

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

Email: planningdepartment@jeffersoncountywv.org

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

MEMORANDUM

TO: JEFFERSON COUNTY PLANNING COMMISSION
FROM: JENNIFER BROCKMAN, DIRECTOR OF PLANNING
DATE: APRIL 9, 2010
SUBJECT: APRIL 13, 2010 PLANNING COMMISSION MEETING

Please find attached the following documents for consideration at the March 23, 2010 Planning Commission meeting.

Documents provided:

- April 13, 2010 agenda and map.
- Applications of new Planning Commission Members.

1. Election of officers (Vice-President Vacancy).
2. Approval of the minutes from the March 23, 2010 meeting.

Documents provided:

- Draft minutes from the March 23, 2010 meeting with signed staff recommended motions attached.

3. Citizen Communications.
4. A call for postponements.
5. Request by William R. and Elizabeth G. Howard for a variance to have the Planning Commission accept Howard Farm Turner Road as “County Grade” instead of requiring an upgrade of that road for North Hills Subdivision (PC file # 05-22). This property is located on the east side of Route 5 (Shepherd Grade Road) at Howard Farm Road between Cress Creek and Howard Farm Subdivision. This property is designated as Tax District: Shepherdstown, Map: 5, Parcel: 8.3. (Subdivision Regulations Article 8, Section 8.2).

Documents provided:

- Variance application.
- Planning Staff Report.
- Engineering Staff Report.
- Staff recommended motion.

6. Discussion on public input for the Subdivision Regulation Amendments and request for direction.

Documents provided:

- Cover Memo
- Spreadsheet of public comment for Subdivision Regulations.
- Copies of all written comments regarding Subdivision Regulation Amendments.

7. Request for Endorsement of the Elks Run Watershed Water Quality Improvement Project.

Documents provided:

- Proposal for Elks Run Watershed Water Quality Improvement Project.
- Draft letter to Mr. Mickey supporting the project.

8. Blue Ridge Mountain Community Plan.

Documents provided:

- Blue Ridge Mountain Communities Watershed Plan Update Memo.
- Scope of Work for the Blue Ridge Mountain Communities Area Watershed Plan.
- Letter regarding the Blue Ridge Mountain Watershed Citizen's Committee.

9. Director's Report.

- Activity Report.

Documents provided:

- Staff Schedule.

- Pre-Proposal Conference Memos.

Documents provided:

- Copies of all PPC memos that have been mailed since the March 23, 2010 meeting.
 - Reports Generated:
 - WV Department of Environmental Protection- subdivisions approved within the last year (Annual Report for Chesapeake Bay)
 - Jefferson County Public Service District- status of subdivisions which they have committed to serve (Report produced every six months as requested)
 - WV Department of Highways access permits concerns.
 - Status of Land Development Fees
 - County Commission Workshop to discuss fees tentatively scheduled for April 22, 2010 at 1:30 PM.
 - Discussion Point: The EDA appeared before the CC to request that their land development fees be waived for a project related to a minor subdivision of land that is owned by the EDA. At my recommendation, the original request was that the County Commission waive all land development and building fees for any property owned by the County. County Commission requested that this request be included in the workshop to discuss land development fees.
 - Status of Zoning Map Update.

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

Documents provided:

- Letter from Mr. Maxey requesting reports and updates from legal
- Order of Recusal for James Gibson case.
 - Amendment to Planning Commission Bylaws.

Documents provided:

- Bylaws with proposed amendment

11. County Commission Liaison Report.

12. Planning Commission Exchange.

13. President's Report.

Documents provided:

- Letter to the County Commission supporting the Water Advisory Committee's water sampling program.
- Letter to Peter Villa confirming funds to go toward the Mountain Water Monitoring System.

14. Actionable Correspondence.

15. Non-Actionable Correspondence.

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

For your convenience and organization, a binder with tabs will be provided to you at the meeting on Tuesday, March 23, 2010.

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
April 13, 2010

PUBLIC MEETING PROCEDURE:

The President shall identify the matter before the Planning Commission (PC) and ask for a presentation by the applicant or the applicant's representative followed by staff's presentation and recommendation.

Once the applicant has finished speaking, the President shall ask for public comments. As a member of the public, once you are recognized by the President, please come to the podium, state your name, provide any credentials that you believe are appropriate, and make a brief presentation. If you agree with a previous speaker, you may simply say so.

The President may limit the presentation time of speakers.

Once the public comments are completed, the applicant may respond to the public comments.

PC members may ask questions at any time.

A copy of any document or exhibit used by a speaker in his or her address to the PC must be left with the PC and will become part of the official public file on the matter at hand. The applicant or a representative of the applicant may have the opportunity to view the document or material.

Once all speakers have finished, the PC will discuss and then vote on a motion 1) to approve, disapprove, or impose conditions on the application to comply with the Subdivision Ordinance if the application is a final plat; or 2) to approve, disapprove, or approve with conditions a variance request; or 3) to accept or not accept a Community Impact Statement (CIS). The Community Impact Statement is an informal step in the subdivision process and an applicant may proceed with the subdivision proposal whether or not the Planning Commission accepts the CIS.

Public hearings are located in the Charles Town Library meeting room at 200 East Washington Street, at the side entrance on Samuel Street at 7:00 PM. There will be a Welcoming and Informational Session for our new Planning Commission members from 6:30 PM until 7:00 PM.

1. Election of officers (Vice-President vacancy).
2. Approval of the minutes from the March 23, 2010 meeting.
3. Citizen Communications.
4. A call for postponements.
5. Request by William R. and Elizabeth G. Howard for a variance to have the Planning Commission accept Howard Farm Turner Road as "County Grade" instead of requiring an upgrade of that road for North Hills Subdivision (PC file # 05-22). This property is located on the east side of Route 5 (Shepherd Grade Road) at Howard Farm Road between Cress Creek and Howard Farm Subdivision. This property is designated as Tax District: Shepherdstown, Map: 5, Parcel: 8.3. (Subdivision Regulations Article 8, Section 8.2).
6. Discussion on public input for the Subdivision Regulation Amendments and request for direction.
7. Request for Endorsement of the Elks Run Watershed Water Quality Improvement Project.
8. Blue Ridge Mountain Community Plan.
9. Director's Report.
 - Activity Report.
 - Pre-Proposal Conference Memos.

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
APRIL 13, 2010
PAGE 2 OF 2

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10. Reports from Legal Counsel and legal advice to PC.
- Amendment to Planning Commission Bylaws.
11. County Commission Liaison Report.
12. Planning Commission Exchange.
13. President's Report.
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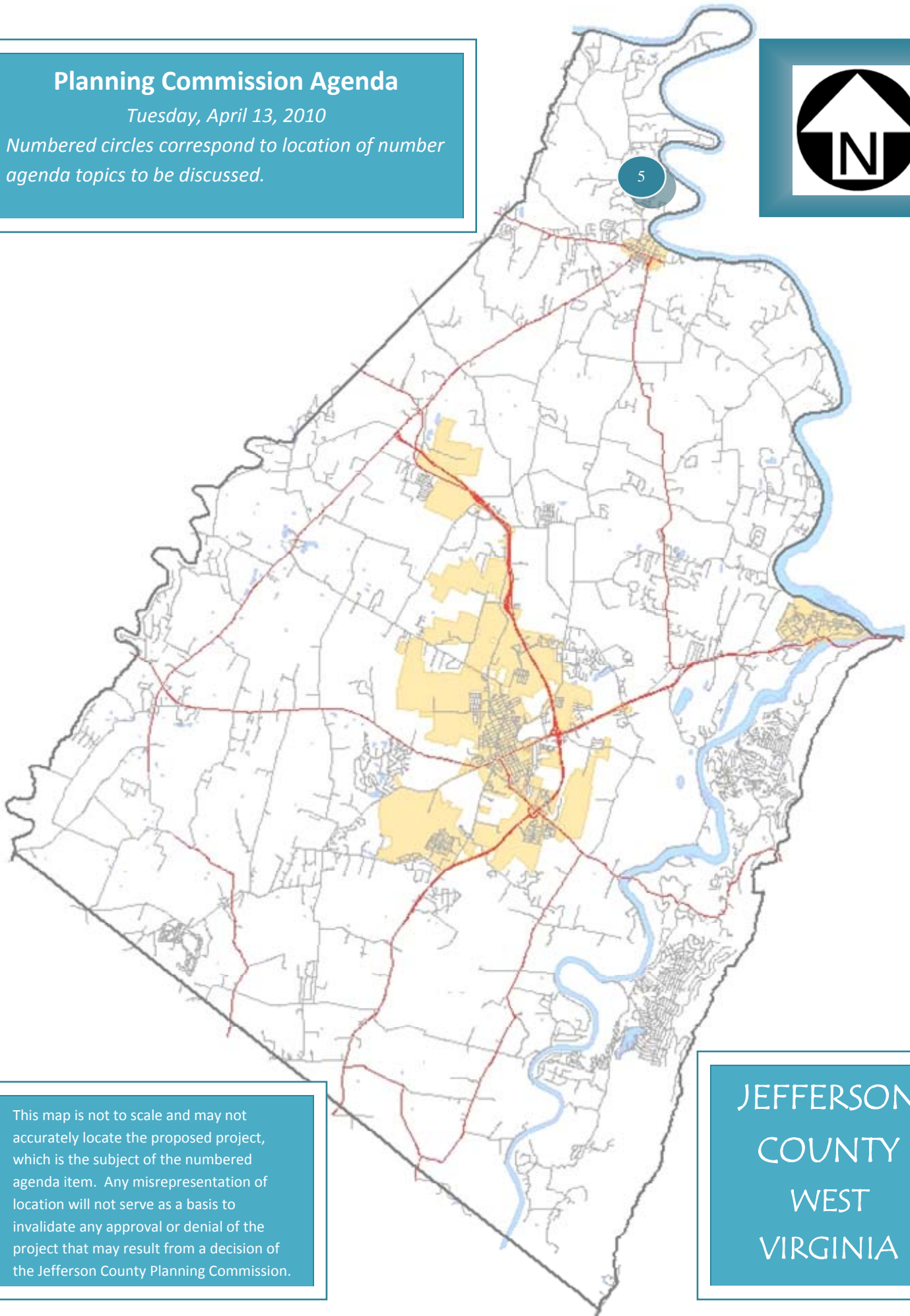
The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address is planningdepartment@jeffersoncountywv.org and our website is www.jeffersoncountywv.org.

Minutes and video recordings of past meetings and the Comprehensive Plan can be found on our website. The office has a file on each project as well as aerial photos of the county. Minutes and audio recordings of past meetings, Subdivision Regulations, Zoning Ordinance and the Comprehensive Plan are available for review in our office.

Planning Commission Agenda

Tuesday, April 13, 2010

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

Daniel Hayes, P.E.

96 Canal Way
Shepherdstown, WV 25443
(304) 279-6288

Objective: _____

A position on the Jefferson County Planning Commission, providing an opportunity to make a strong contribution to county and community leadership.

Skill Profile: _____

I have an extensive site civil engineering background in residential, commercial, industrial, military and governmental development. I have performed design work for design-build and design-bid-build projects.

I have a solid design background in site design, utility design, roadway design, stormwater management and erosion and sediment control.

I have a strong construction background working on Interstate and local highways, bridges and sewer treatment plants.

I served on the Planning Commission of Stephenville, TX in 1995.

I have addressed various County, City and Town Planning Commissions to acquire project and variance approval.

Professional Experience / Relevant Employment History:

2007–pres	URS Corporation	Gaithersburg, MD
	Principal Civil Engineer/Project Manager	
2005–2007	Huntley, Nyce and Associates, Ltd.	Martinsburg, WV
	Director of Engineering/Project Manager	
2004–2005	Bowman Consulting Group, Ltd.	Winchester, VA
	Project Engineer – Land Development	
1999–2004	Jones & Boyd, Inc.	Dallas, TX
	Project Engineer – Land Development	
1999	Balfour Beatty Construction.	Mesquite, TX
	Field Engineer / Office Engineer	
1997–1999	Martin K. Eby Construction Co.	Bedford, TX
	Field Engineer / Office Engineer	
1993	U.S. House of Representatives	Washington, DC
	Congressional Intern	

Professional Registration: _____

PE - West Virginia , Maryland, Virginia, Texas, Kansas

Education: _____

1993 B.S. Agricultural Engineering - Virginia Tech

William Kelly Baty
4704 Kabletown Road, Charles Town, WV 25414
Home : 304 .725.3748; Cell: 571. 265.2607
Daytime Number : 703.771.5390
e-mail: kbaty@frontiernet.net

Qualifications

Strategic planning, completion, and presentation of critical energy and environmental information and briefings to community, NGOs, US Congress, and other audiences to build awareness and coalitions. Attend briefings on Capitol Hill with Hill Staff, Federal Agency Staff, and , Science Symposia to gather latest climate change findings for dissemination to County Departments, Advisory Committees, and to the County Board of Supervisors. Web site monitoring, design, and blogging for current climate change research results and dialogue.

Employment History

- Sustainable Energy and Environmental Solutions (SEES)/Director; Present.
Energy and environmental consortium www.kellybaty.com.

Building Coalitions of private industry, government, and NGOs on federal and state government legislation and funding opportunities to reduce green house gas emissions and other pollutants through alternative and sustainable energy and environmental strategies.

- Loudoun County, Virginia, Department of Building and Development.
Hydrogeologist / Gov. Specialist IV; 2000 to Present.
Scientific and government relations expertise.

Providing technical, business, and project management expertise for intradepartmental projects and studies, and government relations liaison to federal government. Upgraded and revised County standards and procedures to legally-defensible level of expertise. Established the Department's Wetlands Inventory and Mapping Project (WetIMP), the Strategy for Watershed Management Solutions (SWMS), the Water Resources Monitoring Program (WRMP), and the Comprehensive Watershed Management Plan (CWMP). Management and implementation of various aspects of the aforementioned environmental initiatives for the County General Plan Policies. Skilled coalition and alliance builder, creating and facilitating teams of county government departments, federal government agencies, local and state government agencies, and public interest groups. Working to establish County Energy and Environmental Policies and Procedures. Successful funding and partnership efforts with U.S. Congressional Committees and Executive Branch Agencies in conducting environmental initiatives, offsetting general county tax revenue. www.loudoun.gov/watershed.

- Contract Consultant-Senior Scientist; Memphis, TN; 1996 to 2000.
Environmental and hydrogeologic consulting to industry and government.

Provided extensive contract consulting services for federal government environmental investigations at Superfund (CERCLA), RCRA, and other hazardous waste sites across the country. Worked to expedite languishing projects by providing technical solutions to remediate substantial difficulties field operations. Efforts resulted in substantial project time and material savings.

- IT Corporation; Project and Office Manager/ Senior Scientist; Memphis, TN; 1994 to 1996.
Regional office manager for international environmental consulting firm.

Initiated, staffed, and managed office of engineers and scientists in multi-state region. In less than two years, doubled staff and business opportunities in a highly competitive market. Client and government relations specialty resulted in very high client satisfaction, accommodation, and repeat business opportunities.

- IT Corporation; Professional Geologist; Knoxville, TN; 1990 to 1994
Environmental consulting services.

Extensive technical expertise and professionalism provided multiple clients extraordinary services, resulting in substantial repeat contracts and business opportunities for international environmental consulting firm.

Education

Graduate Level Course Work in Legislative Affairs and Sustainable Resource Policies, George Washington University, Washington, D.C., 2003-2007
MS, Geology; the University of Memphis; Memphis, Tennessee; 1992
BS, Geology; the University of Tennessee at Chattanooga, Tennessee; 1987
(Graduated cum laude / merit scholar)

Continuing Education

Geothermal Energy Structural Controls in Nevada's Great Basin, 2009
Water Conservation Design, 2009
Infrastructure, CIP, & Alternative Transportation, 2009
Geothermal Energy Reservoir Evaluation, 2008
Lobbying, 2007
Global Energy Challenges, 2006
USACE Wetlands Delineation, 2005
Federal Budgetary Policy, 2004-2005
Campaigns, and Political Strategy, 2004
Politics and Public Policy, 2003
Innovative Responses for Sustainable Water Infrastructure Forum, 2003
National Water Resources Policy Dialogue, 2002
Washington Briefing and Government Affairs Committee Strategy Session, 2002
Virginia Water Research Symposium, 2001
Watershed and Safe Drinking Water Management, 2000
Statistical Methods in Business and Economics, 1999
Organic Chemistry and Laboratory, 1998
Microbiology and Laboratory, 1997
Hydrocarbon Mitigation and Remediation, 1995-1996
Groundwater Pollution and Hydrology, The Princeton Course, 1994

License/Registration

Registered Professional Geologist in Tennessee, Georgia, and Virginia

Recent Publications

Baty, W.K., and McGranahan, B., Developing a Watershed Strategy for Stakeholders, in Proceedings, Virginia Lakes and Watersheds Association, March 2008.

March 01, 2010

In regards to: Planning Commission Vacancy

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

To the Commissioners of Jefferson County:

I would like to be considered for the vacant position on the Jefferson County Planning Commission. In this position I could provide a valuable service to my community by applying aspects of my career as a civil engineer and my perspective of Jefferson County life to the commission's purpose.

Jefferson County has great appeal to those seeking a quiet life away from work and city. This appeal is what brought my husband and me here almost two years ago. We we're happy to find a perfect home on a small plot on the Blue Ridge. Jefferson County allowed us to start the life we've always wanted by providing us with an affordable home and reasonable taxes. It is a sad occurrence when you cannot afford to live where you work, but is a common dilemma in this area. I understand the need for growth in this area as there are many others in the same situation as I. Jefferson County can provide for those like me and preserve its original residents' way of life.

I grew up in Central Pennsylvania, in a farming community, and realize the importance of preserving the agricultural and environmental aspects of this county. I love the rural life that exists here and believe it should not be endangered while growth occurs in this area. Our mountains, rivers and streams should not suffer the consequences of irresponsible development.

Our need for growth should not endanger the preservation of Jefferson County's heritage, history, and environmental well being. Currently the economy is in a slowing state and it is important to use this time to perfect ordinances and regulations that preserve those things that make Jefferson County a wonderful place. By encouraging responsible growth, the important aspects of this county can be preserved while still maintaining the quality of life that everyone living here deserves.

My perspective could be helpful to the Planning Commission and I would be grateful for the opportunity to serve my community. Thank you for your consideration.

Sincerely,

Morgan L. Eppers
Civil Engineer
810 Mission Rd.
Harpers Ferry, WV 25425
Email: m_eppers@frontier.net
Phone: 304-728-7433
Mobil: 570-295-2262

DRAFT MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
MARCH 23, 2010

The Jefferson County Planning Commission met on Tuesday, March 23, 2010, with the following Commission members present: John Maxey, President; Frances Morgan, Steve Alemar, Gene Taylor, Ellen May, Arnold Dailey, Robert Reynolds, and Thomas Trumble. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jonathon Saunders, Engineer; Stephen Groh, Assistant Prosecuting Attorney; Julie Quodala, Office Manager; and Amy Puetz, Office Assistant.

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

1. **Approval of minutes for March 9, 2010 meeting.** Mr. Taylor moved to approve the minutes of March 9, 2010. Mr. Alemar seconded the motion which carried 6 for and 2 abstentions (Mr. Dailey and Mr. Reynolds).
2. **Citizen Communications.** None.
3. **A call for postponements.** None.

Mr. Maxey asked that item #10 be heard before item #4.

10. Overview of HEPMPO Long Range Transportation Plan.

Ms. Lyn Widmyer, County Commission President, gave a presentation on the Hagerstown Eastern Panhandle Metropolitan Planning Organization's (HEPMPO) draft for a safe and efficient multimodal transportation network for the region. Ms. Widmyer notified the Planning Commission of a public meeting held Wednesday, March 31 in the Charles Town Library meeting room at 7 PM to discuss better planning for greenways and bicycle and pedestrian trails.

4. Final Plat Public Hearing for the Kensington Townhome Subdivision (PC file #06-41).

Mr. Rivard read from the staff report and recommended approval. Mr. Saunders read from his staff report and discussed the delay in getting an entrance permit number from the Department of Highways. Mr. Saunders recommended approval with the condition of having the permit number on the plat before recordation of the project.

Mr. Ryan Perks, Engineer for the Kensington Townhome Subdivision, was available for questions.

Mr. Maxey opened the public hearing. There was no public comment. Mr. Maxey closed the public hearing.

Mr. Reynolds moved to approve the Final Plat with the staff recommended motion (attached). Mr. Taylor seconded the motion which carried unanimously.

5. Final Plat Hearing for the Daniels Forest Subdivision (PC file #02-01).

Mr. Rivard read from his staff report and recommended approval. Mr. Saunders read from his staff report and recommended approval.

Mr. Peter Chakmakian, Attorney representing the applicant, was available for questions.

Discussion ensued on issue of phasing.

Mr. Maxey opened the public hearing. There was no public comment. Mr. Maxey closed the public hearing.

Mr. Reynolds moved to approve with staff recommended motion (attached). Mr. Dailey seconded the motion which carried unanimously.

6. Request by Shentel (Shenandoah Mobile Company) for Approval of the Mitigation of the Visual Impact for the Shannondale Telecommunications Tower (PC file #S09-03).

Ms. May recused herself on grounds that her residence is in the area being mitigated. Ms. May left the room at 7:30 PM.

Mr. Rivard read from the staff report and recommended approval with condition of providing a 15' buffer around the perimeter between the fencing and the edge of the leased area, or just outside the leased area, for the purpose of reserving existing trees or to plant trees if existing trees are cleared. Mr. Saunders read from his staff report and deferred to the Zoning Administrator.

Lynn Koerner, consultant for Shentel, was available for questions. Discussion ensued on maximum height of tower and how the height affects the addition of other carriers.

Mr. Maxey opened the public hearing. Ms. Sandra Stokes, area resident, spoke in support of the project. There were no further public comments. Mr. Maxey closed the public hearing.

Mr. Reynolds moved approval of mitigation with staff recommendation of a 15' buffer. Mr. Taylor seconded the motion which carried 7 for and 1 abstention (Ms. May).

7. Discussion and vote policy to have Site Plans come before the Planning Commission.

Ms. Brockman presented the Planning Commission with a draft redline revision to the departmental Site Plan policy allowing minor site plans to be approved at staff level.

Mr. Reynolds moved approval of the revised policy for the minor site plan process. Ms. May seconded the motion which carried 7 for and 1 opposed (Mr. Trumble).

- 8. Request for Planning Commission Letter of Support for funding for the Water Advisory Committee's Stream Water Monitoring Project.** Mr. Roger Ethier, Chairman of the Water Advisory Committee in Jefferson County, approached the Planning Commission and described the Stream Water Monitoring Project. Mr. Ethier requested the Planning Commission's endorsement for this project. Mr. Maxey moved resolution that the Jefferson County Planning Commission supports the Water Advisory Committee's request for funding for the Stream Water Monitoring Program and that the resolution be communicated to the County Commission. Ms. May seconded the motion. Discussion ensued. Mr. Maxey and Ms. May rescinded the motion. Mr. Reynolds moved to direct Mr. Maxey, President, to express support of the Stream Water Monitoring Project in the form most feasible. Mr. Trumble seconded the motion which carried unanimously.

Mr. Maxey called for a break at 8:13 PM to allow staff to change the CD. Mr. Maxey called the meeting back to session at 8:17 PM.

- 9. Blue Ridge Mountain Community Plan's Discussion and vote on Citizen's Committee Members.** Letters of intent and names of applicants to the Citizen's Committee were provided to the Planning Commission before the meeting. Mr. Maxey passed out Voter's Registration information including proportional representation of the Citizen's Committee based on Voter Registration. Mr. Maxey moved to have the Planning Commission adopt the proportional representation for appointment of members to the Citizen's Advisory Committee. Ms. May seconded the motion. Discussion ensued on whether a mission statement had been created for the committee and the possibility of accepting all applications. Ms. Morgan moved to postpone further consideration of the rules relating to the composition of the committee and the size of the committee until a mission statement is drafted based upon the terms of the grant. Mr. Reynolds seconded the motion. Discussion ensued on time frames and deadlines in regards to the grant. Ms. Morgan and Mr. Reynolds rescinded the motion to postpone consideration. Mr. Maxey rescinded original motion to adopt the proportional representation for appointment of committee members. Discussion continued. Ms. Brockman also presented concerns of the lack of response to the Request for Proposals (RFP), revising it for clarity, and extending the deadline until March 29, 2010. Mr. Maxey moved to accept all 23 applicants for the Citizen's Committee. Mr. Alemar seconded the motion which carried unanimously. Mr. Maxey appointed a sub-committee consisting of himself, Ms. Morgan, and Mr. Trumble to meet Tuesday March 30, 2010 to review any RFP applications received. Ms. Morgan directed staff to provide a draft mission statement at that meeting.

Mr. Maxey requested to hear item # 12 before item # 11. There was unanimous consent.

- 12. Reports from Legal Counsel and Legal Advice to Planning Commission.** Mr. Ralph Lorenzetti, Prosecuting Attorney, requested Executive Session to discuss legal representation. Mr. Reynolds moved to go into Executive Session. Mr. Taylor seconded the motion which carried unanimously.

Executive Session began at 8:51 PM. Mr. Reynolds moved to come out of Executive Session at 9:50 PM. Ms. Morgan seconded the motion which carried unanimously.

Mr. Groh presented the Planning Commission with an amendment to the bylaws to allow County Commissioners serving on the Planning Commission to recuse themselves from voting on any item that may also come before the County Commission. Mr. Groh agreed to provide the bylaws with the included amendment to the Planning Commissioners. There was unanimous consent to discuss and adopt this item at the next Planning Commission meeting.

11. Director's Report.

- **Activity Report.** A schedule of staff events for the two weeks prior to the meeting were provided in the agenda packets.
- **County Commission Actions.**
 - Ms. Brockman provided the Planning Commission with a revised budget approved by the County Commission.
 - Ms. Brockman informed the Planning Commission of the approval of a new copier.
 - Ms. Brockman relayed that appointment of Planning Commission vacancies, the fee schedule, and the Annual Report would all be discussed at the next County Commission meeting held March 25, 2010.
- **Status of Subdivision Regulation Amendments and Outreach Efforts.**

Ms. Brockman handed out a schedule detailing the dates and times for public outreach meetings regarding the Subdivision Regulation Amendments. She requested that a Planning Commissioner be present for each.

13. County Commission Liaison Report. Ms. Morgan stated the County Commission is continuing to work on budget matters.

14. Planning Commission Exchange.

15. President's Report. Mr. Maxey requested that Mr. Groh review Senate Bill 595 and provide the Planning Commission with a briefing on that bill.

16. Actionable Correspondence. None.

17. Non-Actionable Correspondence. None.

Mr. Alemar moved to adjourn at 10:12 PM. Mr. Taylor seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CD #____. These minutes were prepared by Amy Puetz, Office Assistant.

**Ed A Motion Recommending Approval of a
Final Plat for Kensington Subdivision
March 23, 2010**

Whereas, the following facts relate to the processing of a Ken Lowe Management application known as Kensington Subdivision (PC File(s) #06-41):

1. Kensington Subdivision is proposed to include 36 townhome lots on 6.18 acres;
2. The Community Impact Statement for the Kensington Subdivision, approved on April 24, 2007, is slated to expire on April 5, 2010 in accordance with the provisions of the Jefferson County Subdivision Ordinance, effective July 18, 1979, as amended (1979 Subdivision Ordinance) Article 6, Section 6.3;
3. The requirements of aforementioned expiration is that the project be advanced through the Final Plat Public Hearing;
4. The Kensington Subdivision Preliminary Plat was approved by the Engineering and Planning staff on December 28, 2010;
5. The Kensington Subdivision Final Plat was submitted on February 12, 2010 and approved by Staff on March 17, 2010;
6. Article 6, Section 6.1 of the 1979 Subdivision Ordinance requires the Planning Commission take action regarding approval of a Final Plat within 60 days of submission;
7. The final plat public hearing is scheduled for March 23, 2010; and

Whereas, Ken Lowe Management has requested Planning Commission approval for Kensington Subdivision Final Plat; and

Whereas, the Final Plat complies with the requirements in accordance with the provisions of the Jefferson County Subdivision Ordinance, effective July 18, 1979, as amended; and

Now therefore be it moved, that the Jefferson County Planning Commission approve the Final Plat for Kensington Subdivision (PC File(s) #06-41).

Approved this 23 day of March

By vote of the Jefferson County Planning Commission

By a vote of 8 Yes 0 No



John Maxey, Commission President

**A Motion Recommending Approval of a
Final Plat for Daniels Forest Subdivision
March 23, 2010**

Whereas, the following facts relate to the processing of a Zoltan L. Nagy application known as Daniels Forest Subdivision (PC File(s) #02-01):

1. Daniels Forest Subdivision is proposed to include 24 single family lots on 18.733 acres and a single family residue lot of 83.118;
2. The Community Impact Statement for the Daniels Forest Subdivision, approved on February 26, 2002, is slated to expire on April 6, 2010 in accordance with the provisions of the Jefferson County Subdivision Ordinance, effective July 18, 1979, as amended (1979 Subdivision Ordinance) Article 6, Section 6.3;
3. The requirements of aforementioned expiration is that the project be advanced through the Final Plat Public Hearing;
4. The Daniels Forest Subdivision Preliminary Plat was approved by the Engineering and Planning staff on January 20, 2010;
5. The Daniels Forest Subdivision Final Plat was submitted on February 12, 2010 and approved by Staff on March 19, 2010;
6. Article 6, Section 6.1 of the 1979 Subdivision Ordinance requires the Planning Commission take action regarding approval of a Final Plat within 60 days of submission;
7. The final plat public hearing is scheduled for March 23, 2010; and

Whereas, Zoltan L. Nagy has requested Planning Commission approval for Daniels Forest Subdivision Final Plat; and

Whereas, the Final Plat complies with the requirements in accordance with the provisions of the Jefferson County Subdivision Ordinance, effective July 18, 1979, as amended; and

Now therefore be it moved, that the Jefferson County Planning Commission approve the Final Plat for Daniels Forest Subdivision (PC File(s) #02-01).

Approved this 23 day of March

By vote of the Jefferson County Planning Commission

By a vote of 8 Yes 0 No



John Maxey, Commission President

Please note variances to the Subdivision Ordinance must comply with Article 17 of the Ordinance; and, variances from the Salvage Yard Ordinance must comply with Article 6 of the Ordinance. To justify your variance request, please address the following items:

1. The request is not contrary to the public interest. _____

See Attached

2. A literal enforcement of this ordinance will result in unnecessary hardship. _____

See Attached

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

See Attached

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

See Attached

HOME HILL CORPORATION

By: _____

[Handwritten Signature]
VICE PRESIDENT &
SECRETARY

Signature of Property Owner

[Handwritten Signature]
Signature of Property Owner

For official use only: Amount of fees paid _____

Date of meeting/pubic hearing _____

Official/Administrative body _____

Posting requirements _____

Advertising dates _____

Official Signatures and Seal _____

Effective 6/72 Subdivision Ordinance - 8/94 Salvage Yard Ordinance

Variance/Determination Request
Cress Creek, North Hills Section Bond
Howard Farm/Turner Road Upgrade
Article 8, Section 8.2
February 15, 2010

Brief Description of the Request

Home Hill Corporation and William and Elizabeth Howard are requesting the Commission to uphold the approval determination made by the county engineer, John Laughland, P.E. regarding Howard Farms/Turner Road in 2001, when the Jefferson County Engineering Department and the County Commission released the bond for the Fernbank Subdivision. This determination made allowances for geotechnical data and conditions in the field at that time. The purpose of the request is to allow a variance from any individual standard required in Article 8, Section 8.2 of the Subdivision Ordinance that may not meet the current technical standards and to accept the road as 'County Grade'.

Factual Background

Cress Creek and Howard Farm are two contiguous residential developments north of Shepherdstown on Shepherd Grade Road. A map is attached. The developer of Cress Creek, which also includes a golf course and country club, is Home Hill Corporation (hereinafter "Home Hill"). Cress Creek has been developed in four successive sections beginning in 1988: Meadow Ridge, South Hills, Fernbank and North Hills. The owners/developers of Howard Farm are William and Elizabeth Howard (hereinafter "Howards"). Howard Farm as originally platted in 1992, consisted of 7 lots ranging in size from 3.50 to 8.40 acres and a 93.05 acre residue parcel; the Howards currently retain a 57.79 acre residue parcel. When first developed, Howard Farm subdivision included a gravel road, originally called Turner Lane, built to County standards for a subdivision of its size as platted. The road has been re-named Howard Farm Road.

In order to develop the Fernbank section of Home Hill in the mid-1990s, the Planning Commission required Home Hill to provide either a monumented roadway for Fernbank or a secondary means of egress to Shepherd Grade Road because the number of lots exceeded the limits that allowed a single entrance. The planned final build-out for Fernbank Subdivision was 118 lots. To meet this requirement Home Hill and the Howards entered into an agreement in 1996 (hereinafter "the 1996 Agreement") to allow Howard Farm Road to serve as the second entrance point. The agreement called for the upgrade of the road bed to a paved surface and spelled out the responsibilities of each party for the construction and maintenance of Howard Farm Road and a "connector road" to be built connecting it to the Fernbank Subdivision roads. At that time, the Commission was encouraging the use of joint agreements by developers for road projects. It is believed this reciprocal right of way agreement was the first such agreement to be approved by the Commission. The connectivity provided between these two subdivisions is still one of the only such arrangements in Jefferson County outside of the municipalities.

Under the terms of the agreement, the Howards were responsible for the cost of upgrading Howard Farm Road (still called Turner Lane in the agreement) “[i]n accordance with all rules, regulations, or requirements of the Jefferson County Subdivision Ordinance.” Home Hill was responsible for construction of the connector road to the Fernbank subdivision roads, also in accordance with the ordinance. Home Hill was to pay for “all excavation, grading, drainage, stone base and one-half of the cost of the asphalt paving” for both Howard Farm Road and the connector road; Howards were to pay the remaining one-half cost of the asphalt paving for both. (The cost of improving an existing storm water management pond on Howard Farm was to be shared equally by the parties up to \$15,000).

The construction bond approved by the Planning Commission for the Fernbank Subdivision of Cress Creek incorporated the requirements of the 1996 Agreement. The Howards engaged Cogar Excavating to widen and dress the Howard Farm roadbed. PCI Engineering was engaged to install the paving. Triad Engineering oversaw the project. County Engineer John Laughland inspected the work for the Planning Commission. William Howard was present on site for each of Mr. Laughland’s visits. Mr. Laughland was present on site for the auguring of the roadbed by Triad. Mr. Laughland made allowances in the field for several site features, including storm water management, preservation of existing walnut trees and an existing three-board horse fence on the property of one of the Howard Farm lot owners which fronts approximately 1,800 feet along the road.

In a Project Inspection Report dated December 1, 1999, Mr. Laughland included the following “findings”:

The road in Howard Farm has been paved (20' plus). Depth varies from 4" to 6". Need copies of geotech reports on subgrade or base coarse and assessment of existing road bed. Need letter from utility as to water & sewer lines. All roads are to grade. Need geotech data. (See attached Exhibit 1)

A Project Inspection Report dated June 29, 2000 by Mr. Laughland showed that he had inspected the road paving and included the following finding.

The top coat paving has been completed. Remaining work consists of signing & ditch corrections along the road and related to the sink hole (?). (See attached Exhibit 2)

On March 6, 2001, Mr. Laughland issued a final inspection report with the finding “OK.” At the bottom of the report he checked the box “Approved as Constructed.” Based on this final report, the County released the construction bond for the Fernbank Subdivision. (See attached Exhibit 3)

In October, 2003, Douglas Kinnet and his wife, the owners of one of the lots in the Howard Farm Subdivision, submitted a minor subdivision application to the Planning Commission to allow them to subdivide their lot as permitted under the revised Howard Farm covenants. Roger Goodwin, who had replaced John Laughland as County Engineer, requested as-built road specifications for Howard Farm Road. This was the first indication to either the Howards or Home Hill that any issues might exist with regard to Howard Farm Road. The Kinnets did not pursue their application at that time.

In 2005, another Howard Farm lot owner, Phillip Musslewhite and his wife, applied to the Planning Commission for a variance to allow them to further subdivide their property. Anticipating that Howard Farm Road would become an issue again, on Oct. 26, 2005, the Howards submitted to the County Engineer an as built certification prepared by Alpha Engineering along with additional Geotech data provided by Triad Engineering.

On October 28, 2005, Roger Goodwin submitted a memo to Paul Raco, then Director of Planning, that Howard Farm Road as built did not meet current county design standards. Mr. Raco notified the Howards of this by memo dated October 31, 2005. The findings of Mr. Goodwin's letter were: (1) the width of the existing right of way meets County standards; (2) approximately 1600 ft. of the 2700 ft. roadway "has a vertical alignment that is less than the minimum allowable grade;" (3) there is "no information with regard to the ditchlines;" and (4) the pavement section of the roadway does not meet County standards and recommends "placing a 1" depth of asphalt wearing course on the existing roadway."

At this time, Home Hill was developing its plans for the final phase of Cress Creek, the North Hills subdivision, consisting of 20 lots adjacent to the Fernbank subdivision. Access to North Hills would be through the Fernbank subdivision roads and would also rely on Howard Farm Road as an alternative exit. The Planning Commission approved the North Hills Community Impact Statement on July 26, 2005. During the planning review process, the issues outlined in Mr. Goodwin's October 28, 2005 memo relating to Howard Farm Road were raised. (In order to avoid complicating Home Hill's application process, Howards asked the Musslewhites to withdraw their variance application, which they did in January, 2007.)

Home Hill reached an agreement with the Planning Commission Staff to include the improvements necessary to bring Howard Farm Road into compliance with county standards in the bond requirements for the North Hills Subdivision. The North Hills final plat was approved in July, 2007, conditioned on a construction bond which included roughly \$55,000 for work necessary to bring Howard Farm Road (designated in the bond estimate as "Turner Lane") into compliance with county requirements as per Mr. Goodwin's October 28, 2005 letter. In August, 2008, Home Hill contracted with Dewberry & Davis, LLC, to prepare "red line" drawings of the improvements which would be required.

All other requirements of Home Hill's bond for the North Hills Subdivision have now been met. The only requirement remaining is the work necessary to bring Howard Farm Road into county requirements as outlined in the October 28, 2005 letter from Roger Goodwin and as shown on the "red line" drawings.

As justification for the request all of the affected parties: Home Hill; the Howards; and the lot owners within the Howard Farms Subdivision believe that the road functionally meets the intent of the Subdivision Ordinance and that strict compliance would cause more problems within the subdivision than it would fix. Attached are photographs showing the existing road. The existing Howard Farm Road is a well established road that is in good condition. There is no deterioration in the road surface. There is no problem with drainage or flooding. The recommended upgrading would diminish the rural character of the road. In particular, it would require the removal of a number of roadside walnut trees and other landscape features. These were features that former County Engineer John Laughland specifically worked with the Howards to preserve when the road was improved during the 1999-2001 construction.

Most importantly, the people who use the road every day – the owners of Howard Farm Subdivision lots – oppose the upgrading. They do not want to see the rural character of the road altered. They do not want the inconvenience that the construction would cause. The owners of one of the lots in Howard Farm, G.T. and Susie Schramm, would be especially inconvenienced. They raise horses on their 8 acre lot and the construction would require the temporary removal and replacement of an 1800 foot long three-board wooden horse fence that runs the length of their frontage on Howard Road. The estimated \$20,000 cost of replacing this fence is not included in the existing bond. It would also cause a significant disruption to their horse operation.

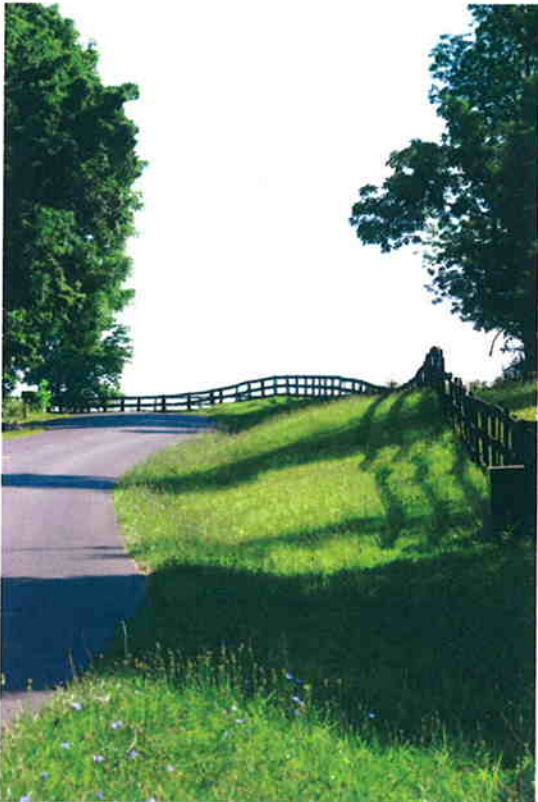
In summary, all of the parties relied on the representations of County Engineer John Laughland that the improvements to Howard Farm Road made during 1999-2001 were in accordance with county standards. Mr. Laughland inspected the work in progress for the Planning Commission. He was on site when the auguring of the roadbed was done by Triad Engineering. In consultation with Bill Howard, he made allowances in the field for several site features, including storm water management, the preservation of existing walnut trees and an existing three board horse fence that fronts along the road for some 1,800 feet. On the March 6, 2001, final inspection report, Mr. Laughland checked the box marked “Approved as Constructed.” As a result of this final inspection report, Home Hill’s construction bond for the Fernbank Subdivision was released.

Accordingly, for these reasons, Home Hill and the Howards request that the Commission grant its request. After several meetings with Mr. Roger Goodwin, P.E., Chief County Engineer, the applicant believes that Mr. Goodwin, P.E., Chief County Engineer supports the request and is in favor of the requested resolution.



Howard Farm Road from Shepherd Grade entrance,
7/12/09 9:30 PM

Back toward Shepherd Grade, 7/12/09 9:28 PM



Fence line from pond, 7/12/09 9:35 PM

Fence line continued, 7/12/09 9:19 PM



Walnut trees at culvert, 7/12/09 9:15 PM



Walnut trees - alternate view, 7/12/09 9:17 PM



Established entrance, 7/12/09 9:18 PM



General road condition, 7/12/09 9:37 PM



THE COUNTY COMMISSION OF JEFFERSON COUNTY
Office of the County Engineer

P.O. Box 338
Charles Town, WV 25414

Phone: 304/728-3228

PROJECT INSPECTION REPORT

Date Received 11/30/99 Requested By: Hank Walter Appointment Set For _____
Project Name EEDBANK at CRESS CREEK Lots 65-66 Building Permit # _____
Inspected By John C. Laughland Date Inspected December 1, 1999
Accompanied By _____

Component(s) Inspected: General

Activities Underway during Inspection: Laydown of base stone in cut-de-sac end of Juniper Drive

Findings: The road in Howard Farm has been paved (20' plus). Depth varies from 4" to 6"
Need ^{copies of} geotech ~~test~~ reports on subgrade or base course and assessment of existing road bed
Need letter from utilities as to acceptability for water & sewer lines
All roads are to grade. Need geotech data

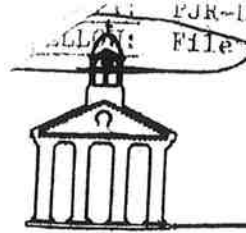
Other Comments or Recommendations:

Action Needed: Immediate Condition For Approval For Bond Release

See above

Approved As Constructed Approved With Conditions Action Required For Approval Approval Not Needed

Inspectors Signature [Signature] Title County Engineer Date _____



THE COUNTY COMMISSION OF JEFFERSON COUNTY

Office of the County Engineer

P.O. Box 338
Charles Town, WV 25414

Phone: 304/728-3228

PROJECT INSPECTION REPORT

Date Received 6/23/00 Requested By: HANK WALTER Appointment Set For _____
Project Name FERNBANK @ CRESS CREEK Building Permit # _____
Inspected By JOHN C. LAUGHLAND Date Inspected JUNE 29, 2000
Accompanied By _____

Component(s) Inspected:
Paving

Activities Underway during Inspection:
House construction

Findings:
The top coat paving has been completed. Remaining work consists of curbing & ditch concretions along the road and related to sink holes.

Other Comments or Recommendations:

Action Needed: Immediate Condition For Approval For Bond Release

Approved As Constructed Approved With Conditions Action Required For Approval Approval Not Needed

Inspectors Signature _____ Title County Engineer Date 6/29/00



THE COUNTY COMMISSION OF JEFFERSON COUNTY

Office of the County Engineer

99-34
File #

P.O. Box 338
Charles Town, WV 25414

Phone: 304/728-3228

PROJECT INSPECTION REPORT

Date Received _____ Requested By: Hank Walters Appointment Set For _____
 Project Name CRESS CREEK Building Permit # _____
 Inspected By John C. Laughland Date Inspected 3/6/01
 Accompanied By _____

Component(s) Inspected:

FINAL

Activities Underway during Inspection:

Findings:

OK

Other Comments or Recommendations:

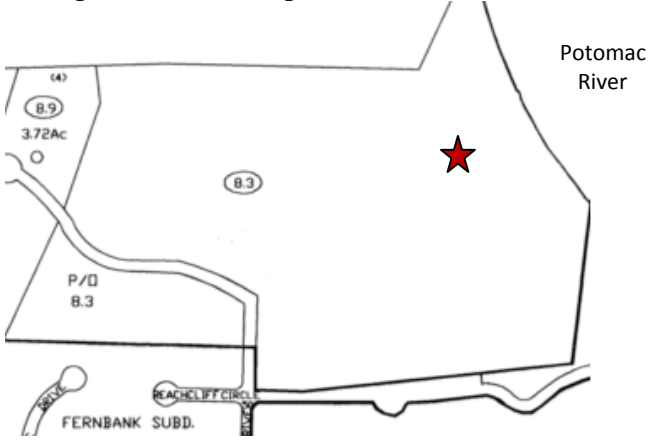
Action Needed: Immediate Condition For Approval For Bond Release

Approved As Constructed Approved With Conditions Action Required For Approval | Approval Not Needed

Inspectors Signature _____ County Engineer _____ 3/6/01 _____
 Title Date

William R. and Elizabeth G. Howard Variance Request

Request by William R. and Elizabeth G. Howard for a variance to have the Planning Commission accept Howard Farm Turner Road as “County Grade” instead of requiring an upgrade of that road for North Hills Subdivision (PC file # 05-22). (Subdivision Regulations Article 8, Section 8.2).

APPLICANT:	William R. and Elizabeth G. Howard
OWNER:	Same as above
DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	Dewberry
PROPERTY LOCATION:	This property is located on the east side of Route 5 (Shepherd Grade Road) at Howard Farm Road between Cress Creek and Howard Farm Subdivision.
LEGAL DESCRIPTION:	District: Shepherdstown; Map: 5; Parcel(s): 8.3 
ZONING DISTRICT:	2002 Zoning Map: Rural
SURROUNDING PROPERTIES:	2002 Zoning Map North: RG South: Rural East: RG West: Rural
LOT AREA:	100 acres (20 acres developed with 80 acres dedicated in a conservation easement)
PROPOSED DENSITY:	21 single family lots & 1 single family residue

William R. and Elizabeth G. Howard Variance Request

PERMIT APPROVALS:	
Health Department Permit	Permit No.: 17,158
Department of Highways	Permit No.: 5-97-0671
APPROVALS:	
Conditional Use Permit <i>PC File #Z04-05</i>	Submitted: 10/08/04 Issued: 04/21/05 Signed: 11/02/06 Expiration date: 10/21/06; extended until 06/21/08
Community Impact Statement (CIS) <i>PC File #05-22</i>	Submitted: 06/16/05 Staff Review Mtg.: 07/01/05 County Engineer Approval: 07/22/05 County Planner Approval: 07/19/05 PC Approval: 07/26/05 Expires on: 07/01/07
Preliminary Plat	Submitted: 02/02/06 Staff Review Mtg.: 02/17/06 County Planner Approval: 11/01/06 County Engineer Approval: 06/26/06
Site Plan	N/A
Final Plat	Submitted: 03/19/07 Legal Advertisement: 04/05/07 County Planner Approval: 04/30/07 County Engineer Approval: 04/30/07 PC Public Hearing: 05/08/07 60-day Provision Ends: 05/16/07
Variance History	12/21/06 - BZA granted an extension of the CUP from 10/21/06 to 06/21/08.
OTHER APPROVALS:	None required.

The request by the applicant is primarily an engineering concern. However, there are planning implications with this request. The applicant is required to increase the width of the road to comply with the 1979 Subdivision Regulations, as amended.

Planning believes this request to be reasonable based on the conditions of the area. Addressing safety and access, there are two points of access to the development, Fernbank Drive and Howard Farms Road. There is no on-street parking in this neighborhood that would impede vehicular traffic. If the road were to be widened, it would impact some large mature walnut trees and a meandering three tier wood horse fence. The loss of the high quality mature trees would be detrimental to the environment and the arched canopy that covers the road.

There has been a movement in planning towards narrower streets and roads. This trend has occurred for a variety of reasons. Narrower roads reduce speeds at which people drive, reduces impervious area and reduces the use of materials to construct roads. With stormwater quality being a large concern of the Chesapeake Bay requirements, adding additional impervious area is not beneficial. Staff recommends approval.

Engineer's Report

Planning Commission Meeting

April 13, 2010

- Agenda item #1. Election of officers (Vice-President vacancy).
- Agenda item #2. Approval of minutes.
- Agenda item #3. Citizen Communications.
- Agenda item #4. A call for postponement.
- Agenda item #5. Request by William R. and Elizabeth G. Howard for a variance to have the Planning Commission accept Howard Farm "Turner Lane" Road as "County Grade" instead of requiring an upgrade of that road for North Hills Subdivision.

Situation: The Howard Farm Road (HFR) is a secondary access for Fernbank and North Hills subdivisions which are phases of Crest Creek. According to the current regulation at the time, Fernbank Subdivision was not able to use a single entrance because it was proposing more than fifty 50 lots which is a requirement as per section 8.2a.2 of the 1979 Jefferson County Subdivision Ordinance. In an agreement between Home Hills Corporation, the developer of the Fernbank Subdivision and the developer of Howard Farm Subdivision, HFR was to be upgraded to county grade standards in conjunction with the site work for the Fernbank Subdivision. Subsequently, the previous county engineer, John Laughland, certified in March of 2001, that the HFR meet county grade standard and released the construction bond.

In 2005, a lot owner in Howard Farm Subdivision submitted a minor subdivision eligibility request. At the request of Paul Raco, Director of Planning, Zoning and Engineering at the time, the county engineer, Roger Goodwin, was to determine if the existing Howard Farm Road met county grade standard as required by section 5.1.a.2.c of the 1979 Jefferson County Subdivision Ordinance. Mr. Goodwin visited the site and requested that an as-built on HFR be submitted demonstrating that the existing roadway met county grade standard. The as-built plan indicated that HRF did not meet County grade road standards as follows:

1. The vertical alignment did not meet the minimum grade of 1.5%.
2. The ditch line did not meet county standards.
3. The pavement section did not meet the county standards.

As a result, the property was not eligible for a minor subdivision.

In July of 2005, a community impact statement was submitted for another phase of the Cress Creek, PC file # 05-22 North Hills Subdivision. Again, this section of Cress Creek is to use the HFR as its secondary access

which is to meet county grade standards. In August of 2008, a redline revision was received for HFR for the improvements needed to bring it to county grade standards. As of today, there is a bond for these road improvements for HFR under the North Hills Subdivision bond.

Findings:

The Howard Farm Subdivision consists of 13 properties according to the Jefferson County tax map and the names of the property owners are attached. The owners of lots in the Howard Farm Subdivision has submitted a letter dated December 12, 2009 opposing these upgrades because it will require removal of picturesque walnut tree, driveway culverts, and inconvenience the property owner during construction.

Also, the previous county engineer has inspected this road on three different occasions and states any discrepancies before finally approving it on March 6, 2001.

During a site visit, the drainage pipe to the existing pond was blocked by brush and a stop sign was missing at the intersection of HFR and Shepherd Grade Road.

Conclusion:

According to the findings above, the HFR property owner do agree with this variance as stated in their letter and the previous county engineer has approved this road. If there were any discrepancies to be address, there is no documentation stating so and if there was, the contractor would have fixed them while all their equipment and machinery was on site. The developer acted in good faith and relied on the county engineer's acceptance as an indication that the roadways meet county standards.

The county engineer recommends approval of this variance contingent that a stop sign be placed at the intersection of HFR and Shepherd Grade Road, and all brush be removed from the road culverts.

Property Owners of Howard Farm SD

PSILLAS KERON E

Map: 5

Parcel: 8

HOWARD WILLIAM R & ELIZABETH G

Map: 5

Parcel: 8.3

AUSTIN MICHAEL G & BONNIE L

Map: 5

Parcel: 8.4

MOUND ANDREW C ET AL

Map: 5

Parcel: 8.5

HOWARD WILLIAM R & ELIZABETH G

Map: 5

Parcel: 8.6

KINNETT DOUGLAS A & KAREN B H

Map: 5

Parcel: 8.7

MUSSELWHITE PHILLIP H & ASHLEY O

Map: 5

Parcel: 8.8

FOSS BRIAN N & PATRICIA H

Map: 5

Parcel: 8.9

SCHRAMM SUSAN B & GEORGE T ET AL

Map: 5

Parcel: 8.10

SCHRAMM GEORGE T & SUSAN B

Map: 5

Parcel: 8.11

HOWARD WILLIAM R & ELIZABETH G

Map: 5

Parcel: 8.12

CHALFANT DIANNE J & PAUL

Map: 5

Parcel: 8.13

KILROY JOHN & LINDA L

Map: 5

Parcel: 8.14

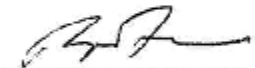
December 12, 2009

Jefferson County Commission
124 East Washington St.
Charles Town, WV 25414

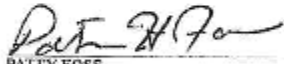
Dear Commissioners:

We are the owners of lots in the Howard Farm Subdivision, and owners of an adjacent lot, who use Howard Farm Road for access to our property. We oppose the proposed upgrading of Howard Farm Road. First, the road is well established and in good condition and does not need upgrading. Second, the proposed upgrading will destroy the rustic character of the road, including the destruction of several picturesque walnut trees. Third, the proposed upgrading will greatly inconvenience those of us whose property will be impacted by the construction.

For these reasons, we support the request of Home Hill Corporation and of Bill and Libby Howard (1) to waive the North Hills bond requirement to upgrade Howard Farm Road and (2) to uphold the approval determination made by the county engineer regarding the road in 2001 releasing the Fernbank bond, which made allowances for geotechnical data and conditions in the field, so that Howard Farm lot owners may exercise their right to subdivide their lots as permitted by the applicable covenants of Howard Farm Subdivision and the county subdivision ordinance.




BRIAN FOSS



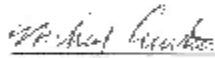
PATTY FOSS

DOLG KINNETT

KAREN KINNETT


G. J. SCHRAMM


N. S. F. SCHEAMTV



MICHAEL AUSTIN



BONNIE AUSTIN



WILLIAM HOWARD



ELIZABETH HOWARD

- Agenda item #6. Request for Endorsement of the Elks Run Watershed Water Quality Improvement Project.
- Agenda item #7. Blue Ridge Mountain Community Plan.
 - Discussion and vote on Citizen's Committee members.
- Agenda item #8. Director's Report.
- Agenda item #9. Reports from Legal Counsel and legal advice to PC.
- Agenda item #10. County Commission Liaison Report.
- Agenda item #11. Planning Commission Exchange.
- Agenda item #12. President's Report.
- Agenda item #13. Actionable Correspondence.
- Agenda item #14. Non-Actionable Correspondence.

**A Motion Recommending Approval of a
Variance for Howard Farm Subdivision
April 13, 2010**

Whereas, The North Hills Subdivision is required to widen Howard Farms Road per Article 8, Section 8.2 of the 1979 Subdivision Ordinance, as amended.

Whereas, The development is located within the Cress Creek and Howard Farm Subdivision northwest of Shepherdstown and is identified as Parcel 8.3 as shown on Tax Map 5, cumulatively consisting of 100 acres; and

Whereas, The applicant is requesting a variance to not widen Howard Farm Road due to site constraints that would require the removal of walnut trees and replacement of 1,800 feet of fence that is in good condition.

Whereas, There are two points of ingress/egress to the North Hills Subdivision that allow for safe access of the development if an emergency situation were to occur.

Whereas, Staff recommends a approval of the requested variance based on the conditions outlined in the staff report attached; and

Now therefore be it moved, that the Jefferson County Planning Commission recommends approval of the request to not widen Howard Farm Road as required in Article 8, Section 8.2 of the 1979 Subdivision Ordinance, as amended.

Recommended approval this 13 day of April 2010
By vote of the Jefferson County Planning Commission
By a vote of _ Yes _ No

John Maxey, Commission President

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

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

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

MEMO

TO: Planning Commission Members
FROM: Jennifer M. Brockman, AICP, Director, Planning and Zoning
DATE: April 13, 2010
RE: Subdivision Regulation Amendment Public Comments

The Planning and Zoning staff hosted the following five public outreach meetings:

- **Friday, March 26, 2010**, 10:00 am – 12:00 noon
2nd Floor Conference Room, Mason Building*
- **Sunday, March 28, 2010**, 11:00 am – 2:00 pm
St. Andrews Mountain Community Center
- **Monday, March 29, 2010**, 6:00 pm – 9:00 pm
War Memorial Building, 2nd Floor
- **Wednesday, March 31, 2010**, 1:30 pm – 3:30 pm
2nd Floor Conference Room, Mason Building
- **Thursday, April 1, 2010**, 6:00 pm – 9:00 pm
Charles Town Library Basement

At each meeting, it was explained that the primary focus of the current amendments were twofold:

- 1) Amendments that correct references to the failed zoning ordinance and allow these regulations to work with the existing approved zoning ordinance; and
- 2) Amendments that are for the purpose of clarifying procedural questions; particularly clarifying the difference between subdivision plats and site plans as well as major vs. minor processes.

Staff clearly stated that they were open to all types of comments and suggestions but that some, particularly if they involved policy decisions, would be postponed until a later set of amendments.

Attached is a spreadsheet summarizing the comments received at the five meetings. The comments are listed by topic, section reference (if known), and a brief description is provided.

Staff has briefly discussed and reviewed the comments and provides Planning Commission with the following categorization of the comments:

“Include now” means that the staff believes that the comment includes information that does not require significant policy direction or significant research and could readily be included within the two primary categories of changes currently under consideration.

“Requires research or policy input” means that the staff thinks that the topic either requires some research before staff would be comfortable making a recommendation or requires a policy discussion with the Planning Commission. This category requires the most feedback from the Planning commission at this time as to whether they should be considered in this set of revisions or should be postponed until future amendments are considered.

“Postpone to future amendments” means that the staff believes the topic requires further public vetting and has a more significant policy implication than is being undertaken at this time.

“Not applicable to Subdivision Regulations” refers to comments that may require amendments to the Zoning Ordinance or are under other jurisdiction.

Also attached are any written comments that we received for your full review.

There are a few other items within the Subdivision Regulations that require further discussion with the Planning Commission at this time. Items that were highlighted in grey with red lettering were areas that staff believed should be revised but required input from the Planning Commission. Staff will try to have a summary of these issues for discussion at Tuesday's meeting as well.

Next steps will be discussed at the April 13, 2010 Planning Commission meeting.

Topic	Sub Reg Section	Brief Description	Staff Recommendation			
			Include now	Requires research or policy input	Postpone to future amendments	Not applicable to Subdivision Regulations
Conservation Easements	20.107	concerned about the need to process a plat for a conservation easement if the entire property is being put in a conservation easement.	check with conservation agencies, should be OK			
Minor Site Plan (MSP) Definition	26.100	Do single family uses need MSP?	appropriate to consider at this time			
Minor Site Plan size	20.203	Will take too long to process a "major" of only 5,000 sq ft.		needs policy input from PC		
Outdoor recreation	General	Define; parking standards? Gravel parking?	appropriate to consider at this time			also needs clarification in zoning ordinance
Subdivision Plat General Review Standards, Natural Resources	20.302.B	Remove wetlands and flood plain listings b/c feds take care of this already.		needs policy input from PC and further research		
Protection of Resources	22.504	Change how slope is calculated or add wording that gives the County Engineer discretion	appropriate to consider at this time			
Subdivision Plat General Review Standards, Natural Resources	20.302.B	Remove PC's ability to make comment @ Concept Plan stage because there are no definable standards for natural resources/protection.		consider quantifiable definition		
Final Plat process	21.114	remove this from the public hearing process		state law does not appear to permit this		
Site capacity calculations	page 11	Remove since there are none	appropriate to consider at this time			
Block	Div. 21.100	topography not conducive to block layout. Restrictiveness of lots per block also not workable		need to research application in rural areas		

Topic	Sub Reg Section	Brief Description	Staff Recommendation			
			Include now	Requires research or policy input	Postpone to future amendments	Not applicable to Subdivision Regulations
SWM Easements	21.402.B	Give cubic feet per second (CFS) for stormwater easements.	appropriate to consider at this time			
Streams definition	22.504.B.3	Change ephemeral to intermittent	appropriate to consider at this time			
Elk Branch/watershed	22.504.B.3	Increased standards for the Elks Run watershed may be excessive.		needs further research/policy input		
Elk Branch/watershed	22.504.B.3	Strengthen buffer restrictions for the Elk Run/Branch watershed areas to 500-1000 ft.		needs further research/policy input		
SWM	General	Include Chesapeake Bay requirements		needs further research - Region 9 developing model SWM regs		
Agency Responses	General	How do you get agencies to respond? What if they don't? Review tied up? Timeframes?		needs further research		
Incomplete subdivisions	General	How to protect current taxpayers from the burden of incomplete subdivisions where the developer cannot afford to finish.	addressed by bonding requirements			
Master Plan	24.107	A concept plan is only good for 2 years. It would not be feasible for a major development to be completed in this timeframe. A master plan/full build out would be more beneficial built slowly over time. Existing water/sewer plants? Self served communities?		may be appropriate to consider at this time but requires policy input -- should relate to non-CUP properties only		
Elks Run	General	Pervious is defined but not used. Use the term to encourage water control measures	See App B Section 4.3 D appears to be addressed			

Topic	Sub Reg Section	Brief Description	Staff Recommendation			
			Include now	Requires research or policy input	Postpone to future amendments	Not applicable to Subdivision Regulations
Resubdivision	20.102.A	Define; process?	appropriate to consider at this time			
Vesting	20.105	separate the terms site plan and preliminary plat		Requires coordination with legal		
Vesting	20.105	Include language that recognizes the vested rights of subdivisions that predate the Sub Regs.		Requires coordination with legal		
Natural Resources are not defined	20.302.B.2	Naturals "areas"			requires significant policy discussion	
Define HOA	General	No definition of HOA. WV uses the term common interest ownership.	appropriate to consider at this time			
Rural Development	20.203	Clarify LID techniques	refer to App B Section 4.3D			
Cul-de-sac	22.206.B	Longer than 800 feet length; define.		appropriate to clarify definition of where cul de sac measurement begins		
Street lighting	22.209	Eliminate requirement for lights at intersections.		requires more research		
Roof drain Discharge Points	22.401.B	Require erosion control; make grading part of ordinance		requires more research		
Erosion	General	Prevention of erosion for Chesapeake Bay Initiative		needs further research - Region 9 developing model SWM regs		

Topic	Sub Reg Section	Brief Description	Staff Recommendation			
			Include now	Requires research or policy input	Postpone to future amendments	Not applicable to Subdivision Regulations
Definition	General	Modulation: remove definition since there are no definable standards.		Not just in definitions - need policy direction form PC		
Zoning ordinance changes	24.109-24.112	Zoning ordinance changes made after the preliminary plat is approved should not be made conditions of approval of the final plat.		needs policy input		
Public Easements	21.402	The County is trying to dictate easements between private parties.		needs more research		
Public Easements	21.402.B	Require storm drainage easements when conveying channel is in excess of 2 cfs during 10-yr storm.	appropriate to consider at this time			
Sideways	22.208	Do not require sidewalks in all non-residential developments.		needs policy input		
Pre-proposal Conference	24.103	Change the scheduling of a PPC from 15-days prior to the 1st & 3rd Wednesday with submittals required 1 week prior.		needs discussion		
Traffic Impact Data	24.119.B.5	Suggest an option under item b. that allows for the ITE Trip Generation Manual to be issued in lieu of corresponding use in the table provided		requires discussion with engineering		
Major Site Plan Concept Plan - Completeness	24.120	The concept plan is intended to be general in nature. Therefore the review time should be reduced to 21 days.		needs policy input		

Topic	Sub Reg Section	Brief Description	Staff Recommendation			
			Include now	Requires research or policy input	Postpone to future amendments	Not applicable to Subdivision Regulations
WVDOH	24.120.D	WVDOH can take months to issue responses and if they do not have a process to generate a "letter" to the planning department to indicate issues. Suggest either removing this requirement or only requiring the applicant to submit proof of submittal to WVDOH of the Concept Plan so to not delay a project by months.		need engineering input and policy discussion -- important to ensure access is available		
Major Site Plan Application - public hearing	24.125	Require the staff to post signs & charge applicant for service		needs policy input		
Amendments	24.200	Suggest adding an option to modify a site plan if there are more significant changes than allowed to be approved by the Zoning Administrator. These changes would come before the planning commission for approval. Add a Section C under 24.201 to allow for Substantial Compliance with Previous Approval <u>WITH</u> material changes such as increased paving (adding a few parking spaces), modification of building location, addition of amenities, etc. The determination of what is material changes is spelled out pretty clearly under Section B, but the determination can be made by the Zoning Administrator and appealed to the planning commission.		needs staff review and possibly policy input		
Site Plan Requirements	App B, 9.2.a.1	Spelling of "soil"	appropriate to consider at this time			
Site Plan Requirements	App. B, 9.2	Is info outlined all applicable to non-residential site plans?		needs clarification		

Topic	Sub Reg Section	Brief Description	Staff Recommendation			
			Include now	Requires research or policy input	Postpone to future amendments	Not applicable to Subdivision Regulations
Road Maintenance		Lack of state follow through on commitment to pave roads in orphan road program				not a subdivision issue

Subdivision Regulations – Text Change Recommendation

Applicant: Barbara Sheff Phone Number: (304) 725-1844

Article: _____ Section: _____

Concern about provision:

22.209 eliminate requirement for lights at intersections
make 22.4001 (B) regarding erosion control
make grading part of ordinances

Recommended change in language:

✓

Subdivision Regulations – Text Change Recommendation

Applicant: WILLIS NOWELL Phone Number: 304 725 2440

Article: 22 Section: 504

Concern about provision:

ought to be included - if for
nothing else for the purpose of
prevention of erosion

Recommended change in language:

✓

Subdivision Regulations – Text Change Recommendation

Applicant: Dennis Whittle Phone Number: 304-728-0889

Article: _____ Section: _____ 567 Howell Rd.

Concern about provision:

I endorse the amendments
and proposed language.

Recommended change in language:

✓

Mr. Russell Roper
Mr. Mark E. Roper
418 S. Samuel Street
Charles Town, WV 25414

March 25, 2010

Ms. Jennifer Brockman, AICP, Director
Department of Planning and Zoning
Jefferson County
P.O. Box 338
Charles Town, WV 25414

Dear Ms. Brockman,

Our family is the original developer of the Cave Quarter Estates Subdivision. This subdivision is located on Old Cave Road, south of Charles Town. Cave Quarter Estates began in the early 1970s and has continued to develop in sections since that time. We have met with you on two occasions in the past six months to discuss the effect of the new subdivision ordinance on the processing of future sections of Cave Quarter Estates. As such, you already have an understanding of our concerns. For your information, we have attached a copy of the original section plan that was approved as a part of an earlier section in PC File 72-29.

We are a small, local developer who also builds the houses within Cave Quarter Estates. Accordingly, we proceed at the pace of the economy without over extending our resources. We would like to continue this type of processing in Cave Quarter Estates, but believe that the new subdivision ordinance discourages this type of processing. Of particular concern is Article 24, Section 24.108 (Section 24.109 of the proposed amendments), which explains the Major Subdivision Concept Plan Direction. In subsection (C) of this provision, the ordinance mandates that the direction and advice given to an applicant is only good for a period of two years.

Although the intent of the provision may be to prevent the prolonged processing of a subdivision, it severely limits the master planning of a community for small, local developers. Through the years, we have resisted the urge to speculate in the market and have chosen to process lots when the market is ready for them. We would like to continue this practice. The new ordinance, however, seems to dictate that a developer be prepared to process all of the lots in a relatively short period of time. Otherwise, the only other way around this would be to process 'concept' plans for the number of lots that we are prepared to complete in this short time frame. This method would appear to be contrary to the goal of master planning a community.

In Cave Quarter Estates' case, there are some distinguishing factors that may help with rewriting this section of the ordinance during the current amendment process. These factors include:

1. The property is located within the Residential Growth Zone. It was also proposed to be located in the Residential Zone in the failed 2008 zoning ordinance;
2. Cave Quarter Estates has its own central sewer and central water system; and,

3. It is one of the only affordable housing projects in Jefferson County. Mass infrastructure construction for lots that won't be quickly absorbed into the market would make it difficult to continue as an affordable housing development.

As developers of Cave Quarter Estates for over 40 years, it is evident that we don't want to market the project to a large developer who can build the project out in a short time period. However, as a small, local developer, we can't afford to continually redesign our project every two years at the direction of the Planning Commission, which continually changes in membership. The concept plan process as written will cause a small developer to continually spend money in redesigning and reprocessing the concept plan.

Accordingly, we would respectfully ask that the Planning Commission modify the current amendments to allow phases of a concept plan to develop without continually going through the concept plan process. This would be especially true for subdivisions that are located in the Residential Growth District, where these types of developments are allowed by right.

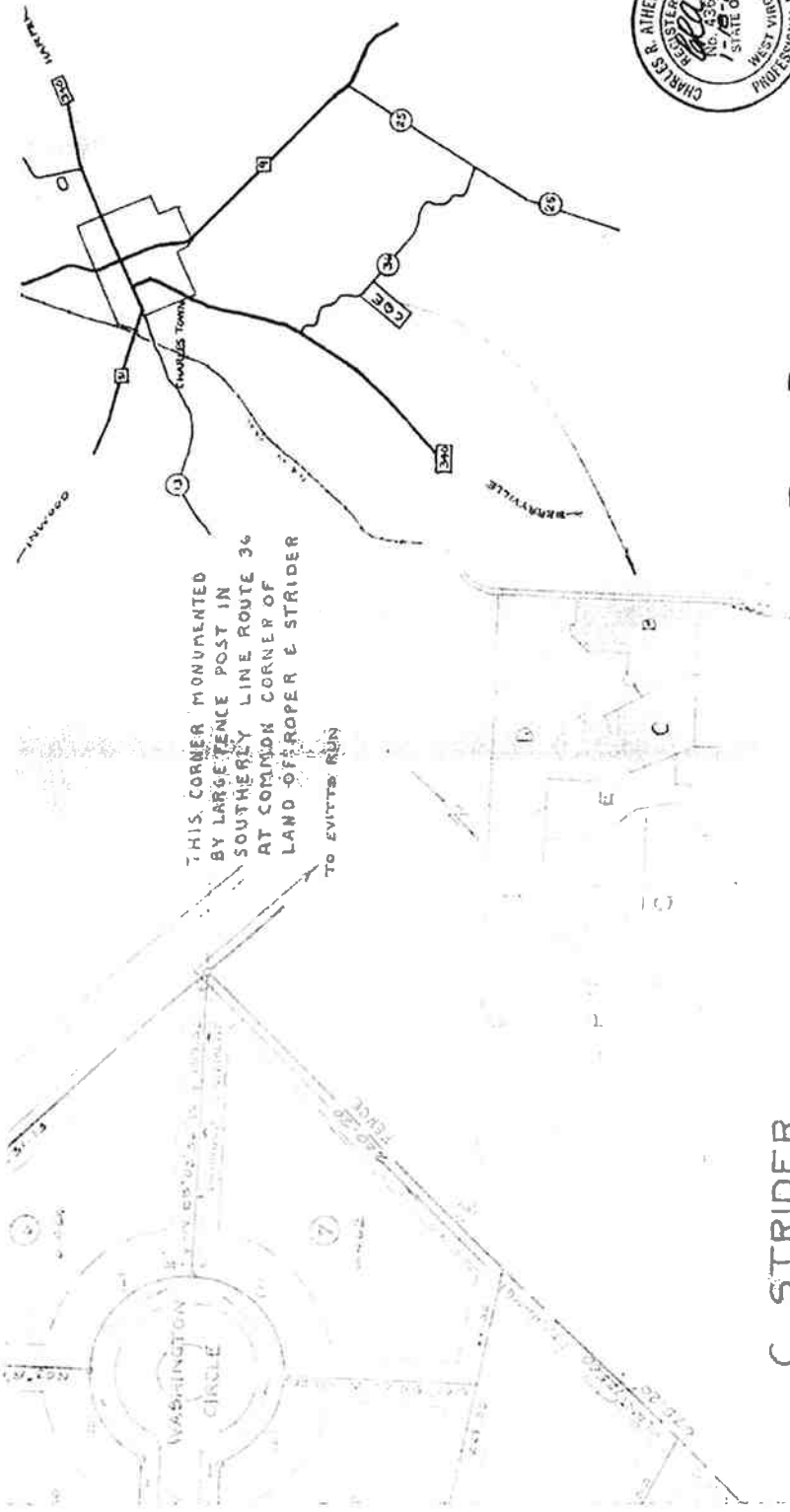
Thank you for taking the time to meet with us in October 2009 and last week. Any help that you can provide will be greatly appreciated.

Sincerely,

A handwritten signature in black ink that reads "Russell B Roper". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Russell Roper

cc: County Commission of Jefferson County
Jefferson County Planning Commission ✓



THIS CORNER MONUMENTED BY LARGE TENCE POST IN SOUTHERLY LINE ROUTE 36 AT COMMON CORNER OF LAND OF ROPER & STRIDER TO EVITT'S RUN

C. STRIDER

HISTORICAL NOTE:
The only point of historical significance within a one mile radius is the "Old Cave". See "Historic Jefferson County" by Millera K. Bushong, Page 49. This development will have no impact on it.

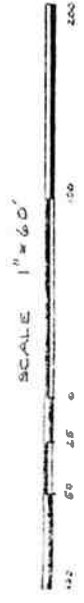


FINAL PLAT

CAVE QUARTER ESTATES

SECTION B
CHARLES TOWN DISTRICT JEFFERSON COUNTY
WEST VIRGINIA

DEVELOPER - R. B. ROPER, R.D. 1, CHARLES TOWN, W.VA.
PLANNER - CHARLES R. ATHERTON
Shepherdstown, W.V.



JEFFERSON COUNTY
PLANNING COMMISSION
1974
FEB 12 RECD

72-29

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From: Humes Barbara [Add to Address Book](#)
To: planningdepartment@jeffersoncountywv.org
Date: Wednesday, April 07, 2010 11:20:05 PM
Subject: Elks Run Zone of Critical Concern

Jennifer Brockman:

At a recent public meeting to review the proposed amendments to the Subdivision Regulations, I spoke about the need to have strong protection for the Elks Run and the Elk Branch surface streams because these bodies of water serve as a source of drinking water for the citizens of Harpers Ferry and Bolivar. I mentioned that the zone of critical concern was 1,000 feet on either side of the Elks Run and 500 feet on either side of Elk Branch, a major tributary of the Elks Run. You asked me for a citation. It is located in the [Source Water Assessment and Protection Plan for Harpers Ferry Water Works](#) prepared by the West Virginia Rural Water Association (September 2006) on pages 13-14. You can see this document at our website http://www.elksrunwatershed.org/Docs/Harpers_Ferry_SWAP.pdf

I hope this is helpful.

Sincerely
Barbara Humes
Chair, Elks Run Study Committee

From Barbara Humes

located in the Valley and Ridge geological setting and is of moderate sensitivity. The PCS inventory indicates high level threat from abandoned well and residences on septic tanks.

x. Potomac Terrace Homeowners Association (PWSID # WV3301974): This is Community Public Water Supply System which serves a population of 65 residents. The supply is from one well which acts as a primary well and there is another well near an old quarry which acts as a standby well. The average daily production is 900 cu.ft/day. The wells have been drilled into Tomstown dolomitic formation. Surface waters can enter the ground water regime very quickly via direct injection through sinkholes or other fracture or solution openings. The type of flow in karst areas can be conduit flow and is delivered via strike oriented cave passages or along fault planes and fault passages. The estimated recharge area is 345 acres based on 2000 feet fixed radius delineation around the primary and secondary backup wells.

xi. Bakerton Market (PWSID# WV9919083): This is Non-Community Transient water Supply System. The system has one groundwater well which is located in Karst Areas of High Sensitivity. The wellhead protection area is 288 acres which is based on 2000 feet fixed radius delineation. Surface waters can enter the ground water regime very quickly via direct injection through sinkholes or other fracture or solution openings. The type of flow in karst areas can be conduit flow and is delivered via strike oriented cave passages or along fault planes and fault passages. The underground storage tanks and septic tank systems have high to moderate threat level to pollute groundwater aquifer system. The detailed PCS inventory is shown in Table 1 of the plan.

xii. Meadow Brook (PWSID# WV3301978): This is a Community Water Supply System. The system has two water supply wells which are located in a geological setting of Karst areas of High Sensitivity. The system serves a population of 210 people. The management of Meadow Brook public water supply is the responsibility of Jefferson Utilities, a Lee Snyder Enterprise. The wells have a daily production capacity of 31,779 gallons per day. One well is 505 feet deep and the other well is 385 feet deep. Both wells are drilled into the Elbrook Formation. The wellhead protection area is 350 acres based on 2000 feet fixed radius delineation. The potential contaminant sources are agriculture, commercial and railroad tracks. The system falls within ZOC of Elks Run.

xiii. Parkview Woodland MHP (PWSID # WV 3301966): This is a Community Public water supply system. The supply system has three groundwater wells with well depth of 168 feet for well #1, 171 feet for well # 2 and 415 feet for well#3. The well#2 can be used at a withdrawal rate of 45 gpm and well# 3 at withdrawal rate of 60 gpm. The well#1 has estimated yield of 10 gpm. The average daily yield is 19,500 gallons/day. The wells are located in limestone of the Conococheague Formation (Cambrian), but within one mile from the contact with the overlying Stonehenge Limestone of Beekmantown Group (Ordovician) to the west and the underlying Elbrook Limestone (Cambrian) to the east. The potential contaminant inventory prepared by RK & K consultants indicates a number of potential contaminant sources from different land uses including agricultural land farms, several industrial units in Burr Industrial and Bardane Parks, abandoned wells, aboveground storage tanks and the railroad tracks.

Zone of Critical Concern (ZCC) Delineation: This is the second type of source water delineation which is done for source water protection.

Elks Run & Elks Branch:

The ZCC is a corridor along streams within the WSDA which is 1000 feet from each bank of the principal stream and 500 feet from each bank of the tributaries draining into the principal stream. The length of the stream is based on a five hour time of travel. The ZCC was calculated by

WVBPH using a mathematical model that accounts for stream flows, gradient, and area topography. With regards to the ZCC, a buffer zone of 1000 feet is provided for Elks Run (following cojoining of Elks Branch and Elks Run). WVRWA has extended the ZCC in headwaters of Elks Branch as there are several springs in the headwaters. These springs were not included in the original delineation. This is based on information obtained from USGS and USDA. The redelineated area is more than the original delineated area of 524 acres.

Potomac River Zone of Critical Concern: This is another delineation which WVRWA has performed to delineate the ZCC along the Potomac River upstream of Dam#3. This is a zone which provides a buffer zone of 0.25 miles (1250 feet) along Potomac River and extends upstream of Dam#3 to Shepherdstown (a distance of 8 miles approximately). WVRWA identified various potential contaminant sources indicating land use, parcel numbers, acreage and potential contaminants and threat level. WVRWA has included potential contaminant sources at Table 1 of the report.

Jennilee Hartman

From: Jennifer Brockman [jbrockman@jeffersoncountywv.org]
Sent: Tuesday, April 06, 2010 9:54 AM
To: RGrantSmit@aol.com
Cc: Kellie@jcda.net; jhartman@jeffersoncountywv.org; 'Jennifer'; srivard@jeffersoncountywv.org
Subject: RE: Conservation Easement Language

Mr. Smith –

Thank you for following through on this. We are currently compiling comments for discussion with the Planning Commission at their meeting on April 13th. We will include this in our discussion and get back with you after that to follow up on how to address your concerns.

Thank you for taking the time to provide this input.

Jennie

Jennie Brockman, Director
Jefferson County Department of Planning and Zoning
Office (304) 728-3228

From: RGrantSmit@aol.com [mailto:RGrantSmit@aol.com]
Sent: Tuesday, April 06, 2010 9:34 AM
To: jbrockman@jeffersoncountywv.org
Cc: Kellie@jcda.net
Subject: Conservation Easement Language

Dear Ms. Brockman:

It was good to talk to you last week. As I said, I agree that the Planning Commission should have information about existing conservation easements, and we have been providing Michael Schwartz of the Conservation Foundation/Freshwater Institute with data on our easements for his maps. On the other hand, I do not see where we should need Planning Commission approval of a conservation easement granted by a property owner to a land trust. Modification of the sub-division regulations' paragraph on conservation easements to eliminate the need for a land trust to provide a plat when an entire parcel is placed under easement would be a step in the right direction. I will discuss the rest of the question with other board members when we next meet.

Our conversation also raised a question about the language we now include in our easements concerning development rights. Here is the language that appears in our recent conservation easements in Jefferson County, all of which are co-held with the Farmland Protection Board:

"Transfer of Development Rights. All other development rights not specifically reserved under this Easement are hereby extinguished and shall not be transferred to any other property pursuant to a transfer of development rights program or any other means or used to calculate permitted development density."

I have consulted with Kellie Boles, and we agree that we intend this language to prevent use of the acreage under easement to be used to permit a higher density on a portion of a parcel excluded from the easement. In the case of the Harewood easement, for example, 219 acres were placed under easement, but an approximately 29-acre portion at the northeast corner was excluded. The density that should be permitted on that 29 acres should be based on it being a 29 acre parcel, not part of a 248 acre parcel.

Does the language we are including achieve our intent? Should we change it? If so, what would be a better wording?

These questions are relevant to an easement on which we are now working, where the property owners want to exclude three acres along Engle-Moler Road for future residential construction.

Also, I should alert you that the language on the plat on one of our early easements with the Farmland Protection Board does not track with the language in the easement itself. The plat refers to an area as an "exclusion," whereas the easement document itself includes it in the written description of the property.

Grant Smith
President
Land Trust of the Eastern Panhandle

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From: Peter Appignani [Add to Address Book](#)
To: planningdepartment@jeffersoncountywv.org, zoning@jeffersoncountywv.org, John Maxey
Date: Thursday, April 01, 2010 9:03:50 PM
Subject: 2008 Amendments to Uniform Common Interest Ownership Act - Annotated

Ms Brockman

This attachment is part of three pages of suggestions I provided at the April 1st public hearing. Apologize for leaving so abruptly, but I would like to start a dialog in the near the future.

The attached Amendments to the Standard Act contain comments and notes. These have not been wholly adopted by WV.

Other formats are available at http://www.law.upenn.edu/bll/archives/ulc/ucioa/2008am_approved.htm

An explanation about The National Conference of Commissioners on Uniform State Laws http://www.nccusl.org/update/uniformact_summaries/uniformacts-s-ucioa94.asp

The applicable WV Statute <http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=36b&art=1>

- no attachment - gtt

Comments/Suggestions for Jefferson County Subdivision Regulation Changes

1. Pleased with the addition of Homeowners Association in several sections throughout the revised regulation.
2. Noted the following in the subdivision regulations to be revised:

Sec. 2.4 Subdivision Road & Common Area Ownership & Maintenance

A. A Homeowner's Association must be established without delay as soon as 50% of properties are sold. Membership in the association is mandatory for all property owners within the subdivision. The developers shall dedicate all common lands (SWM Basin, roads, right-of-ways, etc.) to the Homeowner's Association. A note to this effect is required on the Final Plat.

B. A Common Interest Ownership Agreement must be established to provide for the maintenance of commonly owned land, including, but not limited to the private road system within the subdivision. This Common Interest Ownership Agreement must be developed in accordance with the Uniform Common Interest Ownership Act of West Virginia.

The County/Planning Commission places enormous responsibilities on the HOA but DOES NOT ensure that the HOA can function to meet those responsibilities imposed on the HOA. The purpose from a planning commission perspective appears to be to establish the HOA as the sole party responsible for roads and common areas including drainage and other easements (i.e., the county and the state are not responsible for the maintenance of these structures). Whether or not the HOA is capable of actually functioning appears to be overlooked.

The planning commission should be required to perform an independent legal review of the covenants and should be cautious approving any exceptions or exclusions to the Common Interest Ownership Act. This issue is really hurting several HOAs in Jefferson County which were granted exemptions to the Uniform Common Interest Ownership Act in the covenants and they can not get a firm legal opinion on how to govern their community because of the exemptions. It has cost significant legal fees and other problems and will cost additional legal fees to resolve.

3. The issue relating to proper covenants should also be addressed in the changes you are currently making (i.e., the discussion at the Form on Foreclosures) and the covenants should be carefully reviewed legally and from a common sense viewpoint. The Planning Commission should carefully read the covenants to see that they make sense and allow the HOA to function now and in the future. HOA dues and assessments (e.g. reserve fund, snow removal, etc.) should be sufficient to meet the long term needs of the community. Ask yourself if the covenants make sense and if the community can function with the covenants proposed. We are finding that many covenants were slanted to help the developer/real estate agents in selling homes to the detriment of the community.

The State adopts the standard version of the Act with changes promulgated by special interests, the developer then imposes exemptions and/or exceptions to the Act and the County may impose additional requirements that conflict with the Act. How does one expect the HOA to function with all of these conflicts? The covenants, along with exceptions and/or exemptions to the Uniform Common Interest Ownership Act, if not carefully and cautiously implemented, will only serve to take away many of the rights of property owners who live in homeowner associations. The Uniform Common Interest Ownership Act effectively places the homeowners under the rule of a "private corporate government", albeit made up of members of the community. A private corporate government, which has not been given the proper tools to effectively administrate and govern their communities.

4. Another issue concerning covenants is that they contain provisions that are unenforceable; however, the County will not become involved.

Sec. 20.103 Private Restrictions

The provisions of this Division are not intended to replace any deed restriction, covenant, easement, or any other private agreement regarding a parcel of land. All such restrictions shall be enforced by the parties to the restriction. **The County shall not enforce or become involved in the enforcement of such private restrictions, and, in the review of development proposals, the County will apply only its regulations to evaluate the proposal.**¹ All subdividers shall submit the proposed private restrictions to the County with or before submitting the final plat or site plan. Covenants shall be consistent with the requirements of the County Zoning Ordinance and these Subdivision Regulations.

Division 21.400 Covenants and Deeds

Covenants shall be provided by the land owner to cover the operation and maintenance of a subdivision or site development. If there are associations, the covenants shall either contain all the needed rules for the association or reference a document that does. If lots or condominium ownership is contemplated, deeds for each property are required. **The County shall review these documents to ensure they do not conflict with County laws. If the covenants or deeds do not conflict with County laws they should be approved. The County in no way waives its rights to enforce violations of law later learned of or determined to exist. County approval in no way indicates County assistance in enforcing these covenants, which the County will not do.**² Covenants and deed restrictions shall also serve as a means of limiting further development of lands set aside as open space to satisfy the cluster and planned development requirements or standards identified in the zoning ordinance.

¹ Where in the planning approval process does the County ensure that the covenants are in compliance with CHAPTER 36B, Uniform Common Interest Ownership Act?

² This is an apparent Contradiction

5. Suggestion - the Jefferson County organization of Homeowners Associations, Inc., work with the Planning Commission to come up with a draft version of Covenants for future developments. It's not going to help those of us with covenants now, but it would be a great way to help future HOA's.

6. 2008 Amendments to Uniform Common Interest Ownership Act. I will forward a copy of the "standard" act to the Planning and Zoning Department and to the Planning Commission (via John Maxey). The amendments contain comments, explanations and other notes that help clarify the sections of the Act. I do not believe the State of WV has adopted these amendments.

Pete Appignani
(304) 724-2130
pappignani@frontiernet.net

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From: Jason Gerhart [Add to Address Book](#)
To: planningdepartment@jeffersoncountywv.org
Date: Thursday, April 08, 2010 1:09:10 PM
Subject: Jefferson County Ordinance Comments
[📎 Jefferson County Comments on Ordinnace.doc](#)

I'm sorry for the delay. Mark had additional items that he had comments on, but he will need to present them in person to the Planning Commission. Give me a call if there are any questions on the attached comments.

<>

Jason P. Gerhart, E.I.T.
Project Engineer
William H. Gordon Associates, INC
301 N. Mildred Street, Suite 1
Charles Town, WV 25414
Phone: 304-725-8456 ext. 315
Fax: 304-728-0117
www.whga.com





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

April 8, 2010

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

Re: Subdivision Ordinance Comments

Provided below is a summary of our comments on the Draft Changes to the Jefferson County Subdivision Ordinance dated March 9, 2010.

Section 21.402.B

Revise where the storm drainage easement is required to include the provision of "when the drainage channel is conveying in excess of 2 cfs during the 10-year storm" instead of on all channels. This would have a severe impact on all lots lines of all residential developments. The 2 cfs number is used in Loudoun County Virginia.

Section 22.206 Cul-de-Sacs

- *Given the rural nature of Jefferson County and the sloped terrain, grid pattern developments are not always desirable or appropriate. It is clearly laid out in the ordinance that connectivity is desirable opposed to dead-end cul-de-sacs, but the restrictions on the use of cul-de-sacs should not be as strict which limits the flexibility of the county staff. Suggest removing item #2 under B and specific layout suggestions will be identified in the conceptual layout stage.*

Section 22.208 Sidewalks

- *Suggest not requiring sidewalks in all non-residential developments. Non-residential developments in the Rural District would not serve a purpose since they would likely only connect to farmland. Suggest changing sentence to, "Sidewalks shall be located within townhouse or multi-family residential developments and any non-residential development to provide access to parking areas, recreational areas, or pedestrian access to sidewalks/trails on adjacent properties."*

Section 24.103 Pre-Proposal Conference

- *B. Scheduling – Suggest changing to, "PPC meetings are held on the 1st and 3rd Wednesday of each month. Application form and sketch plan are required to be submitted at least 1 week prior to the PPC meeting.*

Section and 24.119.B.5 Traffic Impact Data

- *Suggest an option under item b. that allows for the ITE Trip Generation Manual to be issued in lieu of corresponding use in the table provided. There are hundreds of uses specified by the Institute of Transportation Engineers based on actual research that can provide a much more detailed estimation of traffic for various uses.*

Section 24.120 Major Site Plan Concept Plan – Completeness Review

- *The concept plan is intended to be general in nature. Therefore the review time should be reduced to 21 days. This would still allow three full weeks before the staff could approve the concept plan to be placed on the next regularly scheduled Planning Commission agenda (which could add an additional 3 weeks of delay depending on timing).*

Section 24.120.D WVD0H

- *WVD0H can take months to issue responses and if they do not have a process to generate a "letter" to the planning department to indicate issues. Suggest either removing this requirement or only requiring the applicant to submit proof of submittal to WVD0H of the Concept Plan so to not delay a project by months.*

Section 24.125

- *Suggest that county staff post notice on the site at least 14 days prior to the public hearing similar to what is currently being done on projects. Add the staff time it would take to post the properties into the Site Plan Application Fee and it will eliminate confusion over whether the property was properly posted.*

Division 24.200 Amendments

- *Suggest adding an option to modify a site plan if there are more significant changes than allowed to be approved by the Zoning Administrator. These changes would come before the planning commission for approval. Add a Section C under 24.201 to allow for Substantial Compliance with Previous Approval WITH material changes such as increased paving (adding a few parking spaces), modification of building location, addition of amenities, etc. The determination of what is material changes is spelled out pretty clearly under Section B, but the determination can be made by the Zoning Administrator and appealed to the planning commission.*

Section 9.2 Site Plan Requirements

- *Section 9.2 A.1.a – remove "d" from Soild*
- *All of Section 9.2 – Is this information necessary for a Site Plan? This seems very similar to information previously required in Community Impact Statements and does not seem applicable to a non-residential site plan (i.e. covenants and restrictions, funding sources, compatibility of project with surrounding area, demographics, etc). Strongly suggest removing this requirement for Site Plans and only applying these conditions to Major Subdivisions if desired.*

Should you have any questions in regard to these comments, please feel free to contact us.

Sincerely,

WILLIAM H. GORDON ASSOCIATES, INC.

Jennilee Hartman

From: Carla Coffey [ccoffey@arcadiabuilding.com]
Sent: Thursday, April 08, 2010 12:34 PM
To: Jennilee Hartman
Subject: RE: Sub Reg Comments

Jennilee,

That sounds good to me as I have not had an opportunity to review. I apologize for not submitting written comments on the current draft. I've been out most of the week.

Thanks, Carla

From: Jennilee Hartman [mailto:jhartman@jeffersoncountywv.org]
Sent: Thursday, April 08, 2010 12:16 PM
To: Carla Coffey
Subject: Sub Reg Comments
Importance: High

Carla,

We are down to the wire on providing written sub reg comments to the PC for their packets to be mailed this Friday. I have the 3 documents you emailed me. I have a 10-page document dated March 4, 2008 referencing comments made to the 02/19/08 draft of the sub regs. It appears to have been drafted by Greenway. The second document is also dated March 4, 2008 and references the 02/19/08 draft of the sub regs. The last document is dated September 29, 2008 referencing comments made to the 08/2/08 draft of the sub regs.

While we appreciate all the written comments you provided us, is it safe to assume the document referencing the then most recent draft of the sub regs (08/28/08) would be the most updated document we should refer to?

I have to have my piece of the project done today so if you could respond soon I would really appreciate it.

Thank you so much!

From: Carla Coffey [mailto:ccoffey@arcadiabuilding.com]
Sent: Friday, April 02, 2010 2:59 PM
To: Jennifer Snyder; Jennilee Hartman
Subject:

I found one more set of comments from 9/08.

Hope you guys have a great weekend!

Thanks, Carla

Carla E. Coffey
Director of Planning & Engineering
Arcadia Building Company
Arcadia Commercial Company
540.751.0321 x179
540.751.0431 fax
703.851.9884 cell

Jennilee Hartman

From: Carla Coffey [ccoffey@arcadiabuilding.com]
Sent: Friday, April 02, 2010 2:54 PM
To: Jennifer Snyder; Jennilee Hartman
Subject: FW: Jefferson County Draft Subd Ord Comments 3/4/08
Attachments: JeffCo Sub Ord. Review 030408.doc; Jefferson Co. Subd. Ord.3.4.08.ltt.doc

FYI –

From: Carla Coffey
Sent: Wednesday, March 05, 2008 11:07 AM
To: jsnyder@jeffersoncountywv.org
Cc: Randy Kepler
Subject: Jefferson County Draft Subd Ord Comments 3/4/08

Jennifer,

Per your request please find attached the word documents of the comments submitted last evening.

Thanks, Carla

Carla E. Coffey
Director of Planning & Engineering
Arcadia Building Company
540.751.0321 x179
540.751.0431 fax
703.851.9884 cell

March 4, 2008

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

Reference: Proposed Subdivision and Land Development Regulations
Jefferson County, West Virginia Review Draft February 19, 2008

To Whom It May Concern:

On the behalf of Arcadia Development Co., Arcadia Building Company - West Virginia and Arcadia-Harvest Hills, L.L.C. I offer the following comments on the February draft ordinance for your consideration.

1.) Article 21.105 Easements and Deed Restrictions (p.16-17) - The County is attempting to dictate easements between private parties. Utility easements, location, and enforcement of said easements are between the grantee and grantor of the easement not Jefferson County. Encroachments and allowed uses are dealt with in the deed of easement not by the County. Language which refers to these issues should be stricken from the ordinance. This section does not allow for easements in front yards and should be modified.

2.) Article 26.200 Definitions

Shallow Bedrock (p.105) - the definition used works in the shale geology. In limestone, there may be a pinnacle of bedrock exposed on a site that is completely surrounded by deep residual soils. In this instance the site should not be classified as having shallow bedrock. Shallow bedrock should be determined by a qualified geotechnical engineer or engineering geologist by means of soil test borings, test pits, air track drill probes, or applicable geophysical methods.

Sinkhole (p.105) - I suggest the definition as "a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole may form by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved."

A. Open Sinkhole - ...(water table) so that water is PRESENT at the bottom of the sinkhole... I do not understand, nor see the significance, of the 15 feet exposure of rock. I recommend deleting the 15 feet exposure of rock sentence.

B. Sinkhole with stream inflow - this is more accurately described as a sinking stream condition.

C. Large Sinkhole - recommend the definition read "A depression that extends into the bedrock with a minimum opening into the bedrock of 20 feet diameter." The depth requirement should be stricken.

A 3 feet deep sinkhole with a 20 feet diameter opening into the bedrock should be considered a large sinkhole.

Sinkhole Buffer (p.106) - Karst geology is very complex and cannot be mitigated using standard set-backs. The nature of karst development on a particular site should be studied and characterized by a qualified geoscientist. Only after thorough investigation including, but not limited to, soil test borings, test pits, air-track drill probe borings, and geophysics, should decisions regarding karst mitigation and set-backs be taken. A mandatory buffer of 300 feet, which is the equivalent of 6.5 acres per sinkhole, is arbitrary. Any buffers necessary should be dictated by science and based on the recommendations of a qualified geoscientist.

Wellhead Protection Area (p.110) - A 300 feet radius wellhead protection area is the equivalent of approximately 6.5 acres per well. This is excessive. The ordinance references a 100' radius for other wells. A more reasonable area is a 50' buffer for both types of well.

* Replaced w / 9/29/08 Doc. - JH

Jefferson County Planning Commission
Proposed Subdivision and Land Development Regulations
Jefferson County, West Virginia Review Draft February 19, 2008
March 4, 2008
Page 2

Wetland (p.110) - The definition refers to the incorrect manual for identifying and delineating jurisdictional wetlands. The delineation procedures in the 1989 manual are not recognized by the regulators. The correct manual is the "1987 Corps of Engineers Wetlands Delineation Manual".

On behalf of Arcadia, Greenway Engineering and Peter L. Chakmakian, L.C. has provided the attached comments and request for affirmation.

The ordinance contemplated repeatedly references the proposed draft zoning ordinance. The last draft of the zoning ordinance was released to the public on February 28, 2008. This did not provide adequate time to review the proposed zoning ordinance or the proposed subdivision and land development regulations. Additional time in which to provide comments on the documents should be afforded to the public.

I appreciate your consideration in this matter.

Sincerely,

ARCADIA BUILDING COMPANY

Carla E. Coffey
Director of Planning & Engineering

GREENWAY ENGINEERING

151 Windy Hill Lane
Winchester, Virginia 22602
Telephone 540-662-4185
FAX 540-722-9528

MEMORANDUM

TO:	FROM:
Jefferson County Planning Commission	Randy Kepler, PE
RE:	DATE:
Review of the Draft Jefferson County Subdivision Ordinances – 2/19/08 Rev.	MARCH 4, 2008
CC:	
Carla Coffey, Arcadia Development Co.	

To Planning Commissioners:

On behalf of Arcadia Development Co, Arcadia Building Company - West Virginia, and Arcadia - Harvest Hills LLC (property owner in Jefferson County), Greenway Engineering has completed a cursory review of the Jefferson County Proposed Subdivision and Land Development Regulations, revision dated February 19, 2008. Due to the limited time provided for this review, we request the right for an additional comment period to fully review the draft. We also request a longer review time between the release of the draft document and the public hearing with future draft releases so as to allow for additional time to thoroughly review and understand the impacts of the document.

We offer the following comments that are attached.

Replaced w/ 9/29/08 doc. - JH
Engineers Surveyors
Founded in 1971

Subdivision Regulations – Text Change Recommendation

Applicant: Arcadia Development Co. – Property Owner
P.O. Box 1150
Purcellville, VA 20134
Phone: 540-751-0321

Property Address: Route 17 – Off of Flowing Springs Road in Duffields, Kephart Drive

Parcel Identification Numbers: 9-24-12, 9-24-13

Page numbers, Article and Section references for concerns and recommendations are listed below.

Review of Rev. 2-19-08 – Proposed Subdivision and Land Development Regulations, Jefferson County, West Virginia

Pg. 2 – Section 20.102 Applicability

- Define “site development plan”
- Does this definition replace “preliminary plat” as a set of construction documents for a single family subdivision?
- Add definitions to Article 26 – Definitions, Division 26.200 Definitions of Terms

Pg. 3 – Section 20.104 Exemptions

- Items A & C – County should not be involved in water and sewer business and should not require review of easements that have no bearing on County regulations.

Pg. 3 – Section 20 .105 Vested Property Rights

- A – Needs clarification. States that when the Planning Commission approves site or subdivision plan, the plan is good for 5 years. Is the act of voting at the Planning Commission needing this approval or is this approval per the “approval required” statement in Section 20.102.
- Is this Vesting for all phases of the subdivision process? Does it apply to the Concept Plan, the Preliminary Plat stage and the final plat stage?
- If it applies to the final plat stage, how can the county take away the approval after 5 years if the lots are recorded and sold?
- Applicability? Fix in all of Section 20.105 A-C as appropriate.

Pg. 3 – Section 20 .105 Vested Property Rights

- A – Vested Property rights defined – this states when the plan and plat is approved by the Planning Commission. Does this mean any stage of the planning commission approval? (Concept, Preliminary, Final)? What specific action starts

this vesting? Is it when the vote of approval is counted at the PC meetings? Is it when staff finally accepts the bonds and submits the written approval letter to the applicant? Please explain and define how this will be implemented.

- C.2 - Is a “significant affirmative governmental act” considered to include a staff approved plat preliminary approved prior to enacting of this subdivision ordinance?
- Please define “significant affirmative governmental act” and add to Article 26 – Definitions, Division 26.200 Definitions of Terms.
- Please include how projects approved in various states of current regulations will fall into the vesting process.
- There should be an additional statement to confirm a project is vested. This statement should read “The project is also considered vested when the project has been recorded in the Jefferson County Clerk of Court as processed in the final plat recordation process as defined in Appendix A, Section 1.4 Recordation of Final Plat”.

Pg. 8 – Section 20.302 Subdivision General Review Standards

- Letter F – Utilities. Does the Planning Commission have a professional engineer on the Commission to make the adequacy determination? Will the Planning Commission do a water model or sewer capacity check for the developer at the Planning Commission’s cost? May want to reword this to state. Project Design Engineer shall determine adequacy along with review and approval by appropriate agencies and Planning Commission.
- Letter G – Public Improvement - Define Public Improvement Plan in Dir 26-200 Definition of Terms. Is there or will there be a “Public Improvement Plan of the County” as is described in this section?
- Letter H – Lots - Please define what is considered excessive. A percentage of total lots would be appropriate.

Pg. 9 Section 20.302 J Improvement Through Modulation.

- Please explain statement. Is this a general waiver ability by staff to change subdivision and zoning ordinances based on specific concerns? What concerns are there? This statement appears to be arbitrary and serious consideration should be taken to better define what specifically will be addressed with this section.

Pg. 11 Section 20.303 E Utilities

- Does the Planning Commission really want the responsibility for determining adequacy of utilities? Please provide a timeframe for PC review and response back to the developer. When will this review occur? Is there an appeal process for the Planning Commission determination should the developer not agree? Will the Planning Commission consult with the specific utility involved?

Pg. 12 Section 20.303 G Improvement Through Modulation

- Is this a waiver provision? How will this be implemented and when? How will the developer know when the changes stop?

- This item shall be removed unless there are more specific and finite definitions and actions.
- This is arbitrary and capricious, or could be, if utilized after enactment.
- This “Improvement Through Modulation” concept is located several places in this ordinance. These comments apply to all locations of this concept.

Pg. 13 Section 21.101 Blocks A

- Block Length. Define “in most instances.” Who determines the specific instance? How is one to develop block concept in rough and hilly terrain? Is there waiver ability for this section by staff?

Pg. 16 Section 21.104 Lot Width and Frontage

- Move frontage definition to Zoning Division 3.300. Delete second sentence. This item needs to be a part of the zoning ordinance, not the subdivision ordinance.

Pg. 23 Section 21.305 Block Length

- Is there any waiver to this requirement? This ordinance will be difficult to meet and make the subdivision unsightly if connecting to an existing standard subdivision that is located away from the typical town centers.

Pg. 27 – Article 22 Infrastructure and Grading

- General Comment - There appears to be significant discrepancies between this Article and supporting sections and Appendix B – Engineering Standards. A detailed review by the County Engineer should be completed to ensure this section is consistent with Appendix B.
- General Comment – It is not clear from this Article if stormwater quality measures are required. Please provide more detail for definite language on requirement.

Pg. 35 Section 22:403 A Drainage Culverts

- A.5 – Why does driveway culvert need to be CMP if other “or equal” products are available and would be preferred? Please reword to say “. . .corrugated metal pipe or County Engineer approved equal.”

Pg. 38 Section 22.406 C Protection of Downstream Property

- Please define “excess stormwater runoff”. What specifically is the county requesting to be protected? What is considered excess? Please define.

Pg. 55 Figure 24.101B – Cannot read all “action taken” items. Needs to be reformatted.

Pg. 57 Section 24.104 Minor and Rural Subdivision and Site Development Determination

- E and F – Approval: 60 days may not be significant time to complete and submit on an “approval with conditions” situation depending on what conditions might be.

Pg. 59 Section 24.106 Major Subdivision Concept Plan Review

- This ordinance reads that applicant shall distribute to agencies within 7 days. 7 days of when? Submittal of plan/acceptance by staff?
- Are all the agencies on board for review of a Concept Plan?
- Letter D: What if WVDOT doesn't want to provide a list of issues. This should read that applicant shall submit to WVDOT and should receive comments if warranted by WVDOT.
- Letter E - Same comment for Public Services as for WVDOT above in D.
- Comments for Letter D and E apply to several locations in this ordinance where it appears the county is trying to force these agencies hands in timeframes and reviews. This language should only be included if these agencies have reviewed the county ordinances and are in agreement with being able to provide these time lines. In addition, how will staff and Planning Commission react if any one of the agencies do not provide comments or do not provide timely comments?
- Letter F - Replace second shall back to should. This statement sounds as if staff, "if recommending denial," is forcing the Planning Commission to deny by using the word "shall."

Pg. 60 Section 24.108 Concept Plan Direction

- Letter C – This item states that direction on plan from staff and Planning Commission is applicable for 2 years, but provision that states any ordinance revision that occurs in the second year must be followed. Doesn't that then mean that direction is only good for 1 year? Please address and amend.

Pg. 62 Section 24.110 Plan Completeness Review – Preliminary Plat

- This item states the Planning Commission and staff shall act within 45 days of acceptance of submittal with either approval or denial. However, in Section 24.109 C it states that after staff accepts a plan, the applicant shall send package to review agencies with 7 days. That leaves the agency 38 days to review and submit comments/approval. There is no time for addressing any issues from agencies. If applicant doesn't receive approvals from all agencies, then the Planning Commission is forced by regulation to have the meeting and deny.
- Please define what a denial means to the applicant. Can the project be submitted back immediately or is there a waiting period? Are there additional fees?
- It is recommended that an added option for the Planning Commission of "Table application until all agency approvals are submitted." Is added to this item to provide the Planning Commission with a full range of options. Another option is to require staff to review the application and obtain all agency approvals prior to submittal to PC for approval. A time frame of 30 days could be set to require the public hearing from the time of staff approval.

Pg. 63 Section 24:111 Public Hearing

- This item includes another 45 days for setting up the public hearing. This seems excessive and will drag out a project since there was already a public hearing/meeting on the project providing input for public comment.
- Letter A - Subjects Covered. – Why have a hearing to determine if a project meets requirements of the ordinance by review of the general public if staff and the Planning Commission have already approved the project during their review?

Pg. 64 Section 24.112 Plan Approval

- Why is the Planning Commission approving the project again? It was already approved on Pg. 63 Section 24.110 G-Preliminary Plat Completeness Review – Approval? There appears to be excessive steps for review and approval. There should be a more streamlined process to provide the public appropriate notifications and opportunity but at the same time to not drag the project out.

Pg. 65 Section 24.112 A-4 Sewer and Water Systems

- When did the PSD start dealing with water systems? Shouldn't this include the City of Charles Town and Jefferson Utilities for public water services?

Pg. 65 Section 24.112 C Effect (preliminary plat approval).

- Statement says the approval is good for a period of 5 years. Does this statement mean that all of the preliminary plat needs to be final plat approved and recorded within this 5 years? Does the recordation of the lots need to be by the 5 year window or can the process start by the 5 year deadline? Please better explain this 5 year window and how it will be implemented.

Pg. 65 Section 24.113 Final Development Plan (Final Plat)

- Here is another plan review step after we already received preliminary plan approval in the last section. The project has just been through a detailed review and hearing process and has been approved by staff, agencies and planning commission. There is also a 5 year approval process. Why, if all parties have approved the project, is there another detailed engineering and zoning review with all of the time and hearings? One would think that if all the appropriate parties and the Planning Commission have approved the project that this final plat approval would only need to be an administrative approval for plat recordation? Please define or explain the reasoning behind this third review?

Pg. 66 Section 24.113 – Final Plat – Item B-7

- Again the PSD doesn't do water systems unless they have changed in the last couple of months.

Pg. 67 Section 24:114 Final Plan Completeness Review

- Item 3 – Please define “other review agencies.” The applicant should know what other agencies the PC is or would require so the applicant can obtain the approvals prior to submittal. This needs to be completed due to the very limited time to obtain agency comments.
- Also, nowhere in the previous portions of the Subdivision Regulations did it state that the applicant is responsible for submitting to the Jefferson County Attorney. Is the applicant responsible for this, and when in the process does the County Attorney want review? If not the applicant, then when is the county submitting to the county attorney, and how much times does the attorney have to review before the application is deemed approved so the process can proceed?
- Item 4 – Proffers have been mentioned but the regulation never states when the County would like to start reviewing proffers if the applicant fails to submit proffers. Please define proffers.

Pg. 68 Section 24.114 A Approval

- Please define “otherwise impossible”? What is the PC thinking when this statement would be used to deny the application?
- If the plan meets zoning and subdivision requirements, it SHALL be approved. If not, it shall be denied. Very simple. Please define this arbitrary statement.
- Letter B - Please define the effect of “denial”. What time lines are available for re-submittal or appeal?

Pg. 68 Section 24.116 A Approval

- The last sentence states that if any review agency failed to respond then its deemed approved by this ordinance. Please define the time frame the applicant and Planning Commission need to wait before it considers an agency’s “failure to respond.”
- This approval statement should be added to the preliminary plat section of the ordinances.

Pg. 69 Section 24.116 D Effect and Vesting.

- The comment “the plan or plat is vested as provided in Section 20.105” is an incorrect reference if the applicant records the lots per Section 24.117. Recording. If the lots are recorded, then they are permanent fixtures and cannot be revoked by the PC after 5 years if not constructed. By this definition, any undeveloped but recorded lot after 5 years from the enacting of this ordinance shall be considered null and void and would need to be reverted back to its original form. What if the applicant records then sells off the lots to a developer who decides to “bank” the lots for 6 years? Will the purchaser lose the purchased lots? Will the county reimburse the purchaser for the loss of value to the property for this action?
- Reference to Section 24.115 should be 24.117.

Pg. 69 Section 24.117 Recording

- Please define “Site Development Plan.” Based on the past section of the subdivision ordinance a site development plan is a set of construction documents. Does the Clerk of Jefferson County want a set of construction plans 50 sheets long recorded in the courthouse? Why not just record the final plat? If doing a commercial site with no subdivision of property, does the “Site Development Plan” still need to be recorded?

Pg. 79 Section 24.502 Maintenance Bond

- Please define how this bond is calculated.
- Please define who the PC will accept the calculation from. Owner, maintenance provider, engineer?
- When will the county require this bond be posted?

Pg. 79 Section 24.503 Amount

- Can cost estimate only be submitted by an installer? WV Professional Engineers should also be able to submit said cost estimates as they have been able to do in the past.

Pg. 92 Definitions

- Flood Protection Elevation – This should match the FEMA definition of one foot, not two feet as defined.
- Intensity – Define development in this definition. Is this building footprint? impervious surface?
- Modulation – Please define adjustments. This is too arbitrary.
- Proffer – This is not included in this section. Please define proffer.
- Steep Slopes – Definition seems excessive. Areas with slopes in the 15% to 20% range can be used for development in most instances with proper design and in certain areas. Understand the concern above 25% but should remove the concerns about the flatter areas below 20%.
- Why change name of document from Final Plat to “Final Site Development Plan” This comment applies throughout the subdivision ordinance. If name is changed please define the new name similar to this: “ Final Site Development Plan – previously referred to as Final Plat”.

Appendix A – Plat Standards

Pg. 113 - Section 1.2, Preliminary Plat/Plan Title

- Requested that the word “Plat” be removed from the title “Site Development Plat/Plan.

Pg. 114 - Section 1.2, A.15

- Add the word “minimum” to say “contour lines with a minimum vertical contour interval of two feet”.

Pg. 118 - Section 1.2, letter A.33

- Add note that the variance is from the Planning Commission or Board of Zoning Appeals, not just the Planning Commission.

Pg. 120 - Section 1.3 Final Plat

- #24 & 25 – County should not be dictating how the surveyor is developing the plat as long as there is a line legend showing line types.
- If not in agreement, the provide a table showing line type that is wanted and as described in this section.

Pg. 121 - Section 1.4 Recordation

- Why change name of document from Final Plat to “Final Site Development Plan” This comment applies throughout the subdivision ordinance. If name is changed please define the new name similar to this: “ Final Site Development Plan – previously referred to as Final Plat”.

Pg. 121 - Section 1.5 Bonding

- Conflicts with Section 24.503 on Pg. 79 of Subdivision regulations. Please correct conflict.

Pg. 123 - Section 1.2 B – Permanent monuments

- Remove the statement “or as specified by the Engineer” as the State Code must be followed regardless of the county engineer opinion or desires regarding this item. If the county engineer has a problem with the monument requirements then this needs to be taken up with the State Board of Examiners of Land Surveyors and addressed in the state code.

Pg. 123 - Section 1.2 C – Lot Markers

- State Code requires a lot corner be marked by a 5/8” diam. And 36” long rebar. This item should be amended from 24” length to 36” length.

Appendix B – Engineering Standards

Pg. 124 - Section 2.2, Streets

- Item D – States maximum fill and cut slopes not to exceed 3:1 slope. Previous ordinances allowed for max. of 2:1 slopes. If can’t revise to allow for 2:1 then ordinance should be amended to allow for steeper slopes with the submittal and approval of a steep slope analysis by a qualified and WV licensed professional engineer showing that the steeper slope will be stable and methods on how to provide the stability.

Jennilee Hartman

From: Carla Coffey [ccoffey@arcadiabuilding.com]
Sent: Friday, April 02, 2010 2:59 PM
To: Jennifer Snyder; Jennilee Hartman
Attachments: Jefferson Co. Subd. Ord.9.29.08.lft.doc

I found one more set of comments from 9/08.

Hope you guys have a great weekend!

Thanks, Carla

Carla E. Coffey
Director of Planning & Engineering
Arcadia Building Company
Arcadia Commercial Company
540.751.0321 x179
540.751.0431 fax
703.851.9884 cell

September 29, 2008

Jefferson County Commission
124 East Washington Street
Charles Town, WV 25414

Reference: Proposed Subdivision and Land Development Regulations
Jefferson County, West Virginia Review Draft August 28, 2008

To Whom It May Concern:

On the behalf of Arcadia Development Co., Arcadia Building Company - West Virginia and Arcadia-Harvest Hills, L.L.C. I offer the following comments on the February draft ordinance for your consideration.

- 1.) Article 21.105 Easements and Deed Restrictions (p.14) - The County is attempting to dictate easements between private parties. Utility easements, location, and enforcement of said easements are between the grantee and grantor of the easement not Jefferson County. Encroachments and allowed uses are dealt with in the deed of easement not by the County. Language which refers to these issues should be stricken from the ordinance. This section does not allow for easements in front yards and should be modified.
- 2.) Article 24.112(C) (p.48) Major Subdivision Preliminary Site Development Plan Application Approval, Effect - Zoning Ordinance changes made after a preliminary site development plan is approved should not be made a condition of approval of the final plat.
- 3.) Article 26.200 Definitions of Terms
 - Modulation (p.76) - the definition provides no measurable, attainable standards as used. The Planning Commission and staff may disagree with the applicant on what improves the quality of development. Please remove all references to modulation from the ordinance.
 - ✓ Sinkhole Buffer (p.84) - Karst geology is very complex and cannot be mitigated using standard set-backs. The nature of karst development on a particular site should be studied and characterized by a qualified geoscientist. Only after thorough investigation including, but not limited to, soil test borings, test pits, air-track drill probe borings, and geophysics, should decisions regarding karst mitigation and set-backs be taken. A mandatory buffer is arbitrary. Any buffers necessary should be dictated by science and based on the recommendations of a qualified geoscientist.
 - Wellhead Protection Area (p.88) - This does not match the draft zoning ordinance definition. Please amend the zoning ordinance to match the definition provided in this ordinance.
 - Wetland (p.88) - The definition does not match the draft zoning ordinance definition. Please amend the zoning ordinance to match the definition provided in this ordinance.

Jefferson County Commission
Proposed Subdivision and Land Development Regulations
Jefferson County, West Virginia Review Draft August 28, 2008
September 29, 2008
Page 2

The ordinance contemplated repeatedly references the discretion of staff and the Planning Commission. The ordinance should define measurable, attainable standards and criteria as to provide the predictability of outcome for an applicant who complies with those standards

I appreciate your consideration in this matter.

Sincerely,

ARCADIA BUILDING COMPANY

Carla E. Coffey
Director of Planning & Engineering

RECEIVED

MAR 24 2010

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

RECEIVED

MAR 24 2010

PLANNING, ZONING AND ENGINEERING

Proposal for
Eastern Panhandle Conservation District

Elks Run Watershed Water Quality Improvement Project

Prepared by
The Elks Runs Study Committee (ERSC)
On behalf of the Towns of
Bolivar, Harpers Ferry and the Jefferson County Commission of West Virginia

Introduction

Within the Elks Run watershed, the stream known as Elks Run and its tributary, the Elk Branch, provides drinking water to the municipalities of Harpers Ferry and Bolivar as well as the Harpers Ferry National Park. Clean drinking water is supplied by the Harpers Ferry Water Works system.

The 1996 Safe Drinking Water Act requires States to develop a Source Water Assessment and Protection (SWAP) program to assess the drinking water sources serving public water systems, such as the Harpers Ferry Water Works, for their susceptibility to pollution.

To comply with the law, the Harpers Ferry Water Works commissioned a SWAP report by the West Virginia Rural Water Association that was released in September 2006. The Harpers Ferry SWAP report addresses the delineation of the source water protection area, its geology and hydrogeology, potential sources of contamination, assessment of possible threats to the drinking water supply sources, a management plan, and contingency planning.

In 2007, the town councils of the municipalities of Bolivar and Harpers Ferry appointed the Elks Run Study Committee (ERSC) to implement the recommendations outlined in the SWAP report. Recommendations include conducting an education and outreach campaign, taking steps to ensure proper handling of hazardous materials, ensuring that local policies address the reduction of non-point pollution, creating an aquifer protection overlay zone, continue monitoring at the water works to detect contamination, and implementing groundwater protection strategies especially regarding failing sewer and water lines and septic systems.

Since then the ERSC has been conducting educational outreach programs and providing testimony to city and county agencies to ensure the safety of the water resources within the Elks Run watershed.

The ERSC recognizes that it is time to build on the foundation of educational outreach. The ERSC wishes to evaluate the possibilities of correcting situations that contribute to poor water quality within the watershed, and to take action to do so with the cooperation of property owners within the watershed' zone of critical concern (ZCC).

Problem

Based on an analysis of the potential sources of contamination outlined in the SWAP report, there are two significant problems within the Elks Run watershed.

Agriculture

The principal use of the Elks Run watershed remains farming and non-point pollution brought on by grazing livestock that degrades streams and wetland areas. Riparian areas are being adversely impacted because such grazing reduces the potential for quality wildlife habitat, groundwater recharge, and water quality. Also, improper storage, application and disposal of various fertilizers and pesticides are potential mechanisms for polluting surface and groundwater.

The SWAP report suggests that a way to remediate negative agricultural impact is to work with local agencies to help implement best management practices for these types of activities.

Residential Homes and Septic Tanks

An examination of the 152 site-specific potential contaminant sources in the SWAP report indicates a high level of threat from 49 sources. A review of these 49 sources reveals that the highest number of threat sources involves residential homes and septic tanks.

The SWAP report suggests that an educational and outreach program on the health and environmental risks of septic system discharge, system maintenance and system function would provide homeowners and others with basic information to better understand the impacts of inadequate systems. This kind of education effort should involve the local health department and the WV Board of Public Health.

Background:

The ERSC is implementing educational outreach initiatives as recommended in the SWAP report.

Phase I: Educational Outreach to Customers of the Harpers Ferry Water Works. In January 2010 the ERSC mailed brochures to each of the approximately 800 customers. The brochure described the importance of the Elks Run watershed as the primary source of water supply for the towns of Harpers Ferry and Bolivar. A grant from the Eastern West Virginia Community Foundation-Two Rivers Giving Circle made this possible.

Phase II: Educational Outreach to Property Owners in the Elks Run Watershed Zone of Critical Concern (ZCC). A Stream Partners Grant from the WVDEP has enabled the ERSC to extend its informational outreach to persons who own property within 1,000 feet from each bank of the principal stream (Elks Run) and 500 feet from each bank of the tributaries draining into the principal stream (Elk Branch). A letter along with an informational brochure on lawn care, auto care, septic systems, residential landscaping, construction, and agriculture strategies that can help improve the water that recharges the groundwater and drains into the streams will be mailed out in late spring. Additionally, the ERSC will seek a property owner within the ZCC to volunteer for a small rain garden demonstration project.

Phase III: Water Improvement Project in the Elks Run Watershed ZCC. The next logical step for the ERSC is to sponsor a project that will actually have a measurable positive impact on the quality of the Elks Run and/or the Elk Branch.

Phase IV: Apply for 319 Grant to address non-point source bacteria and sediment pollutants.

The Plan:

With the funding made available by the Eastern Panhandle Conservation District in the amount of up to \$250,000 we propose to address the two significant problem areas described above: agricultural and residential/septic systems. The proposed breakdown of the budget would be

- Work cooperatively with middle school students and teachers on water testing and analysis.
- Maintain photographic records before and after treatment conditions.
- Develop public relations and publicity pieces for the media.
- Project farmers/landowners will periodically attend the ERSC monthly meetings to report on progress with their projects.
- The number of projects will be limited by the level of funds allocated to this problem area.

Residential/Septic Tanks: We plan to target technical and financial assistance to property owners with septic systems located within the Elks Run ZCC to identify at-risk septic systems that need replacing, repairing, or cleaned out. The Jefferson County Board of Public Health (BPH) will be a key partner in this effort since it maintains both a database of septic service properties in the county and provides inspection services.

Goal: To reduce the number of at-risk septic systems that may be contributing to the degradation of the quality of water in the Elks Run stream and its tributary, the Elk Branch.

Objective 1: Provide owners of septic systems an opportunity to get their system inspected for free to determine if the systems need to be cleaned out, repaired, or replaced.

Objective 2: Provide qualified owners of septic systems an opportunity to get their system cleaned out. Applicants for assistance will be placed on a waiting list, first come, first serve and will be reimbursed up to 50% of the cost for pumping the septic system not to exceed \$150.00 per property owner. However, it is anticipated that property owners will be required to commit to self-inspection and pump-out of their systems every 5 years.

Project Activities:

- Meet with members of the Jefferson County Board of Public Health (BPH) to enlist support and collaboration with the project.
- Hire an intern from Shepherd University (Shepherd Environmental Organization) to serve as project coordinator. This person will coordinate directly with septic system owners and the BPH.
 - Develop project criteria and parameters. For example, Can the BPH provide data on septic owners in the Elks Run ZCC? Can the BPH determine frequency of septic repair or cleanouts?
 - Develop priority areas to determine where technical and financial assistance is most needed. For example, income level, fixed income, senior citizen, disability, costliness of repair or replacement, extent of environmental damage, etc.
 - With the collaboration of the BPH, contact potential residential participants. Identify those who are willing to participate.
 - Invite potential participants to an informative workshop to ensure an understanding of the project implementation, develop a partnership and working relationship among project individuals including ERSC members, septic system owners, interns, Eastern Panhandle Conservation supervisors, town and county officials, etc. Provide project applications. Contact others who may not have been able to go to the meeting but who may be willing to participate.
 - Select participants.
 - Notify participants.
 - With the collaboration of the BPH, schedule septic system inspections.
 - Report inspection findings to participants.
 - Identify participants who qualify for further maintenance or replacement of their septic system.

- With t he BPH, schedule septic system maintenance or replacement.
 - Develop public relations and publicity pieces for the media
- The number of projects will be limited by the level of funds allocated to this problem area.

Overall Strategies:

- Students from local Middle School science classes under the guidance of a qualified mentor will perform water quality monitoring on a regular basis before, during, and after the projects are implemented to capture baseline data and to track the impact of the projects on the water quality over time. Harpers Ferry Middle School and Wildwood Middle School have expressed interest in participating. Appropriate testing equipment and lab equipment will be purchased for students to use.
- Middle School students will analyze data and create graphic renditions of findings.
- Middle School students will participate in all public meetings.
- Invoices will be provided to the Elk Run Study Committee for review before payment is authorized by the Conservation District.
- Publicity will be ongoing.

JEFFERSON COUNTY, WEST VIRGINIA
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April 13, 2010

Warren Mickey, Chairman
Eastern Panhandle Soil Conservation District
151 Aikens Center, Suite 1
Martinsburg, WV 25404

Re: Elks Run Watershed Water Quality Improvement Project

Dear Mr. Mickey, Chair:

At our April 13, 2010 meeting, the Jefferson County Planning Commission agreed by _____ vote to support the Eastern Panhandle Conservation District's proposed Elks Run Watershed Water Quality Improvement Project. This proposed project is the culmination of much study, research and work by many County, State, and local organizations and agencies. The impact of local agricultural and land development activities on the greater Chesapeake Bay Watershed water quality is of great concern to the Jefferson County Planning Commission. We support this effort to improve agricultural and residential water quality impacts on the Elks Run Watershed. We understand that the project will provide stream fencing, riparian buffers, tree and grass planting and stream crossings as well as assistance to homeowners in the watershed to have their septic system inspected and pumped. We also support the use of local middle school students in the water sampling and stream ecological studies as this will broaden local knowledge and support of future water quality projects.

It is the Planning Commission's understanding that the Eastern Panhandle Conservation District will be the fiscal agent for this project and that there will be no cost to Jefferson County. This project is a great example of how private citizens, counties, regional groups, state and federal agencies can work together to provide for clean water and a healthy environment.

The proposed project has the full support of the Planning Commission as well as the Departments of Planning and Zoning and we support fully funding this endeavor in order to achieve maximum benefit for the County and its watersheds.

Thank you for your consideration,

John Maxey, President
Jefferson County Planning Commission

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MEMO

TO: Planning Commission Members
FROM: Jennifer M. Brockman, AICP, Director, Planning and Zoning *jmb*
DATE: April 13, 2010
RE: Blue Ridge Mountain Communities Watershed Plan Update

This is a brief memo to update you on the status of various activities related to the Blue Ridge Mountain Communities Watershed Plan.

1) Consultant

The Subcommittee met two times to review the responses submitted to Request for Proposals. They unanimously recommended hiring a firm known as Downstream Strategies based out of Morgantown WV. The proposed contract and scope of work (attached) has been forwarded to legal and an agenda request form has been completed to place this on the April 15, 2010 County Commission agenda.

2) Committee Mission Statement

The Subcommittee was also charged with finalizing the Mission Statement for the Blue Ridge Mountain Plan Citizens Committee. They unanimously approve the following mission statement:

“The purpose of the Blue Ridge Mountain Communities planning project is to develop a locally supported management plan for the Shenandoah River watershed on the Blue Ridge in Jefferson County West Virginia.

The goal of this project is to allow future development and improvement of the area to take place while maintaining or improving water quality of a major Chesapeake Bay tributary. The plan will serve as a model for rural steep slope watershed management of Chesapeake Bay tributaries in West Virginia.

The Blue Ridge Mountain Watershed Citizens Committee will assist the Planning Commission and was formed to:

- Inspire wide-ranging citizen involvement in the watershed plan

- Encourage citizen attendance and participation in public meetings
- Identify threats to the watershed and Shenandoah River water quality
- Identify economic opportunity mechanisms that will protect the watershed
- Communicate the shared vision and its impact on watershed preservation objectives to the community

The Planning Commission intends for this first phase of the Blue Ridge Mountain Communities plan to be completed by February 2011. Key goals are the development of a shared vision for protection of the watershed, enhancement of the community and preserving or improving the quality of life for current residents.

The Commission will seek further funding for an implementation phase based on recommendations that may result.”

3) Blue Ridge Mountain Plan Citizen’s Committee

The attached letter was sent to the appointed Citizen’s Committee. An organizational meeting was set for 2 pm on Saturday April 24, 010 at the St. Andrews Mountain Community Center. Members of the Planning Commission are welcome to attend; however, a quorum cannot be present.

Scope of Work:

Jefferson County Blue Ridge Mountain Communities Area Watershed Plan

Prepared for:

County Commission of
Jefferson County, West Virginia
116 East Washington St.
P.O. Box 338
Charles Town, WV 25414

Attention: Seth Rivard



Photo courtesy: <http://www.jeffersoncounty-westvirginia.com/images/HF-Jefferson-County.jpg>

Prepared by:

**Downstream
Strategies**

building capacity for sustainability

Downstream Strategies
Attention: Sera Zegre, Project Manager
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In Collaboration with:

HARBOR
Engineering, Inc.

Harbor Engineering, Inc.
41 South Main Street
P.O. Box 100
Manheim, PA 17545

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1. PROJECT UNDERSTANDING

The Blue Ridge Mountain community area seeks to protect one of its most valuable assets—its watershed. Not only do area residents depend on their watershed; the Shenandoah River, which serves as the community's western border, serves as a major tributary that affects the water quality of Chesapeake Bay. Localized planning and mitigation efforts can improve water quality locally and regionally.

Current and future development in the Blue Ridge Mountain community area threatens its watershed. Current subdivisions on the mountain, for example, pre-date development standards for water supply and wastewater treatment. Beyond the current impacts and issues, future development threatens environmental protection. Residents and other stakeholders seek to allow future development and improvement to the area to take place while maintaining or improving water quality of this major Chesapeake Bay tributary. They seek a plan with mechanisms to address threats to the watershed from current and future development of infrastructure such as sewer and roads.

Jefferson County has taken an active role in the planning work and data analysis necessary to protect the watershed. The 2008 Green Infrastructure Assessment, with help from the Fresh Water Institute, as well as the 2009 Geographic Information Systems (GIS) project, both provide a foundation for analysis and planning. The Blue Ridge Mountain Communities planning initiative provides a positive step toward Chesapeake Bay watershed protection and has the potential to serve as a model for watershed protection.

We understand that Jefferson County seeks a facilitator with experience in helping communities develop a shared vision for watershed protection efforts. We also understand that Jefferson County envisions a cooperative, stakeholder-driven, grassroots community process that will bring together various parties into a common vision for a healthy watershed and a healthy economy. Developing such a plan will require understanding current assets and issues in the watershed, identifying a vision for the future, and agreeing on steps to take to make this vision a reality. This important part of the planning process will help residents and other stakeholders identify and build on their assets by stimulating community involvement and developing a stakeholder-driven vision to address watershed issues and concerns. This process also requires important outreach elements such as providing information on an interactive website. We also understand that Jefferson County seeks engineering expertise to provide information regarding communities addressing similar issues and best management practices for development on steep slopes, as well as recommendations for impervious surface cover limits and improved road access and future transportation connections. Downstream Strategies can provide unified support in the outreach, facilitation, and engineering tasks requested by Jefferson County.

The Blue Ridge Mountain Communities planning process has presented a unique opportunity to involve many different stakeholders during the planning process. This watershed is a model that could be used across the state for practicing proactive measures of conservation and sustainable economic development. It is the goal of this process to gather ideas and information that will guide policymakers' decisions. Additionally, we hope to facilitate the creation of lasting partnerships within the watershed; this will help ensure that the unique features of the Shenandoah River watershed are protected.

We will work closely with other interested groups and government entities. This project will include input from the Jefferson County Planning Commission, Jefferson County Commission, and the appointed Citizen's Committee, as well as residents and stakeholders of the Blue Ridge Mountain Communities. We will also seek input from various specialists, such as the Freshwater Institute, to incorporate existing knowledge and data. This input gathered from various stakeholders will highlight and utilize existing project assets and increase community capacity. Although Downstream Strategies will provide key knowledge regarding watershed monitoring and protection, we will work closely with experts from the sub-contracted firm Harbor Engineering to provide requested engineering expertise.

2. SCOPE OF WORK

This proposed project serves to support the development of the Blue Ridge Mountain Communities Watershed Plan (BRCWP), a locally supported management plan for the Shenandoah River watershed on the Blue Ridge in Jefferson County, West Virginia. Downstream Strategies will provide watershed planning expertise to develop the BRCWP by facilitating public involvement in a visioning process and providing engineering expertise, publishing reports and outreach materials that summarize the stakeholder input and consensus process, providing engineering recommendations, and synthesizing this information to create a common vision for the watershed. As part of this project, Downstream Strategies will work alongside officials, specialists, residents, and other stakeholders to develop the shared vision for watershed protection efforts. The visioning process and document will be informed by the engineering expertise provided by sub-contractor Harbor Engineering.

Downstream Strategies will provide or facilitate the expertise necessary to accomplish the following objectives adapted from the *Request for Proposals: Jefferson County Blue Ridge Mountain Communities Area Watershed Plan*, dated March 17, 2010:

- ☞ Engage residents and stakeholders in development of shared vision
- ☞ Synthesize community workshops
- ☞ Identify economic opportunity mechanisms for landowners
- ☞ Create and distribute materials for communication of shared vision
- ☞ Provide review of communities addressing similar issues
- ☞ Identify best management practices for steep slope watershed management
- ☞ Develop recommendations for impervious surface cover limits
- ☞ Develop recommendations regarding improved road access and future transportation connections
- ☞ Coordinate with appointed Jefferson County webmaster

Because watershed planning is unique for each community, Downstream Strategies will employ an adaptive approach to the implementation of this project. Open communication and continuous feedback from the planning commission and stakeholders will be crucial to the success of this project.

2.1 Approach

Downstream Strategies proposes an asset-based approach to creating a common vision with residents and other stakeholders. By accentuating positive attributes already in a community, this approach opens productive and empowering dialogue with community members. Traditional needs-oriented approaches teach people to see themselves as having special problems to be addressed by outsiders. An asset-based approach encourages community members to recognize, actively develop, and mobilize their own assets. Asset-based approaches often uncover locally appropriate solutions. In watershed planning efforts, this approach can help empower stakeholders to uncover localized solutions to watershed protection.

In addition to this approach, Downstream Strategies strives to facilitate with cultural humility. By acknowledging our knowledge limitations, as well as the desire to broaden it, we can encourage involved parties to engage openly. The facilitated stakeholder process will provide a respectful and structured platform for stakeholders to voice their opinions, learn from each other, and ultimately reach agreement on a common vision for the watershed that can protect both the watershed and local economy.

Four facilitated stakeholder meetings will be held; each meeting will build upon the results of the previous meeting. To facilitate a successful community planning process, Downstream Strategies proposes that the public meetings be held at various times/dates/locations to allow for diverse participation from the general public. To maximize the project's budget, we propose that face-to-face project meetings coincide with the facilitated stakeholder meetings. Downstream Strategies will also support the creative dissemination of information through various public forums, such as media and the proposed county website. The county-

developed interactive website will serve multiple objectives: (a) broaden the cross section of involved stakeholders, (b) provide for a less invasive (i.e., than a public meeting) means of public participation, and (c) reduce time and costs associated with education and outreach. Downstream Strategies will capitalize on these efforts and utilize the website to gather public input and help to promote the BRCWP.

2.2 Phase I: Data and literature review

Gathering and organizing background information and available data will provide the platform for a productive visioning process. This phase includes the following tasks:

- ☞ Kick off meeting with project sponsors via conference call
 - Introduce team members
 - Discuss work plan
 - Gather background information
 - Overview of citizen's committee
 - Finalize project schedule and public meeting details
- ☞ Collect and review of existing data
 - Collect existing data and maps
 - Review existing reports and data
 - Develop and map preliminary watershed issues and concerns
 - Discuss planning process with Jefferson County Planning Commission
- ☞ Initial research for engineering tasks
 - Similar communities
 - Steep slope BMPs
 - Surface cover limits
 - Road access
- ☞ Development of visioning process outreach plan
 - Stakeholder identification
 - Information dissemination plan
 - Website coordination plan





2.3 Phase II: Stakeholder visioning: issues and assets

It is proposed that the initial two stakeholder meetings will focus on current assets and their current real or perceived threats, and an initial discussion of vision into the future. These initial meetings will rely on the available data and background gathered and organized in the first phase of the project. The exact format of these meetings will be adapted to optimize stakeholder feedback. This phase includes, for example, the creation of working groups based on topics. We propose that the first of these facilitated meetings be held with a committed and representative subsection of interested stakeholders: the citizen's committee. The second meeting would include the citizen's committee but would also be advertised to the public.

These meetings will begin with an educational speaker(s) on a topic(s) directly relevant to the development of a common watershed vision. A facilitated discussion will follow the educational component of the meeting. In addition to thoughts raised by the residents and stakeholders, topics for discussion will include slope, water, sanitation, stormwater, access, and road conditions.

This phase includes the following tasks and/or deliverables:

- ☞ Implement the process outreach plan to stakeholders
- ☞ Facilitate Meeting 1 with citizen's committee to identify issues and assets
- ☞ *Draft and post summary of Meeting 1 (deliverable, post to website)*
- ☞ Asset and issue categorization and refinement
- ☞ Facilitate Meeting 2 with stakeholders to identify issues and assets






-  Draft and post summary of Meeting 2 (deliverable, post to website)
-  Asset and issue categorization and refinement
-  Draft of engineering solutions
-  Public feedback via website (ongoing)

2.4 Phase III: Stakeholder visioning: solutions and common vision

In this phase, Downstream Strategies will rely on categorized and refined topics (i.e., issues and assets) communicated by the residents and stakeholders during the initial stakeholder meetings. Focusing on solutions and visions, this meeting (i.e., Meeting 3) will focus on how the identified assets serve in a common vision for the future. Best management practices will also be discussed in this meeting.

The exact format of this meeting can be adapted to optimize stakeholder feedback, but can also include the creation of working groups based on topics. One preferred facilitated visioning exercise is asking stakeholders to draw and describe their vision. Regardless of skill level, visual images enable a less argumentative platform to communicate a vision and create a foundation for common ground.











This phase includes the following tasks and/or deliverables:

-  Implement the process outreach plan
-  Develop a draft of engineering recommendations
-  Facilitate a stakeholder meeting, which focuses on solutions and a common vision
-  Draft and post summary of Meeting 3 (deliverable, post to the website)
-  Public feedback via website (ongoing)

2.5 Phase IV: Toward a common vision

This phase will compile and refine all information gathered from the facilitated stakeholder meetings into a written vision document. This document will compile all issues, assets, solutions, and visions into a unified document that will be made available for comment, and then refined during a public comment period. The fourth and final facilitated stakeholder meeting will include an unveiling of the vision and the engineering recommendations, as well as a facilitated discussion regarding the implementation of the vision.

This phase includes the following tasks and/or deliverables:

-  Asset and issue categorization, refinement
-  Consensus building process report (deliverable, post to the website)
-  Develop a draft of the final common vision (deliverable, post to the website)
-  Sharing common vision draft with Planning Commission and the citizen's committee
-  Refining common vision draft based on feedback from the Planning Commission and the citizen's committee
-  Provide a public comment period for the final draft of common vision
-  Final common vision (deliverable, post to website)
-  Final engineering recommendations (deliverable, post to website)
-  Facilitate final stakeholder meeting to share common vision and engineering recommendations; discuss implementation
-  Draft and post summary of Meeting 4: Implementation (deliverable, post to the website)

3. MANAGEMENT PLAN

Downstream Strategies will provide status reports on the progress of the project to the Planning Commission project contact in a manner that supports project objectives. Refer to the "Deliverables" section for proposed

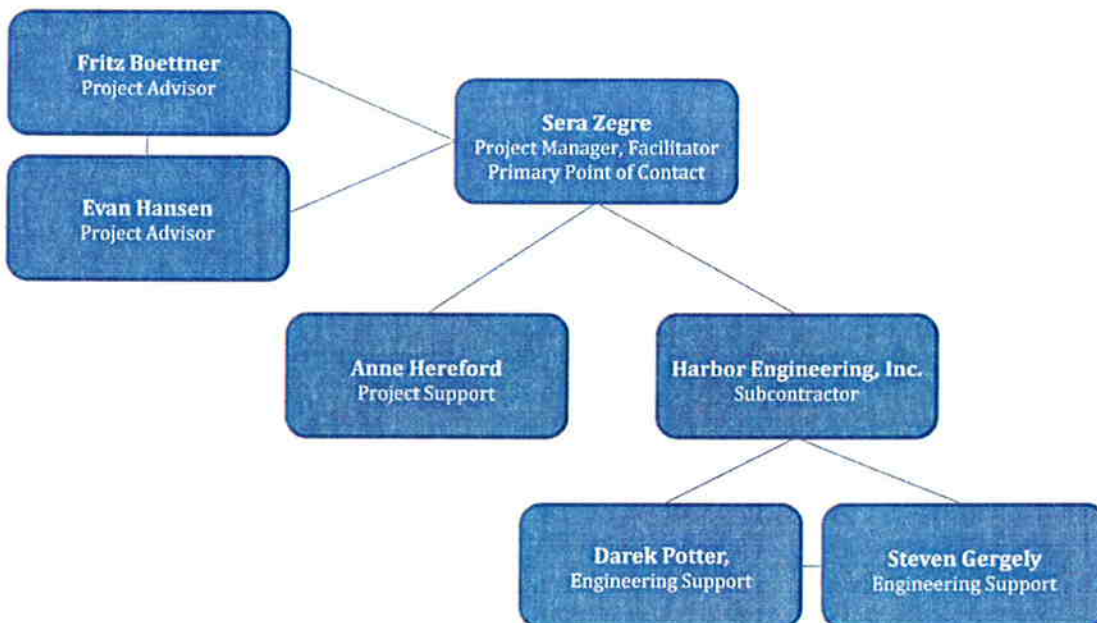
strategy. The format, content, and method (i.e., email, phone, and draft reports) will be determined during the kick off meeting, and will serve to meet the needs of all involved parties.

Downstream Strategies plans to communicate with a combination of formal progress reports and more frequent informal dialog. In terms of our informal dialog, we will communicate frequently with Jefferson County as we plan upcoming meetings, review progress from recently completed meetings, and interact with key stakeholders. We will calibrate our communication to a level appropriate given Jefferson County's available time and resources. We are comfortable moving forward independently, but at the same time we value input and communication with staff. Verbal and e-mail communication will be used most often to ensure two-way communication and avoid miscommunication. Travel costs and time serve as constraints to frequent face-to-face meetings; we are skilled communicators, however, who feel comfortable communicating via telephone, e-mail, and web conferencing. E-mail communication serves as an effective means to schedule, provide brief updates, and share documents. Respectful communication, honoring both time and ideas, is top priority for the Downstream Strategies team.

3.1 Staffing Plan

Four key Downstream Strategies staff members will contribute to this project. Sera Zegre will be the primary point of contact for this project, and will have periodic project team meetings with staff both at Downstream Strategies and HEI. She will manage the project, provide facilitation expertise, and draft all reports and materials related to the facilitation and visioning. Fritz Boettner will provide facilitation expertise and assist with data analysis and GIS interpretation. Evan Hansen will act as project advisor on issues related to water science and policy. Anne Hereford will provide project support for the engineering-related research tasks. Our project team will also include two subcontractors from Harbor Engineering (HEI), Darek Potter and Steven Gergely, who will provide expertise and oversight for the engineering-related tasks. Additional personnel are also available should the project workload warrant their involvement.

Figure 1: Staff organization chart



Sera Zegre, Project Manager, Facilitator. Mrs. Zegre is a social scientist and project manager with a background in public land management, natural resource policy and law, and asset-based community planning. She offers expertise in issues related to communities and natural resources, including: community visioning and planning, education and interpretation, outdoor recreation and tourism, social science research, environmental behavior, natural resource economics, and brownfields/community redevelopment. Mrs. Zegre has participated in leadership and contributing roles in asset-based community visioning and planning in brownfields redevelopment efforts throughout northern West Virginia. She also has experience in asset-based community visioning and planning in NEPA processes while working for the Bureau of Land Management.

Fritz Boettner, Project Advisor. Mr. Boettner has nine years of professional experience in a wide array of environmental consulting activities. He has successfully managed and coordinated numerous multi-disciplinary projects, including organizing resources, outlining project scopes, and developing and working within project budgets. He has worked on several watershed plans across the state of West Virginia and has helped facilitate stakeholder processes. He also has experience in applying GIS and computer visualization to a variety of projects at the local, regional, and national levels. He offers clients expertise in applying computer-based GIS systems, computer-based simulations, and computer animation. Mr. Boettner also has extensive experience with other professional consulting activities including wetland delineation, sample collection, Environmental Health and Safety Audits, Phase I and II Site Investigations, and Environmental Management System development and maintenance.

Evan Hansen, Project Advisor. Mr. Hansen has been performing work for government agencies and watershed organizations in West Virginia for over 12 years. He has developed relationships with many state officials and academic institutions. His experience will add to the unique qualifications of the project team as one of the state's leading water quality experts and watershed planners. Mr. Hansen is president of Downstream Strategies and focuses on resource and environmental problems and solutions in two program areas: water resources and water quality, and energy and greenhouse gases. He performs policy and scientific analyses; develops computer tools; and provides training and has expertise in water resources and Clean Water Act policy development, implementation, and review. Mr. Hansen has been a key participant on various West Virginia stakeholder committees, including the nutrient criteria committee, which provided recommendations that were ultimately adopted by the legislature for nutrient criteria in West Virginia waters; the water quality trading committee, which recommended a statewide policy for implementing trading to help facilitate cost-effective pollution reductions; and the TMDL committee, which helped establish the state's TMDL program within the West Virginia Department of Environmental Protection (WVDEP). He has also completed numerous watershed plans in West Virginia; provided expert testimony for permitting appeals; and conducted economic benefit analyses in Pennsylvania and West Virginia.

Anne Hereford, Environmental Scientist. Ms. Hereford has authored watershed plans and has a strong background in GIS, environmental science, and geology. Ms. Hereford has a diverse background including work in aqueous geochemical modeling, GIS development, mapping, science education, and visualization of demographic data.

Darek W. Potter, P.E., LEED-AP. Mr. Potter holds a Bachelor of Science degree in Civil Engineering from Tennessee Technological University and a Master of Science degree in Civil Engineering from Vanderbilt University. He has over 15 years of experience in the practice of civil engineering and site development design and currently serves as President of Harbor Engineering, Inc. Darek has worked on a variety of projects ranging from basic single lot residential subdivisions to multi-million dollar land developments. He has also filled a variety of positions throughout his career ranging from a field survey crew chief to president of a civil engineering company, which gives him a well rounded perspective on all aspects of civil engineering. Darek's experience in the water resources field includes extensive hydrologic and hydraulic modeling of existing systems and the design of both simple and complex new systems. In addition to his hands-on experience, Darek has also taught Hydraulic Design (ENVE 417) and Hydrology (ENVE 415) as an adjunct professor for The Pennsylvania State University at their Harrisburg campus, and Engineering Statics and the

York College of Pennsylvania. Darek is also certified under the Leadership in Energy and Environmental Design (LEED-AP) program.

Steven P. Gergely, RLA. Mr. Gergely holds a Bachelor of Science degree in Landscape Architecture from West Virginia University. He has over nine years of practical experience in the practice of landscape architecture and site development design and has been serving as a project manager for Harbor Engineering since 2004. Steve has a strong understanding of the local land planning process and has been very successful in working with both HEI clients and local municipalities to produce a successful outcome for everyone involved. His technical skills include master planning and the design of stormwater management and erosion/sedimentation control plans.

4. PROJECT TIMELINE

4.1 Project schedule

As shown in the table below, we plan to start as soon as the project is awarded.

Proposed schedule by month

Phases and tasks	1	2	3	4	5	6	7	8	9	10
<i>Project awarded</i>	[Blue bar]									
I: Data and literature review	Kickoff meeting Process plan									
II: Visioning - issues and assets			Meeting 1&2		Summary					
III: Visioning - solutions and vision					Meeting 3		Summary			
<i>Draft vision document</i>						Post to site		Review		
IV: Toward a common vision							Comment period		Meeting 4	
<i>Public feedback via website</i>	Ongoing									
<i>Final products</i>										Final Reports Summary
Key:	Key tasks		Deliverables							

4.2 Deliverables

4.2.1 Summaries of public meetings

Downstream Strategies will develop written summaries of the concerns raised at each of the four facilitated meetings. Each summary will be provided to the Department of Planning in digital format within one week of each meeting. Downstream Strategies will also coordinate posting these summaries on the website in the same timeframe. A single paper copy will be provided for the file.

4.2.2 Process of consensus building report

Downstream Strategies will develop a report discussing the consensus building process among residents and other stakeholders at the facilitated meetings. This report will address the creation of a shared vision for watershed protection. The topics to be addressed in the report will include, but are not limited to

longstanding concerns among those in the mountain communities related to slope, sanitation, stormwater, and road conditions. The report will describe the process of creating goals and objectives, desired outcomes and products, as well as determining the roles and responsibilities of the facilitator and stakeholders.

The report will be provided to the Department of Planning in digital format within four weeks of the final facilitated meeting. Downstream Strategies will also coordinate posting this report on the website in the same timeframe. A single paper copy will be provided for the file.

4.2.3 Draft shared vision

Downstream Strategies will develop a draft shared vision composed through the stakeholder process, and compiled into a document that provides for future implementation. The report will outline shared goals and objectives, desired outcomes and products, as well as anticipated future actions and needs.

The report will be provided to the Department of Planning and citizen's commission with adequate review time for feedback and comments. These feedback and comments will be incorporated into the draft vision within one week of the comment deadline, and posted to the project website for a public comment period.

4.2.4 Final engineering recommendations

Downstream Strategies will coordinate with HEI to provide a final written report detailing landscape engineering recommendations. The report will include the following components:

- Best management practices for steep slope watershed management, including recommendations for impervious service cover limits based on slope and sub-water conditions;
- Incorporation of sub-watershed map provided to the consulting firm by the County; and
- Recommendations regarding improved road access and potential future transportation connections, including a discussion of public input and consensus building effort.

Downstream Strategies will provide the report to the Department of Planning in digital format no more than eight weeks of the final facilitated meeting. Downstream Strategies will also coordinate posting this report on the website in the same timeframe. A single paper copy will be provided for the file.

4.2.5 Final shared vision

Downstream Strategies will incorporate all comments into the final report and present it to the Planning Commission and County Commission for approval. The report will outline shared goals and objectives, desired outcomes and products, as well as anticipated future actions and needs. Downstream Strategies will facilitate a final stakeholder meeting that will include an unveiling of the vision and the engineering recommendations, as well as a facilitated discussion regarding the implementation of the vision. Downstream Strategies will also coordinate the posting of the final documents on the website. A single paper copy will be provided for the file.

4.2.6 Progress reports

We propose submitting progress reports at least monthly. To streamline the reporting process, we propose that all deliverables, in part or whole, will serve as progress reports: summary reports from each of the four stakeholder meetings, draft vision and process documents, final vision and process documents, and draft and final engineering reports. Notes from initial meetings can serve to document progress. If a month passes without producing a written deliverable, we are willing to submit a brief written progress report of 1-2 pages upon request.

5. COST PROPOSAL

5.1 Budget

Our budget of \$16,000 includes the following hourly breakdown:

Proposed hourly breakdown by role

Role	Hours
Facilitator	120
Engineer	40
Project Support	20
Project Oversight	30

This cost breakdown includes mileage reimbursement for travel to and from Jefferson County, including four trips from Morgantown, West Virginia, and one trip from Manheim, Pennsylvania.

Sera Zegre will serve as the project facilitator and primary contact. Mrs. Zegre will conduct research and outreach tasks, and assume the responsibility for completion of all written summaries and reports.

Evan Hansen and Fritz Boettner will serve in a project oversight capacity, providing key support in project management, meeting facilitation, and document delivery.

Anne Hereford will provide project support in the initial research and drafting of the engineering task report.

Harbor Engineering will contribute to and review engineering report, including information regarding communities addressing similar issues and best management practices for development on steep slopes, as well as recommendations for impervious surface cover limits and improved road access and future transportation connections. They will also perform one site visit and meeting attendance to provide expertise for the implementation of key solutions.

Our "direct expense multipliers" are 1.15 for subcontractor labor, and 1.05 for travel and other expenses.

This budget does not include reimbursements for copies of outreach and educational materials related to communication of the shared vision and project objectives.

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

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

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

April 8, 2010

«AddressBlock»

Re: Blue Ridge Mountain Watershed Citizens Committee

Dear «Name»,

The Jefferson County Planning Commission was pleased to receive your letter of interest in participation in the Blue Ridge Mountain Watershed Citizens Committee. This letter is to inform you that at the March 23, 2010 Planning Commission meeting, the Planning Commission voted to accept you as a member of the committee. Attached is a list of all committee members for your information.

As you may know, this watershed planning effort is a part of a larger planning effort for the Blue Ridge Mountain Communities within Jefferson County. This visioning portion of the planning process has been funded by a grant from the National Fish and Wildlife Foundation (NFWF). NFWF provides funding for projects that address local issues that may impact the Chesapeake Bay Watershed water quality concerns. The role of the Citizens Committee will be to assist the Planning Commission in identifying key planning issues within the mountain communities and to encourage participation in the planning process by your neighbors and friends. A mission statement for the Committee has been drafted based on the requirements of the grant application. Both the grant application and the mission statement are attached.

While the Jefferson County Department of Planning Staff will have a leadership role in this planning process, the grant called for the hiring of a consultant to facilitate four locally held community meetings and to assist in drafting a common vision statement and goals based on input received at those meetings. A subcommittee of the Planning Commission has recently reviewed all responses and has recommended the firm known as Downstream Strategies, based in Morgantown, WV to be our consultant. The Jefferson County Commission will have to take final action to approve their contract.

This project will also have the opportunity to allow for citizen interaction on a website developed for this purpose. The website may be viewed at <http://www.blueridgecommunitiesplan.com>. Please take a few moments to review the site design and content and let us know of any recommended changes or additions. We hope that this will allow for more opportunities to provide comments and input.

Staff is proposing a kick-off organizational meeting for the Citizens Committee to be held on Saturday, April 24, 2010 at 2:00 p.m. at the St. Andrews Mountain Community center. This meeting will include Staff and Committee members only. The consultant will not be in attendance. The purpose of the meeting will be to allow all members to meet each other, to establish internal leadership, and to develop "rules of conduct" for the Committee. This meeting will also give the Committee an opportunity to provide Staff with suggestions regarding the location and timing of the four facilitated meetings.

The final product related to this grant is required to be completed by February 2011. To accomplish this, the work of the Citizens Committee and the consultant will need to be completed by late Fall 2010. The time commitment expected of the Citizens Committee members will be approximately seven meetings between April and December 2010.

Thank you for your willingness to serve your community. It is my sincere hope that we can foster a healthy working relationship between the Planning Commission, the Departments of Planning and Zoning and the citizens of Jefferson County with your assistance. I look forward to the outcome that can be achieved, as you go forth to inspire your friends and neighbors to become informed and involved in the issues of the Blue Ridge Mountain.

Sincerely yours,

Jennifer M. Brockman, AICP, Director
Departments of Planning & Zoning

JEFFERSON COUNTY, WEST VIRGINIA

Department of Planning & Zoning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

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Phone: (304) 728-3228
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**Director's Report
April 13, 2010
Planning Commission meeting**

- 1) Activity Report (attached)
- 2) Pre-Proposal Conference Memos (attached)
- 3) Reports Generated:
 - a) WV Department of Environmental Protection – subdivisions approved within last year (annual report for Chesapeake Bay)
 - b) Jefferson County Public Service District – status of subdivisions which they have committed to serve (report produced every six months as requested)
- 4) WV Department of Highways access permit concerns
- 5) Status of Land Development Fees
 - a) County Commission Workshop to discuss fees tentatively scheduled for 4/22/10 at 1:30 pm
 - b) Discussion Point: The EDA appeared before the CC to request that their land development fees be waived for a project related to a minor subdivision of land that is owned by the EDA. At my recommendation, the original request was that the County Commission waive all land development and building fees for any property owned by the County. CC requested that this request be included in the workshop to discuss land development fees.
- 6) Status of Zoning Map Update

Christine Chalmers

To: PLANNING DEPARTMENT
Subject: FW: WEEKLY CALENDAR

MONDAY, APRIL 05, 2010

10:00 am JENNIE & JENNILEE – WEEKLY SUBMISSIONS MEETING (PLANNING)

TUESDAY, APRIL 06, 2010

10:00 am JENNIE & SETH - BLUE RIDGE SUBCOMMITTEE MEETING

1:30 pm STAFF MEETING

WEDNESDAY, APRIL 07, 2010

THURSDAY, APRIL 08, 2010

9:00 am - COUNTY COMMISSION MEETING

(?) JENNIE – COUNTY COMMISSION

FRIDAY, APRIL 09, 2010

9:30 am – 10:00 am JENNILEE, AMY & CHRISTINE - ASSISTANT'S MEETING WITH JULIE

SETH – LEAVING FOR NEW ORLEANS / RE: PROFESSIONAL TRAINING

Christine Chalmers

To: PLANNING COMMISSION
Subject: FW: WEEKLY CALENDAR

MONDAY, APRIL 12, 2010

10:00 am JENNIE & JENNILEE – WEEKLY SUBMISSIONS MEETING (PLANNING)
NOON – 1:30 pm JENNIE & JENNIFER – WORKING LUNCH WITH ROGER
2:00 pm JENNIE & JENNIFER - WEEKLY ZONING MEETING

TUESDAY, APRIL 13, 2010

9:30 am - STAFF MEETING
2:00 pm JENNIE – DR. APPOINTMENT

7:00 pm PLANNING COMMISSION MEETING

WEDNESDAY, APRIL 14, 2010

ALL DAY JENNIE – LEADERSHIP JEFFERSON
9:30 am JULIE (FOR JENNIE) – DEPARTMENT HEAD MEETING / RE: HUNTER HOUSE CONFERENCE

THURSDAY, APRIL 15, 2010

SETH RETURNS TO WORK

9:00 am - COUNTY COMMISSION MEETING
(?) JENNIE – COUNTY COMMISSION

3:00 pm JENNIE, JENNIFER & CHRISTINE – BOARD OF ZONING APPEALS MEETING
6:30 pm – 9:00 pm JENNIE & SETH – COUNTY COMMISSION PUBLIC HEARING /
RE: REZONING – SHENANDOAH PROFESSIONAL CENTER

FRIDAY, APRIL 16, 2010

9:30 am – 10:00 am JENNILEE, AMY & CHRISTINE – ASSISTANT’S MEETING WITH JULIE

Jefferson County, West Virginia

Department of Planning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

Email: planningdepartment@jeffersoncountyvva.org

Phone: (304) 728-3228

Fax: (304) 728-8126

MARCH 22, 2010

PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: March 3, 2010 @ 10:45 am

CONTACT NAME: Kimberly J. Shrader kimberlyshrader@yahoo.com
13633 Dry Run Road
Clear Spring, Maryland 21722
(301) 842-2152

PROPERTY OWNER: Pastor, Charles W. Hunter, Sr. / Co-Pastor Alice Hunter
(Mailing Address/Phone Number) EBENEZER MOUNT CALVARY HOLY CHURCH
408 Shirley Road; Summit Point, West Virginia 25446
(304) 725-3468 (304) 725-8987

PROPOSED PROJECT: NON-RESIDENTIAL SITE DEVELOPMENT /
ADDITION TO EXISTING STRUCTURE

DISTRICT/MAP/PARCEL: KABLETOWN Tax District / Map: #15A / Parcels: #12 & #12.1
DEED BOOK; 565
PAGE: 695

TOTAL PARCEL SIZE: Approximately: 0.85 acres

2002 ZONING DISTRICT: RURAL / AGRICULTURAL

MEETING DESCRIPTION:

- The meeting attendees included Zoning Administrator, Jennifer Snyder; County Planner, Seth Rivard; County Engineer, Jonathan Saunders; Engineer, Kimberly J. Shrader, Contractor, Don Marshall; Assistant Pastor, Stan Peterson and Pastor and Mrs. Charles Hunter.
- Overview: The proposed project consists of a 1,600 sq. ft. addition to the existing Church for use as a Social Hall.
- Tentative site capacity calculations.
- Potential environmental constraints and mitigation measures as required by Zoning Ordinance.
- Anticipated Time-Frame and Deadlines.
- Additional relevant information to consider includes: Variance File #ZV01-30, regarding a decrease to the Rear Setback distance from 50' to 15'.
- FEES: Upon submission, all applicable Site Plan and Building Permit fees, as required by the Engineering Department.
- Payment(s): **None Received**

FINDING:

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

EFFECT OF FINDING:

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

Sincerely,

Jennifer Snyder
Zoning Administrator

JJS/clc

Cc: Don Marshall, Contractor
Engineering & Permits Department

**Jefferson County, West Virginia
Department of Planning & Zoning**

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

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Fax: (304) 728-8126

Email: planningdepartment@jeffersoncountyvww.org

MARCH 31, 2010

PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: March 24, 2010 @ 11:00 a.m.

CONTACT NAME: Appalachian Surveys, PLLC (304) 724-5008
Attn.: Mike Shepp

Address/Phone Number: 401 South Fairfax Boulevard, Suite 3
Ranson, West Virginia 25438

Company Name: Jefferson County Sheriff c/o Bobby Shirley (304) 728-3205
Name/Address: 102 Industrial Boulevard, Suite 100
Kearneysville, WV 25430

Property Owner: Jefferson County Volunteer Firemen's Association, Inc.

Physical Address: 0.3 mile west of intersection of West Virginia Rte. 8 / WV Rte. 45

PROPOSED PROJECT: NON-RESIDENTIAL SUBDIVISION
One (1) Lot Minor Subdivision and Residue Lot

DISTRICT/MAP/PARCEL: MIDDLEWAY TAX DISTRICT / MAP 15 / PARCEL 1.1
ZONING DISTICT: RURAL

INDIVIDUAL PARCELS: Lot #1: 21(+/-) acres and remaining Residue Lot: 27.50 acres
TOTAL PARCEL SIZE: Approximately: 48.5 acres

MEETING DESCRIPTION:

- Need to declare density as required in the Rural District.
- The meeting attendees included County Planner, Seth Rivard; County Engineer, Jonathan Saunders; Consultants, Mike Shepp and Karen Brill, with Appalachian Surveyors; and Jefferson County Sheriff, Bob Shirley.
- Overview: The proposed project consists of subdividing a 21 (+/-) acre Lot from the northern section of the property.
- Tentative site capacity calculations.
- Potential environmental constraints and mitigation measures as required by Zoning Ordinance, Art. 4.
- Anticipated Time-Frame and Deadlines.
- Additional relevant information to be considered (includes file numbers, dates/previous proposals, etc.).
- FEES: Upon submission, all applicable Site Plan and Building Permit fees, as required by the Engineering Department.
- Applicant has a right to request for a Waiver from perk and well test, as required in Appendix A, Section 1.2A(24) and Appendix B, Section 3.1A(2).
- Site is currently used as a Shooting Range, which was established in 1982.
- No site work is proposed for project.
- Application Fee: **\$600.00** Payment(s): **None Received**

FINDING:

The Minor Subdivision concept plan appears to satisfy the Subdivision and Land Development Regulation requirements. However, the Applicant has requested that the water and sewer requirements be waived, per Appendix A, Section 1.2A(24) and Appendix B, Section 3.1A(2), due to the use of the property (shooting range). To do so, the Applicant must submit a Waiver to the Planning and Zoning Department for approval by the Planning Commission.

EFFECT OF FINDING:

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

Sincerely,

Seth Rivard
County Planner

JJS/clc

cc: Mike Shepp & Karen Brill w/Appalachian Surveyors
Engineering and Building Permit Department

Jefferson County, West Virginia
Department of Planning & Zoning

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

Email: planningdepartment@jeffersoncountywv.org

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

MARCH 31, 2010

PRE-PROPOSAL CONFERENCE MEMORANDUM / VIOLATION MEETING

MEETING DATE: March 17, 2010 @ 10:00 a.m.

CONTACT NAME: William H. Gordon Associates, Inc.
Attention: Jason Gerhart jgerhart@whga.com
301 North Mildred Street, Suite 1
Charlestown, West Virginia 25414
(304) 725-8456

PROJECT NAME: CRAFTWORKS at COOL SPRING

PROPOSED PROJECT: NON-RESIDENTIAL SITE DEVELOPMENT

PRINCIPLE PERMITTED USE: Specialized Training Facility for Adults in Campus Setting

DISTRICT/MAP/PARCEL: KABLETOWN TAX DISTRICT / MAP 13 / PARCEL 12.3 / 12.75 acres

PHYSICAL ADDRESS: Northwest of Intersection of Lloyd Road and Wheatland Road.

ZONING MAP DISTRICT: RURAL / AGRICULTURAL

MEETING DESCRIPTION:

- The meeting attendees included Zoning Administrator, Jennifer Snyder; County Planner, Seth Rivard; County Engineer, Jonathan Saunders; and Jason Gerhart, Lisa McCully and Louise Zwicker, with William H. Gordon, Associates.
- Overview: The proposed Site Development Plan includes a specialized 2,000 sq. ft. Adult Training Facility in a campus like setting. The existing house will remain residential and support short term accommodations. An existing structure will be utilized as a pavilion-type meeting area for small groups, to include electricity. A new structure will be constructed for studio space and an office, to include well and septic, with a proposed parking lot for class attendees.
- Tentative site capacity calculations.
- Potential environmental constraints and mitigation measures as required by Zoning Ordinance.
- Anticipated Time-Frame and Deadlines.
- Additional relevant information for consideration (includes file numbers, dates/previous proposals, etc.).
- FEES: Upon submission, all applicable Site Plan and Building Permit fees, as required by the Engineering Department.
- Payment(s): **None Received**

FINDING:

Pursuant to the Zoning Ordinance, Section 4.10, the ILP Ordinance and current Subdivision Regulations, the proposed Plan Concept will require a Full Site Plan submission and may comply with the processing conditions for a Minor Site Development. The proposed plan will be limited to the structures and activities on Parcel 12.3, as outlined on the sketch plat submitted for review. Per Addressing/ GIS Department, several structures will be addressed off Lloyd Road. Accordingly, two (2) entrance permits will be required. Any change of use of existing buildings may require updating and additional Building Code standards.

EFFECT OF FINDING:

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

Sincerely,

Jennifer Snyder
Zoning Administrator

JJS/clc
cc: Jason Gerhart, WHGA
Engineering & Permit Department

Jefferson County, West Virginia
Department of Planning & Zoning

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

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

Email: planningdepartment@jeffersoncountyvww.org

MARCH 31, 2010
PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: MARCH 17, 2010 @ 11:30 a.m.

APPLICANT : US CELLULAR
CONTACT: Attention: Tim Stark / Wireless Resources
(Mailing Address/Phone Number) 203 Hunting Creek Road
Canonsburg, Pennsylvania 15317
(850) 232-8777 tim.stark@wirelessresources.com

OWNER/DEVELOPER: Kenneth L. Wilt
(Name/Mailing Address) 1280 Wilt Road
Charles Town, West Virginia 25414
(304) 725-0645

SITE NAME & NUMBER: MT. MISSION_USF - #416449
SITE ADDRESS: 524 Mission Road, North
Charles Town, West Virginia 25414

PROPOSED PROJECT: NON-RESIDENTIAL SITE DEVELOPMENT
PRINCIPAL PERMITTED USE: Wireless Telecommunication Facility

DISTRICT/MAP/PARCEL: CHARLES TOWN TAX DISTRICT / MAP 20 / PARCEL 31
DEED BOOK: 1045 / PAGE: 445

PARCEL SIZE: 52.1 (-/+) acres
ZONING MAP DISTRICT: RURAL

MEETING DESCRIPTION:

- The meeting attendees included Zoning Administrator, Jennifer Snyder; County Planner, Seth Rivard County Engineer, Jonathan Saunders; and US Cellular Representative, Tim Stark, with Wireless Resources.
- Overview: The proposed project consists of the construction of a new 195' monopole tele-communications tower with a 60'x60' fenced compound area. The installation of a new 12'x24' equipment shelter, and 12' antennas with 12' coax lines will also be included.
- Potential environmental constraints and mitigation measures as required by Zoning Ordinance, Art. 4.
- Anticipated Time-Frame and Deadlines.
- Additional relevant information to be considered: The 52.1 acre parcel owned by Mr. Wilt is vacant - with the exception of housing an existing telecommunications tower that is owned by Shentel Communications. Per Mr. Stark, a WV Engineer has advised that the existing tower is structurally incapable of holding additional antennas.
- FEES: Upon submission, all applicable Site Plan and Building Permit fees, as required by the Engineering Department.
- Payment(s): **None Received**

FINDING:

Pursuant to Zoning Ordinance, Section 4.10, the ILP Ordinance and current Subdivision Regulations, the proposed plan concept will require a full Site Plan submission and may comply with the processing conditions for Minor Site Development, upon removing proposed offsite access. Per Section 4B.4(B) of the Zoning Ordinance: Wireless Telecommunication Facilities are permitted by right; however, mitigation of the visual impact of the tower shall be submitted for consideration by the Planning Commission.

EFFECT OF FINDING:

The first step in processing a Wireless Telecommunications Tower is to request, from the Planning Commission, approval of the mitigation of the visual impact that the tower will have. Thirteen (13) copies of the mitigation proposal material, addressing all criteria referenced in 4B.4(B)(2)(b) of the Zoning Ordinance, must be submitted. It is necessary that addresses from both adjoining and confronting property owners be provided. In addition to said proposal material, subsequent to Staff review, the mitigation proposal item will be scheduled on the Agenda for consideration at the next regular Planning Commission meeting. Upon approval, the processing of a Site Plan is required. Building Permits must be obtained, prior to the start of construction, and appropriate approvals from all Local, State and Federal Agencies, are necessary for the issuance of a Zoning Certificate.

Sincerely,

Jennifer Snyder
Zoning Administrator

JJS/clc

Cc: Mr. Tim Stark / Wireless Resources
Engineering & Permits Department

**Jefferson County, West Virginia
Department of Planning & Zoning**

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

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

Email: planningdepartment@jeffersoncountyv.wv.org

MARCH 31, 2010

PRE-PROPOSAL CONFERENCE MEMORANDUM / PARENT-TO-CHILD TRANSFER

MEETING DATE: March 10, 2010 @ 10:45 a.m.

CONTACT NAME: Paul Raco, P. J. Raco Consulting, LLC
Address/Phone Number: P.O. Box 548; Charles Town, West Virginia 25414
(304) 676-8256

OWNER/DEVELOPER: HY-CREST FARMS, LLC (Arnold and Paul Dailey)
MAILING ADDRESS: 1694 South Childs Road, Kearneysville, West Virginia 25430

PHYSICAL ADDRESS: South Childs Road (rear of Summit View Estates S/D)

PROPOSED PROJECT: RESIDENTIAL SUBDIVISION / PARENT-TO-CHILD TRANSFER

DISTRICT/MAP/PARCEL: KABLETOWN TAX DISTRICT / MAP 15 / PARCEL 3.3

2002 ZONING MAP DIST.: RURAL / AGRICULTURAL

INDIVIDUAL LOT SIZES: Lot #1: 1.25 acres and a remaining Residue Lot: 12 acres

TOTAL PARCEL SIZE: Approximately: 13.26 acres

MEETING DESCRIPTION:

- The meeting attendees included Zoning Administrator, Jennifer Snyder; County Planner, Seth Rivard; County Engineer, Jonathan Saunders; Consultant, Paul Raco; Todd Fagan, GIS Specialist and Jessica Gormont, GIS Technician, from the Addressing/GIS Office; and property Owner, Arnie Dailey.
- Overview: The proposed project consists of creating one (1) approximate 1.25 acre Parent-to-Child or Child-to-Parent transfer and an approximate 12 acre Residue.
- History of previous land divisions.
- History of Access Easement: the new 50' access easement would require processing through the
- Addressing Department.
- Additional relevant information to consider may include file numbers, dates, previous proposals, etc. (Plat notes to be added).
- Tentative proposal regarding water and sewage provision.
- Potential Environmental constraints.
- Proposed time-line of development.
- Application Fee: **\$600.00** Payment(s): **None Received**

FINDING:

The Plan concept appears to satisfy the intent of the Zoning & Subdivision Ordinance requirements. Required Parent-to-Child Plat notes were provided during the meeting. Environmental concerns pertain to the Turkey Run Stream, which is located on the property.

EFFECT OF FINDING:

The Applicant may proceed with the engineering of the proposed Minor Subdivision / Parent-to-Child transfer. Upon receipt of the required material, fees, and approvals from the Health Department and Division of Highways, the Department of Planning and Zoning will process said Minor Subdivision / Parent-to-Child transfer within the time line requisites stated in the Subdivision Regulations.

Sincerely,

Jennifer Snyder,
Zoning Administrator

JJS/clc

cc: Paul Raco, P. J. Raco Consulting LLC
Engineering & Building Permit Department

Jefferson County, West Virginia

Department of Planning

116 East Washington Street; 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

Phone: (304) 728-3228

Fax: (304) 728-8126

Email: planningdepartment@jeffersoncountywv.org

MARCH 31, 2010

PRE-PROPOSAL CONFERENCE MEMORANDUM / PARENT-TO-CHILD TRANSFER

MEETING DATE: March 10, 2010 @ 10:00 a.m.

CONTACT NAME: Paul Raco, P. J. Raco Consulting, LLC
Address/Phone Number: P.O. Box 548; Charles Town, West Virginia 25414
(304) 676-8256

OWNER/DEVELOPER: HY-CREST FARMS, LLC (Arnold and Paul Dailey)
MAILING ADDRESS 1694 South Childs Road, Kearneysville, West Virginia 25430

PHYSICAL ADDRESS: South Childs Road (rear of Summit View Estates S/D)

PROPOSED PROJECT: RESIDENTIAL SUBDIVISION / PARENT-TO-CHILD TRANSFER

DISTRICT/MAP/PARCEL: MIDDLEWAY TAX DISTRICT / MAP 24 / PARCEL 7

2002 ZONING MAP DIST.: RURAL / AGRICULTURAL

INDIVIDUAL LOT SIZES: Lot #1: 1-2 acres; Lot #2: 1-2 acres; Lot #3: 1-2 acres and a remaining
Residue Lot: 107 (+/-) acres

TOTAL PARCEL SIZE: Approximately: 113.31 acres

MEETING DESCRIPTION:

- The meeting attendees included Zoning Administrator, Jennifer Snyder; County Planner, Seth Rivard; County Engineer, Jonathan Saunders; Consultant, Paul Raco; Owner, Arnie Daily; GIS Specialist, Todd Fagan and Jessica Gormont, Technician, both with the GIS/Addressing Department.
- Overview: The proposed project consists of creating three (3) approximate 1-2 acre Parent-to-Child or Child-to-Parent transfers and an approximate 107 (+/-) acre Residue.
- History of previous land divisions.
- History of Access Easement: the new 50' access easement would require processing through the Addressing Department.
- Additional relevant information to consider may include file numbers, dates, previous proposals, etc. (Plat notes to be added.)
- Application Fee: **\$1,000.00** Payment(s): **None Received**

FINDING:

The Plan Concept appears to lack established access across the Parcel identified as Kabletown District, Map 15, Parcel 3.3. Due to the proposed offsite access easement, said Plan Concept does not meet the definition of a Minor Subdivision, specifically Section 20.202©, and requires reconfiguration of the proposal or resubmission, after access is established Parent-to-Child Plat notes would still be required.

EFFECT OF FINDING:

The Applicant may not proceed with the engineering of the proposed Minor Subdivision / Parent-to-Child transfer. After access is established over Parcel 3.3, or if the Applicant reconfigures the proposal, resubmission would be an appropriate action.

Sincerely,

Jennifer Snyder,
Zoning Administrator

JJS/clc

cc: Paul Raco, P. J. Raco Consulting LLC
Engineering & Building Permit Department

Amy Puetz

From: John Maxey [maxey@radlib.com]
Sent: Tuesday, April 06, 2010 12:46 PM
To: Amy Puetz
Subject: Letter to Planning Commission Attorney requesting briefing
Attachments: pc-2010-04-05.doc

Hi Amy,

Attached is a letter to Mr. Groh inviting him to speak to us at next weeks meeting. Please forward it to members of the Planning Commission.

--John

April 5, 2010

John Maxey
Jefferson County Planning Commission
335 Old Shenandoah Trail
Harpers Ferry, WV 25425

Stephen Groh
Assistant Prosecuting Attorney
110 North George Street, 3rd Floor
Charles Town, WV 25414

Dear Mr. Groh,

The Planning Commission completed the fifth in a series of public outreach meetings regarding the proposed amendments to the Jefferson County Subdivision ordinance on Thursday, April 1. We are expecting a staff report on these outreach sessions at the April 13th meeting of the Planning Commission and will need a preliminary report on compatibility of the draft amendments with West Virginia state law at that same meeting. Ms. Grove of your office provided a written review of the entire ordinance before it was passed in November 2008, so at this point we only need a review of the proposed changes and additions.

The County Commission recently appointed four new members to the Planning Commission. With additional new members appointed over the past several months, we are in need of an update from your office covering general responsibilities of Planning Commission members and legal issues that you feel we should be aware of. I understand that the recent West Virginia Supreme Court of Appeals decision in the Thorn Hill case has clarified issues of standing and of recusal, so a briefing on that decision might also be helpful.

With so many new members on the Planning Commission we have an opportunity to restart our working relationship with the Prosecuting Attorney's office. I hope to keep communications with your office open and regular in an effort to take full advantage of that opportunity.

Thank you,

John Maxey, President
Jefferson County Planning Commission

Cc: Ralph Lorenzetti, Jefferson County Prosecuting Attorney
Lynn Widmyer, President, Jefferson County Commission
Jennifer Brockman, Director, Jefferson County Planning & Zoning Departments

S. Groh
COPY

**IN THE CIRCUIT COURT OF
JEFFERSON COUNTY, WEST VIRGINIA**

JAMES GIBSON, ET AL
Plaintiffs

vs.

Civil Action No: 09-C-364

THE JEFFERSON COUNTY PLANNING COMMISSION
Defendants.

RECEIVED
MAR 24 2010
JEFFERSON COUNTY
CIRCUIT COURT

ORDER OF RECUSAL AND TRANSFER

This matter came on for the Court's consideration this 24th day of **March, 2010**, upon review by the assigned Judge David J. Sanders.

It appears to the Court that the appearance of judicial propriety and impartiality would best be served by the voluntary recusal of the undersigned Judge from presiding over this matter. The undersigned Judge states that a conflict of interest exists because of a personal relationship with the Plaintiff and this Courts Law Clerk. Therefore, the Court on its own motion, hereby recuses itself from any and all further proceedings in this matter. The court will note that there is a Motion To Dismiss pending and a trial court rule 22 scheduling order was sent to all parties with an opposition filed.

ACCORDINGLY, it is **ORDERED** that the Clerk do reassign this matter to The Honorable John C. Yoder

The Clerk shall enter this Order as of the day and date first above written, and forward an attested copy to all counsel of record, any pro se parties, to the newly assigned Judge and the Judge recusing himself.

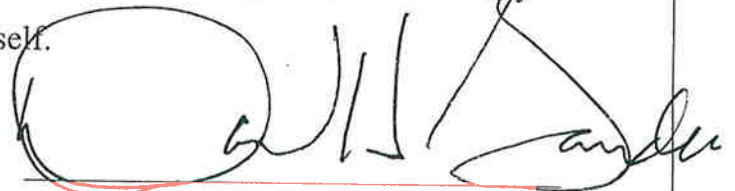
4 cc's

Judge Yoder
Judge Sanders
J. Cassell
S. Groh

3-25-10
bc

A TRUE COPY
ATTEST:

LAURA E. RATTENNI
CLERK, CIRCUIT COURT
JEFFERSON COUNTY, W.VA.


JUDGE OF THE CIRCUIT COURT

BY B. Chalk
DEPUTY CLERK

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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.

JEFFERSON COUNTY, WEST VIRGINIA
Department of Planning & Zoning
116 East Washington Street, 2nd Floor
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March 24, 2010

Ms. Lyn Widmyer, President
Jefferson County Commission
124 East Washington Street
Charles Town, WV 25425

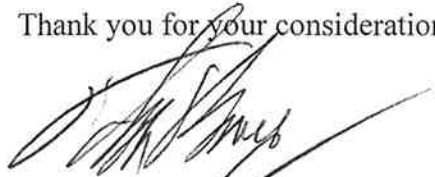
Dear President Widmyer and members of the Jefferson County Commission,

At our March 23rd, 2010 meeting the Planning Commission agreed by unanimous vote to support the Water Advisory Committee's request for funding to expand their existing stream water sampling program to include sites on the Blue Ridge Mountain.

Current stream sampling in the Elks Run watershed will provide sound scientific data on water quality as well as flow rates in the Elks Run watershed. The Planning Commission will be able to use this data in the upcoming Route 340 corridor planning initiative.

The Planning Commission needs equally sound data for use in the Blue Ridge Mountain Watershed planning initiative. The expanded Water Advisory Committee sampling program will provide this information. It is our hope that this base line data on nitrogen, phosphorus, and e-coli levels in mountain streams can be used to establish Chesapeake Bay TMDL credits that the County Public Service District could use so that they will not be required to purchase credits from areas outside of the county.

Thank you for your consideration,



John Maxey, President
Jefferson County Planning Commission



THE COUNTY COMMISSION OF JEFFERSON COUNTY

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

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March 31, 2010

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Dr., Peter Villa
Shepherd University
P.O. Box 5000
Shepherdstown, WV 25443

Dear Dr. Peter Villa,

We are writing to you regarding the Mountain Water Monitoring System. The Jefferson County Commission has authorized that \$3,600.00 from the Planning Department go toward this study.

Please be advised that these funds must be spent before June 30, 2010. The contract for this project is from March 2010 through February 2011.

If you have any questions, please contact Jennifer Brockman at 304-728-3228.

Sincerely,

Kirk Davis
Capital Projects Manager

cc: Jennifer Brockman