

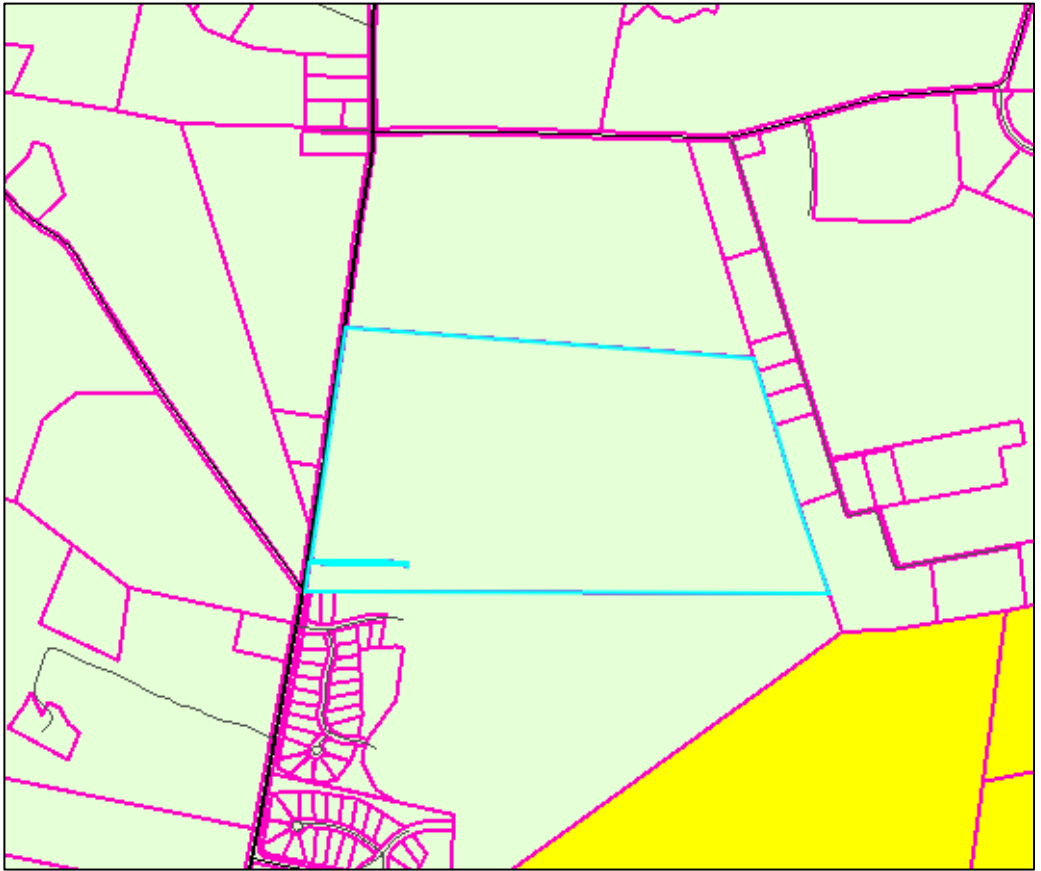
Staff Report

Jefferson County Planning Commission Meeting

March 08, 2022

Green Hill Rezoning Request (22-1-Z)

Item # 7: Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcel from Rural to Residential Growth is consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Owner:	William Reilly, Managing Member
Consultant:	Chad Wallen, Integrity Federal Services
Parcel Information:	<p>Vacant parcel located northeast of the Flowing Springs Rd and Daniel Rd intersection, Charles Town, WV Tax District: Charles Town (02), Map: 03; Parcel: 9; Total Acres: 102; Zoning District: Rural</p> 
Adjoining Zoning:	North, East, West: Rural; South; Rural and Residential Growth
Proposed Request:	To rezone from Rural (R) to Residential Growth (RG)
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 <u>consistent</u> with the <i>Envision Jefferson 2035 Comprehensive Plan</i> .
Previous Approvals	
Conditional Use Permit (CUP)	01/22/03: Neighborhood Compatibility Meeting 04/08/03: CUP public hearing – Approved 09/28/04: PC approved an 18-month tolling of time for the CUP to 04/08/06.

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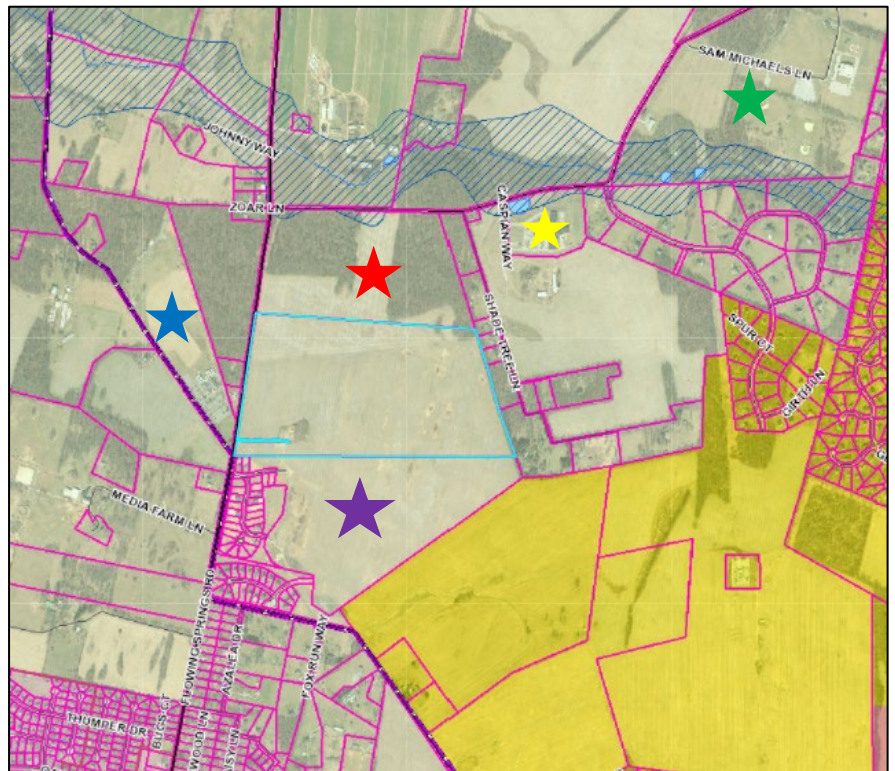
<i>F.K.A. Forest View Subdivision</i> PC File #Z02-01	02/01/07: CUP signed (official issuance) 08/01/08: CUP Expiration Date 03/20/08: BZA granted an extension of the CUP to 02/01/2010. 02/01/10: Renewed expiration date
Community Impact Statement (CIS) PC File #06-35	04/24/07: PC Approval 11/17/09: Expiration Date
Preliminary Plat	01/04/08: Staff Review Meeting 07/29/08: Staff Approval
Final Plat	09/23/08: PC granted variance to extend the final plat 05/16/09. 05/12/09: PC denied variance to extend the final plat.
Other Approvals:	Court Order allowing for a tolling of time for a period of 1290 days (Case No. 02-C-217) 01/11/08: Groundwater protection plan approved 04/26/07: JC Addressing approved WV Senate Bill 595 (2010) time extension did not apply to this project.

Applicant's Request

The applicant's request is to rezone a total of 102 acres (outlined in blue), to be referred to as Green Hill, from Rural (R) to Residential Growth (RG).

Neighboring Uses

This area of the County is on the northern edge of the urbanizing area north of Job Corps Road, consisting primarily of residential uses and related community facilities. Immediately to the west, across Flowing Springs Road, is a 50-acre parcel occupied by Fellowship Bible Church, which includes an outdoor recreation area at its western edge (blue star). To the north is the previously approved Daniel's subdivision, which has expired (red star). Northeast is the location of Driswood Elementary School (yellow star). Farther northeast is the 130-acre Sam Michael's Park, including the Community Center, pavilions, an outdoor amphitheater, and ball fields (green star). To the south is the Aspen Green Subdivision, which is in its 3rd section and has a total build out of 205 lots (purple star). To the south east of the property in question is a large area zoned Residential Growth which consists of the 133 acre Butler Farm, which has no current plans for development, and 470 +/- acres owned by BC Partners which just voided its previously approved Breckenridge East subdivision.



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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 **consistent** with the *2035 Plan* because it is shown as future "Low Density Residential" on the Future Land Use Guide. The current zoning permits agricultural and rural cluster density residential land uses. The owner-initiated rezoning to Residential Growth (RG) would allow for a variety of residential land uses such as single family, two family dwellings and/or townhome units.

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).

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)

The property that is the subject of this rezoning request is located within the "Residential Preferred Growth Area" (p.23). During the *Envision Jefferson 2035 Comprehensive Plan* public input process, it was determined that it is important to denote the "areas where a concentration of existing or approved residential development currently exists, but may be not be fully developed, and is outside of the Urban Growth Boundary (UGB)". It further noted that one such area exists that consists of properties currently zoned for Residential Growth (RG) or which had vested development rights to develop at a

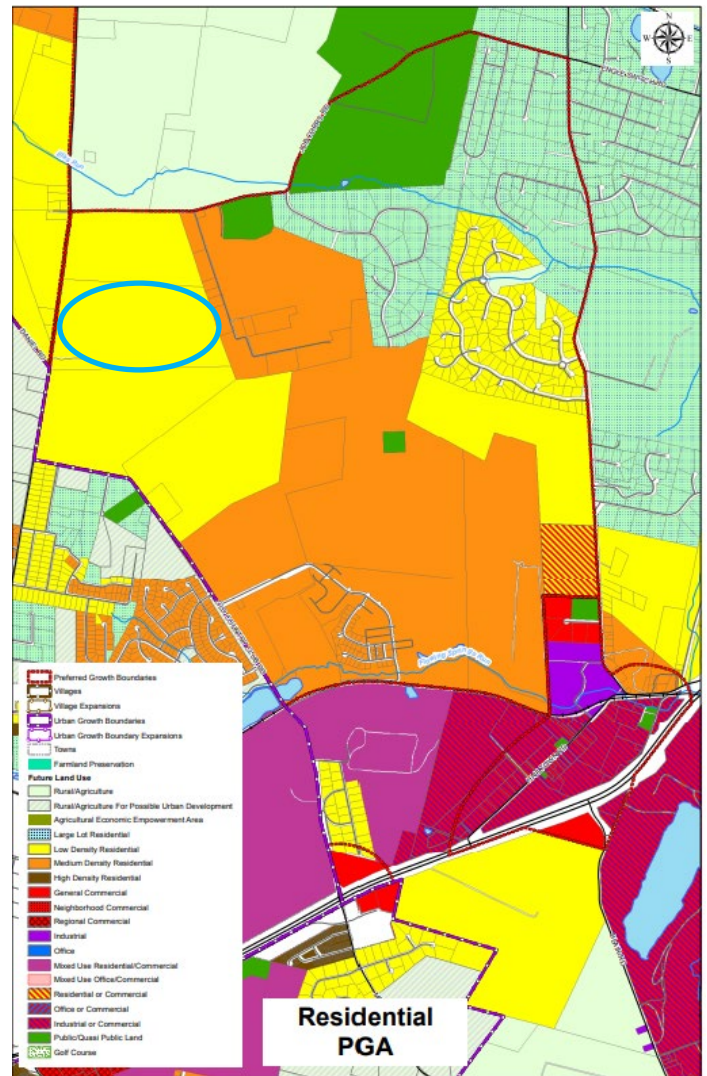
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Green Hill Rezoning Request (22-1-Z)

low medium density residential rate. Some of the vested rights that existed when the *2035 Plan* was approved, have expired and will require rezoning consistent with the Future Land Use Guide. This core residential area, bounded by Old Country Club Road, Flowing Springs Road, Job Corps Road, Shepherdstown Pike (WV 230) to the railroad tracks, is depicted by a Preferred Growth Area boundary, but is compromised only of future large lot, low density, and medium density residential uses. It is anticipated that this will be a primarily detached single-family suburban housing area. The property in question (circled in blue) falls within this anticipated future residential area.

B. Appendix G - Land Use Map Classifications

The property that is a part of this Zoning Map Amendment request is shown on the Future Land Use Guide as Future “Low Density Residential”. 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.



Appendix G of the *2035 Plan* states that the “Low Density Residential” land use category is a land use category which anticipates “land occupied by a single family residential development, with a density of one unit per acre to 2.99 units per acre. Lots in this category may be served by either on-site well and septic systems or a public water and sewer system as the number of units per acre increases” (p.235).

As the current Jefferson County Zoning Ordinance does not include a variety of zoning categories which anticipate certain residential densities, Residential Growth is a category that would permit Low Density Residential land uses.

Proposed Zoning District – Residential Growth (RG)

The purpose of the Residential Growth (RG) District (Section 5.4) is to “provide for a variety of residential uses and densities which can be supported by central or public water and sewer and adequate roadways and services. This district encourages areas of commercial growth proposed as an appropriate

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and compatible integrated part of a residential development in conformance with Section 5.4C of this Ordinance” (complete description attached).

Staff Discussion and Recommendation

This property has been zoned Rural since zoning went into to effect in 1988. Under the previous Zoning Ordinance, this property, as well as the properties to the north and south, received approval for Conditional Use Permits (CUPs) that would allow the development of these properties at suburban residential subdivision densities. In order to proceed with these CUPs, public water and sanitary sewer was required, Years of disagreements between the Charles Town Utility Board (CTUB) and the now-defunct Jefferson County Public Service District (JCPSD), delayed most of these approved residential developments. Aspen Green was the only development in the Flowing Springs corridor that was able to move forward with its development through the last decade.

After the adoption of the *2035 Plan*, based on the recommendations of the *Plan*, the County Commission approved a text amendment eliminating the use of the Land Evaluation Site Assessment (LESA) system and modifying the CUP process so that it could not be used for future residential development projects in the Rural Zoning District. The *2035 Plan* was the first Jefferson County Comprehensive Plan to include a Future Land Use Map/Guide, which is intended to be a tool to provide a visual definition of future growth and areas where potential owner initiated zoning map amendments (rezoning requests) might occur within the timeframe of the *Plan*. The *2035 Plan* stated that “by creating a Future Land Use Map/Guide, a community provides clarification for property owners related to their potential development on their site. The review of all zoning map amendment requests shall include consideration of all of the recommendations created as part of this Plan. All zoning map amendments shall be in conformance with the Future Land Use Guide and the recommendations of this Plan.”(pp. 16-17).

Based on these recommendations of the *2035 Plan* related to the Residential Preferred Growth Area and the Future Land Use Map/Guide, staff finds that the proposed Residential Growth (RG) rezoning for the lot included in this application to be **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 February 3, 2022 and the required Public Hearing has been scheduled on March 17, 2022. Therefore, the Planning Commission is required to review this application and make a recommendation to the County Commission prior to this meeting.

Attachment:

- Section 5.4 Residential Growth (RG) District

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ATTACHMENT:

Section 5.4 Residential Growth (RG) District

The Residential Growth District is intended to provide for a variety of residential uses and densities which can be supported by central or public water and sewer and adequate roadways and services. This district encourages areas of commercial growth proposed as an appropriate and compatible integrated part of a residential development in conformance with Section 5.4C of this Ordinance.

The following regulations govern development within the Residential Growth District.

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. Minimum Lot Area, Height, and Yard Requirements

1. 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. The minimum lot area requirements are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.
2. When computing the dwelling unit yield for a parcel of land, use the total area of parcel minus (1) lands contained in a wetland and (2) hillside lands to be retained in a natural, undisturbed condition as provided for in the Jefferson County Subdivision and Land Development Regulations. The balance square footage between the ADU (Area per Dwelling Unit) and the MLA (Minimum Lot Area) shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.
3. All detached accessory structures under 144 square feet in size shall have a setback of 6'.

C. Commercial Services in Residential Developments

1. Commercial services may be included in a residential development providing the commercial uses are intended to serve the residential community proposed and shall relate well to residential areas in terms of pedestrian and vehicular circulation.
2. The gross area for commercial uses shall not exceed 5 acres or 10 percent of the gross tract area, whichever is less.
3. Commercial uses shall not be built or established prior to the residential development unless built in phases consistent with phasing of the residential construction.
4. These uses shall be located within the interior of the project.
5. Commercial uses shall be subject to the Conditional Use Permit process as outlined in Section 6.3 of this Ordinance. Any proposed commercial use that is served from a road that is proposed to be located on the perimeter of the project or on a State Road shall be required to be considered as a part of the Conditional Use Public Hearing process.

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D. Standards for Commercial Uses

1. Commercial uses are subject to the following access requirements:
 - a. Such uses will not use adjacent residential roads for through traffic; and
 - b. Will connect to principal and major arterial highways as directly as feasible considering access restrictions.
2. Commercial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.



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

File #: 22-1-Z
Date Rec'd: 01/26/22
Fees Paid: 6100-
Staff Int: gt

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.

Property Owner Information

Owner Name: William Reilly, Managing Member
Business Name: Flowing Springs Road LLC
Mailing Address: 21631 Ridgetop Circle, Suite 250; Sterling, VA 20166
Phone Number: 703-444-4100 Email: bill@championtitle.com

Applicant Contact Information

Applicant Name: _____ Same as owner: ☒
Business Name: _____
Mailing Address: _____
Phone Number: _____ Email: _____

Consultant Information

Name: Chad Wallen
Business Name: Integrity Federal Services
Mailing Address: 148 S. Queen Street, Suite 201; Martinsburg, WV 25401
Phone Number: 304-725-84566 Email: cwallen@ifs-ae.com

Physical Property Details

Physical Address: Northeast of the Flowing Springs Rd / Daniel Rd intersection Vacant Lot: ☒
Tax District: Charles Town (2) Map No: 3 Parcel No: 9
Parcel Size: 102.00 acres Deed Book: 1255 Page No: 569

Current Zoning District

Rural (R)

Proposed Zoning District

Residential Growth (RG)

Substantiation for the Request

For a Zoning Map Amendment (rezoning) 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/project and describe why this Zoning Map Amendment is necessary for the proposed use (and/or project) described.

See Attached

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

See Attached

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.

See Attached

A plat or sketch 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, as shown on the appropriate U.S.G.S. Topographic Quadrangle Map or other data source approved by the Department, should be superimposed on the sketch plan. The source of all contour lines shall be noted on the plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes, and quarries shall be delineated.

The information given is correct to the best of my knowledge.

Property Owner Signature*

Date

Property Owner Signature*

Date

*The **original** signature of the property owner is required. A copy of the signature will not be accepted.

A complete petition, and related fees, shall be submitted to the Office 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. A copy of the application shall be submitted to the County Commission Office for inclusion on the County Commission Agenda at least one week prior to the County Commission meeting date.

Zoning Map Amendment Application Addendum

Green Hill Rezoning

January 25, 2022

Owner / Applicant:

Flowing Springs Road LLC
21631 Ridgetop Circle, Suite 250
Sterling, VA 20166

Property Tax Identification:

Charles Town District (2), Map Number 3, Parcel 9

Deed Information:

Deed Book 1255, Page Number 569

Property Characteristics:

Location: Northeast of the Flowing Springs Rd & Daniel Rd intersection
Current Zoning: Rural (R)
Current / Historic Use: Agricultural
Area of Rezoning: 102.00+/- Acres

Requested Zoning District:

Residential Growth (RG)

Table of Exhibits

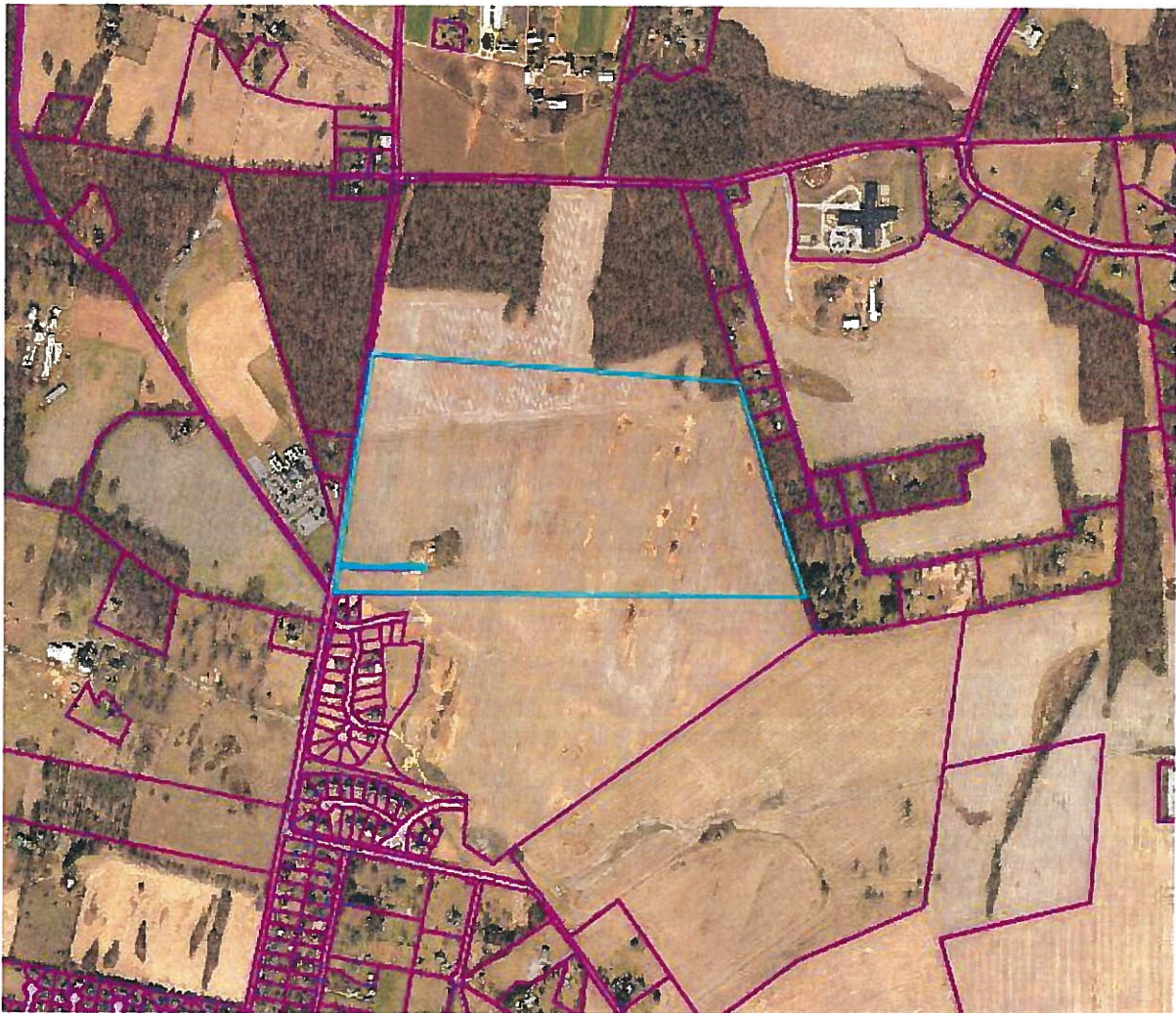
1. Vicinity Map
2. Aerial Overlay
3. Existing Conditions Map
4. Concept Sketch

Substantiation for Request

Existing Characteristics

The property is located east of Flowing Springs Road approximately two (2) miles north of the Route 9 Flowing Springs Road exit.

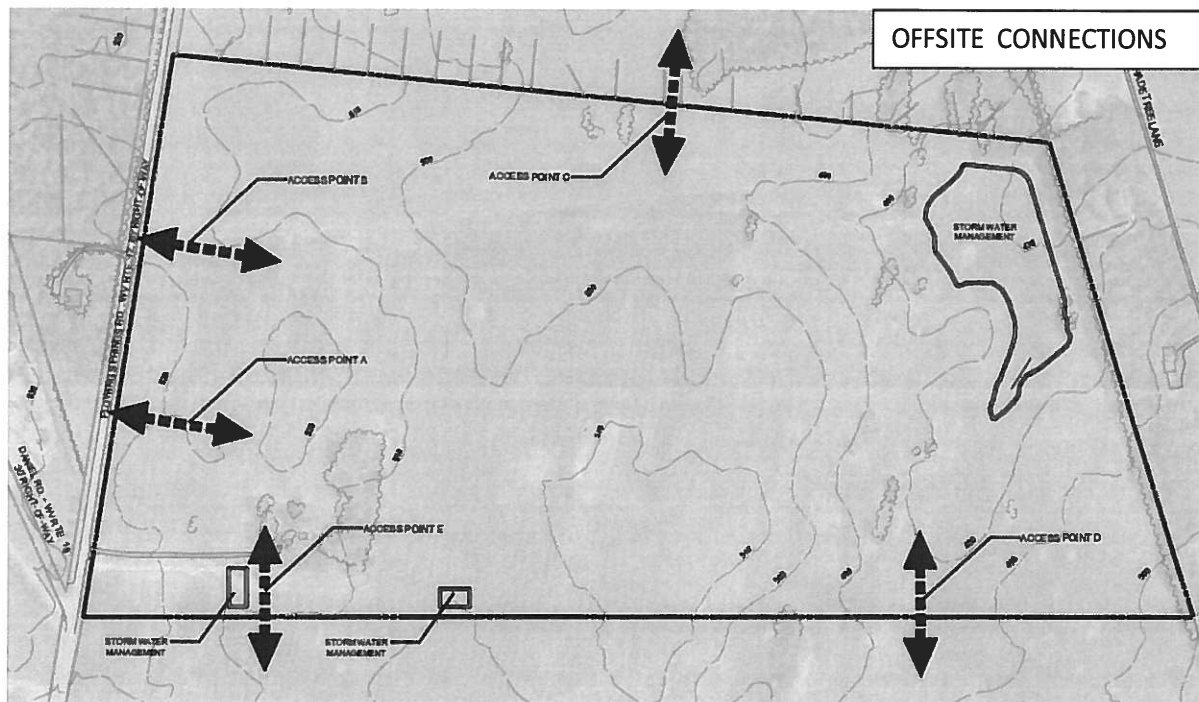
The property's use is currently agricultural. The property is 0.8 miles from Driswood Elementary School, 1.2 miles from Jefferson High School and 1.5 miles from Wildwood Middle School.



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 proposed residential density for the property is not permitted in the Rural district of the Zoning Ordinance. The Residential Growth district will allow the property to be developed as envisioned by the comprehensive plan (Low Density Residential).

It is proposed that the property be developed as a residential community under the regulations of the Residential Growth (RG) zoning district. It is anticipated the development will include single-family detached homes, but any uses under the RG district will be permitted. The development will include open spaces, storm water management facilities, utilities, and roads. Access will be provided through two (2) entrances from Flowing Springs Road. There will also be two (2) connections to the Aspen Greens development to the south and one (1) connection to future development to the north (previously known as Daniels Forest). Like all subdivisions in Jefferson County, the proposed development of the property will be subject to the County's regulations, review, and approval process.



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

1. Preferred Growth Areas (Page 23)

g. Residential Preferred Growth Area

Based on comments received during the Envision Jefferson 2035 public input process, it was determined that it is important to denote the areas where a concentration of existing or approved residential development currently exists but may be not be fully developed and is outside of the Urban Growth Boundary (UGB). One such residential area exists that consists of properties currently zoned for Residential Growth (RG) or which have a vested development right to develop at a low density or medium density residential rate. This core residential area, bounded by Old Country Club Road, Flowing Springs Road, Job Corps Road, Shepherdstown Pike (WV 230) to the railroad tracks, is depicted by a Preferred Growth Area boundary, but is compromised only of future large lot, low density, and medium density residential uses. It is anticipated that this will be a primarily detached single family suburban housing area.

The inclusion of the property within the Residential Preferred Growth Area demonstrates the Plans vision for development to occur on the subject property. The Comprehensive Plans Urban Level Development Recommendations (Goal 1) include the following for Preferred Growth Areas:

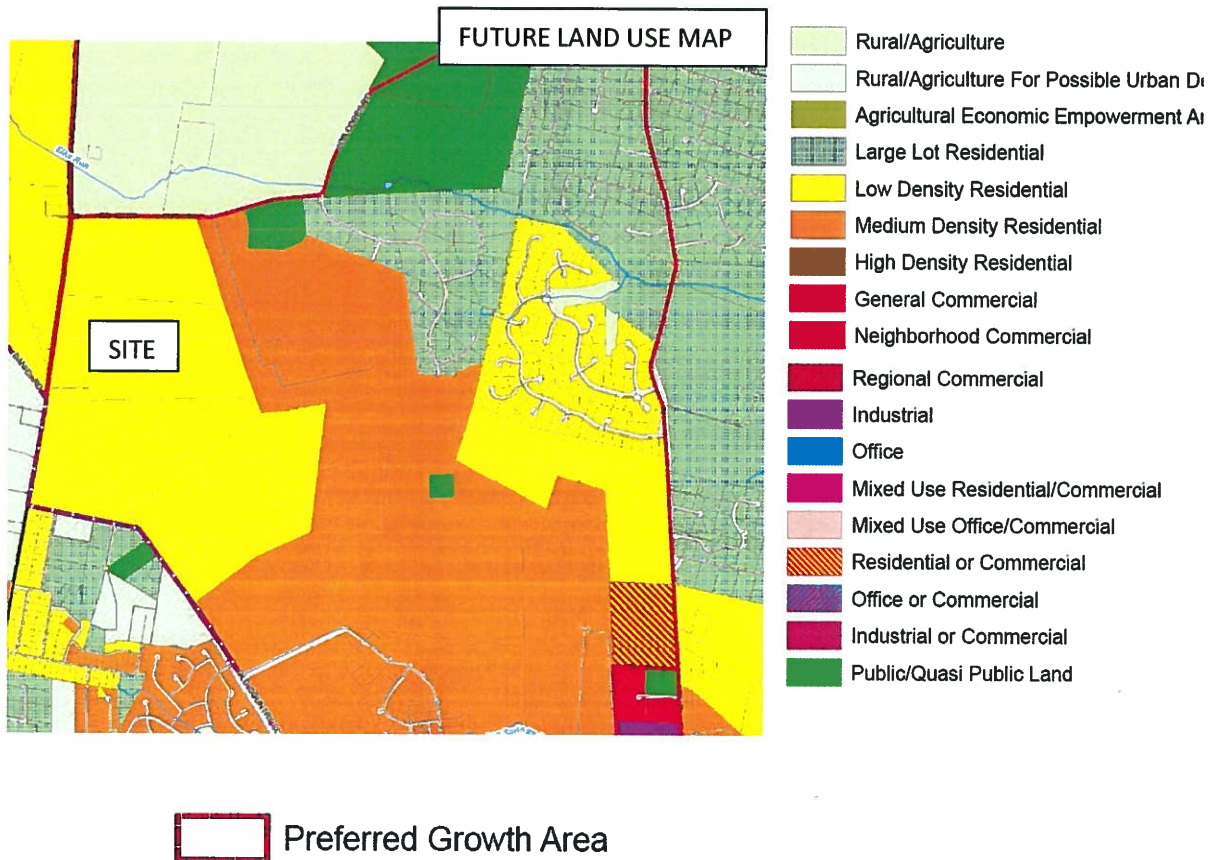
- Create urban level land uses within the municipalities, UGBs, PGAs, or Villages through rezoning that is consistent with the Plan recommendations.
- Direct new urban level residential developments to locate in preferred areas within the municipalities, UGBs, PGAs, or Villages where water and sewer services are available.
- Encourage the location of new infrastructure (water, sewer, utilities) within municipalities, UGBs, PGAs, or Villages.
- Direct new development to be contained in municipalities, UGBs, PGAs, Villages, and areas zoned for Residential Growth (RG), where public water and sewer will be available. (Jefferson Utilities and the Charles Town Utility Board have been contacted to verify that both water and sanitary sewer service is available for the property. Utilities will be accessed through the adjacent subdivisions.)

2. Future Land Use Guide – (Pages 26 & 235)

Low Density Residential

This land use category reflects land occupied by a single family residential development, with a density of one unit per acre to 2.99 units per acre. Lots in this category may be served by either on-site well and septic systems or a public water and sewer system as the number of units per acre increases.

A Low Density Residential use is identified by the Plan for the subject property. The proposed single-family detached residential development is consistent and supported by the comprehensive plan. The Plan states on page 26 that “Land Use Classifications are intended to provide guidance to the Planning Commissions when considering owner initiated zoning map amendments”.



3. Urban Level Development Recommendations (Page 30)

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; or
	b. Error or Under Scrutinized Property on the Future Land Use Guide; or
	c. Change in Neighborhood; or
	d. Any Other Circumstance that the Governing Body determines should have been considered when drafting the Future Land Use Guide; and/or
	e. Environmental impacts are considered.

- a) Economic Well Being: Residential Land Use in Jefferson County has not met the comprehensive plans growth projections of 0.95% per year and is only at 0.55% as of 2019. The lack of residential growth has impacted the strength of the local economy. While there are pockets of residential activity, the County is not benefiting from a robust residential economy.
- b) Future Land Use Guide: Low Density Residential is identified as the appropriate use of the property by the comprehensive plan. The proposed Residential Growth zoning district is consistent with this recommended future land use.

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.

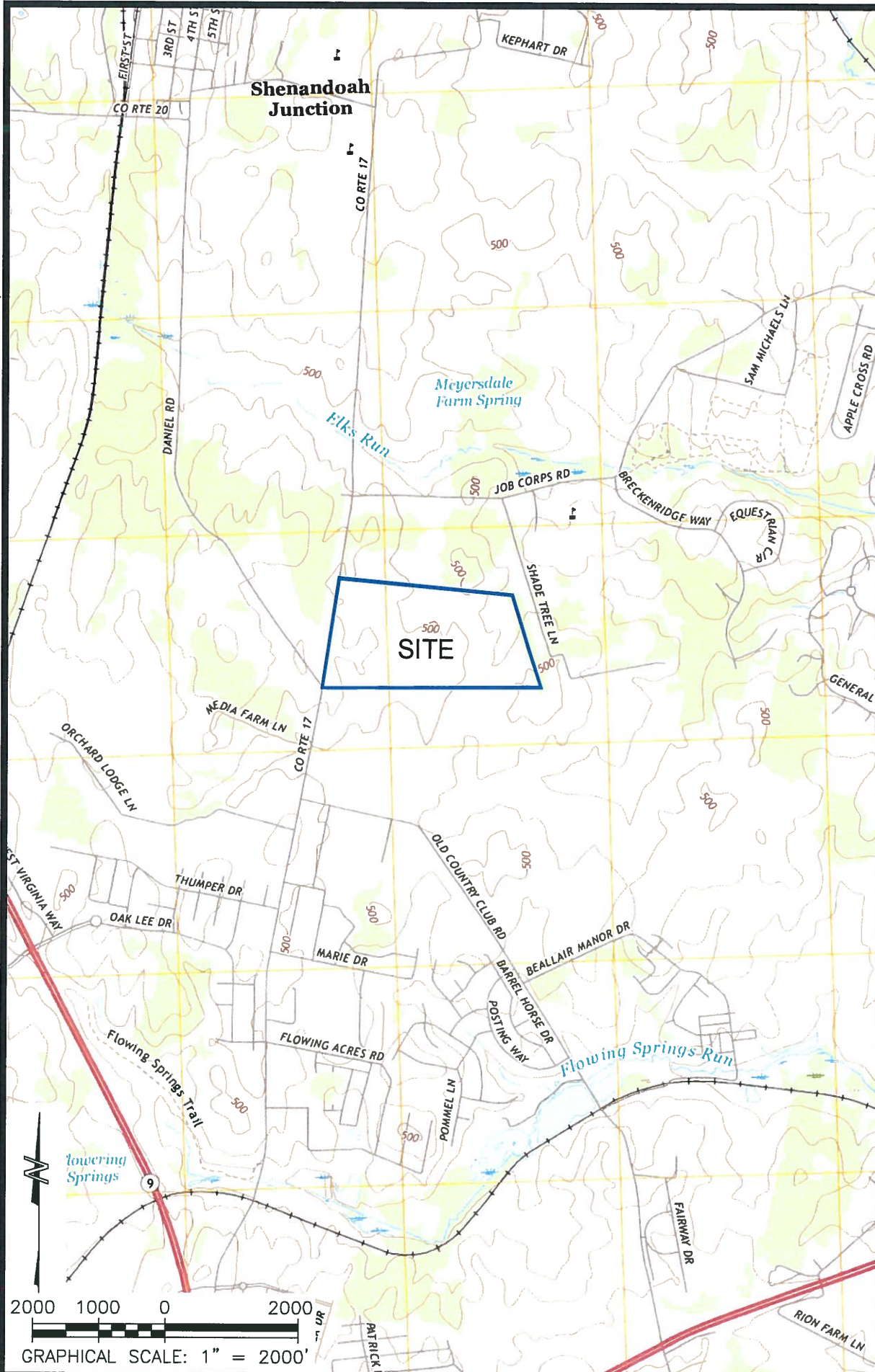
The Original Zoning Ordinance was adopted on July 7, 1988. Some changes in the immediate area of the properties include:

1. Schools: There are two (2) schools located within 1.5 miles of the property which did not exist when the zoning ordinance was adopted: Wildwood Middle School and Driswood Elementary School.
2. Surrounding Development: The property is located next to the Aspen Green subdivision and will connect to this development's roads and utilities. Potomac Towne Center is located 1.5 miles from the property and also did not exist when the zoning ordinance was adopted. Green Hill residents will have the opportunity of acquiring goods and services from the Potomac Towne Center development (clothing, restaurants, home goods...).
3. Transportation: A 4-lane divided Route 9 was constructed, providing a high-capacity road corridor between Jefferson County and Interstate 81. Green Hill is within 2.0 miles of the Flowing Springs Road / Route 9 intersection and within 1.5 miles of the Route 9 signalized intersection at Potomac Towne Center.

As required with any property, an entrance permit from the West Virginia Department of Transportation (WVDOT) will be needed. Obtaining an entrance permit requires review by the WVDOT to ensure that safe and adequate access can be provided. It is anticipated that improvements to the traffic signal and intersection will be requested by WVDOT.



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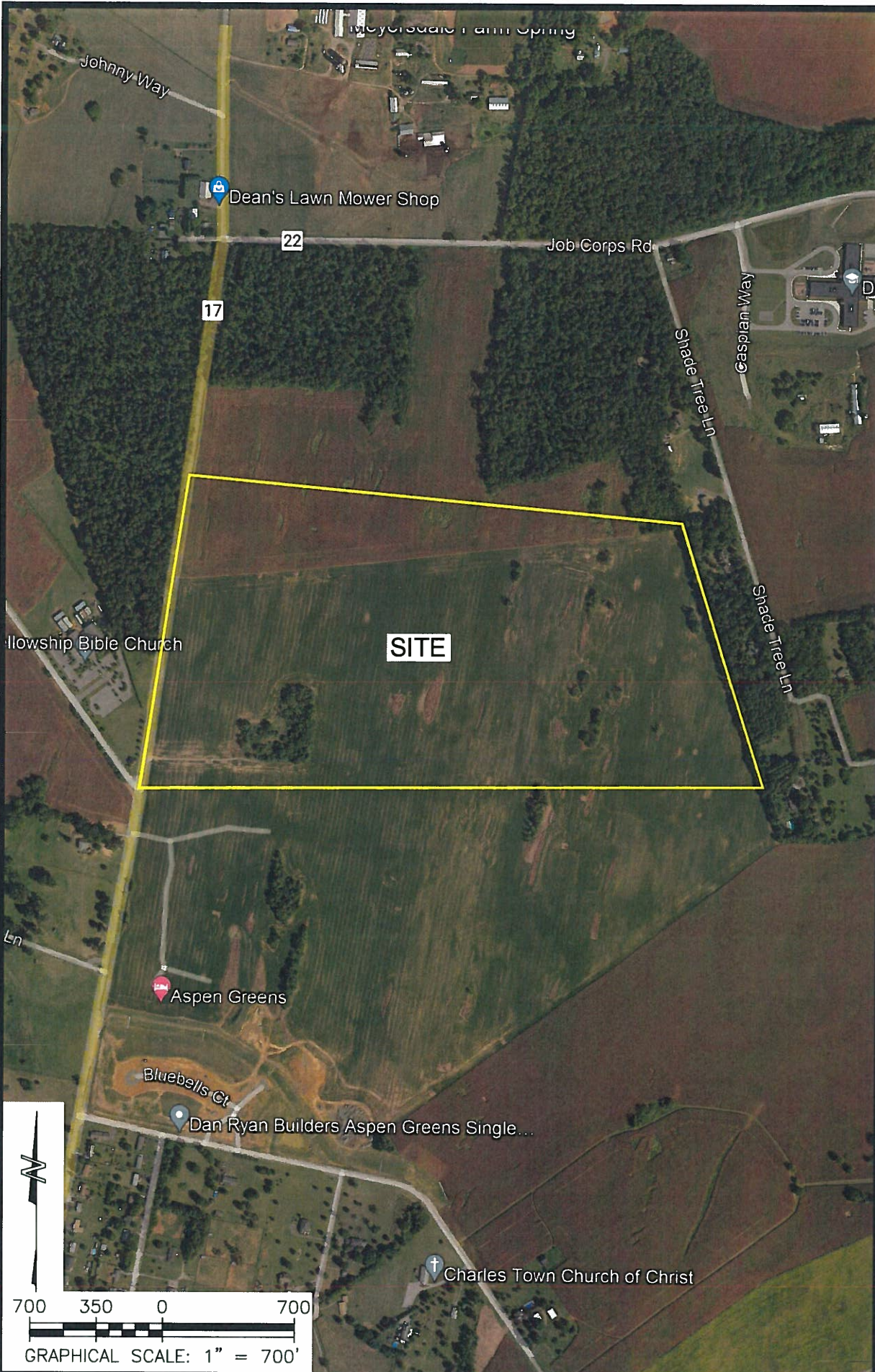


ZONING MAP AMENDMENT EXHIBIT 1 - VICINITY MAP

1-25-2022

GREEN HILL REZONING
JEFFERSON COUNTY, WV

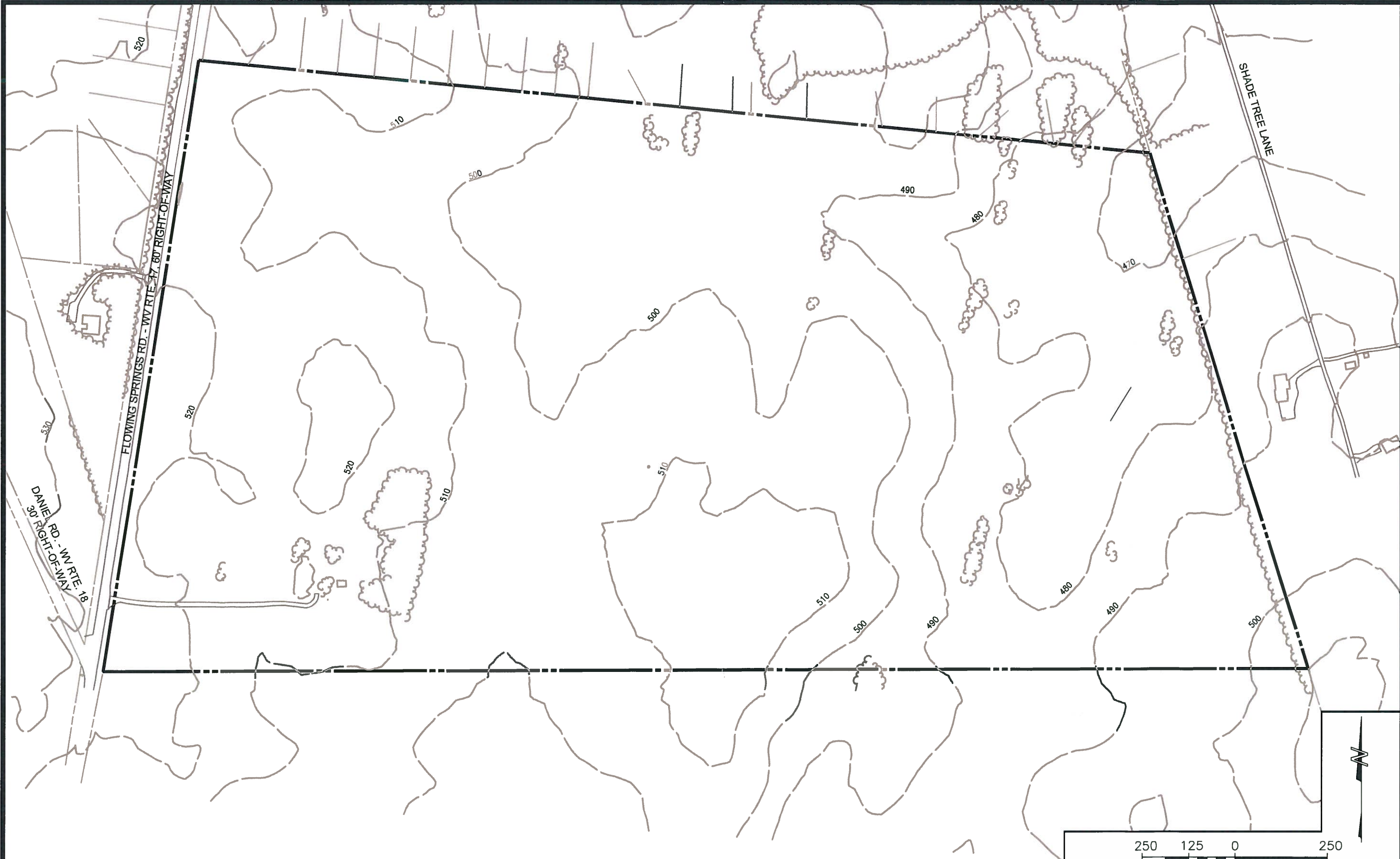
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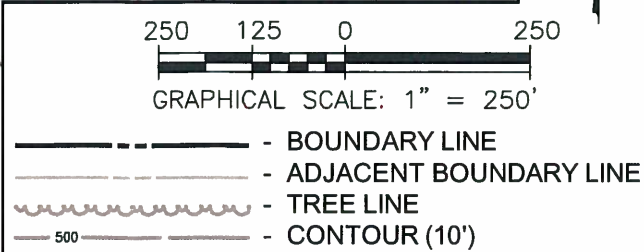
ZONING MAP AMENDMENT EXHIBIT 2 - AERIAL OVERLAY

1-25-2022

GREEN HILL REZONING
JEFFERSON COUNTY, WV



- NOTES:
1. CONTOURS SHOWN AT 10' INTERVALS. TOPOGRAPHY OBTAINED FROM AERIAL SURVEY.
 2. BOUNDARY OBTAINED FROM FINAL PLAT PREPARED BY APPALACHIAN SURVEYS, INC. DATE AUGUST 12, 1992.



ZONING MAP AMENDMENT

EXHIBIT 3 - EXISTING CONDITIONS

1-25-2022

GREEN HILL REZONING
JEFFERSON COUNTY, WV

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ZONING MAP AMENDMENT

EXHIBIT 4 - CONCEPT SKETCH

1-25-2022

GREEN HILL REZONING
JEFFERSON COUNTY, WV

