

AGENDA  
JEFFERSON COUNTY PLANNING COMMISSION  
July 12, 2011

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

1. Approval of the minutes for the June 14, 2011 meeting.
2. Citizen Communications.
3. Request for postponement.
  - The Hott Property Zoning Map Amendment Public Hearing requesting to be rescheduled from 07-26-2011 to 08-09-2011.
4. Postponed from the June 14, 2011 Planning Commission Meeting: 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 under the cluster provisions of the Zoning and Land Development Ordinance Section 5.7(d)(2) and is located in Tax District: Charles Town; Tax Map: 19 Tax Parcel: 33, 38 and 41.
5. Concept Plan Review for Middleway Volunteer Fire Company (PC File #S11-06). This property is located east of the Leetown Road and Cedar Hollow intersection. This project consists of a 5,025 sq. ft. fire station with office and a 4 bay garage in phase I and in phase II, a 3,975 sq. ft. addition consisting of a multipurpose room and 2 additional bays on 5 acres located in Tax District: Middleway; Tax Map: 24 Tax Parcel: 2.
6. Public Hearing for Proposed Text Amendment for Sections of Article 24 of the Jefferson County Subdivision and Land Development Regulations (Aug. 19, 2010) regarding timeframes and noticing requirements for processing procedures.
7. Public Hearing for Proposed Zoning Text Amendment to Article 12 of the Jefferson County Zoning and Land Development Ordinance regarding the process of amending the zoning map and/or text.
8. Discussion of Planning Commission Bylaws.
9. Reports from Legal Counsel and legal advice to PC.
10. Director's Report.
11. County Commission Liaison Report.

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12. 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.

13. President's Report.

14. Actionable Correspondence.

15. Non-Actionable Correspondence.

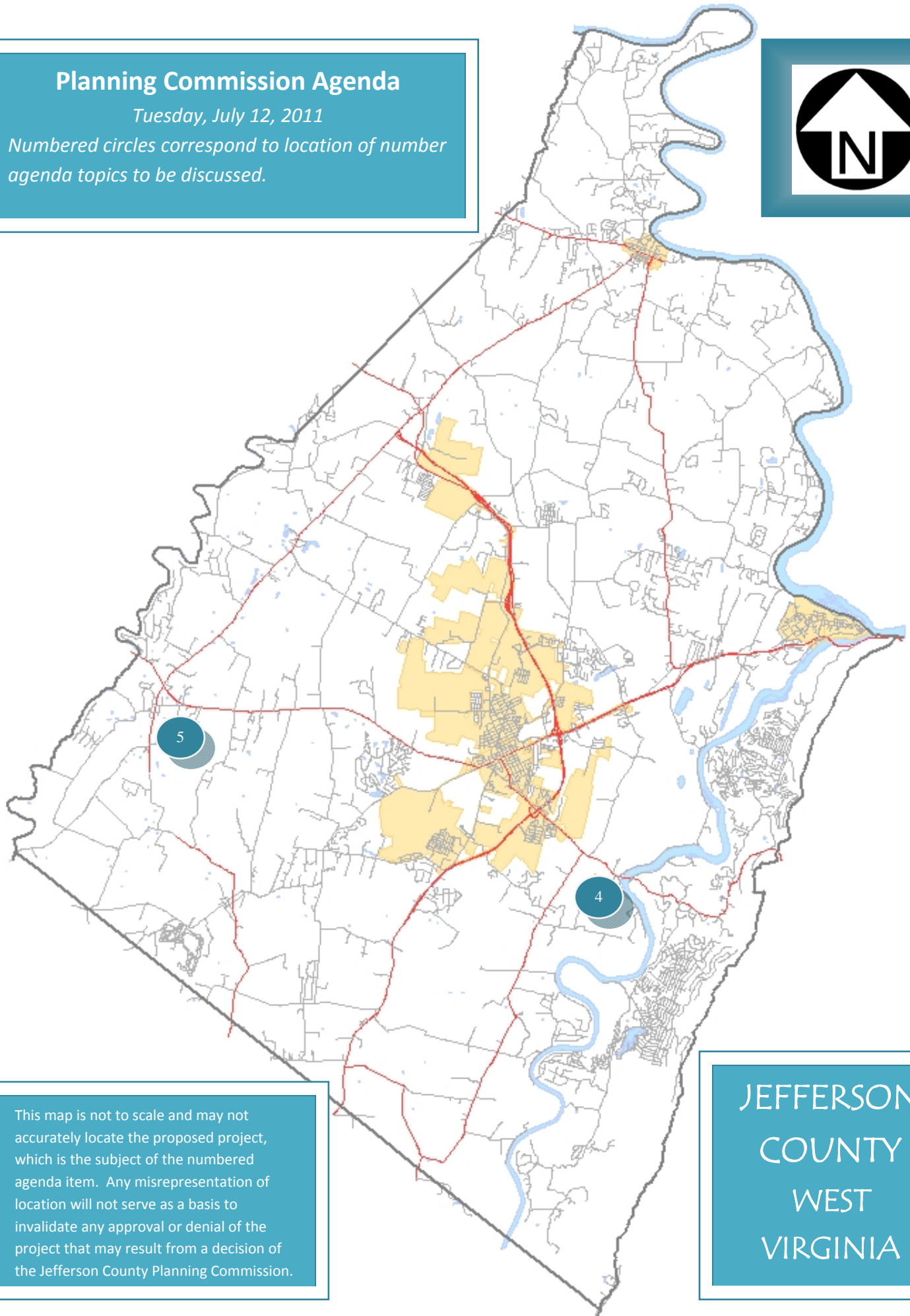
The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address is [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org) and our website is [www.jeffersoncountywv.org](http://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, July 12, 2011

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



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

JEFFERSON  
COUNTY  
WEST  
VIRGINIA



This information is  
Tab #1 in your binder.



MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
JUNE 28, 2011

The Jefferson County Planning Commission met on Tuesday, June 28, 2011, with the following Commission members present: Daniel Hayes, President; Arnold Dailey, Vice-President; Morgan Eppers, Secretary; Gene Taylor, Kelly Baty, Ed Burns, Paul Taylor, Eric Smith, and Walt Pellish. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephan Groh, Assistant Prosecuting Attorney; and Amy Puetz, Planning Clerk.

Mr. Dailey called the meeting to order at 7:02 PM.

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

The Planning Commission allowed this item be discussed under item #12 (Legal Counsel and Legal Advice to the Planning Commission) in the interest of time to allow the public to hear the items for which they were present.

2. **Approval of the minutes for the June 14, 2011 meeting.**

Ms. Eppers requested that on page 3, line 3, that *Mr. Eppers* be changed to *Ms. Eppers*. Mr. G. Taylor moved to approve the minutes as amended. Ms. Eppers seconded the motion which carried 7 for and 1 abstention (Mr. P. Taylor).

3. **Citizens Communication:** None.

4. **Request for postponement.** None.

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 and;**

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.**

Mr. Barney presented comments that were emailed to staff from Ms. Elizabeth Mansfield stating that the placard had continued to be posted poorly and had fallen over frequently during the required posting time. The Planning Commission decided that the waiver (item #5) and the appeal (item #6) would still be heard. Mr. Barney read from his staff report regarding both the waiver and the appeal and recommended denial for both items.

Mr. Hayes entered the room at 7:11 PM.

Mr. Tim Bell and Ms. Angela Bell presented their request for both the waiver and the appeal. Mr. Bell gave a history of interactions with staff from the time of the pre-proposal conference in 2009 to present. He stated that they had been preapproved for a 2 acre lot through a pre-proposal conference held with staff and that they had received confirmation via telephone conversations to increase the parcel to a 3.45 acre lot. Ms. Bell asked what process would need to occur to move forward. Discussion ensued to clarify the requests.

Mr. Saunders read from his staff report and also recommended denial.

Mr. Dailey opened the public hearing. Ms. Elizabeth Mansfield, neighbor to the Bells, stated that she was speaking on behalf of several neighbors: herself, the Morris', and Mr. Ronnie Fletcher. She reported that Mr. and Ms. Bell had not contributed to the yearly road maintenance fee that the neighbors, including Ms. Bell, had agreed upon. She explained that the deed for the property states that only a 2 acre subdivision would be allowed while Mr. and Ms. Bell are proposing a 3.45 acre parcel.

Discussion ensued. It was noted that the Planning Commission would not consider the payment/lack of payment in road fees or the 2 acre deed restriction in the decision.

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

Mr. Hayes moved to deny the request for a waiver (item #5) using the staff recommended motion omitting paragraph #3 (attached). Mr. Smith seconded the motion which carried 8 for and 1 opposed (Mr. Burns).

Mr. Hayes moved to deny the appeal (item #6) following the staff recommended motion as written (attached) noting that the Planning Commission finds the staff determination to be correct. Mr. Baty seconded the motion which carried unanimously.

**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.**

Ms. Brockman reported that the Jefferson County Public Service District (PSD) was the only reviewing agency to respond stating that the Shepherdstown District would provide public sewer and that a request to the town had not been place. She stated that PSD explained that due to constraints on the wastewater management facilities, a request must be reviewed by Shepherdstown and the State Department of Environmental Protection. Mr. Barney read from his staff report and confirmed that staff finds the concept plan complete and suggested a condition that a note stating that the building permit for the development be withheld until wastewater service could be provided.

Mr. Rudy Brooklyn, Pastor of Asbury United Methodist Church, gave a presentation regarding the details of the plans for the church and how it would benefit Jefferson County.

Mr. Mike Hicks, Engineer for the project, stated that the Department of Highways (DOH) had not provided a letter, however he reported he would forward an email from the DOH to staff stating that no traffic study was needed. Mr. Hicks explained that the property was equipped with well and septic that would not be adequate for the expansion. However, the church would be able to connect to a small pump station within Colonial Hills in order to expand.

Mr. Hayes opened the public workshop. Mr. Dirk Stansbury, Engineer, spoke in support of the project.

Mr. Burns moved to close the public hearing. Mr. G. Taylor seconded the motion which carried unanimously.

Mr. Burns moved to use the staff recommended motion (attached) with the condition that the site plan for the development shall not be approved until water/wastewater service is resolved and the Department of Highways permit is provided. Ms. Etters seconded the motion which carried unanimously.

**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.**

Mr. Barney reviewed the amendments. Mr. Hayes opened the public hearing.

Mr. David Hartley, representing the Eastern Panhandle Home Builders Association, voiced support of the amendments and suggested further amending Section 20.203.1 to state:

- *7,500 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 District.*
- *7,500 square feet gross floor area (GFA) on any site in the Residential Growth District.*
- *20,000 square feet gross floor area (GFA) on any site in the Residential/Light Industrial/Commercial District.*
- *50,000 square feet gross floor area (GFA) on any site in the Industrial/Commercial District.*

He also suggested that Section 20.203.4 be further amended to state *apartment or multi-family development of 12 or less dwelling units*. He commented on his support of streamlining the process of a concept plan and discussed the idea of reinstating a staff review meeting.

Mr. Dirk Stansbury, of D A Stansbury Engineering, voiced support of the amendments and suggested that in Section 20.203.3 that buildings existing prior to 1988 be exempt from restrictions and that any existing square footage for those buildings should not be factored.

Mr. Matt Knott, owner of River Riders, stated that the Major Site Plan process is very similar to the Conditional Use Permit process and that it seems like asking for permission to do what

has already been permitted. He reported that the cost difference between a minor and major site plan is significant. He commented that the Residential/Light Industrial/Commercial district be allowed the same square footage as the Industrial/Commercial district and suggested that the wording be changed to whichever is *greater* instead of whichever is *lesser*.

Mr. John Thomas, with Jefferson Asphalt Products, stated that the length of time that it takes to process a Concept Plan is too long. He concurred with Mr. Knott that the language should be changed to state whichever is *greater* instead of whichever is *lesser*.

Mr. Burns moved to close the public hearing. Mr. G. Taylor seconded the motion which carried unanimously.

Ms. Brockman presented written comments from Jason Gerhardt, Senior Project Engineer for William H. Gordon Associates, Inc.

Mr. Smith suggested allowing up to 20,000 square feet for all districts except to allow up to 40,000 square feet in the Industrial/Commercial district with the caveat that there is a public process outlined for the Village, Residential Growth, and Residential/Light Industrial/Commercial districts.

Mr. Hayes appointed a subcommittee of Mr. Dailey, Mr. Pellish and Mr. Burns to meet at a date uncertain to edit amendments considering public comment.

Mr. Burns moved to postpone discussion until July 26, 2011. Mr. Pellish seconded the motion which carried unanimously.

Mr. Hayes called for a break at 9:11 PM. Mr. Hayes called the meeting to order at 9:17 PM.

**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.**

Mr. Barney reviewed the amendments.

Mr. Hayes opened the public hearing. Ms. Barbara Feldman, home business owner, discussed issues with obtaining a Department of Highway Entrance Permit and also commented that the allowed number of cars should be increased and be more flexible.

Ms. Jennifer Syron, of the Eastern Panhandle Organization of Home Owner Associations (EPOHOA), distributed a booklet regarding the summary and position of the EPOHOA regarding home businesses and cottage industries. She gave a presentation regarding the changes to the amendments which were outlined within the documents. She reported that pressure was being placed on the HOAs and requested that the County require written approval from the HOA of the subdivision and provide public notice instead of restricting home businesses in subdivisions altogether.

Ms. Nancy Briscoe, Home Business owner, reiterated Ms. Syron's comments.

Ms. Joy Bridy, home business owner, supported having a sketch plan when a site plan was not required. She commented that in the Cottage Industry requirements, a 1,500 square foot minimum before triggering a site plan was not large enough and needed to be increased to 3,000 square feet or 5,000 square feet. She requested that a seasonal open house clause be included in the traffic requirements to allow more traffic during an open house. She stated that, regarding 4A.1 (g), outside storage should be allowed. She commented that she would like to see the 25' setback requirement removed. She reported that she was unclear why a Compatibility Assessment Meeting was required when there is a shared driveway and why a Department of Highways entrance permit was required when there were no previous issues.

Ms. Joann Harstead, citizen, agrees with the amendments. She requests that in Article 4A.1 (d) that language be added that states "*No equipment or process shall be used in a Home Occupation or Cottage Industry that poses a safety threat to its neighbors or neighborhood*".

Mr. Gert Harstead, citizen, reiterated Ms. Harstead's comments. He spoke in support of the amendments and asked that the Planning Commission maintain the regulations to ensure safety to individuals and to property.

Mr. Louis Meadows, citizen, stated he was not in favor of the amendments.

Mr. Neal Nilsen, board member of the EPOHOA, stated that the document that had been distributed earlier in the meeting described processes that would involve an HOA in determining approval of a home business.

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

Discussion ensued on possible changes to make to the amendments. Ms. Etters suggested discussing this item further after staff summarizes the public comment that was given.

Mr. Saunders offered to provide State requirements regarding highway entrance permits at the next meeting.

Mr. Baty moved to postpone discussion of this item to July 26, 2011. Mr. Pellish seconded the motion which carried unanimously.

**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.**

Ms. Brockman reviewed the amendments. Mr. Smith moved to hold the public hearing on July 12, 2011. Mr. Pellish seconded the motion which carried unanimously.

**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.**

Ms. Brockman reviewed the amendments. Ms. Etters moved to hold the public hearing on July 12, 2011. Mr. Smith seconded the motion which carried unanimously.

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

Mr. Groh read from a proposed settlement stating that an extension would be granted to bond and record the final plat to Alstadt's Corner until July 1, 2012. Mr. Pellish moved to adopt the settlement. Mr. Smith seconded the motion which carried 7 for, 1 opposed (Mr. Baty), and 1 abstention (Mr. P. Taylor).

Mr. Groh distributed educational information regarding ethics and open public governmental procedures. He briefly discussed the Open Meetings Act.

Mr. Groh reported that there had been a hearing regarding Far Away Farms and that he had two weeks to respond to a motion to intervene.

**13. Director's Report.**

Ms. Brockman stated that the final draft of the Urban Tree Canopy goals was distributed to the cities. She reported that the next step would be for the City Council to review and adopt the document and then the County would review and adopt.

Ms. Brockman reported that there had been a US 340 Eastern Gateway Plan meeting and she reviewed the interactive website that had been created.

Ms. Brockman stated that Dawn Childs had been hired as the new Office Manager for the department. She also stated that Aaron Molinda would be the summer intern until mid-August and that he would be completing research for the Comprehensive Plan.

Ms. Brockman explained that the policy neutral amendments to the Zoning and Land Development Ordinance would be discussed at the July 7<sup>th</sup> County Commission meeting. She also informed the Planning Commission that the Shenandoah Professional Center rezoning would be heard at the June 30<sup>th</sup> County Commission meeting.

**14. County Commission Liaison Report.** None.

**15. Planning Commission Exchange.** None.

**16. President's Report.** None.

**17. Actionable Correspondence.** None.

**18. Non-Actionable Correspondence.** None.

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
JUNE 28, 2011  
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Mr. Burns moved to adjourn the meeting at 11:03 PM. Mr. Smith seconded the motion which carried unanimously. An audio recording and a video recording of the meeting may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.



**A Motion regarding a  
Waiver for Angela and Tim Bell  
June 28, 2011**

**Whereas,** Tim and Angela Bell have submitted a request to waive a requirement of Section 20.201 requiring upgrades to a 50 foot access easement serving more than 5 lots;

**Whereas,** the subject property is located at 76 Bellview Lane in the Kabletown Tax District, Map 28, Parcel 11.2;

**[Please Note – Any motion made by the Planning Commission regarding the Angela and Tim Bell waiver request shall reference the 4 criteria for a waiver, which are listed below, findings of fact and any conditions.]**

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

**Now therefore be it moved,** that the Jefferson County Planning Commission recommends approval / denial of the request by Angela and Tim Bell to waive the requirements of Section 20.201 requiring upgrades to a 50 foot access easement serving more than 5 lots.

**[If applicable:]** With the following conditions:

Recommended denial this 28 day of June 2011  
By vote of the Jefferson County Planning Commission  
By a vote of 8 Yes 1 No

  
\_\_\_\_\_  
Daniel Hayes, Commission President



**A Motion regarding an  
Appeal for Angela and Tim Bell  
June 28, 2011**

**Whereas**, Tim and Angela Bell have submitted an appeal of the Planning and Zoning Department staff's determination that the proposed subdivision to create an additional lot is classified as a major subdivision, pursuant to Section 20.201 of the Subdivision and Land Development Regulations;

**Whereas**, the subject property is located at 76 Bellview Lane in the Kabletown Tax District, Map 28, Parcel 11.2;

**Whereas the Planning Commission notes the following findings regarding the Angela and Tim Bell Appeal Request, [note findings below]**

*that the Planning Commission finds the staff determination to be correct.*

**Now therefore be it moved**, that the Jefferson County Planning Commission grants / denies the request by Angela and Tim Bell for appeal of staff's determination that the proposed subdivision to create an additional lot is classified as a major subdivision.

**[If applicable:]** With the following conditions:

Recommended denial this 28 day of June 2011  
By vote of the Jefferson County Planning Commission  
By a vote of 9 Yes  No

  
\_\_\_\_\_  
Daniel Hayes, Commission President



**A Motion Recommending Direction regarding a  
Concept Plan for Asbury United Methodist Church  
June 28, 2011**

**Whereas**, Asbury United Methodist Church is proposing a 16,239 square foot addition to the existing church, including the expansion of the parking area; and

**Whereas**, The property is located at 4257 Kearneysville Pike, Shepherdstown, WV 25443 and is identified as Parcel 7.2 as shown on Tax Map 8 of the Shepherdstown Tax District, cumulatively consisting of 4.98 acres; and

**Whereas**, The Planning Commission is required to hold a public workshop regarding the concept plan as outlined in Section 24.121 of the Subdivision and Land Development Regulations; and

**Whereas**, The Planning and Zoning Department Staff finds the Asbury United Methodist Church concept plan complete and in conformance with the Subdivision and Land Development Regulations; and

(If applicable) **Whereas**, the following conditions will be applied:

1. The site plan for the development shall contain a note stating that the building permit for the development will be withheld until water/wastewater service is resolved and the Department of Highway Entrance Permit is provided.

(By a vote of 9 Yes 0 No)

**Now therefore be it moved**, that the Jefferson County Planning Commission gives the above mentioned direction for the concept plan for property identified in the Jefferson County Tax Map as Parcel 7.2 as shown on Tax Map 8 of the Shepherdstown Tax District.

Direction given this 28 day of June 2011

By vote of the Jefferson County Planning Commission

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Planning Commission President

Daniel Hayes



This information is  
Tab #4 in your binder.



**A Motion Recommending Direction regarding a  
Concept Plan for Highland Farms  
July 12, 2011**

**Whereas**, Highland Farms is proposing a residential subdivision to consist of 27 residential lots and a residue parcel on 270.18 acres under the cluster provisions; and

**Whereas**, The property is located on Charles Town Road (Rt. 9) on the west side of Bloomery Bridge and is identified as Parcels 33, 38 and 41 as shown on Tax Map 19 of the Charles Town Tax District; and

**Whereas**, The Planning Commission is required to hold a public workshop regarding the concept plan as outlined in Section 24.121 of the Subdivision and Land Development Regulations; and

**Whereas**, The Planning and Zoning Department Staff finds the Highland Farms concept plan complete and in conformance with the Subdivision and Land Development Regulations; and

(If applicable) **Whereas**, the following conditions will be applied:

1. ...(By a vote of \_\_\_Yes \_\_\_ No)
2. ...(By a vote of \_\_\_Yes \_\_\_ No)
3. ...(By a vote of \_\_\_Yes \_\_\_ No)

**Now therefore be it moved**, that the Jefferson County Planning Commission gives the above mentioned direction for the concept plan for property identified in the Jefferson County Tax Map as Parcels 33, 38 and 41 as shown on Tax Map 19 of the Charles Town Tax District.

“The portion of the record of the Planning Commission meeting pertaining to this application and the official minutes thereof are incorporated herein by reference as if set forth in full herein”

Direction given this 12 day of July 2011  
By vote of the Jefferson County Planning Commission

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Planning Commission President

Daniel Hayes



# STAFF REPORT

## Jefferson County Planning Commission Meeting

June 14, 2011

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

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

# STAFF REPORT

## Jefferson County Planning Commission Meeting

June 14, 2011

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

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

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

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

After a few revisions of previous submissions, on March 11, 2011, the applicant submitted an application referred to in the Subdivision Regulations as a "Major Subdivision Concept Plan Submission." Staff had 10 working days to review the content of the submission. This review was only to ensure that the appropriate items were submitted, not to review the quality of the submission documents. Listed below are the required items at this stage of the process. Please note the applicant has provided the required information and meets the submittal requirements. The application was deemed "sufficient" on March 25, 2011.

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

# STAFF REPORT

## Jefferson County Planning Commission Meeting

June 14, 2011

5. **Traffic Impact Data.** This shall include:
- Average Daily Trip figures for the adjoining or accessible State road.
  - Trip generation figures based on the following table:

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

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

After determining the submission was sufficient within the allotted 10 days, the application was formally received on March 25, 2011. A letter was sent to the applicant notifying them that they could advance to the next step in the process, a Major Subdivision Concept Plan Completeness Review. Within a 45 day period, that began on March 25, 2011, the concept plan was required to be scheduled for a public workshop at a regularly scheduled Planning Commission Meeting. Staff scheduled the applicant’s public workshop for the June 14, 2011 Planning Commission Meeting. During the time period between formal receipt of the application and the public workshop, the Major Subdivision Concept Plan Completeness Review process takes place. Listed below are the requirements in the Major Subdivision Concept Plan Completeness Review process:

- Department and Agency Reviews.** The Department and appropriate reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department 14 days prior to the scheduled public workshop.
- Review Content.** The Department and agency reviews shall address the areas indicated in C through F below and any other areas of concern to the agencies.
- Department.** The Department review shall include the following:

# STAFF REPORT

## Jefferson County Planning Commission Meeting

June 14, 2011

1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the concept plan submission. (Landscaping, for instance, is not generally available at this stage). Staff shall identify conditions that would enable the plan to meet the standards. It shall also identify any other zoning issues the developer shall address in a preliminary plat submittal.
  2. Staff opinion as to whether the plan meets the site development planning or subdivision criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.
- D. **WVDOH.** When appropriate, the WVDOH shall submit a letter to the Department of Planning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study needs to include more area than required by these Regulations or the Zoning Ordinance, it shall specify the expanded area. Any issues regarding sight distances, access location, road configuration, or off-site improvements shall be noted with recommendations or required changes. The purpose is to ensure that, at preliminary plan review, all transportation information is available so the agency does not have to seek additional data for a qualitative review.
- E. **Traffic Impact.** The review shall indicate whether the traffic impact study follows the generally accepted methodology for a traffic impact study, outlines the traffic impact, and recommends alternatives for mitigating the impact.
- F. **Public Services.** The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a system that shall be proposed by the developer to best meet the County's needs in that area of the County.
- G. **Recommended Conditions.** All reviews shall contain recommended conditions for moving forward to a preliminary plat or reasons why the plan should be denied.
- H. **Approval.** Unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning staff shall accept or deny the concept plan as complete.
- I. **Effect.** Upon accepting the application as complete, Planning staff shall place it on the next possible Planning Commission agenda as a public workshop. Staff shall advertise the public workshop at least fourteen (14) days in advance of the meeting and the applicant shall post notice on the property.

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

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

# STAFF REPORT

## Jefferson County Planning Commission Meeting

June 14, 2011

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

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

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

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

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

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

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

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

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



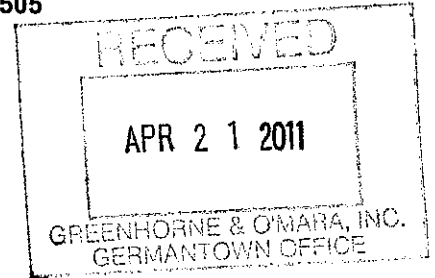


WEST VIRGINIA DEPARTMENT OF TRANSPORTATION

**Division of Highways**

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

April 18, 2011



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

Dear Ms. Singh:

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

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

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

Very truly yours,

A handwritten signature in cursive script that reads "Marvin G. Murphy".

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

MGM:Cm





**RECEIVED**  
MAY 04 2011  
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

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

April 29, 2011

Mr. Rivard,

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

Thank you for the opportunity to comment on this proposed project.

Sincerely,

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

John C. Allen, Jr.  
chairman

cc: Susan Pierce, SHPO



# Jefferson County Public Service District

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April 5, 2011

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



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

Dear Mr. Rivard:

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

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

Sincerely,

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

Susanne Lawton  
General Manager

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



## Amy Puetz

---

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

Dear Ms. Puetz:

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

Sincerely,

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



WEST VIRGINIA  
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www.wvculture.org

EEO/AA Employer

February 24, 2005

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

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

Dear Mr. Benincasa:

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

Architectural Resources:

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

Archaeological Resources:

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

February 24, 2005

Mr. Benincasa

Page 2

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

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

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

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

February 24, 2005  
Mr. Benincasa  
Page 3

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

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

Sincerely,



Lora A. Lamarre  
Senior Archaeologist

LAL:rcb/cmk

Enclosure

CC: Jefferson County Planning Commission  
Jefferson County HLC



**WEST VIRGINIA  
DIVISION OF  
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EEO/AA Employer

April 13, 2005

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

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

Dear Mr. Drinkard:

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

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

Architectural Resources:

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

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

Archaeological Resources:

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

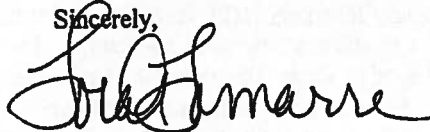
April 13, 2005  
Mr. Drinkard  
Page 2

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

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

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

Sincerely,

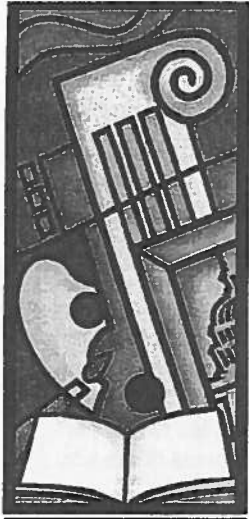


Lora A. Lamarre  
Senior Archaeologist

LAL:rcb/cmk

Enclosure

CC: Jefferson County Planning Commission  
Jefferson County HLC



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EEO/AA Employer

August 30, 2005

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

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

Dear Mr. Bodor:

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

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

Architectural Resources:

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

Archaeological Resources:

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

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

August 30, 2004  
Mr. Bodor  
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Page 2

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

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

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

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

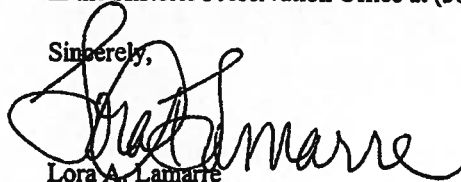
August 30, 2004  
Mr. Bodor  
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Page 3

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

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

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

Sincerely,



Lora A. Lamarre  
Senior Archaeologist

LAL:rcb/cmk

CC: Jefferson County Planning Commission  
Jefferson County HLC





WEST VIRGINIA  
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EEO/AA Employer

September 20, 2005

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

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

Dear Mr. Bodor:

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

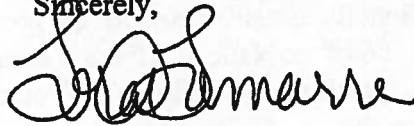
Thank you for submitting the revised Phase I archaeological survey final report containing the corrections requested in our previous correspondence dated August 30, 2005. The Phase I archaeological survey resulted in the identification of three archaeological sites: the Goose Island Site (46Jf502) and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

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "L. Lamarre". The signature is fluid and cursive, with a large initial "L" and "A" that are connected to the rest of the name.

Lora A. Lamarre  
Senior Archaeologist

LAL:cmk

CC: Jefferson County Planning Commission  
Jefferson County HLC

This information is  
Tab #5 in your binder.



**A Motion Recommending Direction regarding a  
Concept Plan for Middleway Volunteer Fire Company  
July 12, 2011**

**Whereas**, Middleway Volunteer Fire Company is proposing a 5,025 sq. ft. fire station with an office and a 4 bay garage in phase I and a 3,975 sq. ft. addition consisting of a multipurpose room and 2 additional bays in phase II; and

**Whereas**, Phase I and Phase II of the project will be submitted as separate site plans; and

**Whereas**, The property is located east of Leetown Road and the Cedar Hollow intersection and is identified as Parcel 2 as shown on Tax Map 24 of the Middleway Tax District; and

**Whereas**, The Planning Commission is required to hold a public workshop regarding the concept plan as outlined in Section 24.121 of the Subdivision and Land Development Regulations; and

**Whereas**, The Planning and Zoning Department Staff finds the Middleway Volunteer Fire Company concept plan complete and in conformance with the Subdivision and Land Development Regulations; and

(If applicable) **Whereas**, the following conditions will be applied:

1. ... (By a vote of \_\_\_ Yes \_\_\_ No)
2. ... (By a vote of \_\_\_ Yes \_\_\_ No)
3. ... (By a vote of \_\_\_ Yes \_\_\_ No)

**Now therefore be it moved**, that the Jefferson County Planning Commission gives the above mentioned direction for the concept plan for property identified in the Jefferson County Tax Map as Parcel 2 as shown on Tax Map 24 of the Middleway Tax District.

The portion of the record of the Planning Commission meeting pertaining to this application and the official minutes thereof are incorporated herein by reference as if set forth in full herein.

Direction given this 12 day of July 2011  
By vote of the Jefferson County Planning Commission

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Planning Commission President

Daniel Hayes



# STAFF REPORT

## Jefferson County Planning Commission Meeting

July 12, 2011

Item #5 Request by Middleway Volunteer Fire Company for a Major Site Plan Concept Plan Public Workshop for a fire station (PC File #S11-06). (Subdivision Regulation 24.119)

APPLICANT:	Middleway Volunteer Fire Company
OWNER:	Same
DEVELOPER:	Same
SURVEYOR/ENGINEER:	Frederick, Seibert & Associates
PROPERTY LOCATION:	Leeville Road, South of Middleway near Cedar Hallow Road
LEGAL DESCRIPTION:	District: Middleway; Map: 24; Parcel: 2
ZONING DISTRICT:	<p>Zoning Map Designation: Rural</p>
SURROUNDING PROPERTIES:	<p>Zoning Map Designation:  <i>North: R                      South: R</i>  <i>East: R                         West: R</i></p>
LOT AREA:	5 acres
PROPOSED ACTIVITY:	Building a new fire station consisting of 4,950 square feet with the ability for expansion up to approximately 9,000 square feet.

### 1. Summary of Request

# STAFF REPORT

## Jefferson County Planning Commission Meeting

July 12, 2011

Middleway Volunteer Fire Company proposes to construct a 4,950 square foot building on a vacant lot. The building area is proposed to include four truck bays and an office area. The site plan is showing future phases which would increase the building size by an additional 4,000 square feet. Any future phases will have to be approved by the Planning and Zoning Department and the Engineering Department.

### 2. Site Plan Category

The Subdivision and Land Development Regulations defines Minor Site Developments as “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.” Additionally non-residential development exceeding the following must 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;

While the site plan area is less than 5,000 square feet, the maximum for a minor site plan, the site does require the extension of off-site infrastructure, which makes the proposed project a major site plan. The off-site infrastructure is for the roadway abutting this parcel, which needs to be improved and upgraded from the current condition for the proposed use.

### 3. Staff Determination of Application Sufficiency

The Subdivision and Land Development Regulations require that, prior to the scheduling of a Concept Plan public workshop 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 Middleway Volunteer Fire Company 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 &amp; 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	Provided

# STAFF REPORT

## Jefferson County Planning Commission Meeting

July 12, 2011

	option selected if the development is residential.	
<b>5. Traffic Impact Data</b>	<p>This shall include:</p> <ul style="list-style-type: none"> <li>a) Average Daily Trip figures for the adjoining or accessible State road.</li> <li>b) Trip generation figures</li> <li>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.</li> <li>d) “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.</li> <li>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.</li> </ul>	Provided
<b>6. Other Data</b>	Any other data or information the applicant believes will assist in the review.	Provided
<b>7. Other Reviews</b>	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 Middleway Volunteer Fire Company Concept Plan application was “sufficient” on April 14, 2011. A letter was sent to the applicant notifying them that they could advance to the next step in the process, a Major Subdivision Concept Plan Completeness Review. Within a 45 working day period, that began on April 14, 2011, the concept plan was required to be scheduled for a public workshop at a regularly scheduled Planning Commission Meeting. Staff scheduled the applicant’s public workshop for the July 12, 2011 Planning Commission Meeting.

#### 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:

<b>Process Requirement</b>	<b>Description</b>	<b>Status and Comment</b>
<b>A. Department and Agency Reviews</b>	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 agency comments.

# STAFF REPORT

## Jefferson County Planning Commission Meeting

July 12, 2011

<b>B. Review Content</b>	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.
<b>C. Department</b>	<p>The Department review shall include the following:</p> <ol style="list-style-type: none"> <li>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.</li> <li>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.</li> </ol>	Staff has determined that the requirements of the Zoning Ordinance and Subdivision and Land Development Regulations are met in the proposed Concept Plan.
<b>D. WVDOH</b>	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.
<b>E. Traffic Impact</b>	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.
<b>F. Public Services</b>	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).
<b>G. Recommended Conditions</b>	All reviews shall contain recommended conditions for moving forward to a preliminary plat or reasons why the plan should be denied.	See below.
<b>H. Approval</b>	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	Planning staff accepts the Concept Plan as complete.

# STAFF REPORT

## Jefferson County Planning Commission Meeting

July 12, 2011

	accept or deny the concept plan as complete.	
<b>I. Effect</b>	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 site is to be served by well and septic; as such the PSD will not be serving this site.

The Jefferson County 9-1-1 Addressing Office has submitted a letter (included in the Planning Commission packet) noting the following:

- The proposed building will create a third addressable structure along the currently unnamed right-of-way. With the addition of the third structure, the right-of-way will have to be named.

### 6. Staff Recommendation

The Planning and Zoning Department Staff finds the Middleway Volunteer Fire Company 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 further recommends that this major site plan process be switched to a minor process after direction of the concept plan is given. The site plan was required to follow the major process for two reasons. First, as noted above, is the extension of off-site infrastructure of the right-of-way that requires improvements and upgrading to the access. Upon further review of the definition of a minor site plan, which states "...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," Staff has determined that upgrading existing infrastructure is not the same as new infrastructure. The applicant is only proposing to upgrade the current infrastructure. Second, the subject parcel has a single-family restriction which needs to be removed by a public process. This concept plan process would constitute the process to remove the single family restriction.

For the reasons noted above, Staff finds it reasonable to make the recommendation to continue this under the minor site plan process.

### 7. Planning Commission Direction

# STAFF REPORT

## Jefferson County Planning Commission Meeting

July 12, 2011

The Major Subdivision Concept Plan Public Workshop allows for the Planning Commission and the general public to comment on the proposed plan. The Subdivision 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.
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 9-1-1 ADDRESSING OFFICE

Jeffrey A. Polczynski • Director of Communications  
116 East Washington Street • Mason Building • Suite 201  
Charles Town, WV 25414-0208  
Telephone: (304) 724-6759 • FAX: (304) 724-8992  
addressing@jeffersoncountywv.org



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From: Jessica Gormont – GIS Technician  
Date: July 12, 2011  
Subject: Middleway Volunteer Fire Company Inc Public Workshop  
DPZ File: S11-06

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- 1) All previous comments made by our office have been followed. There are no further comments from our office at this time.

If you have questions or comments, please respond via phone, fax, or e-mail to:

Jessica Gormont  
GIS Technician – GIS/Addressing Office  
Office: 304.724.8986  
Fax: 304.724.8992  
jgormont@jeffersoncountywv.org





# Jefferson County Public Service District

---

May 2, 2011

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

**RECEIVED**  
**MAY 04 2011**  
JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Re: Middleway Volunteer Fire Company

Dear Seth:

It is my understanding that the above mentioned building will utilize an on-site septic system and well for its wastewater and potable water needs. These items are under the authority of the Jefferson County Health Department. The Jefferson County Public Service District will have no part in this project.

Please let me know if you need additional information from this office.

Sincerely,



Susanne Lawton  
General Manager

cc: Mike Mood, Middleway Volunteer Fire Company  
David Trostle, Frederick, Seibert & Associates, Inc



# JEFFERSON COUNTY, WEST VIRGINIA

## Departments of Planning & Zoning

116 East Washington Street

P.O. Box 338

Charles Town, West Virginia 25414

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

Phone: (304) 728-3228

Fax: (304) 728-8126

April 14, 2011

Frederick, Seibert & Associates, Inc.  
128 South Potomac Street  
Hagerstown, MD 21740

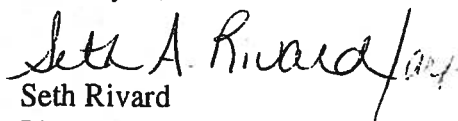
Dear Sir:

This letter will confirm that the Concept Plan that was submitted for Middleway Volunteer Fire Company (PC File #S11-06) project has been declared sufficient for review. There are no fees required at this time. Below is a timeline for the next steps in the process:

- ❖ The Completeness Review will begin on April 27, 2011.
- ❖ The Concept Plan material and a copy of this letter detailing the timeline will need to be submitted to the reviewing agencies by May 4, 2011. Those agencies include:
  - West Virginia Department of Transportation, Division of Highways
  - West Virginia Department of Environmental Protection
  - Jefferson County GIS/Addressing Office
  - Jefferson County Health Department
  - Jefferson County Public Service District
  - Jefferson County Historic Landmarks Commission
- ❖ Reviewing agency comments will need to be submitted to the Planning and Zoning Department no later than June 28, 2011. If the Planning and Zoning Department receives no reply from the reviewing agency, the department will assume approval.
- ❖ The Department will place an advertisement for the public workshop in the June 22, 2011 edition of the Spirit of Jefferson Advocate.
- ❖ A public notice sign (supplied by the Department) detailing the time and date of the public workshop will need to be posted on the property by the applicant no later than June 28, 2011.
- ❖ The public workshop will be held at a Planning Commission meeting on July 12, 2011.

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

Thank you,

  
Seth Rivard  
Planner

SB/arp

cc: Middleway Volunteer Fire Company/Mike Mood



This information is  
Tab #6 in your binder.



*Major Subdivision Approval Process*

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

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

## Major Subdivision Approval Process

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

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

### Final Plat Application

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

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

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

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the planning department. It shall be accompanied by the fee for concept plan review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated by staff.
  - 1. **General location.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
  - 2. **Concept Plan.** A Concept Plan shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*. Show or note if all features are addressed.
  - 3. **Zoning Information.** This shall include:
    - a. Determination of the zoning district in which the proposed subdivision or development project is situated.
    - b. Density calculations.
    - c. Site resource map.
  - 4. **Proposal Description.** This shall be a written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, and development option selected if the development is residential.
  - 5. **Traffic Impact Data.** This shall include:
    - a. Average Daily Trip figures for the adjoining or accessible State road.
    - b. Trip generation figures based on the following table:

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

- c. Nearest key intersection that will serve the proposed project. A “key intersection” is defined as any intersection with a primary or secondary highway as classified by the current Comprehensive Plan.
  - d. “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.
  - e. In the event trip generation in the peak hour exceeds 100 or the limitation designated in the most current DOH Traffic Engineering Directive, a traffic study will be required which includes generators, etc. This type of study should be performed by a traffic engineering consultant. The effect of phasing the subdivision shall be cumulative.
6. **Agency Reviews.** The reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department ~~fourteen (14)~~ days prior to the scheduled public workshop. The applicant shall distribute the concept plan to all reviewing agencies. ~~Reviewing agencies are found in Sections 23.203 and 23.204. Applicant shall provide copy of letter sent to outside agencies to the Departments of Planning and Zoning upon submission of Concept Plan. If any review agency fails to respond, they shall be deemed by these Regulations to have approved the plan.~~
7. **Adjoining Property.** ~~The applicant must provide an accurate list of all properties and owners’ addresses adjoining the subject property.~~
8. ~~6.~~ **Other Data.** Any other data or information the applicant believes will assist in the review.
9. ~~7.~~ **Other Reviews.** Any other staff or agency reviews of the plans.

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

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

### **Sec. 24.107 Major Subdivision Concept Plan – Completeness Review**

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

~~A. **Department and Agency Reviews.** The Department and appropriate reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department ~~fourteen (14)~~ days prior to the scheduled public workshop.~~

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

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

- a. ~~1.~~ Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the concept plan submission. (Landscaping, for instance, is not generally available at this stage). Staff shall identify conditions that would enable the plan to meet the standards. It shall also identify any other zoning issues the developer shall address in a preliminary plat~~n~~ submittal.

- b. ~~2.~~ Staff opinion as to whether the plan meets the site development planning or subdivision criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.
- E. ~~D.~~ **WVDOH.** When appropriate, the WVDOH shall submit a letter to the Department of Planning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study needs to include more area than required by these Regulations or the Zoning Ordinance, it shall specify the expanded area. Any issues regarding sight distances, access location, road configuration, or off-site improvements shall be noted with recommendations or required changes. The purpose is to ensure that, at preliminary plat~~n~~ review, all transportation information is available so the agency does not have to seek additional data for a qualitative review.
- F. ~~E.~~ **Traffic Impact.** The review shall indicate whether the traffic impact study follows the generally accepted methodology for a traffic impact study, outlines the traffic impact, and recommends alternatives for mitigating the impact.
- G. ~~F.~~ **Public Services.** The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a system that shall be proposed by the developer to best meet the County's needs in that area of the County.
- H. ~~G.~~ **Recommended Conditions.** All reviews shall contain recommended conditions for moving forward to a preliminary plat~~n~~ or reasons why the plat~~n~~ should be denied.
- I. ~~H.~~ **Approval.** Unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning staff shall accept or deny the concept plan as complete.
- J. ~~I.~~ **Effect.** Upon accepting the application as complete, Planning staff shall place it on the next possible Planning Commission agenda as a public workshop. Staff shall advertise the public workshop in the local newspaper one time at least ~~fourteen (14)~~twenty-one (21) days in advance of the meeting and send notice by mail to the adjoining property owners at least fourteen (14) days prior to the meeting. ~~‡~~The applicant shall post notice on the property at least fourteen (14) days in advance of the meeting.

### **Sec. 24.1087 Major Subdivision Concept Plan - Public Workshop**

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

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

### **Sec. 24.1098 Major Subdivision Concept Plan - Direction**

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

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

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

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

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

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

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

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

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

## Sec. 24.111 Major Subdivision Preliminary Plat – Completeness Review

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

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

## **Sec. 24.1120 Major Subdivision Preliminary Plat - Public Hearing**

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

## **Sec. 24.1131 Major Subdivision Preliminary Plat - Approval**

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

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

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

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

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

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

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

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

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

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

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

**D. Additional Information.** The Department shall:

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

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

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

### **Sec. 24.115 Major Subdivision Final Plat – Completeness Review**

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

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

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

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

### **Sec. 24.1163 Major Subdivision Final Plat - Public Hearing**

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

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

### **Sec. 24.1174 Major Subdivision Final Plat - Approval**

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

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

### **Sec. 24.1185 Major Subdivision Final Plat - Recording**

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

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

*Major Site Plan Approval Process*

<u>Step Taken</u>	<u>Action Taken</u>	<u>Acting Authority</u>
<b>Pre-Proposal Conference (Optional)</b>		
Step 1 <u>Section 24.102A</u>	Submission	
Step 2 <u>Sections 24.102B, C &amp; 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>
<b>Concept Plan</b>		
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 WVDON, 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**

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### **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**

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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**

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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**

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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.

This information is  
Tab #7 in your binder.



**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Planning & Zoning**  
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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

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**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” amendments<sup>1</sup> 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

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<sup>1</sup> 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

**PROPOSED REVISIONS TO JEFFERSON COUNTY ZONING ORDINANCE ARTICLE 12**  
**for 7/12/11 Public Hearing before the Jefferson County Planning Commission**

(proposed changes are highlighted and underlined)

**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 Zoning Ordinance, including both text and map, the governing body of the County may amend the Zoning Ordinance without holding an election.
- b) Before amending the Z zoning O ordinance text or map, the governing body, with the advice of the P planning C eommission, must find that the amendment is consistent with the adopted C eomprehensive P plan, or if it is inconsistent, must make findings in accordance with the requirements of §8A-7-8 et seq of the West Virginia State Code, as amended.
- c) All amendments to the Zoning Ordinance Map require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination.
  - 1) Public Notice of the Public Hearing for a Zoning Map amendment before the Planning Commission requires the following:
    - i. A legal advertisement describing the location and identification of the subject parcel for which the zoning is proposed to be changes, including the current tax district, map and parcel number, and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation;
    - ii. Any property affected by the proposed zoning map amendment shall be posted at least 15 days prior to the Public Hearing. The posting shall state the time, date, and location of such hearing, as well as, what new zone is being requested on the property; and
    - 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 adjoiner 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.
  - 2) Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.
- d) All amendments to the Zoning Ordinance Text require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended text amendments require a Public Hearing before the County Commission prior to a final determination.
  - 1) Public Notice of the Public Hearing for a ZoningText Amendment before the Planning

Commission requires the following:

i. a legal advertisement describing the Section of the Ordinance proposed to be revised, with a summary of the revision, and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation.

2) Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.

### **Section 12.3 Procedure for Map Amendment by Petition**

#### a) Map Amendments by Landowners

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

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

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

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

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

#### b) Map Amendments by the Planning Commission

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

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

1. Substantiation for the request
2. Tax District, Map and Parcel number

3. Deed Book reference
4. Plat or sketch pursuant to Section 7.4 (b)
5. Tract size
6. Discussion on:
  - a. Comprehensive Plan compatibility of the proposed change.
  - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted

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

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

#### **Section 12.4 Procedure for Initiating a Zoning Ordinance Text Amendment**

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

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

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

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

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

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

The Planning Commission, with the advice of staff, can determine if and when to undertake such a request in light of other work plan tasks and development review activities are currently

under consideration. If the Planning Commission decides to consider the request, a Public Hearing would be required and the Planning Commission would need to determine if the request is consistent with the Comprehensive Plan in accordance with §8A-7-8(b) et seq of the West Virginia State Code, as amended. The Planning Commission would then make a recommendation regarding the potential text amendment to the County Commission who would also be required to hold a Public Hearing.

c) Text Amendments by the Planning Commission

Typically, if the Planning Commission determines that a text amendment is required to the Zoning Ordinance in accordance with tasks in the work plan, to make the ordinance more user-friendly, or in line with adopted policies, the Planning Commission will develop a draft of the proposed amendment, receive public input, conduct a Public Hearing in accordance with Section 12.2(d), 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.

This information is  
Tab #8 in your binder.



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JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

**BYLAWS OF THE JEFFERSON COUNTY PLANNING COMMISSION**

**Article I - General**

Section 1.1 – References

As used throughout these Bylaws, “Planning Commission” shall refer to the Jefferson County Planning Commission, and “County Commission” shall refer to the County Commission of Jefferson County, both of Jefferson County, West Virginia. The term “item” as used herein shall refer to any matter before the Planning Commission for consideration or discussion, and shall be construed broadly.

Section 1.2 – Authority

These bylaws and its provisions are authorized by W.Va. Code § 8A-2-11, which empowers the Planning Commission, among other things, to “(2) Prescribe rules and regulations pertaining to administration, investigations and hearings[,]” provided that the same are adopted by the County Commission.

Section 1.3 – Severability

The invalidation of any provision or section of these Bylaws shall not invalidate any other provision or section of these Bylaws.

Section 1.4 – Amendments

These Bylaws may be amended at any regular meeting of the Planning Commission by a majority vote of the Planning Commission, and shall take effect upon adoption by the County Commission or at a date certain thereafter.

**Article II - Organization**

Section 2.1 – Membership

The Planning Commission, by ordinance previously adopted by the County Commission, shall be comprised of nine (9) members appointed by the County Commission pursuant to W.Va. Code § 8A-2-4.

Section 2.2 – Term of office

Upon appointment to the Planning Commission, a member shall serve a term of three years pursuant to W.Va. Code § 8A-2-4(g).

Section 2.3 – Powers and Duties

In addition to the powers and duties provided in these Bylaws, the Planning Commission shall have such other powers and duties as provided by law, including but not limited to W.Va. Code § 8A-2-11.

#### Section 2.4 – Committees

The Planning Commission may establish one or more committees to which, pursuant to W.Va. Code § 8A-2-11(15), it may delegate limited powers. Committees shall consist of no less than three (3) members nor more than five (5) members of the Planning Commission. Appointments to committees shall be made by a majority vote of the Planning Commission.

### *Article III - Officers*

#### Section 3.1– Elections

At its first regular meeting each January, the Planning Commission shall elect a President, Vice President, and Secretary.

#### Section 3.2 – President

The President shall preside at all public hearings and meetings held by the Planning Commission. The President may call special meetings of the Planning Commission as necessary, and is empowered to certify by signature or otherwise any official and valid action of the Planning Commission. The President shall also perform such duties and functions as may from time to time be required by the Planning Commission.

#### Section 3.3 – Vice President

During any absence of the President, the Vice President shall assume the duties and functions of President. The Vice President shall also perform such duties and functions as may from time to time be required by the Planning Commission.

#### Section 3.4 – Secretary

The Secretary shall perform such duties and functions as may from time to time be required by the Planning Commission.

#### Section 3.5 – Absence of President and Vice President

In the absence of both the President and Vice President, any present member may call to order a regular or special meeting of the Planning Commission, which shall thereupon immediately empower one or more of its present members to fulfill the duties and functions of President and/or Vice President during said absence.

#### Section 3.6 – Replacing Officers

In the event of the death, resignation, or removal of an officer of the Planning Commission, the Planning Commission shall thereupon elect one of its members to complete the unexpired term. A three-fifths majority of the total membership of the Planning Commission may, at any regular meeting, remove the President and/or the Vice President from office, provided that a new election to fill the remaining term(s) of office is immediately held.

#### Article IV - Meetings

##### Section 4.1 – Regular Meetings

The Planning Commission shall hold regular meetings on the second and fourth Tuesdays of each month at 7:00 p.m. in the ground floor meeting room of the Old Charles Town Library, at 200 East Washington Street, Charles Town, West Virginia. Prior notice shall be provided in the event that any regular meeting is held at a different location. A regular meeting may be postponed or cancelled for appropriate reasons, and in such case prior notice of said postponement or cancellation shall be provided if possible.

##### Section 4.2 – Special Meetings

A special meeting may be called by the President or by two or more members of the Planning Commission to be held on a different day and/or a different time than regular meetings. Pursuant to W.Va. Code § 8A-2-7, notice for all special meetings shall be in writing, include the date, time and place of the special meeting, and be sent to all members at least two days before the special meeting. A special meeting may be postponed or cancelled for appropriate reasons, and in such case prior notice of said postponement or cancellation shall be provided if possible.

##### Section 4.3 – Recording of Meetings

All meetings of the Planning Commission shall be recorded, and such recordings shall be maintained and made available, upon request and in accordance with the procedures of the Planning Commission and/or its staff, to the public.

##### Section 4.4 – Agendas

An agenda shall be made available prior to the start of all regular and special meetings. Items shall be listed on the agenda in such a manner as to sufficiently identify the substance of the item and allow for a vote on the item by the Planning Commission if necessary. The Planning Commission may deviate from an agenda's order if necessary.

##### Section 4.5 – Quorum

In order to conduct a regular or special meeting, a quorum of the members must be present. A majority of the members of the Planning Commission shall constitute a quorum. No action of the Planning Commission shall be official or valid unless authorized by a majority of members present at a regular or special meeting.

#### Section 4.6 – Procedures for Conducting Meetings

In the absence of state law or of other procedures of the Planning Commission, Roberts Rules of Order, current edition, shall be the parliamentary authority of Planning Commission meetings.

#### Section 4.7 – Open Governmental Proceedings

All meetings and actions of the Planning Commission shall comply with the requirements of West Virginia's open meetings laws, codified at W.Va. Code § 6-9A-1, et seq.

### *Article V – Consideration of Items*

#### Section 5.1 – Voting

A member must be physically present at a meeting to vote on any item considered at said meeting. Voting via telephone or proxy is not permitted. Abstention shall not be permitted by a member who is otherwise entitled to vote on an item.

#### Section 5.2 – Recusal

A member may recuse himself/herself in relation to an item for the reasons set forth herein, in which case such member shall not participate in discussion, consideration or vote on said item. Valid reasons for recusal include (1) having a personal interest in an item, (2) having a contractual, employment, or other relationship with a party involved with an item, (3) being unable to impartially consider an item, or (4) having been absent from part or all of the discussion or consideration of an item. A member recusing himself or herself shall thereupon state the reason for such recusal and leave the meeting, remaining absent for the duration of consideration and/or discussion of the item.

#### Section 5.3 – Ex Parte Communications

For purposes of these Bylaws, ex parte communications consist of communications regarding the substance of an item that is or will be before the Planning Commission for consideration and/or discussion, when such communications are between one or more members of the Planning Commission and one or more individuals involved with the item. No member of the Planning Commission shall voluntarily and knowingly engage in ex parte communications without the authority of the Planning Commission. In the event that a member of the Planning Commission has engaged in or receives any ex parte communication, said member shall bring the same to the attention of the Planning Commission. Communications with third parties regarding procedural aspects of items do not constitute ex parte communications in the context of these Bylaws.

#### Section 5.4 – Ex-Officio Member Voting

A member who is also a member of the County Commission is a full voting member of the Planning Commission. However, any such ex-officio member may elect not to vote as a member of the Planning Commission on items which will subsequently require action or consideration by the County Commission.

An ex-officio member may remain at the meeting and participate in discussion on an item on which they elected not to vote under this Section.



This information is  
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**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Planning & Zoning**  
116 East Washington Street, 2<sup>nd</sup> Floor  
P.O. Box 338  
Charles Town, West Virginia 25414

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)  
[zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

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

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**Director's Report**  
**July 12, 2011**  
**Planning Commission Meeting**

- 1) Activity Report (attached)
- 2) Urban Tree Canopy Plan – need to schedule PC review or public hearing
- 3) US 340 Eastern Gateway Plan -- please provide input at: <http://rt340.metroquest.com/>
- 4) Regional Staff activities:
  - a) MS4 Meeting, Ranson (7/12/11)
  - b) WIP II Meetings (7/13/11)
- 5) Recent CC action:
  - a) Action on the Proposed Policy Neutral Amendments to the Zoning and Land Development Ordinance (July 7, 1988, as amended) (7/7/11)
  - b) Action on Rezoning Application Request for Shenandoah Professional Services (6/30/11) *Contrary to PC recommendation, found the request in conformance with the Comp Plan, approved rezoning*
- 6) Upcoming CC agenda items:
  - a) Public Hearing on Proposed Text Amendment to Article 12 of the Jefferson County Zoning and Land Development Ordinance regarding the process of amending the zoning map and/or text (*pending PC recommendation 7/12/11*)
  - b) Public Hearing on Proposed Text Amendment to Article 24 of the Subdivision and Land Development Regulations regarding time frames and noticing requirements for processing procedures (*pending PC recommendation 7/12/11*)
- 7) Upcoming PC meetings:
  - a) July 26, 2011
    - Possible follow up/vote on Concept Plan (to be determined at 7/12/11 PC meeting)
    - Report back on Proposed Text Amendment for certain portions of the Subdivision and Land Development Regulations regarding maximum square footage requirements for a Minor Site Plan in each Zoning District
    - Report back on Proposed Text Amendment for Articles 4A and Section 2.2 of the Zoning and Land Development Ordinance and Section 20.203 of the Subdivision and Land Development Regulations, regarding Home Occupations

and Cottage Industries

- Possible Public Hearing on Draft Urban Tree Canopy Goals and Plan??
- Hott Property Zoning Map Amendment Public Hearing rescheduled to 8/9/11

b) August 9, 2011

- Two Concept Plan Workshops scheduled (Harvest Pointe Community Church and Jefferson Asphalt Products, LLC)
- Hott Property Zoning Map Amendment Request
- Possible Text Amendment Public Hearings

**Christine Chalmers**

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**To:** PLANNING COMMISSION  
**Subject:** RE: WEEKLY CALENDAR / 6.27.11 - 7.01.11

**MONDAY, JUNE 27, 2011**

**TUESDAY, JUNE 28, 2011**

TO LATE AFTERNOON JENNIE – TMDL PHASE II INFORMATIONAL EXCHANGE  
RE: SPEAKER / UTC GOALS & PLANS

7:00 pm PLANNING COMMISSION MEETING

**WEDNESDAY, JUNE 29, 2011**

10:30 am – 11:30 am STAFF MEETING  
11:30 am JENNIE & STEVE – WEEKLY ZONING MEETING  
1:30 pm JENNIE & STEVE – MEETING WITH REPORTER / MORNING HERALD  
5:00 pm JENNIE – “COG” MEETING

**THURSDAY, JUNE 30, 2011** **END OF FISCAL YEAR**

9:00 am COUNTY COMMISSION MEETING

**FRIDAY, JULY 01, 2011**

**Christine Chalmers**

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**To:** PLANNING COMMISSION  
**Subject:** WEEKLY CALENDAR / 7.04.11 - 7.08.11

**MONDAY, JULY 04, 2011**

**INDEPENDENCE DAY HOLIDAY – OFFICES CLOSED**

**TUESDAY, JULY 05, 2011**

10:00 am – 11:30 am	STAFF MEETING
11:30 – 12:30 pm	JENNIE & STEVE – WEEKLY ZONING MEETING
11:45 am – 12:45 pm	DAWN & AMY – MEETING
2:00 pm – 2:30 pm	JENNIE & TODD – MEETING/RE: METROQUEST-COUNTY FAIR
2:30 pm	JENNIE & DAWN – WEEKLY UPDATE MEETING

**WEDNESDAY, JULY 06, 2011**

8:00 am – 9:30 am	JENNIE – MONTHLY DEPARTMENT HEAD MEETING WITH TIM BOYDE
9:30 am – 10:30 am	JENNIE & SETH – WEEKLY PLANNING MEETING
1:30 pm – 3:00 pm	JENNIE – TELEPHONE CONFERENCE / RE: PHASE II STAKEHOLDERS
2:00 pm	STEVE & MASON – MEETING WITH GEORGIANNA PARDOE

**THURSDAY, JULY 07, 2011**

9:00 am	COUNTY COMMISSION MEETING
1:00 pm	JENNIE, STEVE & SETH – MEETING WITH WHGA REPS & HOTT
2:30 pm	JENNIE, STEVE & SETH – MEETING/ RE: SECTION 20 AMENDMENTS

**FRIDAY, JULY 08, 2011**

**PLANNING COMMISSION PACKET DAY**

10:00 am	SETH – MEETING WITH MARK DYCK / RE: SUMMIT POING
2:00 pm	JENNIE, STEVE, SETH, DAWN, AARON – WEEKLY REVIEW MEETING

This information is  
Tab #14 in your  
binder.



PERMIT TO ENTER UPON, UNDER, OVER OR ACROSS THE STATE ROADS OF THE STATE OF WEST VIRGINIA, AS PROVIDED FOR IN SECTION 6, ARTICLE 16, CHAPTER 17; SECTION 9, ARTICLE 16, CHAPTER 17; SECTION 8, ARTICLE 4, CHAPTER 17, WEST VIRGINIA CODE, 1931, AS AMENDED.

THIS PERMIT, Made this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_, between the WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, a statutory corporation hereinafter called DIVISION and \_\_\_\_\_

Address: \_\_\_\_\_ Phone No: \_\_\_\_\_

hereinafter called APPLICANT.

**WITNESSETH**

In consideration of the hereinafter set out covenants and in accordance with Section 6, Article 16, Chapter 17; or Section 9, Article 16, Chapter 17; or Section 8, Article 4, Chapter 17, of the Official Code of West Virginia, 1931, as amended, and the rules and regulations promulgated thereunder, APPLICANT does hereby apply to enter

Route Type & No. \_\_\_\_\_ DOH Project No. \_\_\_\_\_ (if applicable);  
at \_\_\_\_\_ Mile Post \_\_\_\_\_  
in \_\_\_\_\_ County, for the purposes hereinafter set forth and in accordance with the plans and specifications which are attached hereto and made a part hereof: \_\_\_\_\_

APPLICANT further agrees to accept the conditions hereinafter set forth:

1. APPLICANT shall deposit with DIVISION the sum of \$ \_\_\_\_\_ in the form of an official, certified or cashier's check, or executed bond with surety satisfactory to DIVISION to cover any damage and inspection costs DIVISION may sustain by reason of the granting of this permit, including any expense incurred in restoring said highway to its original condition or the proper repair of any and all damages that may result within one (1) year from the date of the completion of said work.
2. APPLICANT agrees to reimburse DIVISION for inspection costs as follows:
  - A. For any inspection costs incurred under this permit.
  - B. At \$ \_\_\_\_\_ per linear foot for \_\_\_\_\_ feet of water line installed under this permit
  - C. At \$ \_\_\_\_\_ per linear foot for \_\_\_\_\_ feet of sewer line installed under this permit
3. APPLICANT shall notify DIVISION at least 48 hours in advance of the date the work will begin. Failure to comply will be cause for cancellation of this permit.
4. APPLICANT agrees to protect its employees, equipment and users of the highway at all times in accordance with the current Division of Highways manual "Traffic Control For Street and Highway Construction and Maintenance Operations".
5. APPLICANT agrees to comply with all applicable state and federal laws in the performance of work under this permit.
6. Supplementary conditions cited on the reverse side of this permit are understood and agreed to be a part hereof.
7. The work authorized under this permit shall be completed on or before (Date): \_\_\_\_\_

**Applicant's signature on this permit affirms that all text herein is a verbatim reproduction of The West Virginia Division of Highways Encroachment Permit Form MM-109, revision date May 19, 2005. All attachments are inclusive to this permit.**

RECOMMENDED:

\_\_\_\_\_  
Title \_\_\_\_\_

\_\_\_\_\_  
Signature and Title of Applicant

BOND REQUIREMENT:

BOND NO. \_\_\_\_\_ DATE \_\_\_\_\_

Attached  On File

INSPECTION: Owner/Consultant

Full Time  Part Time

Periodic  Reimbursable  No Cost

APPROVED:

\_\_\_\_\_

Title \_\_\_\_\_

West Virginia Division of Highways

AUTHORIZATION NO: \_\_\_\_\_

PERMIT NO: \_\_\_\_\_

## CHAPTER 17 WEST VIRGINIA CODE, 1931

### **§17-4-8. Use of roadbed by railroad, telephone company, etc.**

No railroad or electric or other railway shall be constructed upon the roadbed of any state road, except to cross the same, nor shall any person, firm or corporation enter upon or construct any works in or upon such road, or lay or maintain thereon or thereunder any drainage, sewer or water pipes, gas pipes, electric conduits or other pipes, nor shall any telephone, telegraph or electric line or power pole, or any other structure whatsoever, be erected upon, in or over any portion of a state road, except under such restrictions, conditions and regulations as may be prescribed by the state road commissioner. Whenever any railroad or electric or other railway, heretofore or hereafter constructed, shall cross any state road, it shall be required to keep its own roadbed, and the bed of the road or highway at such crossing, in proper repair, or else to construct and maintain an overhead or undergrade crossing, subject to the approval of the state road commissioner; and the tracks of such railroad or railway at grade crossings shall be so constructed as to give a safe and easy approach to and across the same, and when the construction of such approaches is made necessary by a change in the railroad grade at the grade crossing, the cost shall be upon the railway company.

### **§17-16-6. Permit by commission or county court for openings in or structures on public roads; franchises and easements of oil, etc., transportation companies.**

No opening shall be made in any state or county-district road or highway, nor shall any structure be placed therein or thereover, nor shall any structure, which has been so placed, be changed or removed, except in accordance with a permit from the state road commission or county court, as the case may be. No road or highway shall be dug up for laying or placing pipes, sewers, poles or wires, or for other purposes, and no trees shall be planted or removed or obstructions placed thereon, without the written permit of the commission or county court, or its duly authorized agent, and then only in accordance with the regulations of the commission or court. The work shall be done under the supervision and to the satisfaction of the commission or court; and the entire expense of replacing the highway in as good condition as before shall be paid by the persons to whom the permit was given, or by whom the work was done: **Provided, however,** That nothing herein contained shall be so construed as to prevent any oil or gas company or person having a proper permit or franchise from transporting oil or gasoline along any of the public highways of this State, nor to give such company a franchise without paying to the landowners through whose lands such road passes the usual and customary compensation paid or to be paid to the landowners for such right of way. Any grant or franchise when made shall be construed to give to such company or person only the right to use the easement in such public road.

A violation of any provision of this section shall be a misdemeanor, and the person or corporation violating the same shall, upon conviction thereof, be fined not less than twenty-five nor more than one hundred dollars for each offense.

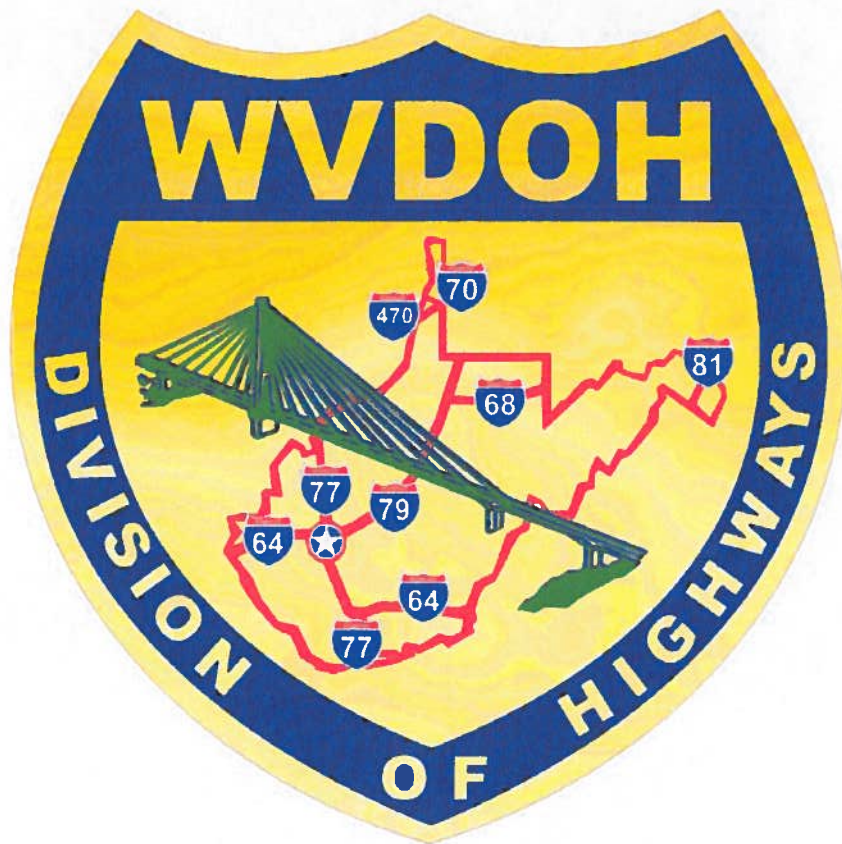
### **§17-16-9. Private driveways or approaches to roads; obstruction of ditches.**

The owner or tenant of land fronting on any state road shall construct and keep in repair all approaches or driveways to and from the same, under the direction of the state road commission, and, likewise, the owner or tenant of land fronting on any county-district road shall construct and keep in repair approaches or driveways to and from the same, under the direction of the county road engineer, and it shall be unlawful for such owner or tenant to fill up any ditch, or place any material of any kind or character in any ditch, so as in any manner to obstruct or interfere with the purposes for which it was made.

## SUPPLEMENTARY CONDITIONS

1. The person, firm or corporation to whom a permit is issued agrees to hold the State of West Virginia and DIVISION harmless on account of any damages to persons or property which may arise during the process of the work authorized by this permit or by reason thereof.
2. Applications for permission to perform work within highway rights of way shall be made on DIVISION'S standard permit form and shall be signed by the authorized representative of the person, firm or corporation applying.
3. The APPLICANT shall give detailed information concerning the work to be performed and the application must include a sketch sufficient to show the nature of the work performed.
4. APPLICANT, his agents, successor, heirs or assigns, contractors or any other person, firm or corporation working under APPLICANT'S real or apparent authority, shall perform the work in a manner satisfactory to DIVISION. Damage to the road resulting at any time from work authorized under this permit shall be repaired by APPLICANT. Unsatisfactory repairs may be corrected by DIVISION or its authorized agent and the cost thereof paid by APPLICANT.
5. DIVISION assumes no liability for damage to the proposed work by reason of construction or maintenance work on the road.
6. This permit is granted subject to removal of the authorized installation by APPLICANT at no cost to DIVISION when required for improvement of the road, and subject to all regulations now or hereafter adopted by DIVISION.
7. Utility installation shall be in accordance with the current manual, "Accommodation of Utilities on Highway Right of Way".
8. Driveways shall be in accordance with the current manual, "Rules and Regulations for Constructing Driveways on State Highway Rights-of-Way."
9. DIVISION reserves the right to cancel this permit at any time, should APPLICANT fail to comply with the terms and conditions under which it is granted.
10. This permit is granted only insofar as the DIVISION has a right to do so.

**MANUAL ON  
RULES AND REGULATIONS  
FOR  
CONSTRUCTING DRIVEWAYS  
ON STATE HIGHWAY  
RIGHTS-OF-WAY**



**West Virginia Department of Transportation  
DIVISION OF HIGHWAYS**

**May 2004**



THE WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS  
CHARLESTON, WEST VIRGINIA

ABSTRACT FROM THE RECORDS  
OF THE COMMISSIONER'S ORDERS  
DATED

May 21, 2004

Distribution:

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DR  
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CL  
OM  
DM  
DR  
FHWA

The Commissioner, upon recommendation of the Director, Traffic Engineering Division, and the concurrence of the Deputy State Highway Engineer – Development, hereby **ORDERS** the **ADOPTION** of the **MANUAL ON RULES AND REGULATIONS FOR CONSTRUCTING DRIVEWAYS ON STATE HIGHWAY RIGHTS-OF-WAY** dated May 2004, as the official Manual of the West Virginia Department of Transportation, Division of Highways. This is in compliance with the code of West Virginia, 1931, as amended, Chapter 17, Article 2A, Section 8; Article 2A, Section 12; and Article 4, Sections 47 through 53

Entered this 21st day of May, 2004



Fred VanKirk, P.E.  
Secretary/Highways Commissioner

Districts:  
All

STATE OF WEST VIRGINIA  
WEST VIRGINIA DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS, to wit:

I, Nancy L. Samples of the Division of Highways, do hereby certify that the foregoing is a true abstract from the Orders of the West Virginia Commissioner of Highways entered of record on the 21<sup>st</sup> day of May, 2004.

Given under my hand and seal of the Division of Highways the 21<sup>st</sup> day of May, 2004.



Division of Highways



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## **1. INTRODUCTION**

The guidelines contained in this manual are designed to:

1. Afford maximum protection to the traveling public.
2. Ensure a uniform system of construction on state highway rights-of-way.
3. Afford easy, safe ingress and egress to roadside establishments adjacent to the state's highways.

These guidelines are based on the experience of the West Virginia Division of Highways (DOH) and recommendations of the American Association of State Highway and Transportation Officials (AASHTO) and the Institute of Transportation Engineers (ITE).

## 2. OBJECTIVES

The safety and efficiency of a highway that does not have full control of access depends to a large extent on the amount and type of roadside interference with the movement of traffic. Vehicles entering, leaving, crossing, or standing near the roadway cause most of the roadside interference. Uncontrolled and/or indiscriminate access to the highway from roadside establishments seriously reduces the capacity of the highway and creates unsafe conditions.

These rules and regulations for constructing entrances to highways have been developed to provide for the orderly and safe movement of traffic into and out of private properties adjacent to the highway, including residential, commercial, and industrial properties. They set forth, in broad terms, reasonable restrictions on the owners of private property.

The specifications and figures contained herein are guides to the proper design of driveways. Critical minimum and maximum dimensions and general design features are shown; however, the multiplicity of possible situations will require an individual design for each situation. All designs must have the final approval of the DOH.

Instances arise wherein it is necessary to redesign and/or reconstruct a driveway to an existing roadside establishment or residence. Examples are:

1. The owner desires to renovate the property.
2. The DOH or other governmental agency requires changes to be made in the approaches due to highway construction, maintenance, or other similar work.

In such cases, strict adherence to these guidelines may not be practical. If necessary, a plan deviating from these guidelines may be approved. Such situations are discussed in Section 9.

### 3. LEGAL PROVISIONS

The Commissioner of Highways is charged by law with exercising “general supervision over the state road program and the construction, reconstruction, repair, and maintenance of state roads and highways.”

Specific laws contained in the Road and Motor Vehicle Laws of West Virginia (hereinafter referred to as “the Code”) provide authority for granting permission to enter upon or use the state highway for the purpose of constructing or reconstructing driveway approaches as follows:

1. **Chapter 17, Article 2A, Section 12**, pertains to promulgating and enforcing reasonable rules and regulations relating to setback lines, islands, curb separations, entrance approaches, walks, and parking.
2. **Chapter 17, Article 4, Section 47-52 (inclusive)**, pertains to the location, design, and construction of access facilities to state highways from and to real property used or to be used for commercial, industrial, or mercantile purposes or from and to real property that is subdivided into lots.
3. **Chapter 17, Article 16, Section 6**, requires that a permit be obtained from the DOH for any work performed on state highway rights-of-way, including construction or reconstruction of any other driveway approaches not covered in Chapter 17, Article 4, Sections 47-52, cited above.

These sections of the Code are contained in Appendix A. Applicants should examine and consent to these laws.

**4. APPLICABLE RULES AND REGULATIONS ADOPTED BY THE  
WEST VIRGINIA DIVISION OF HIGHWAYS**

It is the policy of the DOH to permit, except on controlled access highways, access to state highways from all property abutting the highway right-of-way. The following conditions must be met for approval:

1. Provide reasonably efficient, rapid and safe movement of traffic.
2. Ensure appropriate public use of the highway.
3. Ensure proper drainage, maintenance, and repair.
4. Hold the state harmless and absorb all costs, liabilities, and damages that may occur as a result of work performed under an approved permit.
5. Abide by all laws, rules, regulations, and construction specifications pertaining to such work.

Administrative regulations promulgated by the Commissioner of Highways pertinent to the development of driveway approaches to property are contained in Appendix B. Sections of the West Virginia Code relating to subdivisions are contained in Appendix A. These should be reviewed and understood by the applicant.

## **5. INSTRUCTIONS FOR SECURING A DRIVEWAY PERMIT**

Any applicant desiring to construct or reconstruct one or more driveways connecting with any state highway shall apply for a permit for such driveway(s) to the Office of the District Engineer with jurisdiction over the county where the property is located.

Application forms can be secured from DOH District Headquarters offices (listed in Appendix D), District Area Offices, County Maintenance Headquarters, or from the Director of the Maintenance Division in Charleston.

Five copies of the application form, with required drawings and/or plans attached, shall be submitted to the appropriate District Engineer. The proposed design will be reviewed for compliance and, if satisfactory, the application will be approved. One executed copy of the permit will be returned to the applicant.

If the design or location is not satisfactory, the applicant will be notified in writing of the objection(s). If agreement cannot be reached, the applicant has the right to a hearing.

Construction of a driveway which involves establishing a new railroad grade crossing or upgrading of an existing crossing will require that the applicant have an appropriate agreement with the railroad company involved. It will be necessary for the applicant to supply documentation of the legal status of the crossing, with the entrance permit application.

Applicants for commercial and industrial driveway permits shall submit, when requested, a performance bond in a form acceptable to the DOH. The amount of the bond shall be the next highest thousand dollars above 150% of the cost estimate for all construction within the highway right-of-way. If a bond is submitted, the DOH will be designated as the obligee and the permittee as principal. In instances where a certified check is submitted, the check shall be made payable to the Division of Highways.

## 6. DEFINITION OF TERMS

The definitions which follow are illustrated in Figures 1 - 3, inclusive. See Appendix C on page 53. The illustrations are included only for this purpose.

### 1. **Frontage**

The length along the highway right-of-way line of a single property tract or roadside development area between the edges of the property; distance between (1) and (2) in Figures 1 and 2. Corner property at a highway intersection has a separate frontage along each highway.

### 2. **Frontage Boundary Line (FB line)**

A line, perpendicular to the highway centerline, at each end of the frontage, extending from the right-of-way line to the edge of the through-traffic lane; line (1) - (4) or (2) - (3) in Figures 1 and 2.

### 3. **Traveled Way**

Normally considered as the paved portion of the highway, exclusive of paved shoulders.

### 4. **Buffer Area**

The area along the frontage between the back edge of the shoulder or curb and the right-of-way line and within the frontage boundary line; area (1) - (2) - (3) - (4) in Figures 1 and 2.

### 5. **Driveway Width (W)**

Narrowest width of driveway measured parallel with the edge of traveled way; W in Figures 1 and 2.

### 6. **Driveway Angle (Y)**

The angle of 90° or less between the driveway centerline and the edge of the traveled way; Y in Figures 2 and 3.

**7. Edge Clearance (E)**

The distance measured along the edge of the traveled way, between the frontage boundary line and the tangent projection of the nearest edge of driveway; E in Figures 1 and 2.

**8. Corner Clearance (C)**

At an intersecting street or highway, the dimension measured along the edge of the traveled way between the frontage boundary line opposite the intersection of the two right-of-way lines and the tangent projection of the nearest edge of driveway; C in Figure 3.

**9. Setback (G)**

The lateral distance between the right-of-way line and the roadside business building, gasoline pump curb base, display stand, or other object. The use of this will result in space for vehicles to stop or park between such facilities and the right-of-way line; G in Figure 2.

**10. Outside Radius (R)**

The outside or larger curve radius on the edge of the driveway; R in Figures 1, 2, and 3.

**11. Inside Radius (U)**

The inside or smaller curve radius on the edge of the driveway, used when Y is substantially less than 90°; U in Figures 2 and 3.

**12. Distance Between Double Driveways (D)**

The distance measured along the right-of-way line between the tangent projections of the inside edges of two adjacent driveways to the same frontage; D in Figure 2.

**13. Urban Cross Section**

Generally construed to mean areas within a municipality where the roadway is curbed. May also be applied to curbed locations outside municipalities.

**14. Rural Cross Section**

Areas where the traveled way is not curbed.

**15. Sight Distance**

Sight distance is defined as the distance measured between the height of a driver's eye and the height of an object without horizontal or vertical obstruction to the line of sight. For the purpose of measuring sight distance, the driver's eye height shall be 3.50 feet above the proposed driveway surface and highway pavement surface and the vehicle's height shall be 4.25 feet above the proposed driveway surface and highway pavement surface. The lateral placement of vehicles at the driveway and on the roadway shall be consistent with the operation of the driveway and roadway.

**Stopping Sight Distance:** This is the distance required by a driver traveling at a given speed to stop the vehicle after an object on the roadway becomes visible to the driver. For each direction along the highway, the shortest of the following lengths shall be measured sight distance for that direction along the highway as shown in Figures 4A, 4B, and 4C.

- (a) The maximum length of roadway along which a driver at a driveway location can continuously see another vehicle approaching on the roadway. The driver's eyes at a driveway location shall be 10 feet back from the pavement edge (curb or edge of shoulder).
- (b) The maximum length of the roadway along which a driver on the roadway can continuously see a vehicle which is located in the driver's travel lane and which is intending to make a left turn into a driveway.
- (c) The maximum length of roadway along which a driver of a vehicle intending to make a left turn into a driveway can continuously see vehicles approaching from the opposite direction. This distance is measured from the location of the approaching vehicle to a point on the roadway where the left turning vehicle crosses the path of the approaching vehicle.

**16. Median**

That portion of a highway separating opposing traffic flows and being the distance between the edges of opposing traveled ways.

**17. Acceleration Lane**

A speed-change lane, including full-width auxiliary lane and tapered area, for the purpose of enabling a vehicle entering a roadway to increase its speed to a rate at which it can safely merge with through traffic.

**18. Deceleration Lane**

A speed-change lane, including full-width auxiliary lane and tapered area, for the purpose of enabling a vehicle leaving a roadway to decrease its speed to a rate at which it can safely diverge from through traffic.

**19. Right-of-Way**

A general term denoting land, property, or an interest therein, usually in a strip, acquired for or devoted to construction, drainage, operation, and maintenance of the roadway.

**20. Residential Driveway**

One providing access to a single-family residence, a duplex, or an apartment building having four or fewer units.

**21. Commercial Driveway**

One providing access to an office, retail, or institutional building, or an apartment building having five or more units.

**22. Industrial Driveway**

One directly serving a substantial number of truck movements to and from loading docks of an industrial or institutional facility, warehouse, or truck terminal. A centralized retail development, such as a community or regional shopping center, may have one or more driveways specially designed, signed, and located to provide access for trucks. These are classified as industrial driveways. Administrative or employee parking lots at industrial or institutional sites are considered as commercial driveways.

**23. Farm-Field Entrance**

One providing access to a field used for agricultural purposes.

**24. Temporary Driveway**

One used for a specific purpose for a limited period of time. Such driveways must conform to the standards and meet the practices contained in this manual. Temporary driveways must be removed after a specified time and the land restored to its original condition.

**25. Island**

An island is a defined area between traffic lanes for control of vehicle movements. Islands also provide an area for pedestrian refuge and traffic control devices. It may range from an area delineated by a curb to a pavement area marked by paint.

**26. Channelization**

The separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement marking to facilitate the safe and orderly movements of vehicles and pedestrians.

**27. Roadway**

The portion of a highway, including shoulders, for vehicular use.

## 7. GENERAL REGULATIONS

Any person or corporation desiring to construct a driveway or other access within the state highway right-of-way shall, before beginning any construction, have an approved permit from the DOH, authorizing construction on the right-of-way.

Failure to secure a permit prior to construction shall result in the removal of the driveway and/or denial of access at that location.

All driveways connecting to a state highway shall have a permit. The driveway permit belongs to the owner or lessee of the land and his/her successors and assignees. Any change to the driveway or change in the use of the property served by the driveway shall require a new permit.

The applicant should note that the permit issued by the DOH in no way supersedes local zoning, building, or other permits or ordinances.

Approval of the application shall be subject to the following restrictions:

1. The applicant must represent all parties in interest. The permit shall be signed and issued **only** in the name of the owner(s).
2. Any driveway constructed by the applicant must be for the purpose of securing access to the property and not for the purpose of servicing, parking, or storing vehicles on the highway right-of-way.
3. No revisions or additions shall be made to the driveway(s) or its appurtenances on the right-of-way without the written permission of the DOH. These changes will be made at the applicant's expense.
4. Any changes, additions, repairs, and/or relocation of the driveway(s) or its appurtenances considered necessary because of, or to permit, the relocation, reconstruction, widening, or maintaining of the roadway shall be made by the DOH at its own expense.
5. The person, firm or corporation to whom a permit is issued agrees to hold the state harmless on account of any damages to person or property which may arise during the progress of the work authorized by this permit.
6. The location, design, and construction of the driveway(s) described above shall be in accordance with the guidelines contained herein.