



Washington County

M A R Y L A N D

DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

AGENDA

WASHINGTON COUNTY PLANNING COMMISSION REGULAR MEETING

October 6, 2014, 7:00 PM

WASHINGTON COUNTY ADMINISTRATION BUILDING
100 WEST WASHINGTON STREET
2ND FLOOR, ROOM 255

CALL TO ORDER AND ROLL CALL

MINUTES

1. Minutes of the September 8, 2014 Planning Commission public rezoning and regular meeting *

OLD BUSINESS

1. RZ-14-005 Jason Adkins – Proposed map amendment for property located at 9920 Crystal Falls Drive, Hagerstown; Applicant is requesting a change in zoning from RV (Rural Village) to RB-N (Rural Business-New); Planning: Justin Lindley *
2. RZ-14-003 - Proposed text amendment to Section 21.3 (Airport Overlay zone) of the Zoning Ordinance and Article 22.93 (a) and (b) of the Zoning Ordinance; Planner: Steve Goodrich *

OTHER BUSINESS

1. Leggett, Ronald (S-08-020) – Extension request for the Preliminary/Final Plat of Subdivision for Lots 4 and 5 of the Leggett Subdivision, located on the northern side of Monroe Road; Planner: Lisa Kelly *

ADJOURNMENT

UPCOMING MEETINGS

1. Monday, November 3, 2014, 7:00 p.m., Washington County Planning Commission regular meeting, Washington County Administration Building, 100 West Washington Street, Room 255, Hagerstown, Maryland

** a t t a c h m e n t s*

The Planning Commission reserves the right to vary the order in which the cases are called.

Individuals requiring special accommodations are requested to contact the Washington County Planning Department at 240-313-2435 Voice/TDD, to make arrangements no later than ten (10) days prior to the meeting. Notice is given that the Planning Commission agenda may be amended at any time up to and including the Planning Commission meeting.

120 West Washington Street, 2nd Floor | Hagerstown, MD 21740 | P: 240.313.2430 | F: 240.313.2431 | TDD: 7-1-1

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WASHINGTON COUNTY PLANNING COMMISSION
September 8, 2014

The Washington County Planning Commission held a public rezoning meeting and its regular meeting on Monday, September 8, 2014 at 7:00 p.m. at the Washington County Administration Building, 100 West Washington Street, Room 255, 2nd Floor, Hagerstown, Maryland.

Commission members present were: Chairman Terry Reiber, Vice-Chairman Clint Wiley, David Kline, Dennis Reeder, Sam Ecker, and Ex-officio William McKinley. Staff members present were: Washington County Department of Planning & Zoning - Steve Goodrich, Director; Jill Baker, Chief Planner; Justin Lindley, Comprehensive Planner; and Debra Eckard, Administrative Assistant; Washington County Department of Plan Review & Permitting - Terry Irwin, Deputy Director; and Washington County Division of Engineering & Construction Management - Robert Director.

CALL TO ORDER

The Chairman called the meeting to order at 7:00 p.m.

REZONING PUBLIC MEETING

RZ-14-005 – Jason Adkins

-Staff Presentation

Mr. Lindley presented a map amendment request for Jason Adkins, Adkins Automotive, located at 9920 Crystal Falls Drive, Hagerstown. The property is approximately 2 acres in size and is currently zoned RV – Rural Village. The applicant is requesting a zoning designation of RB-N – Rural Business New. Properties surrounding the subject site are currently zoned Rural Village and Environmental Conservation as well as one property zoned RB-E (Rural Business Existing), which is located approximately 1/3 mile from the subject site. There is currently an automotive business operating on the site. The site is served by public water provided by Washington County and an on-site septic system. The proposed use (an automotive repair facility) does not foresee an increase in septic usage. Emergency fire services are provided by the Mt. Aetna Fire company and emergency medical services are provided by the Smithsburg EMS. Schools serving this area are Greenbrier Elementary, Boonsboro Middle and Boonsboro High schools. The proposed commercial use will have no impact on the schools. Crystal Falls Drive is a county road with a road designation of "local street", which is meant to provide intra-community access for individual properties. The change or mistake rule for rezoning will not apply to this property because the RB-N zoning district is a floating zone. Storm water management was addressed when the garage was constructed on the site in 2012. The required side yard setback, which is 100 feet from residentially zoned parcels, cannot be achieved because the parcel is only 131 feet wide at the front narrowing to 80 feet in the rear. Variances for the setbacks will be required from the Board of Zoning Appeals (BZA). Variances would also be required for parking and parking access aisles. Staff recommends that a buffer between the proposed parking area and the neighboring residential property should be required to mitigate negative effects of the reduced setback during the site plan process.

-Applicant's Presentation

Mr. Travis Poole of Poole & Kane, 29 West Franklin Street, Hagerstown, representing the applicant Mr. Jason Adkins, presented the following information. Mr. Poole explained that the garage was originally built for personal use, the site plan was previously approved, and the use is already in operation. As a condition of continued use, Mr. Adkins was requested to file the application for a map amendment. Mr. Poole explained that a row of Leyland Cypress has been planted along the proposed parking area next to the existing residential property as a buffer. He noted that this neighboring property owner has no objection to this request. There is a vacant lot located on the north side of the subject site and this property owner has voiced no opposition to the request. Mr. Poole stated that the applicant is aware of the required variances that will be needed if the property is rezoned and the proposed use can continue.

He reported that 170 customers have been served and 411 work orders have been completed to date this year. Mr. Poole believes that people living in a rural village needed services and this would be an important service to the community. He noted that Mr. Adkins also performs small engine repair work.

Comments and Discussion: Mr. Kline noted that he travels through this area several times during the year and the business cannot be seen, except for the sign, from the road. He supports the applicant's request and the proposed use for the property.

-Public Comment

James Stewart, Jr., 21733 Mt. Aetna Road, Hagerstown, MD 21740 – Mr. Stewart stated that he and his family own several properties along Crystal Falls Drive which are located at 9932, 9938, 9942, 9950 and 9819 Crystal Falls Drive. He stated there are 9 signs and/or flags for the business between Mt. Aetna Road and Crystal Falls Drive and several signs on the garage itself, one being a fluorescent sign that can be seen from neighboring properties when the leaves are not on the trees. Mr. Stewart stated that he visited the property this afternoon and counted 12 vehicles parked on the property. He expressed his concern with regard to tractor trailer and delivery trucks on the road and the value of his family's properties.

James Stewart, III, 9814 Crystal Falls Drive, Hagerstown, MD 21740 – Mr. Stewart expressed his concern for his property value and all of the signs located along the road. He also expressed concern with regard to noise issues.

Pauline Johnson, 9907 Crystal Falls Drive, Hagerstown, MD 21740 – Ms. Johnson noted that less than ½ mile from the subject site are two schools that children walk to daily. She expressed her opinion that the road is not conducive to tractor trailers and large trucks due to children walking along this road, cyclists, hikers and wildlife. Ms. Johnson also stated that there is noise from the garage late into the evening hours.

Delia Wright, 21911 White Oak Road, Hagerstown, MD 21740 – Ms. Wright noted there is a designated biking and hiking trail in this area and she expressed concern with regard to the increased traffic in the area including delivery trucks, tractor trailers and tow trucks. She noted there are biking events and marathons that are held on this road.

-Applicant's Rebuttal

Mr. Poole stated that deliveries are made via a pick-up truck from Auto Zone. There are no tractor trailers making deliveries to the property; however, there may, on occasion, be a box truck delivery. Some of the vehicles that were seen earlier in the day by Mr. Stewart are Mr. Adkins' personal vehicles. Mr. Poole stated that Mr. Adkins is permitted to have a garage and repair his own personal vehicles on his property and the proposed use is different only by the volume of vehicles to be serviced. He noted that Mr. Adkins does not have contracts with any towing companies; however, there are occasionally broken down vehicles that are delivered to the property by tow trucks. Mr. Adkins does not perform any type of collision repair on the property. Mr. Poole stated that signage would be addressed during the site plan review stage, but there are currently no fluorescent or neon signs on the property.

Mr. Reiber stated that written comments were received prior to the public meeting from Amy Paradise at 12823 White Oak Road, Hagerstown, which will be submitted as part of the official record.

Mr. Reiber asked if this rezoning would be considered "spot" zoning. Mr. Lindley stated it would not be spot zoning because the RB-N designation is a floating zone.

RZ-14-003 Text Amendment

Mr. Goodrich presented a text amendment to Section 21.3(c) of Article 21 – Airport District and Section 22.93 (a) 4, 5 and 6 and (b) 4, 5 and 6 of Article 22, Division IX (Animal Husbandry Facilities). The purpose of the text amendment is to correct typographical errors made in the zoning text between the

time the affected sections of the Zoning Ordinance were adopted by the County Commissioners and the time those amendments were published in the Zoning Ordinance. The correction in Section 21.3(c) is to change the incorrect letter "P" (AP/P) in the title of the Airport Overlay District to the correct letter "O" (AP/O). Mr. Goodrich explained that substantial amendments to the text of the Zoning Ordinance were adopted in April 2012 as part of the comprehensive rezoning of the Urban Growth Area. Paragraphs 4, 5 and 6 in Sections 22.93 (a) and (b) were erroneously switched, making section (a) more restrictive than section (b). The purpose of the amendment is to return the paragraphs to the intended location in the text.

The Chairman closed the rezoning public meeting at 7:48 p.m.

REGULAR MEETING

The Chairman announced that the Emerald Pointe PUD Development Plan was withdrawn at the request of the developer's attorney from this evening's agenda. Mr. Goodrich noted that a request to extend the 60 day deadline for the Planning Commission to act on the Preliminary Development Plan as well as the 30 day deadline to act on the Final Development Plan for the Emerald Pointe PUD will be presented. He also asked for an addition to the agenda to discuss the Transportation Project Summary as requested during the July meeting.

NEW BUSINESS

Emerald Pointe PUD (DP-14-001)

Mr. Goodrich presented a request to extend the 60 day deadline for the Planning Commission to act on the Preliminary Development Plan as well as the 30 day deadline to act on the Final Development Plan for the Emerald Pointe PUD.

Discussion and Comment: Mr. Reiber suggested that a 90 day extension be given in order to allow the developer to address all outstanding issues.

Mr. Jason Divelbiss, the developer's attorney, stated that all agency approvals have been received with the exception of the three agencies reviewing the traffic study. He believes that the outstanding issues can be resolved within the 90 day time frame; however, the State Highway Administration may not give their approval by then and the developer would ask for a conditional approval.

Mr. Reiber asked if the developer is aware of the Planning Commission's past concerns with regard to traffic and road issues associated with this development. Mr. Divelbiss stated that they are aware of these concerns.

Motion and Vote: Mr. Reeder made a motion to approve a 90 day extension for the Emerald Pointe PUD. The motion was seconded by Mr. Ecker and unanimously approved.

MINUTES

Mr. Reeder made a motion to approve the minutes of the July 7, 2014 regular Planning Commission meeting as presented. The motion was seconded by Mr. Wiley and unanimously approved.

Mr. Wiley made a motion to approve the minutes of the July 10, 2014 special Planning Commission meeting as presented. The motion was seconded by Mr. Reeder and unanimously approved.

OTHER BUSINESS

Transportation Project Summary

Mr. Robert Slocum, Director of the Division of Engineering and Construction Management, gave a presentation regarding roads and bridges included in the FY 2015 Capital Improvements Program (CIP). There are approximately 42 bridge and 26 road projects currently in the CIP which does not include projects that are already fully funded or currently under construction. Mr. Slocum distributed a map showing 33 projects that have been fully funded or funded to the extent that work can begin on these projects in FY 2015. He discussed the Yale Drive project, which would connect the 90 degree bend in Yale Drive at Medical Campus Drive to the rear of the Hagerstown Community College. This project has gone to bid and will go before the County Commissioners tomorrow for "award of bid". It is anticipated that this project will take approximately 600 days and should be completed in 2016. Mr. Slocum stated that last year the Secretary of Transportation awarded the County \$1.12 million of funding for a new bridge over the Antietam Creek from Professional Court to Yale Drive. This funding moved the project forward in the CIP; however, the Eastern Boulevard Extended and Long Meadow projects were moved back in the CIP because funding was not available for all of these projects. The following major projects that are funded include: Robinwood Drive, Southern Boulevard, Eastern Boulevard (4 phases), Yale Drive, and Professional Boulevard. Mr. Slocum explained that the Emerald Pointe development cannot rely on the capital improvements for roads in the area to be in place by the time the development goes in because those road projects have been moved backed in the CIP. Therefore, road improvements will be incumbent upon the developer to provide if the development brings more traffic to the area. Mr. Slocum noted that the developer and staff are keenly aware of the concerns of the Planning Commission and the County Commissioners. They are working together to address these issues and develop a plan that will best serve the interests of the community, the developer and the County. Mr. Slocum reminded Commission members that the original development plan showed an access point on Marsh Pike. Staff is working with the State Highway Administration to keep traffic to a minimum and maintain the integrity of the residential neighborhood along this road.

Commissioner McKinley left the meeting at 8:20 p.m.

Discussion and Comments: Mr. Reiber asked if the Yale Drive project would help alleviate some of the traffic issues associated with the Hagerstown Community College. Mr. Slocum stated that the Yale Drive project will help with traffic going in and out of the College. Mr. Reiber made an inquiry regarding accessibility in and out of the area around the Hagerstown Regional Airport. Mr. Slocum noted that an application is being prepared for a grant to extend Crayton Boulevard from Maugans Avenue to Showalter Road, which would be a significant improvement to the road network in this area. There was a brief discussion regarding public transit services in the County, the State of Maryland Department of Transportation's pre-tour meeting in October, and the Hagerstown/Eastern Panhandle Metropolitan Planning Organization.

Mr. Wiley left the meeting at 8:35 p.m.

Annual Report

Mr. Goodrich stated that the County is required by Maryland law to submit an annual report every year. He presented a brief summary of the report that summarizes development activities and their relationship to the County's Comprehensive Plan and Maryland's Priority Funding Areas (PFAs). The annual Report is divided into sections as follows:

- Section 1 deals with growth related changes in development patterns
- Section 2 is a map showing the changes
- Section 3 deals with the consistency of development activity with the Comprehensive Plan and PFAs
- Section 4 shows the progress on the implementation of the Comprehensive Plan (rural area rezoning, the Urban Growth Area rezoning, and the Town Growth Area rezoning)
- Tables showing approved subdivisions, approved building permits (inside and outside of the PFAs)

Motion and Vote: Mr. Ecker made a motion to approve the Annual Report as presented. The motion was seconded by Mr. Reeder and unanimously approved.

ADJOURNMENT

Mr. Reeder made a motion to adjourn the meeting at 8:53 p.m. The motion was seconded by Mr. Ecker and so ordered by the Chairman.

UPCOMING MEETINGS

1. Monday, October 6, 2014, 7:00 p.m., regular Planning Commission meeting, Washington County Administration Building, 100 W. Washington Street, Hagerstown

Respectfully submitted,

Terry Reiber, Chairman



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

September 25, 2014

Case #: RZ-14-005

Memorandum for Record

Memorandum To: Planning Commission

From: Justin Lindley
Comprehensive Planner

Subject: Summarization of Facts Relating to RZ-14-005

The following information is presented for consideration by the Planning commission for reference in their decision on a recommendation for the map amendment RZ-14-005.

The applicant, Jason Adkins is requesting a map amendment to add the Rural Business New District zoning to his parcel which is currently zoned Rural Village. If approved, this map amendment would add the Rural Business New District as a layer to existing Rural Village Zoning.

In determining the recommendation to the Board of County Commissioners, the Planning Commission shall consider the following per section 5F.5(c) of the Washington County Zoning Ordinance.

- (i) **The proposed district will accomplish the purpose of the RB-N District;**
- (ii) **The proposed site development meets the criteria identified in Section 5F.3 of this Article;**
- (iii) **The roads providing access to the site are appropriate for serving business related traffic generated by the proposed RB land use;**
- (iv) **Adequate sight distance along roads can be provided at proposed points of access to the site;**
- (v) **The proposed landscape areas can provide adequate buffering of the proposed RB land use from existing land uses in the vicinity;**
- (vi) **The proposed land use is not of a scale, intensity or character that would be incompatible with the adjacent land uses or structures.**

To assist members in their deliberations, an in-depth analysis of these criteria was included in the staff report that was presented to the Planning Commission at the public information meeting on September 8, 2014.

During the meeting, the applicant's attorney was given the opportunity to defend their request for this rezoning. It is Staff's observation that the applicant focused heavily on the existing automotive use operating on the property as their reasoning for the request to add the Rural Business New District. Likewise, public comments received during the meeting and in subsequent correspondence letters to the Planning Commission (see attached) have also referenced the automotive use existing on the property. While this case is unique in that the proposed use is already in operation, it is crucial to refrain from making a decision based on the automotive use of the property. By adding the Rural Business Floating District to the property, this rezoning will allow all uses permitted in the RB district as outlined in Table 3.3(1) Table of Land Use Regulations of the Zoning Ordinance. As such, there are over one hundred (100) different land uses that would be permitted with the new district ranging from arts, entertainment, and recreation facilities, to manufacturing, retail and wholesale trade, transportation and warehousing uses.

In considering the recommendation of adding the Rural Business Floating District to this property, Staff would like to remind the members that the decision of rezoning should be based on the specified criteria above and on whether or not the location is appropriate for all of the uses permitted under the Rural Business District not just an automotive repair business.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Justin Lindley", with a stylized, sweeping flourish extending from the end of the name.

Justin Lindley
Comprehensive Planner

Washington County Maryland Department of Planning
120 West Washington Street
Hagerstown, MD 21740

RECEIVED

AUG 29 2014

WASHINGTON COUNTY
PLANNING DEPARTMENT

August 26, 2014

Re: Rezoning case RZ-14-005

Regrettably we cannot support this rezoning. We were under the impression that this was done prior to the opening of the business or that the business was allowed and we had missed the opportunity to protest. Where the residential zoning was in place when the property was purchased, rezoning after the fact sets a very bad precedent.

Establishing a rural business district opens the area to inappropriate and unsightly uses. I personally have been distressed by the the monster Morton building's that have been permitted and erected in this neighborhood. Lots are clear cut, leveled and filled with gravel. The tree canopy is destroyed. If this is allowed to continue this area will look like a commercial warehouse zone.

The zoning requested is not justified by any change in character in the neighborhood and in fact is contrary to the useage in the area. It is surrounded by residential, rural village, and ec zoned land. It does not support the agricultural industry or the farming community, uniquely serve the needs of the rural residential population or provide for recreation and tourism. There are, at no great distance, many properly zoned and more appropriate places for this type of construction and business.

While the rules are written , supposedly, so that this zoning is not permanent human nature is such that the change once accepted becomes the rule. I have never seen an instance where the zoning change was not continued and expanded.

Please do not allow this rezoning.

Amy Paradise
21823 White Oak Rad
Hagerstown, MD 21740

Eckard, Debra S.

From: Niki Gipe <nikigipe@gmail.com>
Sent: Wednesday, September 10, 2014 12:09 PM
To: Eckard, Debra S.
Subject: Zoning Meeting September 8, 2014

RECEIVED

SEP 10 2014

WASHINGTON COUNTY
PLANNING DEPARTMENT

I am writing about the meeting held September 8, 2014, in regards to 9920 Crystal Falls Drive, Hagerstown, MD. My Dad built that house and I was told that it said in the Deed sold to him by the Seventh Day Adventist Conference that there was to be no businesses or raising pigs, the last I haven't figured out yet. My husband and I lived in the Mt. Aetna area in the late 70's and wanted to add a garage for a body shop and were told no, because you could not have a business on our property. We asked about the Davidson's garage and they said it was grandfathered in years ago. I think Crystal Falls already has enough traffic and I feel bad for whoever has the property now, but if it is in a Rural setting then no businesses should be allowed.

Thank You,

Niki Gipe

WHITE WOLF SERVICES
JERRY & MICHELLE MAGAHA
11331 Pleasant Walk Road
Myersville, MD 21773
(301) 573-2860

RECEIVED

SEP 15 2014

WASHINGTON COUNTY
PLANNING DEPARTMENT

September 11, 2014

Washington County Planning
RE: RX-14005 Adkins Automotive
120 West Washington Street, 2nd Floor
Hagerstown, MD 21740

To Whom It May Concern:

We understand that Adkins Automotive is under review by the planning commission. We want to express how much we appreciate having Jason as our mechanic. As business owners of a landscaping company, he's made it possible to keep expenses cheaper than anyone else. He works on our pickup trucks, lawn mower equipment and trailers.

We live in Frederick County, but 95% of our work is in Washington County, Maryland. Jason is very convenient for us no matter if we're working at Mount Lena Road, Smithsburg or Hagerstown.

We don't trust anyone else working on our equipment. We do what we can on our equipment, but if we need more help, Jason is our guy. He's friendly, loyal and honest. His shop also allows us to be able to take our trailers with room to drop them if he's working on one of our trucks.

Please allow Jason and Adkins Automotive to continue doing business at his shop. We greatly appreciate it.

Sincerely,

Jerry Magaha

Michelle Magaha

September 10, 2014

RECEIVED

SEP 12 2014

WASHINGTON COUNTY
PLANNING DEPARTMENT

Washington County Planning
120 West Washington Street, 2nd Floor
Hagerstown, MD 21740

RE: RZ-14005 – Adkins Automotive LLC

To Whom It May Concern:

I was unable to attend the hearing on Monday, September 8, 2014. I was unable to find a sitter but would like to add additional comments, if allowed.

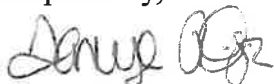
I am a single mother to two children. Jason at Adkins Automotive has been completely reliable in helping me financially and is a huge asset to his community! Without him, I would have had to pay an enormous amount of money to another garage for my timing belt and water pump alone and wouldn't have had a vehicle possibly. He's done other work to my vehicle, but that alone saved me hundreds! I cannot afford to go anywhere else. I understand he is going through a zoning process which there is a possibility of him not being able to keep his doors open. I cannot stress how much I can't afford to lose him as my mechanic!

I am also more comfortable being able to take my children to his shop. Other shops I have been to, I cannot take my children outside rather than being cooped up inside waiting for my vehicle to be done. His shop is in his back yard. The safety of my children has been and always will be number one. That, by itself, is more important than the savings. IF for some reason Jason decides to increase his labor rates, it's worth my children's life to go there. There's no busy street or road and my kids and I can play outside enough to keep them occupied.

Lastly, I can't lose Jason for his honesty!!!! I have been ripped off my whole life by mechanics until I met Jason! Jason did a transmission flush for my Honda Pilot and I later received a recall on a light from Honda. I took my car to Honda for them to correct the recall. They suggested that I get a transmission flush, a wheel bearing and numerous other minor items which was going to cost around \$2,000. The fact that they lied (with a sticker Jason has on my car showing the transmission flush had just been done within 2,000 miles) and then overpriced everything, I can't trust anyone else and won't take it to anyone else!!

I cannot afford to lose Adkins Automotive for multiple reasons. I am asking you to PLEASE LET HIM CONTINUE HIS BUSINESS so that I can go to a trusted, honest, reliable and friendly source!!!!!!!!!!

Respectfully,



Tanya Phillips
4602 Pinewood Trail
Middletown, MD 21769
240-367-7307

Lindley, Justin

From: Baker, Jill
Sent: Thursday, September 11, 2014 10:38 AM
To: Lindley, Justin
Subject: FW: Attention: Ms. Baker

Not sure why I got this instead of you.

From: treasurechestboutiques@yahoo.com [mailto:treasurechestboutiques@yahoo.com]
Sent: Thursday, September 11, 2014 9:00 AM
To: Baker, Jill
Subject: Attention: Ms. Baker

Hello Ms. Baker:

My name is Steven Johnson and I live at 9907 Crystal Falls Drive in Mt Aetna Maryland.

I am writing to share my thoughts and concerns about the recent re-zoning issue across the street from me at 9920 Crystal Falls Drive.

My wife was able to attend the recent public hearing, but I was not. Thank you for sharing this with all the other decision makers involved as well.

I believe my wife covered some of the same concerns I have when she spoke in the meeting. However to make sure:

1. Our daughter attends the elementary school...grades Pre-K through 8th... less than half a mile from our home which has over 100 students enrolled. She and my wife often walk home, as do other children who live in the community.
2. These school children do a lot of outdoor activities that include walking to the nature center, walking to the pool, and other areas in the neighborhood.
3. The children from this elementary school are fed into Highland View Academy, which is also less than a mile from our property. These teenagers are often seeing walking our road...Crystal Falls Dr. on their way to Black Rock. The path to Black Rock also meets with the Appalachian Trail and this trail attracts many bikers and hikers yearly. Since the proposed business is so close to White Oak Road, the road used by all to reach the trail and the rocks, it is a big concern seeing all the traffic created and entering and exiting from across the street. Quiet frankly we OFTEN have cyclists and joggers as well as people walking their pets.
4. My family and I moved here five years ago for the peace and quiet that a rural neighborhood has and to be with my wife's parents. I work at night and have done so for many years. When Jason started working on cars in his own personal garage it was noisy sometimes but not all the time. We even had him work on our one vehicle several times. Since Jason began the clearing of the back property until several weeks ago, there are times I can hardly sleep. For the past couple weeks since the re-zoning sign went up it has been much quieter and less traffic in and out.
5. If you vote to allow Jason to have this business in a Rural Village which indicates that automotive shops are absolutely not permitted, I am EXTREMELY concerned about the precedent you are setting for the future of this community. Is ignorance truly bliss? What will the next person try? Do we reward none compliance? How is it that you have not required Jason to shut down until a decision is reached?
6. We have conservation land and preservation land all around us. Further out toward Boonsboro there is Ag land and in that area are some commercial businesses that are seemingly justified such as Sheetz.

But here, where we are supposed to be trying to CONSERVE wildlife at the edges of our properties and beyond, doesn't seem the right place to add MORE traffic. Unfortunately there is already enough traffic racing up and down our roads as it is. It seems like we are defeating the purpose of our countryside for encouraging the reproduction and growth of wildlife, should we add more traffic and noise right in the middle of this area.

7. While my wife and I are firm believers in everyone having the right to own businesses, I respectfully ask that it not be here, where it cannot be proven that it will help the community. Most of Jason's clients are friends of his, his age group. These are not members of our community with the exception of a small few. I have seen who many of these people are on facebook and they are NOT a representation of our community.
8. Correct me if I am wrong, but according to your information online, Jason holds the burden of proof to convince the deciding committee or group of decision makers that this is truly the best thing for our community. Why does it feel like we who oppose this rezoning are having to convince those who do NOT live here that this is not good?

Thank you for understanding and reading my thoughts.

Steven E. Johnson

PLANNING COMMISSION PUBLIC REZONING MEETING
RZ-14-005 - JASON ADKINS

[illegible]




Washington County

M A R Y L A N D

DEPARTMENT OF PLANNING & ZONING

COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

MEMORANDUM TO: Washington County Planning Commission

FROM: Stephen T. Goodrich, Director 
Washington County Department of Planning and Zoning

DATE: September 22, 2014

SUBJECT: RZ-14-003
Article 21, Section 21.3(d)
Article 22, Division IX, Sections 22.93(a) and (b)

The Planning Commission held a rezoning public information meeting on September 8, 2014 to receive comments on proposed amendments to Zoning Ordinance language regarding the Airport zoning district and Section 22.93 of the Animal Husbandry Article (Article 22, Division IX). Both proposed amendments are for the purpose of correcting typographical errors made when the adopted Urban Growth Area amendments were published in an updated Zoning Ordinance. Both amendments have no material or substantive effect on the application of the Zoning Ordinance except to insure that it is applied in the manner intended.

The public information meeting produced no additional input or comment beyond that which was supplied to the Planning Commission prior to the meeting. The Planning staff provided notification and the opportunity to comment to affected County departments. Only the Soil Conservation District responded and that was to say that it fully supported the amendment. The Plan Review and Permitting Department, Hagerstown Regional Airport and the County Attorneys office made no comments. No written comments have been received thru the close of business on September 19, 2014.

The Staff Report attached to this memo also reflects a correction to the paragraph referenced for the change in the Airport district text. The heading on the Staff Report referred to paragraph (c) when it should have noted paragraph (d). The actual correction was properly made to paragraph (d).

The Planning Commission should give consideration to the Staff Report and Analysis it received prior to the September 8 public information meeting, any input provided during that meeting and any written comments received to date in forming a recommendation for the County Commissioners.

STG/me

CURRENT TEXT OF SECTION 21.3 AP/O – AIRPORT OVERLAY DISTRICT WITH
PROPOSED AMENDMENT TO PARAGRAPH (D) SHOWN IN TRACK CHANGES.
(CORRECTED)

Formatted: Centered

Section 21.3 AP/O – Airport Overlay

(a) The district boundaries encompass the area of typical traffic patterns and the area most often overflowed and therefore most often impacted by aircraft approaching and departing Hagerstown Regional Airport.

(b) **Boundaries** – The boundaries of the airport overlay district are set at 7,000 feet from and parallel to both sides of the centerline of runway 9/27 and a distance of 7,000 feet from and perpendicular to the ends of runway 9-27 at the Hagerstown Regional Airport.

(c) **Urban Growth Area** – In the AP/O District in the Urban Growth Area designated by the adopted Washington County Comprehensive Plan, mixed use floating zones MXR, MXC, or MXE are not permitted.

(d) **Rural Areas** – In the AP/O District in the Rural Area designated by the adopted Washington County Comprehensive Plan the density of residential development shall be limited to no more than 1 dwelling unit per fifty acres of land owned. Exemption lots as described in 5A.4, 5B.4, or 5.C4 of this ordinance are not permitted

Deleted: P

(e) **Advisories** – All subdivision plats and site plans that are approved for development within the AP/O District shall contain prominent notations that:

- 1) Advise future owners of the affected property that it is located within the AP/O District and may be subject to effects and limitations related to aircraft operations and:
- 2) Contain recommendations for additional insulation and other sound deadening measures for residential construction.

(f) **Appeals** – In the deliberation on any appeal to the requirements of the AP/O District the Board of Zoning Appeals shall consider the purpose of the AP/O District to reduce the limiting effects of residential development and seek input from the Airport Director or managing authority prior to making a decision.



DEPARTMENT OF PLANNING & ZONING
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

RZ-14-003

AUGUST 25, 2014

APPLICATION FOR TEXT AMENDMENT
WASHINGTON COUNTY ZONING ORDINANCE
ARTICLE 21, SECTION 21.3(d) AND
ARTICLE 22, DIVISION IX, SECTIONS 22.93 (a) AND (b)
(corrected) STAFF REPORT AND ANALYSIS

The purpose of this amendment is to correct typographical errors made in zoning text between the time the affected sections of the Zoning Ordinance were adopted by the County Commissioners and the time those amendments were published in the Zoning Ordinance. These errors may have also occurred in the electronic text conversions between the Word and Adobe program choices.

The sections of the Zoning Ordinance proposed for amendment by this application are Section 21.3 (d) of Article 21 - Airport District and Section 22.93 (a) 4, 5 and 6 and (b) 4, 5, and 6 of Article 22, Division IX - Animal Husbandry Facilities.

The correction in Section 21.3(d) is to change the incorrect letter "P" in the title of the Airport Overlay district title to the correct letter "O". The Airport Overlay district designation is abbreviated as AP/O. In this section it appears as AP/P and needs to be corrected to AP/O.

The second portion of this proposed amendment is more complicated. Substantial amendments to the text of the Zoning Ordinance were adopted in April 2012. Those text amendments were intended to implement Comprehensive Plan recommendations for the Urban Growth Area (UGA) and affected almost all of the zoning districts in the UGA. The Airport zoning district received amendments that also affected the text of Article 22, Division IX - Animal Husbandry Facilities. Division IX contains guidelines for evaluating animal husbandry facilities and divides them into 2 categories with differing review guidelines. The categories are determined by the amount of animal waste generated (in tons) and the location of the facility inside or outside of a Growth Area. Facilities outside of a Growth Area that produce 6000 tons of waste or less and facilities inside a Growth Area that produce 3000 tons of waste or less are governed by the 6 paragraphs of guidelines in Section 22.93(a). Facilities that produce more than 6000 tons of waste outside any Growth Area and more than 3000 tons of waste inside any Growth Area are governed by Section 22.93(b). The guidelines in this section are stricter because they apply to larger facilities inside the Growth Areas.

The intention of the UGA amendments approved in April 2012 was to add the Airport Manager to the list of reviewing agencies for a Preliminary Consultation for the larger facilities, those that produced more than 6000 tons outside or more than 3000 tons inside in the UGA. This was designed to allow the Airport Manager to comment on potential effects of waste facilities to attract hazardous wildlife to airport airspace. Including the Airport Manager was the

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only change intended for the animal husbandry section and it was only for the larger facilities, those governed by sub section (b). It was not intended to apply to the smaller facilities governed by sub section (a). That amendment was the only one included in the documents that went to public hearing, the only change to that section recommended by the Planning Commission and it was the only section approved for amendment in the ordinance adopted by the Board of County Commissioners on April 12, 2012.

When the final text of the Zoning Ordinance was printed, the more stringent guidelines of subsection (b) were incorrectly printed in subsection (a) including the addition of the Airport Manager to the Preliminary Consultation contacts. This had the unintended effect of making the guidelines for the smaller facilities more strict.

This amendment proposed as RZ-14-003 is intended to correct that mistake and return subsection (a) to its pre- UGA amendment language and include the Airport Manager in subsection (b) as originally intended and adopted.

Also, since April 2012 reorganization of various departments that deal with land development applications has caused several department name changes and adjustments to plan review procedures. There is additional proposed amendment language to reflect those name changes and plan review responsibilities.

The proposed amendment is entirely corrective in nature and is not designed to have any material effect on the application of land use regulations.

Respectfully submitted,



Stephen T. Goodrich, Director
Washington County Department
of Planning and Zoning

STG/me
Attachment (proposed text amendment)

Leggett Lots 4&5, S-08-020

5/27/07 Appeal granted before the BZA to allow development on inadequate road.

2/29/2008 FSD (fs-08-009) and Subdivision plat (s-08-020) submitted to the Planning along with \$515 review fees.

3/4/2008 Plans accepted for processing.

3/6/2008 FSD approved.

4/8/2008 Notified by the Health Dept of required test wells (copy attached). Mr. Leggett could not afford to do the well at this time.

11/2011 Received notification that 90 day extensions would not be granted since the plan had been pending for two years. The Planning Commission had to grant any additional extensions.

12/5/2011 Planning Commission granted a 1 year extension. (see attached minutes)

6/6/2102 FSA sent letter notifying Mr. Leggett of the pending expiration at the end of 2012.(copy attached)

8/8/2012-10/19/2012 The well permit was applied for and issued, the well was drilled, grouted, tested and approved

10/20/2012-12/5/2012 No notification was given to PC from the Health Department that the well had been tested and approved.

12/6/2012 The plan expired.

In summary, Mr. Leggett did perform what was required within the extension timeframe in order to gain approval. However, the Health Department was unaware of the time sensitive nature in which an approval was necessary. Mr. Leggett assumed Health would enter their approval into the computer system and the subdivision process would continue. However, on 12/6/2012 the plan expired without anyone checking to see if the well got drilled.

Mr. Leggett believes his obligation to satisfy the Health Department was performed and had there not been a miscommunication or lack of communication, the plan would have been approved in October of 2008, well before the extension deadline. The primary reason for the request to allow the restart of the subdivision is to avoid the increase in the forest conservation Payment in Lieu of planting. In 2008 it would cost \$5,227.20 to mitigate 1.2 acres of forest. Today, due to a change in regulations, the cost to mitigate the same 1.2 acres with Payment in Lieu of is \$18,817.92.

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DIVISION OF PLAN
REVIEW & PERMITTING

SEP 17 2011

WASHINGTON COUNTY PLANNING COMMISSION
December 5, 2011

DIVISION OF PLAN
REVIEW & PERMITTING

The Washington County Planning Commission held its regular meeting on Monday, December 5, 2011 at 7:00 p.m. in the Washington County Administrative Annex, 80 West Baltimore Street, Hagerstown, Maryland.

Members present were: Chairman Terry Reiber, Clint Wiley, Dennis Reeder, Drew Bowen, Sam Ecker, and Sassan Shaoal. Staff members present were: Planning Director Stephen Goodrich, Director of Plan Review & Permitting Jennifer Smith, Deputy Director of Plan Review & Permitting Tim Lung, Senior Planner Lisa Kelly and Debra Eckard, Administrative Assistant.

CALL TO ORDER

Chairman Reiber called the meeting to order at 7:00 p.m.

MINUTES

Mr. Ecker made a motion to approve the minutes of the November 7, 2011 regular meeting as presented. Second by Mr. Bowen. Unanimously approved.

NEW BUSINESS

- SUBDIVISIONS

→ **Ronald and Betty Leggett (S-08-020)**

Ms. Kelly presented for review and approval a request for an extension of the subdivision plat for Ronald and Betty Leggett per Section 310 of the Subdivision Ordinance. In 2009, the Subdivision Ordinance was amended and states, "Upon written request from the developer, the Planning Commission, or its designee, the Planning Director, may extend the time for approval or disapproval of the preliminary plat for a period not to exceed two years. The granting of any subsequent extensions shall be at the sole discretion of the Planning Commission." Ms. Kelly explained that approvals from the Health Department and Engineering Department are pending. The Health Department indicated that additional testing for groundwater and a test well would be required prior to approval.

Discussion and Comments: Mr. Reiber expressed his concern that there could be legal ramifications for the County if the plans are not updated to meet current regulations. There was a brief discussion regarding the effect of new storm water regulations and how these regulations would be met. Mr. Fred Frederick of Frederick, Seibert & Associates, the consultant, was present at the meeting and spoke on behalf of the Leggetts. He noted that this is a one lot subdivision and all current regulations will be met. Mr. Frederick stated that Mr. Leggett needed to drill a well on the property to meet requirements of the Health Department in 2008 for approval. At that time, Mr. Leggett did not have the funds to drill the well and subsequently, the project was put on hold. Currently, Mr. Leggett is working with Mr. Dave Barnhart at the Health Department to meet the requirements for approval.

Motion and Vote: Mr. Shaoal made a motion to extend the preliminary/final plat approval time for one (1) year. Second by Mr. Wiley. Unanimously approved

Giovanni Orcino, Lots 7-14 (PP-06-006)

Ms. Kelly presented for review and approval a request for an extension of the preliminary plat for Giovanni Orcino, Lots 7-14, per Section 310 of the Subdivision Ordinance. Comments made in 2006 by Engineering, Planning, Addressing, and Soil Conservation District have not been addressed to date. Changes in regulations since 2006 would warrant significant revisions and review by all approving agencies.

Discussion and Comments: Mr. Shaoal expressed his concern regarding the amount of time required and expense incurred by the County for the review of revisions made because of the adoption of new regulations for storm water management and roadways. Ms. Kelly gave a brief summary of the history of this plat. Mr. Fred Frederick of Frederick, Seibert & Associates, the consultant for the property owner, was present at the meeting and spoke on behalf of Mr. Orcino. He stated that the owner delayed this project due to school mitigation issues and he was also attempting to sell this property. The property has



June 6, 2012

Ronnie Leggett
7308 Monroe Road
Boonsboro, MD 21713

RE: Lots 4 and 5 on the Leggett Subdivision
FSA No. 3683.0

Dear Ronnie,

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**DIVISION OF PLAN
REVIEW & PERMITTING**

Back in December of 2011 I went before the Washington County Planning Commission to get a one year extension for your two lot subdivision. The Washington County Planning Commission granted us an extension which will expire on December 5, 2012 (copy attached)

Since then I've been in contact with Dave Barnhart of the Washington County Health Department to see if any of the recently drilled wells surrounding you would prove that the water quality is excellent and thus save you from having to drill a new well. Mr. Barnhart did review several of the wells including two of the most recent wells drilled near you and he informed me that each of those wells had issues and required additional treatment including ultra violet lights to make the water safe for drinking.

Therefore, the Health Department has determined that they will require you to drill a well on one of these lots in order to be able to subdivide this property into two separate lots. I believe if you drill this well, even if you encounter problems like your neighbors did, there are solutions to correct the problems and the well can be made potable. If you decide not to drill the well, our extension will expire on December 2012 and we will lose the work done to date.

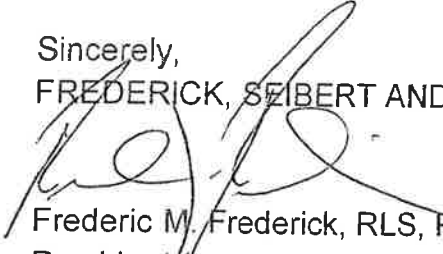
Please contact me on how you wish to proceed. If you would like to schedule an additional meeting with the Health Department, I am more than willing to attend another meeting with you in order to clear up these issues so that you have a very clear

understanding on how to proceed. I have also attached a bill for my additional work including obtaining the Planning Commission extension and working with the Health Department in order to try to save you from having to drill another well.

I await your decision on how to proceed.

Sincerely,

FREDERICK, SEIBERT AND ASSOCIATES, INC.



Frederic M. Frederick, RLS, PE
President

FMF/vab.3683 leggett subd



WASHINGTON COUNTY HEALTH DEPARTMENT

1302 Pennsylvania Avenue • Hagerstown, MD 21742

www.washhealth.org

April 3, 2008

Frederick Seibert & Associates, Inc.
128 South Potomac Street
Hagerstown, Maryland 21740

RE: Leggett Subdivision Lots 4 & 5
S-08-020

I have reviewed the above-referenced subdivision proposal, and before approval may be granted, a revision needs to be submitted through the Washington County Planning Commission, which shows the following:

- ~~1. Lot #4 & #5 must be designated for a sand mound system only.~~
2. Prior to approval, the wells for Lot #4 and Lot #5 must be drilled and sampled underground water under the direct influence of surface water protocols.

*Not Needed.
S-6-08 - 7/16/08
It was checked - 1/2/08*

If you have any questions, feel free to give me a call.

Sincerely,

DT

Kimmy L. Armstrong
Kimmy L. Armstrong, Registered Sanitarian

KLA/dlt

ENVIRONMENTAL HEALTH
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Hagerstown, Maryland 21742

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