



Jefferson County
Board of Zoning Appeals Agenda
Thursday, October 26, 2023 at 2:00 p.m.

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

Effective July 27, 2023, Public Participation is available in-person only. The meeting will be broadcast live for viewing purposes only.

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

Broadcast Information: Meeting ID: 865 1739 1310
Meeting Link: <https://us02web.zoom.us/j/86517391310>
Phone Option (Dial by Location): 301-715-8592
Find your local number: <https://us02web.zoom.us/u/k2zV3XThM>

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

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

Approval of Minutes: September 28, 2023

Public Hearing – Administer Oath

ITEM #1 FILE #: 23-33-ZV

Request: Variance request from Section 5.4B of the Zoning Ordinance (as amended 11/07/02) to reduce the rear setback along the eastern property line from 20' to 16' for an 18' x 8' deck.

Owner: David Cebulski

Applicant: Stoneridge Outdoor Living, LLC / Attn: Robert Warren

Parcel Info: Deerfield Village, Lot 43, 476 Deerfield Village Dr., Shepherdstown, WV
Parcel ID: 09014B00430000; Size: 0.26 ac; Zoning District: Rural

ITEM #2 FILE #: 23-8-CUP

Request 1: Request by Tracy Dove dba Charles Town Car Storage for a Conditional Use Permit to operate a Commercial Storage facility, as defined in Article 2 of the Zoning Ordinance. The proposal consists of converting an existing storage building into a nonresidential car storage facility for up to 28 vehicles. No expansion of the existing structure is proposed. No employees beyond the property owners. One 3' x 4' sign to be located at the entrance of the property.

Owner: Tracy and Marketa Dove

Parcel Info: Dove Minor Subdivision, Lot 1 (Residue), vacant parcel located immediately south of 428 Flowing Acres Road, Charles Town, WV
Parcel ID: 02004D00110000; Size: 4.65 acres; Zoning District: Rural

THE FOLLOWING REQUEST IS NOT SUBJECT TO A PUBLIC HEARING.

ITEM #3 EXTENSION REQUEST RE: FILE #: 22-5-CUP

Request: Request by Wild Hill Solar, LLC for an eighteen month extension of their Conditional Use Permit to operate a Solar Energy Facility. Per Section 3.2G of the Zoning Ordinance, the applicant is requesting an extension from March 30, 2024 to September 30, 2025.

Applicant: Wild Hill Solar, LLC

Parcel Info: Clarence & Donna Hough, Owner

Vacant parcel north of the property located at 340 Old Shennandale Rd., Charles Town, WV

Parcel ID: 06000500060000; Lot Size: 49.04 ac / Project Size: 49.04 ac; Zoning District: Rural

Parcel Info: T. Todd & Susan Hough, Trustees

340 Old Shennandale Rd, Charles Town, WV;

Parcel ID: 06000500010000; Lot Size: 206.84 ac / Project Size: 181.70 ac; Zoning District: Rural

Parcel Info: Charles & Marie Hough (Life), Owner

620 Old Shennandale Rd, Charles Town, WV;

Parcel ID: 06001100080000; Lot Size: 118.05 ac / Project Size: 32.11 ac; Zoning District: Rural

Zoning Administrator Report

- a. Monthly Zoning Certificate Activity Report
- b. Approval of the 2023 Board of Zoning Appeals Meeting Schedule

Legal Update

- a. Discussion of the following pending lawsuits:
 1. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities) Rockwell v. JCPC, JCBZA and JCCC
 2. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy Facility / File 22-9-CUP) Rockwell v. JCBZA
 3. Jefferson County Circuit Court Case #CC-19-2023-C-131 f/k/a CC-19-2023-P-95 (RE: Williamson Fence / 23-13-ZV) Gallagher v. JCBZA and Timothy Williamson
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

Meeting: September 28, 2023

1. Variance request from Section 9.7. Owner: Sharon Tennant. File: 23-27-ZV.
2. Variance request from Section 8.10. Owner: Flowing Springs Road, LLC. File: 23-28-ZV.
3. Variance request from Section 5.7(b). Owner: Charles and Shelly Wolfe. File: 23-29-ZV.
4. Request for a Special Exception Permit for an Off-Premise Sign for Bakerton Market. Owner: Barbara Sullivan. Applicant: Bakerton Market / Attn: Kevin Cueller and Katty Vocal. File: 23-2-SE.
5. Variance request from Section 5.7(b). Owner: Barbara Sullivan. Applicant: Bakerton Market / Attn: Kevin Cueller and Katty Vocal. File: 23-30-ZV.
6. Variance request from Section 5.7D.2.b.i(b). Owner: Elevation Properties, LLC. Applicant: P.J. Raco Consulting, LLC / Attn: Paul Raco. File: 23-31-ZV.
7. Variance request from Section 10.4B.2. Owner: Charles Town Burr Park Station, LLC. Applicant: Holtzman Oil Corp / Attn: Lindsay Racer. File: 23-32-ZV.

DRAFT Minutes

Jefferson County Board of Zoning Appeals

- 1 Meeting Date: September 28, 2023
- 2 Meeting Location: County Commission Meeting Room located in the lower level
- 3 of the Charles Town Library (entrance on Samuel St.)
- 4 200 East Washington Street, Charles Town, WV 25414
- 5 Board Members Present: Tyler Quynn, Chair; Matthew McKinney, Vice Chair; Steve Guier,
- 6 Secretary; Jacob Harris and David Wiegand were present in person.
- 7 Board Members Absent: Mikala Shremshock, Alternate, with notification
- 8 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;
- 9 Steve Groh, Assistant Prosecuting Attorney; and Jennilee Hartman,
- 10 Zoning Clerk

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

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

14 Approval of Minutes: August 24, 2023

15 Mr. Quynn requested a deliberative session.

16 Mr. Guier moved to go into deliberative session at 2:04 pm. Mr. Wiegand seconded the motion,
17 which carried unanimously.

18 Mr. Wiegand moved to come out of deliberative session at 2:15 pm. Mr. Guier seconded the motion,
19 which carried unanimously.

20 Mr. McKinney moved to approve the minutes as presented. Mr. Quynn called for a vote, which
21 carried four (4) in support and one (1) abstention (Mr. Wiegand). Mr. Wiegand stated his reason for
22 abstaining was because he did not attend the August meeting.

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

24 ITEM #1 FILE #: 23-27-ZV

25 Request: Variance request from Section 9.7 to reduce the side setback along the northern property
26 line from 6' to 4' and the rear setback along the eastern property line from 6' to 4' for a
27 proposed 160 sf shed.

28 Owner: Sharon Tennant

29 Parcel Info: Mecklenburg Heights, Lot 72, 323 Woodcock Ave., Shepherdstown, WV
30 Parcel ID: 09007C00070000; Size: .48 ac; Zoning District: Residential Growth

31 Ms. Sharon Tennant, property owner, was present to address the Board. Ms. Beaulieu provided an
32 overview of her staff report noting that a letter of support from the adjoining neighbors had been
33 submitted for the record. Ms. Beaulieu stated that the applicant had acknowledged that a business
34 could not be operated from the proposed structure without further consideration by the Board.

35 Ms. Tennant explained the nature of the request to the Board.

36 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
37 closed the public hearing.

38 Mr. Guier moved to approve zoning variance #23-27-ZV with the condition that the applicant is
39 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

1 **ITEM #2 FILE #: 23-28-ZV**

2 Request: Variance request from Section 8.10 to allow placement of a staffed model home sales
3 office on Lots 36 & 37 of the Stonecrest Subdivision to increase visibility for
4 incoming visitors.

5 Owner: Flowing Springs Road, LLC

6 Parcel Info: Stonecrest Subdivision, Lots 36 & 37, Vacant parcel off Flowing Springs Road (just
7 north of the Aspen Greens S/D), Charles Town, WV

8 Parcel ID: 02000300090000; Size: .24 and .16 ac (respectively);

9 Zoning District: Residential Growth

10 Mr. Jason Gerhart, representative with Integrity Federal Services, LLC, was present to address the
11 Board on behalf of the property owner. Ms. Beaulieu provided an overview of her staff report
12 noting that while a model home is permitted anywhere within the development that staffed model
13 homes in the subject locations required action from the Board.

14 Mr. Gerhart explained the nature of the request to the Board noting that one of the lots would
15 contain the staffed model home and the other lot would contain the temporary parking lot for the
16 model home. Mr. Gerhart confirmed that the staffed model home would be a speculative (spec)
17 home as opposed to a sales trailer and stated that eventually both lots would be converted to
18 residential homes.

19 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
20 closed the public hearing.

21 Mr. McKinney moved for a summary approval in accordance with Section 5.7 of the Boards'
22 Rules of Procedure (as amended 01/26/23). Mr. Wiegand seconded the motion, which carried
23 unanimously.

24 **ITEM #3 FILE #: 23-29-ZV**

25 Request: Variance request from Section 5.7B of the Zoning Ordinance (amended 09/28/06)
26 to reduce the front setback along the eastern property line from 40' to 17' for a
27 30' x 30' detached garage; and Section 9.6C to allow an accessory structure in the
28 required front yard.

29 Owner: Charles and Shelly Wolfe

30 Parcel Info: Carlos McDaniel Minor Subdivision, Lot 1, 1223 N. Childs Road, Kearneysville, WV

31 Parcel ID: 07001700100014; Size: 1.18 ac; Zoning District: Rural

32 Mr. Charles Wolfe, property owner, was present to address the Board. Ms. Beaulieu provided an
33 overview of her staff report and noted that a letter of support from the adjoining neighbor had been
34 submitted for the record. Ms. Beaulieu noted that the applicant had acknowledged that a business
35 could not be operated from the proposed structure without further consideration by the Board.

36 Mr. Wolfe explained the nature of the request to the Board, noting that the buildable area was
37 limited due to the location of the septic reserve area and well.

38 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
39 closed the public hearing.

40 Mr. Harris moved to approve zoning variance #23-29-ZV with the condition that the applicant is
41 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

1 **ITEM #4 FILE #: 23-2-SE and 23-30-ZV**

2 Request #1: Request for a Special Exception Permit for an Off-Premise Sign for Bakerton Market
3 (File #23-2-SE).

4 Request #2: Variance request from Section 10.5A.4 to reduce the front setback from 25' to 8' for an
5 Off-Premises Sign; and Section 10.5A.5 to allow an Off-Premises Sign to be located
6 closer than 100' to an intersection. (File #23-30-ZV).

7 Owner: Barbara Sullivan

8 Applicant: Bakerton Market / Attn: Kevin Cueller and Katty Vocal

9 Parcel Info: Vacant parcel adjacent to 3658 Bakerton Rd, Harpers Ferry, WV
10 Parcel ID: 04000300230001; Size: 1.17 ac; Zoning District: Rural

11 Mr. Kevin Cueller, owner of Bakerton Market, was present to address the Board on behalf of the
12 property owner. Ms. Beaulieu provided an overview of her staff report as it related the Special
13 Exception request and the Zoning Variance request.

14 Mr. Cueller explained that nature of each request to the Board. Mr. Cueller confirmed that
15 Ms. Sullivan, property owner of the subject parcel, was in support of the request by virtue of the
16 fact that she had signed the application forms and was in attendance. Mr. Cueller also confirmed
17 that the sign would not contain any lighting features.

18 Mr. Quynn opened the public hearing. Pastor Adam Johnson, local resident, spoke in support of the
19 request. Mr. Quynn closed the public hearing.

20 Mr. Guier moved to approve the Special Exception Permit for an Off-Premises Sign for Bakerton
21 Market (File #23-2-SE) and the Zoning Variance (#23-30-ZV) with the condition that the applicant
22 is bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

23 **ITEM #5 FILE #: 23-32-ZV**

24 Request: Variance request from Section 10.4B.2 to increase the permitted freestanding business
25 sign height from 35' to 65'. The subject request is to allow an existing freestanding
26 sign that was previously approved at the increased height of 65' to be relocated on the
27 subject parcel for the Liberty/Circle K gas station.

28 Owner: Charles Town Burr Park Station, LLC

29 Applicant: Holtzman Oil Corp / Attn: Lindsay Racer

30 Parcel Info: Burr Business Park, Lot 16A, 60 War Admiral Blvd., Kearneysville, WV
31 Parcel ID: 02000100690000; Size: ~5; Zoning District: Industrial Commercial

32 Ms. Hartman swore in the property owner's representative, Mr. Runion, as he was not in attendance
33 at the beginning of the meeting.

34 Mr. Marshal Runion, representative with Eddie Edward Signs, and Mr. Dexter Mumaw,
35 representative with Holtzman Oil Corp., were present to address the Board. Ms. Beaulieu provided
36 an overview of her staff report. Ms. Beaulieu noted that the request is to move the existing sign
37 from its current location, which was previously approved by the Board, to the newly proposed
38 location to increase visibility.

39 Mr. Runion and Mr. Mumaw explained the nature of the request noting that no changes to the
40 existing sign were proposed.

41 Mr. Quynn opened the public hearing. No members of the public provided testimony. Mr. Quynn
42 closed the public hearing.

1 Mr. Harris moved to approve zoning variance #23-32-ZV with the condition that the applicant is
2 bound by their testimony. Mr. Quynn called for a vote, which carried unanimously.

3 **ITEM #6 FILE #: 23-31-ZV**

4 Request: Variance request from Section 5.7D.2.b.i(b) to allow the required 50% green space to
5 be allocated on each of the individual lots within the cluster subdivision (applicant is
6 proposing a maximum of four, five acre lots).

7 Owner: Elevation Properties, LLC

8 Applicant: P.J. Raco Consulting, LLC / Attn: Paul Raco

9 Parcel Info: 1208 Gardners Lane, Shepherdstown, WV

10 Parcel ID: 09001700040004; Size: 20 ac; Zoning District: Rural

11 Mr. Paul Raco with P.J. Raco Consulting, LLC, and Mr. Josh Beall with Elevation Properties,
12 property owner, were present to address the Board. Ms. Beaulieu provided a detailed overview of
13 her staff report.

14 Mr. Raco explained the nature of the request to the Board noting that each lot within the proposed
15 subdivision would retain approximately 2.5 acres in a platted preservation easement. Mr. Raco
16 stated that no structures that necessitate a building permit would be permitted within the
17 preservation easement areas. Mr. Raco stated that his client was not contesting staff's interpretation
18 of the Zoning Ordinance as it relates to the greenspace provisions. Mr. Raco argued that the
19 proposed preservation easement areas met the intent of the greenspace provision. Mr. Raco stated
20 that the exact locations of the proposed preservation easement areas would be confirmed after perc
21 tests are completed and that his client would work closely with the Zoning Administrator to ensure
22 the final configuration is consistent with the intent of the Ordinance.

23 Mr. Quynn opened the public hearing. Mr. Collin Stine and Ms. Susan Donham, adjoining property
24 owners, spoke in opposition to the request. Mr. Quynn closed the public hearing.

25 In rebuttal, Mr. Raco noted that the subject parcel did not contain any delineated flood plain and was
26 not on the National Historic Registry. Mr. Raco reiterated that, as proposed, the request met the intent
27 of the Zoning Ordinance by preserving the required 10 acres of greenspace in a restrictive easement.

28 The Board discussed the zoning variance criteria.

29 Mr. Wiegand moved to approve zoning variance #23-31-ZV with the condition that the applicant is
30 bound by their testimony. Mr. Guier seconded the motion, which carried four (4) in support and one
31 (1) opposed (Mr. Harris).

32 **Zoning Administrator Report**

33 a. Monthly Zoning Certificate Activity Report.

34 The Report was included in the mailed packet.

35 Ms. Beaulieu noted that the next regular scheduled meeting is October 26, 2023.

36 **Legal Update**

37 a. Discussion of the following pending lawsuits.

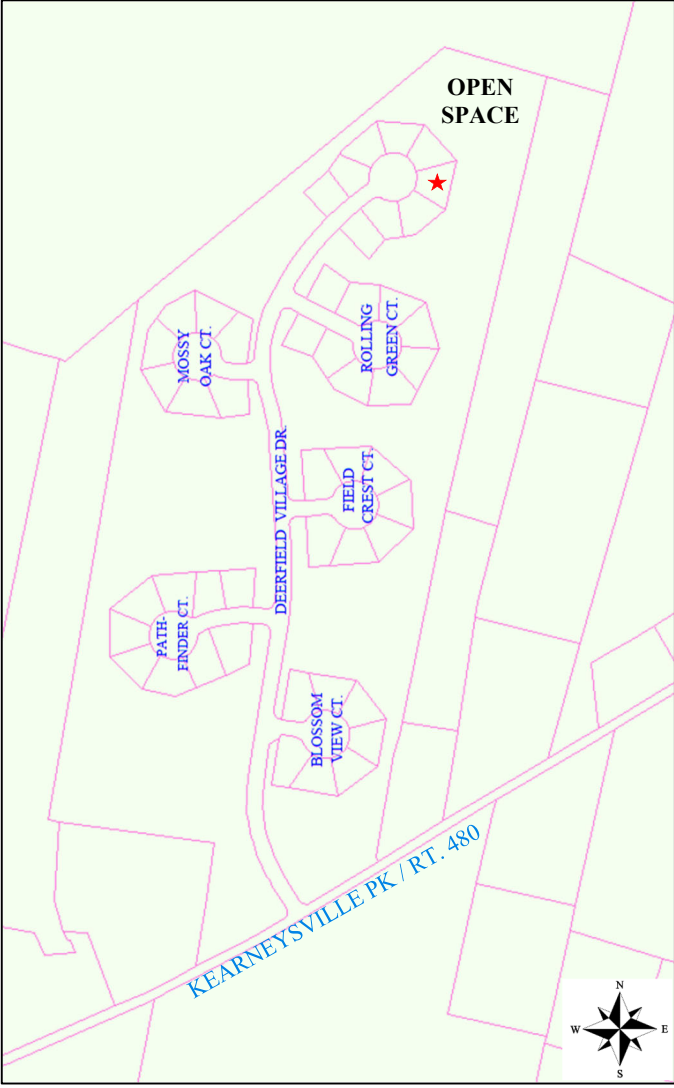
38 1. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy
39 Facilities) Rockwell v. JCPC, JCBZA and JCCC

40 o Mr. Groh stated the County had retained outside legal counsel for this item.

- 1 2. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy
2 Facility / File 22-9-CUP) Rockwell v. JCBZA
- 3 ○ Mr. Groh did not have a legal update for this item.
- 4 3. Jefferson County Circuit Court Case #CC-19-2023-C-131 f/k/a CC-19-2023-P-95 (RE:
5 Williamson Fence / 23-13-ZV) Gallagher v. JCBZA and Timothy Williamson
- 6 ○ Mr. Groh explained that this item was on hold until a separate legal case, unrelated
7 to the County, was resolved.
- 8 b. Discussion with possible deliberative session and signing of draft Findings/Decisions.
- 9 **Meeting: August 24, 2023**
- 10 1. Variance request from Section 10.4.A.2. Owner: Wall Street Partners WV1 LLC.
- 11 2. Applicant: Mid-Atlantic Permitting Services, Inc. / Attn: Ken Padgett. File: 23-24-ZV.
- 12 3. Variance request from Section 9.7. Owner: Adranetta Sine (Weimer). File: 23-25-ZV.
- 13 4. Variance request from Section 5.4(b). Owner: Daniel Shelton. File: 23-26-ZV.
- 14 Mr. Quynn will be provided a copy of the draft Findings for review.
- 15 Mr. Wiegand moved to adjourn the meeting at 3:52 pm. Mr. Quynn called for a vote, which carried
16 unanimously.

Staff Report
 Jefferson County Board of Zoning Appeals
 October 26, 2023
23-33-ZV Cebulski Variance Request

Item #1 Variance request from Section 5.4B of the Zoning Ordinance (as amended 11/07/02) to reduce the rear setback along the eastern property line from 20' to 16' for an 18' x 8' deck.

Owner:	David M Cebulski
Consultant:	Stoneridge Outdoor Living, LLC / Attn: Robert Warren
Parcel Information and Zoning District:	<p style="text-align: center;">Deerfield Village, Lot 43, 476 Deerfield Village Dr., Shepherdstown, WV Parcel ID: 09014B00430000; Size: 0.26 ac; Zoning District: Rural</p> 
History:	Deerfield Village Subdivision 03/11/03: PC approved CUP (PC file #Z02-07) 05/24/04: Final plat recorded (PC file #03-15) Plat Book 21, Page 1, A-G
Waivers/Variations:	N/A
Approved Activity:	Single family dwelling
Site Visit Conducted:	Site visit not conducted.

Staff Report
Jefferson County Board of Zoning Appeals
October 26, 2023
23-33-ZV Cebulski Variance Request

Staff Overview

The subject parcel is Lot 43 of the Deerfield Village Subdivision, which was recorded in May 2004. The density (number of lots) for Deerfield Village was evaluated under the Development Review System and was issued a Conditional Use Permit in March 2003. Pursuant to Section 5.7(b) of the Zoning Ordinance in effect in 2003, lots created through the development review process were subject to the Residential Growth setbacks listed in Section 5.4(b). As such, the required setbacks for Lot 43 are 25' Front, 12' Side, and **20' Rear**.

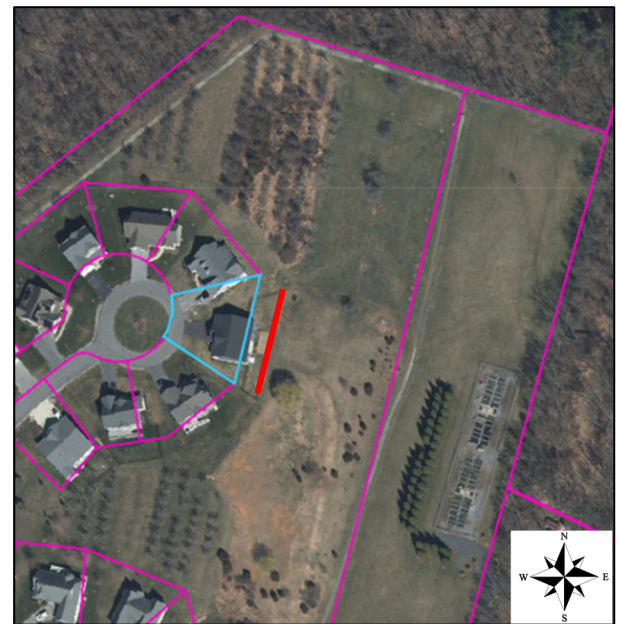
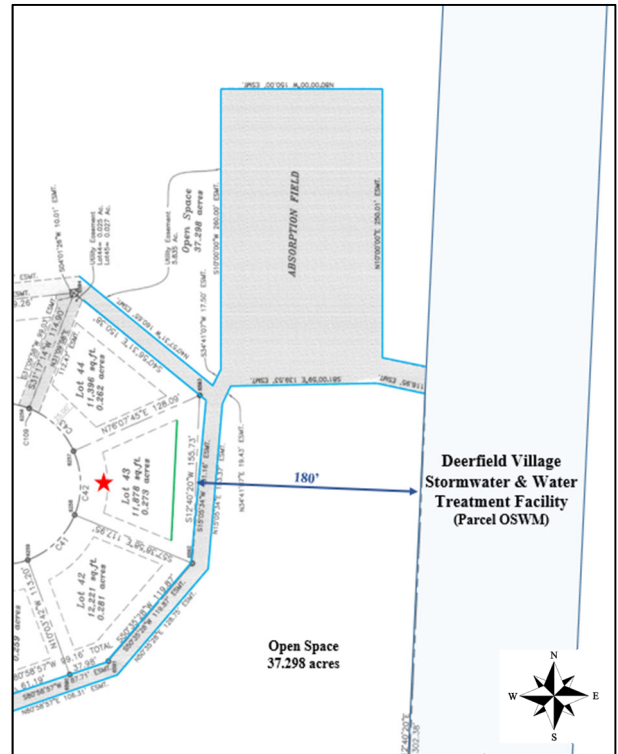
The applicant is requesting to reduce the rear setback requirement from 20' to 16' to reduce the rear setback along the eastern property line from 20' to 16' for a portion of an 18' x 8' deck.

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

The approved subdivision consists of 47 residential lots along with its own wastewater treatment facility (see exhibit on page 4 of this report). The subject property line abuts a 37 ± acre open space parcel and is bordered by a 25' wide utility easement that leads to an Absorption Field located in the adjoining open space area.

Article 9 of the Zoning Ordinance includes several exceptions and modifications to setback requirements, including Section 9.5A, which allows for an uncovered porch to extend into the required setback area up to four feet, provided the porch is not over ten feet in width. The subject deck is 18 feet in width and was not able to utilize this by-right provision; therefore, the applicant is seeking approval from the Board of Zoning Appeals.

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



Property lines depicted on exhibit are not accurate. Red line indicates approximate location of actual rear property line for Lot 43.

Staff Report
 Jefferson County Board of Zoning Appeals
 October 26, 2023
23-33-ZV Cebulski Variance Request

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

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

Conditions of Approval

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

1. No conditions of approval were identified.

Section of Ordinance to be Considered

SECTION 5.7 Rural District (of the Zoning Ordinance as amended 11/07/2002)

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

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

SECTION 5.4b Residential Growth District - Height And Yard Requirements

Development Type	Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)	Required Yards	Maximum Buildi ng
Single family detached dwelling	6,000 sq. ft. MLA**	25 ft. front	40 ft.
Public/Central water and sewer	10,000 sq. ft. ADU	12 ft. side	
Public/Central water or sewer	20,000 sq. ft. MLA	20 ft. rear	
No Public/Central water or sewer	40,000. Sq. ft. MLA		

Staff Report
Jefferson County Board of Zoning Appeals
October 26, 2023
23-33-ZV Cebulski Variance Request





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

File Number: 23-33-ZV
 Staff Initials: jth
 Meeting Date: 10/26/23
 Fees Paid (\$100 or \$150): \$100

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Zoning Variance Request

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

Property Owner Information

Name: DAVID + SUSAN CEBULSKI
 Mailing Address: 476 DEERFIELD VILLAGE DR SHEPHERDSTOWN WV 25443
 Phone Number: 904 403 4211 Email: dmc730@optonline.net

Applicant Contact Information

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

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

Name: STONERIDGE OUTDOOR LIVING LLC
 Mailing Address: 240 AIRPORT RD SUITE 2 WINCHESTER VA 22602
 Phone Number: 540 678 3700 Email: warrenr@stoneridgeoutdoor.com

Physical Property Details

Physical Address: 476 DEERFIELD VILLAGE DR
 City: SHEPHERDSTOWN State: WV Zip Code: 25443
 Tax District: SHEPHERDSTOWN Map No: 14B Parcel No: 43
 Parcel Size: 0.2654 ACRES Deed Book: 1274 Page No: 199

Zoning District (please check one)

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

Received via email 09/27/23 (jth)

Place Received Date Stamp Here

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

Is there a Code Enforcement action pending in relation to this property?

Yes

No

Reference the section of the Zoning Ordinance pertaining to this request: -6.2 Section 5.4B (per ZO - 11/07/02)

Briefly describe the nature of the variance request:

TO BE PERMITTED TO BUILD A DECK THAT HAS A 16' SETBACK
INSTEAD OF 20'.

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

Front Setback Side Setback Rear Setback Reduction From 20' to 16'

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

SEE ATTACHED

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

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

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

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

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

[Signature] 9/27/2023
Signature of Property Owner Date

[Signature] 9/27/2023
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

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

10/26/23

Date of Public Hearing

10/11/23

Advertising Date

10/11/23

Placard Posting Date

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

We have obtained permission from adjacent property owners and the Property Owners Association (POA) is favorable to allowing the variance for the rear deck to be extended. The land to the rear of the property line belongs to the POA and is considered a common area. Property owners within the association all voluntarily contribute to the maintenance and upkeep of the common area of Deerfield Village.

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

The homebuilder provided a 6-foot-wide deck flush with the back of the house which includes an overhang above the area. Additionally, when the home was built a concrete slab extends 6 feet off the back of the house, 6.5 feet long at the double door basement access and 17.5 feet from the rear property line, thus setting a precedent for being under the setback limit. Allowing the extended deck beyond the back of the home will permit added space for family occasions, visits from relatives, and periodic gathering with neighbors.

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

Adjacent property owners and the Property Owners Association have accepted the requested extension. The extended deck does not encroach on other property. Land beyond the rear property line is a common area maintained by and belonging to the Deerfield Village Property Owners Association. It provides a sensible use of an already existing deck structure, adds aesthetic value to the home and property and conforms to other neighborhood properties which have much larger and more elaborate decks.

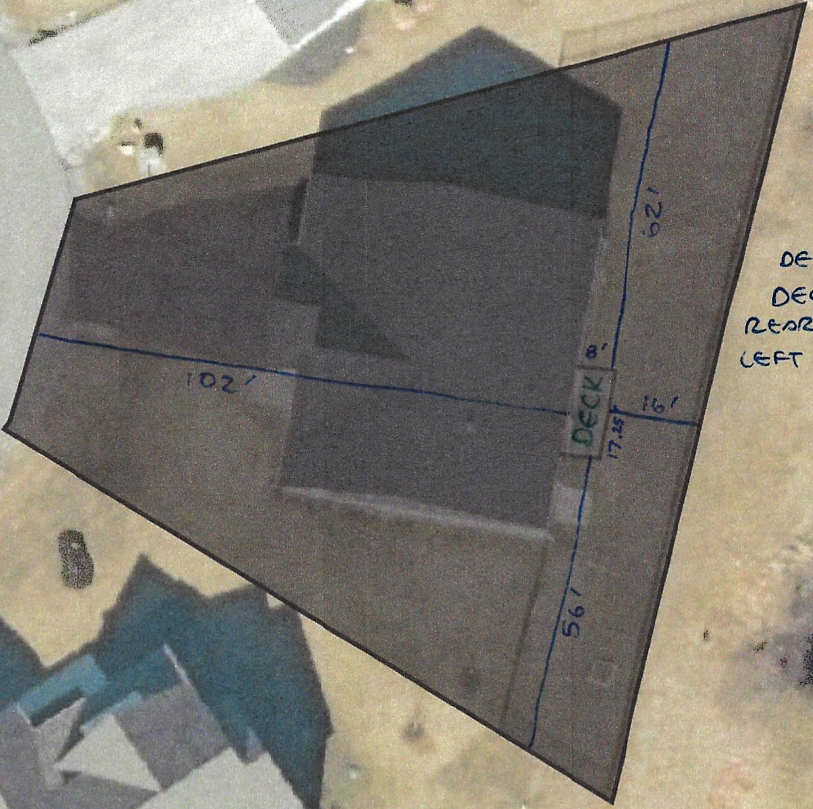
4. How will granting this variance allow the intent of the Zoning Ordinance to be observed and substantial justice to be done?

The variance gives the homeowner an opportunity to improve the home structure's usefulness and not interfere with neighboring properties. It is in compliance with Property Association rules and adheres to zoning setbacks with little or no disturbance to the homeowner's property.

Parcel	Address	Flood Zone
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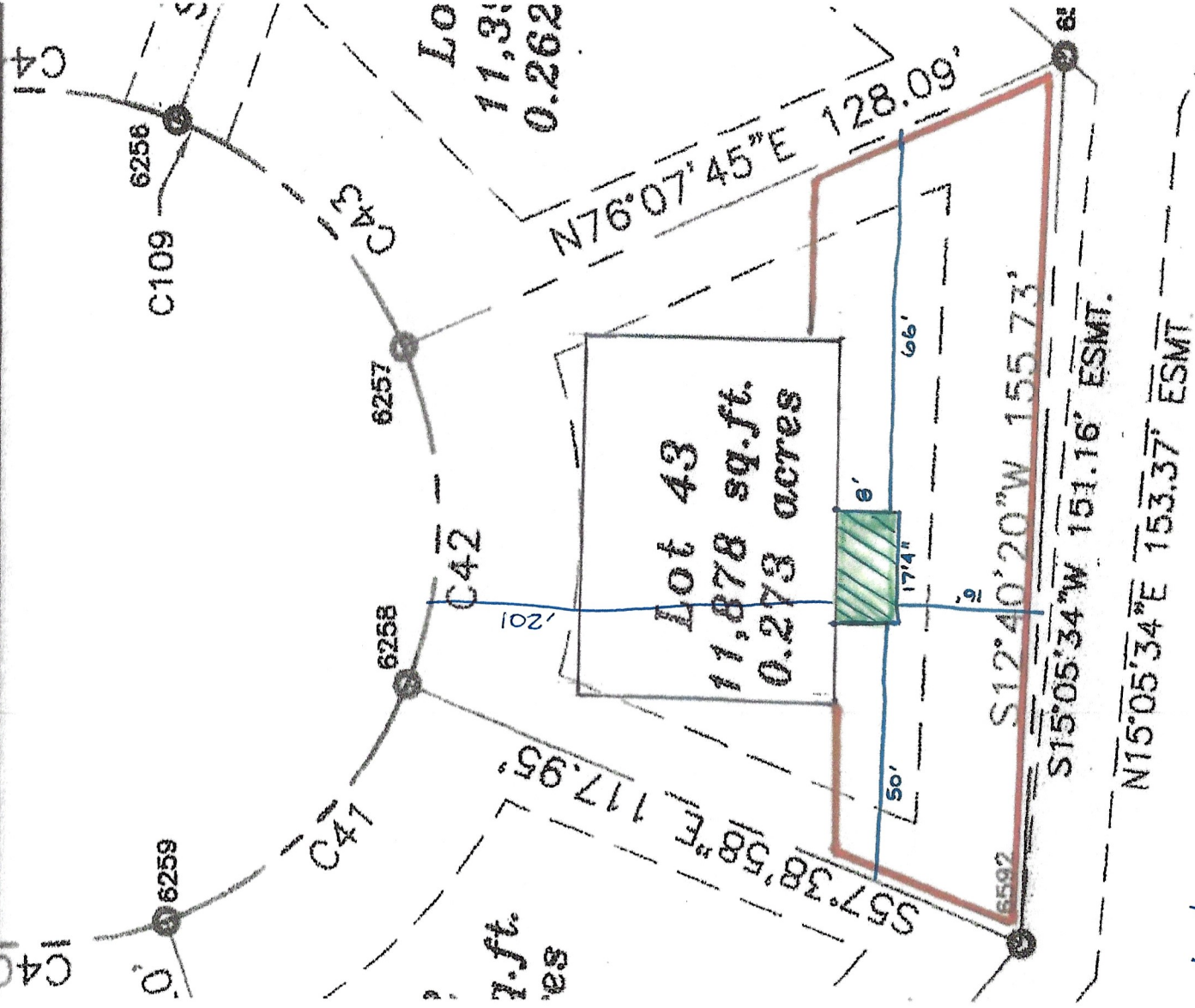


DEERFIELD VILLAGE DR



DECK IS 8' HIGH
 DECK 8' X 17.25'
 REAR 16' RIGHT 62'
 LEFT 56' FRONT 102'

9/21/23



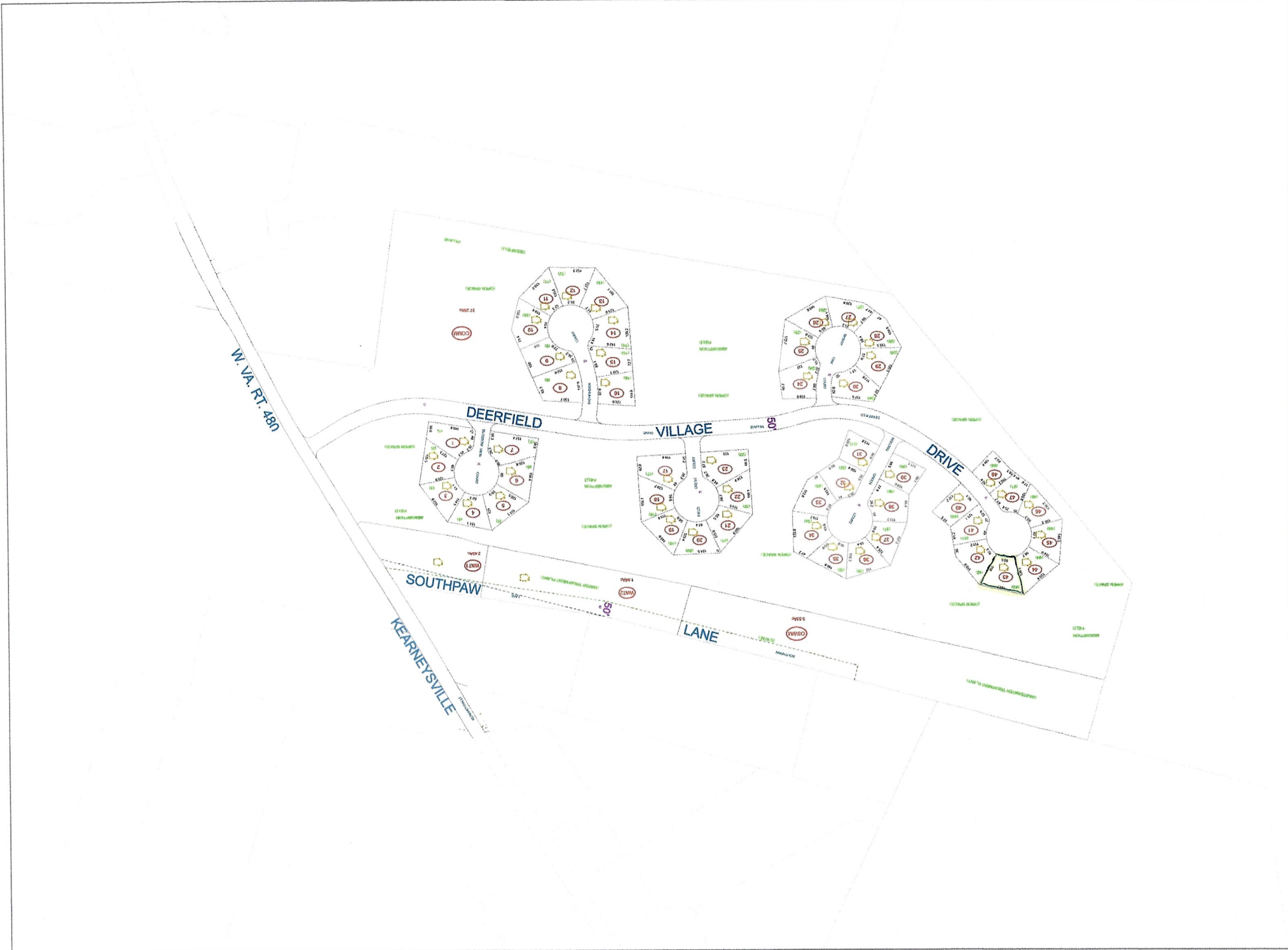
9/21/23

N34°41'07" E 19.43' ESMT.



Parcel	Address	Flood Zone
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FOR TAX PURPOSES ONLY
 PREPARED BY
JEFFERSON COUNTY ASSESSOR'S OFFICE



Tax Year: 2022
Date Printed: 1/18/2023
 Assessor: Angela Banks
 Mapping Specialist: Victoria (Tori) Myers

LEGEND

	PROPERTY LINE
	CORPORATION LINE
	DISTRICT LINE
	COUNTY LINE
	STREAM
	EASEMENT
	ORIGINAL LOT LINE
	RAILROAD

	LOT NUMBER	(14)
	TAX PARCEL NUMBER	(14B)
	IMPROVEMENT	(14)
	PP MOBILE HOME	(14)
	DISTRICT NUMBER	(9)

REVISIONS
 REVISIONS OUTGREW THIS SPACE AND ARE NOW MAINTAINED IN A DATABASE

KEY MAP

14	14	14
14	14B	14
7	14	16

COUNTY OF JEFFERSON
OFFICE OF THE ASSESSOR
CHARLES TOWN, WV

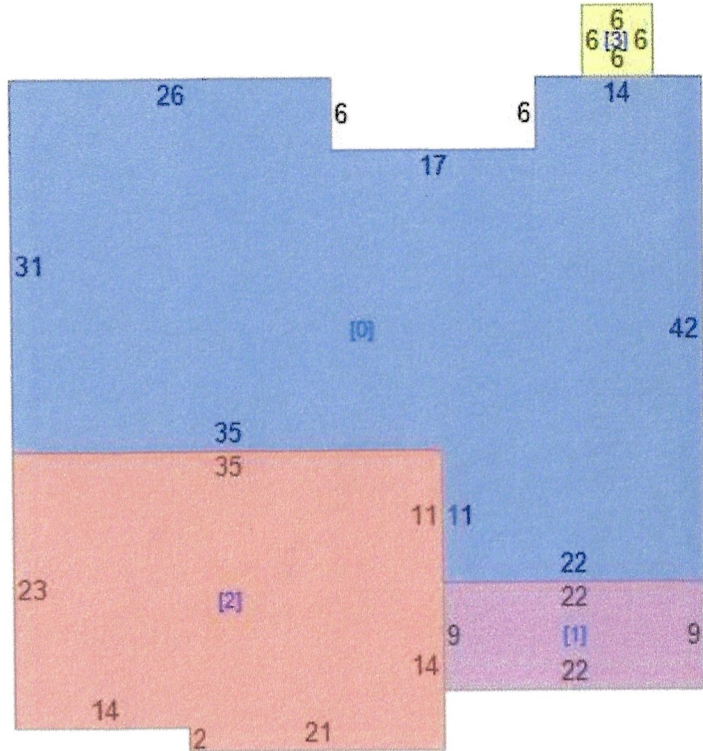
Data Aerial Photography: 12/11/1902
 Photo No.:
 Date Map Created: 9/23/1902

SHEPHERDSTOWN DISTRICT
DISTRICT 9
MAP 14B

West Virginia

Real Estate Assessment - Building Sketch

Jefferson County, District 9, Map 14B, Parcel 43



Parcel ID: 1909014B004300000000

Building: 1 of 1


Additions

#	Lower	First	Second	Third	Area	Value
0	Refer to Base Area Description				1,907	\$0
1	---	Open masonry porch	---	---	198	\$4,360
2	---	Frame garage	---	---	847	\$10,910
3	Patio (concrete)	---	---	---	36	\$90

Show dimensions Show addition numbers

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 October 26, 2023
**23-8-CUP Charles Town Car Storage (Commercial Storage)
 Conditional Use Permit Request**

Item #2 Request by Charles Town Car Storage for a Conditional Use Permit to operate a Commercial Storage facility, as defined in Article 2 of the Zoning Ordinance. The proposal consists of converting an existing residential storage building into a nonresidential car storage facility for up to 28 vehicles. No expansion of the existing structure is proposed. One 3' x 4' freestanding sign proposed at the entrance to the property.

Owner:	Tracy and Marketa Dove
Parcel Information and Zoning District:	<p>Dove Minor Subdivision, Lot 1 (Residue), vacant parcel located immediately south of 428 Flowing Acres Road, Charles Town, WV Parcel ID: 02004D00110000; Size: 4.65 acres; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: North, East, South West: Rural
Approvals:	09/07/73 – 10 acre tract created (DB 364 @ PG 147) 08/09/23 – Tracy Dove MSD (PB 26 @ PG 594) – PC File#23-9-SD
Site Visit Conducted:	No.

Summary of Request and Purpose of Ordinance Requirements

Request for a Conditional Use Permit to operate a Commercial Storage facility, as defined in Article 2 of the Zoning Ordinance. The proposal consists of converting an existing residential storage building into a nonresidential car storage facility for up to 28 vehicles. No expansion of the existing structure is proposed. No employees beyond the property owners. One 3' x 4' freestanding sign proposed at the entrance to the property.

Article 2 defines Storage, Commercial as:

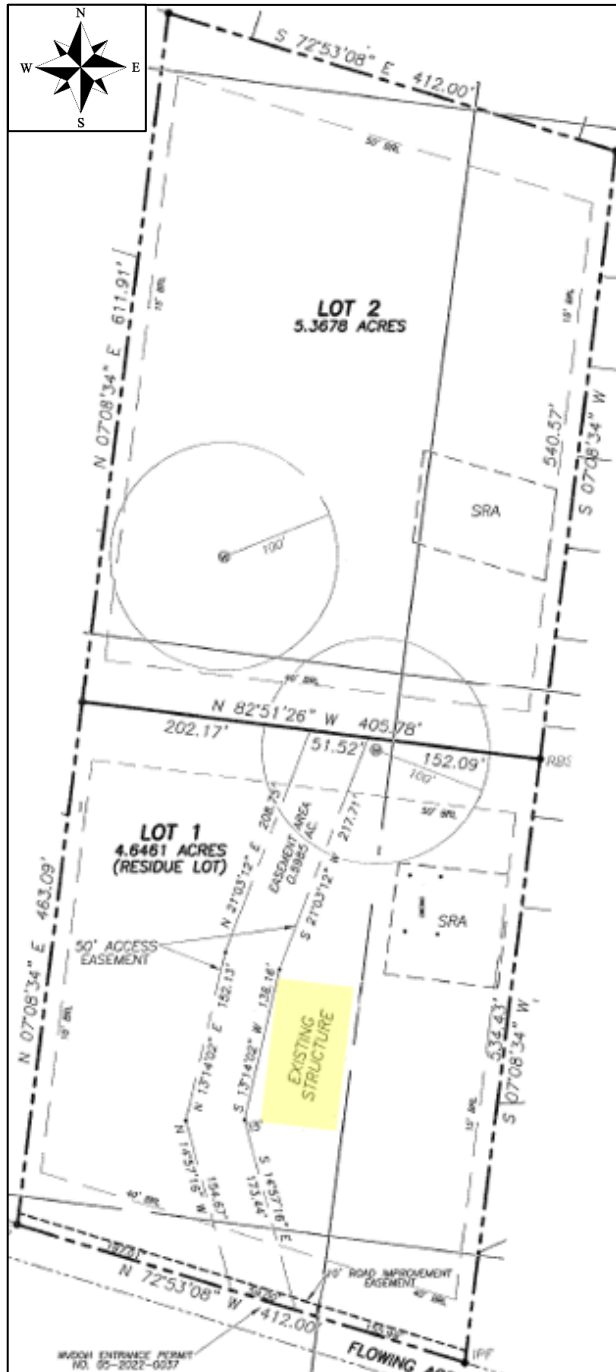
An enclosed storage facility of a commercial nature containing independent, fully enclosed bays which are leased to persons exclusively for storage of their household goods or personal property.

Staff Report
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**23-8-CUP Charles Town Car Storage (Commercial Storage)
Conditional Use Permit Request**

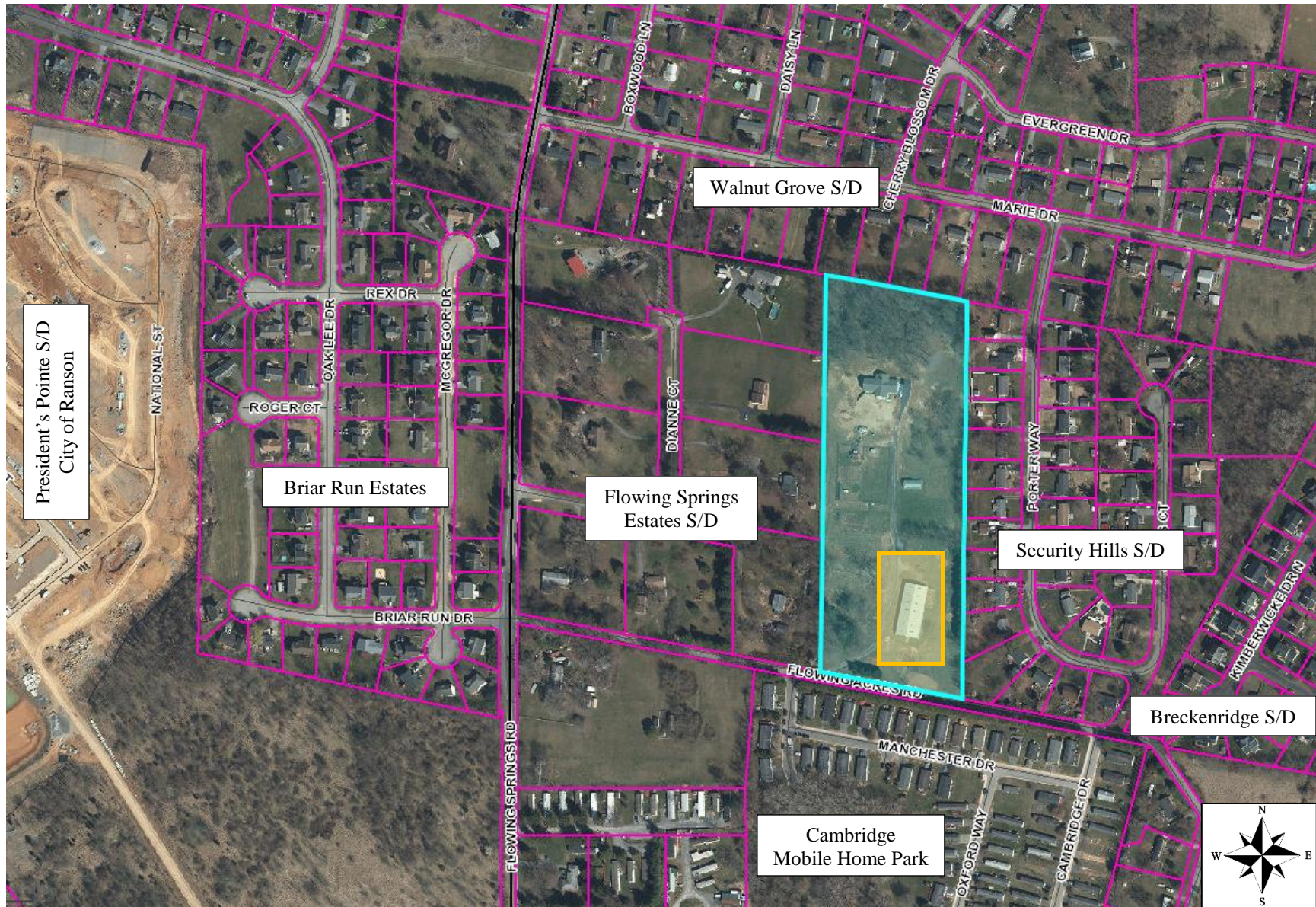
Property Description

The subject parcel was created in August 2023 and is the Residue Parcel of the Tracy Dove Minor Subdivision. The subject lot is approximately 4.64 acres and surrounded primarily by residential development.

The property was originally created in 1973 as a ten acre tract and was previously used for agricultural purposes. The applicant recently processed a two-lot minor subdivision and constructed a single-family home on Lot 1. The subject accessory structure is located on the residue parcel.



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Conditional Use Permit Request**



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Jefferson County Board of Zoning Appeals Meeting
October 26, 2023
**23-8-CUP Charles Town Car Storage (Commercial Storage)
Conditional Use Permit Request**

Conditional Use Permit Process

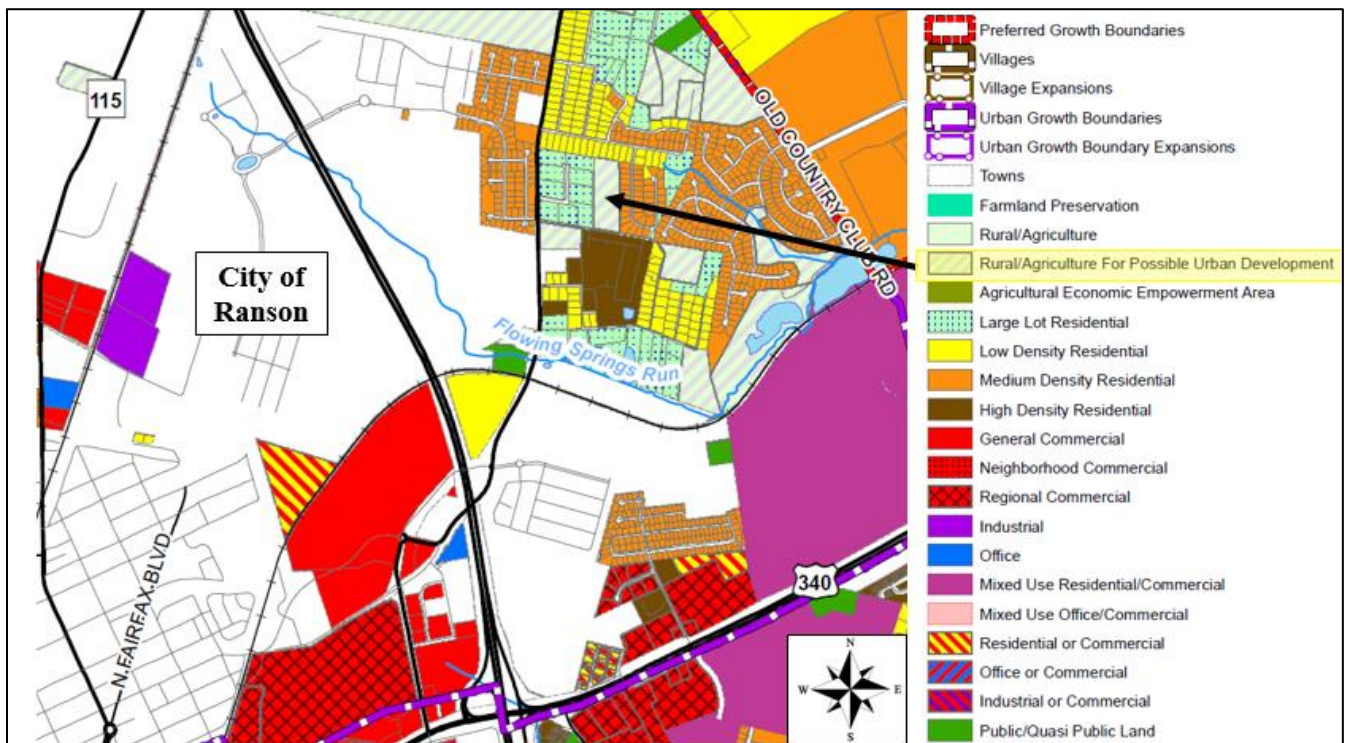
Section 6.3 of the Zoning Ordinance states:

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

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

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

The subject parcel is shown as “Rural/Agriculture for Possible Urban Development” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide (see below) and it is located within the Ranson Urban Growth Boundary (see Page 8 of Staff Report for UGB area and Page 19 of the Comprehensive Plan for a description of the Ranson UGB – attached).



The Plan supports allowing commercial uses in the Rural zoning district that the County deems compatible via the Conditional Use Permit Process. In March 2017, the County Commission amended the Zoning Ordinance to modify the CUP process. As part of that text amendment, the County Commission amended Appendix C to allow a variety of commercial land uses to process as a Conditional Use. Commercial Storage is listed as an appropriate land use to process as a Conditional Use in the Rural zoning district. Below are excerpts from the Envision Jefferson 2035 Comprehensive Plan:

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

Staff Report
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**23-8-CUP Charles Town Car Storage (Commercial Storage)
Conditional Use Permit Request**

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

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

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

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

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

The property is surrounded primarily by residential development. The request includes use of an existing storage structure that appears to have been built in 1974. The applicant would like to convert the structure for use as a vehicle storage building. The applicant stated that maintenance and repair work is not proposed as part of the use and that storage will be limited vehicles that can fit within a 10' x 20' area (i.e. no RVs, dump trucks, etc.).

Based on the description provided, the proposed use appears to be compatible in intensity and scale with the existing and potential land uses on surrounding properties as the structure has historically existed in this location and no new structures or expansions to the existing structure are proposed. The applicant is required to comply with Section 8.9 of the Zoning Ordinance and any other local, state, or federal requirements to ensure there is no threat to public health, safety, and welfare.

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

The structure has existed on the property since 1974. The applicant is not proposing to increase the size of the structure. The applicant intends to reside on the adjoining Lot 1 as their primary residence. The lot is located within the Ranson Urban Growth Boundary, which identifies locations where urban level development is anticipated.

Based on the information provided by the applicant, it appears that the proposal will not hinder nor discourage appropriate development and use of surrounding properties, which have all been developed as residential subdivisions (see exhibit on page 3 of this staff report).

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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**23-8-CUP Charles Town Car Storage (Commercial Storage)
Conditional Use Permit Request**

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

The site plan is the mechanism in place to enforce compliance with the landscaping standards. As presented, the proposed use does not appear to require processing a site plan because the building already exists and minimal parking is required; therefore, landscaping will not be required unless the Board requires landscaping as a condition of approval. Compliance with setbacks are still enforceable and it appears that the structure complies with the 75' distance requirement from adjoining residential properties.

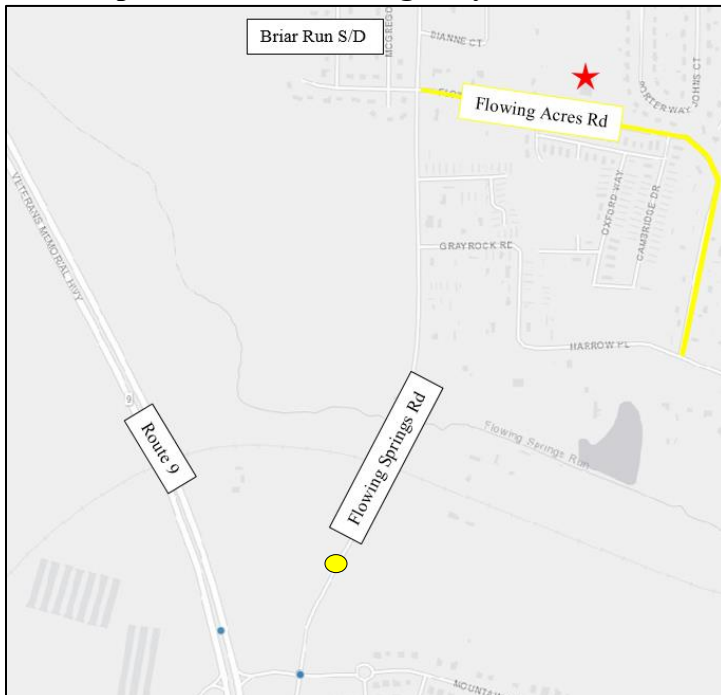
The Board has the authority to require that certain conditions be met in order to ensure the use is compatible with the surrounding properties. Such conditions may include landscape and/or fencing buffers.

The applicant acknowledged this criteria on page two of their application and stated on page three of their application that they do not intend to alter their property in any way that would decrease the visual beauty of their land or in any way infringe on their neighbors.

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

As part of the Conditional Use Permit application, the applicant was informed of this criteria and shall comply with this standard. Section 8.9 of the Zoning Ordinance is attached for reference as part of the Staff Report.

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

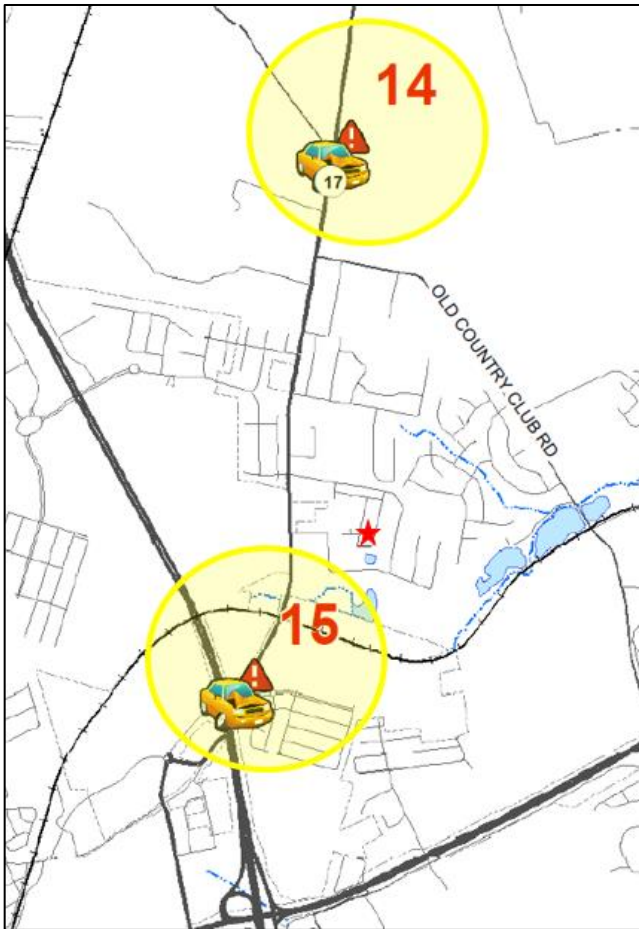


Flowing Acres Road is classified as a Local Road and is subject to this criteria. The applicant provided a trip generation summary in their application, stating that if 28 owners came twice per month, the average daily trip county would be approximately two trips per day.

A traffic count study was conducted by Department of Transportation in 2012 on Flowing Springs. The study reflects that the annual average daily traffic count on Flowing Springs Road (Station ID 1920528 ●) was 9,135 (Source: [WVDOT Open Data Portal – AADT Traffic Count](#)).

An excerpt from the Comprehensive Plan's Highway Problem Areas Map on page 4 of this report. The full map and index is attached for referenced as part of this staff report.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 26, 2023
**23-8-CUP Charles Town Car Storage (Commercial Storage)
Conditional Use Permit Request**



Highway Problem Areas #14 and #15 are the two closest problem areas to the subject parcel.

#14 is identified as Daniel Rd located at the intersection with Flowing Springs Rd just north of Old Country Club Rd. The problem is noted as being a poor intersection angle causing poor visibility.

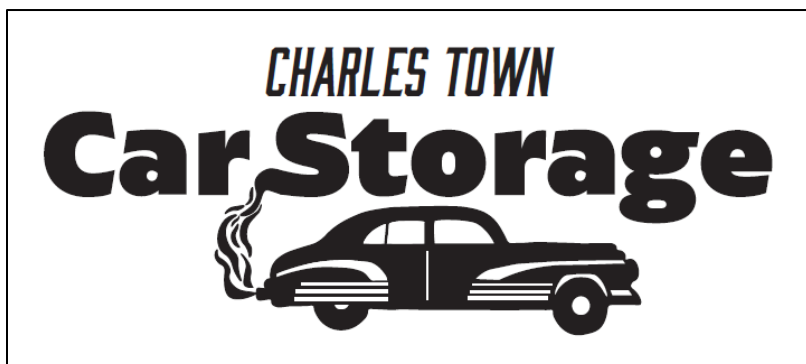
#15 is identified as “Sun Road” located at the intersection with WV Route 9 West. This problem area appears to have been resolved with the recent installation of a four-way stop and will be re-evaluated with the current Comprehensive Plan update. *Note: The road name “Sun Road” does not appear to exist anymore and appears to be what is now called “Flowing Springs Connector Road.”

Highway Problem Areas Map Excerpt – Comprehensive Plan

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

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

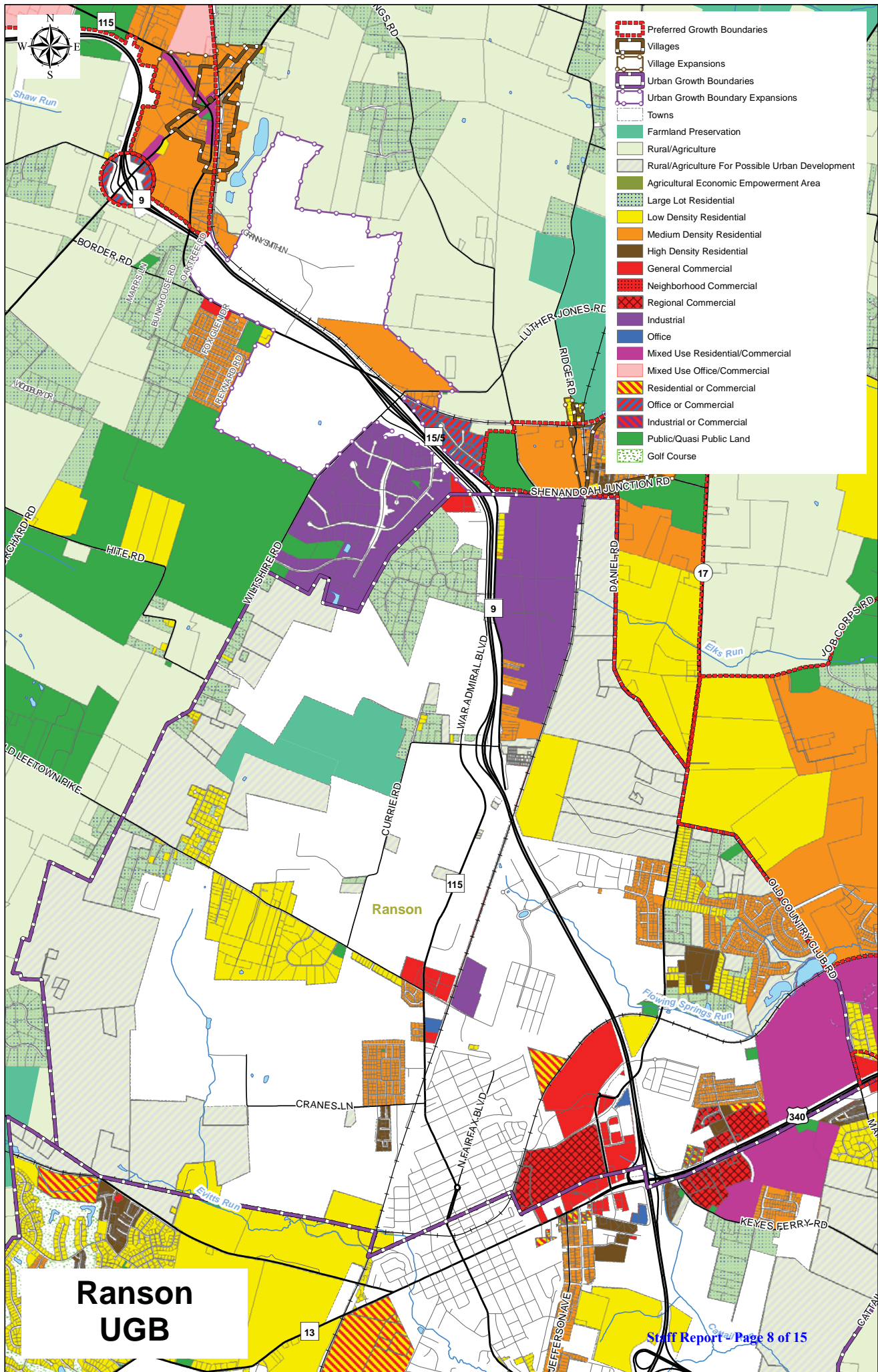
8. Any signs associated with the proposed Conditional Use shall be reviewed by the Board in accordance with Section 10.6. (Sec. 6.3A.8)



Sign Exhibit as submitted by applicant.

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

The applicant is proposing to install a 3’ x 4’ freestanding sign to be located at the entrance to the property.



- Preferred Growth Boundaries
- Villages
- Village Expansions
- Urban Growth Boundaries
- Urban Growth Boundary Expansions
- Towns
- Farmland Preservation
- Rural/Agriculture
- Rural/Agriculture For Possible Urban Development
- Agricultural Economic Empowerment Area
- Large Lot Residential
- Low Density Residential
- Medium Density Residential
- High Density Residential
- General Commercial
- Neighborhood Commercial
- Regional Commercial
- Industrial
- Office
- Mixed Use Residential/Commercial
- Mixed Use Office/Commercial
- Residential or Commercial
- Office or Commercial
- Industrial or Commercial
- Public/Quasi Public Land
- Golf Course

Ranson UGB

Urban Growth Boundary (UGB)

According to §8-6-4a of the West Virginia Code, Urban Growth Boundaries (UGBs) are...“an area around and outside the corporate limits of a municipality within which there is a sufficient supply of developable land within the boundary for at least a prospective twenty-year period of municipal growth based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area.”

UGBs are, according to state law, established by the County Commission in conjunction with the municipality looking to identify a boundary and are reflected on the County Zoning Map. In West Virginia, UGBs are used to acknowledge the extent to which a municipality can expand.¹

While all municipalities have the ability to create UGBs with the approval of the County Commission, at present, only three of the five municipalities in Jefferson County have planning boundaries that meet the definition of §8-6-4a of the West Virginia Code. In 2009, Charles Town and Ranson had their UGBs formally approved by the County Commission. In 2014, Shepherdstown created a boundary called the Growth Management Boundary (GMB) which falls under the state definition of a UGB and was formally approved by the County Commission. Shepherdstown’s adopted GMB allows the Corporation to plan for future growth and annexations, but is not anticipated to have urban scale development if it remains in the unincorporated area. If Bolivar or Harpers Ferry chooses to create a UGB in the future that is different than the Preferred Growth Areas (PGAs) depicted, the recommendations in this Plan related to UGBs may be extended to the newly created UGBs based on the town’s planning goals. The use of the term UGB throughout this document refers to the Charles Town and Ranson UGBs only.

This Plan expects that properties within the UGB may be annexed into the adjoining municipality which has created the UGB. However, an entity with property located within the UGB could choose not to annex their land into a municipality and could then develop the land under the County’s land development standards instead. In such circumstances, the UGB acts as a Preferred Growth Area for the County and urban level development is still anticipated in these areas.

Within the UGB, an intentional decision was made to depict property as it is either zoned or used. As such, there are large tracts of land designated rural. This Plan does not anticipate those areas to remain rural into the future. Since the properties in the UGB can either develop within the municipalities through annexation or in the County, there is some uncertainty as to the future use. Therefore, it was determined best to

¹ While in West Virginia, the concept of a UGB is tied to annexation exclusively. In other parts of the United States, the concept of an urban growth boundary is tied in with the provision of “a full range of urban services” such as sewer, water, broadband internet, quick response police, rescue/ambulance, and fire services; and a wide range of community facilities. In most areas, the provision of services is predicated on the presence of an urban growth boundary tied into an urban service area, with limited fire, rescue, and police services being provided to areas outside of the urban growth boundary.

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

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

a. Shepherdstown Growth Management Boundary (GMB)

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

b. Ranson Urban Growth Boundary (UGB)

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

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

B. Standards for Hunting, Shooting and Fishing Clubs²⁰

1. 75 foot setback for all structures and parking.
2. 150 yard setback for all shooting facilities.
3. Height
 - a. As is for conversion or reconstruction that does not exceed 135 percent of the original footprint of existing structures
 - b. 35 feet for new structures
4. Landscaping requirements of this Ordinance apply, with the following exception:
 - a. Perimeter landscaping shall be as approved by staff in order to preserve existing vegetation.
5. Minimum of 150 acres under common ownership.

C. Special Exceptions for Hunting, Shooting and Fishing Clubs²⁰

1. Limits exceeding requirements outlined above can be increased with Board of Zoning Appeals approval provided that the Board of Zoning Appeals find that the increase is compatible with the neighborhood after taking into consideration neighborhood character, traffic, and buffering. Such decision shall be rendered after a public hearing as outlined in the Board of Zoning Appeals Rules of Procedure.

Section 8.9 Industrial and Commercial Uses²³

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

1. Noise

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

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

The following sources of noise are exempt:

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

2. Odor

No operation shall result in the creation of odors of such intensity and character as to be detrimental to the health and welfare or the public or which interferes with the comfort of the public. Odor thresholds shall be in accordance with ASTM d139-57 “Standard Method for Measurement of Odor in Atmospheres (Dilution Method)” or its equivalent.

Odororous material released from any operation or activity shall not exceed the odor threshold concentration beyond the state line, measured either at ground level or habitable elevation.

3. Smoke

No smoke, dust, fumes, or particulate matter shall be perceptible at any lot line. Further, the regulations and standards governing the control of air pollution shall be the same as those adopted by the State of West Virginia.

For the purpose of grading the density or equivalent capacity of smoke, the Ringelmann Chart as published by the United States Bureau of Mines shall be used.

The emission of smoke darker than Ringelmann No. 1 from any chimney, stack, vent, opening, or combustion process is prohibited.

The total emission rate of dust and particulate matter from all vents, stacks, chimneys, flues or other opening or any process, operation, or activity except solid waste incinerators within the boundaries of any lot, will not exceed the levels set forth below.

Particulate matter emission from materials or products subject to becoming wind borne will be kept to a minimum by paving, sodding, oiling, wetting, covering or other means, such as to render the surface wind resistant. Such sources include vacant lots, unpaved roads, yards and storage piles or bulk material such as coal, sand, cinders, slag, sulfur, etc.

4. Ambient Air Quality Standard

Particulate Matter

Suspended

Annual Arithmetic Mean ug/m	65
24-hour Maximum b, ug/m	140

Settleable

Annual Arithmetic Average, mg/cm/	/month 0.35
Monthly Maximum	0.7

5. Vibration

No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at any point beyond the lot line nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration-measuring equipment.

6. Glare and Heat

No direct or sky-reflected glare, whether from floodlights or from high temperature processes, such as combustion or welding or otherwise, so as to be visible at the lot line, shall be permitted. There shall be no emission or transmission of heat or heated air so as to be discernable at the lot line.

7. Toxic Matter

The ambient air quality standards for the State of West Virginia shall be the guide to the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the State, the release of such materials shall be in accordance with the fractional quantities permitted below, of those toxic materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists.

Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any twenty-four (24) hours sampling period.

The release of airborne toxic matter will not exceed one-thirteenth of the threshold limit value across lot lines.

Such materials shall include but are not limited to: all primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof, such as dry derivatives; pyrotechnics and fireworks such as acetylates, tetrazoles, and ozonides; unstable oxidizing agents such as perchloric acid, perchlorates, and hydrogen peroxide in concentration greater than thirty-five (35) per cent; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.

The storage, utilization or manufacture of materials or products which decompose by detonation is prohibited.

8. Fire Hazards

The storage, utilization or manufacture of solid materials which are active to intense burning shall be conducted within spaces having fire resistive construction of no less than two (2) hours and protected with an automatic fire extinguishing system.

The total capacity of flammable liquids and gasses shall not exceed those quantities permitted in the following Table for each of the industrial districts:

<u>CAPACITY</u>	<u>STORAGE</u>
Liquids	60,000 gallons
Gasses	
- Above ground	150,000 SCF
- Below ground	300,000 SCF

SCF - Standard Cubic Feet at sixty (60) degrees Fahrenheit and 29.92 inches Mercury.¹

The following setback requirements will apply to the location of any container which holds flammable liquids or gasses:

Container Setback from Lot Lines

Water Capacity per Container (Gallons)	Containers		Between Above Ground Containers (Feet)
	Underground (Feet)	Above Ground Containers (Feet)	
0 to 2,000	25	25	3
2,000 to 30,000	50	50	5
30,000 to 60,000	50	75	
In excess of 60,000	75	100	¼ the sum of diameters of adjacent containers

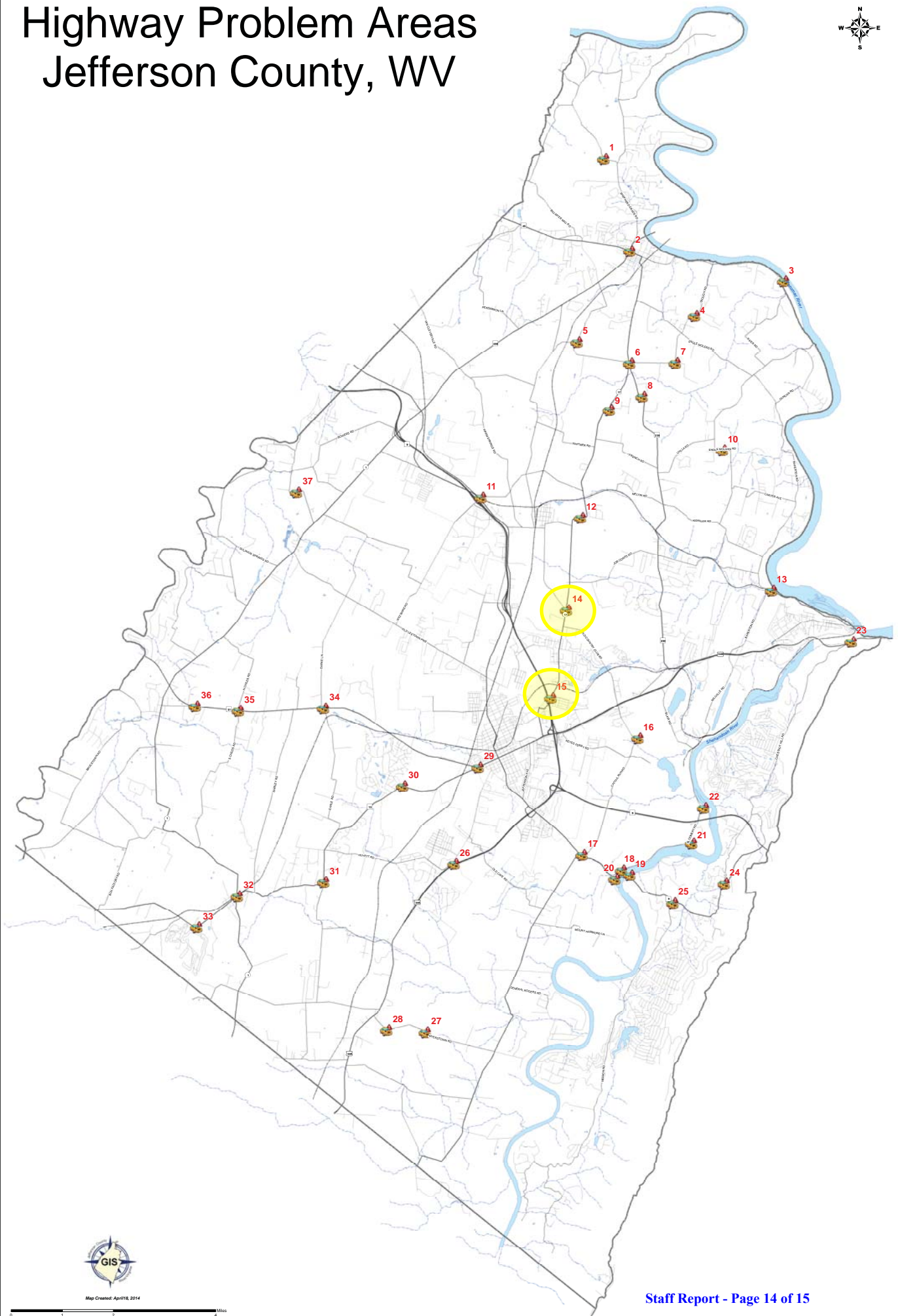
9. Frontage Road

Easements or fee simple dedications will be provided along all limited access highways at the site plan or subdivision phases. Said easement/dedication shall not exceed 60 feet in width. The width may vary but must be adequate for extension, continuation or establishment of a minimum 20' wide paved frontage road.

10. Landscape Buffer

All commercial and industrial developments shall comply with Section 4.11 unless otherwise specified in this Ordinance.²⁷

Highway Problem Areas Jefferson County, WV



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

DRAFT



JEFFERSON COUNTY, WEST VIRGINIA
Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 East Washington Street, 2nd Floor
 Charles Town, West Virginia 25414

File #: 23-8-CUP
 R'cvd Date: 09/29/23
 Mtg. Date: 10/26/23
 Fee Paid: \$ 300-
 Staff Int.: gja

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Application for a Conditional Use Permit

Project Name

Charles Town Car Storage

Property Owner Information

Name: Tracy Dove
 Business Name: Charles Town Car Storage
 Mailing Address: 428 Flowing Acres Rd, Charles Town, WV 25414 Mail Yes
 Phone Number: 443 695 1013 Email Response: tracydove@hotmail.com Response: No

Applicant Information

Name: Tracy Dove
 Business Name: _____
 Mailing Address: 428 Flowing Acres Rd, Charles Town, WV 25414 Mail Yes
 Phone Number: 443 695 1013 Email Response: tracydove@hotmail.com Response: No

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

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

Physical Property Details

Physical Address: 428 Flowing Acres Rd **Lot 1 (vacant lot) Dove Minor Subdivision (jth)**
 Tax District: 02 (jth) Map No: 4D Parcel No. 001100000000
 Parcel Size: 10 acres **4.6 acres*** Deed Book: ~~1205-~~ 1271 (jth) Page No: 74 **614 (jth)**

Zoning District (please check one) *1 ac for proposed business

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

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

Name of Road and/or Route Number: Flowing Acres Rd

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

Attachment

Please provide any information or known history regarding this property.

None

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

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

Beucase my use fits in line with Jefferson County growth maps and repurposes already existing infrastructure to support urban growth without sprawl or change to the agricultural landscape.

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

All surrounding properties are residential; single family homes, new construction. The impact will be minimal, as it is on 10 acres and uses already existing structures. Only cars will be stored, so no impact to the street traffic, and parking is long-term so low volume on the property.

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

There is no site development visible to adjacent land - the building has existed for decades. It will, however, get a nice paint job and some nice landscaping, including more trees to mitigate any occasional sounds from the building.

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

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

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

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

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

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

Applicable (Trip Generation Data attached)

Not Applicable

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

Property Owner

Sept. 28, 2023

Date

Property Owner

Date

Conditional Use Permit Application

Charles Town Car Storage

Dear Jefferson County zoning Board, dear Neighbors,

With this writing, We, Tracy and Marketa Dove, would like to explain the request for a change of use of our property on 428 Flowing Acres Rd in Charles Town, WV.

I have an existing building on my property that measures 140' x 60' and is situated more than 75 feet from all property lines. I am proposing a modest vehicle storage facility for cars and other regular vehicles.

Firstly, I don't intend on altering my property that would decrease the visual beauty of my land or in any way infringe upon my neighbors; I will actually be making cosmetic improvements to a building and landscape which is already there. This project is for long-time storage of up to 28 vehicles that would be stored in fenced cells in the building that measure 20' x 10'. This means no RVs, dump trucks, or any other vehicle that cannot fit in the 10' x 20' area. There will be no work performed on the premises – this is for minimally intrusive storage of vehicles only – no personal items.

Please see the attached renderings of the building. In general, it will receive a gentle make-over; the exterior will be painted a natural tone of green, and the front and back doors – currently rusting and white – will be replaced with graceful roll-up doors controlled by motors and the access to this will be monitored by a security system. Each vehicle owner will have a unique code to open the door and cameras will monitor the inside and outside of the building. The flow would be entering from the south side, and leaving from the north side.

Access will be at the crest of the road Flowing Acres to insure excellent visibility for entrance and exit. A modest fence will be built along the road.

Historically, this building did already house Buehler Electric Company, where they stored and repaired their vehicles. Before that, it was a horse ring. The rest of the land was fallow. My wife and I bought this land in 2017 and since then have done extensive clean-up of the building and re-introducing independent small-scale farming. This is very much a boutique business only and is not intended to grow beyond the confines of the building itself.

Thank you,

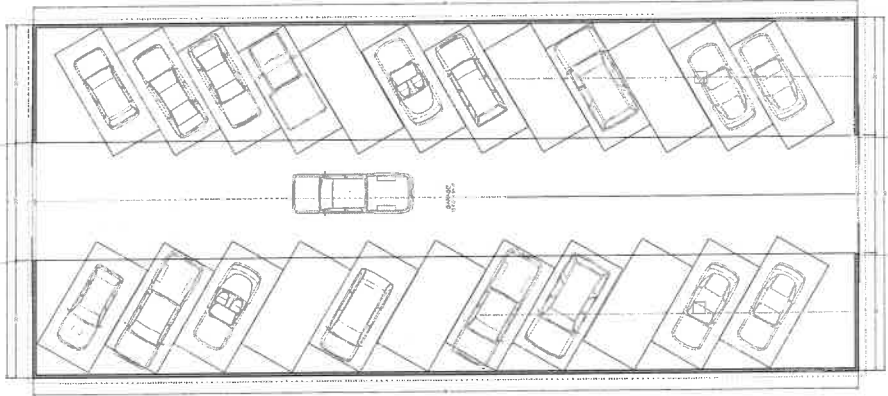
Tracy and Marketa Dove

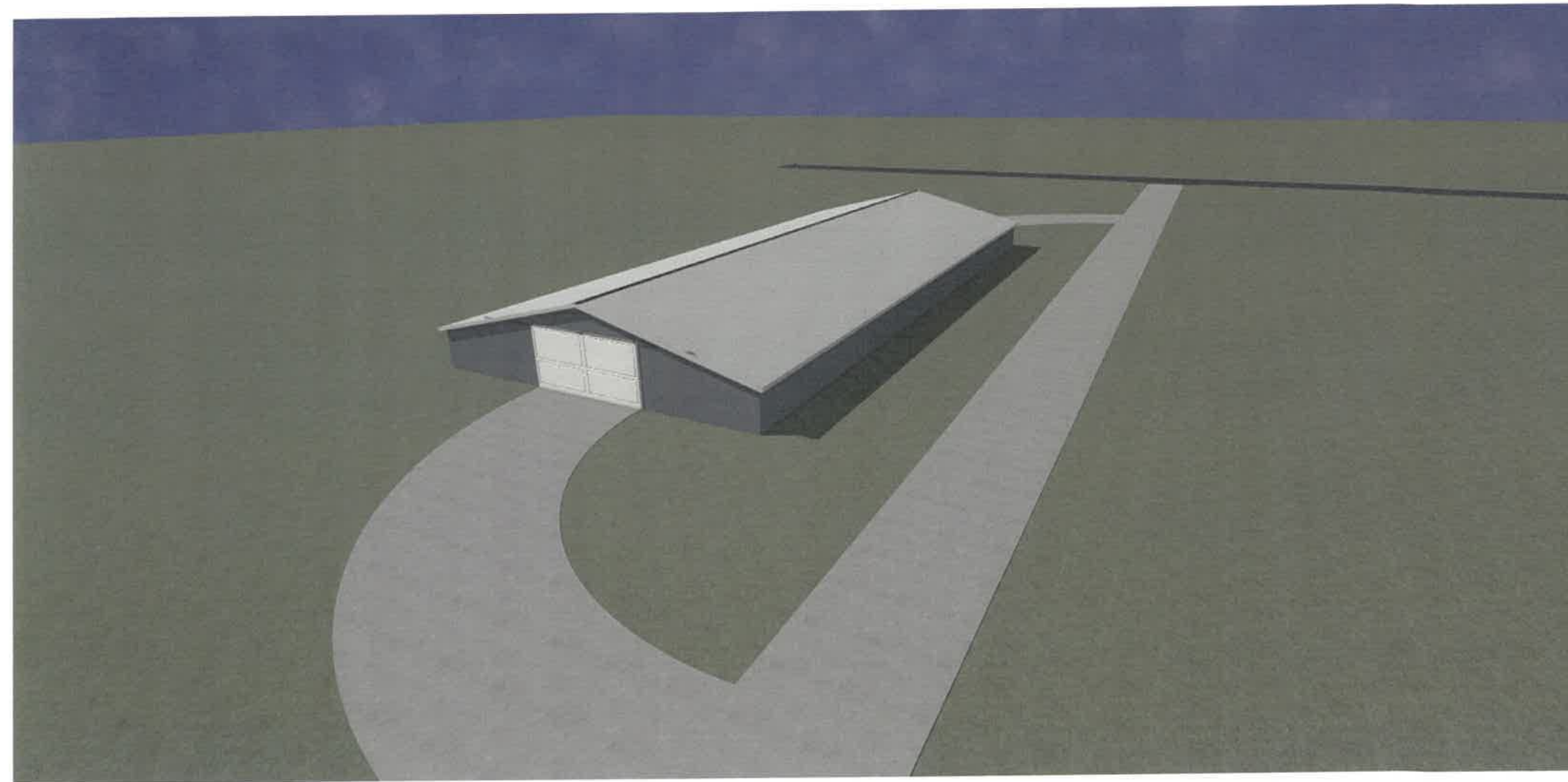
A handwritten signature in blue ink, appearing to be a stylized representation of the names Tracy and Marketa Dove.



CURRENT ENTRANCE STATUS







23-8-CUP

10/13/23: received via email from applicant

Proposed sign detail:

"maximum size 3 ft x 4 ft on a post at the entrance"



Planning Department

From: Tracy Dove <tracydove@hotmail.com>
Sent: Monday, October 2, 2023 10:15 AM
To: Planning Department
Subject: Re: Conditional Use Permit Application

Follow Up Flag: Follow up
Flag Status: Completed

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

Hi Alex,

Certainly!

1. no employees, just me + wife.
2. sign: one only, for identification purposes only, not to drive business. It will be farm-style at the front of the driveway, let's reserve a size of 3' x 4' and I will work within that.
3. Daily trips. this is only short-term storage, so if 28 owners came 2 x per month, 56 / 30 days is about 2 cars per day.

Do I need to do something more formal than this?

Best,

Tracy

From: Planning Department <PlanningDepartment@jeffersoncountywv.org>
Sent: Friday, September 29, 2023 11:28 AM
To: 'Tracy Dove' <tracydove@hotmail.com>
Subject: Conditional Use Permit Application

Hi Tracy,

I'm reviewing the Conditional Use Permit application and wanted to request additional information to assist in understanding the scope of the project.

1. Please confirm whether there are any employees other than you.
2. Please provide a statement as to whether or not there will be any signs erected as part of the land use. If there will be any signs, please identify where on the property the sign(s) will be located and provide dimensions of the proposed sign(s).
3. Part of the Conditional Use Permit application criteria is to provide trip generation data. Flowing Acres Rd is classified as a local road on the Highway Road Classification Map. Please submit anticipated number of daily vehicle trips related to the proposed land use.

Thank you,

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

Ownershi_1 CAMBRIDGE MHC LLC
OWNER_ADDR 10221 RIVER RD 59831
CITYNAME POTOMAC
STATE MD
ZIP 20859

Ownershi_1 TODD MICHAEL J
OWNER_ADDR 216 PORTER WAY
CITYNAME CHARLES TOWN
STATE WV
ZIP 25414

Ownershi_1 PRINTZ AMBER
OWNER_ADDR 208 PORTER WAY
CITYNAME CHARLES TOWN
STATE WV
ZIP 25414

Ownershi_1 LUNCEFORD ALYCE K
OWNER_ADDR 192 PORTER WAY
CITYNAME CHARLES TOWN
STATE WV
ZIP 25414

Ownershi_1 PHARES SHIRLEY A
OWNER_ADDR 180 PORTER WAY
CITYNAME CHARLES TOWN
STATE WV
ZIP 25414

Ownershi_1 MOORE JOHN R & PAULA J
OWNER_ADDR 166 PORTER WAY

Zoning

From: Zoning
Sent: Wednesday, October 18, 2023 11:37 AM
To: 'John Moore'
Subject: RE: 23-8-cup

Good morning,

Please note that our office is in receipt of your email and your comments will be included in the Board's upcoming October 26, 2023 Board of Zoning Appeals meeting packet. This packet will be made available on the County's [webpage](#) by close of business on Friday, October 20, 2023.

Thank you,

Jennilee Hartman, Zoning Clerk
Office of Planning and Zoning
www.jeffersoncountywv.org
304-728-3228

From: John Moore <john.polly4958@yahoo.com>
Sent: Friday, October 13, 2023 12:57 PM
To: Zoning <Zoning@jeffersoncountywv.org>
Subject: 23-8-cup

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

To the Board of Zoning Appeals. I received the certified mail. To create a Commercial Storage Facility at 428 Flowing Acres Rd. I'm definitely concerned how this will effect my property values. My property is 166 Porter Way 25414. The back of my property borders the Dove family property and is only a few hundred feet from the building to be used and is very much visual from my house and it borders the property also very much visual from the property requesting this change.

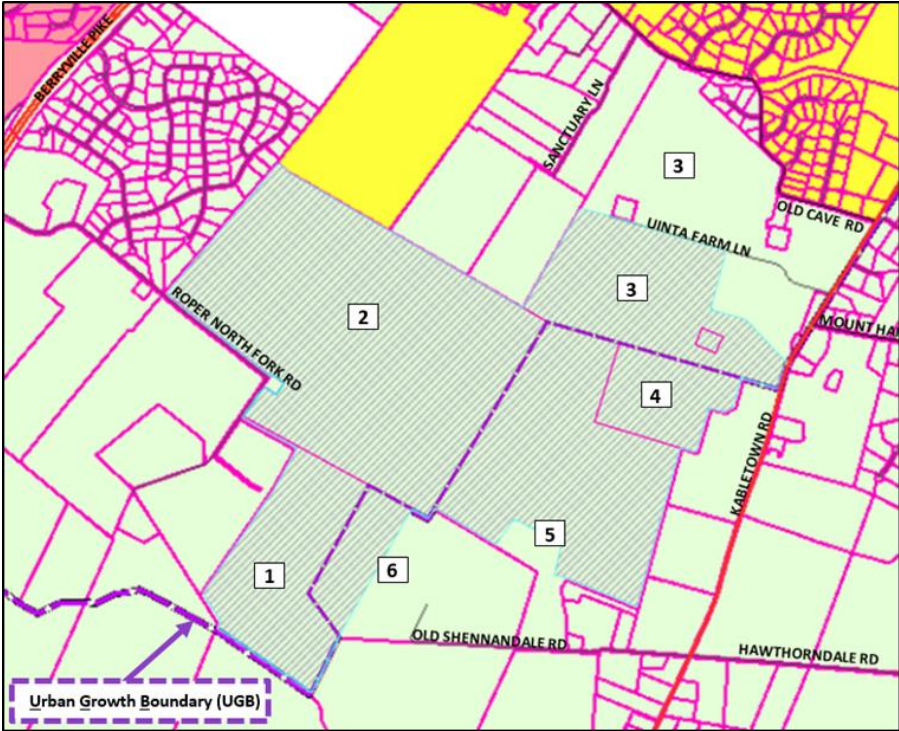
My concerns: 1. The building itself, storing 28 vehicles with gasoline is a potential fire hazard. 2. Will there be some type of fire suppression system? 3. Will all fire code regulations be met? 4. Will there be Liability insurance to cover adjoining properties in case of fire damage? 5. Filling the building with vehicles, so hopefully they will be out of sight. 5. Will the land around the building also be used to store vehicles/equipment permanently or temporarily? If the answer is yes what about run off and ground water pollution. Also if yes this would also create a terrible eye sore and again will effect neighboring property values.

In closing please take my concerns into consideration before making your decision.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 October 26, 2023

Extension Request by Wild Hill Solar, LLC RE: File #22-5-CUP

Item #3 Request by Wild Hill Solar, LLC for an eighteen month extension of their Conditional Use Permit to operate a Solar Energy Facility. Per Section 3.2G of the Zoning Ordinance, the applicant is requesting an extension from March 30, 2024 to September 30, 2025.

Project Name:	Wild Hill Solar Project (see full project description below)
Applicant:	Wild Hill Solar, LLC
Owner:	Multiple Owners / See Exhibit Below
Consultant:	Paul Raco, P.J. Raco Consulting, LLC
Parcel Information/ Zoning District:	<p style="text-align: center;">Multiple Vacant Parcels / See Exhibit Below</p> 
Full Project Description:	<p>Wild Hill Solar Project: A 92.5 megawatt solar electric generating facility to be located on approximately 841 acres. The project will consist of rows of solar modules which are installed in arrays dispersed throughout the leased land. The project will also include construction of a new substation that will connect the solar energy facility with the existing 138-kilovolt overhead electrical transmission line passing through the southeast corner of the project area.</p>
History:	<p>08/25/22 Board of Zoning Appeals Meeting: Conditional Use Permit (#22-5-CUP) Public Hearing - Approved 09/13/22 Planning Commission Meeting: Concept Plan (#22-9-SP) Public Workshop - Approved 09/30/22 Conditional Use Permit Issued – Expiration Date 03/30/24 06/01/23 Conditional Use Permit revised to include <i>Project Applicant</i> information. Note: this revision did not extend the expiration date. 10/24/22: Zoning Certificate Issued</p>

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 October 26, 2023
Extension Request by Wild Hill Solar, LLC RE: File #22-5-CUP

Property Owners / Location			
Map Ref.#	Property Owner:	Physical Address	Parcel Information:
1.	Clarence & Donna Hough	Vacant parcel east of the property located at 1343 Roper North Fork Rd, Charles Town	Parcel ID: 06001100070001; Lot Size: 107.38 ac / Project Size: 107.38 ac Zone: Rural
2.	Zigler, Inc.	1079 Roper North Fork Rd., Charles Town	Parcel ID: 06000400090000; Lot Size: 350.95 / Project Size: 350.95 Zone: Rural
3.	John Samuel & Alice Rissler Estate	616 Uinta Farm Ln., Charles Town	Parcel ID: 02001600060000; Lot Size: 293.33 / Project Size: 120.56 ac Zone: Rural
4.	Clarence & Donna Hough	Vacant parcel north of the property located at 340 Old Shennandale Rd., Charles Town	Parcel ID: 06000500060000; Lot Size: 49.04 ac / Project Size: 49.04 ac Zone: Rural
5.	T. Todd & Susan Hough, Trustees	340 Old Shennandale Rd Charles Town	Parcel ID: 06000500010000; Lot Size: 206.84 ac / Project Size: 181.70 ac Zone: Rural
6.	Charles & Marie Hough, Life	620 Old Shennandale Rd Charles Town	Parcel ID: 06001100080000; Lot Size: 118.05 ac / Project Size: 32.11 ac Zone: Rural
<p><i>Parcels highlighted in green were subject to the Conditional Use requirements as they are located outside of the County's identified Urban Growth Boundary. The other parcels included for informational purposes only, as they are part of the overall project site, which was approved by the Planning Commission as part of the Concept Plan.</i></p>			

Summary of Request and Purpose of Ordinance Requirements

The subject request by Wild Hill Solar, LLC is for an eighteen month extension of their Conditional Use Permit which was issued on September 30, 2022 with an expiration date of March 30, 2024. In order for the permit to be considered vested, a building permit is required to be issued (see attached policy dated June 17, 2013).

Pursuant to Section 3.2G of the Zoning Ordinance, a conditional use permit shall become void eighteen months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen months.

The subject request does not include any new proposals or modifications beyond what was previously approved and is limited only to the expiration date. The Zoning Ordinance authorizes the Board to grant a one-time request up to eighteen months, at their discretion. Any additional extensions beyond the eighteen months would necessitate a variance.

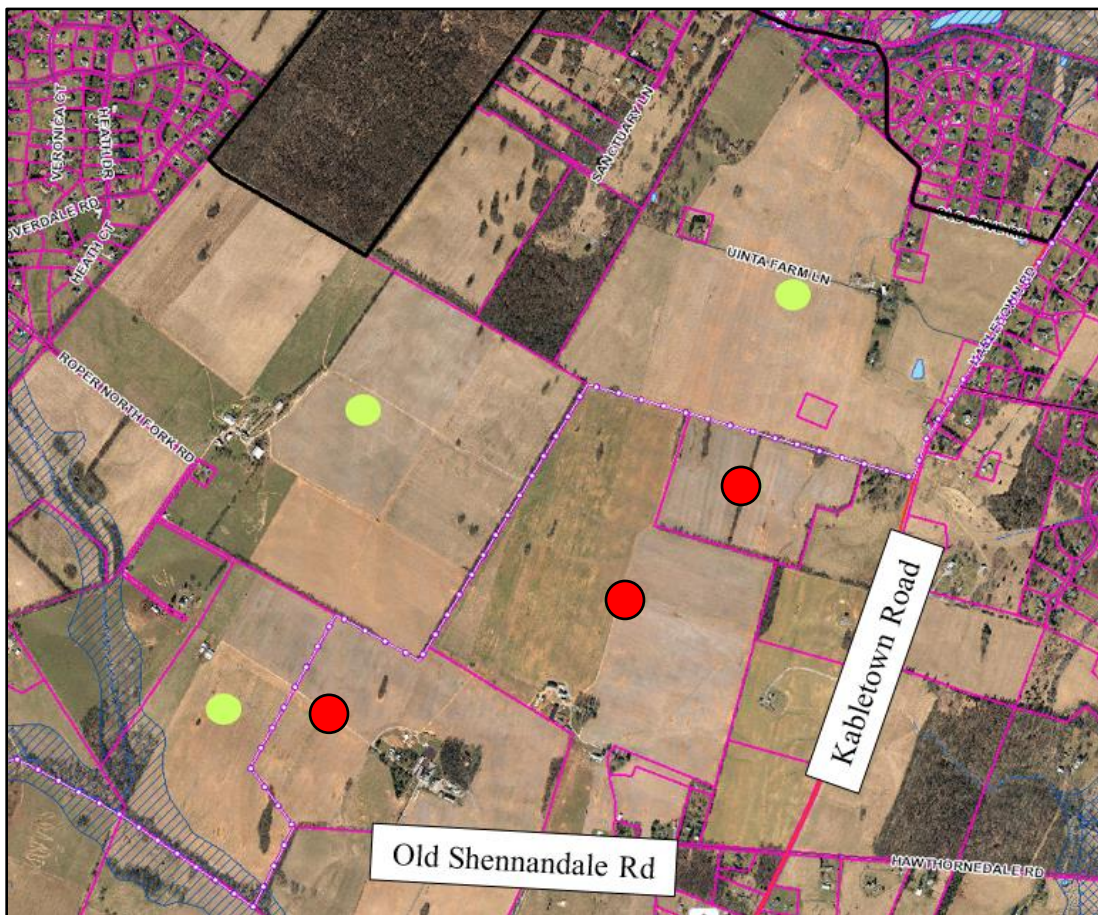
Staff Report
Jefferson County Board of Zoning Appeals Meeting
October 26, 2023
Extension Request by Wild Hill Solar, LLC RE: File #22-5-CUP

Project Status

- Conditional Use Permit for a 262 acre portion of an 841 acre Solar Energy Facility Site granted by the Board of Zoning Appeals on 08/25/2022.
- Conditional Use Permit #22-5-CUP Issued on 09/30/22 / expiration date: 03/30/24.
- Concept Plan Approved by the Planning Commission on 09/13/22 – approval is vested for two years (expiration date: 09/13/24).
- Zoning Certificate Issued on 10/24/2022 (administrative process)

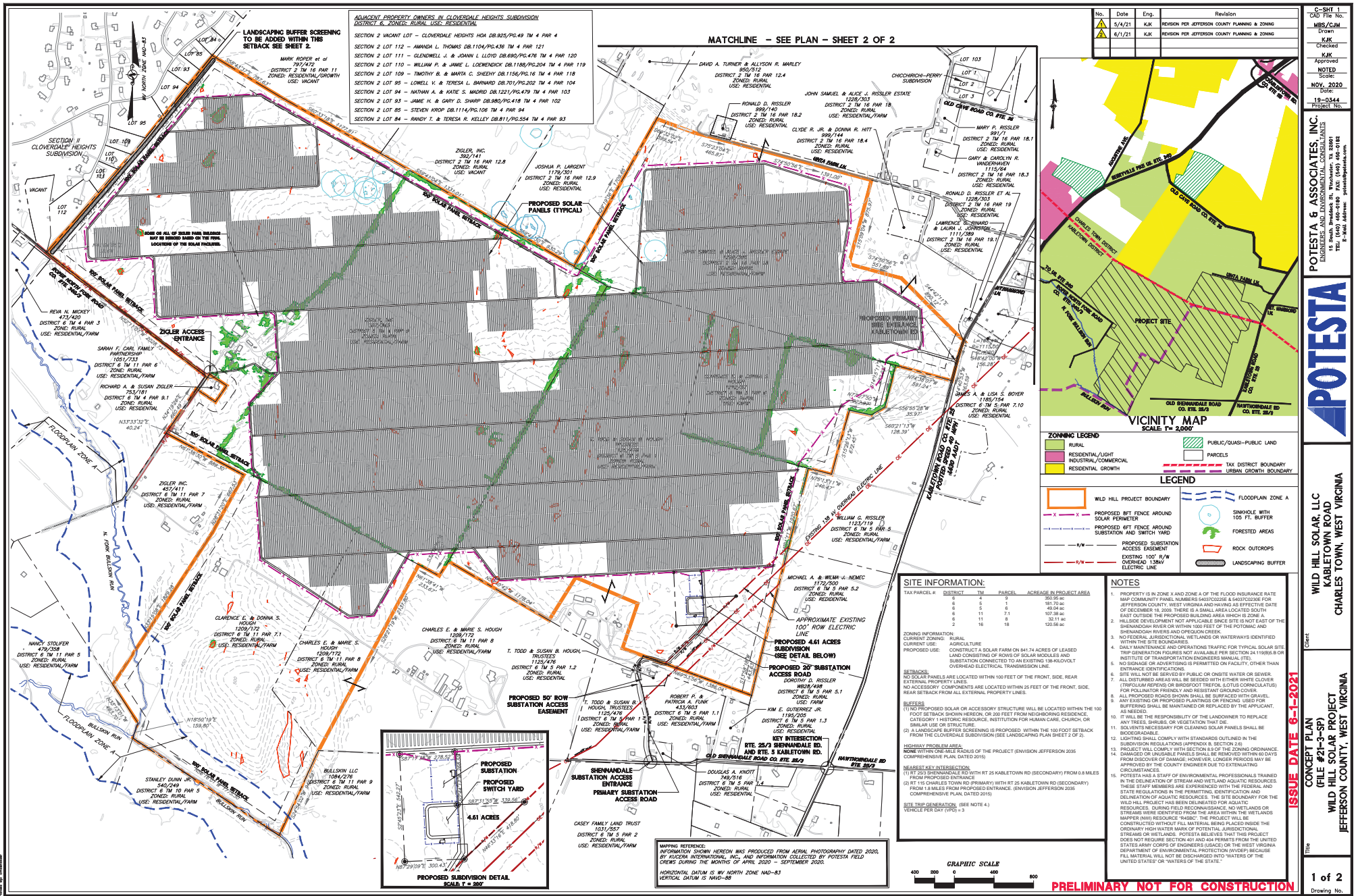
Property Description

The total acreage for the project site is 841 acres, of which 262 acres were subject to review by the Board of Zoning Appeals pursuant to the Conditional Use Permit provisions in Section 6.3 of the Zoning Ordinance. The parcels included in the 262 acre portion are identified with a red dot on the aerial below.



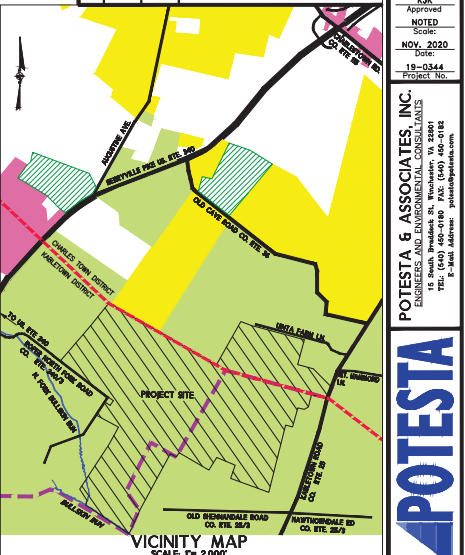
Attachments:

- Sheet 1 of the Approved Concept Plan (PC File #21-3-SP)
- Article 3 – Administration and Enforcement
- Memo RE: Commencement of a Land Use – Conditional Use Permits and Zoning Certificates, dated June 17, 2013



MATCHLINE - SEE PLAN - SHEET 2 OF 2

No.	Date	Eng.	Revision
1	5/4/21	KJK	REVISION PER JEFFERSON COUNTY PLANNING & ZONING
2	6/1/21	KJK	REVISION PER JEFFERSON COUNTY PLANNING & ZONING



ZONING LEGEND

- RURAL
- RESIDENTIAL/LIGHT INDUSTRIAL/COMMERCIAL
- RESIDENTIAL GROWTH
- PUBLIC/GAUS-PUBLIC LAND
- PARCELS
- TAX DISTRICT BOUNDARY
- URBAN GROWTH BOUNDARY

LEGEND

- WILD HILL PROJECT BOUNDARY
- PROPOSED 8FT FENCE AROUND SUBSTATION
- PROPOSED 6FT FENCE AROUND SUBSTATION
- PROPOSED SUBSTATION ACCESS EASEMENT
- EXISTING 100' R/W OVERHEAD 138KV ELECTRIC LINE
- FLOODPLAIN ZONE A
- SMOKE WITH 105 FT. BUFFER
- FORESTED AREAS
- ROCK OUTCROPS
- LANDSCAPING BUFFER

SITE INFORMATION:

TAX PARCEL #	DISTRICT	TM	PARCEL	ACRES IN PROJECT AREA
6	5	1	9	50.56 ac
6	5	1	9	181.70 ac
6	5	1	9	49.88 ac
6	11	7.1	8	107.38 ac
6	11	8	8	12.11 ac
6	11	8	8	120.58 ac

ZONING INFORMATION:
 CURRENT USE: RURAL
 PROPOSED USE: AGRICULTURE
 CONSTRUCTION OF A SOLAR FARM ON 84.74 ACRES OF LEASED LAND CONSISTING OF ROWS OF SOLAR MODULES AND SUBSTATION CONNECTED TO AN EXISTING 138-KVDC/OLT OVERHEAD ELECTRICAL TRANSMISSION LINE.

SETBACKS:
 NO SOLAR PANELS ARE LOCATED WITHIN 100 FEET OF THE FRONT, SIDE, REAR EXTERNAL PROPERTY LINES.
 NO ACCESSORY COMPONENTS ARE LOCATED WITHIN 25 FEET OF THE FRONT, SIDE, REAR SETBACK FROM ALL EXTERNAL PROPERTY LINES.

BUFFERS:
 (1) NO PROPOSED SOLAR OR ACCESSORY STRUCTURE WILL BE LOCATED WITHIN THE 100 FOOT SETBACK SHOWN HEREON OR 300 FEET FROM NEIGHBORING RESIDENCE.
 (2) A LANDSCAPE BUFFER SCREENING IS PROPOSED WITHIN THE 100 FOOT SETBACK FROM THE GLOVERDALE SUBDIVISION USE LANDSCAPING PLAN SHEET 2 OF 2.

ROADWAY PROBLEM AREA:
 NONE WITHIN ONE MILE RADIUS OF THE PROJECT (ENVISSION JEFFERSON 2025 COMPREHENSIVE PLAN, DATED 2015).

NEAREST KEY INTERSECTION:
 (1) RT 263 SHENANDOHE RD WITH RT 25 KABLETOWN RD (SECONDARY) FROM 0.8 MILES
 (2) RT 115 CHARLES TOWN RD (PRIMARY) WITH RT 25 KABLETOWN RD (SECONDARY) FROM 1.8 MILES FROM PROPOSED ENTRANCE. (ENVISSION JEFFERSON 2025 COMPREHENSIVE PLAN, DATED 2015)

SITE TYPIC GENERATION: (SEE NOTE 4)
 VEHICLE PER DAY (VPD): 3

MAPPING REFERENCES:
 INFORMATION SHOWN HEREON WAS PRODUCED FROM AERIAL PHOTOGRAPHY DATED 2020, BY KOSMOS INTERNATIONAL, INC., AND INFORMATION COLLECTED BY POTESTIA FIELD CREWS DURING THE MONTHS OF APRIL 2020 - SEPTEMBER 2020.
 HORIZONTAL DATUM IS BY NORTH ZONE NAD-83
 VERTICAL DATUM IS NAVD-88



NOTES

- PROPERTY IS IN ZONE A AND ZONE A OF THE FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBERS SA020202E AND SA020202F FOR JEFFERSON COUNTY, WEST VIRGINIA AND HAS AN EFFECTIVE DATE OF DECEMBER 18, 2009. THERE IS A SMALL AREA LOCATED SOUTH EAST OUTSIDE THE PROPOSED BUILDING AREA WHICH IS ZONE A. HILLSIDE DEVELOPMENT NOT APPLICABLE SINCE SITE IS NOT EAST OF THE SHENANDOHE RIVER OR WITHIN 100 FEET OF THE POTOMAC AND SHENANDOHE RIVERS AND CREEK OR CREEK.
- NOT FEDERAL JURISDICTION. WE TRAILER OR WATERWAYS IDENTIFIED WITHIN THE SITE BOUNDARY.
- DAILY MAINTENANCE AND OPERATIONS TRAFFIC FOR TYPICAL SOLAR SITE TOP GENERATION PURPOSES NOT AVAILABLE PER SECTION 24.19(B)(8) OR INSTITUTE OF TRANSPORTATION ENGINEERS MANUAL (ITE).
- NO SIGNAGE OR ADVERTISEMENTS WILL BE PLACED PER SECTION 24.19(B)(8) OR INSTITUTE OF TRANSPORTATION ENGINEERS MANUAL (ITE).
- THE SITE WILL NOT BE SERVICED BY PUBLIC OR CREEK WATER OR SEWER (TYPICAL PIPING OR BRICK/STONE TRENCH, EXCEPT WITH A COVER) FOR POLLUTANT FRIENDLY AND RESISTANT GROUND COVER.
- ALL PROPOSED STRUCTURES SHALL BE MAINTAINED OR REPLACED BY THE APPLICANT, AS NEEDED.
- THE RESPONSIBILITY OF THE LANDOWNER TO REPLACE ANY TREES, SHRUBS, OR VEGETATION THAT DIE IN CONNECTION WITH THE PROJECT SHALL BE THE RESPONSIBILITY OF THE APPLICANT. ALL BIODIVERSITY NECESSARY FOR CLEANING SOLAR PANELS SHALL BE BIODEGRADABLE.
- LOADING SHALL COMPLY WITH STANDARDS OUTLINED IN THE SUBDIVISION REGULATIONS (APPENDIX B, SECTION 2B).
- PROJECT WILL COMPLY WITH SECTION 401 OF THE ZONING ORDINANCE. DAMAGED OR UNDESIRABLE PANELS SHALL BE REMOVED WITHIN 60 DAYS FROM DISCOVERY OF DAMAGE. HOWEVE, LONGER PERIODS MAY BE APPROVED BY THE COUNTY ENGINEER DUE TO EXTENUATING CIRCUMSTANCES.
- POTESTIA HAS A STAFF OF ENVIRONMENTAL PROFESSIONALS TRAINED IN THE IDENTIFICATION OF STREAM AND WETLAND ADJACENT RESOURCES. THESE STAFF MEMBERS ARE EXPERIENCED WITH THE FEDERAL AND STATE REGULATIONS IN THE IDENTIFICATION, IDENTIFICATION AND DELINEATION OF ADJACENT RESOURCES. THE SITE BOUNDARY FOR THE WILD HILL PROJECT HAS BEEN Delineated FOR ADJACENT RESOURCES. DURING FIELD RECONNAISSANCE, NO WETLANDS OR STREAMS WERE IDENTIFIED FROM THE AREA. WETLANDS WERE IDENTIFIED BY THE NATIONWIDE MAPPER (NWM) RESOURCE "RASC". THE PROJECT WILL NOT BE CONSTRUCTED WITHOUT FULL MATERIAL RECORDS OF THE WETLANDS. THE ORDINARY HIGH WATER MARK OF POTENTIAL JURISDICTIONAL STREAMS OR WETLANDS, POTESTIA HAS DETERMINED THAT THIS PROJECT DOES NOT REQUIRE SECTION 401 AND 404 PERMITS FROM THE UNITED STATES ARMY CORPS OF ENGINEERS (USACE) OR THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION (WVDEP) BECAUSE FILL MATERIAL WILL NOT BE DISCHARGED OR "WATERS OF THE UNITED STATES" OR "WATERS OF THE STATE".

PRELIMINARY NOT FOR CONSTRUCTION

POTESTIA & ASSOCIATES, INC.
 ENGINEERS AND ENVIRONMENTAL CONSULTANTS
 15 South Potomac St., Winchester, VA 22601
 TEL: 540-667-8818 FAX: 540-667-8819
 WWW.POTESTIA.COM

POTESTIA

WILD HILL SOLAR, LLC
 KABLETOWN ROAD
 CHARLES TOWN, WEST VIRGINIA

ISSUE DATE 6-1-2021

CONCEPT PLAN
 (FILE #21-3-30)

WILD HILL SOLAR PROJECT
 JEFFERSON COUNTY, WEST VIRGINIA

1 of 2
 Drawing No.

ARTICLE 3: ADMINISTRATION AND ENFORCEMENT

Section 3.1 Administration

- A. The provisions of this Ordinance will be governed by the County Commission or the Zoning Administrator and Staff in accordance with §8A-1-1 et seq of the West Virginia State Code, as amended. With enactment of the Ordinance, the County Commission shall designate a Zoning Administrator for the day to day administration of the ordinance.^{5,17,21}
- B. An appeal to this Ordinance, however, may be made to the Jefferson County Board of Zoning Appeals subject to the provisions of §8A-1-1 et seq of the West Virginia Code, as amended.^{17, 21}
- C. The Jefferson County Board of Zoning Appeals shall evaluate all conditional use applications and approve or deny issuance of a conditional use permit.**^{2, 17, 21, 32}
- D. All departments, officials, and public employees of Jefferson County which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this Ordinance.

Section 3.2 Zoning Administrator

- A. The Zoning Administrator shall administer and enforce the Zoning and Land Development Ordinance. This includes but is not limited to the following:²³
 - 1. Make determinations that all applications required by the Ordinance are complete and that all fees are paid.
 - 2. Interpret the provisions of the Ordinance as required by law.
 - 3. Issue Zoning Certificates as permitted by the Ordinance.
 - 4. Determine sufficiency and completeness of applications for a Conditional Use Permit.³²
 - 5. Issue all permits and Certificates as permitted by the Ordinance.
 - 6. Prepare and submit reports as required by the Ordinance or the Board of Zoning Appeals or Planning Commission.
 - 7. Conduct meetings and conferences pursuant to the Zoning and Land Development Ordinance.^{17, 21, 23}
- B. Any decision or action by the Zoning Administrator based on Section 3.2A above is subject to appeal to the Board of Zoning Appeals.^{17, 21}
- C. It shall be unlawful to develop, construct, alter, or reconstruct any structure or to change the use of any structure or property without first obtaining a zoning certificate from the Zoning Administrator. This provision may not apply to the general maintenance or repair or any addition deemed not a major addition as defined in Section 2.2 of this Ordinance.^{17, 21, 23}
- D. Each application for a zoning certificate shall be accompanied by a copy of an approved site plan, if applicable, or by a legible drawing either drawn to scale or accurately indicating dimensions which show property boundaries and existing and proposed structures and other proposed changes or land development. The plans shall be retained in the Office of Planning and Zoning.^{17, 21, 23}
- E. Use of any property, developmental arrangement, or construction on any property other than that authorized in the zoning certificate is a violation of this Ordinance. All provisions of this Ordinance and amendments shall be maintained perpetually.
- F. The Zoning Administrator shall approve or disapprove issuance of a zoning certificate within sixty (60) days of the initial filing date providing the application is complete and fees are paid when filed and the request is in compliance of the provisions of this Ordinance.^{17, 21}

G. A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan - whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 - shall remain valid until July 1, 2012, provided that the land development plan or plat received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010.^{17, 21, 23}

H. A filing fee, in accordance with the County fee structure, shall be charged for all zoning certification.

Section 3.3 Enforcement

- A. The Zoning Administrator or Staff shall promptly investigate any written complaint alleging a violation of this Ordinance and determine if a violation has occurred.^{17, 21}
- B. As provided in §8A-1-1 et seq of the West Virginia Code, as amended, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty (\$50.00) or more than five hundred dollars (\$500.00) per day. Each day during which any violation of this Ordinance continues shall constitute a separate offense.^{5, 17, 21}
- C. When it appears to the Board of Zoning Appeals or the Zoning Administrator or Staff that a violation of this Ordinance has occurred, the County shall notify the responsible person by means of a written Violation Notice. The Violation Notice shall specify the nature of the violation and shall request that the violation be terminated within 15 days from the date appearing on the Notice. Failure to terminate the violation within the requested time shall be cause for the Board of Zoning Appeals or the Zoning Administrator or Staff pursuant to §8A-10-1, 2 and 3 of the West Virginia Code, as amended, to:^{17, 21, 23}
 1. Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring the removal of structures or land uses from the property involved; or,
 2. Issue a warrant for the arrest of the person responsible for the violation and seek a conviction in the Circuit Court of Jefferson County.

Section 3.4 Boards and Commissions^{23, 32}

A. Board of Zoning Appeals

1. The Board of Zoning Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their powers and duties shall be provided in Chapter 8A of the West Virginia Code, as amended.
2. Meetings of the Board of Zoning Appeals shall be conducted according to the Rules of Procedure adopted by the Board of Zoning Appeals. In the event of a conflict between this Ordinance and the Rules of Procedure, the Rules of Procedure shall prevail.²
3. The powers and duties of the Board of Zoning Appeals include but are not limited to the following:
 - a. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.³²

- b. The Board of Zoning Appeals shall consider requests for variances, seasonal use permits, and special exceptions from the terms of this Ordinance.³²
- c. The Board of Zoning Appeals shall have authority over the issuance or denial of a Conditional Use Permit.³²

B. Planning Commission²³

1. Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Planning Commission and Chapter 8A of the West Virginia Code, as amended.
2. The powers and duties of the Jefferson County Planning Commission include but are not limited to the following:
 - a. Review applications for major site plans, major subdivisions, and waivers from minimum standards, pursuant to the Subdivision and Land Development Regulations;
 - b. Review requests for amendments to the County zoning map and Zoning and Land Development Ordinance;
 - c. Research and recommend to the County Commission improvements to the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations;
 - d. Make recommendations to the County Commission concerning planning and zoning issues;
 - e. Make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction;
 - f. Prepare the Jefferson County Comprehensive Plan and recommend to the County Commission for adoption or amendment.

C. County Commission²³

1. General. The County Commission shall have all powers conferred upon it by the Constitution, the laws of the State of West Virginia, and the County Charter. With respect to development approval and amendments to this Ordinance and the County's Comprehensive Plan, the powers that the County Commission retains and shall exercise include but are not limited to the powers set out in this Section.
2. Approvals. Following a public hearing and the submittal of recommendations by Staff and the Planning Commission, the County Commission may take action on the proposed adoption of, or amendments to, the following, including text, maps, and other elements:
 - a. Comprehensive Plan
 - b. Zoning and Land Development Ordinance
 - c. Subdivision and Land Development Regulations
 - d. The Jefferson County Zoning Map
 - e. An Urban Growth Boundary in accordance with Chapter 8 of the West Virginia Code, as amended:
 - i. A boundary shall be established by the County Commission in agreement with each individual municipality regarding that municipality's boundary.
 - ii. If the County Commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court.

- iii. Once the county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality.
 - iv. The County Commission shall review each urban growth boundary at a period not to exceed ten years or upon request of the individual municipality.
3. Hiring. The County Commission shall hire staff of the Office of Planning and Zoning.
 4. Appointments. The County Commission shall appoint the members of the Planning Commission and the Board of Zoning Appeals.
 5. Fees. The County Commission shall adopt a fee schedule for processing applications pursuant to this Ordinance. The fee schedule may be amended from time to time as determined appropriate by the County Commission.

D. Historic Landmarks Commission³⁵

1. A five member commission, appointed by the Jefferson County Commission. Powers, membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Historic Landmarks Commission and Chapter 8 Article 26A of the West Virginia Code.
2. The Jefferson County Historic Landmarks Commission does not have the authority to nominate or designate a historic site for inclusion on the National Register without the property owner's consent and does not have the authority to create a Historic District due to the restrictions in WV State Code §8-26A-3 and related statutes.
3. Historic Preservation is not to infringe on the property owner's rights. The Jefferson County Historic Landmarks Commission is encouraged to protect historic sites in Jefferson County by raising capital to purchase historic sites and battlefields at fair market value.
4. This Ordinance encourages the preservation of historic buildings and historic sites by working with the landowner on a voluntary basis. All historic sites in Jefferson County are classified by their Category of Importance, used to determine the level of protection afforded that site. The categories are as follows:
 - a. **Category I.** These are the most important historic sites in Jefferson County. This category includes individually listed National Register structures and properties; Historic Districts including their contributing structures; and Federally recognized Civil War Battlefields. These properties retain a high level of original condition and integrity.
 - b. **Category II.** These sites are classified as important. This category includes Jefferson County Landmarks, historic sites that may be National Register eligible, and other Civil War battle sites. Sites in this Category may have been altered or changed to such a degree that they no longer retain the same level of integrity as the original condition.
 - c. **Category III.** These sites have moderate importance.
 - d. **Category IV.** These are sites that are at least 50 years old, have little or no significance, but are listed on the Landmarks Commission's inventory.

Refer to Section 4.6 for distance requirements and protection radius standards.

JEFFERSON COUNTY, WEST VIRGINIA
Department of Planning & Zoning
116 East Washington Street, 2nd Floor
P.O. Box 338
Charles Town, West Virginia 25414

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

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

MEMO

TO: Planning, Zoning, and Engineering Departments
FROM: Steve Barney, Zoning Administrator, Planning and Zoning Department
DATE: June 17, 2013
RE: Determination: Commencement of a Land Use – Conditional Use Permits and Zoning Certificates

Background

The validity period for Conditional Use Permits (CUPs) and Zoning Certificates is established in Section 3.2G of the Jefferson County Zoning and Land Development Ordinance, which states:

A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced.

Because the ordinance does not define what is meant by commencement of a land use, I am issuing a determination to interpret this provision of the ordinance.

Determination of Commencement of Land Use

Commencement of a land use for site plan developments, residential subdivision developments, and other developments associated with Conditional Use Permits and Zoning Certificates shall be as follows:

1. **Site Plan**

A Conditional Use Permit or Zoning Certificate associated with a site plan development (industrial, commercial, multi-family, etc.) shall be considered to have commenced following:

- a. Approval of a site plan for the land use by the appropriate approving entity designated in the Jefferson County Subdivision and Land Development Regulations¹; and
- b. Issuance of a building permit application for the use, following site plan approval, subject to the following:
 - i. If construction lawfully begins for work shown on the approved building permit, then the construction/commencement of the use shall be considered valid, and the CUP or Zoning Certificate is no longer subject to expiration per Section 3.2G.

- ii. If no construction work lawfully begins for work shown on the approved building permit associated with a CUP or Zoning Certificate, the CUP or Zoning Certificate shall be valid until the later of:
 - (a) The expiration date of the CUP or Zoning Certificate, whichever is applicable (as amended by any extensions approved by the Board of Zoning Appeals); or
 - (b) The expiration date of the building permit.

2. Residential Subdivision Development

A Conditional Use Permit for a residential subdivision shall be considered to have been commenced after approval of a final plat by the appropriate approving entity designated in the Jefferson County Subdivision and Land Development Regulations.ⁱ

3. Other Developments

For land uses that do not require approval of a site plan or a residential subdivision plat prior to initiation, the use shall be considered to have commenced following:

- a. Lawful occupancy of the site by the land use (i.e. establishment of the business or other land use type for which the Conditional Use Permit or Zoning Certificate was issued, on the subject property, in compliance with all county requirements); or
- b. Issuance of a building permit application for the use, subject to the following:
 - i. If construction lawfully begins for work shown on the approved building permit, then the construction/commencement of the use shall be considered valid, and the CUP or Zoning Certificate is no longer subject to expiration per Section 3.2G.
 - ii. If no construction work lawfully begins for work shown on the approved building permit, the CUP or Zoning Certificate shall be valid until the later of:
 - (a) The expiration date of the CUP or Zoning Certificate, whichever is applicable (as amended by any extensions approved by the Board of Zoning Appeals); or
 - (b) The expiration date of the building permit

Please let me know if you need additional information.

ⁱ For site plans and final plats that require Planning Commission approval: In the event that a request to approve a site plan or final plat is scheduled on a Planning Commission agenda for a date prior to the expiration of the CUP or Zoning Certificate, and the meeting is postponed or the agenda item is postponed (by the behest of the Planning Commission rather than by request of the applicant) to a subsequent meeting, then the CUP or Zoning Certificate shall continue to be considered valid until the meeting at which the Planning Commission votes on the request.

September 28, 2023

**Re: Wild Hill Solar, LLC Conditional Use Permit File #22-5-CUP:
Extension Request**

Dear: Chairman Quynn and Members of the Jefferson County Board of Zoning Appeals:

Pursuant to Section 3.2G of the Jefferson County Zoning and Development Review Ordinance, please accept this letter as a formal request for an extension of Conditional Use Permit # 22-5-CUP for the Wild Hill Solar Project as outlined in the attached letter from Wild Hill Solar, LLC.

If you have any questions, please contact Paul J Raco.

Sincerely,

Clarence E. Hough 9-29-23
Clarence Hough Date

Todd Hough 9-29-23
Todd Hough Date

Donna Hough 9-29-23
Donna Hough Date

Susan Hough 9-29-23
Susan Hough Date

RECEIVED
SEPTEMBER 29, 2023
Jefferson County, WV
Office of Planning & Zoning

E-mail Address: rmclusky@jacksonkelly.com

Writer's Fax No.: 304-340-1272

Direct Dial No.: 304-340-1381

September 29, 2023

VIA HAND DELIVERY

J. Tyler Quynn, Chair, and Members of the Jefferson County Board of Zoning Appeals
c/o Alexandra Beaulieu, Zoning Administrator
Jennilee Hartman, Zoning Clerk
116 East Washington Street, Suite 200
Charles Town, WV 25414

Re: Wild Hill Solar, LLC Conditional Use Permit File #22-5-CUP

Dear Chair Quynn and Members of the Board of Zoning Appeals:

We submit this request on behalf of our client, Wild Hill Solar, LLC (“Wild Hill”). In accordance with Section 3.2 G of the County’s Zoning and Land Development Ordinance, Wild Hill hereby requests that the Board of Zoning Appeals extend Wild Hill’s Conditional Use Permit, which was issued on September 30, 2022, for a period of 18 months from its original expiration date of March 30, 2024. In support of this request, Wild Hill observes that without the extension it will suffer unreasonable hardship as follows:

- The underlying ordinance which authorized the issuance of the CUP, Section 8.20 of the Zoning Ordinance (the “Solar Text Amendment”), was approved by the County Commission on June 16, 2022. Wild Hill moved expeditiously to secure a CUP under the terms of that Amendment.
- Since June 15, 2023, however, private litigants have challenged the Solar Text Amendment in the Circuit Court of Jefferson County. See *Rockwell v. Jefferson County Commission et al*, No. 2023-C-112 (Cir. Ct. Jefferson County). In that action, the plaintiff specifically asked that the Court void the Solar Text Amendment from its original approval date of June 16, 2022. In an Amended Complaint filed on July 11, 2023, the plaintiff named Wild Hill as a defendant, an action entirely unnecessary unless he intended the relief sought to affect the approvals that Wild Hill has already obtained from the County. That litigation was originally assigned to Judge Hammer, was reassigned to Judge McLaughlin as a result of a recusal motion, and then more recently was reassigned again to Judge Cohee as part of a judicial realignment—all of which has slowed efforts to resolve the case. Wild Hill has moved to dismiss the case and asked for an expedited review, but the Court will not hear arguments on the motion to dismiss until November 29, 2023.

- In the meantime, at a regularly scheduled meeting of September 9, 2023, by a vote of 2-1, and without specific notice, two members of the County Commission purported to “rescind” the Solar Text Amendment without first seeking the advice of the Planning Commission or making a finding that it was consistent with the County’s Comprehensive Plan as required by W.Va. Code §8A-7-8(a). The impact of that action is also unclear at this time, and it appears that the County Commission is having difficulties assembling a quorum to address these issues further.
- Because of the uncertainty created by the outstanding litigation and the County Commission’s purported rescission of the Solar Text Amendment, Wild Hill has been unable, consistent with prudent business practices, to commit the resources necessary to commence construction. That is, the obligation to complete construction within the original CUP deadlines creates hardship by forcing Wild Hill to make an unreasonable choice: either abandon the significant investments it has already made in the project or attempt to complete the project in the face of litigation that contends a rescission of the Solar Text Amendment retroactively impairs Wild Hill’s rights to construct and operate its proposed facility in accordance with its CUP. In the one case it would lose all that it has invested to date and in the other it would be forced to construct a facility in the face of litigation that claims the later operation of the facility would be barred by state law.
- Wild Hill has invested substantial sums over the past three years to: obtain property rights; investigate the environmental and geotechnical conditions of the site; obtain a siting certificate from the Public Service Commission and associated clearances from relevant State and Federal wildlife and historic preservation agencies—in addition to incurring the time and expenditures associated with securing a workable County zoning ordinance, CUP and Concept Plan from the County. The loss of that investment, which exceeds \$1 million, would create or cause an unnecessary hardship.
- Likewise, Wild Hill is not acquiring the properties on which it plans to construct—instead the property will be subject to leases. Without the Extension, the Landowners, who are generational Farmers, lack the certainty to expend funds to plant the fields with seeds and have time for harvest in the spring and summer. The Farmers do not want to waste the planting season if they can’t harvest the crops. This extension will allow them to continue to farm for one more season while the above points are resolved.
- As a result, Wild Hill desires to retain its vested rights in the CUP issuance and to extend its CUP until the effect of the pending litigation and the County Commission’s purported rescission action can be resolved.

J. Tyler Quynn, Chair, and Members of the Jefferson County Board of Zoning Appeals

September 29, 2023

Page 2

Accordingly, Wild Hill requests that its CUP be extended a full 18 months from its original expiration date. If you have specific questions, please feel free to contact me or Paul J. Raco of P. J. Raco Consulting, LLC at 304 676-8256.

Sincerely,



ROBERT G. McLUSKY

RGM/sab



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

Email: zoning@jeffersoncountywv.org

Phone: 304-728-3228

June 1, 2023

P.J. Raco Consulting, LLC
Attn: Paul Raco (email)

RE: Wild Hill Solar Project – Revised Conditional Use Permit to correct applicant information.

Mr. Raco:

Enclosed is a copy of the revised Conditional Use Permit for Wild Hill Solar, LLC to operate a Solar Energy Facility. Approval was granted by the Board of Zoning Appeals on August 25, 2022 (File #22-5-CUP) and the Conditional Use Permit was issued on September 30, 2022.

The revision was completed in response to a request to correct the applicant name from EDF Renewables to Wild Hill Solar, LLC to be consistent with the original application. The revision to the permit is highlighted in yellow. Said revision shall not extend any timelines related to commencement of the land use as noted on the permit and in the last paragraph of this letter.

Please review the Restrictions/Conditions noted in the Permit. Any future change in use or expansion will require processing through the Jefferson County Department of Engineering, Planning, and Zoning to ensure compliance with applicable County Regulations.

The attached Permit was issued conditioned upon all other approvals/permits being obtained from any local, state, or federal agencies, as required.

In accordance with Section 3.2G of the Zoning Ordinance, a Conditional Use Permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. Therefore, if the use has not commenced by March 30, 2024, the Conditional Use Permit will expire, unless an extension is granted. If an extension is required, the request must be submitted to our Office, for consideration by the Board of Zoning Appeals, prior to the expiration date.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,

Alexandra Beaulieu
Zoning Administrator



JEFFERSON COUNTY, WEST VIRGINIA

OFFICE OF PLANNING AND ZONING

116 EAST WASHINGTON STREET

CHARLES TOWN, WV 25414

CONDITIONAL USE PERMIT

WILD HILL SOLAR PROJECT

FILE #22-5-CUP

This is to certify that effective September 30, 2022, a Conditional Use Permit has been issued for the following:

Project Name: Wild Hill Solar
Approved Use: Solar Energy Facility
Project Applicant: Wild Hill Solar, LLC / Attn: Chris Sternhagen
Applicant Contact: Christopher.sternhagen@edf-re.com / 612-486-4513
Project Consultant: Potesta & Associates, Inc / Attn: Joe Knechtel, P.E.
Consultant Contact: kjknechtel@potesta.com / 540-450-0180
Property Owners: Clarence & Donna Hough Todd & Susan Hough, Tr Charles & Marie Hough - Life
Parcel IDs: 06000500060000 06000500010000 06001100080000
Deed Reference: DB: 1224 @ PG: 469 DB: 1125 @ PG: 476 DB: 1209 @ PG: 172
Zoning District: Rural Rural Rural
Parcel Size: 49.02 acres 204.58 acres 118 acres
Project Area: 49.02 acres 181.70 acres 32.11 acres

Pursuant to Article 6 of the Jefferson County Zoning Ordinance, the Board of Zoning Appeals held a public hearing on August 25, 2022 for the purpose of determining if the Conditional Use met the criteria outlined in Section 6.3A.1-8 and Section 8.20A. Finding that the Conditional Use met all the criteria, the Board voted to Grant the requested Conditional Use Permit as presented, with the following conditions of approval:

- 1. The applicant is bound by their testimony.
2. The applicant shall process a Concept Plan through the Planning Commission.
3. The project shall comply with all local, state, and federal regulations.

In the event that the operation of this land use has not commenced by March 30, 2024, this Permit will expire. Prior to the expiration date, an extension request must be submitted to the Office for consideration by the Board of Zoning Appeals. See Section 3.2G of the Jefferson County Zoning and Land Development Ordinance, as amended June 16, 2022.

This Permit in no way relieves the Owner or Applicant from any requirements of Jefferson County Ordinances or Regulations unless the appropriate waivers/variances are granted by the appropriate County authority.

Alexandra Beaulieu (signature)

June 1, 2023

Alexandra Beaulieu
Zoning Administrator

Date





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: zoning@jeffersoncountyv.wv.org

Phone: (304) 728-3228

Zoning Administrator's Report October 26, 2023 Board of Zoning Appeals Meeting

Date of Memo: October 19, 2023

- 1) The next regular meeting is scheduled for **November 9, 2023**
 - Deadline for submission was Friday, October 13, 2023.
- 2) The final meeting for 2023 is scheduled for **December 14, 2023**
 - Deadline for submission is Friday, November 17, 2023.
- 3) Two alternate member positions remain open. One term ending 01/01/24 and the other term ending 01/01/25.
 - Persons interested in serving on the Board of Zoning Appeals should contact the County Commission Office at 304-728-3284 / jjames@jeffersoncountyv.wv.org.
- 4) 2045 Comprehensive Plan Status Update
 - October 5, 2023 – Staff provided a status update to the County Commission & Planning Commission with an overview of the draft Goals and Objectives.
 - 2nd Public Input Survey – live 10/20/23 through 11/20/23 (see attached flyer with QR Code)
- 5) Zoning Certificate Activity Report



JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: complan2045@jeffersoncountywv.org

Phone: (304) 728-3228

Envisioning Jefferson in 2045 Public Survey

The survey is open from October 20th to
November 20th

Make your voice heard! Tell us where you want to see Jefferson County in 2045 by filling out the survey with the QR code below. The survey only takes five to seven minutes to complete. If you would like a paper copy, visit your local Jefferson County Library or Jefferson County's Office of Planning and Zoning. Help get the word out and let your friends and neighbors know they can participate today!

The 2045 Comprehensive Plan is a community vision for Jefferson County over the next twenty years to guide future land use and development decisions. This survey is part of the public outreach for the comprehensive plan and includes questions about, housing, parks, transportation, and other aspects of what makes Jefferson County a unique place to live, work, and play. Additional public input opportunities will be posted on the county website.

Please be sure to sign up for the County email alerts to stay up-to-date!

To access all surveys, documents, and find out about future Public Input opportunities check out the Jefferson County website and look for the 2045 Comprehensive Plan page.



Fill out the survey here;
<https://arcg.is/1bTSKb>

Envisioning Jefferson in 2045

Public Survey

It only takes
5-7 minutes

The survey is
open until
November 20th

I filled out a
paper copy at my
local library

Have your
voice heard!

Follow the
QR code
below



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





Jefferson County, West Virginia
Department of Engineering, Planning and Zoning
Office of Planning and Zoning
116 E. Washington Street, 2nd Floor
Charles Town, West Virginia 25414
www.jeffersoncountywv.org

October 2023
Zoning Certificate Activity Report

File #	23-46-ZC
Request:	Day Care Center, Large
Property Owner:	Peter Corum
Applicant:	Dino Kids Childcare, LLC / Attn: Cordelia Courtney
Parcel Information:	3988 Kearneysville Pike, Shepherdstown, WV 25443 Parcel ID: 09001300260002; Size: 2 ac; Zoning District: Neighborhood Commercial; Deed Book: 1012, Page: 429
Date of Issuance:	10/05/2023
File #	23-47-ZC
Request:	Modifications to an Existing Nonconforming 199' Telecommunications Tower Site (Generator)
Property Owner:	Cynthia McKee
Applicant:	General Dynamics / Attn: Elana Reichenbach
Parcel Information:	237 Tel Farm Lane, Kearneysville, WV 25430 Parcel ID: 07001900240000; Size: ~107.5 acres; Zoning District: Rural; Deed Book: 1264 @ Page: 180; PC File #01-18
Date of Issuance:	10/06/2023



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

Email: zoning@jeffersoncountywv.org

Phone: 304-728-3228

DRAFT - 2024 MEETING SCHEDULE
JEFFERSON COUNTY BOARD OF ZONING APPEALS

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

<u>Submission Deadlines</u>	<u>Newspaper/Placard Posting</u>	<u>Scheduled Meetings</u>
Friday, December 29, 2023	Wednesday, January 10, 2024	Thursday, January 25, 2024
Friday, January 26, 2024	Wednesday, February 7, 2024	Thursday, February 22, 2024
Friday, March 1, 2024	Wednesday, March 13, 2024	Thursday, March 28, 2024
Friday, March 29, 2024	Wednesday, April 10, 2024	Thursday, April 25, 2024
Friday, April 26, 2024	Wednesday, May 8, 2024	Thursday, May 23, 2024
Friday, May 31, 2024	Wednesday, June 12, 2024	Thursday, June 27, 2024
Friday, June 28, 2024	Wednesday, July 10, 2024	Thursday, July 25, 2024
Friday, July 26, 2024	Wednesday, August 7, 2024	Thursday, August 22, 2024
Friday, August 30, 2024	Wednesday, September 11, 2024	Thursday, September 26, 2024
Friday, September 27, 2024	Wednesday, October 9, 2024	Thursday, October 24, 2024
Friday, October 18, 2024	Wednesday, October 30, 2024	Thursday, November 14, 2024*
Friday, November 15, 2024	Wednesday, November 27, 2024	Thursday, December 12, 2024*

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

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

Changes in the time or location of the meeting shall be noticed on the County's website at www.jeffersoncountywv.org. Note: if the President of the County Commission or the Chair of the Board of Zoning Appeals determines that weather conditions make travel unsafe for the public, County offices may close and/or the Board of Zoning Appeals meeting may be cancelled. Please check the County's website for possible meeting updates during inclement weather.

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