

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
APRIL 24, 2012

Planning Commission meetings are located in the Old Charles Town Library meeting room at 200 East Washington Street, at the side entrance on Samuel Street at 7:00 PM

1. Approval of the minutes for the April 10, 2012 meeting.
2. Citizen Communications.
3. Request for postponement.
4. Continued from the 04/10/2012 PC Meeting: Public Hearing regarding Proposed Additional Commercial and Industrial Zoning Categories and related amendments to the Jefferson County Zoning and Land Development Ordinance.
5. Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9-2, Parcel: 58. This property is currently zoned Residential Growth and Residential/Light Industrial/Commercial zoning is being requested. This property is located south of Route 340 (William L. Wilson Freeway) and to the east side of Route 27/2 (Alstadt's Hill Road) just passed its intersection with Route 27 (Millville Road) and is a total of 8.98 acres. The owner of record is Gene Capriotti.
6. Final Plat Public Hearing for the Harvest Hills Subdivision (PC File #12-02). The property is to consist of 22 single-family lots on 8.84 acres. The property is located on the east side of Route 17 (Flowing Springs Road) and the south side of the CSX Railroad where the two intersect. The owner of the property is Arcadia Development Co. This property is designated as Tax District: Shepherdstown, Map: 24, Parcels: 12 and 13.
7. Final Plat Public Hearing for the Cambridge Manufactured Home Development Subdivision (PC File #12-03). The property is to consist of 2 mobile home lots on 27.0671 acres. The property is located on the south side of Route 17/5 (Flowing Acres Road) and 0.31 miles east of its junction with Route 17 (Flowing Springs Road). This property is designated as Tax District: Charles Town, Map: 8, Parcel: 32.13.
8. Reports from Legal Counsel and legal advice to PC.
Active Litigation:
 - Far Away Farms
 - Cedar Meadows Airpark
9. Director's Report.
10. County Commission Liaison Report.
11. Planning Commission Exchange.
 - Report from the Health Department Meeting Liaison.
 - Report from the Public Service District Meeting Liaison.
 - Report from the Parks and Recreation Meeting Liaison.
 - Report from the Jefferson County Development Authority Meeting Liaison.
 - Report from the Water Advisory Committee Meeting Liaison.

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12. President's Report.

13. Actionable Correspondence.

14. Non-Actionable Correspondence.

The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address is planningdepartment@jeffersoncountywv.org and our website is www.jeffersoncountywv.org.

Any party desiring a transcript of these proceedings will be responsible for providing a competent stenographer at their own expense. Minutes and video recordings of past meetings, Subdivision Regulations, Zoning Ordinance, and the Comprehensive Plan can be found on the website. The office has a file on each project as well as aerial photos of the county. Minutes and audio recordings of older meetings not on the website are available for review in the office.

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
APRIL 10, 2012

The Jefferson County Planning Commission met on Tuesday, April 10, 2012 with the following Commission members present: Paul Taylor, President; Eric Smith, Vice-President; Morgan Eppers, Secretary; Kelly Baty, Ed Burns, Gene Taylor, Steve Stolipher and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Ralph Lorenzetti, Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Daniel Hayes was absent with notification.

Mr. P. Taylor called the meeting to order at 7:06 PM.

Mr. P. Taylor introduced Mr. Steve Stolipher, the newest member of the Planning Commission.

1. Approval of the minutes for the March 13, 2012 meeting.

Mr. Smith moved to approve the minutes of the March 13, 2012 Planning Commission meeting. Mr. Burns seconded the motion which carried unanimously.

2. Citizens Communication. None.

3. Request for postponement. None.

4. Presentation by Roger Goodwin and Becky Burns regarding an Overview of the Engineering Department and the Jefferson County Bonding Policy.

Mr. Roger Goodwin gave a presentation of the duties and responsibilities of the Engineering Department including plan and site review. He explained the bonding policy and the new tolling agreements that have been enacted. Ms. Burns was available for questions and provided details of the bonding policy.

5. Final Plat Public Hearing for the Breckenridge East Subdivision. The property is to consist of 9 single-family lots and 1 residue lot on 74.895 acres. The property is located on the east side of Route 24 (Country Club Road) approximately 1 mile north of its intersection with Route 340. The owner of the property is B.C. Partners, Inc. This property is designated as Tax District: Harpers Ferry, Map: 10, Parcels: 2, 3 and 10.

Ms. Eppers recused herself due to a conflict of interest and left the room.

Mr. Rivard read from his staff report and recommended approval.

Mr. Dan Snyder of B.C. Partners briefly described the project and was available for questions.

Mr. Lorenzetti disclosed that he had been an engineer for a separate section called Breckenridge North. However, he confirmed that he had no involvement with the section being discussed currently.

Mr. P. Taylor opened the public hearing.

Mr. Pat Masters, resident of Breckenridge North, questioned whether the Homeowner's Associations (HOA) of Breckenridge North and Breckenridge East would be combined or if they would have separate HOAs. Mr. Snyder confirmed that Breckenridge East would have a separate HOA. Mr. Snyder also stated that since Breckenridge East would have amenities that were not built for Breckenridge North, such as a pool, the Breckenridge East development would have a provision written into its covenants that would allow residents of Breckenridge North to use such amenities for a pro rata share of maintenance costs.

Mr. P. Taylor closed the public hearing.

Mr. Rivard clarified that staff report included recommended conditions of approval. He explained that the first condition should be to rename this phase of the project as Phase 1A had been used for the previous submission. He also stated that a setback note would need to be placed onto the plat before recording. The applicant agreed to both conditions.

Mr. Burns moved to approve the Breckenridge East Final Plat with the stated conditions. Mr. Stolipher seconded the motion which carried unanimously.

Ms. Eppers returned to the room.

6. Public Hearing regarding Proposed Additional Commercial and Industrial Zoning Categories and related amendments to the Jefferson County Zoning and Land Development Ordinance.

Ms. Brockman gave an overview of the purpose of the amendments. She stated that the proposed rural commercial zoning had been eliminated from the amendments which left 7 proposed non-residential zoning categories. She explained that, due to an advertising oversight which caused the advertising requirements to be short by one day, the Planning Commission would need to leave the public hearing open for comment to a future meeting to be determined by them.

Mr. Barney gave a detailed description, including the purpose, eligible locations, restrictions, special standards, and permitted uses of each proposed category. He explained that there were no zoning map changes being proposed and that the amendments related to recreational use were not a part of these amendments. He reviewed the proposed amendments to the definitions and related amendments to various sections throughout the ordinance. He stated that an amendment to Article 12, Section 12.2 regarding the advertising time requirement was also being proposed to enable more efficient notification since the local newspaper is a weekly publication. Mr. Barney explained that, when the Planning Commission makes a recommendation related to a text amendment to the Zoning Ordinance, that recommendation

is required to be forwarded to the County Commission for their final approval. He presented a letter provided to staff by W.H. Gordon and Associates regarding these amendments.

Mr. Burns suggested alphabetizing the categories in the chart of Appendix C. He also questioned what kind of timeframes for completing a rezoning would occur and if these amendments would cause additional time to complete a project. Ms. Brockman stated that State Law requires that a public hearing be held on a rezoning within 60 days of petition to the Planning Commission so that no additional time would be created.

Mr. Burns suggested creating separate categories for manufacturing and assembly, such as a creating a Custom Manufacturing District.

Mr. P. Taylor opened the public hearing.

Ms. Crystal Spach, a resident of Bakerton, questioned why the US 340 Gateway Study was increased to 2 miles beyond what was discussed and why it went to the river. She requested clarification that the Rural Commercial district had been withdrawn from the Zoning Ordinance amendments. Mr. Barney confirmed that it had been withdrawn. Ms. Spach asked if the "Other Commercial Uses Not Listed" had also been eliminated as that category appeared to allow the Zoning Administrator too much discretion regarding allowable uses. Mr. Barney stated that category had also been withdrawn. Ms. Spach raised concern that there was a deliberate plan by the Planning Commission to encourage and facilitate building along the Potomac River. She commented that the Planned Neighborhood Development (PND) conflicts with the preservation of the natural environment.

Mr. Ted Schiltz, Jefferson County resident, asked the hierarchy of the Subdivision Regulations, the Zoning Ordinance, and the Comprehensive Plan. He stated the top level document should be written first. He commented that he feels that, since the amendments are being written first, the Comprehensive Plan would be tailored to fit the amendments and that it should be that the amendments are tailored to the Comprehensive Plan. Ms. Brockman explained that the amendments would be guided by the Comprehensive Plan in effect at the time of a submission. Mr. Shultz suggested that the Comprehensive Plan should be drafted first and then the amendments could be revisited.

Ms. Janice Schiltz, Jefferson County resident, stated that she feels that these amendments (Section 3.2) allow the Zoning Administrator the capability to allow a use anywhere at his will. She commented that when there are negative comments to an amendment, she feels that they are just reworded to be similarly defined and presented again. Mr. Barney explained that Section 3.2 was in existence in the current ordinance and the amendment was to clarify that the Zoning Administrator could only make determinations on uses that were not listed but similar in nature to permitted uses in a particular zoning category. He also reminded the public that there is an appeal process in place that allows anyone to challenge a decision made by the Zoning Administrator.

Mr. Smith moved to continue the public hearing to the May 15, 2012 Planning Commission meeting. There was no second. Mr. Smith withdrew his motion.

Mr. Smith moved to continue the public hearing to the April 24, 2012 Planning Commission meeting. Mr. Baty seconded the motion which carried unanimously.

Mr. P. Taylor called for a break at 8:55 PM. Mr. P. Taylor called the meeting back to order at 9:04 PM.

7. Discussion and scheduling of public hearing for the US 340 Gateway Plan.

Mr. Rivard explained that staff had been reviewing the plan and that on-going grammatical and aesthetic changes were being made to the document. He requested that any additional grammatical edits noted by the Planning Commission could be suggested by email. He stated that the focus of discussion would be on content related material.

Ms. Brockman explained that the state requires a 30 day notice for any public hearings related to Comprehensive Plan Amendments. She reported that staff therefore recommended setting the public hearing for the June 12, 2012 Planning Commission meeting to allow for the proper advertising requirement. She summarized the presentation of the US 340 Gateway Plan that she had provided at a recent Public Service District (PSD) meeting and the comments that were received at that meeting. She reported that the PSD had requested that a provision be included in the planning documents and ultimately in the Subdivision Regulations that would require developers to enter into an agreement of standards for private wastewater package plants with the PSD. She explained that the PSD had recently been forced to take over several sub-standard abandoned plants. Ms. Brockman stated she would like to include such a provision in the US 340 Gateway Plan once she had been able to consult with legal regarding language.

Mr. Rivard reviewed the comments submitted by Mr. Andrew Lee of the National Park Service (NPS) including:

- a) the National Park Service be notified if a project is submitted in the area of the Millville/Bakerton Road Corridor and its intersection with US 340 due to its proximity to the historic park;
- b) the NPS is responsible for speaking out against developments that they consider incompatible with historic and scenic values;
- c) NPS should be referred to as "National Park Service" and not "U.S. National Park Service";
- d) NPS opposes mixed use development of the northern section of Old Standard Quarry although they feel that the section of Old Standard between the former quarry lake and Millville Road is more appropriate for a mixed use development.

Mr. Baty discussed the US 340 Gateway Plan meeting that occurred on March 8, 2012 and recalled transportation and road improvement suggestions that were made. He commented that the State of West Virginia had reported that the funding for any of these types of road improvements and infrastructure was not currently available. He cautioned against proceeding with development of the corridor without regard for the transportation issues. Ms. Brockman explained that representatives for the WV DOT stated that local governments need to ensure that priority local transportation needs are included in locally approved

planning documents as that will help facilitate having those needs included in future budgets by the State and the MPO.

Mr. Pellish commented that he would argue against adopting this document as an amendment to the Comprehensive Plan.

Ms. Brockman stated that comments from the technical advisory committee were still being submitted and that staff would incorporate those comments as edits to the document. She confirmed that any policy related edits would be highlighted and made clear. She reported that a draft document could be available at the May 15, 2012 Planning Commission meeting.

Mr. Smith moved to hold a public hearing regarding the US 340 Gateway Plan at the June 12, 2012 Planning Commission meeting. Mr. Baty seconded the motion which carried 7 for and 1 against (Mr. Pellish).

8. Reports from Legal Counsel and legal advice to PC.

Active Litigation:

- **Far Away Farms**
- **Cedar Meadows Airpark**

Mr. Lorenzetti reminded the Planning Commission that an order regarding Cedar Air Park Holdings, LLC (Cedar Meadows Airpark) was provided to them in their packets. He explained that, due to a conflict in interest with their chosen counsel, Cedar Meadows Airpark had only 90 days from March 6, 2012 to find new counsel or the case will be dismissed.

9. Director's Report.

Ms. Brockman presented the Quarterly Report to the Planning Commission. Mr. Smith moved to present the Quarterly Report to the County Commission after the Board of Zoning Appeals has had a chance to review the document. Mr. Baty seconded the motion which carried unanimously.

Ms. Brockman reported that County Commission had approved a request to hire a summer intern pending a background check. Ms. Brockman stated that she hoped to be able to introduce the intern at the June 12, 2012 Planning Commission meeting.

Ms. Brockman discussed the draft Recreation Amendments, specifically the amendments that would allow campgrounds to have modified standards from traditional subdivisions. She requested direction on when the Planning Commission would like to address those amendments. It was decided that a draft would be available at the June 12, 2012 Planning Commission meeting.

Ms. Brockman stated that the Millville area was the only rural crossroads settlement in Jefferson County not zoned village. She explained that most of the area is zoned Industrial/Commercial which is very limiting in the reuses of some of the buildings located

there. She reported that staff had also heard complaints from residents of that area with regards to mortgage companies not willing to refinance houses due to the restrictions of the zoning district. She suggested drafting a policy that would help facilitate an easier and more economical rezoning for property owners who are interested in that process. Mr. Burns stated that staff should be cautious not to jeopardize any of the industrial uses currently in effect. Ms. Brockman stated that an item would be placed on a future agenda for discussion purposes.

Ms. Brockman explained the cost of enrolling the Planning Commissioners as American Planning Association members for training purposes. She discussed training options. She requested that Planning Commissioners contact staff with interest and ideas.

Ms. Brockman reviewed upcoming agenda items.

10. County Commission Liaison Report.

Mr. Pellish showed appreciation to Ms. Brockman for her attendance at the recent Jefferson County Development Authority meetings. He also commented that State and County Authorities were able to visit a business operation that could be potentially recruited to Jefferson County.

11. Planning Commission Exchange.

- **Report from the Health Department Meeting Liaison.** None.
- **Report from the Public Service District Meeting Liaison.**
Ms. Brockman reported that the US 340 Gateway Plan was discussed and that the Public Service District is very interested in participating in planning processes.
- **Report from the Parks and Recreation Meeting Liaison.**
Mr. G. Taylor recognized Ms. Brockman for her participation in the Facilities Committee.
- **Report from the Jefferson County Development Authority Meeting Liaison.**
Ms. Brockman reported that the new Jefferson County Development Authority Director had met with Planning and Zoning and Engineering staff.
- **Report from the Water Advisory Committee Meeting Liaison.**
Mr. Baty stated the final water quality report was discussed. He also commented that a report was given on the work completed regarding watershed protection.

12. **President's Report.** None.

13. **Actionable Correspondence.** None.

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14. **Non-Actionable Correspondence.** None.

Mr. Burns moved to adjourn the meeting at 10:05 PM. Mr. Pellish seconded the motion which carried unanimously. An audio recording and/or a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.

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MEMO

TO: Planning Commission Members
FROM: Steve Barney, Zoning Administrator
DATE: April 10, 2012
RE: Draft Zoning Ordinance Amendments – Article 5 (New Zoning Districts)

Background

Throughout this Fiscal Year, the Departments of Planning and Zoning have proposed a series of text amendments to improve the usability and reliability of the locally adopted Zoning Ordinance and Subdivision Regulations. A high priority for an additional amendment, determined by both the Planning Commission and County Commission, was the expansion of the number and variety of commercial zoning districts in the Zoning Ordinance. The Zoning Ordinance currently has only two commercial districts: Residential-Light Industrial-Commercial and Industrial-Commercial District. The overly broad nature of these districts has led to concern expressed by the members of the public, the Planning Commission and the County Commission when these two districts have been proposed in new locations throughout the County.

Accordingly, Staff has undertaken an effort to develop additional zoning categories, including districts that would allow appropriate limited commercial ventures in appropriate locations.

Planning Commission and Public Input Received to Date

At the January 10, 2012 Planning Commission meeting, staff presented initial concepts to the Commission, which then provided direction to staff regarding this proposal. Following this meeting, the Planning Commission conducted a public workshop on the proposed new districts at its regularly scheduled February 14, 2012. Several residents who attended the workshop expressed concerns regarding the proposed "Rural Commercial" district, which was intended for limited commercial uses such as farm markets and country inns. Based on the feedback received, staff recommends that consideration of this proposed district be addressed at a later time, as part of a future amendment to address land uses in the Rural District. This amendment would include a broad, comprehensive stakeholder process, including the agricultural community and property owners in the Rural District. Accordingly, the "Rural Commercial" district is no longer part of the staff recommendations for the new commercial zoning districts.

Intended Use of New Zoning Districts

The goal of this amendment is solely to establish a wider variety of commercial zoning categories in order to make available more choices to property owners, the Planning Commission, and the County Commission when a zoning change is requested. Staff's understanding is that no County-initiated rezoning of properties will occur in conjunction with this Zoning Ordinance amendment, unless otherwise directed by the County Commission.

During the development the 2014 Comprehensive Plan update, staff will analyze the County's existing land use pattern and make recommendations regarding future land use and zoning. These recommendations will result in a future land use map, which the Planning Commission and County Commission will use as guidance when zoning changes are requested.

Recommended Districts

Recommended additional zoning categories are as follows:

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

Proposed New Land Use Categories

In tandem with the establishment of new districts, the list of permitted, conditional, and prohibited land uses in the ordinance should also be revised in order to effectively make distinctions between the new districts. As such, a number of new land uses are proposed. These new uses are predominantly commercial. The list of new uses is drawn from examples of a variety of zoning ordinances in nearby communities as well as nationwide best practices. The establishment of additional commercial land uses allows for the removal of the overly broad term "commercial uses" as a named land use. Definitions are proposed for several of these new land uses whose meaning may be debatable.

New uses added to ordinance are also reflected in the 5 existing zoning districts. In determining the permitted use status of the new uses in the existing districts, staff has made every effort to reflect the character of the existing zoning districts. For example, new land uses of an overall commercial character are shown as permitted in the Residential - Light Industrial - Commercial

district, but not permitted in the Rural, Residential Growth, or Village Districts, consistent with the intent of these districts.

A related amendment to Section 3.2 of the ordinance would allow the Zoning Administrator to make administrative determinations regarding whether a land use not listed in the ordinance is similar in character to a listed use. This authority, which is a common element in the zoning ordinances of many communities, is currently implicit in the Zoning Ordinance but should be clearly stated. As with any determination by the Zoning Administrator, an interested party has the right to appeal the determination to the Board of Zoning Appeals.

Proposed Related Amendments

As a part of the process of the development the proposed new districts, staff has identified related sections of the ordinance that would benefit from amendment or clarification. These sections are attached in the table entitled "List of Related Amendments."

Items in Planning Commission Packet

In addition to this memo, there are several items in the Planning Commission packet associated with these amendments:

1. Text of proposed Zoning Ordinance changes
2. Draft Site Development Standards tables, residential (Appendix A) and commercial (Appendix B)
3. Draft Principal Permitted Uses table (Appendix C)
4. Proposed definitions for new land uses
5. List of related amendments

Next Steps

In order to meet the notification requirements of the Zoning Ordinance, the Planning Commission should leave the public hearing open at the conclusion of this meeting, and allow additional opportunity for testimony at the April 24 meeting.

Following the conclusion of the public hearing, the Planning Commission will ultimately vote to recommend the draft ordinance to the County Commission for review and adoption. The Planning Commission may also direct staff to make specific amendments in response to public comments received. The County Commission will also conduct a public hearing on the amendments prior to voting on their adoption.

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

ARTICLE 3: ADMINISTRATION AND ENFORCEMENT

Section 3.1 Administration

- A. The provisions of this Ordinance will be governed by the County Commission or the Zoning Administrator and Staff in accordance with §8A-1-1 et seq of the West Virginia State Code, as amended. With enactment of the Ordinance, the County Commission shall designate a Zoning Administrator for the day to day administration of the ordinance.^{5,17,21}
- B. An appeal to this Ordinance, however, may be made to the Jefferson County Board of Zoning Appeals subject to the provisions of §8A-1-1 et seq of the West Virginia Code, as amended.^{17,21}
- C. The Jefferson County Board of Zoning Appeals shall evaluate all Development Review applications and approve or deny issuance of a conditional use permit.^{2,17,21}
- D. All departments, officials, and public employees of Jefferson County which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this Ordinance.

Section 3.2 Zoning Administrator

- A. The Zoning Administrator shall administer and enforce the Zoning and Land Development Ordinance. This includes but is not limited to the following:²³
 - 1. Make determinations that all applications required by the Ordinance are complete and that all fees are paid.
 - 2. Interpret the provisions of the Ordinance as required by law.
 - 3. Issue Zoning Certificates as permitted by the Ordinance.
 - 4. Calculate the LESA point scores and determine the adequacy of the Support Data for all applications for a Conditional Use Permit.
 - 5. Issue all permits and Certificates as permitted by the Ordinance.
 - 6. Prepare and submit reports as required by the Ordinance or the Board of Zoning Appeals or Planning Commission.
 - 7. Conduct meetings and conferences pursuant to the Zoning and Land Development Ordinance.^{17,21,23}
 - 8. Determine that a proposed use not listed in Appendix C, Permitted Uses Table, is allowable in accordance with the following requirements:
 - a. The Zoning Administrator may determine that a land use not listed in Appendix C, Permitted Uses Table is permitted if all of the following findings are made:
 - i. The characteristics of, and activities associated with the proposed use are substantially similar to those of one or more of the uses listed in Appendix C, Permitted Uses Table as allowable in that zoning district, and will not

involve a higher level of activity or population density than the uses listed in the district;

ii. The proposed use will meet the purpose/ intent of the zoning district that is applied to the site; and

iii. The proposed use will be consistent with the goals, objectives, and policies of the Comprehensive Plan.

b. When the Zoning Administrator determines that a proposed, but unlisted, use is equivalent to a listed use, the proposed use will be treated in the same manner as the listed use in determining where it is allowed, what permits are required and what other standards and requirements of this ordinance apply.

a-c. The Zoning Administrator may forward questions about equivalent uses directly to the Board of Zoning Appeals for a determination at a public hearing.

- B. Any decision or action by the Zoning Administrator based on Section 3.2(a) above is subject to appeal to the Board of Zoning Appeals.^{17, 21}
- C. It shall be unlawful to develop, construct, alter, or reconstruct any structure or to change the use of any structure or property without first obtaining a zoning certificate from the Zoning Administrator. This provision may not apply to the general maintenance or repair or any addition deemed not a major addition as defined in Section 2.2 of this Ordinance.^{17, 21, 23}
- D. Each application for a zoning certificate shall be accompanied by a copy of an approved site plan, if applicable, or by a legible drawing either drawn to scale or accurately indicating dimensions which show property boundaries and existing and proposed structures and other proposed changes or land development. The plans shall be retained in the office of the Departments of Planning and Zoning.^{17, 21, 23}
- E. Use of any property, developmental arrangement, or construction on any property other than that authorized in the zoning certificate is a violation of this Ordinance. All provisions of this Ordinance and amendments shall be maintained perpetually.
- F. The Zoning Administrator shall approve or disapprove issuance of a zoning certificate within sixty (60) days of the initial filing date providing the application is complete and fees are paid when filed and the request is in compliance of the provisions of this Ordinance.^{17, 21}
- G. A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan - whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 - shall remain valid until July 1, 2012, provided that the land development plan or plat

or other governmental agency shall be prohibited even though such use may be allowed under the terms of this ordinance.

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

This prohibition does not apply to betting on horses or pari-mutuel betting on horses. Furthermore, this prohibition does not apply to such uses that existed at the time of the adoption of this ordinance. The Development Review System shall not supersede this prohibition in any zoning district other than the Industrial - Commercial District or the Major Industrial District. ~~the Residential Growth Zone, the Rural Agricultural Zone, the Village Zone, or the Residential/Light Industrial/Commercial Zone.~~²³
- H. For parcels located east of the Shenandoah River or which are in a natural, undisturbed condition within 1000 feet of the Potomac and Shenandoah Rivers and Opequon Creek, no use shall be permitted without adherence to the requirements for retention of land in a natural, undisturbed area as spelled out in Section 22.504 of the Jefferson County Subdivision and Land Development Regulations.^{5, 23}
- I. No sales of fireworks are permitted outside ~~the commercial-zones~~of the Industrial - Commercial, Residential - Light Industrial - Commercial, General Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts, and are subject to the requirements of for such use in Article 8.^{8, 23}
- J. Vehicle signs left parked or standing on a public right-of-way, public property or private property.¹²

- K. Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall only be permitted in the Industrial-Commercial District and the Major Industrial District~~not be permitted in the Rural, Village, Residential Growth and Residential Light Industrial-Commercial Districts.~~²³

No conditional use permit shall be approved for any of these uses in a zoning district other than the Industrial - Commercial District or the Major Industrial District. This provision does not apply to any specific existing use that legally qualifies as a nonconforming use.^{15, 16}

- L. Salvage yards unless established in accordance with the Jefferson County Salvage Yard Ordinance.²³
- M. Heavy industrial uses listed in Section 5.6(B) of this Ordinance are permitted only in the Industrial - Commercial District and the Major Industrial District and require approval via the Development Review System.²³

Section 4.5 Agricultural Uses Permitted Generally

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

Section 4.6 Distance Requirements

- A. Any uses or building subject to compliance with this section shall be located at least 200 feet from:
1. Any lot in a residential district;
 2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;¹
 3. Any lot which is part of a recorded subdivision; and
 4. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.
- B. Adjacent uses or buildings subject to compliance with this section shall be located at least 75 feet from:⁷
1. Any lot in the Residential Growth District;
 2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
 3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.²³

Section 4.7 Essential Utility Equipment

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

Section 4.8 Buildable Lot

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

Section 4.9 Traffic Visibility Across Corner Lots

On any corner in all districts, there shall be no obstruction to traffic visibility within thirty-five (35) feet of the intersection of the two (2) street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.²³

Section 4.10 Site Plan Requirements

- A. ~~A site plan shall be s~~ubmittal and approval of a site plan is required~~ed~~ for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.²³
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.²³
- D. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.^{10, 17, 21, 23}

Section 4.11 Landscaping, Screening and Buffer Yard Requirements

- A. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a fifty (50) foot or greater unscreened green space buffer or a fifteen (15) foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.⁵

B. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall ~~have~~ meet the following buffer yard requirements:

1. an unscreened buffer yard of no less than two hundred (200) feet; and
2. a screened buffer yard with a minimum width of fifteen (15) feet; and
3. ~~No structures, stored materials, or vehicular parking shall be permitted within the buffer yard. All industrial development shall have front yard buffers of no less than one-half (1/2) the front yard building setback.~~^{5, 7}

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

ADJACENT USE \ PROPOSED USE	BUILDING SETBACKS		PARKING & ACCESS DRIVE SETBACKS		BUFFERS UNSCREENED/SCREENED					DISTANCE REQUIREMENTS					
	Any Use Except Industrial	Industrial Use	Any Use Except Industrial	Industrial	Residential Zone	Lot with a Residential Use	Church/School/Institution for Human Care	Commercial	Industrial	Residential Zone	Lot with a Residential Use	Church/School/Institution for Human Care	Commercial	Industrial	Structure or Lot on Historic Registry
FRONT Comm'l Lot <=1.5 ac.	See Appendix A and Appendix B	See Appendix A and Appendix B	See Appendix A and Appendix B	See Appendix A and Appendix B	50/15			N/A	N/A	75			N/A		75
					50/15			N/A	N/A	75			N/A		75
					200			25	N/A	200			N/A		200
					50/15			N/A	N/A	N/A			N/A		N/A
					N/A			N/A/15				N/A		N/A	
SIDE Comm'l Lot <=1.5					50/15			10	10	75			N/A		75
					50/15			10	10	75			N/A		75
					200			20	20	200			N/A		200
					50/15			10	10	N/A			N/A		N/A
					N/A			N/A/12				N/A		N/A	
REAR Comm'l Lot <=1.5	50/15			10	10	75			N/A		75				
	50/15			10	10	75			N/A		75				
	200			20	20	200			N/A		200				
	50/15			10	10	N/A			N/A		N/A				
	N/A			N/A/15				N/A		N/A		N/A			

Note: When Table 4.11-1 is in conflict with another section of the Zoning & Development Review Ordinance, this table shall prevail. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.²³

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

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

Section 5.1 Establishment of Districts¹

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

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

Section 5.2 Boundaries of Districts

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

Section 5.3 District Maps

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

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

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

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

Section 5.4 Residential-Growth District

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

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

- A. Principal Permitted Uses²³
 - 1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
 - 2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.
 - ~~1. Dwelling, Single Family~~
 - ~~2. Dwelling, Duplex~~
 - ~~3. Dwelling, Two Family~~
 - ~~4. Dwelling, Townhouse~~
 - ~~5. Dwelling, Multi Family~~
 - ~~6. Mobile Home Parks (Subject to the Jefferson County Subdivision and Land Development Regulations)~~
 - ~~7. Elementary or Secondary school~~
 - ~~8. Hospital~~
 - ~~9. Vocational and/or Training Facility for Adults¹²~~
 - ~~10. Church~~
 - ~~11. Day Care Center, Small~~
 - ~~12. Day Care Center, Large~~
 - ~~13. Essential Utility Equipment~~
 - ~~14. Public Safety Facility~~
 - ~~15. Publicly Owned Facility²³~~
 - ~~16. Accessory Uses~~

~~17. Group Residential Facility~~

~~18. Home Occupation, Level 1⁸~~

~~19. Home Occupation, Level 2⁸~~

~~20. Nursing or Retirement Home~~

~~21. Model Homes/Sales Office¹²~~

~~22. Preschool~~

~~23.1. Wireless Telecommunication Facilities pursuant to Article 4B~~

B. Minimum Lot Area, Height, and Yard Requirements

1. Minimum Lot Area, Height, and Yard Requirements are as shown in Table 5.4 – 1 below. The minimum lot area requirements are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.²³
2. When computing the dwelling unit yield for a parcel of land, use the total area of parcel minus (1) lands contained in a wetland and (2) hillside lands to be retained in a natural, undisturbed condition as provided for in the Jefferson County Subdivision and Land Development Regulations.^{5,23}

5. Commercial uses shall be subject to the Compatibility Assessment Meeting process as outlined in Article 7 of this Ordinance. Any proposed commercial use that is served from a road that is located on the perimeter of the project or on a State Road shall be subject to the entire Development Review Process.⁵

D. Standards for Commercial or Light Industrial Uses²³

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

Section 5.5 Reserved²³

Section 5.6 Industrial - Commercial District²³

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

A. Principal Permitted Uses²³

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

~~1. Light Industrial Uses~~

~~2. Heavy Industrial Uses~~

~~3. Commercial Uses~~

~~4. Day Care Center, Small~~

~~5. Day Care Center, Large~~

~~6. Home Occupation, Level 1~~

~~7. Home Occupation, Level 2~~

~~8. Cottage Industry~~

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

- ~~10. Barber/Beauty Shop, Limited~~
- ~~11. Antique Shop~~
- ~~12. ATM~~
- ~~13. Branch Bank~~
- ~~14. Kennel (subject to the requirements for such use in Article 8)~~
- ~~15. Dry Cleaner~~
- ~~16. Florist~~
- ~~17. Restaurant, Limited~~
- ~~18. Restaurant, Fast Food, Limited~~
- ~~19. Retail Food Store, Limited~~
- ~~20. Veterinary Services~~
- ~~21. Video Rental Store~~
- ~~22. Country Inn~~
- ~~23. Non/Not for Profit Commercial Uses~~
- ~~24. Non-profit Community Centers~~
- ~~25. Publicly Owned Facility~~
- ~~26. Public Safety Facility~~
- ~~27. Essential Utility Equipment~~
- ~~28. Wireless Telecommunications Facilities pursuant to Article 4B~~
- ~~29. Private or Public Shooting Ranges~~
- ~~30. Cultural Facility~~
- ~~31. Industrial related accessory uses including residential dwellings including a mobile home on site for a caretaker or watch keeper.~~
- ~~32.1. Adult Uses, subject to requirements set forth for such uses in Article 8.~~

B. The following uses shall be evaluated by the Development Review System and shall not be located less than 1000 feet from any Residential property line or property listed on the National and State Historic Register/Survey.

1. Bituminous concrete mixing and recycling plants
2. Concrete and ceramic products manufacture, including ready mixed concrete plants
3. Petroleum products refining or storage (subject to the requirements for such standards in Article 8)²³
4. Commercial sawmills
5. Salvage Yards (subject to the Jefferson County Salvage Yard Ordinance)
6. Garbage or dead animal reduction or processing

5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks

Commercial sites greater than 1.5 acres	10 feet
Commercial sites 1.5 acres and smaller	4 feet
Industrial sites*	25 feet

* *Driveways and Internal Access Drives: Only. ~~P~~parking must abide by buffer requirements.*

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

7. Distance Requirements

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

- E. Lot Area

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

- F. Commercial and Industrial Design Standards

1. Commercial Design Standards²³

- a. Landscaping, screening, buffer yards, and setbacks for commercial development are subject to Section 4.11.
- b. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 80% of the gross area of the site.
- c. Adequate provision shall be made for storage and collection of refuse. Refuse containers are subject to Section 4.11 e.
- d. Permeable areas of the site shall be planted with ground cover, shrubs and trees.
- e. Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public highways, streets and properties.

2. Industrial Design Standards

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

Section 5.7 Rural District²³

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

A. Principal Permitted Uses²³

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

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

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

~~2. Church~~

~~3. Elementary or Secondary School~~

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

~~5. Dwelling, Single Family~~

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

~~7. Dwelling, Two Family⁸~~

~~8. Cottage Industry⁸~~

~~9. Home Occupation, Level 1⁸~~

~~10. Home Occupation, Level 2⁸~~

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

~~12. Public Safety Facility~~

~~13. Cultural Facility~~

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

~~15. Horticultural nurseries and commercial greenhouses~~

~~16. Hospital~~

~~17. Essential Utility Equipment~~

~~18. Accessory uses~~

~~19. Group Residential Facility~~

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

B. Minimum Lot Area, Lot Width and Yard Requirements²³

1. Minimum lot sizes, lot width, and yard requirements for principal permitted uses are shown in Table 5.7-1.
2. For any residential use that complies with the Development Review System, the setbacks and lot size shall be as outlined in Article 5.4.⁵

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

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

Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. Parent to child or child to parent lots are not entitled to further subdivide except as another parent to child or child to parent transfer.

4. Once the maximum number of lots are created under 5.7(d), the property cannot be further subdivided unless the Ordinance is amended to allow such.

Section 5.8 Residential/Light Industrial/Commercial District¹

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

A. Principal Permitted Uses²³

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

- ~~1. Light Industrial Uses~~
- ~~2. Commercial Uses~~
- ~~3. Medical/Dental/Optical Office, Small~~
- ~~4. Barber/Beauty Shop, Limited~~
- ~~5. Antique Shop~~
- ~~6. ATM~~
- ~~7. Branch Bank~~
- ~~8. Kennel (subject to the requirements for such use in Article 8)~~
- ~~9. Dry Cleaner~~
- ~~10. Florist~~
- ~~11. Restaurant, Limited~~
- ~~12. Restaurant, Fast Food, Limited~~
- ~~13. Veterinary Services~~
- ~~14. Video Rental Store~~
- ~~15. Country Inn~~
- ~~16. Dwelling, Single Family~~
- ~~17. Dwelling, Two Family~~

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

B. Standards²³

- 1. Industrial uses permitted in this district shall be of types that require daily water use of no more than 0.25 gallons per gross square feet of floor space.
- 2. Light industrial and commercial uses are subject to the standards for such uses in Article 8 of this Ordinance.²³
- ~~2.3. Impervious surface coverage shall not exceed eighty (80) percent of the gross land area.~~

C. Other Regulations²³

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

Section 5.9 Reserved²³

Section 5.10 Village District^{8, 23}

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

A. Principal permitted uses²³

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

- ~~1. Dwelling, Single Family~~
- ~~2. Dwelling, Duplex~~
- ~~3. Dwelling, Two Family~~
- ~~4. Home Occupation, Level 1~~
- ~~5. Home Occupation, Level 2~~
- ~~6. Cottage Industry~~
- ~~7. Public Safety Facility¹²~~
- ~~8. Essential Utility Equipment~~
- ~~9. Medical/Dental/Optical Office, Small¹²~~
- ~~10. Group Residential Facility~~
- ~~11. Cultural Facility¹²~~

~~12.1. Wireless Telecommunications Facilities pursuant to Article 4B~~

B. Conditional Uses²³

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

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

~~1. Barber/Beauty Shop, Limited~~

~~2. Dry Cleaners~~

~~3. Video Rental Stores~~

~~4. Retail Food Store, Limited~~

~~5. Church~~

~~6. Day Care Center, Large~~

~~7. Country Inn~~

~~8. Bed and Breakfast (subject to the requirements for such a use in Article 8)~~

~~9. Restaurant, Limited~~

~~10. ATM~~

~~11. Branch Bank~~

~~12. Antique Shop~~

~~13. Florist~~

~~14.1. Restaurant, Fast Food, Limited¹²~~

C. Setbacks

1. Residential

a. Section 9.7, Residential Growth standards²³

2. Commercial

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

b. Setbacks may be reduced as a result of a Compatibility Assessment Meeting based on other structures existing in the neighborhood.²³

3. Existing Structures

a. As exists not less than 6' on sides and rear.

D. Commercial uses shall not cause any odor, dust, smoke, vibration, noise, or electromagnetic interference, which can be detected at or beyond the property line.

E. Proposed uses in a recognized historic district shall obtain approval from the Historic Landmarks Commission and/or other appropriate state or federal agency prior to processing.²³

- F. There will be no outdoor storage of equipment, materials or other stock.
- G. Parking requirements may be modified as a result of a compatibility meeting.²³
- H. Other Requirements²³
 - 1. With the exception of setback requirements specified in this section, Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

Section 5.11 Neighborhood Commercial District

A. Purpose. The purpose of this district is to permit the development of small scale commercial uses which serve the convenience needs of residential neighborhoods immediately adjacent to or within walking distance of the commercial use. Developments in the NC district should be designed, landscaped and buffered so as to be compatible with neighboring development. Uses should be appropriate in scale to the residential character of their context.

B. Eligibility. The following locations are eligible for Neighborhood Commercial Zoning:

- 1. Properties located on Primary or Secondary roads as shown on the Highway Classification map in the Jefferson County Comprehensive Plan
- 2. Locations within ¼ mile of an existing residential subdivision or development of at least 20 dwelling units
- 3. Locations adjacent to existing non-residential development
- 4. Locations with safe vehicular access on roads that function as collector roads
- 5. Properties currently zoned Residential-Light Industrial-Commercial or Industrial-Commercial.

C. Permitted Uses

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

D. Site Development Standards

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

E. Additional Requirements

1. Any off-street parking shall be located in the rear or on the side of a building and may not be located between a street and the front facade of a building.
2. Each building shall be limited to 3,000 square feet of gross floor area.
3. For new development or the substantial redevelopment of an existing site, a fifteen-foot-wide pedestrian zone is required, consisting of a ten-foot-wide landscaped buffer yard measured from the edge of the right-of-way (or from the back of the adjacent street curb) and five-foot-wide sidewalks. If the Comprehensive Plan or the Subdivision and Land Development Regulations identify the property location as appropriate for a trail in lieu of a sidewalk, a trail may be installed.
4. One bicycle parking space shall be provided for each ten vehicular parking spaces.
5. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

Section 5.12 General Commercial District

- A. Purpose. The purpose of this district is to provide for general destination business uses which provide a broad range of commercial products and services necessary for large regions. The uses in this district may be characterized by medium-to-large buildings (up

to 50,000 square feet of gross floor area for an individual building), more intensive commercial activity, and more vehicular traffic than would be permitted for uses in the NC district.

B. Eligibility. Properties located on four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan and properties currently zoned Residential-Light Industrial-Commercial or Industrial-Commercial are eligible for the GC designation.

C. Permitted Uses

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

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
2. A development that complies with all requirements of Section 5.11E may be developed in accordance with the requirements of Section 5.11D(2-6) and the front setback requirements for the Neighborhood Commercial District as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards.

E. Additional Requirements

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

Section 5.13 Highway Commercial District

A. Purpose. The purpose of this district is to provide appropriate locations for high-intensity, motor-vehicle oriented commercial uses fronting on major roadways. The uses in this district may be characterized by a broad scale of building sizes, including buildings that exceed 50,000 square feet of gross floor area for an individual building. This district may include land uses that are more intensive than other commercial districts and incompatible with nearby adjacent residential uses.

B. Eligibility. Properties located within 1000' feet of major intersections on four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan, in addition to properties designated for Highway Commercial uses in the Comprehensive Plan, are eligible for the Highway Commercial district.

C. Permitted Uses

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

D. Site Development Standards

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

E. Additional Requirements

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

Section 5.14 Light Industrial District

A. Purpose. The purpose of this district is to provide locations for lighter manufacturing processes which are not as extensive as those provided in the Major Industrial District and can be served with adequate public or community water and sewerage service. Properties with this designation are generally located within 1,000 feet of four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan. In this district, most manufacturing is composed of processing or assembly of previously processed materials.

B. Eligibility. The following locations are eligible for Light Industrial zoning:

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

C. Permitted Uses

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

D. Site Development Standards

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

E. Additional Requirements

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

Section 5.15 Major Industrial District

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

B. The following locations are eligible for Major Industrial zoning:

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

C. Permitted Uses

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

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

D. Site Development Standards

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

E. Additional Requirements

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

Section 5.16 Planned Neighborhood Development District

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

1. Encourage flexibility in the development of land in order to promote its most appropriate use;
2. Improve the design, character and quality of new developments;
3. Provide and promote redevelopment and reuse opportunities;
4. Encourage a harmonious and appropriate mixture of uses and/or housing types;
5. Facilitate the adequate and economic provision of streets, utilities and services;
6. Promote safe and convenient travel for pedestrians, bicyclists, transit users, and motorists;
7. Promote connections to adjacent properties, developments, and transportation routes;
8. Preserve critical natural environmental and scenic features of the site;
9. Encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features and to provide transitions between land uses; and
10. Mitigate the problems which may be presented by specific site conditions.

B. Eligibility. Only properties identified as being located in the Growth Area in the Comprehensive Plan are eligible for Planned Neighborhood Development zoning.

C. Permitted Uses

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

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
2. Modification of Development Standards Allowed
 - a. The Planning Commission may approve modification of the development standards of this ordinance and the Jefferson County Subdivision and Land Development Regulations may as part of the approval of a Preliminary PND Plan.
 - b. Modification of these standards pertains only to developments associated with the Preliminary PND Plan for which the modifications are approved.
3. The minimum site area for a PND development is three acres.

E. Additional Requirements

1. A PND development shall include the following mix of uses:
 - a. 10-30% commercial
 - b. 10-30% high density residential
 - c. 20-40% medium density residential
 - d. 0-60% low density residential
2. Open Space Requirements
 - a. A minimum of 20% of the total tract area of a PND development shall be composed of common and open space. Up to one-half of the common and open space may be used for active recreation. Acreage within the 100-year floodplain, as designated by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM), may constitute up to 25% of the required common and open space area.

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

3. Connectivity Requirements. The development shall provide pedestrian and vehicular connections to each adjacent property. If a connection to an adjacent property cannot be made at the time that the Preliminary PND Plan for the development is submitted, the plan shall include a cross-access easement in a logical location to allow for future connection when the conditions on the adjacent property will allow for connection.

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

F. Review and Approval Process

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

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

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

a. The format and content requirements for a Preliminary PND Plan shall be the same as the Submission and Completeness Review requirements for a Major Site Plan Concept Plan as described in the Jefferson County Subdivision and Land Development Regulations, with the exception of the public workshop and advertising requirements. Additionally, a Preliminary PND Plan shall include the following:

i. Graphic illustration of locations of proposed land uses; landscaping areas; pedestrian amenities; interconnectivity of roads, trails, sidewalks, and adjacent parcels; open space areas and areas of undisturbed tree canopy; passive or active recreational areas; setbacks for buildings, parking, drive aisles, and other features associated with the proposed development.

ii. Proposed square footages of development by type and proposed residential densities

iii. Proposed building heights

iv. Any requested modifications to the standards of the Zoning Ordinance or the Subdivision and Land Development Regulations.

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

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

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

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

i. Consistency with the purpose of the PND district as described in this Article;

ii. General conformance with the Zoning Ordinance, with the exception of requested modifications of development standards;

iii. Consistency with the Comprehensive Plan

c. As part of its recommendation to the County Commission regarding approval or disapproval of a zoning map amendment as described in Article 12, the Planning Commission shall make a recommendation to the County Commission regarding the Preliminary PND Plan, including any changes proposed by the Planning Commission.

d. County Commission review and public hearing. The County Commission shall conduct a public hearing on the proposed map amendment in accordance with Article 12 and this Article.

e. In its deliberation of a proposed map amendment to change a zoning designation to a PND district and any requested modifications to the Zoning Ordinance and/or the Subdivision and Land Development Regulations, the County Commission shall consider:

- i. Consistency with the purpose of the PND district as described in this Article
 - ii. General conformance with the Zoning Ordinance, with the exception of requested modifications of development standards
 - iii. Consistency with the Comprehensive Plan
 - f. The County Commission shall approve, amend, or deny the Preliminary PND Plan and the zoning map amendment request; and may apply conditions to the approval of a zoning map amendment to a PND district.
 - g. County Commission approval of a zoning map amendment to change the zoning designation of a property to a PND district shall have the following effect:
 - i. Approval of the change in zoning designation;
 - ii. Approval of the Preliminary PND Plan;
 - iii. Approval of any modifications to the Subdivision and Land Development Regulations and the Zoning Ordinance; such modifications being associated with the Preliminary PND Plan; and
 - iv. Establishment of any conditions of approval applied by the County Commission.
- 4. If a request to amend the zoning map designation of a tract to a PND district is approved, the applicant may submit applications for the development of the property as a PND development.
 - a. Compliance with Other Ordinances. With the exception of any modifications granted by the County Commission, all applicable requirements of the Zoning Ordinance, the Subdivision and Land Development Regulations, and all other County ordinances must be met, including but not limited to any applicable site plan and subdivision requirements.
 - b. Consistency with Preliminary PND Plan. All applications submitted for the site must be consistent with the requirements of the approved Preliminary PND Plan and shall clearly state any modifications granted.
 - c. Any modifications to the Zoning Ordinance or the Subdivision and Land Development Regulations approved by the County Commission are associated with and indivisible from the approved Preliminary PND Plan.
- 5. Amendment. Minor changes to a Preliminary PND Plan may be reviewed and approval administratively if the Planning and Zoning Department determines that such changes are consistent with the purpose and general character of the Preliminary PND Plan. An applicant's request for revisions determined substantive by the Planning and Zoning Department shall follow the approval process for a Preliminary PND Plan as described in this Article. Substantive changes include but are not limited to changes that would exceed one or more of the percentages noted in a-c below.

- a. A change in total square footage of the development by ±10%
- b. A change in the area of any land use by ±10%
- c. A change in the residential density by ±5%

Section 5.17 Office / Commercial Mixed-Use District

- A. Purpose. The purpose of the OC district is to allow for well-designed employment centers. Developments in the OC district contain a mix of land uses, primarily oriented to commercial and office uses but also allowing multi-family and attached single-family residential uses. Developments are oriented to principal streets, contain substantial public space and streetscaping, allow for pedestrian movement within the site and between adjacent sites, and meet the design standards provided for this district.
- B. Eligibility. Only properties designated by the Comprehensive Plan as appropriate for Office/Commercial development are eligible for Office/Commercial zoning.
- C. Permitted Uses
 - 1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
 - 2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.
- D. Site Development Standards
 - 1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
 - 2. For a non-residential use abutting a commercial or industrial use at a side lot line:
 - a. No side yard building setback is required, unless required by the Building Code or other law or regulation
 - b. Section 4.11A-B does not apply to the side property line that abuts a commercial or industrial use
 - 3. For a non-residential use abutting a commercial or industrial use at a rear lot line:
 - a. A rear yard building setback may be reduced to 10 feet
 - b. Section 4.11A-B does not apply to the rear property line
 - 4. Section 4.11A-B does not apply to the front lot property line.
 - 5. Vehicular parking requirements shall be 80% of the required number of parking spaces indicated in Article 11 of this ordinance.

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

F. Additional Requirements

1. At least 75% of the gross floor area of land uses in a development in this district shall be non-residential uses.
2. Buildings fronting a principal street must be at least 2 stories in height.
3. A minimum of 75% of the total gross floor area located on the ground floor of buildings in a development in this district shall be composed of non-residential space
4. Any off-street parking shall be located in the rear or on the side of buildings and may not be located between a street and the front façade of a building.
5. For new development or the substantial redevelopment of an existing site, a fifteen-foot-wide pedestrian zone is required, consisting of a ten-foot-wide landscaped buffer yard measured from the edge of the right-of-way (or from the back of the adjacent street curb) and five-foot-wide sidewalks. If the Comprehensive Plan or the Subdivision and Land Development Regulations identify the property location as appropriate for a trail in lieu of a sidewalk, a trail may be installed.
6. One bicycle parking space shall be provided for each ten vehicular parking spaces.
7. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

ARTICLE 6: DEVELOPMENT REVIEW SYSTEM

Section 6.1 Development Review System (DRS)

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

Section 6.2 Issuance of a Conditional Use Permit

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

Section 6.3 The Soils Assessment

- A. The Soils Assessment evaluates a particular parcel for development based on the soil types it possesses.
- B. The Soils Assessment of a proposed development is not applied when:
 - 1. the development proposal is located within the Residential/Growth District or the Industrial/Commercial District; or [note: Moved from Section 6.5D]
 - 2. the development is proposed to be located in an existing building, on an existing paved or disturbed area, or entails an expansion of less than 1,000 square feet total of an existing building and/or an existing paved area.
 - ~~3.~~ _____ The following soils types will be combined into soil groups.

G. Emergency Service Availability

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

Distance to Emergency Services

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

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

Section 6.5 Computation of Soils/Amenities Assessment

- A. At the completion of evaluation of a site with the Soils and Amenities Assessment Criteria, there should be a total number of points awarded to each Assessment. Since the Soils Assessment utilized was based on a 100 points relative point value in itself, a minor conversion must be made to the total relative value. The Development Review System allots a maximum of 25 points to the Soils Assessment therefore the conversion to be made is expressed as follows: $100 \times .25 = 25$ pts. (For example, if a parcel receives the maximum point value of 100 points, in actuality only 25 points will be awarded for the Soils Component of the Development Review System.)
- B. The Amenities Assessment has a 75 point maximum point value.
- C. The combined maximum total for both Assessments is 100 points. The most agriculturally significant parcel would rate 100; the most developable parcel would rate 0. A total of 60 points or less advances the application to the Compatibility Assessment Meeting.^{14, 17, 21}
- ~~D. The Soils Assessment of a proposed development is not applied when the development proposal is located within the Residential/Growth District or the Industrial/Commercial District. [Note: moved to Section 6.2]~~
- E.D. Any land in the Rural District that is located on a primary or secondary road, as defined in the Comprehensive Plan, shall not have to process through the LESA points process for a commercial or industrial project and shall be advanced directly to the Compatibility Assessment Meeting.^{17, 21}

ARTICLE 8: SUPPLEMENTAL USE REGULATIONS²³

Section 8.1 Adult Use Requirements^{16, 23}

Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall only be permitted in the Industrial-Commercial District under the following conditions:

- A. All elements of the use, including parking areas, shall be located at least 1,500 feet from any Rural, Residential-Growth, Village or Residential Growth-Light Industrial-Commercial, [Neighborhood Commercial](#), [Planned Neighborhood Development](#), or [Office/Commercial Mixed Use](#) Zoning District not separated from the subject property by a public road or railroad right-of-way.
- B. A proposed adult arcade, adult bookstore, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors or any sign advertising the operation thereof, shall not be permitted within 2,500 feet of a lot with an existing adult use or a lot with a sign advertising an adult use.
- C. All elements of any use described in this section, including parking areas, shall be located at least 1,500 feet from any lot, regardless of its zoning classification, that contains a dwelling unit, a school, a church or house of worship or an institution for human care, regardless it is separated by a public road or railroad right-of-way.

This provision does not apply to any specific existing use that legally qualifies as a nonconforming use; provided, however, that an existing nonconforming use cannot add any of the uses described in this section to their operations as existing on May 1, 2003.

Section 8.2 Barns and Feeding Pens²³

Barns and feeding pens must be set back a minimum of 75' from a residential district, a lot with a residential use, a church, a school, or an institution for human care.

Section 8.3 Bed and Breakfast²³

A bed and breakfast may contain up to 7 bedrooms, and may conduct up to 4 receptions per year, with 1 tent per reception. Breakfast is the only meal served, and is served only to overnight tenants and their guests. An owner or designated caretaker must reside on the premises while the bed and breakfast is occupied. Up to 2 bedrooms may be located in an accessory dwelling unit, provided that the total number of bedrooms associated with the land use does not exceed 7.

Section 8.4 Kennels²³

All portions of a Kennel land use must be buffered pursuant to Article 4 and set back at least 500 feet from any property that contains a residence. Kennels cannot be located within a Planning Commission approved residential subdivision.¹⁵

ARTICLE 12: MAP AND TEXT AMENDMENTS

Section 12.1 Purpose

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

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

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

shall also describe the location and identification of the subject parcel proposed to be rezoned, including the current tax district, map and parcel number.

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

Section 12.3 Procedure for Map Amendment by Petition²⁵

A. Map Amendments by Landowners

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

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

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

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

[7. A petition for a map amendment to change the zoning designation for a property to the Planned Neighborhood Development \(PND\) district shall include a Preliminary](#)

PND Plan for the subject property. The submittal review process for a Preliminary PND Plan is described in Article 5 of this ordinance.

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

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

B. Map Amendments by the Planning Commission

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

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

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

The County Commission is required to set a public hearing on the proposed Zoning Map amendment within 60 days of the date of the meeting at which the petition is presented to the County Commission. The petition and related agenda request form must be submitted to the County Commission office for placement on a County Commission agenda at least one (1) week prior to the meeting date or in accordance with the agenda request procedure of the County Commission.

Appendix A, Residential Site Development Standards Table [DRAFT 4/10/12]

Zoning District	Land use	Land Use Subtype	Minimum Lot Area (MLA) in square feet**	Area per Dwelling Unit (ADU) in square feet	Lot Width (feet)	Maximum Building Height	Setbacks (feet)					
							Front	Side	Rear			
Residential Growth	Single family detached dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20		
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"		
	Small lot single-family detached dwelling	No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"		
		Public/Central water and sewer	3,200	7,500	35'	40	20****	5	10	20		
	Duplex dwelling unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20		
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"		
	Townhouse	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20		
	Multi-family dwelling	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30		
	Rural	Single-family dwelling with setbacks not stipulated by Planning Commission	Over 40,000 square feet –	N/A	N/A	N/A	40	25	12	‡	12	
			30,000 sq. ft. to 40,000 sq. ft. –	N/A	N/A	N/A	40	20	10	‡	12	
Under 30,000 square feet –			N/A	N/A	N/A	40	20	8	‡	12		
Village Residential / Light Industrial / Commercial Industrial-Commercial Neighborhood General Commercial Highway Commercial Light Industrial Major Industrial Planned Development Office / Commercial Mixed Use	Dwellings		40,000	N/A	100	35	40	15	‡	50		
		Single-family dwelling with setbacks not stipulated by Planning Commission	Over 2 acres –	N/A	N/A	N/A	35	40	15	‡	50	
			40,000 sq. ft. to 2 acres –	N/A	N/A	N/A	35	25	12	‡	12	
		Cluster Subdivision	30,000 sq. ft. to 39,999 sq. ft. –	N/A	N/A	N/A	35	20	10	‡	12	
			under 30,000 sq. ft. –	N/A	N/A	N/A	35	20	8	‡	12	
		Residential uses	Residential use that complies with the Development Review System	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth
				See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth
				See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth
				See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth
				See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth
See Residential Growth	See Residential Growth			See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth		
See Residential Growth	See Residential Growth			See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth		
See Residential Growth	See Residential Growth			See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth		
See Residential Growth	See Residential Growth			See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth		
See Residential Growth	See Residential Growth			See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth	See Residential Growth		

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

**Maximum height subject to Section 9.2

***Exterior side only

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

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

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

Appendix B, Non-residential Site Development Standards Table [DRAFT 4/10/12]

Zoning District	Development Type	Minimum Lot Area (MLA)	Minimum Building Height*	Impervious Surface Limit	Building Setbacks			Parking/Drive Aisle Setbacks			
					Front	Side	Rear	Street Side	Front	Side	Rear
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	75	80%	25'			4	15	4	4
	Commercial sites greater than 1.5 acres	N/A	75	80%	25'	50' (or 25' if adjacent to industrial use)			10	15	10
Residential / Light Industrial / Commercial	Industrial	3 acres***	75	90%	50' (or 25' if adjacent to industrial use)			20	25	25 (or 20' if adjacent to industrial use)	
	Commercial or Industrial	N/A	60	80%	See Industrial - Commercial District						
	Churches	2 acres	35	N/A	25	50	50	See Parking/Drive Aisle Setbacks for commercial sites (greater or less than 1.5 acres, depending on lot size) in the Industrial - Commercial District.			
	Schools, Grades K-4****	10 acres +	35	N/A	100						
	Schools, Grades 5-8****	20 acres +	35	N/A	100						
Village District	Schools, Grades 9-12****	30 acres +	35	N/A	100						
	Hospitals	10 acres	35	N/A	100						
Residential Growth	Other Rural principal permitted uses	40,000 sq. ft.	35	N/A	40	50	50				
	Commercial or Industrial**	N/A	35	N/A	See Industrial-Commercial District						
Neighborhood Commercial	Commercial*	N/A	35	N/A	25	10	40	See Industrial-Commercial District			
	Industrial**	N/A	35	N/A	See Industrial-Commercial District						
General Commercial	Commercial	N/A	35	70%	15' (min)	10	10	15	See Industrial-Commercial District		
	Commercial	N/A	60	70%	25' (max)	20	25	15			
	Commercial	N/A	60	80%	25	25	25	25			
	Commercial or Industrial	N/A	60	80%	25	25	25	25			
	Commercial	N/A	75	80%	25	10	50	25			
	Industrial	3 acres***	75	80%	25	50	50	50			
	Commercial	3 acres	60	70%	20	10	25	15			
	Commercial	N/A	60	80%	15' (min)	10	10	15			
	Commercial	N/A	60	80%	25' (max)	25	25	25			
	Commercial	N/A	60	80%	25' (max)	25	25	25			

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

* Maximum building height expressed in feet and subject to Section 9.2.

**These yard requirements are also for an approved commercial or industrial use proposed for any other zone. [Source: Section 5.6(f)]

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

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

*****For schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code.

†If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly. [Source: 5.7(b)]

‡Village Commercial setbacks may be reduced as a result of a Compatibility Assessment Meeting based on other structures existing in the neighborhood [Source: 5.10c]

§Setback may be reduced if adjacent to industrial use.

New and Amended Use Definitions

[Note: This text would amend section 2.2 of the Zoning and Land Development Ordinance]

Retail sales, limited

Establishments of 10,000 square feet or fewer of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales, or rental; and food sales or markets. Typical uses include sale of consumer goods or art or craft objects, flower shops, gift shops, boutiques, and book stores.

Personal services

Establishments primarily engaged in providing individual services generally related to personal needs of a non-medical type, including barber shops; beauty salons; chiropractic clinics; clothing rental; dry cleaning and laundry services; duplicating services; garment repair, pressing, and tailoring; massage therapy provided by licensed massage practitioner; photographic studios; psychic readers; real estate; self-service laundromat; shoe repair; spas; tanning salons; travel agencies; video rental stores and other similar establishments.

Manufacturing, Limited

The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing. This category includes welding services.

Manufacturing, Heavy

An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibrations beyond its property line. A land use that generates significant noise, odor, vibration, illumination, or particulate matter that has the potential to adversely affect adjacent land uses, or requires a significant amount of on-site hazardous chemical storage, shall be classified under this land use.

Dwelling, Single Family, Small Lot

A single-family detached dwelling meeting the site development standards for a Dwelling, Single Family, Small Lot as required by this ordinance.

Gas Station

Buildings and premises for the supply and retail dispensing of motor fuels. Accessory uses may include minor servicing and repair of automobiles; and sale of lubricants, batteries, tires, motor vehicle accessories, beverages, food, tobacco products and other retail merchandise; and up to fifty (50) square feet of accessory outdoor storage and display area for goods offered for sale. A gas station shall be classified as a "Gas Station, Large" if it exceeds any of the following criteria: four fuel pump islands, a total of eight fuel pumps, and/or a gas station combined with a convenience store of 3,000 square feet gross floor area.

Gas Station, Large

A gas station (as defined in this ordinance) exceeding any of the following criteria: four fuel pump islands, a total of eight fuel pumps, and/or a gas station combined with a convenience store of 3,000 square feet gross floor area.

Gas Station, Limited

A gas station (as defined in this ordinance) limited to two fuel pump islands and a total of two fuel pumps. A Gas Station, Limited land use may include as an accessory use a convenience store with a gross floor area not to exceed 1,000 square feet gross floor area.

Retail Store, Large

A retail sales establishment located within one building with a gross floor area exceeding 50,000 square feet.

Dry cleaning and laundry facility

A facility at which clothing and other fabrics are dry-cleaned or laundered for customers, utilizing processes which are in compliance with applicable state and federal laws.

Dry cleaning and laundry services

The use of a site for customer drop-off and pickup of clothing or fabrics, to be laundered or dry-cleaned at an offsite location. This use does not include use of a site as a Dry Cleaning and Laundry Facility.

Kennel (amended)

The boarding, breeding, raising, grooming, or training of more than six dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain **or as part of the operations of a not-for-profit organization.**

Restaurant, Fast Food

Any establishment whose principal business is the sale of foods and or beverages in ready-to-consume individual servings, for consumption either inside or outside the restaurant building or for carry-out. Customer orders and/or service may be by means of a window or walk-up counter. A fast food restaurant whose design or method of operation includes a drive-up window or drive-through service or includes service to customers in parked motor vehicles is classified as a Restaurant, Fast Food, Drive-Through.

Restaurant, Fast Food, Drive Through

A fast food restaurant whose design or method of operation includes a drive-up window or drive-through service or includes service to customers in parked motor vehicles.

Building Maintenance Services

An establishment primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.

Business Equipment Sales and Service

An establishment primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.

Food Preparation

An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption. This use includes food preparation for catering.

Heavy Industrial Use

Manufacturing or other enterprises with significant external effects, or which oppose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. This use also includes those land uses characterized by heavy trucking activity or extensive warehousing.

List of Related Zoning Ordinance Amendments

Draft – 4/10/12

Section 3.2

Clarifies that administrative determinations can be made regarding land uses listed in the Zoning Ordinance.

Section 4.4, Prohibited Uses

Clarifies the permitted status of certain uses (such as prisons and gambling) in the new zoning districts.

Section 4.10

Clarifies that a site plan must not only be submitted but also approved prior to initiation of development.

Section 4.11

Clarifies the landscaping requirements for an industrial use.

Table 4.11-1

Setback requirements are relocated to Appendix B.

Screened buffer requirement added for multi-family development adjacent to commercial or industrial development.

Section 5.1

Addition of new zoning districts to list of districts.

Sections 5.4, 5.6, 5.7, 5.8, 5.10

Lists of permitted uses are replaced with a statement that “uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.”

These revised sections also state that uses shown as conditional uses shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

Section 5.6D

Removal of statement that yard requirements in the Industrial - Commercial District apply to a commercial use in any other district. These yard requirements do not apply to the new districts, each of which has its own set of yard requirements. (Where 5.6D is applicable in the ordinance has been so noted elsewhere.)

This section also includes clarification regarding the applicability of buffer requirements to access drives.

Section 5.8B

Clarifies the impervious surface limit requirements for the Residential - Light Industrial - Commercial district.

Section 5.8C

Clarifies that the Compatibility Assessment Meeting requirement does not apply to a building located within a shopping center shown on an approved site plan for restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area).

Section 6.3

Clarifies that the soils component of the LESA scoring process is not applicable when the development is proposed to be located in an existing building, on an existing paved or disturbed area, or entails an expansion of less than 1,000 square feet total of an existing building and/or an existing paved area.

This revised section would also include a sentence relocated from Section 6.5D, in order to improve the clarity of this Article.

Section 8.1

Clarifies that the larger setbacks required for Adult Uses do apply when the use is located in the vicinity of the Neighborhood Commercial, Planned Neighborhood Development, or Office/Commercial Mixed Use zoning districts.

Section 8.12

Clarifies the permitted status of fireworks sales in the Industrial - Commercial, Residential - Light Industrial - Commercial, General Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts.

Section 12.2

Changes the time periods required for posting and adjoining letters for a zoning map amendment request, from “at least 30 days” to “not less than 20 and not more than 28 days.” The reason for this change is that the 30-day requirement does not allow a zoning map amendment case to be scheduled on the next Planning Commission meeting following the applicant’s presentation of a map amendment petition. In order to ensure that the public hearing schedule for zoning map amendments remains consistent the timelines established in the West Virginia Code, this change is recommended.

Section 12.3

Clarifies that there are additional requirements for the processing of a zoning map amendment request for the PND District.

Appendix A, Residential Site Development Standards Table

1. New commercial zoning districts and site development standards added to table.
2. Site development standards for “Small lot single-family detached dwelling” added to table.
3. Deletion of statement that table is for reference purposes only, and clarification that table will prevail in the event of a conflict with the ordinance.

Appendix B, Non-residential Site Development Standards Table

1. New commercial zoning districts and site development standards added to table.
2. Columns showing setbacks for parking and drive aisles are proposed to be relocated from Table 4.11-1 in order to consolidate setback requirements into one table.
3. Establishes maximum building heights for non-residential uses in the Village District (35’) and the Residential - Light Industrial - Commercial District (60’). The ordinance does not currently establish height limits in these districts.
4. Street side yard building setbacks added.
5. Amended note regarding maximum building height.
6. Deleted note referencing section 5.6D.
7. Deletion of statement that table is for reference purposes only, and clarification that table will prevail in the event of a conflict with the ordinance.

Appendix C, Permitted Uses Table

1. Addition of various new commercial land use names (please see table).
2. Establishment of Dwelling, Single Family, Small Lot use.
3. Deletion of statement that table is for reference purposes only, and clarification that table will prevail in the event of a conflict with the ordinance.
4. Addition of new zoning districts and permitted/conditional/not permitted status of each land use for the new districts.
5. Addition of permitted/conditional/not permitted status of each land use for the existing zoning districts.
6. Edits to names of some existing land uses, such as Shooting Range; Garbage or dead animal reduction or processing; Branch bank; Retail food store, limited; Dry cleaning; Non/not-for profit commercial uses.
7. Proposed change in status for some land uses as highlighted in yellow on the table.
8. Amendment of footnote regarding conditional uses.
9. Correction of errors regarding the status of Wireless telecommunications facilities, Agricultural Tourism, Farm Brewery or Winery, and Farm Vacation Enterprise.

APPENDIX C: PERMITTED USES TABLE

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

[Note: Blue text indicates proposed new districts and new land use name, or other text changes]
 [Highlighted text indicates proposed change in permitted status for an existing land use type.]

Land Use	NC	GC	HC	LI	MI	PND	OC	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Residential Uses														
Dwelling, Single Family	P	NP	NP	NP	NP	P	NP	P	P	P	NP	P		
Dwelling, Single Family, Small Lot	P	NP	NP	NP	NP	P	P	NP	P	P	NP	NP		
Dwelling, Two Family	NP	NP	NP	NP	NP	P	NP	P	P	P	NP	P		
Dwelling, Duplex	NP	NP	NP	NP	NP	P	NP	NP	P	P	NP	P		
Dwelling, Townhouse	P	NP	NP	NP	NP	P	P	NP	P	P	NP	NP		
Dwelling, Multi-Family	P	NP	NP	NP	NP	P	P	NP	P	P	NP	NP		
Day Care Center, Small	P	NP	NP	NP	NP	P	NP	P	P	P	P	P		
Mobile Home	NP	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	NP		
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP		
Model Homes/Sales Office	P	PC	NP	NP	NP	P	P	P	P	P	NP	NP	Sec. 8.10	
Home Uses														
Home Occupation, Level 1	P	NP	NP	NP	NP	P	P	P	P	P	P	P	4A.3	4A.1
Home Occupation, Level 2	P	NP	NP	NP	NP	P	P	P	P	P	P	P	4A.4	4A.1
Cottage Industry	P	NP	NP	NP	NP	P	P	P	P	P	P	P	4A.5	4A.1
Institutional Uses														
Airport	NP	NP	NP	P	P	NP	NP	NP	NP	NP	PC	NP		
Church	P	P	P	P	PC	P	P	P	P	P	NP	P		
Convention Center	NP	P	P	P	PC	P	P	NP	NP	P	PC	NP		
Day Care Center, Large	P	P	P	P	PC	P	P	NP	P	P	P	PC		
Electric Vehicle Charging Station	PC	P	P	P	P	P	P	NP	NP	P	P	PC		
Hospital	NP	P	P	P	PC	P	P	P	P	P	NP	NP		
Group Residential Facility	P	P	P	NP	NP	P	P	P	P	P	NP	P		
Group Residential Home	P	P	P	NP	NP	P	P	P	P	P	NP	P		
Heliport	PC	PC	PC	P	P	PC	PC	NP	NP	PC	PC	NP		
Residential Care Home	P	P	P	NP	NP	P	P	P	P	P	NP	P		
Nursing or Retirement Home	PC	P	P	P	NP	P	P	NP	P	P	NP	NP		
Cultural Facility	P	P	P	P	PC	P	P	P	NP	P	P	P		
Elementary or Secondary School	P	P	PC	PC	NP	P	P	P	P	P	NP	NP		
Preschool	P	P	PC	PC	PC	P	P	P	P	P	NP	NP		
Vocational and Training Facility for Adults	P	P	P	P	P	P	P	P	P	P	NP	NP		
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P	P		
Publicly Owned Facility	P	P	P	P	P	P	P	P	P	P	P	PC		
Essential Utility Equipment	P	P	P	P	P	P	P	P	P	P	P	P	4.7	
Performing Arts Theater	P	P	P	P	P	P	P	NP	NP	P	P	PC		
Park, Passive Recreational Uses	P	P	P	P	NP	P	P	P	P	P	NP	P		
Park, Active Recreational Uses	P	P	P	P	NP	P	P	P	P	P	NP	P		
Recycling Drop-Off Center	PC	P	P	P	P	P	P	NP	NP	P	P	NP		
Industrial														
Salvage Yards	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	PC	NP		
Slaughterhouses, Stockyards	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	PC	NP		
Heavy Industrial Uses	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	P	NP		Sec. 8.9
Light Industrial Uses	NP	NP	NP	P	P	NP	NP	NP	**	P	P	NP		Sec. 8.9
Heavy Equipment Repair	NP	NP	NP	PC	P	NP	NP	NP	NP	NP	PC	NP		

P = Permitted use
 NP = Not permitted use
 PC = Use permitted conditionally subject to requirements of district
 * = Limited permitted uses
 ** = Accessory use to a planned residential community

APPENDIX C: PERMITTED USES TABLE

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[Note: Blue text indicates proposed new districts and new land use name, or other text changes]
 [Highlighted text indicates proposed change in permitted status for an existing land use type.]

Land Use	NC	GC	HC	LI	MI	PND	OC	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Manufacturing, Limited	NP	P	P	P	P	PC	P	NP	NP	P	P	NP		
Manufacturing, Heavy	NP	NP	NP	PC	P	NP	NP	NP	NP	NP	PC	NP		
Printing and Publishing	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Shooting Range, Outdoor	NP	NP	NP	PC	PC	NP	NP	NP	NP	NP	PC	NP		
Shooting Range, Indoor	NP	PC	PC	P	P	NP	NP	NP	NP	PC	P	NP		
Transportation Terminal	NP	P	P	P	P	P	P	NP	NP	PC	P	NP		
Vehicle Storage	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP		
Warehousing and Distribution, Limited	NP	P	P	P	P	PC	P	NP	NP	P	P	NP		
Warehousing and Distribution, General	NP	NP	NP	PC	P	NP	NP	NP	NP	PC	P	NP		
Industrial Manufacturing & Processing														
Acid or heavy chemical manufacturer, processing or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Bituminous concrete mixing and recycling plants	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Cement or Lime Manufacture	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Commercial Sawmills	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Concrete and ceramic products manufacture, including ready mixed concrete plants	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Explosive manufacture or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Foundries and/or casting facilities	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Garbage or dead animal reduction or processing; Landfills	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Jails and Prisons	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		Sec. 8.7
Mineral extraction, mineral processing	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Petroleum products refining or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		Sec. 8.11
Adult Uses														
Adult Uses	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP		Sec. 8.1
Recreational Uses														
Hunting, Shooting, Archery and Fishing Clubs, public or private	NP	NP	NP	PC	PC	NP	NP	P	NP	NP	NP	NP		Sec. 8.8
Commercial Uses														
Antique Shop	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
Appliance Sales	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Art Gallery or Artist Studio	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
ATM	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
Automobile repair, sales and service	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Automobile parts, supplies and tire stores	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Automobile, light truck and light trailer rentals, indoor	P	P	P	P	P	P	P	NP	NP	P	P	NP		
Automobile, light truck and light trailer rentals, outdoor	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Bail Bond Services	NP	P	P	P	P	NP	NP	NP	NP	PC	P	NP		
Branch Bank without drive-through facility	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Bank with drive-through facility	PC	P	P	P	PC	P	P	NP	NP	P	P	NP		

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 ** = Accessory use to a planned residential community

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*[Note: Blue text indicates proposed new districts and new land use name, or other text changes]
 [Highlighted text indicates proposed change in permitted status for an existing land use type.]*

Land Use	NC	GC	HC	LI	MI	PND	OC	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Bar / Nightclub	PC	P	P	P	NP	P	P	NP	NP	P	P	NP		
Barber/Beauty Shop	P	P	P	P	NP	P	P	NP	NP	P	P	NP		
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
Bed and Breakfast	P	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	PC		Sec. 8.3
Business Equipment Sales and Service	PC	P	P	P	P	P	P	NP	NP	P	P	NP		
Building Maintenance Services	PC	P	P	P	P	P	P	NP	NP	P	P	NP		
Building Materials and Supplies	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Campground	PC	P	NP	NP	NP	P	P	NP	NP	P	P	NP		
Commercial Uses	-	-	-	-	-	-	-	*	**	P	P	*		Sec. 8.9
Commercial Blood Plasma Center	NP	P	P	P	P	PC	PC	NP	NP	PC	P	NP		
Contractor with no outdoor storage	P	P	P	P	P	P	P	NP	NP	P	P	NP		
Contractor with outdoor storage	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Retail Food Convenience Store, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Convenience Store	PC	P	P	P	PC	P	P	NP	NP	P	P	NP		
Country Inn	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
Dry cleaning and laundry pick-up station; laundromat	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Dry cleaning and laundry services	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Duplicating services	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Exterminating Services	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Florist	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Food Preparation	P	P	P	P	P	P	P	NP	NP	P	P	NP		
Hotel/Motel	NP	P	P	P	NP	P	P	NP	NP	P	P	NP		
Furniture stores, carpet or related furnishing sales or service	PC	P	P	P	PC	P	P	NP	NP	P	P	NP		
Gambling Facilities	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP		
Gas Station, Limited	P	P	P	P	P	P	P	NP	NP	P	P	NP		
Gas Station	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Gas Station, Large	NP	PC	P	P	P	PC	PC	NP	NP	P	P	NP		
Golf Course	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Grocery Store	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Kennel	NP	P	P	P	PC	P	P	P	NP	P	P	NP		Sec. 8.4
Medical/Dental/Optical Office, Small	P	P	P	P	PC	P	P	NP	NP	P	P	P		
Medical/Dental/Optical Office	NP	P	P	P	PC	P	P	NP	NP	P	P	NP		
Mobile home, boat and trailer sales	NP	P	P	P	P	P	P	NP	NP	PC	P	NP		
Movie Theater	NP	P	P	P	PC	P	P	NP	NP	P	P	NP		
Non-Not-for-Profit Commercial Uses	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Non-Profit Community Centers	P	P	P	P	PC	P	P	P	NP	P	P	NP		
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Pawn Shop Services	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Personal Services	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Professional Office	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Restaurant, Fast Food, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC		

P = Permitted use
 NP = Not permitted use
 PC = Use permitted conditionally subject to requirements of district
 * = Limited permitted uses
 ** = Accessory use to a planned residential community

APPENDIX C: PERMITTED USES TABLE

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

*[Note: Blue text indicates proposed new districts and new land use name, or other text changes]
 [Highlighted text indicates proposed change in permitted status for an existing land use type.]*


Land Use	NC	GC	HC	LI	MI	PND	OC	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Restaurant, Fast Food	PC	P	P	P	PC	P	P	NP	NP	P	P	NP		
Restaurant, Fast Food, Drive-Through	NP	P	P	P	PC	PC	P	NP	NP	P	P	NP		
Restaurant, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Restaurant	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Retail Sales Limited	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Retail Store	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Retail Store, Large	NP	PC	P	PC	PC	PC	PC	NP	NP	PC	PC	NP		
Shipping and Mailing Services	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Storage, Commercial	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Veterinary Services	P	P	P	P	PC	P	P	P	NP	P	P	NP		
Video Rental Stores	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Wireless telecommunications facilities	P	P	P	P	P	P	P	P	P	P	P	P	4B	
Agricultural Uses														
Agricultural Uses as defined in Article 2	P	P	P	P	P	P	P	P	P	P	P	P		
Agricultural Repair Center	NP	P	P	P	P	P	P	P	NP	P	P	NP		
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P		
Farm Brewery or Winery	P	P	P	P	P	P	P	P	P	P	P	P		Sec. 8.5
Farm Market	P	P	P	P	PC	P	P	P	NP	P	P	PC		Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P		
Feed and/or Farm Supply Center	PC	P	P	P	P	P	P	P	NP	P	P	NP		
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	NP	P	P	NP		
Landscaping Business	P	P	P	P	P	P	P	P	NP	P	P	NP		
Rental of Existing Farm Building for Commercial Storage (structure must have existed for 5 years)	NP	P	P	P	P	P	P	P	NP	P	P	NP		
Accessory Uses														
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P		

P = Permitted use
 NP = Not permitted use
 PC = Use permitted conditionally subject to requirements of district
 * = Limited permitted uses
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Capriotti Rezoning PC File # Z12-01

Item #5: Request by Gene Capriotti for a zoning map amendment for property designated as Tax District: Harpers Ferry, Map: 9; Parcel, 58. Requested zoning map amendment from Residential-Growth to Residential-Light Industrial-Commercial.

APPLICANT:	Gene Caprotti
OWNER:	Same as above
DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	N/A
PROPERTY LOCATION:	The property is located on the east side of Route 27/2 (Allstadt's Hill Road), near the intersection with Route 27 (Millville Road).
LEGAL DESCRIPTION:	District: Harpers Ferry; Map: 9; Parcel: 58 
ZONING DISTRICT:	2011 Zoning Map Designation: Residential Growth
SURROUNDING PROPERTIES:	2011 Zoning Map: North: R/LI/C and Rural East: R/L/I/C South: RG West: R/L/I/C
LOT AREA:	8.98 acres
PROPOSED ACTIVITY:	To rezone this Residential Growth 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

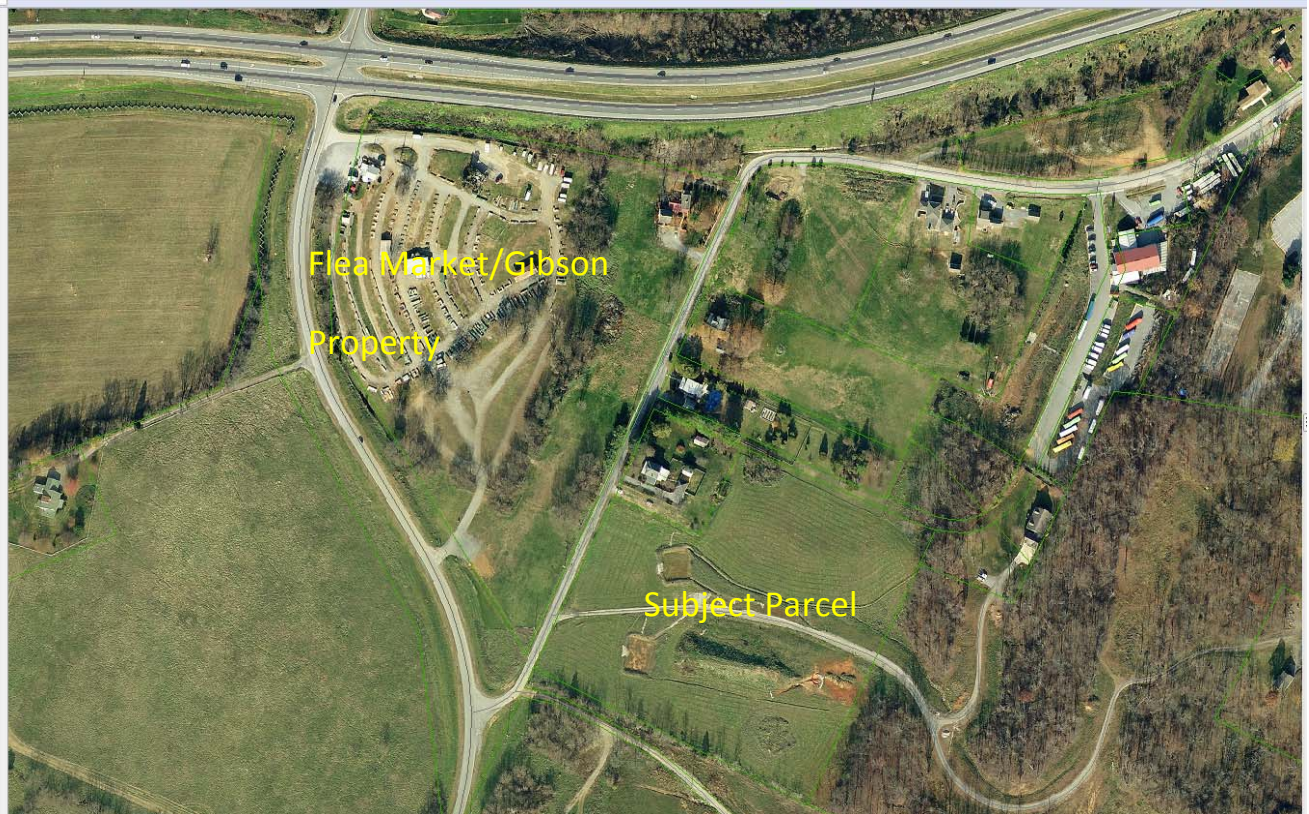
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Staff Finding:	In this report Staff presents the various factors related to this property based on the Comprehensive Plan. Staff does not find the plan to be consistent with the 2004 Comprehensive Plan and also finds there have been changes of major changes of an economic, physical or social nature that do not support the request. The recommendation section of this report is critical in understanding the Staff recommendation.
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Background

The property on Alstadts Hill Road, Harpers Ferry, WV, is a vacant parcel located near the intersection of Alstadts Hill Road and Millville Road and north of Old Standard Quarry. Image 1, is a location map showing the parcel requested for rezoning.

Image 1



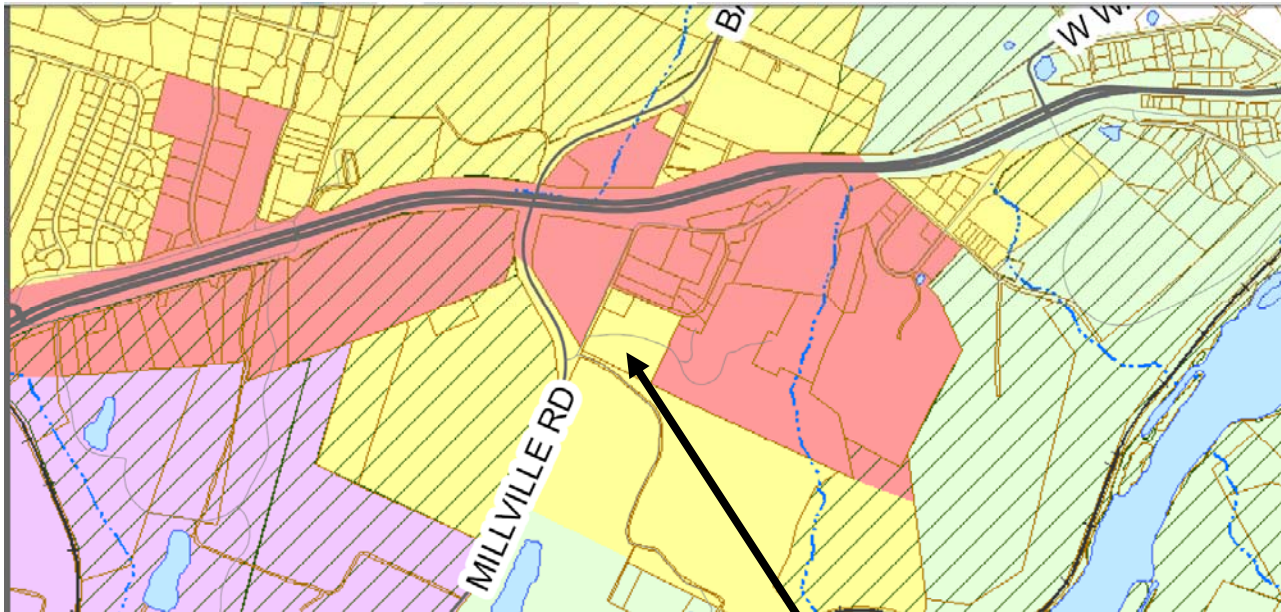
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Introduction and Purpose






The applicant has requested rezoning the 8.98 acre property from Residential-Growth to Residential-Light Industrial-Commercial. Access to the property is from Alstadts Hill Road. Surrounding the subject parcel, the properties to the east and west are zoned Residential-Light Industrial-Commercial, properties to the north are zoned both Residential Growth and Residential-Light Industrial-Commercial, and the property to the south is zoned Residential Growth. Image 2 below shows the current zoning for surrounding parcels and Image 3 and 4 shows the National Park Service Property (Images 3 and 4 are at end of document).

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Image 2



Legend

-  Urban Growth Boundary
-  Parcels
-  Tax District Boundary
-  Public/Quasi-Public Land
-  Appalachian Trail

Zoning District

-  Incorporated Town
-  Industrial-Commercial
-  Residential-Growth
-  Residential-Light Industrial-Commercial
-  Rural
-  Village

Subject Property

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The applicant has requested rezoning of the entire subject parcel from Residential Growth to Residential-Light Industrial-Commercial. The following report has been prepared to assist the Jefferson County Planning Commission and Jefferson County Commission in making findings regarding the consistency of the proposed rezoning with the 2004 Jefferson County Comprehensive Plan, in accordance with West Virginia State Code requirements.

Statutory Authority and Requirements

The West Virginia State Code, Section 12.1(a) provides that the boundaries of zoning districts may be amended by the County Commission with the advice of the Planning Commission. The County Zoning Ordinance also requires that the *“procedure for amendment [by petition] shall be as dictated in Section 8A-1-1 et seq of the West Virginia State Code as amended.”* As concerns amendments by petition, State statute provides that, *“Before amending the zoning ordinance, the governing body with the advice of the planning commission must find that the amendment is consistent with the adopted comprehensive plan.”* [See **WVC 8A-7-9(c)**] This subsection of the State Code also states that, *“If the amendment 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.”*

Scope of this Assessment

This report focuses on whether or not the rezoning application is consistent with the Comprehensive Plan. It concludes that the request is not consistent with Comprehensive Plan and notes that while there are major changes of an economic, physical or social nature, within the area involved, have occurred that were not anticipated when the comprehensive plan was adopted, such that they would “substantially” alter the basic characteristics of the area, these changes do not support the rezoning request. This assumption is also limited to the proposal to rezone the subject site. Additionally, there has been a detailed study of the US 340 east corridor that has an impact on this request. This will be addressed in the recommendation.

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

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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 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 has 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

Existing Zoning District:

The Comprehensive Plan notes that *"This district (Residential Growth) and the 'Residential-Light-Industrial-Commercial' Zoning District, are co-mingled and comprise a strong majority of the 'Designated Growth Area.'"* This statement acknowledges that the Residential Growth district is a growth oriented district. In addition to a broad range of urban density residential uses, the district permits day care centers, hospital, nursing home, and churches. This zoning district should not be considered a limited use district.

Proposed Zoning District:

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

- *"...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*

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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.

- *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.*

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 vague 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.

It should be noted that the broadness of this zoning category often raises concerns and is one of the primary reasons that new commercial zoning categories are currently under consideration.

Natural Resources:

As a broad outline the Comprehensive Plan notes that:

- *"Ironically, the natural beauty and rural setting of Jefferson County, the qualities that are so attractive to new residents, are the very qualities that are most threatened by a rapid pace of growth. With houses coming at a far faster pace than jobs, Jefferson County is facing a future as just another bedroom community in the larger metropolitan area. The intent of this plan is not to recreate or recapture the past but to shape future growth in a manner that preserves the most important features of Jefferson County: the rural landscape, the natural beauty of the rivers, the rolling terrain and the strong sense of community (pg. 8)."*

This vision for the document illustrates that the historic and scenic viewsheds of Jefferson County are threatened by the rate of growth occurring within the County. The intent is to shape growth in a manner that preserves these important features, while allowing for growth

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where appropriate. Outlined on page 14 is the US 340 Corridor East Gateway Plan which provides methods to achieved the balance between development and natural resources.

Historic Resources:

The Comprehensive Plan discusses the natural, environmental and historical resources along the US 340 Corridor and this analysis would not be whole if this important component is not addressed.

- *“In terms of environmental resources, Jefferson County suffers from an embarrassment of riches. If we are not careful, we could squander these resources. Effective planning is essential to preserving these resources for use and enjoyment of future generations (pg. 48).”* Additionally the plan notes *“Caves, scenic vistas, wildlife corridors and cliff areas are just several examples of additional forms of natural resources that contribute to the environmental and cultural mix that is Jefferson County. The topography, geology, hydrology, and biological diversity of the environment is one of the hallmarks that makes Jefferson County the beautiful environment that it is. Unfortunately, not every form of natural resource can be discussed in detail within the context of a Comprehensive Plan. The protection of scenic vistas has been the subject of public comment during this process. The County should identify the protection of scenic vistas as an issue to address, this is best done through the adoption of standards within the ordinances, so that all parties are aware of their rights and responsibilities in this regard (pg. 52).”*

In addition to the natural resources of the community, the 2004 Plan discusses the County’s historic resources in depth. It is summarized here but is of importance to this rezoning request in the total evaluation:

- *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*
- *The site of the John Brown Insurrection*
- *County's place at one of the crossroads of the Civil War forever links it to many of the important events that occurred during our Nation's greatest test of endurance.*

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- *Given its size and population, Jefferson County has been fortunate in the amount of historic preservation projects that have been implemented around the County. 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.*
- *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.*
- *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 (pgs. 55-56)."*

Historic and natural features are given a significant priority in the 2004 Comprehensive Plan. This section of the Plan underscores the importance of heritage tourism to the economy and notes the cultural and scenic features that drive locally based tourism's economic engine. The text substantially supports the need to protect the "scenic vistas" both in this plan and in the 1994 Comprehensive Plan.

It is important to note that recreational tourism, heritage tourism, scenic tourism, and eco-tourism are part of Jefferson County's pro-business and pro-economic development ventures. Potentially impacting that significant, valuable and irreplaceable part of the county and the affected economic generators is unsystematic.

Staff notes that care should be taken when reviewing rezonings that might jeopardize the efforts to nurture the tourism economy or reduce interest in visitation to tourist offerings. The subject property is an element of a historic battlefield as shown on Image 5.

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*

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conditions which probably will be facing the people of Jefferson County indefinitely (pg. 26)."

As many people are aware, the fact that inadequate funding and increased transportation demands are conditions the County is likely to continue to face indefinitely is ominous. The staff acknowledges that there is an existing bottleneck along US 340, which is a major transportation route through the County.

Rezoning this parcel of land to Residential-Light Industrial-Commercial use may aggravate this condition. While this development by itself may or may not generate a lot of traffic, without a coordinated transportation planning tool, the cumulative effect will hinder the transportation grid beyond its current condition. It is certainly possible that the intersection of Bakerton/Millville and US 340 would see an increase in traffic pressure from this rezoning, other rezoning's and accumulated development pressures. In this instance, the unsignalized intersection has significant safety issues.

Without a coordinated traffic analysis for this property and surrounding parcels, the dangers of this intersection are difficult to anticipate. Without adequate review and implementation of required improvements, the increased activity in this area will result in a negative decline in safe and convenient access at this intersection.

The Comprehensive Plan reflects the growth in traffic volumes, along the Route 340 Corridor, from 1996 to 2002. It is clearly the most heavily travelled route in the County. The 2008 West Virginia Department of Transportation traffic counts show 38,000 average daily trips (ADT) at WV 26 (Keys Ferry Road) and 29,400 near Bakerton Rd.

The Comprehensive Plan states that:

- *"A comprehensive and systematic approach to transportation planning is needed to meet the future transportation of the County (pg. 26)."* The plan further delineates the following general goals:
 1. *Reduce the occurrence and severity of roadway traffic accidents by encouraging the West Virginia Department of Transportation, Division of Highways to reduce or eliminate conditions which cause them.*
 2. *Encourage the West Virginia Department of Transportation, Division of Highways to take measures to provide for and maintain efficient roadway traffic flow.*
 3. *Find creative solutions to both funding and legislative limitations, in order to solve transportation problems.*

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4. *Seek a coordinated transportation plan among all levels of government that provides for coordinated transportation planning and funding of highways, streets, commuter rail service, public transit, car/van pooling, park & ride facilities, bike paths, pedestrian access, and technological improvements to the transportation system in the County.*
 5. *Encourage alternate forms of transportation within the County, such as pedestrian trails and bike paths, provided they are feasible and prove beneficial.*
 6. *Encourage the State and Federal government to increase public transit service to the County, provided it is feasible and proves beneficial.*
- *“During the Comprehensive Plan process, citizens have expressed concerns with some of the roads in the County. The County has reached a critical turning point as undeveloped land is becoming committed to new subdivision and development. As more and more land is developed future transportation improvements may become more difficult and more costly. Therefore, it is prudent for the State and County to plan for the future needs now, while the land is available and the improvements can be more easily made, or at least the land can be reserved during the development process for future improvements (pg. 27).”*

In the past year Staff has undertaken a detailed study of the US 340 East Gateway corridor and the study is addressing the 6 points listed above and providing long term options to address the concerns raised in the Comprehensive Plan. The US 340 study has been done in collaboration with the West Virginia Department of Highways and Hagerstown Eastern Panhandle Metropolitan Planning Organization. Both organizations have the jurisdiction to address these elements and funding mechanisms. More recently, the State of West Virginia has announced a plan to study the traffic movements along the corridor from Charles Town, WV to Frederick, MD. Again, while road improvements may not be in the near future, a study of the traffic is a positive move in the right direction and will begin a priority for future funding.

The new Route 9 is not expected to solve the traffic concerns on Route 340, as the traffic on Rt. 9 has a different commuting pattern and direction than that of Route 340. Again, while the proposed development alone may or may not have a significant negative effect on Route 340, the County needs to consider the potential accumulation of these effects. Without a detailed site plan for a specific use, the impact is hard to predict.

Water and Sewer Proximity:

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Water and sewer is located near this property. The Comprehensive Plan encourages urban level developments, such as the current zoning of this property, to be on a central water and sewer system, whether public or privately owned.

Implications of National Park Service Property:

Since 2004, there have substantial acquisitions by the National Park Service surrounding this property that were not anticipated in 2004. If the Commission determines the proposed rezoning is not consistent with the 2004 Comprehensive Plan, it 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.*” in order to recommend approval of the request. There have been major changes to the US Route 340 Corridor area that were not anticipated when the Comprehensive Plan was written. The acquisitions by the National Park Service have had major economic, physical or social change in this specific corridor. The amount of property purchased has limited the size of physical development in the area and by extension the amount of traditional economic activity at this intersection. The social change is from development to preservation and a community expectation of historic and open space preservation.

As the Planning Commission determines the merits of this rezoning, the amount of land protected by the NPS in this area, which was not anticipated in the Plan when it was written in 2004 is a factor for consideration, but does not support the rezoning request.

Changes elsewhere on US 340:

Any discussion about new development that has occurred along the US 340 corridor toward Charles Town needs to acknowledge that the existing zoning was in place when those areas developed. There were no rezonings along the corridor. As this zoning existed for those properties, the Comprehensive Plan recognized the potential development in those locations and made no recommendations for change in the corridor. On the other hand, the Comprehensive Plan discussed the area surrounding the battlefield as an important County and State resource worthy of protection. Navigating these conflicting values, the US 340 corridor study provided a path from which to provide a balance. If adopted as an amendment to the 2004 Plan, the draft document provides a planning process that would permit the rezoning based on future land use map and along with other considerations in the plan.

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Development Implications:

The “...plan encourages new development patterns that foster mixed-use neighborhoods, so that a sense of community begins at the subdivision level (pg. 8).” The plan further “...recommends that Jefferson County’s natural features, particularly stream valleys, be conserved as green space and that significant natural features be afforded protection as development proceeds (pg. 8).”

Staff concurs with the need for mixed development to provide for a variety of uses when possible. The Comprehensive Plan emphasizes that employment centers can be provided in a number of alternative County locations, where it is appropriate for more intense uses. While providing economic opportunities, the plan recognizes the importance to protect natural resources. There are a variety of permitted uses in the proposed zoning category which allows for more intense uses. The draft US 340 Plan addresses these two elements, economic growth and the natural features that should be retained. The US 340 plan outlines ways to achieve both features when balanced and provide some picturesque vistas that attract people to Jefferson County.

It is possible to view the requested rezoning as an extension of the existing zoning in the area. Without standards in the current ordinances or regulations for building design standards, there is no assurance that the rezoning will result in structures that appropriately designed for the area and protection of existing natural and historic features on the property. The study undertaken along the corridor in the past year has provided mechanisms for balancing scenic views and economic development. While typically viewed as only able to promote one feature and lose the other feature, there are ways to blend the two and result in a positive development. These goals have been unchanged for over 20 years; there is a common held vision that these elements are important to the County.

Below is a partial “...list of general goals was adopted as guidelines for the preparation of the 1986 Comprehensive Plan. These goals were readopted, unchanged and incorporated into the 1994 Comprehensive Plan (pg. 19).” These goals have been adopted in the 2004 Comprehensive Plan as well.

- *Promote growth and development that are both economically and environmentally sound.*
- *Encourage and support commercial, industrial, and agriculture activities to provide a diversified and sound local economy.*

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- *Promote the conservation of the natural, cultural, and historical resources and the preservation of its scenic beauty.*
- *Advocate the maintenance and improvements of transportation systems so that people and goods can move safely and efficiently throughout the County.*
- *Promote pedestrian friendly, livable communities.*

One of the goals mentioned above is to “*Encourage and support commercial, industrial, and agriculture activities to provide a diversified and sound local economy.*” It is important to remember that tourism is a real and vital component of Jefferson County’s economy which brings in real revenues just as other businesses do in the County. Jefferson County is number one in tourist dollars captured by any county in the State of West Virginia, capturing in \$729,000,000 for the 2008 year (Source 1). The proposed rezoning is within the area that visitors to the State and County acquire their first impression of the scenic views. Visitors do not enter the state to see suburban sprawl, rather the open vistas that welcome vacationers to Jefferson County and the State of West Virginia. Protecting our resources is pro-economic development that provides “*...a diversified and sound local economy.*”

A well-developed site could fit into the goals of the Comprehensive Plan, particularly for this location. A development that addresses natural features, such as adding concentrated landscaping, would result in some protection of the scenic as well as providing economic opportunities in the County.

US 340 Corridor East Gateway Plan:

This segment of US 340 is undergoing a comprehensive and systematic study to address the current and future transportation and land use needs of the corridor. This study is near completion and should be allowed to finalize in the process before land use decisions are pre-determined. There are real implications to land use decisions, such as this rezoning, that affects the transportation network. In this analysis, it is not only the rezoning and the possible uses that could be built that could cause a negative impact upon the traffic conditions, but the potential for transportation improvements or right of way dedication to be set aside on the parcel to improve the Corridor. Such transportation improvements are difficult if buildings are being constructed or are built. The West Virginia Department of Highways noted this concern to staff in another area of the County. With a detailed traffic analysis, each development that occurs in the area could assist in improving the intersection without a disproportionate burden

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to anyone applicant or project. The goal is to develop a unified solution to the transportation problems, not limit land use decisions.

The current East US 340 Corridor Plan recommends necessary corridor improvements and land use (zoning districts) changes along the corridor. The corridor study is discussed here and in the recommendation below. There is significant land mass along US 340 that could potentially be developed. There are a number of large parcels, totaling approximately 894 acres that are potentially developable (Image 6). That acreage does not include the numerous lots that are 7 to 20 acres in size that could be assembled for development, adding presumably an additional 100 to 200 acres of conceivable development. For reference, a square mile is 640 acres of land.

While a single more intense non-residential development may not have a significant negative impact on US 340, setting a precedent for allowing this type of development without a comprehensive corridor management plan in this area, sets the stage for an accumulation of minor negative effects that could result in a major problem. The goal of this Plan is not to predetermine what is going to occur along the corridor, so much as to plan how components of corridor mesh as a unit. Based on the draft future land use for the study, the rezoning is in keeping with the 340 Plan. It is important to remember the goal of the Plan is more than just allow an increase in zoning, but to plan for transportation improvements and possible design standards for structures. If the US 340 Corridor East Gateway Plan were to be adopted as an amendment to the 2004 Plan, it could play a role in this analysis.

When the US 340 plan was initiated, there were no predetermined findings. As the planning process has unfolded, the future land use map shows support for the requested rezoning. In an area where agreement is often difficult, the planning process shown positive results. This process has shown agreement for property owners to exercise their rights with less controversy that would not benefit anyone. A project built on mutual agreement is more productive than one on disagreement.

Summary:

Finally, the Comprehensive Plan accurately and clearly describes the 340 corridor that this rezoning could affect, as noted below:

- *“The US 340 corridor from the Shenandoah River bridge to the Charles Town bypass serves many purposes. It is the major transportation spine in the eastern part of the County. It is from this road that one views the panorama of the rest of the County from Alstadt's Hill. It serves as a collector for several secondary State highways which serve*

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Jefferson County Planning Commission Meeting
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significant numbers of houses and businesses, and it serves as the eastern gateway to West Virginia. Traffic is ever increasing on this road, as are development pressures.

- *This segment of US 340 is the most identifiable and visible artery in the County. Without effective study and management, this corridor could deteriorate into a strip of housing developments indistinguishable in character, and commercial development rivaling "strips" in nearby larger cities.*
- *US 340 is the main transportation spine through the County. As such, the purpose of this study is not to turn US 340 into an undeveloped parkway. Rather, it is stated here that the purpose of this study is to identify ways to ensure that the residential and commercial development that occurs along this corridor is designed and constructed in such a way where the development does not cause visual blight and major traffic problems along the eastern entrance corridor to the State. Buffers, landscaping requirements, traffic and access design, sign regulation and aesthetic highway improvements are all examples of issues that could be discussed as part of this study (pg. 72)."*

Again, while this rezoning is for 8.98 acres of property, the expansion and potential for traffic and visual blight is possible without careful consideration of the Corridor as a whole. It is imperative that the activity on this Corridor be reviewed very closely due it being the "most identifiable and visible artery in the County."

Staff Recommendation

Staff does not find the proposed rezoning to be consistent with the 2004 Comprehensive Plan. It also finds there have been changes of major changes of an economic, physical or social nature; however these changes do not support the rezoning. The major changes as it pertains to this request is delineated in greater detail on page 12 (Implications of the National Parks Service Property).

Non-conformance with the 2004 Comprehensive Plan:

Since the 2004 Comprehensive Plan is the only adopted document permitted by state law to assess the requested rezoning, a review of policies, objectives and recommendations provided in the plan, when taken together, provide a compelling argument for denial of this rezoning application. They include:

- The existing zoning, Residential Growth, for the property is growth oriented. This land use designation for the property is in keeping with the Comprehensive Plan. The

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Comprehensive Plan for the 340 corridor does not discuss any need for additional zoning changes along the corridor. The Plan does go into detail that the growth in the corridor should not be "...indistinguishable in character..." from other communities (pg. 73).

- The Comprehensive Plan acknowledges the problems of the transportation network and the possible efforts to amend those problem areas. This intersection is a location that has a high number of traffic counts, is dangerous and there is no coordinated Plan for this to be improved. Each development may only add a limited amount of vehicle trips as a single development, but as a collective of all the developments possible at this intersection, it is a significant impact. If this site were used for light industrial uses, the associated truck traffic would probably overload the capacity of the roads in that location.
- The Comprehensive Plan does discuss that while the Residential-Light Industrial-Commercial District is considered mixed use, it does not require an appropriate mix of uses. The light industrial use is not compatible with residential uses and as such makes it difficult to classify the district as mixed use. While it allows for the option of mixed use, it is generally developed as a single use. There is no assurance that the permitted zoning district will not be used for light industrial uses. Since this eastern most section of 340 is described in detail in the Plan for its natural, historic, and cultural resources, the possibility of light industrial uses, fast food, strip centers or franchise businesses are not in conformance with those elements of the Comprehensive Plan or that specific area of the corridor.
- Page 72 of the Comprehensive Plan identifies the Route 340 Corridor as an area that should be targeted for special study. The Comprehensive Plan notes that the corridor serves as a collector for several secondary state highways which serve significant numbers of houses and businesses and it serves as the eastern gateway to West Virginia. Traffic is ever increasing on this route. This segment of US 340 is the most identifiable and visible artery in the County. Without effective study and management, this corridor could deteriorate into a strip of housing developments indistinguishable in character and commercial development rivaling "strips" in nearby larger cities. The Plan recommends study of the US 340 corridor, including land use, viewsapes, economic development, traffic design and management in order to create an effective strategy for a long term plan of this important Corridor. The Plan notes that buffers, landscaping requirements, traffic and access design, sign regulation and aesthetic highway

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improvements are all examples of issues that could be discussed as part of the study. Staff agrees with the Comprehensive Plan recommendations, and believes such a study should precede any rezoning with the corridor.

Unanticipated Changes:

As noted above, State statute provides that “Before amending the zoning ordinance, the governing body with the advice of the planning commission must find that the amendment is consistent with the adopted comprehensive plan.” [See **WVC 8A-7-9(c)**] This subsection of the State Code goes on to state that, “If the amendment 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.”

There have been major changes of an economic, physical or social nature within the area that were not anticipated when the current Comprehensive Plan was written in 2004. However, these changes do not support the rezoning. Since 2004 the area has experienced a significant shift toward acquisition of historic properties by the National Parks Service. The acquisition has resulted in an economic change in that location where more land will be preserved than developed. While these properties have long been a place of historical significance, the land was not open to the public. With this fundamental change, property that is now near lands that are in public holdings should be reviewed in a different fashion.

US 340 Corridor East Gateway Study:

In March 2011, the Jefferson County Planning Commission and County Commission undertook the 340 corridor plan as recommended in the Comprehensive Plan. As this study nears completion, a community social shift has occurred that has resulted in a proactive development plan for the corridor and growth in this specific area with the guidelines for development standards.

The US 340 East Gateway Study is the result of a highly involved and detailed review of that particular area, whereas the Comprehensive Plan is a broader plan that is now dated. The methodical review of the corridor in the study has resulted in a draft land use map that creates a unified corridor plan and a level of buy in from the community.

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In this specific are the corridor study has provided an opportunity to promote growth in a location that finds itself conflicted by the goals of the Comprehensive Plan. Those goals are to both promote economic opportunities and protect the natural, historic and cultural resources of County.

The US 340 study has addressed this corridor with meticulousness and will allow for land use decisions based on an overall plan, not an ad hoc basis. It is a possibility that the corridor study may have an overlay zone, in this area that allows the applicant more flexibility in uses. In this case it would allow the applicant to garner staffs support. Additionally, the requested land use change may further garner public support and allow the applicant a less contentious path.

The new opportunities on the horizon provide Staff, the applicant, the decision makers and the public with an ability for a better decision. Currently planning in the corridor is ad hoc. In the past year, this has been Staff's position on the requests in this area, and this request is similar in that respect and with the right mechanism in place, could provide for better planning in this area.

New Zoning Categories:

Historically, in Jefferson County, the lack of assurance has been a limiting factor in rezoning requests. Unfortunately, that is not productive and quality planning that a community should strive for in developing a predictable land use system. While the Residential-Light-Industrial-Commercial District has been referred to in the past as the "mixed use" district, Staff has always added a caution to this statement. The caution is that the district does not require any mixing of uses, only the possibility of mixing uses. Further, the uses are so broad as to be incompatible if the least and most intense uses of the district were to be mixed. Currently, the County is developing new commercial zoning districts that will provide and facilitate a better planning process.

Final Recommendation:

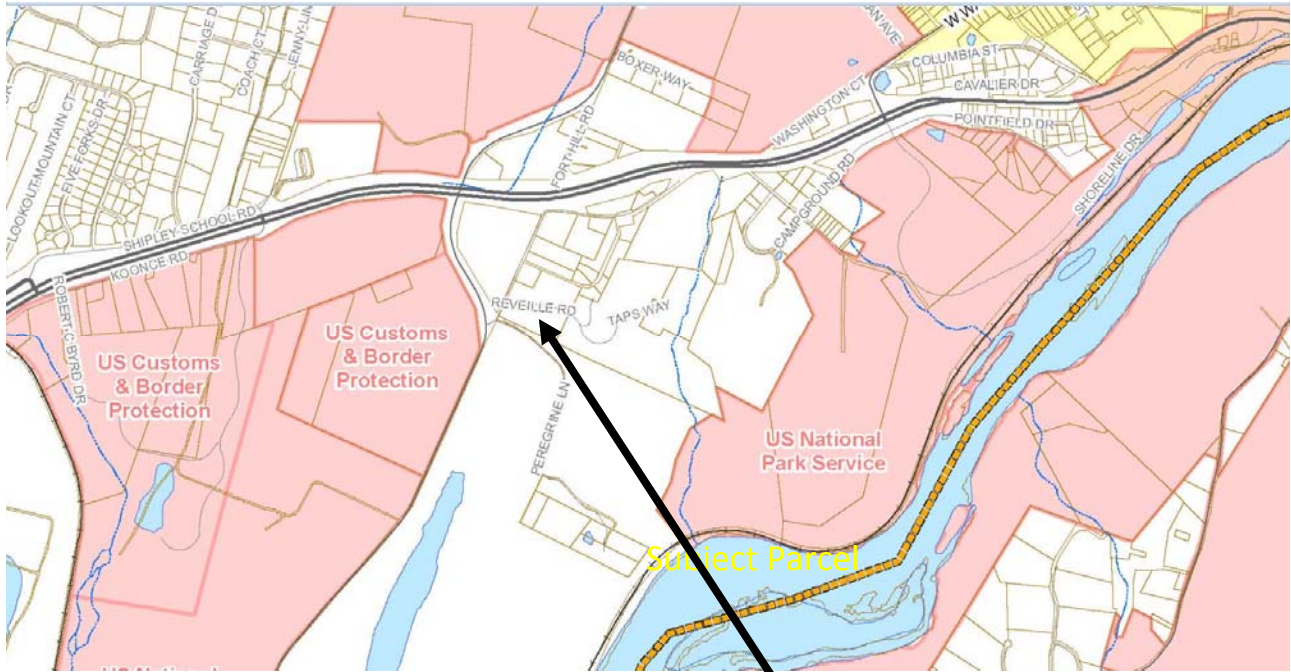
Staff recommends that the applicant wait 6 months. This would allow for the US 340 East Gateway Corridor study to be finalized and provide at a minimum recommendations regarding land use (possible rezoning options) and traffic impacts. Additionally, the new zoning categories currently under underway will provide another option for a more precise and predictable planning tool. This recommendation is not unreasonable. At best, the applicant is able to market the property in a manner that the

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end user can be assured less intense scrutiny and assure a smoother process or approval. At worse, the applicant is in the same position that they are in currently.

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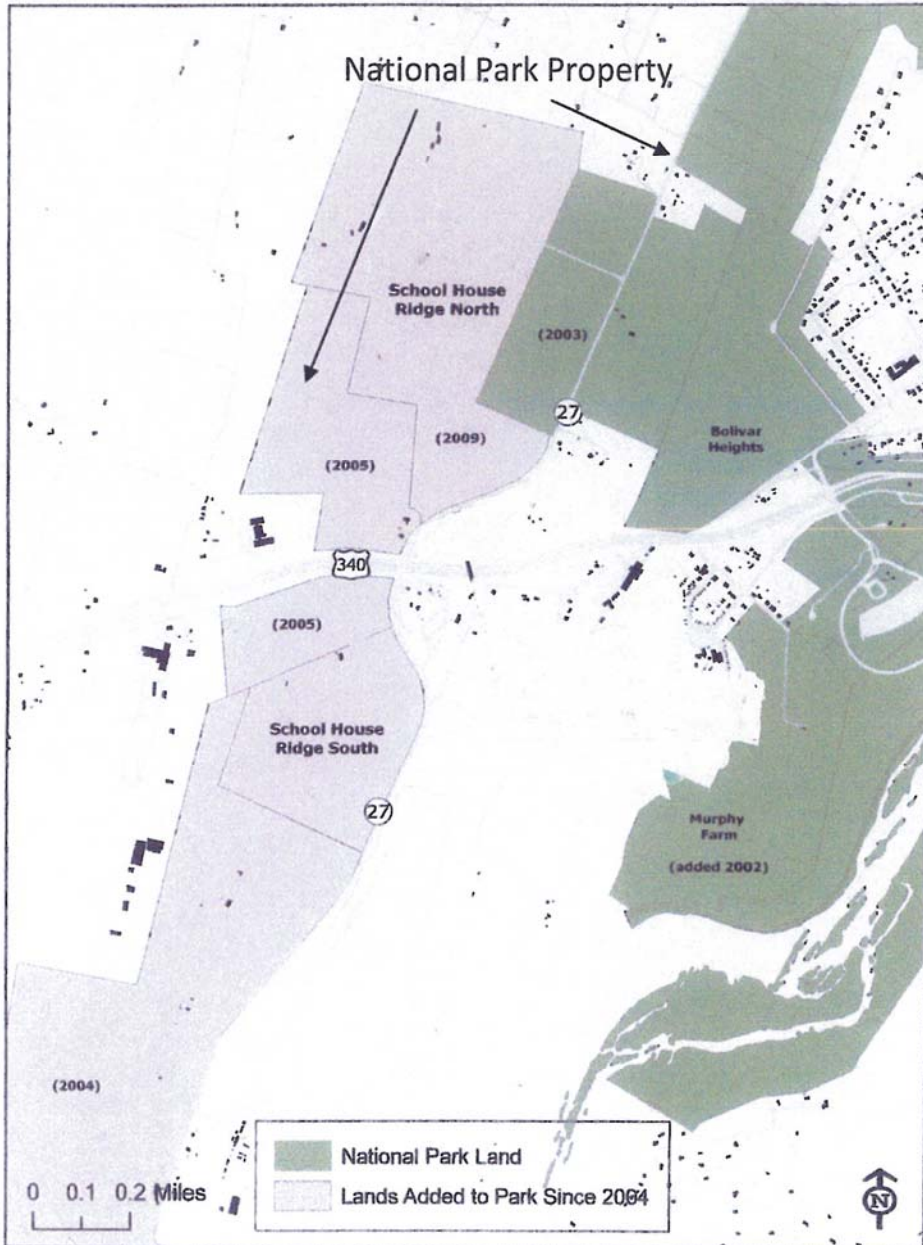
Image 3



Subject Property

Image 4

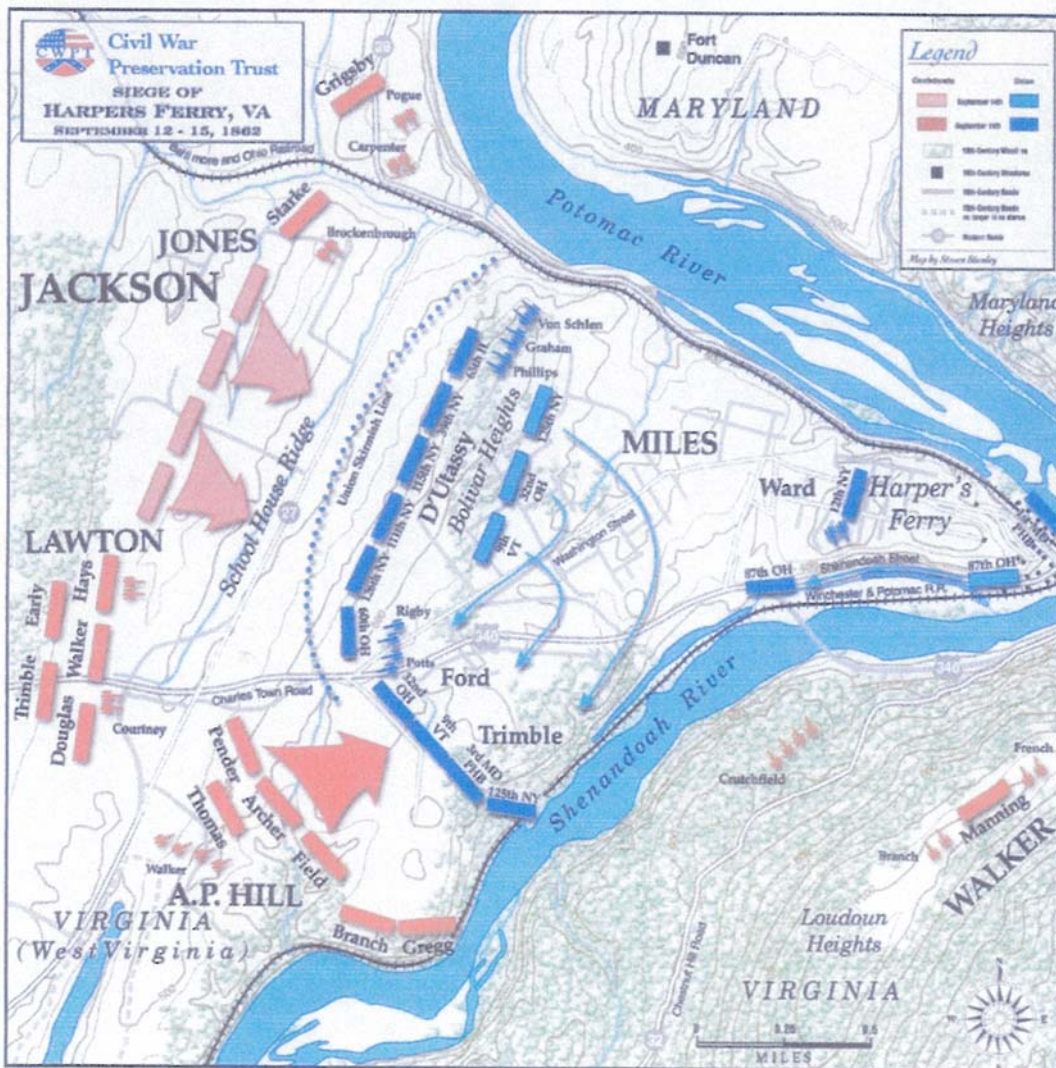
Growth of Harpers Ferry NHP Since 2004



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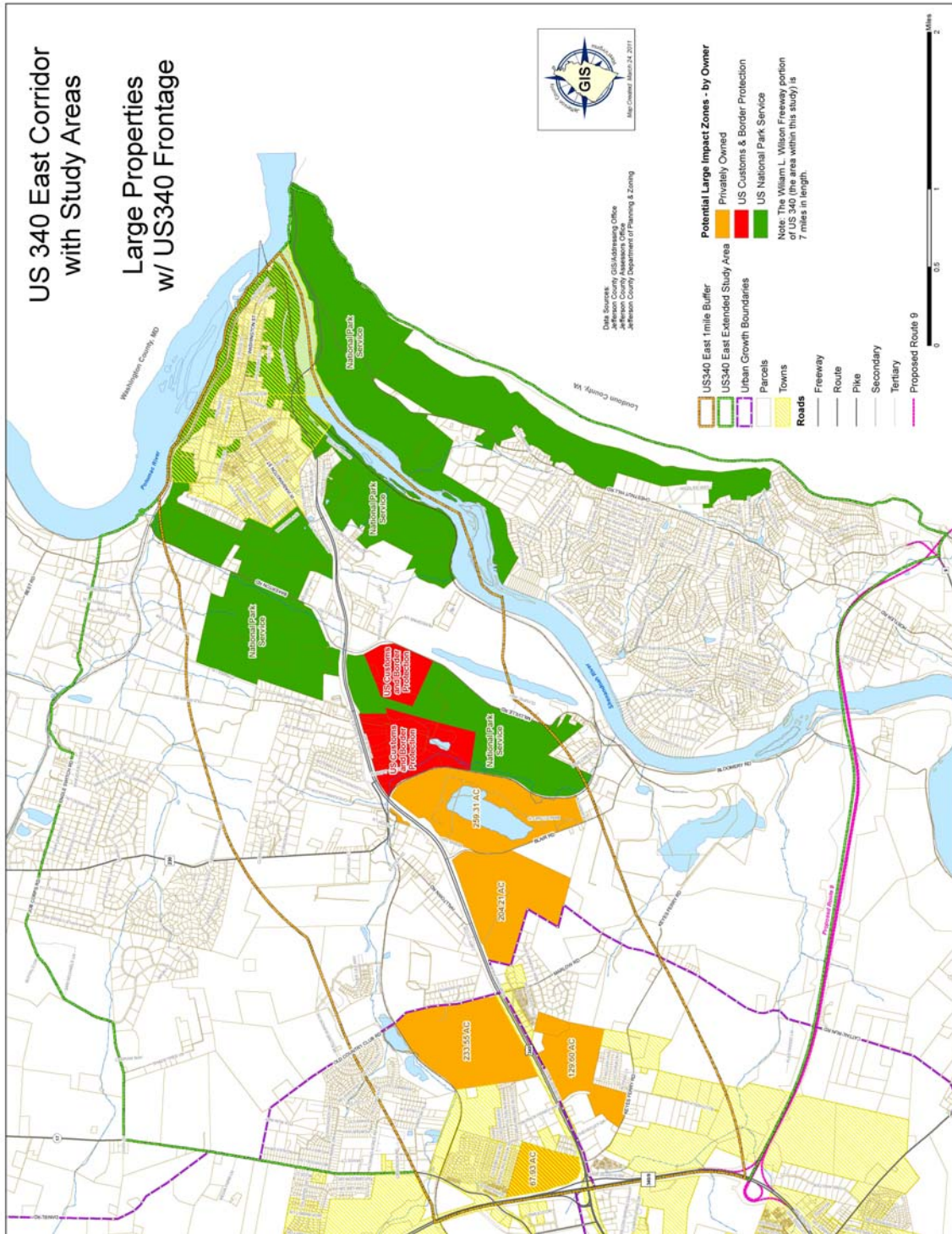
Image 5

School House Ridge and Bolivar Heights



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 Jefferson County Planning Commission Meeting
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Image 6



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Jefferson County Planning Commission Meeting
April 24, 2012

Source 1

Economic Impact of Travel on West Virginia 2000-2008 Detailed State and County Estimates
Prepared for West Virginia Division of Tourism South Charleston, West Virginia

712-01

PETITION FOR MAP AMENDMENT

Gene P. Capriotti

January 10, 2012

Owner/Applicant:

Gene P. Capriotti
P.O. Box 335
Harpers Ferry, WV 25425

Ordinance Citation:

Article 12 of the Jefferson County Zoning and Development Review Ordinance as amended on November 10, 2011. Also, the newly adopted amendment to the definitions in Article 2, Section 2.2 defines a map amendment as:

“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 is currently zoned Residential Growth and the Applicant is seeking a map amendment for the Residential/Light Industrial/Commercial District. The Applicant believes that this change is consistent and compatible with the 2004 Jefferson County Comprehensive Plan, as illustrated in this application; and,
2. There has been a significant change in the neighborhood, since the Jefferson County Zoning Ordinance was adopted in 1988 (most notably in the past 4 years), as explained in this application.

Tax District, Map and Parcel Number:

Harpers Ferry Tax District, Map 9, Parcel 58

Deed Book Reference:

Deed Book 584 at Page 587

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Sketch Plat:

Attached

Tract Size:

8.98 Acres

Discussion on:

Comprehensive Plan compatibility of the proposed change: Included.

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

A. Comprehensive Plan Compatibility

The 2004 Comprehensive Plan includes many recommendations. However, only a few address items that can be helpful when dealing with a rezoning.

These recommendations include the following:

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.”

Commentary:

Currently this property is zoned Residential Growth. As such the applicant could design a project that included many apartments, townhouses and condominiums without a commercial component to offset what is raised in this recommendation. If the property were rezoned to the ‘mixed-use’ zone, then it could develop a commercial component that would lessen the residential impact and provide services to the residential traffic created by only a housing development.

Also, due to the recent expansion of River Riders, this property would be a natural expansion to River Riders, or an opportunity to provide commercial services to the patrons of the successful business. This property contains the access to a good portion of the property owned by River Riders.

Recommendation 3.25 on Page 73:

“The County should study the US 340 corridor, including the land use, viewscape, economic development and traffic design and management in order to create an effective strategy for the long term management of this important mixed-use corridor”.

Commentary:

This study is underway with its original attempt to address economic development and traffic characteristics as the Comprehensive Plan suggests. In the implementation section of the Plan (page 106, attached), to implement Recommendation 3.25, it mandates a ‘cooperative planning effort with the WV DOT to improve the US 340 corridor.’ As the study progressed several interesting findings were presented by the Hagerstown Eastern Panhandle Metropolitan Planning Organization (HEPMPO) and the consultant working on the Route 340 East Corridor Study. First, this study did not address where the traffic on Route 340 originated or where the traffic was going. So, the question remains how much of the traffic on Route 340 is ‘pass through’ traffic versus local traffic. It should be estimated that quite a bit of the Route 340 traffic is pass through traffic, since Route 340 is a major east/west connection to Interstate 81 from the Baltimore/Washington metropolitan area. If so, there may be other alternatives to address the traffic on Route 340 in Jefferson County. These alternatives could include bypasses and improved routes outside the 340 corridor. The second remarkable item was that the Bakerton/Route 340 intersection didn’t appear to be included in HEPMPO’s prioritization of needed improvements in the Eastern Panhandle.

The applicant believes that the 340 study should identify a large portion of the 340 Corridor as key to economic development by proposing to rezone the area to as much commercial, industrial and mixed-use land as possible. This would maximize the land use in an already defined mixed-use area. This area is already indicated as the major ‘growth area’ of Jefferson County in the 2004 Comprehensive Plan. The Federal Government certainly recognized the value of the location with the ongoing construction of the massive U.S. Customs and Border Patrol operation.

Finally, this property is already surrounded by River Riders, the Old Standard Quarry and the Flea Market. All three of these properties are either zoned Residential/Light Industrial/Commercial or already approved by the State for a large commercial and office development. The Route 340 East Corridor Study should recognize this location, as the County Commission has in its recent rezoning actions.

Based on the above, the Applicant believes that this rezoning is consistent with Recommendation 3.25 in the Comprehensive Plan as it relates to the study contemplated by the County Commission in its desire to enhance economic development along this corridor.

Recommendation 4.01 on Page 78:

“It is the vision of this Comprehensive Plan that development will be concentrated within the designated growth areas”.

Commentary:

The map that shows the designated growth area is found on page 75 of the Comprehensive Plan. This map is included with this petition. The subject parcel is shown within the designated growth area on that map. On page 70 of the Comprehensive Plan, it states that the strong majority of this area is designated as the Residential Growth District and the Residential/Light Industrial/Commercial District. Page 71 goes on to say that there is a need to maximize the ‘potential for commercial development to offset the demands of residential development’ because every property developed entirely for residential use is a lost opportunity for much needed commercial development.

Since the subject property is already zoned Residential Growth and it is located within the designated growth area, the rezoning of this property to mixed use is a perfect opportunity to realize this need for commercial development. As such, this rezoning application is in perfect conformity with the 2004 Comprehensive Plan.

The applicant believes that this rezoning is very much consistent and compatible with the 2004 Jefferson County Comprehensive Plan based on the above recommendations.

B. Change of Neighborhood

The zoning designations and changes in use and intensity of uses have significantly changed the neighborhood in the very recent past. Furthermore, the availability of water and wastewater infrastructure has also changed since the original zoning ordinance was adopted in 1988.

The zoning changes and the changes in uses that have recently occurred in the area include:

1. The County Commission rezoned several properties in the immediate area of the subject property. Last year, the County rezoned the property on the north side of Route 340 in this area (Shenandoah Development) from Residential Growth to Residential/Light Industrial/Commercial for most of the same reasons found in this petition. Also, in January 2012, the County Commission rezoned the Gibson Property, which is directly across the road from this property to the 'mixed-use' zone, as well. The Gibson property almost entirely fronts the property in this petition.
2. River Riders has expanded considerably in the recent years and most recently purchased the property that shares most of the eastern property line and some of the northern property line with the Applicant's property. These properties are also already zoned Residential/Light Industrial/Commercial.
3. The Old Standard Quarry shares the entire southern boundary with the subject property. This land has recently been subdivided and effectively rezoned by the State for approximately 40 commercial/office/institutional/industrial lots.

These recent changes almost completely surround this property, which would certainly make it an appropriate candidate to share the zoning designation requested.

Another significant change of use in the neighborhood includes the ongoing development of the U.S. Customs and Border Patrol property along Route 340. The development is not only good for the County, but it is huge and there appears to be no limit to what all will be developed on that site.

There have been other changes in the neighborhood, since the adoption of the zoning ordinance, which would support the requested change from Residential Growth to the Residential/Light Industrial/Commercial District. These include the following:

1. Availability of Public Utilities:

Public Water and Wastewater facilities are now available in this neighborhood. In fact, both central utilities are already available to this subject parcel. 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'.

Also, since the property is already zoned Residential Growth, any added commercial portion to the development would lessen any school impact. Plus, since the property already has public water and sewer services, the public would have no costs regarding these utilities.

2. Growth in the Corridor:

There have been many commercial additions to this neighborhood, and the Route 340 Corridor in general, since the adoption of the zoning ordinance. These include: the addition of the Casino and table games; the Customs and Border Patrol Development; the funeral home; several landscaping business; the expansion of River Riders; the redevelopment of the Quality Inn; the Shenandoah Professional Building; Windmill Crossing including the Sheetz, Aldi and Tractor Supply Company; and the Sears Professional Building to name a few. This is proof that the Route 340 Corridor is destined to continue to provide economic growth for the County. These commercial projects, along with the also approved residential developments along this corridor is evidence that the corridor's mixed use is consistent with the Comprehensive Plan, since they have been developed under the current Plan. The subject property is a perfect fit to 'square-off' the already zoned adjacent properties for commercial or mixed-use development.

C. Change of Transportation Characteristics:

There have been significant changes in the transportation and traffic characteristics since the original zoning ordinance was adopted. The Route 340 Bridge was replaced and widened. New signals were added and lane adjustments were made at the Route 230 and Route 24 intersections with Route 340. The school bus improvements were also made at the Shipley School intersection. Also, an entire new intersection with a signal is planned for the U.S. Customs and Border Patrol access to Route 340. All of these intersection improvements have made a significant positive change to the transportation patterns for the betterment of the area:

The Harpers Ferry National Park also contributed to the improvements to traffic in the area by constructing their Parking and Bus Transportation Center near Bolivar. This facility has eliminated a lot of conflicting vehicle movements by providing a centralized mass transit operation.

The Planning Staff also announced during the Route 340 Corridor Study that a new cooperative effort between Maryland, Virginia and West Virginia has begun to address the bottleneck 'between the bridges'. Furthermore, some of the commuter traffic was already addressed when the commuter rail station and parking lot at Duffields were built sometime after the original zoning ordinance was adopted.

These improvements to the transportation network have had a positive effect on the traffic flow in the Route 340 Corridor. More needs to be done, but a traffic signal at the Bakerton/340 intersection would help the situation. It is important that the Comprehensive Plan and the HEPMPO prioritize the upgrade of this intersection.

Please note that this property is already zoned Residential Growth. As such, there should be little significant difference in traffic from this property if it is rezoned to mixed-use. A mixed-use development would have a more favorable outcome regarding traffic since some of the local residents could utilize the commercial services available if the property is rezoned.

D. Policy and Goal Statement in the Comprehensive Plan

The Comprehensive Plan contains narrative that supports the rezoning request, but it is most evident in the following policies and goals found in the Plan:

'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';

(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'; and,

(The Plan should) 'Encourage and support commercial, industrial, and agricultural activities to provide a diversified and sound local economy'.

Regarding land use policy, the Growth Area Map appears to be the only land use policy map in the Comprehensive Plan. Therefore, this map should be the biggest key in making the decision to rezone the subject property.

E. Conclusion:

The Applicant is requesting that the County Commission approve a map amendment to the Jefferson County Zoning Map. The 2004 Comprehensive Plan; the recent actions of the County Commission regarding rezoning in this area and adjacent to the site; and, the changes in the neighborhood from when the original zoning ordinance was adopted, all support the requested map amendment. This map amendment will change the zoning classification on the applicant's property from the Residential Growth District to the Residential/Light Industrial/Commercial District.

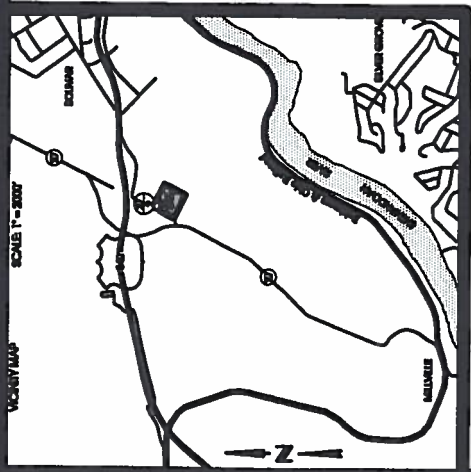


Gene P. Capriotti

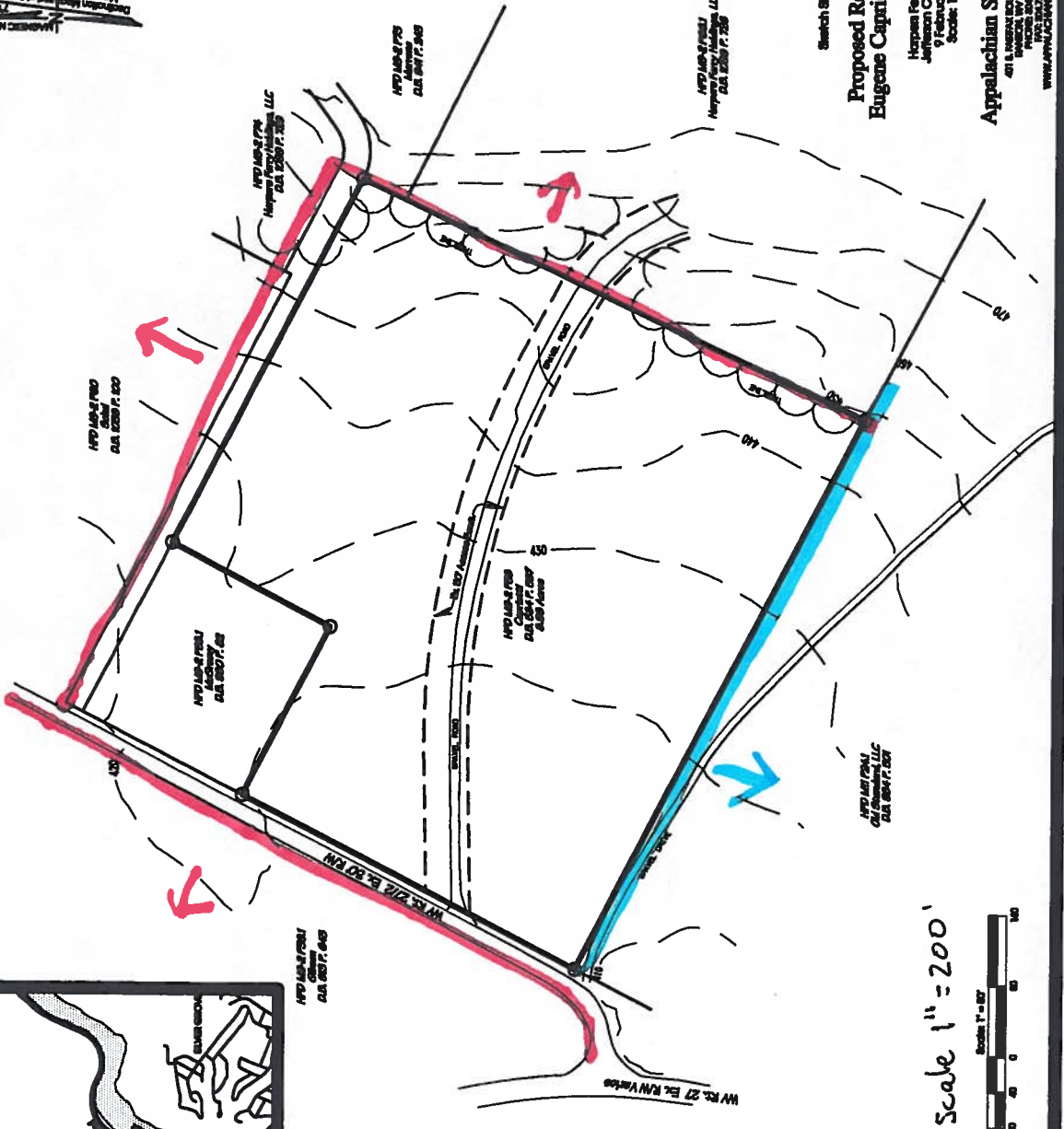
17 Feb 2012

Date

Z12-01



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(Reduced) Scale 1" = 200'



Residential / Light Industrial / Commercial District
 Old Standard Quarry (Approved State Commercial (Industrial 1))

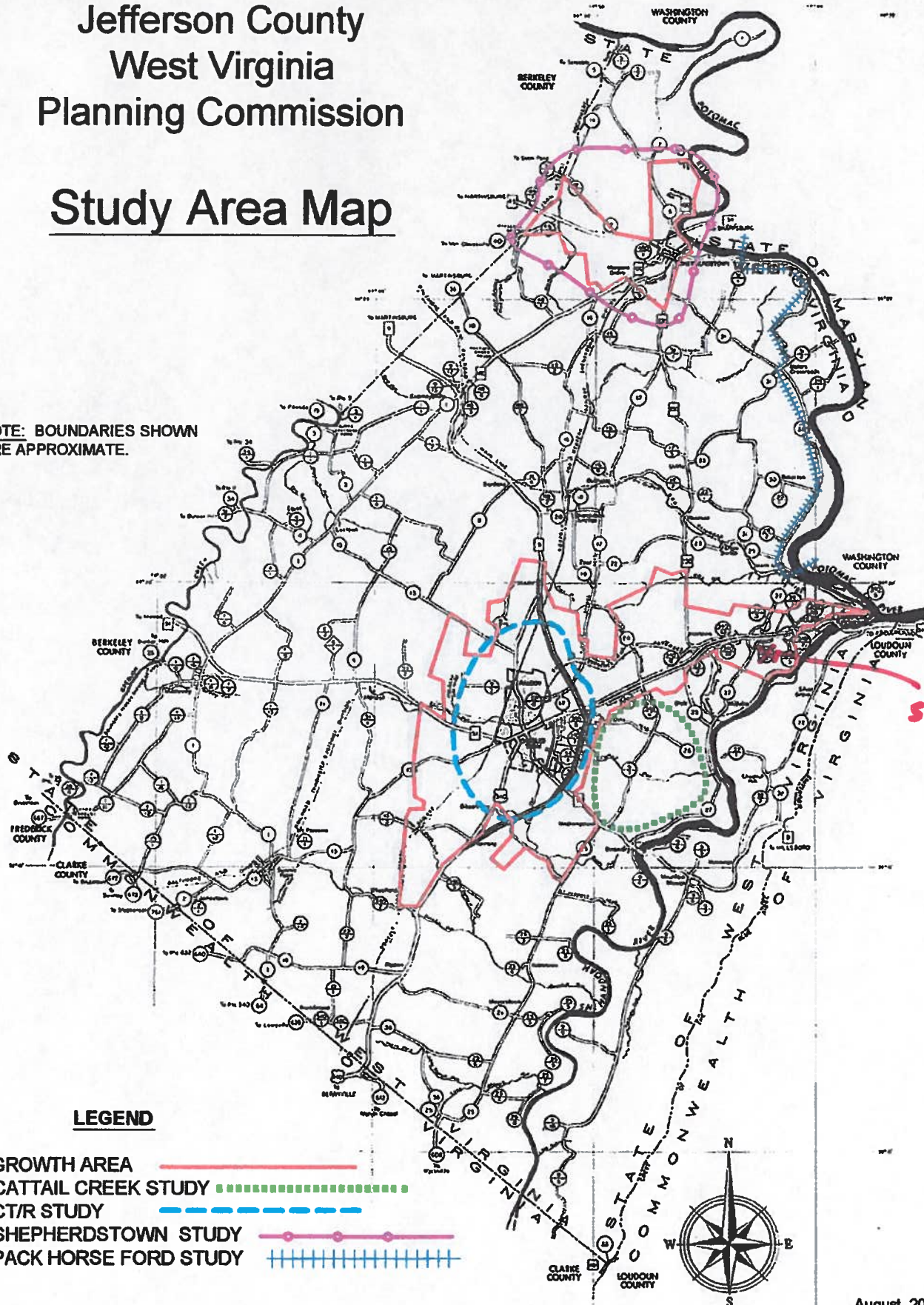
Sketch Showing
 Proposed Rezoning of
 Eugene Capriotti Property

Hopson Perry District
 James A. Ray Parkway
 9 February 2012
 Scale 1" = 200'

Appalachian Surveys, PLLC
 401 S. WASHINGTON BLVD., SUITE 200
 CHARLOTTE, NC 28202
 PH: 704.333.2270
 WWW.APPALSURVEYS.COM

Jefferson County West Virginia Planning Commission Study Area Map

NOTE: BOUNDARIES SHOWN
ARE APPROXIMATE.

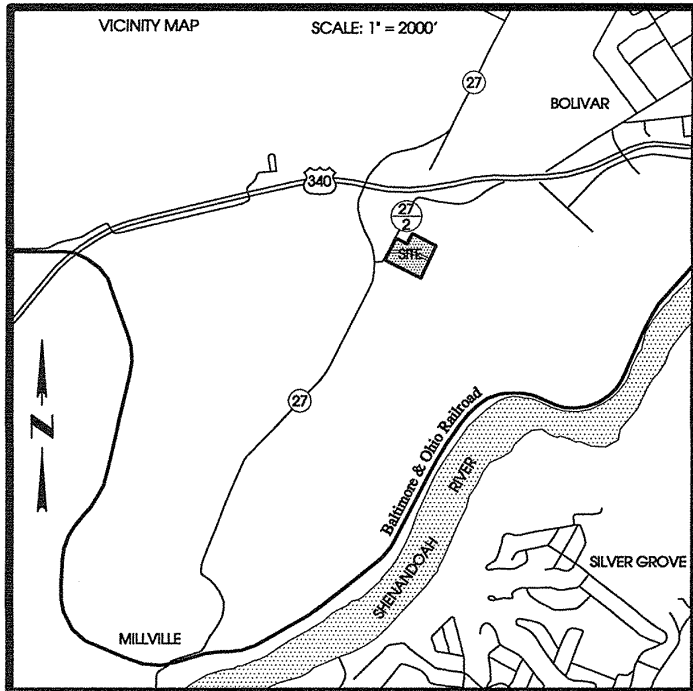


LEGEND

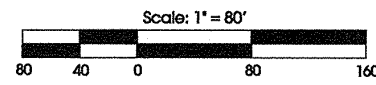
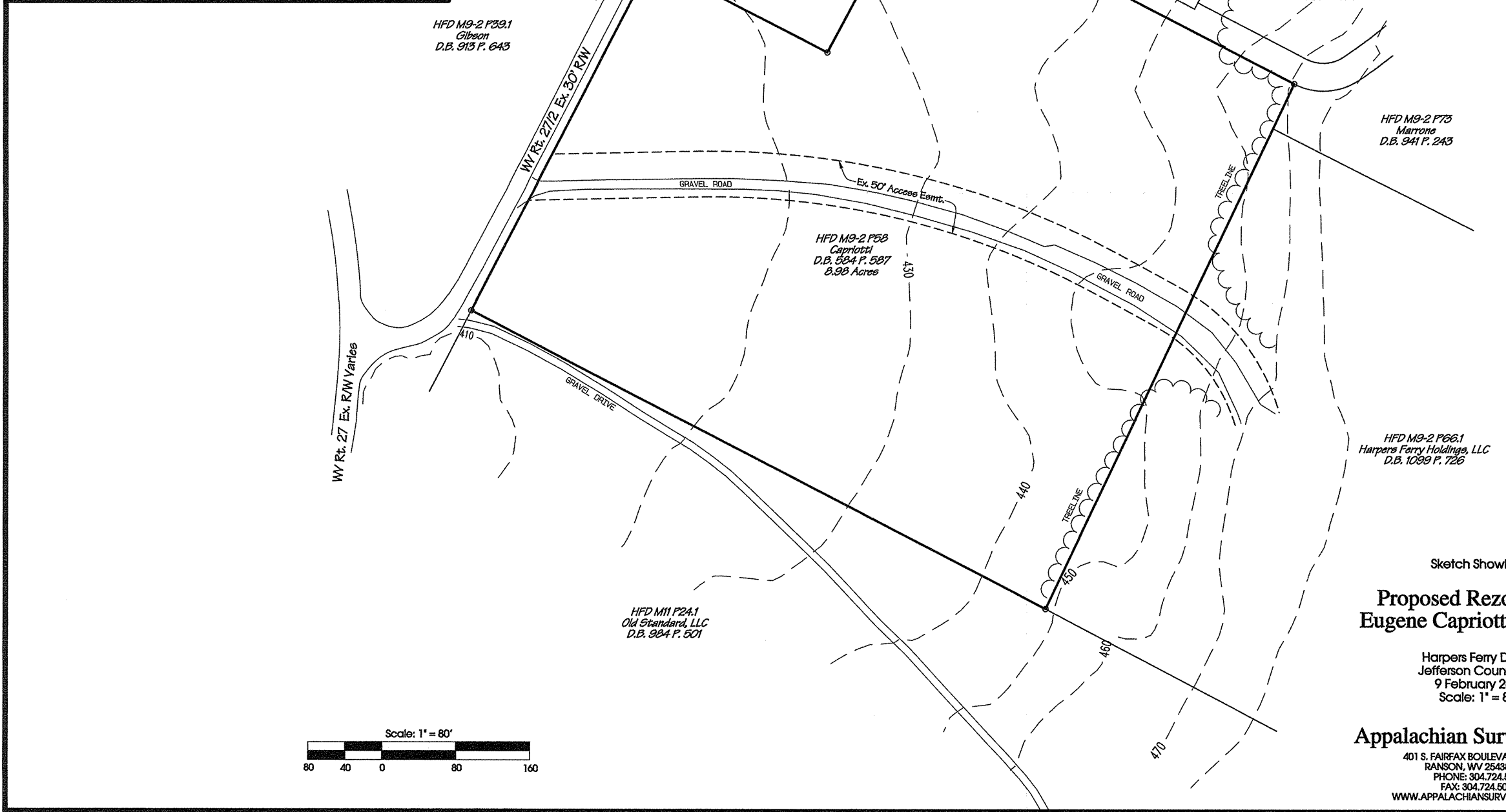
1. GROWTH AREA —————
2. CATTAIL CREEK STUDY
3. CT/R STUDY - - - - -
4. SHEPHERDSTOWN STUDY —●—●—●—
5. PACK HORSE FORD STUDY | | | | |

August, 2003
NOT TO SCALE

712-01



1 MAGNETIC NORTH
73°00'
Declination Measured at Ranson, WV
Magnetic Station In June 1979.



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Sketch Showing
**Proposed Rezoning of
Eugene Capriotti Property**


Harpers Ferry District
Jefferson County, WV
9 February 2012
Scale: 1" = 80'

Appalachian Surveys, PLLC

401 S. FAIRFAX BOULEVARD, SUITE 3
RANSON, WV 25438-1611
PHONE: 304.724.5008
FAX: 304.724.5010
WWW.APPALACHIANSURVEYSPLLC.COM

Z12-01

From: Alex at River Riders
To: planningdepartment@jeffersoncountywv.org
Date: Wednesday, April 18, 2012 12:38:53 PM
Subject: RE: Re-zoning of Gene Capriotti's Property

 [Letter to Planning Commission.doc](#)

To Whom It May Concern:

This is in reference to the re-zoning of Map 9-2 and Parcel 58 on Alstadts Hill Road in Harpers Ferry. Please take this letter into consideration when making a decision.

Thank you,

Matt Knott
Harpers Ferry Holdings

Jefferson County Commission
Department of Planning
P.O. Box 338
Charles Town, WV 25414

RE: Gene Capriotti Re-zoning Map 9-2 Parcel 58

April 18, 2012

As an adjoining landowner, we support the rezoning of Gene Capriotti's property on Alstadts Hill Road to mixed use residential/commercial/light industrial zoning. Mixed Use Zoning is similar to the zoning category of adjacent properties.

Thank you.

Sincerely,

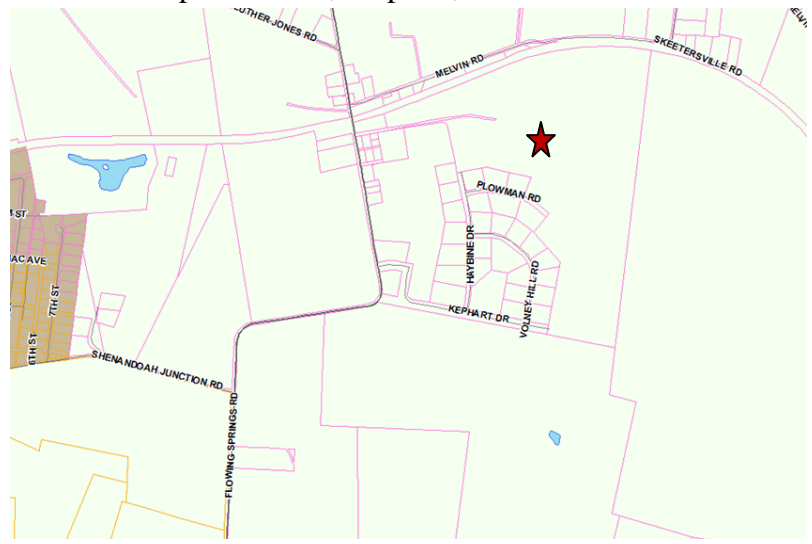
Matt Knott, Manager
Harpers Ferry Holdings

STAFF REPORT

Jefferson County Planning Commission Meeting

April 24, 2012

Item #6 Final Plat Public Hearing for the Harvest Hills Subdivision, Phase 2, Section 2
(PC File #12-02).

OWNER:	Arcadia Development Co.
DEVELOPER:	Same
SURVEYOR/ENGINEER:	Greenway Engineering, Inc.
PROPERTY LOCATION:	This property is located east side of Route 17 (Flowing Springs Road) and the south side of the CSX Railroad where the two intersect.
LEGAL DESCRIPTION:	<p>District: Shepherdstown, Map: 24, Parcels: 12 and 13.</p> 
ZONING DISTRICT:	Zoning Map Designation: Rural
SURROUNDING PROPERTIES:	<p>Zoning Map Designation:</p> <p>North: Rural South: Rural</p> <p>East: Rural West: Rural</p>
LOT AREA:	326.067 acres
PROPOSED ACTIVITY:	22 single-family lots on 8.8428 acres.
DEVELOPMENT HISTORY:	<p><u>Harvest Hills Subdivision (PC File # 12-02)</u></p> <ul style="list-style-type: none"> • March 26, 2010 – Enactment of SB 595 extended the time to hold a public hearing on the Final Plat of the next phase by July 1, 2012. • February 24, 2009 – Variance to extend the time to bond and record to February 25, 2010. • November 25, 2008 – Harvest Hills Subdivision, Phase II, Section 1 was approved by the Planning Commission. • February 16, 2007 – Staff Review Meeting for Preliminary Plat. <p style="text-align: center;"><i>(continued on next page)</i></p>

STAFF REPORT

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	<ul style="list-style-type: none">• September 12, 2006 – Harvest Hills Subdivision, Section 1, Phase 1, Lots 28-50 was approved by the Planning Commission• January 13, 2004 – The Planning Commission reinstated the CUP/CIS with extended deadlines of 567 days with a new expiration date of July 13, 2005.• January 8, 2002 – CIS accepted by the Planning Commission.• May 22, 2001 – CUP approved by the Planning Commission with conditions.
FINAL PLAT	Submitted: 03/5/12 Public Hearing Scheduled: 4/24/12 60-Day Provision Ends: 05/04/12

The Request:

Harvest Hills is located on the east side of Flowing Springs Road and south of railroad tracks near Duffields. Since this subdivision started before the 2008 Subdivision Regulations were adopted, the subdivision is being reviewed under the 1979 Subdivision Regulations. This is the 3rd plat, known as Phase II, Section 2, for Harvest Hills. The applicant is seeking Final Plat approval for 22 lots and a residue on 8.8428 acres.

Background:

The previously approved phase, Phase II, Section 1 has a tolling agreement. A tolling agreement gives an applicant the opportunity to have the bond released for up to 4 years on the development if the applicant provides the County with a merger deed of the recorded lots and a \$10,000 bond. The merger deed is only acted on if the applicant does not repost the bond after 4 years. As it pertains to Harvest Hills, the applicant has only tolled one section of their development, not the whole development. Tolling can only be done if there is an approved Final Plat recorded and no construction has been initiated and no lots have been sold. Since most developments are constructed and built in phases, each separate phase needs to be tolled separately.

All developments under the 1979 Subdivision Regulations are required to have Final Plat approval every 2 years for the Community Impact Statement (CIS) to remain valid and, by extension, for the development itself to retain its vested rights. In 2010, state law was changed to allow all time frames to be extended until July 1, 2012. The applicant is meeting that time requirement by submitting a Final Plat for approval prior to that date.

In this instance, the proposed phase is dependent upon the section under the tolling agreement for road access to the lots. The applicant and Staff have come up with an arrangement to address this situation. The applicant will agree that no construction and no sale of lots to outside entities will occur, in this phase before the Planning Commission, and a merger deed will be submitted to the Engineering Department. The merger deed will be held in case the applicant defaults on both this phase and the previous phase. This will ensure that this phase, if approved by the Planning Commission, will not be

STAFF REPORT

Jefferson County Planning Commission Meeting

April 24, 2012

constructed and no lots can be sold, since there is no road and other infrastructure to this phase. The applicant is proposing, if this Final Plat is approved, to enter into a tolling agreement for this phase. Since a tolling agreement can only be completed once the lots are recorded, hence after approval, these conditions do provide a level of protection that the lots will not be sold without the appropriate infrastructure in place.

Noted below are a few additional outstanding conditions that do need to be addressed. Staff believes the outstanding conditions can be handled administratively.

Recommendation:

With the exception of the noted conditions, the Final Plat complies with the approved Conditional Use Permit, Community Impact Statement and Preliminary Plat. Staff recommends approval with the conditions to be addressed.

Approval with following conditions:

1. In this phase, no construction and no sale of lots to outside entities prior to the posting of the bond for Phase II, Section 1, as well as this phase.
2. A merger deed will be submitted to the Engineering Department for the lots being final plated.
 - a. If the applicant defaults on the tolling agreement, than the lots will be merged.
 - b. This phase and the previous phase will be merged if there is a default.
3. Provide a copy of the DOH entrance permits
4. List the requirements of the Conditional Use Permit on the Final Plat cover sheet.

If Final Plat is approved by the Planning Commission, the applicant shall have 90 days from time of approval to bond and record the Final Plat.

Per the 1979 Subdivision Regulations, the following details the Planning Commission responsibility for a Final Plat Public Hearing.

FINAL PLAT PUBLIC HEARING held before the Planning Commission during a regular meeting. New or revised information not previously considered at the Community Impact Evaluation stage is solicited from the public. The Planning Commission, after considering public comment, all previous information and comment, the provisions of this Ordinance, and the provisions of Section 8-24-30 of the West Virginia Code, approves, approves with conditions or disapproves the subdivision proposal and Final Plat.

The Planning Commission shall approve, approve with conditions, or disapprove a subdivision proposal and Final Plat within 60 days from the day the final plat and support material are submitted to the Planning Commission office. Failure to take action within the 60 day period shall result in final plat approval, unless a waiver of the 60 day period is granted to the Planning Commission by the subdivider.

Engineering Report

**Planning Commission Meeting
04/24/2012**

**Harvest Hill
Final Plat Approval**

Request:

Arcadia Development Co. is requesting approval of a final plat for the Harvest Hills Subdivision; Jefferson County file number 12-01.

Findings:

The final plat appears to meet the JEFFERSON COUNTY SUBDIVISION ORDINANCE (1979).

Conclusion:

The County Engineer recommends approval of the final plat.

Arcadia Communities, Inc.

Mail: P.O. Box 1800, Leesburg, VA 20177
Delivery: 1602 Village Market Blvd, Suite 360, Leesburg, VA 20175

April 20, 2012

Jefferson County, West Virginia
Department of Planning & Zoning
116 E. Washington Street
P.O. Box 338
Charles Town, WV 25414

Attention: Jennifer M. Brockman, AICP

Reference: Harvest Hills Subdivision Section 2 - Phase 2
Final Plat Public Hearing April 24, 2012

Dear Ms. Brockman:

I would like to thank you for your time Monday to discuss the County staff's concerns with the current final plat submission for Harvest Hills Section 2 - Phase 2. In summary the concern of the County staff is Harvest Hills PH 2, Sec. 1 performance bond is currently tolled under the County's bonding policy and should the Developer, Arcadia Development Co., not satisfy the conditions of the agreement, the access to Harvest Hills Section 2 - Phase 2 could be merged into the parent tract as allowed under the tolling provision thereby eliminating the proposed access to Harvest Hills Section 2 - Phase 2. As discussed in the meeting Arcadia, will voluntarily submit to the following conditions should our final plat be approved by the Planning Commission on Tuesday, April 24, 2012. The conditions discussed are as follows:

- 1.) Construction of the improvements will not commence until such time as the New Infrastructure Bond for Harvest Hills PH 2, Sec. 1 is reposted and in full force and effect. Agricultural use of the property may continue.
- 2.) Sale of lots or property which is a part of the final subdivision for Harvest Hills Section 2 - Phase 2 will not occur until the New Infrastructure Bond for Harvest Hills PH 2, Sec. 1 is reposted, except a transfer of the property to a subsidiary of the current owner may occur.
- 3.) A deed of merger, merging the proposed subdivision back to the parent tract, will be submitted to the Engineering Department prior to recordation of the Final Subdivision plat for Harvest Hills Section 2 - Phase 2, along with an agreement stating the conditions under which the County may record the merger deed.

Thank you again for staff's time in discussing Harvest Hills with me. Arcadia's legal council will be drafting and submitting a contract for the conditions mentioned above should the Harvest Hills Section 2 - Phase 2 Final Plat be approved by the Planning Commission at the upcoming hearing on Tuesday evening. Please contact me should you have questions or need for additional information.

Sincerely,

ARCADIA DEVELOPMENT CO.



Carla E. Coffey
Director of Land Development

cc: Peter L. Chakmakian
Rebecca Burns - Jefferson County, Department of Engineering
Seth Rivard - Jefferson County, Department of Planning & Zoning
Amy Puetz - Jefferson County, Department of Planning & Zoning
Stephanie Grove - Jefferson County, Prosecuting Attorney's Office

NOTES

- NO TITLE REPORT FURNISHED.
- BOUNDARY INFORMATION IS BASED ON A CURRENT FIELD SURVEY BY GREENWAY ENGINEERING, COMPLETED IN MAY 2005 AND CURRENT DEEDS AND PLATS OF RECORD.
- ALL CORNERS ARE 5/8" IRON REBAR SET W/ CAP UNLESS OTHERWISE NOTED.
- CURRENT OWNER OF RECORD: ARCADIA DEVELOPMENT CO.; DEED BOOK 985, PAGE 363 PLAT RECORDED IN PLAT BOOK 22 ON PAGE 00002A. TAX MAP 9-24 - PARCEL 12.
- THIS PROJECT MEETS THE JEFFERSON COUNTY FLOODPLAIN ORDINANCE. DETERMINED BY GRAPHIC PLOTTING ONLY, THE PROPERTY SHOWN HEREON LIES IN ZONES "A" & "C" AS SHOWN ON F.I.R.M. COMMUNITY PANEL #540065 0035C, DATED AUGUST 2, 1993. BASED ON THIS INFORMATION, A PORTION OF THIS PROPERTY IS LOCATED IN A SPECIAL HAZARD AREA; APPROXIMATE LOCATION SHOWN HEREON, WITH A PORTION LYING WITHIN LOT A AND B OF THIS SECTION. ALL CONSTRUCTION WORK IN THE FLOODPLAIN SHALL BE COVERED BY ALL APPLICABLE FEDERAL, STATE AND LOCAL PERMITS (E.G. ARMY CORPS OF ENGINEERS, PUBLIC LANDS, JEFFERSON COUNTY IMPROVEMENT LOCATION PERMITS, ETC.) BEFORE WORK IN THE FLOODPLAIN SHALL COMMENCE.
- JEFFERSON COUNTY PUBLIC SERVICE DISTRICT IS THE PROVIDER OF PUBLIC SEWER SERVICE. JEFFERSON UTILITIES, INC. IS THE PROVIDER OF PUBLIC WATER SERVICE.
- CONDITIONS OF PLANNING COMMISSION APPROVAL: EACH PARCEL SHOWN ON THIS PLAT SHALL BE RESTRICTED TO SINGLE FAMILY RESIDENCE UNLESS OTHERWISE APPROVED BY THE PLANNING COMMISSION IN CONFORMANCE WITH THE PREVAILING COUNTY LAND DEVELOPMENT LAWS.
- A BLANKET EASEMENT SHALL BE GIVEN TO THE APPROPRIATE PSD IN ALL SUBDIVISION RIGHTS-OF-WAY FOR THE PURPOSE OF CONSTRUCTING WATER, SEWER, OR OTHER UTILITY LINES AND FACILITIES.
- ALL SANITARY SEWER EASEMENTS SHOWN HEREON SHALL BE DEDICATED TO THE JEFFERSON COUNTY PUBLIC SERVICE DISTRICT.
- ALL STORM SEWER AND DRAINAGE EASEMENTS AS WELL AS ALL STORM WATER MANAGEMENT AREAS SHOWN HEREON SHALL BE DEDICATED TO THE HOME OWNER'S ASSOCIATION.
- BUILDING SETBACK LIMITS: 25' FRONT, 12' SIDE, 20' REAR. DETACHED ACCESSORY STRUCTURES UNDER 144 S.F. IN SIZE SHALL HAVE A 6' SETBACK LIMIT. ATTACHMENTS TO UNIT MAY NOT PROJECT INTO REQUIRED YARDS MORE THAN 4' WITH 10' MAXIMUM LENGTH, EXCEPT AS PROVIDED FOR IN THE EXCEPTIONS WITHIN ARTICLE 9 OF THE JEFFERSON COUNTY ZONING ORDINANCE.
- A COMMON INTEREST OWNERSHIP AGREEMENT MUST BE ESTABLISHED TO PROVIDE FOR THE MAINTENANCE OF COMMONLY-OWNED LAND, INCLUDING, BUT NOT LIMITED TO THE PRIVATE ROAD SYSTEM WITHIN THE SUBDIVISION. THIS COMMON INTEREST OWNERSHIP AGREEMENT MUST BE DEVELOPED IN ACCORDANCE WITH THE UNIFORM COMMON INTEREST OWNERSHIP ACT OF WEST VIRGINIA.
- STORM WATER MANAGEMENT AREAS SHALL BE RESTRICTED TO STORM WATER MANAGEMENT ONLY.
- A HOMEOWNER'S ASSOCIATION MUST BE ESTABLISHED WITHOUT DELAY AS SOON AS 50% OF PROPERTIES ARE SOLD. MEMBERSHIP IN THE ASSOCIATION IS MANDATORY FOR ALL PROPERTY OWNERS WITHIN THE SUBDIVISION. ALL DEVELOPERS SHALL DEDICATE ALL COMMON LANDS (SWM BASIN, ROADS, RIGHT OF WAYS, ETC.) TO THE HOMEOWNER'S ASSOCIATION.
- UPON FORMING A HOMEOWNER'S ASSOCIATION, THE ASSOCIATION SHALL PETITION THE COUNTY COMMISSION TO ADOPT A LEASH LAW.
- ALL PROPOSED EASEMENTS ARE SHOWN HEREON AND NO FUTURE EASEMENTS WILL BE REQUIRED FOR THIS SECTION, THEREFORE, NONE HAVE BEEN SHOWN.
- THIS SITE DOES NOT FALL UNDER THE HILLSIDE DEVELOPMENT REGULATIONS.
- THE FOLLOWING ARE THE PERMIT NUMBERS FOR THE SITE:

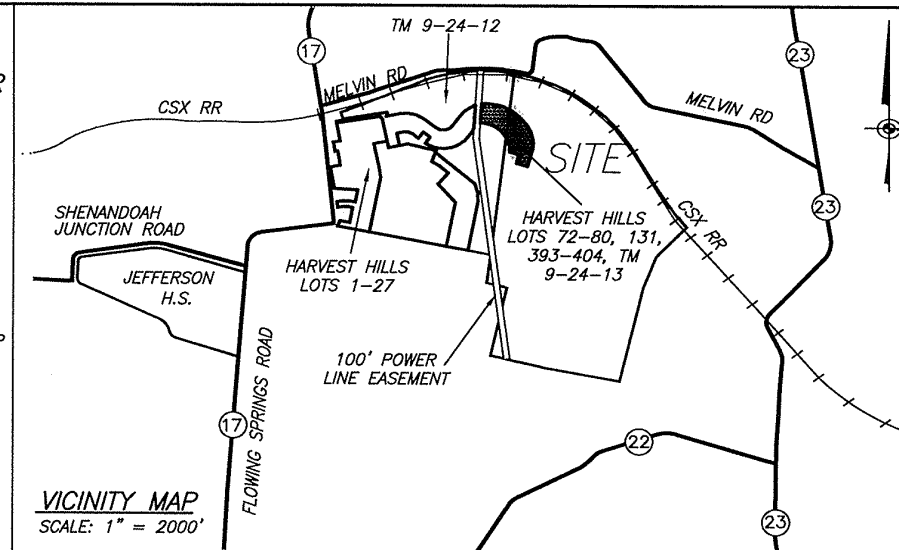
HEALTH DEPARTMENT WATER PERMIT: 17,598	HEALTH DEPARTMENT SEWER PERMIT: 17,597
HEALTH DEPARTMENT SEWER ADDENDUM: 17,781	
WV DOH DISTRICT 5 ENTRANCE PERMIT: ORIGINAL PERMIT #5-99-0397 ADDENDUM DATED NOVEMBER 1, 2007	
BRASS HARNESS ENTRANCE #5-07-1083 DATED NOVEMBER 1, 2007 APPROVED NOVEMBER 6, 2007	
SWEETBRIAR ROAD ENTRANCE #5-07-1082 DATED NOVEMBER 1, 2007 APPROVED NOVEMBER 6, 2007	
- SCHOOL BUS SHELTER, MAIL BOX CLUSTER AND ENTRANCE SIGNS NEED NOT BE BUILT. THE SCHOOL BUS SHELTER AND MAIL BOX CLUSTER HAVE BEEN DEDICATED IN A PREVIOUS SECTION. THE GENERAL LOCATION OF SAID SCHOOL BUS SHELTER AND MAILBOX CLUSTER ARE SHOWN ON SHEET 6 OF 8 OF THE PLAT OF CORRECTION AND MERGER PLAT OF HARVEST HILLS SUBDIVISION SECTION 1 - PHASE 1 (LOTS A, B, AND 28-50) RECORDED IN PLAT BOOK 25 ON PAGE 70.
- A MODEL HOME CAN ONLY BE BUILT ON THE FIRST LOTS LOCATED AT THE INTERSECTION OF A PUBLIC ROAD.
- ALL DRIVEWAY CULVERTS TO BE 15" ROUND CMP OR EQUIVALENT ARCH CMP.
- A VARIANCE WAS APPROVED FOR THIS PROJECT BY THE JEFFERSON COUNTY PLANNING COMMISSION ON JULY 25, 2006, ALLOWING ALL LOTS TO BE SERVED BY INDIVIDUAL MAILBOXES INSTEAD OF A CLUSTER MAILBOX.
- SEE SHEET 4 FOR COPY OF THE CONDITIONAL USE PERMIT FOR THIS PROJECT.
- ALL LOTS TO BE ACCESSED BY INTERIOR ROADS ONLY.
- NO WETLANDS ARE LOCATED WITHIN THIS PHASE.
- ALL POTENTIAL HOME BUYERS SHALL BE ADVISED BY THE DEVELOPER/BUILDER/REAL ESTATE AGENT OF THE INTENSE TRAIN TRAFFIC ADJACENT TO THE PROPERTY.
- ALL POTENTIAL HOME BUYERS SHALL BE ADVISED BY THE DEVELOPER/BUILDER/REAL ESTATE AGENT OF THE VARIOUS SMELLS AND NOISES ASSOCIATED WITH FARMING ACTIVITIES ADJACENT TO THE PROPERTY AND THAT THESE FARMERS RETAIN THE "RIGHT TO FARM" THEIR PROPERTY AFTER CONSTRUCTION OF EACH INDIVIDUAL HOME AND FULL BUILDOUT OF THE SUBDIVISION.
- NO SETBACK VIOLATIONS HAVE BEEN CREATED BY THIS PLAT.

OWNER / DEVELOPER

ARCADIA DEVELOPMENT CO.
P.O. BOX 1800
LEESBURG, VA 20177
(703) 840-4560

LEGEND

- IRF = 5/8" IRON REBAR FOUND W/CAP
- o = 5/8" IRON REBAR & CAP SET UNLESS OTHERWISE NOTED
- = CONCRETE MONUMENT SET
- CL = CENTER LINE OF ROAD
- BRL = BUILDING RESTRICTION LINE



VICINITY MAP
SCALE: 1" = 2000'

NOTE

THE FINAL PLAT OF PHASE II, SECTION 1 OF HARVEST HILLS SUBDIVISION BY WILLIAM H. GORDON AND ASSOCIATES, INC. DATED JUNE 30, 2008 AND RECORDED IN P.B. 25 AT P.G. 198 SHOWS A TOTAL RESIDUAL AREA OF 68.4475 ACRES. THIS AREA INCLUDES RESIDUAL PORTIONS OF 9-24A-16 & 9-24A-17 AS WELL AS THE RESIDUAL PORTION OF 9-24-12. PARCELS 9-24A-16 & 9-24A-17 WERE NOT MERGED INTO THE RESIDUAL OF 9-24-12, HOWEVER THEIR ACREAGE WAS NOT CALLED OUT SEPARATELY, NOR WAS THE RESIDUAL PORTIONS OF SAID PARCELS SHOWN GRAPHICALLY ON THE FINAL PLAT NOTED ABOVE.

TOTAL ACREAGE SUMMARY

ORIGINAL (9-24-12) = 68.4468 ACRES
- SUBDIVIDED PORTION OF (9-24-12) = 3.7213 ACRES
OPEN SPACE 1 OF (9-24-12) = 33.5781 ACRES
OPEN SPACE 2 OF (9-24-12) = 29.7000 ACRES
PORTION OF (9-24-12) ACROSS R.R. = 0.6718 ACRES
PORTION OF (9-24-12) FUTURE DEVELOPMENT (9-24A-16) = 0.0486 ACRES
(9-24A-17) = 0.5986 ACRES
+ (9-24A-17) = 0.1314 ACRES
TOTAL RESIDUE/OPEN SPACE (9-24-12) = 64.7285 ACRES

TOTAL SUBDIVIDED AREA = 8.8428 ACRES

ORIGINAL (9-24-13) = 257.6202 ACRES
- SUBDIVIDED PORTION OF (9-24-13) = 5.1215 ACRES
TOTAL RESIDUE OF (9-24-13) = 252.4987 ACRES

SUBDIVISION ACREAGE SUMMARY

RIGHT OF WAY = 1.8443 ACRES
RESIDENTIAL LOTS = 6.9985 ACRES
TOTAL = 8.8428 ACRES

LOT SUMMARY
22 RESIDENTIAL LOTS

MINIMUM SETBACK REQUIREMENTS

(UNLESS OTHERWISE NOTED)
FRONT - 25'
REAR - 20'
SIDE - 12'

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE LAND CONTAINED IN THIS SUBDIVISION IS PART OF THE LAND CONVEYED TO ARCADIA DEVELOPMENT CO. BY A DEED DATED FEBRUARY 12, 2004 AND RECORDED IN DEED BOOK 985 AT PAGE 363 AMONG THE LAND RECORDS OF JEFFERSON COUNTY, WEST VIRGINIA. I FURTHER CERTIFY THAT THE PERIMETER AND ALL LOT BOUNDARIES HAVE BEEN ESTABLISHED BY A NETWORK OF STATIC GPS AND TRAVERSE CONTROL HAVING A RELATIVE ERROR OF 1:7,500 OR BETTER AND ARE REFERENCED TO THE WEST VIRGINIA COORDINATE SYSTEM OF 1983, NORTH ZONE. I CERTIFY THAT ALL MONUMENTS REQUIRED BY THE JEFFERSON COUNTY SUBDIVISION ORDINANCE AND THE STATE OF WEST VIRGINIA, AND SHOWN ON THIS PLAT, ARE IN PLACE OR WILL BE PLACED, AND THAT THIS PLAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, MEETS THE UNIFORM COMMON INTEREST OWNERSHIP ACT AS STATED IN §36B-2-109 OF THE WEST VIRGINIA CODE AND ALL OTHER REQUIREMENTS WITH RESPECT TO PLATTING.

Andrew M. Martin
ANDREW M. MARTIN, P.S.

STATEMENT OF ACCEPTANCE

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

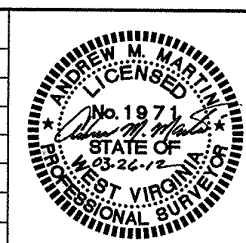
PRESIDENT, ARCADIA DEVELOPMENT CO.
P.O. BOX 1800
LEESBURG, VA 20177
(703) 840-4560

Review Print
Return to Jefferson County
Office of Planning
Zoning & Engineering

APPROVALS

JCPC APPROVAL	DATE
JEFFERSON COUNTY DEPARTMENT OF PLANNING, ZONING, AND ENGINEERING.	

DATE	REVISION
02-23-12	ARCADIA COMMENTS
03-26-12	COUNTY COMMENTS



RECEIVED
APR 30 2012
PLANNING, ZONING AND ENGINEERING

GREENWAY ENGINEERING, INC.

151 Windy Hill Lane
Winchester, Virginia 22602

Telephone 540-662-4185
FAX 540-722-9528
www.greenwayeng.com

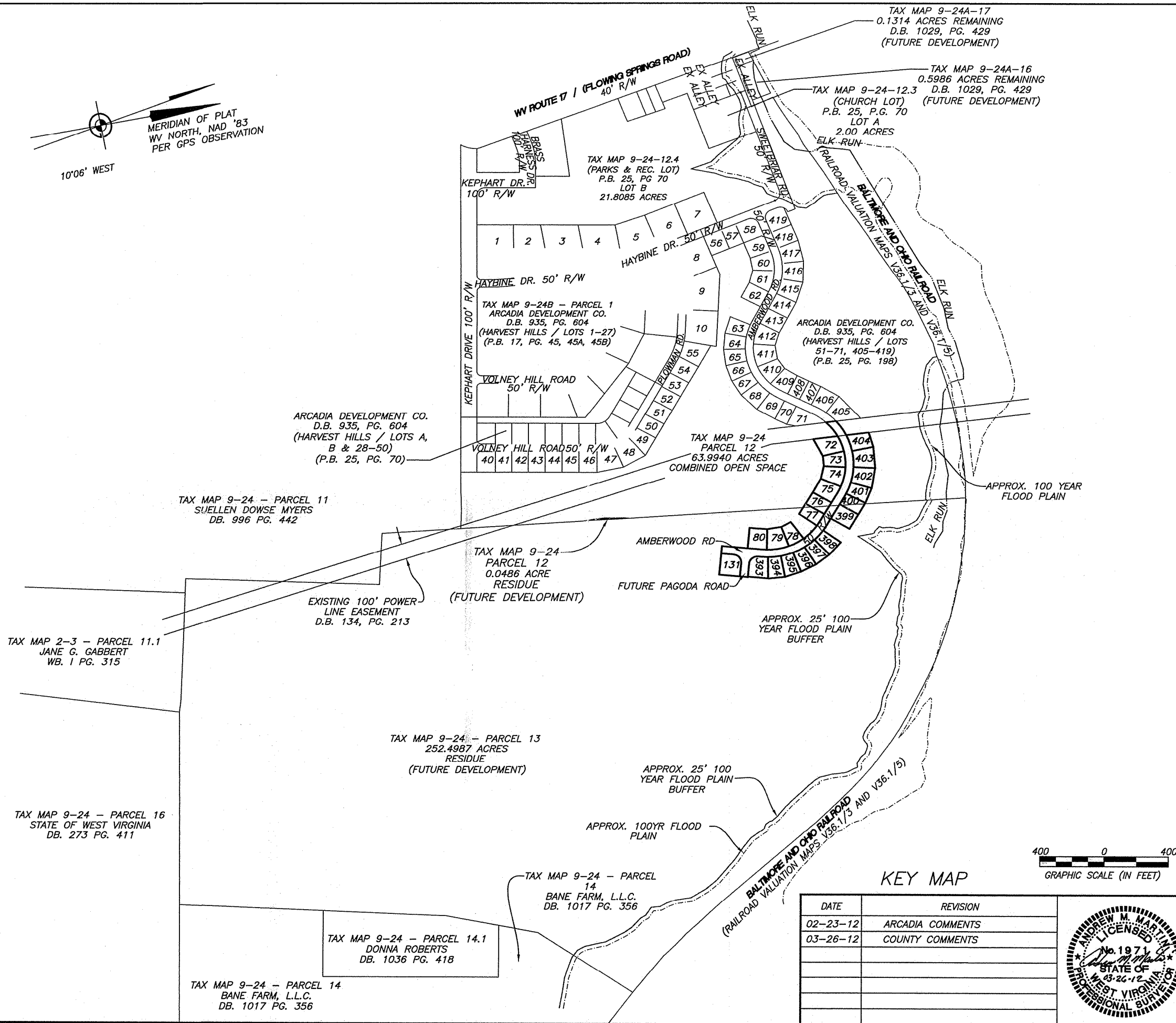
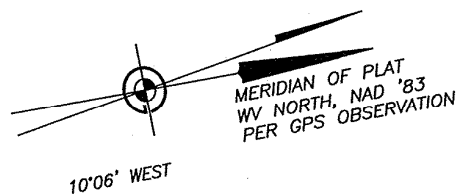


HARVEST HILLS SUBDIVISION
SECTION 2 - PHASE 2

TAX MAP 9-24 - PARCEL 12 & 13 - DEED BOOK 985 PAGE 363
SHEPHERSTOWN DISTRICT, JEFFERSON COUNTY WEST VIRGINIA

#2 REVIEW PRINT

#12-02



TAX MAP 2-3 - PARCEL 11.1
JANE G. GABBERT
WB. 1 PG. 315

TAX MAP 9-24 - PARCEL 16
STATE OF WEST VIRGINIA
DB. 273 PG. 411

TAX MAP 9-24 - PARCEL 11
SUELLEN DOWSE MYERS
DB. 996 PG. 442

EXISTING 100' POWER
LINE EASEMENT
D.B. 134, PG. 213

TAX MAP 9-24 - PARCEL 13
252.4987 ACRES
RESIDUE
(FUTURE DEVELOPMENT)

TAX MAP 9-24
PARCEL 12
0.0486 ACRE
RESIDUE
(FUTURE DEVELOPMENT)

TAX MAP 9-24 - PARCEL
14
BANE FARM, L.L.C.
DB. 1017 PG. 356

TAX MAP 9-24 - PARCEL 14.1
DONNA ROBERTS
DB. 1036 PG. 418

TAX MAP 9-24 - PARCEL 14
BANE FARM, L.L.C.
DB. 1017 PG. 356

APPROX. 100YR FLOOD
PLAIN

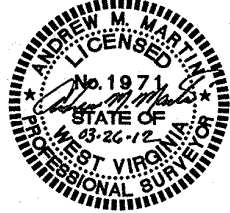
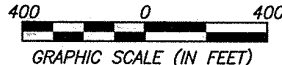
APPROX. 25' 100
YEAR FLOOD PLAIN
BUFFER

APPROX. 25' 100
YEAR FLOOD PLAIN
BUFFER

APPROX. 100 YEAR
FLOOD PLAIN

KEY MAP

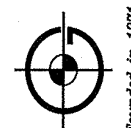
DATE	REVISION
02-23-12	ARCADIA COMMENTS
03-26-12	COUNTY COMMENTS



GREENWAY ENGINEERING, INC.

151 Windy Hill Lane
Winchester, Virginia 22602

Telephone 540-682-4185
FAX 540-782-8628
www.greenwayeng.com



FINAL PLAT

HARVEST HILLS SUBDIVISION

SECTION 2 - PHASE 2

TAX MAP 9-24 - PARCEL 12 & 13 - DEED BOOK 985 PAGE 363
SHEPHERSTOWN DISTRICT, JEFFERSON COUNTY WEST VIRGINIA

DATE: 08/24/10

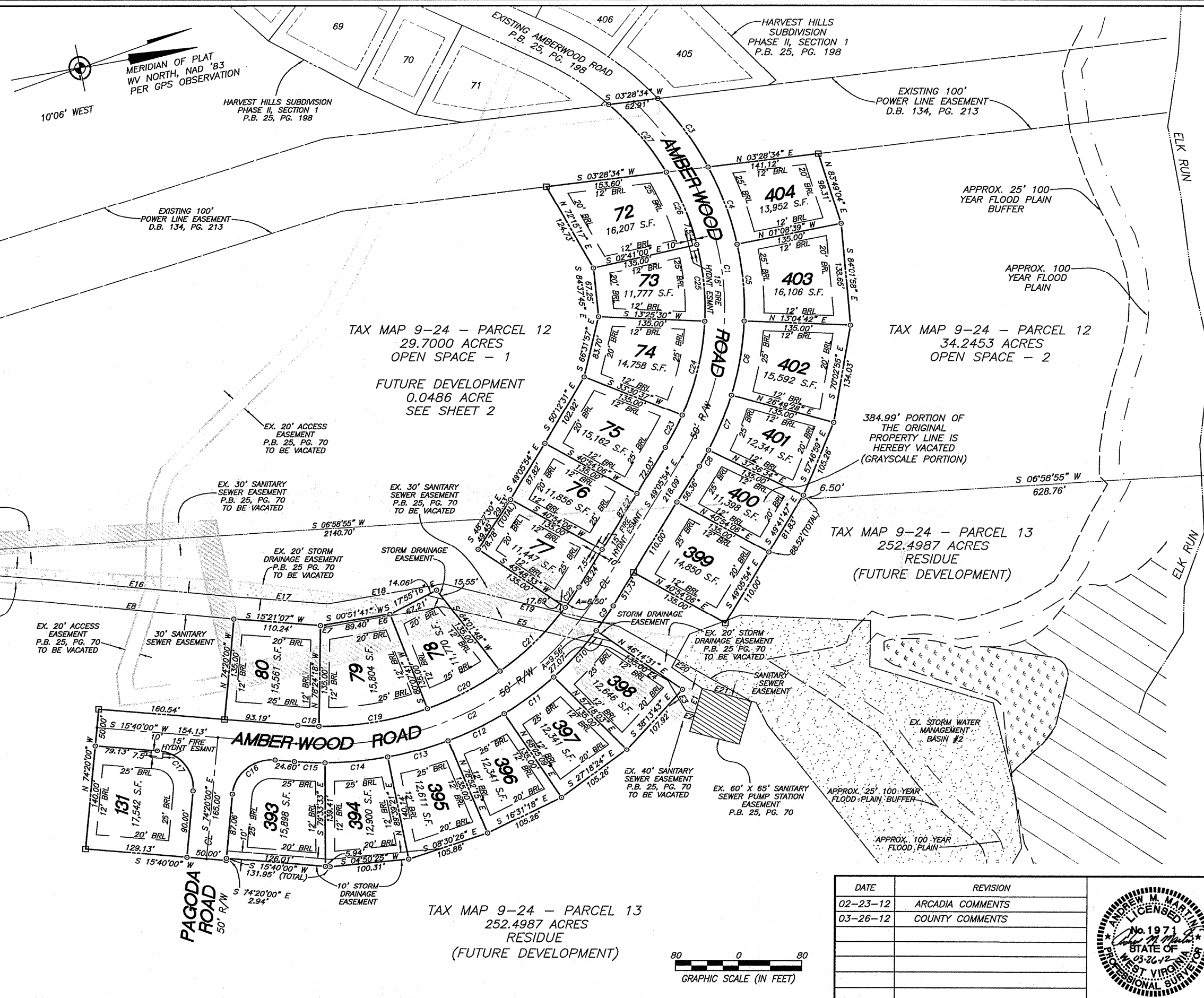
SCALE: 400'

DESIGNED BY: JAM

FILE NO. 3379

SHEET 2 OF 4

010-01



10'06" WEST
 MERIDIAN OF PLAT
 WV NORTH, NAD '83
 PER GPS OBSERVATION

HARVEST HILLS SUBDIVISION
 PHASE II, SECTION 1
 P.B. 25, PG. 198

EXISTING 100'
 POWER LINE EASEMENT
 D.B. 134, PG. 213

TAX MAP 9-24 - PARCEL 12
 29.7000 ACRES
 OPEN SPACE - 1
 FUTURE DEVELOPMENT
 0.0486 ACRE
 SEE SHEET 2

EXISTING 100'
 POWER LINE EASEMENT
 D.B. 134, PG. 213

APPROX. 25' 100-
 YEAR FLOOD PLAIN
 BUFFER

APPROX. 100
 YEAR FLOOD
 PLAIN

TAX MAP 9-24 - PARCEL 12
 34.2453 ACRES
 OPEN SPACE - 2

384.99' PORTION OF
 THE ORIGINAL
 PROPERTY LINE IS
 HEREBY VACATED
 (GRAYSCALE PORTION)

TAX MAP 9-24 - PARCEL 13
 252.4987 ACRES
 RESIDUE
 (FUTURE DEVELOPMENT)

EX. 20' ACCESS
 EASEMENT
 P.B. 25, PG. 70
 TO BE VACATED

EX. 30' SANITARY
 SEWER EASEMENT
 P.B. 25, PG. 70
 TO BE VACATED

EX. 30' SANITARY
 SEWER EASEMENT
 P.B. 25, PG. 70
 TO BE VACATED

EX. 20' STORM
 DRAINAGE EASEMENT
 P.B. 25 PG. 70
 TO BE VACATED

EX. 20' STORM
 DRAINAGE EASEMENT
 P.B. 25 PG. 70
 TO BE VACATED

EX. 20' STORM
 DRAINAGE EASEMENT
 P.B. 25 PG. 70
 TO BE VACATED

EX. 60' X 65' SANITARY
 SEWER PUMP STATION
 EASEMENT
 P.B. 25, PG. 70

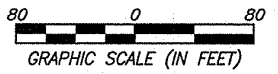
EX. 40' SANITARY
 SEWER EASEMENT
 P.B. 25, PG. 70
 TO BE VACATED

APPROX. 25' 100-YEAR
 FLOOD PLAIN BUFFER

APPROX. 100 YEAR
 FLOOD PLAIN

SEE SHEET 4

TAX MAP 9-24 - PARCEL 13
 252.4987 ACRES
 RESIDUE
 (FUTURE DEVELOPMENT)



DATE: 08/24/10
SCALE: 1"=80'
DESIGNED BY: JAM
FILE NO. 3379
SHEET 3 OF 4
010-01

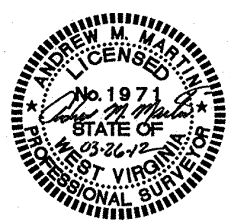
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FINAL PLAT
HARVEST HILLS SUBDIVISION
 SECTION 2 - PHASE 2

TAX MAP 9-24 - PARCEL 12 - DEED BOOK 985 PAGE 363
 SHEPHERSTOWN DISTRICT, JEFFERSON COUNTY WEST VIRGINIA

DATE	REVISION
02-23-12	ARCADIA COMMENTS
03-26-12	COUNTY COMMENTS



CONDITIONAL USE PERMIT

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

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

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

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

CONDITIONAL UPON:

- Cooperation with nonprofit groups to preserve the historic train station with the permission of the record owner of the property;
- Execute a bond to fix the curve on Route 17 (Flowing Springs Road) if title is obtained by the West Virginia Department of Highways to do so;
- No street lighting;
- Disclose to potential buyers the intensity of the train traffic;
- Build a fence between the development and the railroad tracks;
- Discuss and encourage telecommunications link-ups with utility companies;
- Inform potential buyers of farming activities in the area (i.e. smells, noises, animals, equipment) and the farmers right to farm;
- Prepare a traffic study;
- Install a traffic light at the intersection of Route 17 (Flowing Springs Road) and Route 17/2 (Melvin Road) if warranted by the West Virginia Department of Highways;
- Provide quality control of storm water management to County standards;
- Provide buffers to lessen the impact of the development on the Duffield's historic area;
- Density not being increased by more than what is currently proposed;
- Property not being relinquished that is not owned by the owner/developer;
- Provide a fence between the development and Sullen Myers property;
- Provide an economic study to determine the cost of services versus tax collections;
- Not locating a water tank on the property;
- Give the land earmarked for the School Board to the Jefferson County Parks and Recreation Commission or other sports organization if not used by the School Board;
- Provide a historic and archeological study of the property;
- Any further change in use or expansion processing through the Jefferson County Department of Planning, Zoning and Engineering to update this certificate; and, all other applicable County regulations being followed.

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

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

[Signature]
Zoning Administrator

Date 5/22/01 (orig.)
revised & permitted on 11/13/04
[Signature]

Department of Planning, Zoning & Engineering Seal:

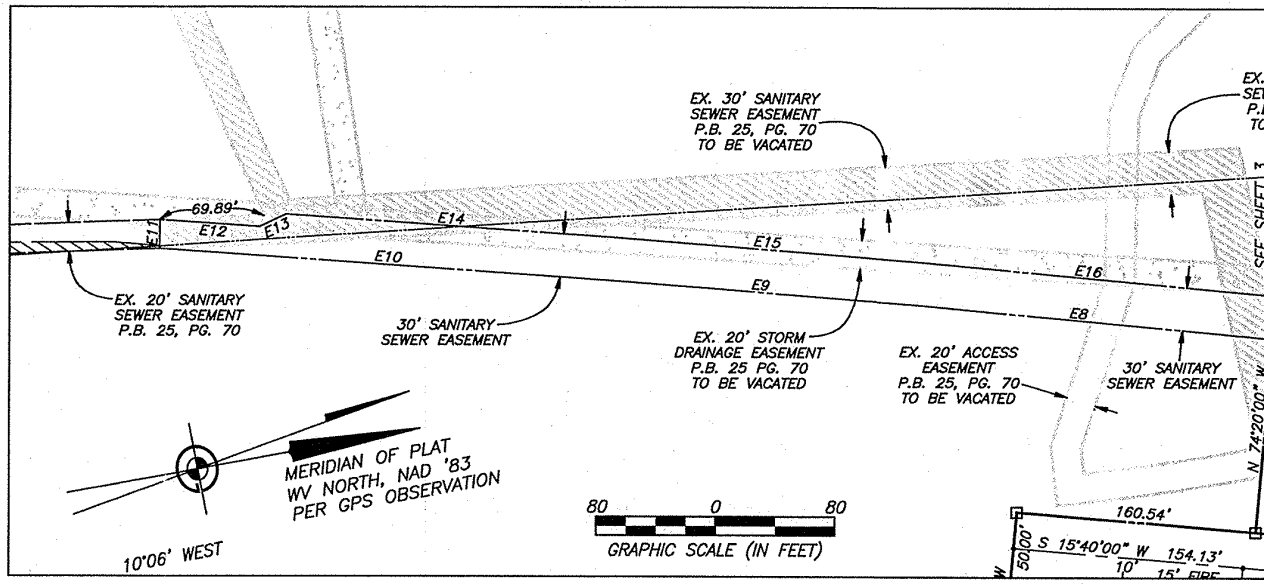


CURVE TABLE

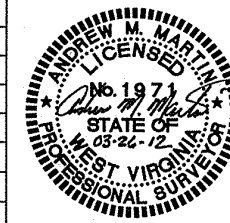
CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	TANGENT	CHORD LENGTH	CHORD BEARING
C1	400.00'	74°39'33"	521.22'	305.05'	485.12'	S 86°25'41" E
C2	400.00'	64°45'54"	452.14'	253.68'	428.46'	S 16°42'57" E
C3	425.00'	15°11'27"	112.68'	56.67'	112.35'	N 66°21'29" E
C4	425.00'	14°54'09"	110.54'	55.58'	110.23'	N 81°24'17" E
C5	425.00'	14°13'21"	105.50'	53.02'	105.23'	S 84°01'58" E
C6	425.00'	13°44'46"	101.96'	51.23'	101.72'	S 70°02'55" E
C7	425.00'	10°47'06"	80.00'	40.12'	79.88'	S 57°46'59" E
C8	425.00'	5°17'32"	24.42'	12.21'	24.42'	S 50°44'40" E
C9	425.00'	5°20'25"	39.61'	19.82'	39.60'	S 46°25'42" E
C10	425.00'	11°03'32"	82.03'	41.14'	81.90'	S 38°13'43" E
C11	425.00'	10°47'06"	80.00'	40.12'	79.88'	S 27°18'24" E
C12	425.00'	10°47'06"	80.00'	40.12'	79.88'	S 16°31'18" E
C13	425.00'	10°47'06"	80.00'	40.12'	79.88'	S 05°44'12" E
C14	425.00'	10°47'06"	80.00'	40.12'	79.88'	S 05°02'54" W
C15	425.00'	5°13'33"	38.76'	19.40'	38.75'	S 13°03'13" W
C16	50.00'	90°00'00"	78.54'	50.00'	70.71'	S 29°20'00" E
C17	50.00'	90°00'00"	78.54'	50.00'	70.71'	S 60°40'00" W
C18	375.00'	4°04'18"	26.65'	13.33'	26.64'	N 13°37'51" E
C19	375.00'	21°28'01"	140.50'	71.08'	139.68'	N 00°51'41" E
C20	375.00'	16°05'53"	105.36'	53.03'	105.02'	N 17°55'16" W
C21	375.00'	18°13'15"	119.26'	60.14'	118.75'	N 35°04'50" W
C22	375.00'	4°54'27"	32.12'	16.07'	32.11'	N 46°38'41" W
C23	375.00'	7°23'29"	48.38'	24.22'	48.34'	N 52°47'39" W
C24	375.00'	20°05'07"	131.46'	66.41'	130.79'	N 66°31'57" W
C25	375.00'	16°08'30"	105.43'	53.06'	105.08'	N 84°37'45" W
C26	375.00'	16°05'46"	105.35'	53.02'	105.00'	S 79°18'07" W
C27	375.00'	17°58'26"	117.42'	59.19'	116.94'	S 62°15'01" W

EASEMENT LINE TABLE

LINE	BEARING	DISTANCE
E1	S 63°49'07" E	34.22'
E2	S 26°10'53" W	12.43'
E3	S 71°41'30" W	46.29'
E4	S 41°31'25" W	85.82'
E5	S 25°10'52" W	219.54'
E6	S 00°17'28" W	145.40'
E7	S 15°21'07" W	11.63'
E8	S 16°20'07" W	239.97'
E9	S 15°29'26" W	203.55'
E10	S 15°01'04" W	305.46'
E11	N 78°11'55" W	20.03'
E12	N 15°01'04" E	67.12'
E13	N 15°19'28" W	19.80'
E14	N 15°01'04" E	222.51'
E15	S 15°29'26" E	203.90'
E16	N 16°20'07" E	239.93'
E17	N 15°21'07" E	117.64'
E18	N 00°17'28" E	148.05'
E19	N 25°10'52" E	230.47'
E20	N 41°31'25" E	194.98'
E21	S 26°10'53" W	64.18'



DATE	REVISION
02-23-12	ARCADIA COMMENTS
03-26-12	COUNTY COMMENTS



FINAL PLAT
HARVEST HILLS SUBDIVISION
SECTION 2 - PHASE 2
TAX MAP 9-24 - PARCEL 12 - DEED BOOK 985 PAGE 363
SHEPHERSTOWN DISTRICT, JEFFERSON COUNTY WEST VIRGINIA

DATE: 08/24/10
SCALE: 1"=80'
DESIGNED BY: JAM
FILE NO. 3379
SHEET 4 OF 4
010-01

GREENWAY ENGINEERING, INC.
151 Windy Hill Lane
Winchester, Virginia 22602
Telephone 540-685-4185
FAX 540-722-9628
www.greenwayeng.com

Engineers
Surveyors
Founded in 1971

STAFF REPORT

Jefferson County Planning Commission Meeting

April 24, 2012

	<ul style="list-style-type: none">• September 5, 2003 – Staff Review Meeting for Preliminary Plat.• September 24, 1996 – CIS accepted by the Planning Commission.• September 20, 1996 – CIS Staff Review Meeting Held.• September 16, 1996 – CUP issued.
FINAL PLAT	Submitted: 03/9/12 Public Hearing Scheduled: 4/24/12 60-Day Provision Ends: 05/08/12

Cambridge is located on the south side of Flow Springs Acre Road. Since this subdivision started before the 2008 Subdivision Regulations were adopted, the subdivision is being reviewed under the 1979 Subdivision Regulations. The applicant is seeking Final Plat approval for 2 mobile home lots and residue on .262 acres. The Final Plat complies with the approved Conditional Use Permit, Community Impact Statement and Preliminary Plat. Staff recommends approval.

If Final Plat is approved by the Planning Commission, the applicant shall have 90 days from time of approval to bond and record the Final Plat.

Per the 1979 Subdivision Regulations, the following details the Planning Commission responsibility for a Final Plat Public Hearing.

FINAL PLAT PUBLIC HEARING held before the Planning Commission during a regular meeting. New or revised information not previously considered at the Community Impact Evaluation stage is solicited from the public. The Planning Commission, after considering public comment, all previous information and comment, the provisions of this Ordinance, and the provisions of Section 8-24-30 of the West Virginia Code, approves, approves with conditions or disapproves the subdivision proposal and Final Plat.

The Planning Commission shall approve, approve with conditions, or disapprove a subdivision proposal and Final Plat within 60 days from the day the final plat and support material are submitted to the Planning Commission office. Failure to take action within the 60 day period shall result in final plat approval, unless a waiver of the 60 day period is granted to the Planning Commission by the subdivider.

Engineering Report

**Planning Commission Meeting
04/24/2012**

**Cambridge
Final Plat Approval**

Request:

Cambridge, LLC is requesting approval of a final plat for the Cambridge Manufactured Home Development Subdivision; Jefferson County file number 12-03.

Findings:

The final plat appears to meet the JEFFERSON COUNTY SUBDIVISION ORDINANCE (1979).

Conclusion:

The County Engineer recommends approval of the final plat.

- All utilities of Public/Private Service Districts shall have access in and on all rights-of-way and utility easements to maintain, extend, or otherwise modify their facilities.
- All units shall be connected to the central water and sewer systems, no individual (on-site) systems or wells are permitted.

- 2.1. WATER SHALL BE PROVIDED BY JEFFERSON UTILITIES, INC.
- 2.2. SEWER SERVICE SHALL BE PROVIDED BY J.C.P.S.D.

- Roadways, common sidewalks, recreational areas, and other common facilities shall be maintained by the owner or their assigners.
- Unit leaseholder shall abide by the covenants and restrictions contained in the lease, including restrictions on pets. Should pet restrictions be lifted Section 13.3 of the Jefferson Co. Land Development Ordinances shall be in effect.
- Developer and operator of this community is CAMBRIDGE, Limited Liability Company, 11 Manchester Drive, Charles Town, WV. 25414
- Lots shown hereon are for lease only and shall not be sold as individual parcels.
- All lot access shall be via interior streets from W.Va. Sec. Rt. 17/5
- PER FIRM PANEL 540065 0035C THIS SITE IS NOT IN THE 100 YR. FLOOD ZONE
- THERE ARE NO WETLANDS AREAS AS SHOWN IN THE CIS REPORT

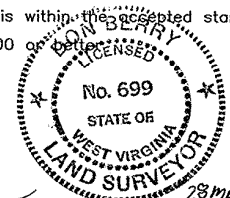
SECTION	LIST OF VARIANCES	DATE APPROVED
8.2.a.5	ROAD WIDTH TO 40'	MAY 28, 1996
8.2.a.5	CENTERLINE OF MANCHESTER DRIVE & AVALON TERRACE ST. OFFSET FROM CENTERLINE R/W	MAY 27, 1997
8.2.c.8	12" DRAIN PIPE WHEN USED IN CONJUNCTION WITH A SLOTT DRAIN	MAY 27, 1997

- PER LEASE AGREEMENT AND PER JEFFERSON COUNTY SUBDIVISION ORDINANCE SECTION 13.3, THE HOMEOWNER'S ASSOCIATION SHALL PETITION THE COUNTY COMMISSION TO ADOPT A LEASH LAW WITHIN THE SUBDIVISION SHOWN HEREON. DOGS ARE TO BE LEASHED WHEN OUTSIDE.
- LOTS D98 & D103 SHALL BE INCORPORATED INTO THE HOME OWNERS ASSOCIATION.

HIGHWAY ENTRANCE PERMIT # 5-97-0159
 HEALTH DEPARTMENT PERMIT # MHP-19-0809-05
 HEALTH DEPARTMENT WATER & WASTE WATER PERMIT #S-13,350 SEC. 1
 15,087 SEC. 2
 15,088 SEC. 2
 15,089 SEC. 2
 15,430 SEC. 3
 15,728 SEC. 4
 15,729 SEC. 4

Surveyor Certificate

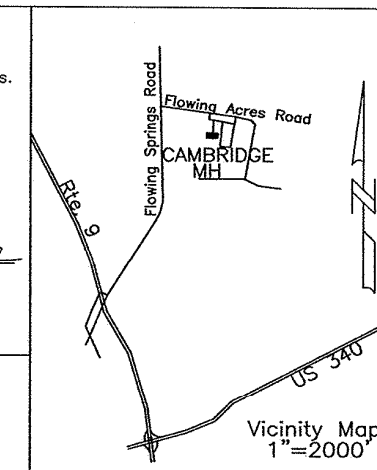
I certify that this survey and plat was made by me and its accuracy is within the accepted standards. Error of closure 1:7500



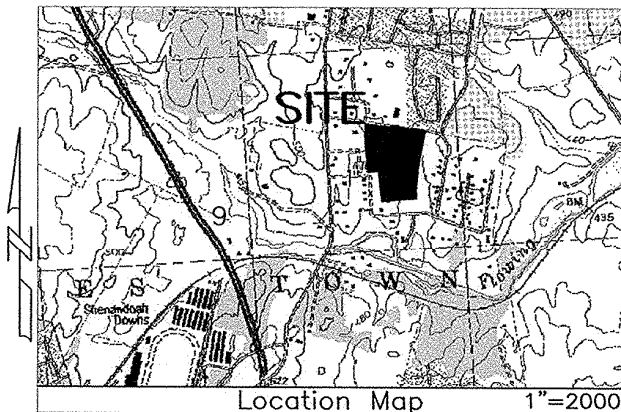
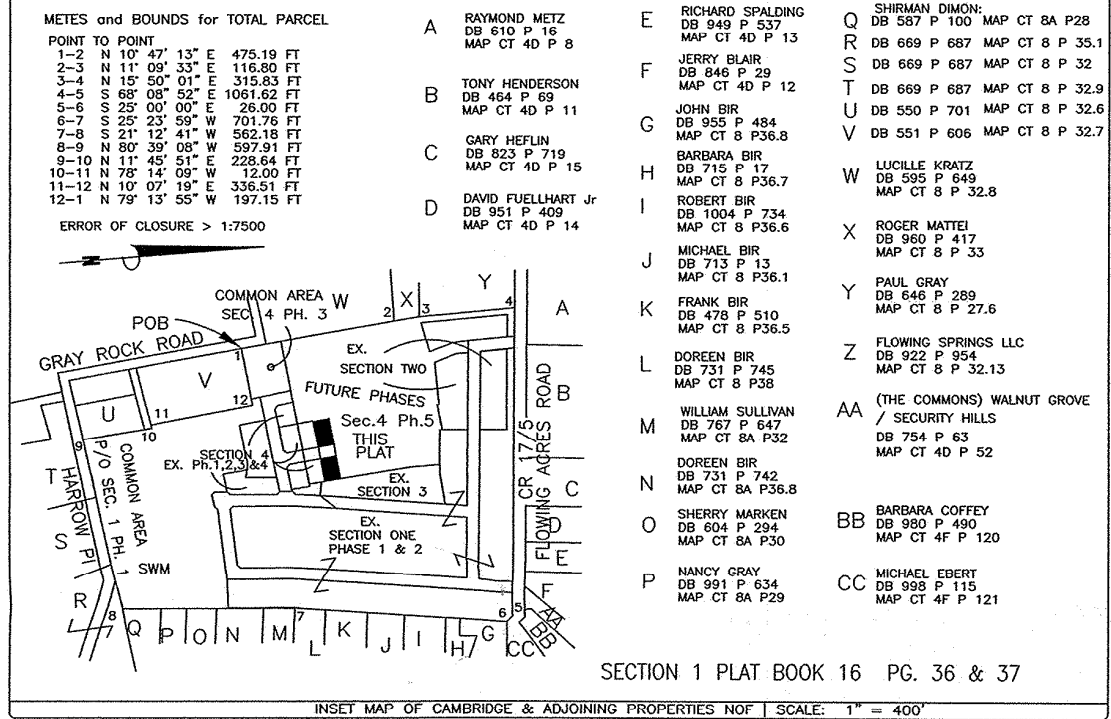
Signature: Don Berry

Date: 28 MAR 12

BERRY SURVEING ASSO.
 PO BOX 1090
 MARTINSBURG, WV 25402
 304-267-8216



OWNER/DEVELOPER
 CAMBRIDGE, LLC
 11 MANCHESTER DRIVE
 CHARLES TOWN, WV 25414
 304 725 4955



D.A. STANSBURY ENGINEERING
 3 SUE COURT SUITE B
 MARTINSBURG, WV 25405
 304-586-2543
 COA #02465-00

FINAL PLAT
 Development Home
 Manufactured Lots D98 & D103
 SECTION 4 PHASE 5
 CHARLES TOWN DISTRICT
 JEFFERSON COUNTY, W.V.A.
 TAX MAP 8, PARCEL 32.13
 REF: D.B. 922 PG. 954

DATE: 1-16-12
 REVISIONS
 PER JCPC 3-26-12
 #12-03
 JCPC # 98-284
 COVER SHEET
 1 OF 3

#12-03
 JCPC # 98-284
 COVER SHEET
 1 OF 3

#12-03

JEFFERSON COUNTY PLANNING AND ZONING COMMISSION
 CONDITIONAL USE PERMIT

This is to certify that effective May 28, 1996 the property described as:

Developer/Owner: Fahmi Mansy, Owner
 2618 Foster Avenue
 Alexandria, Virginia 22311
 Telephone Number: (703)-931-0741

David Leas, Developer
 2639 Buckleystown Pike
 Adamstown, Maryland 21710
 Telephone Number: (301)-831-1177

Tax Map Reference: Charles Town District Tax Map 8 Parcel 32.13
 Deed Book Reference: Deed Book #535 Page #106
 Subdivision Name: Flowing Springs Estates
 Zoning District: Rural/Agricultural
 Other Descriptions:

has been granted permission to use said property in the following way:
 179 single family lots for manufactured housing.

Conditional upon:

- The developer enforcing the following minimum covenants: every tenant will sign a lease and abide by all covenants; no metal on metal all siding will be aluminum or vinyl; all foundations will be skirting (not exposed) and approved by the developer; no manufactured homes older than five (5) years will be allowed to move in; all tenants will have to abide by a nuisance clause; all leases will be on a minimum thirty (30) day basis; all sheds, porches and decks will be approved by the developer prior to their construction; no dog houses; all animals will abide by the leash law; no garbage or junk will be allowed to accumulate; lawns will be manicured and in presentable condition; only split rail fencing is permitted with the developers approval; and, no vehicles will be allowed on blocks except for routine maintenance.
- No manufactured houses moving in in any given year which is older than five (5) years.
- No subleasing of lots or homes to a third party.
- Having an on site resident manager once thirty (30) units have been occupied; and,
- Providing a buffer zone along Flowing Acres Road and to the end of the Bir property in accordance with Article 4, Section 4.11(d) of the Zoning and Development Review Ordinance which is to be maintained by the developer.

JEFFERSON COUNTY PLANNING AND ZONING COMMISSION
 CONDITIONAL USE PERMIT
 FLOWING SPRINGS ESTATES
 MAY 28, 1996
 PAGE TWO

In the event construction or use is not commenced by November 28, 1997, said permission will expire unless an extension is granted. Extensions must be formally requested of the Jefferson County Zoning Board of Appeals prior to the expiration date.

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

September 19, 1996
 Date

Planning Commission Seal

CAMBRIDGE

EXISTING EASEMENTS AND/OR RIGHTS-OF-WAY THAT MAY BE ASSOCIATED WITH THIS PHASE

- Jefferson County Public Service District, Easement, Deed Book 585, Page 318 (Follows pipe, Blanket Easement) no specified width cited
- Walnut Grove Utilities, Easement, Deed Book 378, Page 436
- West Virginia Department of Transportation, Easement, Deed Book 478, Page 544 (5' X 20' Easement) Drainage Easement
- Potomac Edison Company, Right-of-Way Deed Book 292, Page 224 (Follows Power line Blanket Easement) no specified width cited Grantor, Rights retained, Deed Book 278, Page 201
- Kratz Motel, Inc., successors or assignors, Rights held, Deed Book 535, Page 106, and Deed Book 524, Page 600.

Future Easements:
 All utilities assuming control of systems placed as part of this development shall have permanent easements (min. 10' in width) established under agreements with the Owner. The easements shall provide for service connections, maintenance, improvements, and/or extension of any system.

EASEMENT NOTES: ~FENCES, STRUCTURES, OR HARDSCAPE SHALL BE LOCATED IN ANY EASEMENTS. ~THERE SHALL BE A BLANKET UTILITY EASEMENT IN ALL RIGHT-OF-WAYS AND IN THE SETBACKS, AS NEEDED.

STATEMENT OF ACCEPTANCE
 The owner/developer, CAMBRIDGE, L.L.C., in signing this plat agrees to abide by all conditions, terms, and specifications provided hereon and to complete all improvements required by preliminary plat.

Member: [Signature] DATE: 4-2-12

Member: _____ DATE: _____

CAMBRIDGE, LLC
 11 MANCHESTER DRIVE
 CHARLES TOWN, WV 25414
 304 725 4955

Final Plat Approval by JCP&Z

Approved for:
 Final Plat
 By: [Signature] 4/16/2012
 County Engineer Date

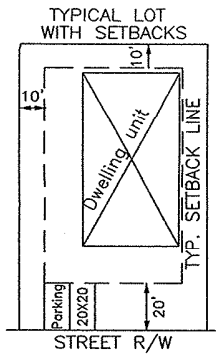
Director of Planning & Zoning Date

RECEIVED
 APR 19 2012
 JEFFERSON COUNTY
 PLANNING, ZONING AND ENGINEERING

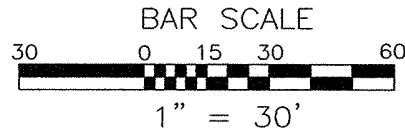
#12-03
 JCPC # 98-284
 COVER SHEET
 1 OF 3

D.A. STANSBURY ENGINEERING
 304-596-2543

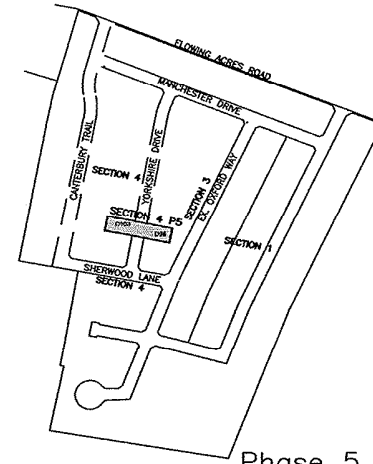
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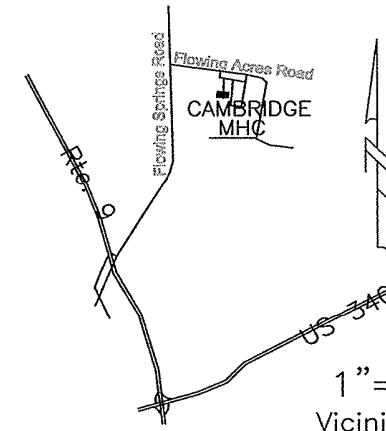
NOTE: 1. All lots shall maintain the setback areas for drainage
 2. grading shall direct drainage away from unit.



LEGEND
 ● 5/8" REBAR (SET)
 ○ 5/8" REBAR (FOUND)
 ⊙ C/C MONUMENT

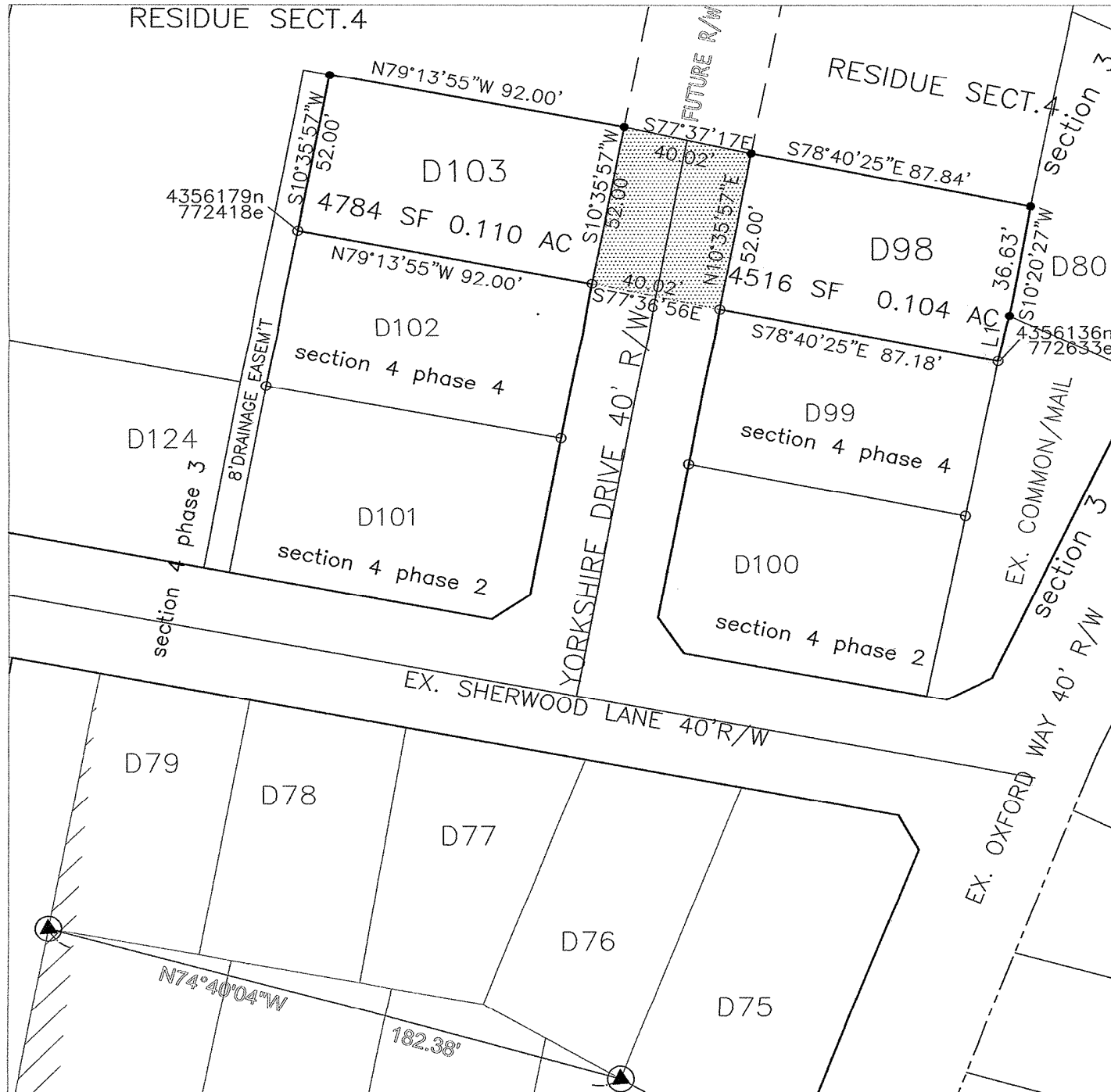


Phase 5 Location Map (nts)



1" = 1000 Vicinity Map

OWNER/DEVELOPER
 CAMBRIDGE, LLC
 11 MANCHESTER DRIVE
 CHARLES TOWN, WV 25414
 304 725 4955



TOTAL DEVELOPMENT AREA TABULATION

LOTS	16.9924 ACRES
ROAD	4.9041 ACRES
COMMON	1.1927 ACRES
BUFFER	1.0188 ACRES
BUS / MAIL	0.2440 ACRES
SWM	2.3994 ACRES
DRAINAGE	0.3157 ACRES
TOTAL AREA	27.0671 ACRES

SITE AREA DISTRIBUTION WITH THIS PHASE

SECTION 4 PHASE 5	0.214 Acres
ROAD AREA	0.048 Acres
COMMON AREA	NA
REMAINDER	5.149 Acres
TOTAL DEVELOPMENT	26.9450 Acres
TOTAL PARCEL	27.0671 Acres
TOTAL AREA THIS PLAT	0.262 Acres

AREA CALCULATION PER SECTION 12
 SUBDIVISION REQUIREMENTS:

DENSITY THIS PHASE = 9.3 LOTS/ACRE

COMMON AREA—0.3460 ACRES (SEC. 4 PHASE 3)
 0.8467 ACRES (SEC. 1 PHASE 1)
 1.1927 ACRES PROVIDED (TOTAL LOTS)
 1.1895 ACRES REQUIRED (TOTAL LOTS)

THE CALCULATED COMMON AREA AS SHOWN IS
 BASED ON THE PRELIMINARY PLAT OF 133 LOTS.
 THERE HAVE ONLY BEEN 101 TOTAL LOTS FINAL
 PLATTED AS OF THE DATE OF THIS PLAT.

LINE TABLE

L1	S13° 40' 27"W	15.38 FT
----	---------------	----------

Surveyor Certificate

I certify that this survey and plat was made by me and its accuracy is within the accepted standards. Error of closure 1:7500 or better.

Signature: *Don Perry* Date: 28 MAR 12

BERRY SURVEING ASSO.
 PO BOX 1090
 MARTINSBURG, WV 25402
 304-267-8216

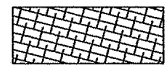
- NOTES:
- HORIZONTAL & VERTICAL CONTROL, BOUNDARY, & TOPOGRAPHY PROVIDED BY ALLIED PROFESSIONALS, L.L.C. 1997.
 - THERE ARE NO WETLANDS AREAS AS SHOWN IN THE CIS REPORT.
 - PERMANENT MONUMENTS SHALL CONFORM TO STATE BOARD OF EXAMINERS OF LAND SURVEYORS LAWS, RULES, & REGULATIONS (JULY 6, 1976)
 - ALL PERMANENT LOT CORNERS, MARKERS & MONUMENTS SHALL BE IN PLACE PRIOR TO THE OCCUPANCY OF INDIVIDUAL LOTS. ALL LOT CORNERS SHALL BE PLACED PRIOR TO FINAL BOND RELEASE.
 - THERE SHALL BE A BLANKET UTILITY EASEMENT IN ALL RIGHT-OF-WAYS AND IN THE SETBACKS, AS NEEDED.
 - FENCES, STRUCTURES, OR HARDSCAPE SHALL NOT BE LOCATED IN ANY EASEMENTS.

D.A. STANSBURY ENGINEERING
 3 SUE COURT SUITE B
 MARTINSBURG, WV 25405
 304-596-2543
 COA #02465-00

DRAWN BY: dsl
 DATE: 1-16-12
 CHECKED BY:
 DATE:

FINAL PLAT
 Cambridge Manufactured Home Development
 SECTION 4 PHASE 5 LOTS D98 & D103
 CHARLES TOWN DISTRICT JEFFERSON COUNTY, W.VA.
 REF: D.B. 922 PG. 954 TAX MAP 8-1, PARCEL 32.13

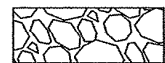
REVISIONS



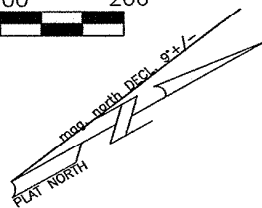
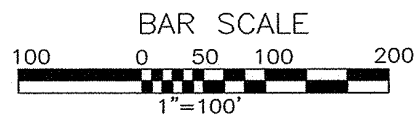
EXISTING COMMON AREA = 0.8467 Acres



EXISTING BUFFER AREA - 0.6491 Acres



PROPOSED BUFFER AREA - 0.2431 Acres



COMMON AREA
P/O SEC. 1 PH. 1

COMMON AREA
SEC. 4 PH. 3

SWM AREA
P/O SEC. 1 PH. 1



CAMBRIDGE DEVELOPER
CAMBRIDGE, LLC
11 MANCHESTER DRIVE
CHARLES TOWN, WV 25414
304 725 4955

D.A. STANSBURY ENGINEERING
3 SUE COURT SUITE B
MARTINSBURG, WV 25405
304-596-2543
COA #02465-00

DRAWN BY: *dl*
DATE: 1-16-12
CHECKED BY: _____
DATE: _____

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Total Site Plat
Cambridge M.H.D.
SECTION 4 PHASE 5 LOTS D98 & D103
CHARLES TOWN DISTRICT - JEFFERSON COUNTY, W.VA.
REF: D.B. 922 PG. 954 TAX MAP 8, PARCEL 32.13

REVISIONS	DATE

JC# 98-284/ 12-03

SHEET
3 OF 3



JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor
Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Email: zoning@jeffersoncountywv.org

Phone: (304) 728-3228

Fax: (304) 728-8126

Director's Report April 24, 2012 Planning Commission Meeting

- 1) Activity Report (attached)
- 2) US 340 Three State Transportation Planning effort underway (see articles attached)
- 3) Upcoming CC Actions:
 - a) Planning and Zoning Departments, Planning Commission and Board of Zoning Appeals 3rd Quarterly Report and Discussion of 2011-12 Work Plan (tentatively 4/26/12)
 - b) Possible Public Hearing to Consider Amending vesting provisions of the Subdivision Regulations based on a request by JCCEP (see attached letter to JCDA and responding e-mail) (TBD)
- 4) Upcoming PC meetings:
 - a) May 15, 2012 – Note: **meeting date change**
 - Waiver requesting extension of time to bond and record for Kensington Townhome Subdivision
 - Discussion and Possible Vote on New Zoning Categories
 - Finalization of Public Input Draft of US 340 Plan
 - b) June 12, 2012
 - Concept Plan – Briggs
 - Aspen Green Final Plat (tentative)
 - Discussion of Draft Recreation-related Text Amendments
 - US 340 Plan Public Hearing (tentative)

Christine Chalmers

To: Planning Commission
Subject: RE: WEEKLY CALENDAR / 4.09.12- 4.13.12

MONDAY, APRIL 09, 2012

10:00 am – 11:00 am STAFF MEETING
1:30 pm – 3:00 pm JENNIE & STEVE – WEEKLY ZONING MEETING
2:00 pm JENNIE – MEETING W/COUNTY COMMISSION
3:00 pm – 4:00 pm JENNIE, SETH & AMY – WEEKLY PLANNING MEETING

TUESDAY, APRIL 10, 2012

2:00 pm JENNIE, STEVE & JENNILEE – MEETING WITH MIKE AUSTIN
RE: CONDITIONAL USE PROCESS
7:00 pm JENNIE, STEVE, SETH & AMY – PLANNING COMMISSION MEETING

WEDNESDAY, APRIL 11, 2012

10:00 am – 11:00 am STEVE, SETH & JONATHAN – MSD PPC
RE: ESTATE OF WM. DODSON – CONSULTANT: MIKE SHEPP
12:30 pm STEVE & JENNILEE – PLACARD SITE VISITS / “BZA” MEETING ITEMS
2:00 pm SETH & AMY – SITE VISIT / HARVEST HILLS

THURSDAY, APRIL 12, 2012

9:00 am COUNTY COMMISSION MEETING

FRIDAY, APRIL 13, 2012

BOARD OF ZONING APPEALS PACKET DAY

1:00 p.m. DAWN, JENNILEE & AMY – MEETING WITH ANNA STEAD (JOB CORP)

Christine Chalmers

To: Planning Commissioners*
Subject: RE: WEEKLY CALENDAR / 4.16.12- 4.20.12

MONDAY, APRIL 16, 2012

10:00 am – 11:00 am STAFF MEETING
2:00 pm JENNIE, SETH & AMY – MTG WITH ROGER, BECKY, STEPHANIE GROVE &
KARLA COFFEY / RE: FINAL PLAT & TOLLING – HARVEST HILLS SD
3:30 pm – 4:30 pm JENNIE & SETH – WEEKLY PLANNING MEETING

STEVE – OUT / RE: APA PLANNING CONFERENCE

TUESDAY, APRIL 17, 2012

11:00 am JENNIE & SETH – MONTHLY AMENDMENT MTG W/ENGINEERING STAFF
3:00 pm JENNIE – EDA BOARD MEETING

STEVE – OUT / RE: APA PLANNING CONFERENCE

WEDNESDAY, APRIL 18, 2012

STEVE – OUT / RE: APA PLANNING CONFERENCE

THURSDAY, APRIL 19, 2012

9:00 am COUNTY COMMISSION MEETING
3:00 pm – 8:30 pm JENNIE, STEVE & JENNILEE – BOARD OF ZONING APPEALS MEETING

FRIDAY, APRIL 20, 2012

PLANNING COMMISSION PACKET DAY

10:00 am JENNIE, DAWN, JENNILEE & AMY - INTERVIEW W/ JOANNE LaPORTA (TEMP)
2:00 pm PLANNING & ZONING, ENGINEERING & GIS - MEET & GREET DEBBIE KEYSER

herald-mail.com/news/tristate/hm-transportation-officials-looking-for-answers-to-us-340-traffic-backups-20120413,0,4146138.story

herald-mail.com

Transportation officials looking for answers to U.S. 340 traffic backups

By C.J. LOVELACE

cj.lovelace@herald-mail.com

10:08 PM EDT, April 13, 2012

Congestion along the busy U.S. 340 corridor near the Potomac River is not a new issue to local residents or transportation officials from Maryland, West Virginia and Virginia.

Searching for answers to traffic backups that can reach almost two miles long during rush hours, about 30 people attended a meeting Friday night at Pleasant Valley Elementary School in Knoxville, Md., to air their complaints.

Officials from the Md. State Highway Administration were joined by West Virginia and Virginia Department of Transportation representatives to talk about the issues that motorists are facing, offer some short-term solutions and seek input.

An increase in truck traffic, housing developments in West Virginia, and traffic coming from the nearby Hollywood Casino in Charles Town, W.Va., were named as possible reasons for the delays, most often in the mornings and evenings.

State Del. Neil Parrott, R-Washington, who organized and moderated the meeting, said the goal was to identify ways to reduce congestion because it's never going to go away.

"Because it was there before," Parrott said in response to people in the crowd. "Just the fact that we go from four lanes down to two lanes causes congestion. But this has really exacerbated the problem, making those queues which may have been a half-mile long, now they're two miles long."

In Maryland, U.S. 340 is a four-lane divided highway, but it cuts down into two lanes as it crosses the Potomac River into Virginia.

There, a traffic light at Harpers Ferry Road (Va. 671) creates additional backup issues before the roadway widens back out to a four-lane divided highway in West Virginia.

"It affects not just Maryland ... but West Virginians and people from Virginia who are going home as

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well," Parrott said.

One man who frequently drives on U.S. 340 from West Virginia into Maryland said the traffic light at Harpers Ferry Road causes severe backups between 7 a.m. and 8:30 a.m.

Other people expressed concerns about safety entering and exiting the highway on Keep Tryst Road near Sandy Hook, Md., which intersects on both ends with U.S. 340.

Parrott suggested some short-term fixes for the Harpers Ferry Road intersection, highlighting the installation of a half-signal as a way to keep traffic moving more smoothly and reduce congestion.

Transportation officials offered other short-term remedies, including devoted lanes for left-hand turns off the highway, and acceleration lanes to merge safely onto U.S. 340 from side roads.

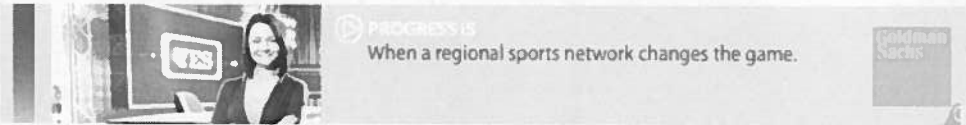
Parrott estimated that a project to improve traffic flow could cost around \$750,000, but traffic studies would need to be completed first. It would be split among the three states, Parrott said.

Another public meeting is planned for May or June, but a time and place has yet to be set, officials said.

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W.Va. DOH to study U.S. 340 corridor

Agreement between W.Va., Va., Md. will look at improving highway

April 15, 2012

By John McVey - Journal staff writer (jmcvey@journal-news.net) , journal-news.net

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BROWNSVILLE, Md. - According to an agreement between the West Virginia, Maryland and Virginia highways agencies, the West Virginia Division of Highways will perform a comprehensive study of traffic along U.S. 340 from W.Va. 9 at Charles Town to Interstate 70 at Frederick, Md., including the short segment through Loudoun County, Va.

"We've been working on this memorandum of understanding between the three states for about a year and a half, and under the agreement, we will execute 100 percent of the study," Rob Pennington, director of program planning and administration for the DOH, said at a public meeting Friday evening at Pleasant Valley Elementary School near Brownsville, Md.

Maryland state Delegate Neil C. Parrott hosted the meeting. In addition to West Virginia DOH representatives, Virginia Department of Transportation and Maryland State Highway Administration representatives spoke about problems on U.S. 340.

West Virginia state Delegate John Doyle, D-Jefferson, attended the meeting, as did several Washington County officials and law enforcement officers.

About 30 people attended the meeting, most of whom were from the immediate vicinity of Brownsville.

The highway is heavily traveled by commuters during the week, especially during morning and afternoon rush hours, as well as local drivers, and there is a high volume of traffic on weekends headed to and from tourist destinations in Jefferson County.

In West Virginia and Maryland, the road is a four-lane expressway for the most part, but reduces to two lanes right before entering Virginia, creating a severe bottleneck.

The intersection of U.S. 340 and Va. 671 (Harpers Ferry Road) has a traffic signal, which stops through traffic on U.S. 340, causing even more traffic backups, some for close to two miles during peak traffic times.

Pennington explained that the operations study will look at several areas, such as origins and destinations of traffic, travel demands, access management, traffic counts and other issues.

"We want to look at more park and ride carpooling," he said. "And the MARC commuter train. It would be a benefit if there were more MARC riders than cars on the road."

The Maryland Transit Authority's MARC commuter line runs between Martinsburg and Union Station in Washington with stops in Duffields and Harpers Ferry in West Virginia and several stops in Maryland, including nearby Brunswick.

It was not clear how much the study would cost. It will take about a year to complete, although some recommendations to improve

Martinsburg, WV

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Maryland state Delegate Neil C. Parrott leads a public mee...

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traffic conditions stemming from the study may be released earlier, Pennington said.

He said that as a result of the study, several recommendations will be made, including how to improve the U.S. 340 and Va. 671 Intersection. Implementing those recommendations is not part of the current memorandum of understanding.

Pennington said a meeting to get public input will be held possibly as soon as May or June, although a date and place have not yet been determined.

- Staff writer John McVey can be reached at 304-263-3381, ext. 128, or jmcvey@journal-news.net

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JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning

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Charles Town, WV 25414

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Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

MEMORANDUM

TO: John Reisenweber
FROM: Jennifer Brockman
DATE: April 17, 2012
RE: Process for Amending Subdivision Regulations:

I have done a little research regarding the request by JCCEP for JCDA support of a proposed change to the Jefferson County Subdivision and Land Development Regulations. Dates that might be of interest to JCDA are as follows. I will be in attendance at the meeting as well to answer any questions.

A. Jefferson County Land Development and Subdivision Regulations:

No process for amending the text.

B. WV Code 8A:

8A-4-5 states that "all amendments to the subdivision and land development ordinance shall be made by the governing body after holding a public hearing with public notice." There is no reference to being advised by the Planning Commission and there is no information about the type of notice required.

It does, therefore, appear that a citizen or group could make a request directly to the County Commission requesting that they consider amending the Subdivision and Land Development Regulations. Typically, the County Commission requests two weeks' notice be provided for their public hearings. Note that all agenda requests are required to be submitted on Thursday at noon the week before the requested meeting date. If such a request is placed on the April 26th County Commission agenda, notice could be placed in the Spirit on May 2nd for a public hearing held on May 17th.

C. Individual Variance Requests:

Note that if individual applicants wish to request a Variance of the 1979 Subdivision Ordinance submission requirement, such Variance would need to be submitted to Planning and Zoning by May 22nd for the June 12th Planning Commission meeting.

Additionally, if an individual applicant wished to submit a Final Plat for a Public Hearing at the June 12th Planning Commission meeting (the last regular meeting prior to July 1, 2012), it would need to be submitted by May 4th.

jefferson county citizens for economic preservation

J C C E P

JCCEP, P.O. Box 901, Charles Town, WV 25414

March 26, 2012

Mr. John Reisenweber, Executive Director
Jefferson County Development Authority
P.O. Box 237
Charles Town, West Virginia, 25414

Dear Mr. Reisenweber:

On behalf of the Jefferson County Citizens for Economic Preservation (JCCEP), I am writing to request the Jefferson County Development Authority (JCDA) Board of Directors and staff's concurrence and assistance with passage of an amendment to the Jefferson County *Subdivision Regulations*.

For your information, JCCEP's Mission Statement is:

"Established August 3, 1992, Jefferson County Citizens for Economic Preservation (JCCEP) is a forward-thinking, nonprofit corporation comprised of residential and commercial land developers, builders, and related service providers to the industry. JCCEP exists to improve the quality of life in Jefferson County through the promotion of our core values consisting of:

- 1. Economic growth;*
- 2. Responsible and quality land development and construction; and*
- 3. Reasonable regulations.*

JCCEP represents its members in achieving these basic core values by upholding the following business practices:

- To inform the public to understand and appreciate the importance of residential, office and commercial land development and construction, its positive benefit on the local economy, and those who provide these services;*
- To advocate professional, ethical, and best business practices of our membership when interacting with the public and regulatory agencies;*
- To strive for a balance between local legislative, regulatory, and judicial public policy and our membership's needs by fostering reasonable and just regulations;*
- To establish and maintain a harmonious relationship and understanding among our membership, the general public, regulatory agencies, and consumers of our members' services, while aiming to mutually resolve problems affecting the general welfare of our industry.*

(emphasis added).

Several of JCCEP's members are land developers and builders of quality developments within Jefferson County. However, given the continued severe economic downturn in the Country which continues to adversely affect many of our members in the development and building

industry, we are continually faced with hardships in our businesses that we must overcome to stay financially sound, so that we may continue to provide quality products and services to the good citizens of Jefferson County. One of the most prevalent issues several of our members face is the expiration of land development entitlement approvals, primarily related to Preliminary Plans, Site Plans, etc. The expiration of plan approvals will cause dramatic financial hardship in the event of their expiration, due to the need to re-process plans, possibly causing increased costs, time, and efforts to achieve new plan approvals that will likely require significant design changes to comply with changed regulations enacted since the date of prior approvals under previous regulations. These changes can range from total development character design and layout changes caused by the adoption of the current *Subdivision Regulations* that have significantly and detrimentally changed since the time of many prior approvals, advanced environmental permitting requirements, and other State and Federal regulatory requirements. This is not to say the prior approvals are "more lax" than current regulations; one must understand current approvals fully meet the approval and permitting requirements at the time of their approval, and should be allowed to continue under prior approvals. This is a basic tenet of obtaining an entitlement for land development, and should not be minimized.

It is important to understand that although land developers, like any other businesses, strive for a profit from their efforts; however, they also routinely incur significant financial risks in their business. Therefore, an assurance for maintenance of approvals are monumentally important to assure the financial viability and success of the business, as well as provide a needed public service: that of business development and growth through land development and construction opportunities. Some comments reinforcing this importance from our members concerned about the expiration of approvals include the following anecdotes:

"...the economic conditions which gave rise to this legislation in 2010 have persisted, if not worsened, especially in Jefferson County. For example, we only sold 3 new homes in the last 5 years in our project there.

Extending the sunset date helps those who have expended thousands (if not millions in our case) of dollars to obtain entitlements, especially for all activities leading up to and including obtaining approvals for Preliminary Plans, to assure their efforts won't be "extinguished" if the date expires in 2012. The consequences of not changing the date would be to start the entitlement process all over again at great time and expense, to only achieve the same result, or worse, be subjected to more stringent and costly regulations."

And also:

"...we have been involved in real estate development for 23 years. Personally, I have been involved in development for 40 years. During that period, I have not experienced a period with such financially devastating effects on the value of real estate, nor have I seen demand for real estate fall so far for such a lengthy period. We are not yet starting a healthy real estate recovery, especially in the West Virginia panhandle!

We need assistance to extend our project approvals, and the State needs to encourage investments in real estate by professionals. Our project (in Jefferson County) has required us to invest millions of dollars to get to our current point. If we do not vest our approvals, much of this will be at risk. Whatever the State of West Virginia can do to assist will be helpful."

As background information, we note the current provisions for plan approval expirations appear in two codified locations:

1. West Virginia State Code §8A-5-12 (f):

(f) Any subdivision or land development plan or plat, whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010, shall remain valid until July 1, 2012, or such later date provided for by the terms of the planning commission or county commission's local ordinance or for a longer period as agreed to by the planning commission or county commission. Any other plan or permit associated with the subdivision or land development plan or plat shall also be extended for the same time period: Provided, That the land development plan or plat has received at least preliminary approval by the planning commission or county commission by March 1, 2010.

and also in:

2. The Subdivision Regulations, Article 20, Section 20.105 D.1 & 2:

1. All requirements, for the vesting of property rights contained in an ordinance enacted pursuant to WV Code Section 8A-4-2 that require the performance of any action within a certain time period for any subdivision or land development plan or plat valid under West Virginia law and outstanding as of January 1, 2010, shall be extended until July 1, 2012, or longer as agreed to by the municipality, county commission or planning commission. The provisions of this subsection also apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit or other agreement or zoning action be terminated or ended by a certain date or within a certain number of years.

2. Any subdivision or land development plan or plat, whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010, shall remain valid until July 1, 2012, or such later date provided for by the terms of the Planning Commission or County Commission's local ordinance or for a longer period as agreed to by the Planning Commission or County Commission. Any other plan or permit associated with the subdivision or land development plan or plat shall also be extended for the same time period. Provided, that the land development plan or plat has received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010.

(emphasis added).

Note both codes contain a provision “...or for a longer period as agreed to by the Planning Commission or County Commission...”.

Recently, several members of JCCEP were actively engaged in the attempts for passage of Senate Bill 540, which would have extended the approvals in §8A-5-12 (f) to July 1, 2015. Because the legislative session ran out of time, we now must seek relief of the current “sunset” expiration date of July 1, 2012, via the Jefferson County Commissioners through a simple amendment to the current *Subdivision Regulations*, Article 20, Section 20.105 D.1 & 2 as highlighted below:

1. All requirements, for the vesting of property rights contained in an ordinance enacted pursuant to WV Code Section 8A-4-2 that require the performance of any action within a certain time period for any subdivision or land development plan or plat valid under West Virginia law

Mr. John Reisenweber
March 26, 2012
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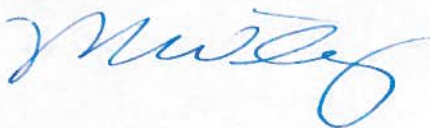
and outstanding as of January 1, 2010, shall be extended until July 1, 2012, or longer as agreed to by the municipality, county commission or planning commission. The provisions of this subsection also apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit or other agreement or zoning action be terminated or ended by a certain date or within a certain number of years.

2. *Any subdivision or land development plan or plat, whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010, shall remain valid until July 1, 2012, or such later date provided for by the terms of the Planning Commission or County Commission's local ordinance or for a longer period as agreed to by the Planning Commission or County Commission. Any other plan or permit associated with the subdivision or land development plan or plat shall also be extended for the same time period. Provided, that the land development plan or plat has received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010.*

While JCCEP intends to pursue a parallel request via the State Legislative Process in the next Special Session, again through reconsideration of SB540, we believe any adopted changes would occur uncomfortably close to the expiration deadline of July 1, 2012, and not offer those hoping for such an amendment enough time to pursue alternative courses to extend their approvals. Therefore, we request JCDA support JCCEP's efforts to obtain said amendments, and specifically prepare and support a resolution to the Jefferson County Commissionersto pursue an expeditious revisions to the *Subdivision Regulations* as identified above, long prior to the July 1, 2012 sunset expiration. We would also be happy to draft said resolution if necessary.

We trust the enclosed satisfactorily identifies the issue and permits the JCDA's support thereof. Please feel free to call me anytime if you have any questions or concerns, and we look forward to your support.

Sincerely,
JCCEP



Michael T. Wiley
President

MTW/mrw/W:\EMPLOYEES\Mike\JCCEP\LTR - JCDA Support 03-22-2012.doc

cc: JCCEP Board of Directors
EPHBA Board of Directors