



Agenda  
Jefferson County Planning Commission  
Tuesday, January 9, 2024 at 7:00 PM

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

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

**ZOOM Broadcast Information\*:** Meeting ID: 859 8999 7792  
Meeting Link: <https://us02web.zoom.us/j/85989997792>

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

1. **Election of Planning Commission Officers.**
2. **Approval of Meeting Minutes:** December 12, 2023
3. **Request for postponement.**

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

4. **Waiver Request** from Section 20.203A.2a of the Subdivision Regulations to waive the requirement of a Concept Plan for a proposed Asphalt Plant. Applicant: W-L Construction and Paving, Inc. / Mike Thomas; Property Owner: Millville Quarry, Inc; Property Location: 165 Bradstone Lane, Harpers Ferry, WV 25425; Parcel ID: 04001100220000; Size: 272.16 acres; Zoning District: Industrial Commercial (File #24-1-PCW).
5. **Discussion and Action:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Rural to Residential Growth (RG) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Arcadia Land Inc.; Property Location: Vacant parcels, which are a part of the Harvest Hills Subdivision, located east of the intersection of Flowing Springs Rd and Brass Harness Drive. Tax District: Shepherdstown (09), Tax Map: 24; Parcels: 12 & 13; comprised of 94.63 acres (P12) and 257.62 acres (P13). Zoning District: Rural (File: 23-5-Z).
6. **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).
- f. Update from Legal Counsel regarding County Commission actions on December 21, 2023 including obtaining ethics opinion regarding committee meetings and County Commission action regarding solar text amendment.

**7. Planner's Memo**

**8. President's Report**

**9. Actionable Correspondence**

**10. Non-Actionable Correspondence**



**Draft Meeting Minutes**  
Jefferson County Planning Commission  
December 12, 2023

The Jefferson County Planning Commission met on December 12, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Steve Stolipher, County Commission Liaison; Wade Louthan, Secretary; Jack Hefestay; and Donnie Fisher.

Matt Knott, Vice President; J. Ware; and Aaron Howell were absent with notice.

Tim Smith was absent without notice.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; Nathan Cochran, Prosecuting Attorney; 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: November 14, 2023**

Mr. Shepp stated the minutes stand approved without objection.

**2. Request for postponement.**

- 3. Public Hearing:** Beallair Subdivision, Phase 4B Final Plat (major subdivision) consisting of Lots 160-164, 244-272, and Residue A, resulting in 35 single family dwelling units. Property Owner: Beallair Homes LLC. Applicant: Piedmont Design Group. Property Location: Beallair Subdivision, Vacant 'Residue A' lot Beallair Manor Drive, Charles Town, WV. Parcel ID: 04010ARESA0000; Size: 30.5 acres; Zoning District: Residential Growth (File #22-15-SD).

Ms. Brockman provided an overview of the staff report and explained that the only outstanding comment related to the language needed on the plat to allow the future relocation of an existing water line easement when the new West Virginia Water American waterline is installed.

The applicant's representative, Mike Wiley with Piedmont Design Group, explained the nature of the request to the Planning Commission and clarified the comment related to the new waterline.

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

Mr. Louthan made a motion to approve the request with the staff recommendation that the language related to abandoning a water line easement be addressed before the Final Plat is signed and recorded. Mr. Fisher seconded the motion, which carried unanimously.

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

**4. 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).
- f. Discuss and review Jefferson County Circuit Court Civil Action No. 2023-C-266 - Notice of Filing: Adam McDowell v. The Jefferson County Planning Commission (RE: PC File #23-3-SP – Shannondale Lake Telecommunication Tower).

Mr. Cochran provided an update for Items A and E under ‘Reports from Legal Counsel.’ He noted that Item A had been fully briefed and that they have moved for summary judgement and to dismiss the case. The trial is postponed indefinitely.

Mr. Cochran noted that Item E case was dismissed based on the Judge’s order and the approved settlement agreement. He also requested, per the WV Open Meetings Act, that the out of court settlement agreement be entered into the record of today’s meeting, as it is the next regular meeting following the action. Mr. Shepp then directed that the settlement agreement be placed in today’s meeting minutes.

Additionally, Mr. Cochran recommended that the Planning Commission go into Executive Session to obtain legal advice related to Item F on the agenda under ‘Reports from Legal Counsel.’

Mr. Shepp moved to go into Executive Session for the purpose of receiving legal advice on Item F under ‘Reports from Legal Counsel’ at 7:12 pm. Mr. Stolipher seconded the motion, which carried unanimously.

Mr. Louthan moved to go back into regular session at 7:21 pm. Mr. Fisher seconded the motion, which carried unanimously.

## **5. Planner’s Memo**

Ms. Brockman informed the Planning Commission that the Concept Plan for the Bakerton Monopole was withdrawn by the applicant.

Ms. Brockman also reminded the Planning Commission about the HEPMPO survey and the upcoming regular meeting on January 9, 2024 and the 3rd 2045 Comprehensive Plan Public Input Meeting on January 23, 2024 at Jefferson High School.

## **6. President’s Report**

### **7. Actionable Correspondence**

### **8. Non-Actionable Correspondence**

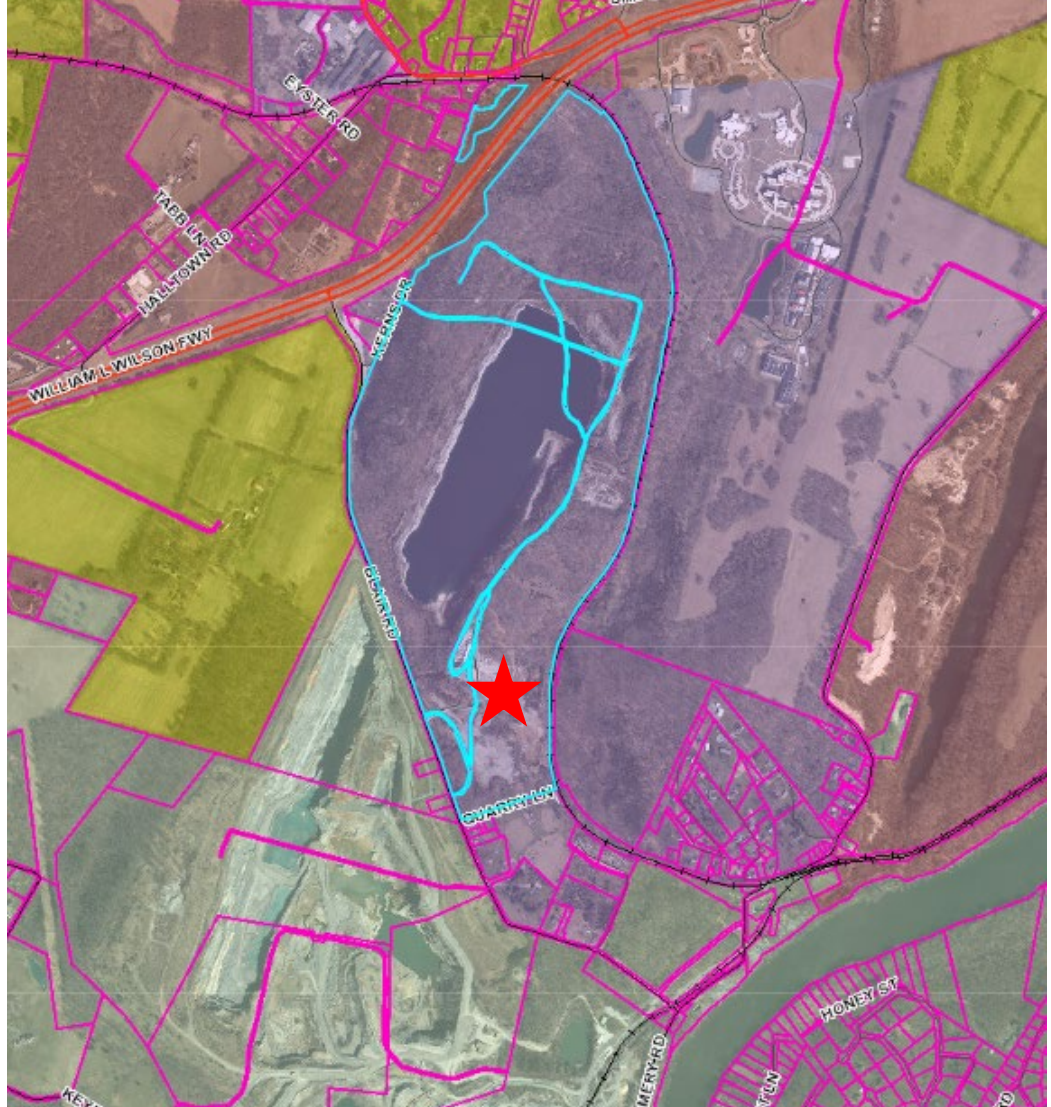
Mr. Hefestay made a motion to adjourn the meeting at 7:23 pm. Mr. Louthan seconded the motion, which carried unanimously.

These minutes were prepared by Michelle Evers, Planning Clerk.

Staff Report  
 Jefferson County Planning Commission Meeting  
 January 9, 2024

**Millville Quarry (Concept Plan) Waiver Request (File: 24-1-PCW)**

**Item #4:** Waiver from 20.203A.2a of the Jefferson County Subdivision and Land Development Regulations to waive the requirement of a Concept Plan for a proposed Asphalt Plant.

Owner/Applicant:	Millville Quarry, Inc.
Consultant:	P.J. Raco Consulting, LLC / Paul Raco
Parcel Information and Zoning District:	165 Bradstone Lane, Harpers Ferry; Portion of Parcel ID: 04001100220000; Size: 272.16 acres; Zoning District: Industrial Commercial
	
Surrounding Zoning:	<i>North:</i> Residential/Light Industrial/Commercial; <i>West:</i> Residential Growth/Rural; <i>South:</i> Industrial Commercial; <i>East:</i> Industrial Commercial
Proposed Activity	Construction of a new asphalt plant and associated stockpile on a 272+ acre parcel occupied by the Millville Quarry
Approvals:	12/14/23: BZA approved a variance request from Section 5.6B to reduce the distance requirement from 1,000' to 300' along the southern property line for this asphalt plant (File #23-38-ZV).

**Millville Quarry (Concept Plan) Waiver Request (File: 24-1-PCW)**

**Introduction and Summary of Request**

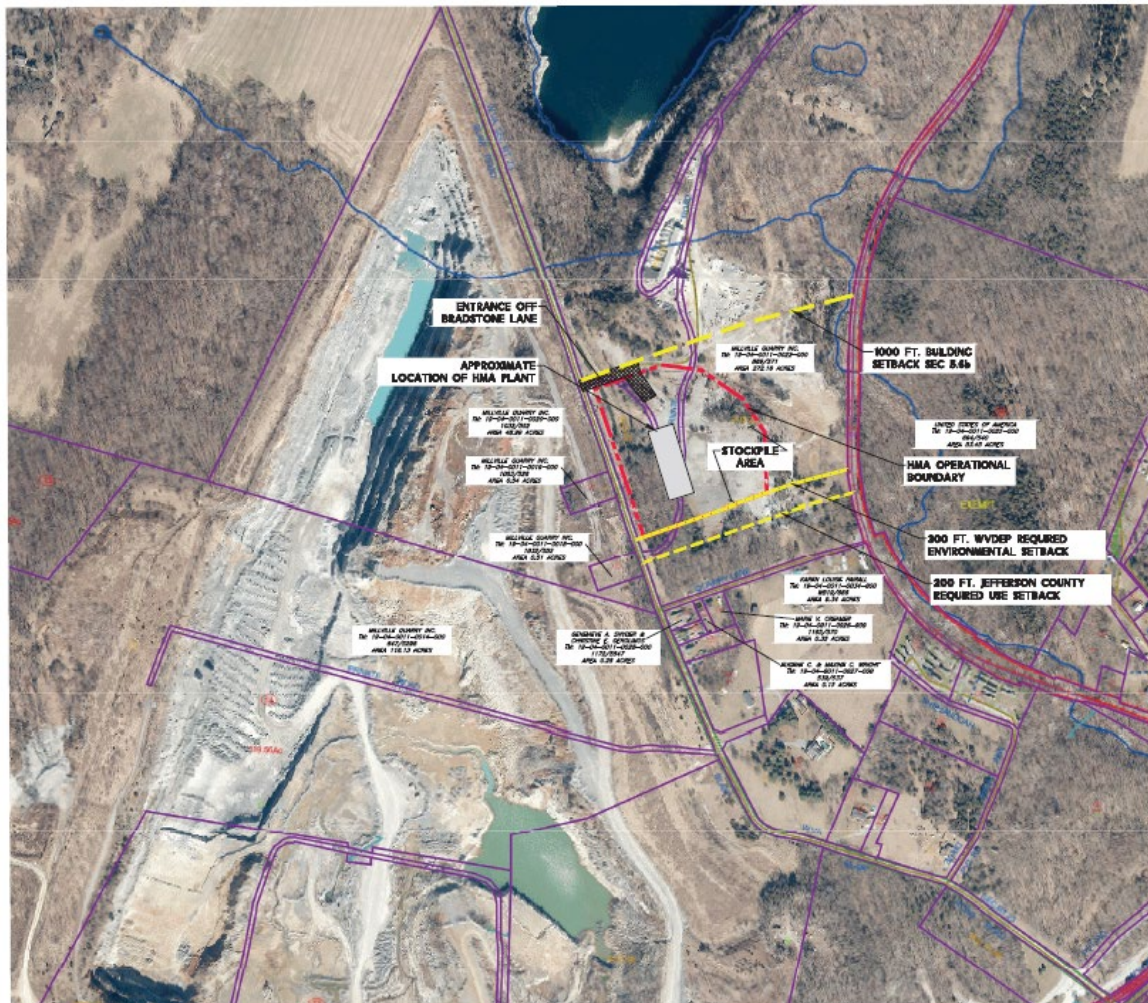
The applicant is requesting a waiver of the Concept Plan, which is required for a new Asphalt Plant that is proposed to replace an existing asphalt plant currently located on a neighboring Millville Quarry property. Exact dimensions of the asphalt facility and stockpile areas have not been determined but the estimated square footage of the proposed asphalt facility is 100,000 square feet. Including the stockpile areas, it is anticipated that approximately 300,000 square feet of area will be utilized in the proposed project.

Section 20.203A.2a of the Subdivision Regulations states that:

“Building(s), both new and additions to existing, where all new structures or new additions to structures located on the parcel total more than 5,000 and less than 250,000 square feet gross floor area (GFA) on any site shall:

- a. Process a concept plan with a public workshop and all remaining site plan review processes shall be administratively approved.”

Granting a waiver of the required Concept Plan will allow the applicant to advance to the required Site Plan, which will include documentation of meetings all state and local site development standards prior to approval.



**Millville Quarry (Concept Plan) Waiver Request (File: 24-1-PCW)**

**Background**

Deed research appears to indicate that the subject parcel was used for quarrying stone as early as 1908, when a portion of the property was leased to Blair Limestone Company (*DB 102 @ PG 18*). Subsequent deeds indicate that various entities subleased the property for quarrying purposes. The current property owner, Millville Quarry, Inc., purchased the property in 1998 (*DB 889 @ PG 271*).

In 2004, it was determined that a batch plant operation could be established on the subject parcel as an accessory use to the quarry operation. The property owner at the time was granted a variance to reduce the 1,000 sf distance requirement down to 200' along the western property line. The applicant subsequently processed a site plan (*File #S04-14*) and obtained a building permit/zoning certificate (*File #05-116*). Based on a site visit conducted by Zoning staff on December 6, 2023, it appears that the batch plant which was constructed in 2004 is still utilized (see staff photo below).

The applicant represents that the proposed asphalt plant will replace an existing, now outdated (though still operational), asphalt facility located on a separate parcel owned by Millville Quarry, Inc. Once the new facility is constructed, the applicant stated that the existing plant will be abandoned. The Board of Zoning Appeals has also approved a variance to reduce the distance requirement from 1,000' to 300' along the southern property line for this proposed asphalt plant.

Existing concrete batch plant located on subject parcel.  
Applicant states this plant is used to cast concrete pavers and other concrete products.



**Millville Quarry (Concept Plan) Waiver Request (File: 24-1-PCW)**

**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.

The applicant has addressed these criteria in their application and have noted that this waiver request provides public notice to the project and that the Site Plan will address all standards and requirements.

**Staff Comments/Recommendation**

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 or standards other than to waive the required Concept Plan and allow the applicant to proceed with the required Site Plan.

Staff recommends that it is reasonable to grant the waiver of a Concept Plan on this land that has been the site of an active quarry and related accessory uses and therefore disturbed over the decades. If approved, the applicant will then move forward with a Full Site Plan and all required permits and state and local approvals.



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

File #: 24-1-PCW  
 Mtg Date: 1/9/23  
 Date Rec'd: 12/19/23  
 Fees Paid: \$100  
 Staff Int: me  
 List of Adjoiners:

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

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

**Planning Commission Waiver Request**

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

**Property Owner Information**

Owner Name: \_\_\_\_\_  
 Business Name: Millville Quarry, Inc  
 Mailing Address: 6211 N Ann Arbor Road, Dundee, MI 48131  
 Phone Number: c/o Joe 540/450-0180 Email: kjknechtel@potesta.com

**Applicant Contact Information**

Applicant Name: Mike Thomas Same as owner:   
 Business Name: W-L Construction and Paving Inc  
 Mailing Address: 175 John J Thomas Way, Charles Town, WV 25414  
 Phone Number: c/o Joe 540/450-0180 Email: \_\_\_\_\_

**Consultant Information**

Name: Joe Knechtel, P.E.  
 Business Name: Potesta and Associates, Inc  
 Mailing Address: 15 S Braddock Street, Winchester, VA 22601  
 Phone Number: 540/450-0180 Email: kjknechtel@potesta.com

**Physical Property Details**

Physical Address: Corner of Bradstone Lane and Blair Road 165 Bradstone Lane Vacant Lot:   
 Tax District: Harpers Ferry District Map No: 11 Parcel No: 25425  
 Parcel Size: 272 +- Acres Deed Book: 889 Page No: 271  
 Zoning District: Industrial Commercial

**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 20.203A.2.a. Concept Plan

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

See Attached

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

See Attached

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

See Attached

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

See Attached

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

See Attached

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



11/17/2023

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.

1/9/2023

Public Hearing Date

12/26/2023

Date Placard Posted

12/20/2023

Date Adjoiners Mailed

**Planning Commission Determination**

Approved

Denied

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

Millville Quarry, Inc  
Blair Road and Bradstone Lane  
Request for Waiver  
Jefferson County Subdivision Ordinance  
Section 20.203A.2.a  
December 19, 2023

**Brief Description:**

The Applicant owns approximately 2000 acres in the Blair/Rt 340/Millville/Route 9 Area. This particular parcel is approximately 272 acres. These parcels have been used for Quarrying and various asphalt and concrete plants/facilities over the course of over 100 years. The Staff has traced leases on this property back to the early 20<sup>th</sup> Century. This request is to proceed with a Site Plan as indicated by Staff/Ordinance/PC. The ordinance appears to require a Concept Plan, and this is a request for a waiver of a Concept Plan. The proposal is to replace an existing Asphalt Plant on a neighboring Millville Quarry, Inc property with a new up to date asphalt plant on this parcel that is already occupied by a Concrete operation known as Bradstone. This Plant will meet all of the Current State requirements and will process approvals for all items typically required for at the Concept Plan Stage at the permitting and Site Plan Stage. The site has also been used in the past for temporary batch plants during the construction of various State Highway Projects including the new Route 9.

Typically, the Ordinance exempts industrial projects from Concept Plans if they are located in an existing Business/Industrial Park. In this case, the quarry and the operation of the subsidiary, accessory, and satellite industries/uses have been functioning in this area as one of the oldest Industrial areas in the County. The Comprehensive Plan recognizes this area as the Quarry and the Zoning Map particularly recognizes this parcel as Industrial/Commercial. The Applicant will be working with the County Engineering Staff to determine the applicable aspects of a Site Plan as the project moves forward. This specific location on this property has been bored in 5 different areas and the compacted aggregate is found to be between 18 and 44 inches thick, demonstrating that this area has been utilized as a part of the active industrial and accessory operations for years. The Applicant has already been through the DEP Permitting process for the Clean Air Permit and it has been granted.

Accordingly, the Applicant respectfully asks the Planning Commission to grant the Waiver to allow the relocation of the Asphalt Plant to continue without the Concept Plan since any necessary approvals will be obtained during the permitting process.

Millville Quarry, Inc  
W-L Construction and Paving  
Blair Road and Bradstone Lane  
Request for Waiver  
Jefferson County Subdivision Ordinance  
Section 20.203A.2.a  
December 19, 2023

**Four Criteria:**

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

This is a privately maintained property and the site pays considerable taxes and benefits to the State and County. The operation of Concrete and Asphalt Plants at the source of mineral extraction only makes sense from the logistic and services aspect of the operation. The County benefits from the traffic being concentrated in the area where the mineral extraction and operation of the quarry. Historically, this area has been for this use and accessory uses associated with quarrying. It has been recognized in the Comprehensive Plan as the area for a Quarry and the State Code protects the complete use of the natural resources associated with this operation. All necessary State and Local permits will be obtained.

The replacement of an older (approximately 50 years old) asphalt plant to current standards and up to date permits will benefit the area.

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

If the waiver is granted, it will have absolutely no adverse effect on public health, safety or welfare since the project will still need to comply with any applicable requirements of the state and local ordinances, including Division of Highways, Health Department and DEP approvals as applicable. Also, an up to date facility will be built to current standards which replaces the plant that was built to the previous standards existing decades ago.

The waiver will not adversely affect the neighbors since the use is a permitted use for this area. The Concept Plan is not a prohibitive step, and the purpose of a Concept Plan is still being fulfilled with the processing of necessary permits. The Comprehensive Plan and Future Land Use Map identifies this area for this type of use. Concept Plans are not normally required in areas approved for Industrial development and in Business Parks.

The facility was already approved for location in this area by the BZA from the standpoint of buffering and setbacks from neighboring properties.

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

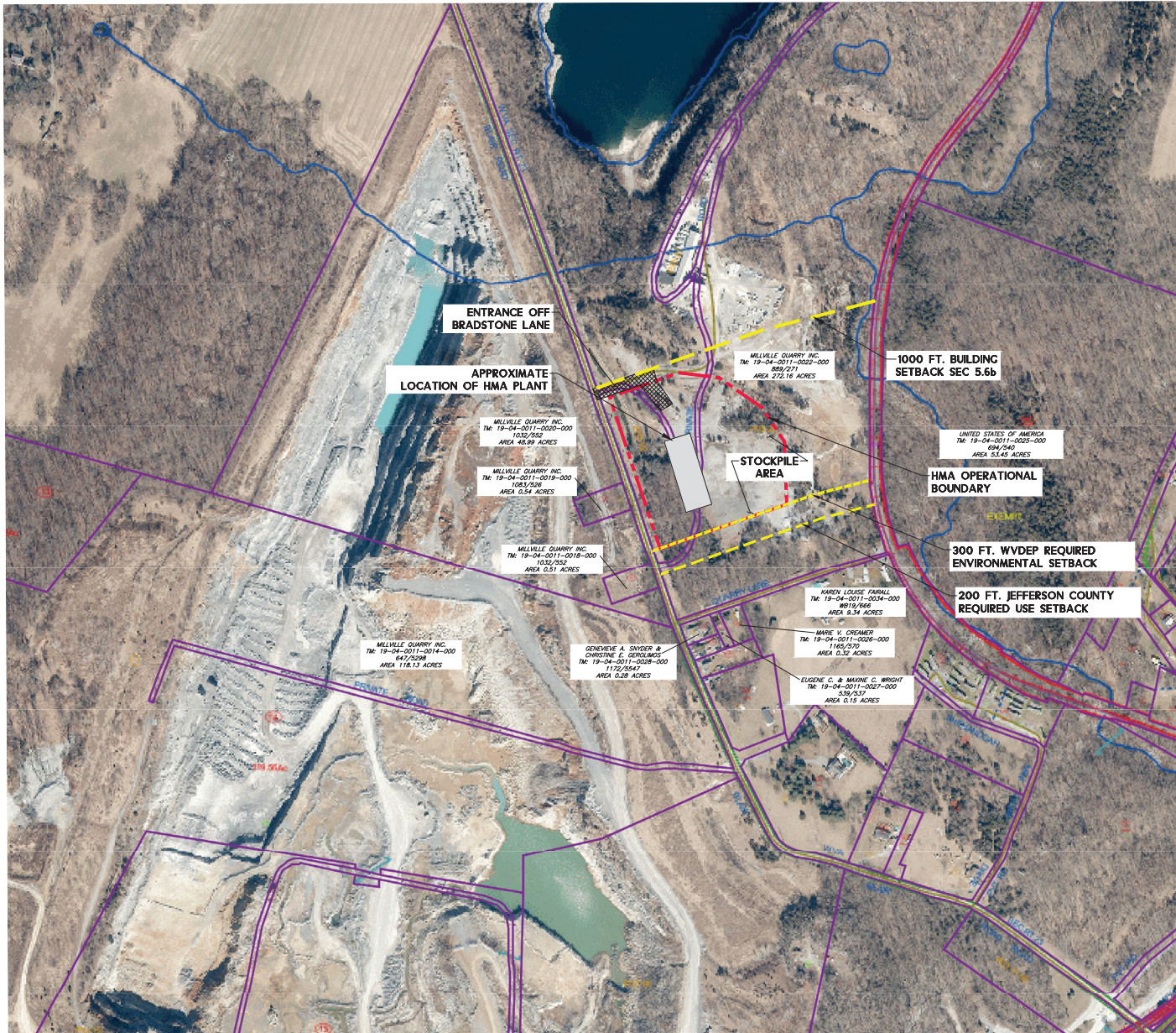
*The purpose of the Concept Plan is to ensure potential compliance with he regulations and notification to the adjoining property owners and agencies. The Applicant has already received the DEP Clean Air Permit and the site was posted for this application and the BZA application. The Ordinance and Comprehensive Plan permit the use and any site plan standards that need to be met will be met or altered by the Staff or Commission. So, the intent is preserved with the waiver of a Concept Plan. This is especially true, since this is a recognized industrial area of the County, and an existing Asphalt Plant is being decommissioned in favor of this new plant in the same general area. Furthermore, the operation of concrete and asphalt facilities have been long found in this area of the quarrying facilities including asphalt batch plants and other concrete operations. This is the logical place for these facilities.*

As such, the Applicant believes that the Intent and Purpose of the Ordinance supports the waiver since the Ordinances already allows this facility to process and locate on the site. And that the Comprehensive Plan endorses this area for quarrying and accessory or redevelopment uses.

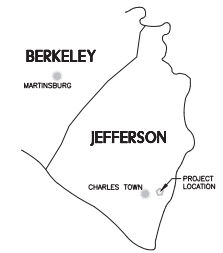
4. *Explain how the waiver, if granted, will result in a project of better quality and/or character;*

The development will be at least the same quality because it will be the same applicant and owner utilizing the newer regulations to relocate the existing asphalt plant to this property. The location of concrete and asphalt operations in the neighborhood of quarrying operations makes sense for the County since it concentrates the uses in an area already recognized for quarrying in the Comprehensive Plan and the State Code allows for these uses and the location of satellite manufacturing and industrial operations in the County where they existed. As stated earlier, the Staff traced leases back to the early 20<sup>th</sup> century for this property for these uses.

Based on the above, the Applicant respectfully requests that the Planning Commission grant the waiver to allow the waiver. Thank you.



No.	Date	Eng.	Revision



SKETCH PLAT CAD File No.	POTESTA A
NOTED	Down
CHECKED	POTESTA
APPROVED	POTESTA
DATE	OCTOBER 2023
PROJECT NO.	23-0305

**POTESTA & ASSOCIATES, INC.**  
 ENGINEERS AND ENVIRONMENTAL CONSULTANTS  
 16 South Braddock St., Winchester, VA 28081  
 TEL: 540-339-9999 FAX: 540-339-9999  
 WWW.POTESTA.COM

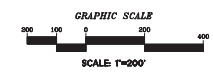


**SOUTHERN WEST VIRGINIA ASPHALT, INC.**  
 2850 CHARLES AVE  
 DUNBAR, WEST VA 25064

**PPC SKETCH PLAT  
 HOT MIX ASPHALT PLANT RELOCATION  
 JEFFERSON CO., WEST VIRGINIA**

**1**  
 Drawing No.

**ISSUE DATE: 11/13/2023**



**SKETCH PLAT**

THE INFORMATION CONTAINED HEREIN IS THE PROPERTY OF POTESTA & ASSOCIATES, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.

Location 1 18 inches:



Location 2 28 inches:



Location 3 44 inches:



Location 4 21 inches:



Location 5 20 inches:



12:49

Safari

5GE



Flowing Springs Run

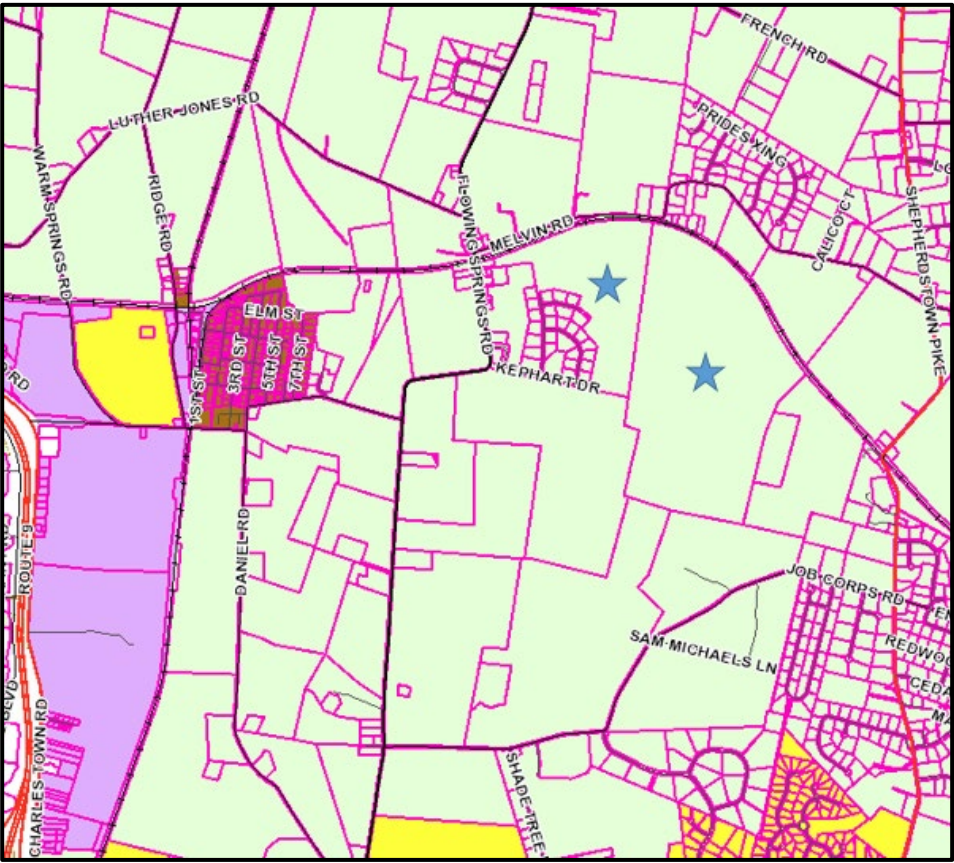




**Staff Report**  
 Jefferson County Planning Commission Meeting  
 January 9, 2024

**Arcadia Land, Inc. (Harvest Hills S/D) Rezoning Request (23-5-Z)**

**Item # 5: Discussion and Action:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Rural (R) to Residential Growth (RG) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Property Owner/ Applicant:	Arcadia Land, Inc.
Consultant:	Greenway Engineering, Inc. / Attn: Dan Murphy
Parcel Information:	<p>Vacant Parcels; located at east of the intersection of Flowing Springs Rd and Brass Harness Drive Shenandoah Junction, WV                  Tax District: Shepherdstown (09), Map: 24, Parcels: 12 &amp; 13                  Acreage: 94.63 ac. &amp; 257.62 ac.; Zoning District: Rural</p> 
Surrounding Properties:	North, South, East, West: Rural
Current Use:	Residential Subdivision and vacant land
Proposed Request	To rezone the total 352.25 acres from Rural to Residential Growth (RG)
Planning Commission Responsibility:	To advise the County Commission whether the requested Zoning Map Amendment is consistent with the <i>Envision Jefferson 2035 Comprehensive Plan</i> .
Staff Finding:	Staff finds that request is consistent with the <i>Envision Jefferson 2035 Comprehensive Plan</i> Future Land Use Guide

**Staff Report**  
 Jefferson County Planning Commission Meeting  
 January 9, 2024

**Arcadia Land, Inc. (Harvest Hills S/D) Rezoning Request (23-5-Z)**

Previous Approvals/History:	
PC File # 98-12; Lots 1-27	<ul style="list-style-type: none"> <li>• Original Harvest Hills processed as Cluster</li> <li>• 3/22/00: Final Plat @ PB17/PG45-45B</li> <li>• Approved and Constructed</li> </ul>
PC File #Z00-06 Conditional Use Permit	<ul style="list-style-type: none"> <li>• CUP for 392 SF lots, 23 Ac school site, 2 Ac church site, 141 Ac open space, move train station</li> <li>• 5/22/01: Approved by Planning Commission with conditions</li> </ul>
Community Impact Statement	<ul style="list-style-type: none"> <li>• 1/8/02: CIS accepted by the Planning Commission 1/8/02</li> <li>• 1/13/04: CUP/CIS reinstated by Planning Commission with extended deadlines of 567 days with a new expiration date of July 13, 2005</li> </ul>
PC File # 01-42; Section 1, Phase 1 Lots A, B, and 28-50	<ul style="list-style-type: none"> <li>• 12/8/06: Final Plat Recorded @ PB23/PG78-78E [23 lots, church lot (Lot A), school lot (Lot B)]</li> <li>• 9/23/08: Plat of Correction and Merger Plat Recorded @ PB25/PG70-70G</li> <li>• 5/31/07: Plat of Correction Recorded @ PB24/PG20-20E</li> <li>• NOTE: 21.82 acres dedicated to Parks in 2008 (originally planned as a school site)</li> <li>• Not constructed; Original bond tolled by County Commission</li> </ul>
PC File #07-01; Phase 2, Section 1 Lots 51-71 & 405-419	<ul style="list-style-type: none"> <li>• 2/18/10: Final Plat Recorded @ PB25/PG198-198H [(36 lots and residue)]</li> </ul>
PC File #12-02; Phase 2 Section 2 Lots 72-80, 131 & 393-404 8.8428 acres	<ul style="list-style-type: none"> <li>• 4/24/12: Final Plat Approved by PC 4/24/12 with conditions:                             <ol style="list-style-type: none"> <li>1) No construction would commence and no sale of lots platted in this phase to any outside entities will be allowed until the tolled bond for Phase II, Section 1 and also for this phase has been posted.</li> <li>2) A merger deed will be submitted to the Engineering Department for the lots being final platted to allow for the lots of this phase to be merged for this phase and the previous phase to be merged if the applicant defaults on the tolling agreement.</li> </ol> </li> <li>• Not recorded or bonded</li> </ul>
	<ul style="list-style-type: none"> <li>• Approximately 326 acres remaining unplatted</li> </ul>

**Applicant's Request**

The applicant is requesting to rezone approximately 352.25 acres from Rural (R) to Residential Growth (RG). The subject parcels are part of an approved residential subdivision. A Conditional Use Permit was approved on May 22, 2001 to allow a major subdivision (Harvest Hills) comprised of 392 single family. The density was vested by virtue of recordation of two final plats - Phase 1, Section 1 and Phase II Section 1. The developer has determined that based on market demands, they would like to re-design the layout of the approved subdivision. A redesign of the subdivision under the current approval would necessitate modification to the Conditional Use Permit; however, a rezoning would allow the redesign to occur by right, in accordance with the current Subdivision Regulations.

**Neighboring Uses**

The property under consideration for this Zoning Map Amendment is bounded on the north by the CSX Railroad and surrounded by a combination of residential, agricultural, and non-residential uses:

**Staff Report**  
Jefferson County Planning Commission Meeting  
January 9, 2024

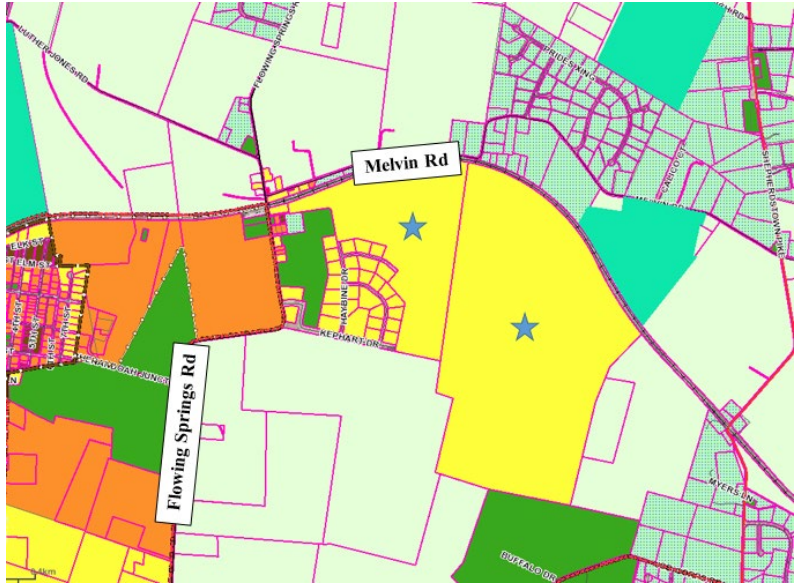
**Arcadia Land, Inc. (Harvest Hills S/D) Rezoning Request (23-5-Z)**

- The original 27 lots developed under the Cluster provisions and 21.82 acres donated to the Jefferson County Parks and Recreation Commission are to the west.
- U.S. Harpers Ferry Job Corps Civilian Conservation Center career training facility is located to the south.

**Scope of this Assessment**

This report focuses on whether or not the Zoning Map Amendment application is consistent with the *Envision Jefferson 2035 Comprehensive Plan* and provides a staff recommendation for the Planning Commission’s consideration based on relevant sections and elements of the *Plan*.

Staff’s professional recommendation is that the request is **consistent** with the *2035 Plan* because it is shown as future “Low Density Residential” on the Future Land Use Guide. The current zoning permits agricultural and rural cluster density residential land uses; however, the approved Conditional Use Permit is approved for up to 392 detached single family dwelling units. The owner-



initiated rezoning to Residential Growth (RG) would allow for a variety of residential land uses such as single family dwellings, two family dwellings, townhome units, and/or multi-family dwellings.

It should be noted that Staff has no statutory authority to make decisions in this regard. The Planning Commission is required to provide the County Commission with their advice as to whether the request is consistent with the *Comprehensive Plan* prior to the County Commission’s Public Hearing. The County Commission, with the recommendation of the Planning Commission, has the authority to approve or deny a zoning map amendment.

**Zoning Map Amendment Public Hearing Process**

Article 12 of the Zoning Ordinance requires that the “procedure for amendment [by petition] shall be as dictated in Section 8A-7-9 et seq of the West Virginia State Code as amended.” Regarding amendments by petition, State statute provides that, “Before amending the zoning ordinance, the governing body with the advice of the planning commission must find that the amendment is consistent with the adopted comprehensive plan.” [See WVC 8A-7-9(c)].

**Relevant *Envision Jefferson 2035 Comprehensive Plan* Elements and Commentary**

The *Envision Jefferson 2035 Comprehensive Plan* consists of both goals and recommendations in text format, as well as a Future Land Use Guide, both of which are relevant to this analysis. Page number references throughout this report relate to the *Envision Jefferson 2035 Comprehensive Plan*.

**1. Land Use and Growth Management Element / Future Land Use Guide**

One of the key concepts that the Land Use and Growth Management Element of the *2035 Plan* addresses is how to better influence the location of new development within Jefferson County. As the cost of providing services and utilities increases, many communities similar to Jefferson County have come to the realization that it is more sensible to identify specific areas that can handle development and growth, and to focus

**Staff Report**  
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January 9, 2024

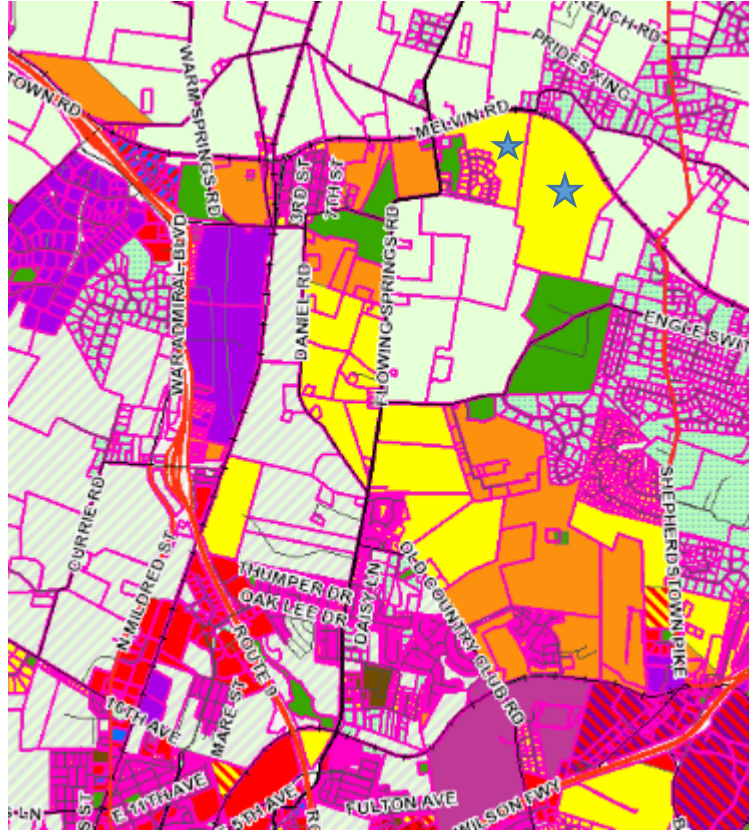
**Arcadia Land, Inc. (Harvest Hills S/D) Rezoning Request (23-5-Z)**

infrastructure and community service investments in these areas. In Jefferson County, there are four area types that are identified as part of *Envision Jefferson 2035 Plan* (pp.16-17).

The land use area types include Urban Growth Boundaries (UGB) and Preferred Growth Areas (PGA), which are the sections of Jefferson County where urban scale development is to be targeted over the planning horizon of the *2035 Plan*; and Rural/Agricultural Areas and Villages, where limited development is possible but is not intended for urban-scale development (p. 17).

The subject parcel is not located within any of the County’s identified Preferred Growth Areas (PGA); however, it is shown on the Future Land Use Guide as Low Density Residential. This future land use category reflected the approved Conditional Use Permit with the expectation that it would develop as planned under the approved CUP, as the most recent Final Plat had processed in 2012.

The *2035 Plan* clearly discusses the retention of the existing zoning map classifications and states that no zoning map amendments (rezoning requests) or reductions in existing zoning rights were being proposed by the County. While not mentioned explicitly, any approved Conditional Use Permits that were still active were also shown on the Future Land Use Guide in accordance with that approval.



**2. Appendix G - Land Use Map Classifications (p. 235-239)**

The property that is a part of this Zoning Map Amendment request is shown on the Future Land Use Guide as Future “Low Density Residential”. Appendix G of the 2035 Plan provides a detailed explanation of the Land Use Map Classifications utilized on the Existing Land Use Map and Future Land Use Guide which are intended to provide guidance to the Planning and County Commissions when considering owner-initiated zoning map amendments (rezoning requests). It further notes that while some of the land use classifications may require new zoning categories, the land uses were not intended to be a comprehensive list of possible zoning districts.

Appendix G of the 2035 Plan states that the “Low Density Residential” land use category is a land use category which anticipates “land occupied by a single family residential development, with a density of one unit per acre to 2.99 units per acre. Lots in this category may be served by either on-site well and septic systems or a public water and sewer system as the number of units per acre increases” (p.235).

As the current Jefferson County Zoning Ordinance does not include a variety of zoning categories which anticipate certain residential densities, Residential Growth is a category that would permit Low Density Residential land uses.

**Staff Report**  
Jefferson County Planning Commission Meeting  
January 9, 2024

**Arcadia Land, Inc. (Harvest Hills S/D) Rezoning Request (23-5-Z)**

**3. Proposed Zoning District – Residential Growth (RG)**

The purpose of the Residential Growth (RG) District (Section 5.4 of the Zoning Ordinance) is “to provide for a variety of residential uses and densities which can be supported by central or public water and sewer and adequate roadways and services” (complete description attached).

As noted previously, the subject parcel is designated as Low Density Residential on the Future Land Use Guide of the *2035 Plan*. Note that while the applicants have submitted an exhibit with their Zoning Map Amendment request, this has not yet been evaluated by staff for conformance with the zoning and subdivision requirements but serves as an example of how the land could be developed under this zoning category.

**Staff Discussion and Recommendation**

This property has been zoned Rural since zoning went into to effect in 1988; however under the previous Zoning Ordinance, this property received approval for a Conditional Use Permit (CUP) that would allow the development of these parcels at suburban residential subdivision densities into up to 392 single family lots. In order to proceed with this CUP, public water and sanitary sewer was required.

After the adoption of the *2035 Plan*, based on the recommendations of the *Plan*, the County Commission approved a text amendment eliminating the use of the Land Evaluation Site Assessment (LESA) system and modifying the CUP process so that it could not be used for future residential development projects in the Rural Zoning District. The *2035 Plan* was the first Jefferson County Comprehensive Plan to include a Future Land Use Map/Guide, which is intended to be a tool to provide a visual definition of future growth and areas where potential owner initiated zoning map amendments (rezoning requests) might occur within the timeframe of the *Plan*. The *2035 Plan* stated that “by creating a Future Land Use Map/Guide, a community provides clarification for property owners related to their potential development on their site. The review of all zoning map amendment requests shall include consideration of all of the recommendations created as part of this Plan. All zoning map amendments shall be in conformance with the Future Land Use Guide and the recommendations of this Plan.”(pp. 16-17).

Based on these recommendations of the *2035 Plan* related to the Future Land Use Map/Guide, staff finds that the proposed Residential Growth (RG) zoning category for the 352 acres included in this application is **consistent** with the *Envision Jefferson 2035 Comprehensive Plan*.

**Planning Commission Action Required**

Article 12 of the Zoning Ordinance and the relevant sections of WV State Code requires the County Commission to refer rezoning petitions to the Planning Commission for their review and recommendation as to whether the amendment is consistent with the adopted Comprehensive Plan. Such recommendation is required to be sent to the County Commission prior to the County Commission’s public hearing which shall be held within 60 days of the date the petition is presented.

The petition was presented to the County Commission on January 4, 2024 and the required Public Hearing has been scheduled on February 1, 2024 at 11:00 am. Therefore, the Planning Commission is required to review this application and make a recommendation to the County Commission prior to this Hearing.

**Attachments:**

- Section 5.4 of the Zoning Ordinance - Residential Growth (RG)
- Appendix C of the Zoning Ordinance





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

File #: 23-5-Z  
 Date Rec'd: 12/18/23  
 Fees Paid: \$18,650/06-26-23  
 Staff Int: AB

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

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

**Zoning Map Amendment (Rezoning)**

Pursuant to Article 12, a Zoning Map Amendment is a procedure to amend the official Zoning Map of the County by changing the zoning designation of a property. In order for a proposed amendment to be approved, the County Commission, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of 8A-7-8 et seq of the WV State Code.

**Property Owner Information**

Owner Name: Arcadia Land, Inc  
 Business Name: Arcadia Land, Inc  
 Mailing Address: 108 N. George Street 2nd Floor, Charles Town WV 25414  
 Phone Number: (443)286-2786 Email: \_\_\_\_\_

**Applicant Contact Information**

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

**Consultant Information**

Name: Dan Murphy, CFM  
 Business Name: Greenway Engineering, Inc  
 Mailing Address: 704 Foxcroft Avenue, Martinsburg WV 25401  
 Phone Number: (540) 486-3708 Email: dmurphy@greenwayeng.com

**Physical Property Details**

Physical Address: Off Kephart Drive, Shenandoah Junction WV, 25442 Vacant Lot:   
 Tax District: 9 - Shepherdstown Map No: 24 Parcel No: 12 & 13  
 Parcel Size: 94.63 ac ; 257.62 ac Deed Book: 1163 ; 1173 Page No: 351 ; 85

**Current Zoning District**

Rural

**Proposed Zoning District**

Residential Growth

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**Substantiation for the Request**

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For a Zoning Map Amendment (rezoning) request, the "burden of proof" is on the applicant to show why the proposed zoning is more appropriate than the existing zoning. Accordingly, please explain how the following factors support your proposal.

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Describe your proposed use/project and describe why this Zoning Map Amendment is necessary for the proposed use (and/or project) described.

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See attached Zoning Map Amendment Justification

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Describe how this Zoning Map Amendment will be consistent with the objectives and policies of the Comprehensive Plan.

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See attached Zoning Map Amendment Justification

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Discuss any change(s) of transportation characteristics (i.e. type and frequency of traffic, adequacy of existing transportation routes), and neighborhood characteristics from when the original Ordinance was adopted.

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See attached Zoning Map Amendment Justification

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A plat or sketch shall include the entire original parcel as it appeared on the date this Ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg. 1" = 50', 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational areas, streets, building areas, and other features in relation to each other and to the tract boundaries. Contour lines, as shown on the appropriate U.S.G.S. Topographic Quadrangle Map or other data source approved by the Department, should be superimposed on the sketch plan. The source of all contour lines shall be noted on the plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes, and quarries shall be delineated.

---

The information given is correct to the best of my knowledge

*GARY J. ENDLER* 12/18/2023

Property Owner Signature\*

Date

Property Owner Signature\*

Date

\*The **original** signature of the property owner is required. A copy of the signature will not be accepted.

A complete petition, and related fees, shall be submitted to the Office of Planning and Zoning for placement on the Planning Commission agenda at least two (2) weeks prior to the meeting date at which the petition will be presented. A copy of the application shall be submitted to the County Commission Office for inclusion on the County Commission Agenda at least one week prior to the County Commission meeting date.

# REQUEST FOR ZONING MAP AMENDMENT

## HARVEST HILLS SUBDIVISION, PHASE II

RURAL DISTRICT (R) TO  
RESIDENTIAL GROWTH (RG)



Jefferson County, West Virginia  
Shepherdstown District (09)  
Tax Map 24, Parcel(s) 12 & 13  
Deed Book 1163, 1173  
Deed Page 351, 85

June 23, 2023

Current Owner: Arcadia Land, Inc.  
Contact Person: Brooke Perry  
Planning Manager, WV  
Greenway Engineering, Inc.  
704 Foxcroft Ave.  
Martinsburg, WV 25401

June 23, 2023

Jefferson County  
Office of Planning and Zoning  
116 E. Washington Street, 2<sup>nd</sup> Floor  
Charlestown, WV 25414

Re: **Harvest Hills Subdivision, Phase II - Arcadia Land, Inc.**  
Zoning Map Amendment Request  
(R) Rural to (RG) Residential Growth

Dear Commissioners:

This report has been prepared on behalf of Arcadia Land, Inc. for the formal request of a Zoning Map Amendment (rezoning) regarding the subject parcels owned by Arcadia Land, Inc. and identified as District 9, Tax Map 24, Parcel(s) 12 & 13. The subject parcels are located at the terminus of Kephart Drive, off Flowing Springs Road (Rt. 17), approximately 0.5 miles north of the intersection of Shenandoah Junction Road (Rt. 20) and Flowing Springs Road (Rt. 17). A boundary survey was conducted by Greenway Engineering, Inc. that determined Parcel 12 & 13's acreages to be 94.63 acres and 257.62 acres respectively, for a total of 352.25 acres. This acreage is to be utilized for Phase II of the Harvest Hills Subdivision. Greenway is currently preparing a Merger Plat of the two parcels.

Currently, the subject parcels are both zoned Rural (R). The Owner proposes to rezone the entire 352.25± acres (94.63 & 257.62) to Residential Growth (RG), to allow for the highest and best use of the parcels as Phase II of the Harvest Hills Subdivision.

The following analysis has been organized into two (2) sections: (1) Project Summary, and (2) Substantiation for the Request. Supplemental documentation including a concept plan, survey plat, deeds, and select preferred growth area maps are also included to provide the Planning Commission with full and complete information for their consideration.

The applicant has made every effort to comply with the ordinances of Jefferson County, and to submit the most thorough application possible, with the hope that staff and the Jefferson County Planning Commission will look favorably on this application. Thank you for your consideration of this matter. Please review this information and contact me if you have any questions or need additional information regarding this matter.

Sincerely,



Brooke Perry  
Planning Manager, WV  
Greenway Engineering, Inc.  
[bperry@greenwayeng.com](mailto:bperry@greenwayeng.com)  
(304)620-5111 x103  
304-620-5546

## I. PROJECT SUMMARY

Phase II of the Harvest Hills Subdivision is being developed to provide lot sizes more attuned to current market demands, with a wider variety of residential products. This will include single family lots of several different sizes, attached and detached Villas, and Townhomes. In addition to proposing a wide range of products, the developer is proposing to provide multiple recreational spaces to serve Phase II as well as the existing residents, and improve the overall quality of life for all residents of Harvest Hills Subdivision. Additional Park Area of 21.8174 acres was dedicated to Jefferson County during Phase I of Harvest Hills Subdivision.

## II. SUBSTANTIATION FOR THE REQUEST

**Describe your proposed use/project and describe why this Zoning Map Amendment is necessary for the proposed use (and/or project) described.**

The subject parcels are located at the terminus of Kephart Drive, off Flowing Springs Road (Rt. 17), approximately 0.5 miles north of the intersection of Shenandoah Junction Road (Rt. 20) and Flowing Springs Road (Rt. 17). The parcels are shown as future “Low Density Residential” on the Future Land Use Guide. The current zoning of Rural (R) permits agricultural and rural cluster density residential land uses. The rezoning to Residential Growth (RG) would allow for a variety of residential land uses such as single family (SFD), townhouses (SFA), and/or two family dwellings (SFA/Duplex). This rezoning request is consistent with the intent of the *Envision Jefferson 2035 Comprehensive Plan*.

**Describe how this Zoning Map Amendment will be consistent with the objectives and policies of the Comprehensive Plan.**

Preferred Growth Areas - (Page 23, *Envision Jefferson 2035 Comprehensive Plan*)

PGA (f) - Shenandoah Junction PGA/School Based Growth Area of the Section listed above states, “*Considerable input was received as to the desirability of siting schools in locations that are walkable and/or bikeable to the neighborhoods that the school serves. This PGA allows the development of such walkable neighborhoods around schools that currently exist. Planning growth around existing schools decreases bus and vehicular traffic and allows for connectivity including walking and biking trails. The recommended land uses in this area include Medium Density Residential around the schools which should be in a pattern and scale compatible with the village of Shenandoah Junction, transitioning to Low Density Residential abutting the Rural/Agricultural land uses.*”. A map of the Shenandoah Junction PGA/School Based Growth Area is attached to this application for reference.

Section I of Harvest Hills Subdivision adjoins the Shenandoah Junction/Schools Preferred Growth Area boundary at its frontage, along Flowing Springs Road (Rt. 17).

PGA (g) - Residential Preferred Growth Area of the Section listed above states, “*Based on comments received during the Envision Jefferson 2035 public input process, it was determined that it is important to denote the areas where a concentration of existing or approved residential development currently exists but may be not be fully developed and is outside of the Urban Growth Boundary (UGB). One such residential area exists that consists of properties currently zoned for Residential Growth (RG) or which have a vested development right to develop at a low density or medium density residential rate. This core residential area, bounded by Old Country Club Road, Flowing Springs Road, Job Corps Road, Shepherdstown Pike (WV 230) to the railroad tracks, is depicted by a Preferred Growth Area boundary, but is compromised only of future large lot, low density, and medium density residential uses. It is anticipated that this will be a*

*primarily detached single family suburban housing area.*” A map of the Residential PGA is attached to this application for reference.

The subject parcels are both located just north of the Residential Preferred Growth Area boundary.

The Section goes on to state, *“Outside of this residential PGA, other properties zoned RG or with vested residential rights based on a subdivision approval are also shown on the Future Land Use Guide as future low or medium density residential (depending on the scale of development as part of an individual project) to reflect the future build out of various neighborhoods.”*

The Harvest Hill Subdivision is one of the properties referenced above *“with vested residential rights based on a subdivision approval”*.

Future Land Use Guide - (Pages 26 & 235, *Envision Jefferson 2035 Comprehensive Plan*)

The parcels that are part of this Zoning Map Amendment request are shown on the Future Land Use Guide as Future “Low Density Residential”. Appendix G of the *Comprehensive Plan* provides a detailed explanation of the Land Use Map Classifications utilized on the Existing Land Use Map and Future Land Use Guide, which are intended to provide guidance to the Planning and County Commissions when considering owner-initiated zoning map amendments (rezoning requests). It further notes that while some of the land use classifications may require new zoning categories, the land uses were not intended to be a comprehensive list of possible zoning districts.

Appendix G - Land Use Map Classifications of the *Envision Jefferson 2035 Comprehensive Plan* states that the “Low Density Residential” land use category is a land use category which anticipates *“land occupied by a single family residential development, with a density of one unit per acre to 2.99 units per acre. Lots in this category may be served by either onsite well and septic systems or a public water and sewer system as the number of units per acre increases”*. As the current Jefferson County Zoning Ordinance does not include a variety of zoning categories which anticipate certain residential densities, Residential Growth (RG) is a category that would permit Low Density Residential land uses.

Under the previous Zoning Ordinance, the subject parcels, as well as multiple properties to the south, received approval for Conditional Use Permits (CUPs) that allowed the development of these properties at suburban residential subdivision densities. Market conditions at the time were no longer conducive to Harvest Hills Subdivision moving forward with the Phase II design under the approved CUP. After the adoption of the *2035 Plan*, the County Commission approved a text amendment eliminating the use of the Land Evaluation Site Assessment (LESA) system and modifying the CUP process so that it could not be used for future residential development projects in the Rural Zoning District.

The *2035 Plan* was the first Jefferson County Comprehensive Plan to include a Future Land Use Guide, which is intended to be a tool to provide a visual definition of future growth and areas where potential owner initiated zoning map amendments (rezoning requests) might occur within the timeframe of the *2023 Plan*. The *2035 Plan* states that *“by creating a Future Land Use Map/ Guide, a community provides clarification for property owners related to their potential development on their site. The review of all zoning map amendment requests shall include consideration of all of the recommendations created as part of this Plan. All zoning map amendments shall be in conformance with the Future Land Use Guide and the recommendations of this Plan.”*

Urban Level Development Recommendations - (Page 30, *Envision Jefferson 2035 Comprehensive Plan*)

Division (2) of the table listed above states, “Recognize that the County Commission has the authority to make land use decisions including Zoning Map Amendments based upon the finding of consistency with the Future Land Use Guide and the recommendations of this Plan; the County commission may determine that petitions or decisions for zoning map amendments are consistent with the Comprehensive Plan if any of the following conditions are met after the entire Plan is taken into consideration:

- a. *Economic Well-Being of the County; or*
- b. *Error or Under Scrutinized Property on the Future Land Use Guide; or*
- c. *Change in Neighborhood; or*
- d. *Any Other Circumstance that the Governing Body determines should have been considered when drafting the Future Land Use Guide; and/or*
- e. *Environmental impacts are considered.”*

This request meets the following conditions:

- a. **Economic Well Being** - Residential Land Use in Jefferson County has not met the comprehensive plans growth projections of 0.95% per year. The rate is 0.55% as of 2019. The lack of residential growth has impacted the strength of the local economy. While there are pockets of residential activity, the County is not benefiting from a robust residential economy. Expanding the potential unit count for Harvest Hills Subdivision, Phase II from 392 lots allowed under (R) Rural zoning, to the proposed 1,027 allowed under (RG) Residential Growth zoning, will greatly expand residential activity, and therefore the local economy.
- b. **Future Land Use Guide** - Low Density Residential is identified as the appropriate use of the property by the comprehensive plan. The proposed Residential Growth zoning district is consistent with this recommended future land use.

**Discuss any change(s) of transportation characteristics (i.e. type and frequency of traffic, adequacy of existing transportation routes), and neighborhood characteristics from when the original Ordinance was adopted.**

The Original Zoning Ordinance was adopted on July 7, 1988. Changes in the immediate area of the properties include the following:

**Schools** - There are two (2) schools located within 2 miles of the property which did not exist at the time the original Ordinance was adopted: Wildwood Middle School and Driswood Elementary School.

**Surrounding Development** - The property is located in near proximity to Sam Michaels Park, which includes a community center, pavilions, dog park, outdoor amphitheater, and ball fields. The Aspen Green subdivision is located approximately 2 miles south along Flowing Springs Road (Rt. 17), and has a total build out of 205 lots. Potomac Towne Center is located 3.5 miles from the property and did not exist when the original Ordinance was adopted. The previously approved Daniel Subdivision and Breckenridge East Subdivision have each voided their plans (expired). These developments were located south of the subject parcels along Flowing Spring Road (Rt. 17) and Old Country Club Road respectively, before the intersection of Rt. 17 and Rt. 9.

**Transportation** - Route 9 was expanded to a 4-lane divided highway, providing a high-capacity road corridor between Jefferson County and Interstate 81. Harvest Hills Subdivision is within 4 miles of the

intersection between Flowing Springs Road and WV Route 9, and within 3.5 miles of the Route 9 signalized intersection at Potomac Towne Center.

An entrance permit from the West Virginia Division of Highways (WVDOH) will be needed for improvements to the connection of Elk Street to Flowing Springs Road (Rt. 17). Obtaining an entrance permit requires review by the WVDOH to ensure that safe and adequate access can be provided. It is anticipated that improvements to the intersection will be requested by WVDOH.

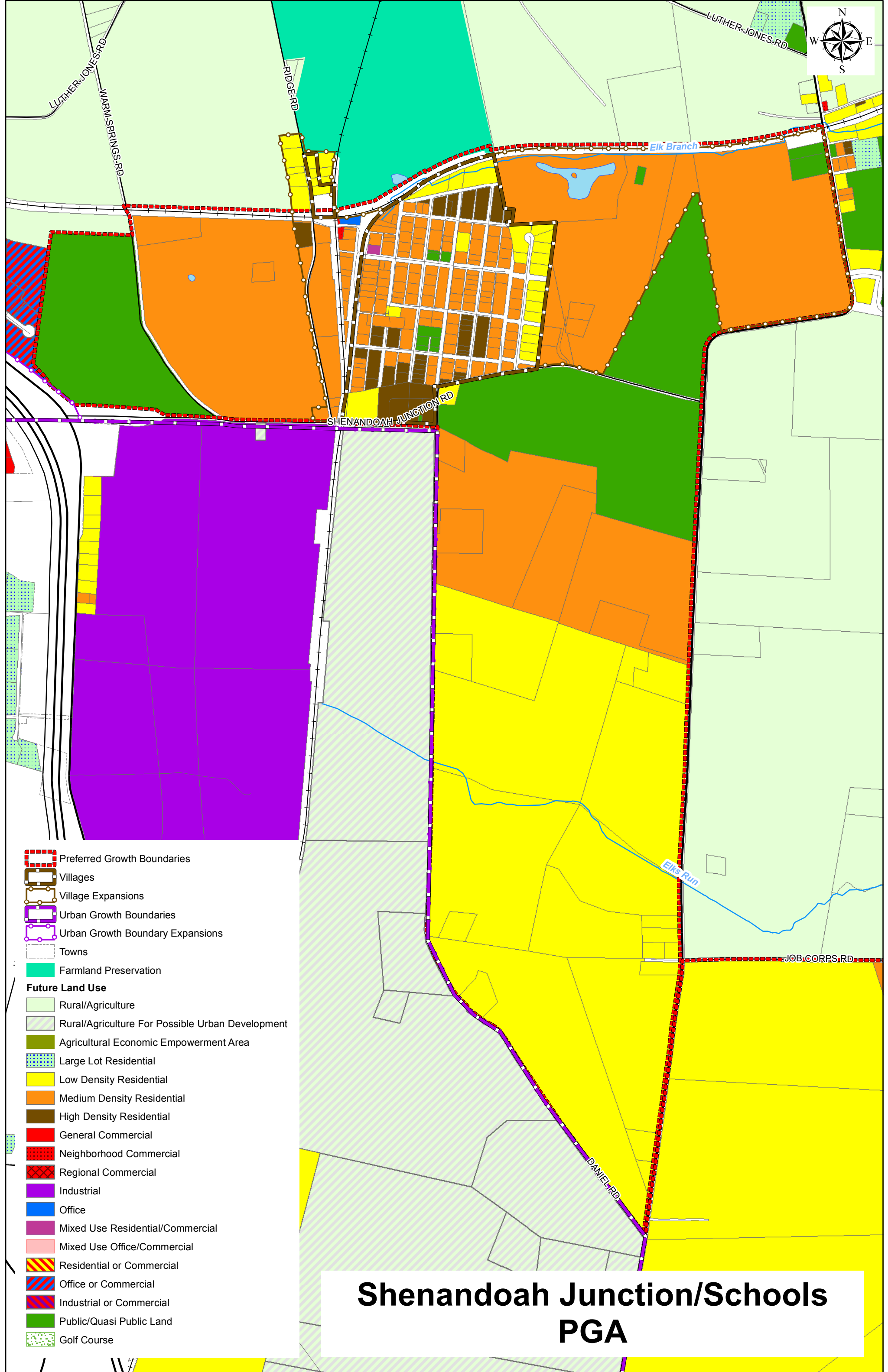
**The following must be attached to this application:**



*A plat or sketch shall include the entire original parcel as it appeared on the date this Ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg. 1" = 50', 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational areas, streets, building areas, and other features in relation to each other and to the tract boundaries. Contour lines, as shown on the appropriate U.S.G.S. Topographic Quadrangle Map or other data source approved by the Department, should be superimposed on the sketch plan. The source of all contour lines shall be noted on the plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes, and quarries shall be delineated.*

The required sketch is attached for reference: Harvest Hills Subdivision, Phase II - Concept Plan. Please see the comprehensive list of attachments below.

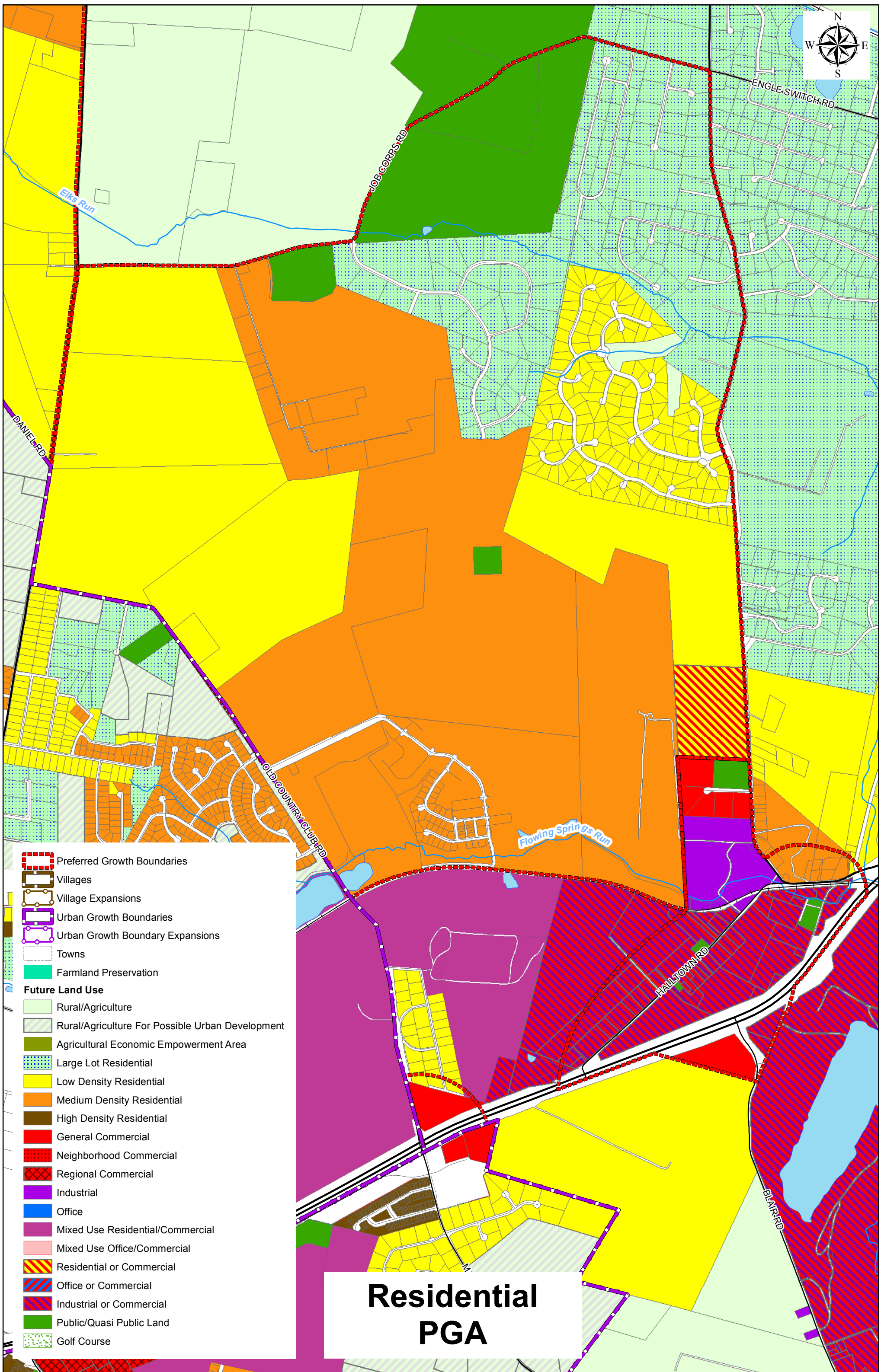
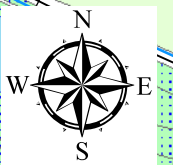
**Attachments:**

- Harvest Hills Subdivision, Phase II - Concept Plan
- Approved Final Plat of Harvest Hills Subdivision Phase II Section 1 - Plat Book 25, Page 198
- Parcel 12 Deed - Deed Book 1163, Page 351
- Parcel 13 Deed - Deed Book 1173, Page 85
- 2035 Comprehensive Plan, Appendix F- Shenandoah Junction PGA/School Based Growth Area
- 2035 Comprehensive Plan, Appendix F- Residential Preferred Growth Area



-  Preferred Growth Boundaries
-  Villages
-  Village Expansions
-  Urban Growth Boundaries
-  Urban Growth Boundary Expansions
-  Towns
-  Farmland Preservation
- Future Land Use**
-  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

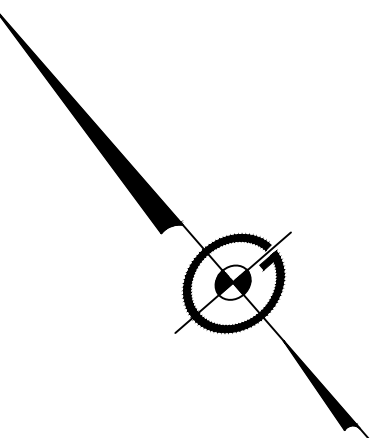
# Shenandoah Junction/Schools PGA



-  Preferred Growth Boundaries
-  Villages
-  Village Expansions
-  Urban Growth Boundaries
-  Urban Growth Boundary Expansions
-  Towns
-  Farmland Preservation
- Future Land Use**
-  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

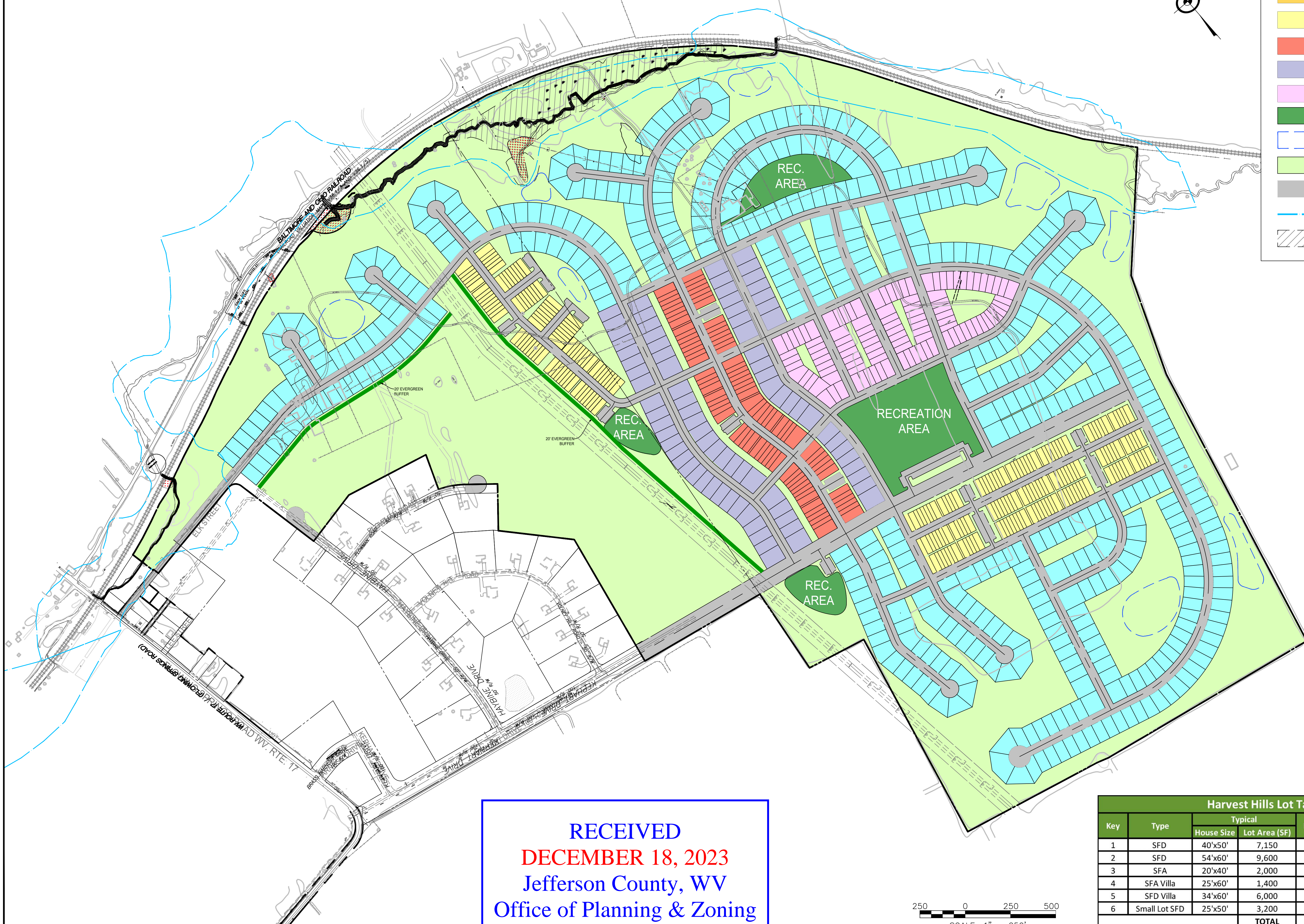
# Residential PGA

# FUTURE DEVELOPMENT PLAN



### LEGEND

- SMALL SINGLE FAMILY DETACHED
- LARGE SINGLE FAMILY DETACHED
- TOWNHOMES
- VILLA SINGLE FAMILY ATTACHED
- VILLA SINGLE FAMILY DETACHED
- SMALL LOT SINGLE FAMILY DETACHED
- RECREATION AREA
- POSSIBLE SWMBMP AREA
- REMAINDER OF LOT
- PROPOSED ROADS
- EXISTING 100YR FEMA FLOODPLAIN
- EXISTING DELINEATED WETLAND



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OFFICES IN WINCHESTER, VA & MARTINSBURG, WV

**CONCEPT PLAN**  
**HARVEST HILLS SUBDIVISION**  
**PHASE II**  
**SHEPHERDSTOWN MAGISTERIAL DISTRICT**  
**JEFFERSON COUNTY, WEST VIRGINIA**

#### PARKING CALCULATIONS

**REQUIRED PARKING**  
682 SINGLE FAMILY = PARKING IN DRIVEWAY  
327 TOWNHOMES = 2 PER DWELLING PLUS 1/4 SPACE PER BEDROOM  
REQUIRE TOWNHOME PARKING: 981 SPACES (ASSUMING 4 BEDROOM)

**PROPOSED TOWNHOME PARKING:**  
GARAGE & DRIVEWAY: 654 SPACES  
OFF-LOT PARKING: 339 SPACES  
**TOTAL: 993 SPACES**

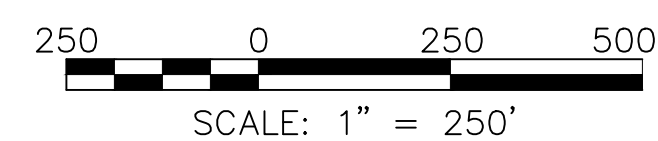
Harvest Hills Lot Tabulations						
Key	Type	Typical		No. of Lots	%	Area Per Dwelling Unit (ADU) (SF)
		House Size	Lot Area (SF)			
1	SFD	40'x50'	7,150	498	49.36%	10,000
2	SFD	54'x60'	9,600	0	0.00%	10,000
3	SFA	20'x40'	2,000	234	23.19%	3,500
4	SFA Villa	25'x60'	1,400	93	9.22%	3,500
5	SFD Villa	34'x60'	6,000	80	7.93%	10,000
6	Small Lot SFD	25'x50'	3,200	104	10.31%	7,500
<b>TOTAL</b>				<b>1,009</b>	<b>100%</b>	<b>7,704,500</b>
<b>TOTAL SITE AREA (SF)</b>						<b>15,343,952</b>

RECEIVED

DECEMBER 18, 2023

Jefferson County, WV

Office of Planning & Zoning



DATE: 06/23/2023  
SCALE: 1"=250'  
DESIGNED BY: AM/CW/DM  
FILE NO. 3379  
SHEET 1 OF 1

**NOTES:**

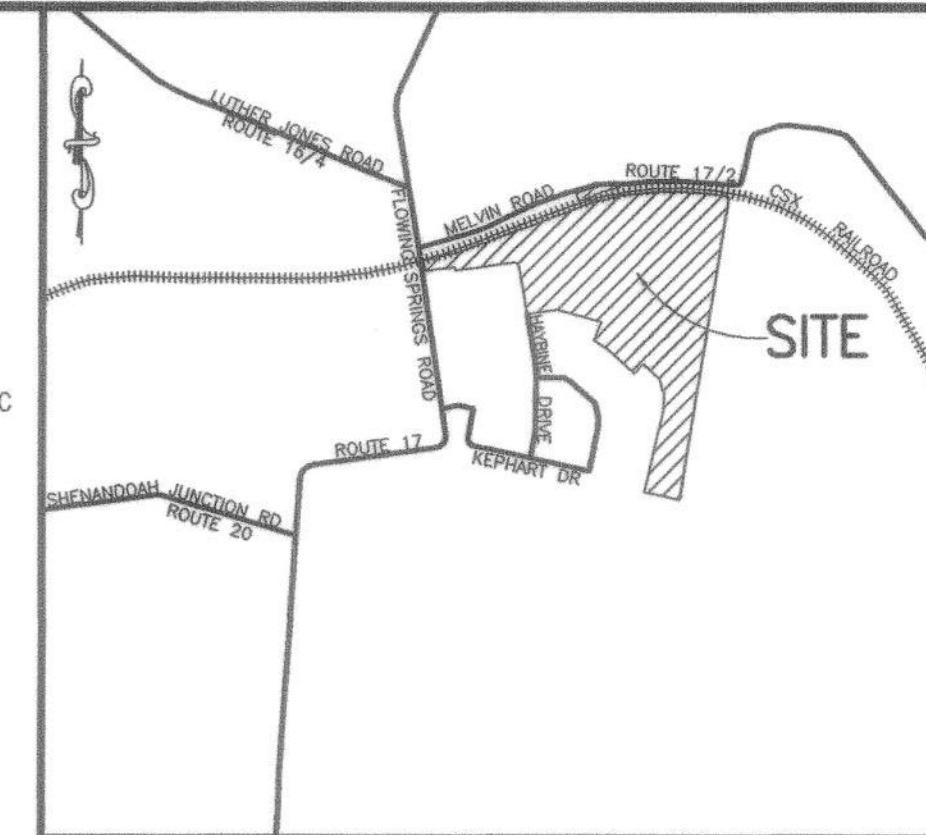
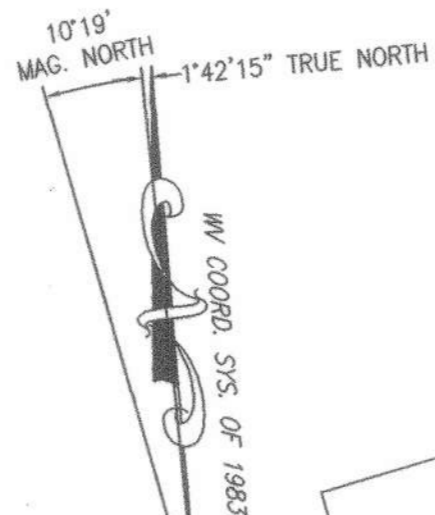
- THE PROPERTIES DELINEATED ON THIS PLAT ARE LOCATED ON JEFFERSON COUNTY, SHEPHERDSTOWN DISTRICT TAX MAP 24 AS PARCEL 12 AND MAP 24A AS PARCELS 16 AND 17, AND ARE ZONED RURAL DISTRICT.
- BOUNDARY INFORMATION IS BASED ON A COMPILATION OF EXISTING LAND RECORDS, A PLAT OF RESURVEY BY APPALACHIAN SURVEYS OF WEST VIRGINIA, LLC DATED AUGUST 25, 2003 RECORDED IN PLAT BOOK 22 AT PAGE 2; A PLAT OF RESURVEY BY DEWBERRY/APPALACHIAN SURVEYS DATED JANUARY 16, 2004 RECORDED IN DEED BOOK 1009 AT PAGE 624 (NORTHERN PART OF PARCEL 12); A PLAT OF RESURVEY BY DEWBERRY & DAVIS, LLC DATED JUNE 2, 2008 AND RECORDED IN DEED BOOK 2053 AT PAGE 79 AND A FIELD RUN BOUNDARY CHECK SURVEY.
- THE PROPERTIES SHOWN HEREON ARE CURRENTLY IN THE NAME OF ARCADIA DEVELOPMENT CO. AND WERE ACQUIRED FROM WILLIAM P. HENDERSON BY DEED DATED MARCH 22, 2000 RECORDED IN DEED BOOK 935 AT PAGE 604 AND DEED DATED FEBRUARY 12, 2004 RECORDED IN DEED BOOK 985 AT PAGE 363 AND FROM WILLIAM P. HENDERSON AND GINGER L. HENDERSON BY DEED OF GIFT DATED NOVEMBER 2, 2006 RECORDED IN DEED BOOK 1029 AT PAGE 429 ALL AMONG THE LAND RECORDS OF JEFFERSON COUNTY, WEST VIRGINIA.
- THE PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONE "C", AREAS LOCATED OUTSIDE THE 100-YEAR FLOODPLAIN, ACCORDING TO COMMUNITY PANEL 540065 0035 C OF THE FEMA FLOOD INSURANCE RATE MAP FOR JEFFERSON COUNTY, WEST VIRGINIA, DATE MARCH 14, 2001.
- PROPERTY CORNERS TO BE SET ARE 18" x 5/8" REBAR UNLESS OTHERWISE NOTED HEREON.
- ALL KNOWN EXISTING AND PROPOSED EASEMENTS AND RIGHTS-OF-WAY ARE SHOWN HEREIN. NO FUTURE EASEMENTS OR RIGHTS-OF-WAY ARE PROPOSED.
- UNLESS OTHERWISE NOTED, BUILDING SETBACKS ARE AS FOLLOWS:  
FRONT: 25 FEET  
SIDE: 12 FEET  
REAR: 20 FEET
- A BLANKET EASEMENT SHALL BE GIVEN TO THE APPROPRIATE PUBLIC SERVICE DISTRICT AND JEFFERSON UTILITIES, INC. IN ALL SUBDIVISION RIGHTS-OF-WAY FOR THE PURPOSE OF CONSTRUCTING FUTURE WATER AND/OR SEWER LINES AND FACILITIES.
- A HOMEOWNER'S ASSOCIATION MUST BE ESTABLISHED WITHOUT DELAY AS SOON AS 50% OF THE PROPERTIES ARE SOLD. MEMBERSHIP IN THE ASSOCIATION IS MANDATORY FOR ALL PROPERTY OWNERS WITHIN THE SUBDIVISION. DEDICATE ALL COMMON LAND (SWM BASIN, ROADS, RIGHT-OF-WAYS, ETC.) TO THE HOMEOWNER'S ASSOCIATION.
- A COMMON INTEREST OWNERSHIP AGREEMENT MUST BE ESTABLISHED TO PROVIDE FOR THE MAINTENANCE OF COMMONLY-OWNED LAND, INCLUDING, BUT NOT LIMITED TO THE PRIVATE ROAD SYSTEM WITHIN THE SUBDIVISION. THIS AGREEMENT MUST BE DEVELOPED IN ACCORDANCE WITH THE UNIFORM COMMON INTEREST OWNERSHIP ACT OF WEST VIRGINIA.
- ONCE A HOMEOWNER'S ASSOCIATION IS FORMED THEY SHALL PETITION THE COUNTY COMMISSION TO ADOPT A LEASH LAW.
- THIS SITE DOES NOT FALL UNDER THE HILLSIDE DEVELOPMENT REGULATIONS.
- MODEL HOMES WITH A STAFFED SALES OFFICE FOR SALES EXCLUSIVELY WITHIN THE RESIDENTIAL SUBDIVISION THAT THEY ARE LOCATED ARE PERMITTED PROVIDED THAT THEY ARE CONTAINED ON THE FIRST LOT ON EITHER OR BOTH SIDES OF ANY ROAD / RIGHT-OF-WAY THAT ENTERS THE SUBDIVISION; LOTS 58 AND 419 ARE DESIGNATED AS MODEL HOME LOTS.
- LOT ACCESS LIMITED TO INTERIOR ROADS ONLY.
- ALL EXISTING AND FUTURE OPEN SPACE PARCELS LOCATED WITHIN THE COMMUNITY AS DESCRIBED IN THE DECLARATION ARE COMMON ELEMENTS FOR THE PURPOSES OF INGRESS AND EGRESS. ALL OTHER COMMON ELEMENTS FOR ALLOCATED INTERESTS INCLUDE THE IMPROVEMENTS WITHIN THE EXISTING AND FUTURE OPEN SPACE PARCELS, EXCEPT THOSE IMPROVEMENTS, SUCH AS SERVICE UTILITIES, WHICH ARE OWNED, OPERATED AND MAINTAINED BY GOVERNMENTAL AUTHORITIES OR UTILITY COMPANIES AND ANY IMPROVEMENTS DESIGNATED AS LIMITED COMMON ELEMENTS. THE COMMON ELEMENTS WITHIN THOSE AREAS MAY BE MORE SPECIFICALLY DEFINED IN ARTICLE 5 OF THE DECLARATION.
- ALL DRIVEWAY CULVERTS ARE TO BE 15" (MINIMUM) CMP OR EQUIVALENT.

**AREA TABULATION:**

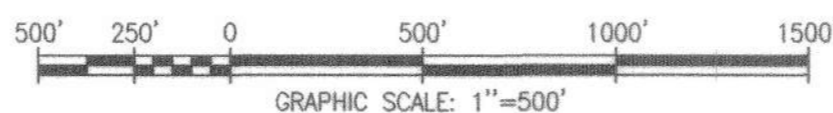
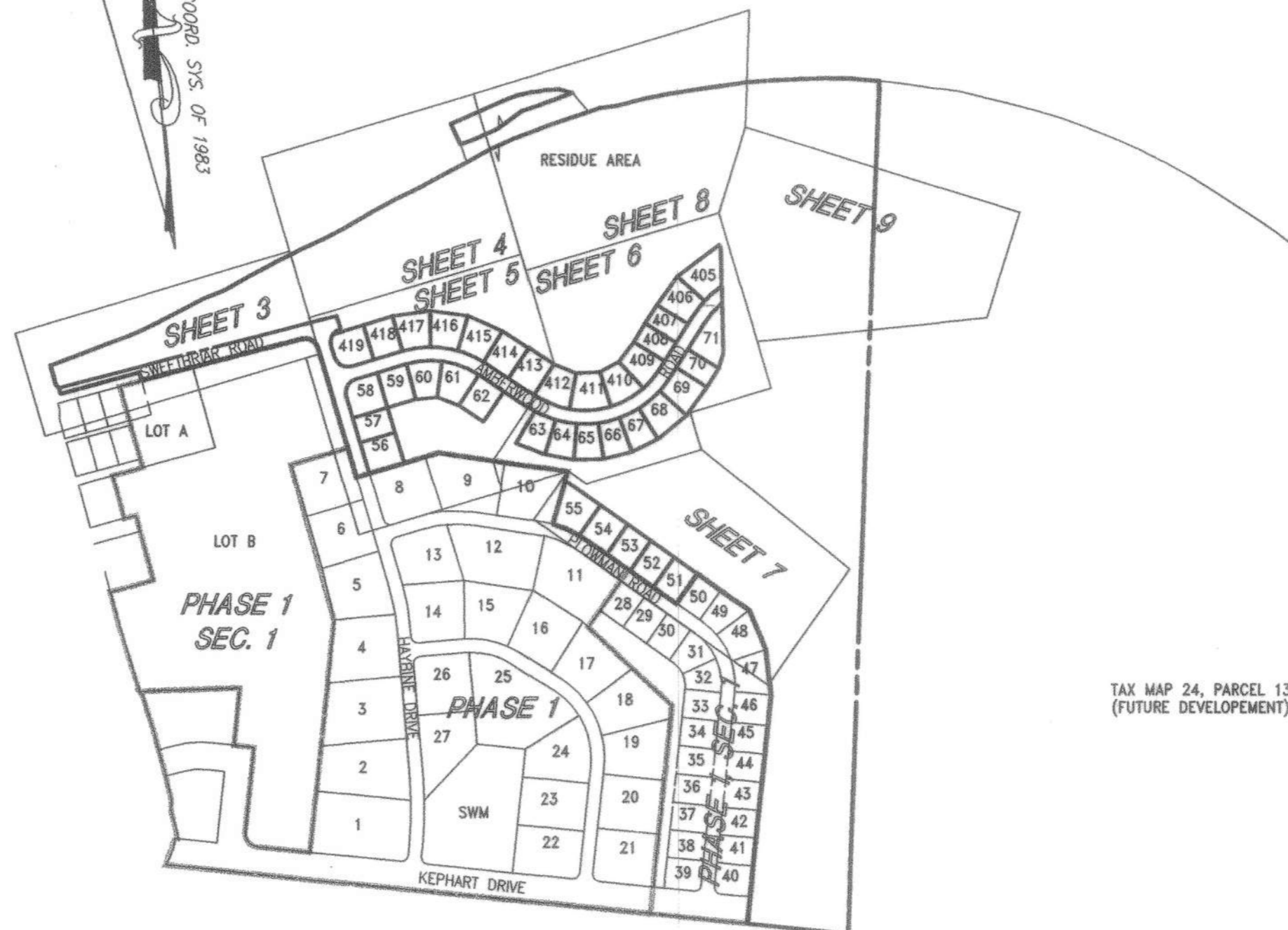
LOTS (36)	539,361 SQ. FT.	12.38202 ACRES
RIGHT-OF-WAY	158,696 SQ. FT.	3.64316 ACRES
RESIDUE PARCEL	2,981,573 SQ. FT.	68.44750 ACRES
TOTAL AREA	3,679,630 SQ. FT.	84.47268 ACRES

RESIDENTIAL AREA: 12.38202 ACRES  
# OF UNITS: 36  
DENSITY: 2.91 LOTS PER ACRE

REQUIRED PARK AREA(4%): 21.8174 ACRES DEDICATED FOR PUBLIC OR SEMI PUBLIC USE AS LOT B, PHASE 1, SECTION 1, WHICH IS GREATER THAN 4% OF THE OVERALL SUBDIVISION.



**VICINITY MAP**  
SCALE: 1" = 2000'



**LEGEND:**

- IPF = IRON PIPE FOUND
- IR = IRON RE-BAR FOUND
- = 4"x4" CONCRETE MON. TO BE SET
- = 18"x5/8" RE-BAR TO BE SET

**OWNER/DEVELOPER:**

ARCADIA DEVELOPMENT CO.  
117 N. BAILEY LANE  
PURCELLVILLE, VA 20132  
(540) 751-0321

**LIST OF APPROVALS:**

WV DEPARTMENT OF HIGHWAYS	
PERMIT #	5-99-0397 (ORIGINAL)
DATE:	ADDENDUM 11-01-2007
PERMIT #	5-07-1082 (SWEETBRIAR ROAD)
DATE:	11-06-2007
WV DEPARTMENT OF HEALTH	
PERMIT #	17,598 (WATER)
DATE:	07-26-2007
PERMIT #	17,597 (SEWER)
DATE:	07-26-2007
PERMIT #	17,781 (SEWER ADDENDUM)
DATE:	11-15-2007

**ACCEPTANCE STATEMENT:**

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

*[Signature]* DATE: 12-10-08  
ARCADIA DEVELOPMENT CO.

Jennifer S Hashan  
JEFFERSON County 11:25:21 AM  
Instrument No 2010002808  
Date Recorded 02/24/2010  
Document Type PLT  
Book-Page 25-198  
Recording Fee \$14.00  
Additional \$1.00

APPROVED BY:

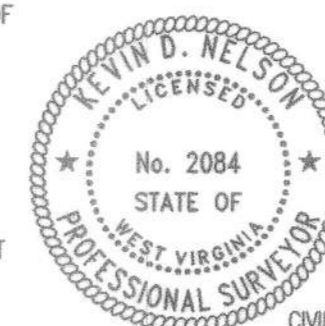


*Approved final plat*

*[Signature]* DATE: 2/24/10  
PLANNING COMMISSION

**SURVEYOR'S CERTIFICATE:**

I, KEVIN D. NELSON, A PROFESSIONAL SURVEYOR IN THE STATE OF WEST VIRGINIA HEREBY CERTIFY THAT THIS PLAT IS ACCURATE, COMPLETE AND MEETS OR EXCEEDS MINIMUM STANDARDS FOR THE STATE AND/OR COUNTY REQUIREMENTS APPLICABLE ON THIS DATE. THIS SUBDIVISION COMPLIES WITH THE JEFFERSON COUNTY SUBDIVISION REGULATIONS, SECTION 8.1.C.6 FOR A CLOSURE WITHIN 1:7500. I FURTHER CERTIFY THAT THIS PLAT CONTAINS ALL THE INFORMATION REQUIRED IN ACCORDANCE WITH CHAPTER 36B, ARTICLE 2, SECTION 109 OF THE UNIFORM COMMON INTEREST OWNERSHIP ACT OF THE WEST VIRGINIA STATE CODE.



*[Signature]* DATE: 10/14/08  
KEVIN D. NELSON, P.S. No. 2084

**FINAL PLAT**  
OF  
**PHASE II, SECTION 1**  
**HARVEST HILLS SUBDIVISION**

T.M. 24, PARCEL 12 AND T.M. 24A, PARCELS 16 & 17  
SHEPHERDSTOWN DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA  
SCALE: 1"=AS NOTED JUNE 30, 2008  
REVISED: NOVEMBER 20, 2008



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CIVIL ENGINEERING • SURVEY • LAND PLANNING • LANDSCAPE ARCHITECTURE • SITE SECURITY CONSULTING • GIS  
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**JEFFERSON COUNTY  
DEPARTMENT OF PLANNING, ZONING & ENGINEERING  
CONDITIONAL USE PERMIT  
HARVEST HILLS SUBDIVISION #Z00-06**

This is to certify that effective May 22, 2001, the property described as:

Developer/Owner: William P. Henderson, owner  
P. O. Box 64  
Shenandoah Junction, West Virginia 25442  
Telephone Number: (304)-876-0605  
Developer/Owner: Arcadia Building Company, developer  
P. O. Box 1728  
Leesburg, Virginia 20177  
Telephone Number: (703)-771-2626  
Tax Map Reference: Shepherdstown District, Map 24, Parcels 12 & 13  
Deed Book Reference: Deed Book 927, Page 239  
Subdivision Name: Harvest Hills  
Zoning District: Rural

has been granted permission to use said property in the following way: 392 single family lots; 23 acre school site; Duffield's Train Station relocation; 2.00 acre church site; and, minimum of 141 acres of open space.

**CONDITIONAL UPON:**

1. Cooperation with nonprofit groups to preserve the historic train station with the permission of the record owner of the property;
2. Execute a bond to fix the curve on Route 17 (Flowing Springs Road) if title is obtained by the West Virginia Department of Highways to do so;
3. No street lighting;
4. Disclose to potential buyers the intensity of the train traffic;
5. Build a fence between the development and the railroad tracks;
6. Discuss and encourage telecommunications link-ups with utility companies;
7. Inform potential buyers of farming activities in the area (i.e. smells, noises, animals, equipment) and the farmers right to farm;
8. Prepare a traffic study;
9. Install a traffic light at the intersection of Route 17 (Flowing Springs Road) and Route 17/2 (Melvin Road) if warranted by the West Virginia Department of Highways;
10. Provide quality control of storm water management to County standards;
11. Provide buffers to lessen the impact of the development on the Duffield's historic area;
12. Density not being increased by more than what is currently proposed;
13. Property not being relinquished that is not owned by the owner/developer;
14. Provide a fence between the development and Sullen Myers property;

**JEFFERSON COUNTY  
DEPARTMENT OF PLANNING, ZONING & ENGINEERING  
CONDITIONAL USE PERMIT  
HARVEST HILLS SUBDIVISION - #Z00-06  
PAGE TWO**

15. Provide an economic study to determine the cost of services versus tax collections;
16. Not locating a water tank on the property;
17. Give the land earmarked for the School Board to the Jefferson County Parks and Recreation Commission or other sports organization if not used by the School Board;
18. Provide a historic and archeological study of the property;
19. Any further change in use or expansion processing through the Jefferson County Department of Planning, Zoning and Engineering to update this certificate; and, all other applicable County regulations being followed.

In the event construction is not commenced by November 22, 2002, said permission will expire unless an extension is granted. Extensions must be formally requested of the Jefferson County Department of Planning, Zoning and Engineering prior to the expiration date.

This certificate in no way relieves the owner, applicant or user from any requirements of the Jefferson County Ordinances unless appropriate variances are granted by the appropriate County authority.

*[Signature]*  
Zoning Administrator

Date 5/22/01 (orig.)  
*reissued & reinstated on*  
11/13/04 *PLB*

Department of Planning, Zoning & Engineering Seal:

Jennifer S. Hoshan  
JEFFERSON County 11:25:21 AM  
Instrument No 2010002808  
Date Recorded 02/24/2010  
Document Type PLT  
Book-Page 25-198  
Recording Fee \$14.00  
Additional \$1.00

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CURVE TABLE:						CURVE TABLE:							
CURVE	ARC LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BEARING	CURVE	ARC LENGTH	RADIUS	DELTA	TANGENT	CHORD	CHORD BEARING
C1	149.46'	447.71'	19°07'39"	75.43'	148.77'	N59°31'42"W	C21	77.62'	425.00'	10°27'51"	38.92'	77.51'	S42°04'26"W
C2	76.67'	50.00'	87°51'45"	48.17'	69.38'	N55°35'47"W	C22	84.98'	425.00'	11°27'24"	42.63'	84.84'	S53°02'03"W
C3	41.87'	447.71'	5°21'30"	20.95'	41.85'	N52°38'37"W	C23	107.59'	375.00'	16°26'18"	54.17'	107.22'	S45°03'39"W
C4	107.59'	447.71'	13°46'10"	54.06'	107.34'	N62°12'26"W	C24	599.47'	375.00'	91°35'33"	385.57'	537.65'	N82°38'17"E
C5	78.54'	50.00'	90°00'00"	50.00'	70.71'	S33°20'06"W	C25	67.76'	375.00'	10°21'08"	33.97'	67.66'	N42°01'05"E
C6	35.09'	50.00'	40°12'40"	18.30'	34.38'	S58°13'46"W	C26	101.03'	375.00'	15°26'08"	50.82'	100.72'	N54°54'43"E
C7	43.45'	50.00'	49°47'20"	23.20'	42.09'	S13°13'46"W	C27	80.00'	375.00'	12°13'23"	40.15'	79.85'	N68°44'29"E
C8	78.54'	50.00'	90°00'00"	50.00'	70.71'	S56°39'54"E	C28	80.00'	375.00'	12°13'23"	40.15'	79.85'	N80°57'52"E
C9	327.90'	375.00'	50°05'58"	175.26'	317.55'	N76°36'55"W	C29	80.00'	375.00'	12°13'23"	40.15'	79.85'	S86°48'45"E
C10	2.08'	375.00'	0°19'04"	1.04'	2.08'	S78°29'38"W	C30	80.00'	375.00'	12°13'23"	40.15'	79.85'	S74°35'22"E
C11	104.34'	375.00'	15°56'29"	52.51'	104.00'	S86°37'25"W	C31	84.00'	375.00'	12°50'04"	42.18'	83.83'	S62°03'38"E
C12	104.01'	375.00'	15°53'30"	52.34'	103.68'	N77°27'36"W	C32	26.69'	375.00'	4°04'40"	13.35'	26.68'	S53°36'16"E
C13	104.34'	375.00'	15°56'33"	52.51'	104.01'	N61°32'34"W	C33	284.18'	325.00'	50°05'58"	151.89'	275.21'	N76°36'55"W
C14	13.13'	375.00'	2°00'21"	6.57'	13.13'	N52°34'07"W	C34	0.91'	325.00'	0°09'39"	0.46'	0.91'	S51°38'46"E
C15	519.54'	325.00'	91°35'33"	334.16'	465.96'	N82°38'17"E	C35	146.63'	325.00'	25°50'57"	74.58'	145.39'	S64°39'04"E
C16	133.47'	325.00'	23°31'51"	67.69'	132.54'	S63°19'52"E	C36	133.27'	325.00'	23°29'43"	67.59'	132.34'	S89°19'24"E
C17	154.81'	325.00'	27°17'35"	78.90'	153.35'	S88°44'35"E	C37	3.37'	325.00'	0°35'38"	1.68'	3.37'	N78°37'55"E
C18	139.00'	325.00'	24°30'18"	70.58'	137.94'	N65°21'29"E	C38	78.54'	50.00'	90°00'00"	50.00'	70.71'	S33°20'06"W
C19	92.25'	325.00'	16°15'50"	46.44'	91.94'	N44°58'25"E	C39	156.61'	430.00'	20°52'06"	79.18'	155.75'	N81°17'45"E
C20	162.60'	425.00'	21°55'15"	82.31'	161.61'	S47°48'08"W	C40	6.82'	375.00'	1°02'29"	3.41'	6.82'	N52°45'34"E
							C41	100.77'	375.00'	15°23'49"	50.69'	100.47'	N44°32'25"E

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N10°22'13"W	33.00'
L2	S22°47'10"E	11.90'
L3	N37°45'40"W	7.84'
L4	N86°31'26"W	20.00'
L5	N57°57'34"W	22.77'
L6	N80°52'53"W	71.92'
L7	N36°02'36"E	35.20'
L8	S77°51'42"E	37.64'
L9	S27°38'55"W	3.76'
L10	S09°31'39"E	15.02'
L11	S07°15'37"E	38.50'
L12	S09°11'05"W	47.27'
L13	S07°14'03"E	17.32'
L14	S29°11'25"W	85.24'
L15	N10°48'14"W	21.48'
L16	N42°47'00"W	17.18'

JEFFERSON COUNTY DEPT. OF PLANNING, ZONING AND ENGINEERING  
**OFFICIAL SEAL**

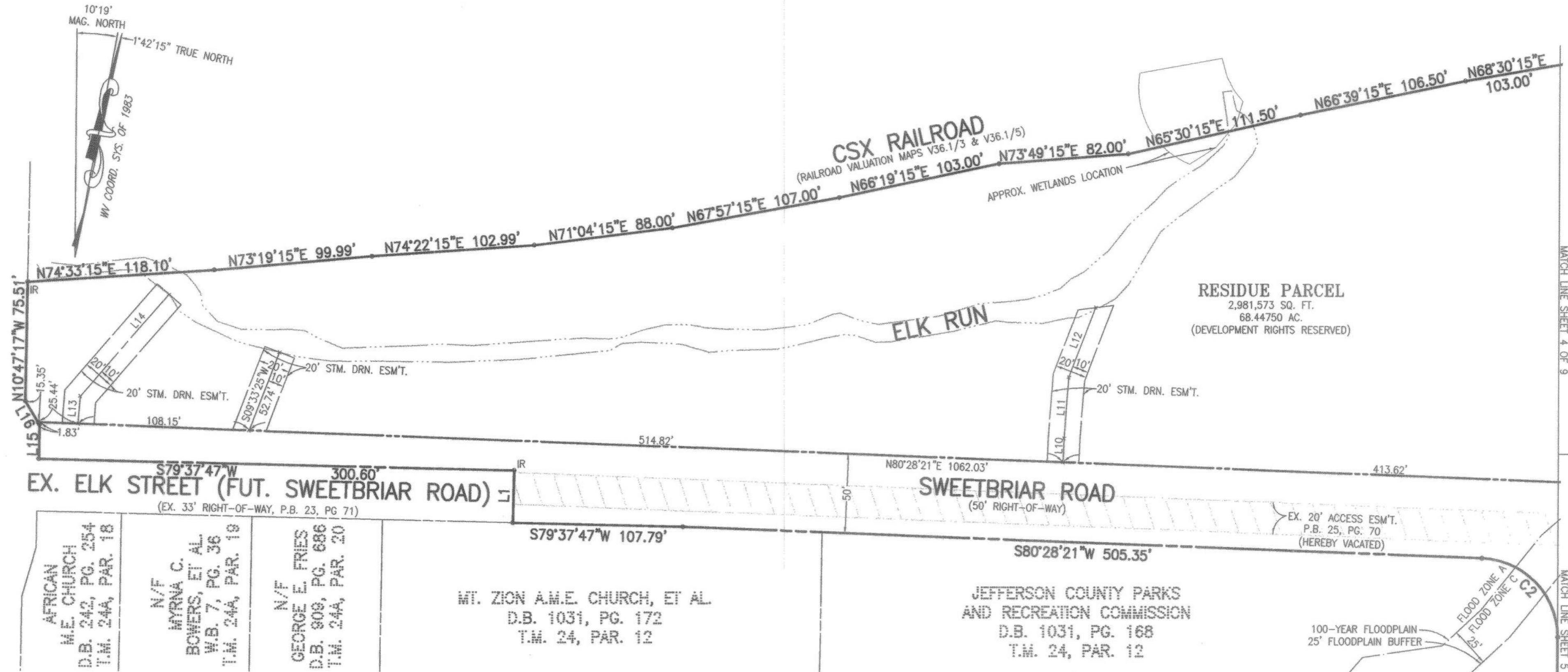
*Approved Final Plat*  
*Jennifer M. Brockman/esp*  
*Director of Planning and Zoning*  
*2/24/10*

**FINAL PLAT**  
OF  
**PHASE II, SECTION 1**  
**HARVEST HILLS**  
T.M. 24, PARCEL 12 AND T.M. 24A, PARCELS 16 & 17  
SHEPHERDSTOWN DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA  
SCALE: 1"=50' JUNE 30, 2008  
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FLOWING SPRINGS ROAD - ROUTE 17  
(VARIABLE WIDTH RIGHT-OF-WAY)



MATCH LINE SHEET 4 OF 9  
MATCH LINE SHEET 5 OF 9

LEGEND:

- IPF = IRON PIPE FOUND
- IR = IRON RE-BAR FOUND
- = 4"x4" CONCRETE MON. TO BE SET
- = 18"x5/8" RE-BAR TO BE SET

Jennifer S. Mashan  
JEFFERSON County 11:25:21 AM  
Instrument No 2010002808  
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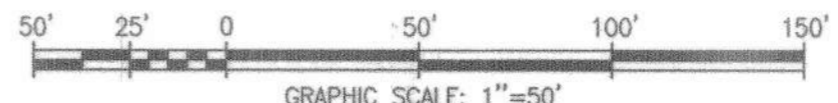


Approved final plat  
Jennifer M. Brockman  
Director of Planning and Zoning  
2-24-10

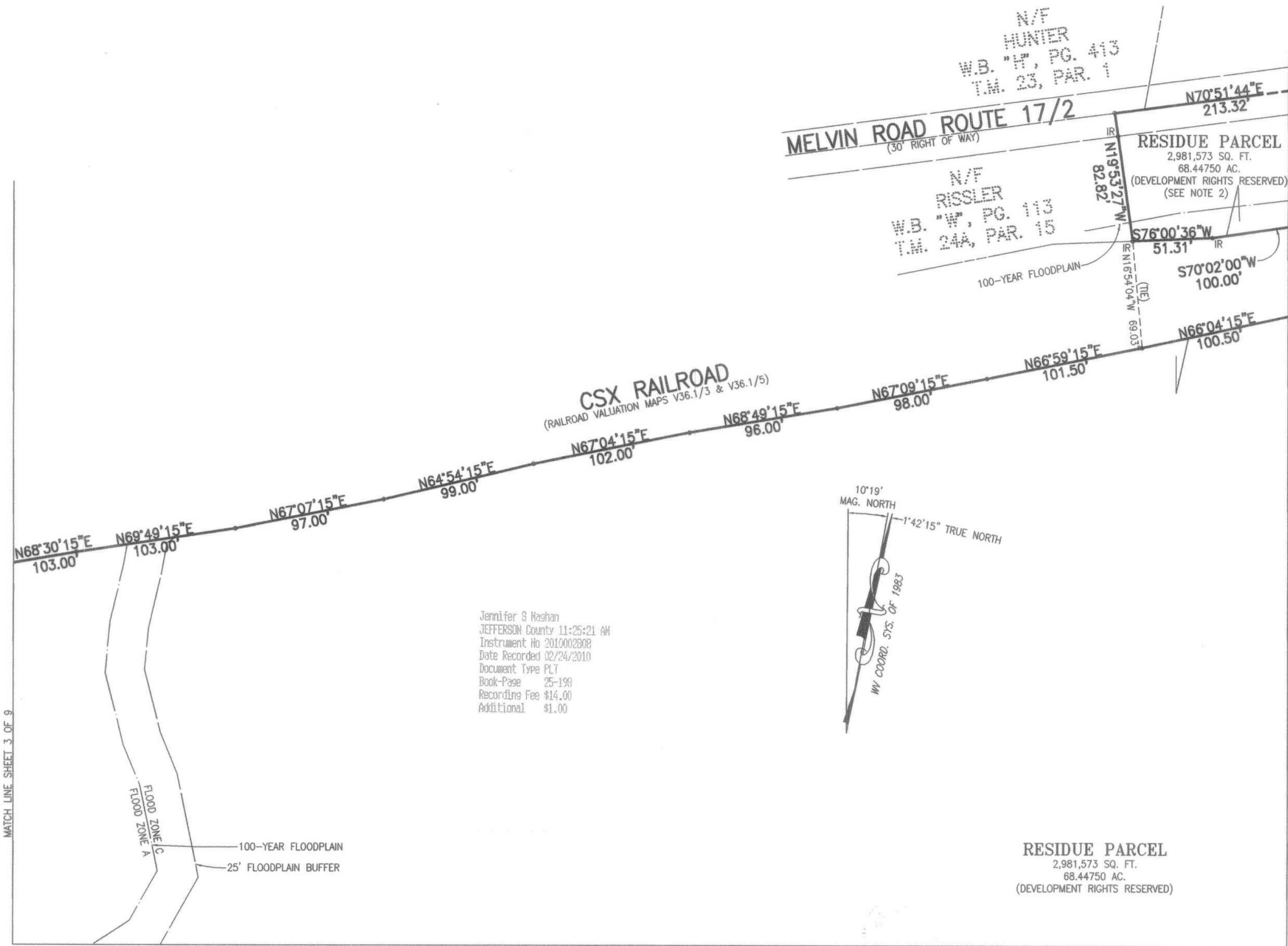
FINAL PLAT  
OF  
PHASE II, SECTION 1  
HARVEST HILLS  
T.M. 24, PARCEL 12 AND T.M. 24A, PARCELS 16 & 17  
SHEPHERDSTOWN DISTRICT  
JEFFERSON COUNTY, WEST VIRGINIA  
SCALE: 1"=50' JUNE 30, 2008  
REVISED: NOVEMBER 20, 2008



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**LEGEND:**

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- IR = IRON RE-BAR FOUND
- = 4"x4" CONCRETE MON. TO BE SET
- = 18"x5/8" RE-BAR TO BE SET



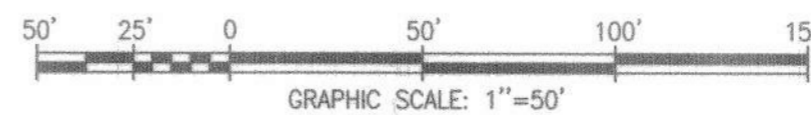
Approved Final Plat  
*Jennifer M. Buckman*  
 Director of Planning + Zoning  
 J-24-10

FINAL PLAT  
 OF  
**PHASE II, SECTION 1  
 HARVEST HILLS**

T.M. 24, PARCEL 12 AND T.M. 24A, PARCELS 16 & 17  
 SHEPHERDSTOWN DISTRICT  
 JEFFERSON COUNTY, WEST VIRGINIA  
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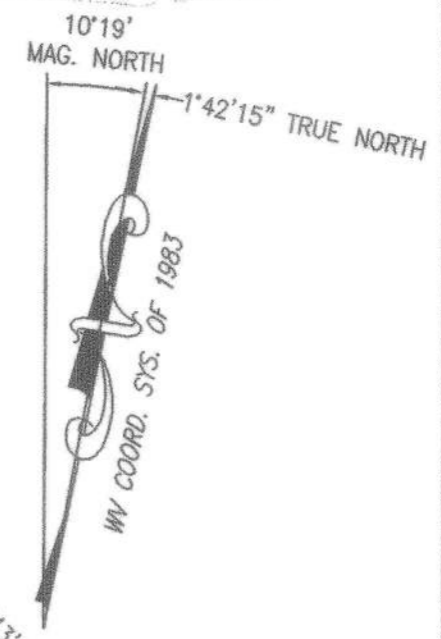


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JEFFERSON COUNTY PARKS AND RECREATION COMMISSION D.B. 1031, PG. 168 T.M. 24, PAR. 12 N11°39'54"W 503.63'



Jennifer S. Washan  
JEFFERSON County 11:25:21 AM  
Instrument No 2010002808  
Date Recorded 02/24/2010  
Document Type PLT  
Book-Page 25-198  
Recording Fee \$14.00  
Additional \$1.00

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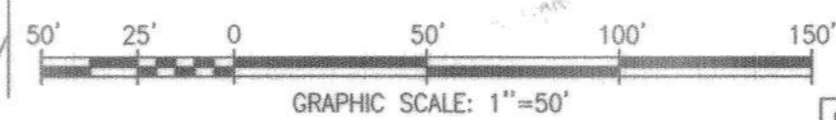


Approved Final Plat  
Jennifer M. Buckman / aspl  
Director of Planning + Zoning  
2-24-10

**FINAL PLAT**  
OF  
**PHASE II, SECTION 1**  
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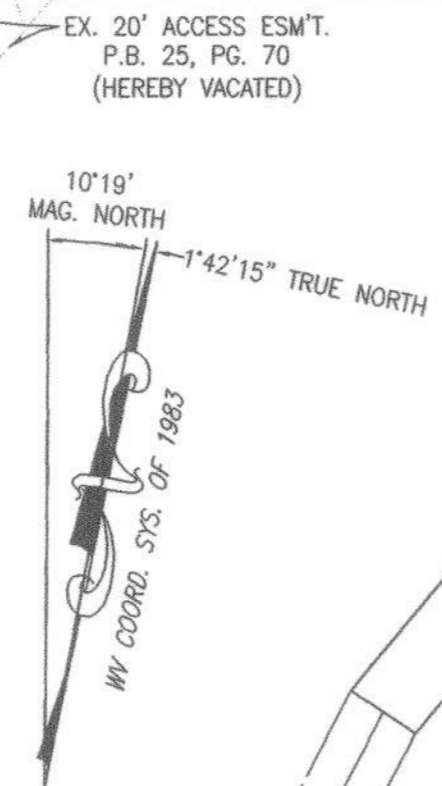


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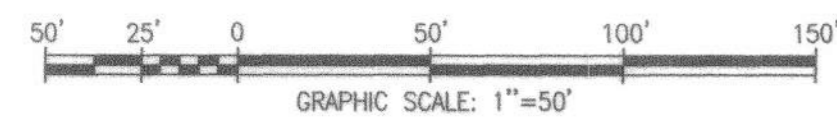
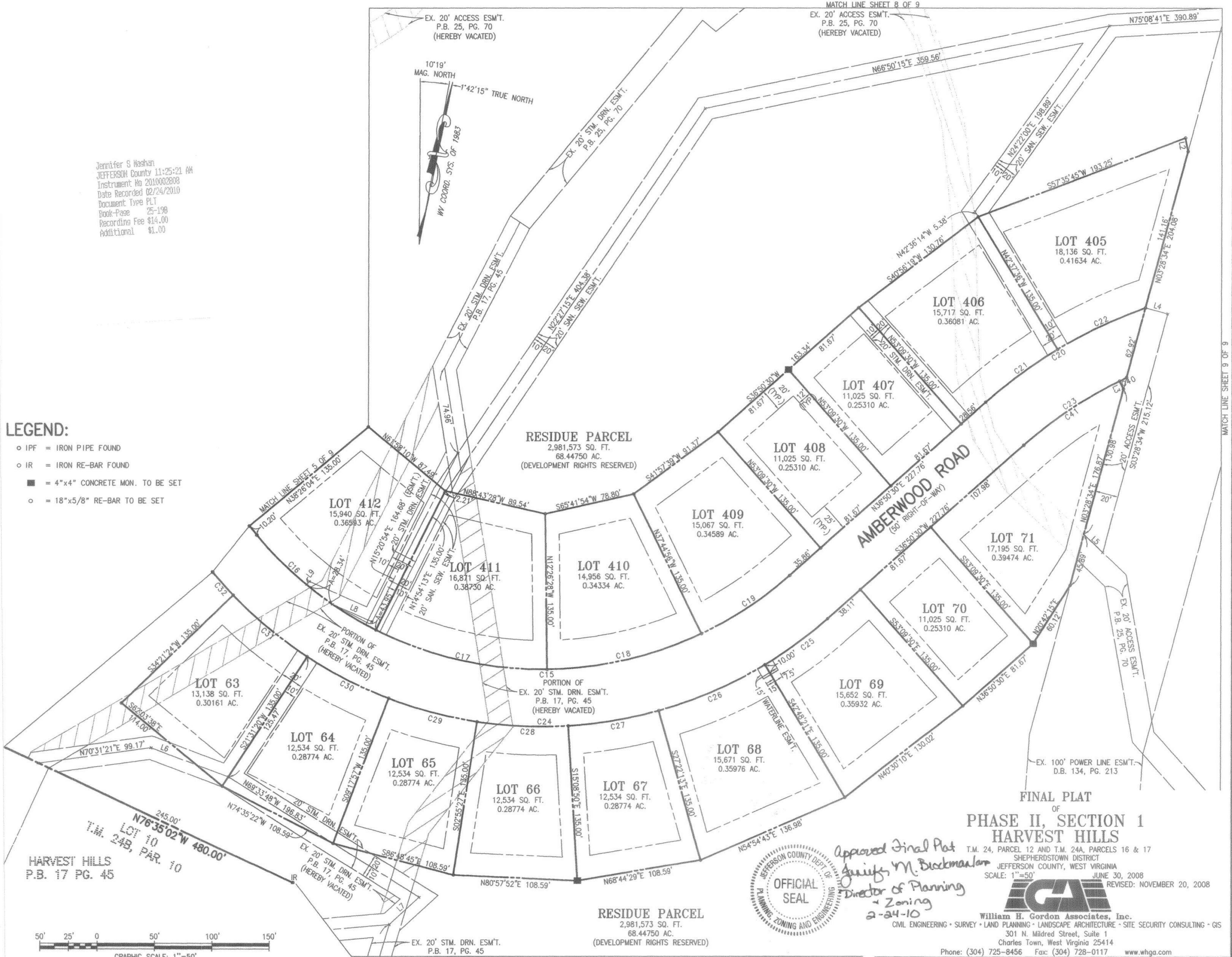


MATCH LINE SHEET 8 OF 9  
 EX. 20' ACCESS ESM'T.  
 P.B. 25, PG. 70  
 (HEREBY VACATED)

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Approved Final Plat  
 Jennifer M. Blackman  
 Director of Planning & Zoning  
 2-24-10

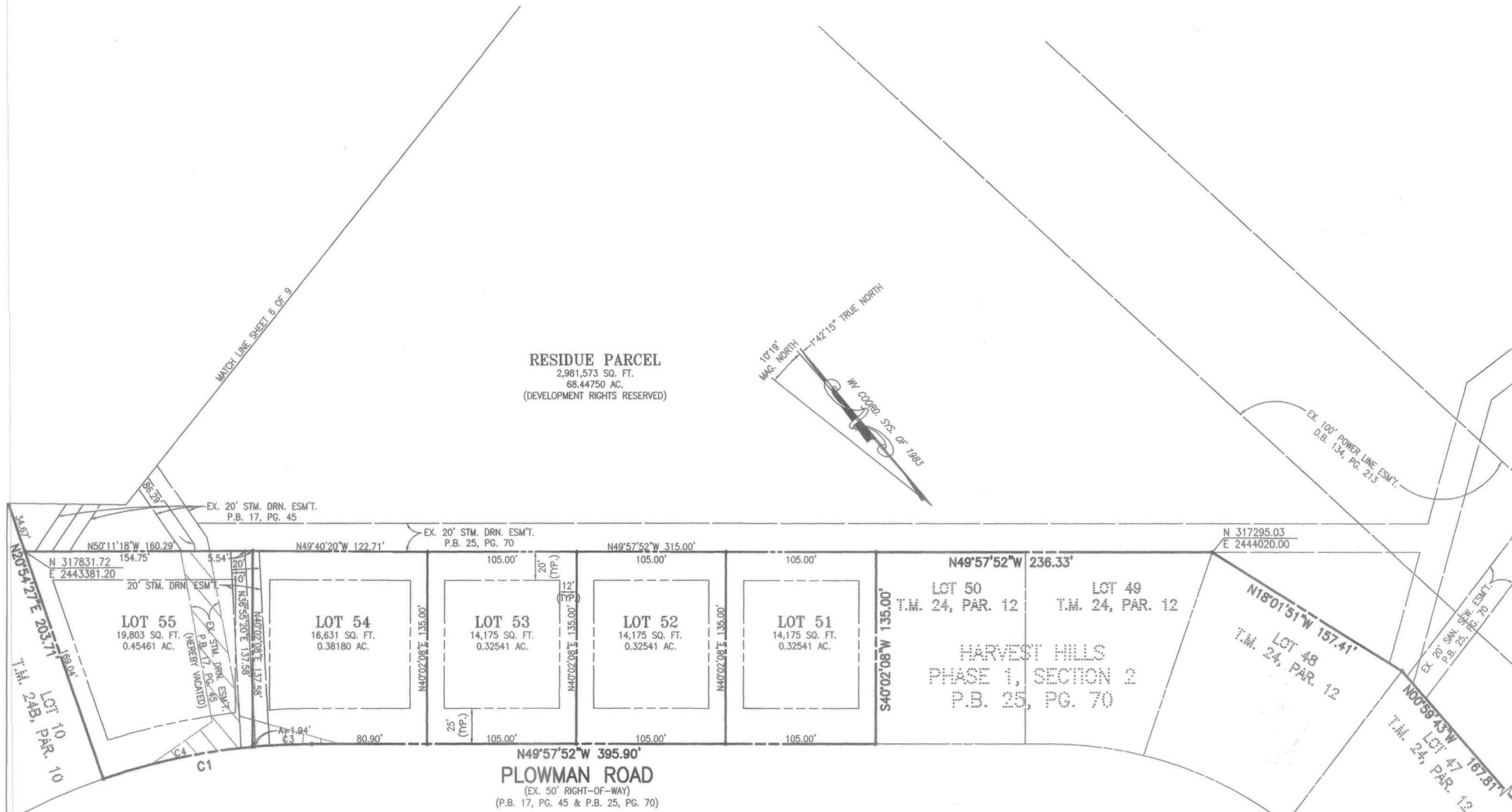
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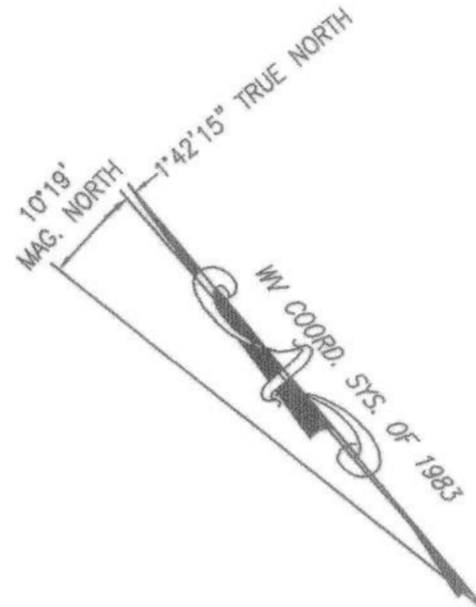
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MATCH LINE SHEET 9 OF 9

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**RESIDUE PARCEL**  
2,981,573 SQ. FT.  
68.44750 AC.  
(DEVELOPMENT RIGHTS RESERVED)



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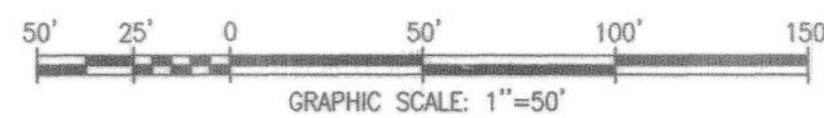
Approved Final Plat  
*Jennifer M. Brockman Jap*  
Director of Planning and Zoning  
2-24-10

**FINAL PLAT**  
OF  
**PHASE II, SECTION 1**  
**HARVEST HILLS**

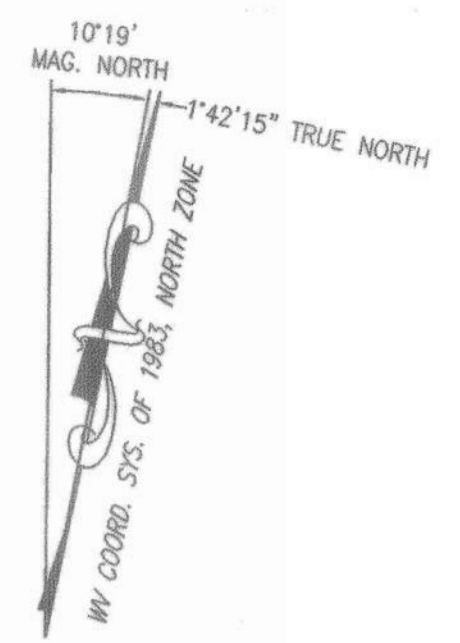
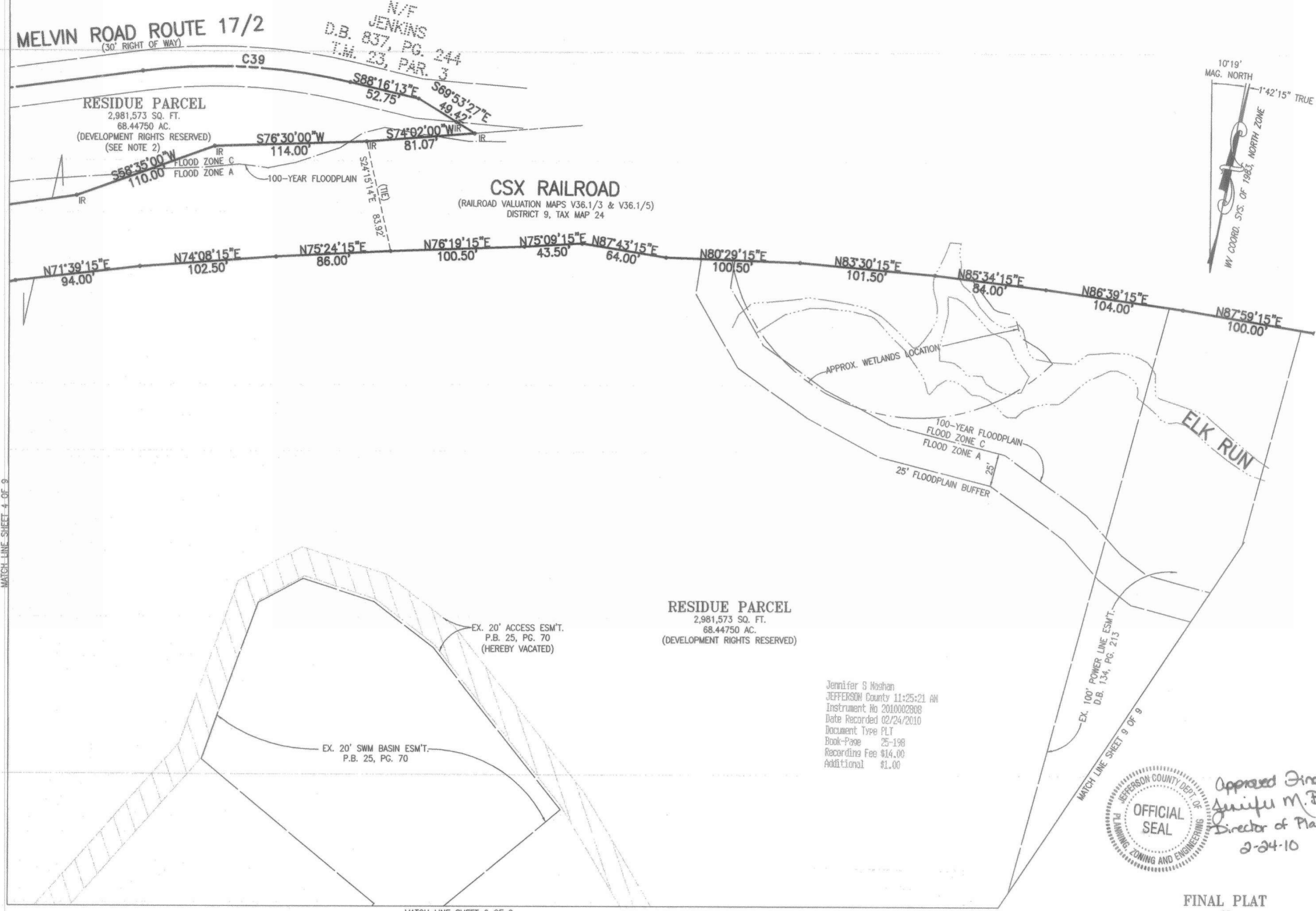
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MATCH LINE SHEET 4 OF 9

MATCH LINE SHEET 6 OF 9

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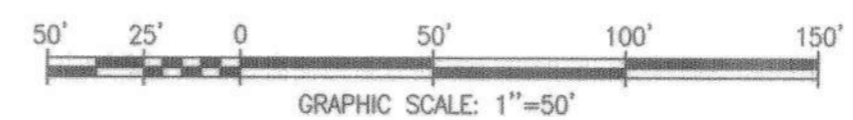
*Approved Final Plat*  
*Jennifer M. Buckman Jarp*  
*Director of Planning + Zoning*  
*2-24-10*

**FINAL PLAT**  
OF  
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**HARVEST HILLS**

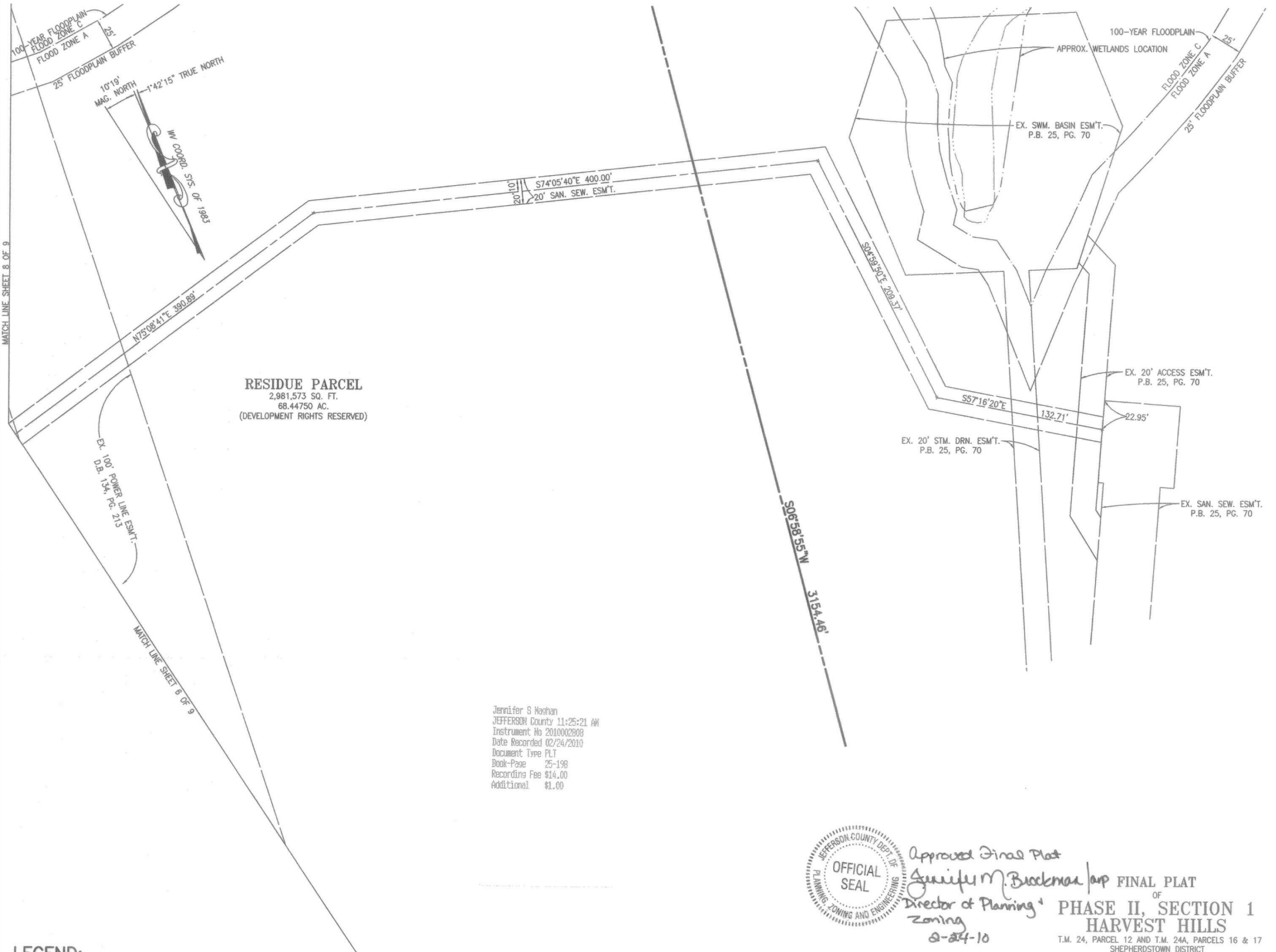
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Approved Final Plat  
*Jennifer M. Brockman* JUP  
Director of Planning &  
Zoning  
2-24-10

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**HARVEST HILLS**

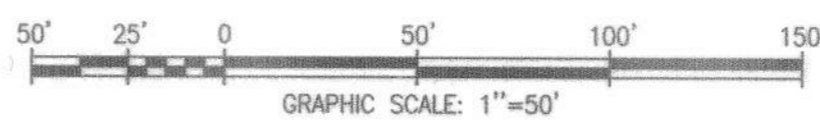
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Charles Town, West Virginia 25414

Phone: (304) 725-8456 Fax: (304) 728-0117 www.wgha.com



**THIS DEED** made this 19<sup>th</sup> day of October, 2015, by and between **ARCADIA COMMUNITIES, L.L.C.**, a Virginia limited liability company, successor by conversion to Arcadia Communities, Inc., a Virginia corporation authorized to do business in West Virginia, hereinafter referred to as GRANTOR; and **ARCADIA INTER VIVOS TRUST**, under a trust agreement dated October 19<sup>th</sup>, 2015, hereinafter referred to as GRANTEE.

**WITNESSETH:** That for and in consideration of the sum of Ten Dollars (\$10.00), the receipt and sufficiency of which is hereby acknowledged, the said Grantor does hereby grant and convey, transfer and set over unto the Grantee, all of its right, title and interest in and to the parcels of real property as described as follows:

**SEE ATTACHED LEGAL DESCRIPTION for PARCELS 1, 2, 3.**

**THIS CONVEYANCE IS MADE SUBJECT TO** all covenants, conditions, restrictions and easements of record or in existence.

**THIS CONVEYANCE IS ALSO MADE SUBJECT TO** the following reservations for non-exclusive easements for the benefit of the GRANTOR, its successors or assigns, and at Grantor's request Grantee shall cause any one or more of the same to be conveyed to a utility or municipal authority within thirty (30) days after such request, or, at Grantee's option, Grantee will assume the operation and maintenance of the facilities located within such easements and cause bonds and sureties posted by Grantor to be replaced so that Grantee is responsible for the same, in which event Grantee will indemnify Grantor from all costs and liabilities arising after such thirty (30) day period until Grantor is fully released from the bonds and all associated liability:

**PARCEL 1:**

1) 15' Sanitary Sewer Easement across Multi-Family Parcel I as shown on the plat entitled "Final Plat of Arcadia-Norborne Glebe, LLC" dated April 9, 2007, revised through November 17, 2007, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, and described thereon as "15' San. Sew. Esm't"

2) 15' Sanitary Sewer Easement across SWM Facility Parcel J as shown on the plat entitled "Final Plat of Arcadia-Norborne Glebe, LLC" dated April 9, 2007, revised through November 17, 2007, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, and described thereon as "15' San. Sew. Esm't"

3) 15' Sanitary Forcemain Easement across Multi-Family Parcel I and Commercial Lot Parcel H as shown on the plat entitled "Final Plat of Arcadia-Norborne Glebe, LLC" dated April 9, 2007, revised through November 17, 2007, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, and described thereon as "15 San. Forcemain Easement"

4) Temporary Access Easement across Commercial Lot Parcel H, Multi-Family Parcel I and SWM Facility Parcel J as shown on the plat entitled "Final Plat of Arcadia-Norborne Glebe, LLC" dated April 9, 2007, revised through November 17, 2007, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6

5) Signage Easement on Commercial Lot Parcel H as shown on the plat entitled "Final Plat of Arcadia-Norborne Glebe, LLC" dated April 9, 2007, revised through November 17, 2007, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, and described thereon as "Signage Easement;" Provided, That Grantor and Grantee herein agree that (i) any improvements contained or located within the easement may not be removed., and (ii) the area of such easement may be reduced by Grantee as long as the then-current improvements remain within the reduced easement area.

6) Signage Easement on Parcel G as shown on the plat entitled "Final Plat of Arcadia Development Co" dated April 4, 2007, and revised through November 9, 2007, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 5, and described thereon as "Signage Easement ;" Provided, That Grantor and Grantee herein agree that (i) any improvements contained or located within the easement may not be removed, and (ii) the area of such easement may be reduced by Grantee as long as the then-current improvements remain within the reduced easement area.

7) 20' Water Line Easement off Campbell Drive in Parcel F as shown the plat entitled "Final Plat of Arcadia Development Co" dated April 4, 2007, and revised through November 9, 2007, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 5.

8) 15' Sanitary Sewer Easement off of Barksdale Drive and on Other Lands of Arcadia Communities, Inc., and part of a 15' Sanitary Sewer Easement across the rear boundary lines of Lots 231 through 239 and on Other Lands of Arcadia Communities, Inc., as shown on Sheet 3 of 4 of a plat entitled "Final Subdivision Plat of Norborne Glebe Phase 5" dated September 9, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 502.

9) 15' Sanitary Sewer Easement, 15' Storm Sewer Easement, 15' Waterline Easement and Storm Sewer Easements off of Candlewood Drive and near the traffic circle surrounding Open Space Parcel C on Other Lands of Arcadia Communities, Inc., as shown on Sheet 4 of 4 of a plat entitled "Final Subdivision Plat of Norborne Glebe Phase 4" dated June 7, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 389.

10) 24' Storm Sewer Easement off Courier Drive on Other Lands of Arcadia Communities, Inc., as shown on Sheet 4 of 4 of a plat entitled "Final Subdivision Plat of Norborne Glebe Phase 4" dated June 7, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 389.

11) 20' Water Line Easement off Candlewood Drive as shown on Sheet 3 of 4 on a plat entitled "Final Subdivision Plat of Norborne Glebe Phase 3" dated June 19, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 405.

12) Water Line and Sewer Easements across Lot 1A1 as shown on a plat entitled "Plat of Correction Norborne-Glebe Phase 1" dated June 18, 2002 and revised through October 29, 2007, and recorded in the Office of the Clerk of the County Commission in Plat Book 25 at page 55.

**PARCEL 2:**

1) 20' Berkeley County Public Sanitary Sewer District Easement as shown on as shown on the plat entitled "Re-Plat of Phase 1, Section 1, Yorkshire Glen" dated October 1, 2007, and recorded in the Office of the Clerk of the County Commission of Berkeley County, West Virginia, in Plat Book 14 at page 8, and described thereon as "20' B.C.P.S.S.D. Esm't".

2) Berkeley County Public Sanitary Sewer District Pump Station Easement as shown on the plat entitled "Re-Plat of Phase 1, Section 1, Yorkshire Glen" dated October 1, 2007, and recorded in the aforesaid Clerk's Office in Plat Book 14 at page 8, and described thereon as "B.C.P.S.S.D. Pump Station Esm't".


**IN ADDITION TO THE EASEMENTS HEREIN RESERVED**, the following are also reserved to GRANTOR over Parcel 1 and Parcel 2: (i) all utilities, pump stations, roads, water lines, sewer lines, drainage and storm water management facilities, community signage and other facilities that were bonded and/or constructed by Grantor, or which are to be bonded and constructed by Grantor, and which are necessary for the intended use of Grantor's remaining property (such matters are the "Required Elements"), (ii) a reservation of sufficient sewer, water and storm water management capacity from all Required Elements to assure that Grantor will have the capacity necessary to serve the Grantor's remaining property and the intended use thereof, and (iii) all permits, licenses and approvals associated with the Required Elements. The parties hereto acknowledge and agree that in connection with the use and development of the property herein conveyed and the property owned by Grantor and adjacent or in the vicinity of the property herein conveyed, that certain additional easements and dedications may be required. The parties herein agree to cooperate in good faith to grant any such easements and dedications, provided the same do not materially affect the use and development of their respective property and without cost to the party granting such easement or dedication. All easements and dedications shall be on a mutually agreeable form and the parties will negotiate the same in good faith and obtain the consents of any secured lender to the same. This agreement will run with the land and be binding on the parties hereto and their respective successors and assigns.

**DECLARATION OF CONSIDERATION OR VALUE**

Under penalties of fine and imprisonment, as provided by law, the undersigned hereby declare that the transfer of real estate included in this document to which this declaration is appended is not subject to the West Virginia Excise Tax on the Transfer of real estate for the reason that the same is a transfer to an inter vivos trust and therefore exempt under West Virginia Code §11-22-1(4).

WITNESS the following signature and seal:

ARCADIA COMMUNITIES, L.L.C.

BY:  (SEAL)  
Name: BRAD DURGA  
Title: COO


STATE OF WEST VIRGINIA  
COUNTY OF JEFFERSON, to wit:

I, Alice Anne Chakmakian, a Notary Public within and for said County and State, do hereby certify that Brad Durga, COO, whose name is signed to the writing above, bearing date the 19<sup>th</sup> day of October, 2015, for ARCADIA COMMUNITIES, L.L.C., has this day in my said County, before me, acknowledged the said writing to be the act and deed of said Limited Liability Company.

Given under my hand this 19<sup>th</sup> day of October, 2015.

My commission expires: 9/1/23

Alice Anne Chakmakian  
Notary Public

(Affix Notary Seal)  
  
Official Seal  
Notary Public, State of West Virginia  
Alice Anne Chakmakian  
C/O Peter L Chakmakian L C  
PO Box 547  
Charles Town WV 25414  
My Commission Expires September 1, 2023

THIS INSTRUMENT PREPARED BY: Peter L. Chakmakian, Attorney at Law, P.O. Box 547, Charles Town, West Virginia 25414

## LEGAL DESCRIPTION

### PARCEL 1: NORBORNE GLEBE nka ARCADIA CHASE

The following certain tracts or parcels of real estate with the improvements thereon, and all rights, ways and easements incident thereto, situate in City of Charles Town, Jefferson County, West Virginia, more particularly described as follows:

#### TRACT ONE:

1) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 12, 2007, and revised November 12, 2007, and March 24, 2008, entitled "Plat Showing Boundary Survey of Arcadia Development Co.", thereon described as "Parcel C-1" Arcadia Development Co., containing 1.89178 Acres, which said survey and plat is attached to and recorded with, and made a part of a deed recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book 1049 at page 444.

2) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated August 23, 2006, and revised August 30, 2006, November 30, 2006, November 12, 2007, and March 24, 2008, entitled "Plat Showing Boundary Survey of Arcadia Development Co.", thereon described as "Parcel C-2" Arcadia Development Co., containing 0.36132 Acres, which said survey and plat is attached to and recorded with, and made a part of a deed recorded in the aforesaid Clerk's Office in Deed Book 1049 at page 457.

3) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 13, 2007, and revised November 12, 2007, and March 24, 2008, entitled "Plat Showing Boundary Survey of Arcadia Development Co.", thereon described as "Parcel D" Arcadia Development Co., containing 1.62348 Acres, which said survey and plat is attached to and recorded with, and made a part of a deed recorded in the aforesaid Clerk's Office in Deed Book 1049 at page 449.

4) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 4, 2007, and revised April 20, 2007, June 27, 2007, September 14, 2007, November 9, 2007, and January 4, 2007, entitled "Final Plat of Parcels E, F & G, Norborne Glebe", which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 5, thereon described as Parcel G, containing 2.68361 Acres.

5) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 9, 2007, and revised April 16, 2007, June 27, 2007, September 14, 2007, October 4, 2007, November 17, 2007, and December 20, 2007, entitled "Final Plat of Arcadia-Norborne Glebe, L.L.C.," which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, thereon described as Parcel H, containing 23.99832 Acres.

AND BEING the same parcels of real estate that were conveyed unto Arcadia Communities, Inc., a Virginia corporation by deed from Arcadia-NG Evitts Run, L.L.C., a West Virginia limited liability company acting by and through Robert O. Tyler, Chapter 7 Trustee for Arcadia-NG Evitts Run, L.L.C., and pursuant to an Order of the United States Bankruptcy Court for the Eastern District of Virginia Alexandria Division, dated February 29, 2012, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, on March 20, 2012 in Deed Book 1105 at page 615.

**TRACT TWO:**

All that certain parcel of real property which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 9, 2007, and revised April 16, 2007, June 27, 2007, September 14, 2007, October 4, 2007, November 17, 2007, and December 20, 2007, entitled "Final Plat of Arcadia-Norborne Glebe, L.L.C., which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, thereon described as Multi-Family Parcel I, containing 16.51715 Acres.

AND BEING the same real estate conveyed to Arcadia Communities, Inc., a Virginia corporation, by deed from Arcadia-NG Candlewood Drive, L.L.C., a West Virginia limited liability company, acting by and through Robert O. Tyler, Chapter 7 Trustee for Arcadia-NG Candlewood Drive, L.L.C., and pursuant to an Order of the United States Bankruptcy Court for the Eastern District of Virginia Alexandria Division, dated February 29, 2012, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, on March 20, 2012, in Deed Book 1105 at page 608.

**TRACT THREE:**

All that certain parcel of real property which is more particularly bounded and described on a plat entitled "Final Plat of Arcadia-Norborne Glebe, LLC", made by William H. Gordon Associates, Inc., dated April 9, 2007, and revised April 16, 2007, June 27, 2007, September 14, 2007, October 4, 2007, November 17, 2007 and December 20, 2007, which said Plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, thereon described as SWM Facility, Parcel J, containing 12.16 Acres.

AND BEING the same parcels of real estate that were conveyed unto Arcadia Communities, Inc., a Virginia corporation, by deed from Arcadia-Norborne Glebe, L.L.C., acting by and through Robert O. Tyler, Chapter 7 Trustee for Arcadia-Norborne Glebe, L.L.C., and pursuant to an Order of the United States Bankruptcy Court for the Eastern District of Virginia Alexandria Division, dated February 29, 2012, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, on March 20, 2012, in Deed Book 1105 at page 624.

**TRACT FOUR:**

All those certain lots or parcels of real estate which are more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 4, 2007, and revised April 20, 2007, June 27, 2007, September 14, 2007, November 9, 2007, and January 4, 2007, entitled "Final Plat of Parcels E, F & G, Norborne Glebe", which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 5, thereon described as Residue Area Parcel E, containing 14.04208 Acres and Parcel F, containing 4.41249 acres.

AND BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., a Virginia Corporation from the Arcadia *Inter Vivos* Trust, by deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1114 at page 471.

**TRACT FIVE:**

All that certain tract or parcel of real estate which is more particularly bounded and described according to a survey and plat entitled "Plat of Correction Norborne-Glebe Phase 1" dated June 18, 2002 and revised through October 29, 2007, and recorded in the Office of the Clerk of the County Commission in Plat Book 25 at page 55, and described thereon as, thereon described as Residue Parcel 1A1.

AND BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., a Virginia Corporation from the Arcadia *Inter Vivos* Trust, by deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1114 at page 471.

**TRACT SIX:**

All that certain tract or parcel of real estate which is more particularly bounded and described according to a survey and plat entitled "Plat of Correction Norborne-Glebe Phase 1" dated June 18, 2002 and revised through October 29, 2007, and recorded in the Office of the Clerk of the County Commission in Plat Book 25 at page 55, and described thereon as, thereon described as Residue containing 216.3 acres ±.

LESS AND EXCEPTING FROM THIS TRACT, HOWEVER, the following outsales:

1. Deed to Arcadia-Norborne Glebe, L.L.C., a West Virginia Limited Liability Company, recorded in the aforesaid Clerk's Office in Deed Book 979 at page 389, and by Deed of Correction recorded in the aforesaid Clerk's Office in Deed Book 1044 at page 722 (52.70475 acres).
2. Deed to Arcadia-Norborne Glebe Evitts Run, L.L.C., a West Virginia Limited Liability Company, recorded in Deed Book 1049 at page 454 (Parcel G, containing 2.68361 acres).

AND ALSO LESS AND EXCEPTING FROM THIS TRACT, the following:

3. All those certain lots or parcels of real estate which are more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 4, 2007, and revised April 20, 2007, June 27, 2007, September 14, 2007, November 9, 2007, and January 4, 2007, entitled "Final Plat of Parcels E, F & G, Norborne Glebe", which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 5, thereon described as Parcels E and F.
3. All those certain parcels of real property contained in Phase 2A, Norborne Glebe Subdivision, as shown on the plat entitled "Final Plat of Norborne Glebe Phase 2A" dated April 18, 2006, revised through September 5, 2006, and recorded in the aforesaid Clerk's Office in Plat Book 23 at page 67, and described thereon as Lots 79-83, 88-89, 92-104, inclusive, Burberry Lane, Featherstone Drive and Campbell Drive.
4. All those certain parcels of real property contained in Phase 2, Norborne Glebe Subdivision, as shown on the plat entitled "Final Plat of Norborne Glebe Phase 2" dated May 8, 2006, revised through September 21, 2006, and recorded in the aforesaid Clerk's Office in Plat Book 23 at page 97, and described thereon as Lots 105-110, 140-159, 174-181, inclusive, Open Space Parcel A, Open Space Parcel B, Open Space Parcel C, Open Space Parcel D, Casorsa Drive, Seaton Lane, Campbell Drive, Santmyer Way and Candlewood Drive.
5. All those certain parcels of real property contained in Phase 3, Norborne Glebe Subdivision, as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 3" dated June 19, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 405, and described thereon as Lots 90-91, 111-125, 133-139, 160-166, Open Space A, Open Space B, Barksdale Drive, Penticton Way, Stone Lane, Okanagan Drive.
6. All those certain parcels of real property contained in Phase 4, Norborne Glebe Subdivision, as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 4" dated June 7, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 389, and described thereon as Lots 182-189, 205-218, 240-246, Open Space Parcel A, Open Space Parcel B, Open Space Parcel C, Open Space Parcel D, Courier Drive, Casorsa Drive, Tornworth Drive and Candlewood Drive.
7. All those certain parcels of real property contained in Phase 5, Norborne Glebe Subdivision, as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 5"

dated September 9, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 502, and described thereon as Lots 126-132, 167-173, 190-204, 219-239, Open Space Parcel A, Open Space Parcel B, Open Space Parcel C, Courier Drive, Okanagan Drive, Graywood Lane and Barksdale Drive.

8. A portion of that certain parcel real property denoted as Residue on the plat entitled "Plat of Correction Norborne-Glebe Phase 1" dated June 18, 2002 and revised through October 29, 2007, and recorded in the Office of the Clerk of the County Commission in Plat Book 25 at page 55, containing 13,127 square feet, more or less, and described as follows:

Beginning at a point along the southerly line of Courier Drive as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 4" dated June 7, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 389, and being the northeasterly corner of Lot 240 as described thereon; thence with the southerly line of Courier Drive thence SOUTH 78°43'27" EAST 78.61 FEET to a point; thence continuing with the southerly line of Courier Drive as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 5" dated September 9, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 502 SOUTH 78°43'27" EAST 30.78 FEET to a point being the northwesterly corner of Lot 239 as shown on said plat; thence departing Courier Drive and running with the westerly line of Lot 239 SOUTH 11°16'33" WEST 120.00 FEET to the southwesterly corner of Lot 239; thence departing Lot 239 and running through the above referenced Residue NORTH 78°43'27" WEST 109.39 FEET to the southeasterly corner of Lot 240 referenced above; thence with said Lot 240 NORTH 11°16'33" EAST 120.00 FEET to the point of beginning.

TOGETHER WITH a non-exclusive easement across the right of way easements and roads contained in the subdivision shown on the aforementioned plats of phases 2, 2a, 3, 4 and 5 of Norborne Glebe Subdivision for the purpose of ingress and egress between the property and the public road and non-exclusive easements within the sanitary sewer, sewer, storm drain, and waterline easements as shown on the aforesaid plats of phases 1, 2, 2a, 3, 4 and 5 of Norborne Glebe Subdivision for the purpose of the conveyance of storm water, sewer and water in connection with future development of this Parcel 1.

AND BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., a Virginia Corporation from the Arcadia *Inter Vivos* Trust, by deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1114 at page 471.

It is the intention that this TRACT SIX contain all the property to the south of SWM Facility Parcel J as it is shown on the Plat entitled "Final Plat of Arcadia-Norborne Glebe, L.L.C." dated April 9, 2007, revised through November 17, 2007, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 6; to the south of the southern boundary of the property depicted on the plats for Phases 4 and 5 of Norborne Glebe Subdivision as shown on the respective plats for these phases and to the south of the parcel described in item 8 of the less and excepting provisions above. The following is a more particular description of the TRACT SIX:

**Beginning** at an iron rod found as shown on a plat by William H. Gordon and Associates, Inc. recorded in the Office of the Clerk of the Jefferson County Court, WV in Plat Book 25, at page 6; thence with eleven (11) lines shown on said plat,

**S 53°11'17" E 80.18'** to an 18" x 5/8" rebar set; thence

**S 76°15'10" E 829.04'** to an 18" x 5/8" rebar set; thence

**S 18°47'53" E 199.75'** to an 18" x 5/8" rebar set; thence

**N 71°12'07" E 70.68'** to an 18" x 5/8" rebar set; thence with a curve to the left,

Chord Bearing = **N 62°58'09" E**, Chord Distance = **481.87-feet**, Radius = **1682.55-feet**,

Arc Length = **483.53-feet**, to an 18" x 5/8" rebar set; thence with a curve to the left,

Chord Bearing = **N 2°25'32" E**, Chord Distance = **39.57-feet**, Radius = **25.17-feet**, Arc Length = **45.52-feet**, to an 18" x 5/8" rebar set; thence,

**N 49°53'08" W 370.03'** to an 18" x 5/8" rebar set; thence with a curve to the left,

Chord Bearing = **N 70°49'04" W**, Chord Distance = **17.86-feet**, Radius = **25.00-feet**, Arc Length = **18.27-feet**, to an 18" x 5/8" rebar set; thence with a curve to the right, Chord Bearing = **N 12°05'14" W**, Chord Distance = **147.57-feet**, Radius = **75.00-feet**, Arc Length = **208.58-feet**, to an 18" x 5/8" rebar set; thence with a curve to the left, Chord Bearing = **N 46°25'04" E**, Chord Distance = **18.05-feet**, Radius = **25.00-feet**, Arc Length = **18.47-feet**, to an 18" x 5/8" rebar set; thence, **N 25°15'27" E 228.06'** to a 5/8" iron rebar & cap set as shown on a plat by Greenway Engineering, Inc. recorded in said Clerk's Office in Plat Book 25, at page 389; thence with three lines as shown on said plat,  
**S 64°44'33" E 100.00'** to a 5/8" iron rebar & cap set; thence,  
**S 63°55'08" E 36.35'** to a 5/8" iron rebar & cap set; thence,  
**S 78°43'27" E 619.72'** to a 5/8" iron rebar & cap set; thence with a new line of division,  
**S 78°43'27" E 109.39'** to a 5/8" iron rebar & cap set as shown on a plat by Greenway Engineering, Inc. and recorded in said Clerk's Office in Plat Book 25, at page 502; thence with five (5) lines shown on said plat,  
**S 78°43'27" E 805.86'** to a 5/8" iron rebar & cap set; thence  
**S 13°38'48" W 6.85'** to a 5/8" iron rebar & cap set; thence  
**S 76°21'12" E 50.00'** to a 5/8" iron rebar & cap set; thence  
**N 13°38'48" E 41.77'** to a 5/8" iron rebar & cap set; thence  
**S 76°21'12" E 154.55'** to an unmarked point in a line shown on a plat by Huntley, Nyce & Associates, Ltd. and recorded in said Clerk's Office in Plat Book 25, at page 55; thence  
**S 14°57'11" W 1636.80'** (distance is shown on previously mentioned plat by Greenway Engineering, Inc. in Plat Book 25, at page 502) to a 5/8" rebar set; thence with fourteen (14) lines shown on said Huntley, Nyce & Associates, Ltd. plat,  
**S 14°21'21" W 1439.82'** to a 5/8" rebar set; thence  
**N 37°36'18" W 1941.74'** to a 5/8" rebar set; thence  
**S 46°12'55" W 113.77'** to a 5/8" rebar set; thence  
**N 52°25'11" W 719.96'** to a 5/8" rebar set; thence  
**S 39°53'45" W 930.74'** to a point (no corner identification on plat); thence  
**N 42°47'30" W 307.02'** to a point (no corner identification on plat); thence  
**N 8°48'52" E 973.25'** to a 5/8" rebar set; thence  
**N 11°11'38" E 88.43'** to a 5/8" rebar set; thence  
**N 17°16'04" E 101.95'** to a 5/8" rebar set; thence  
**N 20°12'45" E 101.93'** to a 5/8" rebar set; thence  
**N 24°49'31" E 101.95'** to a 5/8" rebar set; thence  
**N 29°28'14" E 61.00'** to a 5/8" rebar set; thence  
**N 33°47'00" E 40.99'** to a 5/8" rebar set; thence  
**N 36°48'39" E 79.69'** (bearing is as shown on said Huntley, Nyce & Associates, Ltd. plat in Plat Book 25, at page 55 and distance is as shown on a plat by Appalachian Surveys, Inc. recorded in Plat Book 9, at page 38) to the **point of beginning**, containing an area of **127.19 Acres**, more or less.

With the compilation of the dimensions shown on the record plats, this description does not close geometrically. The closing bearing and distance is **S 88°56'37" E 0.58'**. All corners called for in this description are as shown on the plats of record. No field survey was performed for this description.

**PARCEL 2: YORKSHIRE GLEN nka ARCADIA SPRINGS**

The following certain tracts or parcels of real estate with the improvements thereon, and all rights, ways and easements incident thereto, situate in Arden District, Berkeley County, West Virginia, more particularly described as follows:

**TRACT ONE:**

Beginning at a stake in the middle of the road leading from the iron bridge to Vanclevessville, corner to Jacob Miller's heirs and in a line of John W. Deck; thence with a line of the latter along the middle of the road S. 78 deg. 45' W. 40.6 poles to a stake corner to same; thence with another of her lines N. 1 deg. 15' E. 68.6 poles to a stake corner to same and in a line of William B. Evers; thence with his line N. 83 deg. W. 85.4 poles to a stake, corner to same and

in a line of James Clayton; thence with his lines S. 18 deg. 30' E. 5 poles to a stake; thence with his line in part and finally with Thomas Brannon S. 3 deg. 45' E. 44.1 poles to a point where a large white oak is called for in original (now gone) corner to same; thence with Brannon N. 86 deg. 15' W. 56.2 poles to the center of the Kearneysville Road; thence leaving the original line and running along the center of said road S. 9 deg. 30' W. 27.8 poles; thence S. 20 deg. 30' E. 14.1 poles; thence S. 34 deg. 15' E. 7.7 poles; thence S. 21 deg. 0' E. 12.9 poles to the intersection of the center lines of the Kearneysville and Vanclevessville Roads, it being an original corner; thence with the original line along the center of the Kearneysville road S. 6 deg. 0' E. 50.6 poles to a stake corner to Oden and G. Feller's Heirs and in the road; thence with a line of Feller's Heirs in part and finally with W.M. Vanclevess's Heirs S. 65 deg. 45' E. 94.8 poles to a stake corner to Vancleve's Heirs; thence with their lines S. 82 deg. 0' E. 81.8 poles to a pile of stone; thence N. 0 deg. 45' E. 101.4 poles to a stone corner to Jacob Miller's Heirs; thence with their line N. 14 deg. 0' W. 40.3 poles to the beginning, containing 163 acres, be the same more or less; according to a plat thereof made by Wade Butler and Kesecker, July 28, 1948, attached to and made a part of Deed from Henry J. Seibert and Katherine L. Seibert, his wife, dated the 14<sup>th</sup> day of August, 1948, to which reference is hereby made for a full and complete description of said property,

SAVING AND EXCEPTING THEREFROM, HOWEVER, the following described outsale made by Paige F. Sions and Betty E. Sions, his wife, to Floyd A. Files and Laura Catherine Gregory files, his wife, by deed dated the 25<sup>th</sup> day of July, 1957, and recorded in the Office of the Clerk of the County Commission of Berkeley County, West Virginia, in Deed Book 205, at Page 566, to wit: a certain lot or parcel of real estate, situate, lying and being on the north side of the public road leading from West Virginia Route numbered 9 to the Village of Vanclevessville in Arden District of Berkeley County, West Virginia, consisting of 2 acres more or less and more particularly described as follows: "Beginning at a point in the center line of public road 9/18 and corner to the line of Needy; thence in the center line of said public road, 300 feet in a westwardly direction, and running back of equally width in a northerly direction with the line of Needy and parallel thereto, a distance of 300 feet." And further reference is hereby made to that certain plat of the property prepared by Willard F. Wurzburg, Jr., dated July 5, 1957, and recorded in the aforesaid Clerk's Office in Deed Book 205, at page 567.

AND FURTHER EXCEPTING THEREFROM, HOWEVER, BEGINNING at (1), 5/8 inch capped (Davy) rebar, set, in a line of a 160.9339 acre tract of land now owned by Paige F. Sions and Betty E. Sions (see Deed Book 205, at page 82) of which this tract is a part and in a line of a 3.672 acre tract now owned by Vernon Dodson (see Deed Book 195, at page 97) and being a corner to a 50 foot wide nonexclusive easement (see Note C on Plat No. D95-036). Said rebar is referenced by (I), a fence post, found, which bears 60-11'-07 E. at 699.74 feet; thence with the 160.9339 acre tract of Sions for seven lines and with Dodson's 3.672 acre tract for one line and bounds of said 50-foot wide nonexclusive easement, for two lines and along or near a fence line for line, FIRST COURSE, N. 60 degrees - 46 minutes - 09 seconds W. 100.88 feet to (A) a fence post, found, in line and continue same course with Dodson and continuing with a line of an 0.828 acre tract of land now owned by Daniel Stanley (See Deed Book 296, at Page 330), 557.58 feet to (B), a fence post, found, in line and continue same course 14.68 feet to (C), a 5/8 inch capped (Davy) iron rod, set, in line and continue same course 5.00 feet to (D), a calculated point, in line and a corner of said 0.828 acre tract on the eastern bounds of West Virginia Secondary Route 36/1 [Corner No. D is referenced by (J) a 3 inch pipe over a metal fence post, found, which bears S. 10-46' -01" W. at 273.93 feet] and continue with same course 15.00 feet (in all 71.3.14 feet) to (2), a calculated point in the centerline of West Virginia Secondary Route 36/1 (a 30-foot right-of-way), and at the beginning of a circular curve to the left; thence, with the centerline of said county road

for six lines, SECOND COURSE, with the arc for 55.99 feet (said Curve No. 1's chord bears N 02-33'-01" E. at 55.96 feet) to (E), a calculated point in said curve and being another corner to aforesaid 50-foot wide nonexclusive easement and leaving said easement and continuing with the same curve, with the arc for 2.93 feet (said Curve No. 2's chord bears N. 01-02'-05" W. at 2.93 feet) (in all an arc distance of 58.92 feet and a chord of N. THIRD COURSE, N. 01 degrees – 18 minutes – 25 seconds W. 73.12 feet to (4) a calculated point; thence FOURTH COURSE, N. 02 Degrees – 19 minutes – 39 seconds W. 341.30 feet to (5) a calculated point; thence FIFTH COURSE, N. 01 Degrees – 51 minutes – 45 Seconds W. 184.73 feet to (6) a calculated point; thence SIXTH COURSE, N 02 degrees – 46 minutes -53 Seconds W. 91.74 feet to (7) a calculated point at the beginning of a circular curve to the left; thence SEVENTH COURSE with the arc for 90.95 feet (said Curve No. 3's chord bears N. 09-24'-17" W. at 90.74 feet) to (8) a calculated point at the centerline intersection of West Virginia's Secondary Route 36/1 and West Virginia Secondary Route 9/18; thence, leaving said 160.9339 acre tract and going across and through the 160.9339 acre tract with new division lines for four lines and with the centerline of West Virginia Secondary Route 9/18 for three lines, EIGHTH COURSE, N. 86 Degrees – 25 minutes – 27 seconds E. 192.34 feet to (9), a calculated point at the beginning of a circular curve to the left; thence NINTH COURSE, with the arc for 351.58 feet (said Curve No's 4 chord bears N. 81-17'-05" E. at 351.15 feet to (10) a calculated point; thence, TENTH COURSE, N. 76 Degrees – 23 minutes – 01 seconds E. 75.97 feet to (11), a calculated point; thence, leaving said Route No. 9/18, ELEVENTH COURSE, S. 02 Degrees – 09 minutes – 19 seconds E. 15.00 feet to (F), a 5/8 inch capped (Davy) rebar, set, in line and continue same course, 1197.39 feet to (G), a 5/8 inch capped (Davy) rebar, set, in line and being another corner to the aforesaid 50-foot wide nonexclusive easement and continue same course, 58.57 feet (in all 1270.96 feet) to the point of beginning, containing 14.500 total acres, more or less. Reference is made to a plat made by Ricky C. Davy dated August 29, 1995, and recorded with the deed hereinafter mentioned.

BEING the same real estate that was conveyed unto Arcadia Development Co., a California Corporation, from Marguerite S. Byers, Beverly M. Radcliff, Debra K. Miller Evelyn S. Edwards, Betty Louise Kessell, Kathy Lee Muia and Stephen Frederick Sions, by deed dated January 6, 2005, and recorded in the aforesaid Clerk's Office in Deed Book 788 at page 175.

AND ALSO BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., a Virginia Corporation from the Arcadia *Inter Vivos* Trust, by deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1015 at page 592; and recorded in Deed Book 1018 at page 326, on September 20, 2012.

LESS AND EXCEPTING THEREFROM, HOWEVER, ALL PORTIONS OF THE PROPERTY SOUTH OF W.V. Route 9/18, VAN CLEVESVILLE ROAD, more particularly described as follows:

- 1) All those certain parcels of real property contained in Phase 1, Section 1, Yorkshire Glen, as shown on the plat entitled "Re-Plat of Phase 1, Section 1, Yorkshire Glen" dated October 1, 2007, and recorded in the aforesaid Clerk's Office in Plat Book 14 at page 8, and described thereon as Lots 1 through 20, inclusive, SWM Area, Bolton Court, Liverpool Lane and Aldershot Drive.
- 2) All those certain parcels of real property contained in Phase 1, Section 2A, Yorkshire Glen, as shown on the plat entitled "Re-Plat of Phase 1, Section 2A, Yorkshire Glen" dated October 1, 2007, and recorded in the aforesaid Clerk's Office in Plat Book 14 at page 13, and described thereon as Lots 21 through 104, Lots 131-135, Lots 153 through 162, inclusive, SWM Parcel A, Liverpool Lane, Aldershot Drive, Serpentine Way, Nailsworth Street, Shrewsbury Drive and Oxford Way.

3) All those certain parcels of real property contained in Phase 1, Section 2B, Yorkshire Glen, as shown on the plat entitled “ Final Plat of Phase 1, Section 2B, Yorkshire Glen” dated August 9, 2007 and revised through October 1, 2007, and recorded in the aforesaid Clerk’s Office in Plat Book 14 at page 2, and described thereon as Lots 105 through 130, Lots 136 through 152, Lots 163 through 214, inclusive, SWM Parcel B, OSP A, Oxford Way, Zennor Way, Norfolk Lane and Shrewsbury Drive.

4) All those certain parcels of real property contained in Phase 1, Section 3, Yorkshire Glen, as shown on the plat entitled “Final Plat of Phase 1, Section 3, Yorkshire Glen” dated August 17, 2007 and revised through October 1, 2007, and recorded in the aforesaid Clerk’s Office in Plat Book 14 at page 5, and described thereon as Lots 215 through 255, inclusive, OSP B, OSP C, Oxford Way, Elstow Way and Laxfield Court.

**TRACT TWO:**

All that certain parcel of real property, with the improvements thereon, and all rights, ways and easements incident thereto, situate in the Arden District, Berkeley County, West Virginia, and more particularly described as follows:

Beginning at a point in the center line of public road 9/18 and corner to the line of Needy; thence in the center line of said public road, 300 feet in a westwardly direction, and running back of equal width in a northerly direction with the line of Needy and parallel thereto, a distance of 300 feet. Further reference is hereby made to that certain plat of the property as prepared by Willard F. Wurzburg, Jr., and bearing date of July 5, 1957, a copy of which is recorded in the Office of the Clerk of the County Commission of Berkeley County, West Virginia, in Deed Book 205 at page 567.

AND BEING the same real estate that was conveyed unto Arcadia Communities, Inc., by deed dated February 29, 2012, and recorded in the aforesaid Clerk’s Office in Deed Book 1002 at page 520.

**TRACT 3:**

All of that certain tract or parcel of real estate, situate in Arden District, Berkeley County, West Virginia, containing 5.91899 acres, as appearing upon a boundary survey prepared by William H. Gordon Associates, Inc., dated July 10, 2006, the same being of record in the Office of the Clerk of the County Commission of Berkeley County, West Virginia, in Plat Cabinet No. 13, at Slide 48, to which reference is hereby made for a more particular description thereof by metes and bounds.

TOGETHER WITH a right-of-way 12.5 feet in width over, along and upon the northerly part of the lands of the parties of the first part (Spitler), from West Virginia Secondary Route 36/1 to the westerly line of Triggs (1.0468 acre tract), and then by a right-of-way 12 feet in width along the westerly side of Triggs’ tract to point (1) herein (point 1 in a metes and bounds description of a 2.03 acre tract conveyed by Spitler to Davis, DB 284; page 356, hereinafter referred to), for purposes of ingress, egress, and regress; BEING the same right-of-way conveyed by Saylor R. Spitler, et ux., to Ernest E. Davis, et ux., by deed dated January 6, 1975, and recorded in the aforesaid Clerk’s Office in Deed Book No. 284, at page 356; reference is further made to the terms and provisions of a Settlement Agreement between Robert L. Hopkins, et ux., and Michael D. MacDonald, et ux., dated June 8, 1988, and recorded in the aforesaid Clerk’s Office in Deed Book No. 433, at page 428.

BEING the same real estate conveyed to Arcadia Development Co., a California corporation, by Deed dated March 26, 2007, from Capitol Used Auto Parts, Inc., and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book 864, at Page 119.

AND ALSO BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., a Virginia Corporation from the Arcadia *Inter Vivos* Trust, by deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1015 at page 592; and recorded in Deed Book 1018 at page 326, on September 20, 2012.

**PARCEL 3: HARVEST HILLS nka ARCADIA DOWNS**

**TRACT ONE:**

All those certain tracts or parcels of real estate with the improvements thereon, situate in Shepherdstown District, Jefferson County, West Virginia, more particularly described as follows:

**PARCEL A:**

Lots 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24 and 26 Harvest Hills, as more particularly designated and described upon a plat entitled "Final Plat showing Lots 1-27 HARVEST HILLS" prepared by Appalachian Surveys, Inc., dated May, 1999, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 17 at pages 45A and 45B.

**PARCEL B:**

Lots 1 and 2 of the William P. Henderson Minor Subdivision as more particularly shown on that plat showing the William P. Henderson Minor Subdivision dated September, 1997, as prepared by Appalachian Surveys, Inc., and recorded in the aforesaid Clerk's Office in Plat Book 15 at page 83. LESS AND EXCEPTING, therefrom Merger Parcel B, consisting of 0.205 acres and Merger Parcel C, consisting of 0.271 acres, as more particularly described in the Deed of Merger dated June 8, 1999, and recorded in the aforesaid Clerk's Office in Deed Book 927 at page 231. TOGETHER WITH Merger Parcel A, consisting 0.142 acres and Merger Parcel D, consisting of 0.501 acres, as more particularly described in that Deed of Merger dated June 8, 1999, and recorded in the aforesaid Clerk's Office in Deed Book 927 at page 234.

**AND BEING** the same real estate conveyed unto Arcadia Communities, Inc., by deed from Arcadia-Harvest Hills, LLC, dated February 29, 2012, and recorded in aforesaid Clerk's Office in Deed Book 1105 at page 600.

**TRACT TWO:**

All those tracts or parcels of real estate, lying and being in the Shepherdstown District, Jefferson County, Virginia, situate near Duffields, and more particularly described as follows:

**PARCEL A:**

Being all of "Residue B" containing 45.364 acres, as shown on a plat entitled "Plat of Survey showing Merger Parcels from Property of William P. Henderson" drawn by Appalachian Surveys, Inc., dated May 18, 1999, said plat being recorded in the aforesaid Clerk's Office in Plat Book 15 at page 83, LESS AND EXCEPTING THEREFROM, HOWEVER, the following outsale:

Deed to Arcadia-Harvest Hills, LLC, a West Virginia Limited Liability Company, recorded in the aforesaid Clerk's Office in Deed Book 998 at page 460 (Lots 1-27 Harvest Hills).

**PARCEL B:**

All of the parcel known as Residue A, containing 115.857 acres after merger, as shown on Plat of Survey showing Merger Parcels for property of William P. Henderson, drawn by Appalachina Surveys, Inc., and recorded in the aforesaid Clerk's Office in Plat Cabinet 16, at Slide 69.

**PARCEL C:**

**First Parcel:** Known as the Manning Place, and described as follows according to a survey dated December 3, 1867, recorded in the Office of the Clerk of the County Court of Jefferson County, West Virginia, in Deed Book 2, Page 467, to wit:

Beginning at a stone, corner to Craven Trussell; thence with the said Trussell line N. 46 E. 115 poles crossing Elk Branch to Trussell and Miller's corner; thence with Miller's line N. 30 W. 36.5 poles; thence N. 36 W. 12 poles; thence N. 41 W. 12 poles; thence N. 44 – 30 W. 12 poles; thence N. 48 – 30 W. 12 poles; thence N. 51 – 30 W. 11.5 poles; thence N. 55 – 15 W. 12 poles; thence N. 60 W. 12 poles; thence N. 64 – 30 W. 12.7 poles; thence N. 69 – 45 W. 18 poles; thence N. 76 W. 18 poles to a stone on the south side of the railroad; thence leaving the railroad and running S. 03 – 25 W. 25.1 poles to the original corner of Manning and Duffield, a pile of stone, and the same course continued in all 219.6 poles to a pile of stone in Minor Hurst's line; and thence with the same S. 74 – 41 E. 116.1 poles to the beginning, containing 191 acres, more or less.

SUBJECT TO that certain Right-of-way to Potomac Light and Power Company recorded in the aforesaid Clerk's Office in Deed Book 268 at page 347.

Second Parcel:

Being a part of the Volney Hill Farm, described as follows according to a survey by J. Jas. Skinner, S.J.C., dated March 21, 1927, and of record in the aforesaid Clerk's Office in Deed Book 128 at page 429, to wit:

Beginning at a post (7), a corner to the first parcel and the residue of the Volney Hill Tract; thence with the lines of the first parcel S. 50 – 15 W. 77.4 pole to a post (8); thence N. 70 – 40 W. 95.6 poles to a post (9); thence leaving the first parcel S. 14 – 15 W. 73.1 poles to a post (10) in Michaels' line; thence with his line S. 72-40 E. 129.8 poles to a point at a Hakenberry Tree (11); corner with the residue o the Volney Hill Tract; thence with the latter N. 17 – 15 E. 100.6 poles to a stake (12); thence N. 25-15 E. 35.2 poles to the beginning, containing 65 acres, 0 roods and 32 poles, more or less.

SUBJECT TO the Shepherdstown Light & Water Co., easement recorded in the aforesaid Clerk's Office in Deed book 134 at page 213.

AND BEING the same real estate conveyed unto Arcadia Development Co., a California Corporation, from William P. Henderson by deed dated February 12, 2004, and recorded in the aforesaid Clerk's Office in Deed Book 985 at page 363.

LESS AND EXCEPTING THEREFROM, HOWEVER, the following outsales:

1. Deed to Jefferson County Parks and Recreation Commission, recorded in the aforesaid Clerk's Office in Deed Book 1031 at page 168 (Lot B, School Lot, containing 21.8085 acres)
2. Deed to Mt. Zion AME Church, recorded in the aforesaid Clerk's Office in Deed Book 1031 at page 172 (Lot C, Church Lot, containing 2.00 Acres).

**PARCEL D:**

All those certain parcels of real estate with any improvements thereon and appurtenances thereunto belonging, lying and situate in the Shepherdstown District, Jefferson County, West Virginia, and more particularly bounded and described, according to a survey and plat thereof, entitled "Plat of Resurveys Showing Property of William P. Henderson," dated August 25, 2003, by Appalachian Surveys of West Virginia, LLC and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 23 at page 71, showing thereon as Lot 16 and 17, and including all of the Grantors right, title and interest in and to the existing right of way shown on said plat as Ex. Elk Street. The property conveyed herein comprises 0.99± access and is identified for property tax purposes as Tax Map 24A Parcels 16 and 17.

**PARCEL E:**

All that certain lot or parcel of real estate, with the improvements thereon and appurtenances thereunto belonging, situate near Duffields Depot in the Shepherdstown Magisterial District, Jefferson County, West Virginia, and designated as Lot 4, containing 0.2500 acres, more or less, on a plat of survey dated January 3, 2007, prepared by Terry Placanica, P.S., entitled "Plat of Resurvey, Property of Bruce Bowers, WB 14 P 251; DB 273 Pg 147, 'Drydensville' Plat – DB 96 PG 395, WB 8 PG 724" which said plat is recorded in the aforesaid Clerk's Office in Plat Book 24 at page 45, to which said plat reference is hereby made for a more complete and accurate description by metes and bounds of the parcels hereby conveyed. Reference is also hereby made to a plat of survey of Drydensville originally prepared by Jn. Hess in 1978, a copy of which said plat is attached to, made a part of and incorporated in a deed dated November 21, 1905, from Jonathan E. Burns, et ux., to George S. Houser, recorded in the aforesaid Clerk's Office in Deed Book 96 at page 392.

AND BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., by Confirmatory Deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1114 at page 471.

THIS CONFIRMATORY DEED made this 21<sup>st</sup> day of January, 2016, by and between GARY ENDLER, as Trustee of the ARCADIA INTER VIVOS TRUST under Agreement dated the 19<sup>th</sup> day of October, 2015, hereinafter referred to as GRANTOR, and ARCADIA LAND, INC., a Virginia corporation, hereinafter referred to as GRANTEE.

WHEREAS, Arcadia Land, Inc., a Virginia Corporation, merged with the Arcadia Inter Vivos Trust, an inter vivos trust existing under the State of West Virginia, effective the 19<sup>th</sup> day of October, 2015, with Arcadia Land, Inc., being the surviving entity; and

WHEREAS, this Confirmatory Deed is made to effect and evidence the transfer of title to all real estate and to confirm that title thereto is now vested in Arcadia Land, Inc., by virtue of the merger, and is further made to comply with the requirements of the West Virginia Code.

NOW, THEREFORE, in consideration of the merger and other valuable consideration, the receipt of which are hereby acknowledged, Grantor GRANTS and CONVEYS to Grantee, with covenants of SPECIAL WARRANTY and against all liens and encumbrances, all if its rights, privileges, improvements, rights-of-way and appurtenances thereunto belonging or in anywise appertaining, situate in Jefferson County, West Virginia, and more particularly described as follows:

**SEE ATTACHED LEGAL DESCRIPTION FOR PARCELS 1 AND 2.**

**THIS CONVEYANCE IS MADE SUBJECT TO** all covenants, conditions, restrictions and easements of record or in existence.

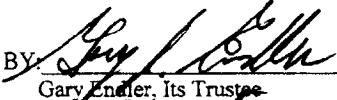
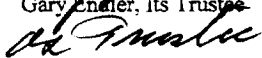
**DECLARATION OF CONSIDERATION OR VALUE**

Under penalties of fine and imprisonment, as provided by law, the undersigned hereby declare that the transfer of real estate included in this document to which this

declaration is appended is a merger of a corporation and an inter vivos trust, and therefore, is exempt from the West Virginia Excise Tax on the Transfer of real estate.

**WITNESS** the following signatures and seals:

Arcadia Inter Vivos Trust

BY:  (SEAL)  
Gary Endler, Its Trustee  


Arcadia Land, Inc.

BY: [Signature] (SEAL)  
Its President

STATE OF Virginia  
COUNTY OF Loudoun to wit:

I, Carla E. Coffey, a Notary Public within and for said County and State, do hereby certify that GARY ENDLER, Trustee, whose name is signed to the writing hereto attached, bearing date the 28<sup>th</sup> day of January, 2016, for ARCADIA INTER VIVOS TRUST, has this day in my said County, before me acknowledged the said writing to be the act and deed of said Inter Vivos Trust.

Given under my hand this 3<sup>rd</sup> day of February, 2016.

My commission expires: November 30, 2018

(Affix Notary Seal)

[Signature]  
Notary Public



NO TITLE EXAMINATION WAS REQUESTED AND NO TITLE EXAMINATION WAS PERFORMED

THIS INSTRUMENT WAS PREPARED BY: Peter L. Chakmakian, Attorney at Law, PO Box 547, Charles Town, WV 25414

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Santa Clara )  
On February 4, 2016 before me, Kathleen Schmidt, Notary Public  
Date Here Insert Name and Title of the Officer  
personally appeared Eli Reinhard  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Kathleen Schmidt  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: Commutatory Deed Document Date: 1/28/2016  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: Gary Endler

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Eli Reinhard  
 Corporate Officer — Title(s): President  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Individual  Attorney in Fact  
 Trustee  Guardian or Conservator  
 Other: \_\_\_\_\_

Signer Is Representing: Amada Land, Inc.

Signer Is Representing: \_\_\_\_\_

**LEGAL DESCRIPTION**

**PARCEL 1: NORBORNE GLEBE nka ARCADIA CHASE**

The following certain tracts or parcels of real estate with the improvements thereon, and all rights, ways and easements incident thereto, situate in City of Charles Town, Jefferson County, West Virginia, more particularly described as follows:

**TRACT ONE:**

1) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 12, 2007, and revised November 12, 2007, and March 24, 2008, entitled "Plat Showing Boundary Survey of Arcadia Development Co.", thereon described as "Parcel C-1" Arcadia Development Co., containing 1.89178 Acres, which said survey and plat is attached to and recorded with, and made a part of a deed recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Deed Book 1049 at page 444.

2) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated August 23, 2006, and revised August 30, 2006, November 30, 2006, November 12, 2007, and March 24, 2008, entitled "Plat Showing Boundary Survey of Arcadia Development Co.", thereon described as "Parcel C-2" Arcadia Development Co., containing 0.36132 Acres, which said survey and plat is attached to and recorded with, and made a part of a deed recorded in the aforesaid Clerk's Office in Deed Book 1049 at page 457.

3) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 13, 2007, and revised November 12, 2007, and March 24, 2008, entitled "Plat Showing Boundary Survey of Arcadia Development Co.", thereon described as "Parcel D" Arcadia Development Co., containing 1.62348 Acres, which said survey and plat is attached to and recorded with, and made a part of a deed recorded in the aforesaid Clerk's Office in Deed Book 1049 at page 449.

4) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 4, 2007, and revised April 20, 2007, June 27, 2007, September 14, 2007, November 9, 2007, and January 4, 2007, entitled "Final Plat of Parcels E, F & G, Norborne Glebe", which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 5, thereon described as Parcel G, containing 2.68361 Acres.

5) All that certain lot or parcel of real estate which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 9, 2007, and revised April 16, 2007, June 27, 2007, September 14, 2007, October 4, 2007, November 17, 2007, and December 20, 2007, entitled "Final Plat of Arcadia-Norborne Glebe, L.L.C.," which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, thereon described as Parcel H, containing 23.99832 Acres.

AND BEING the same parcels of real estate that were conveyed unto Arcadia Communities, Inc., a Virginia corporation by deed from Arcadia-NG Evitts Run, L.L.C., a West Virginia limited liability company acting by and through Robert O. Tyler, Chapter 7 Trustee for Arcadia-NG Evitts Run, L.L.C., and pursuant to an Order of the United States Bankruptcy Court for the Eastern District of Virginia Alexandria Division, dated February 29, 2012, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, on March 20, 2012 in Deed Book 1105 at page 615.

**TRACT TWO:**

All that certain parcel of real property which is more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 9, 2007, and revised April 16, 2007, June 27, 2007, September 14, 2007, October 4, 2007, November 17, 2007, and December 20, 2007, entitled "Final Plat of Arcadia-Norborne Glebe, L.L.C.", which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, thereon described as Multi-Family Parcel I, containing 16.51715 Acres.

AND BEING the same real estate conveyed to Arcadia Communities, Inc., a Virginia corporation, by deed from Arcadia-NG Candlewood Drive, L.L.C., a West Virginia limited liability company, acting by and through Robert O. Tyler, Chapter 7 Trustee for Arcadia-NG Candlewood Drive, L.L.C., and pursuant to an Order of the United States Bankruptcy Court for the Eastern District of Virginia Alexandria Division, dated February 29, 2012, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, on March 20, 2012, in Deed Book 1105 at page 608.

**TRACT THREE:**

All that certain parcel of real property which is more particularly bounded and described on a plat entitled "Final Plat of Arcadia-Norborne Glebe, LLC", made by William H. Gordon Associates, Inc., dated April 9, 2007, and revised April 16, 2007, June 27, 2007, September 14, 2007, October 4, 2007, November 17, 2007 and December 20, 2007, which said Plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 6, thereon described as SWM Facility, Parcel J, containing 12.16 Acres.

AND BEING the same parcels of real estate that were conveyed unto Arcadia Communities, Inc., a Virginia corporation, by deed from Arcadia-Norborne Glebe, L.L.C., acting by and through Robert O. Tyler, Chapter 7 Trustee for Arcadia-Norborne Glebe, L.L.C., and pursuant to an Order of the United States Bankruptcy Court for the Eastern District of Virginia Alexandria Division, dated February 29, 2012, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, on March 20, 2012, in Deed Book 1105 at page 624.

**TRACT FOUR:**

All those certain lots or parcels of real estate which are more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 4, 2007, and revised April 20, 2007, June 27, 2007, September 14, 2007, November 9, 2007, and January 4, 2007, entitled "Final Plat of Parcels E, F & G, Norborne Glebe", which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 5, thereon described as Residue Area Parcel E, containing 14.04208 Acres and Parcel F, containing 4.41249 acres.

AND BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., a Virginia Corporation from the Arcadia *Inter Vivos* Trust, by deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1114 at page 471.

**TRACT FIVE:**

All that certain tract or parcel of real estate which is more particularly bounded and described according to a survey and plat entitled "Plat of Correction Norborne-Glebe Phase 1" dated June 18, 2002 and revised through October 29, 2007, and recorded in the Office of the Clerk of the County Commission in Plat Book 25 at page 55, and described thereon as, thereon described as Residue Parcel 1A1.

AND BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., a Virginia Corporation from the Arcadia *Inter Vivos* Trust, by deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1114 at page 471.

**TRACT SIX:**

All that certain tract or parcel of real estate which is more particularly bounded and described according to a survey and plat entitled "Plat of Correction Norborne-Glebe Phase 1" dated June 18, 2002 and revised through October 29, 2007, and recorded in the Office of the Clerk of the County Commission in Plat Book 25 at page 55, and described thereon as, thereon described as Residue containing 216.3 acres ±.

LESS AND EXCEPTING FROM THIS TRACT, HOWEVER, the following outsales:

1. Deed to Arcadia-Norborne Glebe, L.L.C., a West Virginia Limited Liability Company, recorded in the aforesaid Clerk's Office in Deed Book 979 at page 389, and by Deed of Correction recorded in the aforesaid Clerk's Office in Deed Book 1044 at page 722 (52.70475 acres).
2. Deed to Arcadia-Norborne Glebe Evitts Run, L.L.C., a West Virginia Limited Liability Company, recorded in Deed Book 1049 at page 454 (Parcel G, containing 2.68361 acres).

AND ALSO LESS AND EXCEPTING FROM THIS TRACT, the following:

3. All those certain lots or parcels of real estate which are more particularly bounded and described according to a survey and plat made by William H. Gordon Associates, Inc., dated April 4, 2007, and revised April 20, 2007, June 27, 2007, September 14, 2007, November 9, 2007, and January 4, 2007, entitled "Final Plat of Parcels E, F & G, Norborne Glebe", which said survey and plat is recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 25 at page 5, thereon described as Parcels E and F.
3. All those certain parcels of real property contained in Phase 2A, Norborne Glebe Subdivision, as shown on the plat entitled "Final Plat of Norborne Glebe Phase 2A" dated April 18, 2006, revised through September 5, 2006, and recorded in the aforesaid Clerk's Office in Plat Book 23 at page 67, and described thereon as Lots 79-83, 88-89, 92-104, inclusive, Burberry Lane, Featherstone Drive and Campbell Drive.
4. All those certain parcels of real property contained in Phase 2, Norborne Glebe Subdivision, as shown on the plat entitled "Final Plat of Norborne Glebe Phase 2" dated May 8, 2006, revised through September 21, 2006, and recorded in the aforesaid Clerk's Office in Plat Book 23 at page 97, and described thereon as Lots 105-110, 140-159, 174-181, inclusive, Open Space Parcel A, Open Space Parcel B, Open Space Parcel C, Open Space Parcel D, Casorsa Drive, Seaton Lane, Campbell Drive, Santmyer Way and Candlewood Drive.
5. All those certain parcels of real property contained in Phase 3, Norborne Glebe Subdivision, as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 3" dated June 19, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 405, and described thereon as Lots 90-91, 111-125, 133-139, 160-166, Open Space A, Open Space B, Barksdale Drive, Penticton Way, Stone Lane, Okanagan Drive.
6. All those certain parcels of real property contained in Phase 4, Norborne Glebe Subdivision, as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 4" dated June 7, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 389, and described thereon as Lots 182-189, 205-218, 240-246, Open Space Parcel A, Open Space Parcel B, Open Space Parcel C, Open Space Parcel D, Courier Drive, Casorsa Drive, Tornworth Drive and Candlewood Drive.
7. All those certain parcels of real property contained in Phase 5, Norborne Glebe Subdivision, as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 5"

dated September 9, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 502, and described thereon as Lots 126-132, 167-173, 190-204, 219-239. Open Space Parcel A, Open Space Parcel B, Open Space Parcel C, Courier Drive, Okanagan Drive, Graywood Lane and Barksdale Drive.

8. A portion of that certain parcel real property denoted as Residue on the plat entitled "Plat of Correction Norborne-Glebe Phase 1" dated June 18, 2002 and revised through October 29, 2007, and recorded in the Office of the Clerk of the County Commission in Plat Book 25 at page 55, containing 13, 127 square feet, more or less, and described as follows:

Beginning at a point along the southerly line of Courier Drive as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 4" dated June 7, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 389, and being the northeasterly corner of Lot 240 as described thereon; thence with the southerly line of Courier Drive thence SOUTH 78°43'27" EAST 78.61 FEET to a point; thence continuing with the southerly line of Courier Drive as shown on the plat entitled "Final Subdivision Plat of Norborne Glebe Phase 5" dated September 9, 2013, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 502 SOUTH 78°43'27" EAST 30.78 FEET to a point being the northwesterly corner of Lot 239 as shown on said plat; thence departing Courier Drive and running with the westerly line of Lot 239 SOUTH 11°16'33" WEST 120.00 FEET to the southwesterly corner of Lot 239; thence departing Lot 239 and running through the above referenced Residue NORTH 78°43'27" WEST 109.39 FEET to the southeasterly corner of Lot 240 referenced above; thence with said Lot 240 NORTH 11°16'33" EAST 120.00 FEET to the point of beginning.

TOGETHER WITH a non-exclusive easement across the right of way easements and roads contained in the subdivision shown on the aforementioned plats of phases 2, 2a, 3, 4 and 5 of Norborne Glebe Subdivision for the purpose of ingress and egress between the property and the public road and non-exclusive easements within the sanitary sewer, sewer, storm drain, and waterline easements as shown on the aforesaid plats of phases 1, 2, 2a, 3, 4 and 5 of Norborne Glebe Subdivision for the purpose of the conveyance of storm water, sewer and water in connection with future development of this Parcel 1.

AND BEING a part of the real estate that was conveyed unto Arcadia Communities, Inc., a Virginia Corporation from the Arcadia *Inter Vivos* Trust, by deed dated July 23, 2012, and recorded in the aforesaid Clerk's Office in Deed Book 1114 at page 471.

It is the intention that this TRACT SIX contain all the property to the south of SWM Facility Parcel J as it is shown on the Plat entitled "Final Plat of Arcadia-Norborne Glebe, L.L.C." dated April 9, 2007, revised through November 17, 2007, and recorded in the aforesaid Clerk's Office in Plat Book 25 at page 6; to the south of the southern boundary of the property depicted on the plats for Phases 4 and 5 of Norborne Glebe Subdivision as shown on the respective plats for these phases and to the south of the parcel described in item 8 of the less and excepting provisions above. The following is a more particular description of the TRACT SIX:

**Beginning** at an iron rod found as shown on a plat by William H. Gordon and Associates, Inc. recorded in the Office of the Clerk of the Jefferson County Court, WV in Plat Book 25, at page 6; thence with eleven (11) lines shown on said plat,

**S 53°11'17" E 80.18'** to an 18" x 5/8" rebar set; thence

**S 76°15'10" E 829.04'** to an 18" x 5/8" rebar set; thence

**S 18°47'53" E 199.75'** to an 18" x 5/8" rebar set; thence

**N 71°12'07" E 70.68'** to an 18" x 5/8" rebar set; thence with a curve to the left,  
Chord Bearing = **N 62°58'09" E**, Chord Distance = **481.87-feet**, Radius = **1682.55-feet**,  
Arc Length = **483.53-feet**, to an 18" x 5/8" rebar set; thence with a curve to the left,

Chord Bearing = **N 2°25'32" E**, Chord Distance = **39.57-feet**, Radius = **25.17-feet**, Arc Length = **45.52-feet**, to an 18" x 5/8" rebar set; thence,

**N 49°53'08" W 370.03'** to an 18" x 5/8" rebar set; thence with a curve to the left,

Chord Bearing = N 70°49'04" W, Chord Distance = 17.86-feet, Radius = 25.00-feet, Arc Length = 18.27-feet, to an 18" x 5/8" rebar set; thence with a curve to the right, Chord Bearing = N 12°05'14" W, Chord Distance = 147.57-feet, Radius = 75.00-feet, Arc Length = 208.58-feet, to an 18" x 5/8" rebar set; thence with a curve to the left, Chord Bearing = N 46°25'04" E, Chord Distance = 18.05-feet, Radius = 25.00-feet, Arc Length = 18.47-feet, to an 18" x 5/8" rebar set; thence, N 25°15'27" E 228.06' to a 5/8" iron rebar & cap set as shown on a plat by Greenway Engineering, Inc. recorded in said Clerk's Office in Plat Book 25, at page 389; thence with three lines as shown on said plat,  
 S 64°44'33" E 100.00' to a 5/8" iron rebar & cap set; thence,  
 S 63°55'08" E 36.35' to a 5/8" iron rebar & cap set; thence,  
 S 78°43'27" E 619.72' to a 5/8" iron rebar & cap set; thence with a new line of division,  
 S 78°43'27" E 109.39' to a 5/8" iron rebar & cap set as shown on a plat by Greenway Engineering, Inc. and recorded in said Clerk's Office in Plat Book 25, at page 502; thence with five (5) lines shown on said plat,  
 S 78°43'27" E 805.86' to a 5/8" iron rebar & cap set; thence  
 S 13°38'48" W 6.85' to a 5/8" iron rebar & cap set; thence  
 S 76°21'12" E 50.00' to a 5/8" iron rebar & cap set; thence  
 N 13°38'48" E 41.77' to a 5/8" iron rebar & cap set; thence  
 S 76°21'12" E 154.55' to an unmarked point in a line shown on a plat by Huntley, Nyce & Associates, Ltd. and recorded in said Clerk's Office in Plat Book 25, at page 55; thence  
 S 14°57'11" W 1636.80' (distance is shown on previously mentioned plat by Greenway Engineering, Inc. in Plat Book 25, at page 502) to a 5/8" rebar set; thence with fourteen (14) lines shown on said Huntley, Nyce & Associates, Ltd. plat,  
 S 14°21'21" W 1439.82' to a 5/8" rebar set; thence  
 N 37°36'18" W 1941.74' to a 5/8" rebar set; thence  
 S 46°12'55" W 113.77' to a 5/8" rebar set; thence  
 N 52°25'11" W 719.96' to a 5/8" rebar set; thence  
 S 39°53'45" W 930.74' to a point (no corner identification on plat); thence  
 N 42°47'30" W 307.02' to a point (no corner identification on plat); thence  
 N 8°48'52" E 973.25' to a 5/8" rebar set; thence  
 N 11°11'38" E 88.43' to a 5/8" rebar set; thence  
 N 17°16'04" E 101.95' to a 5/8" rebar set; thence  
 N 20°12'45" E 101.93' to a 5/8" rebar set; thence  
 N 24°49'31" E 101.95' to a 5/8" rebar set; thence  
 N 29°28'14" E 61.00' to a 5/8" rebar set; thence  
 N 33°47'00" E 40.99' to a 5/8" rebar set; thence  
 N 36°48'39" E 79.69' (bearing is as shown on said Huntley, Nyce & Associates, Ltd. plat in Plat Book 25, at page 55 and distance is as shown on a plat by Appalachian Surveys, Inc. recorded in Plat Book 9, at page 38) to the point of beginning, containing an area of 127.19 Acres, more or less.

With the compilation of the dimensions shown on the record plats, this description does not close geometrically. The closing bearing and distance is S 88°56'37" E 0.58'. All corners called for in this description are as shown on the plats of record. No field survey was performed for this description.

**PARCEL 2: HARVEST HILLS nka ARCADIA DOWNS**

**TRACT ONE:**

All those certain tracts or parcels of real estate with the improvements thereon, situate in Shepherdstown District, Jefferson County, West Virginia, more particularly described as follows:

**PARCEL A:**

Lots 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24 and 26 Harvest Hills, as more particularly designated and described upon a plat entitled "Final Plat showing Lots 1-27 HARVEST HILLS" prepared by Appalachian Surveys, Inc., dated May, 1999, and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 17 at pages 45A and 45B.

**PARCEL B:**

Lots 1 and 2 of the William P. Henderson Minor Subdivision as more particularly shown on that plat showing the William P. Henderson Minor Subdivision dated September, 1997, as prepared by Appalachian Surveys, Inc., and recorded in the aforesaid Clerk's Office in Plat Book 15 at page 83. LESS AND EXCEPTING, therefrom Merger Parcel B, consisting of 0.205 acres and Merger Parcel C, consisting of 0.271 acres, as more particularly described in the Deed of Merger dated June 8, 1999, and recorded in the aforesaid Clerk's Office in Deed Book 927 at page 231. TOGETHER WITH Merger Parcel A, consisting 0.142 acres and Merger Parcel D, consisting of 0.501 acres, as more particularly described in that Deed of Merger dated June 8, 1999, and recorded in the aforesaid Clerk's Office in Deed Book 927 at page 234.

AND BEING the same real estate conveyed unto Arcadia Communities, Inc., by deed from Arcadia-Harvest Hills, LLC, dated February 29, 2012, and recorded in aforesaid Clerk's Office in Deed Book 1105 at page 600.

**TRACT TWO:**

All those tracts or parcels of real estate, lying and being in the Shepherdstown District, Jefferson County, Virginia, situate near Duffields, and more particularly described as follows:

**PARCEL A:**

Being all of "Residue B" containing 45.364 acres, as shown on a plat entitled "Plat of Survey showing Merger Parcels from Property of William P. Henderson" drawn by Appalachian Surveys, Inc., dated May 18, 1999, said plat being recorded in the aforesaid Clerk's Office in Plat Book 15 at page 83, LESS AND EXCEPTING THEREFROM, HOWEVER, the following outsale:

Deed to Arcadia-Harvest Hills, LLC, a West Virginia Limited Liability Company, recorded in the aforesaid Clerk's Office in Deed Book 998 at page 460 (Lots 1-27 Harvest Hills).

**PARCEL B:**

All of the parcel known as Residue A, containing 115.857 acres after merger, as shown on Plat of Survey showing Merger Parcels for property of William P. Henderson, drawn by Appalachina Surveys, Inc., and recorded in the aforesaid Clerk's Office in Plat Cabinet 16, at Slide 69.

**PARCEL C:**

**First Parcel:** Known as the Manning Place, and described as follows according to a survey dated December 3, 1867, recorded in the Office of the Clerk of the County Court of Jefferson County, West Virginia, in Deed Book 2, Page 467, to wit:

Beginning at a stone, corner to Craven Trussell; thence with the said Trussell line N. 46 E. 115 poles crossing Elk Branch to Trussell and Miller's corner; thence with Miller's line N. 30 W. 36.5 poles; thence N. 36 W. 12 poles; thence N. 41 W. 12 poles; thence N. 44 - 30 W. 12 poles; thence N. 48 - 30 W. 12 poles; thence N. 51 - 30 W. 11.5 poles; thence N. 55 - 15 W. 12 poles; thence N. 60 W. 12 poles; thence N. 64 - 30 W. 12.7 poles; thence N. 69 - 45 W. 18 poles; thence N. 76 W. 18 poles to a stone on the south side of the railroad; thence leaving the railroad and running S. 03 - 25 W. 25.1 poles to the original corner of Manning and Duffield, a pile of stone, and the same course continued in all 219.6 poles to a pile of stone in Minor Hurst's line; and thence with the same S. 74 - 41 E. 116.1 poles to the beginning, containing 191 acres, more or less.

SUBJECT TO that certain Right-of-way to Potomac Light and Power Company recorded in the aforesaid Clerk's Office in Deed Book 268 at page 347.

Second Parcel:

Being a part of the Volney Hill Farm, described as follows according to a survey by J. Jas. Skinner, S.J.C., dated March 21, 1927, and of record in the aforesaid Clerk's Office in Deed Book 128 at page 429, to wit:

Beginning at a post (7), a corner to the first parcel and the residue of the Volney Hill Tract; thence with the lines of the first parcel S. 50 - 15 W. 77.4 pole to a post (8); thence N. 70 - 40 W. 95.6 poles to a post (9); thence leaving the first parcel S. 14 - 15 W. 73.1 poles to a post (10) in Michaels' line; thence with his line S. 72-40 E. 129.8 poles to a point at a Hakenberry Tree (11); corner with the residue o the Volney Hill Tract; thence with the latter N. 17 - 15 E. 100.6 poles to a stake (12); thence N. 25-15 E. 35.2 poles to the beginning, containing 65 acres, 0 roods and 32 poles, more or less.

SUBJECT TO the Shepherdstown Light & Water Co., easement recorded in the aforesaid Clerk's Office in Deed book 134 at page 213.

AND BEING the same real estate conveyed unto Arcadia Development Co., a California Corporation, from William P. Henderson by deed dated February 12, 2004, and recorded in the aforesaid Clerk's Office in Deed Book 985 at page 363.

LESS AND EXCEPTING THEREFROM, HOWEVER, the following outsales:

1. Deed to Jefferson County Parks and Recreation Commission, recorded in the aforesaid Clerk's Office in Deed Book 1031 at page 168 (Lot B, School Lot, containing 21.8085 acres)
2. Deed to Mt. Zion AME Church, recorded in the aforesaid Clerk's Office in Deed Book 1031 at page 172 (Lot C, Church Lot, containing 2.00 Acres).

**PARCEL D:**

All those certain parcels of real estate with any improvements thereon and appurtenances thereunto belonging, lying and situate in the Shepherdstown District, Jefferson County, West Virginia, and more particularly bounded and described, according to a survey and plat thereof, entitled "Plat of Resurveys Showing Property of William P. Henderson," dated August 25, 2003, by Appalachian Surveys of West Virginia, LLC and recorded in the Office of the Clerk of the County Commission of Jefferson County, West Virginia, in Plat Book 23 at page 71, showing thereon as Lot 16 and 17, and including all of the Grantors right, title and interest in and to the existing right of way shown on said

plat as Ex. Elk Street. The property conveyed herein comprises 0.99± acres and is identified for property tax purposes as Tax Map 24A Parcels 16 and 17.

**PARCEL E:**

All that certain lot or parcel of real estate, with the improvements thereon and appurtenances thereunto belonging, situate near Duffields Depot in the Shepherdstown Magisterial District, Jefferson County, West Virginia, and designated as Lot 4, containing 0.2500 acres, more or less, on a plat of survey dated January 3, 2007, prepared by Terry Placanica, P.S., entitled "Plat of Resurvey, Property of Bruce Bowers. WB 14 P 251; DB 273 Pg 147, 'Drydensville' Plat - DB 96 PG 395, WB 8 PG 724" which said plat is recorded in the aforesaid Clerk's Office in Plat Book 24 at page 45, to which said plat reference is hereby made for a more complete and accurate description by metes and bounds of the parcels hereby conveyed. Reference is also hereby made to a plat of survey of Drydensville originally prepared by Jn. Hess in 1978, a copy of which said plat is attached to, made a part of and incorporated in a deed dated November 21, 1905, from Jonathan E. Burns, et ux., to George S. Houser, recorded in the aforesaid Clerk's Office in Deed Book 96 at page 392.

PARCELS 1 AND 2 BOTH BEING a part of the real estate that was conveyed unto Arcadia Inter Vivos Trust, by Deed dated October 19, 2015, and recorded in the aforesaid Clerk's Office in Deed Book 1163 at page 351.









# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

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## Planner's Memorandum Planning Commission Meeting January 9, 2024

### 1) Engineering, Planning and Zoning County Offices Contact Information

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

BUILDING PERMITS & INSPECTIONS 304-725-2998 [permits@jeffersoncountywv.org](mailto:permits@jeffersoncountywv.org)

IMPACT FEES 304-728-3331 - [mmason@jeffersoncountywv.org](mailto:mmason@jeffersoncountywv.org)

ENGINEERING 304-728-3257 - [engineering@jeffersoncountywv.org](mailto:engineering@jeffersoncountywv.org)

PLANNING & ZONING 304-728-3228 - [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org), [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

GIS & ADDRESSING 304-724-6759 - [gis@jeffersoncountywv.org](mailto:gis@jeffersoncountywv.org)

### 2) Upcoming PC meetings

#### ❖ January Meeting:

- Third Public Input Meeting/Workshop for *2045 Comprehensive Plan*:  
Tuesday, **January 23, 2024**, 7:00 pm Jefferson High School Cafeteria

#### ❖ February Meeting:

- Next Regular meeting date: **February 13, 2024**
  - 5:30 pm Comprehensive Plan Work Session
  - 7:00 pm Planning Commission Meeting