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Jefferson County Commission  
PO Box 250  
124 East Washington Street  
Charles Town, WV 25414

September 21, 2011

Subject: Zoning Ordinance Amendment by Petition

Commissioners,

The undersigned owner(s) of land identified as Shepherdstown District; Tax Map 13 parcels 26.1, parcel 26.2, parcel 26.3 and parcel 26.4 requests a zoning map amendment. This request is being made through the procedures identified in WV Code 8A-1-1, 8A-7-9 and JC Zoning Ordinance Article 12 Section 21.1 and 12.3.

The purpose of the amendment is a change in designation of the subject property from the current designation as "Rural District" to "Commercial-Industrial District".

Narrative of substantiation for this request:

The property included in this request has been in continuous commercial use since 1968. The subject property is an island surrounded by suburban residential development. Placing a commercial-industrial zoning designation will accomplish several Comprehensive Plan goals. One of those would be to turn suburban sprawl into a mixed use community. Residential development would be prohibited while local jobs, commercial opportunities and neighborhood retail needs could be enhanced.

A case could be made that the requested zoning classification should have been updated to commercial-industrial when the property was first zoned. At a minimum, it could have been rezoned during subsequent zoning map amendments initiated by the County Commission.

Uses have included a restaurant, approved plans for high density mixed use development and commercial activities including Farm markets, community events and a community garden. All of these activities have received both local government and community support.

Economic development and commercial investment depend on predictability. In order for this property to continue attempts to fill local community needs it is imperative that the regulations regarding permitted use of the property be firm and understood. Site development planning and community participation are not possible if every potential

future use must be approved one piece at a time. It is much more efficient and beneficial for property development and public participation to have firm plans that can be evaluated, regulated and approved.

Current plans for the property are based on previous experience and current social-economic trends. Those plans include 15,000 square feet of commercial-retail space. The space would be in one or more individual structures. Negotiations for various operators of that space are in progress. The major theme of development will continue to be in support of the agricultural industry of Jefferson County. Providing facilities for entrepreneurs, small local retail and professional services is a priority.

This next step in developing the property and a community partnership cannot move forward without the predictability of the requested Zoning Amendment.

Thank you for your consideration.

*Signed*

Peter S. Corum \*  
Property Owner

*Signed*

J. Edward Slonaker \*  
Property Owner

\*(Member of Twin Oaks Subdivision, LLC)

Attachments:

1. Tax District, Map and Parcel Number, Deed Book reference, Plat & Tract Size.
2. Comprehensive Plan compatibility of the proposed change.
3. Any change of transportation characteristics and neighborhood from when the original/current ordinance was adopted.

Copy submitted to Jefferson County Clerk (per WVC 8A-7-9 (a))

**Name and address of owner(s):**

Parcel 26.1 and 26.3  
Twin Oaks Subdivision, LLC  
PO Box 536  
Shepherdstown WV 25443  
Tel: (304) 283-2467

Parcel 26.2  
Peter S. Corum\*  
PO Box 536  
Shepherdstown WV 25443  
Tel: (304) 283-2467

Parcel 26.4  
J. Edward Slonaker\*  
PO Box 536  
Shepherdstown WV 25443  
Tel: (304) 283-2467

\*(Member of Twin Oaks Subdivision, LLC)

Developer of all Parcels  
Twin Oaks Subdivision, LLC  
PO Box 536  
Shepherdstown, WV 25443  
Tel: (304) 283-2467

**Name and address of contact person:**

Peter Corum  
PO Box 536  
Shepherdstown, WV 25443

Tel: 304 283-2467

**Tract size, shape, location and zoning:**

The proposed area for zoning amendment is located in Shepherdstown District; Tax Map 13 parcel 26.1, parcel 26.2, parcel 26.3 & parcel 26.4.

The original tract acres:

Parcel 26.1	6.69 acres	DB 995	PG 321
Parcel 26.2	2.0 acres	DB 454	PG 445
Parcel 26.3	3.0 acres	DB 992	PG 60
Parcel 26.4	2.0 acres	DB 974	PG 346

The parcels have a total acreage of 13.69 acres.

Current zoning:

"Rural District"

Plat, locator maps and tax map attached as pages 2, 3, 4 and 5.

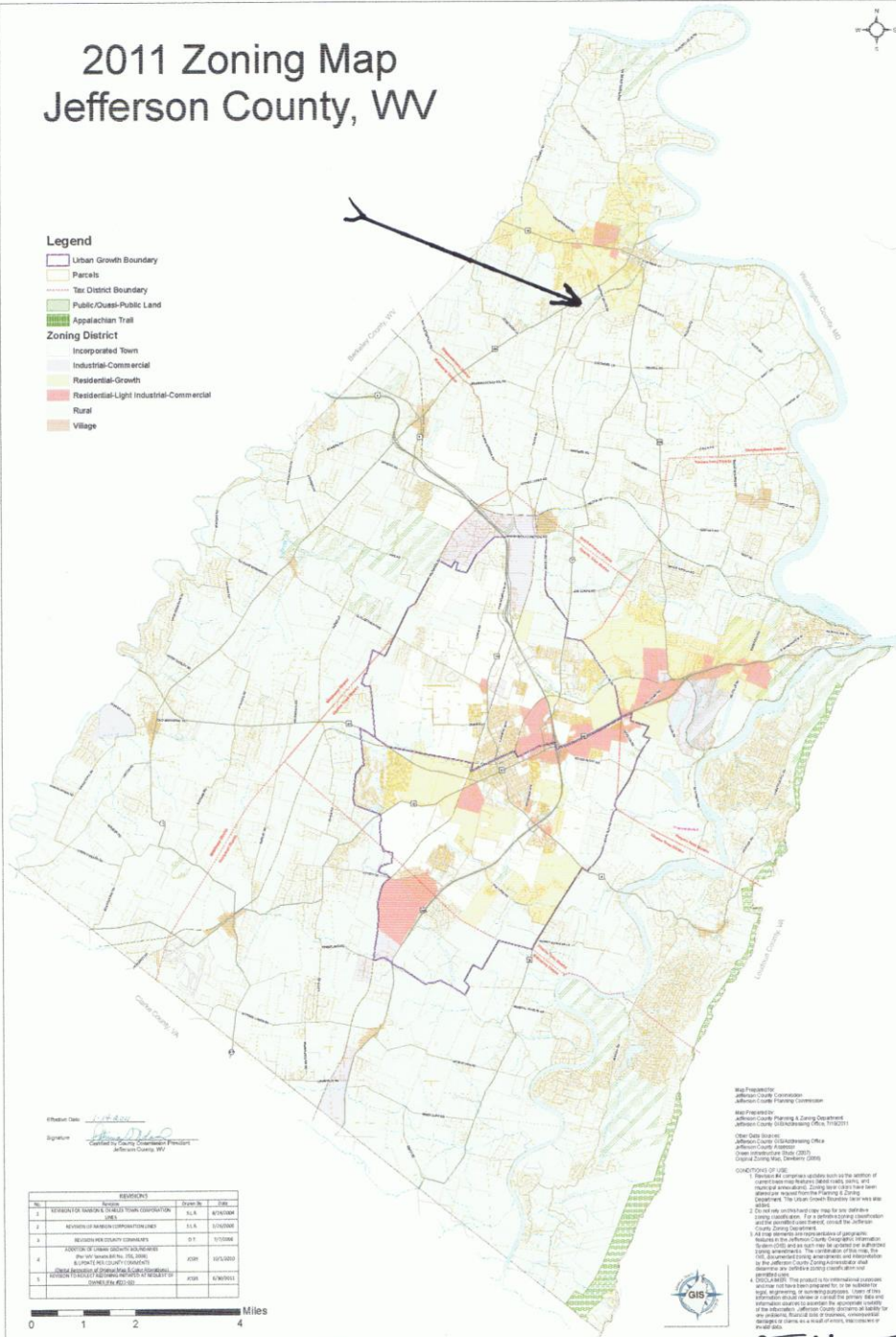


# 2011 Zoning Map Jefferson County, WV



### Legend

- Urban Growth Boundary
- Parcels
- Tier District Boundary
- Public/Class-Public Land
- Appalachian Trail
- Zoning District**
- Incorporated Town
- Industrial-Commercial
- Residential-Growth
- Residential-Light Industrial-Commercial
- Rural
- Village



Effective Date: 1/1/11  
 Signature: [Signature]  
 Jefferson County, WV

No.	Project	Drawn By	Date
1	REVISION TO WASHINGTON COUNTY ZONING ORDINANCE (SUE)	S.A.	8/15/2004
2	REVISION TO WASHINGTON COUNTY ZONING ORDINANCE (SUE)	S.A.	11/15/2004
3	REVISION TO WASHINGTON COUNTY ZONING ORDINANCE (SUE)	S.A.	11/15/2004
4	ADOPTION OF WASHINGTON COUNTY ZONING ORDINANCE (SUE)	JKM	10/5/2005
5	ADOPTION OF WASHINGTON COUNTY ZONING ORDINANCE (SUE)	JKM	8/16/2011



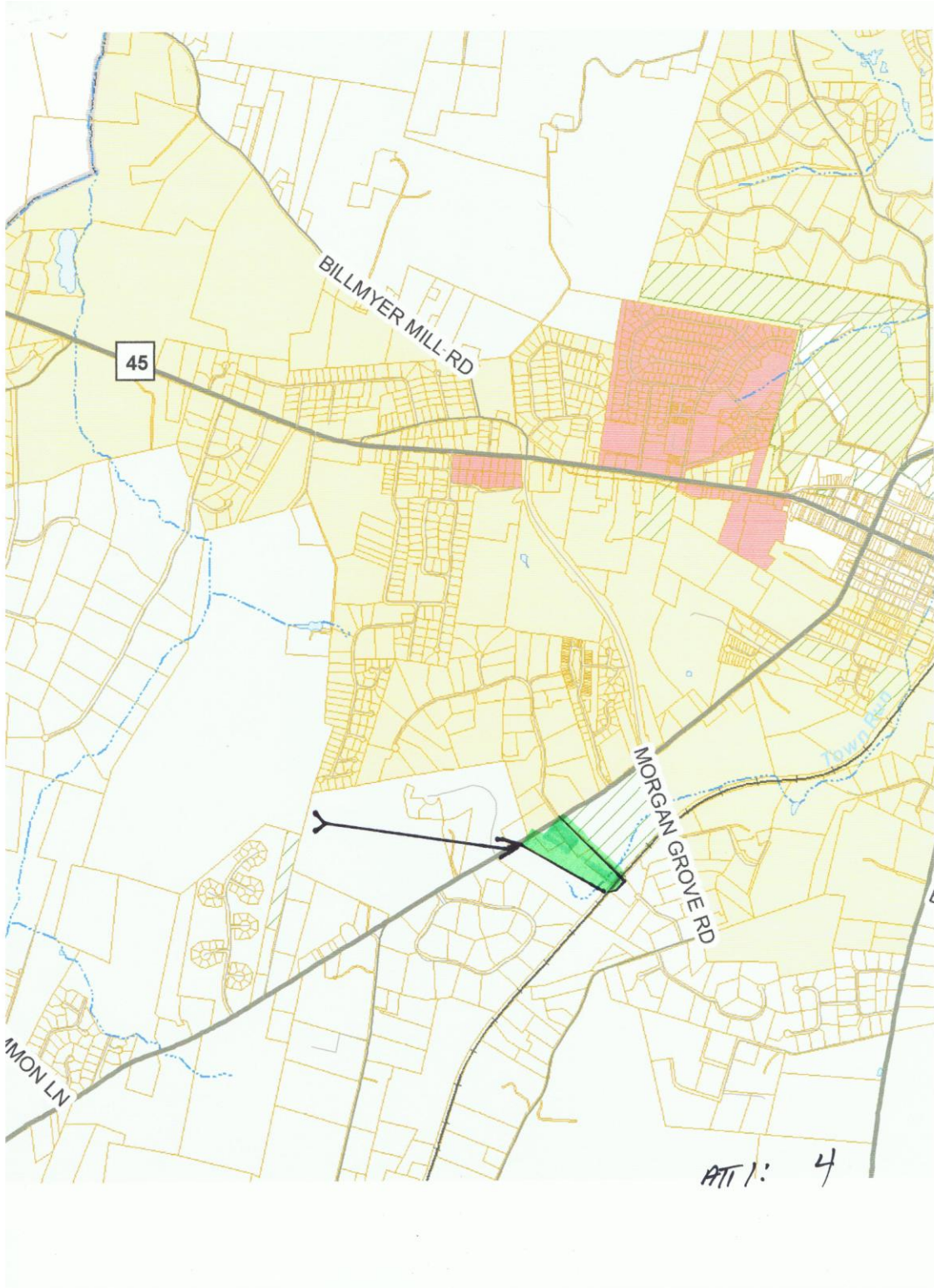
Map Prepared by: Commission  
 Jefferson County Planning & Zoning Department  
 Jefferson County, West Virginia

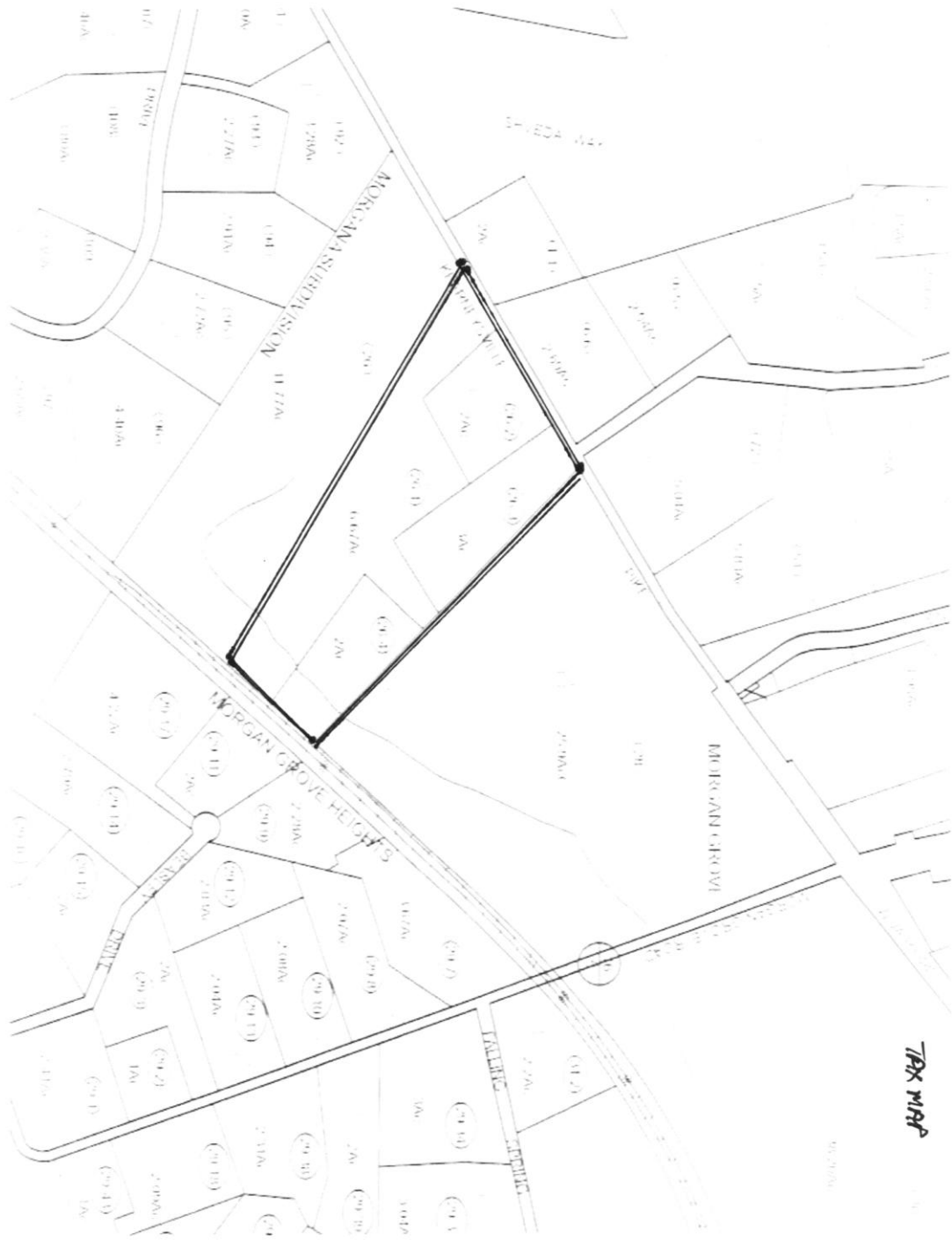
Other Data Sources:  
 Jefferson County GIS/Mapping Office  
 Jefferson County Planning & Zoning Department  
 Jefferson County, West Virginia

CONVENTIONS OF USE:  
 1. Symbols are explained in the text of the ordinance.  
 2. In the absence of a specific provision, the provisions of the ordinance shall apply.  
 3. The provisions of the ordinance shall be construed liberally in favor of the public interest.  
 4. The provisions of the ordinance shall be construed in accordance with the public interest.



ATT 1: 3





**Comprehensive Plan Discussion**

Jefferson County – A Vision (page 8)

Plan Vision

This Plan recognizes that for our county to remain a vital, attractive community, new growth must include a balance of jobs and housing and be respectful of the very qualities that are attracting new residents every year: the rural landscape, the natural beauty and the pleasing character of our towns and villages.

*(Focus on economic development and infilling residential development with local jobs and retail opportunities creates that living version of the vision being described.)*

Plan Policies

This Plan encourages new development patterns that foster mixed-use neighborhoods so that a sense of community begins at the subdivision levels.

*(The proposed rezoning is intended to enhance current attempts to provide low impact, high quality commercial, distribution, professional services and retail in the area. This can only be accomplished by the proper zoning designation.)*

This Plan recommends that Jefferson County's natural features, particularly stream valleys, be conserved as green space and that significant natural features be afforded protection as development proceeds.

*(Subject property includes a portion of Town Run. Designating this property as Commercial-Industrial will ensure the strictest stream, storm water management and environmental regulatory compliance will be enforced. Development standards and level of review will be beyond that of any other zoning district designation.)*

This Plan encourages economic development so that residents can live and work in the County.

*(Specific permitted uses and the predictability of business development approval is essential for professional, retail and commercial services recruitment. These types of economic development opportunity will benefit local surrounding residential communities. Jobs, services and local retail will enhance quality of life issues supported by this Comprehensive Plan.)*

This Plan encourages the opportunity to farm and recognizes the changing shift in agriculture to include large family owned farms and smaller agricultural operations.

*(Economic sustainability is a key component of maintaining viable farming operations. Open space combined with quality farm land production. Providing commercial space*

*for value adding and aggregation of agricultural products for redistribution is essential to sustainable farming operations. This location continues to work toward providing those necessary components.)*

This Plan recognizes existing population centers as the focus of new, more intense development and the importance of working with municipalities to assure a pattern of development consistent with the Plan vision.

*(The subject property is an island surrounded by suburban residential development. Placing a “by right” commercial-industrial zoning designation will accomplish several Comprehensive Plan goals. One of those would be to turn suburban sprawl into a mixed use community. Residential development would be prohibited while local jobs, commercial opportunities and neighborhood retail needs could be enhanced.)*

This Plan identifies strategies to assure that community facilities and transportation infrastructure are provided in sequence with new development.

*(Proper zoning designation will fill a void in this area of the county. The surrounding area is virtually surrounded by classic suburban residential housing. It is devoid of job and retail service centers. There is no place to buy food, small household needs or enjoy informal social activities. Commercial long term primary employment is extremely limited.)*

#### Chapter 2: The Role of the Comprehensive Plan (page 12)

The most readily apparent example of this implementation is the adoption of the Zoning Ordinances in 1988. The Zoning Ordinance was adopted during the period when the county's 1986 Comprehensive Plan was in effect. When the 1994 Comprehensive Plan was adopted, all subsequent amendments to the Zoning Ordinance should have conformed with the policies on the new Plan. The 1994 Comprehensive Plan should not have been, (nor should this Plan be), retroactively applied to regulations adopted prior to its effective date.

*(A case could be made that the requested zoning classification should have been updated to commercial-industrial when the property was first zoned. At a minimum, it should have been rezoned during subsequent zoning map amendments initiated by the County Commission.)*

Rule of Construction and Interpretation: This Comprehensive Plan is not intended to replace or supersede definite, specific ordinances that were in effect at the time of its adoption; instead, its purpose is to lay the foundation for the future enactment of land use ordinances. Proposals for future revisions, amendments or enactments of the land use and development ordinances should be reviewed for conformity with this Comprehensive Plan.

*(The subject property has been in continuous commercial since 1968. There have been several development proposals since zoning was first enacted. The last two uses were*

*approved by conditional use permit or interpretation of current rural zoning restriction. In order for this property to continue as a community asset, the proper zoning designation should be changed to commercial-industrial.)*

Statement of Goals (page 19)

A list of general goals was adopted as guidelines for the preparation of the 1986 Comprehensive Plan. These goals were readopted unchanged and incorporated into the 1994 Comprehensive Plan. "Webster's Dictionary" defines a goal as "the end toward which effort is directed." Given the changing nature of the County, adjustment of these goals is necessary to meet anticipated challenges. Therefore, adopts the following goals as the guidelines for the 2003 Comprehensive Plan, with no particular purpose as to their order:

Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable cost to the community.

*(Development in the requested zoning designation is required to pay ALL costs incurred to provide services. There is no new residential component. Commercial-Retail-Industrial defined projects must be completed without cost to current infrastructure providers. Taxes and fees for service are charged at the highest approved rate. This is usually viewed as a benefit to predominantly residential neighborhoods.)*

Promote growth and development that are both economically and environmentally sound.

*(Current local, state and federal regulation ensures that both goals are met.)*

Promote the maintenance of an agricultural base in the County at a level sufficient to encourage the continued viability of farming in all its various forms.

*(Maintaining an agricultural base requires providing product outlets. Wholesale and retail operations run in the local area provide the best prospect for local support of local goods.)*

Encourage and support commercial, industrial, and agricultural activities to provide a diversified and sound local economy.

*(That is EXACTLY what this zoning amendment is about.)*

Promote the conservation of the natural, cultural, and historical resources and the preservation of scenic beauty.

*(Infill commercial development of suburban residential areas is one of the ways to accomplish this goal.)*

Advocate the maintenance and improvement of transportation systems so that people and goods can move safely and efficiently throughout the County.

*(Property owners requesting this change have been pro active in dealing with transportation and safety improvements. The most visible example the successful lowering of the speed limit not only for this property but for the benefit of existing residential and social activities in the area of the property to be rezoned. Applications and approvals for other potential highway improvements are in the process of being reviewed.)*

Promote a diversity of housing within the County.

*(The requested zoning designation does not allow a variety of housing types.)*

Support and protect private property rights while supporting and protecting overall public health, safety and general welfare.

*(Applying the proper zoning designation and enforcing ALL the associated regulation will accomplish this goal)*

Promote a Planning and Zoning process that is understandable and straightforward, with ample opportunity for meaningful public input.

*(This re-zoning application and the subsequent public participation requirements accomplish this goal.)*

Promote pedestrian friendly, livable communities.

*(Approval of this re-zoning will work toward this goal. Jobs, commercial and retail opportunities will become available to the surrounding residential neighborhoods.)*

### Chapter 3: Management of the Natural and Built Environment.

#### Recommendation 3.12 (page 54)

##### A Diversified Agriculture Industry

Economic viability is key to the survival of farming. However, economic viability is contextual. The 1997 USDA Census of Agriculture reported that 47% of Jefferson County farmers have full-time jobs elsewhere and 57.7% of county farms produced less than \$10,000 in sales annually. Seventy-five percent posted sales of less than \$25,000. This is not unique to Jefferson County. Off-farm employment is becoming a way of life throughout the farming community.

*(Approval of the requested zoning designation of commercial-industrial will help support this recommendation. The statistics presented clearly demonstrate that wholesale and retail outlets are required to make small scale farming sustainable. Aggregation and wholesale redistribution fill the gap between having to supplement farming operations with other income and economic viability of small farm preservation.)*

**Existing County Economic Development Efforts:** (page 64)

**According to the United States Department of Commerce, economic development is fundamentally about enhancing the factors of productive capacity – land, labor, capital and technology – of a national, state or local economy. By using its resources and powers to reduce the risks and cost which could prohibit investment, the public sector has often been responsible for setting the stage for employment generating investment by the private sector. This is as true in this State and County as it is in other parts of the country.**

**Recommendation 3.18:**

The County should continue to pursue new industrial and commercial development in order to diversity its economy, increase the tax base and thereby mitigate the problems of increasing residential growth, and provide quality employment opportunities to its workforce.

This recommendation mirrors the existing mission statement of the Jefferson County Development Authority. It also encompasses a myriad of factors that affect the County's ability to succeed in new business attraction, addressed here individually:

*(Re-zoning of the particular property is essential toward meeting this recommendation. The property's historic use has been commercial and approved, but unbuilt, residential use. By granting the zoning designation of commercial-industrial, the predictability that economic and commercial development requires can be met. Business will be allowed and new residential development will not. Balance is what this recommendation seeks.)*

**Recommendation 3.21:** (page 68)

Once recommendation 3.20 is accomplished the County should review different zoning methods to see if LESA is still the zoning of choice for the County.

**Transferable Development Rights**

Transfer Development Rights (TDR's) programs can be effectively used to allow landowners in the far reaches of the county to benefit from the development potential of their property without actually developing the land, while focusing the development the lots that would have been on that property in areas that are more appropriate for development. To avoid having to amend this Plan in the future to justify instituting a TDR program, this plan endorses investigating the creation of a TDR program in the Rural District. Further study will be required regarding how such a plan should be implemented and where the density receiving area should be.

*(Support of the farm community, preserving valuable agricultural land and maintaining individual property value is a challenge. Applications such as this one should be viewed*

*as working drafts for the Transferable Development Right program. Assessing best use practices in the rural zoning district, combined with fair compensation for land restrictions is one of the best solutions to a land management dilemma. The proper use of the applicant property is the historic commercial use that is being requested. That is the best option under current zoning regulation. The addition of a functioning TDR program might provide the additional flexibility both landowners and regulators desire. The applicant is more than willing to work with county staff toward forwarding the TDR discussion.*

## Jefferson County 2020

### Industrial Commercial District (page 70)

This district permits uses of a heavy or light industrial nature, including commercial uses, which include "manufacturing, processing, and commercial uses which may require extensive transportation and central or public water and sewer services". Consumer oriented commercial uses are permitted but not encouraged. A set of specifically identified uses and activities, presumably identified because of their potential toxic or other nuisance characteristics, are listed as permissible only if approved under the Development Review System. No standards are included in the text that apply to whether these conditional use permits should be issued; an issue easily corrected.

*(This district is the most appropriate for the property. It allows commercial, retail and industrial uses. Those are all subject to specific standards and requirements. The property itself is actually self limiting based on size and infrastructure available. There does not seem to be a foreseeable circumstance that would allow "industrial" classified development. On the other hand, this district restricts residential development in existing statutory form. The development and site plan requirements for this district are the most thorough in protecting the environment and neighbors. When permitted uses of this district are placed side by side with the residential growth-light industrial-commercial district, it becomes clear that commercial-industrial is the right district for this property.)*

### Residential Growth – Light Industrial – Commercial District (page 71)

This zone, commonly referred to as the "mixed use" zone, permits uses of a light industrial and commercial nature, as well as a spectrum of residential and institutional uses ranging from single-family dwelling units to multi-family apartments and group homes. Residential uses must conform to the standards set forth in the Residential Growth District, but industrial and commercial uses are required to conform to a set of specific performance criteria, which include numerical measurements of several factors for uses that may have nuisance effects on adjacent uses.

*(This district has most of the same permitted commercial uses as the commercial-industrial district. The down side is that this district also allows future residential development as a permitted use. That designation is not appropriate for the applicant*

*property. It has also been determined that voluntary restrictions on a zoning district's permitted uses are questionable at best.)*

Measuring the Implementation of Recommendations Found in This Plan (page 97-98)

Rule of Construction and Interpretation: This Comprehensive Plan is not intended to replace or supersede definite, specific ordinances that were in effect at the time of its adoption; instead, its purpose is to lay the foundation for the future enactment of land use ordinances. Proposals for future revisions, amendments or enactments of the land use and development ordinances should be reviewed for conformity with this Comprehensive Plan."

Through the statement of this rule of construction and interpretation, this Plan gives specific guidance to all readers that this Plan is general and advisory in nature, containing goals that may or may not ultimately be implemented, depending up on time, funding, political will and other factors. When the background discussion of this text or the stated goals of this Plan conflict with the Ordinances, the Ordinances, as an adopted element (and the specific implementation of the 1994 Plan (and subsequent ordinance amendments being implementation of the recommendations found in this Plan) shall take precedence over the text and recommendations when reviewing land use development proposals.

*(The applicant couldn't agree more.)*

**Attachment 3:**

September 21, 2011

Change of transportation characteristics and neighborhood from when the original/current ordinance was adopted:

Transportation characteristics have change since 1988. Over the years several improvements have been made to address traffic flow and safety issues. WV DOH has built what is now referred to as the Shepherdstown bypass. It has helped with the issues at and around the 4 way stop in Shepherdstown. The speed limit was lowered through the area of this zoning change request. That was done at the request and effort of the current applicants in response to neighborhood concerns about speed and safety.

Traffic counts conducted by the WV DOH have remained fairly consistent for the past 5-10 years. 2002, 2005 and 2008 reports show a modest increase in the area. WV DOH has seen the property that is requesting zoning amendment. There have been approvals of design standards for mixed use and commercial development access to the existing road frontage. Those designs and recommendations will be reviewed based on any development plan that is submitted for commercial property use.

Neighborhood characteristics have gradually changed over the past decades Suburban residential development has change the rural setting from the original ordinance date of 1988. We have included three Google Earth photos of the area. They are dated 1988, 1997 and 2009. They show that the neighborhood surrounding the area to be amended has changed character. One of the more interesting points comparing photos is the increase in tree canopy as the area developed.

Three Google Earth photos. 1988, 1997 and 2009



1988



1997



2009