



**Jefferson County**  
**Board of Zoning Appeals Agenda**  
**Thursday, May 25, 2023 at 2:00 p.m.**

Members  
Tyler Quynn, Chair  
Matthew McKinney, Vice Chair  
Steven Guier, Secretary  
David Wiegand  
Jacob Harris  
Mikala Shremshock, Alternate

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

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

**ZOOM Meeting Information:** Meeting ID: 842 4393 2122  
Meeting Link: <https://us02web.zoom.us/j/84243932122>  
Phone Option (Dial by Location): 301-715-8592  
Find your local number: <https://us02web.zoom.us/u/kbV2n7NGUY>

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

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

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**Approval of Minutes: April 27, 2023**

**Public Hearing – Administer Oath**

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**ITEM #1 FILE #: 23-3-CUP**

**Request:** Request for a Conditional Use Permit to operate a Special Event Facility, as defined in Article 2 of the Zoning Ordinance (Project Name: “Colonial Estate”). The proposal consists of hosting up to 5 events per year with a maximum capacity of 100 guests. The applicant is proposing a maximum of 30 grass parking spaces. No signs are proposed.

**Owner:** K5 Investments / Attn: Keith and Kelly LaGala

**Applicant:** Potomac Adventure, LLC / Attn: Cathy Gray

**Parcel Info:** 350 Bakerton Road, Harpers Ferry, WV 25425

Parcel ID: 04000700060000; Parcel Size: 13.4 acres; Project Size: 1 acre;

Zoning District: Residential Growth

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**ITEM #2 FILE #: 23-16-ZV**

**Request:** Variance from Appendix A to reduce the minimum lot size requirement from 20,000 square feet to 19,088 square feet to allow a six (6) unit apartment complex to be constructed (Aspen Hill Apartments File 23-2-SP).

**Owner:** L & C Horning LLC

**Applicant:** TriState Investments / Attn: Chris Hill

**Parcel Info:** Vacant lot on the northeastern corner of Martinsburg Pike and Maddex Drive, Shepherdstown, WV

Parcel ID: 09000800170001; Parcel Size: .43 acres; Zoning District: Residential Growth

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**ITEM #3 FILE #: 23-17-ZV**

**Request:** Variance from Section 5.7B of the Zoning Ordinance (as amended 07/15/93) to reduce the rear setback from 50’ to 15’ for a 30’ x 80’ accessory structure (2,400 sf detached garage).

**Owner:** Jason Duncan

**Parcel Info:** 111 Bitner Lane, Kearneysville, WV

Parcel ID: 07000300010003; Parcel Size: 2.73 acres; Zoning District: Rural

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**ITEM #4 FILE #: 23-18-ZV**

Request: Variance from Appendix A to reduce the rear setback from 50' to 4' along the southern property line for a 10' x 16' accessory structure (160 sf storage shed).

Owner: David Brown and Michelle Mitchell-Brown

Parcel Info: 229 Bethany Lane, Charles Town, WV

Parcel ID: 06002100070005; Parcel Size: 4.53 acres; Zoning District: Rural

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**ITEM #5 FILE #: 23-5-CUP**

Request: Request for a Conditional Use Permit to operate a Commercial Storage facility, as defined in Article 2 of the Zoning Ordinance. The proposal includes expansion of an existing legal nonconforming self-storage facility, Valley Storage Shepherdstown.

Owner: Valley Storage Shepherdstown / Attn: Todd Snook

Parcel Info: 1744 Shepherd Grade Road, Shepherdstown, WV

Parcel ID: 09000300200001; Parcel Size: 10 acres; Zoning District: Rural

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**Zoning Administrator Report**

- a. Revised 2023 Board of Zoning Appeals Meeting Schedule
- b. Memorandum re: Finalized Rules of Procedure that were amended October 27, 2022
- c. Discussion related to various zoning application types and the Board's role/authority.
- d. Monthly Zoning Certificate Activity Report

**Legal Update**

- a. Discussion of the following pending lawsuits:
  1. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities) Rockwell v. JCPC, JCBZA and JCCC
  2. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy Facility / File 22-9-CUP) Rockwell v. JCBZA
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

**Meeting: April 27, 2023**

1. Appeal of the Zoning Administrator's determination. Applicant: Panhandle Legal / Attn: Christopher Stroeck, Esq. Owner: Whisper Ridge LLC / Attn: Patricia Sanderson. File 23-1-AP.
2. Request for a Special Exception Permit for an off-premise sign for Auto Depot (23-1-SE); and, Variance from Section 10.5. Owner: Jackson Kiley.
3. Variance from Section 9.7. Owner: Tim Williamson. File: 23-13-ZV.

## Minutes

### Jefferson County Board of Zoning Appeals

1 Meeting Date: April 27, 2023  
2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held  
3 in-person in the County Commission Meeting Room located in the  
4 lower level of the Charles Town Library and virtually via ZOOM.  
5 Board Members Present: Tyler Quynn, Chair; Matthew McKinney, Vice Chair; Steve Guier,  
6 Secretary; Jacob Harris, David Wiegand, and Mikala Shremshock,  
7 Alternate, were present in person.  
8 Board Members Absent: None  
9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Steve Groh, Assistant  
10 Prosecuting Attorney; Jennilee Hartman, Zoning Clerk; and Michelle  
11 Evers, Planning Clerk.

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

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

15 Mr. Quynn reviewed meeting protocol for those in attendance and noted that Item #1 on the Agenda  
16 would be moved to the end of the Agenda.

#### 17 **Approval of Minutes: March 23, 2023**

18 Mr. McKinney moved to approve the minutes as presented. Mr. Quynn called for a vote, which  
19 carried unanimously.

20 Ms. Hartman swore in members of the public who indicated they would be providing testimony.

#### 21 **AGENDA ITEM #2 FILE #: 23-1-SE and 23-15-ZV**

22 Request 1: Request for a Special Exception Permit to allow a 100 square foot Off-Premises sign  
23 for Auto Depot (File 23-1-SE).

24 Request 2: Variance from Section 10.5A.1 to increase the maximum size of an Off-Premises Sign  
25 from 60 sq ft to 100 sq ft.; Section 10.5A.2 to allow an Off-Premise Sign to be located  
26 closer than 300' to an existing sign; and Section 10.5A.5 to allow an Off-Premises  
27 Sign to be located closer than 300' to an intersection on a dual highway.  
28 (File 23-15-ZV).

29 Owner: Jackson Kiley

30 Parcel Info: 107 Kerns Drive, Harpers Ferry, WV 25425

31 Parcel ID: 04000900110000; Size: 2.25 acres; Zoning District: Industrial Commercial

32 Mr. Jackson Kiley, property owner, was present to address the Board. Ms. Beaulieu provided an  
33 overview of her staff report that referenced both requests. Ms. Beaulieu explained it was the  
34 applicant's intent to relocate their auto sales and service business to the subject parcel at a future  
35 date. She stated that in the meantime, the applicant would like to erect a business sign on the subject  
36 property to advertise their existing auto business (currently located off of Berryville Pike).  
37 Ms. Beaulieu stated that the proposed sign is classified as an off-premises sign because it is not  
38 located on the same property as the business. Ms. Beaulieu summarized the variance request from  
39 Section 10.5A to increase the maximum size of the sign and reduce the required distance between  
40 the proposed sign and an existing sign.

41 Mr. Kiley concurred with staff's summary of the two requests.

42 Mr. Quynn opened the public hearing. Mr. Geremey Engle spoke in support of the request. Mr. Quynn  
43 closed the public hearing.

- 1 Mr. McKinney moved to approve the Special Exception Permit request #23-1-SE and zoning
- 2 variance request #23-15-ZV with the condition that the applicant is bound by their testimony.
- 3 Mr. Quynn called for a vote, which carried unanimously.

4 **AGENDA ITEM #3 FILE #: 23-3-CUP - WITHDRAWN**

- 5 Request: Request for a Conditional Use Permit to operate a homebased federal firearms business
- 6 from a portion of a new 40' x 80' detached residential storage structure (currently under
- 7 construction). The use will be primarily conducted online and does not include a readily
- 8 available inventory. Business hours are by appointment only, with occasional customer
- 9 visits (1-2 per month) to complete the firearm transfer. No employees other than the
- 10 property owner. No signs are proposed. The proposed land use designation as listed in
- 11 Appendix C is Retail Sales and Service, General, as defined in Article 2.
- 12 Owner: Patrick Kiser
- 13 Parcel Info: Shirley Estates, Lot 6, 135 Breeze Knoll Way, Charles Town, WV
- 14 Parcel ID: 06000100010006; Parcel Size: 3 acres; Project Size: 1 acre;
- 15 Zoning District: Rural

16 This request had been withdrawn by the property owner.

17 **AGENDA ITEM #4 FILE #: 23-13-ZV**

- 18 Request: Variance from Section 9.7 to reduce the side setback along the northern property line
- 19 from 12' to 2' for an opaque fence varying in height from 20' to 30'.
- 20 Owner: Tim Williamson
- 21 Parcel Info: Shannondale, Section 21J, Lots 29, 30, 76, 525 Wren Lane, Harpers Ferry, WV
- 22 Parcel ID: 02023L00070000; Size: 1.6 acres; Zoning District: Rural

23 Mr. Tim Williamson, property owner, was present to address the Board. Ms. Beaulieu provided an  
24 overview of her staff report. Ms. Beaulieu explained that the Board's role was to evaluate the  
25 requested setback reduction as it relates to the proposed fence.

26 Mr. Williamson explained the nature of the request to the Board noting that the adjacent property  
27 owner had erected cameras along the property line that are aimed at his backyard. Mr. Williamson  
28 stated that the purpose of the fence is to protect the privacy of his property. Mr. Williamson also  
29 explained that he is unable to accommodate the required 12' side setback due to the location of his  
30 existing pool.

31 Mr. Quynn opened the public hearing.

32 Mr. Richard Rothman, adjacent property owner, donated his allotted three (3) minutes to Ms.  
33 Gallagher.

34 Ms. Susan Gallagher, adjacent property owner, spoke in opposition to the request. Ms. Gallagher  
35 provided the Board with two handouts for their consideration. A copy of the handouts have been  
36 included in the project file.

37 Ms. Barbara Durant, neighboring property owner, spoke in opposition to the request (via ZOOM).

38 Mr. Christopher Stroech, attorney for Mr. Rothman and Ms. Gallagher, spoke in opposition to the  
39 request.

40 Ms. Christine McCarthy, tenant of the property owner, spoke in support of the request.

41 Mr. Quynn closed the public hearing.

1 In rebuttal, Mr. Williamson acknowledged the existence of the court ordered plat and agreed to use  
2 the court ordered survey markers placed by Mr. Ed Johnson (surveyor). Mr. Williamson stated that  
3 he would be using a bosun chair to assist in maintaining the opposite side of the fence to avoid  
4 trespassing on the adjacent parcel.

5 Mr. Groh clarified that while the Board is not evaluating the height of the fence they are permitted  
6 to consider the height as it relates to the requested setback reduction.

7 Mr. McKinney moved to approve zoning variance request #23-13-ZV with the condition that the  
8 applicant is bound by their testimony. Mr. Quynn offered a friendly amendment to modify the  
9 setback reduction from 2' to 3'. Mr. McKinney accepted the friendly amendment. Mr. Quynn called  
10 for a vote on the amended motion, which carried four in support and one opposed (Jacob Harris).

11 **AGENDA ITEM #1 FILE #: 23-1-AP**

12 Request: Appeal of the Zoning Administrator's determination that any nonconforming use that  
13 may have existed on the subject parcel when the Zoning Ordinance became effective  
14 has been abandoned by virtue of the recordation of the final plat for the Beacon Hill /  
15 Waterside Reserve Subdivision.

16 Owner: Whisper Ridge LLC / Attn: Patricia Sanderson

17 Applicant: Panhandle Legal / Attn: Christopher Stroeck, Esq.

18 Parcel Info: Waterside Reserve Subdivision, Open Space Parcel

19 Vacant parcel located off Wilt Rd., Charles Town, WV

20 Parcel ID: 02020B0OS10000; Size: 6 acres; Zoning District: Rural

21 Ms. Patricia Sanderson, Mr. David Leonard and Attorney Christopher Stroeck were present on  
22 behalf of Whisper Ridge LLC. Ms. Beaulieu provided an overview of her staff report highlighting  
23 the history of the subject parcel and the Waterside Reserve Subdivision. Ms. Beaulieu provided an  
24 overview of her determination.

25 Mr. Stroeck explained the history of the subject parcel and noted that the campground had not  
26 ceased operation. Mr. Stroeck argued that Staff's determination was based on the applicant's "intent  
27 to abandon" and not the physical act of abandonment. Mr. Stroeck noted that the applicant provided  
28 documentation to support that the campground had been in continued use since prior to the adoption  
29 of Zoning. Mr. Stroeck acknowledged that while the processing of the subdivision showed the  
30 intent to utilize the subject parcel as Open Space, this intent was never realized. Mr. Stroeck added  
31 that the subdivision covenants and restrictions were amended in 2009 to exclude the Open Space lot  
32 from the subdivision and that a Quit Claim Deed in 2011 formally removed the Open Space from  
33 the subdivision. Mr. Stroeck pointed out that the lots that were subsequently sold within the  
34 development were done so with the buyers' understanding that the subject Open Space parcel was  
35 not included in the subdivision. Mr. Stroeck acknowledged that there may have been a procedural  
36 error in not updating/amending the prior approvals to the Community Impact Statement and the  
37 Final Plats.

38 Ms. Sanderson addressed the Board's questions regarding the subdivision process and the continued  
39 use of the campground.

40 Mr. Quynn opened the public hearing.

41 Jeremy Engle, Scott Beveridge, Karla Hanes, Hazel Myers, Sean Brinkmyer, Jean Cross, Carla  
42 Champlain, Laurie Cook and Wade Sanderson spoke in support of the appeal and addressed the  
43 continued use of the campground.

44 Mr. Quynn closed the public hearing.

1 Ms. Beaulieu provided a response to the appeal. Ms. Beaulieu stated that determinations related to  
2 nonconforming uses require substantial research are not made in haste. She stated that the definition  
3 of Abandoned in Article 2 of the Zoning Ordinance specifically refers to the “intent” to continue a  
4 nonconforming use. Ms. Beaulieu stated that her determination was based on the fact that the  
5 applicant had repeatedly represented to Staff as well as to the Planning Commission in Public  
6 Hearings their intent to dedicate the subject parcel as Open Space for the residential subdivision.  
7 Ms. Beaulieu stated that describing the subject parcel as open space in the Community Impact  
8 Statement and delineating the parcel as Open Space on the Final Plat were proffered by the  
9 developer and were the basis of her determination that *if* a campground existed in 2002, the *intent* to  
10 continue operating a campground was not represented and thereby, the use was abandoned by virtue  
11 of the approved residential subdivision.

12 Mr. Stroech stated that should the Board uphold Ms. Beaulieu’s determination, the applicant would  
13 be required to comply with the current standards for a campground. Mr. Stroech noted that the  
14 current campground requirements were onerous and that the subject parcel would not be able to  
15 adhere to the requirements without numerous variances and waivers. Mr. Stroech explained that  
16 should the Board overturn Ms. Beaulieu’s determination that the campground would be permitted to  
17 continue as a nonconforming use. Mr. Stroech acknowledged that should the Board overturn the  
18 Zoning Administrator’s decision, the applicant may have to process through the Planning  
19 Commission to amend the previously approved final plat.

20 Mr. Wiegand moved to go into deliberative session at 4:22 pm. Mr. Quynn called for a vote, which  
21 carried unanimously.

22 Mr. Wiegand moved to come out of deliberative session at 5:31 pm. Mr. Quynn called for a vote,  
23 which carried unanimously.

24 Mr. McKinney moved to grant the appeal with the following conditions:

- 25 1. The applicants are bound by their testimony; and
- 26 2. The applicants will amend the final plat.

27 Mr. Harris seconded the motion. Mr. Quynn called for a vote which carried three (3) in support and  
28 two (2) in opposition (Mr. Quynn and Mr. Wiegand).

### 29 **Zoning Administrator’s Report**

30 Ms. Beaulieu noted the next meeting date was May 25, 2023.

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

### 32 **Legal Update**

- 33 a. Discussion of the following pending lawsuit(s):

34 1. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy  
35 Facilities) Rockwell v. JCPC, JCBZA and JCCC.

36 2. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy  
37 Facility / File 22-9-CUP) Rockwell v. JCBZA.

38 No legal update was provided.

- 39 b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

40 **Meeting: March 23, 2023**

Board of Zoning Appeals

April 27, 2023

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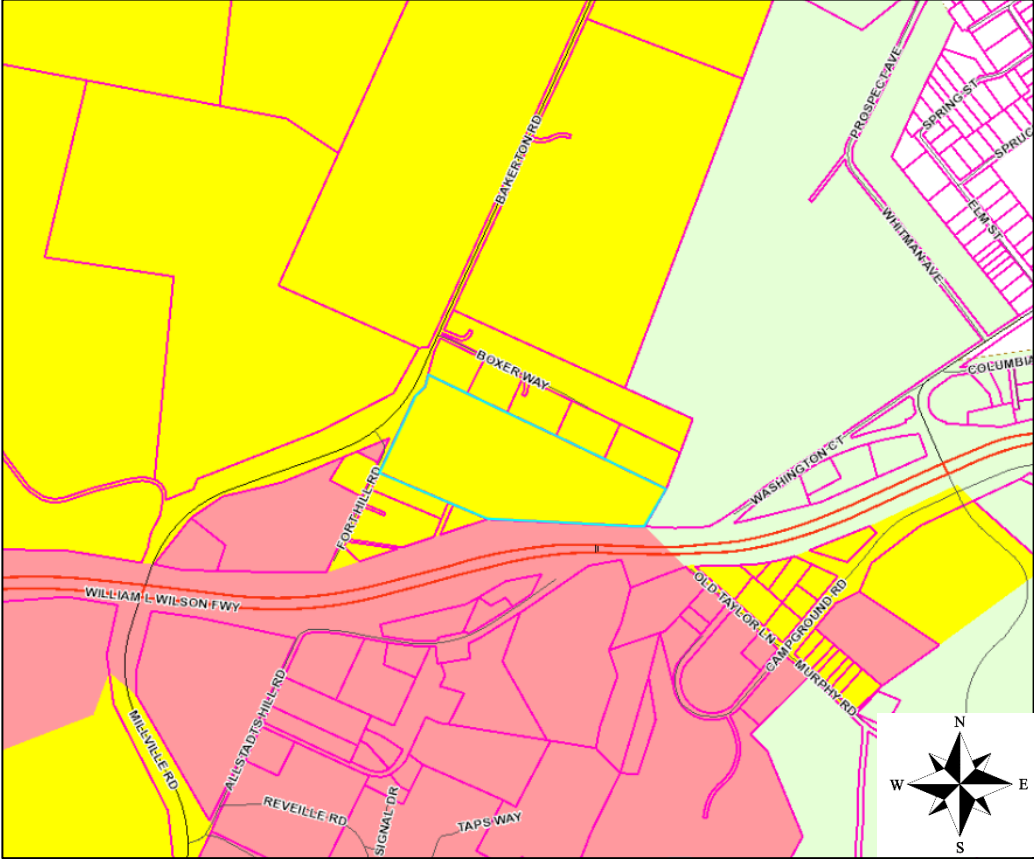
- 1           1. Variances from Section. 5.7B. Owner: Bernard and Pamela Kershes. File 23-8-ZV.
- 2           2. Variance from Section 9.7. Owner: Karen and Glenn Frail. File: 23-9-ZV.
- 3           3. Variance from Appendix A. Owner: Travis and Emily Warner. File: 23-10-ZV.
- 4           4. Variance from Appendix A. Owner: Kanette Petry. File: 23-11-ZV and 23-12-ZV
- 5           5. Request for a Conditional Use Permit to establish a federal firearms business.
- 6           Owner: 375 Dorland LLC / Attn: Mark Lazar. File: 23-2-CUP.
- 7           Mr. Quynn was provided a copy of the draft Findings for review.
- 8 Mr. Wiegand moved to adjourn the meeting at 6:02 pm. Mr. Quynn called for a vote, which carried
- 9 unanimously.



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 May 25, 2023

**23-3-CUP Colonial Estates (Special Event Facility) Conditional Use Permit Request**

Item #1 Request for a Conditional Use Permit to operate a Special Event Facility, as defined in Article 2 of the Zoning Ordinance (Project Name: “Colonial Estate”). The proposal consists of hosting up to 5 events per year with a maximum capacity of 100 guests. The applicant is proposing a maximum of 30 grass parking spaces. No signs are proposed.

Owner:	K5 Investments / Attn: Keith and Kelly La Gala
Applicant:	Potomac Adventure, LLC / Attn: Cathy Gray
Parcel Information and Zoning District:	<p style="text-align: center;">350 Bakerton Road, Harpers Ferry, WV 25425          Parcel ID: 04000700060000; Parcel Size: 13.4 acres; Project Size: 1 acre;          Zoning District: Residential Growth</p> 
Surrounding Properties:	<p style="text-align: center;"><b>Zoning Map Designation:</b>  <i>North:</i> Residential Growth, <i>East:</i> Rural, <i>South:</i> Residential-Light Industrial-Commercial, <i>West:</i> Residential Growth &amp; Residential-Light Industrial-Commercial</p>
History:	04/17/87: Boundary resurvey recorded in Deed Book 576, at Page 322
Site Visit Conducted:	No.

**23-3-CUP Colonial Estates (Special Event Facility) Conditional Use Permit Request**

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

Request for a Conditional Use Permit to operate a Special Event Facility, as defined in Article 2 of the Zoning Ordinance (Project Name: “Colonial Estate”). The proposal consists of hosting up to 5 events per year with a maximum capacity of 100 guests. The applicant is proposing a maximum of 30 grass parking spaces. No signs are proposed.

Article 2 defines Special Event Facility as:

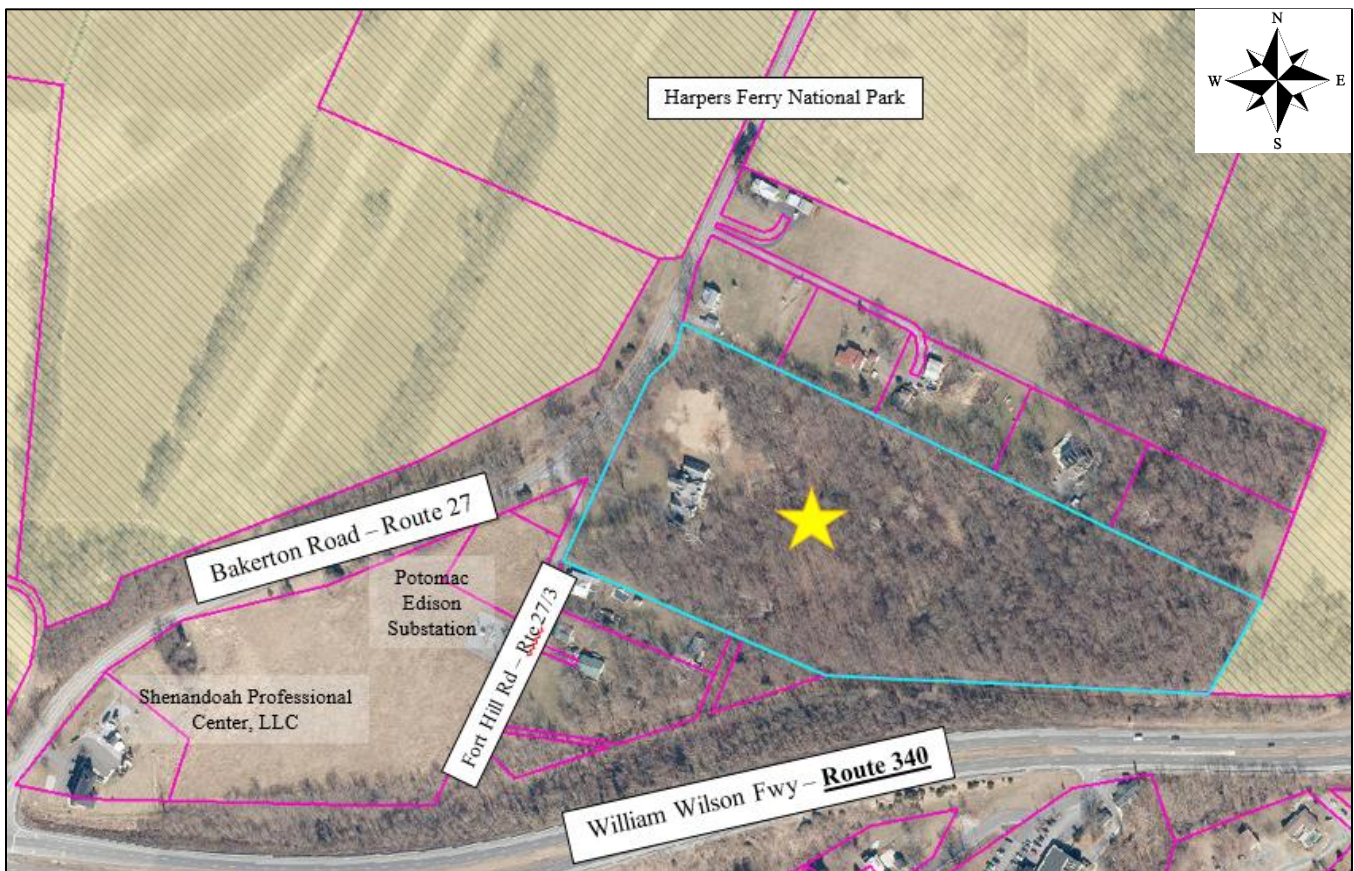
A facility where special events are permitted to occur. Special event facilities are subject to a use agreement between a private group or individual and the facility owner. The facility owner may or may not charge a rental fee for the use of the facility. Facilities may operate entirely within a structure, entirely outside of a structure, or both inside and outside a structure.

Article 2 defines Special Event as:

A gathering of individuals for the common purpose of attending a celebration, ceremony, reception, or similar activity for the benefit of someone other than the property owner. Private parties, gatherings, and similar activities that are not subject to a use agreement between a private individual or group and the property owner are not defined as a special event.

**Property Description**

The subject parcel was created prior to the adoption of zoning. A resurvey of the property was completed in 1987 and is recorded in Deed Book 576 @ Page 322. The lot is approximately 13.4 acres, the bulk of which is densely wooded. The property has direct access to Bakerton Road (State Route 27).



**23-3-CUP Colonial Estates (Special Event Facility) Conditional Use Permit Request**

**Conditional Use Permit Process**

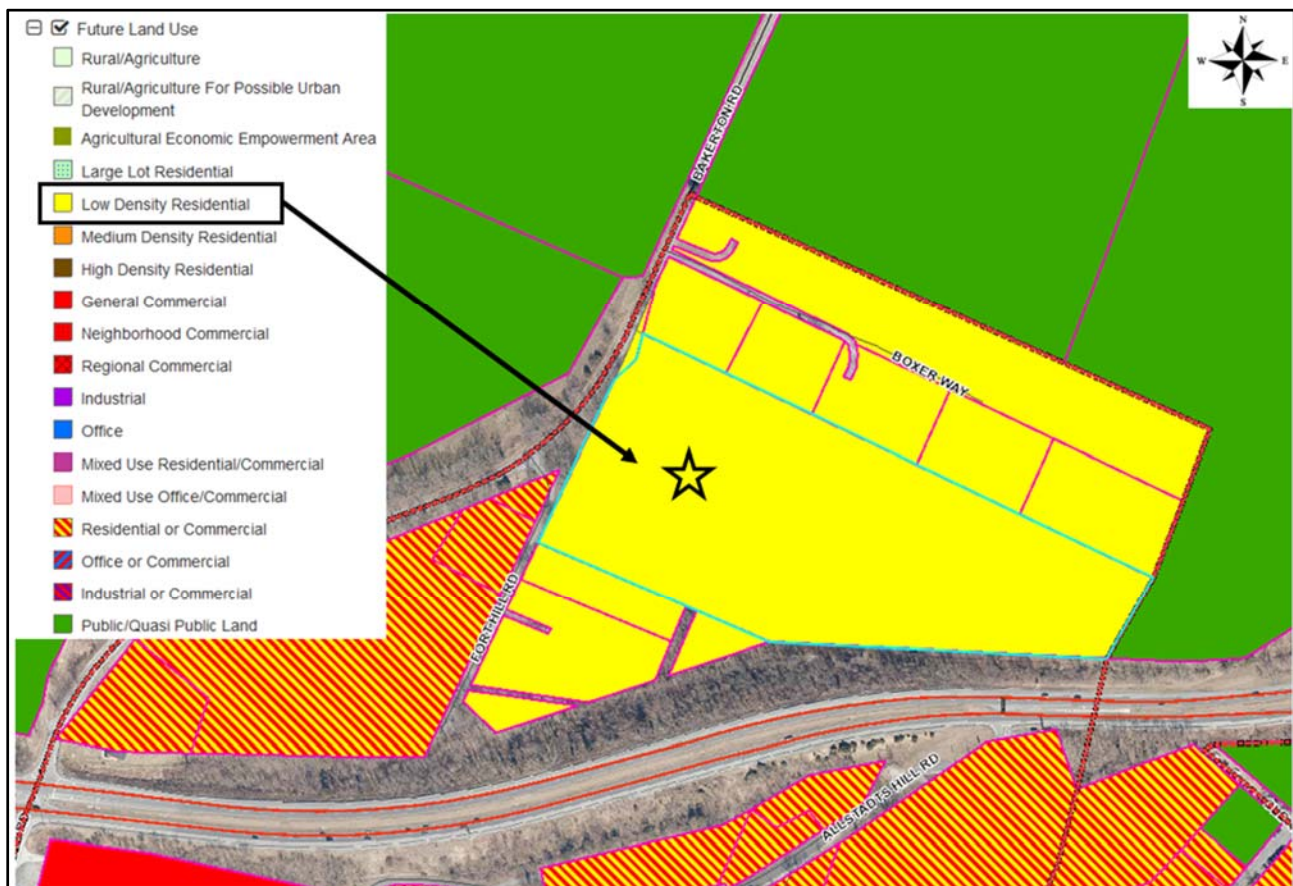
Section 6.3 of the Zoning Ordinance states:

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

The following General Standards shall be considered in approving or denying the CUP:

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

The subject parcel is shown as “Low Density Residential” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide (see below) and it is located within the County’s US 340 East Preferred Growth Area (see Pg 21 of Plan for description of US 340 East PGA – attached).



The Plan states, “It is expected that urban level residential and non-residential development (and re-development efforts) will focus in the UGBs and identified PGAs in the next two decades.” (Page 24)

Below are additional excerpts from the Comprehensive Plan:

**Urban Level Development Recommendations (Goal 1)**

Recommendation 5d: Consider the utilization of alternatives to use-separated (Euclidean) zoning within the UGB and PGA, such as the SmartCode adopted by the City of Ranson, or performance based zoning to achieve the desired land use goals (Pg 30).

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**23-3-CUP Colonial Estates (Special Event Facility) Conditional Use Permit Request**

Recommendation 5e: Update the County's zoning regulations in a way that balances flexibility of use for property owners and developers while preserving the quality of life for residents (Pg 30).

Recommendation 7a: Direct new development to be contained in municipalities, UGBs, PGAs, Villages and areas zoned for Residential Growth (RG), where public water and sewer will be available (Pg 31).

Recommendation 10: Encourage the adaptive reuse of existing buildings and previously used sites within Jefferson County in context with their surroundings, paying particular attention to brownfield and greyfield sites (Pg 32).

**Economic Development and Employment Recommendations (Goals 6 & 7)**

Recommendation 5: Create a business friendly environment in Jefferson County (Pg 70).

Recommendation 6: Develop methods to promote local business growth which include providing research, support, and marketing resources that would assist business start-ups in Jefferson County (Pg 70).

**Tourism Recommendations (Goal 9)**

Recommendation 9: Support and promote rural and recreational tourism to help achieve the County's economic goals (Pg 84).

**Goals and Objectives**

**Goal #1:** Require Urban Intensity Residential and Non-Residential Development to occur within existing urbanized areas, approved Urban Growth Boundaries, Villages, and/or the County's identified Preferred Growth Areas (Pg 190).

**Goal #6:** Encourage the growth of Jefferson County's economy and enable the creation of high quality jobs within the County (Pg 194).

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

The existing structure was originally constructed as a single-family dwelling (Building Permit #97-914). It is currently being marketed as a short term rental (Zoning Certificate File #23-17-ZC) and some guests have inquired about holding weddings on site. The property owner does not want to operate as an event venue on a regular basis and has stated they do not intend to host more than five weddings or similar events per year. No new buildings or additions to existing buildings are proposed. An event tent will be erected on site to accommodate outdoor seating. The existing dwelling contains nine bathrooms (eight full, one half), so the applicant does not intend to place port-o-potties on the property (unless required by the Health Department). The applicant was informed that all parking is required to remain on site and cannot occur within any road rights-of-way or easements, and was also informed that if parking will occur on a separate property, additional processing may be required.

Surrounding properties include a combination of residential and commercial uses, as well as federally owned public land (Harpers Ferry National Park). Based on the limited frequency of events proposed, it appears that the use is compatible in intensity and scale with existing and potential land uses on the surrounding properties and does not appear to pose any threat to public health, safety, and welfare.

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**23-3-CUP Colonial Estates (Special Event Facility) Conditional Use Permit Request**

**Applicant's Sketch**



**23-3-CUP Colonial Estates (Special Event Facility) Conditional Use Permit Request**

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

No new buildings or additions to existing buildings are proposed. The applicant is proposing a maximum of five events per year. Based on the description of the proposed event facility, the proposed site development will not hinder nor discourage the appropriate development and use of adjacent land and buildings.

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

As presented, a site plan **is not** required because there are no new buildings proposed and the applicant is proposing to utilize grass parking. If a site plan were required, the applicant would be required to install a 20' wide buffer along the perimeter of the property, as well as install street trees along the western property line (fronting Bakerton Rd).

The Board has the authority to require that landscape buffers be installed as a condition of approval to ensure that neighborhood character and surrounding property values are safeguarded; however, the subject property is densely wooded with existing, mature vegetation, which provides a substantial buffer between the adjoining residential properties.



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**23-3-CUP Colonial Estates (Special Event Facility) Conditional Use Permit Request**

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

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

<b>Section 8.9 Industrial and Commercial Uses<sup>23</sup></b>		
A. Industrial and commercial uses in all districts shall comply with the following standards:		
1. Noise		
All noise shall be muffled so as not to be objectionable due to intermitting, beat frequency, or shrillness. Noise levels shall not exceed the following sound levels dB(A). The sound-pressure level shall be measured at the property line with a sound level meter.		
<u>Sound Measured In</u>	<u>DAY</u> <u>7 AM - 6 PM</u>	<u>NIGHT</u> <u>6 PM - 7 AM</u>
Adjoining Agricultural or Residential Growth District	60 dB(A)	50 dB(A)
Residential Uses in R-LI-C District	65 dB(A)	55 dB(A)
Commercial Uses	70 dB(A)	60 dB(A)
Light Industrial Uses adjacent to noise source	85 dB(A)	80 dB(A)
The following sources of noise are exempt:		
a. Transportation vehicles not under the control of the industrial use.		
b. Occasionally used safety signals, warning devices and emergency pressure relief valves.		
c. Temporary construction activity between 7:00 a.m. and 7:00 p.m.		

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

The subject property is zoned Residential Growth. As such, this criteria does not apply.

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

The subject property does not contain any Category I or II historic sites as defined by the Zoning Ordinance. As such, this criteria does not apply.

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

Signs accessory to a Conditional Use are subject to Section 10.6 of the Zoning Ordinance, which requires that as part of the application, signage shall be addressed for review and consideration by the Board at the required Public Hearing.

The applicant noted on their sketch that no signs are proposed.

areas although the zoning is Residential Growth. This Plan recommends that regulations should be developed to encourage limited access to WV 45 and appropriate design standards to ensure free flowing traffic and a design character that interfaces with the corridor in an appropriate manner and provides an attractive gateway to Jefferson County and the Shepherdstown area. A map of the Shepherdstown PGA can be found in Appendix F – Maps.

b. US 340 East PGA

*(select nodes between Charles Town/Ranson and Harpers Ferry/Bolivar)*

Much of this area is already zoned for a wide range of commercial and residential uses. In addition, water and sewer facilities exist along several segments of this corridor, particularly within the nodes where development is proposed to take place (Old Country Club/Marlow Roads, Shepherdstown Pike (WV 230), Bakerton/Millville Roads, and Campground Road off of Shoreline Drive across US 340 from Washington Street in Bolivar). The easternmost segment of the PGA could eventually be included as part of a Bolivar UGB.

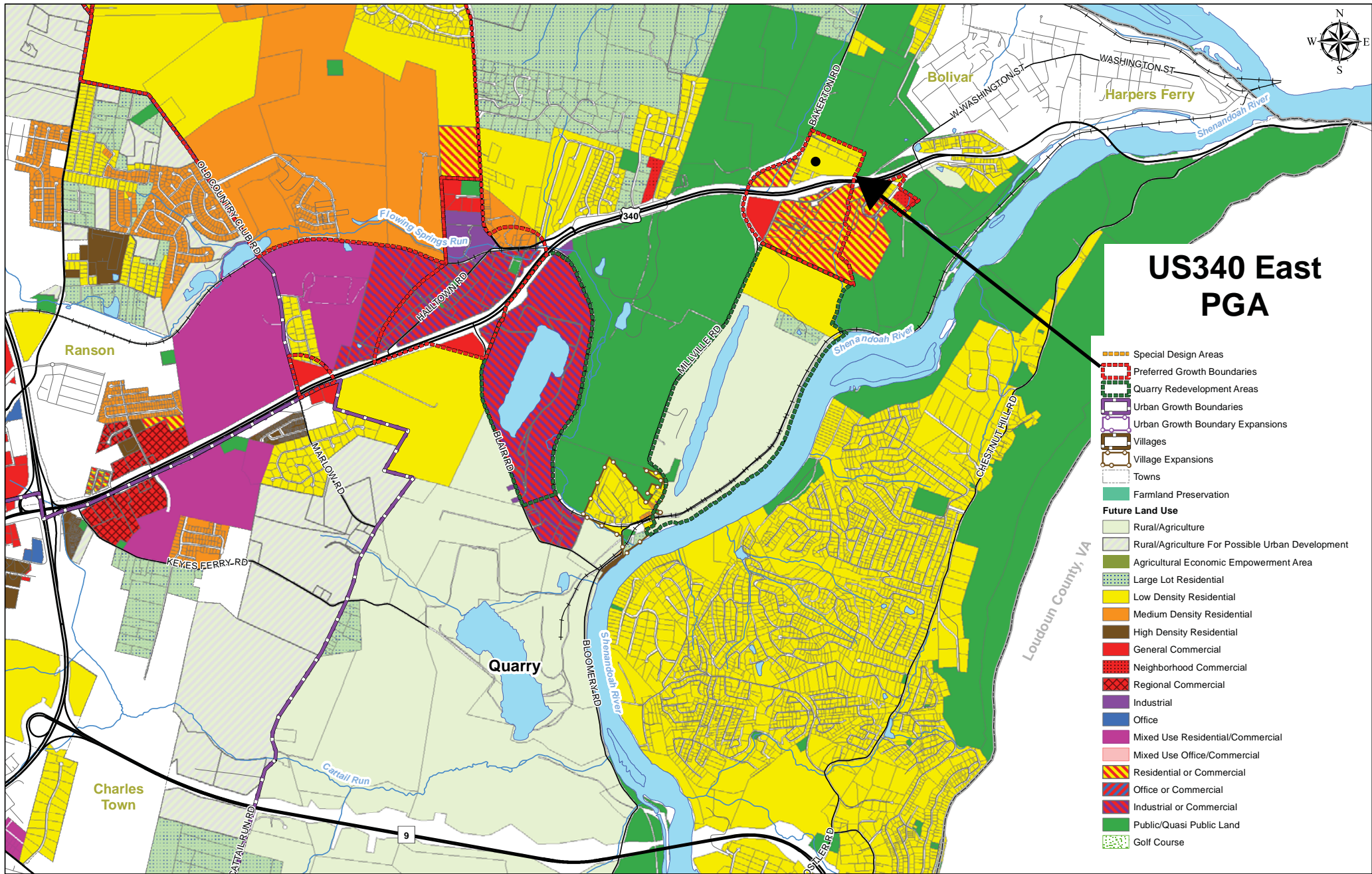
*Quarry Redevelopment Areas (QRA) within the US 340 Corridor*

There are two QRAs along US 340 and they consist of Old Standard Quarry (Millville Road) and Shenandoah Quarry (US 340 and Blair Road). These quarries have unique site features that provide for different redevelopment opportunities. Both sites have a large reservoir of water from quarries that are no longer actively used (please note that while there is an active quarry on Blair Road, the Shenandoah Quarry is inactive). Both quarries could be used for mixed used developments, office and commercial uses, technology companies that have a need for water, and recreational activities. Since each of these potential uses has a different future land use classification, it was determined to show the existing areas as “Quarry Redevelopment Areas”. Old Standard Quarry, which is zoned Rural, would be appropriate for tourist friendly recreational or commercial redevelopment under the QRA. Redevelopment should consider site development that incorporates the design of the structures with the topography and other natural features. Redevelopment of Old Standard Quarry should occur in a manner that protects the hillside and steep slopes while allowing recreational development near the quarry. If the active quarry ceases operation, a redevelopment plan needs to be prepared. A map of the 340 East PGA can be found in Appendix F – Maps.

c. US 340 South PGA

*(portions of the corridor beginning north of Rippon continuing south to the Clarke County Line)*

The proposed highway widening and realignment is expected to create some additional growth pressures along this corridor. Additionally, a percentage of the property along the western edge of US 340 South is currently zoned Industrial-Commercial. Localized water and sewer service may need to be utilized for higher intensity development to occur along this corridor. It is recognized that the



# US340 East PGA

Loudoun County, VA





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

File #: 23-3-CUP  
 R'cvd Date: 3/23/23  
 Mtg. Date: 4/27/23  
 Fee Paid: \$ 300 SH  
 Staff Int.: gt

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

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

**Application for a Conditional Use Permit**

**Project Name** Colonial Estate

**Property Owner Information**

Name: Keith + Kelly Lagala  
 Business Name: \_\_\_\_\_  
 Mailing Address: 322 Lake Como Drive, Pomona, Fla 32181 Mail  Yes  
 Phone Number: 954-553-5535 Email Response: Keith@lagala.com.com Response:  No

**Applicant Information**

Name: Bryan + Cathy Gray  
 Business Name: Potomac Adventure, LLC  
 Mailing Address: 800 W Washington St HF, WV 25425 Mail  Yes  
 Phone Number: 304-804-3204 Email Response: info@potomac.adventure.com Response:  No

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

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

**Physical Property Details**

Physical Address: 350 Bkaerton Road, Harpers Ferry, WV 25425  
 Tax District: Harpers Ferry (04) Map No: 7 Parcel No. 0006  
 Parcel Size: 13.4 acres Deed Book: 1271 Page No: 250

**Zoning District (please check one)**

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

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

Name of Road and/or Route Number: Bakerton Road

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

occasional wedding venue 100 ppl max / 5 max weddings

Please provide any information or known history regarding this property.

it has been a short term rental for several years. We have managed it for 1+ yrs

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

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

We will only erect a tent for 2-3 days when a wedding will take place. (so far 2 this year)

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

will not propose a threat of any kind

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

None Tent will be in a field next to house

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

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

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

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

Applicable (Trip Generation Data attached)

Not Applicable

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

Cathy Gray  
Property Owner  
Management

Date

[Signature]  
Property Owner

4.4.23  
Date

Tent is corrected here

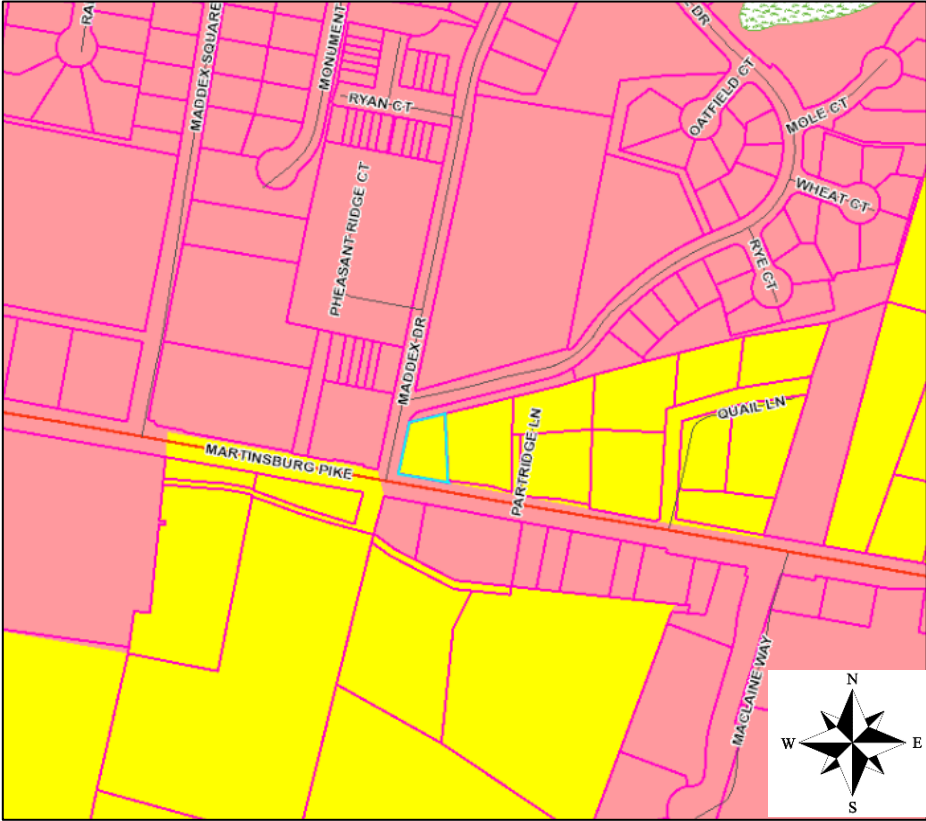


No Signs  
CB



Staff Report  
 Jefferson County Board of Zoning Appeals  
 May 25, 2023  
**23-16-ZV Aspen Hill Variance Request**

Item #2 Variance from Appendix A to reduce the minimum lot size requirement from 20,000 square feet to 19,088 square feet to allow a six (6) unit apartment complex to be constructed (Aspen Hill Apartments File #23-2-SP).

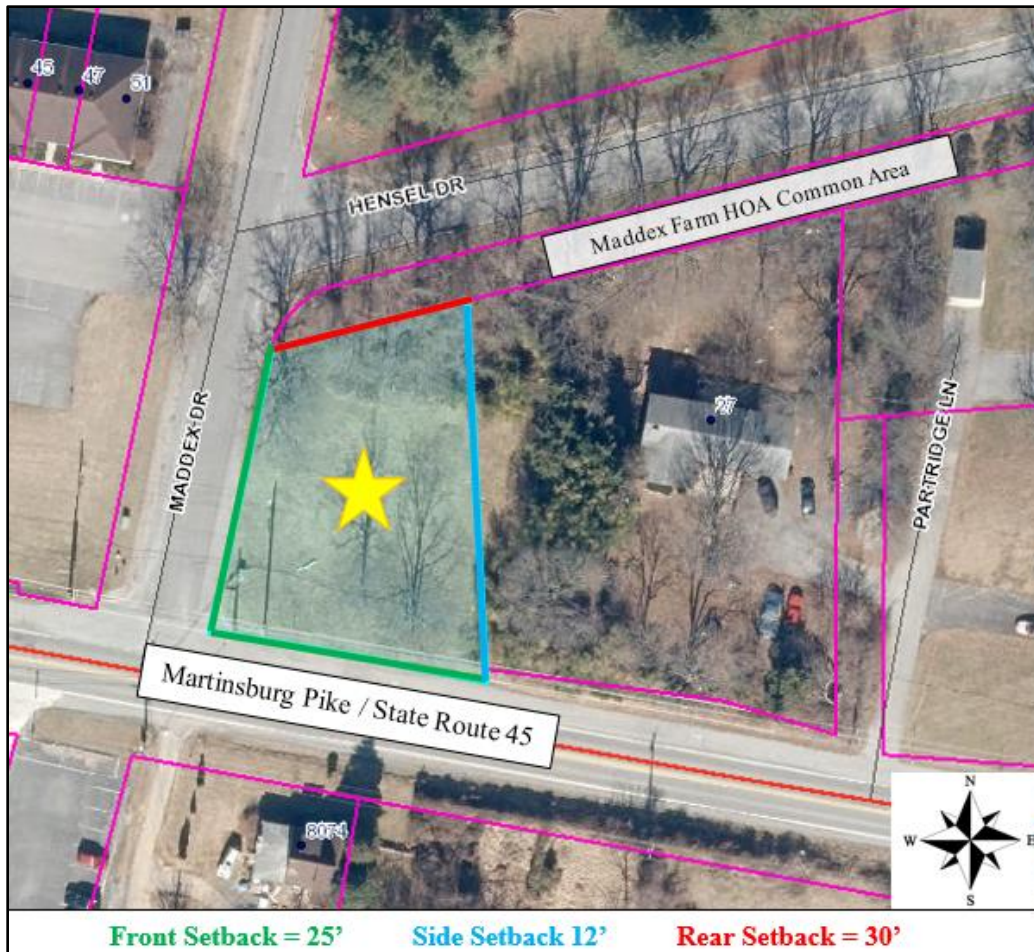
Owner:	L & C Horning LLC
Applicant:	Tri-State Investments / Attn: Chris Hill
Consultant:	Alpha Associates / Attn: Dick Klein
Parcel Information and Zoning District:	<p>Vacant parcel on the northeast corner of Martinsburg Pike and Maddex Dr., Shepherdstown WV. Parcel ID: 09000800170001          Size: ~0.43 acres; Zoning District: Residential Growth</p> 
History:	01/26/1982: Boundary survey was recorded in <a href="#">Plat Book 6 @ Page 22</a>
Waivers/Variations:	None
Approved Activity:	None
Site Visit Conducted:	No.

**Staff Overview**

The subject parcel appears to have been created in 1963 ([Deed Book 261 @ Page 48](#)) with a plat of survey recorded in 1982; therefore, the lot is considered a nonconforming lot since it was created prior to the adoption of zoning and does not conform to the minimum lots size requirements in the current Zoning Ordinance.

Staff Report  
Jefferson County Board of Zoning Appeals  
May 25, 2023  
**23-16-ZV Aspen Hill Variance Request**

A key purpose of regulating minimum lot size in the Zoning Ordinance is to regulate density for residential development (i.e. the number of lots that can be created from a single lot and/or the number of dwelling units permitted on a single lot), as well as to ensure that sufficient area exists to accommodate on-site parking and utilities such as well and/or septic; water and/or sewer, while also ensuring adequate space can be provided between structures and a property line (i.e. setbacks).



In addition to site development standards such as building setbacks and buffer screens, the Zoning Ordinance includes criteria related to minimum lot size and area per dwelling unit (ADU). These two standards – Minimum Lot Size and Area Per Dwelling Unit - are mechanisms to regulate residential density. For multi-family development, the minimum lot size is 20,000 sq ft, and the ADU is 2,000 square feet per dwelling unit.

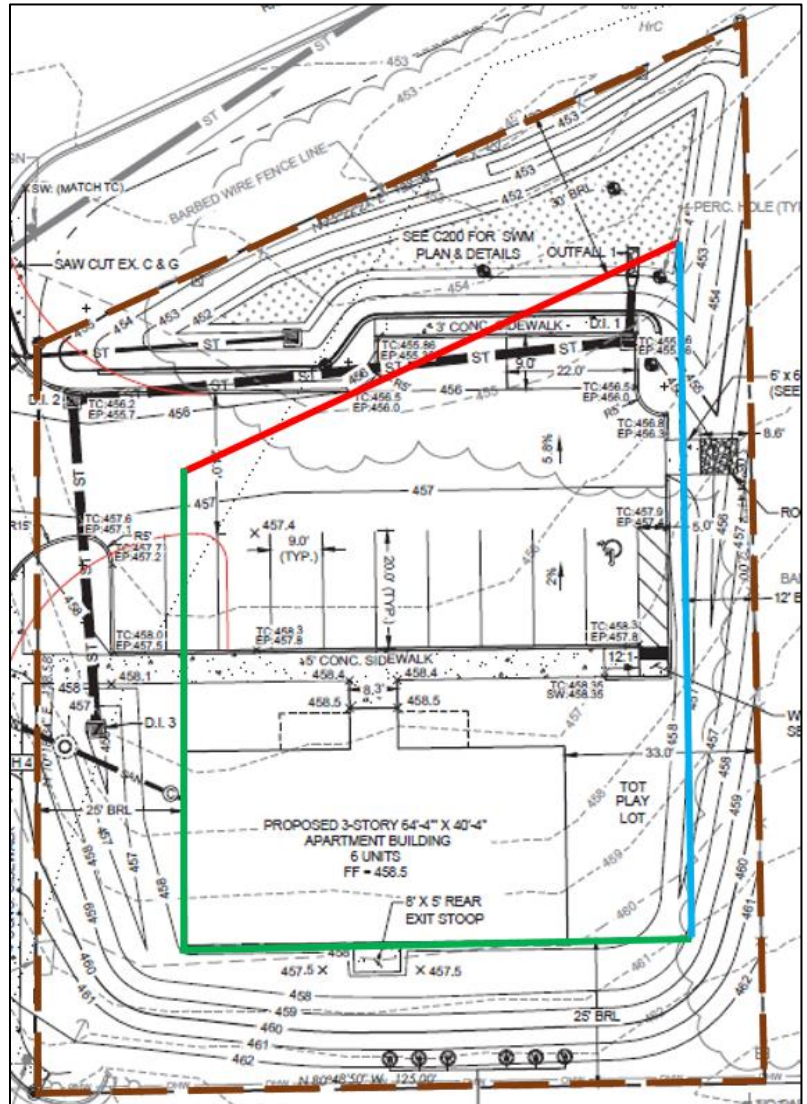
The subject request is to reduce the minimum lot size to 19,088 sq. ft. Should the Board grant the request, the project will still be required to comply with the ADU standard. In this instance, the applicant exceeds the ADU requirement as they are proposing six dwelling units, which provides approximately 3,181 sq ft per dwelling unit.

Additional mechanisms in place to regulate density include building height and maximum impervious area limits. The maximum building height in the Residential Growth zoning district is 40' and the

Staff Report  
Jefferson County Board of Zoning Appeals  
May 25, 2023  
**23-16-ZV Aspen Hill Variance Request**

proposed three-story, six unit building will be 38' high. The maximum impervious area limit in the Residential Growth zoning district is 50% and the proposed design reflects 42.9% impervious area.

The applicant has stated that the extension of public sewer is feasible and can support the proposed multi-family (apartment) dwelling unit. Should the variance request be granted, the applicant will be required to process a site plan to address site development standards including setbacks, buffer screens, and parking; as well as to address stormwater management. As part of the site plan approval process, copies of approvals from utility providers including the WV Division of Highways (entrance permit) and Health Department and/or public utility provider will be required to be submitted prior to any site grading or construction. Building Plans will also be required to be submitted to the County, as well as the State Fire Marshal, to ensure compliance with building code and to address life safety requirements.



Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as “...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve change the zoning classifications of a parcel of land.”

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

Staff Report  
 Jefferson County Board of Zoning Appeals  
 May 25, 2023  
**23-16-ZV Aspen Hill Variance Request**

**Conditions of Approval**

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

1. The applicant shall comply with all of the residential site development standards outlined in Appendix A of the Zoning Ordinance including setbacks, buffer screens, and landscaping (street trees). Any additional variance requests will require re-assessment of the subject request.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**Appendix A: Residential Site Development Standards Table**

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks			
							Front	Side	Street Side	Rear
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20
		Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20
	Duplex Dwelling Unit	Public/Central water and sewer	N/A	10,000	N/A	"	"	"	"	"
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"
	Townhouse Dwelling*2	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20
	Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	+	12
30,000 sq. ft. to 40,000 sq. ft.		N/A	N/A	N/A	40	20	10	+	12	
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	+	12	



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

File Number: 23-16-ZV
Staff Initials: jth
Meeting Date: 05/25/23
Fees Paid (\$100 or \$150): 100.00

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Request

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

Property Owner Information

Name: L & C HORNING, INC.
Mailing Address: 21013 GOLF ESTATES DRIVE; LAYTONVILLE, MD 20882
Phone Number: 301-502-8707 Email: CDHFISHWHISTLE@AOL.COM

Applicant Contact Information

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

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

Name: RICHARD KLEIN; ALPHA ASSOCIATES, INC.
Mailing Address: 535 W. KING STREET; MARTINSBURG, WV 25401
Phone Number: 304-264-0051 Email: RICHARD.KLEIN@THINKALPHAIFRST.COM

Physical Property Details

Physical Address: MADDEX DRIVE & WV RT. 45
City: SHEPERDSTOWN State: WV Zip Code: 25443
Tax District: SHEPHERDSTOWN Map No: 8 Parcel No: 17.1
Parcel Size: 19,088 sf Deed Book: 1007 Page No: 652

Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG) [X], Industrial Commercial (IC) [ ], Rural (R) [ ], Residential-Light Industrial-Commercial (R-LI-C) [ ], Village (V) [ ], Neighborhood Commercial (NC) [ ], General Commercial (GC) [ ], Highway Commercial (HC) [ ], Light Industrial (LI) [ ], Major Industrial (MI) [ ], Planned Neighborhood Development (PND) [ ], Office/Commercial Mixed-Use (OC) [ ]

Received via email 04/10/23 (jth)

Place Received Date Stamp Here

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

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

Reference the section of the Zoning Ordinance pertaining to this request: APPENDIX A, RESIDENTIAL SITE

Briefly describe the nature of the variance request: DEVELOPMENT STANDARD TABLE

THIS IS A REQUEST TO REDUCE THE REQUIRED LOT SIZE FOR A MULTI-FAMILY DWELLING FROM 20,000 SF TO 19,088 SF.

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

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

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

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

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

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

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

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

Signature of Property Owner: LE C Horning, LLC  
dotloop verified 04/07/23 2:45 AM EDT 5JVN-XCV7-QHKM-USVX

Signature of Property Owner Date

Signature of Property Owner/Developer

04/10/2023

Signature of Property Owner/Developer Date

Notification Requirements (to be completed by staff)

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

05/25/23  
Date of Public Hearing

05/10/23  
Advertising Date

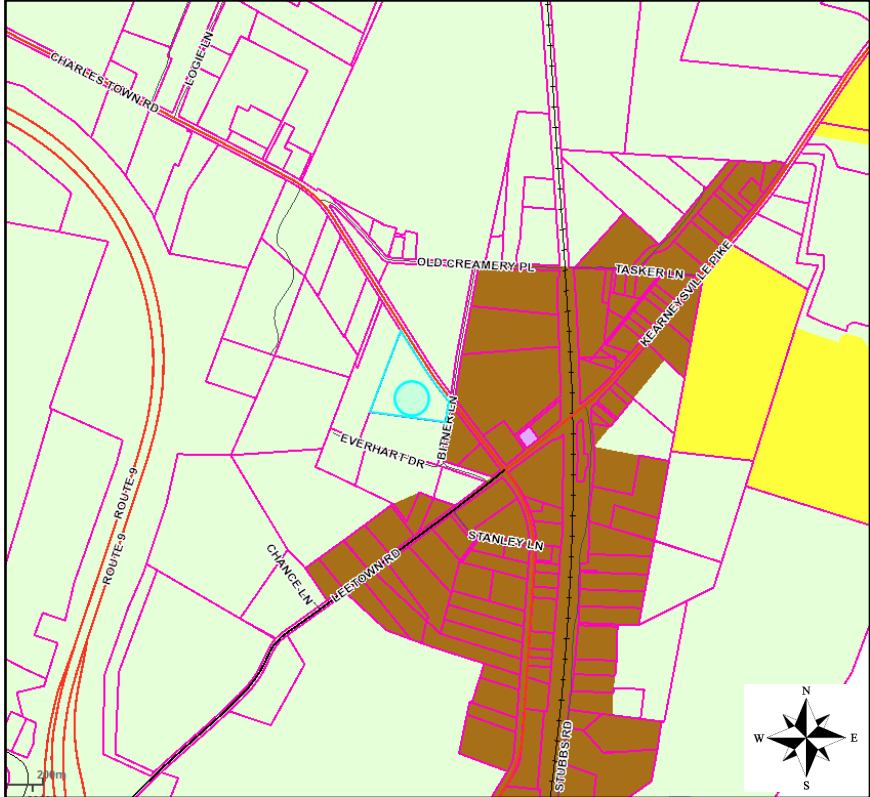
05/10/23  
Placard Posting Date





Staff Report  
 Jefferson County Board of Zoning Appeals  
 May 25, 2023  
**23-17-ZV Duncan Variance Request**

Item #3 Variance from Section 5.7(b) of the Zoning Ordinance (as amended 07/15/93) to reduce the rear setback from 50' to 15' along the southern property line for a 30' x 80' accessory structure (2,400 sf detached garage).

Owner/Applicant:	Jason Duncan
Parcel Information and Zoning District:	<p style="text-align: center;">111 Bitner Lane, Kearneysville, WV 25430          Parcel ID:07000300010003; Size: 2.73 acres; Zoning District: Rural</p> 
History:	09/17/1993: Parent-to-child subdivision recorded in <a href="#">DB 757 @ PG 723</a>
Waivers/Variations:	None
Approved Activity:	Single Family Residence
Site Visit Conducted:	No.

**Staff Overview**

The subject lot is the residue parcel of a parent-to-child subdivision that was recorded in 1993. Pursuant to Section 5.7(b) of the Zoning Ordinance (as amended on 07/15/93), the required setbacks are 40' Front; 15' Side; and **50' Rear**.

The applicant is requesting to construct a 30' x 80' (2,400 sf) detached garage for personal storage approximately 15' from the rear (southern) property line.

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



Staff Report  
 Jefferson County Board of Zoning Appeals  
 May 25, 2023  
**23-17-ZV Duncan Variance Request**

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as “...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve change the zoning classifications of a parcel of land.”

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

**Conditions of Approval**

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

1. No business may be operated from this structure without additional review from the Board.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

SECTION 5.7 Rural District

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

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

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





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

File Number: 23-17-ZV  
 Staff Initials: AB  
 Meeting Date: 05-25-23  
 Fees Paid (\$100 or \$150): \$100/chk# 113

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Jason Duncan  
 Mailing Address: 111 Bitner Ln Kearneysville, WV 25430  
 Phone Number: 304-582-1063 Email: amberduncan1211@gmail.com

**Applicant Contact Information**

Name: Jason Duncan  
 Mailing Address: 111 Bitner Ln Kearneysville, WV 25430  
 Phone Number: 304-582-1063 Email: amberduncan1211@gmail.com

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

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

**Physical Property Details**

Physical Address: 111 Bitner Ln  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: Middleway Map No: 3 Parcel No: 001 0003 0000  
 Parcel Size: 2.73 Acres Deed Book: 757 Page No: 723

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<div style="text-align: center;">   <b>RECEIVED</b>            APR 24 2023            JEFFERSON COUNTY PLANNING            ZONING &amp; ENGINEERING         </div>			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

Place Received Date Stamp Here

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

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

Reference the section of the Zoning Ordinance pertaining to this request: Property Setbacks

\*Section 5.7B (jth)

Briefly describe the nature of the variance request:

Requesting Rear<sup>o</sup> Setback to be reduced.  
\* 30' x 80' Detached Garage (gH)

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

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

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

The neighbors land that we will be close to is unused and wooded. As well as the neighbors granting permission for us to be less than 50ft setback.

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

This spot requires minimal grading to the land and keeps a safe distance from the septic area.

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

Will stop me from moving a current driveway that was just put in as well as not taking additional parking.

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

We will still maintaining a safe distance from our neighbors who are family members

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

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

[Signature]  
Signature of Property Owner

4/23/2023  
Date

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

Notification Requirements (to be completed by staff)

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

May 25, 2023  
Date of Public Hearing

May 10, 2023  
Advertising Date

May 10, 2023  
Placard Posting Date

Charles Town Rd

**40' FRONT**

Septic

House

well

Bitner Ln

**40' FRONT**

Neighbors

**15' SIDE**

350' Driveway

Driveway

310'

15'

14x14 Roll up door

8x36" walk in door

joop on roll up door  
joop on roll up door  
joop on roll up door

5'

16' Toll

80'

15'

8x36" walk in door

Rear

**50' REAR**

Neighbors

4/23/2023

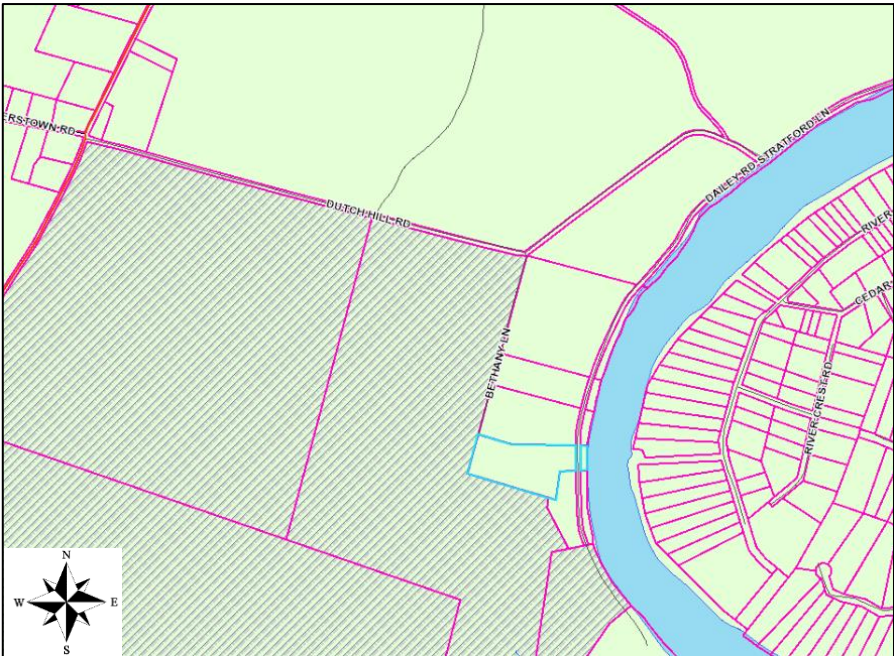
*John D. [Signature]*

23-17-ZV



Staff Report  
 Jefferson County Board of Zoning Appeals  
 May 25, 2023  
**23-18-ZV Mitchell-Brown Variance Request**

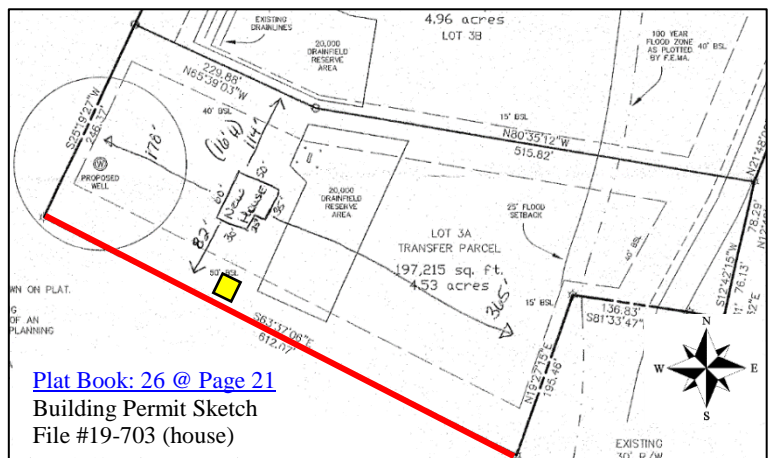
Item #4 Variance from Appendix A to reduce the rear setback from 50' to 4' along the southern property line for a 10' x 16' accessory structure (160 sf storage shed).

Owner/Applicant:	David Brown and Michelle Mitchell-Brown
Parcel Information and Zoning District:	<p style="text-align: center;">229 Bethany Lane, Charles Town, WV          Parcel ID: 06002100070005; Size: 4.53 acres; Zoning District: Rural</p> 
History:	05/01/00: Diane Gray & Hugh Hoover Subdivision (PB18/PG39) 10/10/19: Aiman Jalil Family Transfer; File #19-9-SD (PB26/PG21) 03/16/20: Existing barn structure converted to a Single Family Dwelling
Waivers/Variances:	06/14/22: PC approved a waiver from Section 20.201B2 pertaining to the 5-year Family Transfer requirement (File: 22-12-PCW).
Approved Activity:	Single Family Residence
Site Visit Conducted:	No.

**Staff Overview**

The subject parcel is designated as Lot 3A of a Family Transfer subdivision, which was recorded in October 2019. In accordance with Note #4 of the final plat and Appendix A of the Zoning Ordinance, the required setbacks are 40' Front, 15' Side, and **50' Rear**.

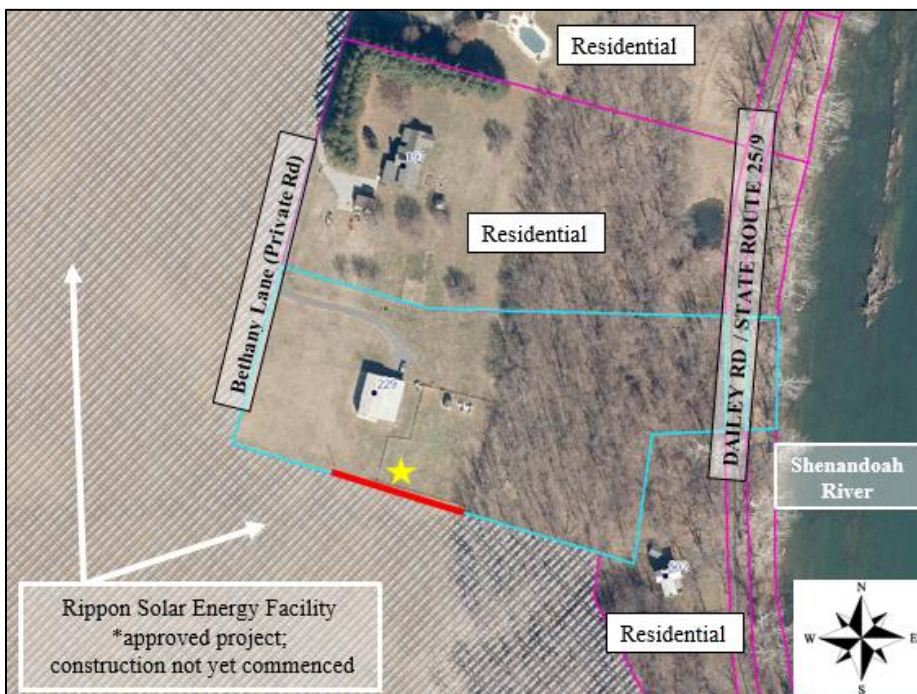
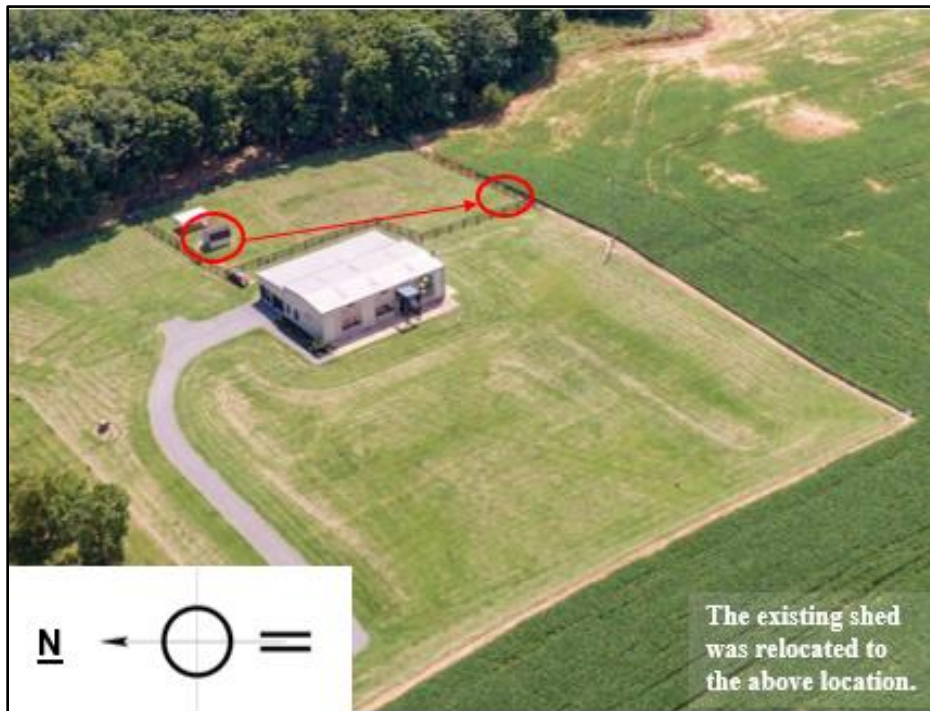
The applicant is requesting to relocate a 10' x 16' (160 sq ft) storage shed approximately 4' from the rear (southern) property line.



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

The applicant has represented that the location was selected to allow sufficient area to construct a greenhouse in the future, as well as to preserve the view in the front of the house and accommodate the septic reserve area.



To the north of the subject property is a residential lot, to the east is a wooded area and the Shenandoah River; the west and the south are currently vacant fields, which have been approved for a large scale solar facility (Rippon Solar Project – File #22-9-CUP and File #22-15-SP).

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**23-18-ZV Mitchell-Brown Variance Request**

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 2 of the [Jefferson County Zoning Ordinance](#), a variance is defined as "...a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve change the zoning classifications of a parcel of land."

Pursuant to [WV Code Chapter §8A-7-11](#) and Article 6, Section 6.2 of the [Zoning Ordinance](#), the Board shall consider the following criteria and shall grant a variance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.

**Conditions of Approval**

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

1. No conditions of approval have been identified.

**SECTION OF ORDINANCE TO BE CONSIDERED:**

**APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32, 42</sup>**

Zoning District	Land use	Land Use Subtype	Min Lot Area (MLA) sq. ft.***	Area per Dwelling Unit (ADU) sq. ft.	Min Lot Width	Max Building Height*	Setbacks			
							Front	Side	Street Side	Rear
Residential Growth (RG)	Single Family Detached Dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"
	Small Lot Single-Family Detached Dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20
	Duplex Dwelling Unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"
	Townhouse Dwelling <sup>42</sup>	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20
	Multi-Family Dwelling (See Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 sq. ft.	N/A	N/A	N/A	40	25	12	†	12
		30,000 sq. ft. to 40,000 sq. ft.	N/A	N/A	N/A	40	20	10	†	12
Under 30,000 sq. ft.		N/A	N/A	N/A	40	20	8	†	12	
Rural (R) (See Sec. 5.7)	Dwellings		40,000	N/A	100	45	40	15	†	50
		Over 2 acres	N/A	N/A	N/A	45	40	15	†	50
	Single-Family Dwelling with setbacks not previously stipulated by Planning Commission	40,000 sq. ft. to 2 acres	N/A	N/A	N/A	45	25	12	†	12
		30,000 sq. ft. to 39,999 sq. ft.	N/A	N/A	N/A	45	20	10	†	12
	Cluster Subdivision	Under 30,000 sq. ft.	N/A	N/A	N/A	45	20	8	†	12

See RG District





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

File Number: 23-18-ZV  
 Staff Initials: gnt  
 Meeting Date: 05-25-23  
 Fees Paid (\$100 or \$150): 100-

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: DAVID BROWN AND MICHELLE MITCHELL-BROWN  
 Mailing Address: 229 BETHANY LANE, CHARLES TOWN, WV 25414  
 Phone Number: 304-283-5117 Email: michelle.k@comcast.net

**Applicant Contact Information**

Name: MICHELLE MITCHELL-BROWN  
 Mailing Address: 229 BETHANY LANE, CHARLES TOWN, WV 25414  
 Phone Number: 304-283-5117 Email: michelle.k@comcast.net

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

Name: NONE  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 229 BETHANY LANE  
 City: CHARLES TOWN State: WV Zip Code: 25414  
 Tax District: 06 Map No: 21 Parcel No: 7.5  
 Parcel Size: 4.53 AC Deed Book: 1294 Page No: 667

**Zoning District (please check one)**

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (R-LI-C)	Village (V)	Neighborhood Commercial (NC)	General Commercial (GC)	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>RECEIVED</b> APR 27 2023 JEFFERSON COUNTY PLANNING <small>Place Received Date Stamp Here</small> ZONING & ENGINEERING			Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (OC)
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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

Reference the section of the Zoning Ordinance pertaining to this request: Appendix A (gth)

Briefly describe the nature of the variance request:

ASKING FOR A VARIANCE FOR MY 10'x16' GARDEN SHED TO BE WITHIN 4' (FEET) OF THE PROPERTY LINE

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

Front Setback  Side Setback  Rear Setback  Reduction From 50' to 4'

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

THE SHED IS LOCATED OUTSIDE OF THE DRAINFIELD RESERVE (15' OUTSIDE OF THE RESERVE AREA) AND DOES NOT AFFECT ADJACENT PROPERTY OWNERS WHERE THE SHED IS LOCATED AND THE ENTIRE OPEN AROUND IT IS FARMLAND AND WOODS.

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

THE SHED LOCATION IS LOCATED IN A SPOT TO NOT OBSTRUCT THE VIEWS IN THE FRONT OF THE RESIDENCE (INCLUDING THE FRONT FACE OF THE HOUSE) AND WITHIN AN OLD HORSE Paddock TO BE USED AS A LARGE GARDEN AREA IN WHICH THE SHED WILL BE USED.

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

GRANTING THIS VARIANCE WILL HELP WITH FUTURE BUILDING OF A GREENHOUSE TO BE ON THE SAME SIDE OF THE BUILDING WHERE THE SHED IS LOCATED. ALL OTHER AREAS THAT ARE EITHER IN THE DRAINFIELD, STREET SIDED WOODS, OR WOULD OBSTRUCT VIEWS.

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

THIS WILL ALLOW THE PLACEMENT OF MY SHED AND FUTURE GREENHOUSE AND WILL NOT NEGATIVELY AFFECT NEIGHBORING PROPERTIES.

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

By signing this application, I give permission for the Office of Planning and Zoning staff to walk onto the subject property, if necessary, in order to take photos for the Board of Zoning Appeals staff reports. The information given is correct to the best of my knowledge.

[Signature] 4/23/2023  
Signature of Property Owner Date

[Signature] 4/23/2023  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

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

05/25/23  
Date of Public Hearing

05/10/23  
Advertising Date

05/10/23  
Placard Posting Date







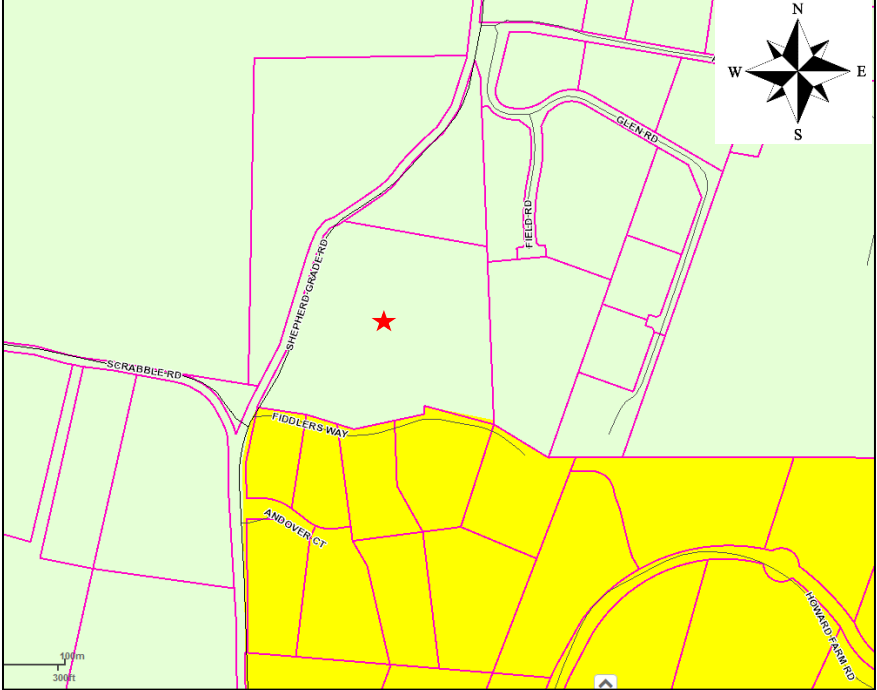
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Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
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**23-5-CUP Valley Storage Shepherdstown (Commercial Storage)  
 Conditional Use Permit Request**

Item #5 Request for a Conditional Use Permit to operate a Commercial Storage facility, as defined in Article 2 of the Zoning Ordinance. The proposal includes expansion of an existing legal nonconforming self-storage facility, Valley Storage Shepherdstown.

Owner:	Valley Storage Shepherdstown / Attn: Todd Snook
Parcel Information and Zoning District:	<p style="text-align: center;">1744 Shepherd Grade Road, Shepherdstown, WV          (Parcel ID: 09000300200001); Parcel Size: 10 acres; Zoning District: Rural</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:          North, West, &amp; East: Rural          South: Residential Growth</p>
Approvals:	<p>04/27/88 – James’ Minor Subdivision (DB 602 @ PG 707) – PC File #88-10          01/26/93 – Specialty Bookbinding Expansion (File #S92-05)          05/15/03 – BZA approved change in nonconforming use from a bookbinding business to a self-storage facility.          04/20/04 – BZA approved time extension to process a site plan (File #ZV04-06)          07/11/05 – Site Plan approved for self-storage facility expansion (File #S05-03)</p>
Site Visit Conducted:	No.

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

Request for a Conditional Use Permit to operate a Commercial Storage facility, as defined in Article 2 of the Zoning Ordinance. The proposal includes expansion of an existing legal nonconforming self-storage facility, Valley Storage Shepherdstown.

Article 2 defines Storage, Commercial as:

An enclosed storage facility of a commercial nature containing independent, fully enclosed bays which are leased to persons exclusively for storage of their household goods or personal property.

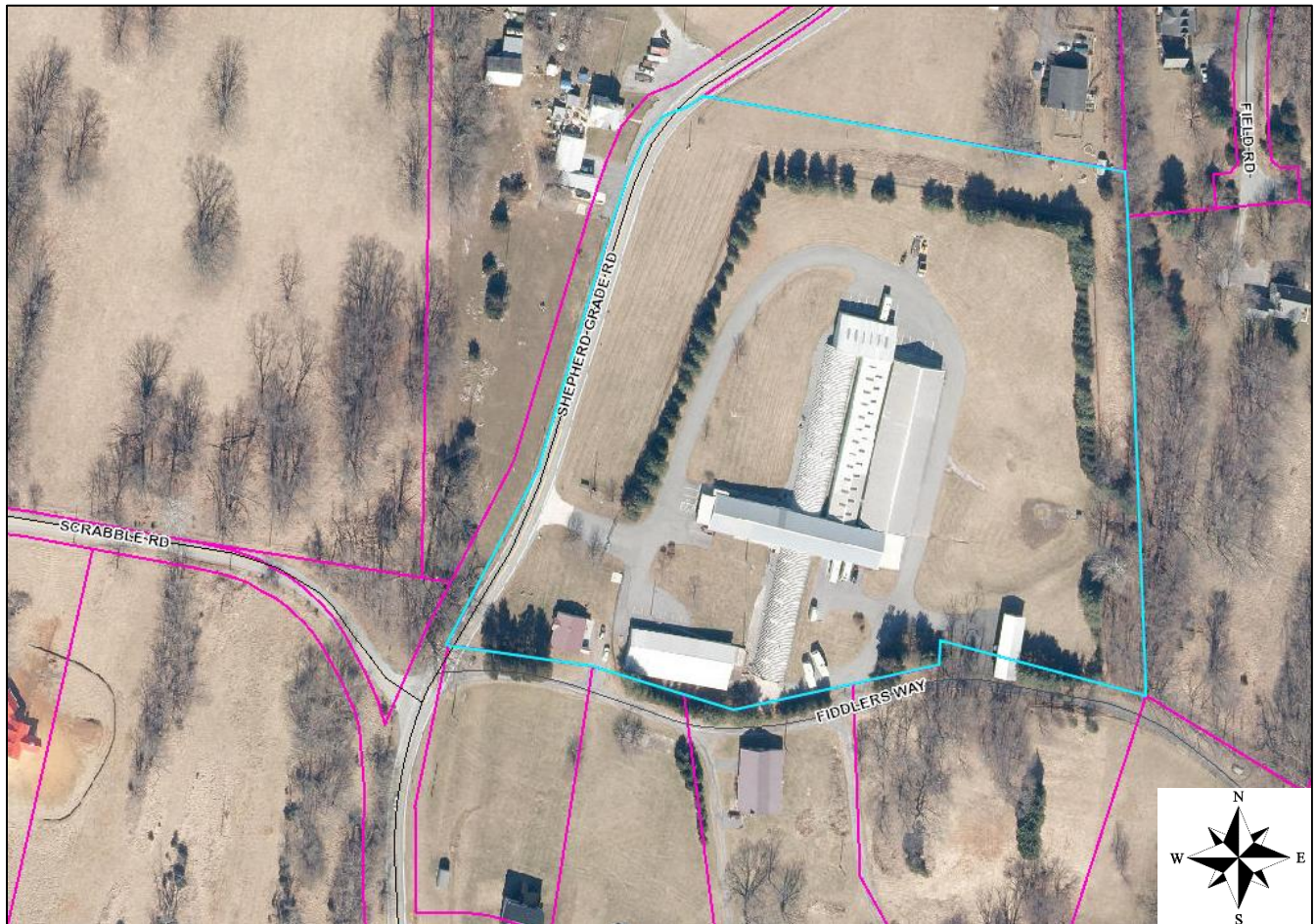
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**Property Description**

The subject parcel is the residue parcel of the James' Minor Subdivision, which was recorded in 1988. The lot is approximately 10 acres and surrounded primarily by residential development.

Based on tax records and information available on the internet, it appears that the property has operated as a nonconforming commercial use since the 1970s, when Specialty Bookbinding was first established. In 2003, the Board of Zoning Appeals granted a request for a change in nonconforming use to a self-storage facility.

The property currently contains approximately 48,000 square feet of existing self-storage buildings, associated parking, and a residential dwelling. The subject request includes construction of four new self-storage buildings totaling 19,373 square feet in size, which is approximately a 40% expansion beyond the existing buildings on site. The nonconforming use already expanded un the nonconforming use expansion provisions, which is why staff advised that a Conditional Use Permit would be more appropriate for the subject request.



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**Conditional Use Permit Process**

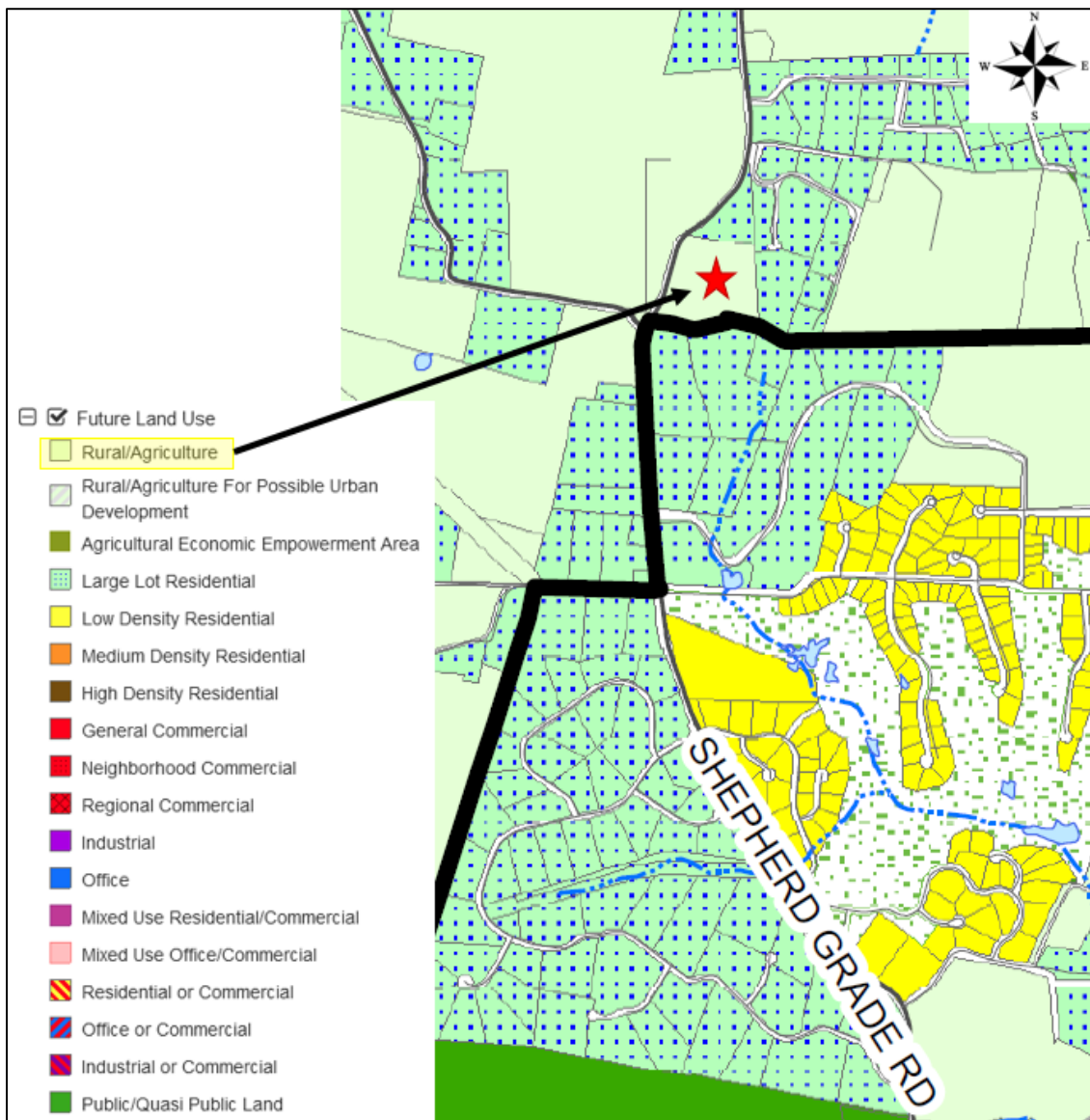
Section 6.3 of the Zoning Ordinance states:

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

The following General Standards shall be considered in approving or denying the CUP:

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

The subject parcel is shown as “Rural/Agriculture” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide (see below) and it is located within the Shepherdstown Growth Management Boundary (see Page 9 of Staff Report for GMB area and Page 19 of Plan for description of Shepherdstown GMB – attached).



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The Plan supports allowing commercial uses in the Rural zoning district that the County deems compatible via the Conditional Use Permit Process. In March 2017, the County Commission amended the Zoning Ordinance to modify the CUP process. As part of that text amendment, the County Commission amended Appendix C to allow *most* commercial land uses to process as a Conditional Use. Commercial Storage is listed as an appropriate land use to process as a Conditional Use in the Rural zoning district.

“...This Plan recommends eliminating the LESA system and modifying the CUP process for use exclusively for non-residential development projects in the Rural Zoning District.” (Page 24, Rural/Agricultural Areas)

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

“Amend the Zoning Ordinance to eliminate the Land Evaluation Site Assessment (LESA) system and to modify the Conditional Use Permit (CUP) process in the Rural Zoning District, which would be used for compatible non-residential development only.” (Page 39, Recommendation #4.b – Rural Land Use Planning Recommendations (Goal 2))

“Recommendation 5: Amend the Zoning and Land Development Ordinance to permit additional non-residential rurally compatible uses (Page 77, Agricultural and Rural Economy Recommendations (Goal 8)).

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

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

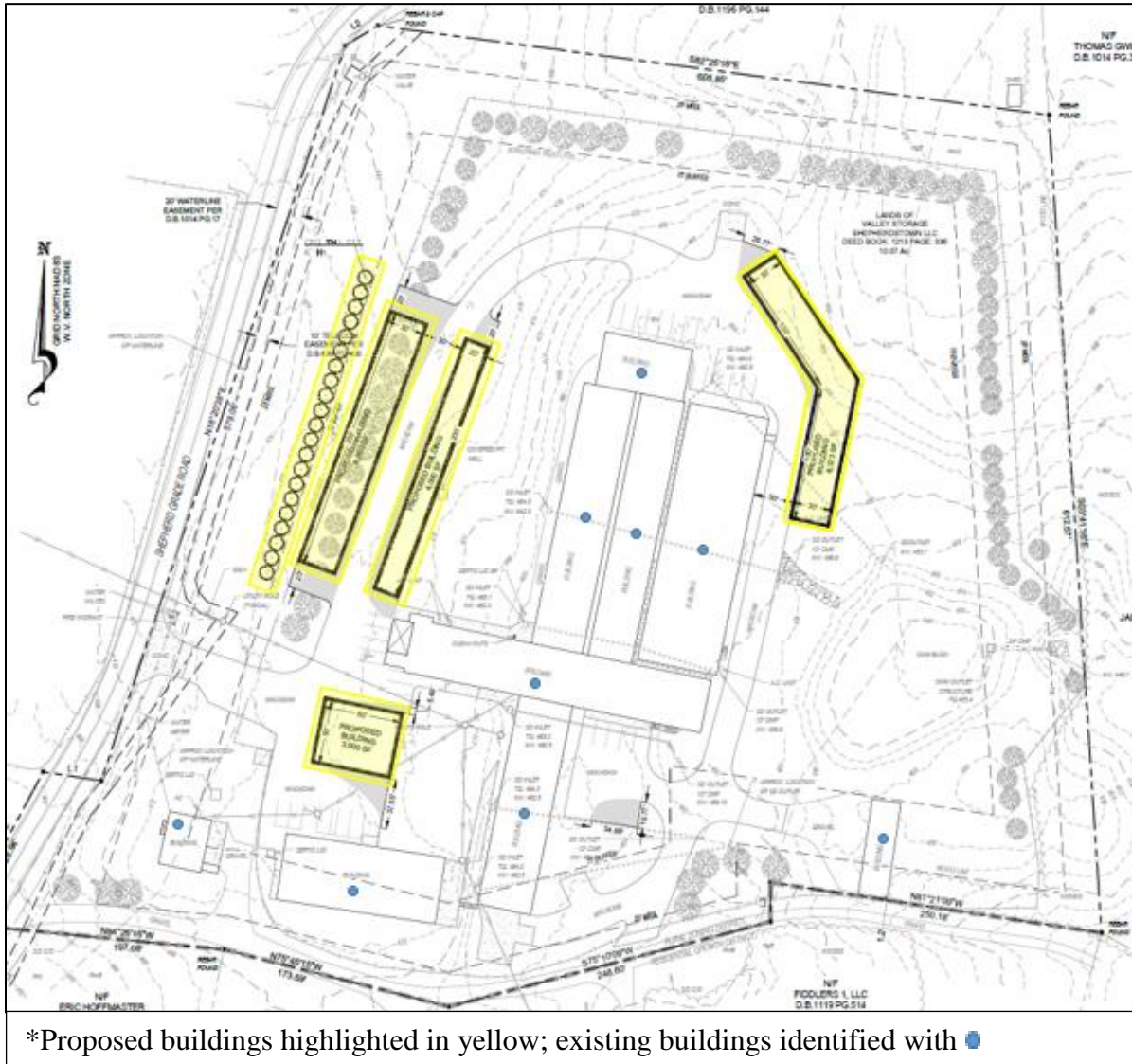
The property is located off of State Route 7, Shepherd Grade Road. The property is surrounded primarily by residential and agricultural uses.

The request includes construction of four new buildings totaling 19,373 square feet in size. The site contains 48,000 square feet of existing self-storage buildings, associated parking, and a residential dwelling. The property contains an existing vegetative buffer and the applicant stated that they will maintain the existing vegetative buffer and re-plant any of the trees that are removed as a result of the proposed expansion.

The property first contained a bookbinding operation that appears to have been established in the 1970s. In 1993, the bookbinding operation expanded and then in 2003, the Board of Zoning Appeals granted a request for a change in nonconforming use to allow the bookbinding business change to a self-storage facility. The first expansion of the self-storage facility was approved in 2005.

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Appreciating that the property is primarily surrounded by residential and agricultural uses, the non-residential history of the property is relevant to evaluating the compatibility of the proposed expansion. The proposed use of a self-storage facility does not appear to pose any threat to public health, safety, and welfare.

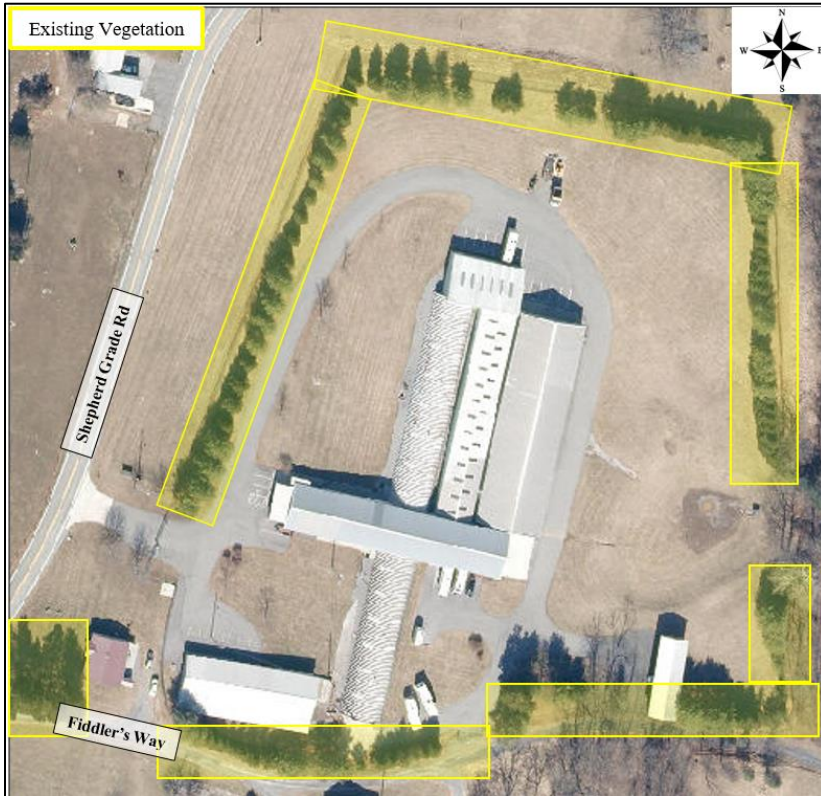


**3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings. (Sec. 6.3A.3)**

Based on the information provided by the applicant, as well as the information pertaining to the non-residential use of the property since the 1970s, the proposed site development will not hinder nor discourage the appropriate development and use of adjacent land and buildings.

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



As presented, a site plan is required for the proposed expansion. A Concept Plan, which is subject to a Public Workshop before the Planning Commission, is *also* required because the total square footage of the proposed buildings exceeds 5,000 square feet. As such, the project will be required to reflect compliance with the landscaping requirements by either maintaining the existing landscaping that was installed for the expansion that occurred in 2005, or installing a new buffer in accordance with the current landscaping requirements.

The applicant has represented that the existing vegetative buffer will be retained. Any trees that are removed along Shepherd Grade Rd as a result of the new buildings will be replaced.

The applicant states in their application, “The site design will fit within the currently developed/screened areas. The required buffers will be maintained and landscaped to shield the use from the surrounding properties.”

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

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

**Section 8.9 Industrial and Commercial Uses<sup>23</sup>**

A. Industrial and commercial uses in all districts shall comply with the following standards:

1. Noise

All noise shall be muffled so as not to be objectionable due to intermitting, beat frequency, or shrillness. Noise levels shall not exceed the following sound levels dB(A). The sound-pressure level shall be measured at the property line with a sound level meter.

Sound Measured In	DAY	NIGHT
	7 AM - 6 PM	6 PM - 7 AM
Adjoining Agricultural or Residential Growth District	60 dB(A)	50 dB(A)
Residential Uses in R-LI-C District	65 dB(A)	55 dB(A)
Commercial Uses	70 dB(A)	60 dB(A)
Light Industrial Uses adjacent to noise source	85 dB(A)	80 dB(A)

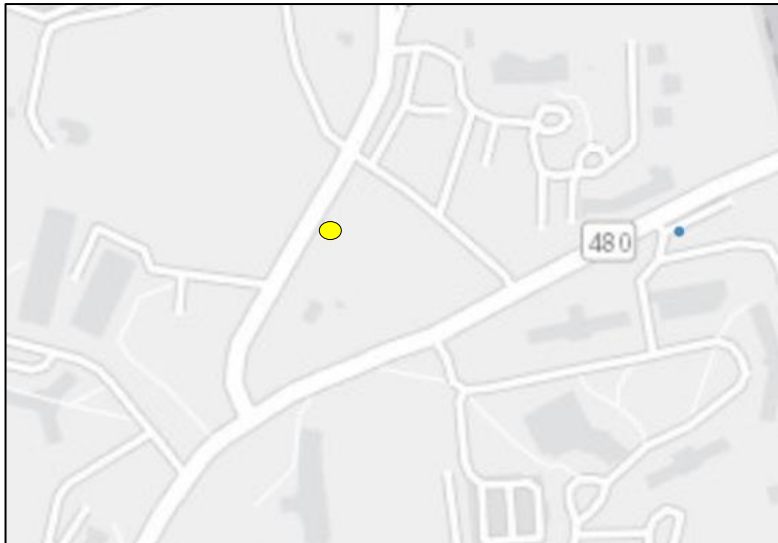
The following sources of noise are exempt:

- a. Transportation vehicles not under the control of the industrial use.
- b. Occasionally used safety signals, warning devices and emergency pressure relief valves.
- c. Temporary construction activity between 7:00 a.m. and 7:00 p.m.

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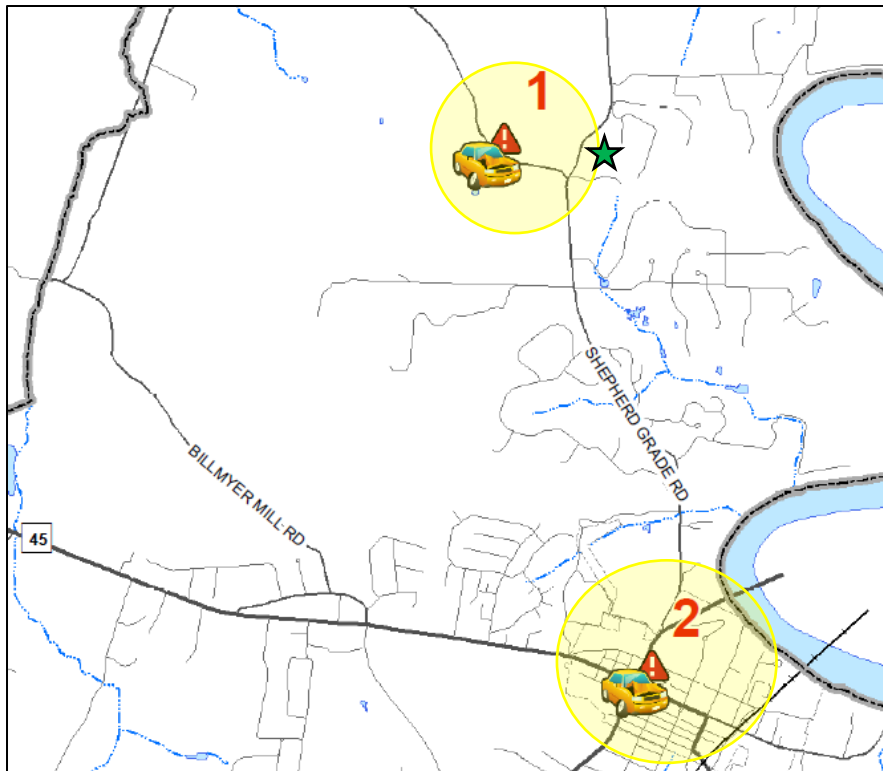
**6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan’s Highway Road Classification Map. (Sec. 6.3A.6)**

Shepherd Grade Road is classified as a Local Road and is subject to this criteria. The applicant provided a trip generation summary on page 3 of their application.



A traffic count study was conducted by Department of Transportation in 2017 near the Shepherd Rd/Route 480 intersection [●]. The study reflects that the annual average daily traffic count on Shepherd Grade Road (Station ID 193018) was 2,847 (Source: [2017 WVDOT AADT – Traffic County Study](#)).

Below is an excerpt from the Comprehensive Plan’s Highway Problem Areas Map followed by the map index.



Highway Problem Areas in Jefferson County			
Number	Route/Road	Location	Problem
1	Scrabble Road	1/4 mile West of Sheperherd Grade Road	90 Degree turn
2	WV 45	Intersection with WV 480, WV 45 and WV 230	Road width through historic area limits turn movements
3	River Road	Near Potomac Ridge Lane	Prone to flooding
4	Trough Road	One mile east of WV 230	90 Degree turn

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

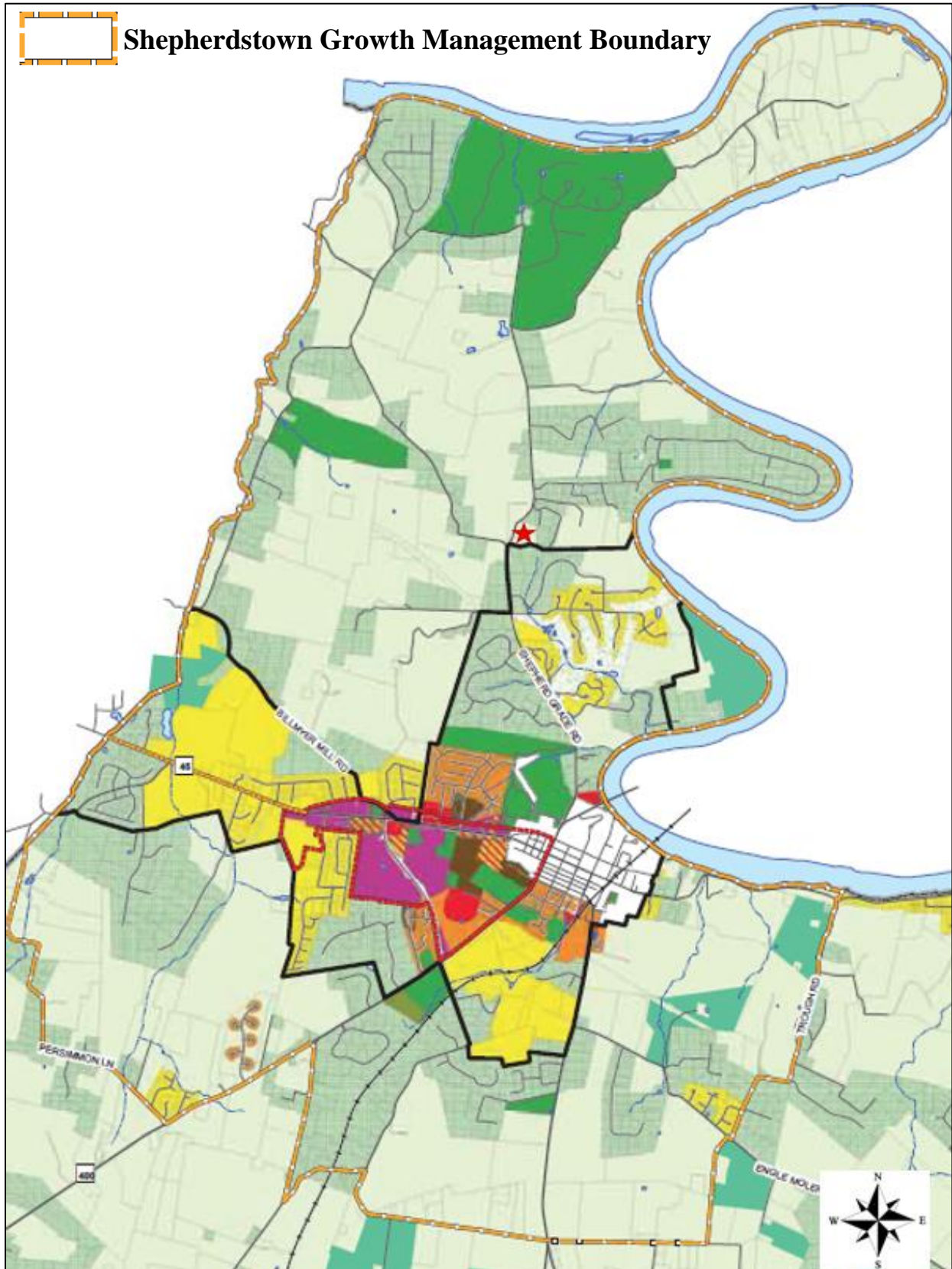
The subject property does not contain any Category I or II historic sites as defined by the Zoning Ordinance; therefore, this criteria does not apply.

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

Signs accessory to a Conditional Use are subject to Section 10.6 of the Zoning Ordinance, which requires that as part of the application, signage shall be addressed for review and consideration by the Board at the required Public Hearing.

The applicant represented that no signs are proposed as part of the expansion. Any future signs may necessitate review and approval by the Board of Zoning Appeals.

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show the existing land uses or zoning designation, including rural zoning, on the Future Land Use Guide within the UGB. It is not the intention of the Future Land Use Guide or this Plan for these areas to remain rural; the designation is temporary until the property owner determines if they desire to develop in either the municipality or the County.

A map of the Charles Town and Ranson UGB areas can be found in Appendix F – Maps.

a. Shepherdstown Growth Management Boundary (GMB)

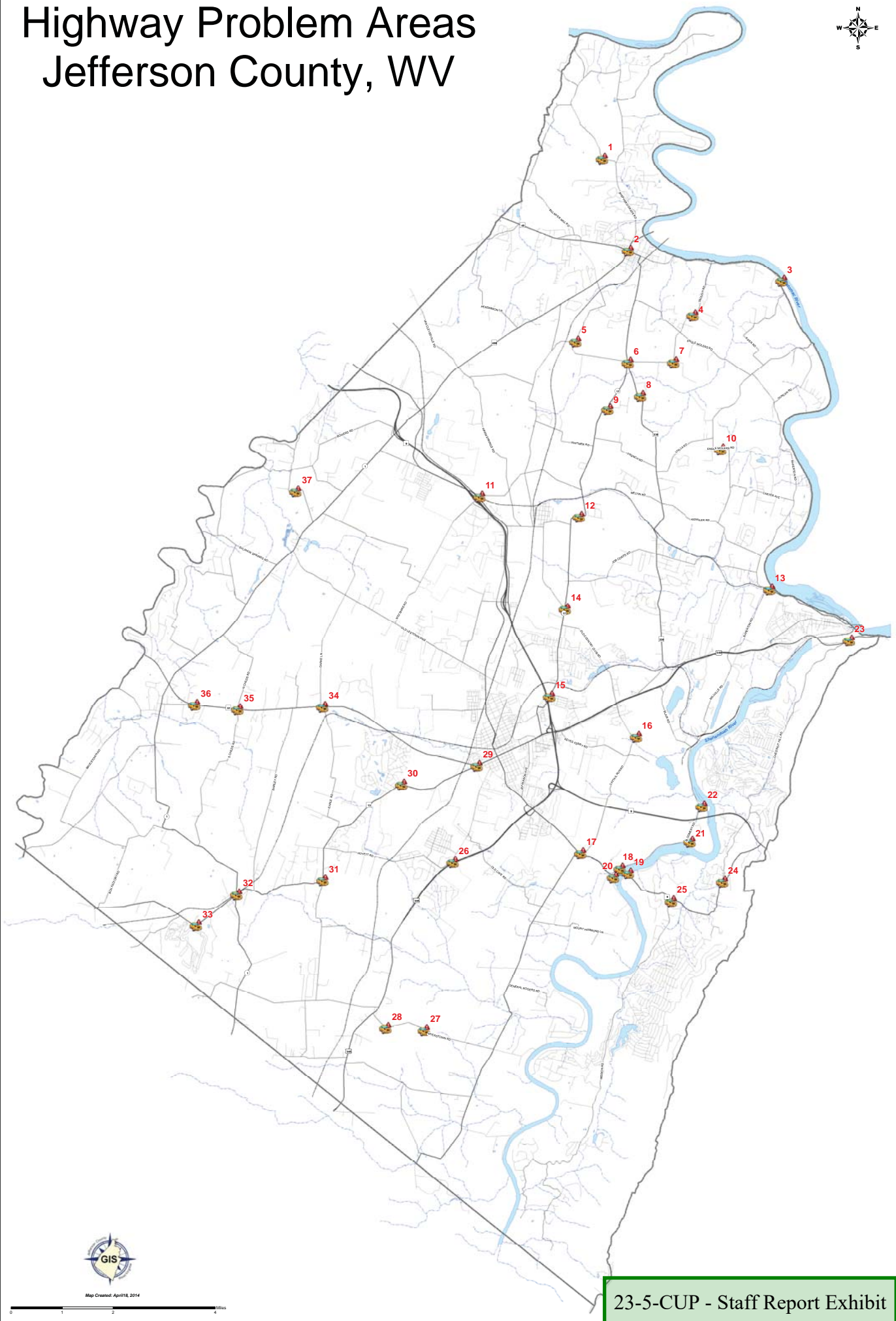
In 2014, Shepherdstown adopted a Growth Management Boundary (GMB) which is planned to have growth around the existing core of Shepherdstown and less intense development at the edges of the GMB. The full GMB is shown on the Future Land Use Guide. In Shepherdstown's 2014 Comprehensive Plan, within the GMB, Shepherdstown has also designated three phases of a Municipal Growth Area which are anticipated to allow phased expansion and urbanized growth within Shepherdstown. While this larger growth and annexation area is recommended in the Shepherdstown 2014 Comprehensive Plan, the *Envision Jefferson 2035 Comprehensive Plan* recognizes a smaller Preferred Growth Area to the west of the Shepherdstown core and the existing County zoning if it remains in the unincorporated area. The Future Land Use Guide of this Plan depicts the GMB and the proposed land uses if it remains unincorporated. The Shepherdstown GMB is treated differently from the Charles Town and Ranson UGBs due to the difference in Shepherdstown's growth management planning recommendations. If the land is annexed by Shepherdstown, the Shepherdstown Growth Management recommendations and Comprehensive Plan shall apply.

b. Ranson Urban Growth Boundary (UGB)

During the development of the 2008 Zoning Ordinance (which subsequently was not approved), the County and the Corporation of Ranson worked jointly to develop a land use planning tool referred to as the County Townscape Boundary which was reflected on the draft Zoning Map. When the state law was amended in 2009 to allow the creation of Urban Growth Boundaries, Ranson formally requested that the County Commission approve this draft boundary as their Urban Growth Boundary and reflect it on the County Zoning Map.

As part of *Envision Jefferson 2035*, it is proposed that the Ranson UGB be expanded to encompass the areas that are located outside of the existing UGB (Tackley Farm and Jefferson Orchards) but within the municipality boundary, as well as the unincorporated area northeast of the intersection of WV 9 and Luther Jones Road. This expansion area would allow the development of this area to occur in conjunction with the transit oriented development proposed for the Jefferson Orchard property known as Northport Station.

# Highway Problem Areas Jefferson County, WV



Highway Problem Areas in Jefferson County			
Number	Route/Road	Location	Problem
1	Scrabble Road	1/4 mile West of Sheperherd Grade Road	90 Degree turn
2	WV 45	Intersection with WV 480, WV 45 and WV 230	Road width through historic area limits turn movements
3	River Road	Near Potomac Ridge Lane	Prone to flooding
4	Trough Road	One mile east of WV 230	90 Degree turn
5	Ridge Road	Intersection with Gardners Lane	Poor intersection angle causing poor visibility
6	Intersection of WV 230 and Flowing Springs Road	Intersection of WV 230, Flowing Springs Road, Gardners Lane and Trough Road	High number of access and turning movements, visibility constraints
7	Trough Road	1/2 mile north of Engle Molers	Two 90 degree turns
8	WV 230	1 mile south of Flowing Springs Rd	S Curve
9	Flowing Springs Road	Approximately 1 south of WV 230 intersection	Curve
10	Engle Molers Road	1/4 mile south of Uvilla	Two 90 degree turns
11	Luther Jones Road	Intersection with Wiltshire Road and Old Charlestown Road	Limited stacking area at light due to tracks. Development is expected to take place in this area over next two decades
12	Flowing Springs Road	Approximately 700 feet north of Shenandoah Junction Road	Two 90 degree turns
13	Bakerton Road	Bakerton Road Tunnel	Sharp Curve, Poor Sight Distance, One Lane Tunnel
14	Daniel Road	Intersection with Flowing Springs Road just north of Old Country Club Road	Poor intersection angle causing poor visibility
15	Sun Road	Intersection with WV 9 West	No merge lane on Route 9
16	Cattail Run Road	Intersection with Marlow RD and Cattail RD	90 Degree turn
17	Cattail Run Road	At intersection with WV 115	Poor sight distance pulling onto WV 115
18	Bloomery Road	1,000 north of WV 115	Within 100 Year Floodplain, periodic flooding
19	Wilt Road	From WV 115 at to dead end	Within 100 Year Floodplain, periodic flooding
20	John Rissler Road	From WV 115 at Bloomery to dead end	Within 100 Year Floodplain, periodic flooding
21	Bloomery Road	2,500 South of Rt. 9 tunnel	90 Degree turn
22	Bloomery Road	1,250 north of WV 115	90 Degree turn
23	US 340 and Chestnut Hill Road	Intersection with Chestnut Hill Road	Inadequate Turning Area onto Chestnut Hill Road; Poor intersection angle causing poor visibility, steep slope
24	WV 115	At Chestnut Hill	Poor intersection angle causing poor visibility
25	WV 115	At Mission Road	Multiple Accident Location Long dead-end road with only 1 point of ingress/egress
26	Augustine Ave	Intersection with US 340	Adjacent intersection with Hyuett Road may lead to stacking during peak hours.
27	Meyerstown Road	One mile east of US 340	Two 90 degree turns
28	Meyerstown Road	1/2 mile east of US 340	90 degree turn
29	Summit Point Road	Intersection with WV 51 (Washington St)	Poor intersection angle causing poor visibility, intersection at capacity
30	Summit Point Road	Near Lindsay Drive	90 Degree turn
31	Summit Point Road	Intersection with Lloyd Road	90 Degree Turn
32	Summit Point Road	At intersection with Leetown Road and Summit Point Road	Poor intersection angle causing poor visibility
33	Summit Point Road	In vicinity of Summit Point Raceway	90 Degree turn
34	WV 51	Intersection with Earl and Darke Lane	Misalignment of intersection
35	WV 51	Intersection with Childs Road	Poor sight distance turning onto WV 51
36	Old Middleway Road	Intersection with WV 51	Poor sight distance and intersection angle
37	Paynes Ford Road	3,500 feet west of Leetown Road	Two 90 degree turns

DRAFT



**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, West Virginia 25414

File #: 23-5-CUP  
 R'cvd Date: 05 / 01 / 23  
 Mtg. Date: 05 / 25 / 23  
 Fee Paid: \$ 750.00  
 Staff Int.: jth

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

Phone: (304) 728-3228

**Application for a Conditional Use Permit**

**Project Name**

\_\_\_\_\_

**Property Owner Information**

Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Mail  Yes

Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

**Applicant Information**

Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Mail  Yes

Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

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

Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Mail  Yes

Phone Number: \_\_\_\_\_ Email Response: \_\_\_\_\_ Response:  No

**Physical Property Details**

Physical Address: \_\_\_\_\_

Tax District: \_\_\_\_\_ Map No: \_\_\_\_\_ Parcel No: \_\_\_\_\_

Parcel Size: \_\_\_\_\_ Deed Book: \_\_\_\_\_ Page No: \_\_\_\_\_

**Zoning District (please check one)**

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

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

Name of Road and/or Route Number: \_\_\_\_\_

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

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

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

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

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

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

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

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

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

5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of the Zoning Ordinance.

I am aware of the standards outlined in Section 8.9 of the Zoning Ordinance and will be in compliance.

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

Applicable (Trip Generation Data attached)

Not Applicable

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



4.26.2023

Property Owner

Date

Property Owner

Date

## Planning Department

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**From:** Mike Nalepa <mnalepa@streettrafficstudies.com>  
**Sent:** Thursday, April 27, 2023 8:05 AM  
**To:** Trevor M. Frederick  
**Subject:** RE: Valley Storage-Shepherdstown

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

Trevor,

Existing 48,000 s.f.	Daily = 70 trips	AM = 2 in/2 out 4 total	PM = 3 in/4 out 7 total
Proposed 19,373 s.f.	Daily = 28 trips	AM = 1 in/1 out 2 total	PM = 1 in/2 out 3 total
Total 67,373 s.f.	Daily = 98 trips	AM = 3 in/3 out 6 total	PM = 4 in/6 out 10 total

Let me know if you need anything more.

Thanks,

Mike

---

**From:** Trevor M. Frederick <TFrederick@fsa-inc.com>  
**Sent:** Wednesday, April 26, 2023 11:08 AM  
**To:** Mike Nalepa <mnalepa@streettrafficstudies.com>  
**Subject:** Valley Storage-Shepherdstown

Mike,

Can you run me some trip generation numbers for the following?

We are proposing 19,373 SF of new self-storage space on an existing storage site. The existing storage space is 48,000 SF.

I need the following:

- ADT (new/existing)
- AM peak/PM peak (new/existing)

Can you get to me by Monday (5/1)?

Thanks,

**Trevor Frederick** PE  
*Vice President*

**FREDERICK, SEIBERT & ASSOCIATES, INC.**

CIVIL ENGINEERING | LAND SURVEYING | LANDSCAPE ARCHITECTURE

128 S. Potomac St. Hagerstown, MD 21740

O: 301.791.3650 C: 717.377.1194

[www.fsa-md.com](http://www.fsa-md.com)

HAGERSTOWN, MD | CARLISLE, PA | GREENCASTLE, PA | NEW BLOOMFIELD, PA

**ZONING DATA**

ZONING DISTRICT	R - RURAL DISTRICT
MAX. BUILDING HEIGHT	75 FT.
MAX. IMPERVIOUS COVERAGE	80 %
<b>MINIMUM BUILDING SETBACKS:</b>	
FRONT	25 FT.
SIDE	25 FT.
REAR	25 FT.
<b>MINIMUM PARKING/DRIVE AISLE SETBACKS:</b>	
FRONT	15 FT.
SIDE	10 FT.
REAR	10 FT.
<b>MINIMUM BUFFER YARD:</b>	
FRONT/SIDE/REAR	75 FT.
PROPOSED USE	STORAGE, COMMERCIAL (CONDITIONAL USE)

**SITE DATA**

TAX MAP - GRID - PARCEL	19-09-0003-0020-0001
LIBER / FOLIO	1213/336
<b>AREA SUMMARY:</b>	
PARCEL	10.07 AC.
DISTURBED AREA	<1.0 AC.
EXISTING IMPERVIOUS	2.9 AC.
PROPOSED IMPERVIOUS	3.5 AC. (35%)
<b>BUILDING SUMMARY:</b>	
PROPOSED	19,373 SF
HEIGHT	20 FT
PROPOSED USE	STORAGE, COMMERCIAL (CONDITIONAL USE)
HOURS OF OPERATION	9 AM - 5 PM; MON-WED, FRIDAY; 9 AM-12 PM SATURDAY
EMPLOYEE SUMMARY	TBD
<b>WATER &amp; SEWER USAGE:</b>	
WATER PROVIDED	JEFFERSON UTILITIES, INC
SEWER PROVIDED	PRIVATE, ON LOT SEPTIC
SITE LIGHTING	EXISTING BUILDING MOUNTED
SITE SIGNAGE	EXISTING GROUND MOUNTED
ADDRESS ASSIGNMENT	1744 SHEPHERD GRADE ROAD, SHEPHERDSTOWN, WV 25443
WAIVER AND/OR VARIANCE	N/A
FEMA PANEL #	54037C0035E DATED 12/18/2009

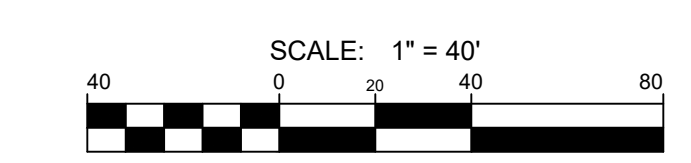
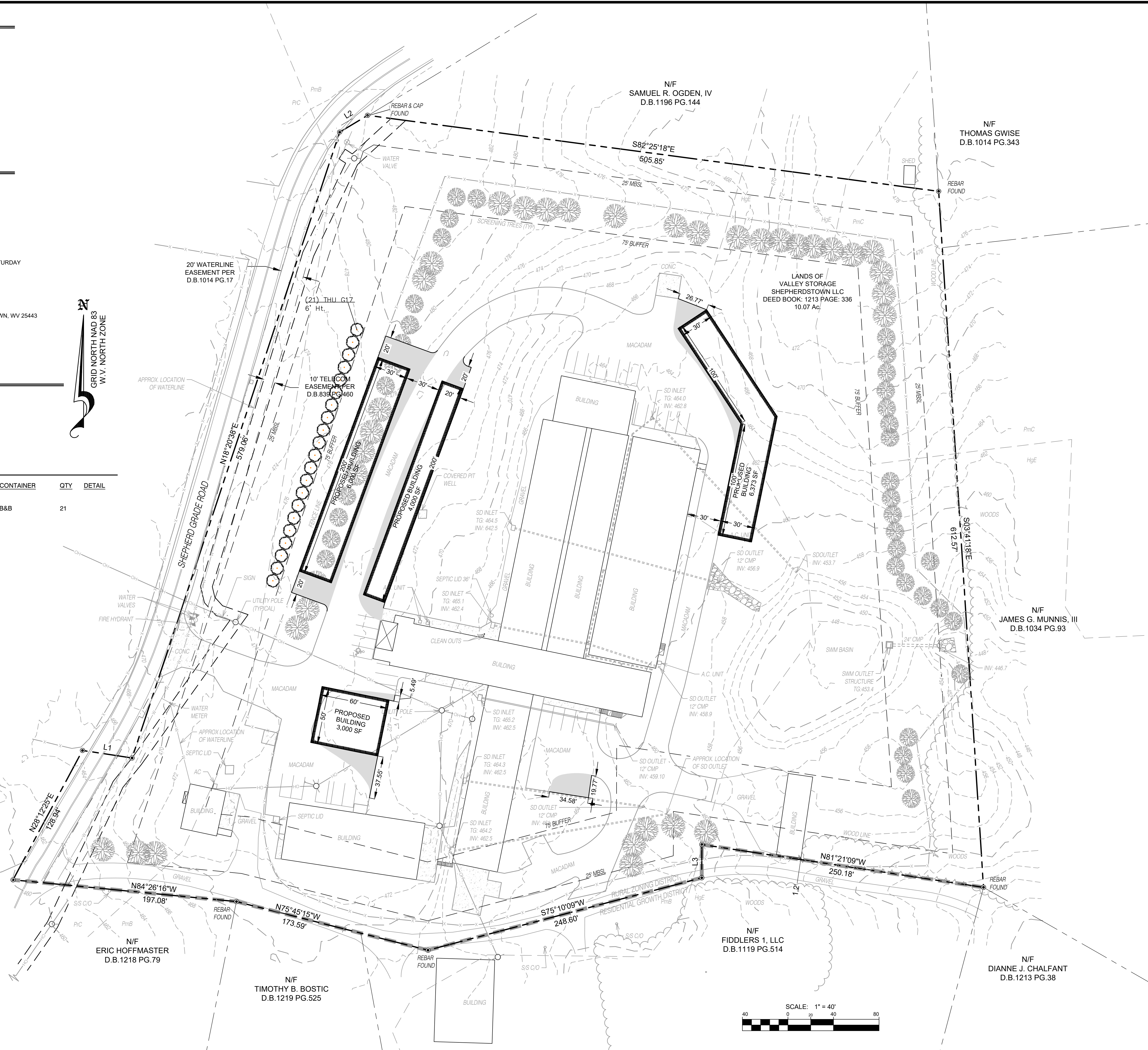
**PARKING, LOADING & BICYCLE DATA**

TOTAL REQUIRED SPACES	N/A
TOTAL PROVIDED PARKING SPACES	28 SPACES

**PLANT SCHEDULE**

TREES	CODE	BOTANICAL / COMMON NAME	SIZE	CONTAINER	QTY	DETAIL
	THU G17	Thuja occidentalis 'Green Giant' / Green Giant Arborvitae	6' Ht.	B&B	21	

GRID NORTH NAD 83  
W.V. NORTH ZONE



**NOT APPROVED FOR CONSTRUCTION**  
 PROJECT NO. 7509.3  
 DWN BY: TMF DATE: 03.29.2023  
 PROJECT MANAGER: TMF  
 EMAIL: tfrederick@sa-inc.com  
 PROPERTY INFORMATION  
 19-09-0003-0020-0001  
 SCALE: 1" = 40'  
 SHEET TITLE: CONCEPT PLAN  
**C-101**  
 SHEET 01 OF 01

## **23-5-CUP Valley Storage Shepherdstown Public Comment Index**

- Submitted 2023-05-18 by Theresia Wells



## Zoning

---

**From:** Zoning  
**Sent:** Thursday, May 18, 2023 4:54 PM  
**To:** 'Wells, Theresia'  
**Subject:** RE: Parcel ID: 09000300200001 Request For Condition Use Permit  
**Attachments:** 23-5-CUP Valley Storage Shepherdstown (Commercial Storage) Application.pdf; Section 8.9 Industrial and Commercial Uses.pdf

Ms. Wells,

The subject Conditional Use Permit application is attached to this email. Please note that the proposed application is not for a change in use, it is a request to expand the existing use. Below are answers to your questions in the order you have them written:

- The existing buildings will continue to remain in use and new buildings are proposed to be added to the site.
- The use is considered a nonconforming use because the use was established prior to the adoption of zoning in 1988. In the 1970s, a bookbinding operation was established and operated there until the early 2000s. In 2003, the property owner requested a change in use from the bookbinding operation to a commercial storage facility, which was approved by the Board of Zoning Appeals on May 15, 2003. The proposed structures are required to be 75' from all property lines and the applicant is representing that they will comply with this standard. They have also stated that they will retain the existing vegetative buffer.
- The site currently contains 48,000 square feet of commercial self-storage units (total combined). They are proposing an additional three buildings (19,373 square feet combined), which is approximately a 40% increase. Please review the sketch included in the application (attached) to see the proposed locations for the new buildings.
- These are self-storage buildings that are rented out to customers.
- All commercial uses are subject to Section 8.9 of the Zoning Ordinance (attached) which limits noise that can be heard from a property line.
- The WV Division of Highways issues construction entrance permits and permits for ingress and egress. At this point, there has not been any representation related to changing the existing entrances from Shepherd Grade Road (see application sketch).
- With regard to lighting, the County's Subdivision Regulations require that lights are downward facing and shielded so as to prevent glare and to minimize light trespass.
- The applicant will be required to process a site plan and comply with the County's Stormwater Management requirements, as well as obtain an NPDES permit through the WV Department of Environmental Protection. As part of the site plan process, the applicant's engineer will be required to evaluate natural features, including sinkholes, and submit findings to the County Engineering to review for compliance with the County's regulations.
- The self-storage business was established in 2003. The property has historically operated as a non-residential site. The proposed expansion is contained within the developed area of the property and will remain screened from the adjoining properties. I'm not certain that the proposed expansion would significantly change the character of the area or the property values, since the property has always been a commercial/non-residential property.

Unless you state otherwise, we will include your email below in the Board's agenda packet for their consideration, as well as we will forward your comments to the applicant's representative. My staff report will be included in the

agenda packet and posted online by close of business tomorrow [[click here](#)]. If you would like to participate in the meeting by ZOOM, which allows for conference call options, the information to participate in the virtual meeting will be listed at the top of the agenda in the agenda packet. If you would like to make specific requests or comments related to the site design, I would encourage you or a representative to participate in the meeting either in person or virtually, to ensure that your comments are considered by the Board and the applicant.

Please let me know if you have follow up questions.

Thank you,

Alexandra Beaulieu  
Zoning Administrator  
Jefferson County, WV  
304-728-3228

**From:** Wells, Theresia <Theresia.Wells@loudoun.gov>  
**Sent:** Thursday, May 18, 2023 4:21 PM  
**To:** Zoning <Zoning@jeffersoncountywv.org>  
**Cc:** Theresia Wells <wellstheresia@gmail.com>  
**Subject:** Parcel ID: 09000300200001 Request For Condition Use Permit

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

Good Afternoon,

On Tuesday (5/17) I received a certified notice (attached) regarding a request for a “conditional use permit” for parcel ID 09000300200001, more specifically to operate a “Commercial Storage Facility”. I am the owner of property that runs directly adjacent to this parcel and along the “Fiddlers Way” access easement. I am currently in the process of preparing site and building plans for my residential home, which I will be moving to after retirement at this end of this year. This application has me greatly concerned. Unfortunately, I was not able to take leave on such short notice to visit your offices and review the application. But I do have many concerns I would like to “voice”, which I have identified briefly below in this email communication. I’m not sure if they are required to be delivered in writing or “mailed” thru USPS, but the timing didn’t lend itself to those options. Many of these may be answered in the application, however in order to get these comments in to the planning commission on time I had no choice but to proceed.

Please let me know if there is anything else I need to do or someone I should be contacting.

Thank you so much for your assistance,

Theresia Wells.

**Is this a “new build”**.....will existing buildings be “razed/demolished”?

**What exactly is the non-conformity?** Will the expansion be “conforming”? What are the current setbacks for existing structures buildings.....what is the required setbacks?

**Total Structure Number** - How many structures/floors/units are being proposed in total?

**What type of surface is planned**.....paved, gravel etc.? Plans for run-off to prevent damage to neighboring residential properties and easement.

**Buffering** - What type of buffering is planned to protect existing adjacent residential properties.....berm, trees, etc. Where will the runoff be directed to?

**Materials Stored** - What type of materials will be “stored”.....will there be restrictions on type of storage...i.e. flammables, hazardous materials, chemicals, etc.

**Cooling/Heating Equipment/Generators** - Will these be climate controlled units with temperature controlling units? What are the anticipated noise levels? Will there be additional backup generators....if so, how many, size, anticipated level of noise?

**Access to the facilities...**will they be using our shared easement for construction or used by patrons? Concerns about amount of traffic and wear and tear, noise, etc..

**Noise** - will this facility be accessible 24/7. Concerned about disruptions to all nearby residents. What will the hours be and what are the existing noise ordinances, what restrictions will be put in place?

**Lighting** – how much light will be generated by this facility. There are very few lights that currently affect the adjacent neighbors. Will the lighting involved be upward facing, downward facing, spotlights, motion lights, etc. What are the plans to protect residential neighbors from this?

**HOLE next to existing easement** - Huge concern about a hole that was just found this past weekend right next to the existing easement and whether or not this is a sink hole opening up. Will any ground activity disturb this even more?

**De-Valuing of Existing/Planned residential neighboring properties** – as a property owner currently in the process of preparing to build I have huge concerns about property values being affected by the expansion of this facility. My property value would immediately drop once this facility is built. I would no longer be interested in building on my lot just to endure the noise and visuals during my retirement years.....I would have no choice but to sell. I would not be able to re-cover the cost of the land let alone the cost of any structure that would be built on it. It is definitely a no-win situation for me. I spent three years looking for this parcel, and spent the past two years after purchasing it observing the facility next to us in order to judge what type of impact it had prior to building. Just as I was preparing to finally build, I now must start all over again.





# 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: [zoning@jeffersoncountyv.wv.org](mailto:zoning@jeffersoncountyv.wv.org)

Phone: (304) 728-3228

---

## Zoning Administrator's Report May 25, 2023 Board of Zoning Appeals Meeting

**Date of Memo: May 18, 2023**

- 1) Request to amend the approved submission deadlines for the 2023 Meeting Schedule based on a new submission deadline with the Spirit of Jefferson.
- 2) Finalized Rules of Procedure that were amended October 27, 2022
- 3) The next regular meeting is scheduled for **June 22, 2023**
  - Deadline for submission is Tuesday, May 30, 2023.
- 4) Two alternate member positions remain open. One term ending 01/01/24 and the other term ending 01/01/25.
  - Persons interested in serving on the Board of Zoning Appeals should contact the County Commission Office at 304-728-3284 / [jjames@jeffersoncountyv.wv.org](mailto:jjames@jeffersoncountyv.wv.org).





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

Phone: (304) 728-3228

May 18, 2023

## Request to modify submission deadlines for Board of Zoning Appeals Applications (Variances and Conditional Use Permits).

### Memo

On April 11, 2023 the Spirit of Jefferson sent out a notice with **New Legal Ad Deadlines**. This change may have an impact on the review time for staff to process and review applications before drafting a legal ad.

In the past, zoning application deadlines were a week before the legal ad was due to the Spirit of Jefferson. In 2019, the submission deadlines were modified to the current schedule, which is the Monday before an ad is due to the Spirit of Jefferson. This revision allows for additional time for applicants submit a request.

In recent years, members of the public have been less receptive to requests from staff to provide more complete answers to their applications. This has resulted in staff having to spend more time corresponding with applicants to obtain even the most basic information to deem an application as complete (i.e. full sentence answers to questions as opposed to “yes” or “no” responses; clarifications on dimensions of buildings, and distances from property lines, etc.).

With the revised submission deadline from the Spirit of Jefferson, applications that come in on a Monday, often between 4:00 and 5:00 p.m., will need to be evaluated by staff and a legal ad drafted and submitted to the Spirit of Jefferson by 3:00 p.m. on the Friday of the same week (as opposed to 5:00 p.m.). Additionally, if the ad is extensive (e.g. Conditional Use Permit descriptions), the legal ad may need to be submitted by 3:00 p.m. on the Wednesday after applications are received, which leaves less than two days for staff to process.

In order to ensure that staff has sufficient time to review applications for completeness and prepare legal ads with accurate information and meet the Spirit of Jefferson deadline, **we are requesting to change the submission deadline to the Friday before legal ads are due.**

### Related Attachments:

1. Email from Spirit of Jefferson, including sample legal ad sizes
2. Proposed revisions to submission deadlines for BZA Meeting Schedule (redlined draft)





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

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

Phone: 304-728-3228

**PROPOSED DRAFT REVISION TO THE 2023 MEETING SCHEDULE**

**JEFFERSON COUNTY BOARD OF ZONING APPEALS**

Board of Zoning Appeals meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street at 2:00 p.m.

<u>Submission Deadlines</u>	<u>Newspaper/Placard Posting</u>	<u>Scheduled Meetings</u>
Tuesday, January 3, 2023	Wednesday, January 11, 2023	Thursday, January 26, 2023
Monday, January 30, 2023	Wednesday, February 8, 2023	Thursday, February 23, 2023
Monday, February 27, 2023	Wednesday, March 8, 2023	Thursday, March 23, 2023
Monday, April 3, 2023	Wednesday, April 12, 2023	Thursday, April 27, 2023
Monday, May 1, 2023	Wednesday, May 10, 2023	Thursday, May 25, 2023
Tuesday, May 30, 2023	Wednesday, June 7, 2023	Thursday, June 22, 2023
<del>Monday, July 3, 2023</del> <b>Friday, June 30, 2023</b>	Wednesday, July 12, 2023	Thursday, July 27, 2023
<del>Monday, July 31, 2023</del> <b>Friday, July 28, 2023</b>	Wednesday, August 9, 2023	Thursday, August 24, 2023
<del>Tuesday, September 5, 2023</del> <b>Friday, September 1, 2023</b>	Wednesday, September 13, 2023	Thursday, September 28, 2023
<del>Monday, October 2, 2023</del> <b>Friday, September 29, 2023</b>	Wednesday, October 11, 2023	Thursday, October 26, 2023
<del>Monday, October 16, 2023</del> <b>Friday, October 13, 2023</b>	Wednesday, October 25, 2023	Thursday, November 9, 2023*
<del>Monday, November 20, 2023</del> <b>Friday, November 17, 2023</b>	Wednesday, November 29, 2023	Thursday, December 14, 2023*

\*Meeting dates have been modified in observance of the Thanksgiving and Christmas Holidays.

The required zoning variance request form signed by the legal property owner, supporting documentation and applicable fees must be submitted to the office by close of business on the Submission Deadline date in order for the request to be sufficiently review and noticed in the Spirit of Jefferson. For all other applications please contact the office for the Submission Deadline date.

Changes in the time or location of the meeting shall be noticed on the County's website at [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org).

Note: if the President of the County Commission or the Chair of the Board of Zoning Appeals determines that weather conditions make travel unsafe for the public, County offices may close and/or the Board of Zoning Appeals meeting may be cancelled. Please check the County's website for possible meeting updates during inclement weather.

Agenda items that have been deferred due to a cancellation will be rescheduled. Per the Board's Rule of Procedure, no additional newspaper notice shall be given. All signs must remain posted on the respective properties until the rescheduled meeting date. Please call the office or check the County's website for the rescheduled meeting date.

**Alexandra Beaulieu**

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**From:** Legals  
**Sent:** Tuesday, April 11, 2023 4:47 PM  
**To:** Alexandra Beaulieu  
**Subject:** Re: NEW LEGAL AD DEADLINE-SPIRIT OF JEFFERSON

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

Alex,  
Anything that is a quarter-page (1/4 page of our newspaper size paper) or larger, or charts, budgets, levy estimates, tax lists.

Thank you,  
Cara Young  
Spirit of Jefferson

On Apr 11, 2023, at 3:59 PM, Alexandra Beaulieu wrote:

Received. Thank you .

Can you clarify what is considered a large or extremely lengthy ad?

Thank you,

Alex

Alexandra Beaulieu  
Deputy Director & Zoning Administrator  
Department of Engineering, Planning, & Zoning  
Jefferson County, WV  
304-728-3228

**From:** Legals  
**Sent:** Monday, April 10, 2023 11:34 AM  
**To:** Alexandra Beaulieu ; Planning Department

**Subject:** [Possible Spam] NEW LEGAL AD DEADLINE-SPIRIT OF JEFFERSON

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

**NOTICE**

**NEW LEGAL AD DEADLINE- SPIRIT OF JEFFERSON**

**BEGINNING WITH THE APRIL 19TH ISSUE OF THE SPIRIT OF JEFFERSON, THE LEGAL ADVERTISING DEADLINE WILL CHANGE TO FRIDAYS AT 3:00 PM.**

**ADS THAT ARE RECEIVED LATER THAN 3:00 PM FRIDAYS WILL BE CONSIDERED FOR THE NEXT WEEK'S PUBLICATION DATE, AT OUR DISCRETION.**

**LARGE ADS OR ADS THAT ARE EXTREMELY LENGTHY NEED TO BE RECEIVED AT LEAST ONE WEEK PRIOR TO THE PUBLICATION DATE.**

**PLEASE ACKNOWLEDGE RECEIPT OF THIS EMAIL.**

Thank you,  
Cara Young  
Spirit of Jefferson

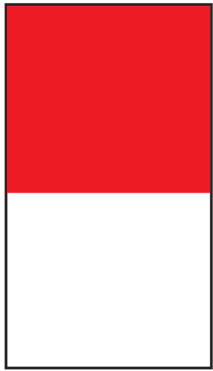
# The Spirit

of JEFFERSON  
AND FARMER'S ADVOCATE

## Ads For Every Budget

Talk to Spirit Marketing Specialist Paula Lawrence (304.830.1319) for more details.

- No additional charge for custom ad design. Work with our award-winning graphic designers to build an impactful campaign.
- All political ads must be prepaid prior to publication.



**HALF  
PAGE**

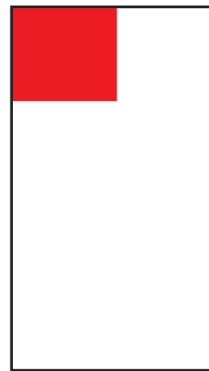
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by 10.5 inches tall**

*(11.625 inches wide)*

**B&W: \$437.85  
COLOR: \$577.85**

**QUARTER  
PAGE**

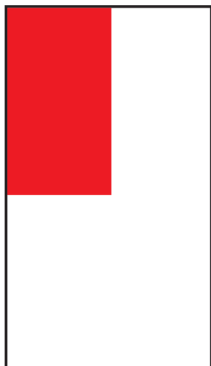
**3 Columns wide  
by 10.5 inches tall**  
*(5.75 inches wide)*



**EIGHTH  
PAGE**

**3 Columns wide  
by 5 inches tall**  
*(5.75 inches wide)*

**B&W: \$104.25  
COLOR: \$244.25**

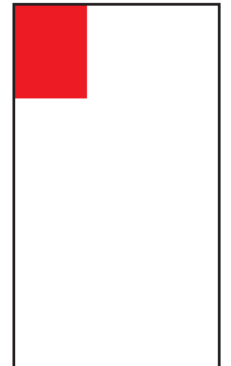


**B&W: \$218.93  
COLOR: \$358.93**

**2 COL. X 5"**

*3.75 inches wide  
5 inches tall*

**B&W: \$69.50  
COLOR: \$119.50**



**FULL PAGE**

**B&W: \$875.70 Color: \$1,015.70**  
*(11.625 inches wide by 21 inches tall)*



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

Phone: (304) 728-3228

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May 18, 2023

## Memo

On October 27, 2022 the Board voted unanimously to amend the Rules of Procedure to add Section 3.4 regarding the BZA Secretary and amend Section 3.5 to include reference to the Secretary.

On January 26, 2023 the Board made another modification and voted unanimously to approve the changes. The document was subsequently formatted and finalized for final approval, but Staff never brought the document back to the Board to complete the approval process.

There is no additional action required. This next step is to formalize the Board's approval to amend the Rules of Procedure. The changes are highlighted in yellow on Page 5 of the Rules of Procedure (attached) and the meeting minutes are attached.

## Attachments:

1. October 27, 2022 Board of Zoning Appeals Minutes
2. January 26, 2023 Board of Zoning Appeals Minutes
3. Amended Rules of Procedure



**Minutes**  
**Jefferson County Board of Zoning Appeals**

- 1 **Meeting Date:** **October 27, 2022**
- 2 Meeting Location: By order of the Chair, the Board of Zoning Appeals meeting was held  
3 in-person in the County Commission Meeting Room located in the  
4 lower level of the Charles Town Library; and virtually via ZOOM.
- 5 Board Members Present: Tyler Quynn, Chair; and Matthew McKinney (in person).  
6 Steve Guier (via ZOOM).
- 7 Board Members Absent: Deirdre Catterton, Vice Chair; Leeds Corbin, and Mikala Shremshock,  
8 alternate member (with notification)
- 9 Staff Members Present: Alexandra Beaulieu, Zoning Administrator; Steve Groh and Nathan  
10 Cochran, Assistant Prosecuting Attorneys; and Jennilee Hartman,  
11 Zoning Clerk

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

13 Mr. McKinney moved to call the meeting to order at 2:00 pm. Mr. Quynn called for a vote, which  
14 carried unanimously.

15 Mr. Quynn reviewed meeting protocol for those in attendance.

16 **Approval of Minutes: September 22, 2022**

17 Mr. McKinney moved to approve the minutes as presented. Mr. Quynn called for a vote, which  
18 carried unanimously.

19 Ms. Hartman swore in members of the public who indicated they would be providing testimony.

20 Mr. Quynn made a motion to amend Section 3.4 of the Rules of Procedure to add the position of  
21 Board secretary and to include language that would allow the Board Secretary to preside over a  
22 meeting in the absence of both the Chair or the Vice Chair. Mr. Quynn called for a vote, which  
23 carried unanimously.

24 Mr. Quynn moved to nominate Mr. Matt McKinney as Secretary. Mr. Guier seconded the motion,  
25 which carried unanimously.

26 **ITEM #1 FILE #: 22-32-ZV, 22-33-ZV, and 22-34-ZV**

27 The following three requests pertain to a proposed 10,542 square foot retail store (Dollar General)  
28 and associated parking lot.

29 Request 1: Variance from Section 4.11E to eliminate a portion of the landscape buffer along the  
30 southern and western property lines; and Section 4.11I.1 to eliminate the streets trees  
31 along Amanda Court and Shepherdstown Pike.

32 Request 2: Variance from Section 11.1A to reduce the number of required parking spaces from  
33 47 to 31; and Appendix B to reduce the front parking setback along Amanda Court  
34 from 15' to 8'.

35 Request 3: Variance from Section 10.4B to reduce the front setback along Amanda Court from  
36 25' to 19' and along Shepherdstown Pike from 25' to 17' for a freestanding sign.

37 Applicant: A & R Development (Dollar General)

38 Parcel Info: Iris Wood, Property Owner

39 Mark Kramer Subdivision, Lot 2, Vacant parcel on the southwest corner of Amanda Ct.  
40 and Shepherdstown Pk., Harpers Ferry, WV; Parcel ID: 04001000110005; Size: 2.26  
41 acres; Zoning District: Residential-Light Industrial-Commercial

1 substantially developed and future development is not anticipated, nor would it be hindered  
2 by the proposed use.

3 4. The Board acknowledged that the applicant had installed trees to along the perimeter of the  
4 property to mitigate impact on adjoining properties and to improve the property. The Board  
5 also acknowledged that the applicant stated she was willing to work in collaboration with  
6 adjoining property owners to plant additional trees where needed.

7 5. The Board acknowledged that the applicant was taking the necessary steps to ensure  
8 compliance with Section 8.9 by purchasing the decibel meter and agreeing to a reasonable  
9 end time for events.

10 6. The Board stated that Engle Switch Road not named in the Highway Problem Areas map  
11 and that the anticipated traffic count would be a minimal increase to the existing road.

12 Additional discussion regarding the conditional use criteria ensued.

13 Mr. McKinney moved to approve the Conditional Use Permit with the following conditions:

14 1. Event parking is prohibited on the southeast end of the property.

15 2. The southeast gate located along Engle Switch Road shall be closed during events except in  
16 the event of an emergency. Only the main entrance will be used during the events.

17 3. Event parking is limited to the northwest corner of the property.

18 4. The applicant is bound by their testimony.

19 Mr. Quynn offered an amendment to include the following condition:

20 1. As proffered by the applicant, the conditional use permit shall become void after the sale of  
21 the property to anyone outside of the family.

22 Mr. Quynn called for a vote on the amendment, which carried three (3) in support and two (2) in  
23 opposition (Mr. McKinney and Ms. Shremshock).

24 Mr. Wiegand offered a second amendment to the amended motion to include the following  
25 condition:

26 1. To limit the number of event to three (3) events per month.

27 Mr. Quynn called for a vote on the second amendment, which carried three (3) in support and two  
28 (2) in opposition (Mr. McKinney and Ms. Shremshock).

29 Mr. Quynn called for a vote on the amended motion, which carried unanimously.

30 **Review and Approval of the revised Board of Zoning Appeals Rules of Procedure (RoP), as**  
31 **amended by the Board on 10/27/22.**

32 The Board requested that the original text of Section 3.4 remain in the RoP and the reference to the  
33 Secretary language be added as a new Section (3.5).

34 Mr. Guier moved to approve the changes as discussed. Mr. Quynn called for a vote, which carried  
35 unanimously.

36 **Zoning Administrator's Report**

37 Ms. Beaulieu noted the next meeting date was February 23, 2023.

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

# Rules of Procedure of the Jefferson County Board of Zoning Appeals

Jefferson County, West Virginia

Effective January 26, 2023

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**RULES OF PROCEDURE OF THE**  
**JEFFERSON COUNTY BOARD OF ZONING APPEALS**

**WHEREAS**, W.Va. Code § 8A-8-1, et seq., provides for the establishment and powers of a Board of Zoning Appeals, and

**WHEREAS**, the Jefferson County Board of Zoning Appeals is duly authorized, pursuant to W.Va. Code § 8A-8-9, to adopt rules of procedure to carry out its obligations pursuant to the Jefferson County Zoning and Development Review Ordinance and West Virginia law, and

**WHEREAS**, the Jefferson County Board of Zoning Appeals wishes to establish certain rules and regulations to effectuate its purpose and provide consistency for its proceedings,

**NOW, THEREFORE**, the Jefferson County Board of Zoning Appeals hereby adopts these Rules of Procedure which shall be applicable to all proceedings of the Board.

**ARTICLE I – GENERAL**

**Section 1.1 – Definitions**

As used throughout these Rules of Procedure, the following terms shall be defined as follows:

<i>Administrative Official</i>	Refers to any member of staff, including but not limited to the Zoning Administrator, who has made a decision or determination of an issue relating to the Zoning Ordinance.
<i>Appellant</i>	Refers to any party which has filed a timely appeal with the Board.
<i>Board</i>	Refers to the Jefferson County Board of Zoning Appeals.
<i>County Commission</i>	Refers to the County Commission of Jefferson County.
<i>Item</i>	Refers to any matter before the Board for consideration or discussion, and shall be construed broadly.
<i>Member</i>	Refers to a member of the Board.
<i>Ordinance</i>	Refers to the Jefferson County Zoning and Land Development Ordinance.
<i>Present</i>	A person is present at a meeting when in attendance physically, or by video conference when the meeting is so noticed.

*Respondent*        The Zoning Administrator when a timely appeal is filed alleging error with respect to a formal zoning decision or zoning determination or the owner of the property subject to an appeal by a third party.

*Staff*                Refers to the Department of Zoning and its employees.

Section 1.2 – Authority

These Rules of Procedure and its provisions are authorized by W.Va. Code § 8A-8-9, which empowers the Board, among other things, to adopt rules and regulations concerning the filing of appeals, applications for variances and conditional uses, the giving of notice, and the conduct of hearings.

Section 1.3 – Severability

The invalidation of any provision or section of these Rules of Procedure shall not invalidate any other provision or section of these Rules of Procedure.

Section 1.4 – Amendments

These Rules of Procedure may be amended at any regular meeting of the Board by a majority vote of the Board, and shall take effect immediately or at a date certain determined by the Board.

**ARTICLE II – ORGANIZATION**

Section 2.1 – Membership

Pursuant to W.Va. Code § 8A-8-4, the Board shall be comprised of five (5) members appointed by the County Commission. Membership on the Board shall be in compliance with all the requirements of W.Va. Code § 8A-8-4.

Section 2.2 – Term of Office

Upon appointment to the Board, a member shall serve a term of three (3) years pursuant to W.Va. Code § 8A-8-4(d). If a vacancy occurs, the County Commission shall appoint a member for the unexpired term.

Section 2.3 – Powers and Duties

In addition to the powers and duties provided in these Rules of Procedure, the Board and its members shall have such other powers and duties as provided by ordinance and/or law, including but not limited to W.Va. Code § 8A-8-9.

## **ARTICLE III – OFFICERS**

### Section 3.1 – Elections

At its first regular meeting each year, the Board shall elect from its members a Chairperson and Vice Chairperson.

### Section 3.2 – Chairperson

The Chairperson shall serve a term of one (1) year, and shall preside at all public hearings held by the Board. The Chairperson may call special meetings of the Board as necessary, and is empowered to certify by signature or otherwise any official and valid action of the Board. The Chairperson shall also perform such duties and functions as may from time to time be required by the Board.

### Section 3.3 – Vice Chairperson

During any absence of the Chairperson, the Vice Chairperson shall assume the duties and functions of Chairperson. The Vice Chairperson shall also perform such duties and functions as may from time to time be required by the Board.

### Section 3.4 – Secretary

In the absence of both the Chairperson and Vice Chairperson, the Board Secretary shall fulfill the duties and functions of the Chairperson and/or Vice Chairperson.

### Section 3.5 – Absence of Chairperson and Vice Chairperson

In the absence of the Chairperson, Vice Chairperson, and Secretary, any present member may call to order a regular or special meeting of the Board, which shall thereupon immediately empower one or more of its present members to fulfill the duties and functions of Chairperson and/or Vice Chairperson during said absence.

### Section 3.6 – Replacing Officers

In the event of the death, resignation, or removal of an officer of the Board, the Board shall thereupon elect one of its members to complete the unexpired term. A four-fifths majority of the total membership of the Board may, at any regular meeting, remove the Chairperson and/or the Vice Chairperson from office, provided that a new election to fill the remaining term(s) of office is immediately held.

### Section 3.7 – Alternate Members

Pursuant to W.Va. § Code 8A-8-4(e), the County Commission may appoint up to three (3) additional members to serve as alternate members of the Board. The term for an alternate member is three (3) years. An alternate member shall serve on the Board when one of its regular members is unable to serve, and in such instance shall have all powers and duties of a regular member. 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. Alternate members shall be entitled to be present at all Board meetings and deliberations.

## **ARTICLE IV – MEETINGS**

### Section 4.1 – Regular Meetings

The Board shall hold regular meetings on the fourth (4<sup>th</sup>) Thursday of each month at 2:00 p.m. in the ground floor meeting room of the Old Charles Town Library, at 200 East Washington Street, Charles Town, West Virginia. Prior notice shall be provided in the event that any regular meeting is held at a different location, at a different time, or by video conference. A regular meeting may be postponed, cancelled or rescheduled for appropriate reasons such as inclement weather or conflict with a holiday, and in such case prior notice of said postponement or cancellation shall be provided if possible.

### Section 4.2 – Special Meetings

A special meeting may be called by the Chairperson or by two or more members of the Board, with said meeting to be held on a different day and/or a different time than regular meetings. Pursuant to W.Va. Code § 8A-8-5, notice for all special meetings shall be in writing, include the date, time and place (and will state that the meeting will be held by video conference, if applicable) of the special meeting, and be sent to all members at least two days before the special meeting. 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. A special meeting may be postponed or cancelled for appropriate reasons, and in such case prior notice of said postponement or cancellation shall be provided to the public and members if possible.

### Section 4.3 – Recording of Meetings

All meetings of the Board shall be recorded, and such recordings shall be maintained and made available, upon request and in accordance with the procedures of the Board and/or its staff, to the public. Recordings shall be maintained by staff for a minimum of five years.

### Section 4.4 – Quorum and Majority Vote

In order to conduct a regular or special meeting, a quorum of members must be present. A majority of members of the Board shall constitute a quorum. Once the requirement for a quorum has been met, no action of the Board shall be official or valid unless authorized by a majority of members making up said quorum at a regular or special meeting.

### Section 4.5 – Agendas

An agenda shall be made available prior to the start of all regular and special meetings. Items shall be listed on the agenda in such a manner as to sufficiently identify the substance of the item and allow for a vote on the item by the Board if necessary. The Board may deviate from the order of an agenda if necessary.

### Section 4.6 – Executive Sessions

The Board may hold an executive session, closed to the public, during any meeting to consider matters permissible in executive sessions pursuant to W.Va. Code § 6-9A-4, including, but not limited to, deliberations toward a decision on an appeal or other item, privileged discussions with legal counsel, and personnel matters.

Section 4.7 – Procedures for Conducting Meetings

In the absence of state law or of other procedures of the Board, Roberts Rules of Order, current edition, shall be the parliamentary authority of meetings of the Board.

Section 4.8 – Open Governmental Proceedings

All meetings and actions of the Board shall comply with the requirements of West Virginia’s open meetings laws, codified at W.Va. Code § 6-9A-1, et seq.

**ARTICLE V – CONSIDERATION OF ITEMS**

Section 5.1 – Voting

A member must be present at a meeting to vote on any item considered at said meeting. Voting by proxy is not permitted. Abstention and recusal shall be permitted only for reasons set forth in these Rules. Any member who abstains, recuses himself/herself, or otherwise chooses not to participate in a vote shall thereupon publicly state the reason.

Section 5.2 – Recusal

A member may recuse himself/herself in relation to an item for the reasons set forth herein, in which case such member shall not participate in discussion, consideration or vote on said item. Valid reasons for recusal include (1) having a personal interest in an item, (2) having a contractual, employment, or other relationship with a party involved with an item, (3) being unable to impartially consider an item, or (4) having been absent from part or all of the discussion or consideration of an item. A member recusing himself or herself shall thereupon state the reason for such recusal and leave the meeting, remaining absent for the duration of consideration and/or discussion of the item.

At all times, a member shall recuse himself or herself when his or her participation in the consideration, discussion, or vote regarding an item would give rise to the appearance of impropriety.

At all times, a member shall make full public disclosure of any and all issues which may tend toward an appearance of impropriety, and such disclosure shall be made prior the Board’s consideration of the relevant item

Section 5.3 – Ex Parte Communications

For purposes of these Rules of Procedure, ex parte communications consist of communications regarding the substance of an item that is or will be before the Board for consideration and/or discussion, when such communications are between one or more members of the Board and one or more individuals involved with the item. No member of the Board shall voluntarily and knowingly engage in ex parte communications without the authority of the Board. In the event that a member of the Board has engaged in or receives any ex parte communication, said member shall bring the same to the attention of the Board and shall publicly disclose the same. Communications with third parties regarding procedural aspects of items do not constitute ex parte communications.

#### Section 5.4 – Continuance

The Board may continue, reschedule, or re-open proceedings on an item for any good cause.

#### Section 5.5 – Notice

All items shall be noticed in accordance with the Ordinance, these Rules of Procedure, and staff procedures. In accordance with Section 3.4A(3)(b)(ii) of the Jefferson County Zoning and Land Development Ordinance (6/1/14), “the subject property shall be posted conspicuously” shall mean that a notice shall be posted on every road, right-of-way, and/or easement on which the public may travel adjoining or abutting the property, as determined by the Zoning Administrator. If an item is continued, rescheduled, or postponed, and the new time and date are announced at the same meeting, then no additional notice is required for that item. If an item is continued, rescheduled, or postponed, and the new time and date are not announced at the same meeting, all parties of record shall be provided not less than seven (7) calendar days notice of the new time and date.

#### Section 5.6 – Submissions to the Board

Submissions regarding all items for Board consideration shall be made in accordance with the Ordinance, these Rules, and relevant staff procedures. Staff may establish deadlines for submittal of applications and supplemental material. Late submissions, including submissions made the day before or the day of any meeting of this Board, may not receive full consideration by the Board due to the lack of time for proper Board and staff review.

#### Section 5.7 – Procedure for Hearings

Prior to hearings on all items, the Board will require all persons present who wish to give comments on any item to place their name on a written list of anticipated speakers.

Hearings on items shall be conducted in the following manner:

- (1) Chairperson opens public hearing;
- (2) Staff presents summary of application and staff report;
- (3) Applicant/Appellant testimony;
- (4) Respondent(s) testimony;
- (5) Public comment;
- (6) Rebuttals of staff, applicant/appellant and respondent(s);
- (7) Chairperson calls for a vote for closed deliberation and recesses public hearing if motion carries;
- (8) After consideration, Board reopens public hearing and renders a decision.
- (9) In the case of a variance request where no one has filed written opposition and no one but the applicant appears to testify, any member may move for summary approval by unanimous consent based on the Board’s consideration of the application and the written staff report.

The Chairperson shall preside at the hearing and shall make such rulings as may be necessary to conduct a hearing in an efficient and orderly manner including, but not limited to, the imposition of time limitations and the exclusion of irrelevant, repetitive, or cumulative evidence or testimony. A member may question the rulings of the Chairperson, and such questions may be decided by a motion and subsequent majority vote of the Board.

#### Section 5.8 – Reopening Hearing

At any time prior to the rendering and/or filing of a decision, the Board may, upon the request of a party or upon its own motion, reopen proceedings on an item for the receipt of further evidence or information. All parties of record shall be given proper notice of the reopening and granted an opportunity to review additional evidence and information and file any rebuttal or additional comments.

### **ARTICLE VI – APPEALS**

#### Section 6.1 – Scope of Appeals to the Board

Pursuant to W.Va. Code § 8A-8-9, the Board shall hear, review and determine appeals from an order, requirement, decision or determination made by an administrative official or party charged with the enforcement of a zoning ordinance or rule and regulation adopted pursuant thereto.

#### Section 6.2 – Time

All appeals to the Board shall be filed within thirty (30) days of the entry of the order, requirement, decision or determination which is the subject of the appeal. Within ten (10) days of receipt of a complete appeal form and associated fee(s), the Board, through its Staff, shall set a date for a public hearing of the appeal.

#### Section 6.3 – Posting of Property

If an appeal hearing involves the use of land, including requests for exceptions, variances, and conditional use permits, the property owner shall post signs on the property showing the date, time, and place of the hearing on every road, right-of-way, and/or easement on which the public may travel adjoining or abutting the property, as determined by the Zoning Administrator. The signs shall be posted at least fifteen (15) days in advance of the hearing. All signs shall be prepared by the Board's staff and the Appellant shall bear reasonable costs associated therewith.

The property owner is responsible for compliance with the posting requirements set out herein, and said property owner shall bear the burden of proof of compliance in the event that a question regarding compliance arises. In the event that the application is for an appeal of a decision made by the Zoning Administrator that involves a property not owned or leased by the appellant, staff shall contact the property owner and inform them of the need to post a sign on their property. If they are unwilling to allow the appellant to post the sign, staff shall post the sign.

#### Section 6.4 – Publication of Notice

At least fifteen (15) days prior to an appeal hearing, the Board, through its staff, shall publish a notice of public hearing in a local newspaper. The notice shall include the date, time, and place of the hearing and shall be a class I legal advertisement in compliance with W.Va. Code § 59-3-1, *et seq.* The Board may require the Appellant to pay for the cost of the advertisement.

Section 6.5 – Supplementation of Record for an Appeal Hearing

Appellant(s) may provide two copies of supplemental materials to the Board in advance of a hearing on an appeal of an administrative decision and the same must be submitted no later than 15 days prior to the hearing date. The Appellant(s) shall also deliver complete copies of the supplemental materials to any applicable Respondent(s) at the same time and shall certify to staff that such materials were delivered as required.

No later than one (1) week prior to an appeal hearing, any Respondent(s) may file documentation with the Board for consideration and shall deliver complete copies of any material submitted to all other parties and shall certify to staff that such materials were delivered as required. The Board may consider the written decision being appealed together with all materials in the official file maintained by staff at the time of the hearing without necessity of mailing or delivery to any party. The parties may review the administrative file prior to the hearing.

All submissions shall be made in accordance with the Board of Zoning Appeals Rules of Procedure. Failure to follow submission guidelines by an Appellant shall be considered failure to file a complete appeal and the Board in its discretion may postpone the hearing until the Appellant complies or ignore the supplemental materials and base its decision upon other materials provided.

Section 6.6 – Appeals of Board Decisions

Pursuant to W.Va. Code § 8A-9-1, every decision of the Board is subject to review by petition for writ of certiorari in circuit court.

These rules became effective on the 26th day of January 2023.

JEFFERSON COUNTY  
BOARD OF ZONING APPEALS,

By: \_\_\_\_\_

Chairperson



Jefferson County, West Virginia  
Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
116 E. Washington Street, 2<sup>nd</sup> Floor  
Charles Town, West Virginia 25414  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

---

**May 2023**  
**Zoning Certificate Activity Report**

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<b>File #</b>	<b>23-10-ZC</b>
Request:	Accessory Dwelling Unit
Property Owner:	James and Cheryl Lavigne
Parcel Information:	Chad Johnson Minor Subdivision, Lot 2 149 Savannah Drive, Charles Town, WV 25414 Parcel ID: 02001300040010; Size: ~3.15 acres; Zoning District: Rural; Deed Book: 1245; Page: 64; Plat Book: 25; Page: 147
Date of Issuance:	04/26/2023
<b>File #</b>	<b>23-19-ZC</b>
Request:	Cottage Industry: Woodworking
Property Owner:	Patrick Kiser
Parcel Information:	Shirley Estates, Lot 6, 135 Breeze Knoll Way, Charles Town, WV 25414 Parcel ID: 06000100010006; Size: 3 acres; Zoning District: Rural; Deed Book: 1200; Page: 614; Final Plat for Shirley Estates Subdivision = Plat Book 23 @ Page: 10
Date of Issuance:	05/09/2023
<b>File #</b>	<b>23-21-ZC</b>
Request:	Wheatland Wags Home Occupation, Level 1 (Puppy Boarding and Training)
Property Owner:	Ian and Virginia Harrison
Parcel Information:	Charles Jenkins Minor Subdivision, Lot 2, 154 Jenkins Hill Rd, Charles Town, WV Parcel ID: 06001200160004; Size: 18.85 acres; Zoning District: Rural; Deed Book: 944; Page: 24; Plat Book: 18 @ Page: 16
Date of Issuance:	05/02/2023
<b>File #</b>	<b>23-22-ZC</b>
Request:	Equipment modifications to existing nonconforming telecommunications facility.
Property Owner:	American Towers, LLC / Attn: Marc Grant
Applicant:	T-Mobile Northeast, LLC
Parcel Information:	17340 Poppy Road, Bluemont, VA 20135 Parcel ID: 06002500080003; Size: 2.01 acres; Zoning District: Rural; Deed Book: 988; Page: 186; Improvement Location Permit# 83-196
Date of Issuance:	05/02/2023
<b>File #</b>	<b>23-23-ZC</b>
Request:	Change in Tenant: Grappling Arts 360 LLC and River Song Healing Therapies.
Property Owner:	BURR SK LLC / Attn: Pete Kubic
Applicant:	Grappling Arts 360 LLC & River Song Healing Therapies / Attn: Kileigh Susice
Parcel Information:	Burr Industrial Park – Lot 18A-3, 120 Commerce Circle, Suites 100 and 200, Kearneysville, WV Parcel ID: 02000100710000; Size: 5.57 acres; Zoning District: Industrial-Commercial; Deed Book: 1095; Page: 690; Plat Book: 25 @ Page: 380; Site Plan File #S03-07
Date of Issuance:	05/02/2023

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Zoning Certificate Activity Report

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<b>File #</b>	<b>23-24-ZC</b>
Request:	Change in Land Use from the former Clarion Hotel and Conference Center with associated amenities and a Federal Training Facility to the following land uses: Government Offices, Professional Offices, 80 Apartments with private Fitness/Health Club, Ballroom for Rental & Private Use, Several Dining Rooms/Restaurants/Lounges, Sports Academy, and Retail Area (currently Christian Cain Jeweler)
Property Owner:	Federal Group Inc. / Attn: Tripp Lowe
Consultant:	P.J. Raco Consulting, LLC / Attn: Paul Raco
Parcel Information:	233 Lowe Drive, Shepherdstown, WV Parcel ID: 09000800100009; Size: 23.67 acres; Deed Book: 1230; Page: 490; Kensington Subdivision, Phase 1 recorded on 07/24/2020 in PB 26 at PG 109 Parcel ID: 09000800240003; Size: 1.02 acres; Deed Book: 967; Page: 723; Rempe Minor Subdivision, recorded on 11/17/00 in PB 18 at PG 30 Zoning District: Residential-Light Industrial-Commercial Zoning Map Amendment (rezoning) Approved 03/16/23 (File: 23-2-Z)
Date of Issuance:	05/09/2023

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<b>File #</b>	<b>23-25-ZC</b>
Request:	Temporary Sale of Legal Fireworks
Property Owner:	SUSO2 Alabama, LP
Applicant:	American Promotional Events, Inc. – East DBA TNT Fireworks / C/O Jerri Morfa
Parcel Information:	Charles Town Plaza, 96 Patrick Henry Way, Charles Town, WV 25414 Parcel ID: 02000800290002; Size: 21.33 acres Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1170; Page: 471; Site Plan File: S96-16 (Wal Mart Shopping Center)
Date of Issuance:	05/18/2023

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<b>File #</b>	<b>23-26-ZC</b>
Request:	Temporary Sale of Legal Fireworks
Property Owner:	B33 Jefferson Crossing II, LLC
Applicant:	American Promotional Events, Inc. – East DBA TNT Fireworks / C/O Jerri Morfa
Parcel Information:	188 Flowing Springs Road, Charles Town, WV 25414 Parcel ID: 02000800240004; Size: 15.16 acres; Zoning District: Residential-Light Industrial-Commercial; Deed Book: 1239; Page: 670; See PC File: 94-04 (site plan)
Date of Issuance:	05/18/2023

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<b>File #</b>	<b>23-28-ZC</b>
Request:	Stone River House Bed and Breakfast
Property Owner:	Richard and Yocencia Deal
Parcel Information:	3685 River Rd, Shepherdstown, WV 25443 Parcel ID: 09000900180000; Size: 2.53 8 acre; Zoning District: Rural; Deed Book: 1192; Page: 186
Date of Issuance:	05/19/2023

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