

JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning & Zoning
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MEMORANDUM

TO: JEFFERSON COUNTY PLANNING COMMISSION
FROM: JENNIFER BROCKMAN, DIRECTOR OF PLANNING
DATE: MARCH 4, 2011
SUBJECT: MARCH 8, 2011 PLANNING COMMISSION MEETING

Please find attached the following documents for consideration at the March 8, 2011 Planning Commission meeting.

Documents provided:

- **March 8, 2011 agenda.**

1. Approval of minutes for the February 8, 2011 meeting.

Documents provided:

- **Draft minutes for the February 8, 2011 meeting.**

2. Citizen Communications

3. Request for postponement.

4. Concept Plan Review for Paynes Ford Station (PC File #10-12). This property is located at the intersection of Paynes Ford Road and Bowers Road. This project consists of A residential subdivision to include a total of 36 residential lots, a residue parcel, open space parcel, storm water management parcel, right-of-way dedications and internal roadways on 141.6 acres located in Tax District: Middleway; Tax Map: 6; Tax Parcel: 8.

Documents provided:

- **Staff Report.**
- **Review agency comments.**
- **Concept Plan (Only a reminder has been included in this packet.)**

5. Request by Thomas J. Kiefer for a waiver from Subdivision Ordinance Appendix B Section 2.2, Section 2.3, Section 2.5, Section 4.3

This property is located at 16357 Charles Town Road and is designated as Tax District: 2, Map: 19, Parcel: 17.6.

Documents provided:

- **Staff Report.**
- **Staff Recommended Motion**
- **Waiver application**

6. Public Hearing for Proposed Text Amendment for Section 20.203 and Definition of Major Site Plan and Minor Site Plan of the Jefferson County Subdivision Regulations.

Documents provided:

- **Draft Amendment Memo.**

7. Discussion and vote regarding Draft Policy Neutral Zoning Ordinance Amendments and the possible scheduling of a public hearing.

Documents provided:

- **Draft Policy Neutral Zoning Ordinance Amendments.**
- **Comments by Ms. Morgan Etters.**

8. Report on the US 340 Corridor East Gateway Plan – Overview of Planning Process and the 03/26/2011 Kick-off Meeting.

Documents provided:

- **US 340 Flow Chart**
- **US 340 Topics Chart**

9. Discussion regarding Planning Commission bylaws.

Documents provided:

- **PC Bylaws**

10. Reports from legal Counsel and legal advice to PC.

- Discussion and vote on Findings of Fact and Conclusions of Law for the denial of a requested time extension for Far Away Farms.

Documents provided:

- **Draft Findings of Fact**

11. Director's Report.

Documents provided:

- **Director's Agenda**
- **Activity Reports**
- **Email and Draft Annual Report**
- **Work Plan Submission**
- **Budget Submission**
- **Save the Date Ad for Spring Regional Conference**

12. County Commission Liaison Report.

13. Planning Commission Exchange.

- Report from the Health Department Meeting Liaison.
- Report from the Public Service District Meeting Liaison.
 - **Document provided: Notes regarding JCPSD meeting from Mr. Hayes.**
- Report from the Jefferson County Development Authority Meeting Liaison.
- Report from the Water Advisory Committee Meeting Liaison.

14. President's Report.

15. Actionable Correspondence.

16. Non-Actionable Correspondence.

Documents provided:

- **Letter from Mr. Maxey to the County Commission regarding reappointment.**

If you have any questions or any items are missing; please contact the office at (304) 728-3228 from 9:00 a.m. to 5:00 p.m. Thank you.

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
March 8, 2011

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 minutes for the February 8, 2010 meeting.
2. Citizen Communications.
3. Request for postponement.
4. Concept Plan Review for Paynes Ford Station (PC File #10-12). This property is located at the intersection of Paynes Ford Road and Bowers Road. This project consists of A residential subdivision to include a total of 36 residential lots, a residue parcel, open space parcel, storm water management parcel, right-of-way dedications and internal roadways on 141.6 acres located in Tax District: Middleway; Tax Map: 6; Tax Parcel: 8.
5. Request by Thomas J. Kiefer for a waiver from Subdivision Ordinance Appendix B:
 - Section 2.2 (Street and Road Requirements) to be allowed to use the existing at grade driveway;
 - Section 2.3 (Access to Public Roads) to allow an asphalt entrance apron instead of concrete;
 - Section 2.5 (Internal Driveway) and Section 9.4 (Minimum Driveway Width and Maximum Driveway Slope Requirements) to increase the maximum allowed slope from 8% to 15% and to waive the width requirement to prevent disturbing the existing vegetation;
 - And Section 4.3 (Stormwater Management) to waive the requirement to provide stormwater management for all areas of the site that are to be disturbed.

This property is located at 16357 Charles Town Road and is designated as Tax District: 2, Map: 19, Parcel: 17.6.
6. Public Hearing for Proposed Text Amendment for Section 20.203 and Definition of Major Site Plan and Minor Site Plan of the Jefferson County Subdivision Regulations.
7. Discussion and vote regarding Draft Policy Neutral Zoning Ordinance Amendments and the possible scheduling of a public hearing.
8. Report on the US 340 Corridor East Gateway Plan – Overview of Planning Process and the 03/26/2011 Kick-off Meeting.
9. Discussion regarding Planning Commission Bylaws.
10. Reports from Legal Counsel and legal advice to PC.
 - Discussion and vote on Finding of Fact and Conclusions of Law for the denial of a requested time extension for Far Away Farms.
11. Director's Report.
12. County Commission Liaison Report.

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
MARCH 8, 2011
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13. Planning Commission Exchange.

- Report from the Health Department Meeting Liaison.
- Report from the Public Service District Meeting Liaison.
- Report from the Jefferson County Development Authority Meeting Liaison.
- Report from the Water Advisory Committee Meeting Liaison.

14. President's Report.

15. Actionable Correspondence.

16. Non-Actionable Correspondence.

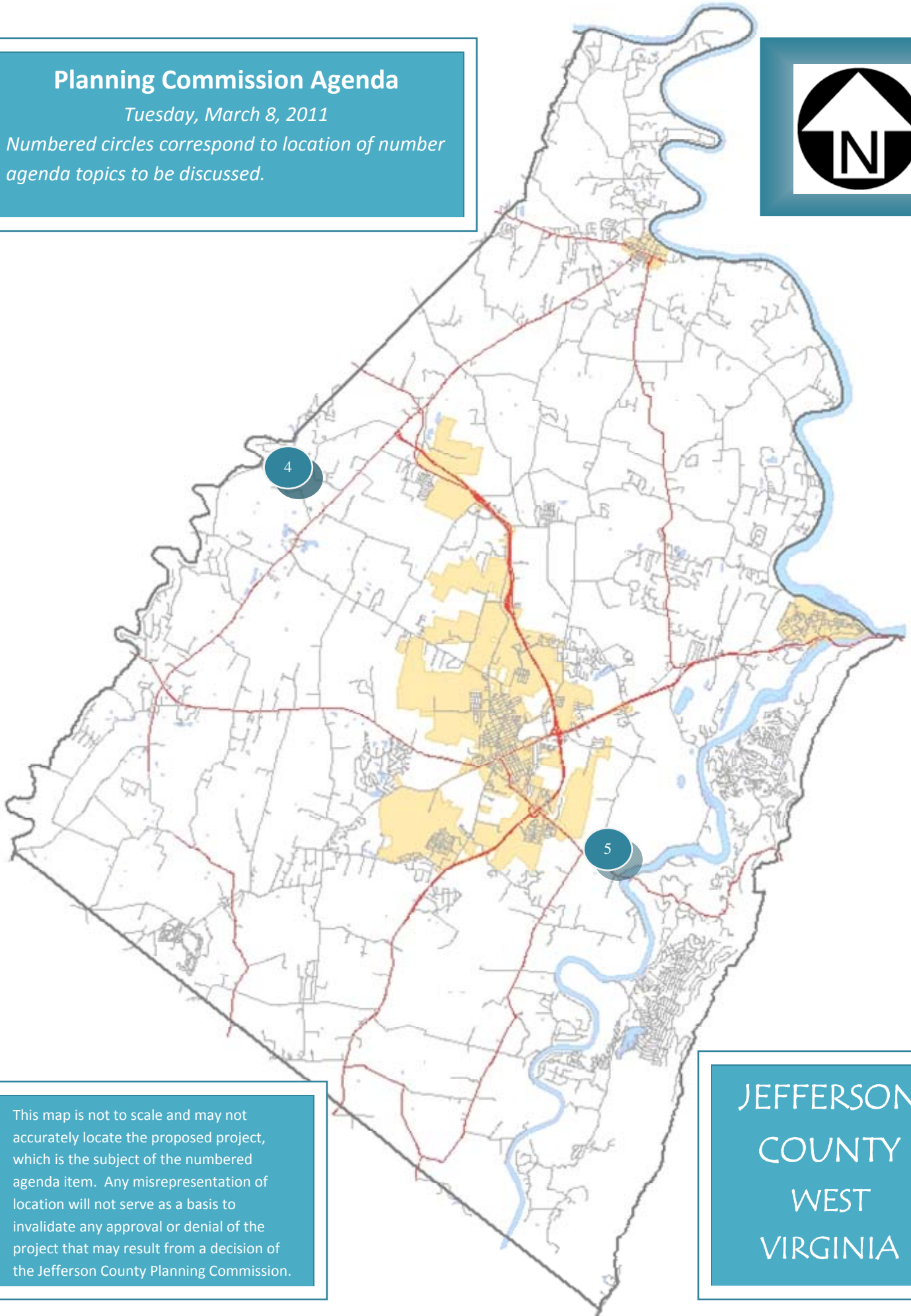
The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address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

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, March 8, 2011

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
FEBRUARY 8, 2011

The Jefferson County Planning Commission met on Tuesday, February 8, 2011, with the following Commission members present: Thomas Trumble, President; Daniel Hayes, Vice-President; Morgan Etters, Secretary; Gene Taylor, Kelly Baty, and Arnold Dailey. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; and Julie Quodala, Office Manager.

John Maxey, Walt Pellish, and Eric Smith were absent with notification.

Mr. Dale Manuel attended the meeting in Mr. Pellish's absence but abstained from all voting that took place.

Mr. Trumble called the meeting to order at 7:04 PM.

1. Approval of minutes for the December 14, 2010 meeting.

Ms. Brockman explained that staff reviewed the audio recording of the meeting and revised the minutes to expand on the discussion that took place regarding Far Away Farms. Mr. Hayes moved to approve the minutes of the December 14, 2010 meeting as amended. Mr. Taylor seconded the motion which carried 4 for and 2 abstentions (Mr. Dailey and Ms. Etters).

Approval of minutes for the January 18, 2011 Planning Commission Workshop.

Mr. Hayes moved to approve the minutes of the January 18, 2011 Planning Commission Workshop. Mr. Taylor seconded the motion which carried 4 for and 2 abstentions (Mr. Dailey and Ms. Etters).

Approval of minutes for the January 25, 2011 meeting.

Mr. Taylor moved to approve the minutes of the January 25, 2011 meeting. Mr. Hayes seconded the motion for the purpose of discussion. Mr. Hayes stated that there were two references to Ms. Morgan, who is no longer liaison to the Planning Commission, which needed to be changed to Ms. Morgan Etters. Ms. Brockman stated that Mr. Pellish had also provided her with comments stating that on page 3, item #7, it should be clarified that he supported Mr. Maxey's comments of needing water quality testing results on a quarterly basis and that he was not making comment regarding the funding of the water sampling project. Ms. Brockman explained that Mr. Pellish would like the sentence moved within the paragraph to accurately reflect his support. Mr. Taylor accepted the discussed amendments. The motion carried 4 for and 2 abstentions (Mr. Hayes and Mr. Baty).

2. Citizens Communication: None.

3. Request for postponement: None.

4. Presentation by Mr. Fred Blackmer regarding the resubmission of the Mannings Incorporation petition.

Mr. Fred Blackmer, resident of Jefferson County, gave a presentation to the Planning Commission on the intent to file a petition to incorporate Mannings. He reviewed the events

involved with the previous petition that was filed in 2009. Mr. Blackmer stated that short time frames did not allow for time to properly educate the public in order to conduct a fair public hearing. He reported that, in from 2009 through December 2010, he had taken part in a series of meetings with interested petitioners and residents to provide a better understanding of what the incorporation of Mannings would mean for citizens. Mr. Blackmer stated that his intention for the presentation was to notify the Planning Commission that another petition would be submitted and to give staff and Planning Commissioners time to review the old material before the new material is submitted. This would allow for a thorough review of all material within the short time frame from the submittal of the petition to the decision by the governing body. He expressed that he would like there to be as much information as possible given to the public to allow for a fair hearing. He offered to meet with staff to discuss any concerns.

There was a discussion on what role the Planning Commission has in the review of the petition. Ms. Brockman explained that legal had been contacted and asked what part the Planning Commission has in the process of the proposed petition. She reported that, although legal had not responded at the time, she believed that the Planning Commission would only advise the County Commission regarding whether the creation of a new municipality was in the best interest of the county from a land use perspective. Mr. Hayes moved that staff meet with Mr. Blackmer at staff's convenience to discuss the future application to incorporate Mannings. Mr. Taylor seconded the motion. Mr. Trumble offered a friendly amendment that Ms. Brockman consult with legal staff to review the process make sure that anything that is done by the Planning Commission does not prejudice the final result and that everyone, not just the applicants, are given the opportunity to submit information. Mr. Hayes accepted the friendly amendment and added that staff should also consult with legal to ascertain the Planning Commission's role in the process of the petition. Mr. Trumble clarified the motion stating that staff should work with the representatives of Mannings to collect data, review all data collected, review the process with legal counsel to ensure that no prejudice could be construed, and that the staff, with the aid of legal counsel, outline the overall process for incorporation. Mr. Hayes added that the staff should check with legal to ensure that early review of the documents would not create prejudice. Mr. Blackmer asked that any comments, conversations, or documentations submitted by him be considered as public record. The motion carried unanimously.

5. Discussion regarding filing a petition to rezone Federal Lands.

Ms. Brockman reminded the Planning Commission that this item was placed on the agenda as requested at the December 14, 2010 meeting to revisit whether to resubmit a petition to rezone Federal Lands after the original submission was found to be insufficient by the County Commission in December 2010.

Mr. Paul Rosa, representing the Harpers Ferry Conservancy, stated that he had not heard any legal reason that the original petition was found deficient. Mr. Rosa cited reasons he believed that the petition was sufficient. He reminded the Planning Commission that a copy of a petition that he had drafted was included in their packets. He reported that this draft included more information on how the request was compatible with The Comprehensive Plan. He asked that the Planning Commission move forward and resubmit the petition.

Mr. Pellish asked if any of the Federal Government landowners had requested to be rezoned to which Ms. Brockman replied no. There was discussion regarding the options of action to take with respect to the petition and what the proper process of each of those actions would be.

Mr. Hayes moved to postpone the reconsideration of the resubmission of the petition to rezone Federal Lands indefinitely. Mr. Dailey seconded the motion. Mr. Trumble clarified that this motion in no way takes away a property owners right to request to rezone their land. The motion carried 4 for and 2 against (Ms. Etters and Mr. Baty).

6. Discussion and possible scheduling of Public Hearing for Proposed Text Amendment for Section 20.203 and Definition of Major Site Plan and Minor Site Plan Process in Business or Industrial Parks.

Mr. Rivard presented his staff report. He explained that any site plan greater than 5,000 square feet is processed as a major site plan which requires multiple additional steps and two public hearings. He reported that this has become a concern recently for projects in existing business or industrial parks due to the time it takes to process. Mr. Rivard clarified that the amendment would allow projects of any size located in the business or industrial park areas, in a preapproved subdivision with master planned roads and storm water management to process under a minor site plan which would allow for a quicker process.

Mr. Mark Dyck, President of the Jefferson County Development Authority, voiced a strong support of this amendment. Mr. Tom Bayuzik, Director of the Jefferson County Development Authority, reiterated support and described the benefits of the amendment to Jefferson County allowing businesses to process faster.

Mr. Hayes moved to schedule the public hearing for this amendment for March 8, 2011. Ms. Etters seconded the motion which carried unanimously.

7. Discussion and possible scheduling of Public Hearing on Planning Commission initiated Zoning Text Amendments and Zoning Map Amendments policy.

Ms. Brockman stated that Legal Counsel was the co-author of these amendments and that the Planning Commission may want to postpone this discussion in his absence. Mr. Hayes moved to postpone discussion until legal counsel is present. Mr. Baty seconded the motion which carried unanimously.

8. Review of Revised Land Development Fees.

Mr. Rivard presented the revisions made to the draft Land Development Fees since the last meeting. There was discussion regarding waiving fees for County owned properties and non-profit organizations and whether it should be an all inclusive statement or on a case by case basis. Ms. Etters moved to recommend the Draft Land Development Fees as written to County Commission. Mr. Baty seconded the motion which carried unanimously.

9. Update on US 340 Plan.

Ms. Brockman reported that progress had been made on existing conditions maps. She stated that someone had volunteered his services to facilitate the kick-off meeting at no cost to

Jefferson County and that the Principle of C.W. Shipley Elementary School had allowed use of the school for the kick-off meeting to be held Saturday, March 26, 2011.

10. Update on Urban Tree Canopy Grant.

Ms. Brockman explained what the Urban Tree Canopy Grant entails and that currently the project participants were working with municipalities to adopt Urban Tree Canopy goals. She stated that there would be a tree planting event projected for the middle of March to the end of April, where trees would be planted in 7 locations in the County.

11. Reports from Legal Counsel and legal advice to Planning Commission.

Ms. Brockman reminded the Planning Commission that a copy of the Findings of Fact and Conclusions of Law regarding Far Away Farms was provided to them at their seats at the beginning of the meeting. There was discussion on whether there was a quorum since Mr. Dailey and Ms. Eppers would be abstaining. Mr. Trumble requested that this item be postponed until legal counsel could be present. Mr. Hayes suggested a spelling change to the first word on the second line, on the second page from “fort” to “forth”.

12. Director’s Report.

- **Activity Reports.** The activity reports were provided in the agenda packets.
- **Update on Annual Report/Work Plan/Budget Subcommittee.**

Ms. Brockman reported that the Subcommittee would be meeting February 9, 2011 at 4 PM. Mr. Trumble asked if Mr. Maxey would be present at that meeting to which Ms. Brockman responded, “no”. Mr. Trumble stated that he would prefer to postpone the meeting until which time Mr. Maxey could be present since the Annual Report is a summary of the events that happened while Mr. Maxey was President of the Planning Commission. Ms. Brockman confirmed that she would reschedule the meeting.
- **Upcoming County Commission Agenda items.**
 - Ms. Brockman reported that the Second Quarterly Report on Fiscal Year 2011 Work Plan was sent to County Commission as a packet agenda item, not for presentation.
 - Ms. Brockman stated that the Wireless Telecommunications Ordinance Amendment Public Hearing was rescheduled to February 24, 2011 at 7 PM.
 - Ms. Brockman explained that the Public Hearing to Amend the County Zoning Map to consider Urban Growth Boundaries for Harpers Ferry and Bolivar rescheduled to February 17, 2011 at 7 PM.
- **Upcoming Planning Commission meetings.**

Ms. Brockman reminded the Planning Commission that the Concept Plan for Payne’s Ford Station and the finalization of the Policy Neutral Zoning Ordinance Amendments for Public Hearing were on the agenda for the February 22, 2011 meeting.

13. County Commission Liaison Report. None.

14. Planning Commission Exchange.

- **Report from the Health Department Meeting Liaison.** Ms. Brockman stated that Ms. Frances Morgan was the liaison to this meeting and that someone else could be assigned.

Mr. Trumble asked that the Planning Commissioners volunteer if there is any interest to be a liaison for the Health Department meetings.

- **Report from the Public Service District Meeting Liaison.** Mr. Hayes stated he was unable to attend the last Public Service District Meeting. He reported that he was able to speak with Mr. Joe Hankins and Ms. Sue Lawton. During their discussion, Mr. Hayes found that the Public Service District is waiting on notification from PSC concerning the Flowing Springs Wastewater Treatment Plant and that an additional public hearing was scheduled for May 3rd, 2011.
- **Report from the Jefferson County Development Authority Meeting Liaison.** None.
- **Report from the Water Advisory Committee Meeting Liaison.** None.

15. President's Report.

Mr. Trumble distributed a copy of the Planning Commission bylaws and requested that the bylaws be an item for discussion for the next regularly scheduled meeting to be held March 8, 2011.

16. Actionable Correspondence. None.

17. Non-Actionable Correspondence. A letter from Mr. Pete Kubic was presented recommending changes to the existing Subdivision Ordinance regarding size limitations in industrial parks. Mr. Hayes suggested that Mr. Kubic be invited to the public hearing for the Text Amendment for Section 20.203 and Definition of Major Site Plan and Minor Site Plan Process in Business or Industrial Parks to be held March 8, 2011.

Ms. Brockman presented an e-mail between her and Mr. Roger Ethier regarding the results of the mountain water samples.

Mr. Trumble adjourned the meeting at 8:55 PM. A detailed transcript of the meeting, which was recorded by Julie Quodala, Office Manager, may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.

STAFF REPORT

Jefferson County Planning Commission Meeting

March 8, 2011

Item #4 Request by Paynes Ford Station for a Major Subdivision Concept Plan Public Workshop for a proposed subdivision (PC File #S10-12). (Subdivision Regulation 24.108)

APPLICANT:	Paynes Ford Station
OWNER :	David Ralson and Ronald Slonaker
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	William H. Gordon Associates, Inc.
PROPERTY LOCATION:	Intersection of Paynes Ford Road and Bowers Road
LEGAL DESCRIPTION:	District: Middleway; Map: 6; Parcel: 8
ZONING DISTRICT:	Zoning Map Designation: Rural
SURROUNDING PROPERTIES:	Zoning Map Designation: North: R South: R East: R West: R
LOT AREA:	141.55 acres
PROPOSED ACTIVITY:	Residential Subdivision consisting of 36 lots and a residue parcel

The submitted Concept Plan, by Paynes Ford Station, is for a major subdivision requiring a Major Concept Plan Public Workshop. The site is located at the intersection of Paynes Ford Road and Bowers Road with a small portion of the parcel protruding into Berkeley County. The area within Berkeley County has been approved for 17 lots. The proposed subdivision in Jefferson County is for 36 lots and a residue parcel consisting of 110.81 acres.

Prior to scheduling this proposal on the Planning Commission agenda for a public workshop, two requirements of the 2008 Amended Subdivision Regulations were required to be met by the applicant.

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Jefferson County Planning Commission Meeting

March 8, 2011

On November 30, 2010, the applicant submitted an application referred to in the Subdivision Regulations as a “Major Subdivision Concept Plan Submission.” Staff had 10 days to review the content of the submission. This review was only to ensure that the appropriate items were submitted, not to review the quality of the submission documents. Listed below are the required items at this stage of the process. Please note, the applicant has provided the required information and meets the submittal requirements. The application was deemed “sufficient.”

1. **General location.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
2. **Concept Plan.** A Concept Plan shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.
3. **Zoning Information.** This shall include:
 - a. Determination of the zoning district in which the proposed subdivision or development project is situated.
 - b. Density calculations.
 - c. Site resource map.
4. **Proposal Description.** This shall be a written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, and development option selected if the development is residential.
5. **Traffic Impact Data.** This shall include:
 - a. Average Daily Trip figures for the adjoining or accessible State road.
 - b. Trip generation figures based on the following table:

<u>USE</u>	<u>PEAK HOUR</u>	<u>AVERAGE DAILY</u>
<u>Single family</u>	<u>0.8</u>	<u>8.0 per d.u.</u>
<u>Detached</u>	<u>0.7</u>	<u>6.0 per d.u.</u>
<u>Townhouse</u>	<u>0.6</u>	<u>7.0 per d.u.</u>
<u>Mobile Home</u>	<u>0.6</u>	<u>5.0 per d.u.</u>

- c. Nearest key intersection that will serve the proposed project. A “key intersection” is defined as any intersection with a primary or secondary highway as classified by the current Comprehensive Plan.
 - d. “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.
 - e. In the event trip generation in the peak hour exceeds 100 or the limitation designated in the most current DOH Traffic Engineering Directive, a traffic study will be required which includes generators, etc. This type of study should be performed by a traffic engineering consultant. The effect of phasing the subdivision shall be cumulative.
6. **Other Data.** Any other data or information the applicant believes will assist in the review.

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7. **Other Reviews.** Any other staff or agency reviews of the plans.

After determining the submission was sufficient within the allotted 10 days, the application was formally received on December 16, 2010. A letter was sent to the applicant notifying them that they could advance to the next step in the process, a Major Subdivision Concept Plan Completeness Review. Within a 45 day period, that began on December 16, 2010, the concept plan was required to be scheduled for a public workshop at a regularly scheduled Planning Commission Meeting. Staff scheduled the applicant's public workshop for the February 22, 2011 Planning Commission Meeting. During the time period between formal receipt of the application and the public workshop, the Major Subdivision Concept Plan Completeness Review process takes place. Listed below are the requirements in the Major Subdivision Concept Plan Completeness Review process:

- A. **Department and Agency Reviews.** The Department and appropriate reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department 14 days prior to the scheduled public workshop.
- B. **Review Content.** The Department and agency reviews shall address the areas indicated in C through F below and any other areas of concern to the agencies.
- C. **Department.** The Department review shall include the following:
 - 1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the concept plan submission. (Landscaping, for instance, is not generally available at this stage). Staff shall identify conditions that would enable the plan to meet the standards. It shall also identify any other zoning issues the developer shall address in a preliminary plat submittal.
 - 2. Staff opinion as to whether the plan meets the site development planning or subdivision criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.
- D. **WVDOH.** When appropriate, the WVDOH shall submit a letter to the Department of Planning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study needs to include more area than required by these Regulations or the Zoning Ordinance, it shall specify the expanded area. Any issues regarding sight distances, access location, road configuration, or off-site improvements shall be noted with recommendations or required changes. The purpose is to ensure that, at preliminary plan review, all transportation information is available so the agency does not have to seek additional data for a qualitative review.
- E. **Traffic Impact.** The review shall indicate whether the traffic impact study follows the generally accepted methodology for a traffic impact study, outlines the traffic impact, and recommends alternatives for mitigating the impact.
- F. **Public Services.** The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a

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Jefferson County Planning Commission Meeting

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system that shall be proposed by the developer to best meet the County's needs in that area of the County.

- G. **Recommended Conditions.** All reviews shall contain recommended conditions for moving forward to a preliminary plat or reasons why the plan should be denied.
- H. **Approval.** Unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning staff shall accept or deny the concept plan as complete.
- I. **Effect.** Upon accepting the application as complete, Planning staff shall place it on the next possible Planning Commission agenda as a public workshop. Staff shall advertise the public workshop at least fourteen (14) days in advance of the meeting and the applicant shall post notice on the property.

The Planning and Zoning Department Staff find the Paynes Ford Station concept plan complete based on the information provided related to the criteria above and the conditions outlined in the Conditional Use Permit (CUP) that was granted on September 15, 2010. The applicant has listed all of the CUP conditions on the concept plan and has either addressed the conditions within the submitted concept plan or listed when those conditions will be met in future submittals.

As part of the CUP approval, a 100 foot buffer along Highland Meadows was required and has been shown. The applicant has requested that that 100 foot buffer not restrict the use of agricultural uses in that buffer. Staff believes that the 100 foot buffer is to separate residential uses and not to limit agricultural uses.

Additionally, outside agencies have responded. Of the agencies specifically asked to respond, WVDOH, Berkeley County Public Service Sewer District, Berkeley County Public Service Water District and Jefferson County Historic Landmarks Commission all responded. The Jefferson County Health Department has not responded.

The Jefferson County Public Service District has released this project to the Berkeley County Public Service Sewer District and Berkeley County Public Service Water District for service of this site. The Berkeley County Public Service Sewer District and the Berkeley County Public Service Water District has agreed to supply this site due to their proximity to the property.

The West Virginia Department of Highways has approved an entrance permit for the proposed project at this location, under the condition that a \$25,000 performance bond is posted. No indication of a traffic study report or additional traffic improvements were mentioned.

The Jefferson County Historic Landmarks Commission responded stating they do not believe the project will have any adverse affect on any historic resources in Jefferson County.

With these early, but significant items addressed, the concept plan proceeds to the scheduled public workshop.

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March 8, 2011

The Major Subdivision Concept Plan Public Workshop allows for the Planning Commission and the general public to comment on the proposed plan. The Subdivision Regulations outline how to proceed. First, the applicant makes a short presentation. Second, Staff explains outside agency comments and whether the plan has met the standards of the Zoning Ordinance. Third, public comment is solicited.

After the applicant's presentation, staff's explanation and the solicitation of public comment, the Planning Commission shall provide direction to the applicant as required under Major Subdivision Concept Plan Direction outlined in the Subdivision Regulations. This direction shall be provided within 14 days, either at the Planning Commission Meeting after the Major Subdivision Plan Public Workshop is closed, the next Planning Commission meeting or at a special Planning Commission meeting.

The Planning Commission shall direct the applicant to prepare a preliminary plat. The applicant shall take into consideration the input from the Departments of Planning and Zoning, all outside agencies, public comment and Planning Commission remarks when forming their preliminary plat. The purpose of this review is to guide the developer so that when the preliminary plat applicant is formally received by the staff, there should not be a whole range of issues being raised for the first time. At time of submission of the Major Subdivision Preliminary Plat Application the applicant shall cite conditions and demonstrate if they have been met or otherwise addressed as outlined under Major Subdivision Concept Plan Direction in the Subdivision Regulations.

It should be noted, that the direction provided to the applicant in the Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to the Subdivision Regulations or the Zoning Ordinance in the second year shall be applicable.



RECEIVED
JAN 25 2011
PLANNING & ZONING AND ENGINEERING
JEFFERSON COUNTY

Mr. Steve Barney
Zoning Administrator
Jefferson County Planning and Zoning
P.O. Box 338
Charles Town, WV 25414

January 23, 2011

Mr. Barney,

The Jefferson County Historic Landmarks Commission has reviewed the concept plan submitted by William H. Gordon Associates for the proposed residential subdivision called Paynes Ford Station. After review of the submitted materials, it is the view of the landmarks commission that the proposed development would have no adverse affect to the historic resources on the subject property or those on adjacent parcels.

Thank you for the opportunity to review the project.

Sincerely,

A handwritten signature in black ink, appearing to be 'J C Allen, Jr.', written in a cursive style.

John C. Allen, Jr.
Chairman, JCHLC

Cc: Chad Wallen, William H. Gordon Associates

Jefferson County Public Service District

January 3, 2011

Curtis Keller
General Manager
Berkeley County Public Service Sewer District
65 District Way
P.O. Box 944
Martinsburg, WV 25404

Re: Water and Sewer Service for Paynes Ford Station

Hello Curtis:

I am forwarding to you a request for information from Jefferson County Departments of Planning and Zoning (County) for water and sewer service availability for Paynes Ford Station. Consistent with the June 3, 2003 Service Territory Agreement between Jefferson County Public Service District (JCPSD) and Berkeley County Public Service Sewer District (BCPSSD), as it is currently not feasible for JCPSD to provide sewer service to Paynes Ford Station, the decision about sewer service availability for Paynes Ford Station, as well as for Quail Ridge II, the Berkeley/Jefferson Industrial Park and Chapel View, currently remains that of BCPSSD. Any service requests outside of these developments but within Jefferson County will be addressed directly by JCPSD unless the Board of JCPSD agrees to a variance of our service area.

I will also forward the County's request to Berkeley County Public Service Water District for a decision for water service availability for Paynes Ford Crossing as JCPSD currently does not have the ability to provide water service to this area and they currently serve the first section of this development.

Thanks very much for your help. Should additional information be necessary, please feel free to contact me. I hope the New Year brings health, wealth, and happiness to all of the people at BCPSSD.

Sincerely,



Susanne Lawton
General Manager

cc: D. Chad Wallen, Project Manager, William H. Gordon Associates Inc.
Zane Summerfield, Engineer, Pentree Inc.
James V. Kelsh, Esquire

enc: copy of letter from Jefferson County Department of Planning and Zoning
copy of letter from William H. Gordon Associates Inc with maps

Jefferson County Public Service District

January 3, 2011

Chris Thiel
Director of Engineering
Berkeley County Public Service Water District
P.O. Box 737
Martinsburg, WV 25402

Re: Water and Sewer Service for Paynes Ford Station, Section 2

Hello Chris:

I am forwarding to you a request for information from Jefferson County Departments of Planning and Zoning (County) for water and sewer service availability for Paynes Ford Station, Section 2. It is my understanding that Berkeley County Public Service Water District (BCPSWD) currently provides water service for Paynes Ford Station. We would appreciate your consideration to provide water service for this new section of this development.

Thanks very much for your help. Should additional information be necessary, please feel free to contact me. I hope the New Year brings health, wealth, and happiness to all of the people at BCPSWD.

Sincerely,



Susanne Lawton
General Manager

cc: D. Chad Wallen, Project Manager, William H. Gordon Associates Inc.
Zane Summerfield, Engineer, Pentree Inc.
James V. Kelsh, Esquire

enc: copy of letter from Jefferson County Department of Planning and Zoning
copy of letter from William H. Gordon Associates Inc with maps

Jefferson County Public Service District

January 3, 2011

Steve Barney
Zoning Administrator
Jefferson County Departments of Planning and Zoning
116 East Washington Street
P.O. Box 338
Charles Town, WV 25414

Re: Water and Sewer Service for Paynes Ford Station (PC File # 10-12)

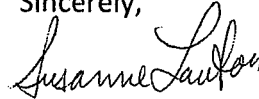
Dear Mr. Barney:

Due to a June 3, 2003 Service Territory Agreement between Jefferson County Public Service District (JCPSD) and Berkeley County Public Service Sewer District (BCPSSD), the sewer service availability for this development will be a decision by BCPSSD. By a copy of this letter and your request for information on the development, BCPSSD has been informed of the request. We have also informed Berkeley County Public Service Water District so they have the opportunity to comment on the availability of water as they currently provide water service for the existing phase of Paynes Ford Station and JCPSD does not have water service available in the area.

JCPSD is grateful to County Staff for including us in your "Completeness Review" process. When each request is received, we will answer with the best information we have, which may, as in this case, include a suggestion for other service providers. Please continue to send the requests to us and we will assure the proper water and sewer service utilities are notified.

Should additional information be necessary, please feel free to contact me.

Sincerely,



Susanne Lawton
General Manager

cc: Zane Summerfield, Engineer, Pentree Inc.
James V. Kelsh, Esquire
D. Chad Wallen, CLA, William H. Gordon Associates Inc.



William H. Gordon Associates, Inc.

301 North Mildred Street, Suite 1

Charles Town, WV 25414

304-725-8456 Phone

304-728-0117 Fax

December 28, 2010

Jefferson County Public Service District
340 Edmond Road
Suite A
Kearneysville, WV 25430

To Whom It May Concern,

Per the request of the Jefferson County Departments of Planning & Zoning, enclosed you will find a copy of the Concept Plan for Paynes Ford Station Section 2, for your review and comment.

Paynes Ford Station (Section 2) is a proposed residential subdivision on 141.5+/- acres in Jefferson County, West Virginia. As proposed, Paynes Ford Station Section 2 is comprised of 37 single family lots, 1 residue parcel and common areas for open space, storm water management & internal roadways. Access to this subdivision will be provided from WV Route 3 (Mount Zion Road/Paynes Ford Road) and through the existing Section 1 of Paynes Ford Station in Berkeley County, West Virginia.

Please contact me at the addressed listed above or at (304)725-8456 with any questions, comments or for additional information. Thank you in advance for your time and consideration in reviewing the Concept Plan for Paynes Ford Station Section 2.

Sincerely,

A handwritten signature in black ink that reads "D. Chad Wallen". The signature is written in a cursive, flowing style.

D. Chad Wallen, C.L.A.
Project Manager

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

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

December 16, 2010

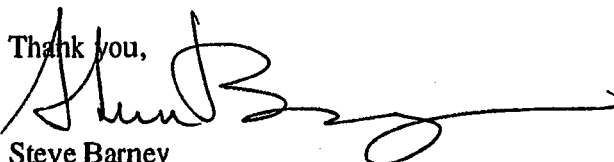
Jefferson Orchards Inc.
c/o David Ralston and Ronald Slonaker
P.O. Box 700
Kearneysville, WV 25430

Dear Mr. Ralston and Mr. Slonaker:

This letter will confirm that the Concept Plan that was submitted for Paynes Ford Station (PC File #10-12) project has been declared sufficient for review. There are no fees required. Below is a timeline for the next steps in the process:

- ❖ The Completeness Review will begin on December 16, 2010.
- ❖ The Concept Plan material and a copy of this letter detailing the timeline will need to be submitted to the reviewing agencies by December 28, 2010. Those agencies include:
 - West Virginia Department of Transportation, Division of Highways
 - West Virginia Department of Environmental Protection
 - Jefferson County GIS/Addressing Office
 - Jefferson County Health Department
 - Jefferson County Public Service District
 - Jefferson County Historic Landmarks Commission
- ❖ Reviewing agency comments will need to be submitted to the Planning and Zoning Department no later than February 1, 2011. If the Planning and Zoning Department receives no reply from the reviewing agency, the department will assume approval.
- ❖ The Department will place an advertisement for the public workshop in the February 2, 2011 edition of the Spirit of Jefferson Advocate.
- ❖ A public notice sign (supplied by the Department) detailing the time and date of the public workshop will need to be posted on the property by the applicant no later than February 8, 2011.
- ❖ The public workshop will be held at a Planning Commission meeting on February 22, 2011.

If you have any questions please feel free to contact our office.

Thank you,

Steve Barney
Zoning Administrator

SR/jth

cc: William H. Gordon Associates



WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

Office of the District Engineer/Manager
District Five

P. O. Box 99 • Burlington, West Virginia 26710-0099 • (304) 289-3521

January 12, 2011

RECEIVED
JAN 18 2011
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

William H Gordon Associates, Inc
D Chad Wallen
North Mildred Street, Suite 1
Charles Town WV 25414

Dear Mr. Wallen:

Request for Permit
Paynes Ford Station 2

Your request for a permit for Paynes Ford Station Section 2 was received in my office on 1/3/11. My records indicate that Paynes Ford Station Section 1 has not been completed and the permit has expired as of 10/31/09. If your records show differently please forward proper documentation. Before an extension will be given to Section 1, revised drawings will need to be supplied. The revisions will need a typical showing Filter Fabric, 12" class 1 stone 4" HMA base course and 2" of wearing. A \$25,000 surety bond will also be required. Please respond to this office in writing with your desires for Section 1. We will not issue a permit for Section 2 until Section 1 is properly addressed.

Once Section 1 is properly addressed, the checklist provided will need to be addressed for Section 2. After reviewing Permit 5-08-0822 for Section 1, there is a statement in the attachment about a turning lane if further sections are added. Our Traffic Engineering Technician will be looking into whether the turning lane will be required with the addition of Section 2.

If you have any further questions please feel free to contact me at 304-289-2284 or at e-mail larry.a.alt@wv.gov

Sincerely,

Larry Alt
Permit Reviewer

LAA

cc: Permit File / Jefferson County Planning (Steve Barney)
Larry Alt/Rick Shobe/

WVDOH District Five Major Highway Entrance Permit Checklist (Subdivision, Commercial, Industrial)

All submittals for a highway entrance permit shall be made in accordance with the May 2004 WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way. The submittal/review procedure for a Major Highway Entrance Permit will generally be as follows:

1. **Concept Submittal** — To be used in conjunction with a meeting between WVDOH and Consultant to determine the need for a Traffic Impact Study and/or improvements to state highway.
2. **Traffic Impact Study** - If required per section 15.1 of the May 2004 WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way. The final determination for the need for a traffic impact study will be made by District Five Traffic Engineer at the concept submittal meeting.
3. **Preliminary Plan Submittal** — To be submitted for review by WVDOH upon resolution of comments from traffic impact study submission.
4. **Storm Water Management Report** — To be submitted for review by WVDOH with preliminary plans if any part of the project site drains to a state highway. Also need to look at potential impacts to downstream drainage structures that are part of state highway system.
5. **Final Plan Submittal** — To be submitted for approval upon resolution of comments from preliminary plan and storm water management submissions.

CONCEPT SUBMITTAL (2 COPIES)

INCLUDED	DESCRIPTION
	1. Overall plan view, with contours, of propose subdivision/commercial/industrial property showing proposed entrances and internal road system.
	2. Show <u>all</u> phases of development for the entire property, including any areas of future expansion.
	3. Show any proposed improvements (widening, turning lanes, vertical grade improvements, etc.) to State highway, if known at time of submittal.
	4. Show all existing entrances (both sides of highway) with distances from proposed entrances.

TRAFFIC IMPACT STUDY (5 COPIES + CD)

to be determined

INCLUDED	DESCRIPTION
	1. Prepare in accordance with Traffic Engineering Directive 106-1 and the May 2004 WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way.
	2. Submit five (5) securely bound hard copies and one (1) digital copy on CD of preliminary Traffic Impact Study (TIS) including all analyses for review.
	3. Upon resolution of comments from preliminary TIS, Submit five (5) securely bound hard copies and one (1) digital copy on CD of final Traffic Impact Study including all analyses.

Paynes Ford Station

WVDOH District Five Major Highway Entrance Permit Checklist (Subdivision, Commercial, Industrial)

PRELIMINARY PLAN SUBMITTAL (2 COPIES)

INCLUDED	DESCRIPTION
	At preliminary plan submittal, stake location of proposed entrances. If any improvements are being made to the State highway, paint centerline stationing on highway.
	Include the following items in the submittal.
	1. Provide copy of Deed and/or Plat for property.
✓	2. Include an overall plan view, with contours, of proposed subdivision/commercial/industrial property showing proposed entrances and internal road system.
✓	3. Show <u>all</u> phases of development for the entire property, including any areas of future expansion.
✓	4. Show location on portion of WVDOH county map. Scale: 1" = 1 mile
✓	5. Show proposed storm water management structures.
✓	6. Show and label all existing property lines.
✓	7. Label and show dimensions of State highway right-of-way.
✓	8. Show and dimension existing travel lanes, turning lanes, shoulders, curbs, etc.
	9. Show stationing of State highway in accordance with established mileposts.
✓	10. Show posted speed limit of all State highways.
✓	11. Show distance from proposed entrances to nearest highway intersection.
✓	12. Show all existing entrances (both sides of highway) with distances from proposed entrances.
	13. Show existing signs and traffic control devices.
	14. Show and label existing utilities within the project area.
	15. Show existing and proposed guardrail.
✓	16. Show plan view of all proposed entrances, show and dimension all radii.
✓	17. Show profile of proposed entrances, starting from centerline of State highway.
✓	18. Include typical sections for proposed entrances.
✓	19. Show any proposed improvements (widening, turning lanes, vertical grade improvements, etc.) to State highway. Provide 2' min wide paved shoulders.
✓	20. Proposed improvements to be designed in accordance with listed references. Geometric design to be in accordance with WVDOH Design Directives DD 601, DD 603, & DD610.
✓	21. Include plan and profile of proposed improvements to State highway. <i>4.25'</i>
✓	22. Show sight distances to the left and right, and left turn in, 3.5' eye height and 3.5' object height.
	23. If widening or otherwise improving State highway, provide cross-sections of State highway at 50' max intervals, and at existing and proposed entrances.
✓	24. Plan sheets shall be at 1"=20' scale. Profile sheets shall be 1"=20' scale horizontal, and 1"=5' scale vertical. Cross sections shall be 1"=10' scale horizontal and vertical. <i>All Sheets</i>
	25. Include typical sections for proposed improvements to State highway.
✓	26. Use WVDOH asphalt pavement mixes and appropriate nomenclature.
✓	27. Subgrade, aggregate base, & asphalt base and wearing course types and thicknesses to be provided by WVDOH. <i>12" Stone (1 1/2") 4" Base 2" wearing</i>
✓	28. Fabric for separation to be used under aggregate base course.
✓	29. Show existing and proposed highway drainage structures (with elevations).
✓	30. Show direction of flow of all streams, channels, ditches and swales.
✓	31. Include analysis & design of all drainage structures in accordance with WVDOH Drainage Manual.
✓	32. Include traffic control plans for all phases of work.
✓	33. Include proposed pavement marking and signage plans as per WVDOH Standard Details Book Volume 2,
✓	34. Show and label limits of proposed right-of-way conveyances to the WVDOH.
	35. For clarity of the plans, do not show spot elevations, proposed water/sewer lines, landscaping, erosion/sediment control details, etc.

09/22/06

mark All Entrances in field with Blue & Gold Ribbon 3/4

WVDOH District Five Major Highway Entrance Permit Checklist (Subdivision, Commercial, Industrial)

STORM WATER MANAGEMENT REPORT (1 COPY)

INCLUDED	DESCRIPTION
✓	1. Required if any part of the project site drains to a state highway.
✓	2. WVDOH policy is <u>no</u> increase in peak discharge to any state highway.
	3. Need to also look at potential impacts to downstream drainage structures that are part of state highway system.
✓	4. The minimum design storm for determining the peak discharge is the 25-year storm.
	5. Interstate and Trunkline routes require the use of the 50-year storm for determining the peak discharge.
	6. If a floodplain study is required, WVDOH policy is <u>no</u> increase in the 100-year water surface elevation.

once Preliminary Plan Accepted
FINAL PLAN SUBMITTAL (4 COPIES)

INCLUDED	DESCRIPTION
	To be submitted for approval upon resolution of comments from preliminary plan and storm water management submissions. Include the following items in the submittal.
✓	1. Four (4) copies of the final plans. <i>Signed & stamped</i>
✓	2. Include revision date(s) on plan sheets as needed.
✓	3. Four (4) copies of blank, signed WVDOH form MM-109. Must use double-sided 8 1/2" x 14" form.
✓	4. If any proposed highway improvements extend beyond limits of existing State right of way, the applicant shall establish new right of way limits beyond the area of improvement.
✓	5. Additional right of required for proposed improvements shall be dedicated to the WVDOH.
✓	6. Applicant shall provide metes and bounds description and plat depicting additional right of way area with the final plan submittal.
✓	7. Right of way plat and description are to be prepared in accordance with WVDOH right of way standards contained in WVDOH Design Directives DD 301 and DD 312.

① Once in the final Plan Stage a surety Bond amount will be set.

② Permit will not be issued until Bond is received

DESIGN REFERENCES

Note: Publications 1 to 10 are available on-line at:

www.transportation.wv.gov/highways/engineering/Pages/publications.aspx

1. WVDOH Manual on Rules and Regulations for Constructing Driveways on State Highway Rights-Of-Way, dated May 2004.
2. WVDOH Standard Specifications Roads and Bridges, dated 2000, as revised by the most current Supplemental Specifications.
3. WVDOH Design Directives, dated January, 1 2004, as revised by the addendums.
4. WVDOH Standard Details Book Volume 1, dated January 1, 2000.
5. WVDOH Standard Details Book Volume 2, dated January 1, 1994.
6. WVDOH Typical Sections & Related Details, dated January 1, 2000.
7. WVDOH Manual on Temporary Traffic Control for Streets and Highways, 2006 Edition.
8. WVDOH Traffic Engineering Directives, dated February 22, 2005.
9. WVDOH Sign Fabrication Manual, dated September 2005.
10. WVDOH Erosion and Sediment Control Manual, dated March 1, 2003, as revised by the addendums.
11. WVDOH Drainage Manual, dated 1984.
12. AASHTO Policy on Geometric Design of Highways and Streets, dated 2004 (Green Book).
13. AASHTO Roadside Design Guide, dated 2002.
14. FHWA Manual on Uniform Traffic Control Devices for Street and Highways, 2003 edition.
15. WVDOH County Highway Maps can either be purchased on-line at:
www.transportation.wv.gov/highways/programplanning/gti/Pages/availablemaps.aspx

or, they are available for download as a PDF file at:

www.transportation.wv.gov/highways/programplanning/gti/Pages/WVCountyMaps.asp

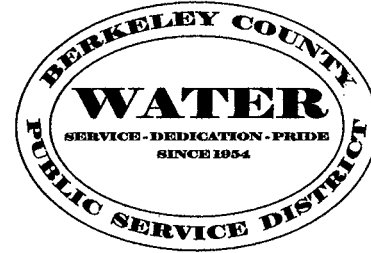
16. Copies of the Encroachment Permit Form MM-109 can be obtained from the WVDOH District Five Headquarters Office, or at any WVDOH County Maintenance Headquarters.

The MM-109 form is also available on-line as a PDF file. Be sure to follow the directions at the bottom of the web page for printing the form correctly, as it must be submitted as a 8 ½" x 14" double-sided form:

www.transportation.wv.gov/highways/maintenance/Pages/EncroachmentPermits.aspx

Berkeley County Public Service Water District
83 Monroe Street
P.O. Box 737
Martinsburg, WV 25402-0737
www.berkeleywater.org
Phone (304) 267-3855
Fax (304) 267-3864

*Scanned &
Send to Kim @ County
Eng. office
File - / Dev & Case*



January 7, 2011

Jefferson County Public Service District
340 Edmond Road, Suite A
Kearneysville, WV 25430

Attn: Susanne Lawton, General Manager

Re: Water Service for Paynes Ford Station, Section 2

Dear Susanne,

This is to confirm that the Berkeley County Public Service Water District (District) has agreed to provide water service to Paynes Ford Station. This commitment dates from 2002, at which time the District agreed to serve the entire development, a total of 218 residential units.

We currently have approved plans for installation of water mains for 17 homes in Paynes Ford Station Section 1. The next phase, comprising 37 lots, is within the scope of the overall project that the District has already agreed to serve.

If you have any questions, please call me.

Sincerely,
BERKELEY COUNTY PUBLIC SERVICE WATER DISTRICT

Christine E. Thiel, P.E.
District Engineer

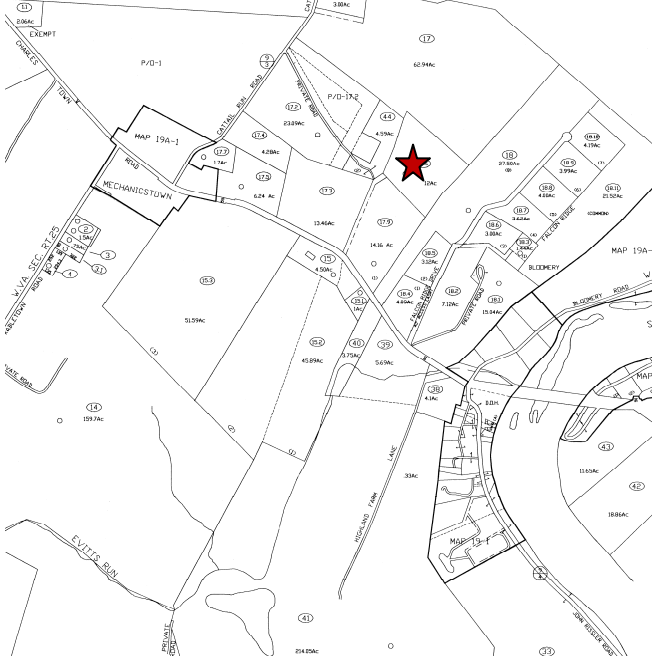
*Please include the
Concept Plan plat
regarding Paynes Ford
included in your last
packet. If you need an
additional copy, please
call our office 304-728-
3228.*

STAFF REPORT

Jefferson County Planning Commission Meeting

March 8, 2011

Item #5 Request by Thomas J. Kiefer for a waiver from Subdivision Regulations Appendix B, Sections 2.2, street standards, 2.3, site access management, 2.5, off-street parking standards, 4.3, stormwater management, and 9.4, internal vehicular circulation and parking.

APPLICANT:	Thomas J. Kiefer
OWNER :	Thomas J. Kiefer/Linda Losey
DEVELOPER:	Same
SURVEYOR/ENGINEER:	N/A
PROPERTY LOCATION:	16357 Charles Town Road, Charles Town, WV 25414
LEGAL DESCRIPTION:	District: Charles Town; Map: 19; Parcel: 17.6 
ZONING DISTRICT:	Zoning Map Designation: Rural
SURROUNDING PROPERTIES:	Zoning Map Designation: North: R South: R East: R West: R
LOT AREA:	12 acres
PROPOSED ACTIVITY:	A mini-farm distillery, producing small, hand-crafted, seasonal batches of limoncello, and raspberry and peach cordials.
PRE-PROPOSAL CONFERENCE:	December 1, 2010

Planning & Zoning Department Report

The applicant is seeking to establish a rural use permitted in provisions Section 5.7 and Article 2 of the Zoning Ordinance. The use is for a small farm distillery. The applicant has provided a detailed submission explaining the proposed use.

STAFF REPORT

Jefferson County Planning Commission Meeting

March 8, 2011

This site has been determined to qualify to utilize the Rural Site Plan standards detailed in Section 20.203 of the Subdivision and Land Development Regulations. That provision allows for a gravel access drive and gravel parking areas, as long as the applicant makes use of Low Impact Development techniques. While the Rural Site Plan standards remove the requirement for pavement, it does not negate the need for properly engineered parking areas and an access drive that provides safety and convenience to the patrons.

The applicant has five waiver requests before the Planning Commission. The waivers are listed as follows:

1. Driveway access width from Route 9 to the parking area
2. Concrete entrance apron at the entrance at Route 9
3. Internal parking driveway widths
4. Maximum slope
5. Stormwater management for disturbed areas

The Departments of Planning and Zoning defers to the Engineering Department regarding the concrete entrance apron, internal parking driveway widths, maximum slope and stormwater management, but will address the access road width.

Currently, there is a gravel access drive from Route 9 to the property. The length of this access drive is approximately 1000 feet. The existing drive is approximately 13 feet wide, within a previously platted 40 foot access easement. This access is for the use of the residential properties along the drive. Since there are less than 6 lots on this access drive, there are no design standards for the access drive. Presently, the only standard for a paved or graveled access width is for 6 lots or more under residential use. Being that there is no standard for either gravel or paved access to minor residential subdivisions, the access is limited to the conditions currently in place. For non-residential site development, the access drive width from the public road to the property is required to be 22 feet to 24 feet.

The site conditions are constrained at this location. On the west side of the gravel drive is a gentle embankment that has tree cover along most of the length of the drive and on the east side is a natural grass swale that is approximately 2 feet below the access surface and appears to be a water recharge area. There is a very limited flat area from which to expand the existing access drive.

As stated above, the site is under the Rural Site Plan standards. Nearly doubling the width of the access drive is not practical, considering the constraints on both sides of the road. The required width would impact both natural features and the rural nature of the area.

The Planning Staff does require some improvements to the access drive. The access width shall be 22 feet from Route 9 to the top of the incline as seen in Picture 1. Picture 2 provides an indication as to where the gravel shall be 22 feet for safe and convenient access to the site. The slope of the hill necessitates the required width and would allow queuing of vehicles.

STAFF REPORT

Jefferson County Planning Commission Meeting

March 8, 2011

The following discusses how the application meets the waiver criteria:

The design of the project will provide public benefit in the form of reduction in County maintenance cost, greater open space, parkland consistent with the County parks plan, or benefits of a similar nature.

Not increasing the width of the access aisle will not result in any maintenance cost for the County, since the access easement is not maintained by the County or the state.

The waiver, if granted, will not adversely affect the public health, safety or welfare or the rights of adjacent property owners or residents.

The site improvements that are requested per the Subdivision Regulations should alleviate any impacts to the public health, safety or welfare or the rights of the adjacent property owner or residents.

The waiver, if granted, will be in keeping with the intent and purpose of these Regulations.

The intent of the Regulations is to have reasonable access to a site or lot. While the width of the access will not meet the requirement along the length of the drive, the recommended improvements in this report do meet the intent to provide safe and usable access. The improvements near Route 9 will allow for two way traffic at the entrance, which is critical for safety.

The waiver, if granted, will result in a project of better quality and/or character.

The character of the area would retain a more natural, rural feel, as is intended by the Rural Site Plan standards, if the waiver were granted.

Planning and Zoning Recommendation

Planning and Zoning Staff recommends granting the waiver from the required access width with the recommended conditions. The required improvements noted in the staff report would allow for a portion of the access to waive the need to meet the full requirements of the Subdivision and Land Development Regulations.

STAFF REPORT

Jefferson County Planning Commission Meeting
March 8, 2011

Picture 1

Incline



STAFF REPORT

Jefferson County Planning Commission Meeting

March 8, 2011

Picture 2



Engineer's Report

Planning Commission Meeting

March 8, 2011

Bloomery Distillery Waivers

The applicant is requesting a waiver from the Jefferson County Subdivision Ordinance, appendix B as follows:

- A. Section 2.2 Street and Road Requirements,
- B. Section 2.3 Access to Public Roads,
- C. Section 2.5 Off-Street Parking Standards and section 9.4 Internal Site Driveways Width,
- D. Section 4.3 Stormwater Management, and Erosion & Sediment Control.

Section 2.2 Street and Road Requirements

The applicant is requesting a waiver from Section 2.2 Street and Road Requirements of the Jefferson County Subdivision Ordinance, but in his explanation, he only talks about curb and gutter, and sidewalks which are under Section 2.2.K.1.b and Section 9.6. Specifically, Section 9.6 requires that curb and gutter, and sidewalks be installed for all commercial projects. It also says that curb and gutter, and sidewalks are not required if Low Impact Development technologies (LID) are implemented for stormwater management. Due to affect this would have on the water quality in this area, the engineering department recommends denial of this waiver. However, if the planning commission is inclined to grant this waive, the planning commission should only waive the section discussed and require LID technologies for stormwater management.

Section 2.3 Access to Public Roads

The applicant is requesting a waiver from Section 2.3 Access to Public Roads of the Jefferson County Subdivision Ordinance, but in his explanation, he only talks about the entrance apron being changed from concrete apron to asphalt pavement as required by the WV Division of Highway. The concrete apron is under Section 2.3.B.5 and Section 9.3. These sections require that a concrete entrance apron be installed for all commercial projects entering a subdivision street or public highway. The Jefferson County Standard Details, R-05B, has an equivalent asphalt pavement section comparable to the 6" concrete section depending on soil type. Please see attached sheet. The engineering department recommends approval of this waiver of the items discussed if the applicant meets or exceeds the standard specified in R-05B of the standard details.

Section 2.5 Off-Street Parking Standards and Section 9.4 Internal Site Driveways Width

The applicant is requesting a waiver from Section 2.5 Off-Street Parking Standards and section 9.4 Internal Site Driveways Width of the Jefferson County Subdivision Ordinance, but in his explanation, he only talks about the maximum required slope under Section 2.5.1 and the minimum driveway width required for the internal driveway under Section 9.4.E.3. The applicant is proposing to increase the 8% to 15% and reduce the driveway width from 22' to what is currently, 13'. For the increase in slope, the main issue is the gravel being used instead of asphalt. As for the decrease in driveway width, any reduction in the width will make it very difficult for two delivery trucks to pass. Therefore, the engineering department recommends denial of this waiver. However, if the planning commission is inclined to grant this waive, the planning commission should only waive the section discussed and the applicant proposal of a pull off area should be gravel not grass.

Section 4.3 Stormwater Management,

The applicant is requesting to waive Section 4.3 Stormwater Management and Erosion and Sediment Control of the Jefferson County Subdivision Ordinance. The applicant mainly speaks of stormwater management and not about sediment and erosion control. Both stormwater management and erosion and sediment control are very vital to the Chesapeake Bay initiative. Therefore, the engineering department recommends denial of this waiver. However, if the planning commission is inclined to grant this waive, the planning commission should only waive the section discussed and the use of LID should be required for water quality.

To be able to approve these variances, the applicant needs to prove all of the following:

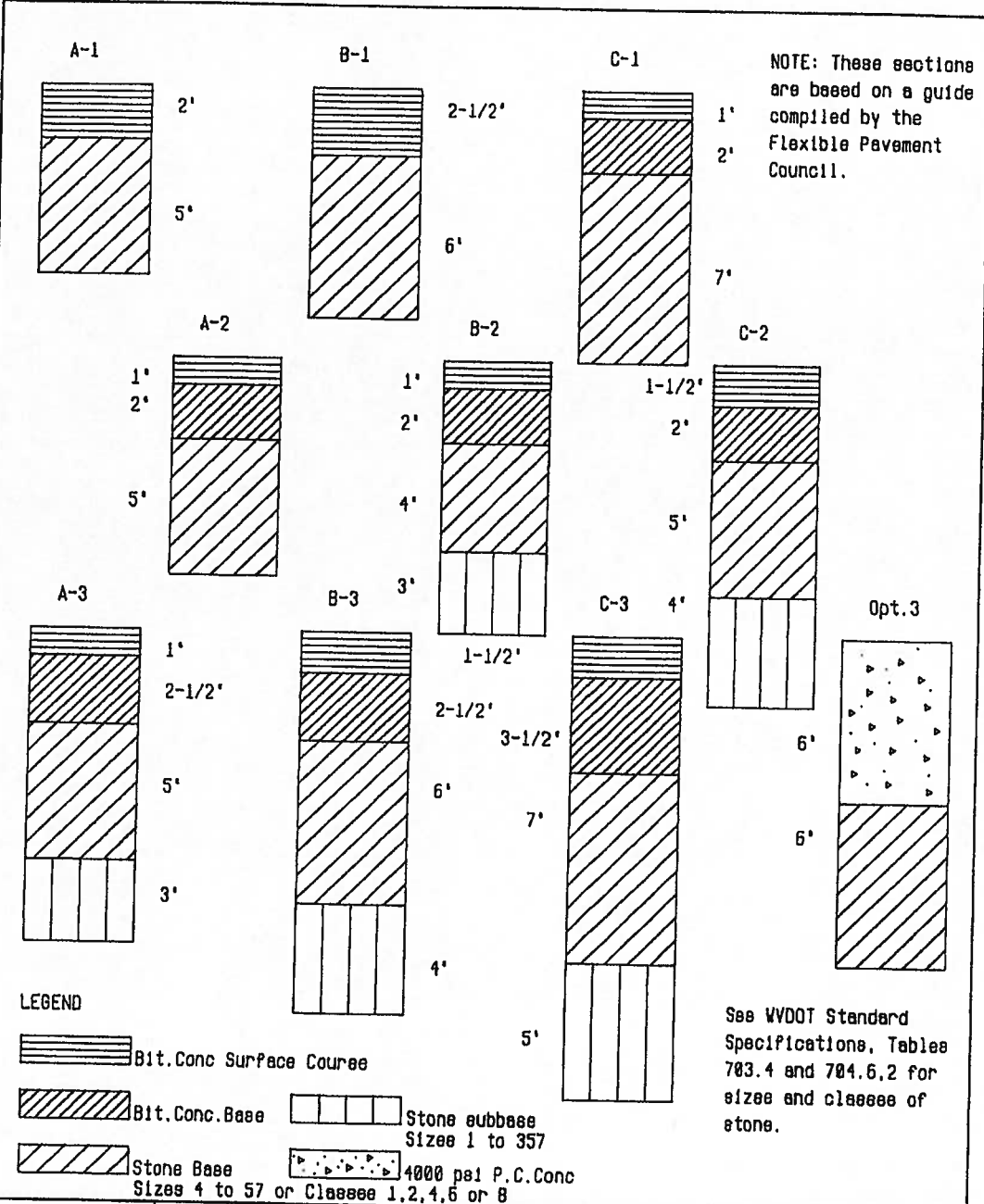
1. The design of the project will provide public benefit in the form of reduction in county maintenance costs, greater open space, parkland consistent with county parks plan or benefits of a similar nature.
2. The waiver will not adversely affect the public health, safety or welfare or the rights of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

From the information provided, the engineering department feels that the applicant has only one waiver that meets the four criteria above which is the concrete access entrance being replaced by asphalt pavement. The four requirements are met because the asphalt section described in R-05B of the standard details is equivalent to the concrete entrance.

The other waivers do meet requirement of number one because of the rural nature of the project may satisfy the greater open space. As for the other three requirements, they are not satisfactory because of the following:

- The requested waivers do adversely affect adjacent property owner in the manor of lower water quality and increased runoff from no storm water management facilities being provided.
- The requested waivers do not keep with the intent of the subdivision ordinance due to the fact 2 and 4 are not satisfied.
- The requested waivers do not provide a better quality project due to the fact that a decrease in driveway width will decrease the safety in regards of two way traffic, the increase slope will affect larger vehicles on the gravel road and no LID being provided will affect water quality.

The Engineering Department does not support variances from site plan standards unless it is demonstrated that the four requirements are satisfied. The problem with supporting variances is usually someone will show up after the fact to complain about the internal driveway not being adequate, stormwater runoff is being increased on my property, traffic issues, etc. We feel it is good practice to enforce the regulation as they are due to the liability issues.



JEFFERSON COUNTY, WEST VIRGINIA	APPROVED: <i>[Signature]</i> Jan. 25, 1995	ROAD SURFACE SECTIONS	REVISIONS:	DETAIL NO.
	COUNTY ENGINEER			R -05B

**A Motion regarding
Waivers for Thomas Kiefer and Linda Losey (Bloomery Distillery)
March 8, 2011**

Please Note – Any motion made by the Planning Commission regarding the Thomas Kiefer and Linda Losey waiver requests shall reference the 4 criteria for a waiver, which is listed below, findings of fact and any conditions.

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

Now therefore be it moved, that the Jefferson County Planning Commission recommends _____ of the request for...

Recommended _____ this ___ day of _____, 2011
By vote of the Jefferson County Planning Commission
By a vote of _ Yes _ No

Thomas Trumble, Commission President

For the 3-8-11
PC Meeting

Jefferson County Planning Commission
116 East Washington Street
Charles Town, WV 25414

RECEIVED

FEB 14 2011

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

WAIVER REQUEST FORM

I/We request a waiver from the provisions of the Jefferson County Subdivision Regulations.

Property Owner (s): Thomas J. Kiefer

Address: 18000 Falls Road
Hampstead, MD 21074

Phone Number: 410-458-9282

Location of Property: 16357 Charles Town Road, Charles Town, WV 25414

Lot Size: 12 acres

Deed Book Reference: Deed Book #: 1051 Page #: 473

Tax Map Reference: District: Charles Town o2 Map: 19 Parcel: 17.6

Zoning District: Rural

Section of Ordinance: Appendix B Sections 2.2, 2.3, 2.5, 4.3, 9.4

Briefly describe (In your own words) by specific reference to a sketch (in accordance with the following paragraph) the nature of your waiver request.

See attached.

Sketch on a separate 8 1/2" x 11" 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 the sketch. Please provide a vicinity map of the area.

Please note waivers to the Subdivision Regulations must comply with Division 24.300 of the Subdivision Regulations. To justify your waiver request, please address the following items:

1. The design of the project will provide public benefit in the form of reduction in County maintenance costs, greater open space, parkland consistent with the County parks plan or benefits of a similar nature.

See attached.

2. The waiver, if granted, will not adversely affect the public health, safety or welfare or the rights of adjacent property owners or residents.

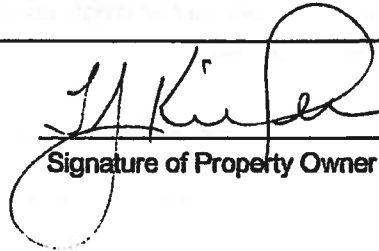
See attached.

3. The waiver, if granted, will be in keeping with the intent and purpose of this Ordinance.

See attached.

4. The waiver, if granted, will result in a project of better quality and/or character.

See attached.



Signature of Property Owner

Signature of Property Owner

For Official Use Only

Amount of Fees Paid: _____

Date of Meeting/Public Hearing: _____

Official/Administrative Body: _____

Property to be posted by: _____

Adjoiner letters to be mailed by: _____

Official Signature and Seal: _____

Jefferson County Planning Commission Waiver Request Form

In October 2010 my partner Linda Losey and I made the decision to open a mini-farm distillery, producing small, hand-crafted, seasonal batches of limoncello, and raspberry and peach cordials, in Jefferson County, West Virginia (WV).

The WV Alcohol Beverage and Control Board requires that as a mini-farm distillery we grow and produce at least 25% of our raw products on the farm, use 50% from other sources within WV, and use no more than 25% from out of state. The State of WV Department of Agriculture has deemed a mini-farm distillery's use as primarily for agricultural purposes. Picture this operation like a farm winery, only with lemons, raspberries and peaches.

In pursuing our vision we found a unique 12-acre parcel with an 1840s, abandoned log cabin on old State RTE 9 two miles outside of historic Charles Town near the Shenandoah River. The property itself is steeped in history. The original one room cabin with upstairs sleeping area was built around 1840 and served as the slave quarters of the Bloomery Plantation. The circa 1870 additions were of timber frame, covered in pine plank and baton, salvaged from canal boats, and added to the front and back of the cabin resulting in a small six room house, as it still stands today.

We hope to step back in time, when life was simpler, where folks took great pride in their hand-crafted products with naturally farm raised fruits and vegetables. Where the locals stood proud and strong, living life simply, enjoying the fruits of their labor.

We invite our customers to share with us in our journey of making a superbly simple, clean cordial, made by hand naturally on our farm. We take great pride and care in crafting quality cordials and invite our customers to relax and enjoy the wholesome reflection of yesteryear with us, one sip at a time in the restored, historic log cabin nestled on 12 rural acres in Jefferson County.

Prior to purchasing the property and embarking on our vision, on December 1, at a Pre-Proposal Conference, we met with Steve Barney, Zoning Administrator; Seth Rivard, County Planner; Jonathan Saunders, County Engineer; Mike Monaghan, County Inspector; and Mason Carter, County Compliance Officer. The Planning and Zoning Department determined that the proposed use is consistent with the intent of the land use, "Farm brewery and winery provided that all structures associated with the operation do not exceed 10,000 square feet," permitted in the Rural zoning district. Alcohol may not be sold for onsite consumption, although tastings and incidental retail sales of bottled products will be permitted as an accessory to the principal permitted use. It was further deemed that a Limited Site Plan with Rural Exceptions would be required, with parking for 7 spaces, which will include a handicapped parking space.

Following the Pre-Proposal Conference meeting, on December 20, 2010, we purchased the parcel with the intent of converting the existing log cabin into the Bloomery Plantation Distillery, LLC. The two story, 1600 sq. ft. structure will be restored and used as the heart of the operation with a small kitchen and 15'x19' public tasting room.

Of note:

- The existing structure will be restored.
- No new construction is being proposed.
- No new utilities are proposed other than those required for health department permitting.
- The initial property entrance to the WVDOH right-of way-line is shared by a renter on an adjacent property. This shared entrance will meet all entrance requirements of the WVDOH.
- The property is the sole user of the 2/10-mile long, 13' wide, gravel access driveway.
- The intended use is a seasonal, weekend operation with limited traffic for a 15' x 19' tasting room.
- Contiguous in-residence neighbors have expressed support of the project with no opposition.

In working towards compliance of the Limited Site Plan with Rural Exceptions, we are requesting the following reductions or waivers in the subdivision ordinance requirements: access drive width, slope and depth requirements, grading requirements and stormwater management.

The requested waivers combined would meet the four criteria of a waiver:

1. By granting the waivers the rural character of the site will preserve the greatest amount of open space.
2. The adjacent owners have expressed support for the project and the waivers, therefore it will not adversely affect them or the public's health, safety or welfare.

3. The intent of the ordinance is to “promote efficient and attractive development in a manner that reduces off-site impacts.” The waivers, if granted, would allow for an efficient and attractive improvement to an abandoned property. Also, the waivers would greatly reduce the impact on the adjacent properties by eliminating much of the required construction. The intent of a waiver is also to have reasonable access to the lot and site—the existing driveway width provides for that without the need to expand it. The number of daily trips, now and in the future, will remain minimal, given the size of the seasonal use structure.
4. The waivers would preserve the rural, historic character of the site, which would provide a project of better quality and character.

Specific waiver request sections:

Appendix B, Section 2.2 (Streets and Road Requirements) – Requirements for curbs, gutters, sidewalks, driveway width, etc.

The project would like to use the existing at grade driveway. There is no need for curb, gutter, or sidewalk, outside of the ADA walkway needed to connect the handicapped parking space to the building on the site.

Appendix B, Section 2.3 (Access to Public Roads) – Requirements for access onto WV Route 9

The WVDOH has minimum requirements for a “commercial” entrance that will need to be met through the entrance permit process. This apron will be paved with asphalt from the edge of existing route 9 to the right-of-way line. Due to the limited traffic using the site, the asphalt is sufficient and concrete is not needed. The project would meet all minimum WVDOH requirements including pavement section, width, slope, and radius at the connection point.

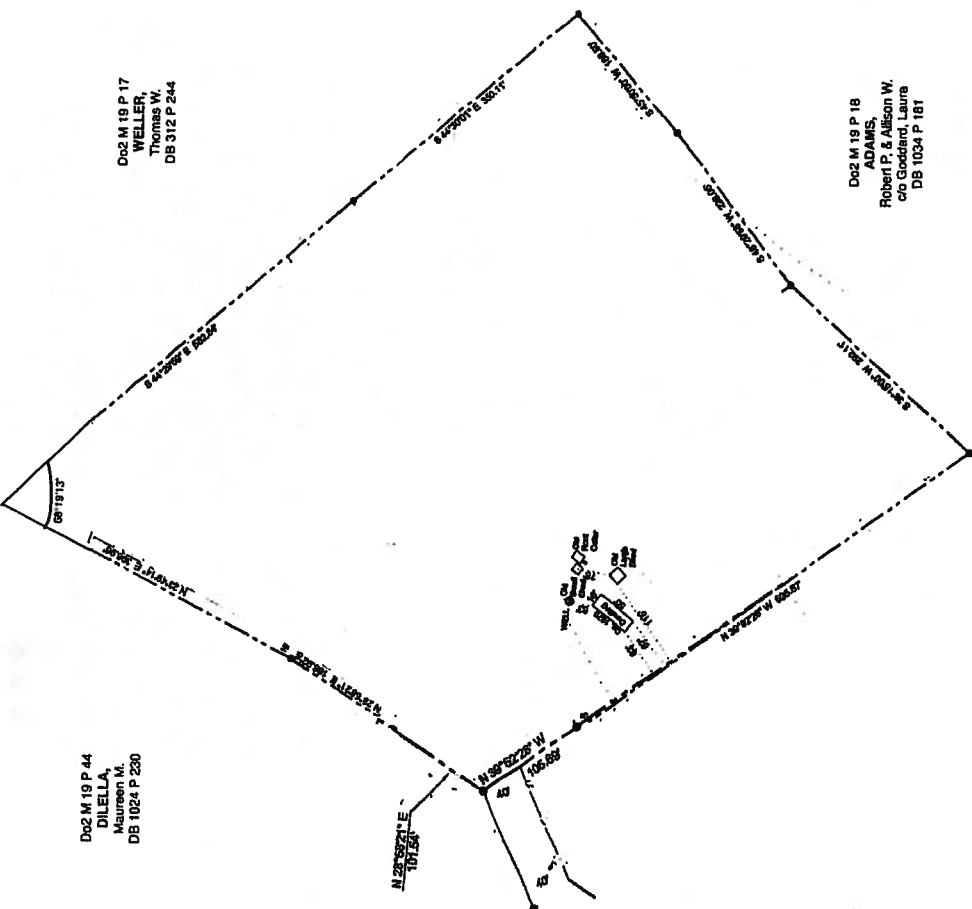
Appendix B, section 2.5 (Internal Driveway) and Appendix B, Section 9.4 – Minimum driveway width and maximum driveway slope requirements.

- The project would like to use the existing at grade driveway for its primary means of access. As such, there are areas that are likely steeper than the maximum allowed grade of 8% for driveways. Adjacent jurisdictions, such as Berkeley County, allow gravel access roads to have a maximum slope of up to 15%. We propose using this maximum grade slope % figure for the project.
- Increasing the access road width increases the impervious surface, disturbing the existing vegetation, including the cutting down of numerous oak trees that have been growing on this land for nearly a hundred years.
- In the rare instance that two cars would need to pass on the driveway, this can easily be accomplished on the established grass shoulder areas.
- The grading and width requirements are impractical due to existing constraints and contour of the land. We will do the necessary work on site to ensure that the driveway functions to the needs of the property, which will include flattening out some of the steeper sloped areas.

Appendix B, Section 4.3 (Stormwater Management) – Requirement to provide stormwater management for all areas of site that are to be disturbed.

- The existing gravel driveway on the site is functional for the needs of the project. There are existing swales and ditches that cross the site and channel water directly to the Shenandoah River, which is a short distance away from the property. The minimal amount of gravel areas that will be added to the site will have no measurable impact on the adjacent property owners. It is a 12-acre parcel with woods and meadows that has had minimal disturbance since 1840. Constructing stormwater areas, particularly for any widening of the existing gravel drive, would have a greater impact on the property and adjacent properties through stormwater construction, than by letting nature run its course. By granting the waiver, the same run off will continue to take place as it has since the 1840s.
- If a minor subdivision plat is prepared and recorded in the County, it is not required to provide stormwater management. Our proposed business would likely have less of an impact on stormwater management than a typical residential minor subdivision. If the waivers are granted as requested, the only new improvements that would be added would be a 6 space gravel parking lot and 1 paved ADA accessible parking space, which would have a footprint similar to that of a typical single-family house.

Our goal is for our customers to have an enjoyable experience as soon as they turn off of old State RTE 9 onto our farm. We’re cognizant of the fact that our customers want and need good access to the historic, restored log cabin. We will do the necessary work to improve the existing access driveway by using best management practices that will have the least amount of impact on the land. We want to be good stewards of our land. By granting these waiver requests you’ll help ensure that that happens.



D02 M 19 P 17
WELLER,
Thomas W.
DB 312 P 244

D02 M 19 P 18
ADAMS,
Robert P. & Allison W.
c/o Gerald L. Laine
DB 1034 P 181

D02 M 10 P 44
DILLELLA,
M.
DB 1024 P 230

D02 M 19 P 17.9
WELLER,
Thomas W.
DB 355 P 255

D02 M 18 P 17.3
LLOYD
Thomas E.
c/o Dennis D. Ellis - Excavator
DB 960 P 525

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MAY 14 2011
JEFFERSON COUNTY
PLANNING AND ENGINEERING

EXISTING 40' WIDE ACCESS EASEMENT PER DB 395 PG 329
On the face of

To County Road 607
From State Primary Route 9
607 R/W
To Shiloh
From
As per O.S. Map

**Jefferson County Planning Commission
Waiver Request**

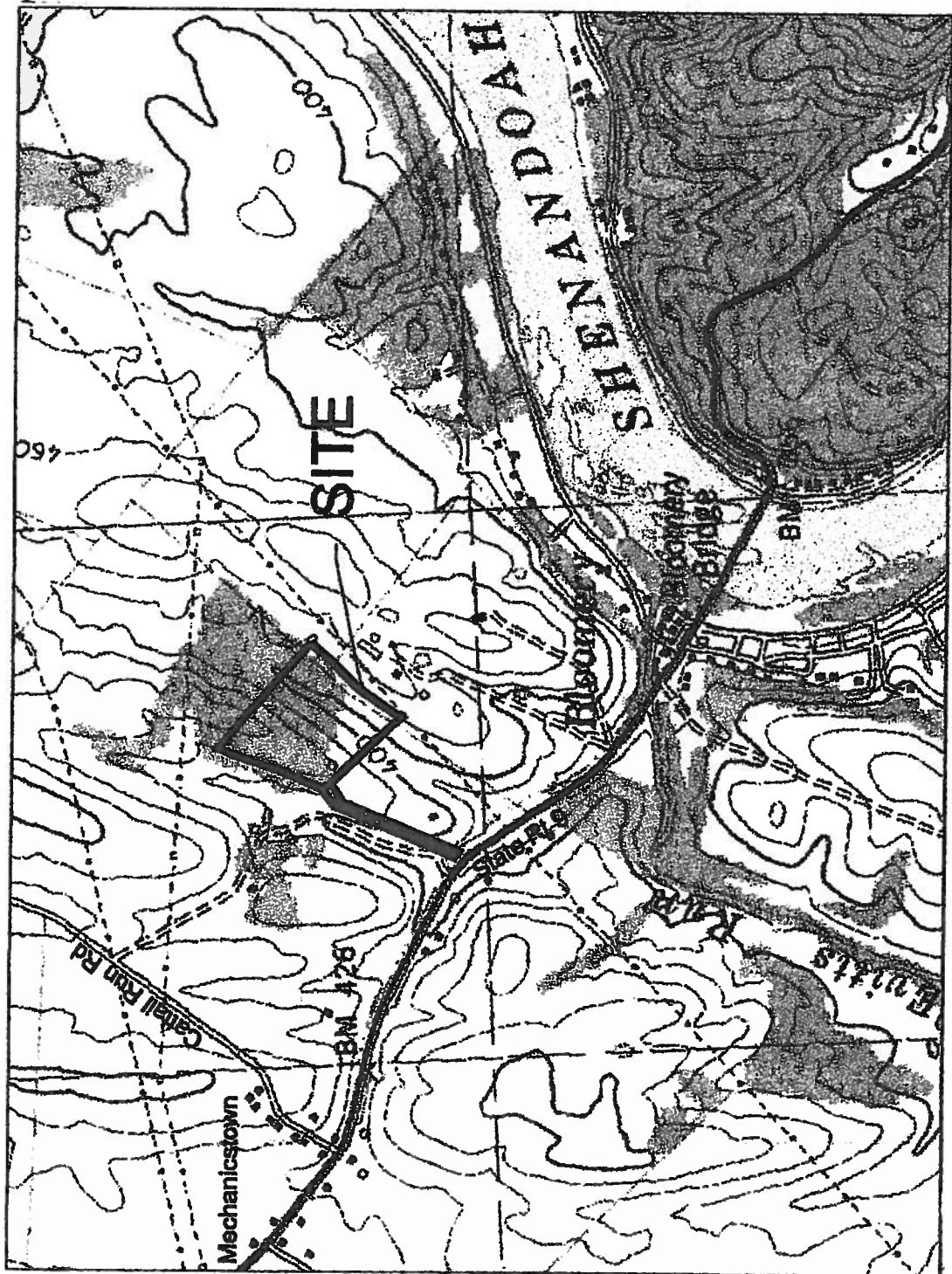
**Contiguous Neighbors to 16357 Charles Town Road
Kiefer/Bloomery Plantation Distillery**

Thelma E. Lloyd
c/o Dennis D. Ellis, Executor
40 Stiles Way, Ranson, WV 25438
(parcel 17.3)

Maureen M. Dilella
P.O. Box 1051
Charles Town, WV 25414
(parcel 44)

Robert P. Adams and Allison W. Adams
c/o Laura Goddard
261 Falcon Ridge Road
Charles Town, WV 25414
(parcel 18)

Thomas W. Weller
c/o Gene Armstrong
1073 Shepherdstown Pike, Harpers Ferry, WV 25425
(parcel 17 and 17.9)



LOCATION
From USGS Charles Town, WV Quadrangle
1/24,000 Size
SCALE 1" = 2000'

RECEIVED
APR 23 1964
U.S. GEOLOGICAL SURVEY

JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning & Zoning
116 East Washington Street, 2nd Floor
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
FROM: Seth Rivard, County Planner
DATE: March 8, 2011
SUBJECT: Proposed Subdivision Amendment for the Minor Site Plan Process in Business or Industrial Parks

As staff have used the recently amended Subdivision Regulations, it became apparent that there are components of the regulations that could use further review and potential amendments. One pressing concern is the process procedures for a site plan in an existing business or industrial park.

Currently, any site plan greater than 5,000 square feet is processed as a major site plan, which requires multiple additional steps in the process and two public hearings as compared to the minor process.

Staff is proposing, in instances where a business and/or industrial park has previously processed as a major subdivision with master planned roads and stormwater, site plans proposed within that subdivision shall be processed as a minor regardless of the size of the structure. The reasons for this proposal are:

1. Master planned roads and stormwater provisions have already been established.
2. In circumstances where a business or industrial park has processed as a major subdivision, the community is aware that such a development will occur in that location. Requiring each site plan to follow the major process is redundant to the original notice that occurred during the creation of the business and/or industrial park.
3. The redundant public hearing is counter to the economic development goals intended when the parks were created.

Shown below are the sections from the Subdivision and Land Development Regulations with the proposed text amendments shown in red.

Sec. 20.203 Minor Site Development

Minor Site Developments are those proposals that do not require the development of new infrastructure or the extension of existing off-tract infrastructure and where there is no subdivision into separate lots. If the development requires easements for drainage or other purposes, private roads, or parking, and access to public roads is involved that serve one or more land uses, it is a site development. Minor site development proposes one or more of the following: (1) Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet gross floor area (GFA) on any site; (2) **Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;** ~~(2)~~ (3) Addition(s) to existing development of less than ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less; or ~~(3)~~ (4) apartment or multi-family development of eight or less dwelling units.

Minor Site Plan. A plan that follows the minor site development process and that will not require the development of new infrastructure or the extension of existing off-tract infrastructure, that proposes one or more of the following:

A. Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet Gross Floor Area (GFA) on any site.

B. Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;

C. ~~B.~~ Addition(s) to existing development of less than ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less.

D. ~~C.~~ Apartment or multi-family development of eight or less dwelling units.

Minor Site Plans do not include the design, erection or addition to detached single family dwelling units when only one dwelling unit is located on an established lot.

Site Plan, Minor. A plan that follows the minor site development process and that will not require the development of new infrastructure or the extension of existing off-tract infrastructure, that proposes one or more of the following:

A. Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet Gross Floor Area (GFA) on any site.

B. Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;

C. ~~B.~~ Addition(s) to existing development of less than ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less.

D. ~~C.~~ Apartment or multi-family development of eight or less dwelling units.

Minor Site Plans do not include the design, erection or addition to detached single family dwelling units when only one dwelling unit is located on an established lot.

Major Site Plan. A plan that follows the major site development process and proposes one or more of the following:

A. A new public or private street or dedication to public use of an existing street;

B. Building(s), both new and additions to existing, where all structures located on the parcel total 5,000 square feet or more of GFA on any site;

C. Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;

D. ~~C.~~ Addition(s) to existing development of ten percent or more of existing GFA or with additions of 10,000 square feet or more of GFA;

E. ~~D.~~ Apartment or multi-family development of ten or more dwelling units; or

F. ~~E~~. A heavy industrial use.

Site Plan, Major. A plan that follows the major site development process and proposes one or more of the following:

A. A new public or private street or dedication to public use of an existing street;

B. Building(s), both new and additions to existing, where all structures located on the parcel total 5,000 square feet or more of GFA on any site;

C. Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;

D. ~~C~~. Addition(s) to existing development of ten percent or more of existing GFA or with additions of 10,000 square feet or more of GFA;

E. ~~D~~. Apartment or multi-family development of ten or more dwelling units; or

F. ~~E~~. A heavy industrial use.

Additionally, this proposed amendment would apply to existing and future business and/or industrial parks. The parks currently established within Jefferson County known to be affected by this amendment are: Burr/Bardane Industrial Park, SPARC Training Center, Sunnyside Park and Jefferson Crossing.

JEFFERSON COUNTY, WEST VIRGINIA
Department of Planning & Zoning
116 East Washington Street, 2nd Floor
P.O. Box 338
Charles Town, West Virginia 25414

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

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

MEMO

TO: Planning Commission Members
FROM: Steve Barney, Zoning Administrator
DATE: March 4, 2011
RE: Zoning and Land Development Ordinance Policy-Neutral Amendments

The revised version of the Zoning Ordinance Policy-Neutral Amendments will be provided in digital (PDF) format in the online Planning Commission packet for the March 8th meeting. Technical issues precluded the printing of the document for the packet. A printed version will be made available to Planning Commission members at the March 8 meeting.

The Planning Commission may vote to release the draft amendments for public review. However, it is anticipated that available time for discussion of the amendments at the March 8th meeting will be limited. As such, the Commission also has the option of scheduling a March 22nd meeting to discuss the draft amendments in greater detail.

Changes to the ordinance since the last draft viewed by the Planning Commission (January 18, 2011 draft) are highlighted in yellow. Significant changes include the following:

- Addition of certain amendments reinstated by Circuit Court on December 3, 2009 (various sections)
- Addition of Variance process description for Board of Zoning Appeals (Section 3.4A.4)
- Clarification of Bed and Breakfast standards (Section 8.3) and Country Inn definition (Section 2.2)
- Standardization of land use names throughout the Ordinance
- Additional comments added to clarify purpose of changes and (where applicable) consistency with West Virginia Code

One additional policy-neutral change that should be made, prior to adoption of the amendments, is the updating of the soil names in Article 6. The Zoning and Land Development Ordinance currently uses soil names from 1973. The USDA Soil Conservation Service has provided Planning and Zoning Departments' staff with an updated list of soil names.

Please let me know if you need additional information.

**A Motion Recommending Approval to Release for Public Review
Draft Policy-Neutral Amendments to the Jefferson County Zoning and Land Development
Ordinance**

March 8, 2011

Whereas, The Jefferson County Planning Commission initiated amendments to the Zoning and Land Development Ordinance related to such matters as the removal of outdated or redundant site plan standards, consistency with the adopted Subdivision and Land Development Regulations, correction of clerical errors, updates related to changes in the West Virginia Code, and other related changes intended to improve the ease of use of the Ordinance; and

Whereas, The Planning Commission conducted meetings to review the internal draft of the Ordinance amendments on January 18, 2011 and March 8, 2011; and

Whereas, Staff of the Planning and Zoning Departments may continue to make additional changes to the draft ordinance amendments for the purpose of renumbering, formatting, and correcting scrivener's errors;

Whereas, The Planning Commission will conduct a public hearing prior to forwarding a recommendation to the County Commission regarding the draft amendments;

Now therefore be it moved, that the Jefferson County Planning Commission approves the release for public review of the draft Policy-Neutral Amendments to the Jefferson County Zoning and Land Development Ordinance.

Recommended _____ this __ day of _____ 2011
By vote of the Jefferson County Planning Commission
By a vote of _ Yes _ No

Thomas Trumble, Commission President

Jefferson County Zoning and Land Development Ordinance

Jefferson County,
West Virginia

Draft “Policy Neutral Amendments”

Prepared By
The Jefferson County
Planning Commission

Adopted
July 7, 1988
AS AMENDED.

Includes Previously Invalidated April 8, 2005 Amendments
On September 24, 2009, the Supreme Court reversed and remanded the amendments to the
Circuit Court. The Circuit Court re-instated the amendments on December 3, 2009.

Yellow text = Text changed since last version reviewed by the Planning Commission

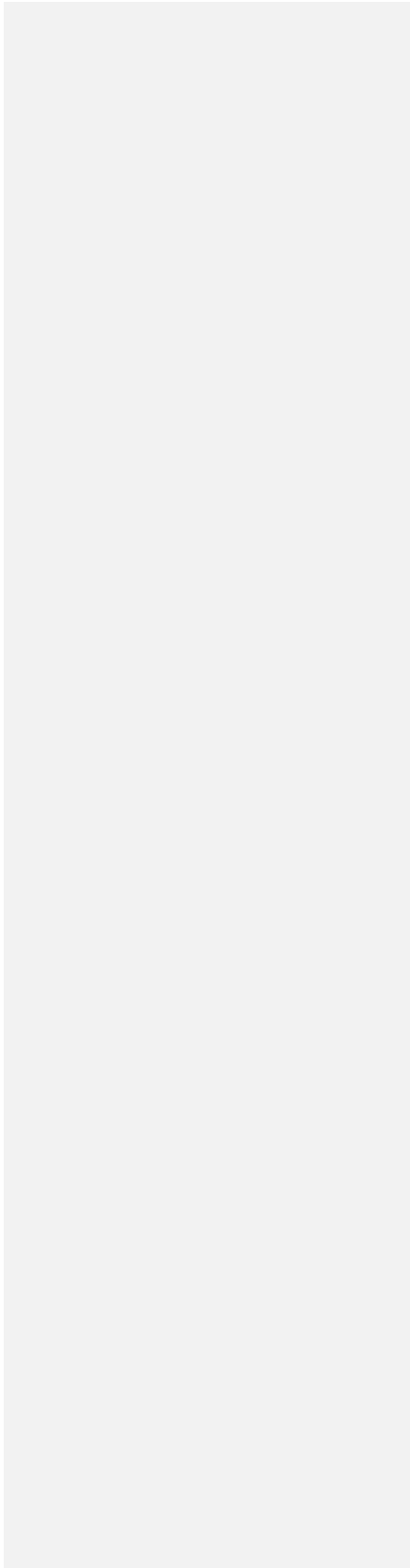
Blue text = Additions

Red text = Deletions

|

|

DRAFT



Office Consolidation

This document contains additions and amendments approved by the Jefferson County Commission on the following dates. For accuracy, specific reference should be made to these documents.

May 4, 1989
August 31, 1989
September 14, 1989
October 12, 1989
November 30, 1989
September 13, 1990
October 4, 1990
July 15, 1993
May 18, 1996
January 1, 1997
June 12, 1997
February 11, 1998
July 1, 1998
August 13, 1998
December 10, 1998
December 10, 1998
October 14, 1999
January 10, 2002
August 8, 2002
November 7, 2002
May 1, 2003
April 8, 2005 at 5:00 p.m., Invalidated and removed by Court Order February 26, 2008
October 3, 2005
September, 1, 2006
September 28, 2006
November 1, 2008, ordinance enacted to amend the ordinance adopted July 7, 1988, with all previous amendments, to replace non-traditional zoning with traditional zoning
January 8, 2009 Stay of November 1, 2008 Amended Ordinance
(Stay due to Petition to place Ordinance on a future ballot for Referendum)
Return to Ordinance which was effective prior to November 1, 2008
Previously invalidated April 8, 2005 amendments reinstated by Court Order on December 3, 2009

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ARTICLE 1: PURPOSE, JURISDICTION, APPLICATION, INTERPRETATION AND SEVERABILITY

Section 1.0 Effective Date

This Ordinance shall become effective ninety (90) days after the date on which the County Commission acts to adopt it.

Section 1.1 Purpose

The purpose of this Ordinance is to:

- A. Protect and encourage the health, safety, and general welfare of the present and future population of Jefferson County.
- B. Help guide the future growth and development of Jefferson County in accordance with the adopted Comprehensive Plan.
- C. Encourage growth and development in areas where sewer, water, schools, and other public facilities are or will soon be available in order to provide services in the most cost effective manner.
- D. Insure that growth and development are both economically and environmentally sound.
- E. Encourage the maintenance of an agricultural base in the County at a level sufficient to insure the continued viability of farming.
- F. Encourage and support commercial, industrial, and agricultural activities while maintaining land use, order and compatibility.
- G. Encourage an improved appearance of Jefferson County with relationship to the use and development of land and structures.
- H. Encourage the conservation of natural resources.
- I. Provide a guide for public action in the orderly and efficient provision of public facilities and services.
- J. Provide a guide for private enterprise in developing and building a strong economic community.
- K. Encourage Historic Preservation.

Section 1.2 Jurisdiction

These regulations shall apply to all properties within Jefferson County, West Virginia; but shall not include the incorporated areas.

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Section 1.3 Application and Interpretation

- A. The terms of this Ordinance shall be applied to promote the intent in Section 1.1 and the Comprehensive Plan.
- B. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law, or by other rules, regulations or ordinance, or by private restrictions, covenants or declarations, the provisions of this Ordinance shall control, except where stated specifically herein.
- C. Where a provision of this Ordinance is in conflict with another provision of this Ordinance the stricter regulation shall apply.
- D. If a proposed use is not one in the list of those permitted in each zoning district, it shall be prohibited as though it was included in the list of prohibitions. However, the use may be approved if the Development Review System demonstrates that the use is compatible and appropriate with the neighborhood and the use can be approved by the Board of Zoning Appeals as a conditional use.¹ [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- E. Amendments to this Ordinance shall not adversely affect specific decisions made by the ~~Zoning~~ Board of ~~Zoning~~ Appeals or conditions on a Conditional Use Permit dated prior to the adoption of such amendment. Determination of adverse affect shall be made by the Zoning Administrator. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Section 1.4 Severability

Should any article, section, subsection or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the ~~Zoning Ordinance~~ Zoning and Land Development Ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Section 1.5 Use of Technical Information

Should any technical study, authorized by the Jefferson County Commission, become available after the adoption of this Ordinance, the County Commission shall authorize the Planning ~~and Zoning~~ Commission to scrutinize review such study to determine the extent that this Ordinance

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may need to be amended. Such studies may include, but, are not limited to, information on recreation, groundwater, hazardous wastes, and historic structures.

Changes that arise from this provision may include additions and/or deletions of sections in this Ordinance which would further encourage the proper management and preservation of our Natural and Cultural Resources. All such recommended changes are subject to Section 12.1.

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ARTICLE 2: DEFINITIONS

Section 2.1 Definitions

For the purpose of these regulations, the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, the singular number includes the plural and the plural is the singular. The word “shall” is mandatory and the word “may” is permissive. The words “used for” shall include “arranged for”, “designed for”, “intended for”, “maintained for”, “constructed for”, or “occupied for”. The word “person” shall mean natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust or the manager, lease, agent, servant, officer or employee of any of them. The word “land” shall include water surface and land under water.

Section 2.2 Terms Defined

Comment [SB1]: Some terms below also proposed to change as part of the draft Wireless Telecommunications Facilities ordinance.

Abandonment or Abandoned	The relinquishment of property or cessation of the use of the property by the owner or lessee without any intention of transferring rights to the property to another owner or resuming the nonconforming use of the property for a period of one year. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Accessory Use	A structure or use which is customarily incidental and subordinate to the principal building or use which is located on the same lot as the principal building. Accessory structures include garages, tool sheds, storage buildings, swimming pools or other similar structures. An accessory structure having any part of a wall in common with a dwelling is considered part of the main building and must meet those setbacks.
Addition, Major	A major addition shall include those additions which will directly affect the function of the site or those areas surrounding the site. Any substantial change of use classification, alteration of on-site parking requirements, potential adverse impacts of off-site storm water drainage, increased demand for public water and sewerage or additions which will cause the rerouting of traffic circulation shall be considered “major additions”.
Adjacent/Confronting Affected Property Owner	The owner of property adjacent to or confronting a proposed development (including the properties across any

	<p>road, right of way or easement) which will be impacted either positively or negatively by that proposed development. Names and addresses of affected property owners will be taken from current tax records in the Jefferson County Court House. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]</p>
Adult Use	<p>Uses that are commonly associated with adults only, including but not limited to: bars, lounges, dance clubs, stripping establishments, adult book stores, clubs, adult arcades, adult cabarets, adult motion picture theaters, massage parlors, sexual encounter establishments or other similar businesses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]</p>
Adult Arcade	<p>An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by five or fewer persons each are used to show films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]</p>
Adult Bookstore	<p>An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following (1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or (2) instruments, devices, or paraphernalia that are designed for use in connection with specifies sexual activities. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]</p>
Adult Cabaret	<p>A nightclub, bar, restaurant, facility, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides or other photographic reproductions of material that is characterized by any</p>

	emphasis upon the depiction of specified sexual activities or specifies anatomical areas. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]
Adult Mini Motion Picture Theatre	An enclosed building with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]
Adult Sauna	A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, using steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]
Adult Theater	A theater, concert hall, auditorium, or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]
Affordable Housing	Housing units where the occupant is paying no more than 30 percent of Jefferson County median gross income for housing costs, including taxed and utilities. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Aggrieved or Aggrieved Person	A person who is denied by the planning commission or the board of zoning appeals, in whole or in part, the relief sought in any application or appeals, or has demonstrated that he or she will suffer a peculiar injury, prejudice or inconvenience beyond that which other residents of the county or municipality may suffer. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS]

	REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Agricultural Use	<p>The use of land for a bona-fide farming operation. This includes:</p> <ol style="list-style-type: none"> 1. Commercial Agricultural Enterprise; 2. Agriculture, Ranching; 3. Aquaculture; 4. Apiculture; 5. Horticulture; 6. Viticulture; 7. Fish, meat, poultry and game birds processing, provided that fifty percent (50%) of the meat processed must be raised on the site farm of the processing facility for minimum periods of three (3) months for beef and pork and two (2) months for lamb and poultry; 8. Animal Husbandry; including, but not limited to, the care and raising of livestock, equine, and fur-bearing animals; 9. Poultry husbandry and the production of poultry, game birds and poultry products; 10. Dairy production and processing of dairy products; 11. Equestrian uses; Horse Breeding, boarding, riding and training facility; 12. The production of field crops including but not limited to tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, mushrooms, timber, pasturage, Christmas trees, maple sap, woody biomass, compost; 13. Pick your own farm products; <p>Agricultural tourism; Farm vacation and farm related experience provided that there are not more than 5 lodging units;</p> <ol style="list-style-type: none"> 14. Forestry; Farm brewery and winery provided that all structures associated with the operation do not exceed 10,000 square feet; 15. Rental of garden plots; 16. Community supported agriculture; 17. The warehousing; processing, value added, drying, storage, distribution and marketing of agricultural products when those activities are conducted in conjunction with, but are secondary to, husbandry or production; <p>Rental of existing farm building, for commercial storage (structure must have existed for 5 years);</p>

Comment [SB2]: Some previously proposed edits to this section have been withdrawn.

Comment [SB3]: Missing word.

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Comment [SB4]: Equestrian is defined in Sec 2.2.

Comment [SB5]: Agricultural tourism moved to Rural District principal permitted uses.

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Comment [SB6]: Farm vacation moved to Rural principal permitted uses.

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Comment [SB7]: Forestry added from Rural district uses.

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Comment [SB8]: Brewery/Winery moved to Rural District principal permitted uses

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Comment [SB9]: Rental of farm building moved to Rural District principal permitted uses.

	[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Amenities	Utilities, roadways, and public services which make a particular site more attractive for development. Section 6.4 governs the assessment of amenities as it relates to the Development Review System.
Applicant	Any person commencing seeking to develop land, initiate a land use, obtain approval pursuant to under the Development Review System Ordinance, or or any person requesting an appeal from or variance to this Ordinance.
Area, Land	Land area refers to new land area, exclusive of streets and other public space.
<u>Barber/beauty shop, limited</u>	<u>A barber or beauty shop limited to no more than two chairs.</u>
<u>Bed and Breakfast</u>	<u>A single-family dwelling where lodging is offered for compensation, having no more than seven (7) bedrooms for this purpose, and meeting the requirements for such a use in Article 8 of this ordinance.</u>
Billboard	A structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located. (See Sign, Outdoor Advertising)
Blue Ridge Line	The common surveyed boundary between Jefferson County, West Virginia and Loudoun County, Virginia. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 13, 1998]
Board	The Jefferson County Board of <u>Zoning Appeals</u> . [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Buffer	An area on a property defined by a distance from the property line or other specifically designed line such as flood plain, wetland limit or stream bank. Said area is intended to absorb, lessen or neutralize the impacts of one land use from another. The nature of the buffer will depend on the impact(s) being neutralized. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]

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Comment [SB10]: Revised use name and new definition (currently not defined), currently named "2-chair barber/beauty shop."

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Comment [SB11]: Use currently not defined.

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Building	Any structure which is permanently affixed to the land and has one or more floors and a roof. The term building shall include manufactured homes.
Building, Height of	The vertical distance measured from the level of approved street grade opposite the middle of the front of the building to the highest point of the coping of a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge of a gable, hip or gambrel roof.
Building Line	The line established by law beyond which a building shall not extend as determined by front, side and rear yards, herein.
<u>Caretaker Residence</u>	<u>An accessory residential structure for the use of a caretaker or security guard.</u>
Change of Use	Any use which is different than the previous use of a building or land or any change in the <u>North American Industry Classification System (NAICS) Standard Industrial Code</u> code in utilizing the Development Review System.
<u>Church</u>	<u>A building or site wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.</u>
Clustering	Grouping structures in closely related groups at higher densities than normally permitted in certain areas in order to preserve other areas as parks, recreational areas or sensitive natural areas. Overall density of the total parcel remains within acceptable limits. See <u>Chart (5.5.b) Section 5.7</u> for minimum area per dwelling unit and minimum lot area. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Collocation	The use of a wireless telecommunications facility by more than one wireless telecommunications provider. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998]
Commercial	Any wholesale, retail or service business activity established to carry on trade whether or not for profit. [AMENDED TWICE BY ACT OF THE COUNTY

Comment [SB12]: Currently an accessory use to an industrial use, not defined.

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Comment [SB13]: NAICS is the industry classification system now in use. It was released in 1997.

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Comment [SB14]: Currently not defined.

Comment [SB15]: Chart 5.5 b does not exist.

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	COMMISSION, EFFECTIVE MAY 4, 1989]
Commercial Agricultural Enterprise	Farm operations which will: A. Contribute in a substantial way to the area's existing agricultural economy; and B. Help maintain agricultural processors and established farm markets. When determining whether a farm is a part of a commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Commission	The Jefferson County Planning and Zoning Commission. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Comprehensive Plan	A composite of mapped and written text, the purpose of which is to guide the systematic physical development of the County and is adopted by the County Commission.
Conditional Use	A use which because of special requirements or characteristics may be permitted in a particular zoning district only after review by the Board of Zoning Appeals and upon issuance of a conditional use permit, and subject to the limitations and conditions specified in the zoning ordinance <u>Zoning and Land Development Ordinance</u> . [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Conditional Use Permit	A permit issued upon completion of the Development Review System which allows for the proper integration of compatible uses into the community.
Condominium	A common interest community in which portions of the real estate are designated for separate fee simple ownership of cubic air interior spaces and the remainder of the real estate is designated for common ownership solely by the owners of those portions. Said common interest community may be residential, commercial or industrial depending on other provisions of this Ordinance. All such projects are subject to the West Virginia Uniform Common Interest Ownership Act. In the event that a specific requirement within the

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	Uniform Common Interest Ownership Act is inconsistent with a commercial or industrial project, that specific requirement shall not apply. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Contiguous	Lots, parcels, municipal boundaries or county boundaries that are next to, abutting and having a boundary, or portion thereof, that is coterminous. Streets, highways, roads or other traffic or utility easements, streams, rivers, and other natural topography are not to be used to determine lots, parcels, municipal boundaries or county boundaries as contiguous. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Cottage Industry	An occupation at a residential premises anywhere except the Residential Growth District and existing residential subdivisions; with a limited number of employees, accessory structures and with specific setbacks. See Article 4A for standards. [AMENDED BY ACT OF THE COUNTY COMMISSION EFFECTIVE MAY 18, 1996]
<u>Country Inn</u>	<u>A private residence at least 50 years old that offers sleeping accommodations to lodgers in 30 or fewer rooms for rent. For the purpose of this definition, a lodger means a person who rents a room in a country inn establishment for fewer than 30 consecutive days. The land use may include a restaurant open to the general public as well as to guests.</u>
<u>Cultural Facility</u>	<u>A library, museum, or similar public or quasi-public use displaying, preserving, and exhibiting objects of community and cultural interest.</u>
<u>Day Care Center, Small</u>	<u>A facility: (1) in a dwelling unit; (2) licensed by the state, if applicable; (3) providing care for five or fewer children or adults who (except for family members) do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. Family members who receive care in the facility are not included in the total; and (4) which may include some instruction.</u>
<u>Day Care Center, Large</u>	<u>A facility: (1) licensed by the state, if applicable; (2) providing care for six or more children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and (3) which</u>

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Comment [SB16]: Use currently not defined.

Comment [SB17]: Revised use name and new definition (currently not defined), replaces "Library, museum or similar institution of a noncommercial nature"

Comment [SB18]: Revised use name and new definition (currently not defined); replaces "Child or Elderly Care Facilities"

	<u>may include some instruction.</u>
Development	The subdivision of land; construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, installation of a sign; and any mining, landfill or land disturbance, such as grading, paving and excavation.
Development Review System	A numerical rating system designed to assess a particular site's development potential based on soils and amenity criteria cited within this ordinance.
Dormitory	A building used for sleeping accommodations where such building is used accessory to a permitted use of land. A dormitory shall be located on the same property or campus as the use it is intended to serve. A dormitory shall not offer accommodations to the general public or to persons who are visiting the property or campus primarily for the purpose of being a spectator at a sporting event or other gathering held at the facility. A dormitory may include one common kitchen or dining facility and common gathering rooms for social purposes for use only by it's temporary occupants. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JANUARY 10, 2002]
Dwelling Unit	One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, <u>occupied by no more than one family, and containing no more than one kitchen independent cooking together with and facilities for sleeping and bathing facilities.</u> [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]
Dwelling, Detached	A building containing only dwelling units surrounded by yards or other open area on the same zoning lot.
<u>Dwelling, Duplex</u>	<u>A combination of no more than two single-family dwelling units, with each individual dwelling unit located on its own legal lot, and sharing a common lot line and a common vertical wall.</u>
Dwelling, Multi-Family	A building containing three or more dwelling units, <u>which may including include rental or condominium residential units.</u>
Dwelling, Single <u>Family</u>	A <u>detached</u> building containing not more than one dwelling unit and not occupied by more than one family.

Comment [SB19]: Revised use name and new definition (currently not defined); replaces "Child Care Centers."

Comment [SB20]: These changes clarify that only one family (as defined in the Zoning Ordinance) may occupy a dwelling unit, and that multiple kitchens are not permitted in the same dwelling unit.

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Comment [SB21]: "Duplex" is a permitted land use in the Zoning Ordinance but is not defined.

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Comment [SB22]: Clarifies that "multi-family" may including rental and/or ownership units.

Comment [SB23]: Revised use name, replaces various names. Clarifies that a single-family dwelling is a detached dwelling.

Dwelling, Townhouse	One of a series of three or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof.
Dwelling, Two-Family	A building located on one zoning lot containing not more than two dwelling units, arranged one above the other or side by side, and not occupied by more than two families.
Easement	A lawfully acquired right or privilege to use a parcel of land or a portion thereof for a specified purpose. An easement is retained by a person other than the owner of the land parcel.
Engineer	A person registered by the State of West Virginia through the Board of Registration of Professional Engineers.
<u>Equestrian Uses</u>	<u>Use of a site for horse riding, training, breeding, stables, or boarding.</u>
Essential Utilities Or Equipment	Underground or overhead electrical, gas, communications not regulated by the federal communications commission, water and sewage systems, including pole structures, towers, wires, lines, mains, drains, sewers, conduits, cable, fire alarm boxes, traffic signals, hydrants, regulating and measuring devices and the structures in which they are housed, and other similar equipment accessories in connection therewith. Essential utility equipment is recognized in three categories: A. Local serving; B. Nonlocal or transmission through county or municipality; and C. Water and sewer systems, the activities of which are regulate, in whole or in part, by one or more of the following state agencies: 1. Public Service Commission; 2. Department of Environmental protection; or 3. Department of Health and Human Resources. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996 AND FEBRUARY 11, 1998. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Expanded Use	The further development of a developed site.
<u>Family</u>	<u>Any of the following cases constitutes a family:</u> <u>(a) An individual; or</u>

Comment [SB24]: New use name; combines several related uses.

Comment [SB25]: "Family" currently not defined.

	<p>(b) two (2) or more persons related by blood, marriage or adoption, or under approved foster care; or</p> <p>(c) a group of not more than six (6) unrelated persons living together and sharing living areas in a dwelling unit; or</p> <p>(d) a group of persons occupying a dwelling unit meeting the definition of a Residential Care Home.</p>
Farm Market	Market for the sale of farm products, and products incidental to farm products.
Farm Vacation Enterprise	A farm adapted for use as a rural vacation area, which may include picnicking and sporting areas, fishing waters, camping, scenery, nature recreation areas, and similar uses. The site may contain up to 5 lodging units.
Flood-prone Area	Areas subject to the one hundred (100) year flood as determined by the Flood Insurance Study prepared by the Federal Insurance Study prepared by the Federal Insurance Administration for Jefferson County, dated April 15, 1980, as may be amended.
Flood-prone Soils	Any area designated as flood-prone soils in the Soil Survey of Jefferson County, West Virginia prepared by the Department of Agriculture, Soil Conservation Service.
Frontage, Street	All property on the side of a street between two intersecting streets (crossing or ending), or if the street is a dead-end, then all property abutting on one side between an intersecting street and the dead-end of the street.
Glare	The effect produced by brightness sufficient to cause annoyance, discomfort, or lessen visual performance and visibility.
Group Residential Facility	A facility which is owned, leased or operated by a behavioral health service provider and which: (1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the Department of Health and Human Resources; and (4) complies with the State Fire Commission for residential facilities. A dwelling owned or leased by a governmental or non-profit organization and used to house a group of persons not necessarily related by blood. The parent agency

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 Comment [SB26]: Use currently undefined.

Comment [SB27]: Use currently undefined. Limit of 5 lodging units is a requirement of existing ordinance.

Comment [SB28]: Use definition updated for consistency with definition in West Virginia Code.

	or institution has the administrative, supervisory and service responsibility for the group home. Per Chapter 17 of the West Virginia Code, as amended, a Group Residential Home shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts.
<u>Group Residential Home</u>	<u>A building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence, and complying with all applicable requirements of the state of West Virginia. Per Chapter 17 of the West Virginia Code, as amended, a Group Residential Home shall be a permitted residential use of property for the purposes of zoning and shall be a permitted use in all zones or districts.</u>
Historic Site/ Property	Any lot, parcel, historic structure, or designated area which has been listed on the West Virginia or the National Register of Historic Places.
Home Occupation, Level 1	An occupation conducted in a residential premise in any district, but only by family members, wholly within the dwelling unit, with no visible evidence of its conduct. See Article 4A for standards. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]
Home Occupation, Level 2	An occupation conducted in a residential premise in any district, but not in subdivisions established since 1979, and with some nonresident employees, but wholly within the dwelling unit and with no visible evidence of its conduct except a small sign. See article 4A for standards. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]
<u>Hunting, Shooting, Archery and Fishing Clubs, public or private</u>	<u>Land owned by an organized group of persons formed as a club that is used for hunting, fishing, shooting, archery and similar types of passive recreation.</u>
Impervious Surface	Any structure, material, or surface which reduces and prevents absorption of storm water into the earth.
Improvements	Modifications to land which increase its value or utility. Improvements include, but are not limited to, buildings and structures, road grading, road surfacing, landscaping, curbs, gutters, storm sewers and drains, sidewalks, street signs, modifications to watercourses, water supply facilities,

Comment [SB29]: Use currently not included in Zoning Ordinance; added for consistency with West Virginia Code, which states that it shall be a permitted residential use in all zones or districts.

Comment [SB30]: Use currently undefined.

	sewage disposal facilities, and park and recreation equipment.
Institutional Use	A non-profit, not for profit , public or quasi-public use, such as a religious facility, library, public or private school, hospital, or government owned, operated, or supported facility or land use for public purpose. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
<u>Kennel</u>	<u>The boarding, breeding, raising, grooming, or training of more than six dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.</u>
Land Surveyor	A person registered by the State of West Virginia through the Board of Examiners of Land Surveyors.
Lattice Tower	A support structure constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]
Light Industrial	Any industry that does not use a significant amount of water except for domestic purposes. Industrial uses that do not create noise, odors, smoke and objectionable nuisances or hazards. <u>All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation. The final decision shall still be made by the Planning and Zoning Commission.</u> Any uses listed in Section 5.6(b) (as amended) are not considered light industrial. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]
Lot	A tract of land area meeting local development standards which is intended for building development whether immediate or future.
Lot Area	The total horizontal area included within the rear, side and front lot or proposed street lines of the lot.
<u>Lot, Corner</u>	<u>A lot abutting on two intersecting streets. Both sides abutting the streets forming the corner shall be considered front lot lines unless otherwise specified in this Ordinance, with the exception of corner lots that front on a private or</u>

Comment [SB31]: Use currently undefined.

Comment [SB32]: Moved to Section 5.8.

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Comment [SB33]: New term and definition. Combines existing text in "Lot Line, Front" and "Lot Line, Side". The "exception" text is consistent with adopted Department policy.

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	public road on one edge and an access easement serving 5 lots or fewer on one edge – for such lots, a front yard setback for the principal structure applies to the edge of the lot that fronts on a private or public road and a side yard setback for a principal structure applies to the edge of the lot that fronts on the access easement. A corner lot must have at least one rear lot line.
Lot Line, Front	The side or sides of an interior or through lot which abut about a street; in a corner lot both sides abutting the streets forming the corner shall be considered front lots. Front lot lines shall be measured from the Road Improvement Easement where one exists. For a property with a rear yard adjacent to a right-of-way designated as an alley, a rear yard setback shall apply. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Lot Line, Side	Any lot line other than a front lot line or rear lot line. In a corner lot there must be at least one rear lot line. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Lot of Record	A written or graphic description of a lot that is on record in the office of the Clerk of the County Commission of Jefferson County at the adoption of this Ordinance.
<u>Manufactured Housing</u>	A factory-built, single-family structure, which is manufactured or constructed under authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. For the purpose of this title, a manufactured home shall be considered the same as any site-built, single-family detached dwelling.
Massage Parlor	An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, certified massage therapist, or similar professional person licensed by the State. This definition does not include an athletic

Comment [SB34]: Moved to definition of Lot, Corner.

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Comment [SB35]: Alley clarification reflects adopted policy.

Comment [SB36]: Moved to definition of Lot, Corner.

Comment [SB37]: Term and definition added to distinguish Manufactured Housing from a Mobile Home.

	club, health club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service. [AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]
<u>Medical/dental/optical office, small</u>	<u>A medical, dental, or optical office limited to two practitioners.</u>
Mobile Home	A detached structure with the following characteristics: It is designed for long-term occupancy an containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, and it is designed for transportation after fabrication on streets or highways on its own wheels, or on flatbeds or other trailers, or detachable wheels, and it arrives at the site where it is to be occupied complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like. <u>A mobile home is distinct from a manufactured home.</u>
Mobile Home Park	A lot, site, or parcel of land used or intended to accommodate two (2) or more mobile homes for residential purposes with adequate public or community water and sewerage service meeting Health Department standards. A mobile home park does not include mobile home sales lots, which unoccupied mobile homes are parked for inspection and sale. This term includes all buildings, structures, vehicles, accessories and appurtenances used or intended as equipment in such a park.
<u>Model Home / Sales Office</u>	<u>A dwelling unit temporarily used for display purposes as an example of dwelling units available for sale in a residential development approved by Jefferson County. Model homes may include sales offices for dwellings within the development.</u>
Modular Unit	A factory-fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure for residential, commercial, educational, or industrial uses.
Monopole	A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]

Comment [SB38]: Revised use name and new definition (currently not defined), replaces "1 or 2 doctor medical/dental/optical office."

Comment [SB39]: Sentence added to distinguish a Mobile Home from Manufactured Housing.

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Comment [SB40]: New definition. Term used in ordinance but currently not defined.

Motor Vehicle	Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or other public ways. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Multi-Residential Use	A deeded lot or parcel on which two or more dwelling units is located.
Natural Undisturbed Condition	This exists where the terrain has not been altered in form by human activities such as cutting, filling, blasting or leveling and where natural vegetation exists. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Natural Vegetation	This occurs when a property is allowed to revert to a wild condition with native plants. No cutting, trimming or cultivation takes place in areas of natural vegetation. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Neighborhood	An area generally confined to a one-mile radius from the perimeter of a proposed development. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Nonconforming Use	A use of a building or of land lawfully existing at the time this Ordinance becomes effective and which does not conform with the use regulations of the district in which it is located. Any new lines of division within a subdivision of a parcel that is a nonconforming use shall meet the regulations of this Ordinance.
<u>North American Industry Classification System</u>	<u>A system to classify business establishments according to type of economic activity.</u>
Non-residential	A commercial, industrial, or institutional use. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Nursing or Retirement Homes	This term includes rest homes, nursing homes, convalescent homes for children and homes providing chronic and convalescent care.

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Open Space	Land within a proposed development site excluding areas devoted to buildings, structures, roadways and parking.
Plat	A scaled, graphic drawing of a land subdivision project prepared according to the provisions of <u>the Subdivision and Land Development Regulations and</u> this Ordinance. A plat depicts the design and layout of a project as well as the location of existing and proposed property boundaries and easements. A plat also includes all terms, conditions and performance requirements established prior to the approval of a subdivision.
Preliminary Plat	A professionally prepared drawing of a proposed subdivision which is not a record plat but which contains detailed information concerning the proposed development, <u>and is prepared according to the provisions of the Subdivision and Land Development Regulations and this Ordinance.</u>
<u>Preschool</u>	<u>Use of a site for the provision of pre-elementary educational services on a scheduled basis to children through kindergarten. A preschool is registered with and approved for operation by the West Virginia Department of Education.</u>
Principal <u>Permitted</u> Use	The primary or predominant use of any site.
<u>Principal Permitted Use</u>	<u>Any use which is or may be lawfully established in a particular district, approved by the Departments of Planning and Zoning without requirement of Development Review System review or approval by a board or commission, provided the use conforms with all applicable requirements of this ordinance.</u>
Prohibited Use	A use that is not permitted.
<u>Publicly Owned Facility</u>	<u>Use of a site for government operations or activities, and not otherwise defined as a public safety facility; school, elementary or secondary; school, university or college; school, vocational or professional; hospital; or cultural facility; or essential utility equipment.</u>
<u>Public Safety Facility</u>	<u>Facilities that provide health and safety services to the general public including, but not limited to fire stations, police stations, and emergency medicine or ambulance stations or facilities.</u>
Public Highway	Any highway or road in Jefferson County which is part of the Federal or West Virginia public highway system and which is so identified by and numbered on the most recent

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Comment [SB41]: Added for consistency with final plat definition.

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Comment [SB42]: New use name and definition.

Comment [SB43]: Revised name more accurately reflects definition.

Comment [SB44]: New definition.

Comment [SB45]: Use currently not defined

Comment [SB46]: Revised use name and new definition (currently not defined), replaces various use names such as "Fire stations, ambulance and rescue squads, publicly supported".

	General Highway Map published by the West Virginia Department of Highways.
Research and Development	Research, development and testing laboratories that do not involve the mass manufacture, fabrication, processing or sale of products. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JANUARY 10, 2002]
Residential	Any detached or attached structure that is used for permanent living quarters and has kitchen facilities. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]
<u>Residential Care Home</u>	<u>The use of a site for the provision of a family-based facility in a single-family dwelling unit providing 24 hour care in a protected living arrangement with not more than two supervisory personnel and not more than six residents who are suffering from mobility, orthopedic, visual, speech, or hearing impairments, Alzheimer's disease, pre-senile dementia, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, autism, emotional illness, or similar conditions.</u>
<u>Restaurant, fast food, limited</u>	<u>Take out pizza/sandwich shops not exceeding 600 square feet.</u>
<u>Restaurant, Limited</u>	<u>A food service establishment not exceeding 2000 square feet and where the primary mode of food distribution is by server.</u>
<u>Retail Food Store, Limited</u>	<u>A retail food store not exceeding 1500 square feet of retail floor space.</u>
<u>Right-of-way</u>	<u>A right which grants passage across or through a property. A right-of-way is also the (usually dimensioned) path along which the right of passage is granted.</u>
<u>Road</u> Right of way	<u>A prepared surface within a right-of-way which is intended for vehicular use. Road does not include shoulders. A right which grants passage across or through a property. A right of way is also the (usually dimensioned) path along which the right of passage is granted.</u>
<u>School, Elementary or Secondary</u> Road	<u>A public or private school meeting all requirements of the compulsory education laws of the state and providing instruction to students in kindergarten through grade twelve. Secondary schools consist of middle schools and high schools, generally grades six through twelve. A prepared surface within a right of way which is intended for</u>

Comment [SB47]: New use and definition. This definition is intended to replace the existing definition for "Group Residential Facility."

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Comment [SB48]: Revised use name and new definition (currently not definition), replaces "Take out pizza/sandwich shops not exceeding 600 square feet."

Comment [SB49]: Revised use name and new definition (currently not definition), replaces "Restaurant not exceeding 2000 square feet (primary mode of food distribution is by waiter or waitress.)"

Comment [SB50]: Revised use name and new definition (currently not definition), replaces "Take out pizza/sandwich shops not exceeding 600 square feet."

Comment [SB51]: Revised use name and new definition (currently not definition), replaces "Retail food stores not exceeding 1500 square feet of retail floor space."

Comment [SB52]: Revised use name and new definition (currently not definition), replaces "Retail food stores not exceeding 1500 square feet of retail floor space."

Comment [SB53]: Currently undefined.

	vehicular use. Road does not include shoulders.
School, University or College	An educational institution that offers specialized instruction in any of several fields of study and/or in a number of professions or occupations and is authorized to confer various degrees such as the bachelor's degree. Education uses may include a variety of uses such as classroom buildings, administrative offices, sports facilities, student housing, research facilities and other related uses operated by the governing board of the institution within the campus or on adjoining lots.
Seasonal Use	A use that is carried on for not more than a single three day consecutive period in each of the four solar seasons. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]
Sensitive Natural Area Seasonal Use	An area of wetlands, stream or river banks and forest which exists as a habitat supporting rare or endangered species or which has been dedicated perpetually to environmental preservation by easement, covenant or other legal instrument or which is otherwise protected for environmental purposes by State or Federal statute. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990] A use that is carried on for not more than a single three day consecutive period in each of the four solar seasons. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]
Setback Line Sensitive Natural Area	That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed. For attached dwelling unit types (duplex, multi-family, townhouse, two-family, and similar residential uses) no setback between attached dwelling units is required. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990] An area of wetlands, stream or river banks and forest which exists as a habitat supporting rare or endangered species or which has been dedicated perpetually to environmental preservation by easement, covenant or other legal instrument or which is otherwise protected for environmental purposes by State or Federal statute. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Sexual Paraphernalia Store Setback Line	Any retail store specializing in the sale of paraphernalia, devices, or equipment distinguished or characterized by an

Comment [SB54]: Currently undefined.

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Comment [SB55]: In accordance with existing Zoning Ordinance, section 5.4.

	<p><u>emphasis on depicting or describing specific sexual activities or used in connection with specified sexual activities. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]</u></p> <p>That line that is the required minimum distance from the street right of way line or any other lot line that establishes the area within which the principal structure must be erected or placed. <u>For attached dwelling unit types (duplex, multi-family, townhouse, two family, and similar residential uses) no setback between attached dwelling units is required.</u></p>
<p><u>Shopping Center</u> Sexual Paraphernalia Store</p>	<p><u>A commercial facility on a single lot with common parking facilities that uses or leases separate areas of space to retail or service oriented businesses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]</u></p> <p>Any retail store specializing in the sale of paraphernalia, devices, or equipment distinguished or characterized by an emphasis on depicting or describing specific sexual activities or used in connection with specified sexual activities. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]</p>
<p><u>Shrub, Evergreen</u> Shopping Center</p>	<p><u>A low growing, usually several stemmed, woody plant which has foliage that remains green and functional through more than one growing season.</u></p> <p>A commercial facility on a single lot with common parking facilities that uses or leases separate areas of space to retail or service oriented businesses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]</p>
<p><u>Sign</u> Shrub, Evergreen</p>	<p><u>Any object, device display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.</u></p> <p>A low growing, usually several stemmed, woody plant which has foliage that remains green and functional through more than one growing season.</p>
<p><u>Sign, Animated</u> Sign</p>	<p><u>A sign with action or motion, flashing lights, or color change requiring electrical energy, electronic, or manufactured sources of supply, but not including wind</u></p>

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	<p>actuated elements such as flags, banners, or pennants. Any object, device display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.</p>
<u>Sign, Business Sign, Animated</u>	<p>A sign which directs attention to a business or profession or to a commodity, service, or entertainment sold or offered upon the premises where the sign is located. A sign with action or motion, flashing lights, or color change requiring electrical energy, electronic, or manufactured sources of supply, but not including wind actuated elements such as flags, banners, or pennants.</p>
<u>Sign, Freestanding Sign, Business</u>	<p>A sign supported by a permanent structure, other than a building, that is affixed to the earth and placed on the same parcel of land on which the business or service advertised by the sign is located. A sign which directs attention to a business or profession or to a commodity, service, or entertainment sold or offered upon the premises where the sign is located.</p>
<u>Sign, Outdoor Advertising Sign, Freestanding</u>	<p>A sign structure which directs attention to a business, commodity, service, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located. This term shall include billboards. A sign supported by a permanent structure, other than a building, that is affixed to the earth and placed on the same parcel of land on which the business or service advertised by the sign is located.</p>
<u>Sign, Vehicle Sign, Outdoor Advertising</u>	<p>A sign or advertising device which is painted, mounted, affixed or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisements of products and services or directing people to a business or service or other activity on or off the premises or public right-of-way where such vehicle sign is located. This does not include identification signs on vehicles which are moved regularly and used in the normal, day-to-day operation of the business. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999](see <u>Vehicle Signs</u>)</p>

Comment [SB56]: Text moved from "Vehicle sign" definition.

	<p>A sign structure which directs attention to a business, commodity, service, or entertainment not necessarily conducted, sold, or offered upon the premises where such sign is located. This term shall include billboards.</p>
<p><u>Soil Value</u> Sign, Vehicle</p>	<p>A relative numeric value assigned to soil groups based on the group's potential for agricultural production. A sign or advertising device which is painted, mounted, affixed or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisements of products and services or directing people to a business or service or other activity on or off the premises or public right of way where such vehicle sign is located. This does not include identification signs on vehicles which are moved regularly and used in the normal, day to day operation of the business. <u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999](see Vehicle Signs)</u></p>
<p><u>Species, Rare or Endangered</u> Soil Value</p>	<p>Any species listed with the West Virginia Department of Natural Resources Heritage Program Species List or by the U.S. Department of the Interior, Department of Fish and Wildlife Management. <u>[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]</u> A relative numeric value assigned to soil groups based on the group's potential for agricultural production.</p>
<p><u>Specified Anatomical Area</u> Species, Rare or Endangered</p>	<p>As used herein specified anatomical areas means and includes any of the following: A. Less than completely and opaquely covered human genitals, public region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or B. Human male genitals in a discernibly turgid state, even if completely or opaquely covered. <u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]</u> Any species listed with the West Virginia Department of Natural Resources Heritage Program Species List or by the U.S. Department of the Interior, Department of Fish and Wildlife Management. <u>[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]</u></p>

Comment [SB57]: Text moved from "Vehicle sign" definition.

<p><u>Specified Sexual Activities</u> <u>Specified Anatomical Area</u></p>	<p><u>As herein, specific sexual activities means and includes any of the following:</u></p> <ul style="list-style-type: none"> <u>A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;</u> <u>B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;</u> <u>C. Masturbation, actual or simulated; or</u> <u>D. Excretory functions, when such activities are a part of or in connection with any of the activities set forth in the following definitions: Adult Use; Adult Arcade; Adult Bookstore; Adult Cabaret; Adult Mini Motion Picture; Adult Sauna; Adult Theater; Massage Parlor; Sexual Encounter Establishment; and, Sexual Paraphernalia Store</u> <p><u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]</u></p> <p><u>As used herein specified anatomical areas means and includes any of the following:</u></p> <ul style="list-style-type: none"> <u>A. Less than completely and opaquely covered human genitals, public region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or</u> <u>B. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.</u> <p><u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]</u></p>
<p><u>Standard Industrial Classification</u> <u>Specified Sexual Activities</u></p>	<p><u>A multi-digit code utilized by the federal Executive Office of Management and Budget to classify establishments by type of activity in which they are engaged.</u></p> <p><u>As herein, specific sexual activities means and includes any of the following:</u></p> <ul style="list-style-type: none"> <u>A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;</u> <u>B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;</u> <u>C. Masturbation, actual or simulated; or</u> <u>D. Excretory functions, when such activities are a part of or in connection with any of the activities set forth in the following definitions: Adult Use; Adult Arcade; Adult Bookstore; Adult Cabaret; Adult Mini Motion Picture; Adult Sauna; Adult Theater; Massage Parlor; Sexual Encounter Establishment; and, Sexual Paraphernalia Store</u>

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- Comment [SB58]: NAICS is the industry classification system now in use. It was released in 1997.
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	[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002]
Staff <u>Standard Industrial Classification</u>	Personnel employed in the Departments of Planning, Zoning, and Engineering. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009] A multi-digit code utilized by the federal Executive Office of Management and Budget to classify establishments by type of activity in which they are engaged. —
<u>Standard Details</u> Staff	<u>These are Minimum acceptable details approved by the County Engineer for use in preliminary plats, site plans, and related improvement plans. Said approval does not relieve the subdivider, the design consultant, or the builder of the responsibility for structural adequacy and sound construction. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]</u> Personnel employed in the Department of Planning, Zoning, and Engineering. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
<u>Street</u> <u>Standard Details</u>	<u>See as Road.</u> <u>These are minimum acceptable details approved by the County Engineer for use in preliminary plats, site plans, and related improvement plans. Said approval does not relieve the subdivider, the design consultant, or the builder of the responsibility for structural adequacy and sound construction. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]</u>
<u>Telecommunication</u> <u>Street</u>	The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means electrical or electromagnetic systems. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998] Same as Road
<u>Urban Growth</u> <u>Boundary</u> <u>Telecommunication</u>	A site-specific line, delineated on the Jefferson County Zoning Map or a written description in the Jefferson County Zoning and Land Development Ordinance identifying an area around and outside the corporate limits of a municipality within which there is a sufficient supply of developable land within the boundary for at least a

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Comment [SB59]: New term, added for consistency with HB2845, West Virginia Code Chapter 8, Article 6.

	<p><u>prospective twenty-year period of municipal growth based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area.</u></p> <p><u>The technology which enables information to be exchanged through the transmission of voice, video, or data signals by means electrical or electromagnetic systems.</u></p> <p><u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]</u></p>
<u>Use</u>	<p><u>An activity that constitutes a legal employment of a land parcel or lot exclusive of ancillary parking and drives.</u></p> <p><u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]</u></p> <p><u>the Jefferson County Zoning Map</u></p>
<u>Variance</u> <u>Use</u>	<p><u>A variance is a deviation from the minimum standards of the zoning ordinance Zoning and Land Development Ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classification of a parcel of land. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]</u></p> <p><u>An activity that constitutes a legal employment of a land parcel or lot exclusive of ancillary parking and drives.</u></p> <p><u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]</u></p>
<u>Vehicle</u> <u>Variance</u>	<p><u>A means of carrying or transporting something.</u></p> <p><u>[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]</u></p> <p><u>A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classification of a parcel of land. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]</u></p>
<u>Vehicle Signs</u> <u>Vehicle</u>	<p><u>A sign or advertising device which is painted, mounted, affixed or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisements of products and services or directing people to a business or service or other activity on or off the premises or public right-of-way where such vehicle sign is located. This does</u></p>

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	<p>not include identification signs on vehicles which are moved regularly and used in the normal, day-to-day operation of the business.</p> <p>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]</p> <p>A means of carrying or transporting something.</p> <p>[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]</p>
Vehicular Miles/Vehiele Signs	<p>Distance by motor vehicle between two points utilizing public highways.</p> <p>[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]</p> <p>A sign or advertising device which is painted, mounted, affixed or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisements of products and services or directing people to a business or service or other activity on or off the premises or public right of way where such vehicle sign is located. This does not include identification signs on vehicles which are moved regularly and used in the normal, day to day operation of the business.</p> <p>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]</p>
Vocational and/or Training Facility for Adults/Vehicular Miles	<p>A specialized or accredited instructional establishment that provides on-site training or education in business, commercial, and/or trade skills. The land use is conducted in a campus setting, and may include classroom buildings, dormitories, cafeterias, gymnasiums (whose use is limited to the students, participants and instructors at said school or training facility), and administrative buildings. Incidental instructional services in conjunction with another primary use shall not be considered a Vocational and/or Training Facility for Adults. This use does not include School, University or College. In the Rural District, the use must be conducted in a campus setting.</p> <p>Distance by motor vehicle between two points utilizing public highways.</p> <p>[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]</p>
Wetland/or	<p>An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to</p>

Comment [SB60]: Text moved to "Sign, Vehicle".

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Comment [SB61]: Text moved to "Sign, Vehicle".

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Comment [SB62]: Use currently undefined; current name "specialized or accredited educational and training facilities for adults"

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	<p><u>support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The substrata is predominantly hydric soil.</u></p> <p><u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]</u></p> <p><u>/or, In the Rural District, the use must be conducted in a campus setting.</u></p>
<p><u>Wireless Telecommunications Antenna</u> Wetland</p>	<p><u>The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.</u></p> <p><u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]</u></p> <p>An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The substrata is predominantly hydric soil.</p> <p>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]</p>
<p><u>Wireless Telecommunications Equipment Shelter</u> Wireless Telecommunications Antenna</p>	<p><u>The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed.</u></p> <p><u>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]</u></p> <p>The physical device through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition.</p> <p>[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]</p>
<p><u>Wireless Telecommunications Facility</u> Wireless Telecommunications Equipment Shelter</p>	<p><u>A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.</u></p> <p><u>[AMENDED BY ACT OF THE COUNTY</u></p>

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	<p><u>COMMISSION, EFFECTIVE FEBRUARY 11, 1998]</u> The structure in which the electronic receiving and relay equipment for a wireless telecommunications facility is housed. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]</p>
<p><u>Wireless Telecommunications Tower Wireless Telecommunications Facility</u></p>	<p><u>A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.</u> [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998] A facility consisting of the equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]</p>
<p><u>Wireless Telecommunications Tower</u></p>	<p><u>A structure intended to support equipment used to transmit and/or receive telecommunications signals including monopoles, guyed and lattice construction steel structures.</u> [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]</p>

ARTICLE 3: ADMINISTRATION AND ENFORCEMENT

Section 3.1 Administration

- A. The provisions of this Ordinance will be governed by the County Commission or the Zoning Administrator and Staff in accordance with §8A-1-1 et seq of the West Virginia State Code, as amended. With enactment of the Ordinance, the County Commission shall designate a Zoning Administrator for the day to day administration of the ordinance. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- B. An appeal to this Ordinance, however, may be made to the Jefferson County Board of Zoning Appeals subject to the provisions of §8A-1-1 et seq of the West Virginia Code, as amended. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- C. The Jefferson County Board of Zoning Appeals shall evaluate all Development Review applications and approve or deny issuance of a conditional use permit. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- D. All departments, officials, and public employees of Jefferson County which are vested with the duty or authority to issue permits or licenses shall issue no permit or license for any use, building, or purpose if the same would be in conflict with the provisions of this Ordinance.

Comment [SB63]: Text in Section 3.1 has been corrected to reflect previous amendments restored by court order on 12/3/09. No changes proposed.

Section 3.2 Zoning Administrator

- A. The Zoning Administrator shall administer and enforce the Zoning Ordinance Zoning and Land Development Ordinance. This includes but is not limited to the following:
1. Make determinations that all applications required by the Ordinance are complete and that all fees are paid.
 2. Interpret the provisions of the Ordinance as required by law.
 3. Issue Zoning Certificates as permitted by the Ordinance.
 4. Calculate the LESA point scores and determine the adequacy of the Support Data for all applications for a Conditional Use Permit.
 5. Issue all permits and Certificates as permitted by the Ordinance.
 6. Prepare and submit reports as required by the Ordinance or the Board of Zoning Appeals or Planning Commission.
 7. Conduct meetings and conferences pursuant to the Zoning Ordinance Zoning and Land Development Ordinance. [PREVIOUSLY INVALIDATED APRIL 8, 2005]

AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

- B. Any decision or action by the Zoning Administrator based on Section 3.2(a) above ~~are-is~~ subject to appeal to the Board of Zoning Appeals. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- C. It shall be unlawful to develop, construct, alter, or reconstruct any structure or to change the use of any structure or property without first obtaining a zoning certificate from the ~~Z~~oning ~~a~~Administrator. This provision may not apply to the general maintenance or repair or any addition deemed not a major addition as defined in Section 2.2 of this Ordinance. ~~Please call the Department of Planning, Zoning and Engineering for more information.~~ [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- D. Each application for a zoning certificate shall be accompanied by a copy of an approved site plan, if applicable, or by a legible drawing either drawn to scale or accurately indicating dimensions which show property boundaries and existing and proposed structures and other proposed changes or land development. The plans shall be retained in the office of the ~~Departments of Planning and Zoning and Engineering.~~ [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- E. Use of any property, developmental arrangement, or construction on any property other than that authorized in the zoning certificate is a violation of this Ordinance. All provisions of this Ordinance and amendments shall be maintained perpetually.
- F. The Zoning Administrator shall approve or disapprove issuance of a zoning certificate within sixty (60) days of the initial filing date providing the application is complete and fees are paid when filed and the request is in compliance of the provisions of this Ordinance. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- G. A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan - whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 - shall remain valid until July 1, 2012, provided that the land development plan or plat received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010. [PREVIOUSLY

Comment [SB64]: Unnecessary.

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Comment [SB65]: Added for consistency with SB 595, West Virginia Code §8A-5-12.

INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

- H. A filing fee, in accordance with the County fee structure, shall be charged for all zoning certification.

Section 3.3 Enforcement

- A. The Zoning Administrator or Staff shall promptly investigate any written complaint alleging a violation of this Ordinance and determine if a violation has occurred. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- B. As provided in §8A-1-1 et seq of the West Virginia Code, as amended, any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than fifty (\$50.00) or more than five hundred dollars (\$500.00) per day. Each day during which any violation of this Ordinance continues shall constitute a separate offense. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- C. When it appears to the Board of Zoning Appeals or the Zoning Administrator or Staff that a violation of this Ordinance has occurred, the County shall notify the responsible person by means of a written Violation Notice. The Violation Notice shall specify the nature of the violation and shall request that the violation be terminated within 15 days from the date appearing on the Notice. Failure to terminate the violation within the requested time shall be cause for the Board of Zoning Appeals or the Zoning Administrator or Staff pursuant to §8A-10-1, 2 and 3 of the West Virginia Code, as amended, to: [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
 - 1. Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring the removal of structures or land uses from the property involved, or
 - 2. Issue a warrant for the arrest of the person responsible for the violation and seek a conviction in the Circuit Court of Jefferson County.

Comment [SB66]: Text in Section 3.3 has been corrected to reflect previous amendments restored by court order on 12/3/09. No changes proposed.

Comment [SB67]: Clarifies source of 8A sections.

Section 3.4 Boards and Commissions

A. Board of Zoning Appeals

1. The Board of Zoning Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their powers and duties shall be provided in Chapter 8, Article 24 Chapter 8A of the West Virginia Code, as amended.
2. Meetings of the Board of Zoning Appeals shall be held at such time that the Board determines appropriate conducted according to the Rules of Procedure adopted by the Board of Zoning Appeals. **In the event of a conflict between this ordinance and the Rules of Procedure, the Rules of Procedure shall prevail.** The Board of Zoning Appeals shall hear and decide appeals regarding the Planning Commission's issuance or denial of a Conditional Use Permit. ~~AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989~~
3. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.
 - a. Filing an appeal
 1. An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.
 2. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.
 - ~~Appeal applications shall be made on the forms designated by the Planning Commission and shall be accompanied by three (3) copies of the application and an accurate drawing of the property showing distance of all structures from property lines and any pertinent data deemed necessary for the request. Submittal of the application shall be made to the Planning and Zoning Office.~~
 - ~~All zoning fees, in accordance with the approved County fee structure, shall be paid upon application.~~
 - ~~No application shall be accepted in the Planning and Zoning Office unless it contains all pertinent information and is accompanied by the required fees.~~
 - b. Processing Procedures Notification
 - ~~Appeal applications filed in the proper form shall be numbered serially, docketed, and placed upon the calendar of the Board of Appeals.~~

Comment [SB68]: General note: Updates to this section are for clarity and organization. Text in this section is consolidated from multiple parts of the Zoning Ordinance, including 3.1(c), 7.6, 7.8, and Article 8.

Comment [SB69]: Originally 7.8a

Comment [SB70]: Originally 7.8b(5)

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Comment [SB71]: No longer accurate; Planning Commission does not issue Conditional Use Permits.

Comment [SB72]: Originally 7.8b(2)

Comment [SB73]: Originally 8.1 a through e

Comment [SB74]: Submittal requirements no longer accurate.

Comment [SB75]: Unnecessary – administrative.

Comment [SB76]: Unnecessary – administrative.

Comment [SB77]: Originally 8.2 a through e

Comment [SB78]: Unnecessary – administrative.

~~The Board shall hold a hearing within forty five days (45) from the date the appeal is received in the Department of Planning and Zoning. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990 AND MAY 18, 1996] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

Comment [SB79]: Moved to 3.4A.3.c.1

1. Notice of ~~the~~ public hearing for an appeal shall be advertised in two issues of a newspaper having general circulation in the County at least 15 days before the hearing. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB80]: Originally 8.2c

Comment [SB81]: One issue is consistent with WV Code Section 59-3-1 and Board of Zoning Appeals rules of procedure.

2. ~~Property upon which the application is concerned~~ The subject property shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches, in size, at least 15 days before the hearing. The sign will be prepared by the Departments of Planning and Zoning but posting the sign is the responsibility of the applicant. The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.

Comment [SB82]: Originally 8.2e

Comment [SB83]: Previously proposed deletion ("The Board, in its discretion...") restored.

c. Public Hearing

Comment [SB84]: Originally 8.3 a & b

1. The Board shall hold a hearing within forty-five (45) days ~~from of~~ the date the appeal is received in the Departments of Planning and Zoning. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990 AND MAY 18, 1996] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]. ~~The Board following action in Section 8.2 shall hold such hearing.~~ At the hearing, any party may appear and be heard in person or by agent or attorney.

Comment [SB85]: Originally 8.2b.

Comment [SB86]: Redundant with first sentence; originally 8.3a.

Comment [SB87]: Originally 8.3a.

2. The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail. ~~Any party aggrieved by a decision of the Board may appeal to the circuit court of Jefferson County within thirty (30) days of the Board's decision. The Court may affirm, reverse, vacate, or modify the decision subject to the appeal.~~

Comment [SB88]: Moved to 3.4A.7; originally 8.3b.

d. Continuance of Hearing

Comment [SB89]: Originally 8.4

1. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce

the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within thirty (30) days from the initial hearing.

4. The Board of Zoning Appeals shall ~~Authorize~~ consider requests for variances from the terms of the Ordinance.

a. The board shall approve a variance request ~~-if the Board finds that a variance:~~

- (1) Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- (2) Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
- (3) Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
- (4) Will allow the intent of the ~~zoning ordinance~~ Zoning and Land Development Ordinance to be observed and substantial justice done. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

b. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board at offices of the Departments of Planning and Zoning.

c. Notification for a variance must be conducted according to the requirements of Section 3.4A(3)(b).

d. A public hearing must be conducted according to the requirements of Section 3.4A(3)(c) and such hearing may be continued according to the requirements of Section 3.4A(3)(d).

5. The Board of Zoning Appeals shall ~~approve or deny~~ have the authority over the issuance or denial of a conditional use permit. The Board of Zoning Appeals review process for a conditional use permit application is established in Article 7 of this ordinance. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989 AND]

6. In exercising its power and authority, the Board of Zoning Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ~~ought to be made~~ the Board deems appropriate. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

7. Any party may appeal any decision of the Board of Zoning Appeals to the Circuit Court of Jefferson County within thirty (30) days of the Board's decision, pursuant to

Comment [SB90]: Originally 7.8b3

Comment [SB91]: Reworded for clarity and organization.

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Comment [SB92]: The current Zoning Ordinance does not specify the process for a variance application.

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Comment [SB93]: Originally 3.1c and 7.6F.

Comment [SB94]: Originally 7.8b.4

Comment [SB95]: Moved from Section 8.3b and section 7.6h (edited)

Chapter 8A of the West Virginia Code, as amended. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

8. Nothing in this Section shall be construed as permitting the Board of Zoning Appeals to exercise any power or refrain from the performance of exercise any power or refrain from the performance of any duty not authorized or directed by the provisions of Chapter 8, Article 24 Chapter 8A of the West Virginia Code, as amended, which provisions of the Code are hereby incorporated herein by reference. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB96]: Originally 7.8b.6

B. Planning Commission

Comment [SB97]: New section. The Zoning Ordinance does not currently have a section outlining the powers and duties of the Planning Commission.

1. Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Planning Commission and Chapter 8A of the West Virginia Code, as amended.

2. The powers and duties of the Jefferson County Planning Commission include but are not limited to the following:

a) Review applications for major site plans, major subdivisions, and waivers from minimum standards, pursuant to the Subdivision and Land Development Regulations;

Comment [SB98]: Source: §8A-5-1; Subdivision and Land Development Regulations, Section 24.300

b) Review requests for amendments to the County zoning map and Zoning and Land Development Ordinance;

Comment [SB99]: Source: §8A-7-8

e) Research and recommend to the County Commission improvements to the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations;

d) Make recommendations to the County Commission concerning planning and zoning issues;

Comment [SB100]: Source: §8A-2-11

e) Make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction;

Comment [SB101]: Source: §8A-2-11

a) f) Prepare and amend the Jefferson County Comprehensive Plan and recommend to the County Commission for adoption or amendment.

Comment [SB102]: Source: §8A-3-3; §8A-3-11

C. County Commission

Comment [SB103]: New section. The Zoning Ordinance currently does not have a section outlining the powers of the County Commission.

1. General. The County Commission shall have all powers conferred upon it by the Constitution, the laws of the State of West Virginia, and the County Charter. With respect to development approval and amendments to this Ordinance and the County's Comprehensive Plan, the powers that the County Commission retains and shall exercise include but are not limited to the powers set out in this Section.

2. Approvals. Following a public hearing and the submittal of recommendations by the Planning and Zoning Department and the Planning Commission, the County

Commission ~~may~~ ~~shall~~ take action on the proposed adoption of, or amendments to, the following, including text, maps, and other elements:

a. ~~Comprehensive Plan~~;

b. ~~Zoning~~Zoning and Land Development Ordinance;

c. ~~Subdivision and Land Development Regulations~~;

d. ~~The Jefferson County Zoning Map~~;

e. An Urban Growth Boundary in accordance with Chapter 8 of the West Virginia Code as amended:

i. A boundary shall be established by the County Commission in agreement with each individual municipality regarding that municipality's boundary.

ii. If the County Commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court.

iii. Once the county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality.

iv. The county commission shall review each urban growth boundary at a period not to exceed ten years or upon request of the individual municipality.

3. Hiring. The County Commission shall hire ~~staff of the Departments of Planning and Zoning Department~~.

4. Appointments. ~~The County Commission shall appoint the members of the Planning Commission and the Board of Zoning Appeals.~~

5. Fees. The County Commission shall adopt a fee schedule for processing applications pursuant to this Ordinance. The fee schedule may be amended from time to time as determined appropriate by the County Commission.

Comment [SB104]: Source: §8A-7-1; §8A-3-11

Comment [SB105]: Source: §8A-7-1; §8A-7-8a

Comment [SB106]: Source: §8A-4-1; §8A-4-5

Comment [SB107]: Source: §8A-7-3

Comment [SB108]: Source for all of section f: §8-6-4a

Comment [SB109]: Reformatted.

Comment [SB110]: Source: §8A-2-4

Comment [SB111]: Source: §8A-8-4

Comment [SB112]: Source: §8A-4-2

ARTICLE 4: GENERAL PROVISIONS

Section 4.1 Ordinance Deemed Minimum Regulations; Uniformity

The regulations set forth by this ordinance within each zoning district shall be minimum regulations and shall apply uniformly to each kind of structure or land except as hereinafter provided.

~~There will be listed in~~ For each zoning district, a limited number of principal permitted uses ~~are listed, as well as~~ and several uses prohibited ~~uses~~ for all districts ~~as~~ listed in Section 4.4. ~~Principal permitted uses are those which are not required to demonstrate their appropriateness within a district and would not be subject to approval by the Development Review System. All other uses, except prohibited uses, will be permitted after demonstrating that such use is compatible with surrounding parcels and will comply with the regulations of this ordinance. Demonstration of compatibility will depend on the numerical value a parcel receives after evaluation by the Development Review System which assesses the productivity of soils and the amenities for development on a particular site and the results of the Compatibility Assessment Meeting. A site will may receive a conditional use permit upon completion of the Conditional Use Permit process as described in this ordinance, including a demonstration that the land use in a specific location will comply with the standards of the Development Review System, and any other applicable requirements of~~ this ordinance.

Comment [SB113]: Redundant; "Principal permitted use" is defined in Sec 2.2, definitions.

Comment [SB114]: Redundant text. The DRS section of the ordinance adequately explains details such as soil values; this does not need to be repeated here.

Section 4.2 Compliance with Ordinance

Except as hereinafter specified, no land, building, or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered except in conformity with the regulations herein specified for the district in which it is located and the Development Review System. This provision shall not apply to general maintenance or repair or any addition deemed not a major addition as defined in Section 2.2 of this Ordinance.

Section 4.3 Nonconforming Uses

Any building, structure or premises lawfully existing at the time of the adoption of this ordinance, or lawfully existing at the time that this ordinance is subsequently amended, may continue to be used even though such building, structure, or premises does not conform to use, setbacks or dimensional regulations of the zoning district in which it is located or the regulations of the Development Review System; subject, however to the following provisions: [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

~~A. Nonconforming uses may be upgraded, or repaired, or or make alterations made to their~~ the use's facilities.

~~B.A.~~ However, expansion of any nonconforming use shall be limited to the lot that existed at the time of adoption of this Ordinance. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

Repair includes the following: replacement of same size (+/-35%) porches, awnings, decks roofs, overhangs, patios, or any other similar construction as approved by the Zoning Administrator. Additional acreage shall not be added to enlarge any nonconforming use unless approved via ~~that use completes~~ the Development Review System.

~~C.B.~~ Whenever a nonconforming use has been abandoned for a period of twelve (12) months, such use shall not be reestablished and any future use shall be in conformance with the provisions of this Ordinance. [AMENDED TWICE TIMES BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990 AND JULY 15, 1993. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

~~D.C.~~ A nonconforming use may not be substituted for any other nonconforming use without the Board of Zoning Appeals review and public hearing, provided, however, to the following: upon notice to the Zoning Administrator with an application for and approval of a Zoning Certificate a nonconforming retail, service, or wholesale operation may be substituted with another retail, service or wholesale operation without such public hearing; provided again, however, the intended use does not include an adult use. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

~~E.D.~~ Effective October 14, 1999, whenever a nonconforming use expands over 35% of the existing square footage of its operation said use shall meet all the applicable requirements of this Ordinance unless otherwise allowed by the Board of Zoning Appeals. Any nonconforming use that expanded between October 5, 1988 and October 14, 1999 may expand under this provision as if they have never utilized this provision in the past. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993 AND OCTOBER 14, 1999. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

1. When a nonconforming use can be computed by units such as apartment units, motel/hotel units, mobile home parks, and similar uses, the 35% expansion shall be limited to 35% of the number of existing units. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]

~~F.E.~~ A nonconforming shopping center (including spaces that were not leased in the existing building at the time of the adoption of this ordinance) may substitute uses according to Section 4.3(c). [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]

G.F. Section 4.3 is subject to ~~Chapter 8A Article 8, Chapter 24, Subsection 50~~ of the West Virginia Code, as Amended. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

H.G. This Section (4.3) does not apply to industrial uses that existed at the adoption of the ordinance. Such industries may expand provided that they meet the site plan standards of this ordinance, in addition to those of the Jefferson County Subdivision and Land Development Regulations. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 18, 1996]

Comment [SB115]: Clarifies that site plan standards of both ordinances must be met.

~~I. Nonconforming commercial wireless telecommunications antenna, commercial wireless telecommunications equipment shelter(s), commercial wireless telecommunications facility(s) and commercial wireless telecommunications tower(s) cannot expand under this provision while Article 1, Section 1.6 is in effect. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]~~

Comment [SB116]: Proposed for deletion as part of amendments to Article 4B, cell towers. Note that Article 1, Section 1.6 is no longer in effect

J.H. A nonconforming use destroyed by a natural or unnatural calamity cannot be rebuilt without approval of the ~~Zoning~~ Board of ~~Zoning~~ Appeals upon application by the owner and pursuant to the variance and appeal procedures outlined in Article ~~83~~. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

K.I. The nonconforming use automobile racing facility located on property specifically described as Tax Map 17, Parcels 2, 2.1 and 5 in the Kabletown District is permitted to expand as herein described:

1. The commercial/competitive racing circuit as measured on January 10, 2002, 5,344 linear feet may add an additional 8,870 feet of commercial/competitive raceway surface, in accordance with (and not in addition to) the provisions of Section 4.3 of this Ordinance. The surface shall conform to a required 200 foot setback from all property lines.
2. May add dormitory lodging with food service facilities that do not contain internally lit signs.
3. May add automobile related research and development facilities.
4. May add other automobile related facilities only for vehicles that are used on-site, including, but not limited to warehousing, parts, supplies and service. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JANUARY 10, 2002]

Section 4.4 ~~Section 4.4~~—Prohibited Uses

- A. Any existing or proposed use which is determined to be in conflict with any existing ordinance or laws of Jefferson County or law or regulation of the State of West Virginia or other governmental agency shall be prohibited even though such use may be allowed under the terms of this ordinance.
- B. No land use shall be conducted that creates any injurious, noxious, or otherwise objectionable fire, explosive heat, or other hazard; noise, or vibration; smoke, dust, odor, gases, or other form of air pollution; or emit dangerous radioactivity in such a manner that if permitted would adversely affect the uses of an adjacent property or contaminate the ground water or surface waterways of the County. All land uses generating such conditions shall comply with the appropriate State and Federal Codes. Such compliance with applicable State and Federal laws shall be deemed as compliance with this Ordinance.
- C. Any development which would destroy the historical character of a property listed on the West Virginia or National Register of Historic Places shall not be permitted.
- D. No materials or waste should be stored on a property in a form that could be transported to adjacent property by wind or water or other natural causes or forces.
- E. All methods of industrial waste or sewage treatment and disposal shall be in accordance with County, State and Federal Codes.
- F. Jails, prisons and/or penal institutions shall be prohibited in all zones except the industrial/commercial zone. The Development Review System does not supercede this prohibition. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]
- G. No gambling or casino type games of chance (video or mechanical) that provides any type of payoff or remuneration shall be permitted anywhere in Jefferson County unless expressly and explicitly permitted and authorized by the West Virginia Code as amended. Provided, however, that such use shall only be permitted in the Heavy Industrial/Commercial Zone and shall be processed through the Development Review System (Article 6 and 7). [AMENDED BY ACT OF THE COUNTY COMMISSION ON OCTOBER 4, 1990]

This prohibition does not apply to betting on horses or pari-mutuel betting on horses. Furthermore, this prohibition does not apply to such uses that existed at the time of the adoption of this ordinance. The Development Review System shall not supersede this prohibition in the Residential Growth Zone, the Rural Agricultural Zone, the Village Zone, or the Residential/Light Industrial/Commercial Zone.

- H. For parcels located east of the Shenandoah River or which are in a natural, undisturbed condition within 1000 feet of the Potomac and Shenandoah Rivers and Opequon Creek, no use shall be permitted without adherence to the requirements for retention of land in a natural, undisturbed area as spelled out in Section 44.222.504 of the Subdivision

Comment [SB117]: Name of zoning district corrected.

Comment [SB118]: Staff's interpretation is that the ordinance's omission of the Village district was not intentional.

~~Ordinance~~ Jefferson County Subdivision and Land Development Regulations. |
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]

Comment [SB119]: Reference to Subdivision and Land Development Regulations updated.

I. No sales of fireworks are permitted outside the commercial zones, and are subject to the requirements of for such use in Article 8. [AMENDED BY ACT OF THE COUNTY COMMISSION , EFFECTIVE MAY 18, 1996]

~~J. Commercial wireless telecommunications antenna, commercial wireless telecommunications equipment shelter, commercial wireless telecommunications facility and commercial wireless telecommunications tower while Article 1, Section 1.6 is in effect. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE FEBRUARY 11, 1998]~~

Comment [SB120]: Proposed for deletion as part of amendments to Article 4B, cell towers. Note that Article 1, Section 1.6 is no longer in effect.

~~K.J.~~ _____ Vehicle signs left parked or standing on a public right-of-way, public property or private property. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]

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

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Comment [SB121]: Zoning district name corrected.

No conditional use permit shall be approved for any of these uses. This provision does not apply to any specific existing use that legally qualifies as a nonconforming use. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE NOVEMBER 7, 2002 AND MAY 1, 2003]

~~L. Salvage yards unless established in accordance with the Jefferson County Salvage Yard Ordinance.~~ |

Comment [SB122]: Zoning Ordinance needs linkage with the Salvage Yard Ordinance so that users will know that additional regulations exist.

~~M. Heavy industrial uses listed in Section 5.6(B) of this Ordinance are permitted only in the Industrial - Commercial District and require approval via the Development Review System.~~

Comment [SB123]: This prohibition is implicit in 5.6(B) but needs to be made explicit.

Section 4.5 ~~Section 4.5~~ —Agricultural Uses Permitted Generally

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

Section 4.6 ~~Section 4.6~~—Distance Requirements

- A. Any uses or building subject to compliance with this section shall be located at least 200 feet from:
1. Any lot in a residential district;
 2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 4, 1989]
 3. Any lot which is part of a recorded subdivision, and
 4. Any parcel, ~~or~~ historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.
- B. Adjacent uses or buildings subject to compliance with this section shall be located at least 75 feet from: [AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]
1. Any lot in the Residential Growth District;
 2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;
 3. Any parcel, ~~or~~ historic structure, or designated historic ~~structure~~ district which has been listed on the ~~at~~ West Virginia or National Register of Historic Places.

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Comment [SB124]: Currently, sentence repeats "structure" twice. Staff's interpretation is that this was intended to parallel 4.6(A) which uses the word "district."

Section 4.7 ~~Section 4.7~~—Essential Utility Equipment

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this ordinance.

~~Telec~~Communication towers, however, shall conform to the ~~setback~~ requirements ~~and be surrounded by a fence of Article 4B.~~

[AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]

Section 4.8 ~~Reserved~~ ~~Section 4.8~~ Buildable Lot

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

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Comment [SB125]: This section is redundant with Section.9.3.

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Section 4.9 ~~Section 4.9~~—Traffic Visibility Across Corner Lots

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

Comment [SB126]: Added to clarify location of standards.

Section 4.10 ~~Section 4.10~~ Site Plan Requirements

~~A. A site plan shall be submitted for review by the Planning and Zoning Commission for all new commercial, townhouse and multi-family residential, industrial, and institutional land uses development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.~~

~~A. Site Plans shall be prepared by a registered professional engineer, or registered land surveyor licensed to practice in the State of West Virginia. If the proposed use is not listed as a principal permitted use within the zoning district where it is located, the developer must have his proposal evaluated by the Development Review System before Site Plan submittal.~~

~~Upon approval of a conditional use permit the applicant may proceed with Site Pplan submittal.~~

~~In those cases where a Site Plan is required and the developer has received a conditional use permit, a minimum of six (6) copies of the site plan shall be submitted to the Jefferson County Planning Office.~~

~~B. Site Pplan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.~~

~~C. The Ssite Pplan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations Ordinance, and Articles 4,5, 10 and 11 of this Ordinance.~~

~~C.~~

~~Additional Site Plan format requirements shall be the same as those for the Preliminary Subdivision Plat referenced in Article 8 of the Jefferson County Subdivision Ordinance.~~

~~D. The Planning and Zoning Commission shall review and approve or disapprove a completed application within sixty (60) days of the acceptance of the Site Plan in the Planning Office. The Planning Commission shall review and approve or disapprove a completed application within sixty (60) days of the acceptance of the Site Plan in the Department of Planning, Zoning, and Engineering. The Planning Commission has the authority by variance to reduce any site plan standards as justified under Article 17 of the Subdivision Ordinance. has the authority by variance to reduce-waive any site plan standards as justified under Article 17 of the Subdivision Ordinance in accordance with the Subdivision and Land Development Regulations. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

~~E-D.~~

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Comment [SB127]: Subdivision and Land Development Regulations define which site plans are reviewed by the Planning Commission.

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Comment [SB128]: Clarifies which requirements are to be followed.

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Comment [SB129]: Redundant with Subdivision and Land Development Regulations.

Comment [SB130]: Redundant. The DRS section of the Zoning Ordinance adequately describes the process.

Comment [SB131]: No longer accurate; Subdivision and Land Development Regulations govern submittal requirements.

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Comment [SB132]: No longer accurate. Format requirements addressed in 4.10D above.

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Comment [SB133]: No longer accurate.

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Section 4.11 ~~Section 4.11~~—Landscaping, Screening and Buffer Yard Requirements

- A. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a fifty (50) foot or greater unscreened green space buffer or a fifteen (15) foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]
- B. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall have a buffer yard of no less than two hundred (200) feet. No structures, stored materials, or vehicular parking shall be permitted within the buffer yard. All industrial development shall have front yard buffers of no less than one-half (½) the front yard building setback. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990 AND JULY 15, 1993]

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

Comment [SB134]: Table moved from 4.16, renamed as "table", and table simplified.

ADJACENT USE \ PROPOSED USE	BUILDING SETBACKS		PARKING & ACCESS DRIVE SETBACKS		BUFFERS UNSCREENED/SCREENED				DISTANCE REQUIREMENTS					
	Any Use Except Industrial	Industrial Use	Any Use Except Industrial	Industrial	Residential Zone	Lot with a Residential Use	Church/School/Institution for Human Care	Commercial	Industrial	Residential Zone	Lot with a Residential Use	Church/School/Institution for Human Care	Commercial	Industrial
FRONT	Comm'l Lot <=1.5 ac.	25	25	15	15	50/15		N/A	N/A	75		N/A	75	
	Comm'l Lot > 1.5 ac.	25	25	15	15	50/15		N/A	N/A	75		N/A	75	
	Industrial	50	25	25	25	200		25	N/A	200		N/A	200	
	Church	25	25	15	15	50/15		N/A	N/A	N/A		N/A	N/A	
	Multi-family	25	25	15	15	N/A	N/A/15	N/A	N/A	N/A		N/A	N/A	
SIDE	Comm'l Lot <=1.5	25	25	4	4	50/15		10	10	75		N/A	75	
	Comm'l Lot > 1.5 ac.	50	25	10	10	50/15		10	10	75		N/A	75	
	Industrial	50	25	25	20	200		20	20	200		N/A	200	
	Church	50	50	10	10	50/15		10	10	N/A		N/A	N/A	
	Multi-family	12	12	12	12	N/A	N/A/12	N/A	N/A	N/A		N/A	N/A	
REAR	Comm'l Lot <=1.5	25	25	4	4	50/15		10	10	75		N/A	75	
	Comm'l Lot > 1.5 ac.	50	25	10	10	50/15		10	10	75		N/A	75	
	Industrial	50	25	25	20	200		20	20	200		N/A	200	
	Church	50	50	10	10	50/15		10	10	N/A		N/A	N/A	
	Multi-family	30	30	15	15	N/A	N/A/15	N/A	N/A	N/A		N/A	N/A	

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

Comment [SB135]: The first sentence of this note is already in the current ordinance; the only change is replacement of "section" with "table." Second sentence is to alert readers that other uses (e.g. Barn/Feeding Pen, Jails, etc) have specific setbacks.

- C. In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.
- D. All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.
 - 1. Vegetative screening shall comply with the Standard Details applicable M52, M53 or M54 depending on the buffer width. At the time of the planting the vegetation shall be at least four (4) feet in height. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993]
 - 2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.
 - 3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
 - 4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.
- E. In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a the public highway's view.
- F. All buffer yards shall be maintained by the property owner.
- G. All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 5.88.9(bA), 2-1 through 87, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -2 below:

Comment [SB136]: Specific detail numbers removed in order to allow ordinance to remain up-to-date if detail numbers change.

Table 4.11 -2 Wetland sSize in eAcres

Greater Than	Less Than	Buffer width in feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60

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0.35	0.41	65
0.40	0.46	70
0.45	0.51	75
0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990 AND MAY 18, 1996]

H. All required landscape plans shall contain the following elements:[AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]

1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:

- a) Site with street frontage of up to 200 feet: 1 tree per 50 feet
- a)b) Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.

- 2. Evergreen buffer planting, as required, for full screening.
- 3. Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.
- 4. Structure plants for aesthetics and limited shade.
- 5. Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.

~~I. All wireless telecommunications antennas, towers, and facilities shall have a buffer yard pursuant to Article 4, Section 4.11(d)1 4. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998]~~

Section 4.12 Section 4.12—Design Standards for Multi-Family Developments

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

B. ~~Impermeable~~Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed fifty (50) percent of the gross land area.

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Comment [SB137]: Street trees are currently required, but the Zoning Ordinance does not specify at what spacing. This is creating problems for staff and applicants both.

Comment [SB138]: Item proposed for deletion in Cell Tower ordinance.

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Comment [SB139]: This section moved from Section 5.5.

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Comment [SB140]: This is basic ADA; can be deleted.

Comment [SB141]: Dumpster screening is covered in Sub Regs Sec 9.12(F), p. 181.

~~A.C. Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least twenty-five (25) feet from any street right-of-way. Outdoor Lighting~~

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Comment [SB142]: Lighting covered in Sec 2.6, Appendix B of Sub Regs.

~~A. The location and height of all exterior lighting shall be shown on the Site Plan and will be reviewed by the Zoning Administrator to assure that lighting and glare does not adversely affect adjacent properties.~~

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~~Section 4.13—Development in or Adjacent to the 100 Year Flood Plain~~

Comment [SB143]: Floodplain addressed in Sec. 1, Appendix A of Sub Regs.

~~Section 4.12—~~

~~A. The 100 year Flood plain shall clearly be delineated on the site plan by the registered engineer or licensed land surveyor.~~

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~~B. All land within the 100 year Flood plain will be subject to the Jefferson County Flood Plain Management Ordinance.~~

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~~Section 4.13 Section 4.14—Development Adjacent to the Potomac and Shenandoah Rivers~~

~~A. Any development, other than residential development, that takes place after the adoption of this Ordinance must maintain a five hundred (500) foot buffer strip from the existing banks of the Potomac and Shenandoah Rivers and is subject to Section 4.13.~~

Comment [SB144]: Floodplain covered in Subdivision and Land Development Regulations; hence, this reference is unnecessary.

~~Section 4.15 Location of Jails and Prisons~~

Comment [SB145]: Jails and Prisons – moved to Article 8

~~Due to the special conditions surrounding a jail, prison, or penal institution, all such projects shall only be allowed in the Industrial Commercial Zone and shall be subject to the Development Review System as outlined in Article 6 of this Ordinance. Furthermore, these projects shall comply with Article 5, Section 5.6(L), and Article 6 of the Jefferson County Zoning and Development Review Ordinance.~~

~~{AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990}~~

Comment [SB146]: Fireworks and Model Homes – Moved to Article 8

~~Section 4.17—West Virginia Legal Fireworks~~

~~Sales of fireworks are only permitted in the commercial zones provided all other restrictions such as subdivision and site plan regulations and setbacks are met.~~

~~{AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996}~~

~~Section 4.18—Model Homes/Sales Offices~~

~~Model homes with a staffed sales office for sales exclusively within the residential subdivision that they are located are permitted provided that they are contained on the first lot on either or both side of any road/right of way that enter the subdivision; provided also that they are so designated on the preliminary and final plats during the subdivision process.~~

~~Model homes with a staffed sales office in any other location within the subdivision needs to be approved or denied by the Zoning Board of Appeals after a 15 day public hearing.~~

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

~~[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~

DRAFT

ARTICLE 4A HOME OCCUPATIONS AND COTTAGE INDUSTRIES
[AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

Section 4A.1 Home Occupation, Level 1

An occupation conducted in a dwelling unit for gain provided that:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation. Said members must be full time residents of the premises.
- B. The use shall be conducted wholly within the dwelling unit and shall not exceed 25% of the floor area of the dwelling unit.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
- D. There shall be no sales, other than items handcrafted on the premises, in connection with such home occupation.
- E. Traffic generated by such home occupation must not exceed two (2) business related vehicle visits per day nor more than ten (10) visits per week at the premises. Any need for parking generated by the conduct of such home occupation shall be met off street and other than in a required front yard.
- F. It is clearly incidental and subordinate to the use of the dwelling unit as a residence.
- G. No equipment or process shall be used in such a home occupation which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.
- H. No business which includes the storage of weapons such as firearms (other than the residents hunting, protection and leisure weapons) shall be permitted. Home occupations do not include; boarding or rooming homes or bed and breakfast establishments or adult uses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]

Section 4A.2 Home Occupation, Level 2

An occupation conducted in a dwelling unit for gain, provided that:

- A. The occupation must be conducted by a full-time resident of the property. Up to two (2) nonresident employees also may be permitted to work on the premises.
- B. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor area of the dwelling unit.

- C. The use shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one (1) square foot in area, non-illuminated.
- D. There shall be no sales, other than items crafted on the premises, in connection with such home occupation.
- E. No more than three (3) business-related vehicle visits per day nor more than fifteen (15) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.
- F. It is clearly incidental and subordinate to the use of the dwelling unit as a residence.
- G. No equipment or process shall be used in such a home business which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.
- H. No business which includes the storage of weapons such as firearms (other than the residents hunting, protection and leisure weapons) shall be permitted. Home businesses do not include; boarding or rooming homes or bed and breakfast establishments or adult uses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
- I. Is not permitted in existing subdivisions established since 1979.

Section 4A.3 Cottage Industry

An occupation conducted at a residential premises for gain, provided that:

- A. The occupation must be owned and operated by a full-time resident of the property. Up to four (4) nonresident employees may be permitted to work on the premises.
- B. The use shall be conducted at least in part within the dwelling unit. Said use area shall not exceed one third (1/3) of floor area of the dwelling unit. In addition all cottage industry. Two subordinate structures shall be permitted not exceeding two stories and shall not have a footprint greater than 1000 square feet.
- C. There shall be no change in the outside appearance of the residential structure. One sign, not exceeding four (4) square feet in area, non-illuminated may be permitted.
- D. Sales on the premises shall be permitted with the limitation that no less than seventy-five (75) percent of the items for sale shall be products produced on the premises and that items not produced on premises shall be items similar or related to the items produced on the premises.

- E. No more than twelve (12) business-related vehicle visits per day nor more than sixty (60) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. Any need for parking generated by the conduct of such cottage industry shall be met off street and other than within the required front yard setback.
- F. No evidence in the appearance of the property or other visible manifestation of the conduct of cottage industry activity shall be visible from the public way, other than a non-illuminated sign.
- G. No equipment or process shall be used in such a cottage industry establishment which creates offensive manifestations by sight, sound or smell detectable to the normal senses at any property line, or which creates electrical interference or vibrations perceptible, at any lot line.
- H. No business which includes the storage of weapons such as firearms (other than the residents' hunting, protection and leisure weapons) shall be permitted. Home businesses do not include; boarding or rooming homes, ~~or~~ bed and breakfast establishments, or adult uses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
- I. Site plans pursuant to [Section 20.203 of the Jefferson County Subdivision and Land Development Regulations Article 4 of the Improvement Location Permit Ordinance](#) are required for new structures or structures that are to be converted to be ~~used~~ used as a part of the Cottage Industry; unless otherwise permitted by the Planning Commission.
- J. Setbacks shall be 25 feet all round the structure.
- K. Permitted anywhere except the Residential Growth District and existing residential subdivisions.

Comment [SB147]: Reference to updated regulations.

Section 4A.4 Private Covenants Running with the Land

Although not regulated by the County, it is recommended that prior to the operation of a Home Occupation and/or Cottage Industry applicants research restrictive covenants for their land or seek the advice of a surveyor, engineer or attorney. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

ARTICLE 4B WIRELESS TELECOMMUNICATIONS FACILITIES
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998]

Comment [SB148]: All of Article 4B proposed to be deleted and replaced by new Article 4B, currently in review by the County Commission.

Section 4B.1 Site Plans

All general site plan standards are required to be met pursuant to the Subdivision and Zoning Ordinance particularly Section 11.3 of the Subdivision Ordinance. When other provisions of any County Ordinance is in conflict with said Section 11.3, the provisions in Section 11.3 shall be controlling.

Section 4B.2 Fence

An 8 foot fence is required for each site. All wireless telecommunications towers, wireless telecommunications structures and wireless telecommunications facilities shall be enclosed in such fence.

Section 4B.3 Setbacks

These setbacks shall apply in all zones. Setbacks may be modified as part of the Conditional Use Permit process when such process is required. These setbacks are for new towers only. Setbacks required in 4B.3(a) can be accommodated on adjacent land by easement provided such land is used for agricultural purposes and provided all other standards are met.

- A. Any wireless telecommunications tower shall be located at least the length of the height of such tower plus an additional 10 percent to any external property line.
- B. All portions of wireless telecommunications towers, wireless telecommunications structures and wireless telecommunications facilities (excluding the required fence and guy wires) shall be a minimum of 75 feet from the external property line.
- C. Any setback required under 4B.3 can be accommodated by easement on adjacent properties.

Section 4B.4 Location

Wireless telecommunications antennas, towers, structures and facilities are permitted by right under certain circumstances and by Conditional Use Permit under other circumstances. In any event all other provisions of this Article shall apply.

- A. In the Industrial/Commercial District wireless telecommunications antennas, wireless telecommunications equipment shelters, wireless telecommunications facilities and wireless telecommunications towers are permitted by right under the following conditions.

1. The applicant must provide a West Virginia licensed engineer's certificate of structural integrity and safety of the proposed facility and the existing structure with the site plan.
 2. For new structures/towers applicant must prove that the support structure/tower is structurally designed to accept the collocation of at least two (2) companies. A site plan is necessary.
- B. In the Rural District wireless telecommunications antennas, wireless telecommunications equipment shelters, wireless telecommunications facilities and wireless telecommunications towers are permitted by right under the following conditions.
1. The applicant must provide a West Virginia licensed engineer's certificate of structural integrity and safety of the proposed facility and the existing structure with the site plan.
 2. New structures/towers can be utilized under the following conditions:
 - a. Applicant must prove that the support structure/tower is structurally designed to accept the collocation of at least (2) two companies.
 - b. The visual impact of a tower shall be mitigated to blend with the natural and built environment of the surrounding area. Such mitigation measures shall be approved by the Planning Commission and shall address: architecture, color, landscaping, lighting, materials, siting, topography, and visual screening.
 - c. An approved site plan is necessary.
- C. In the Residential-Growth, Residential/Light Industrial/Commercial, and Village Districts wireless telecommunications antennas, wireless telecommunications equipment shelters and wireless telecommunications facilities are permitted only on or in existing structures and provided they process successfully through the Development Review System (DRS) as outlined in Article 6 and 7. The applicant does not have to process through the LESA Point portion of the process.
1. In addition to the support data required in Article 7 the developer shall also address the visual impact of a tower and any associated facilities as it relates to the natural and built environment of the surrounding area. This includes (but is not limited to) architecture, color, landscaping, lighting, materials, siting, topography, visual screening, and height.
 2. Standard site plan processing is required if a Conditional Use Permit is issued.
 3. Height of antenna and support structure cannot be higher than thirty (30) feet above existing structures.

Section 4B.5 Other Provisions

- A. The owner of the property shall dismantle the tower and all associated structures if not functioning antenna is attached to the towers for eighteen (18) consecutive months and restore the site as nearly as possible to pre-existing site conditions.
- B. The applicant shall submit documentary evidence of compliance with all Federal Aviation Administration and Federal Communications Commission requirements.
- C. Any portions of wireless telecommunications towers, structures and facilities that are below the treeline and located within 300 feet of the Appalachian Trail shall be camouflaged to minimize the visual impact of such from the Trail. The Planning Commission shall have final authority over the level of such camouflaging.
- D. All towers shall be painted a non-contrasting gray or similar color minimizing its visibility unless otherwise required or requested by the Federal Communications Commission, Federal Aviation Administration, Jefferson County Planning Commission or the Conditional Use Permit.
- E. No advertising is permitted anywhere on the wireless telecommunications antennas, wireless telecommunications equipment shelters, wireless telecommunications facilities or wireless telecommunications towers.
- F. The utilization of an existing structure does not require the creation of a separate lot.
- G. Upon notification to the Planning Commission Office, operational temporary test towers/antennas may be erected for a period not exceeding 72 hours per parcel.
- H. Wireless telecommunication towers, excepting antennas, based within 250 vertical feet of the Blue Ridge Line shall not rise above the average tree canopy within a 100 foot radius of the proposed site.

The 250 vertical feet shall be measured by drawing a perpendicular line from the site to the Blue Ridge Line. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 13, 1998]

Section 4B.6 Vertical Height

The vertical height of any wireless telecommunication facility shall not exceed 199 feet measured on the basis provided by relevant Federal Aviation Administration and/or Federal Communications regulations.

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

Section 5.1 Establishment of Districts

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

- R-G Residential/Growth District
- I-C Industrial/Commercial District
- R-A Rural/Agricultural District
- R-L-C Residential/Light Industrial/Commercial District
- V Village District

Comment [SB149]: Village District is an existing zoning district but is currently absent from this list.

[AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 4, 1989]

Section 5.2 Boundaries of Districts

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

Section 5.3 District Maps

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

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

Comment [SB150]: This policy was adopted by the County Commission.

On an annual basis, in December, and within 30 days of final County Commission action on a zoning map amendment, a new zoning map will be printed which includes the most up to date base layer data, all approved zoning designations since the last printed map, and an effective date, certified by the President of the County Commission, filed with the County Clerk’s office, and a copy provided to the Planning Commission. This annual map update shall not require a public hearing and such certification shall occur administratively.

Section 5.4 Residential-Growth District

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

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

A. Principal Permitted Uses

1. Dwelling, ~~Single~~ ~~Single~~ Family detached dwelling units
2. Dwelling, Duplexes
- ~~2-3.~~ Dwelling, Two Family
- ~~3-4.~~ Dwelling, Townhouses
5. Dwelling, ~~Mm~~ Multi-Family
- ~~5-6.~~ Condominium dwelling units
- ~~5-7.~~ Mobile Home Parks (Subject to the Jefferson County Subdivision and Land Development Regulations Section 10.1; Jefferson County Subdivision Ordinance)
8. ~~Private or public e~~Elementary, middle or ~~S~~secondary schools, hospitals
9. Hospital
- ~~6-10.~~ ~~and Vocational and/or Training Facility for Adults~~ educational facilities for ~~adults~~ [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
- ~~7-11.~~ Churches and other places of worship
12. Day Care Center, Small
13. Day Care Center, Large
- ~~11-14.~~ Essential Utility Equipment ~~Child care centers~~
- ~~9-15.~~ Public ~~utility~~ Safety buildings ~~Facility~~
- ~~10-16.~~ Publicly Owned Facility ~~e~~ buildings and public service establishments like fire, ambulance and rescue services
- ~~11-17.~~ Accessory Uses
18. Group Residential Facility
19. Home Occupation, Level 1
- ~~12-20.~~ Home ~~Businesses~~ Occupation, Level 2 as specified in Articles 2 and 4A [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]
- ~~13-21.~~ Nursing or ~~R~~retirement ~~H~~homes
22. Model ~~H~~homes/Sales ~~O~~office (pursuant to Section 4.18) [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
23. Preschool
- ~~21-24.~~ Wireless telecommunication facilities pursuant to Article 4B.

B. Minimum Lot Area, Height, and Yard Requirements

1. Minimum Lot Area, Height, and Yard Requirements are as shown in Table 5.4 – 1 below. The following minimum lot area requirements for residential dwelling units is

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Comment [SB151]: Staff interprets the intent of the ordinance to allow two-family uses in districts where multi-family, townhouse, or duplex uses are also permitted.

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Comment [SB152]: Use added.

Comment [SB153]: Currently permitted per Article 4B but not listed.

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Comment [SB154]: Unnecessary.

are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.

2. When computing the dwelling unit yield for a parcel of land, use the total area of parcel minus (1) lands contained in a wetland and (2) hillside lands to be retained in a natural, undisturbed condition as provided for in Article 14 of the Subdivision Ordinance the Jefferson County Subdivision and Land Development Regulations.

[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Section 5.4b Table 5.4 - 1 Residential Growth District - Height and Yard Requirements
 [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990 AND SEPTEMBER 1, 2006]

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	Development Type	Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)	Required Yards (ft)				Maximum Building Height (ft)*
			Required Yards Front	Side	Street Side	Rear	
1.	Single Family Detached Dwelling	6,000 sq. ft. MLA**	25	12	15	20	40
	Public/Central water and sewer	10,000 sq. ft. ADU	25 ft. front	"	"	"	40 ft.
	Public/Central water or sewer	20,000 sq. ft. MLA	12 ft. side	"	"	"	"
	No Public/Central water or sewer	40,000. Sq. ft. MLA	20 ft. rear	"	"	"	"
2.	Duplex Dwelling unit		25	15	15	20	40
	Public/Central water and sewer	3,200 sq. ft. MLA	25 ft. front	"	"	"	40 ft.
	Public/Central water and sewer	7,500 sq. ft. ADU	15 ft. side	"	"	(exterior only)	"
	Public/Central water or sewer	10,000 sq. ft. ADU	20 ft. rear	"	"	"	"
3.	Townhouse Dwelling		25	12	15	20	40
	Public/Central water and sewer	1,400 sq. ft. MLA	25 ft. front	"	"	"	40 ft.
		3,500 sq. ft. ADU	12 ft. side	"	"	(exterior only)	"
			20 ft. rear	"	"	"	"
4.	Multi-Family Dwelling	20,000 sq. ft. MLA	25 ft. front	12	15	30	40 ft.
	Public/Central water and sewer	2,000 sq. ft. ADU	12 ft. side	"	"	(exterior only)	"
			30 ft. rear				
5.	Condominium	20,000 sq. ft. area for the parcel containing the condominium	25 ft. front				40 ft.
		2,000 sq. ft. minimum area per condominium unit	12 ft. side			(exterior only)	
			30 ft. rear				

Comment [SB155]: While the Subdivision and Land Development Regulations specify a street side setback for townhomes (15'), the Zoning Ordinance is silent on street side setbacks. As such, two front setbacks must be applied currently to all uses but townhomes. For consistency, Staff recommends applying a 15' street side setback to all residential uses in this district.

Comment [SB156]: See above note.

Comment [SB157]: "Exterior only" established in definition of setback.

Comment [SB158]: Indicator for ADU or MLA is currently missing. Staff's interpretation is that ADU is applicable here.

Comment [SB159]: See above note re: street side setbacks.

Comment [SB160]: "Condominium" proposed for deletion because this land use is included in the definition of multi-family, and the standards (MLA, ADU, setbacks, etc) are identical to those for multi-family.

* Subject to Section 9.2

NOTE: ALL detached accessory structures under 144 square feet in size - 6' setback.

** The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.
[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]

C. Commercial Services in Residential Developments

1. Commercial services may be included in a residential development providing the commercial uses are intended to serve the residential community proposed and shall relate well to residential areas in terms of pedestrian and vehicular circulation.
2. The gross area for commercial uses shall not exceed 5 acres or 10 percent of the gross tract area, whichever is less.
3. Commercial uses shall not be built or established prior to the residential development ~~except that they may be~~ **unless** built in phases consistent with phasing of the residential construction.
4. These uses shall be located within the interior of the project.
5. ~~and shall be located within the interior of the project and~~ **Commercial uses** shall be subject to the ~~Neighborhood-Compatibility Assessment Meeting Hearing~~ process as outlined in Article 7 of this Ordinance. Any proposed commercial use that is served from a road that is located on the perimeter of the project or on a State Road shall be subject to the entire Development Review Process. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Comment [SB161]: Single paragraph broken into sections for legibility.

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Comment [SB162]: Text repeats.

Comment [SB163]: Name corrected for consistency.

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D. ~~Access to Standards for~~ Commercial or Light Industrial Uses

1. Commercial or Light Industrial uses **are subject to the following access requirements:**
 - a. ~~(+) Such uses~~ will not use adjacent residential roads for through traffic; and
 - b. ~~(2) w~~Will connect to principal and major arterial highways as directly as feasible considering access restrictions. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]
2. **Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.**

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Comment [SB164]: This requirement is stated in Section 5.6D, but is difficult to find and should be stated within 5.4 as well.

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Comment [SB165]: Design Standards for Multi-Family Dwellings - Moved to Article 4.

Comment [SB166]: Marked as "Reserved" in order to preserve numbering of Article 5.

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Section 5.5 ~~Reserved~~ **Design Standards for Multi-Family Dwellings**

- A. ~~Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Flood plain.~~
- B. ~~Impermeable surface coverage for interior streets, parking areas, and residential structures shall not exceed fifty (50) percent of the gross land area.~~

~~C. Asphalt or concrete walkways of a minimum width of four (4) feet shall provide access from bus waiting areas, recreational land, lot lots and parking areas.~~

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~~D. All on-site utilities and dumpsters shall be effectively screened.~~

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~~E. Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least twenty five (25) feet from any street right of way.~~

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Section 5.6 Industrial - Commercial District

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

A. Principal Permitted Uses

1. ~~Uses of a Light or heavily Industrial Uses~~
- ~~2. Heavy Industrial Uses~~
3. Commercial Uses
4. Day Care Center, Small
5. Day Care Center, Large
6. Home Occupation, Level 1
7. Home Occupation, Level 2
8. Cottage Industry
9. Medical/Dental/Optical Office, Small
10. Barber/Beauty Shop, Limited
11. Antique Shop
12. ATM
13. ~~or Branch Bank~~
14. Kennel (subject to the requirements for such use in Article 8)
15. Dry Cleaner
16. Florist
17. Restaurant, Limited
18. Restaurant, Fast Food, Limited
19. Veterinary Services
20. Video Rental Store
21. Country Inn
22. Non/Not for Profit Commercial Uses
23. Non-profit Community Centers
24. Publicly Owned Facility
25. Public Safety Facility

Comment [SB167]: Several commercial uses listed in this section are currently listed only in the Village District but should be included here for consistency, because all commercial uses are permitted in the district.

Comment [SB168]: ATM and Bank are distinct land uses.

26. Essential Utility Equipment

27. Wireless telecommunications facilities pursuant to Article 4B.

~~2-28. Private or Public Shooting Ranges~~

~~3-29. Industrial related accessory uses including residential dwellings including a mobile home on site for a caretaker or watch keeper.~~

~~4-30. Adult usesAdult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, subject to distance requirements set forth for such uses in Section 5.6hArticle 8. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 1, 2003]~~

Comment [SB169]: The Board of Zoning Appeals has determined that a shooting range is a permitted use in this district.

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Comment [SB170]: Updated section reference.

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

1. Bituminous concrete mixing and recycling plants
2. Concrete and ceramic products manufacture, including ready mixed concrete plants
3. Petroleum products refining or storage (subject to the requirements for such standards in Article 8) above ground in tanks; provided, that all state and federal laws, as well as National Fire Underwriters Codes, are adhered
4. Commercial sawmills
5. Salvage Yards, subject to the Jefferson County Salvage Yard Ordinance
6. Garbage or dead animal reduction or processing
7. Slaughterhouses, Sstockyards
8. Acid or heavy chemical manufacturer, processing or storage
9. Cement or lime manufacture
10. Explosive manufacture or storage
11. Foundries and/or casting facilities
12. Mineral extraction, mineral processing

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~~12-13. Jails and Prisons (subject to requirements for this use in Article 8)~~

Comment [SB171]: The Zoning Ordinance currently states that Jails/Prisons are allowed in this zone, but the land use is not mentioned in Section 5.6.

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C. Height Regulations

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

D. Yard Requirements as follows: (These yard requirements are also for an approved commercial or industrial use proposed for any other zone.) [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Comment [SB172]: Applicable requirements below are not solely yard requirements.

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1. Front yard building setback

Commercial sites	25 feet
Industrial sites	50 feet
2. Side yard building setback

Commercial sites greater than 1.5 acres 50 feet
Commercial sites 1.5 acres and smaller 25 feet
Industrial sites 50 feet

3. Rear yard building setback
Commercial sites greater than 1.5 acres 50 feet
Commercial sites 1.5 acres and smaller 25 feet
Industrial sites 50 feet

4. Parking, Driveway and Internal Access Drive Front Setbacks
Commercial sites greater than 1.5 acres 15 feet
Commercial sites 1.5 acres and smaller 15 feet
Industrial sites 25 feet

5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks
Commercial sites greater than 1.5 acres 10 feet
Commercial sites 1.5 acres and smaller 4 feet
Industrial sites* 25 feet

* Driveways and Internal Access Drives Only. Parking must abide by buffer requirements.

6. Compliance with Sections 4.11 and ~~5-88.9(A)(1-9), b 2-10~~ [AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]

7. Distance Requirements

- a. Commercial shall comply with Section 4.6(b)
- b. Industrial shall comply with Section 4.6(a) [AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]

E. Lot Area

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

~~Site Plan Requirements~~

~~All uses must be in compliance with Article 11 of the adopted Subdivision Ordinance and Articles 4, 5, 10 and 22 of this Ordinance.~~

Comment [SB173]: "Site Plan Requirements" redundant with Sec. 4.10.

F. Commercial and Industrial Design Standards

1. Commercial Design Standards

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

a.

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

c. Adequate provision shall be made for storage and collection of refuse. Refuse containers are subject to Section 4.11e.

d. Permeable areas of the site shall be planted with ground cover, shrubs and trees.

e. All off street parking areas which are paved with an impermeable surface and which have an area of 10,000 square feet and greater shall have a minimum of five (5) percent of the total impervious area of the parking lot.

f. Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public highways, streets and properties.

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Comment [SB174]: This requirement is covered by the Subdivision and Land Development Regulations, Appendix B, Section 9.12

2. Industrial Design Standards

a. ~~Impermeable~~Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 90% of the gross area of the site.

b. Adequate provision shall be made for storage and collection of refuse, subject to Section 4.11e.

c. Permeable areas of the site shall be planted with ground cover, shrubs or trees if subject to Section 4.6.

Comment [SB175]: Adult Use Requirements and Design Standards for Jails relocated to Article 8

~~H. Design Standards For Jails, Prisons and/or Penal Institutions [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]~~

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~~1. All jails shall have direct access to a primary road as defined by the Jefferson County Comprehensive Plan.~~

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~~a. Such road shall have a level of service no worse than Level C.~~

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~~2. No residential subdivisions, schools, churches or institution for human care shall be within 2000' of the subject property. However, this does not prevent such use from locating within 2000' of a jail, prison or penal institution.~~

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~~3. SETBACKS~~

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~~a. Front — 1,000 Feet~~

~~b. Sides — 1,500 Feet~~

~~c. Rear — 1,500 Feet~~

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~~I. Adult Use Requirements [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 1, 2003]~~

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

- ~~1. All elements of the use, including parking areas, shall be located at least 1,500 feet from any Rural, Residential Growth, Village or Residential Growth Light Industrial Commercial Zoning District not separated from the subject property by a public road or railroad right of way.~~
- ~~2. A proposed adult arcade, adult bookstore, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors or any sign advertising the operation thereof, shall not be permitted within 2,500 feet of a lot with an existing adult use or a lot with a sign advertising an adult use.~~
- ~~3. All elements of any use described in Article 5, Section 5.6(h), including parking areas, shall be located at least 1,500 feet from any lot, regardless of its zoning classification, that contains a dwelling unit, a school, a church or house of worship or an institution for human care, regardless it is separated by a public road or railroad right of way.~~

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~~This provision does not apply to any specific existing use that legally qualifies as a nonconforming use; provided, however, that an existing nonconforming use cannot add any of the uses described in Article 5, Section 5.6(h) to their operations as existing at the time of the adoption of this section.~~

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Comment [SB176]: Moved to Article 8, Adult Uses section.

Section 5.7 Rural District

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not intended to be served with public water or sewer facilities, although in situations where the Development Review System is utilized, it may be. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7d ~~Maximum number of lots allowed.~~ The Development Review System does allow for higher density ~~by issuance of~~ a Conditional use permit ~~is issued.~~ [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

Comment [SB177]: Unnecessary text.

A. Principal Permitted Uses

- ~~1.~~
- ~~2.1. Agricultural uses as defined in Article 2; provided any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements~~

Comment [SB178]: Moved to Section 5.7B

specified in Section 4.6(a). [AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]

2. Church

3. Elementary or Secondary Schooles and private or public elementary, middle or secondary schools

3-4. Vocational and/or Training Facility for Adults and specialized or accredited educational and training facilities for adults in a campus setting, including classroom buildings, dormitories, cafeterias, gymnasiums (whose use is limited to the students, participants and instructors at said school or training facility), and administrative buildings. [AMENDED BY ACT OF THE COUNTY COMMISSION EFFECTIVE, OCTOBER 14, 1999 AND SEPTEMBER 28, 2006]

5. Dwelling, SsSingle Ffamily

6. dwelling, including mMobile hHomes (subject to the Jefferson County Subdivision and Land Development Regulations) provided that they are utilized as single family dwelling units on the minimum lot size specified in Section 5. [15]

7. Dwelling, Two-Family provided one unit is owner occupied

4-8. Cottage Industry

9. Home Businesses Occupation, Level 1 as specified in Articles 2 and 4A. [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

5-10. Home Occupation, Level 2

6. Private riding stables

7-11. Day Care Center, Small Child or elderly care facilities with six (6) or less individuals in single family detached dwellings only; not counting the operator's children or parents. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999 AND OCTOBER 3, 2005]

8-12. Fire stations, ambulance and rescue squads, publicly supported.

9. Fish, game or poultry hatchery

10. Forestry

11-13. Cultural Facility Library, museum, or similar institution of a noncommercial nature

12-14. Farm Market Markets for the sale of farm products, and products incidental to farm products; provided that floor area does not exceed 1,500 square feet, a front yard setback of fifty feet (50) from the street right of way be maintained, and off street parking be provided. [(subject to the requirements for such a use in Article 8)] [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

13-15. Horticultural nurseries and commercial greenhouses

14-16. Hospital

15-17. Public Essential uUtility Equipmenties uses, specified in Section 4.7 incident to any principal permitted uses

18. Accessory buildings and uses customarily incident to any principal permitted uses

a. Accessory Uses for Hunting, Shooting and Fishing Clubs

i. Private restaurant that seats no more than 80 patrons that are members and guests of members.

Comment [SB179]: Section does not exist. Minimum lot size reference unnecessary.

Comment [SB180]: Recommend deletion of two-family occupancy restriction. Owner occupancy provision is unique to the Rural district and is difficult to enforce.

Comment [SB181]: Currently permitted per Section 4A.3 but not listed in 5.7.

Comment [SB182]: "Private riding stables" deleted – redundant with "Equestrian uses."

Comment [SB183]: Changes to Home Occupation terms to match Article 4A.

Comment [SB184]: Amended use name; use restrictions moved to definition and to Article 8.

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Comment [SB185]: Redundancies eliminated

Comment [SB186]: Use name shortened; detailed standards moved to Article 8.

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Comment [SB187]: Hunting, Shooting, Fishing Club accessory regs moved to Article 8

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- ii. ~~Conference and banquet facilities to serve no more than 250 people in which a member rents the facility. Events which are accessory uses other than hunting, shooting, archery and fishing, cannot exceed more than 16 per year.~~
 - iii. ~~Private lodge facilities of up to 50 units that serve members and guests.~~
- ~~[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 28, 2006]~~

19. Group Residential Facility

~~17-20.~~

Bed and Breakfast (subject to the requirements for such a use in Article 8) ~~s (no more than 7 bedrooms) 4 receptions per year with no more than 1 tent per reception. (subject to the requirements for such a use in Article 8)~~ [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993 AND OCTOBER 3, 2005]

~~16. Publicly Owned Facilities~~ [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

~~17. Two family dwellings provided one unit is owner occupied [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]~~

~~18-21. Wireless telecommunications facilities pursuant to Article 4B [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998]~~

~~18. Horse breeding and/or boarding [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~

~~19. Equestrian riding/training facility [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~

~~19-22. Model Homes/Sales Office (subject to the requirements for such a use in Article 8) (pursuant to 4.18) [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~

~~20-23. Non-profit Community Centers [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 3, 2005]~~

~~21-24. Landscaping business outside of Planning Commission approved subdivisions [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 3, 2005]~~

~~22-25. Veterinary services outside of Planning Commission approved subdivisions [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 3, 2005]~~

~~26. Feed and/or Farm Supply Center and/or~~

~~23-27. Agricultural Repair Center [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 3, 2005]~~

~~24-28. Dog Kennels all portions of the use must be buffered pursuant to Article 4 and setback at least 500 feet from any property that contains a residence. Kennels cannot be located within a Planning Commission approved residential subdivision. (subject to the requirements for such a use in Article 8) [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 3, 2005]~~

~~25-29. Hunting, Shooting, Archery and Fishing Clubs (subject to the requirements for such a use in Article 8), public or private as defined by American Planning~~

Comment [SB188]: Detailed use standards for B&B moved to Article 8.

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Comment [SB189]: Redundancies eliminated. "Equestrian uses" is listed in the definition of "Agricultural Use."

Comment [SB190]: Dog Kennel standards moved to Article 8

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Association Definitions including shooting ranges. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 28, 2006]

Comment [SB191]: Defined in definitions, Sec. 2.2.

30. Agricultural Tourism

31. Farm Vacation Enterprise

32. Farm Brewery or Winery

33. Rental of Existing Farm Building, for commercial storage (structure must have existed for 5 years)

Comment [SB192]: Agricultural Tourism, Farm Vacation Enterprise, Farm Brewery or Winery, Rental of Existing Farm Building were moved from definition of agricultural use, Section 2.2.

34. Preschool

Comment [SB193]: Preschool: Land use added.

B. Minimum Lot Area, Lot Width and Yard Requirements

1. Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses are shown in Table 5.7-1.

Comment [SB194]: Numbering added to this section.

2. For any residential use that complies with the Development Review System, the setbacks and lot size shall be as outlined in Article 5.4(b). [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

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Comment [SB195]: Missing word.

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4. —

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

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

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Comment [SB196]: Amended to resolve conflict with table in Section 4.16

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2.3. Plus Lot area for schools (K-12) as shown in Table 5.7-1 shall be increased by one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer ageer treatment plant and retention ponds are required, acreage shall be increased accordingly. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]

Comment [SB197]: Reworded for clarity.

4. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

Comment [SB198]: This requirement is stated in Section 5.6D, but is difficult to find and should be stated within 5.7 as well.

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

Comment [SB199]: Moved from 5.7A and edited.

C. Height Regulations

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

D. Maximum Number of Lots Allowed

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7(d)1, 5.7(d)2 or 5.7(d)3 below. A property owner may use a combination of these subsections, provided that the number of lots are prorated by density. [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

1. A property owner may create one (1) lot for every fifteen (15) acres with a minimum lot size of three (3) acres.
 - a. Acreage shall be computed using existing acreage at the time application is submitted. Total acreage does not include acreage which was subdivided off of present parent parcel between October 5, 1988 and time of application.
 - b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.

[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

2. Clustering

a. Purpose and Intent

- i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.
- ii. To provide for a well planned development while minimizing the use of prime agricultural land.

b. Requirements

- i. ~~A property owner may subdivide~~ One (1) lot ~~may be subdivided~~ for every ten (10) acres ~~he/she owns.~~ [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

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

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Comment [SB200]: Wording simplified.

ii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

(a) Setbacks shall be 25' front, 12' sides and 20' rear.

(b) All clusters of three (3) or more lots shall be served by an internal road ~~pursuant to Article 8 of the Subdivision Ordinance.~~

(c) Clusters of three (3) or more lots shall not be along an existing public road.

(d) A property owner may transfer rights to adjacent parcels which are owned by the same entity. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

(e) Maximum lot size shall be 3 acres. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

iii. Procedures

(a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a ~~concept plan must be submitted shall be submitted to the Department of Planning, Zoning, and Engineering showing all standard and potential cluster rights to determine the feasibility of subdivision rights for the original tract(s) of land. The plan shall be prepared in accordance with a "sample" cluster plan and show the following: pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a major subdivision. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

- (1) ~~The lot layout (scale no smaller than one (1) inch equals one hundred (100) feet) including the building restriction lines and appropriate dimensions~~
- (2) ~~Street layout~~
- (3) ~~Vicinity map (scale no smaller than one (1) inch equals two thousand (2000) feet) showing the tracts(s) and total acreage including within the plan.~~

Comment [SB201]: While staff recommends that this standard be maintained, the requirement is no longer in the Subdivision and Land Development Regulations.

Comment [SB202]: Requirement to process as a major subdivision will ensure that all cluster developments (even those of 5 lots or fewer) will have a Concept Plan. This is consistent with the intent of Section 5.7.

Comment [SB203]: The new Subdivision Regulations establish the Concept Plan standards and review process. A cluster subdivision would be required to follow these requirements. As such, the Zoning Ordinance standards and process for a cluster Concept Plan are redundant with new Subdivision Regulations. This is confusing and burdensome for applicants. Hence, the Concept Plan standards and process in the Zoning Ordinance should be deleted.

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~~(4) Topography with minimum ten foot contours (USGS Topo, interpretation is permitted for concept plan)~~

~~(5) Development rights table indicating acreages and development rights, both standard and cluster, for each tract and the total.~~

~~(6) Soils data for the cluster area and the remaining farmland.~~

~~(b) The Department of Planning, Zoning, and Engineering Staff will review the cluster plan, prepare a report and submit it to the Planning Commission within thirty (30) days of original submittal. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

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(b) The Staff will have final approval over the location layout of the proposed clustering of lots. The Staff shall consider the following when reviewing concept plans:

- (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
- (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.

~~(d) Concept plan approval shall become null and void at the end of one year from the date of approval unless a Community Impact Statement is submitted.~~

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Comment [SB204]: Validity dates for all subdivisions established by the Subdivision Regulations, per Chapter 8A of the West Virginia Code.

~~(c)~~ If the concept plan is approved by the Planning Commission, the developer applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations subdivision regulations and the approved concept plan. The plat shall bear a statement indicating “The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation”.

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~~iv.i.~~ Not in addition to subsections 5.7(d)1 and 5.7(d)2 above, any property that was a lot of record as of October 5, 1988 may create 3 total lots (including the residue) during any five year period. Applications which exceed this number during any five year period shall be processed utilizing the Development Review System. Subdivisions involving transfers of land between parent and child shall not be subject to this section. All lots that qualify under this section must meet subdivision requirements. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place.

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Parent to child or child to parent lots are not entitled to further subdivide except as another parent to child or child to parent transfer.

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

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Comment [SB205]: Hunting, Shooting, Fishing – moved to Article 8

~~E. Standards for Hunting, Shooting and Fishing Clubs [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 28, 2006]~~

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- ~~1. 75 foot setback for all structures and parking.~~
- ~~2. 150 yard setback for all shooting facilities.~~
- ~~3. Height~~

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- ~~a. As is for conversion or reconstruction that does not exceed 135 percent of the original footprint of existing structures~~
- ~~b. 35 feet for new structures~~

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~~4. Landscaping requirements to meet standard found in this Ordinance with the following exception:~~

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- ~~a. Perimeter landscaping shall be as approved by staff in order to preserve existing vegetation.~~

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~~5. Minimum of 150 acres under common ownership.~~

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~~F. Special Exceptions for Hunting, Shooting and Fishing Clubs [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 28, 2006]~~

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

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Section 5.8 Residential/Light Industrial/Commercial District

[AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 4, 1989]

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

Comment [SB206]: Section moved from Section 2.2 and has been edited: words "on use classification" added..

A. Principal Permitted Uses

1. ~~Uses of Light Industrial Uses~~
 2. ~~Commercial Uses~~
 3. ~~Medical/Dental/Optical Office, Small~~
 4. ~~Barber/Beauty Shop, Limited~~
 5. ~~Antique Shop~~
 6. ~~ATM or~~
 7. ~~Branch Bank~~
 8. ~~Dog Kennel (subject to the requirements for such use in Article 8)~~
 9. ~~Dry Cleaner~~
 10. ~~Florist~~
 11. ~~Restaurant, Limited~~
 12. ~~Restaurant, Fast Food, Limited~~
 13. ~~Veterinary Services~~
 14. ~~Video Rental Store~~
 2. ~~Country Inn~~
 15. ~~Dwelling, Single Family detached dwelling units~~
 - 3-16. ~~Dwelling, Two Family~~
 - 4-17. ~~Dwelling, Duplexes~~
 - 5-18. ~~Dwelling, Townhouses~~
 - 6-19. ~~Dwelling, Multi-Family dwelling units~~
 20. ~~Mobile Home Parks~~
 21. ~~Home Occupation, Level 1~~
 22. ~~Home Occupation, Level 2~~
 - 7-23. ~~Cottage Industry~~
 24. ~~Private or public elementary, middle or secondary schools, colleges, hospitals~~
 25. ~~Hospital~~
 - 8-26. ~~and Vocational and/or Training Facility for Adults educational facilities for adults~~
- [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
27. ~~Churches and other places of worship~~
 28. ~~Cultural Facility~~
 - 9-29. ~~Day Care Center, Small~~
 - 10-30. ~~Day Care Center, Large Child care centers~~
 - 11-31. ~~Public Essential Utility Equipment buildings~~
 32. ~~Publicly Owned Facility buildings and public service buildings~~
 - 12-33. ~~Public Safety Facility~~
 - 13-34. ~~Accessory Uses~~
 - 14-35. ~~Group Residential Facility~~
 - 15-36. ~~Nursing or Retirement Home~~
 37. ~~Model Home/Sales Office (subject to requirements for this use in Article 8 pursuant to Section 4.18) [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~
 - 16-38. ~~Non-Profit Community Center~~
 39. ~~Non/Not for Profit Commercial Uses [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~
 - 17-40. ~~Preschool~~

Comment [SB207]: ATM and Bank are distinct land uses.

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Comment [SB208]: New use.

B. Standards

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

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

~~2. Light Industrial uses in the Residential/Light Industrial/Commercial District are subject to the standards for such uses in Article 8 of this ordinance.~~

~~1. Water Use Limits~~

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

~~2. Noise~~

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

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

~~The following sources of noise are exempt:~~

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

~~3. Odor~~

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

Comment [SB209]: Standards moved to Article 8.

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

4. Smoke

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

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

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

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

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

5. Ambient Air Quality Standard

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Particulate Matter

Suspended

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

Settleable

Annual Arithmetic Average, mg/cm ³ /month	0.35
Monthly Maximum	0.7

6. Vibration

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

7. Glare and Heat

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

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8. Toxic Matter

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

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

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

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

9. Fire Hazards

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

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

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

~~Below ground 300,000 SCF~~

~~SCF—Standard Cubic Feet at sixty (60) degrees Fahrenheit and 29.92 inches Mercury. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]~~

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

~~Container Setback from Lot Lines~~

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

~~10. Frontage Road~~

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

~~11. Landscape Buffer~~

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

~~All front set backs (building and parking lot) are to be measured from the landscape buffer. (See sketch)~~

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ROW LIMITS OF
CONTROLLED ACCESS
HIGHWAY



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

~~This provision shall also apply to any ramps or access roads connecting to a controlled access highway within 1/2 mile of a controlled access highway.~~
~~[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]~~

C. OTHER REGULATIONS

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

2. All commercial uses must conform with the commercial design standards and yard requirements cited in Sections 5.6(d) 1-6 and 4.6(b). All industrial uses must conform with the Industrial Design Standards and yard requirements cited in Sections 5.6(d) 1-6 and 4.6(a). ~~Either use must be in compliance with site plan the requirements for such use in Article 8.~~ In addition, ~~it a site plan, if required, must be demonstrated a Community Impact Statement, or Site Plan Phase~~ that traffic patterns created by Commercial or Light Industrial uses (1) will not use adjacent residential roads for through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990 AND JULY 15, 1993]

3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area) shall be subject to the ~~Neighborhood Compatibility~~ **Assessment Meeting** process pursuant to Article 7, Section 7.6 inclusive.

4. Proposed uses in this zone do not have to comply with the distance requirements in Sections 4.6 (a-b) if part of a master planned community. This provision shall only apply to the internal use of land under the same ownership. [AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993]

Section 5.9 ~~Site Plans Reserved~~

~~Site Plans are required for all uses, subject to Section 4.10.~~
~~[AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989]~~

Section 5.10 Village District

[AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

Comment [SB210]: Numbering added.

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Comment [SB211]: Redundant with other sections of the Zoning Ordinance. Also, Community Impact Statements no longer part of review process; replaced by Concept Plan.

Comment [SB212]: Not all changes of use require a site plan.

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Comment [SB213]: Name corrected for consistency.

Comment [SB214]: Redundant with Sec. 4.10.

Comment [SB215]: Marked as "Reserved" in order to preserve numbering of Article 5.

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

A. Principal permitted uses

1. Dwelling, Single Family dwellings
2. Dwelling, Duplexes
3. Dwelling, Two Family dwellings
4. Home Occupations, Level 1
5. Home Occupation, Level 2
6. Cottage Industry
7. Public Safety Facility Fire stations, ambulance and rescue squads publicly supported [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
8. Essential Utility Equipment
9. 1 or 2 doctor in Medical/dental/optical office, Small [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
10. Group Residential Facility
11. Cultural Facility Library, museum or similar institution of a noncommercial nature [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]

Comment [SB216]: Cottage Industry moved to "permitted" list (from Conditional list) to be consistent with Article 4A.3, which states that the land use is permitted in all districts except Residential Growth.

Comment [SB217]: By state law, permitted in all districts where residential uses are permitted.

B. Conditional Uses

The following uses may be approved after being evaluated by the Development Review System (Article 7, Sections 7.3 through 7.8 inclusive). The LESA point system would not apply.

- Cottage Industries
1. 2 chair Barber/Beauty Shop, Limited
 2. Dry Cleaners
 3. Video Rental Stores
 4. Retail Food Stores not exceeding 1500 square feet of retail floor space, Limited
 5. Churches/Houses of Worship
 6. Day Care Centers, Large
 7. Country Inn
 8. Bed and Breakfast (subject to the requirements for such a use in Article 8)
 9. Restaurant not exceeding 2000 square feet (primary mode of food distribution is by waiter or waitress), Limited
 10. ATM or
 11. Branch Bank
 12. Antique Shop
 13. Florist
 14. Restaurant, Fast Food, Limited Take out pizza/sandwich shops not exceeding 600 square feet [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]

Comment [SB218]: All of Article 7 applies.

Comment [SB219]: Cottage Industry moved to "permitted" list (from Conditional list) to be consistent with Article 4A.3, which states that the land use is permitted in all districts except Residential Growth.

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Comment [SB220]: ATM and Bank are distinct land uses.

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C. Setbacks

~~C.~~

1. Residential

a. Section 9.7, Residential Growth standards

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Comment [SB221]: Ordinance currently does not specify which standards of 9.7 to follow.

2. Commercial

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

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

3. Existing Structures

~~3.~~

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

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

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

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Comment [SB222]: At the County level, "appropriate agency" assumed to be the Historic Landmarks Commission.

~~d. All new commercial structures shall comply with the site plan requirements.~~

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~~e. There will be no outdoor storage of equipment, materials or other stock.~~

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~~f. e. Parking shall be discussed at the requirements may be modified as a result of a compatibility meeting.~~

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Comment [SB223]: Covered by Sec. 4.10.

Comment [SB224]: Assumed that ability to modify parking requirements is the intent of this sentence.

D. Other Requirements

1. With the exception of setback requirements specified in this section, Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

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Comment [SB225]: This requirement is stated in Section 5.6D, but is difficult to find and should be stated within 5.4 as well.

ARTICLE 6: DEVELOPMENT REVIEW SYSTEM

Section 6.1 Development Review System (DRS)

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

Section 6.2 Issuance of a Conditional Use Permit

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

[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Section 6.3 The Soils Assessment

The Soils Assessment evaluates a particular parcel for development based on the soil types it possesses. The following soils types will be combined into soil groups.

Comment [SB226]: Updated list of soil types, per USDA NRCS, to be inserted.

Soils Type Data

<u>Map Symbol</u>	<u>Soil Series</u>	<u>Agriculture Value Group</u>
Ad	Alluvial	9
Am	Alluvial	5
As	Ashton	1
BaB	Benevola	2

BcC3	Benevola	5
BeC	Benevola	6

<u>Map Symbol</u>	<u>Soil Series</u>	<u>Agriculture Value Group</u>
BeD	Benevola	7
BkB	Berks	4
BIB	Berks	6
BIC	Berks-Weikert	8
BID	Berks-Weikert	9
BnB	Blairton	6
BrB	Braddock	3
BrC	Braddock	4
BrC3	Braddock	7
Brd	Braddock	7
BrD3	Braddock	8
BrE	Braddock	8
CdB	Chilhowie	6
CdC	Chilhowie	8
CeC3	Chilhowie	9
ChC	Chilhowie & Opequon	8
CIC3	Chilhowie & Opequon	10
CID3	Chilhowie & Opequon	10
CmD	Clifton	8
DcC	Dekalb	6
DcD	Dekalb	8
DcE	Dekalb	9
DcF	Dekalb	10
DgB	Duffield	2
DgC	Duffield	4
DgC3	Duffield	5
DgD3	Duffield	9
EdD	Edgemont	10
EdF	Edgemont	10
FbB	Frankstown	3
FbC	Frankstown	4
FbC3	Frankstown	5
FbD	Frankstown	5
FbD3	Frankstown	9
FbE3	Frankstown	10
FcC	Frankstown	6
FcD	Frankstown	7

FcD3	Frankstown	10
HbB	Hagerstown	2
HbC	Hagerstown	4
HcC	Hagerstown	10
HeC3	Hagerstown	5

<u>Map Symbol</u>	<u>Soil Series</u>	<u>Agriculture Value Group</u>
HfB	Hagerstown & Frederick	3
HfC	Hagerstown & Frederick	4
HgB	Hagerstown & Frederick	6
HgC	Hagerstown & Frederick	6
HgD	Hagerstown & Frederick	8
HhC3	Hagerstown & Frederick	5
HIC3	Hagerstown & Frederick	9
HID3	Hagerstown & Frederick	10
Hn	Huntington	2
Ho	Huntington	1
LaC	Laidig	5
LaD	Laidig	7
LbC	Laidig	9
LbD	Laidig	9
Lf	Landes	2
Ln	Lindside	3
Lo	Lindside	3
Ma	Marl	10
Me	Melvin	6
MhB	Monongahela	3
Qu	Quarries	10
SrF	Steep	10
WeC3	Weikert	9
WeD3	Weikert	10
WeF	Weikert	10

The points for the soils assessment are computed as follows: [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

- A. Determine the area of each soil type on the property according to the map symbols.
- B. Multiply the soil type areas times the Relative Value for the soil type taken from the List of Soil Groups and Relative Values.
- C. Sum the products of the multiplication of Area times Relative Value to obtain a total for the property.

- D. Divide the total of the multiplication products by the Total Area of the property to obtain the Weighted Relative Value.
- E. Multiply the Weighted Relative Value times the 25 Soil Assessment Points. Then divide the product by 100 to obtain the allowable number of Soil Assessment Points.

Soil groups take into account a rating of best and worst individual soil types. The following 10 soil groups have been developed from the Jefferson County Soil Survey and have been assigned relative values based on their agricultural productivity (see note). [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

LIST OF SOIL GROUPS AND RELATIVE VALUES

<u>Agricultural Group</u>	<u>Land Capability Unit</u>	<u>Relative Value</u>
1	I	100
2	II	94
3	II	87
4	II and III	81
5	III and IV	68
6	III and IV	61
7	IV and VI	50
8	IV and VI	31
9	VI	4
10	VII, VIII and other	0

The soil groups and their corresponding values will be incorporated into a work sheet to be used to evaluate the potential agricultural value of each site.

If 50% to 65% of the total soils are rated severe for home construction or street construction, by the Jefferson County Soil Survey, add 5 points to the Land Evaluation value of the work sheet.

If over 65%, add 10 points to the Land Evaluation value of the work sheet.

The soils assessment shall not exceed 25 points.

NOTE: The development of soil groups have been determined using corn as the indicator crop. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Section 6.4 Amenities Assessment

The amenities assessment of the Development Review System provides indicators of a site’s agricultural viability or its development potential. The following criterion are weighted with a high numerical value assigned if the site is more agriculturally viable and a low numerical value

assigned if development would be more appropriate for the parcel. The procedure for the compatibility assessment is contained in Article 7.

For nonresidential projects, there is no impact on Proximity to Schools or Parks and Recreation. Therefore, these points have been added to Size of Site, Highway Problem Areas, and Roadway Adequacy as shown.

A. Size of Site:

This criterion reflects the importance of preserving large blocks of land as a primary goal of agricultural preservation; therefore, acreage shall be contiguous. For nonresidential projects, the points on the right will be applied.

Residential Projects		Nonresidential Projects	
0 to 40 acres	0 points	0 points	
40 to 80 acres	3 points	5 points	
Over 80 acres	6 points	10 points	

[AMENDED BY ACT OF THE COUNTY COMMISSION ON NOVEMBER 30, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

B. Adjacent development

This criterion assesses percentage of adjacent land that which is developed or under development. Development and development pressure includes: a subdivision of more than 5 lots, lots of less than 5 acres and all commercial or industrial uses. This measurement shall be by a computation of linear feet around the boundary of the property in question. Agricultural related industry or uses shall be considered "no development pressure." Adjacent property includes land separated by roads, rights-of-way, railroads, and other easements. After the percentage of land under development pressure is calculated the remaining percentage of adjacent property may be considered as property where there is no development pressure. The points shall be assessed as follows:

For the property not under development pressure or not developed:

Percent	Points
0 to 40 percent	0 points
40 to 65 percent	5 points
65 to 100 percent	10 points

[AMENDED BY ACT OF THE COUNTY COMMISSION ON JULY 15, 1993. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

C. Distance to Growth Corridor

The distance to the growth corridor relates to the distance of the subject parcel to the boundaries of the Residential-Growth District or the Residential-Light Industrial-Commercial District adopted within this ordinance. Measuring shall be by the closest linear distance from the property to the closest point of either of the aforementioned growth districts.

Distance	Points
Less than .25 mile	0 points
.25 mile to .75 mile	6 points
Over .75 mile	12 points

[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

D. Comprehensive Plan Compatibility

This criterion shall determine whether site development is supportive ~~of~~ or has a negative impact on the following elements of the Comprehensive Plan: Highway Problem Areas, Compatibility of site development with designated parks or proposed parks and recreational areas and percentage of proposed affordable housing. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB227]: Missing word.
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Highway Problem Areas

Residential Project	Nonresidential Project	
0 problem areas	0 points	0
1 problem area	3 points	6
2 problem areas	6 points	12

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Highway Problem Area Points will be assessed as follows:

~~If one could get to~~ If the site is accessible to the closest 'in-county' incorporated area (using the most direct vehicular route) and an 'out-of-county' market area (Frederick, MD; Winchester, VA; Inwood, WV; Martinsburg, WV) (using the most direct vehicular route) without traveling through a Highway Problem Area as shown on the Comprehensive Plan Highway Problem Area Map the project would score a 0 for this criterion.

Comment [SB228]: Clarifying text.
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If the site is accessible to either ~~If one could get to~~ one or the other without traveling through a Highway Problem Area the project would score a 3 for this criterion.

If ~~one would travel through~~ a Highway Problem Area intersects the most direct vehicular route to the closest in-county incorporated area and ~~to~~ the closest out-of-county market area, the project would score a 6 for this criterion.

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Affordable Housing

25% affordable housing is proposed	0
10% affordable housing is proposed	3
No affordable housing is proposed	6

[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Park/Recreational

Proposing a 5 acre park or 10% of gross acreage (whichever is greater) with amenities and land dedicated to and accepted by Jefferson County Parks and Recreation Commission	0 points
Located within 2 miles from an area marked on the Comprehensive Plan Parks and Recreation map	3 points
Located farther than 2 miles from an area marked on the Comprehensive Plan Parks and Recreation map	6 points

Distances for Parks and Recreation will be measured by vehicular miles from a subdivision entrance by the most direct route to the closest park or recreation area as shown on the Comprehensive Plan map of Parks and Recreation Areas.

For nonresidential projects, parks and recreation points will be reassigned to Highway Problem Areas: 0, 6, and 12. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

E. Proximity to Schools

Less than 2 miles	0 points	For Nonresidential projects points are reassigned to Roadway Adequacy and Size of Site.
2 to 4 miles	4 points	
Over 4 miles	8 points	

The purpose of assessing the proximity of schools to new development is to avoid excessive busing of students. Distances for schools will be measured by vehicular miles from a subdivision entrance by the most direct route to the entrance of the appropriate school.

For nonresidential projects the proximity to schools points will be reassigned to roadway adequacy: 0, 10, and 16 and size of site: 0, 5, and 10.

[AMENDED BY ACT OF THE COUNTY COMMISSION ON NOVEMBER 30, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

F. Roadway Adequacy

Residential Projects		Nonresidential Projects
Primary or Four Lane Road	0 points	0 points
Secondary	6 points	10 points
Local Service	12 points	16 points

Point values for this criterion are assigned based on the designation of the Comprehensive Plan Highway Classification map. Section 6.5(d) evaluates the operational proximity of the site to designated highway problem areas.
 [AMENDED BY ACT OF THE COUNTY COMMISSION ON NOVEMBER 30, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

G. Emergency Service Availability

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

Distance to Emergency Services

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

Distances for Fire and Ambulance will be measured by vehicular miles from a subdivision entrance by the most direct route to the closest entrance of the appropriate fire or ambulance station.
 [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Section 6.5 Computation of Soils/Amenities Assessment

- A. At the completion of evaluation of a site with the Soils and Amenities Assessment Criteria, there should be a total number of points awarded to each Assessment. Since the Soils Assessment utilized was based on a 100 points relative point value in itself, a minor conversion must be made to the total relative value. The Development Review System allots a maximum of 25 points to the Soils Assessment therefore the conversion to be made is expressed as follows: $100 \times .25 = 25$ pts. (For example, if a parcel receives the

maximum point value of 100 points, in actuality only 25 points will be awarded for the Soils Component of the Development Review System.)

- B. The Amenities Assessment has a 75 point maximum point value.
- C. The combined maximum total for both Assessments is 100 points. The most agriculturally significant parcel would rate 100; the most developable parcel would rate 0. A total of 60 points or less advances the application to the Compatibility Assessment Meeting. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- D. The Soils Assessment of a proposed development is not applied when the development proposal is located within the Residential/Growth District or the Industrial/Commercial District.
- E. Any land in the Rural District that is located on a primary or secondary road, as defined in the Comprehensive Plan, shall not have to process through the LESA points process for a commercial or industrial project and shall be advanced directly to the Compatibility Assessment Meeting. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

ARTICLE 7. PROCEDURAL REQUIREMENTS FOR REVIEW

Section 7.1 Purpose

The Procedural Requirements section of the Ordinance details the procedures to review development utilizing the zoning district regulations and/or the Development Review System. All plans and development approved shall comply with the standards contained in this Article. ~~Uses that are permitted within a Zoning district may be submitted with an application for a Site Plan subject to Section 4.10.~~

Comment [SB229]: Redundant with Section 4.10.

Section 7.2 Zoning District Principal Permitted Uses

All uses listed as ~~permitted~~ principal permitted uses within a zoning district shall be developed subject to ~~adopted Subdivision and Site Plan regulations~~ the Jefferson County Subdivision and Land Development Regulations.

Comment [SB230]: Word "permitted" repeated.

Comment [SB231]: Correct name of regulations.

Section 7.3 General Development Review System Requirements

~~A.~~ If a ~~developer's proposal~~ proposed use is not listed as a principal permitted use in a zoning district, ~~the applicant~~ the applicant must submit a Development Review System application ~~for his project~~ subject to the requirements of Section 7.4.

~~A.~~

B. Filing an application with the Planning and Zoning Staff is the first of several stages within the Development Review System. Those stages are listed below.

1. Filing the application
2. Departments of Planning and Zoning Staff Evaluation of the Development Review System
3. Compatibility Assessment Meeting
4. Public hearings
5. Planning and Zoning Commission Board of Zoning Appeals's decision on the issuance or denial of the Conditional Use Permit [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989]

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Section 7.4 Filing the Application

A. The owner or the owner's agent proposing to develop land that is not a principal permitted use in the district where it is located shall consult with the Departments of Planning and Zoning, and Engineering. Fifteen (15) copies of a sketch plan detailing the project shall be submitted with an application and fifteen (15) copies of the support data that will enable the project to be evaluated by the Development Review System, at least ten (10) days prior to the scheduling of a Compatibility Assessment Meeting. This Compatibility Assessment Meeting will occur within thirty (30) days from the date that the Compatibility Assessment Meeting was scheduled by the staff. This time frame

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~~allows the Staff ten (10) days to review the application for completeness and collect the application fee before the Compatibility Assessment Meeting is scheduled and provides time for the adjacent and confronting property owners to review the application and receive any technical advice they would like to secure before the meeting.~~ Copies of the

application, sketch plan, and development review data shall be available for public review in the Planning Office at such time as the proposed development is advertised in the newspaper. [AMENDED THREE TIMES BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON MAY 4, 1989, AUGUST 31, 1989 AND JULY 15, 1993. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB232]: Redundant text.

- B. The sketch plan shall include the entire original parcel as it appeared on the date this ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg. 1" = 50', 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational areas, streets, building areas, and other features in relation to each other and to the tract boundaries. Contour lines, as shown on the appropriate U.S.G.S. Topographic Quadrangle Map ~~or other data source approved by the~~ Departments of Planning, Zoning, and Engineering, should be superimposed on the sketch plan. The source of all contour lines shall be noted on the plan. Natural features such as woods, watercourses, prominent rock out-croppings, sinkholes and quarries shall be delineated.

Comment [SB233]: Consistent with approved policy established by the GIS/Addressing Office, the Planning and Zoning Departments, and the Engineering Department.

- C. The sketch plan should be accompanied by a tract location map; a soils report indicating the soil types on the parcel and a map delineating the boundaries of each soil type; and the necessary support data, to evaluate the site by the Development Review System, listed below.

D. Support Data

1. Name and address of owner/developer.
2. Name and address of contact person.
3. Type of development proposed.
4. Acreage of original tract and property to be developed.
5. General description of surface conditions (topography).
6. Soil and drainage characteristics.
7. General location and description of existing structure.
8. General location and description of existing easements or rights-of-way.
9. Existing covenants and restrictions on the land.
10. Intended improvements and proposed building locations including locations of signs.
11. Intended land uses.
12. Earth work that would alter topography.
13. Tentative development schedule.
14. Extent of the conversion of farm land to urban uses.
15. ~~E~~Affected wildlife populations.
16. Ground water and surface water and sewer lines within 1320 feet.
17. Distance to fire and emergency services that would serve the site.

- 18. Distance to the appropriate elementary, middle, and high school.
 - 19. Traffic characteristics - type and frequency of traffic; adequacy of existing transportation routes.
 - 20. Demand for school services created by this development.
 - 21. Proximity and relationship to historic structures or properties within two hundred (200) feet.
 - 22. Proximity to recreational facilities.
 - 23. Relationship of the project to the Comprehensive Plan.
- E. The developer shall submit a list of all property owners, and their addresses, adjacent to and confronting the property which is to be developed.
- F. Payment of fees - Within one week of the submittal of a Development Review System application, all zoning required fees must be paid.
- G. The Zoning Administrator shall determine if the sketch plan and support data are adequate. ~~Once the Zoning Administrator places the advertisement in the paper, any interested party has thirty days to appeal the inadequacies of the sketch plan and/or support data to the Zoning Board of Appeals.~~ [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB234]: Any determination of the Zoning Administrator is appealable to the BZA per Section 3.2A; the CUP sketch plan does not need to be called out specifically.

Section 7.5 Planning and Zoning Staff Evaluation of the Development Review System

- A. The staff will evaluate all applications for the proposed land use in conjunction with Article 6 of this Ordinance and all other applicable sections of the Zoning Ordinance Zoning and Land Development Ordinance and other pertinent ordinances governing development in the County.
- B. ~~After staff review and the collection of fees, the sStaff~~ will notify the adjacent and confronting property owners of the date, time, and place of the Compatibility Assessment Meeting by registered mail. Notification requirements of Section 3.4A(3)(b) shall apply. ~~and the applicant will post the property with a sign prepared by the staff which states the requested proposal and the date, time and place of the Compatibility Assessment Meeting. The property shall be posted conspicuously by a zoning notice no less than twenty eight (28) inches by twenty two (22) inches in size at least twenty (20) days before the hearing. The project shall also be advertised in a newspaper with local circulation at least 10 days in advance.~~ [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 4, 1989]
- C. ~~The developer shall be notified of the particulars of the meeting. Failure of the developer to be in attendance to present his proposal will result in an invalid application and no refund of fees. If the application becomes invalid as a result of this section, a new application must be submitted, subject to Section 7.4, to begin the process.~~

Comment [SB235]: Redundant.

Comment [SB236]: Redundant with text above.

Comment [SB237]: Requirements of Appeals process section 3.4A(3)(b) are nearly identical (size of sign, posting instructions, etc). The only difference is how many days in advance notification takes place. Staff recommends consistency with timelines in Appeals process.

Comment [SB238]: This requirement does not apply to any other type of review process, and should be omitted.

D. A ~~North American Industrial Classification System~~ ~~Standard industrial Classification (SIC/NAICS) code~~ will be assigned to the proposed project. Once the classification is agreed upon, the ~~SIC/NAICS~~ code shall be binding. Any change of use shall ~~be required to file submittal of a new~~ application in accordance with Article 7.

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Comment [SB239]: NAICS is the industry classification system now in use. It was released in 1997.

Section 7.6 Compatibility Assessment Meeting

A. The Compatibility Assessment Meeting allows the adjacent and confronting property owners and all other interested parties the opportunity to hear the ~~developer's~~ ~~Applicant's~~ presentation and proposal. ~~In his~~ ~~The~~ presentation, ~~he~~ will address the compatibility of ~~his the~~ project to the existing areas adjacent to the site. Following the ~~developers~~ ~~Applicant's~~ presentation, ~~those who are in attendance~~ ~~and~~ may ask questions ~~or provide comments~~. Any discussion shall be limited to the proposal's compatibility as presented rather than whether the site should be developed by any other use. At the end of the discussion, the staff shall summarize the positions presented by those in attendance ~~to determine if his account of the issues is accurate~~. If the majority of those in attendance are in agreement that the staff record is accurate, the meeting will end ~~and the staff will prepare a report for the next Board of Zoning Appeals meeting~~. If there is need for clarification of a particular issue ~~or issues~~ the staff will allow additional time for clarification before ending the meeting.

Comment [SB240]: Redundant.

Comment [SB241]: Redundant.

B. During the Compatibility Assessment Meeting, those who participate should address, but are not limited to, the following criteria to determine compatibility of the proposed project:

1. Adopted Federal, State and local regulations;
2. Similarity of proposed development type (residential, commercial, industrial, agricultural, etc.) to existing development types;
3. In a residential project, similarity of the density of the proposed development to existing density in the neighborhood;
4. Adequacy of roads and highways to accommodate traffic to be generated by the development, with particular attention to dangerous intersections designated by the State Roads Commission or the State Police;
5. Present and future transportation patterns in the area;
6. Consistency with land use plans and regulations of incorporated municipalities immediately adjacent to the proposed development;
7. Any variance which is known to be required at the time of submittal;
8. The relationship of the proposed change to the adopted Comprehensive Plan; and
9. All items submitted with the application. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

C. ~~The Department of Planning, Zoning, and Engineering~~ Staff shall monitor and record the meeting. A time limit, as referred to in Section 7.7c may be imposed if there are a large number of ~~persons to speakers at a particular meeting~~. ~~The~~ Staff may comment on the proposed development's conformance to applicable State, Federal and Local codes ~~but~~

Comment [SB242]: Department names unnecessary.

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Comment [SB243]: Redundant.

shall primarily monitor and record pertinent issues and concerns. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

D. ~~If not all issues raised at the Compatibility Assessment Meeting were resolved at that meeting, a public hearing of the Board of Zoning Appeals will be required. The Staff shall prepare its a report of summarizing the developer's proposal, the agreed upon conditions, and any other pertinent data and will advertise for a-the public hearing-of the Board of Zoning Appeals. A public hearing in conformance with Section 7.7-this article will be conducted on the application no less-fewer than 30 days but no more than 60 days from the date of the Compatibility Assessment Meeting. At the public hearing, the Board shall take action as described in Section 7.6F. The Staff report to be presented at the Public Hearing will be available to the general public fourteen (14) days prior to the advertised hearing.~~ [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON MAY 4, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB244]: Added to clarify process.

Comment [SB245]: The timing of the availability of BZA staff reports should be consistent for all types of BZA cases.

Comment [SB246]: 7.6(e) moved to 7.7A.

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E. If all issues raised at the Compatibility Assessment Meeting with the staff were resolved at that meeting, no public hearing shall be required. At the next Board of Zoning Appeals meeting thereafter, the Board shall take action as described in Section 7.6F of Zoning Appeals shall issue, issue with conditions or deny the conditional use permit. The standards governing the issuance of the Conditional Use Permits shall be: successful LESA Point application, Board of Zoning Appeal's resolution of unresolved issues; and, evidence offered by testimony and findings by the Board of Zoning Appeals that the proposed development is compatible with the neighborhood where it is proposed. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB247]: Text proposed for deletion is repeated verbatim in 7.6F.

~~A. The public hearing will be conducted by the Board of Zoning Appeals. The purpose of the meeting is to hear the staff's report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff's report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing. The hearing will be subject to Section 7.7c; however, speakers shall be limited to resolution of issues which could not be resolved at the Compatibility Assessment Meeting and the compatibility of the project within the neighborhood. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON MAY 4, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

Comment [SB248]: Moved to Section 7.7.

~~B.~~

~~G.F.~~ The Board of Zoning Appeals shall issue, issue with conditions, or deny the conditional use permit. ~~The Board of Zoning Appeals shall have the authority over the issuance or denial of all development review applications.~~ The standards governing the issuance of the Conditional Use Permits shall be: successful LESA Point application,

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Comment [SB249]: Moved to 3.4A(5), and edited.

Board of Zoning Appeals' resolution of unresolved issues; and, evidence offered by testimony and findings by the Board of Zoning Appeals that the proposed development is compatible with the neighborhood where it is proposed. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

~~G.~~

G. A Conditional Use Permit shall be valid for the time period identified in Sec. 3.2G of this ordinance.

~~H. Any persons may appeal any decision of the Board of Zoning Appeals to the Circuit Court of Jefferson County subject to §8A-1-1 et seq., of the West Virginia Code, as amended. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

Comment [SB250]: Moved to Sec. 3.4.

Section 7.7- Public Hearings for Development Review System

~~(Unless Otherwise Superseded by the Board of Zoning Appeals' Rules of Procedure)~~

Comment [SB251]: Moved to A below.

A. Unless otherwise superseded by the Board of Zoning Appeals Rules of Procedure, a public hearing for a Development Review System application shall be conducted in accordance with this section.

Comment [SB252]: Added for clarity.

B. The public hearing will be conducted by the Board of Zoning Appeals. The purpose of the meeting is to hear the staff's report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff's report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing. Speakers shall be limited to resolution of issues which could not be resolved at the Compatibility Assessment Meeting and the compatibility of the project within the neighborhood. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON MAY 4, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB253]: Formerly 7.6 (e). Moved in order to consolidate into one section all

~~The Board of Zoning Appeals Chairman or his appointed designee will preside over the public hearing. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

Comment [SB254]: Unnecessary; BZA rules of procedure cover this.

~~B.C.~~ All public hearings shall have time limits allotted to those who speak, as follows: the developer or his agent, or applicant or agent shall have 30 minutes for his a preservation presentation, each group who speaks may have 15 minutes, each individual who speaks is allotted 5 minutes, the developer or his agent, or applicant or agent are is allowed 15 minutes for rebuttal. The time limit provision within this section may be modified by the Planning and Zoning Commission or Board of Zoning Appeals' Chairman Chairperson in the event that there are a large number of persons to speak at a particular hearing. The Commission or Board shall announce any change to this section

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Comment [SB255]: "applicant" is sufficiently broad to include "developer"

at the beginning of the hearing. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

~~B.~~
~~B.D.~~ Notification requirements of Section 3.4A(3)(b) apply.

~~All public hearings shall be advertised in a newspaper having general circulation in the County at least 15 days prior to such hearing. (Conditional use permits are subject to Section 7.5b and Section 7.6d.) [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

~~D.~~ The property subject to the hearing shall be posted at least 15 days before the date of the hearing. (Conditional use permits are subject to Section 7.5b.) [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

~~D.E.~~ The Board of Zoning Appeals shall make-render a decision no more than 60 days after the public hearing. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

~~Section 7.8~~ Board of Zoning Appeals Approval of Conditional Use Permit

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Comment [SB256]: Requirements of Appeals process section 3.4A(3)(b) are identical (size of sign, posting instructions, etc).

Comment [SB257]: Deleted requirements are identical to notification requirements for other types of BZA applications; as such, it is more appropriate to reference the other requirements than to repeat them.

Comment [SB258]: Deleted requirements are identical to notification requirements for other types of BZA applications; as such, it is more appropriate to reference the other requirements than to repeat them.

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Comment [SB259]: BZA section moved to new 3.4.

~~A. The Board of Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their vacancies, and their powers and duties shall be provided in Chapter 8, Article 24 of the West Virginia Code, as amended.~~

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~~B. The Board of Zoning Appeals shall:~~

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~~1. Hear and decide appeals regarding the Planning and Zoning Commission's issuance or denial of a Conditional Use Permit. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989]~~

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~~2. Hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.~~

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~~3. Authorize such variances from the terms of the Ordinance if the Board finds that variance:~~

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~~a. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;~~

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~~b. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;~~

~~c. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and~~

~~d. Will allow the intent of the zoning ordinance to be observed and substantial justice done. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

~~4. In exercising its power and authority, the Board of Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decisions or determination as ought to be made.~~

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~~5. Meetings of the Board of Appeals shall be held at such time that the Board determines appropriate.~~

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~~6. Provided, however, nothing in this Section shall be construed as permitting the Board of Appeals to exercise any power or refrain from the performance of exercise any power or refrain from the performance of any duty not authorized or directed by the provisions of Chapter 8, Article 24, Section 55 of the West Virginia Code of 1931, as amended, which provision of the Code is hereby incorporated herein by reference.~~

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ARTICLE 8. SUPPLEMENTAL USE REGULATIONS APPEAL PROCESS UNLESS SUPERCEDED BY THE BOARD OF ZONING APPEALS RULES OF PROCEDURE

Comment [SB260]: "Appeals Process" Moved to 3.4

Section 8.1 Adult Use Requirements

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 1, 2003]

Comment [SB261]: Moved from Section 5.6(i)

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

- A. All elements of the use, including parking areas, shall be located at least 1,500 feet from any Rural, Residential-Growth, Village or Residential Growth-Light Industrial-Commercial Zoning District not separated from the subject property by a public road or railroad right-of-way.
- B. A proposed adult arcade, adult bookstore, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors or any sign advertising the operation thereof, shall not be permitted within 2,500 feet of a lot with an existing adult use or a lot with a sign advertising an adult use.
- C. All elements of any use described in ~~Article 5, Section 5.6(h)~~ this section, including parking areas, shall be located at least 1,500 feet from any lot, regardless of its zoning classification, that contains a dwelling unit, a school, a church or house of worship or an institution for human care, regardless it is separated by a public road or railroad right-of-way.

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

Comment [SB262]: Adoption date of section clarified.

Section 8.2 Barns and Feeding Pens

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

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Section 8.3 Bed and Breakfast

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

Comment [SB263]: The ordinance currently does not specify that breakfast is the only meal served; that an owner or caretaker must reside on the premises, or whether an accessory dwelling unit may be used. These standards are common to other communities' zoning ordinances.

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Section 8.4 Dog-Kennels

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

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 3, 2005]

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Section 8.5 Farm Brewery or Winery

All structures associated with the operation of a farm brewery or winery may not exceed 10,000 square feet.

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Section 8.6 Farm Market

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

Comment [SB264]: Moved from Section 4.15

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Section 8.7 Jails and Prisons

Due to the special conditions surrounding a jail, prison, or penal institution, all such projects shall only be allowed in the Industrial-Commercial Zone and shall be subject to the Development Review System as outlined in Article 6 of this Ordinance. Furthermore, these projects shall comply with Article 5, Section 5.6(L), and Article 6 of the Jefferson County Zoning and Development Review Ordinance.

Comment [SB265]: Section 5.6(L) does not exist; 2nd reference to Article 6 is redundant.

[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Design Standards for Jails, Prisons and/or Penal Institutions are as follows: [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

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Comment [SB266]: Moved from Section 5.6(h)

- A. All jails shall have direct access to a primary road as defined by the Jefferson County Comprehensive Plan. Such road shall have a level of service no worse than Level C.
- B. No residential subdivisions, schools, churches or institution for human care shall be within 2000' of the subject property. However, this does not prevent such use from locating within 2000' of a jail, prison or penal institution.

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C. SETBACKS

- 1. Front 1,000 Feet
- 2. Sides 1,500 Feet
- 3. Rear 1,500 Feet

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Section 8.8 Hunting, Shooting and Fishing Clubs

A. Hunting, Shooting and Fishing Clubs may include the following accessory uses:

- 1. Private restaurant that seats no more than 80 patrons that are members and guests of members.
- 2. Conference and banquet facilities to serve no more than 250 people in which a member rents the facility. Events which are accessory uses other than hunting, shooting, archery and fishing, cannot exceed more than 16 per year.
- 3. Private lodge facilities of up to 50 units that serve members and guests. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 28, 2006]
- 4. Shooting ranges for use of members and guests of members.

Comment [SB267]: Moved from 5.7(a)15

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B. Standards for Hunting, Shooting and Fishing Clubs [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 28, 2006]

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

Comment [SB268]: Moved from 5.7(e)

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C. Special Exceptions for Hunting, Shooting and Fishing Clubs [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 28, 2006]

- 1. Limits exceeding requirements outlined above can be increased with Board of Zoning Appeal's approval provided that the Board of Zoning Appeals find that the increase is

Comment [SB269]: Moved from 5.7(f)

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compatible with the neighborhood after taking into consideration neighborhood character, traffic, and buffering. Such decision shall be rendered after a public hearing as outlined in the Board of Zoning Appeals Rules and of Procedures.

Section 8.9 Industrial and Commercial Uses

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

1. Noise

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

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

The following sources of noise are exempt:

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

2. Odor

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

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

3. Smoke

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

Comment [SB270]: Inclusion of commercial more reflects applicability of section, as currently established by Zoning Ordinance..

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

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

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

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

4. Ambient Air Quality Standard

Particulate Matter

Suspended

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

Settleable

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

5. Vibration

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

6. Glare and Heat

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

7. Toxic Matter

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

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

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

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

8. Fire Hazards

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

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

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

SCF - Standard Cubic Feet at sixty (60) degrees Fahrenheit and 29.92 inches Mercury. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]

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

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Container Setback from Lot Lines

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

9. Frontage Road

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

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10. Landscape Buffer

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

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

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ROW LIMITS OF
CONTROLLED ACCESS
HIGHWAY



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

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This provision shall also apply to any ramps or access roads connecting to a controlled access highway within ½ mile of a controlled access highway. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Section 8.10 Model Homes/Sales Offices

Model homes with a staffed sales office for sales exclusively within the residential subdivision ~~that~~in which they are located are permitted provided that they are contained on the first lot on either or both sides of any road/right-of-way that enters the subdivision; provided also that they are so designated on the preliminary and final plats during the subdivision process.

Model homes with a staffed sales office in any other location within the subdivision must be approved or denied by the ~~Zoning Board of Zoning Appeals~~ after a 15 day public hearing advertised for 15 days. ~~[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

Model homes without staffed sales offices are permitted internally within the subdivision. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]

Section 8.11 Petroleum products refining or storage

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

Section 8.12 West Virginia Legal Fireworks

Sales of fireworks are only permitted in the commercial zones provided all other restrictions such as setbacks and the requirements of the Jefferson County Subdivision and Land Development Regulations are met. [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

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Comment [SB271]: Moved from section 4.18.

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Comment [SB272]: Clarifies intent of notice period.

Comment [SB273]: From section 5.6b

Comment [SB274]: From section 4.17

Section 8.1 — Filing an Appeal

Comment [SB275]: Section moved to 3.4

~~A. An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.~~

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~~B. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.~~

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~~C. Appeal applications shall be made on the forms designated by the Planning and Zoning Commission and shall be accompanied by three (3) copies of the application and an accurate drawing of the property showing distance of all structures from property lines and any pertinent data deemed necessary for the request. Submittal of the application shall be made to the Planning and Zoning Office.~~

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~~D. All zoning fees, in accordance with the approved County fee structure, shall be paid upon application.~~

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~~E. No application shall be accepted in the Planning and Zoning Office unless it contains all pertinent information and is accompanied by the required fees.~~

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Section 8.2 — Processing Procedures

~~A. Appeal applications filed in the proper form shall be numbered serially, docketed, and placed upon the calendar of the Board of Appeals.~~

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~~B. The Board shall hold a hearing within forty five days (45) from the date the appeal is appeal is received in the Department of planning, Zoning, and Engineering Office. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990 AND MAY 18, 1996] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

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~~C. Notice of the hearing shall be advertised in two issues of a newspaper having general circulation in the County at least 15 days before the hearing. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

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~~D. Property upon which the application is concerned shall be posted conspicuously by a zoning notice no less than twenty eight (28) inches by twenty two (22) inches, in size, at in size, at least 15 days before the hearing. The sign will be prepared by the Planning Office but is the responsibility of the applicant for the posting of the property. The~~

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Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.

Section 8.3 — Public Hearing

A. The Board following action in Section 8.2, shall hold such hearing. At the hearing, any party may appear and be heard in person or by agent or attorney.

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B. The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail. Any party aggrieved by a decision of the Board may appeal to the circuit court of Jefferson County within thirty (30) days of the Board's decision. The Court may affirm, reverse, vacate, or modify the decision subject to the appeal.

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Section 8.4 — Continuance of Hearing

The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within thirty (30) days from the initial hearing.

ARTICLE 9. EXCEPTIONS

Section 9.1 General

The regulations specified in this ordinance shall be subject to the following exceptions, modifications and interpretations.

Section 9.2 Building Height Limitations

Building height limitations shall not apply for public utilities, agricultural uses, communication poles and towers, chimneys, steeples, water tanks, electric generating plants, electric transforming or switching equipment, flagpoles, fire or observation towers, monuments, or to tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building, hospitals, schools, colleges and public buildings. Commercial wireless communications facilities shall comply with Section Article 4B.7(a). [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 15, 1993 AND JULY 1, 1998]

Comment [SB276]: Proposed change as part of amendments to Article 4B, cell towers.

Section 9.3 Lot Area Modification

In any district where a single-family dwelling is permitted, a dwelling may be erected on any lot or parcel of record, despite the fact that the lot or parcel does not meet the minimum area requirements of this ordinance, provided:

A. The lot or parcel was lawfully created in compliance with the applicable subdivision regulations in effect at the time the lot was created; and

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B. Health Department regulations can be met.

Section 9.4 Setback Modifications

- A. Where the average setback line of at least two (2) existing buildings on lots which are on the same side of the street or road within two hundred (200) feet of the lot in question is less than the minimum setback prescribed by this ordinance, the minimum setback line shall be the average setback line of all buildings within two hundred (200) feet of the proposed building. However, in no case shall the setback line be less than thirty-five (35) feet from the centerline of any abutting road or street.
- B. A structure may be located on a common side or rear lot line of contiguous property owned by the same entity. Provided, however, that the structure shall only be a single family dwelling or an accessory structure. Also provided, however, that the Land Use Ordinances of Jefferson County shall view the contiguous lots shall be treated as one lot for all purposes by the Zoning and Land Development Ordinance and the Subdivision and Land Development Regulations. [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]
- C. Subdivision signs, school bus shelters and/or mailboxes do not have to comply with setback restrictions provided they are shown and approved on the preliminary or final plat in the subdivision process. In subdivisions approved prior to this amendment, subdivision signs school bus shelters and/or mailboxes can be built as shown on the plat or be replaced in the same general location. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]

Comment [SB277]: More specific ordinance names added. (Currently, this is the sole reference to

Section 9.5 Projections Into Yards

[AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]

- A. Projections such as bay windows, chimneys, entrances, uncovered porches, balconies, and eaves may extend into any required yard not more than four (4) feet; provided any required yard not more than four (4) feet; provided that such projections are not over ten (10) feet in lengthwidth. All roof overhangs may extend into any required yard not more than two (2) feet; provided that the primary structure is located entirely within the appropriate setback.
- B. Fences and walls over six (6) feet in height shall meet building lines and yard requirements. An Improvement Locationbuilding P permit is required before construction. Fences and walls six (6) feet and under in height shall be exempt from building lines and yard requirements unless obstructions to vision at an intersection as referenced in Section 4.9.

Comment [SB278]: Text appears to have been inadvertently repeated.

Comment [SB279]: Clarifies intent of section as interpreted by the Board of Zoning Appeals and staff.

Comment [SB280]: Updated term.

Section 9.6 Accessory Structures

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

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

Section 9.7 Other Exceptions

[AMENDED BY ACT OF THE COUNTY COMMISSION ON OCTOBER 12 1989]

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

Comment [SB281]: Name corrected.

Setbacks are as follows in subdivisions that did not have them for which no setback was stipulated previously by the Jefferson County Planning (and Zoning) Commission as a part of the subdivision process:

Residential Growth District

Single family residences --

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

Rural Agricultural and Industrial Commercial

Single family residences --

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

Comment [SB282]: Currently, ordinance has square footage "overlap".

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

Section 9.8 Exceptions, as follows:

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON JULY 15, 1993 AND SEPTEMBER 13, 1990]

Seasonal uses must be approved by the Board of Zoning Appeals pursuant to a public hearing. ~~However, such public hearing need only be advertised for 15 days. Newspaper notification requirements of Section 3.4A(3)(b) apply. Seasonal Uses and Bed and Breakfast establishments (in the Rural Zone) must be approved by the Board of Zoning Appeals pursuant to a public hearing. However, such public hearing need only be advertised for fifteen (15) days. Requests for these exceptions must include all items in Section 12.2 (d).~~ Seasonal uses cannot be approved for longer than one year at a time. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB283]: New text clarifies notification requirements.

Comment [SB284]: Recommend deletion. Bed and breakfast is listed as a principal permitted use in 5.7; as such, it should not require Board of Zoning Appeals approval.

DRAFT

ARTICLE 10. PROVISIONS FOR SIGNS

Section 10.1 Purpose of Sign Provisions

The purpose of this section is to regulate all exterior signs and interior signs placed for exterior observance so as to protect property values and the character of the County. Any sign placed on land or on a building for the purposes of identification or for advertising a use conducted therein or thereon shall be deemed to be accessory and incidental to such land, building or use.

It is intended that the placement of a particular sign will be appropriate to the land, building, or use to which they are appurtenant and be adequate, but not excessive, for the intended purpose of identification or advertisement. It is also intended that in areas proposed for new development, that signs placed will be harmonious in color, form and proportions to its surroundings.

Section 10.2 General Provisions

- A. No sign shall be erected, hung, or placed in any district except as provided in this Ordinance. No sign erected before the enactment of this Ordinance shall be structurally altered or moved except in accordance with this Ordinance.
- B. No zoning permit shall be required for the repainting or repairing of a sign.
- C. No signs, other than subdivision signs approved by the Planning and Zoning Commission, shall be located in the right-of-way of any road or on any slope or drainage easement for such road. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- D. No sign shall be permitted which is an imitation of or which resembles an official traffic control device, railroad sign or signal, or which hides from view or interferes with the effectiveness of an official traffic control device or any railroad sign, signal, or traffic sight lines. Illuminated signs shall be so constructed as to avoid glare or reflection of any portion of an adjacent highway or residential building.
- E. No sign which implies the need or requirement of stopping or this existence of danger shall be displayed.
- F. No sign shall be placed on rocks, trees, or on poles maintained by public utilities.
- G. No sign shall be permitted which becomes unsafe or endangers the safety of the building, premises, or persons and unless maintained in a good general condition.
- H. No sign shall be permitted which contains statements, words or pictures of an obscene, indecent, or immoral character.
- I. No animated signs, as defined by Section 2.2 are allowed.

Section 10.3 Permitted Signs Without Zoning Permit

- A. Signs posted upon property relating to private parking or warning the public against trespassing or against dangers of animals.
- B. Municipal, County, State and Federal signs, including necessary traffic signs.
- C. Historical markers, monuments, or signs erected by a public authority.
- D. Plates on residential structures or premises giving the name or address of the occupant, mailboxes, papertubes, and similar uses customarily associated with residential uses.
- E. A sign indicating the name and/or premises or accessory use of a home for a home occupation or professional purpose, not exceeding one square foot in area.
- F. A sign not exceeding twenty-five (25) square feet on a farm, advertising farm products primarily grown on the premises.
- G. Directional or informational signs of a public or quasi-public nature, such as those containing the meeting date of a community or civic club, or the advertising of a public event.
- H. A temporary real estate sign designating the zoning classification of the parcel, not exceeding twenty (20) square feet and being located on the subject property for sale or lease
- I. Building contractors', subdivision and/or professional person' temporary signs on buildings or land under construction but not to exceed one hundred (100) square feet.
- J. Election signs, provided that unsuccessful candidate shall remove signs within 15 days after a primary or special election. All signs shall be removed within 15 days after the general election. Signs shall not interfere with traffic visibility.
- K. All temporary signs shall be removed thirty (30) days after the event, unless otherwise specified in Article 10.

Section 10.4 Signs Requiring a Zoning Permit

- A. Business and outdoor advertising signs in all zoning districts shall require a Zoning Certificate before placement on any property or building. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989]
- B. Any exterior sign or signs pertaining to the use conducted on the premises, and which is either integral with or attached to the principal building, shall have a sum total area of no more than two square feet for each foot in length of the frontage of the building. No sign shall be attached to the side of the building that faces an adjoining residence. All signs

placed on a property whose use is governed by the Development Review System is subject to Section 10.4 (e).

- C. Individual business or industrial establishments may erect a freestanding business sign, provided the lot frontage is at least forty (40) feet. The freestanding sign shall be located in such a manner that no part of the supporting structure is less than twenty-five (25) feet from the street right-of-way, and that no part of the sign is closer than five (5) feet to the right-of-way. The total area for any sign or signs on one supporting structure shall not exceed 300 square feet and the total height of the sign structure shall not exceed thirty-five (35) feet. Businesses or industries having a frontage on more than one street may have an additional freestanding sign for each street frontage, provided that the total area for all freestanding signs does not exceed 600 square feet. Where the lot adjoins a residence and a freestanding sign is on the side of the business lot adjoining the residential lot, the sign shall not face the adjoining residence. Signs governed by the Development Review System are subject to Section 10.4 (e). Structures which have more than one use shall be required to use a pylon sign. One is permitted on each street frontage. [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 18, 1996]
- D. All outdoor advertising signs shall be spaced in such a manner that in an Industrial District there shall be a minimum of three hundred (300) feet between signs, and in the Rural ~~Agricultural~~ District, where permitted, such signs shall be located in such a manner that there shall be one thousand (1,000) feet between signs. This shall be subject to Section 10.4 (e).
- E. All signs accessory to land use that must be evaluated by the Development Review System (DRS) shall be proposed within the DRS application and assessed at the Compatibility Assessment Meeting. Such signs shall be maintained at least one thousand (1,000) feet between signs. Consideration of the placement of such signs with less than one thousand (1,000) foot intervals shall be determined by the Commercial or Residential Uses adjacent to the subject site. Commercial uses adjacent to the subject site may allow spacing intervals of three hundred (300) feet. The [Planning and Zoning Commission](#) shall make this determination if the location cannot be agreed upon at the Compatibility Assessment Meeting. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- F. No outdoor advertising sign shall be placed closer than three hundred (300) feet to an intersection on a dual or proposed dual highway or within one hundred feet of any other intersection; provided, however, that such signs may be affixed to or located adjacent to a building at such intersections in such a manner as not to materially cause any greater obstruction of vision than caused by the building itself. No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.

G. All outdoor advertising, excluding billboards subject to Section 10.4 (h), shall comply with front yard setback provisions in the districts in which they are permitted.

H. Billboards

1. No billboard shall be closer to any public highway right-of-way than three (300) feet.
2. Placement of a billboard must be in a location that is within eight hundred (800) feet of an existing business.
3. There shall be a minimum of one thousand (1000) feet between billboards.
4. A billboard shall be no closer than five hundred (500) feet from a church, school, or cemetery.

Section 10.5 Special Exception Uses (Requiring Board of Zoning Appeals After Public Hearing)

Outdoor advertising signs including billboards may be approved by the Board of Zoning Appeals if it conforms to existing State law and does not have a negative effect on the neighborhood or intent of this Ordinance.

[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Section 10.6 Zoning Certificate

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON AUGUST 31, 1989]

All Zoning Certificate applications for signs may be approved by the Departments of Planning and Zoning, and Engineering Staff if in conformance with the regulations.

[PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

ARTICLE 11. OFF-STREET PARKING STANDARDS

Section 11.1 Non-Residential Parking Standards

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

Comment [SB285]: Unnecessary.

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Spaces shall be required per use and are as follows: [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]

Ambulance Facility	2 spaces per ambulance
Auto Sales and Service	1 space per 300 square feet of gross floor space.
Auto Service Station	2 spaces per service bay plus 1 space per employee
Banks, Financial Institution	1 space per 200 square feet of floor space plus 5 reservoir-queuing spaces for each drive-up teller
Bowling Lanes	5 spaces per bowling lane
Churches	1 space for each 5 persons for which seating is provided in the sanctuary
Commercial Retail Sales (Less than 2,000 square foot floor space)	1 space per 150 square feet retail floor space
Commercial Retail (Low customer turn over, large indoor display, e.g. carpet, furniture or appliance sales)	1 space per 500 square feet retail floor space
Community Center, Cultural Facility , Library , Museum	1 space per 400 square feet floor space
Private Club, Lodge	1 space for each 2 persons for which seating or lodging is provided
Educational (Schools)	1 space per employee; ample student and visitor parking

Comment [SB286]: "Queuing spaces" is the standard zoning ordinance term for waiting areas in drive-through facilities.

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Fire Stations	10 spaces minimum
Hospitals	1.5 spaces for each bed plus one space for every employee
Hotel, Resort	1 space per guest room plus 1 space per 5 employees
Manufacturing Plant	1 space per employee on maximum working shift
Medical or Dental Offices/Clinics	5 spaces per 1000 square feet of gross floor space
Mortuary or Funeral Parlor	1 space per 150 square feet of floor area devoted to viewing and one space per vehicle used in activity PLUS one space per each two employees; with a minimum of, but 20 spaces minimum
Motels, Tourist Homes	1 space per guest room or suite
Nursing Homes	1 space per 400 square feet floor space
Office Building	1 space per 300 square feet floor space
Professional Building (Other than Medical)	2 spaces per 300 square feet floor space
Recreational Establishment (Other than theaters, swimming pools and bowling lanes)	1 space per 80 square feet of floor space and/or as determined by extent of outdoor use
Restaurants, Taverns, Lounges, Nightclubs	1 space per 50 square feet customer floor space
Shopping Center (Retail greater than 2,000 square feet of floor space)	5.5 spaces per 1,000 square feet floor space
Swimming Pool	1 space for every 7 persons permitted at any one time
Theaters, Auditoriums, Stadiums	1 space per every 2 seats
Transportation Terminals	1 space per main shift employee

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Warehouse or Wholesale Establishments 1 space per main shift employee plus 2 spaces per wholesale establishment

B. Parking requirements for uses not listed in 11.1(a) may be either approved or established by the Department of Planning and Zoning and Engineering Staff on a case-by-case basis. Justification for said requirements must be documented. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON MAY 18, 1996] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

~~Section 11.2 Internal Circulation, Entrance and Parking Requirements~~

~~All site plans for non-residential development are subject to the provisions and regulations for internal circulation, entrance requirements, and parking space and lane requirements referenced in Article 11 of the Jefferson County Subdivision Ordinance.~~

Comment [SB287]: Redundant with Section 4.10, which states that the site plan requirements of the Subdivision and Land Development Regulations must be followed.

Section 11.3 Residential Parking Standards

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989]

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

Comment [SB288]: Unnecessary.

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Spaces shall be required per residential uses as follows:

Type of Residences

Single family detached

Single family attached (duplex or two-family)

Single family attached (townhouses)

Multi-family apartments

Parking Requirements

Driveway only

Driveway only

~~See Section 8.3(c)7 of Subdivision Ordinance~~ See the Jefferson County Subdivision and Land Development Regulations, Appendix B, Division 5.0

~~See Section 9.3 of Subdivision Ordinance~~ See the Jefferson County Subdivision and Land Development Regulations, Appendix B, Division 6.0

ARTICLE 12. MAP AND TEXT AMENDMENTS

Comment [SB289]: Separate amendments for this article currently under review.

Section 12.1 Purpose

- A. These regulations, restrictions, provisions, and the boundaries of districts provided herein may from time to time be amended, modified, or repealed by the County Commission. Any person, individual, board, commission or bureau of the County may petition the County Commission for such change.
- B. The County Commission shall refer any amendment or alteration of this Ordinance to the ~~Planning and Zoning Commission~~ Planning Commission for analysis, study, report, and recommendations. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Section 12.2 Procedure for Amendment by Governing Body

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 4, 1989]

- A. After the enactment of the zoning ordinance, the governing body of the County may amend the zoning ordinance without holding an election. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- B. Before amending the zoning ordinance, the governing body with the advice of the ~~P~~lanning ~~C~~eommission, must find that the amendment is consistent with the adopted comprehensive plan. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

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Section 12.3 Procedure for Amendment by Petition

- A. The procedure for amendment shall be as dictated in §8A-1-1 et seq of the West Virginia State Code, as amended. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
- B. Petitions to the County Commission for an amendment must contain the following information:

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- 1. Substantiation for the request
- 2. Tax District, Map and Parcel number
- 3. Deed Book reference
- 4. Plat or sketch pursuant to Section 7.4 (b)
- 5. Tract size
- 6. Discussion on:

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a. Comprehensive Plan compatibility of the proposed change.

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b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

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APPENDIX A: RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE

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

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

* Maximum height subject to Section 9.2

**Exterior side only

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

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

All detached accessory structures under 144 square feet in size - 6' setback. (Res Growth District)

For all lots approved prior to Sept. 1, 1989, lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.

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APPENDIX B: NON-RESIDENTIAL SITE DEVELOPMENT STANDARDS TABLE

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

Zoning District	Development Type	Minimum Lot Area (MLA)	Minimum Lot Width	Maximum Building Height*	Impervious Surface Limit	Setbacks		
						Front	Side	Rear
Industrial - Commercial**	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25'		
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25'	50' (or 25' if adjacent to industrial use)	
	Industrial	3 acres***	N/A	75	90%	50' (or 25' if adjacent to industrial use)		
Residential / Light Industrial / Commercial	Commercial or Industrial	See Industrial-Commercial District						
Rural	Churches	2 acres	200	35	N/A	25	50	50
	Schools, Grades K-4****	10 acres +	500	35	N/A	100		
	Schools, Grades 5-8****	20 acres +	500	35	N/A	100		
	Schools, Grades 9-12****	30 acres +	500	35	N/A	100		
	Hospitals	10 acres	500	35	N/A	100		
	Other Rural principal permitted uses	40,000 sq. ft.	100	35	N/A	40	50	50
	Commercial or Industrial**	See Industrial-Commercial District						
Village District	Commercial ^v	N/A	N/A		N/A	25	10	40
	Industrial**	See Industrial-Commercial District						
Residential Growth	Commercial or Industrial**	See Industrial-Commercial District						

*These yard requirements are also for an approved commercial or industrial use proposed for any other zone. [Source: Section 5.

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

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

****For schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly. [Source: 5.7(b)]

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

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

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APPENDIX C: PRINCIPAL PERMITTED USES TABLE

(to be inserted)

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Jefferson County Zoning and Land Development Ordinance

Questions and Comments by: Morgan Etters

Pages 4 – 6

- Will Table of Contents' Articles be written as "Article X", "Article X:", or "Article X."? Formatting fluctuates throughout the Table of Contents.

Pages 36 – 37

- Is a greater indentation needed on C.2.a through f?
- Should C.2.f.i through iv be C.2.f.1 through 4? This structure is found in other areas and I don't remember lower case roman numerals being used anywhere else.
- Is a greater indentation needed on C.4.a through b?

Page 39

- Should sentence in paragraph B read, "AMENDED TWICE BY ACT OF THE COUNTY COMMISSION,.....?" If so the word "times" should be removed.

Page 40

- Noticed numbers under J are a different font or size.

Page 42 – 43

- Noticed numbers under Section 4.6, Paragraph A and B are a different font or size.

Page 45

- Under D.1 there is a comment regarding Screening details. Is there any details?

Page 47

- Under Section 4.14, subsection A, there is a comment about 300'/500' conflict in River Buffer. Will the 300' replace the 500'?

Page 59 – 60

- Do the numbered subsections under B, D, and G need a greater indent?

Pages 66 – 68

- Should lower case roman numerals be replaced with standard numbers? I noticed it was changed in most spots.

Page 88

- Section 7.5, subsection B needs to be rewritten. Is very confusing as written. Is paragraph intention something like:
 - After staff review the adjacent property owners will be notified, by staff, of the date, time, and place of Compatibility Assessment Meeting. This notification will be by mail and a posted sign on the property. The sign will be prepared by staff and posted by the applicant. Included on the sign will be proposed development information, along with the date, time, and location of Compatibility Assessment Meeting. The property shall be posed conspicuously by a zoning notice sign no less than twenty-eight (28) inches by twenty-two (22) inches in size and at least fifteen (15) days prior to the hearing. The project shall also be advertised in a newspaper with local circulation at least fifteen (15) days in advance. [AMENDED BY ACT OF THE COUNTY COMMISSION ON MAY 4, 1989.]

Page 94

- Should Section 8.1 subsections be uppercase letters instead of numbers?

Page 95 – 96

- Should Section 8.7 subsections be uppercase letters instead of numbers?

US 340 Corridor – East Gateway Plan

Public Kick-Off Meeting
Saturday, March 26th, 2011

- Overview of Existing Conditions
- Identification of Strengths and Weaknesses
- Issues Identification and Analysis
- Planning Process and Next Steps

TAC/Citizens Committee:

1. Analyze Issues and Information gathered at 3/26 Meeting
2. Analyze Existing Conditions and Data
3. Draft Goals and Objectives for Corridor

2 meetings

Public Meeting
Thursday, June 16, 2011

- Summary of Data and Issues
- Review and Finalization of Draft Goals and Objectives

TAC/Citizens Committee:
 Development of Alternative Land Use Scenarios (including data) potentially using CommunityViz

2 meetings

Public Meeting
Saturday, Sept. 17, 2011

CommunityViz Workshop to consider transportation/ environmental impacts of alternative land use scenarios

TAC/Citizens Committee:
 Review & feedback on...

1. September meeting input
2. Develop a preferred land use alternative
3. Potential ordinance amendments that would be required

2 meetings

Public Meeting
Tuesday, Dec. 6, 2011

Discussion of preferred alternative and potential implementation steps

TAC/Citizens Committee:
 Finalize recommendations for Joint meeting

(if necessary)

Recommendations
Joint PC/CC Meeting
January 19th, 2011

Presentation of Goals and Objectives, Preferred Land Use Scenario and Recommended Implementation Action Items

**US 340 Corridor – East Gateway Plan
March 26, 2011 Kick-Off Public Mtg**

Transportation

- Traffic counts
- Key intersections (turn movements)
- Traffic Generators
 - Major Subdivisions
 - Key Employers
 - Tourism/Visitors

Parks, Trails & Greenways

- Hydrology/Sinkholes
- Parks & Trails
- Land Cover
 - Univ. Vermont
 - Green Infrastructure

Historic Resources & Viewsheds

- Historic Resources
- HLC Viewsheds
- DNR Conservation Priorities

Land Use/Planning

- Aerials
- Existing land use
- Zoning
- Topographic

Economic Development

- Key Employers
- Customs and Border Patrol – multiplier effect
- Harpers Ferry NPS - multiplier effect (tourism and economic impact)

Community Services

- Fire
- EMS
- Water/Sewer
- Schools
- Cell Towers

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MAR 30 2010

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

BYLAWS OF THE JEFFERSON COUNTY PLANNING COMMISSION

Article I - General

Section 1.1 – References

As used throughout these Bylaws, “Planning Commission” shall refer to the Jefferson County Planning Commission, and “County Commission” shall refer to the County Commission of Jefferson County, both of Jefferson County, West Virginia. The term “item” as used herein shall refer to any matter before the Planning Commission for consideration or discussion, and shall be construed broadly.

Section 1.2 – Authority

These bylaws and its provisions are authorized by W.Va. Code § 8A-2-11, which empowers the Planning Commission, among other things, to “(2) Prescribe rules and regulations pertaining to administration, investigations and hearings[,]” provided that the same are adopted by the County Commission.

Section 1.3 – Severability

The invalidation of any provision or section of these Bylaws shall not invalidate any other provision or section of these Bylaws.

Section 1.4 – Amendments

These Bylaws may be amended at any regular meeting of the Planning Commission by a majority vote of the Planning Commission, and shall take effect upon adoption by the County Commission or at a date certain thereafter.

Article II - Organization

Section 2.1 – Membership

The Planning Commission, by ordinance previously adopted by the County Commission, shall be comprised of nine (9) members appointed by the County Commission pursuant to W.Va. Code § 8A-2-4.

Section 2.2 – Term of office

Upon appointment to the Planning Commission, a member shall serve a term of three years pursuant to W.Va. Code § 8A-2-4(g).

Section 2.3 – Powers and Duties

In addition to the powers and duties provided in these Bylaws, the Planning Commission shall have such other powers and duties as provided by law, including but not limited to W.Va. Code § 8A-2-11.

Section 2.4 – Committees

The Planning Commission may establish one or more committees to which, pursuant to W.Va. Code § 8A-2-11(15), it may delegate limited powers. Committees shall consist of no less than three (3) members nor more than five (5) members of the Planning Commission. Appointments to committees shall be made by a majority vote of the Planning Commission.

Article III - Officers

Section 3.1– Elections

At its first regular meeting each January, the Planning Commission shall elect a President, Vice President, and Secretary.

Section 3.2 – President

The President shall preside at all public hearings and meetings held by the Planning Commission. The President may call special meetings of the Planning Commission as necessary, and is empowered to certify by signature or otherwise any official and valid action of the Planning Commission. The President shall also perform such duties and functions as may from time to time be required by the Planning Commission.

Section 3.3 – Vice President

During any absence of the President, the Vice President shall assume the duties and functions of President. The Vice President shall also perform such duties and functions as may from time to time be required by the Planning Commission.

Section 3.4 – Secretary

The Secretary shall perform such duties and functions as may from time to time be required by the Planning Commission.

Section 3.5 – Absence of President and Vice President

In the absence of both the President and Vice President, any present member may call to order a regular or special meeting of the Planning Commission, which shall thereupon immediately empower one or more of its present members to fulfill the duties and functions of President and/or Vice President during said absence.

Section 3.6 – Replacing Officers

In the event of the death, resignation, or removal of an officer of the Planning Commission, the Planning Commission shall thereupon elect one of its members to complete the unexpired term. A three-fifths majority of the total membership of the Planning Commission may, at any regular meeting, remove the President and/or the Vice President from office, provided that a new election to fill the remaining term(s) of office is immediately held.

Article IV - Meetings

Section 4.1 – Regular Meetings

The Planning Commission shall hold regular meetings on the second and fourth Tuesdays of each month at 7:00 p.m. in the ground floor meeting room of the Old Charles Town Library, at 200 East Washington Street, Charles Town, West Virginia. Prior notice shall be provided in the event that any regular meeting is held at a different location. A regular meeting may be postponed or cancelled for appropriate reasons, and in such case prior notice of said postponement or cancellation shall be provided if possible.

Section 4.2 – Special Meetings

A special meeting may be called by the President or by two or more members of the Planning Commission to be held on a different day and/or a different time than regular meetings. Pursuant to W.Va. Code § 8A-2-7, notice for all special meetings shall be in writing, include the date, time and place of the special meeting, and be sent to all members at least two days before the special meeting. A special meeting may be postponed or cancelled for appropriate reasons, and in such case prior notice of said postponement or cancellation shall be provided if possible.

Section 4.3 – Recording of Meetings

All meetings of the Planning Commission shall be recorded, and such recordings shall be maintained and made available, upon request and in accordance with the procedures of the Planning Commission and/or its staff, to the public.

Section 4.4 – Agendas

An agenda shall be made available prior to the start of all regular and special meetings. Items shall be listed on the agenda in such a manner as to sufficiently identify the substance of the item and allow for a vote on the item by the Planning Commission if necessary. The Planning Commission may deviate from an agenda's order if necessary.

Section 4.5 – Quorum

In order to conduct a regular or special meeting, a quorum of the members must be present. A majority of the members of the Planning Commission shall constitute a quorum. No action of the Planning Commission shall be official or valid unless authorized by a majority of members present at a regular or special meeting.

Section 4.6 – Procedures for Conducting Meetings

In the absence of state law or of other procedures of the Planning Commission, Roberts Rules of Order, current edition, shall be the parliamentary authority of Planning Commission meetings.

Section 4.7 – Open Governmental Proceedings

All meetings and actions of the Planning Commission shall comply with the requirements of West Virginia's open meetings laws, codified at W.Va. Code § 6-9A-1, et seq.

Article V – Consideration of Items

Section 5.1 – Voting

A member must be physically present at a meeting to vote on any item considered at said meeting. Voting via telephone or proxy is not permitted. Abstention shall not be permitted by a member who is otherwise entitled to vote on an item.

Section 5.2 – Recusal

A member may recuse himself/herself in relation to an item for the reasons set forth herein, in which case such member shall not participate in discussion, consideration or vote on said item. Valid reasons for recusal include (1) having a personal interest in an item, (2) having a contractual, employment, or other relationship with a party involved with an item, (3) being unable to impartially consider an item, or (4) having been absent from part or all of the discussion or consideration of an item. A member recusing himself or herself shall thereupon state the reason for such recusal and leave the meeting, remaining absent for the duration of consideration and/or discussion of the item.

Section 5.3 – Ex Parte Communications

For purposes of these Bylaws, ex parte communications consist of communications regarding the substance of an item that is or will be before the Planning Commission for consideration and/or discussion, when such communications are between one or more members of the Planning Commission and one or more individuals involved with the item. No member of the Planning Commission shall voluntarily and knowingly engage in ex parte communications without the authority of the Planning Commission. In the event that a member of the Planning Commission has engaged in or receives any ex parte communication, said member shall bring the same to the attention of the Planning Commission. Communications with third parties regarding procedural aspects of items do not constitute ex parte communications in the context of these Bylaws.

Section 5.4 – Ex-Officio Member Voting

A member who is also a member of the County Commission is a full voting member of the Planning Commission. However, any such ex-officio member may elect not to vote as a member of the Planning Commission on items which will subsequently require action or consideration by the County Commission.

An ex-officio member may remain at the meeting and participate in discussion on an item on which they elected not to vote under this Section.

Before the Planning Commission of Jefferson County, West Virginia

In the Matter of: The Request by Far Away Farm, LLC for tolling of Deadlines and/or a Variance to Extend the expiration Date of the Community Impact Statement until March 2, 2015

On the 14th Day of December, 2010, the applicant, Far Away Farm, LLC, appeared and requested a tolling of the expiration date of the previously issued Community Impact Statement until March 2, 2015. In the alternative, the applicant requested a variance of the expiration date until the same date.

Prior to consideration the formal requests, applicant's counsel Nathan Cochran, Esquire, asked certain members of the Planning Commission recuse themselves because of their involvement in a lawsuit filed by the Planning Commission against the applicant. He specifically requested Mr. Maxey, Mr. Taylor, Mr. Trumble, Mr. Baty, Ms. Ethers, and Ms. Morgan recuse themselves. After an executive session to receive legal advice, each member individually declined to recuse themselves upon the record.

The Staff report was presented. The professional planning staff recommended denying the request for tolling until March 2, 2015 but recommended an extension July 1, 2012 as consistent with other recent extensions.

The Planning Commission then heard from the applicant on the merits of its requests for tolling and/or a variance to extend the expiration date of its Community Impact Statement. The heart of applicants request is that litigation caused delays to the project which justifies tolling of the deadlines on a day-for-day basis. During questioning, the applicant stated that it had made no progress on the project beyond the initial Community Impact Statement (CIS) and stated that the on-going litigation prevented further progress even during the periods of time in which

litigation was not pending. Without waiving the claim for tolling, the applicant went on to set forth the basis for a variance addressing each of the four variance criteria as follows:

- “1) The request is not contrary to public interest and that there would be public expense and time if the project had to start again from the beginning and that the development of the property had not been proven to violate any historic issues.
- 2) A literal enforcement of this Ordinance would result in an unnecessary hardship financially for the developer and require additional expense to the County.
- 3) The request is not the result of a self-imposed hardship due to the time in legal Proceedings which the applicant did not initiate.
- 4) The spirit of the Ordinance will be observed and substantial justice done because Far Away Farms had followed all the requirements presented to them in order to be allowed to proceed with the development.”

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

After questioning the applicant and after discussion and deliberation, the Planning Commission by unanimous vote, DENIED the tolling request because the applicant failed to convince the Planning Commission tolling of deadlines was justified. Furthermore, the Planning Commission DENIED the applicants request for a variance because the applicant failed to meet its burden to demonstrate that the request for variance satisfied all four variance requirements. Specifically, the applicant did not prove that granting the variance was in the public interest since granting the variance would allow the development to proceed under 30-year-old subdivision regulations that do not conform with the current subdivision regulations.

Entered this 8th day of February, 2011 the Jefferson County Planning Commission by

John Maxey, President

JEFFERSON COUNTY, WEST VIRGINIA
Department of Planning & Zoning
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Director's Report
March 8, 2011
Planning Commission Meeting

- 1) Activity Report (attached)
- 2) Update on Blue Ridge Mountain Communities Watershed Final Citizen's Committee meeting (held 2/26/11) and potential next steps
- 3) Report on Home Occupation/Cottage Industry Roundtable Discussion (held 3/1/11)
- 4) Update on Annual Report Subcommittee (attached)
- 5) Budget/Work Plan Submission (attached)
- 6) Staff involvement in Regional Planning Conference, Cumberland, MD, May 5-6, 2011 (attached "Save the Date" Flyer)
- 7) Recent CC agenda items:
 - a) Second Quarterly Report on FY 2011 Work Plan sent to County Commission as packet agenda item (2/10/11, written report only)
 - b) Wireless Telecommunications Ordinance Amendment Public Hearing (held 2/24/11, 7 pm)
 - c) Public Hearing to Amend the County Zoning Map to consider Urban Growth Boundaries for Harper's Ferry and Bolivar (held 2/17/11, 7 pm)
- 8) Upcoming CC agenda items:
 - a) US 340 Corridor – East Gateway Plan Planning Process Overview and Announcement of 3/26/11 Kick-Off Meeting (3/10/11)
 - b) Urban Tree Canopy Update and Plan/Goals (3/10/11)
 - c) Follow Up on Planning Commission Recommended Land Development Fee Schedule (3/17/11)
 - d) Follow up report on Wireless Telecommunications Ordinance Amendment Public Hearing (3/17/11)
 - e) Follow up on Public Hearing input into Proposed Urban Growth Boundaries for Harper's Ferry and Bolivar (3/17/11)
 - f) Referral on Subdivision Regulation Amendments regarding Minor Site Plan Process in Major Non-Residential Subdivisions (date TBD)

9) Upcoming PC meetings:

a) March 2011

- Tentative – possible work session on Policy Neutral Zoning Ordinance Amendments (3/22/11?)
- US 340 Kick-off Meeting – March 26, 2011

b) April 2011

- Public Hearing on Policy Neutral Zoning Ordinance Amendments
- Special 2 hour PC Meeting in April to meet training requirements established by CC including old and new members

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE: WEEKLY CALENDAR

MONDAY, FEBRUARY 21, 2011 PRESIDENT'S DAY HOLIDAY – OFFICE CLOSED

TUESDAY, FEBRUARY 22, 2011

9:30 am - 11:30 am JENNIE, STEVE & SETH – ZONING ORDINANCE MEETING
1:00 pm – 2:00 pm STAFF MEETING
2:00 am – 3:00 pm JENNIE, SETH & AMY – WEEKLY PLANNING MEETING
3:00 pm – 4:30 pm JENNIE, STEVE & JENNILEE – WEEKLY ZONING MEETING.

7:00 pm PLANNING COMMISSION MEETING

INTERN DOUGLAS GRIFFITH – WORK / 9:00 am – 4:00 pm

WEDNESDAY, FEBRUARY 23, 2011

9:30 am – 12:30 pm JENNIE – STORMWATER MANAGEMENT STEERING COMMITTEE MEETING
LOCATION: MOUNTAIN STATE UNIVERSITY
10:00 am STEVE, SETH, JONATHAN - BLICKENSTAFF M/S PPC
10:00 am JULIE – TELECONFERENCE
2:00 pm JENNIE, STEVE, SETH, JONATHAN & BECKY – MEETING WITH FRED BLACKMER /
RE: INCORPORATION OF MANNINGS
5:00 pm JENNIE – ROUNDTABLE DISCUSSION (COG)

THURSDAY, FEBRUARY 24, 2011

9:00 am - COUNTY COMMISSION MEETING
10:00 am – 11:00 am JENNIE, SETH & JULIE – DOWNSTREAM STRATEGIES MEETING
1:00 pm – 2:00 pm JENNIE – MANAGEMENT COURSE WEBINAR
7:00 pm – 9:00 pm JENNIE, STEVE, SETH & JULIE – COUNTY COMMISSION MEETING / RE: WIRELESS CELL TOWER
LOCATION: LIBRARY CONFERENCE ROOM

INTERN DOUGLAS GRIFFITH – WORK / 1:00 pm – 4:00 pm

FRIDAY, FEBRUARY 25, 2011

MORNING DALE FROM FRONTIER / JULIE'S TELEPHONE "ISSUES"
10:00 am - NOON NEIGHBORHOOD COMPATIBILITY MEETING / RE: RUSTY MORGAN – RIPPON BREWERY
11:30 am SETH & JULIE – TELEPHONE CONFERENCE WITH DR. SWAMI NATHAN / RE: 340 CORRIDOR
LOCATION: LIBRARY CONFERENCE ROOM
1:30 pm JENNIE, SETH & JULIE – TELEPHONE CONFERENCE WITH PATRICK KIRBY/ 340 CORRIDOR

SATURDAY, FEBRUARY 26, 2011

9:00 am – 12:30 pm JENNIE, SETH & JULIE – BLUE RIDGE CITIZENS COMMITTEE MEETING
LOCATION: ST. ANDREWS (ON MOUNTAIN)

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE: WEEKLY CALENDAR

MONDAY, FEBRUARY 28, 2011

8:00 am – 9:30 am JENNIE – BREAKFAST MEETING WITH TOM TRUMBLE
10:00 am JENNIE, STEVE, SETH & JONATHAN – SITE VISIT /
RE: BLOOMERY PLANTATION DISTILLERY
1:00 pm STEVE – SITE VISIT / CELL TOWER SITE

TUESDAY, MARCH 01, 2011

10:00 am – 11:00 am STAFF MEETING
1:00 am – 2:00 pm JENNIE, STEVE – WEEKLY ZONING MEETING
2:00 pm JENNIE, SETH & JULIE – TELEPHONE CONFERENCE w/PATRICK KIRBY
2:30 pm – 3:30 pm JENNIE & SETH – WEEKLY PLANNING MEETING.
4:00 pm - 6:00 pm COTTAGE INDUSTRY WORKSHOP / RE: LIBRARY CONF. ROOM

INTERN DOUGLAS GRIFFITH – WORK / 9:00 am – 4:00 pm

WEDNESDAY, MARCH 02, 2011

10:00 am STEVE, SETH & JONATHAN – SITE PLAN PPC / RE: COVENANT BAPTIST CHURCH –
SUZANNE FRUND
NOON STEVE – SITE VISIT / 147 EDMOND ROAD
11:00 am STEVE, SETH & JONATHAN – SITE PLAN PPC / RE: ASBURY UNITED METHODIST CHURCH
MICHAEL HICKS, FREDERICK SEIBERT & ASSOCIATES
1:30 pm – 3:00 pm JENNIE – TELEPHONE CONFERENCE / PHASE II LOCAL STAKEHOLDERS
1:00 pm STEVE, SETH & JONATHAN – SITE PLAN PPC / COUNTRY ROADS STORE – TONY COLANDREA
2:00 pm STEVE, SETH & JONATHAN – SITE PLAN PPC / GRACE BAPTIST CHURCH – JANICE MYERS
4:00 pm – 4:30 pm JENNIE – BLOOMERY PLANTATION TOPO MEETING @ GIS OFFICE

THURSDAY, MARCH 03, 2011

9:00 am - COUNTY COMMISSION MEETING
1:00 pm – 2:30 pm JENNIE – MANAGEMENT COURSE WEBINAR
2:45 JENNIE – MEETING WITH JOANNE HARDESTY / RE: COTTAGE INDUSTRY

INTERN DOUGLAS GRIFFITH – WORK / 1:00 pm – 4:00 pm

FRIDAY, MARCH 04, 2011

Amy Puetz

Subject: FW: annual report draft
Attachments: Working Draft PC 2010 Annual Report rev 021411.doc

From: Jennifer Brockman [<mailto:jbrockman@jeffersoncountywv.org>]
Sent: Monday, February 14, 2011 6:45 PM
To: 'THOMAS L. TRUMBLE'; 'maxey'; 'Daniel_Hayes@URSCorp.com'; 'jenhayes@frontiernet.net'; 'Baty, Kelly'; 'kbaty@frontiernet.net'
Cc: 'Julia Quodala'; 'Seth Rivard'; 'Jennifer Brockman'
Subject: annual report draft

Committee members:

Today, Kelly and Daniel attended the Annual Report Committee meeting. Attached is a draft with sections the need input highlighted at their request. Please provide input/feedback to all sections that need your input. A final version can be compiled and a follow up meeting can be held at your convenience. Please be aware that this format is based on last year's report and that it is not necessary that the report stay in this format. Areas that were included last year, where facts have changed, are highlighted for your input.

This is the Commission's report in accordance with state law and needs to reflect what you would like to report to the county commission.

Jennie

Jennifer M. Brockman, AICP, Director
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2010 Annual Report

TO: Jefferson County Commission
FROM: Jefferson County Planning Commission
DATE: ~~February 4, 2011~~ **WORKING DRAFT (revised 2/14/11 based on committee input)**
RE: Annual Report and Budget Statement

Executive Summary

Chapter 8A of the West Virginia Code, Article 2, Section 11, requires that a locally created and appointed Planning Commission make an annual report to the County Commission concerning the operation of the Planning Commission and the status of planning within its jurisdiction. It also requires that the Planning Commission prepare and submit an annual budget to the County Commission. Pursuant to these requirements, the Planning Commission conferred with the Departments of Planning and Zoning regarding both the 2010 planning efforts, and the planning requirements for calendar year 2011. The following is submitted for the County Commission's consideration.

The Jefferson County Planning Commission is pleased to report that, in spite of a declining budget, the Departments of Planning and Zoning were fully staffed for essentially the entire calendar year, with limited staff turnover. Although this staffing will provide the capacity to manage the daily operations which comprise four of the five major categories of the Department's tasks and responsibilities, the Departments do have limited ability to address the comprehensive planning needs of the county. Even during the current economic downturn, the need for a more robust planning function continues to be a matter of great concern to the Planning Commission since there are a number of county-wide planning issues that need to be addressed in the very near future.

A. Planning Commission Statement on the State of Planning in Jefferson County

1. Planning Function ADD INFO HERE

Thoughts:

Report on success of Blue Ridge Mountain Communities Area Plan _____

Report on start up of US 340 Corridor Plan effort _____

Discuss Chesapeake Bay and need for comprehensive County effort that is broader than Planning staff – in 2011 there is a County level water plan that is being coordinated by DEP and will require input

Support participation in regional efforts such as Region 9's Model Stormwater Regulation process; HEPMPO's Technical Advisory Committee (TAC)

Support participation in Countywide Joint Utility Group although it meets sporadically

??? need for a dedicated Comprehensive Planner? -- this has not been discussed in recent months

2. Development Review Function?

Add some Discussion of Jefferson County (WV) Parcel and Building Data – January 2011 and need to continue to fine-tune and improve the data over the years

Jefferson County (WV) Parcel and Building Data – January 2011

District	Number of Parcels	Number of Buildings	Number of Addressable Structures
1 - Bolivar	593	491	582
2 - Charles Town District	6,805	4,841	6,292
3- Charles Town Corporation	2,599	2,013	2,546
4 - Harpers Ferry District	5,066	2,888	3,506
5 - Harpers Ferry Corporation	335	218	262
6 - Kabletown District	4,510	2,642	2,774
7 - Middleway District	3,261	2,481	2,777
8 - Ranson Corporation	2,350	1,679	2,265
9 - Shepherdstown District	3,680	2,790	3,301
10 - Shepherdstown Corporation	476	398	548
Total	29,675	20,441	24,853

Assessor Notes:

1. The Assessor provides no warranty to the data.
2. Data provided is used for tax assessment purposes and, as such, is created for that use. It may not be suitable for other purposes.
3. Parcel Data is from the GIS Maps, phase 1, which was the direct conversion of the CAD maps to GIS. It includes the updates for the 2011 tax billing. Per WV State Law, parcels can only be created once there is a transfer. Lots can also be merged and unmerged for tax purposes. Due to these and other factors, the number of parcels is not an indicator of approved lots.
4. Number of buildings is also from the GIS maps, it is the number of improvement indicators on the map and NOT from the data in the Integrated Assessment System (IAS). It includes all buildings and real estate mobile homes. It would not include any buildings that the appraisers deem as unsound. Personal Property homes are not included. Personal Property home would include any building or mobile home located on the property of another entity.

GIS/Addressing

1. Data layers in the County's GIS are under constant maintenance cycles and staff are continually improving the data currency and accuracy as public use demands and resources permit.
 - a. The data presented here is the best available data at the time and are reasonably suited for general county planning and reporting purposes.
 - b. As with any data set, the user is ultimately responsible for determining if the information is suitable for their purpose. Any questions regarding the nature of the GIS data or its accuracy should be directed to the County GIS Office.
 - c. The GIS Office seeks every opportunity to improve data quality and analytical methods.
 - i. Our vision includes future development of relationships, data layers, resources, techniques and enterprise solutions in an effort to provide better, sound data to County leaders. As the data gets better, so too will the accuracy and detail in annual reporting.
 - ii. Reasonable improvements in the coming year(s) include:
 1. Continued maintenance and development of existing GIS data
 2. Collection of new GIS data to fill in known data gaps
 3. Exploration of enterprise solutions for database management systems and internet mapping applications
2. Addressable Structure totals reflect not only homes, but all physical location points in the County to include: churches, commercial, residential, dormitories, apartments (1 point location for each separate unit), mobile homes,

offices, park & government-owned facilities, schools, some campsites and utilities like cell towers and sewer pump stations.

3. **Staff Development** ADD INFO HERE

Dedicated, hard working staff

single Planner managing both the long range and current planning functions

Zoning Administrator is managing day to day operations and ordinance rewrites

Consider rewriting From last year ????? need to be “grown” from within/need to develop internally a Planning Technician that can support these professional staff positions in a way that an administrative staff person cannot --- NOTE: instead we have upgraded the Zoning Clerk to a grade 3 parallel to the Planning Clerk and are relying on both to assist with research on ordinance updates as well as clerical support; consider that if development activity picks up significantly a consultant be used for development review activities while long range planning activities are being handled by staff ; recommend providing training opportunities for clerical staff to strengthen these skills

? Continue to support the formation of a Human Resources Department would provide support not only to the Departments of Planning and Zoning, but all county employees and would simplify these types of efforts.

Support need for on-going staff training -- broadens staff’s knowledge base, meets on-going training requirements of the planning profession, provides opportunities to network with others experiencing the same issues; training and development opportunities need to continue to be a part of the Departments’ budgets.

4. **Administrative Issues** ADD INFO HERE

??Appreciate the CC’s recognition of the need for an additional civil attorney which allows better support of the staff, Planning Commission, and Board of Zoning Appeals??

5. **Technical Support** ADD INFO HERE

Appreciate CC support of lease of new copier – extremely beneficial and helps with efficiency

Need for on-going coordination with the County’s Geographic Information Services/Addressing (GIS) and Information Technology (IT) offices -- need to fund and manage these types of activities on a county-wide basis – intranet, web-based GIS technology, coordination

B. Previous Year in Review: 2010 Customer Service and Development Activities

Complete sentences and carefully review for content/comments:

appreciate competent and friendly staff with a high priority on customer service and a desire to implement the planning and zoning regulations in a fair and equitable manner _____

The ability to fill all budgeted positions (including replacing the Zoning Administrator in a timely manner) allows responsive customer service and development review activities as well as on-going planning functions _____

Reorganization of administrative staff to take advantage of strengths and skills and better support the professional staff _____

In 2010, the following employees formed the staff of the Departments of Planning and Zoning. This chart reflects their current positions:

Department Member	Title	Hire Date
Jennifer M. Brockman	Director	May 2009
Steve Barney	Zoning Administrator	July 2010 (replacing Jennifer Snyder)
Seth Rivard	Development Review Planner	September 2009
Julie Quodala	Office Manager	January 2010
Jennilee Hartman	Zoning Clerk	October 2003
Christine Chalmers	Front Counter Clerk	October 2006
Amy Puetz	Planning Clerk	September 2009

Commend dedication and positive attitude with focus on customer service _____

THIS DATA HAS BEEN UPDATED IN SIMILAR FORMAT AS 2009

In analyzing the staff function of the Departments of Planning and Zoning, the staff appears to be five major categories of tasks. The following summarizes the efforts under each of these categories for the calendar year 2010.

1. Customer Service

Walk-In Customers: During the 2009 Annual Report preparation, it was noted that there was no mechanism in place to track the number and types of general customers or the variety informational requests. Generally, the walk-in requests require multiple staff members to respond and is a significant part of the Department's customer service efforts. In early 2010, a tracking mechanism was developed and implemented to provide some sense of the magnitude of this daily customer contact. These counts were start mid-year and provide the following information:

Total Walk-in Customers (6 month period): 240; Average/Month: 40/month

Phone calls/Voice mail: Again, during the 2009 Annual Report, it was determined that there was no tracking of the numbers and types of phone calls or messages received by Department staff. In March 2010, a tracking mechanism was developed so that the magnitude and scope of this type of customer contact can be monitored. Note that many calls go directly to a staff member and not all of these calls are tracked as well as the calls received at the main numbers. The Departments have a standing policy that requires staff to respond to phone messages and voice mail within 72 hours.

Total Call-in Customers (9 month period): 1486; Average/Month: 165/month

E-mail: The Planning and Zoning Department email addresses are posted on the web-site and on staff business cards. Correspondence received by the general Planning and Zoning Department mailboxes totaled 736 e-mails, for an average of 61 e-mails per month.

E-mail is monitored by the administrative staff and forwarded to the relevant staff members. Although individual staff members email correspondence is usually not tracked, if there is a specific

request for information then it is recorded on Information Request Forms (IRF). The Department's policy is that email responses must be within 7-10 business days unless the requests complexity requires additional research or analysis in order to formulate an appropriate response.

Responses to Information Request Forms (IRFs): The Departments have an internal policy that if a walk-in or email request will take more than 15 minutes for the professional staff to respond, an Information Request Form is completed and a response is prepared or maintained in writing. Often these requests require some background research and a follow up meeting that is generally scheduled within 72 hours of the request. The number of IRFs in 2010 totaled 158, all of which required background research and a response from the Zoning Administrator or the County Planner. This compares with 122 IRFs in 2009, with 87 requiring a written response from the Zoning Administrator.

2. Planning Commission Support

The Planning Commission (PC) is a nine member appointed volunteer board created under the provision of the WV Code Chapter 8A with specific duties and responsibilities.

Commission members as of December 31, 2010 included the following:

Commission Member	Title	Term Ends
John Maxey	President	March 2011
Tom Trumble	Vice President	March 2011
Kelly Baty		March 2013
Arnie Dailey		March 2012
Morgan Etters		March 2013
Daniel Hayes		March 2011
Eric Smith		March 2013
Gene Taylor		March 2012
Frances Morgan	County Commission Representative	2010 term

The Departments of Planning and Zoning support the Planning Commission meetings with professional and administrative support staff. Generally, four Department staff members are present; the Director, the Zoning Administrator, the County Planner and an administrative staff member. Additionally, the Legal and Engineering departments send representatives as necessary. The Planning Commission held 22 regularly scheduled meetings in 2010, plus 3 special Planning Commission meetings, 3 Citizen Outreach Meetings related to the Blue Ridge Mountain Visioning Project, and 4 workshops (including a joint meeting with the County Commission related to the Blue Ridge Mountain Visioning project), for a total of 29 meetings. Planning Commission meetings consist of the review and approval of development requests; input into long range planning projects being undertaken by staff such as the Blue Ridge Mountain Project and the US 340 Corridor Project; review and consideration of public testimony on potential amendments to the Zoning Ordinance and Subdivision Regulations; and recommendations on policies to the County Commission. Additionally, a change in state law resulted in the automatic extension of certain projects that were submitted under old regulations. Based on the Planning Commission's interpretation of this new law, some projects were determined to not qualify for the automatic extensions. This has resulted in the need to consider CIS Extension Variances under the 1979 Subdivision Regulations to determine whether an extension is warranted. Occasionally, the Planning Commission forms a Subcommittee to address a specific short term project. Ten (10) subcommittee meetings were held in 2010.

Certain development requests require a formal public hearing, as a part of the Planning Commission meeting. The following types of Public Hearings were held within the 22 times that the PC met.

- Final Plat Public Hearings 2
- CIS Extension Variance Request Public Hearings 5
- Subdivision Regulation Waiver Hearings 8
- Site Plan Hearings, including Concept Plans 1
- Zoning Map Amendment Hearing 2
- Cell Tower Related Hearing 3
- Total # of Public Hearings within the meetings 21

An additional seven Public Outreach meetings (7) meetings were held for the purposes of discussing and soliciting input into the Proposed Amendments to the Subdivision Regulations, Proposed Revisions to the Land Development Fees, and the Proposed Wireless Telecommunications Zoning Ordinance Amendments, including public outreach meetings and open houses.

In order for a Planning Commission to be effective, it is important that the members have opportunities for training and orientation. The Planning Commission commends the staff's efforts to make the Commission aware of training opportunities within Jefferson County (webinars hosted by Ranson) and encourages that additional opportunities be made available for all members, as well as staff. The Commission also appreciated staff's efforts at providing short training opportunities within the meetings after the appointment of the new members to provide an overview of the requirements of 8A and the primary planning documents, the Comprehensive Plan, the Zoning Ordinance, and the Subdivision Regulations.

3. Board of Zoning Appeals support

The Board of Zoning Appeals (BZA) is a five member appointed volunteer board, with one alternate, created under the provision of the WV Code Chapter 8A with specific duties and responsibilities.

The BZA members in 2010 include the following:

BZA Member	Title	Term Ends
Jeff Bresee	Chairman	January 2011
Christy Huddle	Vice Chairman	January 2012
Tiffany Hine		January 2013
Jon Brusco		January 2011
Edwin T. Kelly, II		January 2012
Tyler Quynn		alternate

The Departments of Planning and Zoning also support the Board of Zoning Appeals (BZA) meetings with professional and administrative support staff. Generally three Department staff members attend these meetings; the Director, the Zoning Administrator and an administrative staff member. Additionally, Legal sends a staff representative as necessary. The BZA held 11 regularly scheduled meetings in 2010. BZA meetings consist of regular business primarily focused on conditional use permits and variances as defined in the locally adopted Zoning Ordinance and the state law Chapter 8A, as well as appeals of the Zoning Administrator's decision. Changes in the locally adopted Zoning Ordinance, due to the conclusion of a law suit, have resulted in a changing

role of the BZA throughout the year and careful monitoring on the part of staff to ensure the agenda items were being heard by the correct body.

The following types of Public Hearings were held within the 11 meetings of the BZA in 2010:

- Variance Requests 26
- Conditional Use Permit Activity 2
- Seasonal Use Permits 0
- Appeals of Zoning Administrator's decisions 0

Again, in order for the BZA to be effective, it is important that the members have opportunities for training and orientation. The Planning Commission encourages the staff to continue to pursue training opportunities that would benefit the new Zoning Administrator, the BZA members, and the citizens of Jefferson County.

4. Pre-Proposal Conferences and Development Review

A significant part of the Departments' staff time is spent on development related items. Even during the current economic slowdown, the Departments receive numerous requests for information on processing minor site plans and subdivisions. The Amendments to the 2008 Subdivision Regulations, adopted in August 2010, have helped clarify and streamline the application process; however, many projects were in process at that time and this results in the need for staff interaction with applicants to ensure the correct rules and processes are being utilized. There are generally two types of activities related to development: the first is referred to as a Pre-Proposal Conference (PPC) and is described below, and the second is the actual review of an application, its plans and/or plats.

The staff offers the opportunity for any applicant to meet with the planning, zoning and engineering staff to review their proposed projects prior to any significant investment in engineering services. In part, these meetings help determine what the submittal requirements are, and whether an applicant needs to follow a major or minor process for their proposed site plan or subdivision. These types of meetings also occur when a property is found to have a violation of the Zoning Ordinance and the property owner wants to work with staff to determine the corrective action necessary to resolve the violation. This process is referred to as a Pre-Proposal Conference (PPC). Staff attendance at a PPC varies depending on the type of request and complexity of the request. Generally the Zoning Administrator, County Planner and County Engineer are present.

The following data relates to the PPCs held in 2010:

- Site Plans 15 plus 2 violation follow up meetings
- Subdivision Plats 19 plus 6 parent-to-child discussions

This compares with a total of 76 PPCs held in 2009.

The transition to the Subdivision Regulations Amendments adopted in August 2010 has resulted in a change in the review and processing of the various development items. If an item was submitted under the previous Subdivision Regulations (either the 1979 or the 2008), it continues to be processed under those rules (as long as it is an active application). As a result, due to the date of submittal, a number of major preliminary and final subdivision plats are still processing under the 1979 Subdivision Regulations; while all Minor Plats and all Major and Minor Site Plans are being reviewed under the 2008 or 2010 Subdivision Regulations. The following project reviews occurred in 2010:

- Minor Plats 48
- Minor Plat Change 1
- Merger Deeds 13

- Major Preliminary Plat 2
- Redline Revision 1
- Minor Site Plans 14
- Major Site Plans 7
- Zoning Certificates 20 submissions; 18 approved/issued

5. Comprehensive Planning Function

a. Planning and Analysis Projects

The County is taking advantage of the downturn in the economy to concentrate on some limited long range planning efforts. In September 2009, the County was awarded a National Fish and Wildlife Foundation grant in order to develop a citizen’s based issues analysis and vision for the Blue Ridge Mountain Communities Area Watershed. This planning effort occurred throughout 2010 and involved the services of a consultant, Downstream Strategies, and the appointment of a 29 member Citizen’s Committee. The development of this Communities Area Watershed Plan resulted in recommendations which benefit the Chesapeake Bay watershed concerns as well as addressing local planning issues. This grant was staffed by County Planner, the Office Manager and Planning Director. The Planning Commission strongly supports this type of long term planning that includes citizen input, and would like to see more of these opportunities in the future.

A second planning effort that was initiated in 2010 and will be a primary focus of the staff and Commission in 2011 is the US 340 Corridor-East Gateway Plan. A Technical Advisory Committee has been formed and the initial efforts to compile and draft existing conditions data was initiated in the late Fall 2010.

b. Regional and Cross Jurisdictional Outreach Efforts

In an effort to increase awareness, provide feedback, and participate in projects that may impact future long range planning efforts, the Planning staff attends numerous regional meetings.

These meetings include the following:

- Chesapeake Bay Initiative 2
- Joint Utility Working Group 2
- Region 9 Model Stormwater Regulation Advisory Committee 7
- Hagerstown/Eastern Panhandle Metropolitan Planning Org. (HEPMPO) 3
- Jefferson County Council of Governments 2
- 340 Corridor Meetings 5
- Urban Tree Canopy Plan/Grant Meeting 7
- Urban Growth Boundary Meetings with Municipalities 3
- Jefferson County Health Department 3
- Leadership Jefferson 7
- Water Advisory Committee 6
- Economic Development Authority Board Meetings 6
- Blue Ridge Mountain grant/slope related meetings 14
- Miscellaneous 22
- Public Service District Board meetings (attended by PC members) n/a

While the Planning Commission supports the efforts of the Director of Planning and Zoning to reach out to other Departments, jurisdictions, and regional entities, it became apparent that

much of the Director's time was being spent in these non-actionable meetings. As a result, in the Fall, 2010, the representatives of Planning Commission began attending the Water Advisory Committee, the Public Service District Board, the Health Department Board, the Jefferson County Economic Development Authority Board, and the Parks and Recreation Board meetings. Attendance at these meetings is to ensure that there is an open and free flow of communication between these entities and both the Planning and County Commissions. These efforts also ensure that the County is aware of projects that may have overlapping interests.

When the Director was hired in 2009, one of key tasks identified was to bridge the lines of communication by acting as a liaison between the Planning Commission and County Commission, as well as pursuing opportunities for multi-jurisdictional planning efforts. Toward this end, the Planning Commission appreciates the County Commission's sponsoring of the Director in Leadership Jefferson, which began in Fall 2009 and ended in June 2010. This Leadership Jefferson class also included the planners from the cities of Ranson and Charles Town, as well as the Director of Region 9 and the County's Economic Development Director. This program provides an opportunity to meet key individuals throughout the County and become familiar with issues that might not otherwise come to the forefront. While time consuming, the Planning Commission believes that these outreach efforts and reports on other entities' efforts, are integral for planning and evaluating projects that will be undertaken within Jefferson County in the near future.

C. Proposed FY 2012 (or Calendar Year 2011????) Work Plan ADD INFO HERE

The annual budget process provides the County Commission with an opportunity to not only review the performance of the Departments, but also to make policy decisions for the forthcoming year, determine priorities, and establish metrics that will gauge the Department's performance. It is this policy direction that provides context for subsequent consideration of department staffing and expenditure decisions.

The on-going needs of the four Current Planning related tasks (Customer Service, PC support, BZA support and PPC and Development Review) will continue to consume a large portion of all of the Planning and Zoning Departments' staff time and efforts. While opportunities for Long Range Planning initiatives are limited by the demand for current planning efforts, there are a number of initiatives listed below that the Planning Commission would like to endorse and support; the Planning Commissioners request that the County Commission enable the staff to complete these in a reasonable time frame.

Upcoming planning initiatives: ADD INFO HERE

- US 340 Corridor-East Gateway Plan – technical/existing conditions underway will result in a kick-off meeting in April 2011; 12-15 month process; needs collaborative process to build consensus on a vision that maximizes economic growth while protecting view sheds and sensitive resources
- Zoning Ordinance Amendments – first steps are the “policy neutral” amendments to ensure that inconsistencies and conflicts are corrected and new state laws are included – this is currently underway; a series of additional amendments are proposed on a topic by topic basis allowing for key stakeholders with limited areas of interest to provide input and have their comments considered; it is anticipated that this series of amendments will occur throughout FY 2012
- Subdivision Regulation Amendments – now that the “policy neutral” subdivision regulation amendments have been adopted, additional citizen comments that were received are being reviewed and considered for topic by topic amendments allowing for key stakeholders with limited areas of interest to provide input and have their comments considered; it is anticipated that this series of amendments will occur throughout FY 2012

- Next Steps related to the Blue Ridge Mountain Communities Area Watershed Plan Vision Document – staff will hold a final meeting with the Citizen’s Committee to determine next steps and to consider whether another grant should be applied for at this time
- 2014 Comprehensive Plan Update (mandated by state law) – consideration of the hiring of a summer intern (for Summer 2011) to begin to gather, process and analyze the new Census data that will be useful in the preparation of base data for the 2012 Comprehensive Plan; kick off of full Comp Plan Spring 2012; anticipated 24 month process
- County-wide Water and Sewer Study – ???

- Chesapeake Bay compliance requirements – federal requirements and penalties are expected to be released soon; county-wide coordination regarding the variety of compliance techniques being implemented is required; this may include the need for the creation of a county-wide storm water utility and related regulations
- Ongoing Coordination with Other Departments:
 - PSD/Health Dept/Municipal Utilities -- assist in planning efforts and developing a digital database for use in long range planning
 - Economic Development Authority – coordinate the efforts to attract jobs and develop streamlined approval processes that support the County’s economic development efforts
 - School Board – coordinate on facilities planning efforts

Conclusion *ADD INFO HERE*

In conclusion, the Planning Commission is very pleased with the progress made in fully staffing the Departments of Planning and Zoning and the diligent efforts of the staff in maintaining the day to day operations. The Planning Commission encourages the County Commission to continue to support these departments and realize efficiency of incorporating the more fully developed comprehensive planning function. Long range planning designed to achieve a common community vision lays the groundwork for the wise investment of financial resources and the County’s future growth.

This Annual Report and Budget Statement was adopted by the Planning Commission during its regular meeting on _____, ____ in favor, ____ opposed.

Respectfully submitted,

Tom Trumble, President
Jefferson County Planning Commission

**JEFFERSON COUNTY WV
DEPARTMENTS OF PLANNING AND ZONING
FY 2012 WORK PLAN**

MISSION STATEMENT

The mission of the Departments of Planning and Zoning is to provide a healthy, pleasant environment for those who live, work and visit Jefferson County, by blending the unique natural and built resources of our community with quality, sustainable development that ensures responsible and sound growth.

We are a knowledgeable, respectful, dedicated staff who welcome community based problem solving and public/private cooperation that assists the community in implementing standards which create a positive impact and achieves its ultimate vision.

ACCOMPLISHMENTS FY 11 (July 2010 – to date (February 2011))

- Adoption of comprehensive 'policy neutral' amendments to the 2008 Subdivision Regulations (August 2010);
- Development of Amendments to Wireless Telecommunications Section of 1988 Zoning Ordinance – recommended to County Commission for adoption;
- Initiation of 'policy neutral' amendments to the 1988 Zoning Ordinance;
- Development of an accurate and up-to-date Zoning Map (in conjunction with GIS and Assessor staff) and regular update policy (Approved January 2011);
- Successful implementation of a National Fish and Wildlife Foundation grant through an extensive outreach effort with broad public input from mountain residents resulting in a visioning document for the Blue Ridge Mountain (Final Documents presented to County Commission December 2010);
- Initiation of a US 340 Corridor-East Gateway Plan, including the formation of a Technical Advisory Committee in preparation for a public kick-off meeting in the Spring 2011;
- Successfully obtained an Urban Tree Canopy Grant in cooperation with Charles Town and Ranson, the Division of Forestry, the GIS staff, and the Cacapon Institute to be implemented by May 2011;
- Ensured open and effective communication between the County Commission and Planning Commission; between the County and the Cities; between the County and various County and Regional planning, economic development, and environmental groups, including, but limited to, the Region 9 Model Stormwater Regulation Steering Committee Meetings and the quarterly HEPMPO Technical Advisory Committee meetings;
- Provided excellent and timely professional support to the Planning Commission (PC) and the Board of Zoning Appeals (BZA), including the development of more professional and thorough staff reports and presentations at the PC and BZA meetings and numerous special PC projects, including, but not limited to Old Standard Quarry research and follow up, research related to noise agreements related to Summit Point Raceway, proposed Federal Land Rezoning along US 340, follow up with all active development projects regarding changes in state law;
- Developed an accurate annual report and work plan, including regular quarterly reports on the work plan;
- Staff development and training to include staff participation the Regional GIS Conference, the Regional Development in Karst Communities Conference, the Green Infrastructure Conference, numerous Smart Code Webinars hosted by Ranson;
- Actively participated in the monthly Region 9 Model Stormwater Regulation Steering Committee Meetings and quarterly HEPMPO Technical Advisory Committee meetings;
- Developed numerous iterations of a land development fee schedule at the direction of the Planning Commission and County Commission for possible implementation.

CUSTOMERS SERVED -- Calendar Year 2010

Customers of the Departments include the County Commission, Planning Commission, Board of Zoning Appeals, the development community and the citizens of the County. These customers are served in many ways, including some of the following:

021411 Final

Planning Commission (PC):	22 meetings (including 21 Public Hearings), 3 special meetings, 10 Citizen Outreach Meetings, 4 workshops, 10 PC Subcommittee Meetings, 14 meetings regard PC items with County Commission
Board of Zoning Appeals (BZA):	11 meetings (including 28 actionable items)
Walk-in Customers	Average: 40/month
Call-in Customers (to main Department line)	Average: 165/month
E-mail Customers (to Department mail boxes)	Average: 61/month
Information Request Forms (IRFs):	158
Pre-Proposal Conferences (PPCs):	42
Projects Reviewed:	106
Regional/Cross Jurisdictional Outreach Meetings	89

GOALS FY 12

- Develop a well managed citizen participation effort which utilizes community based problem solving and public/private cooperation in the development of a Corridor Plan for the US 340 Corridor-East Gateway Plan
- Complete efforts to draft recommended potential amendments for the 1988 Zoning Ordinance and 2010 Subdivision Regulations with key stakeholder involvement throughout Fiscal Year;
- Work with GIS Department to finalize draft Major and Minor Subdivision Map and to develop a policy for regular update and maintenance of this Map;
- Initiate an analysis of 2010 Census Data for Jefferson County, in particular as it relates to the data needs of the 2014 Comprehensive Plan Update (utilizing a summer intern);
- Initiate a comprehensive analysis of the build out potential for the County as a whole under current zoning and approval process (possible contracted service);
- Develop a process to streamline the approval of Economic Development opportunities within the County through an analysis of current regulations and processes and working cooperatively with the development community;
- Work cooperatively with the Department of Engineering to determine the best implementation of the Model Stormwater Regulations;
- Initiate and Implement Digitization and Document Management System in cooperation with the Engineering, Building and GIS Departments;
- Provide Excellent Customer Service with a timely response to questions and requests;
- Provide thorough and responsive support of Planning Commission, Board of Zoning Appeals and County Commission;
- Facilitate Pre-proposal Conferences (PPCs) which enable citizens with proposals to understand the regulations and processes and which encourage problem solving and public/private cooperation; and
- Provide thorough and timely Development Review for all plats and plans submitted to our Departments.

Possible Additional Tasks

- Continue to provide support to the Blue Ridge Mountain Community through assistance to a proposed citizen's committee and possible follow through with a grant if awarded;
- Support for on-going Chesapeake Bay Tree Grants and programs

Account	Description	2010 Budget (Amended 6/10)	2010 Expenditures	Current Approved 2011 Budget (Am 11/10)	Budget Am Pending	YTD Expenditures (-12/10)	2012 Budget Request
001-439-01-103-000-GG-000	PLANNING SALARY AND WAGE	223,000	196,719	231,442	231,442	115,358	246,349
001-439-01-104-000-GG-000	PLANNING FICA EXPENSE	14,167	11,869	14,566	14,566	7,152	15,739
001-439-01-104-001-GG-000	PLANNING MEDICARE EXPENS	3,314	2,776	3,407	3,407	1,673	3,681
001-439-01-105-000-GG-000	PLANNING GROUP INSURANCE	62,958	47,187	40,806	40,806	22,821	40,806 ??
001-439-01-106-000-GG-000	PLANNING RETIREMENT	25,025	22,095	29,368	29,368	14,717	29,368 ??
001-439-01-108-001-GG-000	PLANNING OVERTIME	5,500	5,335	3,500	3,500	2,535	2,500
001-439-01-108-002-GG-000	PLANNING PTIME/EXTRA HELP	0		0	2,500	485	5,000
		333,964	285,981	323,089	325,589	164,741	343,442
001-439-02-212-000-GG-000	PLANNING PRINTING	1,800	1,780	0	0		0
001-439-02-214-000-GG-000	PLANNING TRAVEL	5,000	2,500	3,000	3,000	449	3,000
001-439-02-216-000-GG-000	PLANNING MAIN/REP EQUIPM	8,000	4,036	4,000	7,500	3,227	7,500
001-439-02-220-000-GG-000	PLANNING ADS/LEGAL PUBS	4,000	708	2,500	2,500	118	1,500
001-439-02-221-000-GG-000	PLANNING TRAIN/EDUCATION	5,000	1,734	5,000	5,000	974	5,000
001-439-02-222-000-GG-000	PLANNING DUES/SUBSCRIPTN	4,000	2,061	2,000	2,000	40	2,500
001-439-02-223-000-GG-000	PLANNING PROFESSIONAL SV	28,000	10,896	20,000	17,500	1,998	20,000
001-439-02-229-000-GG-000	PLANNING COURT COST/DAMA	0		1,000	1,000		
001-439-02-230-000-GG-000	PLANNING CONTRACTED SVCS	2,000	600				
		57,800	24,315	37,500	38,500	6,807	39,500
001-439-03-341-000-GG-000	PLANNING MATERIAL/SUPPLY	10,200	9,538	7,000	13,500	4,294	10,000
001-439-03-353-000-GG-000	PLANNING COMPUTER SFTWRE	1,000	93	0		0	
		11,200	9,631	7,000	13,500	4,294	10,000
001-439-04-459-000-CP-000	PLANNING CAP/OUTLAY-EQUI	10,000	190	10,000	0	0	0
		10,000	190	10,000	0	0	0
	439 TOTALS	412,964	320,117	377,589	377,589	175,842	392,942

including
computer
replacement

Staff: Seth Rivard
Amy Puetz

part of Christine Chalmers, Julie Quodala, Jennifer Brockman (paid out of Planning)

Save the Date!

SPRING REGIONAL CONFERENCE

May 5 & 6, 2011

Cumberland, Maryland



NEW
“BREAKING GROUND”

Partnerships for Building Sustainable Communities

The Spring Regional Conference is timed to coincide with the celebration of the 200th anniversary of the beginning of the construction of the National Road in Cumberland, Maryland.

Join planners from the three states linked by this first national infrastructure project as they share ideas, explore best practices and discuss lessons learned breaking new ground to create partnerships for building sustainable communities.

The two-day conference offers participants the opportunity to earn up to 10 CM credits, including ethics and law.



**Certification
Maintenance**

*The American Institute
of Certified Planners'
commitment to
continuing education.*

Registration and additional information coming soon!

Amy Puetz

From: Jennifer Brockman [jbrockman@jeffersoncountywv.org]
Sent: Wednesday, March 02, 2011 3:52 PM
To: 'Amy Puetz'
Cc: 'Julia Quodala'
Subject: FW: Meeting Notes from the 3/1/11 JCPSD Regular Board Meeting

For the PC packet

Jennie Brockman, Director
Jefferson County Department of Planning and Zoning
Office (304) 728-3228

From: Daniel_Hayes@URSCorp.com [mailto:Daniel_Hayes@URSCorp.com]
Sent: Wednesday, March 02, 2011 3:39 PM
To: Jennifer Brockman
Cc: Susanne Lawton
Subject: Meeting Notes from the 3/1/11 JCPSD Regular Board Meeting

Jennie

Three items of interest to the Planning Commission from last night's meeting:

1. Status of SB 245

SB 245, which will allocate funds to offset a portion of the costs to utilities to upgrade their facilities to meet the Chesapeake Bay regulations, has passed the Senate Judiciary Committee with a favorable amendment allowing utilities whose funding has closed eligibility for grant funding. The amendment has been removed in the Senate Judiciary Committee. When the bill passes the Senate, the lobbyist goal is to have the bill delegated to only the House Finance Committee.

2. Flowing Springs WWTP

There is concern that, due to Federal budget cuts, grant money already committed by DEP for Chesapeake Bay compliance may be unavailable, without reducing compliance requirements.

3. The effect of the revisions of the "Site Improvements Bonding and Bond Surety Policy"

The PSD is concerned about an unintended consequence of the above revisions, passed by the County Commission in September 2010. The concern is the sunset provision from the 5th paragraph of Page 6, If the merger deed executed by the owner/developer is recorded, what is the disposition of any previously agreed to easements or Mainline Extensions? PSD Attorney Jim Kelsh is preparing a letter to the County Commission asking this question.

Daniel B. Hayes, PE
Principal Civil Engineer
URS Corporation
Gaithersburg MD
Phone (301) 721-2225

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February 15, 2011

John Maxey
335 Old Shenandoah Trail
Harpers Ferry, WV 25425

Commission Patsy Noland, President
Jefferson County Commission
P.O. Box 250
Charles Town, WV 25414

RE: Planning Commission Appointment

Dear Commissioner Noland,

My three year term as a member of the Jefferson County Planning Commission will expire at the end of next month. I will not be applying for reappointment.

I have enjoyed my time on the board and would like to take this opportunity to thank the County Commission for allowing me the opportunity to serve our community. I would like to also thank members of the Planning Department staff and members of the public, all of whom have had the patience to work with me as I learned some fraction of the complex issues that the Planning Commission has been tasked with.

I encourage interested citizens to apply and serve on the Planning Commission, or any of the many volunteer boards that play such a crucial role in our county. The opportunity to bring your ideas forward and effect change on public policy is very real – but equally important is the change that goes in the other direction. Service on a volunteer board provides citizens an opportunity to influence government – but it also creates better citizens by making us more aware of the many different sides of these complex issues. I have learned more about the process of planning and development, and about how local government works at the ground level, than I could possibly have learned in any other way.

The more citizen participation in county boards that we have, the better off we will be as a community. No single individual has a monopoly on good ideas - and yet many people may be afraid to step forward if others with longer tenure appear to have greater knowledge of the issues. What we are in constant need of is a fresh and new perspective.

The Commission's past preference for reappointment of board members whose terms have expired should be discontinued. County residents have a vast array of different experiences – both here in Jefferson County and in jurisdictions across the country. We need to find ways of encouraging more of them to step forward and offer their own unique ideas for addressing the problems that we face.

Sincerely,



John Maxey