1501

JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor, P.O. Box 338 Charles Town, WV 25414

File Number:	214-01
Staff Initials:	CLC
Application Fee:	s 2200.00

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

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Deserte sum as information

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Zoning Map Amendment (Rezoning)

Pursuant to Article 12, a Zoning Map Amendment is a procedure to amend the official Zoning Map of the County by changing the zoning designation of a property. In order for a proposed amendment to be approved, the County Commission, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of 8A-7-8 et seq of the WV State Code. All Amendments to the Zoning Map require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination.

rroperty owner inj	ormutton						
Name:	Perkins Trust, Trust	stee: H. S	hingleton (Ben	eficiary, Pearl P	erkins) / Eric and S	Stacy Lindberg	
Mailing Address:	See Attached						
City:			State:		Zip Code:		
Phone Number:			Email:				
Applicant contact i	nformation						
Name:	Hoy Shingleton, T	rustee					
Mailing Address:	115 Aikens Center	r, Suite 24	1				
City:	Martinsburg		State:	State: WV Zip Code: 25404		5404	
Phone Number:	304/262-4773		Email:	Email: shinglet@comcast.net			
Applicant represen	tative					1	
Name:	Annette Van Hilst, R.A., The Crossroads Group						
Mailing Address:	22 Van Clevesville	e Road					
City:	Kearneysville		State:	WV	Zip Code: 2	5430	
Phone Number:	571/428-7054		Email:	Email: agvh@frontiernet.net			
Physical property a	letails						
Physical Address:	4115 Charles Tow	n Road a	nd 16 Hospice I	Lane		100	
City:	Kearneysville		State:	WV	Zip Code: 2	5430	
Tax District:	Middleway		Map No: 1		Parcel No: 1.2 and 1.1		
Parcel Size:	16.67 () and 7 (Total)	Deed Book:	1087 and 876	Page No: 6	87 and 200	
Current Zoning Di	strict (please check o	ne)					
RECE	IVED				Residential-		
		Rural	Residential Growth	Industrial Commerical	Light Industrial- Commercial	Village	
MAR 12	2014	(R-A)	(R-G)	(I-C)	(R-L-C)	(V)	
JEFFERSON C	COUNTY) i	i i	`\text{\text{C}}		
PLANNING ZONING AN	District (please check	ona)					
Troposea Zoning D	isirici (pieuse check	onej					
			Residential	Industrial	Residential- Light Industrial-		
		Rural	Growth	Commerical	Commercial	Village	
		(R-A)	(R-G)	(I-C)	(R-L-C)	(V)	
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is more appropriate than the existing zoning. Accordingly, please explain how the following factors suppoproposal.	rt your
Describe your proposed use (and/or project) and describe why the Zoning Map Amendment is necessary proposed use (and/or project) described.	for the
See Attached	
Describe how the Zoning Map Amendment will be consistent with the objectives and policies of the Comprehensive Plan.	
See Attached	
Discuss any change(s) of transportation characteristics (i.e., type and frequency of traffic, adequacy of transportation routes), and neighborhood characteristics from when the original ordinance was adopted	
See Attached	
Do you request that the Planning and Zoning Staff present the petition to the Planning Commission for purpose of setting the public hearing date?	the
Yes, I request that the Planning and Zoning Staff present the petition No, I prefer to present the petition	
Plat or Sketch Plan (provide as an attachment to this application)	
The plat or sketch must be pursuant to Zoning Ordinance, Section 7.4 (b). The sketch plan shall include the entire original parcel appeared on the date this ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational area building areas, and other features in relation to each other and to the tract boundaries. Contour lines should be superimposed on plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes and quarties shall be delineated.	g. 1" = 50', s, streets,
Is Plat or Sketch Plan attached?	
Ves / No / ///	
Original signature of all property owners is required. The information given is correct to the best of my knowledge (Please ariach gliditional signature page if needed).	
1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/1/	8.14
Signature of Property Owner Date Filt Signature of Property Owner D	3.840
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For a Zoning Map Amendment request, the "burden of proof" is on the applicant to show why the proposed zoning



MAP AMENDMENT PETITION Article 12, Jefferson County Zoning Ordinance Perkins Trust Eric and Stacy Lindberg February 26, 2014

Owners/Applicants:

Perkins Trust, Hoy Shingleton, Trustee (Pearl Perkins, Beneficiary) c/o Hoy Shingleton, Trustee 115 Aikens Center, Suite 24 Martinsburg, WV 25404

Eric and Stacy Lindberg 4115 Charles Town Road Kearneysville, WV 25430

Ordinance Citation:

Article 12 of the Jefferson County Zoning and Development Review Ordinance as amended on November 10, 2011.

Map Amendment Definition:

"An amendment to the Zoning Map which is adopted by reference in the Zoning Ordinance that consists of a change that only applies to a specific property, changing from one existing zoning designation to another existing zoning designation. A map amendment does not permit changes, conditions or alterations to uses permitted within an existing zoning designation as all zoning designations must be uniformly applied to all property which are subject to said designation."

Substantiation for the Request:

1. The properties owned by Ms. Perkins and the Lindbergs are currently zoned Rural and the Applicants are seeking a map amendment to the Residential/Light Industrial/Commercial District. As explained in this Petition, the Applicants believe that this change is consistent and compatible with the 2004 Jefferson County Comprehensive Plan. This Comprehensive Plan compatibility was further evidenced by the County Commission's rezoning of the adjacent property (Hunter Family) in February 2014 for the same reasons;

- 2. There have been significant changes in this area, since the Jefferson County Zoning Ordinance was adopted in 1988. These changes include the availability of Public Water and Sewer, a significant rezoning directly north of this property approved by the County Commission, the rezoning of the Hunter property adjacent to this property and the additional growth in the area. These changes are addressed in this Petition;
- The Applicants believe that the Rural Zoning classification is an error
 in the Jefferson County Zoning Map since the property is located on a
 Primary Road (Route 9) as defined in the Comprehensive Plan; and,
- 4. The volume of work completed to date on the proposed Comprehensive Plan shows this area to be located in a primary and preferred growth area in Jefferson County. Although not adopted yet, this area was thoroughly vetted by the Staff, the public and the Comprehensive Plan (Envision 2035) Steering Committee. The reasons for rezoning of these two properties that are cited in this Petition are the same reasons that led to this area to be located in the Proposed Preferred Growth Area.

Tax District, Map and Parcel Number:

Middleway Tax District, Map 1, Parcels 1.1 (Lindberg) and 1.2 (Perkins)

Deed Book Reference:

Perkins:

Deed Book 1087 at Page 687

Lindberg:

Book 876 Page 200

Sketch Plat:

Attached

Tract Size:

Perkins:

16.67 Acres (Approximately 12.67 acres in Jefferson County

and 4 acres in Berkeley County)

Lindberg:

7.0 Acres

Total:

23.67 Acres (Approximately 19.67 Acres in Jefferson County)

Discussion on:

Comprehensive Plan compatibility of the proposed change: Included in this Petition.

Any Change of transportation characteristics and neighborhood from when the original ordinance was adopted: Included in this Petition.

A. Comprehensive Plan Compatibility

Two of the most compelling attestations that the requested map amendment is consistent and compatible with the 2004 Comprehensive Plan are that two properties in the immediate neighborhood were rezoned by two different County Commissions since that plan was adopted. The first property is located just to the north and is owned by Brigham and Day Paving Company (F.O. Day). This large parcel was rezoned in 2005 shortly after the 2004 Plan was adopted. This rezoning was deemed to be consistent with the Comprehensive Plan at that time. The second property is located adjacent to the Applicants' property and was just unanimously rezoned by the County Commission in February (2014). Again, the County Commission deemed the rezoning of this property (the Hunter family) to the Residential/Light Industrial/Commercial District consistent with the same Comprehensive Plan. These properties, along with the Hospice property wrap around the current Applicant's property. As a matter of fact, the rezoning of the Applicant's property would essentially fill the last donut hole between Kearneysville and the Berkeley County line on the northeast side of Old Route 9 (Route 115). The subject properties already have access to a newly constructed County Grade access road that was built adjacent to this property.

Many of the same sections of the Comprehensive Plan that supported the Hunter rezoning apply specifically to this property, as well. Therefore, many of the components of this Petition will mirror the previous Petition that was filed. Also included is a copy of the Staff Report for the previous Petition that reiterates portions of the Plan to show consistency with the Plan.

The Comprehensive Plan contains policies, narrative and recommendations that support this map amendment. One of the Policies found on page 8 of the Comprehensive Plan States:

 This Plan encourages new development patterns that foster mixed-use neighborhoods so that a sense of community begins at the subdivision level.' As was the case with the Hunter rezoning, this property is located in a neighborhood that has long been mixed-use. Baker Heights is the home of the Veteran's Administration Center and the Liberty Business Park. The Liberty Business Park includes the IRS and the Coast Guard. Furthermore, this property is adjacent to 191 acres that the Jefferson County Commission rezoned to Commercial/Industrial in 2005 and the Hunter property this year. Finally, the subject property is in front of the new Hospice of Eastern Panhandle operations and in-house care. This facility is planned to be opened even before the Public Hearing on this application.

Furthermore, the property is literally right down the street from the mixed-use community of Baker Heights and less than a mile from the Kearneysville Village District, which is a mixed-use community, as well.

The requested rezoning would allow the Applicants the flexibility of marketing the property to either residential users to provide needed housing for employees of the nearby VA Center and the Liberty Business Park; or, to business park developers to continue the commercial expansion of the area for other office buildings. From an economic development standpoint, Jefferson County would certainly benefit from allowing commercial or industrial growth in this County, as opposed to Berkeley County. As a matter of fact, approximately four acres of the Applicant's property is located in Berkeley County, so that portion of the property could develop any use. It would make sense to allow similar development on the Jefferson County portion. Since commercial and residential uses are being developed in the area, Jefferson County should start taking advantage of it.

The Residential/Light Industrial/Commercial District designation would allow a mix of commercial and offices uses, while allowing residential units to house the employees or families of VA and Hospice patients. There are several residential dwellings that are on the subject properties. The Lindberg house would make an excellent office building for a use that would be compatible to the existing Hospice operation next to this property.

Another of the policies in the plan states:

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

Since there is very little vacant land in Jefferson County that is zoned for commercial/office and mixed-use development, the requested change to the mixed-use zone will allow a mixture of these uses to stimulate economic development on Jefferson County's side of the County line.

In the Plan's Statement of Goals found on page 19, the Plan encourages growth and development in areas where infrastructure and public facilities are available. In this case, the property has access to Berkeley County's Public Water and

Wastewater Treatment Facilities. In addition to Public Water and Sewer, natural gas is located very close to this property. A current primary goal of the Jefferson County Development Authority is to encourage the expansion of the availability of natural gas into Jefferson County. If permitted to develop into a business park or mixed use development, this property could be a key stepping stone for extending natural gas into Jefferson County. The County Commission just committed \$20,000 to the multi-county effort to upgrade and expand natural gas service in this area. The property is also located within minutes of the Short Road interchange onto the new four lane Route 9. These qualities make the property an ideal candidate for a map amendment.

Finally, the Plan's goals also support commercial activities in the County; in addition to the protection of private property rights. In the proposed zoning ordinance in 2008, this area was proposed to be zoned as a business center. That in itself is evidence that the County planners believed that this property was prime land for economic development. This is a unique area of the County. Since the 2004 Comprehensive Plan was adopted, this area has consistently been targeted for growth. This is evidenced by the two rezonings in the neighborhood, the rezoning of the area into a business park in the 2008 Zoming Ordinance and now by the inclusion of this area in the proposed draft preferred growth area in the Envision 2035 Plan.

The 2004 Comprehensive Plan includes several recommendations that support this rezoning request.

Comprehensive Plan Recommendations:

Recommendation 3.01 on Page 24:

"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..."

Comment:

This Recommendation was well vetted by the Staff in the attached Hunter Staff Report. All of these reasons very much apply to this property which is even closer to Berkeley County.

This property straddles the Berkeley County Line; and, although Berkeley County is not zoned, Jefferson County should not ignore the fact that this area bas developed into a growth area. Because of Berkeley County's economic growth in this area, this neighborhood is now served by Public Water and Sewer. Also, this area has direct access to a primary road (old Route 9) and is just a short drive along good roads to two major interchanges on the new four lane Route 9.

There is also a new large Sheetz Store and a new Food Lion that were constructed to serve this neighborhood. These two commercial entities are just over the Berkeley border from the subject property. The County Line shouldn't be the limiting factor for commercial development on Jefferson County's side.

Recommendation 3.18 on Page 64:

"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 in the workforce."

Comment:

Again, this area has been permitted to develop into residential subdivisions, a business park that contains good federal government jobs and commercial businesses that locate where growth is indicated. Jefferson County is adjacent to this growth and should capitalize on the economic gains that Berkeley County has enjoyed in the same area. This property should work well with the Hospice property that has already developed and the Hunter property that was already zoned for mixed-use.

According to page 71 of the 2004 Comprehensive Plan, there is a very small percentage of land that is zoned for commercial or mixed-use in Jefferson County. This percentage is estimated at approximately 5 percent. It is very difficult to achieve the goal of pursuing new industrial and commercial development if the County doesn't create new commercial and mixed-use zones. Because of the adjacent zoning in Jefferson County and the development in this area of Berkeley County, this property would be an ideal parcel of land to include in the mixed-use zone. Besides the proximity to the adjacent development, it also has access to good infrastructure, including water, sewer and roads. Finally, this property is in between the Hunter Property and Berkeley County. It would only seem logical for this property to be allowed the same type of development that can be built on both sides of it.

Based on the preceding two major recommendations in the 2004 Comprehensive Plan, this map amendment is extremely consistent and compatible with the Plan.

B. Change of Neighborhood

This area of Jefferson County and the adjacent area on Berkeley County have changed significantly since the Zoning Ordinance was adopted in 1988. Again, these changes will be identical to those that were cited in the Hunter Petition. The following are examples of these changes:

- The Liherty Business Park was developed on the Berkeley County side of the line and contains the Coast Guard and IRS facilities. This park can be seen from this property.
- 2. With the development of the Liberty Business Park, Public Water and Sewer were extended into the area.
- 3. Several residential developments have been built in this area including Quail Ridge Subdivision and Chapel View Subdivision.
- 4. Quad/Graphics, a very large industrial printing and distribution facility, was built in Baker Heights in the 90s.
- 5. In 2005, the County Commission rezoned the 191 acre F.O. Day property which is in the same neighborhood. The Day property was zoned Rural and the County Commission approved a map amendment to Commercial/Industrial after finding that it was consistent with the Comprehensive Plan
- 6. The new expanded Sheetz Store was just built in the neighborhood (less than ¼ mile away). Ironically, this Sheetz was relocated from Jefferson County.
- 7. A new Food Lion (within eyesight) was built almost adjacent to this property just on the Berkeley side of the line. New grocery store construction is usually indicative of the growth potential of a neighborhood.
- 8. The Comfort Suites Hotel was built very close to the subject property.
- 9. Hospice of the Panhandle has built its headquarters and a multi-bed in-house care facility adjacent to this property. This facility was a project that was approved by both Jefferson and Berkeley Counties since it straddles the County line. The project includes over 25,000 square feet of office space and a very large inpatient center. This project has been built.

- 10. The new Route 9 was completed with direct four lane access to Route 81. This route is approximately one mile from the subject property and has a major interchange that services the area. Old Route 9 (Route 115), still considered a Primary Road by the Comprehensive Plan, services this property and leads into Short Road that has direct access to the new interchange. The property is nearly in between two major interchanges (Shepherdstown Exit and Short Road Exit) to the new four lane Route 9. This makes the property ideal for development.
- 11. Just this year, the County Commission unanimously approved the same requested mixed-use zoning for the adjacent 100+ acre property owned by the Hunters. The Applicant's property is the only property left between the Hunter property and the County line.

Summarizing the Change of Neighborhood, it is important to note the following:

1. Availability of Public Utilities:

Public Water and Wastewater facilities serve this area. Natural gas service is also available in this area and any growth would help facilitate the expansion of natural gas (a funded priority of both the County Commission and Development Authority) into Jefferson County. One of the major goals of the Comprehensive Plan states that the Plan should:

'Encourage growth and development in areas where sewer, water, schools, and other public facilities are available or can be provided without unreasonable costs to the community'.

The Applicant's property certainly qualifies under this section of the plan. This property definitely meets that criterion. This is another reason that the previous planners picked this property to be in a commercial business park during the last Zoning effort.

2. Growth in the Corridor:

Since the adoption of the original Zoning Ordinance in 1988, this area has grown considerably. The significant growth includes: Quail Ridge and Chapel View Subdivisions; Hospice Offices and Treatment complex; large Sheetz; Food Lion; Quad/Graphics in Baker Heights and the Liberty Business Park. These types of developments along with the existing growth in the Kearneysville and Baker Heights area illustrate that mixeduse development along old Route 9 is very much consistent with the Comprehensive Plan; especially since most of these came after the Plan was adopted in 2004. The map amendment for the subject property would ideally fit into this neighborhood's mixed use.

C. Change of Transportation Characteristics:

There have been positive changes in the transportation and traffic characteristics in this area. Old Route 9 was very much enhanced just north of the property in Baker Heights. The road was widened and improved to accommodate the large volume of tractor trailer traffic associated with the industrial growth in the area.

However, the major change in transportation characteristics is the finished Route 9. It is the direct four lane link to Route 81 that Jefferson County had been endorsing for many years. This road has opened up both trade routes and commuter routes in and out of Jefferson County. As mentioned previously, this property has access via good roads (old Route 9 (Route 115)) to both the Short Road and Shepherdstown interchanges onto new Route 9. This property is located in hetween these interchanges. The new Route 9 and Public Water and Sewer in this area make this property an ideal property for a mixed-use development.

These changes and improvements to the transportation system have taken place since 1988 when the Zoning Ordinance was adopted; and, most of them have taken place since the 2004 Comprehensive Plan was written. Since the Comprehensive Plan is being updated these road improvements are already being taken into consideration in the new plan. All of these improvements have had a very positive effect on the transportation characteristics and traffic flow in this area and neighborhood. The new Route 9 is being recognized as a driving force for the new preferred growth areas. Accordingly, these changes should have a positive effect on this Petition for a map amendment. These transportation changes and improvements were also cited in the Hunter Rezoning and were used to determine the consistency of that request with the Comprehensive Plan

D. Error in the Original Zoning Map

The only real justification for a map amendment/rezoning in West Virginia is the consistency of the request with the Comprehensive Plan. This is the reason that the Comprehensive Plan is so thoroughly discussed in this Petition. However, in some states, an error in the original zoning map is also used as an indicator. Accordingly, this Petition will briefly touch on some of the reasons that this property should have been zoned for development when the original ordinance was adopted.

Listed below are several reasons why this property should have been zoned for development in 1988. These reasons have already been discussed in detail in this Petition. These are some of the reasons that the Day property was rezoned in 2005 and that the Hunter property was rezoned this year in this neighborhood. These reasons alone would support the requested map amendment to the mixed-use classification:

- The property is located on a Primary Road as defined by the Comprehensive Plan. There are only two roads defined as Primary Roads in Jefferson County (Route 340 and old Route 9 (Route 115));
- 2. The property has access to public water and public wastewater services;
- 3. The property is located between two unincorporated mixed-use communities (Baker Heights and Kearneysville).

Once you combine these facts with the other compelling factors including: the Liberty Business Park; Residential Subdivisions; the large Sheetz store, the new Food Lion, Hospice of the Panhandle; the two rezonings; and, the new Route 9, it makes this property and ideal candidate for the requested map amendment.

E. <u>Current Recommendation in the Draft Maps in the Envision 2035</u> <u>Comprehensive Plan:</u>

Although not yet adopted, there has been much work completed by the Staff and Steering Committee on the Envision 2035 Comprehensive Plan. This includes many public meetings on land use and preferred growth areas that may be included in the new Comprehensive Plan. This area of Jefferson County has consistently been included as a major preferred growth area in the draft maps to date. Both the Lindberg's and the Perkins' properties have been included in this area in the draft plan. The Steering Committee and the public have also routinely agreed that this area of Jefferson County should be a preferred growth area because of the availability of services and the proximity to the new Route 9.

F. Conclusion:

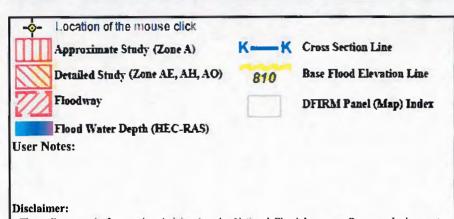
The Perkins Trust, Ms. Perkins and Eric and Stacy Lindberg respectfully request that the County Commission approve this map amendment to the Jefferson County Zoning Map. This Petition cites many reasons why the map amendment should be approved. These reasons include: the consistency of the request to the 2004 Comprehensive Plan; the 2005 action of the County Commission regarding rezoning the Day property; the very recent rezoning of the adjacent Hunter property; the fact that the property should have been classified as a business or mixed-use district in the original ordinance; the positive changes in the transportation characteristics in the area, especially the construction of Route 9; the changes in the neighborhood from when the original zoning ordinance was adopted (including the development of a business park across the street; the fact that the property and area have been vetted and studied by the Staff and Steering Committee for inclusion into a Preferred Growth Area in the new Draft Plan; and. the fact that the property has access to Public Water and Sewer and other services. This map amendment will change the zoning classification on the Applicant's property from the Rural District to the Residential/Light Industrial/Commercial District.

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Hoy Shingleton, Prustee	18 18 W2/27/14 Date 1/14
Eric Lindberg	3-8-14 Date
Stacy Lindberg	3-8.14 Date





Map Created on 3/5/2014



The online map is for use in administering the National Flood Insurance Program. It does not necessarily identify all areas subject to flooding, particularly from local drainage sources of small size. To obtain more detailed information in areas where Base Flood Elevations have been determined, users are encouraged to consult the latest Flood Profile data contained in the official flood insurance study. These studies are available online at www.msc.fema.gov.

WV Flood Tool is supported by FEMA, WV NFIP Office, and WV GIS Technical Center (http://www.MapWV.gov/flood)

Flood Hazard Area: Selected site is NOT WITHIN any identified flood hazard area. Unmapped flood hazard areas may be present.

Advisory Flood Height: N/A

Water Depth: N/A Elevation: About 505 feet

Location (long, lat): 77.905910 W, 39.399447 N

Location (UTM 17N): (766435, 4365674) FEMA Issued Flood Map: 54037C0020E

Contacts: Jefferson County

CRS Information: Click to access CRS information

Flood Profile: No Profile
HEC-RAS Model: No Model

Parcel Number:

