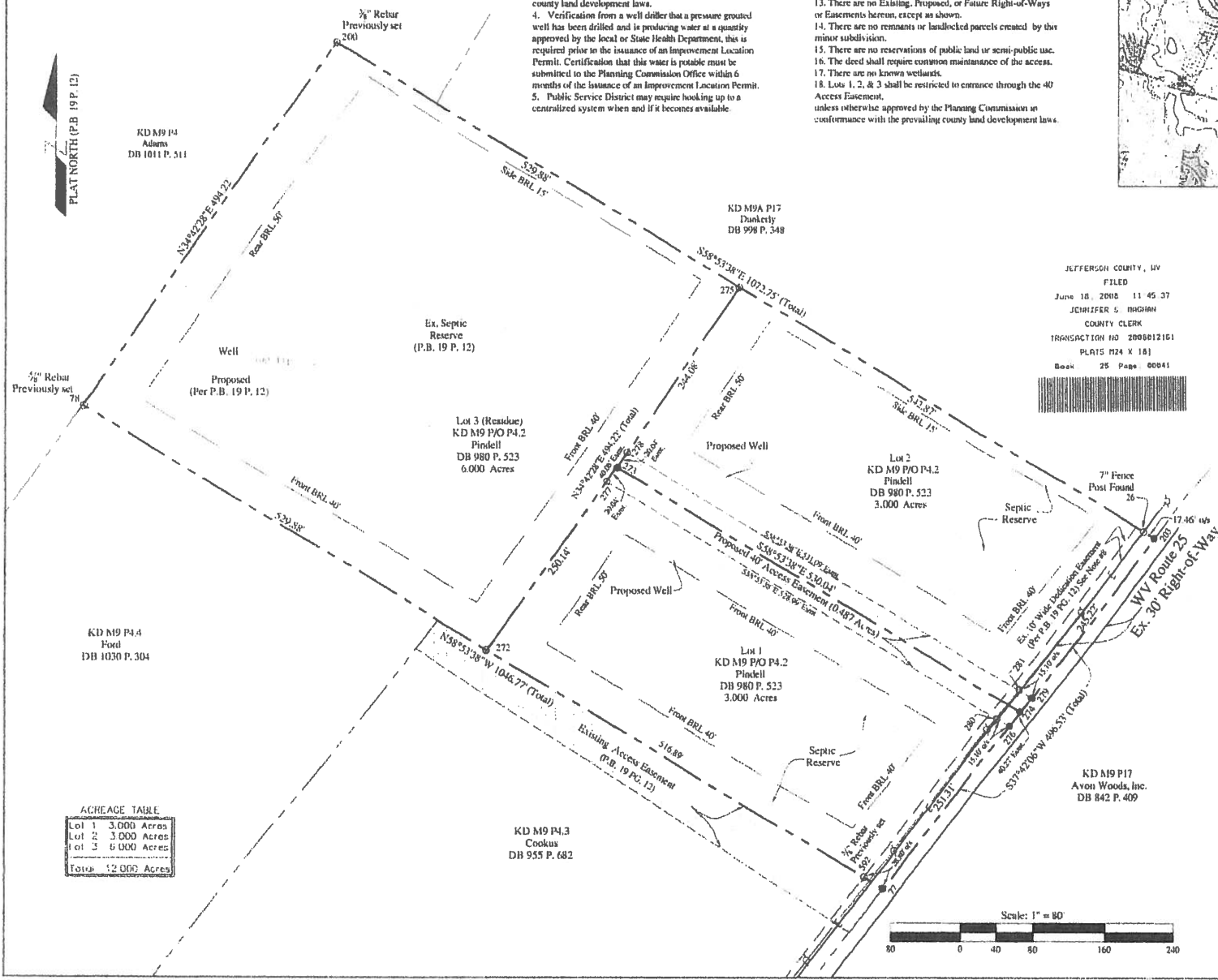
Michael D. Pindell (Owner/Developer)  
420 NW 35th Street Oakdale, PA 34475  
(351)-861-1928

Plat of Survey showing  
Lots 1, 2, & 3 (Residue)  
Michael D. & Malisa K. Pindell  
**Minor Subdivision**

Kabletown District  
Jefferson County, West Virginia  
KD M9 P4.2 DB980 P523  
31 October 2007

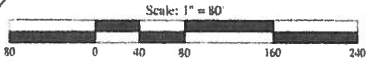


Dewberry & Davis, LLC  
401 S. FAIRFAX BOULEVARD, SUITE 3  
RANSON, WV 25438-1611  
PHONE: 304.725.4572  
FAX: 304.725.6896  
WWW.DEWBERRY.COM

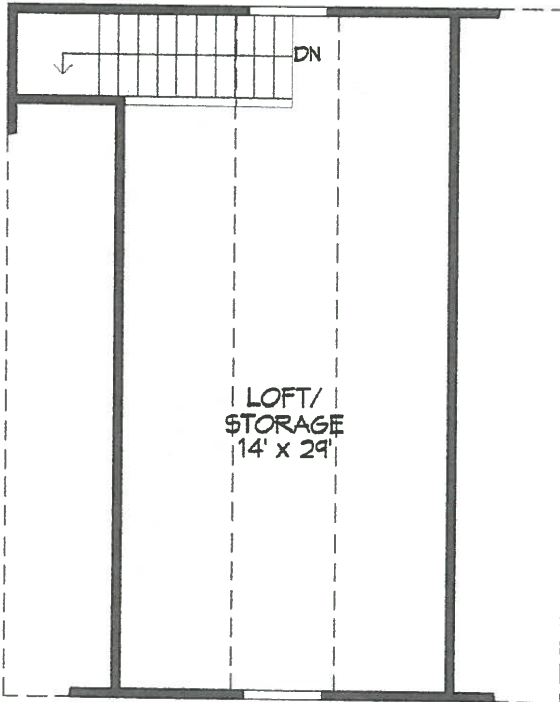
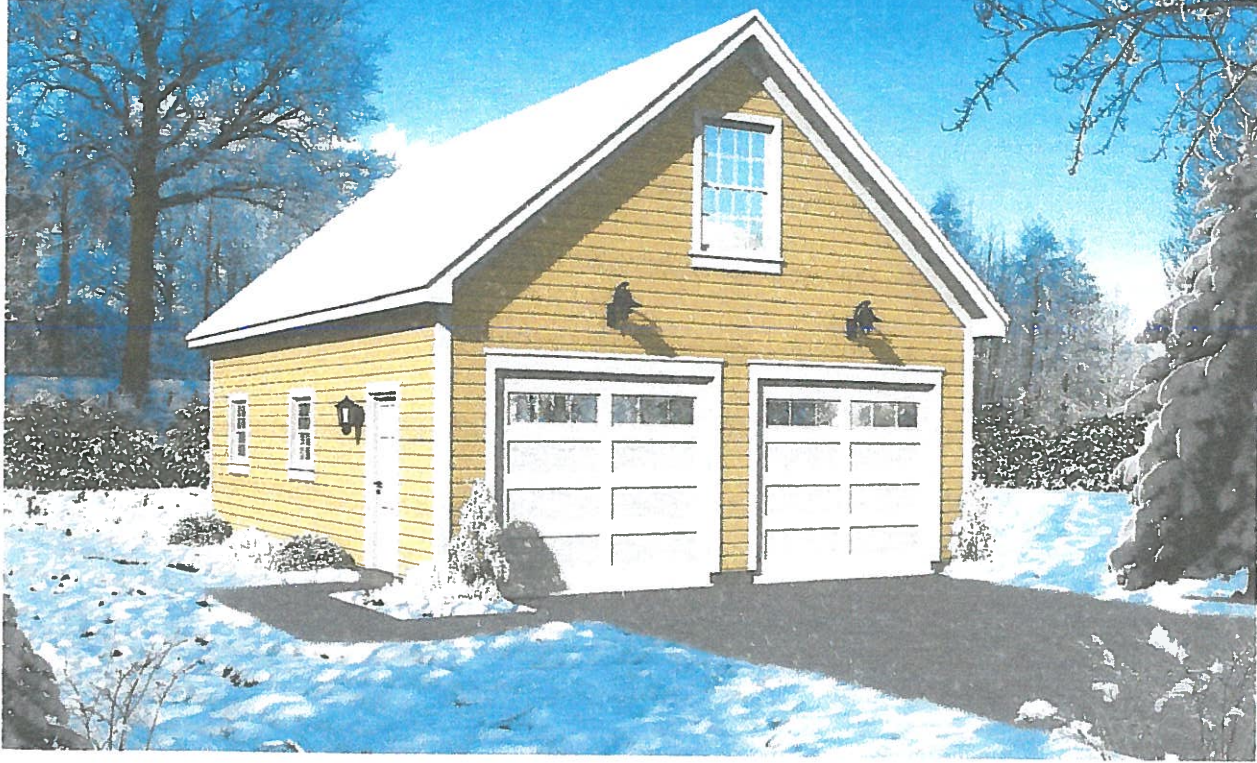


**ACREAGE TABLE**

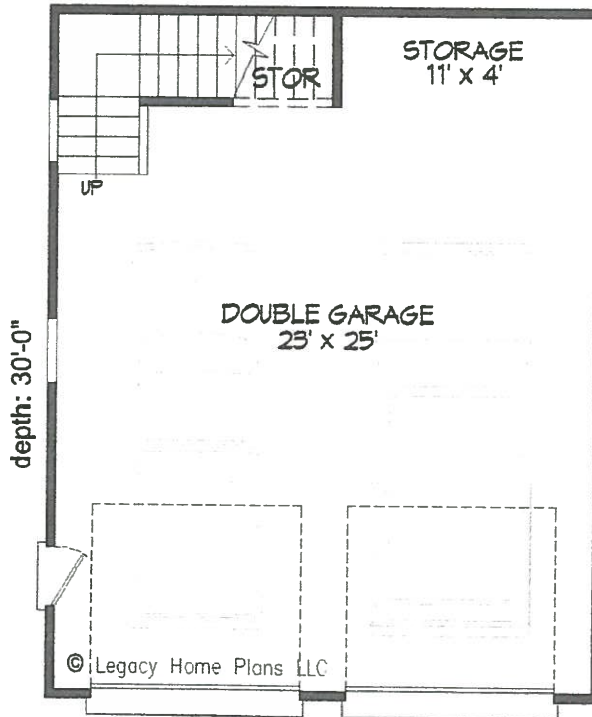
Lot 1	3.000 Acres
Lot 2	3.000 Acres
Lot 3	6.000 Acres
<b>Total</b>	<b>12.000 Acres</b>



66860005



SECOND LEVEL FLOOR PLAN



width: 24'-0"  
GARAGE LEVEL FLOOR PLAN

SQUARE FOOTAGE  
444 UPSTAIRS STORAGE  
720 GARAGE & STORAGE  
1164 TOTAL UNHEATED

9' HT CEILINGS DN  
8' HT CEILINGS UP  
UNLESS NOTED OTHERWISE

21'-1" RIDGE HEIGHT  
10:12 PRIMARY ROOF PITCH  
CONVENTIONAL ROOF FRAME

2x4 EXT. WALLS UNLESS NOTED  
SLAB FOUNDATION

Plan #

**0720-444-G**  
**West Linn Garage**

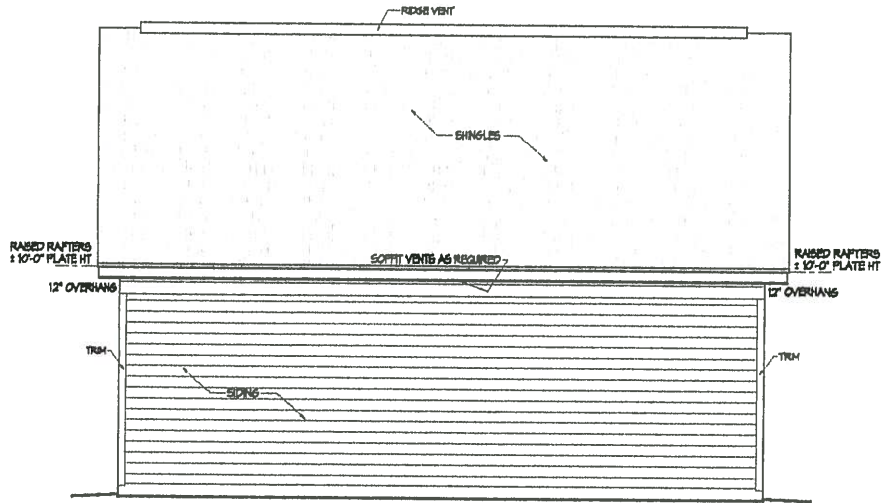
Webb

12-28-17 SMV  
conceptual drawings only,  
plans subject to change

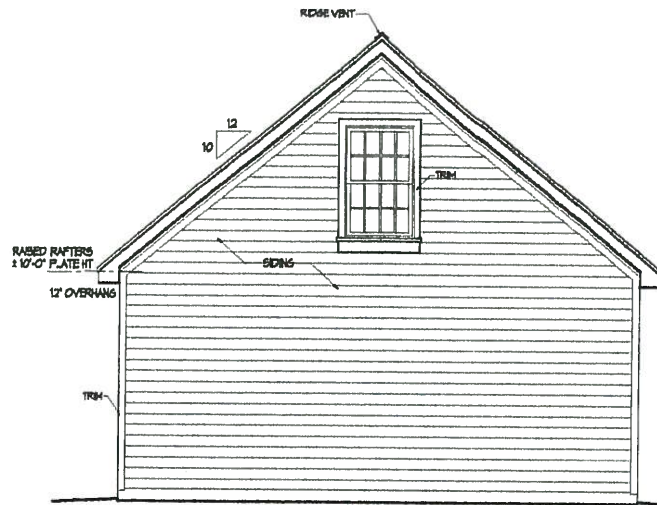
**TOTAL SF 1164**

www.legacyhomeplans.com --- [steve@legacyhomeplans.com](mailto:steve@legacyhomeplans.com)  
5690 summer avenue • 2nd floor • memphis, TN 38134 • phone: 901-754-9874 • fax: 901-755-3869

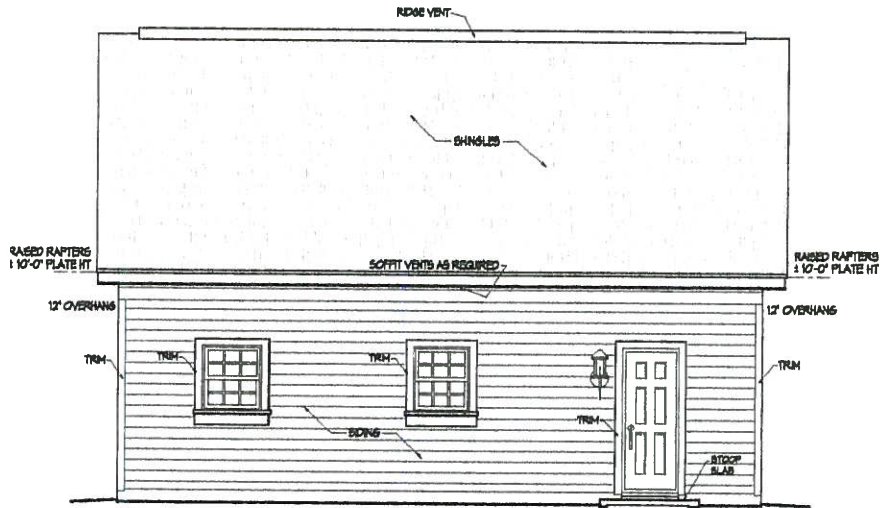




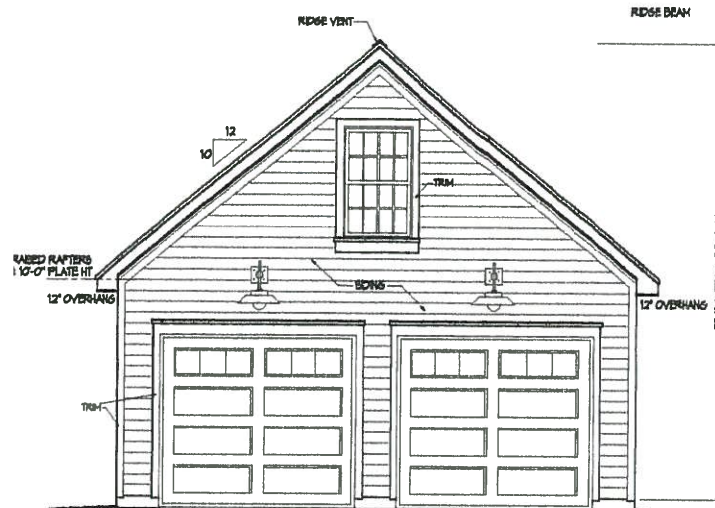
**RIGHT ELEVATION**  
SCALE: 1/4" = 1'-0"



**REAR ELEVATION**  
SCALE: 1/4" = 1'-0"



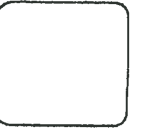
**LEFT ELEVATION**  
SCALE: 1/4" = 1'-0"



**FRONT ELEVATION**  
SCALE: 1/4" = 1'-0"

DATE	SCALE	DATE	SHEET #
	A4 SHOWN	12-20-17	2
PROJECT BY		Lynn P.J. Stone V.	
<b>West Linn Garage</b>			
<b>#0720-444-G Garage (2x6)</b>			

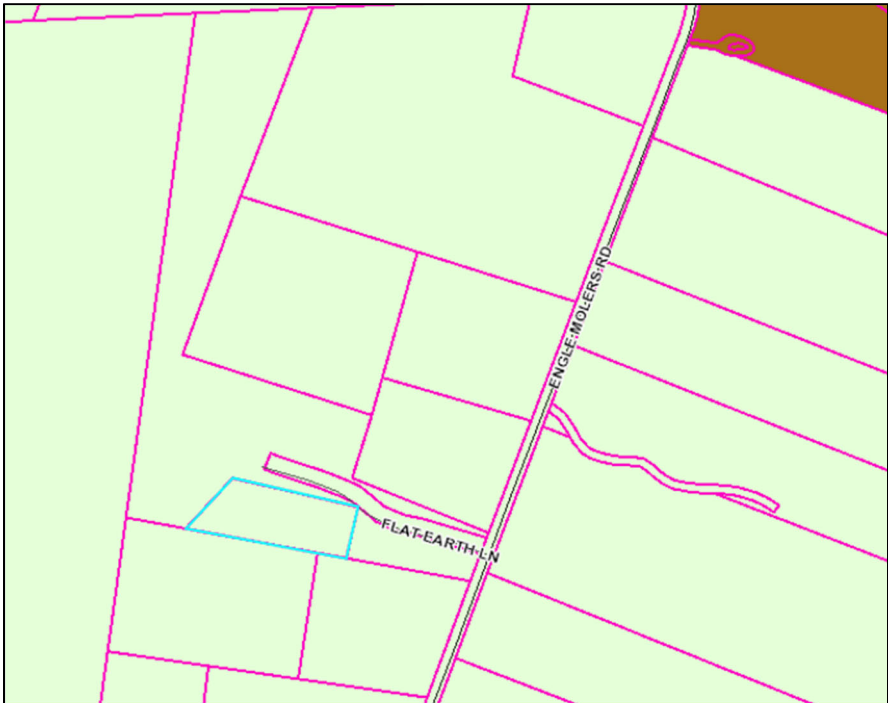
© Copyright by Legacy Home Plans, LLC  
 REPRESENTATION OF ANY PART OF THIS DRAWING FOR ANY  
 OTHER PROJECT OR AT ANY OTHER LOCATION WITHOUT THE  
 WRITTEN PERMISSION OF LEGACY HOME PLANS, LLC IS  
 STRICTLY PROHIBITED. ANY SUCH VIOLATION SHALL BE  
 CONSIDERED A BREACH OF CONTRACT AND SUBJECT TO  
 LEGAL ACTION. LEGACY HOME PLANS, LLC IS NOT  
 RESPONSIBLE FOR ANY DAMAGE TO PERSONS OR PROPERTY  
 ARISING FROM THE USE OF THIS DRAWING. LEGACY HOME  
 PLANS, LLC HAS THE RIGHT TO REVOKE THIS CONTRACT  
 AT ANY TIME WITHOUT NOTICE. LEGACY HOME PLANS,  
 LLC HAS THE RIGHT TO REVOKE THIS CONTRACT AT ANY  
 TIME WITHOUT NOTICE. LEGACY HOME PLANS, LLC  
 HAS THE RIGHT TO REVOKE THIS CONTRACT AT ANY  
 TIME WITHOUT NOTICE.





Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
**22-26-ZV McGuigan Variance Request**

Item #4 Variance from Section 5.7B of the Zoning Ordinance (as amended 0/15/93) to reduce the side setback from 15' to 5' and the rear setback from 50' to 15' for a 30' x 24' accessory structure.

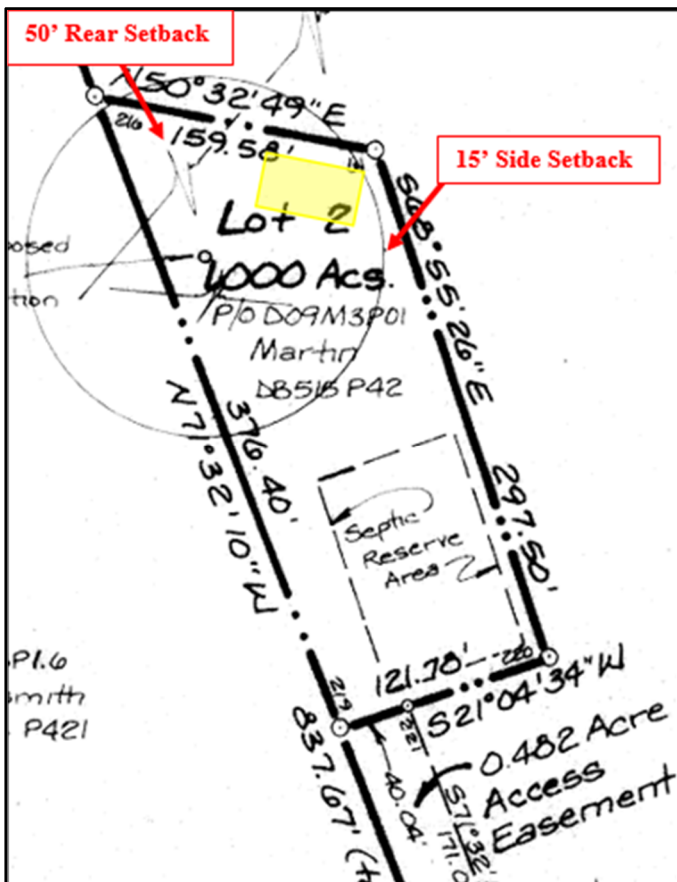
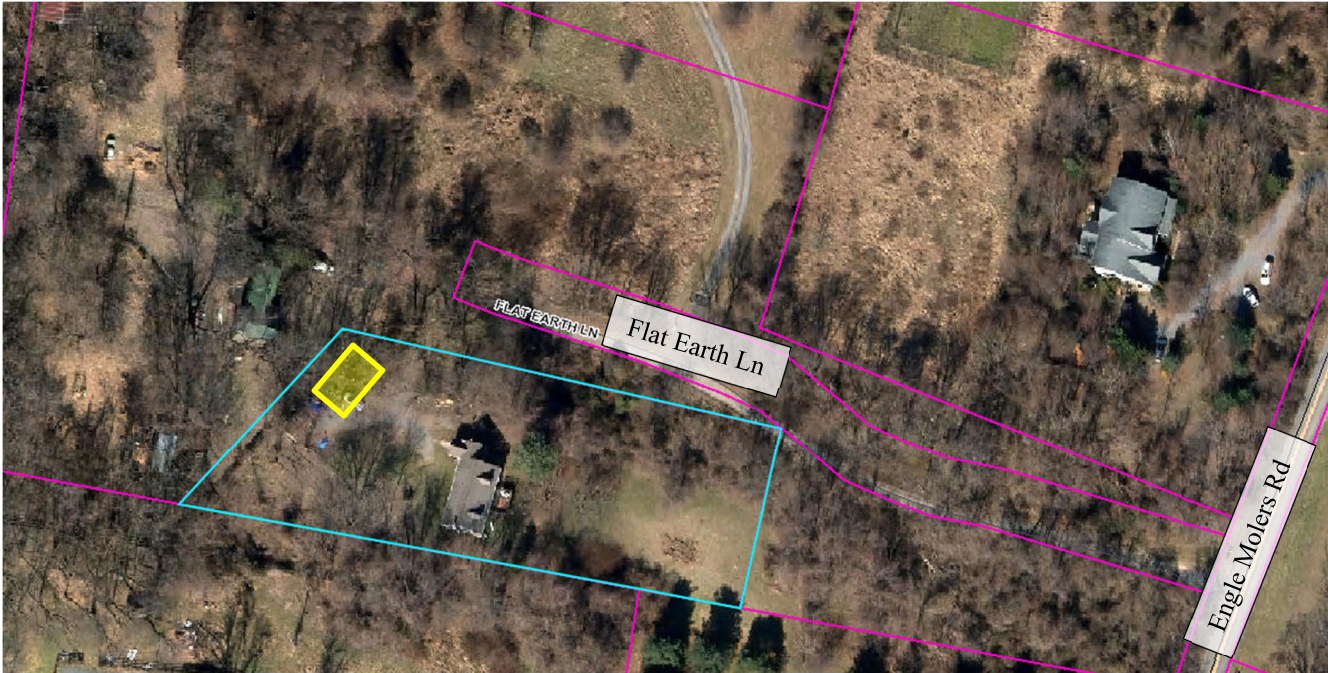
Owner/Applicant:	Brian and Vanessa McGuigan
Parcel Information and Zoning District:	<p style="text-align: center;">William Martin MSD, Lot 2, 59 Flat Earth Ln, Harpers Ferry, WV          Parcel ID: 04000300010011; Size: 1 acres; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: <i>North, South, East and West: Rural</i>
History:	12/16/93: William "Marty" Martin MSD recorded in <a href="#">PB 11, PG 65</a>
Waivers/Variations:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	Site visit not conducted

**Staff Overview**

The subject parcel is designated as Lot 2 of the William "Marty" Martin Minor Subdivision, which was recorded on December 16, 1993 in [Plat Book 11, Page 65](#). Pursuant to Note #2 on the Final Plat, the required setbacks are 40' Front, 15' Side, and 50' Rear. The applicant is requesting to construct a 30' x 24' (720 sq ft) accessory structure for personal storage approximately 5' from both the side (northern) and rear (western) property lines.

The applicant has submitted a letter of support from the adjoining property owner that would be impacted by the request.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
 22-26-ZV McGuigan Variance Request



The purpose of side and rear setback requirements is to reduce the impact that a land use might have on an adjacent property; to allow adequate space between a structure and a property line so that maintenance of the structure is feasible; to maintain adequate separation between structures for fire prevention purposes; and to allow room for utility easements.

Based on the acreage of the property, it is feasible to comply with the Ordinance; however, the applicant has represented that the proposed location was selected to avoid the septic reserve area and existing overhead electrical lines.

**Conditions of Approval**

Should the Board choose to approve this request, possible conditions of approval include:

1. No business may be operated from this structure.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 28, 2022  
**22-26-ZV McGuigan Variance Request**

**SECTION OF ORDINANCE TO BE CONSIDERED:**

SECTION 5.7 Rural District

(b) Minimum Lot Area, Lot Width and Yard Requirements

& Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in Article 5.4(b).

	<u>Lot Area</u>	<u>Lot Width</u>	<u>Front Yard Depth</u>	<u>Side Yard Depth</u>	<u>Rear Yard Depth</u>
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	50	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50





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

File Number: 22-26-ZV  
 Staff Initials: PT  
 Meeting Date: 7/28/22  
 Fees Paid (\$100 or \$150): 100-

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

Phone: (304) 728-3228

**Zoning Variance Request**

*Variations from the Zoning and Land Development Ordinance must comply with Article 8A-7-11 of the WV State Code. A variance is a deviation from the minimum standards of the ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district, nor shall it involve changing the zoning classification of a parcel of land.*

**Property Owner Information**

Name: Brian and Vanessa McGuigan  
 Mailing Address: 59 Flat Earth Lane, Harpers Ferry WV 25425  
 Phone Number: 304 707-4272 or 304 433-4856 Email: briantook@hotmail.com

**Applicant Contact Information**

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

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

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

**Physical Property Details**

Physical Address: 59 Flat Earth Lane  
 City: Harper's Ferry State: WV Zip Code: 25425  
 Tax District: ? Map No: 3 Parcel No: 8 0001 00 11  
 Parcel Size: 1 acre Deed Book: 3 1061 Page No: 8 168

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<p align="center"><b>RECEIVED</b></p> <p align="center">JUL 05 2022</p> <p align="center">JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</p>			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

On a separate sheet of paper, provide a sketch showing the shape and location of the lot indicating all roads, rights of way, and easements. Show the location of the intended construction or land use indicating building setbacks (i.e. the distance of the structure from all property lines), size, and height. Identify all existing buildings, structures, or land uses on the property. The sketch should show the full extent of the property. Sign and date the sketch.

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Sec. 5.7B gml

Briefly describe the nature of the variance request:

We want to put a 30'x24'x12' pole building on the property and need the set back reduced to accomodate the most convenient spot for it in relation to the house and other features on the property.

If this request is for a setback variance, please check one of the following:

Front Setback  Side Setback  Rear Setback  Reduction From 50 to 5

Please explain why granting the variance will NOT adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

The property owner of the adjacent lot (of both side and rear setbacks) has no objection to the building being put where we have outlined.

In what way does this request arise from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance?

The lower section of the property has septic features which preclude it from being an option. In the upper portion of the lot the position of the house and overhead electrical lines preclude other areas from being an option for the site.

How will granting this variance eliminate an unnecessary hardship and permit a reasonable use of the land?

?? We did not originally build this house, therefore we had no control over well placement, electrical lines, house placement, etc.

How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

?? The adjacent property owner is a relative and has no objection to moving the setbacks.

Original signature is required. If additional signatures are necessary, please attach a separate piece of paper.

By signing this application, 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. The information given is correct to the best of my knowledge.

Sam McGinn 7/4/22  
Signature of Property Owner Date

James McSwain 7/4/22  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

Notice of a public hearing for an appeal shall be advertised in a newspaper having general circulation in the County at least 15 days before the hearing. The subject property shall be posted conspicuously by a zoning notice no less than 28" x 22" in size, at least 15 days before the hearing (pursuant to the Zoning and Land Development Ordinance Section 6.1B).

7/28/22

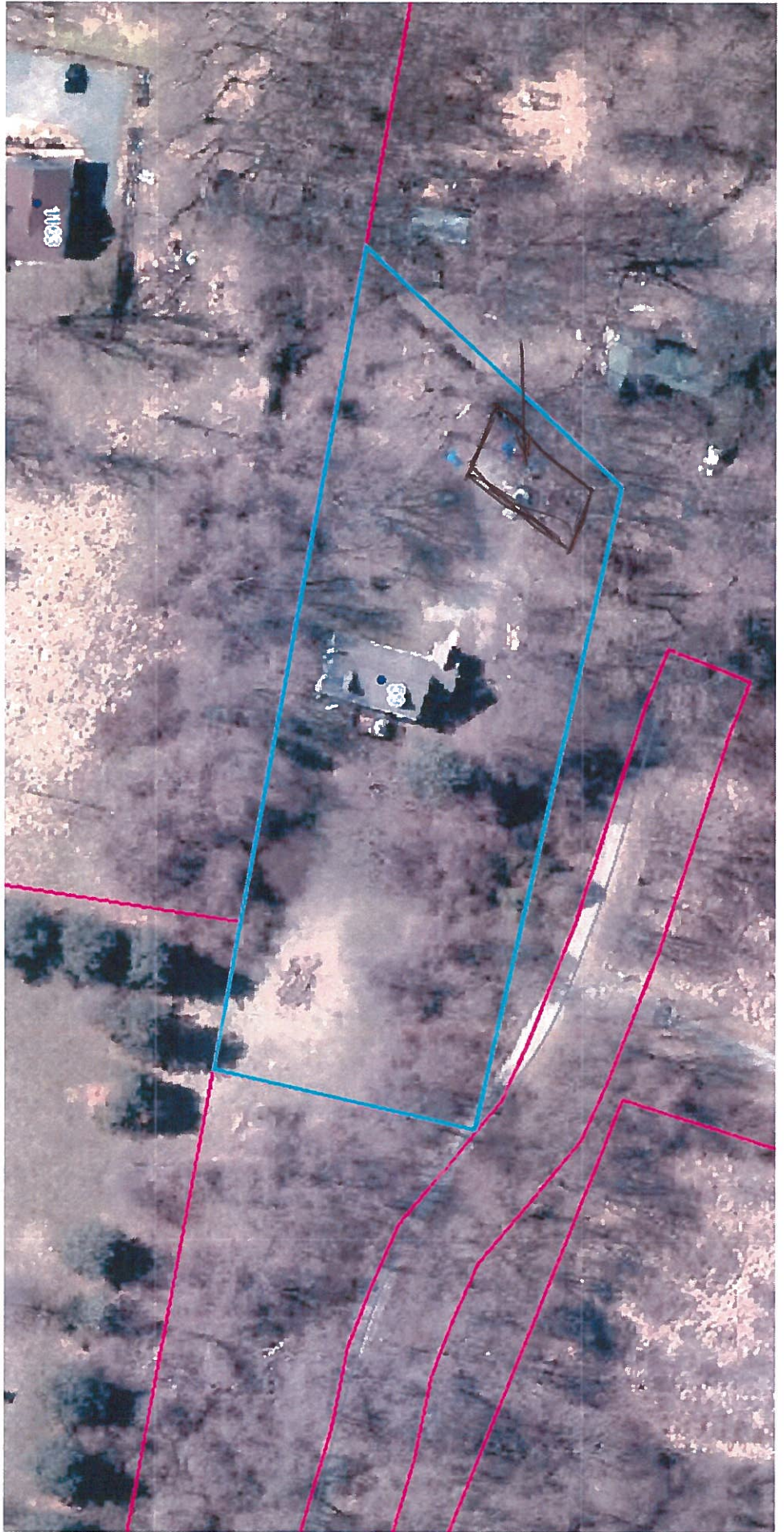
Date of Public Hearing

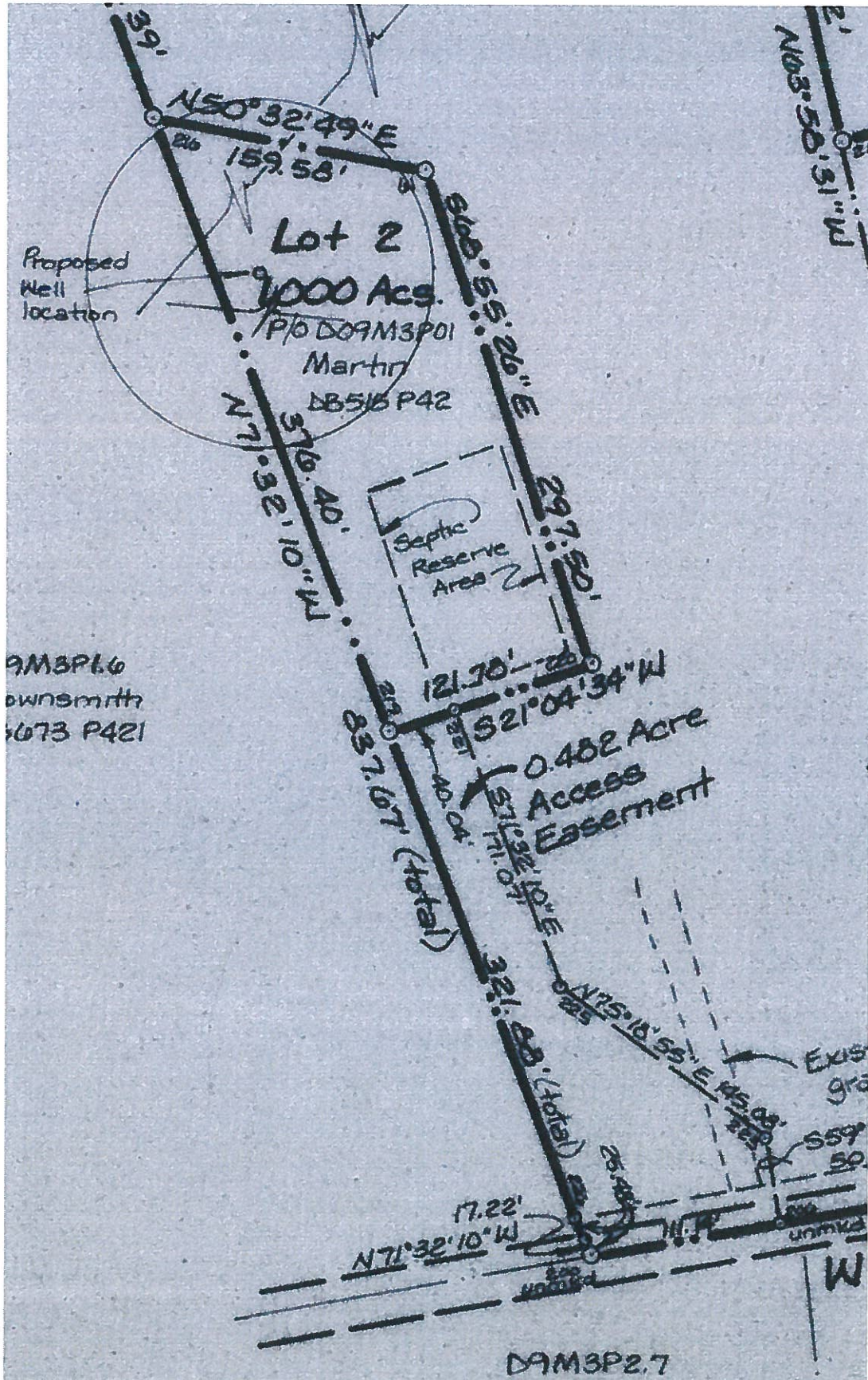
7/13/22

Advertising Date

7/13/22

Placard Posting Date





June 27, 2022

To whom it may concern:

I, William H. Martin of 1227 Engle Molers Road, (Lot 5, 2.180 AC Martin; Map 3, Parcel 0001 0005 0000; Book 541, page 676) have no objection for my next door neighbors, Brian and Vanessa McGuigan (Lot 2, 1 AC Martin; Map 3; Parcel 0001 0011 0000; Book 1061, page 168) to reduce the back property setback from 50 feet to 05 feet, and reduce the side setback from 15 feet to 05 feet.

A handwritten signature in cursive script that reads "William H. Martin". The signature is written in black ink and is positioned above a solid horizontal line.

William H. Martin

**RECEIVED**

JUL 05 2022

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING





# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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

P.O. Box 716

Charles Town, WV 25414

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

Phone: (304) 728-3228

---

## Zoning Administrator's Report July 28, 2022 Board of Zoning Appeals Meeting

**Date of Memo: July 20, 2022**

### 1) **Upcoming BZA meeting**

- The next regular meeting is scheduled for **August 25, 2022** (deadline for submission is Monday, August 1, 2022).





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

---

**July 2022**  
**Zoning Certificate Activity Report**

---

File #	22-35-ZC
Request:	Telecommunication Tower Modification
Property Owner:	Jefferson Utilities, Inc.
Applicant:	T-Mobile Northeast LLC / Attn: James Marquez
Parcel Information:	426 Oak Lee Dr., Ranson, WV 25438; Parcel ID: 02004E0WTT0000; Size: .38 acres; Zoning District: Rural; Deed Book: 868; Page: 336; Plat of Survey in Deed Book: 866; Page: 70; Site Plan File #S97-07
Date of Issuance:	06/28/2022
File #	22-36-ZC
Request:	Change in Tenant: Restaurant, Fast Food, Limited
Property Owner:	Ariahanna LLC / Attn: Manesh Patel
Applicant:	Scoop 10x (Ice Cream and Pastry Shop) / Attn: Eden Pinsker
Parcel Information:	4330 William L Wilson Fwy, Harpers Ferry, WV 25425 Parcel ID: 04000900660000; Size: 10.5 acres Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1268, Page: 686; Plat Book: 26, Page: 254
Date of Issuance:	06/27/2022
File #	22-37-ZC
Request:	Home Occupation Level 1: Private Music Lessons
Property Owner:	James and Mary Jeane Kraft
Parcel Information:	279 Eagles Nest Lane, Harpers Ferry, WV 25425; Parcel ID: 06006L00650000; Size: .48 acre; Zoning District: Rural; Deed Book: 1231; Page: 66; Deed Book 292; Page: 272 (1967 subdivision plat)
Date of Issuance:	06/27/2022
File #	22-38-ZC
Request:	Shopping Center - Change in Tenant, Real Estate Firm
Property Owner:	B33 Jefferson Crossing, LLC
Applicant:	Samson Companies, LLC / Attn: Adrienne Torres
Parcel Information:	91 Saratoga Drive, Suite E Charles Town, WV 25414; Parcel ID: 02000800240008; Size: 2.5 acres; Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1238; Page: 324; See PC File: 04-06 (site plan)
Date of Issuance:	06/27/2022
File #	22-39-ZC
Request:	Accessory Dwelling Unit: In-Law Suite
Property Owner:	Delia and Robert Garza
Parcel Information:	10101 Leetown Rd, Kearneysville WV 25430; Parcel ID: 07001400070000; Size: 24.25 acres; Zoning District: Rural; Deed Book: 1238; Page: 680
Date of Issuance:	07/18/2022

---

Zoning Certificate Activity Report

July 2022

Page 2 of 2

---

File # 22-40-ZC  
Request: Accessory Dwelling Unit: In-Law Suite  
Property Owner: Conrad Lotze and Kristina Maciunas  
Parcel Information: 2237 Old Leetown Rd, Kearneysville WV 25430; Parcel ID: 07001500060000;  
Size: 45 acres; Zoning District: Rural; Deed Book: 1059; Page: 405  
Date of Issuance: 07/18/2022

---

File # 22-42-ZC  
Request: Accessory Dwelling Unit: In-Law Suite  
Property Owner: Kanette Petry  
Parcel Information: 245 Summerfield Way, Shenandoah Junction, WV 25442  
Parcel ID: 09000200110004; Size: 5 acres; Zoning District: Rural;  
Deed Book: 1267; Page: 280; Plat Book: 26; Page: 239  
Date of Issuance: 07/22/2022

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