

CARROLL COUNTY PLANNING COMMISSION STAFF REPORT

Rezoning Case No. 227 – MJY Investments

August 31st, 2022

Petitioner/Owner:

Attorney:

MJY Investments, LLC (Owner & Petitioner)
113 Westminster Road, Suite 200
Reisterstown, MD 21157

Shaffer and Shaffer, LLP
73 East Main Street
Westminster, MD 21157

Request Description:

The subject property is located at 1719 Sykesville Road, Westminster MD 21157 (map 52, parcel 52). The request is to reclassify 10.1926 acres from Agriculture “A” to Commercial Medium “C-2”. The subject property is located along at the intersection of MD 32 (Washington Road) and MD 97 (New Washington Road) in election district 7. The property has a land use designation of Conservation in the *City of Westminster 2009 Comprehensive Plan* as well as the *2007 Westminster Environs Community Comprehensive Plan*. The Petitioned area is in the Growth Area Boundary of the City of Westminster in their most recent comprehensive plan (2009).

Request in Detail:

The subject property is comprised of 1 parcel and is 10.1926 acres bounded at the intersection of MD 32 and MD 97 (see Exhibit A – Rezoning Plat).

The property has a land use designation of Conservation in the *City of Westminster 2009 Comprehensive Plan* (see Exhibit C – Designated Land Use).

The rezoning petition is based on an argument of mistake in the current zoning designation and change in the neighborhood (see Exhibit E – Neighborhood Boundary).

Background of Request:

The Carroll County Department of Planning accepted the subject petition on July 1st, 2022, in accordance with the Carroll County Procedures for Rezoning.

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Findings:

1. *Property Use and Development History*

The approximate 10.9126-acre parcel shown today is the same parcel shown in the 1965 zoning maps. This means, the subject property was subdivided off from a larger parcel prior to 1965. Currently, this property is improved and used as a fully operational YMCA Recreational Facility. The YMCA opened in May of 1992. The subject property was sold to the YMCA of Central Maryland Inc. in 1988 (L: 1110, F: 871) and was then sold to the current owner/petitioner, MJY Investments LLC., in 2010 (L: 6221, F:481).

2. *Soils (Prime or Productive Agricultural Soils for properties outside of DGA)*

The property lies within four soil series as identified and defined by USDA’s Natural Resources Conservation Service (NRCS) as the following: Gilead Loamy Sand (GhB), 2 to 8 percent slopes. This soil type is on prime farmland and is moderately well drained. This soil type occupies .6 acres of the Petitioned area. Woodbridge Fine Sandy Loam (WhB), 3 to 8 percent slopes. This soil type is on upland hills and drumlines and is moderately well drained. This soil type represents majority of the petitioned area, approximately 6.1 acres. Urban Soil (UrB), found in watersheds that provide drinking water, food, waste utilization, and natural resources to communities. These soils can also be located within a city’s parks and recreation areas. UrB soil takes up approximately 4.72 acres of the subject property. Brinklow channery loam (BrC), 8 to 15 percent slopes. This soil type is on summits and backslopes and is well drained. This soil type takes up approximately .62 acres on the subject property.

3. *Watersheds (Only for properties in Tier I and Tier II Watersheds or in Reservoir Watershed Boundaries)*

The property is located in the Liberty Reservoir Watershed. This rezoning petition has been sent to the Baltimore Metropolitan Council (BMC), specifically the Reservoir Technical Group (RTG) for comments. RTG’s purpose and mission is to prepare progress reports of their Action Strategy Items and to prepare technical reports relating to items that may include reservoir and tributary water quality, trends in land use and land cover, pollutants of concern in the watersheds or critical land and water management issues in the reservoir watersheds. RTG helps maintain the Liberty and Pretty Boy watersheds in Carroll County.

4. *Agency Comments*

On July 1st, 2022 the Department of Planning referred the rezoning petition to several agencies and bureaus for any comments that the Planning and Zoning Commission should consider prior to making a recommendation to the County Commissioners.

The following agencies and bureaus were given the opportunity to provide comments:

Carroll County Bureau of Engineering
Carroll County Bureau of Utilities
Carroll County Department of Land and Resource Management

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Carroll County Roads Operations
Carroll County Health Department
Carroll County Office of the County Attorney
Carroll County Department of Economic Development
Carroll County Zoning Administrator
Carroll County Office of Public Safety
Carroll County Department of Public Works
Maryland Department of Transportation – State Highway Administration
Maryland Department of Planning – advisory only
Carroll County Bureau of Development Review
Carroll County Department of Fire and Emergency Medical Services
Supervisor of Assessment
City of Westminster
Baltimore Metropolitan Council – Reservoir Technical Group

5. *Immediate Neighborhood*

The immediate neighborhood is approximately 240 acres and is defined by the two major roads that encompass the property, MD 32 and MD 97. The neighborhood consists of an institutional/commercial corridor with the subject property situated at the southern portion of the neighborhood boundary.

The primary use within the neighborhood is a mix between commercial/institutional and residential, specifically single family and multi-family residences. Commercial and institutional entities such as Carroll Community College, Robert Moton Elementary School, the Gateway School, Carroll County Youth Service Bureau, Carroll County Public Safety Training Center, Carroll County Career & Technology Center, Westminster High School, Comcast Cable Company, and the subject property itself, the Westminster YMCA, are all located within the neighborhood boundary.

6. *Public Facilities*

Transportation- The property has approximately 600 feet of frontage on MD 32. This property currently has vehicular access from MD 32. MD 32 is classified by the state as a State Highway with the Maryland Department of Transportation.

Water and Sewer Service Area- This property is located in “Existing/Final Planning (W-1)” Water service category and the “Existing/Final Planning (S-1)” sewer service category from the *2019 Carroll County Water and Sewer Master Plan*.

Fiber Internet- The subject property frontage on MD 32 is connected to the broadband network.

Transit- A trailblazer route does run to the neighboring property, Carroll Community College.

7. *Zoning*

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The zoning district found within the neighborhood is “A” Agricultural.

- Agricultural- the purpose of the “A” District is to provide for continued farming activities, conserve agricultural land, and reaffirm agricultural use, activities, and operations as the preferred dominant use of the land within the district, except in an area designated “MR” within the “MRO” where mineral resource recovery is also a preferred use. While relatively small existing hamlets, villages, and residential communities appear within, as do occasional dwellings, and other uses, the district is primarily composed of lands which, by virtue of their highly productive soils, rolling topography, and natural beauty, are the very essence of the county’s farming heritage and character. A substantial portion of the residential development in the county has previously taken place in the “A” District. This has the effect of taking agricultural land out of production and creating a demand for public facilities and services (roads, water and sewerage, schools, and police and fire protection) in areas where provision for such additional services and facilities is not consistent with the purpose of the “A” District. The intent of this section is to recognize the need for and appropriateness of very limited residential development in the “A” District, but to prohibit residential development of a more extensive nature. It is the further purpose of this district to maintain and promote the open character of this land as well as to promote the continuance and viability of the farming and agribusiness uses.

Zoning of the Petition Area

The subject property has been zoned “Ag” Agriculture since the time of the original zoning adopted by the County in 1965 (see Exhibit D – Existing Zoning).

8. Relationship of Proposed Zoning to Comprehensive Plan

The subject property does not a future land use designation with the *2014 Carroll County Master Plan as amended in 2019*. This is because the subject property is located within the City of Westminster’s Growth Area Boundary. The subject property is also designated as a Priority Funding Area by the State of Maryland in the City and County’s master plans. Looking at the *City of Westminster 2009 Comprehensive Plan*, the subject property is designated as Conservation. The land use of Conservation is consistent with the City of Westminster’s comprehensive plan since the subject property serves as a public institution. The subject property is also consistent with the City’s comprehensive plan’s Planning Vision: “Growth Areas – Growth is concentrated in existing population and business centers, growth areas adjacent to those centers or strategically selected new centers.”

Though the subject property is not designated within the County master plan, it is still consistent with the overall goals and objectives listed in the *2014 Carroll County Master Plan as amended in 2019*.

Chapter 1 – Concepts and Intentions, “Maryland Planning Legislation and Authority: PFA’s – PFA’s are targeted areas to receive state funds for infrastructure. PFA’s are designated based on the availability of existing and/or planned water and sewer services, a permitted residential density of 3.5 dwelling units per acre, and designation as a growth area...”

Chapter 6 – Public Facilities and Services, “Providing public facilities and services for

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the safety, health, and welfare of the County’s citizens is a primary function of a local government. Public roads, water and sewer systems, schools, community colleges, libraries, parks and recreational sites, and public buildings are all facilities and/or infrastructure that may be provided by a government.”

Chapter 16 – Land Use and Growth Management: “Designated Growth Areas (DGAs) are the smaller geographic areas of the County where the majority of Carroll County’s planned residential, commercial, and industrial development is current concentrated and future growth is planned. These areas generally are centered around a municipality, where historically high-density development has occurred in a more traditional town pattern, and where public water and sewer facilities and services are available.”

9. Mistake in the Current Zoning

The Petitioner alleges mistake because the Agriculture zoning designation is inappropriate for the existing recreational/family center multi-purpose use on the property. The zoning designation also does not recognize the substantial undeveloped area on the property. If rezoned, the new zoning designation would allow for additional development on the property which would complement the existing YMCA use (which is subject to a long-term lease). Furthermore, the petitioner says it is a mistake to apply the restrictive Agricultural zoning classification given the substantial public infrastructure available in the area.

Within the neighborhood there is a mix of uses like single and multi-family residential as well as commercial and institutional uses. There is also a mix of zoning classifications like R-10,000, Conservation, Agriculture (the subject property) and “C-2” Commercial Medium in the neighborhood boundary. Abutting the subject property to the north is Conservation and to the south is “C-2” Commercial Medium. The R-10,000 zoning district is found on the northern end of the neighborhood boundary (see Exhibit F – Neighborhood Boundary and Existing Zoning).

As stated before, the entire approximate 10-acre subject property is zoned Agriculture. Only a fraction of the parcel is being used, YMCA, approximately 6 acres, leaving approximately 4 acres undeveloped and zoned Agriculturally. There are many uses that are allowed in the “C-2” zoning district that are not permitted in the Agriculture District that could be utilized on the 4-acre undeveloped area. Though properties to the north are zoned Conservation and though the subject property is zoned Agriculture, they are not being utilized as such.

In order to change the subject property’s zoning using the argument of a “mistake” in zoning, there must be evidence that there was an error in the information provided in the most current Comprehensive Rezoning (2020). Staff believe the subject property could have been looked at more closely during the Comprehensive Rezoning effort. Because the subject property lies within the City of Westminster’s Growth Area Boundary and zoned Agriculture since 1965, it was not looked at specifically to be rezoned. Also, the most recent comprehensive plan for the City of Westminster addressing the subject property’s land use was in 2009. There was a recent update to the City’s comprehensive plan in 2018 but the update was specifically for adopting Growth Tiers and not for updating land uses. For these reasons, Planning staff accepts that this could be interpreted as a mistake in the most recent Comprehensive Rezoning effort.

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10. Change in the Character of the Neighborhood

The Petitioner also alleges a substantial change in the character of the neighborhood. The Petitioner states the neighborhood essentially consists of an institutional/commercial corridor which has substantially grown in recent years. Additions of two major medical office buildings have been added to the neighborhood. Also, the property immediately to the south of the subject property was recently rezoned from Agriculture to Commercial Medium. This was through the Department of Planning's Comprehensive Rezoning By-Request efforts. The Petitioner goes on to say the neighborhood has increased in use and intensity with new developments such as the Carroll County Vocational/Technical School, Carroll County Youth Service Bureau and improvements and additions to the Carroll County Hospital Complex. Lastly, MDSHA has made substantial improvements to the nearby intersection of Maryland 97 and 32.

The Annotated Code of Maryland says a "change" in the character of the neighborhood may occur where new or expanded sewer facilities are shown, where there is increased traffic flow, and/or rezoning's have been adopted. The Annotated Code goes on to say that changes in the character of the neighborhood prior to the adoption of comprehensive zoning (2020) may be considered only in conjunction with subsequent changes. Planning recognizes that there was a rezoning of the adjoining property in 2020 showing a change in the adjoining property. However, this does not mean there has been a substantial change in the entire neighborhood boundary. Looking at the entire neighborhood boundary, there has been insufficient improvements done to the neighborhood since the last comprehensive zoning, 2020, that would constitute a substantial change in the character of the neighborhood.

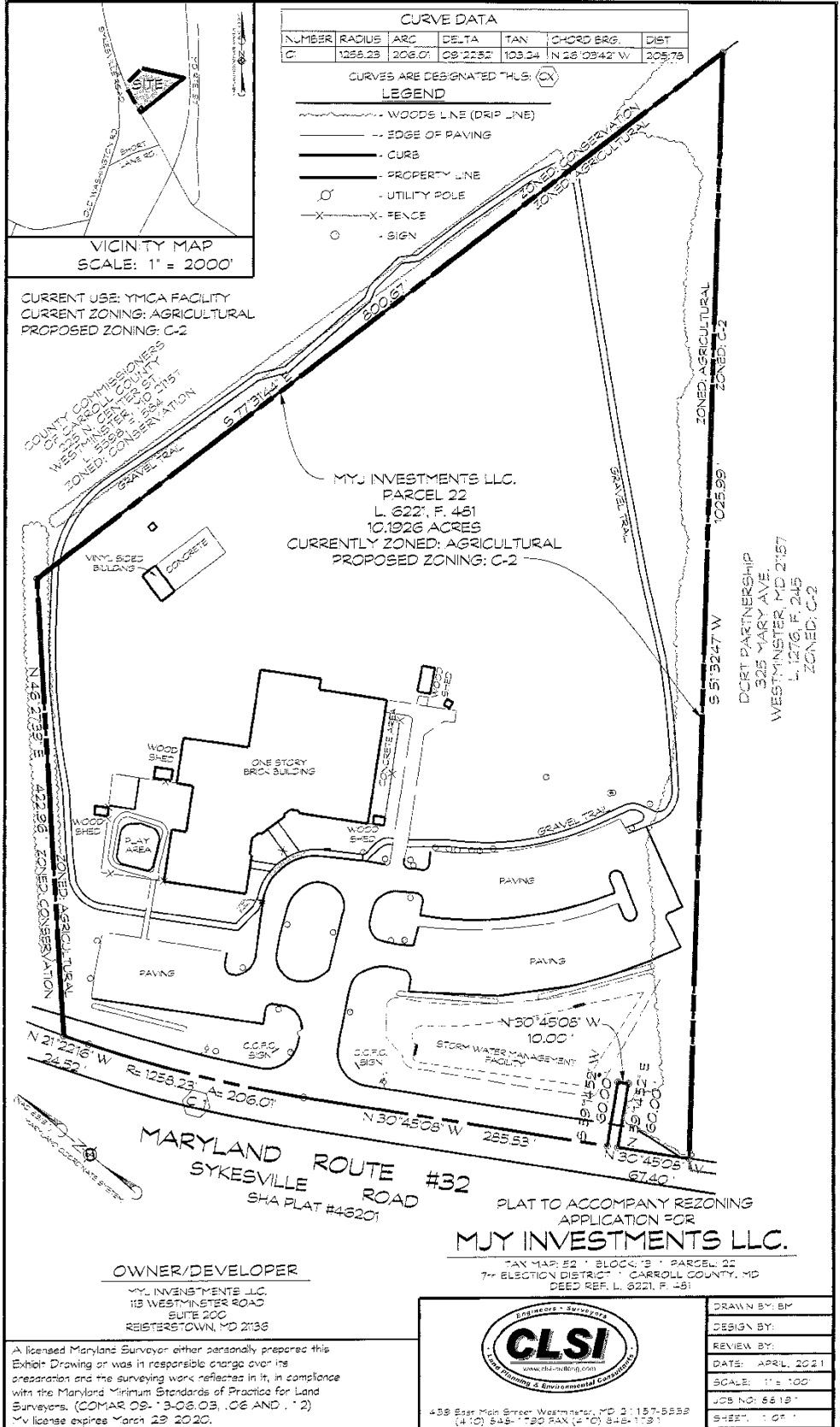
Staff Recommendation:

Based on the facts stated above, planning staff recommends that the zoning for the petition area be rezoned to "C-2" or Commercial Medium. Though the petitioner failed to prove a substantial change occurred in the neighborhood, staff believes there is reasonable information constituting a mistake in the zoning during the most current Comprehensive Rezoning.

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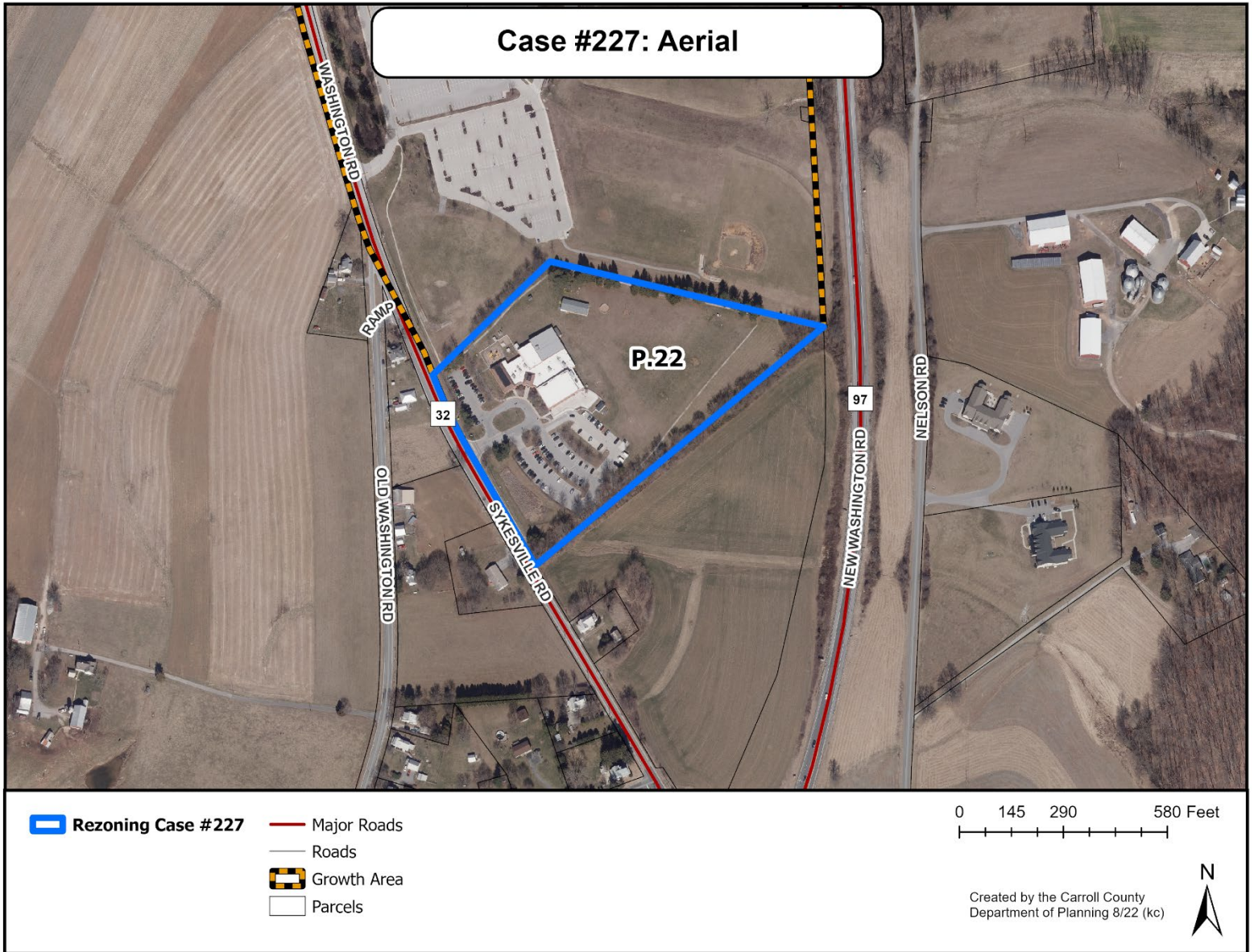
Exhibit A – Rezoning Plat



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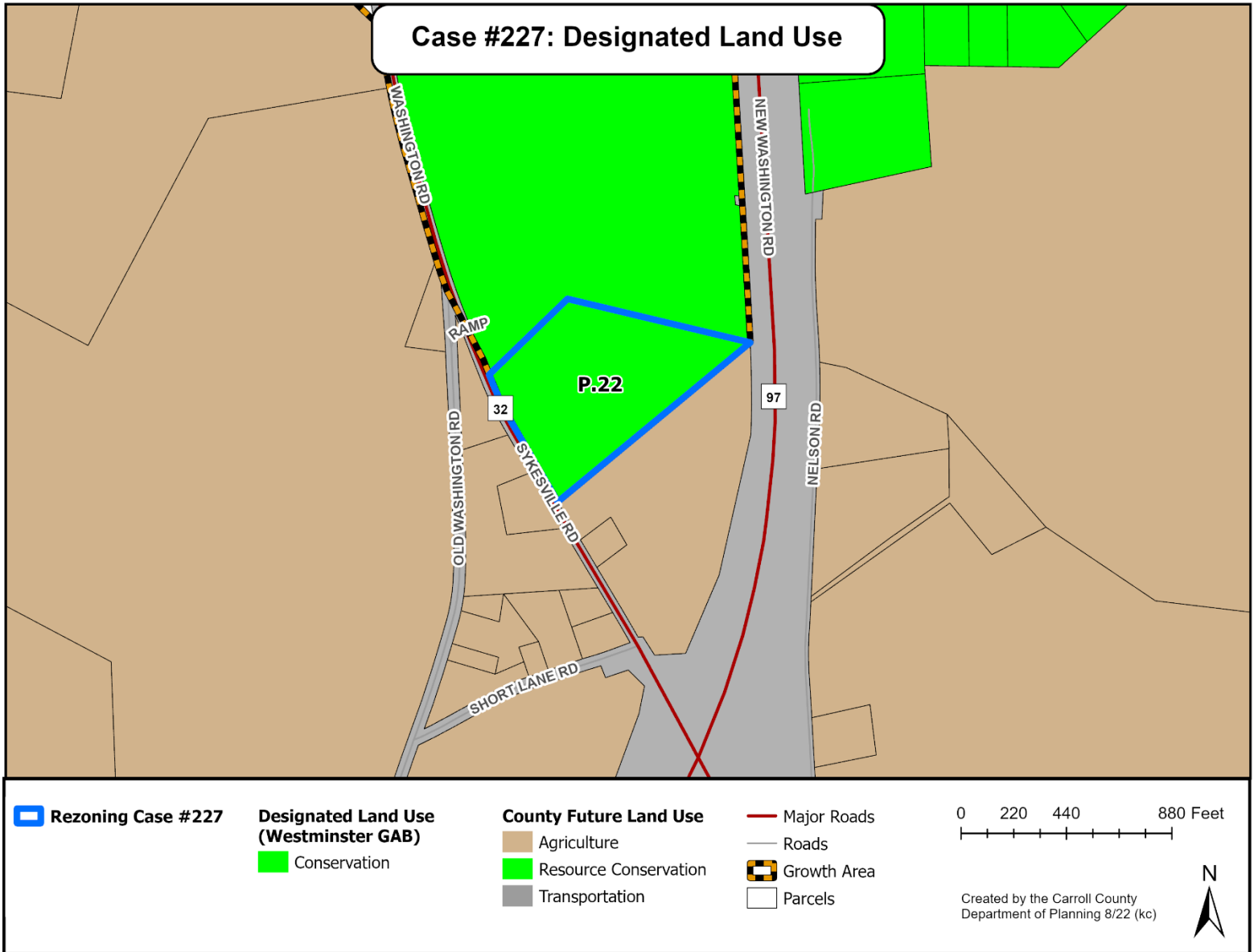
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Exhibit B – Aerial



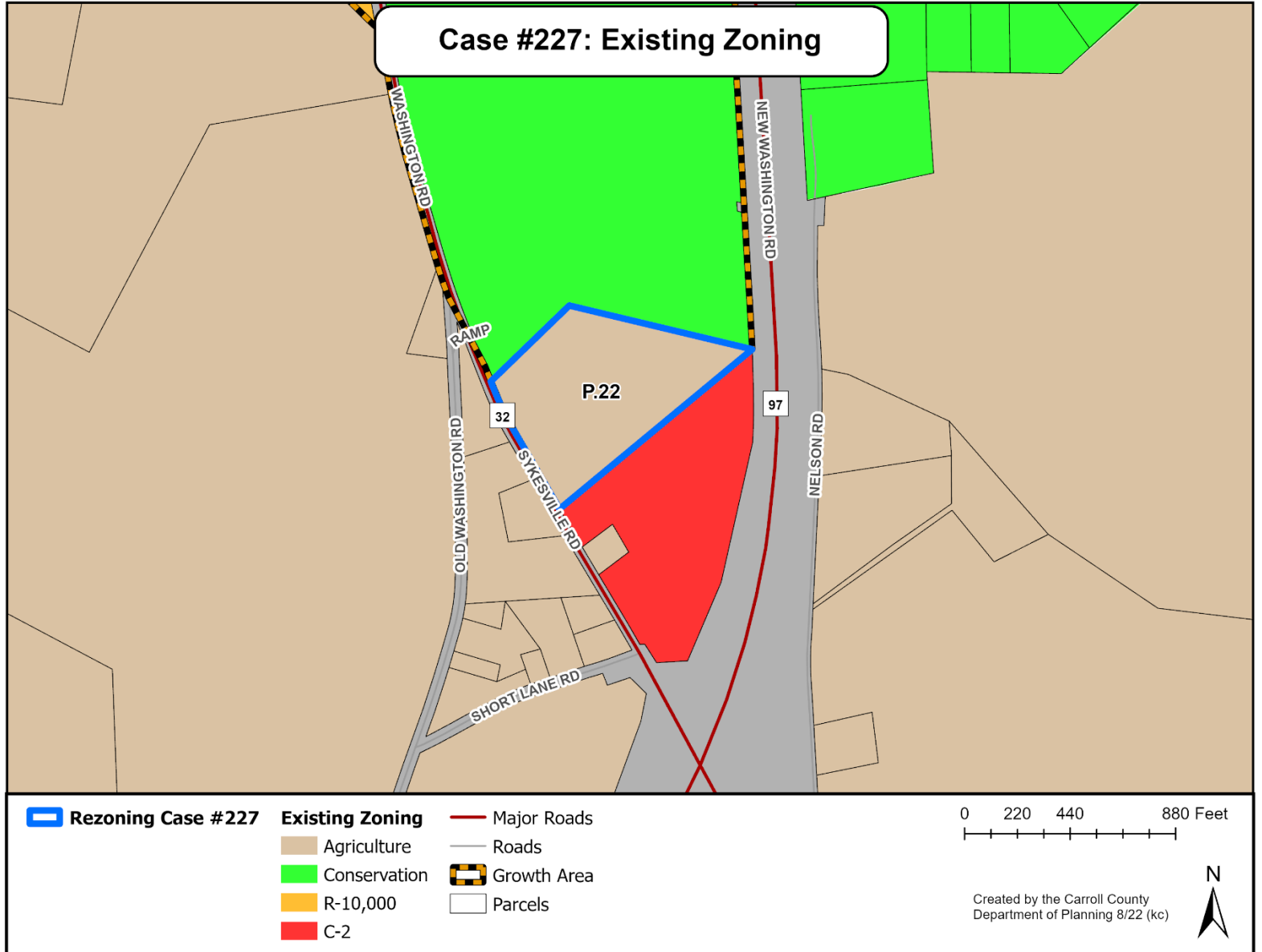
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Exhibit C – Designated Land Use



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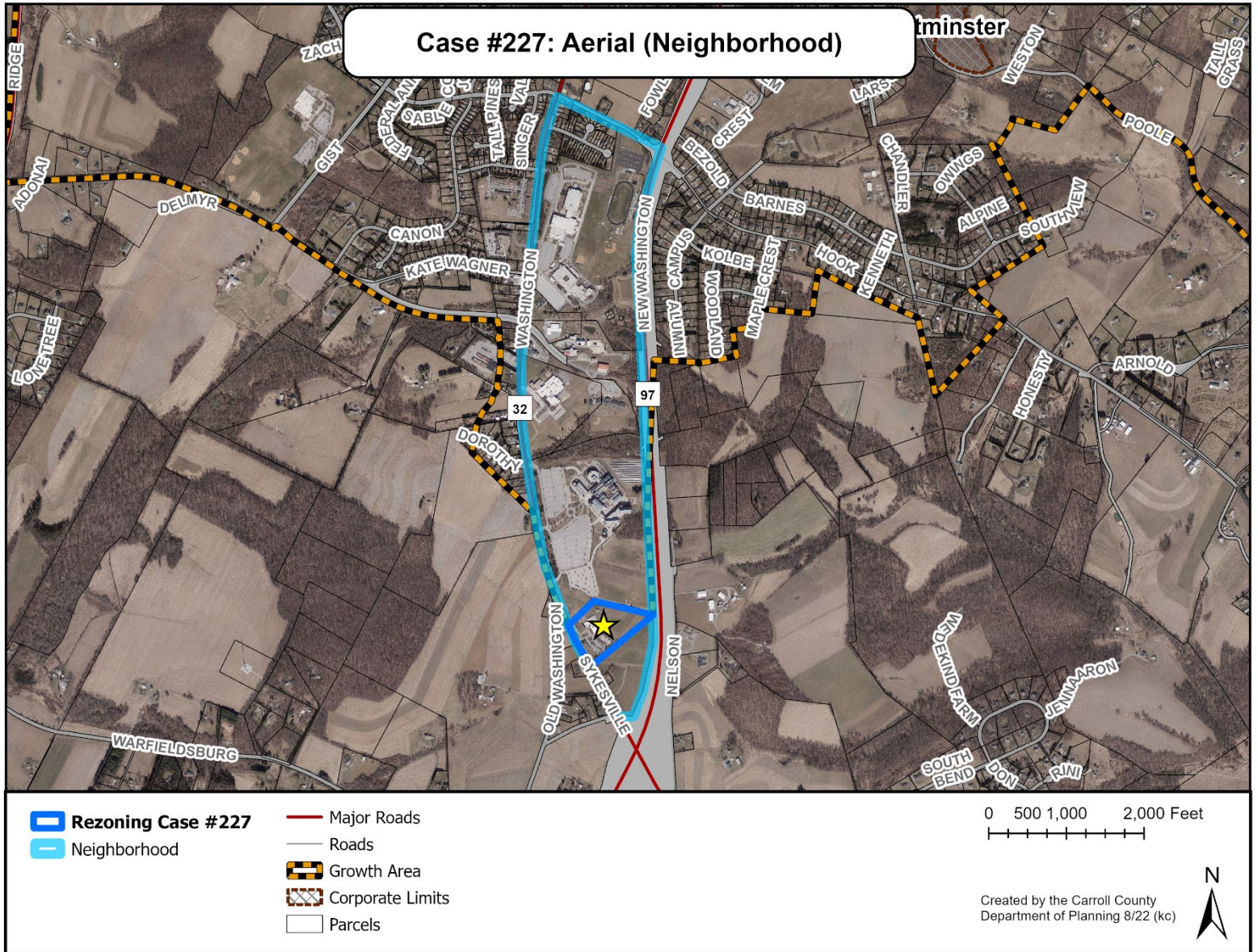
Exhibit D – Existing Zoning



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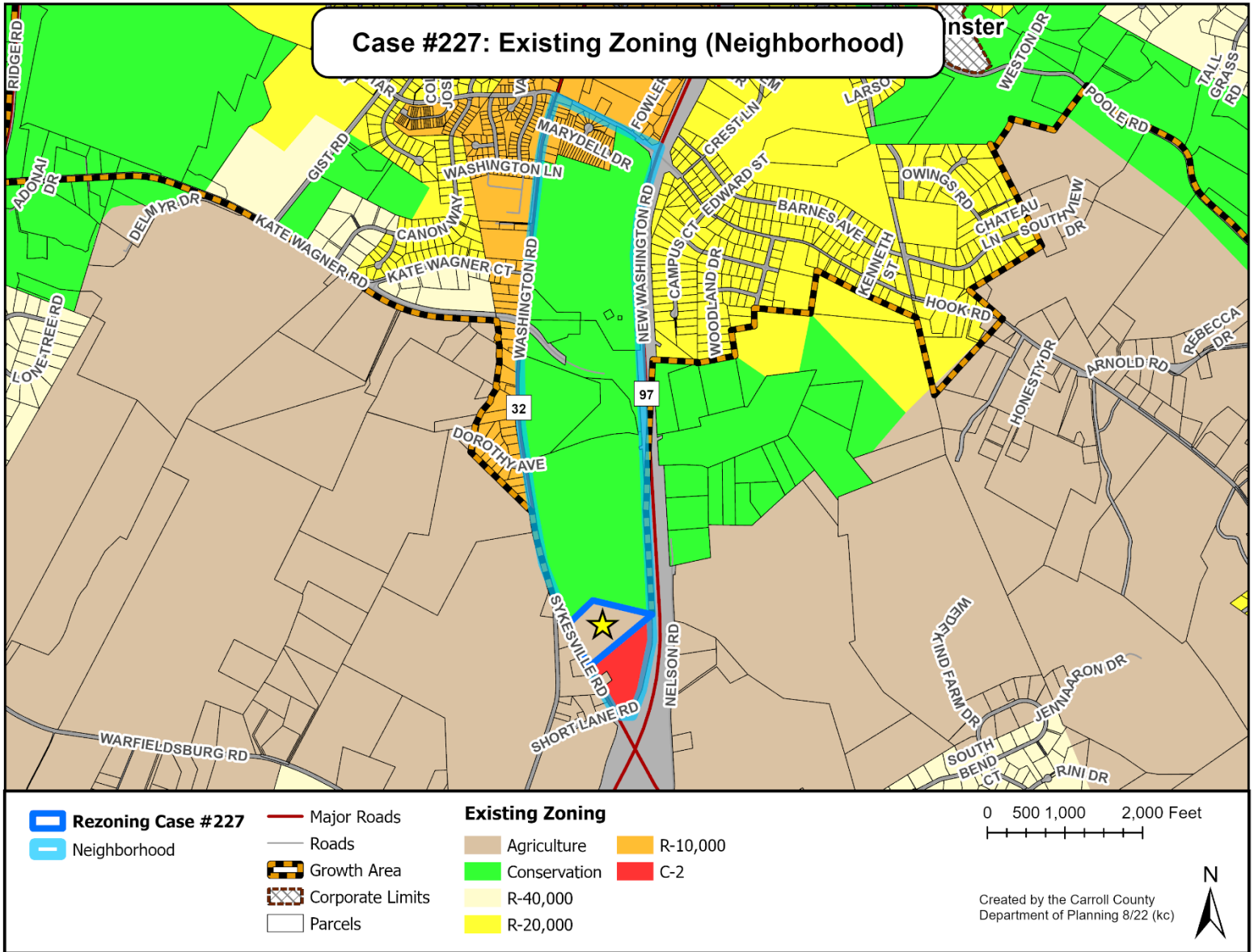
Exhibit E – Neighborhood Boundary Aerial



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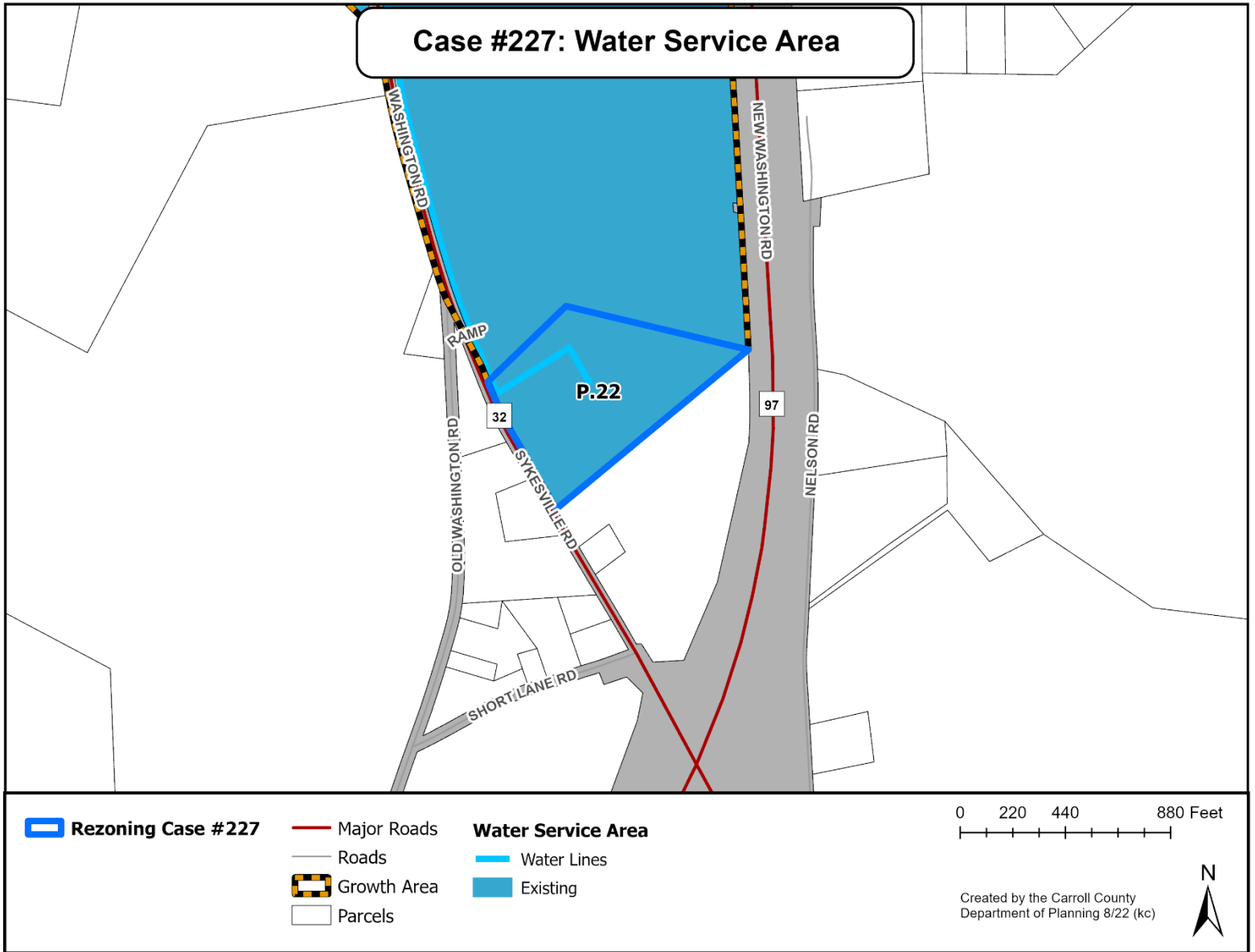
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Exhibit F – Neighborhood Boundary and Existing Zoning



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Exhibit G – Water Service Area



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Exhibit H – Sewer Service Area

