



Agenda

Jefferson County Planning Commission

Tuesday, November 9, 2021 at 7:00 PM

All Citizens that desire to speak must sign-in prior to the Agenda Item being addressed. This meeting will NOT be a live broadcast on our website. Instead, it will be accessible through a live ZOOM Meeting only.

If you wish to make a public comment for one of the agenda items, please type your name, address, and agenda item # in the chat function at the start of the meeting.

****Please use the following information to join the ZOOM Meeting****

Virtually via ZOOM (video or phone conference options available).

Join Zoom Meeting: <https://us02web.zoom.us/j/81278956472>

Dial by location: 301-715-8592 / Meeting ID: 812 7895 6472

Find your local number: <https://us02web.zoom.us/u/kbTrmvHiix>

1. Approval of Meeting Minutes: October 12, 2021 and October 26, 2021
2. Request for postponement.

There is no public comment for the following items.

3. **Discussion and Action on the Sunnyside Investments LLC Zoning Map Amendment Request:** Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone a 53.2-acre portion of the Sunnyside Industrial Park from Industrial-Commercial to Residential-Light Industrial-Commercial is consistent with the *2035 Comprehensive Plan*. Owner/Applicant: Sunnyside Investments, LLC (Lots 1-5) and Thomas Management Group, Inc. (Lots 8-11). Property Location: nine vacant lots located off Kanawha Lane within Sunnyside Industrial Park, south of Wheatland Road, west of the Norfolk Southern railroad tracks. Tax District: Kabletown (06), Map: 12; Parcels: 12, 12.2, 12.3, 12.4, 12.5, 12.8, 12.9, 12.10, and 12.11. Combined acreage: approximately 53.2 acres. Zoning District: Industrial-Commercial. File: 21-3-Z.
 4. **Discussion and Possible Action:** Consider County Commission's request to review the previously approved Solar Text Amendment (ZTA19-03) and its conformance with the existing *Envision Jefferson 2035 Comprehensive Plan*.
 5. **Reports from Legal Counsel**
 - a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.
 - b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including review of Jefferson County Circuit Court Civil Action No. 2021-C-33.
 - c. Report by counsel regarding Comprehensive Plan Amendment and related issues.
 6. **Planner's Memo**
 - a. Discussion and Action: 2022 Planning Commission Meeting Schedule
 7. **President's Report**
 8. **Actionable Correspondence**
 9. **Non-Actionable Correspondence**
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Meeting Minutes
Jefferson County Planning Commission
October 12, 2021

The Jefferson County Planning Commission met on October 12, 2021 at 7:00 pm with the following Planning Commission members present in person: Donnie Fisher, Vice President; Jack Hefestay, Shane Roper, and Matt Knott. The following members were present via ZOOM: Ron Thomas and Steve Stolipher (late arrival 7:05 pm). Wade Louthan, Secretary (late arrival 7:17 pm).

Mike Shepp, President, was absent with notice. J. Ware was absent without notice.

*Note, due to technical difficulties, Mr. Stolipher's connection via ZOOM was intermittent.

Staff members present included Jennifer Brockman, County Planner; Alexandra Beaulieu, Zoning Administrator; Nathan Cochran, County Attorney; Will Rohrbaugh, County's legal representative; and Jennilee Hartman, Zoning Clerk.

By order of the President, the Planning Commission meeting was held in person for Commissioners and applicants and virtually via ZOOM for the public. ZOOM meeting information was made available on the agenda and packet, which were posted to the County website.

In Mr. Shepp's absence, Mr. Fisher presided over the meeting. Mr. Fisher called the meeting to order at 7:00 pm. Ms. Brockman conducted a roll call.

1. Approval of the following meeting minutes:

Mr. Hefestay moved to approve the September 14, 2021, September 28, 2021, and October 5, 2021 minutes as presented, which carried unanimously.

2. Request for postponement. None.

3. **Public Hearing:** Request for a Final Plat Amendment for Lot 21 of the Sheridan Subdivision, Phase II to allow an in-ground pool and fence to be located within a platted drainage easement (see Note #15 on Final Plat / PC File 05-26). Property Owner: Kara and Matthew Durrschmidt; Property Location: Sheridan Subdivision, Lot 21, 441 Chickamauga Dr., Harpers Ferry, WV. Parcel ID: 04009D00210000; Size: 0.83 ac; Zoning District: Residential Growth; File: 21-19-Q.

Ms. Brockman provided an overview of her staff report and described the topography of the subject parcel. Ms. Brockman noted that on September 23, 2021, the Board of Zoning Appeals had approved a setback variance for the proposed pool. Mr. Matthew Durrschmidt, property owner, briefly explained the nature of the request and answered questions from the Commission regarding drainage. Mr. Durrschmidt agreed to accept liability should the pool negatively affect drainage.

Mr. Fisher opened the public hearing. There were no members of the public signed up to speak. Mr. Fisher closed the public hearing.

Mr. Hefestay moved to approve the request for a final plat amendment with the condition that the homeowner accept liability if any issues arise from the installation of the pool. Mr. Thomas seconded the motion, which carried unanimously.

4. **Public Workshop:** Concept Plan for Colonial Hills Subdivision, Phase 3B (Major Residential Subdivision), which will consist of 20 townhome units with associated parking spaces. Owner/Applicant: KE Colonial Hills, LLC; Property Location: Colonial Hills Subdivision, Lots C1 and C2, vacant parcels; eastern side of Potomac Farms Drive approximately 0.25 miles north of the intersection of Rte. 480 and Potomac Farms Dr. Shepherdstown, WV; Parcel ID: 09000800100000; Size: 2.54 ac; Zoning District: Residential Growth; File: 21-26-SD.

Ms. Brockman provided an overview of her staff report noting that the proposed subdivision was a continuation of the existing Colonial Hills Subdivision. Ms. Brockman explained that the property was comprised of two lots that had been previously platted for commercial development and that the current proposal would dissolve the commercial lots.

Mr. Wade Louthan, Planning Commission member, joined the meeting via ZOOM at 7:17 pm.

Mr. Ryan Perks with Integrity Federal Services and Rick Fink with KE Colonial were present to address the Commission. Addressing the Commission inquiry, Mr. Fink stated that he did not have an estimated timeline for the project build-out. Mr. Fink clarified that build-out of the project is dependent on receiving a commitment from a builder/developer. The Commission also discussed the status of using Lowe Drive as a connector road with Staff and the project representatives.

Mr. Fisher opened the public hearing. There were no members of the public signed up to speak. Mr. Fisher closed the public hearing.

Mr. Thomas moved to accept the concept plan as presented noting that the applicant may move forward with processing a preliminary plat. Mr. Knott seconded the motion, which carried unanimously.

5. **Public Hearing:** Waiver request from Section 20.203B.1 of the Subdivision Regulations, which requires a Site Plan for any building and/or parking lot greater than 1,200 square feet. The applicant is requesting to waive the requirement of a site plan for a 1,500 square foot building, plus a 960 square foot of parking lot. Owner/Applicant: Chris Livingston, Dead Rock Contractor Services. Property Location: Vacant parcels located off Shipley School Road / located between Shipley School and Meadows Farm Nursery, Harpers Ferry, WV. Parcel IDs: 04000900230000 and 04000900270000; Combined Size: .86 ac; Zoning District: General Commercial; File: 21-19-PCW.

Ms. Brockman provided an overview of her staff report noting that the applicant had previously received approval to rezone the property and had obtained approval from the Board of Zoning Appeals to reduce the distance and buffering requirements for the project. Ms. Brockman highlighted some of the basic criteria that a site plan would typically address.

Mr. Chris Livingston, owner of Dead Rock Services, LLC, briefly explained the nature of the request. Mr. Livingston argued that because the proposed parking area was only for staff, that a site plan did not appear necessary. Ms. Brockman clarified that any land use that requires parking spaces in accordance with the Zoning Ordinance is required to process a site plan.

Mr. Fisher opened the public hearing. Ms. Anastasya Tabb, resident, questioned where the entrance to the property would be located. Mr. Livingston addressed Ms. Tabb's question. Mr. Fisher closed the public hearing.

Ms. Brockman clarified that should the Planning Commission grant the request that neither sidewalks or stormwater management would be addressed.

Mr. Thomas moved to approve the waiver request as presented. Mr. Hefestay seconded the motion. Mr. Fisher called for a vote, which carried four (4) in support and two (2) opposed (Mr. Fisher and Mr. Knott). Note: Mr. Stolipher no longer appeared to be connected via ZOOM.

6. **Public Hearing:** Proposed text amendment to the Jefferson County Zoning and Land Development Ordinance to create provisions to allow Short Term Rentals to process as a Principal Permitted Use in any zoning district that allows a single family dwelling including the following zoning districts: Planned Neighborhood Development (PND), Rural (R), Residential Growth (RG), Residential-Light Industrial-Commercial (RLIC), and Village (V). The draft text amendment includes revisions to Article 2, Section 2.2 Definitions; Article 8 Supplemental Use Regulations (creation of Section 8.16 Short Term Rentals); and Appendix C Principal Permitted and Conditional Uses Table. PC File #ZTA21-01.

Ms. Beaulieu provided an overview of the proposed text amendment. Ms. Gillian Beach, sanitarian with the Jefferson County Health Department, briefly explained their process for short term rental facilities.

Mr. Fisher opened the public hearing and noted that members of the public would be allotted three (3) minutes to provide testimony.

The following members of the public provided testimony:

- Lauren McInnes, McShane's Landing, Shepherdstown (ZOOM): requested that the amendment include density caps on number of units permissible in a given area as a means to address affordable housing issues; and recommended adding occupancy limits. Ms. McInnes requested that if there is a clear violation with a short term rental that the County consider creating a clear process for neighbors to express concerns.
- Lynn Pechuekonis, Fillmore Street, Harpers Ferry, (ZOOM): Jefferson County Convention and Visitors Bureau Board member, and recently designated as the bnb representative. Ms. Pechuekonis expressed concerns regarding the potential conflict created between the existing definition of dwelling unit and the proposed definition of Short Term Rental. Ms. Pechuekonis stated that it may be confusing as to how to address parking standards and Health Department approvals when operating a short term rental that provides options between 7-30 consecutive days. Ms. Pechuekonis stated that the definition in state code applies to rentals less than 30 consecutive days. Ms. Pechuekonis also inquired about the office's stance regarding enforcement of the proposed regulations on existing operations (grandfathered properties).

- Chris Rife, Knott Road, Shepherdstown, (in-person): agreed that there should be a grace period for properties to come into compliance. Ms. Rife expressed concerns regarding the County's enforcement provisions and inquired about enforcement of the proposed regulations.

Ms. Beaulieu noted that the following individuals submitted public comment after the packet had been posted (10/08/21): Eddie Love, Josh Nimetz, Robert Blanck, Rockhaven B&B, Jamie Wilkie, and Samantha Nimetz. Copies of these comments were provided to the Commission.

Ms. Beaulieu explained that any land use that legally operated under the current Zoning Ordinance would be considered a legal nonconforming use (grandfathered), and as such, may continue to operate as it had been. Ms. Beaulieu added that any land use that was not operating in conformance with the definition of a *Dwelling Unit* or *Bed and Breakfast* would not be considered a legal nonconforming use and would be considered to be in violation of the County's regulations. Ms. Beaulieu noted that other governing agencies, such as the Health Department, may have different regulations pertaining to grandfathered land uses and that property owners should contact individual governing agencies to ensure compliance.

Mr. Fisher closed the public hearing.

The Commission unanimously agreed to the following revisions to the proposed text amendment:

1. Change Bed and Breakfast in the Planned Neighborhood Development zoning district from Not Permitted to Permitted;
2. Correct a typo in the last paragraph under Section 8.16 (*enforces* to *enforced*);
3. Revise the text to allow parking in other designated parking areas; and
4. To allow properties in the Residential-Light Industrial-Commercial zoning districts to comply with the commercial sign provisions in Article 10.

Mr. Fisher made a motion that the Planning Commission finds that the revised text amendment is in conformance with the *Jefferson County Envision Jefferson 2035 Comprehensive Plan* and recommended forwarding the revised text amendment to the County Commission. Mr. Thomas seconded the motion, which carried unanimously. The Commission agreed that they did not need to see the final revisions before forwarding the text to the County Commission.

7. Discussion and Possible Action: Review and recommendation of proposed text amendment to the *Jefferson County Envision Jefferson 2035 Comprehensive Plan* (Plan) to clarify and/or state that solar facilities are principal permitted uses in the rural and residential zoning districts in preparation for the 12/07/21 Public Hearing.

Ms. Brockman provided a brief overview of the proposed text amendment to the Plan and the changes since the October 5th version. The Commission agreed that Ms. Brockman did not have to review the amendment in its entirety. Mr. Fisher noted that Mr. Roper and Mr. Stolipher were not in attendance (via ZOOM) for this item. [Note: Mr. Roper and Mr. Stolipher were not in attendance for the remainder of the meeting.]

Mr. Cochran suggested the Commission go into an executive session to receive counsel concerning the comprehensive plan amendment process.

Mr. Hefestay moved to go into executive session at 8:51 pm. Mr. Fisher seconded the motion and stated that the Planning Commission would go into executive session to receive legal counsel concerning the comprehensive plan amendment process.

Mr. Hefestay moved to come out of executive session at 9:34 pm. Mr. Thomas seconded the motion, which carried unanimously.

Mr. Thomas moved to accept the edits presented by staff and to move forward with the public hearing scheduled for December 7, 2021. Mr. Hefestay seconded the motion, which carried unanimously.

8. Discussion and Approval: Planning and Zoning Quarterly Report for FY 2021-2022 1st Quarter

Mr. Fisher moved to accept the Report as presented and to forward it to the County Commission, which carried unanimously.

9. Reports from Legal Counsel

a. Discuss and review Jefferson County Circuit Court Civil Action No. 2021-C-109.

b. Review of Zoning Text Amendment File #ZTA19-03 related to solar energy facilities, including review of Jefferson County Circuit Court Civil Action No. 2021-C-33. Mr. Cochran informed the Commission that his office had filed motion to appeal. The case is still pending.

Mr. Cochran provided an update to the Commission. No additional action was taken.

10. Planner's Memo. Ms. Brockman noted that the next regularly scheduled meeting would be November 9, 2021 and a Special Meeting on December 7, 2021.

11. President's Report. None.

12. Actionable Correspondence. None.

13. Non-Actionable Correspondence . None.

Mr. Hefestay moved to adjourn the meeting at 9:40 pm. Mr. Knott seconded the motion, which carried unanimously.

These minutes were prepared by Jennilee Hartman, Zoning Clerk.

DRAFT Meeting Minutes
Jefferson County Planning Commission
October 26, 2021

The Jefferson County Planning Commission met on October 26, 2021 at 7:00 p.m. with the following Commission members present via ZOOM: Mike Shepp, President; Donnie Fisher, Vice President; Wade Louthan, Secretary; Jack Hefestay, Ron Thomas, Shane Roper, Matt Knott*, and Steve Stolipher, County Commission Liaison.

The following Commission members were absent: J Ware.

Staff members present included Jennifer Brockman, County Planner; Jonathan Saunders, County Engineer; Charlotte Ainsworth, Paralegal, and Nathan Cochran, County Attorney.

**Mr. Knott joined the meeting at 7:03 PM.*

By order of the President, the Special Called Planning Commission meeting was held virtually via ZOOM. Virtual meeting access information was made available on the agenda, which was posted to the County website.

Ms. Brockman conducted a roll call. Mr. Shepp stated that there was a quorum and called the meeting to order at 7:00 PM.

1. Discussion and Action: Jefferson County Vision, Inc., a West Virginia Non-Profit Corporation, v. The Jefferson County Planning Commission, a Public Corporation - State of WV (Jefferson County Circuit Court Civil Action No. CC-19-2021-C-109) relating to PC Project File #21-2-Z.

Mr. Shepp requested that Mr. Cochran address the subject lawsuit. Mr. Cochran stated that he would like to discuss the complaint, the court's recent order, and a potential answer to the complaint that the Planning Commission needs to review.

Mr. Shepp made a motion to go into Executive Session to receive legal advice on the previously referenced lawsuit and a possible filing at 7:03 pm. Mr. Cochran clarified that it will be to discuss an answer to the complaint and potentially some other motions that the Commission may need to decide to answer. Mr. Hefestay seconded the motion which passed unanimously.

Mr. Knott made a motion to come out of Executive Session at 7:55 pm. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Fisher made a motion to authorize Legal Counsel to file the answer to the complaint and motions as discussed in executive Session. Mr. Hefestay seconded the motion, which carried unanimously.

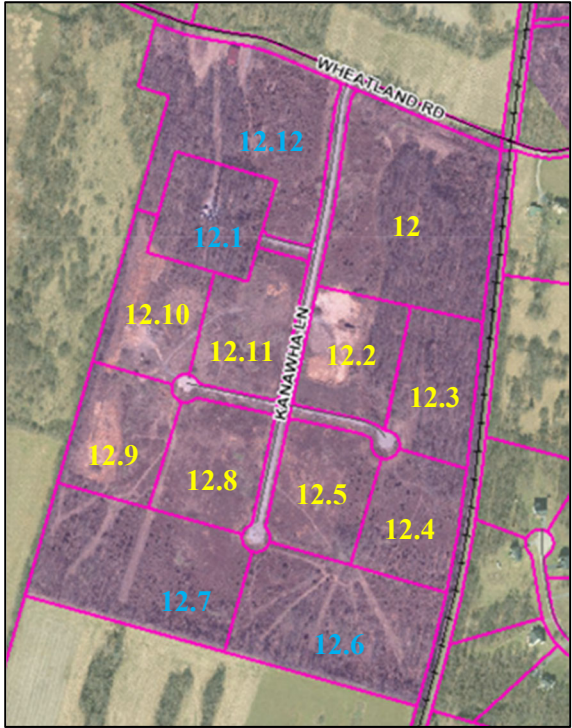
Mr. Hefestay made a motion to adjourn the meeting at 8:00 PM. Mr. Stolipher seconded the motion, which carried unanimously.

These minutes were prepared by Jennifer Brockman, County Planner.

Staff Report
 Jefferson County Planning Commission Meeting
 November 9, 2021

Sunnyside Rezoning Request (21-3-Z)

Item # 3 Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Industrial-Commercial to Residential-Light Industrial-Commercial is consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Owner #1:	Sunnyside Investments, LLC (Lots 1-5)																																	
Owner #2:	Thomas Management Group, Inc. (Lots 8-11)																																	
Applicant:	John Thomas, Jr.																																	
Parcel Information:	<p style="text-align: center;">Sunnyside Industrial Park – Kanawha Lane, Charles Town Zoning District: Industrial-Commercial Tax District: Kabletown (06), Map: 12</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Parcel #</th> <th style="text-align: left;">Lot #</th> <th style="text-align: left;">Acreage</th> </tr> </thead> <tbody> <tr><td>12</td><td>1</td><td>12.967</td></tr> <tr><td>12.2</td><td>2</td><td>4.904</td></tr> <tr><td>12.3</td><td>3</td><td>5.082</td></tr> <tr><td>12.4</td><td>4</td><td>5.065</td></tr> <tr><td>12.5</td><td>5</td><td>5.030</td></tr> <tr><td>12.8</td><td>8</td><td>5.014</td></tr> <tr><td>12.9</td><td>9</td><td>5.025</td></tr> <tr><td>12.10</td><td>10</td><td>5.079</td></tr> <tr><td>12.11</td><td>11</td><td>5.031</td></tr> <tr><td>Approximate acres</td><td></td><td>53.2</td></tr> </tbody> </table> <p style="margin-left: 20px;">*Parcels in blue not subject to this request.</p> 	Parcel #	Lot #	Acreage	12	1	12.967	12.2	2	4.904	12.3	3	5.082	12.4	4	5.065	12.5	5	5.030	12.8	8	5.014	12.9	9	5.025	12.10	10	5.079	12.11	11	5.031	Approximate acres		53.2
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12.11	11	5.031																																
Approximate acres		53.2																																
Surrounding Properties:	North, South, East, West: Rural (along the perimeter of the industrial park)																																	
Current Use:	Vacant industrial park																																	
Proposed Request	To rezone from Industrial-Commercial (IC) to Residential-Light Industrial-Commercial (RLIC)																																	
Planning Commission Responsibility:	To advise the County Commission whether the requested Zoning Map Amendment is consistent with the <i>Envision Jefferson 2035 Comprehensive Plan</i> .																																	
Staff Finding:	Staff finds that the request is reasonably consistent with the <i>Envision Jefferson 2035 Comprehensive Plan</i> .																																	

Applicant's Request

The applicant's request is to rezone Lots 1-5, and Lots 8-11 of the existing Sunnyside Industrial Park from Industrial Commercial (IC) to Residential-Light Industrial-Commercial (RLIC). Sunnyside Industrial Park was approved as a 12-lot major industrial subdivision in 2007. It required the

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Sunnyside Rezoning Request (21-3-Z)

development of a commercial grade paved internal subdivision road, known as Kanawha Lane, within a 60' wide right-of-way. The Kanawha Lane is accessed from Wheatland Road, approximately 0.57 miles east of its intersection with Route 340.

The lots included in the rezoning application comprise 75% of the total 12 lots in the subdivision. The combined acreage of the proposed rezoning is approximately 54 acres, which is 57% of the entire Sunnyside Industrial Park subdivision. An existing cell tower sits on a 4.6-acre parcel between Lots 10, 11, and 12. Approximately 10.3-acres of the original development is dedicated right-of-way.

Neighboring Uses

The surrounding properties are primarily agricultural and residential in nature.

Scope of this Assessment

This report focuses on whether or not the Zoning Map Amendment application is consistent with the *Envision Jefferson 2035 Comprehensive Plan (2035 Plan)* and provides a Staff recommendation based on review of the various plan sections and elements. Staff's professional recommendation is that the request is **reasonably consistent** with the *2035 Plan* because it is shown as future "Industrial or Commercial" on the Future Land Use Guide. While the current zoning already permits industrial and commercial uses, the owner-initiated downzoning to Residential-Light Industrial-Commercial (RLIC) would broaden these permitted uses, while also allowing various densities of residential uses and the creation of live/work spaces.

It should be noted that Staff has no statutory authority to make decisions in this regard. The County Commission, with the recommendation of the Planning Commission, has the authority to approve or deny a zoning map amendment.

Zoning Map Amendment Public Hearing Process

Article 12 of the Zoning Ordinance requires that the "procedure for amendment [by petition] shall be as dictated in Section 8A-7-9 et seq of the West Virginia State Code as amended." Regarding amendments by petition, State statute provides that, "Before amending the zoning ordinance, the governing body with the advice of the planning commission must find that the amendment is consistent with the adopted comprehensive plan." [See WVC 8A-7-9(c)].

Relevant Envision Jefferson 2035 Comprehensive Plan Elements and Commentary

The *Envision Jefferson 2035 Comprehensive Plan* consists of both goals and recommendations in text format as well as a Future Land Use Guide, both of which are relevant to this analysis. Page number references throughout this report relate to the *Envision Jefferson 2035 Comprehensive Plan*.

A. Land Use and Growth Management Element/ Future Land Use Guide

One of the key concepts that the Land Use and Growth Management Element of the *2035 Plan* addresses is how to better influence the location of new development within Jefferson County. As the cost of providing services and utilities increases, many communities similar to Jefferson County have come to the realization that it is more sensible to identify specific areas that can handle development and growth, and to focus infrastructure and community service investments in these areas. In Jefferson County, there are four area types that are identified as part of *Envision Jefferson 2035 Plan* (pp.16-17).

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Sunnyside Rezoning Request (21-3-Z)

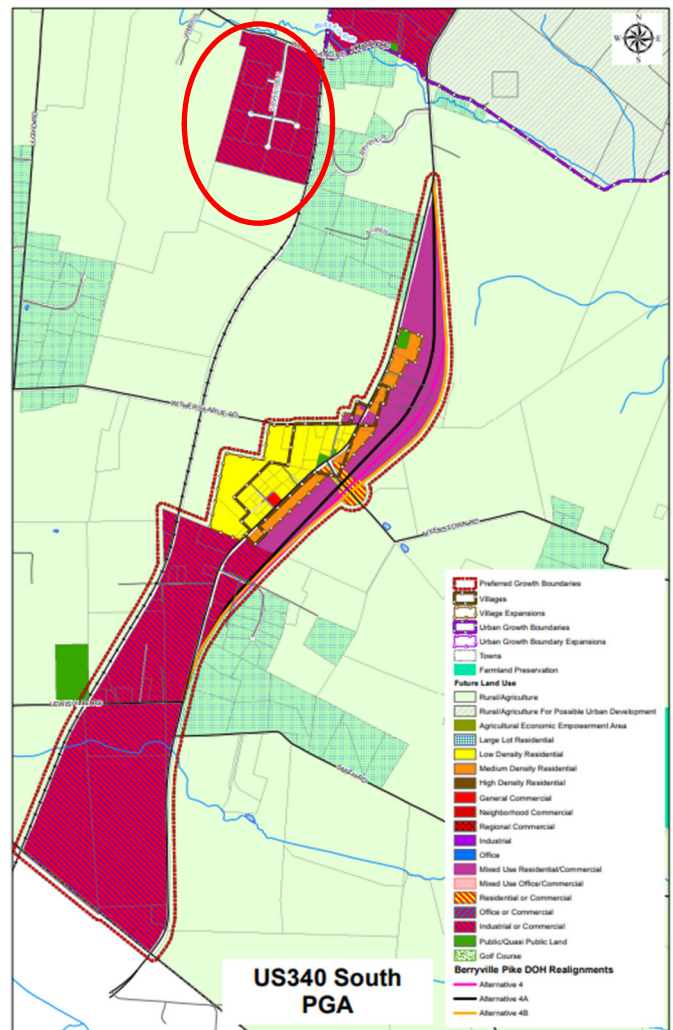
The land use area types include Urban Growth Boundaries (UGB) and Preferred Growth Areas (PGA), which are the sections of Jefferson County where urban scale development is to be targeted over the planning horizon of the *2035 Plan*; and Rural/Agricultural Areas and Villages, where limited development is possible but is not intended for urban-scale development. (p. 17)

Sunnyside Industrial Park is located in the Rural/Agricultural Area just outside the US 340 South PGA (see graphic below). Most of the discussion in the *2035 Plan* regarding the Rural/Agricultural Area is focused on the development of this area for rural residential uses, rural agricultural uses and value added operations. Generally, the *2035 Plan* expects that urban level residential and non-residential development (and redevelopment efforts) will focus in the UGBs and identified PGAs over the 20-year planning period. However, the *2035 Plan* also clearly discusses the retention of existing zoning map classifications and clearly states that no zoning map amendments (rezoning requests) or reductions in existing zoning rights proposed by the County were proposed. As the Sunnyside Industrial Park has been zoned Industrial-Commercial for a number of decades and includes commercial grade road, the Future Land Use Guide showed this area as “Industrial or Commercial”.

As the applicants have noted, there is no water, sewer or gas utilities in this area, which has made it difficult to market for industrial or commercial uses. The owners are requesting downzoning these lots to Residential-Light Industrial-Commercial (RLIC) to broaden the potential uses in this area to allow various densities of residential uses and the creation of live/work spaces, in addition to commercial and light industrial uses.

It should be noted that under the “Urban Level Development Recommendations (Goal 1)”, Recommendation #14 recommends that all commercial/industrial zoning map amendment requests should utilize the 2014 (or later) zoning categories and discourages the use of the existing R-LI-C District as a zoning category for zoning map amendment requests. It further recommends that any development in a zone that permits mixed use be developed according to the mixed land use ratios found in the land use categories recommended by this Plan, unless otherwise provided in the Zoning Ordinance (p.33, emphasis added).

In this case, the owner-initiated down-zoning to RLIC actually broadens the uses that can occur in this area and may result in a more mixed use development.



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Sunnyside Rezoning Request (21-3-Z)

Note that three of the existing lots are not proposed to be a part of this rezoning and will be impacted if the rezoning is approved due to a distance requirement between commercial or industrial uses and any lot with a residence per Section 4.6 of the Zoning Ordinance.

B. Appendix G - Land Use Map Classifications

The property which is a part of this Zoning Map Amendment request is shown on the Future Land Use Guide as Future “Industrial or Commercial”. Appendix G of the *2035 Plan* provides a detailed explanation of the Land Use Map Classifications utilized on the Existing Land Use Map and Future Land Use Guide which are intended to provide guidance to the Planning and County Commissions when considering owner-initiated zoning map amendments (rezoning requests). It further notes that while some of the land use classifications may require new zoning categories, the land uses were not intended to be a comprehensive list of possible zoning districts (p. 235).

Appendix G states that the “Industrial or Commercial” land use category (pp. 239) was used to depict “existing properties zoned Industrial/Commercial District (IC). In some areas, it is anticipated that commercial development may be more probable to occur in this category than the industrial uses. The Zoning Ordinance states that commercial uses are to be incidental to the industrial activity in the IC zone; however, it lists all commercial uses as a principle permitted use in this zone. Therefore, property zoned IC has the zoning entitlement rights to develop as either commercial or industrial. This Plan clarifies that the property shown on the Future Land Use Guide may develop as either commercial or industrial. The commercial uses in this category could be Neighborhood Commercial, General Commercial or Regional Commercial as appropriate for the site, based on the road network and available infrastructure.”

While this future land use category does not anticipate residential development, it is reasonable in this area, with the minimal utilities available, to broaden the use to include rural residential and live/work opportunities through the rezoning process.

Proposed Zoning District – Residential-Light Industrial-Commercial (RLIC)

The purpose of the Residential-Light Industrial-Commercial (RLIC) District (Section 5.8) is to “to guide high intensity growth into the designated growth area” (complete description attached). Despite the fact that these properties are not within a designated growth area, they are already zoned to allow intensive commercial and industrial uses. The proposed RLIC zone would permit a wide variety of residential, commercial, and light industrial uses but does not provide the mandatory mix of uses that was recommended in the *Envision Jefferson 2035 Plan*.

Staff Discussion and Recommendation

While the *Envision Jefferson 2035 Plan* anticipated the development of a new zoning category or revisions to the RLIC zone to require a mandatory mix of the residential and commercial uses, this text amendment has not occurred. The applicants are requesting to broaden the permitted uses in an area that has not been successfully marketed for industrial and commercial uses due to location and the lack of utilities, to a zone that would allow a mixture of residential densities and a mixture of commercial and light industrial uses. The properties that are proposed for the rezoning have access from Wheatland Road via Kanawha Lane, a commercial road within a 60’ right-of-way. Sunnyside Industrial Park has already processed as a Major Non-Residential Subdivision resulting in an “approved major non-residential subdivision with master planned roads and stormwater”. Because of this, any non-residential

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Sunnyside Rezoning Request (21-3-Z)

development of these lots will be able to process as a Minor Site Plan. Further subdivision of these lots for development as a residential subdivision or into more than one non-residential lots will be required to process as a Major Subdivision.

While the proposed zoning district is not literally recommended by the *2035 Plan* for these properties, staff finds that the proposed RLIC rezoning for the lots included in this application to be **reasonably consistent** with the *Envision Jefferson 2035 Comprehensive Plan*.

Planning Commission Action

Article 12 of the Zoning Ordinance, in accordance with State Code, requires the County Commission to refer rezoning petitions to the Planning Commission for their review and recommendation as to whether the amendment is consistent with the adopted *Comprehensive Plan*. Such recommendation will be required to be sent to the County Commission prior to the County Commission's public hearing which shall be held within 60 days of the date the petition is presented.

The petition was presented to the County Commission on November 4, 2021 and the required Public Hearing has been scheduled on December 2, 2021. Therefore, the Planning Commission is required to review this application and make a recommendation to the County Commission prior to this meeting.

Attachment:

- Section 5.8 Residential-Light Industrial-Commercial (RLIC) District

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Sunnyside Rezoning Request (21-3-Z)

ATTACHMENT:

Section 5.8 Residential-Light Industrial-Commercial (R-LI-C) District

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.

A. Principal Permitted and Conditional Uses

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.
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.

B. Standards

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.
3. Impervious surface coverage shall not exceed eighty (80) percent of the gross land area

C. Site Development Standards

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.
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.
3. 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.



JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning and Zoning

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

File Number: 21-3-z
Staff Initials: gnt
Application Fee: \$ 3700-

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

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: (304) 728-3228
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: Thomas Management Group, Inc and Sunnyside Investment, LLC
Mailing Address: 175 John J Thomas Way, Charles Town WV 25414
Phone Number: (304)725-2539 Email: jthomas@jeffersonasphalt.net

Applicant contact information

Name: John Thomas Jr.
Mailing Address: 175 John J Thomas Way, Charles Town, WV 25414
Phone Number: (304)283-2601 Email: jthomas@jeffersonasphalt.net

Applicant representative

Name: John Thomas Jr.
Mailing Address: 175 John J Thomas Way, Charles Town WV 25414
Phone Number: (304)283-2601 Email: jthomas@jeffersonasphalt.net

Physical property details

Physical Address: Wheatland Road
City: Charles Town State: WV Zip Code: 25414
Tax District: Kabletown Map No: 12 Parcel No: 12;12.2-5;12.8-11
Parcel Size: 53.17 acres Deed Book: 1037, 1114 Page No: 652, 53

Current Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (RLIC), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (O/C). IC is checked.

RECEIVED

OCT 22 2021

JEFFERSON COUNTY PLANNING ZONING & ENGINEERING

Proposed Zoning District (please check one)

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential- Light Industrial- Commercial (RLIC)	Village (V)	Neighborhood Commercial (NC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General Commercial (GC)	Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/ Commercial Mixed-Use (O/C)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For a Zoning Map Amendment request, the "burden of proof" is on the applicant to show why the proposed zoning is more appropriate than the existing zoning. Accordingly, please explain how the following factors support your proposal.

Describe your proposed use (and/or project) and describe why the Zoning Map Amendment is necessary for the proposed use (and/or project) described.

The plan is to give us the ability further subdivide the lots into 1.5 to 2 acre lots for residential use. The current zoning of Industrial-Commercial will not allow Residential. The new zoning of Residential-Light Industrial-Commercial will allow us to broaden our scope of users for the property. The new zoning would allow some of the lots to develop small businesses compatible with the neighborhood.

Describe how the Zoning Map Amendment will be consistent with the objectives and policies of the Comprehensive Plan.

The new zoning will keep the commercial and industrial aspects, in the spirit of the Comprehensive Plan, but also give the residential option. The surrounding properties are large lot housing and agricultural.

Discuss any change(s) of transportation characteristics (i.e., type and frequency of traffic, adequacy of existing transportation routes), and neighborhood characteristics from when the original ordinance was adopted.

There will be no additional traffic. If the lots are utilized for residential use, then traffic will be less than what it would be if utilized as industrial or commercial.

Do you request that the Planning and Zoning Staff present the petition to the Planning Commission for the purpose of setting the public hearing date?

- Yes, I request that the Planning and Zoning Staff present the petition
- No, I prefer to present the petition


Plat or Sketch Plan (provide as an attachment to this application)

The plat or sketch must be pursuant to Zoning Ordinance, Section 7.4 (b). The sketch plan shall include the entire original parcel as it appeared on the date this ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg. 1" = 50', 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational areas, streets, building areas, and other features in relation to each other and to the tract boundaries. Contour lines should be superimposed on the sketch plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes and quarries shall be delineated.

Is Plat or Sketch Plan attached?

Yes No

Original signature of all property owners is required. The information given is correct to the best of my knowledge (Please attach additional signature page if needed).

	10/14/21	
Signature of Property Owner	Date	Signature of Property Owner Date

The Planning Commission is required to set a public hearing on the proposed Zoning Map Amendment within 60 days of the date upon which a complete petition is presented to the Planning Commission at a Planning Commission Meeting. A complete petition, and related fees, shall be submitted to Departments of Planning and Zoning for placement on the Planning Commission agenda at least two (2) weeks prior to the meeting date at which the petition will be presented. Upon request, Planning and Zoning staff can present the petition to the Planning Commission on behalf of the applicant for purpose of setting the public hearing date. At the conclusion of the Planning Commission's Public Hearing, or at the next regular Planning Commission meeting, the Planning Commission shall make a recommendation to the County Commission regarding approval or disapproval of the requested Map Amendment. This recommendation shall be forwarded to the County Commission within four (4) weeks of final Planning Commission action.

The Planning Commission finds this request consistent/inconsistent with the Comprehensive Plan by a vote of _____ for and _____ against, this day of _____, _____, _____.

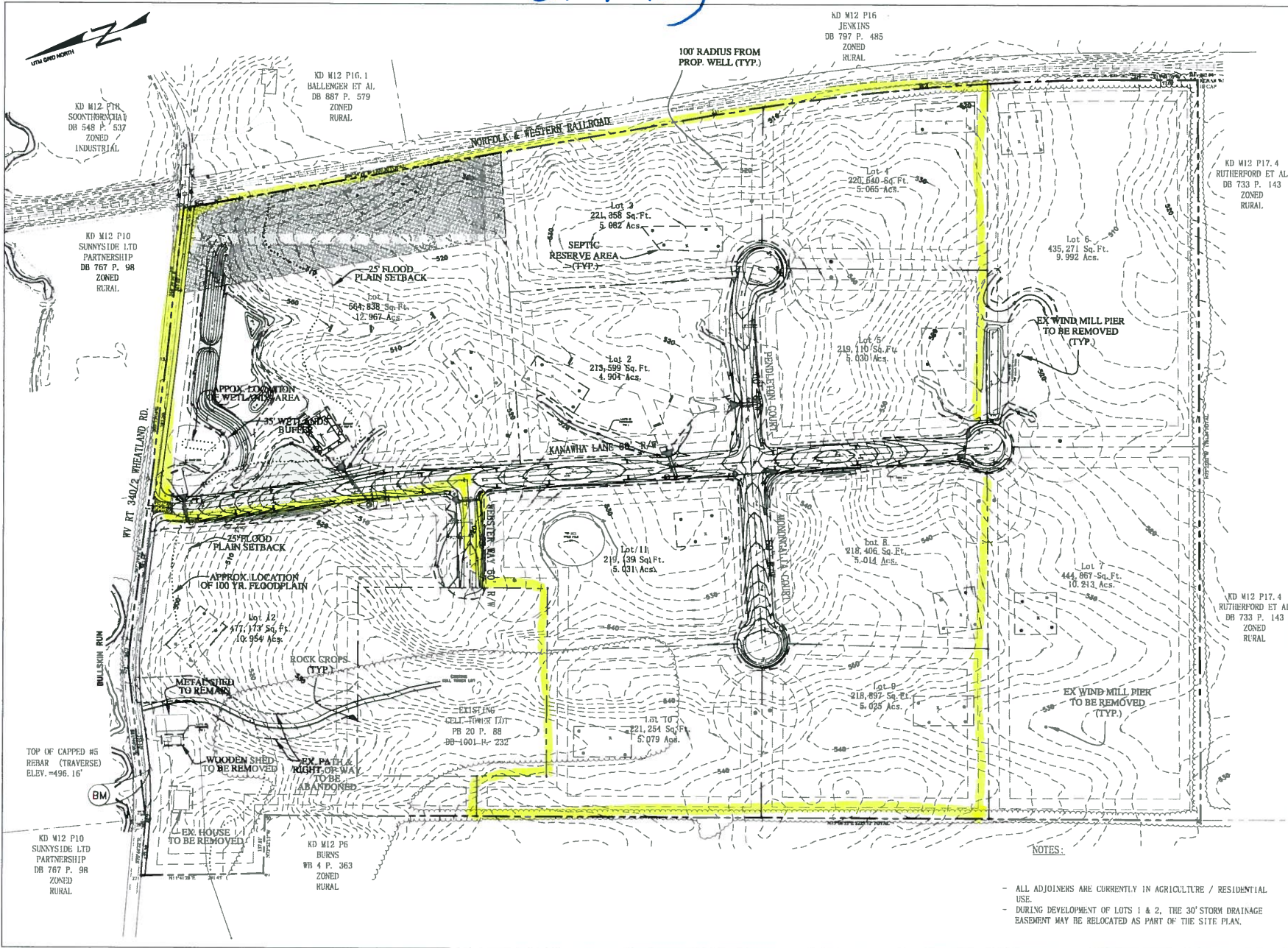
Recommended *Not Recommended*

The County Commission finds this request consistent/inconsistent with the Comprehensive Plan by a vote of _____ for and _____ against, this day of _____, _____, _____.

Approved *Disapproved*

Final Determination/Other Comments

Existing



Dewberry

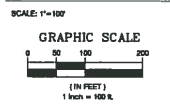
Dewberry & Davis, LLC
 411 S. FAIRFAX BOULEVARD
 RANSON, WV 25439-1811
 PHONE: 304.725.4572
 FAX: 304.725.8906
 WWW.DEWBERRY.COM

DEVELOPED BY:
 SUNNYSIDE, LLC

Preliminary Plat/Site Plan showing
 Lots 1-12
Sunnyside Industrial Park
 KABLETOWN DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA

ACREAGE TABLE

LOT AREA = 82.8 Ac.
ROAD/R/W AREA = 7.1 Ac.
TOTAL AREA = 89.9 Ac.



NO.	DATE	BY	DESCRIPTION

REVISIONS

DRAWN BY: S.L.S.
 APPROVED BY: L.D.M.
 CHECKED BY: L.D.M.
 DATE: AUGUST 2006
 TITLE: OVERALL, EROSION & SEDIMENT CONTROL VIEW

FOR GENERAL NOTES, SEE SHEET 3.

PROJECT NO. 12750152

- NOTES:
- ALL ADJOINERS ARE CURRENTLY IN AGRICULTURE / RESIDENTIAL USE.
 - DURING DEVELOPMENT OF LOTS 1 & 2, THE 30' STORM DRAINAGE EASEMENT MAY BE RELOCATED AS PART OF THE SITE PLAN.

Existing



Dewberry & Davis LLC
 1115 FAIRFAX BOULEVARD
 RANSON, WV 25438-0111
 PHONE 304 775 4570
 FAX 304 775 6095
 WWW.DEWBERRY.COM

DEVELOPED BY
 SUNNYSIDE LLC

Preliminary Plat/Site Plan showing
 Lots 1-12
Sunnyside Industrial Park
 KABLETOWN DISTRICT
 JEFFERSON COUNTY, WEST VIRGINIA

ACREAGE TABLE

LOT AREA	428.6 A.
ROAD & B. AREA	2.3 A.
TOTAL AREA	430.9 A.

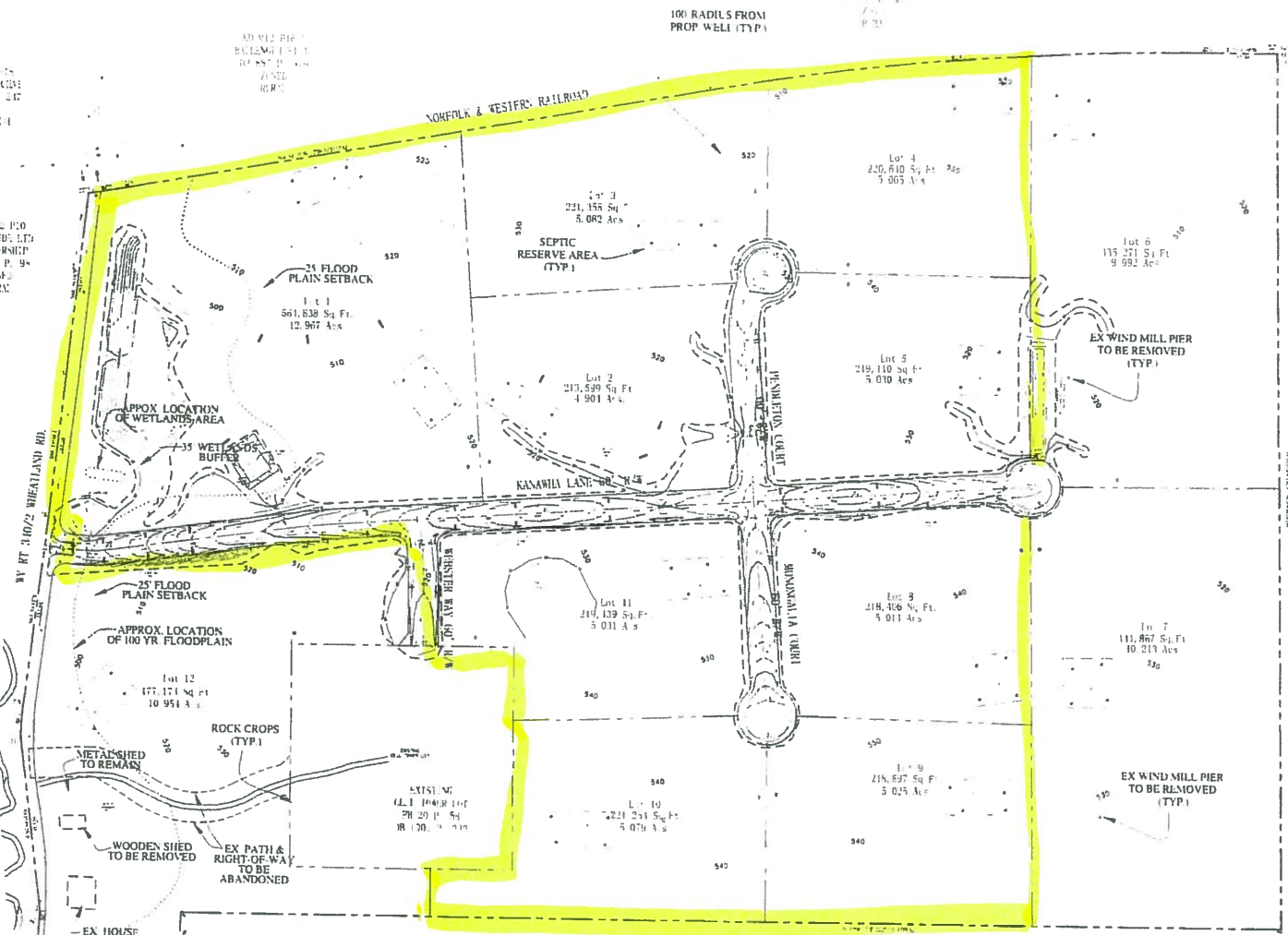


NO.	DATE	BY	DESCRIPTION
1	12/17/11	AM	PROPOSED
2	11/17/11	SLB	ADVIS COMMENTS
3	1/20/12	SLB	ADVIS COMMENTS
4	1/27/12	SLB	ADVIS COMMENTS
5	2/21/12	SLB	ADVIS COMMENTS
6	2/21/12	SLB	ADVIS COMMENTS
7	2/21/12	SLB	ADVIS COMMENTS
8	2/21/12	SLB	ADVIS COMMENTS
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98	2/21/12	SLB	ADVIS COMMENTS
99	2/21/12	SLB	ADVIS COMMENTS
100	2/21/12	SLB	ADVIS COMMENTS

DRAWN BY: S.M.
 APPROVED BY: L.D.M.
 CHECKED BY: L.D.M.
 DATE: 1/25/12
 TITLE: PRELIMINARY PLAT/SITE PLAN

FOR GENERAL NOTES
 SEE SHEET 1

PROJECT NUMBER



NO. 112 P. 1
 BULL RUN
 ZONE
 RRA

NO. 112 P. 1
 SUNNYSIDE LLC
 PARTNERSHIP
 10 76 P. 94
 ZONE
 RRA

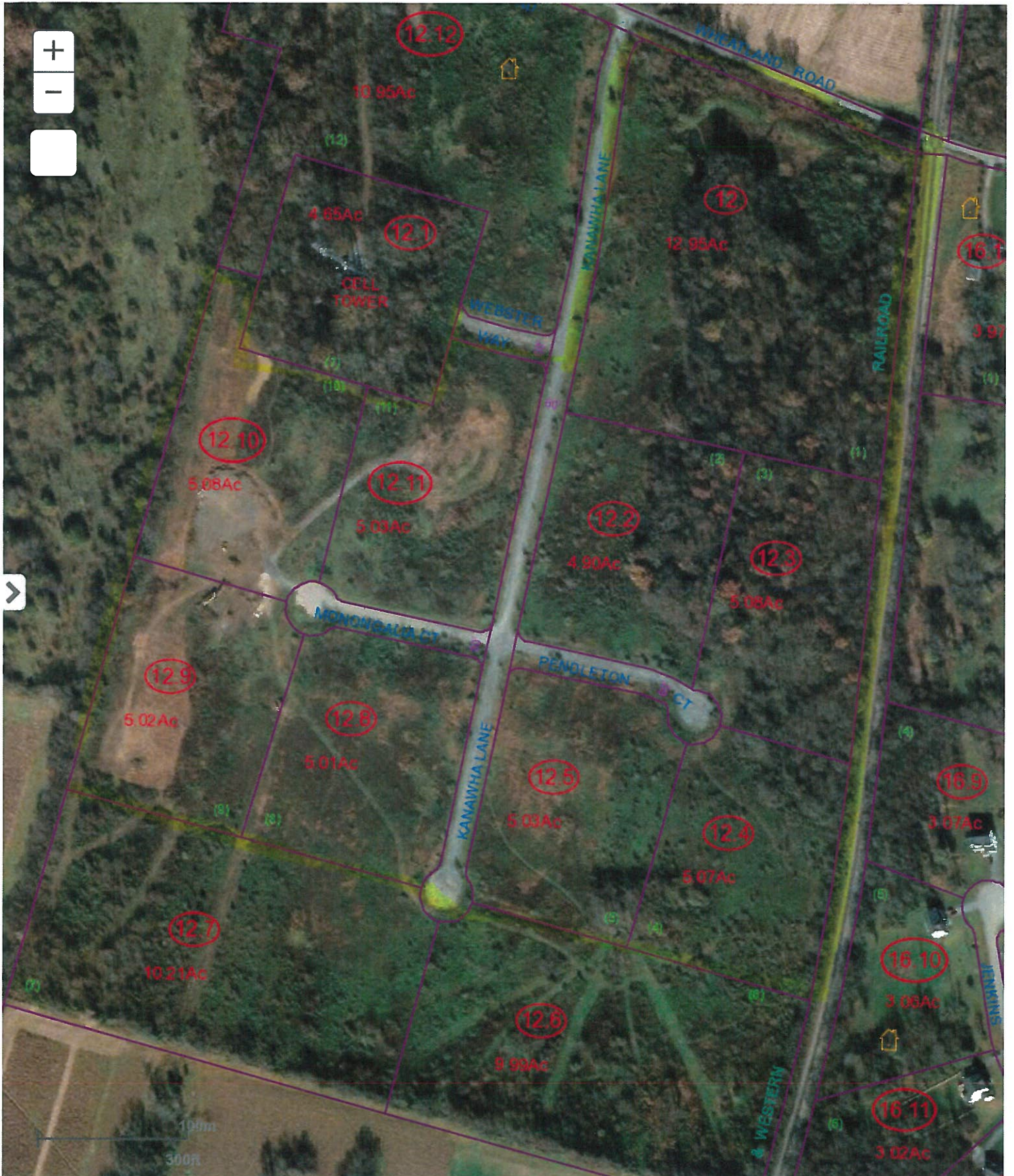
NO. 112 P. 1
 SUNNYSIDE LLC
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 10 76 P. 94
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 RRA

NO. 112 P. 1
 SUNNYSIDE LLC
 PARTNERSHIP
 10 76 P. 94
 ZONE
 RRA

ALL RIGHTS ARE RESERVED BY SUNNYSIDE LLC
 NO. 112 P. 1
 SUNNYSIDE LLC
 PARTNERSHIP
 10 76 P. 94
 ZONE
 RRA



Jefferson County West Virgin Tax Map Viewer





Jefferson County West Virgin Tax Map Viewer





Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

Office of Planning and Zoning

116 East Washington Street, 2nd Floor

Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

Planner's Memorandum Planning Commission Meeting November 9, 2021

1) Status of Engineering, Planning and Zoning County Offices during COVID-19 Virus Pandemic

The Department of Engineering, Planning and Zoning Mason Building is open to the public. Masks only need to be worn if you are not fully vaccinated and social distancing will be observed.

BUILDING PERMITS & INSPECTIONS 304-725-2998 permits@jeffersoncountywv.org

IMPACT FEES 304-728-3331 - mmason@jeffersoncountywv.org

ENGINEERING 304-728-3257 - engineering@jeffersoncountywv.org

PLANNING & ZONING 304-728-3228 - planningdepartment@jeffersoncountywv.org, zoning@jeffersoncountywv.org

GIS & ADDRESSING 304-724-6759 - gis@jeffersoncountywv.org

2) FY2022-2023 Budget Discussion

The County's Department Heads have been informed that they will need to begin planning for their FY2022-2023 Budget requests in the near future. As was noted last year, WV Code §8A-2-11 states that one of the powers and duties of a locally appointed Planning Commission in West Virginia is to prepare and submit an annual budget to the appropriate governing body. Most years, the expenses of the Office of Planning and Zoning within the Department of Engineering, Planning and Zoning relate to employee salaries and overhead and no input is required from the Planning Commission. However, if the Planning Commission has a work plan agenda that would require additional funding, this should be brought to the attention of the Director of Department of Engineering, Planning and Zoning for his Budget preparation.

Toward this end, the Commission should consider planning for the County's next Comprehensive Plan. WV Code §8A-3-11(a) requires the Planning Commission to review and update the Comprehensive Plan at least every ten years. The current Comprehensive Plan was approved on January 14, 2015. The previous Plans were dated 2004, 1994, 1986 and 1968.

The Planning Commission should have a goal of having the next Plan approved by late 2024 or January 2025. Generally, a Comprehensive Plan/ Update is an 18 – 24 month process and requires considerable research and public input opportunities. Therefore, this process should be planned to start in early 2023 and will need to be funded in the upcoming funding cycle. The Planning Commission needs to begin discussion on how to proceed with this Plan Update and what funding may be required as soon as possible.

3) Upcoming PC meetings

a) Special Meeting: December 7, 2021

Public Hearing on proposed *Envision Jefferson 2035 Comprehensive Plan* text amendment related to solar energy facilities in the rural and residential areas of Jefferson County

b) Next Regular meeting: December 14, 2021



Jefferson County, West Virginia
 Department of Engineering, Planning and Zoning
Office of Planning and Zoning
 116 E. Washington Street, 2nd Floor, P.O. Box 716
 Charles Town, West Virginia 25414

DRAFT

Email: planningdepartment@jeffersoncountywv.org
zoning@jeffersoncountywv.org

Phone: 304-728-3228
 Fax: 304-728-8126

DRAFT 2022 MEETING SCHEDULE
JEFFERSON COUNTY PLANNING COMMISSION

Unless otherwise posted, Planning Commission meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street at 7:00 p.m.

<u>Regularly Scheduled Meeting</u>	<u>Tentative Meeting</u>
Tuesday, January 11, 2022	Tuesday, January 25, 2022
Tuesday, February 8, 2022	Tuesday, February 22, 2022
Tuesday, March 8, 2022	Tuesday, March 22, 2022
Tuesday, April 12, 2022	Tuesday, April 26, 2022
Election Day: Tuesday, May 10, 2022 Alternative: (Tuesday) May 3 or 17 , 2022	Tuesday, May 24, 2022
Tuesday, June 14, 2022	Tuesday, June 28, 2022
Tuesday, July 12, 2022	Tuesday, July 26, 2022
Tuesday, August 9, 2022	Tuesday, August 23, 2022
Tuesday, September 13, 2022	Tuesday, September 27, 2022
Tuesday, October 11, 2022	Tuesday, October 25, 2022
Election Day: Tuesday, November 8, 2022 Alternative: (Tuesday) November 1 or 15 , 2022	Holiday Week: Tuesday, November 22, 2022 Alternative: November 15 , 2022
Tuesday, December 13, 2022	Holiday Week: Tuesday, December 27, 2022 Alternative: Tuesday, December 20 , 2022

^Regularly scheduled Planning Commission Meetings are held on the second Tuesday of each month. The Planning Commission may choose to schedule a Tentative Meeting (as needed) on the fourth Tuesday of every month to conduct Commission business or to meet required deadlines that are in accordance with the Planning Commission's 4th Tuesday Meeting policy). Please check with office Staff for a list of Tentative Meeting dates.

The required application, supporting documentation and applicable fees must be submitted to the office by close of business on the Submission Deadline date.

*The Waiver and Variance deadline is 21 calendar days prior to the meeting to allow for Staff review the applications, and to accommodate the 14-day notice requirements for the placard/sign and mailings to adjacent property owners.

**The Concept Plan (subdivision or site plan) deadline is 45 calendar days prior to the meeting to allow for Staff review of the Plan, and to accommodate the 21-day legal advertisement requirement, and the 14-day notice requirements for the placard/sign and mailings to adjacent property owners.

Changes in the time or location of the meeting shall be noticed on the County's website at www.jeffersoncountywv.org. **Note:** if the President of the County Commission or the Planning Commission determines that weather conditions make travel unsafe for the public, County offices may close and/or the meeting may be cancelled. Please check the County's website for possible meeting updates during inclement weather.

Agenda items that have been deferred due to a cancellation will be rescheduled. No additional public notice shall be given. All signs must remain posted on the respective properties until the rescheduled meeting date. Please call the office or check the County's website for the rescheduled meeting date.