



AGENDA  
Jefferson County Planning Commission  
Tuesday, March 12, 2013

Planning Commission meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street at 7:00 p.m.

**All Citizens that desire to speak must sign-in prior to the Agenda Item being addressed.**

1. Approval of the minutes from the January 8, 2013 and February 12, 2013 meetings.
2. Citizen Communications: If you wish to comment, please sign-in to speak for issues that are not on the agenda or items that are not open for public comment. Items not open for public comment will be so noted.
3. Request for postponement.
4. Proposed revision to the approved Community Impact Statement for the Old Route 340 Business Park Subdivision, which is to divide an existing 7.976 acre commercial business park into 3 marketable non-residential lots. The property is located at 99 Cary Lu Circle, Harpers Ferry, WV, East of Halltown Road located off of Old Route 340, approximately 300 feet from US Route 340. District Harpers Ferry Map 11; Parcel. Bank of Charles Town is the owner/developer (PC File #04-34).
5. Final Plat Public Hearing for the Old Route 340 Business Park Subdivision, which is to divide an existing 7.976 acre commercial business park into 3 marketable non-residential lots. The property is located at 99 Cary Lu Circle, Harpers Ferry, WV, East of Halltown Road located off of Old Route 340, approximately 300 feet from US Route 340. District Harpers Ferry Map 11; Parcel 7. Bank of Charles Town is the owner/developer (PC File #04-34).
6. Request by applicant Pete Kubic to be represented by Kristen Stolipher with W.H. Gordon and Associates for a waiver from the following sections of the Jefferson County Subdivision and Land Development Regulations:
  - a) Section 20.201(B)2: that all lots shall front on existing internal subdivision road; and to request a reduction of the required 50' width of an access easement to 22' to match the existing travelway for a proposed subdivision; and,
  - b) Section 21.401: that the shared access easements (reduced width travelways) are on occasion temporarily obstructed.

These waivers would facilitate a proposed subdivision to separate an existing commercial building and two proposed buildings on Lot 18A into 3 marketable non-residential lots within the Burr Industrial Park. Property owner: Burr SK Limited Liability Company. Property location: 120 Commerce Circle, Kearneysville WV 25430. Tax District: Charles Town; Map: 1; Parcel: 71; Size: 9.06 acres; Zoned: Industrial-Commercial; File: PCW13-10.

7. Presentation by Matt Pennington with the Eastern Panhandle Regional Planning and Development Council, Region 9, regarding The Region 9 Model Stormwater Ordinance. *This item is not open for public comment.*
8. Request by Fred Blackmer to discuss and update the Planning Commission on the status of the grading permit, site plan and Morgan's Grove Farm Market processes (PC File #S12-06). *This item is not open for public comment.*
9. Update on the 2014 Comprehensive Plan.

10. Reports from Legal Counsel and legal advice to the Planning Commission.
11. Active Litigation:
  - Far Away Farms
  - Cedar Meadows Airpark
12. Director's Report.
13. Monthly Development Activity Report.
14. Liaison Reports:
  - County Commission Meeting
  - Health Department Meeting
  - Public Service District Meeting
  - Parks and Recreation Meeting
  - Jefferson County Development Authority Meeting
  - Water Advisory Committee Meeting
15. President's Report.
16. Actionable Correspondence.
17. Non-Actionable Correspondence.
18. Signing of approved Motions from previous Planning Commission meetings.

All files are made available for public review Monday through Friday, 9:00 a.m. to 5:00 p.m. (excluding Holidays). The Planning Commission welcomes written comments at any time. Submitting a document no later than the Thursday before a scheduled meeting will provide the Commission an advanced opportunity to review your comments prior to the meeting. Please note that documentation and exhibits submitted at a Planning Commission meeting are retained as part of the official record.

Feel free to submit your comments to any of the addresses below:

Location: 116 E. Washington St., Charles Town, West Virginia 25414

Mail: P.O. Box 338, Charles Town, West Virginia 25414

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

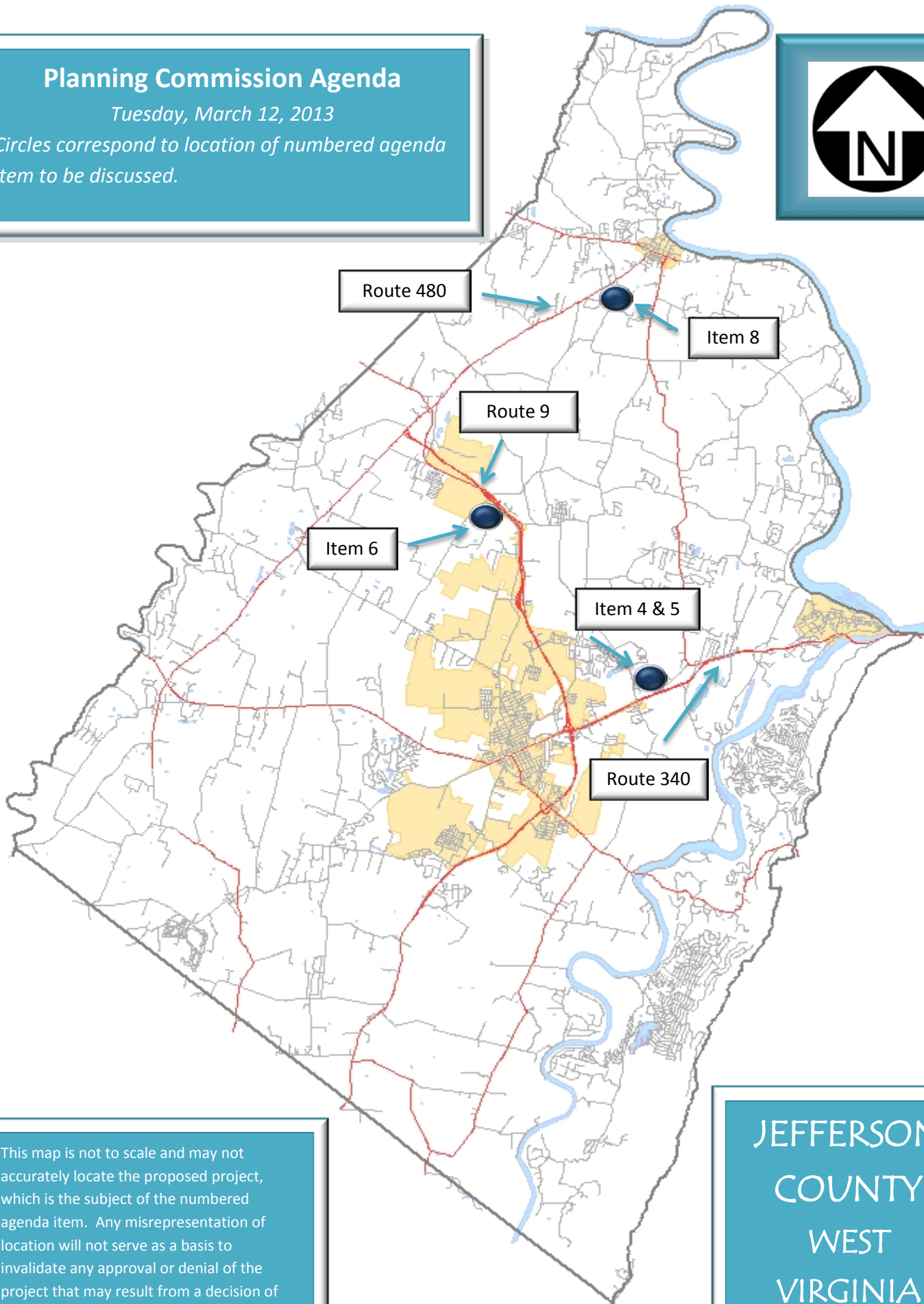
Fax: 304-728-8126

Any party desiring a transcript of these proceeding will be responsible for providing a competent stenographer at their own expense. Minutes, video and/or audio recordings of past meetings, the Jefferson County Subdivision Regulations, Zoning Ordinance and Comprehensive Plan as well as any working proposed amendments are located on our website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org). Minutes and audio recordings of older meetings that are not on the County's website are available for review in the office.

# Planning Commission Agenda

Tuesday, March 12, 2013

Circles correspond to location of numbered agenda item to be discussed.



Route 480

Item 8

Route 9

Item 6

Item 4 & 5

Route 340

This map is not to scale and may not accurately locate the proposed project, which is the subject of the numbered agenda item. Any misrepresentation of location will not serve as a basis to invalidate any approval or denial of the project that may result from a decision of the Jefferson County Planning Commission.

JEFFERSON  
COUNTY  
WEST  
VIRGINIA



This information is  
Tab #1 in your binder.



Draft Minutes  
Jefferson County Planning Commission  
January 8, 2013

The Jefferson County Planning Commission met on January 8, 2013, with the following Commission members present: Paul Taylor, President; Eric Smith, Vice President; Steve Stolipher, Daniel Hayes, Morgan Etters and Kelly Baty (arrived at 7:05 p.m.). Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Gene Taylor, J.P. Phillips and Walt Pellish were absent with notification. In the absence of Mr. Gene Taylor, Mr. Paul Taylor will be referred to as *Mr. Taylor* exclusively for the purpose of these minutes.

Mr. Taylor called the meeting to order at 7:03 p.m.

**1. Election of Officers.**

Mr. Hayes nominated Paul Taylor for President. Mr. Stolipher seconded the nomination. Mr. Taylor nominated Daniel Hayes for Vice President. Mr. Stolipher seconded the nomination. Eric Smith nominated Morgan Etters for Secretary. Mr. Stolipher seconded the nomination. Morgan Etters declined the nomination. Mr. Hayes nominated Eric Smith for Secretary. Mr. Taylor seconded the nomination. There was no further discussion. The slate of officers on the floor were Paul Taylor for President, Daniel Hayes for Vice President and Eric Smith. No one was opposed to the slate of officers. Mr. Taylor called for a vote which was unanimous.

**2. Approval of the 2013 Planning Commission Meeting Schedule.**

Mr. Hayes motioned to approve the proposed schedule as planned with the following exceptions, that the November 26<sup>th</sup> and December 24<sup>th</sup> meetings be cancelled due to the Holidays. Mr. Stolipher seconded the motion, which carried unanimously.

**3. Approval of the minutes for the December 11, 2012 meeting.**

Mr. Stolipher motioned to approve the minutes. Mr. Smith seconded the motion. Mr. Taylor and Ms. Etters recused themselves as they were absent from this meeting. Mr. Taylor called for a vote which passed unanimously among the remaining voting members in attendance (Mr. Smith, Mr. Stolipher and Mr. Hayes).

**4. Citizen Communications (hereinafter known as CC).**

Mr. Taylor read the statement from the agenda which clarified the intent of CC. Ms. Brockman retrieved the sign in sheets for Mr. Taylor. Mr. Taylor addressed those who had signed up for CC.

Mr. Joe Spurgas indicated that he would like to speak on Item #7 which was not open for public. Mr. Spurgas addressed the fact that the applicant of Item #7, the request pertaining to Morgan's Grove Market, was seeking to circumvent the rules and that it was his interpretation that it was this Commission's responsibility to require the developers to follow all the rules. Mr. Mike Austin also addressed to Commission regarding Item #7 stating that he believed granting the request would have a negative impact on the community. It wouldn't allow them the opportunity to view the entirety of the plan. Mr. Austin also believes that this approval could create an adverse effect on the credibility of the Commission.

5. **Request for postponement.** None.
6. **Request by applicant Morgan's Grove Market (S12-06) to be represented by Peter Corum, Twin Oaks Subdivision, L.L.C, and Fred Blackmer, FB solutions, for a waiver from the following sections of the Jefferson County Subdivision and Land Development Regulations:**
  - a) **Section 20.102(B): to allow surface site grading in anticipation of subsequent procedural and document approvals (PCW12-08).**

Before proceeding with the applicant's waivers, Mr. Hayes requested that the Commission hear each waiver individually, take public comment and, in turn, vote on them separately. The Commission agreed.

Mr. Taylor read aloud all of the waivers the applicant was requesting and asked staff to present. Mr. Rivard delivered a PowerPoint presentation which highlighted the overall location of the grading. Mr. Rivard stated that the Regulations require a site plan to be approved before any site work can be done. Mr. Rivard explained that the request was not intended to waive the standards of the Regulations but to separate the order of approvals. Mr. Rivard pointed out that grading did not constitute commencement of construction with regard to vesting the Conditional Use Permit (CUP). Furthermore, Mr. Rivard informed the Commission that removal of the existing concrete pad would void the approved zoning certificate that is currently issued for the Morgan's Grove Farmer's Market (ZC11-15) that is conducted during the spring and summer months.

Mr. Saunders stated that a similar waiver request was granted by the Commission in the past with the following conditions:

1. The grading permit is issued to allow the owner to perform site grading for the building pads. This permit is subject to the requirements of the sediment and erosion control plan submitted and approved as part of the grading plan and building permit application; and
2. The building permit is issued only for the foundations of the proposed buildings (building construction will stop at the foundations until the site plan is approved); and
3. The owner/Developer assumes all risk for "jump-starting" the project and understands that the final site plan design approved by the planning commission might necessitate some changes and additional construction cost; and
4. Provide bonding of all proposed site improvements pertaining to the permit.

Mr. Saunders continued by stating that, in addition to the above conditions, Engineering proposes the following conditions: the applicant obtains an NPDES permit; submits a satisfactory site grading plan for review and approval; and, provides bonding for the sediment and erosion control/Stormwater Management, etc. He further stated that if the applicant agreed to these conditions that Engineering would support the waiver request.

Mr. Fred Blackmer presented the request to the Commission. Mr. Blackmer pointed out that the packet included an addendum that was intended for his (zoning) variance request and not the waiver request. Mr. Blackmer submitted a copy of the correct addendum for the record. Mr. Blackmer continued summarizing the nature of the request by stating the intent of the waiver was not to subvert any regulations but merely to allow this phase of the project to continue while processing the rest of the site plan so that when the final approval is complete they will be ready to build. Mr. Blackmer stated they hoped to grade

the site now in order to build by spring. Mr. Blackmer confirmed that the site would still conform to all engineering requirements and would be bonded and that the applicant would take on any risks of site design changes during the approval process.

Joe Spurgas, Eleanor Finn, Ann Spurgas and Austin Porter spoke in opposition to Item #6a. Issues raised were the impact the development would have on the adjacent neighbors, the close proximity of the development to Town Run, the potential for problematic grading and the need for creating a benchmark for well testing as required by the Conditional Use Permit.

Ms. Brockman drew the Commission's attention to a copy of the applicant's CUP that had been provided to them at the onset of the meeting and explained that the well testing was a requirement of the CUP. Mr. Hayes explained that there were industry standards that must be met when dealing with stormwater management and that an NPDES permit must be received before the applicant could begin any site grading.

Mr. Blackmer addressed the public's comments.

Mr. Baty expressed his concern regarding allowing the applicant to do something that the County does not have a process for. Mr. Baty feared that the outcome of the project may not be as they predict if the applicant is allowed to phase the project.

The Commission discussed various outcomes of when a development is allowed to grade prior to final approval with each Commissioner weighing in on the topic.

Mr. Hayes argued that there was a process for phasing the project and that was by means of the waiver process and that each waiver is reviewed on a case by case basis.

Mr. Stolipher motioned to approve the waiver by including Mr. Saunders' conditions in the Engineering report with the exception of eliminating condition #2. Mr. Hayes seconded the motion. Ms. Etters offered a friendly amendment to revise the language in the motion to '*preliminary rough grading*' and that text should be added stating that no foundations would be poured as part of the grading. Mr. Stolipher amended his motion by removing Condition #2 on the Engineering Report and adding, "There will be no foundations with this permit." Mr. Hayes seconded the revised motion. Mr. Hayes seconded it.

Mr. Taylor called for a vote of the original motion including the amendment. The motion carried with five (5) in support and one (1) in opposition (Mr. Baty). See attached motion sheet.

**b) Section 22.208: requesting relief from the road frontage sidewalk (PCW12-09).**

Mr. Rivard provided the Commission with a brief synopsis of the request stating that Staff does not believe that the four criteria necessary for granting a waiver have been met. Mr. Rivard pointed out that sidewalks would be in keeping with the applicant's business model. Mr. Rivard recommended that the Commission could require that a 10' easement be provided across the frontage of the property should the Commission choose to grant the request.

Mr. Fred Blackmer presented the request to the Commission. Mr. Blackmer read from various sections of the Subdivision Regulations, including Section 22.208, stating that he believed staff was misinterpreting the Regulations and that they did not apply to this project.

Mr. Groh and Ms. Brockman addressed the Commission's questions.

Peter Corum addressed the Commission stating that they will be required to connect at two points with the Morgan's Grove Park per the CUP. In addition, Mr. Corum argued that an internal connection through the park would be a safer walkway than installing a sidewalk along Route 480.

Mike Austin, Joe Spurgas and Austin Porter spoke in opposition to Item #6b stating that the applicant should be expected to follow the rule. Mr. Austin stated he did not believe the applicant should use the park as a means to circumvent the regulations. The neighbors were favorable to Staff's recommendation of providing the 10' easement.

Mr. Stolipher motioned to close the public hearing. Mr. Smith seconded the motion, which carried unanimously.

Mr. Blackmer rebutted by clarifying that the applicant is not arguing about the internal sidewalks. The applicant is arguing that the front of the property has no parking, that the adjacent property owner is a private residence, and that there is bad terrain and a rock ledge where the sidewalk would be required.

Mr. Etters stated the Commission should be planning for the future and therefore she was in favor of an easement.

Mr. Hayes motioned to reject the waiver's proposal. Ms. Etters seconded the motion. Discussion ensued. Mr. Taylor called for a vote, which died two (2) in support of denying the request and 4 (four) opposed (Mr. Baty, Mr. Stolipher, Mr. Smith, Mr. Taylor) to denying the request.

Mr. Stolipher motioned to grant the waiver with the condition that the applicant provide a 10' bike/pedestrian easement along Route 480 (Kearneysville Pike) that shall be recorded by either a final plat or deed. Mr. Baty seconded the motion. Mr. Hayes stated he did not believe the request met all four of the criteria necessary for granting a waiver. Mr. Taylor called for a vote, which carried five (5) in support and one (1) opposed (Mr. Hayes).

**c) Section 24.116(B)6: relief from subdivision ordinance requesting traffic study (PCW12-10).**

Mr. Rivard displayed the proposed Department of Highways (DOH) entrance layout via the PowerPoint slideshow.

Mr. Saunders' presented his staff report to the Commission. Mr. Saunders briefly reviewed the requirements of the Regulations. Mr. Saunders explained that the proposed layout appeared to meet DOH requirement.

Mr. Groh clarified that the CUP required the applicant to do a Traffic Impact Study only if the DOH required one.

Mike Austin, Joe Spurgas, Eleanor Finn and Ann Spurgas were in opposition to Item #6c stating that a traffic impact study has not been done at this particular point before. The concern was that an increase in traffic will make this location particularly dangerous. Ms. Finn mentioned an accident that had occurred in front of this property. There was concern that a letter had yet to be received from the DOH confirming they were in agreement of this proposal.

Mr. Hayes motioned to close the public hearing. Ms. Baty seconded the motion, which carried unanimously.

Mr. Fred Blackmer explained that the regulations for the roads were different at County, State, and Federal levels.

Mr. Stolipher motioned to approve the waiver of a traffic impact study contingent upon the applicant constructing the improvements as designed on the submitted DOH plan and that the Engineering Department receive a letter from the West Virginia Department of Highway stating that a traffic impact study is not required. Mr. Smith seconded the motion. Discussion ensued. Mr. Taylor called for a vote which carried 5 in support and 1 in opposition (Mr. Baty).

The Commission took a break at 9:13 p.m. and returned to session at 9:22 p.m.

- 7. Request by applicant Fred Blackmer with FB solutions to have the Planning Commission schedule a public hearing for the Morgan's Grove Market Major Site Plan (S12-06) prior to staff deeming it complete as required by the Jefferson County Subdivision and Land Development Regulations (Section 24.119.D). This project consists of an agricultural-based market. Intended uses are to consist of, but are not limited to, a Food Hub, General Merchandise (retail), Professional/Business Offices, Community Amenities, and other associated uses. This property is located at 3988 Kearneysville Pike (Rt. 480), adjacent to Morgan's Grove Park and is designated as Tax District: Shepherdstown; Tax Map: 13; Tax Parcel: 26.1, 26.2, 26.3 and 26.4. This item is not open for public comment.**

Mr. Rivard gave a brief description of the request. Mr. Rivard directed the Commission's attention to a list of outstanding items from the site plan listed in the memo. Ms. Brockman informed the Commission of the noticing requirements for a site plan public hearing. Mr. Groh stated that 8A.5.8 states that the application must be complete and the applicant is admitting that the application is not complete. Mr. Groh also is concerned that the noticing requirement will not be met because a completed application will not be in the office for a full 21-day timeframe.

Mr. Rivard informed the Commission that Staff had been in contact with the Corporation of Shepherdstown, the provider of the water and sewer for the site, who stated that the applicant had yet to submit an application for services. Mr. Rivard stated this process could take several months of review.

Mr. Blackmer clarified that they had attempted to submit at the State level on Monday, January 7, 2013, however their application was rejected because they were required to have the Corporation of Shepherdstown's approval in place prior to submitting to the State.

Mr. Groh asked the applicant to confirm that they had a variance request to be heard before the Board of Zoning Appeals on January 17, 2013, for this project which would, in effect, deem their application incomplete at this time.

Mr. Blackmer stated that they anticipated that their application would be complete by the February 12, 2013 Planning Commission meeting.

Peter Corum addressed the Commission and stated that they were deeming application complete. Mr. Corum stated they were anticipating an opening by May 30, 2013, and that they were running applications parallel to each other in order to achieve that.

Mr. Hayes motioned to deem the application currently incomplete. Mr. Baty seconded the motion, which carried unanimously.

**8. Discussion on a draft amendment to the Jefferson County Planning Commission Bylaws regarding the Conduct of Public Hearings and Public Hearing procedures for Applications. This item is not open for public comment.**

Discussion among the Commission ensued regarding the draft document prepared by Mr. Stolipher. The Commission decided that the document was related to meeting proceedings rather than a bylaw. Mr. Hayes motioned to make a revision to the document that all conduct outlined will be at the discretion of the President. Mr. Baty seconded the motion. Mr. Hayes amended his motion to direct staff to clean the document up to ensure compliance with local terminology. Mr. Baty seconded the amended motion, which carried unanimously. Mr. Taylor called for a vote of the original motion to include the amendment, which carried unanimously.

**9. Reports from Legal Counsel and legal advice to the Planning Commission. None.**

Active Litigation:

- Far Away Farms
- Cedar Meadows Airpark

**10. Director's Report.**

Ms. Brockman gave an overview of the following information from her Director's Report (included in the packet): Introduction of Chris Whittaker, Comprehensive Plan Planner, update on the Comprehensive Plan Steering Committee meetings, the upcoming public hearings on the rezonings, the Brown Bag Lunch and Learn Sessions, the Envision Jefferson 2035 Public Workshops and their associated dates. Mr. Rivard addressed the Commission and discussed an overview of existing conditions.

**11. Monthly Development Activity Report. None.**

**12. Liaison Reports: None.**

- County Commission Meeting
- Health Department Meeting
- Public Service District Meeting
- Parks and Recreation Meeting
- Jefferson County Development Authority Meeting
- Water Advisory Committee Meeting

13. **President's Report.** None.

14. **Actionable Correspondence.** None.

15. **Non-Actionable Correspondence.** None.

Mr. Hayes motioned to adjourn the meeting at 10:13 p.m. Mr. Smith seconded the motion, which carried unanimously. An audio recording and/or a video recording of the meeting may be found on our website. These minutes were prepared by Jennilee Hartman, Zoning Clerk.



Draft Minutes  
Jefferson County Planning Commission  
February 12, 2013

The Jefferson County Planning Commission met on February 12, 2013, with the following Commission members present: Daniel Hayes, Vice President; Eric Smith, Secretary; Steve Stolipher, Morgan Ethers, Gene Taylor, J.P. Phillips, Walt Pellish and Kelly Baty. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Stephen Groh, Assistant Prosecuting Attorney and Jennilee Hartman, Zoning Clerk.

Paul Taylor, President, was absent without notification. In the absence of Mr. Paul Taylor, Mr. Gene Taylor will be referred to as *Mr. Taylor* exclusively for the purpose of these minutes.

Mr. Hayes presided over the meeting in Mr. Taylor's absence and called the meeting to order at 7:03 p.m.

**1. Approval of the minutes for the January 8, 2013 meeting.**

Mr. Haynes suggested the Commission take action on the minutes at following meeting due to the fact that they did not receive the minutes in sufficient time to review them for accuracy. The Commission agreed.

**2. Citizen Communications (hereinafter known as CC).**

Fred Blackmer, requested that the Commission grant him time to speak at the end of the agenda with regard to two major concerns with the Morgan's Grove Market (MGM). Mr. Blackmer stated the County Commission has taken a similar approach with requests on their agenda in the past. Mr. Blackmer was aware of the fact that the item would not be actionable however he was looking for direction from the Planning Commission as to what course MGM should follow considering these two major issues since they were unable to get clear direction from Staff. Mr. Groh was concerned that the item Mr. Blackmer was asking to be heard would not meet the open meetings act which requires an item to be advertised at least 2 days in advance of a meeting. The Commission discussed whether or not the issues should be heard by the applicant at the end of the meeting. Mr. Hayes offered, and the Commission agreed, to hear Mr. Blackmer's concerns regarding MGM under the President's Report (Item #7) though they would not be taking action.

**3. Request for postponement.** None.

**4. Request for a waiver from Appendix B, Section 9.6 of the Jefferson County Subdivision and Land Development Regulations to remove the curb and gutter requirements from the internal roads, driveways and parking lots for the proposed Hite Park Site Plan (PC File #S11-15).** This project consists of walking trails, picnic and park areas, athletic fields, sports courts, a skate park, miniature golf course, and sports support facilities to be dedicated for public use. Property owner: Jefferson County Parks and Recreations Commission. Property location: Tax District: Middleway; Tax Map: 9 Tax Parcel: 2.17; Size: 119 acres; Zoned: Rural; File: PCW13-01.

Mr. Groh advised Mr. Taylor to recuse himself as he is a member of the Parks and Recreation Commission. Mr. Taylor recused himself and stepped out of the room for the duration for the discussion.

Mr. Rivard provided the Commission with a PowerPoint giving a brief overview of the location of the property and description of the proposal. Mr. Rivard stated the request was from the technical requirements of the Regulations and therefore the Planning Staff defers to the Engineering Staff for recommendation. At the request of Mr. Hayes, Mr. Rivard reviewed the four criteria required for granting a waiver. Zac Lette from Land Planning and Design (LPD) represented the request to the Commission. Mr. Lette explained that the need for curb and gutter is nonessential due to the low impact design of the development and therefore

the cost savings realized to the Commission would be beneficial in that the funds could be utilized elsewhere. Mr. Lette also described the natural terrain of the property and with the proposed stormwater management design consisting of sheetflow and vegetative grass swales. Mr. Saunders reviewed the section of the Regulations that the applicant is seeking a waiver from. Mr. Saunders stated an applicant need not install curb and gutter if they can demonstrate that low impact development (LID) techniques that would minimize the impact of impervious surfaces are being utilized. While the applicant is providing such features as vegetative grass swales, the applicant is not providing documentation which shows that the swales alone are sufficiently addressing stormwater runoff. Mr. Saunders concluded by stating that he believed the applicant met the four criteria necessary for the Commission to grant the waiver and therefore recommends approval. The Commission had additional questions regarding the requirements for LID and the applicants' proposed vegetative grass swales.

Mr. Hayes opened the floor for public comment. Mr. Stolipher motioned to close public comment. Mr. Smith seconded, which carried unanimously.

Mr. Stolipher motioned to approve the waiver stating that the applicant meets the four criteria, as noted in the Engineer's report. Mr. Smith seconded the motion, which carried unanimously.

Mr. Taylor returned to the meeting room for the duration of the meeting.

Mr. Hayes requested that Item #10 President's Report be heard at this time to address Mr. Blackmer's concerns.

Mr. Pellish motioned to allow Mr. Blackmer and Mr. Peter Corum to discuss with the Commission two major issues they have with Planning Commission Staff's direction. Mr. Stolipher seconded the motion, which carried 5 for, 2 opposed (Mr. Taylor and Mr. Baty) and Ms. Etters chose to not vote on this issue. Mr. Groh clarified that no action could be taken on this matter.

Mr. Blackmer stated his first issue is that they do not have a permit number from the West Virginia Department of Highways (DOH) to present to the Planning Staff in order for the Staff to sign off on the office checklist for approval of the site plan. Mr. Blackmer stated the second issue is the sewer connection with the Corporation of Shepherdstown. Mr. Blackmer explained they have submitted four letters to the Planning Office that were written from Shepherdstown stating they had capacity, however because they do not contain a permit number the Planning Staff will not approve the site plan. Mr. Smith summarized Mr. Blackmer's presentation stating that the Planning Department cannot sign off on the checklist to approve the site plan because the Staff does not have the approval (permit) numbers by the state (agencies). Mr. Smith asked if the Staff had any letters or correspondence that would suffice until the approvals were in place. Mr. Blackmer stated that is what they are trying to determine what Staff wants. Mr. Blackmer states they have letters of capacity and emails from the DOH. Mr. Smith addressed Ms. Brockman and asked if a capacity letter was suitable for site plan approval. Ms. Brockman stated that they needed approvals in place and not capacity letters; however she would need to defer to the County Engineer. Mr. Hayes asked the status of the grading permit. The permit has not been issued. Mr. Baty stated it appears that the project does not have the necessary approvals from the DOH or for water and sewer in place for the Staff to approve the site plan. Ms. Brockman wished to clarify that the letter from Shepherdstown Mr. Blackmer provided to the Commission is the first the Staff has heard of the City receiving any plan for review. Ms. Brockman also stated that the office does not review any plans for water or sewer and that the Planning office only wants to know the plans have been approved and needs a copy of the approved plans for the files. Mr. Rivard also pointed out that the office cannot allow a site to be developed without the ability to have water and sewer connections. Mr. Rivard also stated that the Board of Zoning

Appeals (BZA) made the water and sewer connections a requirement of the conditional use permit (CUP) and therefore an onsite system is not possible. Mr. Hayes agreed that all plans must be approved. Mr. Smith stated that the applicant was before the Commission seeking guidance and that he suggests that they go before the Highway Department and the Shepherdstown and attempt to get the wheels turning there as well.

Mr. Pellish asked for clarification on the four letters they have received regarding water and sewer. Mr. Pellish wanted to know how four letters were not able to reach Staff. Mr. Rivard stated the letter Mr. Blackmer submitted this evening was dated 7 days from the date of the meeting. Ms. Brockman stated the office had never received this particular letter. Mr. Blackmer stated the first letter was submitted to the County Commission when they first petitioned for a rezoning, the second was submitted to the BZA when making application for the CUP, Mr. Blacker stated the third capacity letter was one sent to him at his own request by the Director of the Department of Public Works and the fourth is due to a meeting they had with the Utility Board after submitting an application for their mainline extension process approximately 4 – 5 weeks ago, along with a fee and design package. Ms. Brockman wished to clarify that the fourth letter is different than the last three letters. The last letter states the Board has the plans in hand and is agreeing to the mainline extension. It does not get the approval yet however it is a step in the right direction. Mr. Saunders commented on the DOH approval stating he had been in contact with the DOH and is working with them.

5. **Reports from Legal Counsel and legal advice to the Planning Commission.** None.

6. **Active Litigation:** None.

- Far Away Farms. Active.
- Cedar Meadows Airpark. Active.

7. **Director's Report.**

Ms. Brockman reviewed her Director's Report with the Commission. See a copy of the report in February 8, 2013 Planning Commission Packet.

8. **Monthly Development Activity Report.** None.

9. **Liaison Reports:** None.

- County Commission Meeting
- Health Department Meeting
- Public Service District Meeting
- Parks and Recreation Meeting
- Jefferson County Development Authority Meeting
- Water Advisory Committee Meeting

Mr. Baty had concerns regarding ex parte communication. It was explained that if it is a general topic they are permitted to talk to the public however if it is specific to an item on an agenda that it would be best not to discuss it with the public. It was also mentioned that if the Commissioner stated at the onset of the meeting that they had discussed a specific topic with a member of the public that they still be able to participate during that Item.

10. **President's Report.** Heard after Item #4.

11. **Actionable Correspondence.** None.

12. **Non-Actionable Correspondence**

13. **Signing of approved Motions from previous Planning Commission meetings.**

Mr. Stolipher motioned to adjourn the meeting at 8:19 p.m. Mr. Smith seconded the motion, which carried unanimously. An audio recording and/or a video recording of the meeting may be found on our website. These minutes were prepared by Jennilee Hartman, Zoning Clerk.

This information is  
Tab #4 in your binder.





Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 March 12, 2013

**Amended Community Impact Statement Public Hearing Old Route 340 Business Park (04-34)**

<p>VARIANCE HISTORY</p>	<p><u>Approved BZA Variances</u></p> <p>12/16/04: Reduction in setbacks on west side property line from 75' to 50'</p> <p>12/16/04: Reduction in dedication area for future frontage road</p> <p>01/17/13: Granted reduction of landscape buffer from 10;' to 0'; reduction of building setback from 25'/50' to 18'; reduction of setback for driveways, parking areas and internal access driveways from 10' to 0'.</p> <p><u>Approved Planning Commission Variances</u></p> <p>11/09/04: Separation standard for one-way traffic</p> <p>11/09/04: Reduction in space between buildings from 50' to 30' (for self-storage)</p> <p>03/08/05: Revised CIS – allowed additional self-storage units</p> <p>07/26/05: Partial variance for curb and gutter and sidewalks</p> <p>06/27/06: Variance from final plat process, to allow 3 commercial uses on one lot (Subdivision Ordinance Section 3.1, Definitions)</p>
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**The Request:**

Amended Community Impact Statement (CIS) Approval

Applicant is requesting approval of an amendment to a Community Impact Statement. Since this development is vested under the 1979 Subdivision Ordinance, those standards shall apply. For the Planning Commission's understanding, a CIS required the applicant to answer a series of questions related to the current site conditions and future conditions after the development is built-out. The nature and purpose of the CIS is similar to the Concept Plan that the Planning Commission has reviewed in the past.

Currently, there is an approved CIS for this development for 3 structures on 1 lot. The applicant is requesting that CIS be amended to allow for the creation of 3 new lots so that each structure can be on a separate fee simple lot (Image 1). The property is 7.98 acres. Lot 1 is proposed to be 2.798 acres, Lot 2 as 1.810 acres and Lot 3 as 3.368 acres. The property is located adjacent to the Route 340 frontage road (Old Route 340/Halltown Rd.), between the intersections of Route 340 with Blair Rd. and Country Club/Marlow Rd (Image 2).

The requirements for a CIS can be found in the Article 7 of the 1979 Subdivision Ordinance. The applicant has made the necessary changes in the CIS as it applies to this request.

Final Plat Approval

In order for the Final Plat to be approved, an amendment to the Community Impact Statement (CIS) must be approved by the Planning Commission. As the CIS is the first phase in the approval process for any development, the CIS shall be amended before any significant changes can occur to a development. The CIS amendment is on the Planning Commission agenda before approval of the Final Plat.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
March 12, 2013

**Amended Community Impact Statement Public Hearing Old Route 340 Business Park (04-34)**

**Background:**

Existing Site Conditions

The property contains an existing partially developed commercial center, including a Sears retail store and a Benjamin Moore paint store. The existing development on the property was designed and built as a single development, with common access and stormwater management pond. The development is pursuant to approved site plan S05-09, which includes the following proposed land uses:

- Commercial building – 14,000 square feet
- Office building – 10,500 square feet
- Mini-storage buildings – 21,100 square feet
- RV/boat storage area

Of these uses, only the 14,000 square foot commercial building and the RV/boat storage area have been constructed, including associated parking. Other improvements that would serve the entire development have been installed, including a stormwater management pond and access drives.

Previous Approvals

As noted above, this development was approved under the 1979 Subdivision Ordinance. At the time when the development was built, the regulations required each principal use/building to be located on an individual lot. The ordinance also allowed for the option of a “condominium subdivision” consisting of two or more building sites (whether vertical or horizontal) on a single tract.

The previous owner secured approval of a Community Impact Statement to establish a condominium subdivision with no internal property lines, and submitted applications for a combined Preliminary Plat / Site Plan as well as for a Final Plat. Approval of the Final Plat would have required an additional variance.

At the Planning Commission public hearing for the Final Plat, the owner instead chose to seek a variance from the Final Plat process – specifically, a Planning Commission variance from the subdivision ordinance definition stating that a single lot may only contain a single structure. Since this variance was approved, thereby allowing 3 commercial uses on a single lot, the property owner withdrew the Final Plat application. The Planning Commission subsequently approved the site plan for the development.

Staff has determined that bonding is still current for the site improvements associated with the development and that the site plan is still valid. The property may be subdivided pursuant to the 1979 Subdivision Ordinance. In January of 2013, the applicant received Board of Zoning Appeals approval of setback, parking and buffering variances to permit the subdivision of this property.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
March 12, 2013

**Amended Community Impact Statement Public Hearing Old Route 340 Business Park (04-34)**

**Recommendation:**

The Community Impact Statement complies with the requirements of the 1979 Subdivision Ordinance. The nature of the development will not be different than was approved for the site plan. The subdivision of the property will result in 3 fee simple lots that will enable the applicant to be able to sell each of the lots separately. Staff recommends approval of the amendment to the CIS.

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 March 12, 2013

**Amended Community Impact Statement Public Hearing Old Route 340 Business Park (04-34)**

Image 1

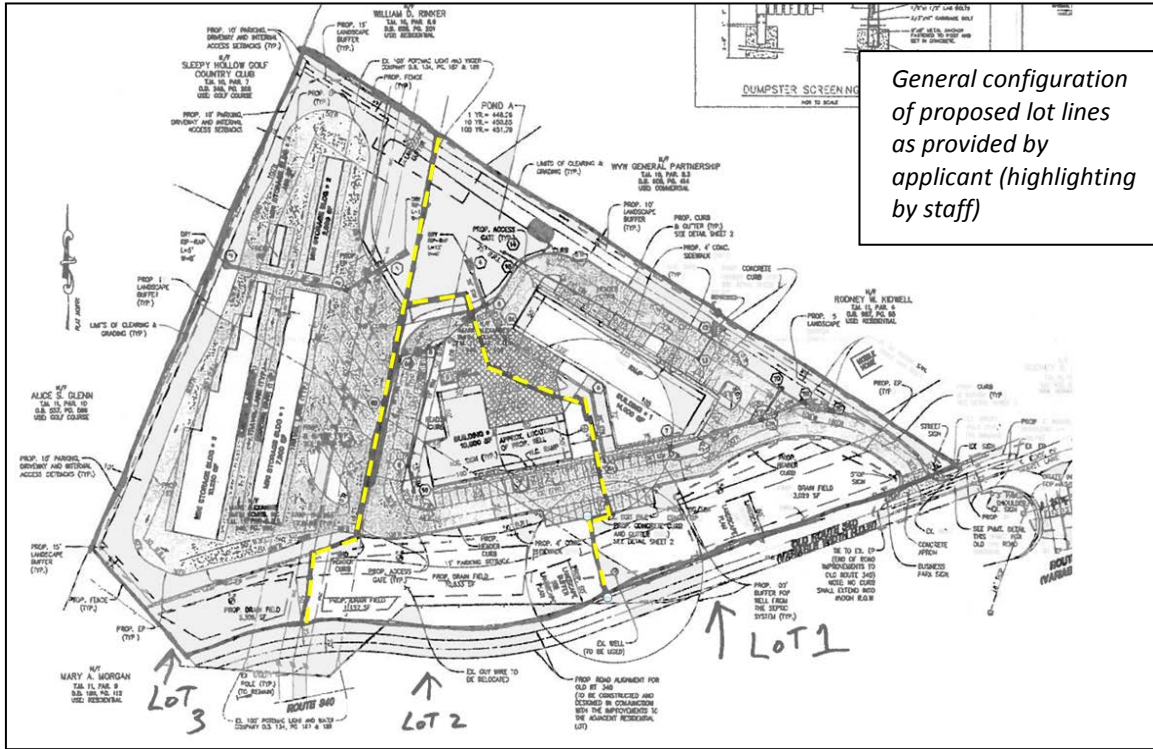


Image 2





**Revisions to the Community Impact Statement**  
**Route 340 Business Center**  
**Bank of Charles Town (BCT)**  
February 1, 2013

Narrative Background

The following is a description of the unique circumstances involving the 340 Business Center:

The Route 340 Business Center is located along Route 340 East of Charles Town at the Halltown Road intersection. This Center is approved to contain two commercial office/flex buildings and one mini-storage facility that will contain several multi-unit storage buildings. The Planning Commission approval process for these three facilities began in 2004. Currently, the first building of the campus contains the Sears Store and the Benjamin Moore Paint Store.

This project was processed under the old subdivision ordinance that defined a subdivision as more than one lot or more than one principal building on a single parcel of land. Since this development had multiple buildings, the owner was required to process the project through all three phases (Community Impact Statement, Preliminary Plat/Site Plan, and Final Plat) of the subdivision ordinance process that was in effect in 2004. Essentially, the process required everything that a three lot commercial subdivision and site plan would require, without actually platting and recording the three separate lots.

The project went through the entire process and a Public Hearing for the Final Plat was scheduled for June 27, 2006. Because of the referenced setback issues that would have delayed the Final Plat, the developer asked to withdraw the Final Plat at the June 27, 2006 meeting. Rather than process a Final Plat, the developer asked the Planning Commission to grant a variance that allowed the three separate facilities on one lot, so that the setback issues would not have to be immediately addressed. The Planning Commission granted that variance and the project was approved for all three of the facilities on the same parcel.

The Planning Commission approved the site plan for all three facilities. The improvements for all three facilities were bonded and the permit was issued for the first building (Sears). During the process, most of the improvements were made for the entire project (see attached aerial photo), but the remainder of the improvements is still bonded with the County. The other two phases (the second commercial office/flex building and the mini-storage facilities) remain approved and bonded for completion.

After the first building was constructed, the construction of the second building and the mini-storage facility was put on hold due to the economy. Last year, the Bank of Charles Town (BCT) had to take ownership of the property and take over the project. BCT has been seeking a buyer for the property. Because of the economy, BCT has not been able to find a buyer for the entire project. Instead, they have found buyers that are interested in one of the three separate phases of the Business Center. During BCT's due diligence required to sell the development, they found out that the buildings need to be on separate lots to sell them to separate entities.

After several meetings with the Planning and Zoning Department and the Engineering Department, the Staff has determined that since the project already completed all the necessary preliminary steps of the subdivision process (CIS and Preliminary Plat/Site Plan), they would allow BCT to proceed to the final plat stage to create the three separate lots. The Staff also asked for a modification to the original Community Impact Statement (CIS) to reflect the fact that each of the phases can be sold individually. Furthermore, in order to submit the Final Plat, BCT needed Board of Zoning Appeals variances for building setbacks and buffer and driveway/parking setbacks between the individual lots.

These variances were all approved by the Board of Zoning Appeals on January 17. The Board approved the variances primarily because nothing will change on the property that hasn't already been approved. In fact, the SWM, the access, the parking, the external landscaping and all other approved elements of the plan will remain the same. There are two commercial office/flex buildings and a mini-storage facility that are approved and bonded now; and, the same three things will be built as approved. To finish the process, BCT needs Planning Commission approval of this modification to the Community Impact Statement and the Final Plat subdividing the property into the three parcels. Both the modification to the CIS and the Final Plat will have a Public Hearing at the Planning Commission.

The Planning Commission's approval of the modification to the CIS and Final Plat would simply allow the Bank to sell what is already approved to three separate entities. These entities will know what they are buying in advance and will also enter into the common interest ownership and maintenance agreement. This approval will help prevent the Bank from spending more time and money on a project that it had to take over due to a bad economy. This would also allow the project to be finished in a timely fashion, so that the County could reap the benefits of a commercial business center. Finally, a new final plat public hearing will take place which will allow the public an opportunity to comment on the actual division.

BCT has several Letters of Intent and/or contingency contracts for the purchase of the individual parcels after the Planning Commission approves the Final Plat. BCT is anxious to move forward with the sale of these parcels in order to save the project and allow the completion of a viable business center in Jefferson County.

Particular Sections of the CIS that are being revised/modified are as follows:

**1. Name and address of owner/developer:**

Formerly: Mark Alexander Smith Homes, Inc.

Now: Bank of Charles Town  
111 E. Washington Street  
Charles Town, WV 25414  
Contact: Grant Wetmore  
304/728-2490

**2. Name and address of contact person:**

Appalachian Surveys, PLLC.  
401 S. Fairfax Blvd.  
Ranson, WV 25438  
Contact: Michael Shepp  
304/724-5008

**4. Project Design and Layout:**

Project scope, design and layout are approved as indicated on approved site plan/preliminary plat. The uses will remain as approved in the original CIS. Although no modifications to the approved site layouts, any modification to the site plans will need to be approved by Jefferson County.

Additionally, the change to the project design and layout will be as discussed in the narrative. Each phase will be subdivided into a total of three parcels. Each parcel will be permitted to be sold to another party. Easements and maintenance agreements will be created to ensure interconnectability and proper common element maintenance.

**9. General location and description of existing structures:**

Proposed new lot 1 contains a 10,000 sq. ft. retail/office/flex space building. Currently, it houses a Sears Store and a Benjamin Moore Paint Store.

**14. Intended land use:**

The proposed use for the development includes two mixed use buildings on Lots 1 and 2 and a mini-storage/self-storage facility with approved outdoor RV Parking on Lot 3. Each of these site plans have been approved by the Planning Commission. Most of the external infrastructure for the three lots has already been constructed. The remaining items are currently bonded for completion with the County. Each of the lots will be available for sale to third parties.

15. **Tentative schedule:**

Each Lot will be sold when buyers are found. Hopefully, this will happen within the next 1-2 years.

The remaining items in the approved CIS remain the same.

The addendum includes the aerial photo and a plat showing the proposed line divisions.



COPY



This information is  
Tab #5 in your binder.





Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 March 12, 2013

**Final Plat Public Hearing Old Route 340 Business Park (04-34)**

VARIANCE HISTORY	<p><u>Approved BZA Variances</u></p> <p>12/16/04: Reduction in setbacks on west side property line from 75' to 50'</p> <p>12/16/04: Reduction in dedication area for future frontage road</p> <p>01/17/13: Granted reduction of landscape buffer from 10;' to 0'; reduction of building setback from 25'/50' to 18'; reduction of setback for driveways, parking areas and internal access driveways from 10' to 0'.</p> <p><u>Approved Planning Commission Variances</u></p> <p>11/09/04: Separation standard for one-way traffic</p> <p>11/09/04: Reduction in space between buildings from 50' to 30' (for self-storage)</p> <p>03/08/05: Revised CIS – allowed additional self-storage units</p> <p>07/26/05: Partial variance for curb and gutter and sidewalks</p> <p>06/27/06: Variance from final plat process, to allow 3 commercial uses on one lot (Subdivision Ordinance Section 3.1, Definitions)</p>
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**The Request:**

Final Plat Approval

Applicant is requesting a Final Plat approval for a non-residential 3 lot subdivision for the property known as Old 340 Business Park (Image 1). Currently the property is 7.98 acres. Lot 1 is proposed to be 2.798 acres, Lot 2 as 1.810 acres and Lot 3 as 3.368 acres. The property is located adjacent to the Route 340 frontage road (Old Route 340/Halltown Rd.), between the intersections of Route 340 with Blair Rd. and Country Club/Marlow Rd (Image 2).

Amended Community Impact Statement (CIS) Approval

In order for the Final Plat to be approved, an amendment to the Community Impact Statement (CIS) must be approved. The CIS amendment is on the agenda before approval of the Final Plat. Much of the information below is similar to the information on the CIS Staff report.

**Background:**

Since this development started before the 2008 Subdivision Regulations were adopted, the subdivision is being reviewed under the 1979 Subdivision Ordinance.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
March 12, 2013

**Final Plat Public Hearing Old Route 340 Business Park (04-34)**

Existing Site Conditions

The property contains an existing partially developed commercial center, including a Sears retail store and a Benjamin Moore paint store. The existing development on the property was designed and built as a single development, with common access and stormwater management pond. The development is pursuant to approved site plan S05-09, which includes the following proposed land uses:

- Commercial building – 14,000 square feet
- Office building – 10,500 square feet
- Mini-storage buildings – 21,100 square feet
- RV/boat storage area

Of these uses, only the 14,000 square foot commercial building and the RV/boat storage area have been constructed, including associated parking. Other improvements that would serve the entire development have been installed, including a stormwater management pond and access drives.

Previous Approvals

As noted above, this development was approved under the 1979 Subdivision Ordinance. At the time when the development was built, the regulations required each principal use/building to be located on an individual lot. The ordinance also allowed for the option of a “condominium subdivision” consisting of two or more building sites (whether vertical or horizontal) on a single tract.

The previous owner secured approval of a Community Impact Statement to establish a condominium subdivision with no internal property lines, and submitted applications for a combined Preliminary Plat / Site Plan as well as for a Final Plat. Approval of the Final Plat would have required an additional variance.

At the Planning Commission public hearing for the Final Plat, the owner instead chose to seek a variance from the Final Plat process – specifically, a Planning Commission variance from the subdivision ordinance definition stating that a single lot may only contain a single structure. Since this variance was approved, thereby allowing 3 commercial uses on a single lot, the property owner withdrew the Final Plat application. The Planning Commission subsequently approved the site plan for the development.

Staff has determined that bonding is still current for the site improvements associated with the development and that the site plan is still valid. Provided that the CIS Amendment is approved, the property may be subdivided pursuant to the 1979 Subdivision Ordinance. In January of 2013, the applicant received Board of Zoning Appeals approval of setback, parking and buffering variances to permit the subdivision of this property.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
March 12, 2013

**Final Plat Public Hearing Old Route 340 Business Park (04-34)**

**Recommendation:**

The Final Plat complies with the approved Community Impact Statement. Staff recommends approval of the Final Plat, provided that the Amendment to the CIS if first approved.

If Final Plat is approved by the Planning Commission, the applicant shall have 90 days from time of approval to bond and record the Final Plat.

Per the 1979 Subdivision Regulations, the following details the Planning Commission responsibility for a Final Plat Public Hearing.

FINAL PLAT PUBLIC HEARING held before the Planning Commission during a regular meeting. New or revised information not previously considered at the Community Impact Evaluation stage is solicited from the public. The Planning Commission, after considering public comment, all previous information and comment, the provisions of this Ordinance, and the provisions of Section 8-24-30 of the West Virginia Code, approves, approves with conditions or disapproves the subdivision proposal and Final Plat.

The Planning Commission shall approve, approve with conditions, or disapprove a subdivision proposal and Final Plat within 60 days from the day the final plat and support material are submitted to the Planning Commission office. Failure to take action within the 60 day period shall result in final plat approval, unless a waiver of the 60 day period is granted to the Planning Commission by the subdivider.

Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 March 12, 2013

**Final Plat Public Hearing Old Route 340 Business Park (04-34)**

Image 1

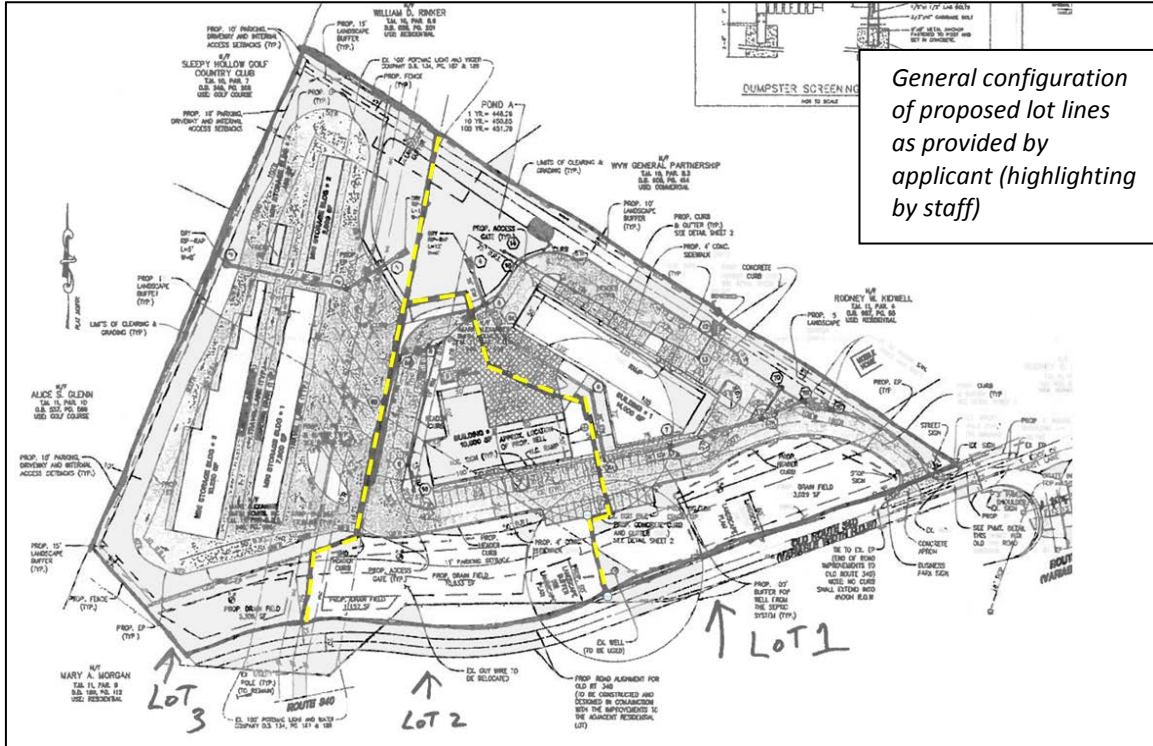
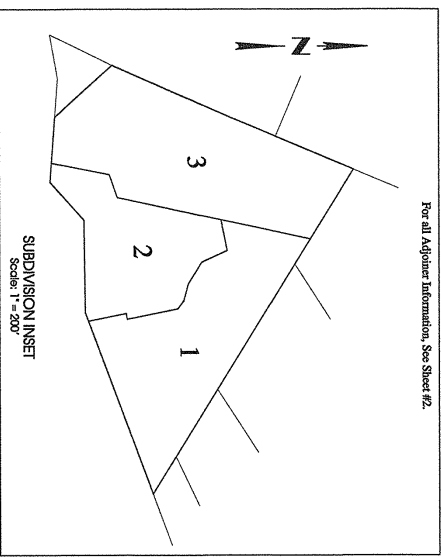
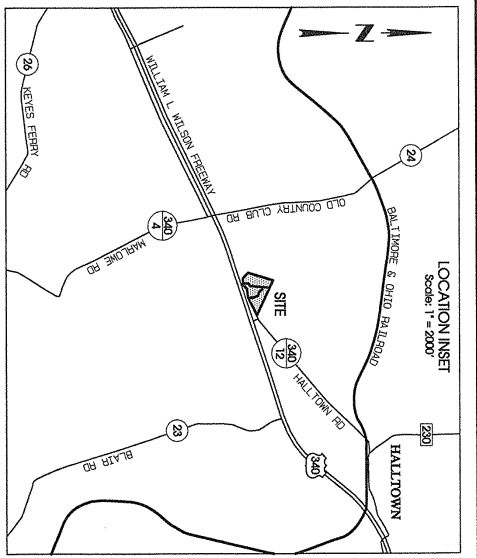


Image 2







**LEGEND**

- 5/8" by 30" Rebar, set with I.D. cap, unless noted otherwise.
- Concrete Monument (ø Diameter)
- Unmarked Point
- Boundary/lot line
- Adjacent Line
- Easement Line
- Building Setback Line
- Wife Remainder
- Area of Easement

**INDEX**

Cover sheet 1  
 Plan View 2

**REVISIONS**

NO.	REVISION	DRAWN BY	DATE
1	Add Setback Lines, Adjacent Note 19, and additional Variance table information.	MI	3/7/13
2	Add Parking Setback to Note 17, and Revise portion of Setback to 50'.	MI	3/8/13

For all Adjacent Information, See Sheet #2

**VARIANCES**

- 1.11/09/04: Separation standard for one-way traffic, PC.
- 2.11/09/04: Reduction in space between buildings from 50' to 30' (for self-storage), PC.
- 3.11/09/04: Reduction in setback from 10' to 5' on west side property line from 75' to 50' BZVA.
- 4.12/16/04: Reduction in dedication area for future average road, BZVA.
- 5.11/09/04: CS-allowed additional self-storage units, PC.
- 6.7/26/05: Partial variance for curb and gutter and sidewalks, PC.
- 7.11/09/04: Variance from final plan process to allow 3 commercial uses on one lot for Subdivision Ordinance Section 3.11, Dethlefsen, PC.
- 8.1/17/13: Section 4.11A requirement for a 10' setback from driveway, parking spaces and internal access drives, Requested reduction to 0' BZVA. (Internal lot lines only)
- 9.11/09/04: Section 5.6D.2 requirement for 25' or 50' (400' or 800' for residential) setbacks on lot lines between commercial lots. Requested reduction from 25' to 18' BZVA. (Internal lot lines only)
- 10.11/09/04: Section 5.6D.3 requirement for 10' setback for driveway, parking spaces and internal access drives. Requested reduction to 0' BZVA. (Internal lot lines only)

- NOTES:**
1. Property Owners are set 5/8" by 30" Rebars with I.D. caps, unless noted otherwise. Corners 200-202, 235, 236, 242, 243, & 255 are 5/8" Rebar. Found (ASD). Corners 281, 284, and 285 are Mag Nail set.
  2. The seller of any lot within this subdivision shall provide the buyer with a reasonable opportunity, before settlement, to determine that the lots are properly surveyed and that the plat is correct. If the buyer is dissatisfied, the buyer is denied a septic system construction permit by the County Health Department, the buyer may refuse to purchase the property without penalty.
  3. By graphic plotting only, this property is in Zone "X" per F.I.R.M. maps 3403(CO)051, dated 18 December 2009. Based on the above information, the proposed subdivision is not in compliance with the subdivision designation, can only be determined by an elevation certificate.
  4. WV/DOH Highway Entrance Permit: #5-06-0001.
  5. Jefferson County Health Department Permits #SDA 19-1213-04 (Previous permit #SDA 19-0405-33).
  6. Common areas are to be reserved from any buildings unless approved by the Board of Health.
  7. All Lots have vehicular access from interior subdivision roads only.
  8. A Property Owners Association will be formed when lots are sold to which all lot owners must belong.
  9. The Property Owners Association will be responsible for maintaining storm water management systems.
  10. A Common Interest Ownership Agreement must be established to provide for the maintenance of commonly-owned land, including but not limited to the private road system within the subdivision and SWM areas. This Common Interest Ownership Agreement must be developed in accordance with the Uniform Common Interest Ownership Act of West Virginia.
  11. A blanket Utility Easement will be provided in the proposed Rights-of-way.
  12. According to the U.S. Fish & Wildlife wetlands map, it appears that there are no wetlands on this site.
  13. This property is not subject to hillside regulations.
  14. The property is not subject to a minimum area shall have a buffer of natural vegetation. The buffer shall meet the current Federal Standards Review Ordinance.
  15. Public Service District may require looking up to a centralized sanitary sewer system.
  16. There are no Districting, Proposal, or Future Right-of-Ways or Easements hereon, except as shown.
  17. Building Setback Limits: 25' front, 50' side, and 50' rear unless otherwise specified in Variance Table, Parking Setbacks Limits: 15' front, 10' side, and 20' rear.
  18. Distance requirement 75' along West and North boundary except as varied, See Note 3 under Variances.

**ACREAGE TABLE**

Lot #	Acres
Lot 1	2.79 Acres
Lot 2	3.36 Acres
Lot 3	3.36 Acres
<b>Total</b>	<b>7.79 Acres</b>

**FINAL PLAT APPROVED**

File Number: \_\_\_\_\_ Date: \_\_\_\_\_

Jefferson County Planning and Zoning \_\_\_\_\_ Date \_\_\_\_\_  
 P.O. Box 710  
 Charles Town, WV 25414

**DEVELOPER / OWNER'S STATEMENT OF ACCEPTANCE**

The developer/owner, in signing this plat, agrees to abide by all conditions, terms, and specifications provided herein.

Print of Charles Town \_\_\_\_\_ Date \_\_\_\_\_  
 1114 Market Street  
 Charles Town, WV 25414  
 (304) 725-8431

**SURVEYORS CERTIFICATE**

The perimeter and all boundaries shown hereon have been established by a number of traverse control having a relative error of closeness of 1:2500 or better.

*R. Michael Shepp, PS*

**RECEIVED**

MAR 08 2013

JEFFERSON COUNTY  
 PLANNING, ZONING AND ENGINEERING

#2012035

**Final Plat Showing**  
 Lots 1, 2, & 3 (Residue)

**Old Route 340 Business Park**

Harpers Ferry District  
 Jefferson County, West Virginia  
 HFD M11 P7  
 D.B. 1105 PG. 565  
 Date: January 11, 2013

**APPALACHIAN SURVEYS, PLLC**

401 S FAIRFAX BOULEVARD, SUITE 3  
 HARRISBURG, WV 25425  
 PHONE: 304.724.5000  
 FAX: 304.724.5010  
 www.appalachiansurveyspllc.com

SHEET 1 OF 2

#04-34

#4 REVIEW PRINT



This information is  
Tab #6 in your binder.

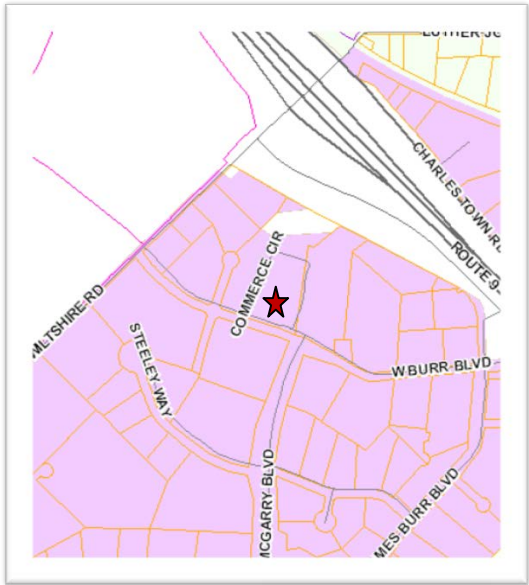


Staff Report  
 Jefferson County Planning Commission Meeting  
 March 12, 2013

**SK Burr Limited Liability Company Waiver Request (PCW13-10)**

Item #6 Request by applicant Pete Kubic represented by W.H. Gordon and Associates for a waiver from the following sections of the Jefferson County Subdivision and Land Development Regulations:

- a) Section 20.201(B)2: “Access. All lots shall front on an existing internal subdivision road built to county grade road standards and having a minimum right-of-way width of 50 feet”; and
- b) Section 21.401: “For any subdivision or development that involves a shared access easement, no obstruction of the full use of the easement shall be permitted. A note to this effect shall be placed on the plat or plan.”

APPLICANT:	Pete Kubic
OWNER:	Burr SK Limited Liability Company
DEVELOPER:	Same as
SURVEYOR/ENGINEER:	W.H. Gordon and Associates
PROPERTY LOCATION:	120 Commerce Circle, Kearneysville, WV 25430
LEGAL DESCRIPTION:	<p style="text-align: center;">District: Charles Town; Map: 1; Parcel: 71</p> 
ZONING DISTRICT:	Industrial Commercial (IC)
SURROUNDING PROPERTIES:	<p style="text-align: center;">Zoning Map Designation:</p> <p><i>North:</i> City of Ranson      <i>South:</i> IC  <i>East:</i> IC                      <i>West:</i> IC</p>
LOT AREA:	9.06 acres (1.67 acres was annexed into the City of Ranson)
PROPOSED ACTIVITY:	Applicant is proposing to create three lots from Lot 18A in the Burr Industrial Park. The waivers are requested to allow the proposed subdivision to occur. The proposed subdivision would result in an existing commercial building being on a separate lot from two existing buildings pads, which would also be on their own separate lots.

Staff Report  
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APPROVALS	
SUBDIVISION (PC File #96-03)	06/11/96: PC approved Final Plat
LOT LINE ADJUSTMENT	10/21/03: Director approved merger of Lot 18A and Lot 18B
SITE PLAN (PC File #S03-07)	03/29/04: Staff approved (PC approval not required because of its location within an approved industrial park)
VARIANCES	02/27/96: PC approved a variance from Section 8.2.E.3 to allow Lot 18 B to exceed the 3:1 depth to width ratio.
BOND	07/09/09: CC approved full release

Background

Lot 18A is 9.06 acres and located in the Burr Industrial Park. The lot has an existing structure and two building pads, as well as parking and drive aisles on the property. Image 1 shows the proposed subdivision lines in red, existing building pads in yellow and the existing property lines are in light orange (please be aware that the property lines are not exactly where they should be on the image). Image 2 depicts similar information as Image 1 and Image 3 illustrates the building areas per the site plan.

The Request

The applicant has requested two waivers from the Jefferson County Subdivision and Land Development Regulations per Sections:

- 20.201(B)2 and requests a reduction of the required 50’ right-of-way to a 22’ access easement to match the existing travelway for a proposed subdivision; and,
- 21.401 and request that the shared access easements (reduced width travelways) to be on occasions temporarily obstructed.

Section 20.201(B)2 requires that all lots front on an existing internal subdivision road with a minimum right-of-way of 50 feet. Proposed Lots 1 and 2 front on the required 50 foot internal subdivision road within the Burr Industrial Park (West Burr Blvd). The proposed rear lot (Lot 3) abuts an unnamed cul-de-sac (shown in Image 1) that has a minimum right-of-way of 50 feet; however, the applicant is not proposing to create a new access to the cul-de-sac for this lot. There are site constraints, in the form of a stormwater drainage feature, which would make providing a driveway from Lot 3 to the cul-de-sac difficult.

The applicant is proposing to use the existing drive aisle, known as Commerce Circle and shown on Image 1, to access the internal subdivision road (West Burr Blvd) instead of the required 50 foot right-of-way. Since Commerce Circle is only 22 wide and does not have any right-of-way associated with it, this waiver is required.

Additionally, a waiver from Section 21.401 is required, as that section outlines that access easements shall not be obstructed. Since there is parking directly adjacent to the drive aisles, which are proposed to act as the access easement to Lot 3, there will be occasional obstruction from vehicles parking, backing out and possibly temporary unloading from vehicles.

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Waiver Criteria

The following criteria, as outlined in Section 24.300 of the amended 2008 Subdivision Regulations, have to be met in order to have a waiver granted. Both waivers will be addressed together.

***The design of the project will provide public benefit in the form of reduction in County maintenance cost, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature.***

In this instance, the County does not maintain any of the roads and no open space or parkland will increase or decrease from the request. The waiver has no effect.

***The waiver, if granted, will not adversely affect the public health, safety or welfare or the rights of adjacent property owners or residents.***

The waiver request will not affect public, health, safety or welfare or the rights of adjacent property owners. The proposed subdivision and future site plans will utilize the existing drive aisles as the shared access easement. Adjacent property owners will not have their property or access impeded by granting of the waiver.

***The waiver, if granted, will be in keeping with the intent and purpose of these Regulations.***

While the proposed Lot 3 does have access to a 50' right-of-way, which is constrained by site conditions, it does not meet the intent for the lot to have usable access. Granting the waiver will result in the lot having access to an internal subdivision road via a shared 22 foot access easement and will meet the intent of the Subdivision Regulations.

The granting of the waiver for Section 21.401 is to acknowledge that while the access easement is intended to be unobstructed at all times, there may be occasional obstructions with the parking located directly adjacent to the access easement. However, since there are two access drive aisles into the proposed lots, the potential for limited access to Lot 3 is diminished.

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

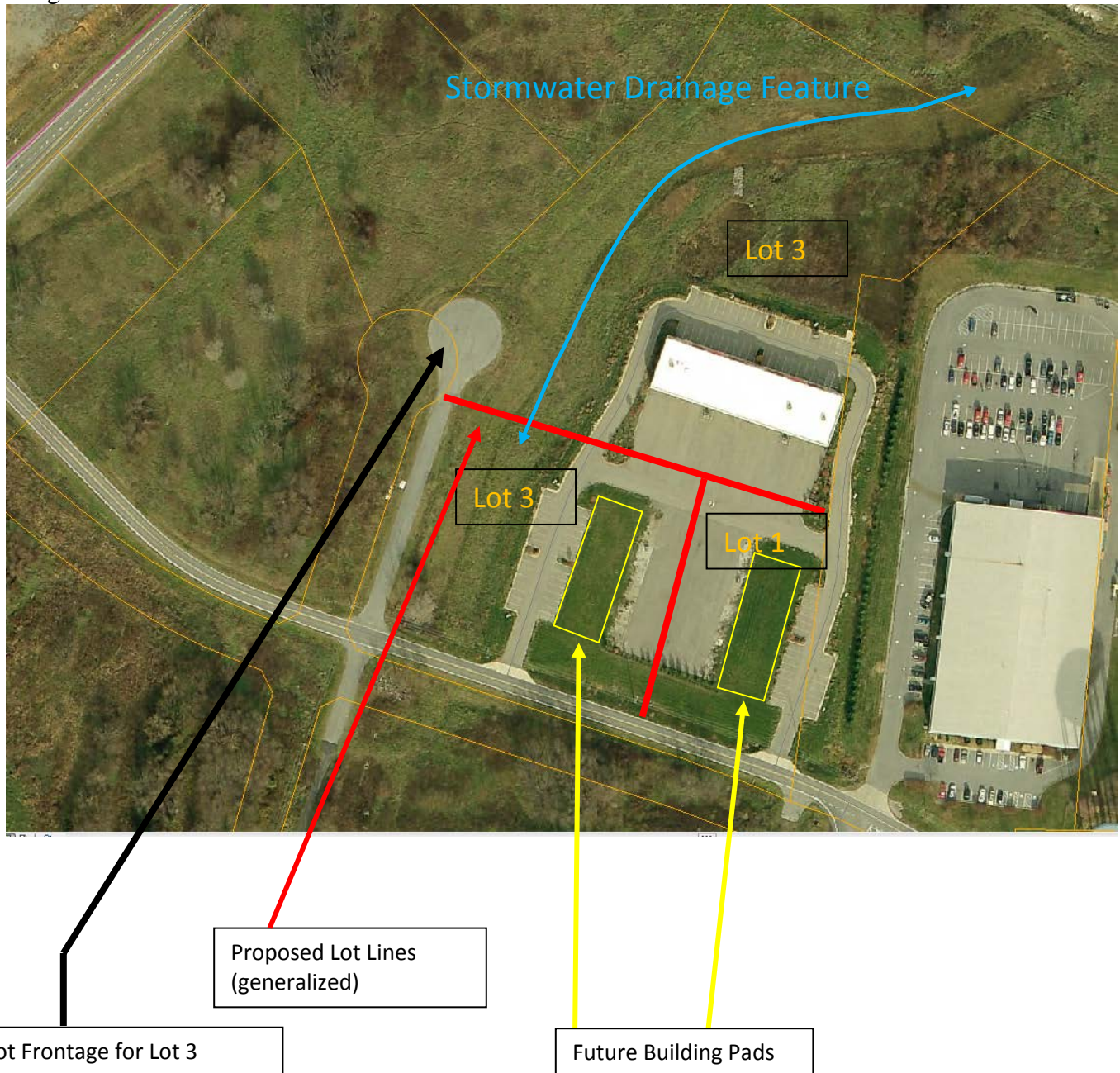
Granting of the waiver will make use of existing site conditions and not result in the construction of new impervious area. In order to meet the requirements of the Subdivision Regulations, a driveway would need to be constructed for Lot 3 over the stormwater drainage channel, which would include a design of a significant sized culvert system. The problem inherent with any culvert system is the potential for obstructions which impede stormwater management.

Staff Report  
Jefferson County Planning Commission Meeting  
March 12, 2013

Staff Recommendation

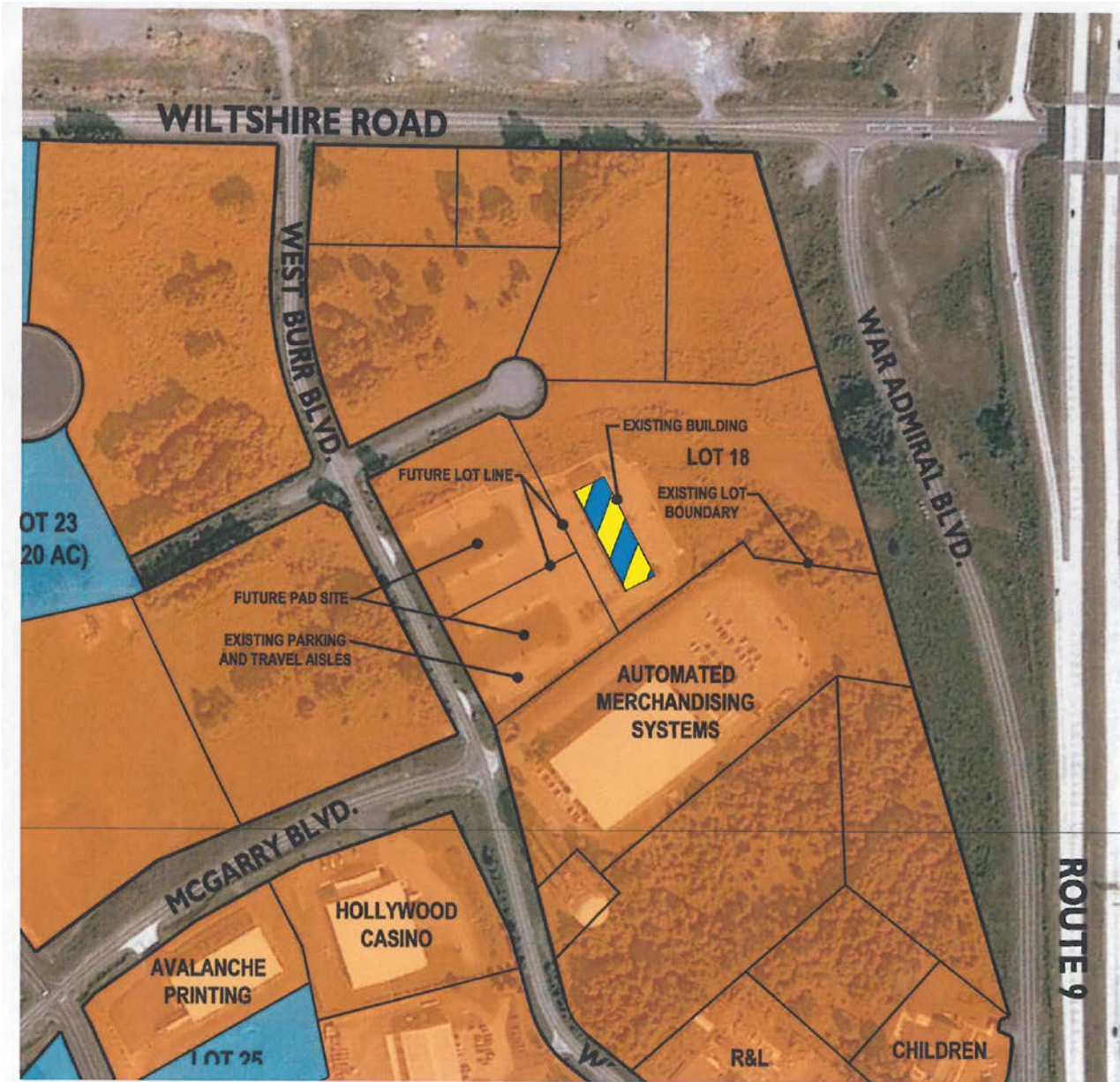
Staff recommends approval of the requested waivers. Taking into account the existing site conditions, with 2 points of access and the stormwater feature as a limitation for Lot 3 to access the cul-de-sac, the waivers will result in usable access for Lot 3. Approval the waivers shall include the condition that the proposed Final Plat shall show the drive aisles as shared access easements for Lot 3 to access to an internal subdivision road and should include a note about the potential for limited obstruction.

Image 1



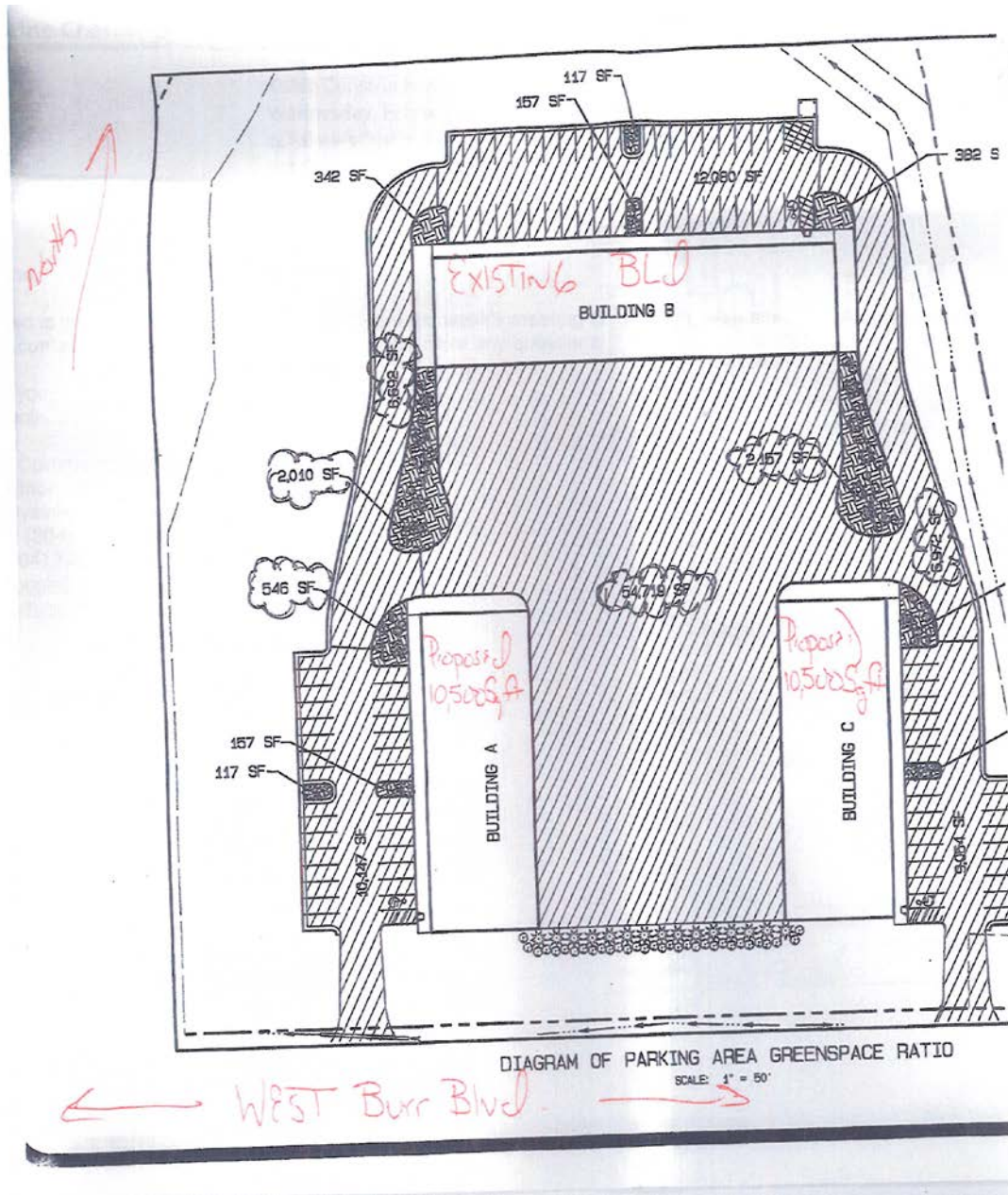
Staff Report  
Jefferson County Planning Commission Meeting  
March 12, 2013

Image 2



Staff Report  
Jefferson County Planning Commission Meeting  
March 12, 2013

Image 3





# JEFFERSON COUNTY, WEST VIRGINIA

## Departments of Planning and Zoning

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

Charles Town, WV 25414

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

PCW13-02

Date Applic. Rec'd: 2.19.13

Fees Paid: \$ 100.00

Sketch Received:

Staff Initials: CJC

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

### Waiver Request

Note: Waivers to the 2008 Amended Subdivision Regulations must comply with Division 24.300 of the Subdivision Regulations. Sketch on a separate sheet of paper the shape and location of lot. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structures or land uses on the property. Sign and date the sketch. Please provide a vicinity map of the area.

*I/We request a waiver from the provisions of the Jefferson County 2008 Amended Subdivision Regulations*

#### Property owner information

Name of Property Owner: Burr SK Limited Liability Company

Mailing Address: 241 Edmond Road

City: Kearneysville State: WV Zip Code: 25430

Phone Number: (304) 886-9408 Email: burrsk@gmail.com

#### Applicant contact information

Applicant Name: Mr. Pete Kubic

Mailing Address: 241 Edmond Road

City: Kearneysville State: WV Zip Code: 25430

Phone Number: (304) 886-9408 Email: burrsk@gmail.com

#### Applicant Representatives

Name of Registered Engineer(s) or Surveyor(s): Gordon

Mailing Address of Engineer(s) or Surveyor(s): 301 North Mildred Street, Suite 1

City: Charles Town State: WV Zip Code: 25414

Phone Number: 304-725-8456 Email: kstolipher@whga.com

#### Physical property details

Physical Property Address: 120 Commerce Circle

City: Kearneysville State: WV Zip Code: 25430

Tax District: Charles Town Map #: 1 Parcel No: 0071

Parcel Size: 9.06 Deed Book: 1095 Deed Bk. Pg. #: 690

Zoning District:

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

RECEIVED

FEB 19 2013

18A

What Section of the Ordinance are you requesting to waive?

20.201.B.2

Briefly describe the nature of your waiver request:

This request is from Section 20.201 B.2 of the Ordinance which requires that all lots shall front on an existing internal subdivision road. With the subdivision of this lot, the proposed lot with the existing building will still be accessed from an internal subdivision road through the proposed access easement and existing travelway. Additionally, we request a reduction of the required 50' width for the access easement to 22' to match the existing travelway.

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

Since the County does not currently maintain the existing parking area and travelways, there will be no additional impact to the County.

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

The site plan for Lot 18 was approved by the County with three buildings and associated parking and travelways. The subdivision of this lot does not adversely impact the public health, safety or welfare or the rights of adjacent property owners since the ultimate use and build-out of the parcel will remain the same.

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

The intent of the ordinance is to ensure that all lots have adequate access to internal subdivision roads. With the subdivision of this parcel, the existing building will have access to the internal subdivision road through a recorded ingress/egress easement 50' in width therefore the intent of the ordinance is achieved.

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

If this waiver is granted, it will allow for the two future buildings to be on separate lots which will allow the Owner to sell the lots and promote the build-out of this parcel given the current economic conditions and desire of building tenants to own parcels as opposed to lease agreements.

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

[Signature] 2/18/2013  
Signature of Property Owner Date

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

For Official Use Only

03.12.13 Date of Public Meeting/Public Hearing

[Signature] Official/Administrative Body

02.26.13 Date Property to be posted by

02.26.13 Date Adjoiner letters to be mailed by

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

Approved  Denied

**What section of the Ordinance are you requesting to waive?**

21.401 Private Restrictions and Easements

**Briefly describe the nature of your waiver request:**

This request is from Section 21 401 of the Ordinance which requires that any subdivision that involves a shared access easement, no obstruction of the full use of the easement shall be permitted. With the subdivision of this lot, we are requesting a reduction of the required 50' width for the access easement to 22' to match the existing travelway. The access easement of this reduced width will remain unobstructed for all lot access.

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

Since the County does not currently maintain the existing parking area and travelways, there will be no additional impact to the County.

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

The site plan for Lot 18 was approved by the County with three buildings and associated parking and travelways. A reduced access easement width from 50' to 22' will allow for full use of the lots in an acceptable easement width therefore it will not adversely impact the public health, safety or welfare or the rights of adjacent property owners since the ultimate use and build-out of the parcel will remain the same.

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

The intent of the ordinance is to ensure that all lots have adequate access. A reduction in the easement width while ensuring that there are no obstructions meets the intent of the ordinance.

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

If this waiver is granted, it will allow for the buildings to utilize the existing access aisle as the shared access easement which will result in a better project by the utilization of existing infrastructure.

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

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date

**For Official Use Only**

03-12-13 Date of Public Meeting/Public Hearing

PC Official/Administrative Body

02-26-13 Date Property to be posted by

02-26-13 Date Adjoiner letters to be mailed by

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

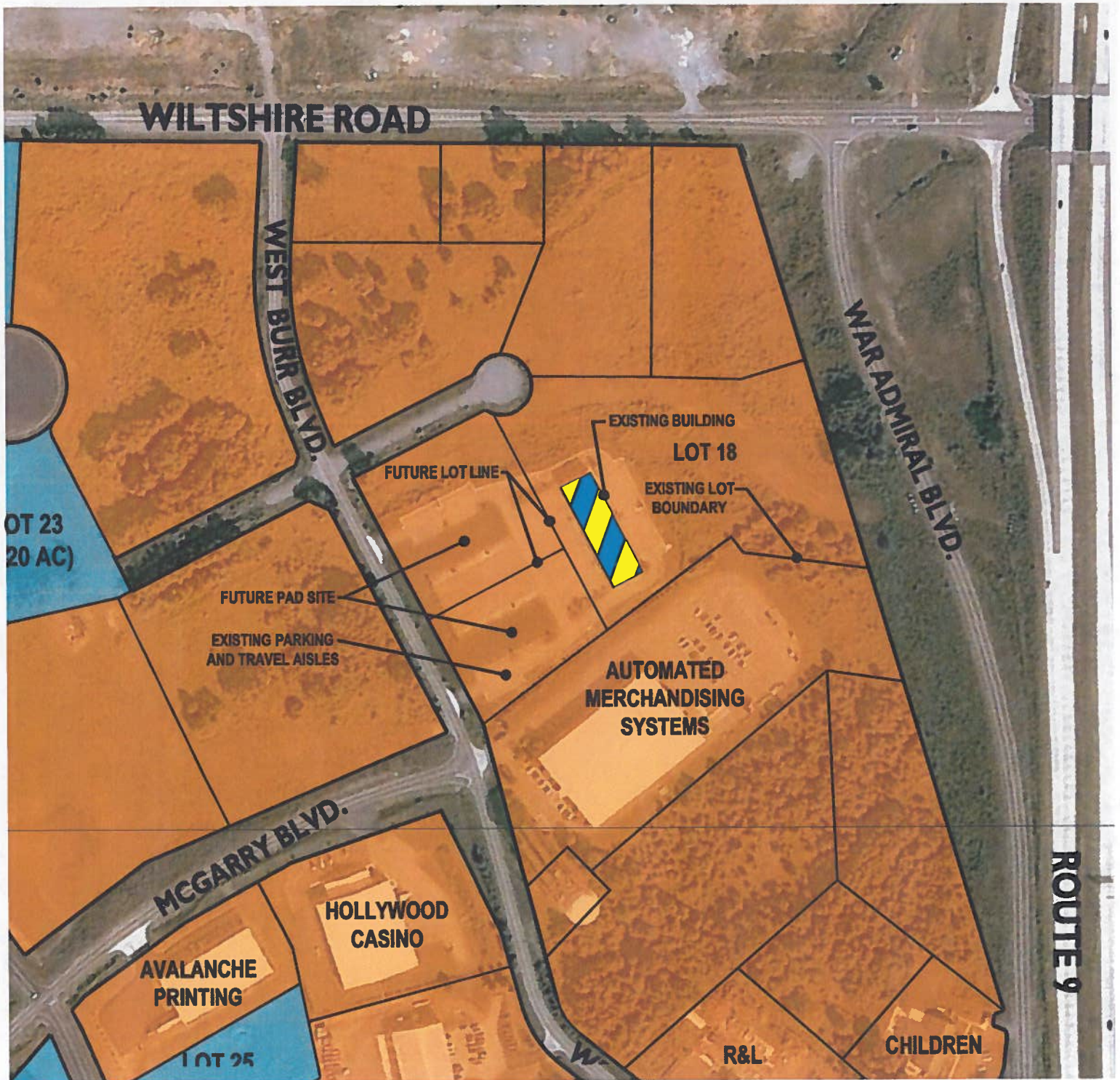
Approved

Denied

RECEIVED

FEB 19 2013

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING



Pete Keli managing member Burr Sk LLC 2/18/2013

1.67



Jefferson County  
Development Authority

Board of Directors  
2012-2013

Mark Dyck  
President

Howard Mills  
Vice President

Eric J. Lewis  
Secretary/Treasurer

Mike Chapman  
Joe Lovington  
Helen Danner  
Paul Espinosa  
Annette Gaym  
Conrad V. Blumhans  
Joshua Hovsholdt  
Debra Lee Hovatter  
P. David Mills  
Walter Polich  
Janet W. Tolson  
Karin Townsend

John Reisenweber  
Executive Director

PO BOX 237  
CHARLES TOWN  
WV 25414

304.728.3255  
304.725.3133 fax

www.JCDA.net

RECEIVED

MAR 04 2013

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

February 28, 2013

Ms. Jennifer M. Brockman  
Director, JC Planning and Zoning  
PO Box 338  
Charles Town, WV 25414

Dear Jennie,

On behalf of the JCDA, I am writing to express our full support of the request by Burr SK, LLC to subdivide their existing 9.07 acre lot in the Burr Business Park. The JCDA voted unanimously to approve the request at our last Board meeting on February 19, 2013.

We believe that this action will allow Burr SK to better market his property which will ultimately lead to increased job growth and tax revenue for Jefferson County. Pete Kubic, managing member of Burr SK, LLC, has assured the JCDA that any development on the site will comply with our Burr Park covenants.

Thank you very much for your consideration and we hope your office will look favorably on this request. As always, please do not hesitate to contact me if you have any questions or if I can assist in any way.

Sincerely,

John W. Reisenweber  
Executive Director, JCDA

03/04/13 - Copies mailed to PC in their packets for 03/12/13 mtg - gtt



This information is  
Tab #7 in your binder.



## **Higher Regulatory Stormwater Standards, Fostering Low Impact Development, and Gap Analysis**

West Virginia's Watershed Implementation Plan -Phase 2 (WWIP-II) has identified the adoption of the 1-inch stormwater capture performance standard for new development and redevelopment projects as a strategy to achieve Chesapeake Bay water quality objectives. By capturing the first 1-inch of rainfall, these projects may reduce approximately 90% of rain events from reaching local waterways as stormwater. Instead rainwater will be infiltrated into the soil, recharging groundwater supply, reducing flash flood occurrences, and reducing pollution loads. County and municipal governments in the region are encouraged to voluntarily adopt these standards. In November 2012, Jefferson County was awarded a grant by the WV Dept. of Environmental Protection to draft a new stand-alone ordinance. The new ordinance will incorporate the 1-inch standard, while taking into consideration existing zoning and subdivision regulations. While currently voluntary, if the 1-inch standard is not adopted by 2015, the state may require the adoption of the standard without local input.

The impact of the new stand alone stormwater ordinance will eventually be noticeable in Jefferson County. In addition to the stormwater ordinance, the county will identify barriers and recommend revisions to existing design and construction standards that will foster Low Impact Development (LID), accommodate Best Management Practices (BMPs), and allow for the flexibility in project designs that could reduce impacts to water quality and reduce construction cost. New and redevelopment projects will seek ways to reduce the amount of paved surfaces. Revising parking demand requirements, adding vegetated filter strips, and permitting the use of materials that allow the rainwater are a few of the LID or BMPs practices use on-site natural features to protect water quality.

A gap analysis identifying all existing ordinance language and where the new stand alone ordinance will need referencing is currently being performed. In accordance with West Virginia State Code Chapter 8A, a public hearing may need to be conducted for revisions to some ordinances.

<b>March 12</b>	<b>Introduce Chesapeake Bay, Stormwater Regulations, &amp; Subdivision Amendment Project</b>
<b>March 19</b>	<b>Proposed Amendments Delivered</b>
<b>March 26</b>	<b>Present Amendments to Planning Commission at Work Session Meeting</b>
<b>March 27</b>	<b>Advertise Public Hearing for Amendments</b>
<b>April 23</b>	<b>Amendment Public Hearing</b>
<b>May / June</b>	<b>County Commission Consideration</b>

**Figure 1: Projected Amendment Process Timetable.**  
(Subject to change.)

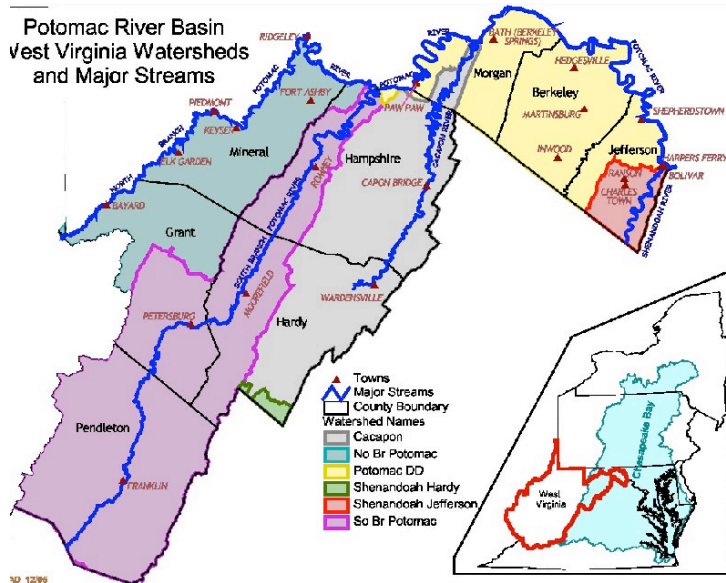
# Chesapeake Bay Overview

## Introduction

The Chesapeake Bay Initiative is an effort to reduce pollution to both local streams and the Chesapeake Bay, improve water quality, and restore aquatic habitat. The Chesapeake Bay watershed includes an eight county area in West Virginia which will be required to do its part to reduce pollution to the Chesapeake Bay.

## Chesapeake Bay Facts

The Chesapeake Bay is approximately 200 miles long and runs north-south from the mouth of the Susquehanna River to the Atlantic Ocean. The Chesapeake Bay watershed is 64,000 square miles and has 11,600 miles of tidal shoreline. The bays width ranges from 3.4 miles to 35 miles. The watershed encompasses parts of six states: Delaware, Maryland, New York, Pennsylvania, Virginia, and West Virginia, as well as Washington D.C. There are about 150 major rivers and streams in the bay watershed.



The Chesapeake Bay supports more than 3,600 species of plants, fish and animals. The Chesapeake Bay is a commercial and recreational resource for more than 16 million people who live in its watershed. The bay produces about 500 million pounds of seafood per year.

Fourteen percent (14%) of West Virginia drains into the Potomac River and into the Chesapeake Bay.

## History/Timeline Cleanup Efforts

- 1983: The EPA signed an agreement with the states of MD, PA, VA, and Washington D.C. recognizing the need to act to clean up the Bay.
- 1987: The above gov't's signed another agreement that required a 40% reduction in nutrient pollution by the year 2000.
- 2000: When the 2000 deadline was not met, the gov't's signed a 3rd agreement. The Chesapeake 2000 Agreement. This set a goal of improving water quality in the Bay sufficiently to get it off the Clean Water Act's "dirty waters list" by 2010.
- 2002: Bob Wise, then governor of WV, signed a Memorandum of Understanding (see Appendix A) agreeing to join the above gov'ts. All parties agreed to work cooperatively to achieve the nutrient and sediment reduction targets.
- 2006: EPA admits that the terms of the 2000 agreement will not be met by the 2010 deadline, but instead, not until at least 2020 or later.

## Water Quality Issues

Everything we do on land – including the use of automobiles, fertilizers, pesticides, toilets, water and electricity – affects our streams, rivers and the Bay.

Stormwater carries a host of contaminants from the land into the water:

sediment, phosphorus, nitrogen, toxic metals, herbicides and pesticides, organic material, oil compounds, and bacteria. Roadways, for example, release oil and grease, tailpipe emissions, and other toxics from motor vehicles. Lawns contribute fertilizer and animal waste. Construction sites release quantities of mud and sediment.

In the Bay's tributaries, eroded material and dirt from the land become suspended in the water, blanketing aquatic habitat. Sediment keeps sunlight from reaching underwater grasses. As these plants die, the animals that rely on them are imperiled.

In addition to sediment, the leading threat to the health of the Chesapeake Bay is excess nitrogen and phosphorus

pollution that destroys habitats and causes fish kills. The top sources of these pollutants include agriculture, sewage treatment plants, stormwater runoff from urban and suburban land development, and pollution from automobiles, factories and power plants. Stormwater pollution is responsible for about 19 percent of the nitrogen and phosphorus pollution in the Bay

Too much nitrogen and phosphorus cause algae blooms that also block sunlight to the underwater grasses. When the blooms decompose, they consume oxygen and create “dead zones,” where dissolved oxygen levels are too low to sustain marine life. Underwater grasses filter polluted runoff, provide food for waterfowl, and provide essential habitat for aquatic species. Scientists believe that increasing bay grass coverage will result in dramatic improvements throughout the entire Bay ecosystem.

The U.S. Environmental Protection Agency (EPA) has developed a Bay-wide “pollution diet” that outlines the maximum amount of nitrogen, phosphorus and sediment pollution each state in the watershed can contribute to the Bay in order to improve the water quality.

The WVDEP's efforts are focused on the following sectors:

- Agriculture (fertilizer, animal litter)
- Point Source (waste water treatment plants)
- Urban/Mixed Open (developed lands storm water runoff, septic systems)
- Forestry (forest harvesting operations, wildfires)

## ...timeline cont.:

- 2009: Efforts to improve water quality in the Bay were unsuccessful. As a result, President Obama issued an Executive Order on May 12, 2009 directing the EPA to “define the actions to restore water quality in the Bay and describe the changes to be made to regulations, programs, & policies to implement these actions”
- July 2010: EPA announces a pollution diet for meeting water quality standards in the Bay watershed.
- December 2010: The states publish Phase 1 WIP's and the EPA develops TMDL for the Bay watershed. This will create nitrogen and phosphorus load caps for states in the Bay watershed.
- November 2011: The states Phase 2 WIP were submitted to the EPA, providing strategies on how pollutants at the local level will be reduced.
- 2017: Phase III WIP's are expected to address any needed modifications to ensure, by 2025, that actions are in place which will achieve full restoration of the Chesapeake Bay and its tidal tributaries to meet applicable water

## Watershed Implementation Plans

The West Virginia Department of Environmental Protection (WVDEP) is the state agency charged with developing a program in West Virginia to meet the federal water quality requirements for the Chesapeake Bay. To date, this effort has involved public participation in developing a Phase I - Watershed Implementation Plan (WIP-I) and a Phase II - Watershed Implementation Plan (WIP-II).

The watershed implementation plan (WIP) is a formal action plan towards achieving and maintaining water quality standards. The WIP is the roadmap for how, by whom, and when implementation of pollution reduction strategies will occur. Developing strategies to reduce pollutants from reaching waterways will result in dramatic improvements throughout the entire Bay ecosystem.

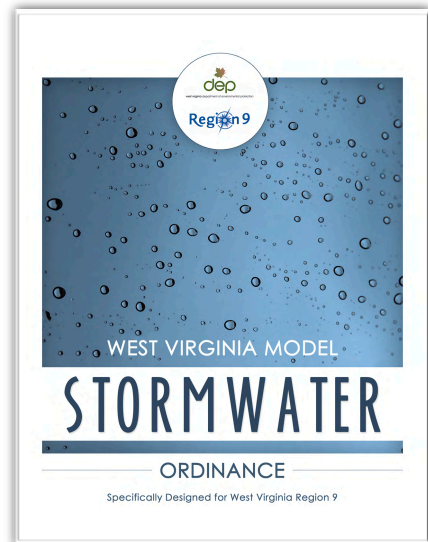
## Region 9 & The Model Stormwater Management Ordinance

When it rains, water accumulates on man-made surfaces such as roads, roofs and parking lots. These hard (impervious) surfaces prevent the rain from soaking in. As more houses, roads, and shopping centers are built, more water runs off the impervious surfaces and enters our streams and other waterways, either directly or through urban storm drain systems. This water is called stormwater or urban runoff, and it eventually finds its way into the Bay.

Stormwater pollution is responsible for approximately 19% of the nitrogen and phosphorus pollution in the Bay, if the contribution of nitrogen from air pollution is included. It is one of the major reasons that the Bay remains on the EPA's "dirty waters" list.

In 2011, the Region 9 Planning & Development Council administered a grant provided by the WVDEP, for the purpose of hiring a consultant to facilitate the writing of a model storm water management ordinance. The purpose of the ordinance is to provide a template/model for managing and regulating storm water runoff from urban/suburban land development, with the intent of reducing sediment, nitrogen and phosphorus pollution to the Bay. It serves as a guidance document to establish minimum criteria for county and municipal code development and to lay out a large portion of the necessary regulations for a successful stormwater management ordinance.

Delta Development Group, Inc. of Mechanicsburg, PA, and the WVDEP, along with a stakeholder's committee made up of people from Morgan, Berkeley and Jefferson



## Chesapeake Bay Overview

Counties participated in writing the model ordinance. The stakeholders committee consisted of people from the economic development sector, the environmental sector, planners, engineers and administrators from county and local government, and representatives from engineering consultants and the home building industry. The model storm water ordinance was completed in February, 2011. It is available on the Region 9 web site: <http://www.region9wv.com/>

The model storm water management ordinance requires that storm water quality control measures be provided to reduce stormwater runoff pollution into the Chesapeake Bay from land development. This is done by capturing the runoff from the first 1-inch of rainfall and keeping it on-site and filtering out pollutants by using Low Impact Development type techniques, such as: grass swales, rain gardens, stream buffers, etc. Quantity control is usually provided via traditional methods such as detention/retention ponds and infiltration basins.

### **Higher Regulatory Stormwater Standards**

West Virginia's Watershed Implementation Plan -Phase 2 (WVWIP-II) has identified the adoption of the 1-inch stormwater capture performance standard for new development and redevelopment projects as a strategy to achieve Chesapeake Bay water quality objectives. By capturing the first 1-inch of rainfall, these projects will reduce approximately 90 percent of rain events from reaching local waterways as stormwater. Instead rainwater will be infiltrated into the soil, recharging groundwater supply, reducing flash flood occurrences, and reducing pollution loads.

## Appendix A

### MEMORANDUM OF UNDERSTANDING

AMONG

the State of Delaware, the District of Columbia, the State of Maryland,  
the State of New York, the Commonwealth of Pennsylvania,  
the Commonwealth of Virginia, the State of West Virginia,  
and the United States Environmental Protection Agency

REGARDING

#### Cooperative Efforts for the Protection of the Chesapeake Bay and Its Rivers

WHEREAS, the Chesapeake Bay is a National Treasure for which we are responsible, due to our stewardship of the 64,000 square miles of land in its watershed, and the 111,000 miles of creeks, streams and rivers which run through our jurisdictions and ultimately into its waters; and,

WHEREAS, over the years the Chesapeake Bay's remarkable ecosystem has been impaired by the excess of nutrients and sediments flowing into it through its tributaries; and,

WHEREAS, the Chesapeake Bay Program, an internationally-recognized intergovernmental effort has made measurable strides toward the restoration of the Bay and its living resources; and

WHEREAS, that effort has been notable for its reliance on cooperative and consensus-based approaches for its greatest successes; and

WHEREAS, despite efforts to date, the tidal rivers and the Bay remain on the Clean Water Act list of impaired waters thereby requiring establishment of a total maximum daily load by May 2011 unless those waters meet applicable water quality standards by 2010; and

WHEREAS, we have developed a process, based on advanced science and data acquisition, which integrates the cooperative and statutory water quality programs applicable to the Chesapeake Bay and its tidal tributaries, and enhances through watershed-wide partnership the ability to restore the Bay's living resources and meet the necessary water quality standards;

NOW, THEREFORE, we, the undersigned executives representing the District, state and Federal entities with responsibility for the quality of the waters flowing into the Chesapeake Bay agree that we will:

- Work cooperatively to achieve the nutrient and sediment reduction targets that we agree are necessary to achieve the goals of a clean Chesapeake Bay by 2010, thereby allowing the Chesapeake and its tidal tributaries to be removed from the list of impaired waters.
- Provide for an inclusive, open and comprehensive public participation process.
- Collaborate on the development and use of innovative measures such as effluent trading, cooperative implementation mechanisms, and expanded interstate agreements to achieve the necessary reductions.

→

This information is  
Tab #8 in your binder.



## Planning Department

---

**From:** Fred Blackmer <fred@fredblackmer.com>  
**Sent:** Tuesday, February 26, 2013 4:19 PM  
**To:** Planning Department  
**Cc:** Peter Corum  
**Subject:** agenda request

To whom:

I would like to request being placed on the PC meeting agenda for March 12 on behalf of Morgan's Grove Market. The purpose of the appointment is to discuss and update the Planning Commission on the status of the grading permit, Site Plan and Morgan's Grove Farm Market processes.

I believe the presentation will be informative as to our current situation and the county approval process.

Thank You,

Fred Blackmer  
304.536.3743



This information is  
Tab #9 in your binder.





# JEFFERSON COUNTY, West Virginia

## Departments of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor  
Charles Town, WV 25414

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

---

### MEMORANDUM

**TO:** Planning Commission  
**FROM:** Jennifer M. Brockman  
Director, Planning and Zoning  
**DATE:** March 12, 2013  
**RE:** Envision Jefferson 2035 (2014 Comprehensive Plan) Update

\*\*\*\*\*

#### 1) Steering Committee (15 members):

- a) Monthly meeting -- 2/19/13
- b) Joint Meeting with County Commission – 2/21/13
- c) Next Meeting -- 3/19/13

#### 2) Upcoming Brown Bag Lunch and Learns Scheduled:

Wednesdays, 12 – 1 pm, Old Charles Town Library Community Meeting Room:

- a) 3/6/13 Public Safety – postponed due to weather
- b) 3/13/13 Federal Installations (Harpers Ferry NPS, Customs and Border Protection, State Department, NCTC, USDA, USGS)
- c) 3/20/13 Social Service Agencies (Jefferson County Office on Aging, Jefferson Center, United Way, Community Ministries)
- d) 3/27/13 Municipal Planners Roundtable (Charles Town, Shepherdstown, Ranson, Harpers Ferry, Bolivar)
- e) 4/3/13 *Tentatively rescheduled* -- Public Safety (Sheriff, JCESA, Jefferson County Homeland Security and Emergency Management, representative from the one of the volunteer fire companies )

#### 3) Public Input Meetings

- a) First series of public meetings (February 2, 4, and 6 2013)
- b) Agricultural Workshop (March 4, 2013)

#### 4) Next Steps

- a) Draft Goals and Objectives



This information is  
Tab #12 in your  
binder.





# JEFFERSON COUNTY, West Virginia

## Departments of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor  
Charles Town, WV 25414

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

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## Director's Report March 12, 2013 Planning Commission Meeting

- 1) **Activity Report** (attached)
- 2) **Reminder: Ethics Training and Roberts Rules of Order** – for all Boards and Commissions  
Please save the date: April 11, 2013 7:00 PM, Old Charles Town Library basement  
RSVP to Hunter house by March 15, 2013
- 3) **Recent CC Meetings relevant to Planning:**
  - a) Joint Meeting with Envision Jefferson 2035 Steering Committee (2/21/13)
  - b) Landowner-initiated petition to amend the County Zoning Map for a 3.94 acre property owned by the **Aitcheson Family Trust**, designated as Tax District: Harpers Ferry, Map: 7, Parcel: 18, located on the south side of US Route 340 on Campground Road approximately a half mile east of its intersection with Old Taylor Lane (Public Hearing 1/31/13; approved 3/7/13)
- 4) **Upcoming CC Actions**
  - a) None Scheduled
- 5) **Upcoming PC meetings**
  - a) March 26, 2013 (special meeting needs to be called for Stormwater Regulation Workshop)
  - b) April 9, 2013
  - c) Late April (date to be set) – Planning Commissioner Training, including new members, focused on the Comprehensive Plan



February 12, 2013

Dear Authority, Board, Commission, Committee, Council Member, Department Head, Elected Official or Mayor:

The Jefferson County Commission recognizes the importance of knowing Ethics and Robert's Rules of Order in regards to public/open meetings and general knowledge of such rules. With that thought in mind, the County Commission would like to extend an invitation to you to share in a work session on Ethics and Robert's Rules of Order to be held on Thursday, April 11<sup>th</sup>, 2013 beginning at 7:00 p.m.

The session will be held at the County Commission meeting room located in the lower level of the Old Charles Town Library on the corner of East Washington and N. Samuel Street, Charles Town, WV 25414. The teachers will be Theresa Kirk, Executive Director of the West Virginia Ethics Commission and John Sorrenti from the West Virginia State Auditor's Office.

We ask that you please RSVP no later than March 15, 2013 in order to assure that we have the proper seating and handouts. If you have any questions, please feel free to call our office Monday – Friday between the hours of 9 -5 p.m. at 304-728-3284.

Respectfully Submitted,

Nichelle Adams Hosby  
Executive Assistant, Jefferson County Commission

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## RSVP

I \_\_\_\_\_, member of the \_\_\_\_\_

Will

Will Not

Attend the above referenced work session on April 11, 2013 at 7:00 p.m.

## Jennilee Hartman

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**To:** PLANNING COMMISSION  
**Subject:** RE: WEEKLY CALENDAR / 2.11.13- 2.15.13

### MONDAY, FEBRUARY 11, 2013

9:00 am – 9:30 am JENNIE – MEETING WITH WALT PELLISH  
11:00 am – 12:00 pm STAFF MEETING  
1:00 pm – 2:30 pm JENNIE & STEVE – WEEKLY ZONING MEETING  
2:30 pm – 3:30 pm JENNIE & SETH – WEEKLY PLANNING MEETING  
4:00 pm – 5:00 pm JENNIE, STEVE, SETH & CHRIS – WEEKLY UPDATE MEETING  
RE: 2014 COMPREHENSIVE PLAN

### TUESDAY, FEBRUARY 12, 2013

10:00 am – 12:00 pm JENNIE, STEVE, SETH & CHRIS – PREP FOR STEERING COMMITTEE AND  
JOINT COUNTY COMMISSION MEETING  
1:00 pm STEVE & JENNILEE – SITE VISITS/PLACARD CHECKS – BZA AGENDA ITEMS  
7:00 pm JENNIE, STEVE, SETH & JENNILEE - PLANNING COMMISSION MEETING

### WEDNESDAY, FEBRUARY 13, 2013

10:00 am – 11:00 am STEVE, SETH & JONATHAN – MSD PPC WITH PETE KUBIC  
RE: BURR INDUSTRIAL PARK  
11:30 am – 1:30 pm JENNIE, STEVE, SETH & CHRIS – LUNCH & LEARN MEETING #6  
SUBJECT: WATER AND SEWER UTILITIES / PRESENTED BY:  
CHARLES TOWN, JUI, JEFFERSON COUNTY PSD, HARPERS FERRY,  
HARPERS FERRY/BOLIVAR PSD, SHEPHERDSTOWN WATER AND WASTEWATER,  
JEFFERSON COUNTY HEALTH DEPARTMENT, OTHERS  
2:30 pm – 3:30 pm FREE TRAINING SESSION (eCIVICS GRANTS NETWORK) AT LIBRARY CONF ROOM

### THURSDAY, FEBRUARY 14, 2013

9:30 am JENNIE - COUNTY COMMISSION BUDGET MEETING

### FRIDAY, FEBRUARY 15, 2013

### BOARD OF ZONING APPEALS PACKET DAY

9:00 am – 11:00 am JENNIE – WEST VIRGINIA TRIB TEAM MEETING  
11:00 am – 1:00 pm CHRIS – PREPARATION OF STEERING COMMITTEE PACKET

**Jennilee Hartman**

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**To:** PLANNING COMMISSION  
**Subject:** RE: WEEKLY CALENDAR / 2.18.13- 2.22.13

**MONDAY, FEBRUARY 18, 2013**      **PRESIDENT'S DAY – OFFICE CLOSED**

**TUESDAY, FEBRUARY 19, 2013**

11:00 am – 12:00 pm                      STEVE & SETH – MONTHLY JOINT MTG W/ ENGINEERING DEPT  
7:00 pm – 9:00 pm                      STEVE, SETH & CHRIS – STEERING COMMITTEE MEETING

**WEDNESDAY, FEBRUARY 20, 2013**

11:00 am – 12:00 pm                      STEVE, SETH & JONATHAN – SITE PLAN PPC WITH RENEE MOORE  
RE: COUNTRY STORE & DELI  
11:30 am – 1:30 pm                      JENNIE – CVB BOARD MEETING  
11:30 am – 1:30 pm                      JENNIE, STEVE, SETH & CHRIS – LUNCH & LEARN MEETING #7  
SUBJECT: TRANSPORTATION PRESENTED BY:  
WEST VIRGINIA DEPARTMENT OF HIGHWAYS, HEPMPO, AND PAN TRAN  
2:15 pm – 3:15 pm                      JENNIE – PRESENT BUDGET TO COUNTY COMMISSION  
3:00 pm                                      STEVE, SETH & JONATHAN - SITE PLAN PPC WITH JENNIFER MYERS  
RE: PARKS & REC PAVILION PROJECT

**THURSDAY, FEBRUARY 21, 2013**

9:30 am – 12:00 pm                      JENNIE - COUNTY COMMISSION MEETING  
1:00 pm – 2:00 pm                      JENNIE, STEVE, SETH & CHRIS – WEEKLY UPDATE MEETING  
RE: 2014 COMPREHENSIVE PLAN  
3:00 pm                                      JENNIE, STEVE & JENNILEE – BOARD OF ZONING APPEALS MEETING  
7:00 pm                                      JENNIE, STEVE, SETH & CHRIS – JOINT MEETING /  
RE: COUNTY COMMISSION AND STEERING COMMITTEE

**FRIDAY, FEBRUARY 22, 2013**

## Jennilee Hartman

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**To:** PLANNING COMMISSION  
**Subject:** RE: WEEKLY CALENDAR / 2.25.13- 3.01.13

### MONDAY, FEBRUARY 25, 2013

10:45 am – 11:45 am STAFF MEETING  
12:30 am – 1:30 pm JENNIE, STEVE, SETH & CHRIS – WEEKLY UPDATE MEETING  
RE: 2014 COMPREHENSIVE PLAN  
1:30 pm – 3:00 pm JENNIE & STEVE – WEEKLY ZONING MEETING  
3:00 pm – 4:00 pm JENNIE & SETH – WEEKLY PLANNING MEETING  
3:00 pm STEVE & JENNILEE – MONTHLY BZA APPLICATION REVIEW MTG

### TUESDAY, FEBRUARY 26, 2013

10:00 am – 1:00 pm JENNIE, STEVE, SETH & CHRIS – PREPARATION FOR MARCH 4<sup>th</sup> MEETING  
RE: AGRICULTURAL COMMUNITY AND ECONOMY WORKSHOP  
2:00 pm – 3:00 pm JENNIE, STEVE, SETH & CHRIS – CONFERENCE CALL WITH JUDY RODGERS

### WEDNESDAY, FEBRUARY 27, 2013

9:00 am – 1:00 pm JENNIE – PAN TRAN CHARETTE  
10:00 am – 11:00 am STEVE, SETH & JONATHAN – SITE PLAN PPC WITH MUHAMMED GHUMAN  
RE: FORMER SHEETZ STORE IN KEARNEYSVILLE  
11:00 am – 12:00 pm STEVE, SETH & JONATHAN – SITE PLAN PPC WITH DAN TOKAR  
RE: BLACKSMITH SHOP  
11:30 am – 1:30 pm STEVE, SETH & CHRIS – LUNCH & LEARN MEETING #8  
SUBJECT: HOUSING. PRESENTED BY: EPOHOA,  
PARTNERSHIP FOR AFFORDABLE HOUSING, EASTERN PANHANDLE  
BOARD OF REALTORS; EASTERN PANHANDLE HOMEBUILDERS ASSOC.  
3:00 pm JENNIE – TELEPHONE CONFERENCE W/WILLIS NOEL / EXISTING LAND USE

### THURSDAY, FEBRUARY 28, 2013

11:30 am – 1:30 pm JENNIE – SPEAKER / CHAMBER OF COMMERCE MEETING  
LOCATION: PADDY'S IRISH PUB & RESTAURANT  
1:30 pm CHRIS – MEETING WITH PAM PARZIALE  
2:00 pm SETH – MEETING WITH ROGER, KRISTIN RINGSTAFF (WHGA) AND  
CLARENCE HAYMAKER, REALTOR / RE: LONGFIELD FARM S/D #05-10  
3:00 pm – 4:00 pm JENNIE & CHRIS – "GOALS" MEETING  
5:00 pm - 7:00 pm JENNIE – MEET & CONVERSE W/ COUNTY COMMISSION MEMBERS  
LOCATION: BLACK DOG COFFEE COMPANY  
6:00 pm – 7:00 pm JENNIE – PARKS & RECREATION FACILITY COMMITTEE MEETING

### FRIDAY, MARCH 01, 2013

10:00 am – 1:00 pm JENNIE – WATERSHED ASSOCIATION CONFERENCE /  
LOCATION: MORGAN COUNTY BOARD OF EDUCATION HEADQUARTERS  
247 HARRISON AVENUE; BERKELEY COUNTY, WEST VIRGINIA  
10:00 am – 12:00 pm JENNIE, STEVE & JENNILEE – COMPATIBILITY ASSESSMENT MEETING  
RE: ERIK JONES – CATERING BUSINESS (COTTAGE INDUSTRY)  
12:30 pm – 3:00 pm JENNIE – BOARD OF HEALTH MEETING  
4:00 pm STEVE, SETH & CHRISTOPHER – TELEPHONE CONFERENCE WITH JUDY RODGERS

**Jennilee Hartman**

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**To:** PLANNING COMMISSION  
**Subject:** RE: WEEKLY CALENDAR / 3.04.13- 3.08.13

**MONDAY, MARCH 04, 2013**

10:00 am – 11:00 am STAFF MEETING  
11:00 am – 12:00 pm JENNIE, STEVE, SETH & CHRIS – WEEKLY UPDATE MEETING  
RE: 2014 COMPREHENSIVE PLAN  
1:00 pm – 2:00 pm JENNIE, STEVE, SETH & CHRIS – TELEPHONE CONF W/ JUDY RODGERS  
2:00 pm – 3:00 pm JENNIE & SETH – WEEKLY PLANNING MEETING  
3:00 pm – 4:30 pm JENNIE & STEVE – WEEKLY ZONING MEETING  
5:00 pm – 9:30 pm JENNIE, STEVE, SETH & CHRIS – AG WORKSHOP  
LOCATION: JEFFERSON HS CAFETERIA

**TUESDAY, MARCH 05, 2013**

12:00 pm – 2:00 pm JENNIE, STEVE & SETH – PZ&E JOINT LUNCH MEETING  
LOCATION: P&Z CONFERENCE ROOM  
2:00 pm – 4:00 pm STEVE & SETH – (UNDISTURBED) WKLY MSD / IRF REVIEW SESSION

**WEDNESDAY, MARCH 06, 2013** **COUNTY OFFICES CLOSED – INCLEMENT WEATHER**

**THURSDAY, MARCH 07, 2013**

9:30 am – NOON JENNIE – COUNTY COMMISSION MEETING

**FRIDAY, MARCH 08, 2013** **PLANNING COMMISSION PACKET DAY**