

BEFORE THE
BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND

DECISION

Rezoning Case RZ-21-005

Property Owner:	Sharpsburg Pike Holdings, LLC
Applicant:	Sharpsburg Pike Holdings, LLC
Requested Zoning Change:	HI – Highway Interchange to MXC – Mixed Use Residential & Commercial
Property:	Sharpsburg Pike, 1/3 mile south I-70 interchange

Pursuant to Washington County Zoning Ordinance § 16A.5(a)3, the Board of County Commissioners of Washington County makes findings of fact with respect to the following matters: (1) The purpose of the PUD District; (2) The applicable policies of the adopted Comprehensive Plan; (3) The compatibility of the proposed changes of the PUD District with neighboring properties; (4) The effect of the proposed changes to the PUD District on community infrastructure; and (5) Consistency with the intent and purpose for the establishment of the PUD which is to permit flexibility and creativity in the design of residential areas, promote economical and efficient use of the land, provide for a harmonious variety of housing choices, a varied level of community amenities[,] and the promotion of adequate recreation, open space[,] and scenic attractiveness.

Findings of Fact

The property.

The subject property is located at 10319 Sharpsburg Pike, in between Col. Henry K. Douglas Drive and Poffenberger Road, approximately 1/3 mile south of the Interstate 70 interchange. The total acreage subject to this rezoning case is 9.92 acres.

The subject property is currently undeveloped. Significant development has occurred in the immediate vicinity of this property along Sharpsburg Pike in recent years. Primarily this development has been commercial in nature. The new Walmart is directly west of the subject property, on the other side of Sharpsburg Pike. The new Aldi, Dunkin Donuts, and other commercial land

uses making up The Shops at Sharpsburg Pike development sit at the corner of MD-65 and Col. Henry K. Douglas Drive immediately adjacent to this site.

In addition to the existing residual residential development that remains along this portion of MD-65, there has been some new residential development in the immediate vicinity as well. The Villas at Gateway is a semi-detached, 24-lot residential development immediately southwest of the subject property. Notable amounts of detached single-family housing exist currently or are in the process of being developed along Poffenberger Road less than 1 mile southeast of the site.

If this rezoning is granted, the applicant is proposing to construct 105 apartment units and six townhouses on the subject property.

The report and recommendation of the Planning Commission.

The Planning Commission held a public information meeting on the proposed change and received comments from staff, the applicant, and various members of the public. The Planning Commission also received written comments. Following deliberations at its regular meeting, the Planning Commission unanimously recommended denial of the requested major change to the approved PUD.

The purpose of the PUD District.

As noted in the Zoning Ordinance, Mixed Use Districts allow for greater flexibility in the design of residential, commercial, and employment-focused developments than is possible under conventional zoning standards. Their purpose is: "...to provide a compatible and complementary mixture of uses that will create a desirable living and working environment, promote an efficient use of the land, provide for a harmonious variety of housing choices, a more varied level of community services and amenities, and the promotion of adequate open space and attractiveness."¹

In this case, the applicant is pursuing the establishment of a new MXC District. The Zoning Ordinance states that, "The MXC or Mixed Use Commercial District is designed to permit a mixture of residential users and limited commercial development to provide goods and services necessary to the neighborhood, all according to a preapproved master plan." The proposal is to construct two multi-family apartment buildings and six townhouses on property

¹ Washington County Zoning Ordinance, Article 16 "Mixed Use District," § 16.0.

that is currently zoned Highway Interchange. There are commercial uses to the immediate west of the property and a residential development of single-family dwellings to the immediate east of the property. We find that the proposal has limited commercial development and does not provide for more varied levels of community services and amenities, nor the promotion of adequate open space and attractiveness.

The applicable policies of the adopted Comprehensive Plan.

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

The 9.92 acres subject to this requested zoning map amendment were given the High Density Residential sub-policy area designation in the County's 2002 Comprehensive Plan. Therefore, the applicant's proposal for this parcel does not deviate significantly from what was anticipated in the 2002 Plan, as they are proposing roughly 11 dwelling units per acre.

The Comprehensive Plan offers the following definition for this policy area:

"The High Density Residential policy area is primarily associated multi-family type residential development. Principal zoning districts related to the policy area include the Residential - Multi-Family, Highway Interchange Two, and Residential Urban districts. The majority of the types of housing either existing or anticipated to be proposed for the policy areas are apartments, townhouses, and group homes, as well as duplexes and single-family homes on small lots. Typical housing developments would have densities in excess of 8 units per acre for multi-family developments and 6 units per acre for single-family developments.

Existing or proposed development associated with this classification is primarily located around the I-70 & MD 65

Interchange, Robinwood Drive area, Londontowne area, the I-81 & US 11 Interchange, Oak Ridge Drive, and the I-81 & Maugan's Avenue Interchange."²

The compatibility of the proposed changes of the PUD with neighboring properties.

The corridor from the I-70 interchange south to Poffenberger Road is zoned HI on both sides of MD-65. Farther away from this arterial roadway, the zoning transitions to residential classifications of various densities. Much of it is Residential Urban (RU), which allows single family, semi-detached, and two-family dwelling units on roughly ½ acre lots, along with limited community service type uses. There is also Residential Transition (RT), which is the least dense residential district in the Urban Growth Area, at 2-4 dwelling units per acre. Most of the RT land is presently in an agricultural land use.

There is also high-density residential zoning in the immediate vicinity. Two Residential Multi-family (RM) districts are found within 1/3 of a mile from the subject site.

In sum, while the commercially focused HI zoning dominates the Sharpsburg Pike corridor, there is a variety of residential zoning classes within a 1-mile radius of the site.

Commercial land uses predominate in the immediate area around the subject property. While many of the former land uses along this part of the Sharpsburg Pike corridor are transitioning to commercial, there are still a fair number of single-family homes along MD-65 and active farms within a one-mile radius of the rezoning site.

According to the Maryland Historic Trust Inventory, there are 2 existing historic sites located within an approximately half-mile radius of the subject property. Below is a listing of existing historic resources within a half-mile radius of the subject parcels:

- WA-I-448: "Brick Farmhouse," late-19th century, 2-story brick farmhouse. Altered early 20th century.
- WA-I-503: "Frame Bungalow," early-20th century, 1½ story bungalow style home.

² 2002 Washington County, Maryland Comprehensive Plan, Page 245.

The effect of the proposed changes to the PUD on community infrastructure.

The area subject to this rezoning falls within the City of Hagerstown's Medium Range Growth Area (MRGA). The property has already signed a pre-annexation agreement with the City, according to the City of Hagerstown's Department of Utilities. The issue arises from the increased demand that would result from the rezoning of this property from the current commercial and light industrial HI zoning classification to a high-density residential and limited commercial MXC district. The ability of the City of Hagerstown to provide water service to this property (as well as all others in the MRGA) is based upon growth assumptions that utilize existing zoning classifications. The rezoning of this property to allow for a more intensive land use in terms of water usage is a variable that was not accounted for when the City developed the growth model that informed the creation of the Water Resources Element in its adopted Comprehensive plan. Thus, an increased demand for water at this location would likely necessitate responsive changes to the MRGA boundary elsewhere.

The proposed development falls within the following school districts: Rockland Woods (Elementary), E. Russell Hicks (Middle), and South Hagerstown (High). The proposed reclassification to the existing PUD would result in increased pupil population and projected school inadequacy, as defined by the Adequate Public Facilities Ordinance, at all three schools affected by the proposed development. The applicant has proposed to implement age restrictions on the proposed dwelling units which, the applicant urges, would eliminate pupil population increase. We are not persuaded that this would occur, as age restrictions do not insure that an increase in pupil population would not occur. We find this approach to be imprecise and unwieldy, especially when public school capacity is already at issue in this neighborhood. We are concerned with the difficulty of enforcing age restrictions. We find that school capacity concerns, even if the residential uses were lawfully age restricted, auger against the requested change.

Traffic impacts from the proposed development were analyzed by various entities, at multiple points in time. The Traffic Impact Studies (TIS) concluded that trip generation from the new mix of proposed land uses was less than that found in the previous TIS during each of the three time periods surveyed (Weekday AM Peak, Weekday PM Peak, Saturday Midday Peak). While the developer would still be required to comply with the conditions outlined in the previous TIS, no additional improvements would be required with the change in land use. There are no additional road improvements identified in the County's

current Capital Improvement Plan (2022-2031) in the immediate vicinity of the subject property.

Testimony was received at the public hearing on this requested reclassification, and its weight was overwhelming that the road infrastructure in the neighborhood was frequently at capacity and, at times, clearly overburdened when there was any disruption to the standard traffic flow in the area. This condition exists presently. We find that granting the proposed reclassification would strain current roadway capacity and would materially exacerbate inadequacy issues when there was any disruption to standard traffic flow patterns.

Consistency with the intent and purpose for the establishment of the PUD[,] which is to permit flexibility and creativity in the design of residential areas, promote economical and efficient use of the land, provide for a harmonious variety of housing choices, a varied level of community amenities[,] and the promotion of adequate recreation, open space[,] and scenic attractiveness.

No evidence has been offered that shows the current design of this proposed MXC District fits the purpose of this zoning classification, as it is defined in the Zoning Ordinance. At present, it focuses heavily on the provision of apartment units. We do not believe that the presence of six proposed townhouses “provide for a harmonious variety of housing choices.” We find that there has been no showing that the proposed change would provide a harmonious variety of housing choices, community amenities, or adequate recreation, open space, and scenic areas.


Conclusion

The requested reclassification, if granted, would result in increased density in a neighborhood whose water, traffic, and school infrastructure is already experiencing significant and material adequacy issues. That infrastructure is struggling—at best—to meet current capacity demands. Granting the requested rezoning, and its concomitant residential density increase, would overwhelm that infrastructure to the detriment of the public’s health, safety, and welfare. We cannot conclude that the grant of the requested reclassification would, in any way, benefit public safety, the purpose of the PUD district, or the general welfare. We cannot conclude that a grant of the requested rezoning would be compatible with the surrounding neighborhood, which is largely commercial in nature.

Therefore, having considered all of the testimony, evidence, and arguments presented, 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 rezoning is hereby denied.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY,
MARYLAND

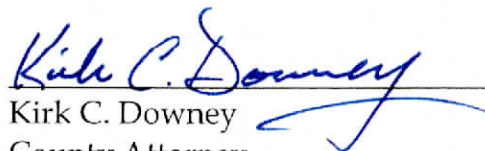


Krista L. Hart, Clerk

BY: 

Jeffrey A. Cline, President

Approved as to form and legal sufficiency:



Kirk C. Downey
County Attorney