

ORDINANCE NO. ORD-2018-17

**AN ORDINANCE TO AMEND THE ZONING MAP
FOR WASHINGTON COUNTY, MARYLAND
(RZ-18-001)**

Pursuant to the provisions of Section 27.1 of the Zoning Ordinance for Washington County, Maryland (*Zoning Ordinance*), Thomas, Bennett & Hunter, Inc. (Contract Purchaser), 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 Hagerstown-Washington County Industrial Foundation (CHIEF) and consisting of 19.37 acres of land, more or less, situated 1/10 mile northeast of the intersection of Halfway Boulevard and Hopewell Road, Election District No. 24 (Cedar Lawn), Hagerstown, Washington County, Maryland, and more particularly identified in the Ordinance Amendment Application found in the record herein.

The matter has been designated as Case No. RZ-18-001.

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. This public hearing occurred more than ten days before the effective date of this Ordinance.

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-18-001 be, and hereby is, granted an Industrial, General (IG) 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 19th day of June, 2018.

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, Suite 1101
Hagerstown, MD 21740

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

**DECISION
Rezoning Case RZ-18-001**

Property Owner: Hagerstown-Washington County Industrial Foundation (CHIEF)

Applicant: Thomas, Bennett & Hunter, Inc.

Requested Zoning Change: HI – Highway Interchange to
IG – Industrial, General

Property: 0.1 miles NE of the intersection of Halfway Boulevard and Hopewell Road

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 & Conclusions of Law

The property.

The subject property is in the Urban Growth Area. The subject property is found 0.1 miles northeast of the intersection of Halfway Boulevard and Hopewell Road in the Hopewell Valley economic development area.

The subject property is 19.37 acres in size, 7.63 acres of which is forested. Of the 7.63 forested acres, 3.85 acres is currently protected with a permanent forest easement which forms the western and northwestern boundary of the subject property. The topography of the subject property is hilly, containing rock outcroppings in the forested area, and slopes gently downward from east to west. Outside of the forested areas, the remaining acreage has been cleared and left unimproved or is being cultivated.

The report and recommendation of the Planning Commission.

The Planning Commission recommended approval of the requested rezoning on the basis of mistake. The Planning Commission's recommendation was

“based on the acceptance of the applicant’s claim that there was a mistake made during the 2012 comprehensive zoning because of the existing predominant industrial nature of Hopewell Valley and the reasonably foreseeable future trend of industrial use intensification was not sufficiently taken into consideration when the HI zone was assigned.”¹

Population change in the area of the proposed change.

The subject property is in the Cedar Lawn Election District (#24). This election district is characterized mostly by extensive industrial and commercial land uses. Residential areas are confined mostly to the northern part of the election district, constituting portions of the West End of Hagerstown. Population data for the district and Washington County are provided in the following chart:

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 grown 53.6% over the 30-year period (1.8% per year) while the County as a whole has increased in population by 30.36% (1.01% per year) during the same period.

Availability of public facilities in the area.

Water and Sewer

The subject property has a water service designation of W-1 – Existing Service (County Line-City Treatment). Water service is provided by the City of Hagerstown. The County owns the distribution system.

The subject property has split sewer service designations. The northern half is S-1 – Existing Service (County), and the southern half is S-3 – Programmed

¹ Recommendation dated April 13, 2018.

Service (County). The County owns the collection system and handles the effluent treatment at the Conococheague Wastewater Treatment Plant. The southern half was designated as S-3 – Programmed Service within the 2009 Water and Sewerage Plan.

The water and sewer infrastructure is sufficient to support the uses allowed in the Industrial General zone.

Emergency Services

The subject property is located within the service area of the Volunteer Fire Company of Halfway, which also provides the nearest emergency fire and rescue services. The station is located approximately 1 mile away from the subject property.

Public Transportation

This area is not served by the Washington County Transit System. The Hopewell Express provides a free shuttle service to employees of Hopewell Road businesses from downtown Hagerstown. The shuttle service is provided by the Washington County Community Action Council and operates Monday – Friday from approximately 6 a.m. to 8 p.m.

Schools

The subject property is within the school districts of Jonathan Hager, Springfield Middle, and Williamsport High schools. The current Highway Interchange zone does not permit residential uses, and the requested Industrial General does not allow for residential development. Therefore, reclassification would have no impact on pupil generation or school capacity.

Present and Future Transportation Patterns.

The subject property is located on Hopewell Road slightly northeast of that road's intersection with Halfway Boulevard. Hopewell Road is classified as a Minor Collector in the Transportation Element of the County's 2002 Comprehensive Plan. Minor Collector roads are designed to carry between 1,000 and 3,000 vehicles in urban areas in Average Daily Traffic. County's classification system is based upon the Federal Highway Functional Classification System, but modified to reflect local road conditions. The section of Halfway Boulevard adjacent to the subject property is also classified as a Minor Collector in the 2002 Comprehensive Plan.

Approximately 1 mile west of the subject parcel, Halfway Boulevard is to be extended ½ mile in length and connect to MD 63/Greencastle Pike. Halfway

Boulevard Extended will provide an alternate access route to MD 63 and I-70 for heavy truck traffic traveling to or from the industrial park.

Traffic counts from the Maryland State Highway Administration (SHA) and the Washington County Department of Engineering (DOE) were recorded at a select few points near the subject property. SHA's closest traffic counts occurred near the intersection of MD 144 and Hopewell Road, roughly 1.5 miles north of the subject property. DOE traffic counts occurred in 2008 and 2016 in four places surrounding the intersection of Halfway Boulevard and Hopewell Road. These counts offer the most stable location during the 30-year time period shown below. The traffic volume data shown in the table is expressed in annual average daily traffic volumes (ADT).

SHA Traffic Volumes 1985-2015		2016 DOE Traffic Volumes		
Year	MD 144/West Washington St. west of I-81	Counter Location	Year	Intersection of Halfway Blvd & Hopewell Road
2015	5112	Adjacent to site, Hopewell Road	2008	7237
			2016	6722
2010	4640	WB Halfway Blvd	2008	4948
			2016	2802
2005	4750	EB Halfway Blvd	2008	4948
			2016	2863
2000	9525	Hopewell Rd NB, south of intersection	2008	4583
			2016	3016
1995	4475	Hopewell Rd SB, south of intersection	2008	4583
			2016	4773
1990	1600			
1985	4000			

Source: Maryland State Highway Administration; Washington County Dept. of Engineering

The data contained in the table above offers a mixed picture of the change in traffic volumes in the vicinity of the subject property. The light shaded columns to the left reveals that traffic volume near the intersection of MD 144 and Hopewell Road has declined by 46% between 2000 and 2015. At the same time, ADT grew by 10.2% between 2010 and 2015. It appears that the ADT has remained consistent between 4,000 – 5,000 for much of the 30-year period, except for the count in 2000 where traffic nearly doubled at that intersection.

County traffic counts were performed by consultants in 2008 and in 2016 in four locations surrounding the intersection of Halfway Boulevard and Hopewell Road. These figures are noted in the dark shaded columns to the right. Only one

of these four locations, southbound Hopewell Road, noted an increase in traffic by 2016 (or .5% per year). The other three locations showed notable decreases in traffic between 2008 and 2016.

The existing road infrastructure is adequate to support the uses allowed by reclassification of the subject property to the IG zone. Traffic generated by such uses will not overburden existing traffic capacity or unduly disrupt existing traffic patterns.

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.

“The purpose of the Industrial, General District is to provide locations for manufacturing, processing, and other heavy industrial uses which may require extensive transportation, water and/or sewerage facilities, or open space, because of the number of employees, the type of manufacturing operation, or any by-products which might result from the use.”²

Select principal permitted uses within the IG zoning district include the manufacture of automobiles, chemical processing, grain milling, feed storage, recycling facilities and correctional institutions. Any use permitted in the IG district must be served by public water and sewer facilities. New development in an IG zoning district must be served by public water and sewer facilities. A site plan with an approved Forest Stand Delineation and Forest Conservation Plan is required for any principal permitted or approved special exception use except agriculture.

West of I-81, the zoning is overwhelmingly either HI or IG, which keeps with the developmental character of the Hopewell Valley area. The subject parcel itself is surrounded by HI zoning, but it is separated only by a single parcel to the northeast from the nearest IG zoning district. A small amount of residential zoning can be found east of the CSX rail line, immediately north and south of the intersection of I-81 and I-70, including the Lakeside Mobile Home Park and Hopewell Manor Apartments.

Land use in the area surrounding the subject property follows naturally with the zoning described above. Purina Mills, Performance Pipe and Wantz Distributors can be found immediately north of the subject property on Hopewell Road. Pilot Travel Center, Exxon, Freightliner Body Shop, and S & S

² Zoning Ordinance § 14.0.

Tire Services are among the commercial businesses located at the intersection of Halfway and Hopewell. Reclassification of the subject property would not be incompatible with uses found in the neighborhood.

According to the Washington County Historic Sites Survey there are four existing historic sites located within a half-mile radius of the subject property:

- i. WA-I-232: "Schindel-Dutton Farm" – mid-19th century farm complex with 2-story log home with German Siding and 1862 brick bank barn on 44 acres;
- ii. WA-I-348: Early 19th century farm complex with 2-story limestone farmhouse, stone outbuilding, stone bank barn on 7 acres;
- iii. WA-I-349: Late 19th century brick farm house (located on adjacent Parcel 7); and
- iv. WA-I-350: "Ridenour Farm" – 18th century farm complex with brick cased log home, wood frame shed and concrete silo on 2 acres.

Reclassification of the subject property from HI to IG would have no effect on these historic sites.

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

The 2002 Washington County Comprehensive Plan designates eight policy areas specific to Urban and Town Growth Areas. The subject property is in the Industrial Flex (IF) sub-policy area, a "hybrid policy area comprised of different types of development associated land uses....Existing and anticipated land uses associated with this policy area include, light industrial parks, office parks, research and development facilities, hi-tech [sic] communication and technology facilities, trucking and distribution facilities and minor commercial uses that support job centers."³ The Hopewell Valley Economic Development Area is specifically noted as being part of the IF sub-policy area. Reclassification of the property to allow for industrial uses would be consistent with the provisions of the Comprehensive Plan.

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

This is not applicable because the applicant is proceeding on the basis of mistake.

³ Plan at 24243

Whether there was a mistake in the existing zoning classification.

The applicant contends that the retention of the Highway Interchange designation in 2012 was a mistake. The applicant contends that because of “(i) the existing, predominantly industrial nature of Hopewell Valley; and (ii) the reasonably foreseeable future trend of industrial use intensification” the property should not have been classified as HI in 2012.⁴

We agree. In 2012, the character of Hopewell Valley was primarily industrial. The Hopewell Valley area has been targeted for concentrated economic development of an industrial/commercial nature since the late 20th century. The industrial nature of the area has not arisen unexpectedly or organically since 2012. Long-range land use planning has intentionally steered the area towards industrial and commercial development.

The Hopewell Valley area is a targeted Economic Development Area and enterprise zone located in the Comprehensive Plan’s Industrial Flex sub-policy area. There are moderate to heavy industrial uses in the area, including manufacturing, freight transport, and warehouse/distribution facilities. The subject property is adjacent to an active CSX rail line. It is also located a short linear and driving distance from the I-81 interchange and is also separated by a single parcel from a block of IG zoning districts located immediately to the north. Given the existing IG zones in the area, and the reasonably foreseeable increase of IG uses due to the area’s enterprise zone designation and Industrial Flex classification, the failure to zone the property for industrial uses was a mistake.

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

The subject property is located in an enterprise zone and has been identified by the Comprehensive Plan for Industrial Flex uses. Industrial and commercial uses have been encouraged and cultivated in Hopewell Valley. Establishment of an industrial use on the property would not be incompatible with the existing neighborhood. Industrial General zones are found in the neighborhood of the property. It is adjacent to a feed mill and is bordered by a rail line. Furthermore, the property is of sufficient size and environmental character to support IG-permitted uses. Classification of the property as Industrial General is wholly appropriate and logical.

⁴ Letter from Jason M. Divelbiss, Esquire to the Department of Planning & Zoning, January 12, 2018, at 5.


Conclusion

Having considered all of the testimony, evidence, and arguments presented, the findings of facts and rationale set forth in this Decision, and the Commissioners' "extensive local knowledge in determining zoning issues[,]"⁵ this application for a zoning district reclassification is hereby granted.


Adopted this 19th day of June, 2018.

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

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⁵ *Burgess v. 103-29 Ltd. Partnership*, 123 Md.App. 293, 301 (1998).