



AGENDA

Jefferson County Planning Commission

Tuesday, November 12, 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 PM.

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

1. Approval of the minutes from the September 10, 2013 Planning Commission 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. Items not open for public comment will be so noted.
3. Request for postponement.
4. Public Hearing: Zoning Map Amendment request by the Hunter Family c/o Ann Hunter to the Planning Commission. This property is currently zoned Rural and the applicant is requesting Residential-Light Industrial-Commercial zoning. This property is located on the north side of Old Route 9 (Route 115) approximately 700 feet southeast of Berkeley/Jefferson County Line. District: Middleway (07); Tax Map: 1; Parcel: 2.
5. Presentation by Martin Burke regarding Historic Landmarks Commission and potential Zoning Ordinance Text Amendment effort (discussion and possible recommendation).
6. Discussion and possible recommendation regarding proposed text amendment to the Zoning and Land Development Ordinance (Section 4.11) regarding landscaping between similar non-residential uses.
7. Reports from Legal Counsel and legal advice to the Planning Commission.
Active Litigation:
 - Far Away Farms
8. Director's Report.
 - Update on 2014 Comprehensive Plan.
9. 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
10. President's Report.
11. Actionable Correspondence.
12. Non-Actionable Correspondence.
 - Letter from Todd E. Hooker RE: Old Standard Quarry Brownfield Development District (09-16-13)
 - Email from Mr. Joe Spurgas RE: MGM Well Water Flow Test Results (10-16-13)
13. Signing of approved Motions from previous Planning Commission meetings.
 - Bloomery Plantation Distillery Motions from August 13, 2013

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:

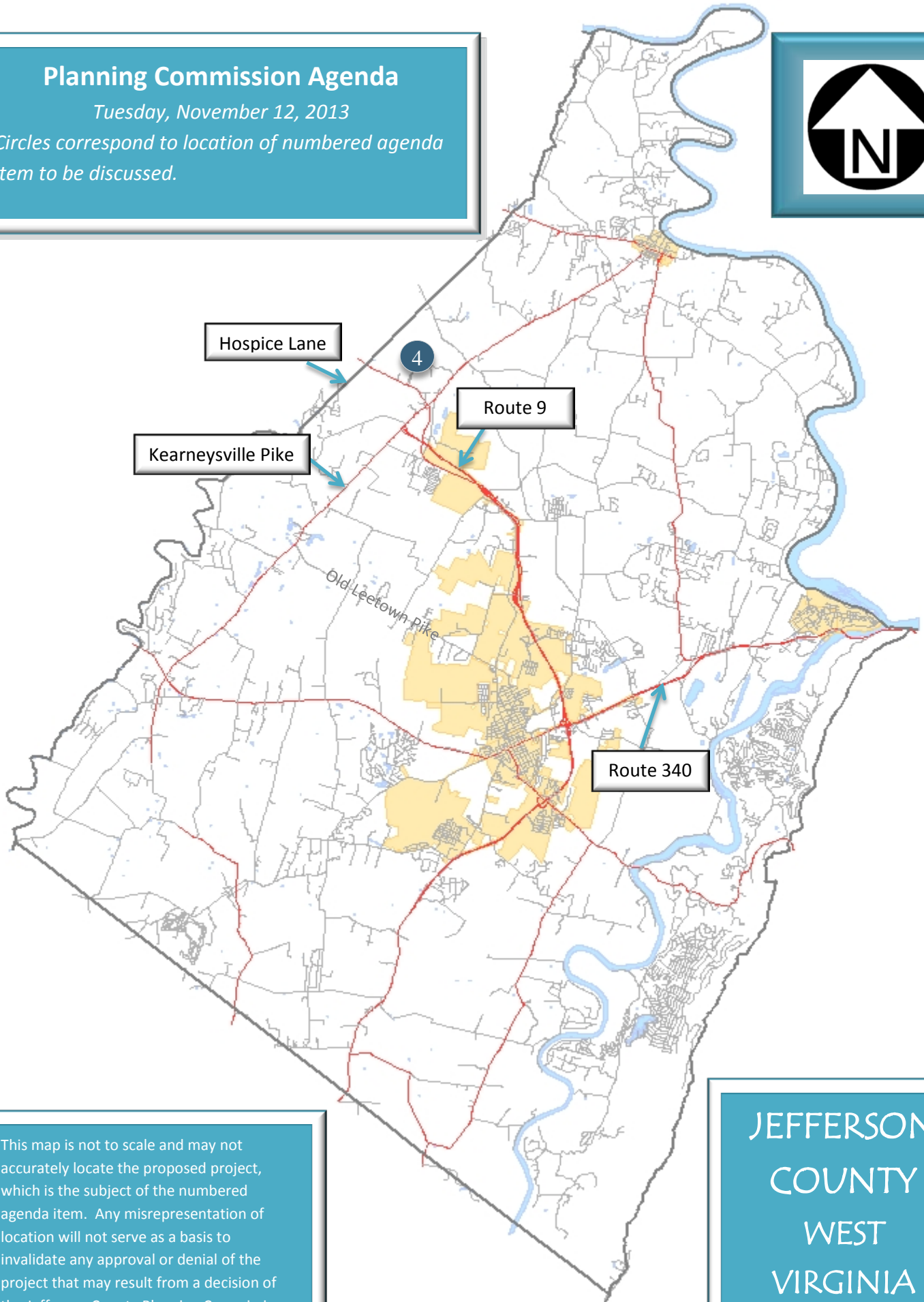
Physical Address: 116 E. Washington St., Charles Town, West Virginia 25414
Mailing Address: P.O. Box 338, Charles Town, West Virginia 25414
Email Address: planningdepartment@jeffersoncountywv.org
Fax Number: 304-728-8126

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.

Planning Commission Agenda

Tuesday, November 12, 2013

Circles correspond to location of numbered agenda item to be discussed.



Hospice Lane

4

Route 9

Kearneysville Pike

Old Leetown Pike

Route 340

This map is not to scale and may not accurately locate the proposed project, which is the subject of the numbered agenda item. Any misrepresentation of location will not serve as a basis to invalidate any approval or denial of the project that may result from a decision of the Jefferson County Planning Commission.

JEFFERSON
COUNTY
WEST
VIRGINIA

This information is
Tab #1 in your binder.

Draft Minutes

Jefferson County Planning Commission
September 10, 2013

The Jefferson County Planning Commission met on September 10, 2013, with the following Commission members present: Daniel Hayes, Vice President; Gene Taylor, Secretary; Walt Pellish, Stephen Stolipher, Gary Phalen, Wade Louthan, and Bill McLeod. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, County Planner; Stephen Groh, County Engineer; and Alexandra Beaulieu, Planning Clerk.

Mr. Paul Taylor and Ms. Darlene Truman were absent with notice.

Mr. Hayes called the meeting to order at 6:59 PM.

1. Approval of the minutes from the August 13, 2013 Planning Commission Meeting.

Mr. Stolipher motioned to approve the minutes. Mr. G. Taylor seconded the motion. Mr. McLeod requested the misspelling of his name on agenda item 1 be changed from *McCleod* to *McLeod*.

Mr. Stolipher amended his motion to include Mr. McLeod's edit. Mr. G. Taylor seconded the motion, which carried unanimously.

2. Citizen Communications. None.

3. Request for postponement. None.

4. Petition by Ann, James, and Ernest Hunter for a zoning map amendment to the Planning Commission for the purpose of scheduling a public hearing within 60 days. This property is currently zoned Rural and the applicant is requesting Residential-Light Industrial-Commercial zoning. This property is located on the north side of Old Route 9 (Route 115) approximately 700 feet southeast of Berkeley/Jefferson County Line. District: Middleway (07); Tax Map: 1; Parcel: 2.

Ms. Beaulieu provided copies of a letter from the applicant which stated that the applicants waived their right to a hearing within 60 days, provided a hearing was scheduled on or before November 12, 2013.

Mr. Stolipher motioned to schedule a Public Hearing for November 12, 2013. Mr. Phalen and Mr. McLeod seconded the motion, which carried unanimously.

Ms. Brockman stated that this application would be the first item for review on the November agenda after approval of the minutes and Citizens Communication.

Mr. McLeod requested clarification on the role of the Planning Commission with regard to this application. He stated that it did not appear the Planning Commission could approve or disapprove the item at this time.

Ms. Brockman stated that the Planning Commission would accept the application and schedule a Public Hearing date. Ms. Brockman added that after a hearing date was scheduled, an ad would be placed in the paper notifying the public of the request as well as the applicant would post a placard on the property notifying the public of the public hearing.

Mr. McLeod requested staff notify him when an ad was submitted to the papers for future public hearings.

5. Comprehensive Plan overview and presentation of Clay Raines' study on residential and commercial build-out.

Mr. Rivard provided an overview of the study and a Power Point presentation. The build-out study focused on lots recorded in the courthouse that are unbuilt and subdivisions with vested rights to continue with their plans, but have not yet been started or finished. Mr. Rivard stated that the study included new subdivisions within the County, the City of Ranson, and the City of Charles Town.

Mr. Rivard stated that in unique circumstances, such as on the mountain, where parcels did not meet standards to be considered a buildable lot, multiple parcels would be combined to create one buildable lot.

Mr. Rivard concluded the presentation stating that there are a total of 12,506 un-built lots with potential for build-out, of which 1,466 were located on the mountain.

Mr. Hayes stated that this was great information, especially with regard to writing the Comprehensive Plan. Mr. Hayes suggested that the presentation begin with the conclusion, revealing the total number of lots and progress into how the information was collected. He also suggested rounding the numbers conservatively by 2% - 5% because the totals were estimates, not concrete.

Mr. Stolipher inquired if it would be possible to determine the number of homes built per year over the past ten (10) years. Staff stated that it would be possible. Mr. Stolipher requested that information be included in the study for use in writing the Comprehensive Plan.

6. Short training presentation on major planning and zoning concepts in Jefferson County.

Ms. Rivard provided a brief Power Point presentation reviewing processes including the Conditional Use Permit and Zoning Map Amendment; the difference between a Waiver request and a Variance; and the distinction between a Major Subdivision and a Minor Subdivision.

Mr. Pellish requested an electronic copy of the Power Point Presentation.

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

Active Litigation:

- Far Away Farms
- Cedar Air Park – Order Denying Certiorari Petition from the Circuit Court of Jefferson County.

Mr. Groh stated that a final hearing should be scheduled next month for Far Away Farms. Mr. Groh stated that an electronic copy of a letter from the Department of Commerce had been received regarding Old Standard Quarry and that once a signed, hard copy of the letter was received it would be recorded.

8. Director's Report.

- Update on 2014 Comprehensive Plan.

Ms. Brockman encouraged Board Members to complete the Envision Jefferson online-survey. She stated that the fair was a success in that staff and volunteers were able to talk with a wide representation of the county and 199 surveys were completed as a result. She stated that 130 online surveys had been completed and that the survey would be available online for an additional two weeks. Ms. Brockman reviewed upcoming meetings, noting that the Stakeholders meeting originally scheduled for September 27, 2013 was moved to Friday, October 25, 2013.

9. Planning Commission Exchange and Liaison Reports: None.

10. President's Report. Mr. Hayes waived this item as he had not received advance notice to prepare a report.

11. Actionable Correspondence. None.

12. Non-Actionable Correspondence. None.

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

Mr. Rivard stated that the motions had not been prepared and that they would be available at the next scheduled meeting for Mr. Taylor to sign.


Mr. G. Taylor motioned to adjourn the meeting at 8:06 PM. Mr. Louthan seconded the motion, which carried unanimously.

This information is
Tab #4 in your binder.

Staff Report
Jefferson County Planning Commission Meeting
November 12, 2013

Hunter Family Zoning Map Amendment PC File #Z13-01

Agenda Item #4: Zoning Map Amendment for applicant Hunter Family c/o Ann Hunter to be re-zoned from Rural to Residential-Light Industrial-Commercial.

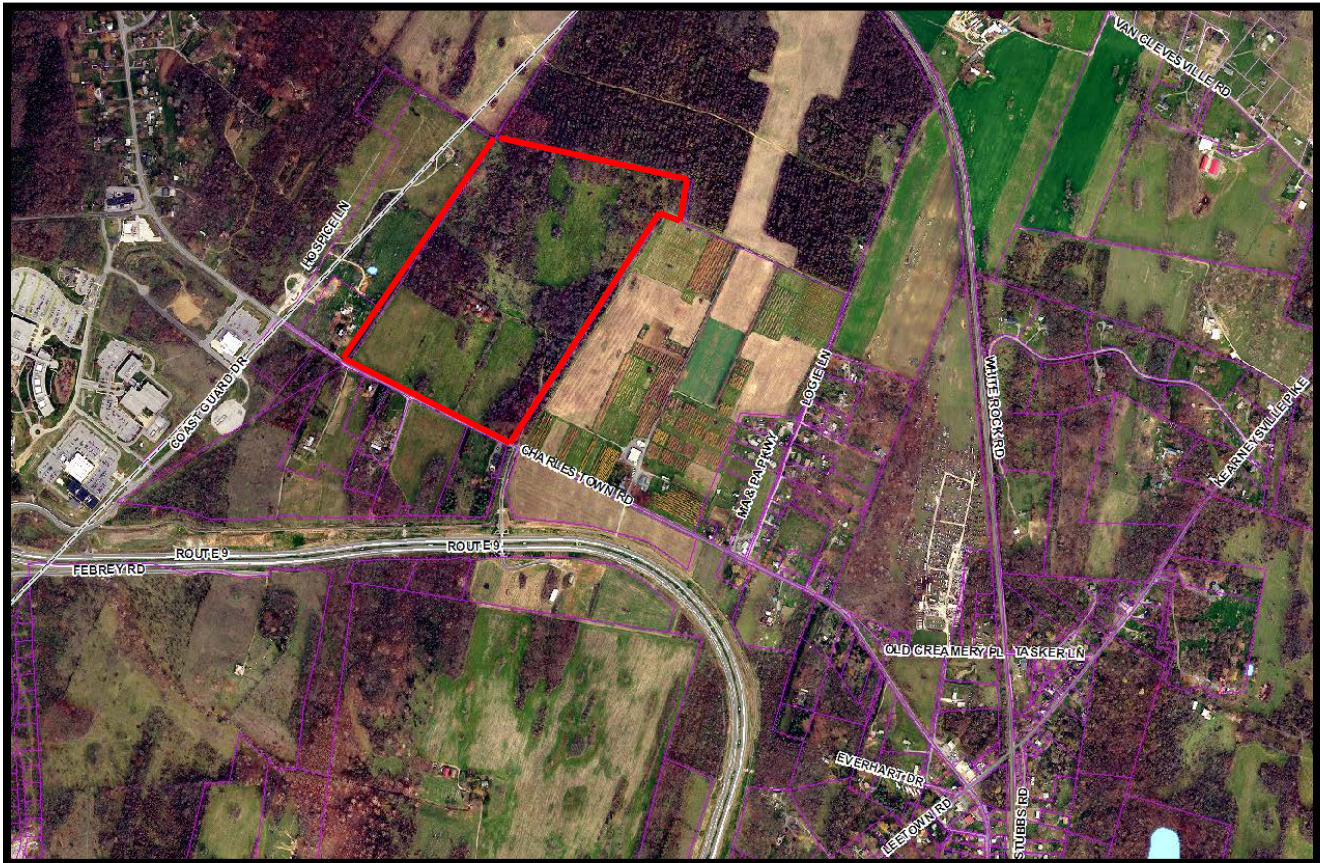
APPLICANT:	Hunter Family c/o Ann Hunter
OWNER:	Ann, James, and Ernest Hunter
DEVELOPER:	N/A
APPLICANT REPRESENTATIVE:	Annette Van Hilst, R.A. The Crossroads Group
PROPERTY LOCATION:	The property is located on the north side of Old Route 9 (Route 115); Approx. 700 feet southeast of Berkley/Jefferson County line.
LEGAL DESCRIPTION:	District: Middleway (07); Map: 1; Parcel: 2 
ZONING DISTRICT:	Rural
SURROUNDING PROPERTIES:	North: I-C East: R South: R West: R
LOT AREA:	107 acres
PROPOSED ACTIVITY:	To rezone this Rural property to a designation of Residential-Light Industrial-Commercial.
PLANNING COMMISSION RESPONSIBILITY:	To advise the County Commission as to whether the requested Zoning Map Amendment is consistent with the 2004 Comprehensive Plan.
STAFF FINDING:	In this report, Staff presents the various factors related to this property based on the Comprehensive Plan. Staff finds the request to be consistent with the 2004 Comprehensive Plan.

Staff Report
Jefferson County Planning Commission Meeting
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Background

This property is a vacant lot off of Route 115 (Old Route 9) near the intersection with Short Road (Berkeley County) in Kearneysville, WV. Image 1 is a location map showing the parcel requested for rezoning.

Image 1



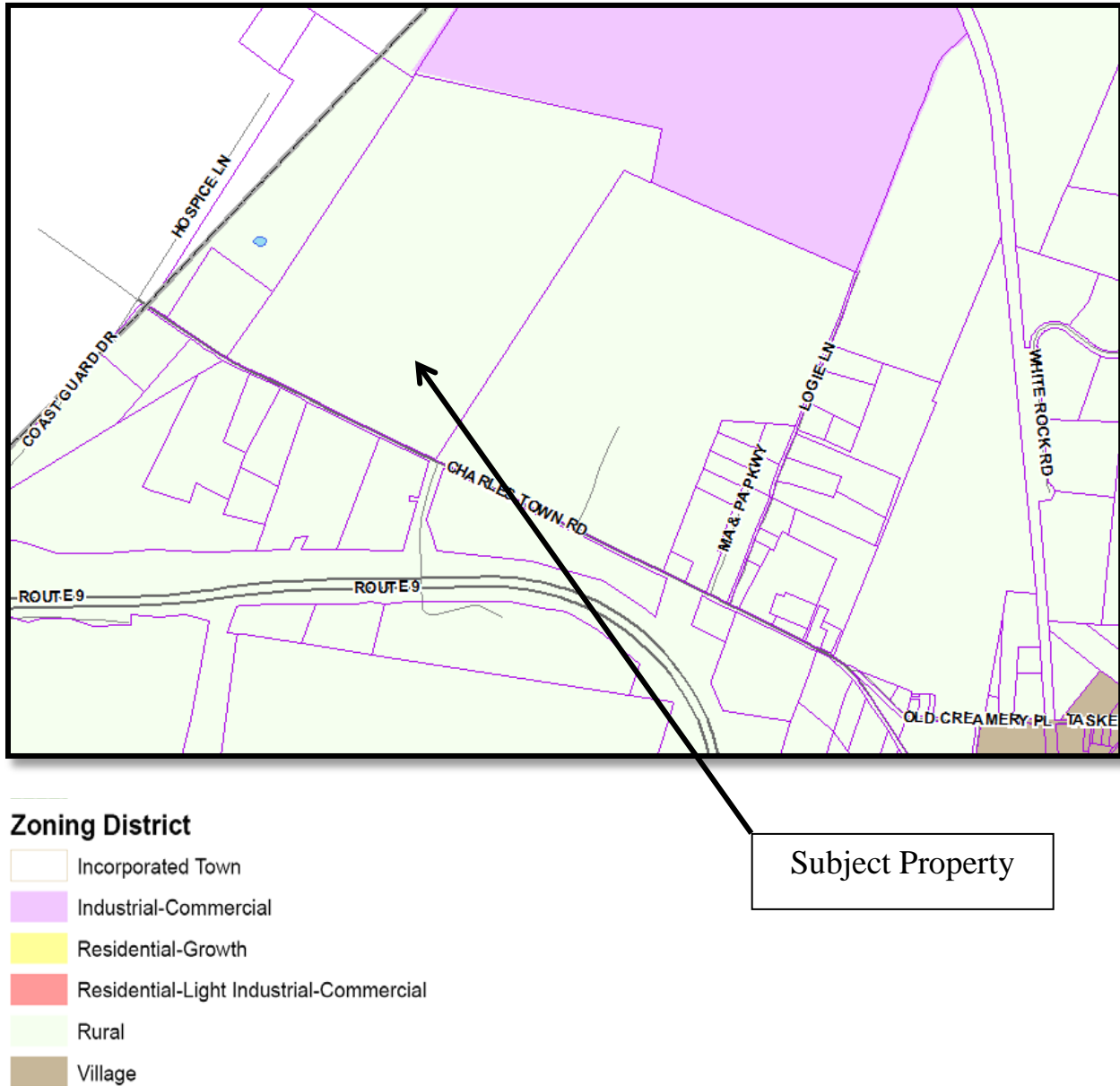
Introduction and Purpose

The applicant has requested to rezone the 107 acre property from Rural to Residential-Light Industrial-Commercial. Access to the property is from Route 115 (Old Route 9 / Charles Town Road). The zoning surrounding the subject property is primarily Rural, with the exception of the 191 acre parcel to the north of the property, which is zoned Industrial-Commercial. The rural property to the west of this property is being developed for Hospice Regional Offices with a 25,738 sq. ft. office building as well as a 14-bed facility, with a possible future expansion to a 21-bed facility.

Image 2, below, shows the current zoning for surrounding parcels.

Staff Report
Jefferson County Planning Commission Meeting
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Image 2



Statutory Authority and Requirements

The West Virginia State Code, Section 8a-7-9, and Section 12.2 (b) of the Jefferson County Zoning and Land Development Ordinance detail the process by which boundaries of zoning districts may be amended in response to a petition of 50% or more of the property owners. Both state that 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, *“then the governing body with the advice of the Planning Commission, must find that there have been major changes of an economic, physical or social nature within the area involved, which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area[See WVC 8A-7-9(c)].”*

Staff Report
Jefferson County Planning Commission Meeting
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Scope of this Assessment

This report focuses on whether or not the Zoning Map Amendment application is consistent with the Comprehensive Plan. It concludes that the request is consistent with Comprehensive Plan.

The format for this assessment includes quotes from specific provisions of the Comprehensive Plan, which are identified by page number citation at the end of the sentence where it is quoted. Staff has used these notations and quotations in order to address sections of the Comprehensive Plan as it relates to the proposed rezoning. Identification of the specific page numbers where these provisions can be found in the Plan permits the Planning Commission and/or County Commission to easily locate the particular provision and personally evaluate the provision in the context of the larger Plan document. When available or appropriate, map references are provided with maps located in the Appendix to this report.

It should also be noted that the Comprehensive Plan states, *“Its recommendations are (by their nature and intent) general and, as such, sometimes conflicting. It will not be difficult to find two that individually justify and conflict with many land use proposals.”* In that sense, there are many plan references that are identified in this report that can or may appear to support or fail to support a finding of consistency between the proposed rezoning and the Comprehensive Plan. In the final analysis, each member of the Planning Commission and the County Commission will need to weigh the degree to which various plan provisions are of greater or less importance, in establishing their respective findings regarding the application.

Finally, this report provides a Staff recommendation concerning the proposed rezoning based on review of the various plan sections and elements. The recommendations should be considered the professional opinion of staff; no more and no less. Since the Planning and Zoning staff have no statutory authority to make decisions in this regard, we defer to the Planning Commission, and subsequently the County Commission, for any final recommendation or decision that may be forthcoming, with respect to the subject application.

Relevant Comprehensive Plan Elements and Commentary

Proposed Zoning District – Residential-Light Industrial-Commercial (RLIC):

The Comprehensive Plan provides the following perspective on the Residential-Light Industrial-Commercial zoning district, which the applicant is requesting:

- *“...commonly referred to as the "mixed use" zone, permits uses of a light industrial and commercial nature, as well as a spectrum of residential and institutional uses ranging from single-family dwelling units to multi-family apartments and group homes. Residential uses must conform to the standards set forth in the Residential Growth District, but industrial and commercial uses are required to conform to a set of specific performance criteria, which include numerical measurements of several factors for uses that may have nuisance effects on adjacent uses (pg. 71).*
- *There are two issues regarding this district that should be studied as part of planned amendments to the Zoning Ordinance. First, most ordinances that have "mixed use" zones require certain minimum percentages of land usage in residential, commercial and dedicated open space. Jefferson County's Ordinance doesn't. Land in this district can be developed entirely for commercial or residential use or any combination thereof (pg. 71).”*

Staff Report

Jefferson County Planning Commission Meeting

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The Plan does detail some of the potential benefits of the Residential-Light Industrial-Commercial District and a number of concerns with the district. While this district is defined as mixed used, it does not require any mixing of uses, it merely allows for the possibility. The district allows two vaguely defined uses as permitted by right, “Commercial Uses” or “Uses of light industrial.” “Uses of light industrial” is essentially defined by uses that are not defined as heavy industrial and commercial uses. There is wide latitude for the ability to interpret what qualifies as light industrial use. These two terms allow for some interpretation of what they mean and what is permitted. As such, there are a variety of uses that could be proposed on the subject property, each of which could have very different impacts.

This property is large enough to support light industrial activity, commercial activity, such as a gas station, multiple fast food restaurants or a few sit down restaurants.

Transportation Impacts:

The Comprehensive Plan discusses the critical role of the transportation routes, noting:

- *“With the increase in population in the last three decades, Jefferson County's roads have had to bear the combined burden of increased traffic volume and heavier commercial vehicles. As a result, the deficiencies of the highway and road systems have become more critical. Inadequate funding and increases in transportation demand are conditions which probably will be facing the people of Jefferson County indefinitely (pg. 26).”*

The property proposed to be rezoned is located along Route 115 (Charles Town Road, also referred to as Old Route 9) with approximately 1650 foot of road frontage. The property is approximately ½ mile from the signalized intersection of Short Road and Route 115. With the opening of the new Route 9, the traffic on Route 115 has decreased and opened up increased transportation opportunities. Route 9 now provides easy access to a 4 lane road to I-81. The commercial interchange node around Route 9, Short Road, and Charles Town Road would presumably continue to expand in the future.

Water and Sewer Proximity:

The property could be served by Berkley County’s public water and wastewater system. Adjacent to this property is the new Hospice facility, which has public water and sewer from Berkeley County. The Comprehensive Plan encourages urban level development to be on a central water and sewer system, whether public or privately owned. Therefore, the requested rezoning would conform to this aspect of the 2004 Comprehensive Plan.

Areas for Economic Opportunity:

The Plan Policies on page 8 note:

- *“This Plan encourages new development patterns that foster mixed-use neighborhoods, so that a sense of community begins at the subdivision level.”*
- *“This plan encourages economic development so that residents can live and work in the county.”*
- *“This plan recognizes existing population centers as the focus of new, more intense development and the importance of working with municipalities to assure a pattern of development consistent with the Plan vision.”*

Staff Report
Jefferson County Planning Commission Meeting
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- *“This Plan identifies strategies to assure that community facilities and transportation infrastructure are provided in sequence with new development.”*

Staff concurs with the need for mixed development to provide for a variety of uses when possible. This lot is adjacent to a property consisting of 191 acres that is zoned Industrial-Commercial to the north and abuts the railroad. The Hospice of the Eastern Panhandle in-house care facility is located to the west of the property. To the east is the West Virginia University's Kearneysville Tree Fruit Research and Education Center. Across the street and just to the west is Liberty Business Park, which includes the US Coast Guard, IRS, and Food Lion.

Developing economic development zones and employment centers addresses key elements of the 2004 Comprehensive Plan and also provides Jefferson County with multiple long term benefits. The possibility of an employment area in this location would assist in allowing more Jefferson County residents to live and work in the county, and an employment and commercial center would enlarge the tax base of the county, which addresses Recommendation 3.18 of the Comprehensive Plan (shown below). Rezoning and development of this property is in keeping with the Plan Policies and is in keeping with good planning. Being a commercial and light industrial area with water, sewer and natural gas, prudent planning concentrates uses where services currently exist.

Recommendation 3.18: The County should continue to pursue new industrial and commercial development in order to diversify its economy, increase the tax base and thereby mitigate the problems of increasing residential growth, and provide quality employment opportunities to its workforce (pg. 64).

Adjacent Jurisdictions Permitted Uses and Appropriate Development Location:

The Comprehensive Plan notes on page 24 that:

When adjusting the Zoning Ordinance and Map to conform with the recommendations of this Plan, the County should look closely at the adjacent jurisdictions permitted uses or their fringes so as to:

- a. Not create competitive edges to develop in as opposed to the municipality or vice versa;*
- b. Avoid conflicts in uses between any two adjacent uses;*
- c. Provide for all uses including transitional zones between and adjacent jurisdictions; and,*
- d. Create density caps where they do not currently exist.*

With the development and adjacent uses served by public water and sewer nearby in Berkeley County, it is rational that similar activity would occur in Jefferson County. This would not create competitive edges and could complement adjacent uses, thereby reducing conflicts between adjacent uses. Building upon the adjacent uses promotes the interconnection of development and business opportunity for both counties. This evaluation is predicated upon the fact that there is existing infrastructure – water, sewer, natural gas, and suitable transportation network – at this location. As noted above, the area around Route 9, Short Road, and Charles Town Road is a commercial interchange node that could offer business opportunities in the future. As this activity crosses into Jefferson County, planning for the adjacent uses and providing a transition from Jefferson County to Berkeley County should be considered in greater detail.

Staff Report
Jefferson County Planning Commission Meeting
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In addition, the 2004 Plan remarks:

Advanced and comprehensive planning will save money. Careful consideration of the many interrelated factors of the total community will help assure that every new development in the County is properly located and designed so that it will not unreasonably burden the location and provision of essential public and community services and assets. In other words, it will help ensure that the community receives the most product or service for the tax and community association dollar it pays (pg. 15).

The Statement of Goals outlines the following:

Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable cost to the community (pg. 19).

As outlined in multiple sections of this report, proper location of new development and activity needs to be located so as to not create an unreasonable burden to the proposed location. Just as important, the essential services that will be required to support the proposed activity are available. The proposed rezoning is located in an area that meets the intent of the above mentioned criteria. The purpose of good planning is to build upon the assets in a particular location, instead of promoting inappropriate areas prematurely.

Staff Recommendation

Staff finds the proposed rezoning to be consistent with the 2004 Comprehensive Plan. Adjacent to this lot to the west and southwest is institutional and commercial development; to the north is undeveloped Industrial-Commercial zoning with railroad access; and the property is able to be served by urban level water, sewer, and natural gas services as well as an adequate transportation network. The requested rezoning to Residential-Light Industrial-Commercial is reasonable.

The Comprehensive Plan supports growth in locations where there are contiguous properties that already possess the requested uses with urban level services, which supports future development in this area. While the proposed rezoning is not within a Growth Area, as defined by the 2004 Comprehensive Plan, the plan itself does note that “*When adjusting the Zoning Ordinance and Map to conform with the recommendations of this Plan, the County should look closely at the adjacent jurisdictions permitted uses or their fringes*”...and...“*Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable cost to the community.*” The area under consideration is affected by adjacent uses and the public services available to it and it is reasonable to expect such uses to continue to expand in this location. The rezoning is an extension of the activity.

Staff would suggest that any development of this property be required to connect to Berkeley County’s public utilities and attempt to preserve some of the large high quality canopy trees on the property. As part of the site plan process, landscaping is required and retention of some of the trees could count toward the required landscaping.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor, P.O. Box 338

Charles Town, WV 25414

File Number: #713-01

Staff Initials: AB

Application Fee: \$ 6,350.00

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Zoning Map Amendment (Rezoning)

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

Property owner information

Name of Property Owner: Ann Hunter, James Hunter and Ernest Hunter c/o Ann Hunter

Mailing Address: P.O. Box 123

City: Shenandoah Junction State: WV Zip Code: 25442

Phone Number: 304/876-6078 Email: mesa_1@frontiernet.net

Applicant contact information

Applicant Name: Hunter Family c/o Ann Hunter

Mailing Address: P.O. Box 123

City: Shenandoah Junction State: WV Zip Code: 25442

Phone Number: 304/876-6078 Email: mesa_1@frontiernet.net

Applicant representative

Name of Representative: Annette Van Hilst, R.A., The Crossroads Group

Address of Representative: 22 Van Clevesville Road

City: Kearneysville State: WV Zip Code: 25430

Phone Number: 571/428-7054 Email: agvh@frontiernet.net

Physical property details

Physical Property Address: N Side of Old Rt 9 (Rt 115) approx 700 Ft SE of Berkeley/Jefferson County Line

City: Kearneysville State: WV Zip Code: 25430

Tax District: Middleway Map No: 1 Parcel No: 2

Parcel Size: 107 Acres Deed Book: 1033 Page No: 658

RECEIVED

AUG 14 2013

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

Current
Zoning
District

Rural
(R-A)

Residential
I Growth
(R-G)

Industrial
Commercial
(I-C)

Residential-
Light Industrial-
Commercial
(R-L-C)

Village
(V)



<u>Proposed</u> Zoning District	Rural (R-A)	Residential Growth (R-G)	Industrial Commercial (I-C)	Residential- Light Industrial- Commercial (R-L-C)	Village (V)
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

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

Attached _____

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

Attached _____

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

Attached _____

Do you request that the Planning and Zoning Staff present the petition to the Planning Commission for the purpose of setting the public hearing date?

Yes, I request that the Planning and Zoning Staff present the petition

No, I prefer to present the petition

Plat or Sketch Plan (provide as an attachment to this application)

The plat or sketch must be pursuant to Zoning Ordinance, Section 7.4 (b). The sketch plan shall include the entire original parcel as it appeared on the date this ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg. 1" = 50', 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational areas, streets, building areas, and other features in relation to each other and to the tract boundaries. Contour lines should be superimposed on the sketch plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes and quarries shall be delineated.

Is Plat or Sketch Plan attached?

Yes

No

Original signature of all property owners is required. The information given is correct to the best of my knowledge (Please attach additional signature page if needed).

Ann H. Hunter Aug. 14, 2013
Signature of Property Owner Date

Received By Date

James O. Hunter, Jr. Aug. 14, 2013
Signature of Property Owner Date

Received By Date

The 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 Departments of Planning and Zoning for placement on the Planning Commission agenda at least two (2) weeks prior to the meeting date at which the petition will be presented. Upon request, Planning and Zoning staff can present the petition to the Planning Commission on behalf of the applicant for purpose of setting the public hearing date. 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 forwarded to the County Commission within four (4) weeks of final Planning Commission action.

The Planning Commission finds this request consistent/inconsistent with the Comprehensive Plan by a vote of _____ for and _____ against, this day of _____, _____, _____.

Recommended

Not Recommended

The County Commission finds this request consistent/inconsistent with the Comprehensive Plan by a vote of _____ for and _____ against, this day of _____, _____, _____.

Approved

Disapproved

Final Determination/Other Comments

713-01

MAP AMENDMENT PETITION
Article 12, Jefferson County Zoning Ordinance
Hunter Family:
Ann Hunter
James Hunter
Ernest Hunter
August 14, 2013

Owner:

Hunter, et. al.
c/o Ann Hunter
P.O. Box 123
Shenandoah Junction, WV 25442

Applicant:

Ann Hunter
James Hunter
Ernest Hunter
P.O. Box 123
Shenandoah Junction, WV 25442

Ordinance Citation:

Article 12 of the Jefferson County Zoning and Development Review Ordinance as amended on November 10, 2011.

Map Amendment Definition:

“An amendment to the Zoning Map which is adopted by reference in the Zoning Ordinance that consists of a change that only applies to a specific property, changing from one existing zoning designation to another existing zoning designation. A map amendment does not permit changes, conditions or alterations to uses permitted within an existing zoning designation as all zoning designations must be uniformly applied to all property which are subject to said designation.”



Substantiation for the Request:

1. The property owned by the Hunter family is currently zoned Rural and the Applicants are seeking a map amendment to the Residential/Light Industrial/Commercial District. As explained in this Petition, the Applicants believe that this change is consistent and very much compatible with the 2004 Jefferson County Comprehensive Plan;
2. There have been significant changes in this area, since the Jefferson County Zoning Ordinance was adopted in 1988. These changes include the availability of Public Water and Sewer, a significant rezoning directly north of this property approved by the County Commission and additional growth in the area. These changes are further explained in this Petition; and,
3. The Applicants believe that the Rural Zoning classification is an error in the Jefferson County Zoning Map since the property is located on a Primary Road (Route 9) as defined in the Comprehensive Plan.

Tax District, Map and Parcel Number:

Middleway Tax District, Map 1, Parcel 2

Deed Book Reference:

Deed Book 1033 at Page 658

Sketch Plat:

Attached

Tract Size:

107 Acres per deed (104.33 Acres per tax map)

Discussion on:

Comprehensive Plan compatibility of the proposed change: Included in this Petition.

Any Change of transportation characteristics and neighborhood from when the original ordinance was adopted: Included in this Petition.

A. Comprehensive Plan Compatibility

One of the most compelling indications that the requested map amendment is consistent and compatible with the 2004 Comprehensive Plan is the fact that the rezoning of the *adjacent* property to the north was determined to be consistent with the Comprehensive Plan. In 2005, just months after the adoption of the new 2004 Comprehensive Plan, both the Jefferson County Planning Commission and County Commission found that the rezoning of the adjacent 191 acre F. O. Day property was consistent with the Comprehensive Plan. The F. O. Day property did not have direct access onto (old) Route 9, while the Hunter property has a long and direct frontage to old Route 9 (now called Route 115). When the Day property was determined to be consistent with the Plan, new Route 9 was not near completion.

The Comprehensive Plan contains policies, narrative and recommendations that support this map amendment. Some of the Policies found on page 8 of the Comprehensive Plan State:

- *'This Plan encourages new development patterns that foster mixed-use neighborhoods so that a sense of community begins at the subdivision level.'*

In this case, this property is located in a neighborhood that has long been mixed-use. Baker Heights has been the home of the Veteran's Administration Center for decades and the Liberty Business Park has been there for many years. The Liberty Business Park includes the IRS and the Coast Guard. Furthermore, this property is adjacent to 191 acres that the Jefferson County Commission rezoned to Commercial/Industrial in 2005. Finally, the subject property abuts the proposed new Hospice of Eastern Panhandle operations and in-house care facility.

The property is only approximately a half a mile from the mixed-use community of Baker Heights and less than a mile from the Kearneysville Village District. Likewise, Kearneysville is also a mixed-use community.

The requested rezoning would allow the Applicants the flexibility of marketing the property to either residential users to provide needed housing for employees of the nearby VA Center and the Liberty Business Park; or, to business park developers to continue the commercial expansion of the area for other office buildings. From an economic development standpoint, it would behoove Jefferson County to allow the continued expansion of a business park on the Jefferson County side of the 'line'. Since this type of growth is being developed in the area, Jefferson County should start taking advantage of it.

The Residential/Light Industrial/Commercial District designation would allow a mix of commercial and offices uses, while allowing residential units to house the employees in the same area.

- *'This Plan encourages economic development so that residents can live and work in the County.'*

Currently, there is very little vacant land in Jefferson County that is zoned for commercial/office and mixed-use development. The requested change to the mixed-use zone will allow a mixture of these uses to stimulate economic development on Jefferson County's side of the County line.

In the Plan's Statement of Goals found on page 19, the Plan encourages growth and development in areas where infrastructure and public facilities are available. In this case, the property has access to Berkeley County's Public Water and Wastewater Treatment Facilities. In addition to Public Water and Sewer, natural gas is located very close to this property. A current primary goal of the Jefferson County Development Authority is to encourage the expansion of the availability of natural gas into Jefferson County. If permitted to develop into a business park or mixed use development, this property could be a key stepping stone for extending natural gas into Jefferson County. The property is also located within minutes of the Short Road interchange onto the new four lane Route 9. These qualities make the property an ideal candidate for a map amendment.

Finally, the Plan's goals also support commercial activities in the County; in addition to the protection of private property rights. The Hunter family chose not to speculate during the land rush last decade because they wanted to wait until such time that Route 9 was completed and other growth and development took place in the area. As a matter of fact, in the proposed zoning ordinance in 2008, this land was proposed to be zoned as a business park. That in itself is evidence that the County planners believed that this property was prime land for economic development.

The 2004 Comprehensive Plan includes numerous recommendations. However, only several of them are pertinent to this request.

Comprehensive Plan Recommendations:

Recommendation 3.01 on Page 24:

"When adjusting the Zoning Ordinance and Map to conform with the recommendations of this Plan, the County should look closely at the adjacent jurisdictions permitted uses or their fringes..."

Comment:

In this case, the adjacent jurisdiction is Berkeley County. Although Berkeley County is not zoned, Jefferson County should not ignore the fact that this area has developed into a hotbed of economic development. Because of Berkeley County's economic growth in this area, this neighborhood is now served by Public Water and Sewer. Also, this area has direct access to a primary road (old Route 9) and is just a short drive along good roads to a major interchange on the new four lane Route 9.

There is also a brand new large Sheetz Store and a new Food Lion that were constructed to serve this neighborhood. These two commercial entities are just over the Berkeley border from the subject property. Again, it would be unwise to continue to watch Berkeley County reap the economic benefits of this growth and not allow the same in Jefferson County simply because of the County line.

Recommendation 3.18 on Page 64:

“The County should continue to pursue new industrial and commercial development in order to diversify its economy, increase the tax base and thereby mitigate the problems of increasing residential growth, and provide quality employment opportunities in the workforce.”

Comment:

Again, this area has been permitted to develop into a mixed use of residential subdivisions, a business park that contains good federal government jobs and commercial businesses that locate where growth is indicated. Jefferson County is adjacent to this growth and should capitalize on the economic gains that Berkeley County has enjoyed in the same area.

According to page 71 of the 2004 Comprehensive Plan, there is a very small percentage of land that is zoned for commercial or mixed-use in Jefferson County. This percentage is estimated at approximately 5 percent. It is very difficult to achieve the goal of pursuing new industrial and commercial development if the County doesn't create new commercial and mixed-use zones. Because of the adjacent zoning in Jefferson County and the development in this area of Berkeley County, this property would be an ideal parcel of land to include in the mixed-use zone. Besides the proximity to the adjacent development, it also has access to good infrastructure, including water, sewer and roads.

Based on the preceding two major recommendations in the 2004 Comprehensive Plan, this map amendment is consistent and compatible with the Plan.

B. Change of Neighborhood

This area of Jefferson County and the adjacent area on Berkeley County have changed significantly since the Zoning Ordinance was adopted in 1988. The following are examples of these changes:

1. The Liberty Business Park was developed on the Berkeley County side of the line and contains major Coast Guard and IRS facilities. This park is less than a ¼ of a mile from the subject property.
2. With the development of the Liberty Business Park, Public Water and Sewer were extended into the area.
3. Several residential developments have been built in this area including Quail Ridge Subdivision and Chapel View Subdivision.
4. Quad/Graphics, a very large industrial printing and distribution facility, was built in Baker Heights in the 90s.
5. In 2005, the County Commission rezoned the 191 acre F.O. Day property which borders this property to the North. The Day property was zoned Rural and the County Commission approved a map amendment to Commercial/Industrial. Two things to note regarding the differences between the properties is that the Hunter property has better access, since it directly fronts Old Route 9, and the new Route 9 wasn't even built when the Day rezoning was approved. As mentioned, both the Jefferson County Planning and County Commissions found this map amendment to be consistent with the 2004 Comprehensive Plan. There have been significant changes to the neighborhood even since the Day rezoning was approved. These changes are described below.
6. The new expanded Sheetz Store was just built in the neighborhood (approximately a ¼ mile away). Ironically, it was relocated from Jefferson County.
7. A new Food Lion (within eyesight) was built almost adjacent to the Hunter property in the neighborhood just on the Berkeley side of the line. New grocery store construction is usually indicative of the growth potential of a neighborhood.

8. The Comfort Suites Hotel was built very close to the subject property.
9. Hospice of the Panhandle has chosen the adjacent property to the northwest for its headquarters and a multi-bed in-house care facility. This facility was a project that was approved by both Jefferson and Berkeley Counties since it straddles the County line. The project which includes over 25,000 square feet of office space and a very large inpatient center is located in both Jefferson and Berkeley Counties. It is also directly accessed from old Route 9. Interestingly, the Hospice property requested a variance to reduce the setback for the complex almost in half along the Hunter property and the Hunter family had no problem with the variance being granted. Needless to say, that development is now very close to the Hunter property line. This project is also nearing completion.
10. The new Route 9 was completed with direct four lane access to Route 81. This route is approximately one mile from the subject property and has a major interchange that services the area. Old Route 9 (Route 115), still considered a Primary Road by the Comprehensive Plan, services the Hunter property and leads into Short Road that has direct access to the new interchange. The property is nearly in between two major interchanges (Shepherdstown Exit and Short Road Exit) to the new four lane Route 9. This makes the property ideal for development.

Summarizing the Change of Neighborhood, it is essential to note the following:

1. Availability of Public Utilities:

Public Water and Wastewater facilities serve this area. Natural gas service is also available in this area and any growth would help facilitate the expansion of natural gas (a priority of the JCDA and its Industrial Park) into Jefferson County. One of the major goals of the Comprehensive Plan states that the Plan should:

‘Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable costs to the community’.

This is certainly an area to achieve this goal. Even in the proposed new Comprehensive Plan process, the preferred growth areas have been mentioned to be located where public water and sewer and good road access is already available. This property definitely meets that criteria. This is another reason that the previous planners picked this property to be in a commercial business park district.

2. Growth in the Corridor:

Since the adoption of the original Zoning Ordinance in 1988, this area has grown considerably. The significant growth includes: Quail Ridge and Chapel View Subdivisions; Hospice Offices and Treatment complex; large Sheetz; Food Lion; Quad/Graphics in Baker Heights and the Liberty Business Park. These types of developments along with the existing growth in the Kearneysville and Baker Heights area illustrate that mixed-use development along old Route 9 is very much consistent with the Comprehensive Plan; especially since most of these came after the Plan was adopted in 2004. The map amendment for the subject property would ideally fit into this neighborhood's mixed use.

C. Change of Transportation Characteristics:

There have been positive changes in the transportation and traffic characteristics in this area. Old Route 9 was very much enhanced just north of the property when Quad/Graphics was developed in Baker Heights. The road was widened and improved to accommodate the large volume of tractor trailer traffic associated with that industry.

However, the major change in transportation characteristics is the finished Route 9. It is the direct four lane link to Route 81 that Jefferson County had been endorsing for many years. This road has opened up both trade routes and commuter routes in and out of Jefferson County. As mentioned previously, The Hunter property has access via good roads (old Route 9 (Route 115)) to both the Short Road and Shepherdstown interchanges onto new Route 9. The Hunter property is located in between these interchanges. The new Route 9 and Public Water and Sewer in this area make this property an ideal property for a mixed-use development.

These changes and improvements to the transportation system have taken place since 1988 when the Zoning Ordinance was adopted; and, most of them have taken place since the 2004 Comprehensive Plan was written. While the Comprehensive Plan is being updated these road improvements should be included in the new Plan. All of these improvements have had a very positive effect on the transportation characteristics and traffic flow in this area and neighborhood. The new Route 9 should be recognized as a driving force for the new preferred growth areas. Accordingly, these changes should have a positive effect on this Petition for a map amendment.

D. Error in the Original Zoning Map

Listed below are several reasons why the Hunter property should have been zoned for development in 1988. These reasons have already been discussed in detail in this Petition. However, all of these were true in 1988 when the Zoning Ordinance was adopted. They were also true in 2004 when the Comprehensive Plan was adopted. These are some of the reasons that the adjacent property was rezoned in 2005 and that the Hunter property was shown as a business park on the adopted Zoning Map in 2008. However, irrespective of the error on the Zoning Map, these reasons alone would support the requested map amendment to the mixed-use classification:

1. The property is located on a Primary Road as defined by the Comprehensive Plan. There are only two roads defined as Primary Roads in Jefferson County (Route 340 and old Route 9 (Route 115));
2. The property has access to public water and public wastewater services; and,
3. The property is located between two unincorporated mixed-use communities (Baker Heights and Kearneysville).

Add the other compelling factors including the development of: the Liberty Business Park; Residential Subdivisions; the large Sheetz store, the new Food Lion, Hospice of the Panhandle; and, the new Route 9 and there is no reason why this property should remain zoned 'Rural'.

E. Conclusion:

The Hunter family respectfully requests that the County Commission approve this map amendment to the Jefferson County Zoning Map. This Petition cites many reasons why the map amendment should be approved. These reasons include: the consistency of the request to the 2004 Comprehensive Plan; the recent actions of the County Commission regarding rezoning the adjacent property; the fact that the property should always have been classified as a business or mixed-use district; the positive changes in the transportation characteristics in the area, especially the construction of Route 9; the changes in the neighborhood from when the original zoning ordinance was adopted (including the development of a business park nearly across the street; and, the fact that the property has access to Public Water and Sewer. This map amendment will change the zoning classification on the Applicant's property from the Rural District to the Residential/Light Industrial/Commercial District.

Ann H. Hunter

Ann Hunter

Aug. 14, 2013

Date

James O. Hunter, Jr.

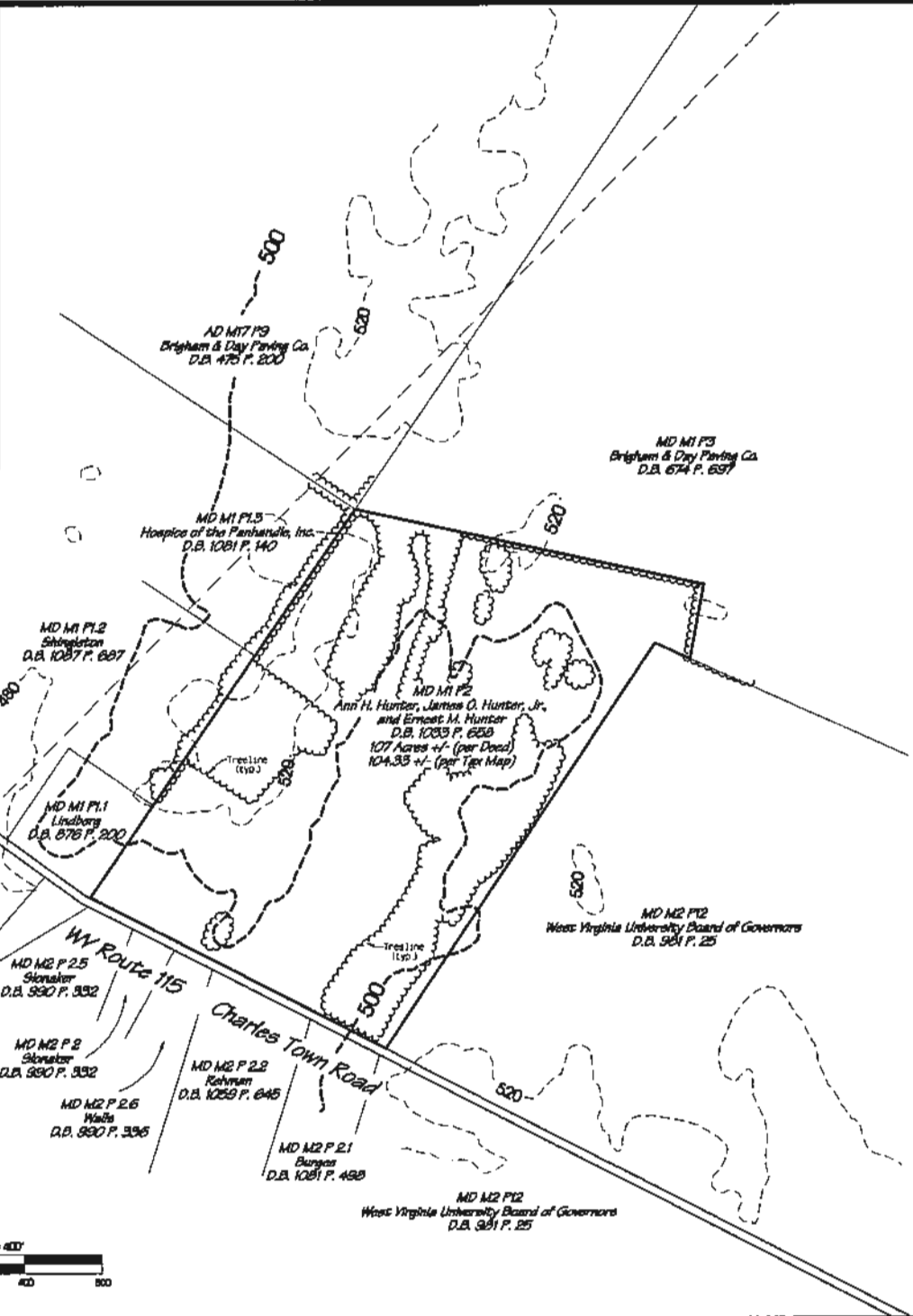
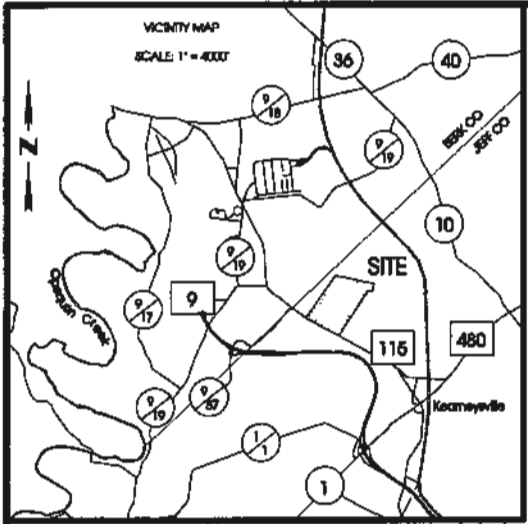
James Hunter

Aug. 14, 2013

Date

Ernest Hunter

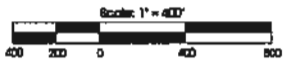
Date



NOTE:
Contours are approximately 1:500, 20-foot interval.



BERKELEY COUNTY
JEFFERSON COUNTY



Sketch Showing
**Proposed Rezoning of
Hunter Property**

Middleway District
Jefferson County, WV
06 August 2013
Scale: 1" = 400'

Appalachian Surveys, PLLC

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RAVENNA, WV 26048-1611
PHONE: 304.794.6008
FAX: 304.794.5010
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This information is
Tab #5 in your binder.



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MEMORANDUM

TO: Planning Commission
**FROM: Jennifer M. Brockman, AICP,
Director, Planning and Zoning**
DATE: November 12, 2013
**RE: Presentation by Martin Burke Re: Historic Landmarks Commission and
potential Zoning Ordinance Text Amendment effort**

Over the last four years, since the 2008 Zoning Ordinance failed at the 2009 Referendum vote, staff has had periodic discussions with representatives of the Jefferson County Historic Landmarks Commission (JCHLC) regarding when the time would be right to have the Planning Commission consider undertaking a revision to the Zoning Ordinance that would implement the recommendations of the 2004 Comprehensive Plan regarding Historic Preservation efforts in Jefferson County.

To that end, Martin Burke, Chairman of the JCHLC, will be making a presentation to the Planning Commission regarding the following items:

- 1) Overview of the history and role of the JCHLC
- 2) Update of JCHLC efforts since the adoption of the 2004 Jefferson County Comprehensive Plan, including viewshed efforts
- 3) Overview of inventory undertaken and critical historic features lost in recent years
- 4) Discussion of previous efforts to include relevant provisions in the locally adopted Zoning Ordinance
- 5) Request that the Planning Commission schedule a time to include the proposed text amendment in its current work plan

Attachments:

- Excerpt from 2004 Jefferson County Comprehensive Plan (pages 55 - 56)
- Excerpt from "Failed" 2008 Zoning Ordinance, effective 11/01/08-01/08/09 (pages 119 - 127)
- Visual Assessment, Scenic America report, September 2007

excerpt from 2004 Jefferson Co. Comp. Plan

industry, and the horse racing industry has generated many jobs and much tax revenue in the County. The Census also does not take into account agro-tourism, exotic crops and livestock and "value-added" production.

In order to further the agriculture industry, permitted farm-related uses in the Rural District should be liberalized to permit a wide variety of agriculture and horticulture related activities, short of industrial processing that creates hazardous wastes and excessive nuisances. Given Karst nature of the rural environment, and the growing presence of residential developments in the rural parts of the County, the need for environmental protection and protecting adjacent residential uses must be balanced with the agricultural industry's need to diversify operations.

Please note that the economic context of farming is addressed in more detail, separately in the section of this chapter pertaining to the economy.

Residential Growth Compatible with Farming

Current Zoning Regulations in the Rural District offer little direct consideration to the relationship of new housing developments to existing farming operations. Except for those properties developed under the LESA system, most lots in the Rural District are recorded with a lot size of three acres or larger. When a property is fully developed in accordance with the one lot per 10 acre provision, anywhere from a third to all of the parent tract is committed to building lots and infrastructure.

Clustering involves development on these properties with lots of 30,000 to 60,000 square feet located in less productive areas of a farmed parcel. At one lot per fifteen acres of land, however, the permitted density of a clustered subdivision is less than of a "by right" subdivision. Clustering would allow the owner of a farm or environmentally sensitive tract to develop his parcel to the maximum density permitted by the Ordinance while ensuring that less of the overall parcel is consumed compared to what the Ordinance currently requires. However, such requirements should be flexible because it is not always practical to cluster on the lesser productive soils because these soils are also usually not very

conducive to installation of septic systems.

While farmland can be better protected by clustering, clustering ordinances often are more geared toward rural landscape protection and not toward farmland protection. Many rural parcels with mature tree stands and other environmental features which are not farmed actually benefit more from cluster development than farmed parcels.

Use of natural features in the development area and perhaps dedicated open space lots could further buffer residential uses from the continued farming operation. Also, strategic location of clustered housing development can have a reduced visual impact on the agricultural area of the District.

HISTORIC PRESERVATION

Jefferson County is an area rich in historical and archaeological interest. It has arguably been referred to as the most historic rural county in America. As part of our country's first western frontier, it was settled by Europeans before 1720 and was inhabited by Native Americans for several thousand years before.

Surveyed by a young George Washington and host to seven Washington family homes and three Revolutionary War generals' residences, Jefferson County's rich early history in the areas of transportation, farming, the military and industry are still evident in the structures and other resources that survive. As one of the major areas of military maneuver and the site of the John Brown Insurrection, the County's place at one of the cross-roads of the Civil War forever links it to many of the important events that occurred during our Nation's greatest test of endurance.

Given its size and population, Jefferson County has been fortunate in the amount of historic preservation projects that have been implemented around the County. The effort to preserve the fire engine house of the Harpers Ferry Armory (a.k.a. "John Brown's Fort") in the late 1890s is among some of the earlier concerted efforts at preserving a historic building in the United States. From Harpers Ferry National

Historical Park to the historic districts of Shepherdstown and Middleway, Jefferson Countians can be proud of the number of historic resources that have been preserved here.

Currently, 5 districts and 58 sites in the County are listed on the National Register of Historic Places. "Traveller's Rest", the home of General Horatio Gates, is the County's only officially designated National Historic Landmark.

Over the years, a "windshield survey" of historic and vernacular buildings was created. This inventory was an initial effort, and is outdated, incomplete and should not be used as a working document nor a model for a new inventory.

History tourism is a significant element of Jefferson County's economy. Harpers Ferry, the Appalachian Trail, Shepherdstown, Antietam and the C&O Canal all serve to draw visitors to the County and surrounding area. The Jefferson County Landmarks Commission was reestablished in 1980 to be a central clearinghouse for preservation activities in the County, from reviewing nominations to the National Registers of Historic Places, to restoring and interpreting the Peter Burr Farm, to providing input regarding developments.

While there have been many preservation "success" stories in Jefferson County, the issue has not been without controversy in recent years. Disagreements over such projects as the proposed demolition of the circa 1920 Jefferson County Jail have highlighted such issues as the responsibility of governments as stewards of historic structures, the use of appropriate government bodies in advisory roles, identification of preservation priorities, and long term preservation planning.

Regardless of the successes of the past, as an increasing number of tracts are developed for residential, commercial or industrial uses, existing unprotected historic resources become endangered. Existing processes should be evaluated for their ability to address this growing issue.

RECOMMENDATION 3.13: The County should examine existing land use regulations and

Planning Commission resources and explore regulation amendments and policies that encourage preservation of historic resources. Some amendments and policies the County may want to investigate may include:

- a. ***Rewarding the retention and restoration of historic buildings during the subdivision process with limited increased density to offset the expense of preservation.***
- b. ***Re-evaluating zoning restrictions on the adaptive reuse of historic buildings county-wide in order to encourage their continued occupancy and maintenance.***
- c. ***Requiring documentation of significant structures that are to be removed due to development activity.***

RECOMMENDATION 3.14: The County should promote the establishment of a county-wide inventory of structures built before 1900 and of sites with archeological potential, inspections being conducted only with the approval of affected landowners. This inventory should be readily available to the public and should be used as a planning tool and as a means of evaluating historic resources and of determining preservation priorities.



- E. Establish provisions to guide any and all such other matters as may pertain to the maintenance of work force housing in the affordable housing inventory.

Division 5.300 Historic Preservation

- A. **General.** Jefferson County has a rich historic heritage and desires to preserve that heritage in the face of increasing *development* pressure. A series of incentives are provided in this Division to provide ways that land owners can preserve and protect their *historic resources* for future generations. Incentives are needed for several reasons.
1. Historic buildings often need substantially more maintenance and upkeep than new *construction*, and may be much more expensive to heat and light.
 2. Many historic buildings do not meet building, plumbing, or electrical codes and need extensive improvements to make them marketable and safe.
 3. The zoning of a property may not support the use that could make preservation a fiscally responsible alternative to demolition.
 4. In other cases, the land needed to preserve the context of historic buildings is threatened by *development* pressures.
- B. **Incentives.** The incentives of this Division are provided to allow the County to encourage the preservation of buildings by addressing problems related to the above conditions. Section 5.301, *Classification of Historic Sites*, sets forth the classification of the Historic Sites and Structures. Section 5.302, *Levels of Protection*, is focused on the protection of the building's or site's context through the preservation of *open space*. Section 5.303, *Demolition*, requires a demolition *permit* be obtained before a historic structure is *demolished* or before any earth moving is done on site. Sections 5.304, *Incentives for Open Space*, and 5.305, *Renovation Incentives*, focus on incentives to preserve the structure(s).

Sec. 5.301 Classification of Historic Sites

There is a wide range of historic and cultural resources in Jefferson County including structures, villages, battlefields, and places. There are several ways that these resources can be classified. The first is by their importance, as identified by the Jefferson County Historic Landmarks Commission. The Jefferson County Historic Landmarks Commission has identified all sites and structures that are category I through IV *historic resources* in Jefferson County (see provision A below). The list is available through the Historic Landmarks Commission or the Department of Planning. The second method of classification addresses either the larger context or the sites of the resources.

- A. **Importance.** The Jefferson County Historic Landmarks Commission has identified and classified all historic resources in the County. They are given four different levels of importance, which will be used in determining the level of protection afforded the resources. The listing of these resources and a map is available from the Jefferson County Historic Landmarks Commission. The levels are as follows:
1. Category I. The most important resources in the County, including contributing structure to National Register properties and Districts.
 2. Category II. These are resources classified as important.



3. Category III. These resources have moderate importance.
4. Category IV. These are resources that are at least 50 years old, have little or no significance, and are listed by the Historic Landmarks Commission.

B. **Types of Sites.** Resources that are classified by site are the resources that are part of a larger landscape which impact the manner and feasibility of protection. They have been divided into three classifications having different needs for protection. The classifications define the setting needed for historic preservation.

1. **Villages.** The villages are rural populations centers, crossroads, *hamlets*, or villages that, at one time, served a larger rural population (some still do). An important element of protecting a village is providing a rural green area around the village so it remains as a discreet freestanding community surrounded by rural land. That level of protection is not possible for all villages due to surrounding development. The critical element is preserving the villages in a rural context. The area surrounding freestanding villages are all typically zoned Agriculture or Countryside, so *cluster* development can occur adjacent to the Village and areas beyond the cluster can provide the needed greenbelt. Over time, these areas may become specific *historic districts* with specific design or other unique protection standards. None were ready for inclusion as of the effective date of this Ordinance.
2. **National Register Historic Districts, and Historic Sites and Structures.** These areas shall have a protection area that extends out from the boundary of the District, Site or Structure as indicated in Section 5.302, *Levels of Protection*.
3. **Historic Resources.** These include Historic Sites or Historic Structures as both terms are defined in this Ordinance. (See Article 14, *Definitions*).

Sec. 5.302 Levels of Protection

The type of protection to be afforded is a combination of the importance of the site and the context in which it is found.

A. **Category I.** The following standards apply to these resources based on their context:

1. **Villages.** Freestanding villages are protected by a countryside or agricultural zoning surrounding the village for a distance of at least one-quarter mile (1,320 ft.).
2. **National Register Historic Districts, Contributing Historic Structures, and Historic Sites.** A 600-foot protection radius, as measured from the center of the site or structure(s), shall meet the *open space* protection level for Class I historic sites.
3. **Historic Sites.**
 - a. Residential development plans shall be reviewed by the Jefferson County Historic Landmarks Commission to make recommendations on the adequacy of the placement of *open space* to buffer the Historic site(s). In addition a minimum of a 0.5 *opacity* buffer shall be provided. The Planning Commission shall in the approval of the *plat* or land development plan, approve the open space and buffer.
 - b. Non residential *development*. All non-residential development shall have at least a 1.0 *opacity* buffer with a minimum width of 50 feet where it abuts the property. If



the non-residential use is across the street, the buffer shall be increased by an opacity of 0.5.

B. Category II. The following standards apply to these resources based on their context:

1. **Villages.** Freestanding villages are typically protected by countryside or agricultural zoning surrounding the village for a distance of at least one-quarter mile (1,320 ft.).
2. **Historic Building Sites.** A 400-foot protection radius, as measured from the center of the site or structure(s), shall meet the *open space* protection level for Class II historic sites.
3. **Historic Sites.**
 - a. Residential development plans shall be reviewed by the Jefferson County Historic Landmarks Commission to make recommendations on the adequacy of the placement of *open space* to buffer the historic sites. In addition a minimum of a 0.3 *opacity* buffer shall be provided. The Planning Commission shall in the approval of the *plat* or land development plan, approve the open space and buffer.
 - b. Non residential *development*. All non-residential development shall have at least a 0.7 *opacity* buffer with a minimum width of 50 feet where it abuts the property. If the non-residential use is across the street, the buffer shall be increased by an opacity of 0.3.

C. Uses within the Protection Radius. Within any area located inside a designated protection radius, non-residential structures, including barns, garages, shed, or workshops may be constructed.

D. Historic Villages. Historic villages afforded protection in Section 5.302, *Levels of Protection*, shall be defined as settlements with at least 20 historic sites or structures as identified by the Jefferson County Historic Landmarks Commission and which are zoned "Village Conservation" on the Official Zoning Map.

Sec. 5.303 Demolition

No *historic resource* of classes I through IV shall be *demolished* or disturbed without a permit. Doing so shall subject the person doing so to the penalties for destruction of historic resources in Article 13, *Enforcement and Legal Status*. Fees for demolition permits shall be established by the County Commission and may be periodically modified as they determine appropriate. There is an investigation period required before a demolition *permit* is issued. This period provides time to review with the *owner* all incentives available to preserve the *building* and/or time for the County to seek a purchaser of the property who will retain the property in its historic condition. The following are the requirements:

- A. **Investigation Period.** During the investigation period, the applicant shall be required to meet with the Historic Landmarks Commission. Every effort shall be made to find an alternative to demolition. The applicant may be required to submit a pro forma that demonstrates why the *building* cannot be saved, even provided the incentives offered by this Ordinance and the Historic Landmarks Commission. The period of investigation is as follows:
 1. Category I. The investigation period is 16 months.
 2. Category II. The investigation period is 12 months.



3. Category III. The investigation period is 4 months.
 4. Category IV. The investigation period is 1 month and only applies to those structures listed in the Historic Landmarks Commission's inventory.
- B. **Findings.** At any point in the investigation period, the Historic Landmarks Commission finds that it is impossible to save the *building*, even with all available incentives, and no alternative buyers are found to be available to avoid demolition, the Historic Landmarks Commission may notify the County Commission and, upon acceptance by the County Commission, issue a demolition permit. If the investigation concludes that the preservation is feasible, then the Historic Landmarks Commission may notify the County Commission who may require an additional six-month waiting period to continue negotiations and/or find a buyer who will preserve the building. If the land *owner* still wants to demolish the building after the waiting period, the Historic Landmarks Commission shall issue a permit.
- C. **Requirements of a Demolition Permit.** In order to receive a demolition permit, photographs, architectural drawings of the exterior and, if required, of the interior to a *scale* of one-quarter inch to the foot, and a video recording of the *building* and grounds shall be made by the Historic Landmarks Commission at the applicant's expense, and a *conservation easement* (see D below) provided.
- D. **Effect.** If a *building* were preserved, *open space* requirements are a condition of additional *development*. Receiving a demolition *permit* shall not alter the open space requirements on the site or any other property within the site area of the *resource* held in common by the applicant. This prohibits there being any gain in value of the property for development by demolishing the resource. To ensure this, a *conservation easement* shall be placed on the property to preserve the required open space. Such conservation easement shall be in favor of the County and the Historic Landmarks Commission. A demolition *permit* will relieve other *property owners* of any other historic preservation restrictions.
- E. **Demolition without a Permit** Lands containing a *historic resource* identified within classes I through IV which is *demolished* or disturbed without a permit, or is demolished or disturbed during the investigation period (see provision A above), shall be subject to a 20% reduction in the *density* permitted in the Zoning District in which it is located. Such reduction shall be applied to all remaining lands which are part of the same *parcel* on which the historic resource is located. To ensure this, a *conservation easement* shall be placed on the property to note such reduction concurrent with any future subdivision of lots on the subject property. The Planning Commission may establish the *density* reduction when so recommended by the Historic Landmarks Commission.
- F. **Public Health or Safety.** If a *building* scheduled to be *demolished* is found to be a severe public health and safety risk and cannot reasonably be secured by the County Building Official, at the *building official's* request, a demolition *permit* shall be issued subject to provisions C and D above.

Sec. 5.304 Incentives for Open Space

This Ordinance already provides for incentives to *cluster* development and provides for common *open space* in the form of increased *density*. This should permit developers to meet the open space requirements of Division 4.200, *Resource Protection Standards*, as the *open space ratios* for most districts will be adequate. In the Townscape (TS), General Commercial (GC), or Business Park (BP)



districts, insufficient *open space* may be available to achieve the preservation of the protection area. The height limits on the *building* may be relaxed to allow taller buildings to ensure there is no loss of density. Currently, the protection level is lower in these districts in recognition of the greater difficulty in preserving the area.

Sec. 5.305 Renovation Incentives

An *historic structure* may require significant and costly renovation or maintenance to preserve it and make it economically useful to the land *owner*. The County does not want to have to issue demolition permits because it is too costly for the land owner to maintain the structure. Upon recommendation of the Historic Landmarks Commission, a bonus shall be granted to provide *development* options that act as an incentive to a *developer* or land owner to preserve and maintain the historic structure. The following are the requirements for determining the bonus:

- A. **Pro Forma.** The *developer* shall provide a pro forma indicating the costs of renovation and annual maintenance versus the value of the property in the market.
- B. **Adjoining Properties.** Where the historic property has limited *development* potential so that a *density* bonus is limited to impractical, the County should encourage a Limited Liability Partnership (LLP) that would enable a larger *cluster* or *planned development* to be constructed on two properties. This incentive may be combined with the provisions of C if necessary.
- C. **Increase Density or Floor Area.** Upon recommendation of the Historic Landmarks Commission, the *Planning Commission* may approve a *density* increase above the permitted density as determined by the Site Capacity Calculation (Division 4.300, *Site Capacity Calculations*). This would also be accompanied by a modulation of the lot and bulk requirements of Division 3.300, *Bulk Regulations*. For nonresidential uses, the increase would be in floor area and lot and bulk modulation to make the incentive feasible on the lot.
- D. **Additional Uses.**
 - 1. For very large homes or barns, even if not permitted in the district by Table 2.201A or Table 2.201B, the *conversion* of the *building* for any of the following may be approved:
 - a. Up to six work force housing units (for sale or for rent);
 - b. Offices for professional or technical services and commercial uses limited to antique stores, dance studios, micro-breweries, and corporate and government back office operational facilities (see Section 2.445, *Corporate and Government Back Office Operational Facilities*); and
 - c. Schools.
 - 2. The residential uses permitted by D1a above shall not count against the *density* of the site, provided that the density increase on the site for any single-family, cluster, or planned option is not increased by more than 40 percent above that allowed by Division 4.300, *Site Capacity Calculations*.
- E. **Granting the Incentive.** The maximum incentive for residential adaptive re-use is a 10 percent increase in *density* (except for D above) or the amount needed to provide for the renovations and a fund for long-term maintenance, whichever is less.



- F. **Conservation Easement.** An appropriate *conservation easement* to protect the property shall be recorded on the property to ensure that the bonus is translated into preservation.

Sec. 5.306 Adaptive Reuse

- A. **General.** Some uses are prohibited in every district. This can represent a problem, particularly for large *buildings* or buildings that originally were built for a different use. The intent of this Section is to provide rules for moderating regulations to permit an historic building to be used in a manner that protects neighbors while ensuring the protection of a *historic resource* that adds character to the community. The Historic Landmarks Commission shall make recommendations on the suitability of the use for the building seeking adaptive reuse. The following are the requirements that must be made before permitting the moderation of the use standards:
- B. **Historic Landmarks Commission Findings.** The Historic Landmarks Commission shall visit the property and review the proposed land development *plan* and use. Their recommendation to the Zoning Administrator shall include the following findings:
1. The suitability of the proposed use is compatible with the historic structure; and
 2. Any modifications to the *building* are consistent with and compatible with the building's architecture, style, and massing; and
 3. That proposed parking and other activities are suitably located so to preserve the character of the structure and its historical setting; and
 4. That *landscaping* is consistent with the *building* and accessory uses, such as parking, and provides continued views of the *historic structure* while masking parking, air conditioning, or other elements from general view, which would distract from the building and its setting; and
 5. If the *building facade(s)* was modified in the past in a manner out of character with the structure, that the *facade(s)* is restored to its historic condition.
- C. **General Standards.** The Zoning Administrator shall find that the following general standards are met:
1. That adequate off-street parking for the proposed use is provided; and
 2. That traffic generation will not create undue congestion. This means that no more than 10 percent of the adjacent *street* capacity may be used by the proposed use without approval of a conditional use permit; and
 3. That no use that poses a threat to the *building* or neighborhood is involved (for example, use of chemicals or explosive materials that might damage property or health).
- D. **Use for Retail Sales, Offices, or Service.** These shall be permitted within the limits of the historic village areas in the Agricultural (AG) and Countryside (CS) districts or in the Residential (RS) or Townscape (TS) districts, provided:
1. The *building* was originally designed for such uses; and
 2. That adequate parking can be provided on site with *limited use* of the adjoining street.
- E. **Reuse of Places of Worship.** Such buildings can be converted for residential *dwelling units*, offices, institutional uses, or bed and breakfasts in the AG, CS, ES, RS, and TS districts.



- F. **Zoning Administrator.** Upon receipt of a favorable recommendation from the Historic Landmarks Commission and ascertaining that the proposed *development* meets all the provisions of this Section, the Zoning Administrator shall issue a *permit* to approve the adaptive reuse.

Division 5.400 Rural Preservation

Two districts, Agricultural (AG) and Countryside (CS), are created to protect and preserve the County's rural character. Incentives that reward developers who *cluster* development, if they must develop on rural land, are provided in the form of increased density. In addition, certain nonagricultural uses are permitted in these districts to ensure that farmers have more opportunities to make their *farmsteads* economically productive as they face economic pressure from nonagricultural development. The rural districts and Village Conservation (VC) district also protect historic villages within the County. This Division provides additional incentives for the preservation of this way of life and part of the County's heritage and economy.

Sec. 5.401 Protection of Villages

The County's villages need a greenbelt around them so that they remain freestanding communities with a strong sense of place and unique identity within the larger County landscape. The following incentives are provided to ensure that rural land surrounds the villages to maintain their freestanding status:

A. Hamlet Option Required.

1. Where a *parcel* abuts or is within 300 feet of a village (see zoning maps) or is part in and part outside the village, the *hamlet* option (see Article 10, *Design and Modulation*) shall have a minimum acreage requirement of 25 acres. The lots shall all be adjacent to existing lots in the village with the outer *open space* creating a greenbelt around the village.
2. The *gross density* of the *hamlet* option shall be increased to 0.554 at the same 0.80 OSR.

B. Transfer of Development Potential. Where two or more noncontiguous properties are in common ownership within 2,500 feet of the village and one abuts or is within 300 feet of the village, the *hamlet* development shall treat the development as a single development and allow the concentration of all the *density* on the *parcel* that is closest to the village. A *deed restriction* or *covenant* shall be recorded over the more distant property that extinguishes the *development* rights that were transferred.

C. Commercial Retail Uses. Commercial retail use may be permitted within a Village provided the following are met:

1. The Planning Commission, based on a recommendation provided by the Historic Landmarks Commission, determines that the commercial use will not be detrimental to any structure designated as a Class I or Class II historic resource.
2. The use shall front on a collector or arterial *highway* or on a road capable of handling the traffic from a commercial use without disrupting a residential area.
3. The use is in conformance with any future village land use plan.
4. The commercial uses and associated parking occupy less than ten percent of the land area of the hamlet.

**Sec. 5.402 Protection of Farmsteads**

The protection of *farms* is provided for by density incentives for clustering so that, when a farm must be sold or land must be sold for *development*, every effort will be made to maximize the concentration of development and minimize the interface between farmland and development.

- A. **Separate Parcels Under Common Ownership.** Where a *farm* is in separate *parcels*, but common ownership, it shall be treated as a single property for the purpose of calculating the permitted number of *dwelling units* and minimum *open space* provided the following are met:
1. All the development shall be on one *parcel* or multiple *abutting parcels*.
 2. At no point shall the minimum *open space* on the parcel being developed fall below 0.45 unless all boundaries of the *parcel* are located at least 300 feet from public streets and *property lines* of property that is under separate ownership.
 3. *Development* shall be buffered from streets and neighboring property by buffers that are at least 100 feet in width.
 4. All *parcels* used as *open space*, if separate from the developed parcel, shall be in agricultural use at the time of application and shall be 20 acres or more in land area.
- B. **Cluster Development.** The intent of the *cluster* is to preserve the best agricultural land in production. This can come into conflict with the environmental protection standards of Article 4, *Environmental Protection*. As an incentive, the following modifications to the standards of Article 4, *Environmental Protection* are available as an incentive.
1. **Low-Quality Woodlands.** These may be mitigated at one acre of *low-quality woodland* for one acre of class one or two agricultural soils preserved. All land in this *resource* may be mitigated.
 2. **Young Woodlands.** These may be mitigated at one acre of young woodland for 1.25 acre of class one or two agricultural soils preserved. The maximum *mitigation* shall leave 40 percent of the young woodland intact.
 3. **Mature Woodlands.** These may be mitigated at one acre of mature woodland for 1.5 acre of class one or two agricultural soils preserved. The maximum *mitigation* shall leave 60 percent of the young woodland intact.
 4. **Shallow Bedrock.** These areas may be mitigated, provided that no mass *grading* of these areas shall be permitted and *buildings* shall have stepped foundations to ensure they disturb as little as possible. Plans shall be submitted that delineate where lawns or groundcover will be used to minimize the disruption of the area.
 5. **Steep Slopes.** *Steep slopes* may be mitigated where cutting or *filling* for foundations is limited to four feet. *Mitigation* shall be 1.25 acres of class one or two agricultural soils for every acre of slopes 15 to 25 percent and two acres of class one or two agricultural soils for every acre of slopes mitigated over 25 percent slope. The *developer* shall submit plans for building on the *slope* that allows minimal disturbance including stepped foundations and building on piles or columns so as to minimize disruption. In slopes of 15 to 25 percent, the maximum *mitigation* shall leave 50 percent of the *resource* undisturbed.

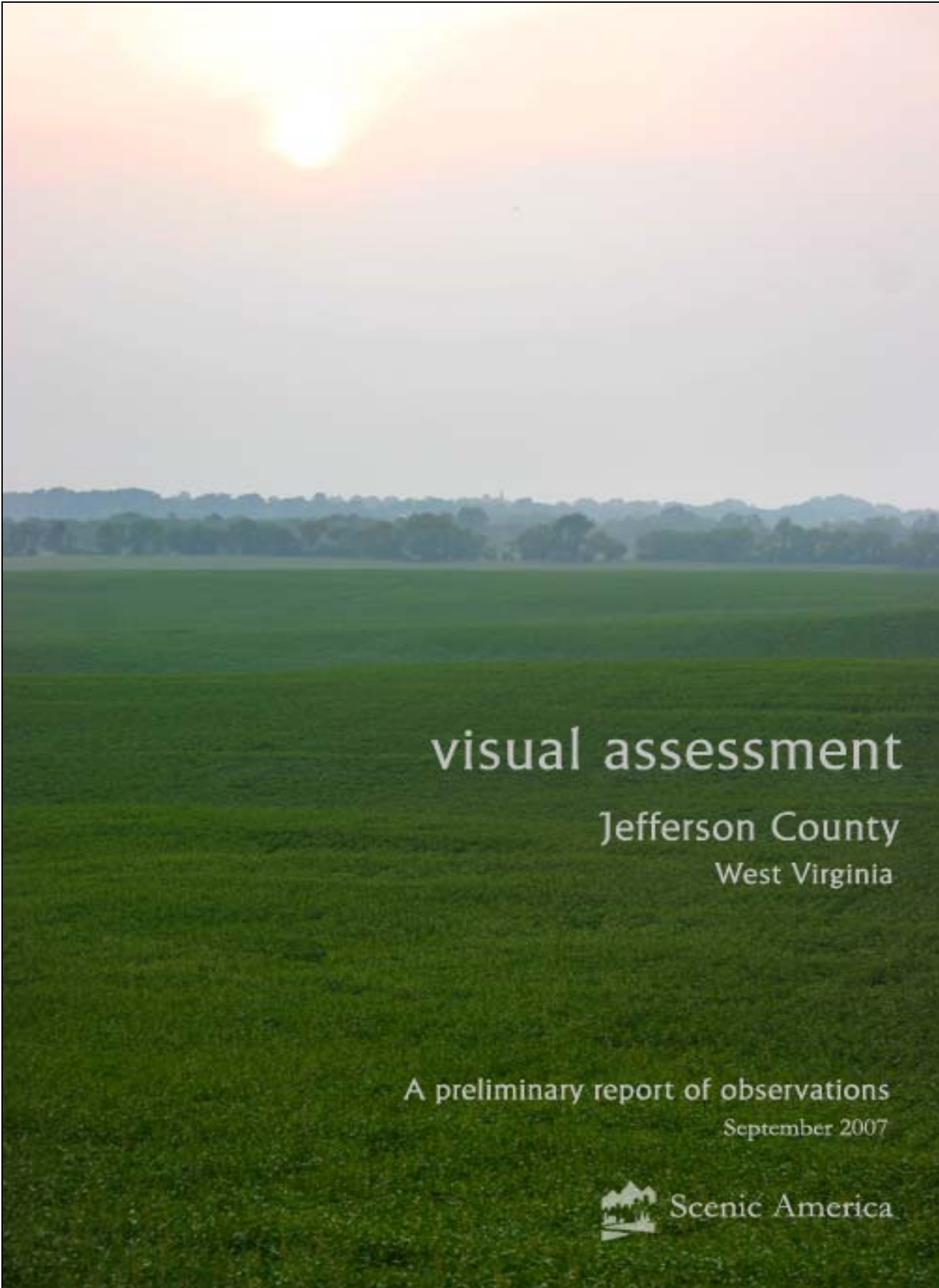


6. **Historic Sites.** An agriculturally used land that is part of an historic site that is preserved as agriculture meets the protection level.
- C. **Relationship of Farmstead to Density Calculation.** The *farmstead* house shall not count as a *dwelling unit*, even where it is on a noncontiguous *parcel* when the farmstead is developed.

Division 5.500 Pollution Mitigation (Reserved)

Reserved.

This Division of the ordinance is reserved should the County create a system for purchase of credits for surface water pollution from upstream or downstream property owners who are engaged in uses that pollute less than they are permitted. Such a system would provide conservation easements on properties from which pollution credits were sold. This system may be put in place at such time as the best available science from the Chesapeake Bay Program may support its development.



visual assessment

Jefferson County
West Virginia

A preliminary report of observations
September 2007



Scenic America

Acknowledgements:

Scenic America would like to thank John Allen and the Jefferson County Historical Landmarks Commission for spending time driving the roads in the county and providing the opportunity for us to share recommendations for preserving and protecting the wonderful landscape character of Jefferson County West Virginia.

This report was funded through a contractual services agreement with the Jefferson County Historic Landmarks Commission. The observations and recommendations provided represent the opinions of the primary author and Scenic America and are commensurate with the amount of time available for the assessment. Photos are for illustrative purposes only and are not intended to unduly draw attention to one area over another.

About the Jefferson County Historic Landmarks Commission:

The Jefferson County Historic Landmarks Commission (JCHLC) is a governmental agency in Jefferson County, West Virginia. The five landmarks commission members are appointed by the Jefferson County Commission and serve three-year terms. The Landmarks Commission is a certified, tax-exempt local government. It is not affiliated with the Jefferson County Historical Society (text courtesy JCHLC website).

About Scenic America:

Scenic America is the only national nonprofit organization dedicated solely to preserving and enhancing the visual character of America's communities, countryside and public lands. Through national advocacy efforts and technical assistance services, local and national projects, and the support of its state affiliates, Scenic America fights to: eliminate billboard blight, mitigate the visual impact of cell towers and overhead utilities, promote scenic easements and open space, protect the scenic character of our public landscapes, promote context sensitive solutions to roadway planning and design, and build a national scenic conservation movement.

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Note: Unless otherwise noted, all photos were taken by Brad Cownover, Scenic America. While photo CD of images are provided to JCHLC for the future use and development of a visual conservation action plan, Scenic America retains the copyright and images should not be reproduced or duplicated without expressed written consent.

“The charming landscape which I saw this morning is indubitably made up of some twenty or thirty farms. Miller owns this field, Locke that, and Manning the woodland beyond. But none of them owns the landscape... This is the best part of these men's farms, yet to this their warranty-deeds give no title.”

Ralph Waldo Emerson

Background:

This preliminary visual assessment report is a result of consultation services for the Jefferson County Historic Landmarks Commission (JCHLC). The report is intended as a preliminary assessment and list of general observations based on a windshield survey and driving tour of primary roadways within Jefferson County, led by John Allen, from the JCHLC. Allen conveyed that the commission was concerned with changes already occurring in the landscape and with the ability to plan for the future of the county while protecting important scenic resources.

At the time of this report, the commission had already compiled a list of historic properties of significance as part of the three-tier landmark properties list. In addition, the JCHLC had recently indicated the areas along roadways in the county in which they felt were important for viewshed protection, many of which coincided with the proximity to historic properties and/or views from such properties. In addition to new county ordinances being proposed, they were also interested in possibilities of utilizing transfer of development rights (TDR) as a tool for protecting important viewsheds and hoped that our analysis could help bolster that effort.

Scenic America was tasked with these services in order to obtain a professional opinion about the visual character of the area. The scope of work for these services included the preparation of a preliminary scenic resources assessment/ viewshed inventory for primary public roadway corridors and priority viewsheds within the county. The analysis was to consist of a windshield survey and driving tour of key historic resources and views of concern, led by representatives from the JCHLC. Scenic America was tasked with providing a preliminary report to the JCHLC consisting of: documentation of notes and initial observations from the site visit; a preliminary list of important scenic resources, views and/ or scenic conservation issues; digital photography from site visit; and draft recommendations for moving forward with a more comprehensive scenic resources protection strategy or assessment for the areas of concern.

Methodology:

The general observations and recommendations provided represent extrapolations from analysis of the primary and secondary roads which were driven in the time allotted. Methods utilized for this preliminary assessment are consistent with other techniques recommended by Scenic America as part of technical services for scenic byways and communities with roadway concerns. These techniques are consistent with common practices in the landscape architectural profession when examining visual quality. It was not possible to conduct an in detail observation /assessment for visual quality along each roadway. Attention was paid to those features present along the roadway corridors that could be extrapolated as being representative of other roadways in the region.

Landscape Character

Landscapes result from the combination of the physical, cultural and biological processes in which they were created. These properties are clearly evident in Jefferson County. The physical landscape is present in the form of the mountain geology and river geomorphology that helps define the both the visual and geographic eastern boundary of the county. Cultural processes manifest in the form of human manipulation and uses of the landscape over time. In this area, aside from the developed townships, this is most evident in the form of past agricultural practices that have resulted in distinct patterns of farm fields and open areas across the landscape, as well as the presence of the historic structures throughout. As is true with most places, newer structures and development across the county contrasts significantly with the overall character conveyed by the older historic dwellings and landscape patterns, a disconnect is apparent. Biological processes are evident with the visual patterns, forms, and colors created by the variety of agricultural crops in the farming fields and tree species that varies with geology from those present in the uplands compared with vegetation growing in the river bottom and lowlands.

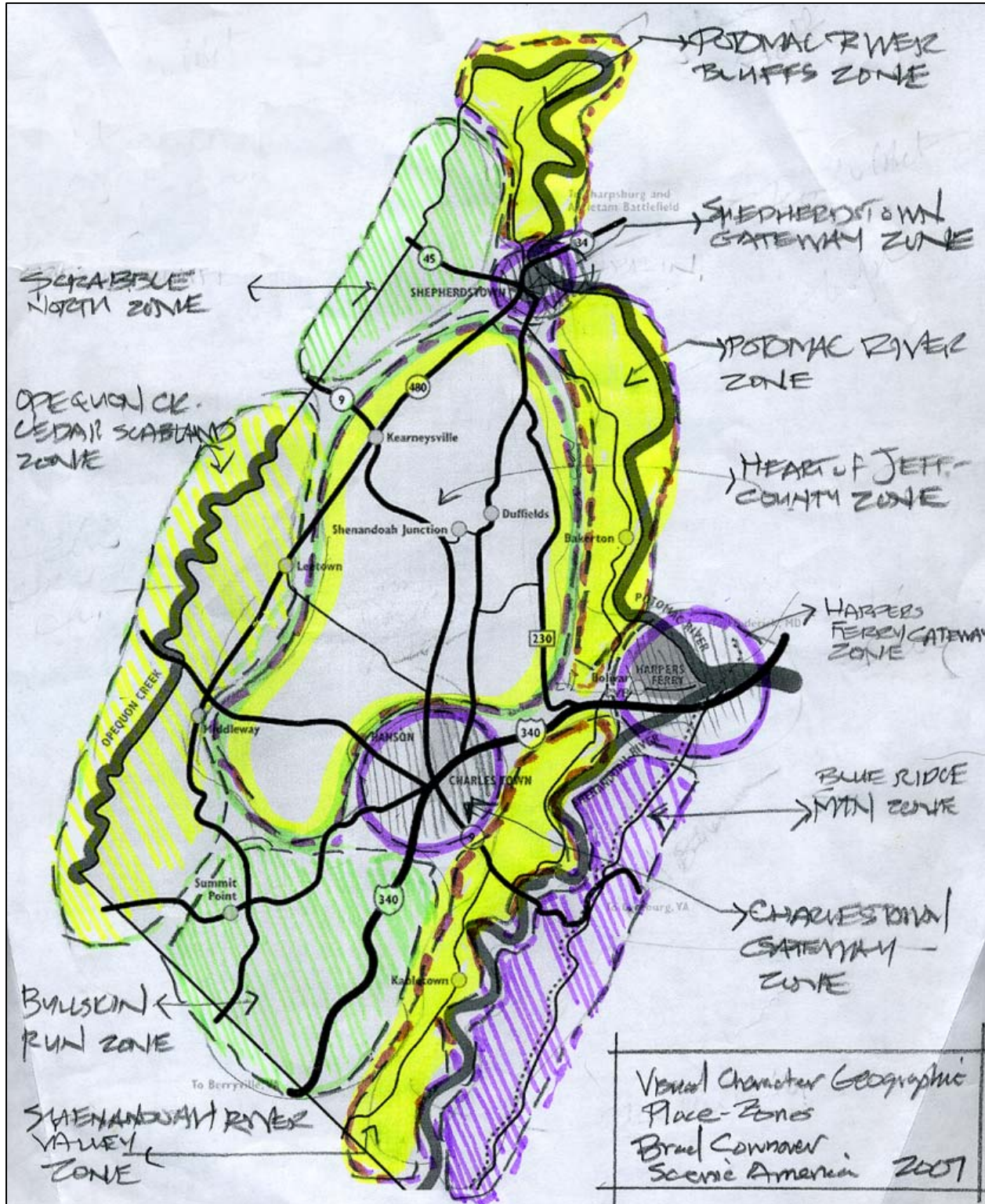
The county is geographically bound in many ways by rivers and ridges. The visual character of the county is influenced by these geographic features as well. Most notably, the visible backdrop of the Blue Ridge Mountains to the east and the Potomac and Shenandoah River valleys in which roads follow and wind along a more densely wooded landscape. In general, the northern portion of the county is characterized by more tightly incised drainages and wooded hills, offering less opportunity for wide open vistas along the roadways. Rather, the views and traveler attention along the roadways in these areas is directed to the finer details in the immediate foreground, such as the individual character of the vegetation, fences and structures. In the southernmost reaches of the county, the views along the primary and secondary roadways are probably the most open as in any location. Here, wide vistas of farmland and distant hills and ridges (to the east) are prominent until the roads descend in elevation towards the Long Marsh Run. To the west, the area north of Highway 9 is similar to the tightly nestled hills and hollers around the Scrabble area. South of Highway 9, the western-most edge of the county changes in character to a drier, flatter, rockier landscape in which the vegetation is shorter and cedar trees are more prevalent.

The heart of the county is characterized by gently rolling series of corn and soybean fields, bordered by windrows of trees. Structures are scattered (both historic and otherwise) throughout these areas, not always in patterns that seem to reflect the corresponding landscape character. Finally, the three primary population centers each have unique visual character and could be considered gateway zones into and from the other areas within the county.

If the county were to be diagrammed according to some of these primary visual character zones, the zones might include the following zones, as depicted by the map sketch on the following page.

Visual Character Zones

○ Potomac River Bluff Zone	○ Blue Mountain Ridgeline Zone
○ Shepherdstown Gateway Zone	○ Charlestown Gateway Zone
○ Scrabble North Zone	○ Shenandoah River Valley Zone
○ Potomac River Valley Zone	○ Bullskin Run Zone
○ Heart of Jefferson County Zone	○ Opequon Creek- Cedar Scabland Zone
○ Harpers Ferry Gateway Zone	(note: above zone could be divided into two)



General Observations:

- Landscape Ownership: The visual assets and visual character of the Jefferson County Landscape is defined by a collection of lands owned by many people. The success and failure of protecting the overall landscape will rise and fall with the ability to work with a variety of owners to find ways of encouraging protection of the characteristics of their respective parcels that contribute most to the overall valued character of the particular viewshed. In the farmland areas of the county, this may be aided or not by larger tracts of single ownership. However, even in these areas, the viewscape is likely to include lands in different ownership, be it the far background or areas in the near foreground.
- Landscape Patterns and Visual Signatures: The views along both the primary and secondary roadways of the county can be described in most cases by the patterns created by the physical elements in the landscape. Patterns of similarity exist in nearly all of the roads, such as that created by the roadway border with agricultural landscapes and by stands of windrow trees defining the edges of property. Agricultural fields of soybean and corn provide a blanket of color, undulating with the underlying landform. Windrows of deciduous trees parallel fence lines along linear roads, while in other areas roadways wind with the landform and a shaded canopy of vegetation dominates. Where present, open areas back-dropped by the Blue Ridge Mountains create a lasting impression and depth to the views not present in the rest of the county. The patterns within the county, at the finer scale, suggest a variety of landscape signatures that can be helpful in describing the visual character of the area. These signatures repeat like patterns across the county and it becomes very noticeable when these signature patterns are broken, or interrupted by newer development or roadway improvement inconsistent with these.



- Fragmentation of Rural Landscape Character: While much of the county can be characterized by the dominance of rural agricultural fields and bordering windrow woodlands, very few opportunities, like the ones shown in these photos, exist for the traveler to experience an uninterrupted, continuous stretch of this landscape type without encountering new housing subdivision other development.



- Public access along and to the Potomac River is lacking. It appeared as if the majority (or all?) of the river frontage driven was in private ownership. In addition, dense vegetation along much of the area along River Road prevented good views into and along the river.



- Windrows, Wooded Lanes and Lone Trees: The visual significance of the county roadways is equally reliant upon woody vegetation as it is agricultural crops. Large windrows of deciduous trees demarcate the boundaries of fields and roads. Where the roadways enter drainages, the continuous canopy over the roadway of these wooded lands becomes a very dominant visual element. Similarly, in many places, the appearance or remnant of a single lone tree provides a very important visual element to the roadway corridor character.



- History: In so many areas along the county, the element of American history seems so rich that it can be tasted. As one travels along the rural roadways bordered by open farmland vistas, it does not take much effort to let the mind drift back in time, imagining the courses of civil war soldiers crossing these fields. Where visible, the presence of historic structures evokes the rich character of human history that has shaped the county. Protection of both these structures and the physical landscape context in which they reside is imperative in preserving their historical importance.



- Patterns of a Different Kind: Based on the brief time spent in the county, it clearly appeared that the biggest threat to the visual character of the county's landscape is from residential subdivision development. Many, if not most of the newer development did not appear to have been planned to be complimentary to the visual character of the landscape in which they were situated. Regular patterns of homes dotting across an open farm field do little to protect or emulate the patterns of the surrounding area. Open space is quickly lost through perpetuation of this type of development. The development occurring is not all easily categorized as typical 'sprawl'. However, there seems to be a disconnect even in the planned residential developments. Whereas historic structures appear to have almost grown out of the landscape in the place they were bore, the roads and homes in many of these housing developments seem out of place. Most exhibit none of the architectural and land use techniques that could help in siting the development in a manner that helps to respond to the local conditions, such as through clustering, massing, and color. Most however, appear too large with poor color choices and style and little to no conservation of open space or trees. In addition, many appear to lack the sensitivity of adjacency to historical register properties that could have otherwise been an asset. In addition, many of these developments are located within transmission utility right of way corridors, not exactly the ideal location for making a house a home.



- Road Character: Overall character visual character of the rural roadways can be characterized as rural, 2-lane roadways, narrow to no shoulders, through dissected agricultural farmlands with scattered historic properties with newer development, but signs of older development in other decades. Character of the more rural roadway corridors within the county is varied, but not extremely so. Even when divided into visual segments, many of roads may seem similar to the casual visitor. What would stand out most to the non-local would be the significant visual changes that occur due primarily to the geographic changes in the landscape, such as proximity to the Shenandoah or Potomac River (east), more rolling topography to the (north), more open and flatter agriculture landscapes to the (south), and more wooded in the drainages. The other aspect affecting character is proximity to development centers. Denser and more sporadic development is clearly visible as roadways near the primary population centers and the primary roadway access corridors for them (Shepherdstown, Harpers Ferry, Charlestown).
- Gateways: Gateways into and from major populations centers as well as into the county should all be considered important nodes for focusing visual conservation techniques. Some entries into the county are more visually dramatic than others (such as Harpers Ferry from Maryland), yet they are all important in portraying the visual image of the county to the new and repeated visitor. Many of the existing primary and secondary gateways into the county are showing signs of landscape change. A detailed study of the entryways into the population centers of Charlestown and Shepherdstown could especially be important. Small changes in the visual environment can be critical in either maintaining or compromising the visual character of the areas, such as via changes in the roadway width, utilities, signage, structures, residential housing, commercial development, and similar.



- Rural Road Junctions: Rural road junctions are an asset to the county's visual character but also pose a dilemma in protecting visual character. Many areas of the county still exhibit intact rural junctions with very little to no development around them. Others have already show signs of the slow and methodically trend of sprawl development along roads with higher, regular traffic volume.



- There is no real sense of balance of priority in the visible built environment and structures in the landscape. Lack of protection of historic properties from encroachment of residential development causes these properties to be visibly 'lost' amongst the clutter of land uses around them. A lack of continuity along most roadways, in terms of set back, treatment of visible frontage, lengths of entry drives, etc., also serves to confuse the visual pattern and order that seems more discernable in those areas in which the historic properties and cultural landscape qualities have been preserved.



- Manage Commercial Development/Highway 9 Viewshed: Given the realignment for Highway 9, there is a critical importance to managing the potential development and growth throughout the corridor, both the proposed new corridor and the existing corridor. On both the east and west ends of Highway 9 the roadway has a more commercial/industrial development character. Zoning and other lands use decisions should be considered (if not already done) that prevents the new alignment from becoming a development corridor, including protecting existing views across the landscape in which the new roadway is proposed, as well as views along the roadway itself.



Viewsheds/ Corridors/ Nodes of Interest:

It should be noted that in order for a fair and thorough listing of important viewsheds, more time should be dedicated to a visual assessment. The time allotted for this assessment was not sufficient to adequately prioritizing one view over another as time was not available to drive all the roads, drive them more than once, drive each in both directions, nor even drive them in equal comparative conditions, such as time of day, atmospheric effect. Hence, this is why local input is so important. Individuals who live in an area are familiar with the landscape and thus have a more grounded basis for comparing qualities in an area. Thus, the following viewshed/views are not intended to be listed in order of priority importance for protection, nor do they necessarily represent a complete list of all of the important views. Rather, they should be considered representative. However, it is appropriate to acknowledge that all of the key viewshed/roadways pointed out by the JCHLC were considered to be important in our estimation as well.

- Gateways (Entry and Exits) of Shepherdstown
- Gateways of Charlestown
- Gateways to Harpers Ferry
- Primary Gateways to County on Major Roads
 - State Road 34 from Antietam National Battlefield in Maryland (MD)
 - State Road 45 from Martinsburg, WV.
 - State Road 9 west from Martinsburg (existing and proposed...)
 - U.S. Highway 340 from MD via Harper's Ferry
 - State Road 9 from Loudon County, VA (existing and proposed 4 lane)
 - U. S. Highway 340 from South (Berryville, VA)
 - State Road 51 from west (inbound WV Berkley County)
- Secondary Gateways
 - State Road 25 from south (Berkley County)
 - County Road 10 VanClevessville Road/ Golf Course Road
- Key Road Junctions
 - Almost all in unincorporated areas or where secondary roads feed into primary
 - A) Kearnsville, b). Summit Point c) Leetown d). Middleway
 - Ganders, Shepherdstown Pike, Trough Rd
- Rural Junctions:
 - Box Facility Road and Cherry Mead Road
 - Swan Pond Rd, Turner Rd, Billmyer Mill Rd
 - Smith Rd, Kabletown, Wicliffe Rd.
- Rural Road Stretches (portions of)
 - Van Clevessville Rd.
 - Warm Springs Rd.
 - Sulpher Springs Rd.
 - Garners Ln.
 - Trough Rd.
 - River Rd.
 - Knott Rd.
 - Engle Molers Rd.
 - Bakerton Rd.
 - Ridge Rd.
 - Meyerstown Rd.
 - Smith Rd.
 - Kabletown Rd.
 - Meyerstown Rd.
 - Summit Point Rd.

General Recommendations:

- Document the Visual Character: Document visual the visual character of the primary and secondary roadways more completely. This could be organized either by roadway and/or corridor viewshed, by areas of similar landscape type, such as the character zones outlined, or other means. Documentation is critical in order to describe the valued elements within the landscape. What makes one area distinct from another? What assets are most at risk? What are the primary threats? If possible, pair any professional analysis with community input. There are numerous techniques for assessing community preferences and values for landscape, such as through surveys, workshops, and preference studies. In any case, involving the public is an important means of tapping the knowledge and perspective of the local experts, those who are intimately familiar with the landscape.
- Protect Views of Agricultural Fields: Identify the roadways with the most intact views of open landscapes and farm fields (this could be done by GIS analysis and field verified by driving). Even if these areas do not contain views into or from historic properties, these open stretches of farmland, uninterrupted by new housing are few and far between in the county. Where they exist they should be protected as much as possible but not allowing new development that fragments the open character of the landscape or detracts from the character of the views. A significant concern for long term should be maintaining continuity in visual character of these landscapes. Risk of fragmentation is huge and just as an iceberg melts faster once broken into many pieces, so is the visual character of area more quickly eroded once pieces of it are visually compromised. In addition to strategies for permanent protection through acquisition and/or easements, creating planning and design standards that help manage growth where allowed could be instrumental in protecting this rural character.
- Protect the junctions/ Develop the junctions:
From the very quick and cursory driving tour of the county, the rural county road junctions were one that stood out visually. In many ways, the protection of the county rural heritage can be measured by a photo synopsis of the junctions across the county. While it is expected and certainly anticipated that these junctions will organically be improved over time as growth occurs (both in terms of population and neighboring development), it is not impossible to manage that growth in a manner that helps to protect the character of these rural junctions. Once these rural junctions are altered, a precedent is set that makes protection of the roadway character between junctions more difficult.

However, in a similar vein, it's possible that in some cases conscious development of the junctions might be the very best way to manage development pressure by concentrated development where it is already occurring at the junction in order to protect the heart of the roadway landscapes between junctions. In conjunction with the concepts of Transfer of Development Rights, it may be possible that the large scale county-wide GIS 'visual intactness' analysis coupled with visibility analysis may suggest solutions for locations to concentrate development that enable protection of landscape character where it is most critical. This may be the junctions of roads in some cases and the long stretches in between junctions in others.

- Land Use Design Guidelines: Develop visual land use and design guidelines for county based upon the visual signatures and landscape patterns that help define the area. These should be functional at all scales and both inform and respond to other land use regulations, ordinances, and zoning tools that may be in place or created in the future. By connecting the dots, so to speak, between the land use decisions and visual patterns of the landscape, it would be possible to help foster future management of growth in the county that emulates or is more in keeping with the valued characteristics of the land. For example, in the case of housing development, this would suggest solutions that go beyond simply

having developers consider what architectural style is most appropriate for homes in a new subdivision, but also how and where the structures are situated within a particular landscape.

- Utilize Geographic Information Systems (GIS): A critical step in helping to protect the viewshed of the area would be to create a baseline GIS layer for visual character/scenic resources of the county. This data layers would include a seen area or visibility analysis from all or identified roadways within the county to determine what areas of the county landscape are most visible, from which vantage points, how often, and how prominently. By developing this and similar data layers, it would be possible to overlay this information with other geographic data of relevance, such as from the recent Green Infrastructure project, in order to help draw correlations between cause and affect and implications of different land uses and/or natural resources.
- Given the reality that residential and ancillary development are most readily altering the rural fabric of the county landscape, it's important to identify and protect the roadway corridors that have the most intact landscape, be it an agricultural landscape or river bottom. An analysis using GIS should be done to identify (either from remote sensing data such as satellite and infrared imagery) land use development classifications (assuming this has not already be done via the Green Infrastructure project or other data set). Such a classification can provide a spatial representation of the county relative to many criteria, such as the percentage of land developed with building. These GIS 'signatures' are commonly used in remote sensing applications to help determine areas of pervious vs. impervious surfaces that can help long term planning for hydrologic conditions. In the case of visual conditions, these analysis techniques could be used to render the areas of the county that are most visually intact or compromised relative to criteria that can be developed (such as a ratio of structures/acreage, density of housing, or acres of contiguous open space, lineal feet of woodland). Such an analysis could very readily display the fragmentation occurring across the county from past and present development. An overlay of this information with visibility data from primary viewshed corridors could provide a means of prioritizing the areas for visual protection or enhancement.
- Computer Simulations and Visualizations: As the county and involved officials move forward with land use planning, consider the use of two-dimensional and three dimensional rendering and GIS-based visualization software. These programs allow the integration of geographic, land use and other spatial data along with any specific protection goals in the form of three-dimensional and even four-dimensional visualizations. The value of these software programs is that they offer the ability to visualize date with added realism. Realism will help communicate the potential visual impacts associated with development threats, as well as visually forecasting out development scenarios and alternatives. While it's more common for developers and other entities to utilize these tools today that a few years ago, it's important that these tools be required for accurately reflecting the details of planned land use, rather than simply being used to help sell a project.

These tools can also be used to help illustrate the values of landscape, which could help with advocacy so that they could be used not just as a planning tool, but also as an advocacy tool that might help acquire more conservation easements and/or expand the possibilities for new scenic overlays and other zoning. Thus, individuals could "see" how important their property is or isn't to the overall conservation strategy and integrity of viewsheds and historic vistas.

In addition, these types of software programs can also be used to recreate historic appearance/ or periods in time that can be incredibly affective tools for education, scientific study and planning, as well as an advocacy tool. These visualizations can be done as static images as well as in the form of video, moving fly-throughs that help provide a sense of landscape context and help illustrate preservation points.

Such forms of temporal rendering can also help with future-casting of scenarios for current land use patterns over time or in how specific conservation measures of protection plan will affect or won't really affect viewshed protection (which can help focus efforts for most value for the effort).

As well, some programs, such as Community Viz, allow for real-time rendering and interaction with the visualization of the landscape, thus offering a user interface to help make decisions and to help make connection between choices and outcomes. In this manner, these tools could be extremely effective if integrated as part of a planning process to help with new protection plans for the short term/long term goals, as well as fostering community dialogue through forums, meetings, and other workshop-settings in which further awareness, advocacy, and solutions could be garnered.



Three dimensional rendering examples from Visual Nature Studio/World Construction Set: www.3dnature.com

This information is
Tab #6 in your binder.



**Jefferson County, West Virginia
Departments of Planning & Zoning**

116 East Washington Street
P.O. Box 338
Charles Town, West Virginia 25414

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

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

MEMORANDUM

TO: Planning Commission
FROM: Seth Rivard, County Planner
DATE: November 12, 2013
**RE: Proposed Zoning Ordinance Text Amendment (Section 4.11) to
Landscaping between Similar Non-residential Uses**

Currently Section 4.11 of the Jefferson County Zoning Ordinance details the Landscaping, Screening and Buffer Yard Requirements for subdivision or site plan development in Jefferson County. This Section includes a chart that provides an option for screened and unscreened buffers based on distance between uses. Within the chart, almost all uses require some type of buffer between adjacent uses.

Section 4.11 requires that 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 with more detail provided. Additionally it states that "All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers". This requirement is the focus of this memo.

The requirement that "all commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers" is the screening requirement between similar uses found in districts that permit industrial and commercial uses. Section 4.11D further clarifies that the required vegetative screening has to comply with the County's standard details (attached) which are detailed below and essentially results in full visual screening between the proposed uses. While screening buffers help to absorb, lessen or neutralize the impacts of one land use from another, reducing the mutual impacts that adjacent land uses and their required parking might cause to an adjacent property by serving as a barrier to visibility, air borne particles, glare or noise, such a total screening between similar uses isn't always necessary, particularly within a master planned business park type setting.

Staff has recognized that the amount and type of screening currently required between similar uses may be more than what is reasonably necessary. As such, staff is proposing the following amendment to reduce the amount of screening required in the 10 foot side and rear yard landscape buffers between light industrial and commercial uses when no outdoor storage is proposed or provided. Staff believes the proposed amendments will

reduce development costs while still helping to soften the hardscape environment, reduce run-off, mitigate noise, and increase the visual appeal of a development.

The proposed amendment specifically applies to Section 4.11A which states, “All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers”.

Currently Required (adopted around 1990):

Option F:

- One (1) row of evergreen shrubs with a height of two (2) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, when planted every five (5) linear feet;
- One (1) row of medium evergreen trees with a height of six (6) feet or more when planted, likely to reach a height of twenty feet or more at maturity, planted every ten (10) linear feet.

[Note: there is also currently an Option G, less frequently used, which requires the same evergreen tree planting plus a six (6) foot solid board fence, masonry or brick wall)

Net result over a 100 foot linear planting

10 evergreen trees (every 10 feet)
20 evergreen shrubs (every 5 feet)

Proposed Amendment to the Required Buffer Yard Between Commercial/Industrial Uses:

- One (1) deciduous or evergreen tree with a height of six (6) feet or more when planted, likely to reach a height of twenty (20) feet or more at maturity, planted every twenty five (25) linear feet; at least every other tree shall be an evergreen;
- One (1) ornamental tree with a height of four (4) feet or more when planted, likely to reach a height of six (6) feet or more at maturity, planted every twenty five (25) linear feet; and
- Three (3) shrubs per each twenty five (25) feet along the property line, round upward.

Net result over a 100 foot linear planting

4 evergreen/deciduous tree; at least 2 of which shall be evergreen (every 25 feet)
4 ornamental tree (every 25 feet)
12 shrubs

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

Director's Report November 12, 2013 Planning Commission Meeting

1) Envision Jefferson 2035 Update

- a) Recent Public Input Meetings -- Future Land Use Element (what and how):
 - Third Series of Public Meetings – Land Use Map – “what and how”:
 - Monday, October 21, 2013: Shepherdstown Middle School
 - Wednesday, October 23, 2013: South Jefferson Elementary School
 - Stakeholders Sessions – Friday, October 25, 2013 (four 1½ hour sessions)
- b) Upcoming Future Land Use Element Open Houses:
 - Monday, November 18, 2013, 5:00 to 7:00 PM,
South Jefferson Public Library in Summit Point;
 - Tuesday, November 19, 2013, 4:00 to 6:00 PM
Old Charles Town Library;
 - Wednesday, November 20, 2013, 5:00 to 7:00 PM
Shepherdstown Public Library in downtown Shepherdstown;
 - Thursday, November 21, 2013, 5:00 to 7:00 PM
Bolivar/Harpers Ferry Public Library in Bolivar; and
 - Saturday, November 23, 2013, 9:30-11:30 AM
St. Andrews Mountain Community Center on Mission Road on the Mountain.

2) Recent/Upcoming CC Actions relevant to Planning:

- a) Minor Amendments to the Jefferson County Zoning and Land Development Ordinance Sections 2.2, 4.10, 4A.5, 5.7, 5.8, 8.5, 8.14(new), 8.15 (new), 9.5, 10.5, 11.1, 12.2 and Appendix C (Agricultural Use and Other Amendments) (*Public Hearing held 10/10/13; 2 weeks for written comments; follow up workshop 11/21/13*)
- b) Request by the Planning Commission that the County Commission Reconsider their Motion of 10/25/13 Regarding the Proposed Zoning Ordinance Text Amendment Related to New Commercial and Industrial Zoning Categories (*CC workshop scheduled for 11/14/13 9:30 AM; Public Hearing scheduled for 11/21/13 7:00 PM*)

3) Recent/Upcoming BZA Actions relevant to Planning:

- a) At the September Board of Zoning Appeals (BZA) meeting, a public hearing was held on the appeal of the interpretation of the Zoning Administrator regarding Section 5.7(d), “Maximum Number of Lots Allowed” (in the Rural District). The

interpretation in question had been utilized consistently since mid-2009, but was overturned by the BZA.

This information is an “FYI” for the Planning Commission:

There are two primary ways of determining the development rights of land in the Rural Zoning District, both upholding the primary function of the low density residential development permitted within Section 5.7, which is to preserve the rural character of the County and the agricultural community.

- 1) Section 5.7(d)1: The standard subdivision has a maximum density of one lot per 15 acres, based on the acreage in 1988.
- 2) Section 5.7(d)2: Alternatively, a cluster subdivision has the intent of preserving larger areas of prime farmland by clustering lots between 40,000 square feet and 3 acres in size and permanently preserving the remaining farmland. Development utilizing the cluster provision is based on a maximum density of one lot per 10 acres.

(It should be noted that these provisions were reversed in earlier versions of the Zoning Ordinance and that the Ordinance revisions were upheld by action of the WV Supreme Court in December 2009).

There is an additional provision in Section 5.7(d)3 that related to a provision in the 1979 Subdivision Ordinance, allowing a property that was considered a lot of record as of October 5, 1988 to create 2 lots and a residue lot (3 lots total) during a five-year period. Section 5.7(d)3 starts with the language, “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. . . .”

Because of the language “not in addition to”, staff had been utilizing Sections 5.7(d)1 and 5.7(d)2, to determine the number of lots permitted from a lot of record and allowing the utilization of Section 5.7(d)3 to determine if the process should be a minor or major subdivision. The decision of the Board of Zoning Appeals results in the ability of any property that was of record on October 5, 1988 to be divided to create 2 lots and a residue every 5 years as long as the lots can meet Health Department requirements and are a minimum of 40,000 square feet. There are still limitations on the number of lots that can be located on a right-of-way before a county grade road is required.

b) 11/14/13 BZA Meeting:

Public Hearings regarding a variance and a Seasonal Use Permit for the purpose of hosting a 5-day music festival and camp out on a property in the Rural Zoning District during the July/August 2014 summer season. If approved, the BZA may determine if a Concept Plan should be heard by the Planning Commission.

4) **Upcoming PC meetings**

a) December 10, 2013

- Concept Plan Hearing for Verizon Cell Tower

This information is
Tab #12 in your
binder.



September 10, 2013

RECEIVED

SEP 16 2013

The Honorable Dale Manuel
President
Jefferson County Commission
Post Office Box 250
124 East Washington Street
Charles Town, West Virginia 25414

Jefferson County Commission

Re: Old Standard Quarry Brownfield Development District

Dear Commissioner Manuel:

As you are aware, the director of the West Virginia Development Office (“WVDO”) approved the economic development plan and plat for the Old Standard Quarry Brownfield Project in Jefferson County, West Virginia (the “Project”) in June of 2010. This approval resulted in the Project earning designation as a Brownfield Economic Development District in accordance with applicable state law.

The legislative rule governing Brownfield Economic Development Districts in West Virginia requires the project engineer or architect retained or employed by the applicant (e.g., Old Standard Quarry, or its successor) to certify to the Director of the WVDO that the project remains in “substantial compliance,” as defined therein, with all material provisions of the economic development project concept plan within 36 months of becoming so designated (See W.Va. C.S.R. 145-1-9). Moreover if the applicant fails to submit such certification in this time-frame, the Director of the WVDO is required to automatically revoke the district’s designation as a Brownfield Economic Development District without further action.

The WVDO has not received the required certification set for the W.Va. C.S.R. 145-1-9 and therefore the Project is not in compliance with applicable state rules. Accordingly, please be advised that the Brownfield Economic Development Status previously awarded to the Project is hereby revoked.

Thank you for your cooperation on this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd E. Hooker".

Todd E. Hooker
Senior Manager, Financial Programs and National Accounts

TEH:njs

cc: Keith Burdette
Josh Jarrell
Mark Julian

From: jspurgas@aol.com
To: planningdepartment@jeffersoncountywv.org
Subject: Morgan"s Grove Market(PC File #S12-06)
Date: Sunday, October 13, 2013 7:59:53 PM

I request that all future action regarding Morgan's Grove Market including issuance of a building permit, any further grading of the site, etc. cease. The developer has not provided results of well-water flow tests to the Planning Commission (or property owners) as required and stated at past Planning Commission meetings and the most recent public hearing on July 9, 2013. Minutes of this meeting state that results of these water tests would (and should already have been) provided. Please let me know what action the Planning Commission will be taking regarding my concerns. Thank you. Joseph Spurgas

This information is
Tab #13 in your
binder.

**A Motion Recommending Approval of a Waiver for
Bloomery Distillery (S11-14)
August 13, 2013**

Whereas, the following facts relate to the processing of Bloomery Distillery Request (PCW13-09);

Whereas, the Bloomery Distillery has requested a waiver from the 2008 Jefferson County Subdivision and Land Development Regulations per Appendix B, Section 4.3 to allow for a waiver from the requirement to provide stormwater management for all areas of site that are to be disturbed;

Whereas, Stormwater management is typically a benefit in reducing run-off to neighboring properties, sediment into the watershed, and improving or protecting water quality.

Whereas, the proposed site improvements at Bloomery Distillery are similar to the disturbed area of land that a single family home would create, the proposed stormwater management solutions to this site would create a greater negative impact than not installing the proposed stormwater features. Such impacts include, but are not limited to, disturbing large, well established trees with large tree canopies and rock outcroppings, which would create erosion, slope stability issues, drainage issues, and sedimentation. There are unique nuances to consider in this request.

Whereas, the following findings, which are required, can be made in regards to this request, in accordance with the provisions of Appendix B, Section 4.3 of the 2008 Subdivision Regulations 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 _____ the requested waiver for Bloomery Distillery to not require stormwater management.

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

**A Motion Recommending Approval of a Waiver for
Bloomery Distillery (S11-14)
August 13, 2013**

Whereas, the following facts relate to the processing of Bloomery Distillery Request (PCW13-08);

Whereas, the Bloomery Distillery has requested a waiver from the 2008 Jefferson County Subdivision and Land Development Regulations per Appendix B, Section 9.4 for an increase in maximum driveway slope requirements from 8% to 20%;

Whereas, The Subdivision and Land Development Regulations allow a maximum slope of 8% for driveways;

Whereas, The applicant received a waiver on March 8, 2011 from Planning Commission allowing the increase in slope from 8% to 15%;

Whereas, The applicant is requesting a waiver of slope from 15% to 20%;

Whereas, Bloomery Distillery is a small Rural Agricultural business, with a small tasting room, low traffic volumes, and limited days of operation;

Whereas, a waiver to allow a steeper slope will allow the applicant to maintain a number of large trees which are providing slope stability and a large tree canopy reducing the impact of rainfall on the slopes. Without the waiver, the large trees would be removed to allow for a gentler slope and result in lack of stability on the slope. As a result, this reduction, for this proposed use, will not decrease the quality of the project.

Whereas, the following findings, which are required, can be made in regards to this request, in accordance with the provisions of Appendix B, Section 9.4 of the 2008 Subdivision Regulations 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 _____ the requested waiver from Bloomery Distillery for a reduction of the slope requirement from 15% to 20%.

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

**A Motion Recommending Approval of a Waiver for
Bloomery Distillery (S11-14)
August 13, 2013**

Whereas, the following facts relate to the processing of Bloomery Distillery Request (PCW13-07);

Whereas, the Bloomery Distillery has requested a waiver from the 2008 Jefferson County Subdivision and Land Development Regulations per Appendix B, Section 2.2 for a waiver from the requirements for driveway width and depth;

Whereas, The Subdivision and Land Development Regulations require a driveway depth of 9 inches of gravel and a width of 22 feet for two way traffic;

Whereas, The applicant has received a waiver on March 8, 2011 from Planning Commission reducing the width from 22 feet to 18 feet;

Whereas, The applicant is requesting a waiver of width from 18 feet wide to maintain the existing 13 foot wide driveway, and a gravel depth from 9 inches to 6 inches;

Whereas, Bloomery Distillery is a small Rural Agricultural business, with a small tasting room, low traffic volumes, and limited days of operation;

Whereas, a waiver of the driveway width and depth requirement will result in a reduction in the impervious area, which results in a decreased amount of stormwater runoff. Additionally, the narrower driveway will allow the applicant to maintain a number of large trees which are providing slope stability and a large tree canopy reducing the impact of rainfall on the slopes. As a result, this reduction, for this proposed use, will not decrease the quality of the project.

Whereas, the following findings, which are required, can be made in regards to this request, in accordance with the provisions of Appendix B, Section 2.2 of the 2008 Subdivision Regulations 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 _____ the requested waiver for Bloomery Distillery to retain the existing access width of a minimum of 13 feet and a gravel depth of 6 inches.

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