

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
June 14, 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. Guest Speaker: Dale Manuel to address Parliamentary Procedure and Robert's Rules of Order.
2. Guest Speaker: Stephen Groh to discuss motions and Findings of Fact; Ex Parte contact; and provide an ethics overview. –**Postponed until the June 28, 2011 meeting.**
3. Approval of the minutes for the May 24, 2011 meeting.
4. Citizen Communications.
5. Request for postponement.
6. Request by Angela and Tim Bell for a waiver from the Subdivision Regulations Section 20.201 (A)(2) requiring upgrades to a 50 foot access easement when there are 6 or more lots. This property is located at 76 Bellview Lane and is designated as Tax District: Kabletown, Map: 28, Parcel: 11.2.
7. Request by Angela and Tim Bell for an appeal of a staff determination that a proposed subdivision is classified as a major subdivision, pursuant to Section 20.201 of the Subdivision Regulations. This property is located at 76 Bellview Lane and is designated as Tax District: Kabletown, Map: 28, Parcel: 11.2.
8. Request by Jefferson Reality, LLC for a waiver from Subdivision Regulations Section 22.208(A) requiring that sidewalks be required in the platted street right of way. This property is located at 4843 Middleway Pike and is designated as Tax District: Middleway, Map: 19A, Parcel: 14.
9. Public Hearing for Zoning Map Amendment (Rezoning) for property designated as Tax District: Harpers Ferry, Map: 9, Parcel: 37 and 37.2. This property is currently zoned Residential Growth and is requesting a Residential/Light Industrial/Commercial zoning. The property is located at the intersection of Rt. 340 and Bakerton Rd. and is a total of 9.676 acres. The Shenandoah Professional Center, LLC is the owner.
10. Concept Plan Review for Highland Farms (PC File #11-02). This property is located on Charles Town Road (Rt. 9) on the west side of Bloomery Bridge. This project consists of a residential subdivision to include a total of 27 residential lots and a residue parcel on 270.18 acres located in Tax District: Charles Town; Tax Map: 19 Tax Parcel: 33, 38 and 41.
11. Presentation on the request being made by David and Catherine Hott for a zoning map amendment and request to the Planning Commission to schedule a public hearing within 60 days. This property is currently zoned rural and is requesting a Residential/Light Industrial/Commercial zoning. This property is adjacent to both the existing Route 9 and the Route 9 currently under construction. District: Harpers Ferry, Map: 15, Parcel: 47 and 46.

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12. Discussion and possible scheduling of Public Hearing for Updated Proposed Text Amendment for Sections of Article 24 of the Jefferson County Subdivision Regulations regarding timeframes and noticing requirements for processing procedures.
13. Discussion and possible scheduling of Public Hearing for proposed Zoning Text Amendment to Article 12 of the Jefferson County Zoning and Land Development Ordinance.
14. Director's Report.
 - US 340 Study
15. County Commission Liaison Report.
16. 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.
17. President's Report.
18. Actionable Correspondence.
19. Non-Actionable Correspondence.
20. Reports from Legal Counsel and legal advice to PC.
 - Discussion of pending legal issues.

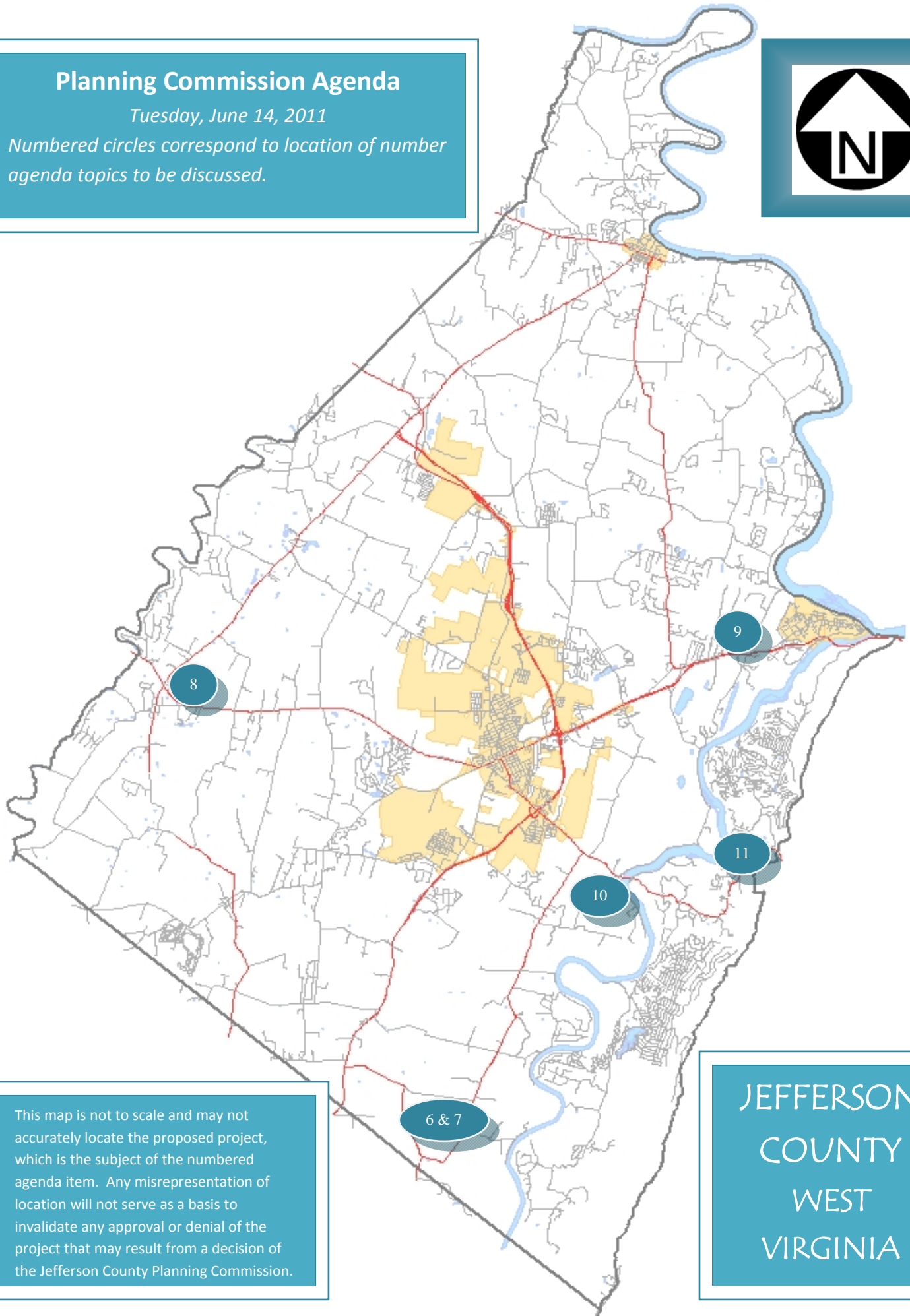
The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address 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, June 14, 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
MAY 24, 2011

The Jefferson County Planning Commission met on Tuesday, May 24, 2011, with the following Commission members present: Daniel Hayes, President; Arnold Dailey, Vice-President; Morgan Eppers, Secretary; Gene Taylor, Kelly Baty, Eric Smith, and Walt Pellish. Staff members present included Jennifer Brockman, Planning Director; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Ed Burns was absent with notification.

Mr. Paul Taylor was absent without notification.

Mr. Hayes called the meeting to order at 7:01 PM.

Mr. Hayes apologized for the cancellation of the May 10, 2011 meeting due to the lack of a quorum.

1. **Guest Speaker: Dale Manuel to address Parliamentary Procedure and Robert's Rules of Order.**

This item was postponed to the June 14, 2011 Planning Commission Meeting.

2. **Guest Speaker: Stephen Groh to discuss motions and Findings of Fact; Ex Parte Contact; and provide an ethics overview.**

This item was postponed to the June 14, 2011 Planning Commission Meeting.

3. **Approval of the minutes for the April 12, 2011 meeting.**

Ms. Eppers moved to approve the minutes of the April 12, 2011 meeting. Mr. Pellish seconded the motion which carried unanimously.

Approval of the minutes for the April 26, 2011 meeting.

Mr. Pellish moved to approve the minutes of the April 26, 2011 meeting. Mr. Taylor seconded the motion which carried 4 for and 1 abstention (Ms. Morgan).

4. **Citizens Communication:** None.

5. **Request for postponement:** None.

6. **Discussion and possible scheduling of Public Hearing for Proposed Text Amendment for Sections of Article 24 of the Jefferson County Subdivision Regulations regarding timeframes and noticing requirements for processing procedures.**

Mr. Rivard presented the Article 24 amendments and discussed how the amendments would shorten time frames between the time of application and placement on a Planning Commission agenda and create quicker deadlines, which had been a common complaint presented by applicants to staff.

Mr. Eric Smith entered the room at 7:13 PM.

There was a lengthy discussion on how Concept Plans are currently processed and how these amendments would affect that process. Mr. Pellish asked that any time limit that is expressed in State Law be recognized as such within the amendments. Mr. Hayes suggested that the discussion of these amendments be postponed. Ms. Ethers moved to postpone this agenda item until the June 14, 2011 Planning Commission Meeting. Mr. Taylor seconded the motion which carried unanimously.

7. Discussion and possible scheduling of a Public Hearing for Proposed Text Amendment for maximum square footage requirements for a Minor Site Plan in each Zoning District.

Mr. Rivard reviewed the proposed amendments. He explained that amending the maximum square footage in each zoning district, instead of having a flat maximum square footage for all zoning districts, allows for more appropriate processing of site plans and public notices.

Mr. Dailey entered the room at 7:45 PM.

Mr. Pellish moved to schedule a public hearing regarding the proposed text amendments as written with the addition of the words "whichever is less" in the definition of Site Plan, Major, item C, in both bullet points to read:

- Ten percent or more of existing GFA or additions more than 10,000 square feet of GFA, *whichever is less*, in the Village, Rural/Agriculture District and the Residential Growth District.
- Ten percent or more of existing GFA or additions more than 20,000 square feet of GFA, *whichever is less*, in the Residential/Light Industrial/Commercial and Industrial/Commercial Districts.

Mr. G. Taylor seconded the motion. Staff requested a date for the public hearing. Ms. Brockman informed the Planning Commission that a request had been made to have a June 28, 2011 Planning Commission meeting. Mr. Hayes called a June 28, 2011 meeting. Mr. Hayes stated that the public hearing would be held at the above called meeting. Mr. Pellish requested that as much public notification as possible be provided. The motion passed unanimously.

8. Discussion of draft amendments to Articles 4A and Section 2.2 of the Zoning and Land Development Ordinance and Section 20.203 of the Subdivision and Land Development Regulations, regarding Home Occupations and Cottage Industries.

Mr. Barney reviewed the proposed amendments. He stated that staff was withdrawing the previously recommended amendment to businesses involving firearms due to feedback given by a staff member of the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives. Planning staff recommended that the current prohibition remain in place. There was discussion regarding reasons for prohibiting firearms and automotive uses.

Mr. Barney continued to review the remaining amendments. Mr. Hayes suggested adding a statement that the use of a sketch plan does not exempt an applicant from other requirements such as the Clean Water Act and Sediment and Erosion Control. Mr. Barney presented a comment that was emailed to staff by Anne Bowers suggesting that, under Guidelines,

Exempt Activities, removing the word *annual* and replacing it with *biennial*. She also suggested, under Home Occupation 1 & 2, Section D, that language be added to allow the sales of class related materials and tools, not just hand-crafted items.

Mr. Smith moved to accept the amendments with the following changes:

- Section 4A.1.e.4 - Remove the proposed changes to the firearms so that the regulations remain as currently prohibited;
- Section 4A.1.e.5 – Delete the language related to automotive uses;
- Section 4A.5.i – Add a statement that clarifies that *the use of a sketch plan does not preclude compliance with County, State and Federal Regulations*;
- Section 4A.2.3 – The participation of an individual location in an annual event with multiple locations *held up to twice a year*, such as a home and garden tour or an art studio tour;
- Section 4A.3.d and Section 4A.4.d – Adding language that states *Incidental sales of class-related material to students who receive instruction on the premises shall be permitted*.

Mr. Smith added to his motion to schedule the public hearing for June 28, 2011. Mr. Pellish seconded the motion which carried unanimously.

9. Discussion and Planning Commission input into the draft Urban Tree Canopy Plan and Goals.

Ms. Brockman presented an Urban Tree Canopy Plan and Goals report prepared by the Intern, Doug Griffith. She stated that the report would be presented at a roundtable discussion to be held May 25, 2011. She expressed that the objective of the Plan and Goals was that the County and all 5 municipalities adopt at least part of the plan to incorporate into their requirements and regulations. Ms. Brockman explained that staff would suggest at the roundtable discussion to hold one public meeting for all municipalities or, if each municipality wanted to hold their own public hearing, then staff would suggest that it be held within the next 60 to 90 days so that Urban Tree Canopy requirements could be adopted by the end of the summer.

10. Director's Report.

Ms. Brockman reported that the term for Douglas Griffith, Intern, will end May 31, 2011. She informed the Planning Commission that a new intern, Aaron Molinda, had been hired to collect data which will be used in writing the Comprehensive Plan. She stated that Julie Quodala, Office Manager, had given final notice and that the department would be hiring a new Office Manager.

Ms. Brockman reminded the Planning Commission that the public hearing for the policy neutral amendments to the Zoning and Land Development Ordinance would be held Thursday, June 9, 2011 at 7 PM. She reported that the public hearing for the Land Development Fees was held Thursday, May 19, 2011 and that no public was there to give comment. However, she stated that the County Commission agreed to leave the hearing open for written public comment until May 31, 2011.

Ms. Brockman explained that Asbury United Methodist Church had submitted a site plan and had requested to be heard on June 28, 2011 and since a meeting had been called, she requested approval for that by the Planning Commission. Mr. Hayes approved the public workshop for June 28, 2011.

Ms. Brockman presented a letter written by Tim Boyd, County Administrator, on behalf of the County Commission requesting that a study of the southern stretch of US 340, from Charles Town to Berryville, be a part of the next annual work plan.

11. County Commission Liaison Report.

Mr. Pellish stated he would like to continue to stimulate the relationship between the Planning Commission and the Development Authority. He commented that he would like for there to be a meeting between the two to exchange ideas.

Mr. Pellish reported that he feels that the US 340 Corridor Study is focusing on the wrong end of US 340. He stated that he believes the study should focus more on the southern end of US 340.

12. Planning Commission Exchange.

- **Report from the Health Department Meeting Liaison.** Mr. Burns was not present to report.
- **Report from the Public Service District (PSD) Meeting Liaison.** Mr. Hayes stated he was unable to attend the last PSD meeting.
- **Report from the Jefferson County Development Authority Meeting Liaison.** Mr. Burns was not present to report.
- **Report from the Water Advisory Committee Meeting Liaison.** There was no liaison yet appointed to the Water Advisory Committee.

13. President's Report.

Mr. Hayes scheduled the discussion of the Planning Commission bylaws for July 12, 2011. He asked that suggested changes or comments by Planning Commissioners be submitted to the Planning Staff by June 28, 2011. Mr. Hayes stated that attendance to Planning Commission meetings would be a focus in amending the bylaws.

14. Reports from Legal Counsel and legal advice to PC. Legal was not present to report.

There was discussion regarding the legal insurance coverage of the Commissioners with regards to those named in the summons of Far Away Farms.

15. Actionable Correspondence. None.

16. Non-Actionable Correspondence. Letters between Martin Burk and Barbara Scott regarding the SPARC property were included in the packet for information only. Pre-proposal Conference memorandums were also included for information.

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Mr. G. Taylor moved to adjourn the meeting at 9:43 PM. Mr. Smith seconded the motion which carried unanimously. An audio recording and a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

Summary of Request

Applicants are requesting a waiver of 20.201(A)(2) which requires road improvements when 6 or more lots use a common access easement. A minor subdivision, which is administratively reviewed and approved, is defined primarily as 4 lots or and a residue (a maximum of 5 lots), a 50 foot access easement and does not require off-site infrastructure. As long as there are fewer than 4 lots and a residue on the 50 access easement, no improvements are required for the access easement. Prior to the 2008 adopted Subdivision and Land Development Regulations, an applicant could not have more than 2 lots and a residue on an unimproved access easement.

The applicants are requesting that 5 lots and a residue, for a total of 6 lots, be allowed to use the access drive without any additional improvements. Due to the proposed 6th lot, the applicant will also have to process as a major subdivision since the subdivision will exceed the maximum of 5 lots for a minor subdivision. The applicants are also requesting an appeal of Staffs determination classifying this as a major subdivision. The grounds for that appeal are found in Section 20.201 of the Subdivision Regulations. Therefore the applicants are requesting relief from meeting the standards for improvements to the road and an appeal of Staffs determination. The road does not need to be paved; rather the standards for 6-12 lot submission are 6 inches of gravel, 20 feet width with shoulder, and swales along the roadside. This may also generate the need for stormwater management.

Case History

It is necessary to provide the Planning Commission with a summary of this applications extensive history in order to understand Staff's and the applicants perspective. The applicants first came to the office for Pre-Proposal Conference (PPC) on June 22, 2009. At that time the applicants noted in writing that they were proposing to create 2 family transfer lots off of the existing access drive (See [attachment 1](#)). At that time, the Acting Zoning Administrator noted in the PPC memo sent to the applicants that "The proposed Minor Subdivision appears to satisfy the intent of the Subdivision Ordinance." This finding was based on the fact that parent to child lots, regardless of number of lots, are *processed* as minor subdivisions. However, this does not exempt any lots over 5 from the *standards* of the Subdivision Regulations when more than 5 lots would access the same easement. The term "standards" means the improvements needed in plats or site plans. The memo further states that "The applicant may proceed with engineering of the proposed Minor Subdivision ([See attachment 2](#))."

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In June 2010, the applicants called the office to see if they could amend their proposal from 2 lots to 1 lot. They were told that they could reduce their plat to one lot. In early 2011, some 20 months after the first PPC meeting, the applicants contacted the office thinking that the lots had been subdivided and were informed they were not subdivided because no subdivision plat or fees were submitted. They then wanted to know what processes would be required to get the lots subdivided. Staff set up another Pre-Proposal Conference meeting with the applicants in March 16, 2011. Since the other PPC was held so long ago and there had been a change in staff, it was necessary to set another meeting. During that meeting the applicants stated that they only wanted to create 1 child-to-parent lot for Ms. Bell's father. Staff noted that the subdivision could proceed as a Minor Subdivision as the applicants previously were informed and that they would have to meet the standards of the Subdivision Regulations to improve the roadway (See attachment 2).

The applicant was not satisfied with the requirement to improve the road. Staff noted that the applicant could seek a waiver, but staff would be unlikely to support such a waiver. Staff did state that if an "as-built" drawing of the road was brought into the office that Staff may be able to consider supporting such a request. An "as built" is an engineered drawing showing the width, depth, undulation of the road, shoulders and drainage swales. Staff described in detail to the applicant what an "as-built" consists of and its purpose. It appears that an "as-built" may have been completed for this road, however we do not have a copy in our file.

In the early 2000's, when 2 previous lots were divided from the residue lot, the applicant at that time requested a variance from meeting the 1979 Subdivision Regulation standards for road construction. From the Department's records, it does appear that the road may have met most of the standards in place at that time, except for the specific items requested to be waived. The request was only to reduce the requirement for the ditch line, not all of the road standards. Correspondence found in the file appears to indicate that an "as-built" was drawn at some point. Staff did share with the applicants who the previous engineering firm for the project was and recommended that the applicants communicate with that firm.

The value of an "as-built" is that if Staff can be reasonably certain that the road was built close to, but not exactly to the current standards, Staff might be able to support the waiver. Without an "as-built", Staff has insufficient information to provide an objectively and impartially support to this request and be fair to previous or future applicants. It is important to note that standards for road construction have changed since the previous 1979 Subdivision Regulations were in place.

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The applicants disagreed with Staffs determination and asked to set up an appointment with the Director. Between the March 16 PPC and the March 25 meeting with the Director, the applicant called the office many times trying to obtain a different result. A meeting was held on March 25, 2011 with the Director, Planner, Zoning Administrator and Engineer. The applicant was again informed that the Staffs interpretation was correct in its findings and that he would have to proceed as noted.

The applicant then requested another meeting on May 23, 2011 to ask what was required to schedule a waiver request on a Planning Commission agenda. Again, there were many phone calls back and forth between the applicant and Staff between March 25 and May 23. Many of the discussions were circular in nature with the applicant requesting the same information or trying to achieve different results. During discussions on May 23, the applicant for the first time stated that the proposed lot was no longer intended to be a parent-to-child lot (See attachment 3).

As noted above, the fact that the proposed lot would be not be a family transfer changes how the applicants processes the subdivision and the applicant is fully aware of that fact after the numerous discussions held. Staff was surprised to hear this for the first time. Staff has spent countless hours talking with the applicants, as well as meeting internally as staff to give the best answer possible to the applicant. The fact that the applicants now wanted to create a non-child to parent lot changed the response to every letter and verbal communication given to the applicant. Staff once again reconvened to inform the applicant of the process they would have to follow in order to accomplish their goals. A letter was sent to the applicant informing them of their options. Not all options discussed with the applicants, are options that Staff would support. Staff has generally informs the applicant as such. Staff has worked at length to help the applicant get their applications in on time. The applicants where contacted by phone and email regarding what they needed to ask for to be exempted from the required road improvements and to process as a minor subdivision (See attachment 4).

Validity of 2009 Determination

In a comprehensive perspective, the applicants did have a PPC meeting on June 22, 2009 and were informed of how they needed to process and advised to hire someone to proceed with a submittal. The applicant did not submit anything. There have been either potential or real changes to the regulations two times since June 2009. In November 2009 there was a referendum on the 2008 Zoning Ordinance. There were many applicants who submitted their fees with only an application and didn't provide a plat with the submittal. Paying the fees vests applicants into the process. Applicants were hedging their bets, because if they applied under

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the current rule and the current rules changed they would be locked into the previous regulations. There was a rush of such applications at that time into the Planning and Zoning office.

Following the referendum, the policy neutral amendments to the Subdivision Ordinance were reviewed and ultimately adopted. Both changes in regulations were very well publicized and there were applicants who at both times either requested reassurance or submitted applications in order to be vested under the current regulations before changes occurred. Without being indifferent to the applicant, there is some duty on the applicant to see their proposal through the process. Without submittal of fees, there is nothing that vests this applicant under any of the previous regulations.

Development Rights

It is important to understand that the Jefferson County Zoning Ordinance has different standards for reviewing parent-to-child and standard lots. Parent-to-child lots are exempt from density, meaning the lot does not count toward the maximum number of lots permitted. This exception is not used in many other communities. For non-parent to child lots, the Zoning Ordinance density calculations result in a maximum number lots permitted on all residue or parent parcels.

Due to the acreage of this lot and the previous subdivisions, this residue has used all the density allotted to the residue. The lot acreage in 1988 was originally 17 acres. This lot was allowed to have a maximum of 2 lots and a residue and that option was exercised by previous owners. Since that time, 2 parent-to-child lots were created by a previous owner. The only additional divisions that can occur are by parent-to-child/child-to-parent lots.

There is some confusion about the provision in the Zoning Ordinance stating that 2 lots can be subdivided every 5 years in the Rural District per Section 5.7(d) of the Zoning Ordinance. The Zoning Ordinance clearly states that while two lots every 5 years are permissible, an applicant cannot exceed the density granted to that parent parcel. In practice an applicant can subdivide 2 lots every 5 years, but only so long as the density is not exceeded.

Staff Recommendation

The applicant's request has been outlined above. Staff does not recommend granting the waiver. The standards for subdivision roads increase with the number of lots and users that impact the roadway. Existing residents rely on the County's standards to provide some assurance that additional lots and use of the common roadway will require improvements

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without existing residents having to bear the cost of another person's actions. While it may seem that this road upgrade is only for one lot, there is the potential for additional lots to be created via parent to child.

In the field of Planning, decisions are made not based solely only on the case or applicant involved, but also considering the next two or three subsequent owners of the property and how they may be affected. How cases are approached must be considered as well. Is this situation truly exceptional and does it stand on its own merits? How does a decision on this case apply to the next applicant seeking the same request? Planners and Planning Commissions need to look at the big picture and long term impact of requests for waivers such as these. Each decision also sets a precedent that impacts future request. Standards need to be applied equitably and consistently.

If granted, this waiver would only remove the requirement to improve the roadway. The applicant would still have to process as a major subdivision, as the total number of lots on the easement will exceed 5 lots. As such, the applicant is request an appeal to Planning Commission of Staffs determination that this would be a major subdivision. The Subdivision Regulations clearly state that process cannot be waived. There does not appear to be an extenuating circumstance that would provide for the appeal, since in this particular case the appeal would constitute waiving the process. In this instance there does not appear to be any ability for an appeal that does not violate Division 24.300 that states there shall not be waiver of process. In this case, the applicant is either above or below the 5 lot threshold that divides a minor versus a major subdivision. Staff does not recommend granting the appeal.

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Attachment 1

We moved to the Belleview Lane property on July 6th of 2006 under a lease to own contract with Stephen and Norma Eisner. Prior to their ownership was Hebbie and Joe Armstrong. To our knowledge, there has been no record or inquires of any previous subdividing notions attached to this property in the last 5 years.

We would like to obtain approval for a plan for two, 2 acre lots for approval for a minor/rural residential subdivision. We are currently residing in a Ranch style home (1,658 square foot of living space) with 3 bedrooms with a detached recreation room and 3 car garage on approximately 3 acres of manicured land (please see copy of plot map).

The remaining 7.3 acres are untouched with no existing building structures on the site. It is with intentions, in the near future to create a "Family Compound" including our Father and Brother to establish residency on the extended property. Under the guidelines of pending surveying, one lot would be allocated for building a Cape Cod style home. Preliminarily plans for approximately 1,600 – 1,800 sq. feet on both the main level and basement area. An upper level to consist of a 2/3 bedroom and the master bedroom off the main level of the home. Specific plans for the second lot is undetermined at this time.

Regards,

Angela Bell

7-6-09

Jefferson County, West Virginia

Department of Planning

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

JULY 7, 2009

PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: June 22, 2009

OWNER/DEVELOPER NAME: Timothy & Angela Bell and Clyde and Norma Eisner
(Mailing Address) 76 Bellview Lane; Charles Town, WV 25414
(304) 278-7594 (h); (304) 676-7383 (w)

PROPOSED PROJECT: MINOR/RURAL RESIDENTIAL: includes Two Parcel(s) and Residue Lot.

PROJECT LOCATION/ADDRESS: Referenced Above

DISTRICT/MAP/PARCEL: KABLETOWN TAX DISTRICT / MAP 28 / PARCEL 11.2
2002 ZONING MAP DISTRICT: RURAL/AGRICULTURAL
INDIVIDUAL LOT SIZES (approx.): Lot #1: 2 acres; Lot #2: 2 acres and Residue Parcel: 6.36 acres
TOTAL PARCEL SIZE: Approximately: 10.36 acres

MEETING DESCRIPTION:

- The meeting attendees included Acting Zoning Administrator, Jennifer Snyder and Property Owner, Timothy Bell.
- Overview: The proposed project consists of creating a Two (2) Lot Minor Subdivision with Residue.
- Tentative site capacity calculations.
- Potential environmental constraints and mitigation measures as required by Zoning Ordinance, Art. 4.
- Anticipated Time-Frame and Deadlines.
- Additional relevant information to be considered (includes file numbers, dates/previous proposals, etc.)
- Application Fee for Minor Subdivision: **\$800.00** Payment(s): **None Received**

FINDING: The proposed Minor Subdivision appears to satisfy the intent of the Subdivision Ordinance requirements.

EFFECT OF FINDING: The Applicant may proceed with the engineering of the proposed Minor Subdivision. Upon receipt of the required material, the Department of Planning and Zoning will process said Minor Subdivision within the time line requisites stated in the Subdivision Regulations.

Sincerely,


Jennifer Snyder
Acting Zoning Administrator

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

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

April 15, 2011

PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: Wednesday, March 16, 2011 @ 2:00 p.m.

OWNER/CONTACT: Angela Bell
MAILING ADDRESS: 76 Bellview Lane; Charles Town, West Virginia 25414
PHONE NUMBER: (304) 676-7363 (cell#) ambell7@hotmail.com

PHYSICAL ADDRESS: Same

PROPOSED PROJECT: MINOR RESIDENTIAL SUBDIVISION

TAX DISTRICT: Kabletown – 06 / MAP: 28 / PARCEL(S): 11.2
DEED BOOK: 1072 / PAGE: 460

ZONING DISTRICT: RURAL

INDIVIDUAL PARCELS:
TOTAL PARCEL SIZE: 10.36 Acres

 COPY

MEETING DESCRIPTION:

- Need to declare density as required in the RURAL District.
- The meeting attendees included Zoning Administrator, Steve Barney; County Planner, Seth Rivard; County Engineer, Jonathan Saunders; and Owners, Tim and Angela Bell.
- Overview: The proposed project consists of creating a 3.452 acre residential lot and remaining Residue.
- Tentative site capacity calculations.
- Potential environmental constraints and mitigation measures as required by Zoning Ordinance, Art. 4.
- Anticipated Time-Frame and Deadlines.
- Additional relevant information to be considered: Applicant had previous PPC Meeting June 22, 2009. MSD Files: #91-7 and #01-34.
- FEES: Upon submission, all applicable Site Plan and Building Permit fees, as required by the Engineering Department.
- Application Fee: **Currently under review and may be subject to change.**
- Payment(s): **None Received**

COMMENTS

- Due to the subdivision of the proposed lot, five (5) lots and a Residue would be created, which by definition is considered a Major Subdivision. Minor Subdivisions consist of four (4) lots and a Residue, with a five lot maximum.
- Parent-to-Child and Child-to-Parent transfers are permitted to process as a Minor Subdivision, per Sec. 20.201(A)4, however, the number of lots require this to meet the Standards of the Major Subdivision.
- Major Subdivision standards would require improvements to access drive and stormwater management.

Attachment 3

- Applicant expresses an interest in seeking a Waiver of road standards.
- Staff may support Waiver of some technical standards if the Owner provides an “as-built” drawing indicating that the existing road is similar in quality to the required Jefferson County Standards.
- An updated West Virginia Department of Highway entrance permit must also be provided.
- The Owner has the option of demonstrating that Lot 2-C has abandoned its right to access the easement and has obtained an entrance permit to access Kabletown Road.

FINDING:

The Minor Subdivision Concept Plan appears to satisfy the Subdivision and Land Development Regulation requirements.

EFFECT OF FINDING:

The Applicant may proceed with the engineering of the proposed Minor Subdivision, but must meet the Standards of a Major Subdivision. Upon receipt of the required material, the Department of Planning and Zoning will process said Minor Subdivision within the time line requisites stated in the Subdivision Regulations.

Sincerely,



Seth A. Rivard
County Planner

SR / clc

cc: Engineering and Building Permit Department

JEFFERSON COUNTY, WEST VIRGINIA
Department of Planning & Zoning
104 East Washington Street
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Phone: (304) 728-3228
Fax: (304) 728-8126

May 26, 2011

Tim and Angela Bell
76 Amanda Court
Halltown, WV 25423

Dear Tim and Angela Bell:

This letter summarizes the May 23rd meeting between Seth Rivard, Jonathan Saunders, and Steve Barney, and property owners Tim and Angela Bell. The purpose of the meeting was to discuss the required process and standards to create an additional lot in the Hebie Clipp subdivision. This letter also reflects previous meetings and discussions with the applicant on March 16 and April 13.

A prior Pre Proposal Conference (PPC) determination, dated July 7, 2009 and based on the October 2008 Jefferson County Subdivision Regulation (JCSR), determined that the proposed development could process as a minor subdivision and outlined what steps were needed to process in the same manner.

The PPC determination for the 2008 JCSR would only have applied if an application and fees were submitted before the current version of the JCSR was adopted in August 2010. At the time of adoption, no application was received and, for this reason, the PPC approval can no longer be considered valid.

Following the adoption of the 2010 amended Jefferson County Subdivision Regulation, your proposed development is not eligible to process as a minor subdivision due to the fact that only five lots are allowed to use a 50' access easement before having to meet major subdivision criteria. The proposed additional lot would bring the total number of lots on your easement to six lots. This requirement is reflected in the April 15, 2011 PPC memo provided to the applicant.

Staff's previous understanding from past meetings was that the applicant was seeking a family transfer subdivision (which could process as a minor subdivision). During the May 23rd meeting, the applicant clarified that the lot is intended to be sold and is not intended as a family transfer. As such, the major subdivision process applies.

Attachment 4

Listed below are your options for seeking subdivision approval:

1. Process as a major subdivision.
2. Request a Planning Commission waiver from the 2010 amended JCSR to allow 6 lots to use a 50' access easement (meeting the roadway standards of a minor subdivision) and process as a major subdivision.
3. Appeal (to the Planning Commission) staff's determination classifying the proposed development as a major subdivision (pursuant to Section 20.201). The Planning Commission cannot waive process per section 24.300 of the JCSR. However, appeal of this memorandum may be the basis for the waiver request. (Please note that options 2 and 3 may be combined).

It was discussed at the April 13th and May 23rd meetings that option 2 would be supported by the Planning staff if an as-built drawing of the existing road is prepared by a civil engineer showing that the roadway construction is consistent with the Jefferson county road standards. The applicant may submit a waiver application without an as-built drawing but staff cannot support the request. It is recommended, at minimum, that the engineer who designed the road provide a letter describing the design of the road for inclusion in the Planning Commission packet at the meeting during which the waiver request is heard.

Please note that applications are not valid unless submitted with any required fees and an original signature. If the request is denied, the fee will not be returned and any new waiver requested under other grounds will require a new submission and fees.

Please let me know if you need additional information.

Sincerely,


Steve Barney
Zoning Administrator

Att: Jefferson County Zoning Certificate application

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

Attachment 5

From: Steve Barney [mailto:sbarney@jeffersoncountywv.org]
Sent: Thursday, June 02, 2011 12:30 PM
To: 'ambell7@hotmail.com'
Subject: Appeal of decision - application and deadline

Ms. Bell,

I just wanted to make sure that you'd received my voicemail from yesterday.

If you want to submit an application for an appeal and have the case heard on the same Planning Commission date on which your waiver application is scheduled to be heard (June 14th), staff can accept an application for an appeal up until Tuesday, June 7th.

I've attached an application form and a copy of the May 26th letter outlining your options. There is no fee for the appeal application.

If you have any questions, please don't hesitate to give me a call or send me an email.

Thanks,

Steve Barney

Steve Barney

Zoning Administrator

Jefferson County Departments of Planning & Zoning

(304) 728-3228

Engineer's Report
Planning Commission Meeting

June 14, 2011

Angela Bell Waivers

The applicant is requesting a waiver from "Section 20.201.A.2, Minor Subdivision", of the 2008 modified Jefferson County Subdivision Ordinance, to allow for a 6th lot in what is essentially an existing 5 lot minor subdivision. Minor subdivisions are limited to a maximum of 5 lots and are required to have access to the public road via a shared 50' wide access easement (which is not a common area road right-of-way requiring creation of a HOA for maintenance purposes). Minor subdivisions do not require any infrastructure/site improvements, and as such, do not require any construction, site inspections, posting of a construction bond, and the creation of a homeowner's association. A subdivision of more than 5 lots is considered a "major subdivision" and is required to comply with the conventional subdivision regulation, which requires that a 50' wide road right-of-way be created and a road constructed meeting the standards of the subdivision regulations. In addition, all the other requirements of the subdivision regulations will apply and will require that a preliminary plat be processed that includes, but not limited to: sediment and erosion control plan, storm water management plan, site grading and drainage plan, road plan and profiles, construction details, outside agency permits, site inspections, and posting of a construction bond, etc.

Since no infrastructure is required for "minor subdivisions", they can be created via a simple process. However, it is the intent that minor subdivisions be limited to five lots in order to prevent the creation of a larger subdivision in a piece-meal manner over a long period of time; and which manages to avoid meeting the requirements for larger conventional subdivisions and thereby fails to address the environmental (i.e. sediment and erosion control, floodplain management, stormwater pollution prevention), public safety (i.e. subdivision road horizontal and vertical alignment standards, traffic control signs), landscaping and buffering requirements, and legal issues (i.e. creation of an HOA, Restrictive Covenants and conditions, HOA fees, ownership of common area, etc.) The requested waiver does not support this intent. Therefore, the Engineering Department recommends denial of this waiver request.

However, if the planning commission is inclined to grant this waiver, here is a suggestion on how to proceed.

- The applicant needs to demonstrate that either parcel 11.6 or 11.7 has a right to access the state road, Kabletown Road, with an approved highway entrance permit and they agree to transfer their right of access to the existing easement to the newly created lot.

pcw11-04

WAIVER REQUEST FORM

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

Property Owner (s): Angela Bell

Address: 76 Belleview Lane

Charles Town, WV 25414

Phone Number: 304-676-7363

Location of Property: (same as above)

Lot Size: 3.452 acres

Deed Book Reference: Deed Book #: 1072 Page #: 460

Tax Map Reference: District: 6-KT Map: 28 Parcel: 11.2

Zoning District: Rural

Section of Ordinance:

I am proposing a waiver reflecting section 20.201A2, requiring that no more than 5 lots can be served by a 50 foot easement. I am requesting one additional lot for a total of 6 that are served from Belleview Lane. This is stated as Permit # 5-90-1190 with the Highway Department. I would like to be waived from the newly dated amendment instated in August 2010.

On July 7, 2009, we were pre-approved for two, 2 acre plot of a proposed Minor Subdivision with satisfactory findings of the Ordinance requirements per Jennifer Snyder, Acting Zoning Administrator. I made an informal phone call to the Planning and Zoning, spoke with Christina Chalmers in June of 2010. I shared with her that at that point I was pre-approved for the 2 acres, but was putting motion forth to extend one of the lots to 3.452 acres. She brought this up in the meeting scheduled for the next day and asked the staff for this request. She kindly phoned me back stating that would be fine and for me to proceed from there. After receiving a verbal okay, Surveyor, Mike Artz of Artz and Associates, PLC who attended to the Hebie Clipp Armstrong Family Division completed a survey plat with the proposed 3.452 acre plot.

To date, there has been the required perk test along with the Health Permit reflecting this request..

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.

RECEIVED
MAY 23 2011
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

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.

The proposed lot will not include or reflect any County maintenance cost or parkland association as it will be for private residence. Road maintenance is handled by Bellview Lane residence.

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

The waiver shall not jeopardize the welfare of any surrounding grounds, or property owners.

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

The acceptance of the waiver shall be in accordance with all permit regulations surrounding the intended request of this waiver.

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

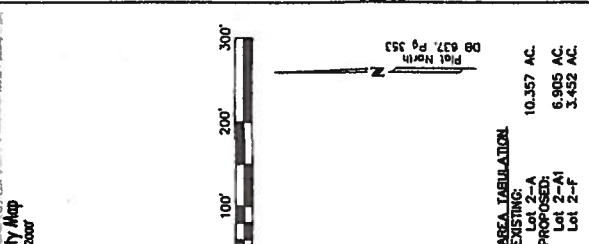
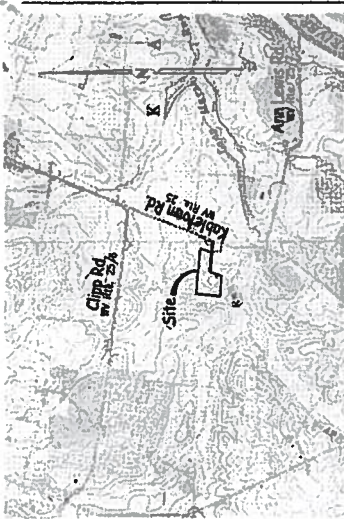
In terms of better quality or improving character, does not apply to this particular case.

Angela B. Bell 4-4-11
Signature of Property Owner

Angela Bell 5/23/11
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: _____

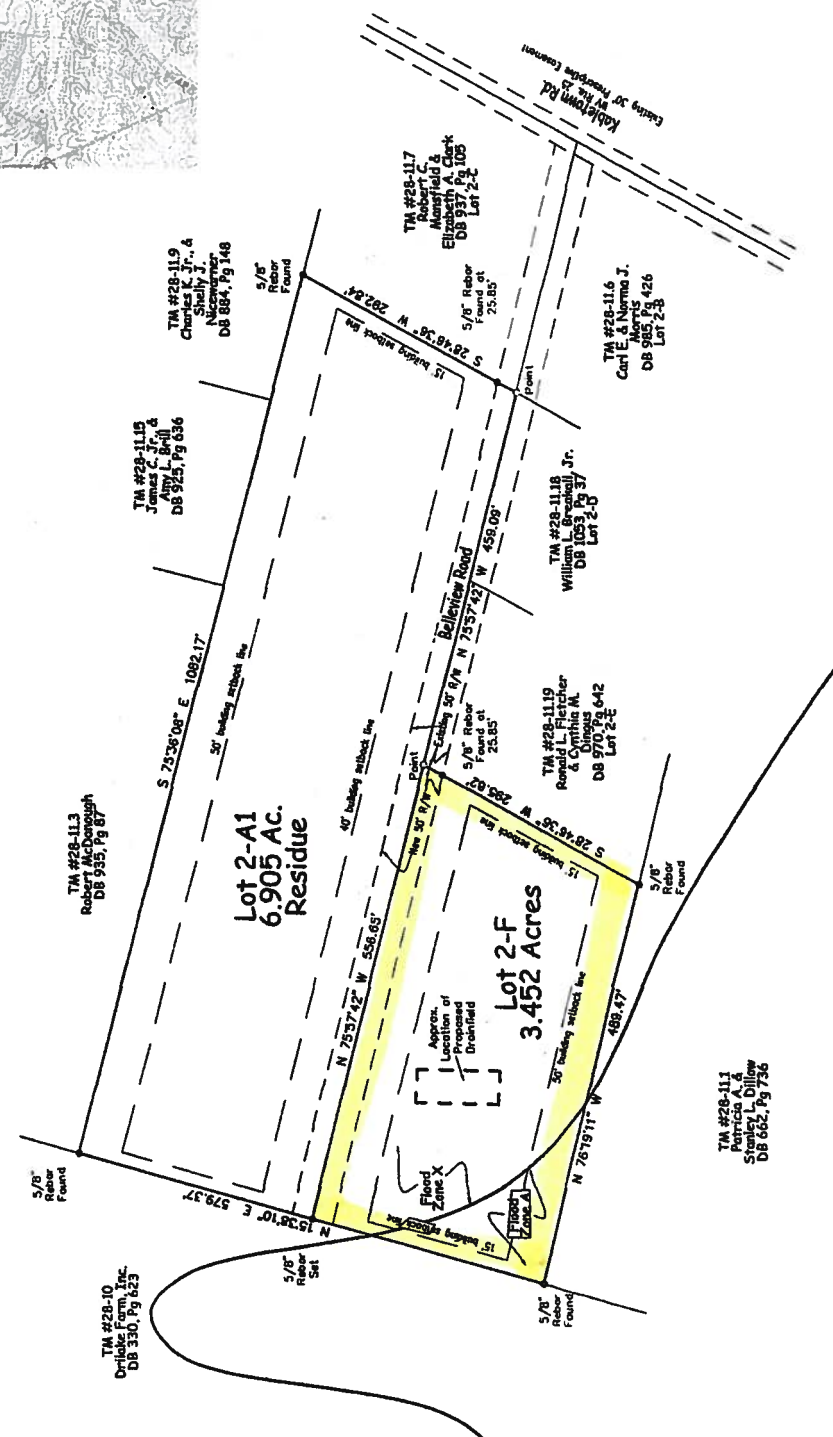


AREA TABULATION
 EXISTING: 10.357 AC.
 PROPOSED: 6.905 AC.
 Lot 2-A1
 Lot 2-F



**Family Division of the
 Angela Bell lands**
 being Lot 2-A of the Hebie Clipp Armstrong Family Division
 Kabetown District, Jefferson County, West Virginia
 Scale: 1" = 100' Date: July 6, 2010
 Present Owner:
 Angela Bell (owner/developer)
 TM #28-11-2 Deed Book 1072, Page 460
 76 Bellevue Lane, Charlestown, WV 25414
 Phone # 304-676-7383

Project #2326
 AGS Land Associates, P.C.
 1000 West Virginia Ave., Suite 200
 Martinsburg, WV 25401
 304-261-1111



Surveyor's Certificate:
 I, Michael W. Mars, a duly authorized Land Surveyor, do hereby certify that this plat is correct and accurate to the best of my knowledge and that I am a duly Licensed Professional Surveyor in the State of West Virginia. Board of Examiners of Land Surveyors and the West Virginia Code. Error of closure 1:7500 or better.

Michael W. Mars #2105

Statement of Acceptance:
 I, Angela Bell, do hereby accept and agree to abide by all conditions, terms and specifications provided herein; and to complete all the improvements required by the preliminary plat.

Approvals:

Planning Commission

- Notes:**
1. Boundary shown herein was determined by a field run survey performed by Artz & Associates on March 26, 2010.
 2. This plat is subject to easements and restrictions of record.
 3. No title report furnished. Front = 40', Side = 15', Rear = 50'.
 4. Subject property is located within flood zone A and Zone X per FEMA Flood 5403700223E.
 5. The Seller of any lot within this subdivision shall provide the Buyer with a reasonable opportunity, before settlement, to determine if the lot is suitable for residential use. If the lot is not suitable for residential use, the Seller shall provide a septic construction permit by the Jefferson County Health Department. Buyer may refuse to purchase the lot without penalty.
 6. Lots shown on this plat shall be restricted to a single family residence only unless land development is approved by the Planning Commission in conformance with the prevailing standards.
 7. All wells shall be pressure grouted in accordance with State Health Department standards.
 8. If the Public Service District may require hooking up to a centralized system when and if a public easement shall be given to the appropriate Public Service District in all subdivision rights of way for the purpose of constructing water and/or sewer lines and facilities.
 9. A blanket easement shall be given to the appropriate Public Service District in all subdivision rights of way for the purpose of constructing water and/or sewer lines and facilities.
 10. A blanket easement shall be given to the appropriate Public Service District in all subdivision rights of way for the purpose of constructing water and/or sewer lines and facilities.
 11. A blanket easement shall be given to the appropriate Public Service District in all subdivision rights of way for the purpose of constructing water and/or sewer lines and facilities. Certification that this water is potable must be submitted to the Planning Commission office within 6 months of the issuance of an improvement location permit.
 12. Driveway culverts to be 15" round CMP or equivalent each CMP unless noted otherwise, or not needed at the discretion of the County Engineer.

TM #28-11-3
 Robert McDonough
 DB 955, Pg 87

TM #28-10
 Dinkley Farm, Inc.
 DB 330, Pg 623

TM #28-11-8
 James Z. Jr. &
 Amy L. Brill
 DB 925, Pg 636

TM #28-11-9
 Charles J. &
 Shirley M. Nazzari
 DB 884, Pg 148

TM #28-11-7
 Robert C. Mansfield &
 Elizabeth A. Clark
 DB 937, Pg 105

TM #28-11-6
 Carl E. & Norma J.
 DB 985, Pg 426

TM #28-11-18
 William L. Brubaker, Jr.
 DB 1053, Pg 37

TM #28-11-19
 Ronald L. Fletcher
 & Cynthia M.
 DB 970, Pg 642

TM #28-11-1
 Patricia A. &
 Stanley L. Dillow
 DB 682, Pg 736

Jefferson County Dept. of Planning and Zoning

116 East Washington Street, 2nd Floor

P. O. Box 338

Charles Town, WV 25414

APPEAL OF DECISION FORM

Appeal Number: _____ Date Received: 6/7/11 Fees Paid: n/a

Property Owner (s): Angela R. Bell, Timothy Bell

Mailing Address: 76 Bellview Lane

Charles Town, WV 25414

Phone Number: 304-676-7383

Deed Book Reference: Deed Book #: 1072 Page #: 460

Tax Map Reference: District: 6-KT Map: 28 Parcel: 11.2

Zoning District: Rural R-G R-LI-C I/C VLG Parcel Size: 3.452 acres

Name of Subdivision: Hebie Clipp Subdivision

Physical Location of Subdivision: West side of Kabletown Road between Ward Clipp Road and Ann Lewis Rd.

Name(s) of Developer(s): n/a

Mailing Address of Developer(s): 

Phone Number of Developer(s): _____

Name of Registered Engineer(s) or Surveyor(s): n/a

Mailing Address of Engineer(s) or Surveyor(s): 

Phone Number of Engineer(s) or Surveyor(s): _____

Please explain your reason for asking for an appeal. You may attach additional pages to this form if you need additional space.

We are requesting an appeal on the decision requiring our development to be classified as a major rural subdivision because we had already been approved as a minor rural subdivision in July of 2009, prior to the amended county requirements that were changed in August of 2010.

This application and fee must be submitted to the Jefferson County Planning Department. Checks should be made payable to the *Jefferson County Commission*.

X 
Signature of Property Owner

JEFFERSON COUNTY, WEST VIRGINIA

Department of Planning & Zoning

104 East Washington Street

P.O. Box 338

Charles Town, West Virginia 25414

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

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

May 26, 2011

Tim and Angela Bell
76 Amanda Court
Halltown, WV 25423

Dear Tim and Angela Bell:

This letter summarizes the May 23rd meeting between Seth Rivard, Jonathan Saunders, and Steve Barney, and property owners Tim and Angela Bell. The purpose of the meeting was to discuss the required process and standards to create an additional lot in the Hebie Clipp subdivision. This letter also reflects previous meetings and discussions with the applicant on March 16 and April 13.

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Staff's previous understanding from past meetings was that the applicant was seeking a family transfer subdivision (which could process as a minor subdivision). During the May 23rd meeting, the applicant clarified that the lot is intended to be sold and is not intended as a family transfer. As such, the major subdivision process applies.

Listed below are your options for seeking subdivision approval:

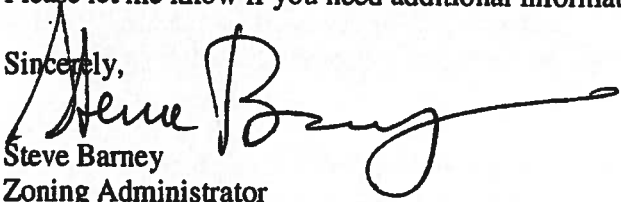
1. Process as a major subdivision.
2. Request a Planning Commission waiver from the 2010 amended JCSR to allow 6 lots to use a 50' access easement (meeting the roadway standards of a minor subdivision) and process as a major subdivision.
3. Appeal (to the Planning Commission) staff's determination classifying the proposed development as a major subdivision (pursuant to Section 20.201). The Planning Commission cannot waive process per section 24.300 of the JCSR. However, appeal of this memorandum may be the basis for the waiver request. (Please note that options 2 and 3 may be combined).

It was discussed at the April 13th and May 23rd meetings that option 2 would be supported by the Planning staff if an as-built drawing of the existing road is prepared by a civil engineer showing that the roadway construction is consistent with the Jefferson county road standards. The applicant may submit a waiver application without an as-built drawing but staff cannot support the request. It is recommended, at minimum, that the engineer who designed the road provide a letter describing the design of the road for inclusion in the Planning Commission packet at the meeting during which the waiver request is heard.

Please note that applications are not valid unless submitted with any required fees and an original signature. If the request is denied, the fee will not be returned and any new waiver requested under other grounds will require a new submission and fees.

Please let me know if you need additional information.

Sincerely,


Steve Barney
Zoning Administrator

Att: Jefferson County Zoning Certificate application

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

Item #7 Request by Jefferson Reality, LLC for a waiver from Subdivision Regulations Section 22.208.A requiring that sidewalks be required in the platted street right-of-way.

APPLICANT:	Jefferson Reality, LLC
OWNER :	Jefferson Reality, LLC
DEVELOPER:	Same
SURVEYOR/ENGINEER:	N/A
PROPERTY LOCATION:	4843 Middleway Pike in Kearneysville, WV
LEGAL DESCRIPTION:	District: Middleway; Map: 19A; Parcel: 14
ZONING DISTRICT:	Zoning Map Designation: Rural
SURROUNDING PROPERTIES:	Zoning Map Designation: North: R South: R East: R West: R
LOT AREA:	1.70 Acres
PRIOR CASES:	S03-06 ZC99-05 (required BZA approval, 1/20/00) ZC01-02 (required BZA approval, 1/21/01) ZC06-05, approved 7/3/06
VARIANCES:	ZV96-42 (approved 12/19/96) ZV96-43 (approved 12/19/96) ZV10-26 (approved 12/16/11)

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

PROPOSED ACTIVITY:	Reestablishment of a store that was destroyed by fire.
PRE-PROPOSAL CONFERENCE:	September 26, 2011

This request is related to Country Roads Market, which was a lawfully created nonconforming use established prior to the 1988 Zoning Ordinance. In recent years, the Planning, Zoning and Engineering Department approved a site plan for a building addition (which was completed), and the Board of Zoning Appeals granted several approvals, including changes to the nonconforming use.

On May 5, 2010, Country Roads Market was destroyed by fire. A new owner is seeking to restore the prior nonconforming use of the property. The land uses taking place at the site at the time of the fire, and which the Applicant has received a Board of Zoning Appeals (BZA) approval to reestablish, are listed as follows:

- a. Convenience store including incidental propane service, and with ABC Off Premises packaged alcohol sales
- b. Restaurant (food served at counter, no table service)
- c. Video lottery machine area with ABC On Premises alcohol service
- d. Office / storage area

While the structure is non-conforming and has received multiple Board of Zoning Appeals variances, when a structure is destroyed by the fire, the site is required to meet current standards when rebuilding. As detailed in the site plan standards, non-residential developments are required to have sidewalks.

The applicant is requesting to have the sidewalk requirement waived. Per Section 22.208.A of the 2008 Amended Subdivision Regulations, "Sidewalks shall be located in the platted street right-of-way, a minimum of one foot from the property line. Walks shall also be installed in pedestrian easements as may be required by the Planning Commission." The applicant's engineer has stated that the WV Department of Highway does not want sidewalks in the right-of-way; however sidewalks can be placed outside the right-of-way just inside the applicant's property.

Recommendation

Staff recommends the waiver not be granted. The applicant is able to install the sidewalks on their property to meet the intent of the requirements of the site plan standards. While this site is in a rural location and may not appear to need sidewalks, it is located between a small high density residential neighborhood to the rear and the village of Middlway, which may make use of this convenience store. This distance between the subject property and village of Middleway is 0.3 miles. The ability to walk within that range is very reasonable. The Village District allows for a variety of uses, particularly high density working and living arrangements, and walkable neighborhoods. Additionally, there is vacant land on the north side of Middleway which may provide a long term future opportunity to consider expanding the Village District.

While property neighboring the Country Roads Market is not zoned for commercial development, there are a number of non-conforming uses in the area which may expand to serve this rural

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

crossroads. As development happens in rural settlements throughout the County, sidewalks will need to be provided. Therefore, it is not unreasonable to expect that the applicant install sidewalks as a beginning to that larger network that has great potential to expand. It is consistent with long term plans to provide for off-street pedestrian and bicycle traffic in the rural areas of the County. Recently the Planning Commission required a sidewalk/trail easement in a similar rural location near Summit Point.

PCW11-03

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

WAIVER REQUEST FORM

RECEIVED
MAY 24 2011
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

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

Property Owner (s): Jefferson Reality, LLC

Address: 62 Orchard Dr
Ranson, WV 25438

Phone Number: 304-283-3120

Location of Property: 4843 Middleway Pike
Kearneysville, WV 25430

Lot Size: 1.70 Acres

Deed Book Reference: Deed Book #: 1086 Page #: 28

Tax Map Reference: District: Middleway Map: 19A Parcel: 0014

Zoning District: Rural

Section of Ordinance: Article 22 Section 22.208-A.

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

Per Article 22 Section 22.208-A. "Sidewalks shall be
located in the platted Street right of way, a minimum
of one foot from the property line."

WVDOH will not allow said sidewalk in the right of way.
Attached are pictures showing that the sidewalk would
lead to nowhere and serve no purpose.

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.

RECEIVED
PLANNING AND ZONING
COMMISSION

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.

yes, I am reestablishing the stone that burned down.

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

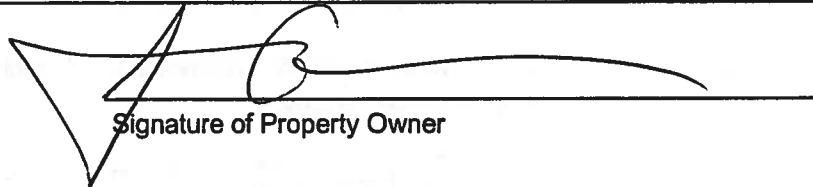
No, not at all, the adjacent property owner is myself.

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

Yes, and will do my best to keep it that way.

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

Yes, it will be better quality and add character to the property.


Signature of Property Owner

Signature of Property Owner

For Official Use Only

Amount of Fees Paid: _____

Date of Meeting/Public Hearing: _____

Official/Administrative Body: _____

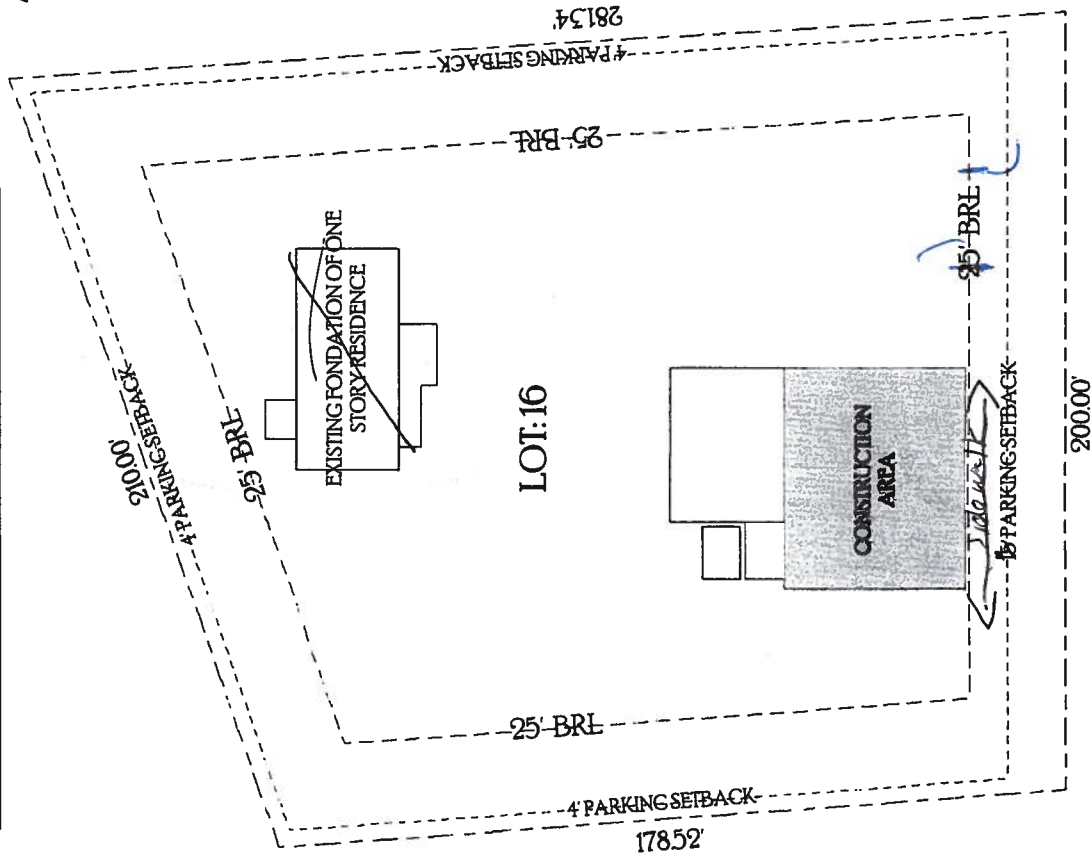
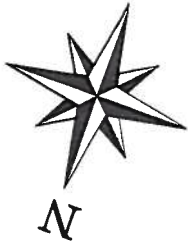
Property to be posted by: _____

Adjoiner letters to be mailed by: _____

Official Signature and Seal: _____

COUNTRY ROADS STORE

JEFFERSON REALTY LLC.
 4843 Middleway Pike
 Kearneysville, WV 25430



WV PRIMARY ROUTE 51

PLAN VIEW

scale: 1"=50'-0"

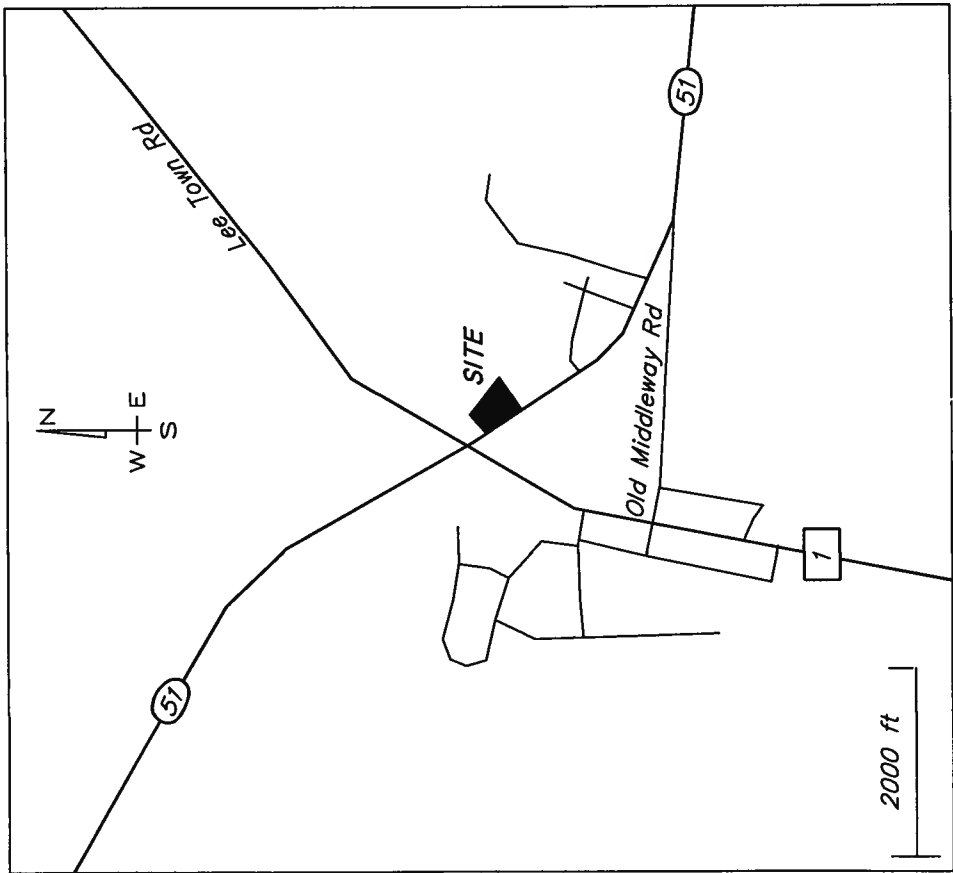
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01

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 MAY 24 2011
 JEFFERSON COUNTY
 PLANNING, ZONING AND ENGINEERING

COORDINATION	
<input type="checkbox"/> Structural	<input type="checkbox"/> Plumbing
<input type="checkbox"/> Mechanical	<input checked="" type="checkbox"/> Data
<input type="checkbox"/> Electrical	<input type="checkbox"/> Other

John Kestwinkel - November 5, 2010

5/23/11



SCALE: 1" = 2000'

VICINITY MAP

RECEIVED
MAY 24 2011
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING





Staff Assessment

Shenandoah Professional Services Rezoning Application

Submitted By:

Jefferson County Department of Planning and Zoning

Prepared for:

Jefferson County Planning Commission

&

The Jefferson County Commission

Request at a Glance:

Applicant: Potomac Professional Services, LLC on behalf of Shenandoah Professional Center, LLC

Address: 36 Bakerton Road, Harpers Ferry, WV 25425

Current Zoning: Residential Growth

Proposed Zoning: Residential-Light Industrial-Commercial

Acreage: 9.676 on two contiguous parcels

Background

The property at 36 Bakerton Road, Harpers Ferry, WV, known as the Shenandoah Professional Center, was approved on January 14, 2003 for a Conditional Use Permit (CUP). At that time the property was a single parcel. On February 7, 2006 the property was subdivided into two parcels. One parcel, which is 1.491 acres, has the historic house which is used for offices. The residue parcel is 8.185 acres and is primarily vacant with the exception of some ruins of an old barn.

The original CUP application requested that both office use and a self storage facility be permitted in 2002. The office use was approved and the self storage facility was not approved, since it was not in keeping with the character of the area (See Image 1).

In 2010, the applicant requested a rezoning of this property from the Residential Growth District to the Residential-Light Industrial-Commercial District. That requested was heard by and had a public hearing before both the Planning Commission and County Commission. The applicant requested that the County Commission postpone the vote regarding the rezoning twice and then requested a withdrawal of the application. This new request is the same as the last request. As this is the second time the applicant has made this request, this analysis has been amended to include further consideration in this matter.

Introduction and Purpose

Shenandoah Professional Services has requested rezoning of this property, which is the purpose of this report. The property is located at the corner of Bakerton Road and Route 340. Access to the property is from Bakerton Rd. The site is located to the west of the Town of Bolivar. Nearly all of the property is surrounded by lands owned by the National Park Service, which is part of the Harpers Ferry National Park. While this property and property to the north, south, west and east are zoned Residential Growth, a vast majority of this property is owned by the National Park Services. It is not anticipated or proposed to be developed under this zoning classification. Image 2 shows the National Park Service Property and Image 3 shows the current zoning for those parcels.

The property is identified on the Jefferson County Tax Map as two parcels. They include parcel 37, as shown on Tax Map 9, consisting of 1.491 acres and parcel 37.2, as shown on Tax Map 9, consisting of 8.185 acres. The property is zoned Residential Growth.

The applicant has requested rezoning of the entire subject parcels from Residential Growth to Residential-Light Industrial-Commercial. The following report has been prepared to assist the efforts of the Jefferson County Planning Commission and Jefferson County Commission to make

findings regarding the consistency of the proposed rezoning with the Jefferson County Comprehensive Plan, in accordance with West Virginia State Code requirements.

Statutory Authority and Requirements

The West Virginia State Code, Section 12.1(a) provides that the boundaries of zoning districts may be amended by the County Commission with the advice of the Planning Commission. The County Zoning Ordinance also requires that the “procedure for amendment [by petition] shall be as dictated in Section 8A-1-1 et seq of the West Virginia State Code as amended.” As concerns amendments by petition, State statute provides that, “Before amending the zoning ordinance, the governing body with the advice of the planning commission must find that the amendment is consistent with the adopted comprehensive plan.” [See *WVC 8A-7-9(c)*] This subsection of the State Code also states that, “If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved, which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.”

Scope of this Assessment

This report focuses on whether or not the rezoning application is consistent with the Comprehensive Plan. It assumes that there major changes of an economic, physical or social nature, within the area involved, have occurred that were not anticipated when the comprehensive plan was adopted, such that they would “substantially” alter the basic characteristics of the area. Those changes will be addressed in both the Historic Preservation section and the recommendation. This assumption is also limited to the proposal to rezone the subject site.

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

It should also be noted that the Comprehensive Plan states, “Its recommendations are (by their nature and intent) general and, as such, sometimes conflicting. It will not be difficult to find two that individually justify and conflict with many land use proposals.” In that sense, there are

many plan references that are identified in this report that can or may appear to support or fail to support a finding of consistency between the proposed rezoning and the Comprehensive Plan. In the final analysis, each member of the Planning Commission and the County Commission will need to weigh the degree to which various plan provisions are of greater or less importance, in establishing their respective findings regarding the application.

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

Relevant Comprehensive Plan Elements and Commentary

As a broad outline the Comprehensive Plan notes that, “Ironically, the natural beauty and rural setting of Jefferson County, the qualities that are so attractive to new residents, are the very qualities that are most threatened by a rapid pace of growth. With houses coming at a far faster pace than jobs, Jefferson County is facing a future as just another bedroom community in the larger metropolitan area. The intent of this plan is not to recreate or recapture the past but to shape future growth in a manner that preserves the most important features of Jefferson County: the rural landscape, the natural beauty of the rivers, the rolling terrain and the strong sense of community (pg 8).” This vision for the document illustrates that the historic and scenic viewsheds of Jefferson County are threatened by the rate of growth occurring within the County. The intent is to shape growth in a manner that preserves these important features, while allowing for growth where appropriate. It may be important to note that jobs can be provided in a number of alternative County locations. Rural landscapes and beautiful rivers can only be preserved where they exist. Once these rural landscapes and vistas are developed, they are lost forever.

The “...plan encourages new development patterns that foster mixed-use neighborhoods, so that a sense of community begins at the subdivision level (pg 8).” The plan further “...recommends that Jefferson County’s natural features, particularly stream valleys, be conserved as green space and that significant natural features be afforded protection as development proceeds (pg 8).” Staff concurs with the need for mixed development to provide for a variety of uses when possible. Again, this community created document that resulted in the Comprehensive Plan emphasizes that employment centers can be provided in a number of alternative County locations, where it is appropriate for more intense uses. While providing economic opportunities, the plan recognizes the importance to protect natural resources.

In this regard the plan emphasizes that "...existing population centers as the focus of new, more intense development and the importance of working with municipalities to assure a pattern of development consistent with the Plan vision (pg 8)." This is a policy statement within the document indicating that new, more intense development should be located within or adjacent to the Towns. Rezoning the parcels included in this request to Residential-Light Industrial-Commercial will result in a more intense development currently not located in the immediate area. There are a variety of permitted uses in the proposed new zoning category which allows for more intense uses. This spot rezoning defies "The Plan identifies strategies to assure that community facilities and transportation infrastructure are provided in sequence with new development (pg 8)."

This policy is designed to insure provisions of adequate infrastructure concurrent with development that may require it. The policy statement is also designed to minimize sprawl from existing urban core areas to rural areas, such as where the subject property is located. The subject property is an isolated parcel detached from any urban area and surrounded by protected property.

The property to the west and southwest are part of the National Park system, the property to the south is a seasonal weekend use market and the property to the east is low density residential. This property is separated from the Cities of Boliver and Harpers Ferry by the existing residential uses, the National Park Service property and a steep slope. To allude that this property is an extension of either of those municipalities is an exaggeration. Further, this property to the west is isolated from previous developmental activity by preserved land. Based on the current zoning of this property, as it connects to existing land uses, it is appropriate for the location.

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

- Encourage growth and development in areas where sewer, water, schools and other public facilities are available or can be provided without unreasonable cost to the community.
- Promote growth and development that are both economically and environmentally sound.
- Encourage and support commercial, industrial, and agriculture activities to provide a diversified and sound local economy.

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

The Comprehensive Plan addresses the possible adverse impacts commercial development on the fringe of town can have on traditional downtown central business districts. There is some evidence of underutilization of buildings located in the commercial core in Charles Town and Ranson presently. Rezoning of the subject property may lead to development which could be in direct competition with downtown commercial businesses.

These goals have been unchanged for over 20 years, there continues to be a common held vision that they are important to the County. As stated previously, encouraging and supporting residential, commercial and light industrial developments can be accomplished in a number of ways and in a number of alternative locations in the County that are more appropriate. With the current economic decline, there are a large number of residential and commercial vacancies, in existence now, that can promote this kind of development. Adding to a saturated market is not smart growth policy. Colliers International, a global international real estate firm, has noted that commercial retail space is over built by some one billion square feet (Source 1). This glut of retail space is not expected to abate quickly. While the proposed rezoning has a mixed use element conceptually built into it, there may not be enough property to provide a work and housing mix. As a result, this will be an auto dependent rezoning that will further cause congestion at an existing dangerous intersection and is not in keeping with pedestrian friendly, livable communities. Such activity has been established elsewhere in the County.

Since there are existing and additional locations that can provide this type of activity, the natural resources, cultural and historic preservation (the Harpers Ferry Park and viewsheds) of the scenic beauty can only occur where these features or resources are present. One of the goals mentioned above is to “Encourage and support commercial, industrial, and agriculture activities to provide a diversified and sound local economy.” It is important to remember that tourism is a real and vital component of Jefferson County’s economy which brings in real revenues just as other businesses do in the County. Jefferson County is number one in tourist dollars captured by any county in the State of West Virginia, capturing in \$729,000,000 for the 2008 year (Source 2). The proposed rezoning is centered within the area that visitors to the State and County view. Visitors do not enter the state to see suburban sprawl, rather the open vistas that welcome vacationers to Jefferson County and the State of West Virginia. Protecting

our resources is pro-economic development that provides "...a diversified and sound local economy."

The effects of traffic "With the increase in population in the last three decades, Jefferson County's roads have had to bear the combined burden of increased traffic volume and heavier commercial vehicles. As a result, the deficiencies of the highway and road systems have become more critical. Inadequate funding and increases in transportation demand are conditions which probably will be facing the people of Jefferson County indefinitely (pg 26)." As many people are aware the notion that inadequate funding and increased transportation demands are conditions the County will probably face indefinitely is ominous. The staff acknowledges that there is an existing bottleneck along Route 340, which is a major transportation route through the County. Rezoning this parcel of land to Residential-Light Industrial-Commercial use may aggravate this condition. While this development by itself may or may not generate a lot of traffic, allowing this type of development to sprawl along Route 340 could result in increased congestion. It is certainly possible that the intersection of Bakerton/Millville and US 340 would see an increase in traffic pressure from this rezoning. The rezoning here may open the possibility for additional neighboring properties to up zone in this location, adding to the dangers of this intersection.

The Comprehensive Plan states that "A comprehensive and systematic approach to transportation planning is needed to meet the future transportation of the County (pg 26)." The plan further delineates the following general goals:

1. Reduce the occurrence and severity of roadway traffic accidents by encouraging the West Virginia Department of Transportation, Division of Highways to reduce or eliminate conditions which cause them.
2. Encourage the West Virginia Department of Transportation, Division of Highways to take measures to provide for and maintain efficient roadway traffic flow.
3. Find creative solutions to both funding and legislative limitations, in order to solve transportation problems.
4. Seek a coordinated transportation plan among all levels of government that provides for coordinated transportation planning and funding of highways, streets, commuter rail service, public transit, car/van pooling, park & ride facilities, bike paths, pedestrian access, and technological improvements to the transportation system in the County.
5. Encourage alternate forms of transportation within the County, such as pedestrian trails and bike paths, provided they are feasible and prove beneficial.
6. Encourage the State and Federal government to increase public transit service to the County, provided it is feasible and proves beneficial.

"During the Comprehensive Plan process, citizens have expressed concerns with some of the roads in the County. The County has reached a critical turning point as undeveloped land is

becoming committed to new subdivision and development. As more and more land is developed future transportation improvements may become more difficult and more costly. Therefore, it is prudent for the State and County to plan for the future needs now, while the land is available and the improvements can be more easily made, or at least the land can be reserved during the development process for future improvements (pg 27).”

The Comprehensive Plan reflects the growth in traffic volumes, along the Route 340 Corridor, from 1996 to 2002. It is clearly the most heavily trafficked route. The West Virginia Department of Transportation traffic counts, from 2008 show 38,000 average daily trips (ADT) at WV 26 and 29,400 near Bakerton Rd. The applicant has confirmed this in their application by stating “...commuting to and from the Washington DC/Metropolitan area, thus significantly taxing the major roadway systems, especially the Rt. 340 Corridor...”

Currently this section of US 340 is undergoing a comprehensive and systematic study to begin to address the current and future transportation needs of the corridor. This study should be allowed to mature in the process before land use decisions are pre-determined. There are real implications to land use decisions, such as this rezoning, that affects the transportation network. In this analysis and specific section, it is not only the rezoning and the possible uses that could be built that could cause a negative impact upon the traffic conditions, but the potential for transportation improvements to be built on the parcel to improve the Corridor. Such transportation improvements are difficult if buildings are being constructed or are built. The West Virginia Department of Highways noted this concern to staff in another area of the County.

The current East US 340 Corridor Study may recommend necessary corridor improvements and land use (zoning districts) changes along the corridor. The corridor study is discussed here and in the recommendation below. There is significant land mass along US 340 that could potentially be developed. There are a number of large parcels, totaling approximately 650 acres that are potentially developable. That acreage does not include the numerous lots that are 7 to 20 acres in size that could be assembled for development, adding presumably an additional 100 to 200 acres of conceivable development. For reference, a square mile is 640 acres of land. While a single more intense non-residential development may not have a significant negative impact on US 340, setting a precedent for allowing this type of development without a comprehensive corridor management plan in this area, sets the stage for an accumulation of minor negative effects that could result in a major problem. The goal of this plan is not to predetermine what is going to occur along the corridor, so much as to plan how components of corridor mesh as a unit.

The Comprehensive Plan highlights the bottleneck along US 340 and affirms “Due to employment trends in the region, US 340 is the busiest highway used to access Jefferson County. On Fridays, commuter traffic has been known to back up from the Potomac River Bridge as far as Brunswick, Maryland as county residents return from their jobs in Maryland and Washington. Holiday travel can also create weekend backups at this bottleneck. Ways to correct this problem have been discussed. Several options to increase the capacity of this section of highway are to: widen the bridge/highway to four lanes, double deck the bridge/highway, or build an alternate by-pass highway. Given the major river crossings, coordination is necessary between the States of West Virginia, Maryland and Virginia, the impact on the National Park, and the design difficulties and high cost, it is unlikely that one of these solutions will be implemented in the foreseeable future. Therefore, another option is for future transportation planning efforts to study the benefits and feasibility of options that may decrease commuter traffic along this section of highway. These options may include park & ride facilities that are coordinated with public transportation, and encouraging telecommuting, etc (pgs 32-33).”

The above referenced notation in the plan summarizes the problem in that area of US 340 and that a solution is not likely in the short term. The new Route 9 is not expected to solve the traffic concerns on Route 340, as the traffic on Rt. 9 has a different commuting pattern and direction than that of Route 340. Again, while the proposed development alone may or may not have a significant negative effect on Route 340, the County needs to consider the potential accumulation of these effects. Without a detailed site plan for a specific use, the impact is hard to predict. The study underway is not anticipated to improve the bottle neck, but it could provide solutions that would allow for better flow along US 340. Page 30 of the Plan (titled Highway Problem Areas) identifies the Route 340 corridor as having problem areas, but does not identify the intersection at Bakerton Road as a problem area, as of 2003. However, that intersection is notable in the county as a hazardous area to cross. There is an accompanying table on page 31 of the plan which lightly details this issue, but it fails to mention the single lane sections. These single lane sections are where the bottlenecks occur along portions of the Route 340 Corridor.

While noted above, the Comprehensive Plan expands upon the natural, environmental and historical resources along the US 340 Corridor and this analysis would be not be whole if this important component is not addressed. “In terms of environmental resources, Jefferson County suffers from an embarrassment of riches. Located in the shadow of the Blue Ridge at the confluence of two major rives, Jefferson County is also one of the most agriculturally productive counties in the State of West Virginia. If we are not careful, we could squander

these resources. Effective planning is essential to preserving these resources for use and enjoyment of future generations (pg 48).” Additionally the plan notes “Caves, scenic vistas, wildlife corridors and cliff areas are just several examples of additional forms of natural resources that contribute to the environmental and cultural mix that is Jefferson County. The topography, geology, hydrology, and biological diversity of the environment is one of the hallmarks that makes Jefferson County the beautiful environment that it is. Unfortunately, not every form of natural resource can be discussed in detail within the context of a Comprehensive Plan. The protection of scenic vistas has been the subject of public comment during this process. During the life of the 1994 Plan, which stated that scenic vistas should be protected through the purchase of easements, the Circuit Court voided the issuance of a Improvement Location Permit (ILP) for a telecommunications tower near Alstadt's Hill, based on non-conformance with the Comprehensive Plan, although no easements were in place. The County should identify the protection of scenic vistas as an issue to address, this is best done through the adoption of standards within the ordinances, so that all parties are aware of their rights and responsibilities in this regard (pg 52).”

Expanding upon the natural resources of the community to historic resources, the Comprehensive Plan presents the following topic at depth, but is of importance to this rezoning request in the total evaluation. “Jefferson County is an area rich in historical and archaeological interest. It has arguably been referred to as the most historic rural county in America. As part of our country's first western frontier, it was settled by Europeans before 1720 and was inhabited by Native Americans for several thousand years before.

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

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

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

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

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

Regardless of the successes of the past, as an increasing number of tracts are developed for residential, commercial or industrial uses, existing unprotected historic resources become endangered. Existing processes should be evaluated for their ability to address this growing issue (pgs 55-56).”

Expanded discussion is found on page 66 of the plan which states that “History, culture and scenic beauty combine to make Jefferson County an attractive area for travel and tourism. The area's proximity to the major population centers of Baltimore and Washington enhances this potential. Local attractions include Harpers Ferry, Shepherdstown, the Contemporary American Theater Festival, Charles Town Races and Slots, Summit Point Raceway, the Mountain Heritage Arts and Crafts Festival, the Washington Heritage Trail, white water rafting, etc. Two existing organizations are primarily responsible for encouraging the expansion of the tourism industry and an increase in visitors - the Jefferson County Chamber of Commerce and the Jefferson County Convention and Visitors Bureau. The JCDA can be most useful in assisting with the location and expansion of destination oriented tourist facilities.”

Historic and natural features are given a significant priority in the 2004 Comprehensive Plan. This section of the Plan underscores the importance of heritage tourism to the economy and notes the cultural and scenic features that drive locally based tourism's economic engine. The text substantially supports the need to protect the “scenic vistas” both in this plan and in the 1994 Comprehensive Plan. Most of the site is visible from various areas of the National Park. Considering the property's location in relation to the national historic buildings and park, the views may be considered more important than the development proposed.

Staff suggests that any development of the site, with or without rezoning, identify key locations where components of the viewshed may be considered more important and would require easements to protect the view. While being redundant, it's important to note that recreational tourism, heritage tourism, scenic tourism, and eco-tourism are part of Jefferson County's pro-business and pro-economic development avenues. Potentially impacting that significant, valuable and irreplaceable part of the county and the affected economic generators, without a plan, in this rezoning is unsystematic. This section of the Plan underscores the importance of heritage tourism to the economy and notes the cultural and scenic features that drive locally based tourism's economic engine. Staff notes that care should be taken when reviewing rezoning that might jeopardize the efforts to nurture the tourism economy or reduce interest in visitation to tourist offerings. The subject property is integral element of a historic battlefield as shown on Image 4.

As mentioned above, an important consideration of this rezoning request is whether "...there have been major changes of an economic, physical or social nature within the area involved, which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area." There have been major changes to the US Route 340 Corridor area that were not projected when the Comprehensive Plan was written. Since 2004 there have substantial acquisitions by the National Park Service surrounding this property that were not anticipated in 2004. This is a significant consideration in that the subject parcel may have once been potentially part of a larger area that could have developed. Now those areas are protected and this subject parcel is isolated from other parcels. The potential for high intensity development on adjoining large lot parcels in that area is not a reality.

While the applicant has taken great strides and should be strongly commended in restoring the existing home to offices, the remaining acreage is open for use. Considering that mini-storage units were once proposed on the site, there is a need for caution as to what could be placed on that property regardless of what has occurred. It is important to remember that the proposed zoning allows a variety of uses. The rezoning appears to be speculative based on the applicant's lack of committal on any of the future uses that would or would not be a component of this site.

The Residential-Light Industrial-Commercial zoning district, which the applicant is requesting, is "...commonly referred to as the "mixed use" zone, permits uses of a light industrial and commercial nature, as well as a spectrum of residential and institutional uses ranging from single-family dwelling units to multi-family apartments and group homes. Residential uses must conform to the standards set forth in the Residential Growth District, but industrial and commercial uses are required to conform to a set of specific performance criteria, which

include numerical measurements of several factors for uses that may have nuisance effects on adjacent uses.

There are two issues regarding this district that should be studied as part of planned amendments to the Zoning Ordinance. First, most ordinances that have "mixed use" zones require certain minimum percentages of land usage in residential, commercial and dedicated open space. Jefferson County's Ordinance doesn't. Land in this district can be developed entirely for commercial or residential use or any combination thereof.

A second, less pressing issue is whether the property that is in this district, but part of a larger tract under common ownership should be required to submit a concept plan for the development of the entire tract as part of the application for development of the initial phase of the project. By policy statement, the Planning Commission does ask for a concept plan, but it is nonbinding and advisory only. Requiring the approval of a concept plan (subject to revision if the circumstances needs change) would allow the Planning Commission to view how the development as a whole would affect the area and how the initial phase would coordinate with the proposed build out concept (pg 71)." The plan outlines further, that as a recommendation for future changes to the Zoning Ordinance, a concept plan be submitted when a plan or rezoning is requested for this district.

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

The Comprehensive Plan outlines a worthy thought that a concept plan should be presented when a rezoning is requested. This would provide some level of expectation of what may occur in the future. The requirements for this type of submittal should be reasonable in order to provide a balance for the applicant's resources and the public understanding of the proposal. Since the Residential-Light Industrial-Commercial District allows such a wide variety of uses, it's not an unreasonable notion.

Finally, the Comprehensive Plan accurately and clearly describes the circumstances and elements of the area that this rezoning could affect. "The US 340 corridor from the Shenandoah River bridge to the Charles Town bypass serves many purposes. It is the major transportation spine in the eastern part of the County. It is from this road that one views the panorama of the rest of the County from Alstadt's Hill. It serves as a collector for several secondary State highways which serve significant numbers of houses and businesses, and it

serves as the eastern gateway to West Virginia. Traffic is ever increasing on this road, as are development pressures.

This segment of US 340 is the most identifiable and visible artery in the County. Without effective study and management, this corridor could deteriorate into a strip of housing developments indistinguishable in character, and commercial development rivaling "strips" in nearby larger cities.

US 340 is the main transportation spine through the County. As such, the purpose of this study is not to turn US 340 into an undeveloped parkway. Rather, it is stated here that the purpose of this study is to identify ways to ensure that the residential and commercial development that occurs along this corridor is designed and constructed in such a way where the development does not cause visual blight and major traffic problems along the eastern entrance corridor to the State. Buffers, landscaping requirements, traffic and access design, sign regulation and aesthetic highway improvements are all examples of issues that could be discussed as part of this study (pg 72).” Again, while this rezoning is for 9.676 acres of property, the expansion and potential for traffic and visual blight is possible without careful consideration of the Corridor as a whole. It is imperative that the activity on this Corridor be reviewed very closely due it being the “most identifiable and visible artery in the County.”

It should be noted that in the past, the applicant has stated that in the failed 2008 Zoning Ordinance this property was to be General Commercial. While that is correct, it’s only a component of the overall situation occurring at that time. First, the proposed 2008 Zoning Map does not show additional purchases by the National Park Service that have occurred since that time. The 2008 map does show other Federal lands in the area. The proposed map was out of date by the time it was adopted. Changes to the land in that area where happening faster than the plan could keep up with as it was being finalized. Changes occurring at that time could have changed the zoning proposed in that area, including this property.

The activity in this area has change quickly in a short time. Second, the economic climate under which the 2008 Zoning Ordinance and Map was created has dissipated and may have had an impact on the zoning designation for the property. As noted previously, it is well established that there is much more commercial space currently available than can be absorbed by the market. Third, not all properties along the US 340 Corridor would have been up zoned by the failed 2008 Zoning Ordinance. In fact, two large parcels would have been down zoned from the current Residential Growth to Agriculture. It is difficult to balance the idea that large parcels where downgraded and smaller parcels were up zoned. It may be possible to speculate that the Corridor under the propose zoning was intended to retain some rural characteristics or the area was not looked at carefully. As such, the 2008 proposed Zoning Map may be flawed and any assumptions derived from it are defective. Finally, in the referendum of the 2008 Zoning Ordinance and Zoning Map, the community of Jefferson County overwhelmingly rejected that proposal. Making decisions on an ordinance and map that was rejected by the people is not in keeping with the intentions of the citizens of Jefferson County.

Staff Recommendation

The applicant has provided documentation that they believe support the request for rezoning and has demonstrated what might appear to be consistency of the proposed rezoning with certain *limited* provisions contained in the Comprehensive Plan. The applicant has selected very limited sections to make their case and it is insufficient in its evaluation of the significant key components of the Comprehensive Plan.

Staff recommends denial of this application or that the applicant wait 12 months until the US 340 East Corridor study is complete. This will be explained further. While staff recognizes some conflict between various plan goals and objectives, we believe such conflicts are inherent in a document of this nature. As noted on page 12 of the Plan, “its recommendations are (by their nature and intent) general and, as such, sometimes conflicting. It will not be difficult to find two that individually justify and conflict with many land use proposals.”

A number of policies, objectives and recommendations provided in the plan, when taken together, provide a compelling argument for denial of this rezoning application. They include:

- As noted above, State statute provides that “Before amending the zoning ordinance, the governing body with the advice of the planning commission must find that the amendment is consistent with the adopted comprehensive plan.” [See **WVC 8A-7-9(c)**] This subsection of the State Code goes on to state that, “If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved, which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.”

There have been major changes of an economic, physical or social nature within the area that were not anticipated when the current Comprehensive Plan was written in 2004. Since 2004 the area has experienced a significant shift toward acquisition of historic properties by the National Parks Service. While these properties have long been a place of historical significance, the land was not open to the public. With this fundamental change, property that is now flanked by lands that are in public holdings should be reviewed in a different fashion. No longer is the subject property adjacent to significant lands that could be developed, the property is in isolated pocket.

- While the plan may acknowledge growth along Route 340 that occurs over time, such development should extend from existing core areas and not be located in the middle of a rural area with limited services for this type of activity.
- Pages 32 and 33 of the Comprehensive Plan discuss the Harpers Ferry Water Gap. This discussion focuses specifically on the two-lane roadway condition through the Shenandoah-Potomac River Water Gap at Harpers Ferry. It documents the history of back-ups and suggests that alternative ways to correct the problem have been discussed. It notes however, that a solution is not likely in the short term (if ever) due to design difficulties, high cost and impacts on the National Park. For these reasons staff cannot recommend a rezoning that can only create additional pressures on limited highway capacity in this area. As noted in this report, the proposed change of zoning could result in higher traffic patterns than currently allowed in the existing zoning. The applicant has already noted that the existing roadway systems are taxed in their capacity for travel movements.
- Page 72 of the Comprehensive Plan identifies the Route 340 Corridor as an area that should be targeted for special study. It notes that the corridor serves as a collector for several secondary state highways which serve significant numbers of houses and businesses and it serves as the eastern gateway to West Virginia. Traffic is ever increasing on this route. This segment of US 340 is the most identifiable and visible artery in the County. Without effective study and management, this corridor could deteriorate into a strip of housing developments indistinguishable in character and commercial development rivaling “strips” in nearby larger cities. The Plan recommends study of the US 340 corridor, including land use, viewsapes, economic development, traffic design and management in order to create an effective strategy for a long term plan of this important Corridor. The Plan notes that buffers, landscaping requirements, traffic and access design, sign regulation and aesthetic highway improvements are all examples of issues that could be discussed as part of the study. Staff agrees with the Comprehensive Plan recommendations, and believes such a study should precede any rezoning with the corridor.
- Staff recommends that the applicant wait 12 months until June 30, 2012 to return to the County Commission at the second meeting in July to have this item heard by that body. This would allow for the US 340 East Gateway Corridor study to fully mature and provide at a minimum recommendations regarding land use (possible rezoning options) and traffic impacts. The study underway is addressing this corridor with meticulousness and will allow for land use decisions based on an overall plan, not an ad hoc basis. It is a

real possibility that the corridor study may have an overlay zone, in this area, that allows the applicant more flexibility in uses. It may also allow the applicant to garner staffs support. Additionally, the requested land use change may further garner public support and allow the applicant a less contentious path. This recommendation is not unreasonable. At best, the applicant is able to market the property in a manner that the end user can be assured less intense scrutiny and assure a smoother process or approval. At worse, the applicant is in the same position that they are in currently. The goal of the study is not to take away zoning entitlements.

- There has been some concern regarding the applicants intent of what this property will be developed as and how it will look. The applicant has been vague in this regard. While it would be nice to suppose that the intent is to be in keeping with historic structure used by the applicant, their vagueness and lack of commitment to providing a reasonable answer to those questions clearly indicated this rezoning is a speculative rezoning. The applicant has done a quality restoration of the historic house and it would be speculative to assume that those features would carry over to the area requesting to be rezoned. That's not a risk that should be taken lightly in consideration that this area is an entrance to the Jefferson County and the State. If the applicant were willing to provide some minimum details regarding architectural elements of the new structures, that may begin to address some of the concerns.
- The 2004 and 1994 Comprehensive Plans provide substantial discussion of the need for protection of "scenic vistas"(see page 52). This issue has also been raised over the years with plan updates. As such, it is a scenic vista with County, State and National significance. Rezoning the site for Residential-Light Industrial-Commercial use places scenic vistas at risk.
- The site is visible from various areas of the National Park. Considering the subject property's proximity to national historic lands, the views may be considered more than attractive natural features and scenic vistas. They are a part of a greater story in the nation's history worthy of interpretation. For both reasons, staff suggests that any development of the site, with or without rezoning, identify key locations where components of the viewshed may be considered most important and explore providing for purchase of easements on those portions.
- As noted previously, some of the Plan's goals appear to reflect conflicting values. However, staff believes some goals can be achieved in a number of ways, while others are location dependent. An example is the goal of encouraging and supporting commercial and industrial development and providing jobs in the County which can be

accomplished in a number of ways and in a number of alternative locations within the County. Such a goal need not be implemented on the subject property. However, conservation of natural resources, cultural and historic resources (the Harpers Ferry Park and viewsheds) and preservation of scenic beauty can only occur where these features or resources are present. If better understood by use of a concept plan, both economic development and the historical, natural and scenic views might be balanced.

- Finally the applicant always has the option to apply for a CUP. In the CUP the applicant could outline the permitted uses they would like and it would provide a way to reduce some concerns related to uses permitted in the Residential-Light Industrial-Commercial District. With this process the applicant may be able to achieve their objectives.

Image 2

Growth of Harpers Ferry NHP Since 2004

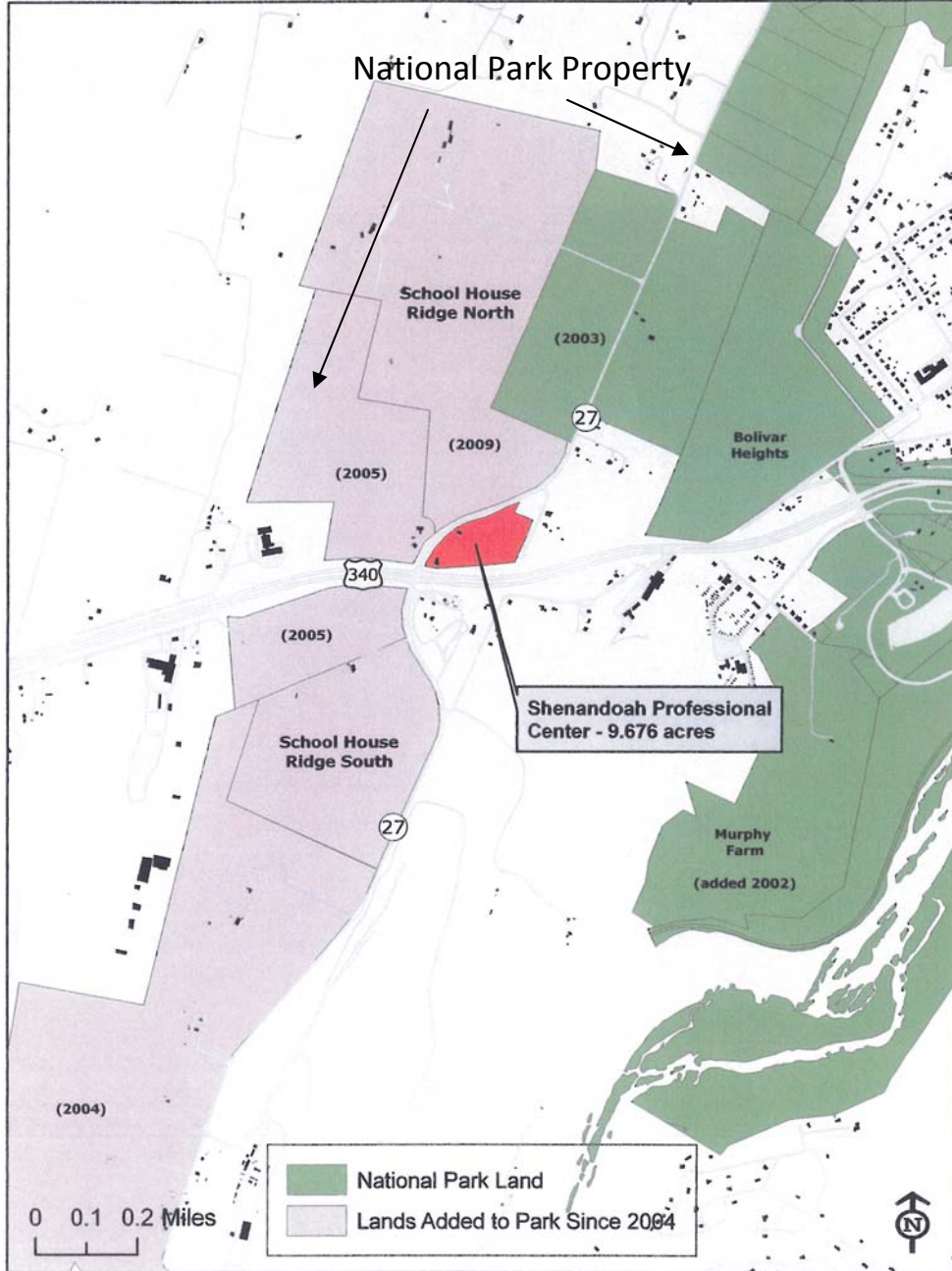
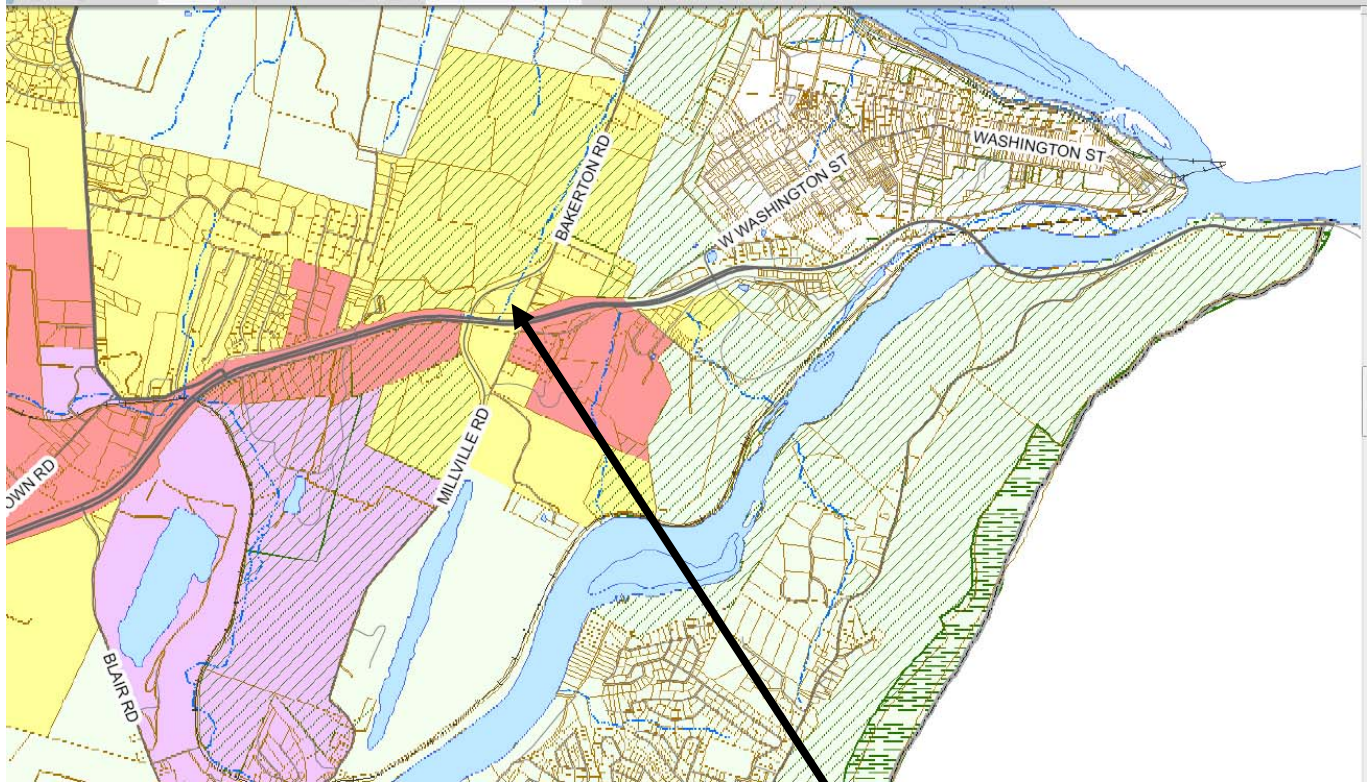







Image 3



Legend

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

Zoning District

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

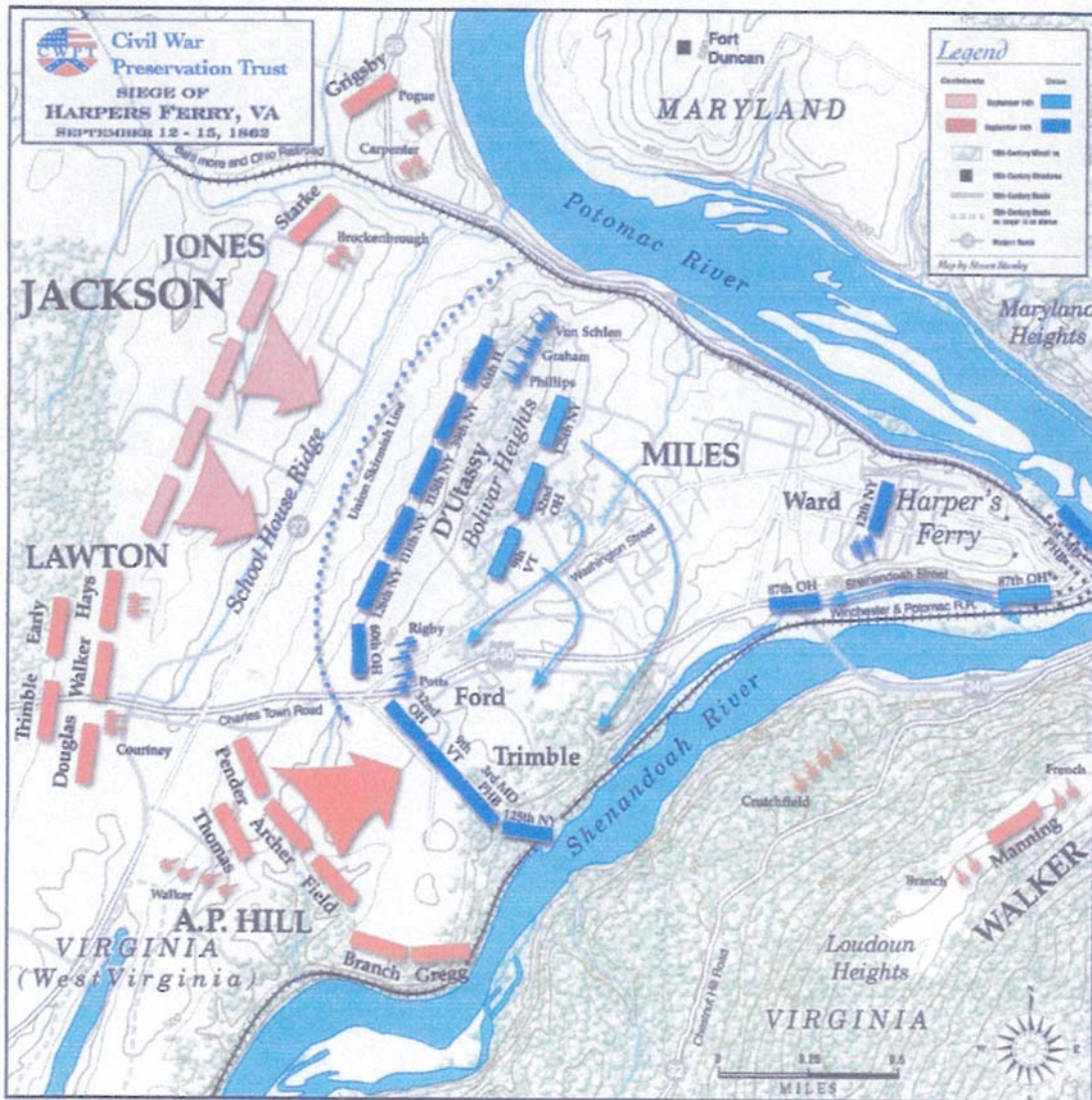
Subject Property

Image 4

School House Ridge and Bolivar Heights

Important resources that should be preserved for future generations

Below is a battle map showing the positions and flow of the opposing Union and Confederate forces of Jackson and Miles during the siege of Harpers Ferry. This area is where much of the actual battle was fought. It's best long term use would be to preserve it for historical interpretation by tour guides as part of the Harpers Ferry's historical tourism experience. Continued development on or near this battlefield not only defiles a national historical treasure, but it also ignores its great potential as an economic engine for attracting historical tourism dollars.



Source 1

“The Big Box Dilemma” Colliers International White Paper (Summer 2010)



April 15, 2011

Via U.S. Mail

Jefferson County Planning and Zoning Department
116 East Washington Street
Charles Town, WV 25414

Attn: Ms. Jennifer M. Brockman, AICP
Director of Planning and Zoning

Re: **Zoning Map Amendment Request**

Dear Ms. Brockman,

Pursuant to the recent election results in association with the proposed adoption of new zoning ordinances and districts, Potomac Professional Services, LLC (Potomac), on behalf the property Owner Shenandoah Professional Center, LLC, would like to formally request a Zoning Map Amendment for the following property within Jefferson County, West Virginia.

Article 12. Map and Text Amendments, of the current Jefferson County Zoning Ordinances requires the following information for any petition for a zoning map amendment.

1. Substantiation for the Request

- a. Current Zoning: Residential Growth (R-G)
- b. Requested Zoning: Residential/Light Industrial/Commercial (R-L-C)
- c. The property is located at the intersection of Rt. 340 and Bakerton Rd and is visible from Rt. 340 heading north and south. The Shenandoah Professional Center, a professional office building, is currently an operational commercial use on the property. The Shenandoah Professional Center was approved as a commercial use under a Conditional Use Permit, approved on January 14, 2003. With public input and concerns, the building was renovated from an 1800's era farmhouse to a historically correct, updated professional office building which is an impressive site along the route from Harpers Ferry to Charles Town.

The undeveloped rear property, referred to on the recorded plat as Lot 2, is currently approved as a single family lot, but with any proposed development would need to adhere to the current entitlement process within Jefferson County.

Through planning for the recent zoning ordinance election, the property was proposed by the County to be rezoned to General Commercial due to its' proximity to a high traffic roadway and viable commercial potential. The requested zoning map amendment stays consistent with the intent of the County Commissioners and their vision for the future needs of Jefferson County.

- d. The property is in a location that is beneficial for commercial growth within the County. This proposed zoning amendment would provide the County with a concentrated area of potential commercial development along a major traffic corridor, in lieu of spot development.
2. Tax District, Map and Parcel Number
 - a. Harpers Ferry District, TM 9, Parcel 37 & 37.2
 3. Deed Book Reference
 - a. DB 996, Page 552, Lot 1 and 2
 4. Plat or Sketch pursuant to Section 7.4(b)
 - a. See attached
 5. Tract Size
 - a. Lot 1 – 1.491 acres, Lot 2 – 8.185 acres, Total = 9.676 acres
 6. Discussion on:
 - a. Comprehensive Plan compatibility of the proposed change.
 - i. This proposed zoning change from residential to a predominately commercial zone stays consistent with the 2004 Jefferson County Comprehensive Plan in that growth was encouraged in areas where water, sewer, schools, and other public facilities are available, and the encouragement and support of commercial and industrial to provide a diversified and sound local economy.

The location of this property is consistent with the 2004 Comprehensive Plan in all of the aforementioned ways, as well as being adjacent to a major roadway feeding Jefferson County.
 - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted.
 - i. Although this request is believed to be consistent with the current Comprehensive Plan adopted in 2004, the area has undergone significant growth since that time that has increased traffic on primary and secondary roadway systems. The influx of home sales

between 2005 through 2007 was primarily driven from buyers who are commuting to and from the Washington DC/Metropolitan area, thus significantly taxing the major roadway systems, especially the Rt. 340 Corridor running from Maryland to West Virginia. In addition, the recent approval of table games at the Charles Town Race Track has increased traffic even more throughout the region.

This significant growth and impact to the major roadways has emphasized the need to centralize the potential commercial uses on or in close proximity to the major road networks for easy access and increased visibility.

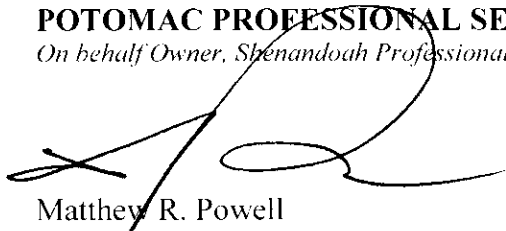
It is our hope that this request could be heard before the Jefferson County Planning Commission via Public Hearing on the May 10, 2011 Agenda. Please inform us if this is possible, and if not, what the expected date for a Public Hearing would be.

If you have any further questions or comments, please contact the undersigned at 1(304) 725-3712, ext. 217.

Sincerely,

POTOMAC PROFESSIONAL SERVICES, LLC

On behalf Owner, Shenandoah Professional Ctr, LLC

A handwritten signature in black ink, appearing to read 'M. Powell', with a large, stylized flourish extending from the end of the signature.

Matthew R. Powell
Vice President Development

Final Plat showing Lots 1 & Lot 2 (Residue)

Shenandoah Professional Center

Harpers Ferry District
Jefferson County, West Virginia
HFD M9 P37 DB 996 PG552

Developed By: Shenandoah Construction Management, LLC

December 2, 2005

Prepared By:



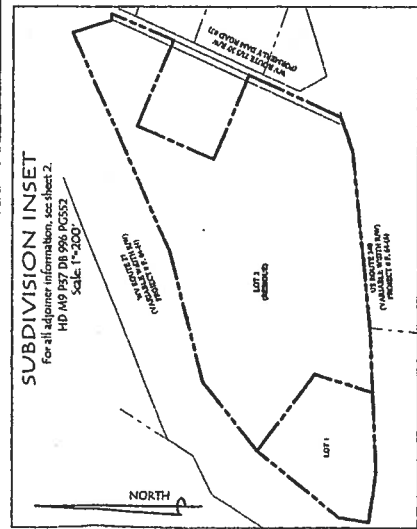
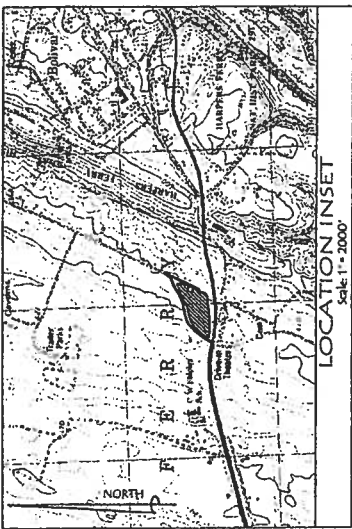
Dewberry & Davis, LLC
411 S. FAIRFAX BOULEVARD
RANSON, WV 25438-1611
PHONE: 304.725.4572
FAX: 304.725.6896

DEVELOPER/OWNER'S STATEMENT OF ACCEPTANCE
The developer/owner, in signing this plat, agrees to abide by all conditions, terms, and specifications contained herein, and to accept all conditions, terms, and specifications provided herein.
Shenandoah Construction Management, LLC
Shenandoah Professional Center, LLC
10038 Charles Town Road
Ranson, West Virginia 25438
304-262-4465

SURVEYORS CERTIFICATION
The perimeter and all lot boundaries shown hereon have been established by a network of traverse control having a relative error of closure of 1:7,500 or better.
Shane W. Roush, P.S. 304-725-4572
Dewberry & Davis, LLC

FINAL PLAT APPROVED
Date: 12/2/05
File Number: 15-54
Paul R. Roush, P.S.
Jefferson County Planning, Zoning, & Engineering

NO.	REVISION	DRAWN BY	DATE
1	REVISION PER KPCZC	SLK	1/16/06
2	REVISION PER KPCZC	CBH	1/19/06



- VARIANCES**
- Variance From The Frontage Road Requirements For Entire Length Of U.S. Route 340 Right-of-way (Article 5, Section 5.8 (b)(9) & (b)(10))
Requirements Dated: March 20, 2003
 - Variance From The Minimum Buffer Requirements (Article 5, Section 5.8 (b) (10))
Requirements Dated: March 20, 2003
 - Variance From The Setback Requirements (Article 5, Section 5.8 (b) (11))
Requirements Dated: March 20, 2003
 - Variance To Advance to Final Plat Stage (Article 5, Section 11.2.2.2)
Dated: October 11, 2005

- LEGEND**
- Property corner to be set #5
 - concrete monument
 - proposed easement
 - existing easement
 - subdivision boundary
 - subdivision lot lines
 - existing power lines
 - existing power poles

INDEX

Count sheet	Overall View
1	2



LEGEND	
	5/8" Iron rebar w/ID cap set
	concrete monument
	overhead electrical lines
	fence line
	utility pole
	points

- NOTES:
1. BUILDING SETBACKS FOR LOTS 1 & 2 SHALL BE 10 FEET FROM THE FRONT, 5 FEET FROM THE SIDE, AND 5 FEET FROM THE REAR. SETBACKS FROM THE FRONT SHALL BE 10 FEET FROM THE FRONT PROPERTY LINE. SETBACKS FROM THE SIDE SHALL BE 5 FEET FROM THE SIDE PROPERTY LINE. SETBACKS FROM THE REAR SHALL BE 5 FEET FROM THE REAR PROPERTY LINE. SETBACKS FROM THE FRONT SHALL BE 10 FEET FROM THE FRONT PROPERTY LINE. SETBACKS FROM THE SIDE SHALL BE 5 FEET FROM THE SIDE PROPERTY LINE. SETBACKS FROM THE REAR SHALL BE 5 FEET FROM THE REAR PROPERTY LINE.
 2. BY GRANTING AUTHORITY ONLY: THIS PROJECT IS IN THE ZONE OF THE CITY OF ELK LANE, WEST VIRGINIA. THE CITY OF ELK LANE HAS REVIEWED THIS PROJECT AND HAS GRANTED THE NECESSARY PERMITS FOR THE CONSTRUCTION OF THIS PROJECT. THE CITY OF ELK LANE HAS REVIEWED THIS PROJECT AND HAS GRANTED THE NECESSARY PERMITS FOR THE CONSTRUCTION OF THIS PROJECT.
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Approved Subdivision
 Paul S. Racer, PE
 Executive Director
 02/07/06

JEFFERSON COUNTY, WV
 FILED
 February 07, 2006 11:33:37
 JENNIFER S. HODSON
 COUNTY CLERK
 TRANSACTION NO: 20060203
 PLATS 104 X 181
 Sheet: 22 Page: 0007A
 REPRINTED ON: 02/07/2006



Final Plat showing
 Lot 1 & Lot 2 (Residue) of
 Shenandoah Professional Center
 Harpers Ferry District
 Map 9 Parcel 37 DB996 PG. 552
 Date: December 2, 2005 Scale: 1"=80'

Dewberry
 Dewberry & Davis, LLC
 411 S. FAIRFAX BOULEVARD
 HANSON, WV 25438-1611
 PHONE: 304.725.4572
 FAX: 304.725.6886

GRAPHIC SCALE
 (IN FEET)

ACREAGE TABLE	
LOT 1	1.487 ACES
LOT 2	8.185 ACES
TOTAL	9.672 ACES

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

Item #10 Request by Highland Farm for a Major Subdivision Concept Plan Public Workshop for a proposed subdivision (PC File #11-02). (Subdivision Regulation 24.108)

APPLICANT:	Highland Farms, LLC
OWNER:	Herb Jonkers
DEVELOPER:	Same
SURVEYOR/ENGINEER:	Greenhorne & O'Mara Consulting Engineers
PROPERTY LOCATION:	Route 9 west of Bloomery Road
LEGAL DESCRIPTION:	District: Charles Town; Map: 19; Parcel: 33, 38 & 41
ZONING DISTRICT:	Zoning Map Designation: Rural
SURROUNDING PROPERTIES:	Zoning Map Designation: North: R South: R East: R West: R
LOT AREA:	270.9 acres
PROPOSED ACTIVITY:	Residential Cluster Subdivision consisting of 27 lots and a residue parcel

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

The submitted Concept Plan, for Highland Farm, is for a major subdivision requiring a Major Concept Plan Public Workshop. The property is located on Route 9 west of Bloomery Road. The main frontage for the parcel is along Route 9 and the rear of the portion fronts on John Rissler Road. The proposal is to create a cluster subdivision of 27 lots and a residue from the existing 270.9 acres. The residue will be available for equestrian use for the residents and owned by the HOA.

The Zoning Ordinance requires that proposed cluster subdivisions in the Rural Zoning District be processed per the procedures found in Section 5.7(d)(2)(c). These procedures are entitled "Concept Plan." This could be easily confused with the Concept Plan standards required in Subdivision Ordinance. Both concept plans are similar and have overlapping requirements. The Zoning Ordinance's concept plan provision pre-dates the adoption of the current Subdivision Regulations. This overlap is being addressed in the policy neutral amendments to the Zoning Ordinance; however it does not impede this or any other applications from processing at this this time. With Staffs agreement, the applicant has met the requirement of both documents through the submittal of one concept plan that has address all the requirements of both the Zoning Ordinance and the Subdivision Regulations.

The applicant did seek a Board of Zoning Appeals variance. The variance was to increase the maximum lot size for two lots. In cluster developments the maximum lot size is 3 acres. The BZA approved this variance and it is reflected on the concept plan.

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.

After a few revisions of previous submissions, on March 11, 2011, the applicant submitted an application referred to in the Subdivision Regulations as a "Major Subdivision Concept Plan Submission." Staff had 10 working 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" on March 25, 2011.

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.

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5. **Traffic Impact Data.** This shall include:
- Average Daily Trip figures for the adjoining or accessible State road.
 - 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>

- 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.
 - “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.
 - 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.
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 March 25, 2011. 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 March 25, 2011, 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 June 14, 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:

- 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.
- 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.
- Department.** The Department review shall include the following:

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

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 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 Highland Farm concept plan complete based on the information provided related to the criteria above. The applicant has either addressed the conditions within the submitted concept plan or listed when those conditions will be met in future submittals.

Additionally, outside agencies have responded. Of the agencies specifically asked to respond, WV Department of Highways, Jefferson County Public Service District, and Jefferson County Historic Landmarks Commission, WV Division of Culture & History and Jefferson County 9-1-1 Addressing

STAFF REPORT

Jefferson County Planning Commission Meeting

June 14, 2011

Office all responded. The Jefferson County Health Department has not responded. All correspondence from these agencies are attached.

The Jefferson County Public Service District replied stating since the site is to be served by well and septic there will be no need for public sewer service.

The West Virginia Department of Highways (WVDOH) has stated that there appears to be improvements or planned within the right-of-way of Route 9 and the applicant will have to contact the WVDOH regarding any activity in those areas. No specific improvements were mentioned. The letter from the WVDOH did state that a traffic study report does not appear to be required for this project.

The Jefferson County Historic Landmarks Commission (JCHLC) responded stating that as the property is "...located near the Shenandoah River, it is probable that there are archaeological sites associated with Native American activity on the site." The JCHLC further noted that they do not have state archeology maps of the subject property and forwarded the letter they sent to the applicant and the Department of Planning and Zoning to the WV State Historic Preservation Office. The WV Division of Culture & History responded stating that they believe a Phase I archeology survey should be required. Additionally the Division of Culture & History provided documents they had sent to the applicant in 2005, when a wastewater treatment facility was proposed to be built near this property for an adjacent development by this applicant.

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

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.

Jefferson County Public Service District

April 5, 2011

Mr. Seth Rivard, Planner
Jefferson County Department of Planning & Zoning
116 E. Washington Street
P.O. Box 338
Charles Town, WV 25414



Re: Completeness Review: Highland Farms (PC File # 11-02)

Dear Mr. Rivard:

It is my understanding from the concept plan for Highland Farms provided by Greenhorne & O'Mara dated January, 2011, that the current plan for this portion of Highland Farms includes 27 residential lots with a minimum size of three acres, plus residual lots reserved for agricultural, woodland, and recreational uses. I have been informed that septic systems will be utilized for wastewater treatment; therefore public sewer service will not be necessary.

Should public sewer service ever be desired in the future, we will be pleased to discuss this possibility. Please contact me should more information be necessary.

Sincerely,

A handwritten signature in blue ink that reads "Susanne Lawton". The signature is written in a cursive, flowing style.

Susanne Lawton
General Manager

cc: Herb Jonkers
Surina Singh, Greenhorne & O'Mara
Zane Summerfield, Pentree Inc.

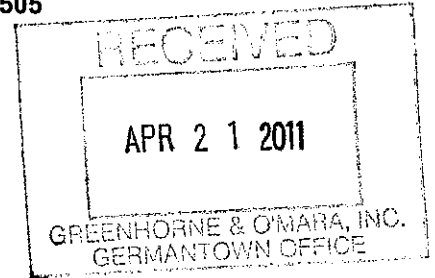


WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

Division of Highways

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

April 18, 2011



Ms. Surina Singh, ASLA, LEED-AP
Greenhorne and O'Mara
20410 Century Boulevard, Suite 200
Germantown, Maryland 20874

Dear Ms. Singh:

Thank you for your letter, dated March 29, 2011, regarding the proposed Highland Farm development in Jefferson County.

The results of the review by the West Virginia Division of Highways (WVDOH) of the concept plan provided indicate that work within the WVDOH right-of-way of WV 9 is proposed as part of the project. Consequently, when appropriate and prior to commencement of any work within the WVDOH right-of-way, the developer should submit to the WVDOH District Five Headquarters in Burlington a completed encroachment permit (Form MM-109) application, with appropriate plans and details regarding the work to be performed pertaining to the State Highway System, which work appears to be limited to the new highway access and the trail head proposed at WV 9. Based on the traffic data provided for the 27 lots and Residue Parcel, a traffic impact study does not appear to be required for this development as proposed.

Should you require additional information, please contact Mr. David E. Cramer, P. E., of our Commissioner's Office of Economic Development, at (304) 558-3505.

Very truly yours,

Marvin G. Murphy, P. E., P. S.
State Highway Engineer

MGM:Cm



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MAY 04 2011
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Seth Rivard
Planning & Zoning Department
P.O. Box 338
Charles Town, WV 25414

April 29, 2011

Mr. Rivard,

The Jefferson County Historic Landmarks Commission has reviewed materials submitted by Greenhorne & O'Mara engineers for Highland Farms, LLC of a proposed subdivision on the Highland Farm in Jefferson County. As this property is located near the Shenandoah River, it is probable that there are archaeological sites associated with Native American activity on the site. The JCHLC does not have access to the state archaeological maps, which are kept at the West Virginia State Historic Preservation Office in Charleston. Therefore, it is the opinion of the JCHLC that SHPO should be asked to comment on the project and its possible impacts on archaeological sites within the project area.

Thank you for the opportunity to comment on this proposed 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

cc: Susan Pierce, SHPO

Amy Puetz

From: Kender, Carolyn M [Carolyn.M.Kender@wv.gov]
Sent: Wednesday, May 18, 2011 10:39 AM
To: 'apuetz@jeffersoncountywv.org'
Cc: Pierce, Susan M
Subject: Highland Farms
Attachments: 05-441-JF.pdf; 05-441-JF-1.pdf; 05-441-JF-2.pdf; 05-441-JF-3.pdf

Dear Ms. Puetz:

Susan Pierce has asked that I forward to your office copies of correspondence from the State Historic Preservation Office to Steptoe & Johnson; Potesta & Associates, Incorporated; and the Ottery Group regarding the proposed Highland Farm wastewater treatment plant project in 2005. Our records indicate the Jefferson County Planning Commission and the Jefferson County HLC were also provided copies of the correspondence. It was our understanding at the time that the proposed treatment plant was associated with the Thorn Hill/Highland Farm development. Phase I archaeological survey conducted within the proposed plant project area identified three archaeological sites (46Jf502, 46Jf503, and 46Jf504). While our office had determined that the portions of these resources located within the plant project's Area of Potential Effect were *not eligible* for listing in the National Register of Historic Place, these sites were not fully explored. Our office had recommended that the remainder of the sites will need to be assessed for eligibility for inclusion in the National Register of Historic Places, if project boundaries were shifted to include other areas of the site. We also requested that the identified features at these sites be avoided during proposed construction activities. Our office had also recommended that the proposed housing development undergo a Phase I archaeological survey. We concur with our prior recommendations. Please let us know if you have any questions.

Sincerely,

Carolyn Kender
Archaeologist
West Virginia Division of Culture & History
1900 Kanawha Blvd. East
Charleston, WV 25305
(304) 558-0240 ext. 719
carolyn.m.kender@wv.gov



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EEO/AA Employer

February 24, 2005

Mr. Armando Benincasa
Steptoe & Johnson
Bank One Center, 7th Floor
P.O. Box 1588
Charleston, WV 25326

RE: Highland Farm, LLC SHPO Review;
Request for Review of Proposed WWTP Project
FR#: 05-441-JF

Dear Mr. Benincasa:

We have reviewed the above mentioned project to determine its effects to cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

Architectural Resources:

The West Virginia State Historic Preservation Office has reviewed Phase I of the Thorn Hill Development in Bloomery, Jefferson County. It is our understanding that Phase I of the Thorn Hill Development consists of construction of a wastewater treatment plant and associated components for the support of a proposed housing development. The location of the proposed wastewater treatment plant is in a rural area with no structures within view. Therefore, this office is of the opinion that the proposed wastewater treatment plant will have no effect to any architectural resources listed in or eligible for inclusion in the National Register of Historic Places. However, we do have concerns about the placement of housing once the development project is underway. Thank you for completing the *Historical Research and Historic Structures Survey Report Thorn Hill Property Jefferson County, West Virginia*. Unfortunately, due to xeroxing, the photographs of the structures are indistinguishable. Please submit clear photographs of the structures surveyed. Furthermore, please complete the enclosed Historic Property Inventory (HPI) form for each structure located within the proposed housing development area and any structures 50-years or older that will have a line-of-sight to the proposed project area keyed to a map illustrating the structures locations in context with the proposed project area. What visual impact will the proposed housing development have to the houses both within the project area and adjacent? The HPI form can be copied on archival paper (20lb letterhead is sufficient) for use for each structure. We will complete our review upon receipt of the materials requested.

Archaeological Resources:

We require additional information in order to complete our review. Information submitted for review indicates that proposed construction activities include the installation of 3,700 LF of 12" sewer line, the installation of 189LF sewer line force main, the construction of a pump station, the installation of 1,091 LF of effluent discharge line from proposed treatment plant to the Shenandoah River, and the

February 24, 2005

Mr. Benincasa

Page 2

construction of a wastewater treatment facility adjacent to Route 9 at Bloomery, West Virginia. A search of our office site files and maps located a number of known archaeological sites within a one-mile radius to the proposed treatment plant site as well as in close proximity to the proposed sewer line. Submitted mapping indicates that there are remnants of a concrete dam located on Evitts Run within the proposed project area. A "well in concrete" is also shown on the submitted mapping.

Due to the documented features within the proposed project area as well as the known archaeological sites in the area, we have concerns regarding the potential for finding intact archaeological deposits within the proposed treatment plant project area. Therefore, we request that a Phase I archaeological survey be conducted in the proposed project area where ground disturbing activities will occur (e.g., installation of sewer lines, installation of force main, installation of effluent discharge line, construction of pump station, construction of treatment plant). We will complete our review upon receipt of the results of the requested Phase I archaeological survey.

It is our understanding that the proposed wastewater treatment plant is associated with a proposed 179 single family home housing development (Thorn Hill Phase I). Upon review of the submitted report titled, *Historic Research and Historic Structures Survey Report Thorn Hill Property Jefferson County, West Virginia*, we have concerns regarding the potential for finding intact archaeological deposits with this property. In the description of the Jones/Elliott Property, the report mentions that in the basement of the current C.L. Hilleary residence a fieldstone foundation from an earlier residence has been re-used and that are "foundation ruins of a bank barn just west of the loafing shed." The Craighill Farmstead is an early nineteenth century farmstead with extant outbuildings and the remnants of a early-nineteenth century barn. Historical background research provided on the Craighill Farmstead indicate that there is the potential for finding archaeological deposits pertaining to the "Little & Craighill's Mill" as well as an early nineteenth century canal. The Beeler/Isler Property has the potential for providing information on a nineteenth century domestic farmstead site with slave quarters and an associated grist mill. Due to the documented potential for finding intact archaeological deposits within the proposed Thorn Hill development property, we strongly suggest that a Phase I Archaeological Survey be conducted on all areas where ground disturbing activities (e.g., grading, utility line installation, installation of storm water drainage lines, construction of houses, access road construction) will occur within the project area. Please note that compliance with our request for a Phase I archaeological survey on the proposed Thorn Hill housing development area is not intended to be a condition of the NPDES permit.

The report also indicates that there is an historic cemetery on the Beeler/Isler property. Our records indicate that this cemetery has been assigned 46Jf137 as its official trinomial number. The report states that there are only two distinct graves, however, we have concerns regarding the potential for unmarked graves due to documented slave

February 24, 2005
Mr. Benincasa
Page 3

ownership by the Beeler family. Currently, formal boundaries have not been established for this site. It is our understanding that the Beeler/Isler Cemetery will be preserved as an green space within the proposed Thorn Hill development. In order to ensure that the graves are adequately protected, we request that at least a 100-foot buffer zone be established around the parameter of the cemetery. We also strongly suggest that a qualified archaeologist establish exact boundaries for site 46Jf137 prior to the establishment of the proposed green space borders in order to ensure that unmarked graves are not impacted. Again, please note that compliance with our request for a Phase I archaeological survey on the proposed Thorn Hill housing development area is not intended to be a condition of the NPDES permit.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Ryan Burns, Historian, or Carolyn Kender, Archaeologist, in the Historic Preservation Office at (304) 558-0240.*

Sincerely,



Lora A. Lamarre
Senior Archaeologist

LAL:rcb/cmk

Enclosure

CC: Jefferson County Planning Commission
Jefferson County HLC



**WEST VIRGINIA
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EEO/AA Employer

April 13, 2005

Mr. Bill Drinkard
Potesta & Associates, Inc.
University of Charleston
Cox Hall
2300 MacCorkle Avenue, SE
Charleston, WV 25304

RE: Highland Farm, LLC SHPO Review;
Request for Review of Proposed WWTP Project
FR#: 05-441-JF-1

Dear Mr. Drinkard:

The mission of the West Virginia State Historic Preservation Office of the Division of Culture and History is to encourage, inform, support, and participate in the efforts of the people of West Virginia to identify, recognize, preserve, and protect West Virginia's prehistoric and historic structures, objects, and sites.

We have reviewed the above mentioned project to determine its effects to cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

Architectural Resources:

The West Virginia State Historic Preservation Office has reviewed Phase I of the Thorn Hill Development in Bloomery, Jefferson County. It is our understanding that Phase I of the Thorn Hill Development consists of construction of a wastewater treatment plant and associated components for the support of a proposed housing development. The location of the proposed wastewater treatment plant is in a rural area with no structures within view. Therefore, this office is of the opinion that the proposed wastewater treatment plant will have no effect to any architectural resources listed in or eligible for inclusion in the National Register of Historic Places. However, as stated in our letter dated February 24, 2005, we do have concerns about the placement of housing once the development project is underway. We have enclosed a copy of the February 24, 2005 letter for your use.

Please complete the enclosed Historic Property Inventory (HPI) form for each structure located within the proposed housing development area and any structures 50-years or older that will have a line-of-sight to the proposed project area keyed to a map illustrating the structures locations in context with the proposed project area. We have enclosed instruction for completing the HPI form. Furthermore, what, if any, visual impact will the proposed housing development have to the houses both within the project area and adjacent? The HPI form can be copied on archival paper (20lb letterhead is sufficient) for use for each structure. We will complete our review upon receipt of the materials requested.

Archaeological Resources:

Thank you for submitting the core boring report completed for the proposed Thorn Hill, Highland Farm Wastewater Treatment Plant site completed by Potesta & Associates, Inc. During a previous phone conversation in early March, Mr. Herb Jonkers of Highland Farm, L.L.C. stated that a restaurant used to be located at the proposed treatment plant site. Unfortunately, the report does not provide adequate evidence for previous ground disturbances that reportedly occurred within the proposed project area especially within the vicinity of Boring No. B1. The report indicates that

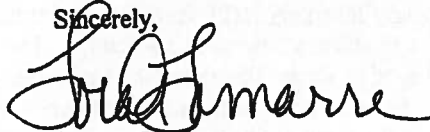
April 13, 2005
Mr. Drinkard
Page 2

there is at least two feet of testable soil within portions of the proposed wastewater treatment plant site, thus reinforcing our concerns regarding the possible presence of intact archaeological deposits within the proposed project area. Therefore, we re-issue our previous request that a Phase I archaeological survey be conducted in the proposed project area where ground disturbing activities will occur (e.g., installation of sewer lines, installation of force main, installation of effluent discharge line, construction of proposed pump station, construction of treatment plant). We will complete our review upon receipt of the results of the requested Phase I archaeological survey.

In our previous correspondence dated February 24, 2005, we raised concerns regarding the potential for finding intact archaeological deposits within the proposed Thorn Hill housing development project area which is associated with the above mentioned Highland Farm wastewater treatment plant site. We strongly suggested that a Phase I archaeological survey be conducted on all areas where ground disturbing activities (e.g. grading, utility line installation, installation of storm water drainage lines, construction of houses, access road construction) will occur within the proposed Thorn Hill housing development project area. We re-issue this suggestion for a Phase I archaeological survey. This suggestion was and is re-issued due to documented historic resources (e.g., Craighill farmstead, Beeler/Isler cemetery (46JF137), remnants of a early-nineteenth century barns, remnants of fieldstone foundation for an earlier residence underneath the current C.L. Hilleary residence) within the project area and the documented potential for finding intact archaeological deposits related to the "Little & Craighill's Mill", an early nineteenth century canal, and slave quarters. We also had concerns regarding the potential for unmarked graves within the Beeler/Isler property portion of the project area and suggested that a qualified archaeologist establish exact boundaries for site 46Jf137 so that a 100-foot buffer zone could be established around the parameter of the cemetery. Please note that compliance with our request for a Phase I archaeological survey on the proposed Thorn Hill housing development is not intended to be a condition of the NPDES permit.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Ryan Burns, Historian, or Carolyn Kender, Archaeologist, in the Historic Preservation Office at (304) 558-0240.*

Sincerely,

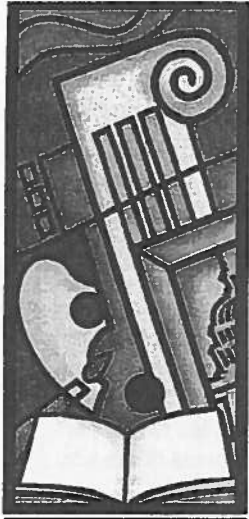


Lora A. Lamarre
Senior Archaeologist

LAL:rcb/cmk

Enclosure

CC: Jefferson County Planning Commission
Jefferson County HLC



**WEST VIRGINIA
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EEO/AA Employer

August 30, 2005

Mr. Thomas W. Bodor
Director
The Ottery Group
2900 Linden Lane
Suite 210
Silver Spring, MD 20910

RE: Highland Farm, LLC SHPO Review;
Request for Review of Proposed WWTP Project
FR#: 05-441-JF-2

Dear Mr. Bodor:

The mission of the West Virginia State Historic Preservation Office of the Division of Culture and History is to encourage, inform, support, and participate in the efforts of the people of West Virginia to identify, recognize, preserve, and protect West Virginia's prehistoric and historic structures, objects, and sites.

We have reviewed the above mentioned project to determine its effects to cultural resources. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

Architectural Resources:

The West Virginia State Historic Preservation Office has reviewed Phase I of the Thorn Hill Development in Bloomery, Jefferson County. Thank you for sending the additional information requested in our April 13, 2005 letter. We concur with your determination that the two structures and associated outbuildings do not meet the National Register Criteria for Evaluation and are therefore not eligible for inclusion in the National Register of Historic Places. Phase I of the Thorn Hill Development will have no effect to any architectural resources listed in or eligible for inclusion in the National Register of Historic Places. No further consultation is necessary with this office regarding architecture for this project.

Archaeological Resources:

We have reviewed the draft technical report titled *Phase I Archeological Survey of the Proposed Highland Farm Sewer Line and Waste Water Treatment Plant Site Bloomery, Jefferson County, West Virginia* that was submitted for the above referenced project. The survey resulted in the identification of three archaeological sites: the Goose Island Site (46Jf502) and the Bloomery Mill Site (46Jf503) within Survey Area A; and a concrete gravity dam (the Evitts Run Dam Site-46Jf504) within Survey Area B. Two isolated find sites (46Jf505 & 46Jf506) were also identified within the proposed project area.

The Goose Island Site (46Jf502) was described as a late nineteenth/early twentieth century domestic site that has two extant structures (an I-House and a shed). A total of 48 historic artifacts were recovered from the yard area of the extant I-House at site 46Jf502. An artifact inventory for this site was not included in Appendix A. We request that you submit an inventory and indicate the horizons and depths from which artifacts were recovered. The report states that two features (a concrete cistern and a poured concrete slab with a possible well cap) were identified within the site boundaries and are located north of the house close to the southern bank of Evitts Run. Please note that project mapping did not illustrate the location of these features. However, based on the written description of the locations of these features, it is our

August 30, 2004
Mr. Bodor
FR# 05-441-JF-2
Page 2

understanding that these features will not be impacted by the proposed sewer line installation. The report recommends that site 46Jf502 is not eligible for inclusion in the National Register due to its limited research potential. We have determined that only those portions of site 46JF502 located within the proposed sewer line right-of-way are not eligible for inclusion in the National Register. This determination does not include those areas of the site (including the identified features) that lie outside the current project right-of-way. Because this site was not fully explored, the remainder of the site will need to be assessed should project boundaries shift to include other areas of the site.

The Bloomery Mill Site (46Jf503) was described as a multi-component site at which eight shovel test pits and two 1x1 meter units were excavated. A total of 242 historic and 39 prehistoric artifacts were recovered from this site. The report states that the site includes push piles of the ruins of two cabins. Project mapping for Survey Area A does not show the locations of these push piles. It is unclear whether they will be impacted by proposed project activities. Please submit a site map that indicates the push pile locations. The report states that intact, undisturbed soil horizons were encountered during the excavations of Test Units 1 & 2 and that the historic artifacts recovered dated from the early 18th to the mid-19th century. These artifacts pre-date the construction of the extant cabin and may be associated with the former Bloomery Saw Mill. However, systematic testing of the proposed line location did not identify any structures or subsurface features associated with the former mill. The report also states that portions of the site have been impacted by prior construction activities associated with the Route 9 bridge project, thus limiting the research potential of the site. The report recommends that site 46Jf503 is not eligible for inclusion in the National Register due to its limited research potential. We have determined that only those portions of site 46JF503 located within the proposed sewer line right-of-way are not eligible for inclusion in the National Register. This determination does not include those areas of the site that lie outside the right-of-way. Because this site was not fully explored, the remainder of the site will need to be assessed should project boundaries shift to include other areas of the site.

It is our understanding that Site 46Jf504, the Evitts Run Dam Site, is composed of a ca. late nineteenth/early twentieth century concrete gravity dam that may have a possible association to a gristmill once operating at this location. The report states that this resource will not be impacted by the proposed construction activities associated with the wastewater treatment plant and sewer line. The report also indicates that the research potential for this site is limited due to the presence of heavily eroded soils. Since the proposed construction activities within this area will avoid the identified resource, we have determined that this portion of the proposed project will have no effect on any known archaeological site listed on or eligible for inclusion in the National Register.

Systematic testing of Survey Area C resulted in the recovery of two isolated find sites that have been designated 46Jf505 and 46Jf506. Site 46Jf506 consists of a single piece of pearlware, while site 46 Jf505 consists of two pieces of historic ceramic. The report concludes that deposition of these artifacts is most likely the result of prior flooding. We concur with these conclusions and recommend that no further archaeological investigations are necessary within Survey Area C. We have also determined that no known archaeological site listed on or eligible for inclusion in the National Register will be affected by proposed construction activities within Survey Area C.

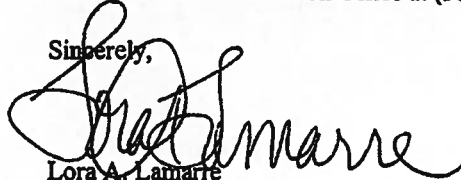
August 30, 2004
Mr. Bodor
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Page 3

Finally, our guidelines ask that the following items be provided in future archaeological reports submitted to our office: representative profile drawings for shovel tests completed in each section of the project area; representative photographs of excavation unit profiles; depths at which artifacts were encountered within STPs and their overall density across the site; artifact densities per unit and unit level; a complete inventory of all artifacts recovered from the field with appropriate provenience information; photographs and/or drawings of representative artifact types and diagnostic artifacts; and concise statements regarding the eligibility of identified resources for inclusion in the National Register.

In summary, systematic testing of the proposed waste water treatment plant site and associated sewer lines near Bloomery, West Virginia for Highland Farm, LLC, resulted in the identification of three archaeological sites (46Jf502, 46Jf503, 46Jf504) and two isolated find sites (46Jf505 and 46Jf506). We have determined that only those portions of sites 46Jf502 and 46Jf503 that fall within the project right-of-way are not eligible for inclusion in the National Register. We request that the identified features at these sites be avoided during proposed construction activities. We have also determined that the identified isolated find sites, 46Jf505 and 46Jf506, are not eligible for inclusion in the National Register. It is our opinion that construction of the proposed sewer line and waste water treatment facility will have no effect to any known archaeological resource eligible for or included in the National Register of Historic Places. If, however, intact archaeological deposits are encountered during construction, all work within the discovery area shall cease and our office shall be contacted immediately.

We appreciate the opportunity to be of service. If you have questions regarding our comments or the Section 106 process, please contact Ryan Burns, Historian, or Carolyn Kender, Archaeologist, in the Historic Preservation Office at (304) 558-0240.

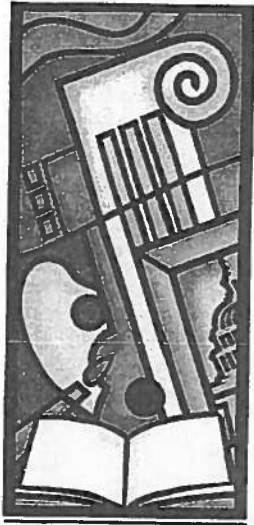
Sincerely,



Lora A. Lammie
Senior Archaeologist

LAL:rcb/cmk

CC: Jefferson County Planning Commission
Jefferson County HLC



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www.wvculture.org

EEO/AA Employer

September 20, 2005

Mr. Thomas Bodor
The Ottery Group
2900 Linden Lane, Suite 210
Silver Spring, MD 20910

RE: Highland Farm, LLC SHPO Review
Waste Water Treatment Plant Project
FR#: 05-441-JF-3

Dear Mr. Bodor:

We have reviewed the revised Final Report submitted for the above referenced project. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

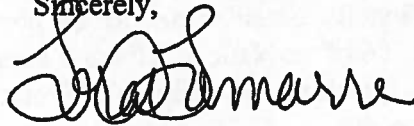
Thank you for submitting the revised Phase I archaeological survey final report containing the corrections requested in our previous correspondence dated August 30, 2005. The Phase I archaeological survey resulted in the identification of three archaeological sites: the Goose Island Site (46Jf502) and the Bloomery Mill Site (46Jf503) within Survey Area A; and a concrete gravity dam (the Evitts Run Dam Site- 46Jf504) within Survey Area B. Two isolated find sites (46Jf505 & 46Jf506) were also identified within the proposed project area. In correspondence dated August 30, 2005, the West Virginia State Historic Preservation Office determined that only those portions of sites 46Jf502 and 46Jf503 that fall within the proposed sewer line right-of-way were not eligible for inclusion in the National Register. Because these sites were not fully explored, the remainder of the sites will need to be assessed should project boundaries shift to include other areas of the site. We also requested that the identified features at these sites be avoided during proposed construction activities. The identified isolated find sites, 46Jf505 and 46Jf506, were also determined as not eligible for inclusion in the National Register. It is our understanding that site 46Jf504, the Evitts Run Dam Site, will not be impacted by the proposed construction activities associated with the wastewater treatment plant and sewer line installation and have determined that this portion of the proposed project will have no effect on any known archaeological site listed on or eligible for inclusion in the National Register. We, therefore, reaffirm our previous determination that the construction of the proposed sewer line and waste water treatment facility will have no effect to any known archaeological resource eligible for or included in the National Register of Historic Places. Please note that this determination does not include those areas of sites 46Jf502 (including the identified features) and 46Jf503 that lie outside the

September 20, 2005
Mr. Bodor
FR#: 05-441-JF-3
Page 2

current project right-of-way. If, however, intact archaeological deposits are encountered during construction, all work within the discovery area shall cease and our office shall be contacted immediately.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact me or Carolyn Kender, Archaeologist, in the Historic preservation Office at (304) 558-0240.*

Sincerely,



Lora A. Lamarre
Senior Archaeologist

LAL:cmk

CC: Jefferson County Planning Commission
Jefferson County HLC



William H. Gordon Associates, Inc.
301 North Mildred Street, Suite 1
Charles Town, WV 25414
304-725-8456 Phone
304-728-0117 Fax

RECEIVED

MAY 24 2011

**JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING**

April 11, 2011

Jefferson County Commission
P.O. Box 250
124 East Washington Street
Charles Town, WV 25414

On this 11th day of April, 2011 David C. Hott and Catherine A. Hott hereby petition the County Commission of Jefferson County, West Virginia to amend the zoning designation for lands adjacent to both current Route 9/Charles Town Road and new Route 9. It is requested that the current zoning designation of Rural be amended to the Residential-Light Industrial-Commercial zoning designation as defined in the Jefferson County Zoning and Land Development Ordinance. The property consists of approximately 59 acres and is located in the Harpers Ferry Tax District of Jefferson County as identified on Tax Map 15 as Parcels 47 & 56 (Deed Book 933, Page 160).

The subject property is ideally situated to provide greatly needed commercial services to Jefferson County residents who live east of the Shenandoah River. Residents who live in these areas face a round trip of up to 20 miles to access basic commercial services that are in close proximity to the majority County residents. This lack of basic commercial services has a significant impact on the environment as residents are forced to drive to find these services. An average family making three trips to Charles Town a week would travel an additional 3,000 miles every year. The provision of commercial use needs to be balanced with the rural nature of the area. While it may not be appropriate to have commercially zoned lands throughout this area it is hard to argue that a commercial development located at the only new Route 9 interchange east of the Shenandoah River will not be a significant asset to residents in the area.

The development plan for the property would be for service commercial and employment based projects. The service commercial properties could be developed in close proximity to the new Route 9, while the employment based project would be located further into the site and fully screened from the adjacent roads. The level of development will be limited by the ability of well and drain fields to service the new uses, no plans exist to extend public water and sewer to the site that would permit higher density development of the property.

The zoning map amendment is also being requested due to the proximity of the property to the interchange on new Route 9. It is the only property with direct access to both the interchange and the existing Route 9 which will continue to be an important road in this area. The properties location next to both existing and new Route 9 provides excellent vehicular infrastructure for the development of the site. The use of existing infrastructure in the development of land can significantly reduce future costs for maintenance of this infrastructure.

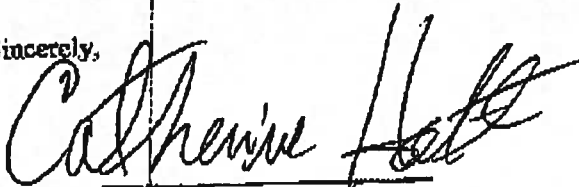
The value of the property for appropriate commercial development is further enhanced by the topography of the site. The majority of the land has a slope of less than 10% and can be developed without significant earthwork that would be expected for a property in this area.

The Jefferson County Comprehensive Plan does not do an adequate job in addressing the proposed rezoning request. The plan provides little detail on the area and only identifies Route 9, a primary access to Jefferson County, as a local service road. It is clear though, that the comprehensive plan understands the need to provide services to its residents and in turn the value of these commercial services to the local economy. The comprehensive plan also understands that Jefferson County must continue to grow. A zoning amendment to Residential-Light Industrial-Commercial is comparable with the 2004 Jefferson County Comprehensive Plan as it will provide new commercial development that will help diversify the economy, increase the County's tax base and provide employment opportunities.

The proposed rezoning will not result in the development of strip highway commercial uses. The site has significant separation from the new Route 9 and is not suitable for this poor form of development. The proposed uses will be to provide local commercial services and employment, not high density strip development. As part of the rezoning process the applicant looks forward to discussing the project with neighbors, the County Commission and Planning Commission. This input will be critical in refining the proposed development and making it an integral component of this community.

Under the provisions of WV Code 8A-7-9, David C. Hott and Catherine A. Hott petition the Jefferson County Commission to rezone the parcels identified above from the Rural District to the Residential-Light Industrial-Commercial District.

Sincerely,



Catherine A. Hott, Property Owner



David C. Hott, Property Owner

Major Subdivision Approval Process

<u>Step Taken</u>	<u>Action Taken</u>	<u>Acting Authority</u>
Pre-Proposal Conference (Optional)		
Step 1 <u>Section 24.103A</u>	Submission	
Step 2 <u>Sections 24.103B, C & D</u>	Conference	<u>Staff Conference within 15 days from submission</u>
Step 3 <u>Section 24.103E</u>	Memorandum	<u>Staff Memo within 10 days</u>
Concept Plan		
Step 1 <u>Section 24.106</u>	Submission & Completeness Review	<u>Staff</u>
Step 2 <u>Section 24.107</u>	Public Workshop	<u>Planning Commission</u>
Step 3 <u>Section 24.108</u>	Concept Plan Direction	<u>Planning Commission</u>

(For major subdivision criteria see the definition, Subdivision, Major and Sec. 20.202, Major Subdivisions.)

Major Subdivision Approval Process

<u>Step Taken</u>	<u>Action taken</u>	<u>Acting Authority</u>
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Preliminary Plat Application

<p><u>Step 1</u> <u>Section 24.109</u></p>	<div style="border: 1px solid black; padding: 10px; background-color: #d9c8a8;"> <p style="color: red; font-weight: bold; text-align: center;">Submission & Completeness Review</p> </div>	<p><u>Staff</u></p>
<p><u>Step 2</u> <u>Section 24.110</u></p>	<div style="border: 1px solid black; padding: 5px; background-color: #d9c8a8;"> <p style="text-align: center;">Public Hearing</p> </div>	<p><u>Planning Commission</u></p>
<p><u>Step 3</u> <u>Section 24.111</u></p>	<div style="border: 1px solid black; padding: 5px; background-color: #d9c8a8;"> <p style="text-align: center;">Preliminary Plat Approval</p> </div>	<p><u>Planning Commission</u></p>

Final Plat Application

<p><u>Step 1</u> <u>Section 24.112</u></p>	<div style="border: 1px solid black; padding: 10px; background-color: #d9c8a8;"> <p style="color: red; font-weight: bold; text-align: center;">Submission & Completeness Review</p> </div>	<p><u>Staff</u></p>
<p><u>Step 2</u> <u>Section 24.113</u></p>	<div style="border: 1px solid black; padding: 5px; background-color: #d9c8a8;"> <p style="text-align: center;">Public Hearing</p> </div>	<p><u>Planning Commission</u></p>
<p><u>Step 3</u> <u>Section 24.114</u></p>	<div style="border: 1px solid black; padding: 5px; background-color: #d9c8a8;"> <p style="text-align: center;">Final Plat Approval</p> </div>	<p><u>Planning Commission</u></p>
<p><u>Step 4</u> <u>Section 24.115</u></p>	<div style="border: 1px solid black; padding: 5px; background-color: #d9c8a8;"> <p style="text-align: center;">Recordation</p> </div>	<p><u>Staff</u></p>

Sec. 24.106 Major Subdivision Concept Plan – Submission and Completeness Review

The submission of a concept plan is a required step for major subdivisions. The Department shall have 45 days to complete the sufficiency and completeness review. At the time of submission, Concept Plan shall be placed on the first regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop. Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. In order to keep on the proposed schedule, the applicant shall resubmit a sufficient application within 10 days after being notified of insufficiency. For the review to be complete within 45 days and remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission workshop.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the planning department. It shall be accompanied by the fee for concept plan review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated by staff.
 - 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*. Show or note if all features are addressed.
 - 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. **Agency Reviews.** The reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department ~~fourteen (14)~~ days prior to the scheduled public workshop. The applicant shall distribute the concept plan to all reviewing agencies. ~~Reviewing agencies are found in Sections 23.203 and 23.204. Applicant shall provide copy of letter sent to outside agencies to the Departments of Planning and Zoning upon submission of Concept Plan. If any review agency fails to respond, they shall be deemed by these Regulations to have approved the plan.~~
7. **Adjoining Property.** ~~The applicant must provide an accurate list of all properties and owners’ addresses adjoining the subject property.~~
8. ~~6.~~ **Other Data.** Any other data or information the applicant believes will assist in the review.
9. ~~7.~~ **Other Reviews.** Any other staff or agency reviews of the plans.

~~C. **Submission Review.** The Department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed above. If the application is sufficient, the applicant will be contacted to forward application materials to all reviewing agencies. If the submission is insufficient, it shall be returned to the developer along with the fee.~~

~~D. **Effect.** A sufficient concept plan shall mean that the submission has formally been received. A public workshop shall be scheduled at the first meeting after the 45-day completeness review period.~~

Sec. 24.107 Major Subdivision Concept Plan – Completeness Review

~~Once the concept plan has been found sufficient, the applicant shall distribute the concept plan material to all reviewing agencies within seven days. Staff shall have 45 days to conclude a completeness review. After staff concludes the completeness review, the concept plan shall be placed on the next regularly scheduled Planning Commission agenda to hold a public workshop.~~

~~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 ~~fourteen (14)~~ days prior to the scheduled public workshop.~~

C. ~~B.~~ **Review Content.** The Department and agency reviews shall address the areas indicated in ~~E~~D through ~~F~~G below and any other areas of concern to the agencies.

D. ~~E.~~ **Department.** The Department review shall include the following:

- a. ~~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~~n~~ submittal.

- b. ~~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.
- E. ~~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 plat~~n~~ review, all transportation information is available so the agency does not have to seek additional data for a qualitative review.
- F. ~~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.
- G. ~~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 system that shall be proposed by the developer to best meet the County's needs in that area of the County.
- H. ~~G.~~ **Recommended Conditions.** All reviews shall contain recommended conditions for moving forward to a preliminary plat~~n~~ or reasons why the plat~~n~~ should be denied.
- I. ~~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.
- J. ~~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 in the local newspaper one time at least ~~fourteen (14)~~twenty-one (21) days in advance of the meeting and send notice by mail to the adjoining property owners at least fourteen (14) days prior to the meeting. ~~‡~~The applicant shall post notice on the property at least fourteen (14) days in advance of the meeting.

Sec. 24.1087 Major Subdivision Concept Plan - Public Workshop

At the scheduled Planning Commission meeting, the Planning Commission shall hold a public workshop to take public comments, concerns, and inputs on the proposed concept plan. This workshop is intended to provide the developer and the Planning Commission with said public input.

- A. **Plan Presentation.** The developer shall make a short presentation of the plan.
- B. **Agency Comments.** The staff shall briefly outline agency comments. The planning department shall specifically address whether the project can meet the standards of the Zoning Ordinance.
- C. **Public Comment.** The public will be invited to comment. The Planning Commission shall direct participants to briefly cite concerns or ask questions of the Planning Commission. The intent of this procedure, like the Department comments, is to inform the developer and Planning Commission with regard to issues that should be addressed in the preliminary plat and report such transportation or engineering matters.

Sec. 24.1098 Major Subdivision Concept Plan - Direction

After the close of the public workshop or at any public meeting within 14 days thereafter, the Planning Commission ~~shall, during their regular meeting or at a specific public meeting within 14 days, provide~~shall provide direction on the concept plan. If the Planning Commission decides to postpone action for 14 days,

the workshop shall be closed for public comment; however the applicant or designated representative will be permitted to interact with the Planning Commission at that meeting to answer questions raised during the public comment at the workshop.

- A. **Direction.** The Planning Commission shall direct the preparation of a preliminary plan subject to conditions to be addressed in the preliminary plat application. The purpose of this review is to guide the developer so that when the preliminary plat application is formally reviewed by the staff, there should not be a whole range of issues being raised for the first time. The developer shall cite conditions and demonstrate that they have been met or otherwise addressed.
- B. **Conditions.** In the direction, it is anticipated that there will be numerous conditions from the Department, agencies, and public comment. There may well be public comment that seeks to lower density of the project below that permitted by the Zoning Ordinance, or to deny the project because of concerns outside the scope of the zoning or subdivision regulations. The applicant may make proffers to address these concerns, but the Planning Commission may not use them as conditions unless they are proffered by the applicant.
- C. **Effect.** The direction is to the developer to proceed to prepare a preliminary plat (Section 24.110). The direction received in the Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to these Regulations or the Zoning Ordinance in the second year shall control. If any zoning changes have been presented in a public hearing prior to the decision on the concept plan direction, then meeting the amended zoning requirements, if adopted, shall be a condition of the direction.

Sec. 24.1109 Major Subdivision Preliminary Plat – Application Submission and Completeness Review

The submission of a preliminary plat application is a required step for major subdivisions. The Department shall have 45 days to complete the sufficiency and completeness review unless the applicant chooses to waive the 45 day period. Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. The 45 day period shall restart when the applicant resubmits. After staff concludes completeness review, staff shall place the preliminary plat on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. In order for the preliminary plat to remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the Department and reviewing agencies. It shall be accompanied by the fee for preliminary plat review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated.
 1. **Preliminary Plat.** A preliminary plat application shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.
 2. **Density Calculation and Site Resource Map.** This map shall have the preliminary plat on it and shall identify the total area of each resource present, the amount protected and a summary table showing that the resource protection standards are met.
 3. **General Location.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.

4. **Preliminary Engineering Plans.** A preliminary engineering plan shall be submitted in accordance with the content and formatting guidelines provided by the County Engineer.
5. **Preliminary Landscape Plans.** A preliminary landscape plan shall be submitted in accordance with the content and formatting guidelines provided by the Department of Planning.
6. **Transportation Impact Study.** Analysis, commentary, drawings, or other material specifically addressing conditions in the concept direction. This shall include comments or material from WVDOH regarding the impact study and any responses from the developer's engineers.
7. **Well and Septic Systems.** Where applicable, preliminary plats shall include well and septic provisions and all appropriate Jefferson County Health Department approvals.
8. **Feasibility of Water and Sewer Systems.** Where applicable, preliminary plats shall include connections to existing water and sewer systems or provisions for these systems and for oversizing to serve additional properties. This shall include comments or material from the Jefferson County Public Service District regarding the impact study and any responses from the developer's engineers.
9. **Special Engineering.** Special engineering studies are required if the site is in or partially in areas designated as high vulnerability areas. If other natural resources have specific resource protection standards contained in the Zoning Ordinance, a preliminary engineering assessment shall be provided regarding how those standards can be met.
10. **Historic Resource Preservation.** A Phase I archaeological study is required. A historic resources impact study shall also be included.
11. **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.
12. **Identified Concerns.** A report demonstrating how specific conditions identified in the concept plan evaluation and direction received from the Concept Plan public workshop have been addressed on the preliminary plat or will be addressed on the final plat documents.
13. **Names.** Name of applicant and of consulting firms, addresses, phone, e-mail, and person(s) to whom correspondence shall be addressed.
14. **Other Data.** Any other data the applicant believes will assist in the review. If there are proffers being offered, they shall be included here.
15. **Other Agency Reviews.** Agency reviews as to the technical, engineering, zoning, landscaping, impact fee, and other agency reports, comments, and recommendations.

~~C. **Application Submission Review.** The Department shall have ten (10) days to review the submission (1-14 above) and determine whether it is sufficient for Planning Commission review. If it is sufficient, the material shall be sent to all reviewing agencies by the applicant within seven (7) days. If the submission is insufficient, the applicant shall be notified regarding materials required to render it sufficient, and the application shall not be considered a complete submission for review until such time as the additional materials are provided.~~

~~D. **Effect.** A sufficient submission means that the application has formally been received and the time schedules for preliminary review begin.~~

Sec. 24.111 Major Subdivision Preliminary Plat – Completeness Review

~~Once the preliminary plat has been found sufficient, the applicant shall distribute the preliminary plat material to all reviewing agencies within seven days. Staff shall have 45 days to conclude a completeness review unless the applicant chooses to waive the 45-day period. Upon completion, staff shall place the preliminary plat on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete.~~

- ~~A. **Department and Agency Reviews.** The Department and appropriate reviewing agencies shall conduct reviews of the preliminary plat. Agency comments shall be received by the Department fourteen (14) days prior to the scheduled public hearing.~~
- C. ~~B.~~ **Review Content.** The Department and agency reviews shall address the areas indicated in paragraphs ~~C~~D to ~~E~~F below and any other areas of concern to the agencies.
- D. ~~C.~~ **Department of Planning.** 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 preliminary plan submission. Staff shall identify conditions that must be adjusted if they would enable the plan to conform with Zoning and Subdivision Ordinance standards.
 2. Staff shall provide a written opinion as to whether the preliminary subdivision plat meets the site planning criteria specified in Articles 21 and 22 of these Regulations. In reviewing the submitted application, the Department shall determine whether modifications in layout would improve the plan.
- E. ~~D.~~ **WVDOH.** When appropriate, the WVDOH review shall determine whether the on-site conditions of the preliminary plat are acceptable to the Department, including sight distances, access location, turning or by-pass lanes, road configuration, road alignment and road drainage. A review of the traffic study shall be conducted and any problems or concerns with the study methodology or findings identified. WVDOH shall identify any off-site improvements that shall be required of the developer. A list of concerns to be addressed on the final plat shall be provided.
- F. ~~E.~~ **Public Services.** The review shall indicate whether the preliminary engineering indicates that water and sewer can adequately be provided for the project and if a new system is provided, whether the proposal is sufficient to handle other development in the area. The Public Service District shall make recommendations for oversizing and methods to recapture costs.
- G. ~~F.~~ **Recommended Conditions.** All reviews shall contain recommended final engineering standards that shall be met to deal with specific issues or conditions that need to be addressed in final engineering, plat, landscape plan, or other documents.
- H. ~~G.~~ **Approval.** If the preliminary plat is incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, or is otherwise impossible, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it.
- I. ~~H.~~ **Effect.** ~~After staff concludes the completeness review, staff shall place the preliminary plat on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. At the meeting where the application~~ **If the application is found complete,** the Planning Commission shall schedule a public hearing within 45 days in accordance with Section 24.1120 , *Major Subdivision Preliminary Plat - Public Hearing*. ~~If Upon determining~~ the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.

Sec. 24.1120 Major Subdivision Preliminary Plat - Public Hearing

Within 45 days of accepting an application as complete, the Planning Commission shall conduct a public hearing to receive public comments, concerns, and inputs on the proposed preliminary subdivision plat. The public notice of the public hearing shall be advertised in a local newspaper of general circulation in the area at least twenty-one (21) days prior to the public hearing. The applicant shall post notice on the site at least fourteen (14) days prior to the public hearing. The scope of this public hearing shall be limited to whether the application meets the requirements of these Regulations and the Zoning Ordinance.

Sec. 24.1131 Major Subdivision Preliminary Plat - Approval

After the close of the public hearing or at any meeting within 14 days thereafter, the Planning Commission shall (1) approve the application, (2) approve the application with conditions, (3) deny the application, or (4) hold the application for up for 45 days for additional information. If the application is to be held for the additional time, a date certain for re-opening the public hearing must be set by the Planning Commission simultaneously with the vote to hold. Additional legal advertisement is not required.

A. **Approval.** The Planning Commission shall review the recommendations and opinions of the reviewing agencies, the staff's decision regarding compliance with the Zoning Ordinance, and the testimony of the public and render its decision. ~~If any review agency fails to respond, they shall be deemed by these Regulations to have approved the plan.~~ In making the decision, the following rules apply:

1. **Zoning.** The preliminary plat application must be denied on zoning grounds if the staff's decision is that the proposed project does not comply with the Zoning Ordinance. If staff indicates it can meet zoning with a specific condition, these conditions shall be required by the Planning Commission. The Planning Commission cannot deny an application on the basis of zoning if the staff's decision is that the application complies with the Zoning Ordinance.
2. **Impact Fees.** The County has adopted impact fee requirements that apply to parks and recreation, schools, law enforcement, fire protection, and emergency services. All fees are collected from individual landowners or builders in conjunction with the building permit process. For this reason, the preliminary plat application cannot be denied on the grounds of adverse impact on these services.
3. **Roads.** The Planning Commission shall have the jurisdiction over any developer or subdivider to require the installation of such improvements as are deemed proper within or adjacent to the subdivision to assure safe access to and from the public highway, and maintain an adequate flow of traffic on the public highway. Improvements required may include the installation of traffic signs and signals, constructing left or right turn lanes, acceleration and deceleration lanes, or reconstructing public roads to eliminate vertical or horizontal curves. Such improvements shall be acceptable to and approved by the West Virginia Division of Highways, provided a denial of such approval shall supersede Planning Commission authority under this provision. The roads impacted by a development are State roads under the jurisdiction of WVDOH. The Planning Commission shall not substitute its judgment of the safety or performance of roads for that of WVDOH unless there is compelling professional evidence that WVDOH has erred in its determination of impact.
4. **Sewer and Water Systems.** All sewer and water systems, whether privately owned or publicly owned shall be permitted only on the recommendation of the Jefferson County Public Service District (JCPSD), and/or the City of Charles Town or private utilities, depending on the service area within which they are proposed. The Planning Commission shall not make a decision contrary to the agency provider recommendation unless there is compelling professional evidence that its recommendation is in error.

5. **On-Site Water Supplies and Sanitary Waste Disposal.** The Jefferson County Health Department shall make a determination regarding the feasibility of on-site wells and septic tanks (or other means of on-site disposal), where applicable.
 6. **Engineering and Landscaping.** The plan being reviewed consists of substantial sediment and erosion control, stormwater management and sewer or water system engineering, landscaping, and site development plan. There will be adjustments in additional work that needs to be done for final engineering, landscaping, and site development plan. The preliminary plat application cannot be denied based on engineering considerations that have not been addressed at this stage of the proceedings. The Planning Commission and Engineering Department may attach conditions to ensure that specific issues are addressed.
 7. **Open Space.** Open space to be provided to satisfy the requirements of the Zoning Ordinance shall be identified on the preliminary plat. Covenants and deed restrictions applicable to such open space to assure its retention shall be submitted and approved.
- B. **Conditions.** It is anticipated that there will be conditions for slight site adjustments and many conditions from the planning department and agencies on engineering and landscaping that must be met in the preparation of the final plat, final engineering, and final landscaping. In addition, there will be conditions on surety, payment of impact fees, and any proffers made by the developer and accepted by the Planning Commission or agency benefiting from the proffer. In no event shall a condition require the developer to reduce the density below the requirements of the Zoning Ordinance or what is shown on the proposal unless the reduction is proffered by the applicant.
- C. **Effect.** The approval of the preliminary plat, with or without conditions, allows the applicant to proceed to prepare a final plat, final engineering, and final landscape plan. The approval shall be good for a period of five years, with the provision that any zoning changes that have been advertised for public hearing prior to the date of approval may be made a condition of approval if adopted prior to submission of final plat including all engineering and landscaping.

Sec. 24.1142 Major Subdivision Final Plat – Application – Submission and Completeness Review

The submission of a final plat application is a required step for all subdivisions. **The Department shall have 45 days to complete the sufficiency and completeness review. At the time of submission, the final plat shall be placed on the first regularly scheduled Planning Commission meeting after the 45 day review period for the completeness public hearing. Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. In order to keep on the proposed schedule, the applicant shall resubmit a sufficient application within 10 days after being notified of insufficiency. For the review to be complete within 45 days and remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission meeting.**

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the Department of Planning. It shall be accompanied by the fee for final plat review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated.
 1. **Final Plat.** The final plat shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.

2. **Density Calculation and Site Resource Map.** This map shall have the final plat superimposed, and shall identify the total area of each resource present, the amount protected, and a summary table showing that the resource protection standards are met.
3. **General Location Map.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
4. **Final Engineering Plans.** The final engineering plan(s) shall be submitted in accordance with the content and formatting guidelines provided by the Department of Engineering. If preliminary engineering plans satisfy the requirements of the Department of Engineering and no modifications to the preliminary engineering plans are required, then preliminary plans previously approved shall be considered final plans.
5. **Final Landscape Plans.** The final landscape plan shall be submitted in accordance with the content and formatting guidelines provided by the Department of Planning.
6. **Transportation Impact Study and WVDOH Approvals.** A transportation impact study shall be re-submitted only if there was a condition for revisions in the preliminary plat approval. WVDOH approvals shall be secured prior to final approval.
7. **Water and Sewer Services.** This shall include a declaration of Public Service District's approval of plats, or approval by the appropriate service provider, and an agreement to operate the facility. This shall also include documents necessary for the transfer of ownership of the facility to the Public Service District or appropriate operating agency.
8. **On-Site Sewer and Water.** If on-site waste disposal and water supply are provided, approval of the soils, design of the system, and its location on the site shall be indicated.
9. **Special Engineering.** If the site is in or partially in areas designated as high vulnerability areas, preliminary geotechnical engineering assessment may be required. All natural resources which have specific resource protection standards in the Zoning Ordinance or these Regulations shall be complied with and require final engineering approval. All natural resources which have specific resource protection standards in the Zoning Ordinance or these Regulations, shall be complied with, and require final engineering approval.
10. **Open Space.** Open space to be provided to satisfy the requirements of the Zoning Ordinance shall be identified on the final plat. Covenants and deed restrictions applicable to such open space to assure its retention shall be submitted and approved for recordation.
11. **Surety.** Cost estimates for all improvements and proof of surety. See Section 24.503, *Amount of Surety*
12. **Other Agencies.** Required agency sign offs that the final plat is approved by that agency. These agencies shall include the Jefferson County Health Department, West Virginia Division of Highways, West Virginia Department of Environmental Protection, the West Virginia Health Department, the Public Service District, appropriate utility service providers, Jefferson County 911 Addressing Department, ~~Jefferson County Landmarks District Commission and other review agencies certifying that the application is consistent with approved preliminary plat and meets all requirements of the applicable codes, ordinances, or standards or and~~ others when determined appropriate by County staff.
13. **Names.** Name of applicant and of consulting firms, addresses, phone numbers, e-mail addresses, and person(s) to whom correspondence shall be addressed.

C. **Endorsements on Final Plats.** The following certificates shall be placed on all final plats:

1. **Surveyor.** Certificate of accuracy and mapping by professional licensed surveyor signed and sealed.
2. **Owners.** Certificate of ownership and dedication signed and notarized, including all individuals, partnerships, and corporations, and lenders with financial security interests.

~~**D. Submission Review.** The planning department shall have ten (10) days to review the submission and determine whether it is sufficient. If it is sufficient, the applicant shall send the material to all reviewing agencies within seven (7) days. If the submission is insufficient, the applicant shall be notified regarding materials required to render it sufficient, and the application shall not be considered a complete submission for review until such time as the additional materials are provided.~~

D. Additional Information. The Department shall:

1. Review and approve all matters under its jurisdiction.
2. Issue a zoning compliance letter.
3. Certify that all proffers have been satisfied.

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

~~**F. E. Effect.** A sufficient submission means that the application has formally been received and the time schedules for final review begin. At the meeting where the application is found complete, the Planning Commission shall schedule a public hearing within 45 days and in accordance with Section 24.116. Upon determining the application is incomplete, the applicant shall be notified in writing stating the reasons for denial. Upon completion, After staff concludes the completeness review, staff shall place the final plat on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. At the meeting where the application is found~~ **If the application is found complete,** the Planning Commission shall schedule a public hearing within 45 days in accordance with Section 24.1163, *Major Subdivision Final Plat - Public Hearing*. ~~If Upon determining~~ the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.

Sec. 24.115 Major Subdivision Final Plat – Completeness Review

~~Once the final plat has been found sufficient, the applicant shall distribute the final plat material to all reviewing agencies within seven days. Staff shall have 45 days to conclude a completeness review. Upon completion, staff shall place the final plat on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. The Department shall:~~

- ~~1. Review and approve all matters under its jurisdiction.~~
- ~~2. Issue a zoning compliance letter.~~
- ~~3. Receive an approval letter from WVDOH, Jefferson County Public Service District, Jefferson County Historic Landmarks Commission, and other review agencies certifying that the application is consistent with approved preliminary plat and meets all requirements of the applicable codes, ordinances, or standards.~~
- ~~4. Certify that all proffers have been satisfied.~~

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

~~B. **Effect.** At the meeting where the application is found complete, the Planning Commission shall schedule a public hearing within 45 days and in accordance with Section 24.116. Upon determining the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.~~

Sec. 24.1163 Major Subdivision Final Plat - Public Hearing

Within 45 days of accepting the application as complete, the Planning Commission shall conduct a public hearing to receive public comments, concerns, and inputs on the proposed final plat. The public notice of the public hearing shall be advertised in a local newspaper of general circulation in the area at least twenty-one (21) days prior to the public hearing. The applicant shall post notice on the site at least fourteen (14) days prior to the public hearing.

- A. **Subjects Covered.** The scope of this public hearing shall be limited to whether the final plat application meets the requirements of these Regulations and the Zoning Ordinance.
- B. **Hearing Procedure.** The hearing shall be conducted in accordance with the Bylaws of the Jefferson County Planning Commission.

Sec. 24.1174 Major Subdivision Final Plat - Approval

After the close of the public hearing or at any meeting within 14 days thereafter, the Planning commission shall (1) approve the application, (2) approve the application with conditions, (3) deny the application, or (4) hold the application for up to 45 days for additional information.

- A. **Approval.** If the final plat application is consistent with the preliminary plat application and meets all other requirements of these Regulations and the Zoning Ordinance and has received sign-off from the agencies specified in Section 24.115(3), the Planning Commission shall approve the subdivision application. ~~If any review agency failed to respond, they shall be deemed by these Regulations to have approved the plan.~~
- B. **Denial.** Denial can only be done on the following basis:
 - 1. The plat~~n~~ (plan, plat, final engineering, or final landscaping) is inconsistent with the approved preliminary plat~~n~~ or conditions of said approval.
 - 2. Failure to provide surety.
- C. **Plat Signing.** The Planning Commission President shall authorize the signing of the plat.
- D. **Effect and Vesting.** The approval of the final plat application and signing of the plat makes the document recordable.

Sec. 24.1185 Major Subdivision Final Plat - Recording

The applicant shall have 180 days after approval to file and record the final plat for lots to be recorded, together with any deed restrictions as may be required, in accordance with W.Va. Code §39-1-13. The approval shall become void if it is not recorded within the 180 day period. The following documents shall be submitted to the Department of Planning:

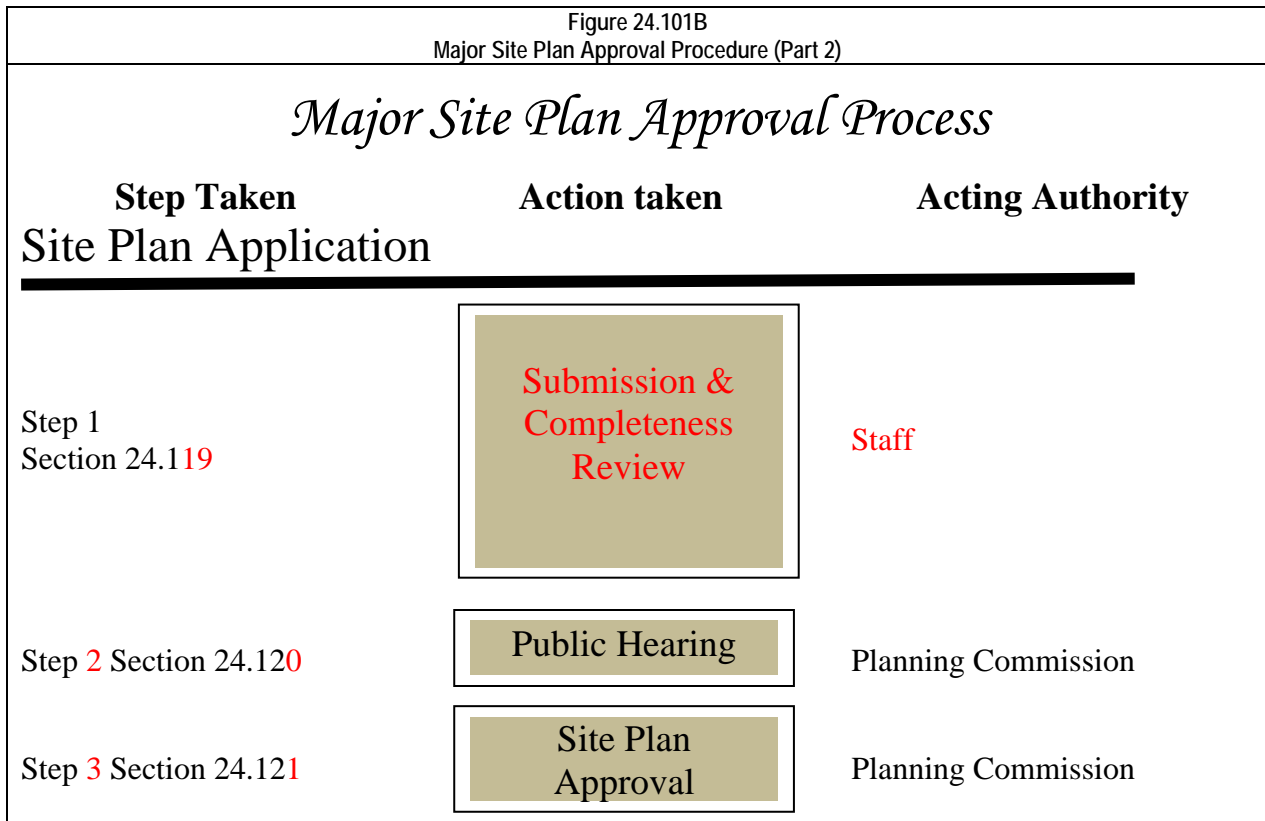
- A. One (1) mylar copy of the Final Plat suitable for recordation and acceptable to the Clerk of Jefferson County;
- B. Three (3) paper copies of the Final Plat;
- C. One (1) digital copy of the Final Plat compatible with the Jefferson County GIS, as specified by the Jefferson County GIS Office-requirements; and
- D. One (1) digital and one (1) paper copy of any deed restrictions/covenants in a form suitable to the Department.

Major Site Plan Approval Process

<u>Step Taken</u>	<u>Action Taken</u>	<u>Acting Authority</u>
Pre-Proposal Conference (Optional)		
Step 1 <u>Section 24.102A</u>	Submission	
Step 2 <u>Sections 24.102B, C & D</u>	Conference	<u>Staff Conference within 15 days from submission</u>
Step 3 <u>Section 24.103E</u>	Memorandum	<u>Staff Memo within 5 days</u>
Concept Plan		
Step 1 <u>Section 24.116</u>	Submission and Completeness Review	<u>Staff</u>
Step 2 <u>Section 24.117</u>	Public Workshop	<u>Planning Commission</u>
Step 3 <u>Section 24.118</u>	Concept Plan Direction	<u>Planning Commission</u>

(For major site plan criteria see the definition, Site Plan, Major and Sec. 20.204, Major Site Development.)

Figure 24.101B
Major Site Plan Approval Procedure (Part 2)



Sec. 24.1196 Major Site Plan Concept Plan – Submission and Completeness Review

The submission of a concept plan is a required step for major site plans. The Department shall have 45 days to complete the sufficiency and completeness review. At the time of submission, Concept Plan shall be placed on the first regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop. Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. In order to keep on the proposed schedule, the applicant shall resubmit within 10 days after being notified of insufficiency. For the review to be complete within 45 days and remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission workshop.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the planning department. It shall be accompanied by the fee for concept plan review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated by staff.
 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*. Show or note if all features are addressed.
 3. **Zoning Information.** This shall include:

- a. Determination of the zoning district in which the proposed site plan project is situated.
 - b. Density calculations.
 - c. Site resource map. [\(See definition\)](#)
 - d. Use designations for all adjoining and confronting parcels.
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 multifamily residential.
5. **Traffic Impact Data.** This shall include:
- a. ADT figures for the adjoining or accessible State road.
 - b. Trip generation figures based on the following table:

USE	PEAK HOUR	AVERAGE DAILY
Townhouse	0.6	7.0 per d.u.
Mobile Home	0.6	5.0 per d.u.
Light Industrial	1.2	5.5 per 1000 s.f.
Industrial Park	0.99	7.0 per 1000 s.f.
Warehousing	1.63	4.9 per 1000 s.f.
Mini-warehousing	0.29	2.8 per 1000 s.f.
Office	2.82	17.7 per 1000 s.f.
Small Shopping Center	15.51	118.0 per 1000 s.f.
Convenience Market	54.80	625/1000 leasable s.f.

- 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. If a use is not listed in the table above, the most current edition of the Institute of Transportation Engineers Trip Generation Manual or Handbook shall be referenced to determine appropriate trip generation figures.

6. 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.
 7. **Agency Reviews.** The reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department **fourteen (14)** days prior to the scheduled public workshop. The applicant shall distribute the concept plan to all reviewing agencies. **Reviewing agencies are found in Sections 23.203 and 23.204. Applicant shall provide copy of letter sent to outside agencies to the Departments of Planning and Zoning upon submission of Concept Plan. If any review agency failed to respond, they shall be deemed by these Regulations to have approved the plan.**
 8. ~~7.~~ **Other Data.** Any other data or information the applicant believes will assist in the review.
 9. ~~8.~~ **Other Reviews.** Any other staff or agency reviews of the plans.
 10. **Adjoining Property.** The applicant must provide an accurate list of all properties and owners' addresses adjoining the subject property.
- C. Review Content.** The Department and agency reviews shall address the areas indicated in ~~E~~D through ~~F~~G below and any other areas of concern to the agencies.
- D. 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 site plan submittal.
 2. Staff opinion as to whether the plan meets the site plan criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.
- E. WVDOH.** 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 plat review, all transportation information is available so the agency does not have to seek additional data for a qualitative review.
- F. 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.
- G. 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 system that shall be proposed by the developer to best meet the County's needs in that area of the County.
- H. Recommended Conditions.** All reviews shall contain recommended conditions for moving forward to a site plan or reasons why the plan should be denied.

- I. **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.
- J. **Effect.** Upon accepting the application as complete, Planning staff shall place it on the next Planning Commission meeting agenda as a public workshop. Staff shall advertise the public workshop in a local newspaper of general circulation in the area one time at least twenty-one (21) days in advance of the ~~and the~~ meeting and send notice by mail to the adjoining property owners at least fourteen (14) days prior to the meeting. The applicant shall post notice on the property at least fourteen (14) days in advance of the meeting.

~~C. **Submission Review.** The Department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed above. If the application is sufficient, the applicant will be contacted to forward application materials to all reviewing agencies. If the submission is insufficient, it shall be returned to the developer along with the fee.~~

~~D. **Effect.** A sufficient concept plan submission shall mean that the application has formally been received.~~

Sec. 24.120 Major Site Plan Concept Plan – Completeness Review

~~Once the concept plan has been found sufficient, the applicant shall distribute the concept plan material to all reviewing agencies within seven days. Staff shall have 45 days to conclude a completeness review. Upon completion, staff shall place the concept plan on the next regularly scheduled Planning Commission meeting agenda to hold a public workshop.~~

~~A. **Department and Agency Reviews.** The Department and 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 site plan submittal.~~
- ~~2. Staff opinion as to whether the plan meets the site plan criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.~~

~~D. **WVDOH.** 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 plat 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 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 site plan 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 Planning Commission meeting agenda as a public workshop. Staff shall advertise the public workshop one time and the meeting applicant shall post notice on the property~~

Sec. 24.1217 Major Site Plan Concept Plan - Public Workshop

At the scheduled Planning Commission meeting, the Planning Commission shall hold a public workshop to take public comments, concerns, and inputs on the proposed concept plan. This workshop is intended to provide the developer and the Planning Commission with said public input.

- ~~A. **Plan Presentation.**~~ The developer shall make a short presentation of the plan.
- ~~B. **Agency Comments.**~~ The staff shall briefly outline agency comments. The planning department shall specifically address whether the project can meet the standards of the Zoning Ordinance.
- ~~C. **Public Comment.**~~ The public will be invited to comment. The Planning Commission shall direct participants to briefly cite concerns or ask questions of the Planning Commission. The intent of this procedure, like the Department comments, is to inform the developer and Planning Commission with regard to issues that should be addressed in the site plan and report such transportation or engineering matters.

Sec. 24.1218 Major Site Plan Concept Plan - Direction

After the close of the public workshop, the Planning Commission shall, during their regular meeting or at a specific public meeting within 14 days, provide direction on the concept plan. If the Planning Commission decides to postpone action for 14 days, the workshop shall be closed for public comment; however the applicant or designated representative will be permitted to interact with the Planning Commission at that meeting to answer questions raised during the public comment at the workshop.

- A. Direction.** The Planning Commission shall direct the preparation of a site plan subject to conditions to be addressed in the site plan application. The purpose of this review is to guide the developer so that when the site plan application is formally reviewed by the staff, there should not be a whole range of issues being raised for the first time. The developer shall cite conditions and demonstrate that they have been met or otherwise addressed.
- B. Conditions.** In the direction, it is anticipated that there will be numerous conditions from the Department, agencies, and public comment. There may well be public comment that seeks to lower density of the project below that permitted by the Zoning Ordinance, or to deny the project because of concerns outside the scope of the zoning or subdivision regulations. The applicant may make proffers to address these concerns, but the Planning Commission may not use them as conditions, unless they are proffered by the applicant.

- C. **Effect.** The direction is to the developer to proceed to prepare a site plan (Section 24.123, *Major Site Plan Application – Submission*) The direction received in the Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to these Regulations or the Zoning Ordinance in the second year shall control. If any zoning changes have been presented in a public hearing prior to the decision on the concept plan direction, then meeting the amended zoning requirements, if adopted, shall be a condition of the direction.

Sec. 24.12319 Major Site Plan Application – Submission and Completeness Review

The submission of a site plan application is a required step for all major site plans. The Department shall have 45 days to complete the sufficiency and completeness review. Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. The applicant shall resubmit a sufficient application within 10 days after being notified of insufficiency. In order for the review to be complete within 45 days and remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission. After staff concludes completeness, staff shall place the site plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the Department of Planning. It shall be accompanied by the fee for site plan review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated.
1. **Site Plan.** The site plan shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.
 2. **Density Calculation and Site Resource Map.** This map shall have the site plan superimposed, and shall identify the total area of each resource present, the amount protected, and a summary table showing that the resource protection standards are met.
 3. **General Location Map.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
 4. **Final Engineering Plans.** The final engineering plan(s) shall be submitted in accordance with the content and formatting guidelines provided by the Department of Engineering. If preliminary engineering plans satisfy the requirements of the Department of Engineering and no modifications to the preliminary engineering plans are required, then preliminary plans previously approved shall be considered final plans.
 5. **Final Landscape Plans.** The final landscape plan shall be submitted in accordance with the content and formatting guidelines provided by the Department of Planning.
 6. **Transportation Impact Study and WVDOH Approvals.** A transportation impact study shall be re-submitted only if there was a condition for revisions in the concept plan approval. WVDOH approvals shall be secured prior to final approval.
 7. **Water and Sewer Services.** This shall include a declaration of Public Service District's approval of plans, or approval by the appropriate service provider, and an agreement to operate the facility. This shall also include documents necessary for the transfer of ownership of the facility to the Public Service District or appropriate operating agency.
 8. **On-Site Sewer and Water.** If on-site waste disposal and water supply are provided, approval of the soils, design of the system, and its location on the site shall be indicated.

9. **Special Engineering.** Special engineering studies are required if the site is in or partially in areas designated as high vulnerability areas. All natural resources which have specific resource protection standards in the Zoning Ordinance or these Regulations, shall be complied with, and require final engineering approval.
10. **Open Space.** Open space to be provided to satisfy the requirements of the Zoning Ordinance shall be identified on the site plan. Covenants and deed restrictions applicable to such open space to assure its retention shall be submitted and approved for recordation.
11. **Surety.** Cost estimates for all improvements and proof of surety. See Section 24.503, *Amount of Surety*
12. **Other Agencies.** Required agency sign offs that the site plan is approved by that agency. These agencies shall include the Jefferson County Health Department, West Virginia Division of Highways, West Virginia Department of Environmental Protection, the West Virginia Health Department, the Public Service District, appropriate utility service providers, Jefferson County 911 Addressing Department, ~~Jefferson County Landmarks District Commission~~ and other review agencies certifying that the application is consistent with approved site plans and meets all requirements of the applicable codes, ordinances, or standards or ~~and~~ others when determined appropriate by County staff.
13. **Names.** Name of applicant and of consulting firms, addresses, phone numbers, e-mail addresses, and person(s) to whom correspondence shall be addressed.
14. **Additional Information.** The Department shall:
 1. Review and approve all matters under its jurisdiction.
 2. Issue a zoning compliance letter.
 3. Certify that all proffers have been satisfied.

C. **Signature Blocks on Site Plans.** The following certificates shall be placed on all site plans:

1. **Surveyor/Engineer.** Certificate of accuracy and mapping by professional licensed surveyor/engineer signed and sealed.
2. **Owners.** Certificate of ownership and dedication signed and notarized, including all individuals, partnerships, corporations, and lenders with financial security interests.
3. **County Staff .** A signature block for the County Engineer and the County Planner approvals in accordance with Appendix A, *Plan & Plat Standards*.

~~D. **Submission Review.** The planning department shall have ten (10) days to review the submission and determine whether it is sufficient. If it is sufficient, the applicant shall send the material to all reviewing agencies within seven (7) days. If the submission is insufficient, the applicant shall be notified regarding materials required to render it sufficient, and the application shall not be considered a complete submission for review until such time as the additional materials are provided.~~

~~E. **Effect.** A sufficient submission means that the application has formally been received and the time schedules for review begin.~~

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

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

public hearing within 45 days and in accordance with Section 24.125-123. Upon determining the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.

Sec. 24.124 Major Site Plan Application – Completeness Review

~~Once the site plan has been found sufficient, the applicant shall distribute the site plan material to all reviewing agencies within seven days. Staff shall have 45 days to conclude a completeness review. Upon completion, staff shall place the site plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. The Department shall:~~

- ~~1. Review and approve all matters under its jurisdiction.~~
- ~~2. Issue a zoning compliance letter.~~
- ~~3. Receive a sign-off from WVD OH, Jefferson County Public Service District, Jefferson County Historic Landmarks Commission, and other review agencies certifying that the application is consistent with approved site plans and meets all requirements of the applicable codes, ordinances, or standards.~~
- ~~4. Certify that all proffers have been satisfied.~~

- ~~A. **Approval.** If the site plan is incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it.~~
- ~~B. **Effect.** Upon completion, staff shall place the site plan on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. At the meeting where the application is found complete, the Planning Commission shall schedule a public hearing within 45 days and in accordance with Section 24.125. Upon determining the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.~~

Sec. 24.12520 Major Site Plan Application - Public Hearing

Within 45 days of accepting the application as complete, the Planning Commission shall conduct a public hearing to receive public comments, concerns, and inputs on the proposed site plan. The public notice of the public hearing shall be advertised in a local newspaper of general circulation in the area at least twenty-one (21) days prior to the public hearing. The applicant shall post notice on the site at least fourteen (14) days prior to the public hearing.

- A. **Subjects Covered.** The scope of this public hearing shall be limited to whether the site plan application meets the requirements of these Regulations and the Zoning Ordinance.
- B. **Hearing Procedure.** The hearing shall be conducted in accordance with the Bylaws of the Jefferson County Planning Commission.

Sec. 24.12621 Major Site Plan Application - Approval

After the close of the public hearing or at any meeting within 14 days thereafter, the Planning commission shall (1) approve the application, (2) approve the application with conditions, (3) deny the application, or (4) hold the application for up to 45 days for additional information.

- A. **Approval.** If the site plan application is consistent with the concept plan application and meets all other requirements of these Regulations and the Zoning Ordinance and has received sign-off from the agencies specified in Section 24.123(B)(12), *Other Agencies*, the Planning Commission shall approve the site-plan application. ~~If any review agency failed to respond, they shall be deemed by these Regulations to have approved the plan.~~
- B. **Denial.** Denial can only be done on the following basis:

1. The plan (plan, final engineering, or final landscaping) is inconsistent with the approved concept plan or conditions of said approval.
 2. Failure to provide surety.
- C. **Site Plan Signing.** The Planning Commission President shall authorize the signing of the plan.
- D. **Effect and Vesting.** The approval and signing of the site plan allows the applicant to provide surety, if necessary, and begin construction.

Division 24.200 Amendments

Sec. 24.201 Amendment and Modification of Site Plans

- A. **General.** Site plans shall be amended or modified in the same manner as they were originally approved.
- B. **Substantial Compliance With Previous Approval.** The Zoning Administrator shall approve an application to modify a site plan where it is demonstrated that the proposed modification or elimination will result in substantial compliance with the approved site plan, as demonstrated by all of the following:
1. Development density and intensity have not materially changed, in that:
 - a. the number of buildings is not increased by more than 5 percent;
 - b. the number of stories is the same or fewer;
 - c. the height of the building(s) is the same or less;
 - d. the number of units is the same or fewer;
 - e. the lot coverage and floor area ratios are the same or less;
 - f. the number of bedrooms and corresponding parking spaces may be increased or decreased by as much as 5 percent, based on the entire plan, provided the plan complies with all other requirements of these Regulations and the Zoning Ordinance; and
 - g. density or intensity (floor area ratio) may be transferred from one building to another or from one stage of development to another, provided that the total floor area ratio is not changed.
 2. Design has not materially changed, in that:
 - a. the roadway patterns, including ingress-egress points, are in the same general location as shown on the original plans, and are no closer to the rear or interior side property lines than shown on the original plans;
 - b. the parking area is in the same general location and configuration;
 - c. the building setbacks are the same or greater distance from perimeter property lines, except that the building setbacks for detached single family development, attached single family development, townhouse and cluster development may also be decreased, provided that such decrease is limited such that the resulting setback distance will be the greater of either
 - i. the underlying zoning district regulations, or
 - ii. any condition or restrictive covenant regulating the setback for which a substantial compliance determination is sought;

- d. the landscaped open space is in the same general location, is of the same or greater amount, and is configured in a manner that does not diminish a previously intended buffering effect;
 - e. the proposed perimeter walls and/or fences are in the same general location and of a comparable type and design as previously approved;
 - f. elevations and renderings of buildings, if originally provided, have substantially similar architectural expressions as those shown on the approved plans;
 - g. recreational facilities, if shown on approved plans, either remain the same or are converted from one recreational use to another;
 - h. if recreational facilities were not shown in the approved plans, they may be added, provided there is no increase in lot coverage or decrease in required open space and such facilities are located internally within the proposed development;
 - i. if a variance for signage has been granted, the proposed sign(s) are no greater in size and are placed in the same general location on the site as originally approved. An entrance sign location may be moved the same proportional distance as a relocated entrance drive;
 - j. the proposed changes do not have the effect of creating any noncompliance or nonconformity with the strict application of the Zoning Ordinance that were not previously approved at public hearing, or of expanding the scope of existing variances such that they would differ to a greater degree from the strict application of the Zoning Ordinance;
3. Additional outparcels may be added where:
 - a. there is no increase in the project's total floor area ratio or lot coverage;
 - b. there is no reduction in the total amount of landscaped open space; and
 - c. addition of the outparcel does not result in noncompliance with any other provision of these Regulations or the Zoning Ordinance on any other portion of the subject property.
 4. Reductions in the number of parking spaces on the site are permitted if sufficient parking spaces are provided to satisfy the requirements of the Zoning Ordinance.

Sec. 24.202 Amendment, Modification, and the Vacating of Subdivision Plats

- A. **Amendment.** The Planning Commission (or staff, in the case of a minor subdivision plat) may approve an amendment to a subdivision plat in the same manner as the plat was originally approved, provided:
 1. All of the property that is affected by the amendment is under the ownership of the applicant;
 2. The amendment will not affect the ownership or right of convenient access of persons owning other parts of the subdivision; and
 3. The amendment complies with all of the standards of these Regulations, including verification of compliance with the Zoning Ordinance.
- B. **Minor Modification.** The Zoning Administrator may authorize minor modifications to a plat if no lots have been sold as follows.
 1. Design has not materially changed, in that:

- a. the roadway patterns, including ingress-egress points, are not moved more than five feet (centerline) from their indicated location on the original plat, and are no closer to the rear or interior side property lines than shown on the original plat;
- b. parking areas are in the same general location and configuration;
- c. the landscaped open space is in the same general location, is of the same or greater amount, and is configured in a manner that does not diminish a previously intended buffering effect;
- d. the proposed perimeter walls and/or fences are in the same general location and of a comparable type and design as previously approved;
- e. recreational facilities, if shown on the plat, either remain the same or are converted from one recreational use to another;
- f. if recreational facilities were not shown in the approved plat, they may be added, provided there is no increase in lot coverage or decrease in required open space and such facilities are located internally within the proposed development;
- g. the proposed changes do not have the effect of creating any noncompliance or nonconformity with the strict application of the Zoning Ordinance that were not previously approved at public hearing, or of expanding the scope of existing variances such that they would differ to a greater degree from the strict application of the Zoning Ordinance;

2. If lots have been sold, the minor modification process shall only be used for the relocation of septic reserve locations on individual lots.

C. **Vacating All or Part of Plat.** The Planning Commission may vacate a subdivision plat either in whole or in part if it is demonstrated that:

1. The persons making application for vacating a property own the fee simple title to the whole tract, or the entirety of that part of the tract covered by the plat which is sought to be vacated;
2. Vacating the property will not affect the ownership or right of convenient access of persons owning other parts of the subdivision; and
3. All easement holders whose easements are indicated only on the plat (and not by separate recorded instrument) provide written consent to the vacating of the property.

Sec. 24.203 Reformation of Approved Site Plans or Subdivision Plats to Correct Clerical or Scrivener's Errors

A. **Reformation by Application.** The Zoning Administrator shall approve an application to reform a clerical or scrivener's error in a subdivision plat or site plan approval, including an error in an application or notice, which error causes the approval to not accurately reflect the approving body's intent, and where it is demonstrated that all of the following requirements are met:

1. the reformation does not include a change of judgment, policy, or prior intent of the approving body;
2. prior to the conclusion of the public hearing at which the approval for which reformation is sought was taken (if a public hearing was required), the current applicant either did not know of the error, or knew of the error and made it known to the adopting board;
3. the reformation is essential to ensure that the approved subdivision plat or site plan reflects the intent of the approving body;

4. the record, including but not limited to the staff recommendation, minutes, and motion, evidences the clear intent of the approving body;
5. the substance of the decision of the approving body was evident at the time of the approval, and there was no intent to deceive the public or the approving body on the part of the current applicant at any time;
6. failure to approve the reformation would lead to an unjust result;
7. the error in the prior approval did not mislead anyone in a way that would cause them to be prejudiced by the reformation; and
8. any errors related to public notice did not affect the legal sufficiency of the required notice.

B. Reformation by Zoning Administrator. Notwithstanding the foregoing provisions, the Zoning Administrator, within 30 days of the approval of a subdivision plat or site plan, may reform a clerical or scrivener's error without public notice, if:

1. the error is not related to public notice, and
2. the error causes the approval as written to inaccurately reflect the clear decision of the approving body.

C. Relation Back. A reformed approval shall relate back to the original approval and the effective date of the corrected language shall be deemed to be the same as the effective date of the previous approval.

Division 24.300 Waivers

Waivers from the minimum standards in these Regulations may be granted by the Planning Commission only when the Planning Commission finds that granting a waiver will be consistent with all of the following criteria: (1) that 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; (2) that the waiver, if granted, will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents; (3) that the waiver, if granted, will be in keeping with the intent and purpose of these Regulations; and (4) that the waiver if granted will result in a project of better quality and/or character. No process or procedural waivers shall be granted.

A. Applicant. An application for a waiver may be made by anyone with a financial interest in a property. The owner is responsible for providing all information and justification for the waiver request.

B. Application. An application for a waiver shall be filed with the Planning Commission. An application for the waiver shall be submitted, along with the required fee, on the appropriate form. In addition to that basic information, the following information shall be submitted to support the application:

1. Plat or plan of the property depicting parcel information, proposed layout, and, where applicable, all proposed modifications.
2. A description of the physical features of the property, total acreage, present use, the use of the property at the time of the adoption of these Regulations, and any known prior uses;
3. A description of the specific portions of these Regulations for which relief is being sought;
4. A narrative describing how the proposed waiver will improve the public benefits.; and
5. An accurate list of all properties and owners' addresses adjoining the subject property.

- C. **Public Notice.** The applicant shall post the property ~~within fourteen (14) days of~~ prior to the scheduled meeting. The adjoining property owners shall be noticed by staff via mailed letter seven (7) days prior to the scheduled meeting.
- D. **Action.** The Planning Commission shall make a decision within 30 days of the receipt of the request for waiver.
- E. **Conditions of Approval.** In granting a waiver, the Planning Commission may prescribe any conditions and safeguards that it finds are appropriate and in conformity with these Regulations.
- F. All waivers and/or conditions of approval associated with the waiver shall be documented on all subsequent plats or plans.

Division 24.400 Appeals

An appeal of a decision of the Planning Commission or staff regarding subdivision or site development decisions shall be taken directly to Circuit Court of Jefferson County, West Virginia, pursuant to W.Va. Code §8A-5-10 and §8A-9-1, et seq.

Division 24.500 Surety

All major subdivisions and all site developments shall be required to provide security that meets the approval of the Department, agencies responsible for accepting the improvements, and in accordance with the County Commission Bonding Policy. Surety is a financial guarantee that the improvements proposed in the subdivision or site development are made as planned if, for some reason, the developer fails to make the required improvements.

Sec. 24.501 Improvements Requiring Surety

- A. **Requirement.** Each of the following elements or systems requires surety:
 1. Clearing, Grading, and Site Preparation.
 2. Stormwater Facilities.
 3. Water and Sewer Utilities or facilities.
 4. Streets, Sidewalks, Parking, Curbs, Street Drainage, and Lighting.
 5. Landscaping and Recreation Facilities.
 6. Other Utilities.
- B. **Exception.** Utilities that install their own infrastructure (such as telephone, electric, gas, and cable companies) will not require surety.

Sec. 24.503 Amount of Surety

- A. **Cost Estimates.** The developer shall submit cost estimates from the project engineer for the cost of such installation.
- B. **Review and Approval.** The County planning department and engineers shall review the cost estimates and make upward adjustments if they find the cost estimates below those the County is currently experiencing.
- C. **Amount.** The surety shall be in the amount of 115 percent of the approved estimate. This covers inflation, the cost of inspecting, and rebidding if the developer defaults and the County has to take over construction or construction supervision.

Sec. 24.504 Funding of Improvements

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

Sec. 24.505 Improvement Location Permit

An improvement location permit and/or building permit is required prior to the erection, relocation, or alteration of a building or structure, prior to establishing a land use on a vacant lot or in a vacant building; prior to changing a land use existing on a lot or in a building to a different land use, and prior to any land altering activity in a flood prone area.

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MEMO

TO: Planning Commission Members
FROM: Jennifer M. Brockman, AICP, Director, Planning and Zoning Department
Stephen Groh, Assistant Prosecuting Attorney, Civil Division
DATE: June 14, 2011 (revised from January 11, 2011 memo)
RE: Draft Policy on Planning Commission initiated Zoning Text Amendments and Zoning Map amendments

1. Thoughts on Relevant Portion of WV Code 8A (see Appendix A)

WV Code 8A provides for two primary ways that a locally adopted Zoning Ordinance can be amended. While standard planning considerations differentiate between amendments to the text of a Zoning Ordinance and amendments to the zoning map associated with an Ordinance, 8A does not clearly differentiate between “text” and “map” amendments¹ other than the type of notice required.

- a) WV Code 8A-7-8 delineates the process by which the governing body can initiate an amendment. In this circumstance, the governing body (the County Commission) must request input from the Planning Commission as to whether the proposed amendments are consistent with the Comprehensive Plan. The County Commission then makes findings either that the proposal is consistent with the comprehensive plan or that “major changes . . . have substantially altered the basic characteristics of the area”.

It is our opinion, major policy-level re-writes or updates to the Zoning Ordinance should best occur in this manner. In typical planning practice, a planning commission that is interested in revising the locally adopted Ordinance would present a list of amendments to consider to the governing body (i.e.: in the form of a work plan) and the governing body would agree to the tasks and refer it back to the planning commission for research, a recommended proposed wording, and recommendations related to the findings required. Most states then require the planning commission to hold its own public hearing prior to sending a final recommendation to the governing body. WV’s law does not speak to the public hearing process associated with a

¹ In planning parlance a “Text Amendment” is a change in the language of the Ordinance that applies to all similar property county-wide, such as a change in principal permitted uses in a district. A “Map Amendment” is a change that only applies to a specific property, such as changing the zoning designation. While it is conceivable to change the text of the ordinance to only apply to a specific property (one example is the changes to the ordinance related to Summit Point Raceway properties) the availability of the LESA based CUP process and best planning practices make such property-specific “text” changes disfavored.

change initiated by the County Commission but typical planning practice recommends a more thorough public process in preparing a recommendation to the governing body.

§8A-7-8 permits the governing body to make a zoning map amendment which would utilize this same referral process.

We recommend that the Planning Commission process for proposing significant policy-level amendments to the Zoning Ordinance text follow this process. This recommendation is based upon best planning practices and upon deference to the officials elected to make such major policy-level changes to local land use.

While the text of §8A could be clearer in some areas, there does not appear to be a practical process by which a citizen can initiate a text amendment other than taking the proposal to the County Commission or the Planning Commission for them to initiate it. This is because any citizen petition requires “owners of 50% or more of the real property” and, as a text amendment applies county-wide, it is unlikely that 50% of the land owners in the entire county could jointly petition.

- b) WV Code 8A-7-9, outlines the process by which the Planning Commission or the owners of fifty percent or more of the real property in the area to which to petition relates may formally petition to amend the Ordinance. The Planning Commission may initiate “text” or “map” amendments through the petition process. As discussed above, we believe land owners, as a practical matter, are limited to petition for zoning map amendments only. If landowners submit their petitions to the Planning Commission, the Planning Commission must conduct a public hearing within 60 days. If the Planning Commission is initiating the petition, the petition is to be submitted to the Clerk of the County Commission who is the elected County Clerk and the County Commission must conduct a hearing within 60 days.

While the formal petition process is always open to the Planning Commission, best planning practices and respect for the governing body make it more appropriate for the Planning Commission to avoid the formal petition process for major policy-level proposal. In the case of minor map or text amendments or mere technical corrections the formal petition process may be appropriate as such matters are typically within the main area of concern for a planning commission. However, the Planning Commission may always proceed by making a request to the County Commission to make proposed changes. Given the busy work schedule of the County Commission, especially during certain times of year, allowing the County Commission the flexibility to set hearing dates outside a 60 day deadline would be appropriate.

2. Thoughts on Article 12 of the Jefferson County Zoning Ordinance (see Appendix B)

Article 12 of the Jefferson County Zoning Ordinance is similarly confusing as to the difference in the processes between a landowner submitting a map amendment, the Planning Commission initiating a map amendment, and the development of various text amendments. While the Article is entitled “Map and Text Amendments”, it has no specific provisions for text amendments. Staff recommends initiating an amendment to Article 12 that clarifies that 12.3(a) is the procedure for a map amendment by a landowner, with the petition containing the information currently listed under (b) submitted to the Planning Commission; create a new (b) that details a similar process for Planning Commission initiated map amendments, with the petition submitted to the County Commission and County Clerk. Additionally, staff recommends creating a new section 12.4 that

details the process for a text amendment initiated by a citizen or the Planning Commission consistent with WV Code 8A-7-8. Staff's proposed language is found in Appendix C of this memo.

3. Next Steps

Following Planning Commission comments and legal review, staff recommends that Article 12 be amended to clearly delineate the process for amending the Zoning Map or Zoning Ordinance text. A revised draft of these amendments can be found in Appendix C. Staff recommends that the Planning Commission schedule a Public Hearing to receive public comment on the proposed revisions and to forward a recommended text amendment for Article 12 to the County Commission in the near future.

APPENDIX A
West Virginia State Code Requirements

Relevant Sections of West Virginia State Code, Chapter 8A are as follows:

§8A-7-8. Amendments to the zoning ordinance by the governing body.

(a) Before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body, with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which was not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.

(b) When a proposed amendment to the zoning ordinance involves a change in the zoning map classification of any parcel of land, or a change to the applicable zoning ordinance text regulations that changes the allowed dwelling unit density of any parcel of land, the governing body shall, at least thirty days prior to the enactment of the proposed amendment if there is not an election, or at least thirty days prior to an election on the proposed amendment to the zoning ordinance:

- (1) Give written notice by certified mail to the landowner(s) whose property is directly involved in the proposed amendment to the zoning ordinance; and
- (2) Publish notice of the proposed amendment to the zoning ordinance in a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class II-0 legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code.

§8A-7-9. Amendments to the zoning ordinance by petition.

(a) After the enactment of the zoning ordinance, the planning commission or the owners of fifty percent or more of the real property in the area to which the petition relates may petition to amend the zoning ordinance. The petition must be signed and be presented to the planning commission or the clerk of the governing body.

(b) Within sixty days after a petition to amend the zoning ordinance is received by the planning commission or the governing body, then the planning commission or the governing body must hold a public hearing after giving public notice. The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area affected by the proposed zoning ordinance, as a Class I legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code, at least fifteen days prior to the public hearing.

(c) If the petition to amend the zoning ordinance is from the owners of fifty percent or more of the real property in the area, then before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.

APPENDIX B
Jefferson County Zoning Ordinance Requirements

The Jefferson County Zoning Ordinance currently states:

ARTICLE 12. MAP AND TEXT AMENDMENTS

Section 12.1 Purpose

- a) These regulations, restrictions, provisions, and the boundaries of districts provided herein may from time to time be amended, modified, or repealed by the County Commission. Any person, individual, board, commission or bureau of the County may petition the County Commission for such change.
- b) The County Commission shall refer any amendment or alteration of this Ordinance to the Planning and Zoning Commission for analysis, study, report, and recommendations.

Section 12.2 Procedure for Amendment by Governing Body

- a) After the enactment of the zoning ordinance, the governing body of the County may amend the zoning ordinance without holding an election.
- b) Before amending the zoning ordinance, the governing body with the advice of the planning commission, must find that the amendment is consistent with the adopted comprehensive plan.

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.
- b) Petitions to the County Commission for an amendment must contain the following information:
 - 1. Substantiation for the request
 - 2. Tax District, Map and Parcel number
 - 3. Deed Book reference
 - 4. Plat or sketch pursuant to Section 7.4 (b)
 - 5. Tract size
 - 6. Discussion on:
 - a. Comprehensive Plan compatibility of the proposed change.
 - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted

APPENDIX C

Proposed Revisions to Jefferson County Zoning Ordinance Article 12

The following is a proposed draft amendment to Jefferson County Zoning Ordinance Article 12:

ARTICLE 12. MAP AND TEXT AMENDMENTS

Section 12.1 Purpose

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

Section 12.2 Procedure for Amendment by ~~Governing Body~~County Commission

- a) After the enactment of the ~~Z~~zoning ~~O~~rdinance, including both text and map, the governing body of the County may amend the ~~Z~~zoning ~~O~~rdinance without holding an election.
- b) Before amending the ~~Z~~zoning ~~O~~rdinance ~~text or map~~, the governing body, with the advice of the ~~P~~lanning ~~C~~ommission, must find that the amendment is consistent with the adopted ~~C~~omprehensive ~~P~~lan, or if it is inconsistent, must make findings in accordance with the requirements of §8A-7-8 et seq of the West Virginia State Code, as amended.
- c) All amendments to the Zoning Ordinance map or text require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map and text amendments require a Public Hearing before the County Commission prior to a final determination.
 - (a) Public Notice of the Public Hearing before the Planning Commission requires the following:
 - i. a legal advertisement describing the location and identification of the subject parcel for which the zoning is proposed to be changes, including the current tax district, map and parcel number, and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation
 - ii. Any property affected by the proposed zoning map amendment shall be posted at least 15 days prior to the Public Hearing. The posting shall state the time, date, and location of such hearing, as well as, what new zone is being requested on the property.
 - iii. All property owners adjoining the property proposed to be rezoned shall be noticed by first class mail at least 15 days prior to the Public Hearing. The adjoining letters shall state the time, date, and location of such hearing, as well as, what new zone is being requested on this particular property. The letter shall also describe the location and identification of the subject parcel proposed to be rezoned, including the current tax district, map and parcel number.
 - (b) Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.

Section 12.3 Procedure for Map Amendment by Petition

a) Map Amendments by Landowners

The procedure for processing a map amendment petition initiated by the owners of fifty percent or more of the real property in the area to which the petition relates shall be as dictated in ~~§8A-1-1~~§8A-7-9 et seq of the West Virginia State Code, as amended.

~~b)~~ Petitions for a map amendment initiated by landowners shall be submitted to the Planning County Commission and shall ~~for an amendment must~~ contain the following information:

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

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

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

b) Map Amendments by the Planning Commission

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

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

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

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

The Planning Commission may opt to proceed on a proposed map amendment by informal written request for action to the County Commission by submitting the same information required above styled as a "Request for Action" rather than as a "Petition."

Section 12.4 Procedure for Initiating a Zoning Ordinance Text Amendment

a) Text Amendments by Those Other Than County or Planning Commission

A Zoning Ordinance text amendment cannot be initiated by any person, board, commission or bureau of Jefferson County by submitting a petition and fee to the Departments of Planning and Zoning. The procedure for processing a Zoning Ordinance text amendment initiated by any person, board, commission or bureau of Jefferson County shall be by a written request to the County Commission at a regular meeting. The request and related agenda request form must be submitted to the County Commission office for placement on a County Commission agenda at least one (1) week prior to the meeting date or in accordance with the agenda request procedure of the County Commission.

Any request for a text amendment shall include the proposed text in context with the adopted Zoning Ordinance text and shall include a statement as to why such proposal is consistent with the adopted Comprehensive Plan.

The County Commission may refer the proposed amendment to the Historical Landmarks Commission or other appropriate body for comment and shall refer the proposed amendment to the Planning Commission in accordance with §8A-7-8(b) et seq of the West Virginia State Code, as amended, to provide advice on the consistency with the Comprehensive Plan. If the County Commission decides to consider the request, a Public Hearing would be required in order to amend the Zoning Ordinance. The Planning Commission would likely hold a hearing regarding the request as well in order to make an informed recommendation to the County Commission.

b) Text Amendments by Those Other Than County or Planning Commission (Alternate Process)

Alternatively, any person or by any board, commission or bureau of Jefferson County could submit a proposed Zoning Ordinance text amendment to the Planning Commission for their consideration within their on-going work plan tasks at a regular Planning Commission meeting. It is preferable that such a request be submitted in writing to the office of the Departments of Planning and Zoning for placement on a Planning Commission agenda at least two (2) weeks prior to the meeting date at which the request will be presented. Any request for a text amendment shall include the proposed text in context with the adopted Zoning Ordinance text and shall include a statement as to why such proposal is consistent with the adopted Comprehensive Plan.

The Planning Commission, with the advice of staff, can determine if and when to undertake such a request in light of other work plan tasks and development review activities are currently under consideration. If the Planning Commission decides to consider the request, a Public Hearing would be required and the Planning Commission would need to determine if the request is consistent with the Comprehensive Plan in accordance with §8A-7-8(b) et seq of the West Virginia State Code, as amended. The Planning Commission would then make a recommendation regarding the potential text amendment to the County Commission who would also be required to hold a Public Hearing.

c) Text Amendments by the Planning Commission

Typically, if the Planning Commission determines that a text amendment is required to the Zoning Ordinance in accordance with tasks in the work plan, to make the ordinance more user-friendly, or in line with adopted policies, the Planning Commission will develop a draft of the proposed amendment, receive public input, conduct a Public Hearing, and make a recommendation for action to the County Commission through a regular agenda request process. Any such amendment proposal will include the background and reasoning of the proposed amendment as well as a discussion of consistency with the adopted Comprehensive Plan.

With their recommendation, the Planning Commission will request that the County Commission schedule a workshop, if necessary, and a Public Hearing at the County Commission's convenience to receive comment and take action on the proposed amendment.

d) Text Amendments by the Planning Commission by Petition

On rare occasions, the Planning Commission may determine it necessary to submit a text amendment by petition to the County Commission. The procedure for processing a formal text amendment petition initiated by the Planning Commission shall be as dictated in §8A-7-9 et seq of the West Virginia State Code, as amended.

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

1. Substantiation for the request;
2. Notation that said text amendment applies county-wide;
3. Discussion on why such proposal is consistent with the adopted Comprehensive Plan.

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

ARTICLE 2. DEFINITIONS
Section 2.2 Terms Defined

Add the following definitions:

Zoning Ordinance, Map Amendment

An amendment to the Zoning Map which is adopted by reference in the Zoning Ordinance that consists of a change that only applies to a specific property, changing the zoning designation.

Zoning Ordinance, Text Amendment

An amendment to the text of the Zoning Ordinance resulting in a change in the language of the Ordinance that applies to all similar property county-wide, such as a change in principal permitted uses in a district.

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Director's Report
June 14, 2011
Planning Commission Meeting

- 1) Activity Report (attached)
- 2) Update on US 340 Plan
 - Next Public Meeting June 16, 2011, 7:00 pm C.W. Shipley Elementary School
 - Update on MPO contract with Michael Baker/MetroQuest effort
- 3) Urban Tree Canopy Plan
 - Jefferson County Roundtable Meeting May 25, 2011
 - Need to determine next steps – PC review or public hearing
- 4) Recent Regional Staff activities:
 - a) Balancing Nature and Commerce Course at NCTC (April 2011)
 - b) Jefferson County Partnership Meeting (5/11/11)
 - c) Ranson Smart Growth/grant meeting (5/17/11)
 - d) Harpers Ferry Planning Commission Meeting (6/7/11)
 - e) WIP II Meetings (5/11/11, 6/8/11, 2 additional meetings and Summit 8/31/11)
 - f) Harpers Ferry Planning Commission Meeting (6/7/11)
- 5) Recent CC action:
 - a) Authorization to utilize Planning Department Professional Services funds as a part of the local match for a proposed grant being applied for by the Freshwater Institute for the purpose of developing a High-Resolution Land Use/Land Cover Data Set for Jefferson County (5/12/11) *Approved*
 - b) Approval of Job Offer for 2011 Summer Planning Intern (5/12/11) *Approved – Aaron Molenda hired May 23, 2011*
 - c) Land Development Fee Schedule Public Hearing (5/19/11, 1 pm) *Public hearing held, public comment extended to May 31, 2011, vote continued to June 23, 2011*
 - d) Blue Ridge Watershed Coalition -- Request for County Commission Support for a Grant Proposal and Match Funding (6/2/11) – *CC agreed to have matching funding available if necessary (\$10,000 in-kind contribution from the County and/or a \$7,500 match from the County for 2 grants being applied for)*

- e) Third Quarterly Report and Amended FY 2012 Work Plan sent to CC as a written report (6/2/11) – *Amended Work Plan attached*
- 6) Upcoming CC agenda items:
 - a) Public Hearing on the Proposed Policy Neutral Amendments to the Zoning and Land Development Ordinance (July 7, 1988, as amended) (6/9/11 7 pm)
 - b) Vote on Planning Commission recommended Land Development Fee Schedule – *Public Hearing held, vote postponed to 6/23/11*
 - c) Approval of Job Offer for Office Manager (tentatively 6/23/11)
- 7) Upcoming PC meetings:
 - a) June 28, 2011 – preliminary agenda items:
 - Public Hearing -- Proposed Text Amendment for certain portions of the Subdivision and Land Development Regulations regarding maximum square footage requirements for a Minor Site Plan in each Zoning District
 - Public Hearing -- Proposed Text Amendment for Articles 4A and Section 2.2 of the Zoning and Land Development Ordinance and Section 20.203 of the Subdivision and Land Development Regulations, regarding Home Occupations and Cottage Industries
 - Concept Plan – Asbury Methodist Church on WV 480
 - ??Public Hearing on Proposed Text Amendment for Article 12 of the Jefferson County Zoning and Land Development Ordinance
 - b) July 12, 2011
 - One Concept Plan Workshop scheduled (Middleway Volunteer Fire Company)
 - c) July 26, 2011
 - Possible follow up/vote on Concept Plan (to be determined at 7/12/11 PC meeting)
 - d) August 9, 2011
 - Two Concept Plan Workshops scheduled (Harvest Pointe Community Church and Jefferson Asphalt Products, LLC)

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE: WEEKLY CALENDAR 5/9/11-5/13/11

MONDAY, MAY 9, 2011

10:00 pm – NOON JENNIE – E. GATEWAY TRANSPORTATION SUPPORT KICK-OFF MEETING
2:00 pm – 3:00 pm STAFF MEETING

TUESDAY, MAY 10, 2011

9:30 pm – 11:00 am JENNIE & STEVE - WEEKLY ZONING MEETING
11:00 am – NOON JENNIE, SETH & AMY - WEEKLY PLANNING MEETING
7:00 pm - JENNIE, SETH, STEVE & AMY – PLANNING COMMISSION MEETING

INTERN DOUGLAS GRIFFITH – WORK / 9:00 am – 4:00

WEDNESDAY, MAY 11, 2011

9:30 am – 11:30 am JENNIE – WIP II DEVELOPED LAND WORK GROUP – MEETING #1
10:00 am - 11:00 am STEVE, SETH & JONATHAN – SITE PLAN PPC / RE: HAROLD B. (VERIZON WIRELESS)
11:00 am – NOON STEVE, SETH & JONATHAN – SUBDIVISION PPC WITH ED JOHNSON / RE: JONES M/S
1:30 pm – 4:30 pm JENNIE – JC PARTNERSHIP MEETING / LOCATION: HOLIDAY INN

THURSDAY, MAY 12, 2011

9:00 am - COUNTY COMMISSION MEETING

INTERN DOUGLAS GRIFFITH – WORK / 1:00 pm – 4:00 pm

FRIDAY, MAY 13, 2011 **BOARD OF ZONING APPEALS PACKET FRIDAY**

ALL DAY JENNIE, STEVE, SETH & JULIE – OUT OF COUNTY SUBDIVISION SITE VISITS

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE: WEEKLY CALENDAR 5/16/11-5/20/11

MONDAY, MAY 16, 2011

10:30 am – 11:30 am JENNIE & SETH - WEEKLY PLANNING MEETING
11:30 pm – 1:00 pm JENNIE & STEVE - WEEKLY ZONING MEETING
2:00 pm – 4:00 pm JENNIE, SETH & JULIE – US 340 TAC & CITIZENS GROUP MEETING

TUESDAY, MAY 17, 2011

9:00 am – 3:00 pm JENNIE – RANSON EPA WORKSHOP
9:00 am - STEVE, SETH & JONATHAN – SITE VISIT TO TROPICAL TANNING & GIFTS
1:00 pm SETH – “IT” MEETING WITH CHARLOTTE / RE: BLUE RIDGE WATERSHED COALITION

INTERN DOUGLAS GRIFFITH – WORK / 9:00 am – 4:00

WEDNESDAY, MAY 18, 2011

9:00 am – 10:00 am JENNIE, SETH, JENNILEE & BECKY – MEETING WITH STEPHANIE GROVE
RE: OXFORD MEADOWS
10:00 am – 11:00 am STEVE, JENNILEE & JONATHAN – SITE PLAN PPC / RE: RUSTY MORGAN
11:00 am – NOON SETH, AMY & JONATHAN – SITE PLAN PPC / RE: ROCK & TILE (WHGA)
2:00 pm – 4:00 pm JENNIE, SETH & JULIE – UTC MUNICIPAL REPS MEETING
2:30 pm – 3:00 pm STEVE & MASON – SITE VISIT / LOWE’S PRODUCTS
5:30 pm SETH – MOUNTAIN MEETING WITH COALITION

THURSDAY, MAY 19, 2011

8:30 am JENNIE – MEETING WITH TOM BAYUSIK IN SHEPHERDSTOWN
9:00 am - COUNTY COMMISSION MEETING
11:00 am – NOON STAFF MEETING
11:30 am STEVE, SETH & MASON – MEETING WITH GLEN COGLE
1:00 pm JENNIE, SETH & JULIE - COUNTY COMMISSION FEE SCHEDULE PUBLIC HEARING
3:00 pm JENNIE, STEVE & JENNILEE – BOARD OF ZONING APPEALS MEETING

INTERN DOUGLAS GRIFFITH – WORK / 1:00 pm – 4:00 pm

FRIDAY, MAY 20, 2011 [PLANNING COMMISSION PACKET FRIDAY](#)

9:00 am – 9:30 am JENNIE – REVIEW UTC REPORT WITH TODD / GIS OFFICE
10:00 am - JENNIE, STEVE, SETH & AMY - STAFF REVIEW MEETING / RE: ASPEN GREENS (LIBRARY)
11:15 am JENNIE – OPENING / GLOBAL BORDERS COLLEGE & ADVANCED TRAINING CENTER

Christine Chalmers

To: PLANNING DEPARTMENT
Subject: RE: WEEKLY CALENDAR / 5.23.11 - 5.27.11

MONDAY, MAY 23, 2011

10:00 am – 11:30 am JENNIE, (STEVE), SETH & JULIE – MEETING WITH METRO QUEST
NOON – 1:30 pm JENNIE – LUNCH MEETING WITH TODD
1:30 pm JENNIE – MEETING (HERE) WITH SHEPHERD OGDEN
2:00 pm STEVE, SETH & JONATHAN – MEETING WITH TIMOTHY BELL
3:00 pm STEVE, SETH, AMY & JONATHAN – STAFF MEETING / CONCEPT PLAN
RE: JEFFERSON ASPHALT (#S11-12)

TUESDAY, MAY 24, 2011

9:15 am – 10:45 am JENNIE, STEVE & JENNILEE – WEEKLY ZONING MEETING
10:45 - NOON JENNIE, SETH & AMY – WEEKLY PLANNING MEETING
2:00 pm - JENNIE & STEVE – MEETING WITH PAUL RACO & MATT KNOTT
3:00 pm STAFF MEETING
7:00 pm JENNIE, STEVE, SETH AND AMY – PLANNING COMMISSION MEETING

INTERN DOUGLAS GRIFFITH – WORK / 9:00 am – 4:00

WEDNESDAY, MAY 25, 2011

10:00 am – 11:30 am JENNIE, STEVE & SETH – MEETING WITH MIKE WILEY
RE: ZONING AMENDMENT / BEALLAIR & BEALLAIR WEST
2:15 pm – 4:00 pm JENNIE, STEVE & SETH – 340 METROQUEST MEETING
5:00 pm – 6:00 pm JENNIE – “COG” MEETING / RE: PRESENTATION FINAL DRAFT – UTC PLAN & GOALS

THURSDAY, MAY 26, 2011

CANCELLED COUNTY COMMISSION MEETING
10:00 am JENNIE, STEVE & SETH – MEETING WITH STEPHEN GROH / RE: ARTICLE 12 AMENDMENTS
2:30 pm STEVE, SETH & JONATHAN – MEETING WITH BRENDA STAUBS (TROPICAL TANNING & GIFTS)
LATE AFTERNOON SETH – DROP BY (INFORMAL) APPOINTMENT WITH DIRK SANBURY

INTERN DOUGLAS GRIFFITH – WORK / 1:00 pm – 4:00 pm

FRIDAY, MAY 27, 2011

1:30 pm STEVE – MEETING WITH MICHELLE KRASSOWSKI
3:00 pm – 4:30 pm SETH – MEETING WITH COALITION IN LARGE CONFERENCE ROOM

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE: WEEKLY CALENDAR / 5.30.11 - 6.03.11

MONDAY, MAY 30, 2011

MEMORIAL DAY HOLIDAY – OFFICES CLOSED

TUESDAY, MAY 31, 2011

10:00 am JENNIE, SETH & JULIE – CONFERENCE CALL /
RE: METROQUEST – PUBLIC INVOLVEMENT TOOL
1:30 pm – 2:30 pm JENNIE & SETH – WEEKLY PLANNING MEETING
2:30 pm – 4:00 pm JENNIE & STEVE – WEEKLY ZONING MEETING

WEDNESDAY, JUNE 01, 2011

8:00 am – 9:30 am JENNIE – MONTHLY DEPARTMENT HEAD MEETING WITH TIM BOYDE
10:00 am STEVE OR SETH & JONATHAN – SITE PLAN PPC MEETING /
RE: HAROLD B. - VERIZON CELL TOWER IN LEETOWN
11:00 am STEVE, SETH & JONATHAN – MEETING REGARDING HAWTHORNE PARKING PROPOSAL
1:30 pm - 3:00 pm JENNIE – TELEPHONE CONFERENCE / PHASE II STAKEHOLDERS
3:30 pm SETH & STEVE – FOLLOW-UP MEETING / RE: BEALLAIRE

THURSDAY, JUNE 02, 2011

9:00 am - COUNTY COMMISSION MEETING
2:00 pm STEVE – MEETING WITH JUDY MOORE / RE: LOWE'S PRODUCTS

FRIDAY, JUNE 03, 2011 **CUT-OFF DATE FOR OFFICE MANAGER RESUME SUBMISSION**

9:15 am JENNIE – CONFERENCE CALL WITH CAROL (CRABTREE)
TBD JENNIE & JULIE – RESUME REVIEW

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE: WEEKLY CALENDAR 6/06/11 - 6/10/11

MONDAY, JUNE 06, 2011

10:00 am JENNIE & JULIE – OFFICE MANAGER INTERVIEW #1
10:00 am STEVE, JENNILEE, SETH & AMY – MEETING / RE: ROSE HILL FARM
11:00 am STEVE – MEETING WITH PAUL RACO / RE: FARM MARKETS
3:00 pm JENNIE & JULIE – OFFICE MANAGER INTERVIEW #2

TUESDAY, JUNE 07, 2011

10:00 am STEVE & MASON – MEETING WITH HAROLD BARLOW / RE: TREEHOUSE
1:00 pm – 2:30 pm JENNIE & STEVE – WEEKLY ZONING MEETING
2:30 pm - 3:30 pm JENNIE & SETH – WEEKLY PLANNING MEETING
7:00 pm JENNIE – HARPERS FERRY PLANNING COMMISSION MEETING

WEDNESDAY, JUNE 08, 2011

9:30 am – 11:30 am JENNIE – MEETING #2 / WIP II DEVELOPED LAND WORK GROUP MEETING
9:40 am STEVE & SETH – SITE VISIT TO COUNTRY ROADS
1:00 pm STEVE OR SETH & JONATHAN – JAMES S. HENRY M/S PPC
1:00 pm – 2:00 pm OFFICE MANAGER INTERVIEW #3
2:00 pm – 3:00 pm OFFICE MANAGER INTERVIEW #4

THURSDAY, JUNE 09, 2011

9:00 am - COUNTY COMMISSION MEETING
10:00 am STAFF MEETING
11:30 am - 12:00 pm CLERICAL STAFF INTERVIEW WITH CANDIDATE #1
12:00 pm – 1:30 pm PROFESSIONAL STAFF INTERVIEW WITH CANDIDATE #1
7:00 pm JENNIE, STEVE & SETH: COUNTY COMMISSION PUBLIC MEETING /
RE: POLICY NEUTRAL ZONING ORD. AMENDMENT

FRIDAY, JUNE 10, 2011 PLANNING COMMISSION PACKET FRIDAY

10:00 am STEVE – MEETING WITH RICHARD NETHERCUTT /
RE: VICTORY BAPTIST CHURCH (AT CHURCH LOCATION)
2:00 pm JENNIE, STEVE, SETH & JULIE – 340 MEETING / RE: JUNE 16th

**JEFFERSON COUNTY WV
DEPARTMENTS OF PLANNING AND ZONING
FY 2012 WORK PLAN (revised 5/24/11)**

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 – May 2011)

- Adoption of comprehensive 'policy neutral' amendments to the 2008 Subdivision Regulations (approved August 2010);
- Development of Amendments to Wireless Telecommunications Section of 1988 Zoning Ordinance – recommended to County Commission for adoption (approved 3/10/11);
- Initiation of 'policy neutral' amendments to the 1988 Zoning Ordinance (scheduled for hearing 6/9/11);
- 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 (held 3/24/11);
- 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 completed 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 well developed work plan, including regular quarterly reports on the FY 11 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, National APA Conference, Tri-State Regional Planning Conference;
- 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 (to be voted upon 6/2/11).

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:

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 (time frame: 4/11 – 1/12);
- Complete efforts to draft potential amendments for the 1988 Zoning Ordinance and 2010 Subdivision Regulations with key stakeholder involvement throughout Fiscal Year (ongoing - 6/12);
- Initiate, in cooperation with the local state delegates and senators, potential amendments to WV Code 8A to help streamline development review process (Summer 2011)
- 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 Summer 2011);
- Participate, in cooperation with the Department of Engineering in the DEP's WIP II Plan for the Chesapeake Bay Watershed, including a determination as to the best method of locally implementing the Model Stormwater Regulations (Summer – Winter 2011);
- Work cooperatively with County's Municipalities in their on-going planning efforts (on-going);
- Initiate a comprehensive analysis of the build out potential for the County as a whole under current zoning and approval process (possible contracted service);
- 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;
- 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;
- 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 (on-going);
- Provide thorough and responsive support of Planning Commission, Board of Zoning Appeals and County Commission (on-going);
- 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 (on-going); and
- Provide thorough and timely Development Review for all plats and plans submitted to our Departments (on-going).

Possible Additional Tasks

- Initiate, in cooperation with the WV DOH, a citizen based planning effort for the development of a corridor plan for the US 340 Corridor South between Charles Town and the southern Virginia line (Spring – Winter 2012);
- 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

Item # 20 – Reports from Legal Counsel.

You will be receiving two e-mails that will include documents regarding this item. Mr. Groh has provided you with information regarding the Gibson Case and the Far Away Farms Case. However, those packets of information were very large. We were unable to provide a printed copy with your packet and we were also unable to include them in your e-mailed packet as the size of the file would have been too large to send. Please make sure you receive an e-mail including these documents. If you do not, please call the office on Monday so that we can resend the email to you..