

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

EUGENE CAPRIOTTI,
HERBERT JONKERS and
LOUIS B. ATHEY,

Petitioners,

v.

TODD BALDAU
Serve: 104 East Washington Street
Charles Town,
West Virginia 25414

Respondent.

RECEIVED

NOV 08 2006

JEFFERSON COUNTY
CIRCUIT COURT

Civil Action No. 06-C-373

**PETITION PURSUANT TO WEST VIRGINIA CODE SECTION 6-6-7
FOR THE REMOVAL OF TODD BALDAU FROM
THE JEFFERSON COUNTY PLANNING COMMISSION**

COME NOW, Eugene Capriotti, Herbert Jonkers and Louis B. Athey, by counsel, James P. Campbell, Esquire and Campbell Miller Zimmerman, P.C., and file the following Petition pursuant to West Virginia Code Section 6-6-7 for Removal of Todd Baldau as from the Jefferson County Planning Commission, and state in support thereof as follows:

1. Petitioners, Eugene Capriotti and Louis B. Athey, are residents of Jefferson County, West Virginia and have verified the allegations of this Petition as required by law.
2. Petitioner, Herbert Jonkers, is a former resident of Jefferson County, West Virginia, and a current resident of Clarke County, Virginia.

3. Jonkers has an interest in real property in Jefferson County in his capacity as a Manager of several limited liability companies which own real property in West Virginia. Jonkers also has verified the allegations contained in this Petition.

4. Todd Baldau ("Baldau") is a Member of the Jefferson County Planning Commission having been appointed to the Office of Planning Commissioner in accordance with West Virginia law.

5. Exhibit A attached hereto is a list of fifty (50) or more petitioners who are residents of Jefferson County, West Virginia, who join this Petition for Removal of Baldau as a Jefferson County Planning Commissioner in accordance with the express terms of Section 6-6-7(a)(1) of the West Virginia Code.

6. Exhibit A also contains the signatures of petitioners who are not residents of Jefferson County, West Virginia, but have an interest in real property in Jefferson County. Notwithstanding the foregoing, fifty (50) or more of the individuals executing Exhibit A are, in fact, residents of Jefferson County.

7. Pursuant to Section 6-6-7(c) of the West Virginia Code charges for removal "*shall be reduced to writing*" in the form of a Petition duly verified by at least one (1) of the persons bringing the same, and shall be entered of record by "*the Court, or the judge thereof in vacation, or in the case of any multi-judge circuit, the chief judge thereof, shall without delay forward a copy of the petition to the supreme court of appeals and shall ask for the impaneling or convening of a three-judge court consisting of three circuit judges of the state.*"

8. Baldau, acting in his capacity as a Member of the Jefferson County Planning Commission, has committed multiple acts of official misconduct, malfeasance in office, incompetence and neglect of duty, each of which is a basis for removal pursuant to Section 6-6-7 of the West Virginia Code, including, but not limited to, the following specific acts:

- a. Baldau has asserted that he and the Jefferson County Planning Commission have discretion to deny subdivision applications because they act with discretion, rather than in a ministerial capacity; and
- b. Baldau's assertion that the Jefferson County Planning Commission has discretion to deny subdivision applications, even if the same comply with the Jefferson County Subdivision and Zoning Ordinances is embodied as follows (i) his vote to deny the Benview Subdivision application on June 28, 2005 as evidenced in the Minutes of said meeting and the audiotape of proceedings with regard to the same; and (ii) his vote to approve the August 12, 2005 decision of the Planning Commission denying the final plat approval for Benview Subdivision, which decision specifically alleges that the Jefferson County Planning Commission is "*not a ministerial body that is required to approve a final plat when all technical requirements and conditions of the Subdivision Ordinance have been met*";

- c. Baldau's vote against the approval of the Thorn Hill Subdivision application on December 13, 2005 as evidenced in the Minutes of said meeting and the audiotape of proceedings with regard to the same;
- d. Baldau's approval and consent to the Office of the Jefferson County Prosecuting Attorney in *Thorn Hill v. Jefferson County Planning and Zoning Commission*, Case No. 05-C-372, wherein the Planning Commission asserted to the Circuit Court of Jefferson County that the Planning Commission was not a ministerial body and did not have a responsibility to approve subdivision applications which complied with the Subdivision and Zoning Ordinances, as reflected in the Planning Commission's pleadings and memoranda submitted to the Circuit Court in said proceeding;
- e. Baldau voted to deny the Spruce Hill Towns Community Impact Statement based on reasons outside the Subdivision Ordinance because he asserted that the applicant at CIS had not provided for the resolution of concerns not required to be addressed at CIS. Specifically, Baldau asserted that the CIS should be denied because of (i) social impacts on the demand for emergency services; (ii) concerns about electric power surges with Allegheny Power; (iii) offsite traffic concerns at the intersection of Huyett Avenue and Augestine Avenue; and (iv) storm water control issues;

- f. Baldau has asserted that West Virginia Code Section 8-24-30 grants to the Planning Commission discretion to deny subdivision applications, notwithstanding the fact that Section 8-24-30 has been repealed and that Baldau has been specifically advised of the limited import of Section 8-24-30, in the context of subdivision applications by virtue of the decisions of the West Virginia Supreme Court in *Singer v. Davenport*, 164 W.Va. 665, 264 S.E.2d 637 (1980) and *Kaufman v. Planning and Zoning Commission of the City of Fairmont*, 171 W.Va. 174, 298 S.E.2d 148 (1982), specifically as follows: (i) on May 10, 2005, Baldau participated in a public meeting of the Jefferson County Planning Commission wherein Assistant Prosecuting Attorney Greg Jones discussed a May 5, 2005 letter to the Planning Commission advising the same of their responsibilities pursuant to West Virginia Code Section 8-24-30 and the impact of the holdings of *Singer* and *Kaufman*; (ii) his assertion of discretion pursuant to Section 8-24-30 on December 13, 2005 in relation to the Thorn Hill Subdivision application as set forth in the audiotape of said Planning Commission meeting; (iii) his assertion of discretion outside the terms and conditions of the Ordinance in relation to general traffic issues and concerns on U.S. Route 340, issues related to emergency services and issues related to the National Park as evidenced in the record of proceedings conducted

on April 11, 2006 in relation to the Sheridan Subdivision application; (iv) his continuing assertions regarding traffic on U.S. Route 340, outside the requirements of the Subdivision Ordinance, notwithstanding specific information from the West Virginia Department of Transportation, Division of Highways, together with issues relating to the National Park and emergency services also outside the requirements of the Subdivision Ordinance, as reflected in the record of the Planning Commission meeting conducted on June 13, 2006;

- g. Baldau has acted intentionally, with forethought and with design to deny subdivision applications which otherwise comply with the Jefferson County Zoning Ordinance and the Jefferson County Subdivision Ordinance;
- h. Notwithstanding his duties to act in a ministerial capacity on June 13, 2006, Baldau publicly threatened Planning Commissioner Greg Corliss, who is also a County Commissioner, with political recriminations if, in fact, he voted in accordance with the requirements of the Jefferson County Zoning Ordinance and Subdivision Ordinance;
- i. Notwithstanding his duties to act in a ministerial capacity, Baldau, in his capacity as a Jefferson County Planning Commissioner, has appeared before a separate governmental body, the Jefferson County

Public Service District on December 5, 2005, and demanded that the Jefferson County Public Service District seek approvals of any of their planned sewage treatment facilities, notwithstanding the fact that the Jefferson County Public Service District is not required to seek any such approval;

- j. Notwithstanding his duties to act in a ministerial capacity, Baldau, in his capacity as a Jefferson County Planning Commissioner, has appeared before a separate governmental body, the Jefferson County Public Service District on December 5, 2005, and indicated that he would vote to oppose any subdivision or project which would provide a customer base for any newly-developed sewer facility to be built by the Jefferson County Public Service District, and that he would urge his colleagues on the Planning Commission to oppose any such projects, unless the Public Service District first sought approval of the Planning Commission for any such sewer facility;
- k. Subsequent to the threat stated on December 5, 2005 before the Jefferson County Public Service District, Baldau specifically opposed both the Thorn Hill and Sheridan Subdivision applications, which applications were necessary for the funding to build two (2) sewer treatment plants for the Jefferson County Public Service District, notwithstanding the fact that the Thorn Hill and Sheridan

Subdivision applications satisfied the requirements of the
Subdivision and Zoning Ordinances; and

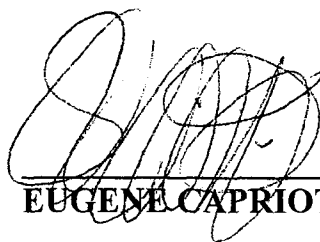
1. In relation to the Sunnyside Industrial Park Community Impact Statement, Baldau demanded compliance with terms and conditions not required by the Zoning Ordinance, on the basis that compliance with unauthorized demands would be less costly to the applicant than an appeal.

9. The acts and omissions set forth in the foregoing paragraph constitute a lawful basis for removal pursuant to Section 6-6-7 and the Petitioners herein are entitled to proceed before a three-judge panel to hear and determine the merits of this cause.

WHEREFORE, Petitioners, Eugene Capriotti, Herbert Jonkers and Louis B. Athey, and the additional petitioners identified on Exhibit A hereto, respectfully demand the following relief:

- A. This Petition be filed with this Honorable Court; and
- B. That the Chief Judge of the Circuit Court of Jefferson County enter the Administrative Order, attached hereto as Exhibit B, so that the Petition shall be "entered of record" as required by Section 6-6-7(c) of the West Virginia Code; and
- C. Following the entry of an Order admitting the Petition to record, a Summons issue upon Todd Baldau to answer or otherwise respond to the allegations contained in the Petition; and

- D. That the Chief Judge of this Honorable Court forward a copy of this Petition to the West Virginia Supreme Court of Appeals pursuant to the requirements of Section 6-6-7(c) of West Virginia Code; and
- E. That the West Virginia Supreme Court of Appeals appoint a three-judge panel to hear and determine the issues joined in this Petition; and
- F. That a hearing on the merits of this cause be scheduled; and
- G. That Planning Commissioner Todd Baldau be removed from the Jefferson County Planning Commission by virtue of his misconduct, malfeasance in office, incompetence and neglect of duty; and
- H. For such further relief as this Court deems just and proper.


EUGENE CAPRIOTTI

STATE OF WEST VIRGINIA :
COUNTY OF JEFFERSON :

The aforesaid Eugene Capriotti, personally did come before me, a Notary Public for the state and county aforesaid did swear, affirm and verify under oath that the allegations contained in this Petition pursuant to West Virginia Code Section 6-6-7 for the Removal of Todd Baldau from the Jefferson County Planning Commission are true and correct to the best of his knowledge and belief on this 5th day of

October, 2006,

☒ personally known to me;

or whose identity was proven to me by:

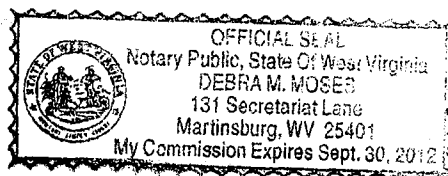
- ☐ a United States Passport
- ☐ a certificate of United States citizenship
- ☐ a certificate of naturalization
- ☐ an unexpired foreign passport
- ☐ an alien registration card with photograph
- ☐ a state-issued driver's license
- ☐ a state-issued identification card
- ☐ a United States military card

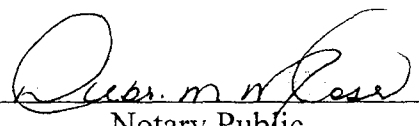
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Issued by: _____

Dated: _____

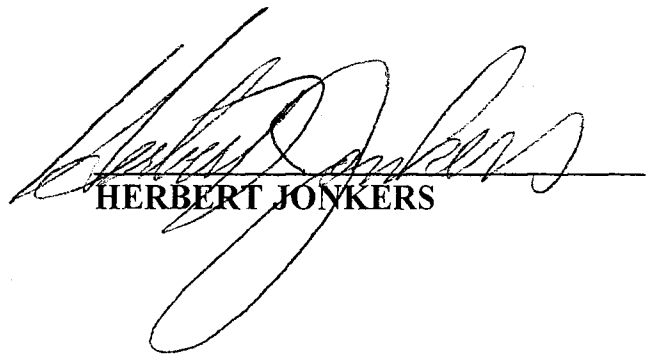
Expiration date: _____




Notary Public

My commission expires: Oct 30, 2012

Verification document to be retained in file or by Notary Public.


HERBERT JONKERS

STATE OF WEST VIRGINIA :
COUNTY OF JEFFERSON :

The aforesaid Herbert Jonkers, personally did come before me, a Notary Public for the state and county aforesaid did swear, affirm and verify under oath that the allegations contained in this Petition pursuant to West Virginia Code Section 6-6-7 for the Removal of Todd Baldau from the Jefferson County Planning Commission are true and correct to the best of his knowledge and belief on this 5th day of October, 2006,

☒ personally known to me;

or whose identity was proven to me by:

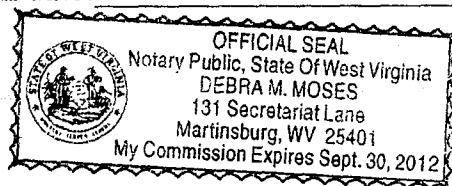
- ☐ a United States Passport
- ☐ a certificate of United States citizenship
- ☐ a certificate of naturalization
- ☐ an unexpired foreign passport
- ☐ an alien registration card with photograph
- ☐ a state-issued driver's license
- ☐ a state-issued identification card
- ☐ a United States military card

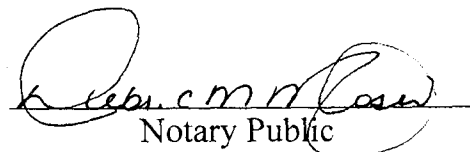
If identity was ascertained by means of one of the above documents:

Issued by: _____

Dated: _____

Expiration date: _____




Notary Public

My commission expires: Sept 30, 2012

Verification document to be retained in file or by Notary Public.


LOUIS B. ATHEY

STATE OF WEST VIRGINIA :
COUNTY OF JEFFERSON :

The aforesaid Louis B. Athey, personally did come before me, a Notary Public for the state and county aforesaid did swear, affirm and verify under oath that the allegations contained in this Petition pursuant to West Virginia Code Section 6-6-7 for the Removal of Todd Baldaou from the Jefferson County Planning Commission are true and correct to the best of his knowledge and belief on this 5th day of October, 2006,

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or whose identity was proven to me by:

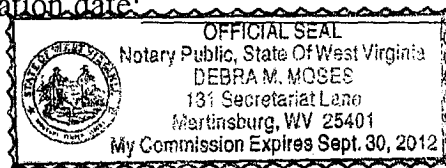
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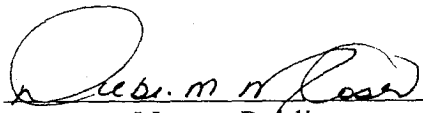
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Dated: _____

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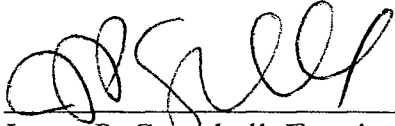



Notary Public

My commission expires: Sept 30, 2012

Verification document to be retained in file or by Notary Public.

**EUGENE CAPRIOTTI,
HERBERT JONKERS and
LOUIS B. ATHEY
By Counsel**



James P. Campbell, Esquire (VSB #25097)

Campbell Miller Zimmerman, P.C.

19 East Market Street

Leesburg, Virginia 20176

(703) 771-8344/Telephone

(703) 777-1485/Facsimile

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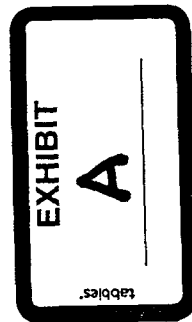
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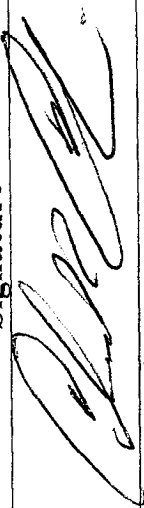


TODD BALDAU)
)

Respondent.)

THE UNDERSIGNED RESIDENTS OF JEFFERSON COUNTY HEREBY PETITION FOR THE REMOVAL OF
JEFFERSON COUNTY PLANNING COMMISSIONER TODD BALDAU, FOR THE REASONS STATED IN
THE VERIFIED COMPLAINT OF EUGENE CAPRIOTTI, HERBERT JONKERS AND
LOUIS B. ATHEY, TO WHICH THIS EXHIBIT IS ATTACHED

| Name | Address | Signature |
|----------------------|----------------------------------|-----------------|
| Victoria Dudash | 1913 Augustine Ave. CT. WV 25414 | Victoria Dudash |
| Christopher Dudash | 1913 Augustine Ave. CT. WV 25414 | Chris Ill |
| Clinton Leeds Co RBM | 248 Eagle Rd Charles Town WV | Clinton Leeds |



| Name | Address | Signature |
|-----------------------|---|--|
| CHUCK COBBIN | 123 Plum Tree Lane Ranson, WV 25438 |  |
| EUGENE CAPRIOTTI | 70 Box 335 Harpers Ferry, W.Va. |  |
| TERRI CAPRIOTTI | P.O. Box 335, Harpers Ferry WV 25425 | Terri A Capriotti |
| Matthew Renner | P.O. Box 659 Harpers Ferry WV 25425 | Matthew Renner |
| Charles D Longenecker | 27 Murphy Road Harpers Ferry W.Va. | Charles D Longenecker |
| JAMES C. WILBIRE | 509 Brooke St Charles Town WV 25414 |  |
| Brandon J. Pettit | 478 Mara Rose Lane Harpers Ferry, WV 25425 | Brandon J. Pettit |
| Robert J Dudash | 63 Brentwood Ct Harpers Ferry, WV 25425 | Robert J Dudash |
| Craig Riley | 515 1/2 E Liberty St Charles Town WV 25414 | Craig Riley |

| Name | Address | Signature |
|------------------|--------------------------------|-----------------|
| PATRICK MARRONE | 68 SIGNAL DR. HARRIS FERRY WV | Pat M |
| Shelley Gustines | 339 Quail Run Rd. Summit Pt WV | Shelley D. Gust |
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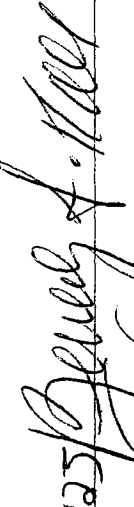


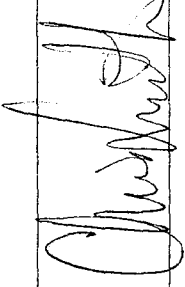


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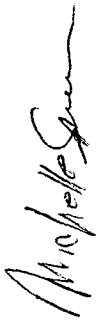
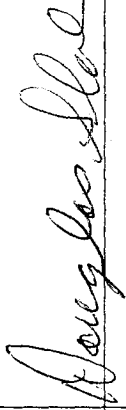

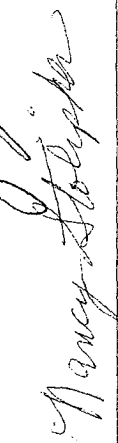
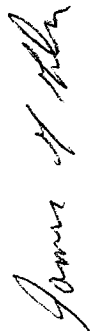
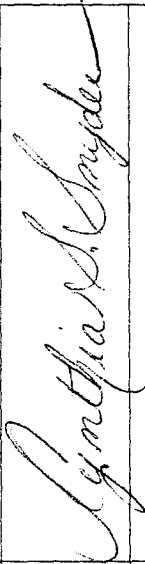



TODD BALDAU)
)

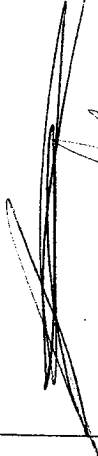
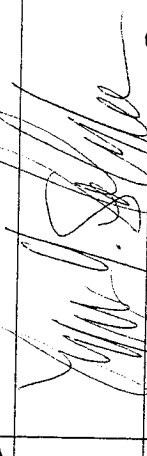

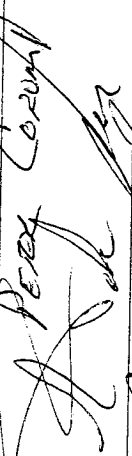

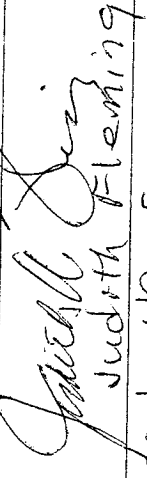

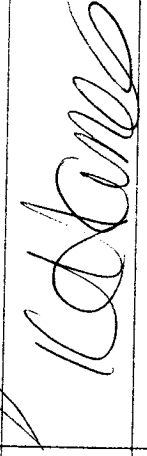
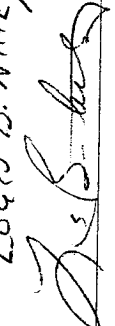
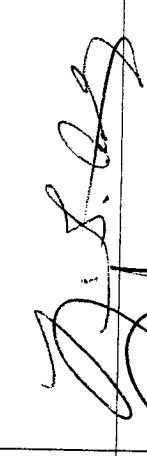


Respondent.)

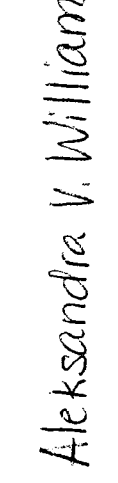
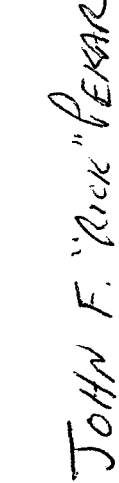

THE UNDERSIGNED RESIDENTS OF JEFFERSON COUNTY HEREBY PETITION FOR THE REMOVAL OF
JEFFERSON COUNTY PLANNING COMMISSIONER TODD BALDAU, FOR THE REASONS STATED IN
THE VERIFIED COMPLAINT OF EUGENE CAPRIOTTI, HERBERT JONKERS AND
LOUIS B. ATHEY, TO WHICH THIS EXHIBIT IS ATTACHED


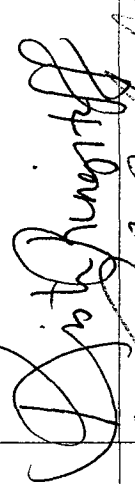


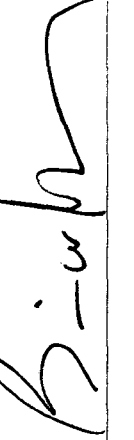
| Name | Address | Signature |
|-------------------|---|---|
| DAVID WIEGAND | 189 Wide River Farm Dr Harpers Ferry, WV 25425 |  |
| Cecilia Ross | 75 Mountain Brook Dr Harpers Ferry, WV 25425 |  |
| Michael D. Foster | P.O. Box 887 Shepherdstown WV 25443 |  |

| Name | Address | Signature |
|---|---|---|
| KEVIN KALB | 294 PALOMINO PLACE CHARLESTOWN, WV. 25414 |  |
| DEBBIE KALB | 294 PALOMINO PLACE CHARLESTOWN, WV. 25414 |  |
| Andre Skuen | 1300 BATHING MILL Rd Shepherdstown, WV |  |
| B. LEE SNYDER | 270 MOUNTAIN BLVD. KENAVERS VILLE, WV. 25430 |  |
| Beverly F. Hall | 544 APPLE CROSS RD HARPERS FERRY WASH DC 21741 |  |
| Kathy Fuller | 48 Trough Rd Shepherdstown, WV 25443 |  |
| James A. Castwinn | 212 Locust Knoll Dr Charlton, WV |  |
|  | 451 Spyglass Hill Dr Charles Town, WV 20414 |  |
| James Smith | " " |  |

| Name | Address | Signature |
|---|--|---|
| Michael Spencer | 192 Caines Street Cartertown WV. 25414 |  |
| Douglas Stolipher | 1599 Roper 10th Park Rd Charles Town WV 25414 |  |
| WARD ZIGLER | CHARLES TOWN WV 25414 1343 ROPER N. FORK RD. |  |
| Nancy Stolipher | 1599 Roper N. Fork Rd Charles Town WV 25414 |  |
| James Gibson | 201 Needwood Farm Ln Harpers Ferry WV 25475 |  |
| SYNTHIA SNYDER Synthia Snyder | 279 Lone Oak Rd Ranson, WV 25438 |  |
| EDNA KING | 61811 HAMMOND LANE CHARLES TOWN, WV 25414 |  |
| Kary Klein | 65 Watercress Place Shepherdstown, WV 25443 |  |
| John Gibson | 201 Needwood Farm Ln Harpers Ferry WV 25475 |  |

| Name | Address | Signature |
|--|--|---|
| Steve Stolipker | 53 Sta 537 Lane Charles Town W.V. 25414 |  |
| hyma Stolipker | 53 Stasgala Charles Town, WV 25414 |  |
| Andrea Cornum | 4038 Kearneysville Pike Shepherdstown, WV 25443 |  |
|  Peggy Cornum | " " " |  |
|  Judith Fleming | " " " |  |
| Marla Hanes Kebane | 103 MacEPA PKWY Kearneysville WV 25430 |  |
| Lorin B. Arney  | 622 E Washington St. Charles Town, W. Va. 25414 |  |
| Terry Wade | 534 E. Washington St. Charles Town, WV 25414 |  |
| DON J. ORSER | 250 BLUE RIDGE LOOP HARPERS FERRY, WV 25425 |  |




| Name | Address | Signature |
|--------------------------------------|--|---|
| Aleksandra V. Williams | 118 Maple Avenue Charles Town, WV 25414 |  |
| JOHN F. "Rick" PEKAR | 187 LOCUST KNOLL DR. CHARLES TOWN, WV 25414 |  |
| Tamarak Reighner Tamarak Reighner | 304 W. CHILDS RD KEAMERSVILLE WV 25430 |  |
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| Name | Address | Signature |
|-------------------|--|---|
| MARK DYCIC | 53 BOULSKIN STREET CHARLES TOWN, WV |  |
| KRISTEN RINGSTAFF | 534 E. WASHINGTON STREET CHARLES TOWN, WV 25414 |  |
| Paul L. Ashbaugh | 1100 Chestnut Hill Rd Hopers Ferry WV 25425 |  |
| FRED E. Blackmer | 10203 CHARLES TOWN ROAD RAWSON WV 25438 |  |
| BRIAN W. ROGERS | 179 DUNLAP DR. CHARLES TOWN WV 25414 |  |
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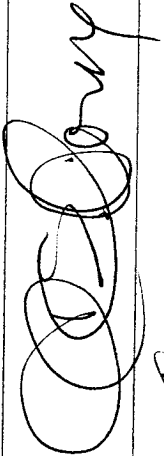


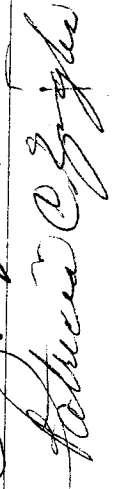
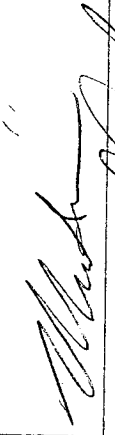


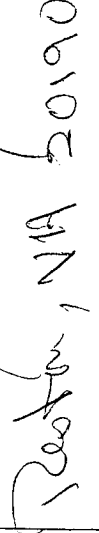
IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

EUGENE CAPRIOTTI,)
HERBERT JONKERS and)
LOUIS B. ATHEY,)
Petitioners,)
v.)
TODD BALDAU)
Respondent.)

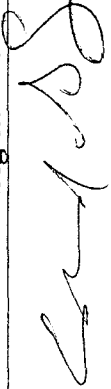
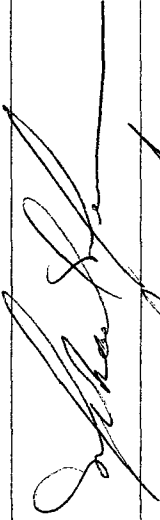

THE UNDERSIGNED NON-RESIDENTS OF JEFFERSON COUNTY, HAVING AN INTEREST IN REAL
PROPERTY IN JEFFERSON COUNTY, HEREBY PETITION FOR THE REMOVAL OF JEFFERSON
COUNTY PLANNING COMMISSIONER TODD BALDAU, FOR THE REASONS STATED IN
THE VERIFIED COMPLAINT OF EUGENE CAPRIOTTI, HERBERT JONKERS AND
LOUIS B. ATHEY, TO WHICH THIS EXHIBIT IS ATTACHED

| Name | Address | Signature |
|------------------|--|---|
| Charles Mitchell | 21601 Avens Ct. Ashburn, VA 20148 |  |
| Roger Schroeder | 10490 LAKEHEDGE CT NEW MARKET, MD 21774 |  |
| Lynn Crapp | 9607 WILDERNESS RD #103 IDARMSVILLE, MD 21754 |  |

| Name | Address | Signature |
|--------------------|---|--------------------|
| CATHARINE GUBINSKY | 6305 HOGANWAY CT. FARMERD, MD 21761 | Catharine Gubinsky |
| HERBERT JANKERS | 839 Briggs Rd Berryville Va 22611 | Herbert Jankers |
| Jeffrey Kayden | 39100 Fry Farm Rd Lanettville Va 20180 | Jeffrey Kayden |
| Edward Smirnov | 43327 Butterfield Ct Ashburn Va 20147 | Edward Smirnov |
| MITZI BOSWELL | 13428 POWERSVILLE RD WAYNESBORO PA 17268 | Mitzi Boswell |
| Shelly Bombard | 16822 Scott Road Emmitsburg MD 21707 | Shelly Bombard |
| Dr. Mary Ann | 7113 Feldspar Ln Middlebrook, MD 21769 | Dr. Mary Ann |
| B. Jeffrey Kerns | 5 Stonyford Ave BOONSBORO, MD | B. Jeffrey Kerns |
| Michael Wiley | 283 CORPORATE DRIVE SUITE 300 FREDERICK, MD 21703 | Michael Wiley |

| Name | Address | Signature |
|---------------------|---|---|
| Carla E. Coffey | 6153 Myradale Way Haymarket, VA 20169 |  |
| Holly Horne | 46334 Berlin Turnpike Purcellville, VA 20132 |  |
| DOLAN L. MILLER | 6503 BREAKWATER TERR. JANESVILLE, MD. 21754 |  |
| ROD FRYE | 101 Thomas Way Northsburg, MD 25401 |  |
| Patricia C. Ziegler | 611 S. E. 5th Court Pompano Beach 33060 |  |
| Martin Bucher | 12222 Big Bear Clearspring |  |
| Dan Sordor | 24912 Florence RD CLARKESBURG MD |  |
| Michael Morotay | 33 Hummingbird Ln Falling Waters WV |  |
| David Robinson | 1703 Red Oak Circle Reston, VA 20190 |  |

Non

| Name | Address | Signature |
|---------------------|--|---|
| ED SHAGEN | 6909 WINBLETON CT NEW MARKET, MD 21774 |  |
| MICHAEL MERCER | 509 TONGUE LANE MARTINSBURG, WV 25401 |  |
| LEE SANSELE | 908 HICKORY CT. MARTINSBURG, WV 25401 |  |
| Christopher A. Lane | 2393 Giles Mill Rd. Bunker Hill, WV 25413 | |
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IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

EUGENE CAPRIOTTI,
HERBERT JONKERS and
LOUIS B. ATHEY,

Petitioners,

v.

TODD BALDAU,

Respondent.

Civil Action No. _____

ORDER DIRECTING THE ENTRY OF THE PETITION TO RECORD

THIS MATTER came upon the request of the Petitioners, Eugene Capriotti, Herbert Jonkers and Louis B. Athey, by counsel, requesting the entry of the Petition filed herein to record in accordance with Section 6-6-7(c) of the West Virginia Code; and

IT APPEARING that Section 6-6-7(c) requires that the Petition "shall be entered of record by the court, or by the Judge thereof in vacation"; and

ORDERED and ADJUDGED that the Petition filed herein is hereby ENTERED OF RECORD in this Court.

ENTERED this ____ day of _____, 2006

Judge

S:\Civil\Clients\Baldau Matter\Created\Order-3.doc

CAMPBELL ♦ MILLER ♦ ZIMMERMAN, P.C.
19 E. Market Street
Leesburg, Virginia 20176
(703) 771-8344

