



JEFFERSON COUNTY, WEST VIRGINIA
Departments of Planning and Zoning

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

File Number: # 714-02
Staff Initials: CLC
Application Fee: \$ 1050.00

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

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zoning@jeffersoncountywv.org

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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.

Property owner information

Name: David N. Slusher
Mailing Address: P.O. Box 197; Rippon, WV 25441
Phone Number: (304)728-8350 Email: davessales@frontiernet.net

Applicant contact information

Name: David N. Slusher
Mailing Address: P.O. Box 197; Rippon, WV 25441
Phone Number: (304)728-8350 Email: davessales@frontiernet.net

Applicant representative

Name: Gordon Associates; Chad Wallen
Mailing Address: 301 North Mildred Street, Suite 1; Charles Town, WV 25414
Phone Number: (304)725-8456 Email: cwallen@gordon.us.com

Physical property details

Physical Address: Southeast corner of the Route 340 / Straithmore Farm Lane / Wheatland Road Intersection
City: Wheatland State: WV Zip Code:
Tax District: Kabletown (6) Map No: 11 Parcel No: 3.2
Parcel Size: 0.98+/- Acres Deed Book: 819 Page No: 754

Current Zoning District (please check one)

Grid of zoning districts with checkboxes: Residential Growth (RG), Industrial Commercial (IC), Rural (R), Residential-Light Industrial-Commercial (RLIC), Village (V), Neighborhood Commercial (NC), General Commercial (GC), Highway Commercial (HC), Light Industrial (LI), Major Industrial (MI), Planned Neighborhood Development (PND), Office/Commercial Mixed-Use (O/C). Rural (R) is checked.

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Proposed Zoning District (please check one)

Residential Growth (RG)	Industrial Commercial (IC)	Rural (R)	Residential-Light Industrial-Commercial (RLIC)	Village (V)	Neighborhood Commercial (NC)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General Commercial (GC)	Highway Commercial (HC)	Light Industrial (LI)	Major Industrial (MI)	Planned Neighborhood Development (PND)	Office/Commercial Mixed-Use (O/C)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For a Zoning Map Amendment request, the "burden of proof" is on the applicant to show why the proposed zoning is more appropriate than the existing zoning. Accordingly, please explain how the following factors support your proposal.

Describe your proposed use (and/or project) and describe why the Zoning Map Amendment is necessary for the proposed use (and/or project) described.

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 existing 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 the purpose of setting the public hearing date?

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 as it appeared on the date this ordinance took effect. The property proposed for development shall be drawn to a reasonable scale (eg. 1" = 50', 1" = 100', or 1" = 200'). The sketch plan shall show, in simple form, the proposed layout of lots, parking areas, recreational areas, streets, building areas, and other features in relation to each other and to the tract boundaries. Contour lines should be superimposed on the sketch plan. Natural features such as woods, watercourses, prominent rock outcroppings, sinkholes and quarries shall be delineated.

Is Plat or Sketch Plan attached?

Yes **No**

Original signature of all property owners is required. The information given is correct to the best of my knowledge (Please attach additional signature page if needed).

	11-10-14	
Signature of Property Owner	Date	Signature of Property Owner

The Planning Commission is required to set a public hearing on the proposed Zoning Map Amendment within 60 days of the date upon which a complete petition is presented to the Planning Commission at a Planning Commission Meeting. A complete petition, and related fees, shall be submitted to Departments of Planning and Zoning for placement on the Planning Commission agenda at least two (2) weeks prior to the meeting date at which the petition will be presented. Upon request, Planning and Zoning staff can present the petition to the Planning Commission on behalf of the applicant for purpose of setting the public hearing date. At the conclusion of the Planning Commission's Public Hearing, or at the next regular Planning Commission meeting, the Planning Commission shall make a recommendation to the County Commission regarding approval or disapproval of the requested Map Amendment. This recommendation shall be forwarded to the County Commission within four (4) weeks of final Planning Commission action.

The Planning Commission finds this request consistent/inconsistent with the Comprehensive Plan by a vote of _____ for and _____ against, this day of _____, _____, _____.

Recommended **Not Recommended**

The County Commission finds this request consistent/inconsistent with the Comprehensive Plan by a vote of _____ for and _____ against, this day of _____, _____, _____.

Approved **Disapproved**

Final Determination/Other Comments

Zoning Map Amendment Application Addendum

Slusher Property

November 7, 2014

Owner / Applicant:

David Slusher
P.O. Box 197
Rippon, WV 25441

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Substantiation for Request:

1. **Allowed use for the property under the Rural Zoning District.** Due to the property's location and current use there is not a fiscally viable alternative to the current commercial use. The area of the property is less than one acre which limits its use as an agricultural property. Proximity to Route 340 and required setbacks would preclude the development of the property as residential use.
2. **The designation as General Commercial will reflect the property's historic use.** Commercial use of the property dates back to the 1930's and the current use for auto sales existed prior to the adoption of zoning in Jefferson County. The continued successful use of the property demonstrates the value of the property as a commercial use.
3. **The adoption of zoning in Jefferson County failed to recognize the property owner's investment in a commercial property.** The property was purchased by a small business owner with plans on maintaining a business while building equity in the property. The adoption of zoning in 1988 removed part of the potential equity and left a property which is a non-conforming use. The requirement for future zoning certificates or LESA evaluations will place an unnecessary burden in the future marketing for the commercial structure.
4. **Current and planned uses in the vicinity of the property recognize the Route 340 corridor as an appropriate area for development.** The property across Route 340 and northwest of the intersection is zoned Commercial-Industrial, the subject property abuts

the Charles Town Urban Growth Boundary to the north and the draft 2014 Comprehensive Plan identifies a Preferred Growth Boundary 0.3+/- miles to the south. This recognizes this segment of the Route 340 corridor as a preferred area for development and commercial uses.

5. **No burden would be placed on existing public infrastructure with this rezoning.** The property will not require the extension of utilities and will not create additional needs on the school system or other County facilities. The continued use as a commercial property will help maintain the tax base in Jefferson County.

Property Tax Identification:

Kabletown District (6), Map Number 11, Parcel 3.2

Deed information:

Deed Book 819, Page Number 754

Property Characteristics:

Location: Southeast corner of the Route 340 / Straithmore Farm Lane / Wheatland Road intersection.

Current Zoning: Rural

Current / Historic Use: Commercial

Tract Size: 0.98+/- Acres

Describe your proposed use (and/or project) and describe why the Zoning Map Amendment is necessary for the proposed use (and/or project) described.

The subject property is an existing non-conforming use which predates the implementation of zoning in Jefferson County. The applicant is requesting that the General Commercial Zone be granted to correct the non-conforming status of the property. The first commercial use of the property dates back to the 1930's and the current use of auto sales began in 1986. The commercial history of the property includes tractor repair shop, auto sales / service, machine shop and numerous other commercial uses.

The property was purchased as a commercial enterprise and has since been devalued with the inaccurate Rural Zoning designation being placed on the property in 1988. The Applicant wishes to maintain the value of the property going forward. While there are no immediate intentions to change

the current use of auto sales, the Applicant needs to maintain flexibility going forward to ensure that the property is marketable and does not become a structure with no feasible permitted use. A structure which does not have a permitted use will inevitably become abandoned and deteriorate over time.

The existing structure is not suitable for residential use. The buildable area of the property contains parking, a building and storage shed. The conversion of this property to a residential, agricultural or other permitted use in the Rural District is not fiscally viable. The continued use as commercial is the only option for maintaining this property.

Describe how the Zoning Map Amendment will be consistent with the objectives and policies of the Comprehensive Plan.

- ***Chapter 2, Statement of Goals: 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 property will not require the extension of utilities.** Sanitary sewer and water is provided through private well and drainfield. This service will be maintained at the burden of the property owner and will be of no cost to the community.
 - **The proposed use of the property will not require the use of any public facilities.** The property is self-contained and does not depend on public facilities to continue as a permitted use under the General Commercial district. The property would require the use of schools and other public facilities if converted to a residential use as is permitted under the current Rural zoning district.

- ***Chapter 2, Statement of Goals: Encourage and support commercial, industrial, and agricultural activities to provide a diversified and sound local economy.***
 - **The historic backbone of Jefferson County is built on small business.** The property owner has contributed to this backbone through his investment in an existing commercial property in Jefferson County. Denying the future commercial use of the property denies the property owner a return on his investment in the County.
 - **The granting of the General Commercial zone will support the continued use of the property as a local business.** As discussed previously, the property and existing building have been a commercial use for approximately 80 years. Allowing the property to be properly zoned will help maintain its historic use, encourage local business and support the local economy.

- ***Chapter 2, Statement of Goals: Support and protect private property rights while supporting and protecting overall public health, safety and general welfare.***

- **The property was purchased as a commercial property prior to the adoption of zoning.** The adoption of zoning by Jefferson County in 1988 did not account for the historic use of the property and devalued a property which was a known commercial establishment. The implementation of zoning immediately made the commercial structure a non-conforming use. Any future efforts to sell the property will be impaired by requiring a zoning certificate or LESA evaluation for every potential use of the property. If zoned properly as General Commercial, the property will maintain its current and historic commercial use.
- **The overall public health, safety and general welfare will not be impacted.** The change in the zoning designation of the property will not alter its existing function as a commercial use and will not alter the character of the community.
- ***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 in the workforce.***
 - **Supporting existing business will help maintain the current economy and diversified tax base.** It is equally important to retain commercial uses as it is to attract new business. While the recommendation is to attract new business, it should be implied that retention is part of that effort.
- ***Existing Zoning Map***
 - **Surrounding properties are zoned for more intensive uses than the proposed General Commercial District.** Land across Route 340 and northwest of the property is zoned Industrial-Commercial. The Industrial-Commercial Zone allows for the most intense land use in the County and is currently abutting and across from land which is designated as Rural, which allows only the least intense uses permitted in the Zoning Ordinance. There is a lack of a transitional zone between these industrial zoned properties and the subject property. The location of this industrial zone also supports the reasoning that the subject property is in a suitable location for commercial development.
 - **The subject property abuts the City of Charles Town Urban Growth Boundary.** The Urban Growth Boundary identifies land in which Jefferson County believes is more appropriate for urbanized development when considering future development within the County. The location of the subject property in relation to the Urban Growth Boundary reinforces that this area is appropriate for the General Commercial Zone.
 - **The 2014 draft Comprehensive Plan identifies a preferred growth boundary 0.3 miles south of the property.** While still in draft form, the location of this boundary continues to identify that this segment of Route 340 is suitable for growth and development.

Discuss any change(s) of transportation characteristics (i.e. type and frequency of traffic, adequacy of existing transportation routes), and neighborhood characteristics from when the original ordinance was adopted.

- **Increasing traffic flow on Route 340 has enabled the subject property to remain viable as a commercial use.** Route 340 has historically been a primary transportation route in Jefferson County. Traffic on Route 340 has continued to grow with population and the expanding road system in adjacent Frederick / Loudoun Counties. As a major traffic corridor in Jefferson County, commercial and industrial uses gravitate to Route 340. The planned commercially zoned land along this corridor demonstrates the appropriateness of this zoning request. The longevity of the property as a commercial use over approximately 80 years has been accomplished by the continuing traffic increase on Route 340.
- **The future expansion of Route 340 will increase the viability for commercial uses along this corridor.** This segment of Route 340 has had multiple studies and it is generally agreed that it will be expanded from a two lane road to a four lane divided road. Segments of Route 340 to the north and the south are currently a four lane divided road. It is of sound planning practice to locate commercial uses near the areas of major traffic corridors opposed to local roadways. The expansion of Route 340 demonstrates the changing value for the use of land along this corridor.