



Agenda
Jefferson County Planning Commission
Tuesday, July 25, 2023 at 7:00 PM

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

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

ZOOM Broadcast Information: Meeting ID: 813 7935 6903
Meeting Link: <https://us02web.zoom.us/j/81379356903>

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

1. **Approval of Meeting Minutes:** July 11, 2023
2. **Request for postponement.**
3. **Public Hearing:** Waiver from Section 20.201A.2 of the Subdivision Regulations to allow a sixth lot to access an existing 50' wide access easement (Sunnyside Lane) without upgrading it to meet county grade standards. Applicant/Property Owner: David Lutman; Property Location: Sunnyside Lane, Shenandoah Junction, WV; Parcel ID: 09001800050007; Size: 18.1 acres; Zoning District: Rural (File: 23-19-PCW).
4. **Public Workshop:** Canter Hollow Apartments (fka Miller Station Apartments); redesign of previously approved project (08-09-22) to consist of approximately 20 multi-family (apartment) buildings with approximately 150 units, associated parking, stormwater management facilities, and signage. (File #22-6 - SP). Applicant/Property Owner: Cantor Hollow, LLC; Property Location: Captain Chews Trace, Charles Town, WV; Parcel ID: 02008C00010000 – 02008C0008000 (8 lots); Combined Size: 10 acres; Zoning District: Residential/Light Industrial/Commercial (File: 22-6-SP).
5. **Public Hearing:** Request for a Variance from Section 2.1 of the 1979 Subdivision Ordinance (Outsale Exemption) to lift the single family restriction to allow for the establishment of a Kennel on the property; Applicant/Property Owner: Nicholas Russo and Alice Davenport; Property Location: 1899 Trough Road, Shepherdstown, WV; Parcel ID: 09000900070006; Size: 10 acres; Zoning District: Rural (File: 23-2-PCV).
6. **Public Hearing:** Request for a Waiver from Section 20.201A.2, to reduce the width of the required access easement from 50' to 40' for a proposed two (2) lot minor subdivision. (File: 23-18-SD). Applicant/Property Owner: Palmisano A W-TR; Property Location: 2034 Persimmon Ln, Shepherdstown, WV; Parcel ID: 09000700050000; Size: 47.73; Zoning District: Rural (File: 23-18-PCW).

There is no public comment for the following items.

7. **POSTPONED until 8/8/23 by request of the Applicant: Discussion and Action:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Rural to Residential Growth (RG) is

consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Arcadia Land Inc.; Property Location: Vacant parcels, which are a part of the Harvest Hills Subdivision, located east of the intersection of Flowing Springs Rd and Brass Harness Drive. Tax District: Shepherdstown (09), Tax Map: 24; Parcels: 12 & 13; comprised of 94.63 acres (P12) and 257.62 acres (P13). Zoning District: Rural (File: 23-5-Z)

8. Reports from Legal Counsel

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
- b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.
- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2023-C-48 (RE: PC File #21-8-SP Berryville Pike Telecommunications Tower).

9. Planner's Memo

10. President's Report

11. Actionable Correspondence

12. Non-Actionable Correspondence

- Email from Doug Rockwell Re: 2045 Comprehensive Plan Survey
-

Draft Meeting Minutes
Jefferson County Planning Commission
July 11, 2023

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

Donnie Fisher and Matt Knott were absent with notice.

J. Ware was absent without notice.

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

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

1. **Approval of Meeting Minutes:** June 13, 2023

Ms. Brockman noted the following correction to the minutes:

To add the word “(Opposed)” to the public comment made by Cheryl Avery on Agenda Item #3.

Mr. Shepp stated the minutes stand approved as amended without objection.

2. **Request for postponement.** Agenda Item #6 (File: 23-2-PCV) and Agenda Item #7 (File: 23-18-PCW) were postponed until 07/25/23.

3. **Public Workshop:** Concept Plan for the Orchard Springs Major Residential Subdivision consisting of approximately 146 single-family homes and 122 townhouses. Applicant/Property Owner: Alharmoosh Development Group LLC; Property Location: 257 and 263 Ridge Road, Shenandoah Junction, WV; Parcel ID: 02000100450000 and 02000100290000; Size: 75.17 and 1.05; Zoning District: Residential Growth (File: 23-14-SD).

Ms. Brockman provided an overview of the staff report related to the proposed Orchard Springs Subdivision.

The applicant’s representative, Marcus Carnegie with The Thrasher Group Inc., explained the nature of the request to the Planning Commission. Brad Messenger with The Thrasher Group Inc. was also present.

Mr. Shepp opened the Public Workshop.

- Ms. Theresa Johnson (Opposed) and Ms. Dana Anders (Opposed) provided public comment.

Mr. Shepp closed the Public Workshop.

Mr. Carnegie provided a rebuttal and responded to questions and concerns presented by the public.

The Planning Commission asked the applicant’s representative several questions.

Ms. Brockman provided staff recommendations to the Planning Commission.

Mr. Stolipher made a motion to approve the waiver as presented with the condition of the applicant speaking with the DOH regarding a walking path across Warm Springs Road to T.A. Lowry Elementary School. Mr. Hefestay seconded the motion, which carried unanimously.

4. **Public Hearing:** Request for a Waiver from Section 21.104A, which requires the minimum frontage to be equal to the minimum lot width for the Zoning District, or 80 feet, whichever is less (Orchard Springs Subdivision). (File: 23-14-SD). Applicant/Property Owner: Alharmoosh Development Group LLC; Property Location: 257 and 263 Ridge Road, Shenandoah Junction, WV; Parcel ID: 02000100450000 and 02000100290000; Size: 75.17 and 1.05; Zoning District: Residential Growth (File: 23-15-PCW).

Ms. Brockman provided an overview of the staff report regarding the proposed lot width of the single-family detached lots in the proposed Orchard Springs Subdivision.

The applicant's representative, Marcus Carnegie with The Thrasher Group Inc., explained the nature of the request to the Planning Commission. Brad Messenger with The Thrasher Group Inc. was also present.

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

Mr. Saunders asked the applicant's representative's questions regarding the depth of lots. The Planning Commission members asked the applicant's representative several questions regarding the area and shape of the proposed lots.

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

5. **Public Hearing:** Request for a Waiver from Section 21.101A, which requires the blocks to not exceed six lots in length on one side of the street less (Orchard Springs Subdivision). (File: 23-14-SD). Applicant/Property Owner: Alharmoosh Development Group LLC; Property Location: 257 and 263 Ridge Road, Shenandoah Junction, WV; Parcel ID: 02000100450000 and 02000100290000; Size: 75.17 and 1.05; Zoning District: Residential Growth (File: 23-16-PCW).

Ms. Brockman provided an overview of the staff report regarding the proposed block lengths for the proposed Orchard Springs Subdivision. Staff recommended that if the Planning Commission was inclined to approve this waiver that pedestrian connectivity be required to be provided to common open space areas as much as possible.

The applicant's representative, Marcus Carnegie with The Thrasher Group Inc., explained the nature of the request to the Planning Commission. Brad Messenger with The Thrasher Group Inc. was also present.

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

Mr. Shepp made a motion to approve the waiver as presented with the condition to provide pedestrian access to the common open space and proposed park. Mr. Hefestay seconded the motion, which carried unanimously.

6. **Public Hearing:** Request for a Variance from Section 2.1B of the 1979 Subdivision Ordinance (parent to child exemption) to lift the single family restriction to allow for a detached Accessory Dwelling Unit (Kennel); Applicant/Property Owner: Nicholas Russo and Alice Davenport; Property Location: 1899 Trough Road, Shepherdstown, WV; Parcel ID: 09000900070006; Size: 10 acres; Zoning District: Rural (File: 23-2-PCV).

This item was postponed to the July 25, 2023 Planning Commission Meeting.

7. **Public Hearing:** Request for a Waiver from Section 20.201A.2, to reduce the width of the required access easement from 50' to 40' for a three lot minor subdivision. (File: 23-18-SD). Applicant/Property Owner: Palmisano A W-TR; Property Location: 2034 Persimmon Ln, Shepherdstown, WV; Parcel ID: 09000700050000; Size: 47.73; Zoning District: Rural (File: 23-18-PCW).

This item was postponed to the July 25, 2023 Planning Commission Meeting.

8. **Discussion and Possible Direction:** Discuss a requested *2045 Comprehensive Plan* work session and/or meeting with the Jefferson County Agricultural community.

Mr. Stolipher suggested that the Planning Commission propose a Public Workshop session to meet with Jefferson County Agricultural community.

Mr. Shepp made a motion to schedule a Public Workshop meeting with the Jefferson County Agricultural community in September. Mr. Hefestay seconded the motion, which carried unanimously.

9. **Discussion and Recommendation:** 4th Quarter Quarterly Report/ FY23 Annual Report to County Commission (*to be distributed at meeting*).

Ms. Brockman gave an overview of the Quarterly Report and suggested making additions to include the comprehensive plan work session.

Mr. Stolipher made a motion to approve the Quarterly Report to the County Commission with the provision that staff include data regarding the Comprehensive Plan Work Sessions and Workshop. Mr. Hefestay seconded the motion, which carried unanimously.

10. Reports from Legal Counsel

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

Mr. Cochran stated he did not have anything to report at this time, but that he would have updates at the next Planning Commission meeting.

11. Planner's Memo.

Ms. Brockman reminded the Planning Commission about the upcoming special Planning Commission Meeting on July 25, 2023 and the regular Planning Commission meeting on August 8, 2023.

Ms. Brockman also stated there needs to be further discussion regarding volunteers and the schedule for the upcoming Jefferson County Fair.

12. President's Report. None

13. Actionable Correspondence.

- Email from Lyn Widmyer Re: African American Heritage Festival

Mr. Seigfried provided staff recommendations regarding providing a 2045 Comprehensive Plan Update booth at the African American Heritage Festival on August 18th.

Mr. Howell made a motion to attend the African American Heritage Festival. Mr. Hefestay seconded the motion, which carried unanimously.

14. Non-Actionable Correspondence.

- Email from Lanae Johnson Re: Women on Steering Committee

The Planning Commission discussed the email from Ms. Johnson and stated this request would need to be addressed by the County Commission which appointed the Planning Commission to serve as the 2045 Comprehensive Plan Update Committee.

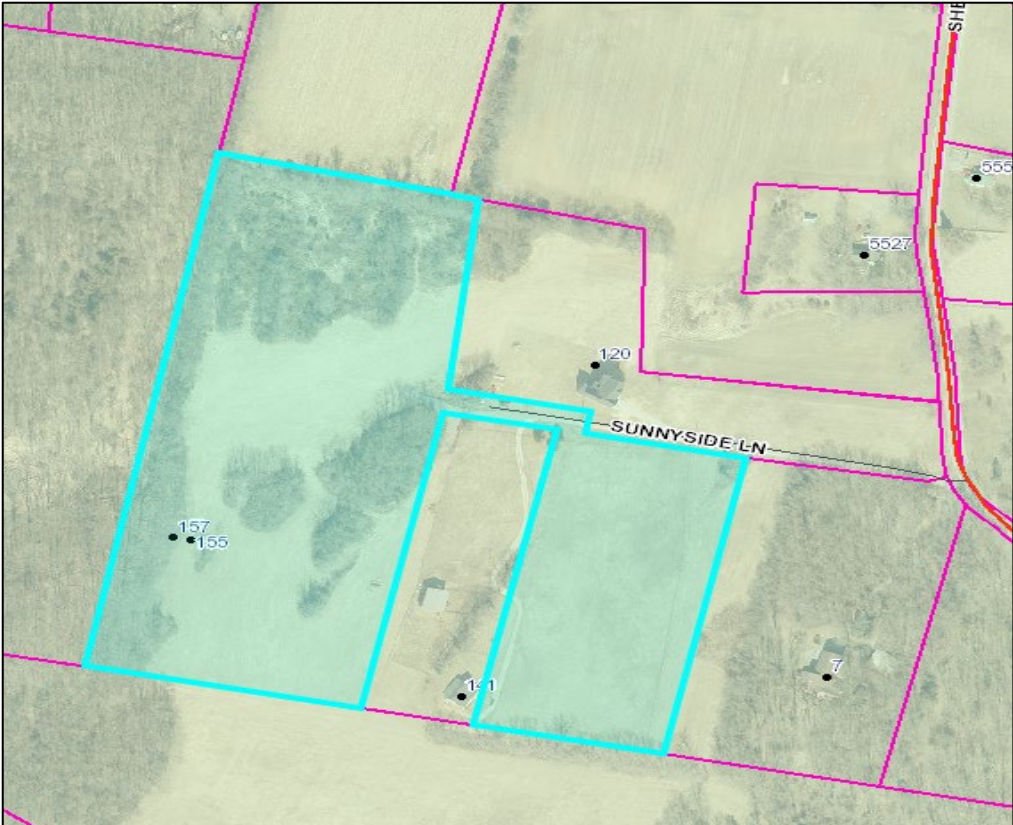
Mr. Louthan made a motion to adjourn the meeting at 7:52pm. Mr. Hefestay seconded the motion, which carried unanimously.

These minutes were prepared by Michelle Evers, Planning Clerk.

Staff Report
 Jefferson County Planning Commission Meeting
 July 25, 2023

Lutman-Holloway MSD (Access) Waiver Request (File: 23-19-PCW)

Item #3: Public Hearing: Waiver from Section 20.201A.2 of the Subdivision Regulations to allow a sixth lot to access an existing 50' wide access easement (Sunnyside Lane) without upgrading it to meet county grade standards.

Owner	David Lutman
Applicant	P.J. Raco Consulting, LLC / Attn: Paul Raco
Property Location & Information	<p style="text-align: center;">155 and 157 Sunnyside Lane, Shenandoah Junction, WV; Parcel ID: 09001800050007; Size: 18.10 acres; Zoning District: Rural</p> 
Adjacent Zoning	<i>North, South, East and West: Rural</i>
Proposed Activity	A proposed three (3) lot minor subdivision.
Previous Approvals	<p>10/31/17: John E and Susan E Holloway Minor Subdivision, Lots 1 and 2-Residue, and Merger (recorded in PB 25 at PG 656) <i>*Note: the driveway access for existing Parcel 5.1 and the proposed MSD were consolidated into a single entrance via (WVDOH PERMIT #05-2017-0540)</i></p> <p>04/19/21: Holloway Minor Subdivision, Lots 2 and 3-Residue (recorded in PB 26 at PG 227)</p>

Summary of the Request:

The applicant is proposing to divide Lot 3-Residue of the Holloway Minor Subdivision into three lots (two and a residue) utilizing the existing 50' access easement which crosses a part of Lot 2 and Lot 3-Residue as a Minor Subdivision. As this access easement currently serves Lots 1, 2, & 3 of the

Staff Report
Jefferson County Planning Commission Meeting
July 25, 2023

Lutman-Holloway MSD (Access) Waiver Request (File: 23-19-PCW)

Holloway Subdivision and an existing lot (Parcel 5.1), only one additional lot can be processed as a Minor Subdivision unless a waiver is obtained.

Therefore, in order to proceed with the subdivision, the applicant is requesting a waiver from Section 20.201A.2, to allow a sixth lot to access an existing 50' wide access easement (Sunnyside Lane) without upgrading it to meet county grade standards.

Relevant Site Information:

On October 5, 1988, the property consisted of 27.10 acres. Since that time, one 3.0-acre lot (Lot 1) and one 5.0-acre lot (Lot 2) have been divided off as Minor Subdivisions (in 2017 and 2021). Under Section 5.7D.3 of the Zoning Ordinance, Lot 3- Residue has the right to create two additional lots and a residue (two and a residue every five years).



Staff Discussion/Recommendation:

As noted above, this subdivision has the right to create the proposed three-lot subdivision (2 lots and a residue) as a Minor Subdivision in accordance with Section 20.201A.2 of the Subdivision Regulations; however, the existing 50' access easement is only permitted to provide access to a total of five (5) lots via the Minor Subdivision process. This application is requesting a waiver of this requirement to allow a sixth lot to use the existing 50' access easement without upgrading to meet County grade standards. Note that County grade roads are engineered roads, but permitted to be gravel for up to 12 residential lots. Any additional subdivision of the Residue Lot will be required to process as a Major Subdivision.

If the Planning Commission is inclined to approve this waiver, the subdivision should be limited to the three (3) lots proposed at this time.

Sections of Subdivision Regulations under Consideration:

Sec. 20.201 Minor Subdivisions

A. Residential

All minor residential subdivisions shall conform with the following:

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

Staff Report
Jefferson County Planning Commission Meeting
July 25, 2023

Lutman-Holloway MSD (Access) Waiver Request (File: 23-19-PCW)

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

Waiver Requirements:

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

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



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

File #: 23-19-PCW
 Mtg Date: 7/25/23
 Date Rec'd: 6/20/23
 Fees Paid: \$100
 Staff Int: me
 List of Adjoiners:

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

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

Planning Commission Waiver Request

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

Property Owner Information

Owner Name: David Lutman
 Business Name: _____
 Mailing Address: 412 W Burr Blvd, Kearneysville, WV 25425
 Phone Number: 304/702-2500 Email: c/o pjraco.consulting@gmail.com

Applicant Contact Information

Applicant Name: Above and Below Same as owner:
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Consultant Information

Name: Paul J Raco
 Business Name: P.J. Raco Consulting LLC
 Mailing Address: P.O. Box 548, Charles Town, WV 25414
 Phone Number: 204/676-8256 Email: pjraco.consulting@gmail.com

Physical Property Details

Physical Address: Sunnyside Lane, Shenandoah Junction off of Route 230 Vacant Lot:
 Tax District: Shepherdstown Map No: 18 Parcel No: 5.7
 Parcel Size: 18.1+- Acres Deed Book: 1252 Page No: 273
 Zoning District: Rural

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

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

What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?
20.201(A)2.b

Briefly Describe the Nature of Your Waiver Request:

This is a request to be the Fifth and Sixth Lot on Sunnyside Lane. The front lot became the 4th lot by the DOH but they still use a portion of their old driveway. Mr. Lutman will need to upgrade the entrance to allow the 5th and 6th per DOH Standards which include an entrance apron and SWM since it is over 5 lots. These DOH Standards are more restrictive than a typical 5 lot Minor Subdivision in the County.

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

See Attached

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

See Attached

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

See Attached

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

See Attached

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

	6-20-23		
Property Owner Signature	Date	Property Owner Signature	Date

Notification Requirements

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

Public Hearing Date	Date Placard Posted	Date Adjoiners Mailed

Planning Commission Determination

Approved Denied Date: ___ / ___ / ___

David Lutman
Waiver Request Upgrading Road for One Additional Lot
Sections 20.201A(2)b
Jefferson County Subdivision and Site Development Ordinance
June 20, 2023

Brief Description

The Applicant is requesting a waiver from upgrading the road within an existing 50' access easement for one additional lot. The request is to use the existing gravel road that this Applicant already upgraded during the last house construction on the road. The existing gravel road is a good gravel road that will serve 6 lots instead of the permitted 5 lots. However, the 6th is the Residue, and that lot will remain owned by the Applicant. Also, the first lot only uses the first approximately 50' of the road since their driveway comes out as soon as the existing driveway leaves the State Road.

The total number of lots on this access easement still qualifies as a Minor Subdivision in terms of the proper Access Width and number of lots created from the parcel dating back to 1988. However, the 6th lot even though the 6th lot is the residue, would require a county grade gravel road which would need an Engineering Company to design. The existing road will primarily serve the permitted 5 lots since the first lot merely uses the entrance apron to access the State Road. Furthermore, there is an adequate existing gravel road that will continue to serve the 3 lots and the new 2 lots.

The application otherwise conforms to a Minor Subdivision, and it is permitted to be subdivided as requested with this waiver. The Planning Commission has granted many requests to allow an extra lot to be served by the existing gravel drive in a Minor Subdivision. Furthermore, the subject parcels will be required to continue to maintain the access easement and drive.

Based on the above, the Applicant respectfully requests the Planning Commission to grant the waiver to allow the proposed new lots to utilize the existing 50' Access Easement and existing drive which is gravel.

David Lutman
Waiver Request Upgrading Road for One Additional Lot
Sections 20.201A(2)b
Jefferson County Subdivision and Site Development Ordinance
June 20, 2023

Four Criteria:

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

This project will have no Public costs since the existing 50' Access Easement and drive is a private access and is required to be maintained by the Applicant and the lots that are being created. There will be no public maintenance costs involved as the Easement and any driveway improvements within the easement will be maintained privately by the lots created in this subdivision.

Also, the two lots will need current DOH approval for the expanded use of the entrance to the State Road, as well as, Health Department approval for the lots.

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

If the waiver is granted, it will have absolutely no adverse effect on public health, safety or welfare since the project will still be required to meet every other standard and requirement of the Minor Subdivision standards of the Subdivision Ordinance. This approval will include the Health Department and Highway Department Approval for the development.

Furthermore, as stated previously, the waiver will not have any effect on the neighbors or public health since the development needs all other approvals and the applicant will need to maintain the driveway to the new lots. There are no other improvements that are necessary since the subdivision otherwise qualifies as a Minor Subdivision. Additionally, the last lot is vacant and will remain the Residue. Any further development of this lot will require upgrading or further action by the Planning Commission.

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

The purpose of the driveway standard is to ensure that a proper road and drainage are adequate for the intended use. In this case, only a gravel driveway is needed within a proper 50' Easement/ROW. This gravel drive is already in place and there are no drainage issues. One extra lot will not cause a harmful impact on the exiting gravel road. An additional county grad subdivision road is not required since it is a Minor Subdivision and the design and construction of such a road would be overkill for one additional lot. This is especially true with the Applicant retaining ownership of the large residue lot. The driveway will be maintained by the new lots, as will be required with a note on the plat. These existing lots are large rural lots and are adequately served by the existing driveway.

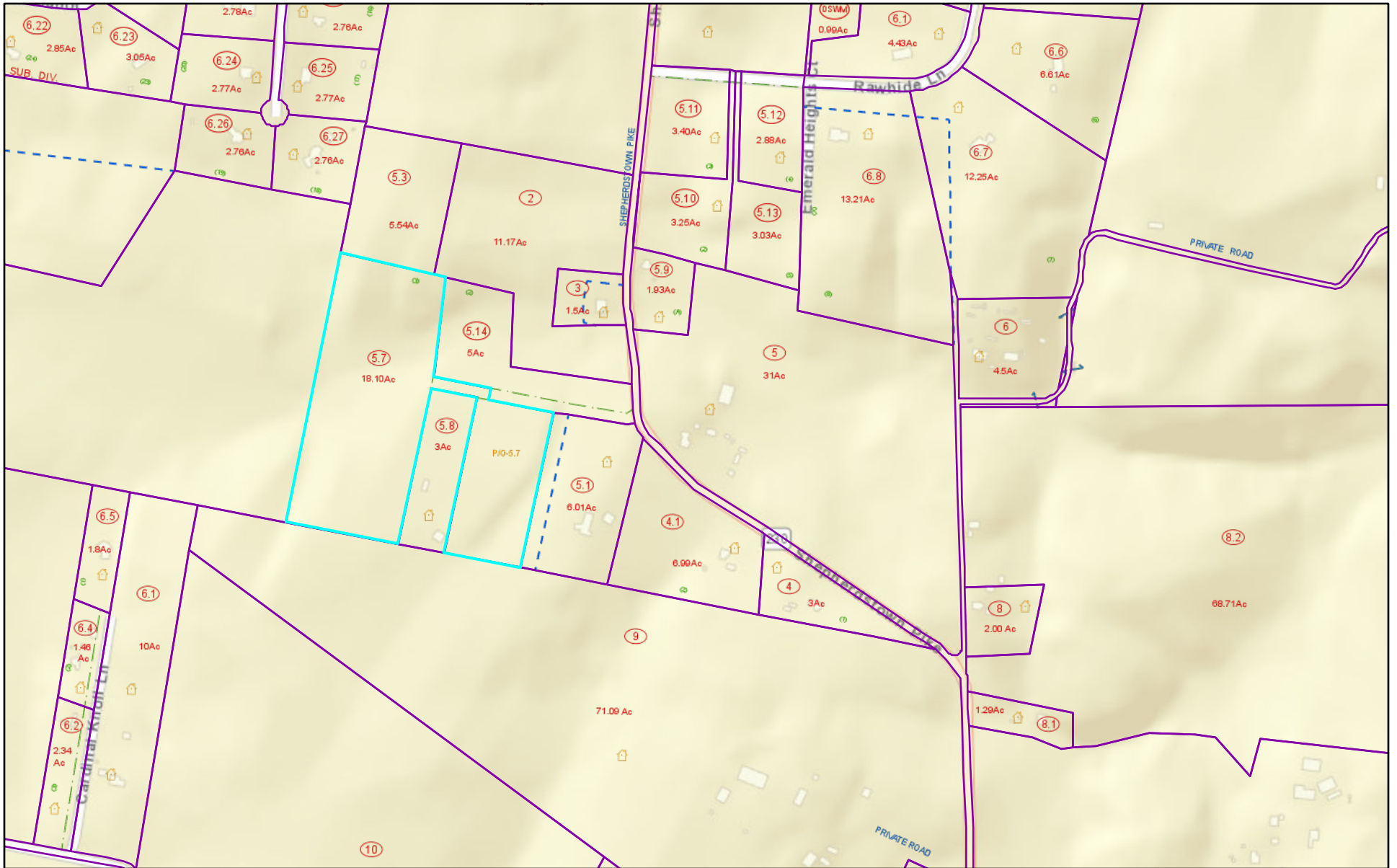
Furthermore, the DOH will ensure that the entrance road and access will be adequate with regard to width, drainage, and proper site distance for the total number of lots (one of which only uses the very front of the existing road as it enters the State Road).

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

The granting of the Waiver will allow an additional lot for a total of 6 lots on the easement and existing driveway. This division otherwise qualifies as a Minor Subdivision and the existing drive is a well maintained rural gravel road. Therefore, there is no need to upgrade the ROW/Easement to a 24 foot wide gravel road with shoulders for the 6th lot. Additionally, two of the new lots will be improved by the Applicant and marketed to prospective buyers with the existing road as is so they will know how the road is constructed. And the 6th lot will remain the Applicants. A wide road for 6 large rural lots would actually harm the character of the rural area. Additionally, the new houses will contribute to increased property values in the neighboring community, as well as additional Impact Fees and taxes for the general County Budget and County School Budget and Bonds. The Applicant is a well-known local builder that has constructed many well designed houses and subdivisions in Jefferson County. He purchased this property and has retained it to develop 2 lots every five years as anticipated by the ordinance.

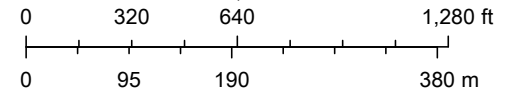
Accordingly, the Applicant respectfully asks that the Planning Commission approve the waiver so that the process can continue. Thank you for your consideration.

Viewer Map



June 2, 2023

1:9,028



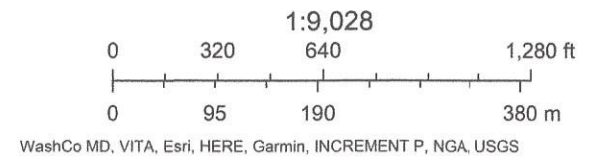
WashCo MD, VITA, Esri, HERE, Garmin, INCREMENT P, NGA, USGS

Viewer Map

UTMAN Munon 1, 2 & Residue



June 2, 2023



23-19-PCW Lutman-Holloway MSD (access) Public Comment

- Submitted 2023-07-12 by Robin Young
- Submitted 2023-07-18 by Randall Smith and Caitlin Caruthers

From: [Robin Young](#)
To: [Planning Department](#)
Subject: Lutman Waiver 23-19-PCW
Date: Wednesday, July 12, 2023 10:23:45 AM

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

I protest the granting of this waiver.

I live at 141 Sunnyside Lane surrounded on 3 sides by the Lutman land he purchased from the Holloways in 2020.

In 2016 I purchased 3 acres from the approximate 32 acres owned by the Holloways. I built my house, barn, fences and built/paid for the gravel right of way 50' access road from Rte 230 into my property.

At that time I also leased and fenced 5 acres to be used as pasture for my 2 horses and 2 donkeys. This lease expires Nov 2023 and is the 5 acre plot for which Mr Lutman is changing his plans to build not one house but two and is asking for the rules to be changed, releasing him from obligations the county has set forth for a developer of a "super subdivision".

After speaking with Planning Commission staff i learned the following:

1. It is within the developers right to change plans to build 2 houses instead of one on this 5 acres.
2. The developer's decision to build the extra house makes a total of 6 houses, by the Commissions own definition, defines the Lutman development as a "super-subdivision".
3. Being a super-subdivision carries responsibilities and requirements, set forth by the county. One such requirement is to build/improve access roads. This is my major concern and argument against this waiver.
4. The granting of this waiver will release the developer from county regulations including building/improving roads.

The developers decision to to build an extra house and ask for rules to be changed for him reflects his intention to make more profits and do less to comply county requirements. It seems a simple solution. If Lutman does not want to be called a super-subdivision , does not want to spend money improving roads and does not want to comply with county regulations then DO NOT BUILD THE 6th HOUSE, then he will not be considered super-subdivision and there will be NO NEED FOR THIS WAIVER.

If Lutman continues with plans to build a 6th house, then under county super-subdivision rules he needs to build/improve the access road. Already the road has been damaged by the construction of 2 of his houses. Deliveries of massive construction materials, land clearing equipment and cement trucks have diminished the original road and now the building of two additional houses will destroy the little that is left of it. But Lutman does not want to spend money to fix what he destroys. In asking for this waiver, he is asking for the rules be changed for him so he can make his money and run.

This road is the only access for 6 residents: Lutman 4 houses, Holloways and mine. It is highly possible this same little deteriorating road will have to bear the burden of maybe 18 more Lutman houses in the future when he develops another super subdivision using the back 18 acres he owns behind our neighborhood.

Mr Lutman's greed is creating and profiting from this super subdivision. As such it needs to be called one and he needs to be held to county requirements to improve the roads. If he doesn't want to be a super-subdivision, then DO NOT BUILD THE 6th HOUSE.

DO NOT GRANT THIS WAIVER.

Respectfully submitted,
Robin Young
141 Sunnyside Lane
Shenandoah Junction, WV 25442

From: [Randall Smith](#)
To: [Planning Department](#)
Subject: Protest of the granting of Waiver (File: 23-19-PCW) Lutman-Holloway MSD (access)
Date: Tuesday, July 18, 2023 11:27:58 PM

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

Good evening,

I am writing to protest the granting of Waiver (23-19-PCW).

Pursuant to the Subdivision Regulations of Jefferson County, Sec. 20.201 Minor subdivisions, subsection A.2, a 50' access easement may serve no more than 5 lots.

It is my understanding that the granting of this waiver will simply allow Mr. Lutman to build a sixth house on Sunnyside Lane without bringing Sunnyside Lane up to county road standards.

The only benefit to granting this waiver would simply be a personal monetary gain for Mr. Lutman once he sells the houses.

Adversely, if Mr. Lutman were to upgrade the road, it would have a much more positive impact on the current and future residents of Sunnyside Lane.

Furthermore, the easement that Mr. Lutman would be using, is on my property (which I purchased from him in July 2020). Mr. Lutman has already used this easement, as is allowed by law, to build another house on this road. The delivery vehicles, heavy equipment and contractors that Mr. Lutman hired to build that house did significant damage to the road.

The road was built by Ms. Robin Young, my neighbor, and at the time only had to support the traffic of her lone vehicle. Since Mr. Lutman has began developing this property, he has offered no concessions in the way of keeping up this easement and I have spent my own time, money and energy in maintaining it as required by WV Code. Ch 17 Article 16 Para 2.

If Mr. Lutman is granted this waiver and is not required to bring the road up to county standards, I fear he will again utilize the road for his own monetary gain and leave me and my family to fix the damage of having materials and equipment for not one, but two houses, across my easement.

I thank the Dept. for their time and consideration of my protest of this waiver. I hope that the Board will only require Mr. Lutman to diligently explain the needs for this waiver and how it will have a positive impact on the county and existing residents of Sunnyside Lane.

V/r

Randall Smith and Caitlin Caruthers

120 Sunnyside Lane,

Shenandoah Jct, WV 25442


Staff Report

Jefferson County Planning Commission

July 25, 2023

Canter Hollow (fka Miller Station) Apartments Concept Plan Workshop

Item # 4: Public Workshop: Canter Hollow Apartments (fka Miller Station Apartments). Redesign of previously approved project (08-09-22). Approximately 20 multi-family (apartment) buildings with approximately 150 units, associated parking, stormwater management facilities, and signage. (File #22-6 -SP).

Property Owner	Canter Hollow, LLC
Consultant	Morris & Ritchie Associates, Inc. / Todd Heck
Parcel Information & Zoning District	<p align="center">Miller Station Non-Residential Subdivision, Lots 1 – 8, Captain Chews Trace, Charles Town, WV; Tax ID: 02008C0001-02008C0008; Combined Lot Size: 10 acres; Zoning District: Residential-Light Industrial-Commercial</p>  <p>*Areas with no colors are located within the City of Ranson</p>
Adjacent Zoning	<p><u>North:</u> Residential Growth; <u>East:</u> Residential-Light Industrial-Commercial (RLIC) <u>South:</u> RLIC & City of Ranson; <u>West:</u> City of Ranson</p>
Proposed Activity	<p>Canter Hollow Apartments (fka Miller Station Apartments): 20 multi-family (apartment) buildings with approximately 150 units (previously approved for 7 Multi-Family Garden Style Apartments with 218 units), associated parking, SWM facilities, and signage.</p>
Previous Approvals	<p>8/9/22: Miller Station Apt Concept Plan Public Workshop – PC Accepted w/ conditions 8/9/22: PC Approved with conditions Waiver of Sect. 22.208 to eliminate the sidewalks from along Patrick Henry Way in front of the parcel (File #22-17-PCW). 7/28/22: BZA Approved Variance from Section 4.12B to increase the maximum impervious surface limit from 50% to 60% (22-23-ZV) 7/28/22: BZA Approved Variance from Section 4.11C to eliminate a portion of the required landscape buffer along the southern property line (22-24-ZV) 7/28/03: Miller Station Commercial Subdivision; 8 Commercial Lots (01-31-SD) PB20/PG23 (to be merged prior to Site Plan approval)</p>

Staff Report
Jefferson County Planning Commission
July 25, 2023

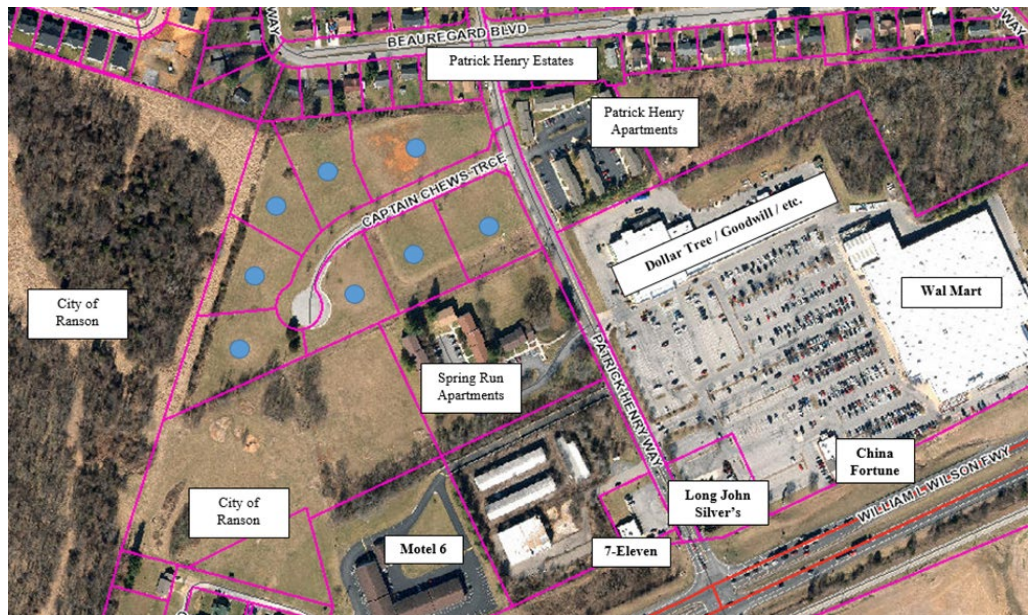
Canter Hollow (fka Miller Station) Apartments Concept Plan Workshop

Introduction and Summary of Request

The applicant is proposing to modify the previously approved project (which consisted of seven (7) apartment buildings with a maximum of 218 apartment units) to allow for 20 multifamily apartment buildings with approximately 150 units on the combined 10.02 acres. On August 9, 2022, the Planning Commission accepted the previous Concept Plan as presented with the provision that the applicants include a 6 foot board fence along the northern property line, adjoining Patrick Henry Estates. Option G of the Standard Landscaping Details includes the option for a 6' board fence. The proposed redesigned development will consist of a combination of unit sizes proposed to consist of approximately 24 2-bedroom units and approximately 119 3-bedroom units in 20 multifamily buildings. The property is zoned Residential-Light Industrial Commercial.

The property is currently divided into eight (8) commercial lots, approved in 2003, with required road, stormwater, and utility infrastructure constructed, but no commercial development on any of the lots (recorded PB20/PG23). These 8 lots will need to be merged before this Site Plan can be approved. The proposed use falls under “Dwelling, Multi-Family” as defined in Article 2 of the Zoning Ordinance. Per Appendix C, a Multi-Family Dwelling is a Principal Permitted Use in the Residential-Light Industrial-Commercial zoning district.

The property (blue dots) is located west of Patrick Henry Way, across from Patrick Henry Apartments and Charles Town Walmart and just north of Spring Run Apartments. The property is generally flat and includes infrastructure that will need to be redeveloped for the purpose of constructing the proposed apartment complex. The Board of Zoning Appeals approved two variance requests in July 2022 to increase the maximum impervious from 50% to 60% and to eliminate landscaping along the top of an existing stormwater pond on the south side of the property. These variances may need to be modified as well, based on the new design. The Planning Commission approved a waiver to eliminate the sidewalks from along Patrick Henry Way in front of the parcel with the condition that the applicants put in the easement for a future sidewalk and work with DOH to receive approval for the proposed crosswalk across Patrick Henry Way.



Site Plan Category

The site development associated with this Concept Plan is governed by the Subdivision Regulations. Section 20.203A(4) of the Subdivision Regulations states that apartment or multi-family development projects which propose 10 units or more require the applicant to process a Concept Plan with a public

Staff Report
Jefferson County Planning Commission
July 25, 2023
Canter Hollow (fka Miller Station) Apartments Concept Plan Workshop

workshop and then finish processing as a Minor Site Plan which is administratively approved. It has been determined that this development shall process as a Minor Site Development, with a Concept Plan.

While there is no explicit process for amending a previously approved Concept Plan, Section 24.201 of the Subdivision Regulations limits the types of changes to a Site Plan that can be approved administratively. Among these requirements is if the number of buildings is increased by more than 5% it cannot be administratively approved. For this reason, staff determined another Public Workshop is required for the proposed Concept Plan Amendment.

Staff Determination of Application Sufficiency and Concept Plan Completeness Review

In accordance with the current Subdivision Regulations, the Minor Site Plan Concept Plan process incorporates a sufficiency and completeness review in a single step. Because this property has a previously approved Concept Plan, all requirements of Section 24.106 of the Subdivision Regulations have been met and do not need to be revisited in this staff report. The nature of the amendment did not require re-notification to the external agencies; however, the approvals from WVDOH and CTUB will be required prior to Site Plan approval.

Concept Plan Review

1. Staff Recommendation related to Concept Plan

The Subdivision Regulations state that unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning staff is required to accept or deny the concept plan as complete. Upon accepting the application as complete, Planning staff is required to place it on the next possible Planning Commission agenda as a public workshop, which is advertised at least fourteen (14) days in advance of the meeting and posted on the property.

The Office of Planning and Zoning Staff finds the Amended Concept Plan for the proposed Canter Hollow (fka Miller Station Apartments) Apartment Complex, to be located on the west side of Patrick Henry Way to be “complete” based on the information provided; however, the following standards will need to be addressed prior to approval of the Site Plan:

- a. The previously approved eight commercial lots will have to be merged prior to approval of the Site Plan.
- b. WV DOH approval for the proposed entrance and any TIS recommendations will be required in conjunction with the Site Plan.
- c. Water and sanitary sewer utility permits from the Charles Town Utility Board will be required in conjunction with the Site Plan.

2. Planning Commission Direction

The Concept Plan Public Workshop allows for the Planning Commission and the general public to comment on the proposed plan before complete engineering design and cost are incurred. The Subdivision and Land Development Regulations outline the procedure:

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

Staff Report

Jefferson County Planning Commission

July 25, 2023

Canter Hollow (fka Miller Station) Apartments Concept Plan Workshop

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

Section 24.108 of the Subdivision and Land Development Regulations outlines the direction to be provided to the applicant during a Minor Site Plan Concept Plan review:

“The Planning Commission shall direct the preparation of a Site Plan subject to conditions to be addressed in the site plan application. The purpose of this review is to guide the developer so that when the site plan application is formally reviewed by the staff, there should not be a whole range of issues being raised for the first time. The developer shall cite conditions and demonstrate that they have been met or otherwise addressed.”

It should be noted that the direction provided to the applicant in the Minor Site Plan Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to the Subdivision and Land Development Regulations or the Zoning and Land Development Ordinance in the second year shall be applicable.

CANTER HOLLOW

CONCEPT PLAN **AMENDMENT**

JEFFERSON COUNTY, WV

CONCEPT PLAN NOTES:

- SEE GENERAL LOCATION MAP THIS SHEET FOR ZONING DISTRICTS WITHIN 500' OF THE SUBJECT PROPERTY.
 - A CONCEPT PLAN ON 24x36 WHITE PAPER CAN BE FOUND ON SHEET 2.
 - SEE SHEET 2 FOR THE LAYOUT OF LOTS, RECREATION AREAS AND ROADS.
 - BUILDING AREAS WILL BE CONFINED TO SETBACK LINES.
 - ACTUAL BUILDING FOOTPRINTS MAY VARY WITH FINAL ARCHITECTURAL DESIGN.
- ZONING INFORMATION: SEE TABS THIS SHEET**
- SEE SHEET 2 FOR THE PROPERTY'S 'SITE RESOURCES'.
 - ALL STATE, FEDERAL AND LOCAL REGULATIONS WILL BE OBSERVED IF ANY UNKNOWN SITE RESOURCES ARE DISCOVERED DURING CONSTRUCTION.
 - THERE ARE NO FLOODPLAINS ON THE SUBJECT PROPERTY PER FEMA MAPS.
 - SEE SHEET 2 FOR ADJACENT PROPERTY INFORMATION.
- PROPOSAL DESCRIPTION: THE REQUESTED CONCEPT PLAN INCLUDES 143 MULTIFAMILY UNITS, OPEN SPACE, STORMWATER MANAGEMENT AREAS AND THE CONSTRUCTION OF ASSOCIATED UTILITIES. SIDEWALKS SHALL BE PROVIDED. NO RESTRICTIVE COVENANTS/ CONDITIONS/ RESTRICTIONS ARE PROPOSED AT THIS TIME BUT MAY BE PROVIDED AT TIME OF FINAL PLAT.**
- TRAFFIC IMPACT DATA**
- SEE TRAFFIC ANALYSIS MEMO PREPARED BY AMT DATED 6/1/2022 AND REVISED THROUGH 7/1/2022
 - THE WV DOT ONLINE TRAFFIC COUNTS PROJECT/AVERAGE DAILY TRAFFIC COUNTS FOR THE FOLLOWING LOCATIONS: ROUTE 340 = 30,001
 - PROPOSED TRIP GENERATION FOR MULTIFAMILY UNITS BASED ITC TRIP GENERATION MANUAL AND SECTION 24.10(B)5.D. OF THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS ARE AS FOLLOWS:
 PEAK HOUR TRIPS: 143 (MULTIFAMILY UNITS) x 0.80 = 115
 AVERAGE DAILY TRIPS: 143 (MULTIFAMILY UNITS) = 118
 - THE NEAREST KEY INTERSECTION AS DEFINED IN THE CONCEPT PLAN CHECKLIST IS ROUTE 340 AND PATRICK HENRY WAY
 - AS DEFINED BY THE ENVISION JEFFERSON 2035 COMPREHENSIVE PLAN, HIGHWAY PROBLEM AREA NUMBER 15 IS WITHIN ONE (1) MILE RADIUS OF THE PROPERTY. THE PROBLEM AREA IS AT THE INTERSECT OF FLOWING SPRINGS CONNECTOR RT 11 / D AND RT 4. NO MERGE LANES ON RT 4.
 - A LIST OF ALL ADJOINING PROPERTIES AND OWNERS ADDRESS'S ARE INCLUDED AS PART OF THIS SUBMISSION. PROPERTY OWNERS INFORMATION IS PROVIDED PURSUANT TO JEFFERSON COUNTY ASSESSOR'S RECORDS.
 - WATER AND SANITARY SEWER SERVICE WILL BE PROVIDED BY THE CITY OF CHARLES TOWN. PRELIMINARY DISCUSSION WITH THE CITY OF CHARLES TOWN INDICATES THERE IS CAPACITY TO SERVE THE PROPOSED DEVELOPMENT. EXACT CONNECTIONS WILL BE DETERMINED THROUGH COORDINATION WITH THE CITY OF CHARLES TOWN DURING SITE PLAN DEVELOPMENT
 - SEE SHEET 2 FOR EXISTING CONDITIONS WHICH HAS BEEN BASED ON A COMPILATION OF GIS INFORMATION, FIELD SURVEY DATA AND PLANS OF RECORD. THE TOPOGRAPHIC CONTOUR INTERVAL IS (2) FOOT. HORIZONTAL DATUM IS NAD83 WEST VIRGINIA STATE PLANE, NORTH ZONE. VERTICAL DATUM IS NAVD83.



GENERAL LOCATION MAP

OWNER / APPLICANT
 CANTOR HOLLOW, LLC
 C/O KEANE ENTERPRISE, INC.
 ATTENTION: ANDY SHUCKRA
 P.O. BOX 1573
 ASHBURN, VA 20146
 ASHUCKRA@KEANEENTERPRISES.COM

PREPARED BY
 MORRIS & RITCHIE ASSOCIATES, INC.
 205 E. HIRST ROAD, SUITE 106
 PURCELLVILLE, VIRGINIA 20132
 CONTACT: TODD HECK
 703-994-4047
 THECK@MRAGTA.COM

CONCEPT PLAN AMENDMENT NARRATIVE:

THE PURPOSE OF THIS AMENDMENT IS TO CHANGE THE APPROVED (1) GARDEN STYLE APARTMENT BUILDINGS (WHICH WERE 3 STORIES WITH 210 UNITS) TO ANOTHER MULTI-FAMILY STYLE PRODUCT / PROGRAM TYPE THAT IS MORE IN KEEPING WITH THE NEIGHBORING COMMUNITY. THE PROPOSED AMENDMENT REDUCES THE DENSITY TO A MAX OF 143 UNITS THAT IS SERVED WITH A COMBINATION OF SURFACE PARKING, DRIVEWAYS AND GARAGES. A PORTION OF THE UNITS (UP TO 48) MAYBE STACKED APARTMENTS AS IDENTIFIED ON THE SHEET #3. THE UNITS WILL BE A MIX OF 2 AND 3 BEDROOM APARTMENTS. WHILE THIS LAYOUT INCREASES THE NUMBER OF MULTI-FAMILY BUILDINGS FROM (1) TO (14) BUILDINGS, THE OVERALL DENSITY IS REDUCED AS WELL AS ARE THE AVERAGE DAILY TRIPS FOR THIS PROPERTY. A VARIANCE WAS PREVIOUSLY APPROVED FOR THE INCREASE OF IMPERVIOUS SURFACES BEYOND 50% AND THIS SAME VARIANCE IS STILL NECESSARY TO ACCOUNT FOR THE INCREASE IN NUMBER OF BUILDINGS, THE INTERNAL VEHICULAR ACCESS, SURFACE PARKING, DRIVEWAYS, SIDEWALKS AND AMENITY AREAS.

ZONING SUMMARY			
ZONING DISTRICT	RESIDENTIAL-LIGHT INDUSTRIAL-COMMERCIAL (R-LI-C) (ADMINISTERED UNDER RESIDENTIAL GROWTH (RG) DISTRICT)		
LAND USE	MULTI-FAMILY	(SUBJECT TO SECTION 4.12)	
LAND USE SUBTYPE	PUBLIC / CENTRAL WATER AND SEWER		
MIN. LOT AREA	20,000	SF	
EXISTING LOT AREA	436,259	SF	10.02 AC
AREA PER DWELLING UNIT	2,000	SF	
MAX UNITS	218	(436,259 / 2,000 = 218.12)	
PROPOSED UNITS	143		
MAX BUILDING HEIGHT	40	FT	(SUBJECT TO SECTION 9.2)
PROPOSED BUILDING HEIGHT	40	FT	PROPOSED BUILDINGS WILL BE (3) STORY
Section 9.2 Building Height Limitations Building height limitations shall not apply for public utilities, agricultural uses, communication poles and towers, chimneys, steeples, water tanks, electric generating plants, electric transforming or switching equipment, flagpoles, fire or observation towers, monuments, or to tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain in the building, hospitals, schools, colleges and public buildings. Commercial wireless communications facilities shall comply with Article 48.7, 10, 22			
SETBACKS	FRONT	25	FT
	SIDE	12	FT (FOR EXTERIOR ONLY)
	STREET SIDE	15	FT
	REAR	30	FT
PARKING / DRIVE AISLE SETBACKS	FRONT	15	FT
	SIDE	12	FT
	REAR	15	FT
SCREENED BUFFERS	FRONT	15	FT (SUBJECT TO SECTION 4.11)
	SIDE	12	FT
	REAR	15	FT
SECTION 4.12 DESIGN STANDARDS FOR MULTIFAMILY DEVELOPMENTS			
A	Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year floodplain.		
B	Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed 50 percent of the gross land area. (SEE CALCULATIONS ON LAYOUT)		
C	Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least 25 feet from any street right-of-way.		
SECTION 21.205 OF THE SUBDIVISION REGULATIONS 15% OF THE LAND IS REQUIRED TO BE RESERVED FOR OPEN SPACE (10 ACRES X 15% = APPROX. 1.5 ACRES) UP TO 60% MAY BE MET WITH PASSIVE OPEN SPACE AND THE REST HAS BE ACTIVE RECREATION AND WILL BE DETAILED ON FUTURE SITE PLAN.			

Maximum Allowed Density		
Total Lot Area	436,259	SF
Permitted Area per dwelling unit	2,000	SF
TOTAL LOT AREA (436,259 SF) / (2,000 SF) = 218.13		
Max Dwelling Units	218.13	
Proposed Dwelling Units	143	Units

Canter Hollow Apartments Tabulations			
Apartment Unit / Type	Parking Per Unit	Parking Required	*Parking Provided
24 Units 2 Bedroom (16.8%)	1.5	36	-
119 Units 3 Bedroom (83.2%)	2	238	-
143 Total Units		274	312

Notes:
 *Proposed Parking subject to final design
Provided parking: 95 Garages, 95 Driveways & 122 Surface parking spaces
 * (8) ADA Parking Spaces provided

Land Coverage			
	SF	AC	%
*Max Land Coverage Allowed	218,129.50	5.01	50.0%
**Proposed Land Coverage	238,709.00	5.48	54.7%

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

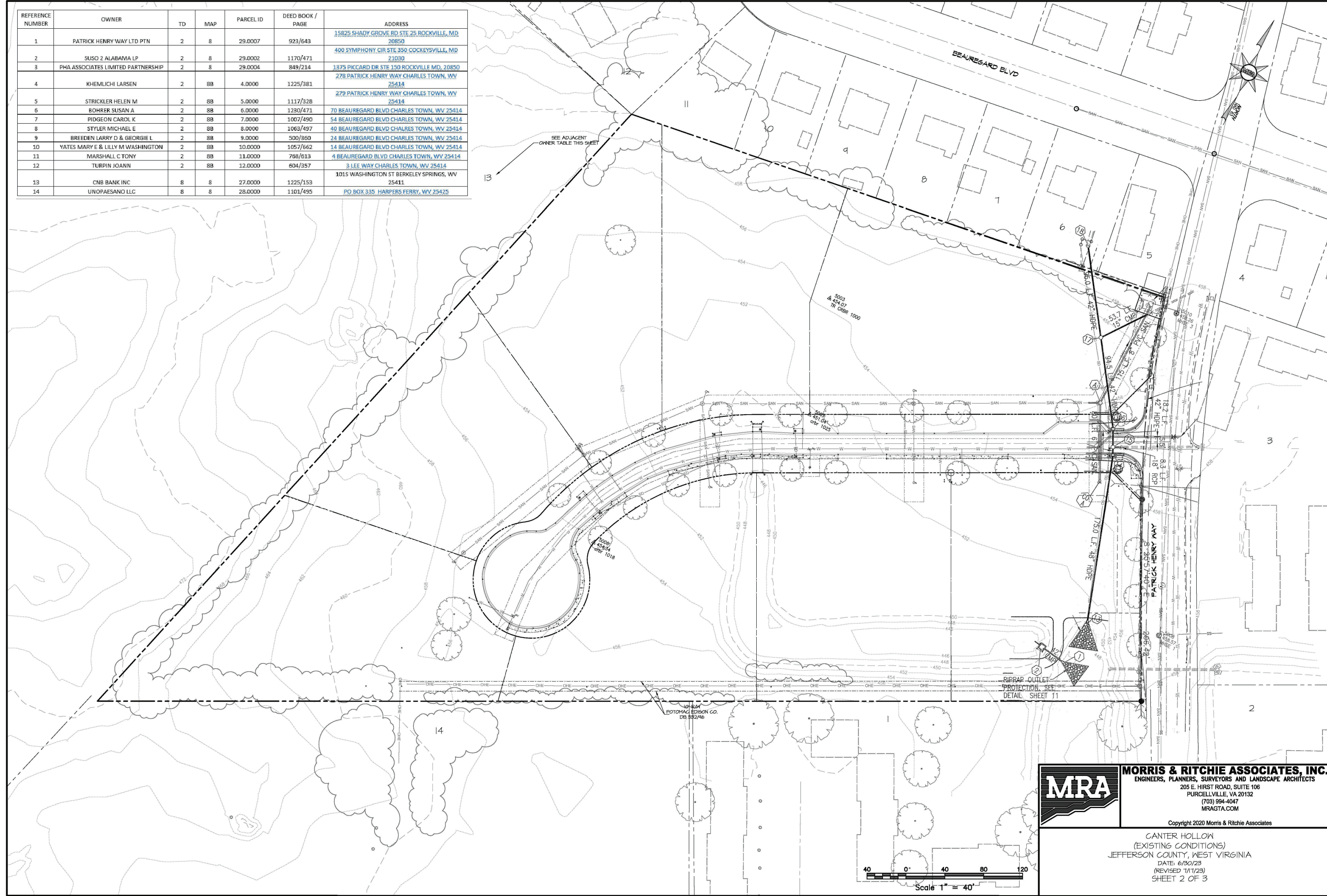
Sheet List Table	
Sheet Number	Sheet Title
1	COVER SHEET & NOTES
2	EXISTING CONDITIONS
3	CONCEPT PLAN

MORRIS & RITCHIE ASSOCIATES, INC.
 ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
 205 E. HIRST ROAD, SUITE 106
 PURCELLVILLE, VA 20132
 (703) 994-4047
 MRAGTA.COM

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CANTER HOLLOW
 (COVER SHEET & NOTES)
 JEFFERSON COUNTY, WEST VIRGINIA
 DATE: 6/30/23
 (REVISED 07/11/23)
 SHEET 1 OF 3

REFERENCE NUMBER	OWNER	TD	MAP	PARCEL ID	DEED BOOK / PAGE	ADDRESS
1	PATRICK HENRY WAY LTD PTN	2	8	29.0007	923/643	15825 SHADY GROVE RD. STE 25 ROCKVILLE, MD. 20850
2	SUSO 2 ALABAMA LP	2	8	29.0002	1170/471	400 SYMPHONY CIR STE 350 COCKEYSVILLE, MD 21030
3	PHA ASSOCIATES LIMITED PARTNERSHIP	2	8	29.0004	849/214	1375 PICCARD DR STE 150 ROCKVILLE MD, 20850
4	KHEMLICHI LARSEN	2	8B	4.0000	1225/381	278 PATRICK HENRY WAY CHARLES TOWN, WV 25414
5	STRICKLER HELEN M	2	8B	5.0000	1117/328	279 PATRICK HENRY WAY CHARLES TOWN, WV 25414
6	BOHRER SUSAN A	2	8B	6.0000	1230/471	70 BEAUREGARD BLVD CHARLES TOWN, WV 25414
7	PIGDEON CAROL K	2	8B	7.0000	1007/490	54 BEAUREGARD BLVD CHARLES TOWN, WV 25414
8	STYLER MICHAEL E	2	8B	8.0000	1063/497	40 BEAUREGARD BLVD CHARLES TOWN, WV 25414
9	BREEDEN LARRY D & GEORGIE L	2	8B	9.0000	500/360	24 BEAUREGARD BLVD CHARLES TOWN, WV 25414
10	YATES MARY E & LILLY M WASHINGTON	2	8B	10.0000	1057/662	14 BEAUREGARD BLVD CHARLES TOWN, WV 25414
11	MARSHALL C TONY	2	8B	11.0000	768/613	4 BEAUREGARD BLVD CHARLES TOWN, WV 25414
12	TURPIN JOANN	2	8B	12.0000	604/357	3 LEE WAY CHARLES TOWN, WV 25414
13	CNB BANK INC	8	8	27.0000	1225/153	101S WASHINGTON ST BERKELEY SPRINGS, WV 25411
14	UNOPAESANO LLC	8	8	28.0000	1101/495	PO BOX 335, HARPERS FERRY, WV 25425



SEE ADJACENT OWNER TABLE THIS SHEET

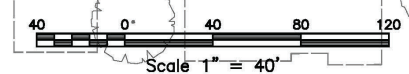
RIPRAP OUTLET PROTECTION, SEE DETAIL SHEET 11

LOT 14M POTOMAC EDISON CO. DB 832/46

MRA
MORRIS & RITCHIE ASSOCIATES, INC.
 ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS
 205 E. HIRST ROAD, SUITE 106
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CANTER HOLLOW
 (EXISTING CONDITIONS)
 JEFFERSON COUNTY, WEST VIRGINIA
 DATE: 6/30/23
 (REVISED 11/1/23)
 SHEET 2 OF 3



L:\Projects\11111 - Station\Concept Plan\11111111 - Cantor Hollow - Concept.dwg, 7/18/2023 11:50:13 AM, C:\shp\shpman, 11/1/2023 Copyright 2023 Morris & Ritchie Associates, Inc.

22-6-SP Cantor Hollow Apt (fka Miller Station Apartments) Public Comment

- Submitted 2023-07-20 by John Reid
- Submitted 2023-07-20 by Susan Bohrer
- Submitted 2023-07-20 Connie Spence
- Submitted 2023-07-20 by Scott & Christina Ryan

From: [john reid](#)
To: [Planning Department](#)
Subject: Border between phe and millers
Date: Thursday, July 20, 2023 8:13:27 AM

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

I'm very much in favor of a masonry wall, 6 feet in height to be placed at the property boundaries of patrick henry estates and the adjoining property. The maintenance of the wall must be done by the owners of the miller's property.

John M Reid
204 Fulton Ave
25414

[Sent from Yahoo Mail on Android](#)

From: [Susan Bohrer](#)
To: [Planning Department](#)
Subject: Canter Hollow Project
Date: Thursday, July 20, 2023 9:06:21 AM

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

Susan Bohrer

70 Beauregard Blvd, Charles Town, WV 25414

Lot #6 on the plan with the storm drain

!. I select "OPTION "G" for our buffer preference. A masonry or brick wall with evergreens (leyland cypress grows quickly). The brush line present does supply some privacy now. I would not like white vinyl of any kind.

2. Is this storm drain on my property? Will there be construction on my property?

3. Will proper sidewalks be installed on both sides of Patrick Henry Way? There will be numerous pedestrians walking. We already have a large population of walking and homeless people.

4. We need official signage for speed limit, pedestrian crossing, bus stops, etc.

5. Will this development be income subsidised?

6. Will the development have reasonable ordinances?

7. Will the development be the responsibility of the Sheriff's Dept.? (Maybe their own security?)

We are looking at infusing this community with approximately 600- 700 people. I pray that our highway department and all others are prepared for this explosion.

Thank you for your consideration,

A concerned, voting, tax paying citizen of Jefferson County ,

Ms. Susan Bohrer

70 Beauregard Blvd

Charles Town, WV 25411

gigattsb@gmail.com



From: [Connie Spence](#)
To: [Planning Department](#)
Subject: Cantor Hollow Apartments
Date: Thursday, July 20, 2023 9:09:24 AM

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

This project is too big. **It will ruin the roads in Patrick Henry Estates, for which we are responsible for and required to maintain. The City of Charles Town does not own out roads, so this will be a major financial burden on the homeowners.** It will also lower the value of our homes by at least 10%. Again a major hardship on the homeowners of Patrick Henry Estates. I worked for Planning and Zoning in Loudoun County for years and saw how developments like this destroyed homeownership in areas of Sterling, VA. They have never recovered their value and are considered the most dangerous areas of the county.

Also the fence that is proposed between the two areas is really lacking any protection for the homeowners. There will be trash, deserted vehicles, broken toys, etc. that the homeowners will have to deal with over the years. The whole area will become a slum, which will not be good for the City of Charles Town which has enough slums now.

I know you are not going to read this email and I also know you really don't care about the homeowners of Patrick Henry but I really wish you would.

Connie Spence
201 Beaugard Blvd.
Charles Town, WV 25425
304-671-0100

Sent from [Mail](#) for Windows

July 20, 2023

Planning Department

116 E. Washington Street

P.O. Box 716

Charles Town, WV 25414

Planningdepartment@jeffersoncountywv.org

RE: Cantor Hollow Apartments / Patrick Henry Estates Homeowners

To whom it may concern,

As a longtime resident of Jefferson County, and homeowner in Patrick Henry Estates, I am writing to respectfully demand a clear and defining division of properties between the new apartment complex and our community.

The barrier cannot be the existing lifeless tree line that divides now. It is my strong suggestion there needs to be a solid fence, not wood, for obvious reasons such as decay, and opportunity to break through the wood barrier. Once broken, wood is unsightly, there is time required to fix the fence, while at the same time having a breach in the dividing line inviting trespassers.

As a homeowner, it is my request to install a barrier wall of solid masonry or the like, to be most effective. (Option G) There should be no way for through walking traffic, bicycles, vehicles, trash, children, toys, pets, and trespassers to access Patrick Henry Estates via this dividing barrier.

Trusting our requests be heard and thanking you in advance for your desire to maintain Patrick Henry Estates best interests.

Regards,

Scott & Christina Ryan

144 Fulton Ave.

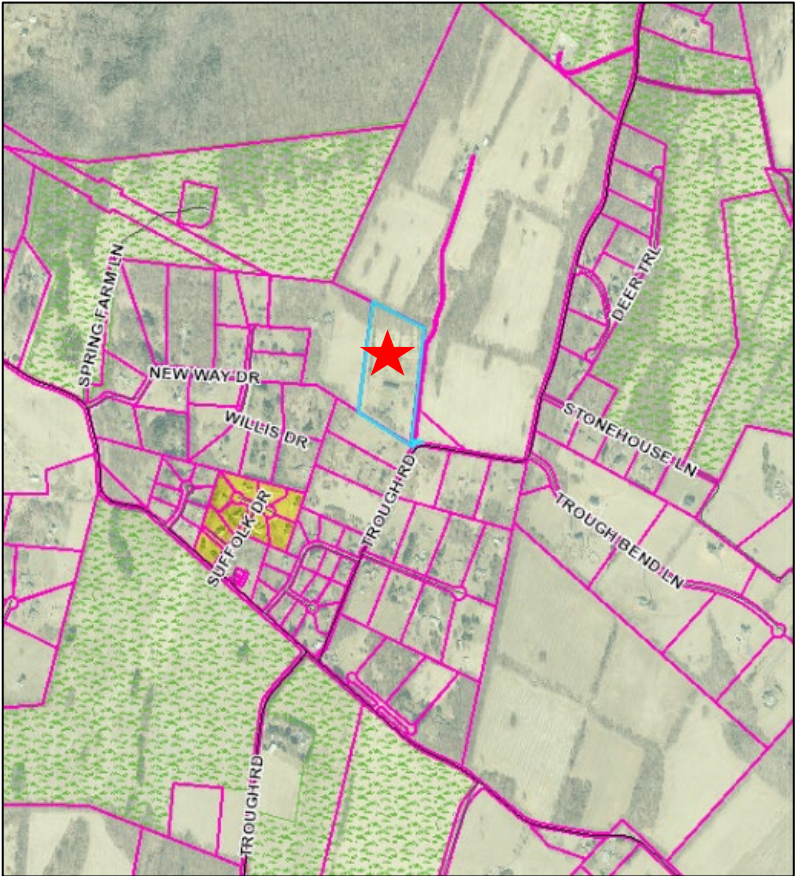
Charles Town, WV 25414

(304) 839-7497

Staff Report
 Jefferson County Planning Commission Meeting
 July 25, 2023

Russo-Davenport Variance Request (File #23-2-PCV)

Item #5: Public Hearing: Variance from Section 2.1 of the 1979 Subdivision Ordinance (Outsale Exemption) to lift the single family restriction to allow for the establishment of a Kennel on the property.

Owner/Applicant:	Nicholas Russo and Alice Davenport
Parcel Information and Zoning District:	<p style="text-align: center;">1899 Trough Road, Shepherdstown, WV Parcel ID: 09000900070006; Size: 10 acres; Zoning District: Rural</p>  <p style="text-align: center;">Conversation Easements</p>
Surrounding Zoning:	<i>North, South, East and West: Rural</i>
Proposed Activity:	Kennel
History:	This 10-acre parcel was created through an Outsale Exemption recorded 04/01/86 (DB 554/PG 142)

Summary of Request:

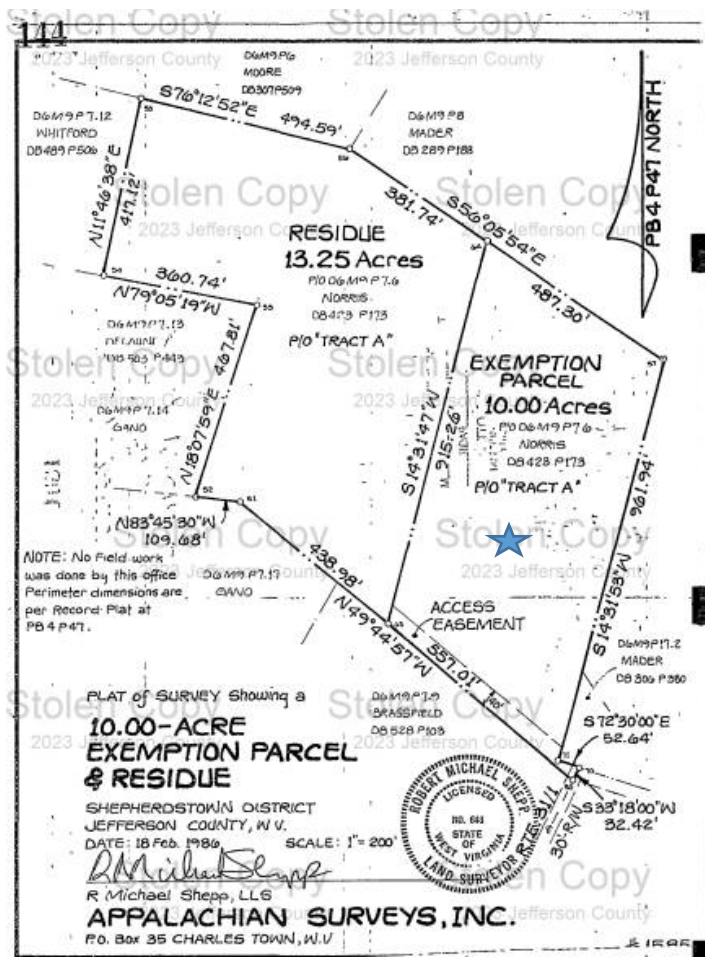
The applicant is requesting to lift the required single-family restriction for the purpose of establishing a dog training and kennel facility in an existing outbuilding on the property. Appendix C of the Zoning Ordinance states that a Kennel is a Principal Permitted Use in the Rural Zoning District provided it meets the criteria of Section 8.4 of the Zoning Ordinance. The subject parcel was created on April 1, 1986 through the Outsale process outlined in Section 2.1 of the 1979 Subdivision Ordinance.

Staff Report
 Jefferson County Planning Commission Meeting
 July 25, 2023

Russo-Davenport Variance Request (File #23-2-PCV)

At the time that the lot was created, a note was required in the deed (DB554/PG142) that restricted the exempt lot to a single-family residence (see excerpt below).

SUBJECT, HOWEVER, to the restriction that the "Exemption Parcel" (the "Lot") shall be used only for a single family residence as long as the Lot is not further subdivided. Any further subdivision of the Lot will dissolve the single family restriction and will place development of the Lot under County land development laws in effect at that time. Further, that portion of the Lot which lies in the bed of West Virginia Route 31/1 is subject to the rights of the general public.



State of West Virginia, County of Jefferson, Sect. _____
 IN THE CLERK'S OFFICE OF COUNTY COMMISSION:
 On APR 1 1986 at 2:15 P.M., the foregoing _____
 _____ in said office and duly ad-

Staff Report
Jefferson County Planning Commission Meeting
July 25, 2023
Russo-Davenport Variance Request (File #23-2-PCV)

Zoning Ordinance Requirements

If the Planning Commission approves lifting the single-family restriction, which was required by the Subdivision Ordinance at the time the lot was created, then the applicant can process under Section 8.4 of the Zoning Ordinance to establish a Kennel in the Rural Zoning District.

Relevant Section(s) of Ordinance/Regulations:

2008 Subdivision Regulations (as amended):

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

A. Amendment. The Planning Commission (or staff, in the case of a minor subdivision plat) may approve an amendment to a subdivision plat in the same manner as the plat was originally approved, provided:

1. All of the property that is affected by the amendment is under the ownership of the applicant;
2. The amendment will not affect the ownership or right of convenient access of persons owning other parts of the subdivision; and
3. The amendment complies with all of the standards of these Regulations, including verification of compliance with the Zoning Ordinance.

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

1979 Subdivision Ordinance:

Section 17.1 Variance

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

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

- a) The request is not contrary to the public interest.
- b) A literal enforcement of this Ordinance will result in an unnecessary hardship.
- c) The request is not the result of a self-imposed hardship.
- d) The spirit of this Ordinance will be observed and substantial justice done.

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

Recommendation

Staff recommends approving the Variance request from Section 2.1a of the 1979 Subdivision Ordinance (Outsale Exemption) to lift the single family restriction to allow the establishment a dog training and kennel facility in an existing outbuilding on the property in accordance with Section 8.4 of the Zoning Ordinance. If approved, the applicant will need to apply for a Zoning Certificate for the proposed land use unit prior to commencement.



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

File #: 23-2-PCV
 Mtg Date: 07-11-23
 Date Rec'd: 06-14-23
 Fees Paid: 100
 Staff Int: gjt
 List of Adjoiners:

Email: _____

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

Subdivision Ordinance Variance Request

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

Property Owner Information

Owner Name: Alice Davenport and Nicholas Russo
 Business Name: _____
 Mailing Address: 1899 Trough Rd
 Phone Number: 631-335-9654 Email: alidav013@gmail.com

Applicant Contact Information

Applicant Name: Alice Davenport and Nicholas Russo Same as owner:
 Business Name: _____
 Mailing Address: 1899 Trough Rd
 Phone Number: 631-335-9654 Email: alidav013@gmail.com

Consultant Information

Name: _____
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 1899 Trough Rd Vacant Lot:
 Tax District: 9 Map No: 0009 Parcel No: 0007
 Parcel Size: 10 acres Deed Book: 1260 Page No: 5
 Zoning District: Rural

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

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

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

Requesting to lift the single family restriction.

Briefly Describe the Nature of Your Variance Request:

Requesting to lift the single family restriction

We would like to use the barn as a training facility to train dogs and K9's. We are interested and would like to provide board and board and treats to customers. No major modifications will be made to the structure and dogs will be kept inside if boarding to reduce noise

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

By lifting this restriction it would benefit the town and surrounding counties supplying them with high quality dog training.

We are also providing the community with police support K9s and aiding their training

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

~~No unnecessary hardship can be foreseen at this time.~~

This would cause us to need to move or find another location to operate business.

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

~~Landowners do not foresee this happening at this time.~~

This property was purchased with the knowledge of being agricultural use and did not have knowledge of the single family restriction

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

Business is to be conducted in a way that is approved by law

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

Air Dany

Property Owner

6/27/23
Date

[Signature]

Property Owner

Date

Notification Requirements

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

07-11-23

Public Hearing Date

06-27-23

Date Placard Posted

06-27-23

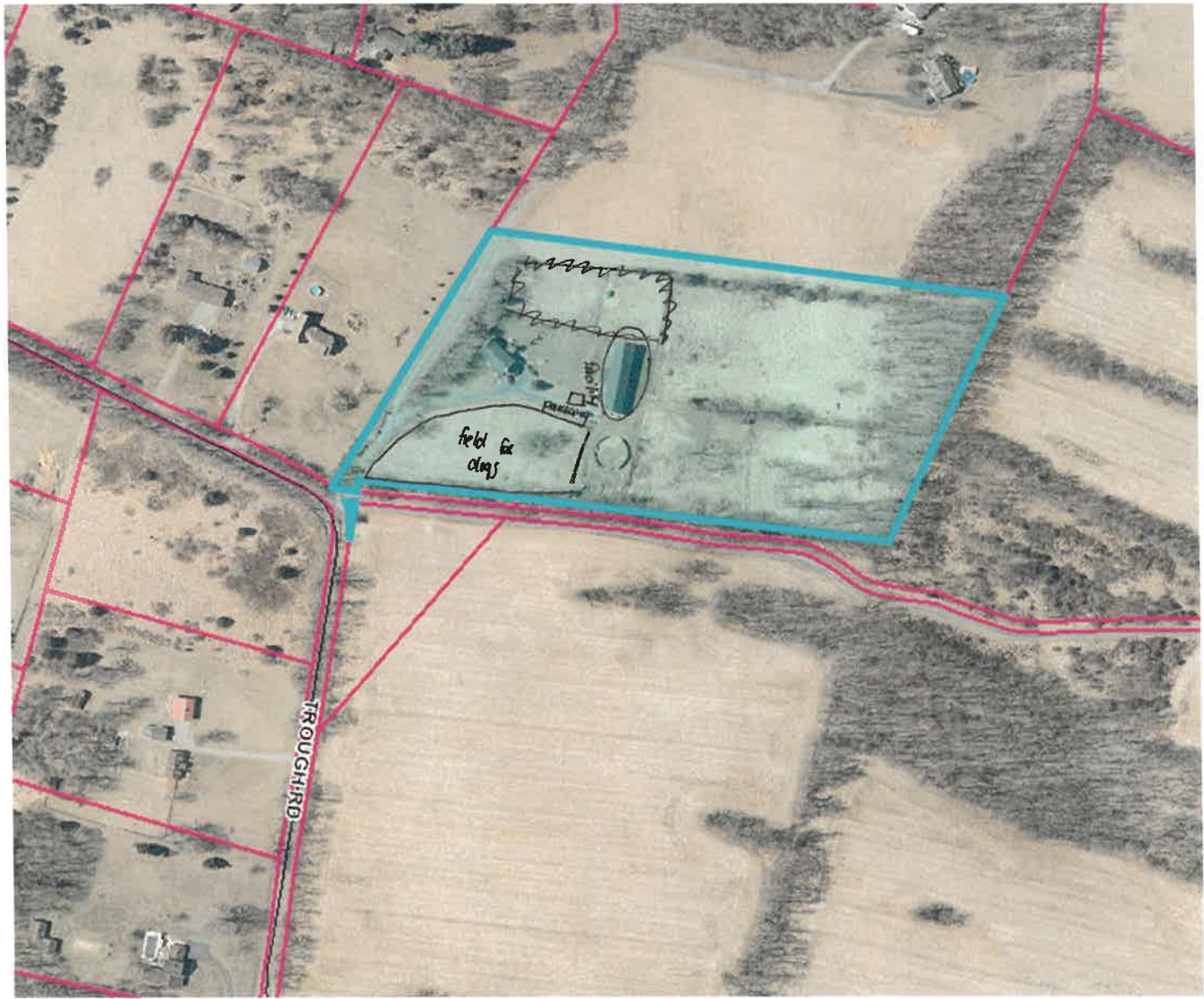
Date Adjoiners Mailed

Planning Commission Determination

Approved

Denied

Date: ___ / ___ / ___



23-2-PCV Russo-Davenport (SF Restriction) Public Comment

- Submitted 2023-06-30 by Greg and Susan Mason

Date: 6/29/23

To: Jefferson County WV Planning and Zoning Commission

From: Gregory L. & Susan J. Mason 1895 Trough Road Shepherdstown, WV (304) 279-1052

Subject: Nicholas Russo & Alice Davenport

Request to Lift Single Family Restriction

Please be advised, we are 100% opposed to this commission making restriction changes related to any property in our area, specifically adjoining ours. This is not a personal issue with Nick and Alice. They appear to be great people. This is about the law and rules related to our properties. Shepherdstown is well known for our beautiful farms and these single-family homes.

- 1) This is a Single-Family zoned location.
- 2) We do not want any setbacks or boundary lines changed.
- 3) This area is not intended to be open to changes which bring business into our residential, agricultural, and single-family home community. Raising, breeding, boarding, or training dogs for profit or non – profit is NOT Single Family Rural/Agriculture!
- 4) Additionally, these properties have a shared right-of-way onto both single-family homes from an inherently dangerous, 90-degree blind curve on Trough Road. The single, one lane driveway accessing these two properties, I re-built, with shale and stone, then paved our portions to where it splits to each single-family home. The pavement that I had installed and paid for, is breaking apart from single-family residential traffic using it. I do not feel this commission should grant the ability and open the door for more non-residential traffic on my portion of this shared driveway for any business.
- 5) Trough Road is very narrow for the traffic that already travels on it. I request that someone from this commission contact the Jefferson County School bus drivers that travel this part of Trough Road. The buses or on-coming traffic must run with the right side of the vehicles tires off the pavement so they can safely pass in some of these restrictive areas.
- 6) Susan and I are both dog lovers, and dog owners. We have one German Shepherd that we acquired about 8 years ago for our protection after being burglarized twice. We all know some dogs are escape artists, and noisy. They can and will bark and carry at all hours of the day and night. Susan works a swing shift at P&G and does not have normal sleeping hours.
- 7) We feel this kind of change in our area will decrease ours and other neighbor's property values because of the traffic, dogs, noise, and business in a Single Family Rural/Agricultural zoned area.
- 8) This kind of change is not welcomed or compatible within our neighborhood!
- 9) I respectfully request that every member voting on this issue visit the properties, road and driveway that relates to this issue. I welcome you to come sit on my front porch, enjoy the peace and quiet that this area offers.
- 10) Please do not take this matter lightly. There are adequate other areas in Jefferson County for this kind of business that will not cause any consideration for any lifting of restrictions or variances. Keep this out of our single-family home community.

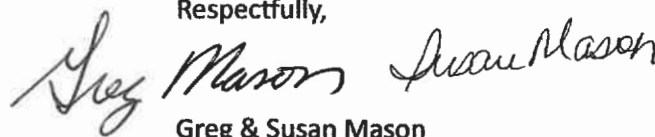
RECEIVED

JUN 30 2023

Attachments

JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING

Respectfully,


Greg & Susan Mason







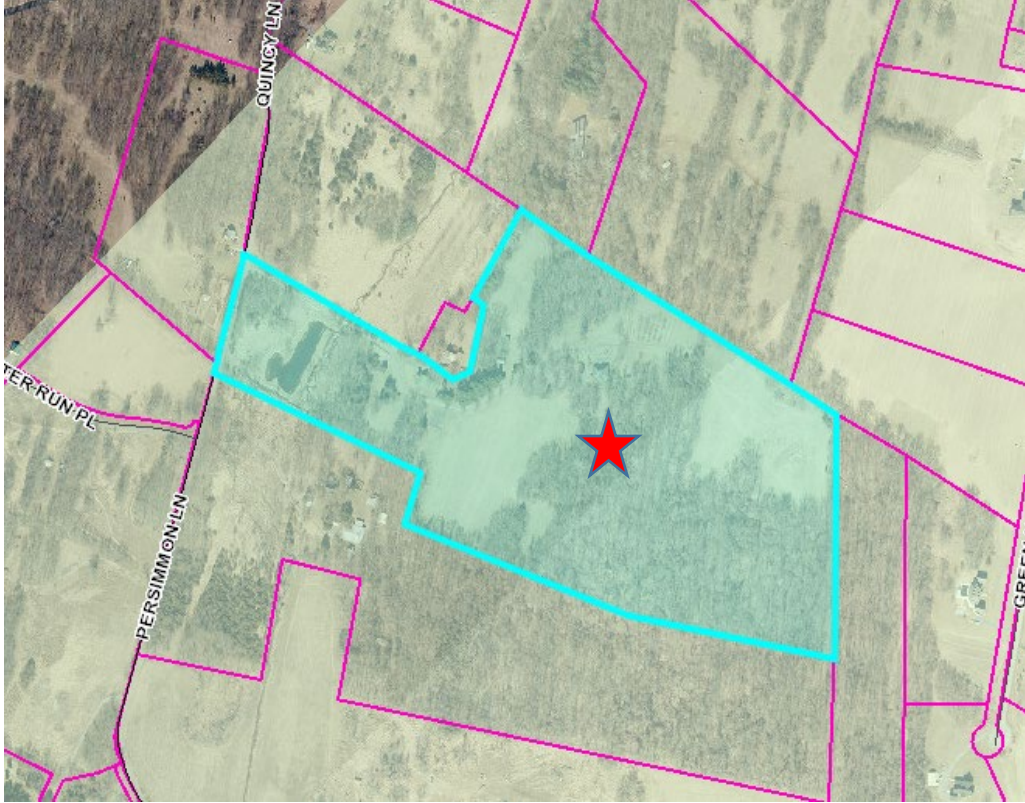




Staff Report
 Jefferson County Planning Commission Meeting
 July 25, 2023

Palmisano MSD (Access) Waiver Request (File: 23-18-PCW)

Item #6: Public Hearing: Waiver from Section 20.201A.2 of the Subdivision Regulations to reduce the width of the required access easement from 50' to 40' for a proposed two lot minor subdivision.

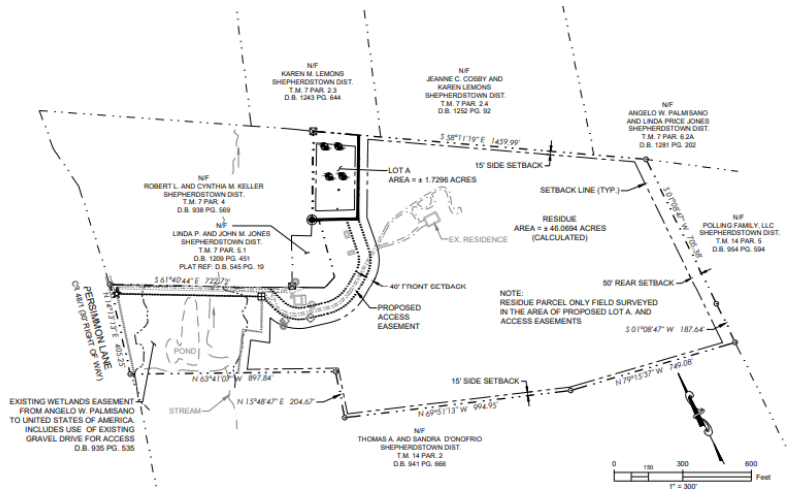
Owner	Palmisano A W-Trust / Attn: Angelo Palmisano
Applicant	Alpha Associates, Inc. / Attn: Richard Klein
Property Location & Information	<p style="text-align: center;">2034 Persimmon Ln, Shepherdstown, WV 25443; Parcel ID: 09000700050000; Size: 47.73 acres; Zoning District: Rural</p> 
Adjacent Zoning	<i>North, South, East and West: Rural</i>
Proposed Activity	To reduce the width of the required access easement from 50' to 40' for a proposed two (2) lot minor subdivision.
Previous Approvals	9/5/85: DB545/PG19: First Outsale Myers/Keller 0.92 acres that utilizes the 40' access easement 3/15/00: DB935/PG535: 4.27 acre Palmisano/USA Wetland Easement

Staff Report
Jefferson County Planning Commission Meeting
July 25, 2023

Palmisano MSD (Access) Waiver Request (File: 23-18-PCW)

Summary of the Request:

The applicant is proposing to subdivide a 1.7296-acre lot (Lot A) from the 47.73-acre parcel utilizing the existing 40' access easement, which crosses a wetland easement (DB935/PG535) and a FEMA identified 100 year floodplain area. In accordance with Section 20.201A.2, the creation of this lot and a residue is permitted to process as a Minor Subdivision provided it has motor vehicle access via a 50' access easement that serves no more than 5 lots.



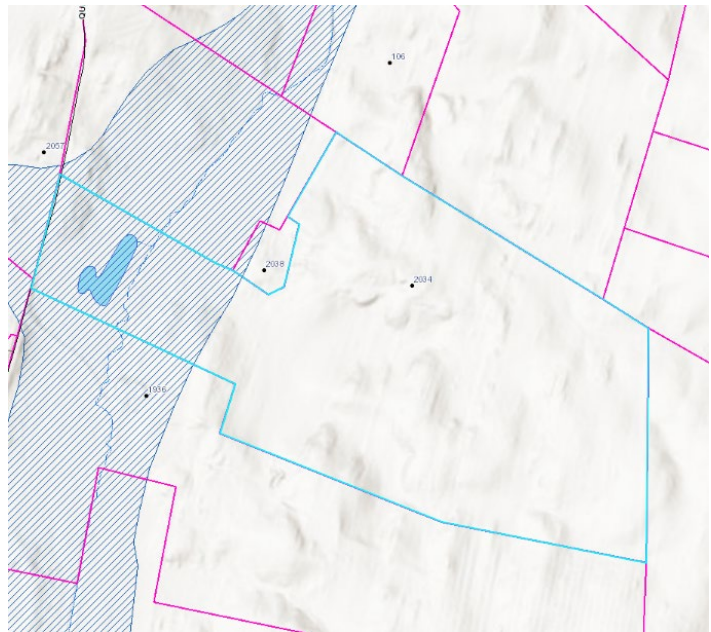
In order to proceed with the proposed subdivision, the applicant is requesting a waiver from Section 20.201A.2, to waive the required 50' access easement to allow the use of an existing 40' access easement which serves the existing two lots.

Relevant Site Information:

In 1985, the subject 47.73-acre parcel was the residue of a minor subdivision that created a 0.92 outsale parcel. The outsale parcel has access via a 40' access easement across the subject parcel.

In 2000, a wetland easement for a 4.27 acre portion of this parcel was entered into between the Angelo Palmisano and the US government. The 40' access easement crosses this wetland easement and the 100-year floodplain depicted on the adjoining exhibit.

The applicant is requesting to create an additional lot, outside of the floodplain, via a Minor Subdivision process, and proposing to use the existing 40' access easement.



Staff Discussion/Recommendation:

The subject property has the right to create this lot as a Minor Subdivision in accordance with Section 20.201A.2 of the Subdivision Regulations, provided that a 50' access is provided. This application is requesting a waiver of this requirement to be allowed to use the existing 40' access easement, which crosses the wetland easement and floodplain. The project will need to meet the Floodplain Ordinance when or if work is done in the floodplain. Granting this waiver will not impact the size of the driveway serving the lots, but allow the easement to be 40' in width.

If the Planning Commission is inclined to approve this waiver, the subdivision should be limited to the proposed new lot.

Palmisano MSD (Access) Waiver Request (File: 23-18-PCW)

Sections of Subdivision Regulations under Consideration:

Sec. 20.201 Minor Subdivisions

A. Residential

All minor residential subdivisions shall conform with the following:

1. A minor residential subdivision divides the property into lots and a residue parcel. The subdivision of the lots creates the residue parcel out of the original parcel.
2. All lots, regardless of the zoning district, shall have motor vehicle access via a 50' access easement, provided that the access easement serves no more than 5 lots to either:
 - a. A WV DOH road right-of-way or easement; or
 - b. A road in a major subdivision that meets county roadway design standards (Table 2.2-1)
3. Potable water and sanitary sewer service shall be provided according to the requirements of Appendix B, *Engineering Standards*. All submissions shall provide a plat approved by the Department of Health or letters of water and sewer availability, as applicable.

Waiver Requirements:

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

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



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

File #: 23-18-PCW
 Mtg Date: 07/11/23
 Date Rec'd: 06/16/23
 Fees Paid: 100.00
 Staff Int: jth
 List of Adjoiners:

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

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

Planning Commission Waiver Request

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

Property Owner Information

Owner Name: The Angelo William Palmisano Living Trust
 Business Name: The Angelo William Palmisano Living Trust
 Mailing Address: 2034 Persimmon Lane, Shepherdstown, WV 25443
 Phone Number: 304-261-0993 Email: _____

Applicant Contact Information

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

Consultant Information

Name: Richard Klein, PE, PS
 Business Name: Alpha Associates, Incorporated
 Mailing Address: 535 West King Street
 Phone Number: 304-264-0051 Email: Richard.klein@thinkalphafirst.com

Physical Property Details

Physical Address: 2034 Persimmon Lane, Shepherdstown, WV 25443 Vacant Lot:
 Tax District: Shepherdstown Map No: 7 Parcel No: 5
 Parcel Size: 47.7990 Deed Book: 1172 Page No: 486
 Zoning District: Rural

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

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

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

20.201.A.2 - All lots, regardless of the Zoning District, shall have motor vehicle access via a 50' access easement....

Briefly Describe the Nature of Your Waiver Request:

The Applicant is requesting approval to provide a 40' easement as opposed to the 50' easement required in Section 20.201.A.2. The 40' easement will serve a total of 3 lots, including the new lot being created by the Minor Subdivision.

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

See Attached

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

See Attached

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

See Attached

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

See Attached

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

A W Palmisano

6/16/23

Property Owner Signature

Date

Property Owner Signature

Date

Notification Requirements

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

07/11/23

Public Hearing Date

06/27/23

Date Placard Posted

06/27/23

Date Adjoiners Mailed

Planning Commission Determination

Approved

Denied

Date: ___ / ___ / ___

**The Angelo William Palmisano Living Trust
Waiver Request
Shepherdstown District, Map 7, Parcel 5
Attachment 1**

Question 1: Explain how the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County Parks Plan or benefits of a similar nature.

In March 2000, when the wetlands easement was created and given to the United States of America, the Jefferson County road easement width requirement for a Minor Subdivision was only 40'. For that reason, the applicant left a space slightly greater than 40' between his side property line and the side line of the wetlands easement. The wetlands easement between the parties prohibits construction in the wetlands easement, so an overlapping easement is not possible at this time. Had the 50' easement requirement been in place in 2000, a swath of land greater than 50' would have been created. This request does not have any impact to County maintenance costs or greater open space, but it does continue to preserve a wetlands area.

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

Granting this waiver will not adversely affect public health or welfare, or the rights of adjacent property owners or residents. As it will be required to meet every other standard and requirement of the Minor Subdivision standards of the Subdivision Ordinance. This will include the Health Department and the Highway Department Approvals for the additional lot. Conversely, it will protect the adjacent wetlands.

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

The application otherwise conforms to a Minor Subdivision, and it is permitted to be subdivided as requested without upgrading the road. The purpose of the width requirement is to assure that space is available to construct the required road. The existing driveway has been in place for many years and does not need to be upgraded, so the 40' easement is more than adequate, and meets the intent and purpose of the Ordinance.

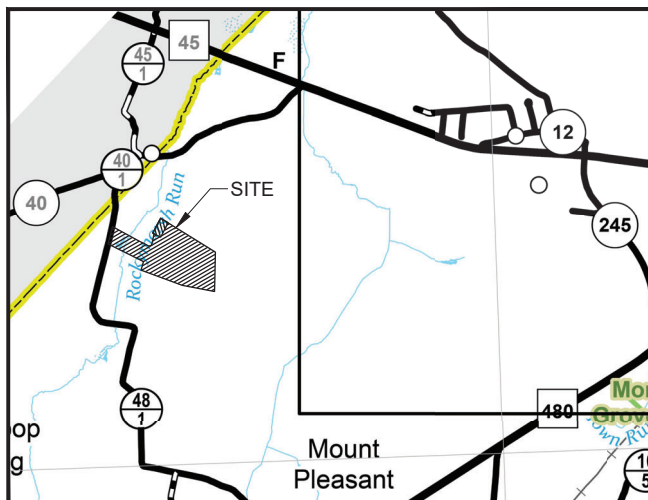
Question 4: Explain how the waiver, if granted, will result in a project of better quality and/or character.

The granting of the Waiver will allow for one additional lot, for a total of three, which therefore qualifies as a Minor Subdivision without any requirement to upgrade the road. Therefore, there is no need for a 50' Easement. Preserving the wetlands, which lie on either side of the driveway, enhances the quality of the project and life for all, including wildlife, in the area.



ALPHA ASSOCIATES, INC.
535 W. KING STREET
MARTINSBURG, WV 25401
PHONE: 304-264-0051
TOLLFREE: 877-264-0051
www.thinkALPHAfirst.com

PLAT OF MINOR SUBDIVISION FOR THE ANGELO WILLIAM PALMISANO LIVING TRUST



VICINITY MAP

SCALE: 1" = 2,000'

NOTES:

- THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY BE SUBJECT TO RECORDED OR UNRECORDED RIGHT-OF-WAYS, EASEMENTS, RESTRICTIONS OR EXEMPTIONS NOT SHOWN HEREON.
- PER GRAPHIC PLOTTING ONLY, A PORTION OF THE RESIDUE IS DETERMINED TO BE LOCATED IN FLOOD ZONE A, AN AREA WITHIN THE 1% ANNUAL CHANCE FLOOD, WITH NO BASE FLOOD ELEVATIONS DETERMINED. PROPOSED LOT A IS WITHIN FLOOD ZONE X, AN AREA DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN, PER FEMA MAP #54037C0040E, EFFECTIVE DATE 12/18/2009, FURTHER DEFINED BY THE HEC-RAS ON THE WEST VIRGINIA FLOOD TOOL.
- WETLANDS EXIST ON THE RESIDUE PARCEL AND SHOWN HEREON PER THE NATIONAL WETLAND INVENTORY.
- WEST VIRGINIA DOH PERMIT NO. _____
- THE PARENT PROPERTY IS ZONED: RURAL
- THE SETBACKS ARE AS FOLLOWS:
FRONT: 40' SIDE: 15' REAR: 50'
- MAX BUILDING HEIGHT = 45'
- THE MINIMUM LOT SIZE FOR A WELL & SEPTIC SYSTEM IS 40,000 SF.
- JEFFERSON COUNTY HEALTH DEPARTMENT PER NUMBERS.
• WELL: _____
• SEPTIC: _____
- VERIFICATION FROM A WELL DRILLER THAT A PRESSURE GROUTED WELL IS DRILLED AND IS PRODUCING WATER AT A QUANTITY APPROVED BY THE JEFFERSON COUNTY HEALTH DEPARTMENT AND/OR THE WEST VIRGINIA BUREAU OF HEALTH SHALL BE SUBMITTED TO THE PLANNING COMMISSION PRIOR TO THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT. CERTIFICATION THAT THE WATER IS POTABLE MUST BE SUBMITTED TO THE PLANNING COMMISSION OFFICE WITHIN 6 MONTHS OF THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT.
- THE PUBLIC SERVICE DISTRICT MAY REQUIRE IN THE FUTURE, EACH PROPERTY OWNER TO ABANDON EXISTING WELL AND SEPTIC SYSTEMS AND TO CONNECT TO A CENTRALIZED SYSTEM WHEN AND IF IT BECOMES AVAILABLE.
- PRIVATE WELLS AND/OR SEPTIC SYSTEMS FOR DOMESTIC USE ARE PROHIBITED WHEN A CENTRAL WATER AND SEWER SERVICE IS AVAILABLE.
- A BLANKET EASEMENT IS GRANTED TO THE APPROPRIATE PUBLIC UTILITIES IN ALL ROAD RIGHT-OF-WAY FOR CONSTRUCTION AND MAINTENANCE OF WATER AND SEWER LINES.
- ALL RESIDENTIAL AND NON-RESIDENTIAL BUILDING LOTS SHALL HAVE A STABILIZED CONSTRUCTION ENTRANCE INSTALLED PRIOR TO BEGINNING CONSTRUCTION ON THE LOT.
- NO STRUCTURES, FENCES, OR LANDSCAPING SHALL BE LOCATED IN THE EASEMENTS.
- EACH OWNER ALONG THE PRIVATE ROAD/RIGHT OF WAY SHALL HAVE UNOBSTRUCTED RIGHT OF INGRESS-EGRESS OVER SAID PRIVATE ROAD/RIGHT OF WAY TO AND FROM THEIR RESPECTIVE RESIDENCES OR PROPERTY. EACH OWNER SHALL BE ASSESSED A SUM EQUAL TO THE ROAD MAINTENANCE AND UPKEEP EXPENSES FOR THE ENSUING YEAR MULTIPLIED BY A FRACTION OF WHICH THE NUMERATOR SHALL BE THE ASSESSED VALUE OF THE PROPERTY OWNED BY THE OWNER AND THE LOT DENOMINATOR SHALL BE THE TOTAL ASSESSED VALUES OF ALL LOTS.
- THE PARTIES HERETO STATE AND ACKNOWLEDGE THAT SAID ACCESS ROAD OR RIGHT OF WAY IS PRIVATE AND ITS MAINTENANCE, INCLUDING SNOW REMOVAL, IS NOT A PUBLIC RESPONSIBILITY OR THE RESPONSIBILITY OF JEFFERSON COUNTY, WV.
- FOR DRIVEWAYS THAT REQUIRE A CULVERT FOR DITCH DRAINAGE, THE MINIMUM CULVERT SIZE SHALL BE 15" IN DIAMETER.
- THE SELLER OF ANY LOT WITHIN THIS SUBDIVISION SHALL PROVIDE THE BUYER WITH A REASONABLE OPPORTUNITY, BEFORE SETTLEMENT, TO DETERMINE THAT THE LOT IS SUITABLE FOR THE CONSTRUCTION OF A SEPTIC DISPOSAL SYSTEM. IF, BEFORE SETTLEMENT, THE BUYER IS DENIED A SEPTIC CONSTRUCTION PERMIT BY THE JEFFERSON COUNTY HEALTH DEPARTMENT, THE BUYER MAY REFUSE TO PURCHASE THE LOT WITHOUT PENALTY.
- THE JEFFERSON COUNTY E911 ADDRESSING ORDINANCE STATES THAT ANY EASEMENT OR RIGHT-OF-WAY LEGALLY ACCESSED BY 3 OR MORE ADDRESSABLE STRUCTURES (NOT LOTS) SHALL BE NAMED. THE GIS/ADDRESSING OFFICE SHALL COORDINATE AND OVERSEE THE NAMING OF THE COMMON EASEMENT OR RIGHT-OF-WAY UPON CONSTRUCTION OF THE 3RD ADDRESSABLE STRUCTURE THAT ACCESSES THE PREVIOUSLY UNNAMED EASEMENT OR RIGHT-OF-WAY.
- CURRENT REGULATIONS
• JEFFERSON COUNTY ZONING AND LAND DEVELOPMENT ORDINANCE AS AMENDED DEC. 2, 2021.
• JEFFERSON COUNTY SUBDIVISION AND LAND DEVELOPMENT REGULATIONS AS AMENDED FEB. 1, 2018.
- NO FUTURE RIGHT OF WAYS OR EASEMENTS ARE PLANNED AT THIS TIME.
- DENSITY: 3 HOUSES / 48.6 ACRES = 0.06 PER ACRE

SHEET INDEX	
1 OF 1	COVER SHEET
2 OF 2	PLAT SHEET

JEFFERSON COUNTY - COMPLETE LIST OF WAIVERS/VARIANCES (TABLE 1.2-2)			
ORDINANCE	SECTION OF ORDINANCE	DESCRIPTION OF WAIVER OR VARIANCE	DATE GRANTED
MINOR SUBDIVISION	SEC. 20.201.A.2	≥ 40' EASEMENT INSTEAD OF 50' MINIMUM	PENDING

AREA TABLE

EXISTING PARCEL	± 47.7990 ACRES (CALCULATED)
LOT 1	± 1.7296 ACRES
RESIDUE	± 46.0694 ACRES (CALCULATED)
ACCESS EASEMENT	± 1.5476 ACRES

JEFFERSON COUTNY HEALTH DEPARTMENT PERMITS
LOT 1 = _____
RESIDUE = _____

JEFFERSON COUNTY, WEST VIRGINIA

DIRECTOR OF PLANNING & ZONING

DATE:

ACCEPTANCE STATEMENT:
THE OWNER, IN SIGNING THIS PLAT, AGREES TO ABIDE BY ALL CONDITIONS, TERMS AND SPECIFICATIONS PROVIDED HEREON.

OWNER _____ DATE: _____

I, RICHARD W. KLEIN, A WEST VIRGINIA LICENSED PROFESSIONAL SURVEYOR, DO HEREBY CERTIFY TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THIS SEALED PLAT IS ACCURATE, COMPLETE AND REASONABLY MEETS OR EXCEEDS MINIMUM ACCEPTABLE SURVEYING STANDARDS AND THOSE STATE AND/OR COUNTY CODE PROVISIONS APPLICABLE ON THIS DATE. THE RELATIVE POSITIONAL ACCURACY OF THE SURVEY, BASED UPON GPS MEASUREMENTS, IS WITHIN ACCEPTED LIMITS. THIS SUBDIVISION COMPLIES WITH THE JEFFERSON COUNTY SUBDIVISION REGULATIONS, SECTION 6.1.8.6 FOR CLOSURE WITHIN 1.7500.

RICHARD W. KLEIN, P.S. 1427 _____ DATE: _____

**PLAT OF MINOR
SUBDIVISION**
FOR
**THE ANGELO WILLIAM
PALMISANO LIVING TRUST**
SHEPHERDSTOWN DISTRICT
T.M. 7 PAR. 5 D.B. 1172 PG. 486
JEFFERSON COUNTY, WEST VIRGINIA

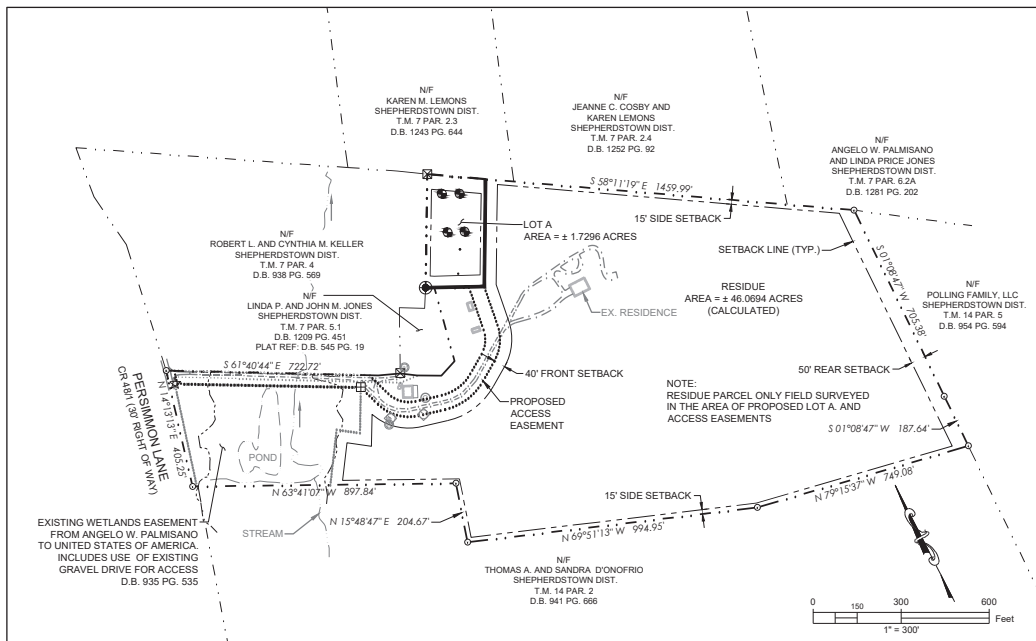
OWNER/DEVELOPER:
THE ANGELO WILLIAM
PALMISANO LIVING TRUST
ADDRESS:
2034 PERSIMMON LN.
SHEPHERDSTOWN, WV 25443
PHONE:
304-261-0993
ATTN:
BILL PALMISANO

PROJ. NO.: 2304030.00
DATE: 6/15/2023

SHEET NO.:

1 OF 2

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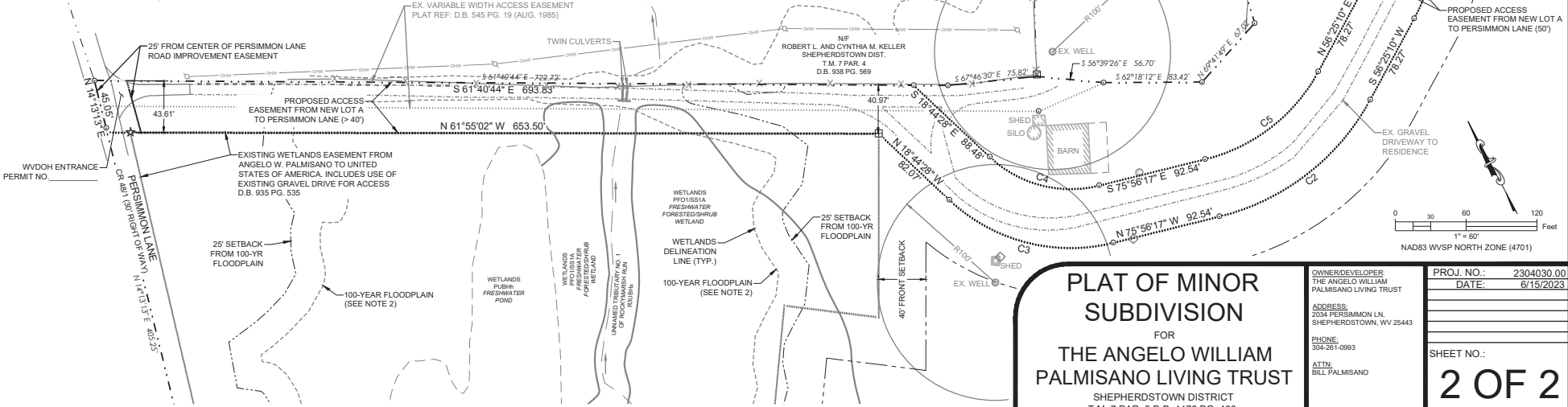


OVERALL PROPERTY MAP

LEGEND

- | | | | |
|------|------------------------------------|-----------|--------------------|
| T.M. | TAX MAP NUMBER | ○ | UTILITY POLE |
| PAR. | PARCEL NUMBER | ⊙ | SEPTIC TANK |
| D.B. | DEED BOOK | ⊕ | SANITARY CLEAN-OUT |
| PG. | PAGE NUMBER | ⊖ | WELL |
| NF | NOW OR FORMERLY | ⊙ | WATER FAUCET |
| ▲ | SURVEY CONTROL POINT | — | NEW PROPERTY LINE |
| ○ | 5/8" REBAR WITH CAP FOUND | - - - | EX. PROPERTY LINE |
| ● | 5/8"X30" REBAR WITH ORANGE CAP SET | - · - · - | ADJOINER LINE |
| ☆ | CONCRETE MONUMENT FOUND | · · · · · | PROPOSED EASEMENT |
| ⊙ | 5/8" REBAR FOUND | · · · · · | EXISTING EASEMENT |
| ⊗ | WOODEN FENCE POST FOUND | ▭ | BUILDING OUTLINE |
| ⊠ | METAL FENCE POST | ▭ | EDGE OF GRAVEL |
| ○ | POINT | - - - | WIRE FENCE |

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD LENGTH	CHORD BEARING
C1	127.14	150.00	48°33'54"	123.37	S32°08'13"W
C2	166.30	200.00	47°38'34"	161.55	S80°14'26"W
C3	149.74	150.00	57°11'49"	143.60	N47°20'22"W
C4	99.83	100.00	57°11'49"	95.73	S47°20'22"E
C5	124.73	150.00	47°38'34"	121.17	N80°14'26"E
C6	84.76	100.00	48°33'54"	82.25	N32°08'13"E



PLAT OF MINOR SUBDIVISION

FOR THE ANGELO WILLIAM PALMISANO LIVING TRUST

SHEPHERDSTOWN DISTRICT
T.M. 7 PAR. 5 D.B. 1172 PG. 486
JEFFERSON COUNTY, WEST VIRGINIA

OWNER/DEVELOPER:
THE ANGELO WILLIAM PALMISANO LIVING TRUST

ADDRESS:
2034 PERSIMMON LN.
SHEPHERDSTOWN, WV 25443

PHONE:
304-261-0993

ATTN:
BILL PALMISANO

PROJ. NO.: 2304030.00
DATE: 6/15/2023

SHEET NO.:
2 OF 2

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Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Planner's Memorandum Planning Commission Meeting July 25, 2023

1) Engineering, Planning and Zoning County Offices Contact Information

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

BUILDING PERMITS & INSPECTIONS 304-725-2998 permits@jeffersoncountywv.org

IMPACT FEES 304-728-3331 - mmason@jeffersoncountywv.org

ENGINEERING 304-728-3257 - engineering@jeffersoncountywv.org

PLANNING & ZONING 304-728-3228 - planningdepartment@jeffersoncountywv.org, zoning@jeffersoncountywv.org

GIS & ADDRESSING 304-724-6759 - gis@jeffersoncountywv.org

2) Upcoming PC meetings

❖ **Next Regular meeting date: August 8, 2023**

- 5:30 pm Comprehensive Plan Work Session
- 7:00 pm Planning Commission Meeting
 - Hunter Hills Preliminary Plat Public Hearing
 - Valley Storage Concept Plan Public Workshop
 - Harvest Hills Rezoning recommendation

❖ **29th Annual Jefferson Co. African American Cultural & Heritage Festival: August 19, 2023**

❖ **County Fair Comprehensive Plan Booth: August 21 – 26, 2023 (volunteers needed)**

❖ **September Meetings:**

- Regular PC Meeting: September 12, 2023
- Agricultural Public Workshop for 2045 Comprehensive Plan: September 13, 2025 (tentative)
- 2nd 2045 Comprehensive Plan Public Workshop: September 18, 2023
- Comprehensive Plan Work Session re: Goals and Objectives: September 26, 2023

Non-Actionable Correspondence

From: [CompPlan2045](#)
To: "Carol Rockwell"
Subject: RE: Public Survey for the Comprehensive Plan Update
Date: Monday, July 17, 2023 9:10:00 AM

Good morning,

This email is to confirm receipt of your email. Unless requested otherwise, this correspondence will be included in the 7/25/23 Planning Commission packet as non-actionable correspondence.

Best,
Luke

Luke Seigfried (He, Him, His)
County Planner
Department of Engineering, Planning, & Zoning
Jefferson County, WV
(304) 728-3228
complan2045@jeffersoncountywv.org

From: Carol Rockwell <cdrockwell@hotmail.com>
Sent: Friday, July 14, 2023 7:36 AM
To: CompPlan2045 <complan2045@jeffersoncountywv.org>
Subject: Re: Public Survey for the Comprehensive Plan Update

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

Any presentation to the planning commission should be in person by the planning director.

From: CompPlan2045 <complan2045@jeffersoncountywv.org>
Sent: Thursday, July 13, 2023 12:55 PM
To: Carol Rockwell <cdrockwell@hotmail.com>
Subject: RE: Public Survey for the Comprehensive Plan Update

Good afternoon,

Thank you for bringing this shortage to our attention. Additional paper copies will be dropped off to Shepherdstown Library by tomorrow afternoon. Planning Commission has determined to have the survey run a month from June 21st until July 21st. If you would like me to include these requests as correspondence for the July 25th Planning Commission meeting I would be happy to do so.

Best,
Luke

Luke Seigfried (He, Him, His)
County Planner
Department of Engineering, Planning, & Zoning
Jefferson County, WV
(304) 728-3228
complan2045@jeffersoncountywv.org

From: Carol Rockwell <crockwell@hotmail.com>
Sent: Wednesday, July 12, 2023 8:43 PM
To: CompPlan2045 <complan2045@jeffersoncountywv.org>
Subject: Re: Public Survey for the Comprehensive Plan Update

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

WHY ARE PAPER COPYS NOT AVAILABLE IN THE SHEPHERDSTOWN LIBRARY? WHY NOT PUBLISH THIS FORM IN THE TWO WEEKLY PAPERS IN CIRCULATION IN THE COUNTY? EXTEND THE TIME BEYOND JULY 21. DOUG ROCKWELL

From: CompPlan2045 <complan2045@jeffersoncountywv.org>
Sent: Thursday, June 22, 2023 10:46 AM
Subject: Public Survey for the Comprehensive Plan Update

Good morning,
Jefferson County has released a Public Survey for the Comprehensive Plan Update on June 21st. The survey is about the Goals and Objectives of the plan and will close on July 21st. Anyone who lives, works, or plays in Jefferson County is encouraged to fill out the survey by using the link [here](#). The survey can also be accessed through the Jefferson County website. We would ask everyone to share the link so we can hear from as many members of our community as possible. If a paper copy is required, visit a Jefferson County library or the Office of Planning and Zoning. The survey only takes 7-10 minutes to complete and your input will help guide Jefferson County for the next twenty years.

JEFFERSON COUNTY'S 2045 COMPREHENSIVE PLAN GOALS AND OBJECTIVES PUBLIC SURVEY

Have your voice heard and fill out the survey below!

The 2045 Comprehensive Plan is a community vision for Jefferson County over the next twenty years to guide future land use and development decisions.

Survey closes
July 21st



<https://arcg.is/1fLubK>

Estimated Time:
7-10 Mins

If you would like a paper copy, visit your local Jefferson County Library or Jefferson County's Office of Planning and Zoning.



Best,
Luke

Luke Seigfried (He, Him, His)
County Planner
Department of Engineering, Planning, & Zoning
Jefferson County, WV
(304) 728-3228
complan2045@jeffersoncountywv.org