

ORDINANCE NO. ORD-2024-38

AN ORDINANCE TO AMEND THE ZONING MAP
FOR WASHINGTON COUNTY, MARYLAND
(RZ-24-002)

Pursuant to the provisions of Section 7A.0 *et seq.* of the Zoning Ordinance for Washington County, Maryland (*Zoning Ordinance*), John and Lisa Halteman, the Applicants, have petitioned the Board of County Commissioners of Washington County, Maryland (*Board*), seeking to apply the Rural Business (RB) floating zone over a 6.82-acre portion of their property located at 12635 Flying Duck Lane, which is currently zoned Agricultural Rural A(R).

The matter has been designated as Case No. RZ-24-002.

This application was reviewed by the Planning Commission, and the Planning Commission recommended that the application be approved.

The Board has considered all information presented at the public hearing conducted on October 15, 2024, and the recommendation of the Planning Commission. The Board has made factual findings and conclusions of law that are set forth in the attached Decision. The findings of fact and conclusions of law are incorporated herein.


NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of County Commissioners of Washington County, Maryland, that the property which is the subject of Case No. RZ-24-002 be, and hereby is, designated as Agricultural Rural A(R) with Rural Business (RB) overlay.

IT IS FURTHER ENACTED AND ORDAINED that the official Zoning Map for Washington County be, and hereby is, amended accordingly. The Director of Planning and Zoning shall cause the Zoning Map to be amended pursuant to this Ordinance.

Adopted and effective this 19 day of November, 2024.

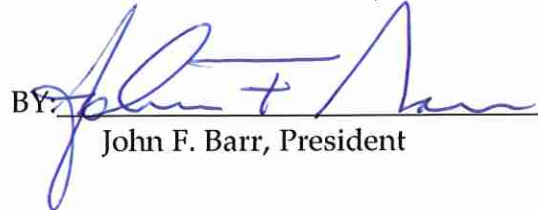
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND




Dawn L. Marcus, Clerk

BY:



John F. Barr, President

Approved as to form and
legal sufficiency:



Aaron Weiss
Assistant County Attorney

Mail to:
Office of the County Attorney
100 W. Washington Street, Suite 1101
Hagerstown, MD 21740

BEFORE THE
BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

DECISION
Rezoning Case RZ-24-002

Property Owner:	John and Lisa Halteman
Applicants:	John and Lisa Halteman
Requested Zoning Change:	Agricultural Rural (AR) to Agricultural Rural (AR) with Rural Business (RB) Overlay
Property:	12635 Flying Duck Lane, Clear Spring, Maryland (the "Property")

Pursuant to Md. Code Ann., Land Use § 4-204 and Washington County Zoning Ordinance (the "Zoning Ordinance") § 27.3, the Board of County Commissioners of Washington County, acting upon the Applicants' Request, makes findings of fact with respect to the matters set forth in the Zoning Ordinance. We also consider the recommendation of the Planning Commission which was made in this case, the present and future transportation patterns, the relationship of the proposed reclassification to the Comprehensive Plan, and whether there has been convincing demonstration that the proposed rezoning would be appropriate and logical for the subject property. After considering the recommendation of the Planning Commission and hearing evidence presented by the Applicant at a Public Hearing on October 15, 2024, the Board will grant the requested zoning map amendment and makes the following Decision, which largely adopts the findings of the Staff Report and Planning Commission with additional conditions.

Location:

The subject parcel is located on the north side of National Pike (U.S. 40) between St. Paul Road (MD-57) and Spickler Road, approximately three miles east of Clear Spring. The property subject to this rezoning encompasses 50.28 acres of agricultural land, 6.82 acres of which would be encumbered with the Rural Business (RB) floating zone.

Two existing single-family dwellings and an extensive series of agricultural support buildings make up the entirety of the farm complex which dates to the

1800s. These buildings support both the primary agricultural operation as well as related trades or services which have arisen over time such as a wood planer shop, agricultural equipment rental, produce sales, and woodstove sales.

Along the western boundary of the property is a permitted moderate volume mineral extraction area used for shale mining. Moderate volume mineral operations are areas in which the land area devoted to mineral extraction and mineral processing is between one-five acres. A perennial stream, Meadow Brook, flows through the southwest corner of the property, resulting in a notable area of floodplain and wetlands on that part of the parcel.

CRITERIA ANALYSIS

Availability of Public Facilities

Water and Sewer

The adopted Water and Sewerage Plan for the County establishes the policies and recommendations for public water and sewer infrastructure to help guide development in a manner that helps promote healthy and adequate service to citizens. By its own decree, the purpose of the Washington County Water and Sewerage Plan is "...to provide for the continued health and well-being of Washington Countians and our downstream neighbors..."¹ This is achieved through implementing recommendations within the County Comprehensive Plan and the Water and Sewerage Plan to provide for services in a timely and efficient manner and by establishing an inventory of existing and programmed services.

A. Water

The proposed rezoning site is designated as W-7 in the 2009 Water and Sewer Plan with no planned connection to public water. Two existing wells connected to the residential uses on the property are depicted on Washington County Plat 9728 which has been included in as part of the application file. Regarding impacts to existing water and sewer usage from the proposed businesses, the Applicants' justification statement asserts that "*With limited use, the existing well and septic systems are in good condition.*"

¹ Washington County, Maryland Water and Sewerage Plan 2009 Update, Page I-2

B. Sewer

The proposed rezoning site is designated as S-7 in the 2009 Water and Sewer Plan with no planned connection to public sewer. An approximate location of the existing septic system is depicted on the recorded plat noted above.

Stormwater Management

As noted in the Applicants' justification statement regarding recent (mostly agriculture related) development permitted on the property "*More recent construction of pole buildings, etc. have gone through the permitting process including stormwater management review.*" Stormwater review and mitigation was also done for the moderate volume mineral extraction area on the western boundary on the property. Proposed stormwater management facilities are not shown on the preliminary site plan included with the application.

Floodplain

The proposed rezoning site contains floodplain and wetland areas in the southwest corner of the property. These areas lie outside of the developed footprint of the property which is proposed inclusion within the Rural Business floating zone. Disturbance of such areas is generally prevented or limited by restrictions contained within the County's Floodplain Management Ordinance. Development review by various regulatory agencies would also likely account for continued protection of the area, should the site see additional construction in the future.

Bulk Regulations

The Applicants' Justification Statement does not specifically address bulk requirements such as setbacks or lot coverage aside from noting the current existence of parking in connection with the produce stand. The lot does however contain ample acreage to meet zoning setbacks and other bulk requirements, and the boundaries of the developed footprint at the site have been largely established within a centralized location on the parcel over time.

In 2020, a variance to reduce the minimum required side yard setback on the western property boundary from one hundred to twenty-five feet was granted by the Board of Zoning Appeals as a part of special exception AP-2020-015. This same decision also authorized the moderate volume mineral extraction operation in this same area of the parcel.

Fire and Emergency Services

The Clear Spring Ambulance Club and Clear Spring Volunteer Fire Company are the nearest emergency services provider to this site, located approximately 2.75 miles west within the Town limits.

Relationship of the Proposed Change to the Adopted Plan for the County:

The purpose of a Comprehensive Plan is to evaluate the needs of the community and balance different types of growth and development to foster compatibility between different land uses. In general, this is accomplished through the evaluation of existing conditions, projections of future conditions, and creation of a generalized land use plan that provides a blueprint to achieving this compatibility while maintaining the health, safety, and welfare of the general public.

The Rural Business Zoning District (RB) is established to permit the continuation and development of businesses that support the agricultural industry and farming community, serve the needs of the rural residential population, provide for recreation and tourism opportunities, and to establish locations for businesses and facilities not otherwise permitted in the rural areas of the County. It is established as a "floating zone" which may be located on any parcel in an Agricultural, Environmental Conservation Preservation, or Rural Village Zoning District. A floating zone is a zoning district that delineates conditions which must be met before that zoning district can be approved for an existing piece of land.

Section 5E.4 of the Rural Business Zoning District describes the criteria that must be met for the establishment of a new Rural Business Zoning District. These criteria include:

1. The proposed RB District is not within any designated growth area identified in the Washington County Comprehensive Plan;
2. The proposed RB District has safe and usable road access on a road that meets the standards under the "Policy of Determining Adequacy of Existing Roads". In addition, a traffic study may be required where the proposed business, activity, or facility generates twenty-five or more peak hour trips or where 40% of the estimated vehicle trips are anticipated to be commercial truck traffic;
3. Onsite issues relating to sewage disposal, water supply, stormwater management, floodplains, etc. can be adequately addressed; and
4. The location of an RB District would not be incompatible with existing land uses, cultural or historic resources, or agricultural preservation efforts in the vicinity of the proposed district.

Section 5E.6c further expands upon the above noted criteria in describing the basis for which the Planning Commission should base its recommendation to the Board of County Commissioners after the Public Information Meeting including:

1. The proposed district will accomplish the purpose of the RB District;
2. The proposed site development meets criteria identified in Section 5E.4 of this Article;
3. The roads providing access to the site are appropriate for serving the business-related traffic generated by the proposed RB land use;
4. Adequate sight distance along roads can be provided at proposed points of access;
5. The proposed landscaped areas can provide adequate buffering of the proposed RB land use from existing land uses in the vicinity;
6. The proposed land use is not of a scale, intensity, or character that would be incompatible with adjacent uses or structures.

Compatibility with Existing and Proposed Development in the Area

A. Zoning

The proposed district will accomplish the purpose of the RB District. Under the current Agricultural Rural (AR) zoning, many of the Applicants' uses of the

property would be permitted with the approval of a special exception. Within an RB Zoning District, however, they would become principal permitted uses.

The proposed site of the rezoning is located outside of the County's current Urban Growth Area boundary. This status is not proposed to change in the forthcoming Comprehensive Plan Update.

B. Land Use in the Vicinity

Nearly all surrounding lands are zoned Agricultural Rural (AR). The properties in the areas between Saint Paul and Spickler Roads are either large agricultural parcels or smaller residential lots. A notable exception being Saint Paul's Reformed Church and Cemetery located on the adjacent parcels to the southwest of the subject site.

There are four other existing RB Zoning Districts in the immediate vicinity providing prior precedent for commercial uses along this stretch of U.S. 40. These adjacent rural businesses include National Pike Convenience Store, Miller's Farmstead, Mt. Tabor Builders, and Myers Building Systems.

C. Historic Resources.

As the property is located along the Historic National Road Maryland Scenic Byway (encompassing U.S. 40 from Baltimore to the Pennsylvania state line in Garrett County) there are thirteen historic sites within half of a mile or less of the proposed rezoning that were considered in evaluating its compatibility. The subject site itself contains a historic site, the Halteman Farm. The remaining twelve sites are found mostly along National Pike, along with a few also located on Saint Paul Road. These thirteen sites are described in the Maryland Historic Trust Inventory of State Historic Sites.

Present and Future Transportation Patterns

A. Traffic Generation

Traffic counts on County and State roads in the vicinity of the rezoning site provide limited insight on traffic flow or congestion that might be impacted by an

expanded business at this location. The Maryland State Highway Administration (SHA) has also maintained a permanent traffic counter approximately 2.25 miles west of the site, just outside the town boundary of Clear Spring. These counts indicate a clear decline in traffic heading west on U.S. 40 during the last twenty years.

The requirements of the RB District require a traffic study when the proposed business, activity, or facility generates "twenty-five or more peak hour trips or where forty percent of the estimated vehicle trips are anticipated to be commercial truck traffic. The Applicants' justification statement asserts that "*peak hour trips will not exceed the reference policy document*" from various business operations occurring on the parcel.

B. Road and Site Circulation Improvements

The site is located at the end of Flying Duck Lane (a private road) and U.S. 40. The latter road is classified as a minor arterial in the Functional Road Classification portion of the Transportation Element in the County's 2002 Comprehensive Plan. This classification accounts for mobility and access characteristics of the roadway in its categorization. Minor Arterial roads are designed to carry between 2,000-5,000 Average Daily Traffic in rural areas. The County's road classification system is based upon the Federal Highway Functional Classification System but modified to reflect local road conditions.

A review of the County's ten-year Capital Improvement Plan (CIP) and the State Highway Administration's Consolidated Transportation Plan did not note any road improvements in the vicinity of this proposed rezoning that would affect road capacity or traffic flow. The Highway Plan in the 2002 Comprehensive Plan and HEPMPO's LRTP also did not indicate any immediate road improvements in the vicinity.

The Applicants' preliminary site plan does not anticipate any access changes to the property from U.S. 40.

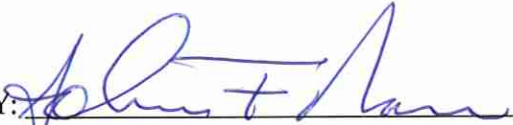
Conclusion

Based on the information provided by the Applicants in the initial application, further analysis by Staff and the recommendation of the Planning Commission, the Board of County Commissioners believes that there is sufficient evidence submitted to meet the criteria outlined in Article 5E of the Zoning Ordinance to support the application of an Agricultural Rural (A(R) with Rural Business (RB) District floating zone to the subject area. Changes to the use, intensity, or area covered by an approved Rural Business District Overlay shall be reviewed by the Planning Commission and may be required a new public hearing to approve the changes.

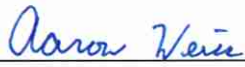
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