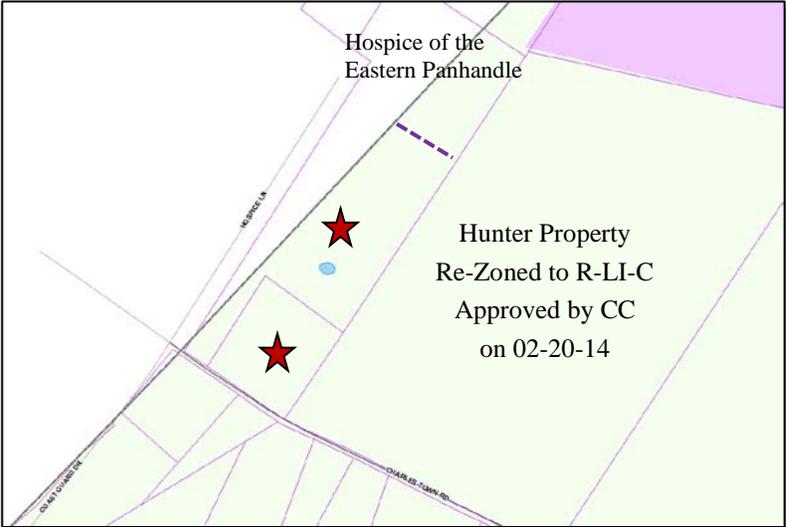


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Perkins Trust and Lindberg Zoning Map Amendment PC File #Z14-01

Agenda Item #4: Public Hearing regarding a Zoning Map Amendment (re-zoning) request by property owners Hoy Shingleton, Trustee for Pearl Perkins, Beneficiary and Eric and Stacy Lindberg.

| | |
|--------------------------------------|--|
| APPLICANTS: | Hoy Shingleton, Trustee for Pearl Perkins, Beneficiary, and Eric and Stacy Lindberg |
| OWNER: | Same |
| DEVELOPER: | N/A |
| APPLICANT REPRESENTATIVE: | Annette Van Hilst, R.A. The Crossroads Group |
| PROPERTY LOCATION: | The properties are located North of Route 115 (Old Route 9 / Charles Town Road) along the Berkley/Jefferson County line. 4115 Charles Town Rd and 16 Hospice Ln in Kearneysville. |
| LEGAL DESCRIPTION & ZONING DISTRICT: | Tax District: Middleway (07); Map: 1; Parcels: 1.2 and 1.1 Zoned: Rural  |
| SURROUNDING PROPERTIES: | North: Berkeley County and Rural (Hospice), East: R-LI-C South: Rural, West: Berkeley County |
| LOT AREA: | Total Lot Area: 23.62 Parcel 1.2 – 16.62 acres (12.67 acres within Jefferson County) Parcel 1.1 – 7 acres |
| PROPOSED ACTIVITY: | To rezone from Rural to Residential-Light Industrial-Commercial. |
| PLANNING COMMISSION RESPONSIBILITY: | To advise the County Commission as to whether the requested Zoning Map Amendment is consistent with the 2004 Comprehensive Plan. |
| STAFF FINDING: | In this report, Staff presents the various factors related to these properties based on the Comprehensive Plan. Staff finds the request to be consistent with the 2004 Comprehensive Plan. |

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Background

These properties are located off of Route 115 (Old Route 9/Charles Town Road) near the intersection with Short Road (Berkeley County) in Kearneysville, WV. Image 1 is a location map showing the parcels requested for rezoning.

Image 1



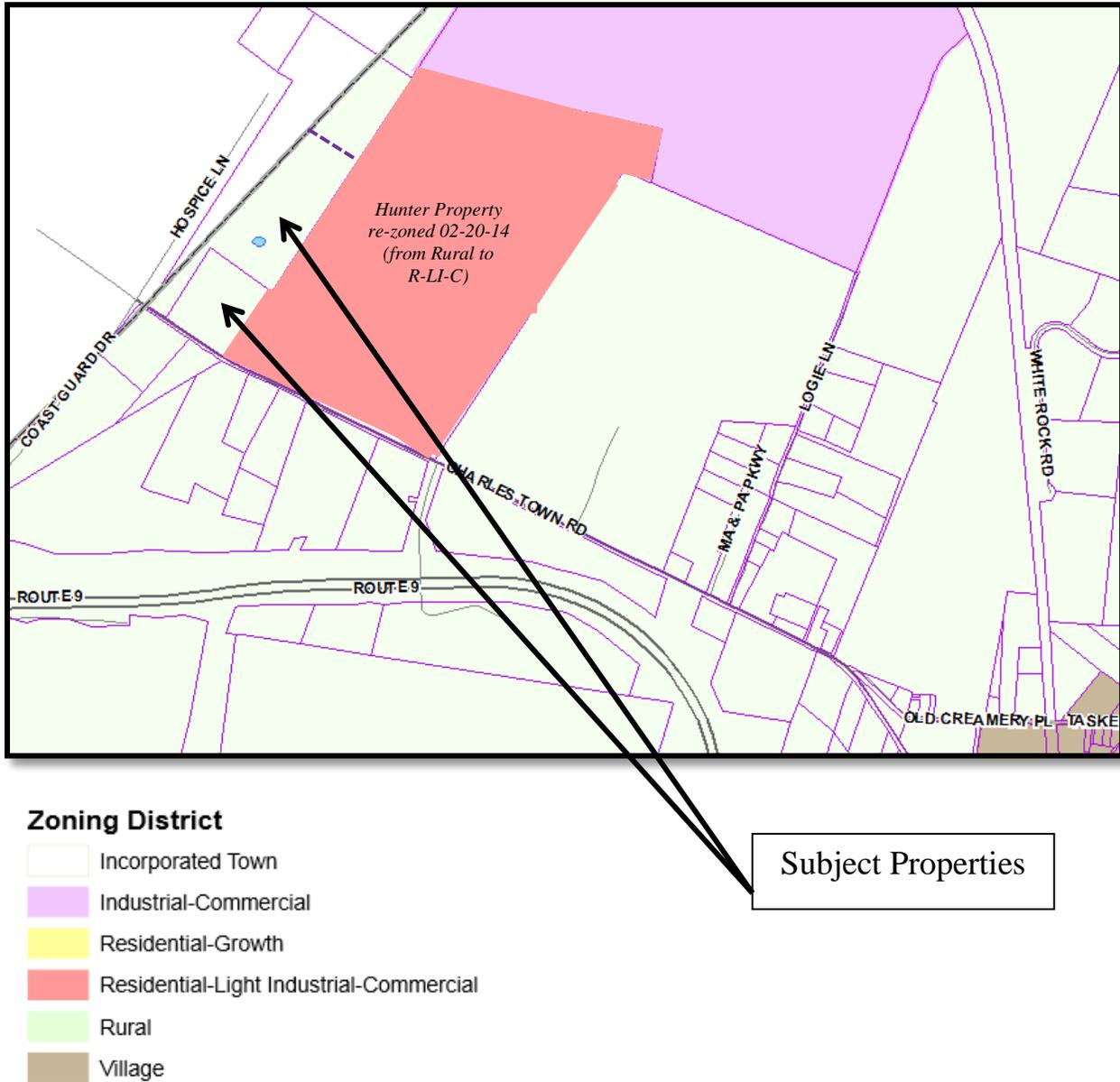
Introduction and Purpose

The applicant has requested to rezone the two parcels comprised of 23.62 acres from Rural to Residential-Light Industrial-Commercial. Access to the properties is from Route 115 (Old Route 9 / Charles Town Road). The 16.62 acre parcel, also identified as Lot 3 Residue and Parcel 1.2, has access to Hospice Lane. The zoning to the north and south of the subject properties is Rural; the 107 acre parcel to the east was recently re-zoned from Rural to Residential – Light Industrial - Commercial (County Commission approved request 02-20-14); and the property to the west is in Berkeley County, which has no zoning.

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Image 2, below, shows the current zoning for surrounding parcels.

Image 2



Statutory Authority and Requirements

The West Virginia State Code, Section 8A-7-9, and Section 12.2 (b) of the Jefferson County Zoning and Land Development Ordinance detail the process by which boundaries of zoning districts may be amended in response to a petition of 50% or more of the property owners. Both state that before amending the Zoning Ordinance text or map, “the governing body, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan”, or if it is inconsistent, “then the governing body with the advice of the Planning Commission, must find that there have been major changes of an economic, physical or social nature within the area involved, which were not anticipated when the comprehensive plan was adopted and those changes have substantially altered the basic characteristics of the area[See WVC 8A-7-9(c)].”

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Scope of this Assessment

This report focuses on whether or not the Zoning Map Amendment application is consistent with the Comprehensive Plan. It concludes that the request is consistent with Comprehensive Plan.

The format for this assessment includes quotes from specific provisions of the Comprehensive Plan, which are identified by page number citation at the end of the sentence where it is quoted. Staff has used these notations and quotations in order to address sections of the Comprehensive Plan as it relates to the proposed rezoning. Identification of the specific page numbers where these provisions can be found in the Plan permits the Planning Commission and/or County Commission to easily locate the particular provision and personally evaluate the provision in the context of the larger Plan document. When available or appropriate, map references are provided with maps located in the Appendix to this report.

It should also be noted that the Comprehensive Plan states, *“Its recommendations are (by their nature and intent) general and, as such, sometimes conflicting. It will not be difficult to find two that individually justify and conflict with many land use proposals.”* In that sense, there are many plan references that are identified in this report that can or may appear to support or fail to support a finding of consistency between the proposed rezoning and the Comprehensive Plan. In the final analysis, each member of the Planning Commission and the County Commission will need to weigh the degree to which various plan provisions are of greater or less importance, in establishing their respective findings regarding the application.

Finally, this report provides a Staff recommendation concerning the proposed rezoning based on review of the various plan sections and elements. The recommendations should be considered the professional opinion of staff; no more and no less. Since the Planning and Zoning staff have no statutory authority to make decisions in this regard, we defer to the Planning Commission, and subsequently the County Commission, for any final recommendation or decision that may be forthcoming, with respect to the subject application.

Relevant Comprehensive Plan Elements and Commentary

Proposed Zoning District – Residential-Light Industrial-Commercial (RLIC):

The Comprehensive Plan provides the following perspective on the Residential-Light Industrial-Commercial zoning district, which the applicant is requesting:

- *“...commonly referred to as the "mixed use" zone, permits uses of a light industrial and commercial nature, as well as a spectrum of residential and institutional uses ranging from single-family dwelling units to multi-family apartments and group homes. Residential uses must conform to the standards set forth in the Residential Growth District, but industrial and commercial uses are required to conform to a set of specific performance criteria, which include numerical measurements of several factors for uses that may have nuisance effects on adjacent uses (pg. 71).*
- *There are two issues regarding this district that should be studied as part of planned amendments to the Zoning Ordinance. First, most ordinances that have "mixed use" zones require certain minimum percentages of land usage in residential, commercial and dedicated open space. Jefferson County's Ordinance doesn't. Land in this district can be developed entirely for commercial or residential use or any combination thereof (pg. 71).”*

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The Plan does detail some of the potential benefits of the Residential-Light Industrial-Commercial District and a number of concerns with the district. While this district is defined as mixed used, it does not require any mixing of uses, it merely allows for the possibility. The district allows two vaguely defined uses as permitted by right, “Commercial Uses” or “Uses of light industrial.” “Uses of light industrial” is essentially defined by uses that are not defined as heavy industrial and commercial uses. There is wide latitude for the ability to interpret what qualifies as light industrial use. These two terms allow for some interpretation of what they mean and what is permitted. As such, there are a variety of uses that could be proposed on the subject properties, each of which could have very different impacts.

These properties are large enough to support light industrial activity or commercial activity such as a gas station, multiple fast food restaurants, or a few sit down restaurants.

Transportation Impacts:

The Comprehensive Plan discusses the critical role of the transportation routes, noting:

- *“With the increase in population in the last three decades, Jefferson County's roads have had to bear the combined burden of increased traffic volume and heavier commercial vehicles. As a result, the deficiencies of the highway and road systems have become more critical. Inadequate funding and increases in transportation demand are conditions which probably will be facing the people of Jefferson County indefinitely (pg. 26).”*

The properties proposed to be rezoned are located on Route 115 (Charles Town Road, also referred to as Old Route 9) and have direct access to Route 115. The 16.62 acre parcel, also identified as Lot 3 Residue and Parcel 1.2, has access to Hospice Lane. The properties are approximately ½ mile from the signalized intersection of Short Road and Route 115. With the opening of the new Route 9, the traffic on Route 115 has decreased and opened up increased transportation opportunities. Route 9 now provides easy access to a 4 lane road to I-81. The commercial interchange node around Route 9, Short Road, and Charles Town Road would presumably continue to expand in the future.

Water and Sewer Proximity:

Lot 2 (located directly above the 16.62 acre Lot 3 – Residue) contains the new Hospice facility, which has public water and sewer from Berkeley County; therefore, the two lots requesting rezoning could also be served by public water and sewer. The Comprehensive Plan encourages urban level development to be on a central water and sewer system, whether public or privately owned. Therefore, the requested rezoning would conform to this aspect of the 2004 Comprehensive Plan.

Areas for Economic Opportunity:

The Plan Policies on page 8 note:

- *“This Plan encourages new development patterns that foster mixed-use neighborhoods, so that a sense of community begins at the subdivision level.”*
- *“This plan encourages economic development so that residents can live and work in the county.”*
- *“This plan recognizes existing population centers as the focus of new, more intense development and the importance of working with municipalities to assure a pattern of development consistent with the Plan vision.”*

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

Staff concurs with the need for mixed development to provide for a variety of uses when possible. These lots are adjacent to the recently re-zoned Hunter Family property consisting of 107 acres now zoned Residential – Light Industrial – Commercial to the east and directly south of Hospice which zoned Rural, however, just to the northeast of these parcels is a noncontiguous property consisting of 191 acres that is zoned Industrial-Commercial. Across the street and to the west in Berkeley County is Liberty Business Park, which includes the US Coast Guard, IRS, and Food Lion. Berkeley County has no zoning.

Developing economic development zones and employment centers addresses key elements of the 2004 Comprehensive Plan and also provides Jefferson County with multiple long term benefits. The possibility of an employment area in this location would assist in allowing more Jefferson County residents to live and work in the county, and an employment and commercial center would enlarge the tax base of the county, which addresses Recommendation 3.18 of the Comprehensive Plan (shown below). Rezoning and development of these properties is in keeping with the Plan Policies and is in keeping with good planning. Because this is a commercial and light industrial area with water, sewer and natural gas and adequate road infrastructure, prudent planning would concentrate future uses where services currently exist.

Recommendation 3.18: The County should continue to pursue new industrial and commercial development in order to diversify its economy, increase the tax base and thereby mitigate the problems of increasing residential growth, and provide quality employment opportunities to its workforce (pg. 64).

Adjacent Jurisdictions Permitted Uses and Appropriate Development Location:

The Comprehensive Plan notes on page 24 that:

When adjusting the Zoning Ordinance and Map to conform with the recommendations of this Plan, the County should look closely at the adjacent jurisdictions permitted uses or their fringes so as to:

- a. Not create competitive edges to develop in as opposed to the municipality or vice versa;*
- b. Avoid conflicts in uses between any two adjacent uses;*
- c. Provide for all uses including transitional zones between and adjacent jurisdictions; and,*
- d. Create density caps where they do not currently exist.*

With the development and adjacent uses served by public water and sewer nearby in Berkeley County, it is rational that similar activity could occur in Jefferson County. This would not create competitive edges and could complement adjacent uses, thereby reducing conflicts between adjacent uses. Building upon the adjacent uses promotes the interconnection of development and business opportunity for both counties. This evaluation is predicated upon the fact that there is existing infrastructure – water, sewer, natural gas, and suitable transportation network – at this location. As noted above, the area around Route 9, Short Road, and Charles Town Road is a commercial interchange node that could offer business opportunities in the future. As this activity crosses into Jefferson County, planning for the adjacent uses and providing a transition from Jefferson County to Berkeley County should be considered in greater detail.

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In addition, the 2004 Plan remarks:

Advanced and comprehensive planning will save money. Careful consideration of the many interrelated factors of the total community will help assure that every new development in the County is properly located and designed so that it will not unreasonably burden the location and provision of essential public and community services and assets. In other words, it will help ensure that the community receives the most product or service for the tax and community association dollar it pays (pg. 15).

The Statement of Goals outlines the following:

Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable cost to the community (pg. 19).

As outlined in multiple sections of this report, proper location of new development and activity needs to be occur so as to not create an unreasonable burden to the proposed location. Just as important, the essential services that will be required to support the proposed activity are available. The proposed rezoning is located in an area that meets the intent of the above mentioned criteria. The purpose of good planning is to build upon the assets in a particular location, instead of promoting inappropriate areas prematurely.

Staff Recommendation

Staff finds the proposed rezoning to be consistent with the 2004 Comprehensive Plan. Adjacent to this lot to the east is undeveloped Residential – Light Industrial – Commercial zoning; just to the northeast, but not contiguous, is undeveloped Industrial-Commercial zoning with railroad access; and these properties can be served by urban level water and sewer services from Berkeley County as well as an adequate transportation network. The requested rezoning to Residential-Light Industrial-Commercial is reasonable.

The Comprehensive Plan supports growth in locations where there are contiguous properties that already possess the requested uses with urban level services, which supports future development in this area. While the proposed rezoning is not within a Growth Area, as defined by the 2004 Comprehensive Plan, the plan itself does note that “*When adjusting the Zoning Ordinance and Map to conform with the recommendations of this Plan, the County should look closely at the adjacent jurisdictions permitted uses or their fringes*”...and...“*Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable cost to the community.*” The area under consideration is affected by adjacent uses and the public services available to it and it is reasonable to expect such uses to continue to expand in this location. The rezoning is an extension of the activity.

Staff would suggest that any development of these properties be required to connect to Berkeley County’s public utilities.