



# CITY OF WHEELING PLANNING COMMISSION

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## STAFF REPORT

**PLANNING COMMISSION HEARING DATE:** Monday, November 14, 2022

**PROPERTY LOCATION:** Leatherwood Lane [see Exhibit 1]  
Parcels 195, 196, 197, and 198 on Tax Map W39 of Tax District 10

**PROPERTY ZONING CLASSIFICATION:** R-1A Single-Family (Low Density) [see Exhibit 2]

**NATURE OF REQUEST:** Zoning Map Amendment  
from R-1A to C-2 General Commercial

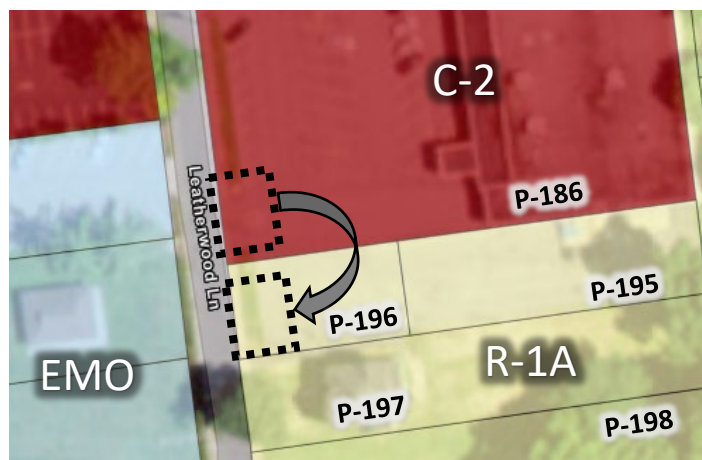
**APPLICANT:** Kellbenn, Inc.

### BACKGROUND

Kellbenn, Inc. seeks to amend the zoning map by changing the zoning classification for the four (4) subject lots from R-1A Single-Family, Low Density to C-2 General Commercial. Exhibit 1 of this report identifies the location of the subject lots. Street view images provided are enhanced to generally illustrate the approximate lot boundaries the applicant seeks to reclassify. Exhibit 2 illustrates the current zoning classification of the subject lots and immediate area.

According to the Ohio County Assessor's online iAS data, the approximate area of the four (4) subject lots is 37,825 square feet (0.868 acres). Parcels 195 and 196 are mostly paved and are currently being used for access to and the loading berth, unorganized parking, and solid waste storage at the rear of the CVS building. The current use of Parcels 195 and 196 is considered nonconforming due to its present zoning classification of R-1A.

This zoning map amendment would, in part, permit the redevelopment of a portion of the multi-building commercial site that includes the CVS establishment, which will remain, by razing and removing the former A.C. Buffet restaurant building, constructing a new two-tenant commercial building, reorganizing the site's entire parking layout, improving vehicular driveway access to National Road, and relocating the current southernmost driveway access to Leatherwood Lane from Parcel 186 (C-2 District) further south to Parcel 196 (R-1A District) as generally illustrated in the image to the right.



Page 1 of 6

### COMMISSION MEMBERS

JEREMY WEST, CHAIR · MICHAEL BAUM · THOMAS CONNER ·  
HOWARD MONROE · DAVE PALMER · CHRISTINA SCHESSLER · WILLIAM SCHWARZ

Article 1355.03(d) of the City’s Planning & Zoning Code provides that, “...*No access drive or driveway shall be located in any residential zone to provide access to uses other than those permitted in such zone.*”

Accordingly, reclassifying Parcels 195 and 196 will eliminate the existing nonconforming use of the lots in the R-1A District as well as permit the driveway access relocation as desired by the property owner.

Parcel 197 contains a detached single-family 2.5 story dwelling constructed circa 1900 with an E-911 address assigned as 8 Leatherwood Lane. According to the City’s Vacant Building Program Administrator, the single-family dwelling does not currently have an active water service account and is therefore assumed vacant. Building Code Services will be working with the property owner toward registration with the City’s Vacant Building Program. Parcel 198 contains a detached accessory two-car garage building. Except for the accessory building/use being located on a separate lot from the principal single-family dwelling building/use, Parcels 197 and 198 appear to be permitted uses in the R-1A District.

Because Kellbenn, Inc. owns all four (4) parcels, the property owner seeks to reclassify Parcels 197 and 198 at this time as well, for future redevelopment opportunities between the commercial district along National Road and The Linsly School campus. Doing so leaves one (1) parcel [Parcel 43 of Tax Map 46] fronting Leatherwood Lane that would remain R-1A between the C-2 District and the EMO District (Educational, Medical, and Office District).

Parcel 43 is not owned by the applicant, is not a part of the current zoning reclassification request, is vacant of any buildings, and appears to be used as a driveway entrance to The Linsly School leading directly to the middle school building and upper campus parking area. City Administration should consider contacting the owner of Parcel 43 of Tax Map 46 to explore the merits of reclassifying said parcel from R-1A to EMO to better align with the zoning classification of the adjoining Linsly School campus.

The applicant has submitted plans to the City for the redevelopment of the former *A.C. Buffet* restaurant building next to the CVS building to construct a new two-tenant commercial building that will include *Starbucks* and an undetermined retail space. The contemplated redevelopment will require Site Plan approval by the Planning Commission, contingent upon City Council’s approval of the present zoning map amendment request and the Board of Zoning Appeals (BZA) approval of variance relief.

## **ANALYSIS**

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It is the opinion of City Planning Staff that the proposed zoning map amendment would be considered a permitted zoning reclassification and not “spot zoning” because the subject property adjoins the C-2 zoning district to the north. Accordingly, the proposed zoning map amendment would be a boundary adjustment of the C-2 zoning district.

Article 1339.04 of the Planning & Zoning Code provides the following objectives for the C-2 General Commercial zoning district.

*The objectives of the C-2 District are to permit commercial goods and services on a major collector or business street, and to require those businesses to mitigate their impact on nearby residences through parking, landscaping, lighting, signage, and building exterior controls. The commercial uses should serve both the retail and service needs of local residents and employees and a larger retail market brought into the commercial area due to the nature of the collector or business street.*

The following is the list of permitted uses within the C-2 zoning district as provided in Article 1339.04.

(a) PRINCIPAL PERMITTED USES

- (1) Any non-residential principal permitted use in C-1, which includes:
  - Bank or lending institution
  - Government service or office
  - Office
  - Personal service establishment
  - Recreational facility
  - Restaurant without lounge
  - Retail business and business-to-business establishment
  - Retail Food Establishment
  - Veterinarian; non-boarding animals only
  - Religious land use
- (2) Bowling alley
- (3) Vehicle repair or servicing
- (4) New and/or used vehicle sales
- (5) Service station and/or car wash
- (6) Funeral home
- (7) Hotel or motel
- (8) Bar, tavern, and social club
- (9) Restaurant with lounge
- (10) Marina, with no sale of fuel
- (11) Membership association
- (12) Package liquor store
- (13) Parking garage or parking lot
- (14) Wholesale business establishment
- (15) Veterinarian; non-boarding animals only
- (16) Residential use, as per R-4 (single-family dwelling, two-family dwelling, multi-family dwelling)

(b) ACCESSORY USES

- (1) Accessory buildings and structures that are customary and clearly incidental to the principal use
- (2) A private garage or open parking for operative passenger vehicles and for not more than one commercial licensed operative vehicle of person residing on the premises
- (3) A playhouse, tool house, garden house, greenhouse, or private swimming pool not operated for gain
- (4) Customary home occupation
- (5) One accessory apartment in an owner-occupied single-family dwelling

(c) SPECIAL PERMIT USES

- (1) Any special permit use permitted in C-1:
  - Community center
  - Day care center; nursery school
  - Membership association
  - Public or private utility
  - Service station
  - Restricted accessory parking
  - Restaurant with lounge

- (2) Hospital
- (3) Marina, including the sale of fuel
- (4) Open air or drive-in theater
- (5) Pet shop, animal hospital, or kennel
- (6) Printing and engraving establishments
- (7) Funeral home

Schedule 5-A Dimension Requirements of the Planning and Zoning Code provides the following development density and intensity provisions within the C-2 District.

District	Land Use	Minimum Lot Area (square feet)	Min, Lot Frontage (feet)	Min. Lot Depth (feet)	Floor Area Ratio	Front (feet)	2 Sides (feet)	1 Side (feet)	Rear (feet)	Min, Height (feet)	Max. Height (feet)
C-2 General Commercial	a. Non-Residential	10,000	75	100	1.5	10'	10'	4'	15'	3 stories	45'
	b. Multi-Family Dwelling (3)	900 (per d.u.)	40	100	N/A	10'	15'	8'	15'	3 stories	45'
	c. Two-Family Dwelling (3)	4,000	40	100	N/A	10'	8'	3'	12'	2 stories	35'
	d. One-Family Dwelling (3)	4,000	40	100	N/A	10'	8'	3'	12'	2 stories	35'

Because single-family dwellings are permitted by-right in the C-2 District, the proposed reclassification of Parcels 197 and 198 would not result in a nonconforming use of the existing vacant single-family detached dwelling.

**COMPREHENSIVE PLAN CONSISTENCY**

As recommended in the [2014 Envision Wheeling Comprehensive Plan](#) and required in West Virginia State Code 8A, it is incumbent upon the Planning Commission, City Council, and community to use the Comprehensive Plan for guidance when considering future zoning changes. Exhibit 3 of this report identifies how, in the opinion of City Planning Staff, the proposed zoning map amendment relates to the Plan’s stated Community Initiatives and Goals, and Plan Strategies. Staff encourages the Planning Commission to review the Comprehensive Plan for guidance as Exhibit 3 is not intended to represent a complete comparative assessment.

It should be noted that any “shall” statements that may exist within the Comprehensive Plan must be understood as desired objectives and strategies that do not have the force or effect of law unless incorporated into the City’s Planning & Zoning Code.

Exhibit 3 restates the Plan’s six (6) Community Initiatives and Goals and subcategories and identifies where, in the opinion of City Planning Staff, the subject zoning map amendment is concurrent, is inconsistent, or is not applicable or inconclusive with the Plan.

The Comprehensive Plan Map 8: Future Land Use provided on Pages 53-54 of the Plan identifies the subject lots as being within a Suburban Residential Core area and adjoining the Commercial / Office along National Road. Exhibit 3 provides excerpts from the Plan describing these future land use area categories.

Of note is Plan Strategy No. 1 “Encourage a Sustainable Mix of Future Land Uses” (high priority/ongoing strategy). Exhibit 3 provides excerpts from the Plan describing the intent and objectives of these strategies.

## PLANNING COMMISSION REVIEW

West Virginia State Code 8A-7-8 states that prior to amending the zoning ordinance, the governing body, with the advice of the Planning Commission, must find the amendment to be consistent with the adopted comprehensive plan. If the amendment is inconsistent, then the governing body, with the advice of the Planning Commission, must find that there have been major changes of an economic, physical, or social nature within the area which were not anticipated when the comprehensive plan was adopted and that those changes have substantially altered the basic characteristic of the area.

Zoning map amendment requests should be evaluated on their land use merits alone. The applicant’s development intentions are extraneous, and the Planning Commission should consider the request on its merits as a land use decision. In conducting such an analysis, the Planning Commission should determine if the C-2 General Commercial District is the appropriate zoning classification for the subject site, weighing all possible future development and land use scenarios as permitted by the Planning & Zoning Code; particularly Article 1339 et seq.

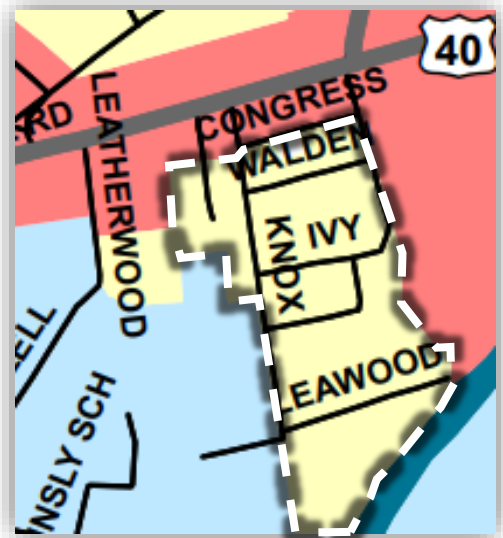
## STAFF RECOMMENDATION

Although extraneous to the land use and land development considerations of the Planning Commission for this zoning map amendment request, the applicant’s desire to redevelop the former *A.C. Buffet* restaurant building next to the *CVS* building presents the following zoning classification opportunities:

1. Reclassifying Parcels 195 and 196 from R-1A to C-2 eliminates the existing nonconforming commercial use of the residentially zoning lots.
2. Reclassifying Parcels 195 and 196 from R-1A to C-2 permits the proposed redevelopment plan to relocate the existing southernmost driveway access to Leatherwood Lane further south thereby improving onsite parking layout design, internal vehicular circulation, and more direct access to the *CVS* loading berth.

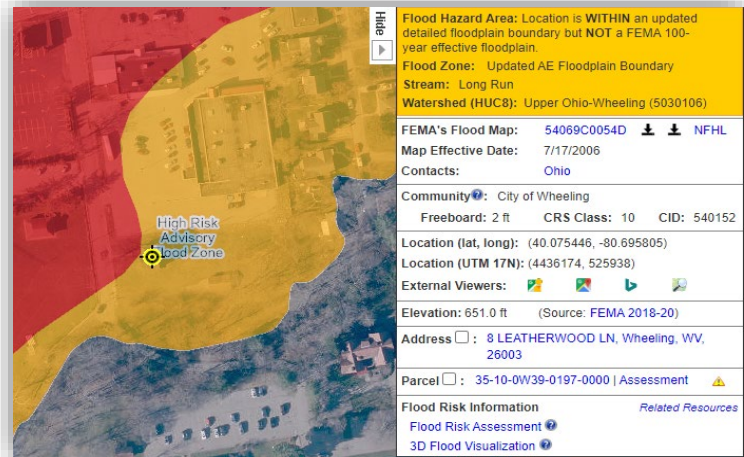
The applicant’s desire to also reclassify Parcels 197 and 198 creates opportunity for commercial, mixed-use, and higher density residential development accessing the National Road commercial/office corridor without encroaching into an adjoining residential neighborhood. The existing vacant single-family dwelling is the only residential use along Leatherwood Lane between National Road and The Linsly School.

As the image to the right illustrates, Parcels 197 and 198 and the existing dwelling are physically isolated from the Suburban Residential Core area identified in the Comprehensive Plan [Map 8: Future Land Use](#) that is accessed from National Road via Hearnlee Place and Knox Lane.



The subject area has a history of flood inundation and is a mapped flood hazard area as illustrated in the image to the right captured from the online [WV Flood Tool](#).

Future redevelopment attention for Parcels 197 and 198 will require unique planning solutions and design strategies. The R-1A zoning classification could serve to discourage redevelopment considerations for Parcels 197 and 198 due to increased costs normally associated with development in flood prone areas.



Staff respectfully advises the Planning Commission to:

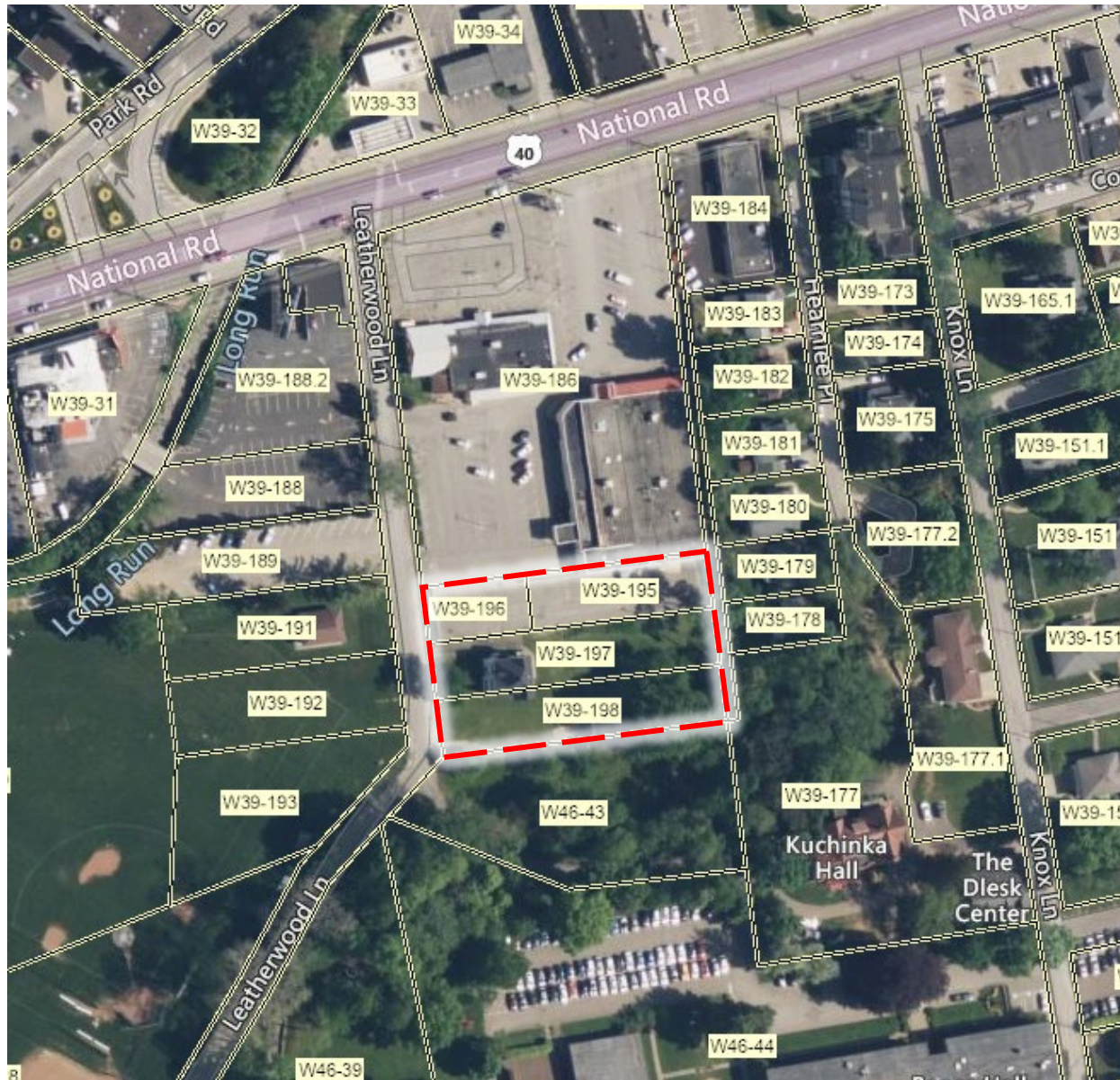
1. Determine that the subject zoning map amendment requested by the applicant is consistent with the [2014 Envision Wheeling Comprehensive Plan](#); and,
2. Forward a recommendation to City Council to reclassify Parcels 195, 196, 197, and 198 on Tax Map W39 of Tax District 10 from R-1A Single-Family (Low Density) to C-2 General Commercial.

However, should the Planning Commission determine that additional information is necessary for further analysis and exploration, Staff respectfully advises the Planning Commission to refer the subject zoning map amendment to the Zoning Committee following the public hearing, with instructions to the Committee, Staff, and applicant on specific matters of additional information, clarification, etc. that are expected.

## ATTACHMENTS

- Exhibit 1 – Site Location
- Exhibit 2 – Zoning Classification
- Exhibit 3 – Comprehensive Plan Consistency
- Exhibit 4 – Applicant's Submitted Documents
- Exhibit 5 – Public Notice

# EXHIBIT 1 – SITE LOCATION



Zoning Map Amendment  
From R-1A to C-2

Leatherwood Lane  
Parcels 195 – 198, Tax Map W39

# EXHIBIT 1 –SITE LOCATION

Toggle Highlight: ON   Copy Link   Parcel ID: 35-10-0W39-0198-0000   Details +   Zoom   Close x

Owner(s):	KELBENN INC	Community:	City of Wheeling
Address:	10 LEATHERWOOD LN	E-911 Address:	N/A
Class Type:	Residential	External Links:	
Legal Description:	LUNSFORD 11	Flood Info:	Parcel appears to be in a HIGH RISK flood hazard zone. <a href="#">Learn more at WV Flood Tool</a>

Zoning Map Amendment  
From R-1A to C-2

Leatherwood Lane  
Parcels 195 – 198, Tax Map W39



## EXHIBIT 1 –SITE LOCATION



Zoning Map Amendment  
From R-1A to C-2

Leatherwood Lane  
Parcels 195 – 198, Tax Map W39

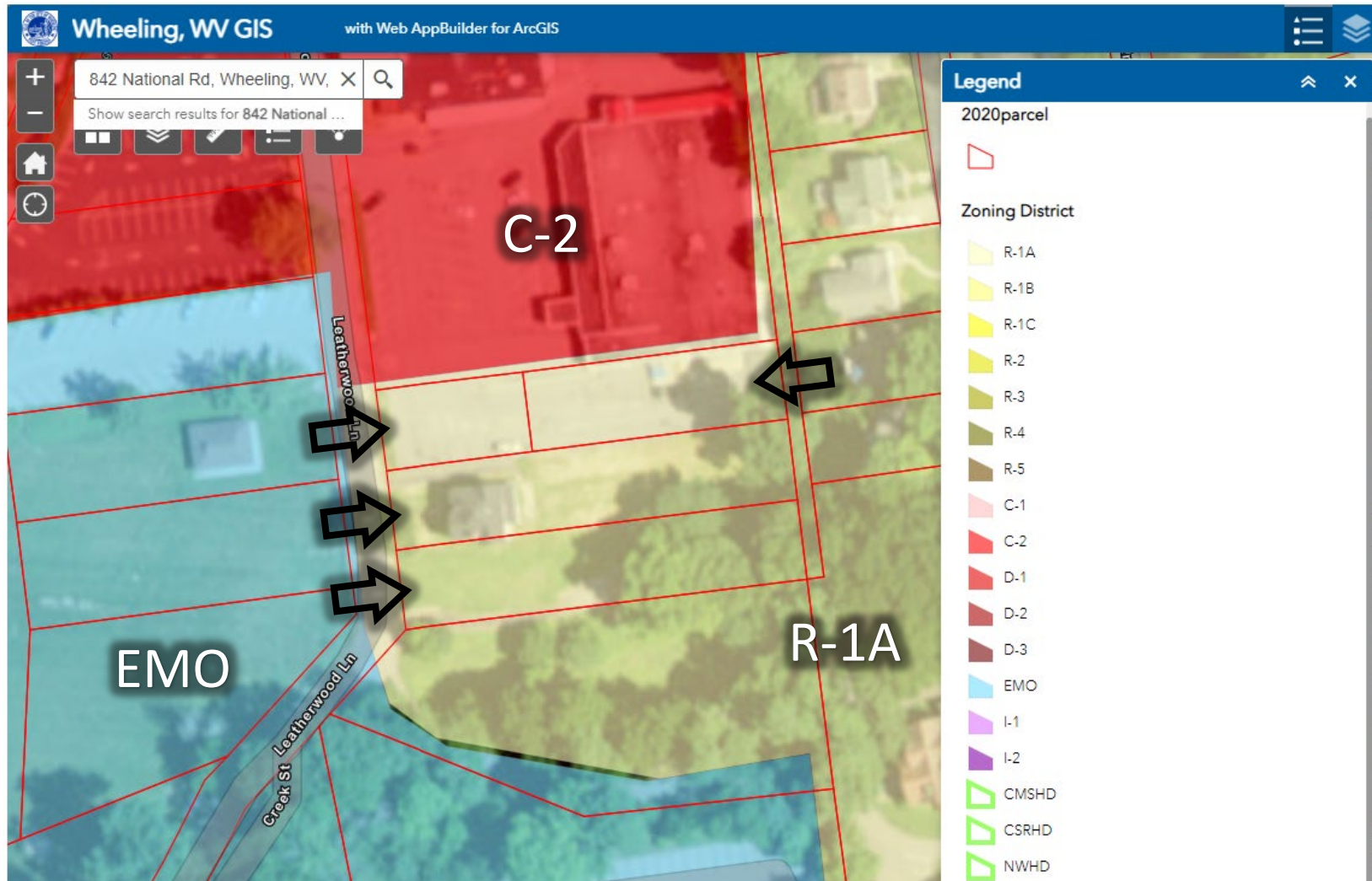
## EXHIBIT 1 –SITE LOCATION



Zoning Map Amendment  
From R-1A to C-2

Leatherwood Lane  
Parcels 195 – 198, Tax Map W39

# EXHIBIT 2 – ZONING CLASSIFICATION



Zoning Map Amendment  
From R-1A to C-2

Leatherwood Lane  
Parcels 195 – 198, Tax Map W39

# EXHIBIT 3 – COMPREHENSIVE PLAN CONSISTENCY

The following narrative identifies where, in the opinion of City Planning Staff, the subject zoning map amendment is in concurrence, is inconsistent, or is not applicable or inconclusive with the [2014 Envision Wheeling Comprehensive Plan](#)'s **Community Initiatives and Goals** beginning on Page 38 of the Plan.

## Community Initiatives and Goals

	Concurrence	Inconsistent	N/A or Inconclusive
<b>Initiative #1 – Wheeling will be Modern and Sustainable by...</b>			
<ul style="list-style-type: none"> <li>Targeting reinvestment and revitalization efforts in downtown and in the older, urban neighborhoods to support the establishment and growth of walkable, mixed-use neighborhoods.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Expanding opportunities for sustainable practices including, but not limited to, urban agriculture, use of renewable resources, use of green infrastructure, emphasis on non-vehicular transportation, etc.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Initiative #2 – Wheeling will have a Diverse Economy by...</b>			
<ul style="list-style-type: none"> <li>Promoting an economy built on its own assets including the expansion of the educational and medical industries, strong businesses that have chosen to locate in Wheeling, and a growing entrepreneurial base.                             <ul style="list-style-type: none"> <li><i>Staff Observation 1 – The proposed minor expansion of the C-2 General Commercial District along the National Road corridor creates opportunity for business expansion or redevelopment that could support the retail and service needs within the Woodsdale-Edgewood Neighborhood and complement the economic energy of the commercial/office corridor.</i></li> <li><i>Staff Observation 2 – The proposed minor expansion of the C-2 General Commercial District along the National Road corridor creates opportunity for redevelopment to mixed-uses that could diversify housing types and choice within the Woodsdale-Edgewood Neighborhood.</i></li> </ul> </li> <li>Targeting business attraction efforts that will bring in jobs with livable wages.                             <ul style="list-style-type: none"> <li><i>Staff Observation 3 – The proposed minor expansion of the C-2 General Commercial District creates opportunity for business development and the creation of jobs on a site that is not currently contributing to the economic vitality of the commercial corridor or the Woodsdale-Edgewood Neighborhood.</i></li> </ul> </li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## EXHIBIT 3 – COMPREHENSIVE PLAN CONSISTENCY

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Community Initiatives and Goals	Concurrence	Inconsistent	N/A or Inconclusive
<ul style="list-style-type: none"> <li>• Developing additional opportunities to assist local entrepreneurs and small business that are looking to start-up a business and/or grow in Wheeling.                             <ul style="list-style-type: none"> <li>– <i>Staff Observation 4 – The proposed minor expansion of the C-2 General Commercial District creates opportunity for business development, entrepreneurial investment and risk, and the creation of jobs.</i></li> </ul> </li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Collaborating with local banks and financial institutions on efforts to streamline investment in the community and finance development projects.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Initiative #3 – Wheeling will have strong Community Partnerships by...</b>			
<ul style="list-style-type: none"> <li>• Collaborating with other institutions, public service agencies, stakeholders, neighborhood organizations and regional partners to identify the needs of the citizens and provide appropriate support to address such needs.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>• Engaging all of its citizens in this plan's implementation regardless of their age, wealth, educational level, or length of residency.                             <ul style="list-style-type: none"> <li>– <i>Staff Observation 5 – The City's public notice procedures exceed minimum related requirements of West Virginia State Code §8A-7-8.</i></li> </ul> </li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Incorporating new ideas and new people in the city's planning efforts and in the decision-making processes.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Initiative #4 – Wheeling will invest in its Neighborhoods by...</b>			
<ul style="list-style-type: none"> <li>• Ensuring that there are adequate housing options for all age groups including a wider array of housing types, affordable housing options, and an increase in choices between new and older housing stock.                             <ul style="list-style-type: none"> <li>– <i>Staff Observation 6 – The proposed minor expansion of the C-2 General Commercial District within the Woodsdale-Edgewood Neighborhood creates opportunity for new development of mixed-uses that could diversify housing types and choice.</i></li> </ul> </li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Providing access to recreational facilities, local and regional institutions, shopping, and public services within close proximity to all neighborhoods.                             <ul style="list-style-type: none"> <li>– <i>Staff Observation 7 – The proposed minor expansion of the C-2 General Commercial District along the National Road corridor creates opportunity for business development that could support the retail and service needs within the Woodsdale-Edgewood Neighborhood and complement the economic energy of the commercial/office corridor.</i></li> </ul> </li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## EXHIBIT 3 – COMPREHENSIVE PLAN CONSISTENCY

The following narrative identifies where, in the opinion of City Planning Staff, the subject zoning map amendment is in concurrence, is inconsistent, or is not applicable or inconclusive with the [2014 Envision Wheeling Comprehensive Plan](#)'s **Community Initiatives and Goals** beginning on Page 38 of the Plan.

<b>Community Initiatives and Goals</b>	Concurrence	Inconsistent	N/A or Inconclusive
<ul style="list-style-type: none"> <li>Establishing and enforcing policies and ordinances that will provide for the long-term protection of neighborhoods without creating excessive burdens on homeowners and business owners.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Protecting and ensuring the long-term preservation and use of historic districts and buildings.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Initiative #5 – Wheeling will invest in its Infrastructure by...</b>			
<ul style="list-style-type: none"> <li>Supporting all modes of transportation but focusing efforts on expansion of non-vehicular (e.g., sidewalks and trails) and mass transit options.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Upgrading the local infrastructure systems, especially high-tech infrastructure, to support its residential population and promote economic development.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Updating the city's Capital Improvement Plan on a regular basis to establish a priority of infrastructure improvements based on community needs.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Initiative #6 – Wheeling will embrace its Quality of Life by...</b>			
<ul style="list-style-type: none"> <li>Providing excellent park and recreational facilities, quality education facilities, access to arts and culture, and diverse entertainment opportunities.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Partnering with local preservation organizations and agencies on efforts that will protect and promote the city's heritage as a way of creating a sense of place and an economic development activity.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Fostering an artistic environment that allows for local visual and performance artists to demonstrate the cultural assets of the city.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Providing quality public safety and educational services and opportunities to all of its citizens.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

# EXHIBIT 3 – COMPREHENSIVE PLAN CONSISTENCY

## Plan Strategies

The following extracted images from the [2014 Envision Wheeling Comprehensive Plan](#)'s **Plan Strategies** are, in the opinion of City Planning Staff, directly related to and inform the Planning Commission's review of the subject zoning map amendment. Each image is captioned with the corresponding page number of the Plan.

<i>Envision Wheeling: Community Plan</i>		
<b>1</b>	Plan Initiatives:	<b>Modern and Sustainable, Diverse Economy, Neighborhoods, &amp; Quality of Life</b>
	Implementation Strategy:	<b>Encourage a Sustainable Mix of Future Land Uses</b>
	Responsible Agency:	City of Wheeling
	Potential Partner Agencies:	All agencies and stakeholders
	Potential Funding Source:	None required
	Priority/Timeframe:	<b>High Priority/Ongoing Strategy</b>
	Working Group:	None

The future land use plan establishes the desired future land use types for properties. In some areas, the city envisions the continuation of existing uses while in others, this plan establishes the ground work for allowing alternative development that fits within the community vision and will be more sustainable in the long run. The future land use plan will help guide the decisions of the Wheeling City Council, Planning Commission, Board of Zoning Appeals, city departments, regional agencies, and other groups regarding a variety of issues such as zone changes, capital improvements, development of public facilities, and similar decisions.

*From Page 51*

### [Using the Future Land Use Plan](#)

The Future Land Use Plan (Map 8) is intended to serve as a guide for continued development and redevelopment within Wheeling, as well as the potential growth areas surrounding the city. The map is not a zoning map nor does the adoption of this plan legally regulate how land is used. This plan is not intended to be site specific with a single future land use attached to every individual property. The user should first take into consideration the recommendations and policies of this section, the character of the surrounding area as well as individual conditions of the site including, but not limited to the existing use of the site, natural topography, presence of flood hazard areas, traffic, surrounding uses, and similar conditions. In many cases, this plan includes the possibility of a variety of uses within a specific land use category depending on the conditions of the actual site. The Planning Commission, through a more thorough site plan review process, will work to ensure new developments are of the highest functionality and aesthetic quality to the community and conform to the surrounding neighborhood.

*From Page 51*

# EXHIBIT 3 – COMPREHENSIVE PLAN CONSISTENCY

## LEGEND

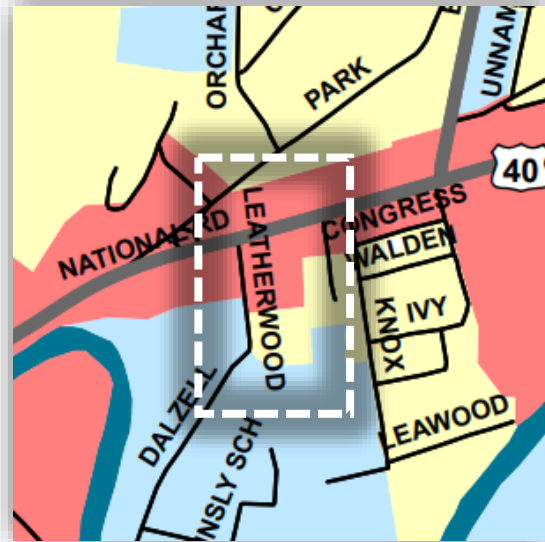
- Roads
- Interstate & Highway
- River & Creeks
- City Limits
- Potential Growth Areas
- Incorporated Places
- County Boundary

## Future Land Use

- Conservation Development
- Suburban Residential Core
- Urban Residential Core
- Mixed Residential
- Multi-Family Residential
- Mixed Use Development
- Urban Mixed Use Development
- Commercial / Office
- Office / Light Industrial
- Industrial Core
- Parks and Recreation
- Public and Institutional

## FUTURE LAND USE MAP

These images are extracted from Map 8: Future Land Use on Pages 53-54 of the Plan, with illustrative emphasis added.



## Envision Wheeling: Community Plan

### Suburban Residential Core

Wheeling has a number of well-established neighborhoods that were built over the course of the city's history. Some, like Center Wheeling and North Wheeling, are examples of the oldest neighborhoods that grew outwards from downtown. Others, like Woodsdale, Park View, and Elm Grove developed later in Wheeling's history and are examples of more suburban development styles albeit, with some historic context.



The areas that are designated as suburban residential core in the future land use plan should continue "as is" with the primary use being single-family residential uses at low to moderate densities reflecting the existing neighborhoods. While single-family uses will continue to be the predominant land use, there are areas where multi-family residential uses and commercial or offices uses may be appropriate.

From Page 56



## EXHIBIT 3 – COMPREHENSIVE PLAN CONSISTENCY

### *Envision Wheeling: Community Plan*

#### Commercial and Offices Uses in the Suburban Residential Core Areas

The city should allow for the continuation of existing commercial and office uses, particularly where they provide a needed service to the neighborhood such as a grocery store or medical office. New commercial and offices uses within the residential areas should be discouraged to protect the residential nature of these neighborhoods.

*From Page 57*

#### **Commercial and Office**

The commercial and office land use category covers areas of the city that would be appropriate for commercial retail, office, and service uses that cater to both the local and regional market. The areas typically lie along major road corridors or at key intersections where there are high volumes of traffic. General commercial uses are the primary shopping locations for the community and include, but are not limited to, grocery stores, wholesale clubs, large-scale general retail, discount department stores, specialty retail, restaurants, banks and gas stations. The heavy retail focus of these areas makes them primarily auto oriented. However, this plan strongly encourages development that establishes pedestrian access between nonresidential buildings and surrounding residential development.



*From Page 61*

**SEE FOLLOWING PAGES**



PETITION FOR ZONING AMENDMENT  
CITY OF WHEELING, WEST VIRGINIA

The undersigned, representing owner(s) of 50 percent or more of the following legally described property, hereby petition the Council of the City of Wheeling for consideration of change in zoning district classification as specified below:

- 1. Address or Location: 842 National Road, Wheeling, WV 26003
- 2. Legal Description: 10-W39-195, 10-W39-196, 10-W39-197, 10-W39-198  
 Subdivision Name: \_\_\_\_\_ Lot No. 195, 196, 197, 198
- 3. Existing Use: Commercial
- 4. Present Zoning District: R1A
- 5. Proposed Use: Commercial
- 6. Proposed Zoning District: C2

7. Supporting Information:

- a. Attach a vicinity map showing the property and plans
- b. Attach a letter of transmittal outlining request
- c. Application Fee (\$100.00) Payable to: City of Wheeling

8. Person Originating Petition:

- a. Name: Kellbenn Inc.
- b. Address: 1144 Market St, Suite 101, Wheeling WV, 26003
- c. Phone: 304 242 3220 Date: 10/20/2022

9. Signature(s) of Owners

Address of Owners

Cat J. [Signature] for Kellbenn, Inc.  
 \_\_\_\_\_  
 \_\_\_\_\_

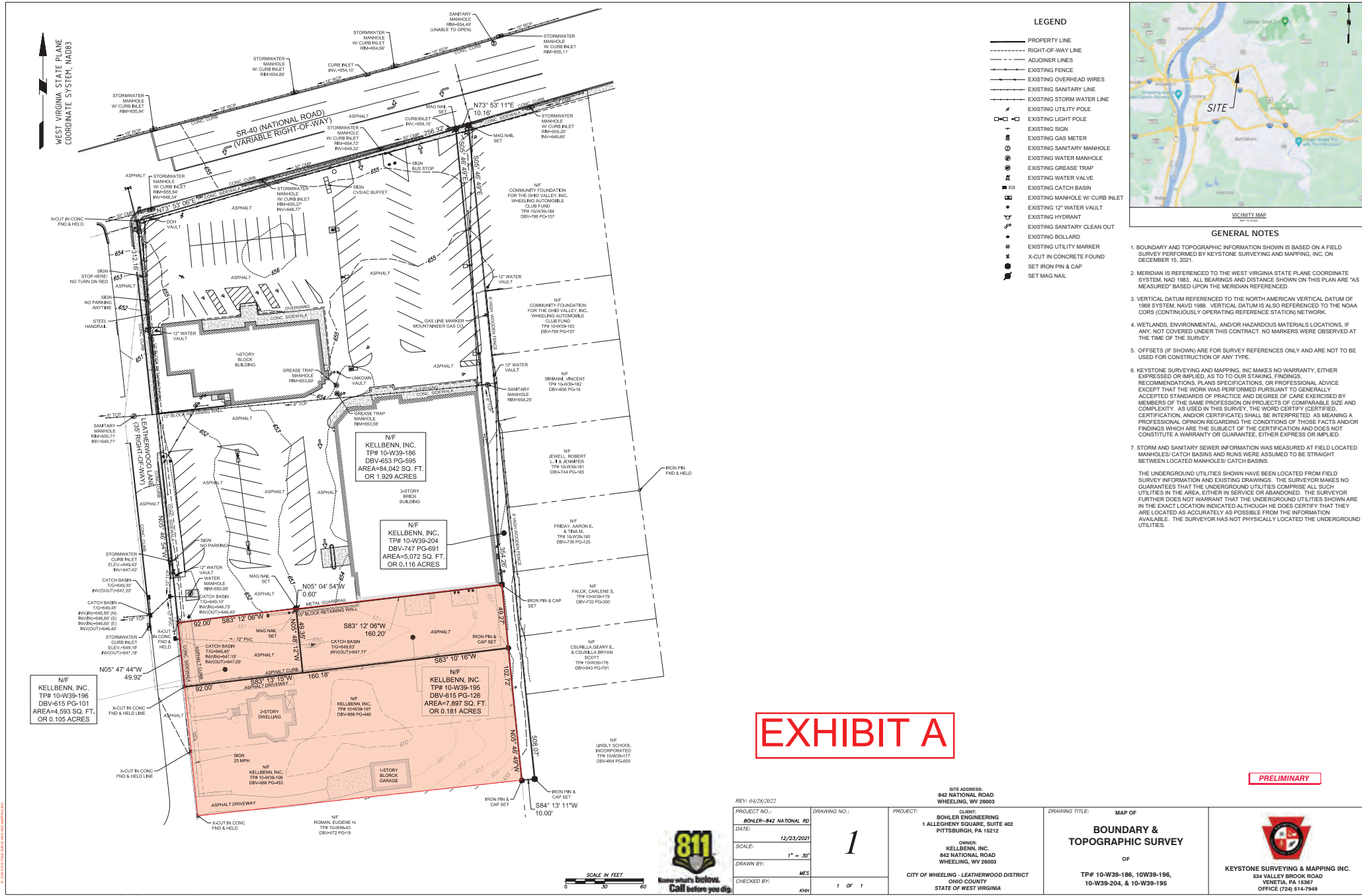
Dated Filed: \_\_\_\_\_ Date of Notice in Newspaper: \_\_\_\_\_

## LETTER OF INTENT REZONING CLASSIFICATION REQUEST

Kellbenn Inc. (the "Owner") requests a rezoning classification of four (4) existing parcels located at 843 National Road (Tax Parcel Numbers: 10-W39-195, 10-W39-196, 10-W39-197, 10-W39-198,) (the Properties) from the R-1A Residential – Single Family District to the C-2 General Commercial District to modify the conditions of zoning pertaining to the properties to allow for future redevelopment. Exhibit A, Boundary & Topographic Survey, is provided to highlight the subject properties.

The subject properties, Tax Parcel Numbers: 10-W39-195 and 10-W39-196, are currently used for commercial purposes as it serves as access from Leatherwood Lane to the commercial shopping center, which includes an existing CVS and vacant structure that was previously deemed a restaurant use. The remaining subject properties, Tax Parcel Number: 10-W39-197 and 10-W39-198, are currently residential uses which includes a 2-story single-family dwelling and 1-story garage accessory structure.

The Owner proposes to rezone the subject properties to accommodate for future site improvements to the existing shopping center. The proposed development plan of the shopping center is to provide a mixed-use structure including retail and restaurant use in place of the existing vacant restaurant and to improve the following: pavement and drainage conditions, parking configuration and vehicle circulation, site photometrics, landscaping, and utilities.



**LEGEND**

- PROPERTY LINE
- - - RIGHT-OF-WAY LINE
- - - ADJOINER LINES
- - - EXISTING FENCE
- - - EXISTING OVERHEAD WIRES
- - - EXISTING SANITARY LINE
- - - EXISTING STORM WATER LINE
- - - EXISTING UTILITY POLE
- EXISTING LIGHT POLE
- ⊕ EXISTING SIGN
- ⊕ EXISTING GAS METER
- ⊕ EXISTING SANITARY MANHOLE
- ⊕ EXISTING WATER MANHOLE
- ⊕ EXISTING GREASE TRAP
- ⊕ EXISTING WATER VALVE
- ⊕ EXISTING CATCH BASIN
- ⊕ EXISTING 12" WATER VAULT
- ⊕ EXISTING HYDRANT
- ⊕ EXISTING SANITARY CLEAN OUT
- ⊕ EXISTING BOLLARD
- ⊕ EXISTING UTILITY MARKER
- ⊕ X-CUT IN CONCRETE FOUND
- ⊕ SET IRON PIN & CAP
- ⊕ SET MAG NAIL



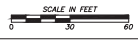
**GENERAL NOTES**

1. BOUNDARY AND TOPOGRAPHIC INFORMATION SHOWN IS BASED ON A FIELD SURVEY PERFORMED BY KEYSTONE SURVEYING AND MAPPING, INC. ON DECEMBER 15, 2021.
  2. MERIDIAN IS REFERENCED TO THE WEST VIRGINIA STATE PLANE COORDINATE SYSTEM NAD 1983. ALL BEARINGS AND DISTANCE SHOWN ON THIS PLAN ARE "AS MEASURED" BASED UPON THE MERIDIAN REFERENCED.
  3. VERTICAL DATUM REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 SYSTEM, NAVD 1988. VERTICAL DATUM IS ALSO REFERENCED TO THE NOAA CORRS (CONTINUOUSLY OPERATING REFERENCE STATION) NETWORK.
  4. WETLANDS, ENVIRONMENTAL, AND/OR HAZARDOUS MATERIALS LOCATIONS, IF ANY, NOT COVERED UNDER THIS CONTRACT. NO MARKERS WERE OBSERVED AT THE TIME OF THE SURVEY.
  5. OFFSETS (IF SHOWN) ARE FOR SURVEY REFERENCES ONLY AND ARE NOT TO BE USED FOR CONSTRUCTION OF ANY TYPE.
  6. KEYSTONE SURVEYING AND MAPPING, INC. MAKES NO WARRANTY, EITHER EXPRESSED OR IMPLIED, AS TO OUR STAKING, FINDINGS, RECOMMENDATIONS, PLANS SPECIFICATIONS, OR PROFESSIONAL ADVICE EXCEPT THAT THE WORK WAS PERFORMED PURSUANT TO GENERALLY ACCEPTED STANDARDS OF PRACTICE AND DEGREE OF CARE EXERCISED BY MEMBERS OF THE SAME PROFESSION ON PROJECTS OF COMPARABLE SIZE AND COMPLEXITY, AS USED IN THIS SURVEY. THE WORD CERTIFY CERTIFIED, CERTIFICATION, AND/OR CERTIFICATED SHALL BE INTERPRETED AS MEANING A PROFESSIONAL OPINION REGARDING THE CONDITIONS OF THOSE FACTS AND/OR FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EITHER EXPRESS OR IMPLIED.
  7. STORM AND SANITARY SEWER INFORMATION WAS MEASURED AT FIELD LOCATED MANHOLES/ CATCH BASINS AND RUNS WERE ASSUMED TO BE STRAIGHT BETWEEN LOCATED MANHOLES/ CATCH BASINS.
- THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS. THE SURVEYOR MAKES NO GUARANTEES THAT THE UNDERGROUND UTILITIES COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

**EXHIBIT A**

PRELIMINARY

REV: 04/28/2022	7816 ADDRESS: 842 NATIONAL ROAD WHEELING, WV 26003	DRAWING TITLE: MAP OF <b>BOUNDARY &amp; TOPOGRAPHIC SURVEY</b> OF TP# 10-W39-186, 10W39-196, 10-W39-204, & 10-W39-195
PROJECT NO.: <b>BOHLER-842 NATIONAL RD</b>	CLIENT: <b>BOHLER ENGINEERING</b> 1 ALLEGHENY SQUARE, SUITE 402 PITTSBURGH, PA 15212	DRAWN BY: MES
DATE: 12/23/2021	OWNER: <b>KELBENN, INC.</b> 842 NATIONAL ROAD WHEELING, WV 26003	CHECKED BY: RHH
SCALE: 1" = 30'	CITY OF WHEELING - LEATHERWOOD DISTRICT OHIO COUNTY STATE OF WEST VIRGINIA	DATE: 1 OF 1



THIS DEED, Made this 28th day of September, 1983,  
by and between FRED J. LUNAU and BETTY J. LUNAU, his wife, of  
Wheeling, Ohio County, West Virginia, parties of the first  
part, and KELLBENN, INC., an Ohio Corporation, party of the  
second part.

WITNESSETH, That for and in consideration of the sum of  
Ten Dollars (\$10.00) and other good and valuable consideration,  
the receipt of which is hereby acknowledged, the said parties  
of the first part do hereby grant and convey, with covenant of  
GENERAL WARRANTY, unto the party of the second part, the follow-  
ing described lot or parcel of land situate on the easterly side  
of Leatherwood Lane, City of Wheeling, Triadelphia District,  
Ohio County, West Virginia and comprising the westerly part of  
Lot Numbered 9, as shown and designated on the Plat of a Sub-  
division of Lots, Streets and Alleys, made by Louis Lunsford,  
and recorded in the office of the Clerk of the County Court of  
Ohio County, West Virginia in Deed Book 69, at page 243, and  
being more particularly bounded and described as follows:

Beginning at a cross cut in the concrete sidewalk,  
along the easterly side of Leatherwood Lane, said cross  
being at the intersection of the easterly line of said  
Leatherwood Lane with the division line between Lots 8  
and 9, as shown on said Plat; thence from said beginning  
cross, and with said division line between Lots 8 and 9,  
N. 83° 28' E. 92 feet to a stake; thence leaving said  
division line and crossing through said Lot 9 S. 05° 30'  
E. 50 feet to a stake in the division line between said  
Lot 9 and 10, thence with said last mentioned division  
line between Lots 9 and 10, S. 83° 28' W. 92 feet to a  
point in the said easterly line of Leatherwood Lane;  
thence leaving said last mentioned division line and  
with said easterly line of Leatherwood Lane, N. 05° 30'  
W. 50 feet to the place of beginning, as the same was  
surveyed by Stegman & Schellhase, Inc., Civil Engineers  
and Surveyors, July, 1956.

BEING a part of the same property conveyed to the parties  
of the first part by Deed of Lawrence H. Wells, and Sarah  
S. Wells, his wife, dated the 1st day of August,  
1956, and intended for record in the office of the Clerk  
of the County Court of Ohio County, West Virginia, in  
Deed Book 382, at page 261.

There is also granted to the party of the second part



Ohio County Deed Book 615

BOOK 615 PAGE 102

hereto the right to use, renew, replace and maintain the present sewer as the same is now located leading from the parcel of land hereinbefore described, through other lands now owned by the parties of the first part hereto, the said sewer is to be used in common by all parties hereto, their tenants, agents, heirs, executors, administrators and assigns.

There is excepted and reserved from the above described parcel the right for the parties of the first part hereto, their tenants, heirs, executors, administrators and assigns to use, renew, replace and maintain the water lines, gas lines, and any other utilities, as the same are now located, leading from other lands now owned by the parties of the first part hereto through the above described parcel.

There is also excepted and reserved from the above described parcel a right of way for ingress and egress over the above described parcel at or near the southerly line of same, said right of way is for pedestrian use only and is to be used on common by both parties hereto, their tenants, agents, heirs, executors, administrators and assigns.

The Grantors, under penalties prescribed by statute of the State of West Virginia, hereby represent that the consideration paid for the property hereinabove described is \$55,000.00.

WITNESS the following signatures and seals:

Fred J. Lunau (SEAL)

Betty J. Lunau (SEAL)

STATE OF WEST VIRGINIA, COUNTY OF OHIO, TO-WIT:

I, Charles L. Ihlenfeld, a Notary Public of the aforesaid State and County, do certify that FRED J. LUNAU and BETTY J. LUNAU, his wife, whose names are signed to the writing above, bearing date the 28th day of September, 1983, have this day acknowledged the same before me in my said County.

Given under my hand this 28th day of September, 1983.

Charles L. Ihlenfeld  
NOTARY PUBLIC of, in and for Ohio  
County, West Virginia.

My Commission Expires:  
November 7, 1985.

This instrument was prepared by:

- 2. -

CHARLES L. IHLENFELD  
ATTORNEY AT LAW  
411 BOARD OF TRADE BLDG.  
WHEELING W.VA. 26003

Verified Sales Listing Form and Declaration Of Consideration or Value

West Virginia Code § 11-22-6(1983)

- 1. Source of Grantor's Title: (A) If by deed - Grantor's name Fred J. Lunau and Betty J. Lunau Grantee's name Kellbenn, Inc. Previous Deed Book No 382 Page No 261 (B) If other than deed - Title acquired by Book No Page No (C) If source of title unknown please provide Legal description

(D) Name of person to whom the property is assessed Fred J. Lunau and Betty J. Lunau

2. Tax Map No W 39 Parcel No 196

3. District or Municipality in which the property of the greater portion thereof lies Leatherwood District

4. Physical address of the property transferred 6 Leatherwood Avenue Wheeling, WV 26003

5. Mailing address of the owner 3626 McColloch Street Wheeling, WV 26003

- 6. Declaration or Consideration of Value: I hereby declare: (A) The total consideration paid for the property conveyed by the document to which this declaration is appended is \$55,000.00 (B) To the best of my knowledge and belief, the true and actual value of the property transferred by the document to which this declaration is appended is \$ (C) The proportion of all the property included in the document to which this declaration is appended which is real property located in W. Va. is %; the value of all the property \$; the value of real estate in W. Va. is (D) This deed conveys real estate located in more than one county in W. Va.; the total consideration paid for, or actual cash value of, all the real estate located in W. Va. conveyed by this document is \$; and documentary stamps showing payment of all the excise tax on all of said real estate are attached to an executed counterpart of this deed recorded in County. (E) The transfer involved in the document to which this declaration is appended is exempt from the payment of the excise of transferring real estate for the reason designated as follows:

7. Does the consideration declared include any personal property? (A) YES x NO (B) If yes, what is the value of the personal property \$

8. Extraordinary financing arrangements which would materially affect the price paid making said price significantly different from normal and usual price paid: N/A

9. If the property conveyed is a part of a larger tract with improvements thereon which tract includes the improvements?\* N/A

Property transferred by this document Residue

10. Parcel described in this deed to be used exclusively for owner occupied residential purposes\*: N/A YES or NO

Given under my hand this 28th day of September, 19 83.

Signed James D. McDermott, Esq. Grantor-Grantee-Person Presenting For Recordation Firm McDermott & Bonenberger, 53 Washington Ave., Wheeling, WV

\*Optional information

To be completed by Clerk after recording: Stamp Fee Paid YES NO New Deed Book No. 615 Page No. 101



West Virginia, Ohio County, Sct:

I, Chester W. Kloss, Clerk of the County Commission of said County, do certify that the foregoing writing, bearing the date on the 28th day of September, 1983 with the Certificate of Acknowledgement thereto, was presented for and by me admitted to record in my office as to the parties therein named this 28 day of September, 1983 at 12:08 P.M.

Teste:

Chester W. Kloss Clerk

Mailed To: Fred Dittmar, 547 Fulton St., Whg., W. Va. Sept. 29, 1983

STATE OF WEST VIRGINIA

\$3600.00

COUNTY OF OHIO INTERMENT DEED NO. 1984

THIS INTERMENT DEED made this 3RD day of DECEMBER, 1982, by and between

PARK VIEW MEMORIAL GARDENS, INC.

a CEMETERY corporation, (hereinafter "Grantor"), and

FRED W. DITTMAR & DEBRA MARIE KITTLE

of 547 FULTON STREET WHEELING, W.VA. (hereinafter "Grantee").

WITNESSETH:

For and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged by Grantor, Grantor does hereby grant and convey unto Grantee, his or her heirs, assigns, and personal representatives the right of interment and sepulture in the following described parcel of land

lying and being in the cemetery known as PARK VIEW MEMORIAL GARDENS, INC. in the City

of WHEELING, County of OHIO, State of WEST VIRGINIA

and being more particularly described as follows:

TEMPLE OF ALL FAITHS UNIT #1, TIER N LEVEL 3 SEC. 905

as shown on the maps and plats of said cemetery on file in the principal office and place of business of the party of the first part.

TO HAVE AND TO HOLD the same to the said party of the second part, his or her heirs, assigns and personal representatives, forever for the sole and singular purpose of the interment of human bodies and for no other purpose whatsoever, subject to the following conditions:

- (a) No monument, memorials, vault, marker, fence, coping, mounds, mausoleum or other structures extending above the surface of the ground shall ever be erected; or any shrubbery, plants, trees, flowers be planted on the property in which the interment rights are hereby granted, without the written consent of Grantor, except should the conveyance be for mausoleum sites or woodland garden burial estates, then and in that event, Grantee agrees to abide by and conform to the specific rules and regulations governing such property. All grading, landscaping, foundation work and improvements of any kind, and all care on the above described property shall be done, and all trees and plants of any kind shall be planted, trimmed or removed, and all interments, disinterments and removals including all openings and closing of graves, shall be made only by Grantor with its equipment. All memorial markers, whether individual, companion or family, including corner section markers, shall be of bronze and shall be set level with the surface of the ground, and they shall be of such dimensions and constructed and composed of such materials as designated by Grantor. No other memorial marker or memorial of any kind shall be placed without the written consent and approval of Grantor.
(b) Grantor, at the expense of Grantee and as a charge against the above described property, may bring to grade any sunken graves, and may remove any tree, flower or plant, or other object or embellishment that becomes unsightly or dangerous.
(c) Grantor shall not be liable for loss or damage caused by an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, unavoidable accidents, riot or order of any military or civil authority.
(d) No sale, transfer, conveyance or assignment of any interest or rights acquired by Grantee in above described lot, or any part thereof, shall be valid without the written consent of Grantor and being thereafter recorded on its books.
(e) The enumeration herein of certain conditions, reservations, restrictions and rules and regulations shall not be considered as the only limitations, but Grantee shall always hold all his interest and rights limited by and subject to the rules and regulations and by-laws of Grantor now existing or which may be by it hereafter adopted either by amendment alteration or the adoption of new ones. These rules and regulations are on file for inspection in Grantor's office and are specifically referred to and herein inserted as if set forth in full.

West Virginia, Ohio County, Set:

I, Chester W. Kloss, Clerk of the County Commission of said County, do certify that the foregoing writing, bearing the date on the 14th day of September 19 83 with the Certificate S of Acknowledgement thereto, was presented for and by me admitted to record in my office as to the party therein named this 29 day of September 19 83 at 10:23 A.M.

Teste:

*Chester W. Kloss*  
Clerk of County Commission

Returned To: James McDermott, 53 Washington Ave., Whg., W. Va.  
Sept. 30, 1983

THIS DEED, made this 28th day of September, 1983, by and between PAUL F. WELLS, Party of the First Part, and KELLBENN, INC., an Ohio corporation, Party of the Second Part.

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the Party of the First Part does hereby GRANT, SELL and CONVEY unto the Party of the Second Part, with covenant of GENERAL WARRANTY, the following described property, that is to say:

The following described property situated in Leatherwood, Triadelphia District, Ohio County, West Virginia, and being Lot Numbered Nine (9) as the same is shown and defined on the Plat of a subdivision of lots, streets and alleys made by Louis Lunsford and recorded in the office of the Clerk of the County Court of Ohio County, West Virginia, in Deed Book No. 69 at page 243, said Lot Numbered Nine (9) being located between Lots Numbered Eight (8) and Ten (10) of said Addition and fronts fifty (50) feet on Leatherwood Avenue and extends back of even width a distance of two hundred and fifty-two (252) feet to a 10 foot alley in the rear thereof, together with all the improvements, appurtenances and hereditaments thereunto belonging.

There are excepted and reserved from the aforesaid parcel of real estate, the conveyance of Lawrence H. Wells and Sara S. Wells, his wife, to Fred J. Lunau and Betty J. Lunau, his wife, by deed dated the 1st day of August, 1956, and recorded in the office of the Clerk of the County Court of Ohio County, West Virginia, in Deed Book 382, at page 261, and the conveyance of Lawrence H. Wells and Sara S. Wells, his wife, to H. S. W. Company, a corporation, by deed dated the 15th day of April, 1957, and recorded in the office of the Clerk of the County Court of Ohio County, West Virginia, in Deed Book 389 at page 440.

Being the same property conveyed to Paul F. Wells by Lawrence H. Wells and Sara S. Wells, his wife, by a deed dated the 14th day of February, 1980, and recorded in the Office of the Clerk of the County Court of Ohio County, West Virginia, in Deed Book 595 at page 181.

Copyright, Ohio County WV, all rights reserved

-Under the penalties of fine and imprisonment as provided by law, the Grantor herein hereby declares that the true and actual consideration for the foregoing conveyance is TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00).

WITNESS my signature and seal:

Paul F. Wells (SEAL)  
PAUL F. WELLS

STATE OF WEST VIRGINIA,  
COUNTY OF OHIO, to-wit:

I, James V. McDermott, a Notary Public of the said County of Ohio, do certify that PAUL F. WELLS, whose name is signed to the writing above, bearing date the 28<sup>th</sup> day of September, 1983, has this day acknowledged the same before me in my said County.

Given under my hand this 28<sup>th</sup> day of September, 1983.

James V. McDermott  
Notary Public of, in and for  
Ohio County, West Virginia

MY COMMISSION EXPIRES:

Aug. 1, 1990



This instrument was prepared by:

A. DANA KAHLE  
Attorney at Law  
39 Fifteenth Street  
Wheeling, WV 26003

Verified Sales Listing Form and Declaration  
Of Consideration or Value

West Virginia Code § 11-22-6(1983)

1. Source of Grantor's Title:
    - (A) If by deed -
      - Grantor's name Paul F. Wells
      - Grantee's name Kellbenn, Inc.
      - Previous Deed Book No 595 Page No 181
    - (B) If other than deed - Title acquired by \_\_\_\_\_  
Book No \_\_\_\_\_ Page No \_\_\_\_\_
    - (C) If source of title unknown please provide Legal description \_\_\_\_\_  
\_\_\_\_\_
    - (D) Name of person to whom the property is assessed Paul F. Wells
  
  2. Tax Map No W 39 Parcel No 195
  3. District or Municipality in which the property of the greater portion thereof lies  
Leatherwood District
  4. Physical address of the property transferred 6 1/2 Leatherwood Avenue  
Wheeling, WV 26003
  5. Mailing address of the owner 3626 McColloch Street  
Wheeling, WV 26003
  6. Declaration or Consideration of Value: I hereby declare:
    - (A) The total consideration paid for the property conveyed by the document to which this declaration is appended is \$ 25,000.00
    - (B) To the best of my knowledge and belief, the true and actual value of the property transferred by the document to which this declaration is appended is \$ \_\_\_\_\_
    - (C) The proportion of all the property included in the document to which this declaration is appended which is real property located in W. Va. is \_\_\_\_\_%; the value of all the property \$ \_\_\_\_\_; the value of real estate in W. Va. is \_\_\_\_\_
    - (D) This deed conveys real estate located in more than one county in W. Va.; the total consideration paid for, or actual cash value of, all the real estate located in W. Va. conveyed by this document is \$ \_\_\_\_\_; and documentary stamps showing payment of all the excise tax on all of said real estate are attached to an executed counterpart of this deed recorded in \_\_\_\_\_ County.
    - (E) The transfer involved in the document to which this declaration is appended is exempt from the payment of the excise of transferring real estate for the reason designated as follows:  
\_\_\_\_\_  
\_\_\_\_\_
  
  7. Does the consideration declared include any personal property?  
(A) YES  NO
  - (B) If yes, what is the value of the personal property \$ \_\_\_\_\_
  8. Extraordinary financing arrangements which would materially affect the price paid making said price significantly different from normal and usual price paid:  
N/A
  
  9. If the property conveyed is a part of a larger tract with improvements thereon which tract includes the improvements?\* N/A  
\_\_\_\_\_ Property transferred by this document  
\_\_\_\_\_ Residue
  10. Parcel \_\_\_\_\_ described in this deed to be used exclusively for owner occupied residential purposes\*: N/A  
\_\_\_\_\_ YES or \_\_\_\_\_ NO
- Given under my hand this 29th day of September, 1983 .  
Signed James D. McDermott  
Grantor-Grantee-Person Presenting For Recordation  
James D. McDermott, Esq.  
Firm McDermott & Bonenberger, 53 Washington Avenue, Wheeling, WV

\*Optional information

To be completed by Clerk after recording:  
Stamp Fee Paid YES  NO   
New Deed Book No. 615 Page No. 128

West Virginia, Ohio County, Set:

I, Chester W. Kloss, Clerk of the County Commission of said County, do certify that the foregoing writing, bearing the date on the 28th day of September 1983 with the Certificate of Acknowledgement thereto, was presented for and by me admitted to record in my office as to the party therein named this 29 day of September 1983 at 11:26 A.M.

Teste:

Chester W. Kloss
Clerk of County Commission

Returned To: James Byrum, Jr., Central Un. Bldg., Whg., W. Va.
Sept. 30, 1983

THIS DEED, Made this 27th day of September, 1983, by and between JOHN G. MOSES and SOPHIA K. MOSES, his wife, of Wheeling, Ohio County, West Virginia, parties of the first part, and NEW NEIGHBORHOODS, INC., a West Virginia not-for-profit corporation, party of the second part.

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations, the receipt of which is hereby acknowledged, the said parties of first part do grant and convey unto the said party of the second part, the following described property, known more commonly as "38 - 13th Street," that is to say:

A part of lot numbered ten (10) in square numbered twenty-four (24) in the Bellair Addition to the City of Wheeling, in Ohio County, West Virginia, and more fully described as follows: Beginning at the northwest corner of said lot numbered ten (10); thence eastwardly bending on the north line of said lot, thirty-five (35) feet; thence southwardly parallel with the west line of that part of said lot, fifty-one (51) feet, more or less, to the north line of that part of said lot conveyed by William Exley and wife to James Pryor, by deed dated the 12th day of December, 1850, and recorded in the Office of the Clerk of the County Commission of Ohio County, West Virginia, in Deed Book 34, at page 310; thence westwardly bending on said Pryor's north line thirty-five (35) feet to the west line of said lot; thence northwardly binding on said west line to the place of beginning, together with all and singular the improvements and hereditaments and appurtenances belonging thereto.

BEING the same property conveyed to John G. Moses and Sophie Moses, his wife, as joint tenants with right of survivorship, by Deed of James H. Lewis and Alice D. Lewis, his wife, dated April 1, 1972 and recorded in the Office of the Clerk of the County Commission of Ohio County, West Virginia, in Deed Book 533, at page 22.

THIS DEED, Made this 30th day of March, 1990, by and between THE OHIO COUNTY COMMISSION OF OHIO COUNTY, WEST VIRGINIA, party of the first part, and KELLBENN, INC., an Ohio corporation authorized to do business in West Virginia, party of the second part.

WITNESSETH: That for and in consideration of the sum of One Hundred Dollars (\$100.00), and other good and valuable considerations, the receipt of which is hereby acknowledged, the said party of the first part does hereby GRANT and CONVEY, with covenant of General Warranty, unto the said party of the second part, the following described tract of land, together with all improvements situate thereon and appurtenances thereunto belonging, situate on the southerly side of National Road (U. S. Route No. 40) and the easterly side of Leatherwood Lane, City of Wheeling, Triadelphia District, Ohio County, West Virginia and comprising all of Lots 1, 2, 3, 4, 5, 6, 7, 8 and part of Lot 9 and all of an unnamed lane as shown on the Plat of Lewis Lunsfords Addition, said plat being recorded in the Office of the Clerk of the County Court of Ohio County, West Virginia in Deed Book 69, at page 243 and being more particularly bounded and described as follows:

Beginning at a point in the southerly line of National Road (U. S. Route No. 40) at its intersection with the easterly line of Leatherwood Lane, at the most westerly corner of Lot No. 1, as shown on said Plat of Lewis Lunsfords Addition; thence from said beginning point with said southerly line of the National Road, N. 73° 28' E. 256 and 32/100 feet to a point in the westerly line of a ten (10) feet wide lane at the most northerly corner of Lot No. 5; thence leaving said southerly line of National Road and with the westerly line of the said ten (10) feet wide lane, S. 06° 12' E. (at 353 and 81/100 feet passing a concrete monument at the division line between Lots No. 8 and 9) 354 and 41/100 feet to a point; thence leaving said westerly line of the ten (10) feet wide lane and crossing through said Lot No. 9 the following two (2) bearings and distances: S. 82° 47' W. 160 and 2/10 feet to a point; thence N. 05° 30' W. 0 and 6/10 feet to a point in the division line between Lots No. 8 and No. 9; thence with said division line, S. 82° 47' W. 92 feet to a point in the aforesaid easterly line of Leatherwood Lane; thence with said easterly line, N. 06° 12' W. 312 and 27/100 feet to the place of beginning, containing 84,078

BOOK 653 PAGE 596

Square Feet at the same was calculated by Stegman & Schellhase, Inc., Civil Engineers and Surveyors.

The above described tract of land being subject to (1) any and all conditions, exceptions, reservations, stipulations, rights of way, etc., as may be contained in former deeds of conveyance and (2) the leases and rights of lessees, tenants and occupants of the aforesaid premises.

The real estate hereby conveyed constitutes the same property that was conveyed to The Ohio County Commission by Kellbenn, Inc. by deed dated September 30, 1982, and recorded in the office of the Clerk of the County Court of Ohio County, West Virginia, in Deed Book 608, at page 174.

The aforesaid deed was made and executed pursuant to the terms and provisions of (1) that certain resolution designated Bond Resolution, \$1,100,000 Commercial Development Bonds, (1982 Kellbenn, Inc. Commercial Project), which was adopted by The Ohio County Commission on September 28, 1982, and (2) that certain Amendment Number One (1) to Bond Resolution \$1,100,000 Commercial Development Bonds (1982 Kellbenn, Inc. Commercial Project, which was adopted by The Ohio County Commission on April 17, 1984; (3) that certain lease dated September 30, 1982, which was made and entered into by and between The Ohio County Commission and KELLBENN, INC. pursuant to the said bond resolution and (4) that certain Amendment to Lease Dated September 30, 1982 dated April 17, 1984 which was made and entered into by and between The Ohio County Commission and Kellbenn, Inc., pursuant to said Amendment Number One (1) to said bond resolution. The provisions of the aforesaid Bond Resolution, Amendment Number One (1) to Bond Resolution, lease and Amendment to lease have been complied with and satisfied in full by the payment of the bonds and interest thereon.

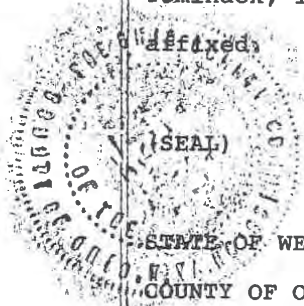
The property conveyed hereby was subject to a statutory mortgage lien in favor of The Ohio County Commission and the purchasers of certain Commercial Development Revenue Bonds, which statutory mortgage lien was created by said Bond Resolution issued by The Ohio County Commission and that certain Lease Agreement, under date of September 28, 1982, both of which were recorded in the office of the Clerk of the County Court of Ohio County, West Virginia, in Deed Book 608 at page 213, and Deed Book 608, at page 176, respectively. The said statutory mortgage lien has been released by the payment in full of the bonds and interest thereon. Similarly, the satisfaction of the bonds has resulted in the termination of the lease pursuant to Article XVI of said lease.

BEING the same property conveyed to The Ohio County Commission, Ohio County, West Virginia by Kellbenn, Inc., an Ohio Corporation authorized to do business in West Virginia, by deed dated the 30th day of September, 1982, and recorded in the office of the Clerk of the County Court of Ohio County, West Virginia, in Deed Book 608 at page 174.

Grantor declares that the above described property is

exempt from excise tax on transfers under Section 11-22-1 of the Code of West Virginia being a transfer from a political subdivision of the State of West Virginia

IN WITNESS WHEREOF, the said The Ohio County Commission, a political subdivision and a public corporation of the State of West Virginia, has caused this deed to be signed by John I. Tominack, its President, and its corporate seal to be hereto



THE OHIO COUNTY COMMISSION

By John I. Tominack  
Its President

STATE OF WEST VIRGINIA,  
COUNTY OF OHIO, TO-WIT:

I, James D. McDermott, a Notary Public of said County and State, do hereby certify that John I. Tominack, who signed the foregoing writing bearing date the 30th day of March, 1990, for The Ohio County Commission, has this day acknowledged the same before me in my said County.

Given under my hand this 17<sup>th</sup> day of April, 1990.

James D. McDermott  
Notary Public of, in and for  
Ohio County, West Virginia

My Commission Expires:

Aug. 1, 1990

This Instrument Prepared By:

JAMES D. McDERMOTT, ESQUIRE  
McDermott, Bonenberger & Stimmel  
53 Washington Avenue  
Wheeling, WV 26003

State of West Virginia, County of Ohio, to-wit:

I, Chester W. Kloss, Clerk of the County Commission of said County, do certify that the foregoing document was admitted to record in this office on the 18 day of April, 1990 at 12:14 pm

Chester W. Kloss  
Clerk of County Commission

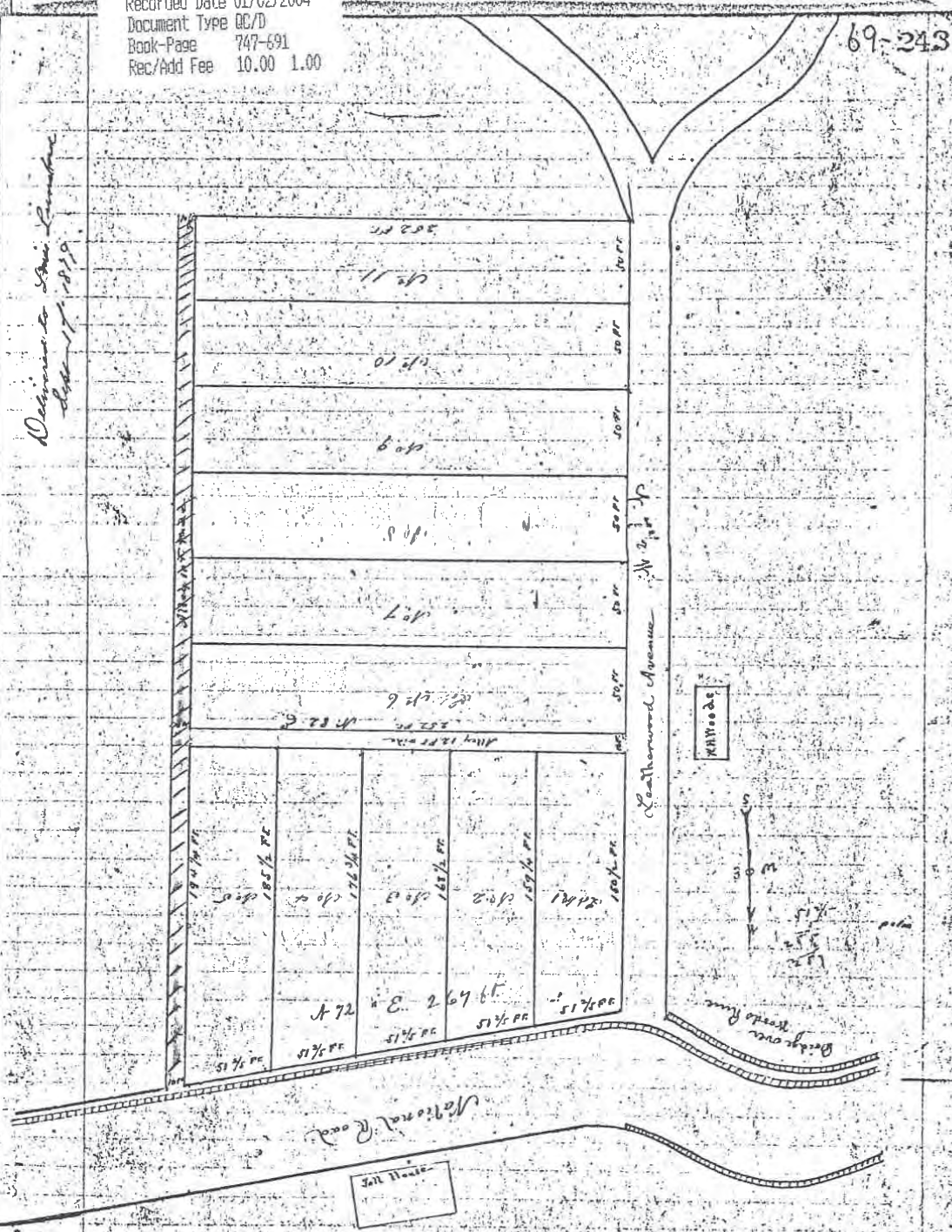


CHESTER W KLOSS  
OHIO County 04:09:45 PM  
Instrument No 1576923  
Recorded Date 01/02/2004  
Document Type DC/D  
Book-Page 747-691  
Rec/Add Fee 10.00 1.00

69-243

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Tuplar  
H.S.  
Tuplar  
good  
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1879  
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1879  
1879

Delivered to Sam Lunsford  
Sept 17 1879



The above plat represents the subdivision into lots, streets and alleys of land lying and being in the villages of Leatherwood, in the County of Pleas, State of West Virginia, which I Lewis Lunsford have present for record.

Witness my signature and seal

Lewis Lunsford, J.C.C.

Acknowledged by Lewis Lunsford on the plat of his subdivision of Leatherwood, and admitted to record this 16<sup>th</sup> day of Sept 1879.  
To wit George Hook Clerk



**APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE FOR THE USE, ERECTION, ALTERATION, OR REPAIR OF A BUILDING OR LAND**

The undersigned applies for a Certificate of Zoning Compliance for the following, said certificate is to be issued on the basis of the information contained within the application. *The applicant hereby certifies that all information and attachments are true and correct.*

- 1. Address of Property: 842 National Rd, Wheeling, WV 26003
- 2. Name of Property Owner: Kellbenn, Inc.
- 3. Name of Applicant: Patrick McDerMott
- 4. Address of Applicant: 1144 Market St., Suite 101, Wheeling, WV 26003
- 5. Applicant Phone: 304-242-3220 Owner Phone: 304-242-3220
- 6. Existing Use: Commercial
- 7. Proposed Use:  Same  Other (describe): CVS to to remain same use; Proposed uses: Restaurant&Retail
- 8. Number of off-street parking spaces to be provided: 87
- 9. Number of off-street loading berths to be provided: 1

**COMPLETE THIS SECTION BELOW FOR THE ERECTION, ALTERATION, OR ADDITION OF A STRUCTURE**

**Type of Improvement:**

- New Building
- Addition
- Alteration / Repair

**Residential:**

Number of existing dwelling units: N/A  
 Number of proposed dwelling units: N/A

**Existing Lot Dimensions:** Width: 256 ft. x Depth: 362 ft. = lot area: 92,672 sq.ft.

**Existing Principal Building:**

Dimensions: Width: 120 ft. x Depth: 63 ft. = Total first floor area, including covered porches: 7,760 sq. ft.  
 Setbacks: Front: 80 ft. ~~Rear:~~ 7.5 ft. Side: 117 ft. Other Side: 212 ft. Height/Stories: 1  
 Front

**Existing Accessory Building: (garage, carport, shed, pool, etc):**

Dimensions: Width: \_\_\_\_\_ ft. x Depth: \_\_\_\_\_ ft. = Total first floor area, including covered porches: \_\_\_\_\_ sq. ft.  
 Setbacks: Front: \_\_\_\_\_ ft. Rear: \_\_\_\_\_ ft. Side: \_\_\_\_\_ ft. Other Side: \_\_\_\_\_ ft. Height/Stories: \_\_\_\_\_

**Proposed Construction:**

Dimensions: Width: 62 ft. x Depth: 70 ft. = Total first floor area, including covered porches: 4,320 sq. ft.  
 Setbacks: Front: 124 ft. ~~Rear:~~ 19 ft. Side: 163 ft. Other Side: 180 ft. Height/Stories: 1  
 Front

Applicant Signature: *Patrick McDerMott* Date: 11/1/22  
 Owner Signature: *Patrick McDerMott* Date: 11/1/22

Reset Form

Print Form

Rev: 01/27/2015

**FOR OFFICIAL USE ONLY**

1. Zoning District: C-2

2. % Lot Coverage: 8% F. A. R.: \_\_\_\_\_

3. Off street parking spaces provided: 87

4. Off street parking spaces required: 77

Continuation of non-conforming off street parking

5. Property is located in 100 Year Flood Plain:  Yes  No

100 year flood elevation: 659.9 feet

Requires special construction: add 2' freeboard 661.9 floodproofing requirements

6.  Proposed use is permitted

Proposed use is not permitted

Proposed use is a continuation / renewal of a non-conforming use

7. Requires action by the Board of Zoning Appeals:

Proposed construction requires a variance from the Board of Zoning Appeals

Proposed use requires a Conditional Use Permit from the Board of Zoning Appeals

8. Proposed use requires from the Planning Commission:

Special Use Permit

Site Plan Approval

-----  
This Application for Certificate of Zoning Compliance is:

Approved

Denied, Reason for Denial: \_\_\_\_\_

Certificate No: \_\_\_\_\_

Zoning Official Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**SEE FOLLOWING PAGES**



## OFFICIAL AD PROOF

This is the proof of your ad scheduled to run in **The Intelligencer** on the dates indicated below. If changes are needed, please contact us prior to deadline at **(304) 233-0100**.

Notice ID: kbYf4mCzGaLTZFclKwLs | **Proof Updated: Oct. 26, 2022 at 11:18am EDT**  
Notice Name: 842 National Rd | Publisher ID: LC3010

**This is not an invoice. Below is an estimated price, and it is subject to change. You will receive an invoice with the final price upon invoice creation by the publisher.**

FILER	FILING FOR
Brenda Delbert bdelbert@wheelingwv.gov (304) 234-6401	The Intelligencer

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Columns Wide: 1	Ad Class: Legals
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11/04/2022: Other Notice	9.68
Affidavit Fee	3.00

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Subtotal	\$12.68
Tax %	0.00
Processing Fee	\$1.27
<b>Total</b>	<b>\$13.95</b>

### PUBLIC NOTICE

Please take notice that on November 14, 2022, at 5:00 p.m. in City Council Chambers, 1500 Chapline Street, Wheeling, WV 26003, the City of Wheeling Planning Commission will conduct public hearing for 842 National Road to rezone lots 10-W39-195-198 from R1-A to C-2 for proposed mixed use development. If you would like to express your opinion on this matter, you are invited to attend the public hearing or call (304) 234-3601.  
/s/ Brenda J. Delbert  
City Clerk  
Int. Nov 4. 2022

# CITY OF WHEELING



CITY COUNTY BUILDING  
1500 CHAPLINE STREET  
WHEELING, WEST VIRGINIA 26003

BUILDING & PLANNING DEPARTMENT  
Phone (304) 234-3601 | WheelingWV.gov

## NOTICE

Please take notice that the Planning Commission of the City of Wheeling will hold a public hearing on **MONDAY, NOVEMBER 14, 2022, at 5:00 P.M.**, in the City Council Chambers – Room 103 – 1<sup>st</sup> Floor, City-County Building, to consider changing the zoning classification from R-1A Single Family, Low Density to C-2 General Commercial for 842 National Road to rezone lots 10-W39-195-198 in the City of Wheeling to allow for a mixed use development.

If you would like to express your opinion on this matter, you are invited to attend the above-described public hearing. Please contact the Building and Planning Department at (304)-234-3601 with any questions. Thank you.

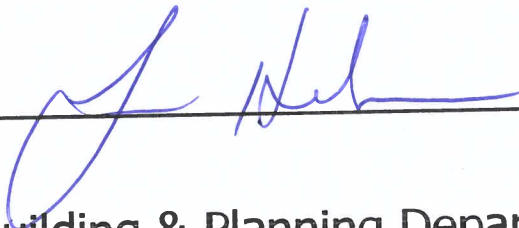
Owner Name	Mailing Street	Mailing City,State,Ztip
404 PARTNERS LLC	808 NATIONAL RD	WHEELING ,WV 26003
E,CSURILLA GEARY & SCOTT,CSURILLA BRYAN	12 HEARNLEE PL	WHEELING ,WV 26003
FALCK,CARLENE S	11 HEARNLEE PL	WHEELING ,WV 26003
FRIDAY,AARON E & TINA M	10 HEARNLEE PL	WHEELING ,WV 26003
KELLBENN INC	53 WASHINGTON AVE	WHEELING ,WV 26003
L,JEWELL ROBERT II & II,JENNIFER	9 HEARNLEE PL	WHEELING ,WV 26003
LINSLY INSTITUTE LINSLY SCHOOL INC THE TR	60 KNOX LN	WHEELING ,WV 26003
LINSLY SCHOOL INCORPORATED	60 KNOX LN	WHEELING ,WV 26003
ROMAN,EUGENE H	18 ROCK POINT RD	WHEELING ,WV 26003
W,KING RONALD & MAY,LINDA	54 KNOX LN	WHEELING ,WV 26003

# NOTICE

## CHANGE IN ZONING CLASSIFICATION PENDING

The City of Wheeling Planning Commission will conduct a public hearing on Monday, November 14, 2022, at 5:00 p.m. in the City Council Chambers – Room 103 – First Floor, City-County Building, to amend the Zoning Classification from R-1A Single Family, Low Density to C-2 General Commercial relative to Lots 10-W39-195-198 in the City of Wheeling. The property is more commonly known as 842 National Road. For the purpose of mixed use development.

City of Wheeling, Building & Planning Department



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Any interested citizen may contact the Building & Planning Department at 304-234-3601.