

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
June 28, 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: Stephen Groh to discuss motions and Findings of Fact; Ex Parte contact; and provide an ethics overview.
2. Approval of the minutes for the June 14, 2011 meeting.
3. Citizen Communications.
4. Request for postponement.
5. Postponed from the June 14, 2011 Planning Commission Meeting: 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.
6. Postponed from the June 14, 2011 Planning Commission Meeting: 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.
7. Concept Plan Review for Asbury United Methodist Church (PC File #S11-05). This property is located on Kearneysville Pike north of Morgan's Grove Park. This project consists of a 16,239 sq. ft. addition to the existing structure on 4.98 acres located in Tax District: Shepherdstown; Tax Map: 8 Tax Parcel: 7.2.
8. Public Hearing for Proposed Text Amendment to Section 20.203 Minor Site Development, Section 20.204 Major Site Development, and Division 26.200 Definition of Terms, regarding the maximum square footage requirements for a Minor Site Plan in each Zoning District.
9. Public Hearing for 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.
10. 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.

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11. Discussion and possible scheduling of Public Hearing for proposed Zoning Text Amendment to Article 12 of the Jefferson County Zoning and Land Development Ordinance.
12. Reports from Legal Counsel and legal advice to PC.
13. Director's Report.
14. County Commission Liaison Report.
15. 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.
16. President's Report.
17. Actionable Correspondence.
18. Non-Actionable Correspondence.

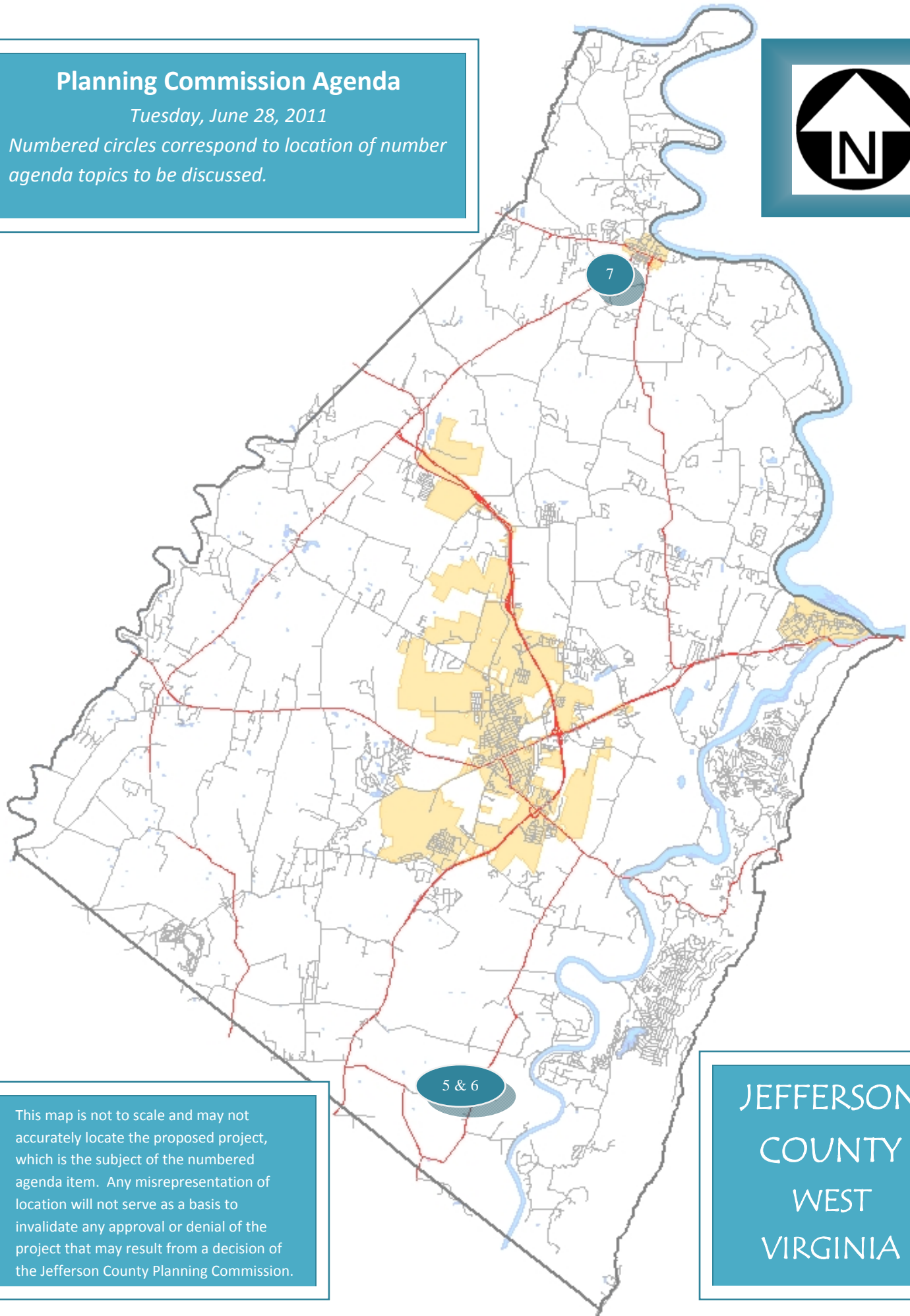
The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address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

Minutes and video recordings of past meetings, Subdivision Regulations, Zoning Ordinance, and the Comprehensive Plan can be found on the website. The office has a file on each project as well as aerial photos of the county. Minutes and audio recordings of older meetings not on the website are available for review in the office.

Planning Commission Agenda

Tuesday, June 28, 2011

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



5 & 6

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
JUNE 14, 2011

The Jefferson County Planning Commission met on Tuesday, June 14, 2011, with the following Commission members present: Daniel Hayes, President; Arnold Dailey, Vice-President; Morgan Eppers, Secretary; Gene Taylor, Kelly Baty, Ed Burns, Eric Smith, and Walt Pellish. Staff members present included Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephanie Grove, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Paul Taylor was absent with notification.

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

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

Mr. Manuel gave an overview of Robert's Rules of Order, proper procedure for running a meeting and for providing motions.

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

Mr. Arnold Dailey entered the room at 7:15 PM.

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 28, 2011 Planning Commission Meeting.

3. **Approval of the minutes for the May 24, 2011 meeting.**

Ms. Eppers requested that in item # 3, *Ms. Morgan* be changed to *Ms. Eppers*. Mr. Hayes requested on the first page, in the absence section, that it state Mr. Paul Taylor was absent *with* notification instead of *without* notification. Ms. Eppers moved to approve the minutes of the May 24, 2011 meeting with the requested amendments. Mr. Pellish seconded the motion which carried unanimously.

4. **Citizens Communication:** None.

5. **Request for postponement.**

Ms. Brockman presented a request sent to staff via e-mail from Mr. Herb Jonkers requesting postponement of item #10, Highland Farms Concept Plan, until July 12, 2011. The postponement was granted.

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.**

Ms. Brockman reported that it had been brought to staff's attention that the placard was not properly posted on the property. She stated that the applicant verified that the sign did fall frequently. Ms. Brockman notified the applicant that the Planning Commission would

determine whether the posting requirements had been met adequately. Ms. Grove detailed the Planning Commission options of action. Mr. Hayes asked the applicant if she would be agreeable to a postponement for 2 weeks until the June 28, 2011 meeting. Ms. Angela Bell requested a postponement to allow for the site to be properly posted. Both item #6 and #7 were postponed until June 28, 2011.

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.**

This item was postponed until June 28, 2011 for reasons outlined under item #6.

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.**

Mr. Rivard reviewed the waiver application and presented the staff report recommending denial. There was discussion regarding the placement of and necessity of a sidewalk on that property. Mr. Rivard clarified that the area may become a more foot-traveled community in the future and that the sidewalk is a part of the long range plan for that area.

Mr. Tony Colandrea, of Jefferson Reality, LLC, stated that the Department of Highways (DOH) would not permit a sidewalk in the platted street right of way. He reported that the DOH requested that he remove the asphalt and grass in the area that the Subdivision and Land Development Regulations require a sidewalk.

Mr. Hayes opened the public hearing. Mr. Paul Rosa, citizen, voiced support of the waiver. Mr. Burns moved to close the public hearing. Mr. Dailey seconded the motion which carried unanimously.

Mr. Hayes reviewed the four criteria necessary for granting a waiver. Mr. Burns suggested granting the waiver with the condition that a sidewalk easement would be required and that the sidewalk would be installed when adjoining properties installed sidewalks.

Mr. Dailey moved to grant the variance because it meets the four necessary criteria as outlined in Division 24.300 of the Subdivision and Land Development Regulations. Mr. Pellish seconded the motion. Discussion ensued.

Mr. Baty moved to amend the motion to grant the waiver with the provision that a 4 foot sidewalk of asphalt cut from the existing asphalt and sidewalk easement remain as part of the 15 foot parking setback. Mr. Burns seconded the motion. Discussion of the amendment followed. The motion failed 1 for (Mr. Baty) and 7 against.

Ms. Eters moved to amend the motion to require a 4 foot easement at the right of way within the 15 foot parking setback. Mr. Burns seconded the motion. Mr. Saunders asked that the

easement be 10 foot as previously requested from other projects. Ms. Ethers and Mr. Burns withdrew the motion on Engineering's request.

Mr. Ethers moved to amend the motion to require a 10 foot public access easement at the right of way within the 15 foot parking setback. Mr. Burns seconded the motion which carried 7 for and 1 against (Mr. Dailey).

Mr. Hayes reiterated the main motion with the approved amendment and called the question. The motion to grant the waiver with the condition of requiring a 10 foot public access easement at the right of way within the 15 foot parking setback carried unanimously.

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.**

Mr. Paul Rosa, on behalf of the Harpers Ferry Conservancy, asked for a procedural objection and reported that there were no signs posted on the property. He stated that he felt this item had an impact on public policy and plans and requested that this item be postponed so that proper posting could occur. Staff notified the Planning Commission that the posting of a property in a rezoning request was a courtesy notification that staff requested and not a requirement within any of the regulations. Ms. Brockman stated that letters to adjoining property owners had also been sent as a courtesy. The hearing proceeded.

Mr. Rivard described the property and the land use of the surrounding properties. He presented his staff report and recommended that the rezoning request be sent to the County Commission with a recommendation of denial or that the applicant wait 12 months until the completion of the US 340 East Corridor Study. He also suggested that the applicant could apply for a Conditional Use Permit.

Mr. Matt Powell, representing the Shenandoah Professional Center, LLC, declared that the signs had been posted on the property. He distributed a binder of supporting information to each Planning Commissioner in regards to the rezoning request. Mr. Powell described the property and the applicant's reason for the request. He rebutted the recommendations of the staff report.

Ms. Trish Sanderson, of the Shenandoah Professional Center, LLC, described the advantages of the property having a designation of Residential/Light Industrial/Commercial (R/L/C) as opposed to Residential Growth.

Mr. Paul Rosa, of the Harpers Ferry Conservancy, concurred with the staff recommendations. He stated he did not feel that the request was compatible with the Comprehensive Plan. He stated that the designation of R/L/C allows for a broad spectrum of businesses that may not be a benefit to the community. He spoke of the School House Ridge and Bolivar Heights Civil War battle that occurred on this property and encouraged the preservation of that land.

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Mr. Al Alsdorf, Harpers Ferry businessman, stated that he owns a bed and breakfast that relies on tourism and he recommended denial of the rezoning request due to the history of the land.

Ms. Barbara Humes, Harpers Ferry resident, concurred with the staff recommendation and supported the decision to wait to rezone the land until after the completion of the US 340 study.

Mr. Burns moved to take a 5 minute recess. Mr. Pellish seconded the motion which carried unanimously. Meeting was called to recess at 9:46 PM. Mr. Hayes called the meeting to order at 9:52 PM.

Mr. Gary Dungan, Harpers Ferry resident, stated that developing the land would adversely affect the economic impact of the battlefield.

Ms. Suzanne Malesic, member of the Citizen's Action Committee for the US 340 East Gateway Plan, described the US 340 project and recommended that the rezoning request wait until the completion of the study.

Mr. Scott Faulkner, resident of Bolivar Heights and a Trustee for the Journey through Hallowed Ground Partnership, concurred with staff and cited statistics of currently undeveloped commercial areas in Jefferson County.

Mr. John Maxey, Harpers Ferry resident, agreed with staff that rezoning the parcel was not consistent with the Comprehensive Plan and recommended that the applicant to wait to request a zoning map amendment until after the completion of the US 340 study. Mr. Maxey suggested that the applicant should apply for a Conditional Use Permit.

Mr. Matt Knott, owner of River Riders, supported the rezoning request and stated that most of the property surrounding the land is being used commercially. He stated that he feels that the process of a site plan review through the Planning and Zoning Department has built-in safety measures that would not allow inappropriate development in the area.

Ms. Jennifer Syron, Jefferson County resident, concurred with the recommendation to wait until the completion of the US 340 study.

Mr. Ed Burns moved to close the public hearing. Mr. Dailey seconded the motion which carried unanimously.

Ms. Etters moved to recommend to the County Commission that the Planning Commission finds the rezoning request is not consistent with the Comprehensive Plan because of the many different uses of the requested Residential/Light Industrial/Commercial zoning classification. Mr. Baty seconded the motion which carried unanimously. Discussion ensued regarding the request's consistency with the Comprehensive Plan. Mr. Burns called the question. The motion carried 5 for and 3 against (Mr. Pellish, Mr. Dailey and Mr. Smith).

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.**

This item has been postponed to the July 12, 2011 meeting.

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.**

Ms. Brockman presented the request for a Public Hearing for a zoning map amendment on behalf of David and Catherine Hott. There was discussion regarding meeting dates that would occur before the 60 day deadline. Mr. Hayes called for a 2nd meeting in July to be held July 26, 2011.

Mr. Burns moved to hold a public hearing within 60 days on July 26, 2011. Mr. Pellish seconded a motion which carried unanimously.

Mr. John Maxey approached the Planning Commission and recommended that staff speak to the applicant to review the Conditional Use Permit process as an alternative to a zoning map amendment.

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.**

This item was postponed to the June 28, 2011 meeting.

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.**

This item was postponed to the June 28, 2011 meeting.

14. **Director's Report.**

Ms. Brockman reminded the Planning Commission that the 2012 Fiscal Year Work Plan was provided in the agenda packet and that the tentative agenda for the US 340 Corridor East Gateway Plan Visioning Meeting was placed at their seats before the meeting.

15. **County Commission Liaison Report.**

16. **Planning Commission Exchange.** None.

17. **President's Report.**

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Mr. Hayes stated there may be time limits imposed on comments in future meetings. Mr. Baty asked that there be no additional information provided by the applicant the night of the meeting.

18. **Actionable Correspondence.** None.

19. **Non-Actionable Correspondence.** None.

20. **Reports from Legal Counsel and legal advice to PC.**

Mr. Smith moved to go into an executive session regarding pending litigation. Mr. Burns seconded the motion which carried unanimously. The executive session began at 10:56 PM.

The executive session ended at 11:28 PM.

The meeting was adjourned at 11:30 PM. 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.

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PRE-PROPOSAL CONFERENCE:	March 16, 2011 and a previous PPC June 22, 2009.
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1. Summary of Request

Tim and Angela Bell are requesting a waiver of Section 20.201(A)(2), which requires road improvements when 6 or more lots use a common access easement.

The applicants are also requesting an appeal of Staffs determination classifying this as a major subdivision.

2. Background

The applicants' requests relate to a waiver of subdivision standards and an appeal of staff's determination of required process, as described further below.

a. Standards

A minor subdivision, which is administratively reviewed and approved, has the following characteristics:

- It consists of a maximum of 4 lots or and a residue (a total of 5 lots);
- It requires a 50 foot access easement (no improvements to the easement are necessary); and
- It does not require the development of new (or existing of existing) off-site infrastructure.

Provided that the subdivision consists of fewer than 4 lots and a residue taking access to the 50' easement, no improvements are required for the access easement. (It should be noted that this standard has become more lenient in recent years; prior to the adoption of the 2008 Subdivision and Land Development Regulations, no more than 2 lots and a residue were permitted on an unimproved access easement).

A road serving more than 5 lots does not need to be paved; rather, the standards for 6-12 lot submission are as follows:

- 6 inches of gravel;
- 20 feet width with shoulder; and
- Swales along the roadside.

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It should be noted that the road construction may also generate the need for stormwater management.

The applicants are requesting that 5 lots and a residue (a total of 6 lots) be allowed to use the access drive without any additional improvements.

b. Process

Due to the proposed 6th lot, the development must be processed as a major subdivision since the subdivision will exceed the maximum of 5 lots allowed for a minor subdivision.

The basis for the applicants' appeal is found in Section 20.201 of the Subdivision Regulations, which state:

“Where, in the judgment of staff, a residential or non-residential proposal does not comply with the minor subdivision requirements and/or the intent of these Regulations, the proposed subdivision shall be classified as a major subdivision. The reason for such a determination shall be provided to the applicant in writing. The determination may be appealed to the Planning Commission for consideration and classification.”

3. Case History

Staff from the Planning, Zoning and Engineering Departments have met several times with the applicants regarding development proposals for this property, beginning in 2009. The following is a brief summary of these discussions:

Date	Event	Request	Comment
6/22/09	Pre-Proposal Conference (PPC) #1	Applicants noted in writing that they were proposing to create 2 family transfer lots off of the existing access drive (See attachment 1).	The Acting Zoning Administrator noted in the PPC memo 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 <i>processed</i> as minor subdivisions. However, this does not exempt any lots over 5 from the <i>standards</i> of the Subdivision Regulations when more than 5 lots would access the same easement. The term “standards” means the improvements needed in

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			plats or site plans. The memo further states that “The applicant may proceed with engineering of the proposed Minor Subdivision (See attachment 2).”
June, 2010	Phone call	The applicants called the Planning and Zoning Department to see if they could amend their proposal from 2 lots to 1 lot.	The applicants were told that they could reduce their plat to one lot.
Early 2011	Phone call	The applicants contacted the office expressing an understanding that the lots had been subdivided.	Staff informed the applicants that the lots were not yet subdivided because no subdivision plat or fees had been submitted. The applicants then asked to know what processes would be required to get the lots subdivided.
3/16/11	Pre-Proposal Conference (PPC) #2	During the 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 consider supporting such a request. ¹

¹ An “as built” is a 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 of this road, however we do not have a copy in our file.

In 2001, 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 Departments 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.

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3/25/11	Meeting with Applicants, Staff, and Director	The applicants disagreed with Staff's 3/16/11 determination and asked to set up an appointment with the Director.	The applicant was again informed that the Staff's interpretation was correct in its findings and that he would have to proceed as noted.
5/23/11	Meeting with Applicants and Staff	The applicants sought information regarding processing a waiver request for the road construction standards. During the meeting, the applicants 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. 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.
5/23/11	Waiver request	Applicants submitted request for waiver from road construction standards as required by Section 20.201	(See waiver request, included in the Planning Commission packet)
5/26/11	Letter to Applicants	n/a	Follow-up letter to applicants confirms that the proposed development is not eligible to process as a minor subdivision due to 6 th lot; and that (because the proposed subdivision is not a family transfer) the major subdivision process applies. The letter outlined the applicants' options for seeking subdivision approval.
6/7/11	Appeal	Applicants submitted Appeal of Decision classifying the proposed development as a major subdivision.	(See appeal application, included in the Planning Commission packet) Note: an appeal request has no required notification.
6/14/11	Planning Commission meeting	Waiver request and appeal were initially scheduled to be heard on this date.	Both cases were postponed until June 28 due to sign posting issues associated with the waiver request.

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4. Validity of 2009 Determination

The applicants did have a PPC meeting with staff 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. Many applicants were, in effect, "hedging their bets", because if they applied under the current rules 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, subsequent 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.

5. 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.

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6. Criteria for Evaluation of Waiver Requests

Per the Subdivision and Land Development Regulations, waivers from the minimum standards in the Regulations may be granted by the Planning Commission only when the 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.

7. Staff Recommendation

As noted previously, it was indicated to the applicants that Staff may be able to support the waiver if an “as-built” drawing of the existing road were submitted. The value of an “as-built” is that if Staff can be reasonably certain that the road was built close to, but not exactly consistent with, the current standards, Staff may be able to ascertain that the existing road would be sufficient for the proposed development. Without an “as-built”, Staff has insufficient information to support this request. It is also important to note that standards for road construction have changed since the previous 1979 Subdivision Regulations were in place.

To date, such a drawing has not been received. As such, staff cannot support the waiver request.

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 without existing residents having to bear the cost of another owner’s actions. While it may appear that the road upgrade is intended solely for one lot, there is the potential for additional lots to be created along this easement via parent to child subdivisions.

In the field of planning, decisions are made not based solely only on the case or applicant involved, but must also be made in light of of the long-term effect on subsequent owners of the property. Other factors to consider include the following questions: 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

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seeking the same request? Each decision also sets a precedent that impacts future requests. Standards need to be applied equitably and consistently.

If granted, this waiver request 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 requesting an appeal to Planning Commission of Staff's 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 to grant an appeal that does not violate Division 24.300, which 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. For these reasons, Staff does not recommend granting the appeal.

*The Planning Department has received an email from Elizabeth Mansfield, a neighbor of the Bells, regarding use and maintenance of the access road. This correspondence is included in the packet behind the waiver request.

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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

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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
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.

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 28, 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 the existing road meets the standards for fewer than 12 lot of table 2.2-1, roadway design standards, of appendix B of the Jefferson County Subdivision and Land Development Ordinance. Applicant should have an as-built of the road way performed by a certified surveyor.

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.

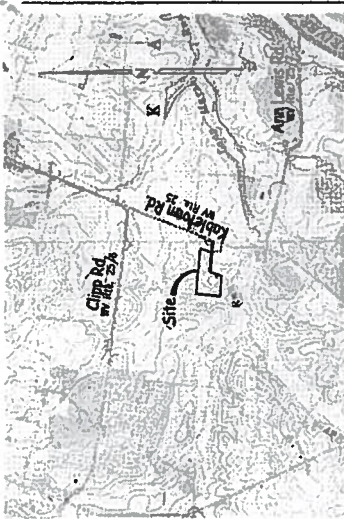
In terms of better quality or improving character, does not apply to this particular case.

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

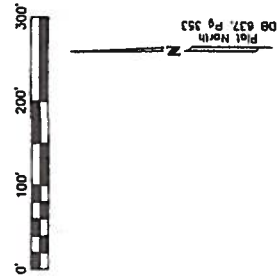
Angela Bell 5/23/11
Signature of Property Owner

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: _____



Vicinity Map
1-2007

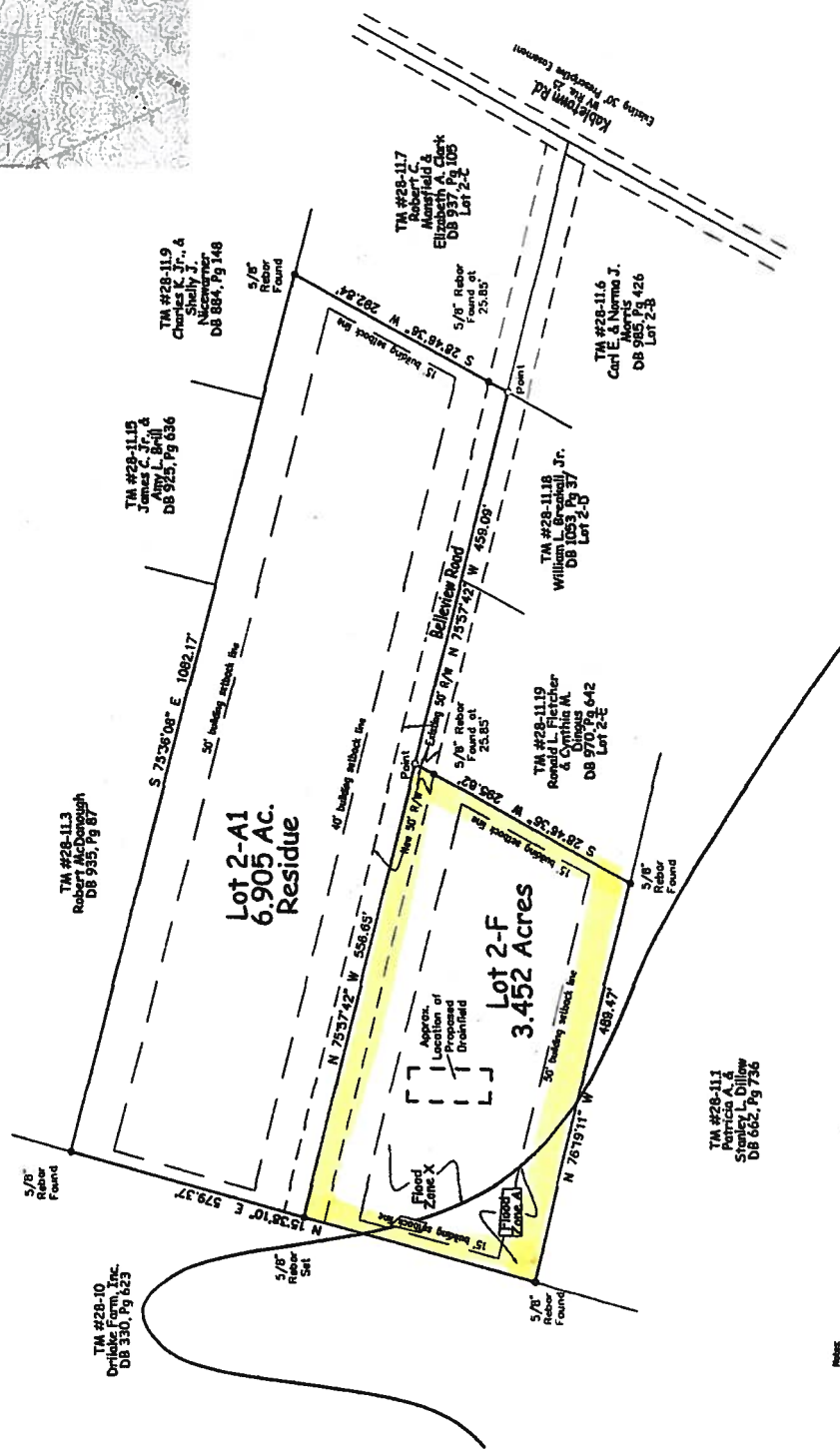


AREA TABULATION
 EXISTING: 10.357 AC.
 PROPOSED: 6.905 AC.
 Lot 2-A
 Lot 2-A1
 Lot 2-F



**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



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 Land Surveyor in the State of West Virginia. I am a member of the Board of Examiners of Land Surveyors and the West Virginia Code. Error of closure 1:7500 or better.

Michael W. Mars #2195

Statement of Acceptance:
 I, Angela Bell, do hereby 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:**
- Boundary shown herein was determined by a field run survey performed by Artz & Associates on March 26, 2010.
 - This plat is subject to easements and restrictions of record.
 - No title report furnished. Front = 40', Side = 15', Rear = 50'.
 - Subject property is located within flood zone A and Zone X per FEMA Flood Map #4403700225E.
 - 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. The Seller shall provide the Buyer with a copy of the Flood Hazard and a Septic Construction permit by the Jefferson County Health Department. Buyer may refuse to purchase the lot without penalty.
 - 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.
 - All wells shall be pressure grouted in accordance with State Health Department standards.
 - Public Service District may require hooking up to a centralized system when and if 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.
 - Any well shall be installed so that a pressure grouted well has been drilled and is producing water at a quantity approved by the Local or State Health Department. 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.
 - 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 McDanough
 DB 955, Pg 87

**Lot 2-A1
 6.905 Ac.
 Residue**

**Lot 2-F
 3.452 Acres**

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

TM #28-10
 Donike 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. &
 Nancy
 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

Photographs Submitted by Tim and Angela Bell



Elizabeth A. Mansfield
22 Belleview Lane
Charles Town, West Virginia 25414

Jefferson County Planning Commission
116 East Washington Street, 2nd Floor
P.O. Box 338
Charles Town, West Virginia 25414

June 17, 2011

Reference: Request by Angela and Tim Bell for waiver from Subdivision Regulations
Location: 76 Belleview Lane, Charles Town, West Virginia 25414
Tax District: Kabletown, Map: 28, Parcel: 11.2

Dear Sirs and Madams:

On May 28th, we received your letter stating the intent of Angela and Tim Bell in regards to the minor-subdivision of Hebie Clipp. Needless to say my husband and I were quite alarmed.

Two of the five families (the Morris' and Mansfield's) attended the June 14th meeting to address our disapproval for further development of the remaining acreage that is occupied by Angela and Tim Bell. Bob and I had our names signed to speak to the board on our concerns with the waiver for the fifty foot access easement and the appeal of a major subdivision.

The board brought up the subject that the Bell's were not in compliance of the regulations that a sign was to stay posted and visible on said property to allow neighboring properties the knowledge of their intent to subdivide. The board agreed on postponement of decision for waiver until the Bell's made said signage to remain posted and visible for the two week requirement by Jefferson County regulations. As of this date June 17, 2011 the sign has not been made permanent for the two week allotment. They have a make shift placement of the sign, i.e. on two flimsy sticks placed in a large flower pot. The winds in our small development can get quite strong and thus has blown the sign down almost every day. I leave to go to work in Leesburg, Virginia at 8a.m. and the sign will be up, but when I arrive home around 6 p.m. the sign is down on the ground. To this date they still have not made any attempt to comply with your requirements.

Reference: Bell's Waiver Request Form

Received by Planning, Zoning and Engineering May 23, 2011 (1)

The Bell's statement "the proposed lot will not include or reflect any County maintenance cost....Road maintenance is handled by Bellview Lane residence."

When we bought our property the deed stated that there was road maintenance. Formal funds for road maintenance were established in the year 2001 with the three families that then consisted of the Armstrong's, Morris', Mansfield's who voted to have a road maintenance which consisted of each lot owner paying Three Hundred dollars (\$300.00) a year now known as "Bellevue Road Maintenance". Additional owners came into the fund when they built their houses. The Bell's moved into the development in 2006 where we call a road maintenance meeting at the Mansfield's house. In 2007 we held another meeting with Angela present at the 2006 and 2007 meeting. To this date the Bells have never paid any funds into the Bellevue Road Maintenance nor have they helped to get the road open when it snows. In 2008 the families made a decision, excluding the Bell's, not to put any funds into said account. It is unjust that four property owner's pay for maintenance and the Bell's reap the benefits of our moneys maintaining the roads. Our road is now in deterioration and the Bell's do not help matters by driving in excess speeds flying gravel and dust.

I am also in the process to find the reason for said property tax, tax account # 00017002 from the years 2007 to present going to and fro between the Bell's and previous owners, Clyde S and Norma Jean Eisner. In 2007, the account shows the Eisner's as Tax Payers and in 2009 Taxes the payers are shown as Timothy/Angela Bell. In 2010 Taxes the payers revert back to the Eisner's and 2011 it is showing Angela Bell with prior Delinquents checked. The reason I'm concerned on this matter is: Are the Bell's legitimate deed owners to this property?

In conclusion Bob and myself are very much against the request of waiver from the Subdivision Regulations Section 20.201 (A)(2) and for an appeal of the staff determination that a proposed subdivision is classified as a major subdivision that the Bell's are proposing.

Sincerely,

Elizabeth A. Mansfield

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.

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.

Listed below are your options for seeking subdivision approval:

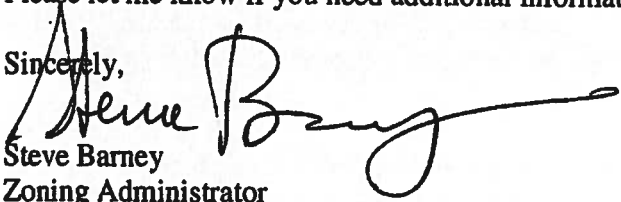
1. Process as a major subdivision.
2. Request a Planning Commission waiver from the 2010 amended JCSR to allow 6 lots to use a 50' access easement (meeting the roadway standards of a minor subdivision) and process as a major subdivision.
3. Appeal (to the Planning Commission) staff's determination classifying 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 28, 2011

Item #7 Request by Asbury United Methodist Church for a Major Site Plan Concept Plan Public Workshop for a proposed church addition (PC File #S11-05). (Subdivision Regulation 24.119)

APPLICANT:	Asbury United Methodist Church
OWNER:	Same
DEVELOPER:	Same
SURVEYOR/ENGINEER:	Frederick, Seibert & Associates
PROPERTY LOCATION:	Kearneysville Pike north of Morgan's Grove Park
LEGAL DESCRIPTION:	District: Shepherdstown; Map: 8; Parcel: 7.2
ZONING DISTRICT:	<p>Zoning Map Designation:</p> <p>Residential Growth</p>
SURROUNDING PROPERTIES:	<p>Zoning Map Designation:</p> <p>North: RG South: R</p> <p>East: RG West: RG</p>
LOT AREA:	4.98 acres
PROPOSED ACTIVITY:	Addition to existing church (16,239 square feet), including expansion of parking area

STAFF REPORT

Jefferson County Planning Commission Meeting

June 28, 2011

1. Summary of Request

Asbury United Methodist Church proposes to construct a 16,239 square feet addition to an existing church building. The additional building area will include expansion of the sanctuary, a new multipurpose room, and Sunday school classrooms. The addition may also include a day care. The parking area is also proposed to be expanded.

2. Site Plan Category

The Subdivision and Land Development Regulations require that a site plan for a proposed non-residential development exceeding be processed as a major site plan if it does not meet either of the following categories identified in Section 20.203:

- (1) Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet gross floor area (GFA) on any site;
- (2) Addition(s) to existing development of less than ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less;

As an addition of 16,239 square feet (to an existing structure of 7,822 square feet), the proposed development does not meet either of the categories listed above; and, as such, fits the category of a major site plan.

3. Staff Determination of Application Sufficiency

The Subdivision and Land Development Regulations require that, prior to the scheduling of a Concept Plan public hearing before the Planning Commission, staff must determine that the plan submitted by the applicant is “sufficient” – i.e. meeting all requirements of section 24.119. These requirements are described below, in addition to the current review status for the Asbury United Methodist Church application:

Required Item	Description	Status
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.	Provided
2. Concept Plan	A Concept Plan shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, <i>Plan & Plat Standards</i> .	Provided
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.	Provided
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.	Provided
5. Traffic Impact Data	This shall include: a) Average Daily Trip figures for the adjoining or	Provided

STAFF REPORT

Jefferson County Planning Commission Meeting

June 28, 2011

	<p>accessible State road.</p> <p>b) Trip generation figures</p> <p>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.</p> <p>d) “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.</p> <p>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.</p>	
6. Other Data	Any other data or information the applicant believes will assist in the review.	Provided
7. Other Reviews	Any other staff or agency reviews of the plans.	Provided

Following submission of a Concept Plan, staff has 10 days to review a submittal and determine whether or not the application is sufficient. If found insufficient, the applicant is notified of the deficiencies.

After a few revisions of previous submissions, staff determined that the Asbury United Methodist Church Concept Plan application was “sufficient” on April 29, 2011.

Following a determination of sufficiency, the Planning and Zoning Department sent a letter to notify the applicant of the next steps in the process. It was initially determined that the Planning Commission date would be July 12, 2011, because this date would have been the next regularly-scheduled Planning Commission date following the Concept Plan 45-day review period. However, at the request of the applicant, staff asked the Planning Commission to consider reviewing the Concept Plan at its June 28th meeting. Because this meeting (an atypical 2nd meeting of the month) had already been scheduled, and because the proposed date was consistent with the required 45-day review period, the Planning Commission chair approved the scheduling of a Concept Plan public hearing for this date.

4. Concept Plan Completeness Review

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:

Process Requirement	Description	Status and Comment
A. Department and Agency Reviews	The Department and appropriate reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department 14 days prior to the scheduled public workshop.	Planning and Zoning Department review complete. See below regarding

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		agency comments.
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.	See below.
C. Department	<p>The Department review shall include the following:</p> <ol style="list-style-type: none"> 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. 	Staff has determined that the requirements of the Zoning Ordinance and Subdivision and Land Development Regulations are met in the proposed Concept 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.	No letter has been received from the WVDOH to date.
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	Staff determined that the traffic impact data submitted by the applicant is sufficient.
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.	The Jefferson County Public Service District has submitted a letter (attached).
G. Recommended Conditions	All reviews shall contain recommended conditions for moving forward to a preliminary plat or reasons why the plan should be denied.	See below.
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	Planning staff accepts the Concept Plan as complete.

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	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 Concept Plan was scheduled for a public hearing consistent with this requirement.

5. External Agency Reviews

The Jefferson County Public Service District (PSD) has submitted a letter (included in the Planning Commission packet) noting the following:

- The applicant has indicated that the development will be served by public sewer;
- Sewer services in this area are provided by the town of Shepherdstown;
- The existing system has capacity constraints, requiring each application to be reviewed by the Department of Environmental Protection;
- The PSD recommends that that the building permit for the development be withheld until wastewater service is provided.

With the exception of the PSD, outside review agencies had not yet responded at the time of the preparation of this staff report. Agencies will have until June 28, 2011 to provide a response.

6. Staff Recommendation

The Planning and Zoning Department Staff finds the Asbury United Methodist Church 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.

Staff recommends the following condition:

The site plan for the development shall contain a note stating that the building permit for the development be withheld until wastewater service is provided.

7. Planning Commission Direction

The Major Subdivision Concept Plan Public Workshop allows for the Planning Commission and the general public to comment on the proposed plan. The Subdivision and Land Development Regulations outline the procedure:

1. The applicant makes a short presentation.
2. Staff explains outside agency comments and whether the plan has met the standards of the Zoning Ordinance.

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3. Public comment is solicited.

Following 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 Site Plan Concept Plan Direction outlined in the Subdivision Regulations. The Planning Commission has the option of providing this direction at the same meeting during which the Concept Plan public hearing takes place, or at a subsequent meeting that occurs within 14 days of the meeting at which the Concept Plan public hearing is closed.

The Subdivision and Land Development Regulations outline the direction to be provided to the applicant:

“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.”

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 and Land Development Regulations or the Zoning and Land Development Ordinance in the second year shall be applicable.

Jefferson County Public Service District

June 23, 2011

Seth Rivard, Planner
Jefferson County Dept of Planning and Zoning
PO Box 338
116 East Washington Street
Charles Town, WV 25414

RECEIVED
JUN 24 2011
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Re: Asbury United Methodist Church
Concept Plan Review

Dear Seth:

Although the concept plan for the expansion of the Asbury United Methodist Church (the church) shows that the existing building is on a septic system, it also indicates the proposed construction will be connected to public sewer. Shepherdstown provides public sewer in the area. I have spoken to Frank Welsh, Utility Director for Shepherdstown, and he informs me that as of the date of this letter the church has not yet requested service from the town. Due to existing capacity constraints on their wastewater treatment plant each application must be reviewed not only by Shepherdstown, but the State's Department of Environmental Protection. This review can easily take a few months to complete.

It is my suggestion that the building permit be withheld until suitable wastewater service for the project is attained. Please contact Frank Welsh at Shepherdstown if you have any questions about the town's ability to accept new customers. Mr. Welsh can be contacted at 304-876-3322. As always, feel free to contact me with any other questions about this project or others.

Sincerely,



Susanne Lawton
General Manager

Cc: Frank Welsh, Utility Director
Shepherdstown, WV
Michael Hicks, PE
Frederick Seibert & Associates Inc.

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zoning@jeffersoncountywv.org

Phone: (304) 728-3228
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MEMO

TO: Planning Commission Members
FROM: Steve Barney, Zoning Administrator
DATE: June 28, 2011
RE: Proposed Subdivision and Land Development Regulations Amendment for the Determination of a Minor or Major Site Plan (Section 20.203)

Overview

Recently, Planning and Zoning Department staff was contacted by a local development consultant, who identified an issue with both the current and proposed ordinance language. Specifically, this issue affects development proposals involving additions to existing development or existing buildings. The ordinance has two clauses that have the effect of limiting the size of an addition to an existing building development that can be processed as a minor site plan.

Existing Ordinance Language

The Subdivision and Land Development Regulations (Section 20.203) provide three methods to calculate the square footage of new development area that can be approved as a minor site plan. The two clauses identified as issues are highlighted below:

Minor site development proposes one or more of the following:

- (1) Building(s), both new and additions to existing, **where all structures located on the parcel** total less than 5,000 square feet gross floor area (GFA) on any site;
- (2) Addition(s) to existing development of less than ten percent of existing GFA or additions less than 10,000 square feet GFA, **whichever is less**; or
- (3) Apartment or multi-family development of eight or less dwelling units.

The clause, “where all structures located on the parcel,” means that the existing square footage of all structures located on the site must be accounted for in determining how much additional square footage may be approved as a minor site plan.

For example, on a site with an existing 3,000 square foot building, only 2,000 square feet of additional building area could be approved as a minor site plan, using Method (1) above.

The clause, “whichever is less” means that the applicant may submit, as a minor site plan application, only the smaller amount of square footage resulting from the two options noted in Method (2) above.

For example, for a site that currently contains 15,000 square feet of building area, a minor site plan is limited to either 10% of the existing gross floor area (i.e. 1,500 square feet) or 10,000 square feet, whichever is less. Because 1,500 square feet is less than 10,000 square feet, the development area that may be approved as a minor site plan is 1,500 square feet.

While the current ordinance, upon first glance, would appear to allow a proposed development of 5,000 square feet to be processed as a minor site plan, this allowable area is only valid if the site is currently undeveloped. The proposed ordinance amendment would increase the allowable square footage above 5,000, but would not change either of the two clauses identified above.

Next Steps

In light of the issues recently identified, Staff requests additional time to prepare an analysis of the existing and proposed ordinance language for the Planning Commission. As such, staff recommends that the Planning Commission conduct the public hearing on the amendment on June 28 as scheduled, but that the Commission leave the public hearing open and continue the item until the subsequent meeting. This extension will provide the opportunity for additional public input, based on the issues described above, as well as allow time for staff to prepare supplemental information for the Planning Commission.

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MEMORANDUM

TO: Jefferson County Planning Commission
FROM: Seth Rivard, County Planner
DATE: May 4, 2011 (amended June 7, 2011)
SUBJECT: Proposed Subdivision Amendment for the Determination of a Minor or Major Site Plan

While using the recently amended Subdivision Regulations, it became apparent to Staff that there are components of the Regulations that could use further review and potential amendments. Staff believes that the determination of a minor versus major site plan is one section of the Regulations that warrants further review and an amendment.

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

Staff is proposing, an increase in the square footage that prompts the requirement for a major site plan process. In the process of reviewing projects and potential site plans, Staff has become aware of the restrictiveness of determining that all projects that are 5,000 square feet or more be classified as major site plan. One of the limits of this dividing point is that it is a one size fits all approach and does not recognize the differences in uses within the zoning districts. Activities and structures in the Rural district are inclined to be smaller in nature than those located in the Industrial-Commercial district. This proposed amendment is to increase the square footage for the determination of a major site plan, based on the zoning district in which the proposed project will be located.

There have been a number of cases in which applicants attempt to stay at or under 5,000 square feet, by either downsizing buildings to fit the requirements or by intending to return later for an addition to add the needed extra square feet. It is an issue; as an applicant is not allowed to do multiple minor site plans in order to avoid the major process. Staff's intent is to provide an increase in the square footage, yet balance the need for public input and awareness. While any number could be considered arbitrary, staff feels the proposal balances the aspects of arbitration versus the increase in size, thereby eliminating any possible detriment to the public.

Another related issue is that a significant amount of staff resources are being expended on projects that should be a minor, but the square footages requires it to be a major. For example, in any district that allows for commercial or industrial uses, most members of the public would realize that buildings constructed in those districts would generally well exceed 5,000 square feet. It is on those grounds that this proposed amendment is founded.

Shown below are the sections from the Subdivision and Land Development Regulations with the proposed text amendments to address the previously stated issues shown in blue.

Sec. 20.203 Minor Site Development

Minor Site Developments are those proposals that do not require the development of new infrastructure or the extension of existing off-tract infrastructure ~~and where there is no subdivision into separate lots.~~ If the development requires easements for drainage or other purposes, private roads, or parking, and access to public roads is involved that serve one or more land uses, it is a site development. Minor site development proposes one or more of the following:

- (1) Building(s), both new and additions to existing, where all structures located on the parcel total less than: ~~5,000 square feet gross floor area (GFA) on any site;~~
 - 6,000 square feet gross floor area (GFA) on any site in the Village District.
 - 10,000 square feet gross floor area (GFA) on any site in the Rural/Agriculture, Residential Growth and Residential/Light Industrial/ Commercial Districts.
 - 20,000 square feet gross floor area (GFA) on any site in the Industrial/Commercial District.
- (2) Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major non-residential subdivision with master planned roads and stormwater;
- (3) Addition(s) to existing development of less than ~~ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less;~~ or
 - ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less in the Village, Rural/Agriculture District and Residential Growth Districts.
 - ten percent of existing GFA or additions less than 20,000 square feet GFA, whichever is less in the Residential/Light Industrial/ Commercial and Industrial/Commercial Districts.
- (4) apartment or multi-family development of nine ~~eight~~ or less dwelling units.

Division 26.200 Definitions of Terms

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

- A. Building(s), both new and additions to existing, where all structures located on the parcel total less than: ~~5,000 square feet Gross Floor Area (GFA) on any site.~~
 - 6,000 square feet gross floor area (GFA) on any site in the Village District.
 - 10,000 square feet gross floor area (GFA) on any site in the Rural/Agriculture, Residential Growth and Residential/Light Industrial/ Commercial Districts.
 - 20,000 square feet gross floor area (GFA) on any site in the Industrial/Commercial District.
- B. Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;
- C. Addition(s) to existing development of less than: ~~ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less.~~
 - ten percent of existing GFA or additions less than 10,000 square feet GFA, whichever is less in the Village, Rural/Agriculture District and Residential Growth Districts.
 - ten percent of existing GFA or additions less than 20,000 square feet GFA, whichever is less in the Residential/Light Industrial/ Commercial and Industrial/Commercial Districts.
- D. Apartment or multi-family development of nine ~~eight~~ or less dwelling units.

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

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

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

- 6,000 square feet gross floor area (GFA) on any site in the Village District.
- 10,000 square feet gross floor area (GFA) on any site in the Rural/Agriculture, Residential Growth and Residential/Light Industrial/ Commercial Districts.
- 20,000 square feet gross floor area (GFA) on any site in the Industrial/Commercial District.

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

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

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

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

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

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

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

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

- 6,000 square feet gross floor area (GFA) on any site in the Village District.
- 10,000 square feet gross floor area (GFA) on any site in the Rural/Agriculture, Residential Growth and Residential/Light Industrial/ Commercial Districts.
- 20,000 square feet gross floor area (GFA) on any site in the Industrial/Commercial District.
- except building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;

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

- 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 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.

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

E. A heavy industrial use.

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

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

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

- 6,000 square feet gross floor area (GFA) on any site in the Village District.
- 10,000 square feet gross floor area (GFA) on any site in the Rural/Agriculture, Residential Growth and Residential/Light Industrial/ Commercial Districts.
- 20,000 square feet gross floor area (GFA) on any site in the Industrial/Commercial District.
- except building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major subdivision with master planned roads and stormwater;

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

- 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 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.

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

E. A heavy industrial use.

Sec. 20.204 Major Site Development

Major site developments are those proposals that require the development of new infrastructure or the extension of off-tract infrastructure or where the proposal does not meet the definition of a minor site development ~~and where there is no subdivision into separate lots.~~ This covers the development of one or more parcels of land where there is no subdivision into separate lots. If the development requires easements for drainage or other purposes, private roads, or parking, and access to public roads is involved that serve one or more land uses, it is a site development. Excluded are developments for the purpose of extraction or harvesting of resources and for roads on agricultural land for the purpose of conducting the agricultural operation. Re-subdivision or adjustments of lot lines are also excluded. Major site development shall adhere to full site plan requirements in all proposals.

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MEMO

TO: Planning Commission Members
FROM: Steve Barney, Zoning Administrator
DATE: June 28, 2011
RE: Draft Amendments – Article 4A (Home Occupation / Cottage Industry)

Status

At its May 24th meeting (rescheduled from May 10th) the Planning Commission reviewed the proposed amendments to Article 4A and approved for public release the version of the ordinance provided for the meeting, 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.*

The draft ordinance provided for the June 28th meeting reflects the changes listed above.

Also attached is a letter from artisan Joy Bridy regarding the proposed amendments, and a response letter from staff addressing Ms. Bridy's questions.

Overview

In response to recent community input, the Planning and Zoning Departments are proposing changes to the Home Occupation and Cottage Industry standards of the Zoning and Land Development Ordinance. The purpose of the changes is to provide additional flexibility for business owners seeking to establish a home business, as well as to provide standards for some aspects of these land uses, currently lacking in the existing ordinance. The intent of the proposed amendments is to facilitate the establishment of home-based businesses while also protecting the rights of adjacent residents.

On March 1, staff conducted a public workshop to hear comments on the current Home Occupation and Cottage Industry requirements. Attendees' comments included the following:

- Site plan requirements for Cottage Industries (such as stormwater management, ADA standards and highway entrance permits) are perceived as burdensome to small businesses
- Current standards are overly restrictive, including square footage limits and vehicular trips-per-day caps.
- Home Occupations and Cottage Industries should be permitted in more districts than is currently the case, and should not be restricted in residential subdivisions.
- Seasonal Use approval by the Board of Zoning Appeals should not be required for annual festivals involving multiple locations.

Planning and Zoning staff has met with the Engineering Department regarding the proposed amendments, and has subsequently identified additional minor changes needed. These additional changes will be addressed prior to a Planning Commission vote to recommend the amendments for County Commission adoption.

Proposed Changes

Significant changes proposed include:

- Addition of a "General Standards" section
A new section 4A.1 provides general standards that are currently repeated for each section. The purpose of this new section is to enhance the clarity of the ordinance.
- Addition of an "Exempt Activities" section
Certain types of home-based business activities that have no impact on surrounding residential areas are proposed to be exempt from Zoning Certificate requirements.
- Changes to site plan requirements
Currently, a site plan is required for a Cottage Industry if an accessory building exceeding 250 square feet is proposed, or if additional parking is required per the Zoning and Land Development Ordinance. The proposed ordinance would only require a site plan if a new accessory structure, addition, or converted accessory structure exceeds 1,500 square feet. The ordinance would also establish a maximum area of 3,000 square feet for new or converted accessory structures associated with a Cottage Industry.
- Addition of sketch plan requirement for Cottage Industry
To replace the site plan requirement currently in place, the proposed amendments would establish a requirement for a sketch plan delineating basic features and dimensions of the site. The sketch plan would not require preparation by a registered engineer or surveyor.

- Accessory structure setbacks
Currently, the existing ordinance states that all accessory structures associated with a Cottage Industry must have a 25' setback on all sides. The proposed amendment would clarify that this requirement applies only to new structures.
- Shared rights-of-way
The proposed ordinance would require a modified Compatibility Assessment Meeting process for Cottage Industries that would be served by a shared private right-of-way or access easement. This process would allow other property owners who share use of the easement to be informed about the traffic impact of the proposed Cottage Industry.
- No requirements for annual events
The proposed ordinance would clarify that participation in annual events with multiple locations, such as a studio tour, does not require a Zoning Certificate.
- Companion amendment to the Subdivision and Land Development Regulations
A minor amendment to Section 20.203 of the Subdivision and Land Development Regulations is proposed, to clarify the site plan requirement for a Cottage Industry.

Please refer to the full text of the draft amendments for details of all the proposed changes.

Next Steps

Following the public hearing, the Planning Commission may direct staff to make certain changes to the ordinance, and vote to recommend the draft amendments to the County Commission for review and adoption. The Planning Commission may also direct staff to make specific amendments in response to public comments received.

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

ARTICLE 4A. HOME OCCUPATIONS AND COTTAGE INDUSTRIES

DRAFT amendments for public review

Blue = new text

Green = text moved from elsewhere

Red = deleted text

Purple = text moved to elsewhere

Section 4A.1 Home Occupation and Cottage Industry, General Standards

- a. A Zoning Certificate is required for a Cottage Industry or Home Occupation pursuant to Section 3.2 of this Ordinance.
- b. ~~It~~ A Home Occupation or Cottage Industry shall be ~~is~~ clearly incidental and subordinate to the use of the dwelling unit as a residence.
- c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of ~~such home occupation~~ the Home Occupation or Cottage Industry, other than as provided in this Article.
- d. No equipment or process shall be used in ~~such a home occupation~~ Home Occupation or Cottage Industry which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, ~~outside the dwelling unit~~ at any lot line.
- e. The following land uses cannot be established as a Home Occupations or Cottage Industry:
- (1) ~~do not include; b~~ Boarding or rooming homes
 - (2) ~~or b~~ Bed and breakfast establishments
 - (3) ~~or a~~ Adult uses.
 - (4) ~~No~~ Any business which ~~includes~~ involves the storage of weapons such as firearms ~~-(other than the residents' hunting, protection and leisure weapons)-shall be permitted.~~ [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]
- f. Any need for parking generated by the ~~conducted use of such home business~~ Home Occupation or Cottage Industry shall be met off street and other than in a required front yard.
- g. No outdoor storage of any kind is permitted.

Section 4A.2 Exempt Activities

The following land uses do not constitute a Home Occupation or Cottage Industry, and do not require a Zoning Certificate:

- (1) Telecommuting
- (2) A computer-based occupation involving one full-time resident and no other on-site employees, provided that the occupation generates no additional vehicular trips, no customer visits, no additional shipping or mailing that exceeds a normal residential volume, and would not be otherwise prohibited by this Article. This category includes internet-based sales activities that do not require the presence of inventory at the property, such as drop-shipping.
- (3) The participation of an individual location in an event conducted annually or twice yearly with multiple locations, such as a home and garden tour or an art studio tour

Section 4A.43 Home Occupation, Level 1

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

- a. No person other than members of the family residing on the premises shall be engaged in such occupation. Said members must be full time residents of the premises.
- b. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3)25% of the floor area of the dwelling unit.
- c. ~~There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.~~
- d. There shall be no sales, other than items handcrafted on the premises, in connection with such home occupation. Incidental sales of class-related material to students who receive instruction on the premises shall be permitted.
- e. Traffic generated by such home occupation must not exceed two (2) business related vehicle visits per day and not more than ten (10) visits per week at the premises. ~~Any need for parking generated by the conduct of such home occupation shall be met off street and other than in a required front yard.~~
- f. ~~It is clearly incidental and subordinate to the use of the dwelling unit as a residence.~~
- g. ~~No equipment or process shall be used in such a home occupation which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.~~
- h. ~~No business which includes the storage of weapons such as firearms (other than~~

Comment [SB1]: Moved to "General Standards" section.

Comment [SB2]: Moved to "General Standards" section.

Comment [SB3]: Moved to "General Standards" section.

Comment [SB4]: Moved to "General Standards" section.

~~the residents hunting, protection and leisure weapons) shall be permitted. Home occupations do not include; boarding or rooming homes or bed and breakfast establishments or adult uses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~

Comment [SB5]: Moved to "General Standards" section.

Section 4A.24 Home Occupation, Level 2

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

- a. The occupation must be conducted by a full-time resident of the property. Up to two (2) nonresident employees also may be permitted to work on the premises.
- b. The use shall be conducted wholly within the dwelling unit and shall not exceed one third (1/3) of floor area of the dwelling unit.
- c. ~~The use shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one two (12) square foot-feet in area, non-illuminated, is permitted.~~
- d. There shall be no sales, other than items crafted on the premises, in connection with such home occupation. Incidental sales of class-related material to students who receive instruction on the premises shall be permitted.
- e. No more than three (3) business-related vehicle visits per day and no more than fifteen (15) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. ~~Any need for parking generated by the conducted use of such home business shall be met off street and other than in a required front yard.~~
- f. ~~It is clearly incidental and subordinate to the use of the dwelling unit as a residence.~~
- g. ~~No equipment or process shall be used in such a home business which creates offensive manifestations by sight, sound or smell detectable to the normal senses, or electrical interference or vibrations perceptible, outside the dwelling unit.~~
- h. ~~No business which includes the storage of weapons such as firearms (other than the residents hunting, protection and leisure weapons) shall be permitted. Home businesses do not include; boarding or rooming homes or bed and breakfast establishments or adult uses. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~
- i.h. For a Home Occupation located in an Is not permitted in existing residential subdivisions established after since July 17, 1979, the minimum lot size is 20,000 square feet.

Comment [SB6]: Moved to "General Standards" section.

Comment [SB7]: Moved to "General Standards" section.

Comment [SB8]: Moved to "General Standards" section.

Comment [SB9]: Moved to "General Standards" section.

Comment [SB10]: Moved to "General Standards" section.

Section 4A.35 Cottage Industry

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

(a) The occupation must be owned and operated by a full-time resident of the property. Up to four (4) nonresident employees may be permitted to work on the premises.

(b) The use ~~shall~~ may be conducted at least in part within the dwelling unit. Said use area within the dwelling unit shall not exceed ~~one-third (1/3)~~ one half (1/2) of the floor area of the dwelling unit. ~~In addition all cottage industry.~~ Two subordinate structures shall be permitted in accordance with the requirements of this Article. ~~not exceeding two stories and shall not have a footprint greater than 1000 square feet.~~

(c) There shall be no change in the outside appearance of the residential structure. One sign, not exceeding four (4) square feet in area, non-illuminated may be permitted.

~~(e)~~(d) Sales on the premises shall be permitted with the limitation that no less than seventy-five (75) percent of the items for sale shall be products produced on the premises and that items not produced on premises shall be items similar or related to the items produced on the premises.

~~(d)~~(e) No more than twelve (12) business-related vehicle visits per day and ~~not~~ more than sixty (60) visits per week at the premises, including delivery vehicles, but excluding employee commuting, shall be permitted. ~~Any need for parking generated by the conduct of such cottage industry shall be met off street and other than within the required front yard setback.~~

~~(e)~~(f) ~~No evidence in the appearance of the property or other visible manifestation of the conduct of cottage industry activity shall be visible from the public way, other than a non-illuminated sign.~~

~~(f)~~(g) ~~No equipment or process shall be used in such a cottage industry establishment which creates offensive manifestations by sight, sound or smell detectable to the normal senses at any property line, or which creates electrical interference or vibrations perceptible, at any lot line.~~

~~(g)~~(h) ~~No business which includes the storage of weapons such as firearms (other than the residents hunting, protection and leisure weapons) shall be permitted. Home businesses do not include; boarding or rooming homes or bed and breakfast establishments or adult uses.~~
~~[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE OCTOBER 14, 1999]~~

(i) Submittal of a sketch plan is required for all Cottage Industry applications. The plan need not be prepared by a licensed engineer or surveyor. Use of a sketch

Comment [SB11]: Moved to "General Standards" section.

Comment [SB12]: Moved to "General Standards" section.

Comment [SB13]: Moved to "General Standards" section.

Comment [SB14]: Moved to "General Standards" section.

plan does not preclude compliance with applicable County, State, and Federal regulations. The plan submittal shall include the following elements:

- (1) Accurate locations and dimensions of all existing and proposed:
 - a. Structures, paved areas, parking areas and drive aisles (including setbacks from property lines)
 - b. Septic areas
 - c. Access points to roads, driveways, and easements
 - d. Property boundaries
- (2) Highway entrance permit for the residential use
- (3) Most recent deed for the property

(j) Additionally, ~~Site plans pursuant to Article 4 of the Improvement Location Permit Ordinance~~ the Subdivision and Land Development Regulations are required ~~for~~ if the combined gross floor area of a new building, an addition, and/or an existing accessory structure as described in (1) – (4) below, to be used as a Cottage Industry, exceeds 1,500 square feet but is less than 3,000 square feet:

- (1) ~~New accessory structures, or~~
- (2) An addition to an existing residence or accessory structure, when the addition is intended for use as part of a Cottage Industry;
- (3) Existing accessory structures that are to be converted to be ~~used~~ used as a part of the Cottage Industry, if constructed during the five years prior to application for a Zoning Certificate for a Cottage Industry; ~~unless otherwise permitted by the Planning Commission.~~
- (+)(4) An existing structure or addition built without a required, valid building permit or Improvement Location Permit after December 20, 1975.

(k) The maximum combined gross floor area of a new building, an addition, and/or an existing accessory structure as described in subsection (j)(1) – (4), to be used as a Cottage Industry, is 3,000 square feet. For any additional building area exceeding 3,000 square feet, the development and property shall meet all requirements of the Subdivision and Land Development Regulations and the Zoning and Land Development Ordinance.

(l) Setbacks shall be as provided below for an accessory structure used for a Cottage Industry:

- (1) For an accessory structure lawfully constructed during the five years prior to application for a Zoning Certificate for a Cottage Industry, setbacks are 25 feet from all lot lines.
- (+)(2) For an accessory structure ~~all round the structure~~ lawfully constructed more than five years prior to application for a Zoning Certificate for a Cottage Industry, the applicable zoning district setbacks for an accessory structure apply.

(m) ~~Permitted anywhere except~~ For a Cottage Industry located in the Residential Growth District ~~and or an~~ existing residential subdivision, the

minimum lot size is 2 acres. s.

(n) If a proposed Cottage Industry would utilize a private, shared right-of-way, driveway or easement for vehicular access, a Compatibility Assessment Meeting is required. The meeting shall be conducted as described in Sections 7.6A and 7.6C of this Ordinance, with the following exceptions:

- (1) The purpose of the meeting is for the applicant to inform adjacent owners of the proposed Cottage Industry and to describe any associated traffic impacts.
- (2) Owners of all properties with vehicular access to the right-of-way or easement shall be notified of the date, time, and place of the meeting by registered mail. Letters shall be mailed 14 days prior to the scheduled date of the meeting. Staff shall approve the letter as adequate prior to mailing, and the applicant must provide proof of mailing.
- (3) During the Compatibility Assessment Meeting, attendees should limit their comments to the adequacy of the private, shared right-of-way, driveway or easement, to accommodate traffic generated by the proposed Cottage Industry.
- (4) No Board of Zoning Appeals approval of the application is required.

4A.46 Private Covenants Running with the Land

Jefferson County shall not enforce or become involved in the enforcement of deed restrictions, covenants, easements, or any other private agreement, and, in the review of development proposals, the County will apply only its regulations to evaluate the proposal. All such restrictions shall be enforced by the parties to the restriction. It is the responsibility of an applicant for a proposed Cottage Industry or Home Occupation to
Although not regulated by the County, it is recommended that prior to the operation of a Home Occupation and/or Cottage Industry applicants research restrictive covenants any private agreements relating to for their the subject property, contact the Homeowners' Association, and or seek the advice of a surveyor, engineer or attorney.

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

Section 2.2 [Definitions]

<p><u>Boarding or Rooming House</u></p>	<p><u>A building other than a Hotel, Motel, Bed and Breakfast, Residential Care Home, Group Residential Home, Group Residential Facility, or Country Inn where lodging is provided for compensation for more than 6 unrelated persons. Meals may or may not be served but are not provided to outside guests. There is one common kitchen facility.</u></p>
<p>Cottage Industry</p>	<p>An occupation <u>conducted</u> at a residential premises, <u>as described in anywhere except the Residential Growth District and existing residential subdivisions; with a limited number of employees, accessory structures and with specific setbacks. See Article 4A for standards of this Ordinance.</u></p>
<p>Home Occupation, Level 1</p>	<p>An occupation conducted in a residential premises, <u>as described in in any district, but only by family members, wholly within the dwelling unit, with no visible evidence of its conduct. See Article 4A for standards of this Ordinance.</u></p>
<p>Home Occupation, Level 2</p>	<p>An occupation conducted in a residential premises, <u>as described in in any district, but not in subdivisions established since 1979, and with some nonresident employees, but wholly within the dwelling unit and with no visible evidence of its conduct except a small sign. See aArticle 4A for standards of this Ordinance.</u></p>

Section 10.3 Permitted Signs Without Zoning Permit

A sign indicating the name and/or premises or accessory use of a home for a home occupation or professional purpose, not exceeding ~~one square foot in area~~ the maximum size for such a sign as permitted in Article 4A of this ordinance.

Amendment to the Subdivision and Land Development Regulations:

Sec. 20.203 Minor Site Development

- B. Limited Site Plan Required. A site plan limited to basic information needed to address (a) erosion and sediment control, (b) parking requirements for the expanded use, (c) stormwater management for the additional impervious area only, (d) handicapped access to the existing and proposed structures and (e) compliance with the Zoning Ordinance, may be used on sites where the structure is:
1. An addition to an existing structure, or, ancillary to an existing use; and
 2. The footprint does not exceed 1600 square feet or 35% of the existing structure, whichever is smaller.
 3. If the principle use is residential and For a home occupation or cottage industry is proposed, the limited site plan standards shall be adhered to are applicable if a site plan is required pursuant to the Zoning Ordinance.

Amy Puetz

From: Zoning Dept [zoning@jeffersoncountywv.org]
Sent: Tuesday, May 31, 2011 11:38 AM
To: sbarney@jeffersoncountywv.org
Subject: Fw: Planning Commission review of draft Home Occupation / Cottage Industry amendments to Zoning Ordinance
Attachments: zoning May 24.doc

-----Original Message-----

From: "Joy Bridy" <joybridy@yahoo.com>
Sent: 5/25/2011 12:58:54 PM
To: "Zoning Dept" <zoning@jeffersoncountywv.org>
Subject: Re: Planning Commission review of draft Home Occupation / Cottage Industry amendments to Zoning Ordinance

Hello Steve,

Attached are my questions and comments about the zoning memo from earlier this month. Please let me know if you have any questions or responses.

Thanks,

Joy Bridy

Joy Bridy Pottery
www.joybridy.com

From: Zoning Dept <zoning@jeffersoncountywv.org>
To: zoning <zoning@jeffersoncountywv.org>
Sent: Tue, May 3, 2011 4:16:41 PM
Subject: Planning Commission review of draft Home Occupation / Cottage Industry amendments to Zoning Ordinance

Dear Stakeholder:

You are receiving this message because you have expressed an interest in the proposed amendments to the Home Occupation/Cottage Industry requirements of the Zoning Ordinance.

Please be advised that the Jefferson County Planning Commission will convene on Tuesday, May 10, 2011 at 7:00 p.m. to review the first draft of the proposed amendments to the Home Occupation and Cottage Industry Sections of the Zoning Ordinance (Articles 4A.1, 4A.2 and 4A.3). The intent of this meeting is for the Planning Commission to consider the proposed amendments and provide direction to Staff.

The Planning Commission agenda will be available at:

<http://www.jeffersoncountywv.org/government/departments/planning-and-zoning-department/planning/pc-agendas.html>

While the meeting is not a public hearing, you are cordially invited to attend. The meeting will be held in the Charles Town Library Conference Room, located at 200 East Washington Street, at the side entrance of Samuel Street in Charles Town, West Virginia.

The Planning Commission will schedule a public hearing at a later date.

For your convenience, a first draft copy of the proposed amendments will be available for review on the afternoon of May 6th, prior to the meeting, at:

<http://www.jeffersoncountywv.org/government/departments/planning-and-zoning-department/ordinances-regulations-3.html>

Should you have any questions, please don't hesitate to contact our office at 304-728-3228.

Sincerely,

Steve Barney
Jefferson County Zoning Administrator

May 24, 2011

Dear Planning and Zoning Staff,

Over the last few weeks, I've spent some time thinking about your proposed changes to the Cottage Industry regulations. While I feel that in general you have better arranged the regulations, and made them broader, you have not simplified them or the process, and have in fact added restrictions and complications. I've received feedback from other craftspersons that they cannot understand sections and meanings. My questions and comments are as follows:

Questions:

- While you added the word Not to the revised version of the Planning Commission Memo in reference to sketch plans being drawn by engineers, information available on you website does not reflect the edited version. I have had questions about this from many people, and would like to clarify that a sketch plan is exactly that: a sketch drawn by the applicant.
- Section 4A.1 g.: What does No outdoor storage of any kind mean? What are you referring to? This is vague and should be taken out.
- Why have Section 4A.3 and 4A.4? Can Level 1 & 2 be simplified, condensed into one section for Home Business?
- Section 4A.5 n. 4.: While No Board of Zoning Appeals approval is required, is any approval required? Is this meeting completely informative, or will decisions be made? This is unclear. Does this section belong here at all?
- Section 4A.5 i: What is a highway entrance permit? Again, clarify or remove.

Comments:

- I appreciate the General Standards section.
- Section 4A.5 e: Particularly for Cottage Industry, the vehicle limits section needs to include the following clause: Vehicle limits may be exceeded one weekend per season, as in an open studio or similar event.
- Section 4A.5 i: The sketch plan, if defined as a drawing by the applicant, seems reasonable, and should be increased to cover Cottage Industries up to 3000 sf. As I've stated before, many old barns and buildings are being used across the county, and this allows and encourages residents to keep our rural heritage intact by using and renovating old structures rather than taking them down. Many craftspeople need space for materials.
- Section 4A.5 I 3: Take out #3, as you state in section 4A.6 that you do not enforce deeds. This clause was invalidated in 2005, and needs to be removed again.
- Section 4A.5 j: Site plan requirements do not belong in Cottage Industry standards. These are small businesses which are primarily residences. Water runs off the same either way. This needs to be addressed when structures are built, not when Cottage Industries are started. Even the limited site plan is too expensive for a Cottage Industry. I do see the need to limit the square footage for automatic approval, but by setting the sketch plan limit at 3000 sf, any Cottage Industry

application over that will need a variance, and will therefore be under tighter scrutiny before approval.

- Section 4A.5 I: Setbacks exist and should be followed as stated in each district. The General Standards section covers any issues with sounds, smells, vibrations, etc, and there is no need to complicate setbacks. Remove this unnecessary complication.

Some of the sections are still wordy and a bit jumbled, but I assume that some of that will be worked out before changes are official.

Keep it simple. Limits are in place in the General Standards, and in the area used. Set vehicle traffic limits, and the rest is overkill. I'm seriously asking you to take a look at the standards you are setting, and simplify them. Take out all of the extraneous limits that are unnecessary and in some cases unreasonable. By setting reasonable vehicle traffic and space usage limits, plus the clause about sounds, smells and vibrations, neighbors are protected, and Cottage Industries can prosper.

I've also been thinking about the sign and employee clauses. As a resident of Jefferson County, I can't imagine any Cottage Industry needing a 4' square sign. Perhaps 2' would be sufficient to keep a more residential feel to the properties. I also do not know of any craftspeople with employees, let alone 4 employees. Perhaps one full-time employee would also help to clarify that Home Businesses and Cottage Industries are small residential ventures, particularly run by a family. The spirit behind Home Business and Cottage Industry is that it is a residence first, and the business is run by a member of the residence.

Please contact me if you have any questions, and thank you for your time and energy in this process of change. I look forward to seeing your next draft.

Sincerely,

Joy Bridy

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

June 2, 2011

Joy Bridy
2533 Warm Spring Road
Shenandoah Junction, WV 25442

Dear Joy,

Thank you for your comments on the May 2nd version of the draft Home Occupation / Cottage Industry amendments. At the May 24th Planning Commission meeting, the Commission approved for public release the May 2nd version of the draft ordinance, with a few changes. This version of the ordinance will be available for review prior to the June 28th Planning Commission public hearing.

Because the Planning Commission has approved the current draft for public review, staff will not be making any additional changes to the draft ordinance before the public hearing, aside from the amendments approved by the Commission on May 24. The Planning Commission will hear public testimony on June 28th and determine if additional changes should be made to the ordinance.

We will include your comments in the Planning Commission materials that the Commission will receive in advance of the hearing.

I did want to respond your questions, however, and possibly clarify a few elements of the draft ordinance. Responses are below:

1. *While you added the word Not to the revised version of the Planning Commission Memo in reference to sketch plans being drawn by engineers, information available on you website does not reflect the edited version. I have had questions about this from many people, and would like to clarify that a sketch plan is exactly that: a sketch drawn by the applicant.*

Confirmed. The May 10th version of the memo (which accurately describes the sketch plan standards) will be posted on the Department's website. I regret any confusion about this issue.

2. *Section 4A.1 g.: What does No outdoor storage of any kind mean? What are you referring to? This is vague and should be taken out.*

The outdoor storage prohibition means that no outdoor storage of goods, materials, equipment, etc is permitted. This standard is consistent with the intent of the current requirement that there shall be “no visible evidence of the conduct” of a Home Occupation.

3. *Why have Section 4A.3 and 4A.4? Can Level 1 & 2 be simplified, condensed into one section for Home Business?*

Staff considered having only one category of Home Occupation rather than the Level I and Level II. However, we ultimately determined that it would be beneficial to have a Level I that is fairly minor and could be permitted in any location, including any home in an existing subdivision. The Level II category allows for additional employees and customer visits, and also permits a sign. As such, the Level II category may not be appropriate for small-lot residential subdivisions.

Staff proposes to continue to allow Level I anywhere, and to amend the Level II requirements to state that in existing residential subdivisions established after 7/17/79, the minimum lot size is 20,000 square feet. This requirement is less restrictive than the current ordinance language, which does not permit Level II in any existing subdivisions established after this date.

4. *Section 4A.5 n. 4.: While No Board of Zoning Appeals approval is required, is any approval required? Is this meeting completely informative, or will decisions be made? This is unclear. Does this section belong here at all?*

Conflicts have arisen recently regarding the use of shared, privately owned rights-of-way associated with Cottage Industries. As such, it seems appropriate to establish a process by which neighbors who share use of the right-of-way are informed of the proposed business.

As currently proposed, the required Compatibility Assessment Meeting would be informational and would not require an additional Board of Zoning Appeals hearing. During the 5/24 Planning Commission meeting, members of the Commission asked whether there would be a process for addressing any unresolved issues that result from a Compatibility Assessment Meeting, or if a Zoning Certificate would be issued regardless of any unresolved issues. Staff is currently evaluating this question and will provide a recommendation to the Planning Commission at the 6/28 public hearing.

5. *Section 4A.5 i: What is a highway entrance permit? Again, clarify or remove.*

The West Virginia Division of Highways controls ingress and egress to all state roads, and a highway entrance permit is the WVDOH approval required for such access. WVDOH requirements state that “change in the use of the property served by the driveway shall require a new permit.”

6. *Section 4A.5 e: Particularly for Cottage Industry, the vehicle limits section needs to include the following clause: Vehicle limits may be exceeded one weekend per season, as in an open studio or similar event.*

This should be adequately covered by 4A.2(3), Exempt Activities, which establishes that “participation of an individual location in an annual or biennial event with multiple locations, such as a home and garden tour or an art studio tour” does not constitute a Cottage Industry or Home Occupation.

7. *Section 4A.5 i: The sketch plan, if defined as a drawing by the applicant, seems reasonable, and should be increased to cover Cottage Industries up to 3000 sf. As I’ve stated before, many old barns and buildings are being used across the county, and this allows and encourages residents to keep our rural heritage intact by using and renovating old structures rather than taking them down. Many craftspeople need space for materials.*

To clarify, the use of an existing structure built more than 5 years prior to application for the Cottage Industry would not require a site plan, if the structure was built with permits. Additionally, use of any structure built prior to December 20, 1975 (the date that County building code requirements began) will not trigger a site plan.

8. *Section 4A.5 I 3: Take out #3, as you state in section 4A.6 that you do not enforce deeds. This clause was invalidated in 2005, and needs to be removed again.*

The requirement for the deed is intended solely to demonstrate whether there are any easements or other special conditions that pertain to the property. Staff agrees that the County will not enforce deed restrictions or other private covenants.

9. *Section 4A.5 j: Site plan requirements do not belong in Cottage Industry standards. These are small businesses which are primarily residences. Water runs off the same either way. This needs to be addressed when structures are built, not when Cottage Industries are started. Even the limited site plan is too expensive for a Cottage Industry. I do see the need to limit the square footage for automatic approval, but by setting the sketch plan limit at 3000 sf, any Cottage Industry application over that will need a variance, and will therefore be under tighter scrutiny before approval.*

Planning, Zoning and Engineering staff determined that a site plan requirement is appropriate for a Cottage Industry that exceeds 1,500 square feet. Please keep in mind that this figure is substantially more lenient than the threshold for a standard commercial land use, for which a site plan is required if new construction exceeds 250 square feet. As with all Zoning and Land Development Ordinance standards, the Board of Zoning Appeals variance process is available to applicants who seek to develop without processing a site plan.

10. *Section 4A.5 l: Setbacks exist and should be followed as stated in each district. The General Standards section covers any issues with sounds, smells, vibrations, etc, and there is no need to complicate setbacks. Remove this unnecessary complication.*

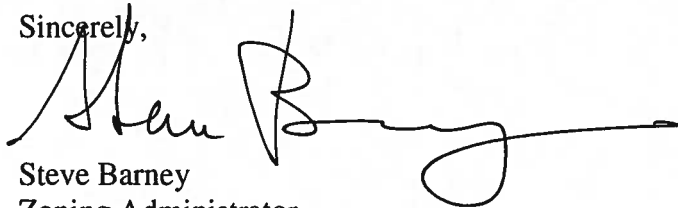
Because a Cottage Industry may involve mechanical processes or other activities that generate noise or other externalities, staff recommends maintaining the 25' setback for accessory structures that is currently in the Zoning and Land Development Ordinance. However, we recommend providing more flexibility for existing structures constructed more than 5 years prior to application for a Cottage Industry.

11. As a resident of Jefferson County, I can't imagine any Cottage Industry needing a 4' square sign. Perhaps 2' would be sufficient to keep a more residential feel to the properties. I also do not know of any craftspeople with employees, let alone 4 employees. Perhaps one full-time employee would also help to clarify that Home Businesses and Cottage Industries are small residential ventures, particularly run by a family.

To clarify, the sign area limit for a Cottage Industry is 4 square feet, meaning a 2' x 2' sign. Staff did not recommend reducing the signage square footage or the number of permitted employees, as these elements of the existing Zoning and Land Development Ordinance have not yet been raised as concerns. However, you may want to ask the Planning Commission to review these standards if you believe they should be reduced.

Again, I appreciate you taking the time to review the draft ordinance and providing comments. I would also encourage you to attend the Planning Commission public hearing on June 28. Thank you for staying involved in the process, and please let me know if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Barney", with a long horizontal flourish extending to the right.

Steve Barney
Zoning Administrator

cc: Jennifer Brockman, AICP, Director of Planning and Zoning

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

Step 1
Section 24.109

Submission &
Completeness
Review

Staff

Step 2 Section 24.110

Public Hearing

Planning Commission

Step 3 Section 24.111

Preliminary Plat
Approval

Planning Commission

Final Plat Application

Step 1
Section 24.112

Submission &
Completeness
Review

Staff

Step 2
Section 24.113

Public Hearing

Planning Commission

Step 3
Section 24.114

Final Plat
Approval

Planning Commission

Step 4
Section 24.115

Recordation

Staff

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. ~~C.~~ **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)

Step Taken Site Plan Application	Action taken	Acting Authority
Step 1 Section 24.119	Submission & Completeness Review	Staff
Step 2 Section 24.120	Public Hearing	Planning Commission
Step 3 Section 24.121	Site Plan Approval	Planning Commission

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.

JEFFERSON COUNTY, WEST VIRGINIA
Department of Planning & Zoning
116 East Washington Street, 2nd Floor
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Phone: (304) 728-3228
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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 applicant shall be responsible for posting the sign. 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-4-4~~§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 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 Commission'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 forwarded 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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Christine Chalmers

To: PLANNING DEPARTMENT
Subject: RE: WEEKLY CALENDAR / 6.13.11 - 6.17.11

MONDAY, JUNE 13, 2011

9:30 am – 10:30 am JENNIE, SETH & AMY – WEEKLY PLANNING MEETING
10:30 am – NOON JENNIE & STEVE – WEEKLY ZONING MEETING
2:00 pm JENNIE, SETH & JULIE – MEETING / RE: US 340 TAC/CAC

TUESDAY, JUNE 14, 2011

ALL DAY JENNIE, STEVE, SETH & AARON – CONFERENCE IN SHEPHERDSTOWN
7:00 pm JENNIE, STEVE, SETH & AMY – PLANNING COMMISSION MEETING

WEDNESDAY, JUNE 15, 2011

10:00 am STEVE OR SETH & JONATHAN – SITE PLAN PPC / RE: NEW DESTINY MINISTRY CENTER –
CONTACT: SHAWN COLEY
11:00 am JENNIE, STEVE OR SETH & JONATHAN – SITE PLAN PPC /
RE: SOUTHERN STATES – MEREDITH WAIT
1:00 pm STEVE OR SETH & JONATHAN – SITE PLAN PPC / RE: HOME DAYCARE FACILITY /
CONTACT: IAN & KRISTINA TITUS
3:00 pm STAFF MEETING

THURSDAY, JUNE 16, 2011

9:00 am COUNTY COMMISSION MEETING CANCELLED
10:00 am JENNIE, STEVE & SETH – MEETING WITH PAUL RACO /
RE: PROPOSED SITE PLAN ORDINANCE CHANGES
7:00 pm JENNIE, STEVE & SETH – US 340 MEETING

FRIDAY, JUNE 17, 2011

Christine Chalmers

To: PLANNING COMMISSION
Subject: RE: WEEKLY CALENDAR / 6.20.11 - 6.24.11

MONDAY, JUNE 20, 2011

WEST VIRGINIA DAY – OFFICES CLOSED

TUESDAY, JUNE 21, 2011

9:30 am STEVE & JONATHAN – MEETING WITH PETER CORUM/ FARM MARKET OPTIONS

WEDNESDAY, JUNE 22, 2011

THURSDAY, JUNE 23, 2011

9:00 am COUNTY COMMISSION MEETING

11:00 am SETH – MPO/TAC MEETING @ HAGERSTOWN REGIONAL AIRPORT FIRE STATION

FRIDAY, JUNE 24, 2011

10:00 am STEVE & JONATHAN – MEETING WITH PAUL RACO/ POTOMAC FARMS NURSERY

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

May 13, 2011

PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: Wednesday, May 11, 2011 @ 11:00 a.m.

Contact Name: Ed Johnson
Company Name: Ed Johnson & Associates
Mailing Address: P.O. Box 1277; Charles Town, West Virginia 25414
Phone Number: (304) 725-6060

Owner / Applicant: Denise K. Jones
Address: 8840 Goods Dam Road; Waynesboro, PA 17268
Phone Number: (301) 465-9053

Physical Address:

PROPOSED PROJECT: RESIDENTIAL MINOR SUBDIVISION

TAX DISTRICT: Kabletown – 06 / MAP: 26 / PARCEL: 3
DEED BOOK NUMBER: 1031 / PAGE NUMBER: 529
ZONING DISTRICT: Rural

TOTAL PARCEL SIZE: 20 (+/-) Acres

MEETING DESCRIPTION:

- Need to declare density as required in the Rural District.
- The meeting attendees included County Planner, Seth Rivard; Planning Clerk, Amy Puetz; County Engineer, Jonathan Saunders; and Consultant, Ed Johnson.
- Overview: The proposed project consists of further subdividing the property to create four additional lots. As discussed, four lots exceeded the density requirements for a Minor Subdivision. Staff and Consultant agreed that there could be no more than two lots and a Residue to remain a minor process.
- 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: property was previously subdivided in 2006, creating the Denise Jones Minor Subdivision (#06-13).
- 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:

Request that Deeds from 1988 to present be provided with first submission. All Health Department and Department of Highway permits will also be required before approval.

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. 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

Ed Johnson, Ed Johnson & Associates
P.O. Box 1277; Charles Town, West Virginia 25414

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

May 9, 2011

PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: Wednesday, May 4, 2011 @ 10:00 a.m.

OWNER / APPLICANT: Deepinder Grewal, President
Company Name: Shenandoah Lanes, Inc.
Address: 107 Keyes Ferry Road; Charles Town, West Virginia 25414
Phone Number: (304) 279-6688 / Deepinder.Grewal@GMail.com

Physical Address: Same

PROPOSED PROJECT: NON-RESIDENTIAL MINOR SITE DEVELOPMENT

DISTRICT: Charles Town – 02 / MAP: 9 / PARCEL: 8.1
DEED BOOK NUMBER: 520 / PAGE NUMBER: 169

ZONING DISTRICT: Residential-Light Industrial-Commercial
TOTAL PARCEL SIZE: 4.59 Acres

MEETING DESCRIPTION:

- The meeting attendees included Zoning Administrator, Steve Barney; County Planner, Seth Rivard; County Engineer, Jonathan Saunders; County Inspector, Mike Monaghan; GIS Technician, Jessica Gormont; and Owner, Deepinder Grewal.
- Overview: The proposed project consists of setting a Modular Cape-Cod style Model Home on a 2 ½ acre section of the five acre Bowling Center property that is closest to the BB&T Bank. Said Model Home will be temporary (set on piers), 56'x28' in size, have electrical but no water and sewer connection and will be landscaped. No additional parking will be created.
- Potential environmental constraints and mitigation measures as required by Zoning Ordinance.
- Anticipated Time-Frame and Deadlines.
- Additional relevant information to consider includes: Owner of Bowling Center on Keyes Ferry Road.
- FEES: Upon submission, all applicable Site Plan and Building Permit fees, as required by the Engineering Department.
- Payment(s): **None Received**

COMMENTS:

Staff's understanding is that the Applicant seeks to locate a modular home on the Shenandoah Lanes property, adjacent to an existing, informal gravel parking area. The home would not be intended for occupancy but instead be used as a model home.

A model home may be considered a commercial use and, as such, is permitted in the Residential-Light Industrial-Commercial district. The structure would be required to meet the applicable setbacks of the Zoning District.

A site plan is required because the structure would exceed 250 square feet. If the structure area is below 1,600 square feet, the Applicant may submit a limited site plan. If the Applicant seeks a waiver of site plan requirements, an application for a Board of Zoning Appeals variance may be submitted.

The GIS/Addressing division will assign a temporary address for the building, renewable annually.

FINDING:

Per Section 4.10 of the Zoning Ordinance, the ILP Ordinance, and current Subdivision Regulations, the proposed plan concept will require a Site Plan submission, and may comply with the processing conditions for Minor Site Development.

EFFECT OF FINDING:

The processing of a Site Plan is required. Building Permits must also be obtained, prior to the start of construction, and appropriate approvals from all Local, State and Federal Agencies, are necessary for the issuance of a Zoning Certificate. Contact the Jefferson County Addressing Department for additional processing information.

Sincerely,

Steve Barney
Zoning Administrator

SB / clc
cc: Engineering and Building Permit Department

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

May 13, 2011

PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: Wednesday, May 4, 2011

APPLICANT / OWNER NAME: John Staubs
Company Name: Big Hill Auto Repair
Mailing Address: Route 1, Box 1419; Harpers Ferry, West Virginia 25425
Phone Number: (304) 728-6186 (business #) / (304) 671-9819 (cell #)

Physical Address: 3815 Chestnut Hill Road; Harpers Ferry, West Virginia

PROPOSED PROJECT: NON-RESIDENTIAL MINOR SITE DEVELOPMENT

DISTRICT: Harpers Ferry – 04 / MAP: 8 / PARCEL: 12

ZONING DISTRICT: Rural

TOTAL PARCEL SIZE: 1.97 Acres

MEETING DESCRIPTION:

- The meeting attendees included Zoning Administrator, Steve Barney; County Planner, Seth Rivard; County Engineer, Jonathan Saunders; County Inspector, Mike Monaghan; County Compliance Officer, Mason Carter; and Owner, John Staubs.
- Overview: The proposed project consists of possible Minor Site Plan with limited requirements for an existing addition to an Auto Repair and Parts Shop.
- Potential environmental constraints and mitigation measures as required by Zoning Ordinance.
- Anticipated Time-Frame and Deadlines.
- Additional relevant information to consider includes: #ZV95-21; #ZC95-12; #ZC95-21; #PCV08-32.
- FEES: Upon submission, all applicable Site Plan and Building Permit fees, as required by the Engineering Department.
- Payment(s): **None Received**

COMMENTS:

Due to a recent Ordinance change, Site Plan Waiver Requests are now reviewed by the Board of Zoning Appeals. Accordingly, the Owner has the right to request a waiver of the Site Plan requirement from the Board. This request could be heard during the same meeting at which required Variance Requests for setbacks and expansion of a Nonconforming Use are also heard.

If the Owner does not attain a Site Plan waiver from the Board, a Limited Site Plan (with the variances noted above) must be approved before Building Permits may be submitted for the addition. Architecturally stamped building plans will also be required.

If the Applicant removes the addition, a Site Plan is not required.

Staff has reviewed the Planning Commission audio from the meeting at which case number PCV08-32 was reviewed. Staff confirms the accuracy of the Minutes of this meeting as written, and concurs that a Limited Site Plan is required.

No enforcement action will be taken provided the Owner demonstrates progress towards compliance.

FINDING:

Per Section 4.10 of the Zoning Ordinance, the ILP Ordinance, and current Subdivision Regulations, the proposed plan concept will require a Limited Site Plan submission, and may comply with the processing conditions for Minor Site Development.

EFFECT OF FINDING:

Unless a Board of Zoning Appeals Waiver of Site Plan is secured, the processing of a Site Plan is required. Building Permits must also be obtained, prior to the start of construction, and appropriate approvals from all Local, State and Federal Agencies, are necessary for the issuance of a Zoning Certificate. Contact the Jefferson County Addressing Department for additional processing information.

Sincerely,

Steve Barney
Zoning Administrator

SB/clc
cc: Engineering and Building Permit Department