



Jefferson County
Board of Zoning Appeals
Thursday, January 22, 2014, 2:00 p.m.

Members
Tyler Quynn, Chair
Jeffrey Bannon, Vice Chair
Christy Huddle
Matt Knott
Ted Schiltz

The Jefferson County Board of Zoning Appeals will meet in the Charles Town Library Conference Room located at 200 East Washington Street, at the side entrance on Samuel Street, in Charles Town, West Virginia. Unless otherwise noted, all requests are pursuant to the Zoning & Land Development Ordinance.

1. Election of Officers.
2. Approval of the minutes from the December 11, 2014 meeting.
3. Swearing in of members of the public intending to provide testimony.
4. Acceptance of the Compatibility Assessment Meeting Staff Report for the Dollar General Conditional Use Permit Application (CP14-02). The meeting was held on January 9, 2015 at 2:00 p.m., which resulted in the resolution of all issues raised. Therefore, per Section 7.6E, no additional public hearing is required. Details regarding the CUP application are listed in Item #5.
5. Discussion and action on the Dollar General Conditional Use Permit Application (CP14-02). The applicant is proposing a 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles. This item is not a public hearing. Property owner(s) Wilbur A. Alger Jr. and Middle of the Way Real Estate, LTD. Location: Intersection of Middleway Pike (Route 51) and Leetown Road (Route 1). District: 07; Map: 19; Parcels: 16.6 & 16.7.
6. Director's Report.
 - a) Monthly Activity Report
7. Legal Update.
 - a) All Good Music Festival Litigation
8. Signing of written decisions from prior Board of Zoning Appeals meetings.
 - a) Appeal of an Administrative Decision to deny Zoning Certificate #ZC14-39. The Appellant argues the Acting Zoning Administrator is "not allowing dual use [of] equipment on my land". Location: 3 Sunstead Ln, Charles Town, WV. District: 07; Map: 16; Parcel: 2.12; Size: 10.05 ac; Zone: Rural; File: AP14-02.

Minutes
Jefferson County Board of Zoning Appeals
Thursday, December 11, 2014

1 The Jefferson County Board of Zoning Appeals met on Thursday, December 11, 2014 at 2:00 p.m.
2 The meeting was held at 200 East Washington Street, Charles Town, West Virginia, in the
3 Conference Room of the Old Charles Town Library. Unless otherwise noted, all requests are
4 pursuant to the Jefferson County Zoning and Land Development Ordinance.

5
6 Board members present: Tyler Quynn, Chair, Jeffrey Bannon, Vice Chair; Christy Huddle,
7 Ted Schiltz, Matt Knott. Staff present: Jennifer M. Brockman, Acting Zoning Administrator/
8 Director of Planning and Zoning, Steve Groh, Assistant Prosecuting Attorney, Jennilee Hartman,
9 Zoning Clerk.

10

11 Mr. Knott motioned to commence the meeting at 2:00 p.m. Mr. Quynn called for a vote, which
12 carried unanimously.

13

14 Mr. Quynn explained the meeting proceedings.

15

16 1. Approval of the minutes from the November 13, 2014 meeting.

17

18 The following edits were suggested:

19

20 a) Page 3, line 5, replace ~~each of~~ with none and delete ~~not~~ before *landlocked*.

21

22 Ms. Huddle moved to approve the November 13, 2014 minutes with corrections. Mr. Quynn
23 called for a vote to approve the minutes as corrected, which carried unanimously.

24

25 2. Adoption of "Procedures for Small Boards" from Robert's Rules of Order, Newly Revised, 1970.
26 Mr. Quynn stated the Board would consider Item #2 after Item#6.

27

28 3. Swearing in of members of the public intending to provide testimony. Ms. Hartman swore in
29 the individuals who indicated they would be giving testimony.

30

31 4. Variance request by Good Shepherd Interfaith Volunteer Caregivers, owner, from Section 4.10A
32 to waive the requirement of a site plan due to off street parking standards. Location:
33 7311 Martinsburg Pk, Shepherdstown, WV. District: 09; Map 7A; Parcel: 51.3; Size: .0234 ac;
34 Zone: Residential Growth; File: ZV14-20.

35

36 Ms. Brockman presented her staff report to the Board. Pattie Wilmoth and Paula Marrone-Reese,
37 representatives, explained the nature of the request to the Board and answered various questions
38 from the Members. Mr. Quynn opened the public hearing. There was no public comment.
39 Mr. Quynn closed the public hearing. The Board determined a deliberative session was
40 unnecessary. Ms. Huddle moved to approve the aforementioned variance request with the
41 following conditions:

42 a) This variance shall apply to the use of this property for a non-profit volunteer
43 organization to operate a non-medical care giving business.

44 b) Should the property hook up to sewer lines in the future, alleviating the need for the
45 septic field, the County will reevaluate the need for parking at that time.

46

1 Mr. Quynn called for a vote, which carried unanimously.

2

3 5. Variance request by Pastor Derick Amsler, applicant, on behalf of Crossroads Church, owner,
4 from Section 4.10A to waive the requirement of a site plan to allow the expansion of additional
5 gravel parking lot. Location: 7595 Martinsburg Pk, Shepherdstown, WV. District: 09; Map: 7B;
6 Parcels: 1; Size: 2.69 ac; Zone: Residential Growth; File: ZV14-21.

7

8 Ms. Brockman stated for the record that she was a member of the church applying for variance.
9 Ms. Brockman presented her staff report to the Board. Mike Shepp, Consultant with Allegheny
10 Surveys, explained the nature of the request to the Board and answered various questions from
11 the Members. Mr. Quynn opened the public hearing. There was no public comment. Mr. Quynn
12 closed the public hearing. The Board determined a deliberative session was not necessary.
13 Mr. Knott moved to approve the aforementioned variance request with the following conditions:

- 14 a) The applicant shall work with the Board of Health to ascertain the exact location of the
15 septic field prior to any construction of expanded parking in the rear of the church.
16 b) The gravel parking lot must meet the current parking setback requirements at the time of
17 construction.
18 c) The applicant shall submit an Improvement Location Permit, accompanied by a sketch
19 plan, to the Engineering Department. The sketch shall include the dimensions and
20 location of the proposed gravel parking area, the required parking setbacks and the
21 existing septic field.

22

23 6. Appeal of an Administrative Decision to deny Zoning Certificate #ZC14-39. The Appellant
24 argues the Acting Zoning Administrator is “not allowing dual use [of] equipment on my land”.
25 Location: 3 Sunstead Ln, Charles Town, WV. District: 07; Map: 16; Parcel: 2.12; Size: 10.05 ac;
26 Zone: Rural; File: AP14-02.

27

28 Mr. Quynn requested a summary of the appeal. Ms. Brockman summarized the events leading
29 up to the appeal, including the complaints from the neighbors, the code enforcement process and
30 the ultimate determination made by the Acting Zoning Administrator that the land use activity
31 occurring on site was a Contractor’s Storage Yard, as defined by the Zoning Ordinance, which is
32 not a permitted use the Rural Zoning District.

33

34 Ben Thompson, Appellant and property owner, and Thomas Ashley, business owner, were
35 present to address the Board. Mr. Thompson argued that Section 4.6 of the Zoning Ordinance
36 states that nothing could prohibit agricultural uses. Mr. Thompson explained that the equipment
37 stored on his property was used for his personal farm operation as well as Mr. Ashley’s personal
38 business. Mr. Thompson explained to the Board that the dump trucks were used to assist in the
39 construction of a farm building, which he obtained a permit for. Mr. Thompson stated that he
40 operated a three (3) hive bee farm. Mr. Thompson expressed his concern regarding the County’s
41 interest in the types of vehicles he used in his personal farm operation. Mr. Ashley provided an
42 accounting of the vehicles/equipment that were owned by him, but stored on Mr. Thompson’s
43 property. Mr. Thompson reiterated that all the equipment listed by Mr. Ashley had been used in
44 one way or another in his farming operation. Mr. Quynn called for public comment.

- 1
2 Ms. Mary Edgar read a letter from Frances Scott into the record, which opposed the appeal.
3 Ms. Lorrain Dillman, Mr. Robert Dillman, Mr. Charles Edgar, Aron Dailey, neighbors of the
4 Appellant, spoke in opposition to the appeal citing traffic and safety concerns on their privately
5 maintained subdivision road.
6
7 Mr. Thompson responded in rebuttal by reiterating Section 4.6's objective, which states that
8 nothing can prohibit agricultural uses from occurring. Mr. Thompson addressed the public's
9 concerns explaining that only Mr. Ashley held a Commercial Driver's License (CDL);
10 therefore, the trips per day utilizing the heavy equipment was minimal. Mr. Thompson
11 requested that if the Board were to deny the appeal that they provide a detailed description of
12 the activity permitted on site so that he may be in compliance.
13
14 Mr. Bannon moved to go into deliberative session at 3:32 p.m. Mr. Quynn called for a vote,
15 which carried unanimously. Ms. Huddle moved to come out of deliberative session at 4:02 p.m.
16 called for a vote, which carried unanimously.
17
18 Ms. Huddle moved to deny the appeal of the administrative decision, which was to not allow
19 dual use of equipment on land and to not allow a contractor's storage yard in the Rural zone at 3
20 Sunstead Ln, Charles Town, WV as the Appellant did not provide adequate testimony to
21 outweigh the administrative decision. Mr. Quynn called for a vote, which carried unanimously.
22
23 7. Director's Report. Monthly Activity Report (in the packet). Ms. Brockman updated the Board
24 on the open Zoning Administrator's position, the status of the Comprehensive Plan and the
25 mass events text amendment.
26
27 2. Adoption of "Procedures for Small Boards" from Robert's Rules of Order, Newly Revised, 1970.
28 Mr. Quynn stated that the Board believed their current Rules of Procedure governed their
29 meeting process and that adoption of the "Procedures for Small Boards" was unnecessary.
30
31 8. Legal Update. No discussion took place.
32 a) All Good Music Festival Litigation
33
34 9. Signing of written decisions from prior Board of Zoning Appeals meetings. None.
35
36 Ms. Huddle stated that she would be submitting a letter to the County Commission informing
37 them that she would be willing to stay on the Board. Ms. Huddle was thanked for her dedication
38 to the Board.
39
40 As there were no objections, Mr. Quynn adjourned the meeting at 4:11 p.m.
41
42 An audio transcript of this meeting can be found at the Department of Zoning and on the
43 Department's website at www.jeffersoncountywv.org. These minutes were prepared by
44 Jennilee Hartman, Zoning Clerk.

JEFFERSON COUNTY, WEST VIRGINIA
DEPARTMENTS OF PLANNING AND ZONING

COMPATIBILITY ASSESSMENT MEETING STAFF REPORT
DOLLAR GENERAL, FILE #CP14-02

Project Name: Dollar General
Business Developer: Cross Development, LLC
Mailing Address: 17430 Campbell Road, Ste. 225, Dallas, TX 75252
Phone Number: 765-215-1444
Property Owner: Wilbur A. Alger Jr. (parcel 16.6)
Middle of the Way Real Estate, LTD (parcel 16.7)
Property Address: Intersection of Middleway pike (Route 51) and Leetown Road (Route 1) in
Kearneysville, West Virginia 25430
Tax Reference: District: Middleway (07); Map: 19; Parcels: 16.6 and 16.7
Deed Reference: Deed Book: 889; Page: 315 (16.6);
Deed Book: 788; Page: 523 (16.7);
Zoning District: Rural
Parcel Size: 2 acres (combined)

A Compatibility Assessment Meeting for the proposed Conditional Use Permit for Dollar General was held on January 9, 2015, at 2:00 p.m. in the Old Charles Town Library meeting room located at 200 East Washington Street in Charles Town, West Virginia. Jennifer Brockman, Acting Zoning Administrator and Director of Planning and Zoning; Josh Allen, Cross Development, LLC, Developer; and, Jennilee Hartman, Zoning Clerk were in attendance.

The following use was proposed by the applicant (details may be found in PC File #CP14-02):

The proposal consists of a 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles.

Ms. Brockman opened the public hearing. Members of the public in attendance offered testimony.

Statements made by the applicant at the CAM which did not generate comment:


1. Hours shall be between 8 am and 9 pm
2. Generally 5-6 employees, 3 per shift
3. 9,100 square foot building
4. 40 parking spaces
5. Setbacks based on Middleway Village approved 10/11/77
6. No access proposed to Leetown Road
7. Variances may be required for spacing of signs between the proposed Dollar General sign and Images Nightclub sign; the proposed Dollar General sign and the Middleway Market sign; and other business signs in the area
8. An administrative waiver allowing an easement in lieu of the sidewalks along the road frontages may be requested

The following is a list of resolved conditions agreed to by the public and Developer:

#	Issue	Citizen Comment	Applicant Response/ Agreed-Upon Condition	Staff Comment
1)	Stormwater Management	After improvements occurred to the (adjacent) Images site in 1991, properties to the west have experienced significant stormwater backup on their property.	Applicant will be required to meet all County stormwater standards which will not permit the rate of runoff to increase.	Resolved
2)	Traffic: Speed Amount Safety Turn Lane	<p>Concern was expressed about safety of this area of Middleway Pike and Leetown Road due to the amount and speed of traffic and the lack of a turn lane and a traffic signal at the intersection due to amount.</p> <p>Concern was expressed that the impact of the proposed WV 51 bypass around Inwood and the 4-laning of WV 51 toward the Jefferson County line would result in increased speeding in this area and therefore a traffic signal is necessary.</p>	The WV DOH controls all improvements within DOH right-of-way. DOH has recently completed a traffic study for this area and have determined that neither a turn land or light is warranted.	Resolved
3)	Lighting	Concern was expressed about proposed lighting at the eastern end of the proposed building, which could impact the houses across Leetown Road	<p>The applicant stated that they would prepare a photometric drawing as a part of their site plan and agreed that lighting related to the development of this site for Dollar General would include specifications for full cut-off lighting. The applicant further clarified that the exterior parking lot lights are turned off one hour after closing (approx.. 10:00 pm); however, the security lights surrounding the building would remain on.</p> <p>Additionally, the placement of street trees would take in to consideration the possibility of screening any lighting.</p>	Resolved

#	Issue	Citizen Comment	Applicant Response/ Agreed-Upon Condition	Staff Comment
4)	Water and Sewer	<p>Questions were raised about whether public water and sewer was proposed or imminent.</p> <p>Additional concerns were raised about impacts to existing wells during well construction.</p> <p>It was pointed out that the well on the Images nightclub property may be close to the western property line within 100 feet of the proposed septic system.</p>	<p>There are currently no plans by any private or public entity to install public water and sewer in this vicinity. The proposed development will be utilizing on-site well and septic.</p> <p>The applicant indicated that if their well construction impacted neighboring wells in any way, they would work with the neighbors to mitigate the issue.</p> <p>The applicant is obligated to meet the Board of Health requirements regarding the spacing between all wells and their septic system prior to Site Plan approval.</p>	Resolved
5)	Historic Battlefield	<p>Comment was made by a representative of the Middleway Conservancy District stating that this property was on the edge of the Battle of Smithfield Crossing battlefield, requesting that an archaeological survey be conducted in conjunction with any soil disturbance on site prior to construction.</p>	<p>The applicant asked for more information about the battlefield and what is involved in archaeological mapping prior to construction; discussion regarding options of using Shepherd students for a “salvage assessment” prior to soil disturbance occurred and the applicant agreed to pursue this possibility.</p>	Resolved
6)	Dry Hydrant	<p>Request that the applicant consider installing a dry hydrant on-site to provide better fire protection opportunities for this development and the neighborhood. Suggested working with Fire Company #6, which serves this area, to determine design requirements.</p>	<p>The applicant indicated that they had contacted the local fire department who indicated that the state fire marshal would have final review from a fire perspective. The fire marshal has indicated that sprinklers will not be required. Applicant indicated a willingness to investigate the option of installing a dry hydrant on site.</p>	Resolved

Ms. Brockman closed the public hearing. As there were no unresolved issues the Conditional Use Permit for Dollar General will be placed on January 22, 2015 Board of Zoning Appeal's meeting for action.



Jennifer M. Brockman, AICP
Acting Zoning Administrator
Director of Planning and Zoning

January 16, 2015
Date

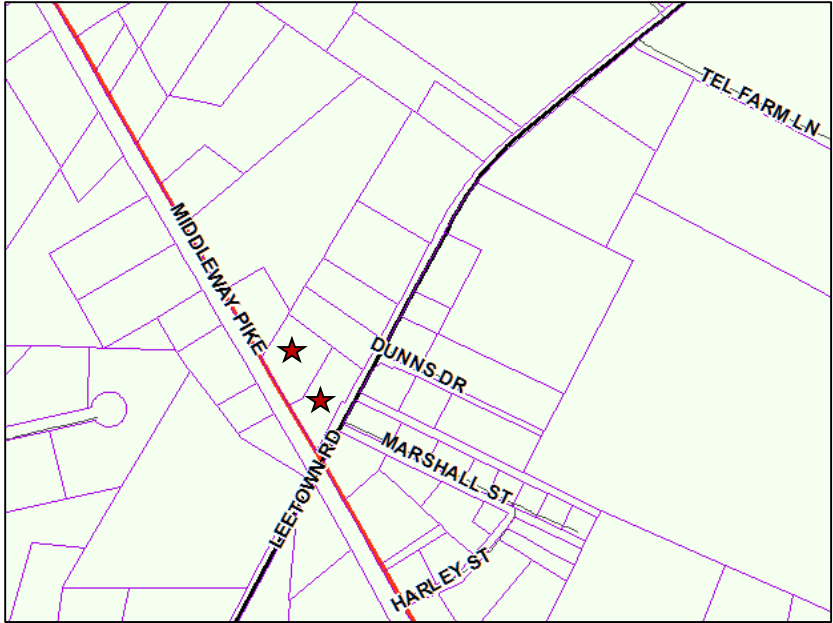


Departments of Planning and Zoning Seal

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 January 22, 2015

Dollar General Conditional Use Permit (#CP14-02)

Item #5 Discussion and action on the Dollar General Conditional Use Permit Application (CP14-02). The applicant is proposing a 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles. This item is not a public hearing.

APPLICANT:	Josh Allen, Cross Development, LLC
OWNER :	Wilbur A. Alger Jr. Middle of the Way Real Estate, LTD
DEVELOPER:	Kelly Sellars, K.B. Sellars Engineering
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	The corner of Leetown Road (Route 1) and Middleway Pike (Route 51), Kearneysville, WV
LEGAL DESCRIPTION & ZONING DISTRICT:	District: Middleway; Map: 19A; Parcels: 16.6 & 16.7; Size: 2 ac; Zoning Map Designation: Rural 
SURROUNDING PROPERTIES:	Zoning Map Designation: North: R South: R East: R West: R
APPROVED ACTIVITY:	Residential/Agricultural
PRIOR CASES: PC File 77-06	10/11/77: PC approved final plat for Middleway Village *See below for restrictions/conditions of approval.
VARIANCES:	N/A

Staff Report
Jefferson County Board of Zoning Appeals Meeting
January 22, 2015

Dollar General Conditional Use Permit (#CP14-02)

RELEVANT INFORMATION:

The proposal consists of a 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles. As the proposal spans two parcels (16.6 and 16.7), the Applicant will be required to merge said parcels.

A Compatibility Assessment Meeting was held on January 9, 2015 at 2:00 p.m. in the meeting room of the Old Charles Town Library located at 200 E. Washington St. in Charles Town, WV. Ms. Brockman, Acting Zoning Administrator/Director of Planning and Zoning and Ms. Hartman, Zoning Clerk, attended. Members of the public expressed concerns regarding the proposal all of which are considered “resolved” (see attached report).

1. Presentation of the Proposed Land Use

Description of Use

The applicant’s proposal consists of a 9,100 square foot retail store, to include public restrooms, merchandise storage, storefront and pole signage and an asphalt parking lot that will accommodate the required 40 parking spaces, plus drive aisles. A 10,000 square foot septic reserve is proposed to the northwest of the building site. The septic reserve area and well location must be approved by the Health Department prior to site plan approval.

Employees and Hours of Operation

While the CUP application does not address employees and hours of operation, the Applicant stated at the Compatibility Assessment Meeting that the store would employ approximately five (5) people, averaging 3 people per shift. The Applicant further stated that the typical hours of operation for a Dollar General were Monday through Sunday, 8:00 a.m. to 9:00 p.m.

Parking and Access

The parking summary provided on the sketch plan states that of the 9,100 square foot gross floor area, 7,310 square feet would be reserved for the retail operations and the remaining 1,790 square feet would be for storage/warehousing. Article 11 of the Zoning Ordinance requires 5.5 spaces/1000 square feet for a Shopping Center with retail floor space exceeding 2,000 square feet. The 7,310 square feet was utilized for the parking calculation. The proposal includes 38 paved regular parking spaces and 2 paved handicap parking spaces to meet the required 40 parking space.

The access to the property is proposed to be one ingress and egress from Middleway Pike (Route 51). The parking and drive aisle setbacks will be delineated on the required site plan. Appropriate traffic markings and signage will be clearly posted on site following construction. The Applicant stated at the CAM that the WV Department of Highways would not be requiring a turn lane or the installation of traffic lights at the intersection of Middleway Pike (Route 51) and Leetown Road (Route 1). Staff offered at the CAM to follow up with DOH regarding possible existing culvert and traffic safety issues. A highway entrance permit must be approved by the WV Department of Highways prior to site plan approval.

It should be noted that the Jefferson County Subdivision and Land Development Regulations require that non-residential developments shall have sidewalks. Appendix B, Section 9.6 further provides that, on a case by case basis, the Planning and Zoning Staff may allow a 10 foot easement(s) in-lieu of installation of a sidewalk, upon application for an administrative waiver from the applicant.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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Dollar General Conditional Use Permit (#CP14-02)

Water and Sewer

The proposed development will be served by a private well and on-site septic system. The size and separation requirements for these systems result in the need for a lot approximately 2 acres in size. At the Compatibility Assessment Meeting, a neighbor indicated that the well serving the Images Nightclub was near the western property line that this development is proposed to occur on. Staff research on-line and in the field has indicated that the well may, in fact, be on the site that Dollar General is proposing to develop. The actual location will require a survey to determine. One of the issues that the well location creates is its proximity to the proposed septic system for the proposed Dollar General. Septic systems require a 100 foot separation from any well. Research into this issue may result in a significant redesign of the site, which may impact conditions placed on the CUP, if approved. It should also be noted that there is significant rock on the surface of the Dollar General site that may require blasting for development to occur on the site.



Signage & Lighting

The sketch plan depicts a proposed sign to be located at the intersection of Middleway Pike (Route 51) and Leetown Road (Route 1). The Applicant further indicated that the building would include signage with colors consistent with the retail store brand.

Section 10.4E of the Zoning Ordinance states,

“All signs accessory to land use that must be evaluated by the Development Review System (DRS) shall be proposed within the DRS application and assessed at the Compatibility Assessment Meeting. Such signs shall be maintained at least one thousand (1,000) feet between signs. Consideration of the placement of such signs with less than one thousand (1,000) foot intervals shall be determined by the Commercial or Residential Uses adjacent to the subject site. Commercial uses adjacent to the subject site may allow spacing intervals of three hundred (300) feet. The Planning Commission shall make this determination if the location cannot be agreed upon at the Compatibility Assessment Meeting.”^{2, 17, 21, 23}

Staff Report
Jefferson County Board of Zoning Appeals Meeting
January 22, 2015

Dollar General Conditional Use Permit (#CP14-02)

The proposed sign must be at least 300' from the Images Nightclub and 1000' from the Middleway Market sign. The proposed location of the 15' pole sign does not appear to meet either of the required spacing intervals for DRS associated signs; therefore, a variance will be required.



Approximate
location of
existing signage

Imagery ©2015 Google Map data ©2015 Google

2. Staff Comments

Land Evaluation and Soils Assessment (LESA)

Due to the Rural zoning designation of the subject parcel, its location on a primary road (as defined in the 2004 Comprehensive Plan), and the proposed commercial use, Section 6.5E permitted the Applicant to 'advance directly to the Compatibility Meeting' without processing through the LESA point process.

Section 6.5E of the Zoning Ordinance states,

“Any land in the Rural District that is located on a primary or secondary road, as defined in the Comprehensive Plan, shall not have to process through the LESA points process for a commercial or industrial project and shall be advanced directly to the Compatibility Assessment Meeting.”^{17, 21}

Staff Report
Jefferson County Board of Zoning Appeals Meeting
January 22, 2015
Dollar General Conditional Use Permit (#CP14-02)

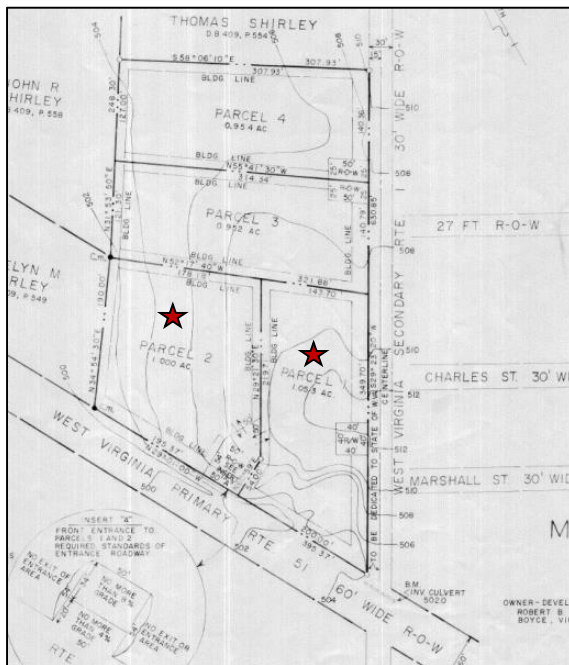
Location

This site is adjacent to or in close proximity to the following nonresidential uses.

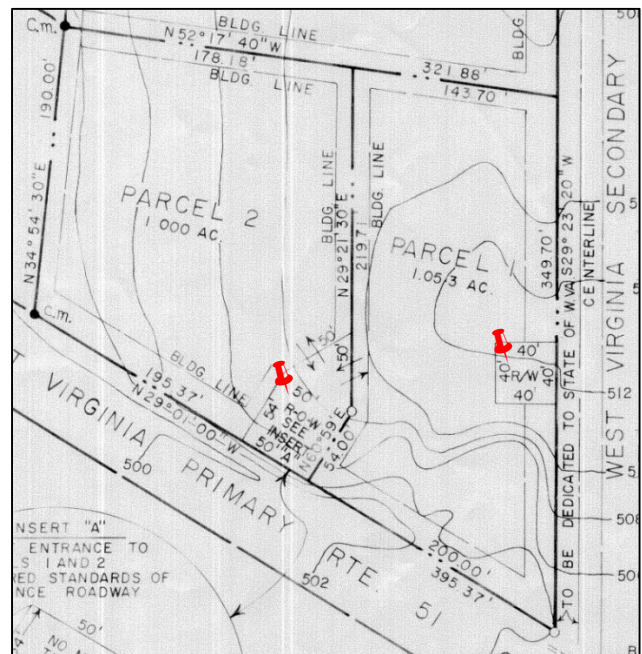
- Hardings Service Station (diagonally across the street)
- Images (immediately adjacent)
- Middleway Market (less than 0.1 miles)
- Roy’s Glass Service (.2 miles)
- Tri-State Auction (.3 miles)
- Liskey Trucking (.3 miles)

History

10/11/1977: The Planning Commission approved the Middleway Village Final Plat, which was recorded in Plat Book 4 at page 72. The proposal is located on Lots 1 and 2 of said plat.



Middleway Village Final Plat



Middleway Village Final Plat (subject parcels)

Conditions/Restrictions on the Property

The Middleway Village (#77-06) final plat listed the following Restrictions:

1. “Entrance and exit to all parcels of Middleway Village shall be by the prescribed “Rights-of-Way” as indicated on this plat.”
2. “Any commercial or multi-family housing shall be required to provide asphalt areas for parking with one standard parking space per 100 sq. ft. of commercial floor space for commercial property and two standard parking spaces for each apartment unit for multi-family housing. Additionally, parking space shall be lined and have parking blocks.”
3. “Commercial signs which are not affixed to commercial buildings, will be restricted to no more than 100 square feet of area per parcel.”
4. “Building lines, as indicated on this plat, will restrict the use of the land within that area from any use, other than utility lines and service of those utility lines. No signs shall be permitted within the building line areas except as entrance and exit signs.”
5. “No out buildings shall be erected on these parcels, except for garages for residential use.”

Staff Report
Jefferson County Board of Zoning Appeals Meeting
January 22, 2015

Dollar General Conditional Use Permit (#CP14-02)

Generally these “restrictions” would be treated as covenants that are not enforced by the County. The applicant will be required to comply with the Jefferson County Zoning and Land Development Ordinance’s parking and signage requirements. The setbacks found on this previously recorded plat will, however, be honored per Section 9.7 below.

Section 9.7 of the Zoning Ordinance states,

“For all lots that were approved with setbacks by the Planning Commission as part of the subdivision process prior to September 1, 1989, the setbacks and sizes shall be established as part of that process.”

- 1 The two previously approved access points labeled as “right-of-ways” and shown on the Middleway Village Final Plat shall be required to be vacated as part of the Site Plan approval process.

3. Public Testimony

There were members of the public in attendance at the January 9, 2015 Compatibility Assessment Meeting (CAM) to offer testimony. The attached Staff Report addresses the concerns that were raised by the public, and includes the Applicant’s proposed resolution to each item. These proposed resolutions are to be considered Conditions of Approval should the CUP be granted.

Section 7.6E of the Zoning Ordinance states,

“If all issues raised at the Compatibility Assessment Meeting were resolved at that meeting, no public hearing shall be required. At the next Board of Zoning Appeals meeting, the Board shall take action as described in Section 7.6F.^{2, 17, 21, 23}”

As there were no unresolved issues, the Dollar General CUP was scheduled to be heard by the Board at their next regularly scheduled meeting (January 22, 2015) without further public notice.

4. Outcome

The meeting resulted in no unresolved issues; however, conditions of approval were agreed upon by members of the public and the Applicant and should be made a part of the CUP if it is approved.

Section 7.6F of the Ordinance states,

“The Board of Zoning Appeals shall issue, issue with conditions, or deny the conditional use permit. The standards governing the issuance of the Conditional Use Permits shall be: successful LESA Point application, Board of Zoning Appeals resolution of unresolved issues; and, evidence offered by testimony and findings by the Board of Zoning Appeals that the proposed development is compatible with the neighborhood where it is proposed.^{2, 17, 21, 23}”

5. Site Plan

If the CUP is approved, a Site Plan will be the required next step, which will be required to address the design and stormwater management concerns of the community. As a part of the Site Plan approval process, a final plat will need to be approved and recorded which merges the two parcels and vacates the previously recorded access points; one or more variances will be required related to the sign location; and sidewalks will be required unless an administrative waiver is approved.



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor, P.O. Box 338

Charles Town, WV 25414

File Name: CP14-02
Staff Initials: CTC
Fees Paid: \$350.00

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

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

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

Application for a Conditional Use Permit

Name of Project:

Dollar General - Middleway WV

Property Owner Information

Name: Wilbur A. Alger Jr. & Middle of the Way Real Estate, LTD
Mailing Address: PO Box 445
City: Bunker Hill State: WV Zip Code: 25413
Phone Number: 304-264-6633 Email: N/A

Applicant Contact Information

Name: Josh Allen - Cross Development, LLC
Mailing Address: 17430 Campbell Rd, Suite 225
City: Dallas State: TX Zip Code: 75252
Phone Number: 765-215-1444 Email: josh@crossdevelopment.net

Registered Engineer(s) or Surveyor(s) Information

Name: Kelly Sellars - K.B. Sellars Engineering, LLC
Mailing Address: PO Box 161441
City: Boiling Springs State: SC Zip Code: 29316
Phone Number: 864-699-9512 Email: kelly@kbsellars.com

Physical Property Details

Physical Address: Northeast Corner of Middleway Pike and Leetown Rd.
City: Middleway State: WV Zip Code:
Tax District: District 7 Map No: 19 Parcel No: 16.6, 16.7
Parcel Size: 0.45, 1.05 Acres Deed Book: Page No:

Zoning District (please check one)

- Rural (R-A) [checked]
Residential Growth (R-G)
Industrial Commerical (I-C)
Residential-Light Industrial-Commercial (R-L-C)
Village (V)

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SEP 19 2014

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Please provide any information or known history regarding this property.

Original Signature is Required. The information given is correct to the best of my knowledge.

Wilbur A. Algeys 9/18/14

Signature of Property Owner

Date

Wilbur Algeys 9-18/14

Signature of Property Owner

Date

Do not write below this line

- Sketch Plan (Pursuant to Section 7.4 (B)(C))
- Support Data (Pursuant to Section 7.4(D))
- List of adjacent and confronting (in front of) property owners, with addresses (Section 7.4 E)

Compatibility Assessment Meeting

Date	Location
------	----------

Notification

Date of public hearing	Advertising date	Posting Requirements (Number of days prior to scheduled hearing)
------------------------	------------------	--

To Be Completed By Staff

**Conditional Use Permit Application
Support Data**
(please attach additional pages if necessary)

1. Name and address of a contact person.

(Refer to Conditional Use Permit Application Section B)

2. Name and address of the owner/developer.

(Refer to Conditional Use Permit Application Section C)

3. Type of development proposed (provide as much detail as possible).

General Retail Store, Dollar General. Approximately 9100 sf building, including public restrooms and merchandise storage. 40 parking spaces are required to meet the parking ordinance.

4. Acreage of original tract and property to be developed.

(Refer to Conditional Use Permit Application Section E)

5. General description of surface conditions (topography).

Existing property is a vacant grassland. No improvements will be removed to develop this site. The center of the site is higher than Middleway Pike, so the access point will be near the northern property line to accommodate the elevation change.

6. Soil and drainage characteristics.

Some limestone rock has been found onsite and the site currently drains to the NW and SE. The site drainage will be modified, but the drainage will still be to the NW and SE.

7. General location and description of any existing structures.

(See Sketch Plan)

8. General location and description of existing easements or rights-of-way.

(See Sketch Plan)

9. Existing covenants and restrictions on the land.

No covenants or restrictions have been found.

10. Intended improvements and proposed building locations including locations of signs (in addition to narrative, please also show locations on sketch plan).

The building will sit far off of Middleway Pike, and away from the intersection to allow for clear sight lines. The parking area will be in the middle of the site and will be made of heavy duty asphalt or concrete. The building will have a sign over the entrance that states the name of the business, and there will be another business sign on a 15' pole near the intersection. The pylon sign will be tall enough to allow for clear vehicular sight under it.

11. Intended land uses.

The intended use will be a commercial retail store selling general merchandise.

12. Earth work that would alter topography.

A balancing of the existing topography will be required to make the planned improvements. No significant cut or fill will be required to develop this site.

13. Tentative development schedule.

We hope to start construction as soon as possible in the spring of 2015.

14. Extent of the conversion of farm land to urban uses.

Existing land was not farmed. It was vacant and planted in wild grasses.

15. Affected wildlife populations.

Small wildlife will could be affected, as site currently has native wild grasses.

16. Ground water and surface water and sewer lines within 1320 feet.

no surface water is present within 1320 feet. Underground water and sewer lines have not been determined yet.

17. Distance to fire and emergency services that would serve the site.

18. Distance to the appropriate elementary, middle, and high school.

Musselman High School is +/- 5 miles away; Wee Disciples Christian Academy is +/- miles away; North Jefferson Elementary School is +/- 8 miles away.

19. Traffic characteristics - type and frequency of traffic; adequacy of existing transportation routes.

Dollar General is not a high traffic volume generator. It is a convenience store, that has an average shopping time of 7-8 minutes per visit.

20. Demand for school services created by this development.

Dollar General should not increase the demand for school services in the area.

21. Proximity and relationship to historic structures or properties within two hundred (200) feet.

No historical structures are within 200 feet.

22. Proximity to recreational facilities.

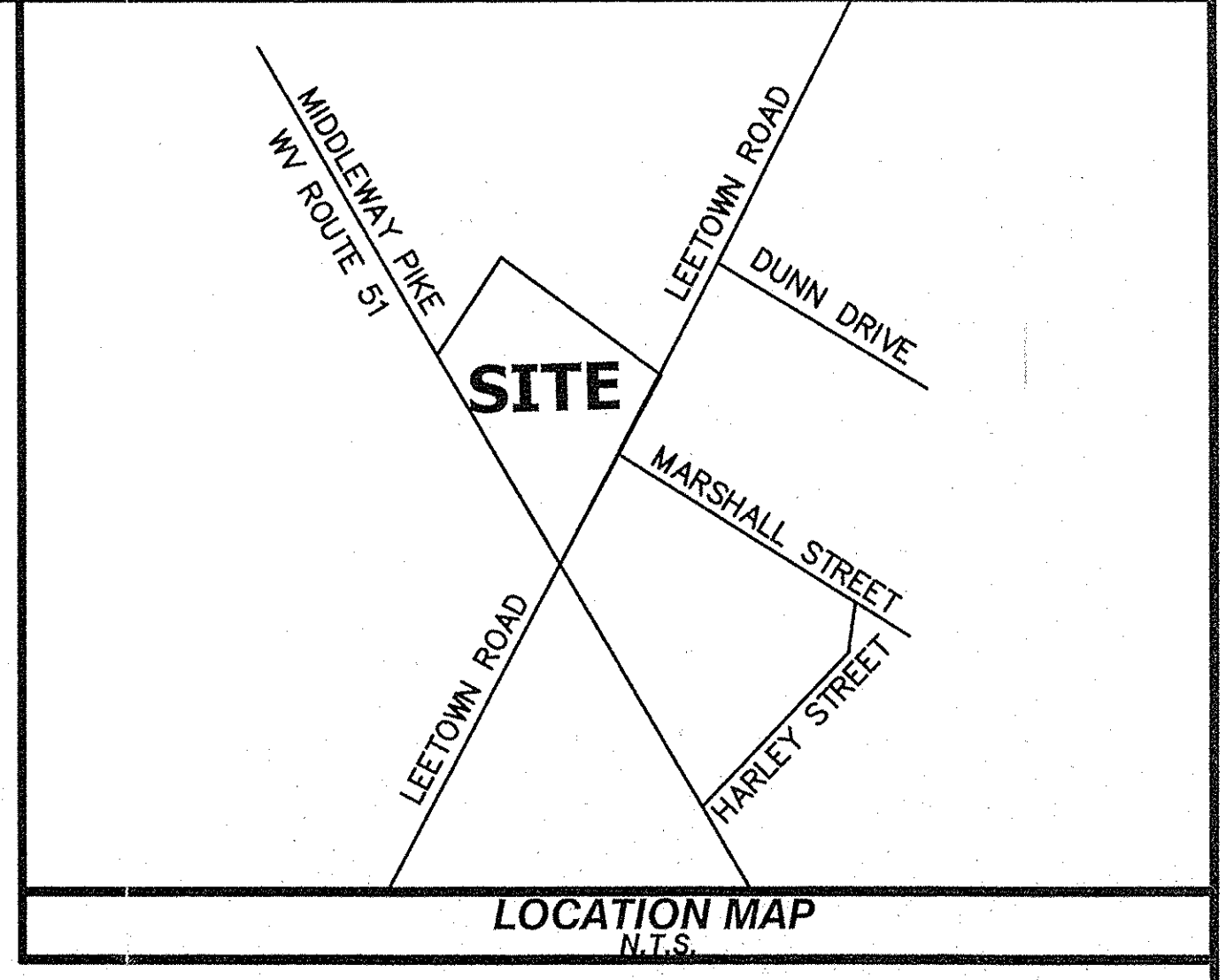
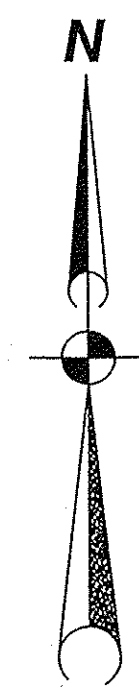
No recreational facilities are within close proximity to our site.

23. Relationship of the project to the Comprehensive Plan.

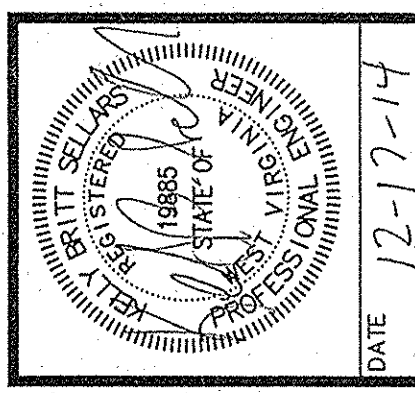
A commercial use is in line with the Comprehensive Plan for this property.

THIS DRAWING AND THE DESIGN SHOWN THEREON ARE THE PROPERTY OF K. B. SELLARS ENGINEERING, L.L.C. THE REPRODUCTION, COPYING OR USE OF THIS DRAWING WITHOUT WRITTEN CONSENT IS PROHIBITED AND ANY INFRINGEMENT WILL BE SUBJECT TO LEGAL ACTION.

DISTRICT 7
MAP 19 - 16.9



KB SELLARS ENGINEERING
ENGINEERS & PLANNERS
WEST VIRGINIA CO. CH06060
PO BOX 16144
BOILING SPRINGS, SOUTH CAROLINA 29316
(864) 699-9512
(864) 699-9513
EMAIL: KELL@KSELLARS.COM



DATE 12-17-14

PARCEL 5
SURVEY AND DIVISION
PLAT OF THURMAN L.
SHIRLEY FARM
DISTRICT 7 MAP 19
PT PARCEL 16

18' x 18' (MIN.) CONCRETE DUMPSTER PAD
(PROVIDE 18' x 12' DUMPSTER ENCLOSURE
AREA FOR (2) STD. DUMPSTERS

PARCEL 3
MIDDLEWAY VILLAGE
DISTRICT 7
MAP 19 - 16.8

16'x16' (MIN.) CONCRETE
DELIVERY PAD
RAMP DOWN TO
PAVEMENT

SHED TO BE RELOCATED
ON PARCEL 3 BY OWNER

CONCEPTUAL
SEPTIC
AREA ± 10,000 SF

PARCEL 2
MIDDLEWAY VILLAGE
DISTRICT 7
MAP 19 - 16.7

PROPOSED
DOLLAR GENERAL
BUILDING

5'x5' CONCRETE PAD
AT EXIT DOOR

BOLLARDS
(TYP.)

STANDARD DUTY
PAVEMENT WITH
YELLOW STRIPING

HEAVY DUTY PAVEMENT
(SHOWN MATCHLINED)

WELL

MIDDLEWAY PIKE
WY ROUTE 51
16' R/W

LEETOWN ROAD
WY ROUTE 51
30' R/W

MARSHALL STREET
30' R/W

DEVELOPMENT INFORMATION:

DEVELOPER: CROSS DEVELOPMENT, LLC
17430 CAMPBELL ROAD, SUITE 225
DALLAS, TX 75252

ENGINEER: KB SELLARS ENGINEERING, LLC
P.O. BOX 161441
BOILING SPRINGS, SC 29316
PHONE No. (864) 699-9512
P.O.C. - KELLY B. SELLARS, P.E.

TAX PARCEL #: PARCEL 1 MIDDLEWAY VILLAGE DIST. 7 (MAP19-16.6)
PARCEL 2 MIDDLEWAY VILLAGE DIST. 7 (MAP19-16.7)

LOT SIZE: ±2.05 ACRES (COMBINED)

ZONING INFORMATION:
ZONING: RURAL / COMMERCIAL

1977 MIDDLEWAY VILLAGE SUBDIVISION PLAT SETBACKS WILL
APPLY AS RECORDED IN PLAT BOOK 4, PAGE 72.

A SIDEWALK WAIVER WILL BE REQUESTED.

A SIGNAGE VARIANCE WILL BE REQUESTED.

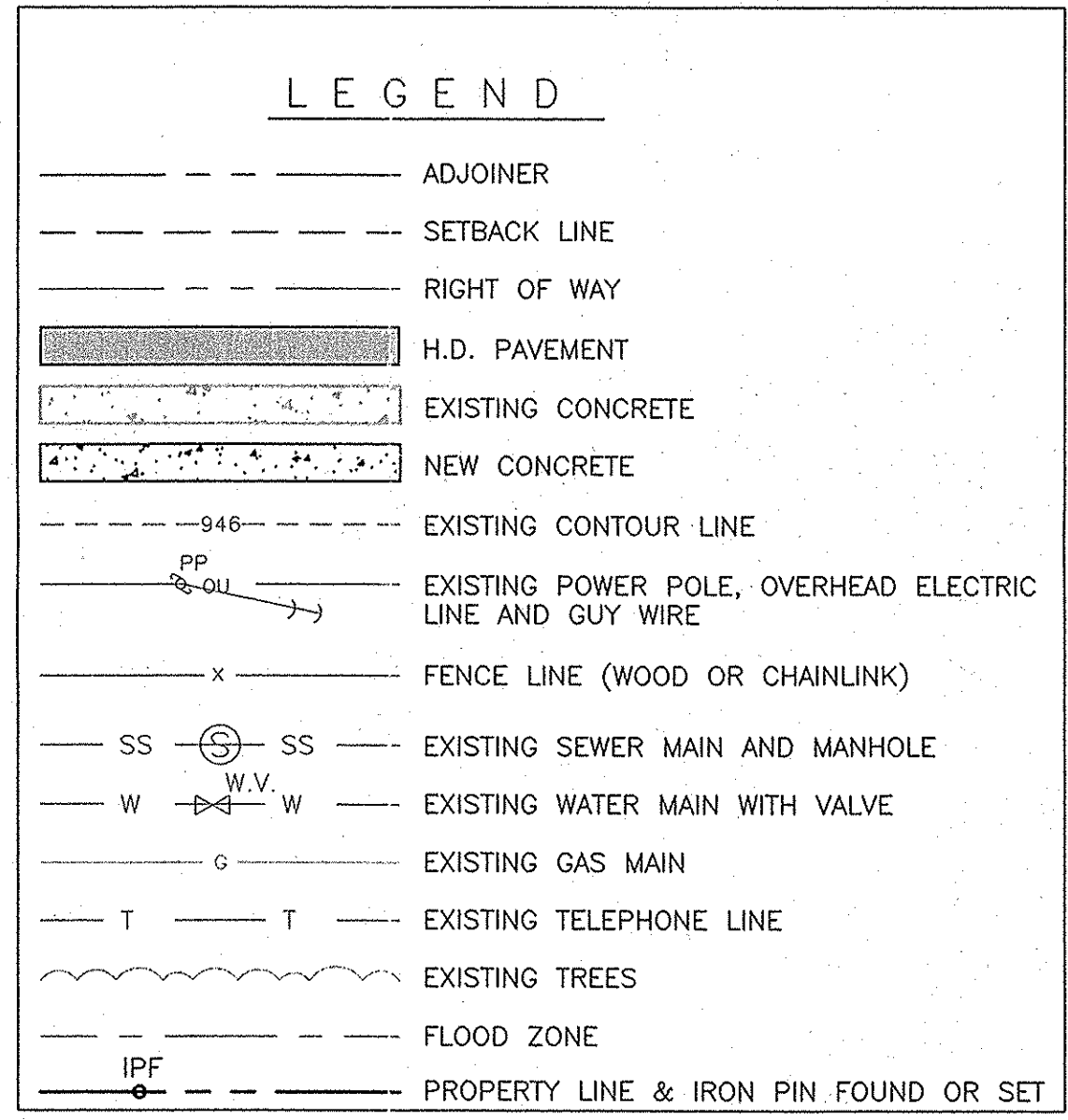
THIS PLAN WILL ABIDE BY ALL REQUIREMENTS AS SET FORTH
IN APPENDIX B, COMMERCIAL SITE GREATER THAN 1.5 ACRES.

PARKING SUMMARY:

REGULAR SPACES	38
HANDICAP SPACES	2
TOTAL	40 PROVIDED

MINIMUM PARKING STANDARD (5.5 SPS/EACH 1000 SF RETAIL)
5.5 SP X 7,310/1000 = 40, **REQUIRED**

NO.	DATE	DESCRIPTION	BY:

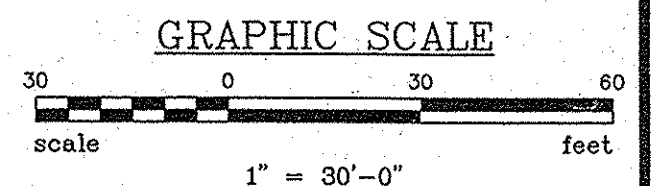


PROJECT TITLE:
DOLLAR GENERAL
MIDDLEWAY PIKE
DOLLAR GENERAL

SHEET TITLE:
SKETCH PLAN

CALL BEFORE YOU DIG!
1-888-721-7877
PALMETTO UTILITY LOCATION SERVICES

RECEIVED
DEC 18 2014



SHEET NO. 1 OF 1
PROJECT NO. 14-479

CP14-02



Jefferson County, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Director's Report Board of Zoning Meeting January 22, 2015

1) Status of Zoning Administrator Search

2) Recent/Upcoming CC Actions relevant to Planning:

- a) *Envision Jefferson 2035 Comprehensive Plan* – status update of 2014 Comp Plan effort and discussion of next steps:

CC Workshops regarding the *Envision Jefferson 2035 Comprehensive Plan* were held on December 11, 2014, and January 6 and 9, 2015; CC Special Called Meetings were held on January 13, and 14, 2015:

CC voted to forward the final version of the *Envision Jefferson 2035 Comprehensive Plan* with their recommended edits to the Planning Commission for their consideration. State law requires that a plan that is rejected or amended be returned to the Planning Commission for its consideration, with a written statement of the reasons for the rejection or amendment. The Planning Commission has forty-five days to consider the rejection or amendment and make recommendations back to the governing body. If the Planning Commission does not file a written recommendation with the governing body within forty-five days, then the motion made by the CC amending the Comprehensive Plan is final and the Plan stands approved.

- b) County Commission Public Hearing on proposed Zoning Ordinance text amendment regarding Mass Events (#ZTA 14-02) was held on Wednesday, October 1, 2014 (*County Commission workshop TBD in January 2015*)

3) Upcoming BZA meetings

- a) Next Regular Meeting: **February 26, 2015**

JEFFERSON COUNTY, WEST VIRGINIA
Department of Zoning

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

Email: zoning@jeffersoncountywv.org

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

MEMORANDUM

TO: Board of Zoning Appeals Members
CC: Engineering & Building Permits Departments
FROM: Acting Zoning Administrator, Jennifer M. Brockman
DATE: January 16, 2015
SUBJECT: January Monthly Report of Department Activities

ISSUED ZONING CERTIFICATES

#ZC14-48 AMERICAN TOWERS, LLC / OWNER
VIGILANT GLOBAL c/o CIS COMMUNICATIONS / APPLICANT
CONTACT: WILLIAM JENKINS

Issuance Date: December 17, 2014

Proposed Use: Property contains existing self-support tower. Vigilant Global e/o CIS Communications, LLC to add two (2) proposed dishes, at 340 feet, to an existing tower. Contractor to utilize existing Vigilant cabinet.

Physical Location: 17435 Raven Rock Road; Charles Town, West Virginia 25414

Zone: Rural

PENDING ZONING CERTIFICATES

#ZC14-34 GINA BILLER – OWNER / APPLICANT

Issuance Date: TBD

Proposed Use: Cottage Industry. Repair of stained glass items to also include sale of onsite stained glass creations and related class instruction. Said occupation will be conducted in an existing 24' x 32' studio located on premises.

Physical Location: 4922 Charles Town Road; Kearneysville, West Virginia 25430

Zone: Rural

PENDING ZONING CERTIFICATES

#ZC14-49 WESLEY SMOOT – OWNER / APPLICANT

Issuance Date: TBD

Proposed Use: Office area for designing and storage of material for projects; storage and retail sales of nursery products (mulch, gravel, plants, etc.).

Physical Location: 164 Tel Farm Lane; Kearneysville, West Virginia 25430

Zone: Rural

#ZC15-01 GEORGE W. & MARY L. RUSHIZKY – OWNER
SHENANDOAH PERSONAL COMMUNICATIONS (SHENTEL) – APPLICANT
CONTACT: JUSTIN D. BLANSET

Issuance Date: TBD

Proposed Use: Wireless Telecommunications Facility Co-location. Property contains existing 200' self-support telecommunications tower. Shenandoah Personal Communications (Shentel) to remove and Replace existing antennas, install new RRH (remote radio head) Equipment on the structure and install an equipment cabinet.

Physical Location: 8422 Shepherdstown Pike; Shepherdstown, West Virginia 25443

Zone: Rural
