



## Agenda

Jefferson County Planning Commission

Tuesday, February 14, 2023 at 7:00 PM

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**By order of the President of the Jefferson County Planning Commission,  
Public Participation is available in-person only.  
The meeting will be broadcast live via ZOOM for viewing purposes only.**

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

**ZOOM Broadcast Information\*:** Meeting ID: 843 7239 5315  
Meeting Link: <https://us02web.zoom.us/j/84372395315>

*\*If watching live broadcast, please ensure your microphone is muted and be mindful that your video is streaming to others.*

- 1. Approval of Meeting Minutes:** January 10, 2023
- 2. Request for postponement.**
- 3. Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction (see note on Final Plat recorded in PB 8 / PG 6C) to allow for the construction of a two family dwelling (attached garage with apartment) for a family member. Property Owner: Abby and David Hyams; Property Location: Deer Mountain Subdivision, Lot #27, vacant parcel on Deer Mountain Drive, Harpers Ferry, WV; Parcel ID: 04003E00270000; Size: 1.15 acres; Zoning District: Rural; (File: 23-1-FPA).
- 4. Public Hearing:** Request for a waiver from Section 20.201A.2 to reduce the width of the required access easement from 50' to 30'; and, to allow for the creation of two additional lots on Lanthem Drive & Ashland Woods to process as a minor subdivision. Property Owner: Paul and Donna Ashbaugh; Property Location: Vacant lot on the SE corner of Lathem Drive & Ashland Woods, Harpers Ferry, WV; Parcel ID: 02002100370000; Size: 65.4 acres; Zoning District: Rural (File: 23-1-PCW).
- 5. Public Hearing:** Request for a waiver from Section 20.102B to allow site grading to commence prior to site plan approval for the proposed Sheetz Convenience Store and Gas Station (File: 21-4-SP). Property Owner: Sheetz, Inc, c/o Bob Franks. Property Location: Chicchirichi Minor Subdivision, Lot 1 - Vacant parcel northeast of US 340 and Augustine Avenue intersection, Charles Town, WV. Parcel ID: 02001600010000; Size: ~3 acres; Zoning District: Highway Commercial (File: 23-2-PCW).
- 6. Postponed until March 14, 2023.** Public Hearing: Request for a waiver from Section 20.201A.2 to reduce the width of the required access easement from 50' to 20' for a three lot minor subdivision. Property Owner: Susan Reichel Et Al. Property Location: 2195 Engle Molers Rd, Harpers Ferry, WV. Parcel ID: 04000100060005; Size: 10 acres; Zoning District: Rural (File: 23-3-PCW).

- 7. Public Hearing:** Request by Harpers Ferry Dollar General (File: 22-14-SP) for the following waivers:
- A waiver from Section 20.204 to allow a proposed 10,542 sf retail store and associated parking lot to utilize the Minor Site Plan process as opposed to the Major Site Plan process (23-4-PCW).
  - A waiver from Section 20.102B to allow site grading to commence prior to site plan approval of the proposed 10,542 sf retail store (23-5-PCW).

Property Owner: Wall Street Partners WV1, LLC. Property Location: Vacant Lot on the corner of Amanda Ct & Shepherdstown Pike, Harpers Ferry, WV. Parcel ID: 04001000110005; Size: 2.19 acres; Zoning District: Residential-Light Industrial-Commercial.

- 8. Public Hearing:** Request for a waiver from Section 20.203B.2, which requires a Limited Site Plan when the footprint of an addition or a new structure is greater than 1,200 square feet and less than 3,000 square feet, and the disturbed area is greater than 5,000 square feet. The applicant is requesting to waive the requirement of a Site Plan to allow for the construction of a 2,420 square foot addition to be located over the existing parking lot. Property Owner: SUSO 2 Alabama LP. Property Location: 96 Patrick Henry Way, Charles Town WV; Parcel ID: 02000800290002; Size: ~21 acres; Zoning District: Residential-Light Industrial-Commercial (File: 23-6-PCW).

There is no public comment for the following items.

- 9. Discussion and Action:** In accordance with Section 23.202B.4 of the Subdivision Regulation, the applicant is requesting that the Planning Commission deem the Stonecrest Preliminary Plat Application as Complete (per Sections 24.113 and 24.114) for the purpose of scheduling a Public Hearing. The applicant is also requesting that the Planning Commission call a meeting for March 28, 2023 under the 4<sup>th</sup> Tuesday Meeting Policy. Applicant: Integrity Federal Services (IFS). Property Owner: Flowing Springs Road LLC. Property Location: Parcel ID: 02000300090000; Size: 102 acres; Zone: Residential Growth. File: 22-11-SD.

- 10. Discussion and Possible Action:** Proposed Planning Commission Policy RE: Clarification of Vested Property Rights for Concept Plans and Preliminary Plats for Phased Projects

#### **11. Reports from Legal Counsel**

- Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.
- Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2022-C-85.

#### **12. Planner's Memo**

#### **13. President's Report**

#### **14. Actionable Correspondence**

#### **15. Non-Actionable Correspondence**

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Meeting Minutes  
Jefferson County Planning Commission  
January 10, 2023

The Jefferson County Planning Commission met on January 10, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Matt Knott, Vice President; Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; Donnie Fisher, Jack Hefestay, and Ron Thomas were present in person. J. Ware and Shane Roper were present via ZOOM.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; Alexandra Beaulieu, Deputy Director and Zoning Administrator; and Nathan Cochran, Prosecuting Attorney.

Pursuant to Planning Commission action on October 11, 2022, public participation via ZOOM is no longer permitted. The Planning Commission meeting was broadcast via ZOOM.

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

**1. Election of Planning Commission Officers.**

Mr. Hefestay nominated Mr. Shepp for President; Mr. Fisher seconded the motion. No other nominations were submitted. Mr. Stolipher motioned to close nominations for this office. Mr. Louthan seconded the motion, which carried unanimously. Mr. Shepp was elected president by unanimous consensus.

Mr. Shepp nominated Mr. Knott for Vice President; Mr. Hefestay seconded the motion. No other nominations were submitted. Mr. Shepp made a motion to close nominations for Vice President. Mr. Stolipher seconded the motion, which carried unanimously. Mr. Knott was elected president by unanimous consensus.

Mr. Stolipher nominated Mr. Louthan for Secretary; Mr. Shepp seconded the motion. No other nominations were submitted. Mr. Stolipher motioned to close nominations for Secretary. Mr. Knott seconded the motion, which carried unanimously. Mr. Louthan was elected Secretary by unanimous consensus.

**2. Approval of Meeting Minutes: December 13, 2022**

Mr. Shepp stated that the minutes stand approved without objection.

**3. Request for postponement. None**

**4. POSTPONED from 12/13/22 Meeting Public Workshop: Reconsidering of the Concept Plan for the Berryville Pike Telecommunications Tower consisting of a 179' Monopole Telecommunications Tower. *Note that this is the remand of the Berryville Pike Telecommunications Tower Concept Plan with discussion limited to "demonstration of need" under Jefferson County Circuit Court Civil Action No. 2022-C-85.* Applicant: New Cingular Wireless PCS, LLC d/b/a AT&T Mobility LLC; Property Owner: 340 Rainbow LLC; Property Location: 3511 Berryville Pike, Charles Town, WV; Parcel ID: 06001100010002; Size: 9.31 acres; Zoning District: Industrial-Commercial; File #21-8-SP.**

Mr. Shepp reiterated that discussion for the subject request would be limited to the demonstration of need requirement. Mr. Shepp made a motion at 7:05 p.m. to go into executive

session to receive legal advice regarding the Circuit Court Civil Action No. 2022-C-85. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Knott made a motion at 7:25 p.m. to resume regular session. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Shepp stated that for the purpose of this public workshop, the applicant and opponent would each have fifteen minutes to make their presentation.

Mr. Doug Sampson, Mr. Gaurav Behl, Mr. Robert Grant, and Ms. Samantha Twinam, applicants, were all present on behalf of applicant AT&T. Mr. Sampson provided an overview of the request, noting that the primary purpose of the hearing was to address the demonstration of need for the proposed tower. Mr. Sampson referred to the propagation maps that were submitted with their original submission on June 14, 2022 and the supplemental materials submitted for the subject meeting which included additional propagation maps. Mr. Sampson noted that the proposed tower will be a First Net Site. Mr. Sampson provided an overview of the coverage that would be provided with the new tower.

Mr. Ed Donahue and Mr. Chris Stroech were both present to speak on behalf of SBA Infrastructure, LLC. Mr. Donahue stated that AT&T failed to meet the demonstration of need and noted that SBA had previously proffered and was still agreeable to allowing AT&T to install First Net technology on their tower. Mr. Donahue recommended that the Planning Commission retain a private consultant to evaluate the demonstration of need for the proposed tower.

Mr. Sampson provided a rebuttal and stated that there were certain business aspects that are not relevant to demonstration of need. Mr. Sampson stated that based on AT&T's evaluation of the SBA tower, the First Net technology could not be installed on the SBA Tower without a height increase. Mr. Behl spoke on behalf of AT&T and reviewed the propagation maps provided in the agenda packet. Mr. Behl noted that AT&T is licensed on multiple bandwidths and the propagation maps demonstrate a need to expand coverage along US 340.

Mr. Shepp closed the public workshop.

Mr. Knott made a motion to approve the request for the proposed tower and noted that after reviewing the evidence presented, the applicant met the burden of proof and have shown the demonstration the need as required by the Jefferson County Zoning Ordinance.

Mr. Stolipher seconded the motion. Mr. Fisher confirmed that the motion was to approve the Concept Plan for the proposed tower. Mr. Shepp affirmed that the motion pertained to the Concept Plan. The motion carried unanimously.

## **5. Reports from Legal Counsel**

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.

- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2022-C-85.

Mr. Cochran did not have any legal update for Items 5.a through 5.d.

6. **Discussion and Approval:** Planning and Zoning 2<sup>nd</sup> Quarterly Report for FY 2022-2023 for the County Commission.

Mr. Stolipher made a motion to forward the 2<sup>nd</sup> Quarterly Report to the County Commission as presented; Mr. Louthan seconded the motion, which carried unanimously.

7. **Discussion and Action:** Planning Commission recommendation to the County Commission regarding the proposed budget for FY2023-2024.

Mr. Shepp stated that the budget committee had met and reviewed the budget and recommended approval of the proposed budget. Mr. Shepp noted that it is a working document that may be revised during the budget review sessions with the County Commission.

Mr. Shepp made a motion to approve the budget as presented. Mr. Hefestay seconded the motion, which carried unanimously.

8. **Planner's Memo.**

Ms. Brockman noted that there was an error in the November 15, 2022 meeting minutes that Staff corrected.

Ms. Brockman provided an update to the Planning Commission regarding the WV APA Chapter's proposed changes to WV Code 8A. Mr. Shepp requested that she forward the proposed changes to the Planning Commission for their review.

9. **President's Report.** None.

10. **Actionable Correspondence.** None.

11. **Non-Actionable Correspondence.** None.

Mr. Fisher made a motion to adjourn the regular session at 7:50 pm. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Stolipher motioned to open the 2045 Comprehensive Plan Update Work Session at 7:56 pm. Mr. Knot seconded the motion, which carried unanimously.

See attached work session summary notes prepared by Mr. Luke Seigfried.

Mr. Fisher made a motion to adjourn the Comprehensive Plan work session at 9:56 p.m. Mr. Hefestay seconded the motion, which carried unanimously.

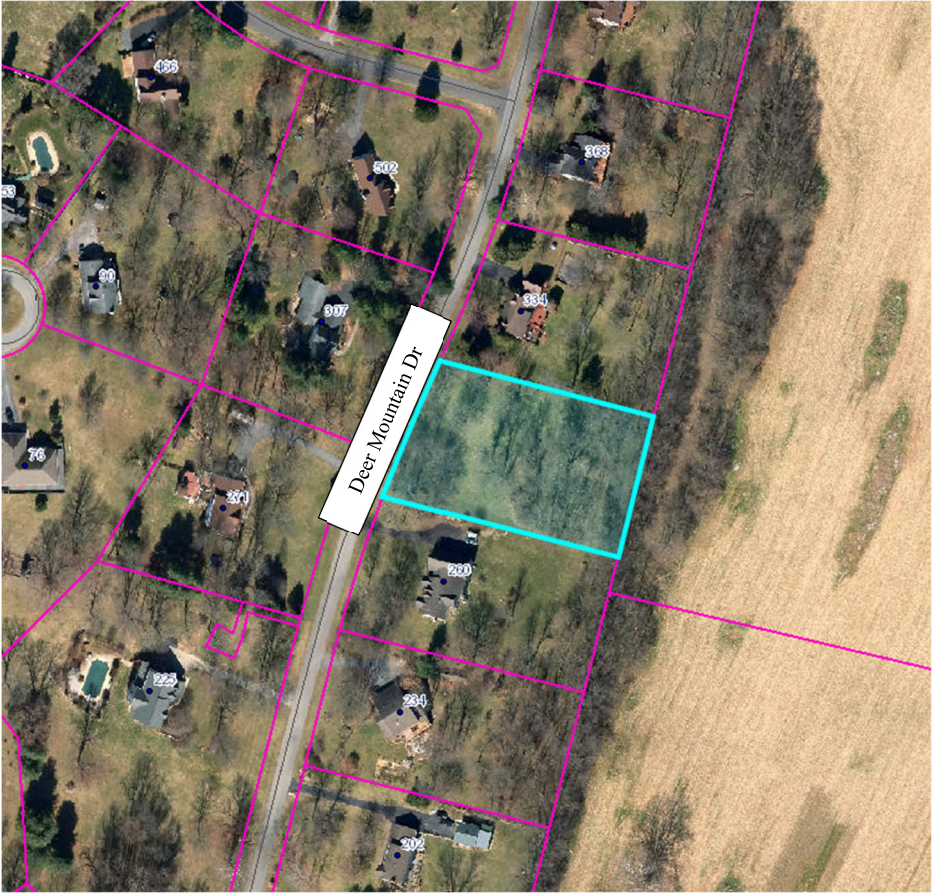
These minutes were prepared by Alexandra Beaulieu.



Staff Report  
 Jefferson County Planning Commission Meeting  
 February 14, 2023

**Abby Hyams Final Plat Amendment (File #23-1-FPA)**

**Item #3: Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction (Final Plat Note recorded in PB 8 / PG 6C) to allow for the construction of a two family dwelling (attached garage with apartment) for use by a family member (File: 23-1-FPA).

Applicant/Developer	Abby Hyams
Property Location and Legal Information	<p style="text-align: center;">Lot #27 Deer Mountain          Vacant Parcel, Harpers Ferry, WV 25425.          Parcel ID: 04003E00270000; Size: 1.15 ac; Zoning District: Rural</p> 
Surrounding Zoning	<p style="text-align: center;">North: Rural          South: Rural          East: Rural          West: Rural</p>
Approved Activity	Single Family Residence
Approvals	Deer Mountain Subdivision (PC File #88-34), recorded 02/03/89; PB8/PG6

Staff Report  
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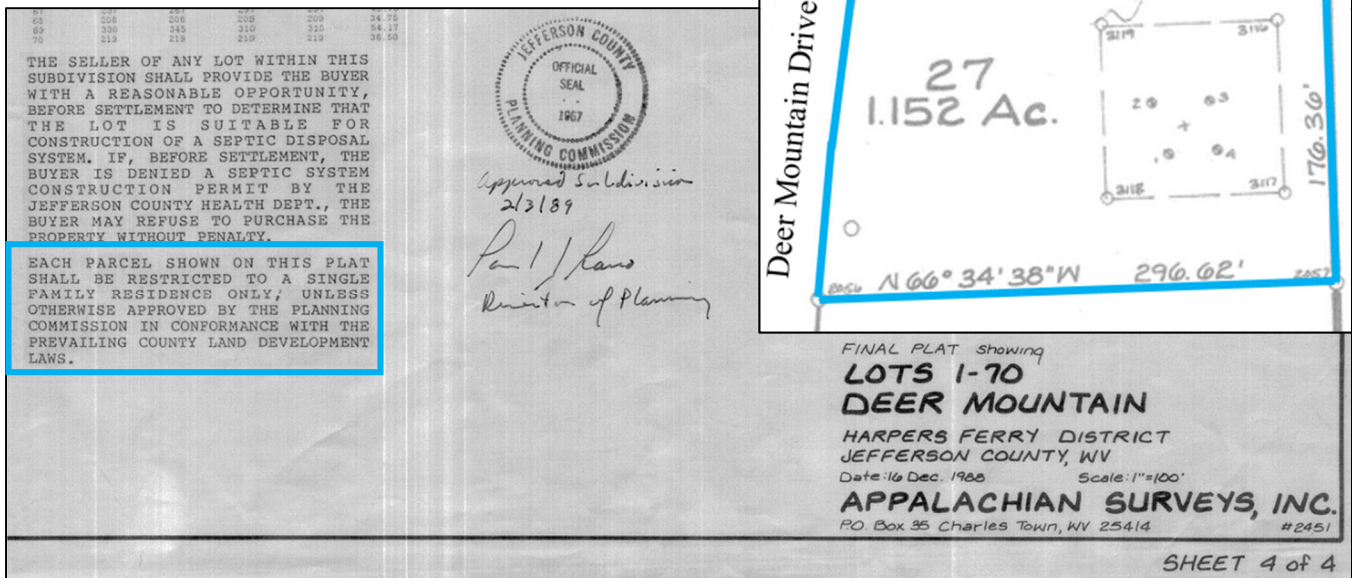
**Abby Hyams Final Plat Amendment (File #23-1-FPA)**

**Overview of Request**

The subject parcel is designated as Lot 27 in the Deer Mountain Subdivision, which was recorded on February 3, 1989 in Plat Book 8 @ Page 6. This subdivision is in the Rural Zoning District, located in Bakerton off of Best Road. At the time the plat was approved, the Subdivision Ordinance required all subdivisions to include a note that restricted each lot to a single-family residence only. This note is no longer required for subdivisions. This note found on Sheet 4 of 4 (Plat Book 8/Page 6C) is the subject of this Final Plat Amendment request. Note that as this lot is not labeled as the “residue”, it cannot be further subdivided except as a Family Transfer.

The applicant would like to lift the single-family residence restriction note to allow for the construction of an attached garage with an apartment on top for use by a family member. Lifting the single family restriction would allow for construction of a two-family dwelling, which is a permitted use in the Rural Zoning District pursuant to Appendix C of the current Zoning Ordinance.

If the Planning Commission approves this Final Plat Amendment to lift the single-family restriction for Lot 27 in the Deer Mountain Subdivision, the applicant will be permitted to apply for a building permit to construct a two-family dwelling.



**Plat Amendment Requirements**

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

1. All of the property that is affected by the amendment is under the ownership of the applicant;
2. The amendment will not affect the ownership or right of convenient access of persons owning other parts of the subdivision; and

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**Abby Hyams Final Plat Amendment (File #23-1-FPA)**

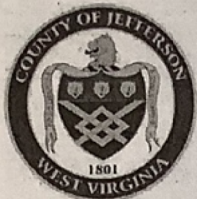
3. The amendment complies with all of the standards of these Regulations, including verification of compliance with the Zoning Ordinance.

Because all plats were approved by action of the Planning Commission under the 1979 Subdivision Ordinance, this amendment was required to be placed on the Planning Commission agenda for a Public Hearing and Planning Commission action. The required 30-day public notice has been advertised in the January 11, 2023 edition of the Spirit of Jefferson newspaper for the February 14, 2023 Planning Commission meeting.

**Recommendation**

Staff recommends approving the requested Final Plat Amendment to lift the single-family restriction for the sole purpose of constructing an attached garage with an apartment for use by a family member on Lot 27 in the Deer Mountain Subdivision. If approved, the applicant will need to apply for a Building Permit to construct a two-family dwelling.





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

File #: 23-1-FPA  
 Date Rec'd: 01-03-2023  
 Mtg Date: 02-14-2023

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

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

**Final Plat Amendment Application**

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

**Property Owner Information**

Owner Name: David and Abby Hyams (as of January 3, 2023)  
 Business Name: \_\_\_\_\_  
 Mailing Address: 1405 S. Fern St. #94386 Arlington, VA 22202  
 Phone Number: 303-726-7995 Email: abby B Hyams @gmail.com

**Applicant Information**

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

**Consultant Information**

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

**Physical Property Details**

Physical Address: Deer Mountain Dr. Lot 27  
 Parcel ID: 04 003 E 0027 Parcel Size: 1.15  
 Zoning District: ~~DA~~ Rural Deed Book: \_\_\_\_\_ Page No: \_\_\_\_\_

**Plat Information**

Plat Title: Deer Mountain Subdivision Note No: \_\_\_\_\_  
 Recordation Date: February 3, 1989 Plat Book: 8 Page No: 6(C)

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

Lot 27 is currently an empty lot where we desire to build a single-family home with an attached garage with a guest suite above. Therefore, we would like to go before the Planning Commission to request permission to lift the single family building setbacks, size, and height. Identify existing easements, roads, buildings/structures, or land uses on the property. Note: septic or well relocations require a survey plat and approval by the Health Department. Restriction for Lot 27.

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

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

[Signature] 1/3/22  
 Property Owner/Applicant Signature Date

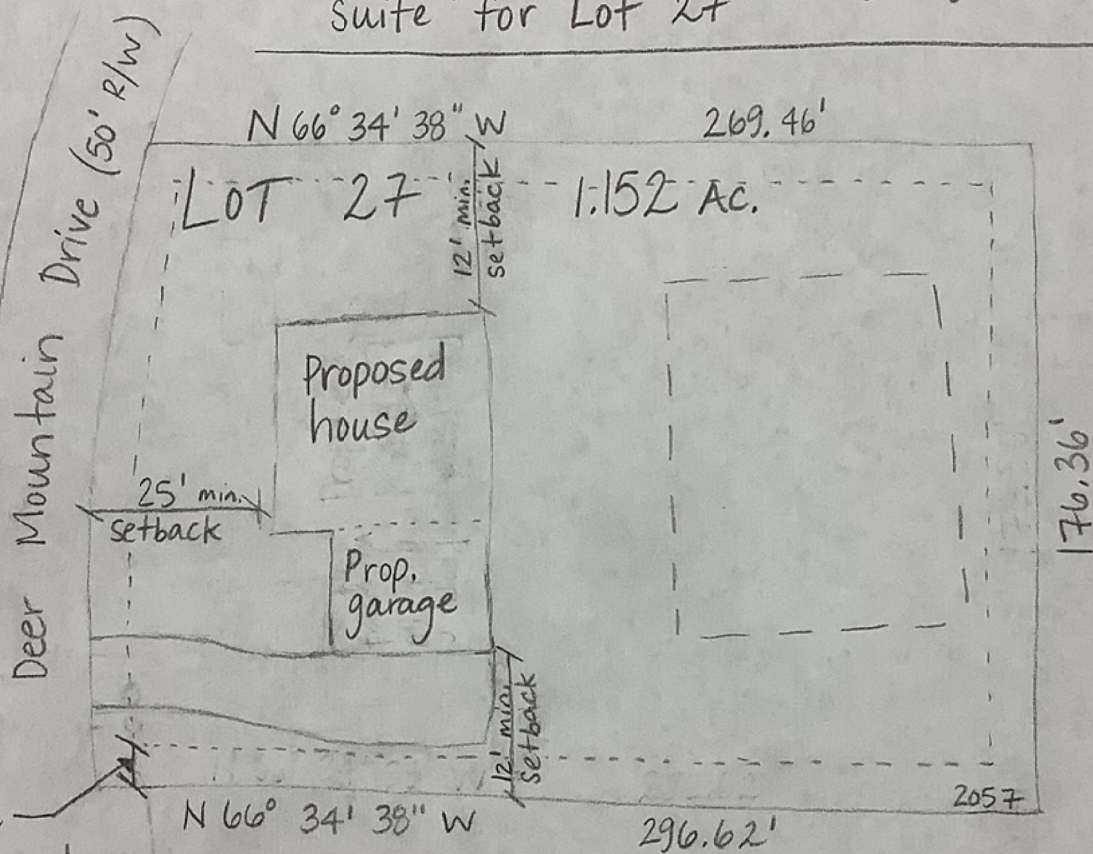
[Signature] 1/3/23  
 Property Owner/Applicant Signature Date  
 Abby B Hyams

# Deer Mountain Subdivision

## Lot 27

Applicants: David and Abby Hyams

Purpose: Final Plat Amendment to lift single family restriction for garage guest suite for Lot 27



10' drainage easement around the perimeter of lot

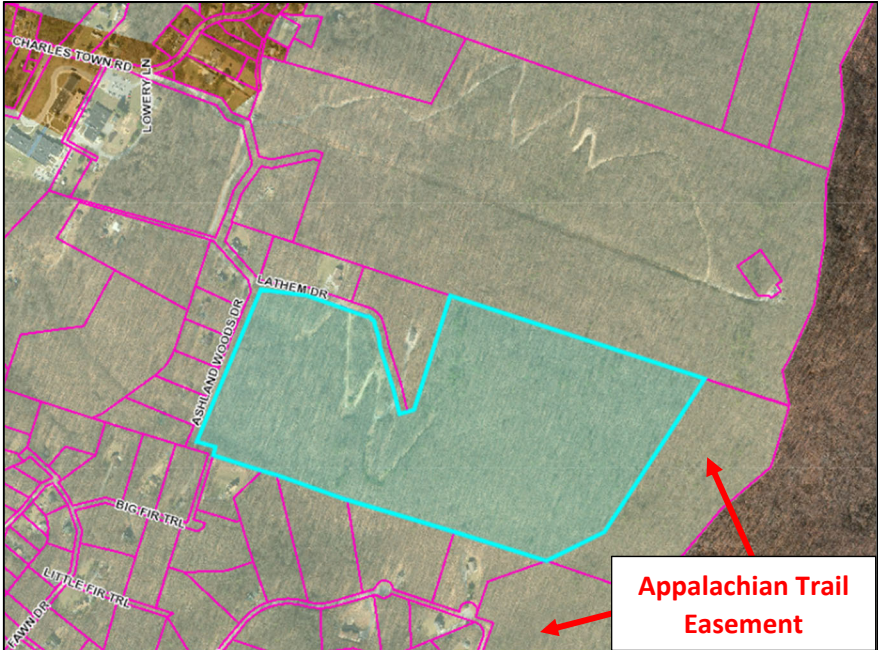
- > lot is devoid of structures, well, septic sewer
- > approx. size of entire house is 2500-3000 sq.ft.
- > approx. size of above garage guest suite is 800 sq.ft.
- > height: 2 story
- > front setback = 25'
- > side setbacks = 12'
- > 10' drainage easement around perimeter of lot
- > land use = single family residential

Not to Scale

Staff Report  
 Jefferson County Planning Commission Meeting  
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**Ashbaugh Waiver Request (File # 23-1-PCW)**

**Item # 4: Public Hearing:** Request for a waiver of Section 20.201A.2 to reduce the width of the required access easement from 50' to 30'; and, to allow for the creation of two additional lots on Lanthem Drive & Ashland Woods to process as a minor subdivision.

Owner	Paul and Donna Ashbaugh
Consultant	The Thrasher Group / Floyd Bargy
Property Location & Information	<p style="text-align: center;">Vacant lot on the southeast corner of          Lanthem Drive &amp; Ashland Woods, Harpers Ferry, WV          Parcel ID: 02002100370000; Size: 65.4 acres; Zoning District: Rural</p> 
Adjacent Zoning Districts	<i>North, South, East and West: Rural</i>
Proposed Activity	Creation of two additional lots
Previous Approvals	<p><b>1979:</b> Approximately 18 acres was divided and transferred to the USA via DB 461, PG 687.</p> <p><b>03/06/1990:</b> Lots 1 – 9 created via the family transfer process</p> <ol style="list-style-type: none"> <li>1. Lot 1: DB 651, PG 338 - Frances Ashbaugh to Fred Ashbaugh</li> <li>2. Lot 2: DB 651, PG 334 - Frances Ashbaugh to Robert Ashbaugh</li> <li>3. Lot 3: DB 651, PG 330 - Frances Ashbaugh to Margaret Massa</li> <li>4. Lot 4: DB 651, PG 326 - Frances Ashbaugh to Joe Ashbaugh</li> <li>5. Lot 5: DB 651, PG 322 - Frances Ashbaugh to Mary Tollison</li> <li>6. Lot 6: DB 651, PG 318 - Frances Ashbaugh to Ann Breeden</li> <li>7. Lot 7: DB 651, PG 314 - Frances Ashbaugh to John Ashbaugh</li> <li>8. Lot 8: DB 651, PG 310 - Frances Ashbaugh to Gerard Ashbaugh</li> <li>9. Lot 9: DB 651, PG 307 - Frances Ashbaugh to Paul Ashbaugh</li> </ol> <p><i>Note: on 04/09/1990 all 9 lots were transferred to Paul Ashbaugh. Lots 1-4 were sold prior to the 5-year restrictions expiring.</i></p>

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**Ashbaugh Waiver Request (File # 23-1-PCW)**

	<p><b>04/26/90:</b> According to a recorded survey plat the total acreage of the subject lot was 83.408, including the family transfer lots (PB 9/PG 21). <i>Note, subsequent mergers from the parent parcel to the family transfer lots modified the parent's acreage.</i></p> <p><b>04/27/90:</b> BLA plat adjustment FT lot lines and access via <a href="#">PB 9/PG 22</a>.</p> <p><b>02/06/01:</b> BLA plat was recorded in <a href="#">PB 18/PG 41B</a> showing the final acreage of the parent parcel as 65.326.</p>
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**Summary of the Request:**

The applicant is proposing to divide the subject parcel into two lots and a residue for a total of three lots as a Minor Subdivision. In order to proceed with the subdivision, the applicant is requesting a waiver from Section 20.201A.2, to waive the required 50' access easement to either a WV DOH road or a road in a major subdivision that meets county roadway design standards, and to allow the use of portion of Ashland Woods Drive, which is partially a 30' wide right-of-way and partially a 50' right-of-way.

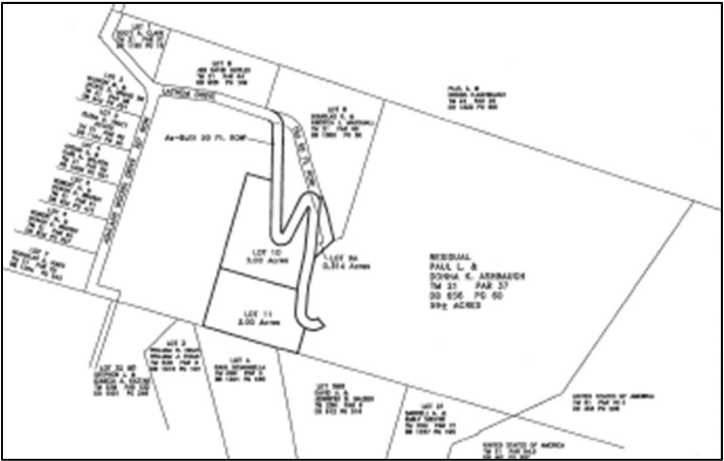
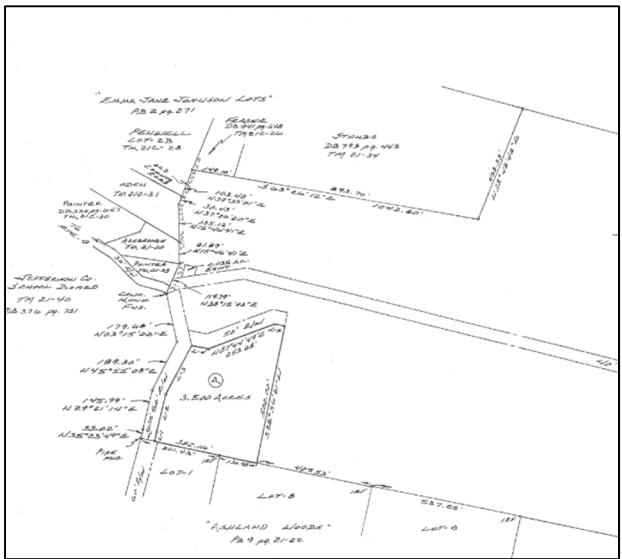
Additionally, the applicant is requesting a waiver to process this subdivision as a Minor Subdivision as the proposal results in more than five (5) lots on a 50' access easement/right-of-way.

**Relevant Site Information:**

In 1990, the subject parcel was subdivided to create nine (9) family transfer lots. Subsequently, a series of boundary lines adjustments were processed, resulting in the parcel's current configuration of approximately 65 acres. As family transfer lots are exempt from processing, the subject parcel has retained the right to further subdivide in accordance with Section 5.7D.3 of the Zoning Ordinance.

As noted in the excerpt below from PB21/PG69B (recorded in 2005), the portion of Ashland Woods Drive closest to WV 115 is within a 30' right-of-way. Within the Ashland Woods Subdivision, the right-of-way is 50'. There are currently 14 lots accessing Ashland Woods Drive and Lathem Drive.

Excerpt from PB21/69B

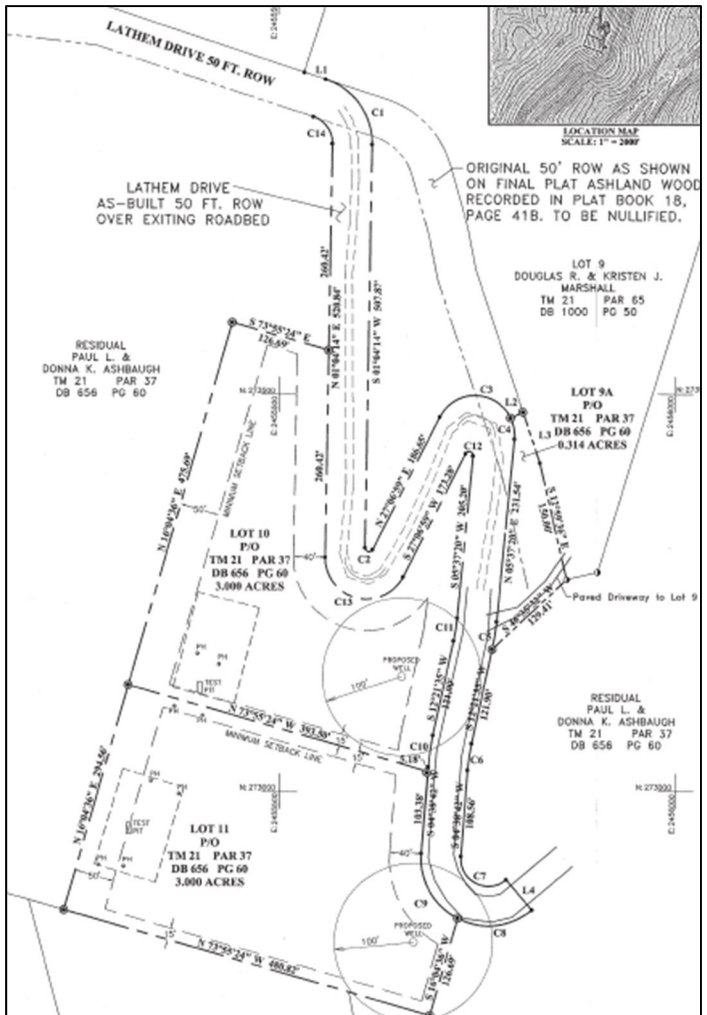


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**Ashbaugh Waiver Request (File # 23-1-PCW)**

**Staff Discussion:**

As noted above, it was determined that this parcel has the right to create two lots and a residue parcel (a total of three lots) in accordance with Section 5.7D.3 of the Zoning Ordinance. While Zoning would permit the division to occur, the Subdivision Regulations require each new lot to have access via a 50' access easement to either a WVDOH road right-of-way or a road in a major subdivision that meets county roadway design standards. While most of Ashland Woods Drive is within a 50' right-of-way, approximately 750' of Ashland Woods Drive is within a 30' right of way where it adjoins the Blue Ridge Elementary school property.

In addition to a request to reduce the required width of an access easement, the applicant is also requesting to allow the proposed subdivision to process two additional lots (and a residue) as a Minor Subdivision, as opposed to a Major Subdivision. A Major Subdivision would necessitate a Concept Plan with a public workshop, a preliminary plat with a public hearing, and a final plat. As Ashland Woods Drive serves 14 existing lots either directly or via Lathem Drive, any additional lots require processing as a Major Subdivision.



**Staff Recommendation:**

The major difference between a Minor and a Major Subdivision in the current Subdivision Regulations is that a Minor Subdivision does not require any construction documents which would include the design of a road meeting county grade standards and the provision of stormwater quantity and quality management. Roads serving over 12 lots are required to be paved with asphalt. Due to the topography in this mountainous area of the county, it would be advisable to limit the number of lots that process as a Minor Subdivision for the public health, safety and welfare of the existing and any future homes in the area. For this reason, while it may be reasonable to allow the waiver for the continued use of the 30' section of right-of-way for this road, staff recommends against the second waiver and recommends that any future subdivision of this property should process as a Major Subdivision.

If the Planning Commission is inclined to approve both waivers, a condition requiring the new lots to participate in any shared road maintenance agreement including the length of Ashland Woods Drive should be included.

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**Ashbaugh Waiver Request (File # 23-1-PCW)**

**Sections of Subdivision Regulations under Consideration:**

**Sec. 20.201 Minor Subdivisions**

**A. Residential**

All minor residential subdivisions shall conform with the following:

1. A minor residential subdivision divides the property into lots and a residue parcel. The subdivision of the lots creates the residue parcel out of the original parcel.
2. All lots, regardless of the zoning district, shall have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots to either:
  - a. A WV DOH road right-of-way or easement; or
  - b. A road in a major subdivision that meets county roadway design standards (Table 2.2-1)

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

3. Potable water and sanitary sewer service shall be provided according to the requirements of Appendix B, *Engineering Standards*. All submissions shall provide a plat approved by the Department of Health or letters of water and sewer availability, as applicable.

**Waiver Requirements:**

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

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



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

File #: 23-1-PCW  
 Mtg Date: 2/14/23  
 Date Rec'd: 1/13/23  
 Fees Paid: \$ 100  
 Staff Int: jw3  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: Paul L. Ashbaugh  
 Business Name: 1100 Chestnut Hill Rd Harpers Ferry WV 25425  
 Mailing Address: \_\_\_\_\_  
 Phone Number: (304) 725-3383 Email: N/A

**Applicant Contact Information**

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

**Consultant Information**

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

**Physical Property Details**

Physical Address: \_\_\_\_\_ Vacant Lot:   
 Tax District: D-2 Map No: 21 Parcel No: 37  
 Parcel Size: 3-AC 65Ac approx Deed Book: 656 Page No: 60  
 Zoning District: Rural

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

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

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

20-201 A.2

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

To be permitted to create <sup>2</sup> additional lots on the existing 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.

Continued used of a private Rd

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 2-lots will contribute to the road maintenance

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

When I sell one of these 2-lot some of the proceeds will go toward paying to those lots in the future

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

Same as above

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

[Signature] 1-13-2023

Property Owner Signature

Date

Property Owner Signature

Date

Notification Requirements

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

02-14-23

Public Hearing Date

01-31-23

Date Placard Posted

01-31-23

Date Adjoiners Mailed

Planning Commission Determination

Approved

Denied

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

ORDINANCE	SECTION OF ORDINANCE	DESCRIPTION OF WAIVER	DATE GRANTED
		NONE	

GRID NORTH  
NAD 83 STATE PLANE  
WEST VIRGINIA  
NORTH ZONE

**SITE INFORMATION**

- SURVEY PERFORMED IN ACCORDANCE WITH THE JEFFERSON COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE, AS AMENDED DECEMBER 2, 2021.
- SURVEY BASED ON GLOBAL POSITIONING SYSTEM MEASUREMENTS, THE RELATIVE POSITIONAL ACCURACY EXCEEDS THE MINIMUM SET FORWARD OF 1:7500 RELATIVE ERROR OF CLOSURE.
- THE PROPERTY IS LOCATED IN RURAL ZONING DISTRICT, BUILDING SETBACK LIMITS 40' FRONT, 15' EACH SIDE AND 50' REAR PER JCZC.
- EXISTING EASEMENTS & RIGHT-OF-WAYS ARE SHOWN HEREON.
- THERE ARE NO FUTURE EASEMENTS PROPOSED.
- NO PART OF THE PROPERTY SHOWN HEREON IS LOCATED WITHIN THE 100 YEAR FLOOD PLAIN AS DELINEATED BY F.E.M.A. FLOOD INSURANCE RATE MAP NUMBER 54037C023E EFFECTIVE DATE DECEMBER 18, 2009. THE PROPERTY IS LOCATED IN ZONE "X", AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.
- THE NATIONAL WETLANDS INVENTORY MAP (U.S. FISH & WILDLIFE SERVICE) INDICATES THERE ARE NO DESIGNATED WETLAND AREAS MAPPED ON THE SUBJECT PROPERTY.
- LATHEM DRIVE IS A PRIVATELY OWNED ROAD THAT SHALL BE MAINTAINED BY THE PROPERTY OWNERS. THE COST AND EXPENSE OF MAINTAINING THE SAID PRIVATE ROAD EASEMENT, INCLUDING SNOW REMOVAL, SHALL BE SHARED BY THE LOT OWNERS BENEFITTING BY SAID ROAD AND SHALL NOT BE A PUBLIC RESPONSIBILITY OF JEFFERSON COUNTY, WV.
- THE JEFFERSON COUNTY E911 ADDRESSING ORDINANCE STATES THAT ANY EASEMENT OR RIGHT-OF-WAY LEGALLY ACCESSED BY 3 OR MORE ADDRESSABLE STRUCTURES (NOT LOTS) SHALL BE NAMED. THE GIS ADDRESSING OFFICE SHALL COORDINATE AND OVERSEE THE NAMING OF THE COMMON EASEMENT OR RIGHT-OF-WAY UPON CONSTRUCTION OF THE 3RD ADDRESSABLE STRUCTURE THAT ACCESSES THE PREVIOUSLY UNNAMED EASEMENT OR RIGHT-OF-WAY.
- ALL RESIDENTIAL AND NON-RESIDENTIAL BUILDING LOTS SHALL HAVE STABILIZED CONSTRUCTION ENTRANCES INSTALLED PRIOR TO BEGINNING CONSTRUCTION ON THE LOT.
- VERIFICATION FROM WELL DRILLER THAT A PRESSURE GROUTED WELL IS DRILLED AND IS PRODUCING WATER AT A QUANTITY APPROVED BY THE JEFFERSON COUNTY HEALTH DEPARTMENT AND/OR THE WEST VIRGINIA BUREAU OF HEALTH SHALL BE SUBMITTED TO THE PLANNING COMMISSION PRIOR TO THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT. CERTIFICATION THAT THE WATER IS POTABLE MUST BE SUBMITTED TO THE PLANNING COMMISSION OFFICE WITHIN 6 MONTHS OF THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT.
- THE LOTS CREATED HEREON ARE TO BE SERVED BY PRIVATE, INDIVIDUAL WELL AND SEPTIC SYSTEMS. REFERENCE IS MADE TO JEFFERSON COUNTY HEALTH DEPARTMENT PERMIT NUMBER \_\_\_\_\_ . THE PUBLIC SERVICE DISTRICT MAY REQUIRE IN THE FUTURE EACH PROPERTY OWNER TO ABANDON EXISTING WELL & SEPTIC SYSTEMS AND TO CONNECT TO A CENTRALIZED SYSTEM WHEN AND IF IT BECOMES AVAILABLE.
- PROPOSED LOTS TO ENTER ONTO LATHEM DRIVE, A PRIVATE RIGHT OF WAY. EXISTING LATHEM DRIVE ACCESSES ASHLAND WOODS DRIVE, A PRIVATE RIGHT OF WAY, EXISTING ASHLAND WOODS DRIVE ACCESSES WEST VIRGINIA STATE ROUTE 115 (CHARLES TOWN ROAD) VIA WYDOH PERMIT # \_\_\_\_\_ PER LETTER FROM THE WYDOH DISTRICT FIVE ENGINEER, DATED \_\_\_\_\_ . THE DEVELOPERS NAME WILL BE ADDED TO THE PERMIT. DRIVEWAY CULVERT FOR LOTS 10&11 SHALL BE A MINIMUM OF 15" DIAMETER BY 20' IN LENGTH.
- THERE ARE NO LANDLOCKED PARCELS CREATED BY THIS SUBDIVISION.
- NO STRUCTURES, FENCES, OR LANDSCAPING SHALL BE LOCATED WITHIN THE EASEMENTS.

**MERGER NOTES:**

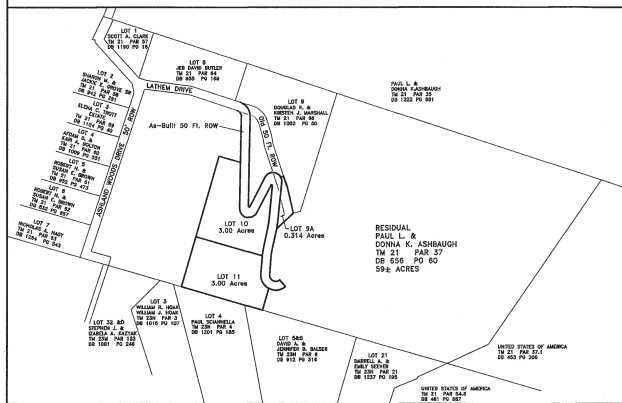
- LOT 9A IS TO BE ADDED TO PARCEL 65.
- ACCESS TO LOTS HAVE NOT BEEN ADVERSELY AFFECTED AS SHOWN HEREON.
- NO NEW LOT HAS BEEN CREATED, THIS ADDITIONAL AREA DEPICTED AS LOT 9A IS NOT INTENDED TO BE A SEPARATE BUILDING SITE AND CANNOT BE SOLD AS SUCH.
- THE LAND HEREBY CONVEYED IS ADJACENT TO AND CONTIGUOUS WITH THAT CERTAIN PARCEL OF LAND WHICH IS OWNED BY THE GRANTEEES HEREIN, HAVING BEEN CONVEYED TO THEM BY DEED OF RECORD IN THE CLERK'S OFFICE OF JEFFERSON COUNTY IN DEED BOOK 1000, PAGE 50, AND THIS CONVEYANCE IS MADE FOR THE PURPOSE OF ADJUSTING THE BOUNDARY LINE OF SAID PRESENTLY OWNED LANDS OF THE GRANTEEES.
- NEW LOT LINES DO NOT CREATE ANY SETBACK VIOLATIONS.
- SURVEY PERFORMED IN ACCORDANCE WITH THE JEFFERSON COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE, AS AMENDED DECEMBER 2, 2021.
- SURVEY BASED ON GLOBAL POSITIONING SYSTEM MEASUREMENTS, THE RELATIVE POSITIONAL ACCURACY EXCEEDS THE MINIMUM SET FORWARD OF 1:7500 RELATIVE ERROR OF CLOSURE.

	PARCEL 37	PARCEL 65
EXISTING	65.236 ACRES	5.010 ACRES
MERGER	-0.314 ACRE	+0.314 ACRE
FINAL AREA	64.922 ACRES	5.324 ACRES

AREA COMPUTATION	
RESIDUAL	58.922 ACRES
LOT 9A	0.314 ACRES
LOT 10	3.000 ACRES
LOT 11	3.000 ACRES
TOTAL PARCEL 61	65.236 ACRES

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 71°59'47" E	28.44'
L2	N 64°29'18" E	17.26'
L3	S 18°16'38" E	67.43'
L4	S 40°07'45" E	50.00'

CURVE TABLE				
CURVE	ARC LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH
C1	108.17'	85.00'	S 35°23'17" E	101.02'
C2	13.44'	5.00'	S 75°54'24" E	9.74'
C3	111.15'	50.00'	S 89°11'52" E	89.64'
C4	27.17'	50.00'	S 09°56'41" E	26.84'
C5	35.28'	300.00'	N 08°59'27" E	35.26'
C6	33.68'	250.00'	S 08°30'09" W	33.64'
C7	82.33'	35.00'	S 62°44'31" E	64.62'
C8	99.97'	85.00'	S 83°33'52" W	94.31'
C9	99.97'	85.00'	N 29°02'54" W	94.31'
C10	40.39'	300.00'	N 08°30'09" E	40.36'
C11	29.40'	250.00'	N 08°59'27" E	29.38'
C12	13.83'	5.00'	N 73°37'51" W	9.82'
C13	139.72'	52.00'	N 75°54'24" W	101.33'
C14	44.54'	35.00'	N 35°23'17" W	41.60'



KEY MAP  
SCALE: 1" = 500'

<b>LEGEND/ABBREVIATIONS</b> ■ = CONCRETE MONUMENT ○ = 12" REBAR FOUND ● = 5/8" REBAR SET ○ = CALCULATED POINT PH = PERCOLATION HOLE	<b>TAX MAP</b> 21	<b>FINAL PLAT</b> for <b>LOTS 9A, 10 &amp; 11 ASHLAND WOODS SUBDIVISION</b>	
	<b>PARCEL No.</b> 37	<b>LATHEM DRIVE</b> CHARLES TOWN DISTRICT - JEFFERSON COUNTY WEST VIRGINIA	
	<b>JOB No.</b> TS0-11132	<b>SCALE: 1" = 100'</b> DATE: DECEMBER 13, 2022	
	3000 THAYER CENTER OAKLAND, MD 21550 PHONE 301-334-3866	<b>OWNER &amp; DEVELOPER:</b> PAUL LASHBAUGH 304-725-3383 100 CHESTNUT HILL ROAD HARPERS FERRY, WV 25425	<b>DRAWN:</b> FEB

**SURVEYOR'S CERTIFICATE**

TO THE BEST OF MY KNOWLEDGE AND BELIEF THE INFORMATION AND LOCATIONS HEREON ARE ACCURATE AND CORRECT AND WERE OBTAINED BY ACTUAL FIELD SURVEY IN CONJUNCTION WITH THE LAND RECORDS OF THE SAID COUNTY, AND WAS CONDUCTED WITHOUT BENEFIT OF A LAWYER'S TITLE REPORT.

FLOYD E. BARGY JR.  
WV PS #760



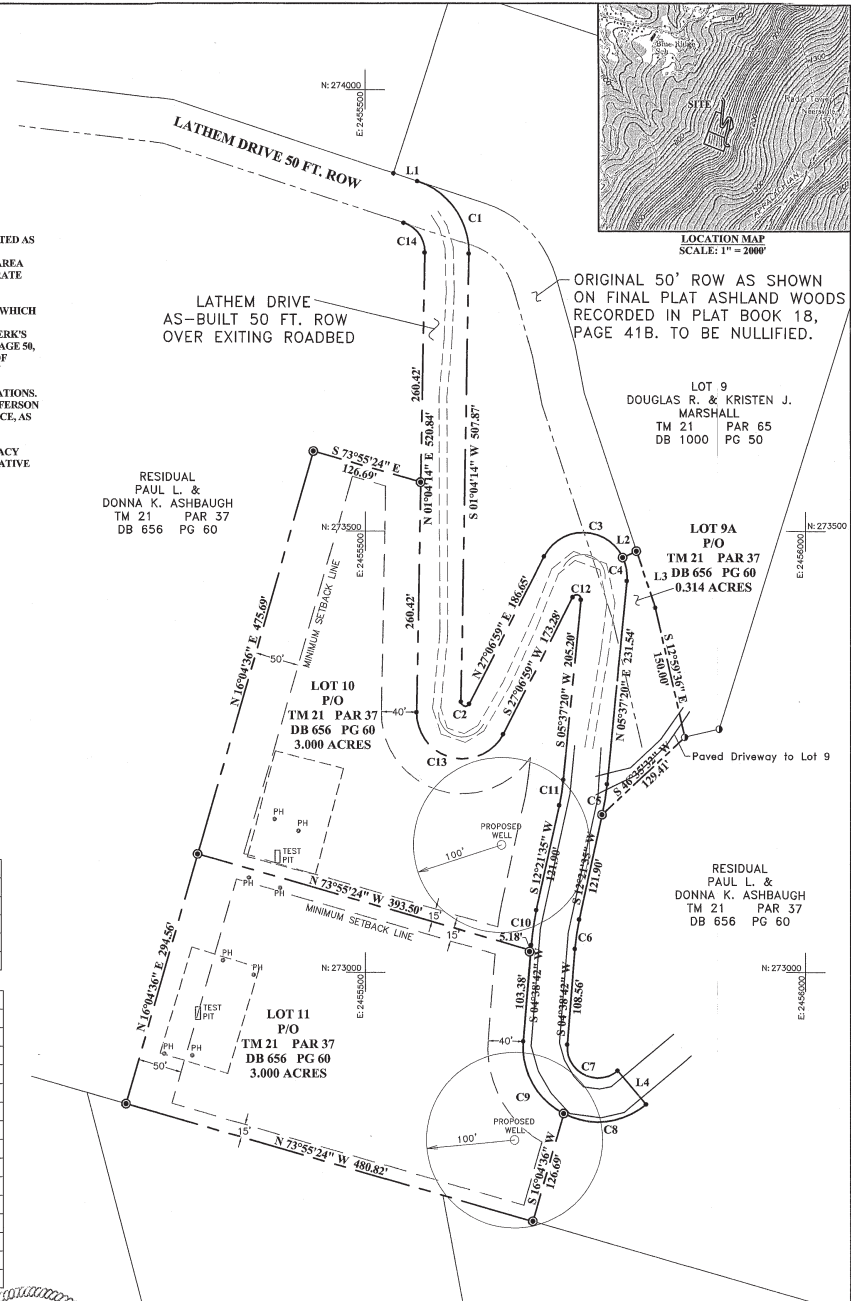
WE, THE OWNERS OF THE LAND INVOLVING THE ACCOMPANYING PLANS, BEING DILIGENTLY SWORN ACCORDING TO LAW, STATE THAT WE ARE THE MAJORITY OWNERS OR ARE THE AUTHORIZED OFFICERS OF THE CORPORATION THAT ARE THE MAJORITY OWNERS OF THIS PROPERTY IN PEACEFUL POSSESSION OF IT, AND THAT THERE ARE NO SUITS PENDING AFFECTING THE TITLE OF THE SAME, AND THAT WE ACKNOWLEDGE AND ENDORSE THE ACCOMPANYING PLANS AND THAT WE WILL PROPOSE A RECORD PLAN FOR RECORDING (AS APPLICABLE), AFTER RECEIVING ALL REQUIRED MUNICIPAL APPROVALS.

AUTHORIZED OWNER REPRESENTATIVE \_\_\_\_\_

PRINTED NAME \_\_\_\_\_ DATE \_\_\_\_\_

JEFFERSON COUNTY, WEST VIRGINIA  
MINOR SUBDIVISION APPROVAL

BY \_\_\_\_\_ Date \_\_\_\_\_  
County Planner



ORIGINAL 50' ROW AS SHOWN ON FINAL PLAT ASHLAND WOODS RECORDED IN PLAT BOOK 18, PAGE 41B. TO BE NULLIFIED.

LOT 9  
DOUGLAS R. & KRISTEN J. MARSHALL  
TM 21 PAR 65  
DB 1000 PG 50

LOT 9A  
P/O  
TM 21 PAR 37  
L3 DB 656 PG 60  
0.314 ACRES

RESIDUAL  
PAUL L. & DONNA K. ASHBAUGH  
TM 21 PAR 37  
DB 656 PG 60

N: 2749000  
E: 2448500

N: 2750000  
E: 2449000

N: 2750000  
E: 2449000





**Planning Department**

**From:** Planning Department  
**Sent:** Monday, February 6, 2023 3:03 PM  
**To:** 'Adam Bolton'  
**Subject:** RE: Paul Ashbaugh Waiver (23-1-PCW)

Good afternoon,

Please note that our office is in receipt of your email and your comments will be included in the Planning Commission packet for the upcoming February 14, 2023 Planning Commission meeting. This packet will be made available on the County's [webpage](#) by close of business on Friday, February 10, 2023.

Thank you,

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

**From:** Adam Bolton <abbolton@gmail.com>  
**Sent:** Monday, February 6, 2023 2:50 PM  
**To:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Subject:** RE: Paul Ashbaugh Waiver (23-1-PCW)

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

Jefferson County Planning Commission Members,

As a 13+ year resident and homeowner on Ashland Woods drive I am very much against this proposal to reduce the required access easement and its resulting creation of a "minor" subdivision. Myself as well as the majority (if not all) of my neighbors live here because we enjoy the peace and privacy of NOT living in a subdivision. The creation of a "minor" or any other type of subdivision here would destroy the natural beauty of this area as well as the current resident's way of life. Almost every spring and after large snow and rain falls we experience large run-offs that cut through our properties. We have been able to mitigate the damage by diverting the water where possible, but fear that clearing the area above us for building would create excessive run-off that we would not be able to divert.

There is also the problem with the condition of Ashland Woods Drive. It has been categorized as an orphaned road by the state of West Virginia so despite paying our full state and county taxes each year the residents of Ashland Woods Drive and Latham Drive are forced to spend hundreds and sometimes thousands of dollars each year per household to maintain the roads to keep them passable. This maintenance includes, but is not limited to:

1. Purchasing, pouring, and spreading gravel and stone to fill ruts and areas where the road is eroding due to run-off
2. Purchasing and applying concrete and asphalt to fill the numerous potholes and level transitions in the road
3. Plowing snow off the entirety of Ashland Woods Drive and Latham Drive down to RT 115
4. Digging and maintaining ditches along both roads

I have contacted the state numerous times about the need for maintenance on Ashland Woods Drive and have been told "**We have researched our records and found that Ashland Woods Drive is not in the state highway system and therefore is not the maintenance responsibility of the Division of Highways (DOH). Unfortunately, due to**

**funding limitations and financial constraints there is currently a moratorium and the DOH is not accepting any roads into the state system. In addition, state code prohibits the DOH from expending any public funds on private property. "** This latest response was from Lee Thorne, District Five Engineer.

We do not have an HOA up here and do not want one. We are a tight knit community of 10 households who work with each other to get things done as necessary. Granting a waiver to Section 20.201A.2 to increase building density by reducing the width of the required access easement and thus creating a "minor" subdivision would be detrimental to both the current residents as well as the surrounding environment. Ashland Woods Drive could not sustain the increase in traffic that this waiver would allow. Please see attached picture of Ashland Woods Drive in its current condition.

Thank you,

Adam and Kari Bolton  
382 Ashland Woods Drive  
Harpers Ferry, WV 25425  
[abbolton@gmail.com](mailto:abbolton@gmail.com)

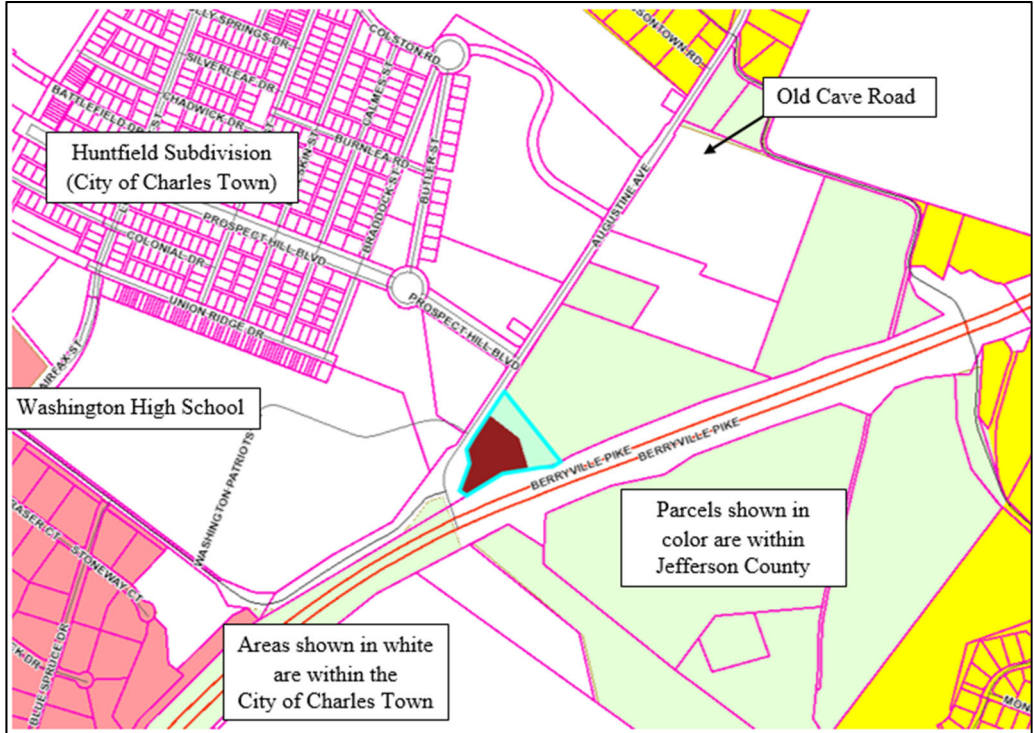




Staff Report  
 Jefferson County Planning Commission Meeting  
 February 14, 2023

**Sheetz Augustine Ave (Early Grading) Waiver Request (File #23-2-PCW)**

**Item # 5: Public Hearing:** Waiver from Section 20.102B to allow site grading to commence prior to site plan approval for the proposed Sheetz Convenience Store and Gas Station (File: 21-4-SP).

Owner	Sheetz, Inc, Bob Franks
Surveyor/Engineer	Integrity Federal Services, Ben Svedlow
Parcel Location and Information	<p style="text-align: center;">Chicchirichi Minor Subdivision, Lot 1 - Vacant parcel northeast of US 340 and Augustine Avenue intersection, Charles Town, WV          Parcel ID: 02001600010000; Size: ~3 acres;          Zoning District: Highway Commercial</p> 
Adjacent Zoning	<p style="text-align: center;"><i>North/West:</i> Incorporated Town (Neighborhood Residential);  <i>South:</i> Incorporated Town (General Commercial) and County (Rural); <i>East:</i> Rural</p>
Proposed Activity	Sheetz Convenience Store and Gas Station
History	<p>03/18/21: CC approved Zoning Map Amendment (rezoning) request of ~2.5 ac from Rural to Highway Commercial (21-1-Z)          05/27/21: BZA approved variance to eliminate the required 60' easement along a limited access highway; and the required landscape buffer requirement along a limited access highway (21-22-ZV)          06/08/21: PC approved Concept Plan for Augustine Ave Sheetz (21-4-SP)          03/17/22: CC approved Zoning Map Amendment (rezoning) request of ~.5 ac from Rural to Highway Commercial (22-2-Z)          04/12/22: PC approved a waiver of Section 20.201A.2.b to reduce Lot 2's road frontage to 161' (22-6-PCW)</p>

Staff Report  
Jefferson County Planning Commission Meeting  
February 14, 2023

**Sheetz Augustine Ave (Early Grading) Waiver Request (File #23-2-PCW)**

	04/12/22: PC denied a waiver of Section 20.201A.3 related to the extension of off-site utilities for Minor Subdivisions (22-7-PCW) 04/12/22: Applicant withdrew the following requests: <ul style="list-style-type: none"><li>• Waiver of the requirement for an Archaeological Study (22-14-PCW)</li><li>• Waiver of App. B, Sec. 2.2.C.1 re: road design (22-15-PCW)</li></ul> 06/14/22: PC approved reconsideration request of waiver (22-7-PCW) 08/08/22: Chicchirichi Minor Subdivision <a href="#">PB 26, PG 418</a> (21-17-SD) 10/27/22: BZA approved variance from App. B to reduce the front setback from 25' to 0' along a platted interior access easement for a proposed fueling island and canopy (22-36-ZV)
--	--

**Summary of the Request:**

The subject property, located at the NE corner of Augustine Avenue and US 340, was partially rezoned to Highway Commercial to allow for the development of a Sheetz convenience store and gas station at the northeast corner of Augustine Avenue and US 340. As properties cannot be developed with two zoning categories, the property was required to be divided between the two zoning categories. After the applicant successfully presented a reconsideration of the waiver #22-7-PCW which requested waiving the requirement that a project with the off-site extension of utilities process as a Major Subdivision, a Minor Subdivision was approved and recorded in PB26/PG418 (08/08/22).

Because the proposed gas station consists of a structure greater than 5,000 sq. ft., a Concept Plan was require to be processed for the Minor Site Plan (21-4-SP). This required Concept Plan was processed for the Augustine Avenue Sheetz Site Plan, which depicted the entire property and the proposed division between the commercially zoned lot and the remaining Rural lot, and was approved June 8, 2021. Since that approval, the applicant has been processing the Site Plan which is required to be approved by June 8, 2023. The only outstanding comment at this time is the receipt of an approved WVDOH entrance permit.

This request is to permit the applicant to be permitted to begin early grading prior to the final approval of the Site Plan.

**Subdivision Regulation Requirements:**

Section 20.102B of the Subdivision Regulations requires that before development of the land is commenced, subdivision plats and site plans must be approved by the Planning Commission, recorded, and surety posted for required improvements in accordance with these Regulations and the Comprehensive Plan. This request is to waive this requirement and to allow the grading to be initiated after the bond is posted, but prior to the final approval of the redline revision to the Site Plan.

**Staff Comments/Recommendation:**

As staff has noted previously, many jurisdictions allow separate grading permits provided that all Erosion and Sediment Control and SWM plans have been approved by the County and are bonded. These plans will receive such approval for all Erosion and Sediment Control measures and will be inspected by the County prior to earth movement. The Jefferson County Planning Commission has allowed early grading

Staff Report  
Jefferson County Planning Commission Meeting  
February 14, 2023

**Sheetz Augustine Ave (Early Grading) Waiver Request (File #23-2-PCW)**

plans in the past and staff recommends that this concept should be included as a provision in the Subdivision Regulations/Ordinance when it is amended.

The applicant has indicated that allowing this project to begin grading prior to final approval of the Site Plan will be helpful in allowing the project timeline goals to be achieved and to allow the developer to be in a position to implement the proposed Augustine Avenue road improvements sooner.

Staff recommends approval of the waiver request with the following conditions:

- a. A grading permit is issued to allow the owner to perform site grading in preparation for the building pad and related improvements. No building permit can be issued until the site plan is approved. This permit is subject to the requirements of the sediment and erosion control plan submitted and approved as part of the grading plan and a NPDES permit is obtained; and
- b. 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
- c. Provide bonding of all proposed site improvements related to sediment and erosion control/SWM pertaining to the permit.

As a reminder, this Site Plan cannot be approved until the WV DOH entrance permit is obtained.

**Waiver Requirements:**

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

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





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

File #: 23-2-PCW  
 Mtg Date: 02/14/23  
 Date Rec'd: 01/24/23  
 Fees Paid: 100.00  
 Staff Int: jth  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: Robert Franks  
 Business Name: Sheetz Inc.  
 Mailing Address: 5700 6th Avenue, Altoona, PA 16602  
 Phone Number: 814-935-4798 Email: bfranks@sheetz.com

**Applicant Contact Information**

Applicant Name: Robert Franks Same as owner:   
 Business Name: Sheetz Inc.  
 Mailing Address: 5700 6th Avenue, Altoona, PA 16602  
 Phone Number: 814-935-4798 Email: bfranks@sheetz.com

**Consultant Information**

Name: Ben Svedlow  
 Business Name: Integrity Federal Services  
 Mailing Address: 148 S. Queen Street, Suite 201, Martinsburg, WV 25401  
 Phone Number: 304-725-8456 Email: bsvedlow@ifs-ae.com

**Physical Property Details**

Physical Address: NE OF US 340 AND AUGUSTINE AVENUE INTERSECTION, CHARLES TOWN, WV Vacant Lot:   
 Tax District: Charles Town Map No: 16 Parcel No: 1  
 Parcel Size: 3.01 AC. Deed Book: 1287 Page No: 26  
 Zoning District: Residential-Light Industrial-Commercial (R-LI-C)

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

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

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

Section 20.102.B

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

We request this waiver to alter the existing process for plan review and approval in order to begin site grading prior to full site plan approval.

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

The nature of this request is to allow for early grading activities to commence prior to Major Site Plan Approval. The public will ultimately benefit from this request by allowing the project time line goals to be achieved and be in a position to sooner implement the Augustine Avenue road improvements proposed under the Major Site Plan by starting earth moving activities sooner. This request does not have any impacts to County maintenance costs, greater open space, or parkland.

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

If this waiver is granted, it will not introduce any new elements to the project that would result in adversely impacting public health, safety, or welfare or the rights of adjacent property owner or residents through a reduced construction duration as this will allow the project to begin construction and minimize impacts resulting from the already delayed construction start date currently due to staffing changes and shortages at WVDOH which is delaying the site plan approval. Therefore, if granted, this request will achieve the goals of this section.

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

All of the required permits have been obtained to perform on-site grading.

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

If this waiver is granted, it will result in a project of better quality and/or character by allowing the construction to start sooner and allow Sheetz to achieve construction time frames by reducing impacts resulting from the uncertainty with WVDOH due to current staffing changes that have taken place over the past few months.

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

 1/23/2023  
Property Owner/Applicant Signature      Date

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

**Notification Requirements**

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

02/14/23  
Public Hearing Date

01/31/23  
Date Placard Posted

01/31/23  
Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

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





**Planning Department**

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**From:** Planning Department  
**Sent:** Thursday, February 9, 2023 4:00 PM  
**To:** 'Susan Reichel'  
**Cc:** susan@susanreichel.com; Dominic Valentine; Will Wootton  
**Subject:** RE: 23-3-PCW Reichel MSD (access) Public Comment

Good afternoon Susan,

This email is to confirm receipt of your request for a postponement until March 14, 2023. We will inform the Planning Commission of your request. Please note, your application and copies of the public comments will not be included in the February 14, 2023 Planning Commission packet.

As a reminder, the placards posted on the subject parcel will need to remain in place until after the March 14, 2023 Planning Commission meeting. Please contact our office should the placards become damaged.

Thank you and have a nice day.

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

**From:** Susan Reichel <susanreichel@premiermove.com>  
**Sent:** Thursday, February 9, 2023 2:58 PM  
**To:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Cc:** susan@susanreichel.com; Dominic Valentine <valentineconstructionwv@gmail.com>; Will Wootton <thirtyseasons@icloud.com>  
**Subject:** Re: 23-3-PCW Reichel MSD (access) Public Comment

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

Good afternoon, Jennilee,

Thank you for your email. We are in receipt of the attached letters from the neighbors regarding the variance application and hearing for 2195 Engle Molers Rd.

We will need some time to review these letters so we feel it is best to move the variance hearing request to the March 14, 2023 meeting. Please let me know if you need anything other than this email as notice of our wish to postpone our spot on the agenda of the February 14th, 2023 meeting and to be placed on the agenda for the March 14, 2023 meeting.

Thank you very much for all of your help thus far. We appreciate your time and assistance. Have a terrific afternoon!

My best,  
Susan

On Thu, Feb 9, 2023 at 2:16 PM Planning Department <[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)> wrote:

| Good afternoon,

As requested, please find attached the Public Comment emails/letters pertaining to your request.

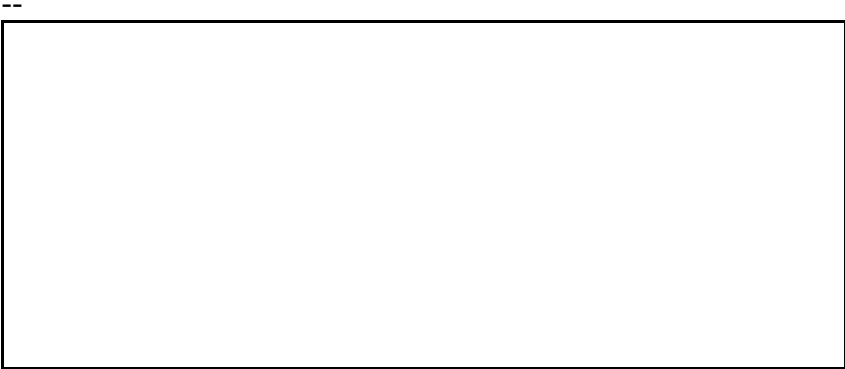
Please let me know if you have any follow up questions.

Thank you and have a nice day.

Jennilee Hartman, Zoning Clerk

Office of Planning and Zoning

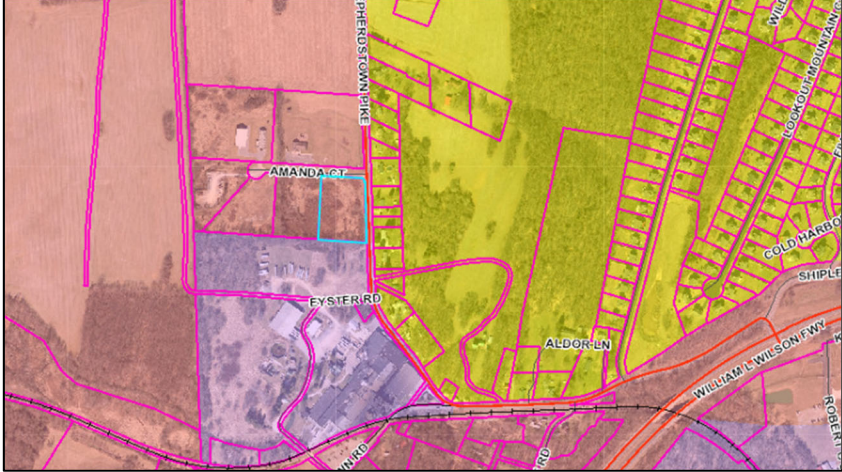
304-728-3228



Staff Report  
 Jefferson County Planning Commission  
 February 14, 2023

**Harpers Ferry Dollar General Waiver (File: 23-4-PCW)**

**Item #7a: Public Hearing:** Waiver from Section 20.204 of the Subdivision Regulations to allow a proposed 10,542 sf retail store (Dollar General) and associated parking lot to utilize the Minor Site Plan process as opposed to the Major Site Plan process.

Owner	Wall Street Partners WV1, LLC
Surveyor/Engineer	The Thrasher Group/ Robert Milne
Parcel Information	<p style="text-align: center;">Vacant Lot on the corner of Amanda Ct &amp; Shepherdstown Pike, Harpers Ferry, WV          Parcel ID: 04001000110005; Size: 2.19 acres;          Zoning District: Residential-Light Industrial-Commercial</p> 
Adjacent Zoning	<p style="text-align: center;">North and West: Residential-Light Industrial-Commercial (RLIC);          East: Residential Growth (RG); South: Industrial-Commercial (IC)</p>
Proposed Activity	Dollar General Store
Project Files	<p>97-03-SD: Kramer Commercial Subdivision (File #97-03) (PB 15, PG 14)          22-14-SP: Minor Site Plan for a proposed 10,640 sf retail store (Dollar General), associated parking, and stormwater management.</p>
Waivers/Variances	<p>10/11/22: PC approved the following requests:</p> <ul style="list-style-type: none"> <li>• Waiver from Section 2.3.B.3 to reduce the drive aisle entrance width from 35' to 37' to accommodate 3-12' lanes, one ingress, two egress to accommodate the movements of a tractor trailers (WB-67) for deliveries; and,</li> <li>• Waiver from Section 2.5.N to reduce the drive aisle width from 24' to 42' to accommodate tractor trailer movements (22-20-PCW).</li> </ul> <p>10/27/22: BZA approved the follow requests:</p> <ul style="list-style-type: none"> <li>• Variance from Section 4.11 to eliminate a portion of the landscape buffer along portions of western and southern property lines and to eliminate the streets trees along Amanda Court and Shepherdstown Pike (22-32-ZV).</li> <li>• Variance from Section 11.2 to reduce the number of required parking spaces; and, Appendix B to reduce the front parking setbacks from 15' to 8' (22-33-ZV).</li> <li>• Variance from Article 10 to reduce the front setback along Amanda Court from 25' to 19' and along Shepherdstown Pike from 25' to 17' for a pylon sign (22-34-ZV).</li> </ul>

Staff Report  
Jefferson County Planning Commission  
February 14, 2023  
**Harpers Ferry Dollar General Waiver (File: 23-4-PCW)**

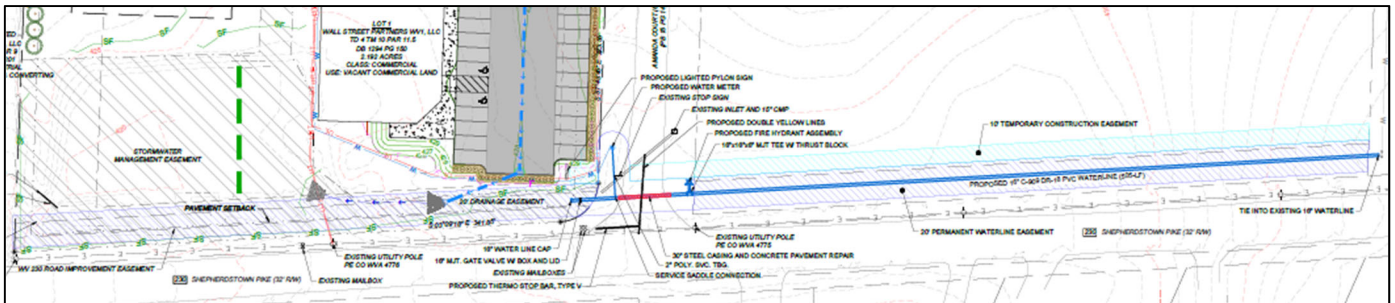
**Site Plan Proposal**

The subject property, a 2.19-acre lot created in 1997 as a part of the Kramer Commercial Subdivision, is located west of Shepherdstown Pike, south of Amanda Court. The property is zoned Residential-Light Industrial Commercial. The applicant is proposing the construction of a 10,640 sq.ft. Dollar General Building on the vacant lot.

The project has been processing as a Minor Site Development under Section 20.203A(3) of the Subdivision Regulations which relates to “building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major non-residential subdivision with master planned roads and stormwater.” Processing under this provision does not require a Concept Plan.

**Summary of the Request**

The project is now proposing to extend off-site water infrastructure to serve this lot, which would require processing as a Major Site Development. A Major Site Development necessitates a Concept Plan with a public workshop in addition to the Full Site Plan, which is already being processed. This request is for the applicant to be permitted to connect to the off-site public water supply located approximately 505’ north of the property along Shepherdstown Pike without processing as a Major Site Development.



**Subdivision Regulation Requirements**

Section 20.204 of the Subdivision Regulations and WV Code §8A-5-2, a “Major Site Development” is defined as those proposals that require the development of new infrastructure or the extension of off-tract infrastructure or where the proposal does not meet the definition of a minor site development. A Major Site Development necessitates a Concept Plan with a public workshop in addition to the Full Site Plan, which this development is already doing.

**Staff Comments/Recommendation**

The applicant is proposing to extend off-site water infrastructure approximately 505’ north of the property along Shepherdstown Pike to serve this lot. The project is already processing as a Full Site Plan with detailed construction documents. The proposed design change, which creates the requirement to process as a Major Site Development, would require processing a Concept Plan with a Public Workshop and the approval from the State Health Department for the water line extension.

Staff Report  
Jefferson County Planning Commission  
February 14, 2023  
**Harpers Ferry Dollar General Waiver (File: 23-4-PCW)**

As there have already been public hearings before both the Planning Commission and the Board of Zoning Appeals for waivers and variances required for the proposed site design, it seems reasonable to support this request as the public has been made aware of the project. The applicant will be required to provide approved construction documents for the water line extension and approval from the State Health Department before the Site Plan can be approved by the County Engineer.

**Waiver Requirements**

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

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





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

File #: 23-4-PCW  
 Mtg Date: 02-14-23  
 Date Rec'd: 01-24-23  
 Fees Paid: \$100 (cc)  
 Staff Int: AB  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: Andy Haymaker  
 Business Name: Wall Street Partners WV1, LLC  
 Mailing Address: 3120 Lexington, KY 40513  
 Phone Number: (859)621-6178 Email: ahaymaker@haymakercompany.com

**Applicant Contact Information**

Applicant Name: Andy Haymaker Same as owner:   
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: (859)621-6178 Email: ahaymaker@haymakercompany.com

**Consultant Information**

Name: Robert Milne, PE  
 Business Name: The Thrasher Group, Inc.  
 Mailing Address: 600 White Oaks Blvd., PO Box 940, Bridgeport, WV 26330  
 Phone Number: (304)326-6141 Email: rmilne@thethrashergroup.com

**Physical Property Details**

Physical Address: Amanda Court Lot 1 Vacant Lot:   
 Tax District: Harpers Ferry Map No: 10 Parcel No: 11.5  
 Parcel Size: 2.19 Deed Book: 1294 Page No: 150  
 Zoning District: R-LI-C

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

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

**What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?**  
20.204 (2018)

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

The applicant is requesting that the site plan be processed as a Minor Site Development, as it meets all the criteria with exception of extension to the JUI, Inc. water system for a distance of approximately 505 ft.

**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.**

No additional maintenance costs to the county as the proposed improvements are on private property.  
Benefits - local retail store, provides convenience to local patrons.

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

Granting the waiver will not adversely affect public health, safety, or welfare.

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

The intent and purposes of the ordinance will be met and insured by the review of the site plan by the staff of the planning commission.

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

If the waiver is granted, public water access is increased along RT 230. The applicant can have public water in lieu of a private well.

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

1-23-23

Property Owner Signature

Date

Property Owner Signature

Date

**Notification Requirements**

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

Public Hearing Date

Date Placard Posted

Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

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

Project Name = Harpers Ferry Dollar General

Request for Waiver from Section 2.3.B.3 and Section 2.5N  
Entrance Width and Drive Aisle Modifications

## Description of the Physical Features of the Property:

The site is in the central portion of parcel number 19-04-0010-0011-0005 and is 2.19 acres. The parcel is currently owned by Wall Street Partners WV1, LLC. They purchased the property from Iris Wood on November 17, 2022. The site is currently a vacant lot with overgrown brush.

The site consists of no structures. The site is bound to the north by open pasture and fields. The site is bound to the east by residential homes with some pastures and State Route 230. The site is bound to the south by a vacant lot with vegetation (south of this lot is a commercial factory). The site is bound to the west by a cleared open field with vegetation. The center of the site is located at Global Positioning System coordinates 39.316594 latitude and -77.799535 longitude. There is no real change in site elevation within the site and the site elevation is listed at 427 ft. above mean sea level.

The site is located in the Appalachian Plateau physiographic province and consists of primarily Pennsylvanian rocks. Approximately 20,000 ft of Paleozoic rock overlies Precambrian basement in the Appalachian Plateau. Rocks within the Appalachian Plateau are structurally complex due to compressional forces; older Paleozoic strata were thrust over the younger evaporates. However, the general subsurface geology likely consists of Conococheague Formation (deposited limestone with with interbeds of aphanitic limestone and dolomite), Elbrook Formation (thin-bedded blue-gray argillaceous limestone and platy shale), Stonehenge Limestone (gray, thin-bedded limestone), Rockdale Run Formation (bluish to light gray, thick-bedded dolomite and limestone), Harpers Formation (greenish-gray phyllite), Waynesboro Formation (variegated shale and sandstone), and Tomstown Dolomite (thick-bedded, blu-gray dolomite).

Data from the NRCS Web Soil Survey (NRCS, 2022) indicate there are two main soil types within the site: Poplimento silt loam, 3 to 8 percent slopes (silt loam, clay, very channery silt clay loam) and Poplimento silt loam, 8 to 15 percent slopes (silt loam, clay, very channery silty clay loam).

Construction of Amanda Court resulted in a storm water management facility being constructed in the southeast corner of this lot. There have been no significant changes to the lot since then.

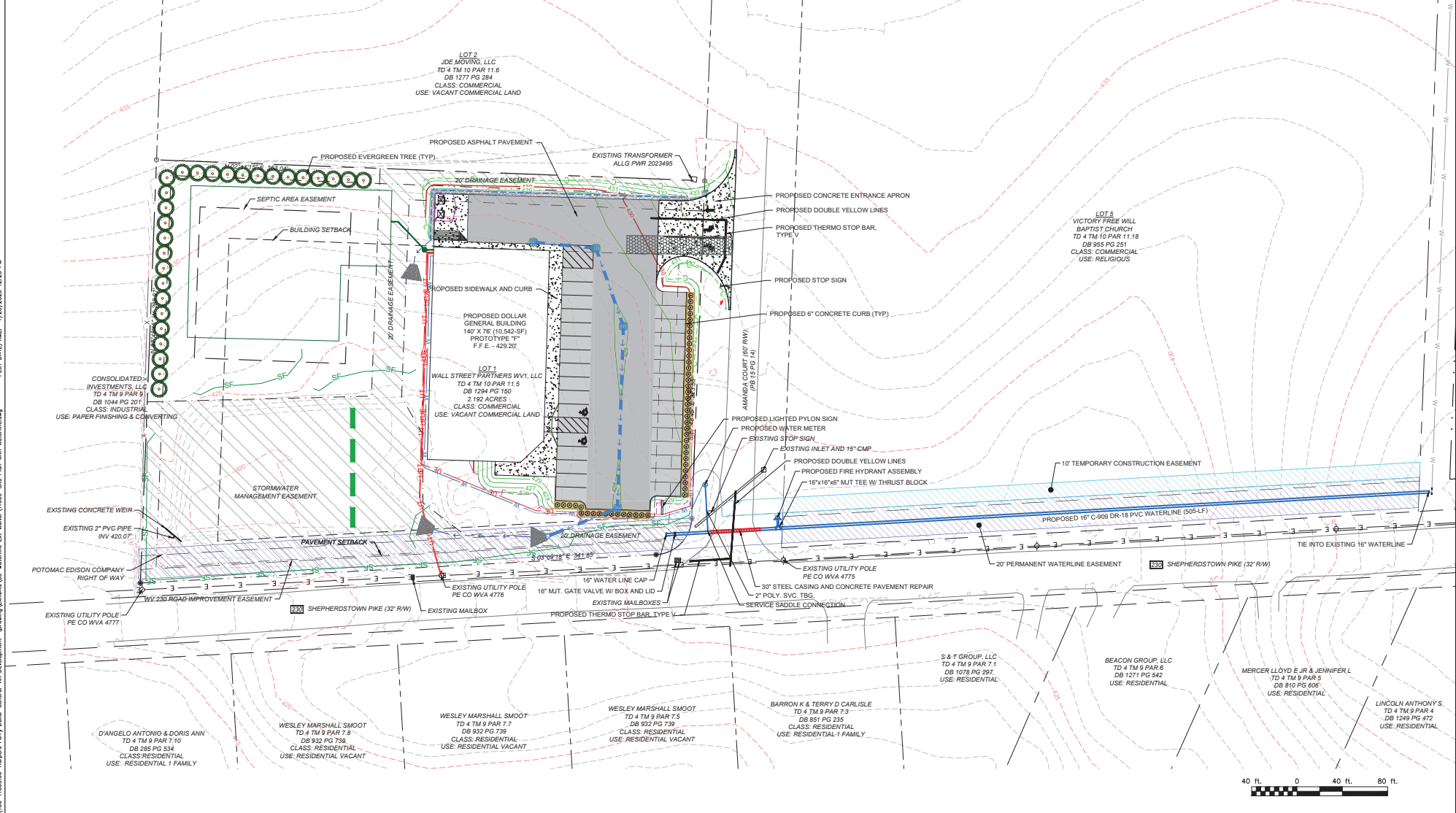
Description of the Regulations for which relief is being sought:

The applicant is requesting a waiver from Section 20.102B. The applicant is requesting permission to begin early grading of the lot in preparation for a future Dollar General Retail Store. The applicant has gone through the Jefferson County Site Plan approval process and is currently awaiting health department approvals from the State health department for a water line, and the county health department for a septic system. The applicant has an approved WVDEP NPDES permit for the site.

The applicant is requesting a waiver from Section 20.204. The applicant is requesting that the site be processed as a minor site development in lieu of a major site development. The site was being processed as a minor site development, during the review period the applicant was made aware of an opportunity to connect to public water in lieu of a private well as initially planned. Public water resulted in a mainline extension of 505 ft. along WV 230.

The waivers will not adversely affect public safety or welfare.

<b>PRELIMINARY SITE PLAN</b>			
CITY, STATE - STREET: HARPERS FERRY, WV - SHEPHERDSTOWN ROAD AND AMANDA COURT			
PROTOTYPE: F	DEVELOPER	DESIGNER	DATE:
BLDG/SALES SF: 10,542	COMPANY: A&R DEVELOPMENT	COMPANY: THE THRASHER GROUP, INC.	07/28/22
ACREAGE: 2.19	NAME: RICH WRIGHT	NAME: ROBERT R. MILNE, P.E.	
PARKING SPACES: 31	PHONE #: (859) 618-2126	PHONE #: (340) 326-6141	



PLOT DATE/TIME: 1/25/2023 12:25 PM

AVO: JRB, C: J, S: J, T: J, W: J, L: J, D: J, G: J, H: J, K: J, M: J, N: J, P: J, Q: J, R: J, S: J, T: J, U: J, V: J, W: J, X: J, Y: J, Z: J, AA: J, AB: J, AC: J, AD: J, AE: J, AF: J, AG: J, AH: J, AI: J, AJ: J, AK: J, AL: J, AM: J, AN: J, AO: J, AP: J, AQ: J, AR: J, AS: J, AT: J, AU: J, AV: J, AW: J, AX: J, AY: J, AZ: J, BA: J, BB: J, BC: J, BD: J, BE: J, BF: J, BG: J, BH: J, BI: J, BJ: J, BK: J, BL: J, BM: J, BN: J, BO: J, BP: J, BQ: J, BR: J, BS: J, BT: J, BU: J, BV: J, BV: J, BW: J, BX: J, BY: J, BZ: J, CA: J, CB: J, CC: J, CD: J, CE: J, CF: J, CG: J, CH: J, CI: J, CJ: J, CK: J, CL: J, CM: J, CN: J, CO: J, CP: J, CQ: J, CR: J, CS: J, CT: J, CU: J, CV: J, CW: J, CX: J, CY: J, CZ: J, DA: J, DB: J, DC: J, DD: J, DE: J, DF: J, DG: J, DH: J, DI: J, DJ: J, DK: J, DL: J, DM: J, DN: J, DO: J, DP: J, DQ: J, DR: J, DS: J, DT: J, DU: J, DV: J, DW: J, DX: J, DY: J, DZ: J, EA: J, EB: J, EC: J, ED: J, EE: J, EF: J, EG: J, EH: J, EI: J, EJ: J, EK: J, EL: J, EM: J, EN: J, EO: J, EP: J, EQ: J, ER: J, ES: J, ET: J, EU: J, EV: J, EW: J, EX: J, EY: J, EZ: J, FA: J, FB: J, FC: J, FD: J, FE: J, FF: J, FG: J, FH: J, FI: J, FJ: J, FK: J, FL: J, FM: J, FN: J, FO: J, FP: J, FQ: J, FR: J, FS: J, FT: J, FU: J, FV: J, FW: J, FX: J, FY: J, FZ: J, GA: J, GB: J, GC: J, GD: J, GE: J, GF: J, GG: J, GH: J, GI: J, GJ: J, GK: J, GL: J, GM: J, GN: J, GO: J, GP: J, GQ: J, GR: J, GS: J, GT: J, GU: J, GV: J, GW: J, GX: J, GY: J, GZ: J, HA: J, HB: J, HC: J, HD: J, HE: J, HF: J, HG: J, HH: J, HI: J, HJ: J, HK: J, HL: J, HM: J, HN: J, HO: J, HP: J, HQ: J, HR: J, HS: J, HT: J, HU: J, HV: J, HW: J, HX: J, HY: J, HZ: J, IA: J, IB: J, IC: J, ID: J, IE: J, IF: J, IG: J, IH: J, II: J, IJ: J, IK: J, IL: J, IM: J, IN: J, IO: J, IP: J, IQ: J, IR: J, IS: J, IT: J, IU: J, IV: J, IW: J, IX: J, IY: J, IZ: J, JA: J, JB: J, JC: J, JD: J, JE: J, JF: J, JG: J, JH: J, JI: J, JJ: J, JK: J, JL: J, JM: J, JN: J, JO: J, JP: J, JQ: J, JR: J, JS: J, JT: J, JU: J, JV: J, JW: J, JX: J, JY: J, JZ: J, KA: J, KB: J, KC: J, KD: J, KE: J, KF: J, KG: J, KH: J, KI: J, KJ: J, KK: J, KL: J, KM: J, KN: J, KO: J, KP: J, KQ: J, KR: J, KS: J, KT: J, KU: J, KV: J, KW: J, KX: J, KY: J, KZ: J, LA: J, LB: J, LC: J, LD: J, LE: J, LF: J, LG: J, LH: J, LI: J, LJ: J, LK: J, LL: J, LM: J, LN: J, LO: J, LP: J, LQ: J, LR: J, LS: J, LT: J, LU: J, LV: J, LW: J, LX: J, LY: J, LZ: J, MA: J, MB: J, MC: J, MD: J, ME: J, MF: J, MG: J, MH: J, MI: J, MJ: J, MK: J, ML: J, MM: J, MN: J, MO: J, MP: J, MQ: J, MR: J, MS: J, MT: J, MU: J, MV: J, MW: J, MX: J, MY: J, MZ: J, NA: J, NB: J, NC: J, ND: J, NE: J, NF: J, NG: J, NH: J, NI: J, NJ: J, NK: J, NL: J, NM: J, NN: J, NO: J, NP: J, NQ: J, NR: J, NS: J, NT: J, NU: J, NV: J, NW: J, NX: J, NY: J, NZ: J, OA: J, OB: J, OC: J, OD: J, OE: J, OF: J, OG: J, OH: J, OI: J, OJ: J, OK: J, OL: J, OM: J, ON: J, OO: J, OP: J, OQ: J, OR: J, OS: J, OT: J, OU: J, OV: J, OW: J, OX: J, OY: J, OZ: J, PA: J, PB: J, PC: J, PD: J, PE: J, PF: J, PG: J, PH: J, PI: J, PJ: J, PK: J, PL: J, PM: J, PN: J, PO: J, PP: J, PQ: J, PR: J, PS: J, PT: J, PU: J, PV: J, PW: J, PX: J, PY: J, PZ: J, QA: J, QB: J, QC: J, QD: J, QE: J, QF: J, QG: J, QH: J, QI: J, QJ: J, QK: J, QL: J, QM: J, QN: J, QO: J, QP: J, QQ: J, QR: J, QS: J, QT: J, QU: J, QV: J, QW: J, QX: J, QY: J, QZ: J, RA: J, RB: J, RC: J, RD: J, RE: J, RF: J, RG: J, RH: J, RI: J, RJ: J, RK: J, RL: J, RM: J, RN: J, RO: J, RP: J, RQ: J, RR: J, RS: J, RT: J, RU: J, RV: J, RW: J, RX: J, RY: J, RZ: J, SA: J, SB: J, SC: J, SD: J, SE: J, SF: J, SG: J, SH: J, SI: J, SJ: J, SK: J, SL: J, SM: J, SN: J, SO: J, SP: J, SQ: J, SR: J, SS: J, ST: J, SU: J, SV: J, SW: J, SX: J, SY: J, SZ: J, TA: J, TB: J, TC: J, TD: J, TE: J, TF: J, TG: J, TH: J, TI: J, TJ: J, TK: J, TL: J, TM: J, TN: J, TO: J, TP: J, TQ: J, TR: J, TS: J, TT: J, TU: J, TV: J, TW: J, TX: J, TY: J, TZ: J, UA: J, UB: J, UC: J, UD: J, UE: J, UF: J, UG: J, UH: J, UI: J, UJ: J, UK: J, UL: J, UM: J, UN: J, UO: J, UP: J, UQ: J, UR: J, US: J, UT: J, UY: J, UZ: J, VA: J, VB: J, VC: J, VD: J, VE: J, VF: J, VG: J, VH: J, VI: J, VJ: J, VK: J, VL: J, VM: J, VN: J, VO: J, VP: J, VQ: J, VR: J, VS: J, VT: J, VU: J, VV: J, VW: J, VX: J, VY: J, VZ: J, WA: J, WB: J, WC: J, WD: J, WE: J, WF: J, WG: J, WH: J, WI: J, WJ: J, WK: J, WL: J, WM: J, WN: J, WO: J, WP: J, WQ: J, WR: J, WS: J, WT: J, WU: J, WV: J, WX: J, WY: J, WZ: J, XA: J, XB: J, XC: J, XD: J, XE: J, XF: J, XG: J, XH: J, XI: J, XJ: J, XK: J, XL: J, XM: J, XN: J, XO: J, XP: J, XQ: J, XR: J, XS: J, XT: J, XU: J, XV: J, XW: J, XX: J, XY: J, XZ: J, YA: J, YB: J, YC: J, YD: J, YE: J, YF: J, YG: J, YH: J, YI: J, YJ: J, YK: J, YL: J, YM: J, YN: J, YO: J, YP: J, YQ: J, YR: J, YS: J, YT: J, YU: J, YV: J, YW: J, YX: J, YY: J, YZ: J, ZA: J, ZB: J, ZC: J, ZD: J, ZE: J, ZF: J, ZG: J, ZH: J, ZI: J, ZJ: J, ZK: J, ZL: J, ZM: J, ZN: J, ZO: J, ZP: J, ZQ: J, ZR: J, ZS: J, ZT: J, ZU: J, ZV: J, ZW: J, ZX: J, ZY: J, ZZ: J



NO.	BY	DATE	DESCRIPTION
JC 5	RBM	01.03.2023	REVISED TO UPDATE PROPERTY OWNER, DISPLAY M.E. & PERMITS
WV 1	TJM	12.05.2022	REVISED TO ADDRESS WJGH COMMENTS
JC 3	TJM	11.10.2022	REVISED TO ADDRESS JEFFERSON COUNTY COMMENTS
JC 2	RBM	10.14.2022	REVISED TO ADDRESS JEFFERSON COUNTY COMMENTS
JC 1	RBM	09.08.2022	REVISED TO ADDRESS JEFFERSON COUNTY COMMENTS
IFP	RBM	07.28.2022	ISSUED FOR PERMIT PLANS

**DOLLAR GENERAL**



**THRASHER**  
 THE THRASHER GROUP, INC.  
 CIVIL • ENVIRONMENTAL • CONSULTING & FIELD SERVICES  
 600 WHITE OAKS BOULEVARD, BRIDGEPORT, WV 26330  
 PHONE: (304) 624-4108 • FAX: (304) 624-7831

TIG PROJECT No.	T30-11009.00
DOLLAR GENERAL PLAN SET No.	10,542
DOLLAR GENERAL PROTOTYPE VERSION	PROTOTYPE # F

**SITE PLAN**  
**HARPERS FERRY**  
**DOLLAR GENERAL**  
 JEFFERSON COUNTY, WEST VIRGINIA  
 SITE PLAN WITH WATERLINE EXT

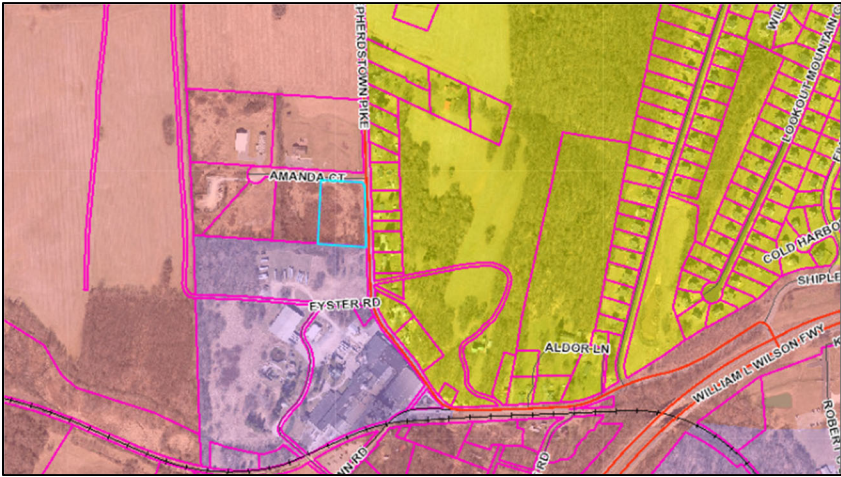
SHEET No.  
**EX 4.1**



Staff Report  
 Jefferson County Planning Commission Meeting  
 February 14, 2023

**Dollar General (Early Grading) Waiver Request (File #23-5-PCW)**

**Item # 7b: Public Hearing:** Waiver from Section 20.102B to allow site grading to commence prior to site plan approval for the proposed Dollar General Store (File: 22-14-SP).

Owner	Wall Street Partners WV1, LLC
Surveyor/Engineer	The Thrasher Group/ Robert Milne
Parcel Information	<p>Vacant Lot on the corner of Amanda Ct &amp; Shepherdstown Pike, Harpers Ferry, WV          Parcel ID: 04001000110005; Size: 2.19 acres;          Zoning District: Residential-Light Industrial-Commercial</p> 
Adjacent Zoning	<p>North and West: Residential-Light Industrial-Commercial (RLIC);          East: Residential Growth (RG); South: Industrial-Commercial (IC)</p>
Proposed Activity	Dollar General Store
Project Files	<p>97-03-SD: Kramer Commercial Subdivision (File #97-03) (PB 15, PG 14)          22-14-SP: Minor Site Plan for a proposed 10,640 sf retail store (Dollar General), associated parking, and stormwater management.</p>
Waivers/Variances	<p>10/11/22: PC approved the following requests:</p> <ul style="list-style-type: none"> <li>• Waiver from Section 2.3.B.3 to reduce the drive aisle entrance width from 35' to 37' to accommodate 3-12' lanes, one ingress, two egress to accommodate the movements of a tractor trailers (WB-67) for deliveries; and,</li> <li>• Waiver from Section 2.5.N to reduce the drive aisle width from 24' to 42' to accommodate tractor trailer movements (22-20-PCW).</li> </ul> <p>10/27/22: BZA approved the follow requests:</p> <ul style="list-style-type: none"> <li>• Variance from Section 4.11 to eliminate a portion of the landscape buffer along portions of western and southern property lines and to eliminate the streets trees along Amanda Court and Shepherdstown Pike (22-32-ZV).</li> <li>• Variance from Section 11.2 to reduce the number of required parking spaces; and, Appendix B to reduce the front parking setbacks from 15' to 8' (22-33-ZV).</li> <li>• Variance from Article 10 to reduce the front setback along Amanda Court from 25' to 19' and along Shepherdstown Pike from 25' to 17' for a pylon sign (22-34-ZV).</li> </ul>

Staff Report  
Jefferson County Planning Commission Meeting  
February 14, 2023

**Dollar General (Early Grading) Waiver Request (File #23-5-PCW)**

**Summary of the Request:**

The subject property, a 2.19-acre lot created in 1997 as a part of the Kramer Commercial Subdivision, is located west of Shepherdstown Pike, south of Amanda Court. The property is zoned Residential-Light Industrial Commercial. The applicant is proposing the construction of a 10,640 sq.ft. Dollar General Building on the vacant lot.

At this point, the project has been processing as a Minor Site Development under Section 20.203A(3) of the Subdivision Regulations which relates to “building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major non-residential subdivision with master planned roads and stormwater.” The project is now proposing to extend off-site water infrastructure to serve this lot, which would require processing as a Major Site Plan. The Planning Commission is also hearing a separate waiver request related to this change.

Whether this processes as a Minor or Major Site Development, no work is permitted to begin on the property until such time as the site plan is approved. This request is for the applicant to be permitted to begin early grading prior to the final approval of the Site Plan.

**Subdivision Regulation Requirements:**

Section 20.102B of the Subdivision Regulations requires that before development of the land is commenced, subdivision plats and site plans must be approved by the Planning Commission, recorded, and surety posted for required improvements in accordance with these Regulations and the Comprehensive Plan. This request is to waive this requirement and to allow the grading to be initiated prior to the final approval of the Site Plan.

The application does not discuss whether the applicant intends to bond sediment and erosion control only or to completely bond the full project if this request to begin grading is approved.

**Staff Comments/Recommendation:**

As staff has noted previously, many jurisdictions allow separate grading permits provided that all Erosion and Sediment Control and SWM plans have been approved by the County and are bonded. These plans will receive such approval for all Erosion and Sediment Control measures and will be inspected by the County prior to earth movement. The Jefferson County Planning Commission has allowed early grading plans in the past and staff recommends that this concept should be included as a provision in the Subdivision Regulations/Ordinance when it is amended.

The applicant has indicated that allowing this project to begin will be helpful in getting the site ready for the construction of the Dollar General store to meet their contractual requirements. The request is to initiate the on-site grading and erosion control work prior to the Site Plan approval.

Staff recommends approval of the waiver request with the following conditions:

- a. A grading permit is issued to allow the owner to perform site grading, erosion and sediment control in preparation for a future building pad and related improvements. No additional work will be allowed until the site plan is approved. This permit is subject to the requirements of the sediment and erosion control plan submitted and approved as part of the grading plan and a NPDES permit is obtained; and

Staff Report  
Jefferson County Planning Commission Meeting  
February 14, 2023

**Dollar General (Early Grading) Waiver Request (File #23-5-PCW)**

- b. 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
- c. Provide bonding of all proposed site improvements related to grading, sediment and erosion control/SWM pertaining to the permit.

As a reminder, this Site Plan cannot be approved until the WV DOH entrance permit and State Health Department permits are obtained.

**Waiver Requirements:**

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

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





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

File #: 23-5-PCW  
 Mtg Date: 02-14-23  
 Date Rec'd: 01-24-23  
 Fees Paid: \$100 (cc)  
 Staff Int: AB  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: Andy Haymaker  
 Business Name: Wall Street Partners WV1, LLC  
 Mailing Address: 3120 Lexington, KY 40513  
 Phone Number: (859)621-6178 Email: ahaymaker@haymakercompany.com

**Applicant Contact Information**

Applicant Name: Andy Haymaker Same as owner:   
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: (859)621-6178 Email: ahaymaker@haymakercompany.com

**Consultant Information**

Name: Robert Milne, PE  
 Business Name: The Thrasher Group, Inc.  
 Mailing Address: 600 White Oaks Blvd., PO Box 940, Bridgeport, WV 26330  
 Phone Number: (304)326-6141 Email: rmilne@thethrashergroup.com

**Physical Property Details**

Physical Address: Amanda Court Lot 1 Vacant Lot:   
 Tax District: Harpers Ferry Map No: 10 Parcel No: 11.5  
 Parcel Size: 2.19 Deed Book: 1294 Page No: 150  
 Zoning District: R-LI-C

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

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

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

20.102 B (2018)

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

This request is to allow for early grading to begin while we await final approval from State and County Health Departments for water and sewer permits.

**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.**

No additional maintenance costs to the county as the proposed improvements are on private property.  
Benefits - local retail store, provides convenience to local patrons.

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

If granted the waiver will not adversely affect public health, safety, or the welfare of adjacent property owners. work will be completed in accordance with State and County regulations.

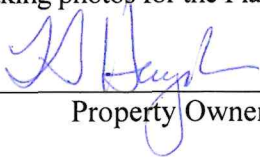
**Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.**

If granted, the intent and purposes of the ordinances will still be followed. If granted, it enables the contractor to get started on site grading to help maintain delivery dates agreed to by the applicant and Dollar General.

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

Granting the waiver will be extremely helpful in getting the store opened for the residents of Jefferson County

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.



Property Owner Signature

1-23-23

Date

Property Owner Signature

Date

**Notification Requirements**

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

Public Hearing Date

Date Placard Posted

Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

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

Project Name = Harpers Ferry Dollar General

Request for Waiver from Section 2.3.B.3 and Section 2.5N  
Entrance Width and Drive Aisle Modifications

## Description of the Physical Features of the Property:

The site is in the central portion of parcel number 19-04-0010-0011-0005 and is 2.19 acres. The parcel is currently owned by Wall Street Partners WV1, LLC. They purchased the property from Iris Wood on November 17, 2022. The site is currently a vacant lot with overgrown brush.

The site consists of no structures. The site is bound to the north by open pasture and fields. The site is bound to the east by residential homes with some pastures and State Route 230. The site is bound to the south by a vacant lot with vegetation (south of this lot is a commercial factory). The site is bound to the west by a cleared open field with vegetation. The center of the site is located at Global Positioning System coordinates 39.316594 latitude and -77.799535 longitude. There is no real change in site elevation within the site and the site elevation is listed at 427 ft. above mean sea level.

The site is located in the Appalachian Plateau physiographic province and consists of primarily Pennsylvanian rocks. Approximately 20,000 ft of Paleozoic rock overlies Precambrian basement in the Appalachian Plateau. Rocks within the Appalachian Plateau are structurally complex due to compressional forces; older Paleozoic strata were thrust over the younger evaporates.. However, the general subsurface geology likely consists of Conococheague Formation (deposited limestone with with interbeds of aphanitic limestone and dolomite), Elbrook Formation (thin-bedded blue-gray argillaceous limestone and platy shale), Stonehenge Limestone (gray, thin-bedded limestone), Rockdale Run Formation (bluish to light gray, thick-bedded dolomite and limestone), Harpers Formation (greenish-gray phyllite), Waynesboro Formation (variegated shale and sandstone), and Tomstown Dolomite (thick-bedded, blu-gray dolomite).

Data from the NRCS Web Soil Survey (NRCS, 2022) indicate there are two main soil types within the site: Poplimento silt loam, 3 to 8 percent slopes (silt loam, clay, very channery silt clay loam) and Poplimento silt loam, 8 to 15 percent slopes (silt loam, clay, very channery silty clay loam).

Construction of Amanda Court resulted in a storm water management facility being constructed in the southeast corner of this lot. There have been no significant changes to the lot since then.

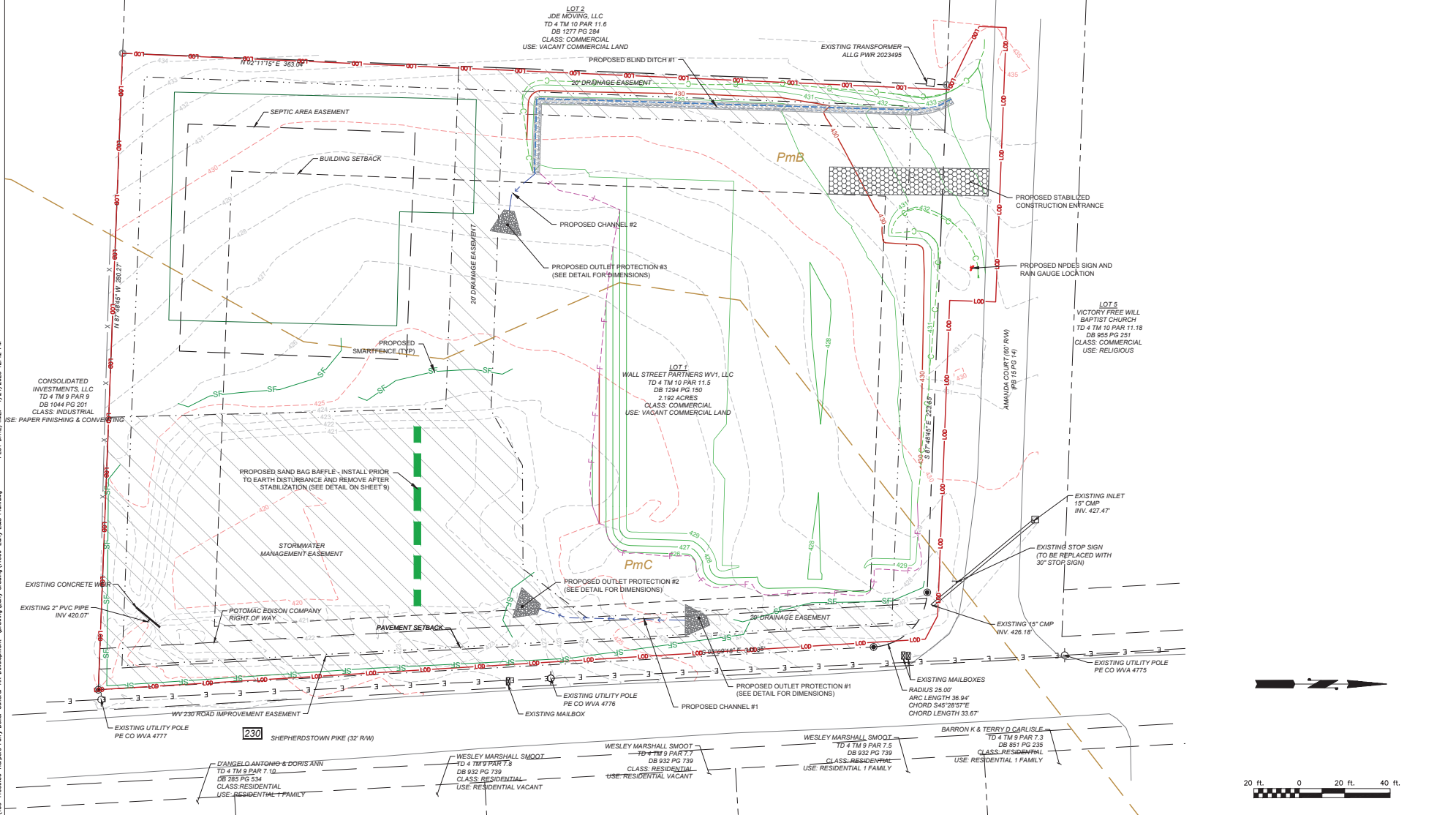
Description of the Regulations for which relief is being sought:

The applicant is requesting a waiver from Section 20.102B. The applicant is requesting permission to begin early grading of the lot in preparation for a future Dollar General Retail Store. The applicant has gone through the Jefferson County Site Plan approval process and is currently awaiting health department approvals from the State health department for a water line, and the county health department for a septic system. The applicant has an approved WVDEP NPDES permit for the site.

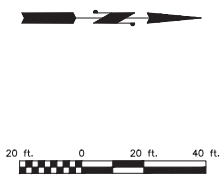
The applicant is requesting a waiver from Section 20.204. The applicant is requesting that the site be processed as a minor site development in lieu of a major site development. The site was being processed as a minor site development, during the review period the applicant was made aware of an opportunity to connect to public water in lieu of a private well as initially planned. Public water resulted in a mainline extension of 505 ft. along WV 230.

The waivers will not adversely affect public safety or welfare.

PRELIMINARY SITE PLAN				CITY, STATE - STREET: HARPERS FERRY, WV - AMANDA COURT
PROTOTYPE: F	DEVELOPER	DESIGNER	DATE:	
BLDG/SALES SF:	COMPANY: A&R DEVELOPMENT	COMPANY: THE THRASHER GROUP, INC.	01.24.2023	
ACREAGE: 2.19	NAME: RICH WRIGHT	NAME: RUSSELL B. MESSENGER, P.E.		
PARKING SPACES:	PHONE #: (859) 618-2126	PHONE #: (304) 623-4108		



PLOT DATE/TIME: 1/24/2023 12:42 PM  
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 A&R DEVELOPMENT, INC.



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APP	BY	DATE	ISSUED FOR PERMIT PLANS
		01.24.2023	
NO.			DESCRIPTION



TIG PROJECT No.	T30-11009.00
DOLLAR GENERAL PLAN SET No.	10,542
DOLLAR GENERAL PROTOTYPE VERSION	PROTOTYPE F

EARLY GRADING SITE PLAN  
 HARPERS FERRY  
 DOLLAR GENERAL  
 JEFFERSON COUNTY, WEST VIRGINIA  
 EROSION & SEDIMENT CONTROLS

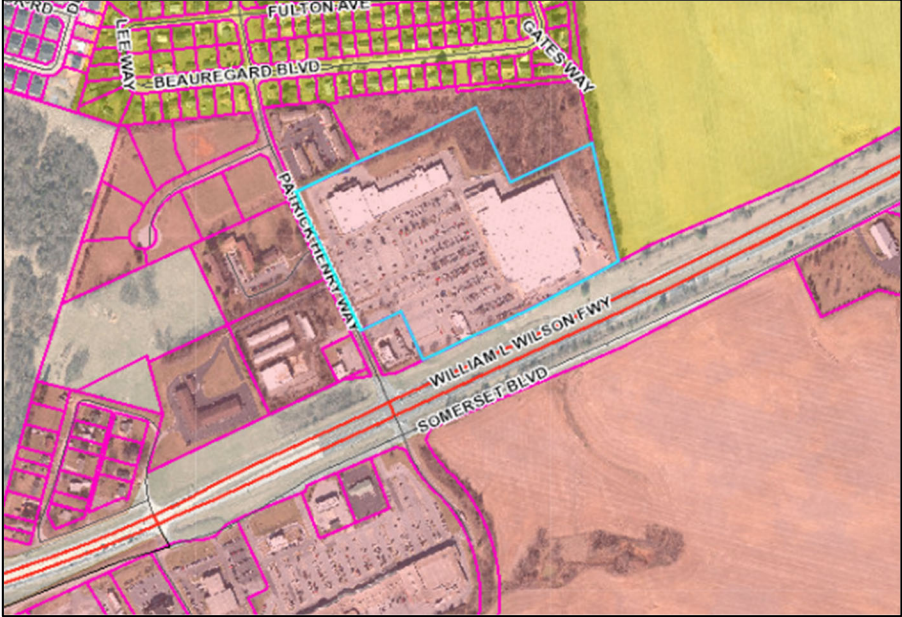
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Staff Report  
 Jefferson County Planning Commission Meeting  
 February 14, 2023

**Walmart Expansion Waiver Request (File #: 23-6-PCW)**

**Item # 8: Public Hearing:** Waiver from Section 20.203B.2 of the Subdivision Regulations, which requires a Limited Site Plan when the footprint of an addition or a new structure is greater than 1,200 square feet and less than 3,000 square feet, and the disturbed area is greater than 5,000 square feet. The applicant is requesting to waive the requirement of a Site Plan to allow for the construction of a 2,420 square foot addition to be located over the existing parking lot.

Owner	SUSO 2 Alabama LP
Consultant	Dewberry / Attn: Carolyn Howard
Parcel Information and Zoning District:	<p>96 Patrick Henry Way, Charles Town WV; Parcel ID: 02000800290002; Size: ~21 acres; Zoning District: Residential- Light Industrial-Commercial</p> 
Surrounding Zoning:	<p>North, South, and West: Residential-Light Industrial-Commercial          East: Residential Growth</p>
History:	Walmart Site Plan (WalMart Store #2566): a redevelopment of the existing commercial shopping center (File: 96-16-S)
Waivers/Variances:	<p>08/15/96: BZA approved the following variances:</p> <ul style="list-style-type: none"> <li>• Reduction of the Side Distance Requirement from 75' to 45' (ZV96-49)</li> <li>• Reduction of the Front Parking Lot Setback from 15' to 10' (ZV96-50)</li> <li>• Reduction of the Front Setback from 25' to 5' (ZV96-51)</li> <li>• Reduction of the Side Setback from 50' to 30' (ZV96-52)</li> <li>• Reduction of the Rear Setback from 50' to 10' (ZV96-53)</li> <li>• Reduction of the Frontage Road Easement from 60' to 40' (ZV96-54)</li> <li>• Reduction of the Landscape Buffer from 50' to 8' (ZV96-55)</li> <li>• Establish a Fast Food Restaurant within a commercial building (ZV96-56)</li> </ul> <p>06/19/97: BZA approved a variance to allow a freestanding sign along Route 340 (ZV97-18)</p> <p>07/17/97: BZA approved a variance for placement of a temporary leasing sign (ZV97-31)</p>

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**Walmart Expansion Waiver Request (File #: 23-6-PCW)**

	06/18/98: BZA approved a variance to utilize 80 parking spaces to store garden center materials from March 1 to August 1 of each year (ZV98-09) 02/17/00: BZA approved a variance to utilize 89 parking spaces to store garden center materials from March 1 to August 1 of each year (ZV00-01) 09/20/01: BZA approved a variance to allow the garden center seasonal use within the parking lot of shopping center (ZV01-22) 08/21/03: BZA approved a variance to reduce the number of parking spaces from 1238 to 1204 for the expansion of the garden center. Does not impact the seasonal use items in parking lot (cont'd from 07/17/03) (ZV03-21)
Approved Activity:	Shopping Center

**Summary of the Request**

The subject property consists of a commercial shopping center anchored by a WalMart, which was redeveloped in 1996 to accommodate the WalMart facility. At that time, a number of zoning variances were approved and subsequently there have been other variances approved by the Board of Zoning Appeals as modifications to the Site Plan have been made primarily to the WalMart itself within the shopping center.

The applicant is currently interested in processing a 2,420 SF Building Expansion and revised parking area to allow for relocating and expanding for the pick-up parking area. The proposed changes will require changes to stripping and signage; limited grading and paving of a current impervious area; and rerouting the storm drain. They also intend to relocate the Canopy over some of the current pick-up parking spaces to the new pick-up parking spaces. The applicant has indicated that the construction of the 2,420 square foot addition will be located over the existing parking lot and will therefore not increase the impervious area.

The applicant is requesting to waive the requirement of a Site Plan to allow for the construction of the above described 2,420 square foot addition to be located over the existing parking lot.

**Subdivision Requirements**

Section 20.203 “Minor Site Development” of the Subdivision Regulations (excerpt below), requires all projects to process a Site Plan if the footprint of the proposed addition or the new structure is greater than 1,200 square feet; OR, if additional parking is required per the Zoning Ordinance; OR, if the disturbed area is more than 5,000 square feet.

The applicant is proposing to construct a 2,420 square foot addition (to be located over the existing parking lot) and is requesting to be permitted to do this without processing a Site Plan.

**Staff Discussion and Recommendation**

Site Plans are engineered documents that depict the site improvements required by the Subdivision Regulations, including, but not limited to, stormwater management, landscaping, parking and drive aisle layout, bonding and signage. The proposed 2,420 sq ft addition would require processing a Limited Site Plan per Section 20.203 of the Subdivision Regulations.

Staff believes that the requested waiver of the Limited Site Plan, based on the fact that the additional square footage is proposed to be placed the existing impervious area, the fact that stormwater

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**Walmart Expansion Waiver Request (File #: 23-6-PCW)**

management does not appear to be a concern, and that existing parking is not negatively impacted, appears to be a reasonable request.

If this waiver is approved by the Planning Commission, a redline revision to the approved Site Plan (Site Plan File #S96-16) will be required for the purpose of expanding the building and reducing the parking spaces. A redline revision is processed administratively and requires approval from the County Engineer. Additionally, the applicant will still have to obtain a building permit, which may necessitate approval from the WVDOH (access).

It should be also noted that the existing Site Plan reflects a total of 1,204 parking spaces, after the approval of ZV03-21 for the expansion of the garden center (see 07-17-03 BZA minutes). As this application has some impact on the required parking spaces, a Zoning Variance has been also submitted for consideration by the Board of Zoning Appeals.

**Sections of Subdivision Regulations under Consideration:**

**Section 20.203 Minor Site Development**

Minor Site Developments are those proposals that do not require the development of new off-tract infrastructure or the extension of existing off-tract infrastructure.

**B. Site Plan Classifications**

All Minor Site Developments shall be processed utilizing one of the following Site Plan Classifications. Unless explicitly stated within this Section, all requirements of these Regulations apply to each of the classifications below, including the requirements of Appendix A and Appendix B. Minor Site Development may require Stormwater Management Plans and stormwater management activities per the Jefferson County Stormwater Management Ordinance.

1. **No Site Plan or Stormwater Management Plan.** No site plan is required for additions to existing structures or structures ancillary to existing uses on a property, when:
  - a. The footprint of the addition or the new structure is less than 1,200 square feet; and
  - b. No additional parking is required per Zoning Ordinance standards; and
  - c. The disturbed area is no more than 5,000 square feet.

Note: Once the total of any additions or new structures processed under this provision since October 5, 1988 exceeds 1,200 square feet, it shall process as a Limited Site Plan or a Full Site Plan, as appropriate.

2. **Limited Site Plan**

A site plan limited to basic information needed to address (a) erosion and sediment control, (b) parking requirements for the expanded use, (c) stormwater management (quantity and quality) for the additional impervious area only, (d) handicapped access to the existing and proposed structures and (e) compliance with the Zoning Ordinance, may be used on sites where the structure is:

- a. An addition to an existing structure, or, ancillary to an existing use; and
- b. The footprint does not exceed 3,000 square feet or 35% of the existing structure, whichever is smaller.
- c. For a home occupation or cottage industry, the limited site plan standards are applicable if a site plan is required pursuant to the Zoning Ordinance.

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**Walmart Expansion Waiver Request (File #: 23-6-PCW)**

**Waiver Requirements**

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

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

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



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

File #: 23-6-PCW  
 Mtg Date: 02-14-23  
 Date Rec'd: 01-24-23  
 Fees Paid: 100  
 Staff Int: gt  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: \_\_\_\_\_  
 Business Name: SUSO 2 Alabama LP, a Delaware limited partnership  
 Mailing Address: c/o Slate Asset Management L.P., 121 King Street West, Suite 200, Toronto, Ontario M5H 3T9 Canada  
 Phone Number: +1 416 583 1732 Email: stelios@slateam.com

**Applicant Contact Information**

Applicant Name: Mike Rutherford, Senior Project Manager Same as owner:   
 Business Name: Walmart  
 Mailing Address: 2608 SE J Street, Bentonville, AR 72716  
 Phone Number: 479-270-7024 Email: Mike.Rutherford@walmart.com

**Consultant Information**

Name: Carolyn Howard, PE  
 Business Name: Dewberry Engineers  
 Mailing Address: 551 Piney Forest Road, Danville, VA 24540-3353  
 Phone Number: 434-549-8505 Email: choward@dewberry.com

**Physical Property Details**

Physical Address: 96 Patrick Henry Way, Charles Town Vacant Lot:   
 Tax District: \_\_\_\_\_ Map No: 8 Parcel No: 02 8002900020000  
 Parcel Size: \_\_\_\_\_ Deed Book: 1170 Page No: 471  
 Zoning District: Residential-Light Industrial-Commercial (R-LI-C)

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

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

**What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?**  
Section 20.203 Minor Site Development of the Subdivision Regulations, as amended on February 1, 2018

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

The project provides sufficient parking for all uses on the site and does not increase the impervious area therefore not impacting the downstream stormwater system

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

This is not applicable since it is an existing development proposing a 2420 square foot building addition.

**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 proposed project is a 2420 square foot building addition that does not require the construction of additional impervious surface and therefore not adversely impact downstream waterways.

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

Since the proposed project does not increase the impervious area, it does not require stormwater management.

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

The proposed project is a 2420 square foot building addition that does not require the construction of additional impervious surface and therefore not adversely impact downstream waterways.

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

SUSO 2 Alabama LP, by its general partner, SUSO 2 Alabama GP LLC, by its manager, Slate U.S. Opportunity (No. 2) Holding L.P., by its general partner, Slate U.S. Opportunity (No. 2) Holding (GP) L.P., by its manager, Slate Holding (GP), LLC

*[Signature]*  
Property Owner Signature

1/24/23  
Date

Property Owner Signature

Date

Paul F. Wells, executing solely in his capacity as Manager of Slate Holding (GP), LLC. The undersigned shall have no personal liability as a result of executing this application solely in his capacity as Manager of Slate Holding (GP), LLC.

**Notification Requirements**

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

02-14-23  
Public Hearing Date

01-31-23  
Date Placard Posted

01-31-23  
Date Adjoiners Mailed

**Planning Commission Determination**

Approved

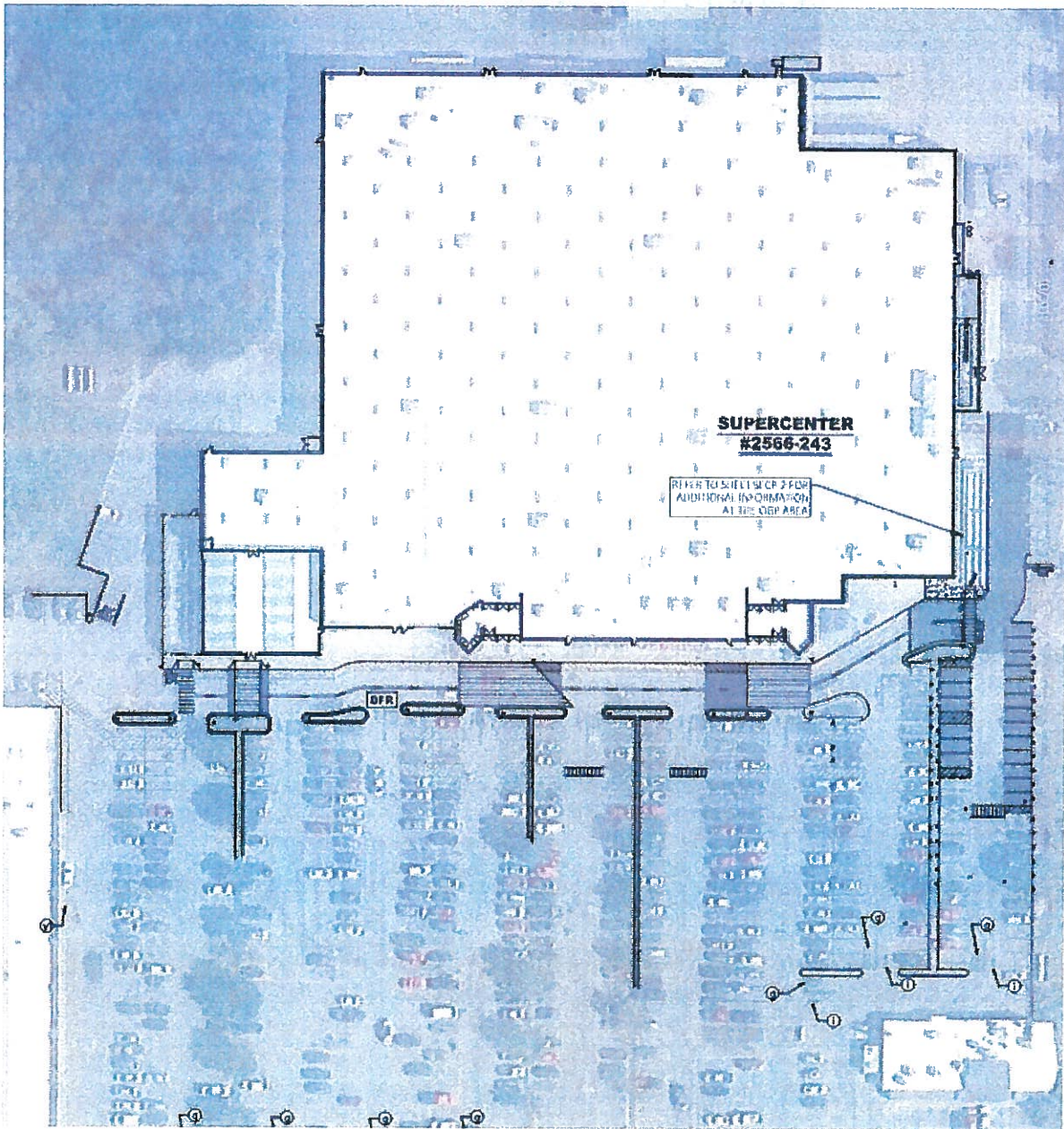
Denied

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





WALMART 2566 CHARLES TOWN, WV  
SECTION 8.9 VARIANCE REQUEST EXHIBIT



*Carolyn A. Howard*

Carolyn Howard  
January 24, 2023



**Planning Department**

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**From:** Jason Gerhart <jgerhart@ifs-ae.com>  
**Sent:** Thursday, February 9, 2023 9:12 AM  
**To:** Planning Department  
**Cc:** Jennifer Brockman; Jonathan Saunders; Alexandra Beaulieu; Mark McDonald  
**Subject:** Stonecrest Preliminary Plan Determination Request

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

As discussed earlier this week, IFS has resubmitted the Stonecrest Preliminary Plat, however due to advertising deadlines and meeting schedules, the County staff will not have adequate time to fully review the plan prior to the time of creating the Agenda for the Tuesday February 14<sup>th</sup> Planning Commission Agenda. Unfortunately, if we are not able to be considered at the February 14<sup>th</sup> meeting, there is not another scheduled meeting until March 14<sup>th</sup>. The current step is primarily an administrative formality, however it is a current requirement of state code which has limited staff flexibility on the matter.

Therefore, at the suggestion of staff, IFS would like to request, on behalf of the Applicant and Developer DR Horton, that the Preliminary Plat be submitted to the Planning Commission for them to determine that the application is complete and that a public hearing can be scheduled as allowed by Section 23.202B.4. Due to ordinance timing limitations, we would request that the public hearing be scheduled for Tuesday March 28<sup>th</sup>. This would provide 2 additional weeks for staff review that would have normally occurred when the Planning Commission met twice a month instead of the current once a month format. We feel that all outstanding comments have been addressed, and the comments that were made were not of substantial concern to the overall progress of the application under consideration.

If there are any questions with regards to the request, please feel free to contact me at the number below. Thank you for your time and consideration.

**Jason Gerhart, PE**

Principal | Director of Engineering

Licensed in AL,FL,GA,IL,MI,NY,PA,SC,TX,VA,WV



**INTEGRITY**  
FEDERAL SERVICES

CIVIL ENGINEERING | LANDSCAPE ARCHITECTURE | PLANNING

SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS (CVE)

148 S. Queen Street, Suite 201, Martinsburg, WV 25401

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**Jefferson County, West Virginia**  
**Department of Engineering, Planning, and Zoning**  
**Office of Planning and Zoning**  
116 East Washington Street, 2<sup>nd</sup> Floor  
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**MEMORANDUM**

TO: Jefferson County Planning Commission  
FROM: Jennifer M. Brockman, AICP, County Planner  
DATE: April 13, 2021 (revised from October 11, 2016 Policy)  
RE: 4<sup>th</sup> Tuesday Meeting Policy (Revised)

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The following is a Planning Commission initiated policy clarifying the provision of Section 4.1 of the Planning Commission Bylaws which states "An additional regular meeting may be called by the President or by two or more members of the Planning Commission for a specific agenda item on the fourth Tuesday of each month at 7:00 p.m. at the location noted in this section. Such regular meeting shall be called at least seven (7) days prior to the fourth Tuesday to allow for posting of the agenda."

**Policy Regarding Planning Commission Meetings on Fourth Tuesdays**

In accordance with Section 4.1 of the Planning Commission Bylaws, an additional regular meeting of the Planning Commission may be called by the President or by two or more members of the Planning Commission, for the fourth Tuesday of the month, under the following circumstances:

- 1) If the regular Tuesday meeting agenda is full, as determined by staff, in consultation with the Planning Commission President; or
- 2) If there is a timing issue caused by the action of the Office of Planning and Zoning staff or the Planning Commission; or
- 3) If action is required within a set time frame by locally adopted ordinances, regulations or state law; or
- 4) For Planning Commission initiated items such as text amendments or long range planning projects; or
- 5) At the discretion of the President of the Planning Commission.

Approved by Action of the Planning Commission: 7 FOR 0 AGAINST

  
\_\_\_\_\_  
President, Mike Shepp

6-8-2021  
\_\_\_\_\_  
Date



# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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

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## MEMO

**TO:** Planning Commission Members  
**FROM:** Jennie Brockman, AICP, Chief County Planner  
**DATE:** February 14, 2023  
**RE:** Proposed Revisions/Finalization of “Clarification of Vested Property Rights for Concept Plans and Preliminary Plats”

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Attached is a policy approved in 2011 to clarify the meaning of the “effect” of Major Site Plan and Subdivision approvals in the 2008 Subdivision Regulations, and what the actual timelines for those submittals are.

Since that time, we have begun processing Major Subdivisions and have become aware that the current Subdivision Regulations also do not address processing in Phases and what timelines apply for subsequent submittals; and do not address the implication of “approved with conditions”. The 1979 Subdivision Ordinance explicitly addressed phased projects as follows: “The continued processing of sectional final plats shall be permitted, provided no more than twenty-four (24) months lapse between approvals.”

The following items need Planning Commission direction for inclusion in a policy (and should be included in future text amendments to the Subdivision Regulations):

1. Conditional Approval of a Preliminary Plat:  
Does the 5 year validity period started with Planning Commission action or when it is finally signed by staff? Should there be a maximum time permitted between these two approvals?
2. If a project is going to process in Phases, does the Preliminary Plat need to be submitted in its entirety and only the Final Plat phased or can the Preliminary Plat be phased and if so what timeframes apply?

**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Planning & Zoning**  
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[zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

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

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**MEMO**

**TO:** Planning Commission Members  
**FROM:** Jennie Brockman, AICP, Director, Planning and Zoning Department  
**DATE:** July 6, 2011  
**RE:** Clarification of Vested Property Rights for Concept Plans and Preliminary Plats

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The timeline regarding a concept plan and a preliminary plat established in Section 24.109.C and Section 24.113.C does not clearly identify when the next phase of a project must be completed.

Section 24.109.C. states the Planning Commission's direction during the Concept Plan Workshop shall be applicable for a period of two years, with the provision that any amendments to these regulations or the Zoning Ordinance in the second year shall control. It is staff's determination that the preliminary plat must be submitted and approved within the two year period of time which the concept plan direction is in effect. Whereas a preliminary plat submitted within the first year shall be vested in the Subdivision Regulations and Zoning Ordinance in effect at that time; a preliminary plat submitted within the second year shall abide by any Subdivision Regulations and Zoning Ordinance amendments that had been publicly approved.

Section 24.113.C. states the Planning Commission's approval of the preliminary plat is good for a period of five years. The applicant may then submit a final plat for review and approval. It is staff's determination that the final plat must be submitted and approved within the five year period of time the preliminary plat approval is in effect.

As specifically outlined in Section 24.118 a final plat approved by the Planning Commission must be filed and recorded, in accordance with W.VA Code §39-1-13, within 180 working days.

The proposed project shall be considered void if there is a lapse of time in any stage of approval process.



# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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## Planner's Memorandum Planning Commission Meeting February 14, 2023

### 1) Status of Engineering, Planning and Zoning County Offices Contact Information

The Department of Engineering, Planning and Zoning Mason Building is open to the public.

BUILDING PERMITS & INSPECTIONS 304-725-2998 [permits@jeffersoncountywv.org](mailto:permits@jeffersoncountywv.org)

IMPACT FEES 304-728-3331 - [mmason@jeffersoncountywv.org](mailto:mmason@jeffersoncountywv.org)

ENGINEERING 304-728-3257 - [engineering@jeffersoncountywv.org](mailto:engineering@jeffersoncountywv.org)

PLANNING & ZONING 304-728-3228 - [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org), [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

GIS & ADDRESSING 304-724-6759 - [gis@jeffersoncountywv.org](mailto:gis@jeffersoncountywv.org)

### 2) Upcoming PC meeting

Next Regular meeting date: **March 14, 2023**



**Zoning**

**From:** Linda Peters <linlpeters@aol.com>  
**Sent:** Thursday, January 12, 2023 6:39 PM  
**To:** Zoning  
**Subject:** House Bill 2459

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

Hello,

I am a Hardy County resident and we have had a comprehensive plan since 1973. I see that Jefferson county does too. HB2459 would provide that exempt wholesale generators are a permissible use in any zoning district.

This would have a negative impact in a proposed industrial scale wind project in my community. Hopefully Jefferson county is proud of their accomplishments related to their comprehensive plan and would not support such legislation.

Thank you

Linda Peter's

Hardy County