

Jefferson County
Board of
Zoning Appeals

Thursday,
July 19, 2012

JEFFERSON COUNTY, WEST VIRGINIA

Department of Zoning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, West Virginia 25414

Phone: 304-728-3228

Email: zoning@jeffersoncountywv.org

Fax: 304-728-8126

MEMORANDUM

TO: Jefferson County Board of Zoning Appeals Members

FROM: Jennilee Hartman, Zoning Clerk

DATE: July 13, 2012

SUBJECT: July 19, 2012 Board of Zoning Appeals Meeting

Please find enclosed a copy of the Agenda for the upcoming Board of Zoning Appeals meeting to be held on Thursday, July 19, 2012. Also for your review, you will find corresponding information regarding said Meeting. When applicable, I will include copies submitted to this office that pertain to items of new business. If you have any questions, or will not be able to attend the upcoming meeting, please do not hesitate to contact me.

JEFFERSON COUNTY, WEST VIRGINIA

Department of Zoning

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

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

MEMORANDUM

TO: Board of Zoning Appeals Members
CC: Engineering & Building Permits Departments
FROM: Steve Barney, Zoning Administrator
DATE: July 13, 2012
SUBJECT: July Monthly Report of Department Activities

ISSUED ZONING CERTIFICATES

#ZC12-11 GAIL A. LIVINGSTONE – OWNER/APPLICANT

Issuance Date: June 15, 2012
Proposed Use: Farm Market
Physical Location: 140 Cattail Run Road; Charles Town, West Virginia 25414
Zone: Rural

#ZC12-12 TNT FIREWORKS - OWNER /
GAIL COLLINS - APPLICANT

Issuance Date: June 18, 2012
Proposed Use: Temporary Sale of Fireworks
Physical Location: Charles Town Plaza – next to Long John Silver’s Restaurant
Zone: Residential- Light Industrial-Commercial

#ZC12-10 ROBERT ALLEN – APPLICANT

Issuance Date: June 27, 2012
Proposed Use: Change of Owner/Tenant
Grocery/Convenience Store
Physical Location: 18619 Charles Town Road; Charles Town, West Virginia 25414
Zone: Rural

PENDING ZONING CERTIFICATES

#ZC12-13 W. LEE BAIHLY – OWNER/APPLICANT

Issuance Date: TBD
Proposed Use: Food Service accessory to existing Nonconforming Use of commercial rafting, tubing, canoeing, kayaking, fishing & camping
Physical Location: River & Trail Outfitters, Inc.
 WV secondary Route 27 – Millville, West Virginia
Zone: Rural

#ZC12-14 MICHELLE KRASSOWSKI – OWNER/APPLICANT

Issuance Date: TBD
Proposed Use: Expansion of current Home Occupation Level II use (pet sitting/doggie daycare) to include in-house boarding of cats.
Physical Location: 31 Black Bear Trail; Harpers Ferry, West Virginia 25425
Zone: Rural

#ZC12-15 THE MARTY MART GROUP, LLC (MARTHA WAREING) – OWNER /
 LES BOWMAN & ALICE JAMES – APPLICANT

Issuance Date: TBD
Proposed Use: Wants to lease parking spaces at Sunoco Gas Station for the purpose of selling seafood on Friday, Saturday and Sundays.
Physical Location: 1422 Blair Road; Harpers Ferry, West Virginia 25425
Zone: Residential-Growth



AGENDA
Jefferson County
Board of Zoning Appeals
Thursday, July 19, 2012, 3:00 p.m.

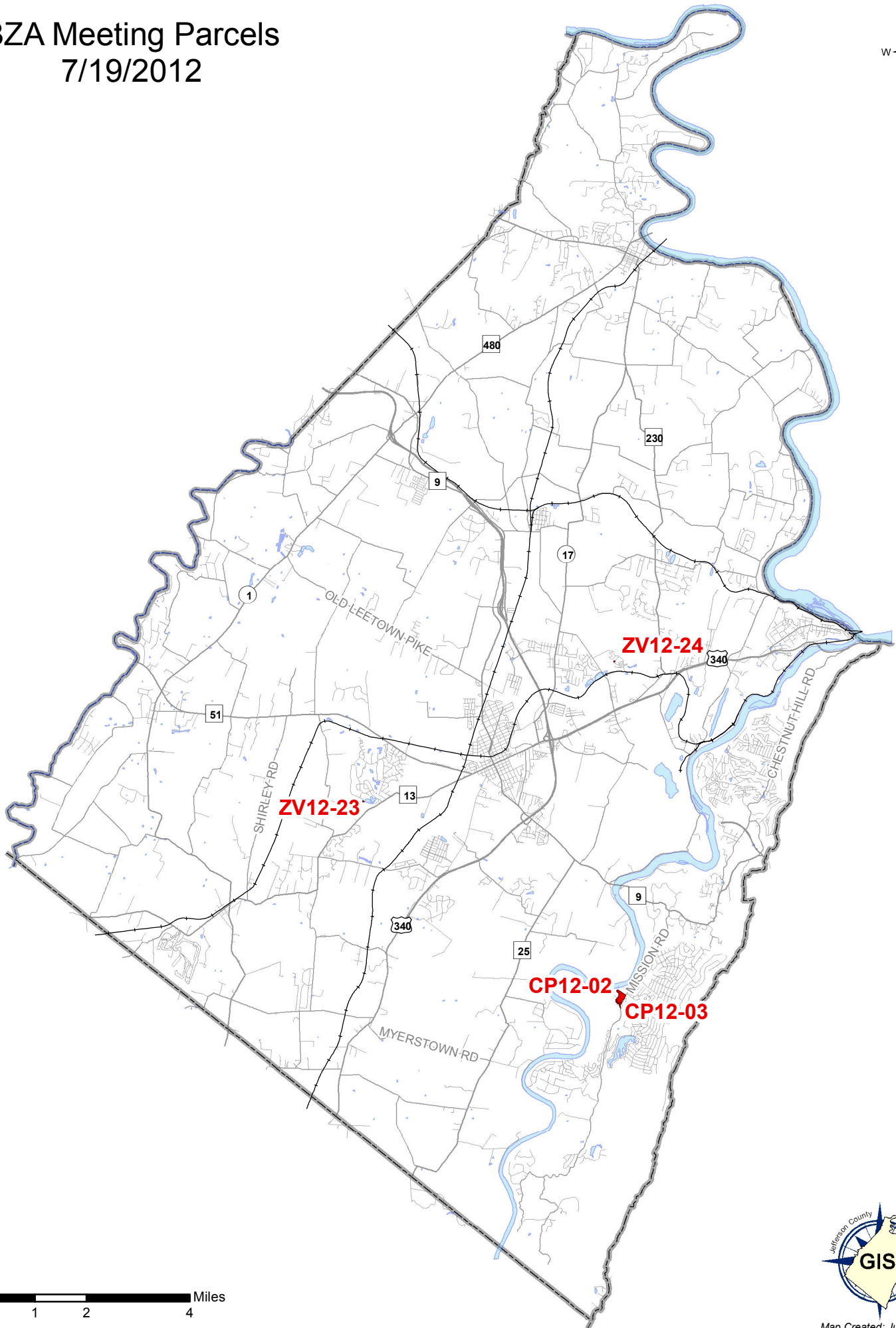
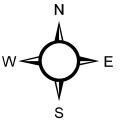
Members
Jeff Bresee, Chair
Christy Huddle, Vice Chair
Edwin Kelly
Tyler Quynn

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

1. Approval of the minutes from the June 21, 2012 meeting.
2. Swearing in of members of the public intending to provide testimony.
3. Variance request by property owners, Donald and Tina Lemon, from Section 5.4(B) for a reduction of the rear setback from 20' to 12' to allow for the construction of a 16' x 21' 10" deck with stairs. Property location: Locust Hill Subdivision (Lot 373), 88 Avenel Court, Charles Town, WV. District: Charles Town (02); Map: 13A; Parcel: 464; Size: .325 acres; Zoned: Rural; File: #ZV12-23.
4. Variance request by Mike Wiley on behalf of property owner, Beallair Homes, LLC, from Section 5.4(B) for a reduction of the rear setback distance from 20' to 17' to allow for the construction of a 12' x 16' screened porch. Property location: Beallair Subdivision, Lot 27, Lewis Washington Drive, Charles Town, WV. District: Harpers Ferry (04); Map: 10A; Parcel: 27; Size: 0.229 acres; Zoned: Residential Growth; File: #ZV12-24.
5. Public hearing and action on the Conditional Use Permit application submitted by Wayne and Renee Moore, Developer, for the River Country Store and Deli to establish a general store, restaurant and space for recreational use. Intended uses are to consist of a country store providing general items, a restaurant serving hot and cold food with an ABC license, multiple recreational spaces for game and party rentals, children's play area, seasonal activities (i.e. volley ball, basketball and mini golf), and other associated uses as further described in the application. Property location: 2142 Mission Road, Harpers Ferry, WV. District: Kabletown (06); Map: 6; Parcel: 13; Zoned: Rural; Size: 2.002 acres; File: #CP12-03.
6. Public hearing and action on the Conditional Use Permit application submitted by property owners, Scott Bearup and Carroll Rice, for the Black Bear Camp and RV to establish a primitive camp-ground serving 50 campsites. Intended uses are to consist of primitive camping, hiking, horseback riding and stables, biking, fishing, hunting, tubing, canoeing, rafting, historic tourism, and other associated uses as further described in the application. Property location: 2128 Mission Road, Harpers Ferry, WV. District: Kabletown (06); Map: 6; Parcel: 4; Zoned: Rural; Size: 15.47 acres; File: #CP12-02.
7. Director's Report.
8. Legal Update.
9. Signing of written decisions from prior Board of Zoning Appeals meetings. None.
10. Correspondence.

BZA Meeting Parcels

7/19/2012



Draft Minutes

Jefferson County Board of Zoning Appeals
Thursday, June 21, 2012

The Jefferson County Board of Zoning Appeals met on Thursday, June 21, 2012. The meeting was held in the Charles Town Library meeting room located at 200 East Washington Street, at the side entrance on Samuel Street in Charles Town, West Virginia. Board members, Jeff Bresee, Chairman; Christy Huddle, Vice Chair; Tyler Quynn and Ed Kelly were present. Staff members present were: Jennifer Brockman, Director of Planning and Zoning; Steve Barney, Zoning Administrator and Jennilee Hartman, Zoning Clerk.

Ms. Huddle motioned to commence the meeting. Mr. Quynn seconded the motion, which carried unanimously. Mr. Bresee called the meeting to order at 3:05 p.m.

1. Approval of the minutes from the May 17, 2012 meeting.

Mr. Kelly motioned to approve the minutes. Ms. Huddle seconded the motion. The following corrections were requested:

- a) Page 1, Item #1, change the date of the minutes approval to April 19, 2012.
- b) Page 1, Item #1, second line, second sentence, change so that it reads, "Mr. Quynn seconded the motion. Ms. Huddle suggested the following corrections:".
- c) Page 1, Item #3, add to the end of the second paragraph, "Mr. Bresee called for public comment. There was no public comment."
- d) Page 3, Item #7, fourth paragraph, first line, change Board to Board's.

Mr. Bresee called for a vote which carried unanimously.

2. Swearing in of members of the public intending to provide testimony.

Ms. Hartman swore in the individuals that indicated they would be giving testimony.

3. Variance request by property owners, Josh and Jessica Powell, from Section 5.4(B) of the Zoning and Land Development Ordinance for a reduction of the rear setback distance from 20' to 12' to allow for the construction of a 16' x 20' deck. Property location: Windmill Crossing Subdivision, 204 Monte Carlo Way, Charles Town, West Virginia. District: Charles Town (02); Map: 9C; Parcel: 26; Zoned: Residential-Light Industrial-Commercial; Size: 0459 acres; File: #ZV12-20.

Mr. Powell, applicant, presented his request to the Board explaining that there was a utility easement behind his property. Mr. Bresee called for public comment. There was no public comment.

4. Variance request by property owners, William and Kristin Friend, from Section 9.7 of the Zoning and Land Development Ordinance, for a reduction of the rear setback distance from 50' to 20' to allow for the construction of a 30' x 40' building. Property location: 498 Old Middleway Road, Kearneysville, West Virginia. District: Middleway (07); Map: 22; Parcel: 33.20; Zoned: Rural; Size: 4 acres; File: #ZV12-21.

Mr. Friend, applicant, presented his request to the Board, explaining that if he were to build the structure within the required setbacks it would block his neighbor's garden from the sun. Mr. Friend referenced a letter of support from Harold and Betty Poston, the adjacent property owners to the rear. Mr. Bresee called for public comment. There was no public comment.

5. Variance request by Fred Gates on behalf of property owner, Roderick Planes, LLC from Section 3.2(g) to allow for an extension of the Aspen Greens Subdivision's Conditional Use Permit (Z02-06). The applicant is requesting an extension from July 1, 2012 until December 1, 2013. Property location: Northeasterly of the intersection of Old Country Club Road with Flowing Springs Road. District: Charles Town (02); Map: 4; Parcel: 19; Zoned: Rural; Size: 110 acres; File: #ZV12-22.

This request was withdrawn at the applicant's request. Mr. Barney explained that a new interpretation of the definition of "commencement" with regard to the expiration of conditional use permits for subdivisions.

6. Issuance of the Conditional Use Permit for the Proposed Renovation and Addition to Existing Sheetz Convenience Store. The project is to consist of increasing the existing 4,222 square foot convenience store with a 1,941 square foot addition by remodeling the interior and exterior of the structure. The applicant also seeks to reconfigure a portion of the existing canopy and install/replace existing signage. Property location: 51 Flowing Springs Road, Charles Town, West Virginia. District: Charles Town (2); Map: 8; Parcel: 11.5; Zoned: Residential-Light Industrial-Commercial; Size: 2.781 acres; File: #CP12-04.

Rick Turner with Diamond Z Engineering provided the Board with a brief overview of the project, referencing exhibits detailing the addition and signage. Mr. Turner stated that no variances would be necessary as the proposed addition would be entirely within the required setbacks. The Board discussed possible parking and delivery issues. The Board also expressed concern regarding the smaller secondary entrance from Flowing Springs Road. Ms. Huddle suggested the applicant investigate the possibility of erecting a sign prohibiting left turns from Flowing Springs Road.

Ms. Huddle motioned to go into deliberative session at 3:36 p.m. Mr. Quynn seconded the motion, which carried unanimously.

Ms. Huddle motioned to come out of deliberative session at 3:52 p.m. Mr. Quynn seconded the motion, which carried unanimously.

Board of Zoning Appeals Rulings

3. Variance request by property owners, Josh and Jessica Powell, from Section 5.4(B) of the Zoning and Land Development Ordinance for a reduction of the rear setback distance from 20' to 12' to allow for the construction of a 16' x 20' deck.

Mr. Kelly motioned to approve the above referenced request. Ms. Huddle seconded the motion, which carried unanimously.

4. Variance request by property owners, William and Kristin Friend, from Section 9.7 of the Zoning and Land Development Ordinance, for a reduction of the rear setback distance from 50' to 20' to allow for the construction of a 30' x 40' building.

Mr. Kelly motioned to approve the above referenced request. Ms. Huddle seconded the motion, which carried three in support and one opposed (Mr. Quynn).

5. Variance request by Fred Gates on behalf of property owner, Roderick Planes, LLC from Section 3.2(g) to allow for an extension of the Aspen Greens Subdivision's Conditional Use Permit (Z02-06). The applicant is requesting an extension from July 1, 2012 until December 1, 2013.

This request was withdrawn at the applicant's request.

6. Issuance of the Conditional Use Permit for the Proposed Renovation and Addition to Existing Sheetz Convenience Store. The project is to consist of increasing the existing 4,222 square foot convenience store with a 1,941 square foot addition by remodeling the interior and exterior of the structure. The applicant also seeks to reconfigure a portion of the existing canopy and install/replace existing signage.

Mr. Quynn motioned to issue the Conditional Use Permit for the Proposed Renovation and Addition to Existing Sheetz Convenience Store provided that all previous conditions from the two prior CUPs (Z96-04 and Z97-07) remain in effect; except for Condition #3. Ms. Huddle seconded the motion. Mr. Kelly called for a point of order to clarify that Condition #3 was being removed due to the fact that it was moot. Mr. Quynn concurred.

By reference the conditions were as follows:

1. Prohibiting the sale of pornographic magazines such as Playboy and Penthouse from the magazine rack accessible to the public. Such sales will be kept behind the counter;
2. Compliance with the Court Order concerning stormwater management conveyance across Route 17; A monetary contribution towards the installation of a traffic signal if one is deemed necessary on Route 17. The amount will be based on a pro-rated share to be determined by usage through a traffic study;
3. Any future change in use or expansion processing through the Jefferson County Planning & Zoning Commission to update this certificate; and. all other applicable County regulations being followed.

Mr. Bresee called for a vote which carried unanimously.

7. Director's Report. Ms. Brockman updated the Board on the status of the upcoming new stormwater management regulations. Ms. Brockman informed the Board of the County Commission's vote to extend project expiration dates, and noted that any subdivision that processed under the old subdivision ordinance would still have to conform to the new stormwater management regulations with regard to the Chesapeake Bay standards. Additionally the Board was informed of the status of the proposed new zoning district and impact fee amendments.

8. Legal Update.
9. Signing of written decisions from prior Board of Zoning Appeals meetings.
 - a. Public hearing and action on the Conditional Use Permit application submitted by Twin Oaks Subdivision, LLC for the Morgan's Grove Market to establish "an agricultural based economic empowerment zone." Intended uses are to consist of, but are not limited to, a Food Hub, General Merchandise (retail), Professional/Business Offices, Community Amenities, and other associated uses. Property location: 3988 Kearneysville Pike, Shepherdstown, West Virginia. District: Shepherdstown (09); Map: 13; Parcels: 26.1, 26.2, 26.3, 26.4; Zoned: Rural; Size: 13.69 acres; File: #CP12-01. (BZA meeting date 04/19/12). Signed.
 - b. Request by Linda M. Gutsell to reopen a hearing pursuant to Section 5.8 of the Board of Zoning Appeals (BZA) Rules of Procedure, regarding the April 19, 2012 BZA approval of a Conditional Use Permit application submitted by Twin Oaks Subdivision, LLC for the Morgan's Grove Market, file #CP12-01. (BZA meeting date: 05/17/12). Signed.
10. Correspondence. None.

Ms. Huddle motioned to adjourn the meeting at 4:18 p.m. Mr. Kelly seconded the motion, which carried unanimously.

An audio transcript of this meeting can be found at the Department of Zoning and on the Department's website at www.jeffersoncountywv.org. These minutes were prepared by Jennilee Hartman, Zoning Clerk.

Jefferson County Board of Zoning Appeals Consideration of a Variance

Article 3, Section 3.4 of the Jefferson County Zoning and Land Development Ordinance amended by the County Commission on July 7, 2011, states the following:

Section 3.4 Boards and Commissions²³


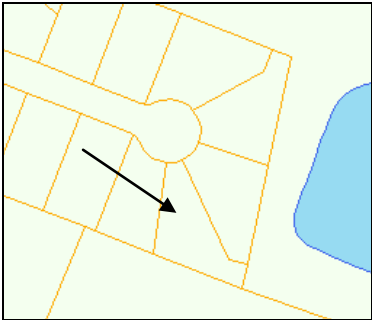
A. Board of Zoning Appeals

4. The Board of Zoning Appeals shall consider requests for variances from the terms of the Ordinance.²³
 - a. The Board shall approve a variance request if the Board finds that a variance:
 - i. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents;
 - ii. 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;
 - iii. Would eliminate an unnecessary hardship and permit a reasonable use of the land; and
 - iv. Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.^{17, 21}
 - b. The owner or authorized representative of the owner of the property which is the subject of a variance request shall complete and sign forms provided for this purpose by the Board, and shall pay the associated fees. The variance request shall be filed with the Board at offices of the Departments of Planning and Zoning.
 - c. Notification for a variance must be conducted according to the requirements of Section 3.4A(3)(b).
 - d. A public hearing must be conducted according to the requirements of Section 3.4A(3)(c) and such hearing may be continued according to the requirements of Section 3.4A(3)(d).

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

Donald and Tina Lemon Variance Request (#ZV12-23)

Item #3 Variance request by property owners, Donald and Tina Lemon, from Section 5.4(B) for a reduction of the rear setback from 20' to 12' to allow for the construction of a 16' x 21' 10" deck with stairs.

APPLICANT:	Donald and Tina Lemon
OWNER:	Same as above
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	Locust Hill Subdivision (Lot 373) 88 Avenel Court, Charles Town, WV
LEGAL DESCRIPTION:	District: Charles Town (02); Map: 13A; Parcel: 464 
ZONING DISTRICT:	Zoning Map Designation: Rural 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	.325 acres
VARIANCE(S):	None
APPROVED ACTIVITY:	Residential
Conditional Use Permit (PC File #Z92-07)	Effective: 11/24/92
Community Impact Statement (PC File 93-09)	PC Approval: 04/13/93
Preliminary Plat (PC File #01-09)	Staff Approval: 07/17/01
Final Plat (PC File #03-13)	PC Approval: 05/13/03

Staff Report
Jefferson County Board of Zoning Appeals Meeting
July 19, 2012

Donald and Tina Lemon Variance Request (#ZV12-23)

RELEVANT INFORMATION:

1. Overview of Request

The applicant seeks a rear yard setback variance of 8' in order to construct a 16' x deck with stairs that extend an additional 4 feet from the furthest projection of the deck.

Per the material submitted, the proposed deck is 21' 10" wide and extends 16' from the home towards the rear property line.

Section 5.7(b) of the Zoning Ordinance states that residential uses that process through the Development Review System use the setback requirements established in Article 5.4(b). For a single family dwelling, these setbacks are 25 feet (front), 12 feet (side), and 20 feet (rear).

Section 9.5 of the Zoning Ordinance allows a 4-foot encroachment into yards for certain types of projections, including uncovered porches, provided that such projections are not over 10 feet in width. This section would not apply in this instance because the dimensions of the proposed deck exceed the allowances of Section 9.5.

2. Applicant's Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*

The application states, "No, my neighbors are getting same builder for their deck. Backyard is marshy/pond area."

- 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.*

The application states, "House sets too far towards back of lot for usable deck."

- c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*

The application states, "We want to be able to use space with a sizeable deck and not odd shaped."

- d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

The application states, "Intent of Ordinance will be observed as we are planning to build deck & use backyard."

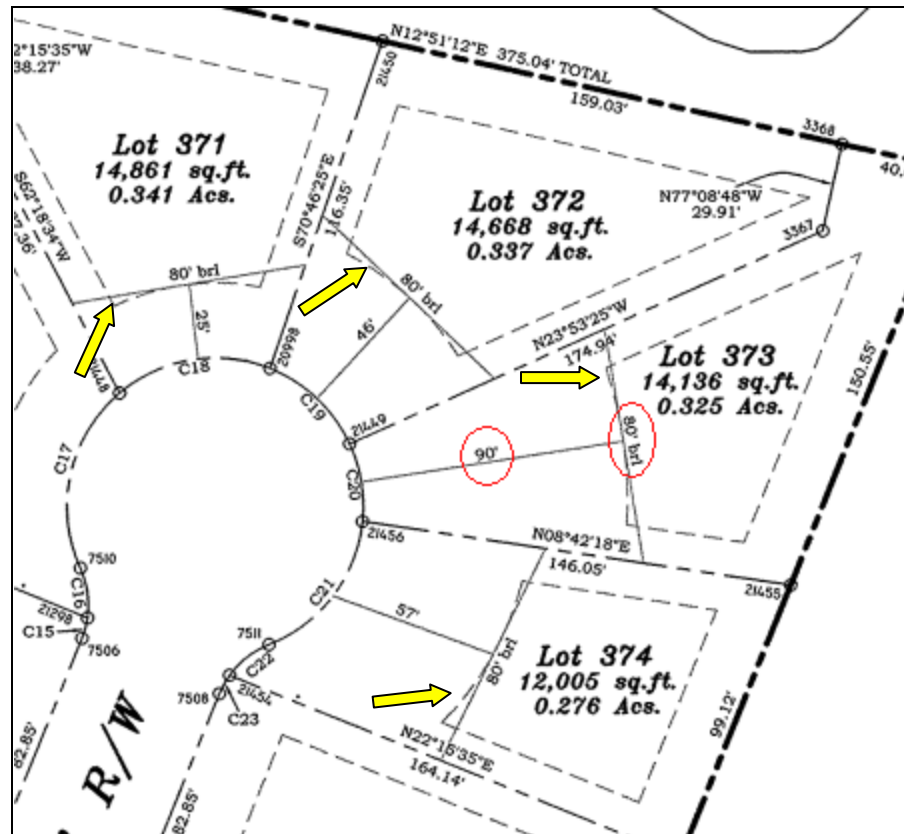
Staff Report
Jefferson County Board of Zoning Appeals Meeting
July 19, 2012

Donald and Tina Lemon Variance Request (#ZV12-23)

3. Staff Evaluation of Request

The Locust Hill Subdivision Conditional Use Permit was approved on November 24, 1992. This project consisted of an 18-hole golf course with related recreational facilities, 387 single family homes, 200 townhomes and 60 duplexes on 400 acres in the Rural district. This section of the Locust Hill Subdivision was approved by subdivision plat on May 13, 2003.

As stated in the applicant's request, the home is situated approximately 90' from the cul-de-sac. The unusual depth of this setback may be due to an interpretation of Section 8.3.e.3 of the 1979 Subdivision Ordinance that requires each lot to have a minimum road frontage (width) of 80 feet.



The subdivision's public golf course is located to the east of the applicant's rear property line and a vacant 5+ acre parcel is located to the south. Therefore, granting this variance would not appear to adversely affect adjacent property owners to the rear.

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

Donald and Tina Lemon Variance Request (#ZV12-23)



4. Possible Conditions of Approval

No conditions of approval are identified for this variance request.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 5.7 Rural District

(b) Minimum Lot Area, Lot Width and Yard Requirements

Minimum lot sizes, lot width, and yard requirements are as follows for principal permitted uses. For any residential use that complies with the Development Review System, the setbacks and lot shall be as outlined in Article 5.4(b).

Section 5.4b Residential Growth District - Height And Yard Requirements

[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990 AND SEPTEMBER 1, 2006]

<u>Development Type</u>	<u>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</u>	<u>Required Yards</u>
Single family detached dwelling	6,000 sq. ft. MLA**	25 ft. front
Public/Central water & sewer	10,000 sq. ft. ADU	12 ft. side
Public/Central Water or Sewer	20,000 sq. ft. MLA	20 ft. rear
No Public/Central water or sewer	40,000 sq. ft. MLA	

#ZV12-23

JEFFERSON COUNTY BOARD OF ZONING APPEALS
VARIANCE REQUEST

I/We request a variance from the provisions of the Jefferson County Zoning and Development Review Ordinance.

Property Owner(s): Donald + Tina Lemon
Address: 88 Avenel Ct
Charles Town, WV 25414
Phone Number: 304.261.3338 Donnie
Location of Property: Locust Hill Subdivision
Lot 373
Lot Size: .325 Acres ~~14,136~~ 14,136 sq ft
Deed Book Reference: Deed Book Number 1090 Page Number 1840-316 532
Tax Map Reference: District CHARLESTOWN Map 13A Parcel 464
Zoning District: RURAL
Section of Ordinance: 5.4(b)

Sketch on a separate 8 1/2" X 11" sheet of paper the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (distance structure is from all boundary lines) size and height. Identify all existing buildings, structures or land uses on the property. Sign and date the sketch.

Briefly describe in your own words the nature of the variance request.

We have an unusually shaped lot and one
building restriction line is much further back than any of our
neighbors to accommodate a driveway in the front.
We built up against property that is currently empty
wetlands. The property is restrictive in its shape due to greater
than the norm setbacks for adjoining lots

Please note variances to the Zoning Ordinance must comply with Article §8A-7-11 of the WV State Code.

A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.

RECEIVED
JUN 2012
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

SETBACK REDUCTION FROM 20' TO 12'
TO ALLOW FOR A 16' BY 21' DECK

Please provide an answer for each of the numbered items below using separate sheets of paper if necessary.

The board of zoning appeals shall grant a variance to the zoning ordinance if it finds that the variance:

- 1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

No, THE ADJACENT BOYS ARE GETTING SAME BUILDING FOR THEIR DECK - BACK YARD IS MAINTENANCE / POND AREA

- 2. 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:

HOUSE SETS TOO FAR TOWARDS BACK OF LOT FOR USABLE DECK

- 3. Would eliminate an unnecessary hardship and permit a reasonable use of the land:

WE WANT TO BE ABLE TO USE SPACE w/ A SIZABLE DECK & NOT ODD SHAPED

- 4. Will allow the intent of the zoning ordinance to be observed and substantial justice done (2004, c.153.):

INTENT OF ORDINANCE WILL BE OBSERVED AS WE ARE PLANNING TO BUILD DECK + USE BACKYARD



Signature of Property Owner

DONALD LEMON Tina M. Lemon

Print Name

6-21-12

6/20/12

Date

<u>OK. #3925</u>	FOR OFFICIAL USE ONLY
Fees Paid: <u>\$100.00</u>	Date Application / Fees Received: <u>JUNE 21, 2012</u>
Date of meeting / Public Hearing: <u>THURSDAY, JULY 19, 2012 @ 3:00 pm</u>	
Official Administrative Body: <u>Jefferson County Board of Zoning Appeals</u>	
Posting Requirements: <u>15</u> Number of Days Prior to Scheduled Hearing	
Advertising Dates: <u>(DUE TO UPCOMING HOLIDAY = 7-4-12) 6-27-12 (EARLY POSTING)</u>	
Official Action of Board: _____	

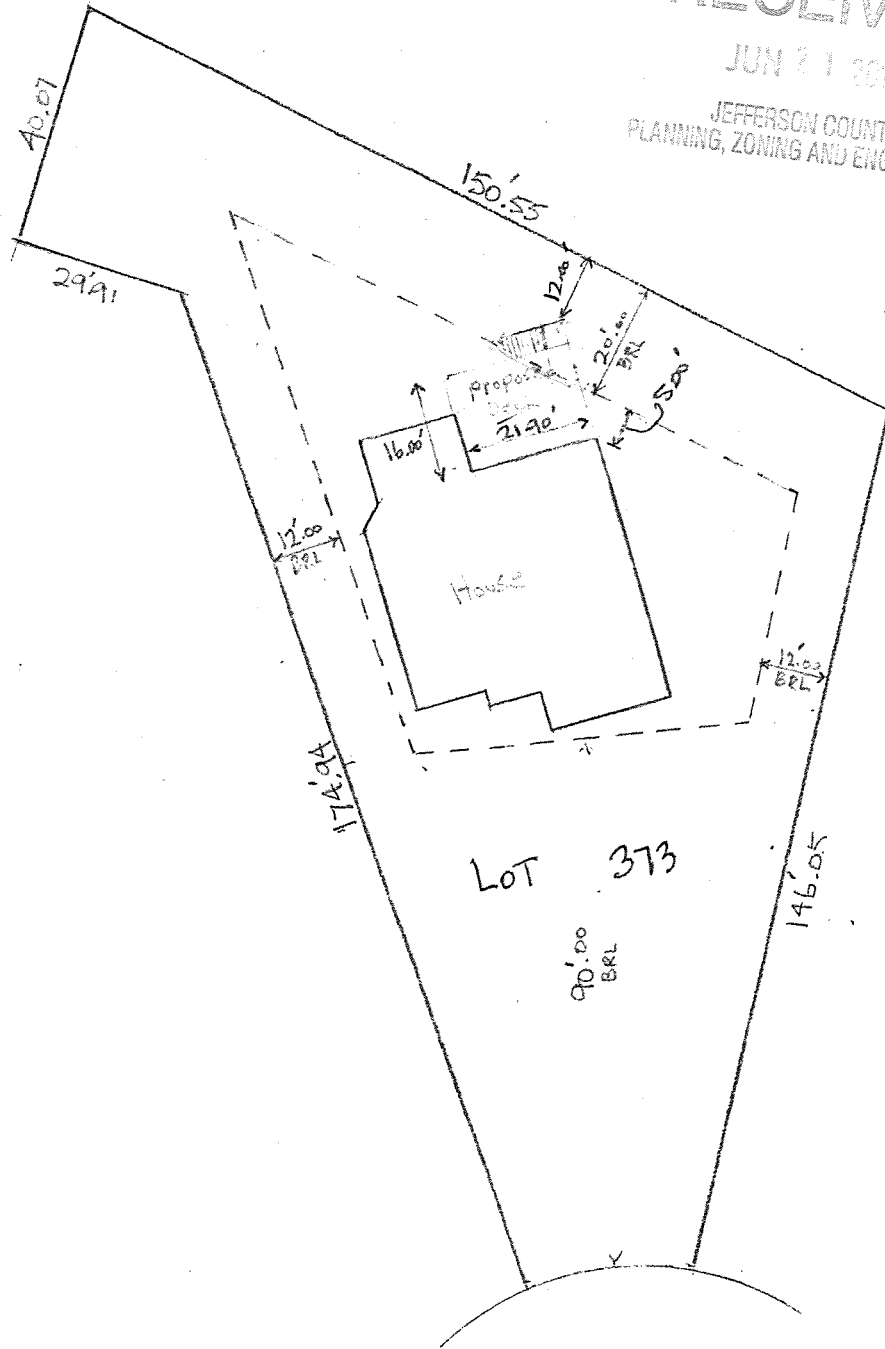
Official Signature and Seal: _____	

#2112-23

RECEIVED

JUN 21 2012

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING



Lot 373

90.00
BRL

AVENEL CT.

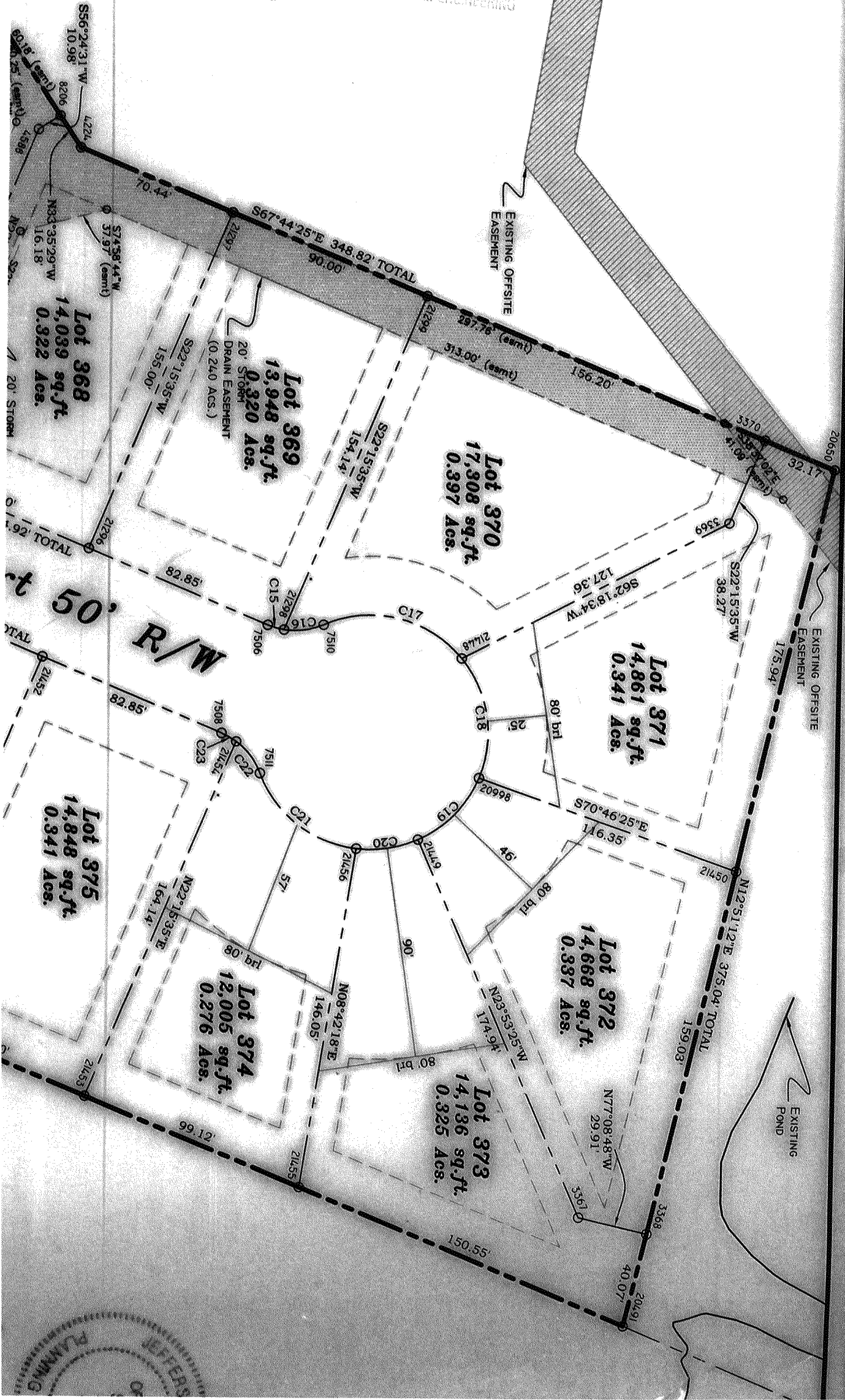
6/19/12 Tina M. Lemon - Tina M. Lemon

6-19-12

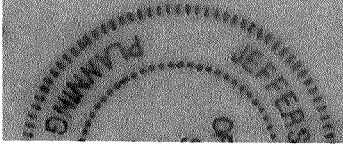
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RECEIVED
JUN 24 2014
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING



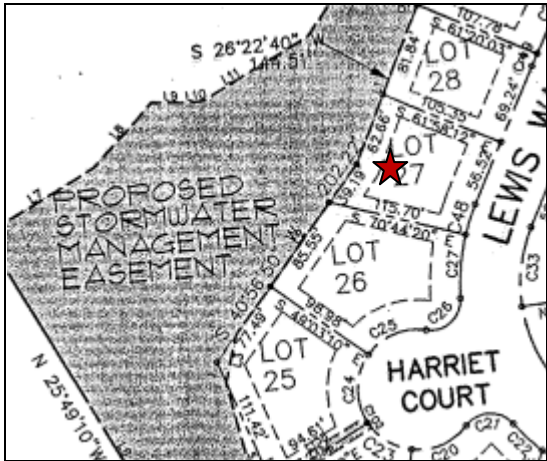
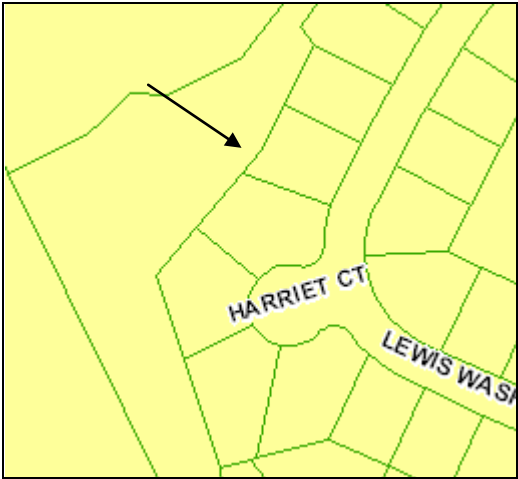
#212-23



Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

Beallair Homes, LLC Variance Request (#ZV12-24)

Item #4 Variance request by Mike Wiley on behalf of property owner, Beallair Homes, LLC, from Section 5.4(B) for a reduction of the rear setback distance from 20' to 17' to allow for the construction of a 12' x 16' screened porch.

APPLICANT:	Mike Wiley
OWNER:	Beallair Homes, LLC
DEVELOPER:	n/a
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	Beallair Subdivision (Lot 27) Charles Town, WV
LEGAL DESCRIPTION:	District: Harpers Ferry (04); Map: 10A; Parcel: 27 
ZONING DISTRICT:	Zoning Map Designation: Residential Growth 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> RG <i>South:</i> RG <i>East:</i> RG <i>West:</i> RG
LOT AREA:	0.229 acres
VARIANCE HISTORY	The following PC variances for the subdivision were

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

Beallair Homes, LLC Variance Request (#ZV12-24)

	<p>approved on 03/25/03:</p> <ul style="list-style-type: none"> • Min. width of finished road reduced from 20' to 15' for one-way rear access drives w/ no shoulders; • No curb & gutter to be places in alleys; • No curb & gutter in the one-way rear access drives; • To install an inverted crown to act as drainage conveyance in one-way rear access drives; • Be allowed to have 2 spaces on-site parking side-by-side on the double wide driveway; • Reduction of ROW width from 50' to 44' in the main road passing through the TND villa areas; and, • Reduction of ROW from 50' to 20' for one-way rear access drives serving the garage areas. <p>The following PC variance for the subdivision were approved on 03/23/04:</p> <ul style="list-style-type: none"> • Min. finished road width from 24' to 15' for rear access drives; • No curbs included with the rear access drives; • No sidewalks on the one-war rear access drives; • A 3' reduction from the back of the curb to 2.5' from the edge of the pavement; • No buffer screening between common areas and adjoining properties with single family detached residences. <p>09/12/06: PC approved a variance to extend the 24-month provision for a period of 12 months to 09/12/07. 08/26/08: PC approved a variance to extend the 24-month provision for a period of 12 months to 08/26/09.</p>
APPROVED ACTIVITY:	Residential
Community Impact Statement (CIS) <i>PC File #02-36, Phase I</i>	Submitted: 10/25/02 Staff Review Mtg.: 11/15/02 County Planner Approval: 11/06/02 County Engineer Approval: 11/22/02 PC Approval: 11/26/02
Preliminary Plat	Staff Approval: 07/16/04
Final Plat	PC Approval: 09/14/04 Next phase must be approved by 09/14/06 Received variance to extend sectionalizing deadline to 09/12/07.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
July 19, 2012

Beallair Homes, LLC Variance Request (#ZV12-24)

RELEVANT INFORMATION:

1. Overview of Request

The applicant seeks a rear yard setback variance of 3' in order to construct a 12' x 16' covered porch.

Per the material submitted, the proposed porch is 16.29' wide and extends 12' from the home towards the rear property line, and would be located approximately 3 feet within the rear setback. Stairs leading to the ground would be located to the left of the porch and a proposed deck is to be located on the right.

Section 5.4(b) establishes the setbacks for the Residential Growth district. For a single family dwelling, these setbacks are 25 feet (front), 12 feet (side), and 20 feet (rear).

Section 9.5 of the Zoning Ordinance allows a 4-foot encroachment into yards for certain types of projections, including uncovered porches, provided that such projections are not over 10 feet in width. (Separately, the applicant is utilizing this provision by extending a deck 4' into the setback and limiting its width by 10', as indicated on the sketch.)

2. Applicant's Justification of Request

In the application submitted for the variance request, the applicant has provided the following responses to the four criteria for a variance:

- a) *Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents.*

The application states, "...the requested variance is only within the rear yard which adjoins a large open space containing a regional stormwater management facility; no adjacent property owners or residents are affected. In addition, the inclusion of the requested covered porch only helps to increase the subject and adjoining property values due to the presumption of increased appraisal values of the homes and the lots within the project."

- 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.*

The application states, "Lots and associated yards within a typical project are routinely planned several years in advance of the availability of home designs. Thus, it is nearly impossible to predict house sizes and options that will fit on a single lot at the time of Final Platting. Because a builder strives to respond to market conditions and desires of the purchasers that will not always comply with the yard requirements, the need routinely arises for this type of a variance. Responding to the needs and desires of potential homebuyers is not a self-imposed hardship. In the case of the subject lot, the contract purchaser is adamant on the builder providing the requested option that is the basis of this request, in order to increase their future home value, and create an aesthetically pleasing home site."

Staff Report
Jefferson County Board of Zoning Appeals Meeting
July 19, 2012

Beallair Homes, LLC Variance Request (#ZV12-24)

c) *Would eliminate an unnecessary hardship and permit a reasonable use of the land.*

The application states, “The request enables a reasonable use of the land as it occurs within a planned residential community of quality homes, lots, and home options where similar options are predictable, customary, usual, and commonplace, and will continue to be desired. During the prolonged economic downturn and its negative affects on the housing market, the builder has struggled for the past few years to bring buyers to The Community of Beallair, and needs to take advantage of every real opportunity for sales. Approval of this request would allow the builder to provide the specific lot, home, and options desired by the homebuyer; otherwise, the builder will suffer a financial hardship if the variance is denied because the purchaser may cancel their contract.”

d) *Will allow the intent of the Zoning and Land Development Ordinance to be observed and substantial justice done.*

The application states, “Approval of this request does not change or affect the intent of the Zoning Ordinance because a substantial portion of the rear yard remains after the variance is applied, and the area of the subject lot adjoins a large open space containing one of the two community stormwater management facilities. Also, the inclusion of a screened porch on a deck does not create an offensive addition or portion to the home; rather it increases the quality and value of the home. Given the foregoing, this request maintains the spirit of the ordinance.”

3. Staff Evaluation of Request

The Beallair Subdivision Community Impact Statement was approved on November 26, 2002. This project consisted of 245 single family homes and 54 villas in the Residential Growth district. This phase (Phase I) of the Beallair Subdivision consisted of 39 single-family lots, 10 villa lots, and five residue lots (A - E) and was approved by plat on September 14, 2004.

As stated in the applicant’s request, the subdivision’s stormwater management easement is located adjacent to the applicant’s rear property line therefore granting this variance would not appear to adversely affect adjacent property owners to the rear.



**Depicting Lot 27 and the stormwater management facility.*

Staff Report
Jefferson County Board of Zoning Appeals Meeting
July 19, 2012

Beallair Homes, LLC Variance Request (#ZV12-24)

4. Possible Conditions of Approval

No conditions of approval are identified for this variance request.

SECTION OF ORDINANCE TO BE CONSIDERED:

Section 5.4b Residential Growth District - Height And Yard Requirements
[AMENDED TWICE BY ACT OF THE COUNTY COMMISSION, EFFECTIVE SEPTEMBER 13, 1990 AND SEPTEMBER 1, 2006]

<u>Development Type</u>	<u>Minimum Lot Area (MLA) Area per Dwelling Unit (ADU)</u>	<u>Required Yards</u>
Single family detached dwelling	6,000 sq. ft. MLA**	25 ft. front
Public/Central water & sewer	10,000 sq. ft. ADU	12 ft. side
Public/Central Water or Sewer	20,000 sq. ft. MLA	20 ft. rear
No Public/Central water or sewer	40,000 sq. ft. MLA	

JEFFERSON COUNTY BOARD OF ZONING APPEALS
VARIANCE REQUEST

I/We request a variance from the provisions of the Jefferson County Zoning and Development Review Ordinance.

Property Owner(s): Beallair Homes, LLC; attn: Mike Wiley

Address: 5283 Corporate Drive, Suite 300
Frederick, MD 21703

Phone Number: (301) 695-6614 x204

Location of Property: Lewis Washington Drive
Charles Town, WV 25414

Lot Size: 0.2229 acres

Deed Book Reference: Deed Book Number * Page Number * *975/635, 977/490, 977/495,

Tax Map Reference: District #4 Map 10A Parcel 27 977/500

Zoning District: Residential Growth

Section of Ordinance: Article 5, Section 5.4 (b)

Sketch on a separate 8 1/2" X 11" sheet of paper the shape and location of the lot indicating all roads, rights of ways, and easements. Show the location of the intended construction or land use indicating building setbacks (distance structure is from all boundary lines) size and height. Identify all existing buildings, structures or land uses on the property. Sign and date the sketch.

Briefly describe in your own words the nature of the variance request.

We request a variance to reduce the required 20' rear yard to 17',
in order to permit the construction of a 12'x16' covered screened
porch over a deck, which will partially extend into the rear yard
of Lot 27 by about 3' depth x 16' length.

Please note variances to the Zoning Ordinance must comply with Article §8A-7-11 of the WV State Code.

A variance is a deviation from the minimum standards of the zoning ordinance and shall not involve permitting land uses that are otherwise prohibited in the zoning district nor shall it involve changing the zoning classifications of a parcel of land.

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JUN 27 2012

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

* To replace 07/26/12 1st page application. - GH

Please provide an answer for each of the numbered items below using separate sheets of paper if necessary.

The board of zoning appeals shall grant a variance to the zoning ordinance if it finds that the variance:

1. Will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents:

See Attached

2. 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:

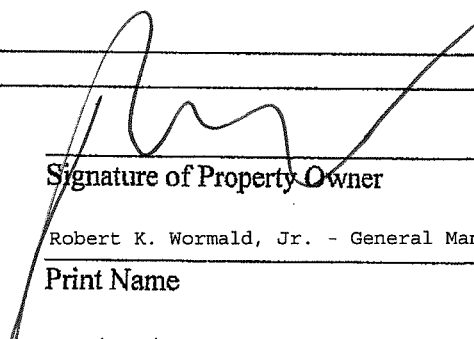
See Attached

3. Would eliminate an unnecessary hardship and permit a reasonable use of the land:

See Attached

4. Will allow the intent of the zoning ordinance to be observed and substantial justice done (2004, c.153.):

See Attached


Signature of Property Owner

Robert K. Wormald, Jr. - General Manager

Print Name

6/25/12

Date

FOR OFFICAL USE ONLY

Fees Paid: _____ Date Application / Fees Received: _____

Date of meeting / Public Hearing: _____

Official Administrative Body: Jefferson County Board of Zoning Appeals

Posting Requirements: _____ Number of Days Prior to Scheduled Hearing

Advertising Dates: _____

Official Action of Board: _____

Official Signature and Seal: _____

Beallair Phase 1 Lot 27 Variance Request Attachment

1. This request does not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents because the requested variance is only within the rear yard which adjoins a large open space containing a regional stormwater management facility; no adjacent property owners or residents are affected. In addition, the inclusion of the requested covered porch only helps to increase the subject and adjoining property values due to the presumption of increased appraisal values of the homes and the lots within the project.
2. Lots and associated yards within a typical project are routinely planned several years in advance of the availability of home designs. Thus, it is nearly impossible to predict house sizes and options that will fit on a single lot at the time of Final Platting. Because a builder strives to respond to market conditions and desires of the purchasers that will not always comply with the yard requirements, the need routinely arises for this type of a variance. Responding to the needs and desires of potential homebuyers is not a self-imposed hardship. In the case of the subject lot, the contract purchaser is adamant on the builder providing the requested option that is the basis of this request, in order to increase their future home value, and create an aesthetically pleasing home site.
3. The request enables a reasonable use of the land as it occurs within a planned residential community of quality homes, lots, and home options where similar options are predictable, customary, usual, and commonplace, and will continue to be desired. During the prolonged economic downturn and its negative affects on the housing market, the builder has struggled for the past few years to bring buyers to The Community of Beallair, and needs to take advantage of every real opportunity for sales. Approval of this request would allow the builder to provide the specific lot, home, and options desired by the homebuyer; otherwise, the builder will suffer a financial hardship if the variance is denied because the purchaser may cancel their contract.
4. Approval of this request does not change or affect the intent of the Zoning Ordinance because a substantial portion of the rear yard remains after the variance is applied, and the area of the subject lot adjoins a large open space containing one of the two community stormwater management facilities. Also, the inclusion of a screened porch on a deck does not create an offensive addition or portion to the home; rather it increases the quality and value of the home. Given the foregoing, this request maintains the spirit of the ordinance.

MTW/mtw/W:BEALLAIR (BA)Beallair Land DevelopmentRevised Beallair Phase 1 Lot 27 Variance Request Attachment.doc

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JUN 27 2012

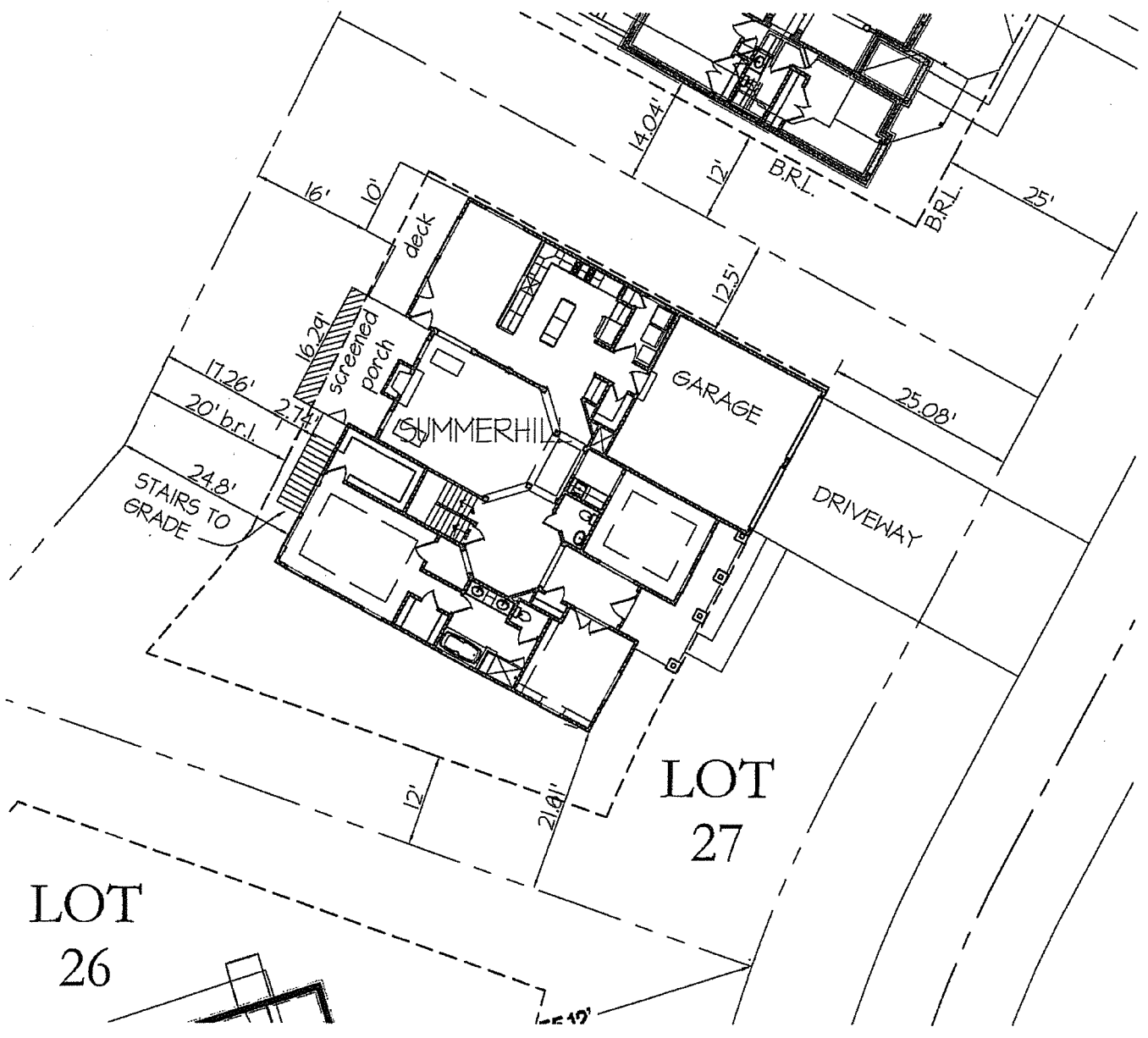
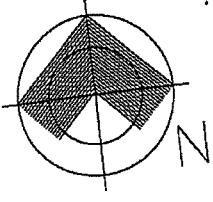
JEFFERSON COUNTY PLANNING,
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* To replace 07/25/12 'attachment' version. - att

FILE BA 27



WORMALD



LOT 26

LOT 27

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JUL 09 2012

JEFFERSON COUNTY PLANNING, ZONING & ENGINEERING

Beallair Site Plan - Lot 27 - The Summerhill Manor



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Due to the extensive features available for you to customize your home, please ask our Sales and Marketing Representative for complete information as not all features are shown. In our continued effort of design enhancement, actual product and specifications may vary in dimension or detail from these drawings and are subject to change without notice.

1"=20'
6-25-2012

* To replace 07/25/12 sketch. - ght

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APR 24 2012



JEFFERSON COUNTY
PLANNING, ZONING AND PERMITTING

JEFFERSON COUNTY, WEST VIRGINIA

Department of Planning and Zoning

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

Charles Town, WV 25414

Proj. File Number: CP12-03
Fees Paid (\$): 350.⁰⁰
Staff Initials: CC

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

Email planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Application for a Conditional Use Permit

A. Name of Project

River Country Store & Deli

B. Applicant Contact Information

Applicant Name: Renee & Wayne Moore
Mailing Address: 374 River Haven Drive
City: Harpers Ferry State: WV Zip Code: 25425
Phone Number: 703-406-0822 Email: c.reneemoore@comcast.net

C. Property Owner Information

Name of Property Owner: Karen & Ronald Stegall
Mailing Address: 20 Ruby Lake Lane
City: Greenville State: SC Zip Code: 296013707
Phone Number: 540-771-7454 Email: grammyschildcare@msn.com

D. Applicant Representatives

Name of Registered Engineer(s) or Surveyor(s): Ed Johnson
Mailing Address of Engineer(s) or Surveyor(s): _____
City: _____ State: _____ Zip Code: _____
Phone Number: 304-876-9472 Email: _____

E. Physical Property Details

Physical Property Address: 2142 Mission Road
City: Harpers Ferry State: WV Zip Code: 25425
Tax District: Kabletown Map #: 6 Parcel #: 13
Parcel Size: 1.7acres Deed Book: 844 Deed Bk. Pg. #: 74

Zoning District: Rural (R-A) Residential Growth (R-G) Industrial Commerical (I-C) Residential-Light Industrial-Commercial (R-L-C) Village (V)

F. Please provide any information or known history regarding this property (e.g., zoning certificate, site plan, subdivision variance, etc.)

This property has been a former day care center and was established in 1997 as a legal, conforming use in the Kabletown district and Zoned in Rural District, Section 5.7A of the Jefferson County Zoning and Land Development.

G. Original signatures of all property owners are required. The information given is correct to the best of my knowledge.

Karen Stegal 4/9/12
Signature of Property Owner 1 Date

Ronald J. Stegal 4/9/2012
Signature of Property Owner 2 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

03/30/12
Date

Notification

07/19/12
Date of public hearing

06/27/12*
Advertising date

15 days
Posting Requirements (Number of days prior to scheduled hearing)

To Be Completed By Staff

* Ad to run one week earlier due to 07/04/12 Holiday.

**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 Store, Restaurant & Recreation use. Country store providing general store items, with ABC off licences. Restaurant serving hot and cold menu items with ABC on licences. Dining room and a gated court yard for children play area & seasonal seating, game room and party rental rooms. Space for community events, Bingo, book clubs etc. Seasonal recreational area for activities;volley ball,basketball, mini golf. Picnic area servicing public boat ramp with carry out sandwiches and light fishing tackle and baits. Future seating up to 60 for inside dining and 25 for court yard seating.

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).

Property consist of level ground surface with a light downward slope in the rear of property.

6. Soil and drainage characteristics.

Refer to attached Soil Survey per USDA NRCS

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 existing covenants & land restrictions complies with county regulations.

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

No additional buildings needed. Sketch plan includes an extension of parking area as business grows. Location consist of 11 parking spaces now and has the capability of adding 30 new spaces in the future. Sign location proposed on the sketch plan to show business name with (NON-Flashing, limited hours) LED or Backlit signboard.

11. Intended land uses.

General Store, Restaurant & Recreation use including parking.

12. Earth work that would alter topography.

Future parking lot areas and recreational facilities for activities described above.

13. Tentative development schedule.

July 1st, 2012

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

N/A

15. Affected wildlife populations.

No additional clearing of property needed.

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

Property includes own septic and well system.

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

2 Miles -Blue Ridge Volunteer Fire & Rescue Department

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

Blue Ridge Elementary School 4 Miles

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

Estimated traffic will be limited to convenient store use and take out food orders, maybe some fast food seating to begin with not to exceed 12 parking spaces. Future restaurant, recreation will require future parking lot. This will be addressed as business develops and permits for additional business is obtained.

20. Demand for school services created by this development.

N/A

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

Historic Shenandoah furnace on adjacent property. Iron Masters Quarters

22. Proximity to recreational facilities.

2 Miles- Mount Mission Park- Jefferson County Parks

23. Relationship of the project to the Comprehensive Plan.

In researching the Comprehensive Plan for Jefferson County it has always been in the communities interest to increase commercial development to make the area more desirable for it residences and to provide amenities and promote jobs. While it is not a part of the Comprehensive Plan, The link below talks about the document posted in "Future of the Mountain: A Common Vision for the Jefferson County Blue Ridge Mountain Communities Area."

http://www.jeffersoncountywv.org/uploads/planning/Common%20Vision_FINAL_12_2_2010.pdf
Page 4 Section 3.3 Paragraph 2 Reads:

"Although there was not a consensus among participants on this specific issue, some residents would like to see some commercial development in the future. The types of development suggested, which should possibly be discussed in more detail during future planning efforts, included small market stores, a gas station, a hardware store, and parks and recreational opportunities."

List of adjacent and confronting property owners, with addresses.

1. Scott Bearup and Carroll Rice

166 Lamonte Dr.

Charles Town, WV 25425

2. John Pekar

P.O. Box 57

Charles Town, WV 25434

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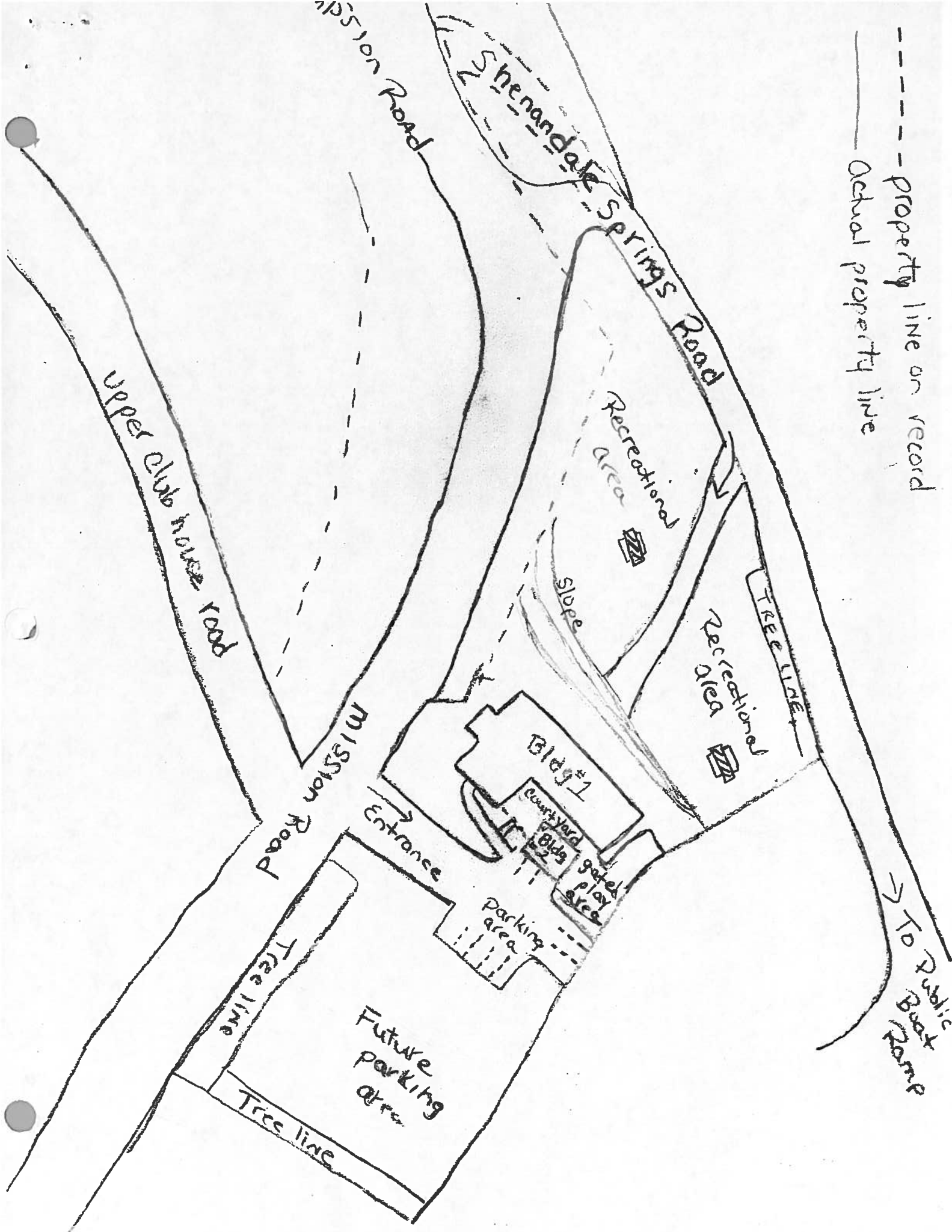
APR 24 2012

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Sketch Plan (Section 7.4A-C)

Including USDA NRCS Web Soil survey and figures

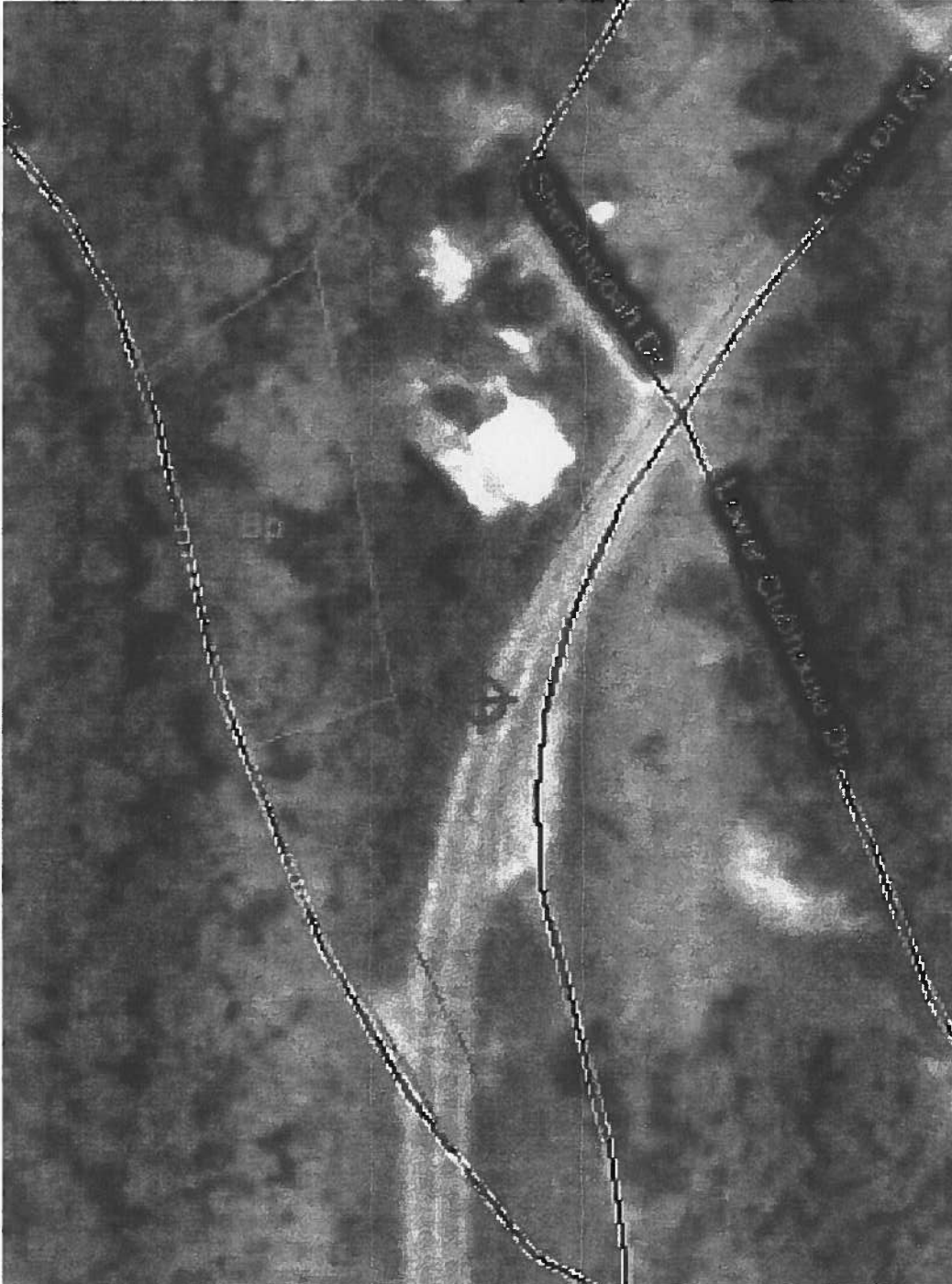
----- Property line on record
—— Actual property line



Soils Map – 2142 Mission Road

Data Source: USDA NRCS Web Soil Survey

Note: all property boundaries shown are approximate.

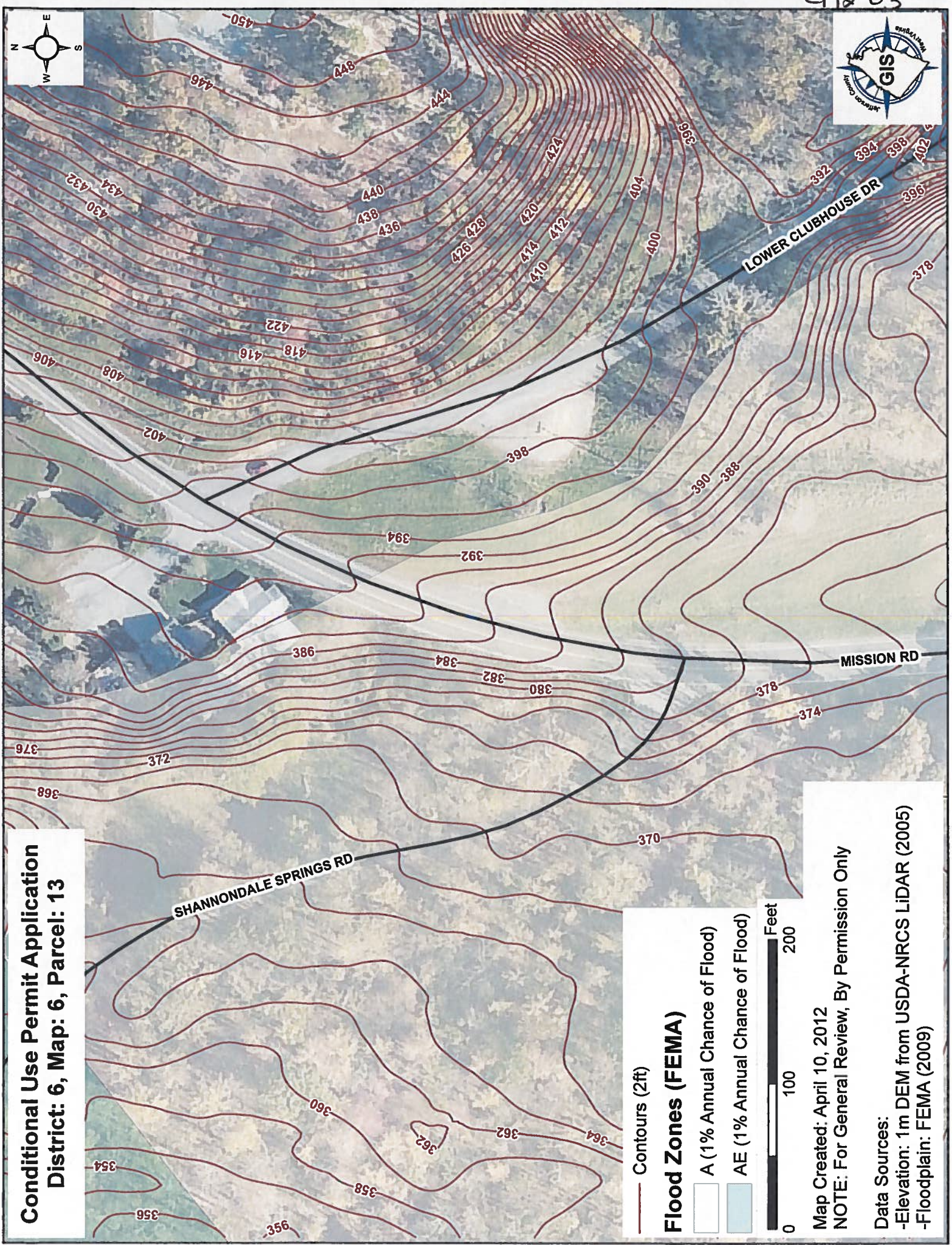


Soils Map – 2142 Mission Road

Data Source: USDA NRCS Web Soil Survey

Note: All figures are approximate.

Map Unit Symbol	Map Unit Name	Acres on Property	Percent of Property
AmB	Airmont cobbly loam, 0 to 8 percent slopes, stony	0.2	15.20%
Bp	Bigpool silt loam	0.4	28.20%
TxC	Trego very flaggy loam, 3 to 15 percent slopes, extremely stony	0.9	56.60%
Totals for Area of Interest		1.6	100.00%



**Conditional Use Permit Application
District: 6, Map: 6, Parcel: 13**

— Contours (2ft)

Flood Zones (FEMA)

- A (1% Annual Chance of Flood)
- AE (1% Annual Chance of Flood)

0 100 200 Feet

Map Created: April 10, 2012
 NOTE: For General Review, By Permission Only

Data Sources:
 -Elevation: 1m DEM from USDA-NRCS LiDAR (2005)
 -Floodplain: FEMA (2009)

Compatibility Assessment Meeting Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 May 30, 2012

SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	2.002 acres
APPROVED ACTIVITY:	Previously approved for a large day care center.
Site Plan #S97-18	10/28/97: PC approved limited site plan approved with 6 parking spaces including one handicapped accessible space (2/classroom).
Zoning Certificate #ZC11-07	Official Issuance Signature: 03/10/11 <i>Conditions as listed on Certificate.</i>
Conditional Use Permit #CP12-03	Submitted: 04/24/12 Site Assessment Passed: 04/25/12 Compatibility Assessment Meeting: 05/30/12 BZA Meeting: 07/19/12 Official Issuance Signature: TBD Expiration Date: TBD
VARIANCES:	05/15/97: BZA approved variance waiver from of the principal permitted uses which restricted childcare to four children (ZV97-10). 08/12/97: PC approves request to process a limited site plan. 10/16/97: BZA approved variance to reduce 50' unscreened or 15' screened green space buffer to 8' contingent upon an opaque fence being erected (ZV97-42). 10/16/97: BZA approved variance to reduce the distance requirement from residential road across Rt. 9/5 from 75' to 38' (ZV97-43). 10/16/97: BZA approved variance to reduce front setback from 25' to 8' contingent upon an opaque fence being erected (ZV97-44)

RELEVANT INFORMATION:

A Compatibility Assessment Meeting regarding the proposed River Country Store & Deli was held on May 30, 2012 at 10:00 a.m. in the Charles Town Library Meeting Room, located at 200 E Washington Street, Charles Town, West Virginia.

1. Presentation of the Proposed Land Use

The proposed use was presented by Renee Moore, applicant for the project, who stated the following:

Description of Use

The proposed project is to consist of a country store selling basic groceries. Initially, takeout food would be sold (such as sandwiches), with a full-service restaurant proposed to begin service within 3 – 5 years, with possible delivery service. The building has interior space sufficient for seating 40 restaurant customers. The site would also function as a community space for parties,

Compatibility Assessment Meeting Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 May 30, 2012

book clubs, etc. The store may also sell gifts, holiday baskets, some thrift items, and minor computer parts such as cables. Other features would include a UPS package drop-off, and a game room/arcade to include computer workstations.

Employees and Hours of Operation

The applicant intends on being the primary staff member, with minimal employees. Hours of operation were not described in the application or at the Compatibility Assessment Meeting.

Parking and Access

Per the applicant, the site is served by 12 existing parking spaces. In the future, the applicant may seek to expand the parking by up to an additional 30 spaces, and may explore construction of a future turning lane.

Signage and Lighting

The applicant's intent is to install either a backlit sign with replaceable letters or a non-animated LED sign.

2. Public Testimony

Neighboring property owners and other stakeholders (Neal Nielson, Cam Flynn, Scott Bearup, Randy Creller, Gary Dickenson and Manny Desi) asked questions and made comments regarding the proposed project.

3. Outcome

a) Resolved Issues

Issues that were resolved during the meeting included the following items:

#	Topic	Issue Description
1	Property lines	Perception that applicant's sketch plan does not accurately show property lines, specifically regarding area shown as future parking.
2	Wastewater	Adequacy of the existing septic system for restaurant seating 40. [Health Department requirements will address this issue.]
3	Magazine sales	Request to prohibit adult magazine sales. [Applicant has consented to this request.]
4	Stormwater management	Concern regarding existing stormwater as well as increased runoff resulting from development. [To be addressed as site plan phase.]
5	Fire suppression	Concern regarding adequate fire suppression / alarm for restaurant uses (fryer, etc). [To be addressed by County fire code requirements.]

b) Unresolved Issues

Issues that were unresolved following the meeting included the following items:

#	Topic	Issue Description
1	Traffic	Due to concerns regarding traffic safety and traffic congestion, it is requested that a traffic study be conducted.
2	Traffic	The applicant should establish a vehicular and pedestrian access easement between the subject property and the property where the Black Bear Camp and RV Conditional Use

Compatibility Assessment Meeting Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 May 30, 2012

#	Topic	Issue Description
		Permit is sought.
3	Scope of use	Scope of use is broad and should be more explicitly defined.
4	Parking	Concern that the site may not have sufficient parking for the proposed land uses.
5	Sale of alcohol	Concern regarding potential impact of alcohol sales (for either onsite consumption or package sales for offsite consumption). [Applicant proposes package sales for offsite consumption only for short term; beer and wine sales only; no bar.]
6	Impact on WMA area	Commercialization of WMA area and overall natural setting and related effects on area's ecosystem
7	Signage	Concern regarding visual impact of lighted signage.
8	Littering	Concern that convenience food sales and alcohol sales will lead to additional littering at the WMA area. Request that the owner mark all items that would be used for carryout with a logo, especially beer bottles for offsite consumption, so the community can be aware of the source of litter found at the WMA area.
9	Dam safety	Because the subject property borders Furnace Run, there are concerns regarding the safety of the dam on the Shannondale lake property located upstream, and potential emergency access issues in the event of a dam breach. Request development of emergency plan.
10	Bus stop	Concern that the proposed traffic pattern will not be safe for the adjacent children's bus stop. [It is acknowledged that it is unknown whether or not the bus stop is still located near the subject property; applicant to confirm.]
11	Hours of operation	Hours of operation not defined.
12	Lighting	Request lighting plan (height and type) for the parking area and outside picnic areas. [Applicant has offered to install downward-facing lighting with lighting hours limited.]

c) Other issues

Staff recommends that the following topics be considered as other related issues rather than resolved/unresolved issues.

#	Topic	Issue Description	Comment
1	Deed restrictions	Covenants for River View subdivision state that no buildings shall be used for other than residential purposes. Request that the applicant provide verifiable documentation that property was designated as a commercial lot as referenced in the subdivision's deeds.	It is recommended that interested parties pursue this matter privately. Jefferson County has no authority in matters relating to deed restrictions, covenants, etc.
2	Need for land use	It is noted that the limited customer base of the mountain area currently is served by the Foodway Market, which already sells items such as milk, bread and beer. The need for second store is questioned.	While the Board of Zoning Appeals may want to be aware of this concern, issues relating to private competition appear to be beyond the purview of the Board of Zoning Appeals.

Compatibility Assessment Meeting Staff Report
Jefferson County Board of Zoning Appeals Meeting
May 30, 2012

Because the Compatibility Assessment Meeting resulted in unresolved issues, a public hearing before the Board of Zoning Appeals has been scheduled for July 19, 2012, during the Board's regularly scheduled meeting. The meeting will take place at 3:00 P.M. in the Charles Town Library meeting room, located at 200 East Washington Street at the side entrance on Samuel Street, in the City of Charles Town.

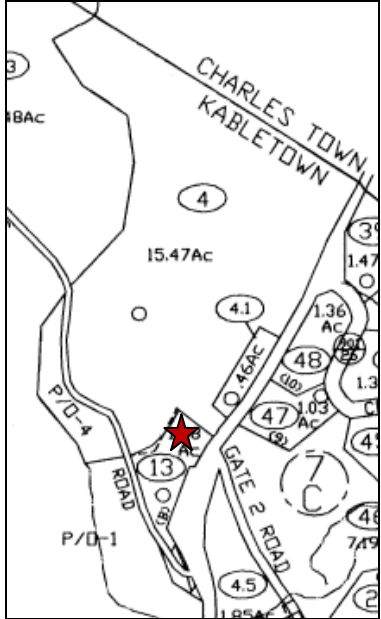
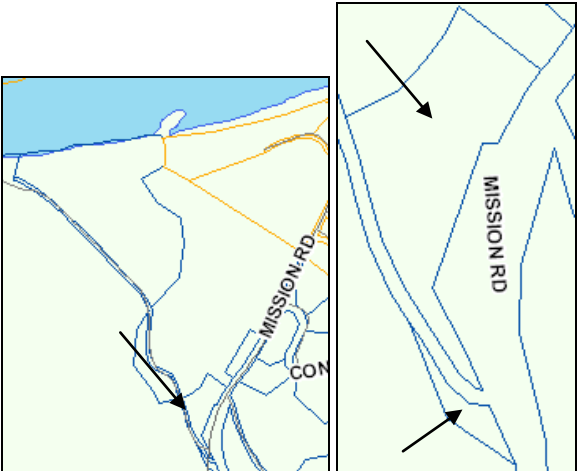
Per Section 7.7 of the Jefferson County Zoning and Land Development Ordinance, testimony at the meeting will be limited to:

- Resolution of issues which could not be resolved at the Compatibility Assessment Meeting;
- The compatibility of the project within the neighborhood; and
- Any comments relative to the validity of the Compatibility Assessment Meeting staff report

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

River Country Store & Deli Conditional Use Permit (#CP12-03)

Item #5: Public hearing and action on the Conditional Use Permit application submitted by Wayne and Renee Moore, Applicants, for the River Country Store and Deli to establish a general store, restaurant and space for recreational use. Intended uses are to consist of a country store providing general items, a restaurant serving hot and cold food with an ABC license, multiple recreational spaces for game and party rentals, children’s play area, seasonal activities (i.e. volley ball, basketball and mini golf), and associated uses.

APPLICANT:	Renee and Wayne Moore
OWNER:	Karen and Ronald Stegall
DEVELOPER:	Same as applicant
SURVEYOR/ENGINEER:	Appalachian Surveys
PROPERTY LOCATION:	2142 Mission Road, Harpers Ferry, WV 25425
LEGAL DESCRIPTION:	<p style="text-align: center;">District: Kabletown (06); Map: 06; Parcel: 13</p> 
ZONING DISTRICT:	<p style="text-align: center;">Zoning Map Designation: Rural</p> 

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

River Country Store & Deli Conditional Use Permit (#CP12-03)

SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	2.002 acres
APPROVED ACTIVITY:	Previously approved for a large day care center (45 children).
Site Plan #S97-18	10/28/97: PC approved limited site plan approved with 6 spaces with one being handicap accessible (2/classroom).
Zoning Certificate #ZC11-07	Official Issuance Signature: 03/10/11 <i>Conditions as listed on Certificate.</i>
Conditional Use Permit #CP12-03	Submitted: 04/24/12 Site Assessment Passed: 04/25/12 Compatibility Assessment Meeting: 05/30/12 BZA Meeting: 07/19/12 Official Issuance Signature: TBD Expiration Date: TBD
VARIANCES:	05/15/97: BZA approved variance waiver from of the principal permitted uses which restricted childcare to four children (ZV97-10). 08/12/97: PC approves request to process a limited site plan. 10/16/97: BZA approved variance to reduce 50' unscreened or 15' screen green space buffer to 8' contingent upon an opaque fence being erected (ZV97-42). 10/16/97: BZA approved variance to reduce the distance requirement from residential road across Rt. 9/5 from 75' to 38' (ZV97-43). 10/16/97: BZA approved variance to reduce front setback from 25' to 8' contingent upon an opaque fence being erected (ZV97-44)

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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River Country Store & Deli Conditional Use Permit (#CP12-03)

RELEVANT INFORMATION:

1. Overview

The applicant seeks to establish a general store, restaurant and space for recreational use.

The full set of proposed uses listed in the application is as follows:

- Country store providing general items, with ABC off license
- Restaurant serving hot and cold food with an ABC license
- Children's play area
- Game room
- Party rental rooms
- Space for community events
- Seasonal recreational activities (i.e. volley ball, basketball and mini golf)

The application notes that additional parking area of approximately 30 spaces is proposed in the future, and that a non-animated LED or backlit sign is proposed.

The application includes a sketch plan showing the existing improvements on the site as well as the intended locations of the various proposed land uses.

2. Existing Conditions

a. Location

The property is located at 2142 Mission Road, Harpers Ferry, West Virginia, 25425, across from the intersection of Mission Road and Lower Clubhouse Drive.

b. Zoning

The subject property lies within the Rural zoning district. Because many of the proposed land uses are not permitted in this district, a Conditional Use Permit is required to establish the uses, per Section 4.1 of the Zoning and Land Development Ordinance. As such, the Applicant is required to complete the Development Review System and to attain Board of Zoning Appeals approval of the land uses prior to obtaining a Zoning Certificate. This process is as described in Articles 6 and 7 of the Ordinance, and is outlined below.

Adjacent properties located to the north, south, west, and east of the subject property are zoned Rural.

c. Land Use

This site was most recently used as a daycare center known as Grammy's Place, with up to 45 children permitted. Per the applicant, the former daycare building also contains a lower-level accessory residential apartment. The property includes a fenced area formerly used as a playground, and an enclosed deck and patio connecting the principal building to a detached storage building.

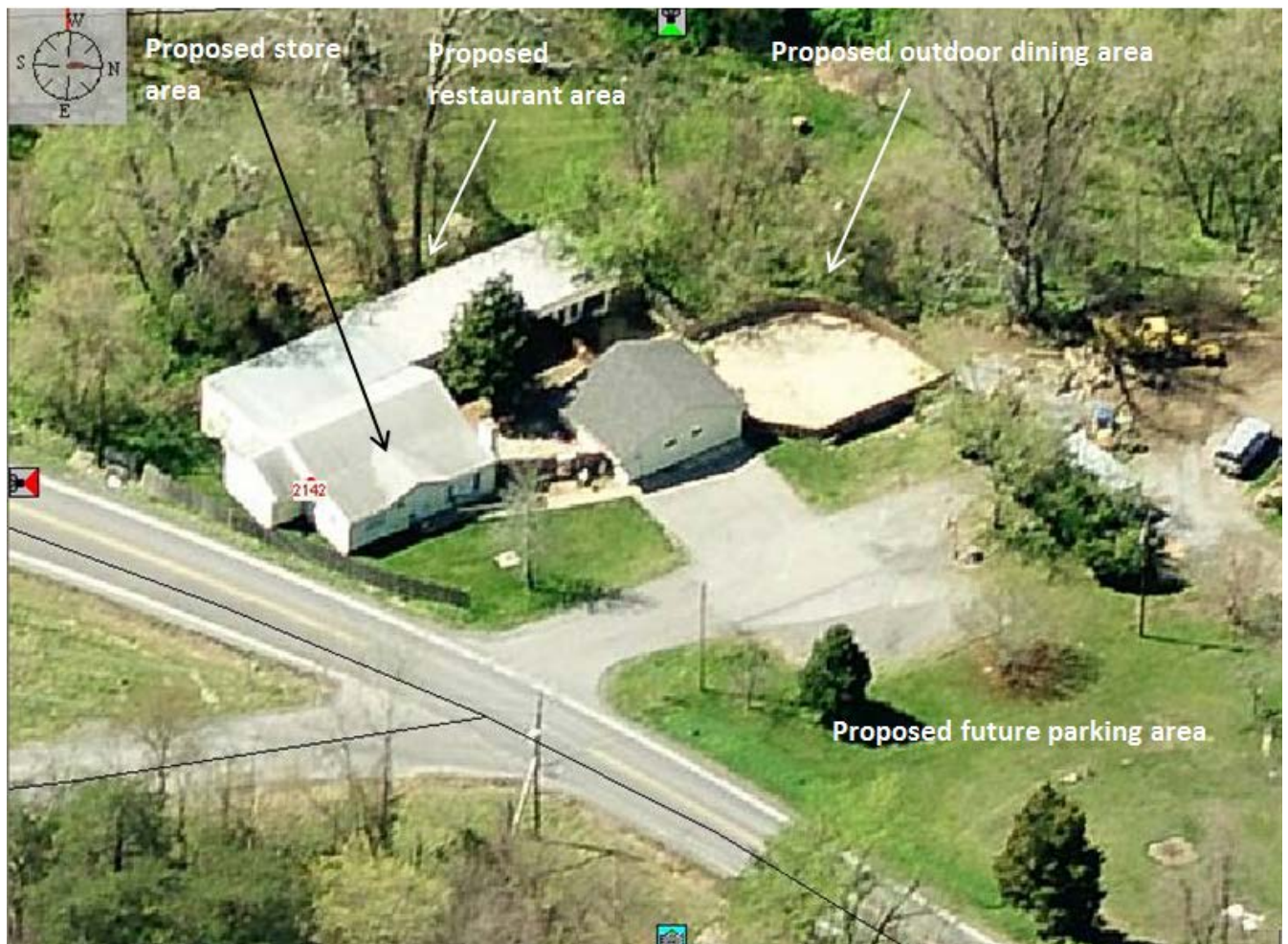
The most prominent adjacent land use located to the west of the subject property is the Shannondale Springs Wildlife Management Area (WMA), owned by the West Virginia Division of Natural

Staff Report
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River Country Store & Deli Conditional Use Permit (#CP12-03)

Resources (DNR). The WMA is described by DNR as “rolling hills ranging in elevation from 350 to 700 feet with mature hardwood forest, brush land and open fields” with hunting, fishing, and a boat launch. Camping on the WMA is not permitted. The adjacent section of the WMA is approximately 591 acres in area, and is reached via Shannondale Springs Road, an access road owned by the DNR and located adjacent to the subject property.

Located to the north and northeast is a property that is the former location of the Shannondale, Inc. offices and that is currently proposed to be developed as a campground with other associated uses. A single-family property is located to the east, across Mission Road. A vacant property is located to the south, across Mission Road.



d. Environmental Characteristics

A portion of the property is within the 100-year floodplain. The property is located approximately 250' from the Furnace Run Stream.

The property slopes downward approximately 30' from east to west.

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e. Utilities

The application states the property includes a well and septic system.

f. Historic Resources

Regarding historic resources on or near the property, the application states: "The property is adjacent to the Historic Shenandoah Furnace, Iron Masters Quarters." The subject property is not known to contain historic resources.

g. Other Existing Conditions

The application states that the property is located within 2 miles of the Blue Ridge Fire Company.

3. Comprehensive Plan Compatibility

The application submitted includes narrative regarding Comprehensive Plan compatibility (Question #23) but does not cite any particular sections of the Comprehensive Plan. However, the application cites the document entitled, "Future of the Mountain: A Common Vision for the Jefferson County Blue Ridge Mountain Communities Area." This document, developed by the Blue Ridge Mountain Watershed Citizens Committee with the assistance of County staff following completion of a collaborative planning process, has not been formally adopted by the Jefferson County Commission. However, the document may be useful in discerning the vision of area residents for the Blue Ridge Mountain area.

The application cites section 3.3 ("Preservation of the existing development pattern that makes the Mountain so attractive to its residents")

Although there was not a consensus among participants on this specific issue, some residents would like to see some commercial development in the future. The types of development suggested, which should possibly be discussed in more detail during future planning efforts, included small market stores, a gas station, a hardware store, and parks and recreational opportunities.

Staff finds that the 2004 Comprehensive Plan does not address the issue of non-residential development on the Blue Ridge Mountain. However, the Plan's discussion of the Rural District (p. 68) does include the following text, which appears to relate to higher-density residential development:

Also to be considered is that significant development of the Blue Ridge is not advisable due to environmental and access concerns. There are many small lots that exist on the mountain that cannot obtain septic system permits from the Health Department due to their size and must be combined with adjacent lots in order to meet current health requirements. Unchecked growth of private water and sewer systems in that area would open these lots to future development resulting in a population boom in an area poorly suited for dense residential development.

4. Traffic Characteristics

The application states, "Estimated traffic will be limited to convenient store use and take out food orders".

5. Development Review System Process

The Development Review System (DRS) process begins when an application is submitted. At this time, staff conducts an evaluation of the application in accordance with the standards of Article 6, including the Land Evaluation and Site Assessment (LESA) scoring process. A score of 60 points or fewer advances the

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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River Country Store & Deli Conditional Use Permit (#CP12-03)

application to the Compatibility Assessment Meeting (CAM) process. Following this meeting, the application is reviewed by the Board of Zoning Appeals (a public hearing is required if the CAM results in unresolved issues). The BZA may vote on the application during the meeting at which the case is heard, or at a subsequent meeting within 60 days.

The status of the River Country Store and Deli CUP application in completing the DRS process is as follows:

Milestone	Date	Status
Application filing	April 24, 2012	Application has met all submittal requirements of Section 7.4
Staff Evaluation per the Development Review System	April 25, 2012	Total LESA Score of 54.6 points (Amenities - 46 points; Soils – 8.6 points)
Compatibility Assessment Meeting (CAM)	May 30, 2012	Meeting resulted in unresolved issues.
Board of Zoning Appeals (BZA)	July 19, 2012	This item is on the BZA meeting agenda as a public hearing. The Board may approve, approve with conditions, or deny the application.

6. Compatibility Assessment Meeting

The Compatibility Assessment Meeting for this application took place on May 30, 2012. The meeting followed the format specified in Section 7.6. Several speakers asked questions and expressed concerns regarding the proposed land use, and the Applicant addressed these concerns. Following the end of public testimony, staff summarized the issues raised by attendees, and identified which issues had been resolved at the meeting and which issues remained unresolved. There was consensus among those in attendance regarding the list of issues and the resolution status.

The list of issues is located in the Compatibility Assessment Meeting staff report included in the packet for this meeting, and is also included in the section of this report entitled, “Possible Conditions of Approval.”

7. Previously Approved Conditional Use Permit

No previous conditional use permits pertain to this property.

8. Development Requirements

As with any Conditional Use Permit, should this application be approved, the following standard requirements will apply to the development of this property, in addition to any conditions approved by the Board:

- a. *Consistency with approved Conditional Use Permit.* All subsequent development applications must be consistent with the approved development as described in the Conditional Use Permit, and must address any conditions of approval associated with the CUP.

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- b. *Site plan.* Any non-residential development of the property exceeding 250 square feet (or 3,000 square feet of disturbed area) will require a site plan, reviewed and approved by the Planning and Zoning Department. The site plan review process will include the following elements:
- 1) *Consistency with ordinances.* The Planning, Zoning, and Engineering Departments will review the site plan for consistency with the Subdivision and Land Development Regulations, the Zoning Ordinance, the Floodplain Ordinance, and other requirements.
 - 2) *Setbacks and buffers.* The following setbacks and buffers will apply to non-residential development of the property:

	Front	Side	Rear
Distance requirements (if applicable) ¹ (applies to buildings or any portion of land use but not parking or drive aisles)	75'	75'	75'
Building setbacks	25'	50'	50'
Parking setbacks	15'	10'	10'
Buffers (Screened/unscreened)	15'/50'	15'/50'	15'/50'

- 3) *Stormwater management.* A licensed civil engineer must prepare stormwater management plans, to be reviewed by the Engineering Department.
 - 4) *West Virginia Division of Highways.* The WVDOH must review a request for an entrance permit for the proposed land use, and will review any required roadway improvements such as turn lanes or shoulder widening.
 - 5) *Bonding.* All improvements must be bonded.
 - 6) *Water and wastewater.* The Jefferson County Health Department (or a utility provider) must approve water supply and wastewater disposal.
 - 7) *Concept Plan.* For a site plan exceeding 5,000 square feet of development, a Concept Plan must be submitted and approved by the Planning Commission at a public hearing. Adjacent property owners would receive notice of this hearing.
- c. *Impact fees.* Payment of any required impact fees must occur prior to initiation of the land use.
- d. *Building permits.* All construction, unless of an agricultural type, will require permits and inspections.

¹ Distance requirements are applicable where the subject property is adjacent to a property line of a lot containing a residential uses, a property listed on the National Register of Historic Places, a lot in the Residential Growth district, schools, churches, or institutions for human care.

Staff Report
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9. Board of Zoning Appeals Public Hearing and Action

Because some of the issues raised at the Compatibility Assessment Meeting were not resolved during the meeting, a Board of Zoning Appeals public hearing is required.

Per Section 7.7, “The purpose of the meeting is to hear the staff’s report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff’s report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing. Speakers shall be limited to resolution of issues which could not be resolved at the Compatibility Assessment Meeting and the compatibility of the project within the neighborhood.”

This section of the ordinance also establishes time limits for speakers at a public hearing for a CUP application: “the applicant or agent shall have 30 minutes for a presentation, each group who speaks may have 15 minutes, each individual who speaks is allotted 5 minutes, the applicant or agent is allowed 15 minutes for rebuttal. The time limit provision within this section may be modified by the Board of Zoning Appeals Chairperson in the event that there are a large number of persons to speak at a particular hearing. The Board shall announce any change to this section at the beginning of the hearing.”

Per Section 7.6F, “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.”

The Board of Zoning Appeals may vote on the application during the meeting at which the case is heard, or at a subsequent meeting within 60 days after the public hearing.

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Jefferson County Board of Zoning Appeals Meeting
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River Country Store & Deli Conditional Use Permit (#CP12-03)



River Country Store & Deli Conditional Use Permit (#CP12-03)

10. Sections of Ordinance to be Considered

Section 4.1 Ordinance Deemed Minimum Regulations; Uniformity

For each zoning district, a limited number of principal permitted uses are listed, as well as several uses prohibited for all districts as listed in Section 4.4. All other uses, except prohibited uses, may receive a conditional use permit upon completion of the Conditional Use Permit process as described in this Ordinance, including a demonstration that the land use in a specific location will comply with the standards of the Development Review System and any other applicable requirements of this Ordinance.²³

Section 6.2 Issuance of a Conditional Use Permit

Application for a conditional use permit shall be made before construction of any uses not listed as permitted uses within the appropriate zoning district. Upon receipt of an application, the site will be evaluated by the Departments of Planning and Zoning Staff using the Development Review System. The two major components of the System, the Soils Assessment and the Amenities Assessment, consist of criterion which each possess a numerical value that is weighted relative to its importance as an indicator of a parcel's agricultural significance or its development potential. The total numerical value of the combined criteria is 100 points: the Soil Assessment contributes 25 points and the Amenities Assessment contributes 75 points. The highest total numerical value of the combined criteria indicates that a parcel is more suitable for agriculture, whereas, the lowest numerical value indicates that development is more appropriate for the site. A score of 60 points or less advances the application to the Compatibility Assessment as provided in Section 7.6.^{14, 17, 21, 23}

Section 7.6 Compatibility Assessment Meeting

- E. If not all issues raised at the Compatibility Assessment Meeting were resolved at that meeting, a public hearing of the Board of Zoning Appeals will be required. Staff shall prepare a report summarizing the developer's proposal, the agreed upon conditions, and any other pertinent data and will advertise for the public hearing. A public hearing in conformance with this article will be conducted no fewer than 30 days but no more than 60 days from the date of the Compatibility Assessment Meeting. At the public hearing, the Board shall take action as described in Section 7.6F.^{1, 17, 21, 23}

- F. 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}

Section 7.7 Public Hearings for Development Review System²³

- A. Unless otherwise superseded by the Board of Zoning Appeals Rules of Procedure, a public hearing for a Development Review System application shall be conducted in accordance with this section.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
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River Country Store & Deli Conditional Use Permit (#CP12-03)

- B. The public hearing will be conducted by the Board of Zoning Appeals. The purpose of the meeting is to hear the staff's report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff's report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing. Speakers shall be limited to resolution of issues which could not be resolved at the Compatibility Assessment Meeting and the compatibility of the project within the neighborhood.^{1, 17, 21}
- C. All public hearings shall have time limits allotted to those who speak, as follows: the applicant or agent shall have 30 minutes for a presentation, each group who speaks may have 15 minutes, each individual who speaks is allotted 5 minutes, the applicant or agent is allowed 15 minutes for rebuttal. The time limit provision within this section may be modified by the Board of Zoning Appeals Chairperson in the event that there are a large number of persons to speak at a particular hearing. The Board shall announce any change to this section at the beginning of the hearing.^{17, 21}
- D. Notification requirements of Section 3.4A(3)(b) apply.
- E. The Board of Zoning Appeals shall render a decision no more than 60 days after the public hearing.^{17, 21}



11. Possible Conditions of Approval

Should the Board choose to approve the request with conditions, possible conditions of approval include:

- a. Conditions for “resolved” issues agreed upon during the Compatibility Assessment Meeting.

#	Category	Issue Description	Proposed Condition	Comments
1	Property lines	Perception that applicant's sketch plan does not accurately show property lines, specifically regarding area shown as future parking.	N/A	Prior to Jefferson County approval of any additional parking, the applicant must provide a survey demonstrating the location of the property lines.
2	Wastewater	Adequacy of the existing septic system for restaurant seating 40.	Approval of water and septic by the Jefferson County Health Department will be required prior to initiation of any land use listed in the Conditional Use Permit.	Health Department requirements will address this issue.
3	Magazine sales	Request to prohibit adult magazine sales.	Sales of adult magazines shall not be permitted.	Applicant has consented to this request.
4	Stormwater management	Concern regarding existing stormwater as well as increased runoff resulting from development.	N/A	To be addressed at site plan phase.
5	Fire suppression	Concern regarding adequate fire suppression / alarm for restaurant uses (fryer, etc).	N/A	To be addressed by County fire code requirements.

b. Conditions to address “unresolved” issues discussed at the Compatibility Assessment Meeting. (Note: these issues should be the focus of the public hearing.)

#	Category	Issue Description	Proposed Condition	Comments
1	Traffic	Due to concerns regarding traffic safety and traffic congestion, it is requested that a traffic study be conducted.	A traffic study performed by a traffic engineering consultant is required prior to initiation of the land use.	Staff notes that County regulations require a traffic study if trip generation in the peak hour exceeds 100 trips. The proposed land use appears unlikely to approach this amount.
2	Traffic	The applicant should establish a vehicular and pedestrian access easement between the subject property and the property where the Black Bear Camp and RV Conditional Use Permit is sought.	A vehicular and pedestrian access easement must be established between the subject property and the property designated as District 6, Map 6, Parcel 4.	<p>Alternatively, the Board could:</p> <ul style="list-style-type: none"> • Require the applicant to establish an easement solely on the subject property, allowing access from neighboring property; or • Require an easement, but for pedestrian purposes only; or • Require applicant to demonstrate a good faith effort to seek a joint access easement but not require that the easement be established.
3	Scope of use	Scope of use is broad and should be more explicitly defined.	Principal land uses are limited to a country store providing general items, a restaurant serving hot and cold food with an ABC license and seating for a maximum of 85 persons. Accessory uses include recreational spaces for game and party rentals, children’s play area, seasonal activities (i.e. volley ball, basketball and mini golf) and other uses that are clearly incidental to the principal land uses.	Staff notes that, for an approved CUP, only uses listed in the application and accessory uses shall be permitted.

#	Category	Issue Description	Proposed Condition	Comments
4	Parking	Concern that the site may not have sufficient parking for the proposed land uses.	Prior to initiation of the land use, the Planning and Zoning Department shall evaluate existing parking.	<p>Staff notes that, should the CUP request be approved, the Planning and Zoning Department will evaluate the existing onsite parking with respect to the parking requirements of the Zoning Ordinance, and issue a Zoning Certificate only for the degree of intensity of land use demonstrated to have adequate parking.</p> <p>A sketch plan submitted with the application shows the location of a proposed future parking area.</p>
5	Sale of alcohol	Concern regarding potential impact of alcohol sales (for either onsite consumption or package sales for offsite consumption).	Sale of alcohol is limited to beer and wine. At least 50% of restaurant sales must be food-related.	Applicant proposes package sales for offsite consumption only for short term; beer and wine sales only (i.e. no liquor); no bar.
6	Impact on WMA area	Commercialization of Wildlife Management Area and overall natural setting and related effects on area's ecosystem.		
7	Signage	Concern regarding visual impact of lighted signage.	Lighted signage must be turned off when the business is not in operation. No animated signs are permitted.	
8	Littering	Concern that convenience food sales and alcohol sales will lead to additional littering at the WMA area. Request that the owner mark all items that	Property owner to mark all wrappers / containers for all convenience items to enable identification of source.	

#	Category	Issue Description	Proposed Condition	Comments
		would be used for carryout with a logo, especially beer bottles for offsite consumption, so the community can be aware of the source of litter found at the WMA area.		
9	Dam safety	Because the subject property borders Furnace Run, there are concerns regarding the safety of the dam on the Shannondale lake property located upstream, and potential emergency access issues in the event of a dam breach. Request development of emergency plan.	The applicant shall be required to develop an emergency plan regarding the safety of staff and customers in the event of a dam breach at the nearby lake.	Staff notes that the property currently has approval for a day care center for 45 children.
10	Bus stop	Concern that the proposed traffic pattern will not be safe for the adjacent children's bus stop.	The applicant shall provide documentation that a school bus stop is not located in the vicinity of the subject property.	It is acknowledged that it is unknown whether or not the bus stop is still located near the subject property; applicant to confirm.
11	Hours of operation	Hours of operation not defined.	Hours of operation shall be as follows: The business shall open no earlier than 7:00 AM and close no later than 10:00 PM.	
12	Lighting	Request lighting plan (height and type) for the parking area and outside picnic areas.	Lighting for existing or future structures or parking areas shall meet or exceed the Illuminating	Applicant has offered to install downward-facing lighting with lighting hours limited.

#	Category	Issue Description	Proposed Condition	Comments
			Engineering Society of North America (IESNA) standards for Lighting for Exterior Environments for achieving “Full Cutoff” of light pollution above the horizontal plane with little or no light at angles typically associated with glare.	

c. Other Issues Discussed

Staff recommends that the following topics be considered as other related issues rather than resolved/unresolved issues.

#	Topic	Issue Description	Comment
1	Deed restrictions	Covenants for River View subdivision state that no buildings shall be used for other than residential purposes. Request that the applicant provide verifiable documentation that property was designated as a commercial lot as referenced in the subdivision’s deeds.	It is recommended that interested parties pursue this matter privately. Jefferson County has no authority in matters relating to deed restrictions, covenants, etc.
2	Need for land use	It is noted that the limited customer base of the mountain area currently is served by the Foodway Market, which already sells items such as milk, bread and beer. The need for second store is questioned.	While the BZA may want to be aware of this concern, issues relating to private competition appear to be beyond the purview of the BZA.

Steve Barney

From: Wayne Moore <WMoore@nysmith.com>
Sent: Friday, June 29, 2012 1:47 PM
To: 'Steve Barney'
Cc: 'c.reneemoore@comcast.net'
Subject: RE: Issues from River Country Store Compatibility Assessment Meeting

Hi Steve,

Thank you for the meeting notes. Looks accurate with two small exceptions. I highlighted in red the words added... I did not remove any words. Would you mind modifying following items to read as follows? Since people we are declaring the definition of the business and restrictions thereof I want to be as clear as possible as to what we agreed to.

ITEM 6 – Alcohol Sales

Concern regarding potential impact of alcohol sales (for either onsite consumption or package sales for offsite consumption). [Applicant proposes package sales for offsite consumption only for short term. For long term or once seats are added, onsite "beer and wine" sales only; no hard liquor bar.]

ITEM 13 – Magazines

Request to prohibit adult (pornographic) magazine sales. [Applicant has consented to this request.]

From: Steve Barney [<mailto:sbarney@jeffersoncountywv.org>]
Sent: Friday, June 29, 2012 12:56 PM
To: kamflynn@verizon.net; neal@askneal.com; steven.sheard56@comcast.net; rcrell@gmail.com; Scott Bearup; Wayne Moore; 'Renee'
Cc: Jennie Brockman; Jennilee Hartman; srivard
Subject: Issues from River Country Store Compatibility Assessment Meeting

All,

The draft list of issues from the River Country Store Compatibility Assessment Meeting is attached. The list should be posted online next week.

Thanks,
Steve B.

*Steve Barney
Zoning Administrator
Jefferson County Departments of Planning & Zoning
(304) 728-3228*

Please note that Jefferson County email correspondence is subject to the West Virginia Freedom of Information Act.

Statement in Opposition of #CP 12-03 River Country Store

We are opposed to the establishment of a country store/deli at 2142 Mission Rd, and believe it does not meet the requirements set forth by the Board of Zoning Appeals for a conditional use permit. We respectfully ask the Board of Zoning Appeals to **deny** CP 12-03.

There are several reasons this conditional use permit should be denied. A country store and take-out deli at this location will have a detrimental effect on the rights of local residents and property owners, (including the DNR Wildlife Management Area) while also jeopardizing public safety.

The commercialization this development would bring would have a significant negative impact on the residents who moved to the mountain to get away from the lights, noise and traffic of metropolitan areas. The property surrounding the proposed development is almost entirely zoned Rural. Most of the residents living nearby were drawn to the area because of its bucolic, natural setting. Because it is zoned Rural, residents and property owners expect the area to remain in a fairly natural state. Per the Comprehensive Plan, there are many other areas in Jefferson County in which commercial development is already approved.

Litter is already a problem at the DNR Wildlife Management Area which borders the proposed development. Piles of trash are regularly left along the DNR road and at the boat launch. In addition, we frequently find empty beer bottles and cans on our property. (We are located adjacent to the DNR and very near the proposed development.) Opening a store which provides carryout food and drinks at the entrance to the DNR road will only exacerbate the problem, leaving area residents to deal with the trash.

Consumption of alcoholic beverages is prohibited in DNR Wildlife Management Areas. While that alone is not reason to prohibit sales of beer and wine nearby, it should be considered as a factor when determining whether to grant a change in zoning.

The affect of additional traffic generated by the proposed development could seriously jeopardize the safety of area drivers. A day-care center previously operated out of the space proposed for the store/deli. While a day care generates some amount of traffic, it is limited to morning and evening, and typically involves residents who live in the area and are traveling the road anyway. A store/deli would generate much more traffic throughout the day and night. Patrons would enter/exit directly on to Mission Road in an area with two uncontrolled intersections (Mission Road/Lower Clubhouse and Mission Road/Shannondale Springs Road). If the proposed campground (CP 12-02) is approved, there would be even more traffic with RVs also trying to turn onto Mission Road. Such a confusing traffic pattern would be extremely hazardous. At a minimum, a traffic study should be conducted to determine the effects of the additional cars on the safety of those traveling Mission Road.

For the above reasons, we ask the Board of Zoning Appeals to deny the conditional use permit outlined in CP 12-03.

Respectfully submitted,

Kathleen (Kam) and Donald Flynn
Adjacent Property Owners

Steve Barney

From: Kam Flynn <kamflynn@verizon.net>
Sent: Thursday, July 12, 2012 10:48 PM
To: 'Steve Barney'
Cc: 'Jennilee Hartman'
Subject: Comments re: CP 12-03
Attachments: Statement in Opposition of CP 12.03.pdf

One more submission - this one is for CP 12-03 River Country Store.

thank you,

Kam

From: Steve Barney [<mailto:sbarney@jeffersoncountywv.org>]
Sent: Monday, July 09, 2012 12:27 PM
To: 'Kam Flynn'
Cc: Jennilee Hartman
Subject: RE: Comments re: CP 12-02

Kam,

We can accept comments in either hard-copy or digital form, so email is fine.

Thanks,
Steve

From: Kam Flynn [<mailto:kamflynn@verizon.net>]
Sent: Monday, July 09, 2012 11:28 AM
To: 'Steve Barney'
Subject: Comments re: CP 12-02

Quick question ... can we send our comments for the hearing via email, or should we send a hard copy via mail?

thank you,

Kam



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

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

Charles Town, WV 25414

Proj. File Number: CP12-02

Fees Paid (\$): 1050.00

Staff Initials: CC

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

Email planningdepartment@jeffersoncountyv.wv.org

Phone: (304) 728-3228

Email zoning@jeffersoncountyv.wv.org

Fax: (304) 728-8126

Application for a Conditional Use Permit

A. Name of Project

Black Bear Camp & RV

B. Applicant Contact Information

Applicant Name: Scott Bearup

Mailing Address: 2128 Mission RD

City: Harpers Ferry State: WV Zip Code: 25425

Phone Number: 304-728-7852 Email: papabear-64@hotmail.com

C. Property Owner Information

Name of Property Owner: Scott Bearup & Carroll Rice

Mailing Address: 2128 Mission RD

City: Harpers Ferry State: WV Zip Code: 25425

Phone Number: 304-728-7852 Email: papabear-64@hotmail.com

D. Applicant Representatives

Name of Registered Engineer(s) or Surveyor(s):

Mailing Address of Engineer(s) or Surveyor(s):

City: State: Zip Code:

Phone Number: Email:

E. Physical Property Details

Physical Property Address: 2128 Mission RD

City: Harpers Ferry State: WV Zip Code: 25425

Tax District: 06 Map #: Parcel #: 04

Parcel Size: 15.47 Deed Book: 1094 Deed Bk. Pg. #: 621

Zoning District: Rural (R-A) Residential Growth (R-G) Industrial Commerical (I-C) Residential-Light Industrial-Commercial (R-L-C) Village (V)

RECEIVED

APR 27 2012 Q:\In-house files\FORMS\NEW 2011 Applications\Zoning Conditional Use Permit\Zoning CUP 1.3.12

JEFFERSON COUNTY PLANNING, ZONING AND ENGINEERING

**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).

We would like to offer Jefferson County a chance to play in there own back yard. We want to offer some primitive camping, hiking, horse back riding and stables, biking, fishing, hunting, tubing, canoeing, rafting & a look into the rich history of Shannondale Springs and the surrounding area. All from the perspective of a young George Washington to present day. This will be done by bringing in historians to speak on the weekends. From the rambling casino to the bath house including John Mosby & the Civil War. We would like to start with 11 sites and in the future have up to 50 available to the public.

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).

This 15.47 acre tract is wooded with the over growth of vines & shrubbery. The property borders Furnace Run and is located on the Shannondoah River. The property has a elevation drop of approximately of 80'0 from Mission Rd. to the river spread out over 1,100'

6. Soil and drainage characteristics.

Although 2/3 of the property is located inside the 100 FEMA Flood plain it flattens off creating a natural buffer for any waters coming down off the mountain terrain. We have no areas of standing water. We also have no intentions of building in this area.

7. General location and description of any existing structures.

(See Sketch Plan)

9. Existing covenants and restrictions on the land.

When we purchased the property it came with a non conforming commercial use. It was used as a realstate office from 1954-2011 when we purchased it. It is currently used by 200+/- local residence for mail delivery

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

The intended use will be for a primitive camping area. With little to no impact on the current topography. We would like to, in the future put a storage building up out side the FEMA flood plain for storage. We would also like to in the future add a bath house for the use of the customers. We also intend on adding some gravel roads to access the camping areas of approximately 2,500' LF at county rd. specs

11. Intended land uses.

The use will be for a primitive camping area with 11 sites with the intentions of putting full hook ups in the near future.

12. Earth work that would alter topography.

There will be no earth work altering the topography of the land. We do intend on cleaning up vines, shrubbery and some of the junk trees as per the DNR's suggestion.

13. Tentative development schedule.

The schedule although weather based is to open as soon as possible. We are close to being able to do this with the blessing of Jefferson County.

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

The property has been in use as a realstate office with no farm land available. It at one time in history was used as a campground & horse stable.

15. Affected wildlife populations.

Being on the WWMA border of 600 +/- acres feel that there will be no affect on the current wildlife surrounding said property. By cleaning up the major over growth of this property was told by the DNR that this will help revitalize the existing trees strengthening the root base including bringing in more fowl and small game to the area.

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

Although being on the Shannondaoh River and adjacent to Furnace Run have no ground water or sewer lines with in 1,320'0. Our living area has an approved septic system all ready in place when we purchased the property and has been approved by the health department of Jefferson County

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

Emergency fire & rescue services are located at 100 Mission Rd with in 2 miles from said property

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

N/A

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

Located on the primary route for Shannondale and Shannondale Springs feel that most of the traffic being generated by the proposed campground will be in the evenings on weekends after working hours. Having all the necessary needs located here for the customers will deter some out going traffic. Some traffic will be generated for the customers leaving to see some other local historical sites and or wineries helping the local economy by creating seasonal jobs for the residence of Shannondale and surrounding area. This is a seasonal operated business having no impact during the winter months.

20. Demand for school services created by this development.

N/A

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

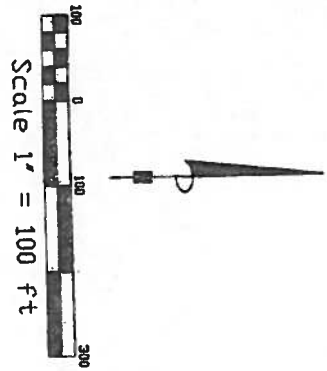
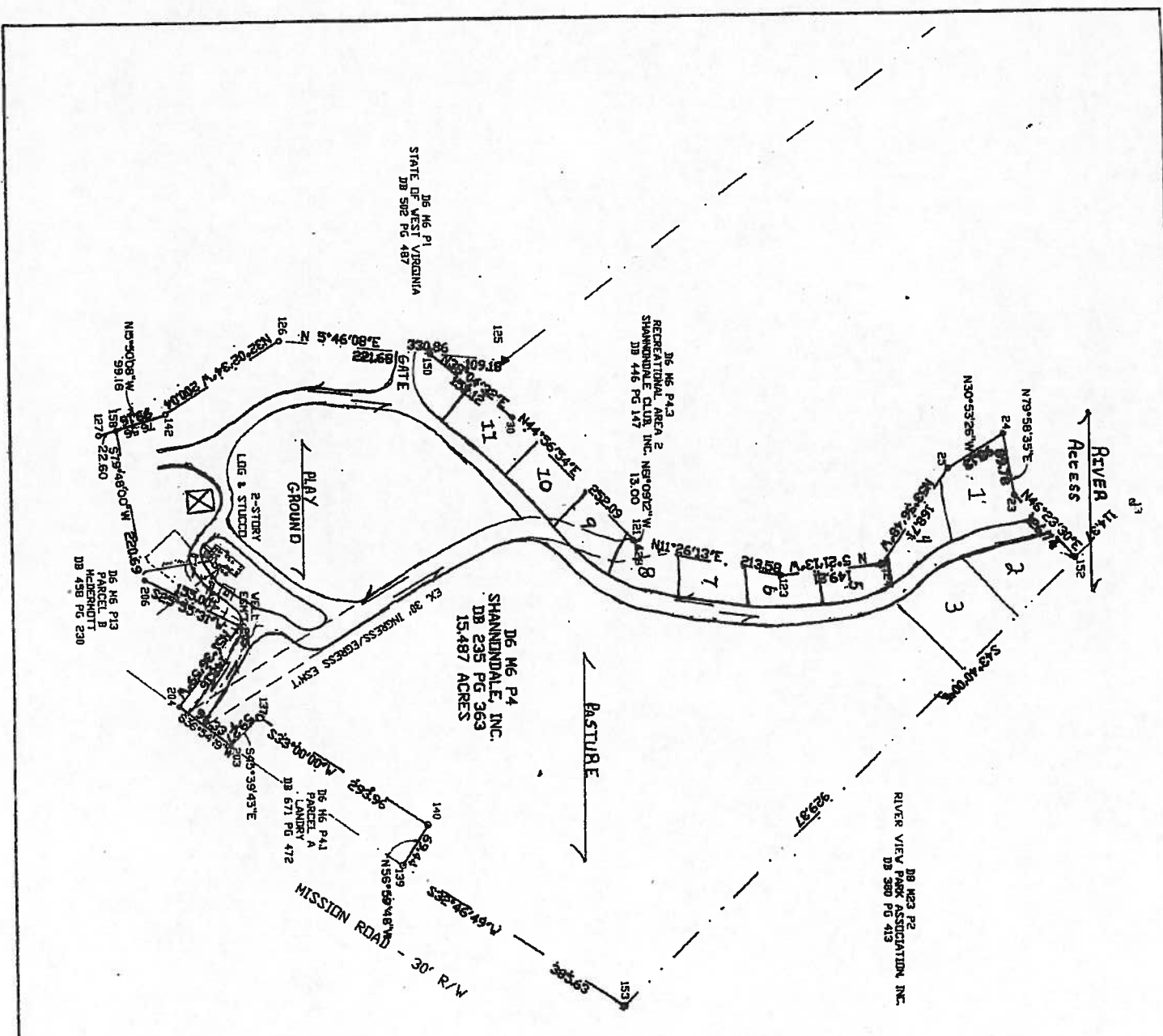
Bordering the WVVMA area of 600+/- acres and its huge roll in history we have the luxury of owning Shannondales oldest building witch was used as the Iron Masters Quarters. We also own the 2 1/2 story stone complex known as the Iron Furnace that ran from the late 1700's through 1850 producing Pig Iron for Harpers Ferry and the ammunition factory. During the Civil War this property was used as a confederate out post for the soldiers traveling north to Michigan, Ohio, Pennsylvania & New York. During the Civil War, John Mosby & Mosby's raiders have had conflicts here on the property hence the Civil War marker 16 located on the property. +

22. Proximity to recreational facilities.

We are located on the border of the WVVMA and its abundant roll in history including trails, fishing and hunting. With the access to the Shannondoah River for tubing, canoeing & rafting

23. Relationship of the project to the Comprehensive Plan.

We feel, as per the long range projection of Jefferson County and its Economic Development plan including its historical development that this project will meet and or exceed those goals. Acknowledging the abundant history that has taken place here on my property and the WVVMA, by sharing this with local and non local residence. The biking and or hiking trails will allow people to stay healthy and active while enjoying the serine views of the Shannondoah River and it bounty. We will also be able to keep an eye on the WVVMA for any illegal dumping or activity witch has deterred since we took ownership of this property. We also plan on providing seasonal jobs for the young local residence giving them a chance to also enjoy this bounty all the while generating a pay & tax base for Jefferson County and it residence with the inclusion of promoting local small businesses.



LEGEND
 ▲ FENCE
 △ FENCE & CAP
 ○ IRON PIPE FOUND

LOT SIZE 100' x 200'
 11 Lots Total
 ☒ = IRON FURNACE
 Lot Consist of OVER
 GAUCHT VINES & SHUB



Quin 9th 05
 Plat 15

REVISION DATE	
ED JOHNSON & ASSOCIATES, INC. LAND SURVEYORS 208 WEST WASHINGTON STREET CHARLES TOWN, WEST VIRGINIA 25414 (304) 725-7764	
PLAT SURVING THE PROPERTY OF SHANNINDALE, INC. KABLETOWN DISTRICT JEFFERSON COUNTY, VIRGINIA SCALE 1" = 100' JUNE 8, 1999	
SHEET NO. / OF 1	

industry, and the horse racing industry has generated many jobs and much tax revenue in the County. The Census also does not take into account agro-tourism, exotic crops and livestock and "value-added" production.

In order to further the agriculture industry, permitted farm-related uses in the Rural District should be liberalized to permit a wide variety of agriculture and horticulture related activities, short of industrial processing that creates hazardous wastes and excessive nuisances. Given Karst nature of the rural environment, and the growing presence of residential developments in the rural parts of the County, the need for environmental protection and protecting adjacent residential uses must be balanced with the agricultural industry's need to diversify operations.

Please note that the economic context of farming is addressed in more detail, separately in the section of this chapter pertaining to the economy.

Residential Growth Compatible with Farming

Current Zoning Regulations in the Rural District offer little direct consideration to the relationship of new housing developments to existing farming operations. Except for those properties developed under the LESA system, most lots in the Rural District are recorded with a lot size of three acres or larger. When a property is fully developed in accordance with the one lot per 10 acre provision, anywhere from a third to all of the parent tract is committed to building lots and infrastructure.

Clustering involves development on these properties with lots of 30,000 to 60,000 square feet located in less productive areas of a farmed parcel. At one lot per fifteen acres of land, however, the permitted density of a clustered subdivision is less than of a "by right" subdivision. Clustering would allow the owner of a farm or environmentally sensitive tract to develop his parcel to the maximum density permitted by the Ordinance while ensuring that less of the overall parcel is consumed compared to what the Ordinance currently requires. However, such requirements should be flexible because it is not always practical to cluster on the lesser productive soils because these soils are also usually not very

conducive to installation of septic systems.

While farmland can be better protected by clustering, clustering ordinances often are more geared toward rural landscape protection and not toward farmland protection. Many rural parcels with mature tree stands and other environmental features which are not farmed actually benefit more from cluster development than farmed parcels.

Use of natural features in the development area and perhaps dedicated open space lots could further buffer residential uses from the continued farming operation. Also, strategic location of clustered housing development can have a reduced visual impact on the agricultural area of the District.

HISTORIC PRESERVATION

Jefferson County is an area rich in historical and archaeological interest. It has arguably been referred to as the most historic rural county in America. As part of our country's first western frontier, it was settled by Europeans before 1720 and was inhabited by Native Americans for several thousand years before.

Surveyed by a young George Washington and host to seven Washington family homes and three Revolutionary War generals' residences, Jefferson County's rich early history in the areas of transportation, farming, the military and industry are still evident in the structures and other resources that survive. As one of the major areas of military maneuver and the site of the John Brown Insurrection, the County's place at one of the crossroads of the Civil War forever links it to many of the important events that occurred during our Nation's greatest test of endurance.

Given its size and population, Jefferson County has been fortunate in the amount of historic preservation projects that have been implemented around the County. The effort to preserve the fire engine house of the Harpers Ferry Armory (a.k.a. "John Brown's Fort") in the late 1890s is among some of the earlier concerted efforts at preserving a historic building in the United States. From Harpers Ferry National

Historical Park to the historic districts of Shepherdstown and Middleway, Jefferson Countians can be proud of the number of historic resources that have been preserved here.

Currently, 5 districts and 58 sites in the County are listed on the National Register of Historic Places. "Traveller's Rest", the home of General Horatio Gates, is the County's only officially designated National Historic Landmark.

Over the years, a "windshield survey" of historic and vernacular buildings was created. This inventory was an initial effort, and is outdated, incomplete and should not be used as a working document nor a model for a new inventory.

History tourism is a significant element of Jefferson County's economy. Harpers Ferry, the Appalachian Trail, Shepherdstown, Antietam and the C&O Canal all serve to draw visitors to the County and surrounding area. The Jefferson County Landmarks Commission was reestablished in 1980 to be a central clearinghouse for preservation activities in the County, from reviewing nominations to the National Registers of Historic Places, to restoring and interpreting the Peter Burr Farm, to providing input regarding developments.

While there have been many preservation "success" stories in Jefferson County, the issue has not been without controversy in recent years. Disagreements over such projects as the proposed demolition of the circa 1920 Jefferson County Jail have highlighted such issues as the responsibility of governments as stewards of historic structures, the use of appropriate government bodies in advisory roles, identification of preservation priorities, and long term preservation planning.

Regardless of the successes of the past, as an increasing number of tracts are developed for residential, commercial or industrial uses, existing unprotected historic resources become endangered. Existing processes should be evaluated for their ability to address this growing issue.

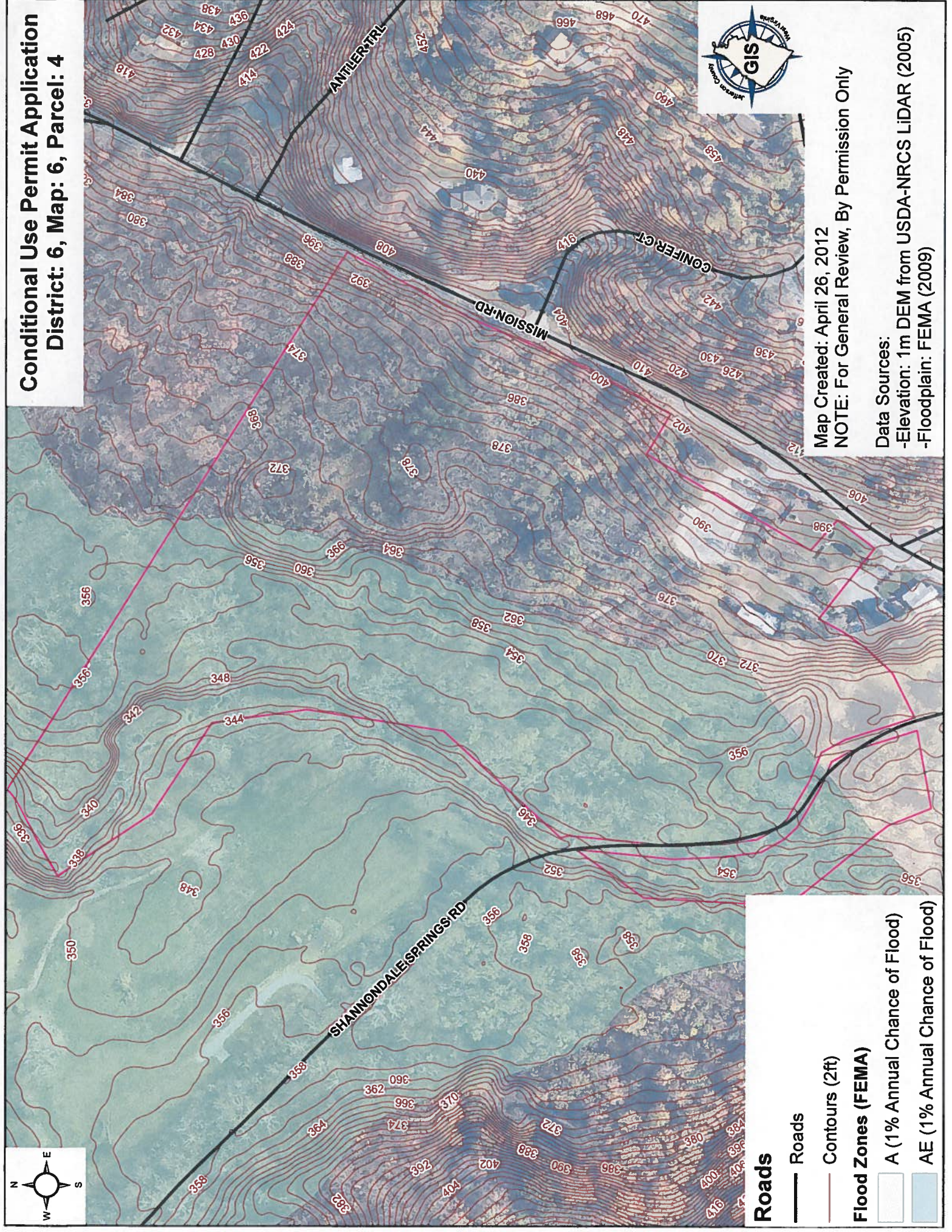
RECOMMENDATION 3.13: *The County should examine existing land use regulations and*

Planning Commission resources and explore regulation amendments and policies that encourage preservation of historic resources. Some amendments and policies the County may want to investigate may include:

- a. *Rewarding the retention and restoration of historic buildings during the subdivision process with limited increased density to offset the expense of preservation.*
- b. *Re-evaluating zoning restrictions on the adaptive reuse of historic buildings county-wide in order to encourage their continued occupancy and maintenance.*
- c. *Requiring documentation of significant structures that are to be removed due to development activity.*

RECOMMENDATION 3.14: *The County should promote the establishment of a county-wide inventory of structures built before 1900 and of sites with archeological potential, inspections being conducted only with the approval of affected landowners. This inventory should be readily available to the public and should be used as a planning tool and as a means of evaluating historic resources and of determining preservation priorities.*

**Conditional Use Permit Application
District: 6, Map: 6, Parcel: 4**




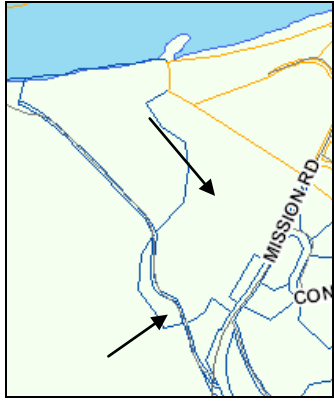
Map Created: April 26, 2012
NOTE: For General Review, By Permission Only
Data Sources:
-Elevation: 1m DEM from USDA-NRCS LIDAR (2005)
-Floodplain: FEMA (2009)

- Roads**
- Roads
 - Contours (2ft)
- Flood Zones (FEMA)**
- A (1% Annual Chance of Flood)
 - AE (1% Annual Chance of Flood)

Compatibility Assessment Meeting Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

**Black Bear Camp & RV
 Conditional Use Permit (#CP12-02)**

Proposed Use: Conditional Use Permit to establish a primitive camping, hiking, horseback riding and stable, biking, fishing, hunting, tubing, canoeing, rafting, historic tourism and other associated uses as further described in the application.

APPLICANT:	Scott Bearup and Carroll Rice
OWNER:	Same as above
DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	2128 Mission Road, Harpers Ferry, WV 25425
LEGAL DESCRIPTION:	<p style="text-align: center;">District: Kabletown (06); Map: 06; Parcel: 04</p> 
ZONING DISTRICT:	<p style="text-align: center;">Zoning Map Designation: Rural</p> 

Compatibility Assessment Meeting Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	15.47 acres
APPROVED ACTIVITY:	Residential
VARIANCES:	N/A

RELEVANT INFORMATION:

A Compatibility Assessment Meeting regarding the proposed Black Bear Camp & RV Conditional Use Permit was held on May 30, 2012 at 2:00 p.m. in the Charles Town Library Meeting Room, located at 200 E Washington Street, Charles Town, West Virginia.

1. Presentation of the Proposed Land Use

The proposed use was presented by Scott Bearup, applicant for the project, who stated the following:

Description of Use

The project is to consist of 11 primitive campsites (with an intent to eventually increase to 50 sites) to include tents and pop-up campers and recreational vehicles (applicant may propose to limit size of RVs). A general store selling bait & tackle, ice and other necessities would be located onsite. WiFi service would be available. No alcohol sales would occur onsite, but alcohol consumption would be permitted. Historic education will be provided to guests, regarding the former iron furnace and other historic features of the property. Horseback riding would take place on the adjacent West Virginia Wildlife Management Area (WMA) property. The applicant also proposes to provide overflow parking for WMA river access users.

Employees and Hours of Operation

The business will be staffed by a minimal number of employees, with at least one onsite 24-hour staff member. Hours of operation were not described in the application nor at the Compatibility Assessment Meeting.

Parking and Access

One parking space per camp site is proposed, in addition to existing parking spaces located at the campground office. Access to the site is from Mission Road.

Signage and Lighting

The applicant's intent is to retain the location of existing signage, but to install new signage with the same square footage as the existing signage. Additional lighting, if any, is proposed to be minimal.

2. Public Testimony

Neighboring property owners, Neal Nielsen, Randy Creller, Cam Flynn and Steve Sheard asked questions regarding the proposed project, and expressed concerns as described in the list below.

Compatibility Assessment Meeting Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

3. Outcome

a) Resolved Issues

Issues that were resolved during the meeting included the following items:

#	Topic	Issue Description
1	Signage	Signage will be the same size as existing signage.

b) Unresolved Issues

Issues that were unresolved following the meeting included the following items:

#	Topic	Issue Description
1	Property lines	Property lines shown in the CUP application are perceived to be inaccurate.
2	Property lines	Perception that application states incorrectly that the property borders Furnace Run.
3	Property lines	Perception that property owner John Pekar owns a strip of land including the driveway to access the subject property, and that the applicant would therefore not have the legal right to improve the entrance.
4	Property lines	Perception that application inaccurately shows the property bordering the Shenandoah River.
5	Application completeness	Zoning district stated on application is incorrect.
6	Application completeness	The applicant should clarify how much acreage will be cleared for pastureland for the proposed equestrian uses.
7	Application completeness	Need information regarding the lighting plan for the site, including parking lots and camping areas.
9	Application completeness	What are anticipated noise levels for concerts?
10	Application completeness	What is the proposed location and size of the storage building?
11	Application completeness	What are the details of the proposed amphitheater - capacity and location?
12	Application completeness	What parking will be provided for the campsites?
13	Application completeness	Disagree with accuracy of #19, Traffic Characteristic, as follows:
13.a	Application completeness	Proposed intersection for this application has no traffic control to support safe entrance and egress of large vehicles, and the increased traffic volume.
13.b	Application completeness	The proposed intersection for this application is designated as a public school bus stop
13.c	Application completeness	The road is the major bus route for schools and during times of day restricts travel and speed of vehicles
13.d	Application completeness	Mission Road is the only entrance and egress road for over 1,500 residents in over 5 subdivisions.
13.e	Application completeness	It is most traveled in the mornings, evenings and on weekends during the time the applicant describes as his peak traffic period.
13.f	Application completeness	It lies in a heavily wooded region of Jefferson County prone to Gypsomoth defoliation and increased fire risk.
13.g	Application	The road is located in the FEMA 100 year floodplain and has stopped residents and

Compatibility Assessment Meeting Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

#	Topic	Issue Description
	completeness	emergency service passage on several occasions.
13.h	Application completeness	One portion of this road referred to as Johnsons Hill is very dangerous resulting in many accidents.
13.i	Application completeness	The road suffers from declining funding and repair from WVDOH and RV traffic will increase damage to the surface.
14	Scope of use	Request that the application be amended to reflect long term intended land use.
15	Scope of use	Application does not include a camp store, water or wastewater facility, showers, bathrooms, etc.
16	Scope of use	The applicant's presentation included discussion of broader use beyond those land uses listed in the application such as music festivals.
17	DNR Access	Gate in access road not approved by West Virginia DNR.
18	DNR Access	The DNR access road is not sufficiently wide to support use by horses and RVs in addition to existing auto traffic.
19	Water and wastewater	Explain how water and wastewater for the site will be addressed. Well and septic subject to surface height restrictions which would not be compatible with RV hookups
20	Duration of tenancy	Duration of tenancy of camp tenants should be limited to 14 days within any 90-day period.
21	Access	The entrance for the proposed development is too close in proximity to another adjacent, proposed CUP development (River Country Store).
22	Campground location	The campground may impact the use of a nearby island for wildlife hunting.
23	Campground location	Concern regarding compatibility with adjacent property where hunting takes place. What is seasonal schedule for campground use?
24	Campground location	The CUP sketch plan shows campsites located adjacent to neighboring property lines with no setback.
25	Campground location	Concern that the location of the campground will encourage campers to trespass on adjacent properties to access the river and forage for firewood. Request 6' perimeter fence along property line as well as River View and Sheared property line. (It is noted that the Riverview Assn. opposes this request unless the fence is buffered by vegetation so as to be fully screened)
26	Campground location	The location of the campsites shown on the sketch plan is a significant distance from access to DNR property. This location may induce campground users to trespass onto private property in order to gain river access. It is unclear how the site can be used to provide fishing, boating or other river-related activities in the absence of direct river access.
27	Crime and Safety	Potential increased crime activity as a result of the proposed campground, such as breaking and entering, and vandalism.
28	Shenandoah River water quality	Concerns regarding protection of Shenandoah River from stormwater discharge and other forms of pollution that could result from the proposed development.
29	Dam safety	The applicant should develop an emergency access plan in the event that of a breach of the dam on the nearby lake property, and should maintain an insurance policy to address this contingency.

Compatibility Assessment Meeting Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

c) Other issues

Staff recommends that the following topics be considered as other related issues rather than resolved/unresolved issues.

#	Topic	Issue Description	Comment
1	DNR letter	Seek access to DNR letter regarding the adjacent Shannondale WMA public access area.	This request appears to be complete. Staff has provided to Randy Creller a copy of a letter from DNR to Scott Bearup (5/23/12).
2	Bonding	Will the County require a bond for this development?	Prior to site plan approval, a bond will be required for any qualifying site improvements.
3	Covenants and deed restrictions	Covenants for River View subdivision state that no buildings shall be used for other than residential purposes. Request that the applicant provide verifiable documentation that property was designated as a commercial lot as referenced in the subdivision's deeds.	It is recommended that interested parties pursue this matter privately. Jefferson County has no authority in matters relating to deed restrictions, covenants, etc.
4	Land clearing	Regarding clearing of land for a road or path, it is requested that the County impose a penalty and require the applicant to post a \$25,000 bond.	Based on a recent inspection, staff will determine if a violation has occurred.

Because the Compatibility Assessment Meeting resulted in unresolved issues, a public hearing before the Board of Zoning Appeals has been scheduled for July 19, 2012, during the Board's regularly scheduled meeting. The meeting will take place at 3:00 P.M. in the Charles Town Library meeting room, located at 200 East Washington Street at the side entrance on Samuel Street, in the City of Charles Town.



Per Section 7.7 of the Jefferson County Zoning and Land Development Ordinance, testimony at the meeting will be limited to:

- Resolution of issues which could not be resolved at the Compatibility Assessment Meeting;
- The compatibility of the project within the neighborhood; and
- Any comments relative to the validity of the Compatibility Assessment Meeting staff report

Staff Report
 Jefferson County Board of Zoning Appeals Meeting
 July 19, 2012

Black Bear Camp & RV Conditional Use Permit (#CP12-02)

Item #6: Public hearing and action on the Conditional Use Permit application submitted by property owners, Scott Bearup and Carroll Rice, for the Black Bear Camp and RV to establish a primitive campground serving 11 campsites. Intended uses are to consist of primitive camping, hiking, horseback riding and stables, biking, fishing, hunting, tubing, canoeing, rafting, historic tourism, and other associated uses as further described in the application.

APPLICANT:	Scott Bearup and Carroll Rice
OWNER:	Same as above
DEVELOPER:	Same as above
SURVEYOR/ENGINEER:	n/a
PROPERTY LOCATION:	2128 Mission Road, Harpers Ferry, WV 25425
LEGAL DESCRIPTION:	District: Kabletown (06); Map: 06; Parcel: 04 
ZONING DISTRICT:	Zoning Map Designation: Rural 
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Rural
LOT AREA:	15.47 acres
APPROVED ACTIVITY:	Residential
VARIANCES:	N/A

Staff Report
Jefferson County Board of Zoning Appeals Meeting
July 19, 2012

Black Bear Camp & RV Conditional Use Permit (#CP12-02)

RELEVANT INFORMATION:

1. Overview

The applicant seeks to establish a primitive campground serving 11 campsites.

The proposed uses listed in the application are as follows:

Primitive camping	Hunting
Hiking	Tubing
Horseback riding and stables	Canoeing
Biking	Rafting
Fishing	Historic tourism

The application includes exhibits, including a sketch plan showing the proposed locations of the initial 11 campsites.

2. Existing Conditions

a. Location

The property is located at 2128 Mission Road, Harpers Ferry in West Virginia, 25425.

b. Zoning

The subject property lies within the Rural zoning district. Adjacent properties located to the north, south, west, and east of the subject property are zoned Rural.

Because some of the proposed land uses (such as a campground and a commercial river access point) are not permitted in this district, a Conditional Use Permit is required to establish the uses, per Section 4.1 of the Zoning and Land Development Ordinance. As such, the Applicant is required to complete the Development Review System and to attain Board of Zoning Appeals approval of the land uses prior to obtaining a Zoning Certificate. This process is as described in Articles 6 and 7 of the Ordinance, and is outlined below.

c. Land Use

The property contains a building used as the former offices of Shannondale, Inc. The building is currently used as a single-family residence. The property contains a parking area of approximately 13,000 square feet in size. The parking area includes a mail kiosk with 200 rental postal mail boxes. The remainder of the property is wooded area.

The most prominent adjacent land use located to the west of the subject property is the Shannondale Springs Wildlife Management Area (WMA), owned by the West Virginia Division of Natural Resources (DNR). The WMA is described by DNR as “rolling hills ranging in elevation from 350 to 700 feet with mature hardwood forest, brush land and open fields” with hunting, fishing, and a boat launch. Camping on the WMA is not permitted. The adjacent section of the WMA is approximately

Staff Report
Jefferson County Board of Zoning Appeals Meeting
July 19, 2012

Black Bear Camp & RV Conditional Use Permit (#CP12-02)

591 acres in area, and is reached via Shannondale Springs Road, an access road owned by the DNR and located adjacent to the subject property.

Also located to the west is a single-family residential use (under construction). Adjacent uses located to the northeast include the River View Association Recreation Area and a single-family residence. Adjacent uses to the east are single-family homes located on the opposite side of Mission Road. Also to the east, directly adjacent to the existing parking lot, is a real estate office. A property located to the southwest is the site of the former Grammy's Place daycare center.



d. Environmental Characteristics

The property is adjacent to the Furnace Run stream. A significant portion of the property is located in the 100-year floodplain. The property slopes downward from the front to the back, with a total elevation change of approximately 60'. The majority of the rear portion of the property is currently forested. Some clearing activity for the purpose of removing vines and some types of trees and for the construction of what appears to staff to be a roadbed has occurred within recent months.

Staff Report
Jefferson County Board of Zoning Appeals Meeting
July 19, 2012

Black Bear Camp & RV Conditional Use Permit (#CP12-02)

e. Utilities

The application states that there are no sewer lines located within 1,320 feet of the subject property.

f. Historic Resources

Regarding historic resources on or near the property, the application states:

“Bordering the WWMA area of 600+/- acres and its huge roll in history we have the luxury of owning Shannondale’s oldest building which was used as the Iron Masters Quarters. We also own the 2 ½ story stone complex known as the Iron Furnace that ran from the late 1700’s through 1850 producing Pig Iron for Harpers Ferry and the ammunition factory. During the Civil War this property was used as a confederate out post for the soldiers traveling north to Michigan, Ohio, Pennsylvania & New York. During the Civil War, John Mosby & Mosby’s raiders have had conflicts here on the property hence the Civil War marker 16 located on the property.”

g. Other Existing Conditions

The Blue Ridge Fire Company is located within 2 miles of the subject property, near the intersection of Mission Road and Charles Town Road.



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3. Comprehensive Plan Compatibility

The application submitted includes narrative regarding Comprehensive Plan compatibility (Question #23) but does not cite any particular sections of the Comprehensive Plan.

As an attachment to the application, the applicant also submitted the Historic Preservation section of the Comprehensive Plan, highlighting Recommendations 3.13 and 3.14. These recommendations relate to the retention, restoration, and adaptive re-use of historic buildings; and the establishment of a county-wide inventory of historic structures and sites.

Staff finds that the 2004 Comprehensive Plan does not address the issue of non-residential development on the Blue Ridge Mountain. However, the Plan's discussion of the Rural District (p. 68) does include the following text, which appears to relate to higher-density residential development:

Also to be considered is that significant development of the Blue Ridge is not advisable due to environmental and access concerns. There are many small lots that exist on the mountain that cannot obtain septic system permits from the Health Department due to their size and must be combined with adjacent lots in order to meet current health requirements. Unchecked growth of private water and sewer systems in that area would open these lots to future development resulting in a population boom in an area poorly suited for dense residential development.

In December, 2010 the Blue Ridge Mountain Watershed Citizens Committee released a document entitled "Future of the Mountain: A Common Vision for the Jefferson County Blue Ridge Mountain Communities Area." This document, developed with the assistance of County staff following completion of a collaborative planning process, has not been formally adopted by the Jefferson County Commission. However, the document may be useful in discerning the vision of area residents for the Blue Ridge Mountain area. To this end, two sections of the document are excerpted below:

3.3 Preservation of the existing development pattern that makes the Mountain so attractive to its residents

Although there was not a consensus among participants on this specific issue, some residents would like to see some commercial development in the future. The types of development suggested, which should possibly be discussed in more detail during future planning efforts, included small market stores, a gas station, a hardware store, and parks and recreational opportunities.

3.5 Use of stormwater best management practices for new construction on the Mountain to mitigate erosion and protect water quality

The use of stormwater BMPs will minimize stormwater runoff and reduce pollutants in ground and surface water. The goal is to have no negative effect on the Shenandoah or the Chesapeake Bay.

4. Traffic Characteristics

Traffic characteristics of the development are described in the CUP application (#19). The application states that most traffic will be generated in evenings or on weekends after working hours. The campground will not operate during winter months.

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5. Development Review System Process

The Development Review System (DRS) process begins when an application is submitted. At this time, staff conducts an evaluation of the application in accordance with the standards of Article 6, including the Land Evaluation and Site Assessment (LESA) scoring process. A score of 60 points or fewer advances the application to the Compatibility Assessment Meeting (CAM) process. Following this meeting, the application is reviewed by the Board of Zoning Appeals (a public hearing is required if the CAM results in unresolved issues). The BZA may vote on the application during the meeting at which the case is heard, or at a subsequent meeting within 60 days.

The status of the Black Bear Camp & RV CUP application in completing the DRS process is as follows:

Milestone	Date	Status
Application filing	April 20, 2012 (initial submittal) April 27, 2012 resubmittal)	Application has met all submittal requirements of Section 7.4
Staff Evaluation per the Development Review System	April 30, 2012	The application yielded a LESA score of 59.5 (Amenities = 51, Soils = 8.5)
Compatibility Assessment Meeting (CAM)	May 30, 2012	Meeting resulted in unresolved issues.
Board of Zoning Appeals (BZA)	July 19, 2012	This item is on the BZA meeting agenda as a public hearing. The Board may approve, approve with conditions, or deny the application.

6. Compatibility Assessment Meeting

The Compatibility Assessment Meeting for this application took place on May 30, 2012. The meeting followed the format specified in Section 7.6. Several speakers asked questions and expressed concerns regarding the proposed land use, and the Applicant addressed these concerns. Following the end of public testimony, staff summarized the issues raised by attendees, and identified which issues had been resolved at the meeting and which issues remained unresolved. There was consensus among those in attendance regarding the list of issues and the resolution status.

The list of issues is located in the Compatibility Assessment Meeting staff report included in the packet for this meeting, and is also included in the section of this report entitled, "Possible Conditions of Approval."

As an addendum to the application, the applicant has submitted a document entitled "Answers to Unresolved Issues & Concerns" as an application addendum to address issues raised during the meeting.

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7. Previously Approved Conditional Use Permit

There are no previously approved Conditional Use Permits for this property.

8. Development Requirements

As with any Conditional Use Permit, should this application be approved, the following standard requirements will apply to the development of this property, in addition to any conditions approved by the Board:

- a. *Consistency with approved Conditional Use Permit (CUP).* All subsequent development applications must be consistent with the approved development as described in the Conditional Use Permit, and must address any conditions of approval associated with the CUP.
- b. *Site plan.* Any non-residential development of the property exceeding 250 square feet (or 3,000 square feet of disturbed area) will require a site plan, reviewed and approved by the Planning and Zoning Department. The site plan review process will include the following elements:
 - 1) *Consistency with ordinances.* The Planning, Zoning, and Engineering Departments will review the site plan for consistency with the Subdivision and Land Development Regulations, the Zoning Ordinance, the Floodplain Ordinance, and other requirements. This includes consistency with the campground requirements of the Subdivision and Land Development Regulations (Appendix B, Sec. 7.3).
 - 2) *Setbacks and buffers.* The following setbacks and buffers will apply to non-residential development of the property:

	Front	Side	Rear
Distance requirements (where applicable) ¹ (applies to buildings or any portion of land use but not parking or drive aisles)	75'	75'	75'
Building setbacks	25'	50'	50'
Parking and drive aisle setbacks	15'	10'	10'
Buffers (Screened/unscreened)	15'/50'	15'/50'	15'/50'
Buffer from Shenandoah River	N/A	500'	500'

¹ Distance requirements are applicable where the subject property is adjacent to a property line of a lot containing a residential uses, a property listed on the National Register of Historic Places, a lot in the Residential Growth district, schools, churches, or institutions for human care.

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- 3) *Stormwater management.* A licensed civil engineer must prepare stormwater management plans to address runoff from impervious areas, to be reviewed by the Engineering Department.
- 4) *West Virginia Division of Highways.* The WVDOH must review a request for an entrance permit for the proposed land use, and will review any required improvements to roadways.
- 5) *Bonding.* All improvements must be bonded.
- 6) *Water and wastewater.* The Jefferson County Health Department (or a utility provider) must approve water supply and wastewater disposal (including septic).
- 7) *Concept Plan.* For a site plan exceeding 5,000 square feet of development, a Concept Plan must be submitted and approved by the Planning Commission at a public hearing. Adjacent property owners would receive notice of this hearing.

- c. *Impact fees.* Payment of any required impact fees must occur prior to initiation of the land use.
- d. *Building permits.* All construction, unless of an agricultural type, will require permits and inspections.

9. State Standards for Campgrounds

The West Virginia Code (Section 64-18-1 et seq) establishes requirements for campgrounds. In addition to standards for minimum campsite size and spacing, this statute includes a requirement for a bathhouse with hot and cold running water. Within the bathhouse, for each 20 campsites, one shower (or bathtub) is required, in addition to toilets (one men's, two women's), and one sink.

10. Items Submitted by Other Parties

Various interested parties have submitted items associated with this application for consideration by the Board. These items include:

- a) Packet received by Scott Bearup in response to comments revived at the 05/30/12 Compatibility Assessment Meeting.
- b) Statement in Opposition of CP12-02 Black Bear Campground and RV from Cam Flynn emailed on 07/12/12.
- c) Email dated 06/26/12 to Steve Barney from Randy Creller sending an electronic version of a letter to be sent to the WV Division of Natural Resources (DNR), Wildlife Resources Section (WRS) with questions regarding the use of the DNR public access road which adjoins the applicant's property.
- d) Appraisal Report and Valuation Analysis of 13.4846 acres (Recreation Area #2) received 06/07/12 (email thread dated 06/27/12 from Neal Nilsen requesting the appraisal).
- e) Email thread from Neal Nilsen to Deborah Lowe, Executive Assistant, Sheriff's Department dated 06/22/12 through 06/28/12 and forwarded to Steve Barney on 06/29/12.
- f) Correspondence received on 07/05/12 from the WV Division of Natural Resources (DNR), Wildlife Resources Section (WRS), addressed to Randy Creller, HOA Park Manager, River View Association, Inc.
- g) Email thread from Neal Nilsen, President, River View Association Inc., to Mathew Alt, Environmental Inspector, WV Department of Environmental Protection dated 07/08/12 – 07/09/12.

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11. Board of Zoning Appeals Public Hearing and Action

Because some of the issues raised at the Compatibility Assessment Meeting were not resolved during the meeting, a Board of Zoning Appeals public hearing is required.

Per Section 7.7, “The purpose of the meeting is to hear the staff’s report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff’s report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing. Speakers shall be limited to resolution of issues which could not be resolved at the Compatibility Assessment Meeting and the compatibility of the project within the neighborhood.”

This section of the ordinance also establishes time limits for speakers at a public hearing for a Conditional Use Permit application: “the applicant or agent shall have 30 minutes for a presentation, each group who speaks may have 15 minutes, each individual who speaks is allotted 5 minutes, the applicant or agent is allowed 15 minutes for rebuttal. The time limit provision within this section may be modified by the Board of Zoning Appeals Chairperson in the event that there are a large number of persons to speak at a particular hearing. The Board shall announce any change to this section at the beginning of the hearing.”

Per Section 7.6F, “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.”

The Board of Zoning Appeals may vote on the application during the meeting at which the case is heard, or at a subsequent meeting within 60 days after the public hearing.



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12. Sections of Ordinance to be Considered

Section 4.1 Ordinance Deemed Minimum Regulations; Uniformity

For each zoning district, a limited number of principal permitted uses are listed, as well as several uses prohibited for all districts as listed in Section 4.4. All other uses, except prohibited uses, may receive a conditional use permit upon completion of the Conditional Use Permit process as described in this Ordinance, including a demonstration that the land use in a specific location will comply with the standards of the Development Review System and any other applicable requirements of this Ordinance.²³

Section 4.13 Development Adjacent to the Potomac and Shenandoah Rivers²³

- A. Any development, other than residential development, that takes place after the adoption of this Ordinance must maintain a five hundred (500) foot buffer strip from the existing banks of the Potomac and Shenandoah Rivers.

Section 6.2 Issuance of a Conditional Use Permit

Application for a conditional use permit shall be made before construction of any uses not listed as permitted uses within the appropriate zoning district. Upon receipt of an application, the site will be evaluated by the Departments of Planning and Zoning Staff using the Development Review System. The two major components of the System, the Soils Assessment and the Amenities Assessment, consist of criterion which each possess a numerical value that is weighted relative to its importance as an indicator of a parcel's agricultural significance or its development potential. The total numerical value of the combined criteria is 100 points: the Soil Assessment contributes 25 points and the Amenities Assessment contributes 75 points. The highest total numerical value of the combined criteria indicates that a parcel is more suitable for agriculture, whereas, the lowest numerical value indicates that development is more appropriate for the site. A score of 60 points or less advances the application to the Compatibility Assessment as provided in Section 7.6.^{14, 17, 21, 23}

Section 7.6 Compatibility Assessment Meeting

- E. If not all issues raised at the Compatibility Assessment Meeting were resolved at that meeting, a public hearing of the Board of Zoning Appeals will be required. Staff shall prepare a report summarizing the developer's proposal, the agreed upon conditions, and any other pertinent data and will advertise for the public hearing. A public hearing in conformance with this article will be conducted no fewer than 30 days but no more than 60 days from the date of the Compatibility Assessment Meeting. At the public hearing, the Board shall take action as described in Section 7.6F.^{1, 17, 21, 23}
- F. 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

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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}

Section 7.7 Public Hearings for Development Review System²³

- A. Unless otherwise superseded by the Board of Zoning Appeals Rules of Procedure, a public hearing for a Development Review System application shall be conducted in accordance with this section.
- B. The public hearing will be conducted by the Board of Zoning Appeals. The purpose of the meeting is to hear the staff's report of the issues and concerns raised at the Compatibility Meeting. Any comments relative to the validity of the staff's report should be presented at this meeting. Concerns that have been addressed and agreed upon as accurate by the majority of those present at the Compatibility Assessment Meeting should not be addressed at this hearing. Speakers shall be limited to resolution of issues which could not be resolved at the Compatibility Assessment Meeting and the compatibility of the project within the neighborhood.^{1, 17, 21}
- C. All public hearings shall have time limits allotted to those who speak, as follows: the applicant or agent shall have 30 minutes for a presentation, each group who speaks may have 15 minutes, each individual who speaks is allotted 5 minutes, the applicant or agent is allowed 15 minutes for rebuttal. The time limit provision within this section may be modified by the Board of Zoning Appeals Chairperson in the event that there are a large number of persons to speak at a particular hearing. The Board shall announce any change to this section at the beginning of the hearing.^{17, 21}
- D. Notification requirements of Section 3.4A(3)(b) apply.
- E. The Board of Zoning Appeals shall render a decision no more than 60 days after the public hearing.^{17, 21}

13. Possible Conditions of Approval

Should the Board choose to approve the request with conditions, possible conditions of approval include:

- a. Conditions for “resolved” issues agreed upon during the Compatibility Assessment Meeting.

#	Category	Agreed-Upon Condition	Comment
1	Signage	Signage: Will be the same size as existing signage.	Resolved

- b. Conditions to address “unresolved” issues discussed at the Compatibility Assessment Meeting. (Note: these issues should be the focus of the public hearing.)

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
1	Property lines	Property lines shown in the CUP application are perceived to be inaccurate.	No proposed conditions identified.	Property boundaries are a civil matter. Following the May 30 th meeting, the applicant secured the services of a surveyor to locate property corners. Documentation of property lines must be provided to the County at the time of site plan submittal. <u>Staff finds that concerns related to property lines have been addressed.</u>
2	Property lines	Perception that application states incorrectly that the property borders Furnace Run.		
3	Property lines	Perception that property owner John Pekar owns a strip of land including the driveway to access the subject property, and that the applicant would therefore not have the legal right to improve the entrance.		
4	Property lines	Perception that application		

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
		inaccurately shows the property bordering the Shenandoah River.		
5	Application completeness	Zoning district stated on application is incorrect.		The addendum acknowledges the correct zoning designation. <i>Staff finds that this concern has been addressed.</i>
6	Application completeness	The applicant should clarify how much acreage will be cleared for pastureland for the proposed equestrian uses.	A maximum of 2 acres shall be cleared for pastureland.	The addendum states a maximum of 1-2 acres.
7	Application completeness	Need information regarding the lighting plan for the site, including parking lots and camping areas.	There shall be no additional lighting for the parking lot or the camping area, unless required by state or local regulations. Lighting for existing or future structures shall meet or exceed the Illuminating Engineering Society of North America (IESNA) standards for Lighting for Exterior Environments for achieving “Full Cutoff” of light pollution above the horizontal plane with little or no light at angles typically associated with glare.	
9	Application completeness	What are anticipated noise levels for concerts?	No amplified music performances shall be permitted. No music is permitted between 10:00 PM and 9:00 AM. The campground shall	

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
			abide by the standards for a commercial use (including noise) of Article 8 of the Zoning and Land Development Ordinance.	
10	Application completeness	What is the proposed location and size of the storage building?		<p>The addendum states, “It will be located outside the FEMA Flood Plain along the Mission Rd. side of the proposed campground, approximately 30x40 in size.” Staff notes that the building will need to meet any applicable setbacks, buffer requirements, etc.</p> <p><i>Staff finds that this concern has been addressed.</i></p>
11	Application completeness	What are the details of the proposed amphitheater - capacity and location?		<p>The addendum states, “The amphitheater will consist of four logs split in half . . . enough seating for a couple classes of kids and or groups of cub scouts or girl scouts.” Staff notes that this appears to be an accessory use which does not need to be addressed in the application. A larger amphitheater would not be allowed because it is not a use listed in the application.</p> <p><i>Staff finds that this concern has been addressed.</i></p>
12	Application completeness	What parking will be provided for the campsites?		<p>The addendum states, “Parking will be provided . . . at the campsite. If there was to be any additional parking needed we will provide the necessary parking at our parking lot or in designated parking areas.”</p> <p><i>Staff finds that this concern has been addressed.</i></p>

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
13	Application completeness	Disagree with accuracy of #19, Traffic Characteristic, as follows:		(See below)
13.a	Application completeness	Proposed intersection for this application has no traffic control to support safe entrance and egress of large vehicles, and the increased traffic volume.		<p>The addendum notes the following:</p> <ul style="list-style-type: none"> - The site contains 200 mailboxes that are accessed on a regular basis by local residents - The applicant has improved the ingress / egress to WVDOH standards - Most customer traffic will arrive on Thursday / Friday and depart on Sunday - WVDOH permit for increased traffic volume for existing and proposed use - WVDOH denied request for additional signage along Mission Rd. for Johnsons Hill & Dead End.
13.b	Application completeness	The proposed intersection for this application is designated as a public school bus stop	The property owner shall provide staff with documentation that there is no school bus stop located in the vicinity of the subject property.	<p>The addendum notes the following:</p> <ul style="list-style-type: none"> - Area was never used as a public school bus stop. - Prior use of parking lot for school bus turnaround - No school buses seen in parking lot or stopped out in front on Mission Rd. in 11 months.
13.c	Application completeness	The road is the major bus route for schools and during times of day restricts travel and speed of vehicles	The property owner shall provide staff with verification that a letter was sent informing the Jefferson County School District of the proposed development.	<p>The addendum notes the following:</p> <ul style="list-style-type: none"> - The number of stops along Mission Rd. is minimal - Buses run on weekday mornings and afternoons with no service during summer or holidays - Applicant anticipates the proposed campground will not conflict with school bus schedule

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
13.d	Application completeness	Mission Road is the only entrance and egress road for over 1,500 residents in over 5 subdivisions.		The addendum notes that the applicant believes that the traffic impact will be minimal in light of existing traffic volume.
13.e	Application completeness	It is most traveled in the mornings, evenings and on weekends during the time the applicant describes as his peak traffic period.		The addendum states that the peak hours for the land use would be on Thursday and Friday evenings after school hours, and departures from the campground would occur on Sunday throughout the day.
13.f	Application completeness	It lies in a heavily wooded region of Jefferson County prone to Gypsomoth defoliation and increased fire risk.		The addendum states, "The defoliation of the gypsy moth will be decreased NOT increased due to the improvements to the overgrown foliage/vines/brush". It also states that the applicant believes the fire risk to be minimal due to the proposed design of the fire pits, and notes that the property is located 2 miles from the Blue Ridge Fire Company.
13.g	Application completeness	The road is located in the FEMA 100 year floodplain and has stopped residents and emergency service passage on several occasions.		The addendum states that the site is accessible by alternate routes located outside of the floodplain.
13.h	Application completeness	One portion of this road referred to as Johnsons Hill is very dangerous resulting in many accidents.	The applicant shall be required to pay for the installation of a warning sign unless prohibited by the WVDOH.	The addendum states, "We have personally contacted the WVDOH regarding this and their response is as per attached."

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
13.i	Application completeness	The road suffers from declining funding and repair from WVDOH and RV traffic will increase damage to the surface.		The addendum notes that various types of vehicles, including “cement trucks, dump trucks, semi trucks, UPS trucks, Fed-x trucks, school buses, residents towing trailers, local RV traffic, Fire engines . . .” currently use Mission Road. The applicant states that the additional RV traffic generated by the proposed development will not have a significant impact.
14	Scope of use	Request that the application be amended to reflect long term intended land use.	The campground shall be limited to 11 campsites. Additional campsites shall require approval of a revised Conditional Use Permit by the Board of Zoning Appeals.	The addendum states, “We are proposing an 11 site primitive camping ground, not a KOA ... (IF) we decide to grow it will not be more than 50 sites”.
15	Scope of use	Application does not include a camp store, water or wastewater facility, showers, bathrooms, etc.	Approval by the Jefferson County Health Department of sewage disposal and water use is required prior to initiation of the land use. The camp store is restricted to a retail area of 250 square feet; shall not sell alcohol or prepared foods; and shall not have a sign visible from a public right-of-way.	The addendum states, “We will not be selling beer, sandwiches and/or ANY cooked items. There will be books ... on the history, trinkets, shirts, first aid supplies, fishing gear, hot dog and hamburger buns, beans, camping supplies, walking sticks & canes ... Ice and propane exchange. Again I will not be selling to the open public...” Staff finds these sales of the above items to be a customary accessory use for campgrounds. The addendum states, “Any and all RV’s will be self-contained. Any campers using tents will have the use of ‘porta-johns’ with washing capabilities for their use.”

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
				<p>The Jefferson County Health Department will provide a determination regarding the bathroom requirements for a campground.</p>
16	Scope of use	<p>The applicant's presentation included discussion of broader use beyond those land uses listed in the application such as music festivals.</p>		<p>The addendum states that music will be acoustic and end at 10:00 PM, and is intended for patrons of the campground.</p> <p>The addendum also states the future possibility of “bathhouse, volley ball court, horse rental, Historians on the weekends, cook offs, Easter egg hunts . . . & Family orientated events.”</p> <p>Staff notes that the only uses permitted in accordance with a CUP are those issues listed in the application (and approved by the BZA) and accessory uses. Staff finds that the above-mentioned uses are either accessory in nature or are listed in the application.</p>
17	DNR Access	<p>Gate in access road not approved by West Virginia DNR.</p>	<p>Any access to property owned by the State of West Virginia shall require documented approval by the appropriate agency.</p>	<p>The addendum states, “The gate proposed is located well inside our property lines and will be locked. This will allow us to access the State owned land without going out onto Mission Road . . . to help clean up after a holiday weekend... The gate will be there for our personnel use and not for the patrons of the campground. They will walk around it to go down to the river to fish, tube, boat or hike. Any patrons, public, and/or ingress/egress to the campground will not be allowed. That will be located at Mission Rd at our only entrance.”</p>

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
				<p>Staff notes that the applicant received a letter from Jim Hedrick at the Division of Natural Resources stating, “All DNR owned and operated public access areas are provided for the use of boating and fishing only and public access roadways cannot be used to access private property.” Mr. Hedrick confirmed to staff that this statement means that the proposed campground could not take access from the subject property directly to the DNR access road.</p>
18	DNR Access	<p>The DNR access road is not sufficiently wide to support use by horses and RVs in addition to existing auto traffic.</p>		<p>The addendum states that campground patrons with RVs will not drive their vehicles to the river on the DNR access road, but rather “walk down 800 feet to the river.”</p> <p>The addendum also states, “It is healthier for the horses to travel on a nonasphalt surface to access the miles of trails located in the WWMA. Which by the way falls to the other side of my property line and extends for miles through this area.”</p>
19	Water and wastewater	<p>Explain how water and wastewater for the site will be addressed. Well and septic subject to surface height restrictions which would not be compatible with RV hookups.</p>	(See Condition #15)	<p>The addendum states that any future RV hookups would be located outside the floodplain, subject to county and state approval.</p>

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
20	Duration of tenancy	Duration of tenancy of camp tenants should be limited to 14 days within any 90-day period.	Duration of tenancy of camp tenants should be limited to 14 consecutive days within any 90-day period.	The addendum notes that the applicant consents to the proposed condition, but requests to add the qualifying term “consecutive”.
21	Access	The entrance for the proposed development is too close in proximity to another adjacent, proposed CUP development (River Country Store).		<p>The addendum notes, “The speed limit drops down to 40 mph here on Mission Rd. and there has always been a commercial business here of some sort since 1954. Grammy’s Daycare, Shannondale INC, Blue Ridge Properties, Shannondale Springs access, Parking Lot for Mailboxes...”</p> <p>Staff notes that the distance between the two entrances is approximately 190’.</p>
22	Campground location	The campground may impact the use of a nearby island for wildlife hunting.		Staff notes that construction of a single-family dwelling (a permitted use on the subject property) would also restrict the discharge of firearms on an adjacent property per §20-2-58 of the West Virginia Code.
23	Campground location	Concern regarding compatibility with adjacent property where hunting takes place. What is seasonal schedule for campground use?	The season during which the campground and associated uses may be open for customers is restricted to the period of time from March 1 st – Nov 1 st .	The addendum indicates an intent to operate between March 1 st and November 1 st .

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
24	Campground location	The CUP sketch plan shows campsites located adjacent to neighboring property lines with no setback.	<u>XX</u> % of the site shall remain in a natural, undisturbed state with the exception of removal of vines and non-native trees and vegetation.	<p>The addendum states, “We plan on leaving a 30’0 undisturbed green buffer at, on and between the back of the actual campsite itself...”</p> <p>Staff notes that the setbacks for a commercial use as outlined in the Zoning Ordinance (25’ front, 50’ side, 50’ rear) will apply to the development, in addition to any other relevant distance or buffer standards, or requirements of the Subdivision and Land Development Regulations.</p>
25	Campground location	Concern that the location of the campground will encourage campers to trespass on adjacent properties to access the river and forage for firewood. Request 6' perimeter fence along property line as well as River View and Sheared property line. (It is noted that the Riverview Assn. opposes this request unless the fence is buffered by vegetation so as to be fully screened)		<p>Per the Jefferson County Engineering Department, a privacy fence is not permitted in the floodplain. (A chain link fence or deer fence is permitted.)</p> <p>The addendum states that the applicant is not in support of fencing the property due to issues relating to migrating wildlife and associated impact on hunting on neighboring properties. The addendum also states that firewood will be available for sale to customers, and that property lines will be posted regarding trespassing.</p>

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
26	Campground location	The location of the campsites shown on the sketch plan is a significant distance from access to DNR property. This location may induce campground users to trespass onto private property in order to gain river access. It is unclear how the site can be used to provide fishing, boating or other river-related activities in the absence of direct river access.	Access to Furnace Run Stream is contingent upon any necessary state or federal approvals.	The addendum notes, "Our property borders the WWMA and Furnace Run. Located less than 1,000'0 from the boat launch."
27	Crime and Safety	Potential increased crime activity as a result of the proposed campground, such as breaking and entering, and vandalism.		<p>The addendum states, "there are NO homes for miles on this side of Mission Rd. each direction."</p> <p>"I will be here to monitor any such potential negative activities and address ANY potential problems brought forth by neighboring property owners".</p> <p>Staff notes that the nearest home on the west side of Mission Road appears to be approximately 4,200 feet from the subject property.</p>
28	Shenandoah River water quality	Concerns regarding protection of Shenandoah River from stormwater discharge and other forms of pollution that could result from the proposed development.	A buffer between the land use and the Shenandoah River shall be required per Section 4.13 of the Zoning and Land Development Ordinance.	The addendum states, "In discussions with the DNR, DEP, County of Jefferson & or State regulated departments have determined that leaving a natural undisturbed buffer between said property and any and all surface running waters is the BEST thing we can do to deter any possible storm water discharge."

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response from 7/11/12 Addendum
29	Dam safety	The applicant should develop an emergency access plan in the event that of a breach of the dam on the nearby lake property, and should maintain an insurance policy to address this contingency.		The addendum states, "We have implemented such insurance policy with our carrier for the campground and will maintain such policy while in business, If the dam was to break we would not be able to implement any such contingencies for the campground due to the short distance from said lake."

b. Other Issues Discussed

Staff recommends that the following topics be considered as other related issues rather than resolved/unresolved issues.

#	Category	Issue Description	Proposed Condition	Staff Comment or Applicant Response
1	DNR letter	Seek access to DNR letter regarding the adjacent Shannondale WMA public access area.	N/A	This request appears to be complete. Staff has provided to Randy Creller a copy of a letter from DNR to Scott Bearup (5/23/12).
2	Bonding	Will the County require a bond for this development?	N/A	Prior to site plan approval, a bond will be required for any qualifying site improvements.
3	Covenants and deed restrictions	Covenants for River View subdivision state that no buildings shall be used for other than residential purposes. Request that the applicant provide verifiable documentation that property was designated as a commercial lot as referenced in the subdivision's deeds.	N/A	It is recommended that interested parties pursue this matter privately. Jefferson County has no authority in matters relating to deed restrictions, covenants, etc.
4	Land clearing	Regarding clearing of land for a road or path, it is requested that the County impose a penalty and require the applicant to post a \$25,000 bond.	N/A	Based on a recent inspection by staff, it was determined that the land disturbance on the property was not for a residential purpose and therefore not in compliance with Section 4.13 of the Zoning Ordinance. The property owner was directed to cease work immediately. Jefferson County does not have the authority to impose a penalty and require the applicant to post a \$25,000 bond.

07/11/2012

Black Bear Camp & RV
Answers to Unresolved Issues & Concerns
"Submitted as an Addendum to the Black Bear RV CUP application"

- 1) **The property lines shown in the CUP application are perceived to be inaccurate?**
This is a civil matter but, the property lines are being double checked for accuracy on the 30th of June by Ed Johnson a WV State Certified PE. The accuracy of said survey will determine that all points found, our per a plat certified by Ed Johnson 1995 showing we have direct access to Furnace Run in several locations. The information for direct river access is forth coming.
- 2) **Perception that application states incorrectly that the property borders Furnace Run?**
Furnace run crosses our property line in a couple different locations as per the Points relocated June 30th 2012. 3 of the points found are located between the High water mark/low water mark and in two locations go to the other side of the actual flowing water of Furnace Run assuring our property abuts Furnace Run as Per Ed Johnson & Plat dated 06/09/1995 making the application true & correct.
- 3) **Perception that property owner John Pekar owns a strip of land including the driveway to access the subject property, and that the applicant would therefore not have the legal right to improve the entrance?**
John Pekar does own a strip of land adjacent to our property. There is a shared ingress/egress, which we own to said properties. Making us the owners of such land for improvements. Please see attached, approved permit of said ingress/egress by the WVDOH & Plat Dated 6/9/95 By Ed Johnson Shannondale Inc DB 235 PG 363
- 4) **Perception that application inaccurately shows the property boarding the Shenandoah River?**
The perception by some should be more of an assumption. We do have access to the river. This is a civil matter and has no bearing on our proposal of 11 primitive campsites.
- 5) **Zoning district stated on application is incorrect?**
When we purchased the property it was of Commercial use and has been since 1954. The district should be (Rural) Not (Residential Growth) as per the application. We thought that it would be grandfathered in being prior to 1988. During the remodel the tax assessor came out and assessed us as residential. It was the closest choice on the application we had regarding information given to us. With two already existing commercial buildings in use located each side of our property surprised us.

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- 6) The applicant should clarify how much acreage will be cleared for pastureland for the purpose of equestrian use?
Our interpretation of clearing is just enough tree removal for light growth under the canopy of the healthier trees leaving as much as we can. General clearing, brush removal, unsafe vines and/or dangerous vegetation to the horses will be removed. (Leaving a very light footprint when and during the process). Maybe max 1-2 acres. (If) and or when we implement equestrian learning we will only have a few personal horses and or pony for rides around the barnyard.
- 7) Need the information regarding the lighting plan for the site including the parking lots and camping areas?
The lighting plan is N/A. We have no plans on any lighting for the parking lot or the camping area. We might put one small mercury light up at a future barn we would like to build for security purposes including two low E wall sconces on a futuristic bathhouse. We have no plans on any other lighting except campfires, lanterns and flashlights.
- 8) Resolved
- 9) What are the anticipated noise levels for concerts?
There is not going to be any assumed concerts. We will be inviting in local bands and or playing on the porch acoustically. Any and all music will be turned down at 10:00 PM only reaching out a few hundred feet. Just enough to hear it and or over by that time.
- 10) What is the proposed location and size of the storage building?
It will be located outside the FEMA Flood Plain along the Mission Rd. side of the proposed campground, approximately 30X40 in size. We have not found a desirable location yet due to the huge amount of over growth taken place and will apply for any and all permits required at the time.
- 11) What are the details of the proposed amphitheater-capacity and location?
The amphitheater will consist of four logs split in half and placed in front of the Iron Furnace on a slight grade for historians and alike to talk about the rich history that has taken place here. There will be enough seating for a couple classes of kids and or groups of cub scouts or girl scouts.
- 12) What parking will be provided for the campsites?
Parking will be provided for the campsites at the campsite. If there was to be any additional parking needed we will provide the necessary parking at our parking lot or in designated parking areas.

13) Disagree with accuracy of #19, Traffic Characteristic, as follows?

We have 200/ local residence that pull into & out of our parking lot everyday to receive their mail. (Please see attached WVDOH Permit) We have improved the ingress/egress to meet and/or exceed the recommendations of the WVDOH for the safety of the patrons and future customers of the proposed campground. Most of our traffic will be ingressing on Thursday/Friday & egressing on Sunday with little to no impact on existing conditions.

13.a) Proposed intersection for this application has no traffic control to support safe entrance and egress of large vehicles, and the increased traffic volume? Please see approved WVDOH permit for increased traffic volume into and from proposed campground/mail boxes/parking lot. Please also see attached WVDOH, denied response to (request additional signage) along Mission Rd. for Johnson Hill & Dead End.

13.b) The proposed intersection for this application is designated as a public school bus stop?

This area of Gate # 2 was never used as a public school bus stop. Before the owners of Grammy's Daycare closed up, the buses would use our parking lot to turn around and/or wait until a certain time to start their routes. We have not had a school bus in the parking lot or stopped out in front on Mission Rd. in 11 months.

13.c) The road is the major bus route for schools and during times of day restricts travel and speed of vehicles?

Yes it is. Just like route 9, 340, 51, and every street inside Charles Town. The stops along Mission Rd. are minimal due to all the side roads located and traveled by the buses. The buses run between the hours of 6:30 AM & 7:45 AM/2:45 PM & 4:00 PM 5 days a week with June, July & August off-including Government Holidays, in service days & Holidays themselves. The proposed campground's potential volume will have no impact on school buses & their routes during these times. Most of the campers will be inside the campground by this time and/or transcending in after school hours.

13.d) Mission Rd is the only entrance and egress road for over 1,500 residents in over 5 subdivisions?

I believe it is closer to 5,000 residents and don't understand what this has to do with the completeness of the application. The impact will be minimal due to the amount of traffic volume already in place. I have contacted the WVDOH and as per attached, we see no need for any additional signage required for Mission Rd.

13.e) It is most traveled in the mornings, evenings and on the weekends during the time the applicant describes as his peak traffic period?

No, I claimed that Thursday & Friday evenings after school has let out and resident traffic volume is on the decline would be our peak hours of what little traffic volume the proposed campground may create. Also Sunday through out the whole day, people will be descending out of the proposed campground, all 11 of them.

13.f) It lies in a heavily wooded region of Jefferson County prone to Gypsy moth defoliation and increased fire risk?

The defoliation of the gypsy moths will be decreased due to the improvements to the overgrown foliage/vines/brush made to the ecology we have here on said property. I'm not clear cutting, but improving such property to increase the growth of all plant and living species. As to the fire risk? We are 2 miles from Blue Ridge Sub station No#5 and located on the River adjacent to Furnace Run. The fire risk will be minimal. I will have a steel 3'0 steel rim approximately 10" in height located at each campsite for the strict use by each campsite to deter such risk. Not 10'0 to 15'0 fire pits with 20'0 logs like most residence and or HOA's

13.g) The road is located in the FEMA 100 year floodplain and has stopped residents and emergency service passage on several occasions?

Again I don't see what that has to do with our customers. If they (emergency vehicles) had to intervene here at the proposed campground while an epic flood is upon us, going up & around such flooded area by side streets. Gate one up to Johnny Cake and across to Shannondale Road and down to Club House Drive (Gate 2) to proposed campground would be out of the question?? These roads are outside the FEMA Floodplain and a direct route for such emergency vehicles.

13.h) One portion of this road referred to Johnsons Hill is very dangerous resulting in many accidents?

We have personally contacted the WVDOH regarding this and their response is as per attached. We personally have done everything we can with this issue.

13.i) The road suffers from declining funding and repair from WVDOH and RV traffic will increase damage to the surface?

So will cement trucks, dump trucks, semi trucks, UPS trucks, Fed-x trucks, school buses, residents towing trailers, local RV traffic, Fire engines delivering water to local resident pools, tow trucks, touring buses, lawn care services, moving trucks & the occasional 68 Chevelle or Camaro lighting it up at Gate # 2. I don't think the occasional RV will make a difference. This is a state if the roads are falling apart and has no bearing on what we are proposing. We also will be paying taxes.

14) Request that the application be amended to reflect long term intended land use?
We feel this request is N/A. We are proposing an 11 site primitive camping ground, not a KOA with all do respect. Our growth is going to be based on our sales and only our sales. Our long-term uses are dreams and goals. (IF) we decide to grow it will be with the approval of any County and State regulatory committees and there requirements. (IF) we decide to grow it will not be more than 50 sites with the proper implementations made by the health department. We want to keep it personnel and small.

15) Application does not include a camp store, water or wastewater facility, showers, and bathrooms, etc?
We are not applying for an RV Park. Any and all RV's will be self-contained. Any campers using tents will have the use of "porta-johns" (Johnny blues) with washing capabilities for their use. This will be based upon the requirement ratio from the Health Department under facilities. The port-johns will be cleaned according to those requirements by the health department and based upon use. Our patrons and not the public will use the camp store. We will not be selling beer, sandwiches and/or ANY cooked items. There will be books (non-porno) on the history, trinkets, shirts, first aid supplies, fishing gear, hot dog and hamburger buns, beans, camping supplies, walking sticks & canes (made by my Mom) Ice and a propane exchange. Again I will not be selling to the open public, but the general store will be available to our patrons so they don't have to impact Mission Rd. for any last second requirements or little emergencies. There will not be showers & /or wastewater facilities available at this time. We don't plan on our patrons staying more than a couple days. When and (IF) these items are available to our patrons it will have the blessing of the local building department, health department &/or State Regulated Departments and located out side any FEMA Flood Plain. I believe we don't have to have such items until we have more than 20 sites according to the Health Department rags or (IF) we have full hook-ups available. Clarification is forth coming.

16) The applicant's presentation included discussion of broader use beyond those land uses listed in the application such as music festivals?
No, I want to support local bands/such as acoustical style music on the porch, Country Music, Blue Grass, and Light Rock. With quite time at 10:00 PM if it goes that long. This will be meant for the patrons of the campground. (IF) we were to have anything-larger will have to be met with a permit issued and accepted by the County. Regarding broader uses, we can only hope that this small business does well. We all have dreams and the question brought up by the public wanted us to expand on our long-term uses (IF) things go well. Are we supposed to anticipate where we will be in several years from now? I hope to have a bathhouse, volley ball court, horse rental, Historians on the weekends, cook offs, Easter egg hunts, Trunk or Treat Night, Scavenger Hunts & Family orientated events.

17) Gate in access road not approved by West Virginia DNR?

The gate proposed is not in the access road like assumed. Again please read the plat accordingly. The gate proposed is located well inside our property lines and will be locked. This will allow us to access the State owned land without going out onto Mission Road with our gator to help clean up after a holiday weekend and/or garbage left behind by local residence through out the year. The gate will be there for our personnel use and not for the patrons of the campground. They will walk around it to go down to the river to fish, tube, boat or hike. Any patrons, public, and/or ingress/egress to the campground will not be allowed. That will be located at Mission Rd at our only entrance.

18) The DNR access road is not sufficiently wide to support use by horses and RV's in addition to existing auto traffic?

This issue will have to be redirected to the State of West Virginia. Once, and if someone has an RV staying here at the proposed campground. They WILL NOT be uprooting there camp to drive 1,200 feet out of the campground onto Mission rd. for 400'-0 into the DNR access and back around 2,000 feet when they can just walk down 800 feet to the river. Nor will I allow the gate to be unlocked for them to access that area with their RV's; if that question is ever brought up the DNR will not allow us. As to the horses. It is healthier for the horses to travel on a non-asphalt surface to access the miles of trails located in the WVVMA. Which by the way falls to the other side of my property line and extends for miles through this area.

19) Explain how water and wastewater for the site will be addressed. Well and septic subject to surface height restrictions, which would not be compatible with RV hookups?

(IF) We where to have any hook-ups at all in the future for the RV's. They would be located outside the FEMA Flood Plain making the issue of (Height restrictions/Wells/Septic) N/A This also would be subject to any & all approvals by County and State regulations. Please also refer to #15

20) Duration of tenancy of camp tenants should be limited to 14 days within a 90-day period?

I have no problems with this. But I do think it should be 14 (consecutive days) not 14 days with in a 90-day period. That would be non-productive to the goals of any small business to tell a customer that he, she or they (CAN NOT) come back because they had a good time.

- 21) The entrance for the proposed development is too close to another adjacent, proposed CUP development (River Country Store)?
Being at the end of gate 2 and 200'0 East onto Mission Rd would think traffic patterns being what they are. This entrance would make an ideal & safe location to have a business or businesses located. The speed limit drops down to 40 mph here on Mission Rd. and there has always been a commercial business here of some sort since 1954. Grammy's Daycare, Shannondale INC, Blue Ridge Properties, Shannondale Springs access, Parking Lot for Mailboxes, ingress/egress into gate 2, ect.
- 22) The campground may impact the use of nearby island for wildlife hunting?
The island consists of less than 600 sqft and is under water in the early spring. It sets out into the middle of the river appoxamently 500'0 down river from the proposed camping area making it accessible by ANYONE floating and or boating down the Shenandoah River. But whether or not, if it is privately owned I will make it very clear to our customers not to access the island.
- 23) Concern regarding compatibility with adjacent property where hunting takes place. What is seasonal schedule for campground use?
We would like to open March 1st. and remain open until Nov 1. Closing up for the year so we can improve proposed camping area and reduce the amount of impact that could affect the hunting by the local residence.
- 24) The CUP sketch plan shows campsites located adjacent to neighboring property lines with no setback?
We plan on leaving a 30'0 undisturbed green buffer at, on and between the back of the actual campsite itself. Included in that along the creek is a distance of appoxamently 30'0 to 90'0 between the high water marks of Furnace Run and the adjoining neighboring property high water marks. Included in this buffer area is also approximately 20'0 to 60'0 of green vegetation located on neighboring property between said Furnace Run and their open field. Not sure what plans are intended by neighboring property but this alone between sight distances would be over 180'0 of naturally overgrown vegetation, trees, vines & shrubbery between the back of the campsites and the open field of neighboring property. Even if neighboring property clear cuts down to the high water marks of there land would still leave the width of Furnace Run (High water marks) and our 30'0 + natural undisturbed buffer between the back of the campsites and high water mark of Furnace Run. The width of the campsite is not calculated into this ratio. The width of the campsite would be 70'0 to the road making it over 100'0 off the property lines.

25) Concern that the location of the campground will encourage campers to trespass on adjacent properties to access the river and forage for firewood. Request 6'0 perimeter fence along property line as well as River View and Sheared property line. (It is noted that the Riverview Assn. opposes this request unless the fence is buffered by vegetation so as to be fully screened)?

No, This will not be acceptable. We will post ALL property lines and require the customers to sign a discloser when they sign in as to (If caught trespassing YOU WILL BE ASKED TO LEAVE.) If we put a fence up this WILL deter any and all hunting by neighboring properties as per #22 & #23 on this response to (unresolved issues). We have no residences this side of the river for miles each direction both East & West. We (CAN NOT) put a fence in and through any surface running waters inside the State of West Virginia (Creeks, runs, streams & or Rivers) Putting a fence up inside the FEMA Flood plain is also not acceptable. There will be firewood here for sale to the customers also deterring the potential foraging that neighboring properties assumes will take place. Please see response to #23 in regards to seasonal use. We will close down prior to hunting season just after seasonal color change still allowing undisturbed open hunting by neighboring property owners and or local residence. By putting a fence up would also have a HUGE impact on the natural wildlife we find so beautiful. Deer, Turkey, Bears, Cats, Rabbits, Fox, Coyotes & any other large and small game being hunted for by neighboring properties.

26) The location of the campsites shown on the sketch plan is a significant distance from access to DNR property. This location may induce campground users to trespass onto private property in order to gain river access. It is unclear how the site can be used to provide fishing, boating or other river-related activities in the absence of direct river access?

Our property borders the WVVMA and Furnace Run. Located less than 1,000'0 from the boat launch. God for bid we get a little exercise accessing the public areas of the WVVMA and or River to fish and hike.

27) Potential increased crime activity as a result of the proposed campground, such as breaking and entering, and vandalism?

Again there are NO homes for miles on this side of Mission Rd. each direction. 99% of all campers are enjoying the serene beauty of said area and are not looking to vandalize and or looking to break into something that is not there. I cannot control the 1% of the potential (maybe's) but to suggest that they (neighboring property owners if concerned) use locks and or security camera's to deter such activities if not implemented already. Along with them (the 1%) to leave if caught trespassing on any private lands and or calling the police to have them arrested. Again I will be here to monitor any such potential negative activities and address ANY potential problems brought forth by neighboring property owners and issues that may arise.

28) Concerns regarding protection of Shenandoah River from storm water discharge and other forms of pollution that could result from the proposed development? In discussions with the DNR, DEP, County of Jefferson & or State regulated departments have determined that leaving a natural undisturbed buffer between said property and any and all surface running waters is the BEST thing we can do to deter any possible storm water discharge. We have applied for a permit with the DEP even though we did not have to. Understanding any and all regulations required by the DEP is very important. We with ALL proposed limitations are not required to post any permits because we fall well under an acre with any and all clearing that may take place now and in the future. With all do respect to these departments we feel that clearing of sort would not benefit anyone including our long-term plans here at Black Bear. Making it safe and desirable to return is a goal of ours to keep it as natural as possible.

29) The applicant should develop an emergency access plan in the event that of a breach of dam on the nearby lake property, and should maintain an insurance policy to address this contingency? We have implemented such insurance policy with our carrier for the campground and will maintain such policy while in business. If the dam was to break we would not be able to implement any such contingencies for the campground due to the short distance from said lake.

Dear Sirs & Madams,

In closing we would like to thank you for your time and consideration for this primitive 11-site campground proposal. Our goals here are to educate our children and maybe open a couple seasonal jobs for some local resident kids all the while giving local residence and people a-broad a place to relax or touch on some family values we seem to put on the back burner. The history that has taken place here is at times just overwhelming. From Lord Fairfax & a young George Washington to present day. Along with the WVWMA, the Shenandoah River, the Iron Furnace and the history surrounding John Mosby (civil war marker 16) think this location of Jefferson County would make the perfect & ideal location for such a proposal. We hope for a long relationship with the State of West Virginia and Jefferson County to be able to supply such means for enjoyment with absolutely no negative impact to the comprehensive plan of Jefferson County. We would also like it to be known our local HOA has tried to shut us down by having DEP called out 3 times, The County called out once, The Sheriff called out for trespassing once and the DNR called on us and have not broke one regulation, code, trespassed or compliances. It is a shame that our emergency services had to be used in such a fashion. We believe it is very important not to impact our environment and or neighboring properties. We also participated in a blog regarding the proposed campground and found unofficially taken that 88% of the people hear on Shannondale.Org support this proposal for the campground.

**Thank You
Scott Bearup
&
Carroll Rice**



DIVISION OF NATURAL RESOURCES

Wildlife Resources Section
1 Depot Street
Romney, West Virginia 26757
Telephone (304) 822-3551
Fax (304) 822-7331

Joe Manchin III
Governor

Frank Jezioro
Director

May 23, 2012

Scott Bearup
Black Bear Camps and RVs

Dear Mr. Bearup;

Please be advised that the Shannondale Public Access area is bound by a number of regulations and guidelines. All DNR owner and operated public access areas are provide for the use of boating and fishing only and public access roadways cannot be used to access private property. The neighboring campground activities you have proposed will not directly conflict with the use of the access area at Shannondale WMA, however, campers should be aware of the rules and regulations for this neighboring area. The most common violations on public access areas include swimming, unauthorized parking, and alcoholic beverages. WVDNR Natural Resources Polices will uphold and issue citations for these violation and the others listed in the

Rules And Regulations Governing Public Use Of West Virginia Fishing And Boating Access Sites

Article 1, Section 7, Chapter 20 of the Code of West Virginia, 1961 as amended, the following rules and regulations govern public use of all fishing and boating access sites administered by the Division of Natural Resources, Wildlife Resources Section.

Requirements And Prohibitions:

1. Public boating and fishing access facilities shall be used solely for the purpose of launching and retrieving watercraft or fishing from the shore. No other use of access sites is allowed.
2. After launching, vehicles shall be parked in available parking spaces.
3. Any law enforcement officer acting under proper authority may prohibit an individual from launching a watercraft from any public boating and fishing access sites.
4. The following are prohibited at fishing and boating access sites:
 - a. Consumption of alcoholic beverages or possession of an open container of alcoholic beverages.
 - b. Swimming or bathing.
 - c. Camping.

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- d. Open fires.**
- e. Trash disposal except where trash receptacles are provided.**
- f. Discharge of firearms, fireworks and explosives.**
- g. Leaving unattended watercraft.**
- h. Commercial use except as authorized by the Director.**
- i. Parking of any vehicle or the mooring of any watercraft in such a manner as to obstruct any avenue of ingress or egress, except for the purpose of launching.**

Any person violating any of these rules and regulations shall be punished in accordance with the provisions of Chapter 20 of the Code of West Virginia and such other laws as may be applicable.

It is the policy of the Division of Natural Resources to provide its facilities, accommodations, services and programs to all persons without regard to sex, race, age, religion, national origin or ancestry, disability or other protected group status.

The Division of Natural Resources is an equal opportunity employer.

**STATE OF WEST VIRGINIA DIVISION OF NATURAL RESOURCES
Effective 05/10/01**

Thanks,

**Jim Hedrick, District Fisheries Biologist
West Virginia Division of Natural Resources
1 Depot Street
Romney, WV 26757
Phone (304) 822 -3551
Fax (304) 822-7331
jim.d.hedrick@wv.gov**

**Rich Rogers, District Wildlife Biologist
West Virginia Division of Natural Resources
1 Depot Street
Romney, WV 26757
Phone (304) 822 -3551
Fax (304) 822-7331
Rich.e.rogers@wv.gov**

State of West Virginia
Department of Environmental Protection
Environmental Enforcement
Incident/Investigation Report

REF# _____
County Jefferson
Basin _____

WRC SWC Spill Fish Kill By-Pass Other

Received by Matthew Alt Date 5-24-12 Time 1:00

Caller Neal Nilsen Representing Self

Phone Number 304-724-1058 X 308 Address None given

Description of Incident Resident at 2128 Mission Road has open excavation adjacent to Furnace Run believed to be greater than one acre and commercial in nature. Caller believes site to be unpermitted.

Specific Location 2128 Mission Road near Shannandale WMA.

Responsible Party Scott Bearup

Date/Time of Incident 5-29-12 Stream Furnace Run

Material/Quantity Spilled None

Spill status: Stopped Clean up in progress Other (list) N/A

Dead fish noted Wildlife notified Law Enforcement notified

Investigation findings Area of disturbance appears to be under one acre and owner claims that excavation is for personal access to property near river. As such, no permit is currently required, however, resident was informed that if commercial aspirations are pursued on this property NPDES coverage may be necessary. Mr Bearup was also informed of need to keep sediment from entering waters of the State regardless of permit status; no sediment appears to have done so to date.

Action taken See above

Samples taken No Photos taken No

Relayed to Scott Bearup Date 5-29-12 Time 1:00

Investigated by Matthew Alt Date 5-29-12 Time 1:00

revised 5/2/05

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**NOTICE OF INTENT (NOI)
CONSTRUCTION STORMWATER WV/NPDES GENERAL PERMIT**

GENERAL PERMIT REGISTRATION NO. WVR _____ (office use only)

1. Project name Property Improvement.

2. Applicant's name SCOTT Bearup
Federal Employer Identification Number (FEIN) _____

Required for Application Processing
Address 2128 Mission Rd.
Harpers Ferry WV. 25425

Telephone () 304-728-7852

E-mail Address papabear-64@hotmail.com

3. Operator or contractor Home Owner
Address 2128 Mission Rd.

Harpers Ferry WV. 25425

Telephone () 304-728-7852

4. Acres disturbed Less than 1 ac (Must be less than 3 acres to use NOI Form)

5. Latitude DEGREES 39° MINUTES 13 SECONDS 24.6

Longitude DEGREES -77° MINUTES 48 SECONDS 56.4

6. Nearest Town Charles Town

County Jefferson

County Route 9/5

7. Receiving Stream*(s) Furnace Run

*(If the receiving stream tier is 2.5 or 3.0, the NOI Form cannot be used)

Basin Shannandoah

Municipal System Operator (if applicable) N/A

8. Brief Description of Project (Use additional pages if necessary and label as Attachment 8)

Improving the environmental ecology of said property
Access in & around property (Removal of vines, Box woods, brush)

9. Proposed Construction Schedule

Through out the 2012 + early 2013 yr. Hope to be
complete Spring 2013.

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10. Topographic map with site located. (Label as "Attachment 11")
11. Groundwater Protection Plan (Do Not Attach. Maintain on Site)
12. Storm Water Pollution Prevention Plan – (Do Not Attach. Maintain on site.)

Preparer's Name _____

13. Public Notice Sign (see instructions)

BY COMPLETING AND SUBMITTING THIS APPLICATION, I HAVE REVIEWED AND UNDERSTAND AND AGREE TO THE TERMS AND CONDITIONS OF THE GENERAL PERMIT ISSUED ON NOVEMBER 4, 2007. I UNDERSTAND THAT PROVISIONS OF THE PERMIT ARE ENFORCEABLE BY LAW. VIOLATION OF ANY TERM AND CONDITION OF THE GENERAL PERMIT AND/OR OTHER APPLICABLE LAW OR REGULATIONS CAN LEAD TO ENFORCEMENT ACTION.

I CERTIFY UNDER PENALTY OF LAW THAT I HAVE PERSONALLY EXAMINED AND AM FAMILIAR WITH THE INFORMATION SUBMITTED ON THIS FORM AND THAT IT IS, TO THE BEST OF MY KNOWLEDGE, TRUE, ACCURATE, AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT.

APPLICANT SIGNATURE Scott Bearup DATE 6/19/2012

PRINT NAME SCOTT Bearup

The application fee for construction projects disturbing between 1 to less than 3 acres in size is \$300.00. Prior to filing this application, you may wish to obtain a copy of the legislative rules of the Department of Environmental Protection, Title 47, Series 26, Water Pollution Control permit fee schedule. You may obtain a copy of the referenced rules from the Secretary of State's Office, State Capitol Building, Charleston, WV 25305.

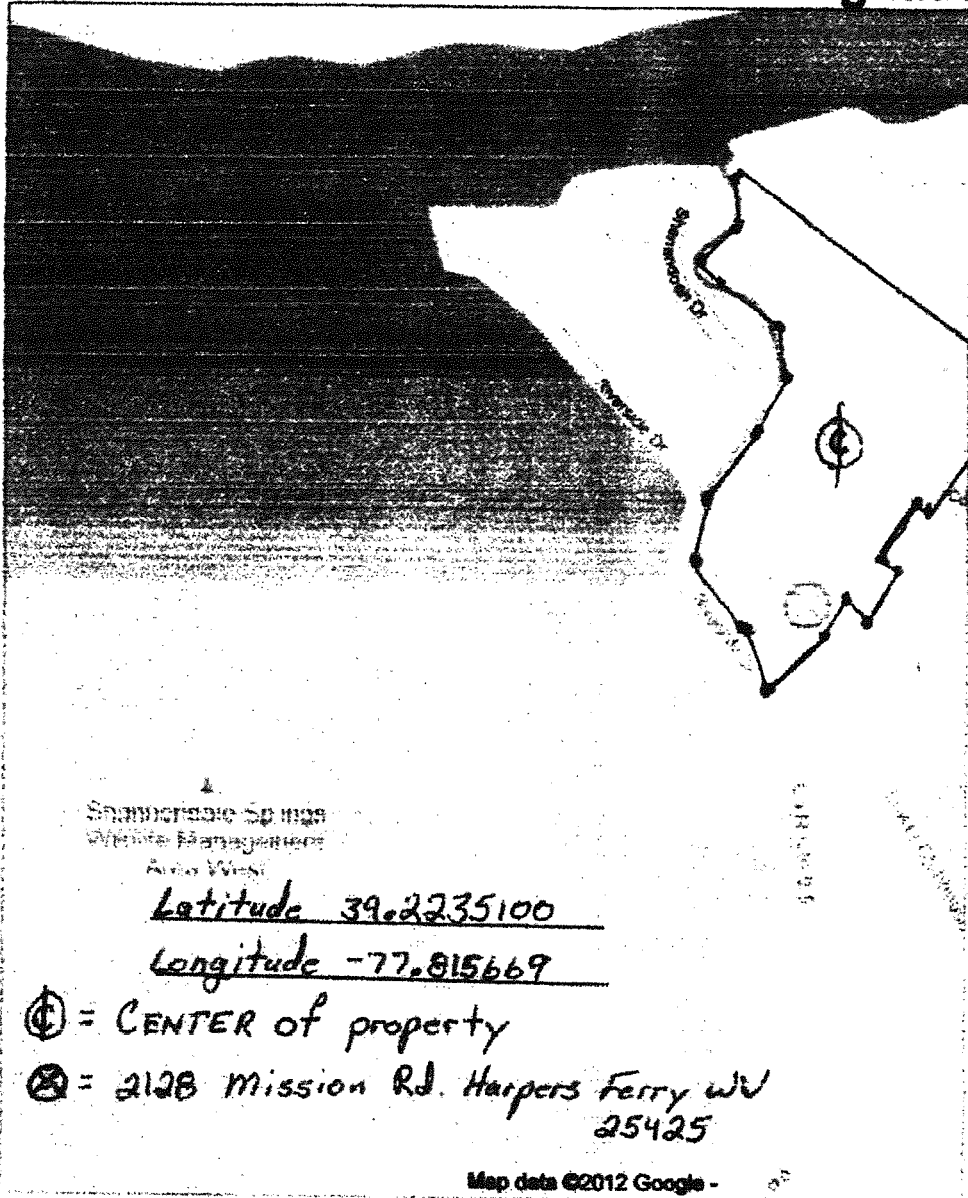
Your check or money order for the application fee must be made payable to the West Virginia Department of Environmental Protection and mailed to:

Division of Water and Waste Management
Construction NPDES
601 57th Street, SE
Charleston, WV 25304

We will process your personal information (email address, mailing address and/or telephone number) in accordance with the State of West Virginia's Privacy Policy for appropriate and customary business purposes. Your personal information may be disclosed to other State agencies or third parties in the normal course of business or as needed to comply with statutory or regulatory requirements, including Freedom of Information Act requests. The Division of Water and Waste Management will appropriately secure your personal information. If you have any questions about our use of your personal information, please contact the DEP's Chief Privacy officer at deprivacyofficer@wv.gov.

ALL SPILLS OR ACCIDENTAL DISCHARGES ARE REQUIRED TO BE REPORTED IMMEDIATELY TO THE EMERGENCY RESPONSE SPILL ALERT SYSTEM TOLL FREE TELEPHONE NUMBER 1-800-642-3074. CALLS FROM OUT OF STATE SHOULD BE MADE TO 304-348-8899.

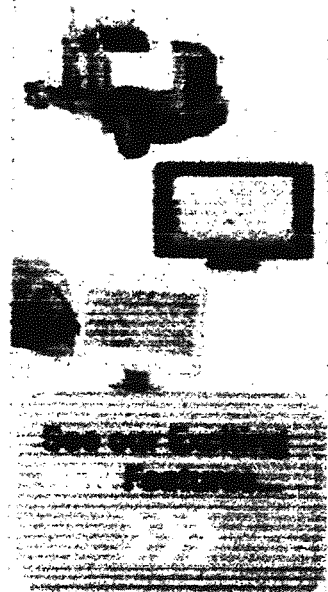
Find Latitude and Longitude



Advanced Vehicle Tracking

From teletac

- Reduce Costs
- Save Time
- Improve Safety



Load Location
 Latitude:
 Longitude: ◆
 Location: 2128 mission rd harpers ferry w ◆
 Post Code: ◆
 Location successfully loaded.

Map Coordinates of Selected Location
 Latitude: N 39° 13' 10.7762"
 Longitude: W 77° 48' 55.9712"
 Latitude: 39.221878°
 Longitude: -77.815917°
 Latitude: 39.221878°
 Longitude: -77.815917°

Selected Location (Approximate)
 Address: 2128 mission rd harpers ferry
 wv
 Latitude: 39.2218780
 Longitude: -77.8159170
 Accuracy: 8
 Status: 200: Successful geocode.

Map Coordinates of Mouse
 Latitude: mouse off map
 Longitude: mouse off map
 Latitude:
 Longitude:
 Latitude:
 Longitude:

RECEIVED

Form MM-109
Rev. 05-19-05

**BEFORE DIGGING OR OTHERWISE DISTURBING
THE EARTH CALL: 1-800-245-4848 TO NOTIFY
MANY UNDERGROUND OWNERS* FREE SERVICE**

PERMIT NO. _____

5-12-0144

JUL 12 2012

JEFFERSON COUNTY PLANNING,
ENGINEERING

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

THIS PERMIT, Made this 18th day of April 20 12, between the WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS, a statutory corporation hereinafter called DIVISION and Scott Bearup

Address: 2128 Mission Road, Harpers Ferry, WV 25425 Phone No: 304-728-7852
hereinafter called APPLICANT.

WITNESSETH

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

Route Type & No. CR 9/5 (SLS) DOH Project No. _____ (if applicable);

at West side of CR 9/5 (SLS), 0.039 mile North of CR 9/14 (SLS) Mile Post 5.791

in Jefferson County, for the purposes hereinafter set forth and in accordance with the

plans and specifications which are attached hereto and ~~made a part hereof~~: To construct and maintain 1-25' commercial approach stabilizing with a maximum size of 1 1/2" crusher run stone to a total depth of 6" compacted and 6" H.M.A. from the edge of the pavement to the right of way line per attached typical sheet. This work shall be constructed and maintained so that water and debris will not flow or be tracked onto the roadway. Should this parcel further develop commercially, subdivide, or be located within a subdivision with internal access, this permit will be invalid. Applicant shall apply for a new permit to fit altered condition

APPLICANT further agrees to accept the conditions hereinafter set forth:

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

APPROVED

APR 24 2012

WV DOT
District 5

and inspect DIVISION expense incurred in restoring said highway to its original condition and damages that may result within one (1) year from the date of the completion of said work. **NOVET**

APR 24 2012

2. APPLICANT agrees to reimburse DIVISION for inspection costs as follows:
- A. For any inspection costs incurred under this permit.
 - B. At \$ _____ per linear foot for _____ feet of water line installed under this permit
 - C. At \$ _____ per linear foot for _____ feet of sewer line installed under this permit
3. APPLICANT shall notify DIVISION at least 48 hours in advance of the date the work will begin. Failure to comply will be cause for cancellation of this permit.
4. APPLICANT agrees to protect its employees, equipment and users of the highway at all times in accordance with the current Division of Highways manual "Traffic Control For Street and Highway Construction and Maintenance Operations".
5. APPLICANT agrees to comply with all applicable state and federal laws in the performance of work under this permit.
6. Supplementary conditions cited on the reverse side of this permit are understood and agreed to be a part hereof.
7. The work authorized under this permit shall be completed on or before (Date): April 30, 2013

WV DOT District 5

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

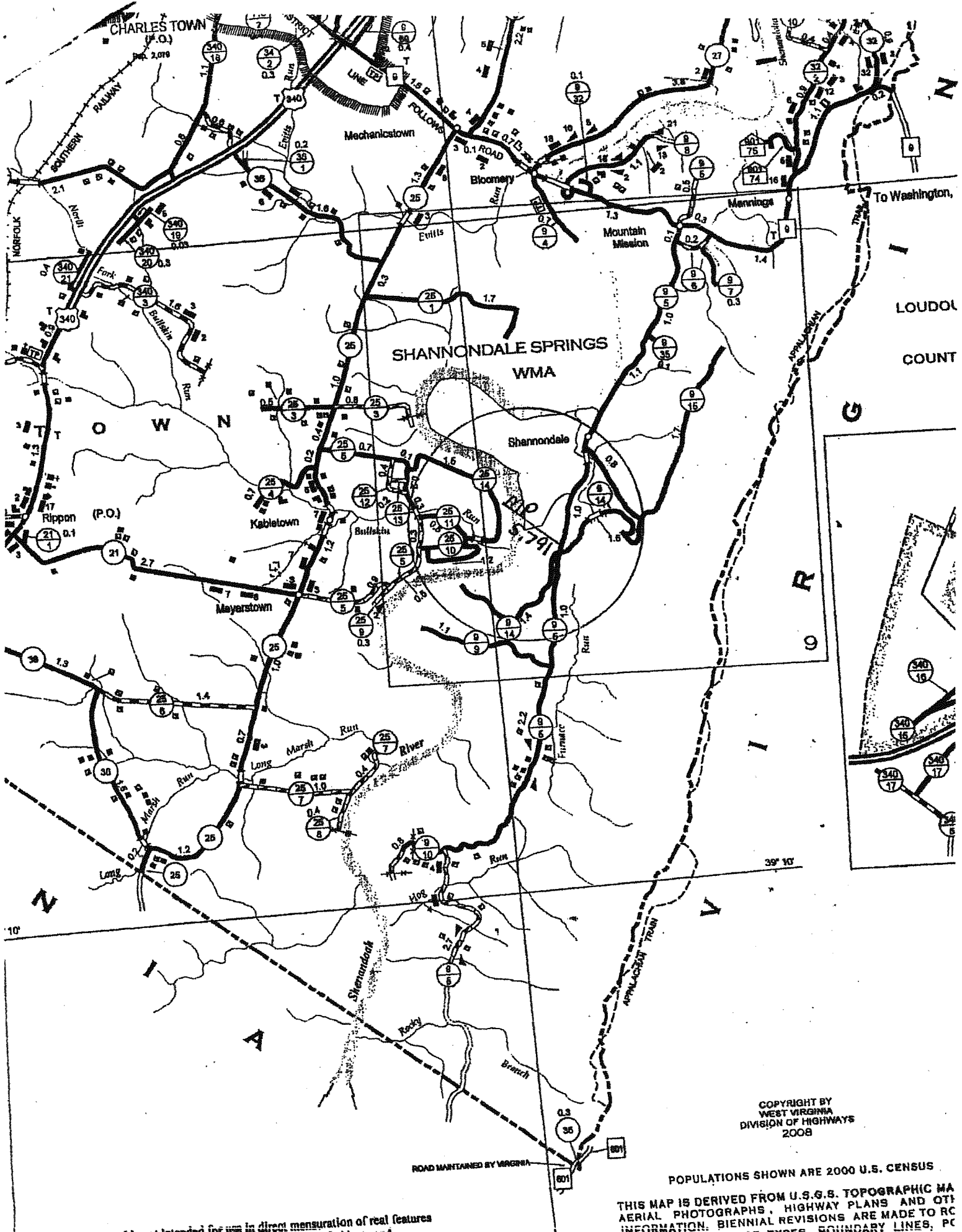
RECOMMENDED: [Signature]
Title Design Engineer

[Signature]
Signature and Title of Applicant

BOND REQUIREMENT:
 BOND NO. _____ DATE _____
 Attached On File
 INSPECTION: Owner/Consultant
 Full Time Part Time
 Periodic Reimbursable No Cost
 AUTHORIZATION NO: _____

APPROVED: [Signature]
Title District Engineer/Manager
West Virginia Division of Highways

PERMIT NO: 5-12-0144



LOUDOUN
COUNTY

COPYRIGHT BY
WEST VIRGINIA
DIVISION OF HIGHWAYS
2008

POPULATIONS SHOWN ARE 2000 U.S. CENSUS

THIS MAP IS DERIVED FROM U.S.G.S. TOPOGRAPHIC MA
AERIAL PHOTOGRAPHS, HIGHWAY PLANS AND OTI
INFORMATION. BIENNIAL REVISIONS ARE MADE TO RC
BOUNDARY LINES, PC

Not intended for use in direct mensuration of real features

ROAD MAINTAINED BY VIRGINIA

RE: Need your help

From: **Alt, Larry A** (Larry.A.Alt@wv.gov)
Sent: Mon 6/18/12 6:06 PM
To: scott bearup (papabear-64@hotmail.com)
Cc: sbarney@jeffersoncountywv.org; jsaunders@jeffersoncountywv.org

Mr. Bearup, I have given your concerns below for review by our traffic engineer and we have the following comments:

- 1) In regards to a grade/slow sign just pass gate 1, the engineer pulled traffic accident data and reviewed the site and formed the following conclusion. We generally do not post hills unless they are greater than a ¼ mile long or have high accident rate. This area does not meet either criteria and therefore we are not recommending any additional signing at this time.
- 2) As far as the DEAD End /No outlet, we believe this sign would be too far from the end of roadway and therefore will not be recommending any signage.

I hope this answers your concerns and the DOH appreciates your concerns in keeping our roadways safer. Should you have any further questions please feel to let me know. Thanks Larry

Larry A. Alt

WVDOH

District 5 Permit Reviewer

PO Box 99 Burlington WV 26710

304-289-2284

Fax 304-289-5085

From: scott bearup [mailto:papabear-64@hotmail.com]
Sent: Thursday, June 07, 2012 7:54 AM
To: Alt, Larry A

Camp Ground on Mission Road

From: **Alt, Larry A** (Larry.A.Alt@wv.gov)
Sent: Thu 7/05/12 4:06 PM
To: sbarney@jeffersoncountywv.org
Cc: jsaunders@jeffersoncountywv.org; papabear-64@hotmail.com

Mr. Barney, Mr Bearup has a BZA on the 19th and has a concern that I have not been able to complete a final inspection on his entrance and will not be able to do so by then. If it is any help, I don't foresee a problem with his entrance because he only had minor repairs. I plan to do a final upon my return from Military leave around the week of 25th. Thanks for your consideration in this matter. Larry

Larry A. Alt

WVDOH

District 5 Permit Reviewer

PO Box 99 Burlington WV 26710

304-289-2284

Fax 304-289-5085

BUSINESS PLAN

Black Bear Camp & RV

INTRODUCTION

After reconsidering the options in my life, I have come to the realization that we are getting no younger and the world is spinning faster. I have decided to invest what I have left to create a better life for myself and loved ones.

I have in the last 3 years gone through a divorce, foreclosure, and have been laid off. This has all dealt with the control of someone other than myself, and that, in its self, is wrong. So this is how I'm going to take control of my future and I'm looking for a little help to get started.

PERSONAL BACKGROUND

After reviewing the information provided I think you will also foresee the potential of what could be generated to help meet and or exceed our goals. I have been in the construction industry for over 25 years. When hired by my previous employer, I was chosen out of hundreds of applicants when they approached me over a 2 years ago and don't see an end to the work they do. They have told me on several occasions on how good of a job I do for them including but not limited to the monies saved by sound and just made decisions. Corporate AutoZone has since ranked the employer in the top 5 GC nation wide because of me. I would be willing to quit this job and move forward with my dream with a little help

PROPOSED CAMPGROUND

This area of Jefferson County that I'm proposing for a new primitive campground is also the center of the supporting documentation regarding this region. There are currently 3 ongoing subdivisions in the area and the only path out of this area is right by the campground. This should help support the ongoing growth of our proposal. These high and medium income type subdivisions are located in this bedroom community of Shannondale. Also including but not limited to existing housing already established in and around the surrounding area. This business has already been established as a real estate office in the past and came with a commercial standing.

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JUL 12 2012

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

The history surrounding this spot is incredible. From documented raids to founding local cities and towns. The property also includes a complex known as (The Iron Furnace). This along with a few others left in and around these parts of the county predates the revolutionary war. They helped form what is now known as Harpers Ferry. Neither one of these buildings are put into any kind of governmental programs, still allowing me to access these grants and historical societies at a later date once up and running. The administrative building (office) has a septic system, working well and a good foundation to create a habitable space for future 2nd floor tenants and an office for the proposed campground on the lower level, with little money. This proposed campground borders historical Furnace Run (creek) and will have sites available with access to the Shenandoah River, canoeing, kayaking, white water rafting, tubing and swimming. This property is situated in such that it agonies over 600 +/- acres owned by the state of WV. This now opens direct access from the campground to horseback riding, hiking, bicycle riding, hunting and fishing on 2 +/- miles of river frontage. Increasing the recreational exposure we need to be successful.

GOALS / MISSION

1. To offer to the surrounding community the chance of being put back into the history books
2. To offer to the community both locally and distant the chance of getting away with little cost
3. To bring back the family traditions that have been lost over time and reuniting history with the present
4. To establish the financial freedom we all strive for; but have fun doing it
5. To interact with people from all over the nation and their cultures
6. To offer a haven to the horse lovers showing their horses at the Charles Town Races & Slots or just a weekend stole through the woods
7. To just offer the recreational versatility of all the commodities that a campground should come with

LOCATION

2121 Mission Road, Harpers Ferry, WV 25425. This location is within the Shenandoah, Blue Ridge Mountains and is located approximately 6 miles from Charles Town; 5 miles from Route 340; and 2 miles from Route 9, which are major routs in and out of Jefferson County connecting Virginia and Maryland.

MANAGEMENT TEAM

Scott Bearup – Co-owner and operator. Scott has the experience to establish the building of this proposed campground. He has been in the construction industry for over 26 years including owning his own business for 18 of those years. He has served in the armed forces giving him the mental aptitude of succeeding in anything he sets mind to do. He has run multi-million dollar projects dealing with the municipalities, states, governments and their regulations. Including but not limited to Sub-Contractors, scheduling and the ordering of materials.

Carroll Rice – Co-owner and operator. Carroll has also owned his own company in the construction industry for over 30 years. He along with Scott are partners in this venture. He also has invested cash towards the purchase of this property. He also has the equipment and forethought to complete the building of this campground including all the site work needed at no or little cost. This along with his contacts and the rental properties feel that we can keep the cost under control and profits good.

KEY ADVANTAGES

1. Governmental programs available to us after the purchase assuring a timely release of any liens associated with sale.
2. The low cost to establish this project including a negotiated sales price
3. The amount of amend ties available to the campers (canoeing, kayaking, tubing, swimming, hunting, fishing, historical, horseback riding, trail riding by bikes, hiking, white water rafting and still be able to relax in a quiet secluded setting in the Blue Ridge Mountains on the Shenandoah River.
4. Existing administrative building (office) has a commercial standing.
5. The existing buildings are located outside of any flood planes
6. Any clearing of trees for the sites and roads can be used for the construction of this campground
7. The no cost use and availability to the 600 +/- state acres abutting this property
8. Location of campground on the Shenandoah River, 10 minutes from Historic Charles Town and 15 minutes from Historic Harpers Ferry including the Potomac River. You can also be in Baltimore and Washington DC in under an hour.

VISION OF THIS REAGINS FUTURE

According to the Eastern Panhandle Region Outlook published by WVU Bureau of Business and Economical Research the outlook for the Eastern Panhandle region calls for continued strong population growth for two reasons: 1) The region's year around local jobs are attractive to seasonal agricultural employees, and 2) The area is attractive to those looking to commute to jobs in nearby metropolitan areas. The majority of job gains are expected to be in construction and the service providing sectors; such as information, professional, business services, education, health care, leisure, hospitality, and government. Despite such strong population growth, unemployment is expected to decrease. The solid job market should generate gains in per capita income and a rising standard of living in the Eastern Panhandle.

The Eastern Panhandle has become increasingly important to the state's economy by growing at a faster rate; having a younger median age (36.7) and having a higher level of educational attainment post high school of (16.7%). The region boasts higher per capita income (\$26,620 compared to \$24,542 per national average) and a higher median household income (\$40,068 compared to \$29,696) than the state. There is also documentation with the Appellation Trail Visitors Center that there were 12,980 hikers alone from 04/01/10 – 11/01/10. It is also noted that the Casino alone brought over 5 million visitors to Charles Town during 2010. I still have not even included the amount of visitors from historians to people visiting the Shenandoah / Potomac Rivers, and or even seasonal workers.

INCOME BASED ON CAPACITY % LEVEL

Each Campsite at \$22/per day	\$19,152.00	\$40,500.00	\$60,480.00	\$81,000.00
(1) Est. Rentals	\$4,500.00	\$9,000.00	\$13,500.00	\$18,000.00
(2) Additional People	\$1,500.00	\$3,000.00	\$4,500.00	\$6,000.00
(3) Misc. Sales	+	+	+	+

SUPPORTING DOCUMENTATION

The attachments that have been supplied for this proposal has been backed up by the West Virginia Bureau of Business and Economics for the Eastern Panhandle, West Virginia Department of Transportation and SIRNA.

CONCLUSION

I do thank you for your time and consideration. I hope you will look over the information supplied. Assuring you with the proper documentations and guaranties that this will work, could be a step in some small way of us helping the community and the nation get back on its feet.

Should you have any questions, please feel free to contact me at anytime at:
304-728-7852
517-525-2079

Sincerely,

A handwritten signature in cursive script, appearing to read "Scott A. Bearup". The signature is written in black ink and is positioned above the printed name.

Scott A. Bearup

Steve Barney

From: RandyRoo <rcrell@gmail.com>
Sent: Tuesday, June 26, 2012 2:56 PM
To: rich.e.rogers@wv.gov
Cc: Steve Barney; kamflynn; Steven Sheard; Neal Nilsen
Subject: RE: CP12-02, CP12-03 Public Hearing questions for WV DNR

FYI,

Below is an electronic version of the letter I will be mailing later today via U.S. Post Office.

Thought this would assist you in typing your answers.

Thank You,

Randy R. Creller

Richard Rogers
WVDNR Wildlife Resources
1 Depot Street
Romney, WV 26757
rich.e.rogers@wv.gov
(304) 822-3551

Hello,

There have been 2 conditional use permit applications submitted to the Jefferson County Planning and Zoning office on properties that join the Shannondale Springs WMA entrance road.

There will be a public hearing on the matters

CP12-02 Black Bear Camp and RV
Scott Bearup and Carroll Rice
2128 Mission Road
Harpers Ferry, WV 25245

CP12-03 Country River Store and Deli
Renee and Wayne Moore
374 River Haven Drive
Harpers Ferry, WV 25425

When: July 19, 2012 3PM
Where: Charles Town Public Library basement

The public has several questions they would like to have answered prior to this meeting in writing, on DNR letterhead, so they can be made part of the Public Hearing package.

Please comment on the issues below and forward your answers in writing to:

Randy R. Creller
206 Bunny Lane
Harpers Ferry, WV 25425

Steve Barney
Department of Planning and Zoning
116 East Washington Street, 2nd Floor
P.O. Box 338
Charles Town, West Virginia 25414

Scott Bearup
6128 Mission Road
Harpers Ferry, WV 25425

Renee Moore
374 River Haven Drive
Harpers Ferry, WV 25425

Entrance issues

- 1) Shared use of one lane entrance road with pedestrian traffic generated from campground.
- 2) Ability of available parking to handle the additional load of 11- 20 more cars every weekend, when only 24 spots available at Shannondale Springs WMA.
- 3) Litter , there are no trash receptacles at Shannondale Springs WMA.
(Country Store and Deli will be selling snacks, sandwiches and beverages at the entrance)
- 4) Alcohol is proposed to be sold at Country River Store and Deli next to WMA entrance.
(Foodway further down on Mission road was pre-existing store before the WMA was formed)
- 5) What is the proper application process for seeking permission for a commercial gate to a WMA entrance road?
(A gate has been proposed, and not one but two potential gates recently cleared from Black Bear Camp and RV to the Shannondale Springs WMA entrance road before the culverts)
- 6) If this proposed gate is not approved, how will DNR prevent trespass where the two areas have already been cleared?

Acceptable WMA uses

- 7) Is Horseback riding allowed in the Shannondale Springs WMA? or the entrance road?

8) How is joint use of the WMA by hikers and hunters during hunting seasons going to be handled? Is it safe for hikers to be accessing the WMA during an active hunting seasons?

Hunting Rights Infringement

9) What are the 2012 Hunting seasons in the Shannondale Springs WMA? Please include migratory waterfowl hunting schedule and small and large game schedules.

10) If waterfowl hunting is to take place in the Shenandoah River, less than 300 feet from the Black Bear Camp and RV property, is shooting a firearm then illegal? Your firearm rules and regulations mention no shooting within 300 feet of a park or where people are gathered?

11) Is the Black Bear Camp and RV conditional use permit going to infringe on the rights of River View Association hunters to legally hunt waterfowl at the mouth of Furnace Run less than 300 feet from campsites where campers are gathered?

Trespass

12) What is the proper way to post against trespass?

13) How are trespass violations properly prosecuted?

14) Who should be notified of a violation?

15) What are the fines for trespass in West Virginia?

16) Can a commercial enterprise be fined for trespass by its patrons?

17) What jurisdiction does the DNR have over trespass on posted private property?

Commercialization of a WMA

18) Please comment on a commercial enterprise profiting from its patrons accessing the Shannondale Springs WMA.

Thank You in advance for your responses.

We hope to see DNR present at the public hearing July 19, 2012.

Sincerely,

Randy R. Creller
River View Association
HOA Park Manager
Zola McGuire Circle
Harpers Ferry, WV 25425

**APPRAISAL REPORT
AND
VALUATION ANALYSIS
OF
13.4846 ACRES (RECREATION AREA #2)**

**PROPERTY OF
LAKELAND PROPERTIES, LLC.
1329 LAKESIDE DRIVE
HARPERS FERRY, WV 25425**

RECEIVED

JUN 07 2012

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

**LOCATION
SHANNONDALE SPRINGS ROAD OFF MISSION ROAD
KABLETOWN DISTRICT
JEFFERSON COUNTY, WEST VIRGINIA**

**PREPARED FOR
MR. TIMOTHY C. BARR
DIRECTOR, JEFFERSON COUNTY PARKS & RECREATION COMMISSION
113.482 JOB CORPS ROAD
SHENANDOAH JUNCTION, WV 25442**

**DATE OF VALUATION
MAY 12, 2009**

**PREPARED BY
JOHN P. MC CLURG
WVCG #304
SHERWOOD L. STEPHENS
WV LR #0738**

APPRAISAL #09027C

**Potomac Highlands Appraisal Group, LLC
HC 33 Box 862, Petersburg, WV 26847
Telephone (304) 257-5617**

Potomac Highlands Appraisal Group

Potomac Highlands Appraisal Group, LLC
HC 33 Box 862, Petersburg, WV 26847
Telephone (304) 257-5617
Tax ID # 20-2338640

May 19, 2009

Mr. Timothy C. Barr
Director, Jefferson County Parks & Recreation Commission
113.482 Job Corps Road
Shenandoah Junction, WV 25442

RE: RE: Appraisal of 13.4846 acres (Recreation Area #2), Lakeland Properties, LLC,
Shannondale Springs Road, Charles Town, WV 25414

Dear Mr. Barr:

In accordance with your request, we have inspected, analyzed, and appraised the above captioned property owned by Lakeland Properties, LLC. and located off Mission Road on Shannondale Springs Road, Jefferson County, West Virginia. The subject property consists of approximately 13.4846 ± acres of AG zoned agricultural land and is unimproved. This appraisal provides an estimate of the market value of the fee simple interest for the above-mentioned property in the "as is" basis.


This appraisal was performed in accordance with the requirements of the *Uniform Standards of Professional Appraisal Practice (USPAP)*, 2008-2009 Edition.

The property was last inspected on May 12, 2009, which is the effective date of the appraisal report. The estimated value concluded herein is based on data and assumptions contained in the following appraisal report, which is prepared as Summary Report in the narrative format. This appraisal is subject to the Assumptions and Limiting Conditions as listed in the report. As a result of our investigation and analysis, it is our considered opinion that the market value of the fee simple interest of the subject property, as of May 12, 2009, in an "as is" basis is:

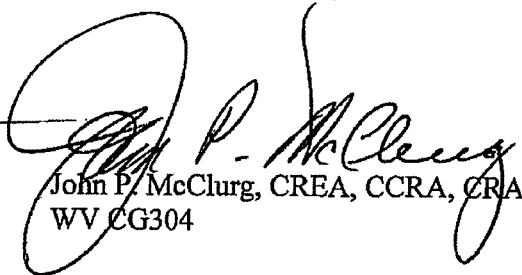
**ONE HUNDRED TWENTY THOUSAND DOLLARS
(\$120,000)**

We hereby certify that we have no interest, past, present, or prospective in this property that would tend to influence our unbiased opinion of value. If there are any questions in relation to this appraisal, we will be glad to discuss them with you at anytime.

Respectfully submitted,


Sherwood L. Stephens
WV LR0738

File No.: 09027C


John P. McClurg, CREA, CCRA, CRA, CVC
WV CG304

7. PROPERTY DATA

Location and Neighborhood

The area of Jefferson County, West Virginia, in which the subject property is located, is in the southerly part of the county, southeasterly of the City of Charles Town, off the westerly side of WV Secondary Route 9/3 (Mission Road), and northerly of Shannondale Springs Road. The access to the parcel is via WV 9 southeast out of Charles Town to WV Secondary Route 9/3 (Mission Road). Turn right unto Shannondale Springs Road and watch for low water bridge crossing over Furnace Run. The subject property is the first property to the right at blue gate.

Taxes and Assessments

The subject property is found in the Kabletown District, District 6, Tax Map 6, Parcel 4.3, Jefferson County, West Virginia. The tax assessment for year 2008 was \$20,500 for the land and \$0 for the improvements for a total tax value of \$20,500, which is 60% of the total assessed value. The total tax bill for this property is \$450.28 per year. It is taxed as Class 3 property; the assessment is \$2.18 per hundred.

c. Flood Zone

FIRM Flood Insurance Rate Map Number 540065 0053C dated August 2, 1993, indicates all of the property is located in Zone A22, which is determined to be in the 100-year flood plain. For further reference, a copy of the FIRM is hereby attached to and made a part of this report and can be found in the Addenda Section.

d. Occupancy

The property is improved with a paved cul-de-sac driveway that is mostly covered over with alluvial soil from past floodings. The property is vacant as there are no structures on the site.

e. History of Prior Transfers

The subject property (Parcel #2) transferred from Shannondale Club, LTD, to Lakeland Properties, LLC, on April 30, 2001, for the consideration of \$375,000 for 82.503 acres plus 4 platted lots in Shannondale subdivision, as recorded in Deed Book 947, Page 616. A Quitclaim Deed transferred all the interests in the subject property from Richard L. Houghton to Myrna O. Firestone on December 1, 2008, for no consideration as recorded in Deed Book 1060, Page 304. The property was listed for sale for an asking price of \$449,500 (\$33,334/acre) with Mountain Lake Realty (Joan O'Dell listing agent from September 10, 2005, to March 11, 2006 (182 days). Listing has expired and has not been renewed. Listing agent is one of the owners of the property.

f. Zoning

The property is zoned Agricultural (AG).

g. Contact with Owner

Mr. Timothy C. Barr was contacted on May 11, 2009, and an inspection date of May 12, 2009, was set up in which to inspect the subject property. Mr. John P. McClurg and Mr. Sherwood Stephens, appraisers, inspected the subject property on May 12, 2009, in the presence of Mr. Timothy Barr.

h. Property Description

(i) Land

The property being appraised is bounded on the north by the Shenandoah River, on the south by Shannondale Springs Road, on the east by Furnace Run, and on the west by the lands of WV Department of Natural Resources. The total area as per the tax map and deed is 13.4846 acres. It is found in the Kabletown Magisterial District, Tax Map 6, Parcel 4.3.

According to the deed and tax map, the property contains approximately 13.4846 acres and has sufficient road frontage along the northerly side of Shannondale Springs Road. The topography is basically level and at road grade. Approximately 90% of the site is cleared with the rest being wooded. The site has frontage along the southerly side of the Shenandoah River and the westerly side of Furnace Run. All of the property is located within the 100-year flood plain as delineated on Firm Community Panel Number 540065 0053C dated August 2, 1993. According to one of the owners (Joan O'Dell), a determination has been made by a Mr. Ed Johnson of Ed Johnson & Associates, Inc., Land Surveyors, that the base flood elevation for the property has been determined to be 13 feet (any permanent structure built on the property must have the living area at least two feet above the base flood elevation making the first floor at least 15 feet above ground level).

(ii) Improvements

The property is improved with a paved cul-de-sac driveway that is mostly covered over with alluvial soil from past floodings and a concrete boat ramp to the Shenandoah River.

i. Soils

The soils map of Jefferson County indicates the following 3 soil types are found on the subject property: Airmont cobbly loam, 0 to 8% slopes (AmB); Bigpool silt loam, (Bp); and Speedwell silt loam, (Sp). The predominant soils are Bigpool and Speedwell soils which are both very limited for septic tank absorption fields due to their restricted permeability, high water table, and being located in the 100-year flood plain.

PART 3 – ANALYSIS AND CONCLUSIONS

1. ANALYSIS OF HIGHEST AND BEST USE

The highest and best use is defined as the highest and most profitable use for which the property is adaptable and needed or likely to be needed in the near future. It is the most profitable use yielding the greatest net return to land and/or buildings over a given period of time, as of the date of the appraisal. The highest and best use of the land as though vacant and as improved must meet four basic criteria: legally permissible, physically possible, financially feasible and maximally productive. The highest and best use of the land as though vacant is based on the theoretical assumption that the land is vacant or can be made vacant by demolishing any improvements. The analysis of the property's highest and best use, as improved, is based on the potential of the land and the existing improvements. The zoning of the land is Agriculture (AG). The entirety of the parcel is located within the 100-year flood plain, which requires any permanent structure that is to be built to be two feet above the base flood elevation which has been determined to be 13 feet for the subject property. Any building constructed on the property would have to have the first floor at least 15 feet above ground level. See addendum.

a. Legally Permissible

Zoning and private restrictions are the primary factors, which restrict the potential legal uses of a property.

As If Vacant

At present, the subject is located in the Agriculture (AG) Zoning District. Since the current use of the property is conservation or agriculture, the H/B use as vacant would be for agricultural, conservational, or recreational purposes.

As Improved

At present, the subject is located in the AG Zoning District. Since the subject is basically unimproved and is located entirely within the 100-year flood plain, the H/B use as improved would be for agricultural, conservational, or recreational purposes.

b. Physically Possible

This analysis considers those legally permissible uses that are also physically possible. The physical and locational aspects of the subject property are major determinants of value.

As If Vacant

The locational and physical attributes were discussed in length in the Property Description. Land uses are not strictly limited to residential or agricultural purposes under the current zoning. No utilities are available to the property. Since the subject is located entirely within the 100-year flood plain, the first floor of habitable area must be located two feet above the BFE. Also, the access road leading to the property shall be reached by roads that are no more than one foot below the BFE to permit unhindered emergency access. For these reasons the H/B use for the property as vacant, would be for agricultural, recreational or conservation purposes.

As Improved

At present, the subject is located in the AG Zoning District. Since the subject is unimproved and is located entirely within the 100-year flood plain, the H/B use as improved would be for agricultural, conservational, or recreational purposes.

c. Financially Feasible

This analysis is intended to consider the uses that are physically possible and legally permissible, that is likely to produce a positive financial return. The maximally productive use is the use, which is legally permissible, physically possible and generates the highest return to the land.

As If Vacant

For any use of real estate to be financially feasible, the present worth of the economic benefits to be derived must be greater than the cost of developing or acquiring the property, either in the form of market-acceptable rate of return or adequate profit to a developer. Conversely, if the cost of acquisition or development is greater than the benefits to be derived, a given use cannot be considered financially feasible and cannot be the highest and best use of the property. Since the property is not strictly limited to agricultural purposes, the H/B use would be for agricultural, conservational, or recreational purposes.

As Improved

At present, the subject is located in the AG Zoning District. Since the subject is basically unimproved and is located entirely within the 100-year flood plain, the H/B use as improved would be for agricultural, conservational, or recreational purposes.

d. Maximally Productive/Highest and Best Use

Of the financially feasible uses, the use, which returns the highest return to the land, is considered maximally productive.

As If Vacant

The subject site is well suited for any of the uses permitted under the current zoning of AG. The most productive use would be for agricultural, conservational, or recreational purposes.

As Improved

At present, the subject is located in the AG Zoning District. Since the subject is basically unimproved and is located entirely within the 100-year flood plain, the H/B use as improved would be for agricultural, conservational, or recreational purposes.

Since the subject property is entirely within the 100-year flood plain and floodway as delineated on FIRM 540065 0053C dated August 2, 1993, any building constructed within this zone must be elevated two feet above base flood elevation (BFE 13 feet + 2 feet = 15 feet). Also, any access road leading to the subject property would have to be elevated above the 13 foot BFE so that the low water bridge going across Furnace Run would be out of the flood plain so that access could be gained to the subject property. This low water bridge crossing Furnace Run is the primary deterrent to value to the subject property along with the property being located entirely within the 100-year flood plain and floodway (A22). Since the property is located in A22, the BFE as determined by FEMA is 22 feet for this area. This does not agree with what Ed Johnson determined to be the BFE for the subject of 13 feet. In either instance, the property is best suited for agricultural, recreational, or conservation uses. Any site development would have to be in accordance with the Jefferson County Flood Plain Management Ordinance.

2. APPROACHES TO VALUE

a. Market Data Approach

Also known as the *Sales Comparison Approach*, this approach derives a value indication by comparing the property being appraised to similar properties that have recently sold, applying appropriate units of comparison and making adjustments, based on the elements of comparison, to the sales prices of the comparables.

b. Cost Approach

That approach through which an appraiser derives a value indication of the fee simple interest in a property by estimating the current cost to reproduce or replace the existing structure, deducting for all forms of accrued depreciation, and adding the estimated land cost plus an entrepreneurial profit.

c. Income Approach

That procedure in appraisal analysis through which an appraiser derives a value indication for income-producing property by converting anticipated benefits, i.e., cash flows and reversions, into property value.

3. LAND VALUE USING THE *MARKET DATA APPROACH* AND DEVELOPMENT APPROACH

From the various prices indicated by the comparable sales, it is necessary to arrive at a single figure as to the value of the subject property, using the appraiser's judgment as to the weight to be given to each comparable sale. Full consideration has been given in this appraisal report as to the trends and shifts affecting the value of property, the supply and demand for similar properties, and the present purchasing power of the dollar. There is no evidence of any outside influence that would affect the value of the subject property in the foreseeable future.

Land Sale #1 is a July 2008 sale of approximately 70.3 acres of agricultural land in the Shepherdstown District (Oxford Meadows), Jefferson County, West Virginia. It sold for \$470,000, or approximately \$6,686/acre. Rattlesnake Run, Inc. to John & Hope Snyder, DB 1053/Page 28.

Land Sale #2 is an April 2008 sale of approximately 5.2 acres of agricultural land in the Harpers Ferry District, Jefferson County, West Virginia. It sold for \$64,000, or approximately \$12,308/acre. Guynn – Miller and Wilson to PATH Allegheny Transmission Company, Inc DB 1063/Page 364.

Land Sale #3 is an April 2008 sale of approximately 13.688 acres of agricultural land in the Charles Town District, Jefferson County, West Virginia. It sold for \$80,000, or approximately \$5,845/acre. Stehr to Keith & Laura Berkeley, DB 1063/Page 434. Tax Map 5, Parcel 9 merged with Tax Map 5, Parcel 8.2 to create a parcel of 91.23 acres.

Since the sales of riverside property are very limited in Jefferson County, we have listed the following sales for valuing land located along a stream or waterway with water influence in surrounding counties:

Land Sale #4 is an April 2008 sale of approximately 10 acres off Dillons Run Road in Hampshire County, Capon Bridge, West Virginia. It sold for \$99,900, or approximately \$10,000/acre. (HS6345002)

Land Sale #5 is a September 2008 sale of approximately 20.36 acres on Loblolly Drive in Ashton Woods Subdivision, Hardy County, Moorefield, West Virginia. It sold for \$129,000, or approximately \$6,336/acre. (HD6468580)

Land Sale #6 is a June 2008 sale of approximately 15.83 acres off Level View Drive in Hampshire County, Levels, West Virginia. It sold for \$130,000, or approximately \$8,212/acre. (HS6572631)

Land Sale #7 is a May 2008 sale of approximately 22.18 acres in Little Cacapon Bluffs Subdivision in Hampshire County, Slanesville, West Virginia. It sold for \$130,000, or approximately \$5,861/acre. (HS6673482)

Land Sale #8 is a September 2008 sale of approximately 14.50 acres off Spotted Fawn Lane in River Bend Subdivision, Morgan County, Great Cacapon, West Virginia. It sold for \$100,000, or approximately \$6,897/acre. (MO6652128)

Land Sale #9 is an August 2008 sale of approximately 20 acres in Potomac Landing Subdivision, Hampshire County, Levels, West Virginia. It sold for \$165,000, or approximately \$8,250/acre. (HS6723564)

Land Sale #10 is a December 2008 sale of approximately 16.1 acres off North River Road in Hampshire County, Augusta, West Virginia. It sold for \$100,000, or approximately \$6,211/acre. (HS6732348)

Land Sale #11 is a March 2008 sale of approximately 10.81 acres off Americana in Crossings on the Potomac Subdivision, in Berkeley County, Cherry Run, West Virginia. It sold for \$165,100, or approximately \$15,273/acre. (HS6345002)

4. INDICATED VALUE FOR VACANT LAND (AS IS):

The sale price of the eleven sales (before adjustments) ranged from a low of \$5,845 per acre up to \$15,273 per acre. An analysis of these eleven sales that sold after March 2008 provided the following: The total acreage of the eleven sales was 298.968 acres, or approximately 27.18 acres per sale. The total value of the eleven sales was \$1,632,900, or approximately \$5,462 unadjusted mean value per acre and the unadjusted median is \$6,897 per acre. After adjustments, a value of \$8,500 per acre is selected, with an increment being applied to the above sales for time differential, size, location, topography, utilities, access/frontage, waterfront influence and amenities. The following would be the estimated value of the vacant land in the "as is" condition:

13.4846 acres @ \$8,500 per acre = \$114,619 say 115,000 rounded

The value of the vacant land obtained from the *Market Data Approach* is **\$115,000**.

5. COST APPROACH

This approach envisions a replacement of the property based on competitive contract conditions, less observed depreciation, plus land for a total indication of value. Since the property is basically unimproved with no buildings, this approach is not used.

6. INCOME APPROACH TO VALUE

In this approach, the net income under prudent management and best use is calculated and then capitalized at a rate consistent with investment practices in the area, and with other risk enterprises in which money could be invested by prudent purchasers.

The subject property could be divided into approximately twenty recreational camping sites allowing for a buffer zone along the Shenandoah River and Furnace Run. The acreage included in the subject property includes that contained within Furnace Run, as the subject property extends beyond Furnace Run.

Allowing for a lease rent of \$750/year on the 20 lots gives us an annual income of \$15,000. After deducting 20% for allowable expenditures and vacancy rate, a NOI of \$12,000 is realized.

Capitalizing \$12,000 at 10% (see below) indicates a value of \$120,000.

A value of **\$120,000** is obtained for the value of the subject property from the *Income Approach*.

7. RECONCILIATION OF VALUE

Cost Approach: N/A
Income Approach: \$120,000
Market Approach: \$115,000

Since the *Income Approach* is considered to be the most reliable indicator of value in this instance, this approach is given the most weight by your appraisers.

8. CORRELATION AND FINAL ESTIMATE OF VALUE

Therefore, it is our conclusion that the estimated fair market value of the fee simple interest of the subject property, consisting of approximately 13.4846 acres of land is \$120,000 as of May 12, 2009.

Steve Barney

From: Neal Nilsen <Neal@askneal.net>
Sent: Wednesday, June 27, 2012 6:08 PM
To: sbarney@jeffersoncountywv.org; JBrockman@jeffersoncountywv.org; jmyers@jcprc.org
Cc: Carla@askneal.net; Directors@rvp-wv.org; Don.Flynn@disney.com;
kamflynn@verizon.net; Steven.Sheard56@comcast.net;
bhamstead@hamsteadandassociates.com
Subject: FW: BZA Board Package...

Steve,
The Jefferson County Parks and Recreation Commission had an engineering/assessment/recommendation study performed in the 2008-2009 time period for the property listed in or around the CP12-02 property.

I asked Director Jennifer Myers to provide P&Z the document as I feel it will be valuable for the review of CP12-02.

River View Association, Inc. requests that this information be made available as part of the Public Hearing on July 19.

Thank you

Neal Nilsen
President
River View Association, Inc.
rvp-wv.org

From: jmyers@jcprc.org [mailto:jmyers@jcprc.org]
Sent: Wednesday, June 27, 2012 5:41 PM
To: Neal Nilsen
Subject: Re: BZA Board Package

The planning commission has it. Gave to Jennie Brockman,
Sent on the Sprint® Now Network from my BlackBerry®

From: "Neal Nilsen" <Neal@askneal.net>
Date: Wed, 27 Jun 2012 17:05:30 -0400
To: RandyRoo <rcrell@gmail.com>
Cc: Jennifer Myers <jmyers@jcprc.org>; <dlowe@jeffersoncountywv.org>
Subject: RE: BZA Board Package

I left messages with;
JC Sheriff regarding trespass enforcement
JCPRC regarding engineering study/assessment of property

From: RandyRoo [mailto:rcrell@gmail.com]
Sent: Wednesday, June 27, 2012 12:56 PM
To: Neal Nilsen
Subject: Re: BZA Board Package

Steve Barney said we could submit anything until July 10, 2012 to be included.

Randy

Steve Barney

From: Neal Nilsen <Neal@askneal.net>
Sent: Friday, June 29, 2012 8:48 AM
To: Deborah Lowe; sbarney@jeffersoncountywv.org
Cc: Robert Shirley; paoffice@jeffersoncountywv.org; Carla@askneal.net; Directors@rvp-wv.org; Don.Flynn@disney.com; kamflynn@verizon.net; Steven.Sheard56@comcast.net; bhamstead@hamsteadandassociates.com
Subject: RE: Notice of Trespass USPS form 3811 Signature - Bearup....

Steve,
Please file this information with CP12-02 public hearing documentation

Debbie,
Please advise if the Sheriff, PA and RVA need to meet to discuss this, and schedule if needed.

Our question exactly, and the reason to get legal advice from the County and State.
I would think case law or other resource regarding how trespass issues are handled around River Riders, KOA, Hotels, and other transient population locations.

Here are examples of concern...
Scott Baraup and Carrol Rice own the property and the Commercial enterprise.

- Scott Bearup has full knowledge that his property is 99% surrounded by private property, and the only access to the river is to exit via the entrance road to the property onto two lane 40mph traffic on Mission Rd. but tells his customers that they have access to the river
- They trespass, across RVA, Flynn, Sheard or DNR property, who is guilty

- Scott Bearup advises his customers and guests that his property is 99% surrounded by private property, and their only access to the river is to exit via the entrance road to the property onto traffic on Mission Rd.
- They trespass, across RVA, Flynn, Sheard or DNR property, who is guilty

To observe the trespass requires time and cost for each property owner.
To obtain identification for a camping guest is difficult
To server the camping guest with a registered letter before they leave is impossible
One might conclude that while trespassing is a violation of State law, enforcement in this case may not be possible under current legislation.

POSSIBLE SOLUTIONS:

- The zoning of this land does not permit this use today, so change of land use has an adverse effect on adjacent property owners, and the safety of the proposed Customers and Guests without change to legislation, County Ordinance and site planning.
- Accurate disclosure of Campground and surrounding service offerings
- Proper posting, and discussion with guests regarding service offerings, the site, and surroundings
- Reduce temptation to trespass by locating campsites closer to the services of the enterprise not at the farthest point from them.
- Creating safe pedestrian paths not located on public two lane roads.

Neal O. Nilsen

President
River View Association, Inc.
<http://rvp-wv.org>
304-724-1056 x308

From: Deborah Lowe [mailto:dlowe@jeffersoncountywv.org]
Sent: Thursday, June 28, 2012 11:56 AM
To: Neal Nilsen
Subject: RE: Notice of Trespass USPS form 3811 Signature - Bearup

Also, I just looked closer at the documents provided. I had previously placed a copy of the letter under each person's name, but since it was only served upon Mr. Bearup there may be an issue with enforcing it on the other parties listed as they could claim they were unaware. I will discuss this with Sheriff as well.

From: Neal Nilsen [mailto:Neal@askneal.net]
Sent: Thursday, June 28, 2012 8:47 AM
To: dlowe@jeffersoncountywv.org
Cc: Robert Shirley; paoffice@jeffersoncountywv.org; sbarney@jeffersoncountywv.org; bhamstead@hamsteadandassociates.com
Subject: Notice of Trespass USPS form 3811 Signature - Bearup

Debbie,
Attached, please find the signed USPS form 3811 certified mail return receipt as specified in the notice of trespass instructions posted on jcsdvw.com.
Please file this proof of service with the documents set to you on 6/22/2012 and attached.

We have been advised by County P&Z that we have until 07/10/2012 to include any additional information regarding the conditional use permit application CP12-02.

A major concern of the three adjacent property owners is the high probability of trespassing onto private property, properly posted in accordance with WV Code 61-3B-1 (4), by the transient population that would be guests / customers authorized by permission or fee by Mr. Bearup or his representatives.

We request a letter from the Sheriff or Prosecuting Attorney stating the ability or in-ability for the Sheriff and State Police to (1) respond, (2) enforce and (3) try in court, an individual or company, for the trespass action by individuals under their supervision.

We also request clarification that the County Sheriff and State Police will (1) respond, (2) enforce and (3) try in court a report of trespass on posted land by River View Association, Inc. or its agents for violation of WV Code 61-3B-3(e)

61-3B-3 (e) If the offender defies an order to leave, personally communicated to him by the owner, tenant or agent of such owner or tenant, or if the offender opens any door, fence or gate, and thereby exposes animals, crops or other property to waste, destruction or freedom, or causes any damage to property by such trespassing on property other than a structure or conveyance, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or imprisoned in the county jail for a period not to exceed six months, or both such fine and imprisonment.

Thank you and the Department for your assistance

Neal O. Nilsen
President
River View Association, Inc.
<http://rvp-wv.org>
304-724-1056 x308

From: Neal Nilsen
Sent: Friday, June 22, 2012 11:34 AM
To: Deborah Lowe (dlowe@jeffersoncountywv.org)
Cc: sbarney@jeffersoncountywv.org; mcarter@jeffersoncountywv.org; *CP12-02; Braun Hamstead (bhamstead@hamsteadandassociates.com)
Subject: Notice of Trespass Filing....

Debbie,

Thank you for saving me the trip to your office today. The attached should be what you need from us in the matter.

In regard to our discussion yesterday regarding the ability of trespass enforcement for all persons under the control of the property owner we included addressed the notice to: **"Scott Bearup, Michelle Black, Carroll Rice, Shirley B. Rice all immediate and distant family members, friends, guests, customers, or anyone not authorized by River View Association, Inc. as described in the Declarations of the Association."**

Mr. Bearup has applied for a conditional use permit (CP12-02) to open a 50 unit camp ground that will create a transient population in the same location as he is trespassing today.

We have filed documentation with County P&Z stating that we believe trespassing will be an issue, and without the ability to enforce trespassing laws to a single person for the actions of "all persons" under their supervision, our Community's quality of life, safety, and security will be compromised.

We therefore request that the Sheriff seek guidance in this matter, and provide written confirmation that the Sheriff's office and State Police **will or will not** be able to use this Notice of trespass as a single notification for actions of all individuals under the supervision of Mr. Bearup or any person directed or authorized by Mr. Bearup in regard to personal or business activity now and in the future.

The P&Z public hearing is scheduled for July 19, 2012 so if possible, any form of response by that time will be appreciated.

Thank you

Neal O. Nilsen

President
River View Association, Inc.
<http://rvp-wv.org>
304-724-1056 x308



RECEIVED
JUN 29 2012
JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

DIVISION OF NATURAL RESOURCES
Wildlife Resources Section
1 Depot Street
Romney, West Virginia 26757
Telephone (304) 822-3551
Fax (304) 822-7331

Earl Ray Tomblin
Governor

Frank Jezioro
Director

June 29, 2012

Randy R. Creller
206 Bunny Lane
Harper's Ferry, WV 25425


Dear Mr. Creller:

This letter is being written in response to your questions regarding a campground and store being planned on properties adjacent to the Shannondale Springs Wildlife Management Area. This summary should be sufficient for you to understand the West Virginia Division of Natural Resources stand on the proposed projects being considered by the planning commission.

1. The entrance road is to be used only by vehicles utilizing the Shannondale Springs WMA and fisherman access site. It is not to be used as access for the campground. Pedestrian traffic is not a consideration in this matter.
2. Parking at the fisherman access site will be expanded as necessary.
3. There will be no trash receptacles on the area. Natural Resources Police Officers will issue citations for littering as they have in the past.
4. Abuse of alcohol on the area, the access site, and by boaters will be handled as in the past.
5. There will be no commercial gates from adjacent properties onto the access road.
6. Cleared areas will have boulders placed to block entrance at the discretion of the WVDNR.
7. Horseback riding is only allowed on approved trails on any of the state's WMAs. There are no approved trails on the Shannondale Springs WMA. Recreational horseback riding is not an activity that will complement other approved activities on the area.
8. Hikers will continue to be permitted on the area. They should realize, however, that hunting is the primary activity.
9. Regulations are available on-line at www.wvdnr.gov.
10. You will not be able to discharge a firearm within 500 feet of a place where people are gathered, and that would include an inhabited campground.
11. You will not have a legal right to discharge a firearm within 500 feet of a used campground.
12. Posters need to be posted in such a way that each sign is visible to the next sign.

13. Trespass violations are enforced by any law enforcement officer. First offense is usually a misdemeanor, unless landowner has previously told someone to stay off the property. Second offense is usually a felony trespass.
14. Any law enforcement officer may enforce trespass law. Violations on WMAs are usually referred to Natural Resources Police Officers.
15. Fines are at discretion of magistrate with maximums set by law.
16. Commercial enterprise cannot be fined for trespass by their patrons.
17. Same answer as above.
18. There will be no comment on this item other than to say they will not be permitted to use the access road, boat ramp, or WMA for anything other than what is legal.

Richard E. Rogers



District Wildlife Biologist

cc: Jim Hedrick
Josh Vance
Steve Barney
Scott Bearup
Renee Moore

Steve Barney

From: Neal Nilsen <Neal@askneal.net>
Sent: Monday, July 09, 2012 10:23 AM
To: Alt, Matthew J
Cc: Carla@askneal.net; Directors@rvp-wv.org; Don.Flynn@disney.com; kamflynn@verizon.net; Steven.Sheard56@comcast.net; sbarney@jeffersoncountywv.org; mcarter@jeffersoncountywv.org; engineering@jeffersoncountywv.org
Subject: RE: Abandon underground Fuel storage tanks on CP12-02 Property....
Attachments: CP12-02_Application.pdf; DEP_Report_RFI2012-0523-2.pdf; RE: Un-Permitted Continued Clearing of Land... (19.1 KB); Image0000.jpg; pumps at stable.jpg

Than you Matt

The property address is 2128 Mission Road, Harpers Ferry WV 25425

The property was operated as a commercial business by Shannondale, Inc.

The prior property owner was Shannondale Inc.

<http://apps.sos.wv.gov/business/corporations/organization.aspx?org=26202>

The property was sold to Scott Bearup and Carroll Rice in 2011

<http://apps.sos.wv.gov/business/corporations/organization.aspx?org=298911>

Both business entities maintain current business registration certificates with the WV Secretary of State's office.

The above ground pump was located in the general vicinity of the area in the attached image0000 picture, and a strong smell is present in the area.

A 1964 picture of the pumps in front of the riding stable

<http://shannondale.org/sca/photopagesforslideshow/photos872.htm>

Mickey Johnson Shannondale Inc. Officer would be able to provide firsthand information for you

I believe Mickey Johnson serves in the Building Commission <http://www.jeffersoncountywv.org/government/boards-commissions-and-authorities/building-commission.html>

Neal O. Nilsen

President

River View Association, Inc.

<http://rvp-wv.org>

304-724-1056 x308

From: Alt, Matthew J [<mailto:Matthew.J.Alt@wv.gov>]
Sent: Monday, July 09, 2012 9:05 AM
To: Neal Nilsen
Subject: Re: Abandon underground Fuel storage tanks on CP12-02 Property....

Neal, were these tanks commercial or residential? Also what was the address of bearup property. Am forwarding to UST inspector.

From: Neal Nilsen [<mailto:Neal@askneal.net>]
Sent: Sunday, July 08, 2012 11:51 PM
To: Alt, Matthew J
Cc: Carla@askneal.net <Carla@askneal.net>; Directors@rvp-wv.org <Directors@rvp-wv.org>; Don.Flynn@disney.com <Don.Flynn@disney.com>; kamflynn@verizon.net <kamflynn@verizon.net>; Steven.Sheard56@comcast.net <Steven.Sheard56@comcast.net>

Subject: FW: Abandon underground Fuel storage tanks on CP12-02 Property....

Mr. Alt,

This is the same property that we reported to you that continued to clear over 1 acre of land, in a FEMA floodplain, for what the County has confirmed "not for personal access to the River" as misleadingly disclosed to you by Scott Bearup.

Can you please inspect these UST's as soon as possible.

Neal Nilsen

From: Neal Nilsen

Sent: Sunday, July 08, 2012 11:44 PM

To: sbarney@jeffersoncountywv.org; mcarter@jeffersoncountywv.org

Cc: Carla@askneal.net; Directors@rvp-wv.org ; Don.Flynn@disney.com; kamflynn@verizon.net ; Steven.Sheard56@comcast.net

Subject: Abandon underground Fuel storage tanks on CP12-02 Property....

Are you aware that there are/were abandon underground fuel storage tanks on the property in the vicinity of the entrance roadway on the sketch submitted with the CP12-02 application. Upon review of the CP12-02 sketch and documentation we see no mention of these tanks, and we have been unable to locate a valid DEP UST certificate on the State web site.

https://apps.dep.wv.gov/WebApp/Dep/Search/Permits/CertificateCountyQuery_new.cfm?office=OWMS

Because of this potential hazard we request that verification of this concern for possible ground water contamination and request for remediation of the site per current DEP regulations be entered as another unresolved issue please.

Thank you
Neal Nilsen

Photos associated with Neal Nilsen email to Matthew Alt, 7/9/12

(RE: Abandon underground Fuel storage tanks on CP12-02 Property....)



Statement in Opposition of CP 12-02 Black Bear Campground and RV

We are strongly opposed to the establishment of Black Bear Campground and RV at 2128 Mission Rd, and firmly believe it does NOT meet the requirements set forth by the Board of Zoning Appeals for a conditional use permit. We respectfully ask the Board of Zoning Appeals to **deny** CP 12-02.

There are several reasons this Conditional Use Permit should be denied. Whether the campground has 10 sites, 50 sites or 150 sites, it will have a significant detrimental effect on the rights of adjacent property owners, while also jeopardizing public safety and the safety of campers. In addition, it will negatively impact traffic in the area, and possibly the health of local rivers and streams. There are several similar campgrounds in the area which already fulfill the needs of residents and tourists. Finally, the application is inaccurate and incomplete, making it impossible to understand exactly what is being requested in the conditional use permit.

Impact on Adjacent Owners

Trespassing

The proposed campground is very close to the Shenandoah River and Furnace Run, but both tributaries cannot be accessed without trespassing on neighboring properties. It will be extremely difficult, if not impossible for the applicants to keep campers from trespassing, especially because the applicants adamantly refuse to install a fence. In fact, one of the applicants himself continued to trespass on a neighboring property to gain access to the Shenandoah river after being specifically asked not to do so. It is nearly impossible - especially on a hot day - to tell campers they cannot cool off in the river or creek they can see just a few yards away. The application states an intent to base the campground on water-related activities, yet the property **does not have direct access to the Shenandoah River or Furnace Run.**

The application is for a primitive campground, meaning the owners do not plan to offer running water and bathroom facilities. While this may work for RVs, it will leave tent campers with little choice but to access the creek or river, if only to rinse dishes or cool off. Again, the campers must trespass on neighboring properties in order to get to the river or creek. *(The two other primitive campgrounds in Jefferson County are directly on the Potomac and Shenandoah rivers.)*



Setbacks/Rights of Way

The impact on neighboring properties can also be seen in this photo. The applicants have already cleared a road up to the property line leaving no room for setbacks or rights of way, contrary to clearly written campground guidelines. (Subdivision Regulations, section 7.3L) (Yellow tape in foreground is property line)

Noise

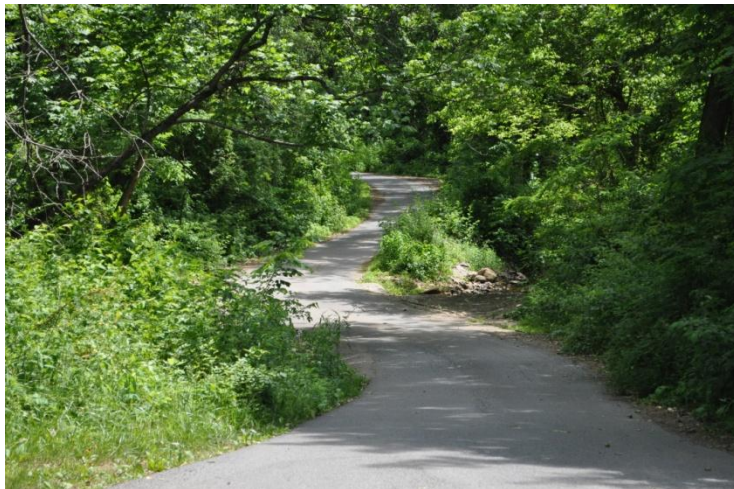
The applicants have stated their intention to operate an amphitheatre at which they will feature local bands. The applicants' verbal statements to neighbors regarding the size of the concerts they will offer are contrary to the statements made in the meeting on May 30, 2012. The CUP application does not offer any details about the crowd size, sound system, hours of operation, parking etc. Loud concerts and large crowds would have a significant adverse affect on nearby residents.

West Virginia Division of Natural Resources Wildlife Management Area

The proposed campground would have a detrimental effect on the neighboring Division of Natural Resources Wildlife Management Area, especially if the applicants offer all of the activities listed in their application (horseback riding, biking, fishing tournaments, canoeing, rafting, kayaking and tubing.) For further details, please refer to the letter from DNR to Mr. Creller dated June 29, 2012.

Safety

The applicants have stated their intention to offer water-based activities such as canoeing, kayaking, tubing and fishing, but there is no direct access to the river or creek from their property. Campers will be required to walk 1/3 mile from the proposed campsites to the DNR access road, then travel down the narrow, winding road, with several blind curves to the DNR boat launch. Walking down this narrow road, which does not accommodate two vehicles side-by-side, will be extremely dangerous - especially if the campers are carrying kayaks, tubes or other equipment. If the campers elect to drive, they will occupy highly sought-after parking spaces in the very small DNR lot.



Campers will be very tempted to swim at the DNR boat launch, since the campground does not have other access to the river, nor does it offer a pool. Swimming is not allowed by the DNR and is quite dangerous in this area.

Campground traffic, especially large RVs, will significantly impact Mission Road. The ingress/egress point for campers is very near two separate intersections, neither of which has traffic control (Mission Rd/Shannondale Springs Rd; Mission Rd/Lower Clubhouse Dr.) A traffic study should be conducted to understand the full impact of campground traffic on the safety of local drivers.

Similarity to Existing Campgrounds

Jefferson County is fortunate to have three other established campgrounds which serve the needs of residents and tourists. In addition, there is a fourth campground nearby in Maryland.

The largest is the KOA Campground in Harpers Ferry near the battlefield and the national park. KOA offers more than 250 campsites, plus cabins and bunkhouses, bath houses, a swimming pool, a wading pool, Civil War re-enactors museum, indoor movie theatre, basketball and volleyball courts, a mini golf course and a number of other amenities.

A smaller, quieter, campground with 10 primitive sites is offered by River Riders on the Potomac River near Harpers Ferry.

In addition, Jefferson County Parks and Recreation offers 10 primitive campsites on the Shenandoah River at Moulton Park.

Just 12 miles north of Harpers Ferry in Rohrsersville, MD, the Treehouse Camp has tree houses, tree cottages and tent sites, with bathrooms, showers, fresh water and more.

Inaccurate/Incomplete Application and Sketch Plan

Both the application and the sketch plan are inaccurate, incomplete and vague. The application states that "the property borders Furnace Run and is located on the Shenandoah River."

Neither is true.

The property did not "come with a non-conforming commercial use." Commercial use ended with the previous owner. It is zoned **Rural**.

The proper support data has not been provided. Because of this, it is not clear what is being requested.

Missing, significant features:

Type of development proposed -

- number of sites requested (11 or 50?)
- will sites be primitive or will full hook-up and bath houses be offered?
- will the property be used as a concert venue?
- how does applicant plan to accommodate tubing, rafting, canoeing and fishing without direct river access? will these activities be open only to campers, or to the general public?

Intended improvements and proposed building locations

- amphitheatre - where will it be located? how many people will it seat? where is parking? number of spaces? days/hours of planned events? effect on traffic on Mission Road? will alcohol be allowed? what type of amplification will be used?

- application references a storage building - where will this be located? how big will it be? setbacks? vegetative cover?
- will there be a stable for the horses? where? how big? setbacks?
- lighting plan - applicant needs to clarify plan for parking lots, paths, roads and camp sites
- bath house - will there be one? where?
- dumping station for RVs? where?

Intended land uses

- sketch plan shows a pasture - how many acres will it encompass? will trees be cleared?
- how will applicant insure horses do not pollute Furnace Run or the Shenandoah?
- will hiking and biking trails be located on-site?

Tentative development schedule

- "As soon as possible" is not very informative

Water and sewer lines

- will there be a water source for campers? if so, where?
- the application references a future bath house but does not show the location of the bath house, water lines or sewer lines.
- the application references full hook-up for RVs. Where will the dumping station be located? what type of septic will be installed? where?

Traffic characteristics

- because of the significant impact a campground and amphitheatre could have, a traffic study is needed

Demand for school services

- The application states this is not applicable. However, during the Compatibility Assessment Meeting, the applicant stated he would not ask long-term campers to leave, but would only ask them to move sites. If long-term camping is permitted, there may be a need for school services for residents of the campground. The applicant should either address the need for school services, or state the time limit on each stay.

Sketch plan is missing -

- roads that meet campground requirements (loop)
- setbacks - how big are they, what will they consist of (vegetative?)
- rights of way - width, location
- dimensions of campsites
- parking spaces at check-in and campsites
- location of porta-johns and/or bath house
- location of septic and water lines
- location of amphitheatre, storage building and stables

Respectfully submitted,

Kathleen (Kam) and Donald Flynn
Adjacent Property Owners

Steve Barney

From: Kam Flynn <kamflynn@verizon.net>
Sent: Thursday, July 12, 2012 12:26 PM
To: 'Steve Barney'
Cc: 'Jennilee Hartman'
Subject: RE: Comments re: CP 12-02
Attachments: Statement in Opposition of CP 12.pdf

Steve,

Please find attached our comments regarding CP 12-02. If the format doesn't work, just let me know and I will send another version.

thank you,
Kam

From: Steve Barney [<mailto:sbarney@jeffersoncountywv.org>]
Sent: Monday, July 09, 2012 12:27 PM
To: 'Kam Flynn'
Cc: Jennilee Hartman
Subject: RE: Comments re: CP 12-02

Kam,

We can accept comments in either hard-copy or digital form, so email is fine.

Thanks,
Steve

From: Kam Flynn [<mailto:kamflynn@verizon.net>]
Sent: Monday, July 09, 2012 11:28 AM
To: 'Steve Barney'
Subject: Comments re: CP 12-02

Quick question ... can we send our comments for the hearing via email, or should we send a hard copy via mail?

thank you,
Kam

**4th Quarterly Report (April - June 2012) -- DRAFT
FY 2012 Work Plan Departments of Planning and Zoning
and Planning Commission and Board of Zoning Appeals**

PRIORITY	PROJECTS	TIME FRAMES from FY 11-12 Work Plan	Status or Number Completed (July 11 -- Sept. 11)	Status or Number Completed (Oct. 11 -- Dec. 11)	Status or Number Completed (Jan. 12 -- March 12)	Status or Number Completed (April 12 -- June 12)	REQUIRED RESOURCES/STAFF	REQUIRED HEARINGS	ANTICIPATED RESULTS
	Day to Day Customer Service	on-going							
	Walk in Customers - general information, zoning requests, process questions		196	149	171	200			
	Information Request Forms		26	29	38	44			
	Zoning Certificates Issued		6	6 issued; 1 denied	6 Issued / 2 Pending	5 Issued / 1 Withdrawn / Inactive Application			1
	Call-in customers - general info, zoning, questions		471	469	467	489			
	E-mail to general planning/zoning mailboxes (note: individuals receive over 100 per month each)		803	874	863	985			
	Day to Day Development Review Responsibilities:	on-going							
	Minor Site Plans		1	3	0	1			
	Limited Site Plan		1	0	0	1			
	Major Site Plans, including Concept Plans		4	1	1	1			
	Merger Deeds, Lot Line Adjustments		5	7	5	8			
	Conservation Easement Review		--	7	0	0			
	Minor Subdivision Plats		3	3	0	4			
	Major Subdivision Plats (Concept, Preliminary, Final)		0	1	3	0			
	Conditional Use Permits/Neighborhood Compatibility Meetings		0	1 CUP/1 NCM (Bakerton)	2 CUP Approved (Bakerton 1/19/12; Aspen Green 2/16/12) 2 NCM Held (Aspen Greens 2/15/12; Corum 3/2/12)	1 CUP Approved (Sheetz, Inc., NCM: 6/8/12 & BZA Mtg: 6/21/12); 2 NCMs held (Black Bear Camp & RV and River Country Store & RV; 5/30/12)	SB, JH, JMB	CUP Public Hearings 7/19/12 -- Black Bear Camp & RV and River Country Store and RV	
	Zoning Variances (requirements, dimensional variances, CUP Time extensions)		11	5	14 Variances / 2 "CUP"	10 Variances			
	Subdivision Waivers including requests related to time frames or requirements		2	1	3 Waivers / 1 Variance	1 Waiver / 4 Variances			
	Pre-proposal Conferences		6	8	11	7 (5 MSD / 2 Site Plan)			
	Zoning Map Amendments (Rezoning)		3 new (Sanderson Approved by CC 6/30/11)	PC and CC Public Hearings: Hott (CC 10/6/11 - no action); Gibson (PC 11/8/11); Corum (PC 11/8/11; CC 12/8/11 - denied)	Gibson CC Public Hearing (1/5/12; approved 1/12/12); Hott rezoning withdrawn 2/2/12	PC and CC Public Hearings: Capriotti (PC: 4/24/12; CC: 6/14/12)	SR, SB, AP, JMB	Vote on Capriotti Zoning Map amendment (CC: 7/12/12)	
	Staff to Planning Commission meetings, including staff reports and presentations	on-going	4 Regular Meetings 6 staff report related to land development applications	2 Regular Meetings ; 9 staff reports related to land development applications; Amendments to By-laws approved by CC 10/6/11	3 Regular Meetings ; 4 staff reports related to land development applications	3 Regular Meetings; 1 Special Called Meeting; 9 staff reports related to land development applications			
	Staff to Board of Zoning Appeals meetings, including staff reports and presentations	on-going	3 BZA meetings 11 staff reports for land development applications	2 BZA meetings 5 staff reports for land development applications	3 BZA meetings; 12 staff reports for land development applications Bakerton CUP approved by BZA 1/19/12	3 BZA Meetings; 15 staff reports for land development applications; Sheetz CUP approved by BZA 6/21/12			
	Staff Training -- new skills, planning and zoning related functions	on-going	None this Quarter	Seth Rivard and Steve Barney -- Land Use and Zoning Law Litigation (11/2/11); Dawn Childs - ArcGIS Desktop I: GIS Workflows and Analysis and ArcGIS Desktop II: Tools and Functionality (12/5-12/9/11)	None this Quarter	Steve Barney - APA National Planning Conf. (week of 4/16/12); Jennie Brockman - HR Retreat (5/22/12 & 5/23/12) and Women's Network Conf. (6/15/12)			

**4th Quarterly Report (April - June 2012) -- DRAFT
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	Various non-PC and non-BZA Meetings including participation in County Commission; other agencies such as WAC, JCDA, Health Department, PSD, HEPMPO TAC, WIP II Work Group; other Region 9 Meetings as requested; and follow up meetings with applicants and their representatives	on-going	JB - 126 meetings attended; SR - 69 meetings attended; SB - 84 meetings attended	JB - 100 meetings attended; SR - 67 meetings attended; SB - 72 meetings attended	JB - 134 meetings attended SR - 85 meetings attended SB - 95 meetings attended	JB - 118 meetings attended SR - 70 meetings attended SB - 83 meetings attended			
Special Project	Proposed Subdivision Regulations Amendments		Proposed Am to Articles 20 & 26 re: Add'l minor site plan sq. footage (PC vote 7/26/11; CC 8/18/11; CC PH 9/15/11); Proposed Am to Article 24 combining Submission & Completeness Reviews for Site Plans and Plats (PC PH 7/12/11; PC vote 7/12/11; CC 8/18/11; CC PH 9/15/11)	Proposed Am to Articles 20 & 26 re: Add'l minor site plan sq. footage (CC PH follow up 10/6/11; add'l follow up work session 11/3/11 & 11/10/11; requested add'l alternatives); Proposed Am to Article 24 combining Submission & Completeness Reviews for Site Plans and Plats (CC Workshop 11/3/11; approved with edits by CC, 11/3/11)	Proposed Am to Articles 20 & 26 re: Add'l minor site plan sq. footage (new alternatives to PC 1/10/12; approved by CC 1/19/12)	Consideration and recommendation related to JCCEP proposed text amendment to allow for an extension of Senate Bill 595 until July 1, 2015 (approved by CC 6/21/12)	SR, SB, JB		
Special Project	Proposed Zoning Ordinance Amendments		Policy Neutral Am. Approved by CC 7/7/11; Am to Article 4A Home Occ./Cottage Ind (PC vote 7/26/11; CC 8/18/11; CC PH 9/15/11); Am to Article 12 (PC PH and vote 7/12/11; CC 8/18/11; PC PH 9/15/11)	Am to Article 4A Home Occ./Cottage Ind (Approved by CC with edits 11/3/11); Am to Article 12 (Approved by CC 11/10/11); Kick-off Roundtable Discussion with recreation providers 10/21/11 and follow up meeting with industry 12/20/11; drafting new Commercial Zoning categories for PC review and action at January meeting	Public Workshop/input into proposed new commercial zoning categories (2/12); Workshop regarding new ordinance language related to Recreation Uses (3/12)	Public Hearing on Zoning Ordinance Text Amendments re: the Creation of New Commercial and Industrial Zoning Categories and Related Amendments (PC 4/10/12 and 4/24/12); PC recommended approval to CC 6/12/12)	SR, SB, JB	CC PH to be scheduled on 7/12/12	
Special Project	340 Corridor East Gateway Study	Spring 2011 - January 2012	6/16/11 meeting summary and follow up; preparation for and follow up to 3rd Public Meeting 9/17/11 meeting, including development of 3 land use alternatives based on public input and Traffic Analysis Zones for data analysis; Metro Quest Phase 2 preparation	Joint meeting with HF NPS and Trail Blazers 10/18/11; MetroQuest Phase 2 open 10/7/11 - 11/11/11; Public Meeting #4 to chose preferred alternative 12/6/11 (KOA); drafting text and finalizing maps and working with HEPMPO consultants	Final Public Workshop 1/19/12; Joint PC/CC Meeting Presentation of Draft 3/8/12	PC Public Hearing (6/12/12)	SR, SB, JB	PC recommendation to CC; CC PH	
Special Project	340 Corridor South Study	Spring 2012 - Winter 2013	No Work this quarter	No Work this quarter	No Work this quarter	No Work this Quarter; being considered with 2014 Comp Plan tasks			
Special Project	2014 Comprehensive Plan	Fall 2012 - Spring 2014 (18 month); adoption 2014	No Work this quarter	No Work this quarter	Summers interns solicited and interviewed/recommended to CC for Summer hire to assist with Base Analysis for Comp Plan Update	Existing Demographic and Economic data and trends analysis undertaken by summer intern			
Special Project	Urban Tree Canopy Plan Adoption		Urban Tree Canopy Draft Plan & Goals Meetings: Shepherdstown (8/18/11), Bolivar (9/6/11); County PC PH (7/26/11)	Approved and adopted by County Commission after Public Hearing 11/3/11	completed	N/A	JB		

4th Quarterly Report (April - June 2012) -- DRAFT
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Special Project	Urban Growth Boundaries		Shepherdstown UGB recommended to CC 9/15/11	drafted letter on behalf of CC to Shepherdstown requesting more information for CC signature	No Work this quarter	No Work this quarter	JB		
Special Project	Participation in WIP II Meetings held by DEP and follow up Chesapeake Bay activities		WIP II Developed Lands Work Group 8/3/11; Ches. Bay WIP II Summit 8/30/11; speaker at 6th Annual Chesapeake Bay Forum 9/30/11	monthly conference calls	monthly conference calls	No Work this quarter	JB		
Special Project	Review and Potential Implementation of Region 9 Model Stormwater Regulations		WIP II meetings (above)	coordinating with County Engineer in effort to apply for grant to facilitate the incorporation of these regulations in local ordinances	No Work this quarter	No Work this quarter	JB, SR, engineering		
Special Project	2011 Summer intern hired to initiate data analysis		Summer Intern worked May through mid-Sept 2011; researched existing conditions data, 2010 Census data, community facilities data, etc in preparation for 2014 Comp Plan Update; also assisted with TAZs and land use alternatives for US 340 East Gateway Plan	no further action at this time	Completed	N/A			