

JEFFERSON COUNTY, WEST VIRGINIA Departments of Planning and Zoning

116 East Washington Street, P.O. Box 338 Charles Town, WV 25414

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www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email: planningdepartment@jeffersoncountywv.org Phone: (304) 728-3228 zoning@jeffersoncountywv.org Fax: (304) 728-8126 Zoning Map Amendment (Rezoning) Pursuant to Article 12, a Zoning Map Amendment is a procedure to amend the official Zoning Map of the County by changing the zoning designation of a property. In order for a proposed amendment to be approved, the County Commission, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of 8A-7-8 et seq of the WV State Code. All Amendments to the Zoning Map require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination. Property owner information Name: JEFFERSON REALIN ILC ATTENTION: ANTONIO COLOUDERA 4843 MIDDLEWAY PIKE KEDRNEYSVILLE LUEST VIRGINIA 25430 Mailing Address: Phone Number: 13041) 283-3120 Email: Applicant contact information Name: SAME AS ABOVE Mailing Address: Phone Number: Email: Applicant representative Name: RACO CUNSULTING LLC ATTENTION: PAUL J. RACO Mailing Address: CHARLES THIN WEST VIRGINIA 25414 Phone Number: (304) 676-8256 Email: Dyraco. Consulting & amail. com Physical property details Physical Address: 4843 MIDDIEWAY PIKE City: KEMENEVSVILLE State: WESTVIRGINA Zip Code: 25430 Tax District: MIDITLEWAY (07. Map No: 19 A Parcel No: 13:14 and Parcel Size: 0:76 (#13): 1.48 (#14) . 2.43 (#14) Deed Book: //47 m/ 1096 Page No: 349anl 255 Current Zoning District (please check one) Residential-Residential Industrial Light Industrial-Neighborhood General Growth Commercial Rural Commercial Village Commercial Commercial (RG) (IC) (R) (RLIC) (V) (NC) (GC) Planned Office/

JEFFERSON COUNTY PLANNING. ZONING & ENGINEERING Revised 08-28-14

Place Received Date Stamp Here

Zoning Map Amendment Request Form

Light

Industrial

(LI)

Major

Industrial

(MI)

Neighborhood

Development

(PND)

Highway

Commercial

(HC)

Page 1 of 3

Commercial

Mixed-Use

(O/C)

COPY # Z17-01

MAP AMENDMENT REQUEST Article 12, Jefferson County Zoning Ordinance Jefferson Reality, LLC February 1, 2017

Owner:

RECEIVED

FEB 21 7817

JEFFERSON COUNTY PLANNING ZOLLING & ENGINEERING

Jefferson Reality, LLC 4843 Middleway Pike Kearneysville, WV 25430 304.283-3120

Applicant:

Same: Jefferson Reality, LLC

Ordinance Citation:

Article 12 of the Jefferson County Zoning and Development Review Ordinance, as amended.

Map Amendment/Rezoning Request:

An amendment to the Zoning Map which is adopted by reference in the Zoning Ordinance that consists of a change that only applies to a specific property, changing from one existing zoning designation to another existing zoning designation. A map amendment does not permit changes, conditions or alterations to uses permitted within an existing zoning designation as all zoning designations must be uniformly applied to all property which are subject to said designation.

Substantiation for the Request:

1. The Envision 2035 Comprehensive Plan and Future Land Use Guide are the documents that were just adopted to guide growth. Both the Plan and Map/Guide totally support the Map Amendment/Rezoning. The properties are currently shown on the Future Land Use Guide as Commercial/Residential and the Owner is seeking a map amendment to the General Commercial District. As explained in this Application, the Applicants believe that this change is completely consistent and compatible with the 2015 Jefferson County Comprehensive Plan. This Comprehensive Plan compatibility is evidenced by the fact that the Staff, Planning Commission and County Commission specifically placed these properties into the Middleway Preferred Growth on the Future Land Use Map/Guide. Additionally, they were designated as

part of the Commercial area at the intersection of Route 1 and Route 51. The Owner and his representative paid close attention to the Envision 2035 Comprehensive Plan process to make sure that the property remained in the Commercial Area and within the Preferred Growth Area throughout that process. The specific reason was for the owner to request a map amendment when the Plan process was complete. This rezoning is exactly as envisioned during the Comprehensive Plan Process and is the next step in the process;

- 2. There have been significant changes in this area, since the Jefferson County Zoning Ordinance was adopted in 1988. These changes are addressed in this request;
- 3. The properties are located at the intersection of Route 51 and Route 1. These two roads are considered Major Collector Roads in the Comprehensive Plan. As such, they are conducive for commercial development;
- 4. The properties were previously used and continue to be used for commercial purposes. The uses on the property in the past and presently include a tabernacle, store, convenience store, gas station, apartment and restaurant
- 5. The General Commercial District is a newly created District and both the Comprehensive Plan and current Zoning Ordinance endorses this District for these properties;
- 6. Though used commercially for many years, the current zoning designation is harming the property value and equity on the property. Since the property is zoned Rural, banks are not as willing to loan money on the property for further expansion, enhancements or additions.

Tax District, Map and Parcel Number:

Middleway Tax District, Map 19A, Parcels 13, 14 and 14.1

Deed Book Reference:

Parcel 13: Deed Book 1147 at Page 349
Parcel 14: Deed Book 1096 at Page 255
Parcel 14.1: Deed Book 1096 at Page 255

Sketch Plat:

Attached

Tract Size:

Parcel 13: 0.76 Acres
Parcel 14: 1.486 Acres
Parcel 14.1: 0.19 Acres
Total: 2.436 Acres

Discussion on:

Comprehensive Plan compatibility of the proposed change: Included in this Petition.

Any Change of transportation characteristics and neighborhood from when the original ordinance was adopted: Included in this Petition.

A. Comprehensive Plan Compatibility

According to page 13 of the 2105 Comprehensive Plan, there are only 6 Preferred Growth Areas (PGAs) in Jefferson County that are targeted for urban scale growth. The subject parcels are within one of these PGAs. As a matter of fact, because of the properties' history, current use and area, the roadway adequacy and location near the Middleway Village, these properties were specifically included in this PGA during the recently completed multi-year 2015 Comprehensive Plan Process. It is the logical next step that map amendments are requested after the adoption of a new Comprehensive Plan, which reflect the recommendations in the new Plan.

Along with the new Comprehensive Plan, the Zoning Ordinance has been amended over the last several years to slowly evolve into a more traditional zoning ordinance that has more available zones and districts. These amendments included the creation of the General Commercial District. This district is for low to medium level commercial development along primary and good secondary roadways. As the owner desired a commercial classification in the Comprehensive Plan, he made sure that he monitored and participated in the entire multi-year process. At the conclusion of that process, the County Commission included this property in the PGA and designated it as Commercial. While the Plan shows the property as a mixed-use district, the owner picked the most appropriate Commercial district for this property. The Zoning Ordinance (page 77) specifically states that the General Commercial Zone should be utilized in the following locations:

- "B. Location. This zoning category is intended for use on properties:
- In the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or
- 2. In locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan."

As previously described, the subject property is properly located on the Future Land Use map (Guide) as Commercial and/or Residential in the 2015 Comprehensive Plan. As also stated, the property is also located at the intersection of two Major Collector Routes as listed on the attached Comprehensive Plan Roadway Classification Map.

These maps and guides show that this property continues to be slated for future development. The requested General Commercial District would really be no more impacting than what is already located in the area and on the property. This type of use is what the Commission intended when it was added to the Preferred Growth Area and designated as Commercial or Residential on the Future Land Use Guide.

Page 17 of the Comprehensive Plan describes the various categories of land, including PGAs as follows:

"Land Use Activity Areas

This Plan details four broad types of land use activity within Jefferson County where development is to be targeted over the planning horizon of Envision Jefferson 2035.

Four Comprehensive Types of Land Use Activity within the Designated Areas

Urban Growth Boundaries
Preferred Growth Areas (PGAs)
Villages
Rural/Agricultural Areas

The first two area types addressed below, Urban Growth Boundaries (UGB) and Preferred Growth Areas (PGA) (including one residential growth area), are the sections of Jefferson County where urban scale development is to be targeted over the planning horizon of Envision Jefferson 2035." Emphasis Added.

A further explanation of PGAs is found on Page 20 of the Plan:

"The PGAs are not intended to be promoted in favor of the UGB for the municipalities. Both areas are expected to be viable areas for development and no policy decision is being made to favor one area over another. Each of the PGA Maps can be found in Appendix F – Maps" Emphasis Added.

Such description makes it clear that this Map Amendment Request is very consistent with the New Envision Jefferson 2035 Comprehensive Plan.

The new 2015 Comprehensive Plan (Page 25) also strongly encourages that the newer zones that have been created, such as the requested General Commercial District be utilized. Accordingly, the Plan encourages rezoning requests for the newer categories such as General Commercial. The County Commission specifically adopted the separate commercial districts so that the zoning ordinance becomes more traditional in nature. The request to rezone the property to the Comprehensive Plan supported General Commercial District also demonstrates that the requested map amendment is consistent with the Comprehensive Plan.

The following recommendations are found in the Urban Level Development Recommendations Table starting on **Page 30** of the Plan:

- ***5.** Create urban level land uses within the municipalities, UGBs, PGAs, or Villages through rezoning that is consistent with the Plan recommendations.
 - c. Establish a greater variety of zoning district options (in commercial, residential, and mixed-use zoning categories) that adhere to predictability of land use options and outcomes based on the Plan recommendations.

Even if the subject property wasn't already shown on the Future Land Use Guide as Commercial, the rezoning would be justified based on the following recommendation on **Page 30** of the Plan:

- 2. Recognize that the County Commission has the authority to make land use decisions including Zoning Map Amendments based upon the finding of consistency with the Future Land Use Guide and the recommendations of this Plan; the County Commission may determine that petitions or decisions for zoning map amendments are consistent with the Comprehensive Plan if any of the following conditions are met after the entire Plan is taken into consideration:
 - a. Economic Well-Being of the County;

The requested Map Amendment is also supported by the following Economic Development portions of the 2015 Comprehensive Plan by both the narrative (**Page 69**) and recommendations (starting on **Page 70**):

"Focusing Economic Development in Municipalities, Urban Growth Boundaries, and Preferred Growth Areas

Envision Jefferson 2035 expects urban level commercial, office, and industrial activity to be located in the municipalities, within the Urban Growth Boundary and Preferred Growth Areas, where the infrastructure is expected to be available to support these uses." (Page 69)

Recommendations:

- "5. Create a business friendly environment in Jefferson County.
- 6. Develop methods to promote local business growth which include providing research, support, and marketing resources that would assist business start-ups in Jefferson County."

Based on these portions of the Envision Jefferson 2035 Comprehensive Plan, the Future Land Use Guide, the Future Development Area Map, the Roadway Classification Map, this map amendment is extremely consistent and compatible with the Plan. The Consistency and Compatibility to the existing Comprehensive Plan and the Future Land Use Guide are the two most important criteria that should be used for a Map Amendment.

B. Change of Neighborhood

The neighborhood has undergone several changes since the zoning ordinance was originally adopted. First, as described extensively above, after a multi-year effort to develop a new Comprehensive Plan, this area has been designated for growth as a Preferred Growth Area. This is the primary change as it relates to this neighborhood.

Physically, the subject property was a business that was closed for several years and the owner successfully processed an expensive Conditional Use to allow the commercial uses on the property. The owner took a chance to redevelop this property into a viable commercial business. It took quite a bit of money and a lot of time. He is now limited to the expansion and improvement of this business because of the current zoning classification. The owner's entrepreneurship, along

with his persistence in following the Comprehensive Planning process over the years, should be rewarded with the rezoning to commercial that the Comprehensive Plan recommends.

The redevelopment of this area has led to the development of a needed Dollar General Store several properties away from the subject property. Both the Middleway Market and Restaurant and the Dollar General had to go through an expensive and time consuming Conditional Use Process. These are the reasons that the County has determined that this area, especially this intersection should be a Preferred Growth Area.

Based on the redevelopment of the subject parcel, the development of new commercial projects in the area and the Major Collector designation the Roadways, the Comprehensive Plan and County and Planning Commissions made this area a Preferred Growth Area. This Map Amendment is reflective of the change of neighborhood and resultant inclusion into the Preferred Growth Area. Furthermore, the change in neighborhood and the following discussion on transportation characteristics illustrates why the County Plan recommends the addition of commercial development and zoning at this intersection.

This area is centrally located between Charles Town and Inwood and is a natural point to allow commercial development to serve Middleway and the surrounding residents. Confining the commercial development to this major intersection is the most logical approach to this expansion of services. Why would Jefferson County want Berkeley County to serve this area from a commercial standpoint. Instead, economic development should be supported on the Jefferson County side of the County line to serve its residents and reap the economic benefits of successful businesses.

This Preferred Growth Area is to serve the residents in and around Middleway, including the many older subdivisions in the area. The Plan's Preferred Growth Area only recommends that this particular area around this major intersection be designated as commercial. Accordingly, the opportunities for commercial growth will be limited in this area and rezoning of these properties that are designated for commercial is what is envisioned in the Plan to serve this area.

C. Change of Transportation Characteristics:

Please note that this property is already been determined to be part of the Preferred Growth Area. The fact that the roads in this area are designated as Major Collector Roads were already taken into consideration when the PGA designation was made. The existing uses, as well as the new commercial and redeveloped commercial uses, were also a factor in that PGA designation. However, since the development of the area in south Berkeley County became prevalent due to the lower land costs, Route 51 has truly become a Major

Collector Route between Charles Town and Inwood. That additional development in southern Berkeley, combined with the need to serve the existing Middleway Village and surrounding residential development, has made this area into a vital, economic growth area.

As such, the change in Transportation Characteristics have already been taken into consideration for the PGA designation and associated Plan support for this commercial rezoning. The beneficial thing about the subject property is that it is already used commercially, so any enhancements or additions to the business should not produce a large volume of additional traffic. In fact, the further development of this intersection should be to the benefit of the existing traffic characteristics. Any commercial development in this area will be market driven to serve the existing pass through traffic and existing residents in the area. Accordingly, this map amendment should not adversely affect the traffic in the area. There should be little significant difference in traffic from this property if it is rezoned to General Commercial. As a matter of fact, an enhanced commercial development would have a more favorable outcome regarding traffic since local residents could utilize the new commercial services available as opposed to driving to Inwood or Charles Town for their shopping needs.

D. Existing and Pre-Existing Uses on the Property

The owner of the property and his family have deep roots in the County. They have opened and operated several businesses in Jefferson County for many years. They took a chance buying this burned-out property and after several years of expensive processing and redevelopment of the property, they have opened a fine establishment that serves the area well. These properties and the neighboring area have been used commercially for many years. There have been service stations, gas stations, convenience stores, a tabernacle, a bar and grill, salvage yards, glass repair business and other commercial uses on this property and on surrounding properties. Essentially, this neighborhood has relied on the commercial services for many years in and around Middleway. The redevelopment of the subject parcel and the new construction of the Dollar General store shows a commitment for commercial services to serve the area. These commercial services have been provided for many years and now due to the investment of this owner and others, the neighborhood is becoming a small economical area for Jefferson County.

These previous uses, the redevelopment of this property, the new uses in the neighborhood, the proximity to Middleway, Inwood and Leetown and the two Major Collector roads are what the people on the Steering Committee, the public, the Staff and both Commissions saw when they determined that this area is ideal for growth. The fact that there were (and still are) existing commercial uses on this property, makes the rezoning of the property less impactful on both the traffic and community. When you drive Route 51 and go through this area, it is

easy to see that it is the logical spot for commercial development. It will serve the area for many years and allow the residents and commuter traffic to shop in Jefferson County.

Once the owner found out that the new Comprehensive Plan was being written, he followed the process and sought advice from the Staff and other experts to see what he needed to do to keep his land commercial and make it easier for future enhancements and additions to his business. As he followed this process he was happy that the property was designated for future commercial growth so he supported the Plan's adoption. He and his representative spoke to the Staff and they have agreed that this map amendment is the next logical step in the process. The existing uses in the neighborhood, combined with the designation on the future land use guide, makes this a logical rezoning that is consistent with the Envision 2035 Comprehensive Plan. Accordingly, he is requesting that the property be shifted into the newly created General Commercial District.

E. <u>Current Recommendations in the Future Land Use Guide and Maps in the Envision 2035 Comprehensive Plan and the New General Commercial District Guidelines Support this Request:</u>

As stated in the Comprehensive Plan Compatibility portion of this request, after the very carefully scrutinized Maps and Guides were approved by the County Commission, it was anticipated by both the owner and Staff that this property would be added to the Commercial Zone. These Plan Maps support this request as compatible and consistent with the Comprehensive Plan. As a matter of fact, this map amendment request is the culmination of the process that the owner began several years ago, with his participation in the Envision Jefferson 2035 process. The General Commercial District is to be located in the Preferred Growth Area as previously cited in this document. Even though a Commercial Use exists on this property, any addition or enhancement to the property will require a site plan to ensure that it meets with the current standards of the Ordinances. However, it is easy to see that this owner cares for the property and the beautiful redevelopment of this property into his business shows that he deeply cares for the community.

F. Practical and Common Sense Reason for Rezoning/Map Amendment:

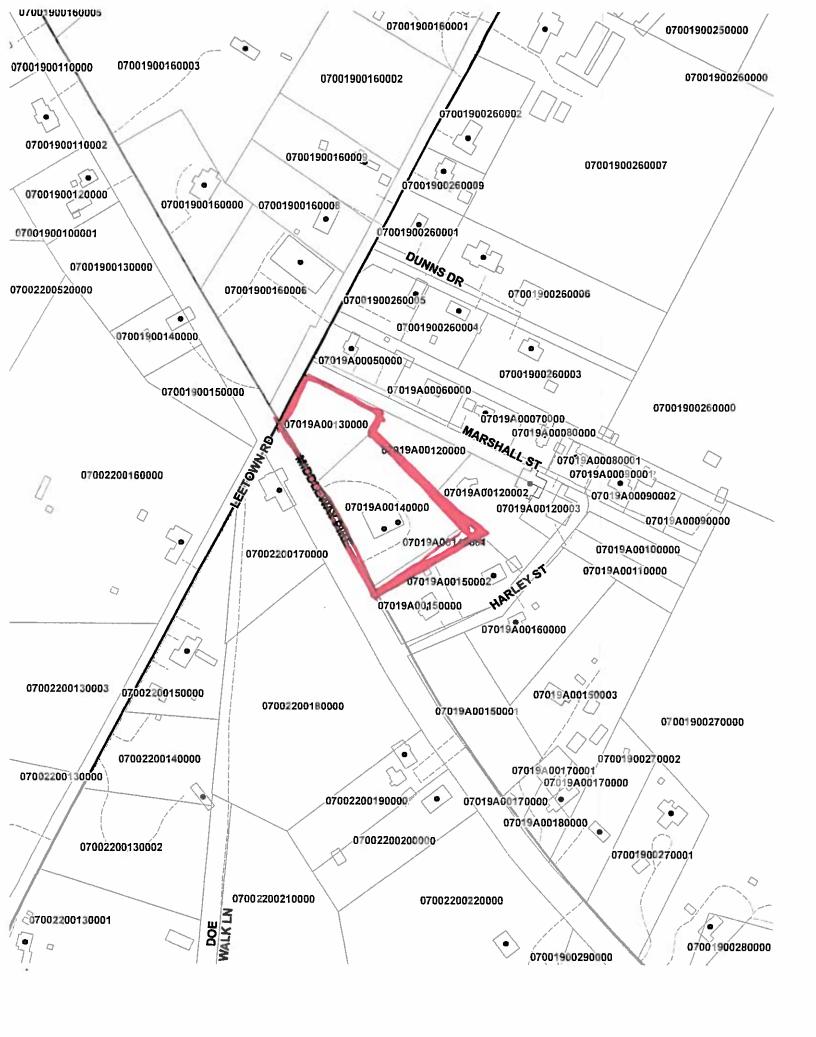
This document lists all of the technical and Comprehensive Plan needed reasons for a Map Amendment; however, it is important to explain personal, practical reason for this request. As explained, the owner took a chance on this property and put out his savings and sought bank loans on his dream. It was a hard road and took many years because he was asking for commercial loans on a property that wasn't zoned for commercial. He had to get Conditional Uses and go through other complicated and expensive processes to reopen a long time preexisting business. He wanted to make it nicer and better for the community which it served. Since it wasn't zoned correctly, the banks also took a chance on

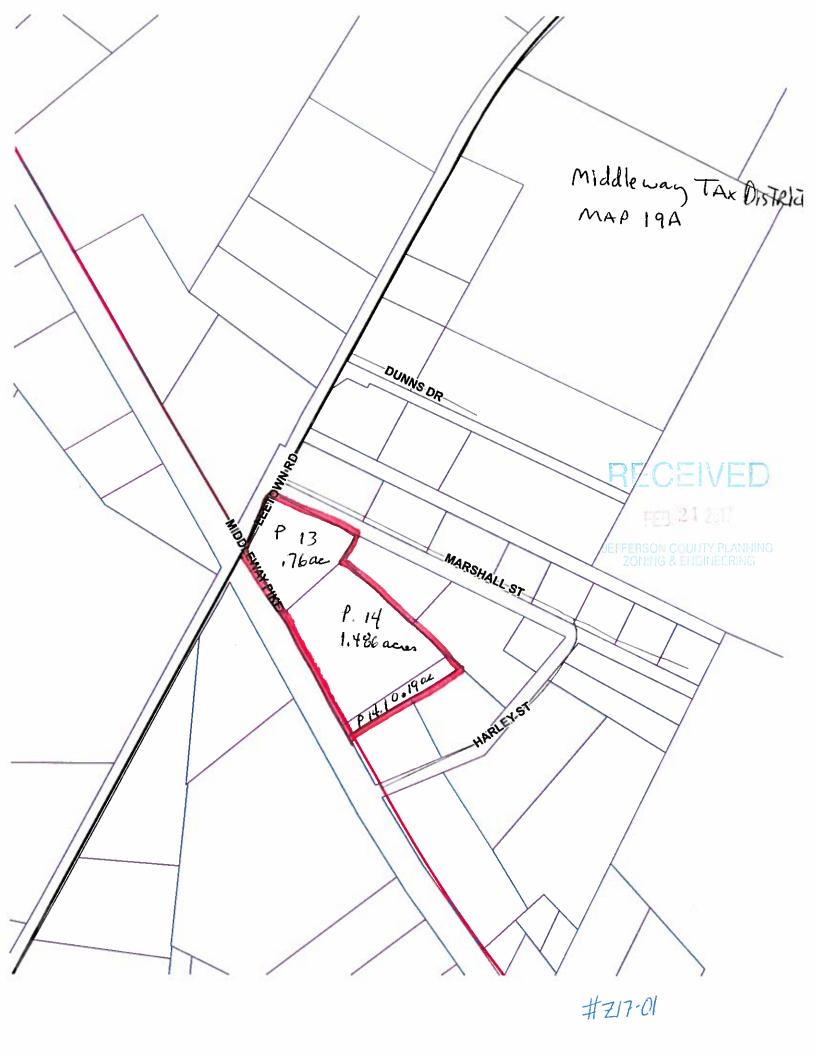
him and the community. To keep the property looking the way it now looks and to make enhancements, changes and/or additions to this property, he will need to borrow additional money. He needs this Comprehensive Plan supported map amendment in order to secure the fact that the property is and will remain commercial in the future. It only makes sense to rezone the property to what the use reflects and what the future Land Use Guide dictates. This will allow a young entrepreneur who believed in the area an opportunity for his equity to grow and for him to be able to improve and enhance the property in the future.

G. Conclusion:

The owner, Mr. Anthony Colandrea, respectfully requests that the County Commission approve this map amendment to the Jefferson County Zoning Map. This Application cites many reasons why the map amendment should be approved. These reasons include: the consistency of the request to the 2015 Envision Jefferson Comprehensive Plan; the property is included in the 2015 Preferred Growth Area; the property is shown as Commercial and/or Residential on the Future Land Use Guide (Map); the positive changes in the transportation characteristics in the area, since the property intends to serve this same area; the changes in the neighborhood from when the original zoning ordinance was adopted; the fact that the property was used commercially for many years in the past; it is located on a major transportation route between Charles Town and Inwood (Route \$1); it is at the intersection of two Major Collector Routes; the Zoning Ordinance supports this General Commercial District in this location; and, the fact that this will allow the owner the equity in the property to further enhance the property commercially. This map amendment will change the zoning classification on the Applicant's property from the Rural District to the General Commercial District.

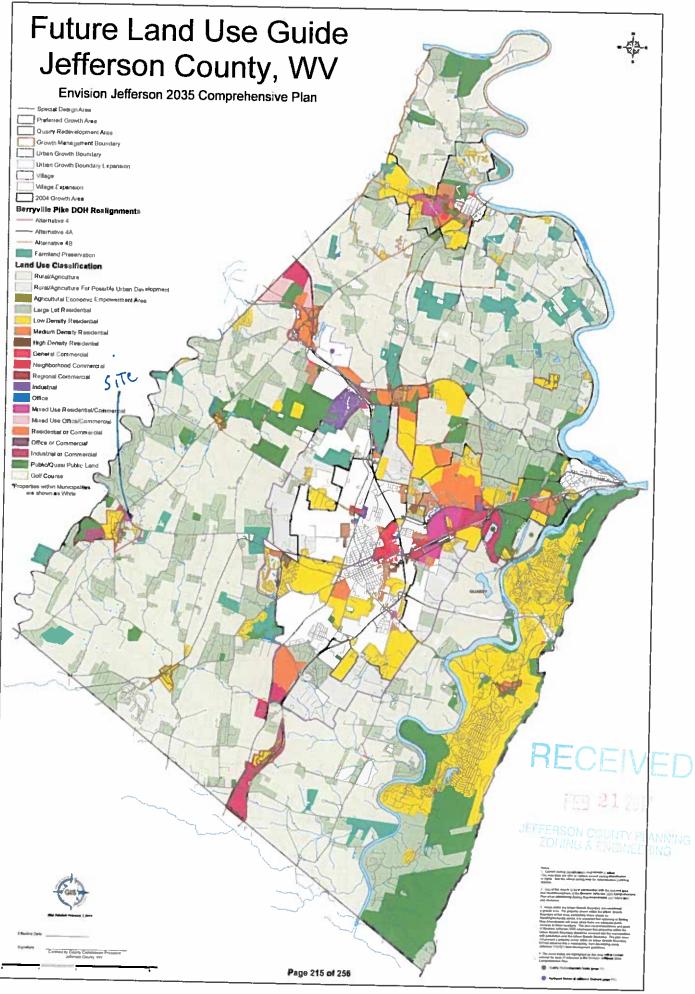
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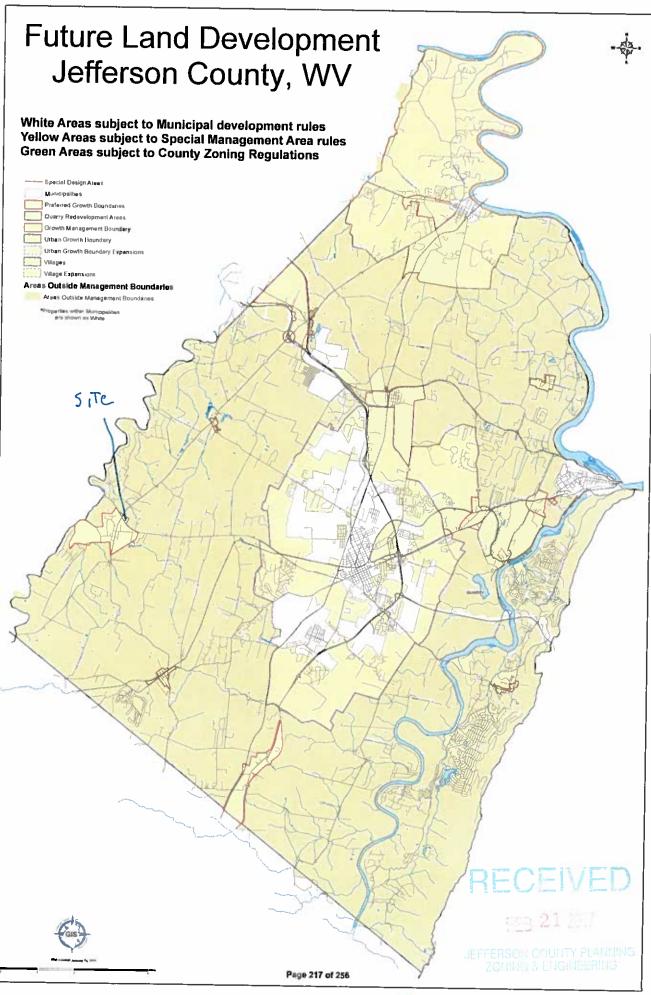


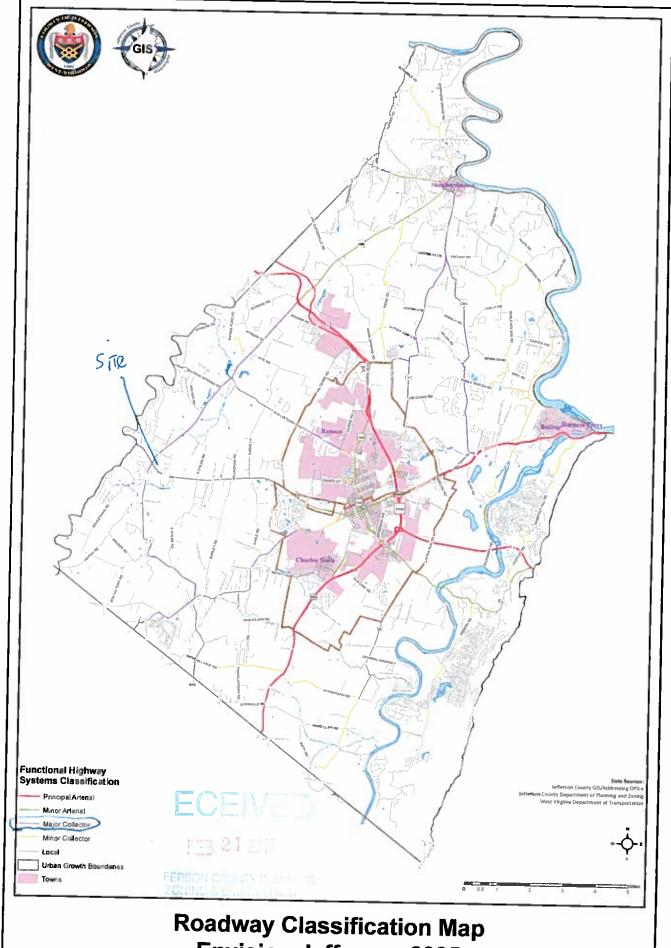




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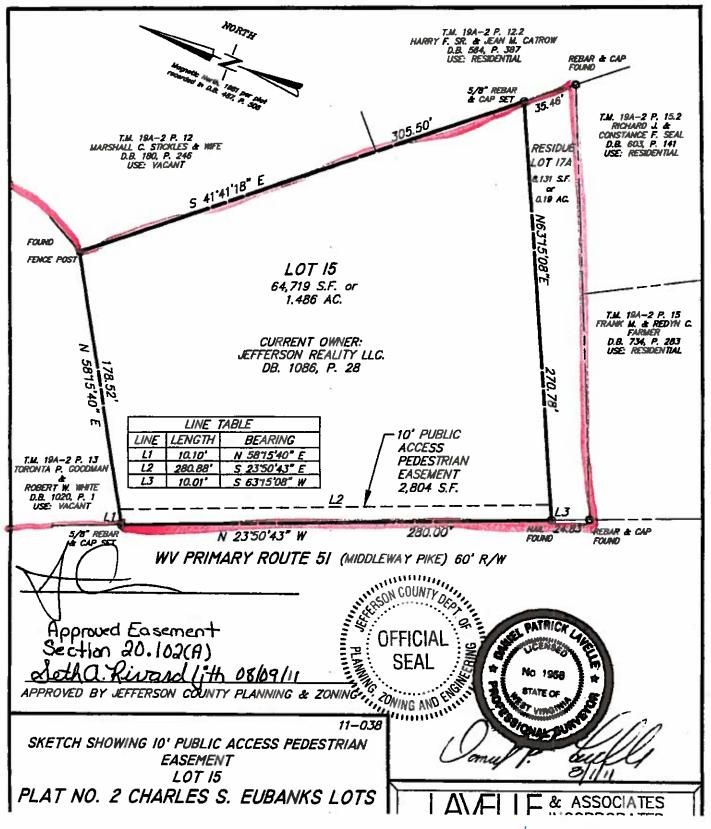
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Site

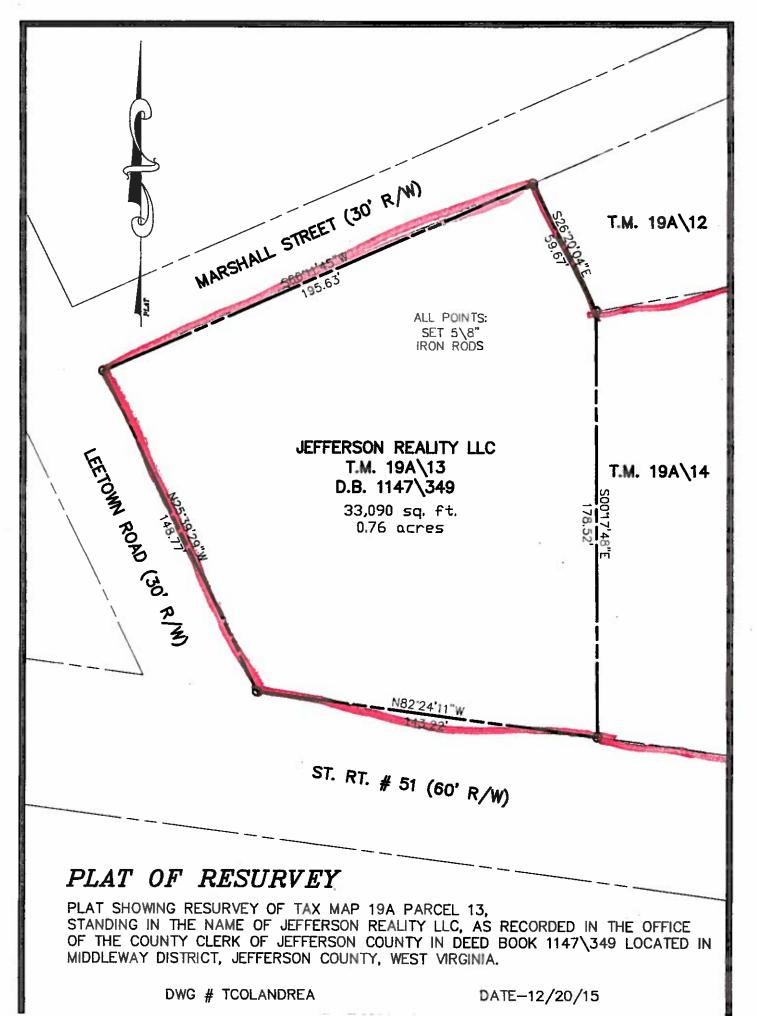


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