



Agenda  
Jefferson County Planning Commission  
Tuesday, May 9, 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: 839 8584 7467  
Meeting Link: <https://us02web.zoom.us/j/83985847467>

*\*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:** March 14, 2023 (corrected), March 28, 2023, and April 11, 2023.
2. **Request for postponement.**
3. **Public Workshop:** Solar Energy Facility Concept Plan for the Flowing Springs Farm Solar project for a proposed 125 MWac solar electric generating facility and associated battery energy storage system on approximately 660-acres. The project will consist of solar modules, a new substation to connect the solar facility with the electric grid, and underground utilities. The project site has existing high voltage power lines running through the property. (PC File #23-4-SP).

**Property Owners/Location/ID/Size/Zoning District**

B C Partners, Inc., Property Owner

Vacant parcel south of Job Corps Road/south of Driswood Elementary School, Shenandoah Junction, WV  
Parcel ID: 02000300130000; Lot Size: 104.7 acres; Zoning District: Rural

Butler Family Limited Partnership, Property Owner

Vacant parcel northeast of Old Country Club Rd / east of Aspen Greens Subdivision, Charles Town, WV  
Parcel ID: 04001000010000; Lot Size: 133.9 acres; Project Area: 93.8 acres; Zoning District: Residential Growth & Rural

B C Partners, Inc., Property Owner

Vacant parcels east of Old Country Club Road / north of Beallair Subdivision, Charles Town, WV  
Parcel ID: 04001000020000; Lot Size: 99.5 acres; Zoning District: Residential Growth  
Parcel ID: 04001000030000; Lot Size: 233.5 acres; Zoning District: Residential Growth

Potomac Edison Company, Property Owner

1320 Old Country Club Road (Substation), Charles Town, WV  
Parcel ID: 04001000030005; Lot Size: 3.67 acres; Zoning District: Residential Growth

B C Partners, Inc., Property Owner

Vacant parcel west of Shepherdstown Pike, Harpers Ferry, WV  
Parcel ID: 04001000100000; Lot Size: 141.1 acres; Zoning District: Residential Growth & Residential-Light Industrial-Commercial

4. **Public Hearing:** Request for a waiver from Appendix B, Section 2.3.B.6 of the Subdivision Regulations to reduce the radius from 35 ft. to 15 ft. for the entrance to the proposed Aspen Hill Apartments (File: 23-2-SP). Property Owner: L & C Horning LLC. Applicant: Tri-State Improvements, LLC; Property Location: Maddex Dr, Shepherdstown WV; Parcel ID: 09000800170001; Size: ~0.43 acres; Zoning District: Residential Growth (File: 23-8-PCW).
5. **Public Hearing:** Request for a waiver from Section 20.203B of the Subdivision Regulations, which requires a Full Site Plan for any development that does not meet the Limited Site Plan Standards.. The applicant is requesting to waive the requirement of a Full Site Plan for up to two 2,500 sq. ft. octagonal dog kennels and a 480 sq. ft. shed roof overhang on one existing building. Property Owner/Applicant: National Humane Education Society; Property Location: 3731 Berryville Pike, Charles Town, WV; Parcel ID: 06001100010000; Size: ~23.36+ acres; Zoning District: Industrial-Commercial (File: 23-9-PCW).
6. **Public Hearing:** Request for a variance from Section 2.1B of the 1979 Subdivision Ordinance (parent to child exemption) to lift the single family restriction to allow for a detached Accessory Dwelling Unit (In-Law Suite). Property Owner/Applicant: Jake Lavoie; Property Location: 1196 Ward Clipp; Parcel ID: 06002800110000; Size: ~17.36 acres; Zoning District: Rural (File: 23-1-PCV).

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

7. **Discussion and Possible Direction:** Review final approved amendments to WV Code 8A (effective 5/31/23) which will now allow the Planning Commission to authorize staff to have certain rights not previously permitted. This item is for discussion and direction as to whether amendments to the Subdivision Regulations, Bylaws, and/or Zoning Ordinance should be drafted.
  8. **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. 2023-C-48 (RE: PC File #21-8-SP Berryville Pike Telecommunications Tower).
  9. **Planner's Memo**
  10. **President's Report**
  11. **Actionable Correspondence**
  12. **Non-Actionable Correspondence**
    - Email from Alan Dattelbaum and Mary Edwards Re: Dust Control for Large Scale Projects.
    - Invitation to Blake Solar Project Re: Ground Breaking Ceremony
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Draft Meeting Minutes  
Jefferson County Planning Commission  
March 14, 2023

The Jefferson County Planning Commission met on March 14, 2023 at 7:00 pm with the following Planning Commission members present: Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; Ron Thomas, and Jack Hefestay were present in person. J. Ware and Shane Roper were present via ZOOM. Mike Shepp and Matt Knott were absent with notice; Donnie Fisher was absent without notice.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; and Nathan Cochran, Prosecuting Attorney.

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

1. **Approval of Meeting Minutes:** February 14, 2023

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

2. **Request for postponement.** Agenda Item #3 (File: 23-3-PCW) was postponed until 04/11/23. Mr. Thomas made a motion that if the applicant for File #23-3-PCW is not prepared to attend the 4/11/23 Planning Commission meeting, the application should be withdrawn and reapplied for at a later date. Mr. Hefestay seconded, which carried unanimously.

3. **Postponed until April 11, 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).

See Item #2 for discussion and action related to this Item.

4. **Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction to allow a detached Accessory Dwelling Unit for a family member. See PC File #05-23; Final Plat Note #1, PB 23 / PG 57. Property Owner: Michael and Johnna Oehlsen. Property Location: Ryans Glen Subdivision, Lot 10, 227 Ryans Glen Dr., Charles Town, WV. Parcel ID: 06020B00100000; Size: 2.16 ac; Zoning District: Rural (File: 23-2-FPA).

Ms. Brockman provided an overview of the staff report.

Michael and Johnna Oehlsen, property owners, explained the nature of the request noting that they intended to first establish a catering business/commercial kitchen as a Cottage Industry in an accessory structure. Eventually the accessory structure would be converted into a detached accessory dwelling unit, which requires the single-family restriction to be lifted.

Mr. Louthan opened the public hearing. There was no public comment. Mr. Louthan closed the public hearing.

Mr. Thomas made a motion to approve the Final Plat Amendment as presented. Mr. Hefestay seconded the motion, which carried unanimously.

5. **Discussion and Action:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Industrial-Commercial to Rural is consistent with the *Envision Jefferson*

*2035 Comprehensive Plan*. Property Owner: Lutman Land Development LLC. Property Location: Vacant parcels located southeast of the intersection of Norfolk & Southern Railroad and Lewisville Road, Charles Town/Summit Point, WV. Located behind John's Family Restaurant- 847 Berryville Pike & 340 Defense Shooting Range and Firearms Training - 459 Berryville Pike, Summit Point. Tax District: Kabletown (06), Map: 29; Parcel 2 comprised of 66 acres and Parcel 6 comprised of 30.89 acres. Zoning District: Industrial-Commercial (File: 23-1-Z).

Ms. Brockman provided an overview of the staff report regarding the Lutman Zoning Map Amendment (#23-1-Z) petition identifying relevant portions of the *Envision Jefferson 2035 Comprehensive Plan* for the Planning Commission's consideration and review. Staff presented a finding to the Planning Commission that while the request is not consistent with the *2035 Plan* because it is shown as future "Industrial or Commercial" on the Future Land Use Guide, the Rural (R) zoning request is reasonable for the location.

The Planning Commission invited the applicant's consultant, Paul Raco with P.J. Raco Consulting, to explain the proposed uses for the property and the choice of zoning category involved in the ZMA.

After reviewing the application, the staff report, and further discussion, Mr. Thomas made a motion that the proposed Zoning Map Amendment to Rural (R) is not consistent with the *Envision Jefferson 2035 Comprehensive Plan*. He further stated that the Residential-Light Industrial-Commercial (RLIC) zoning district is more consistent with the *Envision Jefferson 2035 Comprehensive Plan* and recommended that the applicants withdraw this petition and resubmit a petition for the RLIC zoning and that the fees should be waived. Mr. Hefestay seconded the motion, which carried unanimously.

6. **Discussion and Action:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Residential Growth to Residential-Light Industrial-Commercial is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Federal Group, Inc. Property Location: 233 Lowe Drive, Shepherdstown, WV. Tax District: Shepherdstown (09), Map: 8; Parcel 24.3 comprised of 1.02 acres, which is designated as a right-of-way (Lowe Drive) and Parcel 10.9 comprised of 23.67 acres (formerly the Shepherdstown Clarion). Zoning District: Residential Growth (File: 23-2-Z).

Ms. Brockman provided an overview of the staff report regarding the Clarion Zoning Map Amendment (#23-2-Z) petition identifying relevant portions of the *Envision Jefferson 2035 Comprehensive Plan* for the Planning Commission's consideration and review. The property is currently zoned Residential Growth (RG) and has had a Conditional Use Permit (CUP), issued in 1996, to permit a federal training facility with hotel rooms, dining facility, training classrooms, offices, and gymnasium. The Zoning Map Amendment request is to rezone the properties from Residential Growth (RG) to Residential-Light Industrial-Commercial (RLIC) which would allow residential uses as well as the on-going commercial and office uses. Staff presented a finding that, although the *Envision Jefferson 2035 Comprehensive Plan* recommends discouraging the use of the RLIC zoning district for all zoning map amendments, the request and the proposed uses for the 23.6-acre parcel are consistent with the intent of the recommendations of the *2035 Plan*.



The Planning Commission invited the applicant's consultant, Paul Raco with P.J. Raco Consulting, to explain the proposed new uses for the property.

After reviewing the application, the staff report, and further discussion, Mr. Louthan made a motion that the proposed Zoning Map Amendment to Residential-Light Industrial-Commercial (RLIC) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Thomas seconded the motion, which carried unanimously.

7. **Discussion and Action:** To affirm the final language for the proposed Planning Commission Policy RE: Clarification of Vested Property Rights for Concept Plans and Preliminary Plats for Phased Projects.

Ms. Brockman explained that Mr. Shepp had signed the Policy Memo (included in the packet), which reflected the motion of the February 14, 2023 meeting, but requested the Planning Commission take action to affirm the language included in the memo to ensure that it reflected the Planning Commission members' intent.

Mr. Hefestay made a motion to affirm the Policy Memo as presented by staff. Mr. Thomas seconded the motion, which carried unanimously.

#### 8. **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 requested to move the legal update to the end of the agenda.

9. **Planner's Memo.** Ms. Brockman provided an overview of the Planner's Memo and reminded the members of the Special Called meeting scheduled for March 28, 2023.

10. **President's Report.** None.

11. **Actionable Correspondence.** None.

12. **Non-Actionable Correspondence.** None.

Mr. Louthan made a motion to go into executive session at 7:42 p.m. to discuss Agenda Item 8.a. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Hefestay made a motion to come back in regular session at 8:00 p.m. Mr. Thomas seconded the motion, which carried unanimously.

Mr. Louthan declared the meeting adjourned at 8:01 pm.

These minutes were prepared by Jennifer Brockman, Chief County Planner.



Draft Meeting Minutes  
Jefferson County Planning Commission  
March 28, 2023

The Jefferson County Planning Commission met on March 28, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; Matt Knott were present in person. Jack Hefestay and Shane Roper were present via ZOOM.

Ron Thomas, J. Ware, and Donnie Fisher were absent without notice.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, Prosecuting Attorney; Jennilee Hartman, Zoning Clerk; and Michelle Evers, Planning Clerk.

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

- 1. Public Hearing:** Preliminary Plat for the Stonecrest Subdivision, which consists of 177 single family detached and 227 single family attached (townhouses) residential lots totaling 404 lots. Applicant: DR Horton. Property Owner: Flowing Springs Road LLC. Property Location: Parcel ID: 02000300090000; Project Size: 102 acres; Zone: Residential Growth. File: 22-11-SD.

Ms. Brockman provided an overview of the staff report.

Mr. Jason Gerhart, a representative with Integrity Federal Services, further discussed design plans.

Mr. Shepp opened the public hearing.

Dr. Pat Masters, who resides in the nearby Breckenridge North Subdivision, expressed concerns related to interconnectivity, traffic safety on Flowing Springs Road and infrastructure. Dr. Masters suggested providing pedestrian connection from the proposed Stonecrest Subdivision through adjoining developments via trails to Driswood Elementary school.

Mr. Shepp closed the public hearing.

In rebuttal, Mr. Gerhart confirmed that the proposed development included proposed vehicular and pedestrian connections to both Aspen Green to the south and a potential future subdivision to the north. Driswood Elementary school does not directly adjoin the proposed Stonecrest Subdivision. He further stated that the applicants would complete any state road improvements required by WV Division of Highways (WVDOH).

Mr. Gerhart addressed the Planning Commission's concerns regarding water run off to the east of the development.

Mr. Stolipher moved to approve the preliminary plat with the following conditions:

- a. WV DOH approval of the issuance of the Highway Entrance Permit; and
- b. Charles Town Utility Board (CTUB) for sanitary sewer services and Jefferson Utility Inc. (JUI) for public water utility design and connections.
- c. Finalize addressing all outstanding technical comments for staff's approval.

Mr. Shepp clarified that item B was intended to include the WV Health Department permit approval. Mr. Stolipher agreed.

Mr. Shepp seconded the motion as modified, which carried unanimously.

## **2. 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 requested to go into executive session to discuss items A and D.

Mr. Shepp moved to go into executive session for the purpose of receiving legal advice on items A and D under 'Reports from Legal Counsel' at 7:15 pm. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Louthan moved to go back into regular session at 7:30 pm. Mr. Stolipher seconded the motion, which carried unanimously.

## **3. President's Report.** None.

Mr. Stolipher motioned to adjourn the meeting at 7:31 pm. Mr. Shepp seconded the motion, which carried unanimously.

These minutes were prepared by Michelle Evers, Planning Clerk.

Meeting Minutes  
Jefferson County Planning Commission  
April 11, 2023

The Jefferson County Planning Commission met on April 11, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; Jack Hefestay; Tim Smith; Aaron Howell; Matt Knott and Donnie Fisher were present in person.

J. Ware was absent without notice.

Staff members present included: Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Alexandra Beaulieu, Deputy Director and Zoning Administrator; Nathan Cochran, Prosecuting Attorney; and Michelle Evers, Planning Clerk.

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

1. **Approval of Meeting Minutes:** March 14, 2023 and March 28, 2023.

Mr. Shepp asked for March 14, 2023 minutes be updated to reflect who made the motion and seconded for Item #5 and 6.

2. **Request for postponement.**

3. **Withdrawn. 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 Molders Rd, Harpers Ferry, WV. Parcel ID: 04000100060005; Size: 10 acres; Zoning District: Rural (File:23-3-PCW).

The Planning Commission acknowledged Agenda Item #3 was withdrawn.

4. **Public Hearing:** Request for a 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. The applicant is requesting to waive the requirement of a Site Plan to allow for the placement of one (1) 2,100 square foot office trailer and one (1) 460 square foot office trailer to be located on an existing impervious area. Property Owner: W A Chester LLC. Property Location: 3607 Berryville Pike, Charles Town WV; Parcel ID: 06001100010003 Size: ~11.26 acres; Zoning District: Industrial Commercial (File: 23-7-PCW).

Ms. Brockman provided an overview of the staff report.

Mr. Ben C. Montgomery, PE the Consultant for the Applicant, W.A. Chester, LLC had no further comment.

Mr. Shepp opened the public hearing. There was no public comment. Mr. Shepp closed the public hearing.

Mr. Stolipher made a motion to move the waiver as presented, with the condition for the applicant to do an as-built once completed. Mr. Hefestay seconded the motion, which carried unanimously.

5. **Public Hearing:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Industrial-Commercial to Residential-Light Industrial-Commercial (RLIC) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Lutman Land Development LLC. Property Location: Vacant parcels located southeast of the intersection of Norfolk & Southern Railroad and Lewisville Road, Charles Town/Summit Point, WV. Located behind John's Family Restaurant- 847 Berryville Pike & 340 Defense Shooting Range and Firearms Training - 459 Berryville Pike, Summit Point. Tax District: Kabletown (06), Map: 29; Parcel 2 comprised of 66 acres and Parcel 6 comprised of 30.89 acres. Zoning District: Industrial-Commercial (File: 23-3-Z).

Ms. Brockman provided an overview of the staff report regarding the Lutman Zoning Map Amendment (#23-3-Z). Ms. Brockman reminded the Planning Commission of the previous recommendation that the applicant withdraw the Rural ZMA application (#23-1-Z) and resubmit a ZMA for RLIC (#23-3-Z). Ms. Brockman stated the staff concurs with the applicant that, although the *Envision Jefferson 2035 Comprehensive Plan* recommends discouraging the use of the R-LI-C zoning district for all zoning map amendments, the request is reasonably consistent with the *Envision Jefferson 2035 Comprehensive Plan* recommendations.

The Planning Commission invited the applicant's consultant, Paul Raco with P.J. Raco Consulting, to present any additional information. Mr. Raco clarified what was stated in the *Envision Jefferson 2035 Comprehensive Plan* regarding the zoning category.

Mr. Stolipher made a motion to recommend to the County Commission that the Zoning Map Amendment as presented is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Hefestay seconded the motion, which carried unanimously.

6. **Public Hearing:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcel from Rural (R) to Residential-Light Industrial-Commercial (RLIC) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Saif & Shahzad Rehman; Applicant: ILA Properties, Inc. (Joshbeen Grewal); Property Location: Vacant Parcel; south of Route 115 West approximately ¼ mile southeast of the Berkeley/Jefferson County Line; Tax District: Middleway (07), Map: 2, Parcel: 2.2; Acreage: ~12.8 acres; Zoning District: Rural (File: 23-4-Z).

Ms. Brockman provided an overview of the staff report regarding the Rehman Zoning Map Amendment (#23-4-Z). Ms. Brockman stated that, although the *Envision Jefferson 2035 Comprehensive Plan* recommends discouraging the use of the RLIC zoning district for all zoning map amendments, the request is reasonably consistent with the intent of the urban-level recommendations of the *Envision Jefferson 2035 Comprehensive Plan*.

Mr. Shepp invited the applicant's consultant, Paul Raco, with P.J. Raco Consulting, to present any additional information.

Mr. Raco discussed the zoning ordinance and its changes from non-traditional to traditional zoning ordinance. Mr. Raco also stated that while completing the *2035 Comprehensive Plan*,

the Planning Commission recommended adding more variety of zoning districts, but that this has not happened as it relates to residential zoning options. Mr. Raco also discussed Berkeley County providing sewer and water and that very little traffic will come through the areas developments.

Mr. Knott made a motion to recommend to the County Commission that the Zoning Map Amendment as presented is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Mr. Louthan seconded the motion, which carried unanimously.

7. **Discussion and Action:** Planning and Zoning 3<sup>rd</sup> Quarterly Report for FY 2022-2023 for the County Commission.

Ms. Brockman provided an overview of the Planning and Zoning 3<sup>rd</sup> Quarterly Report for FY 2022-2023 for the County Commission.

Mr. Hefestay made a motion to recommend the approval of the Planning and Zoning 3<sup>rd</sup> Quarterly Report for FY 2022-2023 to the County Commission; Mr. Shepp seconded the motion, which carried unanimously.

8. **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 stated he did not have anything additional to discuss since the last meeting on March 28, 2023.

9. **Planner's Memo.** Ms. Brockman provided an overview of the Planner's Memo.

10. **President's Report.** None.

11. **Actionable Correspondence.** None.

12. **Non-Actionable Correspondence.** None.

Mr. Seigfried made a comment to the Planning Commission to view the GIS map of the Electric Vehicle Charging Stations in the county, located at the back of the meeting room.

Mr. Stolipher made a motion to adjourn the meeting at 7:24 pm. Mr. Louthan seconded the motion, which carried unanimously.

These minutes were prepared by Michelle Evers, Planning Clerk.

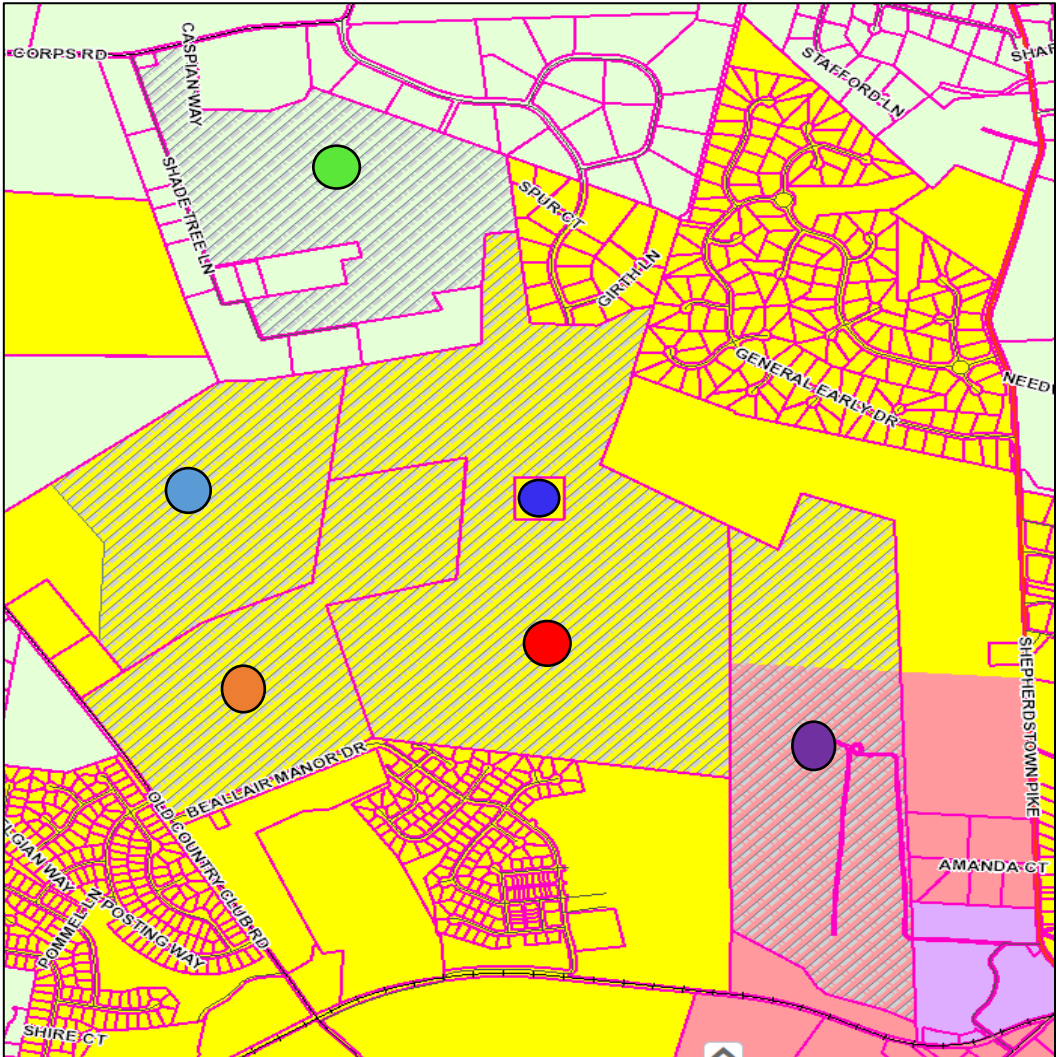




Staff Report  
Jefferson County Planning Commission  
May 9, 2023






**Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)**

**Item #3: Public Workshop:** Solar Energy Facility Concept Plan for the Flowing Springs Farm Solar project for a proposed 125 MWac solar electric generating facility and associated battery energy storage system on approximately 660-acres. The project will consist of solar modules, a new substation to connect the solar facility with the electric grid, and underground utilities. The project site has existing high voltage power lines running through the property.




Applicant:	Enel North America, Inc. / Sam Judd
Owner:	Multiple Owners / See Exhibit Below
Consultant:	WSP / Kyle Spayd
Parcel Information/ Zoning District:	<p style="text-align: center;">Multiple Vacant Parcels / See Exhibit Below Zoning: Rural and Residential Growth</p> 
Surrounding Zoning:	North: Rural and Residential Growth, East and South: Residential Growth and Residential/Light Industrial/Commercial, West: Rural and Residential Growth
History/Approvals	See below for a history of each of the parcels subject to this request, <u>previously approved for up to 934 single family residential lots.</u>

Staff Report  
Jefferson County Planning Commission  
May 9, 2023

**Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)**




History of Parcel 13 	09/14/99: Breckenridge North Subdivision, Lots 1 -22 (Recorded in Plat Book 17/Page 11). 03/14/08: BC Partners dedicated 15 acres to Jefferson County Schools (Recorded in Plat Book 25/Page 9).
History of Parcels 2, 3, & 10   	06/18/01: Breckenridge North Subdivision, Lots 23 -45, Lot A-Residue (Recorded in Plat Book 18/Page 75). 02/26/08: PC approved the Breckenridge East Community Impact Statement for a proposed 695 single family lots. 01/29/10: Breckenridge East Subdivision, Phase 1A, Lots 23-45, Parcels A & B (Recorded in Plat Book 25/Page 188). 07/02/12: Breckenridge East Subdivision, Phase 1A, Lots 1-9, Parcel C (Recorded in Plat Book 25/Page 343); 12/03/21: BC Partners consolidated all of Breckenridge East Subdivision, Phase 1A <ul style="list-style-type: none"> <li>• Lots 1-9, Parcel C (Recorded in Deed Book 1272/Page 246); and,</li> <li>• Lots 23-45, Parcels A and B (Recorded in Deed Book 1272/Page 249);</li> </ul>
History of Parcel 1 	11/08/05: Butler Farms Subdivision Community Impact Statement, for a proposed 217 single family homes. 04/10/07: PC approved the Butler Farms Subdivision Final Plat, Phase 1 pending bonding. 06/26/07: PC approved a variance request to extend the timeframe to bond and record the subdivision. 12/11/07: PC denied a variance request to extend the timeframe to bond and record the subdivision. 01/08/08: Butler Farms Subdivision expired. 04/07/21: Butler Family Ltd. Partnership Minor Subdivision, Lots 1 and 2-Residue (Recorded in Plat Book 26/Page 223)

**Property Owners / Property Locations**

Map Reference	Property Owner	Property Location
	B C Partners, Inc.	Vacant parcel south of Job Corps Road/south of Driswood Elementary School, Shenandoah Junction, WV Parcel ID: 02000300130000; Lot Size: 104.7 acres; Zoning District: Rural
	Butler Family Limited Partnership	Vacant parcel northeast of Old Country Club Rd / east of Aspen Greens Subdivision, Charles Town, WV Parcel ID: 04001000010000; Lot Size: 133.9 acres; Zoning District: Residential Growth & Rural
	B C Partners, Inc.	Vacant parcels east of Old Country Club Road / north of Beallair Subdivision, Charles Town, WV Parcel ID: 04001000020000; Lot Size: 99.5 acres; Zoning District: Residential Growth

Staff Report  
Jefferson County Planning Commission  
May 9, 2023

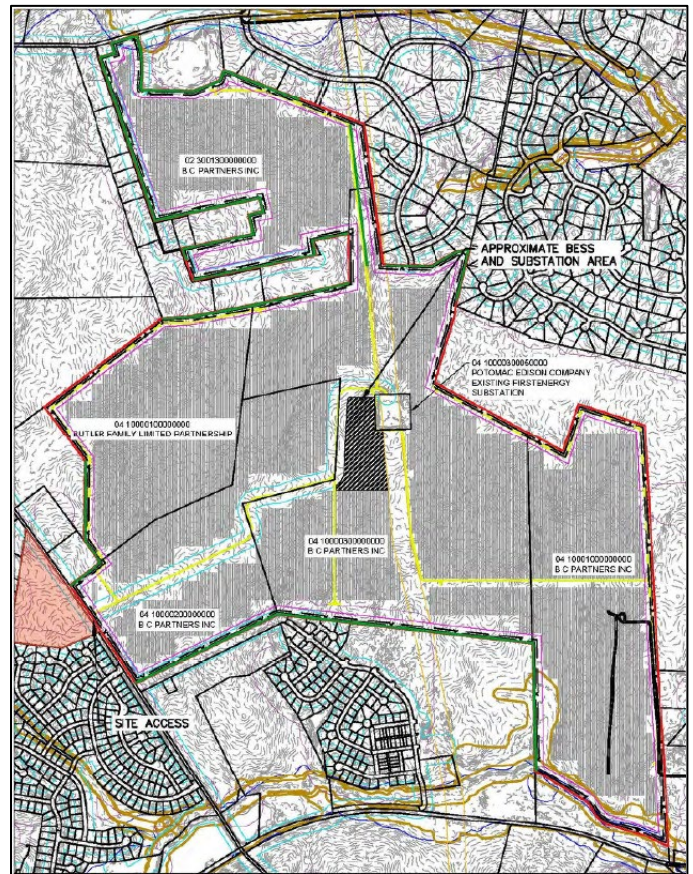
**Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)**

Map Reference	Property Owner	Property Location
	B C Partners, Inc.	Vacant parcels east of Old Country Club Road / north of Beallair Subdivision, Charles Town, WV Parcel ID: 04001000030000; Lot Size: 233.5 acres; Zoning District: Residential Growth
	Potomac Edison Company	1320 Old Country Club Road (Substation), Charles Town, WV Parcel ID: 04001000030005; Lot Size: 3.67 acres; Zoning District: Residential Growth
	B C Partners, Inc.	Vacant parcel west of Shepherdstown Pike, Harpers Ferry, WV Parcel ID: 04001000100000; Lot Size: 141.1 acres; Zoning District: Residential Growth & Residential-Light Industrial-Commercial

### Overview of Project

The applicant is proposing a 125 megawatt (MW AC) solar photovoltaic (PV) facility and associated battery energy storage system (BESS), to be known as the Flowing Spring Farm Solar Project, on approximately 660 acres east of Flowing Springs Road. The Project is proposed to consist of a network of solar arrays estimated containing approximately 290,277 solar modules, depending on the final equipment specifications and design of the facility. This facility would include a system of maintenance roads designed to access each phase of the Project and its associated substation pad, direct current (DC) to alternating current (AC) inverter pads, and a BESS collections system throughout the Site. The operating life of the project is expected to be 25-35 years.

The applicant has indicated that a 20-ft vegetative buffer is proposed along a large portion of the project's boundary to provide a screening for the proposed facility's neighboring properties. They also indicated that existing vegetation and trees will be retained to the extent possible along the outside property boundaries and buffer areas to assist in natural screening.





## Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)

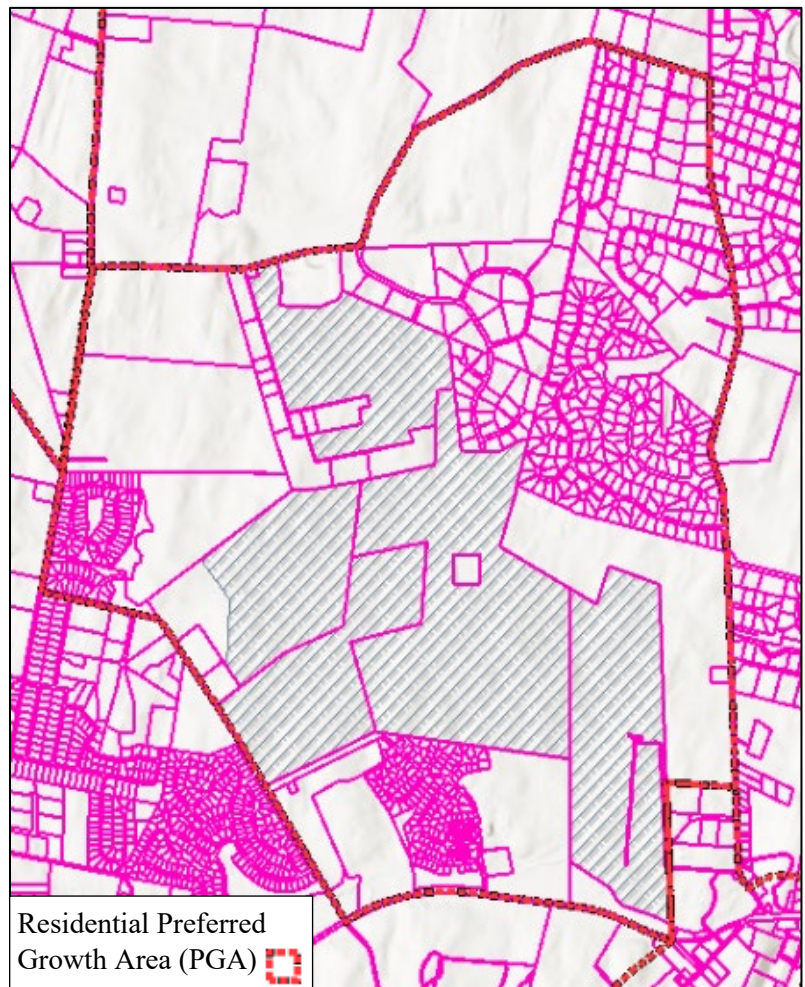
### Zoning Requirements

The proposed use is identified as a Solar Energy Facility, defined in Article 2 of the Zoning Ordinance, as:

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

Solar Energy Facilities are Principal Permitted Uses in areas inside of the Urban Growth Boundary and the Preferred Growth Area as delineated on the Future Land Use Guide in the Comprehensive Plan. All of the properties included in the Flowing Springs Farm Solar Project are included within the “Residential Preferred Growth Area (PGA)” included in the *Envision Jefferson 2035 Comprehensive Plan*.

The provisions for large-scale solar energy facilities are found in Section 8.20 of the Zoning Ordinance, which states that all projects shall process a Minor Site Development Concept Plan in accordance with the requirements of Subsection 8.20B of the Zoning Ordinance and the Jefferson County Subdivision and Land Development Regulations.



### Concept Plan Discussion

The Flowing Springs Farm Solar Project is proposed to occur on a total of 660 acres, all of which are located within the Residential Preferred Growth Area (PGA) on the Future Land Use Guide of the *Envision Jefferson 2035 Comprehensive Plan*, where solar energy facilities are permitted by right. Such projects are required to process a Concept Plan, which requires a Public Workshop before the Planning Commission.

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Jefferson County Planning Commission  
May 9, 2023

**Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)**

The Planning Commission's Public Workshop relates to the Concept Plan for the full 660-acre project area. The Facility is proposed to be located on several contiguous properties located northeast of the corporation of Charles Town, which are currently vacant and/or used for agricultural purposes. No part of the project is within a delineated floodplain. The Concept Plan includes a graphic and a detailed narrative description on the Plan related to the configuration and components of the proposed facility. Flowing Springs Farm, LLC. will be the owner of the proposed solar generation facility, which is expected to operate for a minimum of 25-35 years.

The project is expected to contain approximately 290,277 solar modules, depending on the final configuration of the facility. The Project includes the solar arrays, an electrical collector system, a main power transformer, and associated infrastructure improvements and will include a system of maintenance roads designed to access each phase of the Project and its associated substation pad, direct current (DC) to alternating current (AC) inverter pads, and a BESS collections system throughout the Site. The Concept Plan indicates that the BESS and Substation area are proposed to be centrally located adjacent to an existing Potomac Edison Company Existing First Energy Substation.

The applicant indicates that the installation of the solar field arrays are not anticipated to require significant grading or topography modifications to be installed. Most grading on the Project site will be to support access road construction and required erosion and sedimentation measures. The applicant has indicated that any soil disturbance is anticipated to remain localized with grading and distribution of the borrow to remain within each parcel and on-site. No significant amounts of either cut or fill are anticipated to be required/generated by the Project. Following Planning Commission action, the applicant will be required to submit a stormwater management report to demonstrate how the project meets the requirements of the Stormwater Management Ordinance.

The application indicates that there is one proposed access point to the site, located along Old Country Club Road between Posting Way and Fox Run Way, approximately 700 feet north of Posting Way. This main designated access route to the Project can be accessed via Old Country Club Road, US 340, and WV 9. The applicant indicates that some geometric improvements/widening may be necessary to accommodate transport vehicles at the site access point along Old Country Club Road.

The applicant has demonstrated that the project will meet or exceed the setback and buffer standards as required by Section 8.20 of the Zoning Ordinance. A 6' fence plus one foot of barbed wire is proposed around operating areas of the solar energy facility. The Concept Plan reflects that all solar panels are located a minimum of 100' from all of the external property lines and that there are no panels located within 200' of a residence. Symbolology to this effect is reflected on the Concept Plan. The project also includes a 20' wide voluntary vegetative buffer in several locations around the project adjoining existing residential subdivisions (see Concept Plan).

Staff noted that the project site includes one Category III Historic Structure identified by the Historic Landmarks Commission, the Henderson House. Section 3.4D.4.b of the Zoning Ordinance defines Category III resources as sites of moderate importance. The Historic Landmarks Commission was notified of the subject Concept Plan and did not submit any comments related to the project.

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**Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)**

**Site Plan Category**

Section 8.20 of the Zoning Ordinance requires that all projects meeting the definition of Solar Energy Facilities are required to process a Concept Plan, pursuant to the Minor Site Development Concept Plan standards established in the Jefferson County Subdivision Regulations. After the Concept Plan Public Workshop is held and Planning Commission direction is given, the next steps are Application for a Zoning Certificate and Building Permits, including submission of a report in conformance with the Jefferson County Stormwater Management Ordinance, if required.

In addition to the Concept Plan requirements outlined in the Subdivision Regulations, the Zoning Ordinance requires the Concept Plan for a solar energy facility to include all of the property locations; access points; anticipated locations of all proposed components of the Solar Energy Facility; and landscaping, buffering, ground cover plan, and fencing. A narrative outlining the decommissioning of the Solar Energy Facility is also required to be included with the Concept Plan (see Appendix C of the Narrative). The narrative is required to include a description of the timeline of the lease or operating plan, and a general plan for removal of the Solar Energy Facility. All of these Zoning Ordinance requirements have been addressed in the Concept Plan submitted.

The Concept Plan Public Workshop is the only opportunity for public input on the full project. The balance of the County's approval process is administrative.

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

In accordance with the current Subdivision Regulations, the Minor Site Plan Concept Plan process incorporates a sufficiency and completeness review in a single step. Upon first submission and review of the applicant's Concept Plan, Staff found the submitted plan "sufficient" pursuant to Section 24.106 of the Jefferson County Subdivision and Land Use Regulations. These requirements, as well as the current review status for each requirement for the subject application, are provided below:

	Description	Status
<b>1. General Location</b>	A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.	Provided
<b>2. Concept Plan</b>	In accordance with the content and formatting guidelines provided in Appendix A, <i>Plan &amp; Plat Standards</i> .	Provided
<b>3. Zoning Information</b>	a) Zoning District in which the proposed development is located. b) Density calculations. c) Site resource map d) Use designation for all adjoin and confronting parcels	Provided on Concept Plan: Rural and Residential Growth Zoning; includes rows of solar modules installed in arrays; and a substation.
<b>4. Proposal Description</b>	A written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, and development option selected if the development is multi-family residential.	Description on Concept Plan provide relevant information

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**Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)**

<b>5. Traffic Impact Data</b>	<ul style="list-style-type: none"> <li>a) Average Daily Trip (ADT) figures for the adjoining or accessible State road.</li> <li>b) Trip generation figures</li> <li>c) Nearest key intersection that will serve the proposed project as classified by the current Comprehensive Plan.</li> <li>d) “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.</li> </ul>	<u>ADT provided in App. D:</u> Old Country Club Rd: 2,400; Flowing Springs: 4,300 <u>Trip Generation:</u> during construction: 100 vpd During operation: 4 vpd <u>Highway Problem Areas:</u> Daniels Road and Flowing Springs intersection is the closest problem area
<b>6. Traffic Study</b>	A traffic study may be required only at the request and direction of the West Virginia Division of Highways. Any required traffic study or a letter from the West Virginia Division of Highways outlining the proposed improvements shall be received with the first submission of the Site Plan.	WV DOH is not requiring a TIS.
<b>7. Agency Reviews</b>	The applicant shall distribute the concept plan to all reviewing agencies found in Section 23.203 and 23.204 no later than 7 days after the review.	Letters to required agencies provided. See responses below.
<b>D. Department</b>	The Department review shall include the following: <ul style="list-style-type: none"> <li>1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the Concept Plan submission and any zoning issues the developer shall address in a Site Plan submittal.</li> <li>2. Staff opinion as to whether the plan meets the Site Plan criteria of these Regulations. The Department shall review the Concept Plan for modifications that would improve the plan.</li> </ul>	Staff determined that the proposed Concept Plan meets the requirements of the Zoning Ordinance and the Subdivision Regulations as a Minor Site Development <u>requiring a Concept Plan only.</u>
<b>E./F. WVDOH</b>	WVDOH shall submit a letter to the Office of Planning and Zoning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study is needed, parameters shall be provided. The review shall indicate whether a traffic impact study will be required based on analysis required in Section 24.106.B.5.	WV DOH is not requiring a TIS.
<b>G. Public Service</b>	The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a system that shall be proposed by the developer to best meet the County’s needs in that area of the County.	No water or wastewater services will be required for this project.
<b>H. Recommended Conditions</b>	All reviews shall contain recommended conditions for moving forward to a site plan or reasons why the plan should be denied.	See below

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**Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)**

**Concept Plan Review**

1. External Agency Reviews

The applicant submitted the required agency letters to the appropriate agencies. The applicant submitted the required agency letters to the appropriate agencies. No responses were received at the time this report was prepared.

2. Staff Recommendation related to Concept Plan

The Subdivision Regulations state that unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning staff is required to accept or deny the Concept Plan as complete. Upon accepting the application as complete, Planning staff is required to place it on the next possible Planning Commission agenda as a public workshop, which is advertised at least twenty-one (21) days in advance of the meeting and posted on the property.

The Office of Planning and Zoning Staff finds the Concept Plan for the proposed 660-acre Flowing Springs Farm Solar Project to be “complete” based on the information provided related to the criteria above and to meet the standards detailed in the Zoning Ordinance. No Site Plan is required pursuant to Section 8.20 of the Zoning Ordinance.

Staff recommends the following conditions for the Planning Commission review and approval:

- Any outstanding minor technical comments on the 3<sup>rd</sup> submission of the Flowing Springs Farm Solar Project (23-4-SP) need to be resolved prior to final approval of the Concept Plan. This should be a condition of the Planning Commission’s approval.

3. Planning Commission Direction

The Concept Plan Public Workshop allows for the Planning Commission and the general public to comment on the proposed plan before the Zoning Certificate and Building Permit are obtained. The Subdivision Regulations outline the procedure:

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

Following the applicant’s presentation, staff’s explanation, and the solicitation of public comment, the Planning Commission shall provide direction to the applicant as required under Concept Plan Direction outlined in the Subdivision Regulations. Staff recommends that the Planning Commission include the conditions recommended above with any action taken on this Concept Plan. The Planning Commission has the option of providing this direction at the same meeting during which the Concept Plan public workshop takes place, or at a subsequent meeting that occurs within 14 days of the meeting at which the Concept Plan public workshop is closed.



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May 9, 2023

**Flowing Springs Farm Solar Project Concept Plan Public Workshop (23-4-SP)**

While Section 24.108 of the Subdivision and Land Development Regulations outlines the direction to be provided to the applicant during a Minor Site Plan Concept Plan review as it relates to the preparation of a Site Plan (which is not required for Solar Energy Facilities), Section 8.20 of the Zoning Ordinance details the next steps after the Concept Plan Workshop for all Solar Energy Facilities are as follows:

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

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

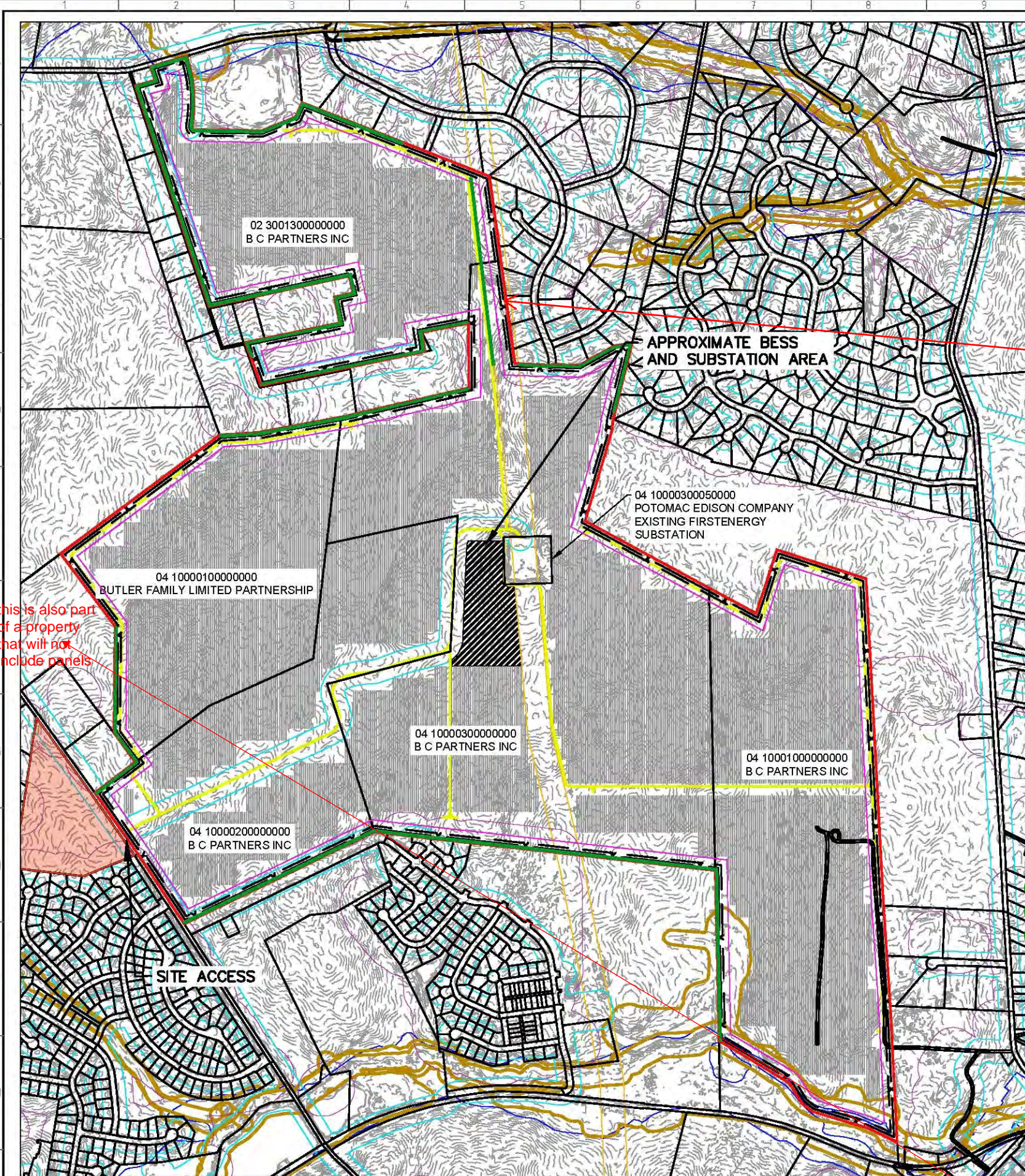
- b. Stormwater Management

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

It should be noted that the direction provided to the applicant in the Minor Site Plan Concept Plan Public Workshop shall be applicable for a period of two years.

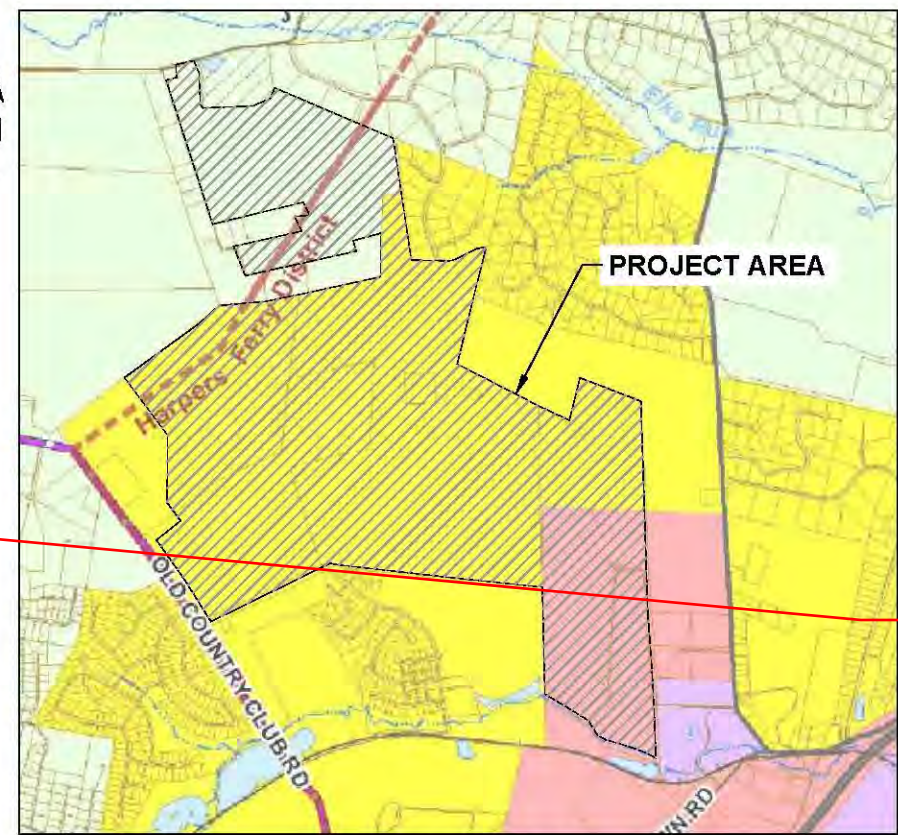






this is also part of a property that will not include panels

- NOTES:
1. PROPOSED ROADS AND SOLAR LAYOUT ARE CONCEPTUAL AND MAY CHANGE AS THE PROJECT DESIGN PROGRESSES
  2. THE TOTAL NUMBER OF ESTIMATED PV MODULES IS 290,277



ZONING MAP  
SCALE: 1"=7500'

- LEGEND:
- Residential/Light Industrial/Commercial
  - Residential Growth
  - Planned Neighborhood Development
  - Rural
  - Village
  - Incorporated Town
  - Industrial/Commercial
  - Flowing Springs Project Area

please be aware that per Section 21.402D of the Sub Regs, "no permanent encroachments, structures, fences or landscaping shall be allowed to be located within any easement area" so this fence will have to be outside the existing electric transmission line easement or will require a Planning Commisison waiver

PARCEL INFORMATION				
PARCEL OWNER	PARCEL ID	ZONE	PARCEL ACRES	ACREAGE IN PROJECT
BC PARTNERS INC	02 3001300000000	RURAL	104.7	104.7
BUTLER FAMILY LIMITED PARTNERSHIP	04 10000100000000	RESIDENTIAL GROWTH	133.9	93.8
BC PARTNERS INC	04 10000200000000	RESIDENTIAL GROWTH	99.5	99.5
BC PARTNERS INC	04 10000300000000	RESIDENTIAL GROWTH	233.5	233.5
POTOMAC EDISON COMPANY	04 10000300050000	RESIDENTIAL GROWTH	3.67	3.67
BC PARTNERS INC	04 10001000000000	RESIDENTIAL GROWTH & RESIDENTIAL/LIGHT INDUSTRIAL/COMMERCIAL	141.1	141.1

- LEGEND:
- 2200 EXISTING CONTOUR
  - EXISTING PROPERTY LINE
  - LIMIT OF DISTURBANCE
  - PROPOSED FENCE
  - PROPOSED 50FT PROPERTY, 25FT FENCE SETBACK
  - 100FT EXTERNAL PROPERTY LINE SETBACK
  - 200FT OCCUPIED BUILDING SETBACK
  - 100FT EXISTING ROAD SETBACK
  - 100FT EXISTING ELECTRIC TRANSMISSION LINE SETBACK
  - FLOOD ZONE
  - NATIONAL WETLANDS INVENTORY WITH PROPOSED 50-FOOT SETBACK
  - PROPOSED PHOTOVOLTAIC PANEL
  - PROPOSED ROAD
  - 20FT VOLUNTARY LANDSCAPE SCREENING BUFFER
  - PARCEL EXCLUDED FROM PROJECT AREA

This comment is to confirm that the fence will comply with the 25' setback.

4/25/23	PRELIMINARY FOR REVIEW	PREPARED	CHECKED	APPROVED							
REV.	DATE	DESCRIPTION									
CONTRACTOR'S LOGO		PROJECT: FLOWING SPRINGS SOLAR PROJECT JEFFERSON COUNTY, WEST VIRGINIA									
wsp		FILE NAME:									
enel		CLASSIFICATION:	FORMAT: ANSI D	SCALE: 1" = 1000'	PLOT SCALE: 11"x17"	SHEET: 001					
Engineering & Construction		UTILIZATION SCOPE:				TITLE: CONCEPT PLAN					
EGP VALIDATION		EGP CODE									
VALIDATED BY		GROUP	FUNCTION	TYPE	ISSUER	COUNTRY	TED	PLANT	SYSTEM	PROGRESSIVE	REVISION
VERIFIED BY											
COLLABORATORS											

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STORMWATER NOTES:

1. Stormwater Management for this solar project will follow the amended Jefferson County Stormwater Management Ordinance, effective October 1, 2020. Specifically Article I D.2.h for Solar Energy Facilities.
2. The following items at a minimum will be followed:

a.Earth disturbance will be minimized to the greatest extent practicable

b.The plan will propose and establish a 90% or better uniform vegetative cover complying with the ordinance requirements.

c.A minimum of 12’ will be maintained between rows of arrays

dFOUNDATIONS will generally consist of driven pile and with occupy a maximum of 5% of the total project area.

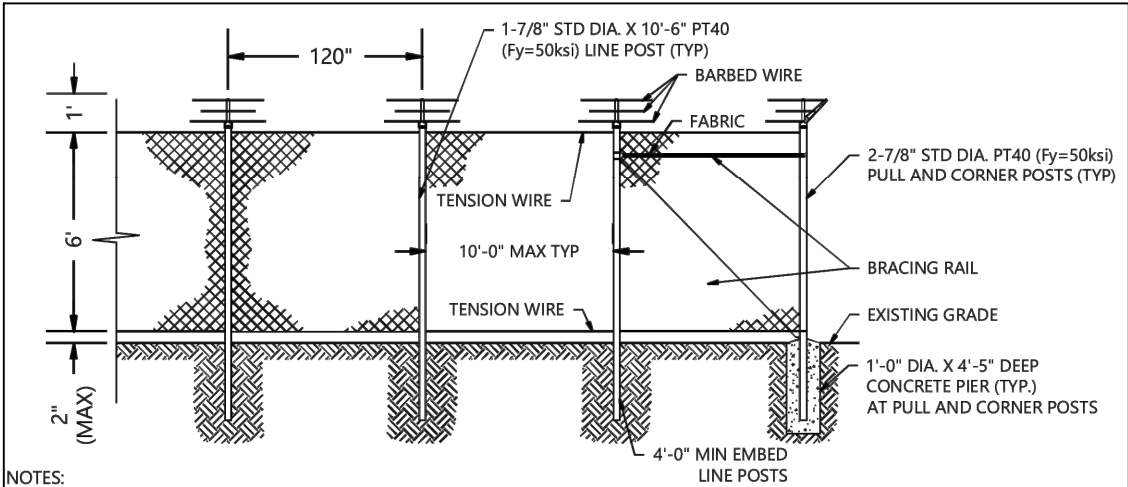
e.Solar Array will be generally proposed on slope flatter than 10%, in the event steeper slopes are encountered appropriate BMP’s will be utilized.
3. A stormwater Management report with documentations and drawings will be submitted to Jefferson County for review and approval.
4. The solar project will also develop the required Erosion and Sediment Control Plan Stormwater Pollution Prevention Plan, and Groundwater Protection Plan to make application to register for the West Virginia Department of Environmental Protection National Pollution Discharge Elimination System (NPDES) permit for this construction.
5. The solar facility will be constructed on agricultural land, normally planted in row crops, hay/straw and used for grazing. The solar facility will be seeded with pollinator friendly and resistant ground cover such white clover or equivalent and will not be used for grazing.

Buffer Pollinator Mix		
Scientific Name	Common Name	Percentage of Mix
Avena satvia	Oats	Cover Crop
Schizachyrium scoparium, 'Camper'	Little Bluestem	37.2%
Agrostis perennans	Autumn Bentgrass	36.0%
Chamaecrista fasciculata, PA Ecotype	Partridge Pea	7.5%
Coreopsis lanceolata	Lanceleaf Coreopsis	4.0%
Echinacea purpurea	Purple Coneflower	4.0%
Rudbeckia hirta	Blackeyed Susan	3.3%
Heliopsis helianthoides, PA Ecotype	Oxeye Sunflower	2.5%
Penstemon digitalis	Tall White Beardtongue	0.4%
Liatris spicata	Marsh Blazing Star	0.2%
Senna hebecarpa, VA & WV Ecotype	Wild Senna	1.2%
Zizia aurea	Golden Alexanders	0.7%
Geum canadense, PA ecotype	White Avens	0.4%
Monarda fistulosa, PA Ecotype	Wild Bergamot	0.5%
Pycnanthemum tenuifolium	Narrowleaf Mountainmint	0.3%
Aster laevis, NY Ecotype	Smooth Blue Aster	0.3%
Aster novae-angliae, PA Ecotype	New England Aster	0.3%
Baptisia australis, Southern WV Ecotype	Blue False Indigo	0.5%
Sisyrinchium angustifolium	Narrowleaf Blue Eyed Grass	0.3%
Oenothera fruticosa var. fruticosa	Sundrops	0.1%
Solidago nemoralis, PA Ecotype	Gray Goldenrod	0.2%
Aster prenanthoides, PA Ecotype	Zigzag Aster	0.1%
		100.0%

Solar Field Seed Mix		
Scientific Name	Common Name	Percentage of Mix
Eragrostis spectabilis, RI Ecotype	Purple Lovegrass	1%
Agrostis perennans	Autumn Bentgrass	11%
Elymus canadensis	Canada Wild Rye	20%
Fescue ovina	Sheep Fescue	38%
Chamaecrista fasciculata, PA Ecotype	Sensitive Pea	8%
Zizia aurea	Golden Alexanders	1.0%
Trifolium repens, Ladino	White Clover	6.0%
Trifolium pratense	Red Clover	15%
		100.0%

SEED MIX NOTES:

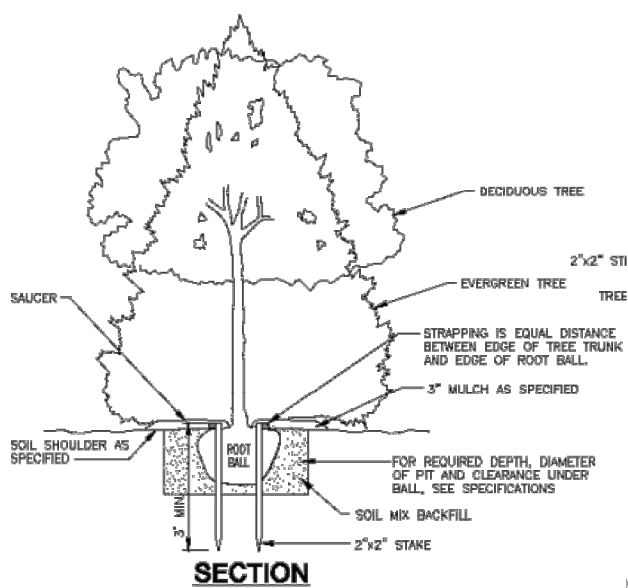
1. APPLICATION RATE FOR BUFFER POLLINATOR MIX IS 15 LBS/ACRE. COVER CROP APPLICATION RATE IS 30 LBS/ACRE OF OATS.
2. APPLICATION RATE FOR SOLAR FIELD SEED MIX IS 5 LBS/ACRE. COVER CROP APPLICATION RATE IS 30 LBS/ACRE OF OATS.
3. THE PROPOSED SEED MIXES MAY BE FURTHER REVISED TO ADJUST SPECIES COMPOSITION AND/OR PERCENTAGES OF SEED MIX AND APPLICATION RATES BASED ON THE COMMERCIAL AVAILABILITY OF THE SEED MATERIAL.



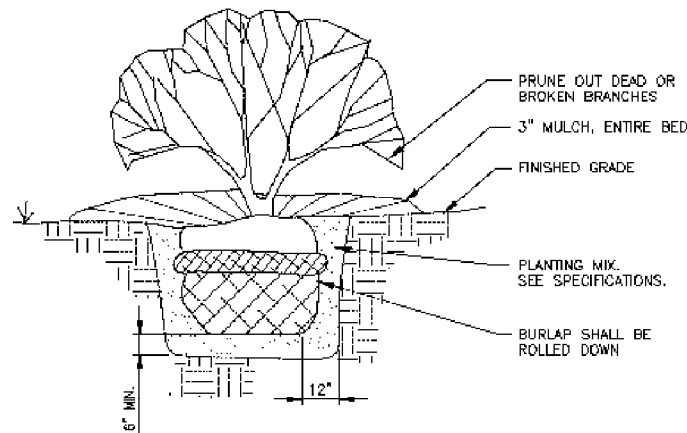
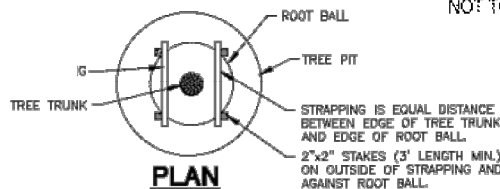
CONTRACTOR TO VERIFY EXACT FENCE SPECIFICATION AND GATE LOCATION WITH OWNER PRIOR TO INSTALLATION.

CHAINLINK FENCE  
NOT TO SCALE

4/25/23	PRELIMINARY FOR REVIEW				
REV.	DATE	DESCRIPTION	PREPARED	CHECKED	APPROVED
<div>CONTRACTOR'S LOGO</div> <div></div>		PROJECT: <b>FLOWING SPRINGS SOLAR PROJECT JEFFERSON COUNTY, WEST VIRGINIA</b>			
		FILE NAME:			
<div></div> <div>Engineering &amp; Construction</div>		CLASSIFICATION:	FORMAT: ANSI D	SCALE: NOT TO SCALE	PLOT SCALE: 11"x17"
		UTILIZATION SCOPE:	TITLE: <b>LANDSCAPE DETAILS - 1</b>		
VALIDATED BY		EGP CODE			
VERIFIED BY		GROUP	FUNCTION	TYPE	ISSUER
COLLABORATORS		COUNTRY	TEC.	PLANT	SYSTEM
		PROGRESSIVE	REVISION		
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**TREE STAKING DETAIL**  
NOT TO SCALE



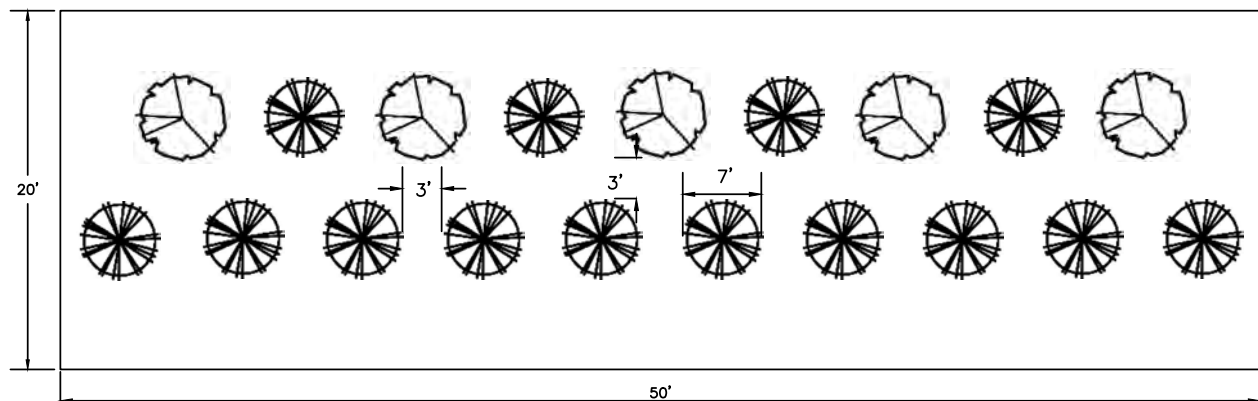
**SHRUB PLANTING DETAIL**  
NOT TO SCALE

## GENERAL LANDSCAPE NOTES

1. QUALITY AND SIZE OF PLANTS, SPREAD OF ROOTS, AND SIZE OF BALLS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS OF THE AMERICAN ASSOCIATION OF NURSERYMEN "AMERICAN STANDARDS FOR NURSERY STOCK".
2. CONTRACTOR SHALL BE REQUIRED TO GUARANTEE ALL PLANT MATERIALS FOR A PERIOD OF ONE YEAR AFTER INSTALLATION IS COMPLETE AND FINAL ACCEPTANCE OF SITE WORK HAS BEEN GIVEN. AT THE END OF ONE YEAR ALL PLANT MATERIAL WHICH IS DEAD OR DYING SHALL BE REPLACED AT THE CONTRACTOR'S EXPENSE AS ORIGINALLY SPECIFIED.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES AND MAY MAKE MINOR ADJUSTMENTS IN SPACING AND/OR LOCATION OF PLANT MATERIALS. CONTRACTOR TO VERIFY "AS BUILT" LOCATION OF ALL UTILITIES.
4. NO SUBSTITUTIONS SHALL BE MADE WITHOUT APPROVAL OF THE OWNER.
5. ALL AREAS NOT STABILIZED IN PAVING OR PLANT MATERIALS SHOULD BE SEEDED AND MULCHED. (SEE EROSION & SEDIMENT CONTROL PLAN.)
6. EVERGREEN TREES SHALL HAVE A FULL, WELL-BRANCHED, CONICAL FORM TYPICAL OF THE SPECIES.
7. TREES SHALL BE PLANTED AND STAKED IN ACCORDANCE WITH THE STAKING DETAIL SHOWN.
8. THE FULL EXTENT OF ALL PLANTING BEDS SHALL RECEIVE 4" OF TOPSOIL AND 3" OF BARK MULCH PER SPECIFICATIONS.
9. THE CONTRACTOR SHALL SUPPLY ALL PLANT MATERIALS IN QUANTITIES SUFFICIENT TO COMPLETE THE PLANTINGS SHOWN ON THIS DRAWING AND AS SPECIFIED.
10. ALL PLANTS SHALL BEAR THE SAME RELATIONSHIP TO FINISHED GRADE AS THE PLANT'S ORIGINAL GRADE BEFORE DIGGING.
11. THE CONTRACTOR SHALL WATER ALL PLANTS THOROUGHLY TWICE DURING THE FIRST 24-HOUR PERIOD AFTER PLANTING, AND THEN WEEKLY OR MORE OFTEN, IF NECESSARY, DURING THE FIRST GROWING SEASON.
12. REQUIRED LANDSCAPING AND BUFFERS WILL BE MAINTAINED IN ACCORDANCE WITH THE APPROVED MAINTENANCE PLAN.
13. ALL MAINTENANCE WILL BE AS SPECIFIED IN THE LANDSCAPE MAINTENANCE AGREEMENT.
14. IT WILL BE THE RESPONSIBILITY OF THE LANDOWNER TO REPLACE ANY TREES, SHRUBS, OR VEGETATION THAT DIE.

## VOLUNTARY LANDSCAPE BUFFER PLANT SCHEDULE

SYMBOL	NATIVE	KEY	BOTANICAL NAME	COMMON NAME	SIZE	QUANTITY
EVERGREEN TREES						
	✓	IO	ILEX opaca	AMERICAN HOLLY	6-7' Ht., B&B	-
	✓	JV	JUNIPERUS virginiana	EASTERN RED CEDAR	6-7' Ht., B&B	-
DECIDUOUS UNDERSTORY TREES						
	✓	AC	AMELANCHIER canadensis	SERVICEBERRY	1" Cal., B&B	-
	✓	CA	CARPINUS caroliniana	AMERICAN HORNBEAM	1" Cal., B&B	-
	✓	CC	CERCIS canadensis	EASTERN REDBUD	1" Cal., B&B	-
	✓	CF	CORNUS florida	DOGWOOD TREE	1" Cal., B&B	-
	✓	MV	MAGNOLIA virginiana	SWEETBAY MAGNOLIA	5'-6' Ht., B&B	-



**LANDSCAPE PLANTING PLAN**  
NOT TO SCALE

**NOTE:**  
FRONT ROW SHALL BE ALL RED CEDAR AND AMERICAN HOLLY TREES, WITH TWO HOLLIES PER 50 FT. BACK ROW SHALL CONSIST OF A MIX OF TREES.

REV.	DATE	DESCRIPTION	PREPARED	CHECKED	APPROVED
	4/25/23	PRELIMINARY FOR REVIEW			
CONTRACTOR'S LOGO		PROJECT: FLOWING SPRINGS SOLAR PROJECT JEFFERSON COUNTY, WEST VIRGINIA			
FILE NAME:					
CLASSIFICATION:		FORMAT: ANSI D	SCALE: NOT TO SCALE	PLOT SCALE: 11"x17"	SHEET: 004
UTILIZATION SCOPE:		TITLE: LANDSCAPE DETAILS - 2			
EGP VALIDATION		EGP CODE			
VALIDATED BY		GROUP	FUNCTION	TYPE	ISSUER
VERIFIED BY		COUNTRY	TEC.	PLANT	SYSTEM
COLLABORATORS		PROGRESSIVE	REVISION		

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April 26, 2023  
Jefferson County Planning Department  
ATTN: Alexandra Beaulieu  
116 East Washington Street, 2<sup>nd</sup> Floor  
Charles Town, West Virginia 25414

**Reference: Flowing Springs Solar Farm Project in Jefferson County, West Virginia**

Dear Ms. Beaulieu,

Environmental Resources Management (ERM), on behalf of Flowing Springs Farm, LLC, is providing the attached Minor Site Development Concept Plan Submittal Materials Package for the Flowing Springs Solar Farm Project (Project) located in Jefferson County, West Virginia (Site). The attached Subdivision or Site Development Application (Attachment A) and Minor Site Development Concept Plan Submittals Materials Package (Attachment B) was developed in compliance with the Jefferson County Amended Subdivision and Land Development Regulations, Section 24.106.

The proposed Flowing Springs Farm Solar Project is a 125 megawatt (MW AC) solar photovoltaic (PV) facility and associated battery energy storage system (BESS) which will be owned and operated by Flowing Springs Farm, LLC. The proposed Project would be developed on approximately 660 acres of land, comprised of five Jefferson County parcels, situated east of Old Country Club Road that abuts rural, residential, industrial, and commercial zoned properties as shown in the General Location Map (Attachment B - Figure 2-1) and the Concept Plan (Attachment B - Appendix A). The Project will be constructed on land that is currently utilized primarily for agricultural purposes. The operating life of the project is expected to be 25-35 years.

The proposed Project would consist of a network of solar arrays estimated to produce approximately 125 MW AC of renewable energy. The Site will contain approximately 290,277 solar modules, depending on the final equipment specifications and design of the facility. This facility would include a system of maintenance roads designed to access each phase of the Project and its associated substation pad, direct current (DC) to alternating current (AC) inverter pads, and a BESS collections system throughout the Site.

Disturbed areas and PV modules will be seeded with pollinator friendly and resistant ground cover. The PV modules will be arranged to allow this growth of vegetation beneath and between the rows of PV modules. A 20-ft vegetative buffer will exist along a large portion of the project's boundary to create an aesthetically pleasant view shed to the proposed facility's neighboring properties. Existing vegetations and trees will be retained to the extent possible at outside property boundaries and buffer areas to assist in natural screening.

We look forward to your feedback. If you have any questions about this submittal or its contents, please do not hesitate to reach out to Sam Judd (978-806-1138; [sam.judd@enel.com](mailto:sam.judd@enel.com)) or myself at 304-667-4968 and [Michael.Tincher@erm.com](mailto:Michael.Tincher@erm.com).

Sincerely,



Michael Tincher  
*Principal Consultant*



**ATTACHMENT A   SUBDIVISION OR SITE DEVELOPMENT APPLICATION**



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 #: \_\_\_\_\_  
Fees Paid: \_\_\_\_\_  
Staff Int.: \_\_\_\_\_

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

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

**Subdivision or Site Development Application**

**Application Type**

- ☒ Concept Plan ☐ Final Plat (major/minor)  
☐ Preliminary Plat ☐ Site Plan

Project Name: Flowing Springs Farm Solar  
Description: Flowing Springs Farm, LLC is proposing to develop and operate a 125 MW solar facility and associated battery energy storage system on approximately 660 acres.  
Primary Contact Phone Number (must be a direct line number) 978-806-1138

**Property Owner Information**

Owner Name: See Table 3-1 in the Concept Plan Submittal Materials  
Business Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Applicant Information**

Same as Owner: ☐

Applicant Name: Sam Judd  
Business Name: Flowing Springs Farm, LLC  
Mailing Address: 100 Brickstone Square, Suite 300, Andover, MA 018110  
Phone Number: 978-806-1138 Email: sam.judd@enel.com

**Registered WV Engineer or Surveyor or Consultant Information**

Contact Name: Kyle Spayd  
Business Name: WSP  
Mailing Address: 350 Eagleview Blvd., Suite 250; Exton, PA 19341  
Phone Number: 610-363-4846 Email: kyle.spayd@wsp.com

**Physical Property Details**

Vacant Lot: ☒

Physical Address: Job Corps Road  
Tax District: 02 Map No: 0003 Parcel No: 0013  
Parcel Size: 104.72 Deed Book: 850 Page No: 470  
Zoning District: Rural

**Additional Parcels (if any)**

**Physical Property Details**

Vacant Lot: ☒

Physical Address: Old Country Club Road  
Tax District: 04 Map No: 0010 Parcel No: 0003  
Parcel Size: 233.54 Deed Book: 850 Page No: 470  
Zoning District: Residential Growth

**Physical Property Details**

Vacant Lot: ☒

Physical Address: Old Country Club Road  
Tax District: 04 Map No: 0010 Parcel No: 0001  
Parcel Size: 133.86 Deed Book: 850 Page No: 375  
Zoning District: Residential Growth



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 #: \_\_\_\_\_  
Fees Paid: \_\_\_\_\_  
Staff Int.: \_\_\_\_\_

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

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

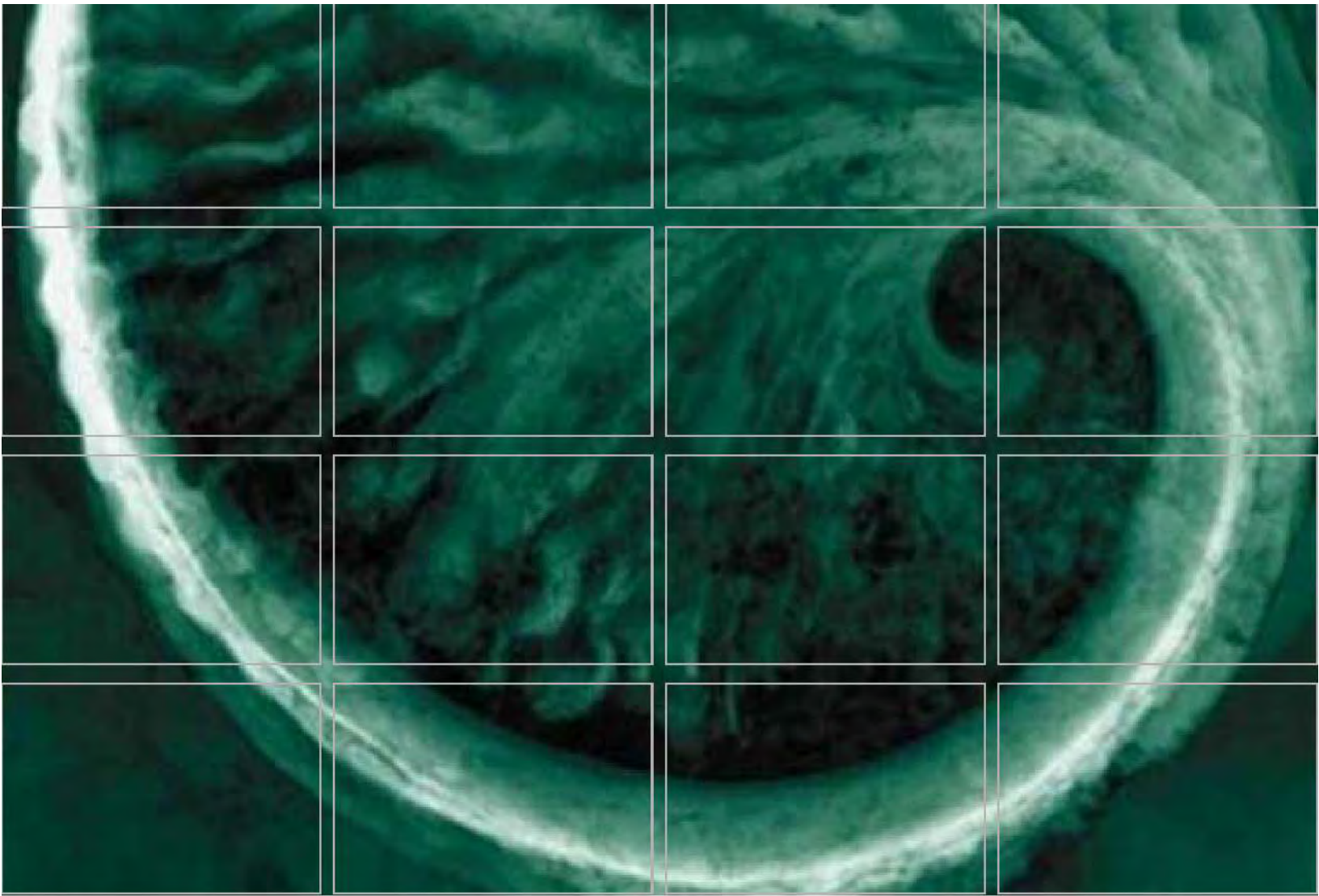
**Subdivision or Site Development Application**

**Additional Parcels (if any)**

<b>Physical Property Details</b>				Vacant Lot: <input type="checkbox"/>
Physical Address: <u>Old Country Club Road</u>				
Tax District: <u>04</u>	Map No: <u>0010</u>	Parcel No: <u>0002</u>		
Parcel Size: <u>99.45</u>	Deed Book: <u>850</u>	Page No: <u>470</u>		
Zoning District: <u>Residential Growth</u>				

<b>Physical Property Details</b>				Vacant Lot: <input type="checkbox"/>
Physical Address: <u>Private entrance off Shep. Pike</u>				
Tax District: <u>04</u>	Map No: <u>0010</u>	Parcel No: <u>0010</u>		
Parcel Size: <u>141.11</u>	Deed Book: <u>850</u>	Page No: <u>470</u>		
Zoning District: <u>Residential Growth and Residential/Light Industrial/Commercial</u>				

**ATTACHMENT B    MINOR SITE DEVELOPMENT CONCEPT PLAN  
SUBMITTAL MATERIALS PACKAGE**



Prepared for:

**Flowing Springs Farm, LLC**

100 Brickstone Square #300  
Andover, Massachusetts 01810

## Concept Plan Submittal Materials

Flowing Springs Farm Solar Project  
Jefferson County, West Virginia

26 April 2023

Project No.: 0645481

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## Signature Page

26 April 2023

# Concept Plan Submittal Materials

Flowing Springs Farm Solar Project  
Jefferson County, West Virginia



Chip Day  
Partner



Michael Tincher  
Project Manager



Casey Tofte  
Project Consultant

### Environmental Resources Management, Inc.

971 WV-34, Suite 800  
Hurricane, West Virginia  
25526  
304-757-4777

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Figure 2-1. Flowing Springs Farm Solar Project Location Map

Figure 2-2. Flowing Springs Farm Solar Project Aerial Map

### Acronyms and Abbreviations

Name	Description
AC	Alternating current
BESS	Battery energy storage system
DC	Direct current
MW	Megawatt
PV	Photovoltaic

## 1. PROJECT DESCRIPTION

The proposed Flowing Springs Farm Solar Project is a 125-megawatt (MW AC) solar photovoltaic (PV) facility and associated battery energy storage system (BESS) which will be owned and operated by Flowing Springs Farm, LLC. The proposed Project would be developed on approximately 660 acres of land, comprised of five Jefferson County parcels (Site), situated east of Old Country Club Road that abuts rural, residential, industrial, and commercial zoned properties as shown in the General Location Map (Figure 2-1) and the Concept Plan (Appendix A) and the Site Resources Map (Appendix B). The operating life of the project is expected to be 25-35 years.

The proposed Project would consist of a network of solar arrays estimated to produce approximately 125 MW AC of renewable energy. The Site will contain approximately 290,277 solar modules. This facility would include a system of maintenance roads designed to access each phase of the Project and its associated substation pad, direct current (DC) to alternating current (AC) inverter pads, BESS, and collections system throughout the Site.

### 1.2 Decommissioning Plan

The decommissioning plan was developed in accordance with the requirements outlined in Section 8.20.B.2 of the Jefferson County, West Virginia Zoning and Land Use Development Ordinance and details the process of removing all materials from the site after the Project life has ended (Appendix C).

### 1.3 Transportation Study

A Transportation Study was performed to show the impact of the development of the Site on the existing transportation network. The results determined that no upgrades will be needed for existing roads along the proposed access route. Geometric improvements/widening may be necessary to accommodate transport vehicles at the site access point along Old Country Club Road. All appropriate West Virginia Department of Transportation approvals will be obtained before making any improvements (Appendix D).

### 1.4 Stormwater Management

Stormwater management will follow the conditions outlined in the Amended Jefferson County Stormwater Management Ordinance, Article I D.2.h for Solar Energy Facilities. A Stormwater Management Report will be submitted to Jefferson County for review and approval. The Project will also develop the required plans including an Erosion and Sediment Control Plan, Stormwater Pollution Prevention Plan, and Groundwater Protection Plan to register for the West Virginia Department of Environmental Protection (WVDEP) National Pollution Discharge Elimination System (NPDES) permit for this construction.

### 1.5 Ground Cover and Vegetative Buffer

As shown in the Concept Plan (Appendix A), disturbed areas will be seeded with native or naturalized species with multiple pollinator species intermixed (Appendix A; Landscape Details - 1), including<sup>1</sup>:

- Purple lovegrass (*Eragrostis spectabilis*)
- Autumn bentgrass (*Agrostis perennans*)
- Canada wild rye (*Elymus canadensis*)
- Sheep fescue (*Fescue ovina*)

---

<sup>1</sup> Proposed seed mixes may be further revised based on the commercial availability of the seed.



- Sensitive pea (*Chamaecrista fasciculata*)
- Golden Alexanders (*Zizia aurea*)
- White clover (*Trifolium repens*)
- Red clover (*Trifolium pratense*)

The PV modules will be arranged to allow vegetative growth beneath and between the rows of PV modules. A vegetative buffer will exist along a large portion of the project's boundary in order to create an aesthetically pleasant view shed to the proposed facility's neighboring properties. This buffer will be 20 feet in width, contain two rows of staggered plantings, and contain an herbaceous layer of multiple pollinator species. The front row of the vegetative buffer will consist of red cedar (*Juniperus virginiana*) and American holly (*Ilex opaca*) with two American hollies every 50 feet. The back row will consist of a mix of trees (Appendix A; Landscape Details - 2), including<sup>2</sup>:

- Serviceberry (*Amelanchier canadensis*)
- American hornbeam (*Carpinus caroliniana*)
- Eastern redbud (*Cercus canadensis*)
- Dogwood tree (*Cornus florida*)
- Sweetbay magnolia (*Magnolia virginiana*)

Existing vegetations and trees will be retained to the extent possible at outside property boundaries and buffer areas to assist in natural screening.

---

<sup>2</sup> Proposed plantings may be further revised based on the commercial availability of each species.

### Figure 2-1. Flowing Springs Farm Solar Project Location Map

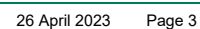
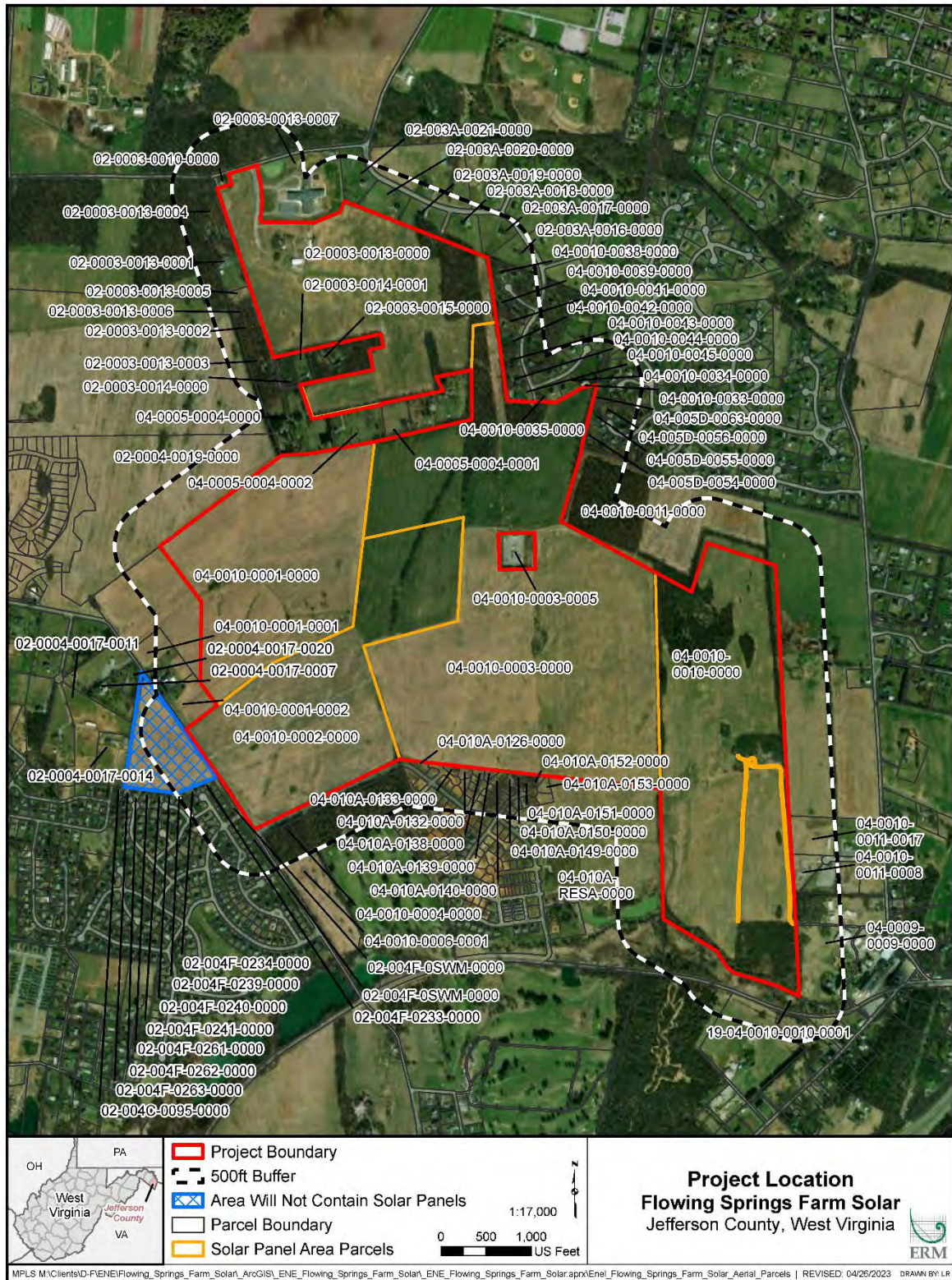




Figure 2-2. Flowing Springs Farm Solar Project Aerial Map



### 3. PROJECT AND ADJOINING PROPERTIES

**Table 3-1: Project Parcels (within Flowing Springs Farm Solar)**

Property Owner	B C Partners Inc	B C Partners Inc	Potomac Edison Company	B C Partners Inc	Butler Family Limited Partnership	B C Partners Inc
Physical Address	24024 Frederick Rd Clarksburg, MD 20871	24024 Frederick Rd Clarksburg, MD 20871	10435 Downsville Pike Hagerstown, MD 21740	24024 Frederick Rd Clarksburg, MD 20871	1474 Old Country Club Rd Charles Town, WV 25414	24024 Frederick Rd Clarksburg, MD 20871
Deed Book	850	850	821	850	850	850
Deed Page	470	470	484	470	375	470
Parcel ID	02-0003-0013-0000	04-0010-0010-0000	04-0010-0003-0005	04-0010-0002-0000	04-0010-0001-0000	04-0010-0003-0000
Zoning District	2	4	4	4	4	4
Zoning	Residential-Growth	Residential-Light Industrial-Commercial / Residential-Growth	Residential-Growth	Residential-Growth	Residential-Growth	Residential-Growth
Parcel Acres	104.7 Acres	141.1 Acres	3.67	99.5 Acres	133.9 Acres	233.5 Acres
Project Area	104.7 Acres	141.1 Acres	3.67	99.5 Acres	93.8 Acres	233.5 Acres
In Preferred Growth Area?	YES	YES	YES	YES	YES	YES

**Table 3-2: Adjoining Property Information**

02-0003-0014-0000 Owner: Oden Samuel L Address: 447 Shade Tree Ln Shenandoah Junction, WV 25442 Zoned: Rural	04-0010-0010-0001 Owner: Consolidated Investments LLC Address: Po Box 70 Halltown, WV 25423 Zoned: Residential-Light Industrial-Commercial
02-0003-0014-0001 Owner: Hilker John D Address: 503 Shade Tree Ln Shenandoah Junction, WV 25442 Zoned: Rural	04-0010-0011-0008 Owner: Amanda Court LLC Address: 4 Sheridan Ln Knoxville, MD 21758 Zoned: Residential-Light Industrial-Commercial

02-0003-0015-0000 Owner: Schau Terry Lee & Maria Address: 393 Shade Tree Ln Shenandoah Junction, WV 25442 Zoned: Rural	04-0010-0006-0001 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
02-0003-0013-0003 Owner: Evans David Shane & Eileen J Lam Address: 408 Shade Tree Ln Shenandoah Junction, WV 25442 Zoned: Rural	04-0010-0004-0000 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
02-0003-0013-0002 Owner: Mayrand Marc C & Belynda D Address: Po Box 221 Shenandoah Junction, WV 25442 Zoned: Rural	04-0010-0011-0017 Owner: Waddell David Barry Address: 41593 Springvalley Ln Leesburg, VA 201756421 Zoned: Residential-Light Industrial-Commercial
02-0003-0013-0006 Owner: Staubs Matthew L & Kaysie L Address: 288 Shade Tree Ln Shenandoah Junction, WV 25442 Zoned: Rural	04-0010-0001-0001 Owner: Carter Jody K B & Christopher B Address: 1474 Old Country Club Rd Charles Town, WV 25414 Zoned: Residential-Growth
02-0003-0013-0005 Owner: Crow Sean T & Morgan A Cadle Address: 254 Shade Tree Ln Shenandoah Junction, WV 25442 Zoned: Rural	02-0003-0013-0001 Owner: Masemer Harold D Co-tr Sarah A Co-tr Address: 218W Washington St Charles Town, WV 25414 Zoned: Rural
02-003A-0017-0000 Owner: Schiavi Michael & Teresa M Address: 376 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Rural	02-0003-0013-0007 Owner: Board of Education Of Jefferson County Address: 1250 Edwin Miller Blvd Ste 300 Martinsburg, WV 25404 Zoned: Rural
02-003A-0018-0000 Owner: Parrotte Willis D & Kulene L Address: 278 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Rural	04-010A-0126-0000 Owner: Kuba Michael J & Marilyn J Address: 4 Colonel Black Way Charles Town, WV 25414 Zoned: Residential-Growth
02-003A-0019-0000 Owner: Smith Edward R & Emily J Mayhew Address: 196 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Rural	04-010A-0133-0000 Owner: Cerniglia Raymond J & Linda E Address: 51 Colonel Black Way Charles Town, WV 25414 Zoned: Residential-Growth
02-003A-0020-0000 Owner: Hanscom Michael J & Dawn K Address: 130 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Rural	04-010A-0132-0000 Owner: Cowley Gilbert H & Helen Address: 67 Colonel Black Way Charles Town, WV 25414 Zoned: Residential-Growth



02-0003-0013-0004 Owner: 118 Shade Tree LLC Address: 1408 Purcellville Gateway Dr Ste 881 Purcellville, VA 20132 Zoned: Rural	04-005D-0054-0000 Owner: Ramos Efrain A J & Sheila J Address: 117 Gen Pender Ct Harpers Ferry, WV 25425 Zoned: Residential-Growth
02-0003-0010-0000 Owner: Wines Gloria M & Patricia A Address: 440 Job Corps Rd Shenandoah Jct, WV 25442 Zoned: Rural	04-005D-0055-0000 Owner: Moffat Brian D & Caroline Address: 127 General Pender Ct Harpers Fery, WV 25425 Zoned: Residential-Growth
02-003A-0021-0000 Owner: Hozdic James K & Theresa Address: 68 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Rural	04-005D-0063-0000 Owner: Bryant Michael P & Kelle B Address: 72 General Anderson Ct Harpers Ferry, WV 25425 Zoned: Residential-Growth
04-0010-0003-0005 Owner: Potomac Edison Company Address: 10435 Downsview Pike Hagerstown, MD 21740 Zoned: Residential-Growth	04-0010-0011-0000 Owner: Nathan Frederick Farming & Leasing LLC Address: 198 Thomas Johnson Dr #207 Frederick, MD 21702 Zoned: Residential-Light Industrial-Commercial / Residential-Growth
04-0005-0004-0002 Owner: Ghobadi Ali Et Al Address: 20668 Parkside Cir Sterling, VA 20165 Zoned: Rural	04-0010-0001-0002 Owner: Carter Kyle S & Deana N Address: 25 Baltic Ln Ranson, WV 25438 Zoned: Residential-Growth
04-0010-0045-0000 Owner: Slater James & Leanna Address: 774 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Residential-Growth	04-010A-0138-0000 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
04-0010-0035-0000 Owner: Cervantes Ramon R & Guadalupe Rayas Address: 42 Girth Ln Shenandoah Junction, WV 25442 Zoned: Residential-Growth	04-010A-0139-0000 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
04-0005-0004-0000 Owner: Ghobadi Jahangir Et Al Address: 46799 Sweet Birch Ter Sterling, VA 201647501 Zoned: Rural	04-010A-0140-0000 Owner: Jones Chad J & Vanessa R Address: 64 Ella Washington Ct Charles Town, WV 25414 Zoned: Residential-Growth
04-0010-0034-0000 Owner: Carter James N Jr & Tracy E Address: 58 Girth Ln Shenandoah Junction, WV 25442 Zoned: Residential-Growth	04-010A-0149-0000 Owner: Bouman John R & Abby D Address: 21 Jacob Ct Charles Town, WV 25414 Zoned: Residential-Growth

04-0005-0004-0001 Owner: Newkirk Sandra L & Susan P Mcgraw Tr Address: 849 Shade Tree Ln Shenandoah Junction, WV 25442 Zoned: Rural	04-010A-0150-0000 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
04-0010-0044-0000 Owner: Barr Jason E & Lori J Address: 734 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Residential-Growth	04-010A-0151-0000 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
04-0010-0033-0000 Owner: Schafer Randal J & Michelle Address: 98 Girth Ln Shenandoah Junction, WV 25442 Zoned: Residential-Growth	04-010A-0152-0000 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
04-0010-0043-0000 Owner: Zaloga Nicholas A & Lori Address: 702 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Residential-Growth	04-010A-0153-0000 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
04-0010-0042-0000 Owner: Lemp Joel E & Soledad B Address: 656 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Residential-Growth	04-010A-RESA-0000 Owner: Beallair Homes LLC Address: 5283 Corporate Dr Ste 300 Frederick, MD 21703 Zoned: Residential-Growth
04-0010-0041-0000 Owner: Franklin Floyd P Address: 650 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Residential-Growth	02-0004-0019-0000 Owner: Roderick Planes LLC Address: Po Box 777 Frederick, MD 21705 Zoned: Rural
04-0010-0039-0000 Owner: Skaggs John D & Suk Y Address: 75 Spur Ct Shenandoah Junction, WV 254424702 Zoned: Residential-Growth	04-005D-0056-0000 Owner: Guinard Judith A Trust Address: 130 General Pender Ct Harpers Ferry, WV 25425 Zoned: Residential-Growth
04-0010-0038-0000 Owner: Liston Scott A & Dena M Address: 90 Spur Ct Shenandoah Junction, WV 25442 Zoned: Residential-Growth	02-004F-0SWM-0000 Owner: Breckenridge Owners Assoc Inc Address: 142N Queen St Martinsburg, WV 25401 Zoned: Residential-Growth
04-0009-0009-0000 Owner: Consolidated Investments LLC Address: Po Box 70 Halltown, WV 25423 Zoned: Industrial-Commercial	02-004F-0SWM-0000 Owner: Breckenridge Owners Assoc Inc Address: 142N Queen St Martinsburg, WV 25401 Zoned: Residential-Growth

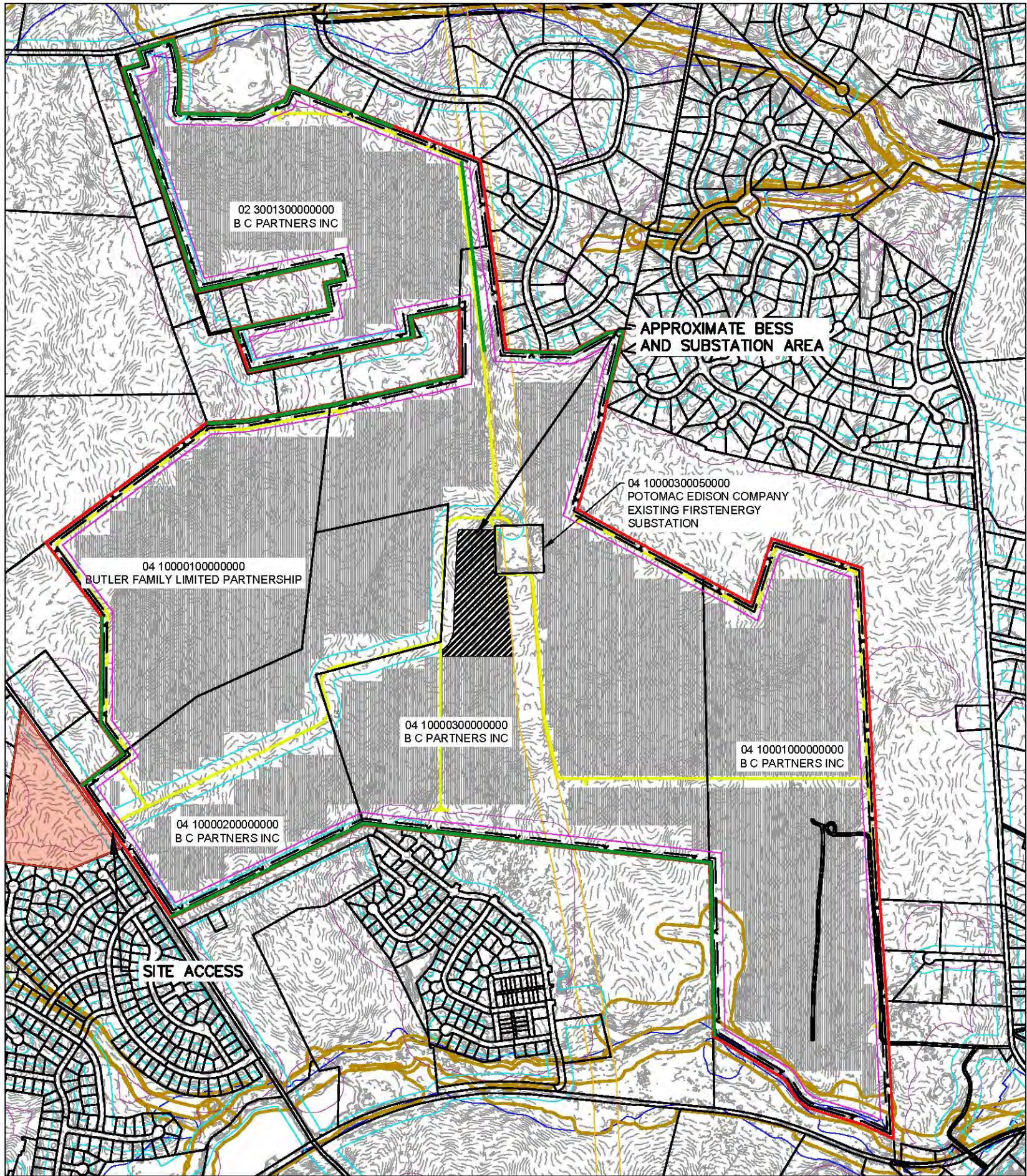


02-003A-0016-0000 Owner: Labenske Crystal R & Cooper L Address: 424 Breckenridge Way Shenandoah Junction, WV 25442 Zoned: Rural	02-004C-0095-0000 Owner: Ireton David S & Anna L Address: 86 Goldenrod Dr Charles Town WV 25414 Zoned: Rural
02-0004-0017-0014 Owner: Larrosa Gustavo & Analia R Gomez De Larrosa Address: 200 Goldenrod Dr Charles Town WV 25414 Zoned: Rural	02-0004-0017-0011 Owner: Bir John & Skaidrite Address: 231 Flowing Acres Rd Charles Town WV 25414 Zoned: Rural
02-0004-0017-0020 Owner: Reiter Dana C & Debra P Spickler Address: 1577 Old Country Club Rd Charles Town WV 254145839 Zoned: Rural	02-0004-0017-0007 Owner: Reiter Dana Christopher Et Al Address: 1577 Old Country Club Rd Charles Town WV 25414 Zoned: Rural
02-004F-0240-0000 Owner: Wilkins Rodney J Address: 60 Walker Ct Charles Town WV 25414 Zoned: Residential-Growth	02-004F-0239-0000 Owner: Coudie Jean Claude & Marie Address: 40 Walker Ct Charles Town WV 25414 Zoned: Residential-Growth
02-004F-0241-0000 Owner: Nardi Jack R & Gisela G Address: 64 Walker Ct Charles Town WV 25414 Zoned: Residential-Growth	02-004F-0261-0000 Owner: Knight James A & Carla J Address: 182 Belgian Way Charles Town WV 25414 Zoned: Residential-Growth
02-004F-0262-0000 Owner: Bailey Anuschka I - Tr Address: 183 Belgian Way Charles Town WV 25414 Zoned: Residential-Growth	02-004F-0263-0000 Owner: Robinson Teresa H Address: 181 Belgian Way Charles Town WV 25414 Zoned: Residential-Growth
02-004F-0234-0000 Owner: Mazelev Ruvim & Nina Address: 396 Barrel Horse Dr Charles Town WV 25414 Zoned: Residential-Growth	02-004F-0233-0000 Owner: Moore James W Jr & Lori E Address: 24 Presidio Pointe Cross Lanes WV 25313 Zoned: Residential-Growth

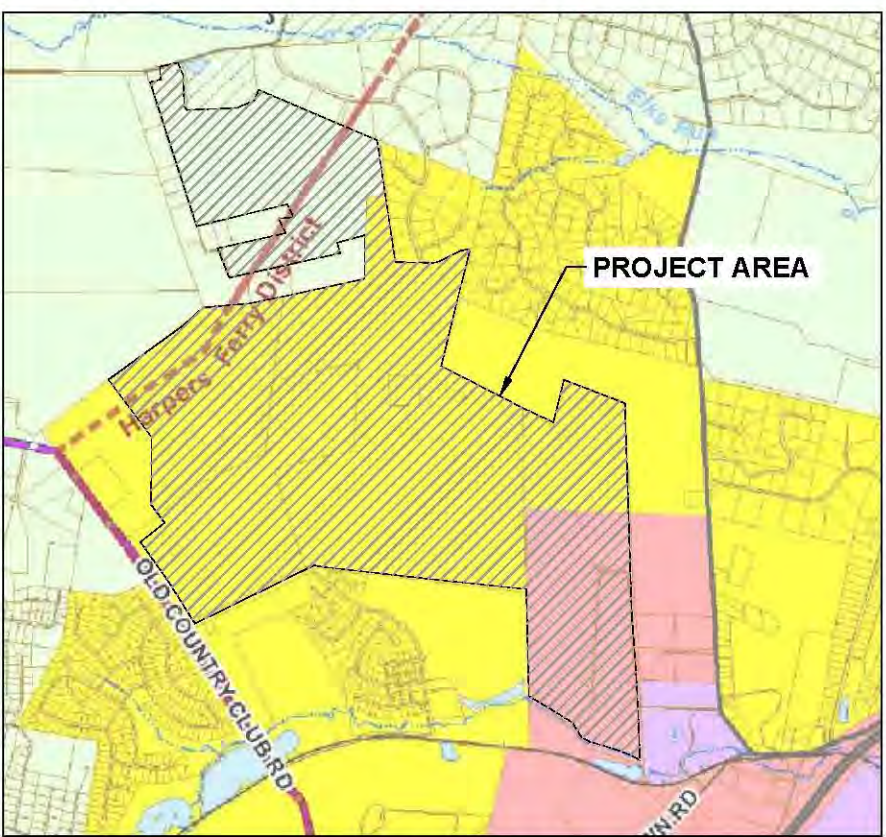
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## **APPENDIX A    CONCEPT PLAN**





- NOTES:
1. PROPOSED ROADS AND SOLAR LAYOUT ARE CONCEPTUAL AND MAY CHANGE AS THE PROJECT DESIGN PROGRESSES
  2. THE TOTAL NUMBER OF ESTIMATED PV MODULES IS 290,277



ZONING MAP  
SCALE: 1"=7500'

- LEGEND:
- Residential/Light Industrial/Commercial
  - Residential Growth
  - Planned Neighborhood Development
  - Rural
  - Village
  - Incorporated Town
  - Industrial/Commercial
  - Flowing Springs Project Area

PARCEL INFORMATION				
PARCEL OWNER	PARCEL ID	ZONE	PARCEL ACRES	ACREAGE IN PROJECT
BC PARTNERS INC	02 3001300000000	RURAL	104.7	104.7
BUTLER FAMILY LIMITED PARTNERSHIP	04 10000100000000	RESIDENTIAL GROWTH	133.9	93.8
BC PARTNERS INC	04 10000200000000	RESIDENTIAL GROWTH	99.5	99.5
BC PARTNERS INC	04 10000300000000	RESIDENTIAL GROWTH	233.5	233.5
POTOMAC EDISON COMPANY	04 10000300050000	RESIDENTIAL GROWTH	3.67	3.67
BC PARTNERS INC	04 10001000000000	RESIDENTIAL GROWTH & RESIDENTIAL/LIGHT INDUSTRIAL/COMMERCIAL	141.1	141.1

- LEGEND:
- EXISTING CONTOUR
  - EXISTING PROPERTY LINE
  - LIMIT OF DISTURBANCE
  - PROPOSED FENCE
  - PROPOSED 50FT PROPERTY, 25FT FENCE SETBACK
  - 100FT EXTERNAL PROPERTY LINE SETBACK
  - 200FT OCCUPIED BUILDING SETBACK
  - 100FT EXISTING ROAD SETBACK
  - 100FT EXISTING ELECTRIC TRANSMISSION LINE SETBACK
  - FLOOD ZONE
  - NATIONAL WETLANDS INVENTORY WITH PROPOSED 50-FOOT SETBACK
  - PROPOSED PHOTOVOLTAIC PANEL
  - PROPOSED ROAD
  - 20FT VOLUNTARY LANDSCAPE SCREENING BUFFER
  - PARCEL EXCLUDED FROM PROJECT AREA

REV.	DATE	DESCRIPTION	PREPARED	CHECKED	APPROVED
4/25/23		PRELIMINARY FOR REVIEW			
CONTRACTOR'S LOGO		PROJECT: FLOWING SPRINGS SOLAR PROJECT JEFFERSON COUNTY, WEST VIRGINIA			
enel		FILE NAME:			
Engineering & Construction		CLASSIFICATION:	FORMAT: ANSI D	SCALE: 1" = 1000'	PLOT SCALE: 11"x17"
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VALIDATED BY		EGP CODE			
VERIFIED BY		GROUP	FUNCTION	TYPE	ISSUER
COLLABORATORS		COUNTRY	TED	PLANT	SYSTEM
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Vehicle Trip Generation Summary					
Project Phase	Duration	Vehicle Type	Estimated Gross Vehicular Weight	Vehicles Per Day	Maximum and Average Trips Per Vehicle per Day
Construction					
Site Preparation / Clearing & Grubbing	12 Weeks	Passenger Vehicles	2,000-10,000 lbs	6 cars/day	Max-6 / Avg-4
		Equipment Hauling Trucks	20,000-40,000 lbs	5 trucks/day	Max-20 / Avg-16
Solar Facility Installation	25-30 Weeks	Passenger Vehicles	2,000-10,000 lbs	100 cars/day	Max-6 / Avg-4
		Connex and Delivery Trucks	30,000-80,000 lbs	4 trucks/day	Max-2 / Avg-2
		Equipment Hauling Trucks	20,000-40,000 lbs	4 trucks/day	Max-10 / Avg-6
		Fuel Truck	20,000-30,000 lbs	1 truck/day	Max-2 / Avg-2
		Material Delivery Truck	20,000-30,000 lbs	8 trucks/day	Max-2 / Avg-2
		Main Power Transformer Trailer	265,000 lbs	1 truck	1 Delivery (if needed)
		O&M Building	80,000-150,000 lbs	1 truck	1 Delivery (if needed)
Maintenance & Operation					
Daily Operations	Weekdays	Utility Vehicle	2,000-10,000 lbs	5 veh./day	Max-5 / Avg-4
Decommissioning					
Solar Facility Removal	20-25 Weeks	Passenger Vehicles	2,000-10,000 lbs	100 cars/day	Max-6 / Avg-4
		Equipment Hauling Trucks	20,000-40,000 lbs	3 trucks/day	Max-2 / Avg-2
		Connex and Delivery Trucks	30,000-80,000 lbs	3 trucks/day	Max-4 / Avg-2
		Refuse/Recycling Trucks	30,000-80,000 lbs	2 trucks/day	Max-10 / Avg-6

Traffic Study Notes:



The following information is located in the indicated sections of the Traffic Impact Assessment Report:

- A. ADT Figures for the adjoining or accessible State Road:Appendix A.2
- B. Trip generation figures:Section 1
- C. Nearest Key Intersection that will serve the proposed project: Key intersection routes are described throughout sections 2 and 3
- D. "Highway Problem Areas" according to the current Comprehensive Plan that falls within a one-mile radius of the project: None of the routes listed in the Traffic Impact Assessment Report coincide with any locations identified in the Envision Jefferson 2035 Comprehensive Plan (initially adopted by Jefferson County, WV in January 14, 2015) as Highway Problem Areas. However, several areas are within 1 mile of the primary or secondary routes detailed in the report. They are as follows:
  - Highway Problem Area 11 – Luther Jones Road at Wiltshire Road/Old Charlestown Road has a limited stacking area (along the southwest bound approach) due to train tracks. Additionally, future development is expected to take place in this area over coming decades.
  - Highway Problem Area 14 – Daniel Road at Flowing Springs Road, just north of Old Country Club Road has poor intersection angle resulting in limited visibility.
  - Highway Problem Area 15 – Sun Road at State Highway 9 has no dedicated merge/acceleration lane on to State Highway 9.

None of these identified Highway Problem Areas are anticipated to impact the operations associated with either the primary or secondary routes.

GENERAL NOTES:

1. Design, construction, and installation of the Solar Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM) or other similar certifying organizations and shall comply with the West Virginia Fire and Building Codes, including compliance with the Jefferson County Building Code.
2. Prior to commencing the transmission of electricity, the Solar Energy Facility shall provide documentation evidencing an interconnection agreement or similar agreement with the applicable public utility or approved entity in accordance with applicable law.
3. Generation of electrical power shall be limited to photovoltaic panels, provided that any on-site buildings may utilize integrated photovoltaic building materials.
4. Solvents necessary for the cleaning of the Solar Panels shall be biodegradable.
5. Internal wiring, excluding that which is on or between the Solar Arrays, connected to substations or between Solar Panels, shall be located underground, except where necessary to mitigate impact to environmental and/or terrain features.
6. Onsite lighting shall be the minimum necessary for security and onsite management and maintenance and shall comply with the standards outlined in the Subdivision Regulations.
7. Photovoltaic Panels shall use antireflective glass that is designed to absorb rather than reflect light.
8. Ground Cover comprised of natural vegetation is required. Ground cover that uses native or naturalized perennial vegetation and that provides foraging habitat that is beneficial for songbirds, gamebirds, and pollinators is encouraged but not required.
9. Collocation of other agricultural activities such as small market hand-picked crops, grazing, and apiary activities are permitted and encouraged.
10. No signage or advertising is permitted on the Solar Energy Facility other than an identifying sign at the entrance of the Facility that shall be approved by the Zoning Administrator in accordance with Article 10. All other signage must be approved by Special Exception by the Board of Zoning Appeals.
11. Solar Energy Facilities shall comply with Article 8, Section 8.9 of this Ordinance.
12. The Solar Energy Facility Use is not considered abandoned until such time it is Decommissioned.
13. Damaged or unusable panels shall be repaired, replaced, or removed within 60 days from discovery of damage; provided, however, longer periods may be approved by the County Engineer due to extenuating circumstances.
14. Adjoiner information is located in the supplemental packet information.
15. No solar panels are located within 100’ of the front, side, or rear external property lines.
16. No accessory components are located within 25’ of the front, side, or rear external property lines.

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		FILE NAME:									
		CLASSIFICATION:	FORMAT: <b>ANSI D</b>	SCALE: NOT TO SCALE	PLOT SCALE: 11"x17"						
<b>Engineering &amp; Construction</b>		<b>GENERAL NOTES</b>									
<b>EGP VALIDATION</b>											
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STORMWATER NOTES:

1. Stormwater Management for this solar project will follow the amended Jefferson County Stormwater Management Ordinance, effective October 1, 2020. Specifically Article I D.2.h for Solar Energy Facilities.
2. The following items at a minimum will be followed:

a.Earth disturbance will be minimized to the greatest extent practicable

b.The plan will propose and establish a 90% or better uniform vegetative cover complying with the ordinance requirements.

c.A minimum of 12’ will be maintained between rows of arrays

dFOUNDATIONS will generally consist of driven pile and with occupy a maximum of 5% of the total project area.

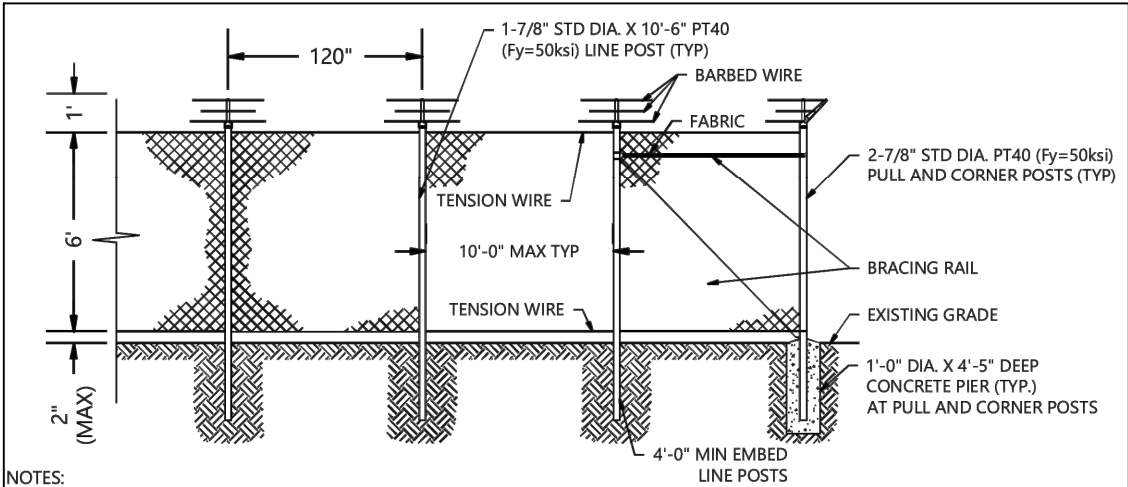
e.Solar Array will be generally proposed on slope flatter than 10%, in the event steeper slopes are encountered appropriate BMP’s will be utilized.
3. A stormwater Management report with documentations and drawings will be submitted to Jefferson County for review and approval.
4. The solar project will also develop the required Erosion and Sediment Control Plan Stormwater Pollution Prevention Plan, and Groundwater Protection Plan to make application to register for the West Virginia Department of Environmental Protection National Pollution Discharge Elimination System (NPDES) permit for this construction.
5. The solar facility will be constructed on agricultural land, normally planted in row crops, hay/straw and used for grazing. The solar facility will be seeded with pollinator friendly and resistant ground cover such white clover or equivalent and will not be used for grazing.

Buffer Pollinator Mix		
Scientific Name	Common Name	Percentage of Mix
Avena satvia	Oats	Cover Crop
Schizachyrium scoparium, 'Camper'	Little Bluestem	37.2%
Agrostis perennans	Autumn Bentgrass	36.0%
Chamaecrista fasciculata, PA Ecotype	Partridge Pea	7.5%
Coreopsis lanceolata	Lanceleaf Coreopsis	4.0%
Echinacea purpurea	Purple Coneflower	4.0%
Rudbeckia hirta	Blackeyed Susan	3.3%
Heliopsis helianthoides, PA Ecotype	Oxeye Sunflower	2.5%
Penstemon digitalis	Tall White Beardtongue	0.4%
Liatis spicata	Marsh Blazing Star	0.2%
Senna hebecarpa, VA & WV Ecotype	Wild Senna	1.2%
Zizia aurea	Golden Alexanders	0.7%
Geum canadense, PA ecotype	White Avens	0.4%
Monarda fistulosa, PA Ecotype	Wild Bergamot	0.5%
Pycnanthemum tenuifolium	Narrowleaf Mountainmint	0.3%
Aster laevis, NY Ecotype	Smooth Blue Aster	0.3%
Aster novae-angliae, PA Ecotype	New England Aster	0.3%
Baptisia australis, Southern WV Ecotype	Blue False Indigo	0.5%
Sisyrinchium angustifolium	Narrowleaf Blue Eyed Grass	0.3%
Oenothera fruticosa var. fruticosa	Sundrops	0.1%
Solidago nemoralis, PA Ecotype	Gray Goldenrod	0.2%
Aster prenanthoides, PA Ecotype	Zigzag Aster	0.1%
		100.0%

Solar Field Seed Mix		
Scientific Name	Common Name	Percentage of Mix
Eragrostis spectabilis, RI Ecotype	Purple Lovegrass	1%
Agrostis perennans	Autumn Bentgrass	11%
Elymus canadensis	Canada Wild Rye	20%
Fescue ovina	Sheep Fescue	38%
Chamaecrista fasciculata, PA Ecotype	Sensitive Pea	8%
Zizia aurea	Golden Alexanders	1.0%
Trifolium repens, Ladino	White Clover	6.0%
Trifolium pratense	Red Clover	15%
		100.0%

SEED MIX NOTES:

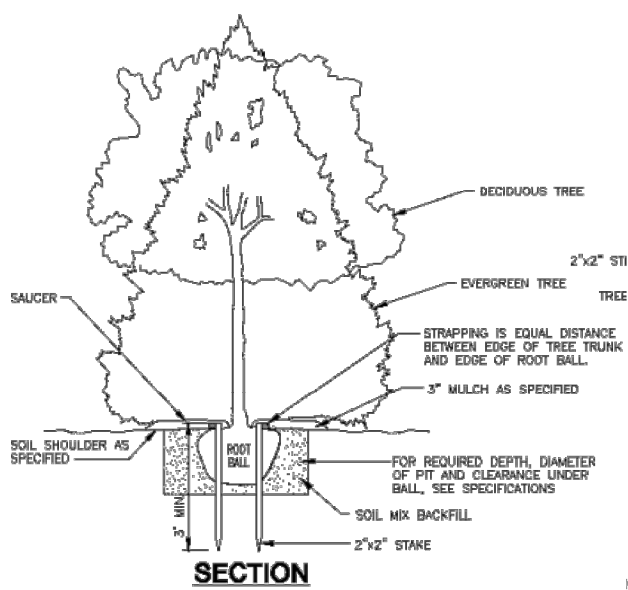
1. APPLICATION RATE FOR BUFFER POLLINATOR MIX IS 15 LBS/ACRE. COVER CROP APPLICATION RATE IS 30 LBS/ACRE OF OATS.
2. APPLICATION RATE FOR SOLAR FIELD SEED MIX IS 5 LBS/ACRE. COVER CROP APPLICATION RATE IS 30 LBS/ACRE OF OATS.
3. THE PROPOSED SEED MIXES MAY BE FURTHER REVISED TO ADJUST SPECIES COMPOSITION AND/OR PERCENTAGES OF SEED MIX AND APPLICATION RATES BASED ON THE COMMERCIAL AVAILABILITY OF THE SEED MATERIAL.



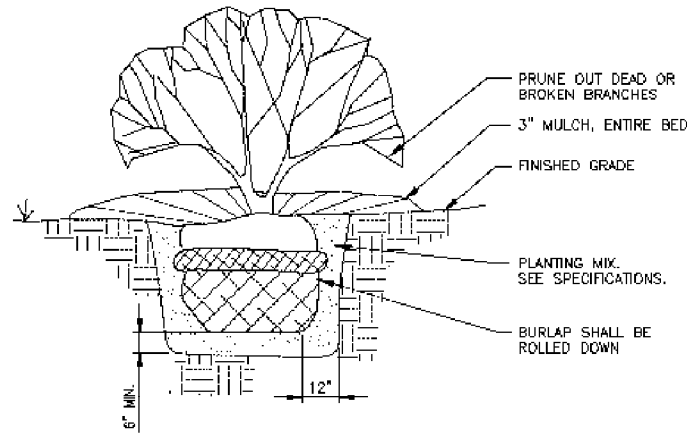
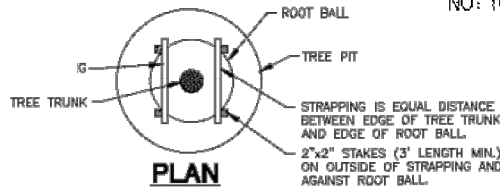
CONTRACTOR TO VERIFY EXACT FENCE SPECIFICATION AND GATE LOCATION WITH OWNER PRIOR TO INSTALLATION.

CHAINLINK FENCE  
NOT TO SCALE

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FILE NAME:											
CLASSIFICATION:		FORMAT: <b>ANSI D</b>	SCALE: <b>NOT TO SCALE</b>	PLOT SCALE: <b>11"x17"</b>	SHEET: <b>003</b>						
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Engineering & Construction											
EGP VALIDATION											
VALIDATED BY		EGP CODE									
VERIFIED BY		GROUP	FUNCTION	TYPE	ISSUER	COUNTRY	TEC.	PLANT	SYSTEM	PROGRESSIVE	REVISION
COLLABORATORS											
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**TREE STAKING DETAIL**  
NOT TO SCALE



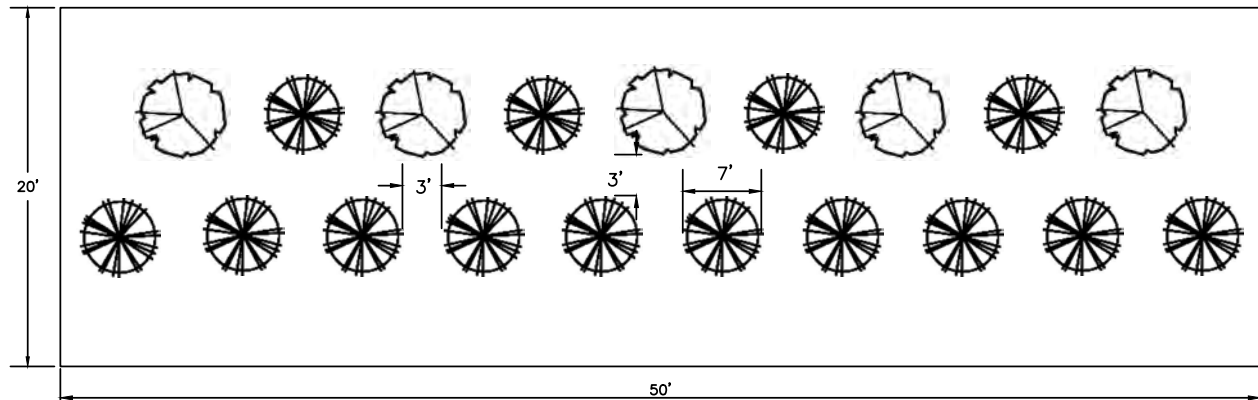
**SHRUB PLANTING DETAIL**  
NOT TO SCALE

## GENERAL LANDSCAPE NOTES

1. QUALITY AND SIZE OF PLANTS, SPREAD OF ROOTS, AND SIZE OF BALLS SHALL BE IN ACCORDANCE WITH THE CURRENT STANDARDS OF THE AMERICAN ASSOCIATION OF NURSERYMEN "AMERICAN STANDARDS FOR NURSERY STOCK".
2. CONTRACTOR SHALL BE REQUIRED TO GUARANTEE ALL PLANT MATERIALS FOR A PERIOD OF ONE YEAR AFTER INSTALLATION IS COMPLETE AND FINAL ACCEPTANCE OF SITE WORK HAS BEEN GIVEN. AT THE END OF ONE YEAR ALL PLANT MATERIAL WHICH IS DEAD OR DYING SHALL BE REPLACED AT THE CONTRACTOR'S EXPENSE AS ORIGINALLY SPECIFIED.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE TO UTILITIES AND MAY MAKE MINOR ADJUSTMENTS IN SPACING AND/OR LOCATION OF PLANT MATERIALS. CONTRACTOR TO VERIFY "AS BUILT" LOCATION OF ALL UTILITIES.
4. NO SUBSTITUTIONS SHALL BE MADE WITHOUT APPROVAL OF THE OWNER.
5. ALL AREAS NOT STABILIZED IN PAVING OR PLANT MATERIALS SHOULD BE SEEDED AND MULCHED. (SEE EROSION & SEDIMENT CONTROL PLAN.)
6. EVERGREEN TREES SHALL HAVE A FULL, WELL-BRANCHED, CONICAL FORM TYPICAL OF THE SPECIES.
7. TREES SHALL BE PLANTED AND STAKED IN ACCORDANCE WITH THE STAKING DETAIL SHOWN.
8. THE FULL EXTENT OF ALL PLANTING BEDS SHALL RECEIVE 4" OF TOPSOIL AND 3" OF BARK MULCH PER SPECIFICATIONS.
9. THE CONTRACTOR SHALL SUPPLY ALL PLANT MATERIALS IN QUANTITIES SUFFICIENT TO COMPLETE THE PLANTINGS SHOWN ON THIS DRAWING AND AS SPECIFIED.
10. ALL PLANTS SHALL BEAR THE SAME RELATIONSHIP TO FINISHED GRADE AS THE PLANT'S ORIGINAL GRADE BEFORE DIGGING.
11. THE CONTRACTOR SHALL WATER ALL PLANTS THOROUGHLY TWICE DURING THE FIRST 24-HOUR PERIOD AFTER PLANTING, AND THEN WEEKLY OR MORE OFTEN, IF NECESSARY, DURING THE FIRST GROWING SEASON.
12. REQUIRED LANDSCAPING AND BUFFERS WILL BE MAINTAINED IN ACCORDANCE WITH THE APPROVED MAINTENANCE PLAN.
13. ALL MAINTENANCE WILL BE AS SPECIFIED IN THE LANDSCAPE MAINTENANCE AGREEMENT.
14. IT WILL BE THE RESPONSIBILITY OF THE LANDOWNER TO REPLACE ANY TREES, SHRUBS, OR VEGETATION THAT DIE.

## VOLUNTARY LANDSCAPE BUFFER PLANT SCHEDULE

SYMBOL	NATIVE	KEY	BOTANICAL NAME	COMMON NAME	SIZE	QUANTITY
EVERGREEN TREES						
	✓	IO	ILEX opaca	AMERICAN HOLLY	6-7' Ht., B&B	-
	✓	JV	JUNIPERUS virginiana	EASTERN RED CEDAR	6-7' Ht., B&B	-
DECIDUOUS UNDERSTORY TREES						
	✓	AC	AMELANCHIER canadensis	SERVICEBERRY	1" Cal., B&B	-
	✓	CA	CARPINUS caroliniana	AMERICAN HORNBEAM	1" Cal., B&B	-
	✓	CC	CERCIS canadensis	EASTERN REDBUD	1" Cal., B&B	-
	✓	CF	CORNUS florida	DOGWOOD TREE	1" Cal., B&B	-
	✓	MV	MAGNOLIA virginiana	SWEETBAY MAGNOLIA	5'-6' Ht., B&B	-



**LANDSCAPE PLANTING PLAN**  
NOT TO SCALE

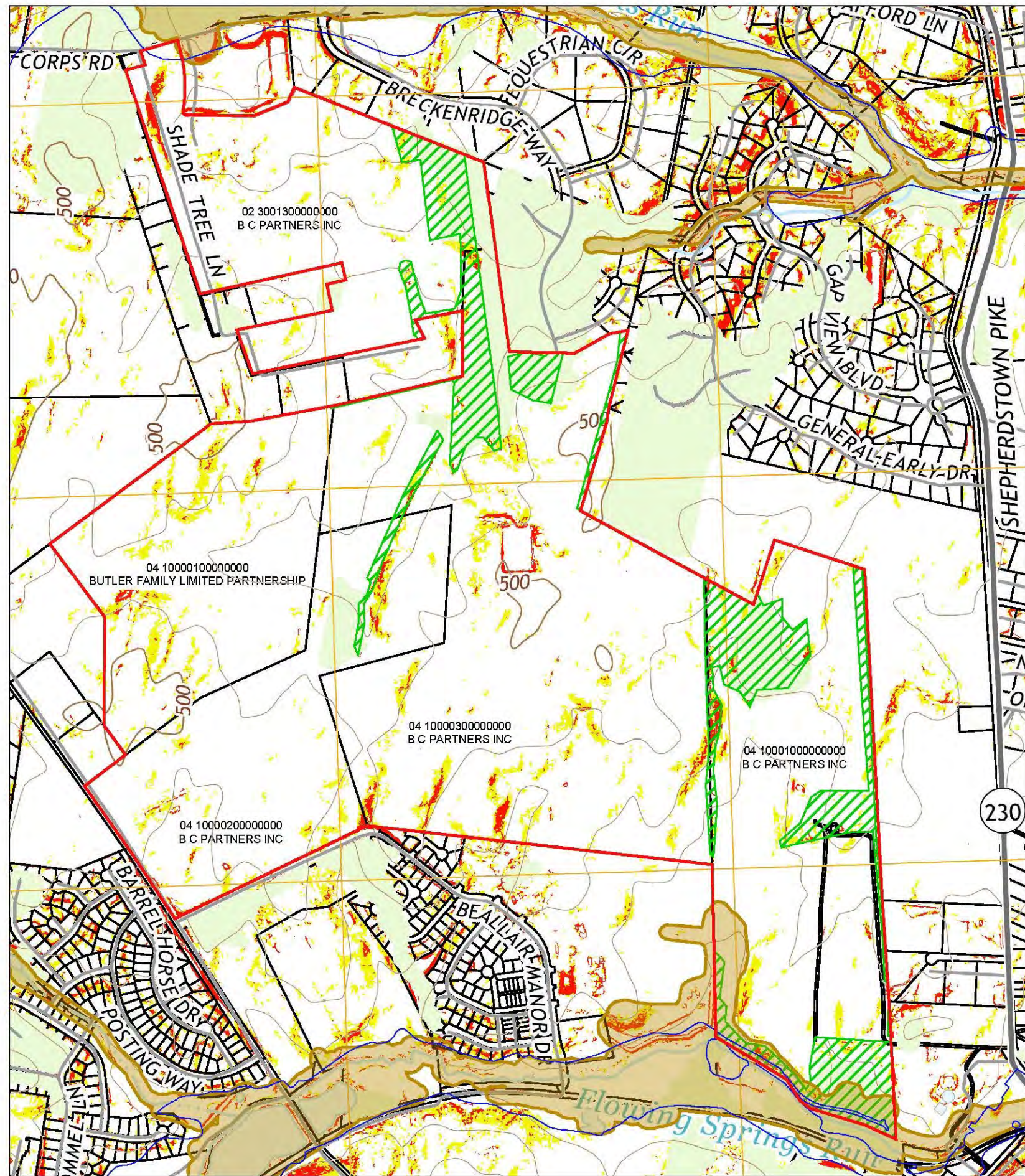
**NOTE:**  
FRONT ROW SHALL BE ALL RED CEDAR AND AMERICAN HOLLY TREES, WITH TWO HOLLIES PER 50 FT. BACK ROW SHALL CONSIST OF A MIX OF TREES.

REV.	DATE	DESCRIPTION	PREPARED	CHECKED	APPROVED
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		FLOWING SPRINGS SOLAR PROJECT JEFFERSON COUNTY, WEST VIRGINIA			
FILE NAME:					
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## **APPENDIX B      SITE RESOURCE MAP**





**LEGEND:**

- 500 EXISTING CONTOUR
- EXISTING PROPERTY LINE
- LIMIT OF DISTURBANCE
- FLOOD ZONE
- NATIONAL WETLANDS INVENTORY
- FORESTED AREA
- 10-15% EXISTING SLOPES
- 15%+ EXISTING SLOPES

NOTE: MAP DISPLAY SOURCE — USGS 7.5 MINUTE SERIES, CHARLES TOWN QUADRANGLE,  
WEST VIRGINIA—VIRGINIA—MARYLAND (2014)



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	3/13/23	PRELIMINARY FOR REVIEW			
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wsp		FILE NAME:			
enel Green Power		CLASSIFICATION:	FORMAT: ANSI D	SCALE: 1" = 1000'	PLOT SCALE: 11"x17"
Engineering & Construction EGP VALIDATION		UTILIZATION SCOPE:	TITLE: SITE RESOURCE MAP		
VALIDATED BY		EGP CODE			
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## **APPENDIX C    DECOMMISSIONING PLAN**

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## APPENDIX C - DECOMMISSIONING PLAN

### Flowing Springs Solar Project Decommissioning Plan

The decommissioning process and costs described below apply to the Flowing Springs Farm Solar Project (Project), a proposed 125- MW AC solar PV facility and its associated BESS located on approximately 660 acres of land in Jefferson County, West Virginia (Site). The Project will be owned and operated Flowing Springs Farm, LLC.

The Site footprint is comprised of a lease for ±100 acres and a purchase option for ±560 acres. The Site is currently zoned as medium-density residential and located in a preferred growth area of Jefferson County.

Section 8.20.B.2 of the Jefferson County, West Virginia Zoning and Land Use Development Ordinance includes the following requirements for a decommissioning outline:

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

In compliance with Section 8.20.B.2, a decommissioning outline is included below for inclusion with the Project Concept Plan.

### C.1.1 Decommissioning Outline

#### C.1.1 Lease Timeline

The lease has an initial term of 30 years with an additional 20-year option. The lease also requires that the Project post security for removal and restoration of the property. The expected operating life of the Project is 25-35 years.

#### C.1.2 General Plan for Removal

At the end of the useful life, if no commercial arrangement is possible to continue operation, then the Project would be decommissioned and dismantled, and the Site restored. In general, most of the decommissioned equipment and materials will be recycled. Materials that cannot be recycled will be disposed of at approved facilities. The Site may be converted to other uses in accordance with applicable land use regulations upon completion of decommissioning.

The following steps would be followed in accordance with industry standards for the decommissioning of solar facilities to achieve the goals of decommissioning the Project and restoring the Site for post-Project use, except to the extent an alternative decommissioning arrangement with the landowner provides for specific alternative decommissioning provisions:

- 
1. Obtain any permits required for the decommissioning, removal, and legal disposal of the system components prior to the commencement of the decommissioning activities.
  2. Remove all hazardous materials (if any) and transport them to be disposed of by licensed contractors at an appropriate facility in accordance with rules and regulations.
  3. Work with utility to disconnect PV array and BESS from power grid.
  4. Remove transformer, inverters switch gear, power poles, fencing, overhead electrical transmission lines and structures, transformers, buildings, and all other ancillary equipment and debris from operation of the Project that is not associated with interconnecting it into the electrical grid.
  5. Remove solar foundations and other concrete foundations and slabs to the extent required under an alternative decommissioning agreement and/or applicable WVDEP rules.
  6. Remove all aboveground solar panels, modules, direct current (DC) wiring, junction boxes, steel racking, and associated BESS.
  7. Pull alternating current (AC) wiring from underground conduits.
  8. Remove all underground cables and pipelines to a depth of 24 inches or deeper if necessary for the post operation land use.
  9. Fill in stormwater ponds.
  10. Reclaim gravel from access road (if any).
  11. Reclaim Site to the approximate original surface topography that existed prior to the start of the construction of the Project with grading, topsoil application over the disturbed areas at a depth similar to that in existence prior to the disturbance, reseeding, and revegetation to achieve the same utility as the surrounding area at the time of decommissioning to prevent adverse hydrological effects.
  12. Repair damage to public roads, culverts, and natural drainage ways resulting directly from operation of or decommissioning of the Project.
  13. Recycle gravel, concrete, rebar, fencing, steel piers, steel racking, solar modules, copper and aluminum wiring, inverters, disconnects, switchgear, and transformer.

### **C.1.3 Responsibility and Financial Assurance**

The Applicant will be responsible for all decommissioning costs and will retain ownership for the life of the Project and through decommissioning completion.

An application for a decommissioning plan and bond will be filed with the WVDEP, as required by WV State Code §22-32-1, *et. sec.* or its successor. The application will provide estimates and calculations regarding decommissioning costs and salvage values (to be updated every five years), a decommissioning schedule, and any other details that may be required by statute or rule. Proof of the application will be provided to the Department of Engineering, Planning, and Zoning.

*\*Decommissioning plan will adhere to any plan approved by the Jefferson County Commission.*

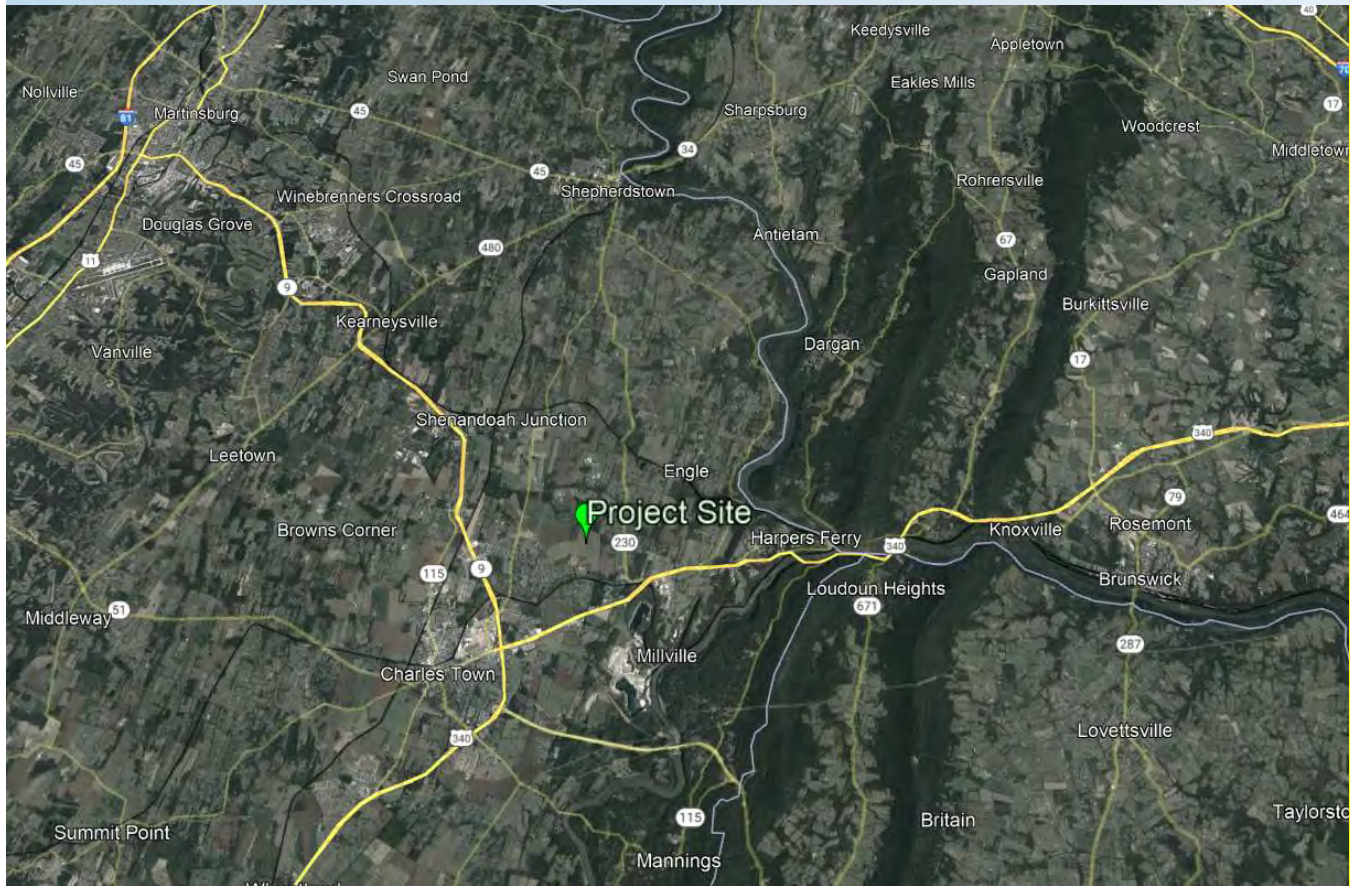
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## **APPENDIX D    TRANSPORTATION STUDY**

FLOWING SPRINGS FARM, LLC

# FLOWING SPRINGS SOLAR PROJECT TRANSPORTATION STUDY

APRIL 2023





TRANSPORTATION STUDY

# FLOWING SPRINGS SOLAR PROJECT

JEFFERSON COUNTY, WEST VIRGINIA



WSP PROJECT NO.: 31300042.000  
DATE: APRIL 2023

WSP  
1600 BROADWAY, SUITE 1100  
DENVER, CO 80202  
PHONE: +1 303-390-5852  
WSP.COM



---

# SIGNATURES

PREPARED BY



---

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Traffic Engineer, WSP  
Transportation

REVIEWED BY



---

Aliza Gold, EIT  
Environmental Engineer, Project Manager  
Federal Programs

WSP USA  
500 Summit Lake Drive, Suite 450  
Valhalla, New York, 10595

This report was prepared by WSP for the account of Flowing Springs Farm, LLC (“Flowing Springs”), in accordance with the professional services agreement. The disclosure of any information contained in this report is the sole responsibility of the intended recipient. The material in it reflects WSP’s best judgement in light of the information available to it at the time of preparation. Any use which a third party makes of this report, or any reliance on or decisions to be made based on it, are the responsibility of such third parties. WSP accepts no responsibility for damages, if any, suffered by any third party as a result of decisions made or actions based on this report. This limitations statement is considered part of this report.

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# PROJECT OVERVIEW

## FLOWING SPRINGS SITE

Remote Assessment: December 2022

### PURPOSE

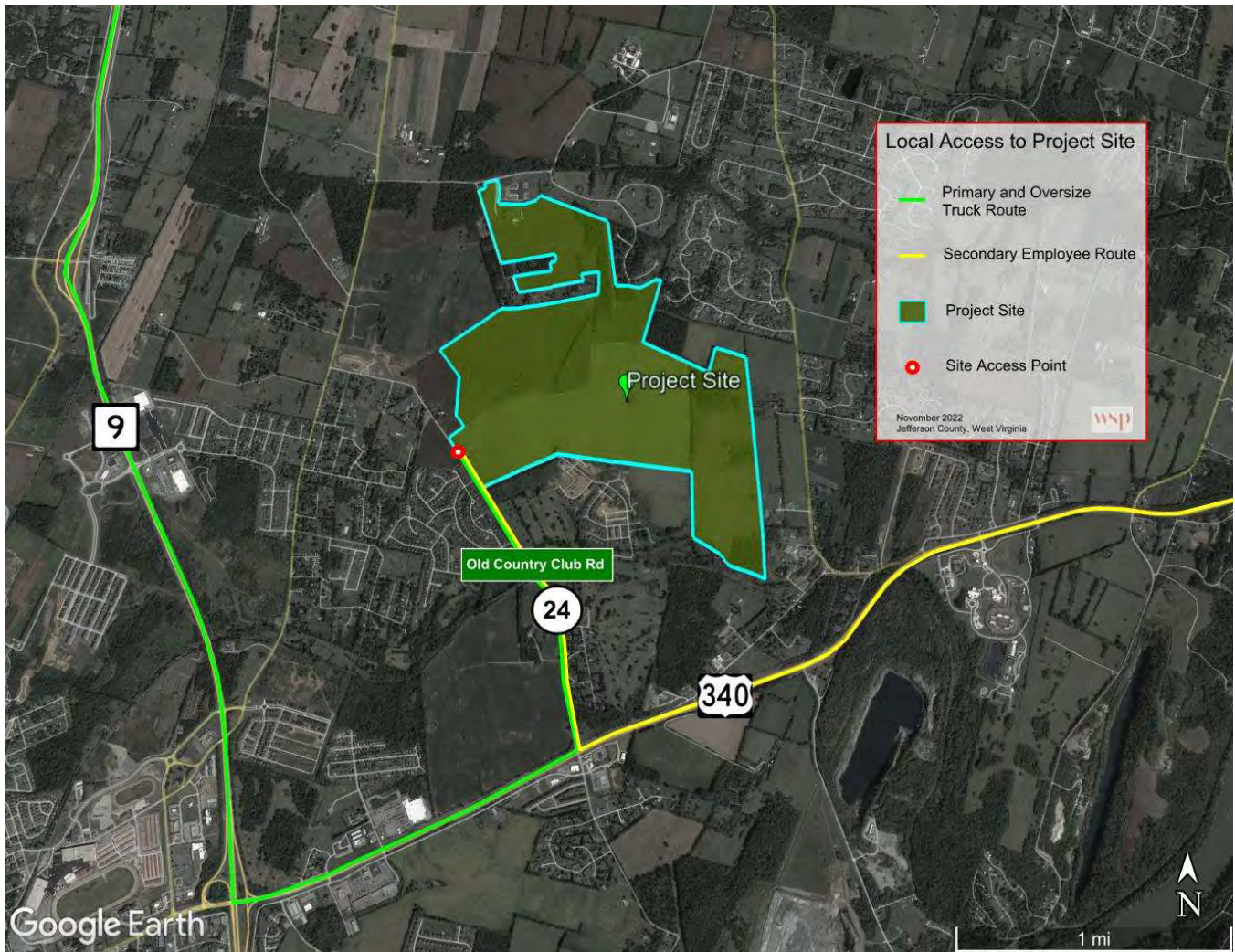
Flowing Springs Farm, LLC is proposing to construct a 125-megawatt (MW), interconnecting solar energy generation facility with a 40 MW battery, referred to as the Flowing Springs Solar Project (the Solar Facility or Project), in Jefferson County, West Virginia (WV) (for regional access to the site location, see Figure 1, for parcel location and site access, see Figure 2). The proposed Solar Facility is located on several individual and numerous contiguous property parcels located northeast of the city of Charles Town. The proposed Solar Facility footprint covers approximately 660 acres on various groupings of parcels. The Project includes the solar PV array, an electrical collector system, a main power transformer, and associated infrastructure improvements.

Flowing Springs Farm, LLC has hired WSP to perform a remote transportation permit study for the Flowing Springs Solar Project. This study is intended to provide transportation information for the Jefferson County permit requirements. This document is provided as a reference document only.



**Figure 1: Regional Routing**





**Figure 2: Site Parcel Routing**

# 1. VEHICULAR GENERATION AND CONFIGURATIONS

## DAILY TRIP GENERATION VEHICLE DATA

Traffic generation from the Solar Facility occurs in two phases. The first and most intensive is the construction phase while the second is the maintenance and operations phase. During the construction phase, vehicle trips will occur to prepare and clear the various parcels, construct the foundations and supporting infrastructure, and to supply and clear the site of the required construction materials and debris. Following construction, the operations move into a standard generation support type operation. Since the operations of a solar energy center are relatively passive, only a minimal number of vehicular trips to and from the site are anticipated once normal generation operation commences. A summary of the anticipated traffic generated in the two phases for the Solar Facility is indicated in Table 1.

Vehicle Trip Generation Summary					
Project Phase	Duration	Vehicle Type	Estimated Gross Vehicular Weight	Vehicles per Day	Maximum and Average Trips Per Vehicle per Day
<b>Construction</b>					
Site Preparation / Clearing & Grubbing	12 Weeks	Passenger Vehicles	2,000 - 10,000 lbs.	6 cars/day	Max-6 / Ave-4
		Equipment Hauling Trucks	20,000 - 40,000 lbs.	5 trucks/day	Max-20 / Ave-16
Solar Facility Installation	25-30 Weeks	Passenger Vehicles	2,000 - 10,000 lbs.	100 cars/day	Max-6 / Ave-4
		Connex and Delivery Trucks	30,000 - 80,000 lbs.	4 trucks/day	Max-2 / Ave-2
		Equipment Hauling Trucks	20,000 - 40,000 lbs.	4 trucks/day	Max-10 / Ave-6
		Fuel Truck	20,000 - 30,000 lbs.	1 truck/day	Max-2 / Ave-2
		Material Delivery Truck	20,000 - 30,000 lbs.	8 trucks/day	Max-2 / Ave-2



		Main Power Transformer Trailer	265,000lbs.	1 truck	1 Delivery (if needed)
		O&M Building	80-000-150,000 lbs.	1 truck	1 Delivery (if needed)
<b>Maintenance &amp; Operation</b>					
Daily Operations	Weekdays	Utility Vehicle	2,000 - 10,000 lbs.	2 veh./day	Max-6 / Ave-4
<b>Decommissioning</b>					
Solar Facility Removal	20-25 Weeks	Passenger Vehicles	2,000 - 10,000 lbs.	100 cars/day	Max-6 / Ave-4
		Equipment Hauling Trucks	20,000 - 40,000 lbs.	3 trucks/day	Max-2 / Ave-2
		Connex and Delivery Trucks	30,000 - 80,000 lbs.	3 trucks/day	Max-4 / Ave-2
		Refuse/Recycling Trucks	30,000 - 80,000 lbs.	2 trucks/day	Max-10 / Ave-6

**Table 1: Vehicle Trip Generation Summary**

*Construction Traffic Trip Generation*

The majority of traffic generated as a result of the Solar Facility construction shall occur after the initial site preparation work during the 25–30-week facility construction period. During this time, material and equipment delivery, along with panel installation, will be occurring. This traffic will primarily be site worker passenger vehicles along with more limited delivery and supply vehicles. The construction related traffic trips will be temporary in duration and will conclude as the phases of construction are completed.

As noted, the primary construction related traffic will be passenger vehicles. For a solar project of this size, upwards of 100 passenger vehicles per day could be anticipated to the overall site with a combined maximum of six (6) and average four (4) trips per vehicle per day.

A breakdown of the delivery truck vehicular traffic includes Connex container delivery (4 Connex containers/delivery trucks per day) and equipment (rubber tire loader, pile driver, forklift, etc.). Delivery truck traffic to and from the Project is generally anticipated to occur outside of the traditional peak 7:00-8:00 AM and 5:00-6:00 PM traffic periods. Fuel delivery (1 truck per day) and material delivery trucks (8 per day) would be anticipated to the Project but would vary in their delivery times during the day and would generally be outside of the AM and PM peak traffic periods.

Special delivery vehicles for the main power transformer and the on-site O&M buildings are anticipated but would be limited to one delivery effort to the site when needed.

Project related traffic during all phases of the project from construction to decommissioning will not be significant during the traditional AM and PM peak periods (7:00–8:00 AM and 5:00-6:00 PM, respectively). Construction related passenger vehicle trips and delivery truck traffic are anticipated to occur mainly outside of the roadway peak traffic periods. Given the low volume of traffic on the adjacent roadways even in the peak periods, the portions of traffic that do overlap the peak periods would not be anticipated to significantly impact the traffic operations along these roadways during those times.

Accordingly, the traffic impacts on the roadway operating level of service are expected to be within acceptable levels for all phases of the project. No detailed intersection or linear roadway analysis was conducted due to the minimal volumes of traffic anticipated to be generated by the site. All expected trip generation is based on similar facilities and has been updated to accurately reflect the anticipated operations at Flowing Springs.

Installation of solar field arrays do not require significant grading or topography modifications to be installed. Most grading on the Project site will be to support access road construction and required erosion and sedimentation measures. Any soil disturbance is anticipated to remain localized with grading and distribution of the borrow to remain within each parcel and on-site. No significant amounts of either cut or fill are anticipated to be required/generated by the Project.

#### *Maintenance and Operations Traffic Trip Generation*

The Solar Facility is anticipated to have two (2) full time operations personnel. Due to the limited personnel, the operations and maintenance of the Project will result in minimal vehicular traffic generation. Two (2) to three (3) utility type maintenance vehicles would be anticipated to support the site operations. These vehicles would be anticipated to generate an average of four (4) trips per day with a maximum of six (6) trips per vehicle per day. The maintenance and operations work efforts would generally require vehicular trips to the site outside of the AM and PM peak traffic periods. Typical operation and maintenance procedures for the facility would include:

- Inspection of each of the solar panel sites on a frequency of at least once per week.
- Informal site inspections and corrective maintenance for the facility occurring on an as-needed basis.
- Conducting ground maintenance of the facility during growing season months; a couple times per year if mechanically mowing, or multiple times per week if managing alternate strategies such as sheep grazing.

Due to the minimal trips generated by the maintenance and operations of the facility, the existing low volume of traffic along the site access roadways, and the rural nature of the site (not an urbanized congested location); the traffic impacts on the roadway operating level of service will be negligible. No detailed intersection or linear roadway analysis was conducted due to the minimal volumes of traffic anticipated to be generated by the site.

#### *Decommissioning Traffic Trip Generation*

The typical industry lifespan of a solar facility is approximately 25-30 years, at which point the facility may be decommissioned, or removed. During this removal process, all installed equipment and access road material is removed and either recycled or directed to a landfill. Access roads are also removed, and the soil is returned. It is anticipated that the same number of passenger vehicles, upwards of 100 per day could be anticipated with a combined maximum of six (6) and average four (4) trips per vehicle per day.

The truck vehicular traffic is anticipated to consist of trucks for hauling equipment and Connex container delivery (3 per day) and refuse and recycling trucks (2 per day) for removing all equipment and material from the site.

Decommissioning related passenger vehicle trips and delivery truck traffic are anticipated to occur mainly outside of the roadway peak traffic periods. Given the low volume of traffic on the adjacent roadways even in the peak periods, the portions of traffic that do overlap the peak periods would not be anticipated to significantly impact the traffic operations along these roadways during those times.

Accordingly, the traffic impacts on the roadway operating level of service during decommissioning will be negligible. No detailed intersection or linear roadway analysis was conducted due to the minimal volumes of traffic anticipated to be generated by the site.

## TRAILER DIMENSIONS AND CONFIGURATION

During the construction phase of the project under study, there will be at least one oversized delivery as well as legal load deliveries. Oversized deliveries are anticipated for the transformer. Details are provided on the estimated dimensions and weights of the loaded oversized specialized equipment (based on the largest component dimensions). Oversized truck dimensioning was then utilized to review turning movements at critical intersection locations along the delivery route(s). Truck configurations can and will be changed due to market demand and will be set by the Original Equipment Manufacturer (OEM). Once the specific type of trailer is known, the turning templates can be refined. It was assumed, for analysis purposes, that the solar panels and other equipment would be delivered via a standard Interstate tractor trailer combination with a standard sleeper cab tractor (WB-67). AutoTURN®, a vehicle swept path analysis software, was used for this analysis. AutoTURN is used to design and analyze roadways and facilities to accommodate design vehicles anticipated to use the facility using swept paths of standard and software-specific vehicles.

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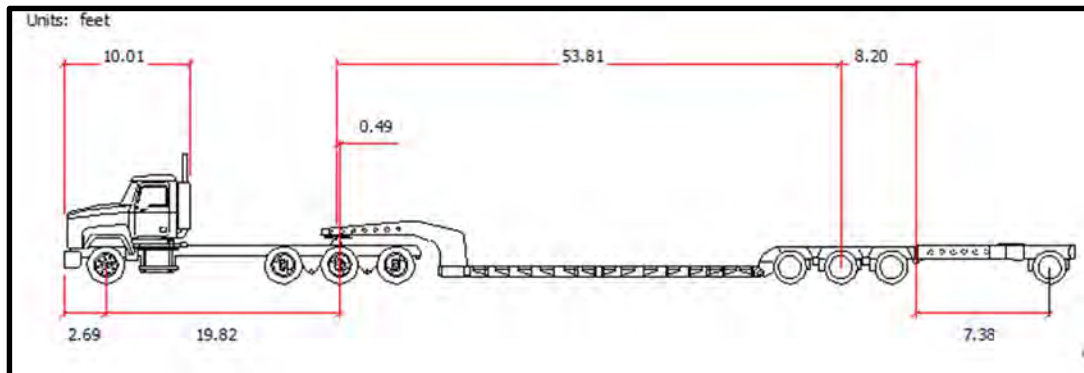
### 1.1.1 MAIN POWER TRANSFORMER (MPT) TRAILERS

The MPT(s) will be delivered from a yet to be determined location assumed to be near or through Baltimore, Maryland. As the specific delivery vehicle is not yet known, a possible trailer type was utilized in the turning movement analysis that may be able to carry the MPT. That vehicle, classified in in AutoTURN as the Special Transport Booster Trailer B2, which dimensions are shown in Table 2, and illustrated in Figure 3.

## ESTIMATED TOTAL WEIGHTS AND DIMENSIONS

	Width	Height	Length	Weight {lbs}
Booster Trailer - B2	10'0"	10'0"+	90'+	265,000+

**Table 2: Estimated Weights and Dimensions (MPT Trailer Configuration)**



**Figure 3: MPT Trailer Configuration**

## 2. PROJECT SITE DATA

### JEFFERSON COUNTY, WV

#### **GPS COORDINATES:**

39° 19' 35.6"N 77° 48' 47.9"W

#### **TOPOGRAPHY:**

The county is in the Shenandoah Valley in the Eastern Panhandle of West Virginia and is the easternmost county of West Virginia. Jefferson County is bounded by the Potomac River and the state of Maryland on the north; the Blue Ridge Mountains and Loudoun County, Virginia, on the east; Clarke County, Virginia, on the south; and Berkely County on the west. The elevation of the project site is around 500 feet above sea level. Jefferson County, West Virginia has a low point at the Potomac River near Harpers Ferry at 272 feet above sea level, while its high point is at the Neersville Peak in the Blue Ridge Mountains at 1572 feet above sea level.

#### **CLIMATE:**

The site's climate is classified as humid continental, with hot summers and moderate winters and considerable amounts of precipitation year-round.

#### **ANNUAL RAINFALL:**

39.81 inches

(Annual precipitation data can be seen in Figure 4)

#### **AVERAGE HIGH TEMPERATURE:**

51 Degrees Fahrenheit in January

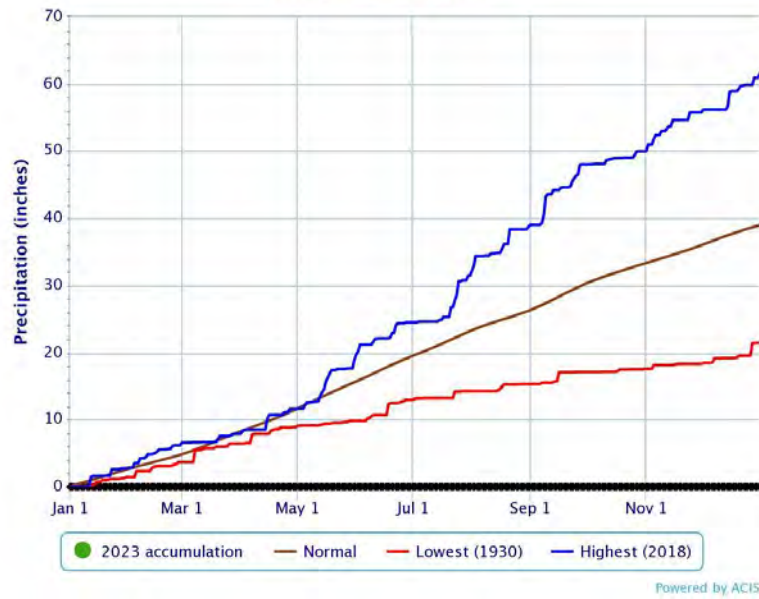
83 Degrees Fahrenheit in July

(Annual Daily Temperature data can be seen in Figure 5)



### Accumulated Precipitation – MARTINSBURG EASTERN WEST VIRGINIA REGIONAL AIRPORT, WV

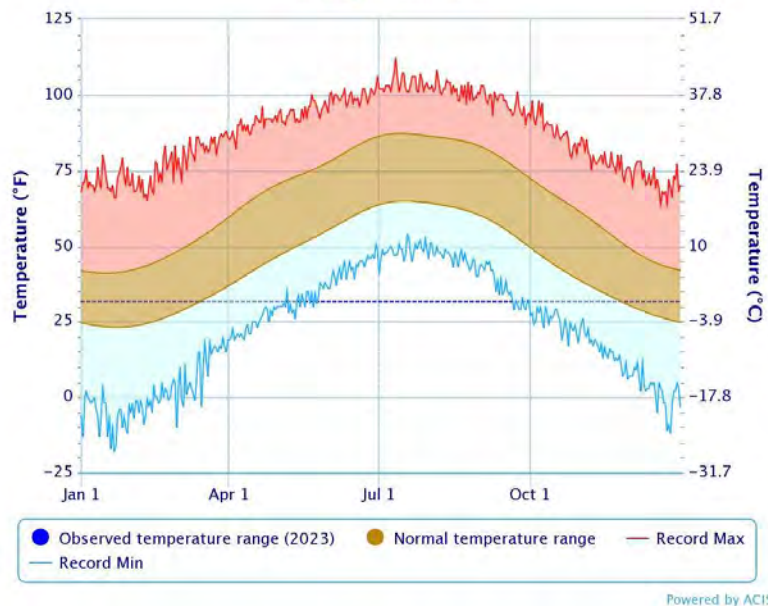
Click and drag to zoom to a shorter time interval; green/black diamonds represent subsequent/missing values



**Figure 4: Accumulated Precipitation, Martinsburg, WV (Source: NWS)**

### Daily Temperature Data – MARTINSBURG EASTERN WEST VIRGINIA REGIONAL AIRPORT, WV

Period of Record – 1926-01-01 to 2022-11-29. Normals period: 1991-2020. Click and drag to zoom chart.



**Figure 5: Daily temperature data, Martinsburg, WV (Source: NWS)**

## PRE-CONSTRUCTION SITE CHARACTERISTICS

The Flowing Springs parcels are all located in Jefferson County, West Virginia. The following is a description of the access roadway network to the parcels associated with the site:

US 340 – US 340 between State Highway 9 and the West Virginia/Virginia state border runs east/west and is a divided highway with a functional class of trunkline and serves as a connection between I-70 and I-81. The roadway has a posted speed limit of 45 miles per hour (mph) just east of State Highway 9 and a posted speed limit of 60 mph east toward the state border. The asphalt road surface appears to be in good condition (as of August 2022) on the eastern portion, it transitions to concrete surface and is in fair condition towards the west (as of August 2022). There are two 12-foot (ft). lanes in each direction (US 340 narrows to a single lane in each direction east of Shoreline Drive/US 340 ALT) with variable width shoulders. The road carries a volume of around 15,900 Annual Average Daily Traffic (AADT) (2020) east of State Highway 9. US 340 experiences typical morning, midday, and evening peak traffic periods.

State Highway 9 – State Highway 9 between US 340 and the Jefferson/Berkeley County Line runs north/south and is a divided highway with a functional class of expressway. State Highway 9 between the Jefferson/Berkeley County Line and I-81 runs north/south and is a divided highway (undivided briefly from State Highway 45 to I-81) with a functional class of trunkline. The road carries a volume of around 19,500 AADT north of US 340, 16,600 AADT near Wiltshire Road and Leetown Road, and 25,200 AADT south of I-81 (2020). This segment of roadway is primarily concrete surface, which appears to be in fair condition (as of August 2022), the northern segment through Martinsburg turns to asphalt surface, which appears to be in fair condition also (as of August 2022). There are two 12-foot (ft). lanes in each direction with variable width shoulders. The roadway has a posted speed limit that varies from 60 mph near US 340 to 35 mph near I-85 south of Martinsburg. State Highway 9 experiences typical morning, midday, and evening peak traffic periods.

Old Country Club Road – Old Country Club Road between US 340 and Flowing Springs Road runs north/south and is an undivided road with a functional class of collector. The road carries a volume of around 2,400 AADT (2020). The asphalt road surface appears to be in good condition (as of August 2021). There are 11-foot (ft). lanes in each direction with variable width shoulders. The roadway has a posted speed limit of 35 mph. Old Country Club Road experiences minimal morning, midday, and evening peak traffic periods.

Flowing Springs Road (Optional route likely taken by passenger vehicles coming through Martinsburg) – Flowing Springs Road between State Highway 9 and State Highway 230 runs north/south and is an undivided road with a functional class of essential arterial. The road carries a volume of around 4300 AADT (2020). The asphalt road surface appears to be in good condition (as of August 2021). There are 11-foot(ft). lanes in each direction with variable width shoulders. The roadway has a posted speed limit of 45 mph. Flowing Springs Road experiences minimal morning, midday, and evening peak traffic periods.

The intersection of US 340 and Old Country Club Road has been identified as the nearest key intersection serving the Flowing Springs site.

None of the above routes coincide with any locations identified in the Envision Jefferson 2035 Comprehensive Plan (initially adopted by Jefferson County, WV in January 14, 2015) as Highway Problem Areas. However, several areas are within 1 mile of the primary or secondary routes detailed in this report. They are as follows:

- Highway Problem Area 11 – Luther Jones Road at Wiltshire Road/Old Charlestown Road has a limited stacking area (along the southwest bound approach) due to train tracks. Additionally, future development is expected to take place in this area over coming decades.
- Highway Problem Area 14 – Daniel Road at Flowing Springs Road, just north of Old Country Club Road has poor intersection angle resulting in limited visibility.
- Highway Problem Area 15 – Sun Road at State Highway 9 has no dedicated merge/acceleration lane on to State Highway 9.

None of these identified Highway Problem Areas are anticipated to impact the operations associated with either the primary or secondary routes.

The Eastern Panhandle Transit Authority operates commuter bus service along State Highway 9 (Routes 10, 14, 16, 20, 25, and 30) and US 340 (Route 20).

The project parcels and access roadways are included in the Jefferson County School District. School bus routes in the area likely change yearly based on population needs. Contractors should coordinate with the school district prior to commencing any work that may close roadways or impact possible school bus stops.

The Project site lies in the fire response boundaries of the Company #4 – Independent Fire Station within Jefferson County. The next nearest response area to the Project site is the Company #2 – Citizens Fire Station.

Load-restricted bridges and culverts, based on inspection reports, do not have the reserve capacity to accommodate vehicles over the identified posted weights. Additionally, some roads and bridges have height and/or width restrictions based on roadway geometry or for temporary construction. There were no restricted roads or bridges identified by publicly available sources. West Virginia Department of Transportation (WVDOT) corresponded that there were no structures with weight restrictions for legal loads along the identified route, and the lowest clearance structure is 15'11" (WV 9 / 45). For oversized loads, WVDOT recommended the contractor coordinate with the WVDOT Hauling Permit department.

The Project site is located in a rural, adjacent to residential part of Jefferson County, off secondary roadways with no critical intersections, and not located in or near a congested urbanized area. Access along Old Country Club Road allows highway routing from Ranson/Charles Town via freeway routing from Martinsburg.

# 3. TRANSPORTATION STRATEGY

## OVERVIEW

The Flowing Springs Site is located on five parcels in Jefferson County, West Virginia. There is currently one proposed access point to the site, located along Old Country Club Road between Posting Way and Fox Run Way, approximately 700 feet north of Posting Way. The main designated access route to the Project includes Old Country Club Road, US 340 (William L. Wilson Freeway), and State Highway 9. Legal load delivery, MPT delivery, overweight trucks should be directed to utilize the routing via State Highway 9 and US 340 to access the site through Old Country Club Road. The construction workforce should be encouraged to use the routing via State Highway 9 and US 340 to access the site through Old Country Club Road but may use the routing via Flowing Springs Road to access the site through Old Country Club Road. Figures 1 and 2 illustrate the parcel locations, proposed driveway connections, and connection points to the roadway network around those locations.

There do not appear to be any weight restricted bridges along the primary route via publicly available information. Any bridges and culverts along county roads will need to be verified for additional weight restrictions. Flowing Springs or their contractor should coordinate with WVDOT and the Jefferson County Department of Public Works as to any mitigations that need to be considered in advance of operating on these roadways.

A railroad at-grade crossing is located just north of the intersection at Old Country Club Road and Beallair Manor Drive. An additional railroad at-grade crossing is located on State Highway 9/45 at Foxcraft Ave and at Royal Creek Drive. The carriers should confirm that any delivery vehicles have proper ground clearance to traverse the grade crossing.

At this time, the origin of the MPTs and solar equipment is unknown, but it is assumed to originate from a location along the I-70/I-81 corridor, the primary freeway routes between Baltimore and Martinsburg.

## TRUCK ROUTING

**Primary Route:** From Old Country Club Road, utilizing US 340 and State Highway 9 to:

- Turn at Old Country Club Road
- Turn at the site access

**Alternate Route:** From Old Country Club Road, utilizing Flowing Springs Road to:

- Turn at E 5<sup>th</sup> Avenue/Mountain Laurel Boulevard
- Turn at Flowing Springs Road
- Turn at Old Country Club Road
- Turn at the site access

The primary route will allow for easier access due to minimal at-grade intersections between the site and US 340 via Old Country Club Road from US 340. There are no posted height or weight restrictions, nor are there weight restricted bridges along the route for legal loads.

**Road Improvements:** Road improvements may be required based on state and county existing roadway conditions. Impact and remediation to be determined at a later date.

**Holiday Restrictions:** Yes (state).



**Frost Law:** No

**Police Escorts:** WVDOT may require law enforcement escorts of oversized and/or overweight loads based on review of the applicable permit.

**Structures/Bridges:** Since no practical routes exist to avoid the railroad crossings, no other alternate routes were considered along the primary route. There are no posted height restrictions along the route, nor are there any bridge weight restrictions for legal loads per WVDOT. The lowest bridge height along the route comes on WV 9, WB at WV 45 / WV 9 overpass which is 15'11".

**DOT Constructions:** At the time of this study, no construction is noted to be underway or beginning soon along the proposed routes in the vicinity of Flowing Springs.

Further information, including projects planned further in the future, can be obtained from the 2022 WVDOT Projects Map.

**Risk Level:** Low

**Summary:** For this routing access, initial turning movement templates indicate that roadway improvements to accommodate the radius of the delivery vehicles are not likely to be required at any intersections.

Any changes to the transport vehicles will need to be analyzed since the existing roadway width at intersections may not be able to support turns by another type of vehicle. The delivery of the MPTs will utilize US 340, State Highway 9, and Old Country Club Road.

The carrier shall coordinate with the WVDOT Hauling Permit System and the Jefferson County Department of Public Works for evaluation of the route and any required temporary improvements and/or traffic management. All carriers should run routes to verify measurements and routing at time of delivery. Specific construction impacts are unknown for the time frame of deliveries.

**Permits/Approvals needed from:** WVDOT, Jefferson County.

## STANDARD VEHICLE ROUTING

While the majority of construction workforce may be expected to come from higher population dense areas surrounding the proposed site, additional employees may access the Project area from all primary arterials in the vicinity of the Project site. In order to minimize increased traffic on local roads, the workforce should be encouraged to utilize the same routing as the delivery vehicles, which is:

- Access US 340 and State Highway 9 from other regional highways or freeways depending upon the employees' location
- Turn left or right onto Old Country Club Road
- Access the site directly from Old Country Club Road

## PARKING AND DRIVEWAY ACCESS

During construction of the facility, staging areas will be provided to avoid vehicles parking on public roads. Due to the constrained nature of the public roads within the study area, parking on public right-of-way will not be allowed.

It is anticipated that a series of internal roadways will connect into one (1) proposed driveway access points onto the local roadway system. A breakdown of the proposed driveway locations is noted as follows:

- One (1) driveway along Old Country Club Road

Flowing Springs has not yet finalized the design of the internal roadways that will connect to the access driveways. Further analysis as to the design of the access roads also has not yet been completed pending determination of the specific design vehicles. Since the anticipated access point is along Old Country Club Road, a two-way two-lane route classified by WVDOT as a collector, stabilized construction entrances and additional drainage and dust mitigation measures may need to be constructed at the driveway accesses.

## 4. ENVIRONMENTAL

### WEATHER

Jefferson County experiences significant rainfall throughout the year and has had past flooding issues due to the rivers and water formations throughout the county. This should be considered for the Project site due to the water formations close to Old Country Club Road. In the case of flooding in the area, there could be a disruption in the delivery schedule of products to the site. For more information on flooding procedures, review Jefferson County's flood plain information page.

### FUGITIVE DUST

Fugitive dust is particulate matter that enters the atmosphere without first passing through a stack or duct designed to direct or control its flow. Fugitive dust can occur due to unpaved internal access roads in the site or during installation and decommissioning activities. As internal access roads have not yet been fully designed, anticipated levels of fugitive dust cannot yet be estimated. Flowing Springs Farm, LLC and their contractor will comply with West Virginia (WV) state law, particularly Title 45, Series 17 Division of Environmental Protection, Office of Air Quality, as well as Section 8.9A.3 of the Zoning Ordinance, to prevent and control particulate matter air pollution from materials handling, preparation, storage and other sources of fugitive particulate matter. Some methodologies that can be used include applying water or an approved chemical dust suppressant on a regular basis, limit vehicle speeds, provide stabilized exits and wheel wash stations for construction vehicles to prevent tracking dirt onto public streets. Additionally, Flowing Springs Farm, LLC can cover all dump trucks leaving the work zone to prevent dust and debris from blowing onto adjacent roadways, schedule excavation work around times of high wind speeds if feasible, use wind barriers and wind screens as practicable, and conduct inspections using visual emissions observations on the unpaved service roads to minimize fugitive dust.

## 5. ROAD IMPROVEMENTS ON SITE

It is anticipated that a series of internal roadways will connect into one (1) proposed driveway onto the local roadway system. A breakdown of the anticipated driveway location is noted as follows:

- One (1) driveway along Old Country Club Road near Posting Way

On-site roadway improvements will be determined after further coordination with Flowing Springs regarding roadway construction standards and delivery vehicles. Improvements made should consider the weight, number, and size of vehicles, as well as provide sufficient temporary parking and loading areas for construction personnel and equipment. Consideration for design vehicles and required roadway curve radii and turning requirements at internal roadway intersections should occur. Since the access point is along Old Country Club Road, a two-way two-lane route classified by WVDOT as a collector, stabilized construction entrances and additional drainage and dust mitigation measures may need to be constructed at the driveway accesses.



## 6. ROAD IMPROVEMENTS OFF SITE

Utilizing the design vehicles as previously described, off-site roadway improvements to the radii at public roadway intersections along the access routes are not likely to be required. It appears that all intersections along the primary routing are able to accommodate the turns made by standard tractor trailer combinations (WB-67 as described previously). In addition, the following intersections may require minor geometric improvements/widening in order to accommodate a Special Transport Booster Trailer B2:

- Old Country Club Road at Site Access

Further analysis will be completed once the specific delivery vehicles are known. There are no known posted weight restrictions on the roadways along the routing.

The facility site is located in a rural part of Jefferson County, off secondary roadways with no critical intersections, and is not located in or near a congested urbanized area.

As previously noted, one (1) driveway access points is anticipated to connect onto the local roadway system. A breakdown of the anticipated driveway location is noted as follows:

- One (1) driveway along Old Country Club Road near Posting Way

Driveway opening size and required radius of the access point will be determined based on the anticipated level of usage and the design requirements associated with the access roadway type. In addition, the driveway intersection will need to ensure adequate sight distance and traversable gravel/graded area.

## 7. TRAFFIC COUNTS

Traffic data for roadways in the Project area are available through the WVDOT Traffic Modeling and Analysis Unit. 2020 estimated AADT were calculated by WVDOT using the data available. Data are presented below (Additional source information available in Appendix A-2).

- US 340
  - 15,900 AADT just east of Old Country Club Road
  - 15,900 AADT between Old Country Club Road and State Highway 9
- State Highway 9
  - 19,500 AADT just north of US 340
  - 15,200 AADT just north of Currie Road
  - 16,600 AADT just north of Wiltshire Road
  - 16,600 AADT just north of Leetown Road
  - 16,100 AADT just north of Short Road
  - 20,600 AADT just north of State Highway 115/Opequon Connector
  - 25,200 AADT just south of I-81
- Old Country Club Road
  - 2,400 AADT between Flowing Springs Road and US 340
- Flowing Springs Road
  - 4,300 AADT between State Highway 9 and Old Country Club Road

## 8. SUMMARY

Changing the final condition use on the Project parcels from pasture/agricultural to a photovoltaic power station would have a minimal effect on the number of vehicular trips on the adjacent roadways that are currently being generated to and from the properties within the study area. Based on the short-term duration construction generated traffic and then the long-term limited number of trips that the proposed Solar Facility would generate, we offer the following findings:

1. The initial site preparation work is anticipated to last for a period of 12 weeks. During this time a total of 11 passenger and equipment hauling vehicles will be expected to the site per day.
2. The Solar Facility construction is expected to generate an average of 19 heavy vehicles to the site per day during material and equipment delivery following the site preparation work. During construction, the Solar Facility will be anticipated to generate an average of 100 passenger vehicles to the site per day for the facility installation workers. Multiple trips to and from the site may occur from the construction related vehicles. The construction duration is anticipated to last for 25 to 30 weeks.
3. The site construction is not anticipated to require large amounts of earthwork and will not generate significant (if any) quantities of cut or fill.
4. The site construction will require at least one (1) over-sized load delivery. This will be to provide the main power transformer to the site at the central sub-station parcel. The over-sized deliveries would approach the site on the designated access routes as identified in Figure 1 and Figure 2; State Highway 9 to US 340 to Old Country Club Road to the site access. The delivery vehicle will utilize internal roadways to turn around and exit the site via the same routing. The shipping size of the transformer is unknown at this time. While an assumption that the MPT would be within the legal height limit for the identification of routing in the preparation of this report, it is possible that the MPT used for the facility may result in an over height load. If this is the case, then the haul route should be analyzed using the known dimensions of the delivery. Using a turning template for a Special Transport Booster Trailer B2 in AutoTURN, the plan view dimensions indicate that roadway improvements to accommodate the delivery vehicle will likely be required at the driveway entrance to the site from Old Country Club Road.
5. During the Solar Facility operation, an average of four (4) passenger vehicle trips per day are anticipated.
6. Daily site generated traffic is not anticipated to impact school bus operations for Jefferson County School District due to the limited number of vehicles generated by the site during standard operations and maintenance. Any roadway closures that need to occur during construction have the potential to impact school bus operations and the contractor should coordinate with the affected school districts.
7. Driveway access to the various parcels have been planned by Flowing Springs Solar Project to be located on lower volume roadways in the study area where possible. A primary driveway (existing and to be improved) is planned at the location along Old Country Club Road. Sight distance for the proposed driveway access road designs for each parcel should be designed to meet sight distance requirements.
8. Truck route access to the various Project parcels does not involve conveyance over any weight restricted bridges for legal loads. The contractor should coordinate with West Virginia Department of Transportation Hauling Permit System for overweight loads. Coordination with WVDOT and Jefferson County will be required to determine if any improvements need to be made to the roadways prior to using them for construction activities. A restoration agreement will be negotiated as part of the road use permits for this Project. The road use and restoration agreements will be obtained prior to the construction phase of the Project. The restoration agreements will

document the rights and obligations for road use and repair during the Project's construction phase with the appropriate authority.

9. Truck route access to the various Project parcels requires traveling over two railroad at-grade crossing. Delivery personnel should confirm that any low clearance vehicles will be able to clear the grade crossings located on State Highway 9/45 at Foxcraft Ave and at Royal Creek Dr.
10. No new off-site traffic control devices would be required to accommodate the anticipated site traffic. On-site roadway intersections will only require stop or yield traffic control.
11. Coordination is anticipated to take place with local transit routes adjacent to the Project site however there are no anticipated significant impacts to these types of facilities by the Project. The nearest public passenger heavy rail station is the Duffelds Train Station (MARC), located approximately three miles northeast of the Project site. The nearest public aviation facility to the Project is Eastern West Virginia Regional Airport (FBO), which is approximately 16 miles from the study area. The low-level elevation of the solar panels will not require a Special Use Airspace designation from the Federal Aviation Administration (FAA).
12. Site access driveways will need to conform to required design criteria based on adjacent roadway type and anticipated traffic volume. All driveway access points from public roadways will be designed to ensure adequate sight distance, pavement widths and turning radii.
13. Carriers should run all routes prior to deliveries and coordinate with State and Local transportation officials when a route is confirmed and for the timeline on any oversize delivery.
14. As proposed, vehicle trips generated by Solar Facility construction and Solar Facility maintenance and operations is not anticipated to create adverse traffic related impacts on roadways within the Project area.





# APPENDIX

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## A-1. PICTURES

## Old Country Club Road at Site Access to US 340 (Views Are Southbound)



## US 340 at Old Country Club Road to WV 9 (Views Are Westbound)





WV 9 at US 340 to I81 (Views are Northbound)





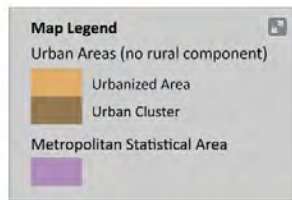


## A-2. TRAFFIC DATA

US Census Urbanized Areas

<https://mtgisportal.geo.census.gov/arcgis/apps/MapSeries/index.html?appid=49cd4bc9c8eb444ab51218c1d5001ef6>

Urbanized Areas Urban Clusters Metro Areas



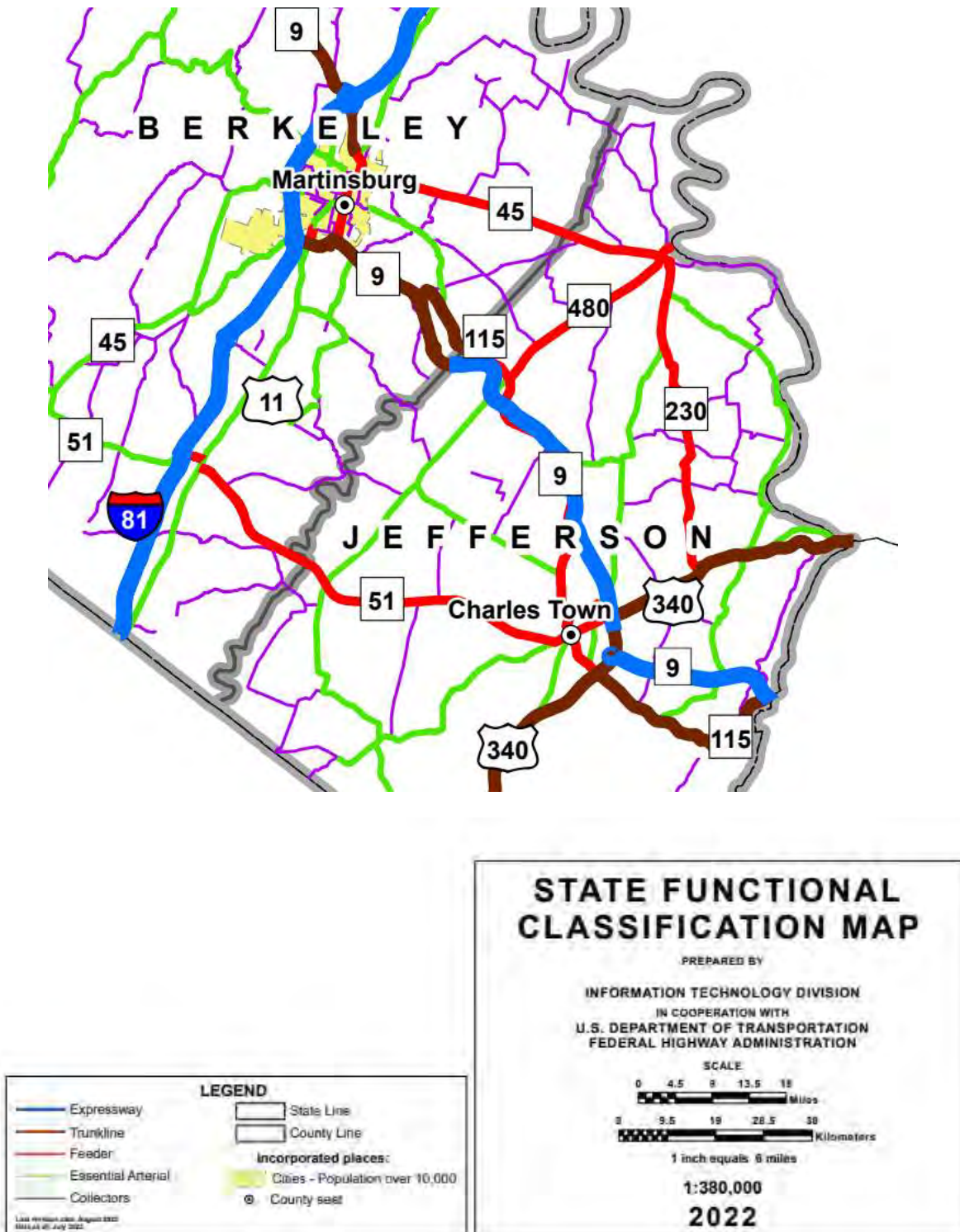
Source: U.S. Census Bureau, [Cartographic Boundary Shapefiles \(2015\)](#)

Rural Population



## WV Road Classifications

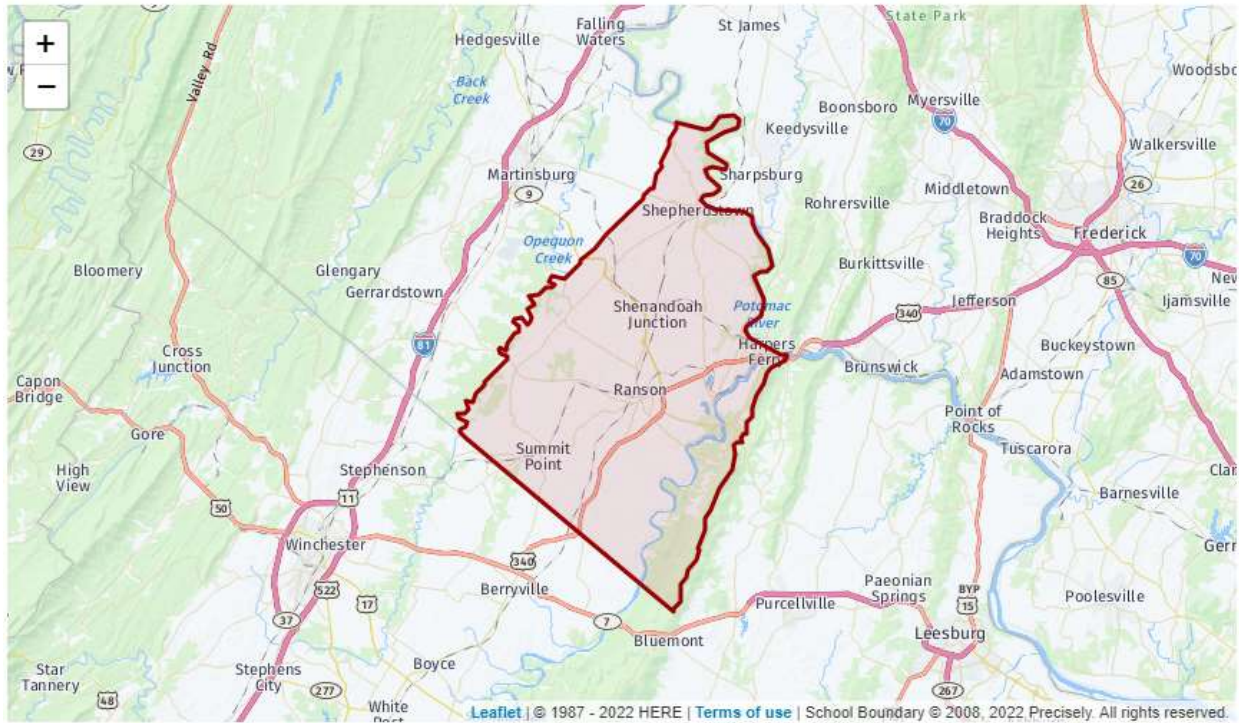
[https://gis.transportation.wv.gov/ftp/FunctionalClassMaps/State\\_Functional\\_Class.pdf](https://gis.transportation.wv.gov/ftp/FunctionalClassMaps/State_Functional_Class.pdf)



## WV School Districts

<https://westvirginia.hometownlocator.com/schools/sorted-by-districts,n,jefferson%20county%20schools,i,5400570.cfm#allschools>

### Jefferson County Schools - District Boundary Map

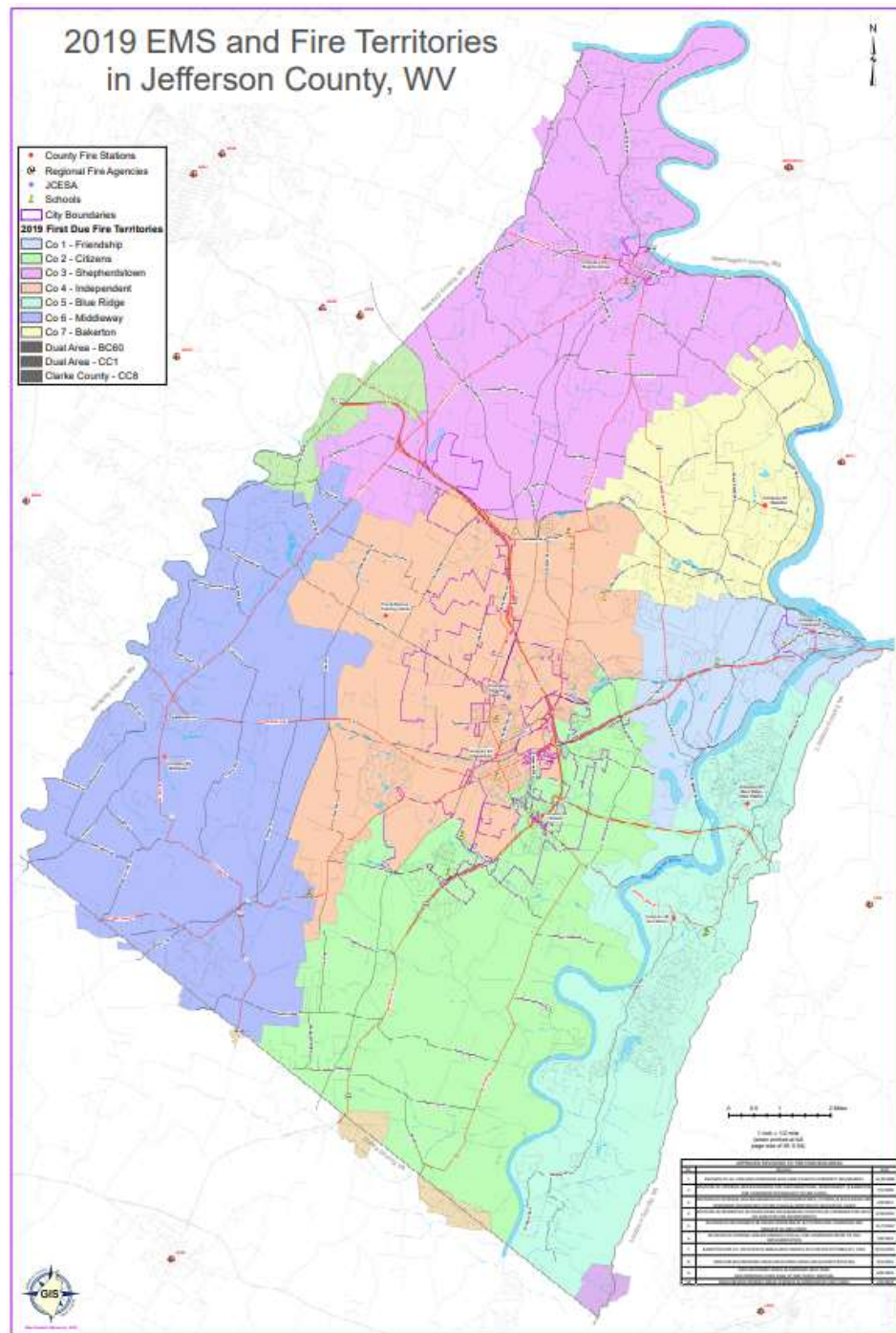


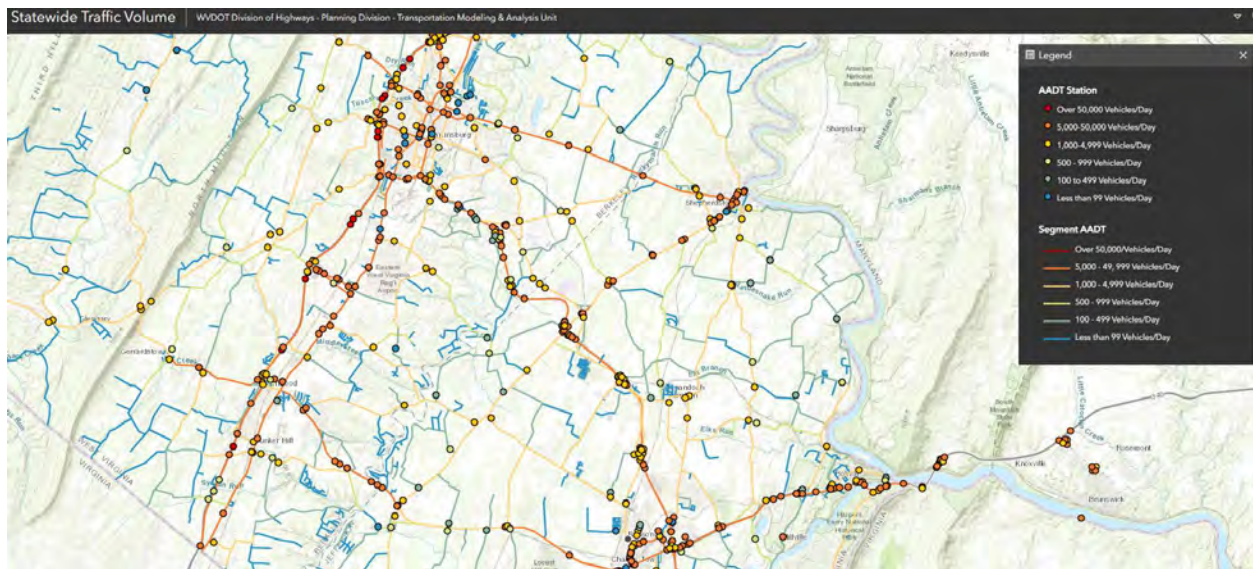


Jefferson County WV

WV AADT

<https://gis.transportation.wv.gov/aadt/>





### Segment AADT



AADT : 15852

Report Year : 2020

Route ID: 19203400000NB

Measure from 10.41 to 11.86

Zoom to

2 of 2

### Segment AADT



AADT : 15852

Report Year : 2020

Route ID: 19203400000NB

Measure from 9.55 to 10.41

Zoom to

### Segment AADT



AADT : **19522**

Report Year : 2020

Route ID: 1930009000000

Measure from 8.03 to 9.12

Zoom to

◀ 1 of 3 ▶

Zoom to

### Segment AADT



AADT : **15193**

Report Year : 2020

Route ID: 1930009000000

Measure from 4.97 to 6.35

Zoom to

◀ 3 of 3 ▶

### Segment AADT



AADT : **16581**

Report Year : 2020

Route ID: 1930009000000

Measure from 1.45 to 3.94

Zoom to

### Segment AADT



AADT : **16581**

Report Year : 2020

Route ID: 1930009000000

Measure from 1.45 to 3.94

 Zoom to

---

**Segment AADT**



AADT : **16060**

Report Year : 2020

Route ID: 0230009000000

Measure from 18.18 to 20.16

 Zoom to

◀ 2 of 2 ▶ 

---

**Segment AADT**



AADT : **20553**

Report Year : 2020

Route ID: 0230009000000

Measure from 17.07 to 17.48

 Zoom to

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**Segment AADT**



AADT : **25193**

Report Year : 2020

Route ID: 0230045000000

Measure from 14.52 to 14.85



## **23-4-SP Flowing Springs Farm Solar Project Public Comment**

- Submitted 2023-04-24 by Terry Schau and family
- Submitted 2023-04-28 by Mike Hamilton
- Submitted 2023-04-30 by John Skaggs
- Submitted 2023-05-01 by Jason Barr
- Submitted 2023-05-01 by Jim and Tracy Carter
- Submitted 2023-05-02 by Charlie Linaburg
- Submitted 2023-05-02 by Robert and Alice Cooper
- Submitted 2023-05-02 by Larry and Tiffany Wilkinson
- Submitted 2023-05-02 by Jordan Betette



RECEIVED  
APRIL 24, 2023  
Jefferson County, WV  
Office of Planning & Zoning

April 24, 2023

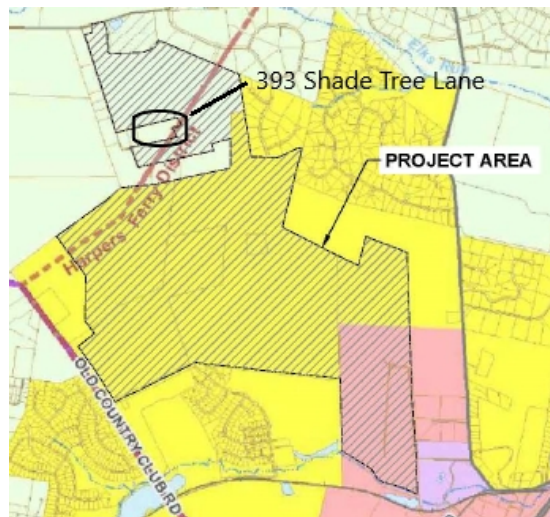
Jefferson County Planning Department  
ATTN: Alexandra Beaulieu  
116 East Washington Street, 2nd Floor  
Charles Town, West Virginia 25414

Reference: Flowing Springs Solar Farm Project in Jefferson County, West Virginia

Dear Jefferson County Commission,

I am writing this letter to express my concerns and opposition to the proposed Flowing Springs Solar Farm Project currently being considered. The project plans show that the proposed site is off of Flowing Springs Road as well as Job Corps Road.

My specific address is 393 Shade Tree Lane, which is located directly within the proposed solar farm (see figure 1 below). In fact, our property and home will be surrounded on three sides by the solar farm.



*Figure 1: Location of 393 Shade Tree Lane*

Briefly, my wife and I have nine kids, a dog, two cars, and bunch of chickens. I have lived in West Virginia for most of my life and at my current address on Shade Tree Lane since September 2004. When my wife and I bough this house in 2004 we did so for the natural beauty, country-like setting, and open views. I grew up in a place like this and wanted to provide the same for my kids. We didn't tell the real estate agent at the time we bought the house, but my wife and I knew immediately that this was our forever home. As a result, we've gradually prepared the house for the long-term, making changes and improvements in preparation for my eventual retirement and, perhaps, eventually space for grandchildren to visit.

I'm only mentioning these things personal things to provide some context as to why I object to the location of the project. I see it is some ways as a threat to what my wife and I have worked so hard for over the years. The idea of uprooting my family from this community is not appealing. In fact, it is

quite saddening to think about. However, so too is the prospect of being surrounded by a solar farm. As a result, I wish to express my objections to the proposal.

## **Objections and concerns**

I have several objections and concerns regarding the solar farm, some of which I will raise in this letter. These issues include health concerns, effects on property values, the effects on the surrounding natural habitat, and the unknown effects on the costs for electricity.

### *Health concerns*

The first and most important issue regarding the solar farm is the potential health issues for people located near it. The proposed plan shows that the solar farm is adjacent to several homes, including mine. Many of these homes also include children. In my case, several children, some of them very young and one with special needs.

According to the World Health Organization, there is a potential health risk of electromagnetic hypersensitivity associated with living near solar farms.<sup>1</sup> This condition is characterized by a range of symptoms, like headaches, fatigue, skin rashes, and sleep disturbances, that are triggered by exposure to electromagnetic radiation fields. It is a condition caused by exposure to electromagnetic fields near the solar farms.

There are a few studies that have looked at the health risks associated with living near solar farms. For example, a study in Australia found that people who live near solar farms are more likely to experience headaches, dizziness, and nausea.<sup>2</sup> There could also be an increased risk of cancer in people living near solar farms. Another study shows that exposure to high-frequency radiation from solar farms can increase the risk of cancer but more research is needed to determine if there is a real link between solar farms and cancer.<sup>3</sup>

In addition to the health risks associated with electromagnetic radiation fields, there is also the fact that these panels contain toxic chemicals.<sup>4</sup> It is probably rare, but the possibility of one or more of these panels being damaged or defective is real, and so to are the potential threats to nearby people and wildlife.

### *Property values*

The second issue that I would like to highlight is how the proposed solar farm will affect the surrounding property values. Several studies that I found all seemed to show similar results. The details were often different in terms of how much actual values decreased, but the general trend was that the closer the property/home is to the solar farm the higher the rate of decline. I will highlight a few studies here.

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1 See <https://www.who.int/teams/environment-climate-change-and-health/radiation-and-health/non-ionizing/el-hsensitivity>.

2 See [https://australiainstitute.org.au/wp-content/uploads/2020/12/WEB-Solar-energy-in-Australia\\_1.pdf](https://australiainstitute.org.au/wp-content/uploads/2020/12/WEB-Solar-energy-in-Australia_1.pdf).

3 See <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4862378/>.

4 See <https://nccleantech.ncsu.edu/wp-content/uploads/2019/10/Health-and-Safety-Impacts-of-Solar-Photovoltaics-PV.pdf>.



In a study published in March 2023, staff from the Lawrence Berkeley National Lab (University of California, Berkeley) and from the University of Connecticut studied 1,500 large scale solar projects in six different states, which included over 1.8 million home transactions.<sup>5</sup> Their results showed that, overall, property values decline by 1.5 percent for homes within 0.5 miles of the solar farm. However, their results also suggest that these effects are greater for homes very close to a solar farm and for those predominantly in rural agricultural settings (both of which apply to me). The results varied by state. For example, the negative effects ranged from a decline of 4.0 to 5.6 percent for Minnesota, North Carolina, and New Jersey.

Another study from the University of Rhode Island found that solar facilities reduced property values for nearby properties by about 1.7 percent for those within 1 mile of the facility and over 7 percent for homes within 0.1 miles of the solar farm.<sup>6</sup>

I found other studies too, even ones from people who were actively promoting solar projects, that showed similar results. But the point is that the research suggests that the negative effects on property values is real and something to be considered. This is especially true given the large number of properties that this project will be adjacent to. This is an area that is part residential and part rural, so many homes will be affected by this. It would just seem to make more sense to locate this solar farm, and any others, away from residential areas, or at least not adjacent to them. Jefferson county has about 134,000 acres of land, most of which is not populated. So there are plenty of suitable locations available.

Lastly, and this is purely a county tax revenue issue, but the land on which this project will be occupying is valuable land. There have recently been several new homes built just south of the proposed site, all of which were valued about \$600,000, or more. These homes have been selling as fast as they build them, so tying up several hundred acres of valuable land for 25+ years doesn't seem prudent. Of course, I say that without knowing how much federal money is going into these solar projects.

### *Surrounding wildlife and open spaces*

The proposed solar farm also poses a threat to the natural wildlife and open spaces that so many of our citizens enjoy and appreciate. According to the solar farm plans the facility will be completely enclosed by a 6 foot tall fence, which will include another 1 foot of barbed wire on the top and at least 2 feet of buried fence. Obviously, not only will me and my neighbors' views be forever altered, but the fence will make the area completely off limits to the surrounding wildlife. To me, this will actually be one of the most disappointing effects of this project. Currently, we have deer, wild turkey, nesting owls, turtles, migratory hummingbirds (ruby-throated variety), opossums, raccoons, foxes, groundhogs, and others. Most, if not all of these, will be gone for me and any future resident of this house. I'll be surrounded on three sides by an impenetrable 7 foot tall chain link fence, so the frequent visits from the local wildlife to my pond will likely end. It will almost be like being in a jail now that I think about it, for me and for the wildlife.

---

5 See <https://reader.elsevier.com/reader/sd/pii/S0301421523000101?token=A131B47125031720C46BD6E33AEE0A43E80D3589BB1BCFE17D8F5F2312E18B3C6A0658711FA28E1A13D799F81F160B7E&originRegion=us-east-1&originCreation=20230422152941>.

6 See <https://www.uri.edu/news/2020/09/uri-researcher-housing-prices-decline-within-mile-of-solar-energy-arrays/>.

Related to the open spaces, this county has seen tremendous growth over the years. I'm not debating the pros or cons of that because it is not relevant. However, what is relevant is that the amount of open spaces for agriculture and other uses is decreasing. This is especially true in areas closer to the more highly populated areas, like Charles Town, Ranson, etc. But these are the areas that we should be preserving to help find the balance between growth and open spaces. I moved to this area 20 years ago exactly because this was a place well balanced with plenty of openness and beauty. So, obviously, being enclosed by a solar farm and a 7 foot tall barbed wire fence is not appealing. In fact, if the solar farm would have been here when we bought the house we never would have purchased it. And I suspect any future buyer would feel the same way.

Finally, and this issue could conceivably go in the "health concerns" section, but there is also the problem of what is called a heat island effect from solar farms. Heat islands are areas that experience higher temperatures than their surrounding areas for a variety of reasons. The most common example is the heat island effects of urbanized areas where structures such as buildings and roads absorb and re-emit the sun's heat more than natural landscapes such as forests and water bodies. According to the U.S. Environmental Protection Agency, the heat island effect results in daytime temperatures in urban areas about 1–7°F higher than temperatures in outlying areas and nighttime temperatures about 2–5°F higher.<sup>7</sup> This effect isn't limited to urbanized areas. According to a study published by the National Institutes of Health, the authors found that temperatures "were regularly 3–4°C (about 5 to 7 degrees fahrenheit) warmer than wildlands at night, which is in direct contrast to other studies based on models that suggested that PV systems should decrease ambient temperatures."<sup>8</sup> Given the fact that I will be surrounded on three sides by this solar farm, I suspect I will experience this heat effect.

### *Electric costs*

Has there been any study to determine how this will affect the price of electricity in the county or state? I think that would be an important part of the decision making process. If we don't know this yet, then perhaps we should slow things down and collect all of the information before making such decisions. Personally, I think this will actually increase our costs and seriously doubt electric costs will go down. West Virginia is already among the lowest costs for electricity in the country. According to the U.S. Energy Information Administration, West Virginia costs for electricity were 10.07 cents per kilowatt hour in January 2023.<sup>9</sup> This ranks 13th out of all U.S. states and the District of Columbia. The West Virginia rate is also about 27 percent lower than the national average of 12.78 cents per kilowatt hour.

### *In sum*

In conclusion, I object to this project for the reasons stated. Locating a solar farm so close to several occupied homes has possible health risks attached to it. I have a large family, which includes very young children, including one with special needs. So my duty is to protect them the best I can. The second reason I object is because of the potential negative effects the project will have on the surrounding property values, including mine. Several reliable and vetted studies show that property values are negatively affected, so this is a fact that cannot be ignored. And given the large number of homes this will affect, the cumulative effect will be greater. Finally, the effects on the local wildlife and

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7 See <https://www.epa.gov/heatislands/learn-about-heat-islands>.

8 See <https://pubmed.ncbi.nlm.nih.gov/27733772/>.

9 See [https://www.eia.gov/electricity/monthly/epm\\_table\\_grapher.php?t=epmt\\_5\\_6\\_a](https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a).

open spaces should not be ignored. This project will fence off several hundred acres of open land that is populated and used by a variety of wildlife. The proposed solar farm will render the land inaccessible by the animals that currently use it and will create a possible health hazard and costly eye sore to the people who have to live next to it, or surrounded by it as in my case. Please do not approve this project at this location.

Sincerely,  
Terry Schau and family

*Terry Schau*

393 Shade Tree Lane  
Shenandoah Junction, WV 25442  
304-886-2941

MICHAEL T HAMILTON, CPA  
134 ROBINSON WAY  
CHARLES TOWN, WV. 25414

[michaelthamilton@comcast.net](mailto:michaelthamilton@comcast.net)

(681) 252-1991

April 28, 2024

Office of Planning & Zoning – Jefferson County  
P.O. Box 716  
Charles Town, West Virginia 25414

Subject: Flowing Springs Farm Solar Project (File 23-4-SP)

My comments are in response to your Notice dated April 20, 2023 and the Concept Plan / Narrative on the Jefferson County website.

Size of Solar Project – 660 Acres – 125 MW

This is a Very Large Project—one square mile equals 640 acres and this is 20 acres larger. As a comparison, the adjacent Potomac Edison Substation is only 3.67 acres. Several items need to be addressed:

1. *Impact on Property Values of adjoining property, primarily designated Residential Growth* - Most families cannot sustain a loss on their prime asset. Desirability of these homes will be significantly reduced. Consequently sales will be diminished and the County will need to Reduce Accessed Property Values.
2. *Large Battery Storage in a residential area creates a Fire Hazard Potential* - Recently weather conditions have elevated fire potential. How will the increased fire danger be addressed? Will this increase fire insurance rates for homeowners?
3. *Identification of Customers / Beneficiaries of the Power Generated* - Are customers /beneficiaries generating pollution buying solar energy credits to offset pollution generated by them? If these customers are out-of-state what is the benefit to Jefferson County residents?
4. *20 ft. vegetative buffer along the projects boundary with property designated Residential Growth* - This requires clarification and discussion with home owners who are impacted.

Concept Plan / Narrative

The documentation which has been provided was prepared by the following: a consultant in Charlestown, WV; Traffic Engineers in Denver, CO; an Environmental Engineer in Valhalla, NY; and the applicant in Andover, MA.

1. *Documentation is incomplete and confusing* - There was an abundance of data which did not address relevant issues related to County administration and residents; a casual reader could be overwhelmed and distracted from the issues impacting the future quality of life in Jefferson County. Some maps appeared contradictory and questionable.
2. *The Site is on a historic Civil War encampment of the Battles of Bolivar & Harpers Ferry* - Soldiers often died after a battle in the campgrounds; documentation needs to address the potential for human remains and disposition. Beallair contains the home of Col. Lewis Washington (registered on the National Register of Historic Places). This Solar Project is on land of historical significance to Jefferson County and West Virginia. Access to the project are from the Washington Heritage ByWay; the ByWay is designated both a National and West Virginia Scenic / Historical route.
3. *Local Solar Field Management needs to be addressed* -With a large industrial facility such as this, Jefferson County should ensure that a Solar Farm manager is located in the County to address issues.

Respectfully,

Michael T Hamilton, CPA CGMA



## Planning Department

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**From:** Michael Hamilton <michaelthamilton@comcast.net>  
**Sent:** Friday, April 28, 2023 2:07 PM  
**To:** Planning Department  
**Subject:** Resident input to Flowing Springs Farm Solar Project (File 23-4-SP)  
**Attachments:** Flowing Springs Solar Project 23-4-SP.pdf

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

Please acknowledge that my comments have been received.

Thanks  
Mike Hamilton

Sent from [Mail](#) for Windows

To ; Jefferson County Planning Commission

Re; Solar Energy Facility Concept Plan for Flowing Springs Farm Solar Project.

(File: 23-4-SP )

My name is John Skaggs and along with my wife Suk we have lived at 75 Spur Ct in Breckinridge North for over 16 years and have fallen in love with the community. Being retirees, it is truly the best location for us. Every we would need is with in 20 minutes of our home, our Church is on Daniel Rd. , Food lion and Aldi is 10 minutes away, And being a Disabled Army veteran the VA Hospital is only 20 minutes away.

IT'S a place where our kid's and grandkids can come and enjoy the openness of our lot as well as enjoy the wild nature. We have a sun room as well as a deck on the rear of our home and regularly eat our meals with the deer, Turkey and other wildlife that happens to be going through the Power Line rite of way behind our home. For 15 years I have kept this section of the rite of way cut and clean. Beyond the rite of way is a stand of Woodlands and old growth trees about 40 to 50 ft. Deep that has been a natural source of screening from any farming that was done. As our lot is wide but not Deep, any changes would be detomental to the enjoyment of our home. Our rear property line is roughly 80 feet from the power line right of way and is visible from Breckinridge Way. And any alteration to this area would greatly affect our property values. With the natural source of screening from the existing Woodlands why would anything else be needed? I was also told that a high fence may be installed? Not only would that be a potential hazard for the wildlife, but it would truly make our property look commercialized.

Thank you for your time and understanding as this has the potential to be a devastating change for us.

Please see the 4 attached pictures of our rear yard and location of the power rite of way as well as our rear property line.

We are planning to attend the meeting, as

Respectively



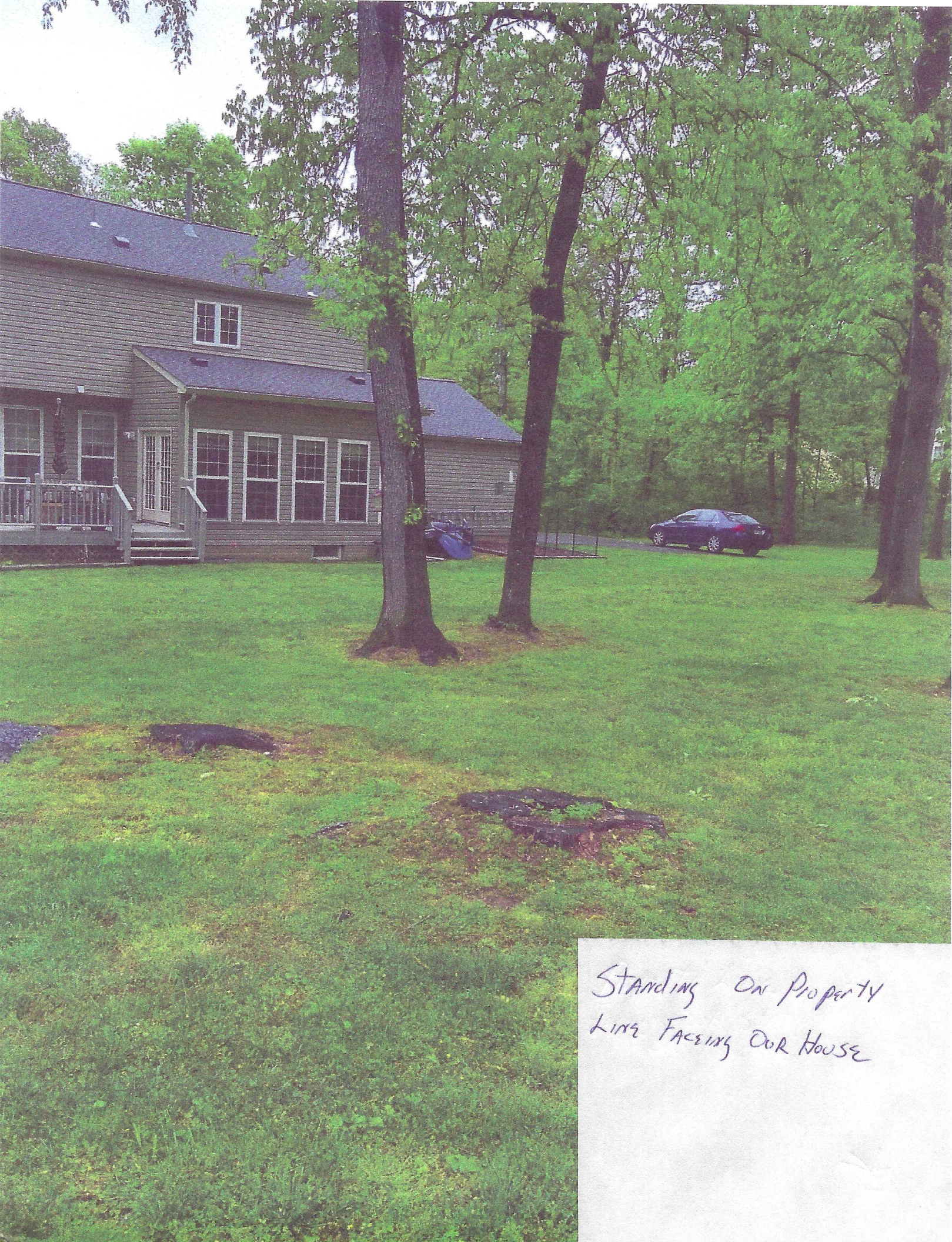
John Skaggs

75 Spur CT

Shenandoah junction

WV 25442





Standing On Property  
Line Facing Our House



Property Line  $\nearrow^N$   
Facing Breckinridge Way







Property Line  
Facing Sub Station







Standing On Power Pole  
LINE FACING HOUSE (+/-) 113 FT  
From House



Proposed solar panel site sketch shows removal of existing woods / mature forest outlined in orange. This will create a direct, unobstructed view of a massive amount of industrial solar panels for the Breckenridge North neighborhood.



JEFFERSON

Any measures taken to screen the view of the solar panels at BC Properties property line will be ineffective as that area sits in a low area and panels will be up on a high area.

These homes would also have a direct view of the proposed solar farm.

JDSKAggs  
75 Spar Ct

## Planning Department

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**From:** John Skaggs <jdskaggs.js@gmail.com>  
**Sent:** Sunday, April 30, 2023 5:09 PM  
**To:** Planning Department  
**Subject:** Solar Energy Facility Concept Plan Meeting  
**Attachments:** HPSCAN\_20230430210000326\_2023-04-30\_210148636.pdf

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

See Attached



**From:** [Barr, Jason \(NIH/OD/ORS\) \[E\]](#)  
**To:** [Planning Department](#)  
**Cc:** [Jason Barr](#)  
**Subject:** Flowing Springs Farm Solar Project (File: 23-4-SP)  
**Date:** Monday, May 1, 2023 12:14:49 PM  
**Attachments:** [image001.png](#)  
[Aerial Map Breckenridge North with Proposed Removal of Woodland Areas.pdf](#)  
[Flood Zones around Breckenridge North.pdf](#)  
[Detail of Map Behind Breckenridge Way \(w BN Owners recommendations\)ver2.pdf](#)

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

Dear Jefferson County Office of Planning & Zoning,

I am writing you on behalf of Breckenridge North homeowners who have properties adjoining the proposed Flowing Springs Farm Solar Project. Please be advised that we have contacted Mr. Judd directly and are scheduled to walk the areas of concern tomorrow, Tuesday, May 2<sup>nd</sup>, 2023. I am also providing the Jefferson County Planning Commission documentation of our concerns. We are hopeful, the developer will consider our concerns and make proffers that will adequately address concerns.

The application states that *"A 20-ft vegetative buffer will exist along a large portion of the project's boundary to create an aesthetically pleasant view shed to the proposed facility's neighboring properties. Existing vegetations and trees will be retained to the extent possible at outside property boundaries and buffer areas to assist in natural screening."* This is not accurate at all for the Breckenridge North homeowners that back to the existing powerline field and homes at the very end of Breckenridge Way.

Enel Green Power North America's proposal has a 7-foot-tall chain link, barbed-wire, industrial security fence installed within 25 feet of the back of the residential properties along the powerline field with no vegetative buffer between the fence and homes. This would have a tremendous negative impact on the property values of these homeowners. The proposed 20-ft vegetative buffer would be installed on the other side of the powerline field where the ground is much lower than many of the Breckenridge North properties backing the power lines and much lower than the hillside where the photovoltaic panels will be installed. This vegetative buffer of proposed understory trees and eastern red cedar will never grow tall enough to have any significant impact on the views of the PV panel field from these homes. Homeowners will have a direct view of an industrial 7' chain link fence and a 100-acre sloping field of PV panels. We note that the Rippon Energy Facility and Wild Hill Solar Projects have 100' property line setbacks. The Rippon Energy Facility along Kabletown Road is being designed with 20', 30' and 40' vegetative buffers.

In addition, the developer intends to clear cut all existing mature woodlands that surround the backside of Breckenridge North to bring photovoltaic (PV) panels as close as possible to the residential properties [see attachment "Aerial Map Breckenridge North with Proposed Removal of Woodland Areas"]. Homeowners will have a direct view of the PV panel fields and sustain significant decrease in property values.

The watershed in the proposed site feeds an intermittent stream that flows under Breckenridge Way, through the neighborhood, and periodically floods the back of the homes on the north side of Girth Lane [see attachment "Flood Zones around Breckenridge

North"]. This intermittent stream feeds Elks Run. Homeowners are concerned whether installing PV panels on a 100-acre piece of land that slopes and drains to this intermittent stream is going to increase the frequency and magnitude of flooding in our neighborhood and the adjoining Gap View neighborhood.

**Request #1:** We request that Enel Green Power North America retain a 50-foot wide strip of the existing, mature woodlands on the west side of the power line field to decrease the view of the PV panel field and preserve the existing aesthetically pleasant view for homeowners. We also request that the developer retain a 50' strip of existing mature woods at the dead-end of Breckenridge Way. [See attachment "Detail of Map Behind Breckenridge Way (w BN Owners recommendations)ver2"]

**Request #2:** Move the proposed chain link, barbed-wire security fence to the west side of the power line and install a row of vegetative buffer on the east side of the fence to partially block the view of the fence [See attachment "Detail of Map Behind Breckenridge Way (w BN Owners recommendations)ver2"].

**Request #3:** Plant faster growing, taller evergreens in the vegetative buffers located in the low areas behind the power line field such as thuja giant green arborvitae trees that will actually grow tall enough to create a screen of the solar panel field from the back of homeowner's properties.

**Request #4:** The developer needs to provide a detailed, 3<sup>rd</sup> party report on the requirements necessary to protect the existing Elks Run watershed on the proposed site and adjoining properties. The assessment should also include any anticipated impacts on the frequency of flooding and the magnitude of flooding on adjoining properties, including Breckenridge North.

We feel that these are reasonable requests and hope that Enel Green Power North America will agree to the requests.

Respectfully,  
Jason Barr

**Jason Barr, MS, CIH, CSP**  
*CAPT, US Public Health Service*  
Director, OH&S, IRF-Frederick  
Division of Occupational Health & Safety  
National Institutes of Health  
Desk: (301) 631-7244  
Cell: (240) 876-5231



Help promote a culture of safety, not silence, by reporting unsafe or unhealthful workplace conditions, anonymously if desired, at <https://go.usa.gov/xQh5Z>. To receive useful safety and health information, visit <https://go.usa.gov/xQh5Q> or join "A HEALTHY SAFE NIH" LISTSERV at <https://go.usa.gov/xQh55>.

Driswood Elementary

Breckenridge North

Proposed solar panel site sketch shows removal of existing woods / mature forest outlined in orange. This will create a direct, unobstructed view of a massive amount of industrial solar panels for the Breckenridge North neighborhood.

JEFFERSON

Any measures taken to screen the view of the solar panels at BC Properties property line will be ineffective as that area sits in a low area and panels will be up on a high area.

These homes would also have a direct view of the proposed solar farm.





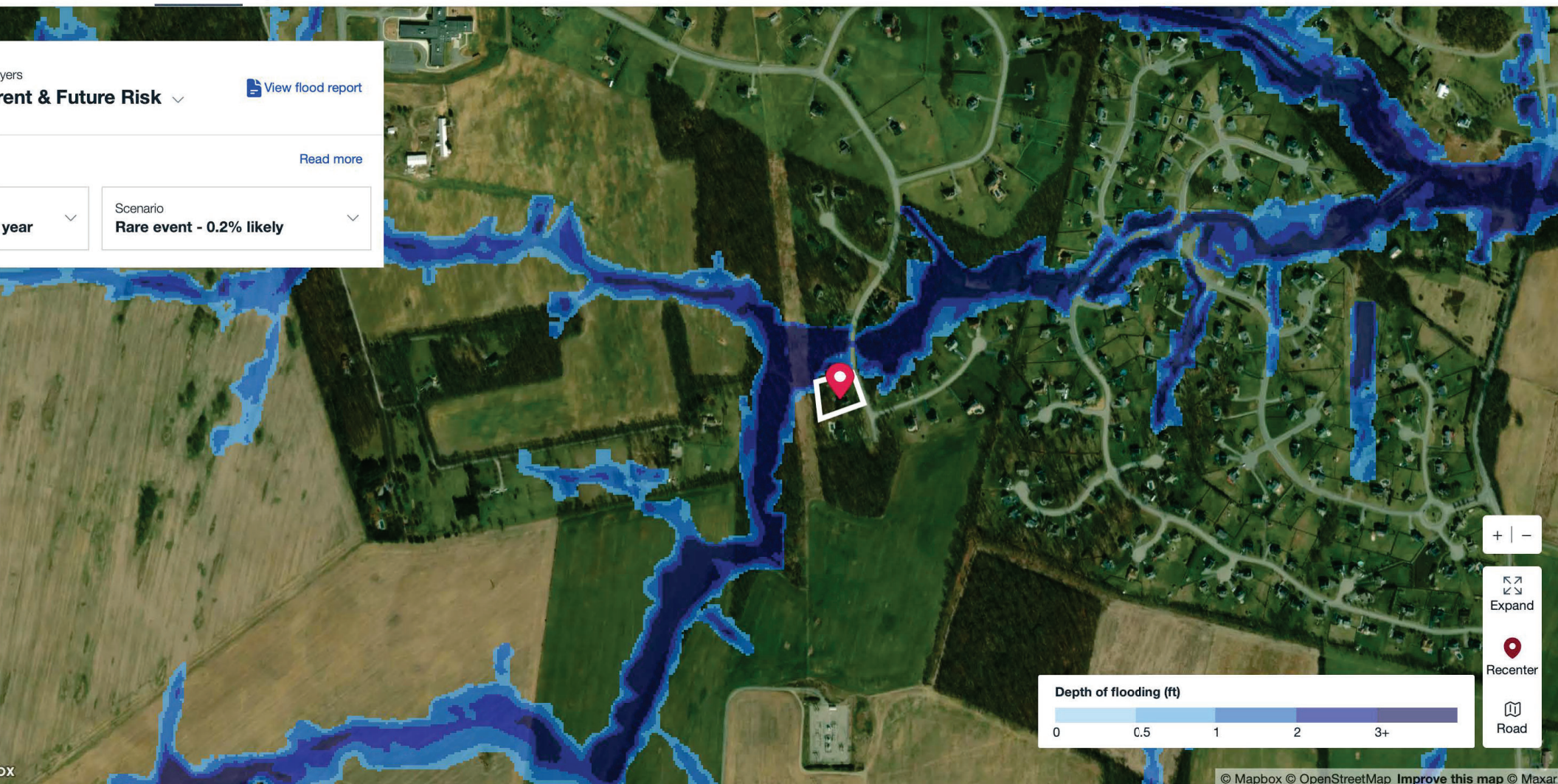
ayers

**Present & Future Risk** ▾

View flood report

[Read more](#)

year ▾   Scenario **Rare event - 0.2% likely** ▾



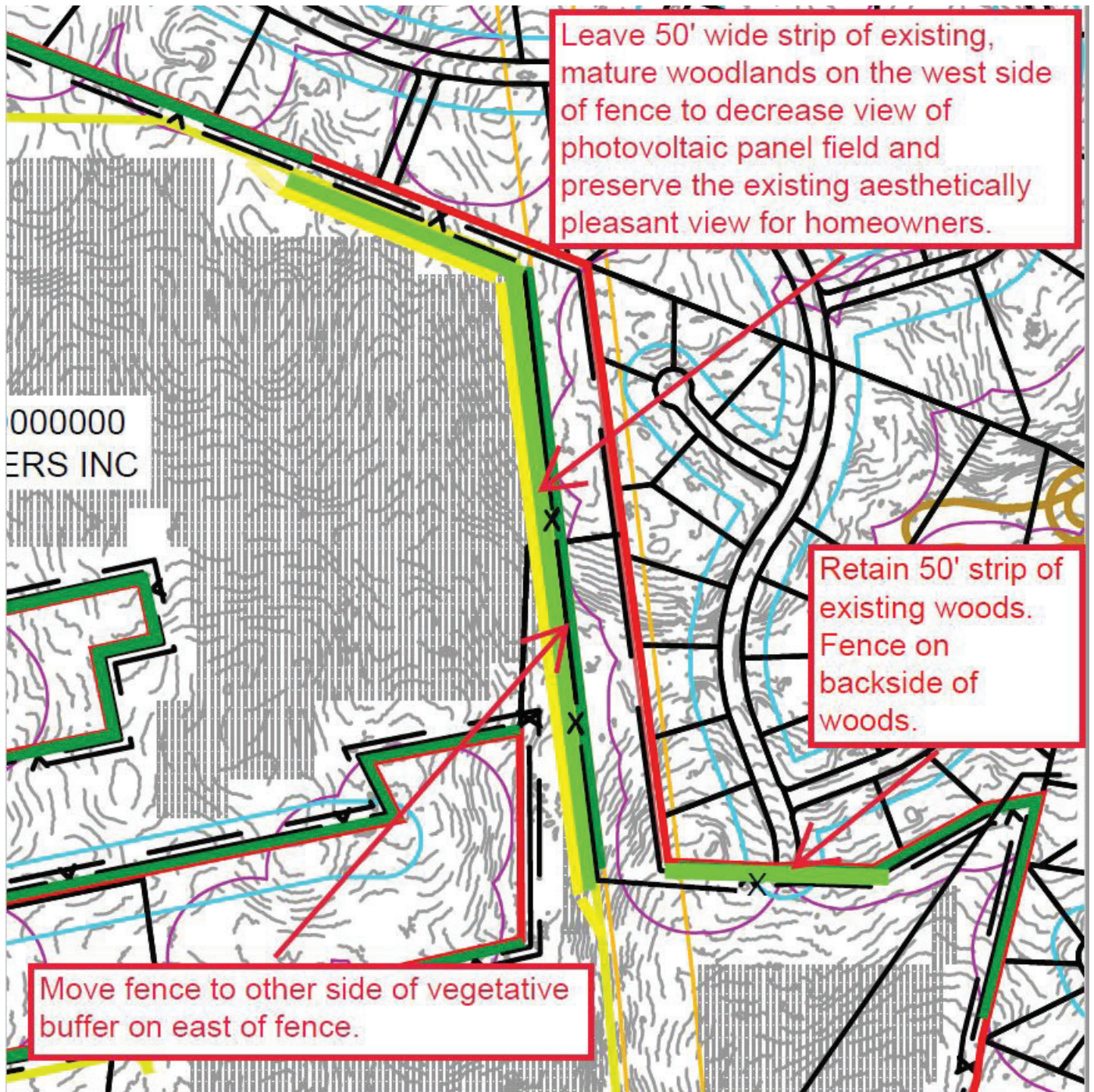
+ | -

Expand

Recenter

Road





Jim and Tracy Carter  
Breckenridge North Subdivision  
58 Girth Lane  
Shenandoah Junction, WV 25442

RE: SOLAR FARM PLANNING DEPT

The following are questions of concern for the public workshop hearing on the solar farm:

1. What is the proposed placement of the panels and how close to the property lines will they be placed?
2. According to research, solar farms that are within a half-mile to one mile of home sites can depreciate property values from 1-7% (Inside Climate News, 2023; ETA-Publications, 2022; URI-edu, 2020; Ars Technica, 2023; ASFMRA, 2020) What are you willing to do to compensate homeowners who are in direct impact of this depreciation?
3. What will you be doing to prevent water run off once the land is excavated?
4. Where will the new energy substation be located that will connect to the solar facility? Will there be any types of batteries used to store energy? If so, what type of batteries will be used?
5. How will the energy be used and who will benefit from the project?
6. Will there be fencing up around the solar panels? If so, will herbicides be used to control overgrown grass and weeds? If this is the case, do you have SAFETY DATA SHEETS available for all chemicals that will be used?
7. What type of trees barrier will be planted for cosmetic viewing? Will these be native plants to WV? I hope no invasive, fast-growing trees will be utilized.



## Planning Department

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**From:** Charlie Linaburg <cwlin7849@gmail.com>  
**Sent:** Tuesday, May 2, 2023 10:18 AM  
**To:** Planning Department  
**Subject:** Flowing Springs Farm Solar Project (File: 23-4-SP)

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

I am submitting the following questions for inclusion in the Commission's mailed packet pertaining to the May 9 hearing re: Solar Energy Facility Concept Plan for the Flowing Springs Farm Solar project.

- Why is this commercial/industrial site being proposed directly adjacent to a heavily populated residential community in a state with abundant undeveloped land?
- What is the timeline for this project, starting from its inception, securing lease agreements from land owners, initial notification of affected parties, securing public input and approvals, start and completion of construction, etc.?
- When and how were homeowners first notified of proposed project?
- When and how was the developer Wormald notified of the proposed project?
- What type of noise (buzzing, humming, etc.), duration of the noise (24/7?) and decibel level of that noise be from the various project elements when fully operational (solar modules, substation, above ground utilities such as security lights)?
- Will the project when fully operational create any electrical signal disruptions, interferences, etc. to cell phones, Wi-Fi, modems/tv/radio reception, etc.?
- Will the project when fully operational create any safety or health issues such as from radiation exposure?
- How does this project benefit the residents of Beallair – DIRECTLY, not in broad, general terms of outcomes?
- If this project is not built, what will be the outcome/effect on the residents of Beallair?
- What is predicted percentage of time these intermittent renewables are operational?
- What percentage of pieces of equipment sourced from USA? From foreign sources? From which countries?
- Will there be security lights on the project sight and if so, what type and where?
- What is the erosion effect of turning farmland into fields of solar modules, substation?

- What is the effect on wildlife (displacement/ loss of habitat, etc.)?
- Will tree buffer be consistent on Beallair Drive entranceway and remainder of buffer area adjacent to homes? In other words, will a line of trees be planted behind any and all existing trees adjacent to the project?
- Will all trees planted by project owners be evergreens? What type and what size and distance between each when planted?
- Will project owners be responsible for maintenance and if necessary replacement of dead/ downed trees? And what timely basis will such trees be replaced?
- Are there future plans at this site for other sources of intermittent renewables such as windmills?
- How many service roads will be on the project site?
- What security elements be on site (cameras, lighting, gates, security guards)?

Thank you for the opportunity to offer this input.

Sincerely,

Charles Linaburg  
70 Colonel Black Way  
Charles Town, WV 25414  
[Cwlin7849@gmail.com](mailto:Cwlin7849@gmail.com)  
240-372-5357

Sent from [Mail](#) for Windows

## Planning Department

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**From:** Tiffany Wilkinson <twrunningmama@gmail.com>  
**Sent:** Tuesday, May 2, 2023 10:11 AM  
**To:** Planning Department  
**Subject:** Flowing Springs Solar Project (Parcel ID: 02000300130000; lot size: 104.7 acres; Zoning District: Rural)

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

Ms. Beaulieu,

We are writing to inform the Jefferson County Office of Planing and Zoning that my husband and I are opposed to the Flowing Springs Solar Project. We have several concerns about the project:

1. Impact on Elementary School- The project backs up to Driswood Elementary School. We have concerns about people sensitive to the EMF radiation. The amount of dirty electricity given off by the inverters is concerning for any children or adults working there with sensory issues.
2. Landscape - This solar farm will significantly impact the landscape and the comfort of the Breckenridge North Neighborhood. The removal of trees will affect the visual amenity of the area, changing the character and appearance of the neighborhood. Landowners will now look into a field of solar panels, reducing the ability to enjoy and use their property.
3. Privacy- A s a result of tree and vegetation removal the privacy of the landowners butting the project will be reduced.
4. Natural Habitat - The impact on wildlife will be significant. It will result in habit loss, fragmentation, and degradation. We have experienced this first hand in an area we previously lived in. It not only impacted the wildlife in the area but the land owners as well. Forcing the wildlife to compete with the land owners, increase in animals hit along area roads, property destruction by foraging animals, birds nesting on homes and woodpeckers destroying parts of homes.
5. Cost of Maintenance - Another concern is cost of maintenance over time. According to the Harvard Business Review, "The replacement rate of solar panels is faster than expected and given the current very high recycling costs, there's a real danger that all used panels will go straight to landfill (along with equally hard-to-recycle wind turbines). " (Atari, Duran, Wasaenhove) The effectiveness of producing electricity, how quickly the rate of production decreases over time, the need to replace the panels, and the solar trash created needs to be investigated further.

We ask you to to refuse the application for Flowing Springs Solar Project (Parcel ID: 02000300130000; lot size: 104.7 acres; Zoning District: Rural). This project will have significant negative impacts in and to the surrounding area.

Thank you,  
Larry and Tiffany Wilkinson  
Breckenridge North Neighborhood



Atasu, Duran, and Wassenhove. "The Dark Side of Solar Power." 18 June 2021, [her.org/2021/06the-dark-side-of-solar-power](https://her.org/2021/06the-dark-side-of-solar-power). Accessed 2 May 2023.

## Planning Department

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**From:** txrob89@comcast.net  
**Sent:** Tuesday, May 2, 2023 3:56 PM  
**To:** Planning Department  
**Cc:** 'Alicia Cooper'  
**Subject:** Flowing Springs Farm Solar Project (File 23-4-SP)  
**Attachments:** Beallair Lot 150-PH4 Final Survey.pdf  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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

Jefferson County Planning Commission,

First, thank you for providing residents the opportunity to provide comments, concerns and questions regarding the Flowing Springs Farm Solar Project (File 23-4-SP).

However, we had to be informed by our neighbors as we didn't receive any correspondence or notice from the Jefferson County Planning Commission, even though our property is adjacent to the Flowing Springs Farm AND our Beallair home is only 15 feet from that property line (Harpers Ferry District No 4, Map 10A, Parcel 150, Plat Book 26, Pg 216, Jefferson County, WV – Final Survey attached).

These questions are written and submitted in good faith by a homeowner with no legal training and should be addressed as intended by a reasonable person. Many questions were gleaned from a review of <https://craven.ces.ncsu.edu/considerations-for-transferring-agricultural-land-to-solar-panel-energy-production/>.

1. Who is reviewing the contract on behalf of Jefferson County and residents?
2. Can the contract or any agreement/obligation of the contract be sold, transferred or assigned to another party. If so, what are the terms?
3. Who is responsible for disputes?
4. What is timeframe of the contract?
5. Do both parties have the right to terminate the agreement without cause?
6. What are the projected, guaranteed tax revenues to Jefferson County?
7. What tax or other incentives are Jefferson County providing to the owners of the Flowing Springs Solar Project?
8. What other federal, state tax incentives will the Flowing Springs Solar Project receive and when will they terminate?
9. How many temporary (construction)/permanent (management/operations) jobs will provided to Jefferson County residents?
10. Who are the intended customers for the energy produced?
11. Will Jefferson County and/or residents have access to the energy produced?
12. What is the short and long term impacts on the environment, during construction, operation, maintenance and after it is decommissioned?
13. How will the Flowing Springs Solar Project cleaned and maintained?
14. Will any hazardous equipment or materials, such as, acids, oils, hydraulic fluids, metal and silicone by-products, be used to operate and maintain the facility? How will these materials be used and disposed of and will there be any impact on the property, adjacent properties or water table?
15. Will the Flowing Springs Solar Project store power? How will energy be stored and what are the known hazards and mitigation plans?

16. What is the plan to accommodate runoff, erosion and soil quality/sampling in and around the Flowing Springs Solar Project?
17. How will the grounds, including weed and vegetative, be maintained, including fertilizers, herbicides and other, and what will the impact be on the property, adjacent properties or water table?
18. What is the potential of glint and glare to homes on adjacent and nearby properties?
19. To what degree will the solar panels be a fire hazard and how will this be mitigated?
20. What are the applicable fire codes, including but not limited to clear areas around arrays?
21. How long is the equipment expected to be serviceable and profitable?
22. What will happen to equipment and property when the technology becomes obsolete? Is there any legal assurance the Flowing Springs Solar Project won't be abandoned?
23. Will decommissioning be required under any of the following conditions: The land lease ends The system does not produce power for 12 months The system is damaged and will not be repaired or replaced?
24. What will the project/landowners be required to perform at decommissioning, including but not limited to within 12 months;
  - a. Remove all non-utility owned equipment, conduits, structures, fencing, and foundations to a depth of at least three feet below grade.
  - b. Remove all graveled areas and access roads unless the owner of the leased real estate requests in writing for it to stay in place.
  - c. Restore the land to a condition reasonably similar to its condition before development, including replacement of top soil removed or eroded.
  - d. Revegetate any cleared areas with warm season grasses that are native to the region unless requested in writing by the owner of the real estate to not revegetate due to plans for agricultural planting.
  - e. Provide soil (and water if near a stream) sample reports from a private lab showing soil (water) on the location is free of heavy metals and contaminants and is suitable for agricultural production or desired use.
25. Regarding shared property lines:
  - a. How far from the property line will the fence be set?
  - b. How far from the property line will trees be planted? What are the immediate and mature dimensions of the trees and shrubs used
  - c. Who manages grass from trees to property line?
  - d. Who will take care of trees (Dead, disease, nesting, insects, trimming, etc....)?
  - e. If a tree falls onto adjacent property (diseased, storm, insects, etc....) who is responsible?

Thank you for taking our questions. We look forward to your answers at next week's meeting.

Respectfully,

Robert Cooper  
Charles Town, WV

*"I can't brag about my love for God because I fail Him daily. But I can brag about His love for me because it never fails!"*



**SURVEY NOTES AND CERTIFICATION:**

I HEREBY CERTIFY, TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF THAT:

1. THIS SURVEY IS BASED UPON A SUBDIVISION PLAT ENTITLED "FINAL PLAT SHOWING LOTS 134-159 AND RESIDUE PARCELS A, BEALLAIR - PHASE 4a", RECORDED IN THE JEFFERSON COUNTY CLERK'S OFFICE IN PLAT BOOK 26, PAGE 216; AND
2. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT; ALL EASEMENTS OF RECORD MAY NOT BE SHOWN. HOWEVER, THERE WERE NO VISIBLE USES, OCCUPATIONS, OR EASEMENTS AFFECTING THE PROPERTY EXCEPT AS SHOWN ON THIS SURVEY AS COULD BE ASCERTAINED FROM THE AFOREMENTIONED PLAT OF RECORD; AND
3. THIS SURVEY IS A MORTGAGE INSPECTION SURVEY ONLY AND NOT A BOUNDARY SURVEY, AND WAS PREPARED FOR THE BENEFIT OF THE BUYERS, SETTLEMENT COMPANY AND TITLE INSURANCE COMPANY FOR THE PURPOSES OF PROVIDING INFORMATION SUFFICIENT TO ALLOW THE BENEFACTORS TO DELETE THE TITLE EXCEPTION ORDINARILY TAKEN WITH RESPECT TO MATTERS SHOWN BY A MORTGAGE INSPECTION SURVEY OF THE SUBJECT LOT. HOWEVER, THIS CERTIFICATION DOES NOT EXTEND TO THE STATUS OF THE LOT PRIOR TO THE TIME OF THE ORIGINAL BOUNDARY SURVEY OF THE PARENT TRACT FROM WHICH THE SUBJECT LOT WAS CREATED; AND
4. AT THE TIME THE SURVEY WAS PREPARED IN CONNECTION WITH THE AFOREMENTIONED PLAT, THERE WERE NO VISIBLE BUILDINGS, STRUCTURES, OR IMPROVEMENTS ON THE SUBJECT LOT THAT ENCROACHED OVER THE BOUNDARY LINES OF THE SUBJECT LOT ONTO ADJOINING PROPERTY, AND THERE WERE NO VISIBLE BUILDINGS, STRUCTURES, OR IMPROVEMENTS ON THE ADJOINING PROPERTY THAT ENCROACHED OVER THE BOUNDARY LINES ONTO THE SUBJECT LOT; AND
5. ALL OF THIS LOT LIES WITHIN ZONE X, AREAS OF MINIMAL FLOODING, AS SHOWN ON JEFFERSON COUNTY, WV FIRM PANEL 130 OF 245, NO. 54037C0130E, EFFECTIVE REVISED DECEMBER 18, 2009; AND
6. PROPERTY CORNERS FOR THE SUBJECT LOT HAVE BEEN SET IN ACCORDANCE WITH P.B. 26 PG. 216 EXCEPT AS NOTED.
7. THIS SURVEY SHOULD NOT BE RELIED UPON FOR THE PURPOSE OF RE-ESTABLISHING PROPERTY LINES OR CONSTRUCTING IMPROVEMENTS ON THE LOT; AND
8. ALL HOUSE TIES TO PROPERTY LINES ARE +/- 1'.

*William Mark Orsinger*

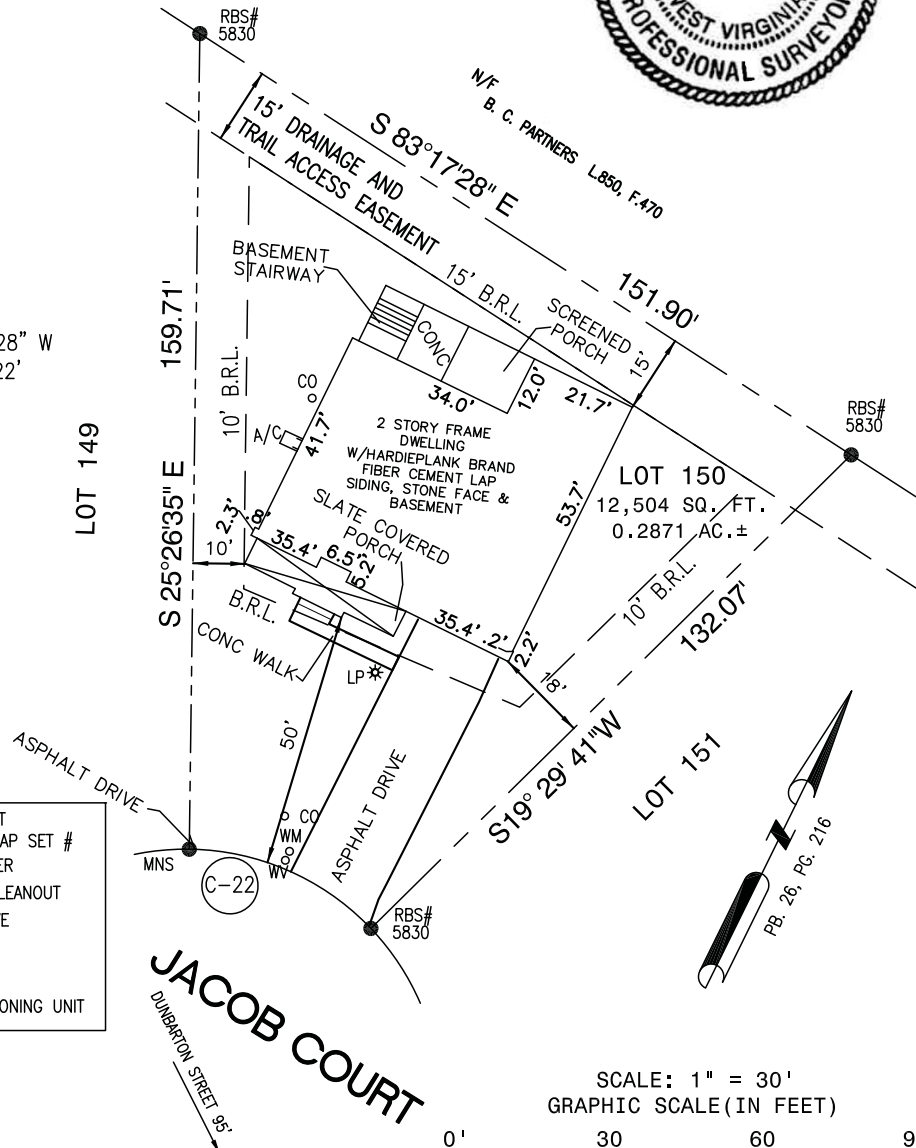
12/29/2022

WILLIAM MARK ORSINGER  
WEST VIRGINIA PROFESSIONAL SURVEYOR NO. 2215  
FOR GREENMAN-PEDERSEN, INC.  
WEST VIRGINIA CERTIFICATE OF AUTHORIZATION NO. 5830



(C-22)  
A.L.=39.21'  
R=50.00'  
Δ44°56'13"  
CHD=S 87°01'28" W  
CHD DIST=38.22'  
T=20.68'

- MNS = MAGNAIL SET
- RBS# = REBAR & CAP SET #
- WM = WATER METER
- CO = SANITARY CLEANOUT
- WV = WATER VALVE
- GV = GAS VALVE
- \* LP = LIGHT POLE
- A/C = AIR CONDITIONING UNIT



# **Mortgage Inspection Survey** **Beallair - Phase 4A, Lot #150** **#20 Jacob Court**

Harpers Ferry District No. 4  
Map 10A, Parcel 150  
Plat Book 26 Page 216  
Jefferson County, WV

BRL = BUILDING RESTRICTION LINE  
Mortgage Inspection Survey prepared by:  
Greenman - Pedersen, Inc.  
11000 Broken Land Parkway, Suite 500  
Columbia, Maryland 21044  
p. 410-880-3055

**From:** [Jourdan Betette](#)  
**To:** [Planning Department](#)  
**Subject:** Flowing Springs Solar Project - Submission  
**Date:** Tuesday, May 2, 2023 6:44:48 PM

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

I am submitting the following questions in the Commission's mailed packet for the May 9 hearing regarding the Solar Farm off Flowing Springs Road:

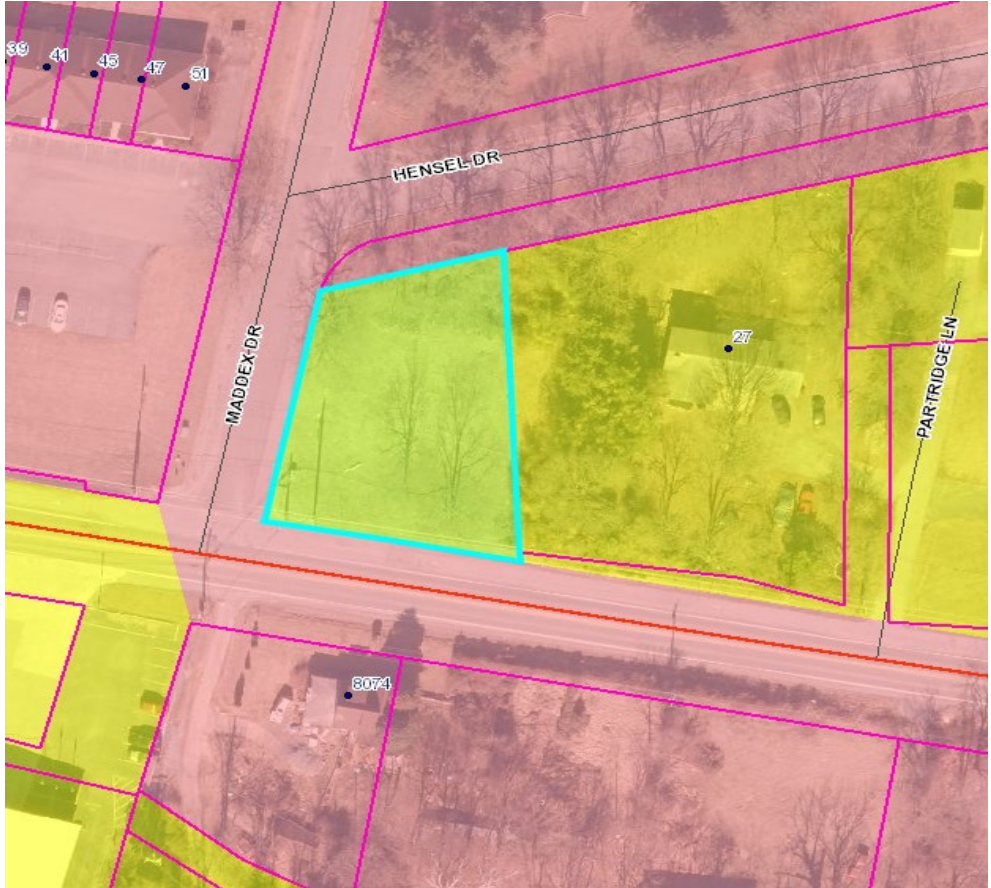
**My property is at 65 Ella Washington Court in Beallair. My home is not denoted in the proposal, but the longest edge of the property line is against the field.**

- **My house is approximately 10 feet from the edge of my property line on the corn field.** I am concerned the **privacy screen plantings will be too close** to my home. The **root system from the trees could reach my foundation**, at maturity will **tower over my one-story home**, **completely shading my home**, leaving me with **less than 2 hours a day of direct sunlight** as the front of my home is blocked by another home. The Red Cedars you plan to use are also a known allergen. Please consider pushing back all privacy buffer 200 feet where there are people living.

Staff Report  
Jefferson County Planning Commission Meeting  
May 9, 2023

**Aspen Hill Waiver Request (File #23-8-PCW)**

**Item # 4: Public Hearing:** Waiver from Appendix B, Section 2.3.B.6 of the Subdivision Regulations to reduce the radius from 35 ft. to 15 ft. for the entrance to the proposed Aspen Hill Apartments

Owner	L & C Horning LLC.
Consultant	Tri-State Improvements, LLC / Chris Hill
Parcel Information and Zoning District:	<p style="text-align: center;">Maddex Dr, Shepherdstown WV; Parcel ID: 09000800170001 Size: ~0.43 acres; Zoning District: Residential Growth</p> 
Surrounding Zoning:	North and South: Residential/Light Industrial/Commercial (RLIC); East: Residential Growth; West: RLIC and Residential Growth
History:	None
Waivers/Variances:	None
Approved Activity:	Residential uses

**Summary of the Request**

The subject 0.43-acre property, zoned Residential Growth, is vacant. It is located diagonally across WV45 from the Shepherdstown Fire Department, across Maddex Drive from Maddex Professional Center, and is at the eastern entrance to the Maddex Farm Subdivision. The proposed use is a 6-unit apartment building and related parking and development requirements.



The applicant is processing a Site Plan for the apartment building that meets most of the requirements of the Jefferson County Subdivision Regulations. This waiver request is to be able to waive Section 2.3.B.6 of Appendix B which requires a “Minimum fillet radii at the site development access drive intersection with the subdivision street or public highway should be thirty five (35 feet)”. Due to the size and configuration of the lot, the request is to waive this requirement to allow the fillet radius to be permitted to be 15’. The applicant indicates that 15’ is the equivalent of the parking lot setback requirement and provides a description of the impact that the 35’ radius would have on the development.

## **Subdivision Requirements**

Appendix B, Section 2.3, “Subdivision and Site Development Access Management” of the Subdivision Regulations, Subsection B details “Site Development Access to Public Roads”, including the excerpt below:

“6. Minimum fillet radii at the site development access drive intersection with the subdivision street or public highway should be thirty five (35 feet).”

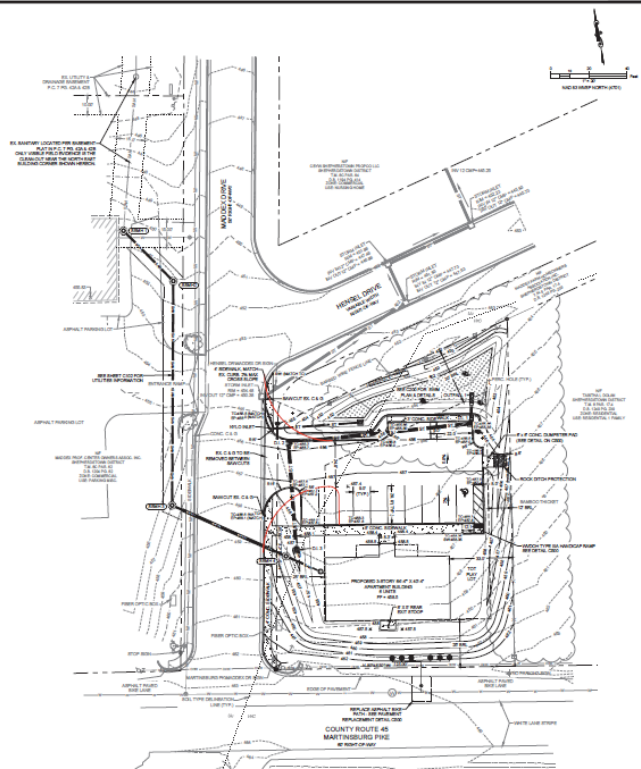
The applicant is proposing to construct an access drive entrance to the proposed 6-unit apartment with a 15' fillet radius rather than the required 35' radius due to the size and configuration of the site.

### **Staff Discussion and Recommendation**

The proposed project is for a 6-unit residential apartment building. The majority of traffic will be passenger vehicles with a trash truck needing access to the dumpster at the end of the parking lot on a weekly basis. The minimum fillet radius for a passenger vehicle is 14.4' per Exhibit 2-3 (attached) and trash truck will require a larger fillet radius for access without entering the exit lane from the parking lot, which is typically around 25'. For pedestrian safety, a smaller fillet radius requires vehicles turning into the parking lot to reduce their speed compared to a larger fillet radius. Slower vehicles are able to react to pedestrians more quickly. As the applicant stated, the travel distance for pedestrians in the crosswalk is reduced with a smaller fillet radius. Basically, the pedestrian is in the crosswalk for less time reducing their chances of being struck by a vehicle. Since pedestrian safety is more concerning than larger vehicle maneuverability, engineering recommends approval of this waiver.

## 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:



Staff Report  
Jefferson County Planning Commission Meeting  
May 9, 2023

**Aspen Hill Waiver Request (File #23-8-PCW)**

- (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.

**ATTACHMENT:**

Exhibit 2-3 Passenger Car Fillet Radius

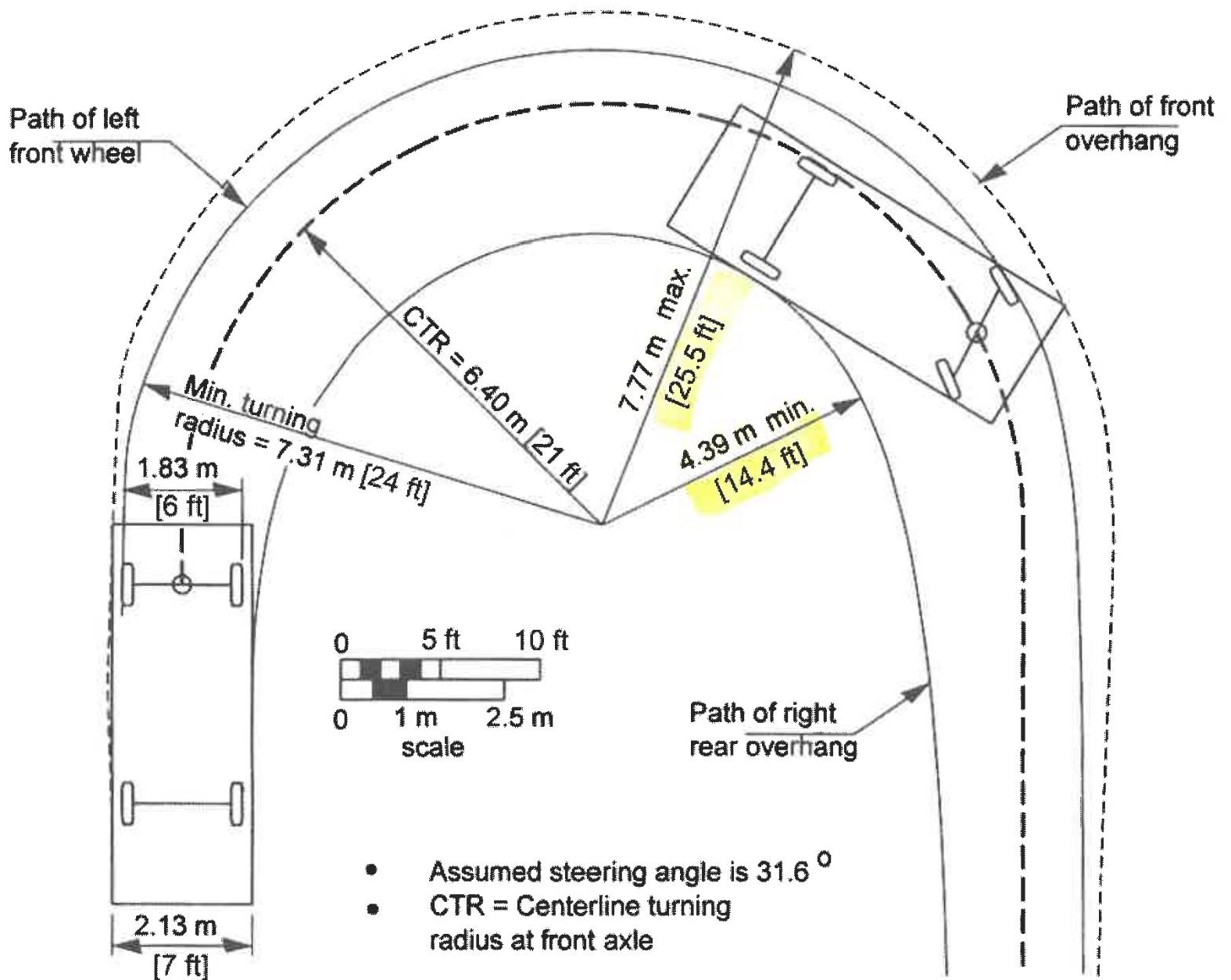
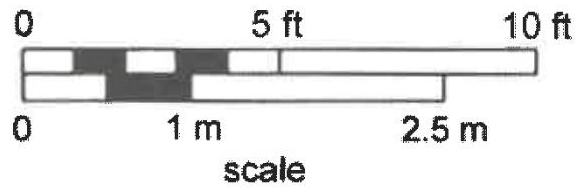
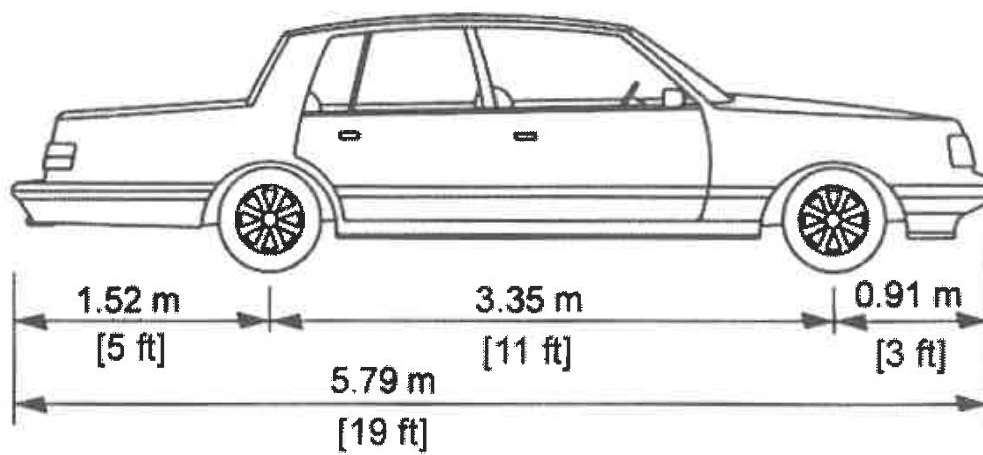


Exhibit 2-3. Minimum Turning Path for Passenger Car (P) Design Vehicle





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 #: 23-8-PCW  
 Mtg Date: 05/09/2023  
 Date Rec'd: 04/10/23  
 Fees Paid: \$100  
 Staff Int: ME  
 List of Adjoiners: ☐

Email: [planningdepartment@jeffersoncountyvva.org](mailto:planningdepartment@jeffersoncountyvva.org)  
[zoning@jeffersoncountyvva.org](mailto:zoning@jeffersoncountyvva.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: CHARLIE D. HORNING  
 Business Name: L & C HORNING, INC.  
 Mailing Address: 2013 GOLF ESTATES DRIVE; LAYTONVILLE, MD 20882  
 Phone Number: 301-502-8707 Email: CDHFISHWHISTLE@AOL.COM

#### Applicant Contact Information

Applicant Name: CHRIS HILL Same as owner: ☐  
 Business Name: TRI-STATE IMPROVEMENTS, LLC  
 Mailing Address: PO BOX 1, KEARNEYSVILLE, WV 25430  
 Phone Number: 410-206-4791 Email: CHRIS@TRISTATEWV.COM

#### Consultant Information

Name: RICHARD W. KLEIN, PE  
 Business Name: ALPHA ASSOCIATES, INC.  
 Mailing Address: 535 WEST KING STREET  
 Phone Number: 304-264-0051 Email: RICHARD.KLEIN@THINKALPHAFIRST.COM

#### Physical Property Details

Physical Address: MADDEX DRIVE & RT. 45 Vacant Lot: ☒  
 Tax District: SHEPHERDSTOWN Map No: 8 Parcel No: 17.1  
 Parcel Size: 19,088 SF Deed Book: 1007 Page No: 652  
 Zoning District: RESIDENTIAL GROWTH (RG)

**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?

2.3.A.6 - MINIMUM FILLET RADII AT SITE DEVELOPMENT ACCESS DRIVE INTERSECTION WITH THE SUBDIVISION STREET SHOULD BE 35'.

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

WE REQUEST THAT THE FILLET RADII BE PERMITTED AT 15', WHICH IS THE EQUIVALENT OF THE PARKING LOT SETBACK REQUIREMENT IN THE ZONING ORDINANCE. ON THIS PARTICULAR SITE, THE USE OF A 35' RADIUS ON THE NORTH SIDE OF THE PROPOSED ENTRANCE, CUTS INTO THE ADJOINING PROPERTY AND THE ADJACENT INTERSECTION. ON THE SOUTH SIDE OF THE PROPOSED ENTRANCE, IT REDUCES THE SIZE OF THE PARKING LOT BY 3 SPACES, EFFECTIVELY KILLING THE PROJECT. THIRTY FIVE FOOT RADII ALSO INCREASES THE WALKING DISTANCE ACROSS THE INTERSECTION FROM 38' TO 68'.

**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.**

SEE ATTACHED

**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.**

SEE ATTACHED

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

SEE ATTACHED

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

SEE ATTACHED

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.

*LE C. Horning, LLC*

dotloop verified  
04/10/23 10:07 AM  
CDT  
DDVL-QR7D-7JIK-RJTW

Property Owner Signature

Date

*C. J. R.*

Property Owner Signature

Developer

04/10/2023

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.

05/09/23

Public Hearing Date

04/25/23

Date Placard Posted

04/20/23

Date Adjoiners Mailed

### Planning Commission Determination

Approved ☐

Denied ☐

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

**ASPEN HILL APARTMENT SITE PLAN – JC FILE #23-2-SP  
PLANNING COMMISSION WAIVER REQUEST FORM ATTACHMENT**

1. Explain how the design of the project will provide public benefits 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 implementation of this request will benefit the public by providing a safer intersection with Maddex Drive and a safer sidewalk crossing for those walking on the proposed sidewalk. This request does not have any impacts to the County maintenance costs, greater open space or parkland.**

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

**Granting this waiver will not adversely affect public health or welfare, or the rights of adjacent property owners or residents. Granting this waiver, as stated in #1 above, will improve the safety of the intersection.**

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

**The intent of the Ordinance, as we understand it, is to provide development that is well designed and that provides various types of housing at reasonable costs. We believe a smaller, tighter, and safer intersection meets this intent.**

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

**The intent of the Ordinance, as we understand it, is to provide development that is well designed. Since it is physically impossible to make a 35' radius work on a small, tight site such as this, we believe the smaller radius provides a safer and better quality project.**



[illegible]

PROJ. NO.: 2209109.00  
DATE: 3/13/2023  
SHEET NO.:

C101

RIGHT 2023 ALPHA ASSOCIATES, INC.  
ALL RIGHTS RESERVED

# SITE PLAN

FOR

## ASPEN HILL APARTMENTS

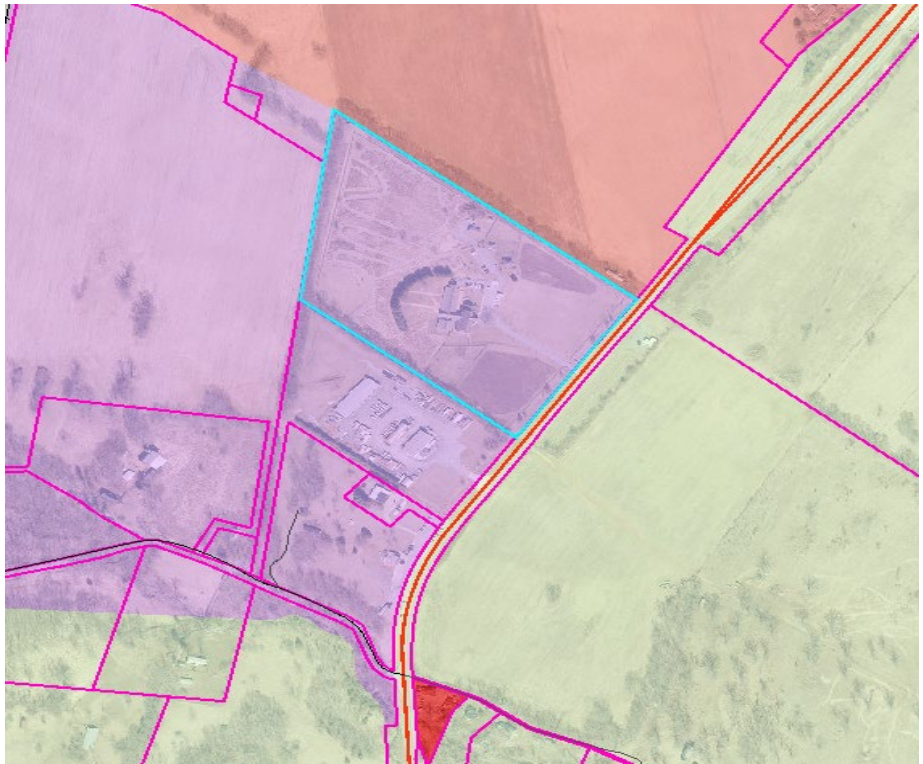
SHEPHERDSTOWN DISTRICT, T.M. 8 PAR. 17.1 D.B. 1007 Pg. 652  
JEFFERSON COUNTY, WEST VIRGINIA

## SITE PLAN

Staff Report  
Jefferson County Planning Commission Meeting  
May 9, 2023

**Briggs Waiver Request (File #23-9-PCW)**

**Item # 5: Public Hearing:** Waiver from Section 20.203B of the Subdivision Regulations, which requires a Full Site Plan for any development that does not meet the Limited Site Plan Standards. The applicant is requesting to waive the requirement of a Full Site Plan for up to two 2,500 sq. ft. octagonal dog kennels and a 480 sq. ft. shed roof overhang on one existing building.

Owner	National Humane Education Society
Consultant	P.J. Raco Consulting, LLC / Paul Raco
Parcel Information and Zoning District:	<p>3731 Berryville Pike, Charles Town WV; Parcel ID: 06001100010000 Size: ~23.36 acres; Zoning District: Industrial Commercial</p> 
Surrounding Zoning:	<p>North: Residential/Light Industrial/Commercial; East and Southeast: Rural; Southwest and West: Industrial/Commercial</p>
History:	<p>07-17-20: No Site Plan for 5 x 12 addition 10-18-13: S12-01 Red Line Revision (gravel parking) 08-24-12: S12-01 Briggs Animal Adoption Center Site Plan (10,000 SF Cat Area and additional parking) 10-5-11: S10-10 Briggs Animal Adoption Center Redline Revision (parking) S10-10 Briggs Animal Adoption Center Site Plan 10-27-98: Original Site Plan (PC File #S98-09 Peace Plantation Animal Sanctuary) Approved by PC</p>
Waivers/Variances:	08-14-12: PC Approval of PCW12-04 Waiver of Sidewalk Requirement
Approved Activity:	Non-profit Animal Adoption Facility

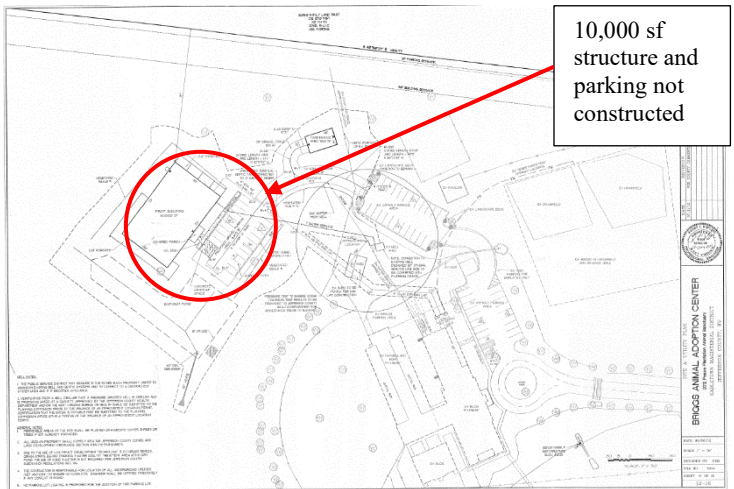
Staff Report  
Jefferson County Planning Commission Meeting  
May 9, 2023

**Briggs Waiver Request (File #23-9-PCW)**

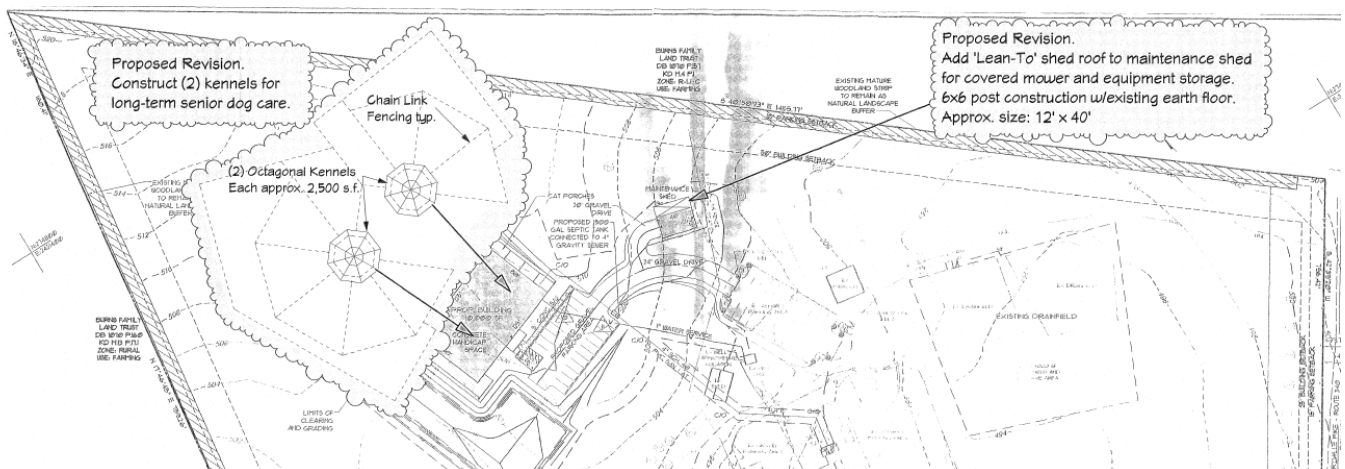
**Summary of the Request**

This 23-acre property is occupied by the Briggs Animal Adoption Center (BAAC), a program of the National Humane Education Society (NHES), which was founded in 1948. The BAAC's central mission is to "place companion animals in loving homes with compassionate people who will make lifelong commitments to them by accepting them as a member of their family". Site Plans have been approved for this growing facility in 1998, 2010, and 2012. The 2012 proposed addition which was related to a large 10,000 sq. ft. structure for cat care and related parking area was never constructed.

The applicant is currently interested in the placing two 2500 sq. ft. octagonal kennels for older dogs where the previously approved 10,000 sq. ft. building and related parking lot that was not constructed (on the #S12-01 Site Plan), as well as adding a 12' x 40' overhang on an existing maintenance building as depicted on the application. The applicant is requesting to waive the requirement of a Full Site Plan to allow for the construction of the above described two kennels totaling approximately 5,000 square feet and an overhang to be located over a grassed area. The applicant has indicated that this new construction should not result in the need for additional parking because it will serve existing animals on site with service provided by existing employees.



**Proposed Addition:**





Staff Report  
Jefferson County Planning Commission Meeting  
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**Briggs Waiver Request (File #23-9-PCW)**

The applicant has indicated that the proposed structures will be located away from the parking and public areas near the area that is served by the walking trails for the animals. They noted that property has an existing SWM system, approved site plan, substantial green space and natural vegetation on the property and requires no parking expansion. The application also states that there is no anticipated need for additional SWM or extensive grading and that the proposed structures require no parking or landscaping where the construction is intended.

**Subdivision Requirements**

Section 20.203B “Minor Site Development” of the Subdivision Regulations (excerpt below), requires projects to process a Full Site Plan for any development which does not meet all of the criteria for a limited site plan which includes the following: :

“2. Limited Site Plan

- 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.

3. Full Site Plan - Any development which does not meet all of the criteria for a limited site plan shall meet all the requirements of these Regulations. ”

The applicant is proposing to construct two structures totaling 5,000 square foot to be located where a previously approved, but not yet constructed 10,000 square foot structure was to be located, and a 12’ x 40’ overhang to store equipment. The proposed structures falls into the Full Site Plan criteria. The applicant is requesting to be permitted to process without a Site Plan being required.

**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 two proposed dog kennel structures totaling 5,000 sq. ft. and a 12’ x 40’ overhang to store equipment on grass would require processing a Full Site Plan per Section 20.203 of the Subdivision Regulations.

The approved Site Plan (File #S12-01) includes over 10,000 sq. ft. of structures and a parking lot that were not yet constructed or bonded. If the approved site plan was to be bonded for the designed improvements, the proposed dog kennels and overhang could be processed as a redline revision and be approved by staff only. The applicant does not want to bond for all the improvements and install them at this time. Since there is no bond, the waiver is required because File #S12-01 is viewed as not being an approved site plan and the waiver is based on what exists on the property at this time. Evaluating the site as it exists, the proposed improvements do not meet the “No Site Plan” criteria because structures are exceed 1,200 SF. The applicant is proposing 5,000 SF of kennels and 480 SF of an overhang. It should be noted that if the applicant was proposing a 1,200 SF building and 4,280 SF of parking, it would meet the No Site Plan criteria and a waiver would not be needed and that both scenarios produce the same amount of impervious surface.

Because Section 20.203B of the Subdivision Regulations differentiates between 5,480 SF in proposed structures (which would require stormwater management design) and a 1,200 SF structure and 4,280 SF of disturbance (which meets the “No Site Plan” criteria), this waiver is required.

Staff Report  
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**Briggs Waiver Request (File #23-9-PCW)**

If the Subdivision Regulations were not worded in this way, Engineering staff would not distinguish between structure and disturbed area, but believes that all the proposed uses should be reviewed as impervious surface. When meeting the “No Site Plan” criteria, Stormwater Management (SWM) is not required. Engineering believes that there is the same impact on SWM for both scenarios, and if the subdivision regulation does not require SWM when meeting the No Site Plan criteria, there is no reason to require SWM or a full site plan when the total impervious does not exceed the total for “No Site Plan”. Therefore, staff recommends approval of the waiver request.

If this waiver is approved by the Planning Commission, no additional documentation is required; however, staff would recommend that a drawing to scale on an aerial view or existing condition sheet from the approved site plan, which can be provided by staff to the applicant, be provided to document that the above limitations are met. Such documentation will be required for a Building Permit. If the waiver is approved, this can be done by the applicant and does not require a professional engineer. Additionally, the applicant will still have to obtain a building permit, which may necessitate approval from the WVDOH (access).

**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 #: 23-9-PCW  
Mtg Date: 05-09-2023  
Date Rec'd: 04/14/2023  
Fees Paid: \$100  
Staff Int: ME  
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: National Humane Education Center *Society*  
Mailing Address: P.O. Box 340, Charles Town, WV 25414  
Phone Number: c/o Paul 304/676-8256 Email: Paul.pjraco.consulting@gmail.com

#### Applicant Contact Information

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

#### Consultant Information

Name: Paul J Raco  
Business Name: P.J. Raco Consulting, LLC  
Mailing Address: P.O. Box 548, Charles Town, WV 25414  
Phone Number: 304/676-8256 Email: pjraco.consulting@gmail.com

#### Physical Property Details

Physical Address: 3731 Berryville Pike, Charles Town, WV 25414 Vacant Lot: ☐  
Tax District: Kabletown Map No: 11 Parcel No: 1  
Parcel Size: 23.36 +- Acres Deed Book: 921 Page No: 485  
Zoning District: Residential/Light Industrial/Commercial District

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

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

**What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?**  
Setion 20.203B

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

Waiver of Site Plan for up to two 2500 sq. ft. octogonal dog kennels and a shed roof overhang on one existing Building. This area was previously approved for approximately 20,000 sq. ft of building and parking lot improvements and the total of 5,000 sq. ft. kennels will replace that area with no need for parking since these are for employee access only kennel space. The previous site plan did not show any problems for the 20,000 building and parking lot, so the 5000 total space should need no site plan requirements.



**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.**

See Attached

**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.**

See Attached

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

See Attached

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

See Attached

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.

*National Humane Education Society*  
*by James D. Taylor, President 4-7-23*  
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: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

National Humane Education Society  
Subdivision Waiver Application  
Section 20.203B  
Site Plan Waiver  
Jefferson County Planning Commission  
April 14, 2023

**Brief Description:**

This property is a well designed 23 acre parcel that has extremely large areas left in open green space and natural conservation areas. As seen in the attached aerial photo, little of this site is developed. An additional site plan was approved showing a new 10,000 sq. ft. building with an associated parking lot. During the last recession, this plan was put on hold and continues to be a project that does not have the donation funding that it would need to complete. However, NHES (known as Briggs Animal Adoption), has a new benefactor that is willing to fund up to two 2500 sq. ft. octagonal kennels for older dogs where the previously approved approximately ½ acre of building and parking lot that was not constructed in the last approved site plan. Additionally, they would like to add a 12' (x 40') overhang on an existing maintenance building over grass to keep some of their equipment out of the rain.

As shown on the proposed redline, these two small dog kennels will be in an area that is surrounded by grassed and natural open space. There is no need for parking since it will serve existing animals on site. There are paths throughout the site for walking the dogs and these kennels will be along those walking trails to be served by existing employees.

After a meeting with Staff, it was determined that a waiver should be sought since it was already shown on a previous site plan and there is no evidence of any water issues on the large 23 acre mostly green site. If granted, the owner will provide for erosion and sediment control during construction. Otherwise, there should be no need for any other improvements. Regarding the overhang, it will be over grass and as seen by the topography, would drain towards the interior of the property. This shed roof type overhang would not need additional parking or other improvements.

National Humane Education Society  
Subdivision Waiver Application  
Section 20.203B  
Site Plan Waiver  
Jefferson County Planning Commission  
April 14, 2023

**Four Criteria:**

1. *Explain how the design of the Project will provide public benefit in the form in the reduction of Public maintenance costs, greater open space, parkland consistent with the County Park Plans or benefits of a similar nature;*

These two kennels are small in relationship to the size of the property that is mostly green and open conservation space. The property is over 23.36 acres in size and the total of the two new kennels is 5000 sq. ft. out of the total 1,017,562 sq. ft. in the property. This construction is less than ½ of a percent of the entire property. Furthermore, these kennels will not generally be open to the public since they are to provide an area for the older animals in this 'no kill' shelter to provide them a calm area with a lot of open space around the kennels. No additional parking is needed and there will not be a need for extensive grading outside of the two 2500 sq. ft. footprints. And there will be no grading for the roof overhang on the maintenance building.

The project well exceeds the open space and parkland needed as most of the area is in grass and natural vegetation. The property is privately maintained and will have no public maintenance cost, while continuing to provide a needed service to the County.

Granting the waiver will allow the project to move forward with no impact on the neighboring property owners which are mostly farms to the North, East and West of the property. There is an industrial use to the South that just received their own waiver from site plan for a new building.

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

The granting of the waiver will have no effect on the public health, safety or welfare of the neighbors or adjacent property owners. The waiver is to not require an expensive site plan because they can show it on their existing approved site plan and the construction is much less than anticipated at that time. The neighbor to the South already received a waiver from a site plan for their new building very close to this applicant's property line. The proposed improvements on the subject property are well interior to the 23 acres.



The farm neighbors to the East, North and West can build structures as large as they want for housing livestock without a site plan. These are much smaller than a barn and would house old dogs, so the use is similar. There is no evidence of water issues on the surrounding properties or this property which has extensive green natural areas along with a large grassed SWM area that never even has any evidence of water in it.

Finally, the structures will need to submit building plans to the County to ensure that the construction is safe and sound with multiple Code Inspections.

3. *Explain how the waiver, if granted, will be keeping with the intent of this ordinance;*

The purpose of site plan is to ensure that commercial construction provides for things like proper parking, SWM Control, Setbacks and Landscaping. In this case, it is a nonprofit organization that already has an existing SWM system, approved site plan, substantial green space and natural vegetation on the property and requires no parking expansion. It is to house aged dogs a bit away from the primary facility that generally does not anticipate public visits, unless someone is interested in rescuing an older dog. The two kennels and the overhang are away from the parking and public areas and are actually found in areas that are served by walking trails for the animals.

There is no anticipated need for additional SWM or extensive grading and requires no parking or landscaping where the construction is intended, so the intent of the ordinance will be met. Also, the building code inspections check on Erosion and Sediment disturbances if they are created, so those items will be closely monitored.

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

This facility is a well-designed campus with enormous amounts of open and green space. The amount of existing construction and the proposed two kennels and roof overhang are very minimal compared to the overall 23.36 acres. The area is well buffered and has large areas of SWM basins, swales and culverts intermingled with large areas that are left in natural vegetation growth to further protect the surroundings. The setting on this property is both pastoral and natural. This site is also well maintained and is a lovely campus with both existing landscaping and open green space. There is no need for an additional expense for a site plan. The Applicant has submitted what was requested by the County Engineer and even includes a bubble plat showing how the existing site plan is being modified as he requested for the neighboring properties' waiver last month.

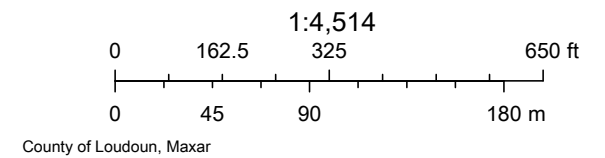
Accordingly, the Applicant respectfully asks that the Commission approve the waiver so that the construction can continue in a timely and more cost-effective fashion. The property is owned by a nonprofit and provides a valuable service to the community. Thank you for your consideration.



# Viewer Map



April 12, 2023





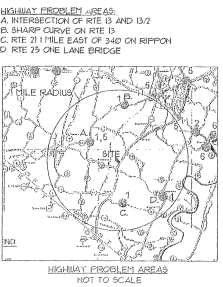
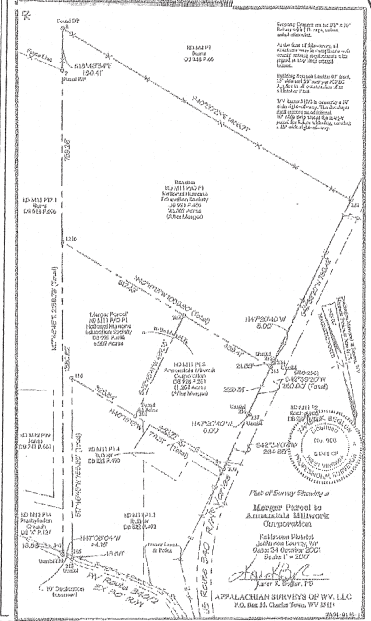
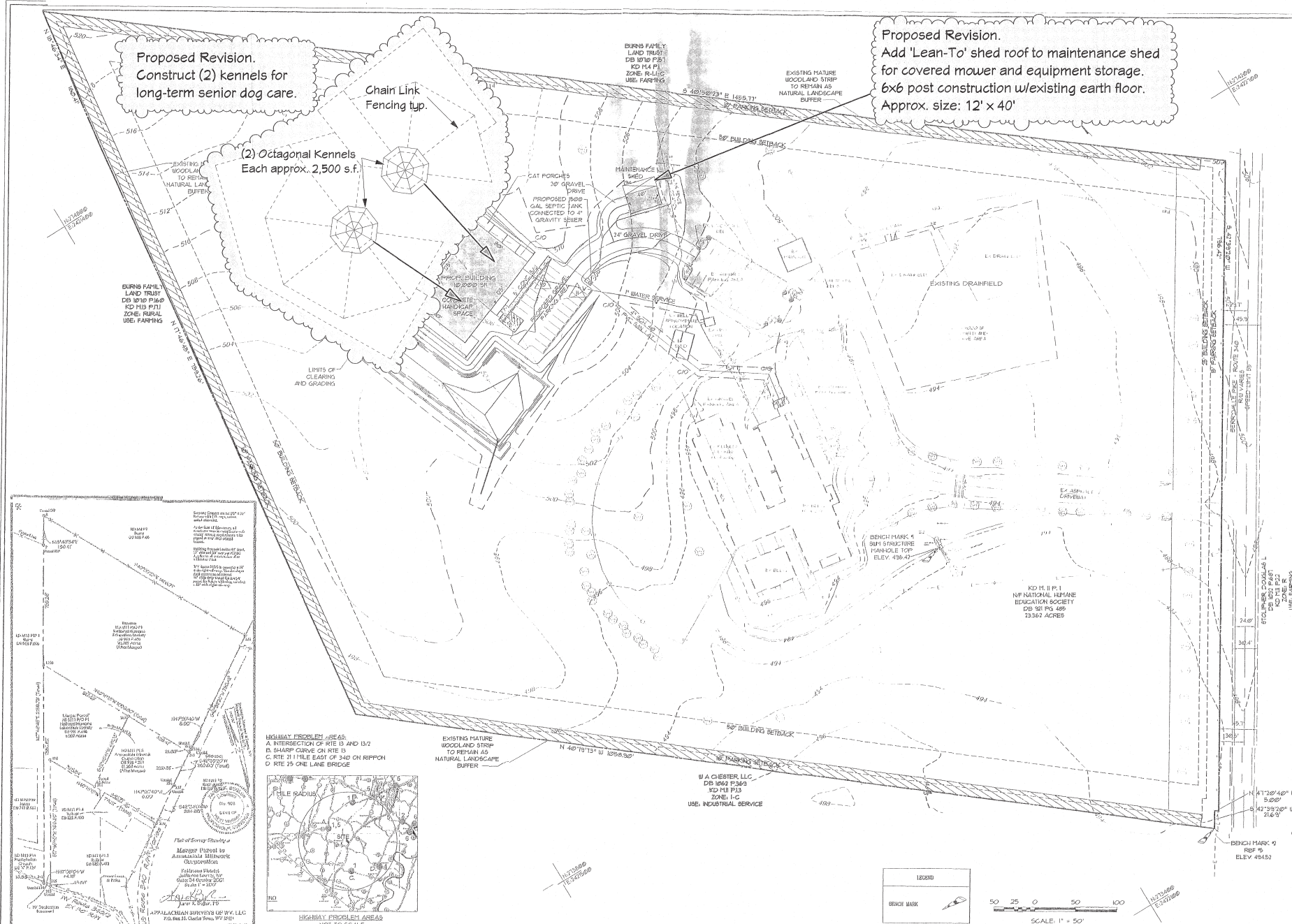


Proposed Revision.  
Construct (2) kennels for  
long-term senior dog care.

Chain Link  
Fencing typ.

(2) Octagonal Kennels  
Each approx. 2,500 s.f.

Proposed Revision.  
Add 'Lean-To' shed roof to maintenance shed  
for covered mower and equipment storage.  
6x6 post construction w/existing earth floor.  
Approx. size: 12' x 40'



**GREENWAY ENGINEERING, INC.**  
1517 Brady Street  
Martinsburg, West Virginia 25402  
Phone: (304) 251-1234  
Fax: (304) 251-1235  
www.greenwayeng.com

REVISION  
DATE  
07/11/12

DATE  
07/11/12

**BRIGGS ANIMAL ADOPTION CENTER**  
202 Peace Pension Animal Sanctuary  
KABLETOWN MAGISTERIAL DISTRICT  
JEFFERSON COUNTY, WV

OVERALL VIEW & RECORDED PLAT

DATE: 06/08/12

SCALE: 1"=50'

DESIGNED BY: DEM

FILE NO. 5334

SHEET 2 OF 10

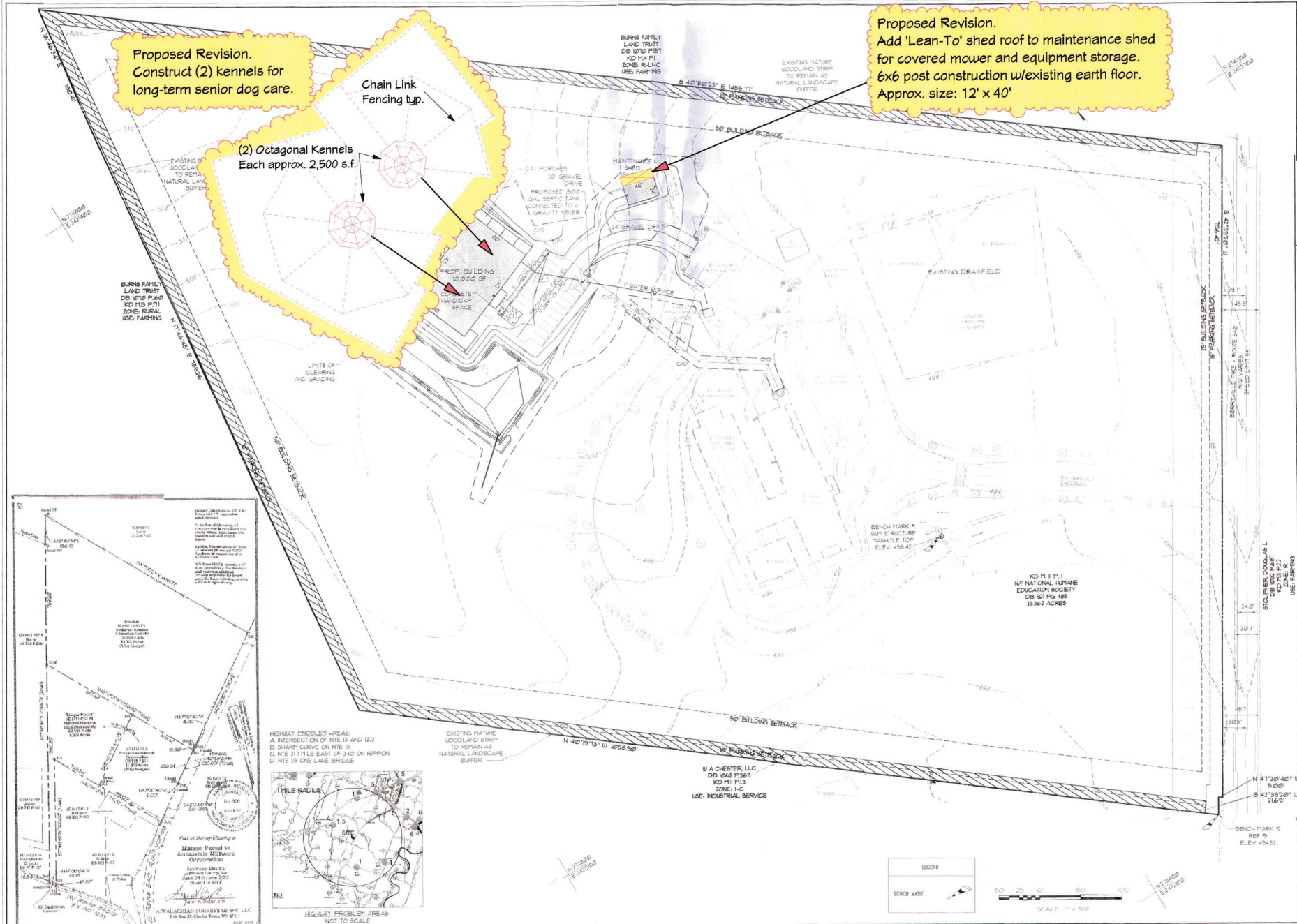
12-16

Proposed Revision.  
Construct (2) kennels for  
long-term senior dog care.

Chain Link  
Fencing typ.

(2) Octagonal Kennels  
Each approx. 2,500 s.f.

Proposed Revision.  
Add 'Lean-To' shed roof to maintenance shed  
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6x6 post construction w/existing earth floor.  
Approx. size: 12' x 40'



GREENWAY ENGINEERING, INC.



REVISION  
DATE: 07/11/12  
PER COUNTY COMMENTS



OVERALL VIEW & RECORDED PLAT  
BRIGGS ANIMAL ADOPTION CENTER  
2012 Peace Plantation Animal Sanctuary  
KABLETOWN MAGISTERIAL DISTRICT  
JEFFERSON COUNTY, WV

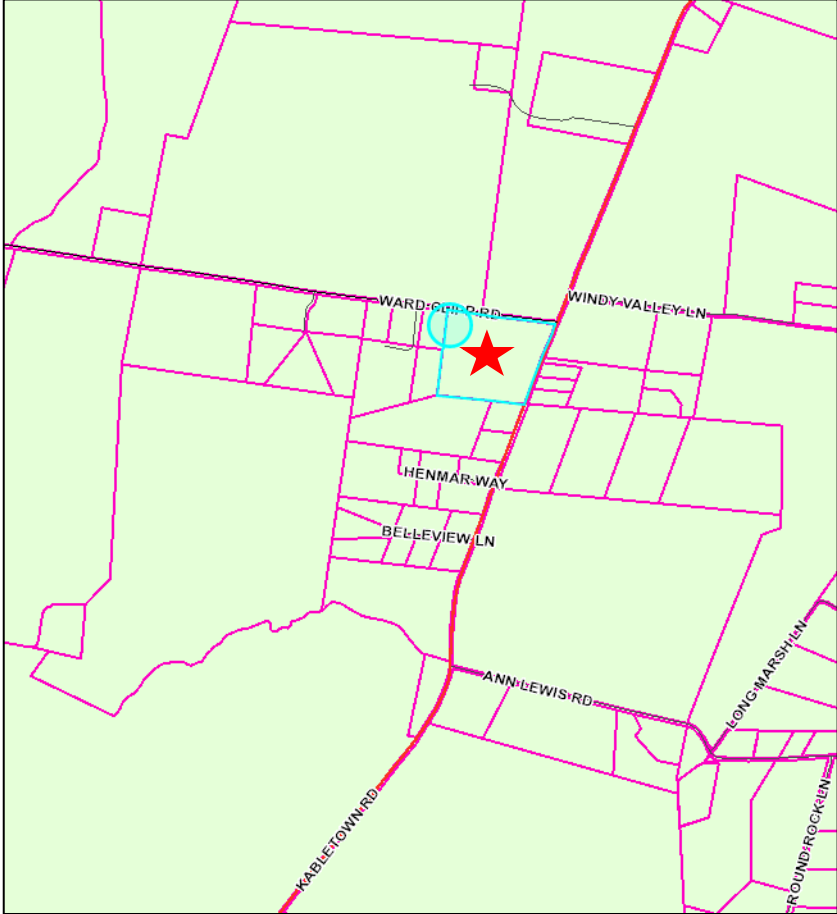
DATE: 06/08/12  
SCALE: 1" = 50'  
DESIGNED BY: DEM  
FILE NO. 5334  
SHEET 2 OF 10  
12-16



Staff Report  
Jefferson County Planning Commission Meeting  
May 9, 2023

**Lavoie Variance Request (File #23-1-PCV)**

**Item #6: Public Hearing:** Variance from Section 2.1B of the 1979 Subdivision Ordinance (parent to child exemption) to lift the single family restriction to allow for a detached Accessory Dwelling Unit (In-Law Suite) pursuant to Section 8.15A of the Zoning Ordinance.

Applicant:	Jake Lavoie
Owner/Developer:	Same as above
Surveyor/Engineer:	N/A
Property Location:	1196 Ward Clipp Road, Charles Town, WV
Parcel Information and Zoning District:	<p style="text-align: center;">Tax District: Kabletown (06); Tax Map: 28; Parcel: 11 (Parcel ID: 06002800110000); Size: 17.36 acres; Zoning District: Rural</p> 
Surrounding Zoning:	<i>North, South, East and West: Rural</i>
Proposed Activity:	A detached accessory dwelling unit for a family member (In-Law Suite) on a lot created through the Parent to Child Exemption
History:	This 17.36 acre property was created through a Parent to Child Exemption recorded 08/29/89 (DB 637/PG 373)

**Summary of Request:**

The applicant is requesting to lift the required single-family restriction for the purpose of constructing a detached accessory dwelling unit for a family member, in accordance with Section 8.15A of the Zoning Ordinance. The subject parcel was created on August 29, 1989 through the parent to child exemption process outlined in Section 2.1B of the 1979 Subdivision Ordinance, which required a deed only. At the


Staff Report  
Jefferson County Planning Commission Meeting  
May 9, 2023

**Lavoie Variance Request (File #23-1-PCV)**

time that the lot was created, a note was required in the deed that restricted the exempt lot to a single-family residence (see excerpt below).

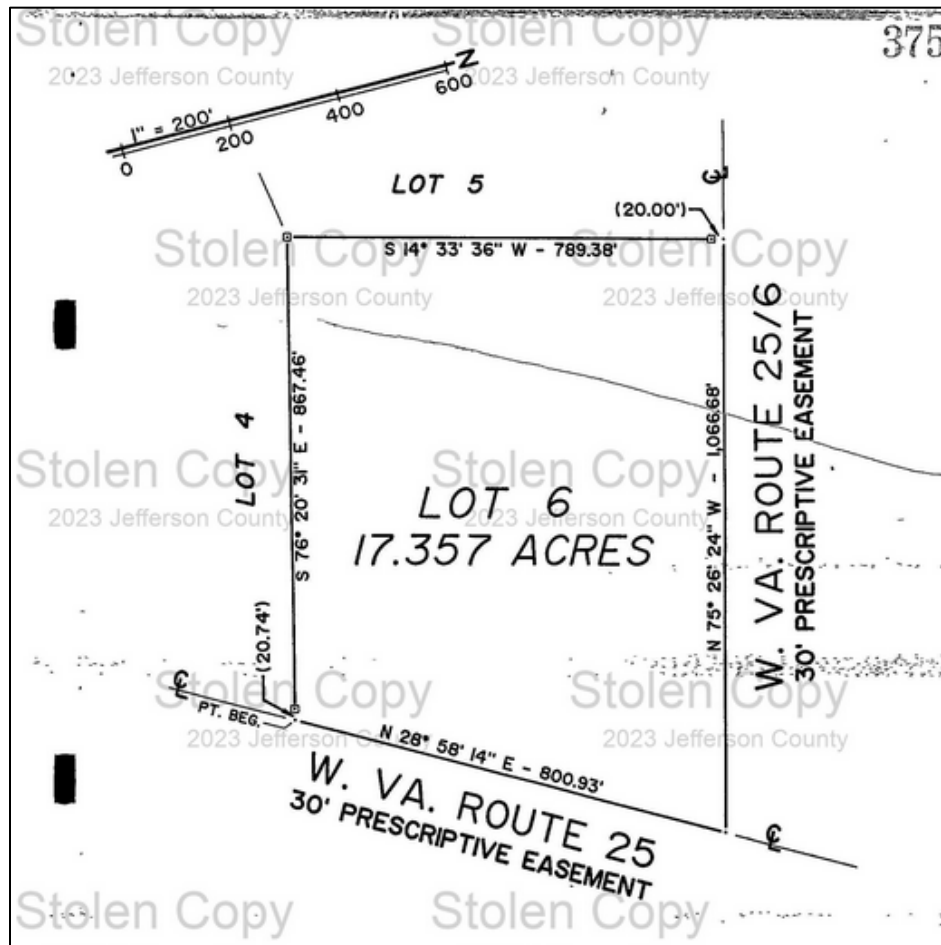
The Grantee is a daughter of the Grantor. The lot hereby transferred is to be used for a single-family residence only as long as the lot is not further subdivided. Any further subdivision of the lot shall dissolve the single-family restriction and will place development of the lot under County land development laws in effect at that time.

WITNESS the following signatures and seals:

 (SEAL)  
Daniel Lee Clipp, Sr.

 (SEAL)  
Carol D. Clipp

Deed Book 637 @ Page 373



**Zoning Ordinance Requirements**

If the Planning Commission approves lifting the single-family restriction, which was required by the Subdivision Ordinance at the time the lot was created, then the applicant can process under Section 8.15A of the Zoning Ordinance for a detached accessory dwelling unit / In-Law Suite in the Rural Zoning District. Section 8.15A has various provisions that must be complied with, including, but not

Staff Report  
Jefferson County Planning Commission Meeting  
May 9, 2023

**Lavoie Variance Request (File #23-1-PCV)**

limited to, the requirement that the accessory unit must be secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet gross floor area; that the parcel be a minimum of 2 acres; and Health Department approval or well and septic is received.

**Relevant Section(s) of Ordinance/Regulations:**

***2008 Subdivision Regulations (as amended):***

**Section 24.202 Amendment, Modification, and the Vacating of Subdivision Plats**

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

Under the 1979 Subdivision Ordinance, this type of a request was typically heard through the Planning Commission Variance process.

***1979 Subdivision Ordinance:***

**Section 2.1 Subdivision Exemptions**

This Ordinance shall apply to all land subdivision projects within the unincorporated areas of Jefferson County, West Virginia, with the exception of the following:

- b. The formation of one lot provided such lot is transferred by deed to a parent or a child of the land owner of record and does not create more than one residue. The deed shall:
  1. Identify the relationship between the grantor and the grantee, and;
  2. Shall state that “the lot transferred is to be used for a single family residence only as long as the lot is not further subdivided. Any further subdivision of the lot shall dissolve the single family restriction and will place development of the lot under the County land development laws in effect at that time. This lot cannot be transferred again for at least five (5) years; except as another parent to child or child to parent transfer of land. Any transfer of this lot within the five year period shall place this lot in violation of the Jefferson County Subdivision Ordinance”. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 14, 1989]

**Section 17.1 Variance**

Any request for a variance from the provisions of this Ordinance shall be made in written form and shall be submitted to the Planning Commission by the Subdivider. A variance request shall clearly specify the nature of the variance being requested and the reasons for the request.

A variance request may be granted by the Planning Commission only when it is determined that:

- a) The request is not contrary to the public interest.
- b) A literal enforcement of this Ordinance will result in an unnecessary hardship.
- c) The request is not the result of a self-imposed hardship.



Staff Report  
Jefferson County Planning Commission Meeting  
May 9, 2023

**Lavoie Variance Request (File #23-1-PCV)**

d) The spirit of this Ordinance will be observed and substantial justice done.

Note: The Variance Policy in effect requires that the property be posted with a placard and that letters are sent to adjacent and confronting property owners one week prior to the meeting.

**Recommendation**

Staff recommends approving the Variance request from Section 2.1B of the 1979 Subdivision Ordinance (parent to child exemption) to lift the single family restriction to allow for a detached accessory dwelling unit (in-law suite) which is permitted by the current Zoning Ordinance in effect at this time. Approval of this variance would allow the applicant to process an attached in-law suite (two-family dwelling) or a detached in-law suite contrary to the language found in the original deed. If approved, the applicant will need to apply for a Zoning Certificate for a detached accessory dwelling unit prior to applying for a Building Permit.



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

File #: 23-1-PCV  
Mtg Date: 5-9-23  
Date Rec'd: 4-13-23  
Fees Paid: \$100  
Staff Int: ME  
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

### Subdivision Ordinance Variance Request

Variances must comply with Article 17 of the 1979 Subdivision Ordinance, as amended.

#### Property Owner Information

Owner Name: Jake Labrie  
Business Name: N/A  
Mailing Address: 1196 Ward Clipp Rd  
Phone Number: 443 615 4033 Email: Jakelabrie10@gmail.com

#### Applicant Contact Information

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

#### Consultant Information

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

#### Physical Property Details

Physical Address: 1196 Ward Clipp Road Vacant Lot: ☐  
Tax District: 6 Map No: 28 Parcel No: 11  
Parcel Size: 17.36 Deed Book: 1281 Page No: 1256  
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)

Which Section of the Subdivision Ordinance are you requesting to vary?

Section 2.1B

Briefly Describe the Nature of Your Variance Request:

To lift single family restriction to add a rental suite.

**Explain why this request is NOT contrary to the public interest:**

Lot size is 17 acres <sup>±</sup> and meets the ~~zoning~~ intent of the in-lot suite provision ordinances.

**Explain how enforcement of this Ordinance will result in an unnecessary hardship:**

In-laws are getting older and long distance travelled is becoming difficult.

**Explain how this request is NOT the result of a self-imposed hardship:**

Purchased lot with single family restriction understanding from staff is the current ordinance does not require.

**Explain how the spirit of this Ordinance will be observed and substantial justice will be done:**

The spirit of the ordinance will be observed by allowing construction of a detached in-lot suite compliance with building code and any other requirements including health department and division of highways will be met.

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

4/13/23

Date

Property Owner

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 and posted by the Staff. 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.

5/9/2023

Public Hearing Date

4/25/2023

Date Placard Posted

4/20/2023

Date Adjoiners Mailed

#### Planning Commission Determination

Approved ☐

Denied ☐

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









# JEFFERSON COUNTY, WEST VIRGINIA

## Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor; P.O. Box 716

Charles Town, WV 25414

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

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

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

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### MEMO

**TO:** Planning Commission  
**FROM:** Jennifer M. Brockman, AICP, Chief County Planner  
**DATE:** May 9, 2023  
**RE:** Discussion and Possible Direction related to Recently Approved Amendments to WV Code 8A (HB3215) Effective 5/31/23

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**“Agenda Item #7: Discussion and Possible Direction:** Review final approved amendments to WV Code 8A (effective 5/31/23) which will now allow the Planning Commission to authorize staff to have certain rights not previously permitted. This item is for discussion and direction as to whether amendments to the Subdivision Regulations, Bylaws, and/or Zoning Ordinance should be drafted.”

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Attached are the sections of WV Code 8A which were amended by the State Legislature of WV on March 2, 2023, to become effective on May 31, 2023. The changes to the state law are underlined on the attached document. These revisions may require some changes to locally adopted Zoning Ordinances and Subdivision Regulations to bring our rules into compliance with the new state law or possibly the development of a Planning Commission policy. The following comments are the planner’s thoughts on possible impacts on the local regulations:

1. As you are aware, previously, the state law required the Planning Commission to determine Preliminary Plats and/or Major Site Plans as “complete” for the purpose of calling the required Public Hearing. Due to the notice requirements for those hearings, the Planning Commission has had to call extra meetings or make other arrangements to meet these requirements. Under Article 5, Section 8A-5-1(e) of the 2023 approved WV Code 8A amendment, the state law now authorizes the Planning Commission to delegate to its staff the authority to determine “completeness, phasing, changes, and technical review for major subdivisions or land development applications, if a governing body has adopted detailed process provisions, procedures or checklists for major subdivisions or land development applications, provided that a staff review does not take longer than would a planning commission review”.  
Also attached, Section 23.202B of the Subdivision Regulations, details the tasks that staff can be responsible for and may be the correct location to add the responsibility of determining completeness.
2. Changes to Section 8A-5-3 also modifies slightly the requirement for determining whether a subdivision can be classified as a Minor Subdivision. The current language related to this is found in Sec. 24.104 of the Subdivision Regulations (attached).

#### Attachment:

- *WV Code 8A 2023 Amendments based on House Bill 3215, effective 5/31/23*
- *Section 23.202 of the Subdivision Regulations (staff responsibilities)*
- *Section 24.104 of the Subdivision Regulations (Minor Plat Determination)*





# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENROLLED**

**House Bill 3215**

BY DELEGATE RILEY

[Passed March 2, 2023; in effect ninety days from  
passage.]





# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENGROSSED**

## **House Bill 3215**

By Delegate Riley

[Introduced February 02, 2023; Referred to the  
Committee on Economic Development and Tourism]



1 A BILL to amend and reenact §8A-1-2, §8A-2-7, §8A-4-2, §8A-5-1, §8A-5-3, §8A-5-6, §8A-5-8,  
2 §8A-8-4, and §8A-8-5, of the Code of West Virginia, 1931, as amended, all relating to land  
3 use planning; modifying definitions; modifying the frequency of planning commission  
4 meetings; clarifying contents of subdivision and land development ordinances; addressing  
5 jurisdiction of planning commission; clarifying process for minor proposals; modifying  
6 provisions related to approval of major proposals; providing for flexibility in qualifications  
7 for county boards of zoning appeals; and modifying frequency of board of zoning appeals  
8 meetings.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. GENERAL PROVISIONS.**

### **§8A-1-2. Definitions.**

1 As used in this chapter, the following words and terms have the following meanings, unless  
2 the context clearly indicates otherwise:

3 (a) "Abandonment" means the relinquishment of property or a cessation of the use of the  
4 property by the owner or lessee without any intention of transferring rights to the property to  
5 another owner or resuming the nonconforming use of the property for a period of one year.

6 (b) "Aggrieved" or "aggrieved person" means a person who:

7 (1) Is denied by the planning commission, board of subdivision and land development  
8 appeals, or the board of zoning appeals, in whole or in part, the relief sought in any application or  
9 appeal; or

10 (2) Has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience  
11 beyond that which other residents of the county or municipality may suffer.

12 (c) "Comprehensive plan" means a plan for physical development, including land use,  
13 adopted by a governing body, setting forth guidelines, goals and objectives for all activities that  
14 affect growth and development in the governing body's jurisdiction.

(d) "Conditional use" means a use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the board of zoning appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in the zoning ordinance.

(e) "Contiguous" means lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous.

(f) "Essential utilities and equipment" means underground or overhead electrical, gas, communications not regulated by the federal communications commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cables, fire alarm boxes, public telephone structures, police call boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith. Essential utility equipment is recognized in three categories:

- (1) Local serving;
- (2) Nonlocal or transmission through the county or municipality; and
- (3) Water and sewer systems, the activities of which are regulated, in whole or in part, by one or more of the following state agencies:

(A) Public service commission; or

(B) Department of environmental protection; or

(C) The Department of Health and Human Resources.

(g) "Existing use" means use of land, buildings or activity permitted or in existence prior to the adoption of a zoning map or ordinances by the county or municipality. If the use is nonconforming to local ordinance and lawfully existed prior to the adoption of the ordinance, the use may continue to exist as a nonconforming use until abandoned for a period of one year:



*Provided*, That in the case of natural resources, the absence of natural resources extraction or harvesting is not abandonment of the use.

(h) "Exterior architectural features" means the architectural character and general composition of the exterior of a structure, including, but not limited to, the kind, color and texture of the building material, and the type, design and character of all windows, doors, massing and rhythm, light fixtures, signs, other appurtenant elements and natural features when they are integral to the significance of the site, all of which are subject to public view from a public street, way or place.

(i) "Factory-built homes" means modular and manufactured homes.

(j) "Flood-prone area" means any land area susceptible to repeated inundation by water from any source.

(k) "Governing body" means the body that governs a municipality or county.

(l) "Historic district" means a geographically definable area, designated as historic on a national, state or local register, possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

(m) "Historic landmark" means a site, building, structure or object designated as historic on a national, state or local register.

(n) "Historic site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure whether standing, ruined or vanished, where the location itself possesses historical, cultural or archaeological value regardless of the value of any existing structure and designated as historic on a national, state or local register.

(o) "Improvement location permit" means a permit issued by a municipality or county, in accordance with its subdivision and land development ordinance, for the construction, erection, installation, placement, rehabilitation or renovation of a structure or development of land, and for the purpose of regulating development within flood-prone areas.

(p) "Infill development" means to fill in vacant or underused land in existing communities with new development that blends in with its surroundings.

(q) "Land development" means the development of one or more lots, tracts or parcels of land by any means and for any purpose, but does not include easements, rights-of-way or construction of private roads for extraction, harvesting or transporting of natural resources.

(r) "Manufactured home" means housing built in a factory according to the federal manufactured home construction and safety standards effective June 15, 1976.

(s) "Modular home" means housing built in a factory that meets state or local building codes where the homes will be sited.

(t) "Non-traditional zoning ordinance" means an ordinance that sets forth development standards and approval processes for land uses within the jurisdiction, but does not necessarily divide the jurisdiction into distinct zoning classifications or districts requiring strict separation of different uses, and does not require a zoning map amendment.

(u) "Permitted use" means any use allowed within a zoning district, subject to the restrictions applicable to that zoning district and is not a conditional use.

(v) "Plan" means a written description for the development of land.

(w) "Planning commission" means a municipal planning commission, a county planning commission, a multicounty planning commission, a regional planning commission or a joint planning commission.

(x) "Plat" means a map of the land development that becomes its official recorded representation in the office of the clerk of the county commission where a majority of the land to be developed lies.

(y) "Preferred development area" means a geographically defined area where incentives may be used to encourage development, infill development or redevelopment in order to promote well designed and coordinated communities.

(z) "Public place" means any lots, tracts or parcels of land, structures, buildings or parts thereof owned or leased by a governing body or unit of government.

(aa) "Sprawl" means poorly planned or uncontrolled growth, usually of a low-density nature, within previously rural areas, that is land consumptive, auto-dependent, designed without respect to its surroundings, and some distance from existing development and infrastructure.

(bb) "Streets" means streets, avenues, boulevards, highways, roads, lanes, alleys and all public ways.

(cc) "Subdivision or partition" means the division of a lot, tract or parcel of land into two or more lots, tracts or parcels of land, or the recombination of existing lots, tracts, or parcels.

(dd) "Unit of government" means any federal, state, regional, county or municipal government or governmental agency.

(ee) "Urban area" means all lands or lots within the jurisdiction of a municipal planning commission.

(ff) "Utility" means a public or private distribution service to the public that is regulated by the Public Service Commission.

(gg) "Zoning" means the division of a municipality or county into districts or zones which specify permitted and conditional uses and development standards for real property within the districts or zones.

(hh) "Zoning map" means a map that geographically illustrates all zoning district boundaries within a municipality or county, as described within the zoning ordinance, and which is certified as the official zoning map for the municipality or county.

## **ARTICLE 2. PLANNING COMMISSIONS.**

### **§8A-2-7. Planning commission meetings.**

(a) A When there is business to conduct, a planning commission shall meet at least quarterly. In any event, a planning commission shall meet at least semiannually and may meet more frequently at the request of the president or by two or more members.

(b) Notice for a special meeting must be in writing, include the date, time and place of the special meeting, and be sent to all members at least two days before the special meeting.

(c) Written notice of a special meeting is not required if the date, time and place of the special meeting were set in a regular meeting.

#### **ARTICLE 4. SUBDIVISION AND LAND DEVELOPMENT ORDINANCE.**

##### **§8A-4-2. Contents of subdivision and land development ordinance.**

(a) A subdivision and land development ordinance shall include the following provisions:

(1) A minor subdivision or land development process, including criteria, requirements and a definition of minor subdivision;

(2) The authority of the planning commission and its staff to approve a minor subdivision or land development;

(3) A major subdivision or land development process, including criteria and requirements;

(4) The authority of the planning commission to approve a major subdivision or land development;

(5) The standards for setback requirements, lot sizes, streets, sidewalks, walkways, parking, easements, rights-of-way, drainage, utilities, infrastructure, curbs, gutters, street lights, fire hydrants, storm water management and water and wastewater facilities;

(6) Standards for flood-prone or subsidence areas;

(7) A review process for subdivision or land development plans and plats by the planning commission;

(8) An approval process for subdivision or land development plans and plats by the planning commission, including the authority to approve subdivision or land development plans and plats with conditions;

(9) A process to amend final approved subdivision or land development plans and plats;



(10) A requirement that before development of the land is commenced, subdivision and land development plans and plats must be approved by the applicable planning commission, in accordance with the comprehensive plan, if a comprehensive plan has been adopted;

(11) A requirement that after approval of the subdivision or land development plat by the planning commission or by the planning commission staff if approval has been appropriately delegated to staff, and before ~~the subdivision or development of the land~~ any construction on the land is commenced, the subdivision and land development plat shall be recorded in the office of the clerk of the county commission where a majority of the land to be developed lies;

(12) A schedule of fees to be charged which are proportioned to the cost of checking and verifying proposed plats;

(13) The process for granting waivers from the minimum standards of the subdivision and land development ordinance;

(14) Improvement location permit process, including a requirement that a structure or development of land is prohibited without an improvement location permit;

(15) The acceptable methods of payment to cover the cost of the water and sewer service infrastructure, which can include, but are not limited to, bonds, impact fees, escrow fees and proffers;

(16) The process for cooperating and coordinating with other governmental agencies affected by the subdivision and land development and use; and

(17) Penalties for violating the subdivision and land development ordinance.

(b) A subdivision and land development ordinance may include the following provisions:

(1) Establishing a board of subdivision and land development appeals with the same powers, duties and appeals process as set out for the board of zoning appeals under the provisions of article eight of this chapter;

(2) Requirements for green space, common areas, public grounds, walking and cycling paths, recreational trails, parks, playgrounds and recreational areas;

(3) ~~Encourage~~ Guidelines for the use of renewable energy systems and energy-conserving building design;

(4) Vested property right, including requirements;

(5) Exemptions of certain types of land development from the subdivision and land development ordinance requirements, including, but not limited to, single-family residential structures and farm structures; and

(6) Any other provisions consistent with the comprehensive plan the governing body considers necessary.

(c) All requirements, for the vesting of property rights contained in an ordinance enacted pursuant to this section that require the performance of any action within a certain time period for any subdivision or land development plan or plat valid under West Virginia law and outstanding as of January 1, 2010, shall be extended until July 1, 2012, or longer as agreed to by the municipality, county commission or planning commission. The provisions of this subsection also apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit or other agreement or zoning action be terminated or ended by a certain date or within a certain number of years.

## **ARTICLE 5. SUBDIVISION OR LAND DEVELOPMENT PLAN AND PLAT.**

### **§8A-5-1. Jurisdiction of planning commissions.**

(a) A planning commission has the authority to:

(1) Approve a minor subdivision or land development application within its jurisdiction;

(2) Exempt an application for a minor subdivision or land development within its jurisdiction; and

(3) Approve a major subdivision or land development application within its jurisdiction.

(b) The staff of a planning commission has the authority to approve a minor subdivision or land development application within its jurisdiction, if granted such authority by the governing body in the subdivision and land development ordinance.

(c) If a subdivision or land development plan and plat cannot be approved through the minor subdivision or land development process, then an applicant must use the major subdivision or land development approval process.

(d) If a governing body has adopted detailed standards for final plats as part of a subdivision and land development ordinance, the planning commission may delegate to its staff the authority to approve preliminary or provisional land development plan or subdivision plat that is consistent with the adopted standards for final plats and the requirements of the adopted subdivision and land development ordinance.

(e) The planning commission may delegate to its staff the authority to determine completeness, phasing, changes, and technical review for major subdivisions or land development applications, if a governing body has adopted detailed process provisions, procedures, or checklists for major subdivisions or land development applications: *Provided, That* a staff review does not take longer than would a planning commission review. Any applicant may request, in writing to the planning commission, that such a delegated review shall revert to a planning commission review, in which case the time required for review begins at the date of the request.

**§8A-5-3. Application for minor subdivision or land development.**

(a) An applicant submits a copy of a land development plat and the fees to the planning commission having jurisdiction over the land.

(b) Within seven days after the submission of the subdivision or land development plat, ~~the applicant and the staff of the planning commission shall~~ offer to meet with the applicant to discuss the proposed subdivision or land development and the criteria used to classify the proposal as minor: *Provided, That* if the applicant requests such a meeting, staff shall meet with the applicant to discuss the proposed subdivision or land development and the criteria used to classify the proposal as minor.

(c) The staff of the planning commission may make a site inspection of the proposed subdivision or land development.

(d) Within ten days after the submission of the subdivision or land development plat or within five days of the meeting, between the planning commission staff and the applicant, whichever comes later, the staff of the planning commission shall notify the applicant in writing that whether the proposed subdivision or land development has been classified a minor subdivision or land development.

## PART II. MAJOR SUBDIVISION OR LAND DEVELOPMENT PROCESS.

### **§8A-5-6. Application for major subdivision or land development.**

(a) An applicant for approval of a major subdivision or land development plan and plat shall submit written application, a copy of the proposed land development plan and plat, and the fees to the planning commission having jurisdiction over the land.

(b) Within ~~forty-five~~ 45 days after receipt of the application, the planning commission, or its staff if the planning commission has delegated such authority, shall review the application for completeness and either accept or deny it: Provided, That if the planning commission's next regularly scheduled meeting that would meet public notice requirements is scheduled within 60 days of receipt of the application, it may review the application for completeness and either accept or deny it at its next regularly scheduled meeting.

(c) If the application is not complete, then the planning commission may deny the application and must notify the applicant in writing stating the reasons for the denial.

### **§8A-5-8. Approval of major subdivision or land development plans and plats.**

(a) Upon written request of the applicant for a determination, the planning commission must determine by vote at the next regular meeting or at a special meeting, whether or not the application is complete based upon a finding that the application meets the requirements set forth in its governing body's subdivision and land development ordinance. The planning commission may delegate this review to planning commission staff.



(b) If a governing body's subdivision and land development ordinance does not specify what may be included in a land development plan and plat, then the planning commission must determine that an application is complete if the application meets the requirements set forth in subsection (b), section seven of this article.

(c) At a meeting where the application is determined to be complete, the planning commission must set a date, time and place for a public hearing and a meeting to follow the public hearing to vote on the application. The public hearing must be held within 45 days: Provided, That if the planning commission's next regularly scheduled meeting that would meet public notice requirements is scheduled within 60 days of receipt of the application, it may hold the public hearing at its next regularly scheduled meeting. ~~and the~~ The planning commission ~~must~~ shall notify the applicant of the public hearing and meeting in writing unless notice is waived in writing by the applicant. The planning commission must publish a public notice of the public hearing and meeting in a local newspaper of general circulation in the area at least ~~twenty-one~~ 21 days prior to the public hearing.

(d) At a meeting at the conclusion of the public hearing or a meeting held within fourteen days after the public hearing, the planning commission shall vote to approve, deny or hold the application.

(e) The application may be held for additional information necessary to make a determination. An application may be held for up to forty-five days.

(f) The planning commission shall approve the application after the planning commission determines that an application is complete and meets the requirements of the governing body's subdivision and land development ordinance; or if the governing body does not have a subdivision and land development ordinance or if the subdivision and land development ordinance does not specify what may be included in a subdivision or land development plan and plat, that the application meets the requirements set forth in subsection (b) section seven of this article.

(g) If the planning commission approves the application, then the planning commission shall affix its seal on the subdivision or land development plan and/or plat.

(h) If the planning commission approves the application with conditions, then the planning commission must specify those conditions.

(i) If the planning commission denies the application, then the planning commission shall notify the applicant in writing of the reasons for the denial. The applicant may request, one time, a reconsideration of the decision of the planning commission, which request for reconsideration must be in writing and received by the planning commission no later than ten days after the decision of the planning commission is received by the applicant.

## **ARTICLE 8. BOARD OF ZONING APPEALS.**

### **§8A-8-4. County board of zoning appeals.**

(a) A county board of zoning appeals shall have five members to be appointed by the governing body of the county.

(b) The members of a county board of zoning appeals must be:

(1) Residents of the county for at least three years preceding his or her appointment;

(2) Cannot be a member of the county planning commission; and

(3) Cannot hold any other elective or appointive office in ~~the county~~ that county's government: Provided, That a member of the county board of zoning appeals may also serve as a member of the county board of subdivision and land development appeals.

(c) Where only a portion of the county is zoned, the members of the board of zoning appeals for that part of the county that is zoned, must be:

(1) Residents of that part of the county that is zoned for at least three years preceding his or her appointment;

(2) Cannot be a member of the county planning commission; and

(3) Cannot hold any other elective or appointive office in the county government: Provided,  
That a member of the county board of zoning appeals may also serve as a member of the county  
board of subdivision and land development appeals.

(d) Upon the creation of a board of zoning appeals, the members shall be appointed for the  
following terms: One for a term of one year; two for a term of two years; and two for a term of three  
years. The terms shall expire on January 1, of the first, second and third year, respectively,  
following their appointment. Thereafter, members shall serve three-year terms. If a vacancy  
occurs, the governing body of the county shall appoint a member for the unexpired term.

(e) The governing body of the county may appoint up to three additional members to serve  
as alternate members of the county board of zoning appeals. The alternate members must meet  
the same eligibility requirements as set out in subsection (b) or subsection (c) of this section, as  
applicable. The term for an alternate member is three years. The governing body of the county  
may appoint alternate members on a staggered term schedule.

(f) An alternate member shall serve on the board when one of the regular members is  
unable to serve. The alternate member shall serve until a final determination is made in the matter  
to which the alternate member was initially called on to serve.

(g) The county board of zoning appeals shall establish rules and procedures for  
designating an alternate member. An alternate member shall have the same powers and duties of  
a regular board member.

(h) The members and alternate members of a county board of zoning appeals shall serve  
without compensation, but shall be reimbursed for all reasonable and necessary expenses  
actually incurred in the performance of their official duties.

#### **§8A-8-5. Board of zoning appeals meetings.**

(a) A When there is business to conduct, a board of zoning appeals shall meet at least  
semiannually, ~~quarterly~~ and may meet more frequently at the written request of the chairperson or  
by two or more members.

4 (b) Notice for a special meeting must be in writing, include the date, time and place of the  
5 special meeting, and be sent to all members at least two days before the special meeting.

6 (c) Written notice of a special meeting is not required if the date, time and place of the  
7 special meeting were set in a regular meeting.

NOTE: The purpose of this bill relates to land use planning. The bill provides flexibility in timelines to allow planning commissions to promptly address applications; and addresses difficulties with finding qualified members for public boards. It modifies definitions; modifies the frequency of planning commission meetings; clarifies contents of subdivision and land development ordinances; addresses jurisdiction of planning commission; clarifies process for minor proposals; modifies provisions related to approval of major proposals; provides for flexibility in qualifications for county boards of zoning appeals; and modifies frequency of board of zoning appeals meetings.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.





## *Article 23 Administrative Bodies*

### **Division 23.100 Purpose**

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The purpose of this Article is to define the role of boards and agencies involved in the subdivision plat and site plan approval process. Participants include the County Commission, Planning Commission, Department staff, WVDOH, and other agencies responsible for the provision of public services.

### **Division 23.200 Administration**

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- A. **Discretion.** The administration of these Subdivision and Land Development Regulations provides for discretion only where specifically authorized. While West Virginia law requires a public hearing for land use proposals, there is no discretion in the review and approval process outside of the requirements of the Zoning Ordinance or the Subdivision and Land Development Regulations. A proposed plat or plan that meets the ordinance and regulatory standards must be approved. Only when there are specific findings that the application does not meet the standards of the ordinance or the regulations, is denial possible.
- B. **Relationship to Zoning Ordinance.** Both subdivision and site development approval are the points at which two separate regulations must be enforced: the Zoning Ordinance and the Subdivision and Land Development Regulations. As a result, different agencies have responsibilities to review the subdivision or site development at the same time.
- C. **Administration.** This Division specifically identifies the administrative bodies that are charged with making a determination of compliance. It is possible to improve the design of a development during the review process, and that is an important factor in the quality of the County's community character. Concerns about quality are addressed by conditional approvals, not denial.

### **Sec. 23.201 County Commission**

The County Commission is responsible for setting in place a means of administering these Subdivision and Land Development Regulations and ensuring enforcement of the County's Zoning Ordinance. As such it has the following powers and duties:

- A. **Adoption and Amendment.** As specified in Chapter 8A of the West Virginia Code, the County Commission has sole responsibility for the adoption and amendment of the subdivision and site development regulations. It is advised in these matters by staff and the Planning Commission.
- B. **Appointment of the Planning Commission.** In accordance with W.Va. Code §8A-2-1, the County Commission shall appoint members of the Planning Commission.
- C. **Planning Staff.** In order to administer and enforce these Regulations, the County Commission shall fund and hire staff, which shall also serve as the staff of the Planning Commission.
- D. **Removal of Planning Commission Members.** Members of the Planning Commission may be removed in accordance with Chapter 6, Article 6 of the West Virginia Code, or in



accordance with any procedures which may have been established by the County Commission pursuant to W.Va. Code §8A-2-5(k).

**Sec. 23.202 Department of Engineering, Planning, and Zoning<sup>7</sup>**

The Department of Engineering, Planning, and Zoning is the County's lead in ensuring that all regulations are met in the review of subdivision plats and site plans. They are specifically charged with the following review responsibilities:

- A. **Zoning Compliance.** The Department shall review all plat or site plan applications for zoning compliance. They shall provide the Planning Commission with a written opinion as to whether the plat or site plan complies with the Zoning Ordinance. If the staff determines that waivers are appropriate, staff shall recommend approval of these waivers to the Planning Commission.
- B. **Subdivision and Site Development.** Staff shall be responsible for the following:
  - 1. Reviewing and approving applications for minor subdivisions.
  - 2. Reviewing and approving applications for minor site plans.
  - 3. Conducting pre-application and pre-proposal conferences or reviews with developers.
  - 4. Conducting submission review in accordance with Section 24.110, *Major Subdivision Concept Plan – Submission and Completeness Review*, and Section 24.113, *Major Subdivision Preliminary Plat – Submission and Completeness Review*. The Planning Commission must vote on this, but the Department shall ensure that applications are complete before sending them to the Planning Commission. A developer may request it be submitted to the Planning Commission even if the Department determines that it is an incomplete application.
  - 5. Make professional recommendations on the adequacy of submitted major subdivision plats and major site plans including all design, engineering, and landscape elements.
  - 6. Ensure written communication to the applicant of the status of the project.
  - 7. Collect input from all other agencies involved in the review process.
  - 8. Ensure public notice is provided by appropriate means for all forms of action that require notice.
- C. **Staff Report.** The Department shall provide a staff report to the Planning Commission. Such report shall accompany concept plans, preliminary plats, final plats, and major site plan submissions. The report shall indicate one of the following:
  - 1. **Approval.** If the plat or plan meets all requirements of applicable County ordinances or codes, the staff report shall recommend approval.
  - 2. **Denial.** If the plat or plan fails to meet the requirements of any applicable County ordinance or code, the staff report shall recommend denial except as provided in 3 below:
  - 3. **Approval with Conditions.** The Department may recommend approval with conditions if there are easily changed elements of the plat or plan or minor nonconformities that can be corrected.



**Sec. 24.104 Minor Subdivision Plat Application– Determination**

**General.** An applicant for a minor subdivision plat shall be subject to the procedures of this Section upon submittal of a final plat application and the corresponding fees to the Planning Commission. All minor subdivision plats shall follow the final plat standards in Appendix A, *Plan & Plat Standards*.

- A. **Application Meeting.** Within seven days after the submission of the final plat, the applicant and the staff shall meet to discuss the proposed subdivision and the criteria used to classify the proposal as minor. The applicant may choose to waive this meeting but shall do so upon submission.
- B. **Site Inspection.** The staff shall make a site inspection of the proposed subdivision.
- C. **Determination.** Within ten days after the submission of the subdivision final plat, the staff shall notify the applicant in writing that the proposed subdivision has or has not been classified as a minor subdivision.
- D. **Approval.** Within ten days after the subdivision has been classified a minor subdivision, the staff shall approve, approve with conditions, or deny the plat. If the plat has been approved with conditions, the applicant shall be notified in writing of the conditions. The plat shall not be considered approved until all conditions are met and documented by staff.
- E. **Recordation.** The applicant shall have 60 days after approval to file and record the final plat, together with any deed restrictions/covenants as may be required, in accordance with W.Va. Code §39-1-13. The approval shall become void if it is not filed within the 60 day period. The following documents shall be submitted to the Office of Planning and Zoning:
  - 1. One (1) Mylar copy of the Final Plat suitable for recordation and acceptable to the Clerk of Jefferson County;
  - 2. Three (3) paper copies of the Final Plat;
  - 3. One (1) digital copy of the Final Plat compatible with the Jefferson County GIS, as specified by the Jefferson County GIS requirements; and
  - 4. One (1) digital copy of any deed restrictions/covenants in a form suitable to the Department.







# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

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

Charles Town, WV 25414

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

Phone: (304) 728-3228

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

Fax: (304) 728-8126

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## Planner's Memorandum

### Planning Commission Meeting

May 9, 2023

#### 1) 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: **June 13, 2023**



# Non-Actionable Correspondence

**From:** [Planning Department](#)  
**To:** ["Alan Dattelbaum"](#)  
**Subject:** RE: Suggestion  
**Date:** Tuesday, April 18, 2023 2:19:00 PM

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Good afternoon,

This is to confirm receipt of your email. A copy of your email will be included in the May 9, 2023 Planning Commission packet. The packet will be posted on the [County's website](#) no later than Friday, May 5, 2023.

Thank you and have a nice day.

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

**From:** Alan Dattelbaum <aldattel@gmail.com>  
**Sent:** Tuesday, April 18, 2023 10:56 AM  
**To:** Planning Department <PlanningDepartment@jeffersoncountywv.org>  
**Cc:** Alan Dattelbaum <aldattel@gmail.com>  
**Subject:** Suggestion

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

Hi Alex,

**Please pass along to the Planning Commission for discussion:**

**Dust Control For Large Scale Projects. I recommend this because large amounts of dust is being kicked up by the heavy equipment especially along Kabletown Rd. Those poor people (along with the rest of us), are having to breath the dust, and I am sure will have to have their houses power washed. Braden had originally said they would take this into consideration during dry spells, (by wetting down the field), but when I asked him about it he passed me to Josh.**

**Thanks,  
Alan**



**From:** [Mary Edwards](#)  
**To:** [Planning Department](#)  
**Subject:** Re: Suggestion  
**Date:** Thursday, April 20, 2023 10:03:26 AM

---

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

My husband is calling both offices. We shouldn't have to deal with dust and smoke. The dust should be watered down.

Mary Edwards

On Thu, Apr 20, 2023, 9:50 AM Planning Department  
<[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)> wrote:

Ms. Edwards,

This is to confirm receipt of your email. A copy of your email will be included in the May 9, 2023 Planning Commission packet under nonactionable correspondence. The packet will be posted on the [County's website](#) no later than Friday, May 5, 2023.

Regarding burning, I believe that a permit through the Division of Forestry is required to be obtained for burning related to commercial development. You could reach out to their office to find out if there are any measures required to be in place for controlled burning (<https://wvforestry.com/>).

Regarding dust, I'm not aware of any regulations in place related to dust from construction. Have you contacted the WV Department of Environmental Protection? They have an air quality division who may be able to provide some insight (<https://dep.wv.gov/daq/Pages/default.aspx>).

Thank you,

Alex

Alexandra Beaulieu

Zoning Administrator

Jefferson County, WV

304-728-3228

**From:** Mary Edwards <[marybeliever@gmail.com](mailto:marybeliever@gmail.com)>  
**Sent:** Wednesday, April 19, 2023 5:17 PM  
**To:** Planning Department <[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)>  
**Subject:** Fwd: Suggestion

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

My response to Alan Dattelbaum's email to Alex about solar farm dust situation. This needs to get under control

----- Forwarded message -----

**From:** Mary Edwards <[marybeliever@gmail.com](mailto:marybeliever@gmail.com)>  
**Date:** Wed, Apr 19, 2023, 1:25 PM  
**Subject:** Re: Suggestion  
**To:** Alan Dattelbaum <[aldattel@gmail.com](mailto:aldattel@gmail.com)>

Thank you Alan. We had to shut our windows and we weren't happy. The dust should be WATERED down. And being out in the front right off Kabletown Rd we dont appreciate the BURNING .. again had to shut windows. Smoke everywhere. They are going to have to understand there are PEOPLE here and neighborhoods. And any one of all of them including the Planning commission wouldn't like it either.

Mary Edwards ☺

On Wed, Apr 19, 2023, 11:05 AM Alan Dattelbaum <[aldattel@gmail.com](mailto:aldattel@gmail.com)> wrote:

FYI: my suggestion, and their response

----- Forwarded message -----

**From:** Alan Dattelbaum <[aldattel@gmail.com](mailto:aldattel@gmail.com)>  
**Date:** Tue, Apr 18, 2023 at 4:26 PM  
**Subject:** Re: Suggestion  
**To:** Planning Department <[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)>

Jenn, Thank You.

On Tue, Apr 18, 2023 at 2:19 PM Planning Department  
<[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)> wrote:

Good afternoon,

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Jennilee Hartman, Zoning Clerk

Office of Planning and Zoning

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**Sent:** Tuesday, April 18, 2023 10:56 AM

**To:** Planning Department <[PlanningDepartment@jeffersoncountywv.org](mailto:PlanningDepartment@jeffersoncountywv.org)>

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**Subject:** Suggestion

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**field), but when I asked him about it he passed me to Josh.**

**Thanks,**

**Alan**







**YOU ARE  
INVITED  
TO THE OFFICIAL  
GROUND  
BREAKING  
CEREMONY  
FOR THE  
BLAKE  
SOLAR  
PROJECT**

7015 Kabletown Rd, Charles Town, WV 25414

**THUR**

**MAY**

**18th**

**10AM**

Snacks & Refreshments To Follow

RSVP Requested By May 5th

[nfortuny@opdenenergy.com](mailto:nfortuny@opdenenergy.com) or text 704-941-5717