



AGENDA
Jefferson County Planning Commission
Tuesday, June 11, 2013

Planning Commission meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street at 7:00 p.m.

All Citizens that desire to speak must sign-in prior to the Agenda Item being addressed.

1. Approval of the minutes from the May 14, 2013 meeting.
2. Citizen Communications: If you wish to comment, please sign-in to speak for issues that are not on the agenda or items that are not open for public comment. The only item open for public comment during the meeting is the Public Hearing.
3. Request for postponement.
4. Morgan's Grove Market Site Plan – Finding of Provisional and Conditional Completeness: Request by applicant Fred Blackmer with FB Solutions to have the Planning Commission schedule a public hearing for the Morgan's Grove Market Major Site Plan (S12-06) prior to staff deeming it complete as required by the Jefferson County Subdivision and Land Development Regulations (Section 24.119.D). This project consists of an agricultural based market. Intended uses are to consist of, but are not limited to, a Food Hub, General Merchandise (retail), Professional/Business Offices, Community Amenities, and other associated uses. This property is located at 3988 Kearneysville Pike (Route 480), adjacent to Morgan's Grove Park, and is designated as Tax District: Shepherdstown (09), Tax Map: 13, Tax Parcel: 26.1, 26.2, 26.3, and 26.4.
5. Public Hearing: Proposed text amendments to the following sections of the Zoning and Land Development Ordinance: 2.2, 4.10, 5.7, 5.8, 8.5, 9.5, 10.5, 11.1, and 12.2.
6. Discussion and possible recommendation regarding County Commission Motion requesting Planning Commission action related to a proposed draft amendment to the Residential-Light Industrial-Commercial Zone and the Commercial-Industrial Zone.
7. Discussion and possible recommendation regarding proposed text amendments to the Zoning and Land Development Ordinance regarding the creation of new commercial and industrial zoning categories and related amendments.
8. Discussion and possible recommendation regarding US 340 Improvement Study from south of the Virginia Line to the Charles Town Bypass.
9. Update on the 2014 Comprehensive Plan.
10. Reports from Legal Counsel and legal advice to the Planning Commission.
Active Litigation:
 - Far Away Farms – Open Meetings Act Litigation/Dispute re: public notice of consideration of settlement of FAF litigation (discussion and possible action).
 - Cedar Meadows Airpark – Litigation re: denial of plat amendment (discussion and possible action).
11. Director's Report.
12. Monthly Development Activity Report.

13. Planning Commission Exchange and Liaison Reports:

- County Commission Meeting
- Health Department Meeting
- Public Service District Meeting
- Parks and Recreation Meeting
- Jefferson County Development Authority Meeting
- Water Advisory Committee Meeting
- Planning Commission Exchange

14. President's Report.

15. Actionable Correspondence.

16. Non-Actionable Correspondence.

17. Signing of approved Motions from previous Planning Commission meetings.

- Shockey Waiver, PCW13-03

All files are made available for public review Monday through Friday, 9:00 a.m. to 5:00 p.m. (excluding Holidays). The Planning Commission welcomes written comments at any time. Submitting a document no later than the Thursday before a scheduled meeting will provide the Commission an advanced opportunity to review your comments prior to the meeting. Please note that documentation and exhibits submitted at a Planning Commission meeting are retained as part of the official record.

Feel free to submit your comments to any of the addresses below:

Physical Address: 116 E. Washington St., Charles Town, West Virginia 25414

Mailing Address: P.O. Box 338, Charles Town, West Virginia 25414

Email Address: planningdepartment@jeffersoncountywv.org

Fax Number: 304-728-8126

Any party desiring a transcript of these proceedings will be responsible for providing a competent stenographer at their own expense. Minutes, video and/or audio recordings of past meetings, the Jefferson County Subdivision Regulations, Zoning Ordinance and Comprehensive Plan, as well as any working proposed amendments are located on our website at www.jeffersoncountywv.org. Minutes and audio recordings of older meetings that are not on the County's website are available for review in the office.

This information is
Tab #1 in your binder.

Draft Minutes

Jefferson County Planning Commission May 14, 2013

The Jefferson County Planning Commission met on May 14, 2013, with the following Commission members present: Paul Taylor, President, Daniel Hayes, Vice President; Steve Stolipher, Gene Taylor, Walt Pellish, Wade Louthan, Gary Phalen, and Darlene Truman. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jonathan Saunders, Engineer; Stephen Groh, Assistant Prosecuting Attorney; Jennilee Hartman, Zoning Clerk, and Alexandra Beaulieu, Planning Clerk.

Mr. Phillips was absent with notification.

Mr. P. Taylor called the meeting to order at 7:04 p.m.

1. Welcoming of new Planning Commissioners and Staff.

2. Election of open office: Secretary.

Mr. Hayes motioned to nominate Mr. G. Taylor. Mr. Stolipher seconded the motion, which carried unanimously.

3. Approval of the minutes for the March 12, 2013 meeting.

Mr. Hayes motioned to approve the minutes. Mr. P. Taylor requested the following change be made: "Paul Taylor, President, was absent *with* notification."

Mr. Stolipher seconded the motion, which carried unanimously.

4. Citizen Communications (hereinafter known as CC). None.

5. Request for postponement. None.

6. Request for a waiver from Section 20.201.A.2 of the Jefferson County Subdivision and Land Development Regulations requiring the existing 40' wide right of way to be widened to the required 50' to create a 35 acre single family residential lot (File #PCW13-03). The property is located at 478 Undergrace Lane, Charles Town, WV. Tax District Kabletown (06); Map 2; Parcel 1.4. Dale and Patricia Shockey are the owners.

Mr. Rivard provided the Planning Commission with a PowerPoint presentation giving a brief overview of the location of the property and description of the proposal.

Mr. Hayes requested clarification as to whether the waiver request, if granted, could be limited to just this lot so that any future subdivisions would need to process their own waiver request. Mr. Rivard confirmed that the waiver would in fact apply only to the lot listed on the application if the Planning Commission made a motion to that effect.

Mr. P. Taylor opened the floor to the applicant. Ms. Patricia Shockey spoke on behalf on the applicants and stated that the 35 acre lot would be sold as a single family lot with the intent of a single dwelling and not a development so as to keep in line with the current "country" feel of the surrounding lots. She stated they made the decision to subdivide and sell this lot to pay off their farm.

Mr. P. Taylor opened the floor for public comment.

Ms. Chanell Cain spoke first. She stated she was a resident off Wood End Court and expressed concern for increased traffic on Undergrace Lane. Ms. Cain also shared a dispute between her and Ms. Shockey regarding use of Undergrace Lane during inclement weather. In addition, Ms. Cain inquired as to whether Ms. Shockey is required to obtain a permit for the fencing Ms. Shockey put up to prevent people from accessing Undergrace Lane.

Mr. Stolipher stated that Ms. Cain's concerns would be best brought before the staff as this was a public hearing and not a question and answer workshop. Mr. Hayes agreed stating specifically that her inquiries regarding fencing should be brought before Building Permit staff.

Ms. Karla Miller spoke next. She stated she was a nearby resident concerned primarily about increased road traffic and future subdivisions.

Mr. Hayes motioned to close public comment. Mr. Stolipher seconded, which carried unanimously.

Mr. Stolipher stated that he had driven out to the property to see the proposed lot and the neighboring properties. He answered the public comments regarding increased traffic by stating the proposed subdivision was for a single family lot, not a development. He also noted that per house, the average traffic is 7-10 trips per day and that the current road is sufficient for such use. Any future division would require plat approval and road improvements.

Mr. Stolipher motioned to grant the waiver with the condition that any requests for further subdividing of the residue would require an additional waiver that would be considered on its own merits.

Mr. Hayes seconded the motion.

Mr. P. Taylor called the vote. Mr. Pellish stated that he was voting in favor, but wishes the Shockeys would make amends with neighbors.

The motion carried unanimously.

Mr. P. Taylor requested staff re-draft the motion to reflect a favorable vote.

7. **Potential Minor Zoning Ordinance Amendments (discussion and direction).**

Ms. Brockman introduced the item by stating that the proposed minor amendments resulted through working on the comprehensive plan as well as a number of recent inquiries from customers. She requested that if the PC agreed with proposed amendments, that they schedule a public hearing to move forward in the process.

Mr. Barney stated that the amendments are intended to reduce unnecessary barriers and streamline the ordinance for clarity. He reviewed the following proposed amendments:

Site Plan Requirement (Section 4.10): This amendment would clarify that the site plan must be approved prior to initiation of development.

Restaurants and Convenience Stores in Shopping Centers (Section 5.8C): This amendment would clarify that the Compatibility Assessment Meeting requirement does not apply to a building located within a shopping center shown on an approved site plan for restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area). The shopping center would stand on its own with the expectation that the owner would lease out space to businesses and that those businesses would not be expected to go through the Conditional Use Permit (CUP) process.

Breweries/Wineries/Distilleries (Section 8.5, various): The Zoning Ordinance currently permits “Farm Breweries and Wineries” in the rural district. Distilleries are currently excluded. We have received a number of inquiries regarding opening distilleries in Jefferson County. We would like to add the words “or distillery” and increase the square footage restrictions from 10,000 to 20,000 square feet. Feedback from Bloomery Distillery is such that 10,000 square feet isn’t enough.

Deck setbacks in certain townhome subdivisions (Section 9.5): We have received a number of variance requests for deck setbacks in townhome subdivisions, such as Windmill Crossing, that have small lots. This amendment would reduce the rear setback from 20 to 10 feet, if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence.

Receptions and events in rural areas (Section 10.5): Amending this section would eliminate the need for the Conditional Use Permit process, which is not the best fit for allowing special events such as weddings which typically do not require the construction of a permanent structure. The amendment would allow for weddings on a rural property as a special exception that would still need to go before the Board of Zoning Appeals, but would reduce to one public meeting rather than two, and also require a significantly shorter public notice period.

Secondary Dwelling Units for Agricultural Purposes (Section 10.5): To meet an increased number of requests to construct small, detached dwelling units for farmworkers or caretakers, the amendment would eliminate the need to go through the subdivision process and allow the request to process as a Special Exception that can be approved by the Board of Zoning Appeals.

Parking for seasonal or temporary uses (Section 11.1): This amendment would distinguish between conventional uses (such as retail store) and uses of a more rural or temporary use, such as a farmer’s market. The amendment would allow staff to administratively waive traditional parking requirements for seasonal or temporary uses, agricultural uses, events, or other types of uses that do not require parking on a regular basis.

Public notice for zoning map amendments (Section 12.2): Reducing the current notice period from 30 days to 20-28 days would allow for a zoning map amendment case to be scheduled on the next PC meeting following the applicant’s presentation of a map amendment petition. The current 30 days requirement makes it such that the applicant has to wait nearly 60 days for the next meeting. State Law does not require posting on the property or mailing notices to adjacent property owners; therefore, this amendment would still be within state law.

Mr. Hayes motioned to schedule a public hearing on the proposed amendments for the next meeting on June 11, 2013. Mr. Stolipher seconded the motion.

Mr. Pellish requested that staff make a presentation at the next PC Meeting scheduled for June 11, 2013 on what was originally recommended to the County Commission by the Planning Commission last year versus what is being proposed this year so that we may stay on track.

Mr. Stolipher asked for direction on whether we need a motion or a letter to the CC.

Ms. Brockman stated all that is needed is a consensus.

The motion to schedule a public hearing regarding the proposed amendments at the next PC meeting was unanimous.

Mr. Stolipher addressed the proposed amendment to Section 10.5 regarding secondary dwelling units recommending that staff reference Clarke County's plan which includes an amendment allowing one to build a dwelling unit within a restricted square footage so it doesn't impact their dwelling unit rights.

8. Update on the 2014 Comprehensive Plan:

Ms. Brockman spoke on this item. She stated that the Steering Committee is meeting twice a month during May and June to prepare for the upcoming joint meeting with the County Commission on July 18th, 2013, where the intent is to have a final draft of the existing conditions and goals and objectives. The PC is welcome to attend this meeting.

Ms. Brockman stated that the next scheduled public input meetings will be July 27th, 2013 from 9:30am until noon in the gym at Sam Michael's Park and on Tuesday, July 30th, 2013 from 7:00pm until 9:00pm at the War Memorial Building/Community Club Building in Shepherdstown. She stated that the purpose of these meetings will be to report back from the meetings held during February and March (a total of four [4]) and to present drafted Goals and Objectives created in response to citizens comments received at the meetings and through written comment. She stated that there would also be an exercise related to the future land use map. She noted that the previous Comprehensive Plans in Jefferson County have not included land use maps and that staff are working to create a future land use map to address two goals: first, where do we think growth should be broadly; and second, what type of growth do we want to see in which parts of the county. She reported that staff planned to set up an information booth at the county fair to gather public input by engaging people in a brief survey or activity relating to the future land use map. Additionally, brochures will be distributed to people who are interested but not able to spend much time at the booth directing them to the website for input at a later time.

9. Reports from Legal Counsel and legal advice to the Planning Commission:

Mr. Groh provided updates on the following cases:

- a. **Cedar Meadows:** No update, still awaiting trial.
- b. **Far Away Farms:** Mr. Groh reported that a telephonic status hearing is scheduled for Wednesday, May 15th, 2013 during which a hearing date will be set by the Judge. He stated that a hearing will probably be in August of this year.

10. None

11. Director's report:

Ms. Brockman provided an update on the Stormwater Regulation draft reporting that a consultant is working with the engineering department to finalize a draft before providing presentation. She stated that once the draft is complete, the consultant will provide an overview to the Planning Commission at the next available PC meeting as a workshop and staff will schedule the public hearing for the following PC meeting date to meet the thirty (30) day notification requirement.

Mr. Pellish requested that consultant include in their presentation comments on the recently passed Maryland Rain Tax.

Ms. Brockman presented Department of Planning and Zoning goals for fiscal year 2013-2014. She stated that this year the County Commission requested that each Department identify their top 3 – 5 goals for the year with their budget, instead of a formal work plan. She presented these department goals which focused primarily on customer service and the Comprehensive Plan, but could develop a more formal work plan if the Planning Commission desired.

Ms. Brockman provided a quarterly report in a handout distributed to all members. She stated that the quarterly report is based on what the previous Planning Commission requested which was an update on the types of projects staff were working on, including daily tasks and walk-ins. She stated that the quarterly report is submitted to the County Commission on behalf of the PC, the Board of Zoning Appeals and the Departments of Planning and Zoning and asked what additional information would be of value to include in the report. Mr. Hayes stated that he would like to only see items that are PC related including pending projects. Ms. Brockman stated that the report addresses pending projects in the section called Proposed Projects Underway.

Ms. Brockman reminded PC members that the Ethics Training meeting is rescheduled for Tuesday, June 25th, 2013 at 7:00pm. She stated that the meeting topic is Ethics and Fraud Prevention and will be presented by the West Virginia Ethics Commission and the State Auditor's Office. She stated that the meeting is intended for boards and commissioners and that anyone planning to attend could let staff or County Commission members know.

12. Monthly Development Activity Report:

Ms. Brockman stated that this report is provided at the request of previous Planning Commission. Mr. Hayes stated that he was not interested in receiving this report anymore and requested that we exclude from future packets. He stated that the quarterly report is sufficient. Mr. Pellish agreed by stating he would like updates on major projects.

13. Liaison Reports:

- County Commission Meeting: Mr. Pellish stated that the topic addressing Fire and EMS fees scheduled for the upcoming CC meeting is going to be a hot topic and that he will report back with an update.

Minutes

Jefferson County Planning Commission

May 14, 2013

Page 6 of 6

- Health Department Meeting: Ms. Brockman stated that the Health Department is participating in the Content Management System RFP and their participation will help provide complete information relating to sites such as the status of well and septic at a particular location.
- Parks and Recreation Meeting: Mr. G. Taylor stated that he did not have any updates. He reported that the current Hite Road project was coming along. Ms. Brockman reported that they were working on a grant application for an Amphitheatre at Sam Michael's Park and that if approved, Parks and Recreation would present before the Planning Commission.
- Public Service District Meeting: No Liaison. Ms. Brockman stated that PSD meetings are held the first Monday of every month.
- Jefferson County Development Authority Meeting: Mr. Stolipher stated he had no updates. He stated that the JCDA was happy about the proposed waiver to reduce commercial impact fees and that a hearing would be held on May 30th, 2013. He reported that the JCDA is actively working to hire a new Program Manager (I believe Stolipher stated director, but that's not correct) to fill the vacant position.
- Water Advisory Committee Meeting: No liaison. Ms. Brockman stated that they meet the 3rd Monday of every month at 3:00pm.

Mr. Hayes requested that the Planning Commission Exchange agenda item be put back on the agenda.

14. **President's Report:** None.

15. **Actionable Correspondence:** None.

16. **Non-Actionable Correspondence:**

Ms. Brockman stated that Mr. Fred Blackmer had requested to speak at a previous Planning Commission meeting but that after seeking advice from Legal Counsel, it was determined that Mr. Blackmer could not be on the PC agenda unless he was presenting something the PC could act upon. Ms. Brockman stated that it was suggested to Mr. Blacker that he submit written comments and work with staff to maintain communication with the PC. Mr. Groh stated that a meeting was held with Mr. Blackmer, the County Administrator, and staff that hopefully addressed Mr. Blackmer's concerns. Ms. Brockman stated that Mr. Blackmer went to the Board of Zoning Appeals to relocate the Morgan's Grove Farmers Market for this summer so they could move forward with construction of current project.

17. **Signing of approved Motions from previous Planning Commission meetings:** None.

Mr. Hayes motioned to adjourn the meeting at 8:50pm. Mr. Stolipher seconded the motion, which carried unanimously.

This information is
Tab #4 in your binder.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning & Zoning

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MEMORANDUM

TO: Planning Commission
FROM: Seth Rivard, County Planner
DATE: June 11, 2013
RE: Morgan’s Grove Market Request for Provisional and Conditional Scheduling of a Public Hearing

The applicant processing the Morgan’s Grove Market project has asked that the associated site plan be placed on the June 11, 2013 Planning Commission agenda for discussion and action by the Planning Commission. The purpose of this agenda item is to request that the Planning Commission schedule the Public Hearing for the Site Plan on the July 9, 2013 Planning Commission meeting. At the June 11, 2013 meeting, the applicant will update the Planning Commission on the status of their WVDOH and Water and Sewer Permit Numbers discussed at previous meetings. Per the Jefferson County Land Development and Subdivision Regulations, staff must find a site plan “complete” prior to placing it on the Planning Commission agenda for the purpose of scheduling a Public Hearing. Further, the Planning Commission must find the site plan application “complete” before a public hearing of the site plan can be scheduled. A Public Hearing must be scheduled within 45 days of the Planning Commission finding it “complete”.

While Staff cannot find the site plan “complete”, Staff is recommending the Planning Commission find the site plan “Provisionally and Conditionally Complete” in order to schedule a Public Hearing on July 9, 2013 --- with the requirement that the following conditions be met prior to the holding of a Public Hearing on this Site Plan.. Based upon the advice of legal counsel, the following conditions and documents shall be provided to the Departments of Planning and Zoning one (1) week prior to the July 9, 2013 Planning Commission meeting or any subsequent Planning Commission meeting in order for a Public Hearing to held.

- Resubmittal of the site plan, with revisions addressing any significant outstanding comments (Any minor comments not yet addressed can be incorporated into the provisional finding of completeness)
- Written documentation that the WVDOH has issued the highway entrance permit and/or that it will be issued pending bonding
- West Virginia State Health Department permit numbers for public water and sewer

If the above referenced documents are not submitted one (1) week prior to the next available Planning Commission meeting, the request by the applicant shall be automatically delayed to the next available Planning Commission meeting.

For the Planning Commission's review, the requirements relative to completeness are detailed in the Amended 2008 Subdivision Regulations and are cited below.

Sec. 24.119 Major Site Plan Application - Submission and Completeness Review

D. Approval. If the site plan is incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it.

E. Effect. Once the site plan is found complete, staff shall place the site plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete.

At the meeting where the application is found complete, the Planning Commission shall schedule a public hearing within 45 days and in accordance with Section 24.120. Upon determining the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.

In this case, staff believes that the word "deny" is not intended to constitute denial of the site plan and/or require that the applicant start the site plan process from the beginning. Denial means that the application cannot be deemed "complete" by the Planning Commission and allows the applicant to address the items that are outstanding that do not make the site plan "complete."

State law and local regulations require a determination of completeness prior to the scheduling of a Public Hearing to ensure that the site plan is ready for the Public Hearing and that the required public notice and public input on the site plan can occur at the next available Planning Commission meeting. Attaching the above referenced conditions to scheduling of the Public Hearing allow this request to meet the intent of the State and local regulations.

**A Motion Recommending Approval of Finding
Provisional and Conditional Completeness for
Morgan's Grove Market (S12-06)
June 11, 2013**

Whereas, the following facts relate to the processing of Morgan's Grove Market Site Plan per Sections 24.119 and 24.120 (PCW12-08);

Whereas, Morgan's Grove Market has requested discussion and action by the Planning Commission to schedule a Public Hearing for the Site Plan on the July 9, 2013 Planning Commission meeting;

Whereas, Staff is recommending the Planning Commission find the site plan "Provisionally and Conditionally Complete" in order to schedule a Public Hearing on July 9, 2013;

Whereas, The scheduling of the Public Hearing for July 9, 2013 is issued under the following conditions:

- The documents below shall be provided to the Departments of Planning and Zoning one (1) week prior to the July 9, 2013 Planning Commission meeting or any subsequent Planning Commission meeting in order for a Public Hearing to held
- Resubmittal of the site plan, with revisions addressing any significant outstanding comments (Any minor comments not yet addressed can be incorporated into the provisional finding of completeness)
- Written documentation that the WVDOH has issued the highway entrance permit and/or that it will be issued pending bonding
- West Virginia State Health Department permit numbers for public water and sewer
- If the above referenced documents are not submitted one (1) week prior to the next available Planning Commission meeting, the request by the applicant shall be automatically delayed to the next available Planning Commission meeting

Now therefore be it moved, that the Jefferson County Planning Commission _____ the requested waiver for Morgan's Grove Market with the following conditions:

- The documents below shall be provided to the Departments of Planning and Zoning one (1) week prior to the July 9, 2013 Planning Commission meeting or any subsequent Planning Commission meeting in order for a Public Hearing to held
- Resubmittal of the site plan, with revisions addressing any significant outstanding comments (Any minor comments not yet addressed can be incorporated into the provisional finding of completeness)
- Written documentation that the WVDOH has issued the highway entrance permit and/or that it will be issued pending bonding
- West Virginia State Health Department permit numbers for public water and sewer
- If the above referenced documents are not submitted one (1) week prior to the next available Planning Commission meeting, the request by the applicant shall be automatically delayed to the next available Planning Commission meeting

The portion of the record of the Planning Commission meeting pertaining to this application and the official minutes thereof are incorporated herein by reference as if set forth in full herein.

Action taken on this __ day of _____ 2013
By vote of the Jefferson County Planning Commission
By a vote of __ Yes __ No

Planning Commission President

FB solutions residential construction management and design

9628 Moncove Lake Road Gap Mills, WV 24941 304 536 3743 fred@fredblackmer.com

Department of Planning and Zoning
116 East Washington Street
PO Box 338
Charles Town, WV 25414

June 3, 2013

Subject: MGM Site Plan Public Hearing

Planning Commissioners,

Morgan's Grove Market representatives have met with the county administrator and planning commission staff. One result of that meeting was the potential that we request a public hearing on the submitted site plan be scheduled prior to a determination of completeness of the application.

At issue is a sewer line construction permit issued by the State Department of Health. The applicant and representatives submitted final plans to the issuing authority on May 17, 2013. This is an effort to have this county planning staff requirement met prior to the July planning commission public hearing and consideration of the Morgan's Grove Market site plan action.

Reasoning for this request is due to the PC monthly meeting schedule, State BPH-Environmental permit administrative process and literal interpretation of meeting notice, posting and advertising conditions listed in the county ordinances. The Planning Commission would need to authorize scheduling of the public hearing at the June meeting in order for the public hearing to be completed in July.

If the applicant can't comply with providing staff required documents prior to the July meeting/hearing date, the item can then be held over to a later time.

I have spoken directly to the State BPH-Environmental reviewer. The plans have been reviewed. The only outstanding issues prior to the issuance of a permit number are comments from WV DEP. Our engineer is responding to those comments now.

This action is in the spirit and intent of the subdivision and land use ordinance. Approval will not negatively impact surrounding property owners and substantial justice will be done.

Respectfully,

Signed



Fred Blackmer

Morgan's Grove Market, Clerk of the Works

This information is
Tab #5 in your binder.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning & Zoning

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MEMO

TO: Jefferson County Planning Commission
FROM: Steve Barney, Zoning Administrator
DATE: May 23, 2013 (for June 11, 2013 Planning Commission meeting)
RE: Zoning Ordinance Amendments

Background

In 2010 and 2011, the County Commission approved several amendments to the Zoning Ordinance. A number of broad amendments with significant policy implications remain to be addressed, and should be deferred until after the completion of the Comprehensive Plan.

However, staff has identified a group of smaller (but still important) amendments that would reduce barriers to development, streamline processes, and improve the clarity of the ordinance. These amendments are of relatively limited complexity and do not appear to have significant policy implications. As such, this set of amendments could be undertaken now, while the Comprehensive Plan process is ongoing.

The proposed amendments are described below.

Recommend Amendments

- 1. Site Plan Requirement (Section 4.10).** The Zoning Ordinance currently states that a site plan must be submitted prior to initiation of development, but does not clarify that the site plan must be approved.
- 2. Restaurants and Convenience Stores in Shopping Centers (Section 5.8C).** This amendment would clarify that the Compatibility Assessment Meeting requirement does not apply to a building located within a shopping center shown on an approved site plan for restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area).
- 3. Wineries / Distilleries (Sections 2.2, 5.7, 8.5).** The Zoning Ordinance currently permits "Farm Breweries and Wineries" but the ordinance is silent regarding distilleries. This type of rural land use has become a prominent agribusiness in some parts of the country, and several interested parties have expressed a desire to create rural distilleries in Jefferson County. Staff proposes to amend the ordinance to clarify that distilleries are also permitted, and to define "Farm

Brewery”, “Farm Winery” and “Farm Distillery”. Additionally, staff proposes to increase the square footage restriction for buildings associated with a winery from 10,000 to 20,000 square feet, and to add other supplemental requirements, including those required by the West Virginia Code.

4. **Deck setbacks in certain townhome subdivisions (Section 9.5).** Numerous variance requests for deck setbacks in townhome subdivisions with small lots indicate the need for a code amendment.
5. **Receptions and events in Rural areas (Section 10.5).** A number of property owners have expressed interest in renting barns and homes in rural areas for use as reception facilities for weddings and other events. Currently, the Zoning Ordinance would only permit this type of land use (in limited form) as part of a bed and breakfast establishment; otherwise, a Conditional Use Permit would be required. Staff proposes to create a provision in the ordinance allowing this type of land use as a Special Exception that can be approved by the Board of Zoning Appeals.
6. **Secondary Dwelling Units for Agricultural Purposes (Section 10.5).** While the Zoning Ordinance allows attached two-family structures in the Rural District, it allows only one detached dwelling unit per lot. Many owners of agricultural property have expressed interest in adding a second unit in order that a farm caretaker can live at the property. Staff recommends creating a provision in the ordinance to allow a second detached dwelling (for agricultural purposes) as a Special Exception that can be approved by the Board of Zoning Appeals.
7. **Parking for Seasonal or Temporary Uses (Section 11.1).** The Zoning Ordinance parking requirements for non-residential uses do not distinguish between conventional uses (such as a retail store) and uses of a more rural or informal character, such as a farmers market or a fair. Staff recommends that the ordinance allow flexibility for staff to administratively waive parking requirements for seasonal or temporary uses, agricultural uses, events, or other types of uses that do not require parking on a regular basis.
8. **Public notice for zoning map amendments (Section 12.2).** Staff recommends that the public notice period for zoning map amendments be reduced from 30 days to 20-28 days in order to allow a zoning map amendment case to be scheduled on the next Planning Commission meeting following the applicant’s presentation of a map amendment petition.

Process to Date

Staff presented the initial draft of the proposed amendments to the Planning Commission on May 14, 2013. The Planning Commission scheduled a public hearing on the amendments for June 11, 2013.

Comments Received following May 14th PC Meeting

Following the May 14th Planning Commission meeting, staff updated the Board of Zoning Appeals on the amendments on May 16, and briefed the Engineering Department on May 21. Staff received the following comments from members of the Planning Commission, from the Board of Zoning Appeals, and from Engineering Department staff:

1. Accessory Agricultural Dwelling Units
 - a. Clarke County, VA has some provisions for allowing small accessory dwelling units administratively. (*Comment: Staff has confirmed that the Clarke County Zoning Ordinance allows as an accessory use "One dwelling of less than 600 square feet heated area on properties of six acres or more."*)
 - b. Consider permitting second units for agricultural purposes administratively.
 - c. Consider a requirement of a minimum acreage (for example, 30 acres) for a property to be eligible for an accessory agricultural dwelling unit.
2. Receptions and events in Rural areas
 - a. Establish criteria to allow some events administratively
 - i. Smaller events (fewer than 30 or 50 attendees, for example)
 - ii. Limited number of times per year
 - b. It may be appropriate to require traffic control for these types of temporary uses
 - c. WVDOH entrance permit for site may be required
 - d. Use of structures should be contingent on compliance with applicable building code requirements
3. Farm Breweries, Wineries, and Distilleries
 - a. It may be appropriate to establish a maximum threshold (e.g. xx,000 gallons) of production for a farm brewery/winery/distillery, in order to distinguish this land use from an industrial manufacturing use. (*Comment: Staff has confirmed that the West Virginia Code establishes such a threshold for farm distilleries and wineries.*)
 - b. The Zoning Ordinance currently lacks a definition of "Farm Brewery, Winery, and Distillery". Based on the definitions of "Farm Winery" and "Mini-Distillery" in the West Virginia Code, as well as examples from other jurisdictions, staff has proposed definitions and additional clarifying text for Section 8.5.
4. Deck Setbacks for Townhome Developments
 - a. This amendment is currently limited to the Residential - Light Industrial – Commercial District. Because townhome developments are also permitted in the Residential Growth District, the amendment should be expanded to include this district as well.
 - b. The amendment should clarify that reduced setbacks are also permitted for stairs associated with decks, as well as concrete slabs (i.e. patios).
5. Administrative Waiver of Parking Requirements
 - a. The amendment language should clarify what standard of the ordinance is being waived. The language should state that the waiver is for the requirement of permanent off-street vehicular parking.

Next Steps

After the June 11th public hearing, the Planning Commission can recommend changes to the ordinance amendments, and vote to recommend that the County Commission adopt the amendments. The County Commission will also conduct a public hearing, and at a subsequent meeting, vote on the adoption of the amendments.

Please let me know if you need additional information.

Att: Draft amendments to Zoning Ordinance sections listed above

16. Farm brewery, ~~and~~ winery, or distillery subject to the requirements for such a use in Article 8;
17. Rental of garden plots;
18. Community supported agriculture;
19. The warehousing; processing, value added, drying, storage, distribution and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, husbandry or production;
20. Forestry

Alternative Structure²²

For antenna-mounting purposes, a structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. The term Alternative Structure includes, but is not limited to, buildings, silos, water tanks, pole signs, lighting standards, steeples and electric distribution, electric transmission or other utility poles.

Amenities

Utilities, roadways, and public services which make a particular site more attractive for development. Section 6.4 governs the assessment of amenities as it relates to the Development Review System.

Antenna²²

Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, Personal Communications Services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

Antenna Array²²

Two or more antennas that operate as components of a complete antenna suite for a single Wireless Telecommunication Facility.

Antenna, Concealed²²

An antenna that is designed and/or erected on or in a building or alternative structure in such a way that it blends in with the existing façade and/or is located in such a way that it is not readily visible or discernible to the average individual at the adjacent street level.

Appalachian Trail Overlay District²²

For purposes of the Wireless Telecommunication Facilities Ordinance, the area within one mile of the centerline of the Appalachian Trail.

Applicant²³

Any person seeking to develop land, initiate a land use, obtain approval pursuant to the Development Review System Ordinance,

<u>Farm Winery</u>	<u>An agricultural use licensed as a “Farm winery” pursuant to the West Virginia Code, and meeting the requirements for a “Farm winery” in §60-1 of the West Virginia Code as amended. A farm winery is also subject to the requirements of Section 8.5 of this Ordinance.</u>
<u>Farm Distillery</u>	<u>An agricultural use licensed as a “Mini-distillery” pursuant to the West Virginia Code, and meeting the requirements for a “Mini-distillery” in §60-1 of the West Virginia Code as amended. A farm distillery is also subject to the requirements of Section 8.5 of this Ordinance.</u>
<u>Farm Brewery</u>	<u>An agricultural use that entails the manufacturing of beer in accordance with the requirements of the West Virginia Code. A farm brewery is also subject to the requirements of Section 8.5 of this Ordinance.</u>
Farm Vacation Enterprise ²³	A farm adapted for use as a rural vacation area, which may include picnicking and sporting areas, fishing waters, camping, scenery, nature recreation areas, and similar uses. The site may contain up to 5 lodging units.
FCC ²²	Federal Communications Commission.
Flood-prone Area	Areas subject to the one hundred (100) year flood as determined by the Flood Insurance Study prepared by the Federal Insurance Study prepared by the Federal Insurance Administration for Jefferson County, dated April 15, 1980, as may be amended.
Flood-prone Soils	Any area designated as flood-prone soils in the Soil Survey of Jefferson County, West Virginia prepared by the Department of Agriculture, Soil Conservation Service.
Frontage, Street	All property on the side of a street between two intersecting streets (crossing or ending), or if the street is a dead-end, then all property abutting on one side between an intersecting street and the dead-end of the street.
Functionally Equivalent Services ²²	FCC licensed providers of Commercial Mobile Radio Services (CMRS) classified as Cellular, Personal Communication Services (PCS), Paging, Specialized Mobile Radio (SMR) and Enhanced Specialized Mobile Radio (ESMR).
Glare	The effect produced by brightness sufficient to cause annoyance, discomfort, or lessen visual performance and visibility.
Governmental User ²²	Federal, state or local governments, or agencies or instrumentalities thereof, volunteer fire departments or rescue

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 thirty-five (35) feet of the intersection of the two (2) 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.²³

Section 4.10 Site Plan Requirements

- A. ~~A site plan shall be submitted~~ Submitted 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.²³
- 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. 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.²³
- D. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.^{10, 17, 21, 23}

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

- A. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a fifty (50) foot or greater unscreened green space buffer or a fifteen (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. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.⁵
- B. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have a buffer yard of no less than two hundred (200) feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard. All industrial development shall have front yard buffers of no less than one-half (½) the front yard building setback.^{5, 7}

24. Non-profit Community Centers¹⁵
 25. Landscaping business outside of Planning Commission approved subdivisions¹⁵
 26. Veterinary services outside of Planning Commission approved subdivisions¹⁵
 27. Feed and/or Farm Supply Center
 28. Agricultural Repair Center¹⁵
 29. Kennels (subject to the requirements for such a use in Article 8)¹⁵
 30. Hunting, Shooting, Archery and Fishing Clubs (subject to the requirements for such a use in Article 8)²⁰
 31. Agricultural Tourism
 32. Farm Vacation Enterprise
 33. Farm Brewery, ~~or~~ Winery, or Distillery
 34. Rental of Existing Farm Building, for commercial storage (structure must have existed for 5 years)
 35. Preschool
- B. Minimum Lot Area, Lot Width and Yard Requirements²³
1. Minimum lot sizes, lot width, and yard requirements for principal permitted uses are shown in Table 5.7-1.
 2. For any residential use that complies with the Development Review System, the setbacks and lot size shall be as outlined in Article 5.4.⁵

Table 5.7-1 – Lot Area, Width, and Yard Requirements for Principal Permitted Uses in the Rural District

Land Use	Lot Area	Lot Width	Front Yard Depth	Side Yard Depth	Rear Yard Depth
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	25	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50

3. Lot area for schools (K-12) as shown in Table 5.7-1 shall be increased by 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 sewage treatment plant and retention ponds are required, acreage shall be increased accordingly.^{1,23}

27. Vocational and/or Training Facility for Adults¹²
28. Church
29. Cultural Facility
30. Day Care Center, Small
31. Day Care Center, Large
32. Essential Utility Equipment
33. Publicly Owned Facility
34. Public Safety Facility
35. Accessory Uses
36. Group Residential Facility
37. Nursing or Retirement Home
38. Model Home/Sales Office (subject to requirements for this use in Article 8)¹²
39. Non-Profit Community Center
40. Non/Not for Profit Commercial Uses¹²
41. Preschool
42. Wireless Telecommunications Facilities pursuant to Article 4B

B. Standards²³

1. Industrial uses permitted in this district shall be of types that require daily water use of no more than 0.25 gallons per gross square feet of floor space.
2. Light industrial and commercial uses are subject to the standards for such uses in Article 8 of this Ordinance.²³

C. Other Regulations²³

1. All sections of this ordinance applying to the residential growth district with the exception of Section 5.4(a) will apply to residential uses in this District.
2. All commercial uses must conform with the commercial design standards and yard requirements cited in Sections 5.6(d) 1-6 and 4.6(b). All industrial uses must conform with the Industrial Design Standards and yard requirements cited in Sections 5.6(d) 1-6 and 4.6(a). Either use must be in compliance the requirements for such use in Article 8. In addition, a site plan, if required, must demonstrate that traffic patterns created by Commercial or Light Industrial uses (1) will not use adjacent residential roads for through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.^{5, 7, 23}
3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area) shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.²³ This requirement shall not apply to a building located within a shopping center shown on an approved site plan.

Section 8.5 Farm Brewery, ~~or~~ Farm Winery, or Farm Distillery²³

- A. All structures associated with the operation of a farm brewery, ~~or~~ farm winery, or farm distillery may not exceed 1020,000 square feet.
- B. No sale of alcohol for onsite consumption is permitted.
- C. The use may include facilities for fermenting, processing, bottling, packaging, and storage of products produced on-premises
- D. Permitted accessory uses include the following:
 - a. incidental tastings of products produced on-premises
 - b. incidental food sales associated with tastings, not including a restaurant
 - c. sales of packaged products produced on-premises
 - d. sales of novelty and gift items associated with products produced on-premises
- E. Twenty-five percent of the raw products for an product containing alcohol that is produced by a farm brewery, farm winery, or farm distillery must be produced (i.e. grown and harvested) on the premises of the farm brewery, farm winery, or farm distillery, with no more than twenty-five percent of such produce originating from any source outside this state.
- F. Production limits are as follows:
 - a. A farm brewery may produce annually up to 5,000 barrels of beer (155,000 gallons)
 - b. A farm winery may produce annually up to 50,000 gallons of wine and similar products
 - ~~a-c.~~ A farm distillery may produce annually up to 20,000 gallons of alcoholic liquor

Section 8.6 Farm Market²³

The floor area of a farm market may not exceed 1,500 square feet, a front yard setback of fifty feet (50) from the street right-of-way must be maintained, and off street parking must be provided.

Section 8.7 Jails and Prisons²³

Due to the special conditions surrounding a jail, prison, or penal institution, all such projects shall only be allowed in the Industrial-Commercial Zone and shall be subject to the Development Review System as outlined in Article 6 of this Ordinance.⁵

Design Standards for Jails, Prisons and/or Penal Institutions are as follows:⁵

Section 9.5 Projections Into Yards⁸

- A. Projections such as bay windows, chimneys, entrances, uncovered porches, balconies, and eaves may extend into any required yard not more than four (4) feet; provided that such projections are not over ten (10) feet in width. All roof overhangs may extend into any required yard not more than two (2) feet; provided that the primary structure is located entirely within the appropriate setback.²³
- B. Fences and walls over six (6) feet in height shall meet building lines and yard requirements. A building permit is required before construction. Fences and walls six (6) feet and under in height shall be exempt from building lines and yard requirements unless obstructions to vision at an intersection as referenced in Section 4.9.²³
- C. In the Residential - Light Industrial - Commercial District, on townhouse lots with a lot depth of 110 linear feet or less and/or a lot area of 3,500 square feet or less, the rear setback of a deck for a townhouse may be reduced to 10' if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence.

~~B.~~

Section 9.6 Accessory Structures

Accessory structures, defined by Section 2.2, shall be permitted in all districts where single-family and two-family dwelling units are permitted. The provisions for accessory structures are as follows.

- A. The minimum distance to a lot line in any District from a single-story utility or storage shed, not exceeding one hundred fifty (150) square feet, shall be five (5) feet.
- B. In any District wherein single-family and two-family dwellings are permitted, the minimum distance from any accessory structure, not attached to the principal permitted use, to the side or rear lot line shall be not less than the longest horizontal dimension of the accessory structure or the minimum distance specified for that District, whichever is the lesser of the two.
- C. No accessory building shall be erected within the required front yard.

Section 9.7 Other Exceptions³

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:²³

Residential Growth District²³

shall not face the adjoining residence. Signs governed by the Development Review System are subject to Section 10.4 (e). Structures which have more than one use shall be required to use a pylon sign. One is permitted on each street frontage.⁸

- D. All outdoor advertising signs shall be spaced in such a manner that in an Industrial District there shall be a minimum of three hundred (300) feet between signs, and in the Rural District, where permitted, such signs shall be located in such a manner that there shall be one thousand (1,000) feet between signs. This shall be subject to Section 10.4 (e).
- E. All signs accessory to land use that must be evaluated by the Development Review System (DRS) shall be proposed within the DRS application and assessed at the Compatibility Assessment Meeting. Such signs shall be maintained at least one thousand (1,000) feet between signs. Consideration of the placement of such signs with less than one thousand (1,000) foot intervals shall be determined by the Commercial or Residential Uses adjacent to the subject site. Commercial uses adjacent to the subject site may allow spacing intervals of three hundred (300) feet. The Planning Commission shall make this determination if the location cannot be agreed upon at the Compatibility Assessment Meeting.^{2, 17, 21, 23}
- F. No outdoor advertising sign shall be placed closer than three hundred (300) feet to an intersection on a dual or proposed dual highway or within one hundred feet of any other intersection; provided, however, that such signs may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than caused by the building itself. No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.
- G. All outdoor advertising, excluding billboards subject to Section 10.4 (h), shall comply with front yard setback provisions in the districts in which they are permitted.
- H. Billboards
 1. No billboard shall be closer to any public highway right-of-way than three (300) feet.
 2. Placement of a billboard must be in a location that is within eight hundred (800) feet of an existing business.
 3. There shall be a minimum of one thousand (1000) feet between billboards.
 4. A billboard shall be no closer than five hundred (500) feet from a church, school, or cemetery.

Section 10.5 Special Exception Uses

~~(Requiring Board of Zoning Appeals after Public Hearing)~~

A. Special Exception uses listed in this section may be approved by the Board of Zoning Appeals following a public hearing.

- a. The public hearing shall be conducted according to the requirements of Section 3.4A(3)(c).
- b. Such hearing may be continued according to the requirements of Section 3.4A(3)(d).

c. The public hearing is subject to the notification requirements of Section 3.4A(3)(b).

B. The following uses may be approved as a Special Exception:

a. Outdoor advertising signs including billboards. The ~~may be approved by the~~ Board of Zoning Appeals shall determine if ~~such a sign~~ conforms to existing State law and does not have a negative effect on the neighborhood or intent of this Ordinance.^{17, 21}

b. Detached accessory dwelling units for agricultural purposes, such as units for occupancy by farmworkers or caretakers. Such units may be approved based on the Board's evaluation of the size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood.

c. Use of existing structures and outdoor areas as facilities for weddings and similar events. Such a land use may be approved based on the Board's evaluation of the proposed frequency and size of the proposed events, adequacy of parking area, size of the subject property, adequacy of vehicular access to the property, impact on adjacent properties, and compatibility with the neighborhood.

Section 10.6 Zoning Certificate²

All Zoning Certificate applications for signs may be approved by the Departments of Planning and Zoning if in conformance with the regulations.^{17, 21, 23}

C. Upon request, on a case by case basis, the Zoning Administrator may administratively waive parking requirements for seasonal or temporary uses, agricultural uses, events, or other types of uses that do not require parking on a regular basis. The applicant must provide an exhibit that demonstrates that the parking will occur on level ground, shows the location of the parking, and identifies how handicapped accessibility (if applicable) will be addressed.

Section 11.2 Residential Parking Standards²

To decrease congestion, permanent off-street automobile parking space and truck loading space shall be provided for all new structures and uses, and for existing structures or uses that are increased in size by 20 percent or more after adoption of these regulations.²³

Spaces shall be required per residential uses as follows:

<u>Type of Residences</u>	<u>Parking Requirements</u>
Single Family Detached	Driveway Only
Single Family Attached (Duplex or Two-Family)	Driveway Only ²³
Single Family Attached (Townhouse)	See the Jefferson County Subdivision and Land Development Regulations, Appendix B, Division 5.0 ²³
Multi-Family	See the Jefferson County Subdivision and Land Development Regulations, Appendix B, Division 6.0 ²³

ARTICLE 12: MAP AND TEXT AMENDMENTS

Section 12.1 Purpose

- A. These regulations, restrictions, provisions, and the boundaries of districts provided herein may from time to time be amended, modified, or repealed by the County Commission. Any person, individual, board, commission or bureau of the County may petition the County Commission for such change.
- B. The County Commission shall refer any amendment or alteration of this Ordinance to the Planning Commission for analysis, study, report, and recommendations regarding compatibility with the Comprehensive Plan as well as consideration as to whether a Conditional Use Permit (CUP) or other process may be a more appropriate process.^{17, 21, 23, 25}

Section 12.2 Procedure for Amendment by County Commission^{1,25}

- A. After the enactment of the Zoning Ordinance, the governing body of the County may amend the Zoning Ordinance without holding an election.^{17, 21}
- B. Before amending the Zoning Ordinance text or map, the governing body, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of §8A-7-8 et seq of the West Virginia State Code, as amended.^{17, 21, 25}
- C. All amendments to the Zoning Ordinance Map require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination.
 - 1. Public Notice of the Public Hearing for a Zoning Map amendment before the Planning Commission requires the following:
 - a. A legal advertisement describing the location and identification of the subject parcel for which the zoning is proposed to be changes, including the current tax district, map and parcel number, and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation;
 - b. Any property affected by the proposed zoning map amendment shall be posted ~~at least 30~~ not less than 20 and not more than 28 days prior to the Public Hearing. The posting shall state the time, date, and location of such hearing, as well as, what new zone is being requested on the property; and
 - c. All property owners adjoining the property proposed to be rezoned shall be noticed by first class mail not less than 20 and not more than 28 ~~at least 30~~ days prior to the Public Hearing. The adjoining letters shall be mailed by the Department staff and shall state the time, date, and location of such hearing, as well as, what new zone is being requested on this particular property. The letter

Principal Permitted Uses Table (continued)²³

Land Use	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Agricultural Uses							
Agricultural Repair Center	P	NP	P	P	NP		
Agricultural Tourism	P	NP	P	P	NP		
Agricultural Uses as defined in Article 2	P	P	P	P	P		
Farm Brewery or Winery	P	NP	P	P	NP		Sec. 8.5
Farm Winery	P	NP	P	P	NP		Sec. 8.5
Farm Distillery	P	NP	P	P	NP		Sec. 8.5
Farm Market	P	NP	P	P	NP		Sec. 8.6
Farm Vacation Enterprise	P	NP	P	P	NP		
Feed and/or Farm Supply Center	P	NP	P	P	NP		
Horticultural Nurseries and Commercial Greenhouses	P	NP	P	P	NP		
Landscaping Business	P	NP	P	P	NP		
Rental of Existing Farm Building for Commercial Storage (structure must have existed for 5 years)	P	NP	P	P	NP		
Accessory Uses							
Accessory Uses	P	P	P	P	P		

P = Permitted use

NP = Not permitted use

PC = Use permitted conditionally subject to requirements of district

* = Limited permitted uses

** = Accessory use to a planned residential community

This information is
Tab #6 in your binder.



JEFFERSON COUNTY, West Virginia
Departments of Planning and Zoning
 116 East Washington Street, 2nd Floor
 Charles Town, WV 25414

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

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

MEMORANDUM

TO: Planning Commission
FROM: Jennifer M. Brockman, Director of Planning and Zoning
DATE: June 11, 2013
RE: County Commission Text Amendment Request (Discussion and Possible Action)

At their May 23, 2013 meeting, the County Commission passed a motion initiated by Commissioner Lyn Widmyer requesting that the Planning Commission research and report back to the County Commission, on a possible amendment to the Residential-Light Industrial-Commercial Zone and the Commercial-Industrial Zone. Commissioner Widmyer is interested in pursuing a Zoning Ordinance text amendment that would require all Zoning Map Amendment Requests to the identified Zoning Categories be accompanied by a development plan that reflects design elements that indicate how it would protect neighborhoods. She suggested that the requirements of the development plan should be the same as those that were proposed by the Planning Commission as a part of rezoning applications for the Planned Neighborhood Development District, such as:

- Graphic illustration of locations of proposed land uses;
- Landscaping areas, pedestrian amenities;
- Interconnectivity of roads, trails, sidewalks and adjacent parcels;
- Open space areas of undisturbed tree canopy;
- Passive or active recreational areas;
- Setbacks for buildings, parking, drive aisles and other features associated with the proposed development;
- Proposed square footage of development by type;
- Proposed residential densities;
- Proposed building heights; and
- Any requested modifications to the standards of the Zoning Ordinance or the Subdivision and Land Development Regulations.

Article 12 of the *Jefferson County Zoning and Land Development Ordinance* requires the following (emphasis added):

Section 12.1 Purpose

- A. These regulations, restrictions, provisions, and the boundaries of districts provided herein may from time to time be amended, modified, or repealed by the County Commission. Any person, individual, board, commission or bureau of the County may petition the County Commission for such change.
- B. The County Commission shall refer any amendment or alteration of this Ordinance to the Planning Commission for analysis, study, report, and recommendations regarding compatibility with the Comprehensive Plan as well as consideration as to whether a Conditional Use Permit (CUP) or other process may be a more appropriate process.

Section 12.2 Procedure for Amendment by County Commission

- A. After the enactment of the Zoning Ordinance, the governing body of the County may amend the Zoning Ordinance without holding an election.
- B. Before amending the Zoning Ordinance text or map, the governing body, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of §8A-7-8 et seq of the West Virginia State Code, as amended.
- D. All amendments to the Zoning Ordinance Text require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended text amendments require a Public Hearing before the County Commission prior to a final determination.

The Planning Commission needs to take action on how to respond to this request by the County Commission. Alternatives include, but are not limited to, the following:

- 1) Have a workshop with legal and planning/zoning staff to review and edit the proposed text and forward the final draft to the County Commission for their review prior to moving forward with a Public Hearing; or
- 2) Have a workshop with legal and planning/zoning staff to review and edit the proposed text and hold a Public Hearing on the proposed text at a meeting in the next few months. Following the Public Hearing, the Planning Commission is required to make a recommendation to the County Commission regarding the proposed text and whether it is compatible with the Comprehensive Plan; or
- 3) Schedule a Public Hearing on the wording provided by the County Commission for the purpose of receiving public input and then finalize the text based on this input for the purpose of forwarding it to the County Commission with a recommendation regarding the proposed text and whether it is compatible with the Comprehensive Plan; or
- 4) Other alternatives determined by the Planning Commission.

Commissioner Widmyer is expected to be in attendance at the June 11, 2013 Planning Commission meeting to answer any questions regarding this request.

June 6, 2013

Jennifer M. Brockman, AICP, Director of Planning & Zoning
Jefferson County Departments of Planning and Zoning
The Mason Building
116 East Washington Street, Suite 200
Charles Town, WV 25414

Dear Ms. Brockman,

My statement is a request to be made part of the official record concerning amending zoning changes within Jefferson County, West Virginia. While I am aware of the 2012 requirements:

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

I believe there is a critically overlooked point – that being DISCLOSURE to you, the Planning Commission as well as residents living within an area of zoning change or request for zoning change that relates to a discussion on an up-coming amendment proposed by Jefferson County Commissioner, Lyn Widmyer on June 11, 2013.

I live in a subdivision on the out-skirts of Charles Town; Cloverdale Heights, parallel to US 340. This stretch of highway is a route thru rural Jefferson County; quaint, scenic and mostly farmland with other homes on mid to large plats of land and sporadic placement of small comfort-type businesses.

Several ideas from different businesses have circulated thru the years in what could or should be changed to bring business to West Virginia – everything from rodeos to gas stations, high rise buildings for corporate or medical initiatives and/or industrial complexes and recreational park-like activities. However they are not required to be included on re-zoning applications to my knowledge. An oversight of important facts?

It is my opinion re-zoning applications of any sort **must require FULL DISCLOSURE to the Planning Commission** remaining as a matter of formal record to the County Commission, and hopefully residents of any re-zoning application to encourage citizen participation.

Disclosure must explicitly define the business that is under consideration for such re-zoning - most importantly the business demographics being considered.

Open disclosure is in the best interests of all.

Due to the lack of institutional knowledge being transferred from previous and existing personnel to new personnel the inclusion of FULL DISCLOSURE would correct many on-going issues of involuntary evasion and mis-conception of information.

It is with great concern I request your consideration to require detailed disclosure to you, the Planning Commission, and onward to the residents when re-zoning land(s) in Jefferson County as a line item to an amendment you will be discussing June 11th.

Should you accept this disclosure request of requirement I encourage you to use not only your website for circulation of information, I encourage you to include obvious articles of re-zoning changes in our local newspapers so as to remain transparent in the eyes of us all.

Respectfully, and in support of Commissioner Widmyer's suggested amendment to the zoning ordinance to include disclosure. (Honestly – it's a no-brainer, it protects everyone.)

A handwritten signature in blue ink that reads "Nance L. Briscoe". The signature is written in a cursive style and is positioned above a horizontal line.

Nance Briscoe
22 Cloverdale Place
Charles Town, West Virginia 25414
briscoen@frontiernet.net 304.728.2201

CC: Jefferson County Commission

This information is
Tab #7 in your binder.

JEFFERSON COUNTY, WEST VIRGINIA
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MEMO

TO: Jefferson County Planning Commission
FROM: Steve Barney, Zoning Administrator
DATE: June 7, 2013
RE: Draft Zoning Ordinance Amendments – Proposed Commercial and Industrial Districts
 and Related Changes

Background

In 2011 and 2012, the Planning Commission and County Commission both identified as a high priority the expansion of the number and variety of commercial zoning districts in the Zoning Ordinance.

The ordinance currently has only two commercial districts: the Residential-Light Industrial-Commercial and Industrial - Commercial District. The overly broad nature of these districts has led to concern by members of the public when property owners have proposed to rezone land to these districts in new locations throughout the County.

Accordingly, at the direction of the County Commission, staff undertook a year-long effort to develop additional commercial and industrial zoning categories, including districts that would allow appropriate limited commercial ventures in suitable locations.

Status of Draft Amendments

The Planning Commission has reviewed the draft recommendations during five of its meetings, solicited public input during a February 14, 2012 workshop, and conducted a public hearing that spanned two meetings in April 2012. Following the public hearing, the Planning Commission directed staff to develop recommendations regarding possible changes to the ordinance amendments as a result of the comments received at the public hearing.

At its June 12, 2012 meeting, the Planning Commission voted to recommend the draft ordinance amendments to the County Commission for adoption, including proposed changes as a result of public comment.

Staff briefed the County Commission on the amendments in August, 2012. The County Commission conducted a public hearing in September, 2012, and extended the time period for public comment for two additional weeks after the meeting.

On October 11, 2012, staff briefed the County Commission on public comments received, and recommended changes to the amendments to address the comments. On October 25, 2012, the County

Commission voted 3-2 to postpone consideration of the amendments until after the adoption of the Comprehensive Plan.

At the May 14, 2013 Planning Commission meeting, in response to comments by Commissioner Pellish, the Planning Commission directed staff to brief the Commission regarding the draft amendments at its June 11, 2013 meeting.

Proposed New Zoning Districts

Recommended additional zoning categories are as follows:

1. Neighborhood Commercial (NC) – Neighborhood serving shops and services, compatible with adjacent residential areas.
2. General Commercial (GC) – Retail stores, shopping centers, gas stations, and other general-purpose commercial uses.
3. Highway Commercial (HC) – Land uses appropriate for major highways, including larger retail stores and large gas stations.
4. Light Industrial (LI) – Warehousing, light manufacturing and other land uses that do not produce significant externalities (noise, odors, etc).
5. Major Industrial (MI) – Uses of a more intense nature than would otherwise be permitted in the Light Industrial district.
6. Planned Neighborhood Development (PND) – A district that allows customization of standards in order to provide a better fit for a particular development or piece of property. This district would allow implementation of conditions or restrictions offered by a property owner or developer.
7. Office/Commercial Mixed Use (OC) – A district intended to allow for well-designed employment centers that may also include residential uses.

Proposed New Land Use Categories

Together with the establishment of new districts, the list of permitted, conditional, and prohibited land uses in the ordinance should also be revised in order to effectively make distinctions between the new districts. As such, several new land uses are proposed. These new uses are predominantly commercial. Definitions are proposed for several of these new land uses whose meaning may be debatable.

In the draft amendments, the proposed new land uses are also reflected in the County's five existing zoning districts, as shown in Appendix C, Permitted Uses Table. In recommending the permitted use status of the proposed new uses in the existing districts, staff has made every effort to reflect the character of the existing zoning districts. For example, new land uses of an overall commercial character are shown as permitted in the Residential - Light Industrial - Commercial district, but not permitted in the Rural, Residential Growth, or Village Districts, consistent with the intent of these districts.

Other Associated Amendments

In addition to the proposed new districts, staff has recommended other associated amendments to the Zoning Ordinance. These amendments are described in the attached document entitled "List of Related Zoning Ordinance Amendments." All amendments are reflected in the body of the Zoning Ordinance text included with this memo, as well as Appendices A, B, and C and the list of definitions (Section 2.2).

Changes Following Planning Commission Action

Based on comments received from members of the public as well as County Commission members at the County Commission public hearing (or submitted in writing), staff has recommended several changes to the draft ordinance since the Planning Commission last reviewed it in June 2012. The revised version of the ordinance in the current Planning Commission packet reflects these recommend changes.

One of the most significant changes is to the proposed location criteria – i.e. the language specifying where in the County each district would be appropriate. As a result of feedback that the intended use of the districts should be clearly linked to the Comprehensive Plan, staff recommends deleting the detailed location criteria (proposed previously) and replacing it with language that specifies that each of the new zoning categories is intended for use on properties:

- in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
- in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

This language defers to the existing Comprehensive Plan, and also provides that a future land use map in a subsequent Comprehensive Plan will guide the appropriate locations of the land use categories that correspond to the zoning districts.

A document included in the agenda packet for this meeting provides a list of the significant changes, including those changes based on the input received at the County Commission hearing (in addition to written comments), as well staff recommendations for edits to refine the draft ordinance. These changes are also highlighted in yellow in the draft ordinance.

Amendments to some sections will be addressed by the smaller set of amendments for which the Planning Commission will conduct a public hearing on June 11th, and have been so noted in the new draft of the New Commercial and Zoning Districts amendments.

Attached Information

In addition to this memo, the agenda packet for this item includes the following components:

1. A list of amendments related to the proposed new commercial zoning districts, including additional recommended changes following the County Commission public hearing.
2. A revised draft of the ordinance amendments, including Appendices A, B, and C and revisions to Section 2.2 (Definitions).
3. A memo providing staff recommendations regarding consistency of the proposed amendments with the Comprehensive Plan.
4. Study Area Map from the adopted 2004 Comprehensive Plan.

Next Steps

The amendments have been reviewed at a Planning Commission public hearing, as well as at a County Commission public hearing. If the Planning Commission finds it appropriate for the amendment to proceed, the Commission can recommend that the County Commission review the current version of the draft ordinance for possible action.

If the Planning Commission finds that there have been significant changes to the ordinance following the Commission's June 2012 affirmative vote to recommend the ordinance, it may choose to conduct an additional public hearing prior to making a new recommendation to the County Commission.

For more information, please contact me at zoning@jeffersoncountywv.org.

Att: Summary descriptions of each proposed zoning district
Changes to Draft Zoning Text Amendments – Proposed Commercial and Industrial Districts and Related Changes
Revised draft of the ordinance amendments, including Appendices A, B, and C and revisions to Section 2.2 (Definitions).
Study Area Map from the adopted 2004 Comprehensive Plan.

Neighborhood Commercial (NC)

Purpose:

The purpose of this district is to permit the development of small scale commercial uses in locations where a commercial use of the intensity permitted in the GC District would not be appropriate. Developments in the NC district should be appropriate in scale, designed, landscaped and buffered so as to be compatible with neighboring land uses.

Location:

1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

Permitted Uses:

Uses permitted include neighborhood-serving commercial uses such as some types of retail shops, services and offices that are compatible with adjacent residential areas. Uses are generally of a smaller scale than those allowed in the GC district. Some residential uses are also permitted, such as upper-floor residential uses in a commercial building. Other uses may be permitted by Conditional Use Permit or Special Exception.

Special Standards include:

1. No side yard setback required for non-residential uses abutting commercial or industrial uses.
2. Parking shall be located in rear or on side of building.
3. Limitation of 3,500 square feet of building footprint per building.
4. Designated 15' pedestrian zone including sidewalk/trail and landscaping.
5. One or more entrances facing principal street



General Commercial (GC)

Purpose:

The purpose of this district is to provide for general destination business uses which provide a broad range of commercial products and services necessary for large regions. The uses in this district may be characterized by medium-to-large buildings (including retail stores of up to 100,000 square feet), more intensive commercial activity, and more vehicular traffic than would be permitted in the NC district.

Location:

1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

Permitted Uses:

The GC District allows uses permitted in the NC District, in addition to a broader variety of retail stores, repair shops, wholesale businesses, and offices. Residential uses are not permitted in the GC District.

Special Standards include:

1. Individual buildings with area over 100,000 sq. ft. require approval as a Special Exception by the Board of Zoning Appeals.



Highway Commercial (HC)

Purpose:

The purpose of this district is to provide appropriate locations for high-intensity, motor-vehicle oriented commercial uses fronting on major roadways. The uses in this district may be characterized by a broad scale of building sizes, which may include very large buildings that exceed 100,000 square feet and which may have a greater impact on surrounding areas as a result of significant truck traffic and other factors. This district may include land uses that are more intensive than other commercial districts and incompatible with nearby adjacent residential uses.

Location:

1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

Permitted Uses:

Uses in the HC District include most uses permitted in the General Commercial (GC) District, in addition to large gas stations and large retail stores.



Light Industrial (LI)

Purpose:

The purpose of this district is to provide locations for lighter manufacturing processes which are not as extensive as those provided in the Major Industrial District and can be served with adequate public or community water and sewerage service. In this district, most manufacturing is composed of processing or assembly of previously processed materials.

Location:

1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

Permitted Uses:

Uses in the LI District include most uses permitted in the General Commercial (GC) District, in addition to low impact industrial uses such as light manufacturing, assembling, and fabrication, in addition to warehousing, wholesale, and service uses where little or no nuisance effects are generated.

Special Standards include:

Larger setbacks required for Light Industrial uses located near a dwelling, school, church or institution for human care or a residential zoning district.



Major Industrial (MI)

Purpose:

This district is intended to provide sufficient space in appropriate locations for a wide variety of industrial activities. The uses in this district can be served with adequate public or community water and sewerage service, and may be characterized by extensive warehousing, frequent heavy trucking activity, and broader manufacturing activity than would be permitted in the Light Industrial district.

Location:

1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

Permitted Uses:

Permitted uses include Light Industrial and Major Industrial Uses. Some appropriate commercial uses that do not entail frequent customer traffic may be permitted, or established by Conditional Use Permit or Special Exception.

Special Standards include:

Larger setbacks required for Major Industrial uses located near a dwelling, school, church or institution for human care or a residential zoning district.



Planned Neighborhood Development (PND) District

Purpose:

The purpose of the PND District is to:

1. encourage flexibility in the development of land in order to promote its most appropriate use;
2. improve the design, character and quality of new developments;
3. provide and promote redevelopment and reuse opportunities;
4. encourage a harmonious and appropriate mixture of uses and/or housing types;
5. facilitate the adequate and economic provision of streets, utilities and city services;
6. preserve critical natural environmental and scenic features of the site;
7. encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features and to provide transitions between land uses; and
8. mitigate the problems which may be presented by specific site conditions.

Location:

1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

Permitted Uses:

Uses in the PND District include those uses permitted in the General Commercial (GC) District, in addition to multi-family and townhouse residential uses, and small-lot single-family residential uses.

Special Standards include:

1. Planning Commission approval of a PND plan required
2. Mix of Uses Required:
 - 10-30% commercial
 - 10-30% high density residential
 - 20-40% medium density residential
 - 0-60% low density residential
3. Modification of Development Standards Allowed:
 - Height
 - Impervious surface
 - Setbacks
 - Other standards
 - Permitted uses
4. Open Space Requirements
5. Connectivity and Street Network Requirements



Office / Commercial (OC) Mixed-Use District

Purpose:

The purpose of the OC district is to allow for well-designed employment centers. Developments in the OC district contain a mix of land uses, primarily oriented to commercial, and office uses but also allowing multi-family and attached single-family residential uses. Developments are oriented to principal streets, contain substantial public space and streetscaping, allow for pedestrian movement within the site and between adjacent sites, and meet the design standards provided for this district.

Location:

1. In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

Permitted Uses:

Uses in the OC District include those uses permitted in the General Commercial (GC) District, in addition to multi-family and townhouse residential uses.

Special Standards include:

1. No side yard setback required for non-residential uses abutting commercial or industrial uses.
2. Buildings fronting a principal street must be at least 2 stories in height.
3. Minimum of 75% of ground floor commercial space required.
4. Parking shall be located in rear or on side of building.
5. Designated 15' pedestrian zone including sidewalk/trail and landscaping.
6. One or more entrances facing the principal street.



Changes to Draft Zoning Text Amendments – Proposed Commercial and Industrial Districts and Related Changes

At its June 12, 2012 meeting, the Jefferson County Planning Commission voted to recommend to the County Commission for adoption a set of Zoning Ordinance amendments regarding proposed commercial and industrial districts and related amendments. The draft of the ordinance recommended by the Planning Commission included proposed changes as a result of public comment associated with a public hearing that the Planning Commission conducted in April 2012.

The County Commission also conducted a public hearing, in addition to accepting written comments. Staff has recommended changes to the ordinance in response to these comments, as well as edits to refine the draft ordinance.

Significant proposed changes are listed below. Please see the draft ordinance (available in the Planning Commission agenda packet) for all changes, which are highlighted in yellow in the draft ordinance.

Section 2.2

- Changes to definitions, such as: Retail Food Store, Limited; School, College or University; Restaurant; Retail Store, Large; and Shooting Range, Outdoor
- New definitions, such as: Gross Floor Area; Horse Racing Facility; School, Vocational or Professional; and Shopping Center.

Section 4.6

- Clarify what is meant by a “residential district”.
- Clarify that parking is not subject to the distance setback for industrial and commercial uses.
- Relocation of sentence regarding applicability of section.

Section 4.11

- Additional text is added to this section to match the requirements shown in Table 4.11, such as the requirement of buffer yards for multi-family development and 20’ screened buffers for industrial development.
- Table 4.11: In response to public comments, staff is proposing to relocate to Appendix A and Appendix B all the requirements shown in Table 4.11. This move will consolidate setbacks, buffers, distance requirements and other site development standards into the same table.

Section 5.6

- Relocation of the yard requirements of Section 5.6D to Appendix A and B.

Sections 5.11 – 5.17

- The location criteria for each district has been deleted and replaced with language that specifies that each of the new zoning categories is intended for use on properties:
 - in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
 - in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

Section 5.11 (Neighborhood Commercial District)

- Purpose (5.11A) – amend language to better reflect the intent of the district.
- 5.11C - In order to clarify that a commercial building in the NC District may include residential units, add the following text: “3. A non-residential land use in this district may include residential uses on building levels located above the ground floor.” (Please note that this district no longer allows standalone multi-family or townhouse uses.)
- 5.11E – add language to clarify that a landscaped buffer yard in the NC district need not screen the view of the development from the adjacent street(s).

Section 5.12 (General Commercial District)

- Purpose (5.12A) – amend language to state that the district allows retail stores of up to 100,000 square feet for an individual building.

Section 5.13 (Highway Commercial District)

- Purpose (5.13A) – amend language to state that the district allows retail stores that exceed 100,000 square feet for an individual building.

Section 5.14 (Light Industrial District)

- Purpose (5.14A) – amend language to remove specific references to road classifications.

Section 5.15 (Major Industrial District)

- Purpose (5.15A) – amend language to remove specific references to road classifications.

Section 5.16 (Planned Neighborhood Development District)

- 5.16A.8 – Amend to clarify the intent of “critical environmental features” and “scenic features”.
- Add language to Section 5.16D.1 to clarify that development standards in the PND District may be modified.
- Amend 5.16E.1 to define high, medium, and low densities.

- Amend open space requirements of Section 5.16E.2 to allow for inclusion of acreage of critical environmental features.
- Amend Section 5.16E.3 to clarify requirements for pedestrian and vehicular connections.
- Add new subsection 5.16E.6 to require dedication of a trail easement under certain circumstances.
- In order to clarify public notice requirements for a rezoning request for the PND District, amend Sections 5.16F.3.b and 5.16F.3.d to add, “In addition to the notification requirements of Article 12, public notice for a PND shall include any requested modifications of development requirements.”

Section 5.17 (Office/Commercial Mixed Use District)

- Amend Section 5.17E.1 to require a percentage of office uses.

Section 6.3

- Add language to be more specific regarding the proposed exemption from the soils component of a LESA score for CUP developments that would entail little or no disturbed area.

Appendix A

- Add footnote to establish a more flexible rear setback for some small lots in townhome communities.
- Addition of Parking / Drive Aisle Setbacks and Screened Buffers to table (from Table 4.11-1).
- Addition of note stating that the requirements in this table are in addition to any other applicable requirements in the text of the Ordinance, and referring users to Article 8 for site development standards for certain land uses.
- Adds an allowance for reduced rear setbacks for decks in townhome developments with small lots in the Residential - Light Industrial - Commercial district. *[Note: the amendment to this section is also under consideration in Agricultural Uses and Related Amendments currently under review].*

Appendix B

- Addition of Parking / Drive Aisle Setbacks, Screened Buffers, and Distance Requirements to table (from Table 4.11-1) in order to consolidate setback requirements into one table.
- Clarifies buffer requirements by adding (U) for “unscreened” and (S) for “screened”.
- Various changes to footnotes, including:
 - Addition of note stating that the requirements in this table are in addition to any other applicable requirements in the text of the Ordinance, and referring users to Article 8 for site development standards for certain land uses.
 - Clarification of applicability of standards to churches
 - New or amended footnotes that reflect ordinance standards for uses in the Village District, Neighborhood Commercial District and Office/Commercial Mixed Use District.

Appendix C

- For NC district, show Multi-family, Townhouse, and Heliport as “NP” (not permitted).
- Show the land use “Gambling Facilities” as “C” (a conditional use) in the Industrial - Commercial District and the Major Industrial District, and “NP” (not permitted) in the Light Industrial District.
- Amend permitted status of Heavy Equipment Repair in the Industrial - Commercial District from “PC” to “P”
- Show Retail Sales and Services, General as “NP” (changed from “P”) in the Neighborhood Commercial District.
- Amend permitted status of Restaurant, Fast Food in the RLIC District from “P” to “PC” to accurately reflect existing requirements.
- Consolidation of General Standards column into Additional Standards column; addition of several ordinance section numbers.
- Continue to show the use “Commercial Uses” as a permitted use in the Residential - Light Industrial – Commercial district and the Industrial - Commercial District.
- Amend list of land uses to add land uses “School, College or University”; “School, Vocational or Professional”; “Horse Racing Facility”; and “Custom Manufacturing”; and indicate in which districts the uses are permitted.
- Changes to notes:
 - Deletion of statement that table is for reference purposes only, and that the ordinance will prevail in the event of a conflict with the ordinance.
 - Amendment of header notes regarding conditional uses, limited permitted uses, and accessory uses to a planned residential community.
 - Addition of two footnotes regarding the PND District and the approval process for a Salvage Yard.

Other

In addition, staff has recommended additional minor changes to address formatting, grammar, consistency, numbering, typographical errors, and similar changes.

Draft Zoning and Land Development Ordinance Amendments

1. Ordinance Language
2. Appendices A, B, and C
3. Section 2.2 (Definitions)

Key to Formatting of Amendments:

Black text = Existing, unchanged ordinance text

Blue Text = Text proposed to be added

~~Red text~~ = Text proposed to be deleted

Highlighted text / highlighted text = Text changed following the most recent version of the draft ordinance amendments available to the public (in the 8/16/12 County Commission agenda packet)

[text in brackets] = Comments for the purpose of clarifying proposed amendments. These comments are not intended as changes to the ordinance and will not appear in the final version of the ordinance.

Residential ¹	Any detached or attached structure that is used for permanent living quarters and has kitchen facilities.
Residential Care Home ²³	The use of a site for the provision of a family-based facility in a single-family dwelling unit providing 24 hour care in a protected living arrangement with not more than two supervisory personnel and not more than six residents who are suffering from mobility, orthopedic, visual, speech, or hearing impairments, Alzheimer's disease, pre-senile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, autism, emotional illness, or similar conditions.
Restaurant, Fast Food, Limited ²³	Takeout pizza/sandwich shops not exceeding 600 square feet.
Restaurant, Limited ²³	A food service establishment not exceeding 2000 square feet and where the primary mode of food distribution is by server.
Retail Food Convenience Store, Limited ²³	A retail convenience food store not exceeding 1500 square feet of retail floor space, with hours of operation limited to the period between 6:00 AM and 11:00 PM.
Right-of-Way	A right which grants passage across or through a property. A right-of-way is also the (usually dimensioned) path along which the right of passage is granted.
Road	A prepared surface within a right-of-way which is intended for vehicular use. Road does not include shoulders.
School, Elementary or Secondary ²³	A public or private school meeting all requirements of the compulsory education laws of the state and providing instruction to students in kindergarten through grade twelve. Secondary schools consist of middle schools and high schools, generally grades six through twelve.
School, University or College ²³	An educational institution that offers specialized instruction in any of several fields of study and/or in a number of professions or occupations and is authorized to confer various degrees such as the bachelor's degree. Education uses may include a variety of uses such as classroom buildings, administrative offices, sports facilities, student housing, research facilities and other related uses operated by the governing board of the institution within the campus or on adjoining lots. The land use School, Vocational or Professional is not included within this definition.

Section 4.4 Prohibited Uses

[Note: Proposed changes in this Section are for the purpose of clarifying the permitted / conditional / not permitted status of various land uses in the new zoning districts.]

- A. Any existing or proposed use which is determined to be in conflict with any existing ordinance or laws of Jefferson County or law or regulation of the State of West Virginia or other governmental agency shall be prohibited even though such use may be allowed under the terms of this ordinance.
- B. No land use shall be conducted that creates any injurious, noxious, or otherwise objectionable fire, explosive heat, or other hazard; noise, or vibration; smoke, dust, odor, gases, or other form of air pollution; or emit dangerous radioactivity in such a manner that if permitted would adversely affect the uses of an adjacent property or contaminate the ground water or surface waterways of the County. All land uses generating such conditions shall comply with the appropriate State and Federal Codes. Such compliance with applicable State and Federal laws shall be deemed as compliance with this Ordinance.
- C. Any development which would destroy the historical character of a property listed on the West Virginia or National Register of Historic Places shall not be permitted.
- D. No materials or waste should be stored on a property in a form that could be transported to adjacent property by wind or water or other natural causes or forces.
- E. All methods of industrial waste or sewage treatment and disposal shall be in accordance with County, State and Federal Codes.
- F. Jails, prisons and/or penal institutions shall be prohibited in all ~~zones-zoning districts~~ except the ~~Industrial~~-~~Commercial~~-~~zone District and the Major Industrial District~~. The Development Review System does not supersede this prohibition.⁵
- G. No gambling or casino type game of chance (video or mechanical) that provides any type of payoff or remuneration shall be permitted anywhere in Jefferson County unless expressly and explicitly permitted and authorized by the West Virginia Code as amended. Provided, however, that such use shall only be permitted in the ~~Industrial~~-~~Commercial~~ ~~Zone District and the Major Industrial District~~ and shall be processed through the Development Review System (Article 6 and 7).^{6,23}

This prohibition does not apply to betting on horses or pari-mutuel betting on horses. Furthermore, this prohibition does not apply to such uses that existed at the time of the adoption of this ordinance. The Development Review System shall not supersede this prohibition in ~~any zoning district other than the Industrial - Commercial District or the Major Industrial District. the Residential Growth Zone, the Rural Agricultural Zone, the Village Zone, or the Residential/Light Industrial/Commercial Zone.~~²³
- H. For parcels located east of the Shenandoah River or which are in a natural, undisturbed condition within 1000 feet of the Potomac and Shenandoah Rivers and Opequon Creek, no use shall be permitted without adherence to the requirements for retention of land in a natural, undisturbed area as spelled out in Section 22.504 of the Jefferson County Subdivision and Land Development Regulations.^{5,23}

- I. No sales of fireworks are permitted outside ~~the commercial zones~~ of the Industrial - Commercial, Residential - Light Industrial - Commercial, General Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts, and are subject to the requirements of for such use in Article 8.^{8, 23}
- J. Vehicle signs left parked or standing on a public right-of-way, public property or private property.¹²
- K. Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall only be permitted in the Industrial-Commercial District and the Major Industrial District ~~not be permitted in the Rural, Village, Residential Growth and Residential Light Industrial Commercial Districts.~~²³
 No conditional use permit shall be approved for any of these adult uses in a zoning district other than the Industrial - Commercial District or the Major Industrial District. This provision does not apply to any specific existing use that legally qualifies as a nonconforming use.^{15, 16}
- L. Salvage yards unless established in accordance with the Jefferson County Salvage Yard Ordinance.²³
- M. Heavy industrial uses listed in Section 5.6(B) of this Ordinance are permitted only in the Industrial - Commercial District and the Major Industrial District and require approval via the Development Review System.²³

Section 4.5 Agricultural Uses Permitted Generally

Except for compliance with distance requirements for a building set forth in Section 4.6, nothing in this ordinance shall prohibit the use of land for agricultural purposes or the construction or use of building or structures incidental to the use for agricultural purposes.

Section 4.6 Distance Requirements

- A. Industrial uses are subject to this subsection, unless otherwise specified in this ordinance. Any uses (not including parking) or buildings subject to compliance with this section shall be located at least 200 feet from:
 1. Any lot in ~~a the~~ Residential Growth district;
 2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;¹
 3. Any lot which is part of a recorded subdivision; and
 4. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.~~4.5. Industrial uses are subject to this section, unless otherwise specified in this ordinance.~~

B. Commercial uses are subject to this subsection, unless otherwise specified in this ordinance. Adjacent uses (not including parking) or buildings subject to compliance with this section shall be located at least 75 feet from:⁷

1. Any lot in the Residential Growth District;
2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.²³

~~3.~~

C. A commercial use (not including parking) located in the Neighborhood Commercial district or the Office/Commercial Mixed Use shall be located at least 25 feet from a land use identified in Section 4.6.B.1-3.

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.^{7, 22}

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 thirty-five (35) feet of the intersection of the two (2) 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.²³

Section 4.10 Site Plan Requirements

- A. ~~A site plan shall be s~~ubmittal and approval of a site plan is required~~ed~~ 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.²³ [Note: the amendment to this section is also under consideration in Agricultural Uses and Related Amendments currently under review]

- 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. 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.²³
- D. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.^{10, 17, 21, 23}

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.

A. Commercial development.

- 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 fifty (50) foot or greater unscreened green space buffer or a fifteen (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.
- ~~1.~~ 2. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.⁵

B. Industrial development.

- 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 two hundred (200) feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard.

~~A screened buffer yard with a minimum width of fifteen (15) feet, which may be included within the 200-foot buffer required in this subsection; and~~

- 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.^{5, 7}

- ~~2.~~ 3. All industrial development adjacent to any use shall have 20' screened side and rear landscape buffers.

C. Multi-family development.

- 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'

b. Side: a minimum of 12'

Table 4.11 - 1 Setbacks, Buffers and Distance Requirements for Non-Residential Uses²³

[Note: Buffer standards in Table 4.11-1 relocated to Appendix A and Appendix B]

*15' screened buffer may be included within required 200' unscreened buffer.

Note: When Table 4.11-1 is in conflict with another section of the Zoning & Development Review Ordinance, this table shall prevail. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.²³ [2nd sentence relocated to Appendix A and Appendix B]

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

C.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 four (4) feet in height.^{7, 23}
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.

D.F. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.²³

E.G. All buffer yards shall be maintained by the property owner.

F.H. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9(A), 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 - **2-1** below:²³

Table 4.11 - **2-1 Wetland Size in Acres^{5, 8, 23}**

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

G.I. All required landscape plans shall contain the following elements:⁷

1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:²³
 - 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 [Table 4.11-1 Appendix B.](#)

Section 4.12 Design Standards for Multi-Family Developments²³

- 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.
- B. Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed fifty (50) percent of the gross land area.
- C. Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least twenty-five (25) feet from any street right-of-way.

Section 4.13 Development Adjacent to the Potomac and Shenandoah Rivers²³

ARTICLE 5: DISTRICT ESTABLISHMENT; ZONING MAPS; DISTRICT BOUNDARIES; DISTRICT REGULATIONS

Section 5.1 Establishment of Districts¹

For the purpose of this Ordinance, all land within the County, exclusive of the incorporated towns, is hereby designated as one of the following zoning districts:

- R-G Residential/Growth District
- I-C Industrial/Commercial District
- R-A Rural/Agricultural District
- R-L-C Residential/Light Industrial/Commercial District
- V Village District²³
- [NC Neighborhood Commercial](#)
- [GC General Commercial](#)
- [HC Highway Commercial](#)
- [LI Light Industrial](#)
- [MI Major Industrial](#)
- [PND Planned Neighborhood Development](#)
- [OC Office / Commercial Mixed-Use](#)

Section 5.2 Boundaries of Districts

Unless otherwise indicated on the zoning district maps, the boundary lines of the districts shall follow lot lines, centerlines of streets, alleys, corporate limit lines, or centerlines of waterways as existing at the time of the adoption of this Ordinance.

Section 5.3 District Maps

The districts shall be of the size and shape shown on the Jefferson County Zoning Maps and shall hereby be made a part of this ordinance. A copy of the said maps shall be signed by the County Commissioners upon the adoption of these regulations and recorded within the Courthouse.

The Jefferson County zoning layer is parcel-based, maintained in a Geographic Information System (GIS), and shall be the basis for the County's official zoning map. Within 30 days of final County Commission action on a zoning map amendment, GIS/Addressing staff will update the digital zoning layer and make the new data available online.²³

On an annual basis, in December, and within 30 days of final County Commission action on a zoning map amendment, a new zoning map will be printed which includes the most up to date

base layer data, all approved zoning designations since the last printed map, and an effective date, certified by the President of the County Commission, filed with the County Clerk's office, and a copy provided to the Planning Commission. This annual map update shall not require a public hearing and such certification shall occur administratively.²³

Section 5.4 Residential-Growth District

The Residential-Growth District is intended to provide for a variety of residential uses and densities which can be supported by central or public water and sewer and adequate roadways and services. This district encourages commercial growth provided that such growth is deemed to be appropriate and compatible by the Development Review System.

The following regulations govern development within the Residential-Growth District.

A. Principal Permitted Uses²³

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

2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

~~1. Dwelling, Single Family~~

~~2. Dwelling, Duplex~~

~~3. Dwelling, Two-Family~~

~~4. Dwelling, Townhouse~~

~~5. Dwelling, Multi-Family~~

~~6. Mobile Home Parks (Subject to the Jefferson County Subdivision and Land Development Regulations)~~

~~7. Elementary or Secondary school~~

~~8. Hospital~~

~~9. Vocational and/or Training Facility for Adults¹²~~

~~10. Church~~

~~11. Day Care Center, Small~~

~~12. Day Care Center, Large~~

~~13. Essential Utility Equipment~~

~~14. Public Safety Facility~~

~~15. Publicly Owned Facility²³~~

~~16. Accessory Uses~~

- 17. Group Residential Facility
- 18. Home Occupation, Level 1⁸
- 19. Home Occupation, Level 2⁸
- 20. Nursing or Retirement Home
- 21. Model Homes/Sales Office¹²
- 22. Preschool
- 23.1. Wireless Telecommunication Facilities pursuant to Article 4B

B. Minimum Lot Area, Height, and Yard Requirements

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance. Minimum Lot Area, Height, and Yard Requirements are as shown in Table 5.4—1 below. The minimum lot area requirements are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.²³
2. When computing the dwelling unit yield for a parcel of land, use the total area of parcel minus (1) lands contained in a wetland and (2) hillside lands to be retained in a natural, undisturbed condition as provided for in the Jefferson County Subdivision and Land Development Regulations. The balance square footage between the ADU (Area per Dwelling Unit) and the MLA (Minimum Lot Area) shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.^{5,23}
- 2.3. All detached accessory structures under 144 square feet in size shall have a setback of 6’.

Table 5.4—1—Residential Growth District—Height and Yard Requirements^{5,19,23}

[Note: The standards in this table are relocated to Appendix A and B.]

	Development Type	Minimum Lot Area (MLA)	Required Yards (ft)				Maximum Building Height (ft)*
		Area per Dwelling Unit (ADU)	Front	Side	Street Side	Rear	
1	Single Family Dwelling	6,000 sq. ft. MLA**	25	12	15	20	40
	Public/Central water and sewer	10,000 sq. ft. ADU	"	"	"	"	"
	Public/Central water or sewer	20,000 sq. ft. MLA	"	"	"	"	"
	No Public/Central water or sewer	40,000 Sq. ft. MLA	"	"	"	"	"
2	Duplex Dwelling		25	15	15	20	40
	Public/Central water and sewer	3,200 sq. ft. MLA	"	"	"	"	"
	Public/Central water and sewer	7,500 sq. ft. ADU	"	"	"	"	"
	Public/Central water or sewer	10,000 sq. ft. ADU	"	"	"	"	"
3	Townhouse Dwelling		25	12	15	20	40
	Public/Central water and sewer	1,400 sq. ft. MLA	"	"	"	"	"
		3,500 sq. ft. ADU	"	"	"	"	"
			"	"	"	"	"
4	Multi Family Dwelling	20,000 sq. ft. MLA	25	12	15	30	40
	Public/Central water and sewer	2,000 sq. ft. ADU	"	"	"	"	"

*Subject to Section 9.2

~~NOTE: ALL detached accessory structures under 144 square feet in size—6' setback.~~ *[Note: Deleted text moved to 5.4.B.3]*

~~**The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.~~ ⁵ *[Note: Deleted text moved to 5.4.B.2]*

C. Commercial Services in Residential Developments²³

1. Commercial services may be included in a residential development providing the commercial uses are intended to serve the residential community proposed and shall relate well to residential areas in terms of pedestrian and vehicular circulation.
2. The gross area for commercial uses shall not exceed 5 acres or 10 percent of the gross tract area, whichever is less.
3. Commercial uses shall not be built or established prior to the residential development unless built in phases consistent with phasing of the residential construction.
4. These uses shall be located within the interior of the project.
5. Commercial uses shall be subject to the Compatibility Assessment Meeting process as outlined in Article 7 of this Ordinance. Any proposed commercial use that is

served from a road that is located on the perimeter of the project or on a State Road shall be subject to the entire Development Review Process.⁵

D. Standards for Commercial or Light Industrial Uses²³

1. Commercial or Light Industrial uses are subject to the following access requirements:
 - a. Such uses will not use adjacent residential roads for through traffic; and
 - b. Will connect to principal and major arterial highways as directly as feasible considering access restrictions.⁵
2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

Section 5.5 Reserved²³

Section 5.6 Industrial - Commercial District²³

The purpose of this district is to provide locations for manufacturing, processing, and commercial uses which may require extensive transportation and central or public water and sewer services. It is not the purpose of this district to encourage the use of land within the district for retail services; however, it is anticipated that there may be areas or locations where retail services can be reasonably and logically considered due to their relationship with other uses existing within the district, as well as their relationship with the district boundary line or the configuration of the property and the relative scale of the project.

A. Principal Permitted Uses²³

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table and this section.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject the requirements of this section and to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

~~1. Light Industrial Uses~~

~~2. Heavy Industrial Uses~~

~~3. Commercial Uses~~

~~4. Day Care Center, Small~~

~~5. Day Care Center, Large~~

~~6. Home Occupation, Level 1~~

~~7. Home Occupation, Level 2~~

~~8. Cottage Industry~~

~~9. Medical/Dental/Optical Office, Small~~

~~10. Barber/Beauty Shop, Limited~~

- ~~11. Antique Shop~~
- ~~12. ATM~~
- ~~13. Branch Bank~~
- ~~14. Kennel (subject to the requirements for such use in Article 8)~~
- ~~15. Dry Cleaner~~
- ~~16. Florist~~
- ~~17. Restaurant, Limited~~
- ~~18. Restaurant, Fast Food, Limited~~
- ~~19. Retail Food Store, Limited~~
- ~~20. Veterinary Services~~
- ~~21. Video Rental Store~~
- ~~22. Country Inn~~
- ~~23. Non/Not for Profit Commercial Uses~~
- ~~24. Non-profit Community Centers~~
- ~~25. Publicly Owned Facility~~
- ~~26. Public Safety Facility~~
- ~~27. Essential Utility Equipment~~
- ~~28. Wireless Telecommunications Facilities pursuant to Article 4B~~
- ~~29. Private or Public Shooting Ranges~~
- ~~30. Cultural Facility~~
- ~~31. Industrial related accessory uses including residential dwellings including a mobile home on site for a caretaker or watch keeper.~~
- 32.1. Adult Uses, subject to requirements set forth for such uses in Article 8.

- B. The following uses shall be evaluated by the Development Review System and shall not be located less than 1000 feet from any Residential property line or property listed on the National and State Historic Register/Survey.
1. Bituminous concrete mixing and recycling plants
 2. Concrete and ceramic products manufacture, including ready mixed concrete plants
 3. Petroleum products refining or storage (subject to the requirements for such standards in Article 8)²³
 4. Commercial sawmills
 5. Salvage Yards (subject to the Jefferson County Salvage Yard Ordinance)
 6. Garbage or dead animal reduction or processing
 7. Slaughterhouses, Stockyards

8. Acid or heavy chemical manufacturer, processing or storage
9. Cement or lime manufacture
10. Explosive manufacture or storage
11. Foundries and/or casting facilities
12. Mineral extraction, mineral processing
13. Jails and Prisons (subject to requirements for this use in Article 8)²³

C. Height Regulations

No structure shall exceed seventy-five (75) feet in height except as provided in Section 9.2.

D. Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance. ~~Yard Requirements as follows: (These requirements are also for an approved commercial or industrial use proposed for any other zone.)~~^{5, 23}

1. Front yard building setback		
Commercial sites		25 feet
Industrial sites		50 feet
2. Side yard building setback		
Commercial sites greater than 1.5 acres		50 feet
Commercial sites 1.5 acres and smaller		25 feet
Industrial sites		50 feet
3. Rear yard building setback		
Commercial sites greater than 1.5 acres		50 feet
Commercial sites 1.5 acres and smaller		25 feet
Industrial sites		50 feet
4. Parking, Driveway and Internal Access Drive Front Setbacks		
Commercial sites greater than 1.5 acres		15 feet
Commercial sites 1.5 acres and smaller		15 feet
Industrial sites		25 feet
5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks		
Commercial sites greater than 1.5 acres		10 feet
Commercial sites 1.5 acres and smaller		4 feet
Industrial sites*		25 feet

**Driveways and Internal Access Drives Only. Parking must abide by buffer requirements.
[Note: Setbacks and footnote relocated to Appendix B]*

2. ~~6~~ Compliance with Sections 4.11 and 8.9(A)(1-9)^{7, 23}

3. ~~7~~ Distance Requirements

- a. Commercial shall comply with Section 4.6(b)
- b. Industrial shall comply with Section 4.6(a)^{7, 23}

~~D.E.~~ Lot Area

A minimum lot size of three acres shall be required for any industrial use unless the site is located in an approved Industrial Park.²³

~~E.F.~~ Additional Commercial and Industrial Design Standards

1. Commercial Design Standards²³

- a. ~~Landscaping, screening, buffer yards, and setbacks for commercial development are subject to Section 4.11.~~

Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 80% of the gross area of the site.

- b. Adequate provision shall be made for storage and collection of refuse. Refuse containers are subject to Section 4.11 ~~e~~F.
- c. Permeable areas of the site shall be planted with ground cover, shrubs and trees.
- d. Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public highways, streets and properties.

2. Industrial Design Standards

- a. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 90% of the gross area of the site.²³
- b. Adequate provision shall be made for storage and collection of refuse, subject to Section 4.11 ~~e~~F.
- c. Permeable areas of the site shall be planted with ground cover, shrubs or trees if subject to Section 4.6.

Section 5.7 Rural District²³

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not intended to be served with public water or sewer facilities, although in situations where the Development Review System is utilized, it may be. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7d. The Development Review System does allow for higher density by issuance of a Conditional Use Permit.^{8, 23}

A. Principal Permitted Uses²³

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

2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

~~1. Agricultural uses as defined in Article 2⁷~~

~~2. Church~~

~~3. Elementary or Secondary School~~

~~4. Vocational and/or Training Facility for Adults^{12, 20}~~

~~5. Dwelling, Single Family~~

~~6. Mobile Home (subject to the Jefferson County Subdivision and Land Development Regulations)~~

~~7. Dwelling, Two Family⁸~~

~~8. Cottage Industry⁸~~

~~9. Home Occupation, Level 1⁸~~

~~10. Home Occupation, Level 2⁸~~

~~11. Day Care Center, Small^{12, 11, 15}~~

~~12. Public Safety Facility~~

~~13. Cultural Facility~~

~~14. Farm Market (subject to the requirements for such a use in Article 8)⁸~~

~~15. Horticultural nurseries and commercial greenhouses~~

~~16. Hospital~~

- 17. Essential Utility Equipment
- 18. Accessory uses
- 19. Group Residential Facility
- 20. Bed and Breakfast (subject to the requirements for such a use in Article 8)^{7,15}
- 21. Publicly Owned Facility⁸
- 22. Wireless Telecommunications Facilities pursuant to Article 4B.¹⁰
- 23. Model Homes/Sales Office (subject to the requirements for such a use in Article 8)¹²
- 24. Non-profit Community Centers¹⁵
- 25. Landscaping business outside of Planning Commission approved subdivisions¹⁵
- 26. Veterinary services outside of Planning Commission approved subdivisions¹⁵
- 27. Feed and/or Farm Supply Center
- 28. Agricultural Repair Center¹⁵
- 29. Kennels (subject to the requirements for such a use in Article 8)¹⁵
- 30. Hunting, Shooting, Archery and Fishing Clubs (subject to the requirements for such a use in Article 8)²⁰
- 31. Agricultural Tourism
- 32. Farm Vacation Enterprise
- 33. Farm Brewery or Winery
- 34. Rental of Existing Farm Building, for commercial storage (structure must have existed for 5 years)
- 35.1. Preschool

B. Minimum Lot Area, Lot Width and Yard Requirements²³

- 1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance. Minimum lot sizes, lot width, and yard requirements for principal permitted uses are shown in Table 5.7-1.
- 2. For any residential use that complies with the Development Review System, the setbacks and lot size shall be as outlined in Article 5.4.⁵

Table 5.7-1—Lot Area, Width, and Yard Requirements for Principal Permitted Uses in the Rural District

Land Use	Lot Area	Lot Width	Front Yard Depth	Side Yard Depth	Rear Yard Depth
Dwellings	40,000 sq. ft.	100	40	15	50

Churches	2 acres	200	25	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100
Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50

~~3. Lot area for schools (K-12) as shown in Table 5.7-1 shall be increased by 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 sewage treatment plant and retention ponds are required, acreage shall be increased accordingly.^{1,23}~~

~~4.2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.²³~~

~~5.3. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6(a).²³~~

C. Height Regulations

No structure shall exceed thirty five (35) feet in height as provided in Section 9.2.

D. Maximum Number of Lots Allowed

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7(d)1, 5.7(d)2 or 5.7(d)3 below. A property owner may use a combination of these subsections, provided that the number of lots are prorated by density.⁸

1. A property owner may create one (1) lot for every fifteen (15) acres with a minimum lot size of three (3) acres.^{17,21}

a. Acreage shall be computed using existing acreage at the time application is submitted. Total acreage does not include acreage which was subdivided off of present parent parcel between October 5, 1988 and time of application.

b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17,21}

2. Clustering

a. Purpose and Intent

i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.

ii. To provide for a well planned development while minimizing the use of prime agricultural land.

b. Requirements

- i. One (1) lot may be subdivided for every ten (10) acres.^{17, 21, 23}
 - (a) Acreage shall be computed using existing acreage at the time application is submitted. Total acreage does not include acreage which was subdivided off of present parent parcel between October 5, 1988 and time of application.
- ii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.^{17, 21}
 - (a) Setbacks shall be 25' front, 12' sides and 20' rear.
 - (b) All clusters of three (3) or more lots shall be served by an internal road.²³
 - (c) Clusters of three (3) or more lots shall not be along an existing public road.
 - (d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}
 - (e) Maximum lot size shall be 3 acres.^{17, 21}
- iii. Procedures²³
 - (a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.^{17, 21, 23}
 - (b) The Staff will have final approval over the location layout of the proposed clustering of lots. The Staff shall consider the following when reviewing concept plans:
 - (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
 - (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
 - (c) If the concept plan is approved by the Planning Commission, the applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations and the approved concept plan. The plat shall bear a statement indicating "The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation".²³

3. Not in addition to subsections 5.7(d)1 and 5.7(d)2 above, any property that was a lot of record as of October 5, 1988 may create 3 total lots (including the residue) during any five year period. Applications which exceed this number during any five year period shall be processed utilizing the Development Review System. Subdivisions involving transfers of land between parent and child shall not be subject to this section. All lots that qualify under this section must meet subdivision requirements. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. Parent to child or child to parent lots are not entitled to further subdivide except as another parent to child or child to parent transfer.
4. Once the maximum number of lots are created under 5.7(d), the property cannot be further subdivided unless the Ordinance is amended to allow such.

Section 5.8 Residential/Light Industrial/Commercial District¹

The purpose of this district is to guide high intensity growth into the designated growth area. Light industrial uses are defined in Section 2.2. All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation on whether a use is a light industrial or heavy industrial use. The final decision on use classification shall be made by the Zoning Administrator.²³

A. Principal Permitted Uses²³

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

- ~~1. Light Industrial Uses~~
- ~~2. Commercial Uses~~
- ~~3. Medical/Dental/Optical Office, Small~~
- ~~4. Barber/Beauty Shop, Limited~~
- ~~5. Antique Shop~~
- ~~6. ATM~~
- ~~7. Branch Bank~~
- ~~8. Kennel (subject to the requirements for such use in Article 8)~~
- ~~9. Dry Cleaner~~
- ~~10. Florist~~
- ~~11. Restaurant, Limited~~
- ~~12. Restaurant, Fast Food, Limited~~
- ~~13. Veterinary Services~~

- ~~14. Video Rental Store~~
- ~~15. Country Inn~~
- ~~16. Dwelling, Single Family~~
- ~~17. Dwelling, Two Family~~
- ~~18. Dwelling, Duplex~~
- ~~19. Dwelling, Townhouse~~
- ~~20. Dwelling, Multi-Family~~
- ~~21. Mobile Home Parks~~
- ~~22. Home Occupation, Level 1~~
- ~~23. Home Occupation, Level 2~~
- ~~24. Cottage Industry~~
- ~~25. Elementary or Secondary School~~
- ~~26. Hospital~~
- ~~27. Vocational and/or Training Facility for Adults¹²~~
- ~~28. Church~~
- ~~29. Cultural Facility~~
- ~~30. Day Care Center, Small~~
- ~~31. Day Care Center, Large~~
- ~~32. Essential Utility Equipment~~
- ~~33. Publicly Owned Facility~~
- ~~34. Public Safety Facility~~
- ~~35. Accessory Uses~~
- ~~36. Group Residential Facility~~
- ~~37. Nursing or Retirement Home~~
- ~~38. Model Home/Sales Office (subject to requirements for this use in Article 8)¹²~~
- ~~39. Non-Profit Community Center~~
- ~~40. Non/Not for Profit Commercial Uses¹²~~
- ~~41. Preschool~~
- ~~42.1. Wireless Telecommunications Facilities pursuant to Article 4B~~

B. Standards²³

- 1. Industrial uses permitted in this district shall be of types that require daily water use of no more than 0.25 gallons per gross square feet of floor space.

2. Light industrial and commercial uses are subject to the standards for such uses in Article 8 of this Ordinance.²³

~~2.3. Impervious surface coverage shall not exceed eighty (80) percent of the gross land area.~~

C. Site Development Standards ~~Other Regulations~~²³

1. All sections of this ordinance applying to the ~~Residential~~ Growth district with the exception of Section 5.4(a) will apply to residential uses in this District.

2. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance. ~~All commercial uses must conform with the commercial design standards and yard requirements cited in Sections 5.6(d) 1-6 and 4.6(b). All industrial uses must conform with the Industrial Design Standards and yard requirements cited in Sections 5.6(d) 1-6 and 4.6(a).~~ All commercial or industrial uses ~~Either use~~ must be in compliance the requirements for such use in Article 8. In addition, a site plan, if required, must demonstrate that traffic patterns created by Commercial or Light Industrial uses (1) will not use adjacent residential roads for through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.^{5, 7, 23}

3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area) shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.²³ This requirement shall not apply to a building located within a shopping center shown on an approved site plan. *[Note: the amendment to this section is also under consideration in Agricultural Uses and Related Amendments currently under review]*

4. Proposed uses in this zone ~~do not have to comply with~~ are exempt from the distance requirements in Sections 4.6 (a-b) if part of a master planned community. This provision shall only apply to the internal use of land under the same ownership.⁷

Section 5.9 Reserved²³

Section 5.10 Village District^{8, 23}

The purpose of this district is to allow recognized villages the ability to provide low level services within their boundaries.

A. Principal permitted uses²³

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

~~1. Dwelling, Single Family~~

~~2. Dwelling, Duplex~~

- ~~3. Dwelling, Two Family~~
- ~~4. Home Occupation, Level 1~~
- ~~5. Home Occupation, Level 2~~
- ~~6. Cottage Industry~~
- ~~7. Public Safety Facility¹²~~
- ~~8. Essential Utility Equipment~~
- ~~9. Medical/Dental/Optical Office, Small¹²~~
- ~~10. Group Residential Facility~~
- ~~11. Cultural Facility¹²~~
- ~~12.1. Wireless Telecommunications Facilities pursuant to Article 4B~~

B. Conditional Uses²³

1. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

~~The following uses may be approved after being evaluated by the Development Review System (Article 7). The LESA point system would not apply.~~

- ~~1. Barber/Beauty Shop, Limited~~
- ~~2. Dry Cleaners~~
- ~~3. Video Rental Stores~~
- ~~4. Retail Food Store, Limited~~
- ~~5. Church~~
- ~~6. Day Care Center, Large~~
- ~~7. Country Inn~~
- ~~8. Bed and Breakfast (subject to the requirements for such a use in Article 8)~~
- ~~9. Restaurant, Limited~~
- ~~10. ATM~~
- ~~11. Branch Bank~~
- ~~12. Antique Shop~~
- ~~13. Florist~~
- ~~14.1. Restaurant, Fast Food, Limited¹²~~

C. Setbacks

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-

Residential Site Development Standards, except as provided elsewhere in this ordinance. Residential

~~a. Section 9.7, Residential Growth standards²³~~

~~2. Commercial~~

~~a. 25' front, 10' side and 40' rear~~

[combine sentence with 1. above:] Setbacks may be reduced as a result of a Compatibility Assessment Meeting based on other structures existing in the neighborhood.²³

~~3.2.~~ Existing Structures

~~a. As exists not less than 6' on~~ The sides and rear yard setbacks are 6' for an existing structure to be used for a land use as provided in this article.

- D. Commercial uses shall not cause any odor, dust, smoke, vibration, noise, or electromagnetic interference, which can be detected at or beyond the property line.
- E. Proposed uses in a recognized historic district shall obtain approval from the Historic Landmarks Commission and/or other appropriate state or federal agency prior to processing.²³
- F. There will be no outdoor storage of equipment, materials or other stock.
- G. Parking requirements may be modified as a result of a compatibility meeting.²³
- H. Other Requirements²³
 - 1. With the exception of setback requirements as specified in this section, Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

Section 5.11 Neighborhood Commercial (NC) District

A. Purpose. The purpose of this district is to permit the development of small scale commercial uses in locations where a commercial use of the intensity permitted in the GC District (and not otherwise permitted in the NC District) is not appropriate. which serve the convenience needs of residential neighborhoods immediately adjacent to or within walking distance of the commercial use. Developments in the NC district should be appropriate in scale, designed, landscaped and buffered so as to be compatible with neighboring land uses development. Uses should be appropriate in scale to the residential character of their context.

B. Location. This zoning category is intended for use in the following locations on properties:

1. in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or

2. in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

1. Properties located on Primary or Secondary roads as shown on the Highway Classification map in the Jefferson County Comprehensive Plan

2. Locations within ¼ mile of an existing residential subdivision or development of at least 20 dwelling units

3. Locations adjacent to existing non-residential development

4. Locations with safe vehicular access on roads that function as collector roads

5. Properties currently zoned Residential-Light Industrial-Commercial or Industrial-Commercial.

C. Permitted Uses

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

2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

3. A non-residential land use in this district may include residential uses on building levels located above the ground floor.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.

2. For a non-residential use abutting a commercial or industrial use at a side lot line:

a. No side yard building setback is required, unless required by Building Code or other law or regulation

b. Section 4.11A-B does not apply to the side property line that abuts a commercial or industrial use

3. For a non-residential use abutting a commercial or industrial use at a rear lot line:

a. A rear yard building setback may be reduced to 10 feet

b. Section 4.11A-B does not apply to the rear property line

4. Section 4.11A-C does not apply to the front lot property line.

5. Vehicular parking requirements shall be 80% of the required number of parking spaces indicated in Article 11 of this ordinance.

6. On-street vehicular parking spaces located within 100 feet of the property where the development is located may compose up to 50% of the number of required parking spaces indicated in Article 11 of this ordinance.

E. Additional Requirements

1. Any off-street parking shall be located in the rear or on the side of a building and may not be located between a street and the front facade of a building.
2. Each building shall be limited to a maximum building footprint of 3,500 square feet.
3. For new development or the substantial redevelopment of an existing site, a fifteen-foot-wide pedestrian zone is required, consisting of a ten-foot-wide landscaped buffer yard measured from the edge of the right-of-way (or from the back of the adjacent street curb) and five-foot-wide sidewalks. The landscaped buffer yard may consist of shrubs, ornamental plants, and vegetative ground cover, and need not screen the view of buildings from the adjacent street(s). The landscaping requirements in this subsection are in addition to any other applicable landscaping requirements of this ordinance. If the Comprehensive Plan or the Subdivision and Land Development Regulations identify the property location as appropriate for a trail in lieu of a sidewalk, a trail meeting any applicable county requirements may be installed.
4. One bicycle parking space shall be provided for each ten vehicular parking spaces.
5. Buildings shall be oriented toward the street with one or more entrances facing the principal street adjacent to a building.
6. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

Section 5.12 General Commercial (GC) District

A. Purpose. The purpose of this district is to provide for general destination business uses which provide a broad range of commercial products and services necessary for large regions. The uses in this district may be characterized by medium-to-large buildings (including retail stores of up to 100,000 ~~50,000~~ square feet of gross floor area for an individual building as per the definition of Retail Store, Large in this ordinance), more intensive commercial activity, and more vehicular traffic than would be permitted for uses in the NC district.

B. Location. This zoning category is intended for use in the following locations on properties:

1. in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or

2. in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

1. Properties located on four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan.

2. Properties currently zoned Residential Light Industrial Commercial or Industrial Commercial.

C. Permitted Uses

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

2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.

2. A development that complies with all requirements of Section 5.11E may be developed in accordance with the requirements of Section 5.11D(2-6) and the front setback requirements for the Neighborhood Commercial District as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards.

E. Additional Requirements

1. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

Section 5.13 Highway Commercial District

A. Purpose. The purpose of this district is to provide appropriate locations for high-intensity, motor-vehicle oriented commercial uses fronting on major roadways. The uses in this district may be characterized by a broad scale of building sizes, which may include very large including buildings that exceed 50,000 100,000 square feet of gross floor area for

an individual building and which may have a greater impact on surrounding areas as a result of significant truck traffic and other factors. This district may include land uses that are more intensive than other commercial districts and incompatible with nearby adjacent residential uses.

B. Location. This zoning category is intended for use in the following locations on properties:

1. in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

1. Properties located within 1000' feet of major intersections on four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan.

2. Properties designated for Highway Commercial uses in the Comprehensive Plan.

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.

E. Additional Requirements

1. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

Section 5.14 Light Industrial District

- A. Purpose. The purpose of this district is to provide locations for lighter manufacturing processes which are not as extensive as those provided in the Major Industrial District and can be served with adequate public or community water and sewerage service. Properties with this designation are generally located within 1,000 feet of four lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan. In this district, most manufacturing is composed of processing or assembly of previously processed materials.
- B. Location. This zoning category is intended for use in the following locations on properties:
1. in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
 2. in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.
1. Properties located in Industrial Parks
 2. Properties with Industrial-Commercial zoning
 3. Properties designated as appropriate for either Light or Major Industrial land uses in the Comprehensive Plan
- C. Permitted Uses
1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
 2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.
- D. Site Development Standards
1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
- E. Additional Requirements
1. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

Section 5.15 Major Industrial District

A. Purpose. This district is intended to provide sufficient space in appropriate locations for a wide variety of industrial activities, generally located within 1,000 feet of four lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan. The uses in this district can be served with adequate public or community water and sewerage service, and may be characterized by extensive warehousing, frequent heavy trucking activity, and broader manufacturing activity than would be permitted in the Light Industrial district.

B. Location. This zoning category is intended for use in the following locations on properties:

1. in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

1. Properties located in Industrial Parks
2. Properties with Industrial Commercial zoning
3. Properties designated as appropriate for Major Industrial land uses in the Comprehensive Plan

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.

E. Additional Requirements

1. Heavy industrial land uses shall not be located less than 1000 feet from an adjacent property with a dwelling, school, church or institution for human care or a residential zoning district.
2. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

Section 5.16 Planned Neighborhood Development District

A. Purpose. The purpose of the PND District is to:

1. Encourage flexibility in the development of land in order to promote its most appropriate use;
2. Improve the design, character and quality of new developments;
3. Provide and promote redevelopment and reuse opportunities;
4. Encourage a harmonious and appropriate mixture of uses and/or housing types;
5. Facilitate the adequate and economic provision of streets, utilities and services;
6. Promote safe and convenient travel for pedestrians, bicyclists, transit users, and motorists;
7. Promote connections to adjacent properties, developments, and transportation routes;
8. Preserve critical natural environmental features of the site (including but not limited to wetlands, steep slopes, floodplains, woodlands, watercourses, and karst topography) and scenic features of the site (including but not limited to historic resources, mature trees, open spaces, and agricultural landscapes);
9. Encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features and to provide transitions between land uses; and
10. Mitigate the problems which may be presented by specific site conditions.

B. Location. This zoning category is intended for use in the following location(s) on properties:

1. in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
2. in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

1. Properties identified as being located in the Growth Area in the Comprehensive Plan.

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. The Planning Commission may restrict land uses shown as permitted or conditional uses in Appendix C, Principal Permitted Uses Table, as part of the approval of a Preliminary PND Plan.
3. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. If not otherwise addressed in the Preliminary PND Plan, setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance. However, setbacks and other site development standards may be modified as part of the approval of a PND zoning map amendment request, as described in this article.
2. Modification of Development Standards Allowed
 - a. The Planning Commission may approve modification of the development standards of this ordinance and the Jefferson County Subdivision and Land Development Regulations may as part of the approval of a Preliminary PND Plan.
 - b. Modification of these standards pertains only to developments associated with the Preliminary PND Plan for which the modifications are approved.
3. The minimum site area for a PND development is three acres.

E. Additional Requirements

1. A PND development shall include the following mix of uses, as measured in gross floor area:
 - a. 10-30% commercial
 - b. 10-30% high density residential (7+ dwelling units per acre)
 - c. 20-40% medium density residential (4-6 dwelling units per acre)
 - d. 0-60% low density residential (1-3 dwelling units per acre)
2. Open Space Requirements
 - a. A minimum of 20% of the total tract area of a PND development shall be composed of common and open space. Up to one-half of the common and open space may be used for active recreation. Acreage within the 100-year floodplain, as designated by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM) or acreage of critical natural

environmental features (as defined in this article), may constitute up to 25% 50% of the required common and open space area.

b. At least 20% of the total of the site's existing tree canopy area shall remain undisturbed and shall be so noted on any site plan or subdivision approval associated with the development.

3. Connectivity Requirements. The development shall provide pedestrian and vehicular connections to each adjacent undeveloped property and/or property containing a non-residential or multi-family use, or to one or more streets in an adjacent residential subdivision. If a connection to an adjacent property cannot be made at the time that the Preliminary PND Plan for the development is submitted, the plan shall include a cross-access easement in a logical location to allow for future connection when the conditions on the adjacent property will allow for connection.

4. Street Network. An interconnecting network of internal streets shall be designed to accommodate the various uses found within a PND development. Where possible, all access to sites shall be from these internal streets.

5. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

6. For a PND development proposed to be located on a lot where a trail is shown on a plan adopted by Jefferson County, establishment of a trail easement shall be required prior to site plan approval.

F. Review and Approval Process

The review and approval of a development in the PND district includes the following steps:

1. Pre-Application Conference. Prior to filing a formal application for a Zoning Map Amendment for a PND district, the applicant shall schedule and attend a Pre-Application Conference with staff of the Planning, Zoning, and Engineering Departments. The purpose of the conference is for the applicant to present a general concept for the development, and for staff to inform the applicant of relevant policies, requirements, adopted plans, planning principles, and recommendations. This conference is informal and has no binding effect.

2. Preliminary PND Plan. Submittal of a Preliminary PND Plan is required prior to submittal of a petition for a map amendment to change the zoning designation of a property to the Planned Neighborhood Development district.

a. The format and content requirements for a Preliminary PND Plan shall be the same as the Submission and Completeness Review requirements for a Major Site Plan Concept Plan as described in the Jefferson County Subdivision and Land

Development Regulations, with the exception of the public workshop and advertising requirements. Additionally, a Preliminary PND Plan shall include the following:

- i. Graphic illustration of locations of proposed land uses; landscaping areas; pedestrian amenities; interconnectivity of roads, trails, sidewalks, and adjacent parcels; open space areas and areas of undisturbed tree canopy; passive or active recreational areas; setbacks for buildings, parking, drive aisles, and other features associated with the proposed development.
- ii. Proposed square footages of development by type and proposed residential densities
- iii. Proposed building heights
- iv. Any requested modifications to the standards of the Zoning Ordinance or the Subdivision and Land Development Regulations.

b. Following a staff determination that the Preliminary PND Plan is sufficient, the applicant may present a petition for a zoning map amendment to the Planning Commission. The Preliminary PND Plan is a required component of the petition submission.

3. Zoning Map Amendment. The procedure for processing a map amendment petition shall be in accordance with the requirements of Article 12 and this Article.

a. Presentation of petition for map amendment. The applicant shall present the petition for map amendment to the Planning Commission. As part of the petition, the applicant shall provide a Preliminary PND Plan to the Planning Commission, as described in this article.

b. Planning Commission review and public hearing. The Planning Commission shall conduct a public hearing on the proposed zoning map amendment in accordance with Article 12 and this Article. In addition to the notification requirements of Article 12, public notice for a PND shall include any requested modifications of development requirements. The Preliminary PND Plan shall be considered during the public hearing. In addition to the review criteria for a Concept Plan as required by the Subdivision and Land Development Regulations, the Planning Commission shall utilize the following criteria in its consideration of a Preliminary PND Plan and any requested modifications to the Zoning Ordinance and/or the Subdivision and Land Development Regulations:

- i. Consistency with the purpose of the PND district as described in this Article;
- ii. General conformance with the Zoning Ordinance, with the exception of requested modifications of development standards;
- iii. Consistency with the Comprehensive Plan

- c. As part of its recommendation to the County Commission regarding approval or disapproval of a zoning map amendment as described in Article 12, the Planning Commission shall make a recommendation to the County Commission regarding the Preliminary PND Plan, including any changes proposed by the Planning Commission.
 - d. County Commission review and public hearing. The County Commission shall conduct a public hearing on the proposed map amendment in accordance with Article 12 and this Article. In addition to the notification requirements of Article 12, public notice for a PND shall include any requested modifications of development requirements.
 - e. In its deliberation of a proposed map amendment to change a zoning designation to a PND district and any requested modifications to the Zoning Ordinance and/or the Subdivision and Land Development Regulations, the County Commission shall consider:
 - i. Consistency with the purpose of the PND district as described in this Article
 - ii. General conformance with the Zoning Ordinance, with the exception of requested modifications of development standards
 - iii. Consistency with the Comprehensive Plan
 - f. The County Commission shall approve, amend, or deny the Preliminary PND Plan and the zoning map amendment request; and may apply conditions to the approval of a zoning map amendment to a PND district.
 - g. County Commission approval of a zoning map amendment to change the zoning designation of a property to a PND district shall have the following effect:
 - i. Approval of the change in zoning designation;
 - ii. Approval of the Preliminary PND Plan;
 - iii. Approval of any modifications to the Subdivision and Land Development Regulations and the Zoning Ordinance; such modifications being associated with the Preliminary PND Plan; and
 - iv. Establishment of any conditions of approval applied by the County Commission.
4. If a request to amend the zoning map designation of a tract to a PND district is approved, the applicant may submit applications for the development of the property as a PND development.
- a. Compliance with Other Ordinances. With the exception of any modifications granted by the County Commission, all applicable requirements of the Zoning Ordinance, the Subdivision and Land Development Regulations, and all other

County ordinances must be met, including but not limited to any applicable site plan and subdivision requirements.

- b. Consistency with Preliminary PND Plan. All applications submitted for the site must be consistent with the requirements of the approved Preliminary PND Plan and shall clearly state any modifications granted.
 - c. Any modifications to the Zoning Ordinance or the Subdivision and Land Development Regulations approved by the County Commission are associated with and indivisible from the approved Preliminary PND Plan.
5. Amendment. Minor changes to a Preliminary PND Plan may be reviewed and approved administratively if the Planning and Zoning Department determines that such changes are consistent with the purpose and general character of the Preliminary PND Plan. An applicant's request for revisions determined substantive by the Planning and Zoning Department shall follow the approval process for a Preliminary PND Plan as described in this Article. Substantive changes include but not are limited to changes that would exceed one or more of the percentages noted in a-c below.
- a. A change in total square footage of the development by $\pm 10\%$
 - b. A change in the area of any land use by $\pm 10\%$
 - c. A change in the residential density by $\pm 5\%$

Section 5.17 Office / Commercial Mixed-Use District

- A. Purpose. The purpose of the OC district is to allow for well-designed employment centers. Developments in the OC district contain a mix of land uses, primarily oriented to commercial and office uses but also allowing multi-family and attached single-family residential uses. Developments are oriented to principal streets, contain substantial public space and streetscaping, allow for pedestrian movement within the site and between adjacent sites, and meet the design standards provided for this district.
- B. Location. This zoning category is intended for use in the following location(s) on properties:
- 1. in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
 - 2. in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.
1. Properties designated by the Comprehensive Plan as appropriate for Office/Commercial development.

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
2. For a non-residential use abutting a commercial or industrial use at a side lot line:
 - a. No side yard building setback is required, unless required by the Building Code or other law or regulation
 - b. Section 4.11.A-B does not apply to the side property line that abuts a commercial or industrial use
3. For a non-residential use abutting a commercial or industrial use at a rear lot line:
 - a. A rear yard building setback may be reduced to 10 feet
 - b. Section 4.11.A-B does not apply to the rear property line
4. Section 4.11.A-C does not apply to the front lot property line.
5. Vehicular parking requirements shall be 80% of the required number of parking spaces indicated in Article 11 of this ordinance.
6. On-street vehicular parking spaces located within 100 feet of the property where the development is located may compose up to 50% of the number of required parking spaces indicated in Article 11 of this ordinance.

E. Additional Requirements

1. At least 75% Of the gross floor area of land uses in a development in this district, at least 75% shall be non-residential uses, and at least 50% shall be office uses.
2. Buildings fronting a principal street must be at least 2 stories in height.
3. A minimum of 75% of the total gross floor area located on the ground floor of buildings in a development in this district shall be composed of non-residential space
4. Any off-street parking shall be located in the rear or on the side of buildings and may not be located between a street and the front façade of a building.
5. For new development or the substantial redevelopment of an existing site, a fifteen-foot-wide pedestrian zone is required, consisting of a ten-foot-wide landscaped buffer yard measured from the edge of the right-of-way (or from the back of the adjacent

street curb) and five-foot-wide sidewalks. If the Comprehensive Plan or the Subdivision and Land Development Regulations identify the property location as appropriate for a trail in lieu of a sidewalk, a trail may be installed.

6. One bicycle parking space shall be provided for each ten vehicular parking spaces.

~~7.~~ Buildings shall be oriented toward the street with one or more entrances facing the principal street adjacent to a building.

8. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

ARTICLE 6: DEVELOPMENT REVIEW SYSTEM

Section 6.1 Development Review System (DRS)

The purpose of the Development Review System (also referred to as DRS) is to assess a particular site's development potential based on criteria which determine the agricultural longevity of the parcel in combination with the presence of and compatibility with public services adjacent to and in close proximity to the site. The DRS is a numerical rating system designed to function within the framework of the traditional zoning districts referenced in this ordinance. All commercial uses and those uses which are not permitted in zoning districts shall be governed by the procedures set forth in Article 7 and all sections that reference requirements to obtain a conditional use permit. It shall be unlawful to commence construction of any commercial uses or uses which are not permitted uses in a zoning district without obtaining conditional use permit approval.

Section 6.2 Issuance of a Conditional Use Permit

Application for a conditional use permit shall be made before construction of any uses not listed as permitted uses within the appropriate zoning district. Upon receipt of an application, the site will be evaluated by the Departments of Planning and Zoning Staff using the Development Review System. The two major components of the System, the Soils Assessment and the Amenities Assessment, consist of criterion which each possess a numerical value that is weighted relative to its importance as an indicator of a parcel's agricultural significance or its development potential. The total numerical value of the combined criteria is 100 points: the Soil Assessment contributes 25 points and the Amenities Assessment contributes 75 points. The highest total numerical value of the combined criteria indicates that a parcel is more suitable for agriculture, whereas, the lowest numerical value indicates that development is more appropriate for the site. A score of 60 points or less advances the application to the Compatibility Assessment as provided in Section 7.6.^{14, 17, 21, 23}

Section 6.3 The Soils Assessment

- A. The Soils Assessment evaluates a particular parcel for development based on the soil types it possesses.
- B. The Soils Assessment of a proposed development is not applied applicable when one or more of the following circumstances applies:
 - 1. the development proposal is located within the Residential/Growth District or the Industrial/Commercial District; or [note: Moved from Section 6.5D]
 - 2. the proposed land use will be development is proposed to be completely contained:
 - i. located in an existing building, and/or
 - ii. on an existing paved or disturbed area installed prior to the effective date of this Ordinance, and/or
 - iii. on an existing paved area installed at any time, for a non-residential purpose, in compliance with County regulations in existence at the time of the installation; or

3. a land use that complies with Sec. 6.3B.2 with the exception of entails or a one-time expansion of an existing paved area that meets the criteria described in Sec. 6.3B.2 and/or a one-time expansion of an existing building footprint by the lesser of either:
 - i. less than up to 1,000 square feet total, or
 - ii. up to 50% of the building footprint of an existing building and/or an existing paved area that meets the criteria described in Sec. 6.3B.2

A.C. The following soils types will be combined into soil groups.

G. Emergency Service Availability

The purpose of this criterion is to assess the distance of potential site development to emergency services: fire department (4.5 points) and ambulance service (4.5 points).

Distance to Emergency Services

Distance to Fire	Points	Distance to Ambulance	Points
Less than 2 miles	0 points	Less than 2 miles	0 points
2 to 5 miles	2.5 points	2 to 5 miles	2.5 points
Over 5 miles	4.5 points	Over 5 miles	4.5 points

Distances for Fire and Ambulance will be measured by vehicular miles from a subdivision entrance by the most direct route to the closest entrance of the appropriate fire or ambulance station.

Section 6.5 Computation of Soils/Amenities Assessment

- A. At the completion of evaluation of a site with the Soils and Amenities Assessment Criteria, there should be a total number of points awarded to each Assessment. Since the Soils Assessment utilized was based on a 100 points relative point value in itself, a minor conversion must be made to the total relative value. The Development Review System allots a maximum of 25 points to the Soils Assessment therefore the conversion to be made is expressed as follows: $100 \times .25 = 25$ pts. (For example, if a parcel receives the maximum point value of 100 points, in actuality only 25 points will be awarded for the Soils Component of the Development Review System.)
- B. The Amenities Assessment has a 75 point maximum point value.
- C. The combined maximum total for both Assessments is 100 points. The most agriculturally significant parcel would rate 100; the most developable parcel would rate 0. A total of 60 points or less advances the application to the Compatibility Assessment Meeting.^{14, 17, 21}
- ~~D. The Soils Assessment of a proposed development is not applied when the development proposal is located within the Residential/Growth District or the Industrial/Commercial District. [Note: moved to Section 6.3]~~
- E.D. Any land in the Rural District that is located on a primary or secondary road, as defined in the Comprehensive Plan, shall not have to process through the LESA points process for a commercial or industrial project and shall be advanced directly to the Compatibility Assessment Meeting.^{17, 21}

6. Glare and Heat

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

7. Toxic Matter

The ambient air quality standards for the State of West Virginia shall be the guide to the release of airborne toxic materials across lot lines. Where toxic materials are not listed in the ambient air quality standards of the State, the release of such materials shall be in accordance with the fractional quantities permitted below, of those toxic materials currently listed in the threshold limit values adopted by the American Conference of Governmental Industrial Hygienists. Unless otherwise stated, the measurement of toxic matter shall be at ground level or habitable elevation, and shall be the average of any twenty-four (24) hours sampling period.

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

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

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

8. Fire Hazards

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

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

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

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

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

Container Setback from Lot Lines

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

9. Frontage Road

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

10. Landscape Buffer

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

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)

ROW LIMITS OF CONTROLLED ACCESS HIGHWAY



- * 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.⁵

Section 8.10 Model Homes/Sales Offices²³

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.^{17, 21}

Model homes without staffed sales offices are permitted internally within the subdivision.¹²

Section 8.11 Petroleum Products Refining or Storage²³

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 Fireworks²³

Sales of fireworks are **only** permitted in the ~~commercial~~-Industrial - Commercial, Residential - Light Industrial - Commercial, General Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts~~zones~~ provided all other restrictions such as setbacks and the requirements of the Jefferson County Subdivision and Land Development Regulations are met.⁸

Section 8.13 Dormitory²³

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.

ARTICLE 12: MAP AND TEXT AMENDMENTS

Section 12.1 Purpose

- A. These regulations, restrictions, provisions, and the boundaries of districts provided herein may from time to time be amended, modified, or repealed by the County Commission. Any person, individual, board, commission or bureau of the County may petition the County Commission for such change.
- B. The County Commission shall refer any amendment or alteration of this Ordinance to the Planning Commission for analysis, study, report, and recommendations regarding compatibility with the Comprehensive Plan as well as consideration as to whether a Conditional Use Permit (CUP) or other process may be a more appropriate process.^{17, 21, 23, 25}

Section 12.2 Procedure for Amendment by County Commission^{1, 25}

- A. After the enactment of the Zoning Ordinance, the governing body of the County may amend the Zoning Ordinance without holding an election.^{17, 21}
- B. Before amending the Zoning Ordinance text or map, the governing body, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of §8A-7-8 et seq of the West Virginia State Code, as amended.^{17, 21, 25}
- C. All amendments to the Zoning Ordinance Map require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination.
 - 1. Public Notice of the Public Hearing for a Zoning Map amendment before the Planning Commission requires the following:
 - a. A legal advertisement describing the location and identification of the subject parcel for which the zoning is proposed to be changes, including the current tax district, map and parcel number, and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation;
[Note: the amendment to the following subsections is also under consideration in Agricultural Uses and Related Amendments currently under review]
 - a.b. Any property affected by the proposed zoning map amendment shall be posted ~~at least 30~~ not less than 20 and not more than 28 days prior to the Public Hearing. The posting shall state the time, date, and location of such hearing, as well as, what new zone is being requested on the property; and
 - b.c. All property owners adjoining the property proposed to be rezoned shall be noticed by first class mail not less than 20 and not more than 28 ~~at least 30~~ days prior to the Public Hearing. The adjoining letters shall be mailed by the Department staff and shall state the time, date, and location of such hearing, as

well as, what new zone is being requested on this particular property. The letter shall also describe the location and identification of the subject parcel proposed to be rezoned, including the current tax district, map and parcel number.

2. Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.
- D. All amendments to the Zoning Ordinance Text require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended text amendments require a Public Hearing before the County Commission prior to a final determination.
1. Public Notice of the Public Hearing for a Zoning Text Amendment before the Planning Commission requires the following:
 - a. A legal advertisement describing the Sections of the Ordinance proposed to be revised, with a summary of the revision(s), and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation.
 2. Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.

Section 12.3 Procedure for Map Amendment by Petition²⁵

A. Map Amendments by Landowners

The procedure for processing a map amendment petition initiated by the owners of fifty percent or more of the real property to which the petition relates shall be as dictated in §8A-7-9 et seq of the West Virginia State Code, as amended.

[The procedure for processing a map amendment petition to change the zoning map designation of a property to the Planned Neighborhood Development district shall also include the applicable requirements of Article 5.](#)

Petitions for a map amendment initiated by landowners shall be submitted to the Planning Commission and shall contain the following information:

1. Substantiation for the request
2. Tax District, Map and Parcel number
3. Deed Book reference
4. Plat or sketch pursuant to Section 7.4 (b)
5. Tract size
6. Discussion on:
 - a. Comprehensive Plan compatibility of the proposed change.
 - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted.^{17, 21}

7. A petition for a map amendment to change the zoning designation for a property to the Planned Neighborhood Development (PND) district shall include a Preliminary PND Plan for the subject property. The submittal review process for a Preliminary PND Plan is described in Article 5 of this ordinance.

Planning Commission is required to set a public hearing on the proposed Zoning Map amendment within 60 days of the date upon which a complete petition is presented to the Planning Commission at a Planning Commission meeting. A complete petition, and related fees, shall be submitted to the office of the Departments of Planning and Zoning for placement on a Planning Commission agenda at least two (2) weeks prior to the meeting date at which the petition will be presented. Upon request, the Departments of Planning and Zoning staff can present the petition to the Planning Commission on behalf of the applicant for the purpose of setting the public hearing date.

Notice of the Planning's Public Hearing shall be in accordance with Section 12.2 of this Ordinance. At the conclusion of the Planning Commission's Public Hearing, or at the next regular Planning Commission meeting, the Planning Commission shall make a recommendation to the County Commission regarding approval or disapproval of the requested Map Amendment. This recommendation shall be forward to the County Commission within four weeks of final Planning Commission action.

B. Map Amendments by the Planning Commission

The procedure for processing a formal map amendment petition initiated by the Planning Commission shall be as dictated in §8A-7-9 et seq of the West Virginia State Code, as amended.

Petitions for a map amendment initiated by the Planning Commission shall be presented to the County Commission and submitted to the County Clerk for filing on the same date. On such petitions a map amendment shall be clearly labeled as "§8A-7-9 Petition" in the heading and contain the following information:

1. Substantiation for the request
2. Tax District, Map and Parcel number
3. Deed Book reference
4. Plat or sketch pursuant to Section 7.4 (b)
5. Tract size
6. Discussion on:
 - a. Comprehensive Plan compatibility of the proposed change.
 - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted.^{17, 21}

The County Commission is required to set a public hearing on the proposed Zoning Map amendment within 60 days of the date of the meeting at which the petition is presented to the County Commission. The petition and related agenda request form must be submitted to the County Commission office for placement on a County Commission agenda at least

Appendix A, Residential Site Development Standards Table [DRAFT 6/5/13]

Zoning District	Land use	Land Use Subtype	Minimum Lot Area (MLA) in sq. ft.***	Area per Dwelling Unit (ADU) in sq. ft.	Min. Lot Width	Maximum Building Height (feet)*	Setbacks (feet)				Parking / Drive Aisle Setbacks	Screened buffers (Sec. 4.11)
							Front	Side	Street Side	Rear		
Residential Growth	Single family detached dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20	N/A	N/A
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"		
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"		
	Small lot single-family detached dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20		
	Duplex dwelling unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20		
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"		
	Townhouse	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20		
	Multi-family dwelling (See also Section 4.12)	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30		
	Single-family dwelling with setbacks not previously stipulated by Planning Commission	Over 40,000 square feet --	N/A	N/A	N/A	40	25	12	‡	12	N/A	N/A
		30,000 sq. ft. to 40,000 sq. ft.--	N/A	N/A	N/A	40	20	10	‡	12		
		Under 30,000 square feet --	N/A	N/A	N/A	40	20	8	‡	12		
Rural (See also Sec. 5.7)	Dwellings		40,000	N/A	100	35	40	15	‡	50	N/A	N/A
	Single-family dwelling with setbacks not previously stipulated by Planning Commission	Over 2 acres --	N/A	N/A	N/A	35	40	15	‡	50		
		40,000 sq. ft. to 2 acres --	N/A	N/A	N/A	35	25	12	‡	12		
		30,000 sq. ft. to 39,999 sq. ft. --	N/A	N/A	N/A	35	20	10	‡	12		
			under 30,000 sq. ft. --	N/A	N/A	N/A	35	20	8	‡		
	Cluster Subdivision	See Residential Growth										
	Residential use that complies with the Development Review System	See Residential Growth										
Village	Residential uses	See Residential Growth										
Residential / Light Industrial / Commercial	Residential uses	See Residential Growth [‡]										
Industrial-Commercial	Residential uses	See Residential Growth										
Neighborhood Commercial	Residential uses	See Residential Growth. Article 5 also provide supplemental standards for certain development types in this district.										
General Commercial	Residential uses	See Residential Growth. Article 5 also provide supplemental standards for certain development types in this district.										
Highway Commercial	Residential uses	N/A										
Light Industrial	Residential uses	N/A										
Major Industrial	Residential uses	N/A										
Office / Commercial Mixed Use	Residential uses	See Residential Growth										
Planned Development	Residential uses	See Residential Growth. Note: the Planning Commission may amend site development standards for a land use in the Planned Neighborhood Development district pursuant to to Article 5 of this Ordinance.										

The requirements in this table are in addition to any other applicable requirements in the text of the Zoning and Land Development Ordinance. See also Article 8 of the ordinance for site development standards for certain land uses.

~~This table is for reference purposes only.~~ In the event of a conflict with the text of the Zoning and Land Development Ordinance, ~~the Ordinance~~ this table shall prevail.

All dimensions are in feet unless otherwise indicated.

* Maximum height subject to Section 9.2

**Exterior side only

*** The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.

****The front setback for a Small lot single-family detached dwelling may be reduced to 10' if the front yard does not contain a driveway.

‡See setback requirements noted in Sec. 2.2, definition of "Lot, Corner."

For all lots approved prior to Sept. 1, 1989, lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'. NOTE: All detached accessory structures under 144 square feet in size - 6' setback. (Res Growth District)

[‡]In the Residential - Light Industrial - Commercial District, on townhouse lots with a lot depth of 110 linear feet or less and/or a lot area of 3,500 square feet or less, the rear setback of a deck for a townhouse may be reduced to 10',

if the adjacent property located to the rear of the subject lot is a dedicated easement or common area and is not a lot that includes a residence. [Note: the change to this section is also under consideration in other amendments currently under review]

Appendix B, Non-residential Site Development Standards Table [DRAFT 6/5/13]

Zoning District	Development Type ^e	Min. Lot Area (MLA)	Min. Lot Width	Max. Building Height*	Imper-vous Surface Limit	Building Setbacks			Parking/Drive Aisle Setbacks ^φ			Distance (if Sec. 4.6 applies)	Buffers (Sec. 4.11) (Screened/Unscreened)						
						Front	Side	Rear	Front	Side	Rear		Front, Side, Rear	Adjacent lot is:					
														a Residential district, or any lot with a residence, school, church, or institution of human care			Commercial Use		
											Front, Side, Rear	Front	Side	Rear	Front	Side	Rear		
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25'			15	4	4	75	50(U) or 15(S)	N/A	10(S)	10(S)	N/A	10(S)	10(S)
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25'	50' (or 25' if adjacent to industrial use)		15	10	10	75	50(U) or 15(S)	N/A	10(S)	10(S)	N/A	10(S)	10(S)
	Industrial	3 acres***	N/A	75	90%	50' (or 25' if adjacent to industrial use)			25	25 (or 20' if adjacent to industrial use)		200	200(U) and 20(S)	25(S)	20(S)	20(S)	N/A	20(S)	20(S)
Residential / Light Industrial / Commercial	Commercial or Industrial	N/A	N/A	60	80%	See Industrial - Commercial District													
Rural	Churches	2 acres	200	35	N/A	25	50	50	See Parking/Drive Aisle Setbacks for commercial sites (greater or less than 1.5 acres, based on lot size) in the Industrial - Commercial District.			N/A	50(U) or 15(S)	N/A	10(S)	10(S)	N/A	10(S)	10(S)
	Schools, Grades K-12	Grades K-4: 10 acres+ Grades 5-8: 20 acres+ Grades 9-12: 30 acres+	500	35	N/A	100						N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Hospitals	10 acres	500	35	N/A	100						N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Other Rural principal permitted uses	40,000 sq. ft.	100	35	N/A	40	50	50				N/A	If a commercial or industrial use, see Industrial - Commercial District; otherwise N/A						
	Commercial or Industrial**	See Industrial-Commercial District																	
Village District	Commercial [†]	N/A	N/A	35	N/A	25	10	40	See Industrial-Commercial										
	Industrial**	See Industrial-Commercial District																	
Residential Growth	Commercial or Industrial**	See Industrial-Commercial District																	
Neighborhood Commercial [‡]	Commercial	N/A	N/A	35	70%	15' (min) 25' (max)	10 [‡]	10 [‡]	See Industrial-Commercial District	25	See Industrial - Commercial District								
General Commercial [‡]	Commercial	N/A	N/A	60	80%	20	10	25	See Industrial - Commercial District										
Highway Commercial	Commercial	N/A	N/A	60	80%	25	25	25											
Light Industrial	Commercial or Industrial	N/A	N/A	60	80%	25	25	25											
Major Industrial	Commercial	N/A	N/A	75	90%	25	10	50											
	Industrial	3 acres***	N/A	75	90%	25	50	50											
Office / Commercial Mixed Use	Commercial	N/A	N/A	60	80%	15' (min) 25' (max)	10 [‡]	10 [‡]											
Planned Development	Commercial	3 acres	See General Commercial 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 the Zoning and Land Development Ordinance. See also Article 8 of the ordinance for site development standards for certain land uses.

This table is for reference purposes only. In the event of a conflict with the text of the Zoning and Land Development Ordinance, the Ordinance this table shall prevail.

All dimensions are in feet unless otherwise indicated.

* Maximum building height is subject to Section 9.2. ~~These yard requirements are also for an approved commercial or industrial use proposed for any other zone. [Source: Section 5.6(d)]~~

**If land use(s) approved via Neighborhood Compatibility Meeting process or Development Review System process in accordance with ~~the Zoning and Development Review~~ this Ordinance.

***MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Section 5.6(e)]

****For 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. [Source: 5.7(b)]

[‡]Village Commercial setbacks may be reduced as a result of a Compatibility Assessment Meeting based on other structures existing in the neighborhood. Side and rear yard setbacks - 6' for an existing structure to be used for a land use as provided in Sec. 5.10 [Source: 5.10c]

[†]Setback may be reduced if adjacent to industrial use.

^φFor 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.

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

[‡]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.

^eChurches 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.

[‡]Article 5 also provide supplemental standards for certain development types in this district.

APPENDIX C: PERMITTED USES TABLE [DRAFT 6/6/13]

~~This table is for reference purposes only. In the event of a conflict with the text of the Zoning and Land Development Ordinance, the Ordinance shall prevail.~~

P = Permitted use

NP = Not permitted use

PC = Use permitted conditionally subject to requirements of district and/or other requirements of this ordinance

* = Limited permitted or conditional uses listed in Permitted Uses Table.

** = Accessory use to a planned residential community, if permitted pursuant to Sec. 5.4

[Note: Blue text indicates proposed new districts and new land use name, or other text changes]

[Red text indicates deleted text]

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	R-LI-C	I-C	V	Additional Standards
Residential Uses													
Dwelling, Single Family	P	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Single Family, Small Lot	P	NP	NP	NP	NP	P	P	NP	P	P	NP	NP	
Dwelling, Two Family	NP	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Duplex	NP	NP	NP	NP	NP	P	NP	NP	P	P	NP	P	
Dwelling, Townhouse	PNP	NP	NP	NP	NP	P	P	NP	P	P	NP	NP	
Dwelling, Multi-Family	PNP	NP	NP	NP	NP	P	P	NP	P	P	NP	NP	
Day Care Center, Small	P	NP	NP	NP	NP	P	NP	P	P	NP P	P	NP P	
Mobile Home	NP	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP	
Model Homes/Sales Office	P	PC	NP	NP	NP	P	P	P	P	P	NP	NP	Sec. 8.10
Home Uses													
Home Occupation, Level 1	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Article 4A
Home Occupation, Level 2	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Article 4A
Cottage Industry	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Article 4A
Institutional Uses													
Airport	NP	NP	NP	P	P	NP	NP	NP	NP	NP	PC	NP	
Church	P	P	P	P	PC	P	P	P	P	P	NP	PC P	
Convention Center	NP	P	P	P	PC	P	P	NP	NP	P	PC	NP	
Cultural Facility	P	P	P	P	PC	P	P	P	NP	P	P	P	
Day Care Center, Large	P	P	P	P	PC	P	P	NP	P	P	P	PC	
Electric Vehicle Charging Station	P	P	P	P	P	P	P	NP	NP	P	P	PC	
Elementary or Secondary School	P	P	PC	PC	NP	P	P	P	P	P	NP	NP	
Essential Utility Equipment	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 4.7
Group Residential Facility	P	P	P	NP	NP	P	P	P	P	P	NP	P	
Group Residential Home	P	P	P	NP	NP	P	P	P	P	P	NP	P	
Heliport	CNP	PC	PC	P	P	PC	PC	NP	NP	PC	PC	NP	
Hospital	NP	P	P	P	PC	P	P	P	P	P	NP	NP	
Nursing or Retirement Home	PC	P	P	P	NP	P	P	NP	P	P	NP	NP	
Park	P	P	P	P	NP	P	P	P	P	P	NP	P	
Performing Arts Theater	P	P	P	P	P	P	P	NP	NP	P	P	PC	
Preschool	P	P	PC	PC	PC	P	P	P	P	P	NP	NP	
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P	P	
Publicly Owned Facility	P	P	P	P	P	P	P	P	P	P	P	NP PC	
Recycling Drop-Off Center	PC	P	P	P	P	P	P	NP	NP	P	P	NP	
Residential Care Home	P	P	P	NP	NP	P	P	P	P	P	NP	P	
School, College or University	NP	P	P	P	NP	P	P	NP	NP	P	NP	NP	
School, Vocational or Professional	NP	P	P	P	NP	P	P	NP	NP	P	P	NP	
Vocational and Training Facility for Adults	P	P	P	P	P	P	P	P	P	P	NP	NP	
Industrial													
Heavy Equipment Repair	NP	NP	NP	PC	P	NP	NP	NP	NP	NP	PCP	NP	
Heavy Industrial Uses	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	P	NP	Sec. 8.9

¹ Note: the Planning Commission may amend the permitted uses for a development in the PND District per Article 5 of this ordinance

² Approval process is per the Salvage Yard Ordinance.

APPENDIX C: PERMITTED USES TABLE [DRAFT 6/6/13]

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** = Accessory use to a planned residential community, if permitted pursuant to Sec. 5.4

[Note: Blue text indicates proposed new districts and new land use name, or other text changes]

[Red text indicates deleted text]

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	R-LI-C	I-C	V	Additional Standards
Light Industrial Uses	NP	NP	NP	P	P	NP	NP	NP	**	P	P	NP	Sec. 8.9
Manufacturing, Heavy	NP	NP	NP	PC	P	NP	NP	NP	NP	NP	PC	NP	
Manufacturing, Limited	NP	P	P	P	P	PC	P	NP	NP	P	P	NP	
Printing and Publishing	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Salvage Yards	NP	NP	NP	NP	PC ²	NP	NP	NP	NP	NP	PC ²	NP	Sec. 4.4L
Shooting Range, Indoor	NP	PC	PC	P	P	NP	NP	NP	NP	PC	P	NP	
Shooting Range, Outdoor	NP	NP	NP	PC	PC	NP	NP	NP	NP	NP	P PC	NP	
Slaughterhouses, Stockyards	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	PC	NP	
Transportation Terminal	NP	P	P	P	P	P	P	NP	NP	PC	P	NP	
Vehicle Storage	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP	
Warehousing and Distribution, General	NP	NP	NP	PC	P	NP	NP	NP	NP	PC	P	NP	
Warehousing and Distribution, Limited	NP	P	P	P	P	PC	P	NP	NP	P	P	NP	
Industrial Manufacturing & Processing													Sec. 8.9
Acid or heavy chemical manufacturer, processing or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Bituminous concrete mixing and recycling plants	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Cement or Lime Manufacture	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Commercial Sawmills	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Concrete and ceramic products manufacture, including ready mixed concrete plants	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Explosive manufacture or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Foundries and/or casting facilities	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Garbage or dead animal reduction or processing; Landfills	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Jails and Prisons	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	Sec. 8.7
Mineral extraction, mineral processing	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	
Petroleum products refining or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP	Sec. 8.11
Adult Uses													
Adult Uses	NP	NP	NP	PNP	P	NP	NP	NP	NP	NP	P	NP	Sec. 4.4K, Sec. 8.1
Recreational Uses													
Hunting, Shooting, Archery and Fishing Clubs, public or private	NP	NP	NP	PC	PC	NP	NP	P	NP	NP	NP	NP	Sec. 8.8
Commercial Uses													Sec. 8.9
Antique Shop	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
Appliance Sales	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Art Gallery or Artist Studio	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
ATM	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
Automobile repair, sales and service	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Automobile parts, supplies and tire stores	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Automobile, light truck and light trailer rentals, indoor	P	P	P	P	P	P	P	NP	NP	P	P	NP	

¹ Note: the Planning Commission may amend the permitted uses for a development in the PND District per Article 5 of this ordinance

² Approval process is per the Salvage Yard Ordinance.

APPENDIX C: PERMITTED USES TABLE [DRAFT 6/6/13]

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[Note: Blue text indicates proposed new districts and new land use name, or other text changes]

[Red text indicates deleted text]

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	R-LI-C	I-C	V	Additional Standards
Automobile, light truck and light trailer rentals, outdoor	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Bail Bond Services	NP	P	P	P	P	NP	NP	NP	NP	PC	P	NP	
Branch Bank	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Bank with drive-through facility	PC	P	P	P	PC	P	P	NP	NP	P	P	NP	
Bar / Nightclub	PC	P	P	P	NP	P	P	NP	NP	P	P	NP	
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
Bed and Breakfast	P	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	PC	Sec. 8.3
Business Equipment Sales and Service	PC	P	P	P	P	P	P	NP	NP	P	P	NP	
Building Maintenance Services	PC	P	P	P	P	P	P	NP	NP	P	P	NP	
Building Materials and Supplies	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Campground	PC	P	NP	NP	NP	P	P	NP	NP	P	P	NP	
Commercial Uses <i>[use was formerly shown as deleted]</i>	*	*	*	*	*	*	*	*	**	P	P	*	Sec. 8.9
Car Wash	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Commercial Blood Plasma Center	NP	P	P	P	P	PC	PC	NP	NP	PC	P	NP	
Contractor with no outdoor storage	P	P	P	P	P	P	P	NP	NP	P	P	NP	
Contractor with outdoor storage	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Retail Food Convenience Store, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Convenience Store	PC	P	P	P	PC	P	P	NP	NP	PPC	P	NP	Sec. 5.8C (RLIC only)
Country Inn	P	P	P	P	NP	P	P	NP	NP	P	P	PC	
Custom Manufacturing	P	P	P	P	P	P	P	NP	NP	P	P	PC	
Dry cleaning and laundry services pick-up station; laundromat	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Dry cleaning and laundry facility services	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Exterminating Services	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Florist	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Food Preparation	P	P	P	P	P	P	P	NP	NP	P	P	NP	
Hotel/Motel	NP	P	P	P	NP	P	P	NP	NP	P	P	NP	
Gambling Facilities	NP	NP	NP	PNP	PPC	NP	NP	NP	NP	NP	PPC	NP	Sec. 4.4G
Gas Station, Limited	P	P	P	P	P	P	P	NP	NP	P	P	NP	
Gas Station	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Gas Station, Large	NP	PC	P	P	P	PC	PC	NP	NP	P	P	NP	
Golf Course	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Grocery Store	P	P	P	P	PC	P	P	NP	NP	P	P	NP	
Horse Racing Facility	NP	NP	NP	P	P	NP	NP	NP	NP	P	P	NP	
Kennel	NP	P	P	P	PC	P	P	P	NP	P	P	NP	Sec. 8.4
Medical/Dental/Optical Office, Small	P	P	P	P	PC	P	P	NP	NP	P	P	P	
Medical/Dental/Optical Office	NP	P	P	P	PC	P	P	NP	NP	P	P	NP	
Mobile home, boat and trailer sales	NP	P	P	P	P	P	P	NP	NP	PC	P	NP	
Movie Theater	NP	P	P	P	PC	P	P	NP	NP	P	P	NP	
Non/ Not for -Profit Commercial Uses	P	P	P	P	PC	P	P	NP	NP	P	P	NP	

¹ Note: the Planning Commission may amend the permitted uses for a development in the PND District per Article 5 of this ordinance

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APPENDIX C: PERMITTED USES TABLE [DRAFT 6/6/13]

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[Note: Blue text indicates proposed new districts and new land use name, or other text changes]

[Red text indicates deleted text]

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	R-LI-C	I-C	V	Additional Standards
Non-Profit Community Centers	P	P	P	P	PC	P	P	P	NP	P	P	NP	
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Pawn Shop Services	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Personal Services	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Professional Office	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Restaurant, Fast Food, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Restaurant, Fast Food	PC	P	P	P	PC	P	P	NP	NP	PPC	P	NP	Sec. 5.8C (RLIC only)
Restaurant, Fast Food, Drive-Through	NP	P	P	P	PC	PC	P	NP	NP	PPC	P	NP	Sec. 5.8C (RLIC only)
Restaurant, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC	
Restaurant	P	P	P	P	PC	P	P	NP	NP	P	P	NP	
Retail Sales Limited	P	P	P	P	PC	P	P	NP	NP	P	P	NP	
Retail Store Sales and Services, General	PNP	P	P	P	PC	P	P	NP	NP	P	P	NP	
Retail Store, Large	NP	PC	P	PC	PC	PC	PC	NP	NP	PC	PC	NP	
Shipping and Mailing Services	P	P	P	P	PC	P	P	NP	NP	P	P	NP	
Storage, Commercial	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Veterinary Services	P	P	P	P	PC	P	P	P	NP	P	P	NP	
Wireless telecommunications facilities	P	P	P	P	P	P	P	P	P	P	P	P	Article 4B
Agricultural Uses													
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	NP	P	P	NP	
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P	
Farm Brewery or Winery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Market	P	P	P	P	PC	P	P	P	NP	P	P	NP PC	Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P	
Feed and/or Farm Supply Center	PC	P	P	P	P	P	P	P	NP	P	P	NP	
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	NP	P	P	NP	
Landscaping Business	P	P	P	P	P	P	P	P	NP	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	NP	P	P	NP	
Accessory Uses													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

¹ Note: the Planning Commission may amend the permitted uses for a development in the PND District per Article 5 of this ordinance

² Approval process is per the Salvage Yard Ordinance.

Proposed New Commercial Zoning Districts and Related Amendments to the Zoning and Land Development Ordinance

Section 2.2: Definitions

Add (or amend) the following definitions:

Airport	Any area of land or water designated, set aside, used, or intended for use, for the landing and take-off of aircraft, including runways, aircraft storage buildings, helicopter pads, air traffic control facilities, informational facilities, and devices, terminal buildings, and airport auxiliary facilities, including fences, lighting and antennae systems, on-premise signs, driveways, and access roads. This term includes aircraft maintenance facilities, aviation instruction facilities, and heliports when part of a larger airport facility.
Appliance Sales	Use of a site for indoor sale of nonportable equipment used for domestic functions, including but not limited to washers, dryers, refrigerators, freezers, and stoves.
Art Gallery or Artist Studio	The use of a site for (a) an establishment engaged in the sale or exhibit of art works including but not limited to paintings, sculpture, knitted goods, or pottery; and/or (b) work space for one or more artists, artisans, or craftspersons, who may offer instruction in the creation of art works.
Automobile parts, supplies and tire stores	Stores that sell new automobile parts, tires, and accessories. This use includes installation of new tires.
Automobile repair, sales and service	The use of a site for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, and tire service, but excluding dismantling or salvage.
Automobile, light truck and light trailer rentals, indoor	Rental of automobiles, light trucks, light trailers, and vans, including a rental office but not including parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas. This use is conducted indoors with no outdoor storage of vehicles to be rented.
Automobile, light truck and light trailer rentals, outdoor	Rental of automobiles, light trucks, light trailers, and vans, including a rental office and incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.
Bail Bond Services	An establishment which provides sureties to procure the release of persons under arrest by becoming financially responsible for their appearance at the time and place designated.
Bank with drive-through facility	A bank that includes provisions for the conduct of banking services directly to the occupants of motor vehicles.
Bar / Nightclub	An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. This use may include live entertainment (other than an adult use) that complies with Jefferson County noise restrictions.

Bicycle Parking Space	A volume of space that can accommodate locked storage of one (1) bicycle at a bicycle rack, i.e. a fixture to which one or more bicycles can be securely locked.
Bank	A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities. A bank does not include the Pawn Shop Services land use.
Building Maintenance Services	An establishment primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.
Building Materials and Supplies	An establishment which sells goods relating to construction which require a large floor area such as lumber, appliances, electrical supplies and plumbing supplies.
Business Equipment Sales and Service	An establishment primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.
Campground	An area or premises operated as a commercial enterprise, generally providing space for seasonal accommodations for transient occupancy or use by tourists occupying camping trailers, self-propelled campers, tents, cabins and/or lodges. A camp ground shall be designed for seasonal occupancy, as opposed to permanent year-round occupancy, and shall not be construed to mean a Mobile Home Park as defined in this ordinance.
Car Wash	A structure, or portion thereof, containing facilities for washing motor vehicles by hand or by using production-line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning or similar mechanical device.
Commercial Blood Plasma Center	The use of a site as a facility for the donation or sale by individual donors of blood plasma and other blood products, with the exception of whole blood. This land use does not include a blood bank.
Contractor with no outdoor storage	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, but which does not use any exterior storage area other than incidental storage.
Contractor with outdoor storage	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.

Convenience Store	An establishment, not exceeding 10,000 square feet of gross floor area, engaged in the retail sale, from the premises, of food, beverages and other frequently or recurrently needed items for household use. This land use does not include a gas station.
Convention Center	A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.
Custom Manufacturing	Use of a site for the manufacturing of products that are usually handmade and/or are made in small-scale enclosed workshops, involving the use of hand tools, the use of domestic mechanical equipment, or a kiln. This category also includes incidental direct sale to customers of those goods produced on the site. Examples include clay products, glass blowing, jewelry, leatherworking, custom bookbinding, metalworking, and woodworking.
Dry cleaning and laundry facility	A facility at which clothing and other fabrics are dry-cleaned or laundered for customers, utilizing processes which are in compliance with applicable state and federal laws.
Dry cleaning and laundry pick-up station; laundromat	An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry, and/or that provides self-service machines for use by customers for the washing or drying of clothes or other fabrics. This use does not include the maintenance or operation of any other types of laundry or dry-cleaning equipment or machinery on the premises. [Note: redundant definition]
Dry cleaning and laundry services	The use of a site for customer drop-off and pickup of clothing or fabrics, to be laundered or dry-cleaned at an offsite location. This use does not include use of a site as a Dry Cleaning and Laundry Facility.
Dwelling, Single Family, Small Lot	A single-family detached dwelling meeting the site development standards for a Dwelling, Single Family, Small Lot as required by this ordinance.
Electric Vehicle Charging Station	A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.
Equipment Rental, Sales, or Service	The use of a site for the sale or rental of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, mobile homes, or similar heavy equipment, including incidental storage, maintenance, and servicing. This use includes truck dealerships and construction equipment dealerships, and mobile home sales establishments.
Exterminating Services	The use of a site for the eradication or control of rodents, insects, or other pests with incidental storage on sites other than where the service is rendered.
Food Preparation	An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption. This use includes food preparation for catering.
Gambling Facilities	The operation or conducting of any games played with cards, roulette wheels, dice, craps, slot machines, video lottery terminals, mechanical, electro-mechanical, or electronic amusement devices or machine for the return of money, cash, or prizes, or anything that could be redeemed for money, cash, or prizes. This definition does not apply to games of chance

	operated by charitable organizations licensed under West Virginia state law.
Gas Station	Buildings and premises for the supply and retail dispensing of motor fuels. Accessory uses may include minor servicing and repair of automobiles; and sale of lubricants, batteries, tires, motor vehicle accessories, beverages, food, tobacco products and other retail merchandise; a car wash; and up to fifty (50) square feet of accessory outdoor storage and display area for goods offered for sale. A gas station shall be classified as a “Gas Station, Large” if it exceeds any of the following criteria: four fuel pump islands, a total of eight fuel pumps, and/or a gas station combined with a convenience store of 3,000 square feet gross floor area.
Gas Station, Large	A gas station (as defined in this ordinance) exceeding any of the following criteria: four fuel pump islands, a total of eight fuel pumps, and/or a gas station combined with a convenience store of 3,000 square feet gross floor area.
Gas Station, Limited	A gas station (as defined in this ordinance) limited to two fuel pump islands and a total of two fuel pumps. A Gas Station, Limited land use may include as an accessory use a convenience store with a gross floor area not to exceed 1,000 square feet gross floor area .
Golf Course	A facility other than a miniature golf course for the playing of golf. A golf course may include a clubhouse with rest rooms and locker rooms, may provide additional services customarily furnished such as swimming, outdoor recreation, and related retail sales; and may include a restaurant as an accessory use.
Grocery Store	An establishment in which most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which carry a broader range of merchandise than convenience stores. A grocery store may include a pharmacy as an accessory use. [unnecessary]
Gross Floor Area	The sum of the total horizontal areas of every floor of every building on a lot. The measurement of gross floor area shall be computed as provided in the Jefferson County Subdivision and Land Development Regulations.
Heavy Industrial Use	Manufacturing or other enterprises with significant external effects including but not limited to noise, dust, glare, odors or vibrations , or which oppose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. This use also includes those land uses characterized by heavy trucking activity or extensive warehousing.
Helipad	A facility without the logistical support provided by a heliport where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling, or storage of helicopters.
Heliport	An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.
Horse Racing Facility	A facility licensed by the State of West Virginia to offer, for public viewing and amusement, on-site horse racing events with on-site related wagering thereupon. This use can also include the conduct of other occasional special events. In addition to the race course and spectator areas, this use also includes accessory uses (including but not limited to eateries, off-street parking structures, public, community or private utilities, exhibits, and shops). This use may also include the provision of resident employee and guest lodging services for both humans and animals

	incidental to the visit or stay on the site. This use may also include veterinary care for animals kept or visiting the site.
Hotel/Motel	A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a Bed and Breakfast, Residential Care Home, Group Residential Home, Group Residential Facility, or Country Inn as defined in this ordinance. A hotel/motel may include a restaurant, bar, personal and retail services, and entertainment as accessory uses.
Kennel (replaces existing definition in ordinance)	The boarding, breeding, raising, grooming, or training of more than six dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain or as part of the operations of a not-for-profit organization.
Manufacturing, Heavy	An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibrations beyond its property line. A land use that generates significant noise, odor, vibration, illumination, or particulate matter that has the potential to adversely affect adjacent land uses, or requires a significant amount of on-site hazardous chemical storage, shall be classified under this land use.
Manufacturing, Limited	The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing. This category includes welding services.
Medical/Dental/Optical Office	A facility other than a hospital where medical, dental, optical, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, and that accommodates licensed primary practitioners (for example, chiropractors, dentists, medical doctors, optometrists, prescription opticians, psychologists, etc.) within a single office suite.
Mobile home, boat and trailer sales	Use of a site for the sale, rental or servicing of mobile homes, boats and trailers. This use includes outdoor display of items for sale or rent, and accessory retail sale of merchandise related to mobile homes, boats and trailers. This use does not include a gas station.
Movie Theater	A building containing audience seating and one or more screens and auditoriums intended for the viewing of films. A movie theater may contain a lobby and refreshment stand, and may include service of food and beverages to seated patrons. Incidental use of a movie theater for community events and live performances is permitted. This use does not include an adult use or a bar/nightclub.
Parking, Commercial Offsite Accessory	Use of a site for the storage of motor vehicles, which is not accessory to any other use on the same or any other lot, and which contains parking space rented to the general public or reserved for individuals by the hour, day, week, or month.
Pawn Shop Services	An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property. This use does not include a Bank.
Performing Arts	An establishment for the performing arts with seating for audiences. Such establishments may

Theater	include related services such as food and beverage sales and other concessions. Incidental use of a performing arts theater for community events is permitted. This use does not include an adult use or a bar/nightclub.
Personal services	Establishments primarily engaged in providing individual services generally related to personal needs of a non-medical type, including barber shops; beauty salons; chiropractic clinics; clothing rental; dry cleaning and laundry services (as defined in this ordinance) ; duplicating services; garment repair, pressing, and tailoring; massage therapy provided by licensed massage practitioner; photographic studios; psychic readers; real estate; self-service laundromat; shoe repair; spas; tanning salons; travel agencies; video rental stores and other similar establishments.
Printing and Publishing	A printing operation of an industrial scale, involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing. This use may include the production of books, magazines, newspapers and other printed matter.
Professional Office	A building used primarily for offices for administrative, executive, professional, research, or similar organizations; and for real estate, advertising, and insurance agencies and similar firms. No merchandise is sold on the premises. An office building may include ancillary services for employees, such as a restaurant or coffee shop. This land use does not include a Medical/Dental/Optical Office.
Recycling Drop-Off Center	A building or site used for a drop-off location for temporary storage of recyclable, recoverable or reuseable materials such as paper, cardboard, glass, metal, plastic, batteries and motor oil. Processing of materials is limited to separation. This land use is intended for household or consumer use rather than commercial or industrial use. The area dedicated a Recycling Drop-Off Center is limited to 1,000 square feet.
Restaurant	A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building. and where food sales constitute more than 50 percent of the gross sales receipts for food and beverages. A restaurant may include the incidental sale of alcohol for on-premises consumption; however, sale of food and non-alcoholic beverages is the principal use of the site. This use does not include the use Bar / Nightclub.
Restaurant, Fast Food	Any establishment whose principal business is the sale of foods and/or beverages in ready-to-consume individual servings, for consumption either inside or outside the restaurant building or for carry-out. Customer orders and/or service may be by means of a window or walk-up counter. A fast food restaurant whose design or method of operation includes a drive-up window or drive-through service or includes service to customers in parked motor vehicles is classified as a Restaurant, Fast Food, Drive-Through. This use may include the incidental sale of alcohol for on-premises consumption; however, sale of food and non-alcoholic beverages is the principal use of the site. This use does not include the use Bar / Nightclub.
Restaurant, Fast Food, Drive Through	A fast food restaurant whose design or method of operation includes a drive-up window or drive-through service or includes service to customers in parked motor vehicles.
Retail sales, limited	Establishments of up to 10,000 square feet or fewer of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service;

building materials and/or supplies, sales, or rental; and food sales or markets. Typical uses include sale of consumer goods or art or craft objects, flower shops, gift shops, boutiques, and book stores. This use does not include Convenience Store, and does not include any other use specifically classified in another definition herein.

Retail Sales and Services, General

A commercial facility engaged in the indoor sale or rental, with incidental service, of goods or merchandise to the general public for personal or household consumption, or providing retail services or entertainment to the general public. Typical retail sales uses include department stores, apparel stores, discount retail stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; food, pharmaceutical products, cards, books, tobacco products, cosmetics, and specialty items; flowers, plants, pets and pet supplies, hobby materials, toys, and handcrafted items; apparel, jewelry, fabrics and similar items; cameras, photography services, household electronic equipment, video and music products, sporting equipment, home furnishings and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). Typical service-related uses include eating and drinking establishments; finance, real estate and insurance; amusement and recreational services or establishments such as bowling alleys and miniature golf courses; health, educational and social services. This use does not include Retail Store, Large, and does not include any other use specifically classified in another definition herein.

Retail Store, Large

A retail sales establishment located within one building with a gross floor area exceeding 50,000 square feet with any commercial retail uses or a combination of such commercial retail uses comprised of greater than 100,000 square feet of gross floor area. In calculating gross floor area, ancillary outdoor storage or merchandise display areas are included. For the purpose of determining the applicability of the 100,000 square feet of floor area, the aggregate square footage is included for all adjacent buildings operated by one company. A Retail Store, Large that sells to members only or that also offers merchandise at wholesale is included in this definition. Stores which would not otherwise be classified as a Retail Store, Large that are connected by common walls as part of a shopping center with shared parking facilities are not included in this definition. If a shopping center includes a store which meets the definition of Retail Store, Large, the entire shopping center shall be treated as a Retail Store, Large for the purposes of applicable ordinances.

School, Vocational or Professional

A specialized or accredited instructional establishment that provides on-site training or education in business, commercial, and/or trade skills. This use includes a community college that primarily provides daytime services to commuter students.

Shipping and Mailing Services

Retail sales or business service establishment to facilitate the transmittal and receipt of letter, bulk and packaging mail. This use does not include major processing of mail or packages or bulk mailing distribution centers, and does not include facilities owned or operated by governmental agencies such as the United States Postal Service.

Shooting Range, Indoor

A facility designed or used for shooting at targets with rifles, pistols, or shotguns, and which is completely enclosed within a building or structure. The operations and design and design of an outdoor shooting range meet all applicable National Rifle Association standards.

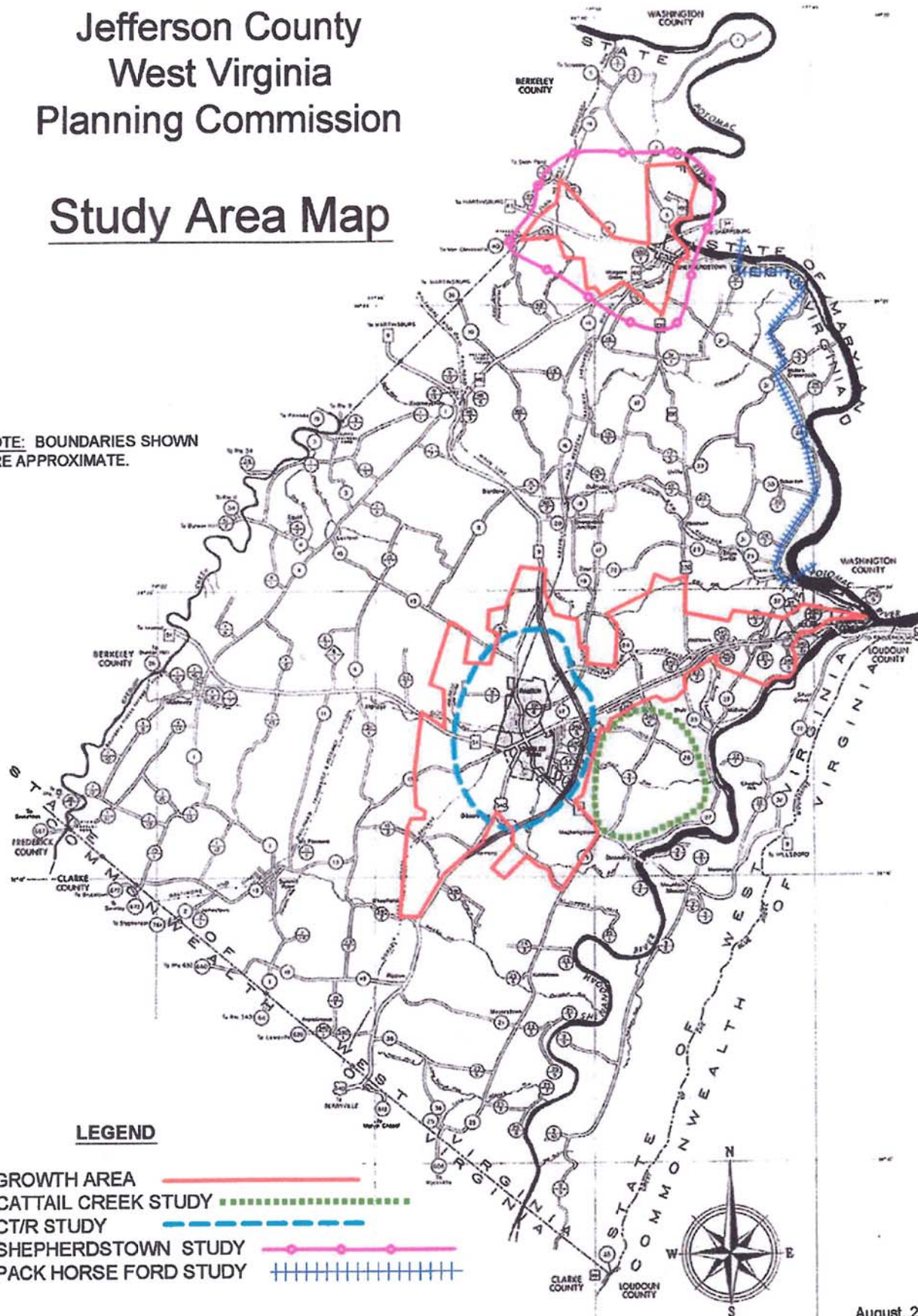
Shooting Range, Outdoor

The use of land for the safe discharge and use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any similar firearm for the purpose of target practice, sport shooting, military/law enforcement training, mock war games, or temporary competitions. The operations and design and design of an outdoor shooting range meet all applicable National

	Rifle Association standards, and the range must shall the setback and minimum acreage standards for Hunting, Shooting, and Fishing Clubs as established in this ordinance. This land use does not include Hunting, Shooting, Archery and Fishing Clubs and general hunting.
Shopping Center	A group of retail and/or other commercial establishments that is planned, constructed and managed as a total entity.
Storage, Commercial	An enclosed storage facility of a commercial nature containing independent, fully enclosed bays which are leased to persons exclusively for storage of their household goods or personal property.
Transportation Terminal	The use of a site for the provision of a facility for the loading, unloading, or interchange of passengers, baggage, or incidental freight or shipped materials between modes of transportation, and includes bus terminals, railroad stations, airport terminals, and public transit facilities. This use does not include long-term storage of shipped items.
Vehicle Storage	The use of a site for long term storage for vehicles. This use includes storage of vehicles towed from private parking areas and impound yards, but excludes dismantling or salvage.
Warehousing and Distribution, General	Use of a site for the storage of goods, and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment. This use includes major distribution centers, frozen food lockers, motor freight terminals, moving or storage firms and similar high volume, high turnover facilities. Facilities may be characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors.
Warehousing and Distribution, Limited	Use of a site for the small scale storage of goods, and sale of goods to other businesses for resale. Wholesale and warehouse areas are will be no more than 50,000 square feet in area and operate during conventional business hours. Outdoor storage is limited to an area of 1,000 square feet. This use does not include major distribution centers, motor freight terminals, moving or storage firms and similar high volume, high turnover facilities, or a use described as a Storage, Commercial facility.

Jefferson County West Virginia Planning Commission Study Area Map

**NOTE: BOUNDARIES SHOWN
ARE APPROXIMATE.**



LEGEND

1. GROWTH AREA ———
2. CATTAIL CREEK STUDY ·····
3. CT/R STUDY - - - - -
4. SHEPHERDSTOWN STUDY —◆—◆—◆—◆—
5. PACK HORSE FORD STUDY | | | | |

August, 2003
NOT TO SCALE

This information is
Tab #8 in your binder.



JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

MEMORANDUM

TO: Planning Commission
FROM: Jennifer M. Brockman
Director, Planning and Zoning
DATE: June 11, 2013
RE: US 340 South Alternative Alignments (Discussion and Possible Action)

On June 3, 2013, the WV Department of Highways held an Open House and Public Hearing on several new alternative alignment proposals for the potential four-laning of the 2-lane section of US 340 South from Charles Town to the Virginia State Line. Attached is the handout that was distributed at this meeting.

Staff will provide you with a brief overview of the status and history of this road project at the June 11, 2013 meeting. Staff will also discuss the implications the DOH plans have on decisions that the Planning Commission may have to make related to future development requests. Some of these thoughts are detailed in an e-mail that is attached and was written to the elected officials last fall. The DOH has left the Public Hearing open for written input until July 3, 2013. The Planning Commission can review this information as a body and determine if it would like to provide written comment regarding a preferred alignment or other relevant input. Individual Commissioners can also provide personal input if they desire.

If the Planning Commission is not interested in expressing a preference on a certain alignment, it might still be appropriate to write a letter for the PC President's signature, on your behalf, stating such things as follows:

- The fact that if a four-lane road is located in this area, it is likely that the adjoining land uses will change and requesting that they take more intense land uses into consideration when designing the road;
- Requesting that if the road is intended to provide a free-flowing corridor that allows traffic to move quickly, the design needs to take into consideration access management principles and be designed in a way to minimize the need for future traffic signals;
- Request that a parallel frontage road be provided for the existing driveways that front on the road now so as to minimize the number of direct accesses to a four-lane road;
- Request that a bike path separated from the road be located along this route to continue the path currently along Rt 9 for the use of Jefferson County citizens and the many tourists that visit the County via non-motorized transit;
- Request landscaping that be provided along the corridor in a way that complements the history and culture of this area of the County;

- Request that the design be sensitive to the significant historic features that are found in this area of the County.

Staff is requesting that the Planning Commission discuss this item and provide direction if a letter is desired so that it can be drafted for signature prior to the July 3, 2013 due date.

Attachments:

- 9/25/12 e-mail from Jennie Brockman
- WV DOH Handout from the 6/3/13 Public Meeting

From: [Jennifer Brockman](#)
To: lawrenceforddelegate@hotmail.com; john.unger@wvsenate.gov; herb.snyder@wvsenate.gov; johndoyle@wvhouse.gov; eric.householder@wvhouse.gov
Cc: [Debbie Keyser](#); [Patsy Noland](#); [Walter Pellish](#); [Dale Manuel](#); [Lyn Widmyer](#); fberrymorgan@aol.com; [Seth Rivard](#); [Steve Barney](#); [Stephen Groh](#); [Stephanie Grove](#)
Subject: RE: subdivision approval process related to US 340 South
Date: Tuesday, September 25, 2012 5:42:31 PM

Jefferson County Senators and Delegates:

It has come to our attention that there may be some confusion regarding the local planning and zoning approval processes and the selection of a proposed new road alignment by WV DOH. This is a very brief explanation of the role of the County Planning Commission in this approval process so that you are aware when you receive questions from your constituents.

Currently the WV DOH is in the midst of finalizing an Environmental Impact Statement (EIS) for the proposed 4-laning of US 340 South between Charles Town and Clarke County VA. It is my understanding that the EIS process, which required by the National Environmental Protection Act (NEPA), has been going on for a number of years. I have been told that in both 1998 and 2003, Alternative 4 was chosen as the preferred alignment in public workshops held at that time; however, there was never a Record of Decision (ROD) which is required to complete the NEPA process. For this reason, at this point in time, there is no final alignment for the expansion of US 340 South that would allow the acquisition of right-of-way. Without this ROD, there is no way for a local government to prohibit the development of a private property that might be in the alignment of one of the alternatives. There is considerable anger in the community over the fact that in 2005, the Planning Commission approved a subdivision in an alignment for the 340 South. Because the EIS was never completed through the publication of a ROD, the route still does not appear on any planning maps for the purpose of reserving future right-of-way. Therefore, the local Planning Commission would have had no authority to deny a development in its possible alignment. We are providing this historical information to interested citizens at their request.

Note that last year I participated in some meetings with Senator Unger about the need to be able to reserve future right-of-way for roads, but it is my understanding that it would require legislative action to make this possible. I hope that this information is helpful to you and would be glad to discuss this with you in more detail if it is of interest.

Thank you for your support of the local planning and development review processes.

Respectfully,

Jennie

Jennifer M. Brockman, AICP
Director, Planning and Zoning
116 E. Washington St. PO Box 338
Charles Town, WV 25414
304-728-3228



US 340 IMPROVEMENT STUDY

**WV Department of Transportation
Division of Highways**

**Public
Workshop / Hearing**

**US 340 Improvement Study
from south of the Virginia Line
to the Charles Town Bypass**

State Project: U319-340-0.00 02

Federal Project: NH-0340(030)

**Page-Jackson Elementary School
Charles Town**

Monday—June 3, 2013

5:00 PM — 10:00 PM

WORKSHOP AND HEARING PURPOSE

The purpose of this Public Workshop and Public Hearing is to provide an update on the progress of the US 340 Improvement Study and to receive formal comments (oral or written) on the project. Previously presented Alternates 4, 4A, and 4B along with newly developed Alternates 4C, 10A, 10B, and 11, which were developed based on public comments, are the focus of this workshop/hearing.

There are project maps on display at the meeting today. You are encouraged to examine them and discuss the project with members of the study team. A comment sheet is enclosed for you to provide the project team with your opinions and thoughts on this project. Following the workshop, the Public Hearing will begin at 8:00 PM. Both written and oral comments will become part of the official project record.

PROJECT DESCRIPTION

The WVDOH, in conjunction with the Federal Highway Administration (FHWA), is proposing to improve the existing two-lane section of US 340 in Jefferson County from 0.5 mile southwest of the state line between Virginia and West Virginia to approximately 2 miles north of the community of Rippon in Jefferson County, West Virginia. The existing facility within the project area is a two-lane rural arterial highway with numerous access points from both residential and commercial properties. The proposed project is needed to improve traffic operations, increase capacity, eliminate deficiencies, and improve safety.



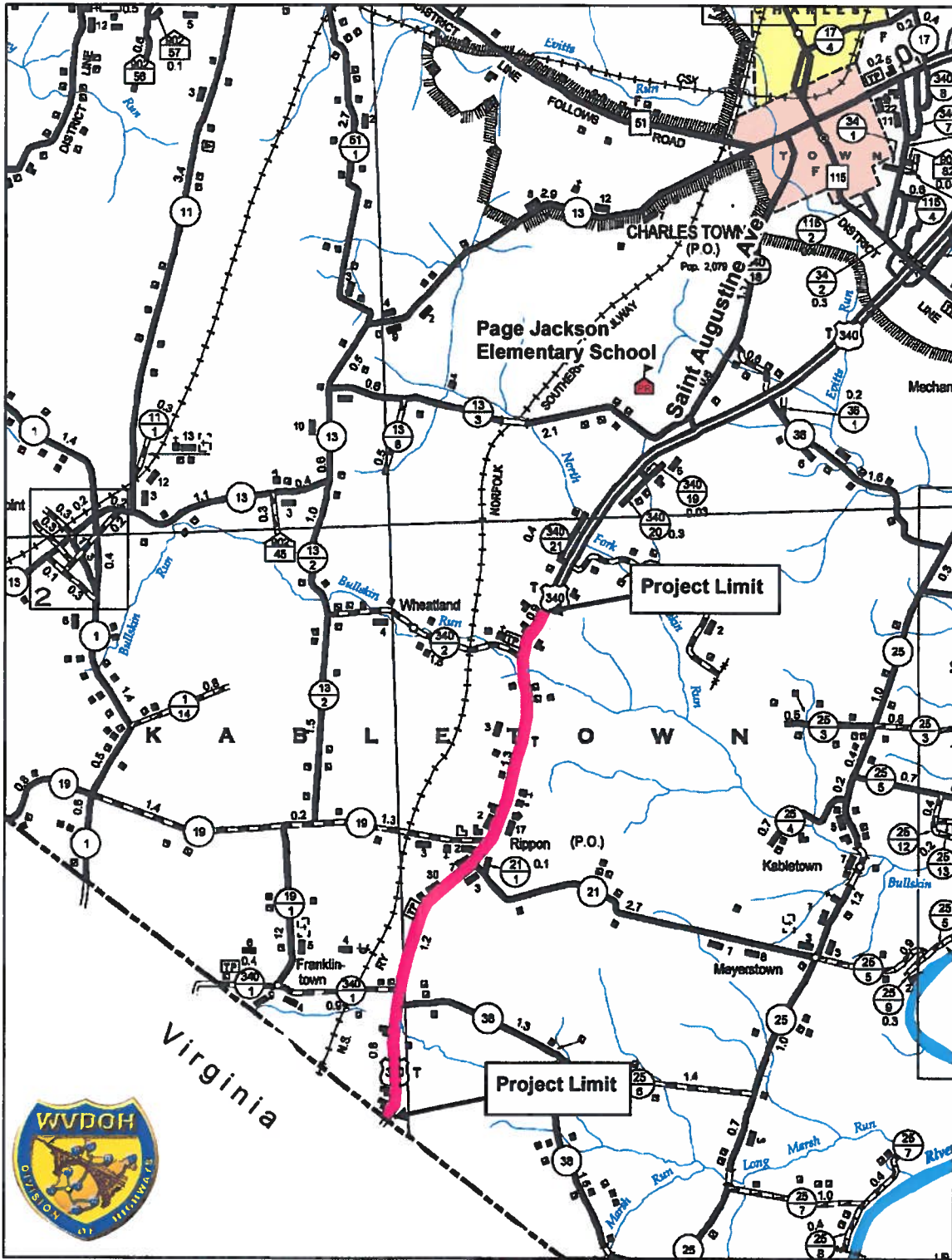
Existing Charles Town Bypass Four-Lane Highway

The intent of the project is to extend the existing four-lane facility of the Charles Town Bypass in Jefferson County, West Virginia to the existing four-lane highway in Virginia. This will result in constructing a four-lane divided highway around Rippon with at-grade intersections. The total project length is approximately 5 miles. Exhibit 1, located on page 2, shows the project limits.

PROJECT STATUS AND SCHEDULE

The US 340 Improvement Study is being conducted in accordance with the guidelines and provision of the National Environmental Policy Act (NEPA), associated federal and state statutes, and appropriate Executive Orders. This study has been underway since the Notice of Intent was published in the Federal Register on February 9, 1996. Numerous studies have been conducted and various concepts have been developed related to the proposed project during the intervening years. In late 2001, a Draft Environmental Impact Statement (DEIS) was issued for the project. A Public Hearing was held in 2002 and a Preferred Alternative Workshop was held in November 2003. Alternate 4 was designated as the Preferred Alternative in 2003. A Final Environmental Impact Statement (FEIS) was prepared but not signed and circulated. The project has been dormant awaiting funding prior to completing the NEPA process.

US 340 4-Lane Project Jefferson County



0 1 Miles

**US 340
IMPROVEMENT
STUDY**



June 3, 2013

Exhibit 1 - Project Limits

In 2010, the WVDOH renewed efforts on the project. In order to comply with current requirements, and to account for changes in the study area, various project related factors needed to be examined in more detail. These factors included residential growth in the study area, additional environmental studies, and how to best minimize potential impacts in the project area. Due to the continued growth and development within the area of Alternate 4, and a desire to potentially further minimize impacts to historic resources and residential properties, two modifications of Alternate 4 (Alternates 4A and 4B) were developed. These modifications included a slight westerly shift of Alternate 4, identified as Alternate 4A, to further minimize impacts to the Byrdland Historic Property and residential properties, as well as an easterly shift of Alternate 4, identified as Alternate 4B, to further minimize impacts to the Village of Rippon Historic District and residential properties.

Additional environmental analyses were conducted since the project may affect a federally-protected species of crustacean known as the Madison Cave isopod. The Madison Cave isopod is an eyeless, unpigmented, freshwater crustacean. It is found in flooded limestone caves beneath the Great Valley of Virginia and West Virginia where it swims freely through calcite-saturated waters of deep karst aquifers. The range of the isopod is now known to be a 15 mile wide belt stretching from Lexington, VA to Charles Town, WV. There are documented population centers in several counties in Virginia and in Jefferson County, WV.

In September 2012, a public meeting was held for the project. Based on the input received from the meeting, additional design concepts were developed. These include Alternates 4C, 10A, 10B, and 11. Tonight's workshop and hearing is an important part of the project development process because it provides the WVDOH the opportunity to answer your questions and receive your comments concerning Alternates 4, 4A, 4B, 4C, 10A, 10B, and 11.



Because of the time duration of this project along with new information about the study area and additional proposed alternates to address the project purpose and need, a Supplemental Draft Environmental Impact Statement (SDEIS) will be prepared. This document will update and supplement the information from the previous DEIS. A Public Hearing will be held on the SDEIS.

The Preferred Alternative will be considered anew based on the information contained in the SDEIS and comments on the SDEIS from the public and environmental review agencies. A Final Environmental Impact Statement (FEIS) will address the Preferred Alternative. Following the receipt of public and agency comments on the FEIS, a Record of Decision (ROD) will be published to complete the National Environmental Policy Act (NEPA) process.

The final design for the Preferred Alternative will depend on the availability of funding and will commence upon the completion of the NEPA process. Right of way acquisition and construction activities would follow final design.

WORKSHOP / HEARING FORMAT

The WVDOH procedures for public workshops and hearings were established to ensure meaningful citizen input in the development of proposed projects, in compliance with all applicable regulations and requirements. This public workshop is being held in an informal format. Four stations have been established for your use in reviewing the project information, asking questions, and giving comments. The formal Public Hearing will be held starting at 8:00 PM following the public workshop.



Station 1: Registration

If you have not already printed your name and address on the registration sheet, please remember to do so at Station 1 before you leave. Additional copies of this handout and the comment sheet are available at the registration station. The WVDOH welcomes your comments on the project; therefore, please feel free to write comments as you visit other stations around the room. You can drop the completed sheet in the Comment Box, return it to any US 340 Improvement Study representative at the meeting, or mail it to the WVDOH at the address printed on the comment sheet. You may also comment on the project at <http://go.wv.gov/dotcomment>. Official testimony on the project will be received during the Public Hearing.

Station 2: Environmental Studies

Representatives from WVDOH and the consulting firm of H.W. Lochner, Inc. are here today to discuss the environmental study process, including an estimate of impacts the proposed alternates would have on the natural, economic, and social environments as of the date of this meeting. Maps depicting the previous alternates as well as additionally developed Alternates 4A, 4B, 4C, 10A, 10B, and 11 are available for viewing.

Station 3: Engineering

Representatives from WVDOH and the engineering firm of Stantec Consulting are available to discuss the location and preliminary design of Alternates 4, 4A, 4B, 4C, 10A, 10B, and 11. These representatives also have information regarding the other build alternates studied for the project and can help you to find landmarks throughout the study area.

Station 4: Right-of-way and Relocation

WVDOH Right-of-way specialists are at this station to answer your questions regarding right-of-way acquisition and relocation. Right-of-way brochures are available upon request at this station.

DESCRIPTION OF ALTERNATES UNDER CONSIDERATION

At the outset of this study in 1999, four broad ranged alternatives were established for consideration. These included the Mass Transit Alternative, the Transportation Systems Management (TSM) Alternative, the No-Build Alternative, and the Build Alternative. These alternatives were evaluated relative to their ability to meet the purpose and need for the project and the impacts to both the natural and human environment. Eight build alternates were identified and six (Alternates 1, 3, 4, 5, 6, and 8) were evaluated in detail in the Draft Environmental Impact Statement. All the alternates resulted in direct impacts to historic properties in the project study area. Alternates 6 and 8 were presented as the recommended alternates for implementation at a public hearing in January 2002.

In response to public input at the hearing, Alternate 9 was developed as an additional potential concept for implementation. These three alternates were presented at an Informational Public Workshop in July 2002.

After the July 2002 workshop, further evaluations related to federally protected historic resources west of US 340 were completed. The Bullskin Run Rural Historic District was found to be eligible for the National Register of Historic Places. Alternates 6, 8, and 9 would impact this district. Because every build alternate would impact historic properties and districts, all alternates were reviewed again and Alternate 4, which was originally eliminated because it impacted the Kabletown Rural Historic District, was chosen as the then - Preferred Alternative.

Due to the continued growth and development within the project study area since 2002, two modifications of Alternate 4 (Alternate 4A and 4B) were proposed to minimize impacts to residential areas affected by Alternate 4. These three alternates were presented at an Informational Public Workshop in September 2012.

Additional build alternates have been created in response to this recent public input on the project. Alternates 4C, 10A, 10B, and 11 have been developed. These are presented at this workshop/hearing along with Alternates 4, 4A, and 4B for public comment.

The following is a description of the six build alternates studied in detail in the 2001 Draft Environmental Impact Statement, the additional Alternate 9 that was developed at a later time, as well as the recently proposed Alternates 4A, 4B, 4C, 10A, 10B, and 11. Exhibit 2, located at the end of this handout, is a map of the eliminated Alternates. Exhibit 3, also at the end of this handout, is a map of Alternates 4, 4A, 4B, 4C, 10A, 10B, and 11.

Alternate 1 (Green Dashed—Eliminated) begins south of the Virginia and West Virginia state line and generally follows the existing US 340 roadway for 1.9 miles. Alternate 1 diverges from the existing roadway, crosses Jefferson County 19 (Withers & Larue Road), and bypasses Rippon on the west. Alternate 1 turns to the east, crosses Jefferson County 340/2 (Wheatland Road), and continues along the existing roadway to the end of the project at the multilane divided segment of US 340 south of Charles Town. The total length of this alignment is approximately 4.5 miles.

Alternate 3 (Light Blue Dashed—Eliminated) begins south of the state line of Virginia and West Virginia and generally follows the existing roadway for 1.9 miles. Alternate 3 diverges from the existing roadway, crosses Jefferson County 19 (Withers & Larue Road), and bypasses Rippon to the west. The alignment turns east, past Rippon, then shifts to the north and merges with the existing alignment near Wheatland. From this point the proposed alignment generally follows the existing roadway until the project ends at the multilane divided segment of US 340 south of Charles Town. The total length of this alignment is approximately 4.6 miles.

Alternate 4 (Magenta) begins south of the state line between West Virginia and Virginia and generally follows the existing roadway for a length of 1.4 miles. The alignment then turns east away from the existing roadway and crosses Jefferson County 21 (Meyerstown Road) on the east side of Rippon. Alternate 4 turns north and merges with the existing alignment near Wheatland. The proposed improvement continues northward along the existing roadway and ends at the multilane divided segment of US 340 south of Charles Town. The total length of Alternate 4 is approximately 4.8 miles.

Alternate 4A (Brown) begins south of the state line between West Virginia and Virginia and generally follows the existing roadway for a length of 1.4 miles. The alignment then turns east away from the existing roadway and crosses Jefferson County 21 (Meyerstown Road) on the east side of Rippon, but just to the west of Alternate 4. Alternate 4A turns north and merges with the existing alignment near Wheatland. The proposed improvement continues northward along the existing roadway and ends at the multilane divided segment of US 340 south of Charles Town. The total length of Alternate 4A is approximately 4.8 miles.

Alternate 4B (Orange) begins south of the state line between West Virginia and Virginia and generally follows the existing roadway for a length of 1.4 miles. The alignment then turns east away from the existing roadway and crosses Jefferson County 21 (Meyerstown Road) on the east side of Rippon, and also just east of Alternate 4. Alternate 4B turns north and merges with the existing alignment near Wheatland. The proposed improvement continues northward along the existing roadway and ends at the multilane divided segment of US 340 south of Charles Town. The total length of Alternate 4B is approximately 4.9 miles.

Alternate 4C (Purple) begins south of the state line between West Virginia and Virginia and generally follows the existing roadway for a length of 1.1 miles. The alignment is west of US 340 until it crosses to the east near Scooter Lane. It crosses Jefferson County 21 (Meyerstown Road) on the east side of Rippon, joining the alignment of Alternate 4B nearby. Alternate 4C turns north and merges with the existing alignment near Wheatland. The proposed improvement continues northward along the existing roadway and ends at the multilane divided segment of US 340 south of Charles Town. The total length of Alternate 4C is approximately 4.9 miles.

Alternate 5 (Blue Dashed—Eliminated) diverges to the east from existing US 340 at the West Virginia and Virginia state line and continues in a northeasterly direction crossing Jefferson County 38 (Smiths Road). The proposed improvements continue north crossing Jefferson County 21 (Meyerstown Road) and bypassing Rippon to the east. Alternate 5 merges with the existing alignment near Wheatland, continues north along the existing roadway, and ends at the multilane divided segment of US 340 south of Charles Town. The total length of this alternate is approximately 4.6 miles.

Alternate 6 (Red Dashed—Eliminated) diverges to the northwest from existing US 340 at the West Virginia and Virginia state line. The alternate continues north crossing Jefferson County 340/1 (Lewisville Road) and Jefferson County 19 (Withers and Larue Road) to the west of Rippon. Alternate 6 parallels the Norfolk and Western Railroad then turns east to cross Jefferson County 340/2 (Wheatland Road). The alternate follows the existing roadway to the end of the project at the multilane divided segment of US 340 south of Charles Town. The total length of Alternate 6 is approximately 4.6 miles.



Alternate 8 (Purple Dashed—Eliminated) diverges to the northwest from existing US 340 at the West Virginia and Virginia state line. The alternate continues northwest crossing the Norfolk and Western Railroad in West Virginia. Alternate 8 extends north, parallel to the railroad, crosses the railroad again north of Jefferson County 340/2 (Wheatland Road), and rejoins existing US 340 approximately 100 feet south of Jefferson County 340/3 (Roper North Fork Road). The total length of Alternate 8 is approximately 5.0 miles.

Alternate 9 (Dark Green Dashed—Eliminated) diverges to the northwest from existing US 340 at the West Virginia and Virginia state line. The alternate continues northwest crossing Jefferson County 340/1 (Lewisville Road) before merging with the existing Norfolk and Western Railroad in West Virginia. Alternate 9 extends north along the existing railroad right-of-way avoiding the Kabletown Rural Historic District and Ripon Lodge historic property. Alternate 9 continues north along the existing railroad crossing Jefferson County 19 (Withers and Larue Road) and Jefferson County 340/2 (Wheatland Road). The alternate then turns east and rejoins existing US 340 approximately 600 feet south of Jefferson County 340/3 (Roper North Fork Road). The total length of Alternate 9 is approximately 5.0 miles.

Alternate 9 requires the relocation of the Norfolk and Western railroad. Approximately 17,000 feet of new track will be constructed west of the current location starting just north of Jefferson County 340/1 (Lewisville Road) and continuing north on new location west of the proposed Alternate 9 roadway location. The new track will rejoin the existing track north of Jefferson County 340/2 (Wheatland Road).

Alternate 10A (Blue) diverges to the northwest from existing US 340 at the West Virginia and Virginia state line. The alternate continues northwest crossing the Norfolk and Western Railroad and Jefferson County 19 (Withers and Larue Road) near Ripon Lodge. Alternate 10A extends north and crosses the railroad again north of Ripon Lodge near Allen Lane. The alignment crosses existing US 340 north of Rippon joins other alternates near Byrdland and Wheatland. The proposed improvement continues northward along the existing roadway and ends at the multilane divided segment of US 340 south of Charles Town. The total length of Alternate 10A is approximately 5.3 miles.

Alternate 10B (Red) diverges to the northwest from existing US 340 at the West Virginia and Virginia state line. The alternate continues northwest crossing Jefferson County 340/1 (Lewisville Road) before merging with the existing Norfolk and Western Railroad near Scooter Lane. Alternate 10B extends north along the existing railroad crossing Jefferson County 19 (Withers and Larue Road) and is west of Ripon Lodge historic property. Alternate 10B turns east near Allen Lane, crosses existing US 340 north of Rippon, and joins other alternates near Byrdland and Wheatland. The proposed improvement continues northward along the existing roadway and ends at the multilane divided segment of US 340 south of Charles Town. The total length of Alternate 10B is approximately 5.2 miles.

Alternate 10B requires the relocation of the Norfolk and Western railroad. Approximately 12,500 feet of new track will be constructed west of the current location starting just north of Jefferson County 340/1 (Lewisville Road) and continuing north on new location west of the proposed Alternate 10B roadway location. The new track will rejoin the existing track near Jefferson County 340/2 (Wheatland Road).

Alternate 11 (Teal) begins south of the state line between West Virginia and Virginia and generally follows the existing roadway for a length of 1.1 miles. The alignment is briefly west of US 340 until it crosses to the east near Jefferson County 340/1 (Lewisville Road). It crosses Jefferson County 21 (Meyerstown Road) on the east side of Wayside Farm, joining the other alignments near Byrdland and Wheatland. Alternate 11 merges with the existing alignment near Wheatland. The proposed improvement continues northward along the existing roadway and ends at the multilane divided segment of US 340 south of Charles Town. The total length of Alternate 11 is approximately 5.1 miles.

RIGHT-OF-WAY GENERAL INFORMATION

The WVDOH will comply with the federal *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended*. The Act, passed by Congress in 1970, is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. In addition, the WVDOH right-of-way guidelines, activities, procedures, and services are outlined in the brochure *A Guide for Property Owners and Tenants*, which is available at this workshop. Right-of-way acquisition and relocation activities usually take place immediately prior to construction. Persons directly affected by the project will be contacted by the WVDOH. If you have any questions regarding the right-of-way acquisition process, please see one of the WVDOH right-of-way specialists or contact the WVDOH at the address given at the end of this handout.

- Information on the WVDOH right-of way procedures is also available online at: <http://www.transportation.wv.gov/highways/right-of-way/Pages/default.aspx>
- Information on the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended* is also available online at: <http://www.hud.gov/offices/cpd/affordablehousing/training/web/relocation/overview.cfm>

SUMMARY OF IMPACTS

Table 1, located on the next page, contains a comparative summary of the quantifiable impacts of the No-Build Alternative and Alternates 4, 4A, 4B, 4C, 10A, 10B, and 11 for the project.

NEXT STEPS IN THE STUDY PROCESS

The current project schedule is shown below. The next step will be preparation of the SDEIS.

Current Project Schedule

Public Information Workshop/Hearing	June 3, 2013
Comments Due	July 3, 2013
Supplemental Draft Environmental Impact Statement (SDEIS) Approval	2014
SDEIS Public Meeting/Hearing	2014
Final Environmental Impact Statement Approval	2015
Record of Decision Approval	2015
Start Final Design	2015
Begin Right-of-Way (expected)	2016
Construction Start Date (expected)	2018

COMMENTS

Please send written comments on or before Wednesday, July 3, 2013 to:

Mr. Gregory Bailey, PE
Director, Engineering Division
West Virginia Division of Highways
State Capitol Complex, Building 5
1900 Kanawha Boulevard East
Charleston, West Virginia 25305-0430

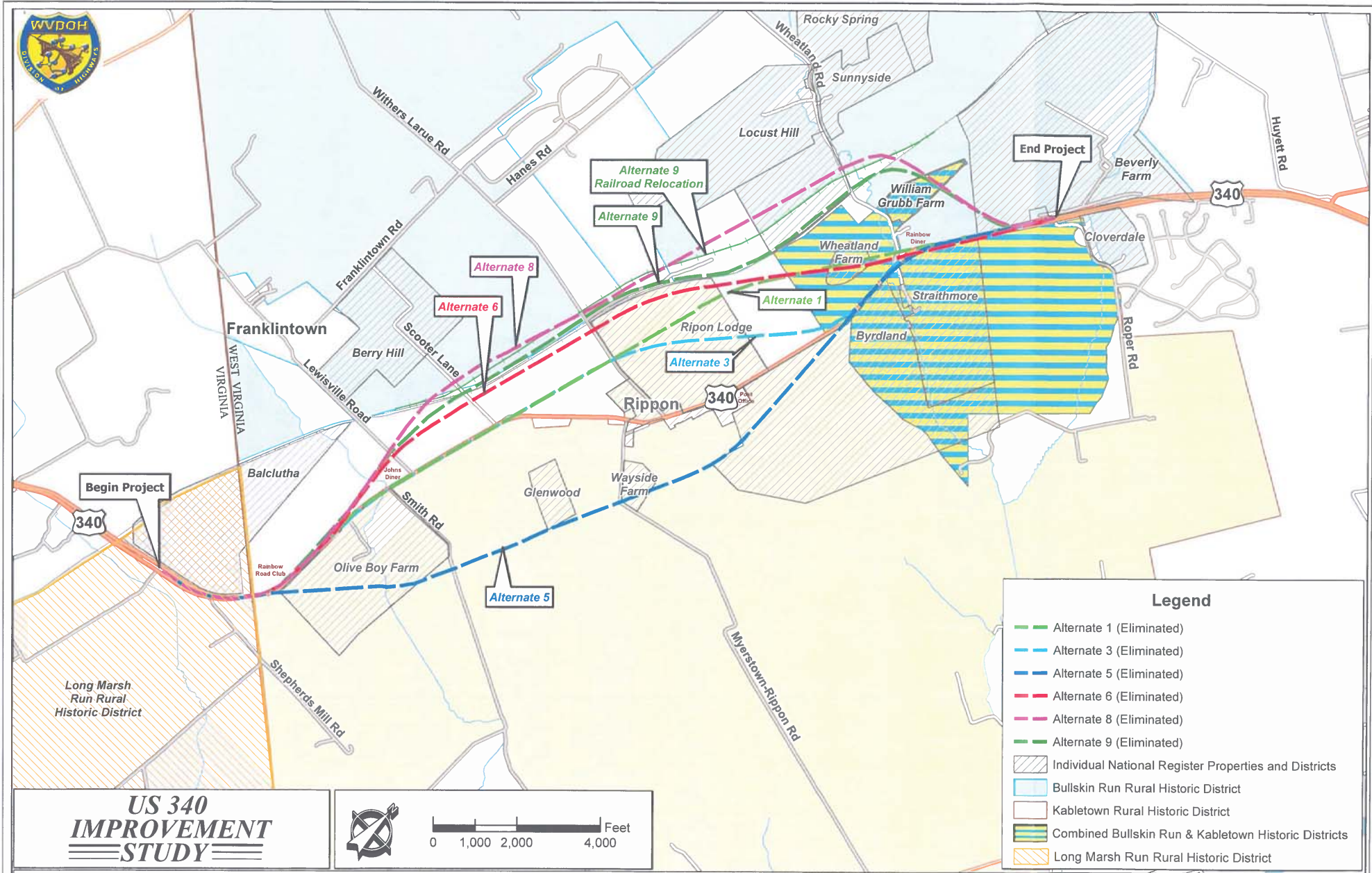
Project Information and Comment Sheets can be found online at our web page:

<http://go.wv.gov/dotcomment>

Click on "Comment on Engineering Projects", then "Open",
and then click on "US 340 Project"

Preliminary Impacts									
Category	Units	No-Build	Alternative 4	Alternative 4A	Alternative 4B	Alternative 4C	Alternative 10A	Alternative 10B	Alternative 11
Roadway Length	Miles	0	4.8	4.8	4.9	4.9	5.3	5.2	5.1
Average Daily Traffic Volumes	Existing Year 2010	12,900	12,900	12,900	12,900	12,900	12,900	12,900	12,900
	Design Year 2030	19,000	19,000	19,000	19,000	19,000	19,000	19,000	19,000
Residential Relocations	Total	0	12	4	7	13	10	8	5
Business Relocations	Total	0	5	4	5	4	3	3	4
Non-profit Relocations	Total	0	0	0	0	0	0	0	0
Right-of-way	Parcels	0	47	46	42	42	30	30	30
	Acres	0	130	115	120	141	153	156	137
Potential Hazardous Material Sites	Each	0	3	3	3	4	3	3	3
Archaeological Resources	Sites	0	0	0	0	0	0	0	0
Section 4(f) Historic Properties	Districts	0	3	3	3	3	2	2	2
	District Acres	0	110	97	101	99	73	97	117
	Individual Properties	0	4	4	4	4	4	5	4
	Individual Acres	0	46	35	44	49	34	33	54
Public Recreation Areas	sites	0	0	0	0	0	0	0	0
Wetlands	Acres	0	2	2	2	2	2	2	2
Floodplains	Acres	0	6	6	6	7	6	6	6
Streams	Number	2	2	2	2	2	2	2	2
	Feet	0	1,120	1,120	1,120	1,220	1,080	1,060	1,090
Prime Farmland Soil Types	Acres	0	82	82	82	101	63	77	104
Air Quality 1-Hour	Carbon monoxide (ppm)	4.2	2.3	2.3	2.3	2.3	2.3	2.3	2.3
Air Quality 8-Hour	Carbon monoxide (ppm)	2.6	1.4	1.4	1.4	1.4	1.4	1.4	1.4
Right-of-Way & Utility Cost	Dollars	\$0	\$10,600,000	\$13,820,000	\$15,250,000	\$16,375,000	\$14,900,000	\$20,310,000	\$13,560,000
Construction Cost	Dollars	\$0	\$36,530,000	\$36,070,000	\$35,570,000	\$37,550,000	\$62,070,000	\$42,380,000	\$39,640,000
Total Cost	Dollars	\$0	\$47,130,000	\$49,890,000	\$50,820,000	\$53,925,000	\$76,970,000	\$62,690,000	\$53,200,000

Impacts and costs shown are preliminary and subject to change as the environmental study progresses



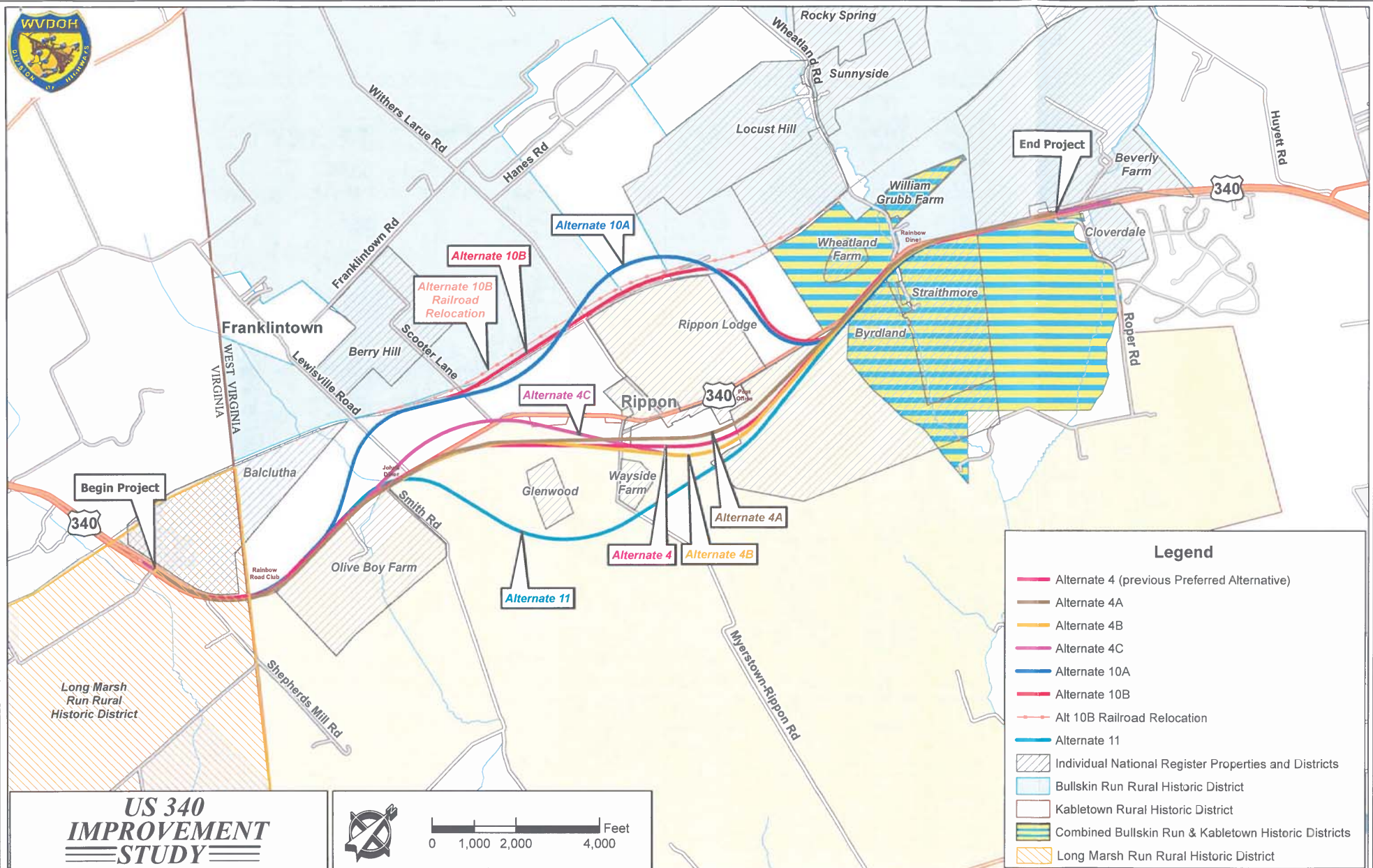
**US 340
IMPROVEMENT
STUDY**



June 3, 2013

- Legend**
- Alternate 1 (Eliminated)
 - Alternate 3 (Eliminated)
 - Alternate 5 (Eliminated)
 - Alternate 6 (Eliminated)
 - Alternate 8 (Eliminated)
 - Alternate 9 (Eliminated)
 - ▨ Individual National Register Properties and Districts
 - ▨ Bullskin Run Rural Historic District
 - ▨ Kabetown Rural Historic District
 - ▨ Combined Bullskin Run & Kabetown Historic Districts
 - ▨ Long Marsh Run Rural Historic District

Exhibit 2 - Eliminated Alternates



**US 340
IMPROVEMENT
STUDY**



June 3, 2013

Exhibit 3 - Alternates 4, 4A, 4B, 4C, 10A, 10B, 11

This information is
Tab #9 in your binder.



JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning
116 East Washington Street, 2nd Floor
Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

MEMORANDUM

TO: Planning Commission
FROM: Jennifer M. Brockman, Director of Planning and Zoning
DATE: June 11, 2013
RE: Envision Jefferson 2035 (2014 Comprehensive Plan) Update

1) Steering Committee (15 members):

- a) Monthly Meetings:
 - Tuesday, May 21, 2013 (Transportation; Infrastructure, Public Services, and Safety)
 - Tuesday, June 4, 2013 (Historic Resources, Preservation and Viewsheds; Housing)
- b) Upcoming Meetings:
 - Tuesday, June 18, 2013 (Natural Resources; Recreation; Financing)
 - Monday, July 8, 2013 (final review of all Goals and Objectives)
- c) Next Joint Meeting with County Commission:
 - Thursday, July 18, 2013, 7:00 pm -- Planning Commission Members Invited to Attend

3) Public Input Meetings ****Planning Commission Members encouraged to attend****

- a) Second series of public meetings scheduled (Goals and Objectives and Future Land Use Exercise):
 - Saturday July 27, 2013, 9:30 am – noon (Sam Michaels)
 - Tuesday July 30, 2013, 6:30 – 9:00 pm (War Memorial Building)
- b) County Fair booth (Future Land Use Exercise) –volunteers needed
 - Monday, August 19 – Friday, August 23, 2013, 3:00 – 7:00 pm

4) Next Steps

- a) Working on Goals and Objectives in preparation for Joint Meeting with County Commission (July 18) and July 27 and July 30 Public Meetings -- topic areas:
 - Economic Development
 - Land Use/Growth Management
 - Natural Resources
 - Historic Resources, Preservation and Viewsheds
 - Housing
 - Infrastructure, Public Services, and Safety
 - Recreation
 - Transportation
 - Financing

This information is
Tab #11 in your
binder.



JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning
116 East Washington Street, 2nd Floor
Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Director's Report June 11, 2013 Planning Commission Meeting

1) Jefferson County Stormwater Regulation Workshop

A special Planning Commission meeting/workshop has been called for June 25, 2013 for the purpose of hearing a presentation by the consultant and/or the Department of Engineering regarding the draft Stormwater Regulations and required amendments to the Subdivision Regulations. This meeting will be held in the second floor meeting room in the Mason Building. The public may attend this workshop but it will not be open for public comment.

A Public Hearing for these Regulations and the related amendments to the Subdivision Regulations has been advertised as a part of the July 9, 2013 Planning Commission meeting.

2) Recent CC Meetings relevant to Planning:

- a) David Mills presentation to County Commission on Ranson Renewed Plan and Form Based Code Rezoning (05/23/13).

3) Upcoming CC Actions relevant to Planning:

- a) None

4) Envision Jefferson 2035 Update:

- a) See Attached Memo

HOLD THE DATES:

- **Thursday, July 18, 2013, 7:00 pm**, Joint Meeting between Envision Jefferson 2035 Steering Committee and County Commission re: status of Comprehensive Plan effort – Planning Commission members are encouraged to attend.
- **Saturday, July 27, 9:30 am – 12:00pm**, Sam Michaels Park gymnasium, 2nd Round Public Input Meeting – Goals and Objectives and Future Land Use Input (1 of 2).
- **Tuesday, July 30, 6:30 – 9:00 pm**, Community Club Meeting Room, War Memorial Building, Shepherdstown, 2nd Round Public Input Meeting – Goals and Objectives and Future Land Use Input (2 of 2).

5) Upcoming Meetings of Interest

- a) **Wednesday, June 12, 2013, 7:00 – 9:00 pm**, Jefferson County League of Women Voters, "Transportation Summit: How Do We Get There? Tracking Transportation and Growth in Jefferson County?" Robert C. Byrd Center for Legislative Studies Auditorium, Shepherd University.

Speakers: Senator Herb Snyder; PanTran Exec. Director Cheryl Krouse; DOH District 5 Engineer Lee J. Thorne; Director of Planning and Zoning Jennifer Brockman.

6) **Upcoming PC meetings**

a) **June 25, 2013**

- Special Called Planning Commission Meeting for the purpose of having a workshop presentation for the Planning Commission on the Proposed Stormwater Regulations and Related Amendments to the Subdivision Regulations (not open for public comment)

*****This meeting will be held in the second floor meeting room in the Mason Building *****

b) **July 9, 2013**

- Public Hearing re: Proposed Stormwater Regulations and Related Amendments to the Subdivision Regulations
- *(Tentative)* Public Hearing re: Morgan's Grove Market Site Plan

c) Need to schedule required Planning Commissioner Training, including new members, focused on the Comprehensive Plan

7) **Reminder: Ethics and Fraud Prevention and Detection** – for all Boards and Commissions

June 25, 2013 7:00 PM, Old Charles Town Library basement; presentation by West Virginia Ethics Commission and the West Virginia State Auditor's Office

This information is
Tab #17 in your
binder.

**A Motion Recommending Approval of a
Waiver for Shockey (S13-03)
May 14, 2013**

Whereas, the following facts relate to a waiver request by Dale and Patricia Shockey;

Whereas, The applicant has requested a waiver from upgrading the existing 40 foot right-of-way to a 50 foot access easement, as found within the amended 2008 Jefferson County Subdivision and Land Development Regulations per section 20.201(A)2;

Whereas, Applicant is proposing to create a 35 acre single family residential lot;

Whereas, The applicant would have approximately 111 acres after the subdivision and there are additional development rights available to the residue lot;

Whereas, The waiver applies to only this newly created lot and the creation of any new lot would require an separate waiver;

Whereas, the following findings, which are required, can be made in regards to this request, in accordance with the provisions of 20.201(A)2 of the 2008 Subdivision Regulations, which requires improvements to insufficient existing right-of-ways and access easements as more lots are platted and Section 24.300 of the 2008 Subdivision Regulations:

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

Now therefore be it moved, that the Jefferson County Planning Commission (approves) _____ the requested waiver for Dale and Patricia Shockey with the condition the waiver applies to only this newly created lot and the creation of any new lot would require a separate waiver.

The portion of the record of the Planning Commission meeting pertaining to this application and the official minutes thereof are incorporated herein by reference as if set forth in full herein.

Action taken on this ____ day of _____ 2013
By vote of the Jefferson County Planning Commission
By a vote of ____ Yes ____ No

Planning Commission President

