



**Jefferson County**  
**Board of Zoning Appeals Agenda**  
**Thursday, July 25, 2024 at 2:00 p.m.**

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

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

**Broadcast Information:** ZOOM Meeting Link: <https://us02web.zoom.us/j/86834930839>  
Phone Option (Dial by Location): 301-715-8592 / Meeting ID: 868 3493 0839

**Note:** *The County does not transcribe meeting proceedings. Any party desiring a meeting transcript is responsible for providing a stenographer at their own expense.*

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

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**Approval of Minutes: June 27, 2024**

**Public Hearing – Administer Oath**

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**Item #1      File #: 24-23-ZV**  
Request: Variance request from Section 9.7 to reduce the side setback along the northern property line from 12' to 4' for an 8' x 16' deck.  
Parcel Info: Nicholas Lowe, Property Owner  
272 No Name Lane, Kearneysville, WV  
Parcel ID: 07001900180003; Size: .46 acres; Zoning District: Rural

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**Item #2      File #: 24-5-CUP and 24-24-ZV**  
Request #1: Request for a Conditional Use Permit to establish a construction company (proposed land use designation as listed in Appendix C of the Zoning Ordinance: Contractor with Outdoor Storage). The proposal consists of construction a 100' x 100' building, employee parking, and outdoor equipment storage area. The business may employ up to five (5) employees. On-site customer visits will be minimal. A freestanding business sign in accordance with Article 10 is proposed. (File #24-5-CUP)  
Request #2: Variance request from Appendix B and Section 4.11E to utilize existing vegetation in lieu of a planted buffer along all property lines. (File #24-24-ZV)  
Parcel Info: Global Environmental & Remediation LLC / Contact: Raymond Johnson, Property Owner  
Parcel located north of the Middleway Pike and Shirley Road intersection  
formerly addressed as 7367 Middleway Pike, Charles Town, WV  
Parcel ID: 07002000090001; Size: ~6 acres; Zoning District: Rural

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**Item #3      File #: 24-6-CUP and 24-25-ZV**  
Request #1: Request for a Conditional Use Permit to establish a Special Event Facility in conjunction with the existing Bakerton Market. The proposal consists of hosting a variety of community events such as flea markets, car shows, movie nights, etc. on a weekly, quarterly, and annual basis. The proposal also includes a picnic area and the addition of alcohol sales for on-premises consumption. (File #24-6-CUP)  
Request #2: Variance request from Section 8.14B to reduce the minimum lot size requirement for a Special Event Facility from 5 acres to .65 acre; and to eliminate the buffer screen requirement to accommodate the proposed parking area. (File #24-25-ZV)  
Parcel Info: Carter & Maple Properties, LLC, Property Owner  
Bakerton Central, LLC / Contact: Kevin Cuellar, Applicant  
Vacant parcel located south of 834 Carter Ave, Harpers Ferry, WV  
Parcel ID: 04003A00230000; Size: .65 acre; Zoning District: Village

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## **Zoning Administrator Report**

- a. Monthly Zoning Certificate Activity Report

## **Legal Update**

- a. Discussion with possible deliberative session of the following pending lawsuits:
  1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy Facility / File 22-9-CUP) Rockwell v. JCBZA
  2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence / 23-13-ZV) Gallagher c JCBZA and Timothy Williamson
  3. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of Zoning Appeals
- b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

### **Meeting: June 27, 2024**

1. Variance request from Section 5.4B. Owners: Frank and Elizabeth Casaleno. File: 24-16-ZV.
2. Variance request from Appendix A. Owners: Thomas and Ann Morgan. File: 24-17-ZV.
3. Variance request from Section 9.7. Owners: Jeffrey & Alita Kite. File: 24-18-ZV.
4. Variance request from Section 4.11 and Appendix B. Applicant: Devil's Due Distillery. Owner: Shenandoah Valley Holdings LLC e. File: 24-19-ZV.
5. Variance request from Appendix A. Owners: Frank and Diane Hardy. File: 24-20-ZV.
6. Variance request from Appendix A & Section 9.6C. Owners: Westley Jenkins & Rebekah Walsh-Jenkins. File: 24-21-ZV.
7. Variance request from Appendix A. Applicant: Lane Donley. Owner: Samuel J Donley Jr. File: 24-22-ZV.

## Jefferson County Board of Zoning Appeals

Draft

- 1 Meeting Date: June 27, 2024  
2 Meeting Location: County Commission Meeting Room located in the lower level  
3 of the Charles Town Library (entrance on Samuel St.)  
4 200 East Washington Street, Charles Town, WV 25414  
5 Board Members Present: Tyler Quynn, Chair; Matthew McKinney, Vice Chair; Jacob Harris,  
6 Secretary; David Wiegand, and Steve Guier were present in person.  
7 Board Members Absent: Mikala Shremshock, Alternate  
8 Staff Members Present: Alexandra Beaulieu, Deputy Director & Zoning Administrator;  
9 and Shenandoah Olsen, Planning Staffer

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

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

13 Mr. Quynn reviewed meeting protocol for those in attendance.

### 14 **Approval of Minutes: April 25, 2024**

15 Mr. Guier moved to approve the minutes as presented, which carried unanimously.

16 Ms. Beaulieu swore in members of the public who indicated they would be providing testimony.

### 17 **Agenda Item #1 File #: 24-16-ZV**

- 18 Request: Variance from Section 5.4B of the Zoning Ordinance, amended 05/01/03 to reduce the  
19 rear setback along the western property line for a deck.  
20 Parcel Info: Frank and Elizabeth Casaleno, Property Owners  
21 Demory Farm Subdivision, Lot 30, 214 Killian Lane, Charles Town, WV  
22 Parcel ID: 02009B00300000; Size: .32 acres; Zoning District: Residential Growth

23 Mr. George Sanders with Jones Deck and Fence, LLC, applicant's contractor, was present to  
24 address the Board. Ms. Beaulieu provided an overview of her staff report to the Board stating that  
25 the request was to reduce the rear setback along the western property line from 20' to 13' for a 12' x  
26 16' deck.

27 Mr. Sanders explained the nature of the request to the Board.

28 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
29 testimony. Mr. Quynn closed the public comment portion of the hearing.

30 Mr. McKinney moved to approve the request with the condition that the applicant is bound by their  
31 testimony. Mr. Quynn called for a vote, which carried unanimously.

### 32 **Agenda Item #2 File #: 24-17-ZV**

- 33 Request: Variance from Appendix A to reduce the side setback along the eastern property line  
34 for a deck.  
35 Parcel Info: Thomas and Ann Morgan, Property Owner  
36 Beallair Subdivision, Lot 303, 20 Shenandoah Crossing Drive, Charles Town, WV  
37 Parcel ID: 04010A03030000; Size: .10 acres; Zoning District: Residential Growth

38 Ms. Ann Morgan, property owner, George Sanders with Jones Deck and Fence, LLC, contractor,  
39 were present to address the Board. Ms. Beaulieu provided an overview of her staff report to the  
40 Board stating that the request was to reduce the side setback from 5' to 3' for a 15' x 10' deck. Ms.  
41 Beaulieu noted an error on page 2 of the staff report, stating that the lot to the east was Lot #302  
42 and not #304.

1 Ms. Morgan and Mr. Sanders explained the nature of the request to the Board.

2 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
3 testimony. Mr. Quynn closed the public comment portion of the hearing.

4 Mr. Harris moved for a Summary Approval in accordance with Section 5.7(9) of the Boards' Rules  
5 of Procedure. Mr. Quynn called for a vote, which carried unanimously.

6 **Agenda Item #3 File #: 24-18-ZV**

7 Request: Variance from Section 9.7 to reduce the front setback along Natalie Lane for a porch/deck.

8 Parcel Info: Jeffrey & Alita Kite, Property Owner

9 Glen Haven Subdivision, Lot 16, 655 Mason Drive, Harpers Ferry, WV

10 Parcel ID: 04003D00610000; Size: .30 acres; Zoning District: Rural

11 Mr. Jim Weddle, contractor for the property owners, was present to address the Board. Ms. Beaulieu  
12 provided an overview of her staff report to the Board stating that the request was to reduce the front  
13 setback from 20' to 8' along the southern property line adjoining Natalie Lane, for the purpose of  
14 constructing a screened porch/deck. Ms. Beaulieu noted that the subject lot had two front yard  
15 designations, one along Mason Drive and the other along Natalie Lane. Ms. Beaulieu stated that staff  
16 was not aware of any proposals to widen either of these roads.

17 Mr. Weddle explained the nature of the request to the Board.

18 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
19 testimony. Mr. Quynn closed the public comment portion of the hearing.

20 Mr. McKinney moved for a Summary Approval in accordance with Section 5.7(9) of the Boards'  
21 Rules of Procedure. Mr. Quynn called for a vote, which carried unanimously.

22 Mr. Harris called for a five (5) minute break at 2:26 pm. Mr. Quynn called for a vote, which carried  
23 unanimously.

24 Mr. McKinney moved to go back into public session at 2:33 pm. Mr. Quynn called for a vote,  
25 which carried unanimously.

26 The applicant for Item #4 was not in attendance. The Board agreed to proceed with the remaining  
27 items on the agenda to allow time for the applicant of Item #4 to arrive.

28 **Agenda Item #5 File #: 24-20-ZV**

29 Request: Variance from Appendix A to reduce the front setback along a proposed access  
30 easement along the southern property line for an existing detached accessory structure;  
31 and Section 9.6C to allow an accessory structure within the required front yard.

32 Parcel Info: Frank and Diane Hardy, Property Owner

33 Katherine Chesbro Minor Subdivision, Lot A

34 43 American Pride Lane, Kearneysville, WV

35 Parcel ID: 07001300030014; Size: 5 ac; Zoning District: Rural

36 Mr. Frank Hardy, property owner, was present to address the Board. Ms. Beaulieu provided an  
37 overview of her staff report to the Board stating that the request was to reduce the front setback from  
38 40' to 30' along a proposed access easement to allow an existing detached accessory structure to  
39 remain in its current location.

40 Mr. Hardy explained the nature of the request to the Board.

1 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
2 testimony. Mr. Quynn closed the public comment portion of the hearing.

3 Mr. Harris moved for a Summary Approval in accordance with Section 5.7(9) of the Boards' Rules  
4 of Procedure. Mr. Quynn called for a vote, which carried unanimously.

5 **Item #6 File #: 24-21-ZV**

6 Request: Variance from Appendix A to reduce the front setback along a platted access easement  
7 along the western property line for an existing shed and lean-to, and a proposed pool;  
8 and Section 9.6C to allow an accessory structure within the required front yard.  
9 Parcel Info: Westley Jenkins & Rebekah Walsh-Jenkins, Property Owner  
10 William MaCoughtry Minor Subdivision, Lot 6  
11 289 MaCoughtry Dr., Kearneysville, WV  
12 Parcel ID: 07002400040001; Size: 3.77 Ac; Zoning District: Rural

13 Mr. Westley Jenkins, property owner, was present to address the Board. Ms. Beaulieu provided an  
14 overview of her staff report to the Board stating that the request was to reduce the front setback from  
15 40' to 15' for an existing shed and lean-to and a proposed pool. Ms. Beaulieu noted that the shed and  
16 lean-to structures were built in accordance with the setbacks that were platted in 2017. Ms. Beaulieu  
17 stated that a boundary line adjustment was currently pending and it was noted that the setback was  
18 platted incorrectly in 2017 and would be corrected as part of the pending boundary line adjustment  
19 plat. Ms. Beaulieu noted that the adjoining property owner, who shares use of the access easement,  
20 provided a letter of support for the request.

21 Mr. Jenkins explained the nature of the request to the Board.

22 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
23 testimony. Mr. Quynn closed the public comment portion of the hearing.

24 Mr. Guier moved to approve the request with the condition that the applicant is bound by their  
25 testimony. Mr. Quynn called for a vote, which carried unanimously.

26 **Item #7 File #: 24-22-ZV**

27 Request: Variance from Appendix A to reduce the required setbacks in order to allow three existing  
28 accessory structures to remain in their current locations for a proposed minor subdivision.  
29 Applicant: Lane Donley  
30 Parcel Info: Samuel J Donley Jr, Property Owner  
31 4368 Engle Molers Rd, Harpers Ferry, WV 25425  
32 Parcel ID: 09001900040000; Size: 97.3 acres; Zoning District: Rural

33 Ms. Lane Donley, applicant, was present to address the Board. Ms. Beaulieu provided an overview  
34 of her staff report to the Board stating that the request was to allow the existing accessory structures  
35 to remain in their current locations with the proposed minor subdivision. Ms. Beaulieu noted that the  
36 structures appear to be approximately five feet from the approximate location of the proposed lot  
37 lines.

38 Mr. Donley explained the nature of the request to the Board. Ms. Donley noted that the two sheds  
39 located near the access easement may be removed by the end of the year but stated that the storage  
40 structure labelled as a "barn" on the easement plat was over 50 years old and the family would like  
41 to keep it in its current location. Ms. Donley stated that the structure has not been used for housing  
42 or feeding animals and would not be used for that purpose, if allowed to remain in the current  
43 location.

1 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
2 testimony. Mr. Quynn closed the public comment portion of the hearing.

3 Mr. McKinney moved to approve the request with the condition that the applicant is bound by their  
4 testimony. Mr. Quynn called for a vote, which carried unanimously.

5 **Agenda Item #4 File #: 24-19-ZV**

6 Request: Variance from Section 4.11 and Appendix B to eliminate the landscaping requirements,  
7 the parking/ drive aisle setbacks, and the building setbacks along the internal lot line to  
8 allow for the expansion of the existing Devil's Due Distillery facility without having to  
9 consolidate into a single lot.

10 Applicant: Devil's Due Distillery / Attn: Wylie McDade

11 Parcel Info: Shenandoah Valley Holdings LLC, Property Owner

12 Burr Business Park, 315 James Burr Blvd, Kearneysville, WV 25430

13 Lot # 32 - Parcel ID: 02000101320000; Size: 2.7 acres; and

14 Lot #33 - Parcel ID 02000101330000; Size: 2.83 acres;

15 Zoning District: Industrial Commercial

16 Ms. Beaulieu swore in the applicant for this request as they were not present at the beginning of the  
17 meeting.

18 Mr. Wylie McDade, property owner, was present to address the Board. Ms. Beaulieu provided an  
19 overview of her staff report to the Board.

20 Mr. McDade explained the nature of the request to the Board.

21 Mr. Quynn opened the public comment portion of the hearing. No members of the public provided  
22 testimony. Mr. Quynn closed the public comment portion of the hearing.

23 Mr. McKinney moved to approve the request with the following conditions:

24 1. No buildings shall cross the internal lot line.

25 2. A note shall be added to the site plan stating, "The owner/developer agrees that if either of the  
26 individual lots are conveyed to an outside party, all appropriate or necessary road and/or  
27 parking easements will be conveyed to the grantee if appropriate at the time of such transfer."

28 3. The applicant is bound by their testimony.

29 Mr. Quynn called for a vote, which carried unanimously.

30 **Discussion and Possible Action:** Request to include language from WV State Code 8A-8-9 and  
31 Section 3.4A of the Zoning Ordinance into the Agenda Packet (continued from 03/28/24 meeting).

32 Ms. Beaulieu provided an update regarding legal counsel's opinion on this item.

33 Mr. McKinney moved to deny the request to include language from WV State Code 8A-8-9 and  
34 Section 3.4A of the Zoning Ordinance into the Agenda Packet and to leave the Agenda Packets in  
35 the current format. Mr. Wiegand seconded to the motion. Mr. Quynn called for a vote, which  
36 carried four (4) in support of the motion and one (1) in opposition (Harris).

37 **Zoning Administrator Report**

38 Ms. Beaulieu provided the Board with the following information:

39 1. The next regularly scheduled meeting is July 25, 2024.

- 1     2. An update regarding Parts 1 and 2 of the 2045 Comprehensive Plan Update.
- 2     3. Monthly Zoning Certificate Activity Report. The Report was included in the Agenda packet.

3 **Legal Update**

- 4     a. Discussion with possible deliberative session of the following pending lawsuits:
  - 5         1. Jefferson County Circuit Court Case #CC-19-2022-C-141 (RE: Rippon Solar Energy
  - 6             Facility / File 22-9-CUP) Rockwell v. JCBZA
  - 7         2. Jefferson County Circuit Court Case #CC-19-2023-C-131 (RE: Williamson Fence /
  - 8             23-13-ZV) Gallagher c JCBZA and Timothy Williamson
  - 9         3. Jefferson County Circuit Court Case # CC-19-2024-C-14 (RE: Jeremy Martin, Tiffany
  - 10             Martin and Earthworx General Contracting Services, LLC v. Jefferson County Board of
  - 11             Zoning Appeals).

12     No action was taken as legal counsel was not present for this meeting.

- 13     b. Discussion with possible deliberative session and signing of draft Findings/Decisions.

14     **Meeting: March 28, 2024**

- 15         1. Variance request from Section 9.7. Owner: Jeffrey Black. File: 24-8-ZV.
- 16         2. Variance request from Section 5.7B. Owner: Joshua Madar. File: 24-9-ZV.
- 17         3. Variance request from Section 4.11A and Appendix B (File 24-10-ZV); and,
- 18             Variance request from Appendix B (File 24-11-ZV). Owner: Beallair Community
- 19             Conservancy, Inc. Applicant: Piedmont Design Group.

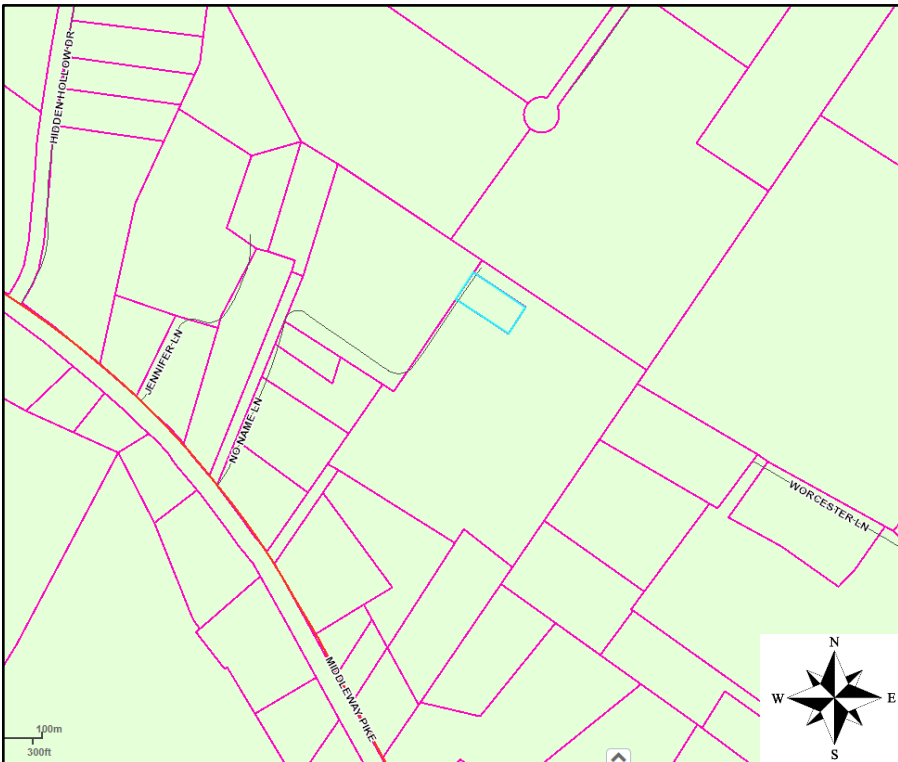
20     No action was taken as the findings were not available.

21 Mr. McKinney moved to adjourn the meeting at 3:36 pm. Mr. Quynn called for a vote, which carried  
22 unanimously.



Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 25, 2024  
**24-23-ZV Lowe Variance Request**

Item #1 Variance request from Section 9.7 to reduce the side setback along the northern property line from 12' to 4' for an 8' x 16' deck.

Owner:	Nicholas Lowe
Applicant:	Deborah Lowe
Parcel Information & Zoning District:	<p style="text-align: center;">272 No Name Ln, Kearneysville, WV 25430          Parcel ID: 07001900180003; Size: .46 acres; Zoning District: Rural</p> 
History:	03/31/72: New parcel with survey (recorded Deed Book 347 / PG 455)
Waivers/Variations:	None
Approved Activity:	Residential
Site Visit Conducted:	No

**Staff Overview**

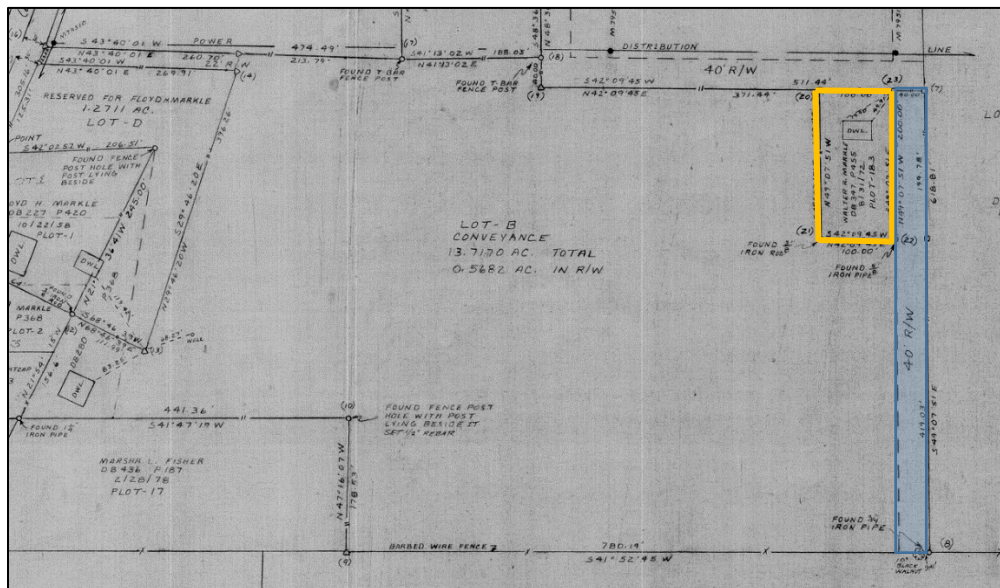
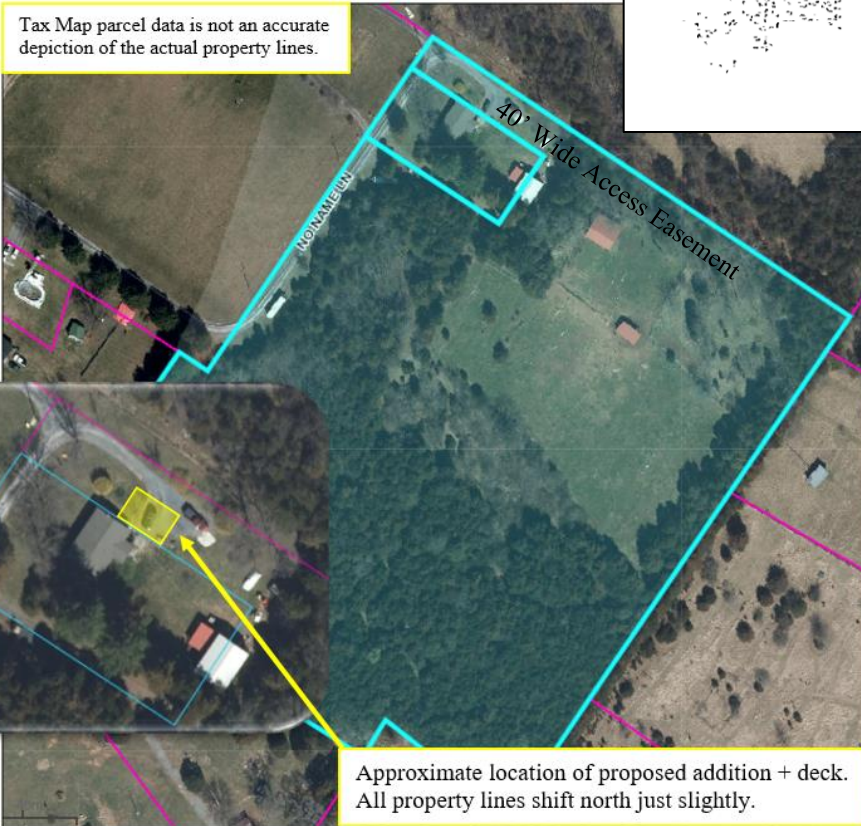
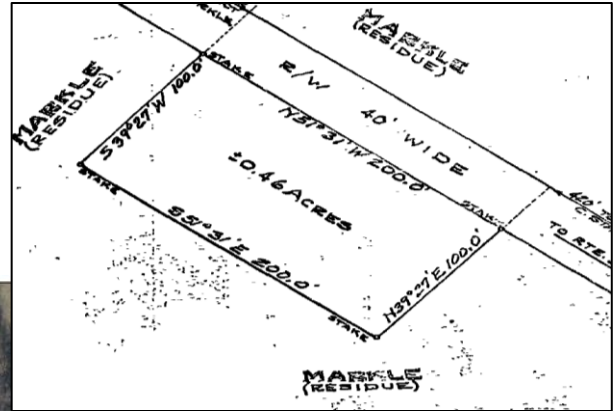
The subject parcel was created in 1972, prior to the enactment of zoning (1988); therefore, the lot is a legal nonconforming lot as it does not meet the residential site development standards in the current Zoning Ordinance.

Lots on record prior to the adoption of the zoning ordinance are subject to Section 9.7. As such, the required setbacks for the subject lot are: 20' Front, **8' Side**, and 12' Rear. The applicant is requesting to reduce the side setback requirement along the northern property line from 8' down to **4'** for a proposed 8' x 16' (128 square foot) deck.

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

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 25, 2024  
**24-23-ZV Lowe Variance Request**

The adjoining lot, which is the parent parcel (i.e. the larger parcel that the subject lot was subdivided from), is also owned by the applicant. The subject lot line abuts a 40-foot wide platted access easement which is accessed only by the applicant (i.e. no other neighboring properties have legal right to utilize the platted access easement).



Staff Report  
Jefferson County Board of Zoning Appeals  
July 25, 2024  
**24-23-ZV Lowe Variance Request**

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

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

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

**Conditions of Approval**

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

1. No conditions of approval have been identified.

**Section of Ordinance to be Considered:**

**Section 9.7 Other Exceptions<sup>3</sup>**

For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be as established as a part of that process.

Setbacks are as follows in subdivisions for which no setback was stipulated previously by the Jefferson County Planning Commission as a part of the subdivision process:<sup>23</sup>

Residential Growth District<sup>23</sup>

Single Family Residences

Over 40,000 square feet --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 40,000 sq. ft.--	20' front,	10' side	and	12' rear
Under 30,000 square feet --	20' front,	8' side	and	12' rear

Rural Agricultural and Industrial Commercial

Single Family Residences

Over 2 acres --	40' front,	15' side	and	50' rear
40,000 sq. ft. to 2 acres --	25' front,	12' side	and	12' rear
30,000 sq. ft. to 39,999 sq. ft. --	20' front,	10' side	and	12' rear
<b>under 30,000 sq. ft. --</b>	<b>20' front,</b>	<b>8' side</b>	<b>and</b>	<b>12' rear</b>

For all lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.





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

File Number: 24-23-ZV  
 Staff Initials: gsh  
 Meeting Date: 07-25-24  
 Fees Paid (\$100 or \$150): 100 -

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Nicholas P Lowe  
 Mailing Address: 272 No Name Ln, Kearneysville WV 25430  
 Phone Number: 304-820-6886 Email: nlowe@frontiernet.net

**Applicant Contact Information**

Name: Nicholas and Deborah Lowe  
 Mailing Address: 272 No Name Lane, Kearneysville, WV 25430  
 Phone Number: 304-886-8329 Email: da\_ring1978@yahoo.com



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

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 272 No Name Lane  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: Middleway Map No: 19 Parcel No: 0018 0003 0000  
 Parcel Size: 46/100 AC Deed Book: 1027 Page No: 43

**Zoning District (please check one)**

Residential Growth (RG) <input type="checkbox"/>	Industrial Commercial (IC) <input type="checkbox"/>	Rural (R) <input checked="" type="checkbox"/>	Residential- Light Industrial- Commercial (R-LI-C) <input type="checkbox"/>	Village (V) <input type="checkbox"/>	Neighborhood Commercial (NC) <input type="checkbox"/>	General Commercial (GC) <input type="checkbox"/>	
<div style="text-align: center;">     <b>JEFFERSON COUNTY PLANNING ZONING &amp; ENGINEERING</b> </div>			Highway Commercial (HC) <input type="checkbox"/>	Light Industrial (LI) <input type="checkbox"/>	Major Industrial (MI) <input type="checkbox"/>	Planned Neighborhood Development (PND) <input type="checkbox"/>	Office/Commercial Mixed-Use (OC) <input type="checkbox"/>

Place Received Date Stamp Here

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

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Sec. 9.7 gtt

Briefly describe the nature of the variance request:

Reduce the side setback for a 16' x 8' deck (jth)

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

Front Setback  Side Setback  Rear Setback  Reduction From 12 to 4

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

We own the neighboring property on the side that would be impacted by this request. When we purchased the residence it already contained our driveway and yard that we maintained prior to inheriting the adjacent property. As this area is not used by anyone other than us it would not impact anyone's health, safety, welfare, or rights.

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

The house was built prior to the adoption of zoning and the resulting subdivision that limited our options for expanding.

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

We wish to build an addition onto our house to allow for an upstairs laundry and second bathroom. As this is our forever home, having already occupied it for 20 years, we would like to make it function better for our family of four and for our senior years.

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

It will allow us to construct the addition we need while maintaining a property line setback. The structure itself is within the allowed setback, it is only the covered porch that goes over.

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

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

 6/13/2024  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

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

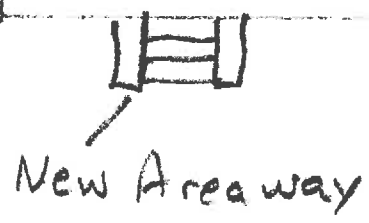
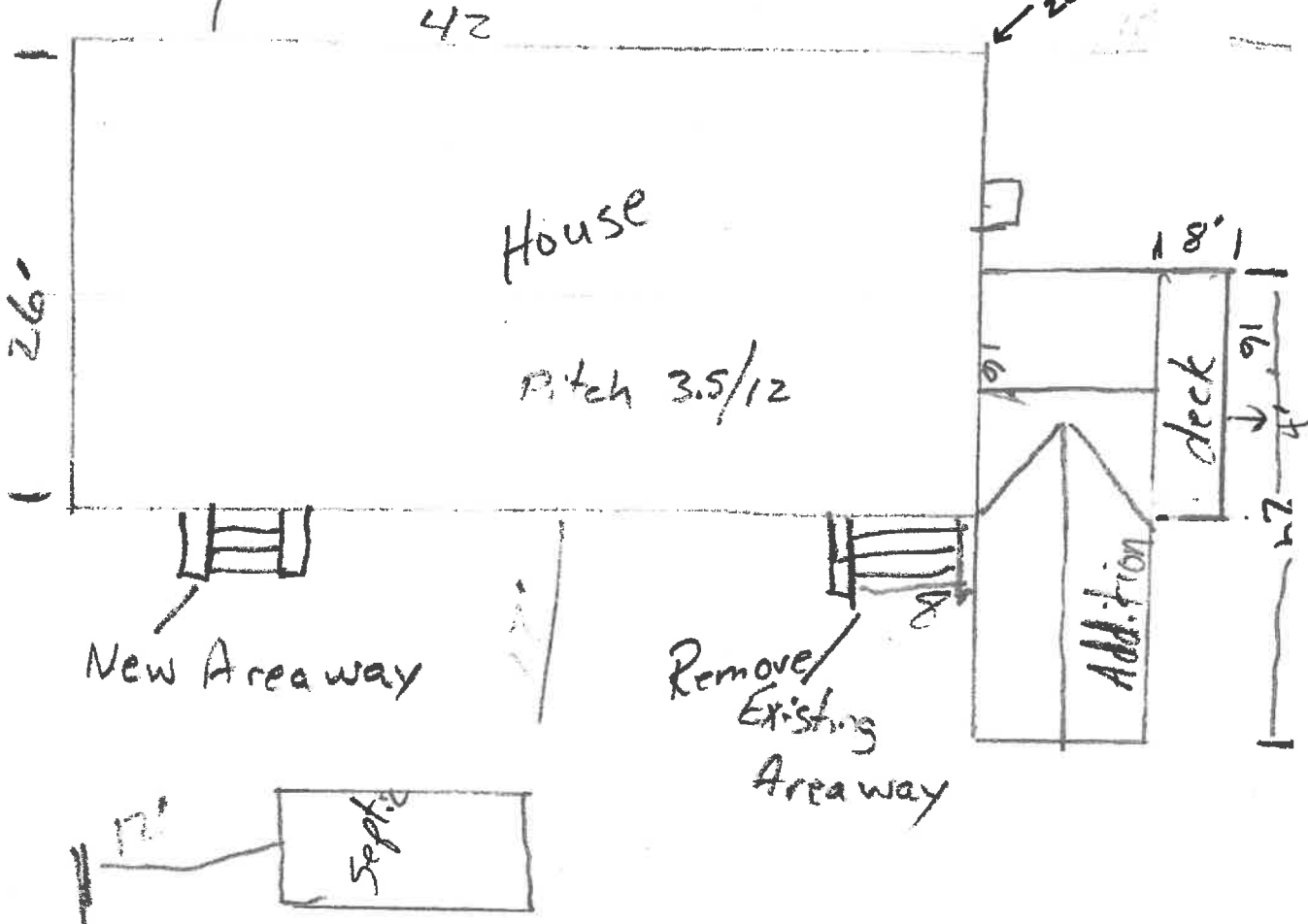
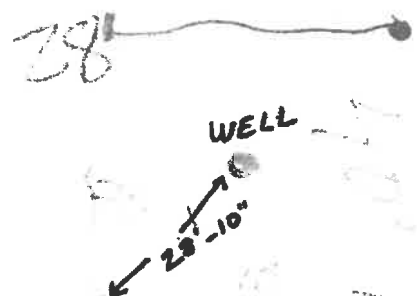
07.25.24  
Date of Public Hearing

07.10.24  
Advertising Date

07.10.24  
Placard Posting Date

No Name Lane

Remove & replace siding on existing house



Remove Existing Areaway



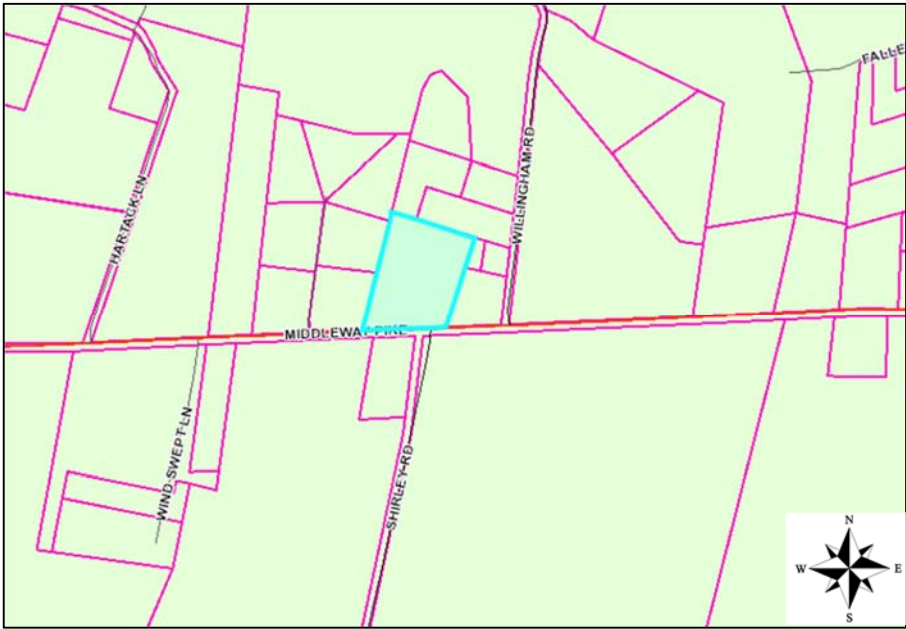
X Owners Signature [Signature]  
date 11/28/2014



Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 July 25, 2024

**24-5-CUP Global Environmental & Remediation LLC  
 Contractor with Outdoor Storage Conditional Use Permit Request**

Item #2 Request #1: Request for a Conditional Use Permit to establish a construction company (proposed land use designation as listed in Appendix C of the Zoning Ordinance: Contractor with Outdoor Storage). The proposal consists of constructing a 100' x 100' building, employee parking area, and outdoor equipment storage. The business may employ up to five (5) employees. On-site customer visits will be minimal. A freestanding business sign in accordance with Article 10 is proposed.

Owner:	Global Environmental & Remediation LLC
Applicant:	Raymond Johnson
Parcel Information & Zoning District:	<p>Parcel located north of the Middleway Pike and Shirley Road intersection (formerly addressed as 7367 Middleway Pike), Charles Town, WV          Parcel ID: 07002000090001; Size: ~6 acres; Zoning District: Rural</p> 
Surrounding Properties:	Zoning Map Designation: North, East, South & West: Rural
History:	12/10/71: Plat of Survey ( <a href="#">DB 337, PG 24</a> ) 12/07/82: Building Permit #82-333 for a 1,500 sf addition to an existing 1,500 sf masonry building.
Waivers/Variances:	07/25/24: Board to consider the following variance requests: Variance request from Appendix B and Section 4.11E to utilize existing vegetation in lieu of a planted buffer along all property lines. (File #24-24-ZV)
Approved Activity:	None. Site previously contained a nonconforming business operation (Paul's Wood Products, Inc. and Mountaineer Mulch, Inc.). It appears that the property has been vacant for several years.
Site Visit Conducted:	Yes - by the Land Development Inspector (07/08/24)

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**24-5-CUP Global Environmental & Remediation LLC  
Contractor with Outdoor Storage Conditional Use Permit Request**

**Summary of Request and Purpose of Ordinance Requirements**

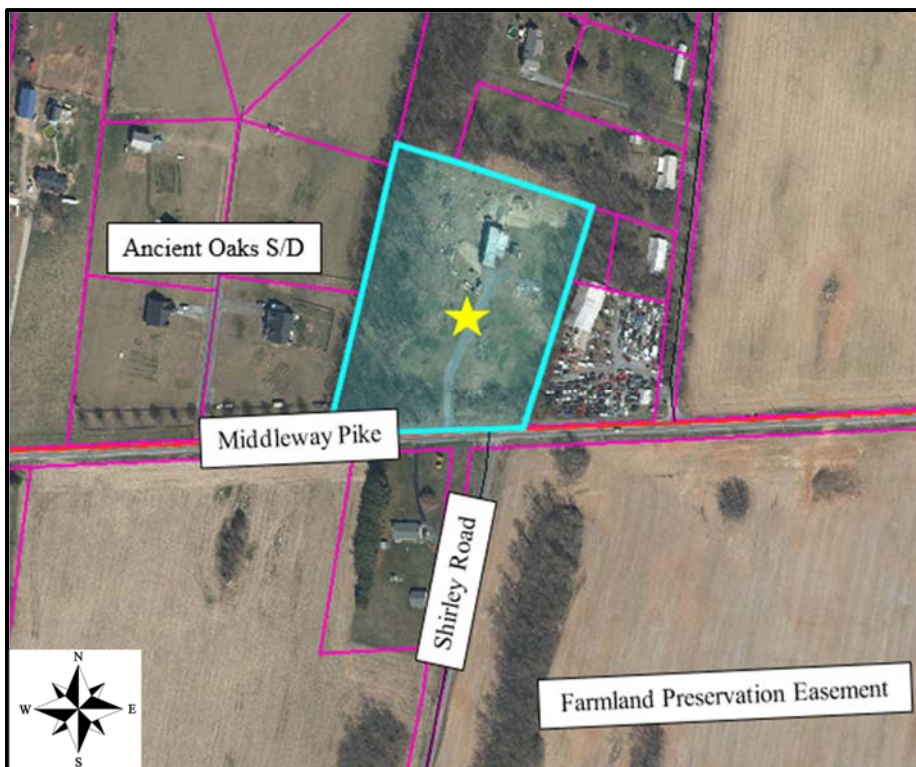
Request for a Conditional Use Permit to establish a construction business under the land use designation Contractor with Outdoor Storage, as defined in Article 2 of the Zoning Ordinance. The proposal consists of constructing a 100' x 100' building, employee parking area, and outdoor equipment storage. The business may employ up to five (5) employees. On-site customer visits will be minimal. A freestanding business sign in accordance with Article 10 is proposed.

Article 2 defines Contractor with Outdoor Storage as:

Use of a site for the business office of a general contractor or builder engaged in the construction of buildings, either residences or commercial structures. The premises may include an enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products, and interior storage. This use may include outdoor storage of building materials and heavy equipment such as road graders, dump trucks, cement mixers.

The applicant's description of the proposed business is provided on page 4 of the application. The proposal includes construction of a 100' x 100' building for warehousing construction materials and a small office space. The site improvements include installing an employee parking area, as well as an area for parking/storing construction vehicles and equipment. The business may employ up to five employees. The hours of operation are 7:00 a.m. – 5:00 p.m. Traffic impact is expected to be minimal, with employees arriving to park personal vehicles and exchange for company vehicles in the morning, then return at the end of the day. Customer visits are expected to be minimal.

**Property Description**



The subject parcel is comprised of six acres. It has approximately 430 feet of frontage along Middleway Pike (State Route 51). Based on staff's research, the site previously contained a wood products business which operated in the 1970s until the early 1990s. A 1982 building permit indicated that the property once contained a 4,800 square foot steel building which housed a sawmill, a 3,000 square foot masonry building, and a 280 square foot office trailer. Presently, the original 3,000 square foot masonry building from 1982 remains on the property. It appears that the nonconforming

use was abandoned in the 1990's and has remained vacant since that time.

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**Conditional Use Permit Process**

Section 6.3 of the Zoning Ordinance states:

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

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

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

The subject parcel is shown as “Large Lot Residential” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide (see excerpt below). The property is located outside of the County’s identified growth areas.



The Plan supports allowing commercial uses in the Rural zoning district to process via the Conditional Use Permit process. A central theme throughout the Plan is to support a Conditional Use process that allows for non-residential uses which are compatible in scale and intensity with the rural environment (see excerpts below).

In March 2017, the County Commission amended the Zoning Ordinance to modify the CUP process to align with the numerous goals and recommendations of the adopted Comprehensive Plan, which included eliminating the Land Evaluation and Soils Assessment (LESA) point system and incorporating a more traditional conditional use permit process. As part of the text amendment, the County Commission also updated Appendix C to include a list of commercial land uses that they identified as appropriate land uses to process under the Conditional Use Permit provisions.

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Contractor with Outdoor Storage Conditional Use Permit Request**

Pursuant to Appendix C of the Zoning Ordinance, the land use designation **Contractor with Outdoor Storage** is listed as an appropriate commercial land use to process via the Conditional Use Permit process in the Rural zoning district.

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

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

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

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

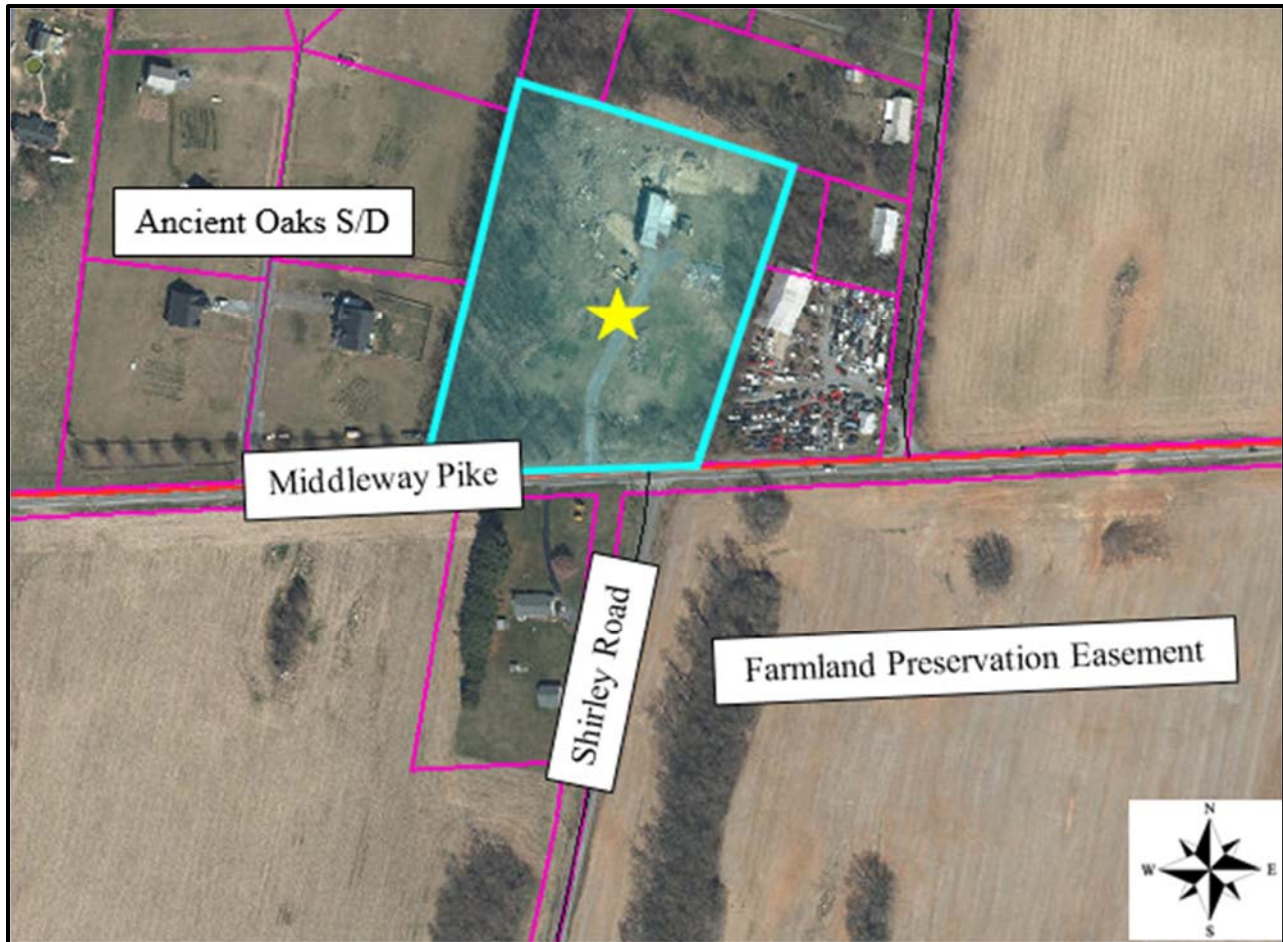
Recommendation 5b: Amend local land use regulations to permit non-agriculturally related commercial uses by the Conditional Use Permit (CUP) process in the Rural zone if the use is agriculturally and rurally compatible in scale and intensity, poses no threat to public health, safety, and welfare, and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

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

The applicant addressed this criteria on Page 3 of the application.

The property is surrounded primarily by residential and agricultural lots, with a non-residential lot to the east. The applicant is proposing to establish a construction business on the subject property. The existing structure (circa 1982) will be demolished, and a new 100' x 100' building will be constructed on the property to store construction materials and equipment, as well as to provide an office space. A parking area for employee cars and company vehicles will be installed, as well as an outdoor storage area for construction vehicles and equipment. No more than five employees are anticipated and customer visits are expected to be minimal.

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

The applicant addressed this criteria on Page 2 of their application.

The property to the west already utilized the residential development provisions. The property to the east has exceeded the expansion provisions for a nonconforming site. The property to the south east is under a farmland preservation easement and cannot be developed.

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

The applicant acknowledged this criteria on Page 2 of the application. As part of the subject request, the applicant is requesting to utilize existing, mature vegetation in lieu of a planted buffer. Aerial imagery indicates that there is a sufficient vegetation along the western property line, which would buffer the proposed land use from the adjoining residential properties. There also appears to be sufficient vegetation along the eastern property line. The northern property line does not appear to contain sufficient vegetation on the property.

A site plan is the mechanism in place for the county to ensure compliance with the landscaping standards. As presented, the proposed use will necessitate processing a site plan for administrative

**24-5-CUP Global Environmental & Remediation LLC  
Contractor with Outdoor Storage Conditional Use Permit Request**

review to address stormwater management, parking, access, and other site development standards including landscaping and building setbacks.

Compliance with building setbacks and distance requirements will be enforced with the site plan and building permit reviews. It appears that the site design as proposed will comply with the 75' distance requirement from the adjoining residential properties (see applicant's sketch below and on page 5 of their application).



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

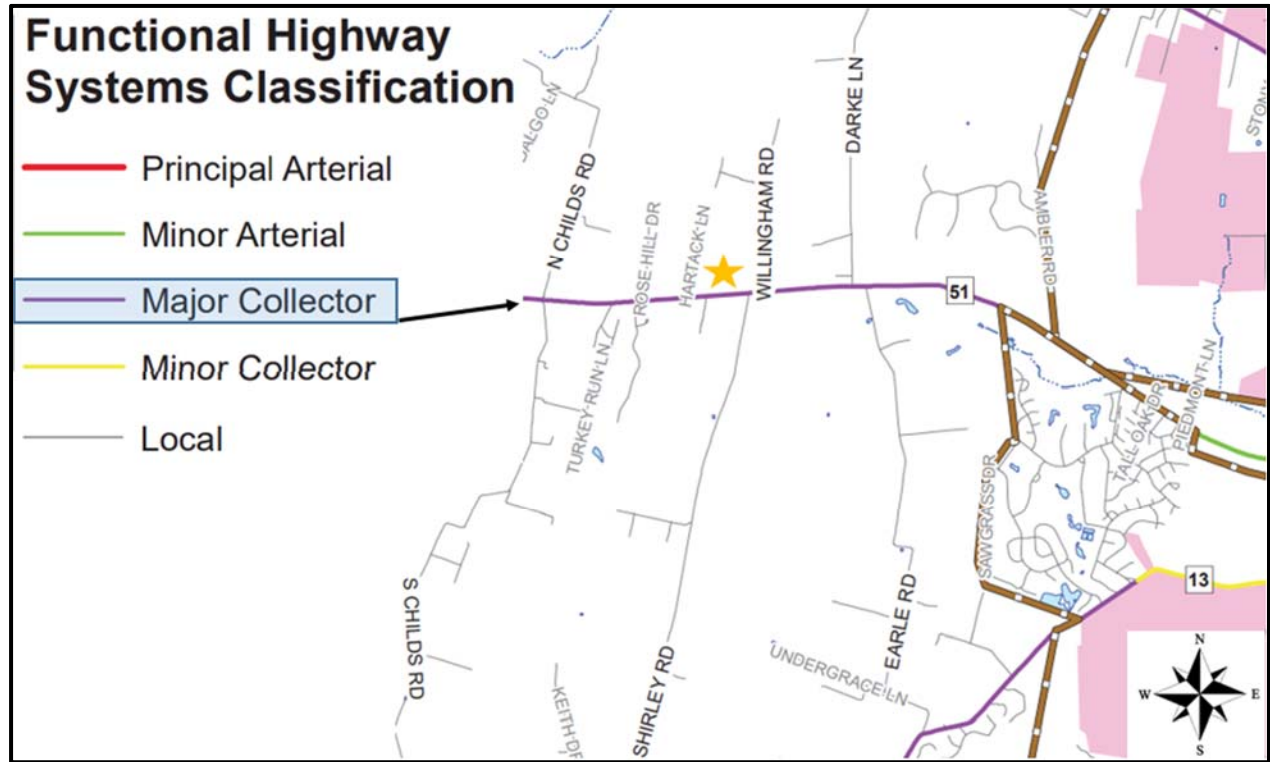
The applicant acknowledged this criteria on Page 2 of the application and shall comply with this standard. Section 8.9 of the Zoning Ordinance is attached for reference as part of the Staff Report.

Section 8.9 regulates noise, odor, smoke, ambient air quality, vibration, glare and heat, toxic matter, and fire hazards related to commercial and industrial land uses.

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

Middleway Pike/State Route 51 is classified as a Major Collector (secondary road) on the Highway Road Classification Map. As such, this criteria is not applicable.



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

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

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

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

The applicant represented that a sign will be placed at the entrance to the property. Design and dimensions were not submitted with the application.

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**Attachments:**

- 1. Section 6.3 of the Zoning Ordinance**
- 2. Section 8.9 of the Zoning Ordinance**
- 3. Appendix C of the Zoning Ordinance**
- 4. Excerpt of Envision Jefferson 2035 Comprehensive Plan – Future Land Use Guide**

## **Section 6.2 Variances<sup>32</sup>**

The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.<sup>23</sup>

- A. The Board shall approve a variance request if the Board finds that a variance:
  - 1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
  - 2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
  - 3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
  - 4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.<sup>17, 21</sup>
- B. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board in the Office of Planning and Zoning.
- C. Notification for a variance must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.

## **Section 6.3 Conditional Use Permit<sup>32</sup>**

The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit.<sup>2, 32</sup>

- A. The Board shall consider each Conditional Use Permit request that is filed in accordance with this Ordinance and the procedural requirements of the Board of Zoning Appeals. The Board may require reasonable conditions or special requirements which allows for the proper integration of the proposed uses into the community and are directly related to and incidental to the proposed conditional use permit. The following General Standards shall be considered in approving or denying the CUP:
  - 1. The proposed use is compatible with the goals of the adopted Comprehensive Plan.
  - 2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare.
  - 3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings.
  - 4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance.
  - 5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance.
  - 6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan’s Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial, Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the BZA to review

in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use.

7. For Historic Sites, the Historic Landmarks Commission, with the property owner's consent, may visit the property to review the proposed land development plan and use for sites designated as Category I or II. The Historic Landmarks Commission may make reasonable recommendation to the Board of Zoning Appeals on the suitability of a proposed multi-family dwelling or non-residential use for the building seeking a Conditional Use Permit. The Historic Landmarks Commission's recommendations may include the following findings:<sup>35</sup>
  - a. Compatibility of the proposed use with the historic structure;
  - b. Any modifications to the building's façade is consistent and compatible with the building's architecture, style, and massing; and
  - c. Proposed parking and other activities are suitably located so as to preserve the historic character.

The Board of Zoning Appeals may consider these findings and if determined appropriate, may require compliance with some or all of the Historic Landmarks Commission's recommendations as a condition of approval.

8. Any signs associated with the proposed Conditional Use shall be reviewed by the Board in accordance with Section 10.6.<sup>36</sup>
- B. The owner or authorized representative of the owner of the property for which the Conditional Use Permit is being requested shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The Conditional Use Permit request shall be filed with the Board at the Office of Planning and Zoning.
- C. Staff will notify the adjacent and confronting property owners of the date, time, and location of the Public Hearing by registered mail. Notification for a Conditional Use Permit must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.
- E. If there are no negative public comments received by the Board, the Board shall issue the Conditional Use Permit but may require reasonable conditions.

#### **Section 6.4 Seasonal Uses<sup>5, 7, 32</sup>**

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing according to the requirements of Section 6.1C. Newspaper notification requirements of Section 6.1B apply. Seasonal uses cannot be approved for longer than one year at a time.<sup>17, 21, 23</sup>

#### **Section 6.5 Special Exception Permit<sup>26, 32, 36</sup>**

- A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals subject to a public hearing in accordance with the following.
  1. The public hearing is subject to the notification requirements of Section 6.1B.
  2. The public hearing shall be conducted according to the requirements of Section 6.1C.
  3. Such hearing may be continued according to the requirements of Section 6.1D.

B. Standards for Hunting, Shooting and Fishing Clubs<sup>20</sup>

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

C. Special Exceptions for Hunting, Shooting and Fishing Clubs<sup>20</sup>

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

**Section 8.9 Industrial and Commercial Uses<sup>23</sup>**

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

**1. Noise**

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

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

The following sources of noise are exempt:

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

**2. Odor**

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

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

**3. Smoke**

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

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

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

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

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

**4. Ambient Air Quality Standard**

Particulate Matter

Suspended

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

Settleable

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

**5. Vibration**

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

**6. Glare and Heat**

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

**7. Toxic Matter**

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

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

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

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

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

**8. Fire Hazards**

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

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

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

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

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

Container Setback from Lot Lines

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

**9. Frontage Road**

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

**10. Landscape Buffer**

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



Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses continued</b>													<b>Sec. 8.9</b>
Bar	P	P	P	P	NP	P	P	NP	NP	P	P	CU	
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	CU	CU	P	P	P	
Bed and Breakfast	P	NP	NP	NP	NP	P	NP	P	CU	P	NP	P	Sec. 8.3
Brewpub	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.5
Business Equipment Sales and Service	CU	P	P	P	CU	P	P	CU	CU	P	P	CU	
Building Maintenance Services	CU	P	P	P	P	P	P	CU	CU	P	P	CU	
Building Materials and Supplies	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Campground <sup>31</sup>	CU	P	NP	NP	NP	P	NP	P	CU	P	P	CU	Sec. 8.17
Car Wash	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Commercial Blood Plasma Center	NP	P	P	P	NP	CU	CU	CU	CU	CU	P	CU	
Commercial Uses	NP	NP	NP	NP	NP	NP	NP	NP	**	P	P	CU	Sec. 8.9
Contractor with No Outdoor Storage	P	P	P	P	P	P	P	CU	CU	P	P	CU	
<b>Contractor with Outdoor Storage</b>	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Convenience Store	CU	P	P	P	CU	P	NP	CU	CU	CU	P	CU	Sec. 5.8C (RLIC only)
Convenience Store, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Country Inn	P	P	P	P	NP	P	P	CU	CU	P	P	P	
Crematorium, Pet <sup>37</sup>	NP	P	NP	P	NP	NP	NP	P	NP	P	P	CU	Sec. 8.19
Custom Manufacturing	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Facility	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Exterminating Services	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Florist	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Food Preparation	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Gambling Facilities	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	CU	Sec. 4.4G
Gas Station	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Gas Station, Large	NP	CU	P	P	CU	CU	CU	CU	CU	P	P	CU	
Gas Station, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Golf Course	NP	P	P	P	NP	P	P	CU	CU	P	P	CU	
Grocery Store	P	P	P	P	CU	P	NP	CU	CU	P	P	CU	
Horse Racing Facility	NP	NP	NP	P	NP	NP	NP	CU	CU	P	P	CU	
Hotel/Motel	NP	P	P	P	NP	P	P	CU	CU	P	P	CU	
Kennel	NP	P	P	P	CU	P	P	P	CU	P	P	CU	Sec. 8.4
Medical/Dental/Optical Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Medical/Dental/Optical Office	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Mobile Home, Boat and Trailer Sales	NP	P	P	P	CU	P	NP	CU	CU	CU	P	CU	
Movie Theater	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Nightclub	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Non Profit Commercial Uses	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Non-Profit Community Centers	P	P	P	P	CU	P	CU	P	CU	P	P	CU	
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Pawn Shop Services	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Personal Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Professional Office	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Professional Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Restaurant	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant, Fast Food	CU	P	P	P	CU	P	P	CU	CU	CU	P	CU	



# Future Land Use Guide Jefferson County, WV

Envision Jefferson 2035 Comprehensive Plan



- Special Design Area
- Preferred Growth Area
- Quarry Redevelopment Area
- Growth Management Boundary
- Urban Growth Boundary
- Urban Growth Boundary Expansion
- Village
- Village Expansion
- 2004 Growth Area

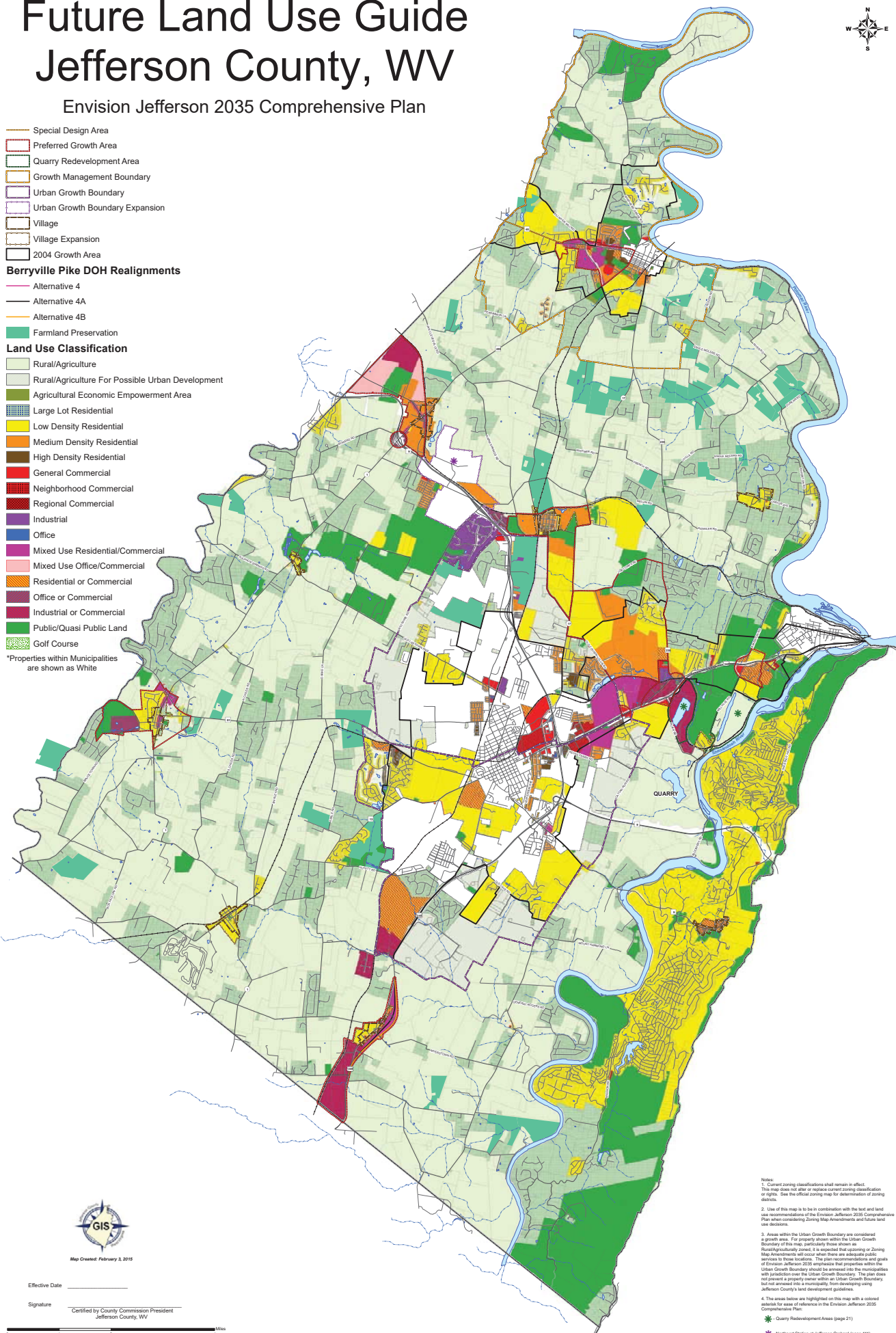
**Berryville Pike DOH Realignments**

- Alternative 4
- Alternative 4A
- Alternative 4B

**Land Use Classification**

- 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

\*Properties within Municipalities are shown as White



Map Created: February 3, 2015

Effective Date \_\_\_\_\_

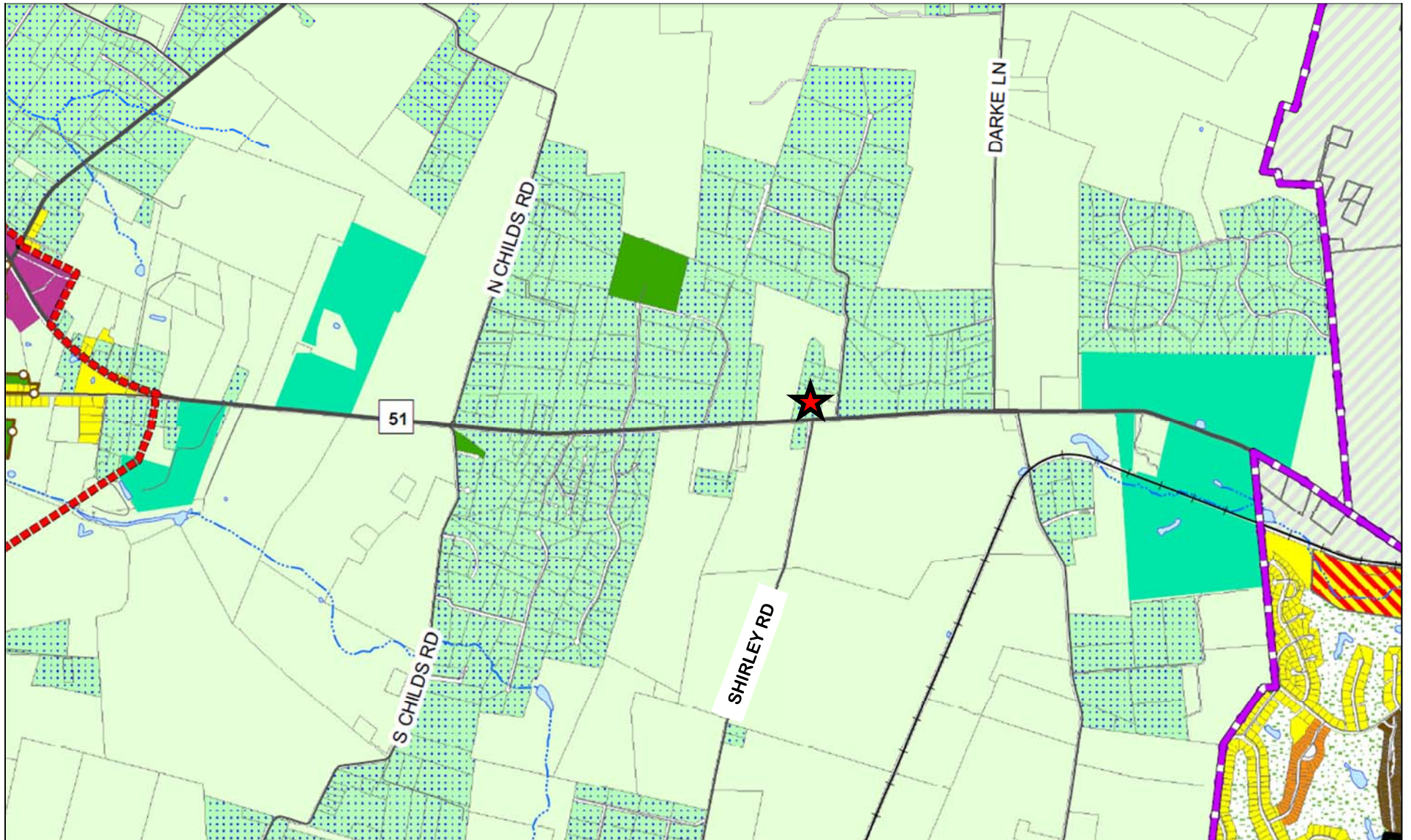
Signature \_\_\_\_\_  
Certified by County Commission President  
Jefferson County, WV

**Notes:**

1. Current zoning classifications shall remain in effect. This map does not alter or replace current zoning classification or signs. See the official zoning map for determination of zoning details.
2. Use of this map is to be in combination with the text and land use recommendations of the Envision Jefferson 2035 Comprehensive Plan when considering Zoning Map Amendments and future land use decisions.
3. Areas within the Urban Growth Boundary are considered a growth area. For property shown within the Urban Growth Boundary of this map, particularly those shown as Rural/Agriculture zoned, it is expected that upcoming Zoning Map Amendments will occur when there are adequate public services to those locations. The plan recommendations and goals of Envision Jefferson 2035 anticipate that properties within the Urban Growth Boundary should be annexed into the municipalities with jurisdiction over the Urban Growth Boundary. The plan does not prevent a property owner within an Urban Growth Boundary, but not annexed into a municipality, from developing using Jefferson County's land development guidelines.
4. The areas below are highlighted on this map with a colored asterisk for ease of reference in the Envision Jefferson 2035 Comprehensive Plan.
  - \* Quarry Redevelopment Areas (page 21)
  - \* Northport Station at Jefferson Orchard (page 111)



# Excerpt from Envision 2035 Comprehensive Plan





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

File #: 24-5-CUP  
 Mtg. Date: 07 / 25 / 24  
 Fee Paid: \$ 550.00

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

Phone: (304) 728-3228

**Application for a Conditional Use Permit**

**Project Name** Global Environmental building

**Property Owner Information**

Name: Global Environmental & Remediation, LLC  
 Business Name: Same as above  
 Mailing Address: 2632 S. Childs Road Kearneysville, WV 25430  
 Phone Number: 304-279-5335 Email: Rjohnson@generalger.com

**Applicant Information**

Name: Raymond L. Johnson  
 Business Name: Global Environmental & Remediation, LLC  
 Mailing Address: 2632 S. Childs Road Kearneysville, WV 25430  
 Phone Number: 304-279-5335 Email: Rjohnson@generalger.com

**Consultant Information**

Name: Andy DiManno Engineers & Consultants  
 Business Name: Same as above  
 Mailing Address: 61 Eagle School Road Martinsburg, WV 25404  
 Phone Number: 304-263-0157 Email: Vleid@pc.dimagno.com

**Physical Property Details**

Physical Address: 7367 Middleway Pike Kearneysville, WV 25430  
 Parcel ID: (Tax District / Map No. / Parcel No.) 1001 x 1001 building Parcel ID: 07002000090001  
 Parcel Size: 6.03 acres Project Size: 6.03 acres Deed Book: 1256 Page No: 678

**Zoning District (please check one)**

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

**Provide the Land Use Designation (see Appendix C of the Zoning Ordinance).**

Contractor with Outdoor Storage

**For properties in the Rural Zoning District:**

Is property located on a primary or secondary road?

Yes  No

Name of Road/Route Number: Route 51

Provide a detailed description of the proposed business (include information such as hours of operation, anticipated employee and/or customer visits, etc. A site sketch is required to be included with the application, delineating existing and proposed structures and parking areas, proposed signs, proposed landscaping, etc.

Provide a detailed response to the following questions to show how the proposed business complies with the criteria in Section 6.3 of the Zoning Ordinance. Feel free to attach a separate sheet with responses.

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

see attachment 1

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

See attachment 1

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

See attachment 1

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

- I am aware of the landscaping buffer requirements and will adhere to them.  
 I am aware of the landscaping buffer requirements; however, I may seek a variance to modify them.

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

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

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

Trip Generation Data Attached

Not Applicable

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

By signing this application, I grant permission for County staff to walk onto the subject property to take photos for the Board of Zoning Appeals staff reports.

Raymond L. Johnson  
Property Owner Signature

6/21/2024  
Date

Property Owner Signature

Date



## Global Environmental & Remediation, LLC

2632 South Childs Road; Kearneysville, WV 25430

Phone: (304-279-5335) ♦ Rjohnson@generalger.com

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### Attachment 1

#### Section 6.3 Conditional Use Permit<sup>32</sup>

The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit.<sup>2, 32</sup>

A. The Board shall consider each Conditional Use Permit request that is filed in accordance with this Ordinance and the procedural requirements of the Board of Zoning Appeals. The Board may require reasonable conditions or special requirements which allows for the proper integration of the proposed uses into the community and are directly related to and incidental to the proposed conditional use permit. The following General Standards shall be considered in approving or denying the CUP:

1. The proposed use is compatible with the goals of the adopted Comprehensive Plan.
  - There is an existing commercial building that presently exists on the property.
    1. The proposed use is a like commercial build, but larger in size. Many similarities already exist.
2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare.
  - The adjacent property on the west side is full of junk motor vehicles.
    1. This proposed use will be a huge improvement.
    2. There are residential adjacent properties.
      1. They are buffered on all sides by existing trees and foliage.
3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings.
  - Some development has already taken place on adjacent properties.
  - This property with an existing building already in place preceded the development of those properties.
    1. There appears to have been zero hindrances or discouragements when these properties were developed with residential dwellings.
  - In the event protests or such arise, Global will adequately address the concerns to a satisfactory level.

*Raymond L. Johnson*

Raymond L. Johnson



## Global Environmental & Remediation, LLC

2632 South Childs Road; Kearneysville, WV 25430

Phone: (304-279-5335) ♦ Rjohnson@generalger.com

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### Narrative for 7367 Middleway Pike

To follow is a narrative for the proposed land use for the above-named property:

1. The property consists of 6.03 acres in a rural area.
  - a. There is an existing water well on the property.
  - b. A small septic system is proposed to be installed for the office restroom facilities.
    - i. There will be no shower or bath tub.
  - c. The proposed use of the land will be a 100' x 100' commercial building used to warehouse construction materials with a small office space.
  - d. There will be parking area for construction vehicles, equipment, and employee vehicles.
    - i. The smaller vehicles will be kept on the interior of the building.
    - ii. The number of employees is not expected to exceed five.
  - e. Hours of operation will be between 07:00 – 5:00 pm.
    - i. There is no constant flow of traffic in and out.
    - ii. The main movement activities are expected to be prior to 07:00 and shortly after 4:30 pm.
    - iii. There will be no frequent customers.
2. The property is bordered by the following properties with owners listed:
  - a. A north side adjacent property (20-10) is owned by Wesley and Kathleen Windle.
  - b. A north side adjacent property (20-10.3) is owned by Russel Davenport Estate.
  - c. An east side adjacent property (20.9.2) is owned by James and Karyn Hannum.
  - d. The south side is bordered by Middleway Pike (State Route 51).
  - e. A west side adjacent property (20-8.5) is owned by Bryan and Julie Montgomery.
  - f. A west side adjacent property (20-8.6) is owned by Gary and Beverly Boice.

*Raymond L. Johnson*

Raymond L. Johnson



**Parcel: 07002000090001**

TD: 7 / Map: 20 / Pcl: 9.1

Deeded Owner: GLOBAL ENVIRONMENTAL & REMEDIATION LLC

Owner Address: 2632 SOUTH CHILDS RD

City: KEARNEYSVILLE

State: WV

Zip: 25430

Deed Book/Page: [1256/678](#)

Description: 6.03 AC-CLARKE

Lot Size: 6.03

Tax Class: 3

Living Unit: 0

Year Built: 1990

Stories: 1

First Floor Area: 0

Rooms: 0

Bedrooms: 0

Full Baths: 0

Half Baths: 0

Attic:

Heat Type: Mods: ; ; ;

Fuel Type:

Heat System:

Last Sale Date: 30-Jan-12

Last Sale Amount: 40000

Tax Year: 2024

Bldg Appraisal: 3300

Land Appraisal: 117400

Total Appraisal: 120700

Bldg Assessed: 2000

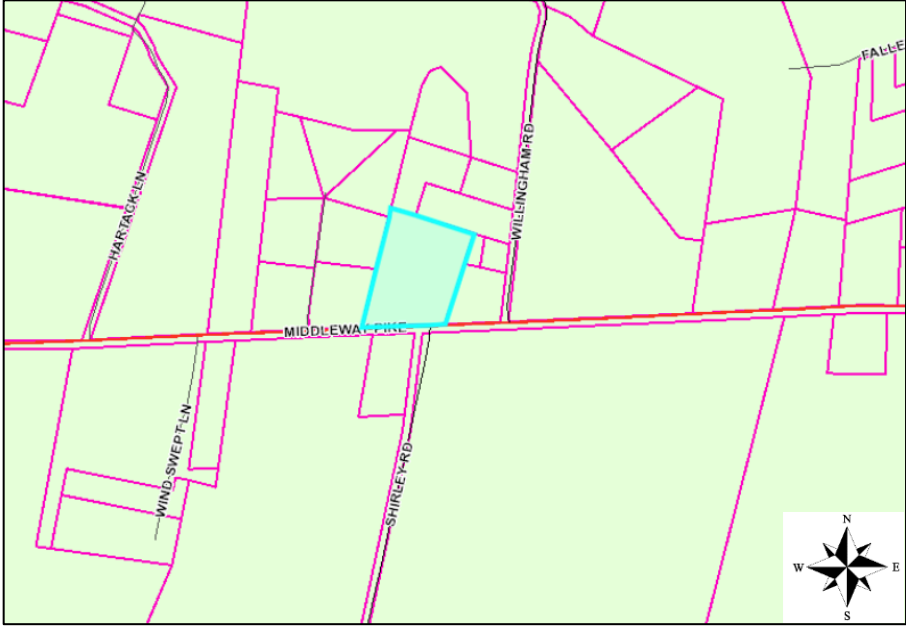




Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 25, 2024

**24-24-ZV Global Environmental & Remediation LLC (Landscaping) Variance Request**

Item #2 Request #2: Variance request from Appendix B and Section 4.11E to utilize existing vegetation in lieu of a planted buffer along all property lines.

Owner:	Global Environmental & Remediation LLC
Applicant:	Raymond Johnson
Parcel Information & Zoning District:	<p>Parcel located north of the Middleway Pike and Shirley Road intersection (formerly addressed as 7367 Middleway Pike), Charles Town, WV          Parcel ID: 07002000090001; Size: ~6 acres; Zoning District: Rural</p> 
History:	<p>12/10/71: Plat of Survey (<a href="#">DB 337, PG 24</a>).</p> <p>12/07/82: Building Permit #82-333 for a 1,500 sf addition to an existing 1,500 sf masonry building.</p>
Waivers/Variances:	None
Proposed Activity:	<p>Request for a Conditional Use Permit to establish a construction company (proposed land use designation as listed in Appendix C of the Zoning Ordinance: Contractor with Outdoor Storage). The proposal consists of constructing a 100' x 100' building, employee parking area, and outdoor equipment storage. The business may employ up to five (5) employees. On-site customer visits will be minimal. A freestanding business sign in accordance with Article 10 is proposed.</p>
Site Visit Conducted:	Yes – by the Land Development Inspector (07/08/24) - <i>Photos attached</i>

**Staff Overview**

The subject request is to eliminate the required street tree and landscaping buffer requirements that would be required as part of the site development proposal to establish a contractor's building for the Global Environmental & Remediation (see also 24-5-CUP).

As part of the request for a Conditional Use Permit to establish a construction business in the subject location, the applicant is seeking a variance to eliminate the requirement to install a buffer screen. The applicant is

Staff Report  
Jefferson County Board of Zoning Appeals  
July 25, 2024

**24-24-ZV Global Environmental & Remediation LLC (Landscaping) Variance Request**

requesting to utilize existing, mature vegetation in lieu of a planted buffer. Staff does not have the administrative authority to grant a request to utilize existing vegetation, but is typically favorable of such requests, provided sufficient documentation is included with the site plan submittal to demonstrate compliance with the buffer screen requirements in the Zoning Ordinance.

The purpose of the landscape buffer requirement is to reduce the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.



\*Note that pursuant to Section 4.6B, no structures shall be placed closer than 75' from the western and northern property lines. The buffer screen requirements for a commercial use adjoining lots with a residential dwelling are pursuant to Standard Detail M-53, which requires a 20' – 40' wide vegetative buffer planting, comprised of shrubs and trees; alternatively, pursuant to Section 4.11E, an opaque fence may be utilized in lieu of a dense vegetative screen.

Staff Report  
Jefferson County Board of Zoning Appeals  
July 25, 2024

**24-24-ZV Global Environmental & Remediation LLC (Landscaping) Variance Request**

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

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

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

**Conditions of Approval**

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

1. The applicant shall maintain a 50’-wide buffer screen along the perimeter of the property. No structures or parking shall be located within the delineated buffer screen.

**Sections of Ordinance to be Considered:**

- Section 4.11 Landscaping, Screening, and Buffer Yard Requirements (attached)
- Appendix B – Non Residential Site Development Standards Table (attached)



2. Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance. Existing structures (which existed prior to the adoption of this text amendment) within the protection radius may be converted to a non-residential use in accordance with Appendices B & C and shall comply with applicable district regulations as required by Article 5.

#### **Section 4.7 Essential Utility Equipment**

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this Ordinance. Wireless telecommunication towers, however, shall conform to the requirements of Article 4B.<sup>7, 22</sup>

#### **Section 4.8 Buildable Lot**

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this Ordinance.

#### **Section 4.9 Traffic Visibility Across Corner Lots**

On any corner in all districts, there shall be no obstruction to traffic visibility within 35 feet of the intersection of the two street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.<sup>23</sup>

#### **Section 4.10 Site Plan Requirements<sup>39</sup>**

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.<sup>23, 26</sup>
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. Site Plan submittal is not required for any Agricultural Use defined in Article 2. Agricultural Uses which are open to the public (Agricultural Special Event Facility, Farm Market, etc.) established on parcels of less than 20 acres shall process a Concept Plan in accordance with the Subdivision and Land Development Regulations.
- D. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.<sup>23</sup>
- E. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.<sup>10, 17, 21, 23</sup>

#### **Section 4.11 Landscaping, Screening and Buffer Yard Requirements**

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.<sup>27</sup>

- A. Commercial Development<sup>27</sup>
  1. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a 50 foot or greater unscreened green space buffer or a 15 foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

2. All commercial development adjacent to all other uses must maintain ten foot side and rear yard landscape buffers.<sup>5</sup>

#### B. Industrial Development<sup>27</sup>

1. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have an unscreened buffer yard of no less than 200 feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard.
2. All industrial development adjacent to any use other than an industrial use shall have screened front yard buffers of no less than one-half (½) the front yard building setback, which may be included within the 200-foot buffer required in this subsection.<sup>5, 7</sup>
3. All industrial development adjacent to any use shall have 20 foot screened side and rear landscape buffers.

#### C. Multi-family Development<sup>27</sup>

1. All multi-family adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have, along common property lines, screened green space buffers as follows:
  - a. Front and rear: a minimum of 15 feet
  - b. Side: a minimum of 12 feet

- D. In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.

E. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.

1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.<sup>7, 23, 27, 28</sup>

However, any development where a 10 foot side and/or rear yard vegetative landscaping buffer is required adjacent to proposed commercial uses and where no outdoor storage is being proposed or provided, the following standards shall be met:<sup>27, 28</sup>

- a. One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of 20 feet or more at maturity, planted every 50 linear feet; at least every other tree shall be an evergreen;
  - b. One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every 50 linear feet; and
  - c. Three (3) shrubs per each 25 feet along the property line, round upward.
  - d. These requirements shall be required on both sides of a property line for adjoining properties.
  - e. A 10 foot landscape area on the property unless shared parking is proposed. In the event shared parking is proposed, the required property line planting would be in addition to other plantings.<sup>7, 23, 26</sup>
2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.

3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
  4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.
- F. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.<sup>23</sup>
- G. All buffer yards shall be maintained by the property owner.**
- H. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9A, 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -1 below:<sup>23</sup>

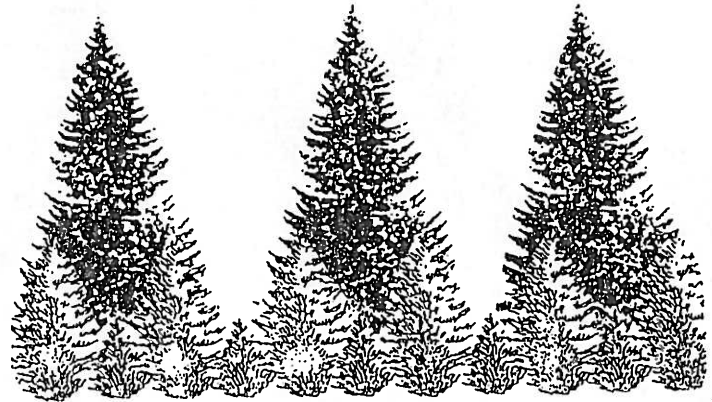
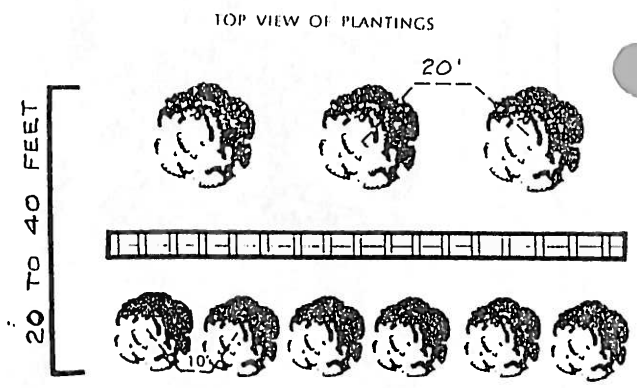
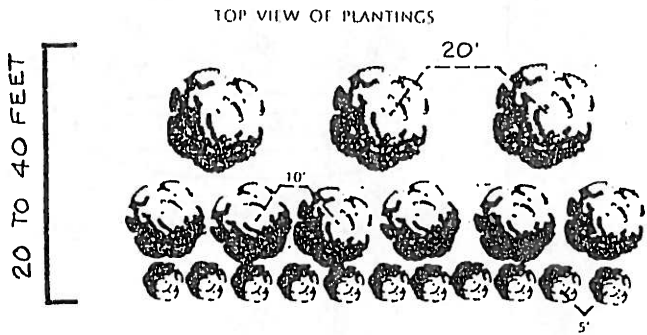
**Table 4.11 -1 Wetland Size in Acres<sup>5, 8, 23</sup>**

Greater Than	Less Than	Buffer Width in Feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

- I. All required landscape plans shall contain the following elements:<sup>7</sup>**
1. **Deciduous street trees for shade and aesthetics, planted at the following average spacing:<sup>23</sup>**
    - a. Site with street frontage of up to 200 feet: 1 tree per 50 feet.
    - b. **Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.**
  2. **Evergreen buffer planting, as required, for full screening.**
  3. **Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.**
  4. **Structure plants for aesthetics and limited shade.**
  5. **Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.**
- J. Required landscape buffers for a non-residential use are indicated in Appendix B.<sup>27</sup>**

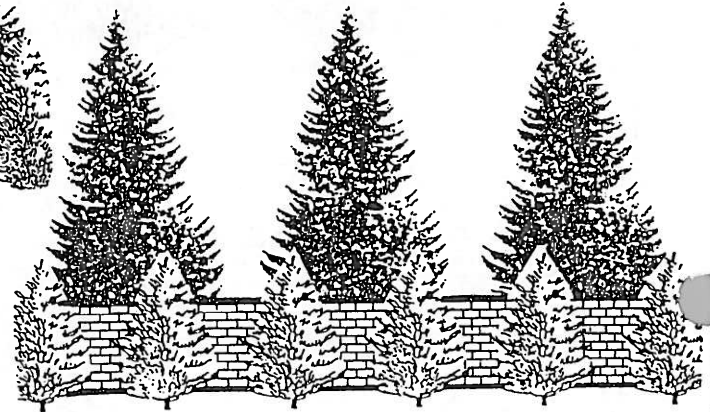
**Section 4.12 Design Standards for Multi-Family Developments<sup>23</sup>**

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.



FRONT VIEW OF ULTIMATE GROWTH

OPTION D



FRONT VIEW OF ULTIMATE GROWTH

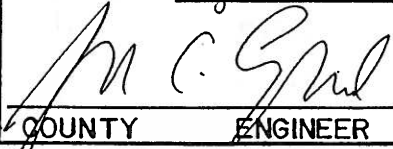
OPTION E

OPTION D

Planting Description - one row of evergreen shrubs with a height of two (2) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every five (5) linear feet; one row of medium evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every ten (10) linear feet; one row of large evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of thirty (30) feet or more at maturity, planted every twenty (20) linear feet.

OPTION E

Planting Description - one row of medium evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every ten (10) linear feet; a solid board fence, masonry or brick wall with a height of six (6) feet; one row of large evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of thirty (30) feet or more at maturity, planted every twenty (20) linear feet.

JEFFERSON COUNTY, WEST VIRGINIA	APPROVED: August 8, 1990	screen planting medium buffer	REVISIONS:	DETAIL No.
				M
			COUNTY ENGINEER	

**APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32, 35</sup>**

Zoning District	Development Type <sup>⊖</sup>	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imper-vious Surface Limit	Building Setbacks		Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11)						
											(Screened / Unscreened) Adjacent Use						
											A Residential district, or any lot with a residence, school, church, or institution of human care (Distance per Sec. 4.6)						Commercial Use
Front	Side	Rear	Front	Side	Rear	Distance Front Side Rear	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear					
Industrial – Commercial (IC) **	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25		15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25		15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)
	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Use		25 or 20 if adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)
Residential-Light Industrial-Commercial (RLIC)	Commercial or Industrial	N/A	N/A	75	80%	See IC District											
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50	See IC District for commercial sites			N/A	50(U) or 15 (S)	N/A	10(S)	N/A	10(S)
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100		N/A				N/A	N/A	N/A	N/A	N/A	
	Hospitals	10 ac	500	45	N/A	100		N/A				N/A	N/A	N/A	N/A	N/A	
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				N/A	See I-C District for commercial or industrial use; Otherwise, N/A				
	Commercial or Industrial**	See IC District															
Village (V)	Commercial <sup>‡</sup>	N/A	N/A	35	N/A	25	10	40	See IC District								
	Industrial**	See IC District			35	See IC District											
Residential Growth (RG)	Commercial or Industrial**	See IC District			35	See IC District											
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 <sup>£</sup>	10 <sup>⊖</sup>	See I-C District		25	See IC District					
General Commercial (GC)	Commercial	N/A	N/A	75	80%	20	10	25	See IC District								
Highway Commercial (HC)	Commercial	N/A	N/A	75	80%	25	25	25									
Light Industrial (LI)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25									
Major Industrial (MI)	Commercial	N/A	N/A	75	90%	25	10	50									
	Industrial	3 ac ***	N/A	75	90%	25	50	50									
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>⊖</sup>	See IC District								
Planned Neighborhood Development (PND)	Commercial	3 acres	See GC District Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).														

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

All dimensions are in feet unless otherwise indicated by “ac” (acres).

\* Maximum building height is subject to Sec. 9.2.

\*\* If land use(s) approved via the Conditional Use process in accordance with this Ordinance.

\*\*\* MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Sec. 5.6E]

\*\*\*\* Schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly.

‡ Non-Residential Site Development in an existing structure in the Village District shall comply with Section 5.10A.2.

‡ Setback may be reduced if adjacent to industrial use.

⊖ For an industrial use, no structures, stored materials, or vehicular parking shall be permitted within the buffer yard. For a commercial use, no structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

⊖ A rear yard setback may be reduced to 10' for a non-residential use abutting a commercial or industrial use at a rear lot line

⊖ Churches in any district: (1) are treated as a commercial use on a lot of greater than 1.5 acres in determining buffer requirements and parking/drive aisle setbacks; (2) building setbacks are 25' (front) and 50' (side/rear); and (3) distance requirements do not apply.

£ For a non-residential use abutting a commercial or industrial use, no side yard setback is required, unless required by Building Code or other law or regulation.



Back of Property



Back of property





Front of property



Right side of property



Left side of property





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

File Number: 24-24-ZV  
 Staff Initials: ab  
 Meeting Date: 07/25/24  
 Fees Paid (\$100 or \$150): 100.00

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Global Environmental & Remediation, LLC  
 Mailing Address: 2632 S. Childs Road; Kearneysville, WV 25430  
 Phone Number: 304-279-5335 Email: Rjohnson@generalger.com

**Applicant Contact Information**

Name: Raymond L. Johnson  
 Mailing Address: 2632 S. Childs Road; Kearneysville, WV 25430  
 Phone Number: 304-279-5335 Email: Rjohnson@generalger.com

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

Name: Andy DiMagno  
 Mailing Address: 61 Eagle School Road; Martinsburg, WV 25404  
 Phone Number: 304-263-0157 Email: vreid@pcdimagno.com

**Physical Property Details**

Physical Address: 7367 Middleway Pike  
 City: Kearneysville State: WV Zip Code: 25430  
 Tax District: Middleway Map No: 0020 Parcel No: 19-0002-0009-0001  
 Parcel Size: 6.03 acres Deed Book: 1256 Page No: 678

**Zoning District (please check one)**

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

Received 06/25/24 (jth)

Place Received Date Stamp Here

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

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: App. B and Section 4.11 (jth)

**Briefly describe the nature of the variance request:**

This variance request is being made to minimize the landscape buffer. The request would be to utilize ample existing mature vegetation to satisfy the requirement. The request is to demolish an existing build and construct a new metal build 100' x 100' in dimension. A sign to be placed on the building and another on the ground fronting route 51.

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

Front Setback  Side Setback  Rear Setback  Reduction From \_\_\_\_\_ to \_\_\_\_\_

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

Based on aerial imagery provided, there is ample vegetation surrounding the property.

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

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

The granting of this variance will provide a more beneficial use of the property eliminating an unsightly structure at the same time adding beauty and value to the community. Also, this addition will provide the public a better area to enjoy and elevate the land value and as well as value to adjacent properties.

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

The granting of this variance will still provide adequate landscaping/planting spacing from the adjoining landowners thus not infringing on their property. Also, this addition will provide the public a better area to enjoy thus elevating the property value.

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

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

Ronald L. Johnson      6/24/2024  
Signature of Property Owner      Date

\_\_\_\_\_  
Signature of Property Owner      Date

**Notification Requirements (to be completed by staff)**

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

\_\_\_\_\_  
Date of Public Hearing

\_\_\_\_\_  
Advertising Date

\_\_\_\_\_  
Placard Posting Date



**Parcel: 07002000090001**

TD: 7 / Map: 20 / Pcl: 9.1

Deeded Owner: GLOBAL ENVIRONMENTAL &  
REMEDIATION LLC

Owner Address: 2632 SOUTH CHILDS RD

City: KEARNEYSVILLE

State: WV

Zip: 25430

Deed Book/Page: [1256/678](#)

Description: 6.03 AC-CLARKE

Lot Size: 6.03

Tax Class: 3

Living Unit: 0

Year Built: 1990

Stories: 1

First Floor Area: 0

Rooms: 0

Bedrooms: 0

Full Baths: 0

Half Baths: 0

Attic:

Heat Type: Mods: ; ; ;

Fuel Type:

Heat System:

Last Sale Date: 30-Jan-12

Last Sale Amount: 40000

Tax Year: 2024

Bldg Appraisal: 3300

Land Appraisal: 117400

Total Appraisal: 120700


Bldg Assessed: 2000





Staff Report  
 Jefferson County Board of Zoning Appeals Meeting  
 July 25, 2024  
**24-6-CUP Bakerton Central, LLC**  
**Special Event Facility Conditional Use Permit Request**

Item #3 Request #1: Request for a Conditional Use Permit to establish a Special Event Facility in conjunction with the existing Bakerton Market. The proposal consists of hosting a variety of community events such as flea markets, car shows, movie nights, etc. on a weekly, quarterly, and annual basis. The proposal also includes a picnic area and the addition of alcohol sales for on-premises consumption.

Owner:	Carter & Maple Properties, LLC
Applicant:	Bakerton Central, LLC / Kevin Cuellar
Parcel Information and Zoning District:	<p style="text-align: center;">Vacant parcel located south of 834 Carter Ave, Harpers Ferry          Parcel ID: 04003A00230000; Parcel Size: .65 ac;          Zoning District: Village</p> 
Surrounding Properties:	<p style="text-align: center;">Zoning Map Designation:  <i>North, South, East, and West = Village</i></p>
History:	<p><b><i>*Below Information Pertains to adjoining Parcel 26 containing market</i></b></p> <p>01/21/93: BZA approved a setback reduction from 20' to 12' for an 8' tall fence. (File: ZV92-69)</p> <p>04/11/96: Issued Zoning Certificate to expand the nonconforming use by replacing the space previously occupied by the Post Office with a retail component. (File: ZC96-03)</p> <p>05/18/96: County Commission adopted a Zoning Map Amendment and a Zoning Text Amendment to create the Village zoning district. The subject parcel was rezoned from Rural to Village as a result of this action.</p> <p>02/28/12: A Conditional Use Permit was issued to operate a laundromat for the existing accessory structure. The CUP expired as the use did not commence within the required 18-months. (File: Z09-01)</p> <p>07/27/22: Issued Zoning Certificate – Change in Tenant (File: 22-41-ZC).</p> <p>11/16/23: Issued Special Exception Permit for an Off-Premise Sign. (File: 23-2-SE)</p>
Site Visit Conducted:	No.

Staff Report  
Jefferson County Board of Zoning Appeals Meeting  
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**24-6-CUP Bakerton Central, LLC**  
**Special Event Facility Conditional Use Permit Request**

**Summary of Request and Purpose of Ordinance Requirements**

Request for a Conditional Use Permit to establish a Special Event Facility in conjunction with the existing Bakerton Market. The proposal consists of hosting a variety of community events such as flea markets, car shows, movie nights, etc. on a weekly, quarterly, and annual basis. The proposal also includes a picnic area and the addition of alcohol sales for on-premises consumption.

Article 2 defines Special Event Facility as:

A facility where special events are permitted to occur. Special event facilities are subject to a use agreement between a private group or individual and the facility owner. The facility owner may or may not charge a rental fee for the use of the facility. Facilities may operate entirely within a structure, entirely outside of a structure, or both inside and outside a structure.

Article 2 defines Special Event as:

A gathering of individuals for the common purpose of attending a celebration, ceremony, reception, or similar activity for the benefit of someone other than the property owner. Private parties, gatherings, and similar activities that are not subject to a use agreement between a private individual or group and the property owner are not defined as a special event.

**Property Description**

The subject parcel is approximately .65 acre in size and is currently vacant. The property fronts on Maple Ave (west) and may also have access to Carter Ave via the adjoining property that contains Bakerton Market. The Bakerton Market parcel was developed prior to the adoption of zoning and is considered a nonconforming site. It appears that based on a Health Department permit from 1983, the septic is located on the subject parcel, behind the market.



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**24-6-CUP Bakerton Central, LLC**  
**Special Event Facility Conditional Use Permit Request**

**Conditional Use Permit Process**

Section 6.3 of the Zoning Ordinance states:

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

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

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

The subject parcel is shown as “Neighborhood Commercial” on the Envision Jefferson 2035 Comprehensive Plan’s Future Land Use Guide (see below) and it is located within the Bakerton Village area, which is one of the eight villages identified by the County in the Comprehensive Plan. The Plan defines “Neighborhood Commercial” as follows:



The Plan states, “In addition to the [Preferred Growth Areas listed], the Comprehensive Plan acknowledges the potential of water and sewer services, as well as other shared infrastructure, that could lead to the revitalization of the County’s villages and the restoration of the village centers as distinct, mixed-use communities.”

**Urban Level Development Recommendations (Goal 1)**

Recommendation 5: Create urban level land uses within the municipalities, [Urban Growth Boundaries, Preferred Growth Areas], or Villages through rezoning that is consistent with the Plan recommendations. (Page 30)

Recommendation 5e: Update the County’s zoning regulations in a way that balances flexibility of use for property owners and developers while preserving the quality of life for residents. (Page 30)

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**Special Event Facility Conditional Use Permit Request**

Recommendation 8: Encourage the location of new community public facilities (such as schools, libraries, parks) within Municipalities, [Urban Growth Boundaries, Preferred Growth Areas], or Villages. (Page 31)

Recommendation 10: Encourage the adaptive reuse of existing buildings and previously used sites within Jefferson County in context with their surroundings, paying particular attention to brownfield and greyfield sites (Pg 32).

**Village Recommendations (Goal 3)**

Recommendation 1: Create village plans for the redevelopment and expansion of the County's villages through collaboration with key stakeholders. (Page 45)

Recommendation 1.a: Identify opportunities for restoration, rehabilitation and adaptive reuse of structures within village areas. (Page 45)

Recommendation 2.a: Encourage development and redevelopment of village based businesses, residential developments, small-scale multi-family housing, and applicable community facilities within designated village areas and in potential village expansion areas. (Page 45)

**Economic Development and Employment Recommendations (Goals 6 & 7)**

Recommendation 5: Create a business friendly environment in Jefferson County (Pg 70).

Recommendation 6: Develop methods to promote local business growth which include providing research, support, and marketing resources that would assist business start-ups in Jefferson County (Pg 70).

**Goals and Objectives**

**Goal #1:** Require Urban Intensity Residential and Non-Residential Development to occur within existing urbanized areas, approved Urban Growth Boundaries, Villages, and/or the County's identified Preferred Growth Areas (Pg 190).

**Objective #6:** Encourage the location of new community facilities (such as schools, libraries, parks, and other county facilities) and infrastructure within ... Villages. (Page 190)

**Goal #3:** Encourage renewal, redevelopment, and limited expansion of villages to allow village-scale residential development and compatible neighborhood commercial activities. (Page 191)

**Object #2:** Provide land use tools to encourage expansions to the village areas and to provide a continuation of village scale and design into these areas.

**Objective #3:** Utilize shared public infrastructure to allow the construction of village-scaled businesses ... and applicable community facilities within designated village areas. (Page 191).

**Goal #7:** Encourage and promote diverse business and employment creation and retention with the ...villages ... within Jefferson County. (Pg 194).

**Objective #3:** Amend development requirements and reduce regulatory barriers to encourage economic development within ... Villages. (Page 195).

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**Special Event Facility Conditional Use Permit Request**

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

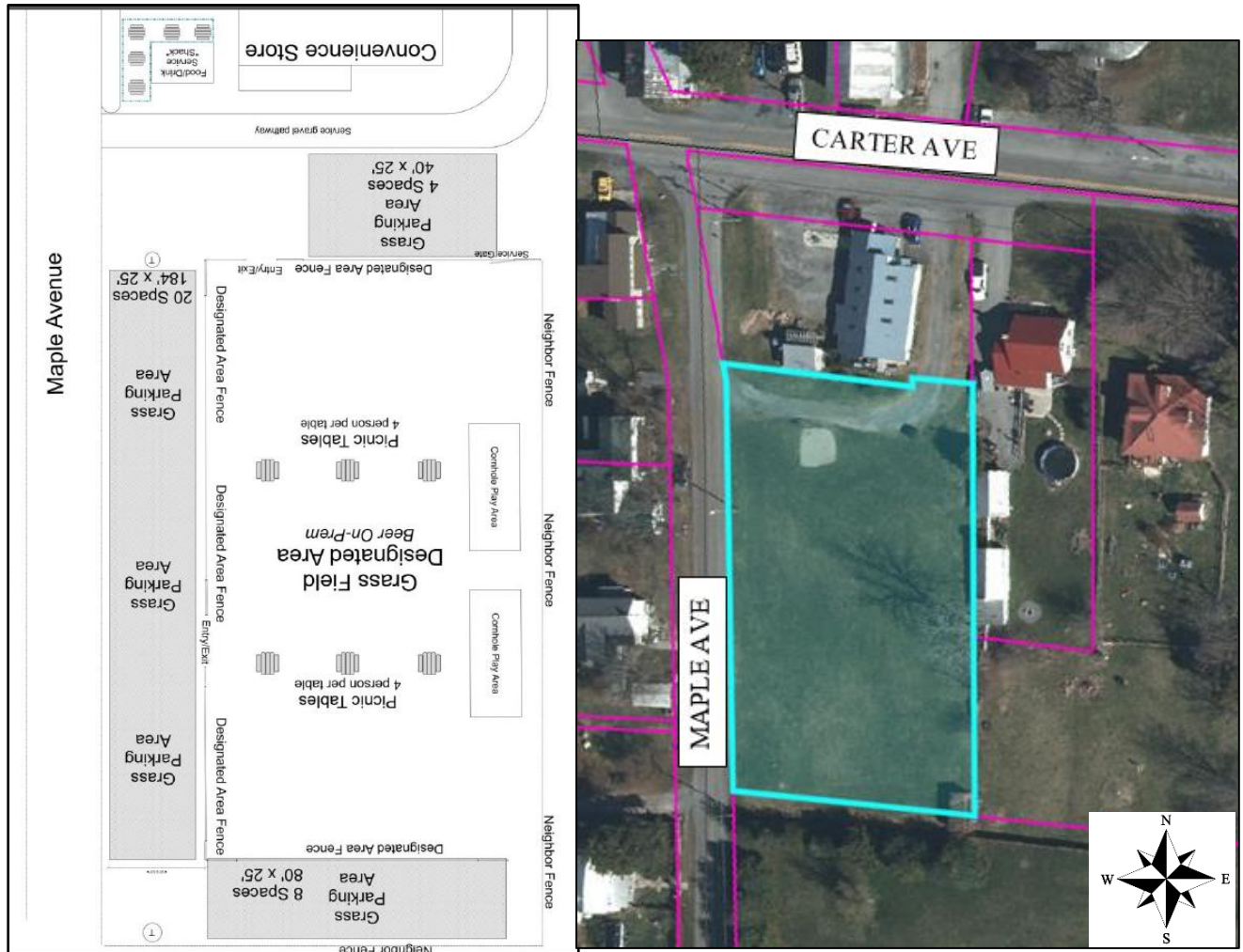
The applicant addressed this criteria on Page 2 of the application.

The subject property is a vacant lot adjoining Bakerton Market, which is a legal nonconforming use. Based on a Health Department permit from 1983, it appears that the septic system for Bakerton Market is located on the subject parcel, immediately to the rear of the store.

The applicant is requesting to establish a special event facility on the subject property to host community oriented events such as flea markets, car shows, movie nights, paint and sip classes, etc.

The applicant has been informed that all parking is required to occur on site and cannot occur within any road rights-of way or access easements. If parking is proposed to occur on a separate property, additional processing may be required.

Surrounding properties include a combination of residential and non-residential uses. Based on the applicant's proposal, it appears that the use is compatible in intensity and scale with existing and potential land uses on the surrounding properties and does not appear to pose any threat to public health, safety, and welfare.



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**Special Event Facility Conditional Use Permit Request**

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

The applicant addressed this criteria on Page 2 of the application.

Based on the description of the proposed event facility, the proposed site development does not include any permanent structures. The applicant would like to utilize grass parking in lieu of asphalt parking, which may necessitate processing a waiver before the Planning Commission.



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

The applicant addressed this criteria on Page 2 of the application.

The applicant is proposing to utilize grass parking and is not currently proposing any permanent structures. The applicant is processing a variance concurrent with this request to waive the buffer requirement along the perimeter of the property. The variance request includes a proposal to install a fence around the event space area (parking would occur outside of the fenced area).

The Board has the authority to evaluate the buffer requirements as part of their consideration of the proposed use to ensure that neighborhood character and surrounding property values are safeguarded.

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**Special Event Facility Conditional Use Permit Request**

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

The applicant acknowledged this criteria on Page 2 of the application.

**Section 8.9 Industrial and Commercial Uses<sup>23</sup>**

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

1. Noise

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

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

The following sources of noise are exempt:

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

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

The subject property is zoned Village. As such, this criteria does not apply.

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

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

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

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

The applicant noted in the application that no permanent signs are proposed.

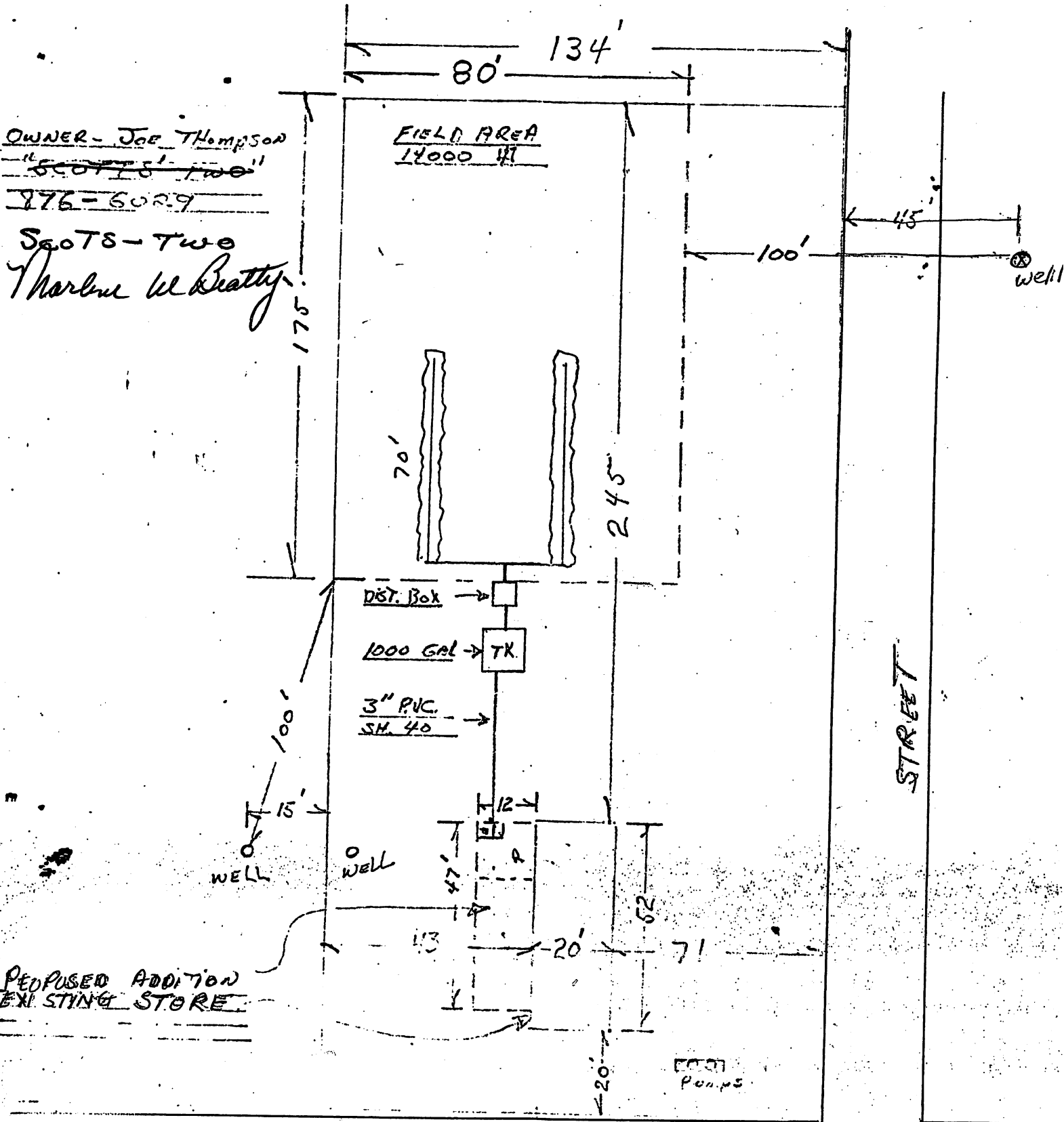
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**Attachments:**

1. 1983 Health Department Permit Sketch
2. Section 6.3 of the Zoning Ordinance
3. Section 8.9 of the Zoning Ordinance
4. Section 8.14 of the Zoning Ordinance
5. Appendix C of the Zoning Ordinance
6. Excerpt of the Envision Jefferson 2035 Comprehensive Plan – Future Land Use Guide

OWNER - Joe Thompson  
~~"SCOTT'S TWO"~~  
876-6029

SCOTS - Two  
Therese McBeatty



MAIN STREET DARKEN

March 28, 1983

Handwritten signature

Handwritten text



## **Section 6.2 Variances<sup>32</sup>**

The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.<sup>23</sup>

- A. The Board shall approve a variance request if the Board finds that a variance:
  - 1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
  - 2. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
  - 3. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
  - 4. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.<sup>17, 21</sup>
- B. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board in the Office of Planning and Zoning.
- C. Notification for a variance must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.

## **Section 6.3 Conditional Use Permit<sup>32</sup>**

The Board of Zoning Appeals shall have the authority over the issuance or denial of a conditional use permit for uses listed as “Conditional Uses (CU)” in each zoning district. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed conditional use permit.<sup>2, 32</sup>

- A. The Board shall consider each Conditional Use Permit request that is filed in accordance with this Ordinance and the procedural requirements of the Board of Zoning Appeals. The Board may require reasonable conditions or special requirements which allows for the proper integration of the proposed uses into the community and are directly related to and incidental to the proposed conditional use permit. The following General Standards shall be considered in approving or denying the CUP:
  - 1. The proposed use is compatible with the goals of the adopted Comprehensive Plan.
  - 2. The proposed use is compatible in intensity and scale with the existing and potential land uses on the adjoining and confronting properties, and poses no threat to public health, safety and welfare.
  - 3. The proposed site development shall be such that the use will not hinder nor discourage the appropriate development and use of adjacent land and buildings.
  - 4. Neighborhood character and surrounding property values shall be safeguarded by requiring implementation of the landscaping buffer requirements found in Appendix B and Section 4.11 of this Ordinance.
  - 5. Commercial and Industrial Uses shall be in conformance with Section 8.9 of this Ordinance.
  - 6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan’s Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a Principal Arterial, Minor Arterial, or Major Collector road (as identified in the Comprehensive Plan), the applicant shall submit trip generation data, including Average Daily and Peak Hour trips, for the BZA to review

in conjunction with the Highway Problem Areas Map when determining roadway adequacy for the proposed use.

7. For Historic Sites, the Historic Landmarks Commission, with the property owner's consent, may visit the property to review the proposed land development plan and use for sites designated as Category I or II. The Historic Landmarks Commission may make reasonable recommendation to the Board of Zoning Appeals on the suitability of a proposed multi-family dwelling or non-residential use for the building seeking a Conditional Use Permit. The Historic Landmarks Commission's recommendations may include the following findings:<sup>35</sup>
  - a. Compatibility of the proposed use with the historic structure;
  - b. Any modifications to the building's façade is consistent and compatible with the building's architecture, style, and massing; and
  - c. Proposed parking and other activities are suitably located so as to preserve the historic character.

The Board of Zoning Appeals may consider these findings and if determined appropriate, may require compliance with some or all of the Historic Landmarks Commission's recommendations as a condition of approval.

8. Any signs associated with the proposed Conditional Use shall be reviewed by the Board in accordance with Section 10.6.<sup>36</sup>
- B. The owner or authorized representative of the owner of the property for which the Conditional Use Permit is being requested shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The Conditional Use Permit request shall be filed with the Board at the Office of Planning and Zoning.
- C. Staff will notify the adjacent and confronting property owners of the date, time, and location of the Public Hearing by registered mail. Notification for a Conditional Use Permit must be conducted according to the requirements of Section 6.1B.
- D. A public hearing must be conducted according to the requirements of Section 6.1C and such hearing may be continued according to the requirements of Section 6.1D.
- E. If there are no negative public comments received by the Board, the Board shall issue the Conditional Use Permit but may require reasonable conditions.

#### **Section 6.4 Seasonal Uses<sup>5, 7, 32</sup>**

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing according to the requirements of Section 6.1C. Newspaper notification requirements of Section 6.1B apply. Seasonal uses cannot be approved for longer than one year at a time.<sup>17, 21, 23</sup>

#### **Section 6.5 Special Exception Permit<sup>26, 32, 36</sup>**

- A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals subject to a public hearing in accordance with the following.
  1. The public hearing is subject to the notification requirements of Section 6.1B.
  2. The public hearing shall be conducted according to the requirements of Section 6.1C.
  3. Such hearing may be continued according to the requirements of Section 6.1D.

B. Standards for Hunting, Shooting and Fishing Clubs<sup>20</sup>

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

C. Special Exceptions for Hunting, Shooting and Fishing Clubs<sup>20</sup>

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

**Section 8.9 Industrial and Commercial Uses<sup>23</sup>**

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

**1. Noise**

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

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

The following sources of noise are exempt:

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

**2. Odor**

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

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

**3. Smoke**

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

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

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

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

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

**4. Ambient Air Quality Standard**

Particulate Matter

Suspended

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

Settleable

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

**5. Vibration**

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

**6. Glare and Heat**

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

**7. Toxic Matter**

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

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

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

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

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

**8. Fire Hazards**

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

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

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

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

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

Container Setback from Lot Lines

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

**9. Frontage Road**

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

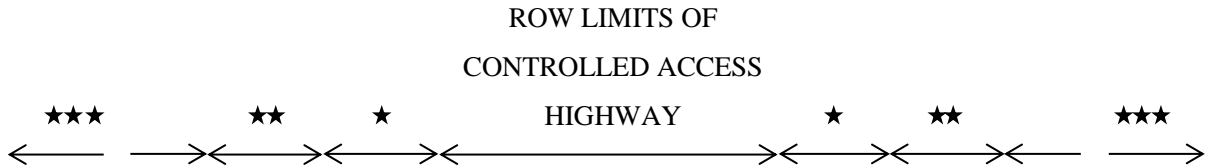
**10. Landscape Buffer**

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



A fifty (50) foot wide landscape buffer strip will be provided along all limited access highways. Said buffer shall be adjacent to the frontage road. In the case where existing roads not adjacent to controlled access highway serve as frontage road the landscape buffer may be placed against the highway right-of-way.

All front setbacks (building and parking lot) are to be measured from the landscape buffer. (See diagram)



- ★ Maximum 60' easement or dedication for frontage road
- ★★ 50' landscaped buffer strip
- ★★★ Setbacks

This provision shall also apply to any ramps or access roads connecting to a controlled access highway within ½ mile of a controlled access highway.<sup>5</sup>

**Section 8.10 Model Homes/Sales Offices<sup>23</sup>**

Model homes with a staffed sales office for sales exclusively within the residential subdivision in which 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; provided also that they are so designated on the preliminary and final plats during the subdivision process.

Model homes with a staffed sales office in any other location within the subdivision must be approved or denied by the Board of Zoning Appeals after a public hearing advertised for 15 days.<sup>17, 21</sup>

Model homes without staffed sales offices are permitted internally within the subdivision.<sup>12</sup>

**Section 8.11 Petroleum Products Refining or Storage<sup>23</sup>**

Petroleum refining or storage (above ground in tanks) requires adherence to all state and federal laws, as well as National Fire Underwriters Codes.

**Section 8.12 West Virginia Legal Fireworks<sup>23</sup>**

Sales of fireworks are permitted in the Industrial-Commercial, Residential-Light Industrial-Commercial, General Commercial, Highway Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts provided all other restrictions such as setbacks and the requirements of the Jefferson County Subdivision and Land Development Regulations are met.<sup>8, 27</sup>

**Section 8.13 Dormitory<sup>23</sup>**

A dormitory shall be located on the same property or campus as the use it is intended to serve. A dormitory shall not offer accommodations to the general public or to persons who are visiting the property or campus primarily for the purpose of being a spectator at a sporting event or other gathering held at the facility. A dormitory may include one common kitchen or dining facility and common gathering rooms for social purposes for use only by its temporary occupants.

**Section 8.14 Special Event Facilities<sup>39</sup>**

The purpose of this sections is to create a process by which a property owner in the Rural, Residential Growth, and Village zoning districts may establish a Special Event Facility. A Special Event Facility in any other zoning district may process in accordance with Appendix C.

- A. An Agricultural Special Event Facility is permitted in any zoning district on a parcel with an existing farm and shall operate accessory to the property owner’s primary residence or caretaker’s residence. The minimum acreage required is five acres.
  1. An Agricultural Special Event Facility may be established on a separate legal lot of record adjoining a parcel with farm use status, as long as it is under the same ownership.
  2. An Agricultural Special Event Facility on a parcel of less than 20 acres shall process a Concept Plan, subject to a Public Workshop before the Planning Commission, in accordance with the Subdivision and Land Development Regulations.
    - a. If a Concept Plan is not required, the following documentation shall be submitted as part of the Zoning Certificate application:
      - i. A sketch reflecting the layout of the proposed special event facility shall be submitted to ensure compliance with setbacks and parking. The sketch should delineate the property location, any existing or proposed buildings affiliated with the land use, the parking area, signs, the event tent(s), location of portable restrooms, and the location of any vendors.
      - ii. A traffic control plan shall be submitted to address traffic flow for ingress and egress to ensure that traffic will not create a backup onto public or private roads.
  3. All aspects of the land use, excluding parking, but including any new structures and any outdoor components such as event tents, portable restrooms, etc., shall be setback 75 feet from all property lines. Parking shall be setback 25’ from all property lines.
  4. Parking shall be provided at a ratio of one parking space for each two guests allowed on site and one parking space for each permanent employee who does not reside on premises. Parking may occur on grass if the applicant can demonstrate that the parking will occur on usable ground and can identify how handicapped accessibility (if applicable) will be addressed.
  5. The land use shall comply with Section 8.9A.1 and shall apply the Residential Growth District standard to all adjacent lots.

If the subject parcel associated with an approved Agricultural Special Event Facility loses the associated “farm use” classification through the Assessor’s Office, the property owner may apply for a Special Exception in accordance with Article 6 to continue operating the land use.

**B. A Special Event Facility is a facility that operates independent from any other use on the property.**

1. In the Rural, Village, and Residential Growth zoning districts, a Special Event Facility shall process a Conditional Use Permit in accordance with Article 6.
  - a. The minimum lot size shall be five acres. Site development standards shall comply with Appendix B.
  - b. Parking shall be provided at a ratio of one parking space for each two guests allowed on site and one parking space for each permanent employee.
  - c. In addition to the criteria set forth in Article 6, Section 6.3, the Board shall evaluate the following:
    - i. Proposed frequency;
    - ii. Number of attendees (maximum building capacity);

- iii. **Signage;**
- iv. **Adequacy of parking area. The Board should consider the number of parking spaces as well as the location of the proposed parking area.**
- v. **Adequacy of vehicular access to the property. The applicant shall provide a traffic control plan to address traffic flow and ingress and egress to the property to ensure that traffic will not hinder shared access (if applicable) or create a backup onto public or private roads; and**
- vi. **Impact on adjacent properties.**

Parks and Recreation events and facilities are exempt from Section 8.14.

### **Section 8.15 Accessory Dwelling Unit<sup>26, 32</sup>**

An Accessory Dwelling Unit is defined as a secondary dwelling unit that has a separate kitchen, bathroom, and sleeping area, and may be attached to the principal dwelling unit or detached and situated on the same lot as the principal dwelling unit. An accessory dwelling unit is part of the same property as the principal dwelling unit and cannot be bought or sold separately unless subdivided in accordance with the Subdivision Regulations and the Zoning Ordinance. The owner of the accessory dwelling unit is the owner of the principal dwelling unit. The property owner or immediate family member must occupy either the principal dwelling unit or the accessory dwelling unit. Such accessory dwelling unit is permitted only if it meets one of the following criteria:<sup>32</sup>

- A. An “In-Law Suite” is an accessory dwelling unit for the purpose of housing a relative of the property owner and must be clearly subordinate to the principal dwelling unit and meet all of the following criteria:<sup>32</sup>
  - (a) Secondary in size to the principal dwelling unit, with a maximum size of 1,700 heated square feet, gross floor area;<sup>32</sup>
  - (b) For a detached accessory dwelling unit, must be located on a property of at least two acres;<sup>32</sup>
  - (c) Limited to use by a relative\*;<sup>32</sup>
  - (d) Sufficient parking available; and<sup>32</sup>
  - (e) Approved by the Health Department.<sup>32</sup>

*\*Related by blood, marriage, or adoption. Should relative no longer require the use of the Accessory Dwelling Unit, the property owner may apply for a Special Exception before the Board of Zoning Appeals to allow for rental to non-relatives. The principal dwelling unit or accessory dwelling unit must be occupied by the property owner or immediate family member.<sup>32</sup>*

- B. An “Accessory Agricultural Dwelling Unit” for agricultural purposes is defined as a dwelling unit that is incidental and subordinate to the principal dwelling unit, which is located on the same lot as the principal building and meets all of the following criteria:<sup>32</sup>
  - (a) is secondary in size to the principal dwelling unit, limited in size to a maximum of 1,700 heated square feet, gross floor area;<sup>32</sup>
  - (b) is located on a property for which the primary use is an agricultural use as defined by this ordinance;
  - (c) is located on a property of at least ten acres in area;
  - (d) is limited to use by a person (and family) who performs agricultural work on the property or acts as a caretaker for the property; and
  - (e) is approved by the Health Department.<sup>32</sup>



Land Use	NC	GC	HC	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
<b>Commercial Uses continued</b>													<b>Sec. 8.9</b>
Restaurant, Fast Food, Drive-Through <sup>40</sup>	NP	P	P	P	CU	CU	P	CU	CU	P	P	CU	
Restaurant, Fast Food, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Retail Sales and Services, General	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Retail Sales Limited	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Retail Store, Large	NP	CU	P	CU	NP	CU	NP	CU	CU	CU	CU	CU	
Shipping and Mailing Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Short Term Rental <sup>41</sup>	CU	NP	NP	NP	NP	P	NP	P	P	P	NP	P	Sec. 8.16
Solar Energy Facility <sup>43</sup>	NP	See Section 8.20				NP	NP	See Section 8.20				NP	Sec. 8.20
Special Event Facility	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.14
Storage, Commercial	NP	P	P	P	CU	P	NP	CU	CU	P	P	CU	
Veterinary Services	P	P	P	P	CU	P	P	P	CU	P	P	CU	
Wireless Telecommunications Facilities	P	P	P	P	P	P	P	P	P	P	P	P	Art. 4B
<b>Agricultural Uses*</b>													
Agricultural Uses, as defined in Article 2	P	P	P	P	P	P	P	P	P	P	P	P	
Agricultural Repair Center	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P	
Crematorium, Livestock <sup>37</sup>	CU	CU	CU	CU	CU	CU	CU	P	CU	CU	CU	CU	Sec. 8.19
Farm Brewery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Winery or Distillery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Market	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.6
Farmer's Market	P	P	P	NP	NP	P	NP	P	CU	P	NP	CU	Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P	
Feed and/or Farm Supply Center	CU	P	P	P	P	P	P	P	CU	P	P	NP	
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	CU	P	P	NP	
Landscaping Business	P	P	P	P	P	P	P	P	CU	P	P	NP	
Rental of Existing Farm Building for Commercial Storage Structure must have existed for 5 years	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Special Event Facility, Agricultural	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.14
<b>Accessory Uses</b>													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

NC Neighborhood Commercial  
GC General Commercial  
HC Highway Commercial  
LI Light Industrial  
MI Major Industrial  
PND Planned Neighborhood Development

OC Office / Commercial Mixed-Use  
R Rural  
RG Residential Growth District  
RLIC Residential-Light Industrial-Commercial District  
IC Industrial-Commercial District  
V Village District

P Permitted Uses  
NP Not Permitted Uses

CU Conditional Uses (subject to requirements of district and/or other requirements of this Ordinance)

\*\* Accessory Use to a planned residential community, if permitted pursuant to Section 5.4 and processed as a CU

<sup>1</sup> The Planning Commission may amend the permitted uses for a development in the PND District per Article 5.

<sup>2</sup> Approval process is per the Salvage Yard Ordinance.



# Future Land Use Guide Jefferson County, WV

Envision Jefferson 2035 Comprehensive Plan



- Special Design Area
- Preferred Growth Area
- Quarry Redevelopment Area
- Growth Management Boundary
- Urban Growth Boundary
- Urban Growth Boundary Expansion
- Village
- Village Expansion
- 2004 Growth Area

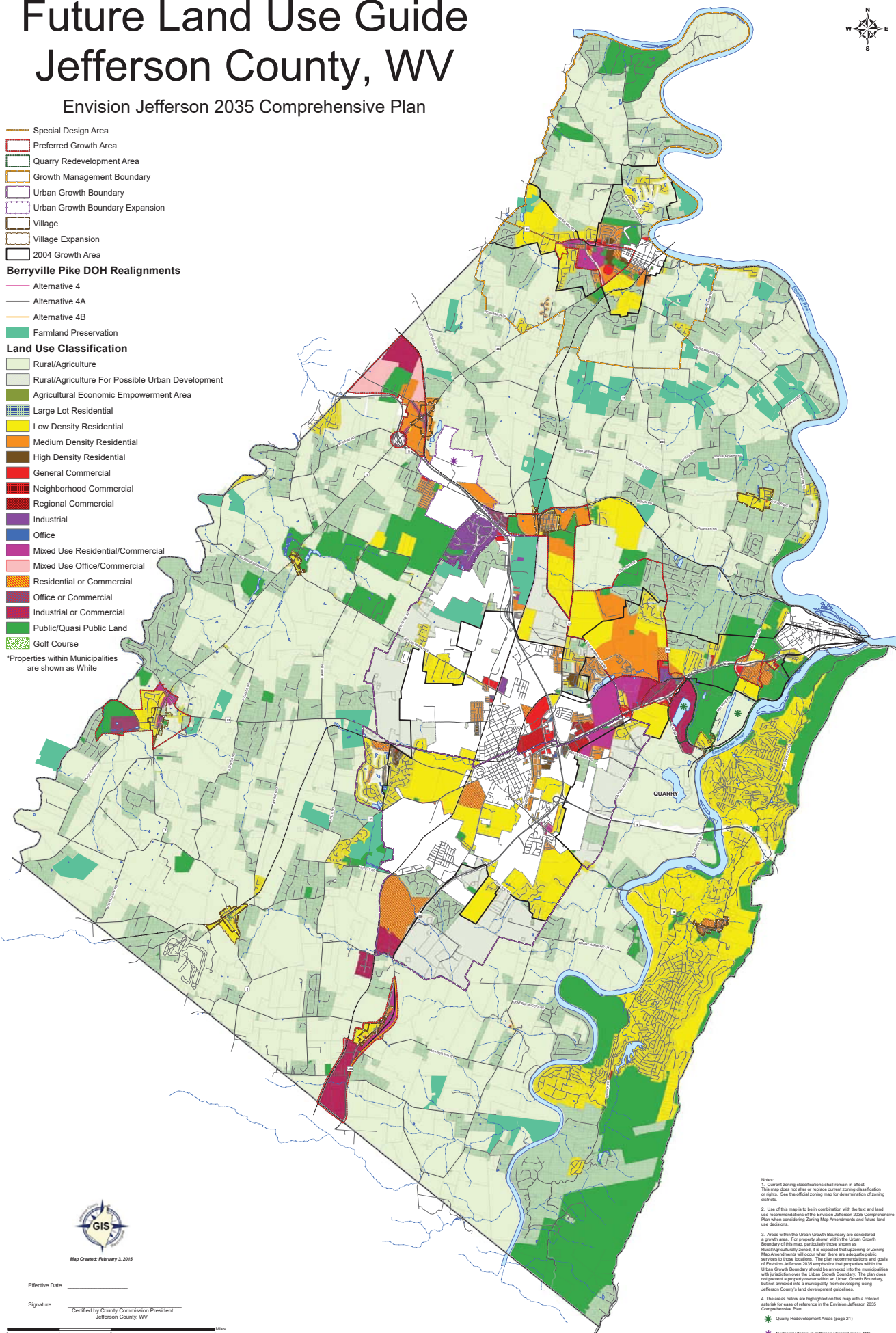
### Berryville Pike DOH Realignments

- Alternative 4
- Alternative 4A
- Alternative 4B

### Land Use Classification

- 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

\*Properties within Municipalities are shown as White



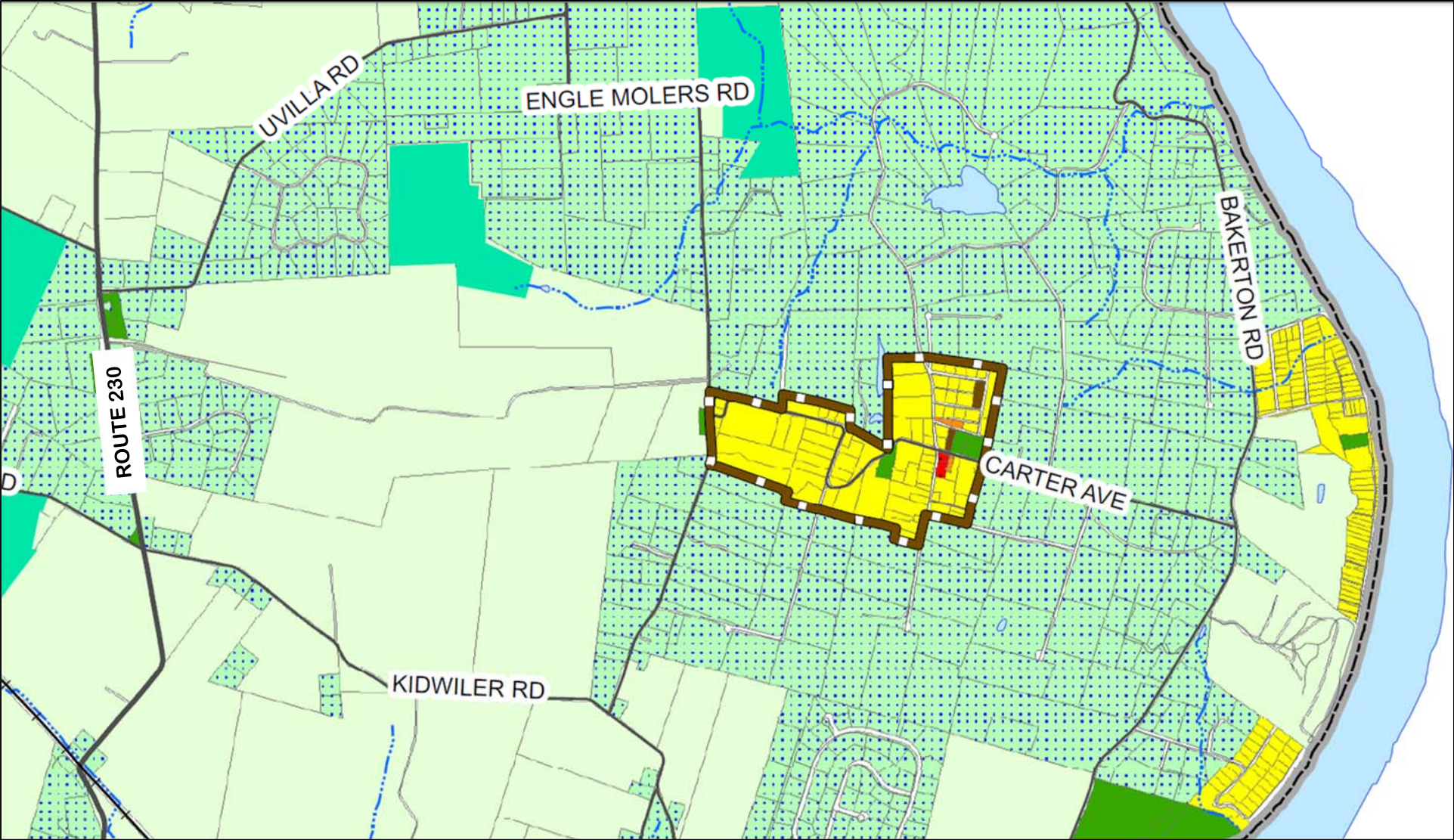
Map Created: February 3, 2015

Effective Date \_\_\_\_\_  
Signature \_\_\_\_\_  
Certified by County Commission President  
Jefferson County, WV

Notes:  
1. Current zoning classifications shall remain in effect. This map does not alter or replace current zoning classification or signs. See the official zoning map for determination of zoning details.  
2. Use of this map is to be in combination with the text and land use recommendations of the Envision Jefferson 2035 Comprehensive Plan when considering Zoning Map Amendments and future land use decisions.  
3. Areas within the Urban Growth Boundary are considered a growth area. For property shown within the Urban Growth Boundary of this map, particularly those shown as Rural/Agriculture zoned, it is expected that upcoming Zoning Map Amendments will occur when there are adequate public services to those locations. The plan recommendations and goals of Envision Jefferson 2035 anticipate that properties within the Urban Growth Boundary should be annexed into the municipalities with jurisdiction over the Urban Growth Boundary. The plan does not prevent a property owner within an Urban Growth Boundary, but not annexed into a municipality, from developing using Jefferson County's land development guidelines.  
4. The areas below are highlighted on this map with a colored asterisk for ease of reference in the Envision Jefferson 2035 Comprehensive Plan:  
\* Quarry Redevelopment Areas (page 21)  
\* Northport Station at Jefferson Orchard (page 111)



# Excerpt of 2035 Comprehensive Plan Future Land Use Guide





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

File #: 24-6-CUP  
 Mtg. Date: 07/25/24  
 Fee Paid: \$ 300.00

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

**Application for a Conditional Use Permit**

**Project Name**

Bakerton Market Event Space

**Property Owner Information**

Name: Kevin Cuellar  
 Business Name: Bakerton Central LLC (DBA Bakerton Market)  
 Mailing Address: 834 Carter Ave, Harpers Ferry, WV 25425  
 Phone Number: 3048766280 Email: info@bakerton.market

**Applicant Information**

Name: Kevin Cuellar  
 Business Name: Bakerton Central LLC (DBA Bakerton Market)  
 Mailing Address: 834 Carter Ave, Harpers Ferry, WV 25425  
 Phone Number: 3048766280 Email: info@bakerton.market

**Consultant Information**

Name: None  
 Business Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 834 Carter Ave, Harpers Ferry, WV 25425  
 Parcel ID: (Tax District / Map No. / Parcel No.) 4 - Harpers Ferry District 003A 0023  
 Parcel Size: 0.653 Acres Project Size .3 Acres Deed Book: 984 Page No: 102

**Zoning District (please check one)**

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

**Provide the Land Use Designation (see Appendix C of the Zoning Ordinance).**

Special Event Facility

**For properties in the Rural Zoning District:**

Is property located on a primary or secondary road?

Yes  No

Name of Road/Route Number: \_\_\_\_\_

**Provide a detailed description of the proposed business (include information such as hours of operation, anticipated employee and/or customer visits, etc. A site sketch is required to be included with the application, delineating existing and proposed structures and parking areas, proposed signs, proposed landscaping, etc.**

Please review attached PDF for detailed description and sketches with proposed fencing and parking areas.

**Provide a detailed response to the following questions to show how the proposed business complies with the criteria in Section 6.3 of the Zoning Ordinance. Feel free to attach a separate sheet with responses.**

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

The comprehensive plan establishes initiatives for revitalizing community oriented areas within Villages. This proposal aims to give the Bakerton community a space to gather on a continuous basis to feel more engaged.

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

The proposed use considers the intensity and scale by minimizing the designated areas and focusing on small gathering events or family & community oriented events.

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

The minor development will consist of fencing for designated areas.

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

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

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

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

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

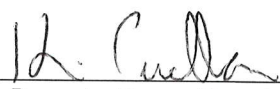
6. For properties in the Rural zoning district, roadway adequacy shall be assessed by the Comprehensive Plan's Highway Road Classification Map. If a rural parcel is not shown as commercial on the Future Land Use Guide or does not front on a primary or secondary road (as identified in the Comprehensive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

Trip Generation Data Attached

Not Applicable

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

By signing this application, I grant permission for County staff to walk onto the subject property to take photos for the Board of Zoning Appeals staff reports.

 6/28/24  
Property Owner Signature Date

Property Owner Signature Date

# Bakerton Market

---

- Parcel ID 04-3A0023 –  
Commercial land lot .63 acres
- Parcel ID 04-3A0026 –  
Commercial lot with retail store  
.25 acres



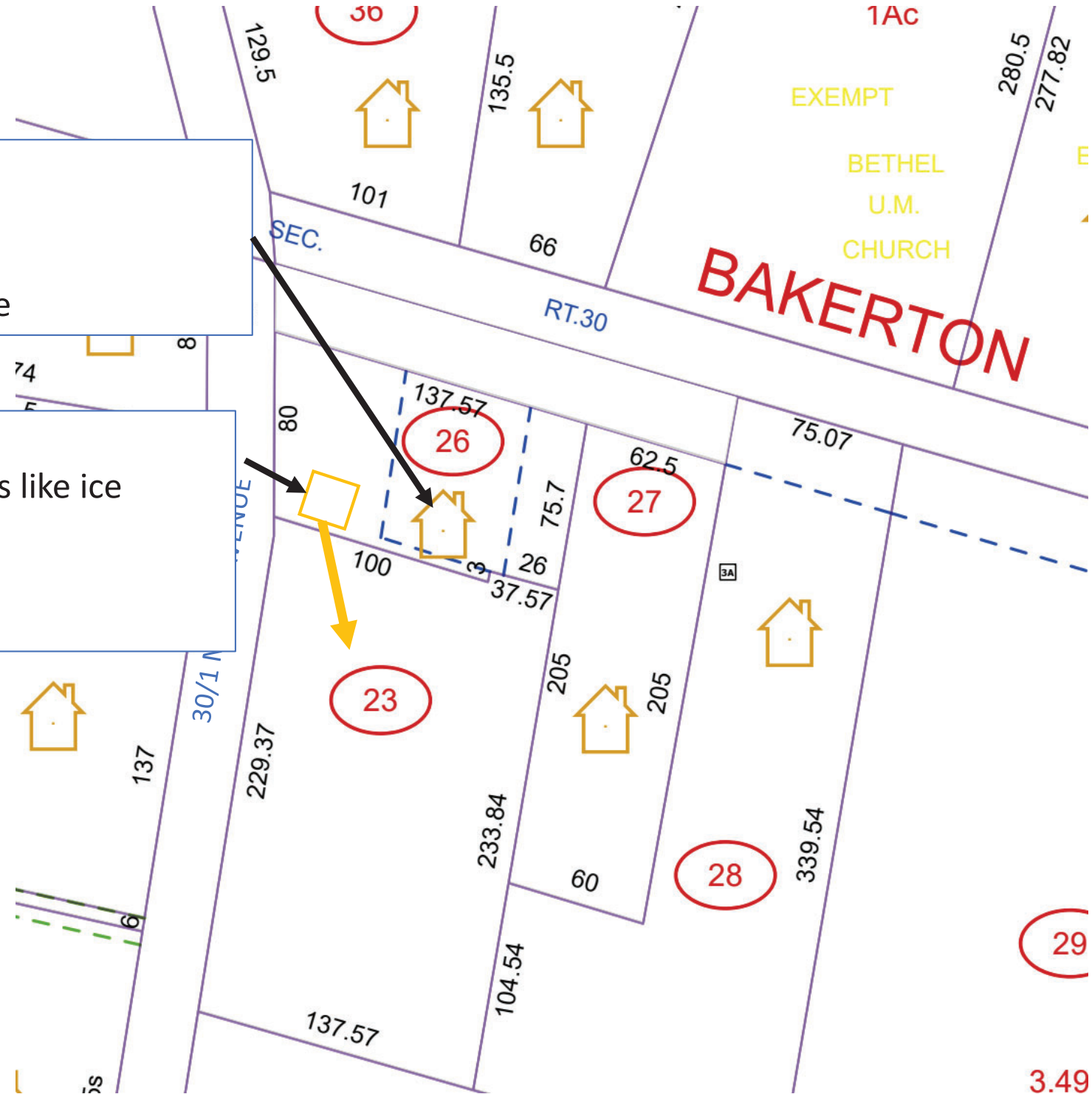
# Current Use of Property

## Main Building

- Bakerton Market
- Grocery Store
- Off-Prem License to sell beer & wine

## Secondary building

- Used to serve concession food items like ice cream and cold drinks today.



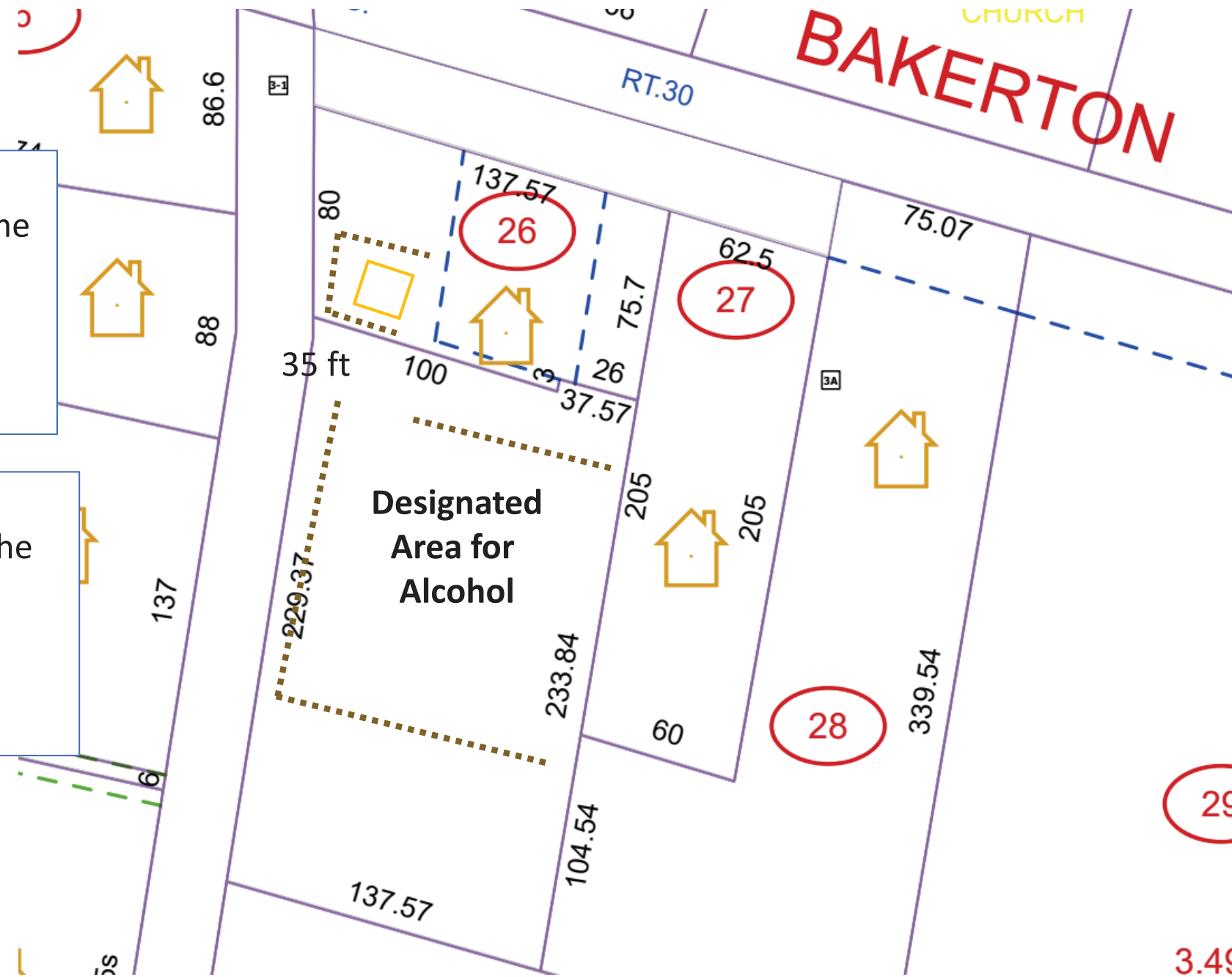
# Conditional Use Permit

## Main building

Purchase of wine with BYOB privilege to consume in dining areas

## Secondary building & Backlot

- Requesting to be permitted to serve beer in the surrounding patio area and to the back lot



**View of back lot from Secondary building**



**View of front of Secondary building**



**View of back of Secondary building**

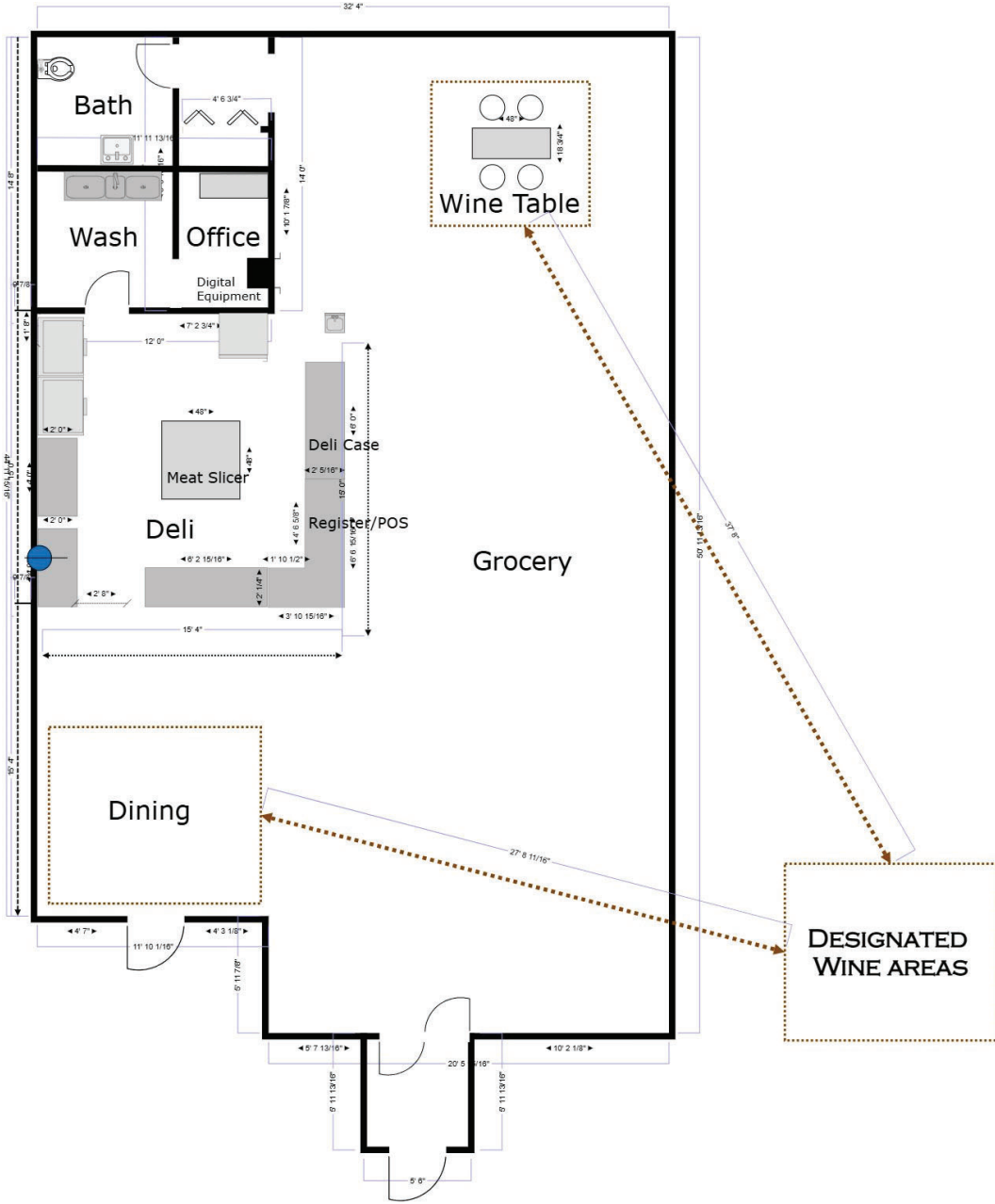


# Main Building On-Prem Designated Area

- As a wine specialty shop, the request is to allow guests to purchase wine in the store and self-serve in the designated dining areas with the purchase of food.
- The CUP will also be used to host wine related events, such as food pairings, wine & paint classes

# Main Building On-Prem Designated Area

- Designated areas for self-serve will be in the dining area and the wine table that also is utilized for wine tastings



**MAIN BUILDING - DESIGNATED WINE AREAS**  
 BAKERTON MARKET | 834 CARTER AVE, HARPERS FERRY, WV 25425

# Secondary Building + Backlot Structures

The plan is to setup fencing for the designated outdoor spaces. Within the fencing will be:

- Picnic tables
- umbrellas
- Portable tents
- Portable movie screens
- Outdoor games (cornhole boards)

# Secondary Building + Backlot - Events

We will establish an Event calendar to host

- Annual/Quarterly events - Flea Markets, car shows, community events (e.g., dances)
- Weekly events - Movie nights, yard game nights

Maximum number of events per week: 3

Example: Cornhole weekly Thursday night league play, Friday Movie Nights, Saturday annual Bakerton Days festival)

Maximum anticipated number of guests: 50



# Signage

- Existing Bakerton Market signage attached to the front of the main building will be used.
- There are no plans to create new signage for the event space

## **24-6-CUP Bakerton Central, LLC Special Event Facility Conditional Use Permit**

### **Public Comment Index**

1. Submitted 2024-07-15 by Justin Lehman
2. Submitted 2024-07-15 by Mary & Josh McCullough
3. Submitted 2024-07-18 by Bruce Strathearn
4. Submitted 2024-07-18 by Joan Taylor
5. Submitted 2024-07-18 by D. Lynn Shuff



**From:** Justin Lehman <lehman20714@hotmail.com>  
**Sent:** Monday, July 15, 2024 8:44 PM  
**To:** Zoning  
**Subject:** Concerns about application by owners of Bakerton Market

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

Good evening. My name is Justin Lehman. I live at 76 Maple Ave in Bakerton. After looking at the application submitted, I have some concerns, which are listed as follows:

I am concerned about the volume the music will be played at. I live across the street. I'm concerned about parking. I don't particularly like the idea of people parking in my grass. I'm concerned about the noise people will be making throughout the day and night. I'm also concerned about the landscaping requirements being waived, as I feel it would be nice to have the view blocked a little bit. I also have concerns about this being a weekly thing. Having one weekend festival after another across the street from my house does not sound appealing, even if it is only on a Saturday. I'm also concerned about the consumption of alcohol without law enforcement presence or timely response by authorities if a situation gets out of hand. Other than that, I wish the owners the best. Their ideas sound appealing, to a degree.

Sent from my iPhone

RECEIVED

JUL 17 2024

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

7/14/2024

Board of Zoning Appeals:

We are adjacent property owners to the proposed projects, File #24-6-CUP and File #24-25-ZV. We give our full support to the projects, the conditional use permit and the variance.

Kevin Cueller, project applicant, over the past few years has financially and personally brought into Bakerton, with the operation of the Bakerton Store, a heightened sense of community. He has invested into increased visual appeal with renovations of the Bakerton Store. Mr. Cueller, with his great attitude in operating the store, made everyone feel at home there.

In seeing all of Kevin Cueller's positive financial and community investments he has made to the Bakerton Store we cannot foresee any other project he does going any differently. Therefore, we give our full support as adjacent property owners to the proposed projects: File #24-6-CUP and File #24-25-ZV.

Thank you,



Mary and Joshua McCullough

66 Maple Ave.

Harpers Ferry, WV 25425

July 16, 2024

**RECEIVED**

JUL 18 2024

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

Bruce D. Strathearn  
4838 Bakerton Road  
Harpers Ferry WV 25425

Jefferson County Board of Zoning Appeals  
116 E. Washington St.  
Charles Town WV 25425

Re: File# 24-6-CUP and 24-25-ZV

Dear Members of the Board:

I would like to voice my opposition to the request for a Conditional Use Permit that would allow the Bakerton Market to host "weekly, quarterly and annual" special events and permit the sale and consumption of alcohol at those events.

This request is all about alcohol; dram shop sale and consumption, by the drink, for profit. The "special event" center, flea markets, car shows, movie nights are all smoke and mirrors.

The site of the proposed events is too small. The relevant zoning ordinance(s) require that any site seeking to host special events be at least five acres in size. To now second guess the ordinance drafters and reduce the required size to .63 acres makes a mockery of the process that enacted the law. (Perhaps the Board could reduce the legal drinking age from 21 to five.) Moreover the Market has requested that the number of required parking spaces be reduced. To how many? Who will bear the parking burden? Neighbors? The Fire Hall? The Church? Close-by homes and apartments?

From where and how will the alcohol be dispensed? From the existing Market building? The auxiliary ice cream shop? How will the sale and consumption be confined to the .63 acres? Will a fence be erected to prevent alcohol use from spilling over into the streets of Bakerton? Will law enforcement personnel be on hand to enforce alcohol-related laws?

Public Health and Safety: Law enforcement presence in the area is minimal. (Drug activity that led to the recent Bakerton Bust centered on a residence about one mile from the Market. The operation went on for months/years.) Sanitary facilities: Does the Bakerton market have adequate public restroom facilities to meet the needs of event participants? Does the existing septic system have the capacity to handle the projected demand. (The land beneath Bakerton is riddled with mining tunnels. Visitors to those tunnels have reported seeing untreated waste water draining from the buildings above.)

For some time Bakerton's "special events" have been hosted by near-by churches and the local volunteer fire department. These events were infrequent, civil and did not pose health and safety issues for the village residents; without the commercial sale of alcohol. Why change?

Sincerely,

Bruce D. Strathearn

TO: Jefferson County, WV Board of Zoning Appeals

Re: Written Comments regarding File Number 24-6-CUP  
Bakerton Market Application for a Conditional Use Permit

Applicant has brought numerous improvements and enhancements to the Bakerton Market . They are welcomed, appreciated and well received. The purpose of these written comments is not to discourage the Applicant from pursuing the goal stated in Paragraph 1, p. 2 of his application for a Conditional Use Permit as follows: "This proposal aims to give the Bakerton community a space to gather on a continuous basis to feel more engaged." This goal is attainable without the need for sales on premises consumption of alcohol.

Rather, the purpose of these written comments is to ask the Jefferson County, WV Board of Zoning to deny that portion of the Application\* requesting alcohol sales for on-premises consumption and require the Applicant to file an amended application that provides more detailed information concerning the proposal for "conditional use" as it relates to controlling traffic, parking, safety and welfare on the immediately surrounding property owners. Without more detail, it is difficult to say whether the proposal without sales for on-premises consumption in the best interest of the Village.

Please note that because this application is relevant to "Zoning District Village", and the applicant uses the term "community" in his documentation, the assumption throughout this document is that they are being used interchangeably.

On the face of it the stated aim is an excellent gesture. However, as is evidenced in the drawing identified as "Conditional Use Permit", the purposes are as follows:

"Main Building Purchase of wine BYOB privilege to consume in dining areas" and  
"Requesting to be permitted to serve beer in the surrounding patio area and to the Backlot."

- 
- There is no mention of serving Alcoholic beverages in the body of the Application. It is found only on one of the drawings attached to the application

It is well documented and well known that when Alcohol consumption is involved, circumstances can easily become difficult to control and opens the door to unwelcome problems in the neighborhood.

Bakerton is a small village not an in-town location. A fire station, two churches, a day care operation, a large number of retirees, many children and a bus stop are all within very close proximity to the Bakerton Market. The other properties closest to the Bakerton Market are residential. To approve on-premises consumption of alcohol in this location, particularly in the "Backlot" is not at all consistent with this particular village both as to existing and potential land use on the adjoining and confronting properties and the safety and welfare of the village to say nothing of changing the "flavor" of it or its historical nature.

Whether addressing the stated "aim" or the goal of providing on premises consumption of alcohol, the applicant should supply very specific information. Let's consider the following:

- While Maple Avenue is not the "address" for the "Backlot", it has been the street from which patrons and guests have regularly accessed it. As that issue is not addressed in the Application and as is evidenced by areas designated for parking in drawings attached to the application, it can be assumed that it would also be used for any/all events hosted by the Applicant.
- Maple Avenue already has safety issues, including
  - o Traffic to and from the Day Care Operation whose patrons routinely park in the street;
  - o Children (small children up through at least 15) routinely engage in various unrestricted and unsupervised activities including operating motorized apparatus directly in Maple Avenue.
  - o There is no visual presence of law enforcement in and around "the Village."
  - o During a well-received event that was hosted by the Applicant on May 19, 2024 there was a traffic and parking problem on Maple Avenue that adversely impacted residents of "the Village."

- "Secondary Building + Backlot – Events." While this Application indicates that this CUP is for the "village"/community" the supplements attached to it, appear to extend beyond that and the proposal designed at least to some degree, if not the greater degree, to attract more people into the village/neighborhood. In fact the Bakerton Market uses the newspaper, facebook and signage to bring in patrons from a much larger area. The application and its attachments appears to indicate nearly every weekend will have at least some activities at times anticipating as many as at 50 guests.
- The applicant doesn't make his home in Bakerton (or Jefferson County or even WV). He has purchased a business and wants to grow that business so his perspective isn't the same as those of us who make this "village" our home. All of that is understandable. So here are just some of the things the applicant could include in an amended application:

What measures could the applicant take to ensure that traffic both human and automotive wouldn't cause more problems on Maple Avenue?

How would traffic and parking be managed and by whom?

What measures would be taken to ensure that the maximum number of guests is 50. RSVP? Invitation only?

Is there a restroom facility and if so, is it approved by the health department to be sufficient to accommodate up to 50 people. Or can we expect to see porta pots?

If fencing is to be used, what kind? How high? Where would the entrance to the fenced area be located?

Drawings attached to the Application indicate 6 picnic tables with 4 person per table, that accommodates 24 guests ; if 50 guests came how would the other 26 be contained without having them encroaching into the street and adjoining properties?

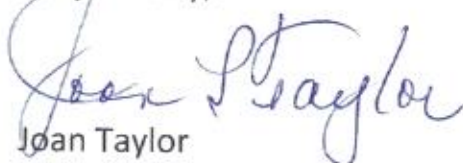
What could be done to minimize the disruption of the peace, enjoyment, security and safety that would be experienced by neighbors as a natural result of the increased traffic and activity adjacent to their homes. (The "Secondary Building + Backlot – Events" indicates two to three weekly events – that alone comes to a minimum of 104 events three days in a row each week. )

What steps would be taken to address the introduction of non-residents brought into the village due to the Applicant's events. What measures would be taken to contain them into the designated areas and not found wandering around on private properties and private roads?

With all due respect, there are sufficient unaddressed issues that need clarification to support the request for an amended application or other communication from the applicant as to the non-alcohol portion of the application before making a decision.

Please deny the request for alcohol sales for on-premises consumption and require the applicant to provide more detailed information concerning the proposal for "conditional use" as it relates to controlling traffic, parking, safety and general impact on the immediately surrounding property owner before a decision is made.

Respectfully,



Joan Taylor  
80 Meadow Drive  
Harpers Ferry, WV 25425



Jeffy Few

80 Meadow Drive  
Harpers Ferry, WV 25425

July 18, 2024

**From:** DIANA Shuff <charlesndi@frontiernet.net>  
**Sent:** Thursday, July 18, 2024 5:04 PM  
**To:** Planning Department  
**Subject:** Comments regarding file number 24.6CUP Bakerton Market Application for a Conditional Use Market

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

The applicant has done many things to the Bakerton Market that have improved the use of the Market and added to the community's enjoyment. The first enhancement was converting an outside building into a walk-up ice cream stand. This was a wonderful idea and the applicant did much to the outside to make it appealing. It appears, however, that this may be converted to selling alcohol during outside events. Corn hog toss and horseshoe toss are healthy activities that can involve all ages. However, I don't feel that alcohol should be involved and I worry about how consumption would be controlled.

Selling alcohol in the store has been done for several years now. However, the alcohol was consumed by the purchaser off the premises. I would not object to the selling of alcohol within the store where the applicant could monitor the sales.

I want to commend the applicant for the innovative ideas and wish to continue to support them. However, i do not want the outside sale of alcohol.

Sincerely,


D. Lynn Shuff

Sent from my iPadp

Staff Report  
 Jefferson County Board of Zoning Appeals  
 July 25, 2024

**24-25-ZV Bakerton Market Event Center Variance Request**

Item #3 Variance request from Section 8.14B to reduce the minimum lot size requirement for a Special Event Facility from 5 acres to .65 acres; and to eliminate the buffer screen requirement to accommodate the proposed parking areas.

Owner:	Carter & Maple Properties, LLC
Applicant:	Bakerton Central, LLC / Kevin Cuellar
Parcel Information and Zoning District:	<p style="text-align: center;">Vacant parcel located south of 834 Carter Ave, Harpers Ferry          Parcel ID: 04003A00230000; Parcel Size: .65 ac;          Zoning District: Village</p> 
History:	<p><b><i>*Below Information Pertains to adjoining Parcel 26 containing market</i></b></p> <p>01/21/93: BZA approved a setback reduction from 20' to 12' for an 8' tall fence. (File: ZV92-69)</p> <p>04/11/96: Issued Zoning Certificate to expand the nonconforming use by replacing the space previously occupied by the Post Office with a retail component. (File: ZC96-03)</p> <p>05/18/96: County Commission adopted a Zoning Map Amendment and a Zoning Text Amendment to create the Village zoning district. The subject parcel was rezoned from Rural to Village as a result of this action.</p> <p>02/28/12: A Conditional Use Permit was issued to operate a laundromat for the existing accessory structure. The CUP expired as the use did not commence within the required 18-months. (File: Z09-01)</p> <p>07/27/22: Issued Zoning Certificate – Change in Owner (File: 22-41-ZC).</p> <p>11/16/23: Issued Special Exception Permit for an Off-Premise Sign. (File: 23-2-SE)</p>
Approved Activity:	Vacant Land – Septic Area serving existing market
Site Visit Conducted:	No.

Staff Report  
Jefferson County Board of Zoning Appeals  
July 25, 2024  
**24-25-ZV Bakerton Market Event Center Variance Request**

**Staff Overview**

The subject parcel is approximately .65 acre in size and is currently vacant. The property fronts on Maple Ave (west) and may also have access to Carter Ave via the adjoining property that contains Bakerton Market. The Bakerton Market parcel was developed prior to the adoption of zoning and is considered a nonconforming site. It appears that based on a Health Department permit from 1983, the septic is located on the subject parcel, behind the market.



The applicant is proposing to utilize the subject lot as a space for community events such as flea markets, car shows, movie nights, etc. The only provisions in the Zoning Ordinance to allow events to occur include a Seasonal Use Permit for single events or a Conditional Use Permit to establish a Special Event Facility in accordance with the provisions established in Section 8.14. A Seasonal Use Permit did not seem practical for the frequency of events the applicant is proposing. As such, staff advised that they could apply for a Conditional Use Permit, provided a variance to reduce the minimum lot size requirement was also considered by the Board.

The minimum lot size requirement is a standard that can be evaluated under the variance criteria on a case by case basis. In this instance, the Board may consider the frequency of events, the attendance capacity, and the types of events to determine if a reduced lot size is reasonable. Staff does not have the administrative discretion to reduce this requirement.

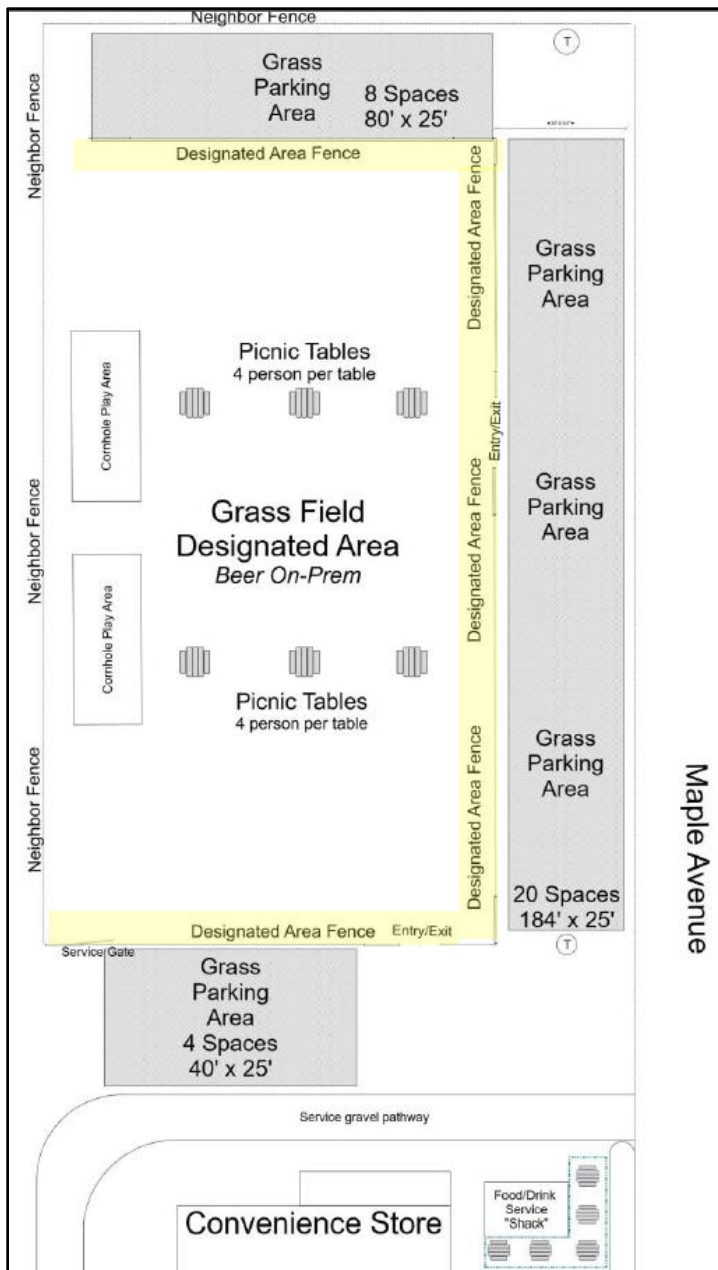
Staff Report  
Jefferson County Board of Zoning Appeals  
July 25, 2024

**24-25-ZV Bakerton Market Event Center Variance Request**

The second portion of the subject request is to eliminate the buffer screen requirement and parking setback to accommodate the proposed parking areas. The applicant is proposing to utilize grass parking along the perimeter of the property. The proposal also includes the installation of fencing around the event space designated area (see applicant's sketch below). While the fence may provide a buffer for the event space, the Ordinance requires that buffer screens be installed along the perimeter of the property.

The purpose of the landscape buffer requirement is to reduce the impact that a land use might cause to an adjacent property by serving as a barrier to visibility, airborne particles, glare, or noise.

*Note: the applicant will need to seek a waiver from the Planning Commission to allow grass parking to be utilized in lieu of asphalt parking. If the waiver is granted, a site plan most likely would not be required.*



**Applicant's Sketch**



Staff Report  
Jefferson County Board of Zoning Appeals  
July 25, 2024  
**24-25-ZV Bakerton Market Event Center Variance Request**

Section 5.10 pertaining to the Village District is included as part of this staff report for the Board's reference. While the Bakerton Market is an existing structure and no new structures are proposed as part of the special event facility (venue), staff advised that a separate variance was required because the venue operation would occur outside of the existing building, essentially as an expansion to the existing structure. Additionally, a separate variance was recommended to ensure that the parking proposal is adequately considered. As such, pursuant to Section 5.10B.3, staff advised that based on the dimensions of the lot, it is not feasible to comply with the non-residential site development standards and that a variance would be required to process, separate from but concurrent with the Conditional Use Permit application.

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

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

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

**Conditions of Approval**

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

- A. The applicant shall obtain approval from the WV Division of Highways for a commercial entrance permit and the proposed parking location, which requires motorists to back into a state right-of-way.
- B. The applicant shall obtain approval from the Jefferson County Health Department for an event space, including use of port-o-potties (if needed), and confirmation that the proposed use will not hinder the proper operation of the existing septic system.
- C. The applicant shall comply with all requirements established by the WV Alcohol and Beverage Commission regarding the sale of alcohol for on-premises consumption.

Staff Report  
Jefferson County Board of Zoning Appeals  
July 25, 2024  
**24-25-ZV Bakerton Market Event Center Variance Request**

**Section of Ordinance to be Considered:**

**Section 8.14 Special Event Facilities**

The purpose of this section is to create a process by which a property owner in the Rural, Residential Growth, and Village zoning districts may establish a Special Event Facility. A Special Event Facility in any other zoning district may process in accordance with Appendix C.

- B. A Special Event Facility is a facility that operates independent from any other use on the property.
  - 1. In the Rural, Village, and Residential Growth zoning districts, a Special Event Facility shall process a Conditional Use Permit in accordance with Article 6.
    - a. The minimum lot size shall be five acres. Site development standards shall comply with Appendix B.
    - b. Parking shall be provided at a ratio of one parking space for each two guests allowed on site and one parking space for each permanent employee.
    - c. In addition to the criteria set forth in Article 6, Section 6.3, the Board shall evaluate the following:
      - i. Proposed frequency;
      - ii. Number of attendees (maximum building capacity);
      - iii. Signage;
      - iv. Adequacy of parking area. The Board should consider the number of parking spaces as well as the location of the proposed parking area.
      - v. Adequacy of vehicular access to the property. The applicant shall provide a traffic control plan to address traffic flow and ingress and egress to the property to ensure that traffic will not hinder shared access (if applicable) or create a backup onto public or private roads; and
      - vi. Impact on adjacent properties.

**Section 5.10 Village (V) District**

The purpose of this district is to allow recognized villages the ability to provide low level services within their boundaries. This district is generally intended to be served with public or private water and sewer facilities based on proposed lot sizes.

Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.

**B. Conditional Uses**

- 1. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to the review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.
- 2. Existing Structures
  - a. Parking, Building Setbacks, Landscaping, and Signage shall be addressed as part of the Conditional Use Permit application. The reduced setbacks requirements cited in Section 5.10A.2(a) and (b) shall apply. In lieu of the standard variance process, any proposed deviation from the required parking, building setbacks, landscaping, and signage

Staff Report  
Jefferson County Board of Zoning Appeals  
July 25, 2024

**24-25-ZV Bakerton Market Event Center Variance Request**

standards set forth in this Ordinance shall be included in the Conditional Use Permit application and reviewed for approval by the Board of Zoning Appeals.

- b. As a separate variance, in conformance with Section 6.2 of this Ordinance, the Board of Zoning Appeals shall have the discretion to waive a site plan based on the adequacy and number of existing parking spaces.

**3. New Structures and expansions to existing structures**

- a. All new non-residential structures and expansions to existing structures shall comply with site development standards as required by this Ordinance and process a Site Plan in accordance with the Subdivision Regulations.

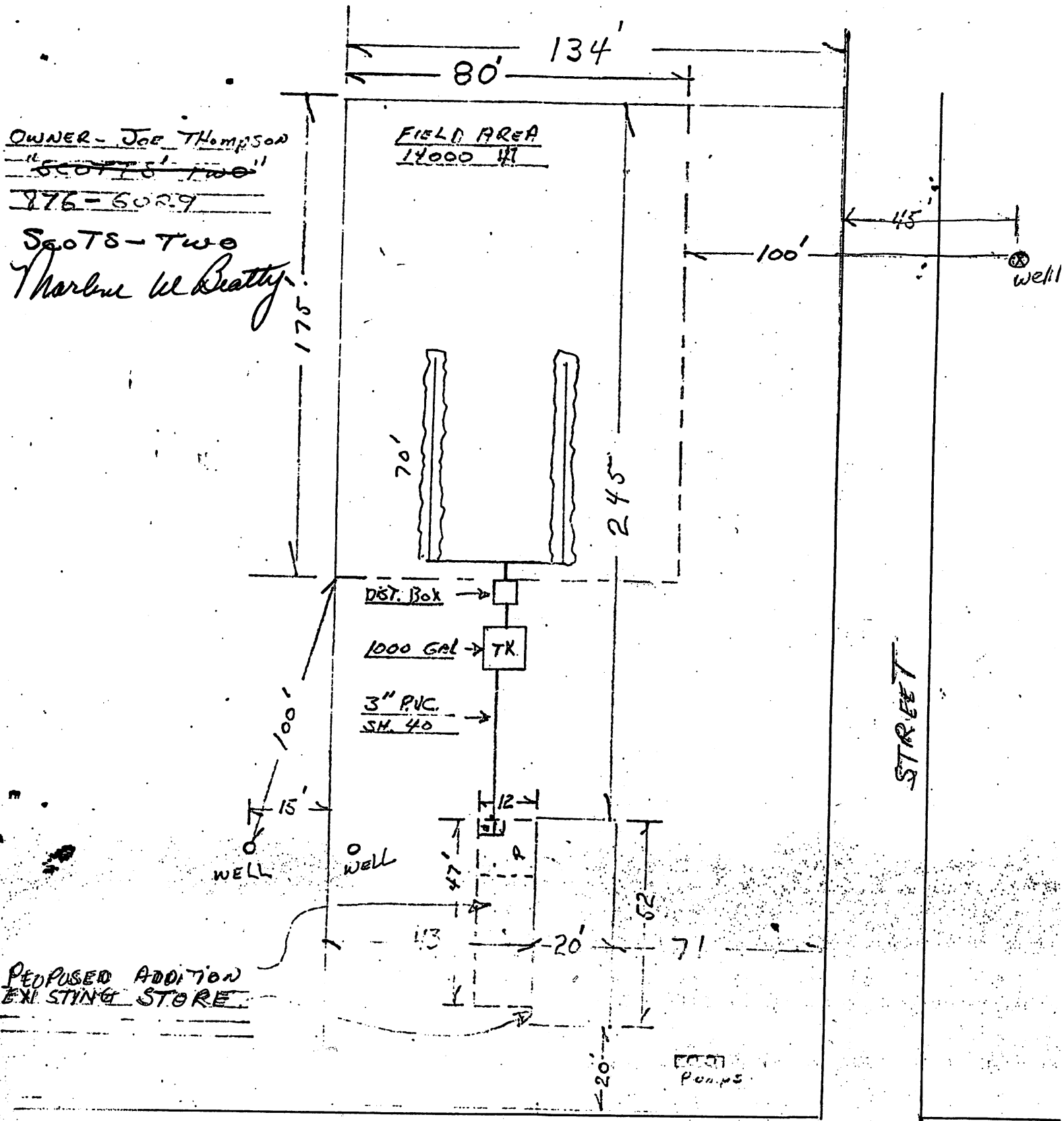
**Attachments:**

1. 1983 Health Department Permit Sketch
2. Section 4.11 Landscaping, Screening, and Buffer Yard Requirements
3. Appendix B – Non Residential Site Development Standards

OWNER - Joe Thompson  
~~"SCOTT'S TWO"~~  
876-6029

SCOTS - Two  
Therese McBeatty

FIELD AREA  
14000 sq ft



MAIN STREET DARTMOUTH

March 28, 1983 [Signature]

EAST NEWPORT



2. Uses permitted within the Protection Radius include Residential Uses as listed in Appendix C, barns, and residential accessory structures as defined by this Ordinance. Existing structures (which existed prior to the adoption of this text amendment) within the protection radius may be converted to a non-residential use in accordance with Appendices B & C and shall comply with applicable district regulations as required by Article 5.

#### **Section 4.7 Essential Utility Equipment**

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this Ordinance. Wireless telecommunication towers, however, shall conform to the requirements of Article 4B.<sup>7, 22</sup>

#### **Section 4.8 Buildable Lot**

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this Ordinance.

#### **Section 4.9 Traffic Visibility Across Corner Lots**

On any corner in all districts, there shall be no obstruction to traffic visibility within 35 feet of the intersection of the two street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.<sup>23</sup>

#### **Section 4.10 Site Plan Requirements<sup>39</sup>**

- A. Submittal and approval of a site plan is required for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.<sup>23, 26</sup>
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. Site Plan submittal is not required for any Agricultural Use defined in Article 2. Agricultural Uses which are open to the public (Agricultural Special Event Facility, Farm Market, etc.) established on parcels of less than 20 acres shall process a Concept Plan in accordance with the Subdivision and Land Development Regulations.
- D. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.<sup>23</sup>
- E. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.<sup>10, 17, 21, 23</sup>

#### **Section 4.11 Landscaping, Screening and Buffer Yard Requirements**

Buffer yard requirements are as shown in Appendix A and B of this Ordinance, and are summarized in this section.<sup>27</sup>

- A. Commercial Development<sup>27</sup>
  1. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a 50 foot or greater unscreened green space buffer or a 15 foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

2. All commercial development adjacent to all other uses must maintain ten foot side and rear yard landscape buffers.<sup>5</sup>

#### B. Industrial Development<sup>27</sup>

1. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have an unscreened buffer yard of no less than 200 feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard.
2. All industrial development adjacent to any use other than an industrial use shall have screened front yard buffers of no less than one-half (½) the front yard building setback, which may be included within the 200-foot buffer required in this subsection.<sup>5, 7</sup>
3. All industrial development adjacent to any use shall have 20 foot screened side and rear landscape buffers.

#### C. Multi-family Development<sup>27</sup>

1. All multi-family adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have, along common property lines, screened green space buffers as follows:
  - a. Front and rear: a minimum of 15 feet
  - b. Side: a minimum of 12 feet

- D. In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.

E. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.

1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least six (6) feet in height.<sup>7, 23, 27, 28</sup>

However, any development where a 10 foot side and/or rear yard vegetative landscaping buffer is required adjacent to proposed commercial uses and where no outdoor storage is being proposed or provided, the following standards shall be met:<sup>27, 28</sup>

- a. One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of 20 feet or more at maturity, planted every 50 linear feet; at least every other tree shall be an evergreen;
  - b. One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every 50 linear feet; and
  - c. Three (3) shrubs per each 25 feet along the property line, round upward.
  - d. These requirements shall be required on both sides of a property line for adjoining properties.
  - e. A 10 foot landscape area on the property unless shared parking is proposed. In the event shared parking is proposed, the required property line planting would be in addition to other plantings.<sup>7, 23, 26</sup>
2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.

3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
  4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.
- F. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.<sup>23</sup>
- G. All buffer yards shall be maintained by the property owner.**
- H. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9A, 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -1 below:<sup>23</sup>

**Table 4.11 -1 Wetland Size in Acres<sup>5, 8, 23</sup>**

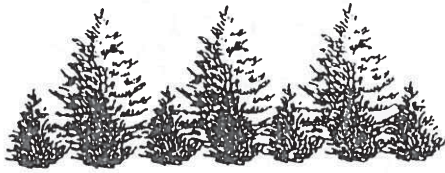
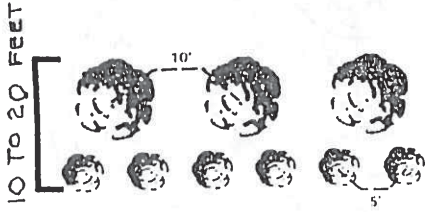
Greater Than	Less Than	Buffer Width in Feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

- I. All required landscape plans shall contain the following elements:<sup>7</sup>**
1. **Deciduous street trees for shade and aesthetics, planted at the following average spacing:<sup>23</sup>**
    - a. Site with street frontage of up to 200 feet: 1 tree per 50 feet.
    - b. **Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.**
  2. **Evergreen buffer planting, as required, for full screening.**
  3. **Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.**
  4. **Structure plants for aesthetics and limited shade.**
  5. **Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.**
- J. Required landscape buffers for a non-residential use are indicated in Appendix B.<sup>27</sup>**

**Section 4.12 Design Standards for Multi-Family Developments<sup>23</sup>**

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.

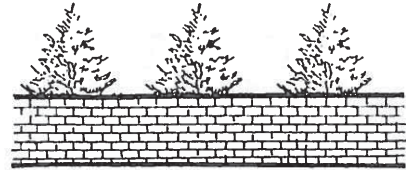
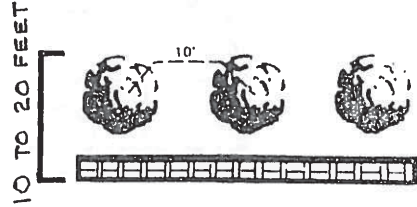
TOP VIEW OF PLANTINGS



FRONT VIEW OF ULTIMATE GROWTH

OPTION F

TOP VIEW OF PLANTINGS



FRONT VIEW OF ULTIMATE GROWTH

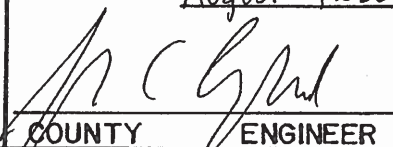
OPTION G

OPTION F

Planting Description - one row of evergreen shrubs with a height of two (2) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every five (5) linear feet; one row of medium evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every ten (10) linear feet.

OPTION G

Planting Description - one row of medium evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every ten (10) linear feet; and a solid board fence, masonry or brick wall with a height of six (6) feet.

JEFFERSON COUNTY, WEST VIRGINIA	APPROVED: August 8, 1990	<b>screen planting                  narrow                  buffer</b>	REVISIONS:	DETAIL No.	
			_____	_____	
			COUNTY	_____	_____
			ENGINEER	_____	_____
			M -54		

**APPENDIX B: NON RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE<sup>27, 32, 35</sup>**

Zoning District	Development Type <sup>⊖</sup>	Min Lot Area (MLA)	Min Lot Width	Max Building Height*	Imper-vious Surface Limit	Building Setbacks			Parking/ Drive Aisle Setbacks			Buffers (Sec. 4.11) (Screened / Unscreened) Adjacent Use						
												A Residential district, or any lot with a residence, school, church, or institution of human care (Distance per Sec. 4.6)			Commercial Use		Industrial Use	
						Front	Side	Rear	Front	Side	Rear	Distance Front Side Rear	Front	Side & Rear	Front	Side & Rear	Front	Side & Rear
Industrial – Commercial (IC) **	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25			15	4	4	75	Street Trees	Narrow Buffer Detail No. M-54	N/A	10(S)	N/A	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25			15	10	10	75	Street Trees	Medium Buffer Detail No M-53	N/A	10(S)	N/A	10(S)
	Industrial	3 ac ***	N/A	75	90%	50 or 25 if adjacent to Industrial Use			25 or 20 if adjacent to Industrial Use			200	Street Trees	Wide Buffer Detail No. M-52	25(S)	20(S)	N/A	20(S)
Residential-Light Industrial-Commercial (RLIC)	Commercial or Industrial	N/A	N/A	75	80%	See IC District												
Rural (R)	Churches	2 acres	200	45	N/A	25	50	50	See IC District for commercial sites			N/A	50(U) or 15 (S)		N/A	10(S)	N/A	10(S)
	Schools, Grades K-12	K-4: 10 ac+ 5-8: 20 ac+ 9-12: 30 ac+	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A
	Hospitals	10 ac	500	45	N/A	100						N/A	N/A		N/A	N/A	N/A	N/A
	Other Rural principal permitted uses	40,000	100	45	N/A	40	50	50				N/A	See I-C District for commercial or industrial use; Otherwise, N/A					
	Commercial or Industrial**	See IC District																
Village (V)	Commercial <sup>¥</sup>	N/A	N/A	35	N/A	25	10	40	See IC District									
	Industrial**	See IC District			35	See IC District												
Residential Growth (RG)	Commercial or Industrial**	See IC District			35	See IC District												
Neighborhood Commercial (NC)	Commercial	N/A	N/A	35	70%	15 min 25 max	10 <sup>£</sup>	10 <sup>⊖</sup>	See I-C District		25	See IC District						
General Commercial (GC)	Commercial	N/A	N/A	75	80%	20	10	25	See IC District									
Highway Commercial (HC)	Commercial	N/A	N/A	75	80%	25	25	25										
Light Industrial (LI)	Commercial or Industrial	N/A	N/A	75	80%	25	25	25										
Major Industrial (MI)	Commercial	N/A	N/A	75	90%	25	10	50										
	Industrial	3 ac ***	N/A	75	90%	25	50	50										
Office/Commercial Mixed Use (OC)	Commercial	N/A	N/A	75	80%	15 min 25 max	10 <sup>£</sup>	10 <sup>⊖</sup>	See IC District									
Planned Neighborhood Development (PND)	Commercial	3 acres	See GC District Note: Planning Commission may amend development standards for developments in the PND District (see Article 5).															

The requirements in this table are in addition to any other applicable requirements in the text of this Ordinance. In the event of a conflict with the text, this table shall prevail.

All dimensions are in feet unless otherwise indicated by “ac” (acres).

\* Maximum building height is subject to Sec. 9.2.

\*\* If land use(s) approved via the Conditional Use process in accordance with this Ordinance.

\*\*\* MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Sec. 5.6E]

\*\*\*\* Schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly.

¥ Non-Residential Site Development in an existing structure in the Village District shall comply with Section 5.10A.2.

‡ Setback may be reduced if adjacent to industrial use.

⊕ For an industrial use, no structures, stored materials, or vehicular parking shall be permitted within the buffer yard. For a commercial use, no structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

⊖ A rear yard setback may be reduced to 10' for a non-residential use abutting a commercial or industrial use at a rear lot line

⊖ Churches in any district: (1) are treated as a commercial use on a lot of greater than 1.5 acres in determining buffer requirements and parking/drive aisle setbacks; (2) building setbacks are 25' (front) and 50' (side/rear); and (3) distance requirements do not apply.

£ For a non-residential use abutting a commercial or industrial use, no side yard setback is required, unless required by Building Code or other law or regulation.





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

File Number: 24-25-ZV  
 Staff Initials: ab  
 Meeting Date: 07/25/24  
 Fees Paid (\$100 or \$150): 06/28/24

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

Phone: (304) 728-3228

**Zoning Variance Request**

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

**Property Owner Information**

Name: Kevin Cuellar  
 Mailing Address: 834 Carter Ave, Harpers Ferry, WV 25425  
 Phone Number: 3048766280 Email: info@bakerton.market

**Applicant Contact Information**

Name: Kevin Cuellar  
 Mailing Address: 834 Carter Ave, Harpers Ferry, WV 25425  
 Phone Number: 3048766280 Email: info@bakerton.market

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

Name: None  
 Mailing Address: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

**Physical Property Details**

Physical Address: 834 Carter Ave  
 City: Harpers Ferry State: WV Zip Code: 25425  
 Tax District: 4 - Harpers Ferry District Map No: 003A Parcel No: 0023  
 Parcel Size: 0.653 Acres Deed Book: 984 Page No: 102

**Zoning District (please check one)**

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

Received 06/28/24 (jth)

Place Received Date Stamp Here

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

Is there a Code Enforcement action pending in relation to this property? Yes  No

Reference the section of the Zoning Ordinance pertaining to this request: Section 8.14B

Briefly describe the nature of the variance request:

The variance request is related to the landscape buffer. Due to the partial acre size of the lot, this variance request is to allow guests to park off of Maple Ave on to the back lot within 25 feet of the road.

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

Front Setback  Side Setback  Rear Setback  Reduction From 50 to 0

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

Maple Ave is a cross road of Carter Ave and is only used for residential access. The traffic is minimal and the neighbors travel at roughly 25 mph on this road.

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

In order to provide a reasonable event capacity for the community at any given time in conjunction with the parking requirement of only 2 guests per car, the limited space must be thoughtfully utilized and the most logical area to maximize parking is right off of Maple Ave.

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

If the landscape buffer must be maintained, then there will be no room for the designated area and adequate parking. Granting this variance allows for the property to be reasonable used to serve the community

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

The proposed use for community based events and minimal structural change (i.e., fencing in accordance with Village ordinance) upholds the intent of the ordinance while providing substantial justice for the business and the community.

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

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

 6/28/24  
Signature of Property Owner Date

\_\_\_\_\_  
Signature of Property Owner Date

Notification Requirements (to be completed by staff)

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

\_\_\_\_\_  
Date of Public Hearing

\_\_\_\_\_  
Advertising Date

\_\_\_\_\_  
Placard Posting Date







# Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2<sup>nd</sup> Floor

Charles Town, WV 25414

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

Phone: (304) 728-3228

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## Zoning Administrator's Report July 25, 2024 Board of Zoning Appeals Meeting

**Date of Memo: July 17, 2024**

- 1) The next regular meeting is scheduled for **August 22, 2024**
  - Deadline for submission is Friday, July 26, 2024.
- 2) 2045 Comprehensive Plan Status Update  
Parts 1 and 2 of the DRAFT 2045 Comprehensive Plan are available on the County's website:  
<https://www.jeffersoncountywv.org/county-government/departments/engineering-planning-and-zoning/2024-comprehensive-plan-update>  
Planning Commission Public Hearing on the DRAFT Plan is scheduled for Tuesday, August 27 at 7:00 PM in the Washington High School Auditorium (flyer attached)
- 3) Two alternate member positions remain open. One term ending 01/01/25 and the other term ending 01/01/27.
  - Persons interested in serving on the Board of Zoning Appeals should contact the County Commission Office at 304-728-3284 / [jjames@jeffersoncountywv.org](mailto:jjames@jeffersoncountywv.org).
- 4) Zoning Certificate Activity Report

**JEFFERSON COUNTY  
PLANNING COMMISSION'S  
2045 COMPREHENSIVE PLAN  
PUBLIC HEARING**

**WASHINGTON HIGH  
SCHOOL AUDITORIUM  
AUGUST 27, 2024  
7:00 PM**

300 Washington Patriots Dr,  
Charles Town, WV, 25414

Join our Public Hearing and  
let your voice be heard!


**At our Public Hearing, you'll  
have the opportunity to speak  
for three minutes about the  
proposed Comprehensive Plan  
or provide your thoughts in  
written comment. Come out to  
Washington High School, where  
there will be space for everyone  
to share their thoughts on the  
future of Jefferson County!**

At our Open  
House, Staff will be  
available to  
answer questions  
about the 2045  
Comprehensive  
Plan.

*Open House for Q&A  
begins at 6:00 PM and  
ends at 7:00 PM*



**CONTACT US**

 (304) 728-3228

 [complan2045@jeffersoncountywv.org](mailto:complan2045@jeffersoncountywv.org)



Jefferson County, West Virginia  
Department of Engineering, Planning and Zoning  
**Office of Planning and Zoning**  
116 E. Washington Street, 2<sup>nd</sup> Floor  
Charles Town, West Virginia 25414  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

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**July 2024**

**Zoning Certificate Activity Report**

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**File #** 24-25-ZC

Request: Agricultural Use: Farm Winery

Property Owner: Emil Michael Kosko, Jr

Applicant: Wine Down Vineyard / Attn: Christopher Kosko

Parcel Information: 5071 Middleway Pike, Kearneysville, WV 25430

Parcel ID: 07001900270001; Size: 1.4 acres

Zoning District: Rural; Deed Book: 1142; Page: 126;

Plat Book 9 @ Page 58 (PC File #90-34)

Date of Issuance: 06/25/2024

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**File #** 24-26-ZC

Request: Agricultural Use: Farm Vacation Enterprise

Property Owner: Stiles Family Partnership #2 / Attn: Chris Stiles

Parcel Information: Chris Stiles Minor Subdivision, Lot #2; 1234 Myerstown Road, Kabletown, WV

Parcel ID: 06002000110002; Size: ~8 acres; Zoning District: Rural;

Deed Book: 1213; Page: 157; Subdivision Plat Book: 22 @ Page 80;

Boundary Line Adjustment Plat Book: 25 @ Page 697

Date of Issuance: 07/03/2024

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**File #** 24-27-ZC

Request: Modifications to an Existing Nonconforming 122' Telecommunications Tower

Property Owner: Cable Holdco Exchange V LLC

Applicant: Smartlink, LLC / Attn: Kenneth Hale

Parcel Information: 512 Sandpiper Lane, Shepherdstown, WV 25443

Parcel ID: 09007B00930000; Size: ~.51 acre;

Zoning District: Residential Growth; Deed Book: 1028; Page: 203

Date of Issuance: 07/15/2024

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