

# CITY OF WHEELING



CITY COUNTY BUILDING  
1500 CHAPLINE STREET  
WHEELING, WEST VIRGINIA 26003

ECONOMIC & COMMUNITY DEVELOPMENT DEPARTMENT  
Phone (304) 234-3701 | Fax (304) 234-3899 | WheelingWV.gov

August 16, 2019

West Virginia Department of Environmental Protection  
Austin Caperton, Cabinet Secretary  
601 - 57th Street SE  
Charleston, WV 25304

Mr. Caperton:

The City of Wheeling Planning Commission has received an application from Michael Hooper, Esquire on behalf of GC&P Development LLC and their subsidiary, GC&P Aggregates, LLC to amend the Future Land Use Plan found in the City of Wheeling 2014 Comprehensive Plan. As outlined in West Virginia code section 8A-3-6-d, "cities shall request input from other affected governing bodies and units of government when considering a comprehensive plan amendment". The request in front of the Commission is to reclassify the area from the "Conservation Development" category to a category that allows a mix of residential, commercial and institutional uses for the purposes of a large mixed-use development (see Map 6). In order to accommodate the development, approximately 9 million cubic yards of material lowering the average height of the hill by 100' will need to be removed/relocated to create a 50+ acre plus pad (Exhibit 4c). The attached correspondence (exhibit 5) states geotechnical analysis and necessary core drillings have been obtained and analyzed establishing the stability and the viability of the site to support the development. Exhibit 7 is a feasibility letter from the DEP regarding the conceptual grading plan, but does not mention the quarrying component.

Based upon the above information and the fact the Director of the Division of Environmental Protection is vested with jurisdiction over all aspects of quarrying (§22-4-4), I am requesting general comments as well as comments as they relate to West Virginia State Code Chapter 22 Environmental Resources Article 4 Quarry Reclamation Act and specifically sections 22-4-2, 22-4-4, 22-4-6, 22-4-7, 22-4-8, 22-4-17, and 22-4-18.

It would be helpful to have comments prior to the Planning Commission's next meeting on September 9, 2019. A public hearing will be scheduled in the future, possibly as early as October 21, 2019, and the proposed earthwork will be an important component of the review. Please let me know if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "T. Connelly".

Thomas Connelly, AICP  
Assistant Director

Enclosure: July 29, 9019 Correspondence (Exhibit 5)  
March 26, 2019 Correspondence (Exhibit 7)  
Preferred Layout (Exhibit 4c)  
Maps 29C, 30, 31 & 32 (one sheet)  
Exhibits and Maps also available at:<https://www.wheelingwv.gov/gcp>

Cc: Rick Adams, Technical Analyst  
Harold Ward, Deputy Cabinet Secretary, DMR Director  
James "Jeff" Mauck, Chair, Wheeling Planning Commission  
Michael Hooper, Esq. Applicant Representative



OBERMAYER

Obermayer Rebmann Maxwell & Hippel LLP

Michael E. Hooper

Direct Dial: 412-288-2452  
michael.hooper@obermayer.com  
www.obermayer.com  
Admitted in WV and OH

BNY Mellon Center, Suite 5240  
500 Grant Street  
Pittsburgh, PA 15219-2502  
P (412) 566-1500  
F (412) 566-1530

July 29, 2019

VIA HAND DELIVERY

City of Wheeling  
Department of Economic and Community Development  
Planning & Zoning  
City County Building  
1500 Chapline Street  
Wheeling, West Virginia 26003

Attn: Thomas Connelly, AICP  
Assistant Director

Re: Application For Creation of Special Area Plan &  
Comprehensive Plan Amendment  
GC&P Development, LLC

Dear Mr. Connelly:

Our office represents, GC&P Development, LLC (the "Applicant"). For purposes of clarification, GC&P Aggregates, LLC is a wholly owned subsidiary of GC&P Development LLC. GC&P Aggregates, LLC is the General Partner of GACS, LP. By agreement, GC&P Development, LLC, has full authority to take any action deemed desirable or necessary with respect to real estate owned by GACS, LP.

This is our letter of transmittal submitted in conjunction with our Application for the creation of a Special Area Plan and Comprehensive Plan Amendment to accommodate my client's proposed Mixed Use Development of the property detailed herein by the creation of a Special Area Plan and modification and possible amendment of the Future Land Use Map as now found at map 8 of the *Envision Wheeling 2014 Comprehensive Plan* (See Exhibit 2). Please consider this transmittal letter and all exhibits and maps enclosed as part of the Application, all of which are to be incorporated by reference therein.



Correspondence Set 2 - p. 3

Throughout this letter, the *Envision Wheeling 2014 Comprehensive Plan* will hereafter be referred to as the “Plan” and the Future Land Use Map (see Envision map 8 of the Plan) will hereafter be referred to as the “Land Use Map.” The proposed GC&P Development Site, which is comprised of the tax parcels listed at Exhibit 1(a) and 1(b), will hereafter be referred to as the “Site.” The proposed GC&P development will hereafter be referred to as the “Development.”

In this discussion outlining the proposal underlying this request, there are several references to Maps created by the Applicant. Each of these maps is numbered and will be referred to by “Map” and number. Map 1 shows the vicinity and specific location of the Development.

#### Overview of Request and Project; Development Features

Developable land is a very scarce commodity in Wheeling, West Virginia. Wherever it is feasible to find or create developable ground, the City should encourage development to preserve the health and vitality of the City, as well as to keep the City fiscally sound. Because land is such a scarce commodity, it is important that it be used well and to its full potential.

For the above reason, the City created the concept of a Special Area District. The Development meets the requirements of the Special Area District designation. In fact, the Special Area designation was crafted with input from the Applicant to City leaders with the Development in mind.

As the result, the Applicant is proposing to develop the property as the City’s only Mixed Use Village (See Map 6). As such and as more fully detailed below, the Site would consist of a lower pad area, consisting of approximately 4 acres, and an upper pad consisting of approximately 50 - 55 acres upon would include commercial, residential, office, educational and institutional uses all in one comprehensive and fully accessible development.

A very succinct way to describe the Development is that the Applicant proposes a *Mixed Use Village* that will be based on a plan organized around a walkable and environmentally friendly neighborhood, that is community oriented rather than super-regional in scale, where traditional retail, service retail, food & beverage, entertainment, office, institutional, hospitality and dense residential uses are represented as an integrated plan (the “Project”). In this regard, it will provide forms of land use and specific types of use within each land use category referenced above that are not presently available in Wheeling. It will intentionally avoid positioning itself as competitive to Oglebay Park, Downtown Wheeling, The Highlands, or other existing land uses in the Wheeling area.

Exhibit 4(c) (also shown at Map 10) is an artist’s rendering of the details of the Development, showing that, if utilized to its highest and best use, the Project would include restaurants (14,800 square feet), a hotel (62,400 square feet), retail space (137,000 square feet), a fitness center/bowling alley (21,500 square feet), office space (470,200 square feet), a theater (25,500 square feet), and a grocery store (42,250 square feet). The total square footage of the

new commercial buildings will be 773,650 square feet. The Development will also include 88 residential lots along the southern portion.

An important part of the Development is the improvement of traffic flow and safety along WV Route 88. As the result, the proposed entrance to the Development includes material improvement which we reference as the *Oglebay Corridor Improvement Project* which will make a safer and pedestrian friendly road that is certainly more visually appealing than the roads current state. This part of WV Route 88 is a federal turnpike located within City limits. The Applicant and Thrasher Engineering have proposed improvements to the road design in accordance with Federal, State and City specifications and are shown at Maps 16-22. As more fully detailed below, the Oglebay Corridor Improvement Project would be a part of Phase One of the construction.

To accomplish this Project, the Applicant has this day applied for the creation of a Special Area Plan and Comprehensive Plan Amendment to accommodate this Mixed Use Development by the creation of a Special Area Plan and the modification and possible amendment of the Future Land Use Map as now found in the *Envision Wheeling 2014 Comprehensive Plan* (see Envision map 8 of the Plan). As a part of this Project, the Applicant is also requesting that the Land Use Map be modified to remove the Site from the Woodsdale - Edgewood Historic District<sup>1</sup>.

The Applicant is further proposing that the City grant a Special Area District "Conceptual" Site Plan approval of the Mixed Use Village, which would defer any additional site plan submittal requirements, such as impact studies, which are only germane once specific users have been identified for the development at the time of submittal for final Site Plan approval.

The Applicant is further proposing that the City grant Final Grading Plan Approval, following and subject to all requisite WVDEP standards and requirements for grading and temporary storm water management. The Grading Plan would be prepared in a manner to accommodate the intended development, regardless of what land use is ultimately permitted by the City of Wheeling in the Site Plan Approval process.

Final necessary zoning changes will be deferred pending further discussion with the City and public comment, but any such zoning would be consistent with the intended uses detailed herein within the Development. While a C-2 zoning designation would be the preferred end result as it would afford the greatest flexibility, other existing zoning designations, and perhaps new designations more consistent with a true mixed use development, may be prudent.

Evolution of the Development: Preliminary Steps

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<sup>1</sup> It should be noted that the Site location is NOT a part of the federal historic designation as to Woodsdale - Edgewood. See <http://www.wvculture.org/shpo/nr/pdf/ohio/96000445.pdf>

The Applicant has spent considerable time and resources to investigate the feasibility of such a project and design development use that would be mutually beneficial to the Applicant, the citizens of the City of Wheeling, and the City itself. Feasibility studies were obtained and reviewed. Geotechnical analysis by Gustavson Associates, LLC and all necessary core drillings were obtained. That analysis established the stability of the Site and confirmed the viability of the Site to support the Development. Those items are available upon request. Grading Plans and Drainage Plans were thereafter obtained as the Development evolved (from The Thrasher Group, Inc., and Hamilton Associates, Inc., respectively). Those plans are shown as Maps 22, 29-32, 36, 39-41, 56-58, 60-67.

Maps 42, 43 and 45 show the evolution of the Development. Map 49 was the culmination of the original retail/commercial concept following discussions with City representatives. It was decided to avoid another outlet or retail mall with a sea of asphalt. It was determined by the Applicant that the Wheeling area was devoid of any Mixed Use development, where residents could actually “live, work and play”. With such a close proximity to the great resources of Oglebay Resort and Conference Center, it was also determined that the Mixed Use Village should complement and enhance the natural elements and recreational opportunities in the area.

Other noted concerns of the City leaders were also considered and heeded. At the City’s request, the revised Development and related plans that comprise this Mixed Use Village, and which have been presented to the City as a part of this Application, were reviewed by the West Virginia Department of Transportation, Division of Highways (WVDOH) and the West Virginia Department of Environmental Protection (WVDEP). Based on those reviews, favorable feasibility letters were provided by the WVDOH and WVDEP to City of Wheeling, City Manager, Robert Herron. See Exhibits 6 and 7.

Evolution of the Development: Proposed Construction

The construction of the Development is best accomplished through several “Phases”. Phase One includes the Oglebay Corridor Improvement Project detailed below, the construction of the lower pad will be made up of two small pads to be located adjoining Route 88 (see Maps 22 and 22A) the construction of the main entrance to the Development (see Map 15), and the construction of necessary roads to accommodate grading for primary pad for the Site (see grading and drainage plans at the Maps referenced above. These first two pads of Phase One will provide new and beneficial businesses to the area, establish the commitment and bona fides of the Applicant to the Development, and provide revenue to the Applicant through rental income and the City through job creation, ad valorem property taxes, B&O taxes and sales taxes.

It should be noted that so long as the Sites remain idle and undeveloped it does not contribute revenue to the City, nor is it required to manage storm water in a very large watershed. However, once construction and grading of the Development begins, the requirements of the WVDEP come into play and grading plan and drainage approvals will be

required. Those proposed plans would be under the auspices and required additional permitting of the WVDEP and would move drainage away from the Woodsdale - Edgewood area. Please note the use of engineer designed building retention basins on the Site to collect runoff during construction. The final grade is expected to be 2% running from south to north, with the lower elevation situated on the northern side of the Site. Maps 36, 39, 40, 41 and 57 depict the preliminary and future grading of the Site. Map 61 shows the pre and post construction drainage area maps of mitigated acreage. Again, it is important to note that the Development, and the accompanying requirement to actively manage storm water from the property, represent an opportunity to provide storm water management in an area where none previously existed, or is required to exist.

The construction of the main pad for the Site will entail appropriate and engineered reductions in elevation. This will be accomplished in phases, as shown on Map 56. Maps 29-32 and 58 show the preferred grading of the Site. Map 29 shows the anticipated elevation changes to accomplish the intended final pad of approximately 55 acres. The noted average elevation reduction is 96 feet. Maps 39, 41 and 57 depict alternate elevations for the Site that would yield less desirable results. Please note that these plans have been reviewed as part of the feasibility letter received from the WVDEP.

The final portion of the initial phase of the Project is the construction of drainage ponds along the northernmost parts of the Site to collect runoff from the newly graded site. These are depicted on Maps 63-67.

#### Oglebay Corridor Improvement Project & Access

As a part of Phase One, the Oglebay Corridor Improvement Project for Route 88 is reflected in three phases as shown on Maps 16 and 18-21. As currently designed, the improvements resulting from this portion of the Project would include a traffic light at the main entrance to the Development, crossing signals, deceleration and acceleration lanes; ADA compliant sidewalks, and the general beautification of the area along the main entrance to the Development. Because this part of Route 88 is a federal turnpike, the Oglebay Corridor Improvement project should be completed by the State with financial assistance and/or grants from the federal government and not by the Applicant; however the listed improvements are relevant, necessary to and a vital part of this Application. As stated above the Development, including the Oglebay Corridor Improvement Project have been reviewed by the WVDOH, which review resulted in the feasibility letter sent to the City Manager. (see Exhibit 6).

There are currently two alternative entrances to the Development located along the western and northern property lines. Map 22 and 22A depict alternative western entrances, dependent upon future acquisition of lots currently owned by third parties. Map 15 is a visualization of the northern entrance after completion.

It cannot be questioned that the proposed northern entrance, a part of Phase One, would greatly enhance the approach to Oglebay Park and would complement the previous

improvements that have been made to Route 88 from National Road as shown on phases two one and two of the Oglebay Corridor Improvement Project.

#### Addition Considerations and Submittals

While it is understood that the final configuration of the Development will depend upon the design that ultimately receives final Site Plan approval, it is Applicant's position that the highest and best use of the Site is as depicted on Maps 6 and 10. This configuration is the preferred layout for the Development and is based on a final main pad of approximately 55 acres and lower pad from Phase One of approximately 4 acres. It is a true Mixed Use Village that includes elements of retail, office, institutional, hospitality, and residential uses. It is unique to the Wheeling area and is a desired configuration. There is simply no other land currently available that would accommodate such a unique and timely development.

The Maps referenced below show the following conceptualized views of the Development and alternative configurations:

- Map 2 shows an earlier configuration that later evolved to Map 6.
- Maps 4 and 4A shows this configuration without any buildings, from east to west and from north to south.
- Map 6 shows this same configuration, without a planned parking garage, but with the other buildings added and with a western entrance. This is our preferred configuration.
- Map 6A shows this same configuration, including the planned parking garage, with the other buildings added and with a western entrance.
- Map 7 shows possible C-2 and residential.
- Map 8 shows a C-2 development without residential.
- Map 9 shows the addition of a proposed park and additional parking.
- Map 11 is a 3D view from west to east.
- Map 12 are 3D views from east to west.
- Map 13 are 3D views toward the east.
- Map 14 are 3D views from south to north.
- Map 15 are 3D views of the Main Entrance and Oglebay Corridor Improvements.
- Map 49 shows an alternative site without residential uses.
- Map 50 shows the 55 Acre pad only residential uses.

#### Public Information

The Applicant will make its plans available to the general public via website and other media upon initial presentation of this Project to the Planning Commission. The website URL will be provided in Applicant's media publications. Additional marketing materials have also



been developed for prompt use once approval of the Development has been received. These are viable marketing tools that will also promote the City of Wheeling. An example of same may be found at Exhibit 8.

The Development is Consistent with the Six Initiatives of the Plan

It is our position that the Development and requested modification of the Land Use Map as proposed herein is consistent with the six Initiatives set forth in the Plan. The remainder of this transmittal letter will address each of these initiatives in turn.

**Initiative #1 – Wheeling will be modern and sustainable**

In the Plan, this first initiative is given the highest priority and is used as the basis / justification for 13 of the stated 29 Implementation Strategies.

The implementation strategies that seek to promote this Initiative fall into three categories:

- Land use;
- Green living; and,
- Technology.

The Development address those Implementation Strategies seeking to improve land use and green living in Wheeling and also, based upon the eventual tenant mix and design of the Development, also addresses the technological environment in Wheeling.

In the Plan, great emphasis is placed on encouraging “a sustainable mix of future land uses.” Referring to the Future Land Use Map as a “*guide* for future development” that “*does not* legally regulate how land is used,” it is recommended that the best use of a tract of land be determined by “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 use, and similar conditions.”

The Site is currently vacant land. But it is one of the larger vacant tracts remaining within the City. In accordance with Implementation Strategy 15, utilization of vacant lots (page 79 of the Plan), it is to the City’s benefit to permit the Development to move forward. The increase in value and placement of new retail and other businesses in the Development will generate much higher tax and other revenues than as vacant land. The City will benefit by job creation, utility fees, ad valorem property taxes, B&O taxes, hotel taxes and sales taxes. This increase in revenue to the City will help fund many of the other Implementation Strategies in the Plan, including the establishment of a land reuse agency (page 67), the promotion of entrepreneurial efforts in the downtown (page 69), the development of a housing market survey (page 70), and expanding access to technology (page 71), as well as other financial needs and opportunities, all of which are vital to the growth of Wheeling into a modern and sustainable community.

The Site is not currently suited for development. As was discussed above, preparation of the site for construction will be undertaken in multiple phases. While at first blush the idea of the construction necessary to create the Site may seem to run counter to any concept of emphasizing “green spaces,” the opposite is actually the case. If developed to its best and highest use, the Site will feature several miles of biking and hiking/nature trails, including a bike trail through the Development toward and hopefully connecting to Oglebay Park. This would certainly be encouraged in the Plan.

The Development envisions that approximately 450 trees will be planted as a green perimeter around and throughout the Development in a matured arboretum design. This more than replaces any trees removed from the Site. This green strategy is intentional and is in keeping with the Plan’s emphasis on expanding the trail system (page 84) and green infrastructure (page 72).

Preparation of the Site should also mitigate any possible flooding issues long affecting the Woodsdale – Edgewood area. As already discussed, preparation of the Site will include grading away from the Woodsdale – Edgewood area, forcing water runoff north and into retention ponds constructed for that purpose. Depending on final site plan approval, water collected may well be used as the water supply for fountains built at the entrance. It is the intent of the Applicant to have such water features as a part of the Development. This would also provide storm water management and any required utility extensions to help alleviate any adverse impact on and provide a positive impact for the Woodsdale – Edgewood area.

The Site has been included in the Plan as part of the Woodsdale Edgewood Historic District. However, it is not included in the federally designated historic district. While the majority of the adjacent properties to the south are zoned residential, nearly all of the adjacent properties in other directions and on the same elevation are commercial. Nevertheless, even after the Site has been fully developed as envisioned, it will have little or no negative impact on the surrounding residential areas. The Development will, at most, develop only 68% of the property. In addition to the arboretum design of the Development, the remaining 32% (all located around the outer boundaries) will be preserved in its current condition as mature growth forest with the added benefit of biking and hiking trails making use of the many logging roads that have existed on the property since the at least the turn of the 20<sup>th</sup> century.

#### **Initiative #2 – Wheeling will have a diverse economy**

This we believe is a key component of the potential for success of the Plan. Unfortunately, nearly all of the Implementation Strategies proposed within this Initiative will cost money to implement. They are establishing a land reuse agency (page 67), promoting entrepreneurial efforts (page 69), developing a housing market study (70), expanding access to technology (page 71), focusing on priority development areas (page 75), focusing on local businesses (page 81), continuing with the on-trac program (page 83), and modernizing the downtown streetscape (page 85). If developed to its highest and best use, the increase in tax and

other revenue to the City resulting from the Development would go a long way toward funding all of these goals. No analogous source of potential income is currently known or anticipated.

One of the Implementation Strategies proposed within this Initiative (and the first and fourth Initiatives) is updating the zoning ordinances, in order to encourage the development of modern business in the downtown while preserving its historic "feel."

One suggested change in the zoning ordinances put forth in the Plan is the use of form-based zoning, a type of zoning that gives greater flexibility in the types of businesses without losing the historic qualities of the buildings in which those businesses would be located. This more flexible system of zoning has been used elsewhere to allow towns and cities with historic districts to preserve the "look" of the buildings while also allowing alternative types of businesses to occupy those buildings. While form-based zoning may not be applicable to or in the best interests of the Development, it does express a clear intent for flexibility as to zoning under the Plan.

While a focus on historic areas is laudable, in order to retain and/or attract younger residents, (page 68), there must be a willingness to also embrace change. This involves (a) urban living options, and (b) increased and easily accessible restaurants and retail shops. There is, throughout the Plan, a discussion of maintaining a focus on the historic downtown area. Much of the attraction of larger cities is the abundance of choice in all things: types of housing (historic/modern, houses/apartments, standalone/mixed use); retail establishments; restaurants (local sourced/chains). Many of these types of housing, retail establishments and restaurants discussed would not fit within the aesthetics of the historic downtown area. They would, however, fit within the aesthetics of the Development with absolutely no impact on the downtown because the Development will not compete with the downtown in any of these areas. On the contrary, one could argue that the Development will alleviate the pressures on the downtown to adapt to a more modern aesthetic.

The discussion of the second Initiative, Wheeling will have a Diverse Economy, contains the following statement on page 42 of the Plan:

Wheeling has since evolved into a major medical and educational hub. These industries are fairly stable because there is always a demand for the services. The plan identifies strategies that relate to expanding on the success of these industries to benefit the institutions and the community as a whole.

As designed, there is ample room in the Development to accommodate medical and education uses.

As part of the Initiatives regarding a Modern and Sustainable Economy, a Diverse Economy, and Investment in Infrastructure is Implementation Strategy 9: Expand Access to Technology. Most of the discussion concerns expanding infrastructure to "its business areas" and providing wireless internet "in key areas of the city" meaning "brownfield sites" and "older

buildings that do not have currently have fiber optics or other related infrastructure.” The Plan does acknowledge, however, that “Upgrading communications infrastructure could also give the city an edge in really promoting high-tech businesses in the region with a primary benefit of setting Wheeling apart from other areas of West Virginia.” The Development will be fully “wired” to accommodate current technological and communications means and provides new options and opportunities for those purposes. In short, the Development is intended to foster the growth of the technological environment in Wheeling and provide an inviting environment for that purpose.

### **Initiative #3 – Wheeling will have strong Community Partnerships**

The Applicant intends to be a good citizen of Wheeling. The proposed entrance to the Development is an immediate upgrade to the area and will enhance the Oglebay corridor, increasing that vital part of Wheeling’s attraction to future businesses and residents. The Applicant is committed to the long term success of the Development and in developing strong and long-lasting community ties. The Applicant wants to be part of the future growth and success of Wheeling as envisioned by the Plan. The Development itself is based on a green arboretum aesthetic for the same reasons. One of the proposed biking trails will run through the Development toward and hopefully to Oglebay Park. To that end, Applicant will work closely with Oglebay to accomplish that goal. Additionally, as seen on Map 68, oil & gas wells are inching closer to the vicinity of the Site. Southwestern Energy (SWN) has been active in this regard. Applicant intends to work with and cooperate with SWN and others in the oil & gas industry to assist and help facilitate the needs of the industry to the economic benefit of the Wheeling.

### **Initiative #4 – Wheeling will invest in its neighborhoods**

The emphasis within this initiative is on the need for new and different types of housing, including affordable homes, high-end housing, mixed use and townhomes. If developed as proposed, the Development will include 88 residential lots that include town homes, residential over commercial uses, and even assisted living opportunities. It should be mentioned again that offering a variety of housing options is absolutely vital if young people are to be encourage to remain in or move to Wheeling. Mixed Use developments are in high demand and there are none is Wheeling. People want to minimize their carbon footprint. The ability to live, work and play in the same area is the key to the Development as a Mixed Use Village.

### **Initiative #5 – Wheeling will invest in its Infrastructure**

Much of the city’s infrastructure system is significantly older than in most modern cities. This will require additional costs for repair and upgrade far into the future and should be addressed through coordination of infrastructure activities to upgrade infrastructure where it will address ongoing service problems. As with Initiative # 2 above, many of the Implementation Strategies that fall within this Initiative will cost money to implement and, once again, we believe the City should be mindful of the fact that the tax and other revenues generated by the

Development will by necessity be much higher if it is developed as proposed rather than if it remains simply vacant land.

### **Initiative #6 – Wheeling will embrace its quality of life**

Wheeling is unique in its population, history, and topography. This combination of attractive features creates an opportunity for the City to position itself as a healthy and desirable alternative to life in larger cities such as Pittsburgh, while maintaining many of the more desirable qualities. The Development will do nothing to detract from those qualities. On the contrary, it will enhance the quality of life in Wheeling by expanding access to those aspects of life generally available only in larger cities while doing nothing to detract from the unique features and quality of life in Wheeling.

The Development will be a walkable village with a combination of retail, office, hospitality, educational, institutional and residential construction. Based on final approved plans, it will be located on upper and lower pads covering approximately 60 acres within an existing Site of 110 acres, surrounded by old growth forest and enhanced by new green spaces that will not detract from the aesthetic of the vicinity. The old growth forest will include several miles of nature and biking trails and will serve as a nature preserve with spectacular views of the surrounding area.

### **Conclusion**

The Applicant is well aware that this Development is not without controversy. It represents a project unlike anything in Wheeling. Nevertheless, in keeping with the overall goals of the Plan, it is Applicant's position that the Development represents a proposal that fulfills the spirit of the Plan unlike any project currently being considered or contemplated. Page 40 of the Plan includes the following statement in regard to the need to change the perception of Wheeling:

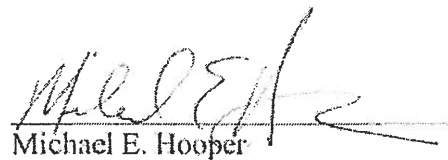
“Some locals perceive that Wheeling is stuck in its past and continues to do things because ‘that is the way it always has been done.’ These perceptions can be overcome if the city and its regional partners work together to promote the assets of the area and the fact that the city is continuing to evolve into a modern and sustainable community.”

While there will always be “NIMBY's (Not In My back Yard), Wheeling must look forward to meeting the goals and expectation of the Plan and the City's future success. Change is inevitable, sometimes good and sometime bad. The Development provides positive change that is mutually beneficial. Approval of the Development as

City of Wheeling  
July 29, 2019  
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requested will go a long way toward assisting Wheeling in promotion of the assets of the area and in its evolution into a more modern, attractive and sustainable community.

Respectfully submitted,



Michael E. Hooper

MEH/asv  
Enclosures

cc: GC&P Development, LLC



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west virginia department of environmental protection

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Division of Water and Waste Management  
601 57<sup>th</sup> Street SE  
Charleston, West Virginia 25304-2345  
Phone: (304)926-0495  
Fax: (304)926-0463

Austin Caperton, Cabinet Secretary  
dep.wv.gov

March 26, 2019

Mr. Robert Herron, City Manager  
Rose Humway-Warmuth, City Solicitor  
Chief Larry Helms, Acting City Manager  
City of Wheeling  
1500 Chapline Street  
Wheeling, West Virginia 126003

Re: Proposed GC&P Development near WV 88  
in Wheeling, WV

Dear Mr. Herron:

Our department have been engaged with the site owner and applicant GC&P Development LLC, and their civil engineering firms for a number of years. The engagement began with Notices of Intent to Disturb which grew in size over time up to approximately 8 acres. Currently, the Department has issued General Permit #WVR 106373, which permits a disturbance of 15.39 acres. The applicant has advised the Department of their intention to renew this permit during the next several days.

On February 28, 2019, the Department met with the applicant, GC&P Development LLC, and their civil engineering firm, Thrasher Engineering, to review conceptual development plans, and the proposed conceptual grading plans corresponding to the proposed development.

The Department believes that the proposed grading plan can be implemented, and is "feasible", provided that all DEP requirements for the contemplated development are met. DEP reviewed these requirements with applicant and Thrasher Engineering in the aforementioned meeting.

If you have any further questions or concerns, please do not hesitate to contact me at 304-926-0499 ext. 1354 or by email at [Rick.D.Adams@wv.gov](mailto:Rick.D.Adams@wv.gov).

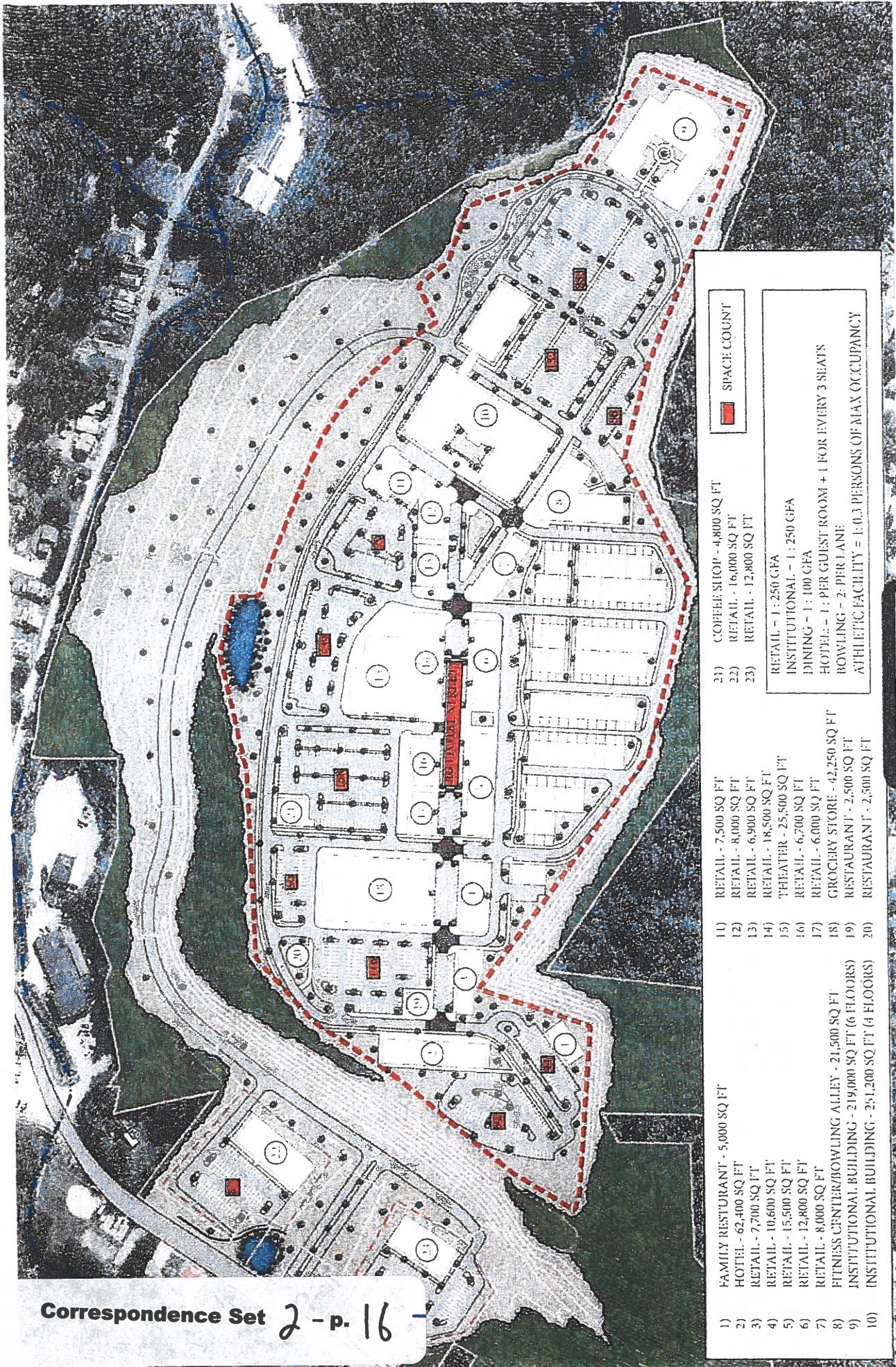
Sincerely,

Rick Adams  
Technical Analyst



Correspondence Set 2 - p. 15 -

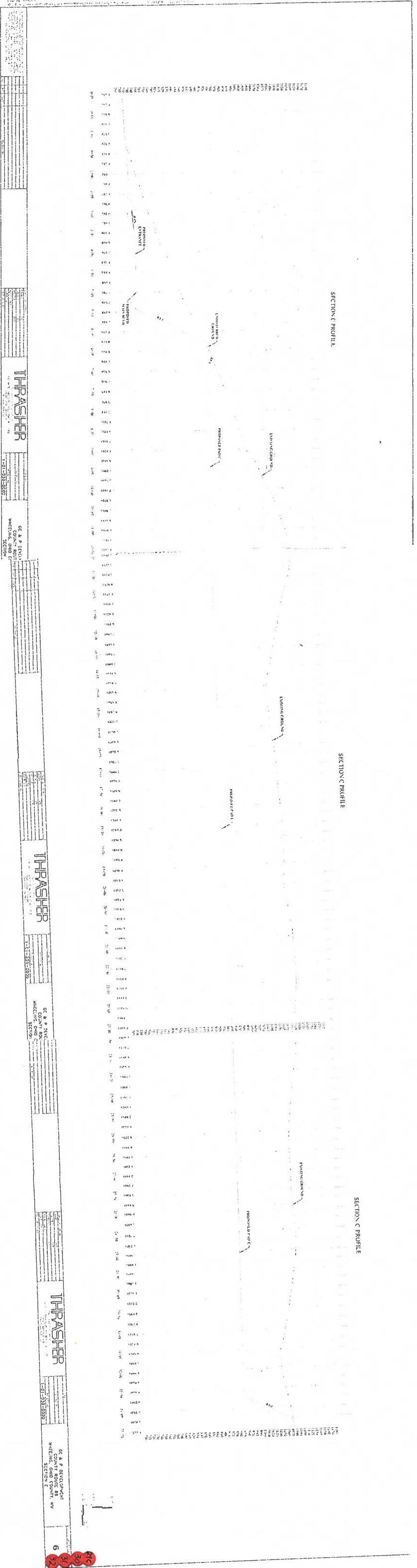




	SPACE COUNT
1) FAMILY RESTAURANT - 5,000 SQ FT	21) COFFEE SHOP - 4,800 SQ FT
2) HOTEL - 62,400 SQ FT	22) RETAIL - 16,000 SQ FT
3) RETAIL - 7,700 SQ FT	23) RETAIL - 12,800 SQ FT
4) RETAIL - 10,600 SQ FT	RETAIL - 1: 250 GFA
5) RETAIL - 15,500 SQ FT	INSTITUTIONAL - 1: 250 GFA
6) RETAIL - 12,800 SQ FT	DINING - 1: 100 GFA
7) RETAIL - 8,000 SQ FT	HOTEL - 1: PER GUEST ROOM + 1 FOR EVERY 3 SEATS
8) FITNESS CENTER/BOWLING ALLEY - 21,500 SQ FT	BOWLING - 2: PER LANE
9) INSTITUTIONAL BUILDING - 219,000 SQ FT (6 FLOORS)	ATHLETIC FACILITY = 1: 0.3 PERSONS OF MAX OCCUPANCY
10) INSTITUTIONAL BUILDING - 251,200 SQ FT (4 FLOORS)	
11) RETAIL - 7,500 SQ FT	
12) RETAIL - 8,000 SQ FT	
13) RETAIL - 6,900 SQ FT	
14) RETAIL - 18,500 SQ FT	
15) THEATER - 25,500 SQ FT	
16) RETAIL - 6,700 SQ FT	
17) RETAIL - 6,000 SQ FT	
18) GROCERY STORE - 42,250 SQ FT	
19) RESTAURANT - 2,500 SQ FT	
20) RESTAURANT - 3,500 SQ FT	

EXHIBIT  
466





GE & P. STUBBINS  
 COUNTY ROUTE 44  
 WELLSVILLE, PA 16801  
 SECTION I

GE & P. STUBBINS  
 COUNTY ROUTE 44  
 WELLSVILLE, PA 16801  
 SECTION II

GE & P. STUBBINS  
 COUNTY ROUTE 44  
 WELLSVILLE, PA 16801  
 SECTION III



RECEIVED  
SEP 09 2019

CITY OF WHEELING  
ECD DEPARTMENT

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west virginia department of environmental protection

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Division of Mining and Reclamation  
601 57<sup>th</sup> Street  
Charleston, WV 25304  
Phone: 304-926-0440

Austin Caperton, Cabinet Secretary  
dep.wv.gov

September 5, 2019

City of Wheeling

Thomas Connelly, Assistant Director

1500 Chapline Street

Wheeling, West Virginia 26003

Mr. Connelly,

In response to your August 16, 2019 letter requesting comments on the relationship of West Virginia State Code, Chapter 22-4 (sections 2, 4, 6, 7, 8, 17, and 18) to the attached GC & P Development LLC project in the City of Wheeling, I have addressed each section individually.

**a. 22-4-2: Legislative findings.**

The Legislative findings spell out the basic intent of the Quarry Reclamation Act and recognizes the need to balance surface land disturbance for the production of aggregate minerals with protection of the environment and property owners' rights. It also recognizes the need to reclaim quarry operations for continued use after completion of operations without complete restoration of the land to its original condition.

**b. 22-4-4: Director of the division of environmental protection; powers and duties.**

The Secretary of the West Virginia Department of Environmental Protection through the Director of the Division of Mining and Reclamation is vested with jurisdiction over all aspects of quarrying in West Virginia through the permitting process for a quarry permit application. The definition of "quarrying" can be found in West Virginia Code § 22-4-3(B)20. If a quarry permit is required and issued all permitted operations are subject to bonding, inspection, enforcement, and permit release requirements.

**c. 22-4-6: Application review, public notice and comment, and permit approval.**

This section provides the general outline for submittal and review of a quarry permit application. Applications are submitted electronically through the West Virginia Department of Environmental Protection (WVDEP) Electronic Submission System. An application is assigned to a permit team for review. In our system an application must be Administratively Complete before the thirty-day review time limit for Technical Completeness begins. The applicant is advised when an application is Administratively Complete and when the Technical Review begins. Any corrections to and from the applicant are performed electronically. If determined Technically Complete a Class III legal advertisement is published for the acceptance of public comments on the application. If a written request for a public hearing is received a hearing is

held in the locality of the proposed application. All comments submitted will be considered and a decision to issue or deny the permit will be made within 30 days of close of the public comment period. Total review time is estimated to be from four to twelve months which includes the time an application is being developed by the permittee.

**d. 22-4-7: Denial of quarry permit.**

This section spells out causes for a possible decision to deny a quarry permit application and the right to petition for review of a denial decision. It also provides for the approval of a portion of a permit application and denial of a portion of an application.

**e. 22-4-8: Limitations; mandamus.**

This section provides the specific reasons that portions of a quarry permit application may be deleted from an application or an issued permit may be ordered to modify if certain conditions are occurring or are likely to occur. Among the several requirements listed in this section is a 100-foot set-back from public roads, streams, lakes, or other public property of actual quarry mineral removal operations (sediment control systems, ingress/egress, and berms are allowed) and a 25-foot prohibition of mineral removal from all property lines. There is a provision allowing for waiver of all or part of the 100-foot set-back based on local land uses.

**f. 22-4-17: Quarrying and reclamation plan.**

This section provides, in general terms, what is required in a new quarry permit application. Specific requirements are found in West Virginia 38CSR3, Rules for Quarrying and Reclamation. The Quarry Handbook can be found at [www.dep.wv.gov](http://www.dep.wv.gov) Land-See More-Mining Handbooks and Policies-Quarry Handbook.

**g. 22-4-18: Land reclamation requirements.**

This section addresses the final slope, grade, and stability requirements of permanent fills constructed on the permit area. It also addresses final highwall configuration possibilities, drainage control and runoff protection, spoil pile stabilization and vegetation, and requirements for progress map submittal during operations. More specific requirements can again be found in West Virginia 38CSR3.

While I have addressed your request as it concerns these specific sections of The Quarry Reclamation Act I encourage an examination of all the requirements of the Act and the promulgated Rules for Quarrying and Reclamation.

If a quarry permit is obtained it would also be a requirement to obtain a permit under the West Virginia Water Pollution Control Act during the term of the quarry permit. This permit would assign water effluent limits and is issued under the National Pollution Discharge Elimination System. The WVDEP Division of Mining and Reclamation would review and issue that permit in conjunction with the issuance of the quarry permit.

Representatives of our permitting sections are available to meet with your representatives to discuss in greater detail any aspect of possible Quarry and NPDES permits.

Sincerely,

*Harold D. Ward*

Harold D. Ward

Deputy Cabinet Secretary

## Tom Connelly

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**From:** Ward, Harold D <Harold.D.Ward@wv.gov>  
**Sent:** Tuesday, September 10, 2019 2:31 PM  
**To:** Tom Connelly  
**Cc:** Johnson, Dustin C; Vernon, John T; Wright, Clarence E  
**Subject:** RE: [External] GC&P LLC follow-up

If the excavated meets the definition of Mineral as defined by 22-4-3(13) and the material is commercially marketed, a permit is required. For specific questions the consultant should either speak with Clarence Wright in our Philippi Office or Dustin Johnson who heads up my permitting program statewide. Either or both would be available to discuss via conference call.

---

**From:** Tom Connelly <tconnelly@wheelingwv.gov>  
**Sent:** Monday, September 9, 2019 2:43 PM  
**To:** Ward, Harold D <Harold.D.Ward@wv.gov>  
**Cc:** Jeff Mauck (svwarwood@aol.com) <svwarwood@aol.com>  
**Subject:** [External] GC&P LLC follow-up

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and are expecting the content. -- WV Office of Technology

Hello Mr. Ward,

I reviewed your letter dated September 5, 2019 responding to my request for general comments and comments pertaining to WV Code 22. Thank you for the information. Are you able to determine from the information I previously submitted or from the attached deed (see pages 1 & 13 paragraph 2) if a quarry permit would be required in order to remove the material proposed? If not, is there additional information the applicant could supply to help you reach a decision? As for your offer to have your permit representatives meeting with the Planning Commission or its subcommittee, is a video conference possible?

-Tom

Thomas Connelly, AICP  
Assistant Director  
Economic & Community Development Department  
City of Wheeling  
1500 Chapline Street, Room 305  
Wheeling, West Virginia 26003  
Phone: (304)234-3701 | Fax: (304) 234-3899

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*for delivering the message to the intended recipient, please contact the sender and delete this material from your computer.*

## Tom Connelly

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**From:** Tom Connelly  
**Sent:** Tuesday, September 10, 2019 4:11 PM  
**To:** Ward, Harold D  
**Cc:** Jeff Mauck (svwarwood@aol.com)  
**Subject:** RE: [External] FW: GC&P Development-Planning Commission Invited Comments

Understood. Thank you.

-Tom

---

**From:** Ward, Harold D <Harold.D.Ward@wv.gov>  
**Sent:** Tuesday, September 10, 2019 2:55 PM  
**To:** Tom Connelly <tconnelly@wheelingwv.gov>  
**Cc:** Vernon, John T <John.T.Vernon@wv.gov>; Wright, Clarence E <Clarence.E.Wright@wv.gov>; Johnson, Dustin C <Dustin.C.Johnson@wv.gov>  
**Subject:** RE: [External] FW: GC&P Development-Planning Commission Invited Comments

Until we see an application for a proposed activity it would be premature for me to offer any specific comment. However, I assure you that the question raised in the letter are items that would be addressed by my review staff should an application be submitted.

---

**From:** Tom Connelly <tconnelly@wheelingwv.gov>  
**Sent:** Tuesday, September 10, 2019 2:43 PM  
**To:** Ward, Harold D <Harold.D.Ward@wv.gov>  
**Subject:** [External] FW: GC&P Development-Planning Commission Invited Comments

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and are expecting the content. -- WV Office of Technology

Hello Mr. Ward,

Thank you for the recent reply regarding my "quarrying" question. I will follow up on that.

I'm forwarding an email with attachments from a resident which raises concerns with past mining of the property as it pertains to the future proposal. He commented as a resident, not in his professional capacity. Please let me know your thoughts.

Thank you,

-Tom

Thomas Connelly, AICP  
Assistant Director  
Economic & Community Development Department  
City of Wheeling

1500 Chapline Street, Room 305  
Wheeling, West Virginia 26003  
Phone: (304)234-3701 | Fax: (304) 234-3899

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**From:** Sandin Phillipson <[sedphil24@comcast.net](mailto:sedphil24@comcast.net)>  
**Sent:** Thursday, August 15, 2019 1:44 PM  
**To:** Tom Connelly <[tconnelly@wheelingwv.gov](mailto:tconnelly@wheelingwv.gov)>  
**Cc:** Wendy Scatterday <[wscatterday@wheelingwv.gov](mailto:wscatterday@wheelingwv.gov)>  
**Subject:** GC&P Development-Planning Commission Invited Comments

Dear Mr. Connelly,

In response to your invitation to the public to submit concerns via e-mail regarding GC&P Development, LLC's proposal to construct a mixed use village adjacent to Woodsdale, with attendant zoning change and change of the current land designation in the Wheeling Comprehensive Plan, I offer the following three attached documents. The summary of concerns may be found in the Word Document "Planning Commission Cover Letter" with additional supporting discussion of slope stability and previous mining beneath the footprint of the proposed project found in the associated documents. I also copy Wendy Scatterday, the Woodsdale 4th Ward representative, also a member of the Planning Commission.

Please contact me if you have questions regarding the attached. I may provide additional information prior to September 9 if the geotechnical analyses discussed at the Planning Commission meeting on August 12 become available. I have not as yet seen that such information has been posted in the SAP folder.

Sincerely,  
Sandin Phillipson  
24 Shady Street  
Wheeling, WV 26003  
304-218-9975

## Tom Connelly

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**From:** Tom Connelly  
**Sent:** Thursday, September 12, 2019 10:21 AM  
**To:** Hooper, Michael  
**Cc:** Vernon, John T; Wright, Clarence E; Johnson, Dustin C; Ward, Harold D; Jeff Mauck (svwarwood@aol.com)  
**Subject:** GC&P Development-Planning Commission Invited Comments

Mike,

I've been in follow-up with Harold Ward, Deputy Cabinet Secretary and Division of Mining and Reclamation (DMR) Director regarding my August 16, 2019 letter. He is not able to offer specific comments to the Commission pertaining to your client's proposal until an application has been submitted for his staff (Clarence Wright/Dustin Johnson) to review. As you know, the Planning Commission is waiting for input from other governing bodies affected by the proposal. Please contact the DEP's DMR officials referenced above and copied on this message to facilitate the request.

Thank you,  
-Tom

Thomas Connelly, AICP  
Assistant Director  
Economic & Community Development Department  
City of Wheeling  
1500 Chapline Street, Room 305  
Wheeling, West Virginia 26003  
Phone: (304)234-3701 | Fax: (304) 234-3899

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