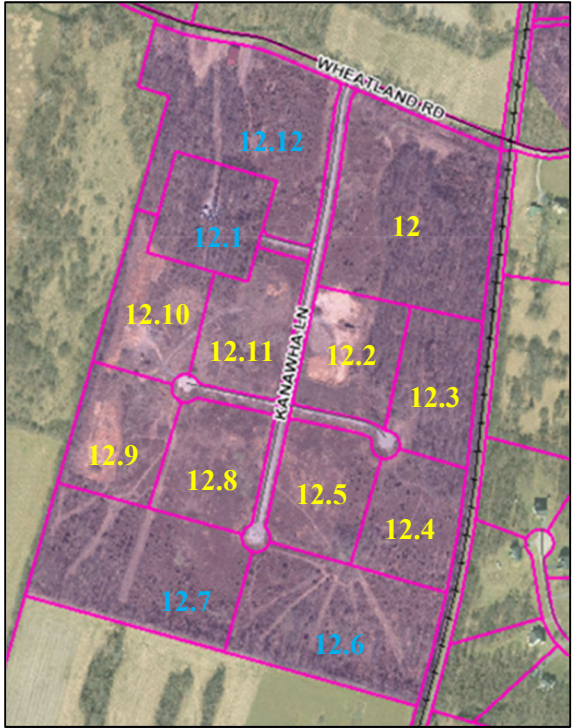


Staff Report
 Jefferson County Planning Commission Meeting
 November 9, 2021

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>Parcel #</th> <th>Lot #</th> <th>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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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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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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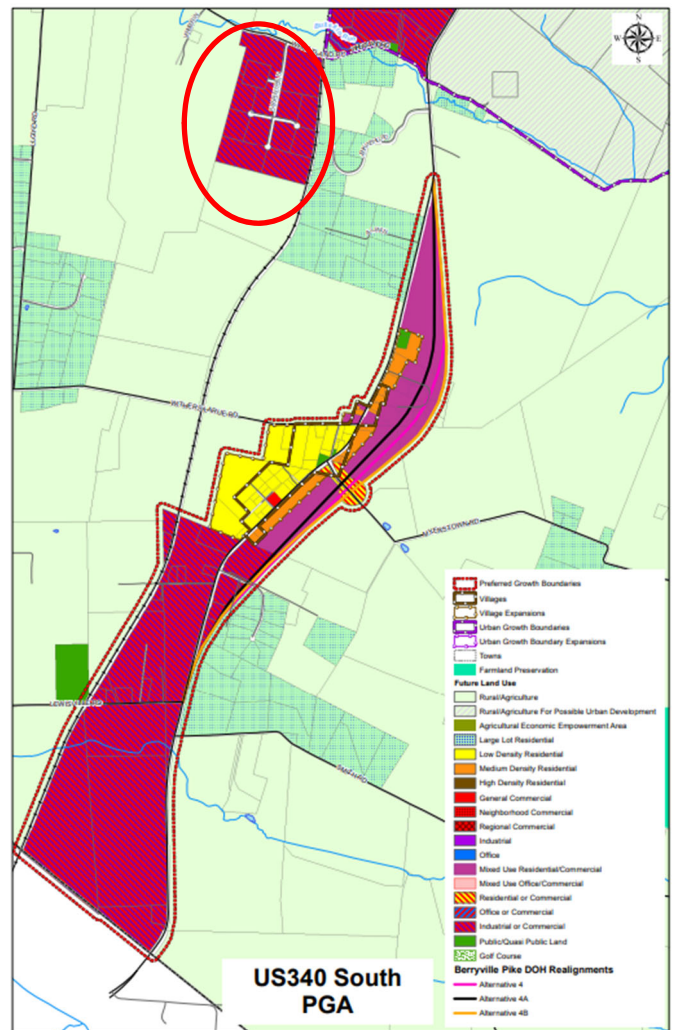
The land use area types include Urban Growth Boundaries (UGB) and Preferred Growth Areas (PGA), which are the sections of Jefferson County where urban scale development is to be targeted over the planning horizon of the *2035 Plan*; and Rural/Agricultural Areas and Villages, where limited development 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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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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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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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.