


STAFF REPORT

Jefferson County Planning Commission Meeting

January 13, 2015

Item # 6 Public Hearing regarding a Zoning Map Amendment request by property owner David N. Slusher for a 0.98 acre property located on the southwest corner of the Route 340/Straithmore Farm Lane/Wheatland Road intersection. This property is currently zoned Rural (R), occupied by an existing commercial use, and the applicant is requesting General Commercial (GC) zoning.

APPLICANT/OWNER:	David N. Slusher
DEVELOPER:	Same
SURVEYOR/ENGINEER:	Gordon Associates
PROPERTY LOCATION:	The property is located on the southwest corner of the Route 340/Straithmore Farm Lane/Wheatland Road intersection.
LEGAL DESCRIPTION:	District: Kabletown (06), Map: 11, Parcel: 3.2 
ZONING DISTRICT:	Zoning Map Designation: Rural
SURROUNDING PROPERTIES:	Zoning Map Designation: <i>North:</i> Rural <i>South:</i> Rural <i>East:</i> Rural <i>West:</i> Industrial Commercial
LOT AREA:	Total Development 0.98 +/- acres
DEVELOPMENT HISTORY:	This property is occupied by an existing non - conforming use which predates the implementation of zoning in Jefferson County.
PROPOSED REQUEST	To rezone from Rural (R) to General Commercial (GC).
PLANNING COMMISSION RESPONSIBILITY:	To advise the County Commission as to whether the requested Zoning Map Amendment is consistent with the <i>2004 Comprehensive Plan</i> .
STAFF FINDING:	In this report, Staff presents the various factors related to these properties based on the <i>Comprehensive Plan</i> . Staff finds that the request is <u>not consistent</u> with the <i>2004 Comprehensive Plan</i> .

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Applicants Request/Background

The property is located on the southwest corner of the Route 340/Straithmore Farm Lane/Wheatland Road intersection. It is currently occupied by Dave's Auto Sales and Service. Commercial use of this property dates back to 1930's and the current use of auto sales began in 1986.

The applicant states that there are no immediate intentions to change the current use of the property; however, the applicant desires to maintain flexibility going forward to ensure the property is marketable and does not become a structure with no feasible permitted use. The buildable area of the property contains parking, a building and storage shed. The applicant states that the conversion of this property to a residential, agricultural or other permitted uses in the Rural District is not fiscally viable.

Image 1 is a location map showing the parcel that is the subject of the rezoning request. A large percentage of the property falls within the 100-year floodplain.

Image 1



Introduction and Purpose

The applicant's request is to rezone the 0.98 acre parcel from Rural (R) to General Commercial (GC). The property has access from US 340 and Straithmore Lane. The property abuts Bullskin Run and a large percentage of the property falls within the 100-year floodplain. The zoning to the north, south, east, and west of the subject properties is Rural. Properties to the northwest of this property, across US 340 and north of Wheatland Road, are zoned Residential-Light Industrial-Commercial and are occupied by a variety of commercial and industrial uses.

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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)].”

The Zoning Ordinance further states that the applicant should include discussion of any change of transportation characteristics and neighborhood from when the original zoning was established for the Planning Commission to take into consideration.

Scope of this Assessment

This report focuses on whether or not the Zoning Map Amendment application is consistent with the *2004 Comprehensive Plan*. It concludes that the request is not consistent with *2004 Comprehensive Plan*. It should be noted that the County Commission is currently considering a draft version of the *Envision Jefferson 2035 Comprehensive Plan* which may be adopted prior to approval of this Zoning Map Amendment request and may need to be considered by the County Commission at that time.

The format for this assessment includes references to specific provisions of the *2004 Comprehensive Plan*, which are identified by page number citation. Staff has used these notations and quotations in order to address sections of the *2004 Plan* as it relates to the proposed rezoning. Identification of the specific page numbers where these provisions can be found in the *2004 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.

It should also be noted that the *2004 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. As 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.

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Relevant 2004 Comprehensive Plan Elements and Commentary

A. Proposed Zoning District – General Commercial (GC):

The General Commercial zoning category is not addressed in the *2004 Plan* as it was adopted as a part of a larger Zoning Ordinance text amendment in 2014. The *2004 Plan* discussed a number of issues with the existing Land Evaluation Site Assessment (LESA) form of zoning as well as issues with the existing commercial zoning categories and recommended that the County review different zoning methods to see if LESA is still the zoning of choice for the County. In 2011 and 2012, Jefferson County Commission considered a large number of landowner initiated rezoning requests, which were becoming preferred over the LESA system by the development community. The limitations of the broad zoning categories that existed at the time resulted in the initiation of a Zoning Ordinance text amendment in which created seven new commercial/industrial zoning categories. After considerable public input and discussion between 2012 and 2014, these new categories were approved by the County Commission. This request to rezone to General Commercial is the first request to utilize the new categories created.

The Jefferson County Zoning and Land Development Ordinance has a statement of purpose for each of its Zoning District categories and states that the purpose of the General Commercial (GC) District is “to provide for general destination business uses, which provide a broad range of commercial products and services necessary for large regions. The uses in this district may be characterized by medium-to-large buildings (including retail stores of up to 100,000 square feet of gross floor area for an individual building as per the definition of Retail Store, Large in this ordinance), more intensive commercial activity, and more vehicular traffic than would be permitted for uses in the Neighborhood Commercial (NC) District.” While the size of this property might indicate that a request to rezone to Neighborhood Commercial might be more appropriate, it should be noted that Automobile Sales is not permitted in the NC zone.

The Ordinance further states that the GC zoning category is intended for use on properties located in the Growth Area as shown in the most recently adopted Comprehensive Plan, if the plan does not include a future land use map; or in locations where the appropriate land use category is designated on the future land use map (and related text) in the most recently adopted Comprehensive Plan.

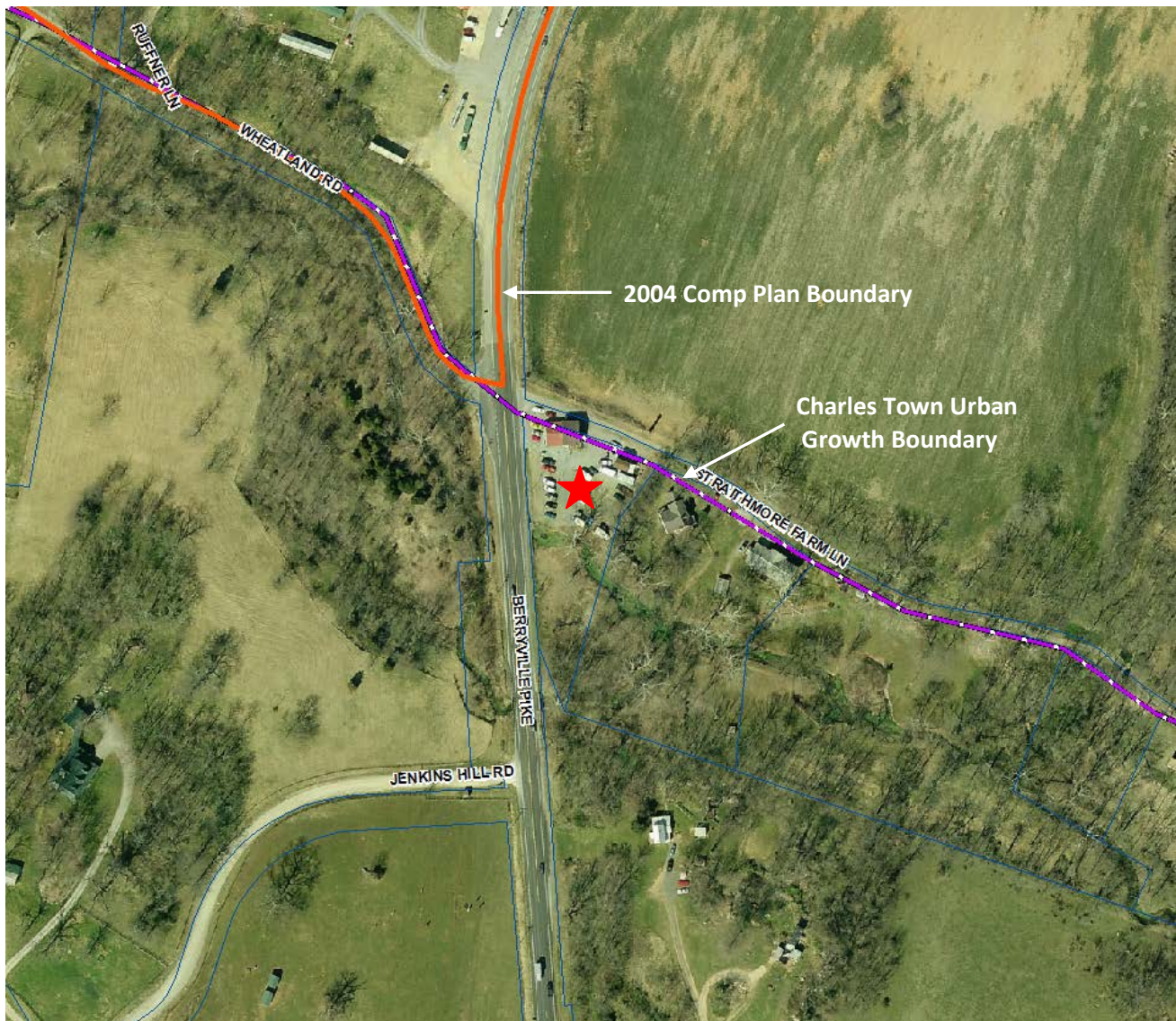
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This property is outside the Growth Area in the *2004 Plan*. It is also outside Charles Town's Urban Growth Boundary. This property is also outside of any Urban Growth Boundary or Preferred Growth Area in the draft *Envision Jefferson 2035 Plan*. Image 2 shows the 2004 Plan Growth area and the Charles Town UGB

Image 2



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).”

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The property proposed to be rezoned is located on the southwest corner of the Route 340/Straithmore Farm Lane/Wheatland Road intersection. The property has access from US 340 and Straithmore Lane. In this area, US 340 is a two lane road. The four-lane section ends 0.5 miles north of Straithmore Farm Lane. The WV DOH is conducting an updated Environmental Impact Statement examining alternative routes for the future four-laning of US 340 from Charles Town to the Clarke County VA line.

Straithmore Farm Lane is a narrow rural road serving three homes and ending in an agricultural property to the east of this property.

B. Water and Sewer Proximity:

The Statement of Goals (p. 19) 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.”

“Promote growth and development that are both economically and environmentally sound.”

No public water and/or sewer service is available in this area of the County. 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 does not conform to this aspect of the *2004 Plan*.

C. 2004 Plan Policies:

The Plan Policies (p. 8) relevant to this proposed Zoning Map Amendment include the following:

- “This Plan recommends that Jefferson County's natural features, particularly stream valleys, be conserved as green space and that significant natural features be afforded protection as development proceeds.”
- “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.”
- “This Plan identifies strategies to assure that community facilities and transportation infrastructure are provided in sequence with new development.”

Economic development strategies are key elements of the *2004 Plan*; however the Plan encourages such development to occur where the infrastructure and population are located; however, this property is fairly remote from Charles Town and on a two-lane section of US 340 with no water or sewer services available. It is important to consider that an existing non-conforming use can continue to exist and can change to a similar or less intense use through application to the staff of Board of Zoning Appeals. Rezoning of a property opens it up to numerous Principal Permitted Uses that this site could not accommodate due to its size, shape, and lack of infrastructure.

As outlined in multiple sections of this report, proper location of new development and activity needs to 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.

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The proposed rezoning is located in an area that does not meet 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 is **not consistent** with the 2004 Comprehensive Plan. It is not located with the identified Growth Area in the *2004 Plan* or a proposed growth area in the draft *Envision Jefferson 2035 Plan*. It is located on a two lane road that has been identified as needing widening by the WV DOH. It is not on public or private water and sewer. Most of the property is locate within the 100-year floodplain.