

ORDINANCE NO. ORD-2017- 14

**AN ORDINANCE TO AMEND THE ZONING MAP
FOR WASHINGTON COUNTY, MARYLAND
(RZ-16-004)**

Pursuant to the provisions of Section 27.1 of the Zoning Ordinance for Washington County, Maryland (*Zoning Ordinance*), ACH, LLC, the Applicant, has petitioned the Board of County Commissioners for Washington County, Maryland (*Board*), for a zoning reclassification and a zoning map amendment of property owned by the Applicant and consisting of 21.436 acres of land, more or less, situated on the south side of Western Maryland Parkway adjacent to Md. Route 144, Hagerstown, Maryland, and more particularly identified in the Ordinance Amendment Application found in the record herein.

The matter has been designated as Case No. RZ-16-004.

A public hearing was held on the application pursuant to Section 27.2 of the Ordinance, where the Applicant and others presented evidence, testimony, and information relating to the zoning reclassification.

The Board has considered all information presented at the public hearing, the recommendation of the Planning Commission, and each of those factors set forth in Md. Code Ann., Land Use § 4-204 and Section 27.3 of the Zoning Ordinance.

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-16-004 be, and hereby is, granted a Highway Interchange (HI) zone classification.

IT IS FURTHER ENACTED AND ORDAINED that the official Zoning Map 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 12th day of September, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND




Vicki C. Lumm, Clerk

BY: 

Terry L. Baker, President

Approved as to form and
legal sufficiency:



Kirk C. Downey
Deputy County Attorney

Mail to:
Office of the County Attorney
100 W. Washington Street, Room 202
Hagerstown, MD 21740

**BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND**

DECISION
Rezoning Case RZ-16-004

Property Owner:	ACH, LLC
Applicant:	ACH, LLC
Requested Zoning Change:	ORT – Office, Research and Technology to HI – Highway Interchange
Property:	South side of Western Maryland Parkway, North of West Washington Street/MD 144

Pursuant to Md. Code Ann., Land Use § 4-204 and Washington County Zoning Ordinance § 27.3, we make findings of fact with respect to the following matters: population change, availability of public facilities, present and future transportation patterns, and compatibility with existing and proposed development for the area. We also consider the recommendation of the Planning Commission and the relationship of the proposed reclassification to the Plan.

Findings of Fact

The property.

The parcel of land that is the subject of this rezoning request is a vacant parcel located along the south side of Western Maryland Parkway and in the northeast quadrant of its intersection with Maryland Route 144 (West Washington Street). It has approximately 3,000 feet of frontage on the south and east side of Western Maryland Parkway. This portion forms a panhandle to US Rt. 40 that is approximately 40 feet wide. The subject property also has over 1,200 feet of frontage along Md. 144. The subject property is on the opposite side of Western Maryland Parkway from the office buildings occupied by First Data Corporation and Parkway Neurosciences and other medical practitioners. The subject property is vacant and mostly wooded with small, scattered grassy areas. The applicant is requesting that the current Office, Research and Technology (ORT) zoning district be changed to Highway Interchange (HI).

The report and recommendation of the Planning Commission.

The Planning Commission recommended approval of the reclassification on the basis of mistake.

Population change in the area of the proposed change.

The subject property is located in the Cedar Lawn Election District, #24. Population data for the district and Washington County are provided in the chart bellows:

Population Trends 1980-2010

Year	Area	Population	% change from previous
1980	District	867	
	County	113086	
1990	District	1129	30.2%
	County	121393	7.3%
2000	District	1131	0.2%
	County	131932	8.7%
2010	District	1332	17.8%
	County	147430	11.7%

Source: U. S. Department of Commerce, Bureau of Census

The election district has experienced more than a 50% increase in population over the 30-year period. Washington County has seen a 30% increase in population over the same period. The district still contains a small amount of residential population. It covers only about 4.5 square miles.

Availability of public facilities in the area.

Water and Sewer

The subject property is located in the City of Hagerstown's public water service area and classified as W-1 meaning service is existing. There are existing water lines in the vicinity that provide connections for First Data and Parkway Neurosciences across the street.

The subject property is also located in a City of Hagerstown public sewer service area. It is classified as S-1, which means that service exists in the area.

The subject property is located in the Urban Growth Area (UGA). All zoning districts in the UGA, including the current and request classifications for this property, require that new development be "served by public water and sewer facilities that have been approved by the Washington County Health Department."

Emergency Services

Western Enterprise Fire Company provides fire protection service to the subject property. It is located inside the municipal limits of Hagerstown at 526 Washington Avenue, approximately one mile to the east. The Halfway Volunteer Fire Company is the emergency responder to the subject property from its station located 2.8 miles south of the subject property. The requested reclassification will not affect emergency service response times.

Public Transportation

The West End Route (333) of the Washington County Transit system serves the subject property. The route runs 14 times per day on weekdays (and 13 times per day on weekends) from the Transit Center in downtown Hagerstown. The bus travels the entire length of Western Maryland Parkway from north to south on each trip and returns to the Transit Center at 15 minutes past the hour.

Schools

The subject property is located in the attendance districts of Lincolnshire Elementary School, Springfield Middle School, and Williamsport High School. There are no students generated from the subject property now because it is vacant. The current Office, Research and Technology zoning district would not generate any school students because residential development is not a permitted use. Likewise, the requested Highway Interchange zoning also does not allow residential development so there would be no impact on public school capacity as a result of the reclassification.

Present and Future Transportation Patterns.

Western Maryland Parkway is classified as a local road in the County's Highway Plan. It provides a connection between US Rt. 40 to the north and Md. 144 to the south, and provides access to and from the properties located along its short one-mile length. It is a two-lane road, currently in good condition with wide shoulders on both sides. The ORT district would most likely produce a large employment center whose traffic would have most impact during peak morning arrival and afternoon departure times. The HI classification could create commercial uses that often produce a steady stream of traffic during business hours. The subject property is about 0.5 miles from the I-81 interchange, but it is not visible from the interstate due to vegetation, existing development, and elevation.

A roundabout was recently completed at the intersection of Western

Maryland Parkway and Md. 144 for traffic calming purposes. The roundabout is immediately adjacent to the subject property on its southwest corner. The reclassification of the property to HI zoning would not overly burden the existing infrastructure, nor would it disrupt traffic patterns in the neighborhood.

Compatibility with existing and proposed development in the area, including indication of neighboring sites identified by the Washington County Historic Sites Survey and subsequent revisions or updates; and the relationship of the proposed change to the Adopted Plan for the County, Development Analysis Plan Map, and Policies.

Surrounding properties contain a variety of uses and zoning districts. Western Maryland Parkway forms the entire western boundary of the subject property. Across the road from the property is First Data Corporation, a credit card processing business, on land zoned ORT. Medical offices of Parkway Neurosciences and other medical practitioners are located across the street. On the western and northern boundaries of the medical properties are I-81 and US Rt. 40, respectively. A cluster of residential uses is located to the east, within the city limits of Hagerstown, zoned RMOD or Residential Moderate Density. On the opposite side of Md. 144 and south of the subject property is the I-81 Business Park. The entire area is zoned Industrial, General and there are a variety of light industrial uses, including, among others, the Maryland Food Bank, Lesky Distributors, Rampf Molds, and the Washington County Detention Center and Sheriff's Department.

On the opposite side of I-81 and south of Md. 144, about a half mile distant from the subject property, is an area of Highway Interchange zoning that contains a small business park that includes a multi-tenant office building and the State vehicle emissions testing facility. Cedar Lawn Memorial Park is also located adjacent to the interstate, north of MD 144, and is zoned HI. West of and adjacent to the cemetery is the residential area known as Cedar Lawn, a Residential Suburban zoning district. North of US Rt. 40 and inside Hagerstown city limits is the Center at Hagerstown, an 80 +/- acre commercial development containing multiple anchor stores, many small commercial establishments, and at numerous restaurants. The commercial area extends all the way north to the Salem Avenue interchange with I-81. Beyond the commercial area to the west is Hager's Crossing, a several hundred unit residential development with a variety of housing types. Returning to the east side of I-81, there is additional residential development in residential zoning districts in and outside of Hagerstown municipal limits. There is a vacant 68-acre parcel immediately adjacent to the

northbound entrance ramp to I-81 that is zoned Residential, Urban.

The nearest existing sites listed in the County historic sites inventory would be approximately .8 miles away, identified as:

- WA-I-001 – “Ridenour’s Folly,” a 19th Century 3-story, stone Gregorian-style farmhouse; and
- WA-I-321 – “Hershey Farm,” a 19th Century Farm (house, barn, springhouse), vernacular style.

The nearest existing historic inventory sites in Hagerstown are:

- WA-HAG-217 – “Middlekauf House” at 837 Concord St., a 19th Century, 2.5 story, brick, Victorian farmhouse style; and
- WA-HAG-217 – 433 Brewer Avenue, a remodeled school, 2-story frame building.

Reclassification of the property would have no effect on the identified historic sites.

The relationship of the proposed change to the Adopted Plan for the County, Development Analysis Plan Map, and Policies.

The property is inside the Urban Growth Area (UGA). The Comprehensive Plan assigns an Industrial Flex land use designation to the subject property. The Industrial Flex policy area is described in the Comprehensive Plan as a “hybrid policy area comprised of different types of economic development associated land uses. It is an outgrowth of the changes taking place in the workplace as more and more jobs move from manufacturing to high tech and service sectors...” Anticipated land uses include light industrial parks, office parks, research and development facilities, high-tech communication and technology facilities, trucking and distribution facilities, and minor commercial uses that support job centers.

The subject property is currently zoned Office, Research and Technology. The ORT district is purposely selective in the uses permitted to insure compatibility amongst uses and to “promote and maintain desirable development activities in a setting that is in harmony with the surrounding areas, preserves open space by creating a “campus-like” setting, and promotes architecturally attractive buildings and structures.”

The ORT does allow some commercial uses to support many of the ORT uses that will create significant concentrations of employment. These supporting commercial uses would be the hotels and motels, banks, restaurants, pharmacies,

drinking establishments, and personal service establishments. ORT also allows light manufacturing, assembly, and service uses as long as they are related, but subservient, to the main use, as governed by the list of permitted or special exception uses.

The purpose of the HI zone "...is to provide suitable locations for commercial activities or light industrial land uses that serve highway travelers, provide goods and services to a regional population or uses that have a need to be located near the interstate highway system to facilitate access by a large number of employees or the receipt or shipment of goods by highway vehicles." The ORT and HI districts are similar in many ways. The HI district generally allows all the uses permitted in the ORT, BL, BG, and IR districts.

Whether there has been a substantial change in the character of the neighborhood where the property is located.

This factor is not applicable as the applicant's request is premised upon a mistake in the existing zoning classification.

Whether there was a mistake in the existing zoning classification.

The applicant testified that its best efforts to develop the property into an ORT use have been unsuccessful. No tenants or prospective purchasers have shown an interest in the property. The property is in close proximity to Interstate 81's intersection with Route 40. A variety of zones are found in the neighborhood of the property, including Residential Urban (RU), Industrial General (IG), and Residential Suburban (RS), and City of Hagerstown residential, commercial, and industrial zones. The ORT zone appears to be an outlier when considered against other zones in the area, and the eventual development of the property into a "campus-like" setting for ORT uses appears unlikely. Thus, we conclude that the ORT classification was mistakenly applied to the property.

Whether there has been a convincing demonstration that the proposed rezoning would be appropriate and logical for the subject property.

The property is located in a mixed-use neighborhood, where commercial, industrial, and residential uses (of varying intensity) are found within 0.6 miles of the subject property. There is a sizeable commercial development in the area around Garland Groh Boulevard, and the property has easy access to Interstate 81 via Western Maryland Parkway and Route 40. The road network can accommodate HI uses, and there is ample residential and workforce population to support those uses. We also note that this property previously had an HI

designation, before its mistaken reclassification to ORT. Accordingly, for all of these reasons, the reclassification of the property to Highway Interchange is appropriate and logical.

Conclusion

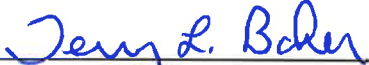
Having considered all of the testimony, evidence, and arguments presented, the facts and conclusions set forth in this Decision, and applying the Commissioners' "extensive local knowledge in determining zoning issues[,]” *Burgess v. 103-29 Ltd. Partnership*, 123 Md. App. 293, 301 (1998), this application for a zoning district reclassification is hereby granted.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND




Vicki C. Lumm, Clerk

BY: 

Terry L. Baker, President

Approved as to form and legal
sufficiency:



Kirk C. Downey
Deputy County Attorney