



Agenda
Jefferson County Planning Commission
Tuesday, March 14, 2023 at 7:00 PM

**By order of the President of the Jefferson County Planning Commission,
Public Participation is available in-person only.
The meeting will be broadcast live via ZOOM for viewing purposes only.**

In-Person Meeting Location: County Commission Meeting Room located in the lower level of the Charles Town Library (side entrance on Samuel Street)
200 East Washington Street, Charles Town, WV 25414

ZOOM Broadcast Information*: Meeting ID: 886 0118 8531
Meeting Link: <https://us02web.zoom.us/j/88601188531>

**If watching live broadcast, please ensure your microphone is muted and be mindful that your video is streaming to others.*

1. **Approval of Meeting Minutes:** February 14, 2023
2. **Request for postponement.**
3. **Postponed until April 11, 2023. Public Hearing:** Request for a waiver from Section 20.201A.2 to reduce the width of the required access easement from 50' to 20' for a three lot minor subdivision. Property Owner: Susan Reichel Et Al. Property Location: 2195 Engle Molers Rd, Harpers Ferry, WV. Parcel ID: 04000100060005; Size: 10 acres; Zoning District: Rural (File: 23-3-PCW).
4. **Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction to allow a detached Accessory Dwelling Unit for a family member. See PC File #05-23; Final Plat Note #1, PB 23 / PG 57. Property Owner: Michael and Johnna Oehlsen. Property Location: Ryans Glen Subdivision, Lot 10, 227 Ryans Glen Dr., Charles Town, WV. Parcel ID: 06020B00100000; Size: 2.16 ac; Zoning District: Rural (File: 23-2-FPA).

There is no public comment for the following items.

5. **Discussion and Action:** 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 Rural is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Lutman Land Development LLC. Property Location: Vacant parcels located southeast of the intersection of Norfolk & Southern Railroad and Lewisville Road, Charles Town/Summit Point, WV. Located behind John's Family Restaurant- 847 Berryville Pike & 340 Defense Shooting Range and Firearms Training - 459 Berryville Pike, Summit Point. Tax District: Kabletown (06), Map: 29; Parcel 2 comprised of 66 acres and Parcel 6 comprised of 30.89 acres. Zoning District: Industrial-Commercial (File: 23-1-Z).

6. Discussion and Action: Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Residential Growth to Residential-Light Industrial-Commercial is consistent with the *Envision Jefferson 2035 Comprehensive Plan*. Property Owner: Federal Group, Inc. Property Location: 233 Lowe Drive, Shepherdstown, WV. Tax District: Shepherdstown (09), Map: 8; Parcel 24.3 comprised of 1.02 acres, which is designated as a right-of-way (Lowe Drive) and Parcel 10.9 comprised of 23.67 acres (formerly the Shepherdstown Clarion). Zoning District: Residential Growth (File: 23-2-Z).

7. Discussion and Action: To affirm the final language for the proposed Planning Commission Policy RE: Clarification of Vested Property Rights for Concept Plans and Preliminary Plats for Phased Projects

8. 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 discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.
- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2022-C-85.

9. Planner's Memo

10. President's Report

11. Actionable Correspondence

12. Non-Actionable Correspondence

Draft Meeting Minutes

Jefferson County Planning Commission

February 14, 2023

The Jefferson County Planning Commission met on February 14, 2023 at 7:00 pm with the following Planning Commission members present: Mike Shepp, President; Wade Louthan, Secretary; Steve Stolipher, County Commission Liaison; and Jack Hefestay were present in person. J. Ware and Shane Roper were present via ZOOM. Ron Thomas, Matt Knott, and Donnie Fisher were absent with notice.

Staff members present included Jennifer Brockman, Chief County Planner; Luke Seigfried, County Planner; Jonathan Saunders, County Engineer; Alexandra Beaulieu, Deputy Director and Zoning Administrator; and Nathan Cochran, Prosecuting Attorney.

Mr. Shepp called the meeting to order at 7:00 pm. and confirmed that a quorum was present.

1. **Approval of Meeting Minutes:** January 10, 2023

Mr. Shepp stated that the minutes stand approved without objection.

2. **Request for postponement.** Agenda Item #6 (File: 23-3-PCW) was postponed until 03/14/23.

3. **Public Hearing:** Request for a Final Plat Amendment to lift the single family restriction (see note on Final Plat recorded in PB 8 / PG 6C) to allow for the construction of a two family dwelling (attached garage with apartment) for a family member. Property Owner: Abby and David Hyams; Property Location: Deer Mountain Subdivision, Lot #27, vacant parcel on Deer Mountain Drive, Harpers Ferry, WV; Parcel ID: 04003E00270000; Size: 1.15 acres; Zoning District: Rural; (File: 23-1-FPA).

Ms. Brockman provided an overview of the staff report.

Abby and David Hyams, property owners, explained the nature of the request to the Planning Commission noting that lifting the single family restriction would allow for the construction of an apartment above the attached garage for a family member (two-family dwelling).

Mr. Shepp opened the public hearing. There was no public comment. Mr. Shepp closed the public hearing.

Mr. Stolipher made a motion to approve the Final Plat Amendment as presented. Mr. Louthan seconded the motion, which carried unanimously.

4. **Public Hearing:** Request for a waiver from Section 20.201A.2 to reduce the width of the required access easement from 50' to 30'; and, to allow for the creation of two additional lots on Lathem Drive & Ashland Woods to process as a minor subdivision. Property Owner: Paul and Donna Ashbaugh; Property Location: Vacant lot on the SE corner of Lathem Drive & Ashland Woods, Harpers Ferry, WV; Parcel ID: 02002100370000; Size: 65.4 acres; Zoning District: Rural (File: 23-1-PCW).

Ms. Brockman provided an overview of the staff report, noting that staff's recommendation was that the additional lots process as a major subdivision due to the number of lots sharing the access from the state road.

Paul Ashbaugh, property owner, explained the nature of the request to the Planning Commission.

Mr. Shepp opened the public hearing. The following members of the public provided testimony:

1. Ms. Kristen Marshall, Lot 9, Ashland Woods, 418 Lathem Dr, was not opposed to the additional lots but was concerned about the condition of the road serving the existing and proposed lots.
2. Mr. Adam Bolton, Lot 4, Ashland Woods, 382 Ashland Woods Dr, spoke in opposition to the request due to the condition of the roads; he stated that the roads are not maintained and are not passable in the spring.
3. Mr. Stephen Kazyak, 495 Ashland Woods Dr, spoke in opposition to the request, noting that road maintenance in this area is difficult and expensive and that there are no culverts or other drainage structures.

Mr. Shepp closed the public hearing.

Mr. Ashbaugh provided a rebuttal and discussed road maintenance and improvement options.

Mr. Stolipher made a motion to deny the waiver request citing concerns regarding public safety. Mr. Louthan seconded the motion, which carried unanimously.

Mr. Stolipher recused himself from Agenda Items 5 & 7. Mr. Stolipher left the meeting room at 7:28 p.m.

5. **Public Hearing:** Request for a waiver from Section 20.102B to allow site grading to commence prior to site plan approval for the proposed Sheetz Convenience Store and Gas Station (File: 21-4-SP). Property Owner: Sheetz, Inc, c/o Bob Franks. Property Location: Chicchirichi Minor Subdivision, Lot 1 - Vacant parcel northeast of US 340 and Augustine Avenue intersection, Charles Town, WV. Parcel ID: 02001600010000; Size: ~3 acres; Zoning District: Highway Commercial (File: 23-2-PCW).

Ms. Brockman provided an overview of the staff report.

Chad Wallen, representative with Integrity Federal Services, and Bob Franks with Sheetz were present. Mr. Wallen explained the nature of the request to the Planning Commission stating that the West Virginia Division of Highways (WVDOH) approval for an entrance permit was taking longer than anticipated, resulting in a substantial delay for the project. Approval of this waiver would allow the site work to begin while awaiting this permit. Mr. Wallen confirmed that the applicant understands that early grading is at their own risk and that the project would be bonded as part of the early grading permit process.

Mr. Shepp asked for clarification as to what was causing the delay with the DOH. Mr. Franks stated that the DOH signal agreement is outstanding and that he had just received a copy of the agreement on February 13. Mr. Louthan asked if Sheetz had concerns with the agreement. Mr. Franks stated that none had been identified. Mr. Franks stated that a construction bond had already been posted and that a new bond should not be needed.

Mr. Shepp opened the public hearing. There was no public comment. Mr. Shepp closed the public hearing.

Mr. Louthan motioned to approve the waiver request as presented. Mr. Hefestay seconded the motion, which carried unanimously.

6. **Postponed until March 14, 2023.** Public Hearing: Request for a waiver from Section 20.201A.2 to reduce the width of the required access easement from 50' to 20' for a three lot minor subdivision. Property Owner: Susan Reichel Et Al. Property Location: 2195 Engle Molers Rd, Harpers Ferry, WV. Parcel ID: 04000100060005; Size: 10 acres; Zoning District: Rural (File: 23-3-PCW).

The applicant for Item #6 (File: 23-3-PCW) requested a postponement until 03/14/23.

7. **Public Hearing:** Request by Harpers Ferry Dollar General (File: 22-14-SP) for the following waivers:
 - a. A waiver from Section 20.204 to allow a proposed 10,542 sf retail store and associated parking lot to utilize the Minor Site Plan process as opposed to the Major Site Plan process (23-4-PCW).
 - b. A waiver from Section 20.102B to allow site grading to commence prior to site plan approval of the proposed 10,542 sf retail store (23-5-PCW).

Property Owner: Wall Street Partners WV1, LLC. Property Location: Vacant Lot on the corner of Amanda Ct & Shepherdstown Pike, Harpers Ferry, WV. Parcel ID: 04001000110005; Size: 2.19 acres; Zoning District: Residential-Light Industrial-Commercial.

Ms. Brockman provided an overview of the staff report for each request.

Rob Milne, representative with Thrasher Group, spoke on behalf of the property owner. Mr. Milne briefly explained the nature of each the request. Mr. Milne confirmed that the project would be bonded as part of the early grading permit process. Mr. Milne stated that they had obtained state approval for connection with the waterline approximately 500' to the north of this property.

Mr. Saunders addressed the Planning Commission's questions and noted that the project started processing as a minor site plan; however, Jefferson Utilities approached the applicant about extending water and sewer, which then required processing as a major.

Mr. Shepp opened the public hearing and took comments on both waiver requests.

Mr. David Tabb asked questions about the process and expressed potential concerns with the requests. Ms. Stacy Tabb, County resident, spoke in opposition to the request. John and Katie Craun, confronting property owners across WV 230, expressed some concerns about the impact of the development at this location.

Mr. Shepp closed the public hearing.

Mr. Milne provided a rebuttal and addressed some of the commenter's concerns.

Mr. Hefestay made a motion to approve both waiver requests as presented. Mr. Shepp seconded the motion, which carried with a vote of four in support and one opposed (Mr. Louthan).

Mr. Stolipher returned to the meeting room.

8. **Public Hearing:** Request for a waiver from Section 20.203B.2, which requires a Limited Site Plan when the footprint of an addition or a new structure is greater than 1,200 square feet and less than 3,000 square feet, and the disturbed area is greater than 5,000 square feet. The applicant is requesting to waive the requirement of a Site Plan to allow for the construction of a 2,420 square foot addition to be located over the existing parking lot. Property Owner: SUSO 2 Alabama LP. Property Location: 96 Patrick Henry Way, Charles Town WV; Parcel ID: 02000800290002; Size: ~21 acres; Zoning District: Residential- Light Industrial- Commercial (File: 23-6-PCW).

Ms. Brockman provided an overview of the staff report, noting that staff does not oppose the request. Ms. Brockman also noted that the parking would be evaluated by the Board of Zoning Appeals later this month

Carolyn Howard, representative with Dewberry, spoke on behalf of the property owner. Ms. Howard stated she did not have anything to add to staff's overview.

Mr. Shepp opened the public hearing. There was no public comment. Mr. Shepp closed the public hearing.

Mr. Stolipher motioned to approve the waiver request as presented. Mr. Hefestay seconded the motion, which carried unanimously.

9. **Discussion and Action:** In accordance with Section 23.202B.4 of the Subdivision Regulation, the applicant is requesting that the Planning Commission deem the Stonecrest Preliminary Plat Application as Complete (per Sections 24.113 and 24.114) for the purpose of scheduling a Public Hearing. The applicant is also requesting that the Planning Commission call a meeting for March 28, 2023 under the 4th Tuesday Meeting Policy. Applicant: Integrity Federal Services (IFS). Property Owner: Flowing Springs Road LLC. Property Location: Parcel ID: 02000300090000; Size: 102 acres; Zone: Residential Growth. File: 22-11-SD.

Ms. Brockman provided a brief overview of the request. Ms. Brockman noted that the preliminary plat is now in its second review.

Chad Wallen, representative with Integrity Federal Services, explained the purpose of requesting a second meeting in March. Ms. Brockman explained that a legal ad notifying the public of the Public Workshop would be required.

Mr. Stolipher motioned to deem the Stonecrest Preliminary Plat as complete and to schedule the required Public Hearing for March 28, 2023 at 7:00 PM. Mr. Hefestay seconded the motion, which carried unanimously.

10. **Discussion and Possible Action:** Proposed Planning Commission Policy RE: Clarification of Vested Property Rights for Concept Plans and Preliminary Plats for Phased Projects.

Ms. Brockman explained the purpose of the proposed Policy related to the vesting and phasing of major subdivision projects. The Planning Commission discussed the implications of the proposed Policy. The Planning Commission directed staff to include a statement that all sections of a phased Preliminary Plat needs to be Final Platted within the 5 year period, unless an extension is granted.

Mr. Hefestay motioned to approve the Policy as presented by staff with the clarifying language. Mr. Stolipher seconded the motion, which carried unanimously.

11. 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 discussion of Jefferson County Circuit Court Civil Action No.'s 2021-C- 33 through 37 and Jefferson County Circuit Court Civil Action No.'s 2021- C-46 through 50, and WV Supreme Court No.'s 21-0727, 21-0728, and 21-0731.
- c. Jefferson County Circuit Court Case #CC-19-2022-C-81 (RE: ZTA22-01 Solar Energy Facilities).
- d. Discuss and review for possible action Jefferson County Circuit Court Civil Action No. 2022-C-85.

Mr. Cochran requested to move the legal update to the end of the agenda.

12. Planner's Memo. Ms. Brockman provided an overview of the Planner's Memo.

13. President's Report. None.

14. Actionable Correspondence. None.

15. Non-Actionable Correspondence.

Ms. Brockman noted an email from Ms. Linda Peters, dated 01-13-2023, which was included in the agenda packet.

Mr. Shepp made a motion to go into executive session at 8:18 p.m. to discuss Agenda Item 11.a. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Shepp made a motion to come back in regular session at 8:36 p.m. Mr. Hefestay seconded the motion, which carried unanimously.

Mr. Hefestay made a motion to adjourn the meeting at 8:37 pm. Mr. Stolipher seconded the motion, which carried unanimously.

These minutes were prepared by Jennifer Brockman, Chief County Planner.

From: Planning Department
Sent: Thursday, March 9, 2023 3:12 PM
To: 'Susan Reichel'
Cc: Dominic Valentine; Will Wootton
Subject: RE: Request to postpone

Good afternoon Susan,

This email is to confirm receipt of your request for a postponement until April 11, 2023. We will inform the Planning Commission of your request. Please note, your application and copies of the public comments will not be included in the March 14, 2023 Planning Commission packet.

As this is the second request for postponement, two new placards will need to be posted on the subject parcel. The new placards will be available for pick up by tomorrow. Our office would advise that the new placards be posted as soon as possible.

Thank you and have a nice day.

Jennilee Hartman, Zoning Clerk
Office of Planning and Zoning
304-728-3228

From: Susan Reichel <susanreichel@premiermove.com>
Sent: Thursday, March 9, 2023 3:00 PM
To: Planning Department <PlanningDepartment@jeffersoncountywv.org>
Cc: Dominic Valentine <valentineconstructionwv@gmail.com>; Will Wootton <thirtyseasons@icloud.com>
Subject: Request to postpone

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or on clicking links from unknown senders.

Hi Jennilee,

We are asking to push our spot on the agenda for the March 14th Planning Commission meeting for the variance request for 2195 Engle Molers Road to the April 11th Planning Commission meeting. We understand this is a second postponement, but we need additional time to prepare.

Thank you and have a wonderful afternoon!

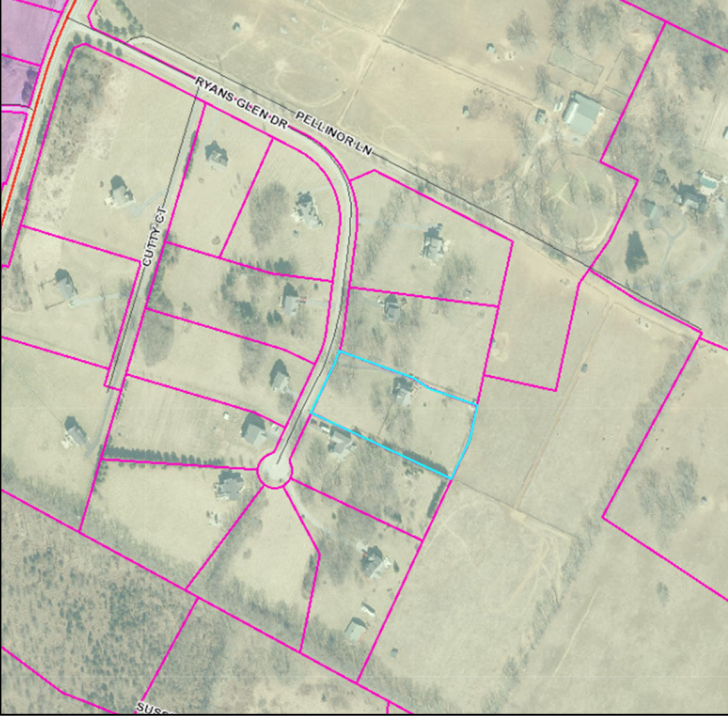
My best,
Susan

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Staff Report
 Jefferson County Planning Commission Meeting
 March 14, 2023

Ryans Glen Lot 10 (Oehlsen) Final Plat Amendment (File #23-2-FPA)

Item #4: Public Hearing: Request for a Final Plat Amendment to lift the single family restriction to allow a detached Accessory Dwelling Unit for a family member. See PC File #05-23; Final Plat Note #1, PB23/PG57.

Applicant/Developer	Michael and Johnna Oehlsen
Property Location & Legal Information	<p>Ryans Glen Subdivision, Lot 10, 227 Ryans Glen Dr., Charles Town, WV Parcel ID: 06020B00100000; Size: 2.16 ac; Zoning District: Rural</p> 
Surrounding Zoning	North, South, East West: Rural
Approved Activity	Single Family Residence
Approvals	Ryans Glen Subdivision (PC File #05-23), recorded 10/11/06; PB23/PG57 . Boundary Line Adjustment (PC File #20-4-M), recorded 07/01/20; DB1243/PG1

Overview of Request

The subject parcel is designated as Lot 10 in the Ryans Glen Subdivision, which was recorded on October 11, 2006 in Plat Book 23, at Page 57. The subject parcel is zoned Rural and is surrounded by residential and farm uses. At the time the plat was approved, the Subdivision Ordinance required all subdivisions to include a note that restricted each lot to a single-family residence only (see Note #1 on Sheet 1 of 3). Subdivisions created under the current regulations are no longer subject to this requirement.

NOTES:

1. ALL LOTS SHOWN ON THIS PLAT, SHALL BE RESTRICTED TO A SINGLE-FAMILY RESIDENCE ONLY UNLESS OTHERWISE APPROVED BY THE JEFFERSON COUNTY PLANNING COMMISSION IN CONFORMANCE WITH THE PREVAILING COUNTY LAND DEVELOPMENT LAWS.
2. EXISTING EASEMENTS AND RIGHTS OF WAY ARE SHOWN.
3. PROPOSED EASEMENTS AND RIGHTS OF WAY ARE SHOWN.
4. 15' ALONG THE FRONT OF EACH LOT IS RESERVED FOR DRAINAGE, UTILITY AND SLOPE EASEMENTS. 10' ALONG THE SIDE AND REAR OF EACH LOT IS RESERVED FOR DRAINAGE AND UTILITY EASEMENTS.
5. THERE ARE NO FUTURE EASEMENTS OR RIGHTS OF WAY PROPOSED.
6. THE SELLER OF ANY LOT WITHIN THE SUBDIVISION SHALL PROVIDE THE BUYER WITH A REASONABLE OPPORTUNITY, BEFORE SETTLEMENT, TO DETERMINE THAT THE LOT IS SUITABLE FOR CONSTRUCTION OF SEPTIC DISPOSAL SYSTEM. IF, BEFORE SETTLEMENT, THE BUYER IS DENIED A SEPTIC SYSTEM CONSTRUCTION PERMIT BY THE JEFFERSON COUNTY HEALTH DEPARTMENT, THE BUYER MAY REFUSE TO PURCHASE THE PROPERTY WITHOUT PENALTY.
7. BUILDING SETBACK LIMITS ARE:
 LOT 1 LOT 2-12 (CLUSTER LOTS)
 FRONT = 40' FRONT = 25'
 SIDE = 15' SIDE = 10'

Staff Report
Jefferson County Planning Commission Meeting
March 14, 2023

Ryans Glen Lot 10 (Oehlsen) Final Plat Amendment (File #23-2-FPA)

The subject request is to lift the single-family residence restriction to allow for the construction of a detached accessory dwelling unit (detached in-law suite). As represented by the applicant, the structure will initially serve as a commercial kitchen for a catering business. The Zoning Administrator has determined that the proposed catering business would be permitted in accordance with the Cottage Industry provisions cited in Section 4A.5 in the Zoning Ordinance. The applicant intends to convert the commercial kitchen into an in-law suite in the future and will build the structure in accordance with the residential building code requirements.

As the interior layout of the proposed detached structure meets the definition of a Dwelling Unit, the single family restriction needs to be lifted in order to allow for construction of the detached structure to be utilized as the commercial kitchen and the future Accessory Dwelling Unit.

A detached Accessory Dwelling Unit for a family member is a permitted use in the Rural Zoning District pursuant to Appendix C of the Zoning Ordinance. The Accessory Dwelling Unit will need to adhere to the criteria cited in Section 8.15A of the Zoning Ordinance, which includes, but is not limited to, a maximum size of 1,700 heated square feet gross floor area, a minimum lot size of two (2) acres, and Health Department approval for well and septic.

Plat Amendment Requirements

Section 24.202A of the Subdivision Regulations states, “The Planning Commission (or staff, in the case of a minor subdivision plat) may approve an amendment to a subdivision plat in the same manner as the plat was originally approved, provided:

1. All of the property that is affected by the amendment is under the ownership of the applicant;
2. The amendment will not affect the ownership or right of convenient access of persons owning other parts of the subdivision; and
3. The amendment complies with all of the standards of these Regulations, including verification of compliance with the Zoning Ordinance.”

Because all plats were approved by action of the Planning Commission under the 1979 Subdivision Ordinance, the subject plat amendment request was required to be placed on the Planning Commission agenda for a Public Hearing and Planning Commission action. The required 30-day public notice was advertised in the February 8, 2023 edition of the Spirit of Jefferson newspaper for the March 14, 2023 Planning Commission meeting.

Recommendation

Staff recommends approving the requested Final Plat Amendment to lift the single-family restriction for the purpose of constructing a detached Accessory Dwelling Unit for a family member. If the Planning Commission approves this request, the applicant will then be required to apply for a Zoning Certificate for the commercial kitchen in accordance with Section 4A.5 of the Zoning Ordinance (Cottage Industry) and for the detached Accessory Dwelling Unit in accordance with Section 8.15A of the Zoning Ordinance, as well as all relevant Building Permits, Impact Fees, and Health Department approvals.



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 #: 23-2-FPA
 Date Rec'd: 03-14-23
 Mtg Date: 01-31-23
 Rec'd

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

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

Final Plat Amendment Application

A request to amend, modify and/or vacate an approved plat must comply with Section 24.202 of the Jefferson County 2008 Subdivision Regulations, as amended.

Property Owner Information

Owner Name: Michael Oehlsen
 Business Name: MOJO's Catering LLC
 Mailing Address: 277 Ryans Glen DR. Charles Town, WV 25414
 Phone Number: 301-512-9417 Email: mojocateringco@gmail.com

Applicant Information

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

Consultant Information

Consultant Name: _____
 Business Name: _____
 Mailing Address: _____
 Phone Number: _____ Email: _____

Physical Property Details

Physical Address: 277 Ryans Glen Dr, Charles Town, WV 25414 (Lot #10)
 Parcel ID: 06020B00100000 Parcel Size: ~2.16 acres
 Zoning District: Rural Deed Book: 1243* Page No: 1*

*BLA Approved 07/01/20 (File #20-4-M)

Plat Information

Plat Title: Ryans Glen Section One (Lots 1-12 and Residue) Note No: 1
 Recordation Date: 10/11/2006 Plat Book: 23 Page No: 57

Describe the nature of your proposed amendment.

This proposal is for the additional of a detached 600 SQ FT building to be initially used as a commercial kitchen (cottage industry) and in the future be converted into an in-law suite. The kitchen will serve as a cooking area only for my catering business. Any and all operational business will be conducted off site. There will not be any customer or business traffic to and/or from the kitchen. There will not be any signage. The kitchen will be built to meet the requirements of local and state health code and fire marshall regulations. My current home does not have any 1st floor bedrooms; therefore, my hope is to convert this building into a detached in-law suite for private use in the future.

Sketch the shape and location of the lot. Show the location of the proposed construction/land use. Include building setbacks, size, and height. Identify existing easements, roads, buildings/structures, or land uses on the property. Note: septic or well relocations require a survey plat and approval by the Health Department.

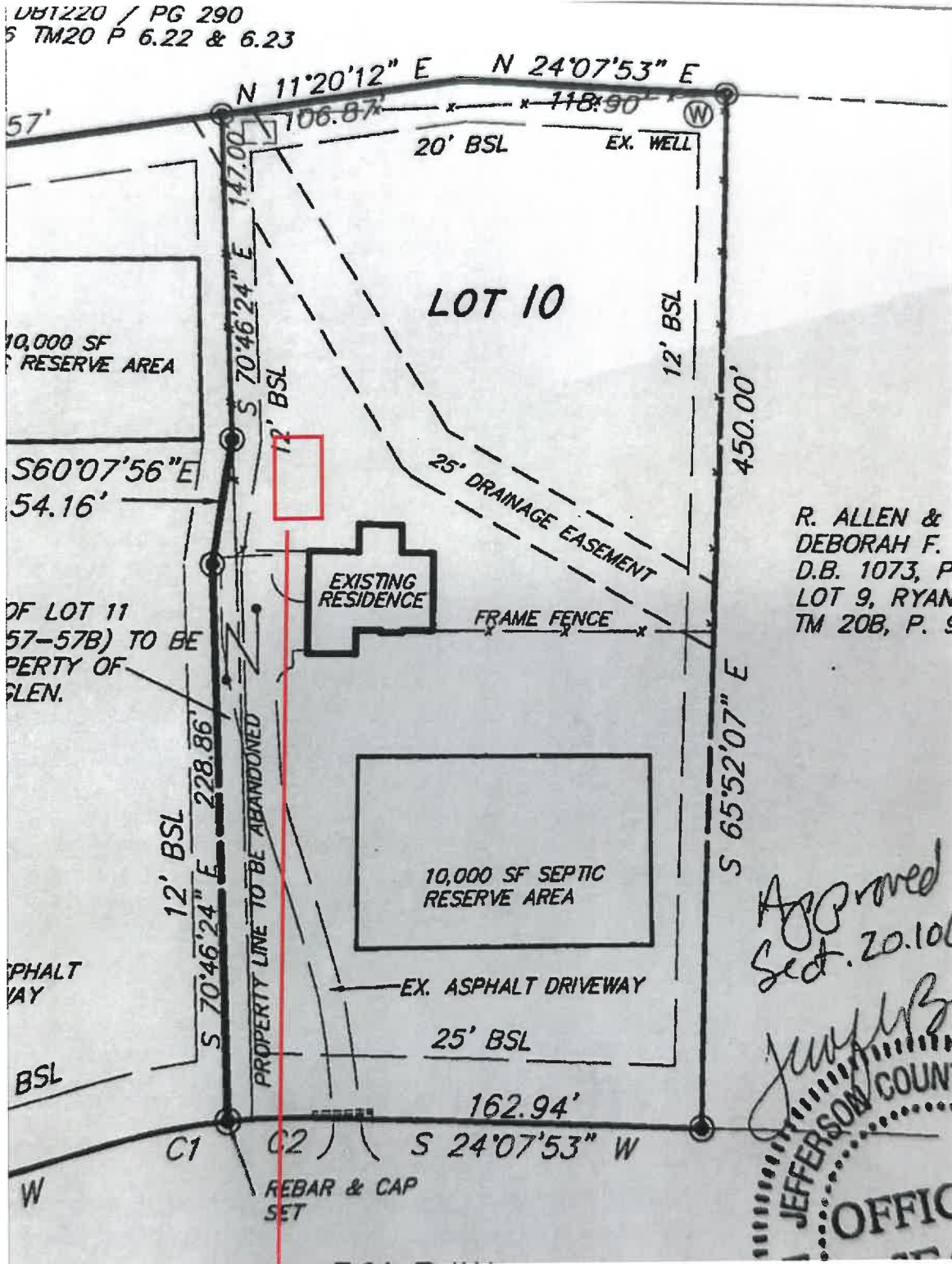
Included Not applicable (include a vicinity map if a sketch is not applicable)

By signing this application, I give permission to the Planning and Zoning Staff to conduct a site visit for the purpose of taking photos for the Planning Commission staff report. The information given is correct to the best of my knowledge.

Michael Oehlsen
 Property Owner/Applicant Signature Date

 Property Owner/Applicant Signature Date

OEHLSEN – LOT 10 Ryans Glen Plan – Proposed Building Location

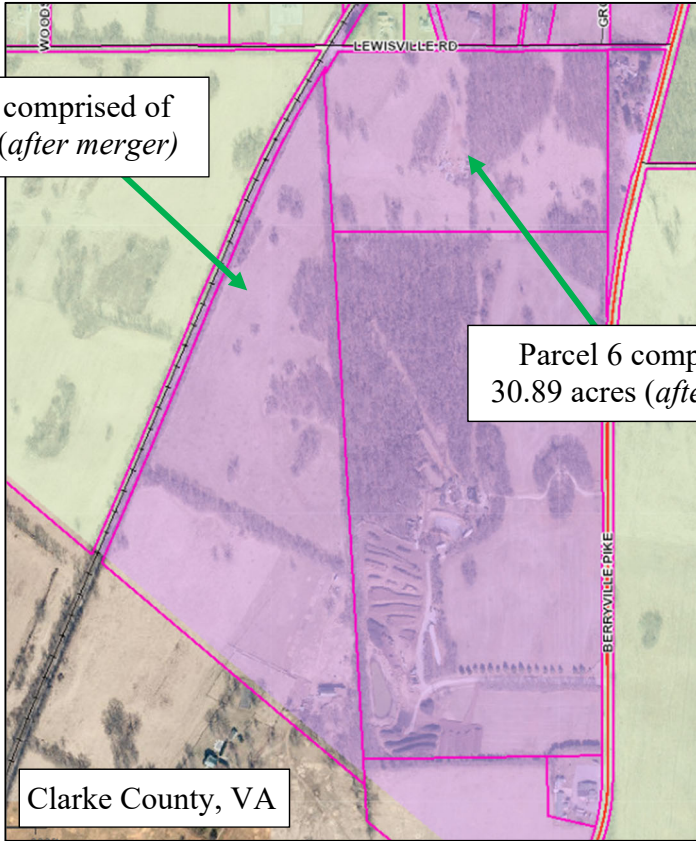


20' x 30' building – height ~16' (matched existing structure height)
 Sits ~15' from BSL and ~20' from Drainage Easement

Staff Report
 Jefferson County Planning Commission Meeting
 March 14, 2023

Lutman Land Development Rezoning Request (23-1-Z)

Item # 5 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 Rural is consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Property Owner:	Lutman Land Development LLC
Consultant:	Paul Raco, P.J. Raco Consulting, LLC
Parcel Information:	<p>Vacant parcels located southeast of the intersection of Norfolk & Southern Railroad and Lewisville Road, Charles Town/Summit Point, WV Located behind John’s Family Restaurant- 847 Berryville Pike & 340 Defense Shooting Range and Firearms Training - 459 Berryville Pike, Summit Point Tax District: Kabletown (06), Map: 29, Parcels 2 and 6. Combined acreage: ~96 Zoning District: Industrial-Commercial</p> 
Surrounding Properties:	North: Rural & Industrial-Commercial East: Industrial-Commercial, South: Industrial-Commercial & Clarke County, VA, West: Rural
Current Use:	Vacant property / Farm Use
Proposed Request	To rezone from Industrial-Commercial (IC) to Rural (R)
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 while the request is not consistent with the <i>Envision Jefferson 2035 Comprehensive Plan</i> recommendations, the rezoning request is reasonable for the location.

Staff Report
Jefferson County Planning Commission Meeting
March 14, 2023

Lutman Land Development Rezoning Request (23-1-Z)

Applicant's Request

The applicant's request is to rezone two vacant parcels consisting of approximately 96 acres from Industrial Commercial (IC) to Rural (R). The parcels are currently vacant and have historically been used as farmland. They have been zoned Industrial-Commercial since zoning was adopted in Jefferson County in 1988.

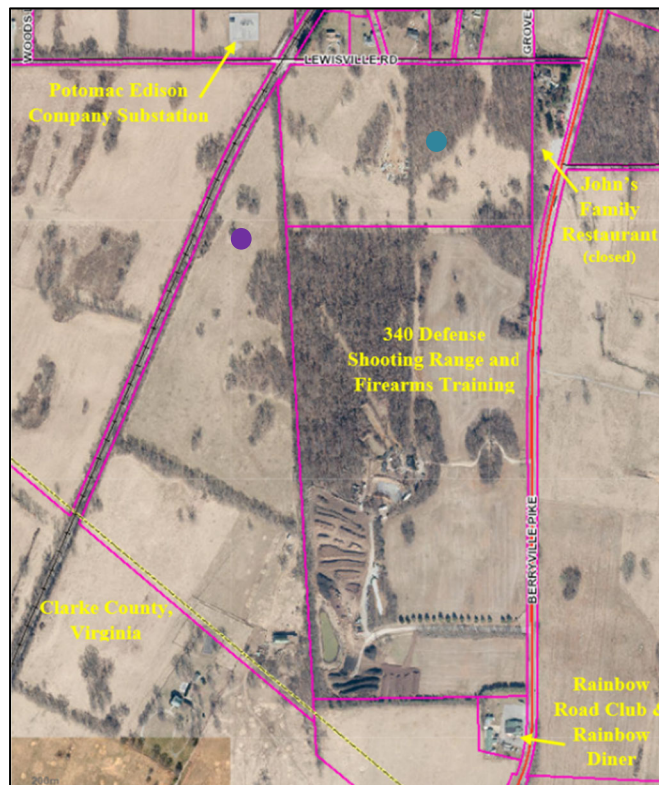
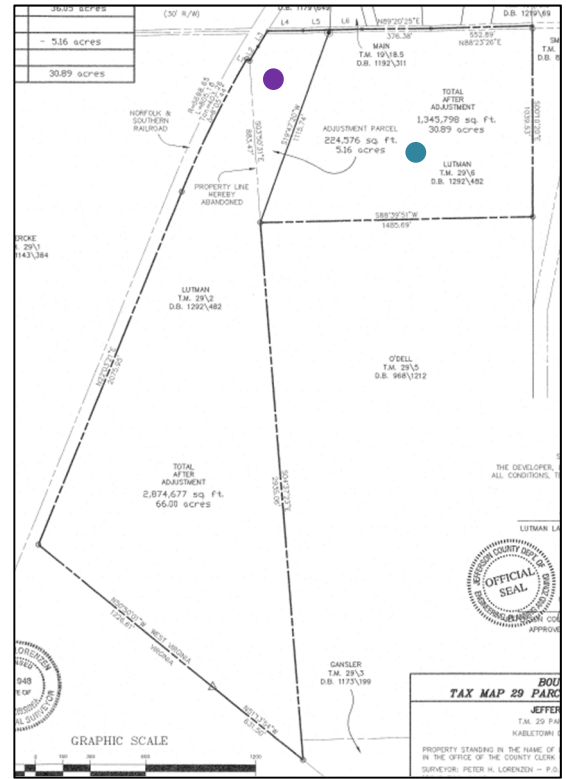
Parcel 2 (●), which is comprised of approximately 66 acres, is located southeast of the intersection of Norfolk & Southern Railroad and Lewisville Road and is immediately behind 340 Defense Shooting Range and Firearms Training (459 Berryville Pike).

Parcel 6 (●), which is comprised of approximately 30 acres, is located along Lewisville Road and is immediately behind John's Family Restaurant (847 Berryville Pike).

The subject parcels have recently been reconfigured via an approved Boundary Line Adjustment, which was recorded on February 15, 2023 in Plat Book 26/Page 526. It appears that the intent of the boundary line adjustment was to provide Parcel 2 with road frontage on Lewisville Road.

Neighboring Uses

The surrounding properties contain a mix of agricultural, residential, and commercial land uses.



Staff Report
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March 14, 2023

Lutman Land Development Rezoning Request (23-1-Z)

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 while the request is **not consistent** with the *2035 Plan* because the properties are shown as future “Industrial or Commercial” on the Future Land Use Guide, the rezoning request is reasonable for the location. While the current zoning permits a variety of industrial and commercial uses, the property owner is interested in subdividing lots for residential purposes, which is not a permitted use in this zoning category. This owner-initiated downzoning to Rural would allow this to happen.

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).

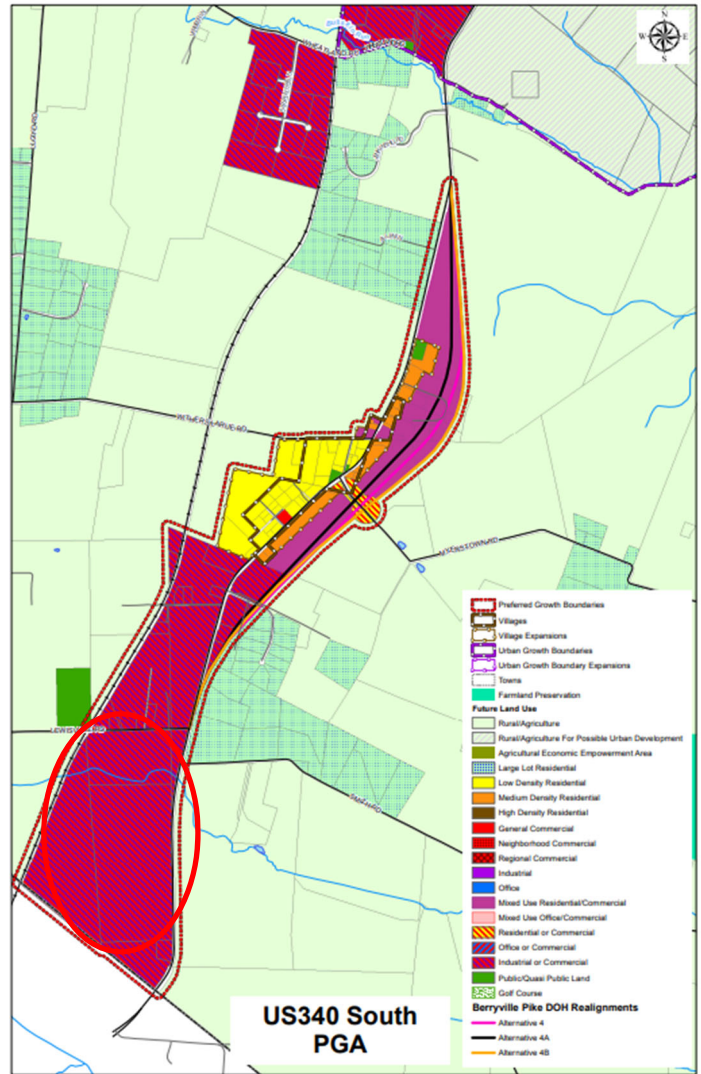
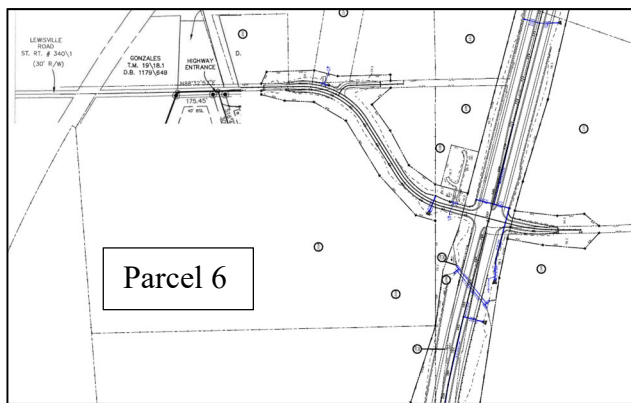
The land use area types include Urban Growth Boundaries (UGB) and Preferred Growth Areas (PGA), which are the sections of Jefferson County where urban scale development is to be targeted over the planning horizon of the *2035 Plan*; and Rural/Agricultural Areas and Villages, where limited development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

The subject parcels are located within the US 340 South PGA (see graphic below). Most of the properties south of Rippon to the state line, west of the current US 340, and east of the RR tracks, are zoned Industrial Commercial and proposed for Industrial or Commercial future land uses. Most of the discussion in the *2035 Plan* regarding the US 340 South PGA is focused on the impact of the proposed highway widening and realignment on the future growth along this corridor. It also notes that local water and sewer service will be needed in order for higher intensity development to occur along this corridor.

Staff Report
Jefferson County Planning Commission Meeting
March 14, 2023

Lutman Land Development Rezoning Request (23-1-Z)

Since the *2035 Plan* was adopted, the WV Division of Highways has finalized the road alignment for US 340 South, published the Record of Decision, and is currently pursuing acquisition of the right-of-way and finalizing the design/build of the new road. The following excerpt shows the impact of the proposed realignment of Lewisville Road and US 340 South on the subject Parcel 6 below.



The *2035 Plan* clearly discusses the retention of the existing zoning map classifications and states that no zoning map amendments (rezoning requests) or reductions in existing zoning rights were being proposed by the County. Therefore, as these parcels have been zoned Industrial-Commercial for a number of decades, the Future Land Use Guide showed this area as “Industrial or Commercial”. The *Plan* doesn’t discuss the concept of owner-initiated downzoning requests. While the proposed rezoning to Rural would not allow the Commercial or Industrial development anticipated by the *2035 Plan*, due to the lack of public water, sanitary sewer, and natural gas in this area, rural residential development is a reasonable use of the properties. Residential development in this area will have convenient access to the new four-lane road to accommodate commuting in this area of the County.

B. Appendix G - Land Use Map Classifications

The properties which are a part of this Zoning Map Amendment request are 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).

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Appendix G states that the “Industrial or Commercial” land use category (pp. 239) was used to depict “existing properties zoned Industrial/Commercial District (IC)”. 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 permit rural residential opportunities through the rezoning process.

C. Proposed Zoning District – Rural (R)

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not served with public water or sewer facilities, although certain size developments processed under the cluster provision of Section 5.7D(2) may choose to do so. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7D. The *Envision Jefferson 2035 Comprehensive Plan* recommends that the cluster provision of the Zoning Ordinance be the preferred method of residential development in the Rural zoning district

Staff Discussion and Recommendation

The *Envision Jefferson 2035 Plan* noted that the subject parcels, located within the US 340 South Preferred Growth Area (PGA), are zoned Industrial Commercial and therefore are proposed for Industrial or Commercial future land uses. However, because of the lack of public water, sanitary sewer, and/or natural gas in this area, rural residential development is a reasonable use of the properties. While the current zoning permits a variety of industrial and commercial uses, the property owner is interested in subdividing lots for residential purposes, which is not a permitted use in this zoning category. This owner-initiated downzoning to Rural would allow this to happen.

Assuming the applicant can document that both parcels were on record as separate lots as of October 5, 1988, if the property is zoned to Rural, staff has estimated that Parcel 6 (~35 acres after the recent BLA) would have the right to create 7 lots under the cluster provisions, with 17.5 acres is retained in greenspace and Parcel 2 (~61 acres) would have the right to create 12 lots total under the cluster provisions, with 30.5 acres retained in greenspace. Cluster Subdivisions are required to process as Major Subdivisions including a Concept Plan. Alternatively, there are Minor Subdivision options that would allow fewer lots to be processed on each parcel.

While the proposed zoning district is not recommended by the *2035 Plan* for these properties, staff finds that the proposed Rural rezoning for the lots included in this application to be **reasonable** for the location.

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.

Staff Report
Jefferson County Planning Commission Meeting
March 14, 2023

Lutman Land Development Rezoning Request (23-1-Z)

The petition was presented to the County Commission on February 16, 2023 and the required Public Hearing has been scheduled on March 16, 2023. Therefore, the Planning Commission is required to review this application and make a recommendation to the County Commission prior to this hearing.

Attachment:

- Section 5.7 Rural (R) District

3. Distance Requirements
 - a. Commercial shall comply with Section 4.6B
 - b. Industrial shall comply with Section 4.6A^{7, 23}

E. Lot Area

A minimum lot size of three acres shall be required for any industrial use unless the site is located in an approved Industrial Park.²³

F. Additional Commercial and Industrial Design Standards²⁷

1. Commercial Design Standards^{23, 27}

- a. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 80% of the gross area of the site.
- b. Adequate provision shall be made for storage and collection of refuse. Refuse containers are subject to Section 4.11F.²⁷
- c. Permeable areas of the site shall be planted with ground cover, shrubs and trees.
- d. Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public highways, streets and properties.

2. Industrial Design Standards

- a. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 90% of the gross area of the site.²³
- b. Adequate provision shall be made for storage and collection of refuse, subject to Section 4.11F.²⁷
- c. Permeable areas of the site shall be planted with ground cover, shrubs or trees if subject to Section 4.6.

Section 5.7 Rural (R) District^{23, 32}

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not served with public water or sewer facilities, although certain size developments processed under the cluster provision of Section 5.7D(2) may choose to do so. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7D. The Envision Jefferson 2035 Comprehensive Plan recommends that the cluster provision of the Zoning Ordinance be the preferred method of residential development in the Rural zoning district.^{8, 23, 32}

A. Principal Permitted and Conditional Uses^{23, 27, 32}

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.^{27, 32}
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.^{27, 32}

B. Minimum Lot Area, Lot Width and Yard Requirements²³

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.²⁷
2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.²³
3. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6A.²³

C. Height Regulations

No structure shall exceed 45 feet in height except as provided in Section 9.2.³²

D. Maximum Number of Lots Allowed

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7D.1, 5.7D.2 or 5.7D.3 below.

A property owner may use a combination of these Subsections, provided that the number of lots are prorated by density. The density rights for any rural development shall be based on the parcel of record as of October 5, 1988 utilizing the following alternatives:^{8, 32}

1. A property owner may create one (1) lot for every 15 acres with a minimum lot size of three (3) acres.^{17, 21}
 - a. Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.³²
 - b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}
2. Clustering
 - a. Purpose and Intent
 - i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract while retaining a portion of the property as green space³².
 - ii. To provide for a well planned development while minimizing the use of prime agricultural land.
 - b. Requirements
 - i. One (1) lot may be subdivided for every five (5) acres.^{17, 21, 23, 32}
 - (a) Maximum number of lots allowed (density) shall be computed using acreage on record as of October 5, 1988. Any divisions which have occurred since that time shall be subtracted from the maximum number of lots allowed.³²
 - (b) A minimum of 50% of the property shall be retained as green space and shall contain no further development rights unless the property is placed in another zone or further subdivision is allowed by ordinance. A note to this effect shall be placed on all cluster subdivision plats.³²

(c) For every additional 5% green space preservation, the following sliding scale may be utilized.³²

55% green space	1 lot per 4.5 acres
60% green space	1 lot per 4 acres
65% green space	1 lot per 3.5 acres
70% green space	1 lot per 3 acres
75% green space	1 lot per 2.5 acres

ii. The residue of a lot divided utilizing either 5.7D.1 or 5.7D.2 prior to the date of adoption of this amendment on March 16, 2017, shall have additional rights based on the provisions of this Subsection, provided that the total lots developed shall not exceed one lot per five acres based on the parent parcel on October 5, 1988 and all other provisions of this Subsection are complied with.³²

iii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.^{17, 21, 32}

(a) Setbacks shall be 25' front, 12' sides, and 20' rear.

(b) All clusters of three (3) or more lots shall be served by an internal road; provided that all clusters utilizing the sliding scale in 5.7D.2.b shall have an internal road with direct access to a public road identified as a Major Collector or a Minor or Principal Arterial on the Envision Jefferson 2035 Comprehensive Plan Roadway Classification Map.²³

(c) Clusters of three (3) or more lots shall not be along an existing public road.

(d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.^{17, 21}

iv. Procedures²³

(a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.^{17, 21, 23}

(b) The Concept Plan for a proposed Cluster Development can be combined with the required submittal and process requirements for a Concept Plan for a Major Subdivision as outlined in the Subdivision Regulations, provided that the Concept Plan includes all requirements of the Concept Plan in the Subdivision Regulations and includes the necessary soils and topographic data, together with a written narrative, required for the analysis listed below.³²

(c) The Staff shall review and make a recommendation to the Planning Commission regarding the proposed design and layout of the proposed Cluster Development. Staff shall consider the following when reviewing the Cluster Concept Plan:³²

(1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.

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

Section 5.8 Residential-Light Industrial-Commercial (R-LI-C) District¹

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.²³

A. Principal Permitted and Conditional Uses^{23, 27, 32}

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.^{27, 32}
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.^{27, 32}



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 #: 23-1-2
 Date Rec'd: 2-9-23
 Fees Paid: 5,850.00
 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: _____
 Business Name: Lutman Land Development LLC
 Mailing Address: 67 Lutmans Lane, Kearneysville, WV 25430
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

Applicant Contact Information

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

Consultant Information

Name: Paul J Raco
 Business Name: P.J. Raco Consulting, LLC
 Mailing Address: P.O. Box 548, Charles Town, WV 25414
 Phone Number: 304/676-8256 Email: pjraco.consulting@gmail.com

Physical Property Details

Physical Address: Route 340/1 Lewisville Road Vacant Lot:
 Tax District: Kabletown Map No: 29 Parcel No: 2 and 6
 Parcel Size: 66 +- Acres 30.89+- Acres Deed Book: 1292 Page No: 482

Current Zoning District

Industrial - Commercial District

RECEIVED

Proposed Zoning District

Rural District

FEB 09 2023

**JEFFERSON COUNTY PLANNING
 ZONING & ENGINEERING**

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.

N/A — Industrial - Commercial is not the appropriate district since Public Water and Sewer has not been

~~made available and the four lane has not been completed as anticipated when the original zoning ordinance was passed and the subsequent Comprehensive Plans were adopted.~~

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*

2-8-23
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.

Map Amendment Application
Rezoning Request
Article 12, Jefferson County Zoning Ordinance
Lutman Land Development LLC
February 8, 2023

Owners/Applicants:

Lutman Land Development, LLC
67 Lutmans Lane
Kearneysville, WV 25430

Ordinance Citation:

Article 12, Section 12.3 Jefferson County Zoning and Land
Development Ordinance

Map Amendment Definition:

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

Request:

Amend the Zoning Map for these two parcels of approximately 66 and 30.89 acres in size. The amendment is from the current Industrial/Commercial District to the Rural District.

Substantiation for the Request:

1. The property is currently zoned for Heavy Industrial and Commercial Uses and the Applicants are seeking a map amendment to the Rural District. As further explained in this

package, the Applicants believe that this map change is consistent and compatible with the Envision Jefferson 2035 Comprehensive Plan;

2. There have been significant changes in this area, since the Jefferson County Zoning Ordinance was adopted in 1988. These changes include multiple rezonings north of this property which were approved by the County Commission after the Planning Commission declared them consistent with the Comprehensive Plan. This includes the rezoning of the Sunnyside Industrial Park from Industrial/Commercial to the Residential/Light Industry/Commercial District.
3. The 2015 Envision Jefferson 2035 Comprehensive Plan shows this area to be in the Route 9 Preferred Growth Area in Jefferson County. This land is also located on the Future Land Use Map/Guide as Commercial however circumstances and expectations that these decisions were based on have not materialized; and,
4. The Applicants believe that the current Heavy Industrial/Commercial Zoning Classification is an error in the Jefferson County Zoning Map since the property is now shown located in one of the 6 primary growth areas of Jefferson County. The property is also located west of Principal Arterial Road (Route 340) in the County on a Local Service Road (Lewisville Road). The properties have no direct access onto Route 340. This application is not typical in that it demonstrates how this specific area's infrastructure has failed to develop as the original zoning ordinance and the subsequent Comprehensive Plans theorized. The request is centered on how the area has not developed as expected by the goals of the original ordinance. Even the last Comprehensive Plan (Envision 2035) recognized that this area would need to be revisited for different zoning districts, because of the lack of sewer and water and the fact that the highway expansion hasn't happened as envisioned.

Tax District, Map and Parcel Number:

Kabletown Tax District, Map 29, Parcels 2 and 6

Deed Book Reference:

Deed Book 1292 at Page 482

Sketch Plat:

Attached

Tract Size:

Total of approximately 96.89 Acres in two parcels (66 and 30.89 acres)

Discussion on:

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

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

A. Comprehensive Plan Compatibility

Among the many recommendations in the 2015, Envision Jefferson 2035 Comprehensive Plan, the following sections address items directly related to this map amendment request.

As found on page 13 through 21 of the 2015 Comprehensive Plan, there are only 6 Preferred Growth Areas (PGAs) in Jefferson County that are targeted for urban scale growth. The subject parcels are within the Route 340 South PGA. The Comprehensive Plan was adopted in 2015 after several years of meetings throughout the County and after extensive work by the Staff, the Steering Committee, Planning Commission and County Commission. It is typical for communities that have a new Comprehensive Plan to have requests for both text and map amendments for the map and ordinances to better reflect the Plan. In this case, the initial Zoning Ordinance, the 2004 Plan and the 2015 Plan show this property slated for growth around Route 340 and the railroad from Rippon to Virginia. The Envision Jefferson 2035 Plan is more specific in that it shows this property within the Rt 340 South Preferred Growth Area and identifies the property for Commercial Development.

Regarding the history of Land Use Regulations and Comprehensive Plans in Jefferson County, this area was slated for Commercial and Industrial development in the original ordinance because of Route 340 and the Railroad in this corridor. But this was put in the ordinance and later plans because of the expectation that Public Water and Sewer would be shortly extended to this area from Charles Town when Route 340 was expanded to four lanes. After 35 years, this has not happened and there is little to no chance that public water and sewer from Charles Town will ever serve this area. Likewise, as expressed in the recent Rezoning of the Sunnyside Industrial Park north of this property, there is no interest from anyone for commercial or industrial development in this area. The market does not support commercial or industrial development in this area and the public does not support industrial development in the area.

So, in fact for the last 35 years, these properties remain undeveloped, the road has not expanded, water and sewer has not become available, and the owners can't even convey a family transfer of land for a relative

to build a house because it isn't permitted in the current zone. Essentially, the value of the property has not grown as in other Preferred Growth Areas, because regardless of the size, neither commercial nor industrial users are interested and the owner cannot subdivide or put more than one house on the parcels. As such, these parcels remain vacant 66 and 30 acre parcels that are taxed, but not able to be utilized better for enhanced taxes.

The type of use that the 1988 County Commission envisioned when it was adopted has not come to fruition because of the lack of water and sewer and expansion of Route 340. Furthermore, as stated in the following section of the Comprehensive Plan, this property will be west of the four lane preferred route if it does get built, so the area should most likely all be rezoned. From simply a professional planning standpoint on the original zoning of the area and the last Comprehensive Plan, this area should be reassessed based on the Highway and the lack of utilities.

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

“Land Use Activity Areas

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

Four Comprehensive Types of Land Use Activity within the Designated Areas

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

The first two area types addressed below, Urban Growth Boundaries (UGB) and **Preferred Growth Areas (PGA) (including one residential growth area)**, are the sections of Jefferson County

where urban scale development is to be targeted over the planning horizon of Envision Jefferson 2035.” Emphasis Added.

In this case, the subject property is in a Preferred Growth Area (PGA), but certainly Urban Scale Growth is not what comes to mind in the area south of Rippon to the Virginia line.

A definitive section of the Envision Jefferson 2035 that supports this map amendment is found on Page 21 and 22 that describes this PGA. It sounds skeptical of growth in this area based on the highway and the utilities:

“c. US 340 South PGA (portions of the corridor beginning north of Rippon continuing south to the Clarke County Line):

The proposed highway widening, and realignment is expected to create some additional growth pressures along this corridor.

Additionally, a percentage of the property along the western edge of US 340 South is currently zoned Industrial Commercial. Localized water and sewer service may need to be utilized for higher intensity development to occur along this corridor. It is recognized that the proposed US 340 alignment is not yet finalized and that land use decisions may need to move with the corridor, or a small area plan may be needed for this location if the final alignment is significantly different from the proposed configuration.

The West Virginia Division of Highways has identified a preferred alignment out of multiple alternatives and recently made minor adjustments to the preferred alignment choice. However, a Record of Decision, the legally binding conclusion, has been published at this time. The possibility for changes to the current preferred alignment is possible. In creating the land use recommendation for this area, the preferred alignment was used to make future land use decisions. The current preferred alignment is shown to the east of the existing US 340 right-of-way. This area does not have any public water and sewer infrastructure which future development will need for site development.”

It is clear that this section specifically recognizes that this area needs water and sewer and further work by the WVDOT on the highway expansion. Furthermore, these two lots don't even front on Route 340. They are located on a Local Service Road known as Lewisville Road. These parcels and the lack of access to a major road and utilities, are more appropriately destined for a small minor or family subdivision. This is especially true since there are no major developments in the area.

Based on these portions of the Comprehensive Plan, this map amendment is consistent and compatible with the Plan since none of these visions of the area have materialized in the last 35 years. In this case, the Consistency with, and Compatibility to the existing Comprehensive Plan is more related to what didn't happen in this area and thus has rendered the properties nearly unusable for the past 35 years.

The importance of the Future Land Use Guide when making Map Amendment decisions is outlined on Page 15 of the Plan:

“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.”

This section of the Plan allows for predictability of future land uses in Jefferson County. This section is also consistent with the original Zoning Ordinance adopted in 1988 and several Comprehensive plans in between. While the plan is usually used for predictability of land use for the public purchasing in an area of the County, it is also used by owners and purchasers when planning for the future. In this case, the area was slated for development by the County but has not developed in that direction. No utilities were extended to the area and the DOT decision on the highway has been pending for over 20 years.

To carry through what the County adopted in 2015 in this Preferred Growth Area, the requested rezoning would be consistent with the

statements that indicate that the area should be studied again depending on the highway and utilities. In this case, the owner would like to have these properties downzoned to proceed based on the lack of utilities and only having access to the Local Service Road.

The Plan encourages growth and development in areas where infrastructure and public facilities are available. These parcels don't have access to infrastructure or public facilities and therefore should be supported in the applicant's request to be downzoned to the Rural District.

While the current Comprehensive Plan supports the map amendment request, due to the lack of public facilities and infrastructure, the 2004 Comprehensive Plan includes several recommendations that support this rezoning request. This is important to note to show that the area being slated for growth hasn't changed from the old plan to the new plan.

2004 Comprehensive Plan Recommendations:

Recommendation 3.01 on Page 24:

When adjusting the Zoning Ordinance and Map to conform with the recommendations of this Plan, the County should look closely at the adjacent jurisdictions permitted uses or their fringes..."

These subject properties are adjacent to Clarke County in an area that is reserved for farmland. Little growth has occurred in this area of Clarke County in the years subsequent to the adoption of the Jefferson County Zoning Ordinance and Comprehensive Plans.

Based on the preceding recommendations from both the Envision Jefferson 2035 Comprehensive Plan and the previous 2004 Comprehensive Plan, this map amendment is consistent and compatible with the development goals of the Plans.

B. Change of Neighborhood

This area of Jefferson County and the adjacent area on Clarke County have not changed significantly since the Zoning Ordinance was adopted in 1988 and the Comprehensive Plan in 2015. Neither Utilities nor the widening of Route 340 has taken place. Accordingly, the Envision Jefferson Plan suggests that this area be reevaluated.

The following are changes in the neighborhood that would specifically support the requested change from Industrial and Commercial to Rural:

1. Availability of Public Utilities and Services:

Public Water and Public Sewer have not become available in this neighborhood. The lack of availability of utilities is a change for what was envisioned in this neighborhood in the 35 years since 1988. As stated earlier, one of the Comprehensive Plan's primary objectives is to funnel growth into areas already served by existing infrastructure such as sewer and water:

'This Plan recommends that new development will take place in areas where infrastructure exists and the extension of services to growth in outlying areas will occur in accordance with the goals and objectives of this Plan.' (Page 27)

Furthermore, this Recommendation (5a found on Page 30) of the Plan supports the rezoning of these parcels to Rural due to the availability of services in other areas of the County.

"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."
(Emphasis added)

In this case, it is the lack of services that endorse the Map Amendment.

2. Lack of Growth in the Corridor and the PGA:

Since the adoption of the original Zoning Ordinance in 1988, this area has not developed. Again, the ordinal Zoning Ordinance and subsequent (including current) Plans relied on the belief that the Railroad, along with the expansion of the highway and utilities, would support Industrial Growth in this area. That hasn't happened. The significant growth has occurred in the other Preferred Growth Areas and Urban Growth Boundary. The new plan should add PGAs in other areas of the County that are growing.

C. Change of Transportation Characteristics:

There have been positive changes in the transportation and traffic characteristics north of this area since the time of the adoption of the Zoning Ordinance. Route 340 was expanded to 4 lanes north of Rippon over 25 years ago. The County has been waiting for the expansion of Route 340 to be completed to the Virginia line, but it has not happened.

These changes and improvements to the transportation system near this site has not taken place since 1988 when the Zoning Ordinance was adopted. Since the Comprehensive Plan was newly adopted in 2015, the potential of this road improvement has been taken into consideration in the Envision Jefferson 2035 Comprehensive Plan. However, the Plan's discussion of this area being in a PGA, is based on the Change of Transportation and addition of Utilities. Accordingly, the Comprehensive Plan already acknowledges that these infrastructure elements are key to this area developing as a major growth area. In the meantime (the past 35 years), the owners' hands have been tied with respect to doing even a minor subdivision of a Parent to Child transfer of land. These delays in upgrading the road does have an effect on the ability to develop in this PGA. This occurrence supports the rezoning of the subject properties to Rural to allow some use of the properties.

D. Error or Change of Conditions From the Original Zoning and Subsequent Plans

One justification for a map amendment/rezoning in West Virginia is the consistency of the request with the Comprehensive Plan. But other justifications generally include a change of neighborhood, or a change in conditions since the Zoning Ordinance was adopted. This is the reason that the Comprehensive Plan is so thoroughly discussed in this Petition. However, in some states, an error in the original zoning map is also used as a good indicator for map amendments.

Accordingly, this Application has discussed some of the reasons that this property should not have been zoned for Heavy Industry when the original ordinance was adopted; and/or shortly after the Envision Jefferson 2035 Plan was adopted.

In this case, the error in the original zoning ordinance is that all of the area south of Rippon could not feasibly develop into commercial and industrial uses simply because it was located between a railway and Route 340. That would be impractical without additional services and infrastructure. Furthermore, County Government and the County public's thoughts on the types of permitted Industry has changed since 1988. This doesn't appear to be the preferred location for heavy industry in Jefferson County anymore.

Finally, the change of conditions from the original Zoning Ordinance and the Comprehensive Plans that followed after 1988 is simply that all of these Plans anticipated infrastructure construction in this area that has not materialized. It is time to let the property owners have a say in what the zoning and use of their property should be. In this case, the Applicant is simply requesting a reversion to Rural Classification.

E. Conclusion:

The Applicant respectfully requests that the County Commission approve this map amendment to the Jefferson County Zoning Map. This Application cites many reasons why the map amendment should be approved. These reasons include: the consistency of the request to the Envision Jefferson 2035 Comprehensive Plan, the 2004 Comprehensive Plan and the original Zoning Ordinance in that the required elements envisioned to make this a Preferred Growth Area has not materialized for commercial and industrial growth; the changes in the neighborhood from when the original zoning ordinance was adopted including the recent rezoning of the Sunnyside Industrial Park from Industrial/Commercial to Residential/Light Industrial/Commercial District on Wheatland Road; the fact that the area is located in a Preferred Growth Area in the new Plan only because of the anticipated services and road improvements; and, the fact that the property does not have access to Public Water, Sewer or other services including frontage on Route 340. This map amendment will change the zoning classification on the Applicant's property from the Industrial/Commercial District to the Rural District.

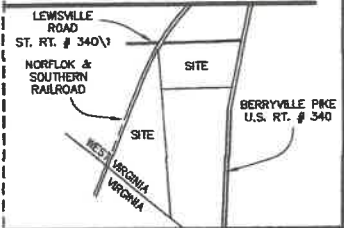


David Lutman, Lutman Land Development LLC

2-8-23

Date

VICINITY MAP
1" = 2000'



PROPOSED
MERGER PARCEL
224,576 sq. ft.
5.16 acres

LEWISVILLE
ROAD
ST. RT. # 340\1
(30' R/W)

NORFOLK &
SOUTHERN
RAILROAD

BERRYVILLE PIKE
U.S. RT. # 340
(RIGHT OF WAY VARIES)

LUTMAN
T.M. 29\2
D.B. 1292\482
60.84 acres
66.00 acres
AFTER MERGER

LUTMAN
T.M. 29\6
D.B. 1292\482
36.05 acres
30.89 acres
AFTER MERGER

CONTOURS BASED ON
2012 FEMA FC WY-VA-MD
HADDS HORIZONTAL
NAVD8S VERTICAL
A FIELD TOPOGRAPHIC
SURVEY WOULD BE
REQUIRED TO ACCURATELY
ESTABLISH ELEVATIONS

— TREE LINE / TREES
— CONTOUR LINES

GRAPHIC SCALE



(IN FEET)
1 inch = 300 ft.

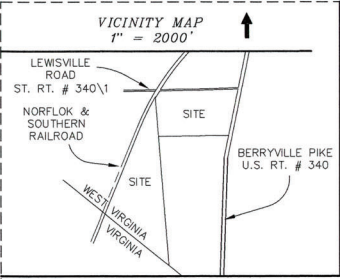
**LUTMAN REZONING SKETCH PLAN
TAX MAP 29 PARCELS 2 & 6 KABLETOWN DISTRICT**

JEFFERSON COUNTY, WEST VIRGINIA
T.M. 29 PARCELS 2 & 6 DEED BOOK 1292 PAGE 482 .
KABLETOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA.

PROPERTY STANDING IN THE NAME OF LUTMAN LAND DEVELOPMENT LLC, AS RECORDED
IN THE OFFICE OF THE COUNTY CLERK OF JEFFERSON COUNTY IN DEED BOOK 1292 PAGE 482.
SURVEYOR: PETER H. LORENZEN - P.O. BOX BOX 316, SUMMIT POINT, WV. 26446.
(304) 728-6093

OWNER: LUTMAN LAND DEVELOPMENT LLC \ DEVELOPER: 67 LUTMANS LANE., KEARNEYSVILLE, WV. 25430
(304) 702-2500

DWG # GANSLER DATE 12-12-22



Rural District

Approved PROPOSED MERGER PARCEL
224,576 sq. ft.
5.16 acres

LEWISVILLE ROAD
ST. RT. # 340 \ 1
(30' R/W)

RURAL DISTRICT

RURAL DISTRICT

RURAL DISTRICT

NORFOLK & SOUTHERN RAILROAD

BERRYVILLE PIKE
U.S. RT. # 340
(RIGHT OF WAY VARIES)

Commercial District

RURAL DISTRICT

LUTMAN
T.M. 29 \ 2
D.B. 1292 \ 482
60.84 acres
66.00 acres
AFTER MERGER

CONTOURS BASED ON
2012 FEMA R3 WV-VA-MD
NADES3 HORIZONTAL
NAVD88 VERTICAL
A FIELD TOPOGRAPHIC
SURVEY WOULD BE
REQUIRED TO ACURATELY
ESTABLISH ELEVATIONS

— TREE LINE / TREES
— CONTOUR LINES

EXISTING BARN



GRAPHIC SCALE



(IN FEET)
1 inch = 300 ft.

Currently Zoned Industrial Commercial to Change To RURAL

**LUTMAN REZONING SKETCH PLAT
TAX MAP 29 PARCELS 2 & 6 KABLETOWN DISTRICT**

JEFFERSON COUNTY, WEST VIRGINIA
T.M. 29 PARCELS 2 & 6 DEED BOOK 1292 PAGE 482 .
KABLETOWN DISTRICT, JEFFERSON COUNTY, WEST VIRGINIA.

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(304) 702-2500

DWG # GANSLER DATE 12-12-22

Staff Report
 Jefferson County Planning Commission Meeting
 March 14, 2023

Federal Group Inc Rezoning Request (23-2-Z)

Item # 6 Planning Commission review and recommendation to the County Commission regarding whether the petition for a Zoning Map Amendment to rezone the subject parcels from Residential Growth (RG) to Residential-Light Industrial-Commercial (RLIC) is consistent with the *Envision Jefferson 2035 Comprehensive Plan*.

Property Owner:	Federal Group Inc.
Consultant:	Paul Raco, P.J. Raco Consulting, LLC
Parcel Information:	<p style="text-align: center;">233 Lowe Drive, Shepherdstown, WV Tax District: Shepherdstown (09), Map: 8, Parcels 10.9 and 24.3. Combined Acreage: ~25 Zoning District: Residential Growth</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px;"> Parcel 10.9 comprised of 23.6 acres (formerly the Clarion) </div> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px;"> Parcel 24.3 comprised of 1 acre (ROW - Lowe Drive) </div>
Surrounding Properties:	North, East, South, and West: Residential Growth
Current Use:	Former Clarion Hotel and Restaurant/Christian Caine Jewelry Store (temporary) / Federal Training Facility and Call Center
Proposed Request	To rezone from Residential Growth to Residential-Light Industrial-Commercial
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, although the <i>Envision Jefferson 2035 Comprehensive Plan</i> recommends discouraging the use of the R-LI-C zoning district for all zoning map amendments, the request and the proposed uses for the 23.6-acre parcel are <u>consistent</u> with the intent of the recommendations of the <i>2035 Plan</i> .

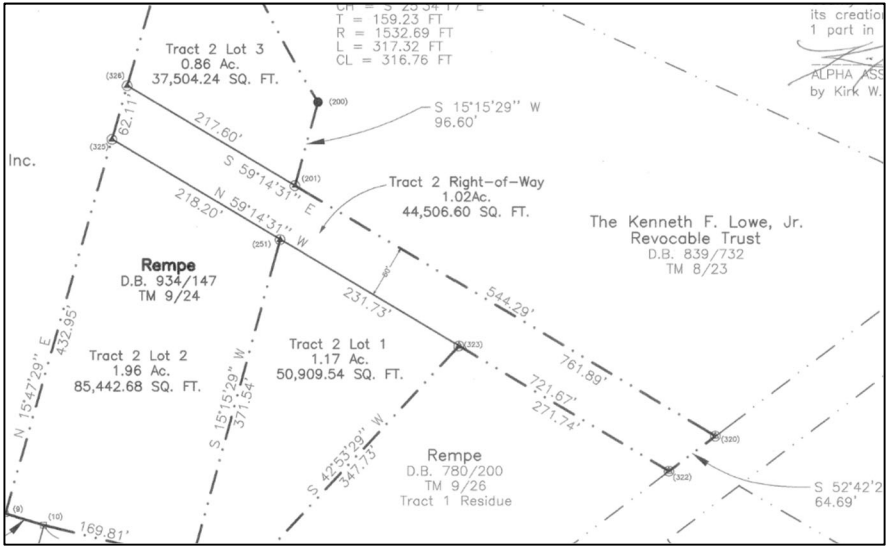
Staff Report
 Jefferson County Planning Commission Meeting
 March 14, 2023

Federal Group Inc Rezoning Request (23-2-Z)

Applicant's Request

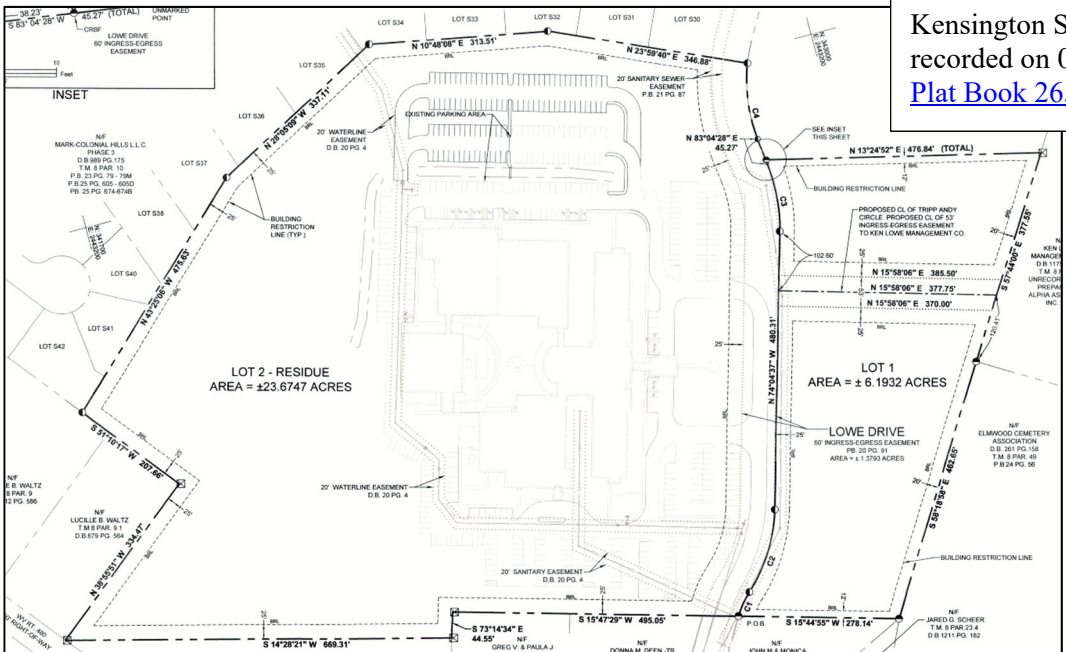
The applicant is requesting to rezone approximately 25 acres from Residential Growth to Residential-Light Industrial-Commercial. The proposal consists of two parcels.

Parcel 24.3 is comprised of approximately 1 acre and is designated as a 60' wide right-of-way (Lowe Drive). At this time, there are a number of lots that use Lowe Drive as their primary access.



Rempe Minor Subdivision,
 recorded on 11/17/00 in
[Plat Book 18, at Page 30](#)

Parcel 10.9 is comprised of 23.6 acres and is the former location of the Clarion Hotel and Conference Center. On September 19, 1996, the subject parcel was granted a Conditional Use Permit for a Federal Training Center, which was operated within the Clarion Hotel and Conference Center (File Z96-5). In July of 2020, the property owner processed a subdivision plat to divide a 6.19-acre lot (Lot 1) for future development. As the hotel has recently closed, the property owner is looking to expand the permitted uses of the existing commercial structure and possible redevelopment of the hotel rooms as apartments.



Kensington Subdivision, Phase 1
 recorded on 07/24/2020 in
[Plat Book 26, at Page 109 & 109A](#)

Staff Report
Jefferson County Planning Commission Meeting
March 14, 2023

Federal Group Inc Rezoning Request (23-2-Z)

Neighboring Uses

While the surrounding area is primarily zoned Residential Growth, the surrounding area contains a combination of residential and commercial land uses.



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* and provides a staff recommendation for the Planning Commission’s consideration based on relevant sections and elements of the *Plan*. Staff’s professional recommendation is that, although the *Envision Jefferson 2035 Comprehensive Plan* recommends discouraging the use of the R-LI-C zoning district for all zoning map amendments, the request and the proposed uses are **consistent** with the intent of the recommendations of the *2035 Plan*. The location of the properties within the County-designated Preferred Growth Area in the immediate vicinity of Shepherdstown and the designation of the 23.6-acre parcel on the Future Land Use Guide as “General Commercial” support the requested amendment. The Planning Commission is required to provide the County Commission with their advice as to whether they also make this finding prior to the County Commission’s Public Hearing.

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.

Staff Report
Jefferson County Planning Commission Meeting
March 14, 2023

Federal Group Inc Rezoning Request (23-2-Z)

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

Shepherdstown Preferred Growth Area (PGA)

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).

In 2014, Shepherdstown adopted a Growth Management Boundary (GMB), which meets the WV Code definition of a UGB and which is planned to have growth around the existing core of Shepherdstown and less intense development at the edges of the GMB. While this larger growth and annexation area is recommended in the Shepherdstown 2014 Comprehensive Plan, the *Envision Jefferson 2035 Comprehensive Plan* recognizes a smaller PGA to the southwest of the Shepherdstown core and the existing County zoning if it remains in the unincorporated area (p.19).

The *Envision Jefferson 2035 Comprehensive Plan* states that the Shepherdstown PGA is “defined predominately by existing residential and commercial development, existing zoning, and access to water and sewer services. It encompasses an area broadly described as properties on either side of WV 45 past the west end of Old Martinsburg Road to Venice Way and to the south along the west side of WV 480 including land on either side of Potomac Farms Road. This area is included within Shepherdstown’s Growth Management Boundary (GMB) and is the primary area outside of Shepherdstown that this Plan anticipates developing at an urban level even if it remains in the unincorporated area.” (pp. 20-21)

The properties included in this petition are inside the boundaries of the *2035 Plan*’s Shepherdstown PGA and are served by public water and wastewater treatment and, therefore, intended for eventual urban-level development intensity.

Staff Report
Jefferson County Planning Commission Meeting
March 14, 2023

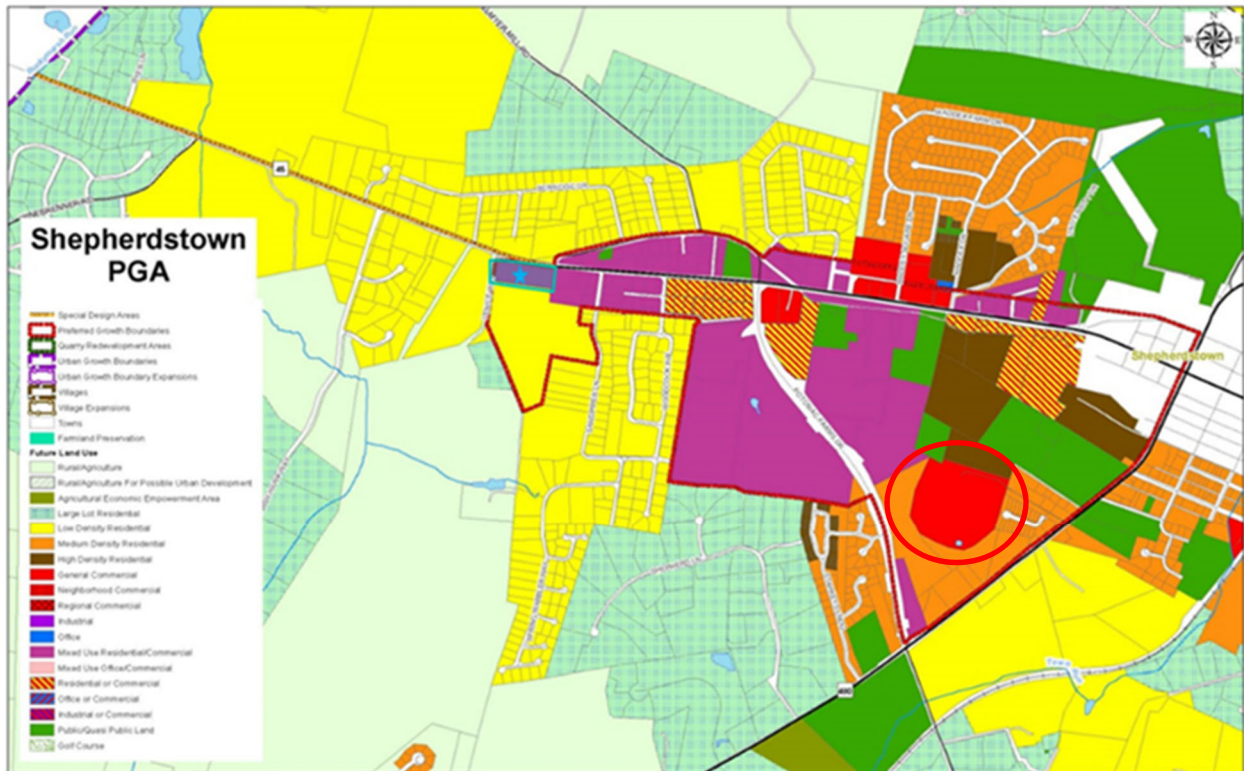
Federal Group Inc Rezoning Request (23-2-Z)

B. Appendix G - Land Use Map Classifications

The properties which are a part of this Zoning Map Amendment request are shown on the Future Land Use Guide and the Shepherdstown Preferred Growth Area Map shown below (p. 220). The 23.6-acre parcel is shown as Future General Commercial. The 1.02-acre parcel is shown as Medium Density Residential and contains the road that primarily serves the former hotel property.

Appendix G of the Envision Jefferson 2035 Comprehensive 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 intent of the General Commercial land use category is to provide for general destination business uses, which provide a broad range of commercial products and services necessary for large regions. The uses in this category may be characterized by larger buildings, more intensive commercial activity, and more vehicular traffic than would be permitted for uses in the Neighborhood Commercial district. This category is intended to for individual structures less than 50,000 square feet and could include more than one structure (pp. 237).



The property that is included in this rezoning request was incorporated into the Shepherdstown Preferred Growth Area based on the relationship to the road network and existing public water and wastewater service to the area. The recommended General Commercial land use category reflected the previously approved Conditional Use Permit, which allowed the Government Office Facility, Conference Center, Public and Private Fitness Center, Rumsey Tavern and Restaurant with Ballroom which was in operation since the late 1990's until the impact of COVID. The requested zoning map

Staff Report
Jefferson County Planning Commission Meeting
March 14, 2023

Federal Group Inc Rezoning Request (23-2-Z)

amendment to Residential-Light Industrial-Commercial allows the uses anticipated with the General Commercial zoning as well as residential uses that would not otherwise be permitted. The applicant has indicated that they are interested converting the hotel rooms into apartments as well as maintaining various office and commercial uses within the existing structures and believe that the Residential-Light Industrial-Commercial (RLIC) District best serves these uses.

C. 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). The proposed RLIC zone would permit the variety of residential, office, and commercial uses the applicant is interested in pursuing; however, under the Urban Level Development Recommendations (#14), the *Envision Jefferson 2035 Plan* “discourages the use of the existing Residential-Light Industrial-Commercial (R-LI-C) District as a zoning category for zoning map amendment requests.”

As noted previously, the parcels included in this application are inside the boundaries of the *2035 Plan*’s Shepherdstown PGA and the 23.6-acre parcel is proposed for general commercial uses. While the requested RLIC zoning district is broader than the proposed General Commercial zoning district, it will allow the reuse of the existing structures for residential uses as well as commercial and office uses which will allow uses compatible with the neighboring residential uses.

Staff Discussion and Recommendation

Staff finds that, although the *Envision Jefferson 2035 Comprehensive Plan* recommends discouraging the use of the R-LI-C zoning district for all zoning map amendments, the request and the proposed uses are **consistent** with the intent of the recommendations of the *2035 Plan*. The location of the properties within the County-designated Preferred Growth Area in the immediate vicinity of Shepherdstown, the fact that they are served by public water and wastewater treatment, and the designation of the 23.6-acre parcel on the Future Land Use Guide as “General Commercial” support the requested amendment. The applicant has indicated the intent to integrate the proposed conversion of hotel rooms to apartments with the existing and future commercial and office development will complement the existing and approved future residential development on adjoining properties and serve these areas.

Planning Commission Action Required

Article 12 of the Zoning Ordinance and the relevant sections of WV 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 is 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 16, 2023 and the required Public Hearing has been scheduled on March 16, 2023. Therefore, the Planning Commission is required to review this application and make a recommendation to the County Commission prior to this Hearing.

Attachments:

- Section 5.8 Residential-Light Industrial-Commercial (RLIC)
- Appendix C

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

Section 5.8 Residential-Light Industrial-Commercial (R-LI-C) District¹

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.²³

A. Principal Permitted and Conditional Uses^{23, 27, 32}

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.^{27, 32}
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.^{27, 32}

B. Standards²³

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.^{23, 27}
3. Impervious surface coverage shall not exceed eighty (80) percent of the gross land area.²⁷

C. Site Development Standards^{23, 27, 40}

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.²⁷
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.^{5, 7, 23, 27}
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.^{7, 27}

Section 5.9 Reserved²³

Section 5.10 Village (V) District^{8, 23, 32, 35}

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

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

A. Principal Permitted Uses

1. Residential Land Uses
 - a. Refer to Appendix A for site development standards. If applicable, reduced building setbacks may be permitted in accordance with Article 9.
2. Non-Residential Land Uses in Existing Structures
 - a. Building setbacks, parking and drive aisle setbacks, distance requirements, and landscape buffers are not required when a proposed land use is to be located within an existing structure.
 - b. When additional parking for an existing structure is required, a Site Plan shall be submitted. Setbacks shall be as required in Section 5.10A.2(a) with the exception that a four (4) foot screened buffer shall be required along the side and rear property lines. The screening may be either vegetative (existing or planted) or opaque fencing and may be placed anywhere within the four (4) foot buffer. At the time of the planting, vegetation shall be at least six (6) feet in height. No structures, vehicular parking, or stored materials shall be permitted within the side and rear yard buffers.

APPENDIX C: PRINCIPAL PERMITTED AND CONDITIONAL USES TABLE^{23, 29, 32, 33, 35, 37, 39, 43}

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Residential Uses													
Accessory Agricultural Dwelling Unit	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.15
Dwelling, Single Family	CU	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Single Family, Small Lot	CU	NP	NP	NP	NP	P	NP	NP	P	P	NP	P	
Dwelling, Two Family	CU	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Duplex	CU	NP	NP	NP	NP	P	NP	NP	P	P	NP	P	
Dwelling, Townhouse	CU	NP	NP	NP	NP	P	P	NP	P	P	NP	CU	
Dwelling, Multi-Family	CU	NP	NP	NP	NP	P	P	NP	P	P	NP	CU	
Day Care Center, Small	P	NP	NP	NP	NP	P	NP	P	P	P	P	P	
In-Law Suite	NP	NP	NP	NP	NP	P	NP	P	P	P	NP	P	Sec. 8.15
Mixed Use Building	P	NP	NP	NP	NP	P	P	NP	CU	P	NP	P	
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP	
Model Homes/Sales Office	P	CU	NP	NP	NP	P	NP	P	P	P	NP	NP	Sec. 8.10
Home Uses													
Home Occupation, Level 1	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Art. 4A
Home Occupation, Level 2	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Art. 4A
Cottage Industry	P	NP	NP	NP	NP	P	NP	P	P	P	P	P	Art. 4A
Institutional Uses													
Airport	NP	NP	NP	P	P	NP	NP	CU	NP	CU	CU	NP	
Airfield, Private/Helipad	NP	NP	NP	NP	NP	NP	NP	CU	NP	CU	CU	NP	
Church ³⁸	P	P	P	P	CU	P	P	P	P	P	CU	P	
Convention Center	NP	P	P	P	CU	P	P	CU	CU	P	CU	NP	
Cultural Facility	P	P	P	P	CU	P	P	P	P	P	P	P	
Day Care Center, Large	P	P	P	P	CU	P	P	CU	P	P	P	CU	
Electric Vehicle Charging Station	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Elementary or Secondary School	P	P	CU	CU	NP	P	P	P	P	P	NP	CU	
Essential Utility Equipment	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 4.7
Group Residential Facility	P	P	P	NP	NP	P	CU	P	P	P	NP	P	
Group Residential Home	P	P	P	NP	NP	P	CU	P	P	P	NP	P	
Heliport	NP	CU	CU	P	P	CU	CU	NP	NP	CU	CU	NP	
Hospital	NP	P	P	P	CU	P	P	P	P	P	NP	NP	
Nature Center and Preserve	NP	NP	NP	NP	NP	P	NP	P	CU	P	NP	P	
Nursing or Retirement Home	CU	P	P	P	NP	P	P	CU	P	P	NP	CU	
Park	P	P	P	P	NP	P	P	P	P	P	NP	P	
Performing Arts Theater	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Preschool	P	P	CU	CU	CU	P	P	P	P	P	NP	CU	
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P	P	
Publicly Owned Facility	P	P	P	P	P	P	P	P	P	P	P	CU	
Recycling Drop-Off Center	CU	P	P	P	P	P	P	NP	NP	P	P	NP	
Residential Care Home	P	P	P	NP	NP	P	CU	P	P	P	NP	P	
School, College or University	NP	P	P	P	NP	P	P	CU	CU	P	NP	NP	
School, Vocational or Professional	NP	P	P	P	NP	P	P	CU	CU	P	P	NP	
Vocational and Training Facility for Adults	P	P	P	P	P	P	P	P	P	P	NP	NP	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Industrial													Sec. 8.9
Heavy Equipment Repair	NP	NP	CU	CU	P	NP	NP	NP	NP	NP	P	NP	
Heavy Industrial Uses	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	P	NP	Sec. 8.9
Light Industrial Uses	NP	NP	NP	P	P	NP	NP	NP	** NP	P	P	NP	Sec. 8.9
Manufacturing, Heavy	NP	NP	NP	CU	P	NP	NP	NP	NP	NP	P	NP	
Manufacturing, Limited	NP	P	P	P	P	CU	NP	NP	NP	P	P	NP	
Printing and Publishing	NP	P	P	P	P	P	P	NP	NP	P	P	NP	
Salvage Yards	NP	NP	NP	NP	CU ²	NP	NP	NP	NP	NP	CU ²	NP	Sec. 4.4L
Shooting Range, Indoor	NP	CU	CU	P	P	NP	NP	CU	NP	CU	P	NP	
Shooting Range, Outdoor	NP	NP	NP	CU	CU	NP	NP	CU	NP	NP	CU	NP	
Slaughterhouses, Stockyards	NP	NP	NP	NP	CU	NP	NP	CU	NP	NP	CU	NP	
Transportation Terminal	NP	P	P	P	P	P	P	NP	NP	CU	P	NP	
Vehicle Storage	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP	
Warehousing and Distribution, General	NP	NP	NP	CU	P	NP	NP	NP	NP	CU	P	NP	
Warehousing and Distribution, Limited	NP	P	P	P	P	CU	P	NP	NP	P	P	NP	
Industrial Manufacturing & Processing													Sec. 8.9
Acid or heavy chemical manufacturer, processing or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Bituminous concrete mixing and recycling plants	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Cement or Lime Manufacture	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Commercial Sawmills	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Concrete and ceramic products manufacture, including ready mixed concrete plants	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Explosive manufacture or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Foundries and/or casting facilities	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Jails and Prisons	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	Sec. 8.7
Mineral extraction, mineral processing	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	
Petroleum products refining or storage	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	NP	Sec. 8.11
Adult Uses													
Adult Uses	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	NP	Sec. 4.4K, Sec. 8.1
Recreational Uses													
Hunting, Shooting, Archery and Fishing Clubs, public or private	NP	NP	NP	CU	CU	NP	NP	P	NP	NP	NP	NP	Sec. 8.8
Commercial Uses													Sec. 8.9
Antique Shop	P	P	P	P	NP	P	NP	CU	CU	P	P	P	
Appliance Sales	NP	P	P	P	CU	P	NP	CU	CU	P	P	NP	
Art Gallery or Artist Studio	P	P	P	P	NP	P	P	CU	CU	P	P	P	
ATM	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Automobile repair, sales and service	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Automobile parts, supplies and tire stores	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Automobile, light truck and light trailer rentals, indoor	P	P	P	P	P	P	NP	CU	CU	P	P	CU	
Automobile, light truck and light trailer rentals, outdoor	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Bail Bond Services	NP	P	P	P	CU	NP	NP	CU	CU	CU	P	CU	
Bank	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Bank with Drive-Through Facility	CU	P	P	P	CU	P	P	CU	CU	P	P	CU	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Commercial Uses continued													Sec. 8.9
Bar	P	P	P	P	NP	P	P	NP	NP	P	P	CU	
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	CU	CU	P	P	P	
Bed and Breakfast	P	NP	NP	NP	NP	P	NP	P	CU	P	NP	P	Sec. 8.3
Brewpub	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.5
Business Equipment Sales and Service	CU	P	P	P	CU	P	P	CU	CU	P	P	CU	
Building Maintenance Services	CU	P	P	P	P	P	P	CU	CU	P	P	CU	
Building Materials and Supplies	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Campground ³¹	CU	P	NP	NP	NP	P	NP	P	CU	P	P	CU	Sec. 8.17
Car Wash	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Commercial Blood Plasma Center	NP	P	P	P	NP	CU	CU	CU	CU	CU	P	CU	
Commercial Uses	NP	NP	NP	NP	NP	NP	NP	NP	**	P	P	CU	Sec. 8.9
Contractor with No Outdoor Storage	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Contractor with Outdoor Storage	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Convenience Store	CU	P	P	P	CU	P	NP	CU	CU	CU	P	CU	Sec. 5.8C (RLIC only)
Convenience Store, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Country Inn	P	P	P	P	NP	P	P	CU	CU	P	P	P	
Crematorium, Pet ³⁷	NP	P	NP	P	NP	NP	NP	P	NP	P	P	CU	Sec. 8.19
Custom Manufacturing	P	P	P	P	P	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Dry cleaning and Laundry Facility	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	NP	CU	CU	P	P	CU	
Exterminating Services	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Florist	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Food Preparation	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Gambling Facilities	NP	NP	NP	NP	CU	NP	NP	NP	NP	NP	CU	CU	Sec. 4.4G
Gas Station	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Gas Station, Large	NP	CU	P	P	CU	CU	CU	CU	CU	P	P	CU	
Gas Station, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Golf Course	NP	P	P	P	NP	P	P	CU	CU	P	P	CU	
Grocery Store	P	P	P	P	CU	P	NP	CU	CU	P	P	CU	
Horse Racing Facility	NP	NP	NP	P	NP	NP	NP	CU	CU	P	P	CU	
Hotel/Motel	NP	P	P	P	NP	P	P	CU	CU	P	P	CU	
Kennel	NP	P	P	P	CU	P	P	P	CU	P	P	CU	Sec. 8.4
Medical/Dental/Optical Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Medical/Dental/Optical Office	NP	P	P	P	CU	P	P	CU	CU	P	P	CU	
Mobile Home, Boat and Trailer Sales	NP	P	P	P	CU	P	NP	CU	CU	CU	P	CU	
Movie Theater	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Nightclub	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Non Profit Commercial Uses	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Non-Profit Community Centers	P	P	P	P	CU	P	CU	P	CU	P	P	CU	
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	CU	CU	P	P	CU	
Pawn Shop Services	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Personal Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Professional Office	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Professional Office, Small	P	P	P	P	CU	P	P	CU	CU	P	P	P	
Restaurant	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Restaurant, Fast Food	CU	P	P	P	CU	P	P	CU	CU	CU	P	CU	

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Commercial Uses continued													Sec. 8.9
Restaurant, Fast Food, Drive-Through ⁴⁰	NP	P	P	P	CU	CU	P	CU	CU	P	P	CU	
Restaurant, Fast Food, Limited	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Retail Sales and Services, General	NP	P	P	P	NP	P	NP	CU	CU	P	P	CU	
Retail Sales Limited	P	P	P	P	NP	P	P	CU	CU	P	P	CU	
Retail Store, Large	NP	CU	P	CU	NP	CU	NP	CU	CU	CU	CU	CU	
Shipping and Mailing Services	P	P	P	P	CU	P	P	CU	CU	P	P	CU	
Short Term Rental ⁴¹	CU	NP	NP	NP	NP	P	NP	P	P	P	NP	P	Sec. 8.16
Solar Energy Facility ⁴³	NP	See Section 8.20				NP	NP	See Section 8.20				NP	Sec. 8.20
Special Event Facility	P	P	P	P	NP	P	P	CU	CU	P	P	CU	Sec. 8.14
Storage, Commercial	NP	P	P	P	CU	P	NP	CU	CU	P	P	CU	
Veterinary Services	P	P	P	P	CU	P	P	P	CU	P	P	CU	
Wireless Telecommunications Facilities	P	P	P	P	P	P	P	P	P	P	P	P	Art. 4B
Agricultural Uses*													
Agricultural Uses, as defined in Article 2	P	P	P	P	P	P	P	P	P	P	P	P	
Agricultural Repair Center	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P	
Crematorium, Livestock ³⁷	CU	CU	CU	CU	CU	CU	CU	P	CU	CU	CU	CU	Sec. 8.19
Farm Brewery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Winery or Distillery	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.5
Farm Market	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.6
Farmer's Market	P	P	P	NP	NP	P	NP	P	CU	P	NP	CU	Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P	
Feed and/or Farm Supply Center	CU	P	P	P	P	P	P	P	CU	P	P	NP	
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	CU	P	P	NP	
Landscaping Business	P	P	P	P	P	P	P	P	CU	P	P	NP	
Rental of Existing Farm Building for Commercial Storage Structure must have existed for 5 years	NP	P	P	P	P	P	P	P	CU	P	P	NP	
Special Event Facility, Agricultural	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 8.14
Accessory Uses													
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P	

NC Neighborhood Commercial

GC General Commercial

HC Highway Commercial

LI Light Industrial

MI Major Industrial

PND Planned Neighborhood Development

P Permitted Uses

NP Not Permitted Uses

CU Conditional Uses (subject to requirements of district and/or other requirements of this Ordinance)

** Accessory Use to a planned residential community, if permitted pursuant to Section 5.4 and processed as a CU

¹ The Planning Commission may amend the permitted uses for a development in the PND District per Article 5.

² Approval process is per the Salvage Yard Ordinance.



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 #: 23-2-2
 Date Rec'd: 2-9-23
 Fees Paid: \$2,250
 Staff Int: 81

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: _____
 Business Name: Federal Group Inc
 Mailing Address: 233 Lowe Drive, Shepherdstown, WV 25443
 Phone Number: c/o Paul 304/676-8256 Email: c/o pjraco.consulting@gmail.com

Applicant Contact Information

Applicant Name: _____ Same as owner:
 Business Name: Federal Group Inc
 Mailing Address: _____
 Phone Number: _____ Email: _____

Consultant Information

Name: Paul J Raco
 Business Name: P.J. Raco Consulting, LLC
 Mailing Address: P.O. Box 548, Charles Town, WV 25414
 Phone Number: 304/676-8256 Email: pjraco.consulting@gmail.com

Physical Property Details

Physical Address: 233 Lowe Drive, Shepherdstown, WV 25443 Vacant Lot:
 Tax District: Shepherdstown Map No: 8 Parcel No: 10.9 24.3
 Parcel Size: 24.64 (23.67 +/- Acres + 1.02 +/- Acres) Deed Book: 1230 Page No: 490

Current Zoning District

Residential Growth District

Proposed Zoning District

Residential/Light Industrial/Commercial District

RECEIVED

FEB 09 2023

JEFFERSON COUNTY PLANNING
 ZONING & ENGINEERING

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.

REQUEST FOR MAP AMENDMENT/Rezoning
Federal Group Inc
District 9, Map 8, Parcels 10.9 and 24.3
February 8, 2023

Property Owner and Applicant:

Federal Group, Inc.
233 Lowe Drive
Shepherdstown, WV 25443

Request:

Amend the Zoning Map for the 23.67 Acre Parcel and the 1.02 Acre Right of Way Parcel Based on its Consistency with the Envision Jefferson 2035 Comprehensive Plan, the Future Land Use Guide, and the Existing Uses. Currently, the property is Zoned for Residential Growth, and this Map Amendment is for the Residential/Light Industrial/Commercial District

Section of Ordinance:

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

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

Substantiation for the Request:

1. The request is consistent and extremely compatible with the 2015 Jefferson County Comprehensive Plan (Envision Jefferson 2035), the current uses and the current Zoning. This Plan was adopted by the County Commission after multiple meetings and hearings and places this property in the Preferred Growth Area and the Future Land Use Guide identifies this property as Commercial property. Currently, the zoning allows all forms of Residential Growth. So, between the existing zoning and the proposed zoning, it will cover all existing uses, as well as apartments. The plan's applicable recommendations are explained in this narrative.

2. The subject property is within the Shepherdstown Preferred Growth Area and Growth Boundary (UBG per Code). As such, the Comprehensive Plan supports Urban Level Growth on and around this property.
3. Existing Shepherdstown Public Water and Sewer services are currently available in this neighborhood and serve the existing facilities.
4. Since the Zoning Ordinance was adopted in 1988, there have been several significant changes in the neighborhood. The most significant change was the construction of this facility for the Clarion, the Federal Training Facility and Conference Center, two Restaurants and Lounge, Fitness Center and Government Offices, Other changes in the neighborhood include the development of the Maddex Commercial Area (Food Lion, etc.); the Hartzell Gardens Duplex Subdivision (adjacent); the Tollhouse Ridge Subdivision; the enhancement to the entrance to the western campus of Shepherd University; the rezoning of the Lowe property located on the Route 45 end of the connector road; the Rezoning of the Rankin Property on Route 480 and the Connector Road; Rezoning of the Sheetz Property on Route 45 and construction of the Sheetz Store, the WVU Medical Office Building and the ROCS Store on Route 45 and, the development of the Colonial Hills Subdivision (adjacent) in this neighborhood. These and other changes are described in this narrative.
5. Since the Zoning Ordinance was adopted in 1988, there has also been a significant change in Transportation Characteristics in the area. The most notable change was the construction of the Connector Road which functions as a bypass around Shepherdstown. This road is near the Applicant's property and the Applicant has an Easement to access the road if needed, which is in addition to the main access on Route 480. Road improvements to Route 45 and the West Campus Entrance to Shepherd were also constructed.
6. Current Zoning, Residential Growth, would allow for a dense apartment complex, along with the current existing uses that are approved as a Conditional Use Permit including the Government Office Facility, Conference Center, Public and Private Fitness Center, Rumsey Tavern and Restaurant with Ballroom. Furthermore, the Facility currently has 100 Hotel Rooms and Conference Facilities already on the premises. The plan is to simply replace the hotel rooms with apartments in light of the COVID driven closure of the hotel. Accordingly, there will be little if any discernable difference in the intensity of use after the rezoning

Tax Parcel Information:

Shepherdstown Tax District, Map 8, Parcels 10.9 and 24.3

Deed Book Reference:

Deed Book 1230 at Page 490
Deed Book 967 at Page 723

Sketch Plat:

Attached. The two subject parcels are shaded in yellow.

Tract Size:

Approximately 23.67 Acres and 1.02 Acres for a Total of 24.69+- Acres.

Ordinance Required Discussion on:

The compatibility of the proposed change with the Jefferson County Comprehensive Plan; and,
The change of transportation characteristics and neighborhood from when the original zoning ordinance was adopted in 1988.

A. Comprehensive Plan Compatibility

Among the many recommendations in the 2015, Envision Jefferson 2035 Jefferson County Comprehensive Plan, the following sections address items pertinent to this map amendment.

As found on page 13 of the 2015 Comprehensive Plan, there are only 6 Preferred Growth Areas (PGAs) in Jefferson County that are targeted for urban scale growth. The subject parcel is within the Shepherdstown PGAs. The attached map shows the Shepherdstown PGA. The Comprehensive Plan was recently adopted after several years of meetings in various neighborhoods of the County and after extensive work by the Staff, the Steering Committee, Planning Commission and County Commission. As common with communities that have just adopted a new Comprehensive Plan, there will be many ordinance amendments and map amendments processed in order for the map and ordinances to better reflect the new Plan. In this case, both the 2004 Plan and the new 2015 Plan show this property within the Growth Area around Shepherdstown. The current Plan is more specific in that it shows this property within the Preferred Growth Area and specifically identifies the original property (1988 parcel) for Commercial and/or Residential Development and Urban Level Growth.

The property is now zoned for Residential Growth including apartments and the Applicant would like to expand the capabilities of the property primarily to allow the

existing commercial uses and the conversion of hotel rooms to Apartments. This change is consistent with both the existing uses on the property, the uses that were permitted since 1996 by Conditional Use and mixed use nature of the existing neighborhood. As described in other sections of this document, the residential development in the neighborhood around Shepherdstown (particularly Colonial Hills is this immediate neighborhood) will need some commercial development to provide services in this area. Hopefully, the employees in the government offices existing on site will be able to live in the proposed apartments in the hotel conversion. This property will become a true mixed use community with Office Space, commercial uses including the existing restaurants, lounge, and Fitness Center, along with some retail space (currently the temporary relocation of Christian Caine Jewelry). These uses will not only complement the hotel conversion to apartments but will keep some commercial and retail facilities in the area for the growing residential development around this property.

The Comprehensive Plan's maps and guides continue to show that this property is ready to continue the existing uses and is prime for future development, especially commercial development due to its location. This type of use is what the Commission intended when it was added to the Preferred Growth Area and designated as Commercial or Residential on the Future Land Use Guide and in the Plan.

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

"Land Use Activity Areas

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

Four Comprehensive Types of Land Use Activity within the Designated Areas

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

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

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

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

In this case, the subject property is both in an Urban Growth Boundary (UGB, as defined by the Code) and the Preferred Growth Area (PGA). Therefore, pursuant to the Comprehensive Plan, this location is prime for development since it is in both of these designated areas. The Comprehensive Plan compatibility is combined with the fact that the property has been a Hotel, Conference Center, Fitness Center, two Restaurants, Ballroom and Government Offices and Training Facility for over two and a half decades. Furthermore, it is close to other residential subdivisions.

The most definitive section of the Envision Jefferson 2035 that supports this map amendment is found on Page 20:

“a. Shepherdstown PGA (an area located south and west of Shepherdstown)

This PGA is defined predominately by existing residential and commercial development, existing zoning, and access to water and sewer services. It encompasses an area broadly described as properties on either side of WV 45 past the west end of Old Martinsburg Road to Venice Way and to the south along the west side of WV 480 including land on either side of Potomac Farms Road. This area is included within Shepherdstown’s Growth Management Boundary (GMB) and is the primary area outside of Shepherdstown that this Plan anticipates developing at an urban level even if it remains in the unincorporated area.” (Emphasis Added)

It is clear that this section specifically recognizes this area as primary properties which are slated for Urban Level Growth. Furthermore, it cannot be overdeveloped since the property is already improved with buildings that are used for commercial, office and hotel uses, along with proposed residential around it. It is ideal for professional offices, commercial/retail center that will serve the immediate residential uses in the area, as well as, the conversion of the hotel into apartments. This type of project will provide for services, while keeping traffic to a minimum, compared to the previous and current uses during their heyday. This property was very active after it was improved in 1996 and 1997. It was a primary site for the Middle East Peace Talks in 2000 and hosted many other high level Federal Government gatherings in the past.

Finally, the following recommendation is found in the Urban Level Development Recommendations Table starting on Page 30 of the Plan:

“5. Create urban level land uses within the municipalities, UGBs, PGAs, or Villages through rezoning that is consistent with the Plan recommendations.

The requested Map Amendment is also supported by the following Economic Development portions of the 2015 Comprehensive Plan:

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

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

And on Page 70: Recommendations:

“5. Create a business friendly environment in Jefferson County.

6. Develop methods to promote local business growth which include providing research, support, and marketing resources that would assist business start-ups in Jefferson County.”

Based on these portions of the Envision Jefferson 2035 Comprehensive Plan, the Future Land Use Guide, the Future Development Area Map, and the Shepherdstown PGA Map and the Shepherdstown Growth Boundary (GMB/UGB), the existing uses, and the proposed uses of the existing buildings, this map amendment is consistent and compatible with the Plan. The Consistency and Compatibility with the existing Comprehensive Plan and the Future Land Use Guide are the two most important criteria to be used for a Map Amendment. Also important is the fact that the Plan supports redevelopment of property for the overall economic good of the County. The redevelopment of the property is probably the key reason that the Comprehensive Plan supports the rezoning.

B. Shepherdstown UGB/GMB, Shepherdstown PGA and Future Land Use Guide

The subject property is located squarely in the core of the all the Growth Areas around Shepherdstown. The property, as it existed in 1988 (Adoption of Zoning) is also shown on the Future Land Use Guide as Commercial and/or Residential on and around this property. As there is planned residential in this neighborhood, the rezoning of this property pursuant to the Future Land Use Guide, will allow needed commercial services to support this residential. The PGA, UGM/GMB and Future Land Use Guide are thoroughly discussed in A above.

Based on the location of this property within these areas, the property has already been determined to be an intensive growth area. This area was vetted by the Public, Staff, Planning Commission and County Commission as an area for Urban Level Growth as well as demonstrated by the issued Conditional Use Permit in 1996/97. As stated above, these maps and guides that are a Part of the

Comprehensive Plan are primary resources to be utilized by the Commission to approve a Map Amendment. However, as noted, more importantly, the Plan specifically allows the County Commission to recognize the economic benefits of a rezoning. In this case, because of COVID and the Government pulling in their resources, the hotel has been sitting vacant for multiple years. The most viable redevelopment of the hotel portion is into apartments since they are both residential type uses. However, as it is zoned for residential and the commercial and office uses are only currently permitted by the existing Conditional Use, the conversion of the hotel to residential has been determined to invalidate the CUP. Thus, without the rezoning, the commercial and office uses would be forced to close.

C. Sewer and Water

This property is within the Shepherdstown Water and Sewer Service area and is part of the reason that this area has been included within the Growth Areas and designated as commercial on the Future Land Use Map. This property is specifically served by both Shepherdstown Water and Sewer. As the Comprehensive Plan points out in many sections, Urban Level Growth should be directed into the areas served by central sewer and water. Accordingly, the Plan supports this Map Amendment based on the availability of utilities in this area.

As addressed below, the Shepherdstown Wastewater Treatment Plant has recently undergone a quantity expansion and quality renovation. However, this property along with the existing uses are already served.

D. Change of Neighborhood

It is important to point out that the Zoning Ordinance requires a discussion of the changes in an area since the original Zoning Ordinance was adopted in 1988. Some of these neighborhood changes are recent and others were completed years ago.

The neighborhood has undergone significant changes since the zoning ordinance was adopted. In 1988, the Shepherdstown Wastewater Treatment Plant was nearing capacity and that is probably one of the reasons that more land wasn't zoned for residential or commercial uses at that time (1988). Another huge change in the neighborhood is that the Route 45 Connector Road (Potomac Farms Drive) was constructed in 2000/2001. The subject properties have access to the Connector Road, along with primary existing access to Route 480. This change will be further discussed in the Change of Transportation Characteristics part of the application. Finally, the neighborhood has added a number of residential units in several subdivisions including Maddex, Kensington, Tollhouse Woods and Colonial Hills. Along with this residential growth, other commercial areas have also developed since 1988, leaving a deficit of available commercial land in and around the growth areas of the County. If the rezoning does not add Commercial to the zoning classification, once the hotel officially closes, the office space, restaurants and fitness center would not be a permitted use. This rezoning is the only way that the existing commercial

uses, along with the conversion of the hotel to apartments, can happen. The long time owners/applicants did not have any control over the fact that the Government no longer needed to use the facility once the other Training Facility was built on Terrapin's Neck. However, once COVID hit, it was the straw that broke the proverbial camel's back that closed the hotel for all practical purposes. This rezoning is the only way to allow the redevelopment of an existing large facility for the economic future of the property.

Of course, the main change of neighborhood was that this facility was built in the late 90s and included the Clarion Hotel, Conference Center, Ballroom, Restaurants, Lounge, Fitness Center and Government Training Offices. This was approved as a Conditional Use and has coexisted in the neighborhood for the last two and half decades. Much of the growth around it most likely were a result of the existence of this facility.

The following are changes in the neighborhood that would specifically support the requested change from Residential Growth to the Residential/Light Industrial/Commercial District:

1. Availability of Public Utilities and Services:

Public Water and Sewer is now available in this neighborhood. Furthermore, the recent Wastewater Treatment Plan expansion has increased its capacity to sustain additional growth in the Growth Area Boundaries. The availability of the capacity is a change for this neighborhood since 1988. As stated earlier, one of the Comprehensive Plan's primary objectives is to funnel growth into areas already served by existing infrastructure such as sewer and water:

'This Plan recommends that new development will take place in areas where infrastructure exists and the extension of services to growth in outlying areas will occur in accordance with the goals and objectives of this Plan.' (Page 27)

The allowance of growth in this area because of both the sewer and water and location within the aforementioned UGB/GMA and PGA is also supported by Recommendation 5a found on Page 30:

"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." (Emphasis added)

In this case, the construction of the water and sewer services into this area was accomplished with the help of the current owners/applicant. There would be no unreasonable costs to the community, since Shepherdstown already

serves the site, and the continued use of the site will keep service rates stable.

2. Growth in the Area:

Several large residential projects have been completely developed in this area that would benefit from the continued commercial use and potential expansion of use that would be permitted with this map amendment. Four of these, Colonial Hills, Tollhouse Woods, Kensington Townhouses and Maddex Subdivision (near the northwest end of Potomac Farms Road), are residential developments that are approved with a considerable number of residential units. Colonial Hills and Tollhouse are continuing to develop units and expect substantial growth in the next couple of years. While the Maddex development has a small number of commercial services available to the residents in the Maddex Subdivision area, Colonial Hills, Tollhouse Woods and the previously approved Kensington Townhouses are approved mostly as residential developments and will benefit from continued and future commercial uses on the subject property. As these subdivisions build out, they will most certainly need nearby commercial services available to their residents. Due to the limited area of Shepherdstown and the traffic congestion and parking problems within the town, it is imperative that some commercial services be made available to the residents outside of town. Otherwise, the town will only be surrounded by residential development. Furthermore, these new commercial services should not have a negative impact on the businesses within the Central Business District of Shepherdstown, because of the unique collection of eclectic shops and shops that service college students that are already in town.

Again, the most significant development in the area that was built after the zoning ordinance was adopted is the Clarion Conference Hotel and National Training Center, Fitness Center, Restaurants that were constructed on these parcels. This facility already exists and cannot function as a hotel anymore because of circumstances that were far out of the owners' control. The continued use of the office space and the adaptive reuse of an otherwise currently vacant facility is vital to the County and is supported by the Plan.

The primary area that is zoned for commercial uses in the Shepherdstown Growth area has mostly been developed. The original zoning map only allowed for limited areas for commercial development in the Shepherdstown Growth Area. These areas were zoned for the Mixed-Use District. Most of that commercial area was the Maddex Farm area that is now almost entirely developed for commercial uses. Therefore, it is vital to add some commercially zoned properties on the south and west side of Shepherdstown. Otherwise, commercial growth in the Shepherdstown Growth Area will not be

able to meet the demands of the residential properties in that growth area. This map amendment is a perfect opportunity to take some property slated exclusively for residential use and allow it to develop commercially. It will also provide for some limited commercial development in the area to serve the residential developments in the area.

Finally, the owner of this property also has opened the facility to Christian Caine, a local Jewelry Designer in Jefferson County for the past 25 years. They are currently relocated from the Maddex Square Shopping Center due to a fire and are strongly considering a move to this property if the map amendment is approved. The County Staff has allowed the business to operate while processing for this rezoning. Thus far, the Staff is supportive of the rezoning since the property has been utilized for commercial and been zoned for residential for many years. If the business does not stay, similar types of retail, office and commercial uses are contemplated for the first floor of the former hotel facility.

E. Change of Transportation Characteristics:

Please note that this property is already zoned Residential Growth. As such, there should be little significant difference in traffic from this property if it is rezoned to Residential/Light Industrial/Commercial. As a matter of fact, it should provide for less traffic if this property is allowed to keep its office and commercial uses and change the hotel area into a permitted apartment complex. Additionally, a small-scale commercial and existing office center would have a more favorable outcome regarding traffic since some of the local residents could utilize the commercial services available if the property is rezoned. A small commercial center on this property will accomplish that goal.

The addition of this connector road (functionally a bypass), along with the expanded entrance into the western campus of Shepherd University, has considerably changed the transportation characteristics of the expanded neighborhood. These two improvements have allowed traffic to bypass Shepherdstown to keep pass through traffic away from the more congested areas of town. The addition of commercial services in the western and southwestern areas of Shepherdstown should further reduce commercial traffic in the downtown area of Shepherdstown, without negatively affecting the unique collection of shops in town.

F. Current Permitted Uses on the Subject Property:

Under the current zoning, the property can currently be converted into a residential apartment complex by virtue of its Residential Growth designation. However, this

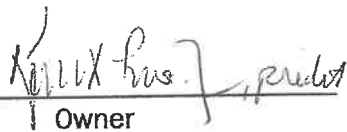
would actually invalidate the existing commercial uses since it was determined that the conversion of the hotel into apartments would invalidate the CUP. No one seems to debate this odd occurrence, so all involved in the request seemingly support the rezoning. The already approved subdivisions in the neighborhood should be better served by some continued commercial and office uses as opposed to just housing. This map amendment would also allow the commercial and office uses to continue to be taxed at a higher rate. The simple existence and size of the facility itself will limit the size and scope of a potential commercial or office building. This property is not capable of supporting huge commercial or industrial uses due to the existing building and potential setbacks. The Applicant is requesting the change because the existing commercial aspect would be lost without the rezoning. Furthermore, it appears that the County Commission has been very supportive of enhanced business opportunities, as well as, proper and needed redevelopment in Jefferson County that this map amendment would allow. This rezoning would allow a true mixed use development to exist on the property. There will be Office Space (existing), retail and service space (existing), and apartments above the existing commercial space. This type of development is completely supported by Staff and Comprehensive Plan.

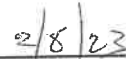
G. General Policy of the Comprehensive Plan:

As cited in the previous pages, there are specific sections of the Comprehensive Plan that support this map amendment. Consistency with and Compatibility to the Envision Jefferson 2035 Comprehensive Plan and economic benefit to the County are the prevailing reasons that the Commission should grant approval to a Map Amendment or Rezoning. This proposal very much meets those requirements. Beyond the specific provisions, the general policies found throughout both the current Plan and the previous Plan (2004) support this map amendment. This property has been located within the primary growth area around Shepherdstown for many years. Finally, most of the existing uses will remain, they just need this approval since the original Conditional Use Permit was based on the Federal Conference and Training facility. Additionally, the hotel use cannot exist without the government using the facility for conferences. That lack of use by the Federal Government, combined with the complete shutdown of the hotel as a result of COVID has placed the property in a catastrophic position of nearly closing. The long time owner/applicant is attempting to redevelop the existing hotel into apartments which will allow the property to continue to survive with a mix of commercial and residential development. As such, this request should respectfully be approved.

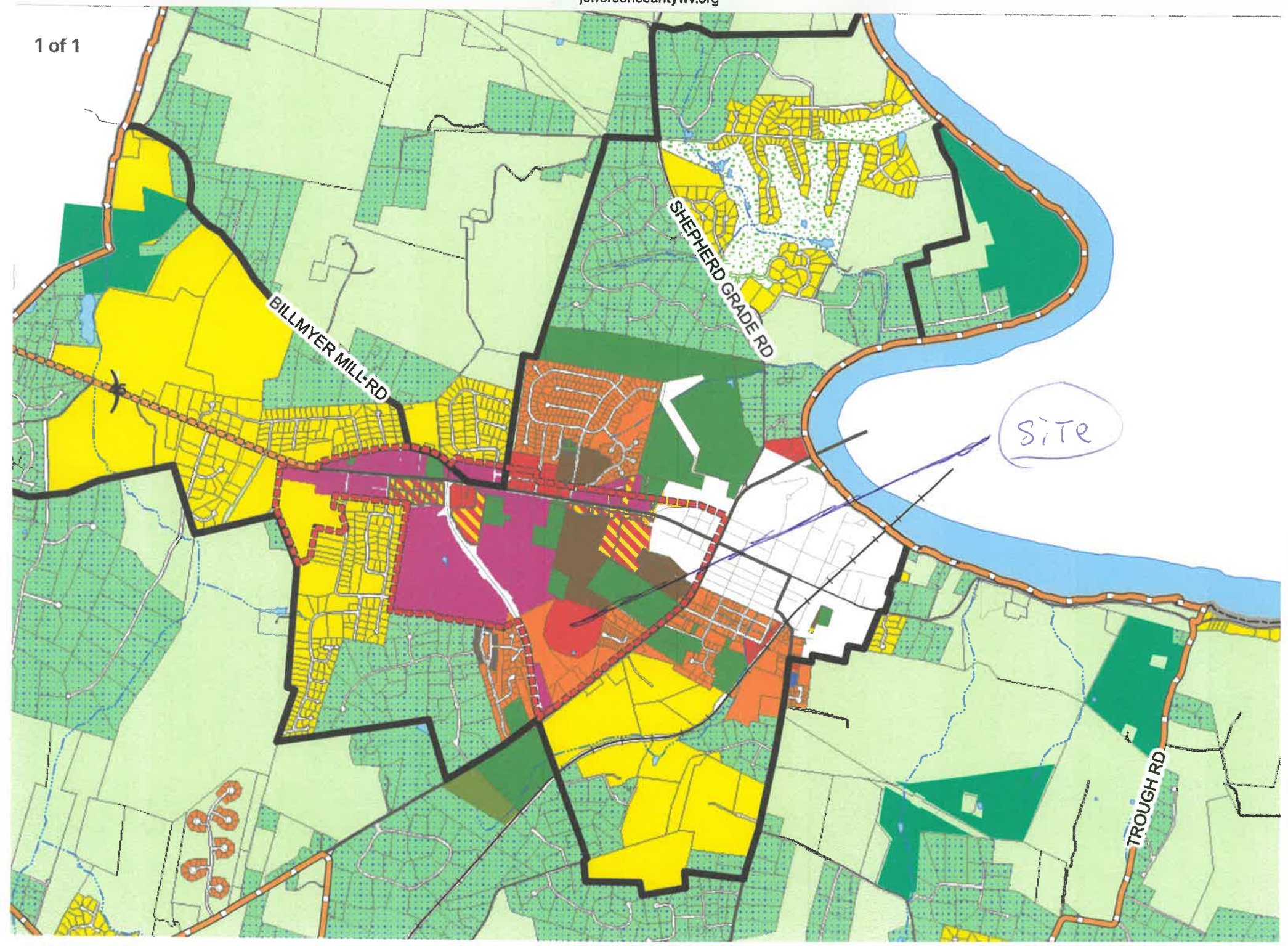
H. Conclusion:

The Applicant is requesting this map amendment for these two parcels for the benefit of economic redevelopment in Jefferson County. Therefore, the Applicant respectfully requests that the County Commission approve this map amendment to the Jefferson County Zoning Map. This Application cites many reasons why the map amendment should be approved. The request and proposed uses are entirely consistent with the current existing uses, the Future Land Use Guide, and the Comprehensive Plan. The property is within the Shepherdstown Preferred Growth Area (PGA) and the UBG/GMA and is currently zoned for residential and is shown as commercial on the Future Land Use Guide. As such, the request is very consistent with the recommendations and policies in the Comprehensive Plan. The Applicant also believes that: the 2015 Envision Jefferson 2035 Comprehensive Plan (and the previous 2004 Plan); the general philosophy of the County Commission regarding business enhancement and redevelopment in Jefferson County; and the changes in the neighborhood from when the original zoning ordinance was adopted all support the requested map amendment. Finally, the Comprehensive Plan allows the County Commission to grant rezonings and map amendments based on the economic good of the County. The requested rezoning will change this property's zoning designation from the Residential Growth District to the Residential/Light Industrial/Commercial District. Thank you for the Commission's consideration of the request.


Owner


Date

1 of 1





Jefferson County, West Virginia

Department of Engineering, Planning, and Zoning

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MEMO

TO: Jefferson County Planning Commission
FROM: Jennie Brockman, AICP, Chief County Planner
DATE: February 17, 2023 (Revised from 7/6/11 Policy)
RE: "Vested Property Rights for Concept Plans and Preliminary Plats" Policy (Revised)

The following is a policy approved by the Planning Commission on February 14, 2023 to clarify the required time frames for Major Subdivisions as found in Section 20.105.C(1) and Section 24.115C and to address the processing of a phased Major Subdivision:

1. The following statement "The vesting period for an approved preliminary plat or major site plan which creates the vested property right is five years from the approval of the plat or site plan by the Planning Commission" takes effect the date the Planning Commission approves a motion to approve the preliminary plat or site plan, with or without conditions, after a public hearing.
2. If a Major Subdivision is processed in Phases, all required Final Plats for the area included in the Preliminary Plat shall be approved within the five year vesting period, unless a waiver for an extension is approved by the Planning Commission after a Public Hearing.

This supplements the following excerpt from a policy approved on July 6, 2011:

Section 24.109.C. states the Planning Commission's direction during the Concept Plan Workshop shall be applicable for a period of two years, with the provision that any amendments to these regulations or the Zoning Ordinance in the second year shall control. It is staff's determination that the preliminary plat must be submitted and approved within the two year period of time which the concept plan direction is in effect.

Section 24.113.C. states the Planning Commission's approval of the preliminary plat is good for a period of five years. The applicant may then submit a final plat for review and approval. It is staff's determination that the final plat must be submitted and approved within the five year period of time the preliminary plat approval is in effect.

As specifically outlined in Section 24.118 a final plat approved by the Planning Commission must be filed and recorded, in accordance with W.VA Code §39-1-13, within 180 working days.

The proposed project shall be considered void if there is a lapse of time in any stage of approval process.

Approved by Action of the Planning Commission: 6 FOR 0 AGAINST

President, R. Michael Shepp

2/21/2023

Date



Jefferson County, West Virginia

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Planner's Memorandum Planning Commission Meeting March 14, 2023

1) Engineering, Planning and Zoning County Offices Contact Information

The Department of Engineering, Planning and Zoning Mason Building is open to the public.

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) Upcoming PC meeting

Next Regular meeting date: April 11, 2023