



Agenda

Jefferson County Planning Commission

Tuesday, November 14, 2023 at 7:00 PM

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

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

ZOOM Broadcast Information*: Meeting ID: 832 6713 4642
Meeting Link: <https://us02web.zoom.us/j/83267134642>

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

- 1. Approval of Meeting Minutes:** October 10, 2023 and November 6, 2023
- 2. Request for postponement.**
- 3. POSTPONED Indefinitely by request of the Applicant: Public Workshop:** Concept Plan for Bakerton Monopole (fka Harvest Ct) Telecommunications Tower consisting of a 100' Monopole Telecommunications Tower with a 50' x 50' fenced compound. Applicant: Smartlink Group, LLC / Attn: Scott Nichols; Property Owner: Timothy R & Marla B Landis. Property Location: 248 Harvest Court, Harpers Ferry, WV; Parcel ID: 04000300750000; Size: 13.678 ac; Zoning District: Rural (File #23-5-SP).
- 4. Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction to allow for the construction of an Accessory Dwelling Unit for use by a family member (see Final Plat Note recorded in Deed Book 632, at Page 363). Applicant/Property Owner: Todd D Banks & Taylor Bishop. Property Location: Cottage Hall, Lot 1, 5994 Flowing Springs Rd, Shenandoah Junction, WV; Parcel ID: 09002000050001; Size: 10 ac; Zoning District: Rural (File #23-4-FPA).

There is no public comment for the following items.

- 5. Waiver request from Section 24.112.C to allow a 1-year extension of the time requirements to prepare a Preliminary Plat for the Colonial Hills Phase 3B based on Concept Plan approval on October 12, 2021. Applicant / Property Owner: KE Colonial, LLC / Rick Fink; Property Location: Vacant Lot on the NE corner of Higbee Lane & Potomac Farms Drive, Shepherdstown, WV. Parcel ID: p/o 09000800100000; Size: 2.54 ac; .Zoning District: Residential Growth (File #23-23-PCW).**
- 6. Waiver from Section 2.5 M (Appendix B-Engineering Standards) as amended Feb 1, 2018, to allow for gravel parking area for a proposed Day Care Facility. Applicant: Dino Kids Childcare, LLC / Cordelia Courtney. Property Owner: Peter Corum. Property Location: 3988 Kearneysville Pike, Shepherdstown, WV. Parcel ID: 09001300260002; Size: 2 ac; Zoning District: Neighborhood Commercial (File #23-24-PCW).**

7. Waiver from Section 20.201A.2 to reduce the required access easement width from 50' to 40' for a portion of an existing access easement for the purpose of processing a two-lot minor subdivision (for a total of four lots). Applicant: Donna C. Bent; Property Location: 1332 Billmyer Mill Rd, Shepherdstown; Parcel ID: 09000600050006; Size: 10.38 acres; Zoning District: Rural (File #23-25-PCW).

8. Reports from Legal Counsel

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109 (RE: PC File #21-2-Z – Jefferson Orchards Rezoning).
- b. Review and discuss Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731 and Jefferson County Circuit Court Civil Action No. 2023-C-112 (RE: PC File #ZTA19-03 Solar Energy Facilities text amendment).
- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: PC File #ZTA22-01 Solar Energy Facilities text amendment).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2023-C-48 (RE: PC File #21-8-SP Berryville Pike Telecommunications Tower).
- e. Discuss and review of VB BTS, LLC v. Jefferson County, WV and the Jefferson County Planning Commission, U.S. N.D. W. Va. Case No. 3:23-CV-171 (RE: PC File #23-3-SP – Shannondale Lake Telecommunication Tower).

9. Planner's Memo

10. President's Report

11. Actionable Correspondence

- Email from Christine Marshall dated October 30, 2023

12. Non-Actionable Correspondence

Draft Meeting Minutes
Jefferson County Planning Commission
October 10, 2023

The Jefferson County Planning Commission met on October 10, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Matt Knott, Vice President; Steve Stolipher, County Commission Liaison; Wade Louthan, Secretary; Jack Hefestay; Aaron Howell.

Donnie Fisher, Tim Smith and J. Ware were absent without notice.

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

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

1. Approval of Meeting Minutes: September 12, 2023 and September 26, 2023

Mr. Shepp stated the minutes stand approved without objection.

2. Request for postponement.

3. POSTPONED until 11/14/23 by request of the Applicant: Public Workshop: Concept Plan for Bakerton Monopole (fka Harvest Ct) Telecommunications Tower consisting of a 100' Monopole Telecommunications Tower with a 50' x 50' fenced compound. Applicant: Smartlink Group, LLC / Attn: Scott Nichols; Property Owner: Timothy R & Marla B Landis; Property Location: 248 Harvest Court, Harpers Ferry, WV; Parcel ID: 04000300750000; Size: 13.678 ac; Zoning District: Rural (File #23-5-SP).

Mrs. Brockman explained the applicant's request regarding postponement and asked the Planning Commission members if they wanted a new public notice placard reflecting the new meeting date.

Mr. Shepp stated that Mr. Cochran should decide if it was necessary. Mr. Cochran suggested it would be in the best interest for staff to create placard signs to reflect to new meeting date and time.

This item was postponed to the November 14, 2023 Planning Commission Meeting.

4. Public Hearing: Waiver request from Section 21.402 to allow a six (6) foot tall privacy fence to remain within a platted drainage easement. Applicant/Property Owner: Jack & Helen Payne; Property Location: 247 Saber Drive, Charles Town, WV; Parcel ID: 02010F00570000; Size: 0.1768 ac.; Zoning District: Residential Growth (File #23-22-PCW).

Ms. Brockman provided an overview of the staff report and explained that the fence had already been constructed.

The applicant, Jack Payne, explained the nature of the request to the Planning Commission. He stated that the HOA noted that the fence was in the easement but that there was no water backup as a result of the fence.

Mr. Knott addressed the applicant and advised that even if the waiver request is approved, the applicants' HOA can override the decision made by the Planning Commission.

The Planning Commission asked the applicant clarifying questions about the nature of the request.

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

Mr. Saunders provided staff comments and recommendations regarding the Storm Water Management and the impact of a fence in the drainage easement. He stated that engineering recommends having an engineer analyze the situation to determine the impact on water flow in the easement.

The Planning Commission asked the applicant additional questions regarding the nature of the request.

Mr. Shepp made a motion to approve the waiver as presented with the condition that the applicant hire a professional engineer within 6 months to ensure there are no Storm Water Management issues. Mr. Hefestay seconded the motion, which carried unanimously.

There is no public comment for the following items.

5. Review and Approval: Planning Commission Calendar Year 2024 Meeting & Submission Dates

Ms. Brockman provided an overview of the proposed meeting and application calendar dates for the Calendar Year 2024, which needed Planning Commission approval, and to be posted on the website at this time for the January meeting. Mrs. Brockman also stated there was a conflict for the May 2024 meeting date due to the Primary Election date, and asked the Planning Commission to decide on a new date.

The Planning Commission decided to have the May 2024 Planning Commission meeting on May 7, 2024.

Mr. Knott made a motion to approve the calendar as submitted with the new May date. Mr. Louthan seconded the motion, which carried unanimously.

6. Discussion/Possible Action: Ordinance Rewrite Committee Report on Waiver Process

Mr. Shepp pointed out to the Planning Commission members that Section 24.300 of the 2008 Subdivision Regulations, as amended, details the process for submitting and considering process and procedural waivers from the Subdivision Regulations. He noted that while subsection C of this Section does require a property, that is the subject of a waiver request, to be posted and adjoining properties to be notified, it does not explicitly state that a Public Hearing is required, which the Planning Commission has been doing. He further noted that state law (WV Code 8A) does not provide this requirement and only requires local communities to include a process for waivers in the Subdivision Regulations.

Mr. Shepp recommended that the Planning Commission modify their current process to be in conformance with the Subdivision Regulations as written. Mrs. Brockman clarified that the applicant will still need to be present and that staff will still be providing the Planning Commission with a staff report related to all waiver requests. Mr. Shepp further noted that the Planning Commission can consider amending the Subdivision Regulations text in the future if they determine a different process is preferred.

The Planning Commission discussed the proposed process and clarified that written comments could still be provided and included in the Planning Commission packet.

Mr. Stolipher made a motion that the Planning Commission should process all waivers in accordance with the current version of the Subdivision Regulations and not require a Public Hearing. Mr. Knott seconded the motion, which carried unanimously.

7. Reports from Legal Counsel

- a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109 (RE: PC File #21-2-Z – Jefferson Orchards Rezoning).
- b. Review and discuss Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731 and Jefferson County Circuit Court Civil Action No. 2023-C-112 (RE: PC File #ZTA19-03 Solar Energy Facilities text amendment).
- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: PC File #ZTA22-01 Solar Energy Facilities text amendment).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2023-C-48 (RE: PC File #21-8-SP Berryville Pike Telecommunications Tower).
- e. Discuss and review of VB BTS, LLC v. Jefferson County, WV and the Jefferson County Planning Commission, U.S. N.D. W. Va. Case No. 3:23-CV-171 (RE: PC File #23-3-SP – Shannondale Lake Telecommunication Tower).

Mr. Cochran requested to go into Executive Session to discuss and provide legal advice on Item E.

Mr. Howell of the Planning Commission recused himself from this agenda item.

Mr. Shepp moved to go into executive session for the purpose of receiving legal advice on Item E under 'Reports from Legal Counsel' at 7:22 pm. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Shepp moved to go back into regular session at 7:41 pm. Mr. Knott seconded the motion, which carried unanimously.

Mr. Cochran shared that on October 2nd he received an updated site drawing from Vertical Bridge regarding the Planning Commission's counter offer and stated that they were in agreement with the terms requested. *A copy of the drawing was submitted for the record and posted to the website for public review.* He further stated that the attorneys were now working on the paperwork required to be presented to the Court and that he would provide it to the Planning Commission at a future meeting. No action was taken by the Planning Commission.

Mr. Howell of the Planning Commission rejoined the meeting.

8. Planner's Memo

Ms. Brockman reminded the Planning Commission about the upcoming Planning Commission Meeting, including the Bakerton Monopole Concept Plan Workshop, and the Comprehensive Plan Work Session on November 14, 2023.

9. President's Report

Mr. Shepp noted that the Planning Commission Ordinance Re-write Committee had determined to put the re-write on hold until after the Comprehensive Plan is approved, so that the amendments can reflect recommendations from the Plan.

10. Actionable Correspondence

11. Non-Actionable Correspondence

Mr. Stolipher made a motion to adjourn the meeting at 7:44pm. Mr. Hefestay seconded the motion, which carried unanimously.

DRAFT Meeting Minutes
Jefferson County Planning Commission
Special Meeting (ZOOM Only)
November 6, 2023

The Jefferson County Planning Commission held a Special Meeting on November 6, 2023 at 6:00 pm with the following Planning Commission members present via ZOOM: Mike Shepp, President; Matt Knott, Vice President; Steve Stolipher, County Commission Liaison; Wade Louthan, Secretary; and Jack Hefestay.

Donnie Fisher and Aaron Howell were absent with notice.

J. Ware and Tim Smith were absent without notice.

Staff members present included Alexandra Beaulieu, Deputy Director and Zoning Administrator; Luke Seigfried, County Planner; and Nathan Cochran, Prosecuting Attorney.

Mr. Shepp called the meeting to order at 6:02 pm. and confirmed that a quorum was present.

There was no public comment for the following item.

- 1. Legal Advice, Discussion, and Possible Action:** Discussion and review of settlement agreement for the VB BTS, LLC v. Jefferson County, WV and the Jefferson County Planning Commission, U.S. N.D. W. Va. Case No. 3:23-CV-171 (RE: PC File #23-3-SP – Shannondale Lake Telecommunication Tower).

Mr. Cochran recommended that the Planning Commission go into executive session for legal advice related Item #1 on the agenda.

Mr. Shepp moved to go into executive session for the purpose of receiving legal advice on Item #1 at 6:03 pm. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Knott moved to go back into regular session at 6:22 pm. Mr. Stolipher seconded the motion, which carried unanimously

Mr. Cochran provided a summary of the settlement agreement and Planning Commission's action related to the terms of the settlement agreement to date. Mr. Cochran stated that the purpose of the subject meeting was to draft a document memorializing the mutual agreement between the Planning Commission and Vertical Bridge. Mr. Cochran advised that the Planning Commission vote to authorize Mr. Shepp to sign the document on their behalf.

Mr. Knott made a motion to authorize Mr. Shepp to sign the agreement on behalf of the Planning Commission. Mr. Stolipher seconded the motion, which carried unanimously.

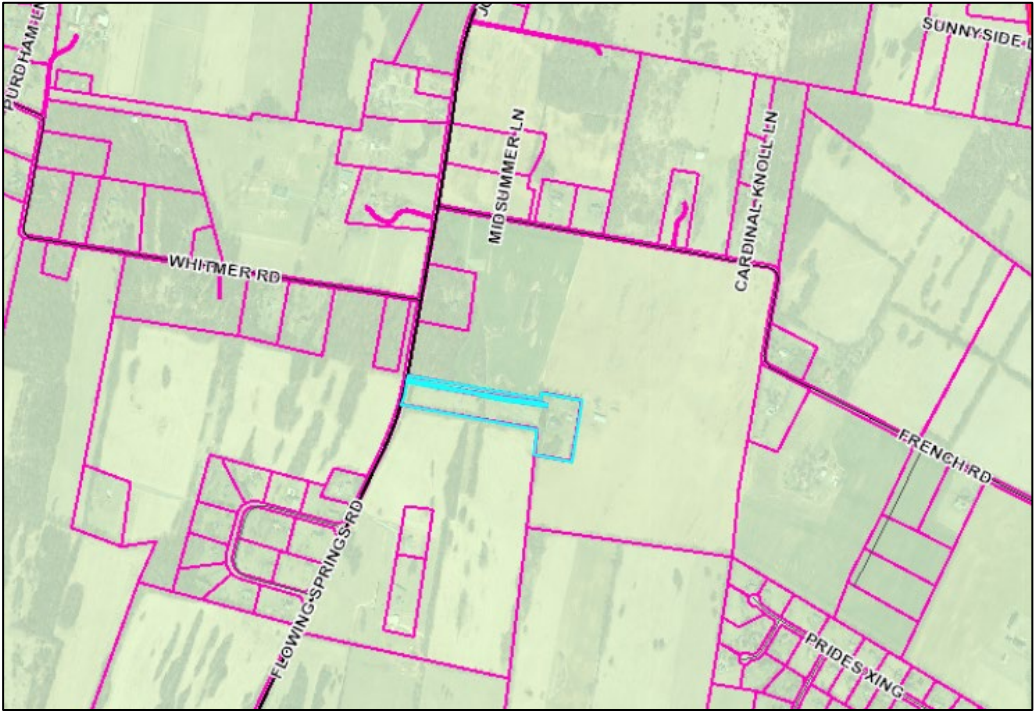
Mr. Hefestay made a motion to adjourn at 6:26 p.m. Mr. Louthan seconded the motion, which carried unanimously.

These minutes were prepared by Alexandra Beaulieu, Deputy Director & Zoning Administrator.

Staff Report
 Jefferson County Planning Commission Meeting
 November 14, 2023

Todd Banks & Taylor Bishop Final Plat Amendment (File #23-4-FPA)

Item #4: Public Hearing: Request for a Final Plat Amendment to lift the single family restriction (Final Plat Note recorded in Deed Book 632/Page 363) to allow for the construction of an Accessory Dwelling Unit for use by a family member.

Owner/Applicant	Todd D Banks & Taylor Bishop
Property Location and Legal Information	Cottage Hall, Lot 1, 5994 Flowing Springs Rd, Shenandoah Junction Parcel ID: 09002000050001; Size: 10 ac; Zoning District: Rural
	
Surrounding Zoning	North, East, South, West: Rural
Approved Activity	Single Family Residence
Approvals	06/15/1989: Cottage Hall Minor Subdivision (PC File #89-16) Recorded in DB 632 / PG 363

Overview of Request

The subject parcel is designated as Lot 1 in the Cottage Hall (Adam Link) Minor Subdivision, which was recorded on June 15, 1989 in Deed Book 632/Page 363. At the time the plat was approved, the Subdivision Ordinance required all subdivisions to include a note that restricted each lot to a single family residence only. This note is no longer required for subdivisions. This note is the subject of this Final Plat Amendment request.

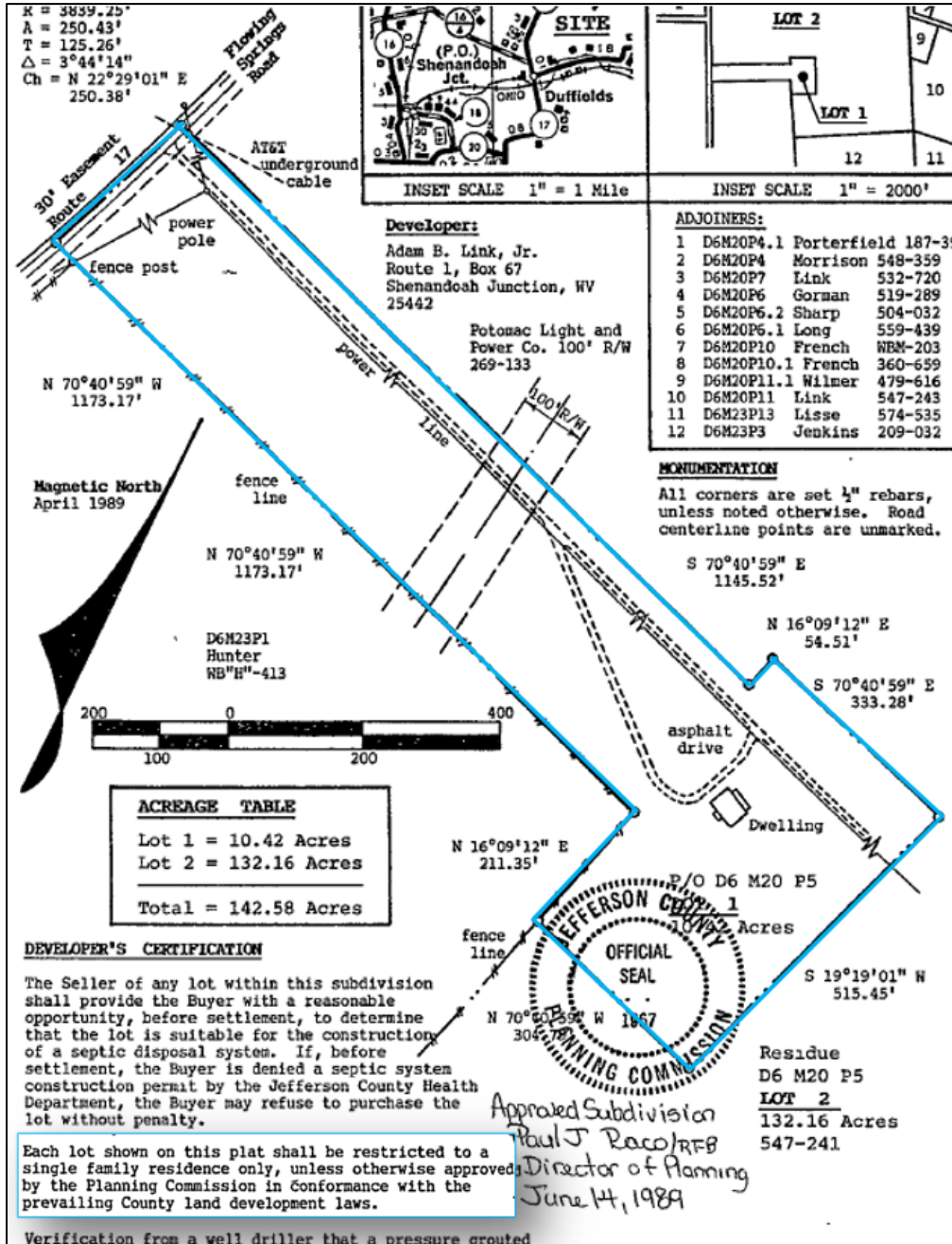
The applicant would like to lift the single-family residence restriction to allow for the construction of a detached accessory dwelling unit (in-law suite) for a family member. An accessory dwelling unit for a family member (blood relative) is considered an “in-law suite” in the Zoning Ordinance. Detached in-law suites are permitted in the Rural Zoning District in accordance with Section 8.15A of the current Zoning Ordinance on properties of at least 2 acres in size.

If the Planning Commission approves this Final Plat Amendment to lift the single-family restriction, the

Staff Report
 Jefferson County Planning Commission Meeting
 November 14, 2023

Todd Banks & Taylor Bishop Final Plat Amendment (File #23-4-FPA)

applicant may apply for a Zoning Certificate to process under the zoning requirements for an Accessory Dwelling Units for an In-Law Suite. Section 8.15A of the Zoning Ordinance has various provisions that must be complied with, including, but not limited to, the requirement that the accessory dwelling unit must be secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area.



Staff Report
Jefferson County Planning Commission Meeting
November 14, 2023

Todd Banks & Taylor Bishop Final Plat Amendment (File #23-4-FPA)

Plat Amendment Requirements

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

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

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

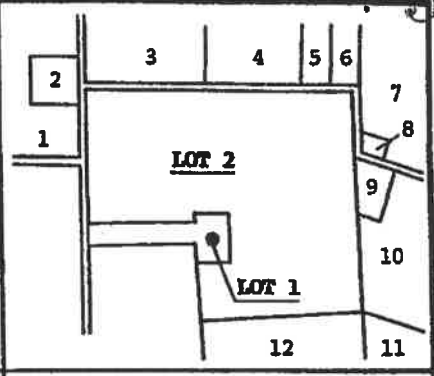
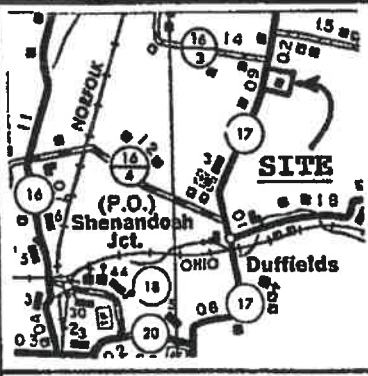
Recommendation

Staff recommends approving the requested Final Plat Amendment to lift the single-family restriction for the sole purpose of constructing an Accessory Dwelling Unit for use by a family member.

D6M22P16.1
Lemen
555-712

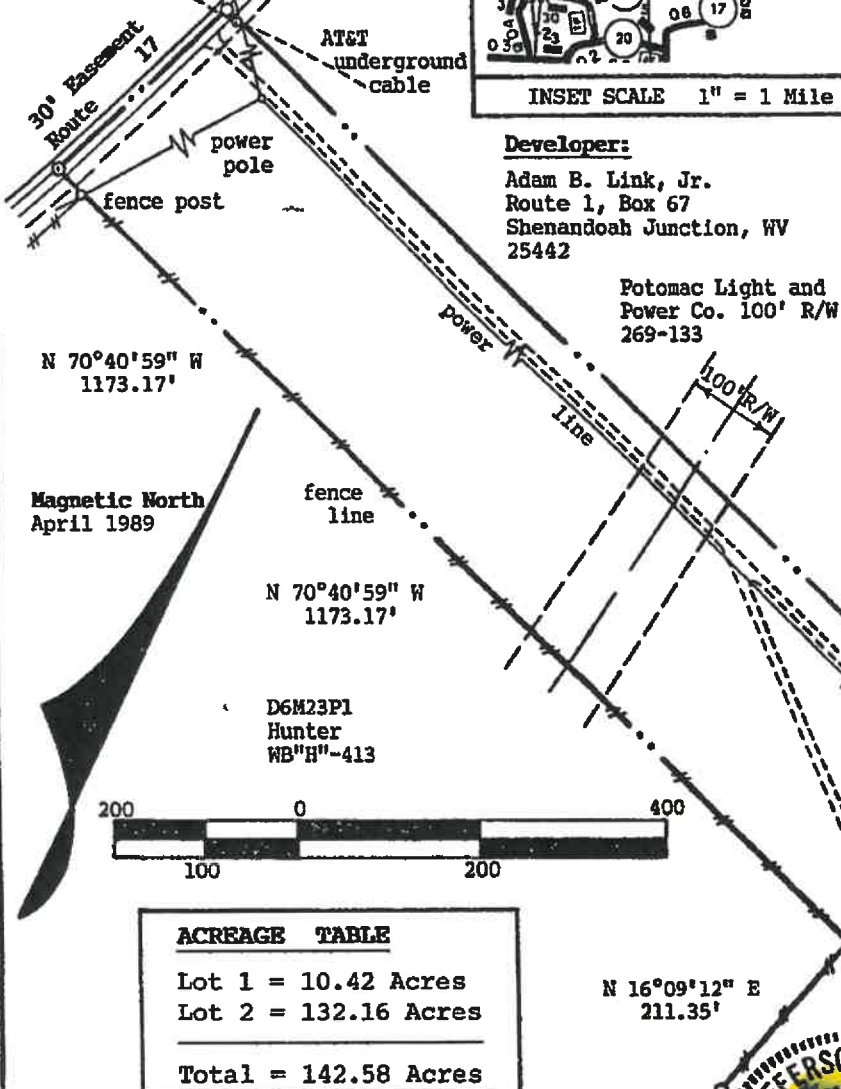
Road Improvement
Easement 25' from
centerline of
Route 17

R = 3839.25'
A = 250.43'
T = 125.26'
Δ = 3°44'14"
Ch = N 22°29'01" E
250.38'



INSET SCALE 1" = 1 Mile

INSET SCALE 1" = 2000'



Developer:
Adam B. Link, Jr.
Route 1, Box 67
Shenandoah Junction, WV
25442

Potomac Light and
Power Co. 100' R/W
269-133

ADJOINERS:

- 1 D6M20P4.1 Porterfield 187-399
- 2 D6M20P4 Morrison 548-359
- 3 D6M20P7 Link 532-720
- 4 D6M20P6 Gorman 519-289
- 5 D6M20P6.2 Sharp 504-032
- 6 D6M20P6.1 Long 559-439
- 7 D6M20P10 French WBM-203
- 8 D6M20P10.1 French 360-659
- 9 D6M20P11.1 Wilmer 479-616
- 10 D6M20P11 Link 547-243
- 11 D6M23P13 Lisse 574-535
- 12 D6M23P3 Jenkins 209-032

MONUMENTATION

All corners are set 1/4" rebars, unless noted otherwise. Road centerline points are unmarked.

Magnetic North
April 1989

ACREAGE TABLE	
Lot 1 =	10.42 Acres
Lot 2 =	132.16 Acres
Total =	142.58 Acres

DEVELOPER'S CERTIFICATION

The Seller of any lot within this subdivision shall provide the Buyer with a reasonable opportunity, before settlement, to determine that the lot is suitable for the construction of a septic disposal system. If, before settlement, the Buyer is denied a septic system construction permit by the Jefferson County Health Department, the Buyer may refuse to purchase the lot without penalty.

Each lot shown on this plat shall be restricted to a single family residence only, unless otherwise approved by the Planning Commission in conformance with the prevailing County land development laws.

Verification from a well driller that a pressure grouted well has been drilled and is producing water at a quantity approved by the local or State Health Department prior to the issuance of an Improvement Location Permit. Certification that this water is potable must be submitted to the Planning Commission Office within 6 months of the issuance of an Improvement Location Permit.

Building Setback Limits: 40' front; 15' sides; 50' rear.

The developer, in signing this plat, agrees to abide by all conditions, terms and specifications provided hereon.



Approved Subdivision
Paul J. Raco/RFB
Director of Planning
June 14, 1989

Residue
D6 M20 P5
LOT 2
132.16 Acres
547-241

FINAL PLAT

of
"Cottage Hall", Lots 1 & 2
located in
Shepherdstown District
Jefferson County, W. Va.
Date: April 1, 1989
Scale: 1" = 200'

Adam B. Link, Jr.
Adam B. Link, Jr.



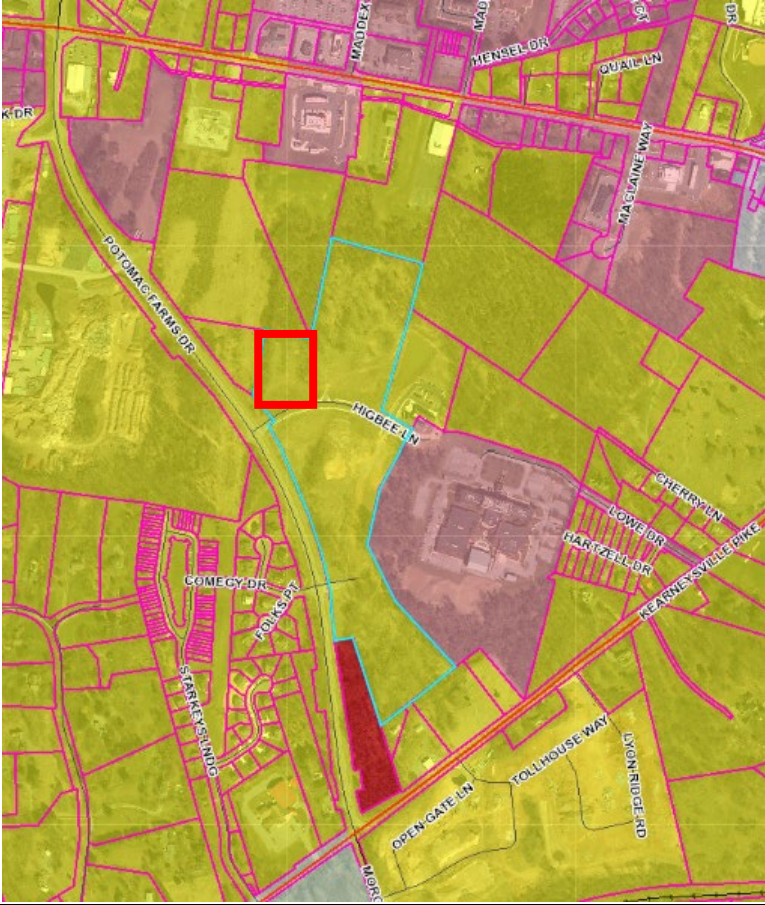
Charles K. Sager
Charles K. Sager, R.L.S.
P.O. Box 788
Charles Town, W. Va. 25414

I certify that the relative error of closure of the perimeter boundary exceeds 1:7500.

Staff Report
 Jefferson County Planning Commission Meeting
 November 14, 2023

Colonial Hills Phase 3B (Extension) Waiver Request (File: 23-23-PCW)

Item #5: Waiver request from Section 24.112.C to allow a 1-year extension of the time requirements to prepare a Preliminary Plat/Site Plan for Colonial Hills Phase 3B based on Concept Plan approval on October 12, 2021.

Owner/Applicant:	KE Colonial Hills, LLC
Parcel Information and Zoning District:	<p style="text-align: center;">Colonial Hills Subdivision, Phase 3B Vacant Lot, NE corner of Higbee Lane & Potomac Farms Dr. Shepherdstown Portion of Parcel ID: 0900080010; Size: 2.54 ac; Zoned: Residential Growth</p> 
Surrounding Zoning:	<i>North, West, South, East: Residential Growth</i>
Proposed Activity	Major Subdivision: 20 townhome units with associated parking spaces
Approvals:	Colonial Hills Subdivision, <u>Phase 3B</u> (File #21-26-SD) Concept Plan: (20 Townhouse Lots) PC Approved 10/12/21 – Valid for 2 years Colonial Hills Subdivision, <u>Phase 3A</u> (File #17-06) Final Plat (61 Townhouse Lots) PC Approved 12-22-21 (PB 26/PG 318) Colonial Hills Subdivision, <u>Phase 3</u> (File #05-38) Final Plat (35 SF Lots, 108 apt, and 2 comm. Lots) PC Approved 12/8/06 (PB23/PG79) Colonial Hills Subdivision, <u>Phase 2</u> (File #04-33) Final Plat (60 Townhouse Lots) PC Approved 4/8/05 (PB 21/PG 86) Colonial Hills Subdivision, <u>Phase 1</u> (File #00-03) Final Plat (20 Duplex Lots & 15 SF Lots) PC Approved 5/20/03 (PB 20/PG 4)

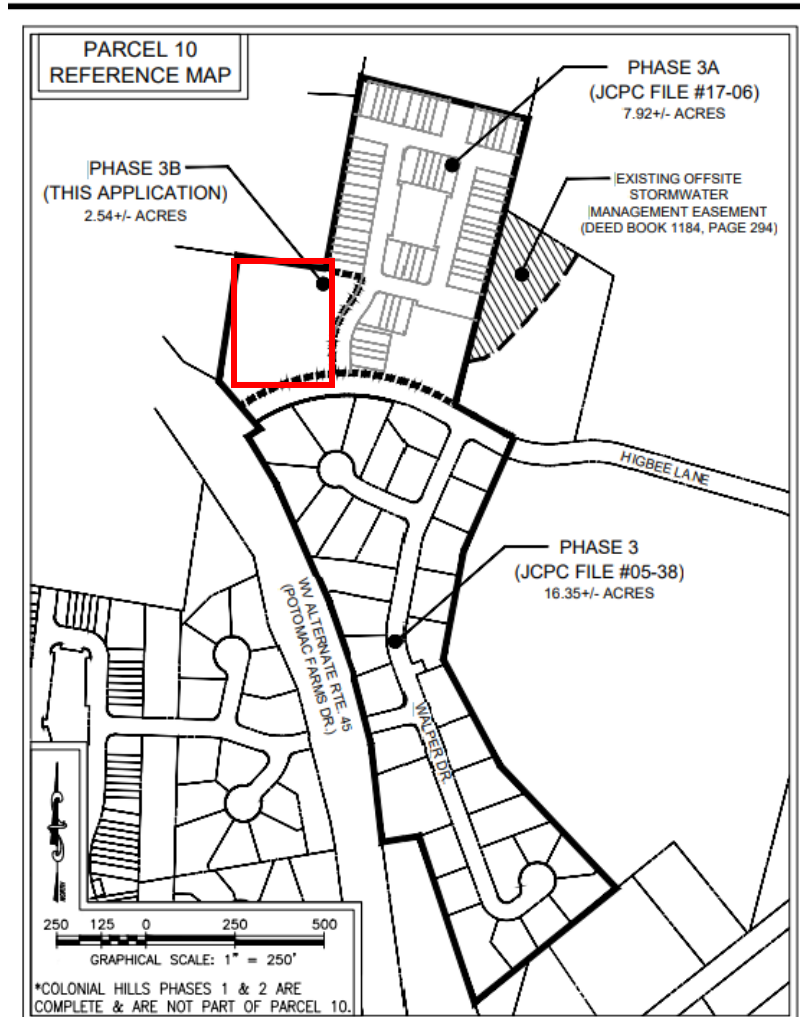
Colonial Hills Phase 3B (Extension) Waiver Request (File: 23-23-PCW)

Introduction and Summary of Request

The applicant is requesting a 1-year extension, from October 12, 2023 to October 21, 2024, to prepare the required Preliminary Plat for Colonial Hills Phase 3B. Granting of this waiver will allow the Preliminary Plat/Site Plan to proceed through the standard review process rather than beginning over. This will allow the project to proceed in a timely manner and will avoid duplication of effort by both the County and applicant.

On October 12, 2021, the Planning Commission approved the Concept Plan for this proposed Major Residential Subdivision to consist of 20 townhome units/lots with associated parking spaces. Phase 3B is located at the northern entrance to Colonial Hills Phase 3, consisting of 35 single-family lots, and southwest of Colonial Hills Phase 3A, which will consist of 61 townhome units/lots.

Section 24.112C of the Subdivision Regulations states that approval of a Concept Plan provides the developer with the direction to proceed to prepare a Preliminary Plat. The direction received in the Concept Plan Public Workshop is applicable for a period of two years.



Waiver Requirements

Division 24.300 of the Jefferson County Subdivision and Land Development Regulations states that waivers from the minimum standards in these Regulations, as well as process and procedural waivers, may be granted by the Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria:

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

Staff Report
Jefferson County Planning Commission Meeting
November 14, 2023

Colonial Hills Phase 3B (Extension) Waiver Request (File: 23-23-PCW)

The applicant has addressed these criteria in their application and have noted that this waiver request to extend the approval of the Concept Plan for one year is to allow the applicant to proceed through standard review process without being required to begin over again if the Concept Plan approval expires.

Staff Comments

Staff concurs that this waiver request will not impact the design of the project and is not a request to vary any standards or requirements found in the Subdivision Regulations.

The purpose of the Subdivision and Land Development Regulations is to “facilitate the County Government’s review of proposals for development of land either by subdivision plat or site plan, to ensure that proposed subdivision plats or site plans meet the standards of the Jefferson County Zoning Ordinance and satisfy the legal requirements of the State and County for the subdivision and development of land, and to promote efficient and attractive development in a manner that reduces off-site impacts.” This waiver request is not a request to vary any of the Regulations standards other than the length of time to submit the Preliminary Plat/Site Plan proposed in the approved Concept Plan.

The granting of this waiver will allow the applicant to proceed with the plan as proposed in the Concept Plan stage without resubmitting those required steps. The quality and character of the project will be the same as when first proposed in the Concept Plan.

Staff Recommendation

Staff recommends granting the requested waiver to extend the submission time for the Preliminary Plat/Site Plan until October 21, 2024 with the provision that any amendments to the Subdivision Regulations or the Zoning Ordinance which occur within that year that may impact the design of the proposed project be required as a part of the Preliminary Plat/Site Plan submittal. This waiver is for a time extension and not a change to the site layout or a waiver of any Subdivision Regulation standards. Providing an extension of 12 months for the Colonial Hills Phase 3B submittal would provide for the continuation of this development in accordance with the Concept Plan previously reviewed and approved by the Planning Commission.



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

File #: 23-23-PCW
 Mtg Date: 11/14/23
 Date Rec'd: 10/3/23
 Fees Paid: \$100
 Staff Int: ME
 List of Adjoiners:

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

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

Planning Commission Waiver Request

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

Property Owner Information

Owner Name: Rick Fink, Senior Development Manager
 Business Name: KE Colonial, LLC
 Mailing Address: 6259 Reynolds Mill Road, Seven Valleys, PA 17360
 Phone Number: 717-741-8445 Email: rfink@kinsleyproperties.com

Applicant Contact Information

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

Consultant Information

Name: Ryan Perks
 Business Name: Integrity Federal Services
 Mailing Address: 148 South Queen Street, Martinsburg, WV 25401
 Phone Number: 304-725-8456 Email: rperks@ifs-ae.com

Physical Property Details

Physical Address: _____ Vacant Lot:
 Tax District: Shepherdstown Map No: 8 Parcel No: 10
 Parcel Size: 27.15 Acres Deed Book: 989 Page No: 175
 Zoning District: Residential Growth

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

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

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

Section 24.112.C - Major Subdivision Concept Plan - Direction - Effect from Subdivision and Land Development Regulations, Adopted October 9, 2008 as Amended February 1, 2018

Briefly Describe the Nature of Your Waiver Request:

Applicant requests a 1-year extension of the time requirements to prepare a preliminary plat for the Colonial Hills Phase 3B subdivision in consideration of the direction received in the Concept Plan public workshop held October 12, 2021.

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

The project will provide additional residential housing units for which a demand exists in the County as well as providing open space for the use of the community residents.

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

Granting of the waiver allows the preliminary plat to proceed through the standard review process rather than beginning over again. No changes to the Subdivision Ordinance have occurred since the Concept Plan was approved. All steps in the preliminary plat process will still be followed; therefore no adverse affect will result.

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

Granting of the waiver allows the preliminary plat to proceed through the standard review process rather than beginning over again. All steps in the preliminary plan process will still be followed and input from the public workshop will be used in preparation of the preliminary plan.

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

Granting of the waiver will allow the project to proceed in a more timely fashion and avoid duplication of effort by both the County and applicant.

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

 9/25/23
Property Owner Signature Date Property Owner Signature Date

Notification Requirements

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

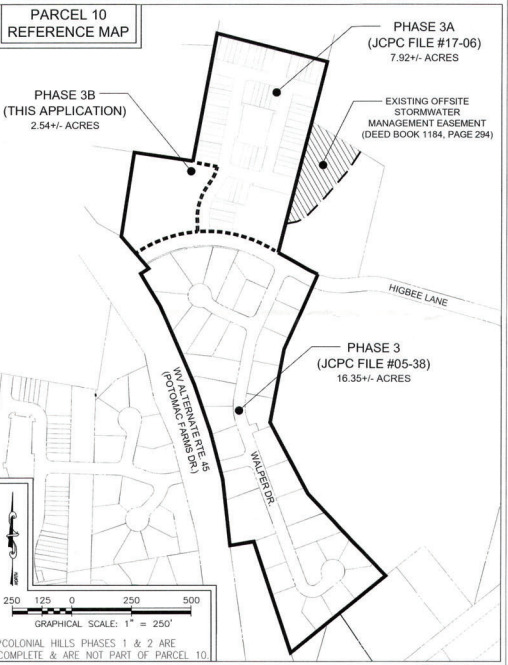
11/14/23 10/31/23 10/27/23
Public Hearing Date Date Placard Posted Date Adjoiners Mailed

Planning Commission Determination

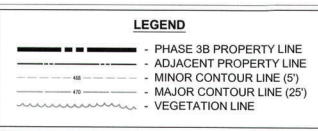
Approved

Denied

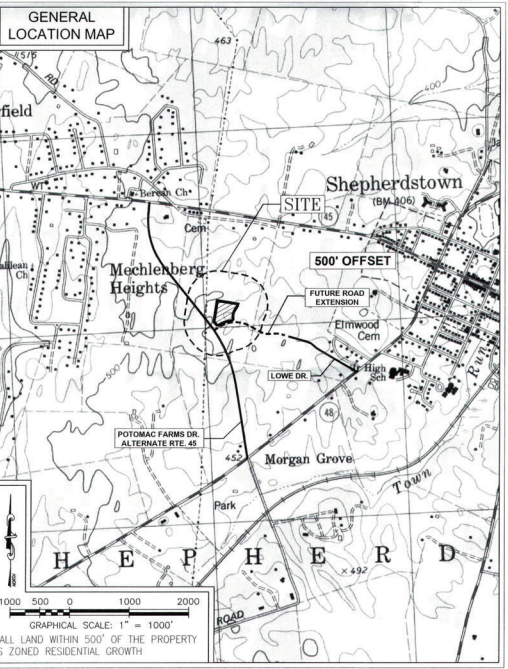
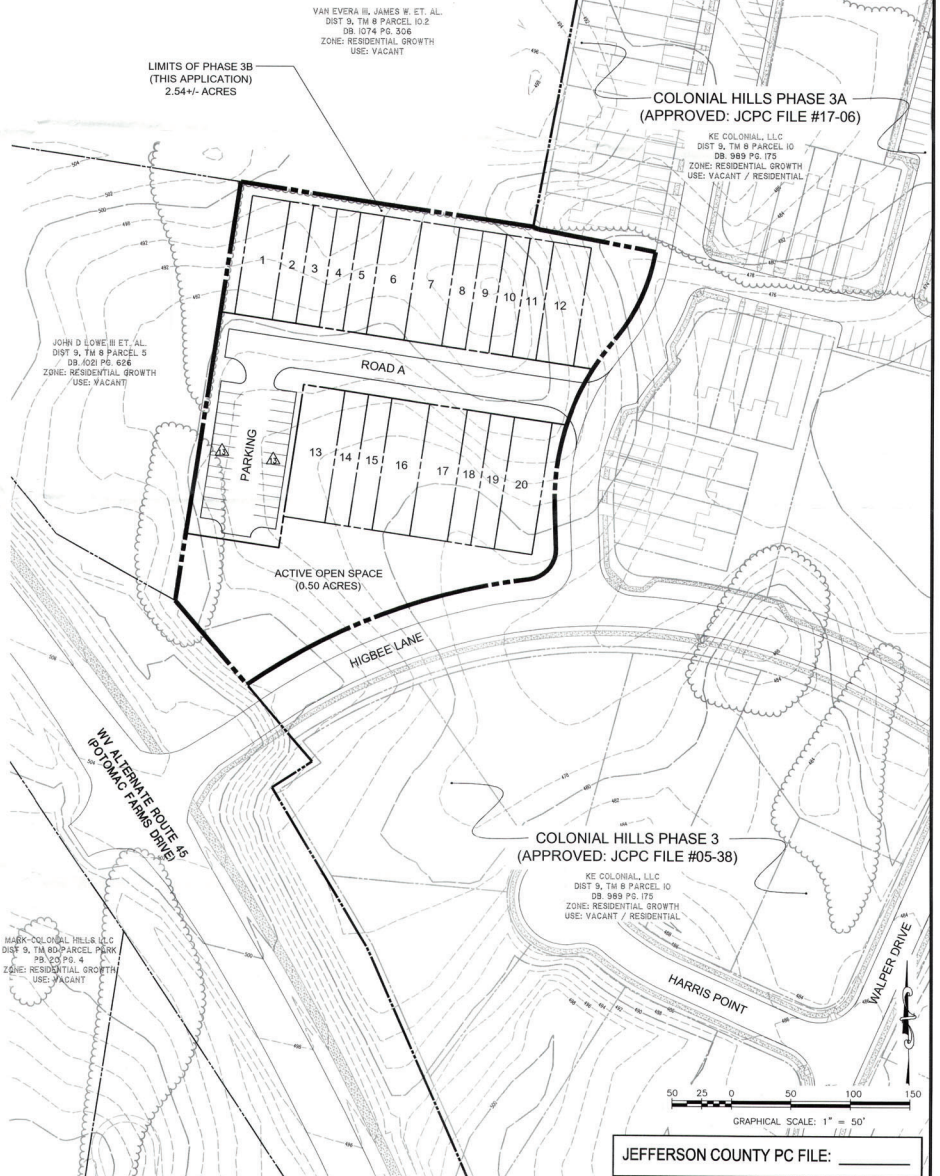
Date: ___ / ___ / ___



OWNER / DEVELOPER
KE COLONIAL, LLC
6259 REYNOLDS MILL ROAD
SEVEN VALLEYS, PA 17360



- CONCEPT PLAN SUBMISSION & COMPLETENESS REVIEW NOTES:**
- B.1. SEE GENERAL LOCATION MAP THIS SHEET. ALL LAND WITHIN 500' OF THE SUBJECT PROPERTY ARE ZONED RESIDENTIAL GROWTH.
- B.2. A CONCEPT PLAN ON 24x36 WHITE PAPER CAN BE FOUND ON THIS SHEET.
- THIS SHEET FOR THE LAYOUT OF LOTS AND ROADS.
 - BUILDING AREAS WILL BE CONFINED TO EACH SINGLE FAMILY DETACHED LOT WITHIN BUILDING SETBACK LINES.
 - ACTUAL BUILDING FOOTPRINTS WILL VARY WITH INDIVIDUAL HOME DESIGN.
- B.3. ZONING INFORMATION:
- THE SUBJECT PROPERTY IS LOCATED IN THE RESIDENTIAL GROWTH ZONING DISTRICT.
 - DENSITY CALCULATIONS: 16.6 NET DWELLING UNITS PER ACRE (20 UNITS / 1.21 ACRES = 16.6 DU/A)
 - SEE THIS SHEET FOR THE PROPERTY'S "SITE RESOURCES".
 1. TOPOGRAPHIC INFORMATION PROVIDED PURSUANT TO PREVIOUS AIR SURVEY INFORMATION: CONTOURS SHOWN AT 2' INTERVALS.
 2. WOODED AREAS ARE INCLUDED ON THIS SHEET. THERE ARE NO KNOWN WATERCOURSES, HILLSIDES, PROMINENT ROCK OUTCROPPINGS, SINK HOLES OR QUARRIES LOCATED IN THE AREA OF DEVELOPMENT. IT IS POSSIBLE THAT SOME OF THESE FEATURES MAY EXIST AND BE CONCEALED BY EXISTING VEGETATION OR ARE OUTSIDE THE AREA PROPOSED FOR DEVELOPMENT. ALL STATE, FEDERAL AND LOCAL REGULATIONS WILL BE OBSERVED IF ANY UNKNOWN SITE RESOURCES ARE DISCOVERED DURING CONSTRUCTION.
 3. NO DEVELOPMENT IS ALLOWED WITHIN 1,000' OF THE SHENANDOH OR POTOMAC RIVERS AND THEREFORE IS NOT SUBJECT TO THE HILLSIDE REGULATIONS FOUND UNDER SECTION 22.504 OF THE JEFFERSON COUNTY SUBDIVISION AND LAND DEVELOPMENT REGULATIONS.
 4. FEMA MAP 540370040E DOES NOT IDENTIFY ANY FLOODPLANS ON THE SUBJECT PROPERTY.
- B.4. PROPOSAL DESCRIPTION: THE SUBJECT PROPERTY IS ZONED RESIDENTIAL GROWTH. THE REQUESTED CONCEPT PLAN INCLUDES 20 TOWNHOUSE UNITS, OPEN SPACE, AND THE CONSTRUCTION OF ASSOCIATED UTILITIES. THE STORMWATER MANAGEMENT AREA WILL BE LOCATED ON AN ADJACENT PROPERTY THROUGH AN EXISTING EASEMENT GRANTED BY SHEPHERDSTOWN PUBLIC LIBRARY (DEED BOOK 1184, PAGE 294). THE PROPOSED STORMWATER MANAGEMENT AREA WILL BE DESIGNATED TO ACCOMMODATE PHASES 3A, 3B (THIS APPLICATION), 3 AND THE PROPERTY ON WHICH THE EASEMENT IS LOCATED. A MAIL BOX CLUSTER AND BUS PULL OFF AREA WILL BE PROVIDED IN PHASE 3A.
- B.5. TRAFFIC IMPACT DATA:
- THE WOODHURST TRAFFIC COUNTS WEBSITE PROVIDES INFORMATION FOR TWO POINTS ON POTOMAC FARM ROAD.
 - 400' SOUTH OF WARTINSBURG PIKE INTERSECTION: 4,275 AVERAGE DAILY TRIPS
 - 650' NORTH OF KEARNEYVILLE PIKE INTERSECTION: 3,987 AVERAGE DAILY TRIPS
 - TRIP GENERATION FOR TOWNHOMES BASED ON SECTION 24.110(B)(5), OF THE SUBDIVISION AND LAND DEVELOPMENT REGULATIONS ARE AS FOLLOWS:
 - PEAK HOUR TRIPS: 20 (TOWNHOMES) x 0.60 = 12
 - AVERAGE DAILY TRIPS: 20 (TOWNHOMES) x 7.0 = 140
 - THE NEAREST KEY INTERSECTION AS DEFINED IN THE CONCEPT PLAN CHECKLIST IS THE ROUTE 45 (WARTINSBURG PIKE)/ALTERNATE ROUTE 45 (POTOMAC FARMS DR.) INTERSECTION.
 - THERE IS ONE (1) "HIGHWAY PROBLEM AREA", AS DEFINED BY THE ENVISION JEFFERSON 2035 COMPREHENSIVE PLAN, WITHIN ONE (1) MILE RADIUS OF THE PROPERTY. IT IS IDENTIFIED AS WV ROUTE 45, LOCATED AT THE INTERSECTION WITH WV 490, WV 45 AND WV 230 (IN SHEPHERDSTOWN). THE PROBLEM IS IDENTIFIED AS "ROAD WIDTH THROUGH HISTORIC AREA LIMITS TURN MOVEMENTS".
- AGENCY REVIEW: LETTERS WILL BE SENT TO THE REQUIRED REVIEW AGENCIES UPON RECEIVING SUFFICIENT DETERMINATION FROM JEFFERSON COUNTY FOR THE CONCEPT PLAN.
- B.2. A LIST OF ALL ADJACENT PROPERTIES AND OWNERS ADDRESS'S ARE INCLUDED AS PART OF THIS SUBMISSION IN A SEPARATE DOCUMENT. PROPERTY OWNERS INFORMATION IS PROVIDED PURSUANT TO JEFFERSON COUNTY ASSESSOR'S RECORDS ON 7/22/2021.



LAND AREAS		AREA (AC)
Residential Lot Area		1.21
Internal Road Right-of-Way (Includes Parking)		0.62
Stormwater Management (NA - Off-Site)		0.00
Active Open Space		0.50
Passive Open Space		0.21
Total		2.54

PARKLAND		
Density - DU/A		
Dwellings	Residential Lot Area	Dwelling Units Per Acre
20	1.21	16.6

Parkland Requirements		
	% of Site	Land Area (AC)
Required	15%	0.39 (2.54 x 0.15 = 0.39)
Provided (Active)	20%	0.5

PARKING REQUIREMENTS		
Required		
2 Space Per Unit	20 x 2 =	40
0.25 Per Bedroom	3 x 20 x 0.25 =	15
Total Required		55
Provided		
50% of Garage Spaces	20 x 0.5 =	10
All Driveway Spaces	20 x 1 =	20
Off-Lot Spaces		26
Total Provided		56

SETBACKS	
Front	25'
Side	12'
Street Side	15'
Rear	20'

Gordon
 PROGRAMMING & PLANNING
 CIVIL ENGINEERING
 LANDSCAPE ARCHITECTURE
 SURVEYING AND MAPPING
 SECURITY CONSULTING
 148 S. Queen Street, Suite 201
 Martinsburg, WV 25401
 304.261.5606
 www.gordons.com

REVISIONS:

CONCEPTUAL PLAN

COLONIAL HILLS PHASE 3B
CONCEPT PLAN
 DISTRICT 9, MAP 8, PARCEL 10, DB. 989 PG. 175
 JEFFERSON COUNTY, WEST VIRGINIA

SCALE: HORIZ: AS NOTED
 VERT: NA

DATE: 08-12-2021

JOB: 2436-0202

DRAWN: CHECK:

CADD: 2436_CONCEPT.DWG

NCS:

SHEET:

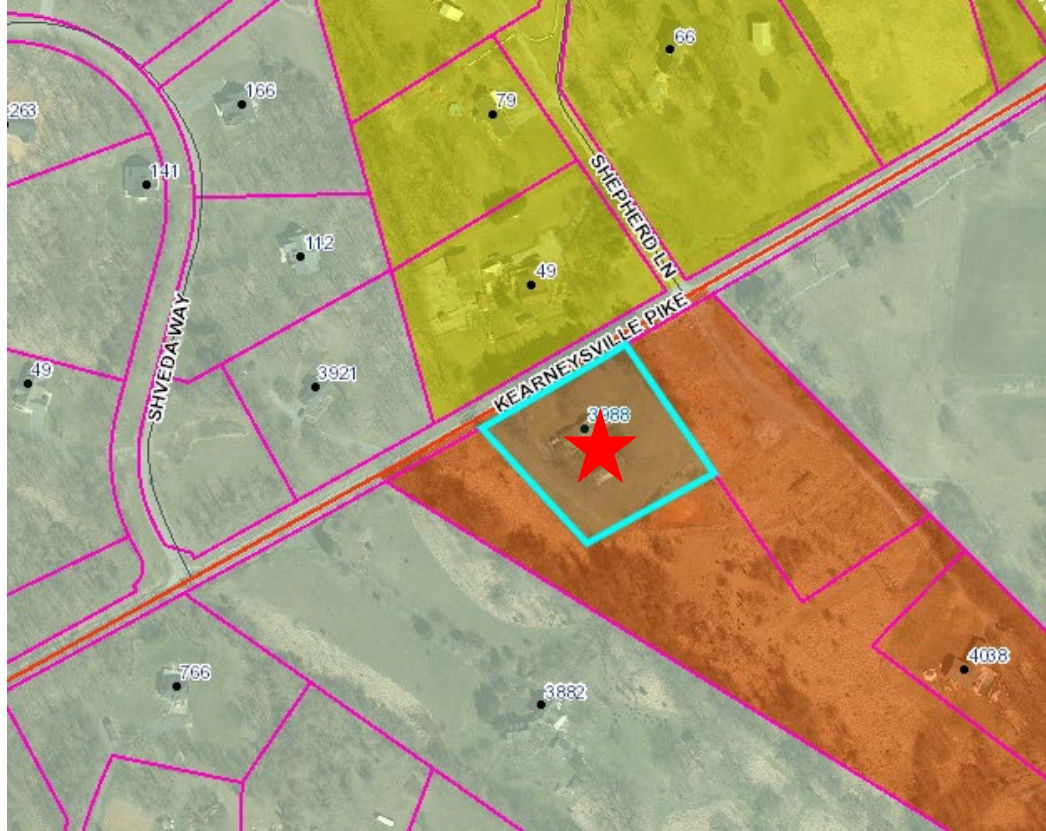
01 OF 01

John D. Lowe 10/3/2023

Staff Report
 Jefferson County Planning Commission Meeting
 November 14, 2023

Dino Kids Childcare, LLC (Parking Lot) Waiver Request (File: 23-24-PCW)

Item #6: Waiver from Section 2.5 M (Appendix B - Engineering Standards) of the 2008 Subdivision Regulations, as amended Feb 1, 2018, to allow for gravel parking area for a proposed Day Care Facility.

Property Owner:	Peter Corum
Applicant:	Dino Kids Day Care / Attn: Cordelia Courtney
Parcel Information and Zoning District:	<p style="text-align: center;">3988 Kearneysville Pike, Shepherdstown, WV Parcel ID: 09001300260002; Size: 2 acres; Zoning District: Neighborhood Commercial</p> 
Surrounding Zoning:	<i>North:</i> Residential Growth; <i>South, East and West:</i> Neighborhood Commercial
Proposed Activity	Waiver request from Appendix B, Section 2.5 M of the 2008 Subdivision Regulations, as amended Feb 1, 2018, to allow for gravel parking area.
Approvals:	10/05/23: Zoning Certificate issued to Dino Kids Childcare, LLC for a <i>Day Care Center, Large (23-46-ZC)</i> 03/10/15: Zoning Certificate issued for a temporary private school for up to 40 children (15-05-ZC)
Waivers/Variances	ZC14-37 and ZC15-05: Zoning Certificates for Private School for grades K-8 up to forty students, including an administrative waiver for parking for 10 staff and visitors on grass indicated on sketch plan.

Dino Kids Childcare, LLC (Parking Lot) Waiver Request (File: 23-24-PCW)

Summary of the Request

The applicant is requesting to be permitted to start a Day Care in an existing residential structure that had previously been used as a Private School and a Mortgage Office. The request is to waive the requirement found in Appendix B, Section 2.5M, of the 2008 Subdivision Regulations, which requires paved parking for the employees and visitors to the Day Care.

Background

Over the last 17 years, this property, in conjunction with the adjoining 3 lots, totaling 13.68 acres, have been approved for a number of projects including a 32-lot residential subdivision and commercial lot (in 2006); an agricultural-based market including a Food Hub, General Merchandise (retail), Professional/Business Offices, Community Amenities, and other associated uses (in 2012); a Seasonal Farm Market with live music (in 2012); and a rezoning to Neighborhood Commercial (in 2015). Most of these uses required the extension of public water and sewer from the Corporation of Shepherdstown, which has not yet happened. In approximately 2015, the proposed projects across the four lots were no longer being pursued.

This lot (Parcel 26.2) is occupied by a single family residential structure which has existed since 1968, which has been used for multiple purposes over the last 8 years:

- 2014: Private School in the former residential structure
- 2015: Private School in the former residential structure
- 2017: Mortgage Company Office in the former residential structure

In 2014 and 2015, an administrative waiver of the required parking was approved because the school was a seasonal use and not a year-round operation. This waiver no longer applies to this property.

The applicant is asking to be permitted to start a Day Care in the former residential structure and allow the staff a visitor parking to occur on a gravel surface.

Subdivision Requirements and Staff Discussion

Sec. 2.5 Off-Street Parking Standards, Subsection M of Appendix B of the 2008 Subdivision Regulations states that:

“M. All parking areas shall be bituminous asphalt or concrete paved. Paving sections shall be as established by the County Engineer.”

This waiver is requesting to be allowed to provide staff and visitor parking spaces on an existing gravel parking area with ADA space on asphalt near the building located on the west side of the property for a proposed Day Care Facility.

Waiver Requirements

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

- (1) that the design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature;

Staff Report
Jefferson County Planning Commission Meeting
November 14, 2023

Dino Kids Childcare, LLC (Parking Lot) Waiver Request (File: 23-24-PCW)

- (2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- (3) that the waiver, if granted, will be in keeping with the intent and purpose of these Regulations; and
- (4) that the waiver if granted will result in a project of better quality and/or character.

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

Staff Recommendation

The requirement of the Subdivision Regulations that all off-street parking areas for use by the public are required to be paved, either by asphalt or concrete, is for the protection of the customer or public. The Day Care is required to provide 8 parking spaces and they intend to provide the required 8 spaces on the existing gravel. There is an ADA parking area on the paved driveway close to the existing structure.

The applicants also have indicated that they are willing to add gravel to improve the existing gravel area and believe that the use of gravel is consistent with the rural character of the neighborhood.

As for SWM, the SWM ordinance considers gravel pavement and asphalt/concrete pavement to be equal in water quality and quantity calculation. In other words, they repel water at the same rate. Technically, asphalt/concrete pavement has a slightly higher repel rate than gravel but not much. However, the SWM ordinance considers them the same so if a gravel parking area is designed, it later can be paved with asphalt or concrete without the need for additional engineering design. Therefore, no additional SWM would be needed if a site plan is required and Engineering recommends approval of the waiver.



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

File #: 23-24-PCW
 Mtg Date: 11/14/23
 Date Rec'd: 11/10/23
 Fees Paid: \$100 ck #1160
 Staff Int: ME
 List of Adjoiners:

Email: planningdepartment@jeffersoncountyv.wv.org
zoning@jeffersoncountyv.wv.org

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

Planning Commission Waiver Request

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

Property Owner Information

Owner Name: Peter Corum
 Business Name: _____
 Mailing Address: P.O. Box 536 Shepherdstown, WV 25443
 Phone Number: 304-283-2467 Email: petercorum@gmail.com

Applicant Contact Information

Applicant Name: Cordelia Courtney Same as owner:
 Business Name: Dino Kids Childcare LLC
 Mailing Address: _____
 Phone Number: 304-820-8922 Email: coricourtney@gmail.com

Consultant Information

Name: Sara Lambert
 Business Name: Sara Lambert Architect
 Mailing Address: 2900 Fondren Drive Dallas, TX 75205
 Phone Number: 707-326-6443 Email: sara@saralambert.com

Physical Property Details

Physical Address: 3988 Kearneysville Pike Shepherdstown, WV 25443 Vacant Lot:
 Tax District: Shepherdstown Map No: 13 Parcel No: 26.2
 Parcel Size: 2 acres Deed Book: 1012 Page No: 429
 Zoning District: Neighborhood Commerical

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

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

What Section of the Subdivision Regulations and year of the Regulations are you requesting to Waive?
Section 2.5 M. (Appendix B- Engineering Standards) as amended Feb 1, 1018

Briefly Describe the Nature of Your Waiver Request:

Request waiver to allow for gravel parking area.

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

There are (10) existing parking spaces along the west side of the property and we are asking to continue the use of these existing spaces for the new Daycare that is moving into the existing building. We would improve these with additional gravel as needed in consultation with the County Engineer. This approach is consistent with the gravel parking already occurring in the neighborhood, which has rural character, beyond the town limits of Shepherdstown.

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

Keeping the existing (10) unpaved parking spaces would allow us to minimize development impacts such as rainwater runoff, pollution and construction noise on nearby owners and residents.

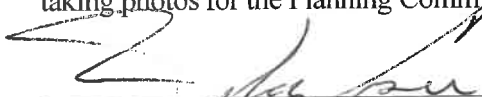
Explain how the waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.

The total number of parking stalls is quite small: only (8) required for Daycare use by the ZA. As this is a very small number, it would be consistent to find flexibility in the Ordinance to allow for gravel, just as flexibility to use gravel is granted for new subdivisions with small numbers of homes. This allows for small businesses to flourish in our community, and still provide safe, adequate parking when specifically provided for low usage and light demand.

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

Gravel parking is consistent with the character of the neighborhood and results in the most minimal development impact on adjacent properties and residents.

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

 10/31/23
Property Owner Signature Date

Property Owner Signature Date

Notification Requirements

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

11/14/23
Public Hearing Date

10/31/23
Date Placard Posted

11/26/23
Date Adjoiners Mailed

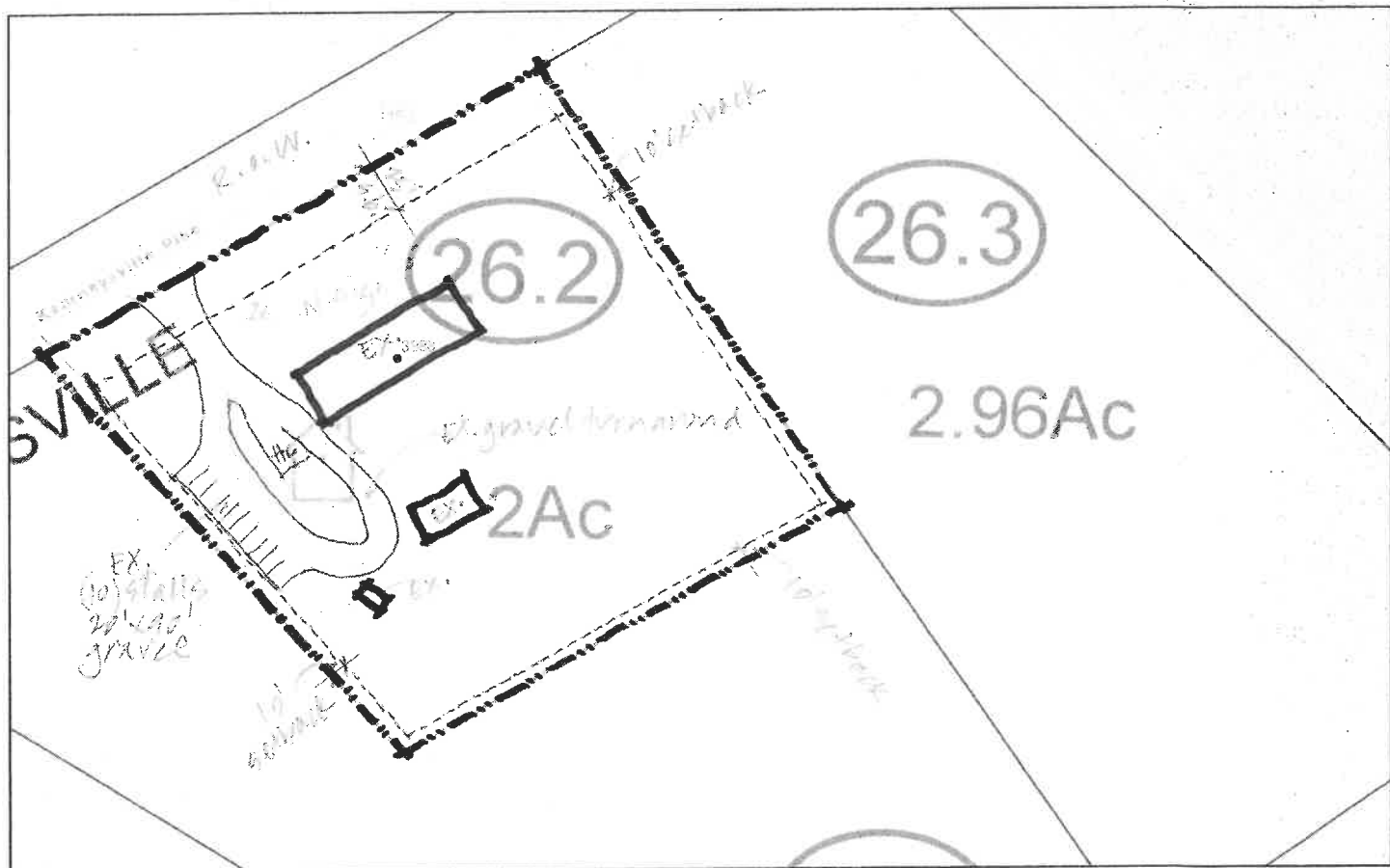
Planning Commission Determination

Approved

Denied

Date: ___ / ___ / ___

Viewer Map

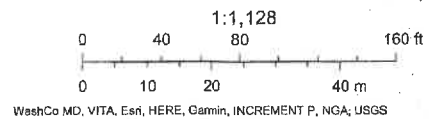


October 5, 2023

3988 KEARNEYSVILLE PIKE

TENANT: DinoKids Childcare

ZONING CERT: # 23-46-2C

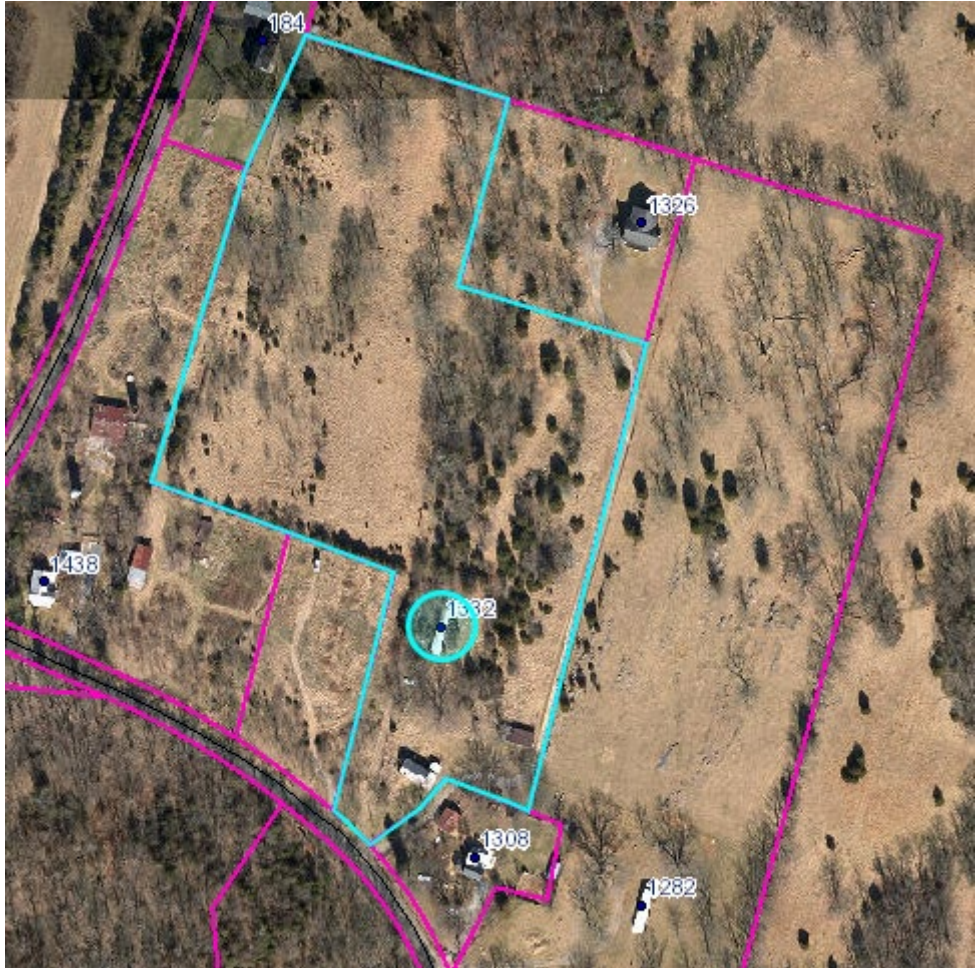


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Copyright 2014

Staff Report
 Jefferson County Planning Commission Meeting
 November 14, 2023

Donna Bent (File# 23-25-PCW)

Item # 7: Waiver request from Section 20.201A.2, which requires all lots in Minor Subdivisions to have motor vehicle access via a 50’ access easement. The applicant is proposing to reduce the required access easement width from 50’ to 40’ for a portion of an existing access easement for the purpose of processing a two-lot minor subdivision (for a total of four lots).

Applicant/Owner:	Donna C. Bent
Consultant:	Pete Lorenzen, Surveyor
Property Location & Information:	<p>1332 Billmyer Mill Rd, Shepherdstown (09), Tax Map: 6; Parcel No: 5.6 Parcel ID: 09000600050006; Size: 10.38 acres; Zoning District: Rural</p> 
Surrounding Zoning:	<i>North, South, East and West: Rural</i>
Proposed Activity:	Creation of a two-lot minor subdivision via an existing 40’ access easement, which currently serves the existing Parent to Child lot in the rear.
History:	Parent to Child Minor Subdivision, PB14/Pg4, recorded 2/8/96. PC File ZV95-60; setback variance for barn from 40’ to 4’; Approved 12/21/95.

Staff Report
Jefferson County Planning Commission Meeting
November 14, 2023

Donna Bent (File# 23-25-PCW)

Summary of the Request:

The applicant is requesting a waiver from Section 20.201A.2 of the 2008 Subdivision Regulations, which requires all lots in Minor Subdivisions to have motor vehicle access via a 50' access easement. The applicant is proposing to move an existing 40' access easement to the east side of the property and is requesting to utilize this easement instead of the required 50' access easement, for the creation of a two new lots.

Under the provisions of Section 5.7D3 of the Zoning Ordinance, because the subject parcel has not been subdivided since October 5, 1988, other than as a Parent to Child lot, the 10.38-acre lot has the right to create two lots and a residue as a Minor Subdivision, provided it meets all Subdivision Regulation requirements.

Because the property has less than 50' of road frontage on Billmyer Mill Road and the existing access easement serving the previous Parent to Child lot is only 40' wide, the applicant is requesting a waiver from the required 50' width where the drive currently exists. Approval of the waiver will result in four lots utilizing the existing 40' access easement instead of the current two lots.

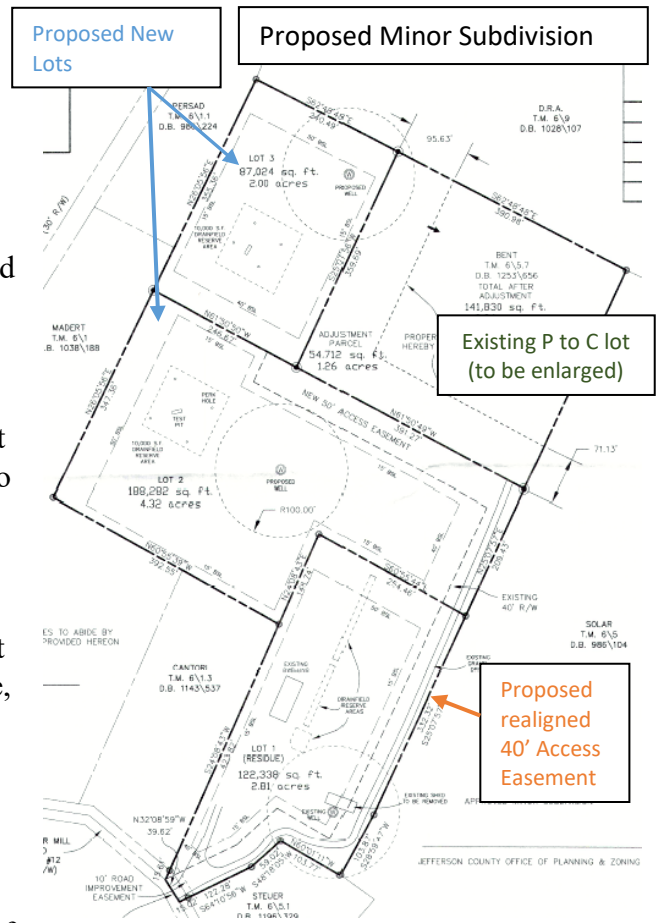
Note that the applicant previously received approval of the same waiver (21-3-PCW) to serve one Family Transfer lot, which was never processed.

Relevant Site Information:

It should be noted that the road frontage for this lot along Billmyer Mill Road is 39.62 feet and that existing agricultural structures that pre-date the previous Parent to Child lot impact the current alignment of the 40' access easement (which is currently shown along the western edge of the proposed Lot 1). The lots are actually accessed along the eastern edge of proposed Lot 1 and 2 and the applicant is proposing moving the 40' access easement to the actual driveway. The extended drive, accessing proposed Lot3 above, will meet the required 50' access easement.

Waiver Requirements:

The applicant provided a response to the requirements found in "Division 24.300 Waivers" of the Subdivision Regulations in the waiver application. Waivers from the minimum standards in these Regulations may be granted by the



Staff Report
Jefferson County Planning Commission Meeting
November 14, 2023

Donna Bent (File# 23-25-PCW)

Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria:

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

Staff Recommendation:

Staff acknowledges that the applicant is unable to widen the existing 40' access from Billmyer Mill Road through the proposed Lot 1 due to the configuration of the lot and the existing structures. It would be possible to require the existing easement to be widened to 50' north of the existing agricultural structure and through the Proposed Lot 2 to the existing Parent to Child Lot, if the Planning Commission is inclined. If the Planning Commission determines to approve this waiver request, staff recommends that the motion limit the applicant to the two proposed Minor Subdivision lots, for a maximum of 4 lots on the existing 40-foot access easement.



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

File #: 23-25-PCW
 Mtg Date: 11/14/23
 Date Rec'd: 10/24/23
 Fees Paid: \$100
 Staff Int: ME
 List of Adjoiners:

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

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

Planning Commission Waiver Request

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

Property Owner Information

Owner Name: Donna C Bent
 Business Name: _____
 Mailing Address: 1326 Billmyer Mill Rd., Shepherdstown, WV 25443
 Phone Number: 304-839-2279 Email: dcbent66@gmail.com

Applicant Contact Information

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

Consultant Information

Name: N/A
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 1332 Billmyer Mill Rd, Shepherdstown Vacant Lot:
 Tax District: Shepherdstown Map No: 6 Parcel No: 5.6
 Parcel Size: 10.38 Deed Book: 1015 Page No: 641
 Zoning District: rural ag

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

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

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

Briefly Describe the Nature of Your Waiver Request:

Approval to use existing access - 40ft right of way, and for a 2 lot minor subdivision. There are currently 2 parcels - seeking approval to divide into total of 4 - the existing 2 plus 2 additional lots

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

No impact to county maintenance costs

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

The waiver will not change any circumstance in relation to adjacent property owners and residents. Access to be used is existing. Boundary line adjustment is within the existing parcels

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

All requirements have been met or waivers have been granted for approval of a minor subdivision

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

Allowing the minor subdivision will allow for better use of the subject property at some time in the future without requiring disturbance or impact to adjacent properties.

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

Donna C Bent 10/23/23

Property Owner Signature

Date

Property Owner Signature

Date

Notification Requirements

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

11/14/23

Public Hearing Date

10/31/23

Date Placard Posted

10/27/23

Date Adjoiners Mailed

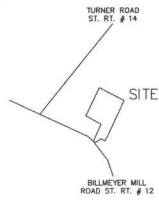
Planning Commission Determination

Approved

Denied

Date: ___ / ___ / ___

VICINITY MAP
1" = 2000'



NO COUNTY SETBACK VIOLATIONS WOULD OCCUR AS A RESULT OF THIS ADJUSTMENT.

THE LAND(S) HEREBY CONVEYED IS (ARE) ADJACENT TO AND CONTIGUOUS WITH THAT CERTAIN PARCEL OF LAND WHICH IS OWNED BY THE GRANTEE HEREIN, HAVING BEEN CONVEYED TO THEM BY DEED OF RECORD IN THE CLERK'S OFFICE OF SAID COUNTY IN DEED BOOK 1253 PAGE 656, AND THIS CONVEYANCE IS MADE FOR THE PURPOSE OF ADJUSTING THE BOUNDARY LINE(S) OF SAID PRESENTLY OWNED LANDS OF THE GRANTEE.

NO SUBDIVISION RESTRICTIONS APPLY.

AREA TABULATION

	T.M. 6 \ 5,6	T.M. 6 \ 5,7
EXISTING	10.39 acres	2.00 acres
ADJUSTMENT PARCEL 1	- 1.26 acres	+ 1.26 acres
TOTAL AFTER MERGER	9.13 acres	3.26 acres
LOT 1	2.81 acres	
LOT 2	4.32 acres	
LOT 3	2.00 acres	
TOTAL AREA	9.13 acres	

LEGEND

- FOUND 5\8" REBAR
- SET 5\8" REBAR

JEFFERSON COUNTY PLANNING COMMISSION-WAIVERS
(TABLE 1.2-2)

SECTION OF ORDINANCE	DATE GRANTED

NONE

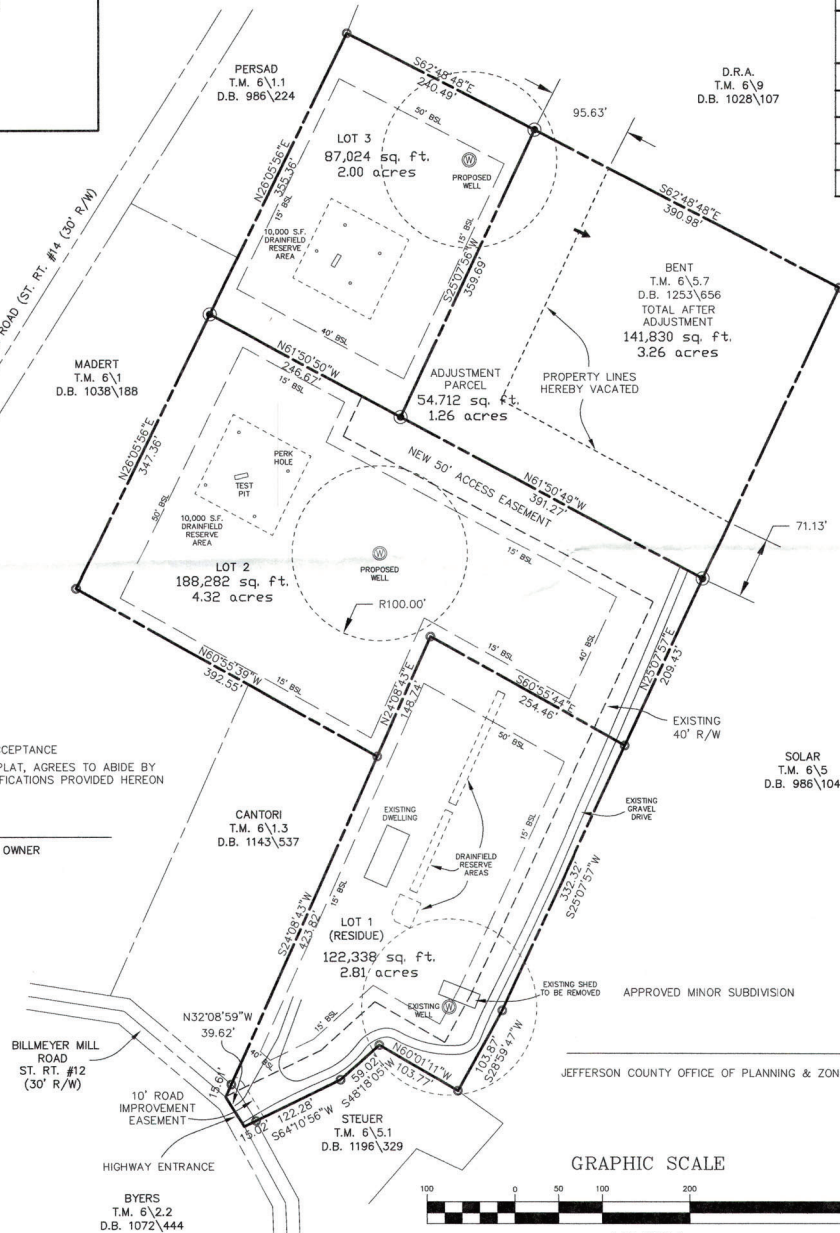
NOTES:

- LOTS 1, 2, & 3 ARE CONSIDERED AS A MINOR SUBDIVISION.
- DRIVEWAY CULVERTS SHALL BE MINIMUM 15" C.M.P. @ 0.50% SLOPE, UNLESS OTHERWISE NOTED.
- THERE ARE NO DELINEATED WETLANDS OR OTHER SENSITIVE AREAS ON THIS SITE.
- PER: U.S.F.W.S. NATIONAL WETLANDS INVENTORY - www.fws.gov/Wetlands/Data/Mapper.html
- BUILDING SETBACK LINES SHALL BE 40' FRONT, 15' SIDES, AND 50' REAR.
- CONSTRUCTION OF ANY NEW DRAINFIELD MUST BE PERFORMED BY A CERTIFIED INSTALLER AND APPROVED BY THE JEFFERSON COUNTY HEALTH DEPARTMENT.
- PUBLIC SERVICE DISTRICT MAY REQUIRE IN THE FUTURE EACH PROPERTY OWNER TO ABANDON EXISTING WELL & SEPTIC SYSTEMS AND TO CONNECT TO A CENTRALIZED SYSTEM WHEN AND IF IT BECOMES AVAILABLE.
- THIS PROPERTY IS MAPPED ON F.E.M.A. PANEL # 54037C 0045 E ZONE X. IT IS NOT MAPPED IN A FLOOD ZONE.
- THERE ARE NO AREAS OF GREATER THAN 20% SLOPE.
- JEFFERSON COUNTY HEALTH DEPT. SEPTIC PERMIT IS -
- ENTRANCE FOR ALL LOTS SHALL BE RESTRICTED TO THE APPROVED HIGHWAY ENTRANCE.
- THE SELLER OF ANY LOT WITHIN THIS SUBDIVISION SHALL PROVIDE THE BUYER WITH REASONABLE OPPORTUNITY, BEFORE SETTLEMENT, TO DETERMINE THAT THE LOT IS SUITABLE FOR THE CONSTRUCTION OF A SEPTIC DISPOSAL SYSTEM, IF, BEFORE SETTLEMENT THE BUYER IS DENIED A SEPTIC CONSTRUCTION PERMIT BY THE JEFFERSON COUNTY HEALTH DEPARTMENT, THE BUYER MAY REFUSE TO PURCHASE THE LOT WITHOUT PENALTY.
- NO EXTENSION OF PUBLIC WATER OR SEWER SERVICE ARE REQUIRED FOR THIS SUBDIVISION.
- A BLANKET EASEMENT SHALL BE GIVEN TO THE APPROPRIATE PUBLIC SERVICE DISTRICT FOR THE CONSTRUCTION OF WATER AND / OR SEWER LINES AND FACILITIES.
- ALL NECESSARY EASEMENTS ARE PROVIDED; PER SECTION 21-402 A
- THERE ARE NO OTHER EXISTING, PROPOSED, OR FUTURE EASEMENTS ON THESE LOTS OTHER THAN SHOWN ON PLAT.
- THERE ARE NO RESTRICTIVE COVENANTS PROPOSED ON THESE LOTS.
- VERIFICATION FROM A WELL DRILLER THAT A PRESSURE GROUTED WELL HAS BEEN DRILLED AND IS PRODUCING WATER AT A QUANTITY APPROVED BY THE LOCAL OR STATE HEALTH DEPARTMENT PRIOR TO THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT. CERTIFICATION THAT THIS WATER IS POTABLE MUST BE SUBMITTED TO THE PLANNING COMMISSION OFFICE WITHIN 6 MONTHS OF THE ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT.
- NO STRUCTURES, FENCES, OR LANDSCAPING SHALL BE LOCATED IN ANY RIGHT OF WAYS, OR EASEMENTS.
- THE PARTIES HERETO STATE AND ACKNOWLEDGE THAT THE 50' ACCESS EASEMENT IS PRIVATELY HELD AND THE COST OF ITS MAINTENANCE INCLUDING SNOW REMOVAL WILL BE SHARED EQUALLY AMONG THE LOT OWNERS OF 1, 2, 3 & T.M. 6\5,7. SAID MAINTENANCE IS NOT A PUBLIC RESPONSIBILITY OR THE RESPONSIBILITY OF JEFFERSON COUNTY, WV.
- WEST VIRGINIA HIGHWAY ENTRANCE PERMIT IS -
- NO STRUCTURES SHALL BE PLACED WITHIN 10' OF ANY SEPTIC DRAINFIELD RESERVE AREA.
- ALL RESIDENTIAL AND NON-RESIDENTIAL BUILDING LOTS SHALL HAVE A STABILIZED CONSTRUCTION ENTRANCE INSTALLED PRIOR TO BEGINNING CONSTRUCTION ON THE LOT.
- PRIVATE WELLS AND/OR PRIVATE SEPTIC SYSTEMS FOR DOMESTIC USE ARE PROHIBITED WHEN CENTRAL WATER AND/OR SANITARY SEWER IS AVAILABLE.
- THE JEFFERSON COUNTY E911 ADDRESSING ORDINANCE STATES THAT ANY EASEMENT OR RIGHT-OF-WAY LEGALLY ACCESSED BY 3 OR MORE ADDRESSABLE STRUCTURES (NOT LOTS) SHALL BE NAMED. THE GIS/ADDRESSING OFFICE SHALL COORDINATE AND OVERSEE THE NAMING OF THE COMMON EASEMENT OR RIGHT-OF-WAY UPON CONSTRUCTION OF THE 3RD ADDRESSABLE STRUCTURE THAT ACCESSES THE PREVIOUSLY UNNAMED EASEMENT OR RIGHT-OF-WAY.

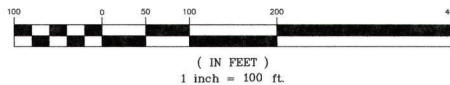
STATEMENT OF ACCEPTANCE
THE DEVELOPER, IN SIGNING THIS PLAT, AGREES TO ABIDE BY ALL CONDITIONS, TERMS, AND SPECIFICATIONS PROVIDED HEREON

Donna Bent

DONNA BENT - OWNER



GRAPHIC SCALE



SURVEYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT ALL THE MONUMENTATION AS SHOWN ON THIS PLAT HAS BEEN FOUND OR SET BY ME AND THAT IT HAS AN ACCURACY OF CLOSURE THAT IS EQUAL TO OR GREATER THAN 1 PART IN 7,500.

Peter H. Lorenzen
PETER H. LORENZEN P.S.

**DONNA BENT MINOR SUBDIVISION LOTS 1-3
AND BOUNDARY LINE ADJUSTMENT**

JEFFERSON COUNTY, WEST VIRGINIA

TAX MAP 6 PARCELS 5.6 & 5.7 SHEPHERDSTOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA.

PROPERTY STANDING IN THE NAME OF DONNA BENT, AS RECORDED IN THE OFFICE OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOK 1253\656

SURVEYOR: PETER H. LORENZEN - P.O. BOX 316, SUMMIT POINT, WV. 25446.
(304) 283-1276

OWNER \ DEVELOPER - DONNA BENT - 1326 BILLMEYER ROAD, SHEPHERDSTOWN, WV.
(304) 839-2279

DWG # BENT DATE 7-29-23



Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Fax: (304) 728-8126

Planner's Memorandum Planning Commission Meeting November 14, 2023

1) Engineering, Planning and Zoning County Offices Contact Information

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

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

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

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

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

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

2) Upcoming PC meetings

❖ December Meeting:

- Next Regular meeting date: **December 12, 2023**
 - 5:30 pm Comprehensive Plan Work Session
 - 7:00 pm Planning Commission Meeting
 - Beallair Phase 4B Final Plat Public Hearing (per 1979 Subdivision Ordinance)

Actionable

Correspondence

Planning Department

From: Christine Marshall <balmertmarshall@icloud.com>
Sent: Monday, October 30, 2023 7:59 PM
To: jckkrouse@gmail.com; triciajackson@gmail.com; Jane Tabb Commissioner; Steve Stolipher; Planning Department; michaelshpepp@me.com; visithf@gmail.com; louthan@frontiernet.net; jware@greenhorizonsturf.com; hefestay@yahoo.com; donniefisher@yahoo.com; stevestolipher@hotmail.com; tim@rdshorseauctions.com; Howell.aaron.j@gmail.com
Subject: Committee Meetings and the Open Governmental Meetings Act
Attachments: icon.ico; ATT00001.htm

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.

Good Day Commissioners and Jefferson County Staff,

Upon inquiring about information on the Ordinance Rewrite Committee meetings, I learned that these meetings are private (the public cannot attend), there are no meeting minutes or agendas, nor are there scheduled meeting times. However, upon reading the Open Governmental Meetings Act, subcommittees who deliberate towards decisions do appear to fall under the definition of a meeting that is covered by the act. That is, when the Ordinance Rewrite Committee meets to discuss the rewriting of the County Subdivision Ordinances or other matters that later result in a recommendation for an action by the full Planning Commission these meetings should be open to the public.

Will staff, the Jefferson County Commission and the Planning Commission please reach out to the Ethics Commission and ask for a formal opinion on this matter? Further, I respectfully request that future subcommittee meetings have a set agenda, produce meeting minutes and be held in open session.

The Open Governmental Meetings Act
ethics.wv.gov