



FOR PLANNING COMMISSION USE ONLY

Rezoning No. BZ-25-0010

Date Filed: 4-8-25

WASHINGTON COUNTY PLANNING COMMISSION ZONING
ORDINANCE MAP AMENDMENT APPLICATION

Fast Gas Company

Applicant

P.O. Box 4217, Hagerstown, MD 21741

Address

Bradley A. Fulton

Primary Contact

Same as above

Address

☒ Property Owner ☐ Contract Purchaser

☐ Attorney

☐ Consultant

☐ Other: _____

(301) 582-2700

Phone Number

bfulton@acandt.com

E-mail Address

Property Location: **Virginia Avenue & Bookmeade Circle**

Tax Map: **56** Grid: **4** Parcel No.: **766; 309; 314** Acreage: **+/- 0.891**

Tax Account ID: **26-013739; 26-018870; 26-006759**

Current Zoning: **RT (Residential, Transition)** Requested Zoning: **HI (Highway Interchange)**

Reason for the Request: ☒ ~~Change in the character of the neighborhood~~

☒ Mistake in original zoning

PLEASE NOTE: A Justification Statement is required for either reason.


Applicant's Signature

Subscribed and sworn before me this **20th** day of **January**, 20 **25**

My commission expires on **Aug. 26, 2028** **Elizabeth A. Loar**
Notary Public

ELIZABETH A. LOAR
Notary Public - State of Maryland
Washington County
My Commission Expires Aug 26, 2028

FOR PLANNING COMMISSION USE ONLY

- ☒ Application Form
- ☒ Fee Worksheet
- ☒ Application Fee
- ☒ Ownership Verification
- ☒ Boundary Plat (Including Metes & Bounds)

- ☒ Names and Addresses of all Adjoining & Confronting Property Owners
- ☒ Vicinity Map
- ☒ Justification Statement
- ☐ 30 copies of complete Application Package



WASHINGTON COUNTY DEPARTMENT OF
PLANNING & ZONING FEE WORKSHEET

FOR PLANNING COMMISSION USE ONLY

Rezoning No. _____

Date Filed: _____

PLEASE COMPLETE ONLY THE
SECTION THAT APPLIES.

Applicant's Name: Fast Gas Company Date: _____

Zoning Ordinance Map Amendment \$ 2,000.00
Number of Acres * 0.891 x \$20.00 [1 acre minimum]
per acre \$ 20

Engineering Review Fee \$ 150.00

Technology Fee \$ 15.00

TOTAL FEES DUE – MAP AMENDMENT \$ 2185.00

*Minimum charge of \$20.00 [if less than one acre]

Text Amendment \$ 2,000.00
Choose One: ☐ Adequate Public Facilities Ordinance
☐ Forest Conservation Ordinance
☐ Solid Waste Plan
☐ Subdivision Ordinance
☐ Zoning Ordinance
☐ Other: _____

Technology Fee \$ 15.00

TOTAL FEES DUE – TEXT AMENDMENT \$ 2,015.00

Water and Sewer Plan Amendment \$ 2,000.00
Technology Fee \$ 15.00

TOTAL FEES DUE – WATER AND SEWER PLAN AMENDMENT \$ 2,015.00

Forest Conservation Exemption \$ 25.00

Technology Fee \$ 15.00

TOTAL FEES DUE – FOREST EXEMPTION \$ 40.00

Please make checks payable to "Washington County Treasurer".

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

[View Map](#)[View GroundRent Redemption](#)[View GroundRent Registration](#)**Special Tax Recapture: None**

Account Identifier: District - 26 Account Number - 013739

Owner Information

Owner Name: FAST GAS COMPANY Use: RESIDENTIAL
Principal Residence: NO
Mailing Address: PO BOX 4217 Deed Reference: /04050/ 00123
HAGERSTOWN MD 21742-

Location & Structure Information

Premises Address: BROOKMEADE CIR Legal Description: 50X272 .312 A
WILLIAMSPORT 21795-0000 BROOKMEADE CIRCLE
RR HOFFMAN DRIVE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0056 0004 0766 26010510.22 0000 2023 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
13,576 SF

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements
/

Value Information

	Base Value	Value As of 01/01/2023	Phase-In Assessments As of 07/01/2024	As of 07/01/2025
Land:	15,600	15,600		
Improvements	0	0		
Total:	15,600	15,600	15,600	15,600
Preferential Land:	0	0		

Transfer Information

Seller: BOWMAN JOHN ET AL Date: 03/01/2011 Price: \$15,000
Type: ARMS LENGTH VACANT Deed1: /04050/ 00123 Deed2:
Seller: WASH CO RETARDED CITIZENS Date: 08/27/1993 Price: \$2,100
Type: ARMS LENGTH IMPROVED Deed1: /01109/ 00345 Deed2:
Seller: INVESTORS UNION DEL CORP Date: 12/31/1984 Price: \$0
Type: ARMS LENGTH MULTIPLE Deed1: /00777/ 00191 Deed2:

Exemption Information

Partial Exempt Assessments: Class		07/01/2024	07/01/2025
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00/0.00	0.00/0.00

Special Tax Recapture: None**Homestead Application Information**

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

[Exhibit C1](#)

Real Property Data Search ()

Search Result for WASHINGTON COUNTY

View Map

View GroundRent Redemption

View GroundRent Registration

Special Tax Recapture: None

Account Identifier: District - 26 Account Number - 018870

Owner Information

Owner Name: FAST GAS COMPANY

Use: RESIDENTIAL

Mailing Address: PO BOX 4217
HAGERSTOWN MD 21741-4217

Principal Residence: NO

Deed Reference: /07311/ 00327

Location & Structure Information

Premises Address: 16512 VIRGINIA AVE
WILLIAMSPORT 21795-0000

Legal Description: LOT 96 PT 95 70X180
16512 VIRGINIA AVE
TAMMANY MANOR

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 263

0056 0004 0309 26010510.22 0000 2023 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use

1950 1,120 SF 12,600 SF

StoriesBasementType ExteriorQualityFull/Half BathGarage Last Notice of Major Improvements

1 YES STANDARD UNITBRICK/ 3 1 full 1Alt/1Carport

Value Information

Base Value Value Phase-In Assessments

As of As of As of

01/01/2023 07/01/2024 07/01/2025

Land: 46,300 46,300

Improvements 100,300 158,400

Total: 146,600 204,700 185,333 204,700

Preferential Land: 0 0

Transfer Information

Seller: MOORE EDITH J Date: 08/31/2023 Price: \$120,000

Type: NON-ARMS LENGTH OTHER Deed1: /07311/ 00327 Deed2:

Seller: MOORE MAXWELL MELTON & EDITH J Date: 03/19/2010 Price: \$0

Type: NON-ARMS LENGTH OTHER Deed1: /03840/ 00380 Deed2:

Seller: MILLS NOEL L Date: 08/25/1993 Price: \$87,000

Type: ARMS LENGTH IMPROVED Deed1: /01111/ 00185 Deed2:

Exemption Information

Partial Exempt Assessments: Class 07/01/2024 07/01/2025

County: 000 0.00

State: 000 0.00

Municipal: 000 0.000.00 0.000.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

Exhibit C2

1 of 1

10/28/24, 11:09 AM

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

[View Map](#)[View GroundRent Redemption](#)[View GroundRent Registration](#)**Special Tax Recapture: None**

Account Identifier: District - 26 Account Number - 006759

Owner Information

Owner Name: FAST GAS COMPANY Use: RESIDENTIAL
Principal Residence: YES
Mailing Address: PO BOX 4217 Deed Reference: /07407/ 00458
HAGERSTOWN MD 21741-4217

Location & Structure Information

Premises Address: 16514 VIRGINIA AVE Legal Description: PT LOT 94/95 0.29 ACRES
WILLIAMSPORT 21795-0000 16514 VIRGINIA AVE
WILLIAMSPORT PIKE

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No: 263
0056 0004 0314 26010510.22 0000 2023 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1958 1,788 SF 0.2900 AC

StoriesBasementType ExteriorQualityFull/Half BathGarageLast Notice of Major Improvements
1 YES STANDARD UNITBRICK/ 3 1 full
FRAME

Value Information

	Base Value	Value As of 01/01/2023	Phase-In Assessments As of 07/01/2024 As of 07/01/2025	
Land:	46,300	46,300		
Improvements	135,000	213,000		
Total:	181,300	259,300	233,300	259,300
Preferential Land:	0	0		

Transfer Information

Seller: REEL WILLIAM RICKY & KAY LOUISE Date: 02/22/2024 Price: \$255,000
Type: ARMS LENGTH IMPROVED Deed1: /07407/ 00458 Deed2:
Seller: HAMMOND KAY L Date: 02/16/2000 Price: \$0
Type: NON-ARMS LENGTH OTHER Deed1: /01553/ 01010 Deed2:
Seller: SMITH JEFFREY A & DEBBIE J Date: 11/17/1986 Price: \$72,500
Type: ARMS LENGTH IMPROVED Deed1: /00826/ 00685 Deed2:

Exemption Information

Partial Exempt Assessments:Class 07/01/2024 07/01/2025
County: 000 0.00
State: 000 0.00
Municipal: 000 0.00/0.00 0.00/0.00

Special Tax Recapture: None**Homestead Application Information**

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

Exhibit C3

4050 0123

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

Lincoln Title and Settlement Services, LLC
12916 Conamar Drive, Suite 202
Hagerstown, MD 21742
File No. LT11-0402EB
Tax ID No. 26-013739

Parcel 766

This Deed, made this 25th day of February, 2011, by and between **John A. Bowman** and **Audrey Bowman**, his wife, and **Susan Mayhugh**, GRANTORS, and **Fast Gas Company**, a Maryland General Partnership, GRANTEE.

— Witnesseth —

That in consideration of the sum of FIFTEEN THOUSAND DOLLARS 00/100 (\$15,000.00), which includes the amount of any outstanding Mortgage or Deed of Trust, if any, the receipt of which is hereby acknowledged, the said Grantors do hereby grant and convey to the said Grantee, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

All the following tract or parcel of land situate approximately 200 feet Northwest of Virginia Avenue and 195 feet Southwest from Hoffman Drive in Election District No. 26, Washington County, Maryland, and being more particularly described in accordance with a survey by Fellows, Reed and Associates, Inc., as follows:

BEGINNING at a 5/8 inch rebar, set in the northern margin of a 20 foot wide alley, opposite the northwest corner of Lot 101 in Tammany Heights (Plat 253). Said rebar also in the eastern right-of-way line of Brookmeade Drive (SRC Plat No. 28645); thence leaving Brookmeade, North 30 degrees 29 minutes 31 seconds East 83.53 feet, to a ¾ inch iron pipe, found; thence North 67 degrees 15 minutes 31 seconds East 238.09 feet to a ½ inch iron pipe, found in a line of David L. Munday Lot, of record in Liber 663, folio 721; thence leaving Munday and running with the lot of Fred S. French of record in Liber 644, folio 331, South 22 degrees 44 minutes 29 seconds East 50.00 feet to a 5/8 inch rebar, set in the aforementioned north margin of an alley; thence with said margin, South 67 degrees 15 minutes 31 seconds West 305.00 feet to the place of beginning; CONTAINING 13,576 square feet, more or less, and being more particularly shown on a plat of survey prepared by Fellows, Reed and Associates, Inc., attached to the Deed dated August 27, 1993 and recorded in Liber 1109, folio 345 and incorporated herein by reference.

BEING the same property conveyed unto John A. Bowman, Audrey Bowman and Susan Mayhugh by Deed from Washington County Association for Retarded Citizens, Inc., dated August 27, 1993 and recorded in the Land Records of the County of Washington, Maryland, in Liber 1109, Folio 345.

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

Exhibit D-1

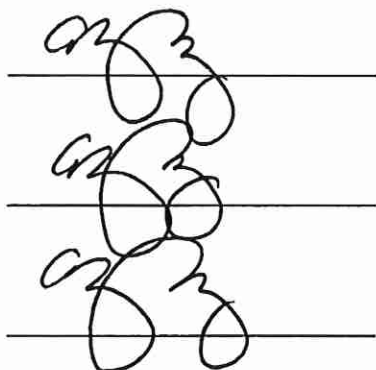
CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

Subject to all of the conditions, restrictions, streets, reservations, easements, covenants and rights-of-way of record.

To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Fast Gas Company, a Maryland General Partnership, in fee simple.

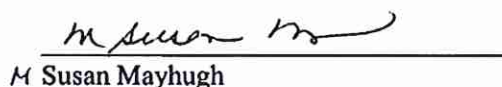
And the Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

In Witness Whereof, Grantors have caused this Deed to be properly executed and sealed the day and year first above written.



 (SEAL)
John A. Bowman

 (SEAL)
Audrey Bowman

 (SEAL)
M Susan Mayhugh

STATE OF MARYLAND
COUNTY OF WASHINGTON

} ss

I hereby certify that on this 25th day of February, 2011, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared John A. Bowman and Audrey Bowman, his wife, and Susan Mayhugh, the Grantors herein, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



Notary Public

My Commission Expires: February 16, 2014

4050 0125

CLERK OF CIRCUIT COURT
WASHINGTON COUNTY

THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.



Jason M. Divelbiss, Attorney

AFTER RECORDING, PLEASE RETURN TO:
Fast Gas Company
P.O. Box 4217
Hagerstown, MD 21741-4217

IMP FD SURE 2	20.00
RECORDING FEE	20.00
RECORDATION T	114.00
TR TAX STATE	75.00
TOTAL	229.00
Reg# H402	Rcpt # 55005
DJW KB	Blk # 19
Mar 01, 2011	11:27 am

TODD L. HERSHEY, TREASURER
TAXES PAID 3-1-11 pw

Taxes Paid \$0.00
Robert M. Breeding, Treasurer
SC 08-31-2023

Parcel 309

Prepared by:
Lincoln Title & Settlement Services
19638 Leitersburg Pike, Suite 202
Hagerstown, MD 21742
File No.: LT23-1885-MD

Washington Cty	Cir	Crt
IMP FD SURE	\$40.00	
RECORDING FEE	\$20.00	
TR TAX STATE	\$600.00	
CTY TR TAX	\$350.00	
CTY REC TAX	\$912.00	
TOTAL	\$1,922.00	
KRT TR	02:05 pm	
Aug 31, 2023		

Tax ID No.: 26-018870
Title Insurer: Security Title Guarantee Corporation of Baltimore

"1 of 1"

This Deed, made this 31st day of August, 2023 by and between **Edith J. Moore and Susan Wolff**, party of the first part, Grantor; and **Fast Gas Company, a Maryland general partnership**, party of the second part, Grantee.

- Witnesseth -

That for and in consideration of the sum of **ONE HUNDRED TWENTY THOUSAND AND NO/100 DOLLARS (\$120,000.00)**, the receipt whereof is hereby acknowledged, and other good and valuable consideration, the said Grantor does grant and convey to the said party of the second part, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

All that lot of ground situate in the County of Washington, State of Maryland and described as Lot numbered Ninety Six (96) and the Western twenty (20') feet of Lot Numbered Ninety Five (95), in a Subdivision known as "Revised Plat of Tammany Heights", as per plat thereof recorded in Plat Book 263, among the Land Records of Washington County, Maryland.

SAVING AND EXCEPTING THEREFROM all that that parcel of land described in the Deed dated December 13, 1963 and recorded among the land records of Washington County, Maryland in Liber 404, folio 424.

BEING the same property conveyed unto Edith J. Moore and Susan Wolff, by Deed from Edith J. Moore, dated March 5, 2010 and recorded among the land records of Washington County, Maryland in Liber 3840, folio 380.

Which has an address of 16512 Virginia Avenue, Williamsport, MD 21795

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

Subject to all of the conditions, restrictions, streets, reservations, easements, covenants and rights-of-way of record, including conditions and restrictions as set forth in the Land Records of Washington County, Maryland.


To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Fast Gas Company, a Maryland general partnership, party of the second part, in fee simple.


And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.


Exhibit D-2

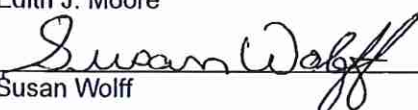
As Witness the hand and seal of said Grantor, the day and year first above written.

WITNESS:







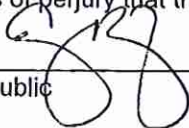
Edith J. Moore


Susan Wolff

STATE OF MARYLAND

COUNTY OF WASHINGTON

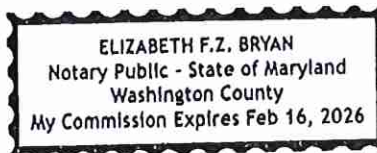
I hereby certify that on this 31st day of August, 2023, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Edith J. Moore and Susan Wolff, the Grantor herein, known to me (or satisfactorily proven) to be the person whose names are subscribed to the within instrument, and acknowledged the same for the purposes therein contained, and further acknowledged the foregoing Deed to be their act, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.



Notary Public

My Commission Expires: February 16, 2026

(SEAL)



THIS IS TO CERTIFY that the within Deed was prepared by, or under the supervision of the undersigned, an Attorney duly admitted to practice before the Court of Appeals of Maryland.



Kent N. Oliver, Esquire

AFTER RECORDING, RETURN TO:

Fast Gas Company

P.O. Box 4217

Hagerstown, MD 21741-4217

Taxes Paid \$0.00
Robert M. Breeding, Treasurer
CB 02-22-2024

Prepared by:
Lincoln Title & Settlement Services
19638 Leitersburg Pike, Suite 202
Hagerstown, MD 21742
File No.: LT23-1915-MD

Parcel 314

Washington Cty Cir Crt
IMP FD SURE \$40.00
RECORDING FEE \$20.00
TR TAX STATE \$1,275.00
CTY TR TAX \$1,025.00
CTY REC TAX \$1,938.00
TOTAL \$4,298.00
KRT RZ 12:00 pm
Feb 22, 2024

Tax ID No.: 26-006759
Title Insurer: Security Title Guarantee Corporation of Baltimore

"1 of 1"

This Deed, made this 22nd day of February, 2024 by and between **William Ricky Reel and Kay Louise Reel, his wife**, party of the first part, Grantor; and **Fast Gas Company, a Maryland general partnership**, party of the second part, Grantee.

- Witnesseth -

That for and in consideration of the sum of **TWO HUNDRED FIFTY-FIVE THOUSAND AND NO/100 DOLLARS (\$255,000.00)**, the receipt whereof is hereby acknowledged, and other good and valuable consideration, the said Grantor does grant and convey to the said party of the second part, in fee simple, all that lot of ground situate in the County of Washington, State of Maryland and described as follows, that is to say:

All that lot or parcel of land, together with the improvements thereon, and all the rights, alleys, ways, waters, privileges, appurtenances and advantages thereunto belonging or in anywise appertaining, situate in Washington County, Maryland, fronting 70 feet on the North side of the Hagerstown-Williamsport Turnpike and extending back therefrom with uniform width a distance of 180 feet, being the Eastern 30 feet of Lot No. 95 and the Western 40 feet of Lot No. 94 as designated on the plat of lots called "Revised Plat of Tammany Heights", as recorded in the Office of the Clerk of the Circuit Court for Washington County, Maryland, in Plat Record folio 263.

Being same property conveyed unto William R. Reel and Kay L. Reel, his wife, by Deed from Kay L. Reel, f/k/a Kay L. Hammond, dated February 11, 2000 and recorded among the land records of Washington County, Maryland in Liber 1553, folio 1010.

Which has an address of 16514 Virginia Avenue, Williamsport, MD 21795

Together with the buildings and improvements thereon erected, made or being; and all and every, the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

Subject to all of the conditions, restrictions, streets, reservations, easements, covenants and rights-of-way of record, including conditions and restrictions as set forth in the Land Records of Washington County, Maryland.

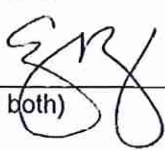
To Have and To Hold the said tract of ground and premises above described and mentioned, and hereby intended to be conveyed, together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said Fast Gas Company, a Maryland general partnership, party of the second part, in fee simple.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

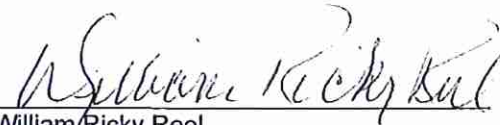
Exhibit D-3

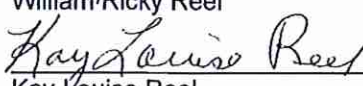
As Witness the hand and seal of said Grantor, the day and year first above written.

WITNESS:



(As to both)



William Ricky Reel


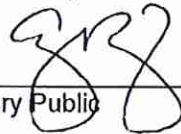
Kay Louise Reel

STATE OF MARYLAND

COUNTY OF WASHINGTON

I, Elizabeth F.Z. Bryan, a Notary Public for the County of Washington and State of Maryland, do hereby certify that William Ricky Reel and Kay Louise Reel, his wife personally appeared before me this day and acknowledged the due execution of the foregoing instrument, and in my presence signed and sealed the same, giving oath under penalties of perjury that the consideration recited herein is correct.

Witness my hand and official seal, this the 22nd of February, 2024.



Notary Public

My Commission Expires: February 16, 2026

(SEAL)



THIS IS TO CERTIFY that the within Deed was prepared by a party to the instrument or by a person authorized to sign on behalf of such party.



Kent N. Oliver, Esquire

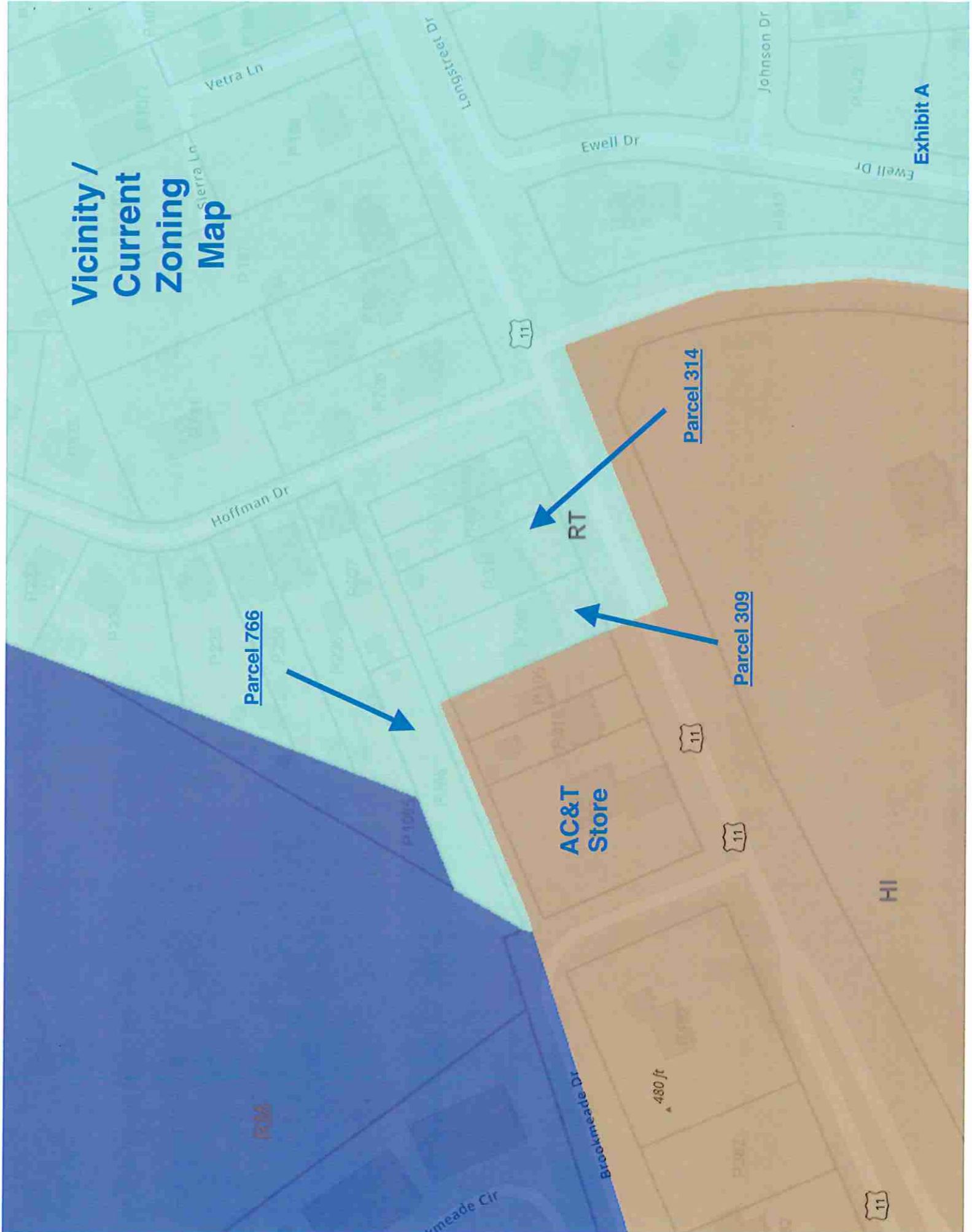
AFTER RECORDING, RETURN TO:

Fast Gas Company
P.O. Box 4217
Hagerstown, MD 21741-4217

ADJOINING & CONFRONTING PROPERTY OWNERS	MAILING ADDRESS	PREMISES ADDRESS	TAX MAP/PARCEL
Morningside East LLC	10228 Governor Lane Blvd., Unit 3002, Williamsport, MD 21795	16432 Virginia Avenue, Williamsport, MD 21795	56/192
Vincent Groh	c/o TCA Trust Corp. America, 18702 Crestwood Drive, Hagerstown, MD	Bookemeade Drive, Williamsport, MD 21795	48/253
Mary & Anthony Mayhugh	16606 Tammany Manor Road, Williamsport, MD 21795	Hoffman Drive, Williamsport, MD 21795	56/1065
David Munday, et al.	10712 Hoffman Drive, Williamsport, MD 21795	10712 Hoffman Drive, Williamsport, MD 21795	56/226
Susan E. Miller Revocable Trust	10710 Hoffman Drive, Williamsport, MD 21795	10710 Hoffman Drive, Williamsport, MD 21795	56/227
Jessie Lambert	16516 Virginia Avenue, Williamsport, MD 21795	16516 Virginia Avenue, Williamsport, MD 21795	56/327
Shelby Powell	16518 Virginia Avenue, Williamsport, MD 21795	16518 Virginia Avenue, Williamsport, MD 21795	56/196
Old Folks Home of the Potomac Synod of the Reformed Church in the United States, Inc.	c/o Homewood Retirement Center, 16107 Elliott Parkway, Williamsport, MD 21795	16505 Virginia Avenue, Williamsport, MD 21795	56/77

Vicinity / Current Zoning Map

Exhibit A



Parcel 766

Parcel 314

Parcel 309

AC&T
Store

HI

480 ft

ZONING ORDINANCE MAP AMENDMENT

+/- 0. 891 ac. - VIRGINIA AVENUE & BROOKMEADE CIRCLE

+/- 0.312 ac. (Tax Map 56; Parcel 766)

+/- 0.289 ac. (Tax Map 56; Parcel 309)

+/- 0.290 ac. (Tax Map 56; Parcel 314)

Justification Statement

The following Justification Statement is submitted in further support of the application submitted by FAST GAS COMPANY (the "Applicant") to rezone the above referenced three (3) parcels of real property (collectively, the "Properties") from RT (Residential, Transition) to HI (Highway, Interchange) on the basis that there was a "mistake" made in assigning the current RT (Residential, Transition) zoning.

As shown on the attached 2005 Zoning Map, the Properties, along with the AC&T Store and the entire frontage of Virginia Avenue west of Hoffman Drive, were all previously zoned HI-2 (Highway Interchange). As stated in the now repealed Article 19B of the Zoning Ordinance, the purpose of the HI-2 zoning district was "to serve as a transitional zone between HI-1 and nearby residential areas by providing for those uses of a restricted business or light industrial nature..." (see attached).

However, when the HI-2 (Highway Interchange) zoning district was repealed in 2012, rather than maintain this consistency, these properties received multiple different zoning classifications. The four (4) parcels closest to the Hoffman Drive / Governor Lane Boulevard intersection were zoned RT (Residential, Transition); the AC&T Store and two (2) parcels closest to the store were zoned HI-1; and the large tract to the north closest to the Interstate was zoned RM (Residential, Multi-family). See attached copy of the current zoning map.

This decision in 2012 to not carry the HI-1 zoning classification through to all the properties along Virginia Avenue between the Interstate and Hoffman Drive was a "mistake" which justifies the within piecemeal rezoning request.

In the leading decision on the concept of "mistake" in zoning, the Maryland Court of Special Appeals explained:

"[T]he presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid. Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or

projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension.... Error or mistake may also be established by showing that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect.... 'On the question of original mistake, this Court has held that when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize a rezoning.'" *Boyce v. Sembly*, 25 Md.App. 43, 50-51 (1975) (quoting *Rockville v. Stone*, 271 Md. 655, 662 (1974)). (emphasis added)

In 2012 the following facts and trends existed which were not sufficiently taken into account when deciding not to extend the HI-1 zoning classification to all the properties along Virginia Avenue between I-81 and Hoffman Drive:

- The distinct and material difference in the patterns and character of land-use west of the intersection of Virginia Avenue, Hoffman Drive and Governor Lane Boulevard as compared to east of the intersection. Thus, making the intersection the logical point at which the zoning districts should transition.
 - o As can be seen in the attached series of aerial photographs of the area from 2005 to 2023, the area lying between I-81 and Hoffman Drive has a distinctly commercial and higher intensity pattern and character influenced predominantly by the Interstate, Homewood, the AC&T Store and the multi-family apartment complex. Whereas the area to the east of the intersection has a distinctly residential and lower intensity pattern and character influenced predominantly by the Tammany and Van Lear communities.
- Related to the first item above, the segment of Virginia Avenue on which the Properties front and which provides the Properties the only means of ingress and egress is classified as a Principal Arterial roadway by the Maryland State Highway Administration and sees approximately 11,000 - 12,000 trips per day. This level of traffic, combined with the physical proximity of approx. 1,000 feet from the I-81 ramps, clearly indicates an incompatibility with residential zoning and land-use.

The Board of County Commissioners' failure to take the foregoing facts sufficiently into consideration in 2012 led to the misapprehension that the Properties should be zoned RT (Residential Transition) and thus forms the basis of the within request to rezone the property to HI (Highway Interchange) consistent with the AC&T Store and other adjacent properties to the west.

Perhaps in recognition of these factors, the current draft of the 20240 Comprehensive Plan does currently recommend a change in the land-use classification to "Commercial" for two (2) of the three Properties which are the subject of this rezoning request. See attached portion of the 2040 Comp. Plan Land-Use Map. However, as has been demonstrated above, at a minimum the third of the subject Properties should also be classified for "Commercial" use and the more logical place to transition to the "Medium Density Residential" classification would be the intersection of Virginia Avenue with Hoffman Drive and Governor Lane Boulevard.

2005 Zoning Map

(1 of 2)



2005 Zoning:HI-2

Highway Interchange District, 2

[Zoom to](#)



ARTICLE 19B "HI-2" HIGHWAY INTERCHANGE DISTRICT¹⁰⁸

Section 19B.1 Purpose

The HI-2 District is intended to serve as a transitional zone between HI-1 and nearby residential areas by providing for those uses of a restricted business or light industrial nature, less intense than those allowed in the HI-1 District. It is intended to be compatible with both the HI-1 District and other nearby zoning districts. The uses permitted shall be the same as those in the BT, RM, PUD, IT, RR, RS, or RU Districts.

Section 19B.2 Principal Permitted Uses

- (a) All Principal Permitted uses in the BT, RM, PUD, IT, RR, RS, and RU districts.
- (b) Cemeteries, mausoleums, and memorial gardens.

Section 19B.3 Special Exception Uses (Requiring Board of Appeals Authorization after Public Hearing)

- (a) All Special Exception uses allowed in the BT, RM, IT, and RU districts.

Section 19B.4 Accessory Uses

Uses and structures customarily accessory and incidental, to any principal permitted or special exception use.

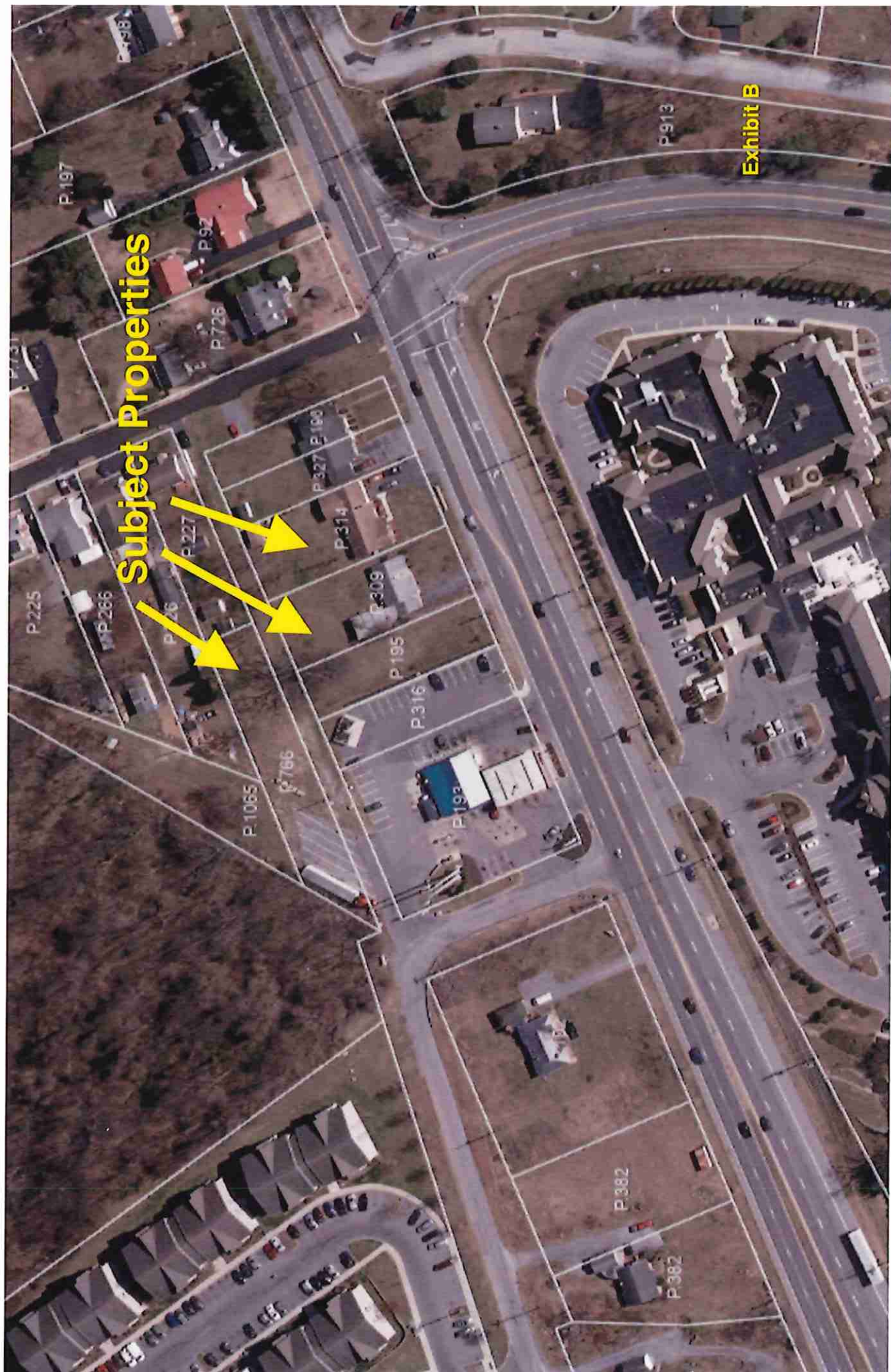
Section 19B.5 Site Plan Review¹⁰⁹

All development in the HI-2 District requires site plan review and approval and an approved Forest Stand Delineation and Forest Conservation Plan in accordance with Section 4.11. The Commission shall apply the following general standards in the HI-2 District:

- (a) Interchange access: First priority shall be given to insuring safe and uncongested access to the interstate highways from all connecting roads. Future as well as present traffic volumes shall be considered by the Commission. In the site plan review, the Planning Commission shall consider the location and spacing of ingress and egress and shall not permit them where they would interfere with traffic movement onto the approach ramps. Frontage roads may be required when deemed appropriate by the Commission.
- (b) Architectural and landscape design: The Planning Commission shall give special attention to the visual appearance of the interchange area as seen by

¹⁰⁸ Revision 6, Section 19B added 4/26/88 (RZ-383)

¹⁰⁹ Revision 7, Section 19B.5 amended 11/16/93 (RZ-93-10)



2023

Residential

Commercial



2017

Residential

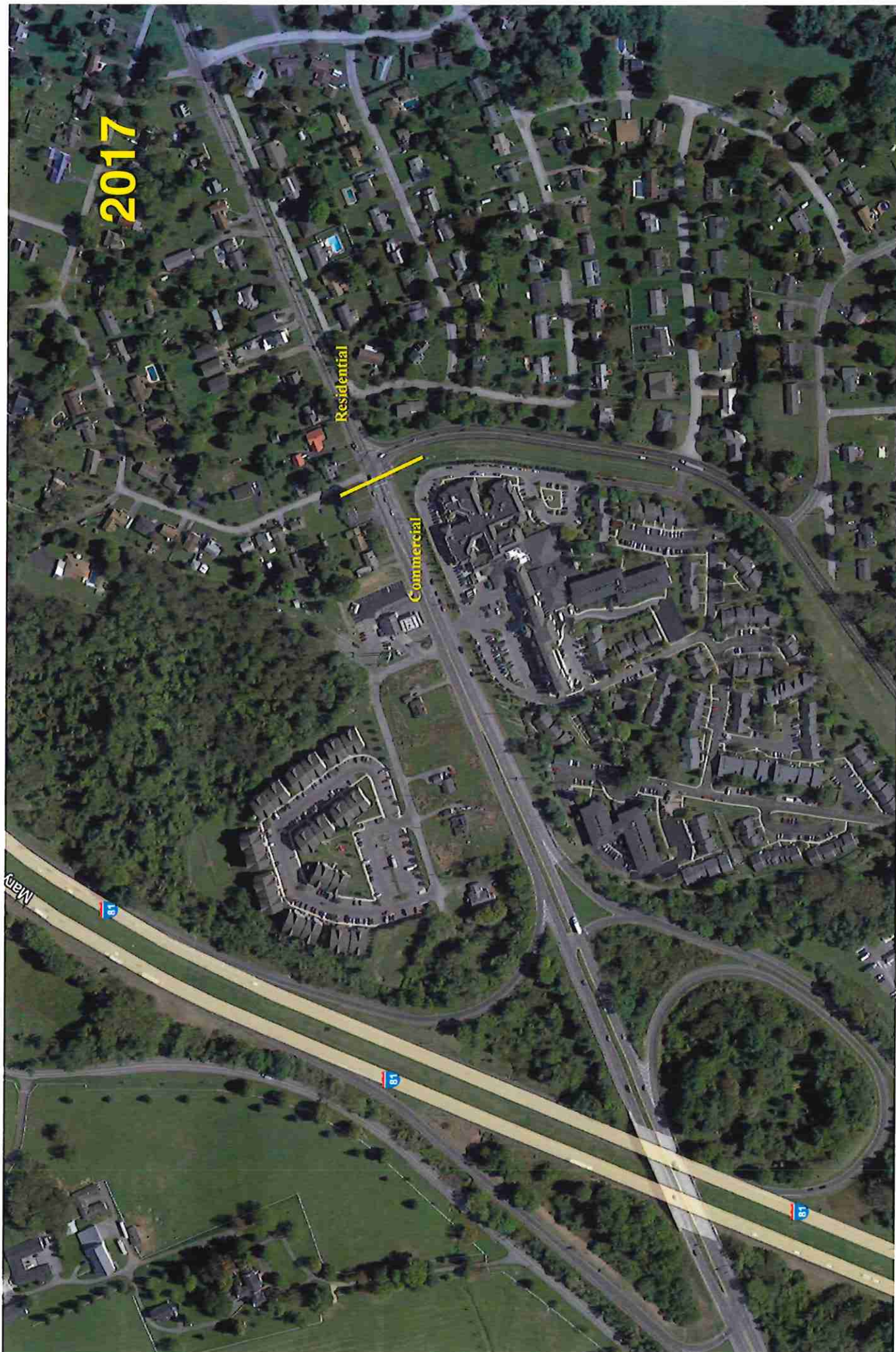
Commercial

Man

81

81

81



2013

Residential

Commercial

Man

81

81

81



2005

Residential

Commercial

Manly

81

81

81



2040 Comp. Plan Land-Use Map

Parcel 766

HOFFMAN DR

*Medium Density
Residential*



VIRGINIA AVE

Parcel 314

Parcel 309

Commercial

EWELL DR

JOHN

BUFOR

GOVERNOR-LANE BLVD

mercial

Application for Map Amendment

Staff Report and Analysis

Property Owner(s)	:	Fast Gas Company
Applicant(s)	:	Fast Gas Company
Location	:	Virginia Avenue and Brookmeade Circle
Election District	:	#26 – Halfway
Comprehensive Plan		
Designation	:	Low Density Residential
Zoning Map	:	56
Parcel(s)	:	P. 309, 314, 766
Acreage	:	.90 acres
Existing Zoning	:	RT – Residential, Transition
Requested Zoning	:	HI – Highway Interchange
Date of Meeting	:	July 7, 2025

within the Urban Growth Area (UGA) that surrounds the City of Hagerstown and the Towns of Williamsport and Funkstown.

Parcels 309 and 314 (16512 and 16514 Virginia Avenue) are improved by single story brick homes. Parcel 766 (Brookmeade Circle) is currently improved by five truck parking spaces at its western end, with the remainder of the property being undeveloped. All properties are owned by the same entity which owns the adjacent AC&T gas station and convenience store at 16504 Virginia Avenue.

No sensitive environmental resources have been identified on any of these properties.

2. Population Analysis

To evaluate the change in population, information was compiled from the US Census Bureau over a thirty-year time frame. A thirty-year horizon was chosen to show long term population trends both in the election district of the proposed rezoning, and the County as a whole.

The properties subject to this rezoning are located within the Halfway Election District (#26). As shown in the table below, the population in this district has grown more slowly than the County has over the thirty-year time frame between 1990 and 2020. District 26 has grown 22.1% over the thirty-year period (.74%) per year while the County as a whole has increased in population by 27.4% (.91% per year) during the same period. The Halfway Election District experienced its greatest population increase during the thirty-year period surveyed between 2000 and 2010 (9.3% over those ten years).

Table 1: Halfway Election District Population Trends

Population Trends 1990 - 2020			
Year	Area	Population	% change from previous decade
1990	District	9,418	
	County	121,393	
2000	District	9,854	4.6%
	County	131,932	8.7%
2010	District	10,774	9.3%
	County	147,430	11.7%
2020	District	11,501	6.7%
	County	154,705	4.9%

Source: US Census Bureau

3. Availability of Public Facilities

A. Water and Sewerage

The adopted Water and Sewerage Plan for the County establishes the policies and recommendations for public water and sewer infrastructure to help guide development in a manner that helps promote healthy and adequate service to citizens. By its own decree, the purpose of the Washington County Water and Sewerage Plan is "...to provide for the continued health and well-being of Washington Countians and our downstream neighbors..."¹ This is achieved through implementing recommendations within the County Comprehensive Plan and the Water and Sewerage Plan to provide for services in a timely and efficient manner and by establishing an inventory of existing and programmed services.

Water:

W1-Existing Service (City of Hagerstown)

The parcels are served by existing (W-1) public water facilities as they are located within the Urban Growth Area. Water service in this area is provided by the City of Hagerstown, which also owns the distribution system. All surrounding properties in the vicinity are also served by the City and designated W-1. The City of Hagerstown Water Division offered no comment on the proposed development when sent the application for review.

Wastewater:

W1-Existing Service (County)

The subject parcels are served by existing (W-1) public sewerage facilities within the Urban Growth Area. The County owns the collection system and handles the effluent treatment at the Conococheague Wastewater Treatment Plant. Nearly all adjacent properties are also designated W-1 and served by the same treatment facility.

The Department of Water Quality, the wastewater provider for this area, had no comments when routed this application.

B. Emergency Services

Fire and Emergency Services:

Volunteer Fire Company of Halfway (1114 Lincoln Avenue) – 2 miles away

¹ Washington County, Maryland Water and Sewerage Plan 2009 Update, Page I-2

The subject parcel is located within the service area of the Volunteer Fire Company of Halfway. This same entity also provides the nearest emergency rescue services. Their station is located approximately 2 miles away from the properties in question.

A copy of this application was sent to the Washington County Division of Emergency Services. No comments were received.

C. Schools

The requested zoning classification, Highway Interchange (HI), does not permit residential development. Therefore, there would be **no school capacity mitigation requirements** for pupil generation under the County's Adequate Public Facilities Ordinance.

4. Present and Future Transportation Patterns

Road Access

The subject properties are located on Virginia Ave/U.S. 11. The stretch of U.S. 11 that borders the property is functionally classified as Other Principal Arterial in the Transportation Element of the County's 2002 Comprehensive Plan, in terms of mobility and access characteristics. Other Principal Arterial roads are designed to carry greater than 20,000 vehicles in Average Daily Traffic. The County's classification system is based upon the Federal Highway Functional Classification System, but modified to reflect local road conditions.

Some of the subject properties also have road frontage on Brookmeade Circle. Brookmeade Circle is designated as a Local Road. Local Roads are designed to carry less than 2,000 Average Daily Traffic in urban areas.

Traffic Volume

In addition to evaluating access points of subject properties for rezoning purposes, it is also important to evaluate traffic generation from proposed development in the context of existing traffic volumes. This is commonly accomplished through the analysis of prior traffic counts and any existing traffic impact studies. As the proposed rezoning sites are located on County and State roads, traffic counts are shown for locations in the vicinity of both Brookmeade Circle and Virginia Avenue.

The County's Division of Engineering collected single day traffic counts at five locations in the vicinity of the site in 2016. These locations are found at various points along Virginia Avenue within ½ mile or less from the site. Since these were first time collections at these locations, trends cannot be discerned. These counts do however give us an idea of traffic volume occurring in the "neighborhood."

As shown in the table below, the highest traffic volume was recorded at the intersection of Governor Lane Boulevard and U.S. 11, roughly 150' east of the site at 6,599 vehicles. The closest traffic count was at Brookmeade Drive just north of U.S. 11, which abuts the AC&T property. During the one-day traffic survey, 1,293 vehicles were counted at that location.

Table 2: 2016 County Traffic Volumes

Brookmeade Drive North of U.S. 11	1,293
Hoffman Drive North of U.S. 11	301
Governor Lane Blvd South of U.S. 11	6,599
Van Lear Drive South of U.S. 11	417
Donelson Drive South of U.S. 11	765

Source: Washington County Division of Engineering and Construction Management Traffic Count Inventory Map

The nearest consistent traffic counter in the immediate vicinity of the subject properties on Virginia Avenue is roughly 1.5 miles away near the intersection of Massey Boulevard. A thirty-year traffic survey at this location offers a glimpse at long-term traffic patterns along the state route in proximity to the rezoning site.

Table 3: Traffic Volumes 1990-2020

Year	U.S. 11 near Massey Blvd
2020	10,211
2015	11,392
2010	12,350
2005	12,650
2000	14,250
1995	10,225
1990	14,575

Source: Maryland State Highway Administration

From an overall perspective, Table 3 shows that traffic has generally decreased at this location between 1990 and 2020. Traffic counts were highest in 1990 and 2000 at over 14,000 AADT. Even accounting for COVID-19 impacts on the 2020 traffic patterns, when the count was at its lowest number during the thirty-year period surveyed, traffic has not recently reached historic levels. The 2023 count, for example, was 11,191 AADT.

Future Road Improvements

According to a review of short- and long-term transportation planning documents, a few notable major roadway projects affecting capacity or traffic flow realignment are currently slated to occur in the immediate vicinity of the subject parcel on County, State or Federal roads.

The widening of U.S. 11 between Wilson Boulevard in Hagerstown and Hoffman Boulevard just east of the site is identified in both the Hagerstown Eastern Panhandle Metropolitan Planning Organization's Long Range Transportation Plan (LRTP) and the Highways Plan of Washington County's Comprehensive Plan in the Transportation Chapter. The road is to be widened to four lanes, but not before the 2036-2050 time frame, according to the LRTP.

The Maryland Department of Transportation's Consolidated Transportation Plan also notes three bridge replacements on I-70 in the vicinity of the site: 1) over I-81, 2) over U.S. 11 3) over the Norfolk Southern rail line. Some of this work is already ongoing. There is not an exit from I-70 directly onto U.S. 11, so at most the latter road would get secondary traffic diversion at times of heavy traffic or accidents on other connecting routes.

Both the Washington County Engineering Plan Review and State Highway Administration had no comment after receiving a copy of the rezoning application.

Public Transportation

This area is served by Route 441 of the County Commuter. Route 441 travels between the Washington County Transit Center in Hagerstown and the town of Williamsport. The route operates six days per week, between Monday and Saturday.

5. Compatibility with Existing and Proposed Development in the Area:

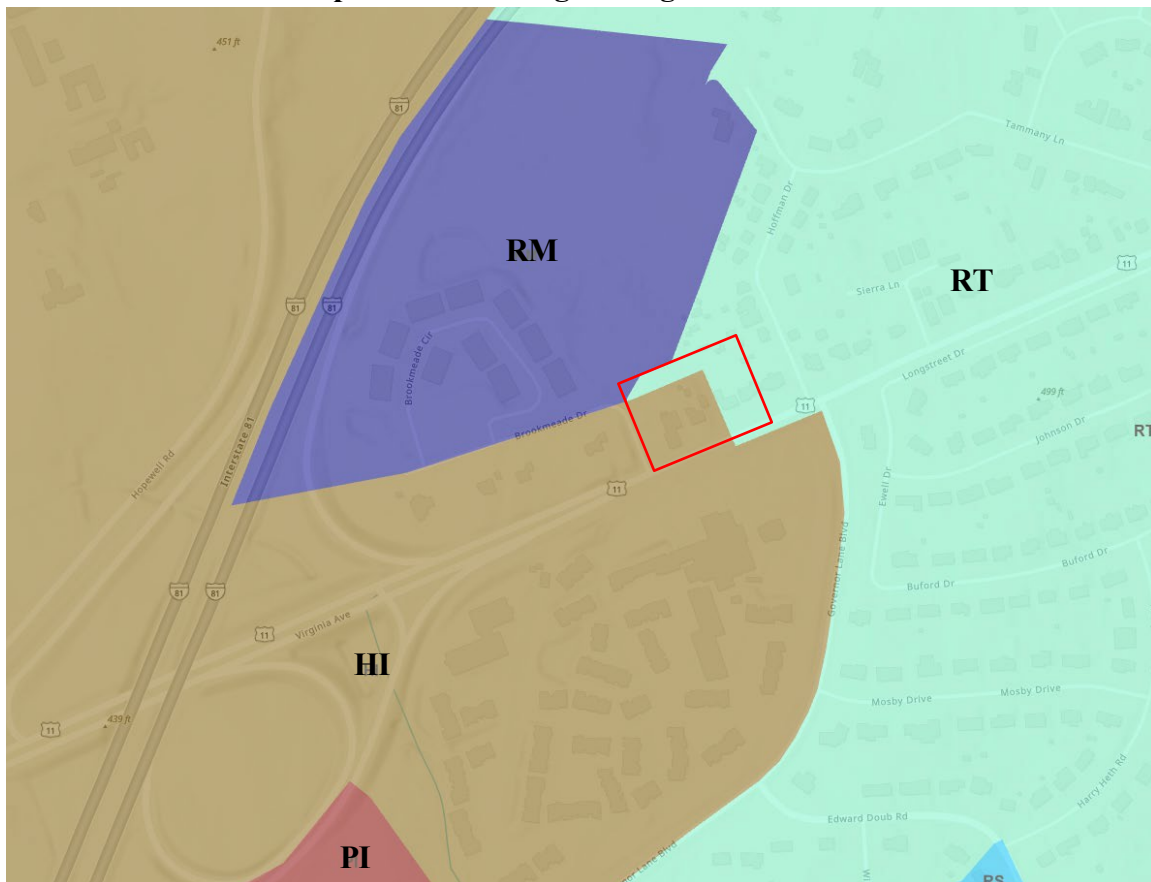
A. Zoning

The subject parcels are currently zoned Residential Transition (RT) and are requesting to change to Highway Interchange (HI). The purpose of the HI zoning district is:

“...to provide suitable locations for commercial activities or light industrial land uses that serve highway travelers, provide goods and services to a regional population, or uses that have a need to be located near the interstate highway system to facilitate access by a large number of employees, or the receipt or shipment of goods by highway vehicles. In addition to providing accessible locations, the Highway Interchange District is intended to protect the safe and efficient operation of the interchange and to promote its visual attractiveness....”²

The HI Zoning District does not define its own standalone permitted uses. Instead, it pulls all principal permitted uses allowed in the BL, BG, PB, and ORT Districts as well as those in the IR District except heliports and Commercial Communications Towers. Truck stops are among other land uses allowed by special exception in an HI District.

Map 1: Surrounding Zoning Classifications

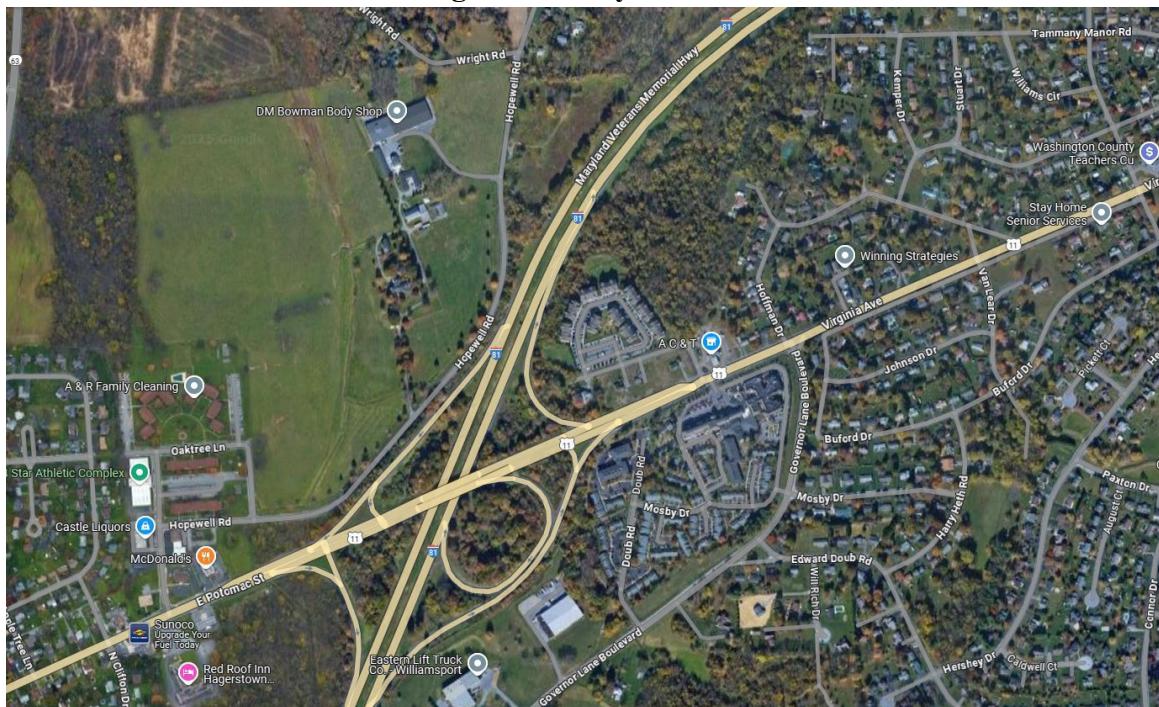


² Washington County Zoning Ordinance, Article 19

Virginia Avenue (U.S. 11) and I-81 are responsible for the separation of land uses according to zoning in this area, as shown on Map 1 above. Located immediately adjacent to I-81 Exit 2, the subject properties (roughly identified by the rectangular extent indicator, but also including the existing AC&T not part of this rezoning) lie at the intersection of three different zoning boundaries. The three subject properties, all zoned RT, are part of the large block of residential land uniformly given this zoning to the east. HI predominates to the west on lands immediately surrounding the interchange. A standalone RM district abuts one of the three subject properties to the north. South of U.S. 11 and the interchange, one can see the beginnings of the PI zoning along Governor Lane Boulevard and the RS (Residential Suburban) zoning beyond the Norfolk Southern Rail line.

B. Land Use

Image 1: Vicinity Land Use



Source: Google Maps

The proximity of the major transportation routes noted above influences the mixed nature of land use in this part of the Urban Growth Area. The stretch of Virginia Avenue that runs in front of the subject properties is still substantially residential, both on the roadway itself and on connecting local roads that run through the Van Lear and Tammany subdivisions. The Brookmeade Apartments are located immediately north. Homewood, a full-service retirement community that includes onsite health care services in addition to housing, is directly south.

There are, however, a number of commercial businesses on U.S. 11, headlined by the AC&T that is the focus of this rezoning. In addition to that business, Washington County Teachers Credit Union and Scoop-A-Liscious are located $\frac{1}{2}$ and $\frac{3}{4}$ of a mile east.

Beyond Homewood to the south, Governor Lane Boulevard is home to many industrial businesses. The lands northwest of the I-81 interchange, zoned HI, are in a transitional state as there is still currently much open land that will soon be developed in a light industrial nature along the lower part of Hopewell and Wright Roads with a pending warehouse development.

The Town limits of Williamsport lie just west of the interchange. Commercial businesses such as McDonald's, Waffle House and 4 Star Athletic Complex soon give way to residential or institutional uses (the school complex) in that direction.

C. Historic Sites

Another important component of compatibility is the location of historic structures on and around the parcels being proposed for rezoning. According to the Washington County Historic Sites Survey there are 2 existing historic sites located within an approximately $\frac{1}{2}$ mile radius of the proposed rezoning areas.

Below is a listing of existing historic resources within a $\frac{1}{2}$ mile radius of the subject parcels:

- WA-I-023: "Mt. Tammany" - Late-18th century 2-story brick dwelling associated with a prominent early resident of Washington County.
- WA-I-022: "Milestone Farm" – Mid-19th century farm complex encompassing 2-story brick house and several outbuildings.

6. Relationship of the Proposed Change to the Adopted Plan for the County:

The purpose of a Comprehensive Plan is to evaluate the needs of the community and balance the different types of growth to create a harmony between different land uses. In general, this is accomplished through evaluation of existing conditions, projections of future conditions, and creation of a generalized land use plan that promotes compatibility while maintaining the health, safety, and welfare of the general public.

Both properties are located in the **Low Density Residential** sub-policy area. The Comprehensive Plan offers the following definition for this policy area:

"This policy area designation would be primarily associated with single-family and to a lesser degree two-family or duplex development. It is the

largest policy area proposed for the Urban Growth Area and becomes the main transitional classification from the urban to rural areas.”³

In the draft Land Use Plan of the County’s ongoing Comprehensive Plan update, the subject properties are proposed to be changed to a Commercial Land Use Policy Area. This proposal reflects the recent change in ownership of some of the properties (acquired by the applicant in 2023), a request by the property owner, and consideration of the changing nature of this part of Virginia Avenue.

7. “Change or Mistake” Rule

When rezonings are not part of a comprehensive rezoning by the governing body, individual map amendments (also known as piecemeal rezonings) are under an obligation to meet the test of the “Change or Mistake” Rule. The “Change or Mistake” Rule requires proof by the applicant that there has been either: a substantial change in the character in of the neighborhood since the last comprehensive zoning plan (2012), or a mistake in designating the existing zoning classification.

As part of the evaluation to determine whether the applicant has proven whether there has been either a change or mistake in the zoning of a parcel, the Maryland Annotated Code Land Use Article and the Washington County Zoning Ordinance state that the local legislative body is required to make findings of fact on at least six different criteria in order to ensure that a consistent evaluation of each case is provided. Those criteria include:

1) population change; 2) the availability of public facilities; 3) present and future transportation patterns; 4) compatibility with existing and proposed development for the area; 5) the recommendation of the planning commission; and 6) the relationship of the proposed amendment to the local jurisdiction’s Comprehensive Plan.

Even when change or mistake has been sufficiently sustained, it merely allows the local governing body the authority to change the zoning; it **does not require** the change. When conditions are right for a change, the new zone must be shown to be appropriate and logical for the location and consistent with the County’s Comprehensive Plan.

II. Staff Analysis:

The analysis of a rezoning request begins with a strong presumption that the current zoning is correct. It is assumed that the governing body performed sufficient analysis, exercised care, and gave adequate consideration to all known concerns when zoning was

³ 2002 Washington County, Maryland Comprehensive Plan, Page 243

applied to a parcel of land. However, there are instances by which a case can be established to show that the governing body either erred in establishment of the proper zoning of a property or that the neighborhood surrounding the property has changed enough since the governing body's last assessment to require a new evaluation of the established zoning designation.

The applicant of this case has indicated in their justification statement that they believe that a **mistake** was made by the local legislative body to rezone the property in 2012. As noted in the prior section describing the "Change or Mistake" Rule, the Washington County's Zoning Ordinance requires data to be presented to the local legislative body on factors such as population change, present and future traffic patterns, the availability of public facilities, the relationship of the proposed change to the Comprehensive Plan and its compatibility with existing and proposed development in order to determine how the area subject to rezoning has evolved since the comprehensive rezoning.

1. Evidence for Mistake in the Current Zoning

In order to demonstrate that a mistake was made by the regulatory body in applying the existing zoning classification to the parcel, the applicant must establish that an error occurred as a result of factors such as:

1. A failure to take into account projects or trends probable of fruition;
2. Decisions based on erroneous information;
3. Facts that later prove to be incorrect;
4. Events that have occurred since the current zoning; or
5. Ignoring facts in evidence at the time of zoning application.

The last Comprehensive Rezoning in Washington County was completed in 2012, affecting the Urban Growth Area (UGA) that surrounds the City of Hagerstown and the towns of Williamsport and Funkstown. The Rezoning affected approximately 17,000 parcels and 38,000 acres of land.⁴ Information such as population projections, growth trends, transportation and infrastructure data, and the recommendations of the Comprehensive Plan were considered as a part of this effort. The input of property owners, local officials, County staff and the general public was also solicited and considered in the assignment of each parcel affected by the Comprehensive Rezoning. Landowners were also given the opportunity to appeal the rezoning of their property at that time if they felt aggrieved by the Board's decision.

⁴ Washington County Ordinance No. ORD-2012-08

The applicant contends that the Board of County Commissioners (BOCC) erred in their decision during the 2012 UGA Comprehensive Rezoning to rezone the lots in question to RM. The applicant claims that factors such as the following were not fully considered by the Board in their 2012 decision:

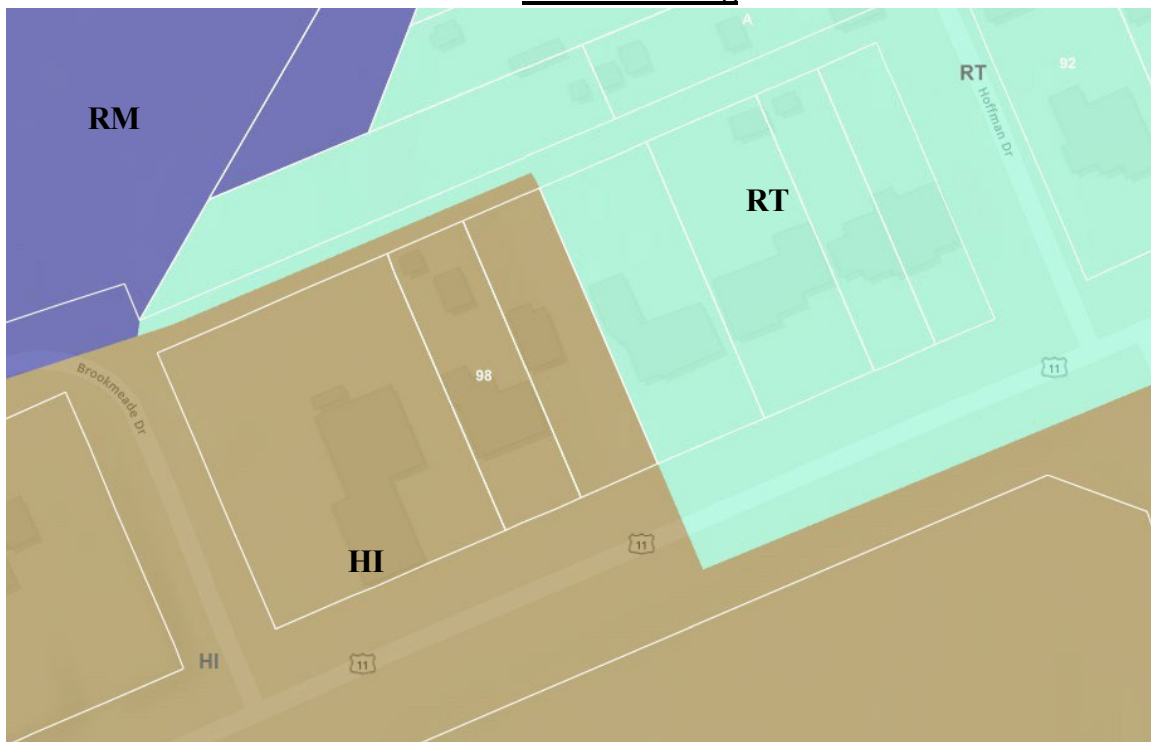
- The inconsistent application of the HI-1 zoning classification to properties located on Virginia Avenue between I-81 Exit 2 and Hoffman Drive with the repeal of the HI-2 zoning classification in 2012.

Elaborating on the above assertion, the applicant contends that Hoffman Drive forms a logical dividing line in land use intensity for properties in this area that should've guided the zoning decisions made in 2012. West of Hoffman Drive, the applicant contends that there is a higher land use intensity, more commercial in nature, influenced by anchor developments such as the AC&T, Homewood and the Brookmeade Apartments. To the east of Hoffman Drive, they assert the pattern is more clearly for lower intensity residential land uses, such as the Van Lear and Tammany subdivisions.

i. Recent Zoning History

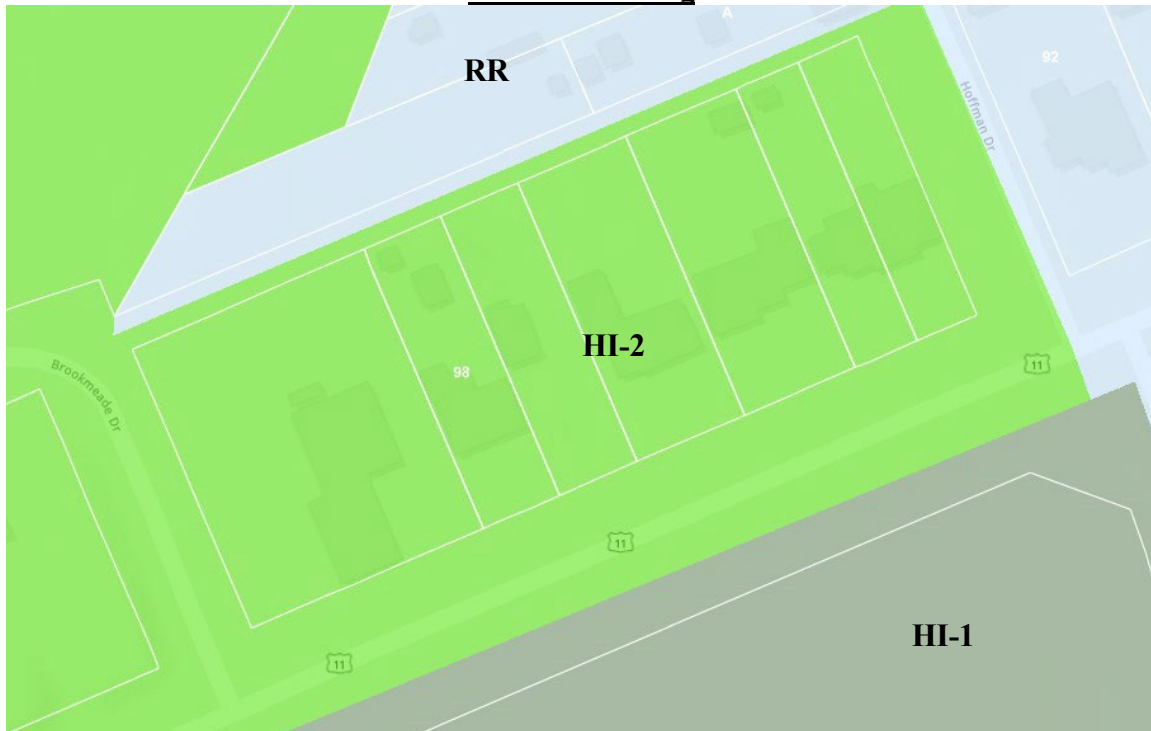
- These properties were rezoned to the present **RT** designation in conjunction with the Comprehensive Rezoning of the Urban Growth Area in 2012 (RZ-10-005).

Current Zoning



- Prior to 2012, they were zoned Highway Interchange District **HI-2**.

Pre-2012 Zoning



The HI-2 zoning district was intended to serve as a transitional zone between HI-1 zones and nearby residential areas. Typically, HI-1 areas were designated on lands closest to interstate highway interchanges, with HI-2 zones then buffering adjacent lands in the vicinity of the interchanges. HI-1 allowed commercial and industrial uses. Permitted uses were pulled from the BL, BG, PB, and IR Districts.

HI-2 allowed low intensity business and industrial uses as well, but also residential development at varying densities. Permitted uses were pulled from the BT, RM, PUD, IT, RR, RS and RU Districts. The HI-2 zoning district was eliminated during the 2012 UGA Rezoning, while the HI-1 zoning district was later eliminated with the rezoning of the County's Town Growth Areas, beginning in 2013.

This left only the current standalone HI zoning district which now had a solely commercial/industrial focus which no longer permitted residential development of any kind. Residential properties that were formerly permitted within HI-2 zoning districts were reassigned to other existing residential zoning classifications such as the RT zoning which is currently applied to the subject properties.

➤ **Discussion**

No documentation exists which definitively illuminates why the subject properties were not also given the HI-1 zoning classification when the HI-2 zoning classification was repealed in 2012. Property records from the State of Maryland Department of Assessments and Taxation, however, indicate that the current dividing line between HI and RT zoned properties likely was largely due to the ownership at that time.

Fast Gas Company owned the two properties east of the AC&T (16508 & 16510 Virginia Avenue) at the time of the UGA Rezoning in 2012. They did not own the other four properties along Virginia Avenue leading to Hoffman Drive (16512, 16514, 16516 & 16518 Virginia Avenue). Fast Gas Company requested the HI-1 Zoning classification for the properties that they owned at the time of the 2012 UGA Rezoning. The properties they did not own were given the RT zoning classification, in the absence of any property owner requests for a different classification. These decisions therefore caused existing residential properties to become legally non-conforming with their new HI zoning classification only in cases where property owners specifically requested that process occur.

The only exception to the above description of events is for parcel 766, located north of the AC&T on Brookmeade Circle. Fast Gas Company did own that property in 2012, but it was rezoned to RT instead of HI, unlike the other Fast Gas Company properties. No records exist indicating a property owner request for HI on that property in 2012.

III. Conclusion:

The applicant has claimed that a mistake was made to rezone these properties from HI-2 to RT in 2012 because of the selective application of the HI-1 to similarly situated adjacent properties. The burden of the applicant in a “Mistake” case is to provide evidence that the Board:

1. Failed to take into account projects or trends probable of fruition,
2. Made decisions based on erroneous information,
3. Used facts that later prove to be incorrect,
4. Couldn’t have foreseen Events that have occurred since the current zoning, or
5. Ignored facts in evidence at the time of zoning application.

Regarding the charge of mistake, it has been demonstrated that the selective reassignment of properties along this stretch of Virginia Avenue from HI-2 to both the RT and HI-1 zoning classifications in 2012 was likely due to the ownership at that time. In the

absence of property owner requests, most properties leading up to Hoffman Drive were given RT zoning classifications because Virginia Avenue is still almost entirely residential along this particular stretch of roadway until reaching the AC&T station. And while it is certainly true that land use intensity increases as one approaches the interchange, it is only recently that more properties on the north side of Virginia Avenue in this area have transitioned away from stable ownership of single-family homes by individual property owners. Single family homes did exist in 2012, and continue to exist presently, both east and west of Hoffman Drive. This makes it difficult to characterize the decisions made in 2012 to reassign some properties HI/HI-1 and others to RT as being a mistake.

At the same time, current circumstances with property ownership have also changed. The three properties subject to this rezoning are now all owned by the applicant and are no longer being actively used for residential purposes. The draft Land Use Plan Map for the Comprehensive Plan update recommends that these properties become commercial largely because of the change in ownership. These facts, plus their immediate proximity to the I-81 Exit 2 interchange advance a certain logic to now applying the HI zoning classification, given present conditions.

Whether or not extending HI zoning further into the nearby residential neighborhoods could have cascading effects spurring the residential to commercial transition which has already occurred elsewhere on Virginia Avenue over time is unknown. The pre-2012 HI-2 zoning classification for these properties does provide prior precedent for allowing commercial and light industrial uses in these locations. A mixing of commercial and residential land uses is likely the logical future for lands along many of the major radial transportation routes, such as U.S. 11, that bisect the UGA from their point of origin in Hagerstown.

Staff also wishes to advise that decision makers carefully consider the wide range of land uses permitted under the HI zoning requested by the applicant for their compatibility with the neighborhood that surrounds this site. The land use desired by the current property owner may not remain the same over time under the flexibility offered by HI zoning.

Respectfully Submitted,



Travis Allen
Senior Planner