



Agenda

Jefferson County Planning Commission

Tuesday, January 16, 2024 at 7:00 PM

PC Meeting Rescheduled from 01/09/2024

**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. **POSTPONED until further notice: 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. **Discussion and Recommendation:** FY 24 1st and 2nd Quarter Quarterly Report to County Commission (to be distributed at meeting).
7. **Reports from Legal Counsel**
 - a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109 (RE: PC File #21-2-Z – Jefferson Orchards Rezoning).
 - b. Review and discuss Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731 and Jefferson County Circuit Court Civil Action No. 2023-C-112 (RE: PC File #ZTA19-03 Solar Energy Facilities text amendment).

- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: PC File #ZTA22-01 Solar Energy Facilities text amendment).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2023-C-48 (RE: PC File #21-8-SP Berryville Pike Telecommunications Tower).
- e. Discuss and review of VB BTS, LLC v. Jefferson County, WV and the Jefferson County Planning Commission, U.S. N.D. W. Va. Case No. 3:23-CV-171 (RE: PC File #23-3-SP – Shannondale Lake Telecommunication Tower).
- 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).
- g. 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.

8. Planner's Memo

9. President's Report

10. Actionable Correspondence

11. 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).
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- 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

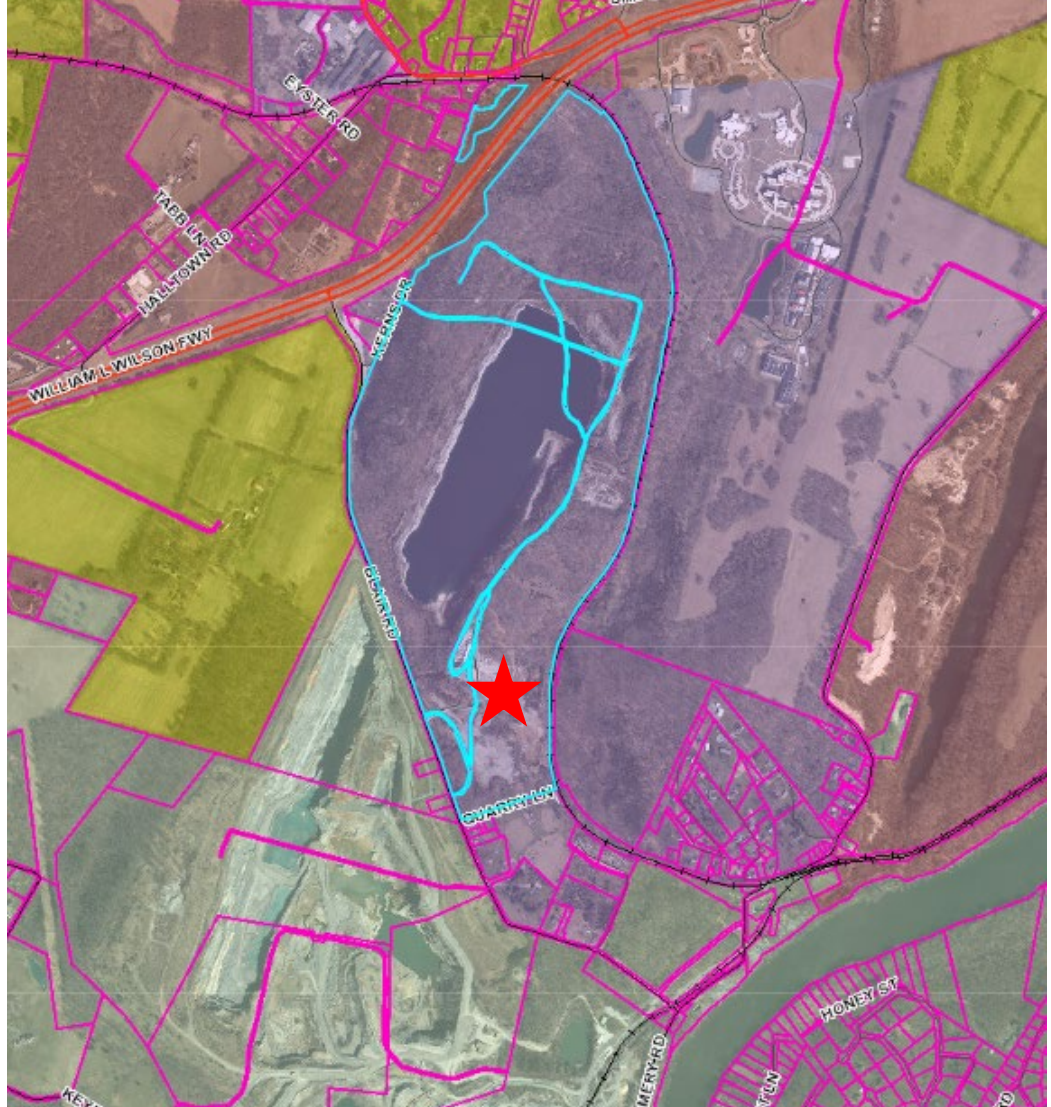
Mr. Hefestay made a motion to adjourn the meeting at 7:23 pm. Mr. Louthan seconded the motion, which carried unanimously.

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)

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, 2nd 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
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 20th 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;*

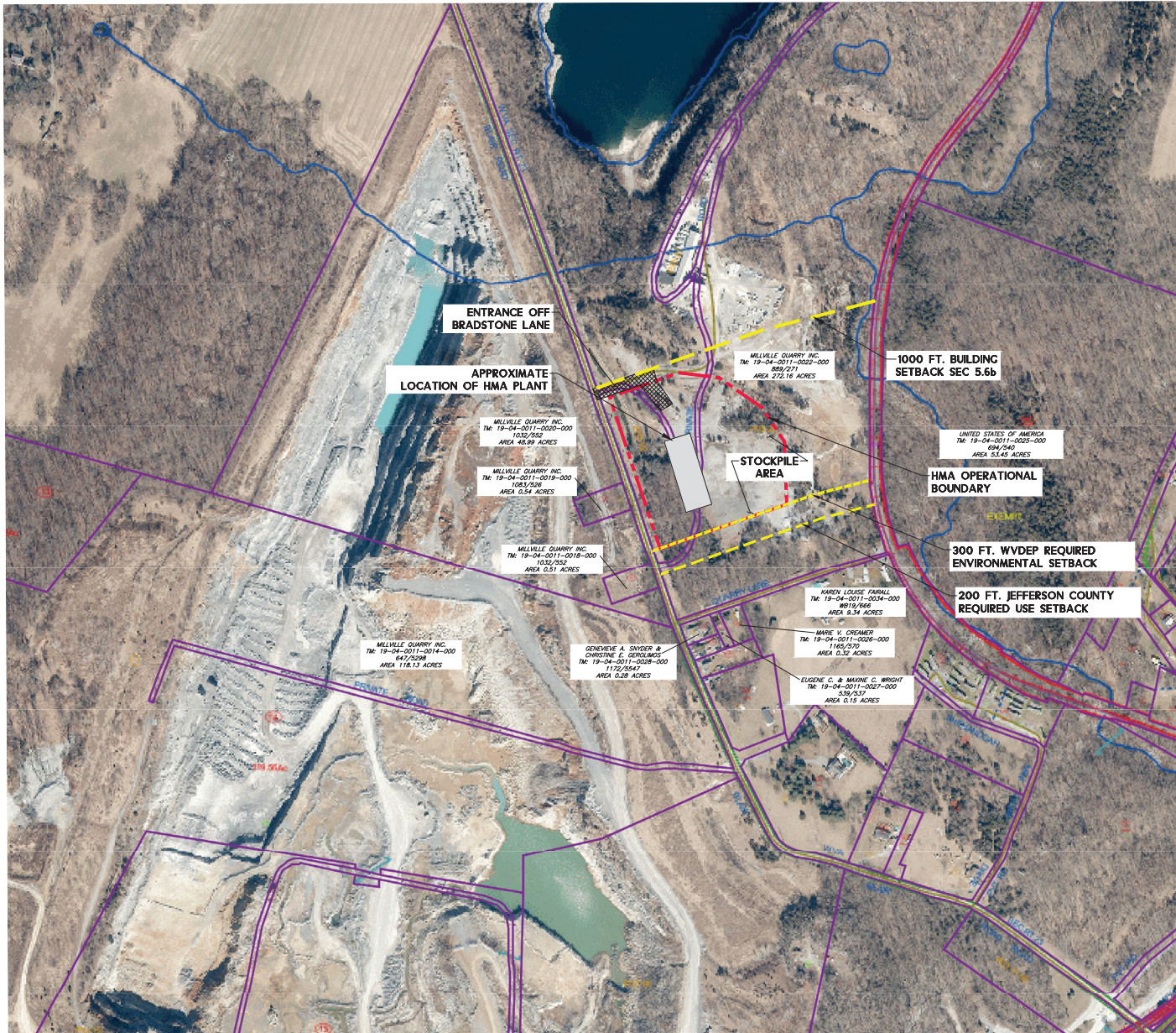
The purpose of the Concept Plan is to ensure potential compliance with he regulations and notification to the adjoining property owners and agencies. The Applicant has already received the DEP Clean Air Permit and the site was posted for this application and the BZA application. The Ordinance and Comprehensive 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.

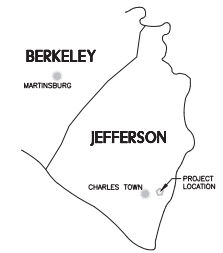
4. *Explain how the waiver, if granted, will result in a project of better quality and/or character;*

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 20th 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 Broadpark St., Winchester, VA 28081
 TEL: 540-339-9999 FAX: 540-339-9999
 WWW.POTESTA.COM

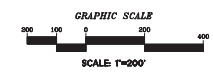


SOUTHERN WEST VIRGINIA ASPHALT, INC.
 2850 CHARLES AVE
 DUNBAR, WEST VA 25064

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

1
 Drawing No.

ISSUE DATE: 11/13/2023



SKETCH PLAT

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Location 1 18 inches:



Location 2 28 inches:



Location 3 44 inches:



Location 4 21 inches:



Location 5 20 inches:



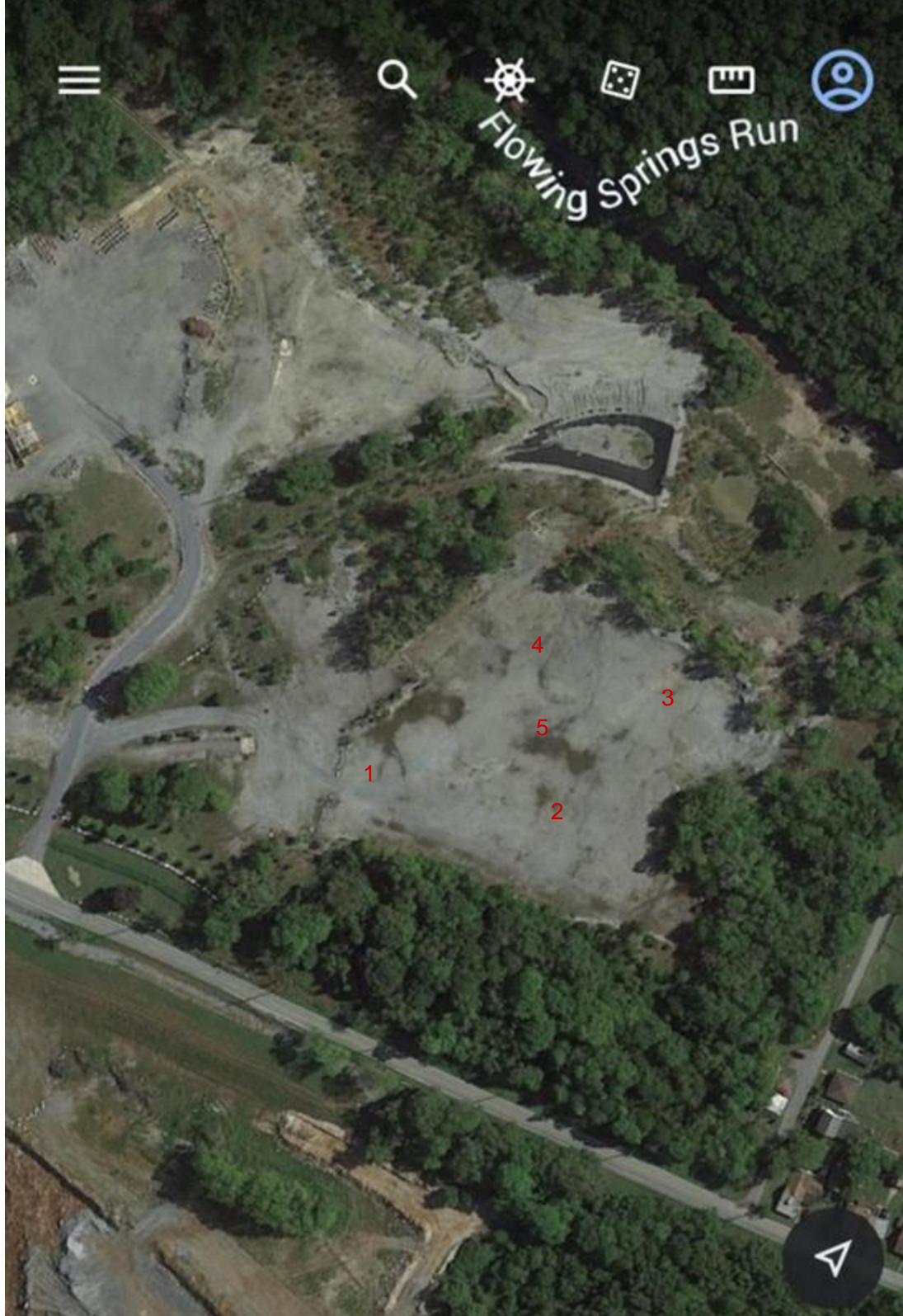
12:49

Safari

5GE



Flowing Springs Run



1

4

3

5

2





Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Planner's Memorandum

Planning Commission Meeting

January 16, 2024 (postponed from 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

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

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

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

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

2) Discussion of drafting Planning Commission policy related to meeting changes due to weather

3) 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