

CARROLL COUNTY PLANNING COMMISSION STAFF REPORT

Rezoning Case No. 229 – Hutton Street 21, LLC

December 7th, 2022

Petitioner/Owner:

Attorney:

Hutton Street 21, LLC (*Petitioner*)
736 Cherry Street
Chattanooga, TN 37402

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

Hakim Properties, LLC (*Owner*)
1500 liberty Road
Eldersburg, MD 21784

Request Description:

The request is to reclassify approximately 1.931 acres from Residential-20,000 “R-20,000” to Commercial Medium “C-2”. The 1.931 acres subject to be rezoned is a part of an approximately 2.6-acre property. The petition specifically requests rezoning the R-20,000 zoned portion of the property (1.931 acres), to C-2. Meaning, if approved the entire 2.6-acre property would be zoned C-2. The subject property is located on the North side of Liberty Road (MD 26) approximately 150 feet East of Georgetown Boulevard, in election district 5 and in tax map 73. The property has a land use designation of Commercial-Medium and Residential-Medium in the 2018 *Freedom Community Comprehensive Plan*. The Petitioned area is in the Freedom Priority Funding Area and Freedom Designated Growth Area.

Request in Detail:

The subject property is comprised of 1 parcel, 1.931 acres located on the north side of the Liberty Road (MD 26) and approximately .45 miles from the MD 26 and MD 32 intersection (see Exhibit A – Rezoning Plat).

The property has a split land use designation of Commercial Medium and Residential Medium in the 2018 *Freedom Community Comprehensive Plan* (see Exhibit B- Designated Land Use).

The rezoning petition is based on an argument of mistake in the current zoning designation.

Background of Request:

The Carroll County Department of Planning accepted the subject petition on October 4th, 2022, in accordance with the Carroll County Procedures for Rezoning.

Carroll County Planning Commission Staff Report

Re: Rezoning Case No. 229 – Hutton Street 21, LLC

Findings:

1. *Property Use and Development History*

Currently this property is improved in the commercially zoned area on the frontage of MD 26. This portion of the property is improved with a gas service station/car wash. The rear part of the petitioned area that is zoned R-20,000 is unimproved.

The property was consolidated into its current layout in 1987. Prior to its consolidation, the property existed with three other parcels dating back to a deed from 1933. The property has existed separately from the residential lots to the east which is shown in a plat from the 1940's.

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

The property lies within three soil series as identified and defined by USDA's Natural Resources Conservation Service (NRCS) as the following: 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. This soil type is the most prominent on the property, covering approximately 2.57 acres. Gladstone gravelly loam (GfB), 0 to 8 percent slopes. This soil type is well drained. Gilead Loamy Sand (GhB), 2 to 8 percent slopes. This soil type is on prime farmland and is moderately well drained.

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 and not located in a Tier 1 or Tier 2 watershed.

4. *Agency Comments*

On October 4th, 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
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 Planning Commission Staff Report

Re: Rezoning Case No. 229 – Hutton Street 21, LLC

Carroll County Bureau of Development Review
Supervisor of Assessment
Baltimore Metropolitan Council – Reservoir Technical Group

We received no written comments from the above-mentioned agencies.

5. *Immediate Neighborhood*

There is no change argument being used by the petitioner, but a neighborhood boundary was still established by the Department of Planning and the petitioner. The neighborhood boundary extends approximately 107 acres along MD 26. The boundaries of the neighborhood are the intersection of MD 26 and 32 to the west and the property line of the JNR, LLC owned property to the east (see Exhibit E – Neighborhood Boundary Zoning).

The primary use within the neighborhood is a mix between commercial and residential, specifically medium, and large lot single family residences. There are several commercial entities that reside primarily to the west of the subject property. Some of these commercial entities are a Goodwill, fuel station, several restaurants, grocery store, banks, and a doctor's office. To the east of the subject property there is a dentist office, doctors office, car dealer, and nail salon as well as most of the residential developments. On the subject property is a fuel station and car wash. The residential lots lie primarily to the north and east of the petitioned area.

6. *Public Facilities*

Transportation- The property has approximately 160 feet of frontage on MD 26. This property currently has vehicular access from MD 26. MD 26 is classified by the state as a State Highway with the Maryland Department of Transportation. There is planned major street that runs through the property. The planned road connection of Dickenson Road which would run north and parallel of MD 26 from Georgetown Boulevard to Hemlock Drive. The purpose of the planned improvement is to alleviate traffic on MD 26.

Water and Sewer Service Area- This property is located in the Freedom Existing service category for both water and sewer infrastructure in the *2019 Carroll County Water and Sewer Master Plan* (see Exhibit F – Water Service Area, Exhibit G – Sewer Service Area).

Fiber Internet- The property frontage on MD 26 is a part of the broadband connection.

Transit- There was a TrailBlazer route that ran along MD 26 fronting the petitioned area. The route ran from South Carroll to BERCC. The Board of County Commissioners (BCC) made the decision to suspend this route until further notice.

7. *Zoning*

The subject property has a zoning designation of “C-2” Commercial Medium and “R-20,000” Residential.

- Commercial Medium – the purpose of the “C-2” District is to provide locations for a

Carroll County Planning Commission Staff Report

Re: Rezoning Case No. 229 – Hutton Street 21, LLC

diverse range of medium-intensity retail, service and professional office uses needed by a larger population than those provided for in the C-1 district. The district is also intended to provide locations for compatible institutional and recreational uses, limited residential uses, and some of the general neighborhood uses associated with the C-1 district. Bicycle and pedestrian access are encouraged where possible to ensure compatibility with nearby neighborhoods.

- Residential 20,000 – the purpose of the “R-20,000” District is to provide a location for a single-family residential development, the individual lots of which contain a minimum of 20,000sqft (or approximately 2 families per acre). The area may or may not be served with public water and/or sewerage facilities.

Zoning of the Petition Area

At the time of the original zoning adopted by the County in 1965, the Petitioned area was split zoned between “BG” Business General and “R-10,000” Residential. Looking ahead at the next available official zoning map dated from 1976, the residential zoning on the property was changed from R-10,000 to R-20,000. During the Department of Planning’s Comprehensive Rezoning process, an update to the Commercial, Industrial, and Employment Campus districts was adopted in 2019. The update eliminated the “BG” Business General” and “B-NR” Business Neighborhood Retail districts and created the new “C-1” Commercial Low, “C-2” Commercial Medium, and “C-3” Commercial High commercial districts. This is how the original BG zoned portion of the petitioned area was changed to the C-2 designation seen today (see Exhibit C – Zoning).

8. Relationship of Proposed Zoning to Comprehensive Plan

The subject properties were designated as Commercial Medium and Residential Medium in the *2018 Freedom Community Comprehensive Plan*. The petitioned area’s zoning of “C-2” and “R-20,000” is consistent with the designation of Commercial Medium and Residential Medium. The subject properties are located in the Freedom Designated Growth Area (DGA) as well as the Freedom Priority Funding Area (PFA).

The *2018 Freedom Community Comprehensive Plan* contains visions, goals, objectives, and recommendations that support the properties current zoning of C-2 and R-20,000 as well as the proposed rezoning of the entire parcel being C-2:

Goal 1 – Pursue policies that facilitate the implementation of the plan vision, including development in appropriate areas within density limits that respect the overall Vision of the community, where water, sewer, and other infrastructure are projected to be available.

Goal 2 – Allow appropriately timed and scaled development which supports, enhances, respects, and reinforces the identity and character of the Freedom CPA.

Recommendation #1 – Look for opportunities to increase the amount of land in the commercial and light industrial districts in the areas targeted for economic development (Element 6: Economic Development)

Objective #2 – Focus on the growth of existing businesses and employment retention, as well attracting new commercial and industrial enterprises (Element 6: Economic Development).

Objective #2 – Limit agricultural land use designations and increase opportunities for variety of residential and employment uses (Element 7: Land Use).

Carroll County Planning Commission Staff Report
Re: Rezoning Case No. 229 – Hutton Street 21, LLC

9. Mistake in the Current Zoning

The Petitioner alleges a mistake in the original zoning of the Property and in support thereof, states as follows:

- The current/existing C-2 zoning line splits the Property and goes through an existing commercial structure (gas service station/car wash) on the Property. The existing commercial structure on the Property was existing when the Freedom Community Comprehensive Plan and subsequent rezoning occurred. It was a mistake to locate a zoning line (and/or confirm the previous zoning line) in such a manner;
- Petitioner alleges that the R-20,000 zoning designation on the back portion of the property was adopted, in whole or in part, because of the mistaken belief that a strip of land existed at the back of the property, which would provide future access for residential purposes to the back portion of the property. In fact, that access strip, while mistakenly shown as existing in the tax maps and the zoning maps utilized by the county does not and did not exist at the time of the most recent comprehensive rezoning. Said strip was shown on an old subdivision plat recorded among the Land Record of Carroll County in 1953 in Plat Book 3, Page 88 and was eliminated by consolidation into the adjoining residential lots by Deeds first recorded in 1971 (487/461) and 1981 (783/805). Thus, an essential and key assumption justifying/supporting the R-20,000 classification (that the R-20,000 zoned land had access through residential property and not from Liberty Road) was mistaken;
- The R-20,000 portion of the property as currently zoned, is virtually unusable in that its only access would be via a residential driveway from Liberty Road leading through the commercially zoned property that fronts on Liberty Road, and which is improved by a commercial gas service station/car wash.
- The existing C-2 zoned property is less than 180 feet deep, meaning that it is not deep enough for development of a reasonable planned commercial project on the property;
- For such other reasons as may be advanced at the hearing on this matter.

The Petitioner respectfully claims the above enumerated points demonstrate that subject property is otherwise ideally suited for the entire parcel being zoned as “C-2” Commercial Medium.

Both the north and south side of MD 26 are commercially developed and zoned commercially. The commercial developments extend far beyond the extent of the neighborhood boundary to the east. These commercial uses serve the large residential communities that exist in the entire Freedom area as well as outside of the County, specifically residents in Baltimore County. Inside the neighborhood boundary are zoning districts such as “R-20,000” Residential, “C-2” Commercial Medium, and “C-3” Commercial High. The largest zoning districts by acreage inside the neighborhood boundary are the “C-2” Commercial Medium and “C-3” Commercial High districts. The zoning make-up of the area is expected given the frontage along MD 26 as a declared major state highway and heavily traveled. Also, the area contains one of the largest and most heavily traveled intersections in the entire County, Liberty Road (MD 26) and Sykesville Road (MD 32).

In the Petitioner's arguments it's debated that there is a .2-acre long strip of land adjoining the property to the north that's shown on all official County zoning and tax maps. This strip of land

Carroll County Planning Commission Staff Report

Re: Rezoning Case No. 229 – Hutton Street 21, LLC

is indeed shown in all official zoning maps from 1965-present. Through analysis and probing of deed research, it was discovered that this access strip does not exist and was consolidated into the adjoining parcels to the north in 1955, parcel 0033 and 0109. In the first ever official County zoning maps in 1965, the area to the west of the subject property was zoned BG and the residential area to the east was zoned R-10,000. The access strip was depicted on this official zoning map despite its previous consolidation and was zoned R-10,000.

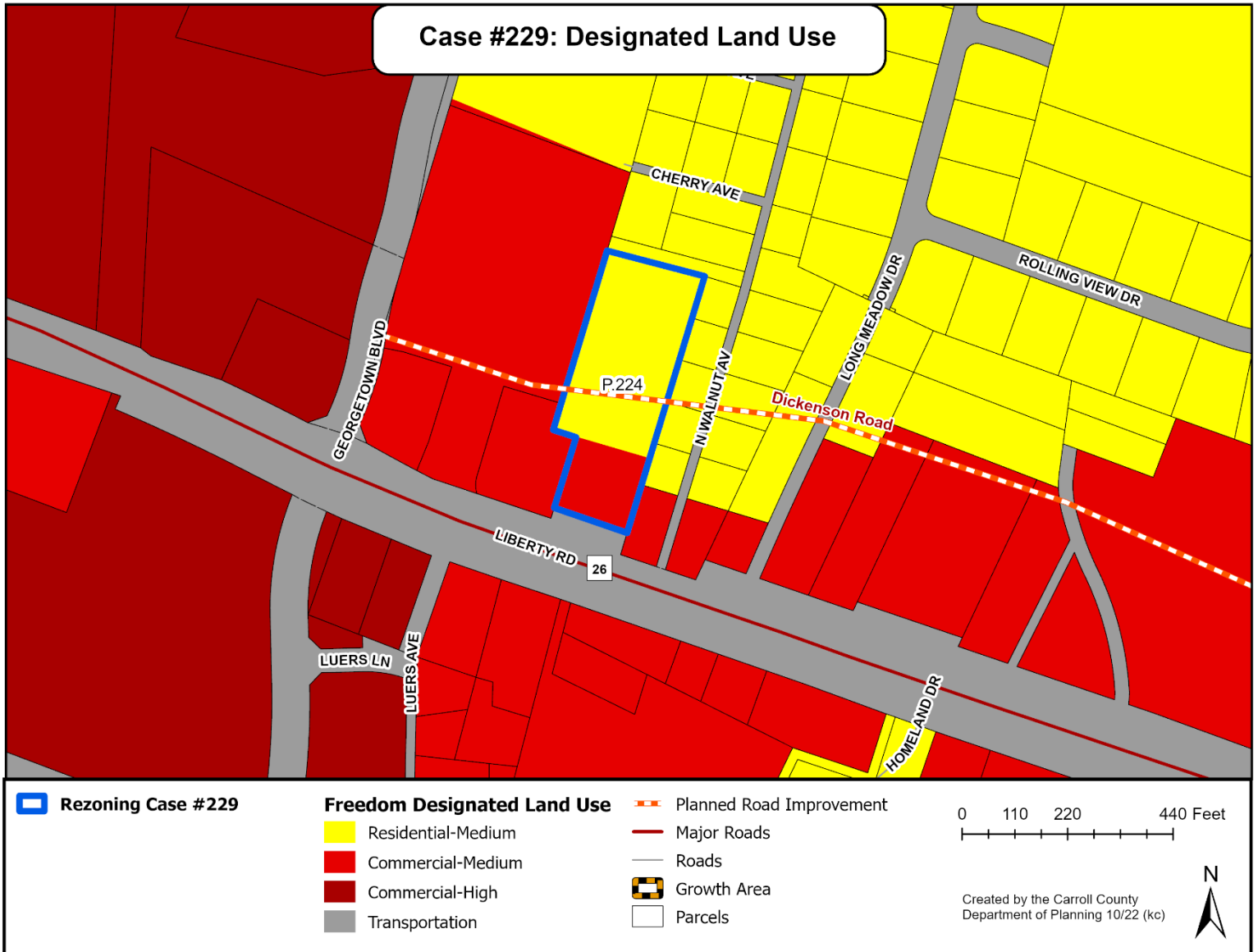
Prior to the Petitioned area being developed with the gas service station/car wash, it was believed at one time the rear residentially zoned area of the property might be developed residentially. Looking at the property layout today, if the rear part of the property was developed residentially the only access to MD 26 residents on the property would have, is through the commercially zoned area in the front improved with the gas service station/car wash (see Exhibit D – Aerial). It is bad planning practice and contradictory to planning principles to develop this portion of the petitioned area residentially, as it currently lays. If the area was developed residentially, it was believed the .2-acre long access strip would provide the rear properties more connectivity in the area. As discussed, the .2-acre long strip does not exist despite what is shown on official County zoning and tax maps. Since the access strip does not exist, it was a mistake to apply the residential zoning of “R-20,000” Residential to the rear part of the property. The Department of Planning was not aware that the access strip did not exist during the last comprehensive rezoning update in 2021.

Staff Recommendation:

Based on the facts stated above, planning staff recommends that the 1.931 acres of the subject property zoned “R-20,000” Residential be rezoned to “C-2” Commercial Medium. Staff believes there was a mistake in the data/information available during the last Comprehensive Rezoning update (2021) used to determine the Petitioned areas current C-2 and R-20,000 zoning designations. The Department recommends a favorable recommendation from the County Planning Commission to the Board of County Commissioners.

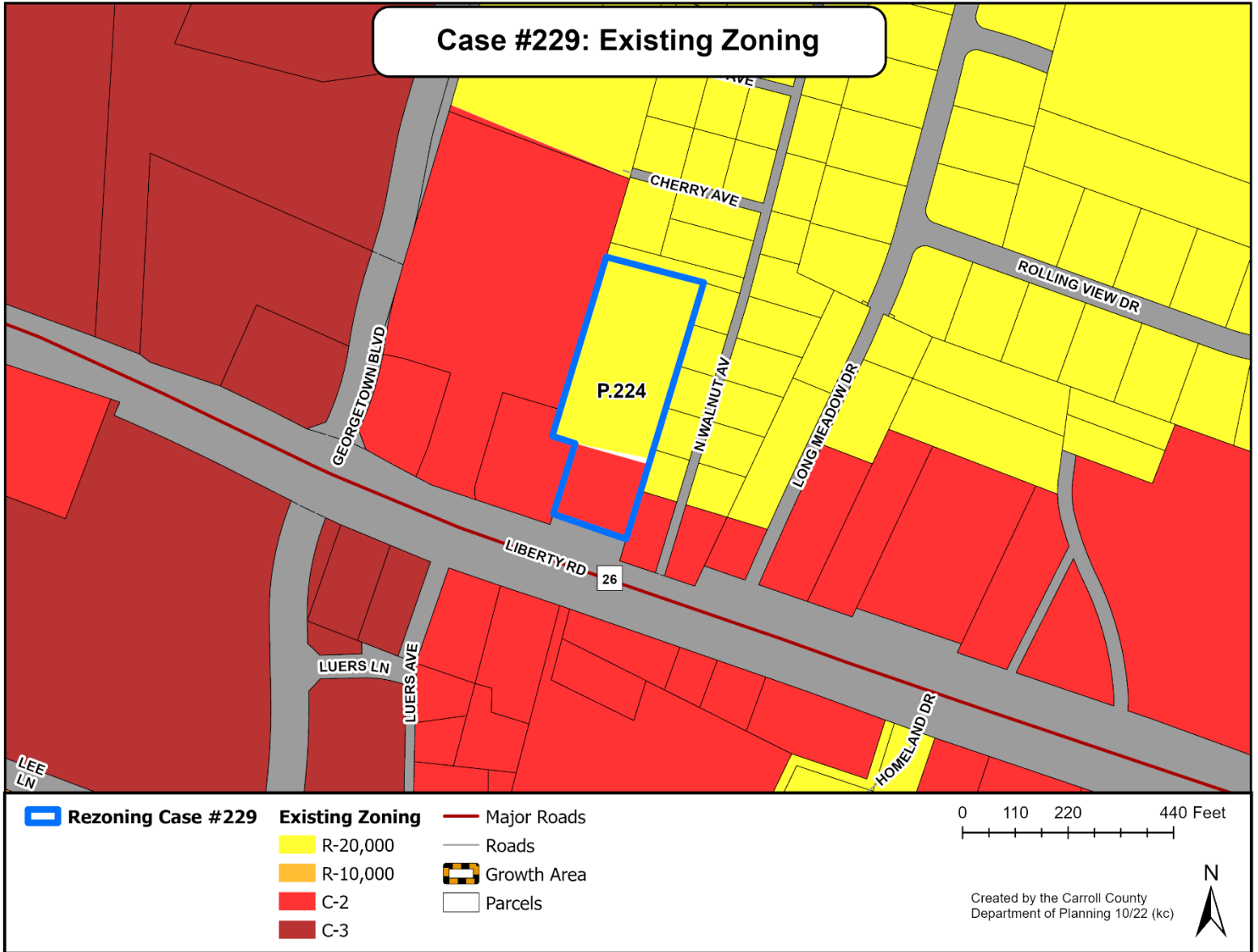
Carroll County Planning Commission Staff Report
Re: Rezoning Case No. 229 – Hutton Street 21, LLC

Exhibit B – Designated Land Use



Carroll County Planning Commission Staff Report
Re: Rezoning Case No. 229 – Hutton Street 21, LLC

Exhibit C – Zoning



Carroll County Planning Commission Staff Report

Re: Rezoning Case No. 229 – Hutton Street 21, LLC

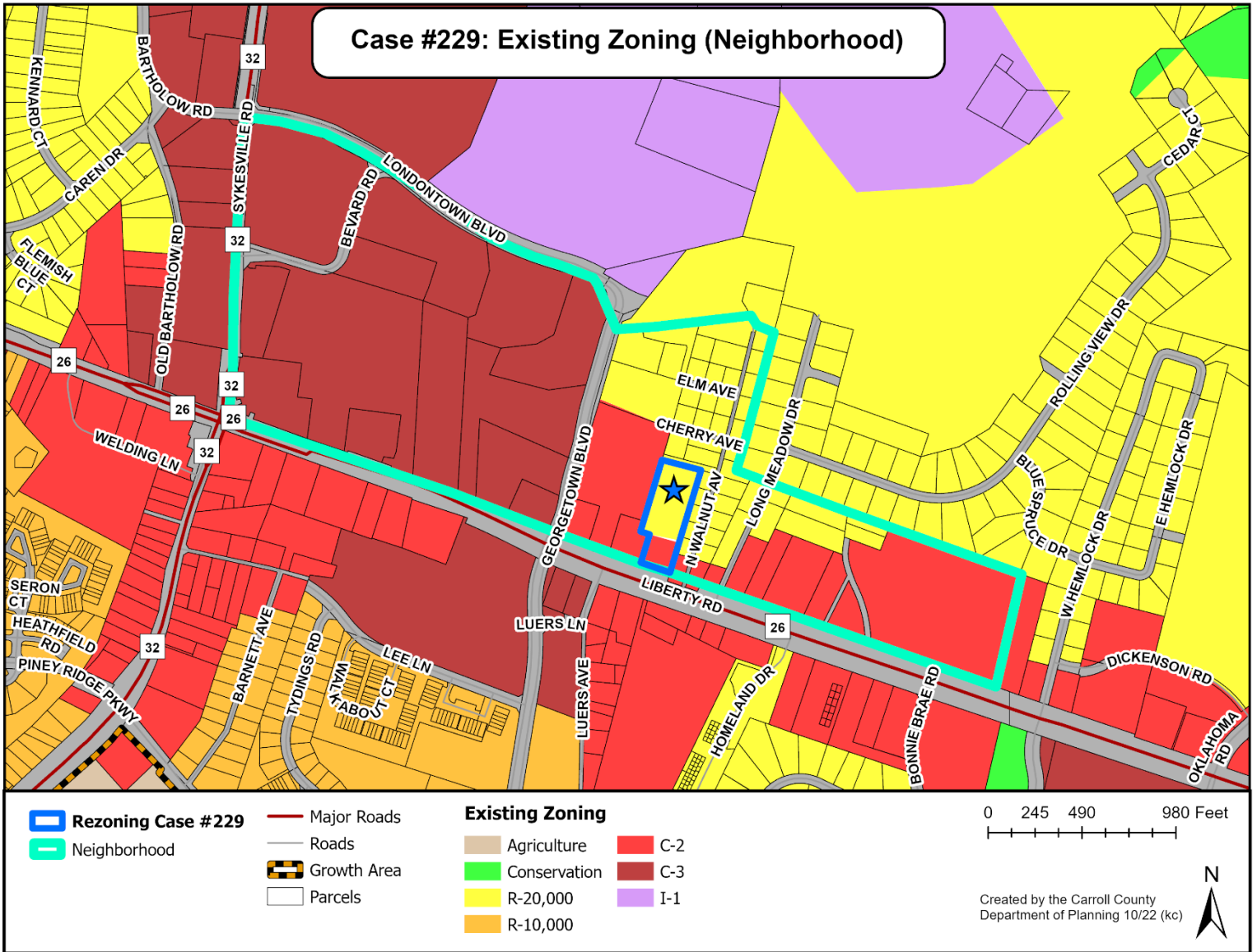
Exhibit D – Aerial



Carroll County Planning Commission Staff Report

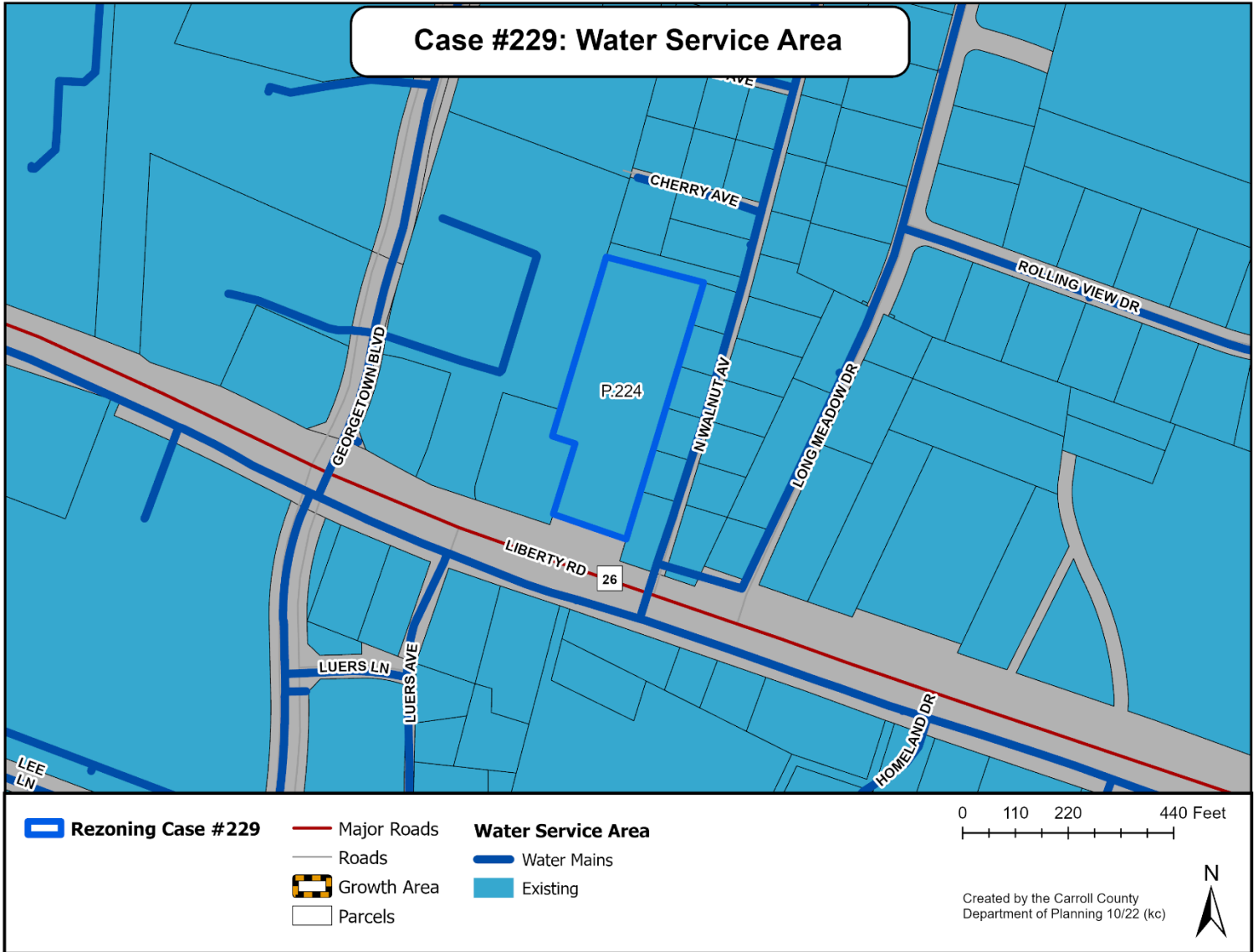
Re: Rezoning Case No. 229 – Hutton Street 21, LLC

Exhibit E – Neighborhood Boundary Zoning



Carroll County Planning Commission Staff Report
Re: Rezoning Case No. 229 – Hutton Street 21, LLC

Exhibit F – Water Service Area



Carroll County Planning Commission Staff Report
Re: Rezoning Case No. 229 – Hutton Street 21, LLC

Exhibit G – Sewer Service Area

