

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
November 13, 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 October 23, 2012 meeting.
2. Citizen Communications.
3. Request for postponement.
4. Request by Mark Adkins of the Waterfront Group (Rock Ferry Station) (PCV#12-08) for a variance from the Subdivision Ordinance Article 8, Section 8.2.e.3 to waive the requirement that every lot shall have a minimum road frontage of 80 feet along a road right-of-way and that the ratio between lot depth and lot width shall not exceed 3:1. This property is located approximately 6 miles southwest of the Mission Road and Route 9 intersection and is designated as Tax District: Kabletown, Map: 8, Parcel: 19; Tax District: Kabletown, Map: 22, Parcels: 14 and 15; and Tax District: Kabletown, Map: 26, Parcel: 1.4.
5. “Interpretive Appeals and Procedure Workshop”. Presentation by Fred Blackmer to discuss procedures that will allow options to appeal a decision or interpretation of staff.
6. Reports from Legal Counsel and legal advice to PC.
Active Litigation:
 - Far Away Farms
 - Cedar Meadows Airpark
7. Director’s Report.
8. Monthly Activity Development Report.
9. County Commission Liaison Report.
10. 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.
11. President’s Report.
12. Actionable Correspondence.

13. Non-Actionable Correspondence.

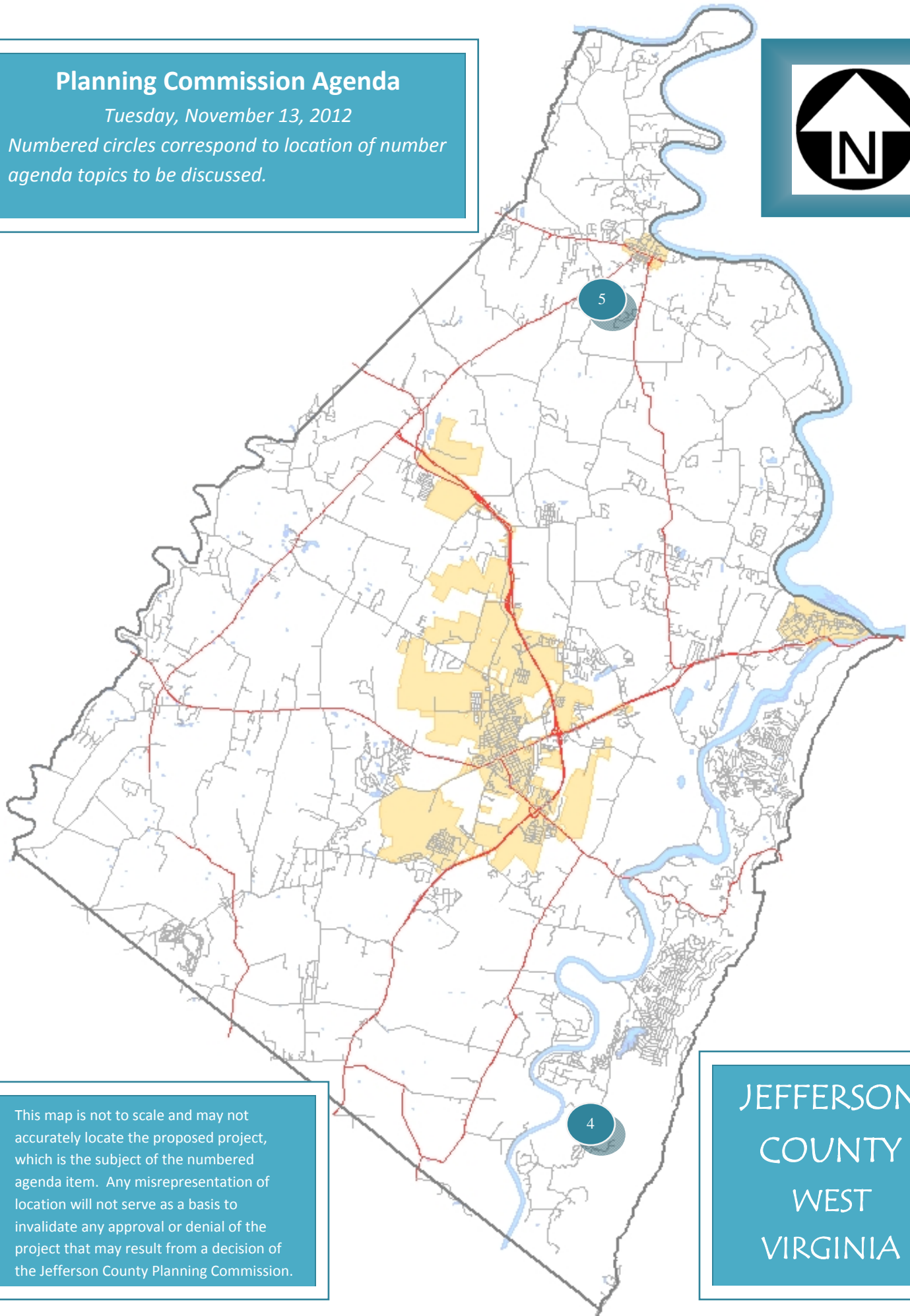
The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address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

Planning Commission Agenda

Tuesday, November 13, 2012

Numbered circles correspond to location of number agenda topics to be discussed.



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

JEFFERSON
COUNTY
WEST
VIRGINIA

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
OCTOBER 23, 2012

The Jefferson County Planning Commission met on Tuesday, October 23, 2012 with the following Commission members present: Paul Taylor, President; Morgan Etters, Secretary; Kelly Baty, J.P. Phillips, Steve Stolipher, Daniel Hayes and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Stephen Groh, Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Eric Smith was absent and Gene Taylor was absent with notification.

Mr. P. Taylor called the meeting to order at 7:00 PM

1. Approval of the minutes for the October 9, 2012 meeting.

Mr. Stolipher moved to approve the minutes of the October 9, 2012 Planning Commission meeting. Mr. Pellish seconded the motion which carried unanimously.

2. Citizens Communication. None.

3. Request for postponement. None.

4. Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Shepherdstown, Map: 8, Parcel: part of 5. This property is currently zoned Residential Growth and Residential/Light Industrial/Commercial zoning is being requested. This property is located on the south side of Route 45 (Martinsburg Pike) and on the east side of Potomac Farms Drive and is a total of 8.07 acres. The owner of record is John D. Lowe, III.

Mr. Rivard described the location of the property and discussed the Planning Commission's role in this request.

Mr. Baty entered the room at 7:09 PM.

Mr. Richard Klein, of Alpha Associates, representing the Lowe family, stated that the request is to rezone 8.07 acres of a 41.4 acre parcel. The 8.07 acres is divided from the remainder of the parcel by Potomac Farms Drive. He commented that the property is in an identified growth area outlined in the 2004 Comprehensive Plan and surrounded by urban level development. He stated that the property has water and sewer available to serve the property. He explained that, prior to the construction of Potomac Farms Drive, a mulching plant and nursery owned by the Lowe family existed on that property and that the zoning was determined to be residential despite its commercial use. Mr. Klein detailed reasons why the applicant felt the property was appropriate for the rezoning request.

Mr. Rivard presented the staff report and stated that staff finds the request to be in conformance with the 2004 Comprehensive Plan. He reiterated that the property lies within

the growth boundary, is bordered on 3 sides by urban development, and that water and sewer are available to the property.

Mr. P. Taylor opened the public hearing. There was no public comment. Mr. Hayes moved to close the public hearing. Mr. Stolipher seconded the motion which carried unanimously.

Mr. Stolipher moved to recommend approval of the rezoning request to the County Commission. Mr. Pellish seconded the motion and offered a friendly amendment to use the staff recommended motion (attached). Mr. Stolipher accepted the friendly amendment. The motion passed unanimously.

- 5. Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Charles Town, Map: 13, Parcel: 7. This property is currently zoned Rural and Residential/Light Industrial/Commercial zoning is being requested. This property is located on the south side of Route 51 near the Tuscowilla Hills entrance approximately 2 miles west of Charles Town and is a total of 34.27 acres. The owner of record is Jefferson Asphalt Products, Inc.**

Mr. Rivard described the location of the property and discussed the Planning Commission's role in this request.

Ms. Annette van Hilst, of the Crossroads Group, representing Jefferson Asphalt, provided the Planning Commission with a Power Point presentation. She commented that staff suggested that the applicant apply for rezoning at a Pre-proposal Conference that was held prior to the recent Concept Plan submission. She explained that the commercial use of the asphalt plant was in place prior to zoning and that the property should have been placed in a commercial or industrial type zone. She stated that the owners were requesting a rezoning to fix the non-conforming use of the property. She described the surroundings of the property and gave supporting reasons of why the applicant felt the request was in conformance with the 2004 Comprehensive Plan. She commented that adjacent uses have intensified since zoning was adopted.

Mr. Pellish asked why the applicant wished to rezone the property if the current use was allowed under the non-conforming use. Ms. Van Hilst explained that the applicant may want to phase out the industrial use of the property without losing the commercial use options.

Mr. Rivard presented the staff report and stated that the property, which was within the Urban Growth Boundary of Charles Town, was not within the growth area of the 2004 Comprehensive Plan. He explained that, while staff did suggest a possible rezoning request at the time of the Pre-proposal Conference, WV State Code allows the non-conforming industrial use to exist on the property in perpetuity. He stated that after further review, staff's opinion was that the non-conforming use of the property would not present as much of an issue as originally thought. Mr. Rivard commented on the entrance issues of the site in relation to the proximity of the railroad tracks and to the existing conditions of Route 51. He reminded the Planning Commission that the current industrial use of the property would not

be permitted in a Residential/Light Industrial/Commercial zoning designation. He stated that staff does not recommend approval of this request.

Ms. Van Hilst rebutted the staff report stating that the property is not within the growth area but is adjacent to the growth area. She explained that her understanding is that the growth area outlined in the 2004 Comprehensive Plan is a generalization while the UGB is a refined boundary. She stated that the Urban Growth Boundary should supersede the growth area of the 2004 Comprehensive Plan. She commented that the applicant did not wish to annex the property as suggested in the staff report. She stated that any traffic issues that the property may have should be addressed at the Site Plan process of any future project. She reiterated that the applicant requested the rezoning due to a desire to eventually remove the industrial use from the property without losing commercial use options.

Mr. Groh reminded the Planning Commission that approval of the requested rezoning would not make the industrial use a conforming use.

Mr. P. Taylor opened the public hearing.

Mr. Cricky Shultz, local developer, spoke in support of the approval of the rezoning request.

Mr. Hayes moved to close the public hearing. Mr. Pellish seconded the motion which carried unanimously.

Mr. Pellish asked if the owner had discussed proposed uses with surrounding neighborhoods.

Mr. John Thomas, owner of Jefferson Asphalt, stated that he had not discussed proposed or potential uses with neighbors. He stated that he had received complaints over the years of the industrial use and would like to dissolve that use on the property without leaving just rural use options.

Mr. Pellish suggested that Mr. Thomas hold an open discussion with neighbors.

Mr. Stolipher moved to recommend approval of the request to the County Commission as the request is consistent with the 2004 Comprehensive Plan. Mr. Hayes seconded the motion and offered a friendly amendment to use the staff recommended motion (attached) except that any language declaring denial of the request be changed to state approval of the request. Mr. Stolipher accepted the friendly amendment.

Ms. Etters stated that the requested zoning category has a very broad range of uses. She urged the Planning Commission to look at each use before recommending approval of this request. She commented that the requested zoning category is too broad for the area.

The motion carried 5 for and 2 against (Mr. P. Taylor and Ms. Etters).

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
OCTOBER 23, 2012
PAGE 4 of 4

Mr. Hayes moved to adjourn the meeting at 8:11 PM. Mr. Stolipher 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.

Staff Report

Jefferson County Planning Commission Meeting

November 13, 2012

Item #6: Request by the Waterfront Group (Mark Adkins) for a variance, from the 1979 Subdivision Ordinance Article 8, Section 8.2.e.3, to waive the requirement that the ratio between lot depth and lot width shall not exceed 3:1 and minimum road frontage of 80 feet. These lots originally processed as a part of the Rock Ferry Station Subdivision (PC File #04-20).

APPLICANT:	Waterfront Group c/o Mark Adkins
OWNER:	Griffin Realty, LLC c/o Robert A. Jacobs
DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	N/A
PROPERTY LOCATION:	This property is located approximately 6 miles southwest of the Mission Road and Route 9 intersection.
LEGAL DESCRIPTION:	District: Kabletown; Map: 8; Parcel: 19 District: Kabletown; Map: 22; Parcels: 14 and 15 District: Kabletown; Map: 26; Parcel: 1.4
ZONING DISTRICT:	Rural
SURROUNDING PROPERTIES:	2011 Zoning Map North: R East: R South: R West: R
LOT AREA:	435.13 acres
PROPOSED ACTIVITY:	To waive the requirement that every lot shall have a minimum road frontage of 80 feet along a road right-of-way and that the ratio between lot depth and lot width shall not exceed 3:1. This will allow pipestem lots to be utilized to access Lots 4-7 of the subdivision.
APPROVALS:	
Community Impact Statement (CIS)	10/26/04 – Approved by PC contingent upon Hillside Development Plan. 02/08/05 – Hillside Development Plan Approved by PC. Approved to proceed to Preliminary Plat
Preliminary Plat	03/08/05 – Preliminary Plat Staff Review Hearing 08/30/05 – Preliminary Plat Approved by Staff
Final Plat	10/11/05 – Final Plat Approved by PC

Staff Report
Jefferson County Planning Commission Meeting
November 13, 2012

OTHER APPROVALS:	02/08/05 – Variance approved by PC to allow a 12 percent maximum road grade. 06/14/05 – Variance approved by PC to allow Residues 1 and 2 to access through existing access easements. 01/10/06 – PC granted a 45-day time extension to bond and record the final plat.
-------------------------	---

Background:

Rock Ferry Station is a 43 lot cluster development in the Rural District at the end of Mission Road. The Final Plat for this development was recorded in 2006. Approximately half of the development (23 lots) has infrastructure installed allowing these lots to be sold. Infrastructure in the remaining section of the development was not installed. Due to economic conditions, none of the lots were ever sold. The property has reverted to the bank and there is an existing bond on the development held by Jefferson County. Currently, the development is vacant.

The Request:

A new development firm is in the process of acquiring Rock Ferry Station with the intention of completing the project. However, the applicant is proposing a significant change to the Rock Ferry Station development. The proposal is to take 20 lots that do not have roadway infrastructure and consolidate the 20 lots into 4 large lots. The applicant is requesting to permit the 4 large lots to make use of the existing streets constructed. Since the request does not meet the standards found in the 1979 Subdivision Regulations, variances from the requirements that the ratio between lot depth and lot width shall not exceed 3:1 and a minimum road frontage of 80 feet is requested. The purpose of having a 3 to 1 depth to width ratio and an 80 foot road frontage is to prevent pipestem lots from being created.

Four Variance Criteria:

The variance process in the 1979 Subdivision Ordinance is different from the waiver process outlined in the 2008 Subdivision Ordinance. In order to grant a variance the following four criteria must be met:

The request is not contrary to the public interest.

The request by the applicant would reduce the number of lots and the access to the proposed lots would be sufficient for the proposed use. Further, due to the size of the lots, the 3:1 depth to width ratio is less of a concern than if these lots were in a conventional subdivision or off a State Road.

A literal enforcement of this Ordinance will result in unnecessary hardship.

A literal enforcement of the Ordinance would create an unnecessary hardship. In this particular instance, the applicant is reducing the number of lots permitted from 20 to 4 lots. The significant reduction of lots will result in less impervious areas from the construction of roads and houses being constructed.

Staff Report
Jefferson County Planning Commission Meeting
November 13, 2012

The request is not the result of a self-imposed hardship.

The request is not a self-imposed hardship. Due to the limited access to the existing street network, based on existing layout of the development, the ability to meet the literal intent of Subdivision Ordinance cannot be met.

The spirit of this Ordinance will be observed and substantial justice done.

The spirit of the ordinance will be met as the proposed larger lots reduce the total number of permitted lots and the shape and access locations will provide future owners with usable access. Substantial justice is done by permitting less lots and infrastructure, where “less” will accomplish the goals of this specific development.

Recommendation

Staff recommends approval of the variances from the requirements that the ratio between lot depth and lot width shall not exceed the 3:1 ratio and the minimum road frontage of 80 feet. Granting the variance will still permit access to the lots being created and due to the size of the lots; the 3:1 ratio is less of a concern. With the reduction of lots there will be less impervious area from the roads and additional houses that could be constructed. Further, this area of the County is rural in nature and creating larger “estate” type lots will maintain that rural feeling.



JEFFERSON COUNTY, WEST VIRGINIA

Application Number: _____

Departments of Planning and Zoning

Fees Paid: \$ 100.00

116 East Washington Street, 2nd Floor, P.O. Box 338
Charles Town, WV 25414

Date Application Received: 10/23/12

Staff Initials: _____

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

RECEIVED
OCT 23 2012
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Subdivision Ordinance Variance Request

To be used in accordance with the 1979 Subdivision Ordinance - 8/94 Salvage Yard Ordinance

Please note variances to the Subdivision Ordinance must comply with Article 17 of the Ordinance. Sketch on a separate sheet of paper the shape and location of the lot. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structures or land uses on the property. Sign and date sketch. Provide a vicinity map.

I/We request a variance from the provisions of the 1979 Jefferson County Subdivision Ordinance

Property owner information

Name of Property Owner: Griffin Realty, LLC c/o Robert A. Jacobs
Mailing Address: 7600 Leesburg Pike, Suite 200
City: Falls Church State: VA Zip Code: 22043
Phone Number: (703) 506-8149 Email: Rob.Jacobs@afsb.com

Applicant contact information

Applicant Name: Waterfront Group c/o Mark Adkins
Mailing Address: 9920 Kincey Avenue
City: Huntersville State: NC Zip Code: 28078
Phone Number: (704) 896-5880 Email: MarkAdkins@waterfrontgrp.com

Applicant Representatives

Name of Registered Engineer(s) or Surveyor(s): Patton, Harris, Rust & Associates
Mailing Address of Engineer(s) or Surveyor(s): 208 Church Street, S.E.
City: Leesburg State: VA Zip Code: 20175
Phone Number: (703) 777-3616 Email: MJerussi@Pennoni.com

Physical property details

Physical Property Address: Located approximately 6 miles southwest of the Mission Road and Route 9 intersection
City: Charles Town State: WV Zip Code: 25414
Tax District: Kabletown Map No: 8, 22, 26 Parcel No: 19, 14, 15, 1.4
Parcel Size: 435.13 Acres Deed Book: 993 Deed Bk. No: 313

Zoning District: Rural (R-A) Residential Growth (R-G) Industrial Commercial (I-C) Residential-Light Industrial-Commercial (R-L-C) Village (V)

Section of Ordinance for which the variance is requested:

Article 8, Section 8.2.e.3 (1979 Subdivision Regulations)

Please describe the nature of the variance request:

This variance request is being submitted to waive Article 8, Section 8.2.e.3. The previous lot configuration (Lots 4-15 and 17-24) approved under Preliminary Plat #04-20 has been reconfigured into 4 larger lots (Lots 4, 5, 6, and 7). Each individual driveway apron has been eliminated and pipe stems will be utilized to access Lots 4-7. The specific requirements noted in the the above section that are requested to be waived are the minimum road frontage (width) of 80 feet along the road right-of-way, the average depth to width ratio of 3:1, and the use of pipe stems.

Explain why this request is NOT contrary to the public interest:

By reconfiguring the 20 smaller lots into 4 larger lots the following items will be of public benefit: Less traffic will be generated to and from the subdivision due to the reduction of houses to be constructed. This will also reduce pollution; the amount of pollution to the Chesapeake Bay is reduced, less area of disturbance results in more preserved green space and less impervious area created in the post-development construction.

Explain how enforcement of this Ordinance will result in unnecessary hardship:

The variance is needed because of the high costs of infrastructure work required to service the lots. The current real estate market remains weak. Therefore, the spending of over one million dollars for the construction of roads, utilities, etc. is not feasible at this time. If the ordinance is enforced the sale of the land will not take place and the project will not be completed in the foreseeable future.

Explain how this request is NOT the result of a self-imposed hardship:

The real estate market is stagnant and extremely slow. These lots have been available for purchase for the last 5 years and remain unsold. We are asking for a variance simply to have to spend less money on infrastructure. The plan is to create larger lots with less out of pocket spending and give the 4 lots the right to use the existing infrastructure of roads and power. This hardship has been created by the economic downturn.

Explain how the spirit of this Ordinance will be observed and substantial justice will be done:

This revision to the layout will reduce density and will provide the subject project an opportunity to reach final construction and project completion. Therefore, the spirit of the ordinance will be observed and substantial justice will be provided to Jefferson County and it's residents.

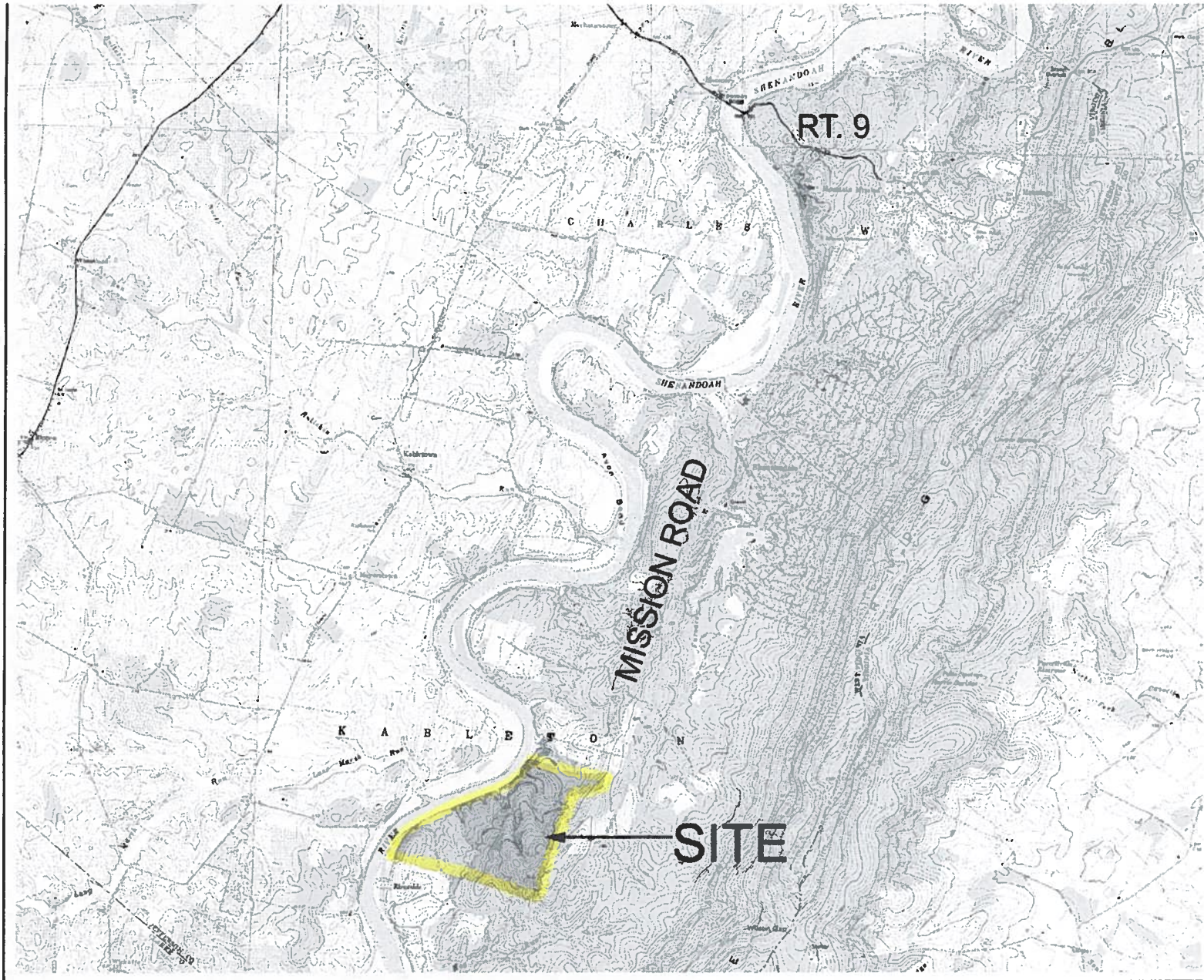
Original signature is required. The information given is correct to the best of my knowledge.


Signature of Property Owner
Robert A. Jacobs - Vice President
GRIFFIN REALTY L.L.C.
Date
10/21/2012

Received By _____ Date _____

Approved/Denied by a vote of _____ for and _____ against this _____ day of _____, _____ (Year)

Approved Denied

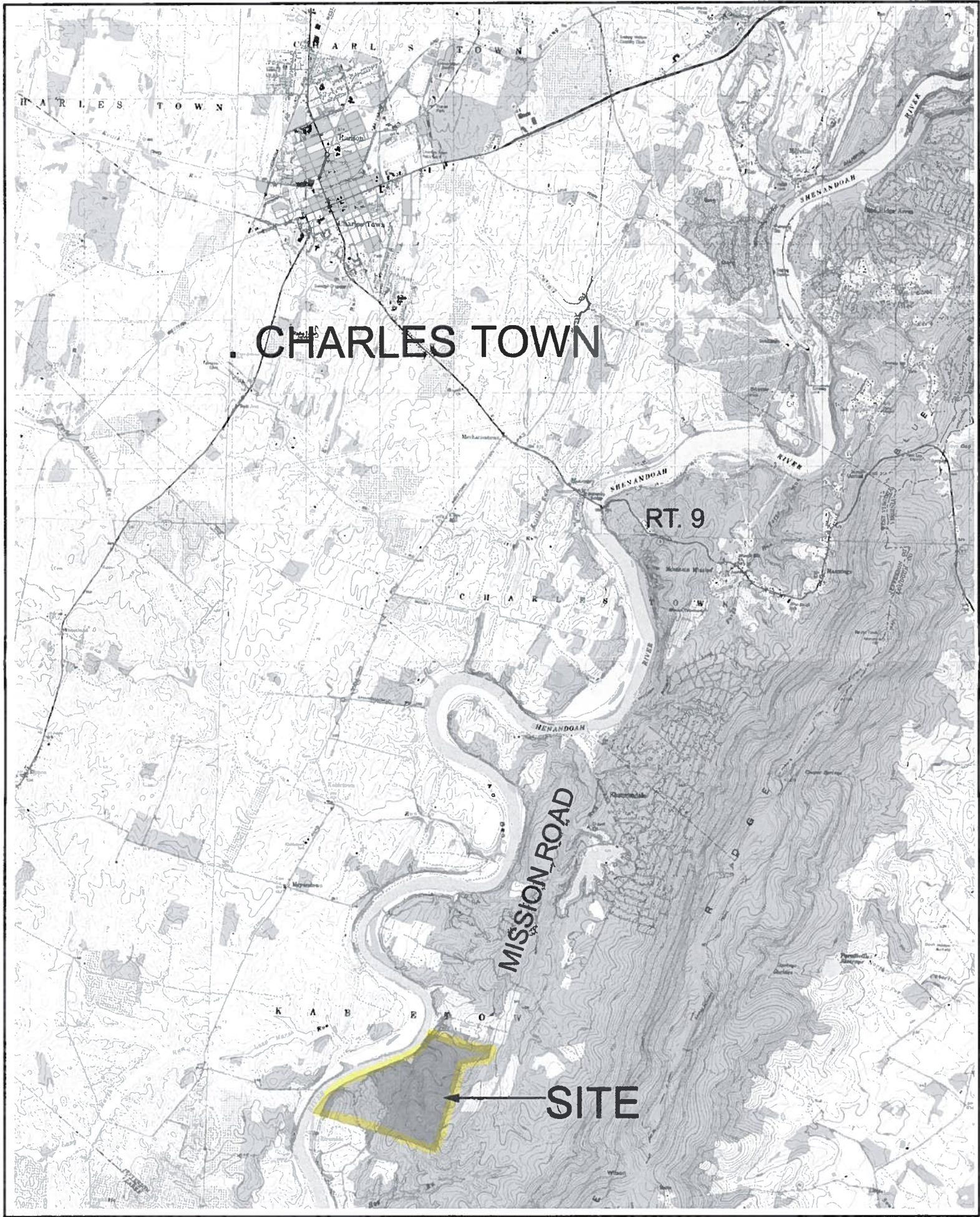


VICINITY MAP
U.S.G.S. QUAD MAP
CHARLES TOWN QUADRANGLE
1" = 2000'

RECEIVED

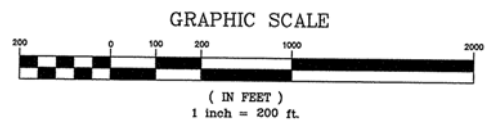
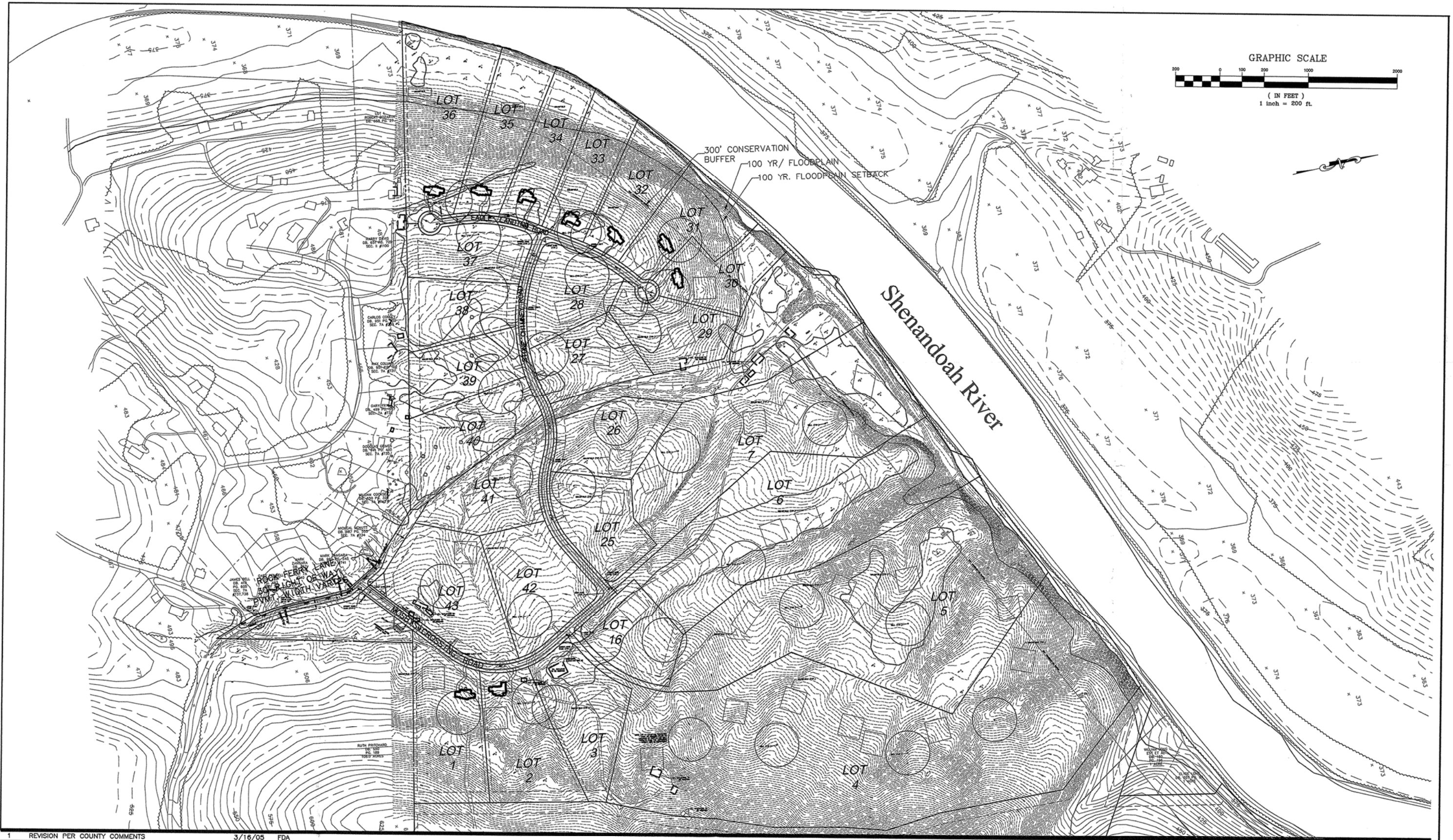
OCT 23 2012

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING



VICINITY MAP
U.S.G.S. QUAD MAP
CHARLES TOWN QUADRANGLE
1" = 2000'

RECEIVED
OCT 23 2012
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING



1	REVISION PER COUNTY COMMENTS	3/16/05	FDA
2	REVISION PER COUNTY COMMENTS	6/20/05	FDA
3	REVISE STREET NAMES	8/10/05	FDA
4	REDLINE REVISION TO ADD STOCKPILES AND REVISED POND OUTFALL STRUCTURES	4/9/08	FDA
5	REDLINE REVISION FOR THE PROPOSED LOT CONSOLIDATION AND ASSOCIATED DESIGN CHANGES	10/23/12	FDA
NO.	DESCRIPTION	DATE	CHKD
	REVISION		



PROJECT
**ROCK FERRY STATION
 PRELIMINARY PLAT**
 JEFFERSON COUNTY, WV

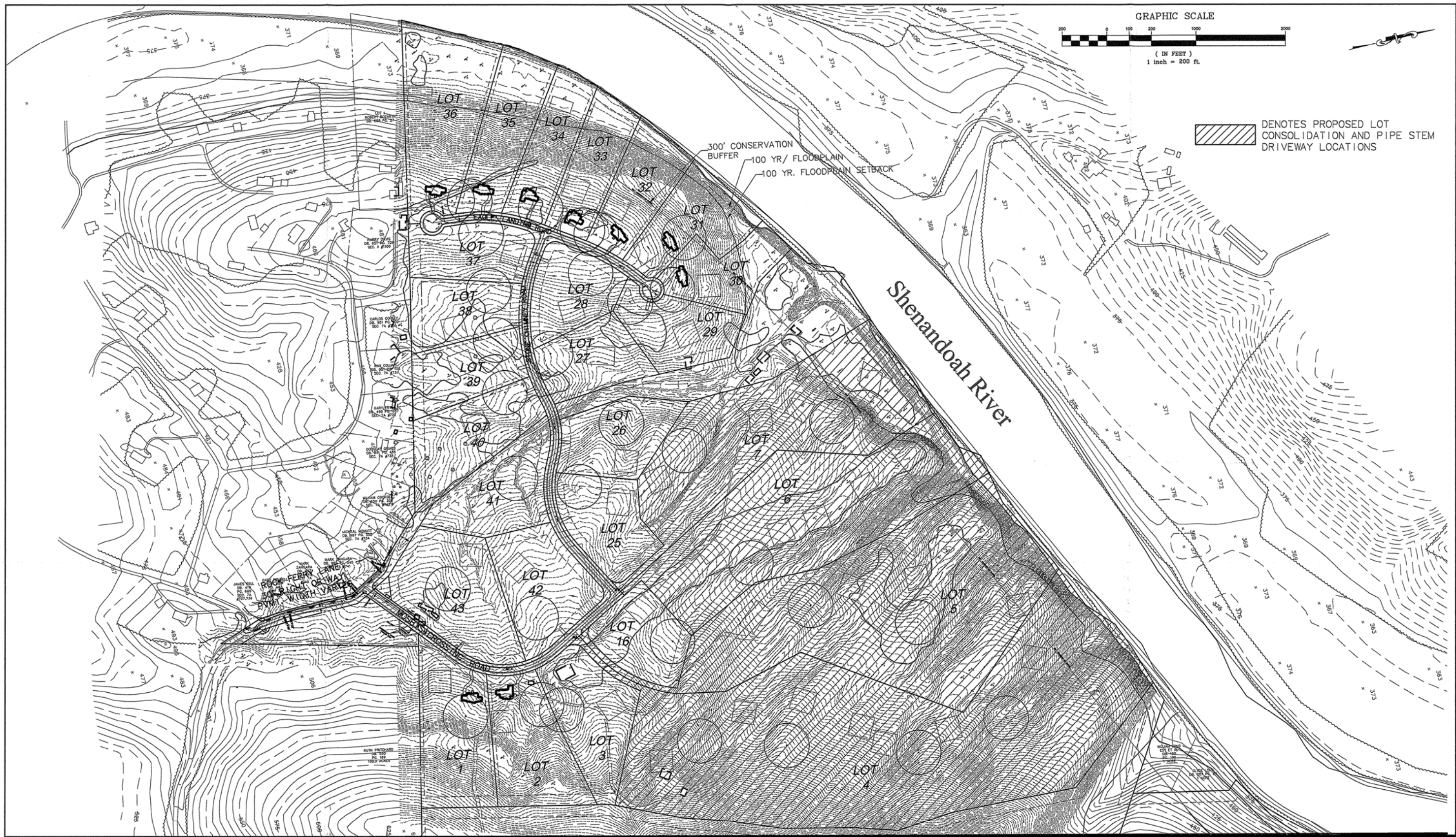
TITLE
**VARIANCE REQUEST
 EXHIBIT #1**

Patton Harris Rust & Associates, pc
 Engineers. Surveyors. Planners. Landscape Architects.
P_H_R+A
 208 Church Street, S.E.
 Leesburg, VA 20175
 T 703.777.3616
 F 703.777.3725

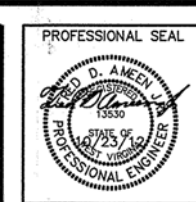
DESIGN	IVM	SURVEY	AERIAL
DRAWN	IVM	DATE	OCTOBER 2012
CHECKED	FDA	SCALE	1"=200'
SHEET C450-EXHIBIT 1	X OF 40	FILE NO.	12356-1-1

P0112-00

RECEIVED
 OCT 23 2012
 JEFFERSON COUNTY
 PLANNING, ZONING AND ENGINEERING



1	REVISION PER COUNTY COMMENTS	3/16/05	FDA
2	REVISION PER COUNTY COMMENTS	6/20/05	FDA
3	REVISE STREET NAMES	8/10/05	FDA
4	REDLINE REVISION TO ADD STOCKPILES AND REVISED POND OUTFALL STRUCTURES	4/9/08	FDA
5	REDLINE REVISION FOR THE PROPOSED LOT CONSOLIDATION AND ASSOCIATED DESIGN CHANGES	10/23/12	FDA
NO.	DESCRIPTION	DATE	CHKD
	REVISION		



PROJECT
**ROCK FERRY STATION
 PRELIMINARY PLAT**
 JEFFERSON COUNTY, WV

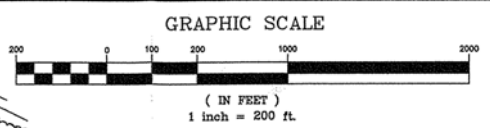
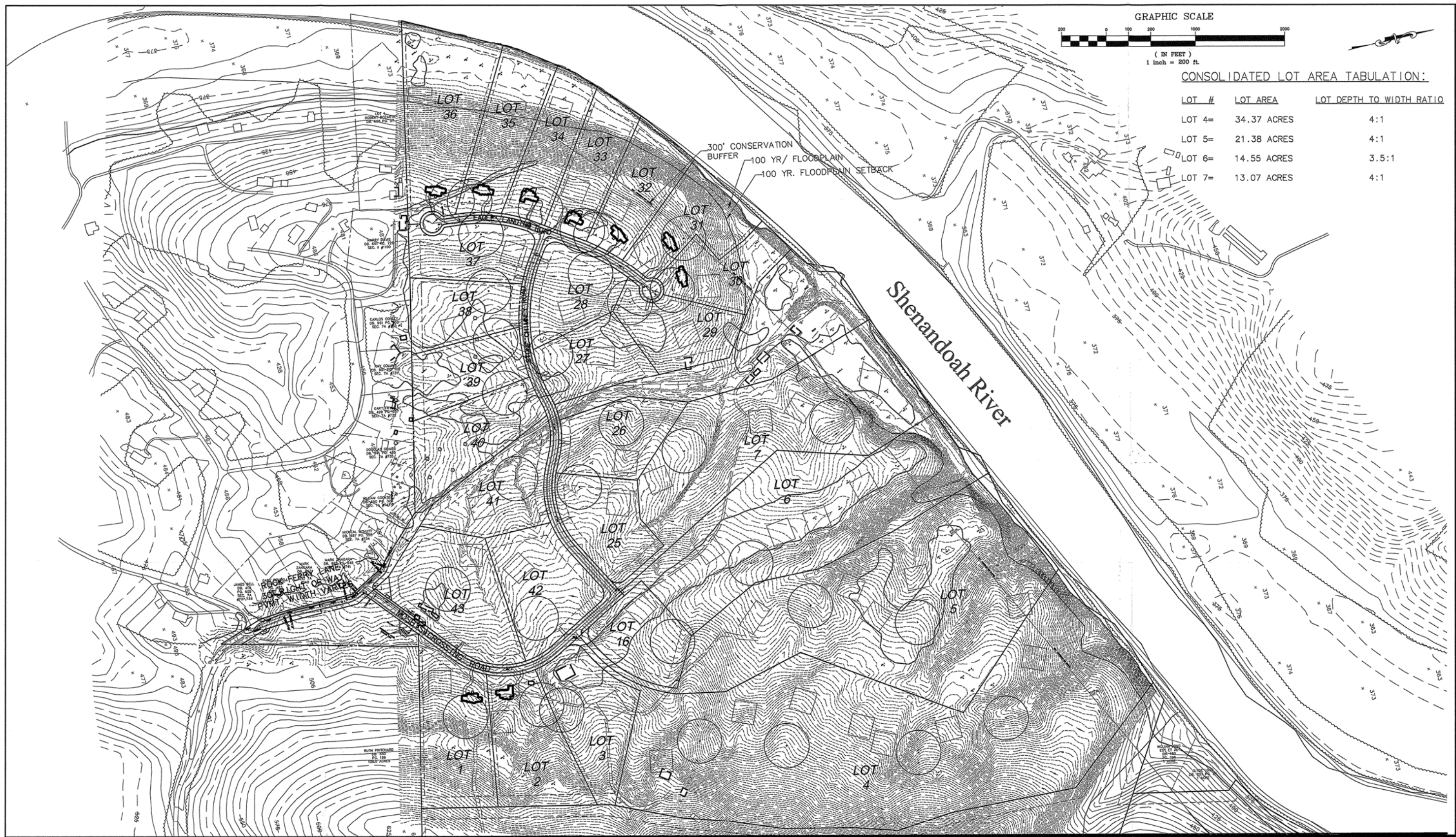
TITLE
**VARIANCE REQUEST
 EXHIBIT #2**

Patton Harris Rust & Associates, pc
 Engineers. Surveyors. Planners. Landscape Architects.
 208 Church Street, S.E.
 Leesburg, VA 20175
 T 703.777.3616
 F 703.777.3725

DESIGN	IVM	SURVEY	AERIAL
DRAWN	IVM	DATE	OCTOBER 2012
CHECKED	FDA	SCALE	1"=200'
SHEET C450-EXHIBIT 2	FILE NO.	12356-1-1	
X OF 40			

RECEIVED
 OCT 23 2012
 JEFFERSON COUNTY
 PLANNING & ZONING DEPARTMENT

#Dev12-08



CONSOLIDATED LOT AREA TABULATION:

LOT #	LOT AREA	LOT DEPTH TO WIDTH RATIO
LOT 4=	34.37 ACRES	4:1
LOT 5=	21.38 ACRES	4:1
LOT 6=	14.55 ACRES	3.5:1
LOT 7=	13.07 ACRES	4:1

1	REVISION PER COUNTY COMMENTS	3/16/05	FDA
2	REVISION PER COUNTY COMMENTS	6/20/05	FDA
3	REVISE STREET NAMES	8/10/05	FDA
4	REDLINE REVISION TO ADD STOCKPILES AND REVISED POND OUTFALL STRUCTURES	4/9/08	FDA
5	REDLINE REVISION FOR THE PROPOSED LOT CONSOLIDATION AND ASSOCIATED DESIGN CHANGES	10/23/12	FDA
NO.	DESCRIPTION	DATE	CHKD
	REVISION		



PROJECT
**ROCK FERRY STATION
 PRELIMINARY PLAT**
 JEFFERSON COUNTY, WV

TITLE
**VARIANCE REQUEST
 EXHIBIT #3**

Patton Harris Rust & Associates, pc
 Engineers. Surveyors. Planners. Landscape Architects.
 208 Church Street, S.E.
 Leesburg, VA 20175
 T 703.777.3616
 F 703.777.3725

DESIGN	IVM	SURVEY	AERIAL
DRAWN	IVM	DATE	OCTOBER 2012
CHECKED	FDA	SCALE	1"=200'
SHEET 450-EXHIBIT 3	FILE NO.	12356-1-1	
X OF 40			

RECEIVED
 10/23/12

#D012-08



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning & Zoning

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

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

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

MEMORANDUM

TO: Planning Commission
FROM: Seth Rivard, County Planner
DATE: November 19, 2012
RE: Overview of Morgan's Grove Market Site Plan

1. Background

The following is a history of Staff's working relationship with the applicant. There are attachments that follow this memo and said attachments are referenced in this document for the reader's full understanding of the project. This memo also details key elements, dates and processes for this project.

The applicants did appear before the County Commission at their October 4, 2012 meeting requesting the establishment of an appeals review body of Planning Commission. The County Commission did not express interest in creating another board and/or commission.

2. Chronology to Date

Outlined below are some of the significant milestones related to the proposed Morgan's Grove Market development. Please note that this chronology starts with the approval of the Conditional Use Permit and that there were numerous prior steps including a zoning map amendment request that was denied.

- **April 19, 2012 – Approval of Conditional Use Permit (CUP)**

The Board of Zoning Appeals approved a Conditional Use Permit (CUP) for the Morgan's Grove Market development on April 19, 2012. The Staff report for the April 19, 2012 Board of Zoning Appeals meeting noted that the applicant was required to submit a Concept Plan as the next step in the approval process (See Attachment 1 – Excerpt from April 19, 2012 BZA Meeting). One condition of the approval of the CUP for this project was a requirement for public water and sewer service. The closest water and sewer provider is the Corporation of Shepherdstown. Since the Shepherdstown water and sewer lines do not abut this property, this connection is determined to involve off-site infrastructure. A project which requires off-site infrastructure results in the project being classified as a major site plan per West Virginia Code 8A. The topic of off-site infrastructure is described in more detail below.

- **August 22, 2012 – Meeting with Applicant**

Apparently there is some confusion regarding the purpose of this meeting. Staff generally understood that this meeting was for the purpose of discussing the applicants wish to get a grading permit without an approved site plan. In order to start grading without an approved site plan, a waiver granted by the Planning Commission would be necessary. Staff discussed with the applicant that the Department has only processed one such waiver request to permit the start of grading before the site plan is approved. In that instance, the applicant was under a state mandated deadline to complete the project. Further, the site plan associated with that request had been submitted for the first review by Staff and had an approved Concept Plan.

At the Oct. 4 County Commission meeting, Mr. Blackmer referred to this discussion with staff, stating:

“On the 22nd of August 2012, I left a meeting at the Mason Building with the understanding that if we submitted a site plan by September 17th, we would be on the October 9th Planning Commission meeting agenda to discuss that proposal.”

This statement is not correct; staff did not state that the site plan could be reviewed at the October 9th PC meeting. Rather, at the August 22nd meeting, staff communicated to the applicant that only a request for a waiver to allow early grading could be heard on the October 9th Planning Commission agenda – if an application and fees were submitted, and if the applicant were willing to post a bond for the grading activity. Before any grading could be permitted, the grading plan would have to be approved and bond would have to be posted. The applicant did not object.

Following the meeting, staff determined that a request for a grading waiver prior to an approved Concept Plan would be premature. If a Concept Plan were later not approved by the Planning Commission, the County would be in a precarious position of having allowed grading of a site with no assurance that a Concept Plan (and subsequently, a site plan) would be approved. This would result in the County potentially having to call in the bond to restore the site to its previous condition. Staff does acknowledge that the applicant left the August 22nd meeting with the understanding that a request for a waiver to obtain a grading permit could potentially be heard at the October 9, 2012 meeting, and certainly regret any confusion that this preliminary determination may have caused.

However, at no time did staff state that the site plan could be scheduled for review at the October 9th Planning Commission agenda; such a timeframe could not comply with requirements of the West Virginia Code or the County’s adopted subdivision regulations.

- **September 4, 2012 – Letter to Applicant**

The following is an excerpt from a letter sent to the applicant on September 4, 2012 (See Attachment 2 – Letter Dated September 4, 2012):

As discussed at the meeting on August 22, 2012, the first building proposed to be constructed is approximately 13,000 sq. ft. Since the project requires off-site infrastructure related to public water and sewer being provided from Shepherdstown, the site plan will be required to process as a Major Site Plan, as

prescribed by West Virginia Code Chapter 8A. As such, a Concept Plan shall be submitted as the first step in the site plan process. Since the Conditional Use Permit required a sketch of the proposed site, the site layout shown in the Concept Plan should generally follow the intent shown in the CUP and the Concept Plan would have to reflect the conditions required by the Board of Zoning Appeals. It may be advisable that the Concept Plan show the complete future build out of the site or another Concept Plan may need to be submitted showing additional buildings.

At the August 22 meeting, the County Engineer provided the applicant a standard Pre-Proposal Conference (PPC) memo that the Engineering Department uses for these meeting stating general items to consider when starting the site plan process. In the memo, the County Engineer noted that this site plan could process as a minor if the applicant could show that there was no need to extend public water and sewer to the site. That concern was discussed with the applicant. However, it is unclear how the proposed development can meet this standard, in light of the absence of public water and sewer lines adjacent to the development. It is the applicant's responsibility to demonstrate that the proposed development can meet this standard. Considering the nearest location of public water and sewer, Staff does not believe that the applicant will be able to show that this site does not require an extension of off-site infrastructure (water and sanitary sewer).

While a PPC memo was provided by the Engineering Department, staff did not consider this a true PPC meeting because a PPC meeting requires the applicant to provide a general plan of what they are proposing before the meeting for discussion at the meeting. Since Planning and Zoning Staff did not have the documents that are required for all PPC meetings, staff believed that this meeting was merely a discussion related specifically to the topic of the requested grading permit. Further, At the August 22nd meeting, Staff did have a conversation with the applicant about most aspects of the site plan process (including the major and minor site plan processes) and then noted in the September 4 letter to the applicant the need for a Concept Plan and the fact that the project is determined to be a Major Site Plan per State Code Section 8A. The letter sent to the applicant also detailed the steps needed to request a grading waiver.

- **September 12, 2012 – Submission of Site Plan**

The applicant's engineer submitted a site plan on September 12, 2012. The Engineering Office Manager called Dirk Stansbury the next morning to let him know that, after speaking with Planning staff, that a Concept Plan was needed. Typically a site plan will not be reviewed prior to the submission of the Concept Plan. Additionally, the applicant had not paid the required fees for the submission, resulting in further delay of the routing of the application. Typically, site plans are not routed for review until fees are paid. Subsequently, the site plan was routed based on the applicant stating to the Engineering Office Manager that the building permit application and fees were to be submitted to the office as soon as possible. Routing a site plan without a fee being paid is never done. To date, staff's understanding is that the fees have still not been paid. Accordingly, first review comments will not be returned to the applicant until the application and fees are provided to the Engineering Department.

The site plan was also submitted prior to submittal, review, or approval of a Concept Plan, which is a requirement of the major site plan process. (It is also a requirement for minor site plans for development exceeding 5,000 square feet.) Staff asked the applicant to submit a

Concept Plan, and offered to conduct a courtesy review of the site plan while the Concept Plan is in review. The applicant was made aware that if there were any issues that arose as a result of the Concept Plan process that directly affected the site plan and/or building plans, these items would have to be addressed prior to staff approving the site plan and/or building plans. The applicant stated that he understood that proceeding with a simultaneous courtesy review of the site plan was at the applicant's risk. The courtesy site plan review thus began on September 17, 2012, without the submission of the Concept Plan or the fees. While the formal 45-day review timeline will not begin until after Planning Commission approval of the Concept Plan, staff anticipates that this review time can be significantly shortened as a result of the courtesy review period.

As of this day, October 17, 2012, the fees have not been paid by the applicant.

- **September 17, 2012 and September 26, 2012 – Meetings with Applicant**

Following receipt of the September 4 letter, the applicant requested a meeting to debate the merits of the letter. Staff met with the applicant on September 17th to address the applicant's concerns. A letter was being drafted in response to the September 17th meeting when the applicant asked to meet again on September 26th. Subsequently, on October 1st, staff provided a letter to the applicant, addressing the outcome of both of these meetings (See Attachment 3 - Letter Dated October 1, 2012). The letter outlines in great detail all the steps and dates the applicant needs to meet in order to expedite the review of this project.

- **September 20, 2012 – Concept Plan Submittal**

The Concept Plan was submitted on September 20, 2012 and given to Planning and Zoning for their review. For speed and accuracy, Planning, Zoning and Engineering reviews the Concept Plan together. Dirk Stansbury, the applicants Engineer, was called on the afternoon of September 28, 2012 stating that the first review of the Concept Plan review was complete, and that the Concept Plan – with staff comments – was ready to be picked up. A message was left for Mr. Stansbury. Mr. Stansbury called back and said he out of town until October 3, 2012. Since he was out of town, staff scanned and emailed the review comments to him on the same day he had called. Mr. Stansbury requested a meeting to go over the comments with Planning, Zoning and Engineering staff for October 4, 2012.

- **October 2, 2012**

As noted at the October 4, 2012 County Commission meeting, while the dates above were an attempt to resolve the applicants concern about the process, the October 2nd date is important as it marks not only the start of the applicant's Concept Plan process, but also the site plan process.

A Concept Plan had to be submitted on or before October 2 to be on the December 11, 2012 Planning Commission meeting. Since the applicant's submitted their Concept Plan prior October 2nd, Staff has already reviewed the Concept Plan, returned comments to the applicant and had a meeting with the applicants engineer by October 4, 2012. With the exception of the proposed design change by the applicant on October 4 relative to designing the site over multiple property lines, it appears the Concept Plan is able to meet the December 11 Planning Commission meeting. In order to remain on schedule, the applicant engineer will have to ensure that the returned Concept Plan addresses the comments provided to the applicant and

that conceptually the applicant can develop this site across multiple parcels. We have until October 26, 2012 to resolve any deficiencies in the Concept Plan submissions to remain on the December 11 meeting.

- **October 4, 2012 – Applicant Speaks to County Commission; Meeting with Applicant**

Morning of October 4, 2012

On October 4, the applicant requested that the County Commission consider an amendment to the Subdivision Regulations for the establishment of appeals body of the Planning Commission and Planning Staff. The County Commission declined to pursue this request and recommended that the applicant discuss these issues with the Planning Commission. (At the October 9th Planning Commission meeting, the Commission scheduled a time for discussion of issues related to the site plan review process on the November 13 PC agenda.)

Afternoon of October 4, 2012

Following the County Commission meeting, Staff met with Dirk Stansbury, Peter Corum, and Fred Blackmer to review the Concept Plan comments. The meeting was productive, and staff and the applicant's engineer were able to easily resolve the technical issues of the Concept Plan comments. The applicant had indicated that he does not want to merge the existing property lines of the four separate lots that comprise the proposed development; as such, the proposed development configuration may result in the need for setback variances and potentially some waivers. Staff discussed elements of the site plan design that might be issues if they continue to design the site plan across multiple property lines.

The applicant's engineer resubmitted the Concept Plan on October 9, with a letter addressing staff's comments. The plan can be determined to be sufficient, if the applicant's engineer has addressed all staff comments and identified how the applicant can develop this site across multiple parcels. If this is the case, the Concept Plan can remain on schedule to be reviewed at the December 11 Planning Commission meeting. Staff can continue to work with the applicant's engineer until October 26, 2012 to resolve any deficiencies in the Concept Plan submissions in order to remain on the December 11 meeting.

3. Projected Timeline for Completion of Site Plan Review Process

Below is a possible schedule that the project may follow if the applicant meets the timelines required by the Subdivision and Land Development Regulations. As with every development project, the speed of the review period is significantly influenced by the completeness of submittals by the applicant's engineer.

- **December 11, 2012**

At the December 11, 2012 Planning Commission (PC) meeting, it is possible that the applicant will receive "Direction" from the PC to move forward with the site plan process. It is also possible that the PC may ask the applicant to make some changes to the Concept Plan at that meeting that will affect the site plan. Per State Code, the PC has 14 days from that meeting to provide "Direction" on the Concept Plan to the applicant.

- **January 8, 2013**

If the applicant responds to all staff comments during the site plan review and the staff can deem the application and plan to be “complete” by December 25, 2012, the site plan could be scheduled for the January 8, 2013 PC meeting. (This timeframe assumes that most site plan issues would have been addressed during the courtesy review period, and that no substantial changes to the site plan are needed as a result of the PC approval of the Concept Plan.) At the January meeting, if the PC votes to accept the site plan application as complete, the PC could schedule a public hearing at the February 12, 2013 PC meeting. The only purpose of this meeting is to have the PC find the site plan “complete” and schedule a public hearing. This is required per West Virginia Code 8A.

(As noted by Planning and Zoning Staff, this step of requiring the PC to have a meeting to schedule a public hearing seems a little redundant; however, in communities where the PC does not have a staff, this step is probably necessary. It would seem reasonable that an amendment could be proposed to amend the state law for communities with planning staff to allow staff to schedule a site plan for public hearing on behalf of the PC as long as all notice requirements are met.)

- **February 12, 2013**

If the public hearing on the site plan is held on February 12, 2013, the PC would have the option of approving the site plan that night or within 14 days of the February 12 meeting.

4. Additional Factors

In addition to the review timeline described above, there are two other significant factors related to the approval of the proposed development: off-site infrastructure and possible variances or waivers. The possibility of future code amendments is also discussed below.

- **Off-site infrastructure**

Staff has determined that all off-site infrastructure improvements need to be designed, approved and ready for bonding before the site plan can be approved. As noted above and in the letters to the applicant, the requirement for off-site infrastructure causes this application to be classified as a major site plan per state code and the Subdivision Regulations. It is not sufficient for the applicant to merely note or state on the site plan that the development will be connected to public water and sewer systems; rather, the plan must show how this connection will be achieved, show the pipe size and other plan and profile details. If the applicant is not able to demonstrate that the site can access a water and sewer connection permitted by the providing agency, the site plan cannot be approved and a building permit cannot be issued. The Jefferson County Subdivision and Land Development Regulations define infrastructure as:

Facilities and services needed to sustain industrial, residential, commercial, and all other land-use activities, including water, sewer lines, and other utilities, stormwater systems, streets and roads, communications, and emergency or public facilities such as fire stations, parks, and similar facilities.

The following text is from the section of the West Virginia Code 8A that defines the difference between a minor and major site plan:

8A-5-2. Requirements for a minor subdivision or land development

(a) An application for approval of a subdivision or land development plan and plat may be considered a minor subdivision or land development if it meets the following requirements:

- (1) Only creates the maximum number of lots specifically permitted by the subdivision and land development ordinance for a minor subdivision or land development;*
- (2) Will not require the development of new or the extension of existing off-tract infrastructure; and*
- (3) Such other requirements as determined by the governing body to ensure that required improvements are installed and not avoided by a series of minor subdivisions or land developments.*

Attached is a letter from Frank Welch, Public Works Director for Shepherdstown, addressed to Peter Corum, regarding the water and sewer connections that are closest to the Morgan's Grove Market site (See Attachment 4). Each of the options discussed in the letter is located off-tract from this site by a significant distance in most cases. Staff's understanding from the Public Works Director is that the applicant has yet not submitted the information needed for Mr. Welch's agency's review. Per Mr. Welch, the duration of process to obtain approval to extend utilities is projected to be 6-8 months.

- **Variances (Board of Zoning Appeals Process) and Waivers (Planning Commission Process)**

Based on the proposed site layout of the development, it may be necessary for the applicant to seek variances and waivers. While these requests can be accommodated within the time frame proposed above, the applicant needs to be aware of due dates and notice requirements in order to avoid the possibility of delays in approving the proposed design layout.

- ***Future Code Amendments***

The applicant has expressed frustration with some of the requirements of the review process. Staff shares this irritation with some components of the review process, and we hope to have the opportunity to work collaboratively with the applicant and other stakeholders to identify options to amend the Subdivision and Land Development Regulations and the Zoning Ordinance in the future. One option already identified is for a sketch plan submitted with a Conditional Use Permit application to substitute for a Concept Plan associated with a site plan. However, the requirements in each process are different and any amendment would need to address those differences.

However, any code amendments in the near future must be balanced with the significant staff time demands of the Comprehensive Plan and current daily responsibilities. It is also likely that the Morgan's Grove Market site plan would be approved prior to the completion of any code amendments initiated now. The Department will continue to work with the County Commission on establishing priorities through its annual work plan.

It should also be noted that the Department, working with the County Commission and other stakeholders, has completed several large-scale amendments to the Subdivision Regulations and the Zoning Ordinance in recent years, including a significant change to the classification of

major and minor site plans. As noted above, there are elements of state code that limits local authority.

5. Conclusion and Next Steps

Staff recognizes that Morgan's Grove Market is an innovative project, and supports the concept of this creative development. We have demonstrated this support by:

- Offering to conduct a courtesy review of the site plan, for the purpose of shortening the review time;
- Possibly offering to support waivers of County requirements;
- Meeting repeatedly with the applicant to discuss this development and the review process; and
- Routing the site plan for review despite the fees remaining unpaid

While we understand the applicant's desire to have the site plan approved as soon as possible, both staff and the applicant are required to follow the requirements within the Subdivision and Land Development Regulations and state code. These standards are detailed in writing, are not ambiguous, and are the adopted law of the County. By ensuring that the process is followed, staff is helping to protect both the County and the applicant. Staff is committed to continuing to be as helpful as possible in providing information to the applicant as to how the review and approval process works, and offering any possible assistance to this project.

It is our hope that this memo clarifies any issues of concern regarding the review of the Morgan's Grove Market site plan, and details the efforts that staff has made to ensure that this project is reviewed as quickly and efficiently as possible.

Attachment 1

Excerpt from April 19, 2012 BZA Meeting

Staff Report
Jefferson County Board of Zoning Appeals Meeting
April 19, 2012

Morgan's Grove Market Conditional Use Permit File (#CP12-01)

- a. *Consistency with approved Conditional Use Permit.* All subsequent development applications must be consistent with the approved development as described in the Conditional Use Permit, and must address any conditions of approval associated with the CUP.
- b. *Site plan.* Any non-residential development of the property exceeding 250 square feet (or 3,000 square feet of disturbed area) will require a site plan, reviewed and approved by the Planning and Zoning Department. The site plan review process will include the following elements:
 - a. *Consistency with ordinances.* The Planning, Zoning, and Engineering Departments will review the site plan for consistency with the Subdivision and Land Development Regulations, the Zoning Ordinance, the Floodplain Ordinance, and other requirements.
 - b. *Setbacks and buffers.* The following setbacks and buffers will apply to non-residential development of the property:

	Front	Side	Rear
Distance requirements¹ (applies to buildings or any portion of land use but not parking or drive aisles)	75'	75'	75'
Building setbacks	25'	50'	50'
Parking setbacks	15'	10'	10'
Buffers² (Screened/unscreened)	15'/50'	15'/50'	15'/50'

- c. *Stormwater management.* A licensed civil engineer must prepare stormwater management plans, to be reviewed by the Engineering Department.
 - d. *West Virginia Division of Highways.* The WVDOH must review a request for an entrance permit for the proposed land use, and will review any required roadway improvements such as turn lanes or shoulder widening.
 - e. *Bonding.* All improvements must be bonded.
 - f. *Water and wastewater.* The Jefferson County Health Department (or a utility provider) must approve water supply and wastewater disposal.
 - g. *Concept Plan.* For a site plan exceeding 5,000 square feet of development, a Concept Plan must be submitted and approved by the Planning Commission at a public hearing. Adjacent property owners would receive notice of this hearing.
- c. *Impact fees.* Payment of any required impact fees must occur prior to initiation of the land use.
 - d. *Building permits.* All construction, unless of an agricultural type, will require permits and inspections.

¹ Distance requirements are due to. Uses or buildings must be located at least 75' from adjacent residential uses and property listed on the National Register of Historic Places (i.e. Morgan's Grove Park), in addition to any lot in the Residential Growth district, schools, churches, or institutions for human care.

² Applies if adjacent to a dwelling, school, church or institution for human care not located on the same lot as the said use or buildings. Buffers may be either screened (15') or unscreened (50'). In addition to this requirement, a landscape buffer with a minimum width of 10' is required on side and rear lot lines.

Attachment 2

Letter Dated September 4, 2012



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning & Zoning

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

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

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

September 4, 2012

Peter Corum
Po Box 536
Shepherdstown, WV 25443

Peter,

This letter is in response to your request to allow a grading permit to be issued before a site plan is approved. In the current Ordinance and Regulations, an applicant is required to have an approved site plan before any site grading can occur. Jefferson County does not have an early grading permit process. Section 20.102(B) of the amended 2008 Subdivision Regulations, provides the following:

“Before development of the land is commenced, subdivision plats and site plans must be approved by the Planning Commission, recorded, and surety posted for required improvements, in accordance with these Regulations and the Comprehensive Plan.”

In order to start grading without an approved site plan, a waiver is necessary. Waivers from the Subdivision Regulations cannot be granted administratively and require Planning Commission approval. If the waiver was approved by the Planning Commission, a bond would be required for any work related to the rough grading. The applicant would also assume the risk that during site plan review a change could occur which would affect the grading that was completed prior to site plan approval. Any request for a waiver shall be accompanied with a NPDES permit and will have to show overall grading and limits of grading.

The Department has only processed one such waiver request to permit the start of grading before the site plan is approved. In that instance, the applicant was under a state mandated deadline to complete the project. Further, the site plan associated with that request had been submitted for the first review by Staff.

As discussed at the meeting on August 22, 2012, the first building proposed to be constructed is approximately 13,000 sq. ft. Since the project requires off-site infrastructure related to public water and sewer being provided from Shepherdstown, the site plan will be required to process as a Major Site Plan, as prescribed by West Virginia Code Chapter 8A. As such, a Concept Plan shall be submitted as the first step in the site plan process. Since the Conditional Use Permit required a sketch of the proposed site, the site layout shown in the Concept Plan should generally follow the intent shown in the CUP and the Concept Plan would have to reflect the conditions required by the Board of Zoning Appeals. It may be advisable that the Concept Plan show the complete future build out of the site or another Concept Plan may need to be submitted showing additional buildings. Details regarding the site plan process can be found in Section 24.119 in the amended 2008 Subdivision Regulations.

Since a Concept Plan is required, Staff would not consider supporting a waiver request to allow early grading until a Concept Plan has been processed and approved by the Planning Commission. It is possible to request a waiver at the same time that the Concept Plan is processing; however, this waiver would need to be a separate submission from the Concept Plan. Review of both could run concurrently. Under this scenario, the order of process, for this project, would be as follows:

1. Concept Plan approval
2. Waiver to permit grading before site plan approval
3. Site plan approval

Any conditions of the Conditional Use Permit applicable to grading must be addressed prior to initiation of grading, if a waiver is approved.

The meeting held on August 22, 2012 for the purpose of discussing a waiver for grading does not constitute a Pre-Proposal Conference (PPC). A PPC generally involves a more detailed discussion of the site plan process, including an overview of the plan, permits needed from other agencies and other general requirements. A PPC should be scheduled prior to the submission of the Concept Plan.

If you have any questions, please feel to contact me.

Sincerely,

Seth A. Rivard
Planner

Cc:
Dirk Stansbury
3 Sue Court
Martinsburg, WV 25401

Attachment 3

Letter Dated October 1, 2012



JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning & Zoning
116 East Washington Street
P.O. Box 338
Charles Town, West Virginia 25414

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

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

October 1, 2012

Peter Corum
Po Box 536
Shepherdstown, WV 25443

Peter,

This letter is to confirm the discussion from the September 17, 2012 meeting which included you, Jennie Brockman, Steve Barney and Seth Rivard, and the September 25, 2012 meeting which included you, Fred Blackmer, Jennie Brockman, Steve Barney and Seth Rivard. The following addresses the topics we discussed for the process to achieve site plan approval in order to obtain a construction permit for Morgan's Grove Market.

Concurrent Review of the Site Plan and Concept Plan and Accelerated Timeline

As noted during our discussion, staff has previously (upon request) conducted a concurrent courtesy review of a site plan during the Concept Plan review phase of a development. The site plan and Concept Plan are two separate processes that can partially overlap if such a courtesy review is conducted. In past instances where this overlapping review has occurred, the applicant typically has submitted the site plan and Concept Plan at the same time. While the Concept Plan is proceeding as required per Section 24.116 of the amended 2008 Subdivision Regulations, staff will conduct a courtesy review of the submitted site plan and the applicant can work with Staff to address site plan requirements. However, the applicant assumes all risk with the submission of the site plan if the Concept Plan is not approved or changes to the Concept Plan requires a change(s) in the site plan under review. In that circumstance, the site plan would need to be changed to match the approved Concept Plan. The proposed timeline below is a very aggressive schedule.

Concept Plan

A Concept Plan shall be submitted by October 2, 2012 and determined sufficient by Staff by October 26, in order to be on the agenda for the December 11, 2012 Planning Commission meeting. The process and requirements for a Concept Plan can be found in Section 24.116 of the amended 2008 Subdivision Regulations. Since the Conditional Use Permit required a sketch of the proposed site, the site layout shown in the Concept Plan should generally follow the intent shown in the CUP, and the Concept Plan would have to reflect the conditions (setbacks, size limits, etc.) required by the Board of Zoning Appeals. It is advisable that the Concept Plan show the complete future build out of the site or another Concept Plan may need to be submitted at a

future time showing additional buildings. Since the Concept Plan was submitted on September 20, 2012, this process is on track. Staff has provided the first review and returned the Concept Plan for revisions.

Major Site Plan Process

The site plan for this project shall follow the Major Site Plan Process per Section 24.119 of the amended 2008 Subdivision Regulations. Typically, the site plan process begins following Planning Commission approval of the Concept Plan. However, upon request, staff will conduct a courtesy review of the site plan prior to Concept Plan approval, as described above.

Section 24.119 establishes that the Department shall have working 45 working days to complete the sufficiency and completeness review of a site plan. It is not unusual for a process of this nature to go through 3-5 reviews until the site plan is found "Complete." The 45-day timeframe shall begin following Planning Commission approval of the Concept Plan and the applicant's subsequent formal submittal of the site plan; however, the duration of the review period may be substantially reduced as a result of a courtesy review of the site plan during the Concept Plan phase. Ultimately, the actual length of the review process depends on the completeness of plans submitted by the applicant's engineer.

Once Staff has found the site plan "Complete", the Subdivision Regulations state that "...staff shall place the site plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete." The site plan shall have been found determined by staff to be "Complete" 14 days prior to the scheduled Planning Commission meeting. At the meeting, if the Planning Commission finds the application is found to be complete, the Planning Commission shall schedule a public hearing within 45 days in accordance with Section 24.120.

The Planning Commission shall then "...conduct a public hearing to receive public comments, concerns, and inputs on the proposed site plan. The public notice of the public hearing shall be advertised in a local newspaper of general circulation in the area at least twenty-one (21) days prior to the public hearing. The applicant shall post notice on the site at least fourteen (14) days prior to the public hearing." The subjects covered at the "...public hearing shall be limited to whether the site plan application meets the requirements of these Regulations and the Zoning Ordinance."

Based on the timeframes referenced above, if the site plan was determined "Complete" by Staff on December 25, 2012, the site plan could be scheduled for the January 8, 2013 Planning Commission meeting. At the January meeting, if the Planning Commission votes to accept the application as complete, then the Planning Commission could schedule a public hearing at the February 12, 2013 Planning Commission meeting. The Planning Commission would have 14 days from the February 12, 2013 meeting to act on the site plan. Please note that in order to be scheduled on a Planning Commission agenda for a given date, the applicant must submit, on a timely basis, plans that staff determines to have met the requirements of the Subdivision and Land Development Regulations, the Zoning Ordinance, and the approved Conditional Use Permit.

In review of the dates and approval times, the Concept Plan "Direction" and the site plan "Completeness" could not be on the same meeting. This would require the site plan to be

determined "Complete" by Staff before the Concept Plan workshop happened at the Planning Commission meeting. Staff couldn't find the Concept Plan "Complete" when it is unknown if any changes may happen at Planning Commission in review of the Concept Plan.

Applicant's Engineer and Staff Review Meeting

In order to assure a level of understanding and cooperation during the review process, Staff proposes that one week after the applicant's engineer picks up first review site plan comments generated by Staff, that staff meet with the applicant and the applicant's engineer in order to discuss review comments. This would allow the applicant's engineer to ask questions of the Staff and this would allow Staff to clarify any uncertainty and answer any questions. This could help in expediting the review of the site plan.

Water and Sewer

As discussed at the August 22 and September 17, 2012 meetings, water and sewer connections to the Shepherdstown system will be required to be shown on the site plan. This means that the size of pipe, details of construction, elevation, etc., as required by the Department of Engineering must be shown, and approval from the City of Shepherdstown will be required. Simply showing a pipe running off-site with no connection to the Shepherdstown system, or without details of the connection, will not be sufficient to achieve a determination that the site plan is complete.

Grading waiver

Per the current Subdivision and Land Development Regulations, an applicant is required to have an approved site plan before any site grading can occur. Jefferson County does not have an early grading permit process. Section 20.102(B) of the amended 2008 Subdivision Regulations, provides the following:

"Before development of the land is commenced, subdivision plats and site plans must be approved by the Planning Commission, recorded, and surety posted for required improvements, in accordance with these Regulations and the Comprehensive Plan."

In order to start grading without an approved site plan, a waiver is necessary. Waivers from the Subdivision Regulations cannot be granted administratively and require Planning Commission approval. If the waiver was approved by the Planning Commission, grading, erosion and sediment control design documents would need to be reviewed and approved and a bond would be required for any work related to the rough grading. The applicant would also assume the risk that during site plan review a change could occur which would affect the grading that was completed prior to site plan approval. Any request for a waiver shall be accompanied with a NPDES permit and will have to show overall grading and limits of grading.

The Department has only processed one such waiver request to permit the start of grading before the site plan is approved. In that instance, the applicant was under a state mandated deadline to complete the project. Further, a Concept Plan had been approved and the site plan associated with that request had been submitted for the first review to Staff by the applicant's engineer.

A Concept Plan shall be submitted and approved before a waiver application is submitted. It is possible to request a waiver at the same time that the Concept Plan is processing; however, this

waiver would need to be a separate submission from the Concept Plan. Review of the Concept Plan and submission of the grading waiver could run concurrently and both requests could be considered on the December 11, 2012 Planning Commission meeting, if the Concept Plan submittal meets required timelines in order to appear on this agenda. Any conditions of the Conditional Use Permit applicable to grading must be addressed prior to initiation of grading, if a waiver is approved.

Lot Merger

Site development, including parking, stormwater, water and sewer lines, and required site improvements shall not cross lot lines. It is possible that the parking could be extended across the property line if a waiver was granted by the Planning Commission, a setback variance was granted by the Board of Zoning Appeals and an easement was recorded. As each lot is a legally separate lot, each lot could be sold individually with site improvements that depend on the other lot. This could cause significant hardship for any future owner in the event that the lots had to be sold individually. While all lots have been approved for the uses permitted in zoning entitlements granted in the CUP, all lots are legally individual units by law and as such all site plan development is required to be within the lot and setback lines of each lot. Merging of the separate lots is advised to lessen the impact of the setback issues. Merging of the lots can be done by either a deed with an exhibit plat or Final Plat merging the lots. This is an administrative process requiring only Staff review

Zoning Ordinance Variances and Subdivision Regulations Waivers

As noted above, if the required site plan elements found in the Zoning Ordinance cannot be located within the lot lines of the lot where the improvements are being constructed, variance(s) may be required to allow for the uses to occur off-site of the lot being developed. Zoning Ordinance Variances are reviewed by the Board of Zoning Appeals.

Similarly, if the required site plan elements found in the Subdivision Regulations cannot be located within the lot lines of the lot where the improvements are being constructed, waivers(s) may be required to allow for the uses to occur off-site of the lot being developed. Waivers are reviewed by the Planning Commission.

Both variances and waivers require posting of the property, adjoining letters and a public hearing. The need for any need for waivers and variances would be greatly diminished, if they are needed at all, if the lots were merged as noted above. All waivers and variances shall be approved before the site plan can be approved.

In order for the project to meet the January 8, 2013 Planning Commission meeting, any variances or waivers shall process prior to the site plan to be found "Complete" by Staff. The following dates are listed for the Planning Commission and Board of Zoning Appeals.

Waiver – Planning Commission Process	
Submission Deadline – October 23, 2012	PC Meeting – November 13, 2012
Submission Deadline – November 20, 2012	PC Meeting – December 11, 2012

Variance – Board of Zoning Appeals Process

Submission Deadline – October 19, 2012

BZA Meeting – November 15, 2012

Submission Deadline – November 21, 2012

BZA Meeting – December 20, 2012

In conclusion, Staff regrets any confusion that the applicant may have experienced in the past month. While the schedule noted above is very aggressive, we are willing to try to meet the expectations of the applicant and hope that quick turnaround times can be achieved on the applicant's side of the process as well.

If you have any questions, please feel to contact me. We look forward to working with you in your future endeavor.

Sincerely,

Seth A. Rivard
Planner

Cc:
Dirk Stansbury
3 Sue Court
Martinsburg, WV 25401

Dept. of Engineering

Attachment 4

**Letter from Frank Welch, Public Works
Director for Shepherdstown**



CORPORATION OF SHEPHERDSTOWN

104 NORTH KING STREET
P.O. BOX 248
SHEPHERDSTOWN, WEST VIRGINIA 25443-0248
TEL: (304)876-2312
FAX: (304) 876-1473

October 1, 2012

Re: Water/Sewer Capacity for "Morgan Grove Market"

Dear Mr. Corum:

This is to inform you that capacity exists at the Shepherdstown Water Plant and the Shepherdstown Wastewater Plant for the above project.

In regards to the water distribution system, there are several connection points where capacity exists. An 8" water main could be connected at Colonial Hills subdivision infrastructure. An 8" main could be connected with the "Ledgelowe" subdivision. Both of these connections would probably require easements across private property in order to connect. A third connection point would be at the Clarion Hotel entrance. All of the above connections would require WV Department of Highway permits.

In regards to the sewage collection system, capacity exists at Colonial Hills and at the Clarion Hotel entrance. These connections would require WV Department of Highway permits.

The WV Public Service Rules and Regulations, the Corporation of Shepherdstown Alternate Mainline Extension Rule, the Corporation of Shepherdstown Specifications for the Extension of Mains and the WV Bureau of Health regulations will govern this extension. This capacity letter is in effect for a period of one (1) year and does not represent any reservation for hook-ups.

If you have any questions, please feel free to call Frank Welch at 304-876-3322.

Respectfully,

Frank Welch

Frank Welch
Public Works Director

FB solutions construction management and design services

9628 Moncove Lake Road Gap Mills, WV 24941 304.536.3743 fred@fredblackmer.com

October 30, 2012

Subject: Agenda Item Package

Commissioners,

I have attached some basic information regarding authority and contemplated need for a review/appeal process of staff interpretation regarding subdivision submissions. These items are not definitive in that a process is required. They simply show that the WV Legislature realized that with ALL laws, regulations and procedures there will be differences of opinion in their meaning.

Local land use ordinances are supposed to be an attempt to set some standards and guidelines that balance land owner rights of both applicants and neighbors. If these guidelines were meant to be literal and not interpreted to meet each circumstance, there would not be a section in every land use ordinance on the ability to receive a variance or waiver as an administrative process.

Much of the submission and approval process of applications required by the county's land use ordinances is subject to an opinion or interpretation by a single staff member as authorized by the Planning & Zoning Director. At issue is the personality and direction that each staff member applies to their contemplative decision. There are several potential paths but I will show just two for demonstration.

First is the position that the ordinances are created as guidelines to balance applicant land owner and neighbor concerns. Applicants for a particular land use would be reviewed under a procedural compliance basis. Repetitive or redundant steps in overlapping ordinance sections would be viewed as complete with a single similar action. The interpretive process for decisions would be based on the legitimate harm a neighbor would bring forward. Harm would have to be substantiated with something other than anecdotal testimony. The entire process would be viewed from a perspective of the applicant land owner being allowed to move forward unless there is some reasonable issue raised by other stakeholders.

Second is the position that the ordinances are created as guidelines to balance applicant land owner and neighbor concerns. It is the same so far but the approach is much different. Staff takes the place of neighbors in presenting anecdotal issues of potential harm. Staff takes a literal reading of each overlapping section of the ordinance even though they are redundant and subject to administrative interpretation. Finally, the

applicant is viewed as the party being required to demonstrate there will be no unmitigated infringement on another land owner even though there is no way to prove a negative. The entire process then takes the perspective that the applicant is in an adversarial position with staff unilaterally substituting themselves as the aggrieved party.

Personalities and directions aside, there is also the very real issue of interpretation of requirements and completeness. These are manifestation of a sincere difference of opinion by reasonable people about the meaning of the same words on the same page.

There is no current procedure that allows for the review or appeal of those decisions to the citizen body for which those staff members work. That is the Planning Commission itself.

I appreciate the commission's interest in a workshop on November 13, 2012 to discuss this issue. We look forward to a frank dialogue and potentially identifying steps toward understanding and resolution.

Sincerely,

Signed

Fred Blackmer
Morgan's Grove Market, Government Affairs

304.536.3743

Attachment: Appeals contemplative documents.

Attachment:

Appeals:

County Ordinance Sections

Division 24.400 Appeals

An appeal of a decision of the Planning Commission or staff regarding subdivision or site development

decisions shall be taken directly to Circuit Court of Jefferson County, West Virginia, pursuant to W.Va.

Code §8A-5-10 and §8A-9-1, et seq.

Sec. 24.504 Funding of Improvements

A. On-Site Infrastructure. All on-site infrastructure shall be provided by the developer.

B. Off-Site Infrastructure. Generally, off-site infrastructure that is necessitated by the development shall be funded by applicable impact fees or proffers (if proffers are made). The County may also approve developer construction of off-site infrastructure.

WV Code Sections

Subdivision Appeals Board Authorized:

Board authorized

§8A-4-2. Contents of subdivision and land development ordinance.

(a) A subdivision and land development ordinance shall include the following provisions:

- (1) A minor subdivision or land development process, including criteria, requirements and a definition of minor subdivision;
- (2) The authority of the planning commission and its staff to approve a minor subdivision or land development;
- (3) A major subdivision or land development process, including criteria and requirements;
- (4) The authority of the planning commission to approve a major subdivision or land development;
- (5) The standards for setback requirements, lot sizes, streets, sidewalks, walkways, parking, easements, rights-of-way, drainage, utilities, infrastructure, curbs, gutters, street lights, fire hydrants, storm water management and water and wastewater facilities;
- (6) Standards for flood-prone or subsidence areas;

(7) A review process for subdivision or land development plans and plats by the planning commission;

(8) An approval process for subdivision or land development plans and plats by the planning commission, including the authority to approve subdivision or land development plans and plats with conditions;

(9) A process to amend final approved subdivision or land development plans and plats;

(10) A requirement that before development of the land is commenced, subdivision and land development plans and plats must be approved by the applicable planning commission, in accordance with the comprehensive plan, if a comprehensive plan has been adopted;

(11) A requirement that after approval of the subdivision or land development plat by the planning commission and before the subdivision or development of the land is commenced, the subdivision and land development plat shall be recorded in the office of the clerk of the county commission where a majority of the land to be developed lies;

(12) A schedule of fees to be charged which are proportioned to the cost of checking and verifying proposed plats;

(13) The process for granting waivers from the minimum standards of the subdivision and land development ordinance;

(14) Improvement location permit process, including a requirement that a structure or development of land is prohibited without an improvement location permit;

(15) The acceptable methods of payment to cover the cost of the water and sewer service infrastructure, which can include, but are not limited to, bonds, impact fees, escrow fees and proffers;

(16) The process for cooperating and coordinating with other governmental agencies affected by the subdivision and land development and use; and

(17) Penalties for violating the subdivision and land development ordinance.

(b) A subdivision and land development ordinance may include the following provisions:

(1) Establishing a board of subdivision and land development appeals with the same powers, duties and appeals process as set out for the board of zoning appeals under the provisions of article eight of this chapter;

(2) Requirements for green space, common areas, public grounds, walking and cycling paths, recreational trails, parks, playgrounds and recreational areas;

(3) Encourage the use of renewable energy systems and energy-conserving building design;

(4) Vested property right, including requirements;

(5) Exemptions of certain types of land development from the subdivision and land development ordinance requirements, including, but not limited to, single-family residential structures and farm structures; and

(6) Any other provisions consistent with the comprehensive plan the governing body considers necessary.

(c) All requirements, for the vesting of property rights contained in an ordinance enacted pursuant to this section 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.

§8A-5-10. Appeal process.

(a) An appeal may be made by an aggrieved person from any decision or ruling of the planning commission to:

(1) The circuit court, pursuant to the provisions of article nine of this chapter; or

(2) A board of subdivision and land development appeals, if the governing body has established a board of subdivision and land development appeals by ordinance.

(b) Within thirty days after the date of the denial, the petition, specifying the grounds of the appeal in writing, must be filed with:

(1) The circuit court of the county in which the affected land or the major portion of the affected land is located; or

(2) The board of subdivision and land development appeals that has jurisdiction over the affected land.

WEST VIRGINIA CODE

§8A-5-10. Appeal process.

(a) An appeal may be made by an aggrieved person from any decision or ruling of the planning commission to:

- (1) The circuit court, pursuant to the provisions of article nine of this chapter; or
- (2) A board of subdivision and land development appeals, if the governing body has established a board of subdivision and land development appeals by ordinance.

(b) Within thirty days after the date of the denial, the petition, specifying the grounds of the appeal in writing, must be filed with:

- (1) The circuit court of the county in which the affected land or the major portion of the affected land is located; or
- (2) The board of subdivision and land development appeals that has jurisdiction over the affected land.

Note: WV Code updated with legislation passed through the [2011 4th Special Session](#)

ARTICLE 9. APPEAL PROCESS.

§8A-9-1. Petition for writ of certiorari.

(a) Every decision or order of the planning commission, board of subdivision and land development appeals, or board of zoning appeals is subject to review by certiorari.

(b) Within thirty days after a decision or order by the planning commission, board of subdivision and land development appeals, or board of zoning appeals, any aggrieved person may present to the circuit court of the county in which the affected premises are located, a duly verified petition for a writ of certiorari setting forth:

- (1) That the decision or order by the planning commission, board of subdivision and land development appeals, or board of zoning appeals is illegal in whole or in part; and
- (2) Specify the grounds of the alleged illegality.

§8A-9-2. Notice to adverse parties.

(a) Upon filing a petition for a writ of certiorari with the clerk of the circuit court of the county in which the affected premises are located, the petitioner shall cause a notice to be issued and served by the sheriff of the county upon:

(1) The adverse party, as shown by the record of the appeal in the office of the planning commission, board of subdivision and land development appeals, or board of zoning appeals; and

(2) The chairperson or secretary of the planning commission, board of subdivision and land development appeals, or board of zoning appeals, as applicable.

(b) The adverse party is any property owner appearing at the hearing before the planning commission, board of subdivision and land development appeals, or board of zoning appeals in opposition to the petitioner.

(c) If the record shows a written document containing the names of more than three property owners opposing the request of the petitioner, then the petitioner is required to cause notice to be issued and served upon the three property owners whose names first appear upon the written document. Notice to the other parties named in the written document is not required.

(d) The notice shall:

(1) State that a petition for a writ of certiorari has been filed in the circuit court of the county asking for a review of the decision or order of the planning commission, board of subdivision and land development appeals, or board of zoning appeals;

(2) Designate the affected premises; and

(3) Specify the date of the decision or order that is the subject of the petition for a writ of certiorari.

(e) Service of the notice by the sheriff on the chairperson or secretary of the planning commission, board of subdivision and land development appeals, or board of zoning appeals shall constitute notice to the commission or boards. Service of the notice by the sheriff to the governing body and to any official or board thereof charged with the enforcement of the subdivision and land development ordinance, subdivision or land development plan and plat, or zoning ordinance. No further summons or notice with reference to the filing of such petition shall be necessary.

(f) As an alternative to the requirements for notice prescribed in the preceding subsections of this section, notice is sufficient upon a showing that the chairperson or secretary of the planning commission, board of subdivision and land development appeals, or board of zoning appeals and all adjacent landowners to the affected premises have received personal service of process of the notice containing information as required in subsection (d) of this section. As to all other interested parties, notice shall be sufficient if notice containing information as required in subsection (d) of this section, is published as a Class III-0 legal advertisement, in the county or counties wherein the affected premises are located.

§8A-9-3. Court action on petition.

(a) Within twenty days after a petition for a writ of certiorari is presented, the planning commission, board of subdivision and land development appeals, or board of zoning appeals must show the circuit court, or a judge in vacation, of the county in which the affected premises are located, cause why a writ of certiorari should not be issued.

(b) If the planning commission, board of subdivision and land development appeals, or board of zoning appeals fails to show the court or judge that a writ should not be issued, then the court or judge may allow a writ of certiorari directed to the planning commission, board of subdivision and land development appeals, or board of zoning appeals.

(c) The writ shall prescribe the time in which a return shall be made to it. This time shall be not less than ten days from the date of issuance of the writ and may be extended by the court or judge.

§8A-9-4. Stay of work on allowance of writ.

(a) The allowance of the writ of certiorari shall not stay proceedings or work on the premises affected by the decision or order to be brought up for review.

(b) The court or judge may, upon application and on notice to all parties to the decision or order and on due cause shown, grant such relief as the circumstances of the case may require, including an order staying the proceedings or work until final determination of the case by the court or judge.

(c) The staying order may be issued by the court or judge without requiring the petitioner to enter into a written undertaking with the adverse party or parties affected thereby for the payment of damages by reason of such staying order.

§8A-9-5. Return to writ.

(a) The return to the writ of certiorari by the planning commission, board of subdivision and land development appeals, or board of zoning appeals must concisely set forth the pertinent facts and data and present material to show the grounds of the decision or order appealed. The return must be verified by the secretary of the planning commission, board of subdivision and land development appeals, or board of zoning appeals.

(b) The planning commission, board of subdivision and land development appeals, or board of zoning appeals does not have to return the original papers acted upon by it. It shall be sufficient to return certified copies of all or such portion of the papers as may be called for by the writ.

§8A-9-6. Action by circuit court or judge.

(a) The court or judge may consider and determine the sufficiency of the allegations of illegality contained in the petition without further pleadings and may make a determination and render a judgment with reference to the legality of the decision or order of the planning commission, board of subdivision and land development appeals, or

board of zoning appeals on the facts set out in the petition and return to the writ of certiorari.

(b) If it appears to the court or judge that testimony is necessary for the proper disposition of the matter, the court or judge may take evidence to supplement the evidence and facts disclosed by the petition and return to the writ of certiorari, but no such review shall be by trial de novo.

(c) In passing upon the legality of the decision or order of the planning commission, board of subdivision and land development appeals, or board of zoning appeals, the court or judge may reverse, affirm or modify, in whole or in part, the decision or order.

§8A-9-7. Appeal from final judgment of circuit court or judge.

An appeal may be taken to the West Virginia Supreme Court of Appeals from the final judgment of the court or judge reversing, affirming or modifying the decision or order of the planning commission, board of subdivision and land development appeals, or board of zoning appeals within the same time, in the same manner, and upon the same terms, conditions and limitations as appeals in other civil cases.

§8A-2-11. Planning commission's powers and duties.

A planning commission has the following powers and duties:

(1) Exercise general supervision for the administration of the affairs of the commission;

(2) Prescribe rules and regulations pertaining to administration, investigations and hearings: *Provided*, That the rules and regulations are adopted by the governing body;

(3) Supervise the fiscal affairs and responsibilities of the commission;

(4) With consent from the governing body, hire employees necessary to carry out the duties and responsibilities of the planning commission: *Provided*, That the governing body sets the salaries;

(5) Keep an accurate and complete record of all planning commission proceedings;

(6) Record and file all bonds and contracts;

(7) Take responsibility for the custody and preservation of all papers and documents of the planning commission;

(8) Make recommendations to the appropriate governing body concerning planning;

(9) Make an annual report to the appropriate governing body concerning the operation of the planning commission and the status of planning within its jurisdiction;

(10) Prepare, publish and distribute reports, ordinances and other material relating to the activities authorized under this article;

(11) Adopt a seal, and certify all official acts;

(12) Invoke any legal, equitable or special remedy for the enforcement of the provisions of this article or any ordinance, rule and regulation or any action taken thereunder;

(13) Prepare and submit an annual budget to the appropriate governing body;

(14) If necessary, establish advisory committees;

(15) Delegate limited powers to a committee composed of one or more members of the commission; and

(16) Contract for special or temporary services and professional counsel with the approval of the governing body. Upon request, a county prosecuting attorney, the county surveyor, the county engineer, or any other county employee may render assistance and service to a planning commission without compensation.

CHAPTER 8A. LAND USE PLANNING.

ARTICLE 4. SUBDIVISION AND LAND DEVELOPMENT ORDINANCE.

§8A-4-1. Subdivision and land development ordinances authorized.

(a) The governing body of a municipality or a county may regulate subdivisions and land development within its jurisdiction by:

(1) Adopting a comprehensive plan and enacting a subdivision and land development ordinance; or

(2) Establishing a planning commission, enacting a subdivision and land development ordinance, and adopting a comprehensive plan for the area included in the subdivision and land development ordinance within three years of the enactment of the subdivision and land development ordinance.

(b) A municipality may adopt, by reference, the subdivision and land development ordinance of the county in which it is located.

(c) With the prior approval of the county planning commission, a municipality may, by ordinance, designate the county planning commission as the planning commission for the municipality to review and approve subdivision or land development plans and plats.

§8A-4-2. Contents of subdivision and land development ordinance.

(a) A subdivision and land development ordinance shall include the following provisions:

- (1) A minor subdivision or land development process, including criteria, requirements and a definition of minor subdivision;
- (2) The authority of the planning commission and its staff to approve a minor subdivision or land development;
- (3) A major subdivision or land development process, including criteria and requirements;
- (4) The authority of the planning commission to approve a major subdivision or land development;
- (5) The standards for setback requirements, lot sizes, streets, sidewalks, walkways, parking, easements, rights-of-way, drainage, utilities, infrastructure, curbs, gutters, street lights, fire hydrants, storm water management and water and wastewater facilities;
- (6) Standards for flood-prone or subsidence areas;
- (7) A review process for subdivision or land development plans and plats by the planning commission;
- (8) An approval process for subdivision or land development plans and plats by the planning commission, including the authority to approve subdivision or land development plans and plats with conditions;
- (9) A process to amend final approved subdivision or land development plans and plats;
- (10) A requirement that before development of the land is commenced, subdivision and land development plans and plats must be approved by the applicable planning commission, in accordance with the comprehensive plan, if a comprehensive plan has been adopted;
- (11) A requirement that after approval of the subdivision or land development plat by the planning commission and before the subdivision or development of the land is commenced, the subdivision and land development plat shall be recorded in the office of the clerk of the county commission where a majority of the land to be developed lies;
- (12) A schedule of fees to be charged which are proportioned to the cost of checking and verifying proposed plats;
- (13) The process for granting waivers from the minimum standards of the subdivision and land development ordinance;

(14) Improvement location permits process, including a requirement that a structure or development of land is prohibited without an improvement location permit;

(15) The acceptable methods of payment to cover the cost of the water and sewer service infrastructure, which can include, but are not limited to, bonds, impact fees, escrow fees and proffers;

(16) The process for cooperating and coordinating with other governmental agencies affected by the subdivision and land development and use; and

(17) Penalties for violating the subdivision and land development ordinance.

(b) A subdivision and land development ordinance may include the following provisions:

(1) Establishing a board of subdivision and land development appeals with the same powers, duties and appeals process as set out for the board of zoning appeals under the provisions of article eight of this chapter;

(2) Requirements for green space, common areas, public grounds, walking and cycling paths, recreational trails, parks, playgrounds and recreational areas;

(3) Encourage the use of renewable energy systems and energy-conserving building design;

(4) Vested property right, including requirements;

(5) Exemptions of certain types of land development from the subdivision and land development ordinance requirements, including, but not limited to, single-family residential structures and farm structures; and

(6) Any other provisions consistent with the comprehensive plan the governing body considers necessary.

(c) All requirements, for the vesting of property rights contained in an ordinance enacted pursuant to this section 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.

§8A-4-3. Enactment of subdivision and land development ordinance.

(a) Before a governing body enacts a subdivision and land development ordinance, the governing body shall hold at least one public hearing and give public notice.

(b) The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area as a Class I legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code, at least thirty days prior to the public hearing. The public notice must contain a brief summary of the principal provisions of the proposed subdivision and land development ordinance and a reference to the place or places where copies of the proposed subdivision and land development ordinance may be examined.

(c) After the public hearing, if the governing body makes other than technical amendments to the proposed subdivision and land development ordinance prior to voting on it, the governing body shall hold another public hearing and give public notice. The public notice shall be as provided in subsection (b) of this section, and must contain a brief summary of the amendments.

§8A-4-4. Filing the subdivision and land development ordinance.

After the enactment of the subdivision and land development ordinance by a governing body, the governing body must file the enacted subdivision and land development ordinance in the office of the clerk of the county commission where the subdivision and land development ordinance applies.

§8A-4-5. Amendments to the subdivision and land development ordinance.

After the enactment of the subdivision and land development ordinance by the governing body, all amendments to the subdivision and land development ordinance shall be made by the governing body after holding a public hearing with public notice.

§8A-4-6. Effect of adopted subdivision and land development ordinance.

After enactment of a subdivision and land development ordinance by the governing body, all subsequent subdivisions and land development must be done in accordance with the provisions of the subdivision and land development ordinance.

§8A-4-7. Validation of prior subdivision and land development ordinance.

All subdivision and land development ordinances, all amendments, supplements and changes to the ordinance, legally adopted under prior acts, and all action taken under the authority of the ordinance, are hereby validated and the ordinance shall continue in effect until amended or repealed by action of the governing body taken under authority of this article. These ordinances shall have the same effect as though previously adopted as a comprehensive plan of land use or parts thereof.

§8A-8-9. Powers and duties of board of zoning appeals.

A board of zoning appeals has the following powers and duties:

(1) Hear, review and determine appeals from an order, requirement, decision or determination made by an **administrative official** or board charged with the enforcement of a zoning ordinance or rule and regulation adopted pursuant thereto;

(2) Authorize exceptions to the district rules and regulations only in the classes of cases or in particular situations, as specified in the zoning ordinance;

(3) Hear and decide conditional uses of the zoning ordinance upon which the board is required to act under the zoning ordinance;

(4) Authorize, upon appeal in specific cases, a variance to the zoning ordinance;

(5) Reverse, affirm or modify the order, requirement, decision or determination appealed from and have all the powers and authority of the official or board from which the appeal was taken;

(6) Adopt rules and regulations concerning:

(A) The filing of appeals, including the process and forms for the appeal;

(B) Applications for variances and conditional uses;

(C) The giving of notice; and

(D) The conduct of hearings necessary to carry out the board's duties under the terms of this article;

(7) Keep minutes of its proceedings;

(8) Keep an accurate and complete audio record of all the board's proceedings and official actions and keep the audio record in a safe manner, which audio record is accessible within twenty-four hours of demand, for three years;

(9) Record the vote on all actions taken;

(10) Take responsibility for the custody and preservation of all papers and documents of the board. All minutes and records shall be filed in the office of the board and shall be public records;

(11) With consent from the governing body, hire employees necessary to carry out the duties and responsibilities of the board: *Provided*, That the governing body sets the salaries; and

(12) Supervise the fiscal affairs and responsibilities of the board.

PART II. APPEAL PROCESS TO BOARD OF ZONING APPEALS.

§8A-8-10. Appeal to board of zoning appeals.

(a) An appeal from any order, requirement, decision or determination made by an administrative official or board charged with the enforcement of a zoning ordinance, or rule and regulation adopted pursuant to a zoning ordinance, shall be filed with the board of zoning appeals.

(b) The appeal shall:

(1) Specify the grounds of the appeal;

(2) Be filed within thirty days of the original order, requirement, decision or determination made by an administrative official or board charged with the enforcement of a zoning ordinance; and

(3) Be on a form prescribed by the board.

(c) Upon request of the board of zoning appeals, the administrative official or board shall transmit all documents, plans and papers constituting the record of the action from which the appeal was taken.

§8A-8-11. Notice and hearing of appeal.

(a) Within ten days of receipt of the appeal by the Board of Zoning Appeals, the board shall set a time for the hearing of the appeal and give notice. The hearing on the appeal must be held within forty-five days of receipt of the appeal by the board.

(b) At least fifteen days prior to the date set for the hearing on the appeal, the Board of Zoning Appeals shall publish a notice of the date, time and place of the hearing on the appeal as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and written notice shall be given to the interested parties. The publication area shall be the area covered in the appeal.

(c) The Board of Zoning Appeals may require the party taking the appeal to pay for the cost of public notice and written notice to interested parties.

(d) At the hearing, any party may appear in person, by agent or by an attorney licensed to practice in this state.

(e) Every decision by the board must be in writing and state findings of fact and conclusions of law on which the board based its decision. If the board fails to provide findings of fact and conclusions of law adequate for decision by the circuit court and as a result of the failure, the circuit court returns an appealed matter to the board and dismisses jurisdiction over an applicant's appeal without deciding the matter, whether the court returns the matter with or without restrictions, the board shall pay any additional costs for court filing fees, service of process and reasonable attorneys' fees required to

permit the person appealing the board's decision to return the matter to the circuit court for completion of the appeal.

(f) The written decision by the board shall be rendered within thirty days after the hearing. If the board fails to render a written decision within thirty days after the hearing, then any party may pursue additional legal remedies to obtain a decision, including, but not limited to, seeking a writ of mandamus.

§8A-8-12. Stays; exception.

(a) When an appeal has been filed with the Board of Zoning Appeals, all proceedings and work on the premises in question shall be stayed, except as provided in subsection (b) of this section.

(b) A stay may not be had:

(1) If the official or board from where the appeal was taken certifies in writing to the Board of Zoning Appeals that a stay would cause imminent peril to life or property;

(2) Upon further administrative proceedings, including, but not limited to, submissions to and reviews by the staff or any administrative body; or

(3) Upon engineering or architectural work that does not disturb the real estate beyond what is necessary to complete engineering, survey work or other tests.

(c) If the written certification is filed pursuant to subdivision (1), subsection (b) of this section, then proceedings or work on the premises shall not be stayed.

(d) Nothing in this section prevents a party from obtaining a restraining order.



JEFFERSON COUNTY, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Director's Report November 13, 2012 Planning Commission Meeting

- 1) **Activity Report** (attached)
- 2) **Envision Jefferson 2035 (2014 Comprehensive Plan) Update**
 - a) Website/Public Outreach Efforts:
 - Reminder to "follow" website: "Envision Jefferson 2035"
 - b) 2 - Year Comprehensive Planner Position:
 - Interviews held; recommendation to County Commission for approval scheduled for November 15, 2012
 - Anticipated Start Date December 10, 2012
 - c) Steering Committee:
 - County Commission appointed 13 citizen members 10/25/12 (list of members attached)
 - County Commission provided expectation to members at their 11/8/12 meeting
 - Kick-off organizational meeting with staff scheduled for 11/27/12
 - d) Facilitator:
 - Proposed contract for County Commission approval scheduled for November 15, 2012
- 3) **US 340 South:**
 - a) Potential Public Meeting re: proposed alignment

Attached are letters received by the County Commission. It appears that the DOH may hold another public meeting regarding the proposed alignment for US 340 South early next year (attachments).
- 4) **Recent CC Meetings relevant to Planning:**
 - a) Recommendation of the Planning Commission to the County Commission on the landowner-initiated petition to amend the County Zoning Map Public Hearing for a 2.39 acre property owned by the Bank of Charles Town, designated as Tax District: Harpers Ferry, Map: 7, Parcels: 24 and 26 for the purpose of setting a public

hearing to be held by the County Commission (10/18/12; **Public Hearing Scheduled for 11/29/12 7 pm**)

- b) Request for County Commission Direction Related to Public Hearing Input Received Related to New Commercial and Industrial Zoning Categories
 - i. Follow up discussion to the CC 9/6/12 Public Hearing were held on 10/18/12 and 10/25/12; CC voted to **table** any action on the new categories until after the 2014 Comp Plan is completed (vote 3-2)
- c) Recommendation of the Planning Commission to the County Commission on the landowner-initiated petition to amend the County Zoning Map for a 34.27 acre property owned by Jefferson Asphalt Products, Inc., designated as Tax District: Charles Town, Map: 13, Parcel: 7, located on the south side of Route 51 near the Tuscowilla Hills entrance approximately 2 miles west of Charles Town, for the purpose of setting a public hearing to be held by the County Commission (11/8/12; **Public Hearing Tentatively Scheduled for 1/10/13**)
- d) Recommendation of the Planning Commission to the County Commission on the landowner-initiated petition to amend the County Zoning Map for a 8.07 acre property owned by John D. Lowe, III, designated as Tax District: Shepherdstown, Map: 8, Parcel: part of 5, located on the south side of Route 45 and the east side of Potomac Farms Road, for the purpose of setting a public hearing to be held by the County Commission (11/8/12; **Public Hearing Tentatively Scheduled for 1/10/13**)

5) **Upcoming CC Actions:**

- a) Request for County Commission Approval of the US 340 Corridor East Gateway Plan, Incorporating Staff Recommended Changes Based on Public Comment (*scheduled for 11/15/12*)
- b) Request to advertise vacant budgeted Project/Office Manager position (*scheduled for 11/15/12*)
- c) Approval of Job Offer for two-year temporary Comp Plan Planner Position (*scheduled for 11/15/12*)
- d) Approval of Contract with a Facilitator for the Envision Jefferson 2035 Public Input Meetings (*scheduled for 11/15/12*)

6) **Upcoming PC meetings:**

- a) December 11, 2012
 - Public Hearing, Zoning Map Amendment, for property owned by Aitcheson Family Trust (Roger and Wanda Perry) and Frederica Adkinson, currently zoned Residential Growth, requesting Residential/Light Industrial/Commercial zoning, located on the south of US Route 340 on Campground Road
 - Public Workshop regarding Morgan's Grove Market Concept Plan

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE:CALENDAR / 10.22.12- 10.26.12

MONDAY, OCTOBER 22, 2012

10:30 am – 5:00 pm JENNIE – OUT OF OFFICE / RE: SUPER NOVA
LOCATION: WARRENTON, VIRGINIA
10:00 am STEVE & JENNILEE – MONTHLY BZA APPLICATION REVIEW MEETING
1:00 pm – 2:00 pm JENNILEE & AMY – UNDISTURBED TIME / SUBDIVISION PROJECT WORK

TUESDAY, OCTOBER 23, 2012

10:00 am - 11:00 am JENNIE & DAWN – MEETING / EPA GRANTS
11:00 am – 12:00 pm STAFF MEETING
1:00 pm – 2:00 pm JENNILEE & AMY – UNDISTURBED TIME / SUBDIVISION PROJECT WORK
2:00 pm – 4:00 pm JENNIE – RISK MANAGEMENT & MITIGATION PLAN MEETING
7:00 pm JENNIE, STEVE, SETH & AMY – PLANNING COMMISSION MEETING

WEDNESDAY, OCTOBER 24, 2012

10:00 am – 11:00 am STEVE/JENNILEE, SETH/AMY & JONATHAN – MINOR SUBDIVISION PPC /
RE: CONRAD LOTZE & KRISTINA MACIUNAS
10:00 am – 11:00 am JENNIE & DAWN – 2014 COMP PLAN MTG / RE: ZOHO PROJECT TRAINING
11:00 am – 12:30 pm JENNIE, STEVE & JENNILEE – WEEKLY ZONING MEETING
2:00 pm – 3:00 pm JENNIE, SETH & AMY – WEEKLY PLANNING MEETING
3:00 pm – 4:00 pm JENNILEE & AMY – UNDISTURBED TIME / SUBDIVISION PROJECT WORK
3:30 pm – 4:30 pm JENNIE, STEVE & SETH – COMP PLAN PLANNER TELEPHONE INTERVIEW:
RE: MS. RYAN GRIFFITH / (717) 215-7541

THURSDAY, OCTOBER 25, 2012

9:00 am COUNTY COMMISSION MEETING
1:00 pm – 2:00 pm JENNILEE & AMY – UNDISTURBED TIME / SUBDIVISION PROJECT WORK
3:00 pm – 4:00 pm JENNIE, STEVE & SETH – COMP PLAN PLANNER TELEPHONE INTERVIEW:
MR. THOMAS GRIMMS, AICP / (407) 923-4964

FRIDAY, OCTOBER 26, 2012

HALLOWEEN HAPPENINGS AT SAM MICHAEL'S PARK / 6:30 – 9:00 pm

9:30 am – 10:15 am JENNIE, STEVE & SETH - COMP PLAN PLANNER TELEPHONE INTERVIEW:
RE: CHRISTOPHER WHITTAKER / (850) 559-2478
11:30 am – 12:15 pm JENNIE, STEVE & SETH - COMP PLAN PLANNER TELEPHONE INTERVIEW:
RE: JACQUELINE BLEICHER / (1-345) 916 4446
12:30 pm – 1:30 pm JENNIE, STEVE & SETH - COMP PLAN PLANNER TELEPHONE INTERVIEW:
RE: WILLIAM OSBORNE, AICP (206) 550-9453

SATURDAY, OCTOBER 27, 2012

8:30 am – NOON EASTERN PANHANDLE TRAILBLAZERS /
HARPERS FERRY COMMUNITY TRAIL WALK

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE: WEEKLY CALENDAR / 10.29.12- 11.02.12

MONDAY, OCTOBER 29, 2012

10:00 am – 11:00 am
11:00 am - 12:00 pm

OFFICE CLOSED @ 12:00 pm: SUPERSTORM SANDY – ADVERSE WEATHER

STAFF MEETING
JENNIE, STEVE, SETH & DAWN – WKLY MTG: 2014 COMP PLAN UPDATE

TUESDAY, OCTOBER 30, 2012

OFFICE CLOSED: SUPERSTORM SANDY – ADVERSE WEATHER CONDITIONS

WEDNESDAY, OCTOBER 31, 2012

1:00 pm – 2:00 pm
2:00 pm – 3:00 pm

JENNILEE & AMY – UNDISTURBED TIME / SUBDIVISION PROJECT WORK
STEVE/JENNILEE, SETH/AMY & JONATHAN – SITE PLAN PPC /
RE: JENNIFER MYERS / DEPARTMENT OF RECREATION

THURSDAY, NOVEMBER 01, 2012

9:00 am
1:00 pm – 2:00 pm
1:30 pm

COUNTY COMMISSION MEETING
JENNILEE & AMY – UNDISTURBED TIME / SUBDIVISION PROJECT WORK
JANET FINK (MIKE LORENSON) TO SCAN WINSTON THREADGILL INFORMATION

2:15 pm – 3:15 pm
3:30 pm – 4:30 pm

JENNIE, STEVE, SETH & DAWN – INTERVIEW WITH RYAN GRIFFITH
JENNIE, STEVE, SETH & DAWN – INTERVIEW W/ CHRISTOPHER WHITTAKER

6:00 pm

JENNIE – PARKS & REC FACILITY COMMITTEE MEETING

FRIDAY, NOVEMBER 02, 2012

10:00 am – 11:30 am
12:00 pm – 1:00 pm
1:00 pm

JENNIE – WV DEVELOPED LANDS WORKSHOP/
RE: FRESHWATER INSTITUTE CONFERENCE ROOM
JENNIE, STEVE & SETH – PLANNERS POLYPHONY
JENNIE – BOARD OF HEALTH MEETING

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE:WEEKLY CALENDAR / 11.05.12- 11.09.12

MONDAY, NOVEMBER 05, 2012

10:00 am – 1:00 pm JENNIE, STEVE, SETH & DAWN – LUNCH MEETING WITH JUDY ROGERS
LOCATION: LEESBURG, VIRGINIA

3:00 pm – 4:00 pm JENNIE & SETH – MEETING WITH STEPHEN GROH & STEPHANIE GROVE
RE: BLACKMER/CORUM REQUEST

4:15 pm – 5:00 pm **JENNIE, STEVE, SETH & DAWN – PHONE INTERVIEW #2 W/ WM OSBORNE**

7:00 pm JENNIE, STEVE & SETH – FOLLOW UP: AG TASK FORCE FAILED ORD PROV
LOCATION: PUBLIC SERVICES BUILDING

TUESDAY, NOVEMBER 06, 2012

ELECTION DAY – OFFICE CLOSED

WEDNESDAY, NOVEMBER 07, 2012

8:00 am – 9:30 am JENNIE – MONTHLY DEPARTMENT HEAD MEETING W/DEBBIE KEYSER

10:00 am– 11:00 am STEVE/JENNILEE, SETH/AMY & JONATHAN – SITE PLAN PPC /
RE: SUSAN FRUND – MONTESSORI SCHOOL

11:00 am – 12:00 pm STEVE/JENNILEE, SETH/AMY & JONATHAN – INFORMATIONAL MTG /
RE: ALLEN SULLIVAN / CHURCH EXPANSION

1:00 pm – 2:00 pm JENNILEE & AMY – UNDISTURBED TIME / SUBDIVISION PROJECT WORK

2:00 pm – 3:00 pm STAFF MEETING

3:00 pm - 4:00 pm JENNIE, STEVE, SETH & DAWN – WKLY MTG: 2014 COMP PLAN UPDATE

THURSDAY, NOVEMBER 08, 2012

9:00 am COUNTY COMMISSION MEETING

1:00 pm – 2:00 pm JENNILEE & AMY – UNDISTURBED TIME / SUBDIVISION PROJECT WORK

2:00 pm – 2:30 pm JENNIE & SETH – MEETING WITH PAUL RACO

2:30 pm – 3:30 pm JENNIE & SETH – WEEKLY PLANNING MEETING

2:30 pm STEVE & JENNILEE – BZA SITE VISITS / PLACARD CHECK

3:30 pm – 5:00 pm JENNIE & STEVE – WEEKLY ZONING MEETING

FRIDAY, NOVEMBER 09, 2012

BOARD OF ZONING APPEALS PACKET DAY PLANNING COMMISSION PACKET DAY

1:30 pm JENNIE & SETH – MEETING W/ JULIE PASTOR & CINDY KEEGAN
RE: LOUDOUN COUNTY VIRGINIA DIRECTOR / LOCATION:
1 HARRISON STREET, SE (3rd FLOOR); LEESBURG, VIRGINIA 20177-7000

2014 Comprehensive Plan "Envision Jefferson 2035" Steering Committee and At-Large Members

NAME	Magisterial District	LENGTH OF RESIDENCY	ADDRESS	CITY	STAT	ZIP	HOME PHONE	E-MAIL
Suzanne Malesic	Charles Town	4	1 Gates Way	Charles Town	WV	25414	717-379-9812	artcarder@comcast.net
Mark Dyck (at-large)	Charles Town	8	53 Bullskin Street	Charles Town	WV	25414	304-725-8456	mdyck@whga.com
Dave Mills	Charles Town	35	312 S. Mildred Street	Ranson	WV	25414	304-728-7589	pdmills@aol.com
James Gibson (at-large)	Harpers Ferry	66	201 Needwood Farm Lane	Harpers Ferry	WV	25425	304-725-2688	jbgibson@crosslink.net
Ellen May	Harpers Ferry	20	P.O. Box 669	Charles Town	WV	25414	304-728-0109	emay@ecgc.com
Kathy Knight	Harpers Ferry	10	79 Cabriolet Court	Harpers Ferry	WV	25425	304-582-0804	lkjknight@frontiernet.net
Peter Dougherty	Kabletown	37	145 Westhall Drive	Charles Town	WV	25414	304-725-5131	peteboe@yahoo.com
Warren Mickey	Kabletown	62	377 Roper North Fork Rd	Charles Town	WV	25414	304-725-8363	gwmickey6@gmail.com
Peter Fricke	Middleway	23	154 East Street	Middleway	WV	25430	304-728-6400	peter.fricke@frontiernet.net
Pam Parziale	Middleway	40	5210 Paynes Ford Road	Kearneysville	WV	25430	304-725-4251	pamoren@frontiernet.net
Janis Schiltz (at-large)	Shepherdstown	9	38 River Cliff Drive	Harpers Ferry	WV	25425	703-234-2862	tschiltz1@comcast.net
Daniel Hayes	Shepherdstown	5	96 Canal Way	Shepherdstowr	WV	25443	304-279-6288	dhayes2205@comcast.net
William McLeod	Shepherdstown	7	P.O. Box 3296	Shepherdstowr	WV	25443	240-678-9033	wm.mcleod@ymail.com

Eastern Panhandle Transportation Authority
PO Box 869
Charles Town, WV 25414

October 16, 2012

Paul A Mattox, Secretary of Transportation
1900 Kanawha Blvd East, Bldg Five, Rm 110
Charleston, WV 25305-0430

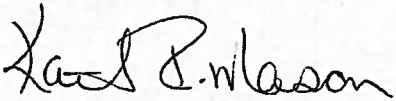
Dear Secretary Mattox:

The Eastern Panhandle Transportation Authority would like to formally request that urgent consideration be given to the completion of Rt 340 South from the southern terminus of the Charles Town Bypass 4.0 miles to the Clarke County, VA line.

We know that there are many priorities in the state but the completion of this road will provide 4-lane access to all of the Jefferson County industrial parks, The Hollywood Casino at Charles Town Races, Harpers Ferry National Park, and all other Federal installations in Jefferson and Berkeley Counties. It is our thought that this is the most economical way to provide adequate transportation for the Jefferson County businesses and population. It will also benefit the tourism industry in the Eastern Panhandle.

Thank you for your prompt attention to this request.

Sincerely,



Katherine R Mason, Chairperson
Eastern Panhandle Transportation Authority

RECEIVED

NOV 01 2012

Jefferson County Commission

CC: Governor Tomlin
Lee Thorne, District 5 DOH
Senators: Barnes, Helmick, Snyder, Unger
Delegates: Cowles, Duke, Householder, Kump, Lawrence, Overington
County Administrators: Hammond, Keyser, McClintock
Robert Gordon, HEPMPO



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

1900 Kanawha Boulevard East • Building Five • Room 110
Charleston, West Virginia 25305-0430 • (304) 558-3505

Earl Ray Tomblin
Governor

Paul A. Mattox, Jr., P. E.
Secretary of Transportation/
Commissioner of Highways

October 18, 2012

Ms. Debbie Keyser
County Administrator
Jefferson County Commission
Post Office Box 250
Charles Town, West Virginia 25414

Dear Ms. Keyser:

Thank you for your letter, dated October 4, 2012, regarding the improvement of US 340 in Jefferson County from two to four lanes. The project begins at the Virginia State Line and extends to the Charles Town Bypass for a distance of approximately five miles.

The Division of Highways has received suggested alignment shifts for Preferred Alternative 4 that could further reduce residential impacts. Our engineering consultant is currently developing additional drawings. Once the comment period has ended on October 24, 2012 and all comments are received, we intend to schedule another workshop public meeting/hearing after the first of the year to discuss the project and show new alignment shifts. We will gladly meet with the County Commission concerning project notification to property owners and potential buyers.

Again, thank you for writing and sharing your concerns. Should you have any questions or require additional information, please contact Mr. Ben Hark, Environmental Section Head of this office, at (304) 558-9670 or by e-mail at Ben.L.Hark@wv.gov.

Very truly yours,

Gregory L. Bailey, P. E.
Director
Engineering Division

RECEIVED

GLB:Hc

NOV 01 2012

Jefferson County Commission



JEFFERSON COUNTY, WEST VIRGINIA
Department of Zoning
116 East Washington Street
P.O. Box 338
Charles Town, West Virginia 25414

Email: planningdepartment@jeffersoncountywv.org

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

MEMORANDUM

TO: Jefferson County Planning Commission Members
FROM: Seth Rivard, County Planner
DATE: November 9, 2012
SUBJECT: October Monthly Report of Minor Subdivision and Site Plan Review and Approval

MINOR SUBDIVISIONS

Approved Subdivisions

None

Minor Subdivisions in Review

12-09 **Ellen Smith Tchakirides MSD**

Returned Date: October 1, 2012
Review Number: Awaiting 2nd review
Proposed Activity: To subdivide one 1.65 acre lot from residue parcel.
Physical Location: 2873 Engle Moler Road, Harpers Ferry, WV 25425
District/Map/Parcel: Shepherdstown/Map: 18/Parcel: 18.1
Zone: Rural

MINOR SITE PLANS

Approved Site Plans

None

Minor Site Plans in Review

S12-04 **SPARC, LLC (Barbara Scott)**

Date Returned: October 31, 2012
Review Number: 2nd review
Proposed Activity: Phase III of the Tactical Training Center to include a training building, training area and storage area.
District/Map/Parcel: Kabletown/Map: 16 /Parcel: 11
 Kabletown/Map: 17/Parcels:2, 5 and 5.1
Physical Location: Summit Point Race Track off of Summit Point Road.
Zone: Rural
