

**WASHINGTON COUNTY PLANNING COMMISSION  
REZONING PUBLIC INPUT MEETING AND REGULAR MEETING  
April 7, 2025**

The Washington County Planning Commission held a rezoning public input meeting and its regular monthly meeting on Monday, April 7, 2025 at 6:00 p.m. at the Washington County Administrative Complex, 100 W. Washington Street, Room 2000, Hagerstown, MD.

**CALL TO ORDER AND ROLL CALL**

The Chairman called the rezoning public input meeting to order at 6:00 p.m.

Planning Commission members present were: David Kline, Jeff Semler, Denny Reeder, Jay Miller, Terrie Shank (arrived at 6:25 p.m.), and Ex-officio County Commissioner Randy Wagner. Staff members present were: Washington County Department of Planning & Zoning: Jill, Baker, Director; Jennifer Kinzer, Deputy Director; Travis Allen, Senior Planner; Kyla Shingleton, Comprehensive Planner; Scott Stotelmeyer, Planner; and Debra Eckard, Office Manager.

**REZONING PUBLIC INPUT MEETING**

**Myron and Hazel Horst [RZ-25-001]**

**Staff Presentation**

Mr. Allen presented a piecemeal rezoning map amendment application for property located at 6821 Sharpsburg Pike. The applicant is requesting the application of the Rural Business (RB) floating zone to 1.68 acres of a 10.7 acre parcel. The parcel is currently zoned Preservation (P) with the Antietam Overlay 2 (AO-2) zone over top. The property contains a single-family dwelling, a barn, and an accessory structure currently being used as a garage/office building. The accessory structure was originally permitted in 2020 as an agricultural support building for farm operation purposes. The applicant now wants to use the structure as a tire repair shop. The property is encumbered with a permanent easement from the Maryland Environmental Trust (MET) established in 1997. Mr. Allen explained the purpose of the Rural Business zoning district and the criteria that must be met in order to apply this zone to land as it is stated in the County's Zoning Ordinance.

In addition to the rezoning application, a preliminary site plan will be required outlining the uses proposed on the property. If the RB zoning is approved, only the specified use is permitted and applies only to the portion of the lot specified on the application (1.68 acres). Any changes to the use, intensity or area would need to be reviewed by the Planning Commission and could possibly require a new public hearing. If the property is sold, the RB floating zone would convey with the property in perpetuity until the property owner requests its removal.

Mr. Allen noted that the subject parcel is located within ¼ mile of the Antietam Battlefield and lies within the AO-2 zoning district, which is an approach buffer to the Battlefield. The AO-2 zone is designed to regulate the exterior appearance of all commercial/non-residential uses (excluding farm structures) to preserve the historic character of the road corridor on the approach to the Battlefield. The zone extends 1000 feet on each side of road's centerline.

Mr. Allen explained that the MET easement is to preserve the scenic, cultural, rural, historical, archaeological, agricultural, wetland and woodland character of the property. It is designed to prevent the use or development of the property for any purpose that would conflict with the maintenance of its open space condition and protecting the landscape and viewshed of the Antietam Battlefield. The easement restricts commercial uses except those that can be performed in existing buildings. The property deed does not reference the MET easement.

This request was distributed to various agencies with the Historic District Commission (HDC) providing the following comments. The HDC did not review the permit application for the agricultural structure in 2020 because the building was constructed as a farm structure. There is another active RB use located at 6741 Sharpsburg Pike, which is minimally visible from the road and is buffered by significant forest cover, where the subject property has none. The HDC believes that the proposed use does not appear consistent with the language of the MET easement. The HDC also believes that if the use is restricted to the building and the minimal parcel area defined in the application, the proposed use would not be in conflict with the AO-2 overlay zone. The HDC's preference would be to minimize areas where floating zones (RB for instance) interact with overlays (such as the AO-2) in areas where resource protection should be a priority.

MET was contacted regarding this application and its appropriateness of the proposed use. MET stated that because the deed does not explicitly indicate that commercial uses are limited to buildings that existed at the time the easement was established, the use would be allowed in the existing structure as long as the exterior appearance is not changed and materials are stored out of sight. It would be MET's preference that commercial uses unrelated to agriculture are not established on the property; however, zoning is not within their jurisdiction.

Staff recommends that the Commission considers the compatibility of the proposed use in the context of its location in immediate proximity to the Battlefield alongside the specific nature of the use. The proposed use is low intensity and would likely have a minimal impact on the surrounding neighborhood. The property is however in the AO-2 zone which is a meant to protect the scenic character of the area approaching the Battlefield. And lastly, the structure in which the proposed use would be located was approved as an agricultural structure and not for a commercial use.

Mr. Allen noted that one written comment was received in support of this request.

#### Applicant's Presentation

Mr. Noel Manolo of Offit Kurman (legal counsel) and Mr. Myron Horst (the applicant) were present at the meeting. Mr. Manolo explained that the proposed use would support agricultural operations and agricultural users. Services would be rendered inside the building; there would be no outdoor operations. The applicant is not proposing any signage to advertise the business.

Mr. Manolo stated that all of the structures were existing when Mr. Horst purchased the property and the MET easement was established by the previous owner. While the MET easement does restrict industrial or commercial activities other than farming, silviculture and horticulture with the exception of activities that can be conducted in existing structures without alteration of the exterior appearance, Mr. Manolo believes that MET wants property owners to have viable use of their property. He also believes that the proposed use is in service of and related to agricultural activities.

Mr. Manolo noted that Mr. Horst previously appeared before the Planning Commission for a change of use application on the RB zoned property located at 6741 Sharpsburg Pike (just south of the subject property). The use at that property was a truck repair and excavating business. On May 3, 2021, the Planning Commission determined that the proposed use (a tire repair facility) would be a minor change. Unfortunately, negotiations were not successful and the property was sold to someone else.

#### Citizen Participation

- Erin Planck, 6741 Sharpsburg Pike, Hagerstown, MD – Ms. Planck stated they are not opposed to the proposed rezoning. However, because there is no signage for the business and a new driveway has been constructed, there has been a lot of traffic and confusion with people coming to their property looking for the tire repair business. Ms. Planck asked if a directional sign for the tire shop could be installed.

Ms. Baker stated that the County cannot require signage to be installed; however, if they choose to put up a sign, it would need to be shown on the site plan and meet all setback requirements specified in the Zoning Ordinance. Mr. Allen noted that the Historic District Commission would have review authority of the sign because the property is located within the AO-2 overlay.

#### Applicant's Rebuttal

Mr. Manolo introduced Mr. Fred Frederick of Frederick, Seibert & Associates, the consultant. Mr. Manolo believes Mr. Horst would be willing to install a directional sign in accordance with all County regulations, in order to keep customers and delivery drivers from going to the Planck's property.

Mr. Frederick stated that MET wrote a letter on August 3, 2022 allowing this use with guidance on signage. A copy of the letter was submitted for the record and distributed to all Commission members. MET stated that signs may be 4-feet by 4-feet (maximum) and preferably be located on the structure used for the business. However, the business is located a measurable distance from the roadway and would not be seen from the road. When the driveway was relocated, a new address was not obtained from the County. Mr. Frederick stated he would work with the County to correct this issue and to get a directional sign installed.

Recommendation

**Motion and Vote:** Mr. Semler made a motion to recommend approval of the request to the Board of County Commissioners. The motion was seconded by Mr. Miller and unanimously approved with Ms. Shank and Commissioner Wagner abstaining from the vote.

Halfway Houses and Group Homes Text Amendment [RZ-25-002]

Ms. Shingleton presented a proposed text amendment regarding halfway houses and group homes. Halfway houses are typically established as transitional homes for individuals leaving institutions, such as correctional and mental institutions as well as in-patient substance treatment centers. Halfway houses help individuals to transition back into normal life through various programs. Group homes are similar but they provide a more permanent home for individuals with disabilities that need daily assistance. Group homes provide various programs and job assistance similar to halfway houses. In 2015, Maryland adopted zoning regulations that allow halfway houses and group homes to be established in single-family and multi-family zoning districts depending on their size. A small group home may accommodate 4 to 9 adults while a large group home may accommodate 10 to 16 adults. A small halfway house may accommodate 4 to 8 adults while a large halfway house may accommodate 9 to 16 adults. Small group homes and small halfway house would be permitted in areas zoned for single-family homes which include the RT, RS, RU, RM and SED zoning districts. Large halfway houses and large group homes will be permitted in the RM and SED zoning districts. In the rural areas, all group homes and halfway houses will be permitted in the A(R), EC, P and RV zoning districts, but they will not be permitted in the RB or IM zoning districts.

The County's Zoning Ordinance does not currently include language for halfway houses; however, there is language for a transitional care facility. Staff is proposing to remove the transitional care facility definition and add halfway houses and group homes in the definitions section of the Ordinance. State legislation states that halfway houses and group homes are not subject to any special exceptions or conditional uses or any difference in zoning or setbacks.

**Discussion and Comments:** Ms. Shank asked if the State has provided definitions for a halfway house and group homes. Ms. Shingleton explained that the State only provided the definition for a halfway house. Ms. Baker stated we are using examples of group home definitions from around the State. Ms. Shank would like the definition to be clearer to include both adults and juveniles, with or without disabilities.

Non-conforming Uses Text Amendment [RZ-25-003]

Ms. Shingleton presented an application to amend Section 4.3 of the Washington County Zoning Ordinance regarding non-conforming uses. Staff is proposing to add a section to the Ordinance relative to the abandonment of a non-conforming use. Ms. Shingleton noted that a non-conforming use is considered abandoned when the use has ceased for a period of six months. In order to disprove the abandonment, tangible evidence that the property was not abandoned would be required. For example, if the business maintained its valid liquor license during this time, this shows clear intent of the owner to reopen the business.

Ms. Baker explained that a non-conforming use is not a permitted use in the zoning district in which it is located. Currently, there is no definition of cessation in the Zoning Ordinance. Ms. Baker explained that case law has been brought to staff's attention that a property keeps its non-conforming use until such time as the owner shows intent to abandon the use. She briefly explained the difference between tangible and subjective intent.

**Motion and Vote:** Ms. Shank made a motion to recommend approval of the text amendment to the Board of County Commissioners as presented. The motion was seconded by Mr. Miller and unanimously approved with Commissioner Wagner abstaining from the vote.

Manufactured/Modular Homes Text Amendment [RZ-25-004]

Ms. Shingleton presented a proposed text amendment regarding manufactured/modular homes. She explained that staff is proposing to update the definition of modular homes in the Zoning Ordinance. She further explained that the definition of manufactured homes is replacing the definition of mobile homes. Therefore, any mention of mobile homes in the Zoning Ordinance will be replaced with manufactured homes. State House Bill 538, which became effective January 1, 2025, provides for affordable housing in any zoning district where a single-family home is permitted. The Real Property Article of the State of Maryland requires manufactured homes to be converted to real property; therefore, they must be affixed to a permanent foundation and must be titled to the landowner.



167

**Motion and Vote:** Mr. Semler made a motion to recommend approval of the text amendment to the Board of County Commissioners as presented. The motion was seconded by Mr. Reeder and unanimously approved with Commissioner Wagner abstaining from the vote.

**Accessory Dwelling Units Text Amendment [RZ-25-005]**

Mr. Allen presented a proposed text amendment to amend several sections of the Zoning Ordinance to allow a new housing type: accessory dwelling units (ADUs). An accessory dwelling unit is a broad term that refers to a smaller, self-contained residential dwelling that is located on the same parcel as a primary, larger residential dwelling (typically a single-family home). An ADU may be attached, detached, new construction, conversion of an existing building, etc. The purpose of this amendment is to address the need for more affordable housing within the County. Staff is proposing to add a new section to Article 4 of the Zoning Ordinance. Section 4.27 would permit, by right, the creation of one ADU per lot in conjunction with the principal permitted use on the property. ADUs would be permitted in both urban and rural zoning districts and would include: A(R), EC, P, RB, RV, RT, RS, RU, RM, BL, BG and HI districts. ADUs would be permitted in commercial zoning districts in order to accommodate mixed use opportunities in selected areas of the County as recommended in the County's draft Comprehensive Plan.

Mr. Allen explained that staff is proposing to allow both attached and detached ADUs on single-family homes; two-family or duplex dwellings would only be allowed to have a detached ADU; semi-detached, townhouse or multi-family dwellings you could have either an attached or detached ADU; and commercial zoning districts would be permitted to have only attached ADUs. One additional parking space would be required for the ADU; however, if legal street parking is available or if the property is located within ½ mile of a transit facility, the parking requirement could be waived.

Staff is proposing that the ADU is no more than 75% of the gross floor area of the primary dwelling unit or 1,000 square feet of gross floor area, whichever is less. Garage conversions may be handled differently. Bulk requirements should meet the standards set forth for the zoning district in which the property is located. The ADUs will not be included in residential density calculations. ADUs may not be subdivided from the principal dwelling unit; they must remain in common ownership. Short-term rentals and travel trailers would be prohibited.

Mr. Allen discussed the proposed definitions for accessory dwelling units and the two-family and duplex dwelling units. Without a legal pathway to create these housing types, there is the possibility that property owners will create these units without permits, thereby constructing additional dwelling units that do not meet building code and risk public health and safety. The State is proposing legislation that will most likely require the allowance of ADUs.

**Discussion and Comments:** There was a brief discussion regarding addressing for the ADUs. Ms. Kinzer stated that a separate, detached structure will be required to have a separate address. A determination will be made on each attached dwelling unit moving forward depending upon the circumstances.

There was a brief discussion regarding the maximum square footage requirement. Mr. Miller expressed his concern regarding the 1,000 sq. ft. maximum requirement. Ms. Baker explained the rationale staff used to arrive at that decision. The ADU is supposed to be "subordinate to" the primary structure and, more importantly, we are trying to achieve affordable housing. Mr. Travis also noted that because ADUs will be permitted in commercial districts where the size of the principal unit can be much larger than a single-family home there should be a maximum square footage requirement. He suggested that any proposed ADU that exceeds the 75% gross floor area requirement could request a special exception through the Board of Zoning Appeals. Commission members liked that suggestion and asked staff to draft new language to include the special exception. Ms. Baker still believes there should be a mechanism to temper the square footage maximum in the residential districts.

**Public Comment:** Mr. Gordon Poffenberger, 981 Mt. Aetna Road, Hagerstown stated that he agrees with the size limitations because this is to be an accessory structure, not another primary residence. He asked if the ADUs will be exempt from APFO fees. Staff is proposing that these units be exempt from APFO fees and excise tax.

This amendment will be brought back at the May meeting with changes as discussed.

**Motion:** Mr. Reeder made a motion to adjourn the rezoning public input meeting at 7:47 p.m. The motion was seconded by Ms. Shank and so ordered by the Chairman. The Chairman then called the regular meeting of the Washington County Planning Commission to order.

## **NEW BUSINESS**

### **MINUTES**

**Motion and Vote:** Mr. Reeder made a motion to approve the minutes of the March 3, 2025 Planning Commission regular meeting as presented. The motion was seconded by Mr. Semler and unanimously approved.

**Motion and Vote:** Ms. Shank made a motion to approve the minutes of the March 17, 2025 Planning Commission workshop meeting as presented. The motion was seconded by Mr. Miller and unanimously approved.

### **ORDINANCE MODIFICATIONS**

#### **Daniel C. Davison [OM-25-003]**

Ms. Kinzer, on behalf of Ms. Wagner-Grillo, presented an ordinance modification request for property located at 14000 Heavenly Acres Ridge which is currently zoned EC (Environmental Conservation). The request is to reduce the 50-foot side yard setback to 15 feet on the north side lot and to 40-feet on the south side lot. The current setbacks in the EC zoning district are 40-feet in the front yard, 15-feet on the side yard, and 50-feet on the rear yard. The proposed setbacks are not below the residential setbacks in a normal EC zone; however, this property has an agricultural assessment.

**Motion and Vote:** Mr. Miller made a motion to approve the modification request as presented. The motion was seconded by Mr. Reeder and unanimously approved.

### **SUBDIVISIONS**

#### **Elmwood Farm Revised Section 5D [PP-24-002]**

Mr. Stotelmyer presented a preliminary plat for Section 5D of Elmwood Farms located at parcel 1081 off of Lappans Road in Williamsport. The property is currently zoned RS (Residential Suburban). The site will be accessed from Lappans Road as well as Kendle Road. Public water will be provided by the City of Hagerstown and public sewer will be provided by Washington County. Forest Conservation requirements were previously addressed. All agency approvals have been received.

**Motion and Vote:** Mr. Semler made a motion to approve the preliminary plat as presented. The motion was seconded by Mr. Reeder and unanimously approved.

#### **The Village at Valentia Ridge Lots 1 - 150 [PP-23-001]**

Mr. Stotelmyer presented a request for a one-year extension for the preliminary plat of The Village at Valentia Ridge Lots 1 – 150. The property is located along the south side of Poffenberger Road and is currently zoned RU (Residential Urban). Justification for this request was provided by the developer. This extension would be good until March 7, 2026.

**Motion and Vote:** Mr. Reeder made a motion to approve the extension request with a new expiration date of March 7, 2026. The motion was seconded by Ms. Shank and unanimously approved.

### **FOREST CONSERVATION**

#### **Martin Property – Lot 1 [S-23-058]**

Mr. Allen presented a request to use the payment-in-lieu option to meet a portion of the forest mitigation requirements for property located at 12440 Burkholder Lane. The property is currently zoned P1 (Planned Industrial). There is a 2.8-acre total planting requirement resulting from the subdivision of a 123.41-acre parcel. Article 10 of the Forest Conservation Ordinance lists the preferred sequence of mitigation ranging from the most preferred method of mitigation which is on-site retention to the least preferred which is the payment-in-lieu of planting. The intent of the Ordinance is to accomplish as much mitigation on-site as possible. If the developer is deviating from the preferred sequence, justification is required from a qualified professional. As part of their mitigation efforts, the developer is proposing to put 16 acres of forest under easement on-site; the P1L is only being requested for the remainder of the total mitigation required.

**Motion and Vote:** Mr. Reeder made a motion to approve the request as presented. The motion was seconded by Mr. Semler and unanimously approved.

**OTHER BUSINESS**

**Update of Projects Initialized**

Ms. Kinzer provided a written report for land development plan review projects initialized during the month of February including four site plans.

**UPCOMING MEETINGS**

1. May 5, 2025, 6:00 p.m. – Washington County Planning Commission regular meeting

**ADJOURNMENT**

Mr. Semler made a motion to adjourn the meeting at 8:10 p.m. The motion was seconded by Mr. Reeder and so ordered by the Chairman.

Respectfully submitted,



David Kline, Chairman