

AGENDA
JEFFERSON COUNTY PLANNING COMMISSION
NOVEMBER 9, 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 to approve, disapprove, or impose conditions on the application .

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 October 26, 2010 Planning Commission meeting.
2. Citizen Communications.
3. A call for postponements.
4. Informational Item: US 340 rezoning of certain Federal Lands Petition Discussion.
5. Tabled from the October 26, 2010 Planning Commission Meeting: Request by Roderick Planes, LLC for a variance from Subdivision Ordinance Article 6, Section 6.3 to allow for an extension of the Community Impact Statement until July 1, 2012 to comply with design impacts. This property is located northwesterly of the intersection of Old County Club Road with Flowing Springs Road and is designated as Tax District: 2, Map: 4, Parcel: 19.
6. Update and status report on policy neutral technical amendments for the Zoning Ordinance.
 - Discussion regarding proposed Amendments to the Zoning and Land Development Ordinance (Sections 4.4, 4.10, 5.4, 5.6, 5.7, 7.2, 7.8, 11.2, 11.3) regarding Subdivision Regulation References.
 - Tabled from the October 12, 2010 meeting: Discussion on proposed draft amendment to Section 4.4 (H) of the Zoning and Land Development Ordinance.
7. Report on Revised Fee Proposals.
8. Appointment of sub-committee for Annual Report.
 - Report on acquiring GIS lot data – platted vs. built
9. Discussion of updated Zoning Map and draft Zoning Map Policy.
10. Reports from Legal Counsel and legal advice to PC.

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11. Director's Report.

12. County Commission Liaison Report.

13. Planning Commission Exchange.

14. President's Report.

- Discussion of hiring outside counsel for the purpose of action regarding the County Commission's violation of the Open Meetings Act in cancelling an advertised Public Hearing.

15. Actionable Correspondence.

16. Non-Actionable Correspondence.

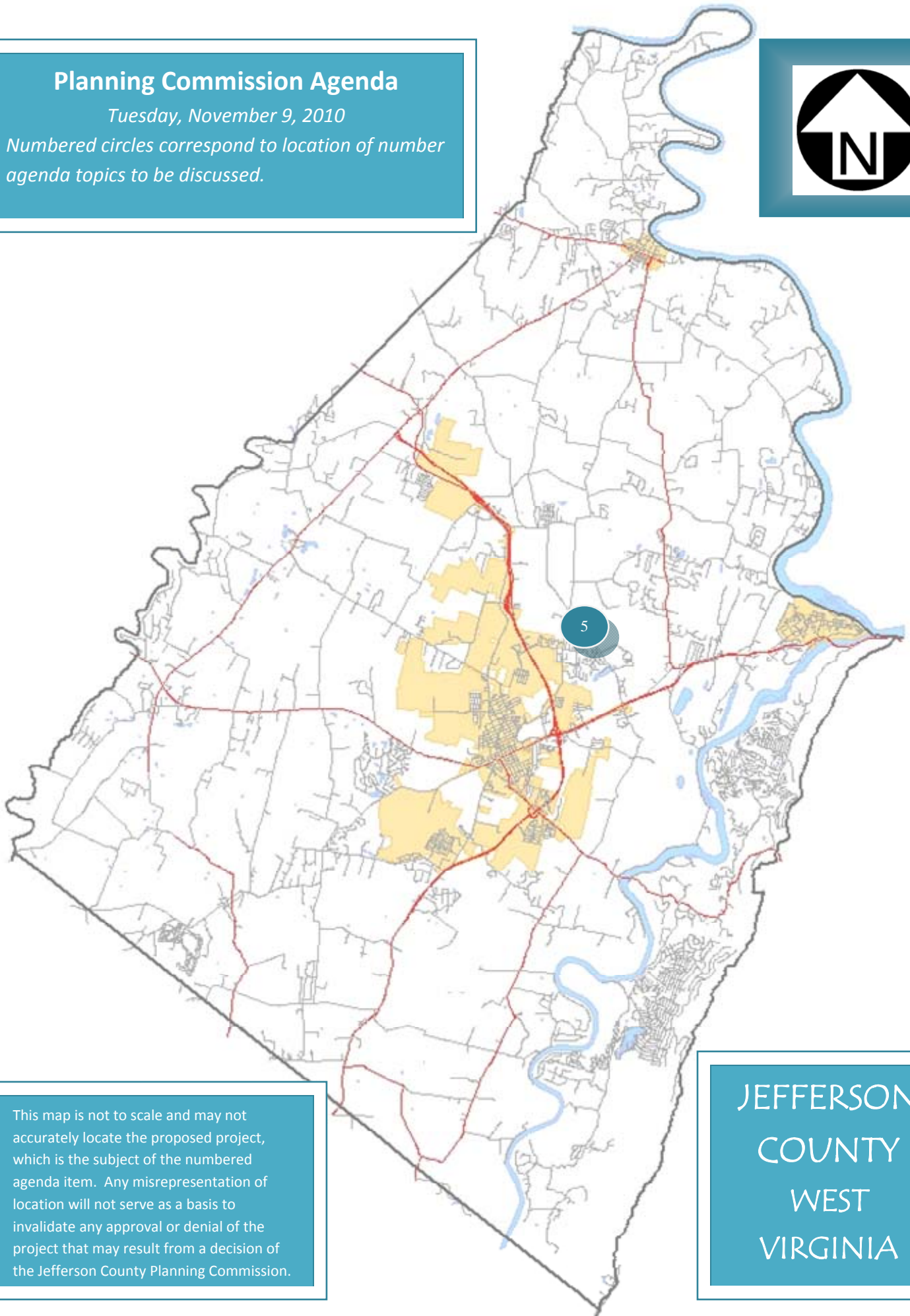
The Planning Commission welcomes written comments at any time. Our office is open Monday through Friday, 9:00 a.m. to 5:00 p.m., and is located at 116 East Washington Street, P.O. Box 338, Charles Town, WV 25414. Our phone number is (304) 728-3228; our fax number is (304) 728-8126; our email address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

Minutes and video recordings of past meetings 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, November 9, 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
OCTOBER 26, 2010

The Jefferson County Planning Commission met on Tuesday, September 14, 2010, with the following Commission members present: John Maxey, President; Thomas Trumble, Vice President; Frances Morgan, Kelly Baty, Eric Smith, Arnold Dailey, Daniel Hayes, and Morgan Eppers. Staff members present included Jennifer Brockman, Director of Planning and Zoning; Seth Rivard, Planner; Steve Barney, Zoning Administrator; Jonathon Saunders, County Engineer; Stephen Groh, Assistant Prosecuting Attorney; and Julie Quodala, Planning and Zoning Office Manager.

Mr. Gene Taylor was absent with notification.

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

1. Approval of the minutes from the October 12, 2010 Planning Commission Meeting.

Ms. Morgan moved the following amendments to the October 12, 2010 Planning Commission Meeting:

- a) On page 3, paragraph 2, line 4, change “Additionally, it would favor to the existing carrier, ~~which violates~~ the Federal Telecommunications Act” to “Additionally, it would favor the existing carrier, *which might be in violation* of the Federal Telecommunications Act.”
- b) Ms. Morgan discussed page 4, section 9b, to clarify that the 20% increase in fees meant no more than 20% per step and not 20% in total.
- c) On page 5, section h, line 7, change “Mr. Maxey stated that he felt the Planning Commission ~~could~~ continue to move forward with the petition” to “Mr. Maxey stated that he felt the Planning Commission *should* continue to move forward with the petition.”

Mr. Maxey seconded the motion which carried 4 for and 2 abstentions (Mr. Dailey and Mr. Hayes).

Ms. Morgan moved to approve the minutes of the October 12, 2010 Planning Commission meeting with the approved amendments. Ms. Eppers seconded the motion which carried 4 for and 2 abstentions (Mr. Dailey and Mr. Hayes).

Approval of the minutes from the October 19, 2010 Special Planning Commission Meeting.

Ms. Morgan moved to approve the minutes from the October 19, 2010 Special Planning Commission Meeting. Mr. Hayes seconded the motion which passed by unanimous consent.

- 2. Citizens Communication:** Mr. J. Michael Cassell, Attorney, representing Old Standard Quarry, LLC and Eugene Cappriotti, requested to give comment regarding the Federal Lands Rezoning. Mr. Cassell had provided a letter to the Planning Commission which was included in the agenda packets. He stated that his clients were adjacent land owners to the Federal Lands. He commented the proposal had too many unanswered questions to move forward

such as information on what meetings with Federal Officials have been held, reports regarding the proposal, who proposed the rezoning, and legal opinions. He requested that all information be made public as soon as possible.

Ms. Barbara Humes, citizen of Harpers Ferry, voiced her support of moving the proposal forward and stated the importance of having these lands rezoned before the commencement of the US 340 Corridor Study.

Mr. Scott Faulkner, citizen of Harpers Ferry, also declared his support and stated that the rezoning of the Federal Lands is strictly bringing these lands into compliance of the Zoning Ordinance.

Mr. Baty entered the room at 7:13 PM.

Mr. Paul Rosa, on behalf of the Harpers Ferry Conservancy, urged the Planning Commission to move forward with the petition as scheduled on November 18, 2010.

Mr. Matt Knott, owner of River Riders, raised concern that most of the lands were being rezoned agricultural although not necessarily being used agriculturally. He stated he felt that the adjacent property owners would be affected.

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

Mr. Maxey asked that agenda item #9 be heard before agenda item #4.

9. **Planning Commission response to a letter from County Commission regarding certain US 340 Federal Lands rezoning as petitioned by the Planning Commission.**

Mr. Maxey presented a letter in response to Ms. Lynn Widmyer's, County Commissioner, request for the Planning Commission to reconsider the Federal Lands Rezoning petition. Mr. Maxey suggested that staff place all information regarding this topic on the County website. Mr. Hayes moved to approve the letter as written. Ms. Morgan seconded the motion which carried unanimously.

4. **Request by Roderick Planes, LLC for a variance from Subdivision Ordinance Article 6, Section 6.3 to allow for an extension of the Community Impact Statement until July 1, 2012 to comply with design impacts.**

Mr. Dailey asked to hear from the applicant prior to hearing the staff report.

Mr. Smith entered the room at 7:40 PM.

Mr. Fred Gates, with Gates Associated, Inc., gave a presentation and distributed a packet of documents supporting reasons for the variance request. Mr. Gates explained the impact of the Flood Plain Ordinance on the project and outlined reasons for the delays faced by the project. Mr. Maxey and Mr. Trumble voiced that the documents should have been provided to the Planning Commission prior to the meeting to allow for proper review. Mr. Gates continued with his presentation stating that the project is now on track.

Ms. Morgan moved to table the discussion until the November 9, 2010 meeting. Mr. Hayes seconded the motion which carried unanimously.

5. Request by The William H. Scott Inter Vivos Trust Property for a waiver from the Subdivision and Land Development Regulations Section 20.102 B to alter the existing order of process for plan review.

Mr. Rivard read from his staff report and recommended approval. Mr. Saunders deferred to the Planning Staff.

Mr. Pete Kubic, on behalf of The William H. Scott Inter Vivos Trust, explained the project. He stated that they hoped to complete the project by early spring. He clarified that there was no intent with the request of this waiver to deviate from any of the requirements outlined in the Subdivision Ordinance and that it was only a request to allow the grading plans to be submitted and bonded separate from the remainder of the site plan. He reported that the grading plans would be submitted within five days if the waiver is approved.

Mr. Maxey opened the public hearing. Mr. Doug Lawrence, adjoining property owner, voiced appreciation of the notification given. He raised concern regarding the noise coming from the Summit Point Race Track especially from the Improvised Explosive Devices (IED). Mr. Martin Burke, adjoining property owner, reiterated the noise problems and requested that the Planning Commission to review the file approving the Shenandoah Circuit. He stated that Mr. William Scott had made promises to the community regarding noise during the meeting discussing that circuit. Mr. Maxey closed the public hearing.

Mr. Maxey asked that staff research files related to the Shenandoah Circuit to find the noise conditions that were imposed and to report back regarding that at the December 14, 2010 meeting.

Mr. Maxey moved to approve the waiver with the staff recommended motion (attached). Mr. Trumble seconded the motion which carried unanimously.

6. Action on Final Draft of the Amendments to Article 4B, Wireless Telecommunications Facilities, and related sections of the Zoning and Land Development Ordinance.

Mr. Barney presented the Final Draft of the Amendments to Article 4B, Wireless Telecommunications Facilities and related sections of the Zoning and Land Development Ordinance and reviewed the changes made at the October 19, 2010 Special Planning Commission meeting. He distributed comments that Allegheny Power had submitted.

Mr. Trumble moved to approve the document with the staff recommended motion. Mr. Hayes seconded the motion. Mr. Maxey allowed comment from Mr. Knott and reminded him that the County Commission would also welcome comment at the Public Hearing that they hold. Mr. Knott raised concern that his property is directly affected by the Harpers Ferry Park District overlay on the map. He stated that he felt it was unreasonable to force a land owner to comply with the wishes of the Park Service. Discussion ensued that the Park

Service would not be allowed to approve or deny a cell tower, only to provide comment. The motion passed unanimously.

7. Discussion regarding proposed Amendments to the Zoning and Land Development Ordinance (Sections 4.4, 4.10, 5.4, 5.6, 5.7, 7.2, 7.8, 11.2, 11.3) regarding Subdivision Regulation References.

- **Tabled from the October 12, 2010 meeting: Discussion on proposed draft amendment to Section 4.4 (H) of the Zoning and Land Development Ordinance.**

Mr. Barney presented a draft of the Amendments to the Zoning and Land Development Ordinance regarding Subdivision Regulation References including Section 4.4 (H) which was tabled at the October 12, 2010 Planning Commission meeting. Ms. Morgan moved to table Mr. Barney's recommended changes with respect to cross references and edits to the Zoning Ordinance until the next Planning Commission meeting scheduled for November 9, 2010. Mr. Maxey seconded the motion which carried unanimously.

8. Discussion and possible action regarding Memorandums of Understanding with the Municipalities concerning Development Referrals.

Ms. Brockman presented a memorandum regarding the proposed Memorandums of Understanding with Municipalities concerning development notification. She stated that staff recommendation would be to notify the municipality of any development within the Urban Growth Boundary they have adopted. Ms. Brockman also recommended contacting the municipalities for their opinions on this concept. Discussion ensued on circumstances when it would be proper for notification and what topics should be involved in the memorandum. Mr. Maxey suggested that this topic be presented at the Shepherdstown Planning Commission Meeting scheduled for November 15, 2010.

9. This item was heard prior to agenda item #4.

10. Discussion of possibly appointing Planning Commission Liaisons to attend PSD, WAC, JCDA, and Health Department meetings.

Ms. Brockman explained that there are many meetings that she regularly attended and that, with the 340 Corridor Study approaching, she would appreciate Planning Commission volunteers to attend these meetings. Ms. Morgan volunteered for the Board of Health Meetings since she was already in attendance to those. Mr. Hayes volunteered to attend the Public Service District meetings. Mr. Maxey volunteered to attend the Water Advisory Committee meetings. Ms. Brockman asked that Mr. Taylor report to the Planning Commission regarding the Parks and Recreation meetings since he was already on that board. Ms. Brockman will contact Mr. Taylor to request that. Mr. Trumble volunteered to attend the Jefferson County Development Authority. Mr. Maxey stated that he would draft letters to the mentioned boards.

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

Mr. Groh stated that the James Gibson, et al v. The Jefferson County Planning Commission Case No. 09-C-364 case had set a status hearing for December. He stated he would provide the order as soon as received.

Mr. Groh made comment that the Amendments to Article 4B, Wireless Telecommunications Facilities, were well written and easy to understand.

Mr. Groh asked the Planning Commission how they prefer to be presented information regarding questions and comments submitted to legal. Mr. Maxey stated that he prefers any questions or comments presented to legal are in a written format.

Discussion ensued on allowing comment after the public hearing has been closed and having documents submitted after the deadline. Mr. Maxey directed staff to write a policy stating that late submitted documents could result in postponement of request.

12. Director's Report.

- Activity Report. The Activity Reports were provided in the agenda packet. Ms. Brockman stated that Ms. Tiffany Lawrence would be holding a meeting Friday October 29 at 2 PM to the present status of various projects.
- Discussion of potential policy regarding motions and PC minutes. Ms. Brockman stated that the motions were quoted as much verbatim as possible.
- Ms. Brockman asked the Planning Commission if there would be a quorum for the December 21, 2010 meeting. Mr. Maxey asked that this be discussed again at the end of the November 9, 2010 meeting.
- Upcoming CC agenda items. This information was provided in the agenda packet.
- Reminder of Upcoming Meetings. This information was provided in the agenda packet.

13. County Commission Liaison Report. None.

14. Planning Commission Exchange. None.

15. President's Report. None.

16. Actionable Correspondence. None.

17. Non-Actionable Correspondence. None.

Mr. Hayes moved to adjourn at 10:07 PM. Mr. Trumble seconded the motion, which carried unanimously. A detailed transcript of the meeting, which was recorded by Julie Quodala, Office Manager, may be found on our website. These minutes were prepared by Amy Puetz, Planning Clerk.

**A Motion Recommending Approval of a
Waiver for The William H. Scott Inter Vivos Trust
October 26, 2010**

Whereas, the following facts relate to the processing of The William H. Scott Inter Vivos Trust application known as Stasis Site Plan:

Whereas, The William H. Scott Inter Vivos Trust has requested a waiver from Section 20.102(B) to split the approval and bonding process in order to commence preliminary grading;

Whereas, The William H. Scott Inter Vivos Trust is not requesting a waiver to opt out of a standard or a process;

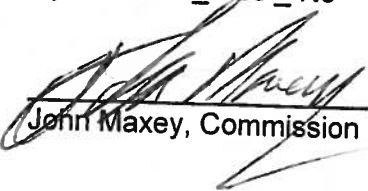
Whereas, The applicant is confined to a state imposed time limit and funding constraint;

Whereas, the following findings of Division 24.000 of the amended 2008 Subdivision Regulations are not applicable since the applicant is not opting out of any standards or procedures:

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

Now therefore be it moved, that the Jefferson County Planning Commission approves the requested waiver for The William H. Scott Inter Vivos Trust.

Recommended approval this 26 day of Oct. 2010
By vote of the Jefferson County Planning Commission
By a vote of _ Yes _ No



John Maxey, Commission President

**A Motion Recommending Approval of
Amendments to Articles 2.2, 4.3, 4.4, 4B, 4.7, 4.11, and 9.2 of the Zoning Ordinance
October 26, 2010**

Whereas, The Jefferson County Planning Commission initiated amendments to the Zoning Ordinance related to Wireless Telecommunications; and

Whereas, The Planning Commission conducted meetings to review the draft Wireless Telecommunications Ordinance on August 6, August 10, August 24, September 14, September 28, October 19, and October 26, 2010; and

Whereas, The Planning Commission conducted a stakeholder meeting to receive input on the draft Ordinance on August 31, 2010; and

Whereas, The Planning Commission conducted a public hearing on the draft Ordinance on October 12, 2010; and

Whereas, The Planning Commission has approved amendments to the draft Ordinance as a result of stakeholder comments and staff recommendations;

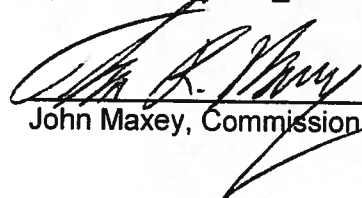
Now therefore be it moved, that the Jefferson County Planning Commission recommends that the County Commission approve the following amendments to the Zoning Ordinance:

1. Rescind Article 4B; and
2. Adopt the Wireless Telecommunications Ordinance as Article 4B; and
3. Adopt related amendments to Sections 2.2, 4.3, 4.4, 4.7, 4.11, and 9.2.

Recommended Approval this 26 day of October 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 Department
DATE: November 9, 2010
RE: Informational Item: US 340 Rezoning of Certain Federal Lands -- Public Hearing Cancelled

At the November 4, 2010 County Commission meeting, the County Commission voted 3-1 to cancel the previously scheduled and advertised Public Hearing regarding the rezoning of certain federal lands in the US 340 corridor. This motion was based on the advice of their legal counsel and included the determination that the petition filed by the Planning Commission did not meet the minimum requirements of the County Zoning Ordinance Section 12.3. Because of this action, the staff report to the County Commission on this request has not been completed and is not included in this packet.

I have been advised the County Commission may revisit this action and will report to you at the 11/9/10 meeting.

The petition filed and recorded at the County Courthouse on November 1, 2010 is attached for your information.

J. Maghan
Jennifer S. Maghan, County Clerk
P. O. Box 208
Charles Town, WV 25414

JEFFERSON COUNTY PLANNING COMMISSION

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

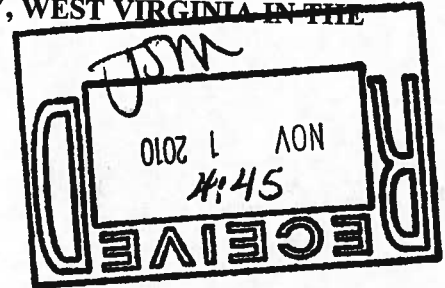
Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Fax: (304) 728-8126

BEFORE THE COUNTY COMMISSION OF JEFFERSON COUNTY, WEST VIRGINIA, IN THE
MATTER OF:

Rezoning of Certain Federal Lands



ORDER

On this 1st day of November, 2010 the Planning Commission of Jefferson County West Virginia hereby petitions the County Commission of Jefferson County West Virginia to rezone certain Federal lands, along US Route 340 that are currently zoned Industrial-Commercial; Residential-Growth and Residential-Light Industrial-Commercial, to Rural. These properties comprise a total of approximately 929 acres, of which 701 acres are owned by the Harper's Ferry National Park Service and 228 acres are owned by the U.S. Customs and Border Patrol. The specific parcel information with referenced tax district, map and deed book numbers are included as an attachment to this Order.

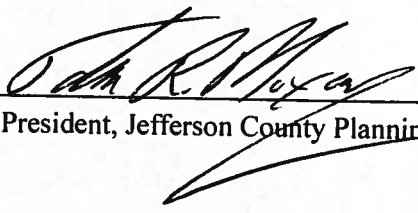
In August 2010, during a concentrated effort on Staff's part to perfect the zoning map, the Planning Commission inquired about the underlying zoning of the Federal lands on the zoning map, as they were merely designated "park land". At the August 24, 2010 Planning Commission meeting Jennifer Brockman, Director of the Department of Planning and Zoning made a presentation to the Planning Commission. During the presentation, Director Brockman stated that almost all the Federal lands located within Jefferson County are zoned Rural, with the exception of the Federal lands located along US Route 340, as they were zoned prior to becoming Federal land.

At their September 14, 2010 Planning Commission meeting, the Planning Commission voted to approve a Resolution to petition the County Commission to rezone the Federal lands along US Route 340. Additionally, the Planning Commission directed Staff to submit an Agenda Request Form on their behalf in order to retain an appointment to present their proposal to the County Commission. On September 23, 2010, after receiving the Planning Commission's presentation, offered by Planning Commission President, John Maxey, the County Commission moved to set a Public Hearing date at their September 30, 2010 meeting.

At their September 30, 2010 meeting, the County Commission tentatively scheduled the US Route 340 Federal Lands Rezoning Public Hearing for November 18, 2010 at 7:00 p.m. in the County Commission meeting room. At their regularly scheduled Planning Commission meeting on October 12, 2010, the Planning Commission received correspondence from County Commission President, Lyn Widmyer. Also, at the October 12, 2010 meeting, the Planning Commission moved that President John Maxey draft a response to County Commission President, Lyn Widmyer. Mr. Maxey's drafted response was approved at the Planning Commission meeting on October 26, 2010.

The Planning Commission believes that this rezoning is compatible with the Comprehensive Plan due to the significant changes within the area along US Route 340. As the Comprehensive Plan is currently written, there are key components within the Comprehensive Plan that support the rezoning. Additional Federal lands, along US Route 340, have been purchased since 2002. Of the 929 total acres owned by Federal agencies, 701 acres have been conserved by the Harpers Ferry National Park Service. A large portion of the remaining 228 acres, owned by the U.S Customs and Border Patrol, have been used for their own private educational facility.

It is therefore ORDERED that the Jefferson County Planning Commission petition regarding the Rezoning of Federal Lands along US Route 340 to the Jefferson County Commission be recorded and filed on this date, November 1, 2010.

Dated 11/1/2010 By 
President, Jefferson County Planning Commission

Owner	Tax District	Tax Map	Tax Parcel	Full Parcel	Deed Book	Deed Page
National Park Service	4	6	7	04000600070000	1065	710
	4	6	7.2	04000600070002	1065	710
	4	6	7.3	04000600070003	974	426
	4	7	1	04000700010000	905	328
	4	7	2	04000700020000	733	148
	4	7	3	04000700030000	1049	292
	4	7	5.2	04000700050002	488	146
	4	7	6	04000700060000	960	546
	4	7	31	04000700310000	405	30
	4	9	36	04000900360000	1016	675
	4	9	37.1	04000900370001	1065	710
	4	9	38	04000900380000	1011	49
	4	9	40	04000900400000	694	540
	4	9	68	04000900680000	968	641
	4	11	25	04001100250000	694	540
US Customs & Border Protection	4	9	12.1	04000900120001	1044	201
	4	9	13	04000900130000	957	603
	4	9	13.3	04000900130003	1037	510
	4	9	15	04000900150000	1036	158
	4	9	17	04000900170000	1033	389
	4	9	18	04000900180000	1033	389
	4	9	19	04000900190000	1037	680
	4	9	19.1	04000900190001	1036	152
	4	9	19.3	04000900190003	1033	389
	4	9	19.4	04000900190004	1056	592
	4	9	19.5	04000900190005	1037	680
	4	9	19.6	04000900190006	1056	592
	4	9	20	04000900200000	1056	592
	4	9	21	04000900210000	957	120
	4	9	39	04000900390000	1055	457
	4	9	39.2	04000900390002	1064	184
	4	9	39.3	04000900390003	1061	618
	4	9	40	04000900400000	694	540
	4	9	40.1	04000900400001	1056	592

Resolution to Petition the Jefferson County Commission to Amend the Zoning Map

WHEREAS the existing Jefferson County Zoning map indicates parcels along Route 340 now owned by the National Park Service and U.S. Customs and Border Patrol as either their original zoning classification or as "National, State and County Facilities"; and


WHEREAS the Jefferson County Planning Commission wishes to revise the zoning map so that it reflects the true underlying zoning classification rather than parcel ownership; and

WHEREAS the current use of these parcels fits the rural zoning classification; and

WHEREAS rezoning these parcels to reflect a rural classification would be consistent with the Jefferson County Comprehensive Plan;

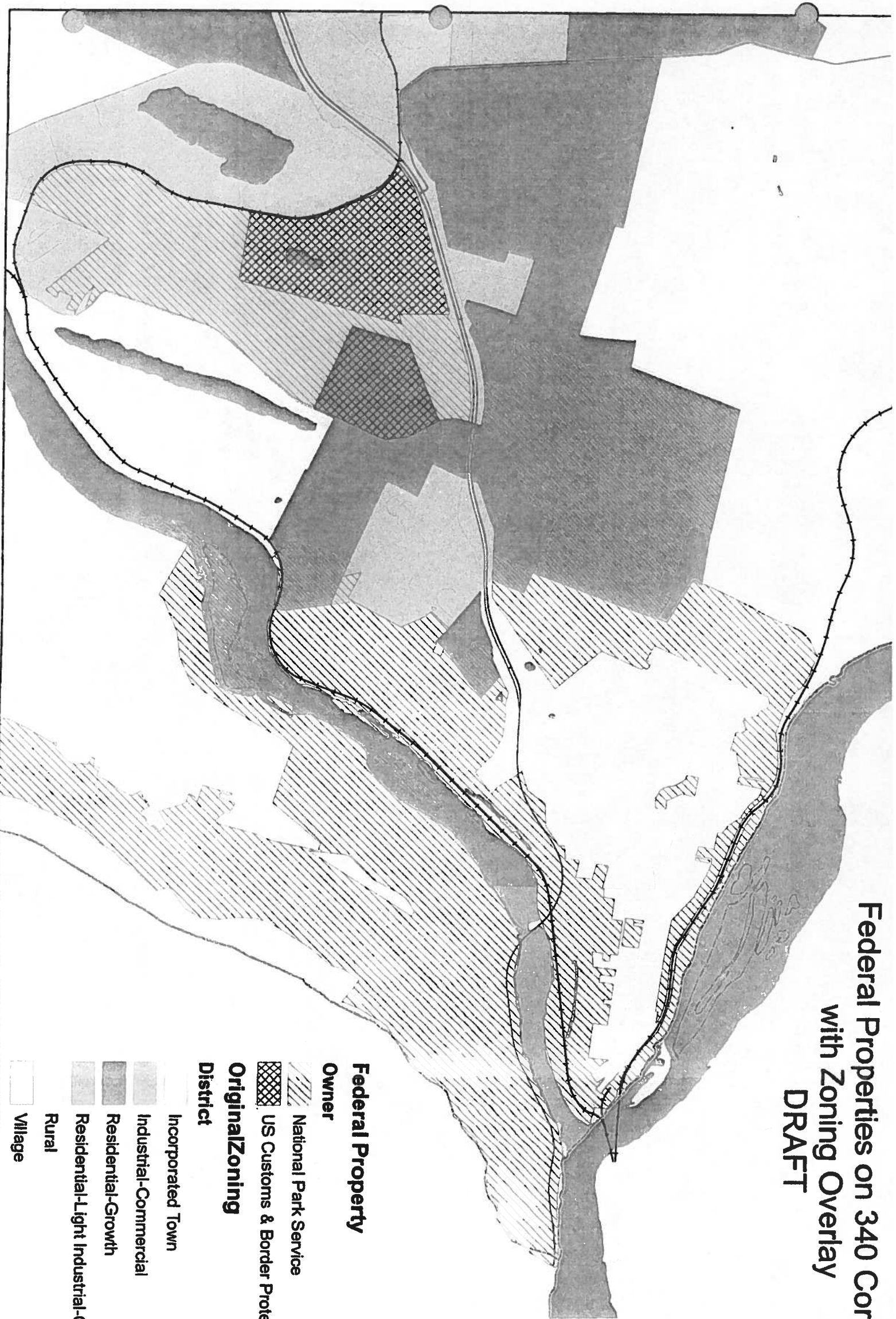
THEREFORE BE IT RESOLVED that the Jefferson County Planning Commission petition the Jefferson County Commission under the provisions of WV Code §8A-7-9 paragraph B to rezone the parcels owned by either the National Park Service of the U.S. Customs and Border Patrol along Route 340 from the current zoning classification to rural.

On September 14, 2010 at the regularly scheduled Planning Commission meeting, the Planning Commission decided with a 5-0 vote to petition the County Commission to rezone Federal Lands along the Route 340 Corridor.

X 

John Maxey
President, Jefferson County Planning Commiss...

Federal Properties on 340 Corridor with Zoning Overlay DRAFT




Federal Property

Owner

-  National Park Service
-  US Customs & Border Protection

Original Zoning

District

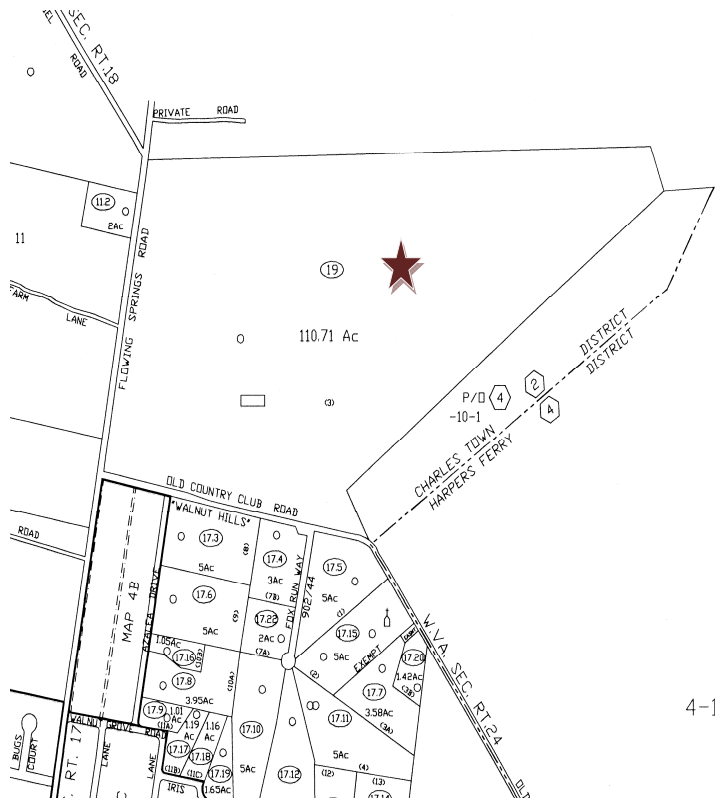
-  Incorporated Town
-  Industrial-Commercial
-  Residential-Growth
-  Residential-Light Industrial-Commercial
-  Rural
-  Village

Staff Report
 Jefferson County Planning Commission Meeting
 November 9, 2010 (continued from October 26, 2010)

Item # 5

**Aspen Greens Variance Request
 PC File #07-15**

Item #5: Request by Roderick Planes, LLC for a variance from Article 6, Section 6.3 of the Subdivision Ordinance to allow for an extension of the Community Impact Statement to July 1, 2012.

APPLICANT:	Roderick Planes, LLC
OWNER:	Same
DEVELOPER:	Same
SURVEYOR/ENGINEER:	Gates Associated, Inc.
PROPERTY LOCATION:	This property is located northeast of the intersection of Old Country Club Road with Flowing Springs Road.
LEGAL DESCRIPTION:	District: Charles Town; Map: 4; Parcel(s): 19 
ZONING DISTRICT:	2002 Zoning Map: Rural
SURROUNDING PROPERTIES:	2002 Zoning Map North: Rural South: Rural East: Residential Growth West: Rural
LOT AREA:	110.71 acres
PROPOSED DENSITY:	203 single-family lots

Staff Report

Item # 5

Jefferson County Planning Commission Meeting
November 9, 2010 (continued from October 26, 2010)

PERMIT APPROVALS:	
Health Department Permit	N/A
Department of Highways	N/A
APPROVALS:	
Conditional Use Permit	Submitted: 08/08/02 Site Assessment Passed: 10/02/02 1 st Neighborhood Compatibility Scheduled: 10/30/02 2 nd Neighborhood Compatibility Scheduled: 05/10/06 Public Hearing Scheduled: 06/15/06 PH & BZA Action: Approved CUP Official Issuance Signature: 12/20/07 Expiration Date: 06/20/09 BZA Extended: 12/20/10
Community Impact Statement	Submitted: 06/15/07 Staff Review Meeting: 07/06/07 County Planner Approval: 02/2008 County Engineer Approval: 01/14/08 PC Approval: 03/25/08 Expires on: 07/06/09 PC Extended: 12/31/09; 12/20/10
Concept Plan	N/A
Preliminary Plat	N/A
Site Plan	N/A
Final Plat	N/A
Variance History	05/26/09 - PC approved variance to extend the file expiration date from 07/06/09 to 12/31/09. 06/18/09 - BZA approved a CUP extension request from 06/20/09 to 12/20/2010. 08/11/09 – PC approved variance to extend the file expiration date from 12/31/09 to 12/20/10.
OTHER APPROVALS:	N/A

Planning & Zoning Department Report

The applicant has requested a variance to allow for an extension of the Community Impact Statement (CIS) from December 20, 2010 to July 1, 2012. Previously, in 2009, the applicant received several extensions on the Aspen Greens project. On May 26, 2009 the applicant was granted a time extension for the CIS by the Planning Commission until December 31, 2009. The six month extension by Planning Commission allowed the applicant time to request an extension of the Conditional Use Permit (CUP) before the Board of Zoning Appeals. The Board of Zoning Appeals granted an extension of the CUP from June 20, 2009 until December 20, 2010. The applicant returned to the Planning Commission on August 11, 2009 to ask for an extension from December 31, 2009 until December 20, 2010. This allowed the CIS and the CUP to both expire on the same date, December 20, 2010.

The requested extension of time for the CIS for Aspen Greens Subdivision is based on a change in the Jefferson County Floodplain Ordinance. The applicant has stated that changes to the Floodplain

Ordinance have had impact on submitting a Preliminary Plat to staff for review. In the packet for the variance request, the applicant states there are multiple reviews occurring by multiple agencies and that has delayed the ability to submit a Preliminary Plat.

Staff has had an opportunity to review the information presented by the applicant at the October 26, 2010 Planning Commission Meeting. Based upon a review of the information presented by the applicant, a vague but reasonable time frame can be established. In November of 2009, a floodplain violation was sent to the applicant. During this time a new Floodplain Ordinance was adopted by Jefferson County, which was retroactively applied. This impacted the applicant two ways. First, the applicant had to redesign their site in order to comply with the Floodplain Ordinance. Second, the updated regulations created some confusion as to how the new standards would be applied. In May of 2010, items related to the violation were addressed and the applicant proceeded forward with design work relative to the floodplain.

In addition to the applicant's submittal, attached is a series of separate email correspondences, beginning in November 2009, between the surveyor, Fred Gates and the Planning and Zoning and Engineering Staff. This record chronicles the time frame and range of discussion with the applicant's representative.

The request is not contrary to the public interest.

The request for a variance for an extension of time until July 1, 2012 to advance through the Final Plat hearing is not contrary to the public interest. In view of the fact that the applicant intends to continue the development as approved by the Planning Commission, which has conditions, no change has occurred regarding proposed development that would negatively impact public interest. As the project has progressed, the public interest has been increased. The applicant has complied with improved street connectivity and more stringent floodplain plans.

A literal enforcement of this Ordinance will result in unnecessary hardship.

A literal enforcement of the ordinance would require the applicant to start the project anew and, as such, would be an unnecessary hardship. The project would not fundamentally change if submitted under the amended 2008 Subdivision Regulations compared to the 1979 Subdivision Regulations they were approved under. The applicant has acted in good faith through the CIS and CUP process.

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

The delay in this project has been due to the updated Floodplain Ordinance that has impacted the timing and progress of this development.

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

Since the variance is only for a time extension and not a variance of the site layout, the spirit of the ordinance will be observed. The development will meet the intent of the Subdivision Regulations to provide useful and quality open space. The layout of the development has very few lots abutting each other in the rear yard. This is done by having the open space separating lots and providing nearly every lot an access to the open space. All of this results in a development that is less conventional, but a more creative and desirable neighborhood.

One of the purposes of the variance process is to keep the public informed of existing developments that are outstanding. The public notice provided for the applicant's requested extension until July 1, 2012 of

the CIS is in keeping with the intent of substantial justice to keep the public informed of requests related to the project.

Planning and Zoning Recommendation

Staff recommends granting the variance for an extension of time until July 1, 2012 to advance through the Final Plat hearing. This variance is for a time extension and not a variance to the site layout. This time extension would provide for the continuation of this development, as approved by the Planning Commission.

The Following is for Planning Commission's informational use:

A denial of the variance to allow for the extension of the CIS has no effect on the CUP. The Board of Zoning Appeals will hear the merits of a CUP extension, at their November 18, 2010 meeting. The CUP provides the zoning of the site while the CIS is the concept plan of the subdivision plan, which provides the details of the use. A denial of the CIS variance to allow for the extension of the would require the applicant to start the process under the amended 2008 Subdivision Regulations, if they desire to proceed with this development.

Engineer's Report
Planning Commission Meeting
November 09, 2010
Aspen Green Subdivision

Request: From our previous Planning Commission Meeting on October 26, 2010, the project, Aspen Greens, submitted supporting information without sufficient time to review the information. The planning commission has requested that the engineering department review any engineering related documents on how this information pertains to a time extension.

Please note: The Engineering Department will not review for completeness to the subdivision ordinance any documentation that is not a full submission. What the applicant has submitted is only a small part of the whole design scheme.

Introduction: The information provided deals with a variety of subjects. The main objective is to categorize the engineering related information and discuss how it pertains to the time extension being requested. From what I can gather, they pertain to the following:

- A. Flooding and Floodplain Issues
- B. Design of sewer

Documents: The following is an index of the document provide as follows:

- 1) An Aerial Map of Total Drainage Area
- 2) Minutes from previously approved time extension
- 3) Planning and Zoning Letter addressing previous planning director requested changes
- 4) Notice of Violation to Martin Davis
- 5) ANTREC Engineering certified letter stating the discussion with the Chief County Engineer, Roger Goodwin, about the new Flood Plain Ordinance being applied retroactively
- 6) Journal article about flooding on Douglas Grove Road
- 7) Email request from Fred gates to the WHAG-TV for the inches of rain accumulated on March 12, 2010
- 8) Pictures of pounding water on site
- 9) A USGS Map of Total Drainage Area
- 10) The Ordinance Compliance Officer email about Martin Davis Notice of Violation to Fred Gates
- 11) Plan view of existing 100 yr water surface elevation with layout of lots
- 12) True and false questions with replies
- 13) Plan view of proposed 100 yr water surface elevation with layout of lots and proposed ditch line

- 14) Grinder Pump Calculation
- 15) Preliminary plat of Aspen Greens
- 16) Article of Jefferson Co. receiving \$1M for sewer plant
- 17) Supreme Court of Appeals of West Virginia – Jefferson Utilities VS JC Board of Zoning Appeals, reference projects are Daniel’s Forest and Forest View
- 18) Aspen Green’s CUP

Flooding Issue: The majority of the documents pertain to flooding issues. The applicant has suggested that the current Floodplain Ordinance has delayed his project. There are two items to discuss on this issue.

1. Does the Floodplain Ordinance apply; and
2. Does Flooding on the site occur during a 100 year storm event?

The applicability of the Floodplain Ordinance is stated under section 1.5 Applicability which states any land development within the floodplain areas of Jefferson County are to abide to the Floodplain Ordinance. The determinations of these floodplain areas are provided by the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps (FIRM) or a Flood Insurance Studies. As provided in this report, the FIRM (map) shows this project to be in zone X which is outside the 100 year floodplain. Also, there are no flood insurance studies for this area. It appears that the Jefferson County Floodplain Ordinance does not apply.

However, the onus is on the engineer-of-record to evaluate site conditions to determine if the site is designed such that the 100-year storm event does not create flooding problems for any lots and proposed homes. If so, he/she might want to consider placing a note on the plat, or delineating these areas, so the developer, realtor and future home buyer know this up front and can account for it when building the home.

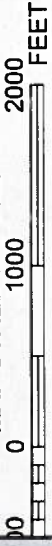
There are two 100 year water surface elevations shown in the plan which are for existing condition and are for proposed condition. The applicant appears to have addressed any post-development flooding issues; therefore, I defer to the applicant on how this pertains to a time extension.

Design: The applicant submitted documents that pertain to the design of the grinder pump for sanitary sewer system. I defer to the applicant on how this pertains to a time extension.

Summary: Although I am not opposed to a time extension, I do not believe the documents received support such a request. Therefore, I defer to the Planning Commission on this matter.



MAP SCALE 1" = 1000'



PANEL 0130E

FIRM

FLOOD INSURANCE RATE MAP

JEFFERSON COUNTY,
WEST VIRGINIA
AND INCORPORATED AREAS

PANEL 130 OF 245
(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
JEFFERSON COUNTY	540065	0130	E
RANSON CITY OF	540068	0130	E

Notice to User: The Map Number shown below should be used in all correspondence. Community numbers shown above should be used on insurance applications for the subject community.

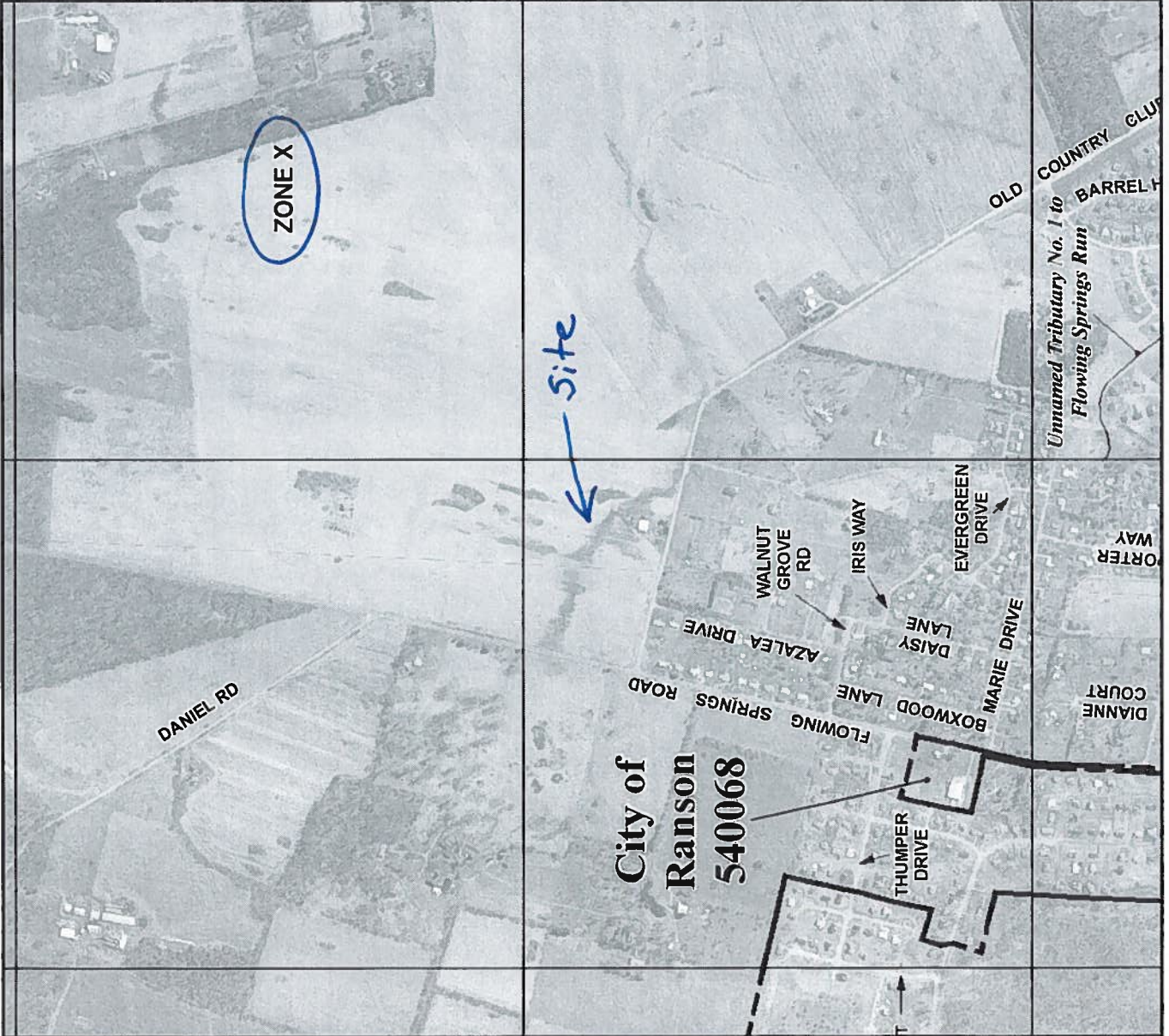


MAP NUMBER
54037C0130E
EFFECTIVE DATE
DECEMBER 18, 2009

Federal Emergency Management Agency

NATIONAL FLOOD INSURANCE PROGRAM

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT Ch-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov



**A Motion Recommending approval of a
Variance for Aspen Green
November 9, 2010**

Whereas, the following facts relate to the processing of Roderick Planes, LLC application known as Aspen Greens Subdivision (PC File(s) #07-15):

1. Aspen Greens Subdivision is proposing 203 single family lots on 110.71 acres;
2. The Community Impact Statement for Aspen Greens Subdivision was approved on March 25, 2008 and most recently extended on August 11, 2009 to December 20, 2010.
3. Section 6.3 of the 1979 Jefferson County Subdivision Ordinance requires that a project advance through the stage of a Final Plat Hearing within 24 months of the Pre-application Conference.

Whereas, Roderick Planes, LLC has requested a variance to extend the CIS until July 1, 2012 to advance through the Final Plat Hearing;

Whereas, the following findings shall have been made in regards to the request in accordance with the provisions of Article 17, Section 17.1 of the 1979 Subdivision Ordinance:

1. The request is not contrary to the public interest;
2. A literal enforcement of this Ordinance will result in unnecessary hardship;
3. The request is not the result of a self-imposed hardship; and
4. The spirit of this Ordinance will be observed and substantial justice done.

Now therefore be it moved, that the Jefferson County Planning Commission _____ the requested variance for Roderick Planes (PC File(s) #07-15) provided that the extension granted be limited to July 1, 2012.

Recommended _____ this ___ day of _____ 2010
By vote of the Jefferson County Planning Commission
By a vote of _ Yes _ No

John Maxey, Commission President

EIS Extension Request

Summary Dialogue on
Support Exhibits Provided 5th & 26th October 2010
For consideration tabled to November 9, 2010 PC Meeting

Provided 3 Nov 2010 to

**JEFFERSON COUNTY
PLANNING COMMISSION**



1) Motion Requested Exhibit Dialogue; Purpose (order of appearance):

a) Variance Form Submissions 5 October 2010:

- i) USGS SITE LOCATION MAP; places project limits on county roads, identifies adjacent developments, independently verifies no stream across property impact, shows the inability of use for West Shed determination without field survey time to define, permits reviewer orientation to respondent's time use to assess land activities presented. USGS Maps are a professionally accepted and historically used tool among flood plain hydrologists to indicate oversight probability given the presence or lack of a blue line to indicate a stream.
- ii) WEST VIRGINIA GIS FEMA FLOOD PLAIN AERIAL PHOTO MAP; places project limits along same roads clearly out of any flood plain, independently verifies the nearest flood plain in this water shed as stated in the VRF (Variance Request Form). It also independently verifies no stream across property and indicates why the Flood Plain Administrator's responses required extended time to define-evaluate-observe actual rain event impacts, search historical data to quantify, run programs-search design options, assess alternate grading-design channels, recompute surface drainage results, seek variances with ongoing easements and utility placement(on going). Hence it verifies why time to adjust for not literal but administrative ordinance requirements (as would be desired by any considered county growth professional intent) that this body should honor with its support. This resource is a professionally accepted and historically used tool among flood plain hydrologists to indicate oversight probability given the presence or lack thereof of an indicated near project flood plain. This website is sponsored by FEMA.
- iii) BROCKMAN EMAIL ON PROCESSING TIMELINE LIMITS 9 SEPT 10; independently verifies that during the above assessments review time is short and timely pursuit of time extension must be considered, independently verifies that "sooner is better than later", independently verifies why inclusion of project progress to date is of merit, and why the realistic time line to 1 July 2012 requested is needed to complete the multi-utility multi-oversight multi-staff linear (non-coincidental) reviews within interrelated departmental bureaucracies that do not respond favorably to repeated phone calls to hustle up their decisions. Her direction is important because it is being made specifically to this project by this county's highest level of planning professional. It lists important opinions of options and issues that must be addressed by this project.

b) Detailed Meeting Submissions 26 October 2010:

- i) EXHIBIT A – AERIAL PHOTO WESTERLY DRAINAGE IMPACTING ASPEN GREENS DATED - 7 JAN 2010; this represents work that was a major time pursuit, it is a factual effort to define and quantify the drainage area by field survey, it allows the reader to place the area of interest on the factually visual land use of the county, allows the reader to observe the diverse ground use and primary current uses, project limits are shown, primary culvert flow points are indicated for rain event observance, elevation thread of flow not observed is

indicated, acreage of drainage shed and sub-areas are shown, computation flow limits and lengths are shown, hydrologic soil group is indicated. This document shows time input to study, delineate, quantify and project a basin rain event Q that is computational and not evidenced during rain events of memory at Flowing Springs Road point of project impact. See USGS version.

- ii) PARTIAL MINUTES OF JCPC AUGUST 11, 2009 MEETING; Minute Item 8 represents the starting point of Planning Commission setting of the time limit of 20 December 2010 for construction start, prior to adoption of November 9th Flood Plain Ordinance administration existence or impact.
- iii) JCP&Z DIRECTOR LETTER – shows project effort to modify design and approval in a timely cooperative manner, completes PC request for oversight approval.
- iv) DAVIS NOTICE OF VIOLATION (NOV) 16 November 2009 – Saving this client from legal action for road fill work completed BEFORE new Flood Plain Ordinance adoption provided insight into probable application to ASPEN GREENS Preliminary Plat design impacts. Copy verifies interaction occurred.
- v) PROJECT PE NOTARIZED AFFIDAVIT – Certifies that from the NOV that a first chance to address this was not presented to us until January 13th of 2010, certifies that normal review considerations take time to appraise then set up, certifies when the Project PE learned of retroactive Flood Plain administrative intent and other Flood Plain Administrator intended new impacts.
- vi) PROJECT SURVEYOR MEETING NOTES OF 13 JAN 10 JCPE – confirms intended application learned impacting project Preliminary Plat submissions.
- vii) THE JOURNAL ARTICLE “FLOODED ROADS” 16 Mar 10 – Sets the stage for observing actual water flows on ASPEN GREENS, verifies the rain event occurred and made significant local sheet flow impacts, gives a comparison to what actual project photos indicate occurs for PC members reading this.
- viii) WHAG METEOROLOGIST EMAIL OF 17 MAR 10 – confirms rain event impact.
- ix) PHOTO 16/3/2010 13:22 – taken at edge of Flowing Springs Road easterly onto project site. Shows lack of water flow. Note 15” culvert that according to DOH has never shown to be inadequate and cause over road flooding. Raised reasonable design time concern to meet numeric generated flows not seen.
- x) PHOTO 16/3/2010 13:12 – taken at edge of Old Country Club Road easterly along ASPEN GREENS frontage showing site generated flow impacts to road right of way needing project design relief; flows are significantly less than those numerically generated causing need to question Ordinance Administration.
- xi) EXHIBIT A – USGS - WESTERLY DRAINAGE IMPACTING ASPEN GREENS DATED - 7 JAN 2010 – equal to above “i)” with current release USGS background to indicate slopes and elevations for computation; Proj PE indicates the ToC (time of concentration) for Area A is 45.4 minutes, ToC for Area B is 34.7 minutes, and ToC for Area C is 43.3 minutes. The lengths of each are shown per PC Member Request. No actual flows appear in this shed to date.
- xii) EMAIL 5/7/10 ON DAVIS NOV iv) ABOVE – this brings to a close the above NOV concern on Mr. Davis and clearly indicates that related Flood Plain Oversight reviews take time for proper departmental processing well above their stated review quickness for individual question responses by staff, verifies

this request for Preliminary Plat multi-departmental-multi-professional-plan change interaction to 1 July 2012 recently granted another project with similar progress hurdles. ASPEN GREENS needs numerous approvals to start the required project construction that together merit this time line. Subdivision Ordinance timelines have not been increased since their writing despite the multilayered yearly addition of oversight persons, requirements and permits all required to be in hand. Good designs should be encouraged to take needed time, not discouraged. Positive improvements affect everyone as your legacy.

- xiii) LOT PLAN SHOWING COMPUTATIONAL 100 YEAR FLOOD LEVEL PRIOR TO DEVELOPMENT – shown as area hatched with 25 foot buffer along edge as required by New Ordinance, shows the impact to project (before project proposed grading) given hypothetically generated flows from the 900.5 acre area of above exhibits. Building sites and road activity impacts are not seen in flows observed. This was the product of months of work to locate, quantify and enter into programs that could indicate probable impact. After initial output efforts were made to verify that this much difference between field experience and computation was to be believed and then what cost impacts would it imply to solve. These are major project hurdles to consider.
- xiv) EMAIL TO FLOOD PLAIN ADMINISTRATOR WITH QUESTION RESPONSES – specifically phrased true or false to quickly clarify Project PE choices, show developer this Administrator's required solutions (costs), and possible long term oversight impact despite the actual lack of any cross site flows. Note timeline to consider for project design was about one month. Alternative of several complete project grading designs for simultaneous multi-review by staff to meet deadline of 20 December 2010 was not a realistic option.
- xv) ADMINISTRATOR RESPONSES TO QUESTIONS SUBMITTED 9 SEPT 10 – almost all responses are qualified with no true or false answer, most responses reach out to shed light on requested application, alternate impacts and options to consider. Project PE moved to design what he felt was specified therein.
- xvi) LOT PLAN SHOWING COMPUTED 100 YEAR FLOOD LEVEL AFTER DEVELOPMENT – Project PE proposes ditching and grading to bypass all lots from 100 year water level impact. Despite the 15 inch culvert at Flowing Springs Road, (which DOH claims has never flooded over the road and no visible continued flows through this watershed) two 24 foot wide arch culverts 5.6 feet high are proposed. Ditching bottom is 42' (varies) wide flat bottom five feet deep (varies) across the site. The Project PE designed these to satisfy oversight requirements that accommodate his computed West Shed run off.
- xvii) WORK PROGRESS EXHIBITS – Sewer Pump sizing and plan copies in progress show substantial work progress underway. This was requested by Director in email "1.) iii.)", listed above. These 21 pages define the project outside of the need to meet new Flood Plain Ordinance requirements. It is very important that you note the required and independent multi-departmental, multi-professional reviews that are listed on Preliminary Plan Sheet 1 and are a prior to construction must. They are not all. The many months of this request are truly needed for these oversight bodies to do their separate reviews and get the

results both you and the public want to see in this development. These drawings show extensive DOH review to gain their support for upgrades shown. DOH entrance review is now more time consumptive, being split between Burlington and Charleston professional oversight. Added state road phase upgrades will also be an initial time consuming consideration to plan out. All of Sheet 1 reviews can not start until after county design completion impacts (Flood Plain) are included. Predictable time review lengths are not realistically possible.

- xviii) RECENT SEWER PLANT \$1M NEWSPAPER ARTICLE – Shows that a cross county 30 inch gravity sewer line needed for existing and future service, and which will serve ASPEN GREENS, is a viable project. It is shown on the plans submitted. It is also directly impacted by the grading required to satisfy Flood Plain Administrator responses. Sewer line movement and grading decision are ongoing in proper professional exchanges as this is written. These must be resolved before Preliminary Plan completion, final plat reviews, PC Approval posted vote, outside oversight reviews, bonding, recordation, NPDES Reviews and permitting, all taking many months prior to the ordinance cited construction start required by current outdated ordinance timelines.
- xix) SUPREME COURT OF APPEALS 2005 DECISION of Project Case 02-C-348– shows project lands were a party to this Circuit Court decision that is here reversed and remanded to “adjust, where necessary, any time deadlines” lost in pursuing statutory rights of appeal.
- xx) CIRCUIT COURT OF APPEALS 1 MAR 2006 DECISION of Project Case 02-C-348 – This order upon remand set the determination of fair tolling of time lost as 4.2 and 3.5 years respectively. This Project shared this decision as Petitioner Case and Interveners.
- xxi) CUP OF DANIELS FOREST 11 DECEMBER 2001 - Shows application of 4.2 and 3.5 years of tolling provided by the remand decision from Project shared case. See Variance form for referral to Time Extension requests and right to tolling.

2) Synopsis of Support Person Input for Variance Extension: (Note first person replies.)

- a) Developer, Maurice Gladhill: I have been closely involved in the creation of all elements of the Aspen Greens project as owner and developer. Because of the impact of the new Flood Plain Ordinance, I sought out a 2nd and 3rd opinion on the size and scope of the proposed channel. As proposed by our PE, the channel dimensions were enormous compared to other recent developments down flow from ours, and there is no evidence of water flows across our site or adjoining properties to support the theoretical calculated storm water flow. We are resigned that this grand canal is the required solution based on current understanding. Through the months of this project many staff members and procedures have changed, making the current time allocations inappropriate to conceive a comprehensive quality project related to utility growth. I have never asked anyone involved with Aspen Greens to delay or hold back any part of the development process due to the current economic down turn. We are not trying to abuse or take

unfair advantage of the development review process or the citizens of Jefferson County. We are eager and prepared to proceed.

- b) Jefferson County Public Service District Manager, Sue Lawton: Her submitted letter to Chairman Maxey, dated 26 Oct 2010, confirms consistent project cooperation and easement conveyance. Grading impacts on their easements are impacting, taken time to grasp and still ongoing by their professionals. It is absolutely critical that the proposed cross county gravity sewer line be symbiotic with this project's development. There must be extra time to permit a best design to mature.
- c) Jefferson Utilities, Inc. Owner/Director; Lee Snyder: Mr. Snyder can verify that he and his staff participation from 2009 to the summer of 2010 literally created the first Jefferson County CADD details and standards for waterline work that will better serve ASPEN GREENS and all future water projects. This initial work is shown on Sheet 10B of the above. Flood Plain grading changes also directly impact the placement of JU, Inc. intended water lines on plans. Details were done with continued input from ASPEN GREENS professionals. Improving a better county result takes well spent extra time.
- d) Project Legal Counsel; Patrick Henry, Esq.: Mr. Henry can verify that this land owner/developer has willingly chosen to work within both the decisions of this Planning Commission, the best interests of the public and within the Jefferson County developmental ordinances to design and develop a truly more functional space for new homeowners to live, while allowing for areas of growth at considerable cost above minimum standards. See plans. In this pursuit his choice has been to avert costly legal avenues to maintain his rights. He requests this project's right to this extension to July 1, 2012 that he may continue to do so.
- e) Project Engineer; Willard Haas: Mr. Haas can verify that his pursuit in creating Preliminary Plans has been allowed to unfold as his professional oversight best indicated. This included the application of the November 9, 2009, Flood Plain Ordinance as intended by its Administrator as described in the above documents. This issue was central to creating any Preliminary Plans for review by all oversight ahead. Some aspects are ongoing that need multi-utility confirmation to permit completion with acceptable changes. Off site project impacts have required studies, computations and trial redesigns to optimize impacts, despite the lack of observable flows. During the post design approval time in 2009 and 2010, his pursuit of better design has remained focused on best results for the project, county ordinances and possible additional reviews by government agencies. These issues held back the completion of plans that could start the multi-submission reviews needed. Reviews will certainly take design time to include preferential changes for their approval. Besides the Preliminary Plans numerous support documents need preparation and publishing prior to any submissions that support the need for this time extension.

- f) Vice President of Commercial Associates; Donnie Fisher: I can confirm that we have found an able buyer for these lots. This is a local builder who has remained successful in a down market. Aspen Greens is the only project that fits his needs in our current market due to lot size and the coving layout which allows the majority of lots to back onto green space. The lot widths will allow him to build mostly a one level home to target a certain demographic that our market drives at this time. We anticipate a seven to ten year build out given even the current market.
- 3) Why the entirety of this submission clearly meets the four criteria to deserve your approval:
- a) THE REQUEST IS NOT CONTRARY TO THE PUBLIC INTEREST - Public Interest has had several opportunities to provide input into this development. All suggestions have been included with no outstanding unresolved public issues. In fact, this development design and developer proactively included numerous issues that improve future growth above any minimum county standards. These include completed Daniels Road Entry upgrades; Old Country Club Road pavement, drainage and sight distance upgrades, future road widening by 25 foot easement and an additional 25 buffer with cluster trees and mounding; upgraded entrance to allow off-road tot drop/pickup, mail with parking; green space home access through coving; aquifer replenishment by lowland water direction, multi lot rain garden deployment; Bio-Retention cul-de-sac centers that transpire moisture into the atmosphere through appealing landscaping foliage; above county standard road widths to better serve the homeowners; interconnecting walks and trails for both children and adults; graded play fields; conveyance of privately purchased easements gratis to JCPSD for sewer lines down into Breckenridge Development lines for all future public users including the Bardane Industrial Park; turn lanes where permitted by WVDOH, etc. The Public Interest embodies more efforts of this project than many placed before you to date. This developer has embraced a better project from the start. See plans.
- b) A LITERAL ENFORCEMENT OF THIS ORDINANCE WILL RESULT IN AN UNNECESSARY HARDSHIP - This project has been years in the making. It was better designed from the start, being a product of elements outlined by the County Planning Director and County Engineer. It has undergone revisions in obtaining approvals of the CUP and CIS, obtaining permission from Jefferson County Public Service District for sewer service, and receiving water connections from Jefferson Utilities, all currently available along the site. A builder now wants to purchase lots with the coving concept used in the lot design. There has been interest from the public to purchase homes in a subdivision like Aspen Greens that is more resident friendly, has ready access to green space, and has interconnecting walks or paths and playgrounds that occupy youth away from in street activities. Denying the extended time extension requested would deny the upgraded home options your legacy seeks to create. Denying this project support would be a loss of substantial developer and county time spent to improve design and comply with ordinance

changes that benefit this community. Literal enforcement would send the wrong signal to similar future efforts attempting inclusion of better development standards. Denial would clearly show the cost of trying to do a better than minimum requirement design, is not worth the effort, because the county will not support you when it takes more time to get it thorough needed reviews. This hardship should be averted.

- c) THE REQUEST IS NOT THE RESULT OF A SELF-IMPOSED HARDSHIP - The passing of the new Floodplain Ordinance raised issues that would have retroactive application aimed to avoid flooding of the proposed houses. Numerous exhibits above show the time consumptive ripple multi-utility impacts from precipitated design changes. None of these are self-imposed. There are additional non-self-imposed multi departmental reviews that must be worked through to permit the development to obtain approvals that must be in hand for county approvals to mature. The above elements had a huge impact on the development of plans in conjunction with the drainage swale through the site. JCPSD coordination is ongoing. State reviews with uncertain timelines beyond project control lie ahead that will no-doubt require compromise revisions to work through for approval.
- d) THE SPIRIT OF THIS ORDINANCE WILL BE OBSERVED AND SUBSTANTIAL JUSTICE DONE - The developer and his design team have always strived to observe the spirit of these ordinances. These impacts are fact, and the efforts to comply indicated herein are factual. This body's scrutiny for the public interest is being served. Content of these plans needs time to mature. This is not a normal request for technical changes, only a time extension. Substantial justice will be done for a project design that already has had and will continue to have a beneficial effect on the area, hopefully encouraging other developers to enhance their opportunities to provide enlightened space use that embraces the better county dialogue as well.

Advise if more detail or input is desired.

I certify that the above statements are as factually correct as humanly possible, correctly represent factual events that have impacted the progress of this project and none are a product of narrative intentionally presented to mislead the deliberations of this body.

Fred W. Gates, P. S.
President of Gates Associated, Inc.

**Support Exhibits
CIS Extension Request**

**JEFFERSON COUNTY
PLANNING COMMISSION**

**Provided @ PC Meeting
26 October 2010**



Notes:

1. WATER SHED BASINS shown comprise the primary water runoff source draining on their own into the adjacent waterway. The basins are shown with their own sub-shed drain line flow with length and head are from field to river and turned culvert elevations overlaid on both aerial/USGS at scale shown. The combined West Shed contains approximately 900.5 Acres.
2. WEST SHED AREA is approximately 900.5 acres with a total vertical fall of about 115 feet over a stream flow length of approximately 12,463 feet at 0.92% average slope.
3. PRIMARY LAND USE is crop farming, pasture and woodland. A small part of their own sub-shed basins are around 537,000 sq ft and timber area has two 5000 gal control basins just west of CG Route 9. Areas A, B & C flow under the raised railroad beam crossing the entire watershed at the shown culvert. This culvert shows little or no visible flow impact on field inspection.
4. SHED LIMITS are indicated with dashed lines. Areas within checked line limits are part of the larger acreage shown within the dashed lines.
5. SUB SHEDS A, B, & C are designated by letters for reader reference to computational and discussion exhibits.
6. HYDROLOGIC SOIL GROUP NRCS indicates all sheds shown are rated "B". See NRCS website for more details.
7. DRAINAGE LINES SHOWN AS 4 DOTS AND A DASH are modified to TR-55 Flow SHALLOW CONCENTRATED FLOW - SCF OPEN CHANNEL FLOW - OCF THESE FLOW LENGTH SEGMENTS are designated by letter @ (mangku) REACHES labeled constitute the length along the actual sub-shed drainage

**Exhibit A - Aerial Photo
Westerly Drainages Impacting
ASPEN GREENS**

Plot: 1080Shed
Date: 7 Jan 2010
Scale: 1" = 600'
Tax Map: 4
Chares Tom
Computer Entry: F.G.
Gates Associated, Inc.
153 Venice Way (Rte 45)
Shepherdstown,
West Virginia, 25443
41.3889447, -79.4111111



MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 11, 2009
PAGE 2 of 2

7. Declaration of violation of the Salvage Yard Ordinance for Roy Dick for a junk vehicle and debris on property designated as Parcel 17 and 17.1, on Tax Map 3B, in the Middleway District. Mr. Carter stated Mr. Dick has removed the junk vehicle, though the debris remains substantial. Mr. Dunleavy moved to declare a violation of the Salvage Yard Ordinance for debris. Mr. Reynolds seconded the motion, which carried unanimously.

8. Request by Fred Gates, Associates on behalf of Roderick Planes, LLC for a variance to extend the file expiration date of the Aspen Greens Subdivision (PC Files #07-15) from December 31, 2009, to December 20, 2010. Mr. Gates gave a presentation to the Commission. Mr. Dunleavy asked why an 18-month extension was necessary. Mr. Gates explained the history of the project, including negotiations with the Public Service District for easements acquired for the proposed wastewater collection system. Mr. Dunleavy asked if the applicant had any documentation from the Public Service District (PSD). Mr. Gates provided staff with a copy of the Deed of Easement between Roderick Planes, LLC, owner, and the PSD. Mr. Gates explained that in the event the proposed Flowing Springs wastewater treatment plant was stalled that the developer would be using a gravity flow system connected through the adjacent Walnut Grove Subdivision. Mr. Maxey inquired about the timeline for build out. Mr. Gates stated if the economy improved build out was projected to be approximately 10 years. Mr. Maxey stated he believed an extension request was not in the best interest of the public due to the number of lots currently on record. Mr. Trumble had a concern about misleading the PSD regarding build out timeframes. This issue was addressed. Maurice Gladhill, owner, was present to answer Commissioners' question. Mr. Dunleavy asked the owner if he would have an issue to bond and record within 90-days. Mr. Gladhill stated he would not have a problem with that timeframe.

Ms. Hartman read the following from her staff report, "The applicant provides a number of reasons for why the variance request should be approved. The Commission felt these were sufficient to approve an extension request on May 26, 2009. The Commission approved the last extension request until December 31, 2009, in order for the BZA to formulate their own opinion regarding the CUP extension request. The Commission advised the applicant to return for an additional extension request, if necessary, once the BZA had made their findings. The BZA voted unanimously in favor of the granting extension request for a period of 18-months; therefore the applicant is requesting the file's expiration date be extended to match the CUP deadline of December 20, 2010. Staff recommends granting the extension request."

The Planning Commission received the Engineer's staff report via packets that were mailed on August 7, 2009.

Mr. Trumble asked if the developer had a business plan to complete the processing of the development within the requested timeframe. It was stated that the Conditional Use Permit for the project would expire on December 20, 2010 and therefore the project must begin construction by that date. Mr. Reynolds moved to approve the extension request until December 20, 2010. Ms. Deming seconded the motion. Mr. Maxey moved to table this

MINUTES
JEFFERSON COUNTY PLANNING COMMISSION
AUGUST 11, 2009
PAGE 3 of 3

decision for a period of 90-days to allow a staff review of the proposed preliminary plat; to allow submission of documentation of the sewer plans; and to allow submission of the documentation of the bonding issue for sewage treatment plant construction. Mr. Surkamp seconded the motion. Patrick Henry, attorney for the applicant, made a presentation to the Commission. Mr. Dailey called for a vote to table. The motion failed 3 for and 6 opposed (Mr. Dailey, Mr. Reynolds, Mr. Dunleavy, Mr. Sidor, Ms. Deming and Ms. May). The motion to approve the request passed 6 for and 3 opposed (Mr. Maxey, Mr. Surkamp and Mr. Trumble).

9. Director's Report. Ms. Brockman spoke about the formation of a committee to discuss the 340 Study and an Urban Growth Boundary meeting scheduled for September.

Mr. Dailey called for a break to change the CD at 8:20 PM. The meeting resumed at 8:23 PM.

Ms. Brockman continued her report regarding the following topics:

- a. Job descriptions.
- b. The August 17, 2009 Joint Meeting between the County Commission and the Planning Commission.
- c. Announced the August 28, 2009 Open House.
- d. Gathering information from surrounding jurisdictions regarding extensions.

10. County Commission Liaison Report. None.

11. Planning Commission Exchange. Mr. Sidor stated Mr. Roger Goodwin, County Engineer, was in the process of revising the bonding policy and to see if it were possible to extend the 90-day provision to bond and record.

Mr. Dunleavy expressed his concern regarding the submittal of documentation as part of the variance submission. Mr. Dunleavy explained that if an applicant were to present facts within the text of their variance request that Staff should be requesting documentation to back up the facts as listed.

Mr. Maxey requested that clarification regarding the Huntfield case be added to the August 25, 2009 agenda.

12. President's Report. None

13. Reports from Legal Counsel and legal advice to PC. None.

14. Actionable Correspondence. None.

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

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

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

August 21, 2009

Mr. Fred W. Gates
Gates Associated, Inc.
288 Venice Way
Shepherdstown, WV 25443

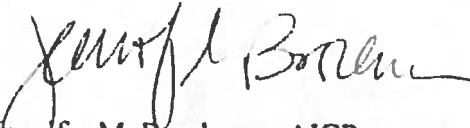
RE: Aspen Greens Subdivision (#07-15)

Mr. Gates,

This letter serves as acknowledgment that the Department of Planning & Zoning recognizes your initiative in addressing the previous Director's requested changes to the Aspen Greens Subdivision (#07-15). On record is the fact that you and I reviewed the requested changes on August 19, 2009, and agreed that the changes were an improvement in design, minor in nature, and consistent with the approved concept plan.

Thank you for scheduling the Planning Commission recommended meeting so promptly. I look forward to working with you in the future.

Sincerely,


Jennifer M. Brockman, AICP
Director of Planning & Zoning

CC: Roger Goodwin, County Engineer
File

JEFFERSON COUNTY, WEST VIRGINIA

Engineering Department
116 East Washington Street
P.O. Box 716
Charles Town, West Virginia 25414

Phone 304-728-3257
Fax 304-728-3953

Email: engineering@jeffersoncountywv.org

NOTICE OF VIOLATION

ISSUED BY: D. Mason Carter NOTICE DATE November 16, 2009
Ordinance Compliance Officer & Land Development Coordinator

Certified Mail Return Receipt #7008 1830 0003 3623 6013

PROJECT: J C P C N/A

Harpers Ferry District, Tax Map #3D, Parcel #81.1
Deed Book 1036, Page 562

OWNER of RECORD: Martin Davis
119 Connie Avenue
Harpers Ferry, WV 25425

Attn: Mr. Martin Davis

The Owner/Developer/Contractor is hereby notified that based on the observations made during a site visit on Thursday, October 29, 2009, it is determined that it appears that fill has been placed in the Floodway to elevate a yard and to cover a drainage pipe that has been placed in the Floodplain which is in violation of the Jefferson County Flood Plain Ordinance:

1 Article 7, Section 7.1 (D) of the Jefferson County Flood Plain Ordinance states

"No fill shall be permitted in the floodway.

"Placement of fill in other areas of the floodplain is restricted to functional purposes such as elevating a structure. Fill shall only be permitted in the same permit with the related structure or other functional purpose. Placement of fill to dispose of spoil from excavation or to elevate yards, parking lots, or fields will not generally be considered a functional purpose.

In accordance with Article 9, Section 9.3 (Enforcement) of the Jefferson County Flood Plain Ordinance the Owner/Developer/Contractor is hereby notified of this violation and is requested that the violation be

terminated within 15 days from the date appearing on the Notice. Failure to terminate the violation within the requested time shall be cause for the Floodplain Administrator or the Ordinance Compliance Officer and/or staff, pursuant to 8A-10-1, 2 and 3, of the West Virginia State Code, as amended, to

- (a) Seek an injunction in the Circuit Court of Jefferson County to restrain the responsible person from continuing the violation cited or seek an injunction requiring the removal of structures or land uses from the property involved, or
- (b) Issue a warrant for the arrest of the person responsible for the violation and seek a conviction in the Circuit Court of Jefferson County.

At a minimum, the following action is required to bring the project into compliance

- A. Remove all fill out of the floodway.
- B. Remove all fill out of the flood plain that is not used for functional use such as elevating a structure.
- C. Stabilize the site and restore site to its original state
- D. A satisfactory inspection is scheduled with the Ordinance Compliance Officer and completed by Friday, November 27, 2009.

c. Owner/Developer by regular USPS Delivery

James Casimiro, Assistant Prosecuting Attorney

October 21, 2010

Affidavit of Willard I Haas, PE


On Wednesday, January 13th, 2010, I attended a meeting with Roger Goodwin, Fred W. Gates and Mason Carter at the engineering department conference room in Charles Town, WV. We were discussing the Martin Davis property in reference to a flood plain ordinance violation. At that meeting I heard Mr. Goodwin state that county legal counsel had advised him new flood plain ordinance was to be applied retroactively.

Willard I Haas, PE, being first duly sworn on oath according to law, deposes and says that he has read the foregoing AFFIDAVIT OF Willard I Haas subscribed, that the matters stated herein are true to the best of his information, knowledge and belief.

Willard I Haas, PE



Subscribed and sworn to before me this 21st day of October, 2010



Notary Public **DEBRA K. CATENA**

my commission expires: October 1, 2014

Roger
Mason
Roger - 13 Jan 10 Meeting - Will Haas
Fred [unclear]
Old Ord. - place bill if study show
Place [unclear] [unclear]
New Ord. - no bill at all
no dwellings in [unclear] at all
Legal - New ordinance stands
even if ~~not~~ work done B4.
per legal counsel [unclear]
apply retroactively

22 Feb 10 . 4:07 PM - Lett Voice Mail
See Prior Page was parse

○ FEMA Final Research Cost Share
will to submit forms - 125 / 2
for now

The Journal

Working For You Every Day!

[Print this Page](#)

[←back to story](#)

Flooded roads remain dangerous

FedEx driver rescued after delivery truck stranded in flooded roadway

From Staff Reports

POSTED: March 16, 2010

MARTINSBURG - A FedEx driver was rescued about 2:45 p.m. Monday after stranding her truck in at least 4 feet of water on Douglas Grove Road off W.Va. 9 east of Martinsburg.

The Opequon Creek began to overflow its banks at Douglas Grove Road on Friday and crested early Sunday morning, but the roadway remained impassable Monday.

According to the National Weather Service's Advanced Hydrologic Prediction Services Web site, the Opequon crested at about 12.9 feet at about 6 a.m. Sunday. Flood stage is 10 feet.

At 4 p.m. Monday, the stage was 9.6 feet, according to the Web site.

With water above its wheel wells, the van was stranded about 100 feet into the flooded roadway, which was underwater for several hundred yards. A warning sign for high water was posted at the entrance to the road.

Berkeley County Engine No. 90, Baker Heights Volunteer Fire Department and Veterans Affairs Medical Center Fire Department Engine No. 81 responded as well as Berkeley County Sheriff Kenneth "Kenny" Lemaster and State Police Trooper J.J. Bowman.

Scott Stroop, crew chief of Berkeley County Engine No. 90, said in a telephone interview that VAMC Assistant Chief Doug Stroop, his brother, waded through the flood waters to retrieve the FedEx driver and carry her to safety. The driver was not identified and reportedly was not injured.

While the water is deep at that point, Lemaster said the current was not very strong.

Anytime emergency service personnel have to go into flood waters to rescue someone from a stranded car or truck, the rescuer's life is as much at risk as the person who needs rescued, he said.

Officials urge motorists never to try to drive through high water.

Lemaster added that citations can be issued for disobeying road signs for high water.

Waters continued to recede Monday throughout the area, but several roads throughout the region still were flooded.

According to the AHPS Web site, the Potomac River at Harpers Ferry crested at about 2 a.m. Sunday at about 20.8 feet. Flood stage there is 18 feet.

The river was at 19 feet at 1:15 p.m. Monday.

Following a Monday morning river crest of 20.78 feet, Harpers Ferry National Historical Park announced plans to reopen its Lower Town District. The area is scheduled to reopen today, with shuttle bus service also resuming operation.

More information is available by calling the park's Visitor Center at 304-535-6298.

The Shenandoah River at Millville crested at about 15 feet around midnight Sunday. Flood stage is 13.5 feet. The Shenandoah was at about 12 feet at 3:30 p.m. Monday.

At Paw Paw, the Potomac rose up to about 29 feet at about 1 p.m. Sunday and was measured at about 18.7 feet at 3:15 p.m. Monday. The flood stage at Paw Paw is 25 feet.

Coincidentally, the flooding has occurred during Flood Safety Awareness Week, which started Monday and lasts through Friday.

Information on flood safety and helpful tips are available online at <http://www.floodsafety.noaa.gov>.

- From staff reports

Article Photos



Journal photo by Kara Godlesky
A FedEx truck is surrounded by water on a flooded Douglas Grove Road late Monday afternoon.

Subj: **RE: Inches of Rain Fall**
Date: 3/17/2010 3:14:30 P.M. Eastern Daylight Time
From: MGrogan@whag.com
To: GatesAssociated@aol.com
CC: MKraham@whag.com, DBiser@whag.com

Hi Fred,

Frederick, MD saw the most rain from the previous multi-day rain event (from late Thursday night, the 11th to Monday morning, the 15th) with 3.46 inches. However, I cannot access their 24-hour rainfall from last Friday at their observation station. Martinsburg saw the second-highest rain total for the length of the storm (3.24 inches) for an official observing station, and they received **1.93 inches of rain in a 24-hour period** on Friday, the 12th. Overall, I would say it's safe to say some areas in the four-state region saw around 2 inches of rain in a 24-hour period. If you need any other specific information, don't hesitate to ask!

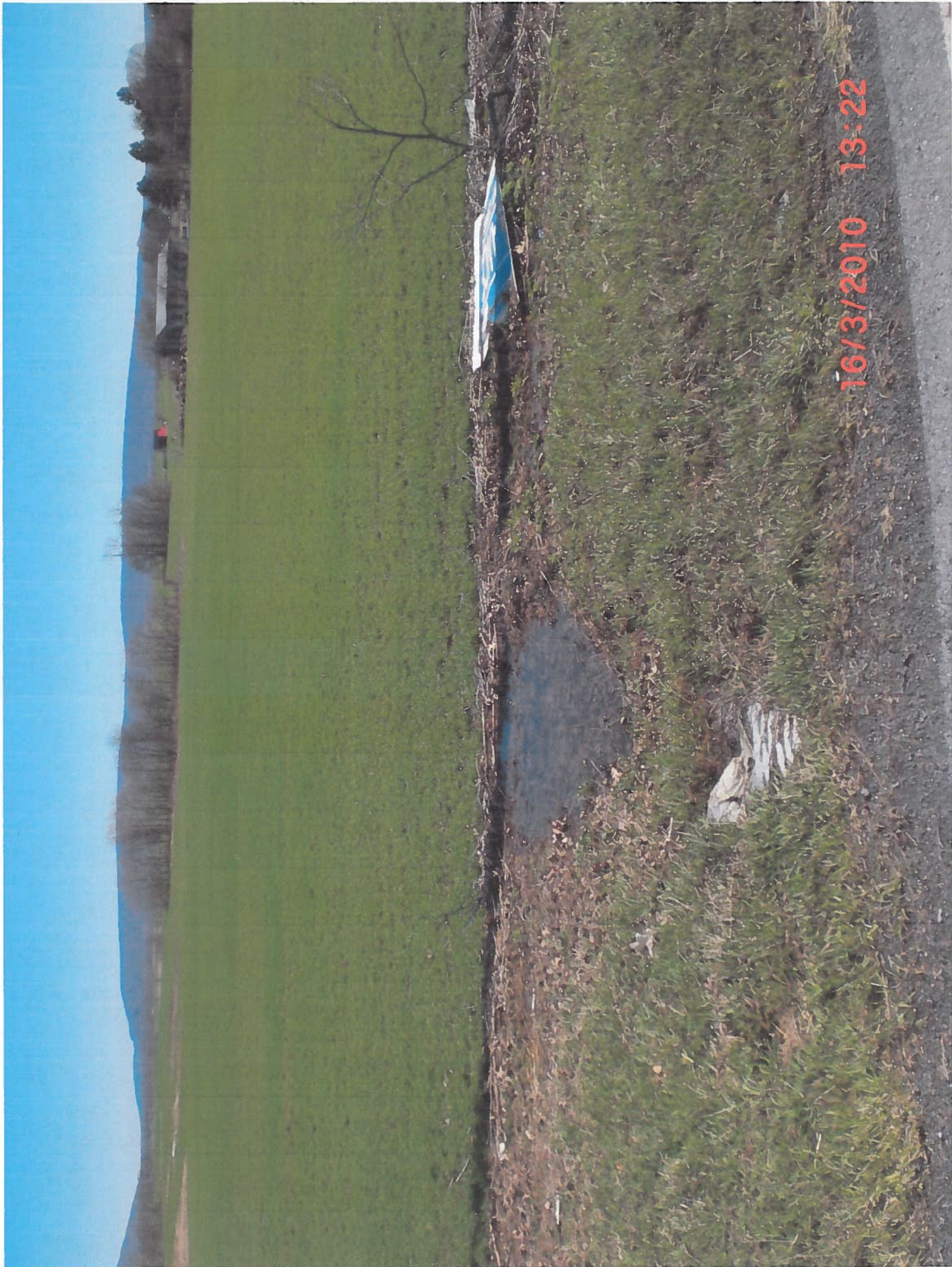
Mike Grogan
Weekend Meteorologist
WHAG-TV
mrogan@nbc25.com
240-527-2409

From: GatesAssociated@aol.com [mailto:GatesAssociated@aol.com]
Sent: Wednesday, March 17, 2010 2:21 PM
To: Mark Kraham
Subject: Inches of Rain Fall

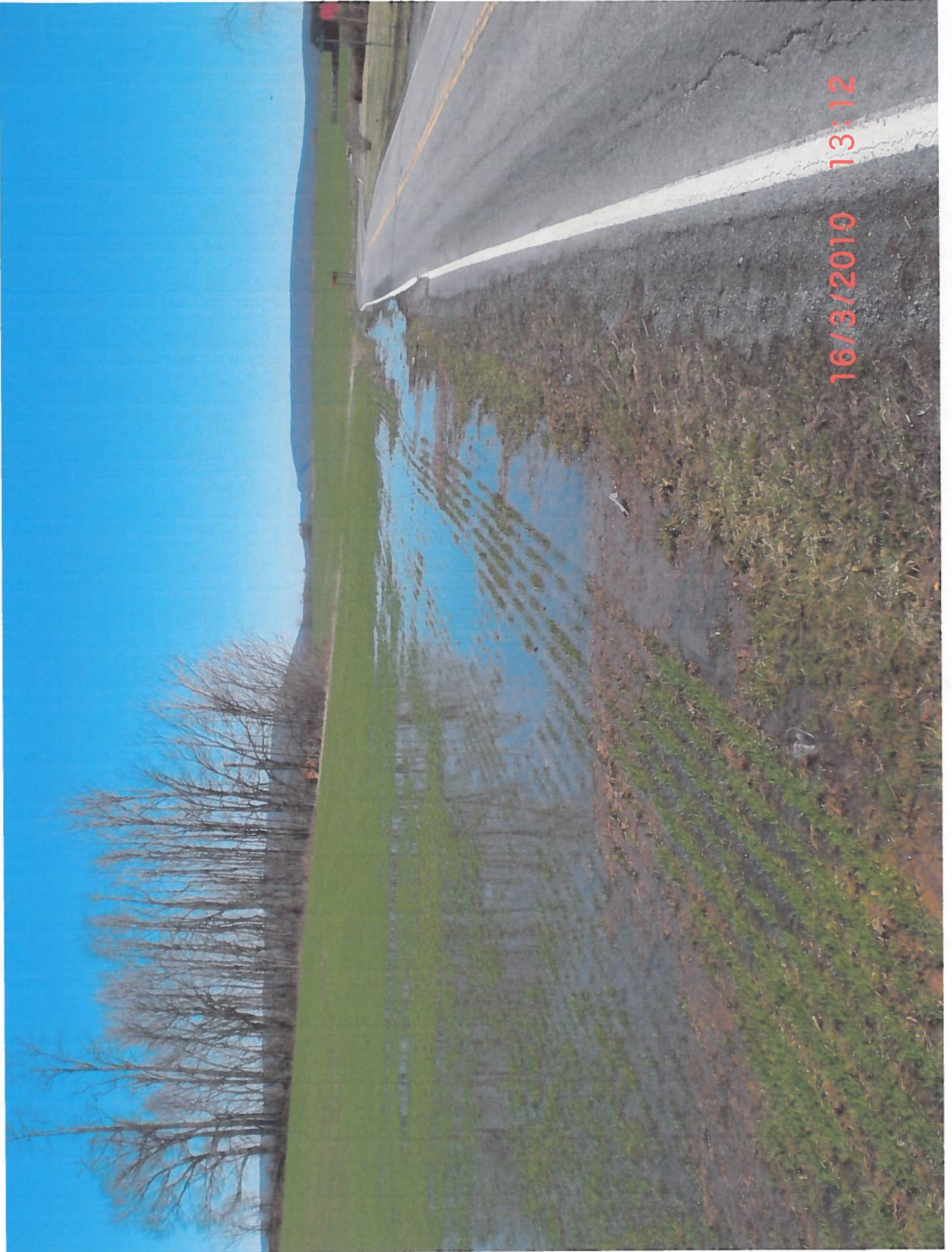
Sirs,

Need to establish what the maximum recorded rainfall in inches that fell in our area during a 24 hour period on the rain event about 12 March 2010. Can you tell me what this rainfall actually was?

Fred W. Gates, P.S., President
GATES ASSOCIATED, Inc.
153 Venice Way
Shepherdstown, WV 25443
304-876-6124 voicemail
240-720-5801 voip



16/3/2010 13:22



16/3/2010 13:12

Notes:

1. WATER SHED BASINS shown comprise the primary water runoff source draining on the ASPEN GREENS property from land lying to the west of the main road. The combined water shed elevations overlaid on both aerial/DIGSCS as shown. The combined West Shed contains approximately 900.5 Acres.
2. WEST SHED AREA is approximately 900.5 acres with a total vertical fall of about 0.02% average slope.
3. PRIMARY LAND USE is crop farming, pasture and woodland. A small part of Bear Run Residential Development is shown with SWM. A 2.00 Acre 9' grass water Area has two SWM control basins just west of Old route 9. Areas A, B, C flow under the raised railroad berm crossing the water watershed at the shown location. This correct shows little or no visible flow impact on field inspection.
4. SHED UNITS are indicated with dashed lines. Areas within dashed line limits are part of the larger coverage shown within the dashed lines.
5. SUB-SHEDS A, B, & C are designated by letters for reader reference to computational and discussion exhibit.
6. HYDROLOGIC SOIL GROUP NRCS indicators all shown shown are rated "B". See NRCS website for more details.
7. DRAINAGE LINES SHOWN AS 4 DOTS AND A DASH are modified to TR-55 Flow: SHALLOW CONCENTRATED FLOW = SCF OPEN CHANNEL FLOW = OCF THESE ROW LENGTH SEGMENTS are designated by letters @ Triangles. REACHES labeled constitute the length using the actual sub-shed drainage.

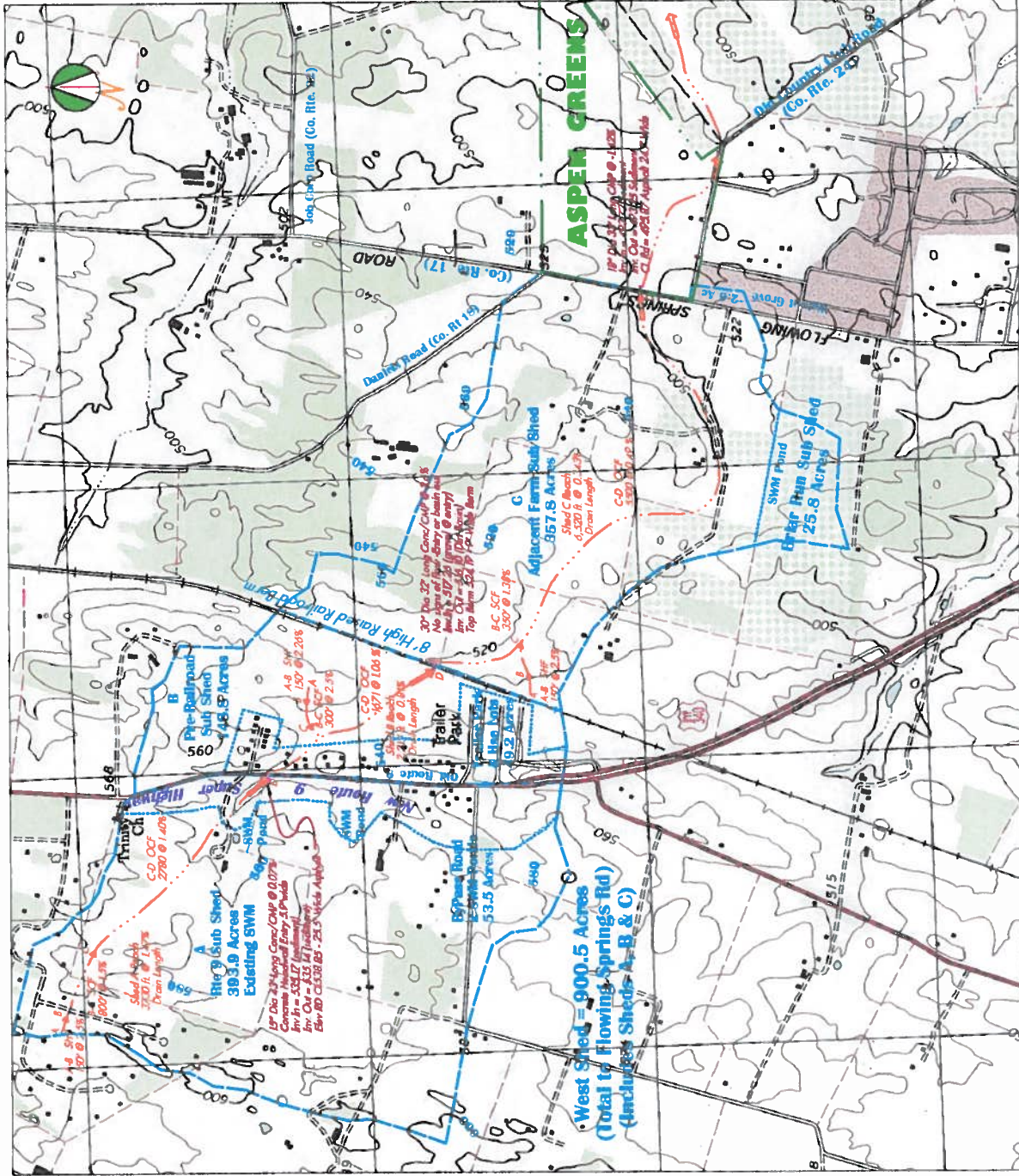


Exhibit A - USGS Westerly Drainages Impacting ASPEN GREENS

Plot:
1090Shed
Date:
7 Jan 2010

Scale:
1" = 800'

Tax Map: 4
Charles Town

Computer Entry: F.G.



Scale

Gates Associated, Inc.
153 Venice Way (Rte. 45)
Shpherdstown,
West Virginia, 25443
www.gatesinc.com

Subj: **RE: Davis Potomac River Site Followup**
Date: 5/7/2010 3:33:40 P.M. Eastern Daylight Time
From: mcarter@jeffersoncountywv.org
To: GatesAssociated@aol.com
Fred,

I am sorry that I have not gotten back to you regarding Martin Davis's property. As you already know I spoke with Robert Perry regarding Mr. Davis's property, and it appears that the small amount of fill that he has put in the flood plain to stop the road from caving is a functional purpose. >From my conversation from Mr. Perry it appears that Mr. Davis is in compliance with the Jefferson County Flood Plain Ordinance because he was not elevating a yard, or to dispose of spoil from excavation. Please be advised that if it is your clients desire to do anymore work in the floodplain he must first contact our Department.

Thanks, D. Mason Carter
Ordinance Compliance Officer
P.O Box 716
Charles Town, WV 25414
304-728-3227

From: GatesAssociated@aol.com [mailto:GatesAssociated@aol.com]
Sent: Thursday, April 15, 2010 12:26 PM
To: mcarter@jeffersoncountywv.org
Subject: Davis Potomac River Site Followup

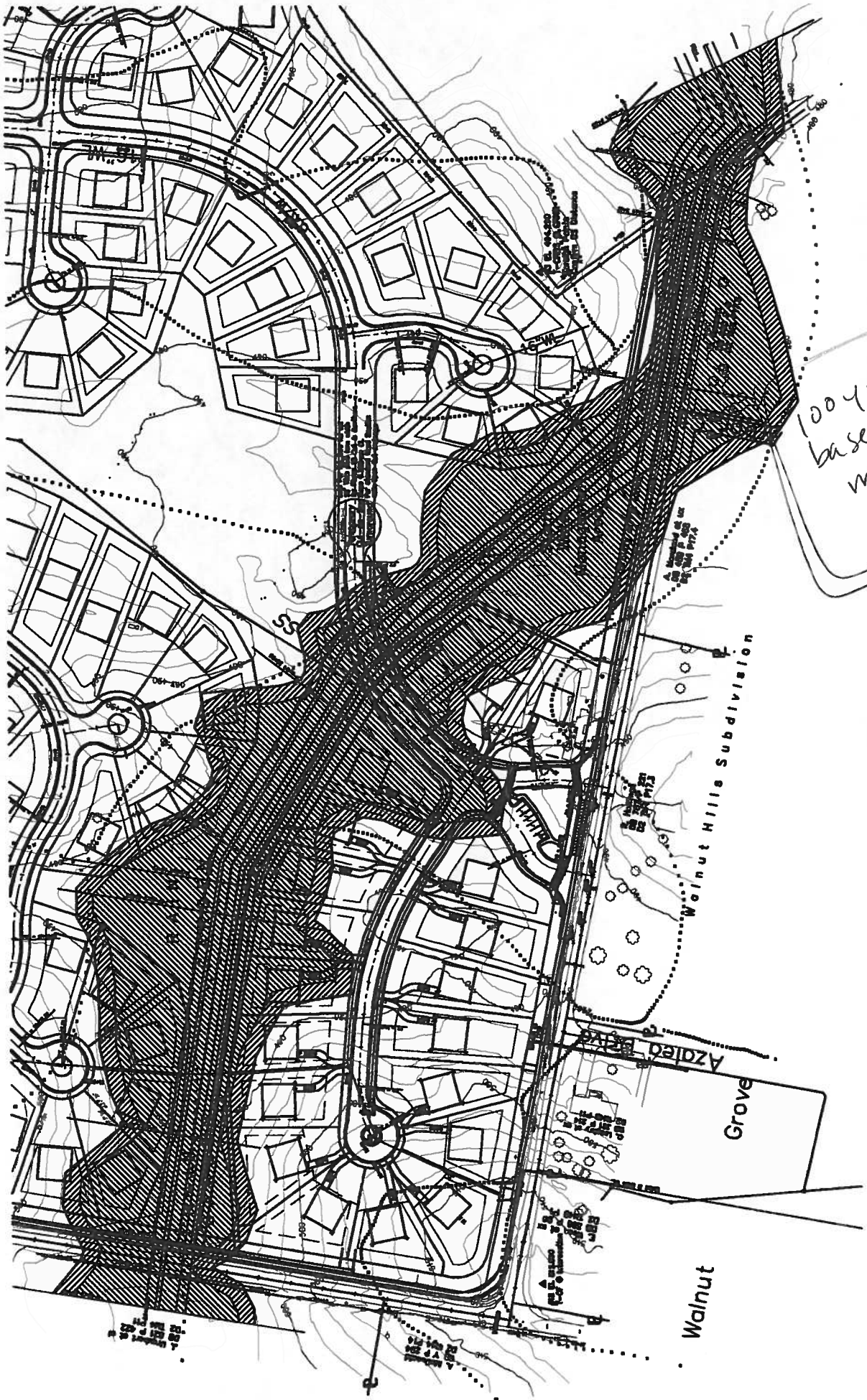
Mason,

Any chance we can get something in writing that indicates the NOV on the Davis Site is lifted based on FEMA review of submitted material? Would be helpful to remove that pending notice obligation from Mr. Davis to reflect FEMA oversight finding as you related.

Thank you,

Fred W. Gates, P.S., President
GATES ASSOCIATED, Inc.
153 Venice Way
Shepherdstown, WV 25443
304-876-6124 voicemail
240-720-5801 voip

Sunday, May 09, 2010 AOL: GatesAssociated



100 yr storm
based on
model

Subj: **RE: Timely Response - Storm Water Management Questions**
Date: 9/30/2010 1:32:39 P.M. Eastern Daylight Time
From: rgoodwin@jeffersoncountywv.org
To: GatesAssociated@aol.com
CC: engineering@jeffersoncountywv.org, rgoodwin@jeffersoncountywv.org,
jasaunders@jeffersoncountywv.org, nkuroski@jeffersoncountywv.org

Fred,

Attached are the answers to your questions. If you need to discuss them, please feel free to schedule a meeting with us.

Roger Goodwin, P.E.
Chief County Engineer
Jefferson County Engineering Dept.
116 East Washington Street, Suite 100
Charles Town, WV 25414

304-728-3257

From: GatesAssociated@aol.com [mailto:GatesAssociated@aol.com]
Sent: Thursday, September 09, 2010 1:35 PM
To: nkuroski@jeffersoncountywv.org; jasaunders@jeffersoncountywv.org;
rgoodwin@jeffersoncountywv.org
Subject: Fwd: Timely Response

From: GatesAssociated@aol.com
To: engineering@jeffersoncountywv.org
Sent: 9/9/2010 12:32:49 P.M. Eastern Daylight Time
Subj: Timely Response

Roger,

Need some direction on the attached. Please use another color and simply fill in your responses. Whoever fills it out need indicate so at the end. This should be simple, but important for our submission to be on track. Note five exhibits that will help you see what is known of the area of interest. I understand that most are obviously in the regs now, but between developer, engineer, submissions coverage, new ordinance changes and later discussions, your timely input will greatly help. They are simple and direct for your response. Show known inclusions where appropriate.

Time is of the essence, so would appreciate a quick turn around. Thank you.

Fred W. Gates, P.S., President
GATES ASSOCIATED, Inc.
153 Venice Way
Shepherdstown, WV 25443

304-876-6124 - Voicemail
240-720-5801 - Voicemail
gatesassociated@aol.com - Email

PROJECT: ASPEN GREENS JCPC FILE # 07-15
SUBJECT: REQUIRED CULVERT SIZING AND HOUSING FLOOR
ELEVATIONS
DATE: 9 Sept 10
RE: Timely Response for ASPEN GREENS Engineer Haas
SUBMITTED BY: Fred Gates, P.S.

ATTACHED: USGS Map - No flow thread shown.
 DOH Map - Flow Thread shown
 SOIL Map - Flow Thread shown
 FLOOD PLAIN Map - No Flood plain along flow
thread shown
 WETLANDS Map - No Wetlands or thread shown

OBSERVED CONDITIONS: No offsite cross site flows have been observed since 2000 during heavier rain events. Some on-site runoff is observed. No scour channel is visible on the project site or on lands to east or west.

METHODOLOGY: Proposed SWM for ASPEN GREENS intends to allow and aid West to East bottom flows, if any, to cross ASPEN GREENS facilitated by even bottom grading from Flowing Springs Road to a recorded grading easement approximately 100 feet wide by 300 feet long down the bottom on the Butler Lands to the east. New housing runoff shall be directed to SWM ponds in typical fashion. A generic rain garden will be sized to handle impervious and land runoff for each two paired common entry lots. West to East bottom grading will include typical rain garden depth bottom crossing berms to mediate based on the accumulated generic calculated rain garden area as to be provided. Additionally a zero degree Perimeter Dike/Swale (JC SC-23) shall be installed along the rear lot lines where lot flows concentrate impacts towards the West to East Bottom. Road grading shall direct water from the right-of-way line towards the road inclusive of water from lots lying above right-of-ways. Storm drains shall collect rain water for SWM pond management as needed. Phase 1A shall be limited to 20 lots lying south of the West East bottom. Quaking Aspen Way shall be extended so as to cross the bottom ending in a temporary cul-de sac in the common area near the next phase of lots. Grading of the West to East bottom shall be part of Phase 1A.

CULVERT sizing under Quaking Aspen Way allowing for West to East Bottom Flows -

1. This culvert should be sized for the computation of a 10 year 24 hour event according to Jefferson County Ordinances. True or False?

The 1979 Subdivision Ordinance, Section 8.2.c.1(c) requires that roadway culverts be sized for a 10-yr, 24 hour storm event. The roadway culvert will need to pass the flow without overtopping the roadway at the edge of pavement. Be advised that the subdivision regulations are considered minimum standards; therefore, the onus is on the engineer-of-record to evaluate site conditions and determine if a culvert sized to a larger storm event is the prudent thing to do.

2. Sizing this bottom culvert for greater events is unnecessary, and out of the norm. True or False?

Not clear as to what you mean by "this bottom culvert". It is hard to understand and visualize your situation without actually seeing the full storm water management plan. In any event, the 1979 Subdivision Ordinance, Section 8.2.c.1(c) requires that roadway culverts be sized for a 10-yr, 24 hour storm event. The roadway culvert will need to pass the flow without overtopping the roadway at the edge of pavement. Be advised that the subdivision regulations are considered minimum standards; therefore, the onus is on the engineer-of-record to evaluate site conditions and determine if a culvert sized to a larger storm event is the prudent thing to do.

3. Jefferson County's ordinances expects greater events (as the 100 year event) to flow over the road surface? True or False?

It is common practice to design a culvert for a particular storm event and allow a larger storm event to pass over a roadway without breaching the roadway embankment/fill. However, the engineer-of-record needs to evaluate if the water impounded by the culvert during a larger storm event causes problems such as flooding of adjacent lots/homes, etc. The onus is on the engineer-of-record to evaluate site conditions and determine if a culvert sized to a larger storm event is the prudent thing to do in order to prevent flooding of adjacent lots/structures and/or breaching of the roadway embankment, etc. If the site is designed such that the 100-year storm event causes water to back-up and create a flooding problem on lots and with proposed homes, then you might want to consider placing a note on the plat, or delineating these areas, so the developer, realtor and future home buyer know this up front and can account for it when building the home.

4. A standard TR-55 Q based on soils for the watershed arriving to the site without Karst reduction factors is the

correct report calculations that county engineering expects. True or False?

The 1979 Subdivision Ordinance, Section 8.2.c, Table 8.c.1, provides karst adjustment criteria. For pre-development, karst adjustment of the undeveloped off-site drainage areas only is allowed for stormwater management facilities.

5. Drainage Swales shall be sized by equally sized with equal calculations. True or False?

Don't understand the question. However, drainage swales/ditches are to be designed for the 10-year, 24 hour storm event. The minimum standards for roadway drainage ditches are in the 1979 Subdivision Ordinance, Section 8.2.a, Roads and Rights-of-Way. The onus is on the engineer-of-record to determine if the minimum standards are sufficient to carry the 10-year storm event; and if not, to design a swale/ditch that is sufficient. In addition, the engineer needs to determine if the minimum 15" diameter driveway culverts are sufficient to carry the 10-year storm event. If not, the engineer will need to size the driveway culverts to meet this requirement and show on the plans the size of driveway culvert required for each lot.

6. It is proper to assume that the drainage Q reaching the project site is without consideration for development projects or SWM in the up-shed since any that exist may be considered to have managed any runoff to equal or less impact than before those projects were approved and constructed. True or False?

Existing upstream, off-site, development without SWM needs to be modeled as such. In addition, you may need to take into account in your model, sites with storm water management facilities and model them as such.

7. Karst factors are not a part of the Q computations for culvert sizing. True or False?

True.

RESIDENT HOME FLOOR ELEVATIONS:

1. ASPEN GREENS having no flood plain indicated on site by the FEMA FLOOD PLAIN MAP, has no obligation to address 100 year flood plain elevations that might be generated by some other means or study by any ordinance or oversight known to impact Jefferson County Engineering, it's reviews or known similar subdivision submissions to date. True or False?

If the floodplain changed due to studies performed by an adjacent subdivision, then from an engineering standpoint it would seem to be prudent to take it into account. In addition, the onus is on the engineer-of-record to evaluate site conditions and the proposed development and determine if a 100-year floodplain study is a necessary and prudent thing to do. In addition, it is up to the engineer-of-record to evaluate site conditions and determine if a culvert sized to a larger storm event is the prudent thing to do in order to prevent flooding of adjacent lots/structures and/or breaching of the roadway embankment, etc. If the site is designed such that the 100-year storm event causes water to back-up and create a flooding problem on lots and with proposed homes, then you might want disclose this to the developer, realtors and future homebuyers by placing a note on the plat, or delineating these areas, so that it is known up front and can be taken into account when building the home.

2. ASPEN GREENS has no know known obligations to submit 100 year flood plain studies for this project. True or False?

Any FEMA mapped flood hazard area, or 100-year floodplain determined under a Letter of Map Amendment or Letter of Map Revision, that affects this property, needs to be shown on the preliminary plat and final plats. In addition, the onus is on the engineer-of-record to evaluate site conditions and determine if a 100-year floodplain study is the prudent thing to do, especially before setting the location of new homes/structures.

3. Proposed lot grading and building placement may address grading sufficient to direct water away from the buildings without other considerations. True or False?

Grading of individual lots is not regulated under the subdivision ordinance. However, the Building Code Enforcement Ordinance does have a requirement for grading around dwelling units so that water drains away from the foundation. I don't know what other considerations you are alluding to; however, if the site is designed such that storm water backs-up and creates a flooding problem on lots and possible flooding of proposed homes, then the engineer-of-record might want disclose this to the

developer, realtors and future homebuyers by placing a note on the plat or by delineating these areas, so that it is known up front and can be taken into account when building the home.

SWM COMPUTATION SUBMISSIONS:

1. Correct runoff management shall control the difference in Qs generated only on the proposed lots between the before project Q (TR-55) using the pristine woodland conditions as then further reduced by the Karst Factor subtracted from the post project Q after development with no Karst Factor. The intent is to make this difference greater to require a larger volume of Q that requires a larger SWM pond mitigation and therefore a margin of safety. True or false?

The storm water management requirements are in Section 8.2.c of the 1979 Subdivision Ordinance. Essentially, the post-development runoff shall not exceed the karst adjusted pre-development runoff for the entire site. The purpose for the karst adjustment is not to provide a margin of safety, but rather the belief that in areas with karst geology less runoff leaves the site than that calculated using traditional storm water models. The karst adjustment accounts for what is actually running off the site.

2. SWM ponds shall compute and manage the 100 year, 24 hour storm event and indicate the storage elevation on the plat only for the above #1 Q lot area of construction. True or False?

I don't quite understand the question, but normally, the engineer-of-record will determine the 100-year storm event storage elevation for all storm water management ponds. If this level causes water to back-up onto lots, then usually a drainage/storm water management easement is placed on the lot to allow for this to occur. Thus, making the developer, realtor and future home buyer aware up front that this condition may occur.

3. Other than this SWM pond 100 year, 24 hour event, no other 100 year, 24 hour studies or impacts are necessary for this project's review. True or False?

False – If the floodplain changed due to studies performed by an adjacent subdivision, it then must be taken into account. Any FEMA mapped flood hazard area, or 100-year floodplain determined under a Letter of Map Amendment or Letter of Map Revision, that affects this property, needs to be shown on the preliminary plat and final plats. In addition, the onus is on

the engineer-of-record to evaluate site conditions and determine if a 100-year floodplain study is the prudent thing to do, especially before setting the location of new homes/structures.

PLAT NOTES:

1. A final plat note stating that the Quaking Aspen Way culvert was limited in size to the 10 year 24 hour event consistent with the prevailing review ordinances at the time of approval is acceptable. True or False?

False – The regulations are considered to be minimum standards. The onus is on the engineer-of-record to evaluate site conditions and determine if a culvert sized to a larger storm event is the prudent thing to do. The size of the culvert is not limited to the 10-year storm event.

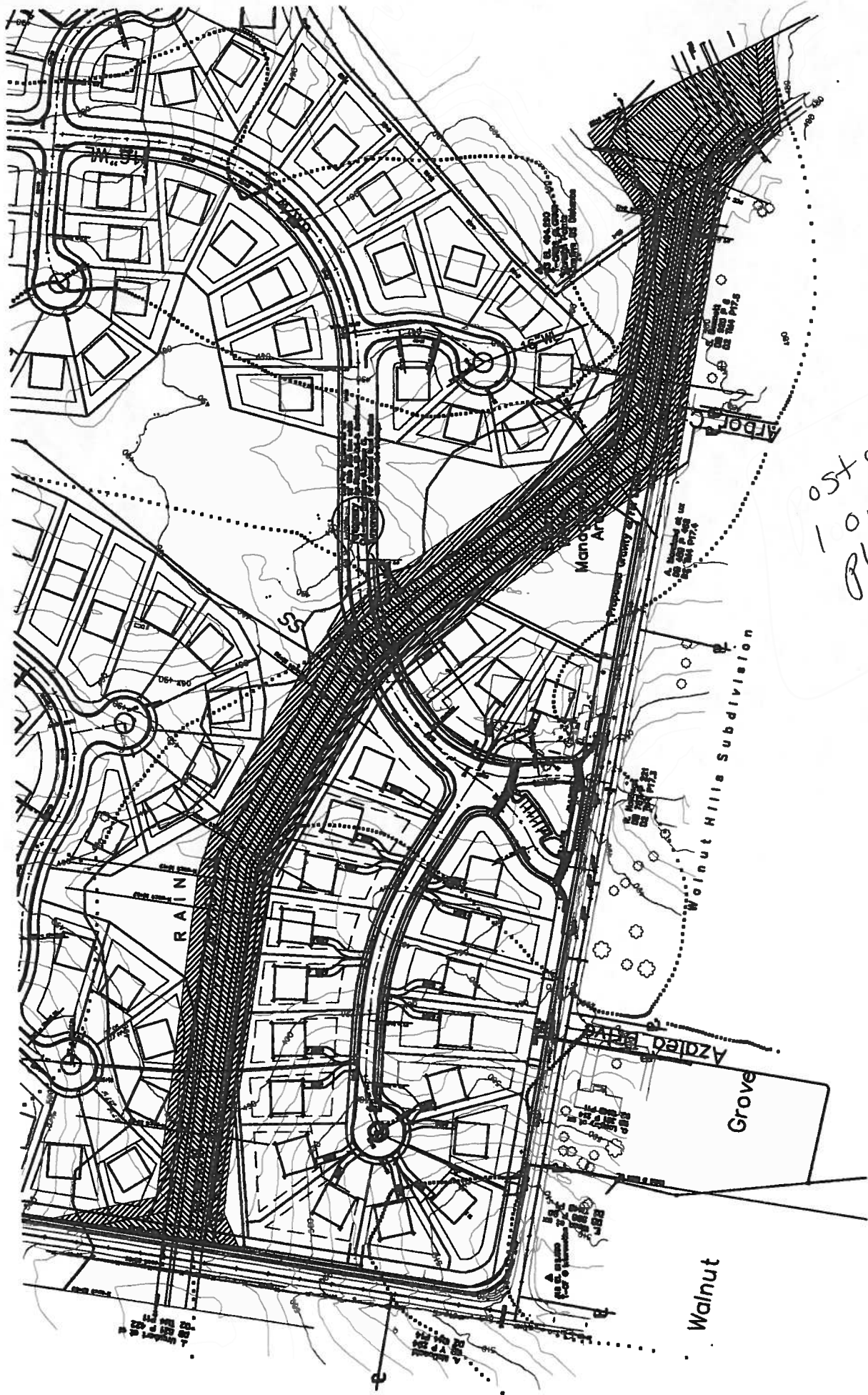
2. A final plat note stating that the 100 Year Flood Plain FEMA map does not show any impact on this site and therefore housing elevations were not deemed of concern at the time of approval is acceptable. True or False?

Structures proposed to be built in a FEMA mapped flood hazard area shall meet the requirements of the Floodplain Management Ordinance. However, the onus is on the engineer-of-record to determine if other site design conditions make it prudent from an engineering standpoint to take a look at dwelling unit elevations, even if it is not required by the ordinances, especially if it is known that a potential problem may exist. I don't know if a note on the plat would relieve the engineer-of-record from any responsibility or obligation in this regard.

~~I have indicated either True or false by circling my answers and provided direction to any applicable parts of applicable ordinances where I have indicated a false response or conditional True response. Please carry on with the above approach or revise it as expressed herein.~~

JC Engineering Department _____ Date:

ADDED DIRECTION:



ost design
10 yr flood
plain

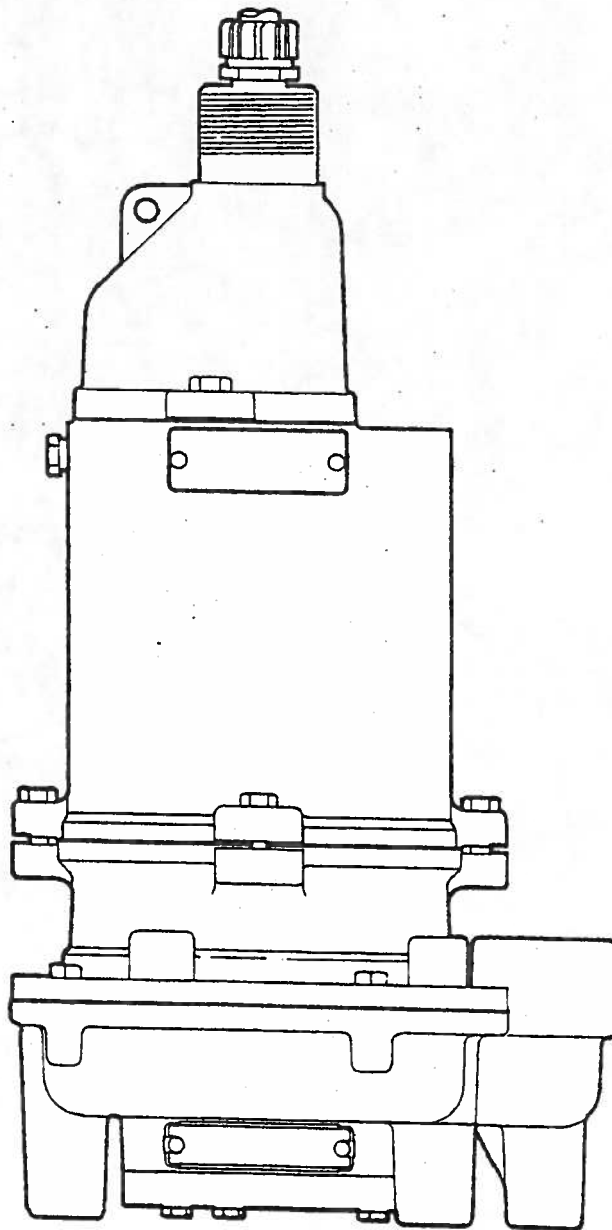
Myers®

Pentair Pump Group

Grinder Pumps

INSTALLATION AND
SERVICING INSTRUCTIONS
GRINDER PUMPS

MODEL:
WGL20 SERIES



23833A032

Table
Rating Table for Pressure Pipe

T D H

Project Description	
Project File	untitled.fm2
Worksheet	MyersPump
Flow Element	Pressure Pipe
Method	Hazen-Williams Formula
Solve For	Pressure at 1

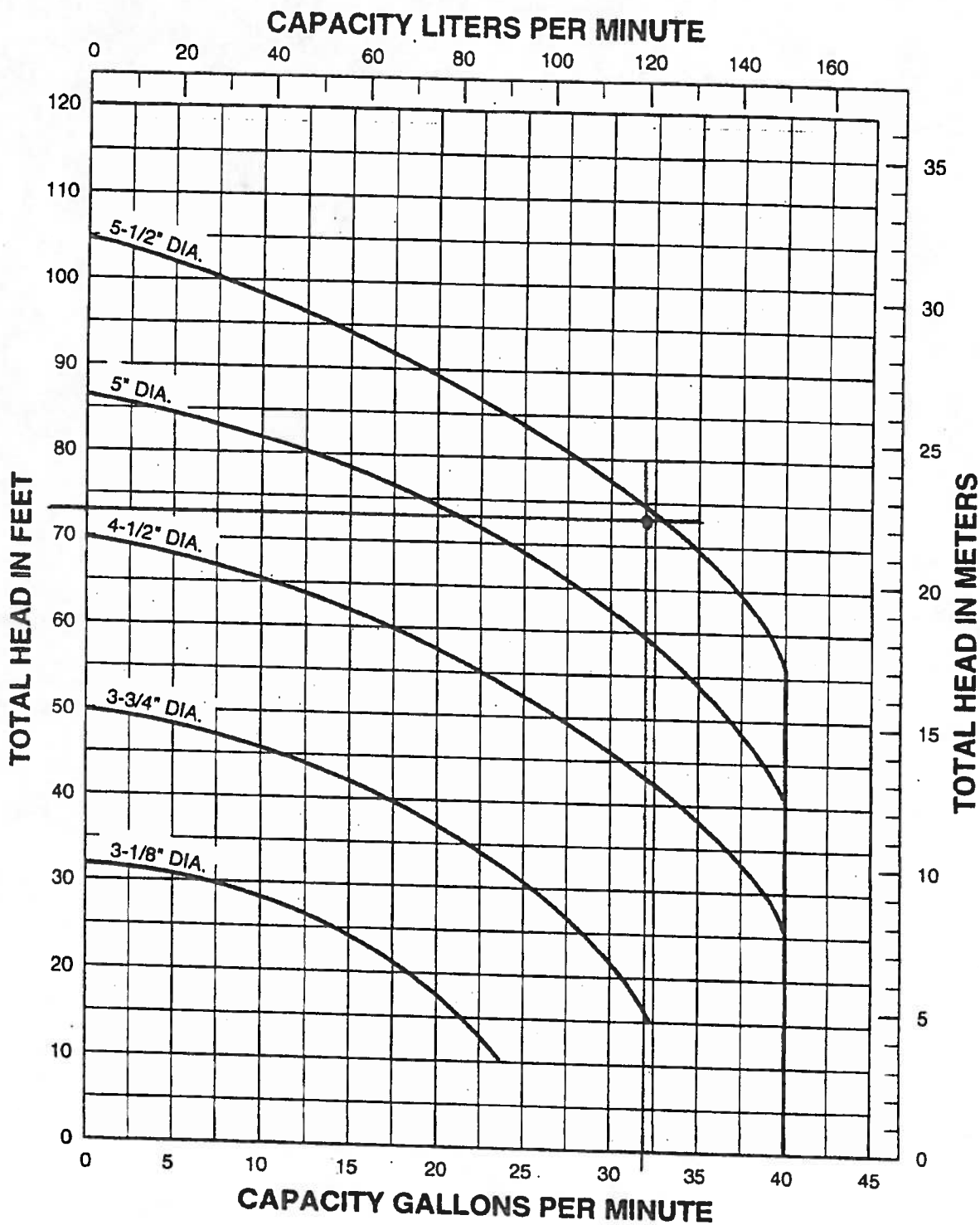
Constant Data	
Pressure at 2	0.00 psi
Elevation at 1	474.00 ft
Elevation at 2	497.15 ft
Length	1,581.00 ft
C Coefficient	120.0 (PVC)
Diameter	2.00 in

Input Data			
	Minimum	Maximum	Increment
Discharge	0.0	45.0	5.0 gal/min

Rating Table			
Discharge (gal/min)	Pressure at		Velocity (ft/s)
	1 (psi)	(ft)	
0.0	10.04 (23.2)	0.00	
5.0	10.72 (24.8)	0.51	
10.0	12.50 (28.2)	1.02	
15.0	15.25 (35.2)	1.53	
20.0	18.91 (43.7)	2.04	
25.0	23.45 (54.2)	2.55	
30.0	28.84 (66.6)	3.06	
35.0	35.05 (80.7)	3.57	
40.0	42.07 (97.2)	4.08	
45.0	49.88 (115.2)	4.60	

Target

PERFORMANCE CURVE WGL20 GRINDER PUMP



Wet Well Data

Phase 1

Homes	20.00 Homes @ 280 GPD (5600 total
average	3.89 GPM	
peak	9.72 GPM Peak (2.5 x GPM)	
peak hr	583.33 GPH	
peak hr	77.99 CF volume	

Well Data

72 inch dia. Well

6.00 diameter
28.26 CF/ft
31.19 average CF/hr
1.10 ft. depth- pump on
1.85 ft. depth- pump 2 on & alarm on

Pump info from curve

Q=	32.00 GPM
	4.28 CFM
	0.07 CFS
Velocity	2.00 in. dia.
	0.02 area SF
v=Q/A	3.27 ft/s >2 ok

Draw down time

7.29 min. average
9.42 min. peak

Wet Well Data

Phase 2

Homes 50.00 Homes @ 280 GPD (14000 total
average 9.72 GPM
peak 24.31 GPM Peak (2.5 x GPM)
peak hr 1458.33 GPH
peak hr 194.96 CF volume

Well Data

72 inch dia. Well

6.00 diameter
28.26 CF/ft
77.99 average CF/hr
2.76 ft. depth- pump on (above pump off WSL)
3.51 ft. depth- pump 2 on & alarm on (above pump off WSL)

Pump info from curve

Q= 32.00 GPM
4.28 CFM
0.07 CFS
Velocity 2.00 in. dia.
0.02 area SF
v=Q/A 3.27 ft/s >2 ok

Draw down time

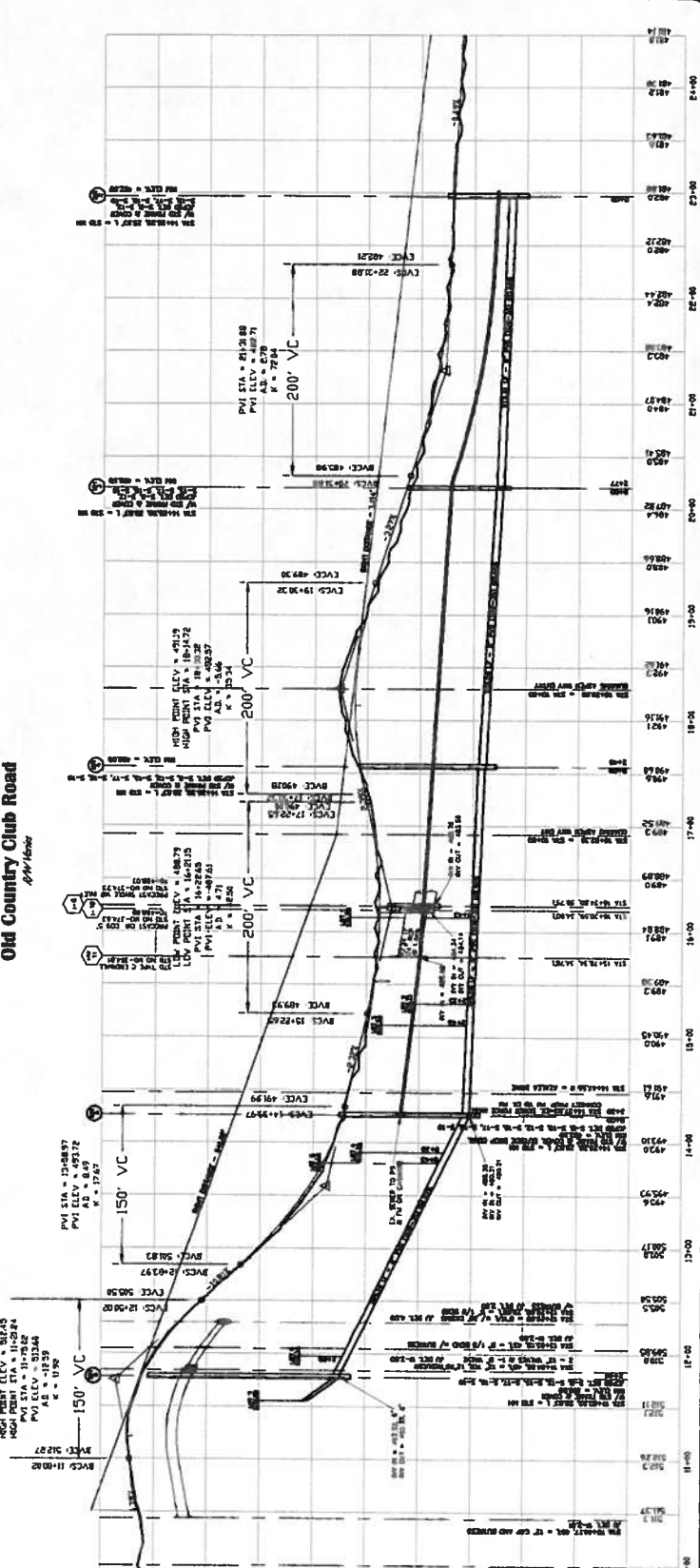
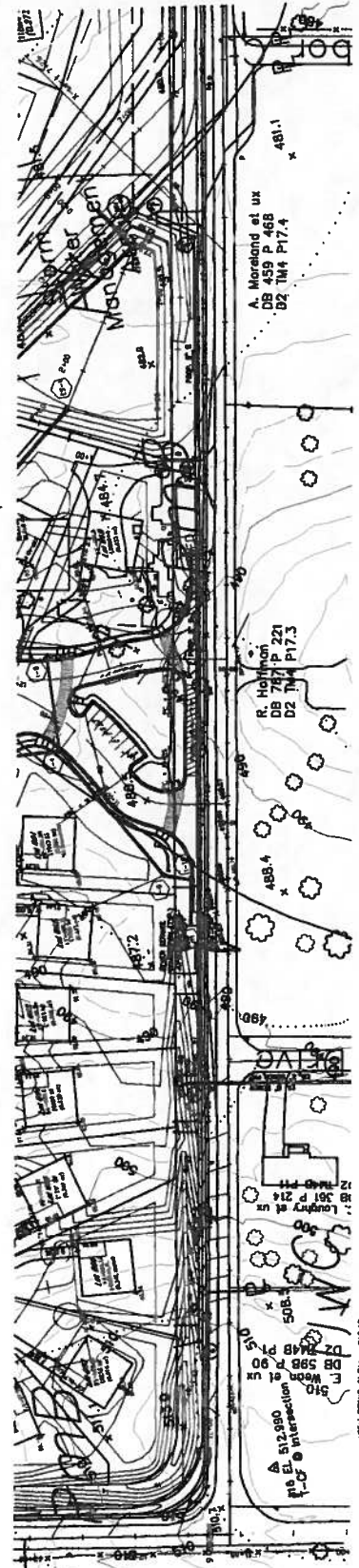
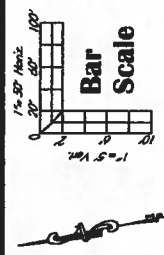
18.23 min. average
23.55 min. peak

Scale: As Shown
 Entries: K.C. & W.R.
 Date: 1.4.01
 Sheet: 7A of 7

Revisions:
 1. 11/15/01
 2. 12/10/01
 3. 1/10/02
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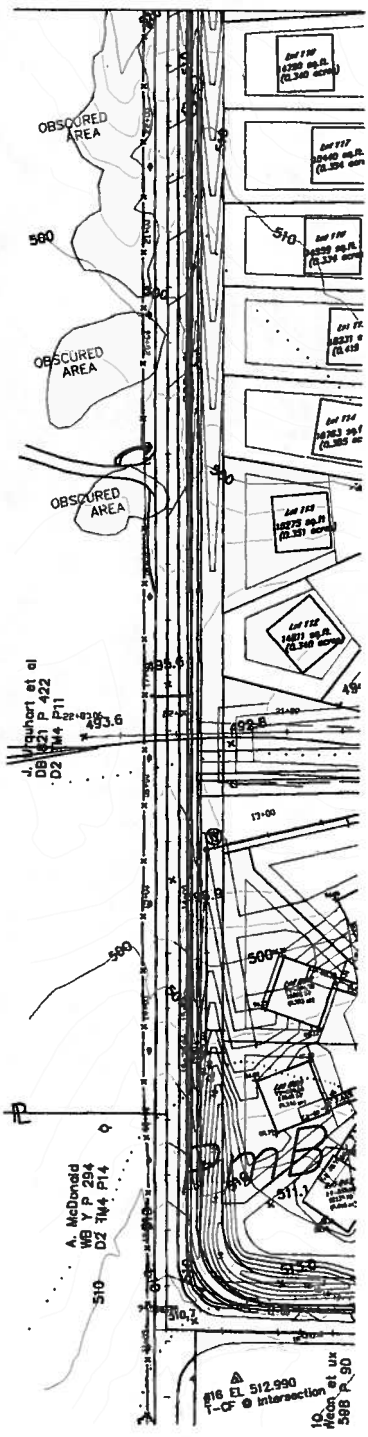
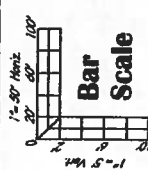
STATE	COUNTY	SHEET NO.	NO. OF SHEETS
W. Va.	Jefferson	76	77/10

Proposed Water, Sanitary Sewer & Storm Drains
 Station: 9+89.22 to Station: 24+50
Old Country Club Road

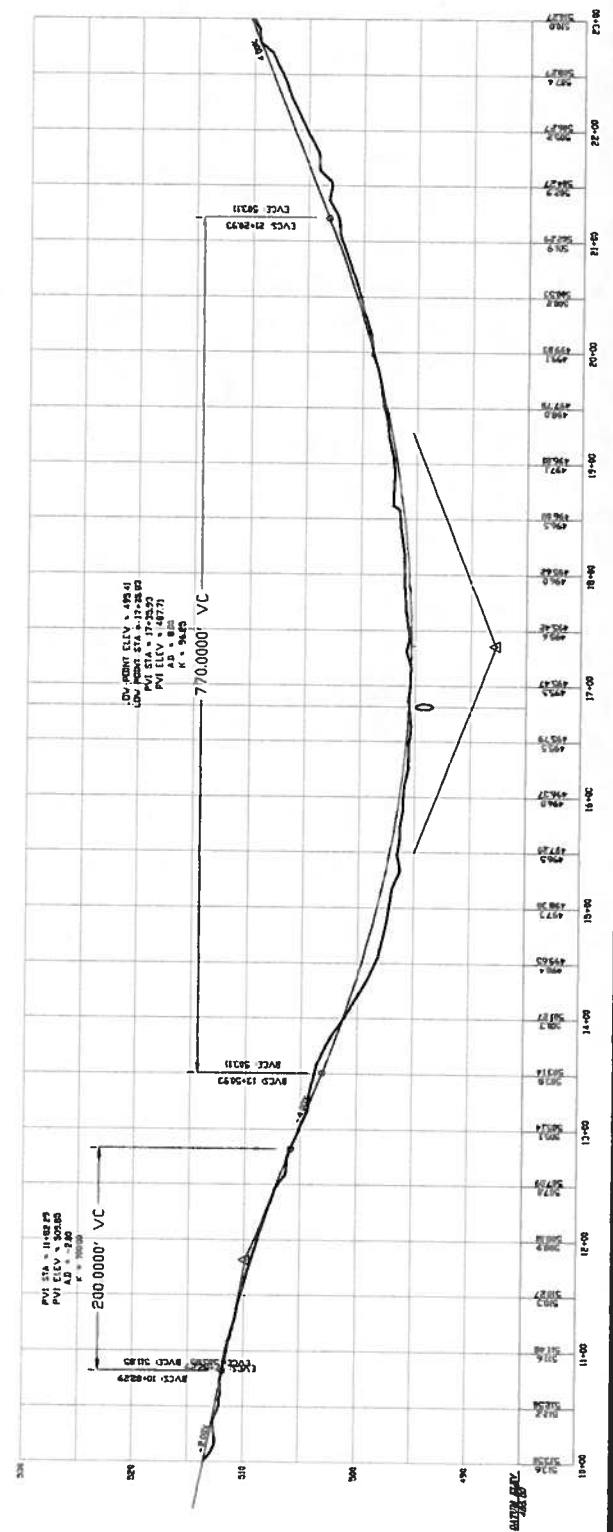


DATE	CCOUNTY	SHEET NO.	AMOUNT
10/1/00	Jefferson	7C	7/10

Proposed Water, Sanitary Sewer & Storm Drains
 Station: 10+00 to Station: 23+00
Flowing Springs Road

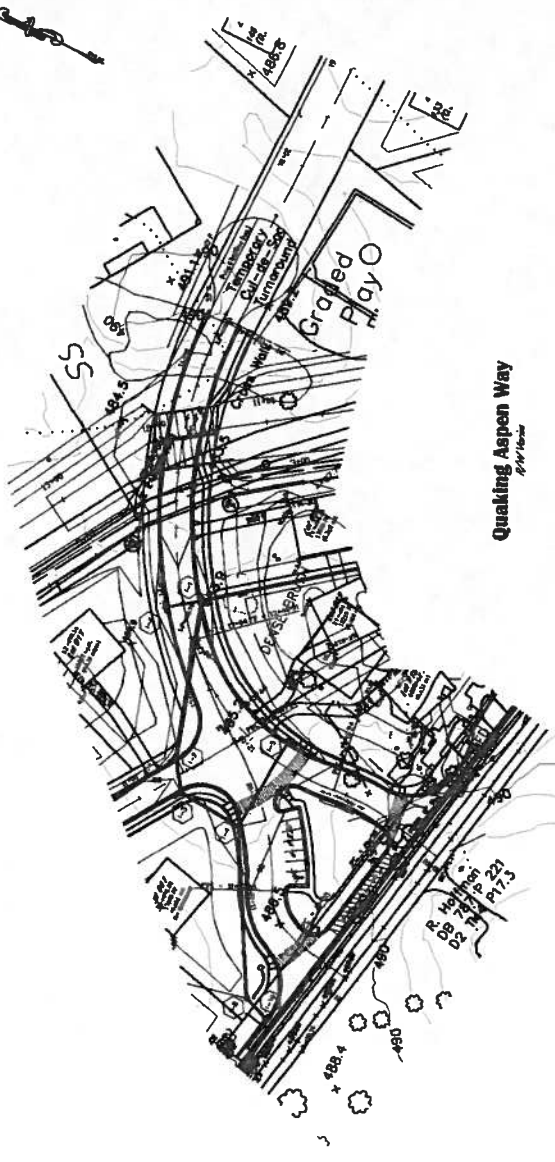
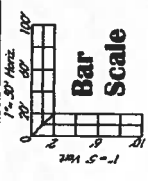


Flowing Springs Road
 Profile

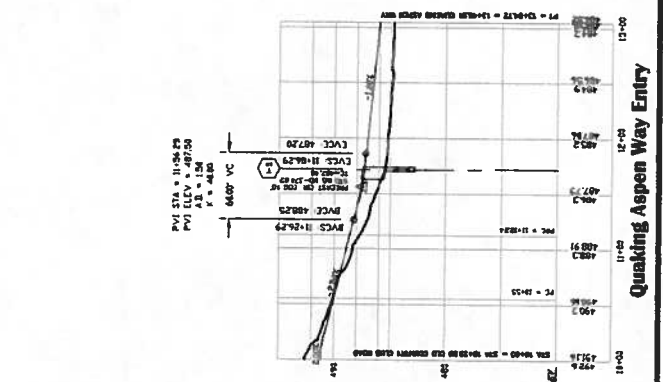


STATE	COUNTY	SUBSTAD	ASST
W. Va.	Jefferson	7D	7/10

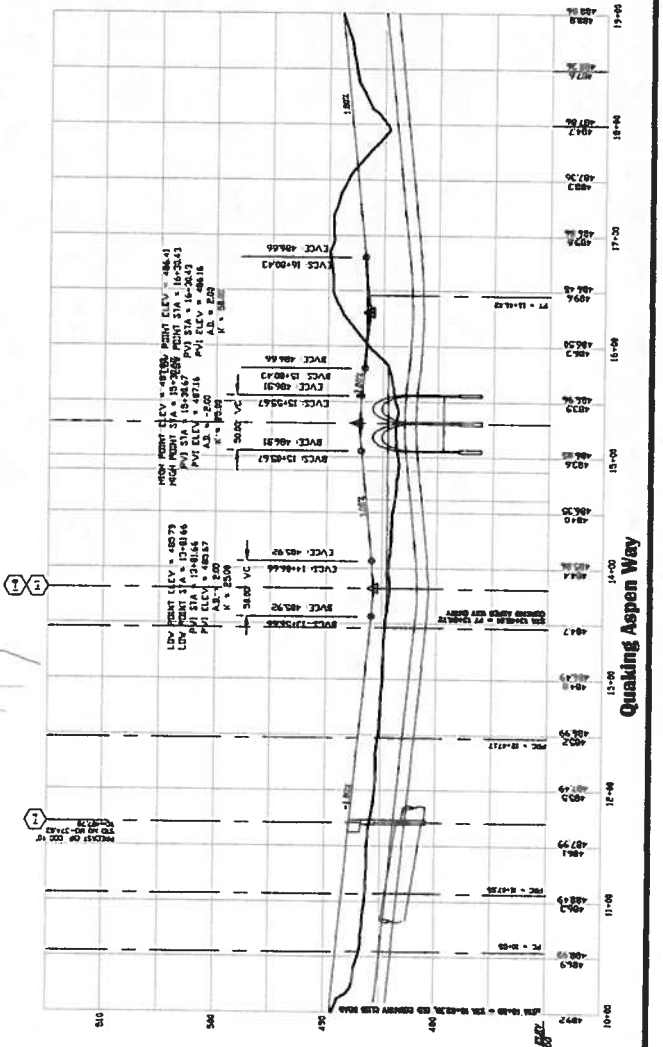
Proposed Water, Sanitary Sewer & Storm Drains
 Station: 10+00 to Station: 19+00
Quaking Aspen Way



Quaking Aspen Way
Plan View

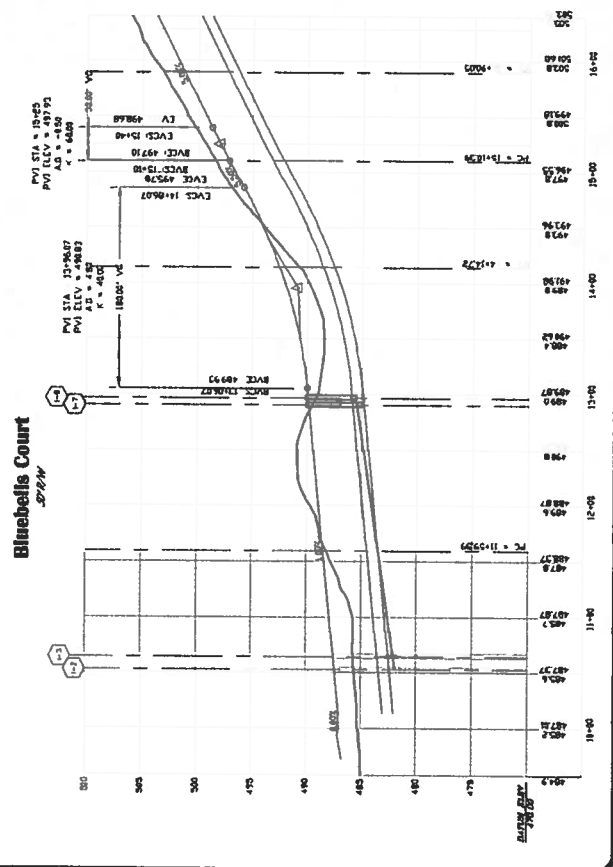
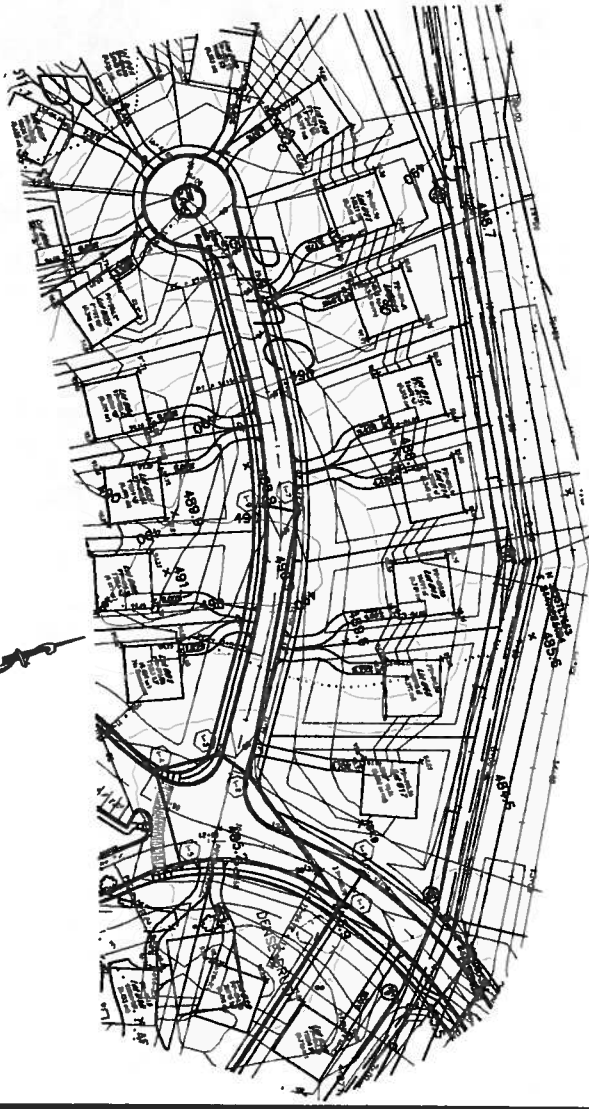
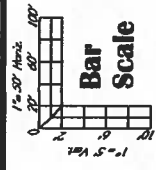


Quaking Aspen Way Entry



Quaking Aspen Way

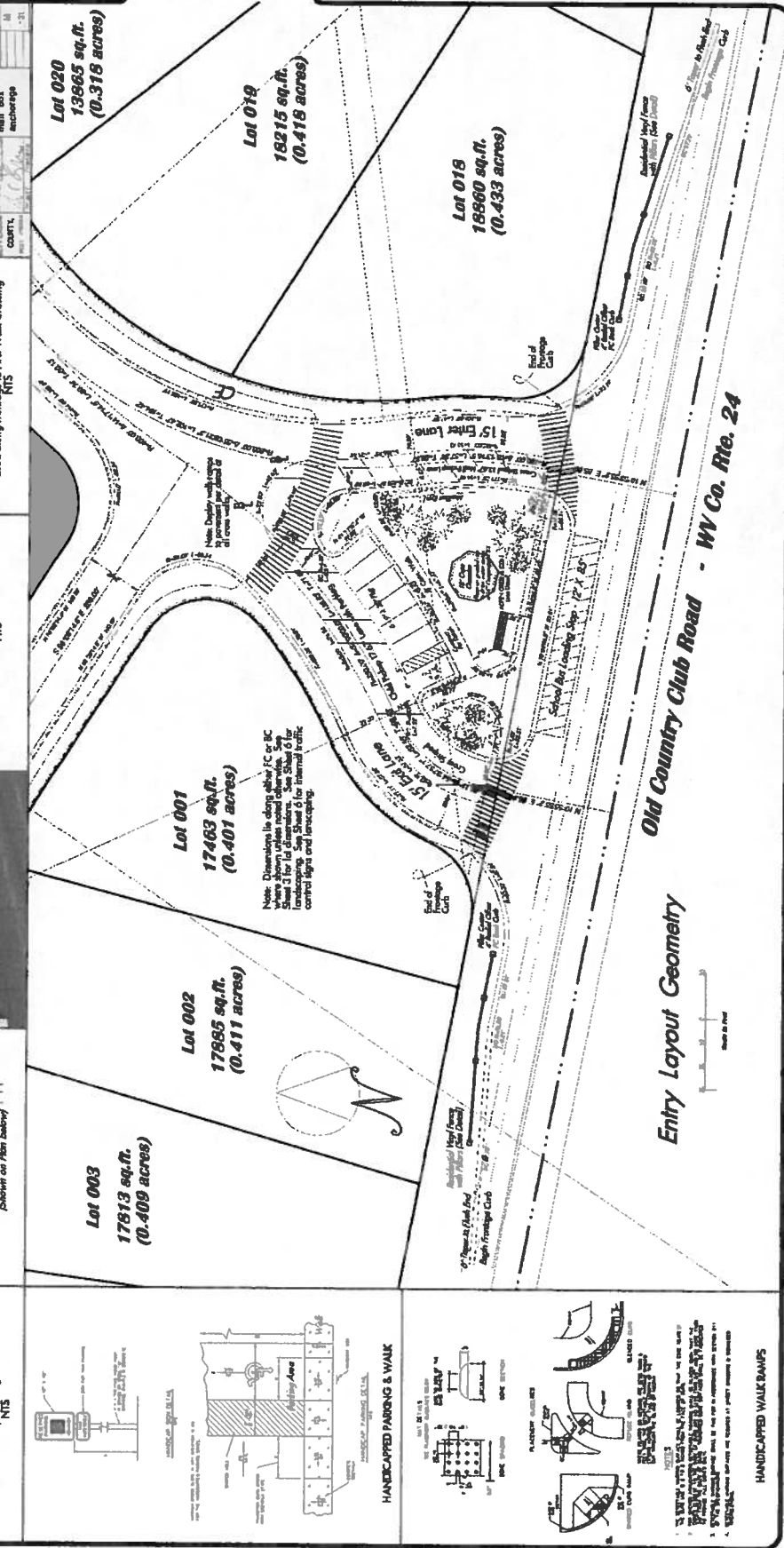
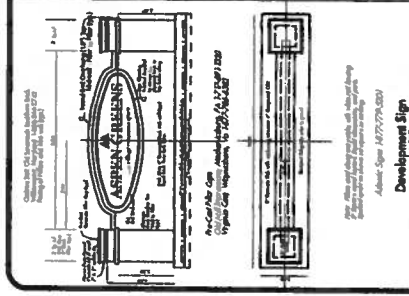
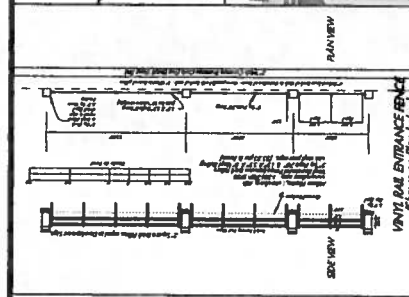
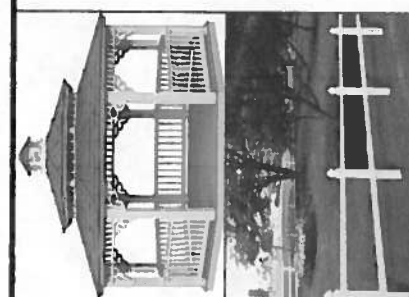
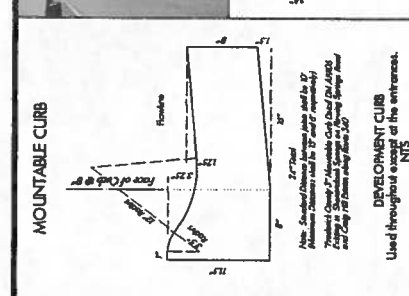
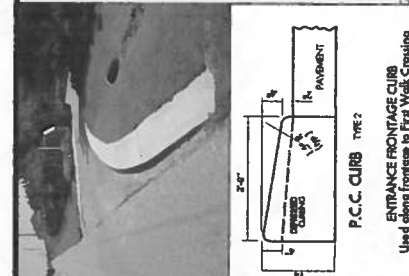
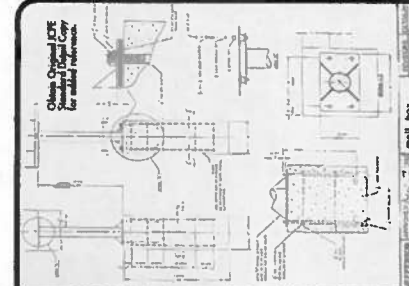
STATE	COUNTY	SHEET NO.	DATE
W. Va.	Jefferson	7E	7/10
Proposed Water, Sanitary Sewer & Storm Drains			
Station: 10+00 to Station: 16+40.05			
Bluebellis Court			



Scale: As shown
 Entry: F.C. & W.R.
 Date: 1.14.10
 Sheet: 8 of 22
 Revisions:

PHASE IA - ASPEN GREENS
 Entry Plans of Existing Aspen Way @ Old Country Club Road
 Preliminary Plans

Gates Associated, Inc.
 151 Vance Way, P.O. Box 2544
 Rock Hill, SC 29732
 Phone: (803) 782-1234
 Fax: (803) 782-1235
 Email: gates@gaassoc.com
 Project: ASPEN GREENS PHASE IA
 151 Vance Way, P.O. Box 2544
 Rock Hill, SC 29732
 Phone: (803) 782-1234
 Fax: (803) 782-1235
 Email: gates@gaassoc.com



Scale approximately 1/2" = 1' at a north-south orientation. Center line of Old Country Club Road (WV Rte. 24) is shown approximately 1/2" = 1' at a north-south orientation. Center line of Old Country Club Road (WV Rte. 24) is shown approximately 1/2" = 1' at a north-south orientation.

Notes: Dimensions in along right of way (R.O.W.) or 50' from center line of road. Show all dimensions on this plan. For landscaping, see Sheet 9 for internal traffic control signs and landscaping.

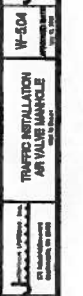
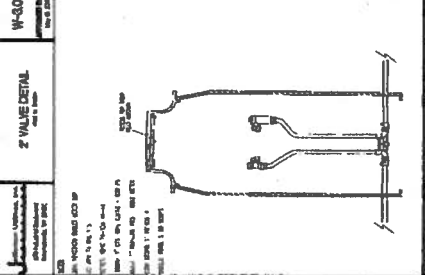
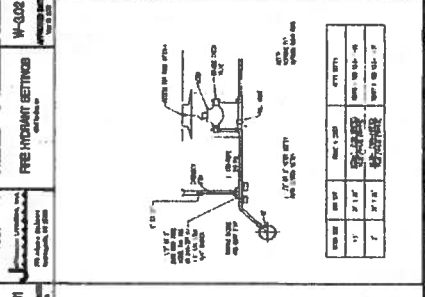
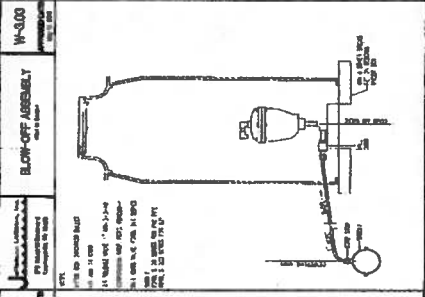
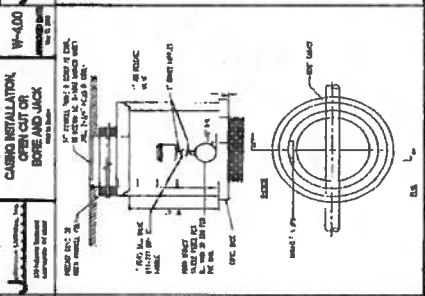
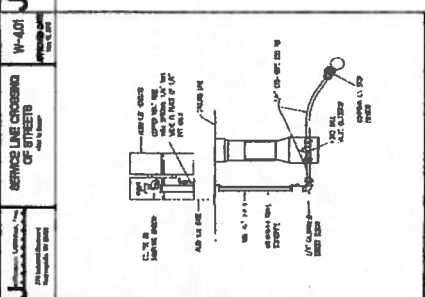
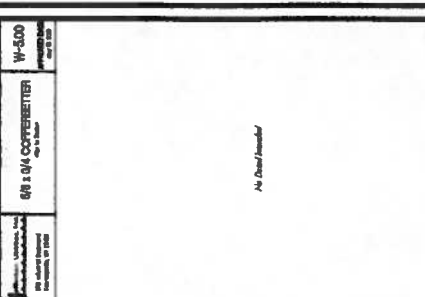
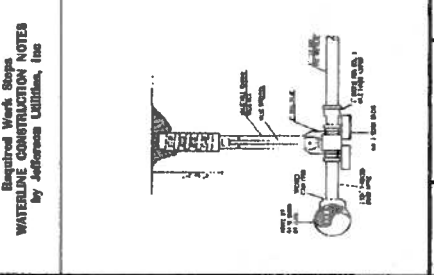
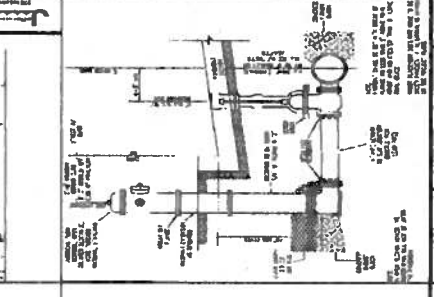
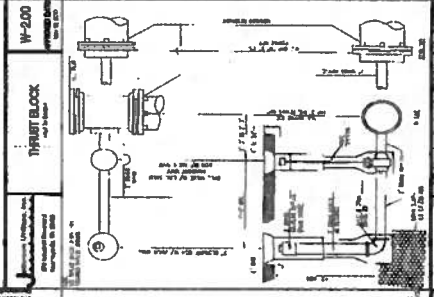
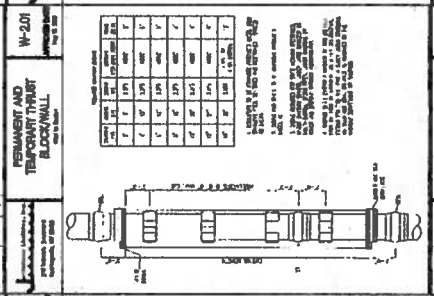
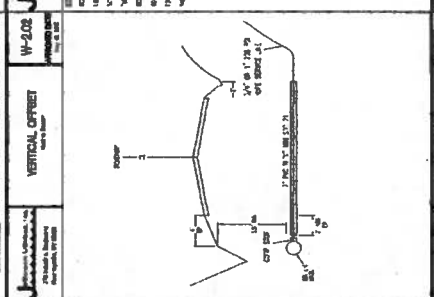
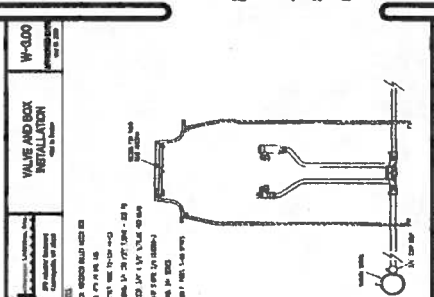
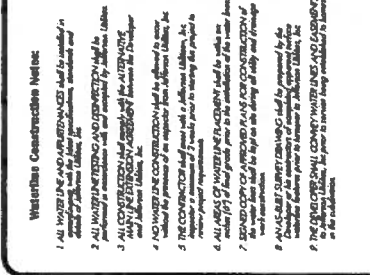
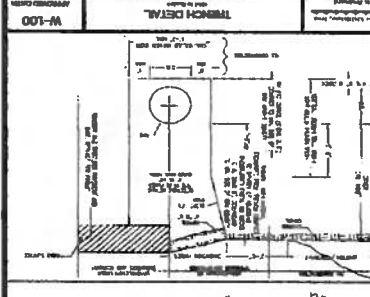
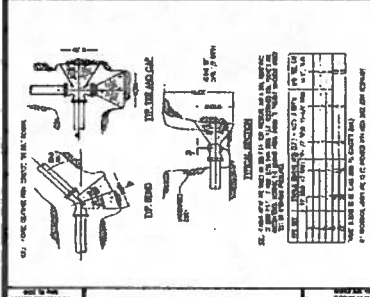
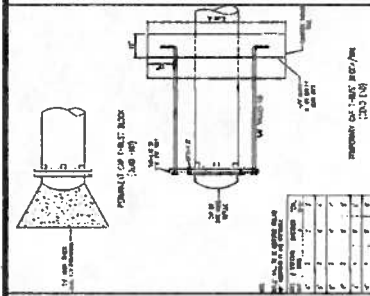
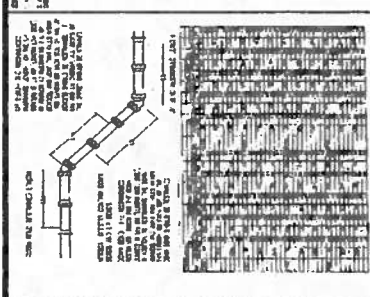
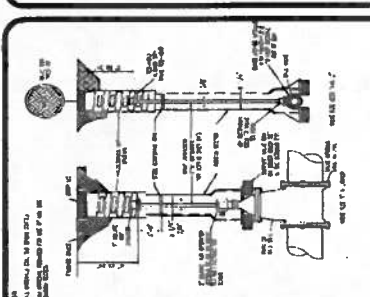
Handicapped Parking & Walk

Handicapped Walkways

Revisions:
 Sheet No. 22
 Date: 1/14/10
 Entry: C & W
 Gates: As Issued

PHASE IA - ASPEN GREENS
 Waterline Details of JEFFERSON UTILITIES, Inc.
 Preliminary Plans

Gates Associated, Inc.
 152 Union Turnpike, West Nyack, NY 10994
 Phone: (845) 338-2200
 Fax: (845) 338-2201
 E-mail: gates@gatesassociated.com
 Website: www.gatesassociated.com



Waterline Construction Notes

1. ALL WATER LINE AND APPURTENANCES shall be installed in accordance with the latest edition of the American Water Works Association (AWWA) standards.
2. ALL WATER MAINS AND APPURTENANCES shall be installed in accordance with the latest edition of the American Water Works Association (AWWA) standards.
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10. ALL WATER MAINS AND APPURTENANCES shall be installed in accordance with the latest edition of the American Water Works Association (AWWA) standards.

Revised Work Sheet
WATERLINE CONSTRUCTION NOTES
 by Jefferson Utilities, Inc.

Waterline Construction Notes

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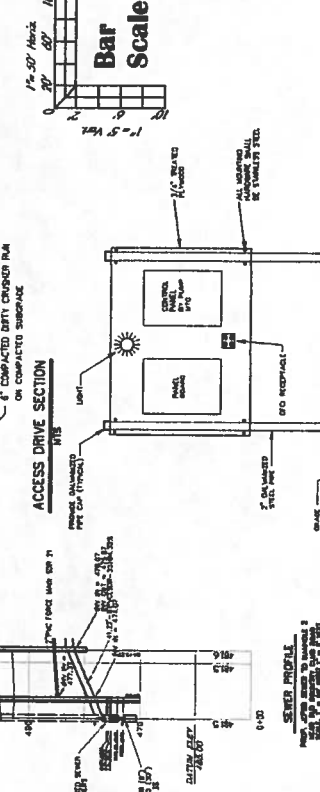
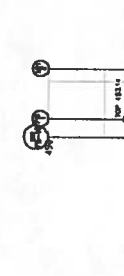
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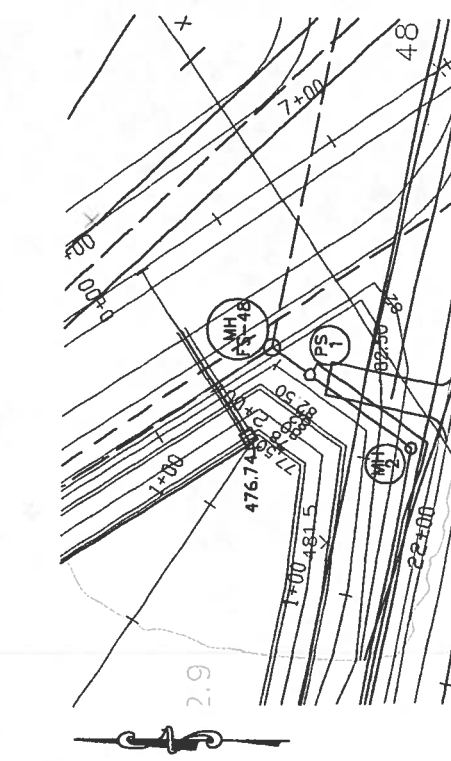
Sheet 7
 Scale: As Shown
 Date: 7/10
 Entry: 7A
 Project: 15400
 Revision:

DATE	DESCRIPTION
7/10	7A
7/10	7A

Quaking Aspen Way
 Station: 0+00 to Station: 15+00
 Proposed Water, Sanitary Sewer & Storm Drains
 4" COMPACTED DIRT COVERED P.A. ON COMPLETED SURFACE
 ACCESS DRIVE SECTION
 4" COMPACTED DIRT COVERED P.A. ON COMPLETED SURFACE



POWER ONE LINE DIAGRAM
 NOT TO SCALE



A. Moreland
 DB 45

Gates Associated, Inc.
 153 Haverhill Way, Suite 200
 Haverhill, MA 01830
 Tel: 978-376-1111
 Fax: 978-376-1112
 www.gatesassoc.com

Scale: As Shown
 Date: 1-24-70
 Sheet: M-17

Revisions:

PHASE IA - ASPEN GREENS
 W. Va. D. O. H. Right-of-Way Safety Traffic Control Safety Plans
 Preliminary Plans

Gates Associated, Inc.
 152 North Main Street, Martinsburg, WV, 25401
 Phone: 606-291-8800
 F. M. Gates, President
 J. M. Gates, Vice President
 R. M. Gates, Secretary
 W. M. Gates, Treasurer

SIGNS PLACED ON STATE OWNED RIGHT-OF-WAYS

After Board of State and Public Safety Meeting On: _____

1. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

2. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

3. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

4. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

5. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

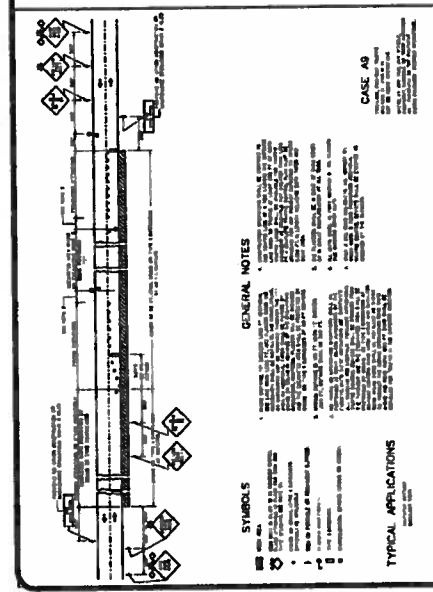
6. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

7. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

8. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

9. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.

10. The signs shown on this plan are to be placed on the right-of-way of the State of West Virginia, and the State of West Virginia shall be responsible for the maintenance and replacement of the signs.



Jefferson Co. gets \$1M for sewer plant

By RICHARD F. BELISLE
richardb@herald-mail.com

CHARLESTOWN, W.Va. — To quote the late Illinois Sen. Everett Dirksen, “A million here, a million there, pretty soon you’re talking about real money.”

That’s what it’s going to take to build a new high-tech sewer plant in Halltown.

On Tuesday afternoon, the Jefferson County Public Service District was handed a \$1 million check from the Jefferson County Development Authority to be spent on the PSD’s planned \$27.5 million wastewater treatment plant near the unincorporated village of Halltown on W.Va. 230.

Bids will go out for the new plant sometime this winter, said Joseph S. Hankins, PSD chairman.

The plant will take pressure off the City of Charles Town’s sewer plant. In addition, it will take all of the existing flow from the Burr Industrial Park plus ensure service for the park’s planned 140-acre second phase, Thomas Bayuzik, executive director of the development authority, said in prepared remarks.

“This is the boost we need for the future of Jefferson County,” Hankins said.

The new plant will help the county meet the more stringent environmental rules required to clean up the Chesapeake Bay, he said.

Nutrient levels emanating from the plant in Charles Town are higher than what will come out of the new plant, Hankins said.

The plant is designed to handle growth that is already approved, but not yet built. It is not expected to spur new developments, he said.

The development authority applied for the money through grants, officials said.

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

September 2005 Term

No. 32559

JEFFERSON UTILITIES, INC.,
Petitioner Below, Appellant

v.

JEFFERSON COUNTY BOARD OF ZONING APPEALS,
Respondent Below, Appellee

No. 32560

JAN CARY KLETTER, ET AL.,
Petitioners Below, Appellees

v.

JEFFERSON COUNTY BOARD OF ZONING APPEALS,
Respondent Below, Appellee

and

ELMER LEE RODERICK, ET AL.,
Intervenors Below, Appellees

BUCKEYE DEVELOPMENT,
Appellant

FILED

November 30, 2005

released at 10:00 a.m.
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

32561

JAN CARY KLETTER, ET AL.,
Petitioners Below, Appellees

v.

JEFFERSON COUNTY BOARD OF ZONING APPEALS,
Respondent Below, Appellant
and
ELMER LEE RODERICK, ET AL.,
Intervenors Below, Appellees

Appeal from the Circuit Court of Jefferson County
The Honorable Thomas W. Steptoe, Jr., Judge
Case No. 03-C-278 and Case No. 02-C-217
(Consolidated 01-C-331, 02-C-217, 02-C-348)

*Appeal's BZA
Appeal.*

REVERSED AND REMANDED

Submitted: September 21, 2005
Filed: November 30, 2005

Gregory K. Jones
Assistant Prosecuting Attorney
Charles Town, West Virginia
Attorney for Jefferson County
Board of Zoning Appeals

David M. Hammer
Hammer, Ferretti & Schiavoni
Martinsburg, West Virginia
Attorney for Elmer Lee Roderick

Richard G. Gay
Nathan P. Cochran
R. Greg Garretson
Law Office of Richard Gay
Berkeley Springs, West Virginia
and
Peter L. Chakmakian
Charles Town, West Virginia
Attorneys for Buckeye Development,
LLC, and Jefferson Utilities, Inc.

Michael D. Lorensen

Based on the foregoing, the decisions of the Circuit Court of Jefferson County entered on July 9 and 12, 2004, are hereby reversed and the matters are remanded for further proceedings consistent with the holdings contained in this opinion.²⁴ With respect to those appeals in the Kletter case in which the board of zoning appeals previously issued the requested conditional use permits, the lower court relied upon improper grounds to reverse those administrative decisions; consequently, the trial court is hereby directed to enter an order approving the reissuance of the subject permits and adjust, where necessary, any time deadlines established in the Ordinance that may have passed during the pendency of this appeal so that the parties are not penalized for pursuing their statutory rights of appeal.

Reversed and remanded.

²⁴In its July 12, 2004, order, the trial court exceeded the scope of the Rule 60(b) motion that was before it by addressing the scope of the zoning administrator's position and authority and by finding that the Board failed to apply a *de novo* standard of review. While we were required to address both of those issues to resolve the appeals before us, we specifically decline to address the additional matters that the trial court ruled upon that were clearly not presented by the Rule 60(b) motion. Those additional rulings involved the trial court's opinion that the County Commission usurped the Board's authority to adopt rules and the concomitant directive that the Board adopt separate rules from those set forth in the Ordinance. In addition, the trial court determined that certain findings of fact reached by the Board were essentially unreviewable at this stage of the appeal and yet these same findings had been reviewed previously by the circuit court with no comparable finding in its September 9, 2003, order.

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

RECEIVED

MAR 01 2006
JEFFERSON COUNTY
CIRCUIT COURT

JAN CARY KLETTER, et al.,
Petitioners,

CIVIL ACTION NO. 02-C-217
(Consolidated 01-C-331, 02-C-217, 02-C-348)

JEFFERSON COUNTY ZONING
BOARD OF APPEALS,

Respondents.

And,

ELMER LEE RODERICK, et al.,

Interveners.

ORDER UPON REMAND GRANTING CONDITIONAL USE PERMITS

THIS MATTER came before the Court pursuant to an Order by the West Virginia Supreme Court of Appeals, remanding the case for final issuance of the Conditional use permits that were previously denied pursuant to a Petition for Writ of Certiorari and subsequent proceedings in this Court.

Whereupon, the Court remands this matter to the Jefferson County Board of Zoning Appeals and ORDERS the Board of Zoning Appeals to issue Conditional Use Permits to Buckeye Development, LLC, the developer of the Forest View and Daniel's Forest developments, on the same terms and conditions that the Conditional Use Permits were previously granted by the Planning Commission.

Specifically, those terms are:

1. Daniel's Forest¹
 - a. Meet with John Grove about mitigating the impact of the development with respect to the Zoar property; and,
 - b. A pre-blasting and post blasting survey with respect to the Zoar House property.
2. Forest View²
 - a. Provide with the Community Impact Statement submission of how many more cars and how many total cars will use the Duffields parking lot; 340 at Historic Harpers Ferry Water Gap; and, Flowing Springs Road at the railroad tracks and 4-way stop, just east of Ranson;
 - b. Provide a berm or comparable landscape screen to County standards on land to be owned by the Homeowner's Association along the property frontage adjacent to Route 17 (Flowing Springs Road); and,
 - c. Provide a covenant noting farming activities are a permitted use in the rural district and may include noises, odors, operations at night and other activities characteristic of a farming operation.

Further, the Supreme Court mandated that the time parameters for the developments (Daniel's Forest and Forest View) to proceed through the various stages of the review and subdivision procedures be restored as though the Petitions for Writ of Certiorari and an appeal had not been filed.

It is ADJUDGED and ORDERED that each and every time requirement within which some action need be taken by the Intervenor, Buckeye Development, LLC, below, be, and the same is, tolled; as to the development known as Daniel's Forest, from December 14, 2001 until the date this Order is entered, a total of 1538 days; and, as to the development known as Forest View, from August 19, 2002 until the date this Order is entered, a total of 1290 days.

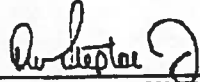
¹ See attached minutes from the Jefferson County Planning and Zoning Commission dated December 11, 2001, pp. 2 - 3, wherein the conditional use permit was issued with regard to the Daniel's Forest property.

² See attached minutes from the Jefferson County Planning and Zoning Commission showing issuance of the Conditional Use Permit for Forest View dated April 8, 2003.

The Clerk is directed to enter this ORDER as of this date and send attested copies to all parties and counsel of record.

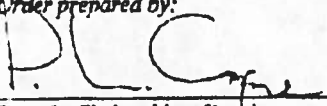
ENTERED this 1st day of March, 2006


6cc
P Chakmakian
R. Bay
S. Grove
A. Hammer
M. Lorenson
M. Thompson
3/2/06
AP



JUDGE OF THE CIRCUIT COURT OF
JEFFERSON COUNTY, WV

Note: The Court has received no objections to this proposed order.
mg

Order prepared by:

Peter L. Chakmakian, Esquire
WV State Bar ID No. 687
108 N. George Street, 3rd Floor
Charles Town, WV 25414
(304) 725-9797


Richard G. Gay, Esquire
WV State Bar ID No. 1358
Nathan P. Cochran, Esquire
WV State Bar ID No. 6142
Law Office of Richard Gay
31 Congress Street
Berkeley Springs, WV 25411
(304) 258-1966

JEFFERSON COUNTY
DEPARTMENT OF PLANNING, ZONING & ENGINEERING
CONDITIONAL USE PERMIT
DANIELS FOREST SUBDIVISION #Z01-03

This is to certify that effective December 11, 2001, the property described as:

Owner:	Elmer Lee Roderick, owner 21113 Stonecrop Place Ashburn, Virginia 22011
Telephone Number:	
Developer:	Ed Smariga, developer Buckeye Development 125 South Carroll Street, Suite 150 Frederick, Maryland 21701
Telephone Number:	(301)-696-0900
Tax Map Reference:	Charles Town District, Map 3, Parcels 9.2
Deed Book Reference:	Deed Book 725, Page 214
Subdivision Name:	Daniels Forest Subdivision
Zoning District:	Rural

has been granted permission to use said property in the following way: **192 single family lots.** The Board of Zoning Appeals's granting of this Conditional Use Permit was litigated and was the subject of an appeal in the West Virginia Supreme Court. As a result of that appeal, the West Virginia Supreme Court ruled in Jefferson Utilities, Inc. v. Jefferson County Board of Zoning Appeals, 218 W.Va. 436, 624 S.E.2d 873, that the time parameters for the Daniel's Forest Subdivision to proceed through the various stages of the review and subdivision procedures be restored as though the Petitions for Writ of Certiorari and an appeal had not been filed. In accordance with this ruling, the Jefferson County Circuit Court in its "Order Upon Remand Granting Conditional Use Permits" in Case No. 02-C-217, ordered that "each and every time requirement within which some action needed to be taken by Buckeye Development, LLC, be tolled." Accordingly, the Circuit Court tolled all time requirements from December 14, 2001, until the entry of its order on March 1, 2006, for a total of 1538 days.

CONDITIONAL UPON:

1. Meet with Mr. John Grove about mitigating the impact of the development with respect to the Zoar property;
2. Conduct a pre-blasting and post-blasting survey with respect to the Zoar House property;
3. Any further change in use or expansion processing through the Jefferson County Department of Planning, Zoning and Engineering to update this certificate; and, all other applicable County regulations being followed.

JEFFERSON COUNTY DEPARTMENT OF PLANNING,
ZONING & ENGINEERING
CONDITIONAL USE PERMIT
DANIELS FOREST SUBDIVISION #Z01-03
PAGE TWO

In the event the construction or use has not commenced by AUGUST 27, 2007, said permission will expire unless an extension is granted. Extensions must be formally requested of the Jefferson County Board of Zoning Appeals prior to the expiration date.

This certificate in no way relieves the owner, applicant or user from any requirements of the Jefferson County Ordinances unless appropriate variances are granted by the appropriate County authority.



Zoning Administrator

1/29/07

Date

Department of Planning, Zoning &
Engineering Seal:



JEFFERSON COUNTY PLANNING COMMISSION

V A R I A N C E R E Q U E S T

I/We request a variance from the provisions of the Jefferson County Subdivision and/or Salvage Yard Ordinance.

Property Owner(s): Roderick Planes, LLC

Address: 5509 Mt. Zion Road; Box 777
Frederick, Maryland 21705

Phone Number: 1-301-663-6060

Location of Property: Northeasterly of the intersection of Old Country Club Road
with Flowing Springs Road. See Attached USGS Map.

Lot Size: 0.41 Average; 203 Lots on 110 Acres

Deed Book Reference: Deed Book Number 952, Page Number 565

Tax Map Reference: District 2 - Charles Town Map 4, Parcel 19

Zoning District: Agricultural - (Was Residential on proposed draft)

Section of Ordinance: Subdivision Ordinance; Art. 6; Sect. 6.3

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

This request is for CIS extension to July 1, 2012 to comply with ordinance design impacts.

During preparation of preliminary plat submissions for ASPEN GREENS, this County adopted

a new Flood Plain Ordinance. Direct interaction by project professionals with other properties indicated

County interpretations that could impact these plans. Simultaneous multi-designed plans, submissions

and reviews for the same project was an undue and unintended hardship. A time block exists, given the

outstanding December 20, 2010 project construction start deadlines for both CIS and CUP. Aspen Greens is

in a non-flowing tributary of Elk Run. Nearest shed flood plain lies 7500 feet to the east approximately

50 feet in elevation below this site. See WV Flood Hazard Map attached. Assessing options and

project design, verifying the Flood Plain Administrator opinions are ongoing.

CONTINUED ON ATTACHED ADDENDUM PAGE.

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.

NOTE: Request is not identifiable on a sketch. Vicinity USGS Map Attached.

RECEIVED

OCT 05 2010

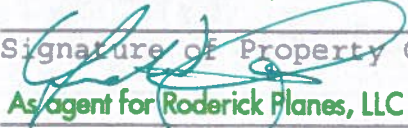
Please note variances to the Subdivision Ordinance must comply with Article 17 of the Ordinance; and, variances from the Salvage Yard Ordinance must comply with Article 6 of the Ordinance. To justify your variance request, please address the following items:

1. The request is not contrary to the public interest. It is contrary to the public interest to not allow time for subdivision design consistent with the adoption of new ordinances, to allow evaluation of interpretations to be explored so that the public welfare is best served.

2. A literal enforcement of this Ordinance will result in unnecessary hardship Denying this extension request would harm ASPEN GREENS opportunity to design within the ordinances placed in its path by County adoption that this body desires be applied. This work would remove currently harmful drainage flooding of roads that would remain. In anticipation of being able to progress in good faith, this developer has provided Jefferson County with the removal of a harmful intersection.

3. The request is not the result of a self-imposed hardship. This request is the result of actions taken by others. The adoption of a new Flood Plain Ordinance was advised to be applied retroactively. It had severe restrictive interpretations needing careful consideration before completing submission designs. This ordinance came months after gaining design change approval from our new Director with far reaching design impacts that needed study and inclusions.

4. The spirit of this Ordinance will be observed and substantial justice done. New Flood Plain Ordinances its ramifications, interpretations and administration can set design criteria in different directions. It is precisely in the spirit of orderly ordinance application that this extension is sought. Additionally serving utilities must review and observe proposed impacts to their own best technical interests taking coordination meeting times on several levels. These all require months of exchanged input.


Signature of Property Owner
As agent for Roderick Planes, LLC
Signature of Property Owner

For official use only: Amount of fees paid _____

Date of meeting/public hearing _____

Official/Administrative body _____

Posting requirements _____

Advertising dates _____

Official Signature and Seal _____

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

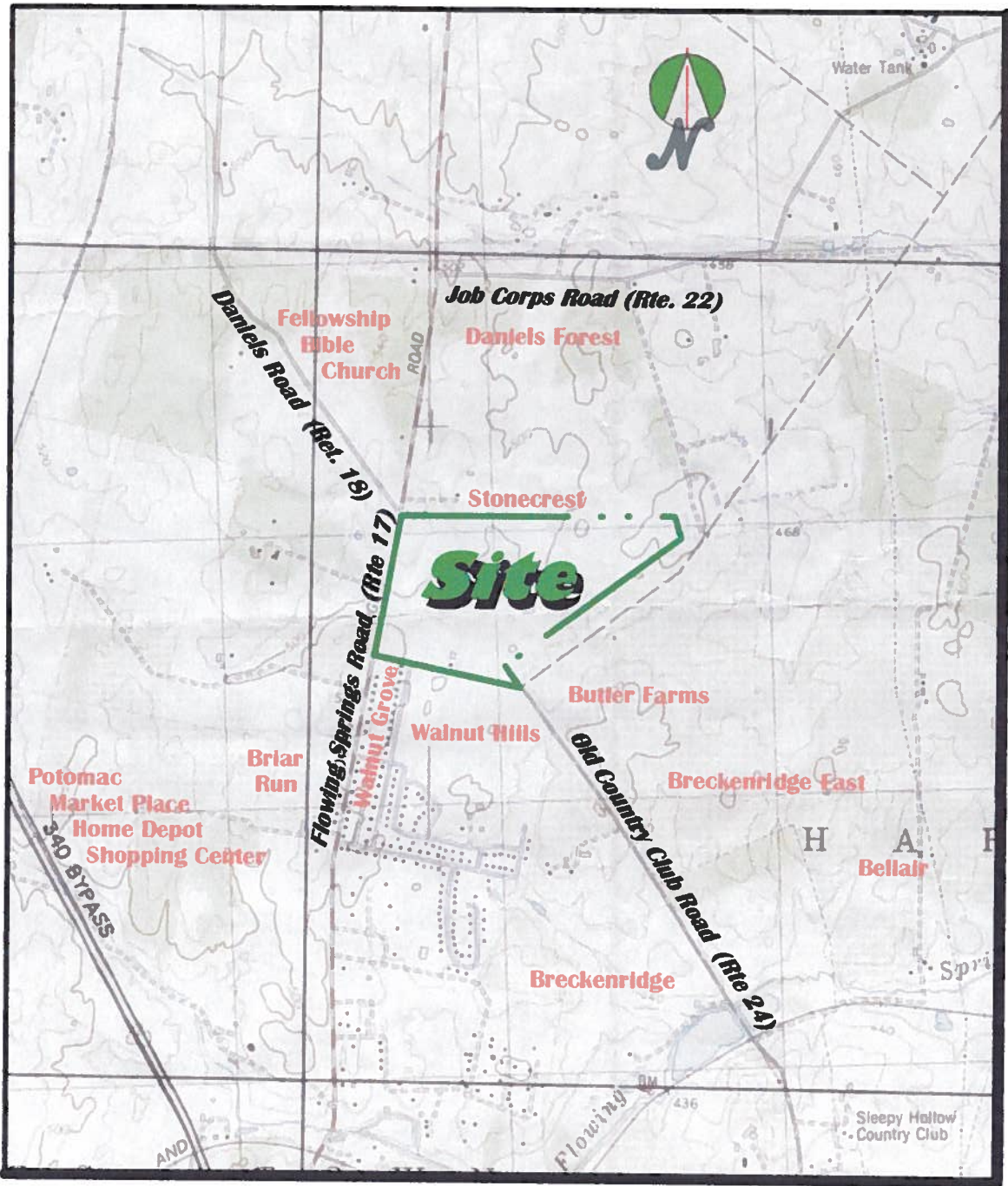
VARIANCE REQUEST ADDENDUM
Aspen Greens - 4 October 2010

ADDENDUM PAGE 1:

Besides time needed for the above interests work on drainage design includes working with JCPSD (planned cross county gravity lines - both easements and placement), working with WVDOH (removal of Right-of-Way impacts) and working to conduct basin flows through this site. Limited review time is acknowledged by the Jefferson County Planning and Zoning Director (attached email).

We have chosen to approach the Planning Commission sooner rather than later to permit this extension to be heard in a timely manner. This time block meets the four conditions required for your support to extend this project request to July 1, 2012.

ASPEN GREENS Site Location



USGS Charles Town Quad Map

Scale 1" = 2000'

(Roads & Development Names Added)



Gates Associated, Inc.

288 Venice Way (off Rte. 45)

Shepherdstown, West Virginia 25443

[email: gatesassociated@aol.com phone/fax/voicemail: 1-304-876-6124]



Map created by West Virginia GIS Technical Center

0 1657ft

Subj: **Re: Timely response**
Date: 9/9/2010 7:59:05 P.M. Eastern Daylight Time
From: jbrockman@jeffersoncountywv.org
To: gatesAssociated@aol.com
CC: rgoodwin@jeffersoncountywv.org, isaunders@jeffersoncountywv.org,
nkuroski@jeffersoncountywv.org, srivard@jeffersoncountywv.org, sbarney@jeffersoncountywv.org,
jquodala@jeffersoncountywv.org, apuetz@jeffersoncountywv.org, jhartman@jeffersoncountywv.org,
bbums@jeffersoncountywv.org

Fred –

Norma gave me a copy of your e-mail asking questions about the upcoming submittal for the Aspen Green subdivision. I think that the engineering staff may be working to provide you with some direction about the design questions that you posed.

I wanted to be sure that you clearly understood the July 26, 2010 letter addressed to Roderick Planes, LLC regarding the vesting provisions of the state law and Jefferson County Subdivision Regulations: Aspens Greens currently has two approval dates that relate to your ability to process. You are currently processing under the old zoning ordinance and the old 1979 subdivision ordinance. Both your CUP and your CIS, approved under these old ordinances, expire on December 20, 2010.

In order for your CIS approval to remain valid, you will need to have had a public hearing on your final plat by December 20, 2010. The last meeting available to you to meet this time line is December 14, 2010. This means you will have processed the preliminary plat to the point of staff approval and submitted the final plat in time to get it on the December 14, 2010 agenda. It may be very difficult to meet this time line.

If you do not think you can meet this time line, you have 2 options. One option is to apply to the Planning Commission for a variance for an extension of time. If this is the direction you choose to go in, I would recommend that you do it sooner rather than later. The Planning Commission will want to know what progress has been made on this project to date and will want a work plan to ensure that the work can be completed within your proposed time line.

Your second option is to understand that it might be difficult to meet this date and to choose to proceed under the newly adopted 2010 Subdivision Regulations. The new Regulations would require you to first submit a Concept Plan and have a public workshop. The submittal and processing requirements are different in the 2010 Regulations and we would be glad to meet with you to explain this process if you choose it.

In either case, the expiration of the CUP is an issue for you. Your CUP requires you to have commenced construction by December 20, 2010. Because the plat has not yet begun to be processed, it will not be possible for you to meet this deadline. The Board of Zoning Appeals (BZA) is now the body that issues CUPs or variances for extensions of CUPs. The BZA only meets monthly and requires a lengthy public notice so you will need to apply for an extension of the CUP very soon in order to meet this requirement.

If you have any questions about the direction being provided to you, please feel free to contact the Departments of Planning and Zoning for further information.

Thank you.

Jennifer M. Brockman, AICP, Director
Jefferson County Department of Planning and Zoning
116 East Washington Street
Charles Town, WV 25414
Office: (304) 728-3228
Fax: (304) 728-8126

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: Steve Barney, Zoning Administrator
DATE: November 9, 2010
RE: Update on Zoning Ordinance Policy Neutral Amendments (Phase I)

In July, 2010, staff presented a proposed strategy for handling the review and potential rewrite of sections of the Zoning Ordinance to the Planning Commission. The first of these tasks was to address the "policy neutral" amendments that need to occur to the Zoning Ordinance to make it compatible with the 2008 Subdivision and Land Development Regulations and to address a variety of clean-up edits that needed to occur. These amendments were also intended to address relevant portions of state law that need to be incorporated into local ordinances. Subsequent to confirming this schedule, the Planning Commission determined that the Wireless Telecommunications Section of the Ordinance was a higher priority and staff time has been committed to that amendment during recent months. Early in October, 2010, staff reported to the Planning Commission that work had been reinitiated on the original first task and that a report would be provided to the Planning Commission at the November 9, 2010 meeting as to the status of this amendment effort. This memo, and attachments, constitute the report.

Staff is currently in the process of editing the Zoning Ordinance. Proposed changes range in scope from minor edits such as correcting typographical errors, to more substantial changes such as the addition of new sections. Ordinance revisions include the changes to the references to the subdivision regulations, which were provided to the Planning Commission on October 26th. For the Phase 1 Zoning Ordinance text amendments, staff's intent is for the amendments to be policy neutral, to the extent possible. A number of complex policy amendments will need to occur after the completion of this effort and will continue to take place over the next calendar year.

The substantial Phase I Zoning Ordinance amendments include the following:

1. Consolidated Board of Zoning Appeals section
2. Addition of Planning Commission section
3. Remove redundant or outdated site plan standards
4. Remove redundant Concept Plan requirement
5. Relocation of detailed use standards
6. Preschools as a permitted use

7. Bed and Breakfast – exceptions
8. Senate Bill 595 Consistency
9. Permitted Uses table
10. Site Development Standards table

Staff recommends that the Planning Commission consider the proposed Zoning Ordinance amendments listed above, in addition to the references to the subdivision regulations presented at the October 26, 2010 Planning Commission meeting, as a comprehensive document. A summary of the significant policy-neutral amendments is below. Attached are samples of these amendments for the Commission's review and consideration. It is anticipated that a complete draft of the Phase I amendments will be presented to the Planning Commission at the December 14th meeting.

Summary of Significant Policy Neutral Amendments

1. Consolidated Board of Zoning Appeals section

In the current version of the Zoning Ordinance, text related to the Board of Zoning Appeals (BZA) is scattered in various sections, including the following:

- Section 7.8 of describes BZA duties and procedures. This section is incorrectly titled "Board of Zoning Appeals Approval of Conditional Use Permit" and is located within Article 7, Procedural Requirements for Review. As such, the section is difficult to locate.
- Article 8 of the current ordinance describes the BZA appeals process.
- Section 3.1(c) (under "Administration") states that the BZA shall evaluate all Development Review applications and approve or deny issuance of a conditional use permit.

Accordingly, staff recommends relocating these sections to a new Section 3.4A for the Board of Zoning Appeals.

2. Addition of Planning Commission section

The current ordinance does not describe the purview of the Planning Commission. Staff recommends including a description of the powers and duties of the Planning Commission, in addition to references to West Virginia Code Chapter 8A, the Bylaws of the Jefferson County Planning Commission, and the Subdivision and Land Development Regulations.

3. Remove redundant or outdated site plan standards

Prior to the adoption of the 2008 Subdivision and Land Development Regulations (and 2010 amendments), many site plan standards were governed by the Zoning Ordinance. However, the Subdivision Regulations are now the primary document establishing site plan requirements. For this reason, several redundant and conflicting references to site plan standards in the Zoning Ordinance should be removed.

Examples include Section 4.10, "Site Plan Requirements," subsections a, d, f, and g. Some of the requirements listed are also no longer accurate, such as, "The Planning Commission

shall review and approve or disapprove a completed application within sixty (60) days of the acceptance of the Site Plan in the Department of Planning, Zoning, and Engineering.”

4. Remove redundant Concept Plan requirement

A Cluster Subdivision in the Rural District requires a Concept Plan per Section 5.7d2c of the Zoning Ordinance. However, the Subdivision and Land Development Regulations require submittal of a Concept Plan for any major subdivision (i.e more than 5 lots and/or requiring the development or extension of new infrastructure). Therefore, a proposed Cluster Subdivision would currently need to address two similar but overlapping Concept Plan requirements. For this reason, staff recommends elimination of the Concept Plan requirements of the Zoning Ordinance.

5. Relocation of detailed use standards

Currently, the Zoning Ordinance provides detailed standards for a number of land uses, such as Hunting, Shooting and Fishing Clubs; Light Industrial Uses; and Model Homes. These standards are scattered throughout the ordinance and are difficult to locate. To improve the legibility of the Zoning Ordinance, staff recommends the relocation of detailed standards for particular land uses to a new Article 8, “Supplemental Use Regulations.”

6. Preschools as a permitted use

The Zoning Ordinance identifies daycares and schools as permitted uses in various districts, but does not identify preschools as a permitted use. Staff proposed permitting preschools in all districts where daycares are currently permitted, and creating a definition for preschools.

7. Bed and Breakfast – exceptions

Staff proposes eliminating the requirement for Board of Zoning Appeals review of proposed bed and breakfast uses in the Rural District in Section 9.8. A previous amendment removed the reference to Section 9.8 from the Rural District principal permitted uses subsection. However, the restriction was not removed from Section 9.8, which staff believes to have been an oversight.

8. Senate Bill 595 Compliance

Section 8A-5-12 of the West Virginia Code (“Vested property right”), as amended by Senate Bill 595, vests until July 1, 2012 any “subdivision or land development plan or plat, whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010”. It also notes, “Any other plan or permit associated with the subdivision or land development plan or plat shall also be extended for the same time period”.

For this reason, staff recommends amending the validity period for zoning certificates and conditional use permits for those developments whose validity period would be affected by 8A-5-12.

9. Permitted Uses table

The Zoning Ordinance currently has no table of permitted uses that shows which land uses are permitted, conditional, or not permitted in the County's zoning districts. This type of table is a common reference tool in the zoning ordinances of many jurisdictions. This information is currently only available in list format, within the respective section for each zoning district. Staff recommends that the Zoning Ordinance include a table listing all permitted uses, by zoning district.

10. Site Development Standards table

Information on the site development standards for each zoning district is currently difficult to locate. Requirements for setbacks, height, lot area, and other standards is currently scattered throughout the ordinance. Staff recommends that all standards be consolidated in a single table.

1. Consolidated Board of Zoning Appeals Section

Section 3.4 Boards and Commissions

A. Board of Zoning Appeals

1. The Board of Zoning Appeals will consist of five members to be appointed by the County Commission. Their terms of office, succession, removal, filing of vacancies, and their powers and duties shall be provided in Chapter 8, Article 24 Chapter 8A of the West Virginia Code, as amended.

Comment [SB4]: Originally 7.8a

2. Meetings of the Board of Zoning Appeals shall be held at such time that the Board determines appropriate conducted according to the rules and procedures adopted by the Board of Zoning Appeals.

Comment [SB5]: Originally 7.8b(5)

~~The Board of Zoning Appeals shall hear and decide appeals regarding the Planning Commission's issuance or denial of a Conditional Use Permit. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989]~~

Comment [SB6]: No longer accurate.

3. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official in regard to the enforcement of this Ordinance or of any ordinance adopted thereto.

Comment [SB7]: Originally 7.8b(2)

a. Filing an appeal

1. An appeal to the Board may be taken by any person, board, associate, corporation or official allegedly aggrieved by any administrative decision based or claimed to be based, in whole or in part, upon the provisions of this Ordinance. The property owner of the subject appeal shall sign the application or an affidavit allowing an agent for the property owner to file the application which shall be submitted.

Comment [SB8]: The Zoning Ordinance does not outline procedures for a variance. Should these be the same as the procedures for an appeal?

2. Such appeal shall be filed with the Board within thirty (30) days from the decision appealed.

Comment [SB9]: Originally 8.1 a through e

~~Appeal applications shall be made on the forms designated by the Planning Commission and shall be accompanied by three (3) copies of the application and an accurate drawing of the property showing distance of all structures from property lines and any pertinent data deemed necessary for the request. Submittal of the application shall be made to the Planning and Zoning Office.~~

Comment [SB10]: No longer accurate.

~~All zoning fees, in accordance with the approved County fee structure, shall be paid upon application.~~

Comment [SB11]: Unnecessary.

~~No application shall be accepted in the Planning and Zoning Office unless it contains all pertinent information and is accompanied by the required fees.~~

Comment [SB12]: Unnecessary.

b. Processing Procedures Notification

Comment [SB13]: Originally 8.2 a through e

~~Appeal applications filed in the proper form shall be numbered serially, docketed, and placed upon the calendar of the Board of Appeals.~~

Comment [SB14]: Unnecessary.

~~The Board shall hold a hearing within forty-five days (45) from the date the appeal is received in the Department of Planning and Zoning. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990 AND MAY 18, 1996] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

Comment [SB15]: Moved to 3.4A.3.c.1

1. Notice of ~~the~~ a public hearing for an appeal shall be advertised in two issues of a newspaper having general circulation in the County at least 15 days before the hearing. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB16]: Originally 8.2c

2. ~~Property upon which the application is concerned~~ The subject property shall be posted conspicuously by a zoning notice no less than twenty-eight (28) inches by twenty-two (22) inches in size, at least 15 days before the hearing. The sign will be prepared by the Planning and Zoning Department but posting the sign is the responsibility of the applicant. ~~The Board, in its discretion, may otherwise visit the specific property prior to or after the hearing.~~

Comment [SB17]: Originally 8.2e

Comment [SB18]: Unnecessary.

Comment [SB19]: Originally 8.3 a & b

c. Public Hearing

1. The Board shall hold a hearing within forty-five (45) days from the date the appeal is received in the Department of Planning and Zoning. [AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON SEPTEMBER 13, 1990 AND MAY 18, 1996] [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]. ~~The Board following action in Section 8.2, shall hold such hearing.~~ At the hearing, any party may appear and be heard in person or by agent or attorney.

Comment [SB20]: Originally 8.2b.

Comment [SB21]: 8.3a.

2. The Board shall render its determination on the application no more than thirty (30) days following the public hearing by registered mail. ~~Any party aggrieved by a decision of the Board may appeal to the circuit court of Jefferson County within thirty (30) days of the Board's decision. The Court may affirm, reverse, vacate, or modify the decision subject to the appeal.~~

Comment [SB22]: Moved to 3.4A.7.

Comment [SB23]: Originally 8.4

d. Continuance of Hearing

1. The Board may continue a hearing at another time and/or date once such hearing has been started; however, the Board shall announce the date and hour of continuance of such hearing while in session. Any hearing continued shall be held within thirty (30) days from the initial hearing.

4. The Board of Zoning Appeals shall ~~Authorize~~ approve variances from the terms of the Ordinance if the Board finds that a variance:

Comment [SB24]: Originally 7.8b3

- a. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
- b. Arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance;
- c. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
- d. Will allow the intent of the zoning ordinance to be observed and substantial justice done. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

5. The Board of Zoning Appeals shall approve or deny issuance of a conditional use permit in accordance with Article 7 of this ordinance. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE AUGUST 31, 1989 AND]

Comment [SB25]: Originally 3.1c

6. In exercising its power and authority, the Board of Appeals may reverse or affirm, in whole or in part, or may modify the order, requirement, decision or determination appealed from, and make such order, requirement, decision or determination as ought to be made.

Comment [SB26]: "as appropriate"?

Comment [SB27]: Originally 7.8b.4

7. Any party may appeal any decision of the Board of Zoning Appeals to the Circuit Court of Jefferson County within thirty (30) days of the Board's decision, pursuant to Chapter 8A of the West Virginia Code, as amended. [AMENDED BY ACT OF THE COUNTY COMMISSION ON AUGUST 31, 1989. PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

Comment [SB28]: Moved from Section 8.3b and section 7.6h (edited)

8. Nothing in this Section shall be construed as permitting the Board of Appeals to exercise any power or refrain from the performance of exercise any power or refrain from the performance of any duty not authorized or directed by the provisions of ~~Chapter 8, Article 24~~ Chapter 8A of the West Virginia Code, as amended, which provisions of the Code are hereby incorporated herein by reference.

2. Addition of Planning Commission section

Section 3.4 Boards and Commissions

B. Planning Commission

- 1. Membership, terms of office, jurisdiction, and rules of procedure are established in the Bylaws of the Jefferson County Planning Commission and Chapter 8A of the West Virginia Code**
- 2. The powers and duties of the Jefferson County Planning Commission include but are not limited to the following:**
 - a. Review applications for major site plans, major subdivisions, and waivers from minimum standards, pursuant to the Subdivision and Land Development Regulations;**
 - b. Review requests for amendments to the County zoning map and Zoning Ordinance;**
 - c. Research and recommend to the County Commission improvements to the Zoning Ordinance and the Subdivision and Land Development Regulations;**
 - d. Make recommendations to the County Commission concerning planning and zoning issues;**
 - e. Make an annual report to the County Commission concerning the operation of the planning commission and the status of planning within its jurisdiction;**
 - f. Prepare and amend the Jefferson County Comprehensive Plan.**

3. Remove redundant or outdated site plan standards

Section 4.10 Site Plan Requirements

- A. A site plan shall be submitted for ~~review by the Planning and Zoning Commission for all new commercial, townhouse and multi-family residential, industrial, and institutional land uses~~ development in any district pursuant to the Subdivision and Land Development Regulations ~~and for all major additions or expansions of existing uses as defined in Article 2.~~
- ~~B. Site Plans shall be prepared by a registered professional engineer, or registered land surveyor licensed to practice in the State of West Virginia.~~
- ~~C.B.~~ B. If the proposed use is not listed as a principal permitted use within the zoning district where it is located, the ~~developer must have his proposed use~~ at must be evaluated by in accordance with the Development Review System before ~~Ssite Pplan~~ site Pplan submittal. Upon approval of a conditional use permit the applicant may proceed with ~~Ssite Pplan~~ site Pplan submittal.
- ~~D. In those cases where a Site Plan is required and the developer has received a conditional use permit, a minimum of six (6) copies of the site plan shall be submitted to the Jefferson County Planning Office.~~
- ~~E.C.~~ C. Site Pplan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- ~~F.D.~~ D. The Ssite Pplan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations ~~Ordinance~~, and ~~Articles 4, 5, 10 and 11 of this Ordinance.~~
- E. Additional Site Plan format requirements shall be the same as those for the Preliminary Subdivision Plat referenced in Article 8 of the Jefferson County Subdivision Ordinance.
- ~~G. The Planning and Zoning Commission shall review and approve or disapprove a completed application within sixty (60) days of the acceptance of the Site Plan in the Planning Office. The Planning Commission has the authority by variance to reduce waive any site plan standards as justified under Article 17 of the Subdivision Ordinance in accordance with the Subdivision and Land Development Regulations. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE JULY 1, 1998]~~

Comment [SB32]: Subdivision Regulations define which site plans are reviewed by the Planning Commission.

Comment [SB33]: Redundant with Subdivision Regulations.

Comment [SB34]: No longer accurate; Subdivision Regulations govern.

Comment [SB35]: No longer accurate. Format requirements addressed in 4.10D above.

Comment [SB36]: No longer accurate.

4. Remove redundant Concept Plan requirements (Section 5.7(d)2)

2. Clustering

a. Purpose and Intent

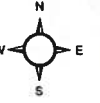
- i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.
- ii. To provide for a well planned development while minimizing the use of prime agricultural land.

b. Requirements

- i. A property owner may subdivide one (1) lot for every ten (10) acres he/she owns. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
 - (a) Acreage shall be computed using existing acreage at the time application is submitted. Total acreage does not include acreage which was subdivided off of present parent parcel between October 5, 1988 and time of application.
 - ii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
 - (a) Setbacks shall be 25' front, 12' sides and 20' rear.
 - (b) All clusters of three (3) or more lots shall be served by an internal road pursuant to Article 8 of the Subdivision Ordinance.
 - (c) Clusters of three (3) or more lots shall not be along an existing public road.
 - (d) A property owner may transfer rights to adjacent parcels which are owned by the same entity. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
 - (e) Maximum lot size shall be 3 acres. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

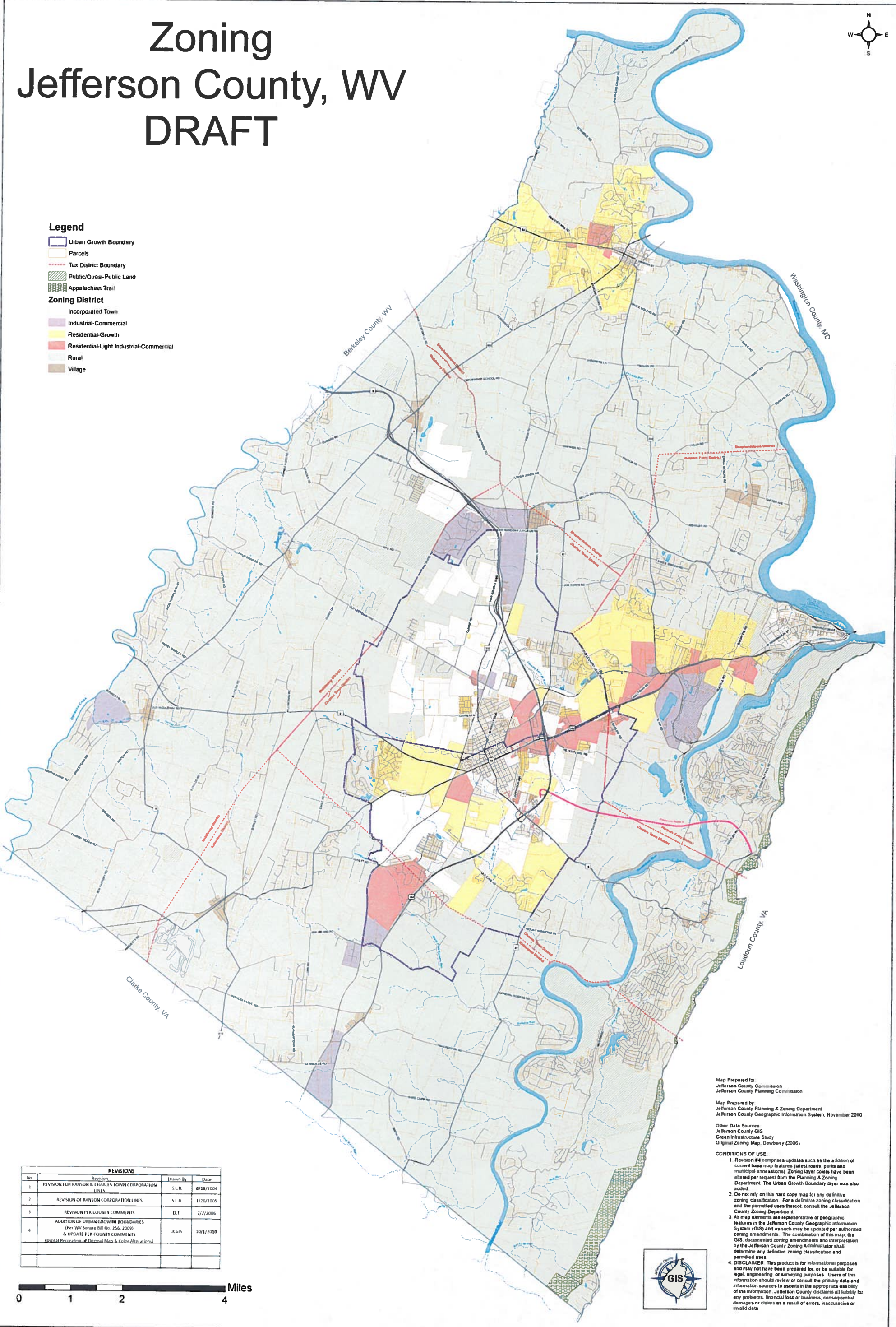
Comment [SB58]: While staff recommends that this standard be maintained, the requirement is no longer in the Subdivision and Land Development Regulations.

Zoning Jefferson County, WV DRAFT



Legend

- Urban Growth Boundary
- Parcels
- Tax District Boundary
- Public/Quasi-Public Land
- Appalachian Trail
- Zoning District**
- Incorporated Town
- Industrial-Commercial
- Residential-Growth
- Residential-Light Industrial-Commercial
- Rural
- Village



REVISIONS			
No.	Revision	Drawn By	Date
1	REVISION FOR RANSON & CHARLES TOWN CORPORATION LINES	S.L.R.	8/19/2004
2	REVISION OF RANSON CORPORATION LINES	S.L.R.	1/26/2005
3	REVISION PER COUNTY COMMENTS	D.T.	7/7/2006
4	ADDITION OF URBAN GROWTH BOUNDARIES (Per WV Senate Bill No. 256, 2009) & UPDATE PER COUNTY COMMENTS (Digital Recreation of Original Map & Color Alterations)	JEGIS	10/1/2010



Map Prepared for:
Jefferson County Commission
Jefferson County Planning Commission

Map Prepared by:
Jefferson County Planning & Zoning Department
Jefferson County Geographic Information System, November 2010

Other Data Sources:
Jefferson County GIS
Green Infrastructure Study
Original Zoning Map, Dewberry (2006)

CONDITIONS OF USE:

1. Revision #4 comprises updates such as the addition of current base map features (latest roads, parks and municipal annexations). Zoning layer colors have been altered per request from the Planning & Zoning Department. The Urban Growth Boundary layer was also added.
2. Do not rely on this hard copy map for any definitive zoning classification. For a definitive zoning classification and the permitted uses thereof, consult the Jefferson County Zoning Department.
3. All map elements are representative of geographic features in the Jefferson County Geographic Information System (GIS) and as such may be updated per authorized zoning amendments. The combination of this map, the GIS, documents zoning amendments and interpretation by the Jefferson County Zoning Administrator shall determine any definitive zoning classification and permitted uses.
4. **DISCLAIMER:** This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the appropriate usability of the information. Jefferson County disclaims all liability for any problems, financial loss or business, consequential damages or claims as a result of errors, inaccuracies or invalid data.



iii. Procedures

(a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted ~~shall be submitted to the Department of Planning, Zoning, and Engineering showing all standard and potential cluster rights to determine the feasibility of subdivision rights for the original tract(s) of land. The plan shall be prepared in accordance with a "sample" cluster plan and show the following:~~ pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a major subdivision.

Comment [SB59]: Requirement to process as a major subdivision will ensure that all cluster developments (even those of 5 lots or fewer) will have a Concept Plan. This is consistent with the intent of Section 5.7.

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- ~~(1)The lot layout (scale no smaller than one (1) inch equals one hundred (100) feet) including the building restriction lines and appropriate dimensions~~
- ~~(2)Street layout~~
- ~~(3)Vicinity map (scale no smaller than one (1) inch equals two thousand (2000) feet) showing the tracts(s) and total acreage including within the plan.~~
- ~~(4)Topography with minimum ten-foot contours (USGS Topo, interpretation is permitted for concept plan)~~
- ~~(5)Development rights table indicating acreages and development rights, both standard and cluster, for each tract and the total.~~
- ~~(6)Soils data for the cluster area and the remaining farmland.~~

~~(b)The Department of Planning, Zoning, and Engineering Staff will review the cluster plan, prepare a report and submit it to the Planning Commission within thirty (30) days of original submittal. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]~~

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Comment [SB60]: All standards and review processes for Concept Plans are now governed by the Subdivision Regulations.

~~(e)(b)~~ The Staff will have final approval over the location layout of the proposed clustering of lots. The Staff shall consider the following when reviewing concept plans:

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- (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
- (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.

~~(d)Concept plan approval shall become null and void at the end of one year from the date of approval unless a Community Impact Statement is submitted.~~

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Comment [SB61]: Validity dates for all subdivisions established by the Subdivision Regulations.

5. Relocation of detailed use standards

ARTICLE 8. APPEAL PROCESS UNLESS SUPERCEDED BY THE BOARD OF ZONING APPEALS RULES OF PROCEDURE SUPPLEMENTAL USE REGULATIONS

Comment [SB74]: "Appeals Process" Moved to 3.4

Section 8.1 Adult Use Requirements

Comment [SB75]: Moved from Section 5.6(i)

[AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE MAY 1, 2003]

Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall only be permitted in the Industrial-Commercial District under the following conditions:

1. All elements of the use, including parking areas, shall be located at least 1,500 feet from any Rural, Residential-Growth, Village or Residential Growth-Light Industrial-Commercial Zoning District not separated from the subject property by a public road or railroad right-of-way.
2. A proposed adult arcade, adult bookstore, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors or any sign advertising the operation thereof, shall not be permitted within 2,500 feet of a lot with an existing adult use or a lot with a sign advertising an adult use.
3. All elements of any use described in Article 5, Section 5.6(h), including parking areas, shall be located at least 1,500 feet from any lot, regardless of its zoning classification, that contains a dwelling unit, a school, a church or house of worship or an institution for human care, regardless it is separated by a public road or railroad right-of-way.

Section 8.2 Jails and Prisons

Comment [SB76]: Moved from Section 4.15

Due to the special conditions surrounding a jail, prison, or penal institution, all such projects shall only be allowed in the Industrial-Commercial Zone and shall be subject to the Development Review System as outlined in Article 6 of this Ordinance. Furthermore, these projects shall comply with Article 5, Section 5.6(L), and Article 6 of the Jefferson County Zoning and Development Review Ordinance.

[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Design Standards For Jails, Prisons and/or Penal Institutions [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 13, 1990]

Comment [SB77]: Moved from Section 5.6(h)

1. All jails shall have direct access to a primary road as defined by the Jefferson County Comprehensive Plan.

a. Such road shall have a level of service no worse than Level C.

2. No residential subdivisions, schools, churches or institution for human care shall be within 2000' of the subject property. However, this does not prevent such use from locating within 2000' of a jail, prison or penal institution.

3. SETBACKS

a. Front 1,000 Feet

b. Sides 1,500 Feet

c. Rear 1,500 Feet

Section 8.3 Hunting, Shooting and Fishing Clubs

Hunting, Shooting and Fishing Clubs may include the following Accessory Uses:

- iii. Private restaurant that seats no more than 80 patrons that are members and guests of members.
- iv. Conference and banquet facilities to serve no more than 250 people in which a member rents the facility. Events which are accessory uses other than hunting, shooting, archery and fishing, cannot exceed more than 16 per year.
- v. Private lodge facilities of up to 50 units that serve members and guests.
[AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 28, 2006]

Comment [SB78]: Moved from 5.7(a)15

E. Standards for Hunting, Shooting and Fishing Clubs [AMENDED BY ACT OF THE COUNTY COMMISSION ON SEPTEMBER 28, 2006]

1. 75 foot setback for all structures and parking.

2. 150 yard setback for all shooting facilities.

3. Height

a. As is for conversion or reconstruction that does not exceed 135 percent of the original footprint of existing structures

b. 35 feet for new structures

4. Landscaping requirements to meet standard found in this Ordinance with the following exception.

Comment [SB79]: Moved from 5.7(e)

6. Preschools as a permitted use

Natural Vegetation	This occurs when a property is allowed to revert to a wild condition with native plants. No cutting, trimming or cultivation takes place in areas of natural vegetation. [AMENDED BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990]
Neighborhood	An area generally confined to a one-mile radius from the perimeter of a proposed development. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Nonconforming Use	A use of a building or of land lawfully existing at the time this Ordinance becomes effective and which does not conform with the use regulations of the district in which it is located. Any new lines of division within a subdivision of a parcel that is a nonconforming use shall meet the regulations of this Ordinance.
Non-residential	A commercial, industrial, or institutional use. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]
Nursing or Retirement Homes	This term includes rest homes, nursing homes, convalescent homes for children and homes providing chronic and convalescent care.
Open Space	Land within a proposed development site excluding areas devoted to buildings, structures, roadways and parking.
Plat	A scaled, graphic drawing of a land subdivision project prepared according to the provisions of this Ordinance. A plat depicts the design and layout of a project as well as the location of existing and proposed property boundaries and easements. A plat also includes all terms, conditions and performance requirements established prior to the approval of a subdivision.
Preliminary Plat	A professionally prepared drawing of a proposed subdivision which is not a record plat but which contains detailed information concerning the proposed development.
<u>Preschool</u>	<u>A school for children below the age required for entry into kindergarten or the first grade, and that is accredited by the West Virginia Department of Education.</u>
Principal Permitted Use	The primary or predominant use of any site.
Prohibited Use	A use that is not permitted.

7. Bed and Breakfast - exceptions

Section 9.8 Exceptions, as follows:

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE ON JULY 15, 1993 AND SEPTEMBER 13, 1990]

Seasonal use must be approved by the Board of Zoning Appeals pursuant to a public hearing. However, such public hearing need only be advertised for 15 days. ~~Seasonal Uses and Bed and Breakfast establishments (in the Rural Zone) must be approved by the Board of Zoning Appeals pursuant to a public hearing. However, such public hearing need only be advertised for fifteen (15) days. Requests for these exceptions must include all items in Section 12.2 (d).~~ Seasonal uses cannot be approved for longer than one year at a time. [PREVIOUSLY INVALIDATED APRIL 8, 2005 AMENDMENTS REINSTATED BY COURT ORDER ON DECEMBER 3, 2009]

8. Senate Bill 595 Consistency

- A. A zoning certificate and/or conditional use permit shall become void eighteen (18) months after the date of issuance if the construction or use for which the permit was issued has not commenced. A one-time extension of this time frame may be granted by the Board of Zoning Appeals after evaluation of the hardship involved with noncompliance of this regulation. The length of time extended shall be at the discretion of the Board of Zoning Appeals and shall not exceed eighteen (18) months. Pursuant to Chapter 8A of the West Virginia Code as amended, a Zoning Certificate or Conditional Use Permit associated with a subdivision or land development plan - whether recorded or not yet recorded, valid under West Virginia law and outstanding as of January 1, 2010 - shall remain valid until July 1, 2012, provided that the land development plan or plat received at least preliminary approval by the Planning Commission or County Commission by March 1, 2010.

Principal Permitted Uses

Land Use	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Residential Uses							
Child or elderly care facilities with six (6) or less individual	P						
Duplexes (not defined)		P	P		P		
Mobile home parks (defined)		P	P				
Model Homes/Sales Office (not defined)	P	P	P			4.18	
Multi-family dwelling units (Dwelling, Multi-Family)		P	P				
Private riding stables (not defined)	P						
Single family detached dwelling units			P				
Single family dwelling, including mobile homes provided	P				P		
Single family dwellings							
Single-family dwelling unit		P					
AS DEFINED: Dwelling, Single							
AS DEFINED: Dwelling Unit							
Townhouses (Dwelling, Townhouse)		P	P		P		
Two family dwellings							
Two family dwellings provided one unit is owner occupied	P						
AS DEFINED: Dwelling, Two-family							
Home Uses							
Cottage Industries (Cottage Industry)					PC		
Home Businesses as specified in Articles 2 and 4A (not defined)	P	P					
Home Occupations (not defined)					P		
AS DEFINED: Home Occupation, Level 1							
AS DEFINED: Home Occupation, Level 2							
Institutional Uses							
Child care centers (not defined)		P	P		PC		
Day care centers							
Churches and other places of worship		P					
Churches and other places of worship			P				

10. Site Development Standards Table [DRAFT]

Zoning District	Development Type	Minimum Lot Area (MLA) - Area per Dwelling Unit (ADU)	Lot Width	Maximum Building Height*	ISR	Setbacks			Parking, Driveway and Internal Access Drive Setbacks	
						Front Side	Rear Side	Street Side	Front	Side and Rear
Residential Growth	1. Single family detached dwelling	6,000 sq. ft. MLA**		40		25	12	20		
	Public/Central water and sewer	10,000 sq. ft. ADU		40		25	12	20		
	Public/Central water or sewer	20,000 sq. ft. MLA		40		25	12	20		
	No Public/Central water or sewer	40,000. Sq. ft. MLA		40		25	12	20		
	2. Duplex dwelling unit									
	Public/Central water and sewer	3,200 sq. ft. MLA		40		25	15' (exterior only)	20		
	Public/Central water and sewer	7,500 sq. ft. ADU								
	Public/Central water or sewer	10,000 sq. ft.								
	3. Townhouse	1,400 sq. ft. MLA		40		25	12' (exterior only)	20		
	Public/Central water and sewer	3,500 sq. ft. ADU								
	4. Multi-family dwelling	20,000 sq. ft. MLA		40		25	12' (exterior only)	30		
	Public/Central water and sewer	2,000 sq. ft. ADU								
	5. Condominium	the parcel containing the condominium		40		25	12' (exterior only)	30		
		2,000 sq. ft. minimum area per condominium unit								
	6. Single-family dwelling with setbacks not previous stipulated by Planning Commission									
	Over 40,000 square feet --					25'	12'	12'		
	30,000 sq. ft. to 40,000 sq. ft.--					20'	10'	12'		
	Under 30,000 square feet --					20'	8'	12'		
Rural	1. Dwellings	40,000 sq. ft.	100	35		40	15	50		
	2. Single-family dwelling with setback not previous stipulated by Planning Commission									
	Over 2 acres --					40'	15'	50'		
	40,000 sq. ft. to 2 acres --					25'	12'	12'		
	30,000 sq. ft. to 39,999 sq. ft. --					20'	10'	12'		
	under 30,000 sq. ft. --					20'	8'	12'		
	3. Cluster Subdivision									See Residential Growth
	4. Residential use that complies with the Development Review System									See Residential Growth
Residential / Light Industrial / Commercial District										
Village District	Residential uses									See Residential Growth
	Residential uses									See Residential Growth (note: policy interpretation; code says "Section 9.7")

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 Department
DATE: November 9, 2010
RE: Availability of Data Related to Platted Lots vs Unbuilt Lots

At a recent meeting, the Planning Commission requested information on the availability of certain data related to platted lots vs. unbuilt lots. In August 2010, the Planning staff worked with the Tax Assessor's staff and the County GIS staff to do a similar analysis for the Blue Ridge Mountain project. As a result of this effort, it became apparent that there are some issues with our data that makes this type of analysis difficult.

Data regarding lots is available from two sources: data from the Tax Assessor's office and subdivision data from the County GIS office and the Planning Department. Both data sources have shortcomings, as described below.

The Tax Assessor's data is based on tax parcels and may include multiple lots within one tax parcel. It is my understanding that the approval of a final plat, which may create multiple lots, is not used to create new tax parcels until the first outsale occurs. Additionally, some people that may own multiple lots have gone to the Tax Assessor's office to have their lots consolidated for tax purposes only, while they still exist as multiple lots for land use planning purposes.

About 3 years ago, the Planning Department, in conjunction with the GIS staff, initiated research on a subdivision layer to be used by the GIS staff in their mapping efforts. The subdivision data layer has not been checked for accuracy and should be considered draft for all analysis purposes. This data is mapped by major subdivision and may not accurately reflect all minor subdivisions or existing lots that predate our local ordinances. Additionally, the GIS subdivision layer may include recorded, platted lots that are not yet reflected in the Assessor's tax parcel layer, which creates an additional

inconsistency. The data used for the Blue Ridge Mountain analysis included the tax parcel data and the number of platted lots from this planning effort.

Additionally, data regarding whether a lot is occupied by a residence has two sources. The 911 Addressing data available from the County GIS office includes all addressable structures, but may not accurately differentiate between the types of structures addressed. The Tax Assessor’s office also has data that relates to whether property is taxed as having a residence on the tax parcel. While these numbers are close, they are not the same. For the purposes of the Blue Ridge Mountain analysis, the Tax Assessor’s data for houses was used.

The results of the Blue Ridge Mountain analysis are below. This level of data is fairly readily available but any reports using this data would need to have disclaimers as to accuracy. These data issues can be discussed further at the PC meeting.

The State of Development on the Blue Ridge Mountain

There are a total of 15,567 acres of land within the Blue Ridge Mountain area. Out of those total acres, 5,680 acres have been developed, roughly 37% of the area. Of the remaining 9,887 acres, 5,495 acres (roughly 35% of the area) are occupied by Federal, State, County, private easements and educational facilities. This leaves a total of 4,392 acres of undeveloped land, roughly 28% of the area. Of the total platted lots, roughly 1/3 has been developed and of the undeveloped lots there are roughly 4,200 tax parcels that are unimproved. Please note that a tax parcel or platted lot does not indicate the “ability” to build upon the property. Since there is potential for development on the Blue Ridge Mountain, there could be an increase in the load of nitrogen, phosphorous and sedimentation that flows into the Chesapeake Bay from the Potomac River.

Table 2

	<i>North of Route 9</i>	<i>South of Route 9</i>	<i>Total</i>
<i>Tax Parcels</i>	3,005	4,435	7,440
<i>Platted Lots</i>	4,301	6,033	10,334
<i>Houses</i>	1,313	1,878	3,191

Source: Jefferson County Assessor’s Office

Total Tax Parcels	7,440	Total Platted Lots	10,334
Total Houses	<u>- 3,191</u>	Total Houses	<u>- 3,191</u>
Unimproved Parcels	4,249	Undeveloped Lots	7,109

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 Department
DATE: November 9, 2010
RE: Draft Policy: Zoning Map Update Process

1. Background

Jefferson County is currently updating the countywide zoning map utilizing the most current base map data available. This effort is being undertaken by the Jefferson County Geographic Information System (GIS)/Addressing Office, in conjunction with the Planning and Zoning Department and the Assessor's Office. This is the first effort to delineate the current zoning categories and boundaries in a GIS layer.

In an effort to clarify the process for routine updating of base layers and previously approved zoning designations, staff recommends that the County develop and approve a policy for the process of updating the zoning map.

2. Draft Policy

Based on County procedures, the County's use of GIS technology, and state requirements (as noted below), staff recommends the following draft policy:

"The Jefferson County zoning layer is parcel-based, maintained in a Geographic Information System (GIS), and constitutes the County's official zoning map. Within 30 days of final County Commission action on a zoning map amendment, GIS/Addressing staff will update the digital zoning layer and make the new data available online.

On an annual basis, in December, a new zoning map will be printed which includes the most up to date base layer data, all approved zoning designations since the last printed map, and an effective date, certified by the President of the

County Commission, filed with the County Clerk's office, and a copy provided to the Planning Commission. This annual map update shall not require a public hearing and such certification shall occur administratively."

3. West Virginia State Code Requirements

County Commission certification of a zoning map is required by West Virginia State Code, Chapter 8A:

§8A-7-3. Zoning -- Generally.

- (g) The boundaries of each zone and the designated classifications must be shown on a zoning district map. The boundaries may only be changed after appropriate public hearing and zoning district map changes are adopted by the governing body.
- (h) A governing body shall certify the original zoning district map. Subsequent versions of the zoning district map shall be certified and clearly identified with an effective date.
- (i) All certified zoning district maps must be filed with the clerk of the applicable governing body, the applicable planning commission and the office of the clerk of the applicable county commission.

4. Current Zoning Ordinance Requirements

The Jefferson County Zoning Ordinance currently states:

Section 5.3 District Maps

The districts shall be of the size and shape shown on the Jefferson County Zoning Maps and shall hereby be made a part of this ordinance. A copy of the said maps shall be signed by the County Commissioners upon the adoption of these regulations and recorded within the Courthouse.

5. Next Steps

Following Planning Commission comments and legal review, staff proposes presenting a final version of this draft policy as well as the updated zoning map to the County Commission for their approval in early December when the zoning map is ready for certification.

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

DR. JAMES GIBSON and
BARBARA GIBSON
Plaintiffs,

v.

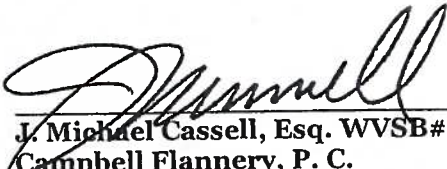
Civil Action No.: 09-C-364

THE JEFFERSON COUNTY
PLANNING COMMISSION,
A Public Body,
Defendant.

NOTICE OF SCHEDULING AND STATUS CONFERENCE

TAKE NOTICE that the Hon. John L. Henning will conduct a Scheduling and Status Conference in the above-captioned case on December 8, 2010 at 9:00 a.m. o'clock or as soon thereafter as this matter may be called at which time you may be present to protect your interest as they may appear.

DR. JAMES GIBSON and
BARBARA GIBSON
By Counsel

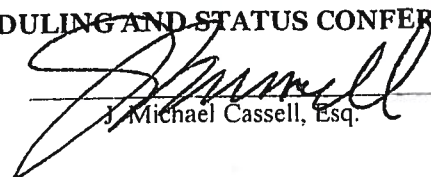


J. Michael Cassell, Esq. WWSB# 670
Campbell Flannery, P. C.
201 N. George Street, 2nd Floor
Charles Town, West Virginia 25414
304-725-5325/telephone
304-724-8009/facsimile

CERTIFICATE OF SERVICE

Type of Service: United States Mail
Date of Service: October 27, 2010
Persons served and address: Steven Groh, Esq.
Assistant Prosecutor
Counsel for the Jefferson County Planning Commission
P. O. Box 729
Charles Town, WV 25414

Item Served: NOTICE OF SCHEDULING AND STATUS CONFERENCE



J. Michael Cassell, Esq.

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

Director's Report
November 9, 2010
Planning Commission meeting

- 1) Activity Report (attached)
- 2) Update on availability of topographic data from the County GIS office

Jefferson County GIS staff did significant work evaluating usefulness of existing slope data for the purpose of producing 2 foot contours required in site plan standards. Source elevation data was determined to be adequate to produce 2 foot contours that meet federal accuracy standards. Source USDA-NRCS LiDAR elevation data is from April 2005 and any land alteration since that date would not be reflected on our digitally produced contours. The usefulness of utilizing the County's data to produce the 2 foot contours for minor site plans vs engineering needs should be included in a policy discussion by Planning Commission and staff. PC should consider this for a possible future workshop agenda item for GIS staff and engineering staff to present and discuss, with possible input from engineering community.

- 3) Overview of 11/3/10 EPA Chesapeake Bay meeting re: WV Water Implementation Plan (WIP) (news article attached)
- 4) Staff Policy regarding Clarification of Definition of a Minor Site Plan (attached)
- 5) Draft Planning Commission Policy on submittal of supporting information for actionable items (attached)
- 6) Report on 10/28/10 CC agenda items:
 - a) Wireless Telecommunications Ordinance Amendment
 - b) Response Letter re: US 340
 - c) Work Plan Quarterly Report
- 7) Upcoming CC agenda items:
 - a) Wireless Telecommunications Ordinance Amendment (date not yet set)
 - b) Zoning Map Update and Zoning Map Policy (tentatively 12/2/10)

- c) Proposal to County Commission to set regular evening meeting dates to accommodate upcoming public hearing requirements for text amendments (tentatively 12/2/10)

8) Reminder of Upcoming Meetings:

- a) National Trust for Historic Preservation,
11/12/10, 7 pm, Galilean Fisherman's Hall
- b) Shepherdstown Planning Commission meeting,
11/15/10, 7:30 pm, location TBD
Discussion regarding Urban Growth Boundary and potential MOU regarding development referrals (Jennie; John Maxey; Tom Trumble; Daniel Hayes)
- c) CANCELLED: Public Hearing on US 340 Federal Lands Rezoning,
11/18/10, 7 pm, County Commission Meeting Room
- d) Joint Meeting of Planning Commission and County Commission regarding Blue Ridge Mountain Communities Watershed planning effort,
12/7/10, 7 pm, Blue Ridge Elementary School

9) Upcoming PC meetings:

- a) 11/23/10

Meeting previously cancelled for Thanksgiving holiday
- b) 12/14/10
 - Barbara Feldman Requested Waivers of various Subdivision standards (continued)
 - Report back on Scott noise agreement and noise regulations
- c) 12/21/10
 - Previously rescheduled from 12/28/10
 - Currently no agenda items
 - Do we have a quorum? Do we want to cancel this meeting?

Christine Chalmers

To: PLANNING COMMISSION
Subject: FW: WEEKLY CALENDAR

MONDAY, NOVEMBER 1, 2010

10:00 am STEVE & JENNILEE / PRE- APPLICATION MEETING WITH ANTONIO COLANDREA
RE: COUNTRY ROADS CONVENIENCE STORE

TUESDAY, NOVEMBER 2, 2010 - ELECTION DAY / OFFICE CLOSED

WEDNESDAY, NOVEMBER 3, 2010

8:00 am – 9:30 pm JENNIE – MONTHLY DEPARTMENT HEAD MEETING @ HUNTER HOUSE
10:00 am STEVE, SETH & JONATHAN – SITE PLAN PPC / CHARLES TOWN RACES & SLOTS
10:30 – NOON JENNIE, STEVE & TODD – MEETING / RE: ROUTINE ANNUAL ZONING MAP UPDATE POLICY
2:30 pm - 5:00 pm JENNIE – “EPA” SPECIAL MEETING / LOCATION: BERKELEY COUNTY “PSSD”

THURSDAY, NOVEMBER 4, 2010

9:00 am - COUNTY COMMISSION MEETING

9:30 am – 10:30 am STAFF MEETING
11:00 am – NOON JENNIE & SETH – WEEKLY PLANNING MEETING
1:30 pm – 2:45 pm JENNIE & STEVE – WEEKLY ZONING MEETING
3:00 pm JENNIE, JONATHAN, TODD & JESSICA – MEETING / “SLOPES & TOPOS”

FRIDAY, NOVEMBER 5, 2010

NOON – 1:30 pm JENNIE, ROGER, STEVE & SETH – MONTHLY BUSINESS LUNCH
2:00 pm JENNIE & JULIET – “IT” ASSESSMENT / MEETING WITH GLOBAL DATA CONSULTANTS

Christine Chalmers

To: PLANNING COMMISSION
Subject: FW: WEEKLY CALENDAR

MONDAY, NOVEMBER 8, 2010

9:30 am JENNIE, SETH & JULIE – DEBRIEFING MEETING WITH TIM BOYDE
RE: 340 REZONING ISSUE
NOON JENNIE & JULIE – “ONE-ON-ONE” MEETING
7:00 pm JENNIE – FARMLAND PRESERVATION BOARD MEETING

TUESDAY, NOVEMBER 9, 2010

9:30 am – 10:30 am STAFF MEETING
11:00 am – 12:15 pm JENNIE & STEVE – WEEKLY ZONING MEETING
12:30 pm – 1:30 pm JENNIE & SETH – WEEKLY PLANNING MEETING
2:00 pm – 4:00 pm JENNIE – US 340 TECHNICAL ADVISORY COMMITTEE MEETING
7:00 pm PLANNING COMMISSION MEETING

WEDNESDAY, NOVEMBER 10, 2010

10:00 am JENNIE & STEVE – MEETING WITH JUDY MOORE /
RE: LOWE’S PRODUCTS MULCHING BUSINESS
NOON JENNIE & CHRISTINE – “ONE-ON-ONE” MEETING
2:00 pm JENNIE, STEVE & SETH – MEETING WITH PAUL RACO / RE: SECTION 5.7

THURSDAY, NOVEMBER 11, 2010 VETERANS DAY / OFFICE CLOSED

FRIDAY, NOVEMBER 12, 2010

NOON JENNIE & SETH – PLANNERS MEETING WITH KATIE SEE & SARAH KLECKNER
7:00 pm – 9:00 pm JENNIE & SETH – EASTERN PANHANDLE WORKSHOP
RE: HISTORIC PRESERVATION LAND USE ISSUES

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Pollution control requirements draw criticism

November 4, 2010 - By John McVey, Journal staff writer

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MARTINSBURG - Jefferson County farmer Cam Tabb disagrees with the way the U.S. Environmental Protection Agency has arrived at how much pollution is generated in the Eastern Panhandle by agriculture operations.

"I have a problem with computer-generated models based on estimates," he told representatives of the EPA Wednesday evening during a public meeting about the Chesapeake Bay Restoration program. "I don't have a problem with actual tests, but I have a problem with models."

About 60 farmers, environmental advocacy group members, water and sewer professionals, local government officials and a few members of the general public listened Wednesday evening at the Comfort Inn on Edwin Miller Boulevard in Martinsburg to presentations by EPA and West Virginia Department of Environmental Protection representatives about the Chesapeake Bay Restoration program's impact on the Eastern Panhandle.

The program would place limits on the amount of nutrients, that is nitrogen and phosphorus, and sediments that can get into the Chesapeake Bay through its tributaries, like the Potomac River.

One of the targets of those limits is agriculture operations, which produce nutrient runoff that is transported via rivers, streams and creeks up stream from the bay.

Limits on the amount of pollution getting into the bay from storm water runoff and waste water treatment plants are the other two main targets of the program.

The Chesapeake Bay watershed includes the eight-county Eastern Panhandle and all or part of Delaware, the District of Columbia, Maryland, New York, Pennsylvania and Virginia. A very small part of Monroe County in southern West Virginia also is part of the Chesapeake Bay watershed area.

The Chesapeake Bay restoration program was initiated through an executive order by President Barack Obama in May 2009 that in effect forced the EPA to develop an enhanced strategy to reduce pollution in the bay by setting very strict limits, or total maximum daily loads, on nutrient and sediment pollution.

Those TMDLs, referred to as a pollution diet, were released in early July and placed limits on nutrient and sediment loads that can be allowed by each state.

According to information provided by the EPA, West Virginia's new limit on nitrogen pollution under the Chesapeake Bay Restoration program is about 4.7 million pounds per year. In 2009, according to EPA information, West Virginia's nitrogen load was 5.75 million pounds per year.

For phosphorus, West Virginia's new TMDL has been set at 740,000 pounds per year. The 2009 level was 830,000 pounds per year.

West Virginia's limit for sediment under the new TMDL is 264.8 million pounds per year. The 2009 level was 375.1 million pounds for year.

Agriculture operations are called non-point discharge sources, meaning pollution from most farms comes through runoff of fertilizers, manure or other byproducts of farming into waterways, making the amount of nutrient pollution more difficult to measure.

"I have yet to see a pipe run from a farm into a creek," said Tabb,

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whose family has been farming in Jefferson County for several generations. "These benchmarks are unreasonably high. How are we going to meet these unreasonable increases? We're already doing a good job."

On the other hand, wastewater treatment plant discharges are easy to measure because sewer treatment facilities, in effect, do have a pipe and therefore are easier to put pressure on to comply with the new, more stringent requirements to lower nutrients getting into the bay's tributaries.

"We can't meet those requirements," Jane Arnett, Charles Town's utilities manager, explained after the meeting, adding that the city's treatment plant would have to be upgraded to achieve the strict levels placed on it by the EPA.

"We have a proposal for a 20-year upgrade that would be a \$20 million to \$30 million project," she said. "(The EPA requirements) would significantly increase the costs."

Officials with Martinsburg have said it could cost that city as much as \$45 million to upgrade its sewer treatment plant to meet the new nutrient control requirements, and officials with the Berkeley County Public Service Sewer District have said it would cost that PSD as much as \$40 million to meet the new requirements.

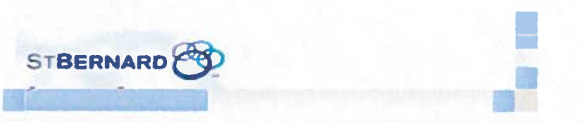
It would cost an estimated \$180 million to \$240 million to bring all the wastewater treatment plants in the greater, eight-county Panhandle into compliance with the new TMDLs, officials said.

However, Arnett said discussions between all the vested parties are moving in a positive direction.

"We're optimistic things can be worked out," she said.

- Staff writer John McVey can be reached at 304-263-3381, ext. 128, or jmcvey@journal-news.net

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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 Department
DATE: November 4, 2010
RE: Clarification of Definition of a Minor Site Plan

Regarding the definition of a Minor Site Plan in Sec. 20.203, Minor Site Development, staff has determined that it is not the intent of the Subdivision and Land Development Regulations to include the square footage of existing agricultural structures. This policy will apply to agricultural structures for which no Jefferson County building inspection is required, that are existing as of the date of the adoption of the amended Subdivision and Land Development Regulations.

The definition of a Minor Site Plan in Sec. 20.203 includes the following:

“Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet gross floor area (GFA) on any site . . .”

The effect of this determination is that Sec. 20.203 will be interpreted as excluding the square footage of agricultural structures, existing as of August 19, 2010, that do not require an building inspection by Jefferson County.

JEFFERSON COUNTY PLANNING COMMISSION

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

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Fax: (304) 728-8126

MEMO

TO: Planning & Zoning Staff
FROM: John Maxey, Planning Commission President
DATE: November 9, 2010
RE: Planning Commission Policy – Submittal of Supporting Information for Actionable Items

Any applicant who wishes to submit an item to be considered by the Planning Commission must submit all supporting information to Staff two weeks prior to the Planning Commission meeting. The late submittal of supporting information could result in the discussion of the item being tabled until the next regularly scheduled Planning Commission meeting. Additionally, the basis of the Planning Commission's decision will be upon the testimony heard at the public hearing and the supporting information submitted before the deadline.

Approved by vote _____ For, _____ Against on November 9, 2010.

Effective Date: November 9, 2010

X

John Maxey
Planning Commission President

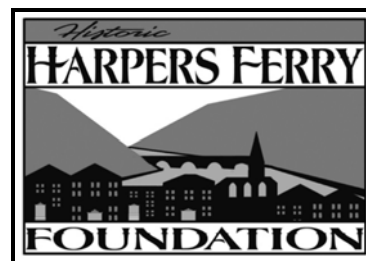
Eastern Panhandle Workshop on Historic Preservation and Land-Use Issues

A presentation by the National Trust for Historic Preservation



Friday November 12, 2010
7:00 to 9:00 p.m.

Galilean Fisherman's Hall
321 South West Street
Charles Town, West Virginia



The National Trust for Historic Preservation is excited about the opportunity to deliver educational programming to decision-makers and key preservation leaders working with historic preservation and land-use issues in West Virginia's Eastern Panhandle. This 2-hour educational program has been developed by the National Trust in cooperation with Jefferson, Berkeley, and Morgan counties to help strengthen local government and community-level efforts to protect and preserve historic places in the Eastern Panhandle. The event is being sponsored by the Harpers Ferry Historic Town Foundation.

Audience: The program is being made available to commission members, council members, planning staff, and key preservation leaders in Jefferson, Berkeley, and Morgan counties.

Content: Staff from the National Trust for Historic Preservation will present a concise overview of historic preservation protections and design review processes relevant to the participating attendees. This is short 2-hour program, and hence, only a brief overview can be provided. However, based on feedback prior to the workshop from potential participants on issues that matter to them, the National Trust for Historic Preservation staff will refine the content to reflect participants concerns. Specific issues may include:

1. Community benefits of historic preservation review processes
2. Maintaining and strengthening historic preservation ordinances and commissions
3. Partnership of preservation advocacy groups and historic commissions to save historic places

Format: The program will combine an informational presentation and a dynamic facilitated exchange among the participants and with the presenters. Information about additional resources will be provided for those who want to study further.

Logistics: The Harpers Ferry Historic Town Foundation is sponsoring the event and recruiting participants. The African American Community Association of Jefferson County is graciously allowing the recently restored Galilean Fisherman's Hall (c. 1885) in Charles Town to be used for this event. The program will be made available to participants at no cost, and drinks and snacks will be provided. The Fisherman's Hall is handicapped accessible.

Reservations: Space in the Fisherman's Hall is limited (seats 50-70). If you would like to attend the workshop or you would like more information, please respond by Wednesday, October 13, 2010, to Don Burgess (burgessdr@aol.com), chair of the Harpers Ferry Historic Town Foundation's Revitalization Committee (<http://historicharpersferry.org>).

Volunteer Registration Form

Department / Agency: _____

Department Contact: _____

Phone: _____

Name: _____

Date: _____

Address: _____

Home Phone: _____

Cell Phone: _____

E-mail Address: _____

Proposed

Duties: _____

Emergency Contact Information

Contact Name: _____ Phone: _____ Cell Phone: _____

Relationship: _____ Email Address: _____

Medical History

Physician: _____ Address: _____ Phone: _____

Medicines

required: _____

Limitations of

Duties: _____

Volunteer	Date	Witness	Date	County Official	Date
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