

IN THE COUNTY COMMISSION OF MARION COUNTY, WEST VIRGINIA

IN RE: APPLICATION OF THE CITY OF FAIRMONT FOR THE ANNEXATION BY MINOR BOUNDARY ADJUSTMENT OF CERTAIN REAL ESTATE OF ROLLING ELEVEN, LLC., SITUATE IN FAIRMONT DISTRICT, MARION COUNTY, WV CONSISTING OF 167.01 ACRES, MORE OR LESS

**ORDER OF ANNEXATION**

At a regular session of the County Commission of Marion County, West Virginia, held for said County on the 30th day of November, 2005, at 10:30 a.m., came the City of Fairmont, a municipal corporation, located in Marion County, West Virginia, pursuant to its application to annex a certain tract of 167.01 acres of unincorporated territory contiguous to said City and situate in Fairmont District, Marion County, West Virginia.

WHEREAS, on the 9<sup>th</sup> day of November, 2005, at its regular session, this Commission, finding said application to be in proper form and being satisfied that said application met the threshold requirements for consideration of a minor boundary adjustment outlined in West Virginia Code §8-6-5 and that neither West Virginia Code §8-6-2 nor §8-6-4 provided an efficient or cost effective manner of annexation, ordered that a public hearing be held thereon and that notice of said hearing be published and posted according to law;

WHEREAS, on said date, this Commission referred said application to the Marion County Planning Commission for its review and consideration and said Planning Commission, at a regular meeting held on the 17th day of November, 2005, found said application to be in proper form, consistent with the provisions of West Virginia Code §8-6-5 and recommended approval of the proposed annexation

WHEREAS, the Order of Publication and Notice of Annexation was published as a Class II legal advertisement in the Times West Virginian, a newspaper in general circulation in Marion County, West Virginia, with the dates of publication being November 15, 2005, and November 22, 2005, as evidenced by the Affidavit of Publication, which affidavit has been filed herein; and

WHEREAS, the Order of Publication and Notice of Annexation was posted at not less than five (5) public places within the area proposed to be annexed by Assistant City Planner, Kevin McClung.

NOW THEREFORE, this Commission, after hearing the statements of counsel and the testimony of witnesses, and upon mature consideration of same and all matters of record and no

freeholders having appeared at the public hearing in opposition to said annexation, makes the following findings:

1. The territory to be annexed consists of 167.01 acres and represents approximately 2.09% of the existing area of the City of Fairmont;

2. The territory to be annexed is uninhabited and there are no businesses located within said territory;

3. No other municipality will be impacted by the annexation and no other municipality has sought to annex said territory;

4. No public service district will be impacted by the annexation;

5. The territory to be annexed is contiguous to the present corporate limits of the City of Fairmont;

6. The City of Fairmont operates the following which will not be negatively impacted by the annexation:

- a. Planning and zoning department;
- b. Municipal water and sewer utility;
- c. Full-time, professional public works department;
- d. Fully trained full-time professional fire and police departments; and
- e. Waste removal service by contract;
- f. Storm Water Utility

7. The proposed annexation will provide for the orderly growth and development of the territory sought to be annexed and will provide for increased economic development within the territory to be annexed and within the existing corporate limits of the City of Fairmont and the proposed annexation is good for the County as a whole;

8. No negative impact on the City of Fairmont's financial situation is known to be created by the proposed annexation; and

9. The proposed annexation is not limited solely to a West Virginia Division of Highways right of way and is not limited to a street or highway as defined by West Virginia Code §17C-1-35.

In consideration of the aforementioned findings, this Commission is of the opinion and does hereby conclude that the annexation of the described 167.01 acres constitutes a minor boundary adjustment and all the requirements of West Virginia code §8-6-5 have been satisfied in this instance.

In consideration of the aforementioned findings and conclusions, it is therefore **ORDERED** and **DECREED** that the following described real estate, be and is hereby annexed into and made

part of the corporate limits of the City of Fairmont, a municipal corporation, located in Fairmont District, Marion County, West Virginia, and which real estate is more particularly bounded and described as follows:

Beginning at a point in the line of the property Rolling Eleven, L.L.C., thence N. 11° 50' 26" E. 87.57 feet; thence N. 35° 00' 38" E. 89.56 feet; thence N. 31° 53' 01" E. 63.93 feet; thence N. 03° 31' 26" W 95.55 feet; thence N. 22° 50' 04" E 185.66; thence N. 27° 32' 54" E. 155.55 feet; thence N. 00° 00' 00" E. 134.98 feet; thence N. 13° 13' 34" E. 182.54 feet; thence N. 21° 18' 39" W. 117.14 feet; thence S. 81° 32' 37" E. 1836.19 feet; thence N. 80° 15' 15" E. 151.53 feet; thence S. 18° 56' 12" E. 86.28 feet; thence N. 80° 13' 27" E. 137.33 feet; thence N. 62° 41' 02" E. 233.74 feet; thence N. 85° 17' 25" E. 799.63 feet to a point in the corporation line of the City of Fairmont; thence with the corporation line in an southwestern direction approximately 2473.49 feet to a point; thence S. 58° 07' 14" W. 263.62 feet; thence S. 52° 47' 02" W. 88.29 feet; thence S. 77° 48' 27" W. 106.46 feet; thence N. 88° 09' 13" W. 87.23 feet; thence N. 72° 29' 08" W. 112.07 feet; thence N. 54° 39' 21" W. 106.89 feet; thence N. 49° 57' 30" W. 484.93 feet; thence N. 55° 46' 08" W. 159.88 feet; thence N. 58° 17' 02" W. 251.27 feet; thence N. 55° 59' 55" W. 135.70 feet; thence N. 69° 14' 26" W. 87.23 feet; thence N. 81° 05' 28" W. 145.19 feet; thence N. 84° 24' 16" W. 144.12 feet; thence S. 81° 28' 30" W. 113.76 feet; thence S. 69° 09' 30" W. 12.79 feet; thence S. 72° 38' 25" W. 104.02 feet; thence N. 88° 31' 56" W. 145.73 feet; thence S. 85° 53' 18" W. 65.31 feet; thence N. 90° 00' 00" W. 74.50 feet; thence 67° 45' 52" W. 66.85 feet; thence S. 52° 36' 48" W. 60.18 feet; thence S. 46° 28' 32" W. 47.99 feet; thence S. 32° 58' 14" W. 761.09; thence N. 89° 45' 17" W. 546.29 feet; thence N. 10° 35' 54" W. 280.24; thence N. 54° 15' 05" W. 399.89; thence N. 75° 49' 10" W. 318.35; thence S. 76° 46' 05" W. 240.16 feet; thence N. 26° 07' 06" W. 940.64 to the point and place of beginning, containing 167.01 acres more or less, and being part of that same real estate described in that certain deed dated August 17, 2005, by and between Hallwood, L.L.C. et al., and Rolling Eleven, L.L.C., which deed is of record in the Office of the Clerk of the County Commission of Marion County, West Virginia in Deed Book 1005, at page 793.

And which real estate is more recently described as 165 acres, more or less, and is depicted and set out on the map or plat of "Proposed Annexation of Rolling Hills (sic) Eleven, LLC., River Creek Property, to the City of Fairmont, WV, Fairmont District, Marion County, West Virginia dated Jan 2006", James W. Fetty, Jr., PE, WV Reg., # 10397, attached hereto and made a part hereof and to which reference is hereby made for all pertinent purposes.

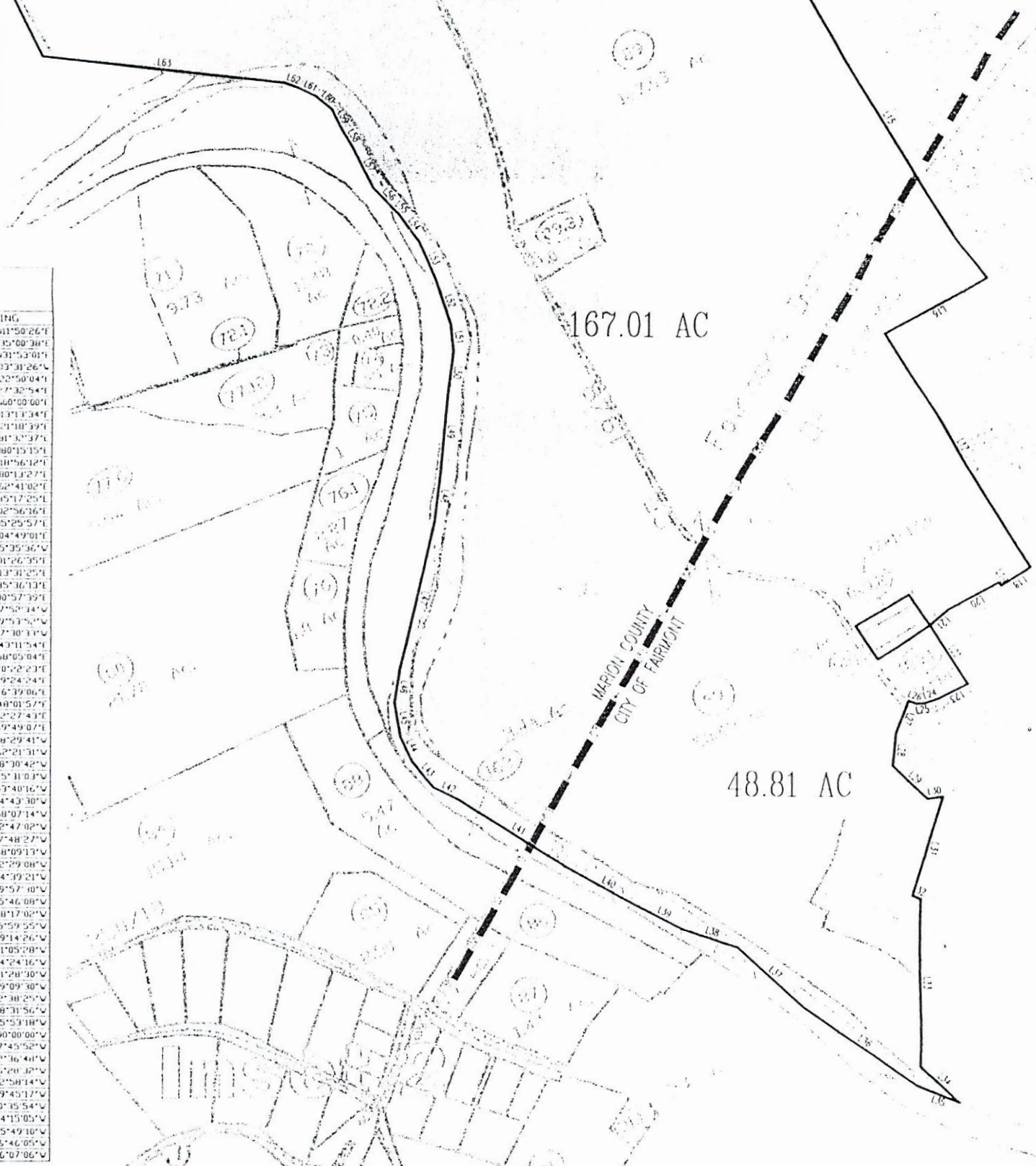
ENTERED this 10<sup>th</sup> day of ~~February~~, 2006.  
MAR 04

\_\_\_\_\_  
Cody Starcher, Commissioner  
*Randy Elliott*  
\_\_\_\_\_  
Randy Elliott, Commissioner  
*Alan Parks*  
\_\_\_\_\_  
Alan Parks, Commissioner

Attest:  
*Janice Cosco*  
\_\_\_\_\_  
Janice Cosco, Clerk *by K. Ustul*

A TRUE COPY  
ATTEST *Janice Cosco* CLERK  
MARION COUNTY COMMISSION  
FAIRMONT, WV  
BY *Cesare M Donato*  
DEPUTY

PROPOSED  
ANNEXATION  
AREA



ING
011°50'26"E
015°00'30"E
031°53'01"E
037°31'26"W
022°50'04"E
027°32'54"E
160°00'00"E
013°11'34"E
001°10'39"E
501°12'37"E
000°15'15"E
510°56'12"E
000°13'27"E
062°41'02"E
005°17'25"E
502°56'16"E
005°25'57"E
504°49'01"E
005°25'36"W
501°26'35"E
513°31'25"E
005°36'13"E
500°57'39"E
507°52'14"W
519°53'52"W
547°30'33"W
543°11'54"E
500°05'04"E
070°02'23"E
019°24'24"E
546°39'06"E
000°01'57"E
562°27'43"E
069°49'07"E
548°29'41"W
562°21'31"W
568°30'42"W
545°11'03"W
553°40'16"W
594°43'30"W
550°07'14"W
552°47'02"W
577°48'27"W
000°09'13"W
072°29'08"W
054°09'21"W
049°57'00"W
055°46'08"W
058°17'02"W
055°59'55"W
069°14'26"W
001°05'28"W
004°24'16"W
501°20'30"W
569°09'30"W
570°30'25"W
008°31'56"W
505°53'18"W
090°00'00"W
567°45'52"W
552°36'40"W
546°20'32"W
532°50'14"W
009°45'17"W
010°35'54"W
054°15'05"W
075°49'10"W
576°46'05"W
026°07'06"W

ANNEXATION MAP  
RIVER CREEK

CITY OF FAIRMONT, MARION COUNTY WEST VIRGINIA

Bowman Consulting Group, LLC  
101 South Street, S.E.  
Lynchburg, Virginia 24175  
Phone: (531) 443-2400  
Fax: (531) 443-2425  
www.bowmanconsulting.com  
© Bowman Consulting Group, LLC



COMBINED MAP 145 PARCELS 89.1, 89.2, AND 90 TO BE MOVED TO MAP 139 PARCEL 92

FROM MAP 141 KNOWN AS PARCEL 82 TO 139 NOW 317

## ROLLING ELEVEN TRANSFER

### HALLWOOD KEEPS:

LOT 1 HALLWOOD TOWN HOUSES KEPT NOW 139 PARCEL 100.1

LOT 15 & 16 HALLWOOD SECT. 1 MADE ON MAP 139 PARCELS 315 & 316

LOT 11 & 12 PATIO HOMES NO CHANGES 211 & 212

## ROLLING ELEVEN GETS

MAIN FARM NOW HAS ARES OF 207.52 TOTAL IN CITY NOW ON MAP 145 AS 89.

139-100

139-27

145 PARCEL 89.3 GONE PART OF 89

**CAMMA NO 02 450089 IS GONE NOW IN 03 DUE TO AXX.**

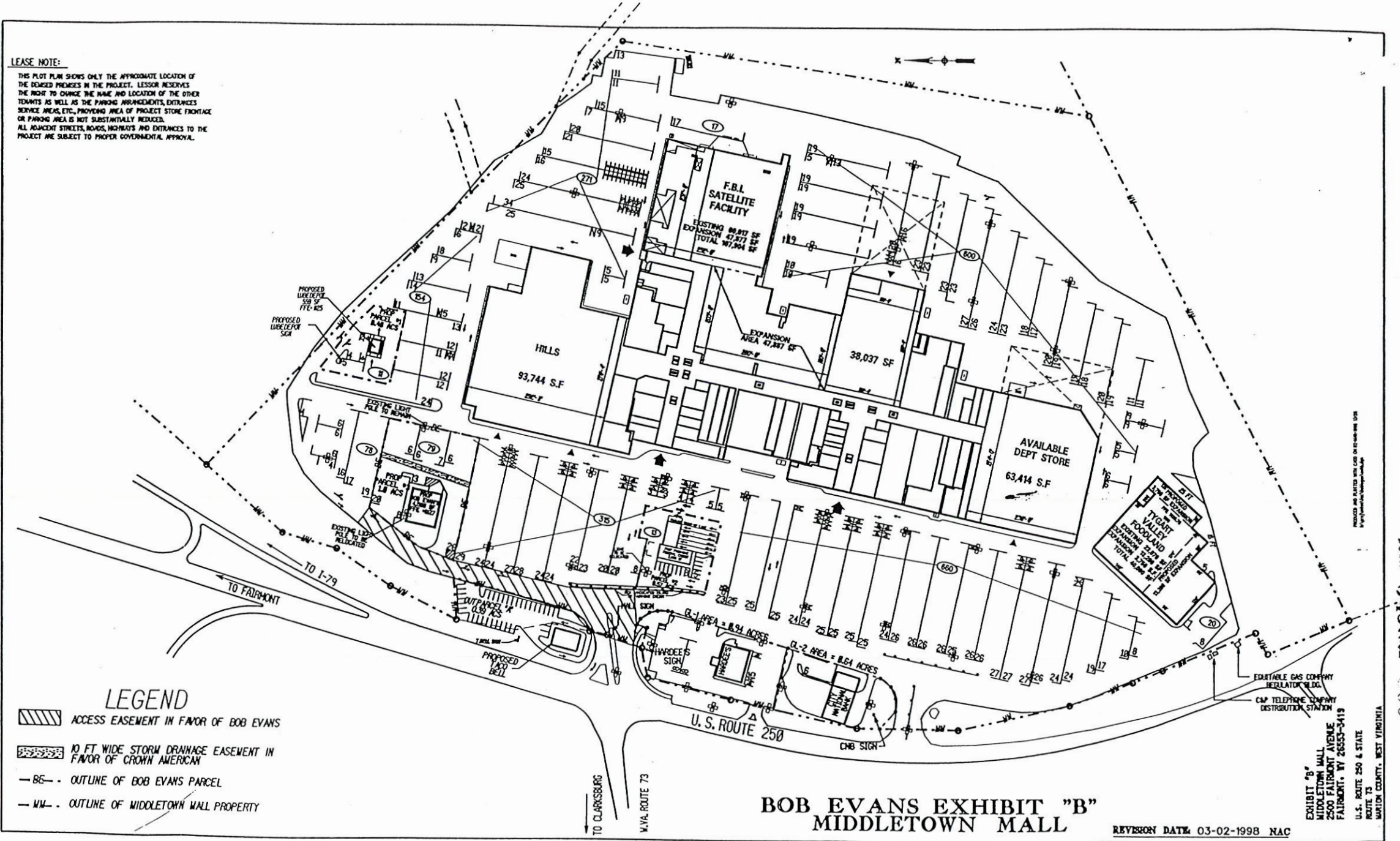
NLK & TIM





EXHIBIT

LEASE NOTE:

THIS PLOT PLAN SHOWS ONLY THE APPROXIMATE LOCATION OF THE DEMISED PREMISES IN THE PROJECT. LESSOR RESERVES THE RIGHT TO CHANGE THE NAME AND LOCATION OF THE OTHER TENANTS AS WELL AS THE PARKING ARRANGEMENTS, ENTRANCES SERVICE AREAS, ETC., PROVIDED AREA OF PROJECT STORE FRONTAGE OR PARKING AREA IS NOT SUBSTANTIALLY REDUCED. ALL ADJACENT STREETS, ROADS, HIGHWAYS AND ENTRANCES TO THE PROJECT ARE SUBJECT TO PROPER GOVERNMENTAL APPROVAL.



LEGEND

-  ACCESS EASEMENT IN FAVOR OF BOB EVANS
-  10 FT WIDE STORM DRAINAGE EASEMENT IN FAVOR OF CROWN AMERICAN
- BE- OUTLINE OF BOB EVANS PARCEL
- MW- OUTLINE OF MIDDLETOWN MALL PROPERTY

BOB EVANS EXHIBIT "B"  
MIDDLETOWN MALL

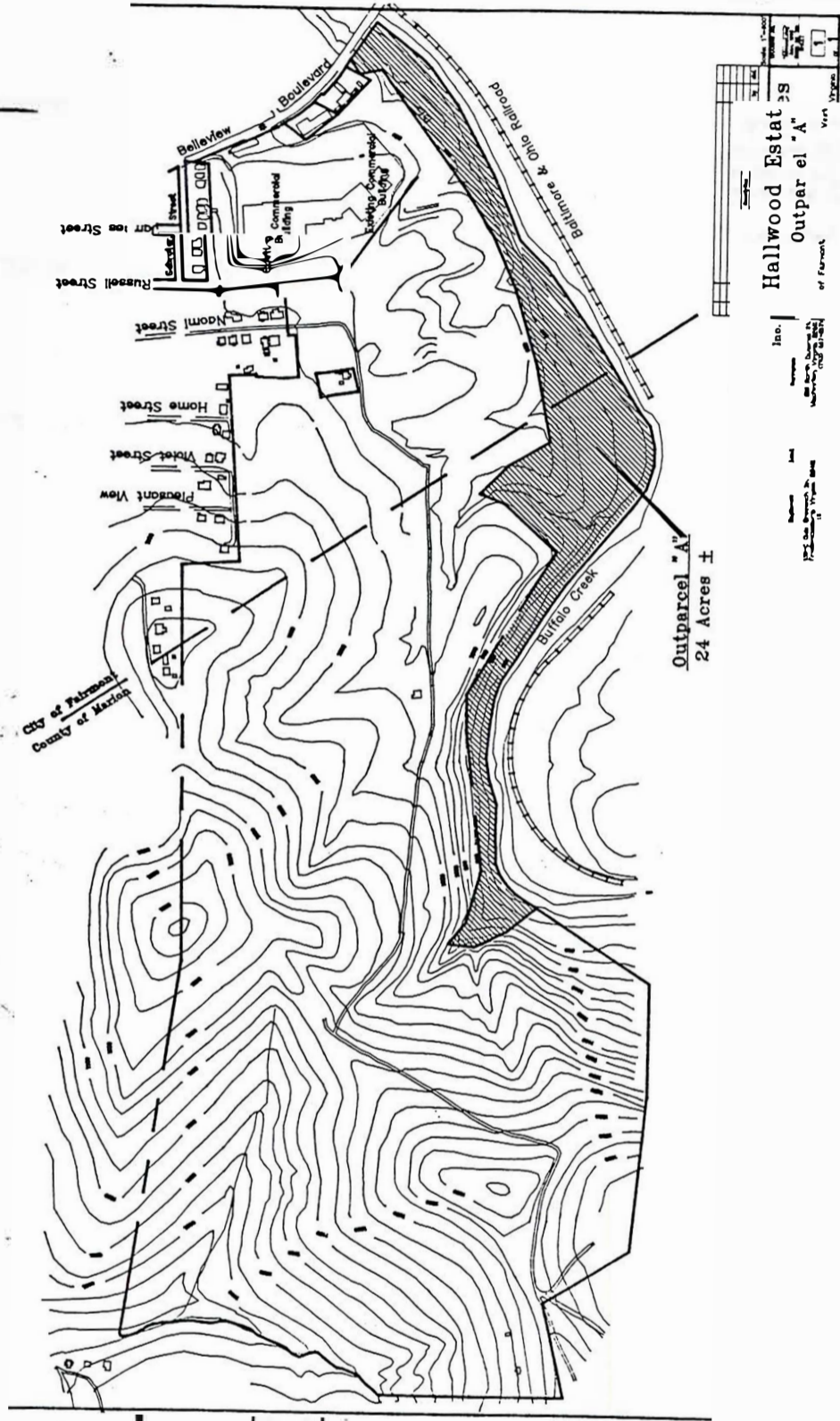
REVISION DATE: 03-02-1998 NAC

EDARTABLE GAS COMPANY  
REGULATOR BLDG.  
CAP TELEPHONE COMPANY  
DISTRIBUTION STATION

EXHIBIT "B"  
MIDDLETOWN MALL  
2500 FAIRMONT AVENUE  
FAIRMONT, WY 26553-3419

U.S. ROUTE 250 & STATE  
ROUTE 73  
MARTIN COUNTY, WEST VIRGINIA

ROOM 945PAGE 808



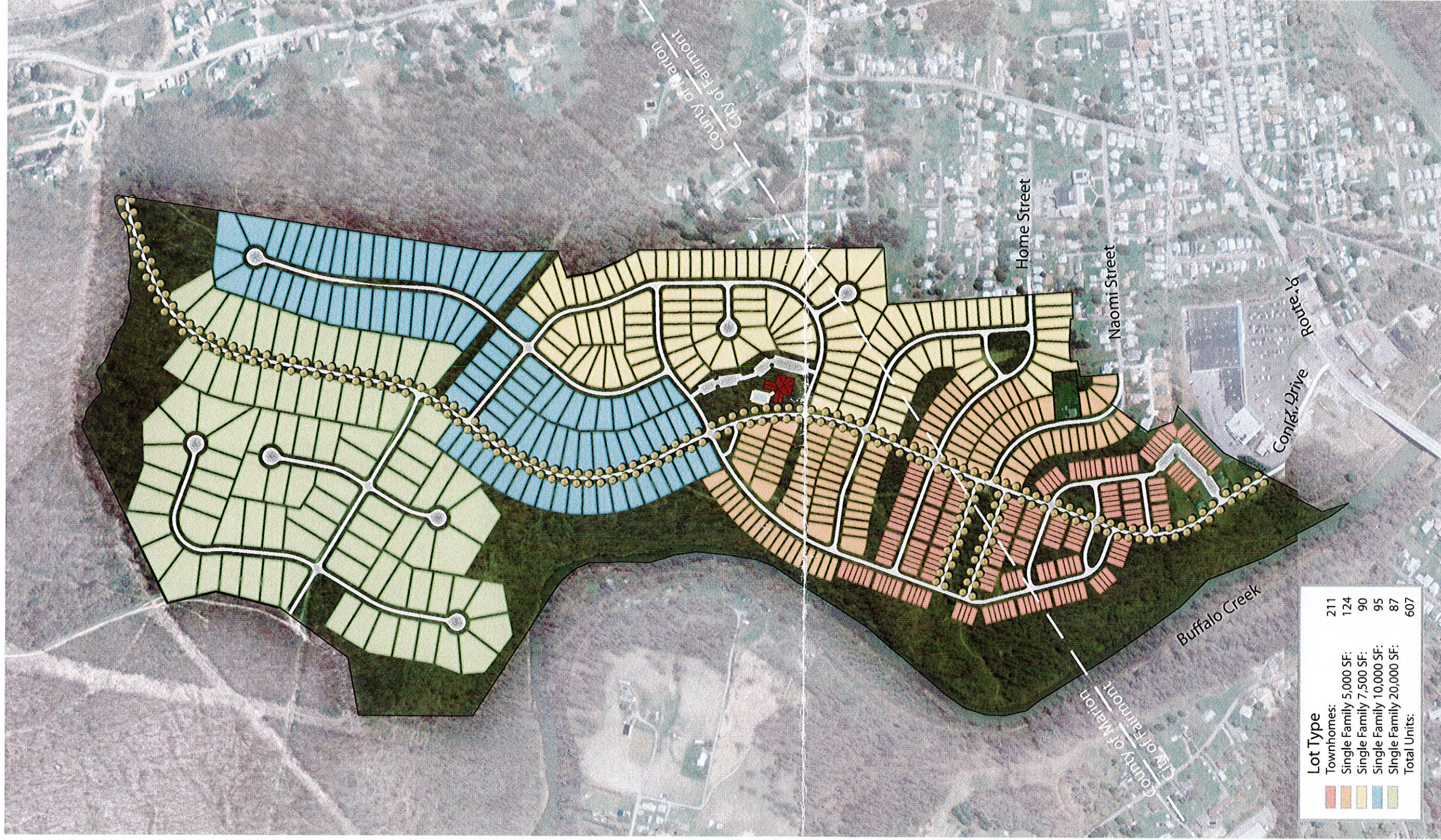
1417  
 RECEIVED  
 RECORDING FEE *6.00*  
 STAMPS *1461.40*  
 JUL 7 2 46 PM '95  
 HALL COUNTY  
 COMMISSION  
 CLERK & RECORDER  
 FAIRMONT, WV

6752

STATE OF WEST VIRGINIA, County of Marion, To-Wit:

I, Janice Cosco, Clerk of the County Commission of said County, do hereby certify that the foregoing writing, with certificate thereto annexed, was this day produced to me in my office and duly admitted to record.  
 Witness my hand.

*Janice Cosco* Clerk

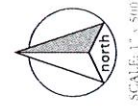


# The Estates at RIVER CREEK

ILLUSTRATIVE PLAN

Fairmont, West Virginia

October 18, 2005



SCALE: 1" = 500'



October 18, 2005

Mr. Nick L. Fantasia, Mayor  
Mr. Jay Rogers, City Planner  
City of Fairmont  
J. Harper Meredith Building  
200 Jackson Street  
Fairmont, West Virginia

Re: **River Creek**  
**Annexation by Minor Boundary Adjustment**  
**City of Fairmont, West Virginia**

Dear Mr. Fantasia and Mr. Rogers,

On behalf of our client, Rolling Hills Eleven LLP, we request that the City of Fairmont initiate an annexation by boundary line adjustment with Marion County under the provisions of West Virginia State Code, Section 8-6-5. The subject property is currently located in both jurisdictions including a 50 acre portion in the City and a 170 acre portion in the County with a total of approximately 220 acres. Attached is a map and deed references outlining the Tax Parcels included under single ownership and showing the metes and bounds of the former Conley Farm, with portions of Hallwood Estates. This request is made with the anticipation of a change in land use, from potential management for natural resource extraction of timber or coal, to residential community.

This minor boundary annexation meets the test of being contiguous to the corporate limits of the City of Fairmont through the split jurisdiction of parcels under common ownership and through the extension of existing City streets including Naomi Street and Conley Drive. The proposed annexation area is solely owned by Rolling Hills Eleven, LLC. The property owner requests the extension of all applicable public services from the City of Fairmont.

The subject property currently includes a single residential structure, however the proposed development of the site would increase housing opportunity and encourage growth of the community through the construction of planned infrastructure improvements and approximately 415 new homes within the portion of the site located in the County. The concept plan anticipates the administration of the annexed land ultimately under a Planned Unit Development zoning district that would be considered and adopted separately from this request. The proposed development of the overall site is summarized on the attached concept plan and will include the provision of open space and recreational amenities that would be maintained by a homeowners association for the development.

Portions of the property along Buffalo Creek may be available for dedication to the City of Fairmont for use as a potential Riverfront Park. As a part of this annexation request, we suggest consideration for the dedicated use of B&O Tax revenue from the project to be directed toward

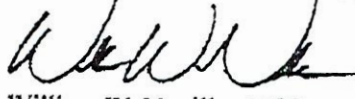
Bowman Consulting Group, Ltd.  
101 South Street SE • Leesburg, VA 20175  
Phone: 703.443.2400 • Fax: 703.443.2425 • [www.bowmanconsulting.com](http://www.bowmanconsulting.com)

this park or other public improvements in the vicinity that would provide a mutual benefit for the community. Further, we request that the City of Fairmont consider the creation of a TIF district to provide early funding for portions of the site infrastructure, such as a potential upgrade and extension of existing Conley Drive/Naomi Street, upgrade of sewer and water utility lines or other improvements with public benefit.

We hope that you will agree this proposed annexation is in the best interest of the County as a whole, through the logical extension of public services that allow for the natural growth and development of existing neighborhoods in the City of Fairmont. This development will provide quality housing opportunities to coincide with the growth of employment and commerce in the area.

Should you require any additional information please feel free to contact us.

Sincerely,  
BOWMAN CONSULTING GROUP



William W. Neville, AICP  
Director of Planning

DESCRIPTION OF ANNEXATION OF RIVER CREEK,  
CITY OF FAIRMONT, MARION COUNTY WEST VIRGINIA

Beginning at a point in the line of the property Rolling Eleven, L.L.C., thence N.11° 50' 26" E. 87.57 feet; thence N. 35° 00' 38" E. 89.56 feet; thence N. 31° 53' 01" E. 63.93 feet; thence N. 03° 31' 26" W 95.55 feet; thence N. 22° 50' 04" E 185.66; thence N. 27° 32' 54" E. 155.55 feet; thence N. 00° 00' 00" E. 134.98 feet; thence N. 13° 13' 34" E. 182.54 feet; thence N. 21° 18' 39" W. 117.14 feet; thence S. 81° 32' 37" E. 1836.19 feet; thence N. 80° 15' 15" E. 151.53 feet; thence S. 18° 56' 12" E. 86.28 feet; thence N. 80° 13' 27" E. 137.33 feet; thence N. 62° 41' 02" E. 233.74 feet; thence N. 85° 17' 25" E. 799.63 feet to a point in the corporation line of the City of Fairmont; thence with the corporation line in an southwestern direction approximately 2473.49 feet to a point; thence S. 58° 07' 14" W. 263.62 feet; thence S. 52° 47' 02" W. 88.29 feet; thence S. 77° 48' 27" W. 106.46 feet; thence N. 88° 09' 13" W. 87.23 feet; thence N. 72° 29' 08" W. 112.07 feet; thence N. 54° 39' 21" W. 106.89 feet; thence N. 49° 57' 30" W. 484.93 feet; thence N. 55° 46' 08" W. 159.88 feet; thence N. 58° 17' 02" W. 251.27 feet; thence N. 55° 59' 55" W. 135.70 feet; thence N. 69° 14' 26" W. 87.23 feet; thence N. 81° 05' 28" W. 145.19 feet; thence N. 84° 24' 16" W. 144.12 feet; thence S. 81° 28' 30" W. 113.76 feet; thence S. 69° 09' 30" W. 12.79 feet; thence S. 72° 38' 25" W. 104.02 feet; thence N. 88° 31' 56" W. 145.73 feet; thence S. 85° 53' 18" W. 65.31 feet; thence N. 90° 00' 00" W. 74.50 feet; thence 67° 45' 52" W. 66.85 feet; thence S. 52° 36' 48" W. 60.18 feet; thence S. 46° 28' 32" W. 47.99 feet; thence S. 32° 58' 14" W. 761.09; thence N. 89° 45' 17" W. 546.29 feet; thence N. 10° 35' 54" W. 280.24; thence N. 54° 15' 05" W. 399.89; thence N. 75° 49' 10" W. 318.35; thence S. 76° 46' 05" W. 240.16 feet; thence N. 26° 07' 06" W. 940.64 to the point and place of beginning, containing 167.01 acres more or less, and being part of that same real estate described in that certain deed dated August 17, 2005, by and between Hallwood, L.L.C. et al., and Rolling Eleven, L.L.C., which deed is of record in the Office of the Clerk of the County Commission of Marion County, West Virginia in Deed Book 1005, at page 793.

**RESOLUTION**

**A RESOLUTION AUTHORIZING AN APPLICATION TO THE COUNTY COMMISSION FOR THE COUNTY OF MARION, STATE OF WEST VIRGINIA, REQUESTING AN EXTENSION AND INCREASE OF THE CORPORATE LIMITS OF THE CITY OF FAIRMONT BY MINOR BOUNDARY ADJUSTMENTS BY 167.01 ACRES MORE OR LESS, FORMERLY KNOWN AS THE CONLEY FARM, PURSUANT TO WEST VIRGINIA CODE SECTION 8-6-5**

**WHEREAS**, Chapter 8, Article 6, Section 5 of the West Virginia Code, provides for the increase and extension of the corporate limits of a municipality via annexation by minor boundary adjustments; and

**WHEREAS**, It is necessary and appropriate for the City of Fairmont to make application to the Honorable County Commission for the County of Marion, State of West Virginia, for annexation by minor boundary adjustments.

**NOW, THEREFORE, THE CITY OF FAIRMONT HEREBY RESOLVES THAT:**

**SECTION 1. AUTHORIZATION:** The City Manager be and is hereby requested and authorized to prepare the required documents and make application to the Honorable County Commission for the County of Marion, for annexation by minor boundary adjustments of a certain tract of land belonging to Rolling Eleven, LLC, containing 167.01 acres more or less, situate in Fairmont District, Marion County, Fairmont, West Virginia, and particularly bounded and described in that certain deed dated August 17, 2005, by and between Hallwood, L.C., et. al., to Rolling Eleven, LLC which deed, is on record in the Office of the Clerk of the aforementioned County Commission in Deed Book 1005, at Page 793. This tract of land adjoins and is contiguous to the City of Fairmont.

Passed this the 25th day of October, 2005.

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CITY CLERK