

August 12, 2020

Jefferson County Planning 116 East Washington Street, 2<sup>nd</sup> Floor Charles Town, WV 25414

#### Re: Zoning Ordinance Text Amendment – Drive-Through Restaurants

GORDON is a planning and engineering firm located in the eastern panhandle that represents both developers and existing business owners in Jefferson County. Over the last several years there has been a growing trend for gas stations to provide a drive-through option for customers. This option allows for increased food sales and is invaluable to individuals with disabilities. The pandemic of 2020 has led society to evaluate how goods and services are obtained and resulted in substantial demand for drive-through services at both gas stations and restaurants. While it is hopeful that current events will not be repeated, the potential for future events must now be recognized by both business owners and citizens.

It is requested that the "Restaurant, Fast Food, Drive-Through" use be classified as a permitted use in the Residential-Light Industrial-Commercial (RLIC) District. "Restaurant, Fast Food, Drive-Through" is a Conditional Use under the current regulations. See proposed red line revisions for the Jefferson County Zoning and Land Development Ordinance included with this request.

Drive-through restaurants are permitted in all commercial districts except for the Office-Commercial Mixed Use (OC) and RLIC Districts. A review of the Zoning Map did not identify any land mapped in the OC District but includes multiple parcels within the RLIC District. The majority of land zoned RLIC is located in the Urban Growth Boundary identified in the Comprehensive Plan or adjacent to Arterial Roads. This identifies the RLIC as an appropriate zone to permit drive-through restaurants.

The proposed Zoning Ordinance Text Amendment does not conflict with and is consistent with the 2035 Envision Jefferson Comprehensive Plan (the Plan). Including:

- From WV Code as refered in the Comprehensive Plan (Page 9): A comprehensive plan aids the planning commission in designing and recommending to the governing body ordinances that result in preserving and enhancing the unique quality of life and culture in that community and in <u>adapting to future changes of use of an economic, physical or social nature</u>.
- Economic Development, Employment, and Infrastructure (Goals and Supporting Plan Recommendations: Pg. 12 & 16)
- Finance and Public Safety (Goals and Supporting Plan Recommendations: Pg. 12 & 16)

Thank you in advance for your time and consideration of this request.

Sincerely,

Chad Wallen GORDON

www.gordon.us.com



Sender's Direct Telephone (814) 626-8327 Sender's Direct Facsimile (814) 941-5105

#### VIA ELECTRONIC MAIL

August 21, 2020

Jefferson County Office of Planning and Zoning Attn: Alexandra Beaulieu, Zoning Administrator 116 East Washington Street, Suite 200 Charles Town, WV 25414 Email: abeaulieu@jeffersoncountywy.org

## Re: Jefferson County PINs: 09 800130000000, 09 8001400000000, 09 8001500020000 and 09 8001000020000

Dear Ms. Beaulieu:

Please be advised that Sheetz, Inc. ("Sheetz"), the contract purchaser of the above-described land in Jefferson County, West Virginia, has retained William H. Gordon Associates, Inc., d/b/a GORDON, as its consultant and agent for purposes of assisting and representing Sheetz in the pursuit of a zoning text amendment allowing for drive through facilities in the RLIC District. GORDON is authorized to file applications, correspond with County staff, and present and answer questions on behalf of Sheetz at County meetings and hearings pertinent to the requested text amendment.

Thank you, and please do not hesitate to reach out directly with any questions.

Respectfully,

Kyle R. Smith Sr. Associate Real Estate Counsel Enc.

cc: Bob Franks, Engineering/Permit Manager

- (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
- (d) If the concept plan is approved by the Planning Commission, the applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations and the approved concept plan. The plat shall bear a statement indicating "The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation".<sup>23</sup>
- 3. If the development rights under Subsections 5.7D.1 and 5.7D.2 above have not been utilized, any property that was a lot of record as of October 5, 1988 may create three (3) total lots (including the residue) during any five year period. Such application may process as a Minor Subdivision, in accordance with the Subdivision Regulations, and shall be exempt from density limitations provided that all subdivision requirements are satisfied. Applications which exceed this number during any five year period shall process under Subsection 5.7D.1 or 5.7D.2 above. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. All lots that qualify under this section must meet subdivision requirements.<sup>32</sup>
- 4. Subdivisions involving transfers of land between family members known as "Family Transfers", as defined in Article 2, shall not be subject to the density requirements of this section. All lots that qualify under this section must meet subdivision requirements. Family transfers are not entitled to further subdivide except as another Family transfer.<sup>32</sup>
- 5. Once the maximum number of lots are created under 5.7D, the property cannot be further subdivided unless the Ordinance is amended to allow such.
- 6. Notwithstanding any other provision contained in Article 5, Section 5.7D, if a property was previously subdivided under the one (1) lot per ten (10) acre provision after October 5, 1988 and before this Ordinance was amended on March 1, 2018, then the property may continue to subdivide, or finish subdividing, utilizing the property's remaining development rights as they existed at the time(s) when the subdivision was previously processed. These vested rights may be shown on a previously approved Preliminary or Final Plat, Concept Plan, or Community Impact Statement, or otherwise contained within the property's subdivision files within the Department of Engineering, Planning, and Zoning.<sup>34</sup>

#### Section 5.8 Residential-Light Industrial-Commercial (R-LI-C) District<sup>1</sup>

The purpose of this district is to guide high intensity growth into the designated growth area. Light industrial uses are defined in Section 2.2. All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation on whether a use is a light industrial or heavy industrial use. The final decision on use classification shall be made by the Zoning Administrator.<sup>23</sup>

- A. Principal Permitted and Conditional Uses<sup>23, 27, 32</sup>
  - 1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27, 32</sup>

- 2. Uses shown as conditional uses (CU) for this district in Appendix C, Principal Permitted and Conditional Uses Table shall be subject to review and approval by the Board of Zoning Appeals in accordance with Section 6.3 of this Ordinance.<sup>27, 32</sup>
- B. Standards<sup>23</sup>
  - 1. Industrial uses permitted in this district shall be of types that require daily water use of no more than 0.25 gallons per gross square feet of floor space.
  - 2. Light industrial and commercial uses are subject to the standards for such uses in Article 8 of this Ordinance.<sup>23, 27</sup>
  - 3. Impervious surface coverage shall not exceed eighty (80) percent of the gross land area.<sup>27</sup>
- C. Site Development Standards<sup>23, 27</sup>
  - 1. All sections of this Ordinance applying to the Residential Growth District with the exception of Section 5.4A will apply to residential uses in this District.<sup>27</sup>
  - 2. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this Ordinance. All commercial or industrial uses must be in compliance the requirements for such use in Article 8. In addition, a site plan, if required, must demonstrate that traffic patterns created by Commercial or Light Industrial uses (1) will not use adjacent residential roads for through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.<sup>5, 7, 23, 27</sup>

# 3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores shall be subject to the review and approval of the Board of Zoning Appeals as a Conditional Use in accordance with Section 6.3 of this Ordinance. This requirement shall not apply to a building located within a shopping center shown on an approved site plan.<sup>23, 26, 32</sup>

4. Proposed uses in this zone are exempt from the distance requirements in Sections 4.6A-B if part of a master planned community. This provision shall only apply to the internal use of land under the same ownership.<sup>7, 27</sup>

Section 5.9 Reserved<sup>23</sup>

### Section 5.10 Village (V) District<sup>8, 23, 32, 35</sup>

The purpose of this district is to allow recognized villages the ability to provide low level services within their boundaries. This district is generally intended to be served with public or private water and sewer facilities based on proposed lot sizes.

Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted and Conditional Uses Table.<sup>27</sup>

- A. Principal Permitted Uses
  - 1. Residential Land Uses
    - a. Refer to Appendix A for site development standards. If applicable, reduced building setbacks may be permitted in accordance with Article 9.
  - 2. Non-Residential Land Uses in Existing Structures

Commercial Uses ontimatedPP <th>Land Use</th> <th>NC</th> <th>GC</th> <th>нс</th> <th>LI</th> <th>MI</th> <th>PND<sup>1</sup></th> <th>OC</th> <th>R</th> <th>RG</th> <th>RLIC</th> <th>IC</th> <th>V</th> <th>Additional Standards</th>	Land Use	NC	GC	нс	LI	MI	PND <sup>1</sup>	OC	R	RG	RLIC	IC	V	Additional Standards
Barber/Heauty Shop, Limited     P     P     N     P     P     N     P     P     CU     CU     U     P     P     P       Bed and Breakfast     P     P     P     P     P     P     V     NP     P     CU     CU     P     P     CU     Sec. 8.3       Business Equipment Sales and Service     CU     P     P     P     P     P     CU     CU     P     P     P     CU     CU     P     P     P     CU     P     P     P     CU     P     P     P     P     CU     P     P     P     CU     P     P     P     CU     P     P     CU     P     P     CU     P     P     P     P     P     P     P     P     P     P     P     P     P     P     P     CU     P     P     CU     CU     P     P     CU     CU     CU     CU     CU	Commercial Uses continued													Sec. 8.9
Bed and Breakfast     P     N     P     P     P     P     CU     CU     P     CU     CU     P     CU     CU     P     P     CU     CU     P     P     CU     P     P     CU     CU     P	Bar	Р	Р	Р	Р	NP	Р	Р	NP	NP	Р	Р	CU	
Brewpub     P     P     P     P     P     P     P     CU     P      Contractor with Noutdoor	Barber/Beauty Shop, Limited	Р	Р	Р	Р	NP	Р	Р	CU	CU	Р	Р	Р	
Basiness Equipment Sales and Service     CU     P	Bed and Breakfast	Р	NP	NP	NP	NP	NP	NP	Р	CU	NP	NP	Р	Sec. 8.3
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Building Materials and Supplies     NP     P     P     P     P     P     NP     NP     NP     NP     P     CU     P     P     CU       Carw Wash     NP     P     P     P     P     P     CU     CU     P     P     CU     Sec. 8.17       Carw Wash     NP     P     P     P     P     P     P     P     CU     CU     CU     CU     P     P     CU       Commercial Uses     NP     P     P     CU     CU     CU     CU     P     CU       Contractor with Outdoor Storage     NP     P     P     P     P     P     P     P     P     P     CU     CU     P     P     CU     CU     CU     CU     CU     P     CU     CU     CU     CU     CU     CU     CU     CU	Business Equipment Sales and Service	CU	Р	Р	Р	CU	Р	Р	CU	CU	Р	Р	CU	
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Convenience Store, Limited   P   P   P   P   P   P   CU   P   P   CU   P   P   CU   Sec. 5.8C   CRLConly     Country Inn   P	Contractor with No Outdoor Storage	Р	Р	Р	Р	Р	Р	Р	CU	CU	Р	Р	CU	
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