



## **BERKELEY COUNTY PLANNING COMMISSION**

400 West Stephen Street - Suite 203, Martinsburg, WV 25401-3838

Telephone: 304-264-1963, Fax: 304-262-3127

Web Page: [www.berkeleywv.org](http://www.berkeleywv.org)

### **Berkeley County Planning Commission Agenda County Council Chambers**

**June 3, 2019 @ 6:00 pm.**

1. CALL TO ORDER
  - a. Daniel Gantt Appointment Effective 5/23/19
2. ROLL CALL
3. APPROVAL OF THE AGENDA
4. SUNSHINE LAW SPEAKERS
5. APPROVAL OF MEETING MINUTES
6. PUBLIC HEARINGS
  - a. Communities at Burwell – North PUD– File #021-06, Major Plan Change
  - b. Timberwood East- File# 011-19- Sketch
  - c. David Bohrer Preliminary/Final – File #019-19, Request for Waiver
  - d. Thistle Landing, Section C, Phase 3, Lots 38-45- File #020-15, Final Plat Approval
  - e. Cedar Heights, Phase 2- File# 017-08, Final Plat Approval
7. PRELIMINARY PLAN APPROVAL
8. FINAL PLAT DETERMINATION
9. STAFF/COUNSEL DISCUSSION/ACTION/MOTION
  - a. Update By-Laws
10. ADJOURNMENT

**\*\*The Planning Commission reserves the right to re-arrange items on the agenda due to time constraints of the public or Commission\*\***



# Berkeley County Council

400 W. STEPHEN STREET, SUITE 201  
MARTINSBURG, WV 25401  
PHONE: (304) 264-1923



[www.berkeleywv.org](http://www.berkeleywv.org)

THE COUNCIL

DOUGLAS E. COPENHAVER, JR.  
JIM WHITACRE  
ELAINE C. MAUCK, M.A.  
JAMES R. BARNHART  
DAN DULYEA

ALAN J. DAVIS  
COUNTY ADMINISTRATOR

May 23, 2019

Mr. Daniel Gantt  
303 Harlan Springs Road  
Martinsburg, WV 25403

**Re: Berkeley County Planning Committee**

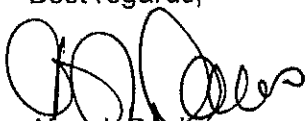
Dear Mr. Gantt:

The Berkeley County Council, at its meeting on May 23, 2019 approved your appointment to the Berkeley County Planning Committee. Your appointment will be effective May 23, 2019 and will expire on May 22, 2022.

In order to legally serve in this capacity, you must report to the County Clerk's Office in the Berkeley County Courthouse, 100 West King Street, to sign your Oath of Office. Please take this letter to the Courthouse with you for purposes of oath preparation.

If you have any questions or do not wish to serve, please contact me at 304-264-1923.

Best regards,



Alan J. Davis  
County Administrator



## BERKELEY COUNTY PLANNING COMMISSION

400 West Stephen Street - Suite 203, Martinsburg, WV 25401-3838

Telephone: 304-264-1963, Fax: 304-262-3127

Web Page: www.berkeleywv.org

**PUBLIC HEARING  
STAFF REPORT  
REQUEST FOR MAJOR PLAN CHANGE APPROVAL  
June 3, 2019**

**Project:** Communities of Burwell North-PUD

**File #:** 021-06

**Developer:** Burwell Properties, LLC  
P.O Box 638  
Lynchburg, VA 24505

**Engineer:** Clark, Azar & Associates, Inc.  
20440 Century Boulevard, Ste 220  
Germantown, MD 20874

**District, Tax Map & Parcel #:** Falling Waters Tax District, Map 13, Parcel 10.4

**Location:** The site is located on Secondary Route 8 (Nipetown Rd) approximately 1 mile west of I-81 and approximately 0.3 miles from the intersection of Secondary Route 8 (Nipetown Rd) and Secondary Route 8/1 (Ropp Dr).

**Project Description:** This project proposes an overall reduction in dwelling units from 717 to 668 with an adjustment to the number of single family homes, an adjustment to the number of townhomes, the addition of villas and the removal of apartment buildings.

**Administrative History:**

APPROVAL LETTERS	DATE APPROVED
Berkeley County Health Department (Wells and Septic)	Existing Lot
Berkeley County Public Service Water District (Water Availability)	3/11/2019
Berkeley County Public Service Sewer District (Sewer Availability)	2/5/2019
State Health Department (Water)	4/4/2019
State Health Department (Sewer)	4/4/2019
Department of Highways (Entrance Permit) Letter Received	Due at Final Plat
Central Dispatch (Road Names) Approved	1/3/2019
GPP Permit Application	1/25/2019
NPDES Permit Application	1/25/2019
*Traffic Study	3/1/2017
*School Impact Analysis	11/26/2007
Appendix C – Environmental Impact Checklist	n/a

June 3, 2019

6a

MEETINGS & SUBMISSIONS	DATE
<b>Waiver Requests</b>	
Waiver Granted	None requested
<b>Preliminary</b>	
Preliminary Plan Advancement	6/23/2008
Plan Change #1	5/16/11 plan. 7/11/2011 eng.
Preliminary Plan Extensions Granted	12/20/2012 7/16/2015
Plan Change #2 Public Hearing Advertised	5/13/2019
Plan Change #2 Public Hearing	
<b>Final Plat</b>	
Final Plat Determination	
Final Plat Public Hearing Advertised	
Final Plat Public Hearing	
Final Plat Approval	
Bond Reduction	

- Waivers/ Exceptions:** No waivers or exceptions have been requested by the developer.
- Project Notes:** This project proposes an overall reduction in dwelling units from 717 to 668 with an adjustment to the number of single family homes, an adjustment to the number of townhomes, the addition of villas and the removal of apartment buildings.
- Engineer Report:** On April 12, 2019 Dirk Stansbury, the County Engineer issued a letter, stating that the plat meets the requirements of the 2009 Subdivision Ordinance; therefore, the engineer recommends Major Plan Change approval and advancement.
- Staff Recommendation:** The Plan Change meets the requirements of the 2009 Subdivision Ordinance; therefore Staff recommends Major Plan Change approval and advancement to the Final Plat stage.

Respectfully Submitted,  
The Planning Department

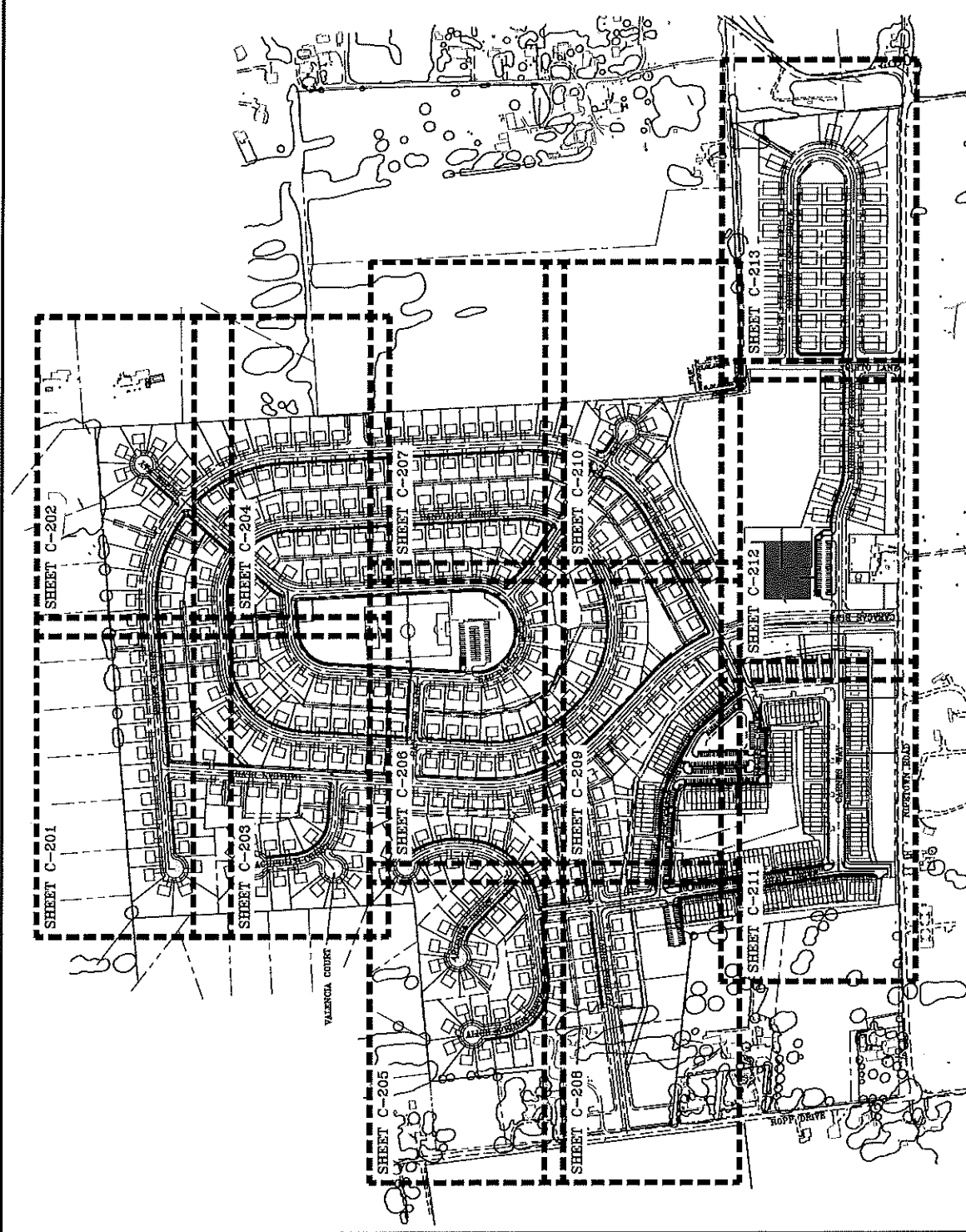
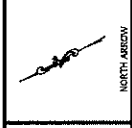
Attachment: Major Plan Change Overview

REMARKS: THIS IS BERKELEY'S REGULATORY SEASONAL SWIMMING TABLE FOR ALL LOTS THAT DO NOT HAVE A BATHING FLOOR. BECAUSE THE SURFACE AND THEREFORE BATHING DISTRIBUTION IS NOT ALLOWED FOR SWIM LOTS.

APPROVED BY: BERKELEY COUNTY ENGINEERING  
 BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_

OVERALL SITE PLAN  
 C-200

DATE:	APR 10/02
CAD PROJECT NO.:	170002
DRAWN BY:	DCS/JHE
CHECKED BY:	JA
SCALE:	AS SHOWN



COMMUNITIES OF BURWELL P.U.D.  
 NORTH: SECTION I  
 FALLING WATERS DISTRICT, TAX MAP 133 PARCEL 10 (DB 521 PG 542), PARCEL 10.4 (DB 1109 PG 273),  
 TAX MAP 16 PARCEL 49 (DB 521 PG 542)  
 BERKELEY COUNTY, WEST VIRGINIA

NO.	DATE	DESCRIPTION
1	04/10/02	PLAN SUBMISSION
2	05/27/02	PLAN SUBMISSION
3	07/27/02	PLAN SUBMISSION
4	08/26/02	PLAN SUBMISSION
5	09/16/02	PLAN SUBMISSION



Plan County File, Sub 200  
 Communities, No. 200  
 West Virginia  
 A Woman Owned Small Business



## BERKELEY COUNTY PLANNING COMMISSION

400 West Stephen Street - Suite 203, Martinsburg, WV 25401-3838

Telephone: 304-264-1963, Fax: 304-262-3127

Web Page: www.berkeleywv.org

**PUBLIC HEARING  
STAFF REPORT  
REQUEST FOR SKETCH PLAN ADVANCEMENT  
June 3, 2019**

**Project:** Timberwood East

**File #:** 011-19

**Developer:** Bellmore, LLC  
Po Box 1492  
Inwood, WV 25428

**Engineer:** Gordon  
148 South Queen Street, Suite 201  
Martinsburg, WV 25401

**District, Tax Map & Parcel #:** Mill Creek District, Map 10, Parcel 46

**Location:** This project is located on the west side of Three Run Road approximately 0.17 +/- miles north of Paragon Drive; and 0.7 +/- miles north of Middleway Pike (Rt. 51).

**Project Description:** This project proposes 31 single family residential lots on approximately 17.86+ acres, to be served by public water and sewer.

**Administrative History:**

APPROVAL LETTERS	DATE RECEIVED
Berkeley County Health Department (Wells and Septic)	
Berkeley County Public Service Water District (Water Availability)	
Berkeley County Public Service Sewer District (Sewer Availability)	
State Health Department (Water)	
State Health Department (Sewer)	
Department of Highways (Entrance Permit) Letter Received	
Central Dispatch (Road Names) approved	
GPP Permit Application	
NPDES Permit Application	
*Traffic Study	
*School Impact Analysis	03/26/19
Appendix C – Environmental Impact Checklist	03/26/19

MEETINGS & SUBMISSIONS	DATE
<b>Waiver Requests</b>	
Sidewalk Exception Requested	03/26/19
Waiver Request Advertised	N/A
Waiver Granted	N/A

June 3, 2019

<b>Sketch Plan</b>	
Sketch Plan Submitted	03/26/19
1 <sup>st</sup> Review Comments	04/04/19 – P 1/7/2019 – E
Sketch Plan Re-Submitted	04/12/2019
2 <sup>nd</sup> Review Comments	04/17/2019 – P
Sketch Plan Re-Submitted	N/A
Sketch Plan Public Hearing Advertised	05/01/2019
Sketch Plan Advancement Meeting / Approved	
<b>Preliminary Plan</b>	
Preliminary Plan Submitted	
1 <sup>st</sup> Review Comments	
Preliminary Plan Re-Submitted	
Preliminary Plan Advancement Meeting / Approved	
<b>Final Plat</b>	
Final Plat Submitted	
1 <sup>st</sup> Review Comments	
Final Plat Re-Submitted	
Final Plat Determination Meeting	
Final Plat Public Hearing Advertised	
Final Plat Public Hearing	
Final Plat Approval	
Bond Reduction	

**Waivers/ Exceptions:** The developer is requesting an exception to Section 705 to not install sidewalks.

**Engineer Report:** On April 18, 2019, the County Engineer, Dirk Stansbury, issued a letter of approval stating that a review of the above-mentioned project was completed and found to be in compliance with the Berkeley County Subdivision Ordinance.

**Staff Recommendation:** Staff recommends granting the sidewalk exception and with the sidewalk exception, the Sketch Plan meets the requirements of the Subdivision Ordinance; therefore, Staff recommends advancement of the Sketch Plan to the Preliminary Plan stage.

Respectfully Submitted,  
The Planning Department

Attachment Sketch Plan & Sidewalk Exception letter







MAR 26 2019  
Berkeley County  
Planning Commission

March 26, 2019

Berkeley County Planning Commission  
400 West Stephen Street  
Suite 203  
Martinsburg, WV 25401

Subject: Timberwood East Sidewalk Requirement Exemption

Reference: GORDON Project #3391-0101  
BCPC# \_\_\_-19

Dear Planning Commission:

Timberwood East is located on the west side of Three Run Road, approximately 0.7 miles north of Middleway Pike (Route 51). The proposed use as submitted with the Sketch Plan, is a 31 lot single family detached development with no future expansion. An exemption is hereby requested from Berkeley County Subdivision Ordinance Section 705.1.D. which states that sidewalks are required "in all Land Development Units".

This exemption request is based on the following conclusions:

- Proposed roads within the subdivision will consist of open ditch sections which do not contain curb or gutter. The installation of sidewalks adjacent to open road sections are complicated by the transition from edge of pavement to shoulder to ditch then to sidewalk.
- Section 705.1.B. requires that sidewalks be provided on one side of all Class L3 streets. All roads within the proposed subdivision are classified as L2 by the Berkeley County Subdivision Ordinance. This lower classification identifies a different level of service and community than those serviced by high volume roads.
- Typical street details the Berkeley County Subdivision Ordinance provide cross sections for both open and closed sections for local roads. Sidewalks are included in all closed section roads but are excluded from all open ditch section roads.
- The development will have a limited number of lots and one point of access that will eliminate the possibility for "cut-through" traffic. It is typical in developments with limited traffic generation to share community streets with pedestrians even when a sidewalk is provided.

Thank you for your time and consideration of this request. Please contact us should you have any questions regarding this request

Sincerely,

Chad Wallen  
Senior Project Manager

www.gordon.us.com  
DCJS License # 1s 11-7158

PROGRAMMING AND PLANNING  
CIVIL ENGINEERING  
LANDSCAPE ARCHITECTURE  
SURVEY AND MAPPING  
SECURITY CONSULTING



## BERKELEY COUNTY PLANNING COMMISSION

400 West Stephen Street - Suite 203, Martinsburg, WV 25401-3838

Telephone: 304-264-1963, Fax: 304-262-3127

Web Page: www.berkeleywv.org

**PUBLIC HEARING  
STAFF REPORT  
REQUEST FOR WAIVER  
June 3, 2019**

**Project:** David Bohrer Preliminary/Final

**File #:** 019-19

**Developer:** David Bohrer  
258 Street of Dreams  
Martinsburg, WV 25403

**Surveyor:** Greg Yebernetsky  
1211 Palmer Road  
Hedgesville, WV 25427

**District, Tax Map & Parcel #:** Gerrardstown District, Tax Map 27, Parcel 26.6

**Location:** The property is located approximately 0.5 miles north of the Route 37 (Tabler Station Road) and Route 24 (Horners Sawmill Road) intersection, at Arden.

**Project Description:** The project proposes the creation of one 1.7356 acre parcel, one 1.6052 acre parcel, and one 1.7294 acre parcel, to be served by private wells and septic systems.

**Administrative History:**

APPROVAL LETTERS	DATE RECEIVED
Berkeley County Health Department (Wells and Septic)	
Berkeley County Public Service Water District (Water Availability)	N/A
Berkeley County Public Service Sewer District (Sewer Availability)	N/A
State Health Department (Water)	N/A
State Health Department (Sewer)	N/A
Department of Highways (Entrance Permit) Letter Received	
Central Dispatch (Road Names) approved	N/A
GPP Permit Application	N/A
NPDES Permit Application	N/A
*Traffic Study	N/A
*School Impact Analysis	N/A
Appendix C – Environmental Impact Checklist	N/A

MEETINGS & SUBMISSIONS	DATE
<b>Waiver Request</b>	
Waiver Requested	5/1/2019

June 3, 2019

Waiver Request Advertised	5/13/2019
Waiver Granted/Denied	
<b>Preliminary / Final Plat</b>	
Preliminary / Final Plat Submitted	
1 <sup>st</sup> Review Comments	
Preliminary / Final Plat Re-Submitted	
Preliminary / Final Plat Approved	

**Waivers/ Exceptions:** The developer is requesting a waiver to the Berkeley County Subdivision Ordinance (2009) Section 305.4.1, requiring lots to be greater than two (2) acres in size, to proceed through the Preliminary/Final process.

**Project Notes:** **Section 1203(A)(1): The conditions requiring the waiver are not the result of any self-directed or deliberate physical action taken by the applicant which, had it not been taken, would have alleviated the need for the waiver request.**

The waiver request is self-directed and/or deliberate because the existing 5.0703 acre tract could be subdivided into two (2) lots, not the proposed three (3) lots, to maintain the two (2) acre minimum required for the Preliminary/Final process.

**Section 1203(A)(2): The waiver will not be contrary to the public interest, health, safety, and welfare given the evidence presented.**

The waiver would not be contrary to the public interest, health, safety, and welfare given the evidence presented.

**Section 1203(A)(3): Consistency and fairness in applying the Ordinance shall not be jeopardized or compromised.**

Staff acknowledges waivers to 305.4.1, requiring lots to be greater than two (2) acres in size, to proceed through the Preliminary/Final process have been granted. Therefore, if the request were denied, it could appear to compromise fairness in applying the ordinance. Additionally, granting the waiver could be interpreted as unfair to those projects which met the requirements of Section 305.4.1, in the 2009 Berkeley County Subdivision Ordinance.

**Engineer Report:** Engineering staff defers to Planning staff.

**Staff Recommendation:** Staff recommends denial of the waiver to Section 305.4.1, requiring lots to be greater than two (2) acres in size, to proceed through the Preliminary/Final process.

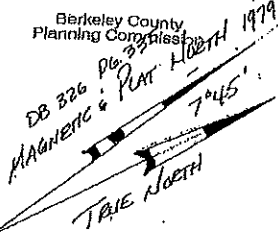
Respectfully Submitted,  
The Planning Department

Attachment Preliminary/Final Plat & Waiver Justification

June 3, 2019

MAY 04 2019

Berkeley County  
Planning Commission



RESIDENTIAL  
MICHAEL LINTON  
526/406  
G-27 P-21.8

TRACT 3-C  
"RESIDUE"  
75,334 sq. ft.  
OR  
1.7294 Ac.

TRACT 3-B  
69,926 sq. ft.  
OR  
1.6052 Ac.

TRACT 3-A  
1.7356 Ac.  
OR  
75,601 sq. ft.

RESIDENTIAL  
VICEL HAMMOND  
562/13  
G-27 P-26.7

FLORENCE LANE

10' RESERVED FOR  
FUTURE WIDENING  
(SEE NOTE P.4)

PRELIMINARY PLAT

2 of 4

BCPC File # \_\_\_\_\_

**APPROVED**

Berkeley County Planning Commission

Date \_\_\_\_\_ President \_\_\_\_\_

DRAWN BY: G.V. DATE: 4-29-19

CHECKED BY: DATE:

SCALE: 1" = 100'

GREGORY YEBERNETSKY  
1211 PALMER ROAD  
HEDGESVILLE WV 26427

DISTRICT: CERRARDISTRICT

TAX MAP NO: \_\_\_\_\_

DWG. NO: 2019-29

MAY 01 2019

Berkeley County  
Planning Commission

BERKELEY COUNTY PLANNING COMM.  
400 W. STEPHEN ST. SUITE 203  
MARTINSBURG, WV 25401-3838

DEAR PLANNING COMMISSION MEMBERS;

THE REQUESTED WAIVER OF LOTS LESS THAN  
2 ACRES IS BEING MADE TO CREATE 3 LOTS WHICH  
DO COMPLY WITH MINIMUM LOT SIZES FOR WELL  
AND SEPTIC AND ALL OTHER REQUIREMENTS OF  
THE SUBDIVISION REGULATIONS. THESE LOTS WILL  
NOT BE CONTRARY TO PUBLIC INTEREST, HEALTH,  
SAFETY AND WELFARE AS THEY ARE THE SAME  
SIZE AS ADJOINING LOTS AND ARE CONSISTANT  
WITH THE SUBDIVISION ORDINANCE.

THANK YOU FOR YOUR CONSIDERATION;

GREGORY YEBERNETSKY



# BERKELEY COUNTY PLANNING COMMISSION

400 West Stephen Street - Suite 203, Martinsburg, WV 25401-3838

Telephone: 304/264-1963, Fax: 304/262-3127

Web Page: [www.berkeleywv.org](http://www.berkeleywv.org)

**PUBLIC HEARING  
STAFF REPORT  
REQUEST FOR FINAL PLAT APPROVAL  
JUNE 3, 2019**

**Project:** Thistle Landing Section C, Phase 2, Lots 38-45

**File #:** 020-15

**Developer:** Thistle Land Holdings, LLC  
126 E. Burke St.  
Martinsburg, WV 25401

**Surveyor:** Roberts Land Surveying  
2068 Palmer Road  
Hedgesville, WV 25427

**District, Tax Map, & Parcel:** Mill Creek District, Map 17, Parcel 34

**Location:** The site is located on the east side of WV Route 28 (Specks Run Road), approximately 400 feet north of its intersection with WV Route 28/1 (Fegan Road).

**Project Description:** The project proposes 8 single family lots on approximately 4.8 acres, to be served by public water and sewer.

**Administrative History:**

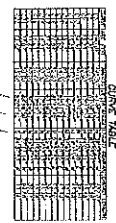
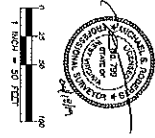
Required Items	DATE RECEIVED
Covenants and Restrictions	3/20/2019
Bond Estimate	4/18/2019
Developers Agreement	4/18/2019
Contingency items prior to Release	DATE
Bond/LOC	
Final Plat	
Final Plat Determination	5/6/2019
Public Hearing Ad date	5/13/2019
Final Plat Approval	
Bond Reduction	

**Staff Recommendation:** The Final Plat meets the requirements of the Subdivision Ordinance; therefore, Staff recommends Final Plat Approval contingent upon receipt of surety in the amount of \$18,864.00. Plat to be released upon receipt of surety.

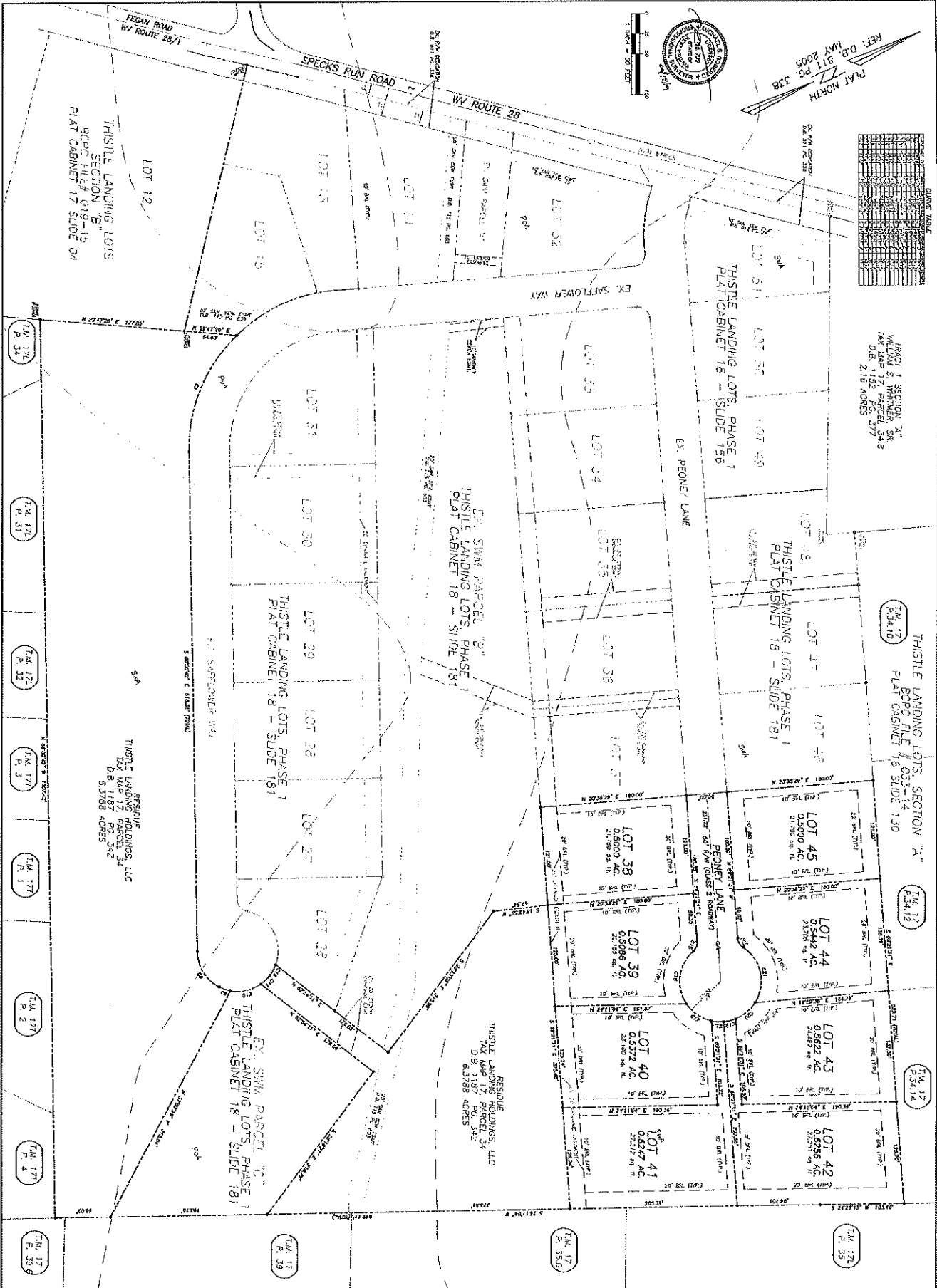
Respectfully Submitted,  
The Planning Department

**Attachments:** Final Plat

PLAT NORTH  
 REF: D.B. 811 PG. 338  
 MAY 2009



TRACT 1 SECTION 24  
 WILLIAM S. WATNER, SR.  
 TAX MAP 150 PARCEL 348  
 D.B. 1150 PG. 377  
 2.18 ACRES



THISTLE LANDING LOTS  
 SECTION "B"  
 PARCELS 11-15  
 PLAT CABINET 17 SLIDE 04

134 17A  
 P. 35

134 17B  
 P. 31

134 17C  
 P. 32

134 17D  
 P. 3

134 17E  
 P. 1

134 17F  
 P. 2

134 17G  
 P. 3

134 17H  
 P. 26.6

RESPONSE  
 THISTLE LANDING HOLDINGS, LLC  
 D.B. 1187 PG. 342  
 6.3788 ACRES

EX. SWM PARCEL "C"  
 THISTLE LANDING LOTS, PHASE 1  
 PLAT CABINET 18 - SLIDE 181

RESIDUE  
 THISTLE LANDING HOLDINGS, LLC  
 D.B. 1187 PG. 342  
 6.3788 ACRES

134 17I  
 THISTLE LANDING LOTS, SECTION "A"  
 PLAT CABINET "A" SLIDE 130

134 17J  
 P. 12

134 17K  
 P. 12

134 17L  
 P. 35.6

BCPC File # 020-15  
**APPROVED**  
 Berkeley County Planning Commission  
 Date: \_\_\_\_\_

REV.	DATE	CONV. COMMENTS
01	03-11-19	PLM
02	04-05-19	MSR
03		
04		
05		
06		
07		
08		
09		
10		

FINAL PLAT  
 THISTLE LANDING, SECTION C", PH. 3  
 LOTS 38 THROUGH 45  
 PROPERTY OF  
**THISTLE LANDING HOLDINGS, LLC**  
 REED BOOK 1187 PAGE 342  
 TAX MAP 17, PARCEL 34 - MILL CREEK DISTRICT - BERKELEY COUNTY, WV

**ROBERTS LAND SURVEYING**  
 2068 PALMER ROAD - HEDGESVILLE, WV 25427  
 304.671.5406 miker002395@frontier.com



**BERKELEY COUNTY PLANNING COMMISSION**

400 West Stephen Street - Suite 203, Martinsburg, WV 25401-3838

Telephone: 304/264-1963, Fax: 304/262-3127

Web Page: [www.berkeleywv.org](http://www.berkeleywv.org)

**PUBLIC HEARING  
STAFF REPORT  
REQUEST FOR FINAL PLAT APPROVAL  
JUNE 3, 2019**

**Project:** Cedar Heights Phase 2

**File #:** 017-08

**Developer:** Ayers & Ayers Holdings, LLC  
PO Box 1310  
Inwood, WV 25428

**Engineer:** Gordon  
148 S. Queen St. Suite 201  
Martinsburg, WV 25401

**District, Tax Map, & Parcel:** Arden District, Map 19, Parcel 36.2.

**Location:** The property is located on Nadenbousch Lane, approximately 1000' east of Shiley Road.

**Project Description:** Phase 2 of Cedar Heights proposes 25 townhome lots on 17.83 acres, to be served by public water and sewer.

**Administrative History:**

Required Items	DATE RECEIVED
Covenants and Restrictions	4/10/2019
Bond Estimate	2/21/2019
Developers Agreement	4/10/2019
Contingency items prior to Release	DATE
Bond/LOC	
Final Plat	
Final Plat Determination	5/6/2019
Public Hearing Ad date	5/13/2019
Final Plat Approval	
Bond Reduction	

**Staff Recommendation:** The Final Plat meets the requirements of the Subdivision Ordinance; therefore, Staff recommends Final Plat Approval contingent upon receipt of surety in the amount of \$12,000.00. Plat to be released upon receipt of surety.

Respectfully Submitted,  
The Planning Department

**Attachments:** Final Plat





## MEMORANDUM

**TO: LINDA BARNHART, PRESIDENT  
PLANNING COMMISSION and STAFF**

**FROM: NORWOOD BENTLEY**

**DATE: 20 MAY, 2019**

**RE: PLANNING COMMISSION BY-LAWS**

You asked me at the conclusion of the last Planning Commission meeting to review the current By-Laws. I have done so. My approach to By-Laws is that they do not need to be extensive. They need only cover the essential governance of the organization without going into too much detail.

Accordingly, my review suggests the following:

1. That, **Article IV-Meetings, Section 2, Special Meetings** should be amended by striking the period at end of the current language and adding the following: "and that an agenda is posted to media and the public in no less than forty-eight (48) hours prior to the meeting." So that Section 2 will hereafter read as follows: "Special meetings may be called by the President provided that forty-eight (48) hours advance notice is given each member and that an agenda is posted to media and the public in no less than forty-eight (48) hours prior to the meeting.
2. That, **Article IV-Meetings, Section 7, Presentations before the Planning Commission for Purpose of Sunshine Law** should be amended by striking the period immediately preceding the last sentence in the section and adding, in lieu thereof, a semi-colon and the following language: "Provided, That such suspension shall apply to all persons who wish to speak and have signed the sign-up sheet." So that Section 7 will hereafter read as follows: "Any presentation to the Planning Commission shall be limited to three (3) minutes, whether for or against a request. The Planning Commission, by majority vote of those present, may suspend the time limitations specified herein; Provided, That such suspension shall apply to all who wish to speak and have signed the sign-up sheet. Any comments may be submitted in writing."
3. That, **Article IV-Meetings, Section 8, Public Meetings and Records** should be amended by striking, in the first line of the section, the words "at which official action is taken" and, in the third line of the section, the words "of personnel and legal discussion" and adding, in lieu of the words stricken from the third line thereof, the following: "addressed in executive session," so that the Section will read hereafter: "All meetings of the Planning Commission shall be open to the public and all records of the Planning Commission, excepting those relating to matters addressed in executive session, shall be of public record."
4. That, with regard to **Article IV-Meetings, Section 5, Voting**, as you know, the President is precluded from voting except in case of a tie vote and from discussion unless he/she relinquishes the chair to another member. I have never thought this to be a well-reasoned procedure. Presumably, when the President relinquishes the chair, the member taking over the duties of the chair, is, also, precluded from discussion and/or voting. This may

be helpful in guarding against strong, domineering personalities in the person of the chair but, limits potentially valuable in-put from the small membership of this Commission. It would be less harmful, perhaps, in large group discussion and voting. There is no good reason to limit the chair in this way, in my judgment. Therefore, I recommend that Section 5 be amended by striking all language after the word "issue" in the first sentence and adding, in lieu thereof, the following: ", unless the member has abstained or recused himself/herself." Additionally, I recommend striking the remainder of the first paragraph in its entirety. In the second paragraph, first sentence, I recommend striking the words "of a conflict of interest" and adding, in lieu thereof, "he/she considers himself/herself to be ill informed on the issue or otherwise uncomfortable with casting a vote." I further recommend striking the second sentence in that paragraph and adding, in lieu thereof, the following: "If the member has a conflict of interest or would otherwise violate the law or an ethical rule or regulation by discussion of the issue and casting a vote thereon, he/she shall recuse himself/herself and shall state such reason for the record before temporarily exiting the meeting."

The new section would thereafter read as follows: "Each member of the Planning Commission shall vote (by yea or nay) on each issue, unless the member has abstained or recused himself/herself.

"A member shall abstain from a vote in the event he/she considers himself/herself to be ill informed on the issue or otherwise is uncomfortable with casting a vote. If the member has a conflict of interest or would otherwise violate the law or an ethical rule or regulation by discussion of the issue and casting a vote thereon, he/she shall recuse himself/herself and shall state such reason for the record before temporarily exiting the meeting."

If you have questions, let me know.