

Planning Commission Report of Findings  
Concerning the  
Consistency of the Proposed County Zoning  
Ordinance  
With the  
Jefferson County Comprehensive Plan

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# Introduction & Purpose

For several years, the County has been engaged in the effort to prepare a new traditional Zoning Ordinance to replace the non-traditional Zoning Ordinance currently in place. This initiative was brought on by community concern that the current ordinance provided no predictability in guiding the future development pattern of the County due to its heavy dependence on the use of a "Land Evaluation Site Assessment" methodology, commonly referred to as LESA, to guide growth. Essentially, the LESA system provided no assurance that areas zoned rural would remain rural in character. The cumulative effect of LESA as administered over time has been to foster a sprawl pattern of development in the County. This development pattern has adversely affected several important planning objectives. Efforts to protect and retain farmland have been impaired by this system of land-use management. Likewise, efforts to contain growth to targeted areas identified in the County Comprehensive Plan have been compromised since the LESA system has brought uncertainty regarding where the next subdivision or development may occur in the County. Experience with the LESA system has also demonstrated its failure to encourage a development pattern that is cost-effective or serviceable in form.

The current County effort to replace a non-traditional Zoning Ordinance with a traditional Zoning Ordinance requires that the County Planning Commission review the proposed Zoning Ordinance to determine its consistency with the 2004 County Comprehensive Plan. The following report has been prepared by the Planning Commission to document its findings in this regard in accordance with West Virginia State Code requirements contained in Section 8A-7-2, Section 8A-7-4 and Section 8A-7-8 of the Code.

## West Virginia Code: Statutory Authority and Requirements

### Section 8A-7-2

The West Virginia State Code, Section 8A-7-2(a) identifies fourteen (14) concerns that must be considered when enacting a Zoning Ordinance. Section 8A-7-2 further notes that:

“(c) A zoning ordinance shall:

- (1) Create a board of zoning appeals;
- (2) Specify certification requirements for zoning districts that are consistent with the governing body’s comprehensive plan;
- (3) Adopt procedures and requirements for nonconforming land uses;
- (4) Adopt procedures and requirements for variances; and
- (5) Adopt procedures and requirements for conditional use permits.”

## ***Planning Commission Findings***

*The County Planning Commission has considered each of the 14 concerns described in Section 8A-7-2 and many others over the period of time during which preparation of the proposed Zoning Ordinance has been deliberated. The Planning Commission finds that the proposed ordinance supports the existence of the current board of zoning appeals, specifies certification requirements for zoning districts that are consistent with the Jefferson County 2004 Comprehensive Plan and adopts procedures and requirements for nonconforming land uses, variances, and conditional use permits as mandated by Article 8A of the West Virginia Code. Each of these provisions is specifically addressed in the proposed Zoning Ordinance.*

### **Section 8A-7-4**

Section 8A-7-4 of the West Virginia State Code identifies requirements that a “study and report on Zoning” be prepared by the County governing body with the County Planning Commission before enacting a Zoning Ordinance. The Code notes that the study may include:

- “(1) Evaluating the existing conditions, the character of buildings, the most desirable use for the land and the conservation of property values in relation to the adopted comprehensive plan; and
- (2) Holding public hearings and meetings with notice to receive public input.”

Section 8A-7-4 also notes that:

“The Planning Commission must use the information from the study and comprehensive plan and prepare a report on zoning. The report shall include the proposed Zoning Ordinance, with explanatory maps showing the recommended boundaries of each district, and the rules, regulations and restrictions for each district.” It further notes that “no zoning ordinance may be enacted without a study and report.”

## ***Planning Commission Findings***

*The Planning Commission finds that during the past few years, as the proposed Zoning Ordinance has been constructed, that both the County Commissioners and Planning Commission members have evaluated a wide range of existing conditions, the character of buildings and development trends in the County, the most desirable use for land in the County, and the conservation of property values in relation to the goals, objectives and policies identified in the 2004 Jefferson County Comprehensive Plan. Several reports have been prepared over the past five years to document these many considerations made by both the County Commissioners and the Planning Commission. These include:*

1. *A report prepared by Tustian & Associates entitled **Comprehensive Plan Report**, dated January 31, 2002, which identified development trends and issues of concern in the County.*

2. *A report adopted and released by the Jefferson County Planning and Zoning Commission dated March 25, 2003, entitled **Position Report on Conventional Zoning in Jefferson County, WV** which identifies a range of concerns with the current Zoning Ordinance as a basis for deliberating changes necessary to better address land-use management concerns referenced therein.*
3. *A report prepared by Kendig Keast Collaborative, entitled **Ordinance Critique and Recommendations** draft dated June 2006. This identifies land-use management recommendations to be included in a revised zoning ordinance to better manage growth and development in Jefferson County in accordance with recommendations developed based on the consultant evaluation of conditions.*
4. *A report and GIS dataset study prepared by the Freshwater Institute of The Conservation Fund dated January 23, 2007, entitled the **Jefferson County Green Infrastructure Assessment** that mapped key environmental resources that should be considered for protection in Jefferson County.*
5. *Two reports and a GIS dataset study prepared for the Jefferson County Historic Landmarks Commission by Taylor and Taylor Associates, Inc. of Brookville, PA, entitled the **Jefferson County 2004-2005 Historic Resources Survey** (southern half of the county), presented April 2005, and the **Jefferson County 2005-2006 Historic Resources Survey** (northern and western half, the remainder, of the county), presented October 2006, and a GIS dataset prepared by the Jefferson County Historic Landmarks Commission, entitled the **Jefferson County Historic Landmarks Commission Historic Sites and Structures Survey Inventory Database**, adopted April 19, 2007, all of which together documented and mapped key historical resources that are protected, or that should be considered for protection, in Jefferson County.*

*The County Commission held six (6) public hearings during the months of November and December, 2007 in various geographic locations throughout the County to solicit public comment on the draft ordinance and has twice revised the draft to address concerns expressed by the public during these forums. Additional public hearings will also be held by both the Planning Commission and County Commissioners prior to adoption of the proposed Zoning Ordinance.*

*The six (6) public hearings, together with the previously referenced reports and studies, have served as a basis for this report and the proposed Zoning Ordinance and Zoning Map that we recommend for consideration and adoption by the County Commission. The proposed Zoning Ordinance identifies a total of ten (10) zoning districts and the rules, regulations and restrictions for each Zoning District. The proposed Zoning Map also clearly identifies the recommended boundaries of each district.*

## Section 8A-7-8

Section 8A-7-8 provides that the boundaries of zoning districts may be amended by the County Commission with the advice of the Planning Commission. This section of the 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 W.Va. Code Section 8A-7-8(b). This subsection of the State Code also states that “If the amendment is inconsistent, then the governing body with the advice of the planning commission, must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area.”

### *Planning Commission Findings:*

*The Planning Commission feels it necessary to make findings that demonstrate that the proposed Zoning Ordinance is consistent with the 2004 Jefferson County Comprehensive Plan or to make findings that there have been major economic, physical or social changes in the County that were not anticipated when the Comprehensive Plan was adopted that have substantially altered the basic characteristics of the County. The Planning Commission does not find such major changes have occurred that would substantially alter the basic characteristics of the County such that they would render the current Comprehensive Plan irrelevant. In making this finding, we note that the language of the law requires changes to be considered “major” in nature and that such changes “substantially” alter the basic characteristics of the County. Thus, changes of a minor nature or changes that have may have less than a substantial effect on the characteristics of the County, in and of themselves, should not be considered sufficient to meet such a “change” test. In fact, the Commission finds that the objectives, recommended policies, and strategies described in the Comprehensive Plan are just as relevant and appropriate to guide County efforts to direct or manage growth today as they were when written in the years 2003 and 2004.*

*Therefore, the Commission turns its attention to the issue of consistency of the proposed Zoning Ordinance with the Comprehensive Plan. The following section of this report documents our finding that the proposed ordinance is, in fact, consistent with the Comprehensive Plan document.*

## Scope of this Assessment

This report now focuses on the degree to which the proposed draft Zoning Ordinance is consistent with the Comprehensive Plan. As noted, the Commission finds no major changes of an economic, physical or social nature within the County have occurred that were not anticipated when the comprehensive plan was adopted such that they would “substantially” alter the basic characteristics of the area. Therefore, the Comprehensive

Plan remains relevant in its purpose which is to identify policies, objectives and strategies to guide the future growth and development of Jefferson County.

The format for this assessment includes citation of specific provisions of the Comprehensive Plan which are identified by page number in the following section of this report followed by Commission commentary regarding the degree to which Commission believes the provision has import in determining consistency between the proposed Zoning Ordinance and Zoning Map and the Plan document. Identification of the specific page numbers in the Plan document where these provisions can be found permits the reader to easily locate the particular provision and both individually and collectively evaluate the provision in the context of the larger Plan document and zoning ordinance. When available or appropriate, map references between the Comprehensive Plan and proposed Zoning Map are provided with maps located in the Appendix to this report. It should be noted that the Comprehensive Plan itself points out that “Its recommendations are (by their nature and intent) general and, as such, sometimes conflicting. It will not be difficult to find two that individually justify and conflict with many land use proposals.” (See page 12 of the Plan). In that sense, there are many plan references that are identified in this report that can or may appear to support or fail to support a finding of consistency between the proposed Zoning Ordinance and the Comprehensive Plan. **In the final analysis, however, the Planning Commission is persuaded that the overwhelming majority of policies, objectives, and recommendations contained in the plan are consistent with the regulatory policies and zoning district framework set forth in the proposed Zoning Ordinance.**

## Relevant Comprehensive Plan Elements and Commentary.

The following section is formatted to provide the page number on which the plan language and/or subsection can be located, followed by the language contained in the body of the plan document. Each reference is then followed by Planning Commission or staff commentary where considered appropriate. When language in the Plan is considered more important, text is shown in bold for additional emphasis. Planning Commission and staff commentary is shown in italics throughout this section of the assessment.

### ■ **Comprehensive Plan Page 8: Jefferson County - A Vision**

**“Ironically, the natural beauty and rural setting of Jefferson County, the qualities that are so attractive to new residents, are the very qualities that are most threatened by a rapid pace of growth. Farming is no longer the driving economic force in our county and in the mid 1980s, new residents from other places outnumbered long time residents for the first time. With houses coming at a far faster pace than jobs, Jefferson County is facing a future as just another bedroom community in the larger metropolitan area.**

**The intent of this plan is not to recreate or recapture the past but to shape future growth in a manner that preserves the most important features of Jefferson County: the rural landscape, the natural beauty of the rivers, the rolling terrain and the strong sense of community. Perhaps the biggest challenge of all is to provide an economic base that provides enough job opportunities to allow people to both live and work here. Jefferson County is home to people of different income levels and professions-from crafts people to mill workers to employees of national consulting firms. The rising cost of housing threatens this diversity.”**

***Planning Commission/Staff Comment:***

*The intent of this plan is to shape growth in a manner that preserves the most important features of the County including the rural landscape and natural beauty of its rivers. Providing jobs also represents a challenge if the County is to allow people to both live and work in the County. While jobs can be provided in a number of alternative County locations, rural landscapes and beautiful rivers can only be preserved where they exist.*

*Several elements of the proposed Zoning Ordinance are designed to achieve this vision statement. Article 4 protects environmental resources wherever they occur throughout the County. Buffers are proposed in the Ordinance adjacent to rivers and streams. Growth is shaped by virtue of the provisions of the Ordinance that limit development densities beyond the designated Townscape boundary identified on the proposed Zoning Map and require clustering of development to assure 70% to 80% of lands designated Agriculture (AG) or Countryside (CS) remain undeveloped to protect both farmland and natural beauty. Land in these two zone districts represents approximately 65% of the County land area. Jobs are encouraged by increasing the land area zoned “Business Park” use by approximately 30% in comparison to former zoning. Provisions within the proposed Zoning Ordinance also support home occupations, home workspace and home businesses and home industry. New provisions in the Ordinance also permit training facilities, back office corporate and government offices in a wide range of locations, including rural areas of the County.*

■ **Plan Vision: Page 8**

**“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.”**

***Planning Commission/Staff Comment:***

*New growth must balance jobs and housing. Jobs are needed to balance the increases in housing in recent years. The Ordinance is designed to increase opportunities for job growth. Jobs are encouraged by increasing the land area zoned for “Business Park” use from approximately 2,611 acres in the current zoning structure to over approximately 3,500 acres in the proposed structure and Zoning Map to support opportunities to*

achieve this vision. Provisions within the proposed Zoning Ordinance also support home occupations, home workspace and home businesses in virtually all zone districts. New provisions in the Ordinance, contained in Article 2, also permit training facilities, back office corporate and government offices in a wide range of locations, including rural areas of the County. A balance in housing is supported by provisions requiring affordable housing in future subdivisions contained in Article 5 of the proposed ordinance.

## ■ Plan Policies: Page 8

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

### *Planning Commission/Staff Comment:*

*The proposed Townscape (TS) Zone district, Village Conservation (VC) zone district, and Residential (RS) zone district all permit and, in some cases, encourage a mix of uses in existing settlements and proposed future developments. The Townscape district, in particular, encourages a mix of commercial and residential uses in “Traditional Neighborhood Development” form, and the use of pedestrian-friendly design principles. As noted in Section 1.305 of the proposed Zoning Ordinance:*

*“This district is intended to create or support the expansion of higher density, stand-alone communities with a mix of neighborhood commercial and residential uses. Institutional and recreational uses that serve this town-like neighborhood environment are permitted and encouraged. Performance standards limit the location of commercial type uses, as well as their design. Traditional Neighborhood Development principles and practices are encouraged to guide design of new development to foster identity and a sense of place.”*

## ■ Plan Policies: Page 8

**“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.”**

### *Planning Commission/Staff Comment:*

*Article 4 of the proposed Zoning ordinance establishes protection measures for a wide range of natural features that are sensitive to development disturbances. Stream valleys, rivers, creeks and stream systems throughout the County are protected through buffer requirements established in the Ordinance (See Zoning Ordinance Article 14, definition of riparian buffers, page 266). A Riparian Buffer of 300 feet is required between development activity and the Potomac and Shenandoah Rivers to preserve both green space and tree cover in these areas critical to protection of water quality and wildlife*

*habitat and movement. Green space is also conserved through mandatory clustering provisions in most zone districts that protect substantial portions of sites subject to future development in open space. Specific natural features or environmental resources protected through the provisions of Article 4 of the proposed ordinance include the following: Water Bodies, Riparian Buffers, Floodways, Floodplains, Wetlands, Core Woodlands – Mature, Core Woodlands – Young, Mature Woodlands, Young Woodlands, Sinkholes, Sinkhole Buffers, Highly Vulnerable Areas, Moderately Vulnerable Areas, Steep Slopes Greater than 25%, Steep Slopes 15-25%, Historic Sites Category I, Historic Sites Category II, and Wellhead Protection Areas.*

■ **Plan Policies: Page 8**

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

***Planning Commission/Staff Comment:***

*Previous commentary notes the Ordinance is consistent with this policy designed to increase opportunities for job growth. (See page 7 of this report.)*

■ **Plan Policies: Page 8**

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

***Planning Commission/Staff Comment:***

*The Commission submits that the proposed Zoning Ordinance establishes a number of provisions to encourage the opportunity to farm. The proposed ordinance establishes provisions to support “farmsteads” and provides for a wide range of both farm and non-farm uses that may be conducted on farmsteads and within the Agricultural (AG) zone district. These uses, although not always commonly permitted in other community zoning ordinances, allow agricultural sales and services, machine shops, automotive repair services, country inns, bed and breakfast facilities, warehousing and other uses (see table 2.201 of the ordinance) to support opportunities to supplement farm income and sustain agricultural operations.*

*Cluster provisions that require new development in the Agricultural district to reserve 85% of the farmland as open space and encourage continued farm use of this open space are designed to protect the land base necessary to support the agricultural industry. Together these provisions are consistent with and serve to implement this plan policy.*

■ **Plan Policies: Page 8**

**“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.”**

***Planning Commission/Staff Comment:***

*New, more intense development should be located within or adjacent to the Towns. The proposed ordinance establishes a “Townscape (TS) Zoning District,” and identifies a “Townscape boundary” to contain the district which is specifically designed to implement this plan policy.*

*As noted in the proposed Zoning Ordinance:*

*“This district is also intended to facilitate the development transition from rural to developed character at appropriate locations along the periphery of existing incorporated towns... ..Application for rezoning to the Townscape District shall be limited to lands located between the boundaries of incorporated towns in the County and the “County Townscape Boundary” identified on the Official Zoning Map.” (See page 10 of the proposed Zoning Ordinance.)*

■ **Plan Policies: Page 8**

**“This Plan emphasizes the importance of providing opportunities for people of all income levels to live in the county and proposes affordable housing to be a component of all future residential growth.”**

***Planning Commission/Staff Comment:***

*Article 5 of the proposed Zoning Ordinance establishes provisions that require affordable housing or workforce housing to be a component of all future residential growth. (See sections 5.203 through 5.208 on pages 114 through 118 of the proposed Zoning Ordinance.)*

■ **Plan Policies: Page 8**

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

***Planning Commission/Staff Comment:***

*This policy is designed to ensure provision of adequate infrastructure concurrent with development that may require it. The following language is contained in the proposed Zoning Ordinance in Sections 1.304 through 1.307 to support this plan policy.*

*“If the infrastructure is not adequate to support higher density development, development shall not be permitted to occur within the Townscape District unless and until a commitment is made by the developer to provide adequate infrastructure to support the proposed development.”*

*It should be noted, however, that West Virginia Code may limit use of the zoning ordinance to establish requirements for certain adequate public facilities. The adequacy of highway and street systems is largely determined by the State. Therefore the capacity of the ordinance to assure consistency with this plan policy is limited by the statutory authority of the County.*

### ■ **The Role of the Comprehensive Plan: Page 12**

**“Its recommendations are (by their nature and intent) general and, as such, sometimes conflicting. It will not be difficult to find two that individually justify and conflict with many land use proposals. The recommendations and goals of this Plan serve as a framework through which to filter and consider revisions or additions to existing ordinances or programs in order to implement the community’s goals, as enumerated in this Plan.”**

### ■ **Rule of Construction and Interpretation: Page 12**

**“Proposals for future revisions, amendments or enactments of the land use and development ordinances should be reviewed for conformity with this Comprehensive Plan.”**

### ***Planning Commission/Staff Comment:***

*The first of these two provisions of the plan restate the notion expressed earlier in this report that the nature and intent of its recommendations will sometimes be in conflict. Both provisions note that the plan recommendations and goals serve to guide the development of the proposed Zoning ordinance, which is the subject of this section of this report.*

### ■ **Plan 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, [the county] 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.**
- **Promote growth and development that are both economically and environmentally sound.**
- **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.**
- **Encourage and support commercial, industrial, and agricultural activities to provide a diversified and sound local economy.**
- **Promote the conservation of the natural, cultural, and historical resources and the preservation of its scenic beauty.**
- **Advocate the maintenance and improvement of transportation systems so that people and goods can move safely and efficiently throughout the County.**
- **Promote a diversity of housing within the County.**
- **Support and protect private property rights while supporting and protecting overall public health, safety and general welfare.**
- **Promote a Planning and Zoning process that is understandable and straightforward, with ample opportunity for meaningful public input.**
- **Promote pedestrian friendly, livable communities.**
- **Promote inter-entity and inter-agency collection and exchange of information and cooperation on planning.”**

***Planning Commission/Staff Comment:***

*Each of these goals is consistent with various Articles contained within the proposed Zoning Ordinance. The proposed Zoning Ordinance encourages growth and development in areas where sewer and water are available or can be provided without unreasonable cost by virtue of establishing the townscape zone district which directs future growth to locations adjacent to existing sewer and water facilities. Growth in these locations results in the least impact to environmental resources and results in the most economically viable form as investments in future infrastructure can be concentrated near the towns within the townscape district.*

*Provisions that require a cluster development form and retention of farmland in the Agricultural district and permit a broad range of uses on farmsteads, support the goal of*

*maintaining an agricultural land base necessary to encourage the continued viability of farming in all its various forms. Commercial and industrial uses are encouraged to support a sound local economy by diversifying the location where many uses can occur and increasing the land area zoned for potential business park development.*

*The Ordinance promotes the conservation of natural resources and much of their scenic features with provisions contained in Article 4 which assure protection of sensitive resources and environmental elements. Cultural and historical resources are afforded protection through measures that assure Class 1 and Class 2 historic resources are given protection in the form of a buffer surrounding them as identified in Article 5 of the Zoning Ordinance. (See Division 5.300 of the proposed ordinance starting on page 119 of the ordinance).*

*Article 5 of the proposed ordinance promotes housing diversity by requiring the provision of workforce housing in new development. Article 5 also provides for accessory housing units and small housing units to further the goal of diversity in housing types. Article 3, Section 3.305 of the proposed Zoning Ordinance requires a mix of housing types in all future” planned developments” (see page 75 of the proposed ordinance).*

*With regard to the goal of promoting inter-entity and inter-agency cooperation on planning, the staff consulted with Town staff or elected officials in delineating the proposed boundaries of the Townscape district. A number of provisions within the proposed Zoning Ordinance were prompted in consultation with the agricultural community, residents and organizations representing the residents of the Blue Ridge within the proposed “Mountain Conservation District,” the Jefferson County Economic Development Authority, Affordable Housing Partnership and conservancy organizations.*

■ **Plan Recommendation 3.03 (piecemeal ordinance amendment and zoning map) : Page 25**

**“When considering amendments to the Ordinances and Zoning Map to incorporate decisions based on the recommendations of this Plan, the County should address the Ordinances in their entirety including:**

- a. The preparation of a comprehensive “existing land use map” and**
- b. A new zoning map showing at a reasonable scale the new boundaries of the cities.”**

**Page 25 of the plan further notes:**

**“Such an effort cannot be done effectively in stages or piecemeal by ordinance. Cumbersome as such an effort may be, it should be undertaken as a single project so that all revisions can be coordinated into a well integrated set of ordinances.”**

***Planning Commission/Staff Comment:***

*The Planning Commission finds that, cumbersome as this effort has been, the revisions and construction of the proposed ordinance, together with the proposed Subdivision Regulations, have not been developed piecemeal and reflect an integrated set of ordinances. The Planning Commission also finds that the proposed Zoning Map reflects the existing land-use pattern of the County and shows at reasonable scale the boundaries of the incorporated towns or cities.*

■ **Plan Goals for Transportation: Page 26**

**“In order to realize the vision stated above, general goals are set forth as follows:**

- 1. Encourage the West Virginia Department of Transportation, Division of Highways to take measures to provide for and maintain efficient roadway traffic flow.**
- 2. Find creative solutions to both funding and legislative limitations, in order to solve transportation problems.”**

***Planning Commission/Staff Comment:***

*The Planning Commission finds that the proposed Zoning Ordinance contains provisions that are consistent with these stated comprehensive plan objectives. Section 1.105 of the proposed ordinance (page 2) states:*

*“Adequate public infrastructure shall be required for:*

- Ensuring adequate and safe roads and sewer and water facilities by limiting land-use intensity to the capacity of the roads or sewer and water facilities;*
- Protecting and enhancing a pattern of local, collector, and arterial streets and highways that produces a unified, safe, and efficient system for movement;*
- Reducing the danger and congestion of traffic on roads and highways by both limiting the number of friction points, such as intersections and driveways, and minimizing other hazards... ”*

*The proposed Zoning Ordinance and proposed Subdivision Regulations also provide opportunities for the County to accept proffers for road improvements in support of the Comprehensive plan’s goal of finding creative solutions to both funding and legislative limitations to solve transportation problems.*

■ **Plan Recommendation 3.08 (Telecommuting): Page 34**

**“Telecommuting allows people to work from their homes instead of commuting to work.” Recommendation 3.08: Reduce dependence on the automobile for both intra-County and inter-County travel.”**

***Planning Commission/Staff Comment:***

*The Planning Commission finds that the range of businesses permitted at home in the form of proposed zoning provisions to accommodate “home occupations, home workspace, home businesses, and home industry,” augment opportunities for telecommuting and work-at-home options for County residents. (See Sections 2.410 through 2.413 on pages 30 through 34 of the proposed Zoning Ordinance.)*

■ **Plan discussion of Economies of Scale for Water and Sewer Service: Page 41**

**“Due to the prohibitive overall cost to provide water and sewer service to the entire county, developing in this format county-wide is not feasible. Land areas that are outside of the regions that can reasonably be expected to be served by water and sewer facilities should be developed at lower densities, with properties employing wells and drain fields.”**

***Planning Commission/Staff Comment:***

*Dense or intense development should be located where existing water and sewer facilities can be extended to serve such development rather than building new water and sewer systems in indiscriminate rural County locations. This is a fundamental principle of smart growth. The Planning Commission finds that the proposed Zoning Ordinance is consistent with this planning principle since the ordinance establishes the “Townscape” District as the area to be targeted for future provision of water and sewer facilities and recommends the use of wells and septic drain fields in rural areas of the County proposed for designation as “Agricultural AG” or Countryside (CS)” zone districts as shown on the proposed Zoning Map.*

■ **Plan Recommendation 3.10 (Stormwater Management) : Page 48**

**“The County should endeavor to ensure that safe, clean drinking water is available to all citizens of Jefferson County by:... Reviewing and where necessary, revising the subdivision and zoning ordinances to incorporate the revised standards for stormwater management design.” The Comprehensive Plan also states on page 48 the following:**

**“Retention of stormwater, diverting it from inundating the creeks and rivers, allows for more of this water to seep back into the water table, recharging the aquifer. It is important to note that these retention areas must be appropriately designed so that they do not also serve as collection pools for potential contaminants any more than is necessary. Therefore, the highest and most up to date standards for stormwater management designs for quality as well as quantity should be pursued.”**

***Planning Commission/Staff Comment:***

*The Planning Commission notes that revisions to stormwater management regulations were incorporated into the proposed Zoning Ordinance. The Planning Commission further notes that the proposed ordinance includes provisions for state-of-the-art “low-impact development” stormwater management techniques. Article 4, Division 4600 prescribes standards for stormwater management. Article 4, Section 4.604 identifies alternative techniques that are encouraged to minimize the impacts of impervious surfaces and better manage stormwater quantity and quality.*

■ **Plan Recommendation 3.11 (Sinkholes): Page 48**

**“The County should review the standards regarding the treatment of sinkholes in the existing Subdivision Ordinance for possible revision and update.”**

***Planning Commission/Staff Comment:***

*The Planning Commission finds that standards in both the proposed Zoning Ordinance and proposed Subdivision Regulations have been revised to provide greater protection for sinkholes and to prescribe sinkhole buffers. During public hearings concerning this topic, the Planning Commission received comment regarding the method and techniques prescribed in the draft ordinance for sinkhole protection. Many of these comments and recommendations were incorporated into the current proposed Zoning Ordinance and proposed Subdivision Regulations. The primary provisions for protection for sinkholes are established in Article 4, Section 4.514 and Section 4.515 of the proposed Zoning Ordinance. Other references to sinkhole protection and buffers can be found in other areas of the proposed ordinance.*

■ **Plan Recommendations for Stream corridor protection : Page 49**

**Page 49 of the plan notes that “the Shenandoah has been listed by both Virginia and West Virginia as one of their polluted rivers, in need of corrective action.” The Comprehensive Plan states on page 49 the following:**

**“The most efficient way to manage stream water quality is to plan for the protection of the natural land alongside the stream bed. The preservation of interconnected corridors that straddle stream beds achieves a number of economies of scale in ecological terms. A natural flora setback area from the stream bank not only provides an efficient pollutant filter and cooling device for rainwater runoff, with its accumulated pollutants, that drain into the stream, and it also provides a natural corridor for the ecological habitat of native wildlife. If subjected to sensitive, limited amenity development, they also afford the opportunity to provide recreational hiker-biker trails to serve the residents of the area.”**

**“Preserving land along stream corridors in their natural state, therefore, is one of**

**the most efficient ways to satisfy a variety of ecological and residential recreation needs, while still allowing tributary land to be developed.”**

***Planning Commission/Staff Comment:***

*The Commission finds that a number of measures are included in the proposed Zoning Ordinance to preserve land along stream corridors in their natural state. Noteworthy are the provisions for undisturbed buffers to serve as a transition zone between water and upland environments to protect the aquatic environment from pollution and sedimentation. It is measured from the top of the bank of the stream, or the wetland boundary. Minimum buffer widths established in the proposed ordinance include:*

- Potomac River and Shenandoah Rivers - 300 feet.*
- Opequon Creek and Perennial Streams - 100 feet.*
- Streams with stream channels - 50 feet (100 feet when located in the Elk Run and Elk Branch watersheds).*

**■ Plan Recommendation 3.12 (Farmland Protection) : Page 54**

**“Recommendation 3.12: The County should investigate mechanisms to foster the maintenance of land in farm uses. Specifically, these should include:**

- c. Supporting diversified rural land uses by exploring means by which to diversify farming operations. If farming is no longer economically viable, there will be no farms. Examples of this could include (but not be limited to) “value added” processing, landscape contracting businesses, equestrian facilities, agriculture education uses and bed-and-breakfast inns.**
- d. Improving design of residential development in the Rural District, providing incentives which ensure that cluster subdivisions are the preferred means by all parties when developing rural tracts.”**

***Planning Commission/Staff Comment:***

*The Commission submits that the proposed Zoning Ordinance establishes a number of provisions consistent with this plan recommendation which support diversification of rural land uses and encourage the opportunity to farm. The proposed ordinance establishes provisions to support “farmsteads” and provides for a wide range of both farm and non-farm uses that may be conducted on farmsteads and within the Agricultural (AG) zone district. These uses include “value-added” farm product processing, agriculture sales and services, machine shops, automotive repair services, landscape contracting, country inns, bed and breakfast facilities, warehousing and other uses (see table 2.201 of the ordinance) to support opportunities to supplement farm income and sustain agricultural operations.*

*Cluster provisions that require new development in the Agricultural district to reserve*

*85% of the farmland as open space are intended to improve residential development design and encourage continued farm use of this open space. These measures permit development but also protect the land base necessary to support the agricultural industry. Together these provisions would appear to be consistent with, and serve to implement this plan recommendation.*

■ **Plan Recommendation 3.13 (Historic Preservation) : Pages 55 and 56**

**“Jefferson County is an area rich in historical and archaeological interest. It has arguably been referred to as the most historic rural county in America. As part of our country’s first western frontier, it was settled by Europeans before 1720.”**

**“Recommendation 3.13: The County should examine existing land use regulations and Planning Commission resources and explore regulation amendments and policies that encourage preservation of historic resources. Some amendments and policies the County may want to investigate may include:**

- a. **Rewarding the retention and restoration of historic buildings during the subdivision process with limited increased density to offset the expense of preservation.**
- b. **Re-evaluating zoning restrictions on the adaptive reuse of historic buildings county-wide in order to encourage their continued occupancy and maintenance.**
- c. **Requiring documentation of significant structures that are to be removed due to development activity.”**

***Planning Commission/Staff Comment:***

*The Commission submits that the proposed Zoning Ordinance establishes a number of provisions that demonstrate consistency with this Comprehensive Plan recommendation. These protection requirements and incentives are defined in Division 5.300 of the proposed ordinance.*

*The incentives of this Division are provided to allow the County to encourage the preservation of buildings by permitting adaptive re-uses. Section 5.301, Classification of Historic Sites, sets forth the classification of the Historic Sites and Structures. Section 5.302, Levels of Protection, is focused on the protection of a building's or site's context through the preservation of open space. Section 5.303, Demolition, requires a demolition permit be obtained before a historic structure is demolished or before any earth moving is done on site. Sections 5.304, Incentives for Open Space, and 5.305, Renovation Incentives, focus on incentives to preserve historic structure(s).*

*Section 5.305 authorizes the Planning Commission, upon recommendation of the Historic Landmarks Commission, to approve a density increase above the permitted density to provide incentive to protect historic resources. This would also be accompanied by a*

*modulation of the lot and bulk requirements of Division 3.300, Bulk Regulations. For nonresidential uses, the increase would be in floor area and lot and bulk modulation to make the incentive feasible on the lot.*

*For very large homes or barns, (even if not permitted in a particular zoning district) conversion of the building for any of the following may be approved:*

*Up to six workforce housing units (for sale or for rent); offices for professional or technical services and commercial uses limited to antique stores, dance studios, micro-breweries, and corporate and government ; back office operational facilities (see Section 2.445, Corporate and Government Back Office Operational Facilities); and schools or museums.*

■ **Plan Recommendation 3.15 (Lighting, Signage, Noise) : Page 58**

**“Measures can be codified in the Ordinances which reduce the amount of glare, through the use of full cut-off fixtures...” “Recommendation 3.15: The County should encourage developer to use lighting plans that don’t impinge on the ‘night sky.’”**

***Planning Commission/Staff Comment:***

*Section 4.701 of the proposed Zoning Ordinance requires all uses to maintain a maximum day-night noise level (DNL) measured in decibels. Division 7.400 of the proposed Zoning Ordinance establishes standards for exterior lighting of both signs and parking lots. These provisions require that all lighting fixtures shall be cut-off fixtures that limit lighting that is visible or measurable at the property line.*

*The Planning Commission finds that these provisions, together with signage standards contained in Article 9 assure consistency with Plan recommendation 3.13 as well as broader recommendations contained on page 58 of the plan regarding noise and signage.*

■ **Plan Recommendation 3.16 (Housing Affordability) : Page 59**

**“Recommendation 3.16: The County should review its existing ordinances for possible ways to encourage more affordable housing units to be developed in the County.”**

***Planning Commission/Staff Comment:***

*Article 5 of the proposed ordinance requires the provision of workforce or affordable housing in new development. Article 5 also provides for accessory housing and small housing units to further the goal of diversity in housing types. Article 3, Section 3.305 of the proposed Zoning Ordinance requires a mix of housing types in all future “planned developments” (see page 77 of the proposed Ordinance). These provisions do more than encourage affordable housing. They enable and require such housing in future development. Therefore, we find these provisions to be consistent with the*

■ **Plan Recommendation 3.17 (Agricultural Industry support) :  
Page 61 and 62**

**“Recommendation 3.17: In order to protect the long term viability of the agriculture industry in the County, the County should encourage the diversification of the industry in Jefferson County by:**

- a. **Reviewing the Zoning Ordinance for ways of permitting value-added and non-traditional agriculture-related activities on farmed properties.**
- b. **Inserting language in the section of the Zoning Ordinance governing the Rural District that farming is a permitted land use in this district and with that use there will be side effects that are disturbing to residential development.”**

***Planning Commission/Staff Comment:***

*As previously noted, the proposed ordinance establishes provisions to support “farmsteads” and permits a wide range of both farm and non-farm uses that may be conducted on farmsteads and within the Agricultural (AG) zone district. These uses include agriculture sales and services, machine shops, automotive repair services, country inns, bed and breakfast facilities, warehousing and other uses (see Table 2.201 and 2.202 of the Ordinance) to support opportunities to supplement farm income and sustain agricultural operations.*

*The industry is further supported by language contained in Section 2.600 of the proposed Zoning Ordinance entitled “Right to Farm” which provides protection to farm landowners and operators against nuisance complaints from residential uses. This division of the ordinance limits the circumstances under which agricultural operations may be deemed to constitute a nuisance, trespass, or other interference with the reasonable use and enjoyment of land. This Division also establishes the means by which mandatory disclosures to land purchasers and users will be required to help new residents in rural areas of Jefferson County better understand the impact of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near rural areas.*

■ **Plan Recommendation 3.18 (Industrial and Commercial Development) : Page 64**

**“Recommendation 3.18: The County should continue to pursue new industrial and commercial development in order to diversify its economy, increase the tax base and thereby mitigate the problems of increasing residential growth, and provide quality employment opportunities to its workforce.”**

***Planning Commission/Staff Comment:***

*Previous commentary notes the Ordinance is designed to increase opportunities for job growth. Jobs are encouraged by increasing the land area zoned for “Business Park” use from approximately 2,611 acres in the current zoning structure to over 3,500 acres shown on the proposed Zoning Map to support opportunities to achieve this vision. Provisions within the proposed Zoning Ordinance also support home occupations, home workspace and home businesses in virtually all zone districts. New provisions in the Ordinance, contained in Article 2, also permit training facilities, back office corporate and government offices in a wide range of locations, including rural areas of the County. A balance in housing is supported by provisions requiring affordable housing in future subdivisions contained in Article 5 of the proposed ordinance. The Planning Commission finds these provisions of the ordinance are consistent with the Plan recommendation to pursue new industrial development and augment employment opportunities to support the County workforce.*

■ **Plan Recommendation 3.19 (Innovative Planning Concepts) : Page 67**

**“Recommendation 3.19: The County should explore the adoption of innovative planning concepts as discussed in the following section, including transferrable development rights and traditional neighborhood design.”**

***Planning Commission/Staff Comment:***

*The Planning Commission finds that cluster subdivision planning is one of the innovative techniques recommended for exploration as part of this plan recommendation (see pages 68 and 69 of the Comprehensive Plan). The Commission finds that the cluster subdivision provisions contained in the proposed Zoning Ordinance are consistent with this plan recommendation. Moreover, the recommendation to consider “traditional neighborhood design (TND)” principles is consistent with the provisions for the Townscape zoning district proposed in Section 1.305 of the ordinance which espouses use of TND principles for design of future developments within this zone district. The Commission notes that Transferrable Development Rights (TDR) were considered in the development of the draft Zoning Ordinance but not included at this time due to the need for further study.*

■ **Plan Recommendations 3.20 and 3.21 (Alternatives to the LESA System) : Pages 68 and 69**

**“Recommendation 3.20: The County should look closely at the LESA System and revise the requirements, including the procedures, to re-establish the original intent of this system which is to retain rural character and preserve farmland while allowing farmers to subdivide by virtue of this plan and availability of certain services.”**

**“Recommendation 3.21: Once recommendation 3.21 is accomplished the County should review different zoning methods to see if LESA is still the zoning of choice for the County.”**

The plan goes on to note on page 70:

**“In order to minimize the impact on the rural environment and preserve significant contiguous tracts of rural open space, the zoning ordinance should be amended so that clustered subdivision are the indisputably preferred means of development of parcels in the Rural District.”**

***Planning Commission/Staff Comment:***

*The Planning Commission finds that cluster subdivision provisions contained in the proposed ordinance Planning render cluster subdivisions the preferred means of development in the proposed Agricultural and Countryside zone districts by virtue of the substantial increases in density provided for this form of development. The current LESA system has also been found lacking in its capacity to protect rural character by virtue of the County’s years of experience with this system of land-use management and the failures to protect rural character that are evident in the County landscape. In summary, we find the cluster development provisions within the proposed ordinance consistent with each of these plan recommendations.*

**■ Plan Recommendation 3.22 (Encourage cluster subdivision):  
Page 70**

**“Recommendation 3.22: The County should encourage cluster subdivisions as the means of housing development in the Rural District.”**

**“This recommendation should not be construed, however to prohibit large lot subdivision, as there is a limited market for such properties. This recommendation addresses adjusting current regulations so that when a property owner weighs his options for developing property, cluster subdivision is the most appealing option.”**

***Planning Commission/Staff Comment:***

*Consistent with our findings regarding consistency with Plan Recommendations 3.20 and 3.21 we also find the cluster development provisions within the proposed ordinance consistent with recommendation 3.22.*

**■ Plan Recommendation for a Townscape Area: Page 72**

**“The intent of the land use vision of this plan, in concise terms, is to maintain the rural environment of most of the County (herein addressed in the section pertaining to the rural district), provide a residential buffer between the urban core and rural**

area (see the Residential Growth District) and to concentrate the greatest density of development around the Charles Town-Ranson urban area in a streetscape pattern that complements the existing grid development pattern set by the Towns.”

***Planning Commission/Staff Comment:***

*The Planning Commission finds that the proposed Zoning Ordinance is consistent with this intent of the land-use vision of the Comprehensive Plan. Lower densities and cluster development requirements are proposed to maintain the rural environment of most of the County. A Townscape Zone district is proposed to provide a residential buffer or transition from Town to County rural areas. The greatest densities permitted under the terms of the ordinance are reserved for locations within the proposed Townscape Zone district. Guidelines for development within the Townscape district specifically reference that the intent of the district is to foster a streetscape pattern that complements the existing grid development pattern set by these Towns.*

*As noted in Section 1.305 on page 10 of the proposed ordinance the Townscape Zone district:*

*“...is intended to create or support the expansion of higher density, stand-alone communities with a mix of neighborhood commercial and residential uses. Institutional and recreational uses that serve this town-like neighborhood environment are permitted and encouraged. Performance standards limit the location of commercial type uses, as well as their design. Traditional Neighborhood Development principles and practices are encouraged to guide design of new development to foster identity and a sense of place and reflect characteristics of existing towns in the County.*

*D. Transitional Role. This district is also intended to facilitate the development transition from rural to developed character at appropriate locations along the periphery of existing incorporated towns.”*

■ **Chapter 4 of the Plan: Introduction: Page 78**

**“Two goals of this Plan are to have an appropriate balance of land uses, and an appropriate balance between private property rights and growth management.”**

***Planning Commission/Staff Comment:***

*The Planning Commission finds that the proposed Zoning Ordinance and Zoning Map establish a balance of land uses and that the proposed ordinance establishes an appropriate balance between private property rights and county growth management objectives.*

■ **Plan Recommendation 4.01: Page 78**

**“Recommendation 4.01: It is the vision of this Comprehensive plan that development will be concentrated within the designated growth area.”**

***Planning Commission/Staff Comment:***

*The location of proposed zoning districts and densities permitted in the districts will serve to concentrate future growth within the incorporated towns or adjacent to them within the proposed Townscape zone district which together serve as the designated growth areas in the County.*

■ **Plan Implementation Recommendation #1 (County Land Use Ordinances): Page 96**

**“1. County Land Use Ordinances and Zoning Map**

**Numerous recommendations in this Plan specifically pertain to the content and construction of the existing Jefferson County land use ordinances (Zoning and Development Review, Subdivision, Salvage Yard, Flood Plain and Improvement Location Permit Ordinance). These recommendations address new regulatory content, reviewing and upgrading existing design and construction standards, restructuring the land use pattern in the County and re-crafting the very format of the documents themselves. Upon the adoption of a new Comprehensive Plan, it is required by law and common planning practice to revise existing ordinances to bring them into compliance with the policies and recommendation of this plan. This must be the first priority of the implementation of this Plan. It should be initiated immediately upon the adoption of this Plan and pursued expeditiously.”**

***Planning Commission/Staff Comment:***

*The proposed Zoning Ordinance and Subdivision Regulations provide new regulatory content, upgrade existing design and construction standards, restructure the land-use pattern in the County and substantially modify the very format of the documents themselves. Therefore, the Planning Commission finds that the results of the effort to modify the Zoning Ordinance and Zoning Map are clearly consistent with this plan recommendation. We further find that this effort has been pursued vigorously, if not expeditiously, and that the community consensus-building effort necessary to provide us with these products of our work has been no easy task.*

## ***Summary Findings***

*This report has documented specific provisions of the Jefferson County Comprehensive Plan and has provided a number of references contained in the proposed County Zoning Ordinance and Zoning Map that document consistency between the Plan and Ordinance. In the final analysis the Planning Commission is persuaded that the overwhelming majority of policies, objectives, and recommendations contained in the plan are consistent with the regulatory policies and zoning district framework set forth in the proposed Zoning Ordinance. Ultimately, the County Commission will need to use its own judgment in weighing the degree to which various plan provisions are of greater or lesser import in order to establish their respective findings in this regard.*

