

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

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

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

MEMORANDUM

**TO:** JEFFERSON COUNTY PLANNING COMMISSION  
**FROM:** JENNIFER BROCKMAN, DIRECTOR OF PLANNING  
**DATE:** JUNE 4, 2010  
**SUBJECT:** JUNE 8, 2010 PLANNING COMMISSION MEETING

Please find attached the following documents for consideration at the June 8, 2010 Planning Commission meeting.

**Documents provided:**

➤ **June 8, 2010 agenda and map.**

1. Approval of the minutes from the May, 18, 2010 and the May 25, 2010 meeting.

**Documents provided:**

- **Draft minutes for the May 18, 2010 meeting.**
- **Draft minutes for the May 25, 2010 meeting.**

2. Citizen Communications.
3. A call for postponements.
4. Request by Sheriff Robert Shirley of the Jefferson County Volunteer Firemen's Association, Inc. for a waiver from the following requirements of the Subdivision Regulations: Appendix A, Section 1.2 requiring a note on the plat of permit numbers for water, well, and septic/sanitary sewer systems and copies of approved plans and permits and Appendix B, Section 3.1.A requiring permits from the Jefferson County Health Department for a well and septic system and all requirements regarding well and septic systems stated in the section. This property is located on the north side of Leetown Pike directly to the east of the Jefferson County Fairground and is approximately 1720 feet west of the intersection of Leetown Pike and Wiltshire Road. This property is designated as Tax District: 7, Map: 15, Parcel: 1.1.

**Documents provided:**

- **Waiver request.**
- **A letter to the Planner. (7 pages)**
- **Staff report.**

5. Request by US Cellular for Approval of the Mitigation of the Visual Impact for a wireless communication tower. This project consists of the construction of a new 195' monopole telecommunications tower with a 60'x60' fenced compound area, the installation of a new 12'x24' equipment shelter, and 12' antennas with 12' coax lines. The property is designated as Tax District: Charles Town; Map: 20; Parcel: 31.

**Documents provided:**

- **U.S. Cellular's request for mitigation hearing and proposal documents. (16 pages)**
- **Staff Report.**

6. Discussion and vote on Planning Commission policy for implementation of new West Virginia State code provisions regarding subdivision time lines and vesting.
  - Conference call with State Representative, John Doyle.

**Documents provided:**

- **Memo from Jennifer Brockman regarding the local application of SB 595.**

7. Blue Ridge Mountain Community Plan.

- Interim Report.

**Documents provided:**

- **Blue Ridge Mountain Communities Watershed Management Plan.**

8. Director's Report.

**Documents provided:**

- **Director's Report.**
- **Activity Report.**
- **PPC memo.**

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

10. County Commission Liaison Report.

11. Planning Commission Exchange.

**Documents provided:**

- **Letter from Planning Commission addressed to Department of Transportation.**

12. President's Report.

- Status of Far Away Farms Appeal.

13. Actionable Correspondence.

14. Non-Actionable Correspondence.

**Documents provided:**

- **Letter from Lee Snyder.**

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

AGENDA  
JEFFERSON COUNTY PLANNING COMMISSION  
**June 8, 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**

1. Approval of the minutes from the May, 18, 2010 and the May 25, 2010 meeting.
2. Citizen Communications.
3. A call for postponements.
4. Request by Sheriff Robert Shirley of the Jefferson County Volunteer Firemen's Association, Inc. for a waiver from the following requirements of the Subdivision Regulations: Appendix A, Section 1.2 requiring a note on the plat of permit numbers for water, well, and septic/sanitary sewer systems and copies of approved plans and permits and Appendix B, Section 3.1.A requiring permits from the Jefferson County Health Department for a well and septic system and all requirements regarding well and septic systems stated in the section. This property is located on the north side of Leetown Pike directly to the east of the Jefferson County Fairground and is approximately 1720 feet west of the intersection of Leetown Pike and Wiltshire Road. This property is designated as Tax District: 7, Map: 15, Parcel: 1.1.
5. Request by US Cellular for Approval of the Mitigation of the Visual Impact for a wireless communication tower. This project consists of the construction of a new 195' monopole telecommunications tower with a 60'x60' fenced compound area, the installation of a new 12'x24' equipment shelter, and 12' antennas with 12' coax lines. The property is designated as Tax District: Charles Town; Map: 20; Parcel: 31.
6. Discussion and vote on Planning Commission policy for implementation of new West Virginia State code provisions regarding subdivision time lines and vesting.
  - Conference call with State Representative, John Doyle.

AGENDA  
JEFFERSON COUNTY PLANNING COMMISSION  
JUNE 8, 2010  
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7. Blue Ridge Mountain Community Plan.
  - Interim Report.
8. Director's Report.
9. Reports from Legal Counsel and legal advice to PC.
10. County Commission Liaison Report.
11. Planning Commission Exchange.
12. President's Report.
  - Status of Far Away Farms Appeal.
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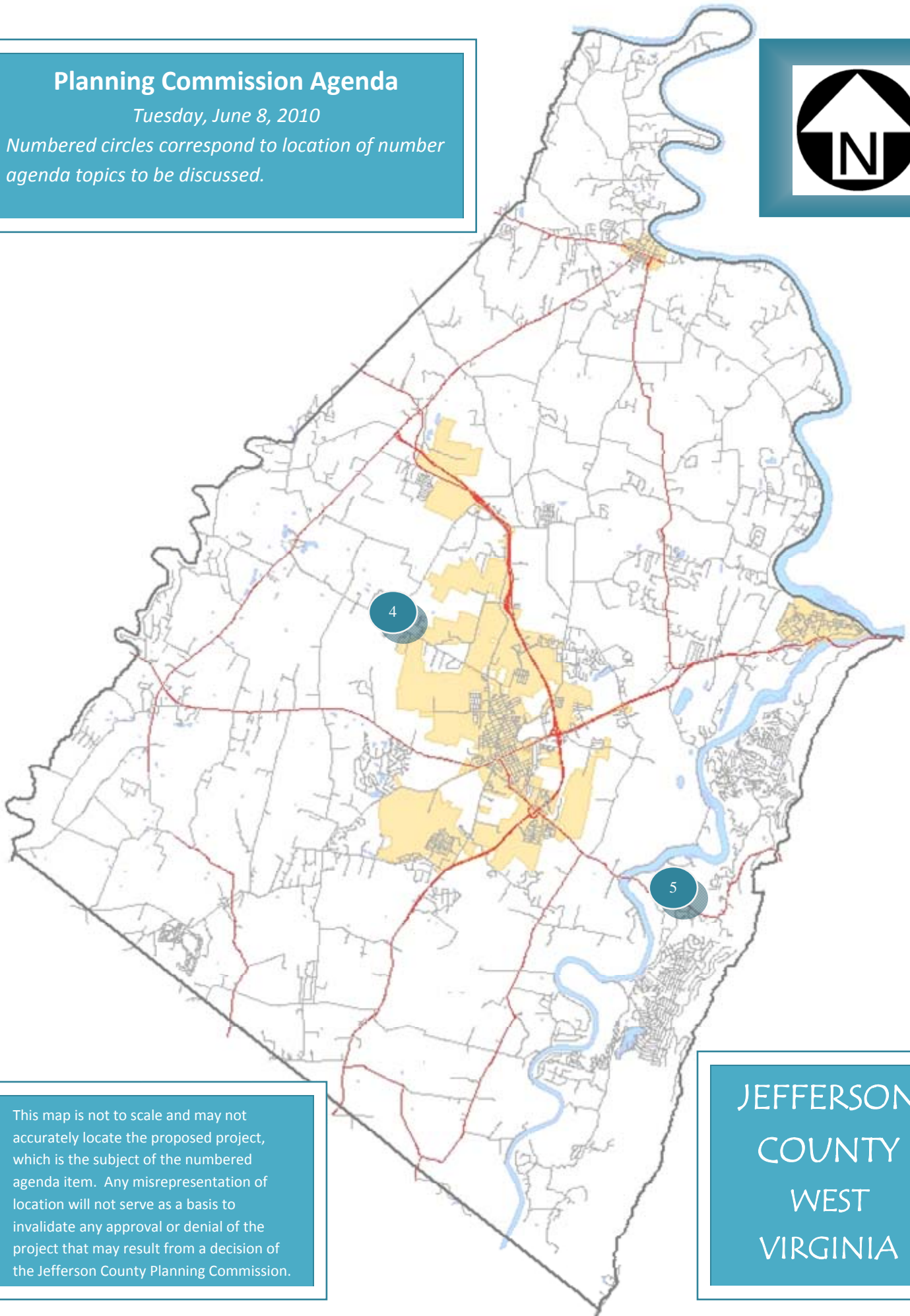
The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address is [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org) and our website is [www.jeffersoncountywv.org](http://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, June 8, 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



MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
MAY 18, 2010

The Jefferson County Planning Commission met on Tuesday, May 18, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Morgan Etters, Secretary; Arnold Dailey, Frances Morgan, Kelly Baty, and Gene Taylor. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jennifer Snyder, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; Julie Quodala, Planning and Zoning Office Manager; and Amy Puetz, Office Assistant.

Stephen Alemar and Daniel Hayes were absent with notification.

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

**1. Approval of minutes for the April 27, 2010 meeting:**

Mr. Trumble moved to approve the minutes of the April 27, 2010 Planning Commission meeting with the following correction: on page 4, item 11, 2<sup>nd</sup> line, change “regarding the removal of the stop sign” to “regarding the replacement of a removed stop sign”. Ms. Etters seconded the motion which carried unanimously.

**2. Citizens Communication:** None.

**3. A call for postponements:** None.

**4. Response to the Planning Commission’s request for information related to wireless communication towers in Jefferson County.**

Mr. Rivard presented information collected by staff and provided in the agenda packets. Mr. Groh provided information regarding the process that would be required to be followed and the effects a moratorium could have on the county.

Ms. Morgan entered the room at 7:15 PM.

Mr. Dailey entered the room at 7:17 PM.

There was discussion regarding amending the Zoning Ordinance instead of enacting a moratorium. Mr. Trumble suggested including protection for the C&O Canal and Harpers Ferry National Park in the amendments.

**5. Discussion and vote on the Proposed Subdivision Regulation Amendments to the 2008 Subdivision and Land Development Regulations.**

Ms. Snyder presented an updated comments chart which included new comments from the Historic Landmarks Commission and staff and changes recommended by Attorney Groh.

All new comments were discussed and considered individually.

On the issue of storm water management easements (item #13 on the chart) and public easements (item #35), Ms. Morgan moved to approve staff recommendation of postponing consideration of these two items until further research could be done. Mr. Trumble seconded the motion which carried unanimously.

On the Historic Landmarks Commission (HLC) recommendations:

- Wording change from “historical landmarks” to “historic resources” (item HLC1 on the chart), Major Subdivision Submission Contents regarding Phase I Archaeological Study & Historic Resources Impact Study (item HLC2), and Definition of “Historic Resources” (item HLC3). Mr. Trumble moved to adopt all 3 recommended changes. Mr. Maxey seconded the motion which carried unanimously.
- Disallowance of electronic signage (item HLC4). Mr. Trumble moved to postpone this change and to have it considered during the Zoning Ordinance review. Ms. Morgan seconded the motion. Ms. Morgan offered a friendly amendment to place this item on the first round of considered amendments to the Zoning Ordinance. Mr. Trumble accepted the friendly amendment. The motion passed 6 for and 1 opposed (Mr. Dailey).
- Require a demolition permit for historic structures (item HLC5). Ms. Brockman suggested a meeting with John Allen, Chairman of the Historic Landmarks Commission. Mr. Trumble moved to postpone this item pending a meeting between the Planning Department staff, Engineering staff, and the Historic Landmarks Commission staff with the condition that this amendment have top priority in the Zoning Ordinance review. Mr. Taylor seconded the motion which carried unanimously.

Mr. Groh presented suggestions from the Legal Department of amendments to the Subdivision Regulations:

- To remove the words *Planning Commission* from Subdivision Sections 20.302(F) (Item L7 on the chart), 20.302(K)(2) (item L8), 20.303(E) (item L9), and 20.303(H)(2) (item L10). Mr. Maxey asked for a motion from the commission. No motion was given. Mr. Maxey moved to postpone until after a joint meeting with the Public Service District. Ms. Morgan seconded the motion. Ms. Morgan suggested leaving the language in the Subdivision Regulations “as is”. Ms. Morgan withdrew her second to the motion. Mr. Maxey withdrew his motion.

Mr. Maxey called for a break at 8:22 PM to allow staff to change the CD. Mr. Maxey called the meeting to order at 8:26 PM.

Mr. Baty moved that the words Planning Commission remain in the text and the rest of the language to remain unchanged. Mr. Trumble seconded the motion which carried unanimously.

- Add provision to permit applicant to appeal staff determination in Sections 20.202, 20.203(D)(3), and 21.201(B) (item L1 on chart), to remove *County* and add

- Homeowner's Association in Section 21.402(C)(item L2), and to make Section 21.402(D) inclusive of all easements (item L3). Ms. Morgan moved to approve the suggested changes. Mr. Trumble seconded the motion which carried unanimously.
- To remove the word *County* and add the phrase homeowner's association, business owners association, any of the public service providers. Mr. Maxey moved to approve the suggested changes. Mr. Trumble seconded the motion which carried unanimously.
  - To add the word ownership to Section 22.207 (item 5). Mr. Baty moved to approve the suggested change. Mr. Taylor seconded the motion which carried unanimously.
  - On the percentage of land to be protected chart, Section 22.504 (item L6), Ms. Morgan motioned to retain the chart and the language as it is and as it has been. Mr. Maxey seconded the motion which passed 5 for and 2 opposed (Mr. Baty and Mr. Trumble).
  - To add the words County Commission to Section 21.105(C)(2) (item L11). Mr. Taylor moved to adopt the suggested change. Ms. Eppers seconded the motion which carried unanimously.
  - To remove the word *County* from Section 21.402 (item L12). Mr. Trumble moved to adopt the suggested change. Mr. Taylor seconded the motion which carried unanimously.
  - To remove the word *filed* from Section 24.118 so that it states approval shall be void if not recorded (item L13). Mr. Trumble moved to adopt the suggested change. Ms. Eppers seconded the motion which carried unanimously.

Ms. Brockman presented staff's interpretation of SB 595 and how it applies to Jefferson County Regulations. Ms. Brockman provided the Planning Commission with a memo which included language to be added to the Subdivision Regulations and a sample chart of information that would be provided to the public. Mr. Maxey explained the conference call he had with Ms. Brockman and State Representative, John Doyle. He described the author's intent when drafting SB 595. Mr. Groh agreed with Ms. Brockman and gave legal counsel on the wording of the amendment. Mr. Trumble suggested that the chart be included in the amendments to the Subdivision Regulations.

**6. Blue Ridge Mountain Community Plan.**

Mr. Rivard informed the Planning Commission of a visit with Downstream Strategies scheduled for May 24, 2010 in Morgantown, WV.

**7. Reports from Legal Counsel and legal advice to Planning Commission.**

Mr. Groh explained that the Motion to Dismiss in the Alstadts Corner case is still pending and that 3 judges have recused themselves. Mr. Groh stated that the definition of "contiguous" is unclear. Ms. Brockman informed the Planning Commission that an Urban Growth Boundary meeting, that Mr. Maxey and she had attended, had taken place in Shepherdstown on May 6, 2010. A short discussion ensued on whether parcels could be annexed without border connection and if parcels outside, although abutting the Urban

Growth Boundary line, could be annexed due to the wording in the State Code. Mr. Groh stated that the Urban Growth Boundary would be ready for discussion after more research.

**8. Director's Report:**

- a) Activity Report. A copy of staff's schedule was provided in the agenda packets.
- b) Shenandoah Professional Center Zone Change Request. Ms. Brockman informed the Planning Commission the Zone Change Request had been rescheduled to May 27, 2010.
- c) Land Development Fees - Stakeholders Meeting. Ms. Brockman informed the Planning Commission that a meeting would be held May 19, 2010 from 2 PM to 4 PM.
- d) Urban Growth Boundary Update - this item was discussed under agenda item #7.
- e) Chesapeake Bay TMDL Update - Ms. Brockman described the Regional Water Resources Policy Committee Meeting that was held May 6, 2010 in Strasburg, VA.
- f) Local Implication of SB 595, Vested Property Rights. This was discussed under item #5.

**9. County Commission Liaison Report:** None.

Mr. Maxey called for a break at 9:44 PM to allow staff to change the CD. Mr. Maxey called the meeting to order at 9:47 PM.

**10. Planning Commission Exchange:**

Ms. Eters distributed a draft letter addressed to the District Engineer at the Department of Transportation regarding the traffic issues at the intersection of Shepherdstown Pike and Flowing Springs Road. She asked that the Planning Commission review this draft letter for discussion at the May 25, 2010 Planning Commission meeting.

**11. President's Report:**

- a) Mr. Maxey stated that he had spoken with Attorney Robert Bastress, counsel for the Planning Commission in regards to the Jefferson County Planning Commission v. Far Away Farms, LLC, Case # 3:09-CV-45, and was informed that the District Court had declined to reconsider the case. He stated that a conference call with Professor Bastress would take place at the May 25, 2010 meeting.
- b) Mr. Maxey communicated desire to petition for the rezoning of Federal and parklands to clearly delineate a zone for each area on the zoning map.
- c) Mr. Maxey requested a proposal regarding how staff will proceed with further ordinance amendments and the 340 Corridor Study.
- d) Mr. Maxey expressed interest in placing authorization for a Transfer of Development Rights (TDR) Ordinance on the November general election ballot. Mr. Maxey requested that Mr. Groh review the State Code for the correct process and report back to the Planning Commission at the May 25, 2010 meeting.

**12. Actionable Correspondence:** None.

**13. Non-Actionable Correspondence:** None.

Mr. Taylor moved to adjourn at 10:01 PM. Mr. Trumble seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CD #35, #36, and #37. These minutes were prepared by Amy Puetz, Office Assistant.



MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
MAY 25, 2010

The Jefferson County Planning Commission met on Tuesday, May 25, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Morgan Eppers, Secretary; Arnold Dailey, Frances Morgan, Daniel Hayes, Kelly Baty, and Gene Taylor. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Jennifer Snyder, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; Julie Quodala, Planning and Zoning Office Manager; and Amy Puetz, Office Assistant.

Stephen Alemar was absent with notification.

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

1. **Approval of minutes for the May 18, 2010 meeting:**

Staff requested postponement of the approval of minutes for the May 18, 2010 meeting until the June 8, 2010 meeting. Mr. Dailey moved to postpone the approval of minutes. Mr. Taylor seconded the motion to which there was unanimous consent.

2. **Citizens Communication:** None.

3. **A call for postponements:** None.

4. **Conference call with Attorney Robert Bastress, counsel for the Planning Commission in regards to the Jefferson County Planning Commission v. Far Away Farms, LLC, Case #3:09-CV-45, to discuss the recent decision by the U.S. District Court judge.**

Mr. Dailey moved to go into executive session for the duration of the conference call. Ms. Morgan seconded the motion which carried unanimously. Executive session commenced at 7:03 PM.

Ms. Morgan moved to conclude the executive session and resume the regular session.

Mr. Trumble seconded the motion which carried unanimously. Regular session recommenced at 7:24 PM.

Ms. Morgan left the meeting at 7:25 PM.

5. **Presentation on the request being made by Good Shepherd Interfaith Volunteer Caregivers for a zoning map amendment from Residential Growth to Residential/Light Industrial/Commercial and to request that the Planning Commission schedule a public hearing.**

Mr. Rivard read from the staff report and gave options of appropriate dates to hold a public hearing on the matter.

Dan Rowzie, President of the Good Shepherd Interfaith Volunteer Caregivers, gave a presentation on reasons for the need for a rezoning of the property and the benefits rezoning would provide.

Mr. Trumble moved to schedule the public hearing for the rezoning for June 22, 2010.  
Ms. Etters seconded the motion which carried unanimously.

Ms. Morgan re-entered the meeting at 7:45 PM.

**6. Discussion and vote to recommend the Subdivision Regulations Amendments to the County Commission for their consideration and to schedule a public hearing:**

Ms. Brockman presented an updated chart of amendment changes that had been agreed on at the May 18, 2010 meeting. There was discussion on the process that would be followed moving forward. Mr. Taylor moved to approve the Subdivision Regulations Amendments final draft and forward the document to the County Commission for a workshop and public hearings. Mr. Hayes seconded the motion which carried 7 for and 1 abstention (Ms. Morgan).

**7. Blue Ridge Mountain Community Plan:**

Mr. Rivard provided an update to the Planning Commission on the staff's visit to Downstream Strategies in Morgantown on May 24, 2010. Ms. Brockman informed the Planning Commission that the grant requires staff to provide an Interim Programmatic Report that would be due May 31, 2010.

**8. Reports from Legal Counsel and legal advice to Planning Commission:**

Attorney Groh supplied information to the Planning Commission regarding placing authorization of a Transfer of Development Rights Ordinance on the November general election ballot. He stated that an ordinance would have to be drafted and the ordinance, not the authorization, would need to be voted on by the public at the general election.

Attorney Groh also stated that the possibilities of rezoning Federal and Parkland to update the map would require more research. Mr. Maxey voiced importance of having underlying zoning for these properties.

**9. Director's Report:**

- a) Activity Report. A copy of staff's schedule was provided in the agenda packets. Ms. Brockman informed the Planning Commission that she agreed to be a part of a committee for a grant received by Region 9 to write model stormwater regulations.
- b) Shenandoah Professional Center Zone Change Request. Ms. Brockman informed the Planning Commission the Zone Change Request had been rescheduled to May 27, 2010.
- c) Land Development Fees – Stakeholders Meeting. Ms. Brockman provided an update on the stakeholders meeting that was held May 19, 2010 from 2 PM to 4 PM. She stated that out of over 30 invitations only 2 people attended. Ms. Brockman stated

- she would forward the comments given at the meeting to the County Commission for their consideration.
- d) Ethics Commission – Ms. Brockman presented information provided at an Ethics Commission workshop that she attended the previous week and gave the highlights of events.
  - e) Upcoming Tasks – Ms. Brockman distributed a memo of staff goals for the upcoming months concerning the Subdivision Regulation and Zoning Ordinance Amendments.

Mr. Maxey called for a break at 8:37 PM to allow staff to change the CD. Mr. Maxey called the meeting to order at 8:38 PM.

**10. County Commission Liaison Report:** Ms. Morgan reiterated that the Shenandoah Professional Center rezoning request would be on the Thursday, May 27, 2010 County Commission agenda and that future topics to be discussed by County Commission would include budgets and updating county personnel policies. Ms. Morgan stated there was a Farmland Protection Board meeting held on May 17, 2010 and a change had occurred in the matching program the board had with the Natural Resources Conservation Service (NRCS), who would now match landowner donation dollars.

**11. Planning Commission Exchange:**

Ms. Etters presented an updated draft of a letter addressed to the District Engineer at the Department of Transportation regarding the traffic issues at the intersection of Shepherdstown Pike and Flowing Springs Road. Mr. Baty suggested having a drawing attached to the letter to help describe the issues with the road. Mr. Baty stated he would email suggested changes to Ms. Etters. The Commissioners had agreed to revisit this agenda item at the next Planning Commission meeting.

**12. President's Report:** None.

**13. Actionable Correspondence:** None.

**14. Non-Actionable Correspondence:** None.

Ms. Morgan moved to go into executive session to discuss the conference call with Attorney Bastress and pending litigation. Mr. Trumble seconded the motion which carried unanimously. Executive session commenced at 8:52 PM.

Ms. Morgan moved to conclude executive session and resume regular session. Mr. Dailey seconded the motion which carried unanimously. Regular session commenced at 9:16 PM.

Ms. Morgan left the room at 9:16 PM.

MINUTES  
JEFFERSON COUNTY PLANNING COMMISSION  
MAY 25, 2010  
PAGE 4 of 4

Mr. Trumble moved that the Planning Commission request the County Commission to approve the funds to support the appeal to the 4<sup>th</sup> Circuit Court in an amount up to \$1000.00. Mr. Baty seconded the motion which carried 4 for and 3 opposed (Mr. Dailey, Mr. Maxey, and Mr. Hayes)

Mr. Trumble moved to adjourn at 9:19 PM. Mr. Taylor seconded the motion, which carried unanimously. A detailed transcript of the meeting may be found on CDs #40 and #41. These minutes were prepared by Amy Puetz, Office Assistant.

RECEIVED

MAY 12 2010

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

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

**SUBDIVISION & LAND DEVELOPMENT REGULATION WAIVER FORM**

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

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

Mailing Address: PO Box 101

Charles Town, WV 25414

Phone Number: 304-279-2029 (Ronald Fletcher)

Location of Property: Located on the north side of Leetown Pike directly to the east of the Jefferson County Fairgrounds. It is approximately 1720 ft. west from the intersection of Leetown Pike with Wiltshire Road

Lot Size: 48+ acres

Deed Book Reference: Deed Book #: 346 Page #: 603

Tax Map Reference: District: Middleway Map: 15 Parcel: 1.1

Zoning District:  Rural  R-G  R-LI-C  I/C  VLG

Section of Regulation: Subdivision Ordinance, Appendix A. Section 1.2 A. 24 & Section 1.3 26: \*Appendix B Section 3.1A

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

See attached letter

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Sketch on a separate 8 1/2" x 11" sheet of paper the shape and location of the lot. Show the location of the intended construction or land use indicating building setbacks, size and height. Identify existing buildings, structures or land uses on the property. Sign and date the sketch. Please provide a vicinity map of the area.

RECEIVED

Please note: Waivers must comply with Division 24.300 of the Subdivision and Land Development Regulations. To justify your waiver request, please address the following items: (Attach additional pages as necessary)

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

See attached letter

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

See attached letter

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

See attached letter

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

See attached letter

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 Signature of Property Owner

X  
 Signature of Property Owner

**For Official Use Only**

Amount of Fees Paid: \_\_\_\_\_

Date of Meeting/Public Hearing: \_\_\_\_\_

Official/Administrative Body: \_\_\_\_\_

Property to be posted by: \_\_\_\_\_

Adjoiner letters to be mailed by: \_\_\_\_\_

Official Signature and Seal: \_\_\_\_\_

the Crossroads Group

*providing planning & architectural consulting services*

May 12, 2010

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

Dear Mr. Rivard:

Attached please find an application being submitted by Sheriff Shirley on behalf of The Jefferson County Volunteer Firemen's Association (JCVFA) for a waiver from the following requirements of the subdivision ordinance:

**Appendix A, Section 1.2 Preliminary Plan or Site Development Plan A. 24** requiring a note on the plat of permit numbers for water, well & septic /sanitary sewer systems & copies of approved plans & permits & **Section 1.3 Final Plat 26** requiring a note on the final plat giving a proposed buyer the opportunity to determine that the lot is suitable for a septic system prior to purchasing the property; and **Appendix B, Section 3.1A Well & Septic Systems** requiring approved Jefferson County Health Department permits for a well & septic system and all the requirements regarding well & septic systems stated in the section.

...

Below I have outlined the background of this request and the reasons why it should be granted.

**Background:**

The existing property is located to the east of the Jefferson County Fairgrounds and is currently owned by the JCVFA (See Exhibit 1 for location). The property has been improved by a burn building (used for fire and rescue exercises) and the shooting range. The property contains approximately 48+ acres and is to be split into two parcels (see Exhibit 2).

The property was deeded to the Association by the County Commission in 1972. For liability and insurance purposes the JCVFA agreed in February 2010 to deed a portion of the property back to the County ( the Sheriff) and a draft memorandum of understanding has been drafted (See Exhibit 3 for letter & draft memo of understanding). The deeding back of the portion of the property containing the firing range will create two lots and will include a new access from the existing entrance to the lot containing the firing range.

The only use on the new lot will be the firing range which has been there since the early 1980s. No other improvements are to be made on the lot.

**Request:**

The Subdivision Ordinance in the Appendixes A & B requires that all lots created have access to water and a sewage disposal system. The proposed lot for the firing range is located in the Rural Zone; as such

it must have a well permit and a permit for a septic system in order to be approved and recorded. No construction of any kind is planned, the only allowed use will be the firing range and the land will revert to the JCVFA if the Sheriff no longer requires it for a firing range. As a consequence, requiring these permits would not serve any purpose except to increase the cost of transfer of the lot and delay the process.

**Conformance with Division 24.300 of the Subdivision and Land Development Regulations**

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

The granting of the waiver will allow the continued use of the firing range by the Sheriff and the Sheriff's Deputies. The firing range is used to assure the proficiency of law enforcement officials with fire arms. Making sure that law enforcement officials are proficient in the use of fire arms is in the best interest of the public, which depends upon law enforcement and the Sheriff's Department to assure that law and order are maintained in Jefferson County.

If the Sheriff and his deputies could no longer use the existing firing range to obtain their fire arms certifications because of the liability and insurance issues involved with the present range not belonging to our local government, a new range would have to be built. Construction of a new firing range would require obtaining land along with the associated construction costs. This cost would have to be borne by the residents of the County. The Sheriff is obtaining full control of the existing firing range at a minimal cost to the taxpayers of the County.

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

The waiver if granted will not adversely affect the rights of any of the adjacent property owners or residents. The request is to allow the subdivision of the existing parcel into two lots, however no additional facilities or construction are planned. The existing uses will remain the same. There will be no effect upon any adjoin property owners or residents. To the west is the County Fairgrounds (no residents) and to the east, there are some residential properties, which are well screened from the firing range.

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

The intent and purpose of the regulations is to ensure an orderly process for review of proposals for development, as well as assuring that the requirements of the Subdivision Ordinance are met. There is no planned development of the proposed parcel and if the current use is vacated by the Sheriff, the parcel will revert to the JCVFA. As a consequence, the review is to ensure that the process is followed purely with regards to subdividing the existing parcel in two. By requesting a waiver (which is allowed under the regulations) from part of the requirements of the Ordinance, the intent and purpose are met.

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

Allowing the waiver will allow the Sheriff to obtain full control of the firing range at a minimal cost. This will be of benefit to the taxpayers of Jefferson County. The separation of the firing range from

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the portion of the existing parcel that is used by the firefighters for training purposes will also ensure that the firing range is used only by approved personnel and is controlled by the Sheriff in accordance with the proposed memorandum of understanding. This will provide for better control of the existing firing range.

The Planning Commission is requested to grant the waiver from the **Subdivision Regulations, Appendix A, Section 1.2 Preliminary Plan or Site Development Plan A. 24, Section 1.3 Final Plat 26 & Appendix B, Section 3.1A Well & Septic Systems** for the subject property at its June 8, 2010 meeting.

Sincerely



Annette G. van Hilst  
the Crossroads Group

Cc: Sheriff Robert Shirley  
Michael Shepp & Karen Brill, Appalachian Surveys PLLC

**Attachments:**

1. Location Map
2. Sketch of proposed Subdivision
3. Letter & proposed Memorandum of understanding (2 pages)



**EXHIBIT 2: SKETCH of PRPOSED SUBDIVISION**



**EXHIBIT 3: LETTER &  
PROPOSED MEMORANDUM OF UNDERSTANDING:**

**JEFFERSON COUNTY FIRE & RESCUE ASSOCIATION**



**Organized 1959**

February 24, 2010

Robert Shirley, Sheriff  
Jefferson County West Virginia  
P.O. Box 9  
Charles Town, WV 25414

Dear Sheriff,

At the Association's February meeting It was agreed to and ratified by the companies present to proceed with the Sheriff's Department surveying off the back of the fire training grounds and deeding it to the Sheriff's Department for continued operations of the firing range. The discussion and motion included particular elements that both entities need to get worked out before the transfer of any property.

Item one: the location of the service road to the firing range.

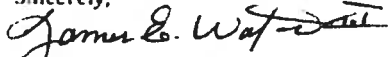
Item two: the total cost of surveying and legal work to be absorbed by the Sheriff's Department.

Item three: a review of the deed and all elements of the transfer prior to any official action by or on behalf of the Sheriff's Department.

Item four: The ownership of the property is to revert back to the Fire & Rescue Association at such time as the Sheriff's Department no longer has a use for it as a firing range.

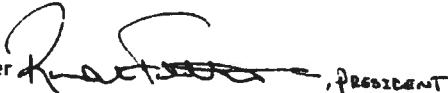
I am willing to meet with you along with Ron Fletcher to discuss this transfer of property.

Sincerely,



James E. Watson  
Past President

Cc: Ron Fletcher



PRESIDENT

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P.O. Box 101 Charles Town, West Virginia 25414

**JEFFERSON COUNTY SHERIFF'S OFFICE**

**Memorandum of Understanding**

**This Memorandum of Understanding regarding the Jefferson County Firearms Range (hereby referred to as "the range") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Sheriff of Jefferson County (hereby referred to as "the Sheriff") and the Volunteer Fireman's Association Board.**

It is understood that;

1. The Volunteer Fireman's Association Board relinquishes control of the Jefferson County Firearms Range to the Sheriff.
2. The Sheriff or any Agency or User approved by the Sheriff to use the range agrees to hold harmless the Volunteer Fireman's Association Board for any injuries that occur while at the range.
3. The Sheriff or his designee shall control the availability and access of the range.
4. The Sheriff or his designee shall control the issuance of access key(s) to the range.
5. The Sheriff agrees that prior to any Agency or User being approved to utilize the range the Agency or User will sign a Range Use Agreement detailing the rules and regulations stipulating the range requirements.
6. The use of the range by any Agency or User is at the permission of the Sheriff or his designee.
7. All Non-Law Enforcement Agencies or Users will have a certified Law Enforcement Range Control Officer on scene during range usage.

This Memorandum of Understanding may be terminated at any time by either party after providing a 6 month notice.


This Memorandum of Understanding shall be recertified by each sitting Sheriff or President of the Volunteer Fireman's Association Board

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**Jefferson County Volunteer Firemen’s Association, Inc. Waiver Request**

Request by Sheriff Robert Shirley of the Jefferson County Volunteer Firemen’s Association, Inc. for a waiver from the following requirements of the Subdivision Regulations: Appendix A, Section 1.2 requiring a note on the plat of permit numbers for water, well, and septic/sanitary sewer systems and copies of approved plans and permits and Appendix B, Section 3.1 (A) requiring permits from the Jefferson County Health Department for a well and septic system and all requirements regarding well and septic systems stated in the section.

APPLICANT:	Jefferson County Volunteer Firemen’s Association, Inc.
OWNER:	Same as above
DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	the Crossroads Group/Appalachian Surveys PLLC
PROPERTY LOCATION:	The property is located on the north side of Leetown Pike directly to the east of the Jefferson County Fairgrounds. It is approximately 1720 ft. west from the intersection of Leetown Pike with Wiltshire Road.
LEGAL DESCRIPTION:	District: Middleway; Map:15; Parcel(s): 1.1 
ZONING DISTRICT:	2002 Zoning Map: Rural
SURROUNDING PROPERTIES:	2002 Zoning Map North: Rural South: Rural East: Rural West: National, State & County Facilities
LOT AREA:	48+ acres
PROPOSED DENSITY:	Two parcels

**Jefferson County Volunteer Firemen’s Association, Inc. Waiver Request**

PERMIT APPROVALS:	
Health Department Permit	Permit No.: N/A
Department of Highways	Permit No.: N/A
APPROVALS:	
Conditional Use Permit	N/A
Concept Plan	N/A
Preliminary Plat	N/A
Site Plan	N/A
Final Plat	N/A
Variance History	N/A
OTHER APPROVALS:	N/A

**Planning & Zoning Department Recommendations**

The applicant is requesting a waiver from Appendix A, Section 1.2 and Appendix B, Section 3.1 (A). The waiver process in the 2008 Subdivision Regulations is different from the variance process outlined in the 1979 Subdivision Regulations. In order to grant a waiver the following four criteria must be met:

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

This particular request is located on Leetown Pike (Rt. 15). The applicant is proposing to subdivide the property into one lot and a residue. The front lot will retain the existing burn building and the rear parcel will continue to be used for the firing range.

Currently, this 48 acre property is owned by the Jefferson County Voluntary Firemen’s Association (JCVFA) and has been deeded by Jefferson County to the JCVFA. If the JCVFA were to cease use of the property, it would revert back to the County. The JCVFA is proposing to deed back to the County a portion of the property for the use by the Sheriff’s Department.

The motivation to divide the existing single 48 acre lot into two lots is based on liability. The insurance provider for the property has concern the two uses being on one lot and that affects the cost of insurance premiums. As a result of separating the property into two independent lots with separate uses, the insurance provider will charge different rates.

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

Not showing the well and septic locations on the plats would provide public benefit as it relates to a reduction in County cost. Since the county is the applicant in this situation, it would cost the county resources if it were required to be shown. As part of a minor subdivision, there is no parkland or parks plan implications.

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

The waiver will not adversely affect the public health, safety or welfare or the rights of adjacent property owners. While well and septic locations are a public health concern, in this situation there are multiplicities of provisions which make this point moot. First, the applicant, the County, is not expected to sell or transfer this property to a non-governmental party. Second, a note is still required to be placed on the Final Plat as shown below.

“The Seller of any lot within this subdivision shall provide the Buyer with a reasonable opportunity, before settlement, to determine that the lot is suitable for the construction of a septic disposal system. If, before settlement, the Buyer is denied a septic system construction permit by the Jefferson County Health Department, the Buyer may refuse to purchase the lot without penalty.”

Third, an additional note will be placed on the plat stating no structures needing water and/or septic can be built without the Final Plat being amended showing a well and septic area. Fourth, if the waiver is granted by the Planning Commission a chart on the Final Plat will reflect that a waiver has been granted.

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

While the intent of the Subdivision Regulations is to show that well and septic can be provided on the newly created lots. The Health Department has the ability to allow any lot over 10 acres to be exempt from this requirement.

The fact that the use is not intended to change on the property makes the request a little more palatable. For nearly 40 years, the JCVFA has owned the property without the need for well and septic. Additionally, since the sheriff uses the rear portion, there is not an anticipated change.

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

Granting the waiver will neither add to nor result in a decreased quality and/or character to the parcels.

## **Engineering Department Recommendations**

### **Situation**

Given that water and sewer are not currently provided, the applicant feels that providing a well and septic will not be needed at this time and that both Planning and Zoning, and Engineering agree, requiring water and sewer will best be addressed at the site development process where a more appropriate location and capacity for the systems can be determined based on the location and type of structures and uses being proposed at that time.

The applicant is also waiving the Jefferson County Health Department approval. After discussions with Bill Zaleski, the County Sanitarian of the Jefferson County Health Department, the two lots do not appear to propose a problem for providing water and sewer because the size of the lots are over 20 acres each. Mr. Zaleski believes, in the worst possible case, the applicant has enough property to provide adequate water and sewer service in the future at site plan stage.

### **Criteria for Granting a Variance**

The applicant has demonstrated that they meet the four criteria required for a waiver. By granting this waiver, it will reduce the maintenance cost to the county due to no county facilities to maintain at this time, the public interest will remain the same as it is presently, and the intent of this ordinance will be satisfied at the site plan stage as will the quality and character of the site. If granted, a note will be placed on the final plat stating "A site plan shall be processed before any development/structure, even residential, is constructed on site, and at that time, water and sewer permits are to be obtained".

### **Our Recommendation**

Staff recommends approval of this waiver. With the requested notes on the plat, the public health is being protected by stating that the property is unbuildable without future amendments to the plat.

Since the property is being used for essential activities, training for JCVFA and the Sheriff's department, this request is a little more unique than most other applications we might review for this type of request. Staff recommends approval of the waiver.

5/17/2010

Jefferson County  
Department of Planning & Zoning  
116 East Washington Street, 2<sup>nd</sup> Floor  
PO Box 338  
Charles Town, WV 25414  
304-7283228  
[planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

**RE: US Cellular Visual Assessment Hearing**

Dear Jefferson County Planning & Zoning Commission,

US Cellular is applying to construct a new 195' telecommunications tower in the "Rural" zoned district of the county.

Per section 4B.4(B) of the Zoning Ordinance: Wireless Telecommunications Facilities are permitted by right; however, mitigation of the visual impact of the tower shall be submitted for consideration by the Planning Commission.

Attached you will find thirteen (13) copies of all documentation that will assist you in scheduling US Cellular for the required Visual Assessment hearing.

**Documents in order are:**

- 1) Cover letter
- 2) Correspondence from Jefferson County Planning & Zoning
- 3) Street map (wide view)
- 4) Street map (tight view)
- 5) Aerial map (wide view)
- 6) Aerial map (tight view)
- 7) Survey of subject parcel with proposed tower shown
- 8) Photo simulation of proposed tower from North looking South
- 9) Photo simulation of proposed tower from East looking West
- 10) Photo simulation of proposed tower from South looking North
- 11) Photo simulation of proposed tower from the Northeast looking Southwest
- 12) List of all property owners that have parcels abutting the proposed tower's parcel
- 13) Charles Town Dist, TM#20
- 14) Charles Town Dist TM#20B

Please note that there is an existing 197' cell tower that is owned and operated by Shentel that is approximately 200' to the north of the proposed US Cellular new tower location. US Cellular worked with Shentel for about 1 year to try and place their antennas on this existing tower, but have been informed by Shentel that the existing cell tower will not structurally hold the US Cellular new antennas. Also that the tower itself can not be upgraded to structurally handle said new tower loading. Only after being informed of this did US Cellular decide to apply for a new cell tower at this optimal location.

Please feel free to contact me with any questions or concerns, or if you should need any additional information to schedule US Cellular for the "Visual Assessment" hearing.

Thank you,

Tim Stark  
Wireless Resources Inc.  
203 Hunting Creek RD  
Canonsburg, PA 15317  
850-232-8777 (phone)  
412-436-3711 (fax)  
[tim.stark@wirelessresources.com](mailto:tim.stark@wirelessresources.com)

Jefferson County, West Virginia  
Department of Planning & Zoning  
116 East Washington Street; 2<sup>nd</sup> Floor  
P.O. Box 338  
Charles Town, West Virginia 25414

 COPY

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

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

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](mailto: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.

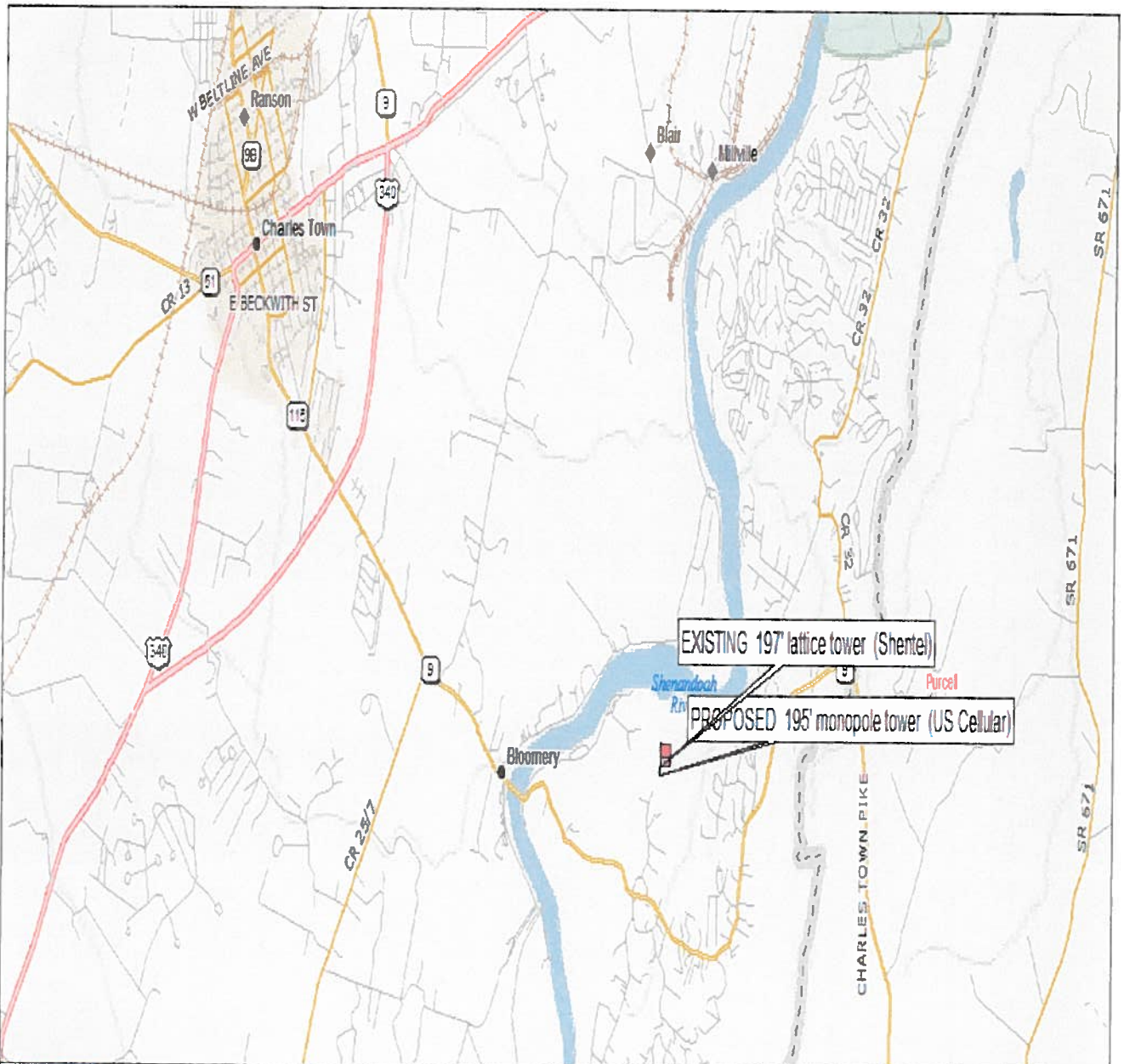
Sincerely,



Jennifer Snyder  
Zoning Administrator

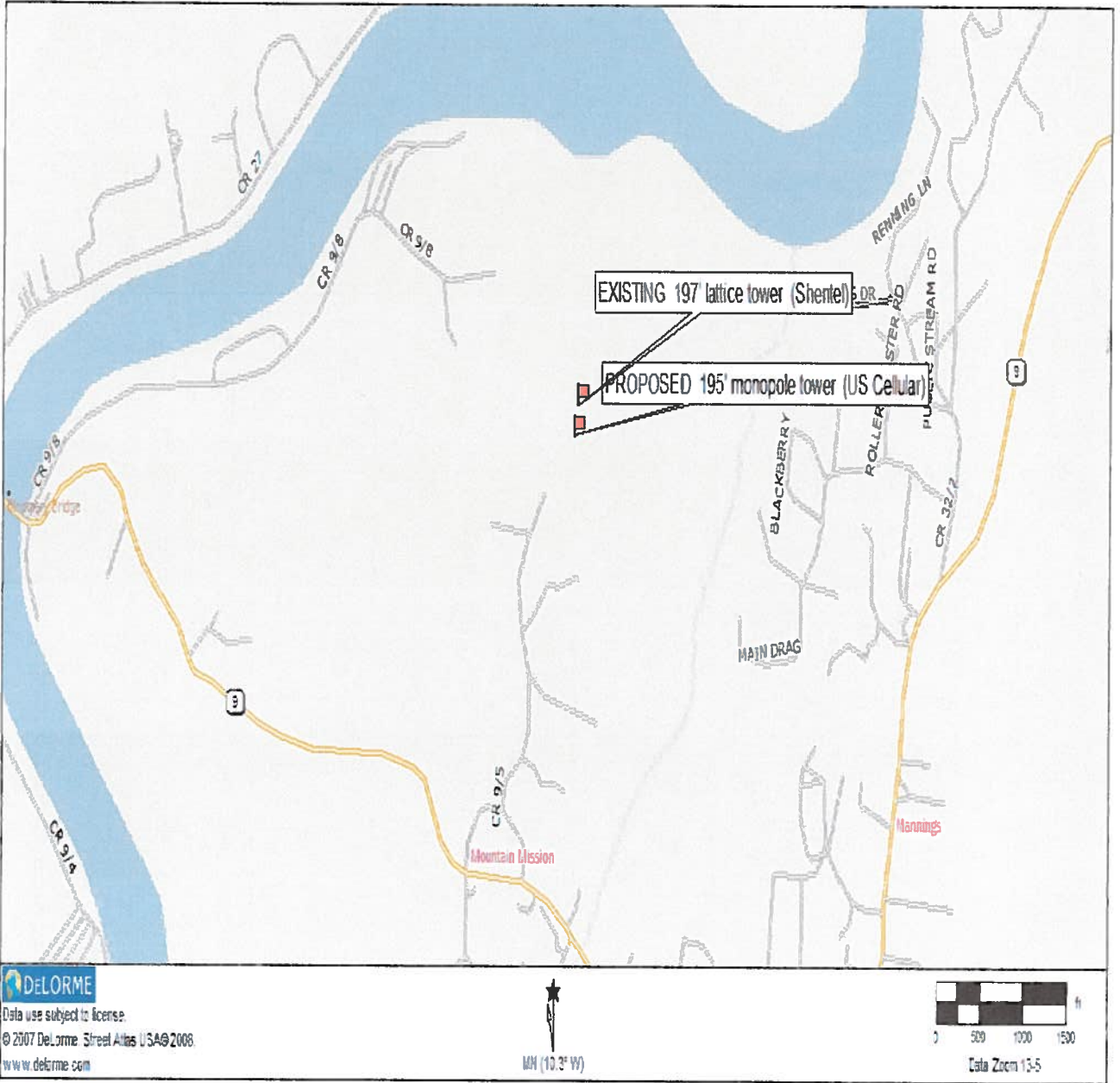
JJS/ele

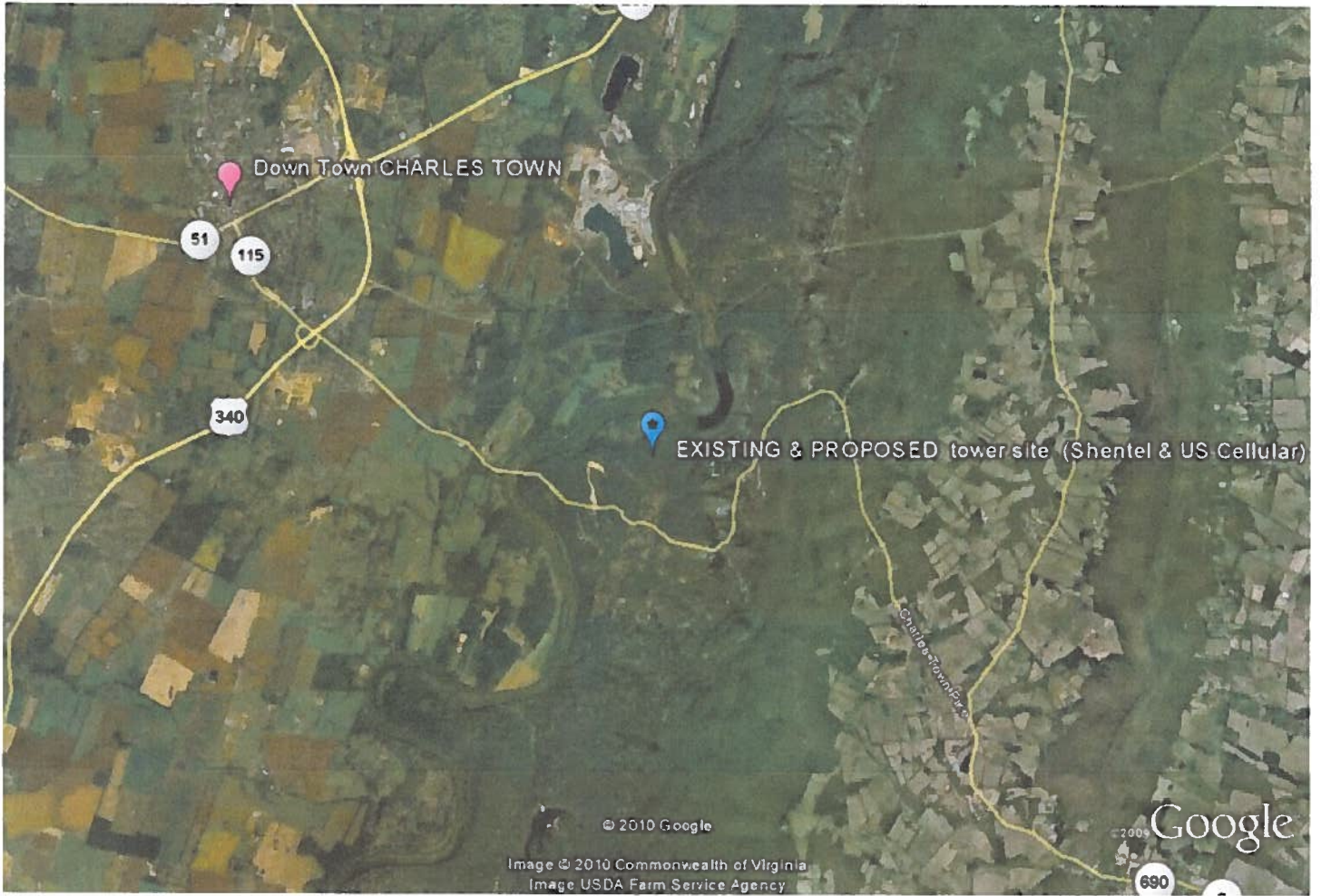
Cc: Mr. Tim Stark / Wireless Resources  
Engineering & Permits Department



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 www.delorme.com







Down Town CHARLES TOWN

51

115

340

EXISTING & PROPOSED tower site (Shentel & US Cellular)

Charles Town River

© 2010 Google

Image © 2010 Commonwealth of Virginia  
Image USDA Farm Service Agency

Google

690



EXISTING & PROPOSED tower site (Shentel & US Cellular)

© 2009 Google

Image © 2010 Commonwealth of Virginia  
Image USDA Farm Service Agency





199' TOWER SIMULATION

SITE # 416449

MOUNTAIN MISSION\_USF

524 MISSION RD NORTH

CHARLES TOWN, WV 25414

As Viewed from 300 feet to the NORTH,  
looking SOUTH toward the site.



199' TOWER SIMULATION  
SITE # 416449  
MOUNTAIN MISSION\_USF  
524 MISSION RD NORTH  
CHARLES TOWN, WV 25414  
As Viewed from half a mile from the EAST,  
looking WEST toward the site.



199' TOWER SIMULATION

SITE # 416449

MOUNTAIN MISSION\_USF

524 MISSION RD NORTH

CHARLES TOWN, WV 25414

As Viewed from 700 feet from the SOUTH,  
looking NORTH toward the site.



199' TOWER SIMULATION  
SITE # 416449

MOUNTAIN MISSION\_USF  
524 MISSION RD NORTH  
CHARLES TOWN, WV 25414

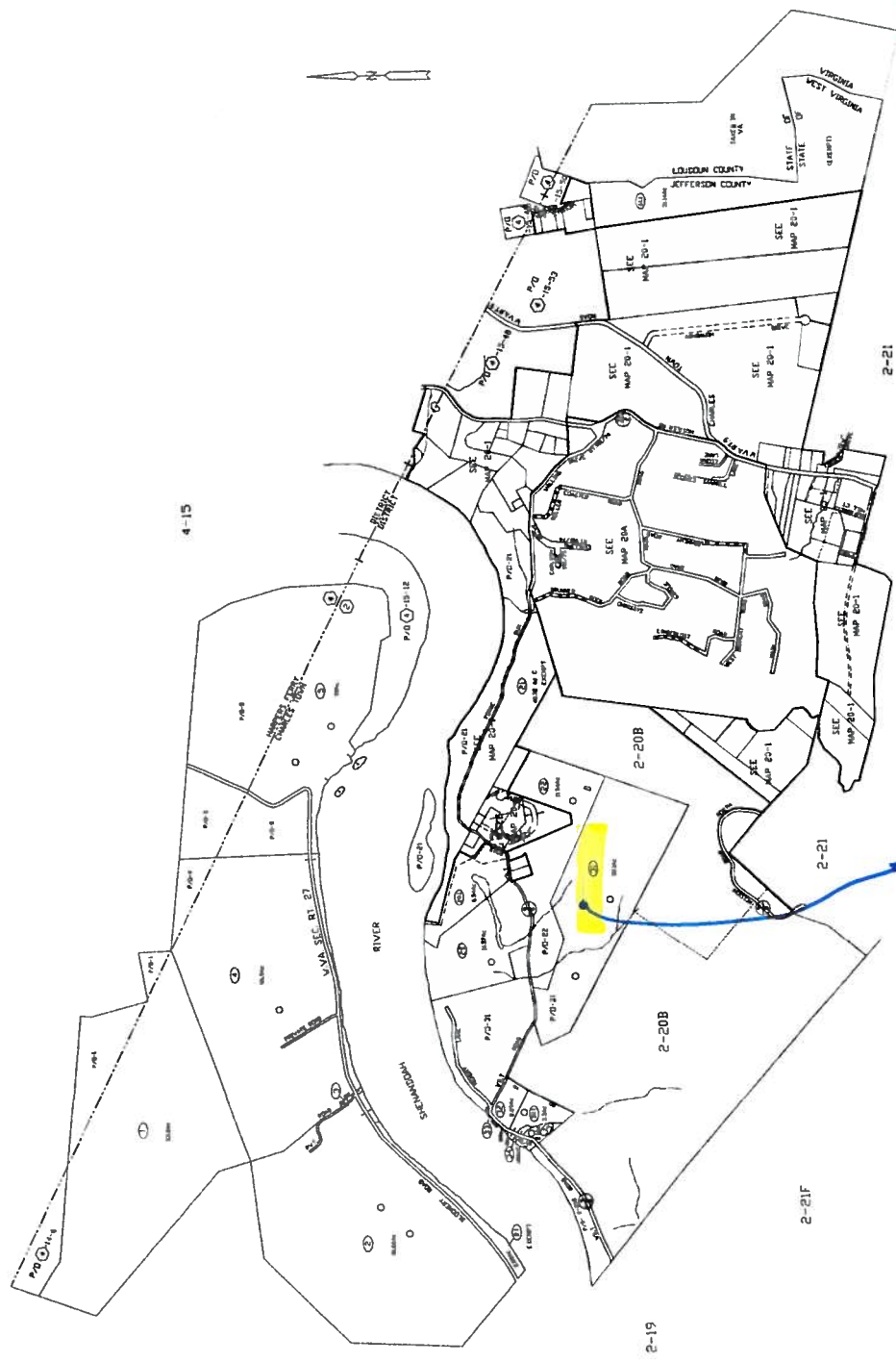
As Viewed from 1.3 miles away from the  
NORTHEAST,

Looking SOUTHWEST toward the site



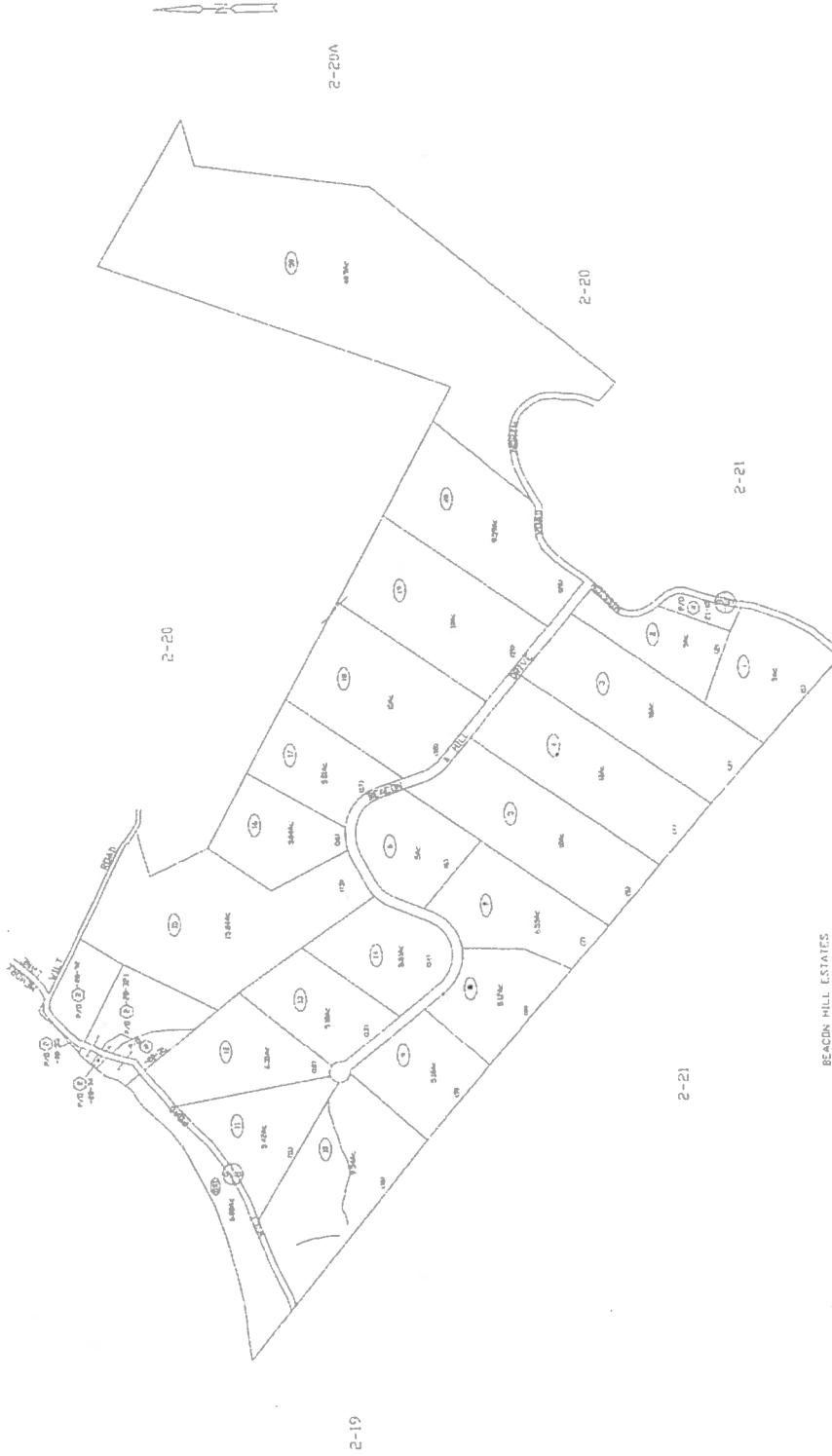






A PROPOSED US CELLULAR TOWER LOCATION

<p>FOR TAX PURPOSES ONLY          PREPARED BY  <b>JEFFERSON COUNTY ASSESSORS OFFICE</b>  <small>Note: Maps are updated consistently by the assessor's office. Maps are printed only at the beginning of the fiscal year (FY).</small></p>	<p><b>LEGEND</b></p> <p>UNIMPROVED LAND          IMPROVED LAND          WATER          RAILROADS          POWER LINES          TELEPHONE LINES          GAS LINES          FENCE LINES          EASEMENTS          ETC.</p>	<p><b>REVISIONS</b></p> <p>Revisions outgrow this space and are now maintained in a database.</p>	<p><b>KEY MAP</b></p> <p>1/8" = 1/4" (1:200)          1/4" = 1/2" (1:500)          1/2" = 1" (1:1000)</p>	<p><b>COUNTY OF JEFFERSON</b>          OFFICE OF ASSESSOR          CHARLES TOWN, W. VA.</p> <p>CHARLES TOWN DISTRICT          DISTRICT 2          MAP NUMBER 20</p> <p><small>DATE MAP AREA IS FROM: 10/1/00          SCALE: 1"=500'</small></p>
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BEACON HILL ESTATES

CHARLES TOWN DISTRICT  
DISTRICT 2  
MAP NUMBER 20B  
DATE: APRIL 1975  
SCALE: 1" = 100'

COUNTY OF JEFFERSON  
OFFICE OF ASSESSOR  
CHARLES TOWN, W. VA.

KEY MAP

1" = 100'	2" = 200'	3" = 300'	4" = 400'	5" = 500'	6" = 600'	7" = 700'	8" = 800'	9" = 900'	10" = 1000'
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REVISIONS  
Revisions shown in this space  
and are now maintained in a  
database.

LEGEND

PROPERTY OF	OWNER
STATE	STATE
COUNTY	COUNTY
TOWNSHIP	TOWNSHIP
WATER	WATER
ROAD	ROAD
RAILROAD	RAILROAD
UNIMPROVED	UNIMPROVED
IMPROVED	IMPROVED
UNIMPROVED	UNIMPROVED
IMPROVED	IMPROVED
UNIMPROVED	UNIMPROVED
IMPROVED	IMPROVED

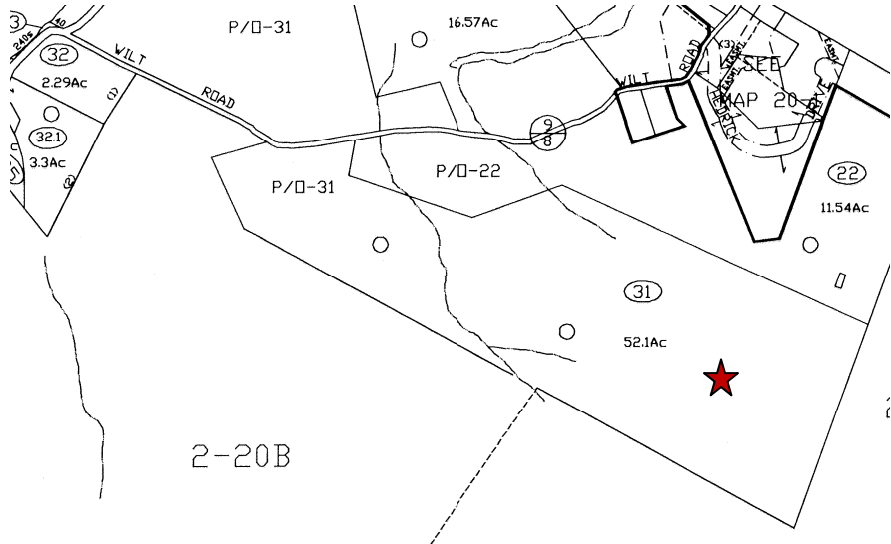
FOR TAX PURPOSES ONLY  
JEFFERSON COUNTY ASSESSORS OFFICE  
Note: Maps are updated annually by the assessor's office. Maps  
are printed only at the beginning of the fiscal year (July)

# STAFF REPORT

## Jefferson County Planning Commission Meeting

June 8, 2010

Item #5: Request by US Cellular for Approval of the Mitigation of the Visual Impact for a wireless communication tower.

APPLICANT:	US Cellular
OWNER:	Kenneth L. Wilt
DEVELOPER:	Tim Stark, Wireless Resources
SURVEYOR/ENGINEER:	Berardelli Design Association
PROPERTY LOCATION:	The property is located approximately 1 mile north of the intersection of Route 9 (Charles Town Road) and Wilt Road adjacent to the Beacon Hill Subdivision.
LEGAL DESCRIPTION:	District: Charles Town; Map: 22; Parcel: 4.3 
ZONING DISTRICT:	Rural
SURROUNDING PROPERTIES:	North: Rural East: Rural South: Rural West: Rural
LOT AREA:	Leased Area: 10,000 sq. ft. (100' x 100') Total Parcel Size: 52 AC +/-
PERMIT APPROVALS:	
Health Department	Permit No.: N/A
Dept. of Highways	Permit No. : To be determined

# STAFF REPORT

## Jefferson County Planning Commission Meeting

June 8, 2010

APPROVALS:	
CIS	N/A
Site Plan	Not submitted until Mitigation is approved by PC.
Variance History	None.
OTHER APPROVALS:	None required

This project consists of the construction of a new 195' monopole telecommunications tower with a 60' x 60' fenced in compound area. The installation of a new 12' x 24' equipment shelter with icebridge, and 12' antennas along with 12' coax lines. The new structures will complement the all ready existing Shentel Communications tower and equipment which a WV Engineer has deemed incapable of holding any additional antennas. There will be a 200' distance between the two towers.

The requirement for Planning Commission approval of the mitigation of the visual impact of a telecommunications tower located in the Rural District is found in the Zoning Ordinance, Article 4B, *Wireless Telecommunications Facilities*. Specifically, Section 4B.4(b)(2)(b) states the following:

“The visual impact of a tower shall be mitigated to blend with the natural and built environment of the surrounding area. Such mitigation measures shall be approved by the Planning Commission and shall address: architecture, color, landscaping, lighting, materials, siting, topography, and visual screening.”

Provided below is a brief overview of the items to be mitigated.

*Architecture:* Monopole type, self-supported tower. One antenna at 195' with the monopole extended to 199'. Additional antenna connections provided, but not installed. Concrete pad base to support tower and other equipment. Ice bridge to straddle tower and concrete pad equipment. Area for future carrier shelters provided.

*Color:* Required to be a non-contrasting grey per Zoning Ordinance Sec. 4B.5(d) unless otherwise approved by the Planning Commission.

*Landscaping:* The property is densely wooded. No additional landscaping is proposed.

*Lighting:* None proposed.

*Materials:* Steel, copper, and concrete.

*Siting:* On approximately 52 acres, the proposed tower is situated a minimum of 502' from the northern most property line, 920' from the western property line, 553' from the eastern property line and approximately 228' from the southern property line which adjoins un-built Beacon Hill Estates subdivision. The established main access easement runs through Beacon Hill Estates across the southern property line to the existing tower. The leased area for the proposed tower will abut the

# STAFF REPORT

## Jefferson County Planning Commission Meeting

June 8, 2010

existing main access easement on the east side. The proposed tower will stand approximately 200' south of the existing tower.

*Topography:* The lease area is relatively flat. The contours range from approximately 535' to 538' across the entire leased area. At no point does the grade rise above 1' per ten linear feet.

*Visual Screening:* Fencing 6' high, chain link fabric type with three strands of barbed wire to include a double swing gate for access around the perimeter of the concrete pad.

### RECOMMENDATION:

Staff recommends the proposed mitigation of the visual impact be approved with the condition that a 15' buffer be included around the perimeter between the fencing and the edge of the leased area, or just outside the leased area, for the purpose of reserving trees in this area or planting trees if the existing trees are cleared. A note to this effect should be added to the site plan.



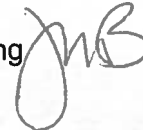
**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Planning & Zoning**  
 116 East Washington Street, 2<sup>nd</sup> Floor  
 P.O. Box 338  
 Charles Town, West Virginia 25414

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

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

**MEMO**

**TO:** Department of Planning and Zoning staff  
**FROM:** Jennifer M. Brockman, AICP, Director, Planning and Zoning  
**DATE:** May 25, 2010  
**RE:** Local Application of SB 595



Based on the requirements of the Jefferson County Zoning and Land Development Ordinance and the Jefferson County Subdivision Regulations, the provisions of SB 595, which amended the vesting language of WV Code 8A and was effective upon adoption, shall apply as follows:

<p><b><u>IF</u> the following APPROVAL has occurred before January 1, 2010 and has not expired, the plan or plat will be considered "valid and outstanding":</b></p>	<p><b><u>AND</u></b></p> <p><b><u>IF</u> the following APPROVAL has occurred before March 1, 2010 and has not expired,</b></p> <p>The plan or plat will be deemed to have "preliminary approval" by the planning commission</p>	<p><b><u>THEN</u>, the following due date found in the Jefferson County Subdivision and Land Development Regulations (Nov 2008); Jefferson County Zoning and Land Development Ordinance (effective Dec 2009); and/or the Jefferson County Subdivision Ordinance (July 1979) <u>is extended to July 1, 2012</u> based on SB 595:</b></p>
<p><b>IF A CONDITIONAL USE PERMIT (CUP) IS REQUIRED:</b></p>		
<p>Conditional Use Permit (Subdivision)</p>	<p>No additional approval</p>	<p>No effect</p>
<p>Conditional Use Permit (Subdivision)</p>	<p>Community Impact Statement (CIS)</p>	<p>Final Plat Public Hearing and Commencement of Construction</p>
<p>Conditional Use Permit (Site Plan)</p>	<p>No additional approval</p>	<p>No effect</p>
<p>Conditional Use Permit (Site Plan)</p>	<p>First Review of Site Plan completed and returned to applicant (considered "approved with conditions")</p>	<p>Commencement of Construction</p>
<p>(continued)</p>		

<b>IF USE AND DENSITY IS APPROPRIATE FOR ZONING (NO CUP):</b>		
Major Subdivision Application: Pre-application conference for Community Impact Statement (CIS) submittal	Community Impact Statement (CIS)	Final Plat Public Hearing
Major Site Plan Application	N/A	N/A
<b>ADDITIONAL APPROVALS WITH TRIGGER DATES</b>		
Final Plat, approved but not bonded or recorded	N/A	Bonding and Recording
Sectional Final Plat Approval	N/A	Final Plat Public Hearing and Approval of Next Section
Major Site Plan Approval , but not bonded	N/A	Bonding
Minor Subdivision Plat – first review comments returned to applicant (considered “approved with conditions”)	N/A	Recording

\*This include variances for extensions of time approved prior to January 1, 2010



# Chesapeake Bay Stewardship Fund

[www.nfwf.org/chesapeake](http://www.nfwf.org/chesapeake)



## Blue Ridge Mountain Communities Watershed Management Plan

**Organization: Jefferson County, WV**

**Project Partners: Downstream Strategies & Harbor Engineering, Inc.**

**Grant Award: \$30,000**

**Matching Funds: \$15,000**

### Project Description

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.

### Goals and Outcomes

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 intended outcome of this project is 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.

### Status

Since receiving the signed grant on January 5, 2010 from the National Fish and Wildlife Foundation, the Jefferson County Planning and Zoning Department has been active in moving the project forward.

During the months of February and March a Request for Proposals (RFP) was written and subsequently released for responses. The RFP was advertised on the Jefferson County website, sent to numerous environmental consulting firms, as well as a press release to local papers. Three responses were received. Downstream Strategies was chosen as the most qualified candidate to lead the watershed plan.

A website has been created for this project and is updated regularly. The website address is <http://www.blueridgecommunitiesplan.com>. An audio recording of the first meeting with the Citizens' Advisory Committee is now posted on the website. There is a comment form for interested citizens to post their concerns or add input.

As indicated above, a Citizens Advisory Committee of 23 has been formed to help encourage public participation. On April 24, 2010 the citizens committee met for the first time and had an introductory assembly to meet each other and lay out some preliminary concepts.

On May 24, 2010, Jennie Brockman, Director of Planning and Zoning; Seth Rivard, Planner; and Julie Quodala, Office Manager met with Downstream Strategies in Morgantown, West Virginia. This was a productive meeting with Jefferson County staff and Downstream Strategies to implement the watershed plan. Tentative public meeting dates have been scheduled for July, August and September. A June meeting is schedule with the Citizens Committee to confirm meeting dates for the public outreach meetings.

## **Timeline and Budget**

The Planning Commission intends for the Blue Ridge Mountain Communities plan to be completed by March 31, 2011. This project is proceeding on schedule and within budget. As indicated above a Facilitator has been obtained within budget and will be moving the project forward on schedule. The website has been established within budget and the Citizens Committee has been formed. Additionally, the initial meetings with the Citizens Committee and the Facilitator have already occurred and tentative public outreach meeting dates have been set in July, August and September.

With regards to our grant match requirement, a GIS intern was hired to map the steep slope of the Blue Ridge Mountain in Jefferson County. The slope mapping project was successfully completed in September 2009. Additionally, ongoing are the efforts of the Director of Planning & Zoning, County Planner and Office Manager whose time and meeting expenses are being tracked for the purpose of meeting the required match.

## **Challenges and Lessons Learned**

Appointing the Citizens Committee was a challenge as we had received so many responses from people with deep interest in the outcome and possible future plans that could arise from this project. No one could agree on a preferred method of reducing the 23 people who had applied to be members of the Citizens Committee. In the end, all agreed to keep all 23 people who had applied as Citizens Committee members. The lesson learned was that even though it may be challenging to work with such a large advisory committee, it is well worth having so many people who are passionate about being involved in such a worthy project.

The three pictures below are from the Kick-Off Citizens Committee meeting held on April 24, 2010.









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

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

Phone: (304) 728-3228  
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**Director's Report**  
**June 8, 2010**  
**Planning Commission meeting**

- 1) Activity Report (attached)
- 2) Shenandoah Professional Center Zone Change Request – Application withdrawn by applicant prior to continuation of action by the County Commission
- 3) Land Development Fees

The County Commission voted to hold a roundtable discussion of the fees with key stakeholders invited to sit at the table, but open to the general public as well. This discussion will occur prior to the requested public hearing to consider the adoption of the fees and will allow the County Commission to receive this input into their policy decision regarding alternatives to increasing land development fees.

The Roundtable Discussion Meeting Date has been set for July 8, 2010 6:00 pm, in the Library basement.

- 4) Subdivision Regulation Amendments:

The County Commission voted to hold a Public Outreach Education Workshop with the County Commission to give staff an opportunity to brief the Commission and the public regarding the text amendments that are proposed and to answer questions. No public input would be received at this meeting. A follow-up public hearing will be held for the purpose of receiving public comment and action by the County Commission.

The Public Outreach Education Workshop Meeting Date has been set for June 24, 2010 at 6:00 pm in the Library basement.

- 5) Zoning Administrator Vacancy

The position of Zoning Administrator/Planner was posted on the Jefferson County website and the American Planning Association (APA) website on Friday, May 28, 2010. Applications are due by 5 pm on June 14, 2010.



## Christine Chalmers

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To: PLANNING COMMISSION  
Subject: FW: WEEKLY CALENDAR

### MONDAY, MAY 31, 2010

MEMORIAL DAY HOLIDAY – OFFICE CLOSED

### TUESDAY, JUNE 1, 2010

9:30 am - STAFF MEETING

11:00 am - 12:30 pm "MONTHLY TEAM BUILDING SESSION"  
1:00 pm JENNIFER, SETH, JENNILEE – LESA POINT SYSTEM REVIEW / RE: TROPICAL TANNING  
1:30 pm JENNIE – MEETING WITH STEVE GROH, ESQ.  
2:30 pm – 3:30 pm JENNIE – MEETING WITH TIM BARR / RE: HITE PARK IN LEETOWN

### WEDNESDAY, JUNE 2, 2010

8:00 am – 9:30 am JENNIE – MONTHLY DEPARTMENT HEAD MEETING @ HUNTER HOUSE  
(JULIE TO REPRESENT)  
9:30 am JENNIFER – MEETING WITH PAUL RACO AND MIKE CASSELL, ESQ. / RE: BOX FACTORY

### THURSDAY, JUNE 3, 2010

9:00 am - COUNTY COMMISSION MEETING

### FRIDAY, JUNE 4, 2010

10:00 am JENNIFER & CHRISTIN – MEETING WITH SHARON AT ASHBURY UNITED METHODIST CHURCH  
RE: ELECTRONIC SIGN MATTER  
11:30 am JENNIFER – MEETING WITH MIKE CASSELL, ESQ. / RE: BOX FACTORY

**Christine Chalmers**

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To: PLANNING COMMISSION  
Subject: FW: WEEKLY CALENDAR

**MONDAY, JUNE 7, 2010**

10:00 am JENNILEE AND SETH – RE: WEEKLY SUBMISSION MEETING  
2:00 pm JENNIFER AND CHRISTINE – RE: WEEKLY ZONING MEETING

**TUESDAY, JUNE 8, 2010**

9:30 am - STAFF MEETING  
7:00 pm - PLANNING COMMISSION MEETING

**WEDNESDAY, JUNE 9, 2010**

10:00 am JENNIFER, SETH AND JONATHAN – PPC WITH PAUL RACO & MIKE SHEPP - RE: OLCOTT M/S  
11:00 am JENNIFER, SETH AND JONATHAN – PPC WITH MIKE ROBERTS / RE: ROSS MORGAN

**THURSDAY, JUNE 10, 2010**

9:00 am - COUNTY COMMISSION MEETING

**FRIDAY, JUNE 11, 2010**

10:00 am JENNIFER & JENNILEE – ZONING MAP MEETING  
12:00 pm – 1:30 pm JENNIE, JENNIFER AND SETH – BUSINESS LUNCH WITH ROGER

# Jefferson County, West Virginia

## Department of Planning & Zoning

116 East Washington Street, Second Floor

P.O. Box 338

Charles Town, West Virginia 25414

Phone: (304) 728-3228

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MAY 17, 2010

### PRE-PROPOSAL CONFERENCE MEMORANDUM

MEETING DATE: May 05, 2009  
CONTACT NAME: P.J. Raco Consulting, LLC / [pjraco.consulting@gmail.com](mailto:pjraco.consulting@gmail.com)  
Attn.: Paul Raco  
(Mailing Address/Phone Number) P.O. Box 548; Charles Town, West Virginia 25414  
OWNER/DEVELOPER: Contact: Jim Taylor (304) 724-6558  
(Name/Mailing Address) P.O. Box 340, Charles Town, West Virginia 25414  
PHYSICAL ADDRESS: Briggs Animal Adoption Center - Old Route 340  
PROPOSED PROJECT: MINOR NON-RESIDENTIAL SITE DEVELOPMENT /  
EXPANSION  
DISTRICT/MAP/PARCEL: KABLETOWN TAX DISTRICT / MAP #11 / PARCEL #1  
2002 ZONING DISTRICT: INDUSTRIAL / COMMERCIAL  
TOTAL PARCEL SIZE: Approximately: 23.36 acres

#### MEETING DESCRIPTION:

- The meeting attendees included Zoning Administrator, Jennifer Snyder; County Planner, Seth Rivard; County Engineer, Jonathan Saunders and Paul Raco, with P.J. Raco Consulting, LLC.
- Overview: The proposed project consists of a 2,640 sq. ft. office expansion and 26-space parking lot to the Briggs Animal Adoption Center. ORIGINAL SITE PLAN: #S02-06
- Tentative site capacity calculations.
- Potential environmental constraints and mitigation measures.
- 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.
- Payment(s): **None Received**

FINDING: Per the ILP Ordinance, current Subdivision Regulations, and Zoning Ordinance, Section 4.10, the proposed plan concept will require a Full 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. Additionally, 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: Paul Raco, P.J. Raco Consulting, LLC  
Engineering & Permit Departments



May 10, 2010

**[Your Name]**  
**[Street Address]**  
**[City, ST ZIP Code]**  
May 10, 2010

**J. Lee Thorne**

District Engineer  
West Virginia Department of Transportation  
P.O. Box 99 (Route 50)  
Burlington, WV 26710-0099

Dear J. Lee Thorne:

A public concern was heard at the April 27, 2010 meeting of the Jefferson County Planning Commission in regards to a hazardous intersection. The intersection is south of Shepardstown at Flowing Springs Road (County Route 17) and Shepardstown Pike (State Route 230).

There are many factors that contributed to the danger of this intersection. Firstly it was stated that although the speed limit for Rt. 17 and Rt. 230 is 55 mph there are many drivers who do not obey that limit. This causes it to be extremely dangerous for those traveling across, onto, and off of Rt. 230 in this area.

This intersection is also confusing to drivers because it is currently designed as a merger of two roads instead of an intersection. There is a "yield when making left" sign placed at southbound Rt. 230. This sign is on a 55 mph road. It doesn't seem to allow enough time for the driver to safely assess if they can cross traffic in front of another vehicle traveling at 55 mph or faster in this case.

It is also impossible, without crossing into oncoming traffic, to make a right turn onto Rt. 230 when driving northbound on Rt. 17. It looks as if there is a side road before the intersection to make this maneuver easier but it is unclear if this side road is privately owned or is public right-of-way.

There are also two smaller roads that intersect with State Route 230 just north of the intersection with Rt. 17 that have very limited sight distance. A left turn from either of these roads is extremely dangerous.

The design of the intersection at Rt. 17 and Rt. 230 coupled with the constant flow of speeders in this area, the inability of drivers to assess oncoming traffic, and the limited sight distance of the two smaller roads immediately north of the

[Recipient Name]

May 10, 2010

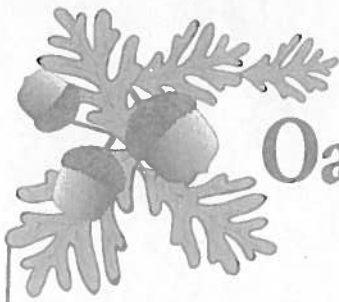
Page 2

intersection prove to be a tremendous safety hazard to travelers of these roads. This area is subject to constant traffic accidents and close calls. County Rt. 17 and State Rt. 230 are very busy rural roads (both had an ADT of 3000+ in the 2008 WV DOT Traffic Study) and State Rt. 230 is even busier during tourist season with people traveling to Shepardstown. It is imperative for the safety of those future travelers that the design of this intersection be reassessed.

Any action taken to alleviate the danger at this intersection would be greatly appreciated. Thank you for taking the time to read this letter and understanding our concern.

Sincerely,

**[Your Name]**



# Oak Meadow LLC

270 Industrial Boulevard • Kearneysville, West Virginia 25430 • (304) 725-9140

May 24, 2010

Mr. Stephen Groh, Esquire  
Assistant Prosecuting Attorney  
Jefferson County  
124 East Washington Street  
Charles Town, WV 25414

RECEIVED

MAY 25 2010

JEFFERSON COUNTY  
PLANNING, ZONING AND ENGINEERING

Dear Mr. Groh,

I understand that you have been asked to review the Planning Commission's proposed amendments to the Jefferson County Subdivision Ordinance. Please be advised that some of the proposed amendments affect my property rights on certain properties located east of the Shenandoah River. I feel that some of these amendments are an attempt to put items in the subdivision ordinance that are purely zoning related standards. As such, the jurisdiction of these standards should remain with the zoning ordinance. It would appear that this attempt to regulate certain aspects of development is at the very least unconstitutional, and at the very most, illegal. In either case it is certainly contrary to the will of the people who soundly rejected these types of regulations in the defeated zoning ordinance.

The primary section of concern is Article 22, Section 22.504. This section deals with hillside development and riparian buffers. This section is unclear with respect to when, and to what, they even apply. Some of these standards appear to limit all development and use of properties. However, do they only apply for subdivisions, or do they include commercial site plans and building permits for residential uses? If it applies to all uses, including clearing and to house and accessory use construction, then it definitely is an attempt to put some of the most onerous restrictions of the defeated zoning ordinance into the subdivision ordinance.

I respectfully request that you look at the Subdivision Ordinance and the proposed amendments for items that should only be included in a zoning ordinance, and then, only if they don't constitute a taking without just compensation to the landowner. Furthermore, if permitted, please forward to me a copy of your comments regarding any review of the Subdivision Ordinance or its amendments that you have provided to the Staff of the Commission, the Planning Commission or its individual members.

Thank you for your time and effort in this process. Please call me with questions.

Sincerely,

Lee Snyder

cc: Planning Commission of Jefferson County  
Richard Gay