

ORDINANCE NO. ORD-2024-0\

AN ORDINANCE TO AMEND THE ZONING MAP  
FOR WASHINGTON COUNTY, MARYLAND  
(RZ-23-007)

Pursuant to the provisions of Section 18.5 of the Zoning Ordinance for Washington County, Maryland (*Zoning Ordinance*), Jeffrey P. Unsworth and Laura J. Lane-Unsworth, the Applicants, have petitioned the Board of County Commissioners of Washington County, Maryland (*Board*), seeking to apply the Historic Preservation (HP) Overlay on a 2.46 acre portion of the total 25.52 acre tract of land located at 13215 Smithsburg Pike, which is currently zoned Agricultural, Rural A(R).

The matter has been designated as Case No. RZ-23-007.

This application was reviewed by the Planning Commission, and the Planning Commission recommended that the application be approved.

The Board has considered all information presented at the public hearing conducted on December 12, 2023, and the recommendation of the Planning Commission. 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-23-007 be, and hereby is, designated as Agricultural, Rural A(R) with a Historic Preservation (HP) Overlay.

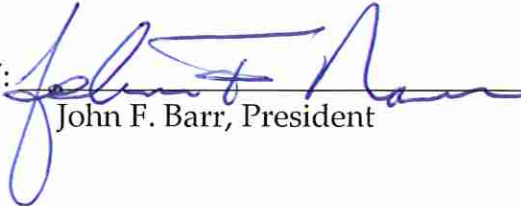
IT IS FURTHER ENACTED AND ORDAINED that the official Zoning Map for Washington County be, and hereby is, amended accordingly. The Director of Planning and Zoning shall cause the Zoning Map to be amended pursuant to this Ordinance.

Adopted and effective this 9<sup>th</sup> day of January, 2024.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

  
Dawn L. Marcus, Clerk

BY:   
John F. Barr, President

Approved as to form and  
legal sufficiency:

  
Zachary J. Kieffer  
Deputy County Attorney

Mail to:  
Office of the County Attorney  
100 W. Washington Street, Suite 1101  
Hagerstown, MD 21740

BEFORE THE  
BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

**DECISION**  
Rezoning Case RZ-23-007

Property Owner:	David Forcino
Applicants:	Jeffrey and Laura Unsworth (Contract purchaser)
Requested Zoning Change:	Agricultural, Rural (AR) to Agricultural, Rural (AR) with Historical Preservation (HP) District Overlay
Property:	13215 Smithsburg Pike, Smithsburg, MD 21783 (the "Property")

Pursuant to Md. Code Ann., Land Use § 4-204 and Washington County Zoning Ordinance (the "Zoning Ordinance") § 27.3, the Board of County Commissioners of Washington County, acting upon the Applicants' Request, makes findings of fact with respect to the matters set forth in the Zoning Ordinance. We also consider the recommendation of the Planning Commission which was made in this case, and the relationship of the proposed reclassification to the Comprehensive Plan. After considering the recommendation of the Planning Commission and hearing evidence presented by the Applicants at a Public Hearing on December 12, 2023, with no evidence or witnesses presented in opposition, the Board will grant the requested zoning map amendment and makes the following Decision, which largely adopts the findings of the Staff Report and Planning Commission.

Location and Physical Features:

This parcel is located approximately .4 miles south of the intersection of Rowe Road and Smithsburg Pike (State Route 64) on the east side of Smithsburg Pike and .15 miles north of the Smithsburg Town Growth Area. The Property contains a multi-part farm complex that includes a stone dwelling, stone bank barn and brick smokehouse.

The dwelling's main portion is 2-stories of stone construction with a date stone of 1810 in the west end wall. Extending to the north of the main portion, is

a 1 ½-story three bay stone cabin built over a large spring. This spring emerges into a large stone walled pond behind the house. According to the Maryland Inventory of Historic Properties (MIHP) documentation, it is estimated this northern portion was built in the late 18th century and was traditionally known as "Peter Mong's Cabin".

There is also a stone section extending east of the main structure that is a 1 ½-story five bay wing that was built in 2 stages. The MIHP records for the Property estimate these additions were built after construction of the main structure in 1810. The dwelling also retains nine over six wood window sashes through the majority. There is one 30-pane window on the rear of the main portion of the stone dwelling. The structures on the Property have had some renovations to the roofing, chimneys, and porches. The majority of the dwelling's stonework and its openings remain intact. The dwelling's interior, while also seeing some alteration over time, retains batten doors with long strap hinges in several sections of the dwelling. The interior configuration of the front stairway, built across the first story window is, according to MIHP records, a common construction found in Circa 1800 houses in northeastern parts of the County.

The stone bank barn has had some alteration to the cantilevered portion over time, but the stone portion remains intact. The brick smokehouse is a small square construction with a pyramidal roof.

Some modern buildings have been added to the Property over time including a 4-bay concrete block garage and other buildings associated with the Property's agricultural operations. The proposed boundary of the requested HP Overlay District does include some modern structures to ensure the full farmstead is encapsulated but the inclusion of these buildings appears minimal.

A portion of the Property, including the home, is located in FEMA Flood Zone A. Areas to the north, including the stone wall pond and the area which slopes gently down toward Tictum Run are identified as wetland on State or Federal inventories. The property is also within an area known to have State Listed Sensitive Species.

## ANALYSIS

### Relationship of the Proposed Change to the Adopted Plan for the County:

The requested HP Overlay District does not substantively change the permitted land use or densities of the Property and therefore remains consistent with the recommendations found in the adopted County Comprehensive Plan (the "Plan").

In addition to land use recommendations, the Plan also provides recommendations for promoting historic preservation as an economic development tool, a means to create and expand the housing stock, an avenue to retain the desirable but intangible historic rural character and as a way to address individual property owner's needs. The continued application of the HP Overlay District meets those goals and is consistent with the Plan. Since the Applicants requested the HP Overlay District, it is assumed to be consistent with their plans for the continued use, restoration and preservation of the Property.

### Compatibility with Existing and Proposed Development in the Area:

The Property and the uses thereon appear to exist cohesively with adjoining properties and the area in general. The house and its related agricultural buildings and land use have existed in the area since the 18th century. Surrounding development is predominantly agricultural with a scattering of newer residential development. The HP Overlay District does not regulate land uses or density. Existing use patterns on and off site are likely to continue and must comply with current zoning regulations. More than 20 sites within a 1-mile radius of the Property are identified in the MIHP. Of the 20 sites, the Property is the only one reliably dating back to the 18<sup>th</sup> century.

The Board takes particular note of the fact that the Property is one of less than 250 18<sup>th</sup> century sites on the MIHP for Washington County.

### Change, Mistake and the HP Overlay District Criteria:

An application for a map amendment seeking the HP Overlay District is NOT subject to the "change/mistake test" generally required of a zoning map amendment.

Section 20.4 of the Zoning Ordinance sets forth the prerequisites and required documentation that must accompany a map amendment application for the establishment of an HP Overlay. In pertinent part, the Zoning Ordinance requires the following:

- a. Petition to the Board of County Commissioners by the property owner;
- b. Applications to establish an HP Overlay shall be subject to the procedures noted in Article 27 of the Zoning Ordinance.
  - a. The request for map amendment must be accompanied by the following, in addition to the data required by Article 27:
    - i. A scale drawing of the subject property boundaries indicating the location of all improvements including significant topographic features and landscaping.
    - ii. Documentation of the historical data that qualifies the property as an appropriate candidate for the HP Overlay. The data shall address the criteria stated in Section 20.5 of the Zoning Ordinance.
  - b. The extent of the HP zone shall be limited to the significant structure and the immediate surrounding area, generally on the same parcel of land. HP zones shall not be approved on large areas of unoccupied lands.

The criteria for the establishment of an HP Overlay District are enumerated in Section 20.5 and listed below:

- a. If the Historic Resource meets any of the criteria noted below or if it is listed in either the Maryland Historical Trust's Inventory of Historic Sites or the National Register of Historic Places, it may be classified as an historic structure, site or district.
- b. Historical and Cultural Significance
  - 1. The historic resource should have significant character, interest, or value as part of the development, heritage, or cultural characteristics of the county, state, or nation;

2. The historic resource could be the site of a significant historic event;
3. The historic resource should be identified with a person or a group of persons who influenced society; or
4. The historic resource exemplifies the cultural, economic, social, political, or historic heritage of the County and its communities.

c. Architectural and Design Significance

1. The historic resource embodies the distinctive characteristics of a type, period, or method of construction or architecture;
2. The historic resource represents the work of a master artisan, architect or builder;
3. The historic resource possesses high artistic value;
4. The historic resource represents a significant and distinguishable entity whose components may lack individual distinction;
5. The historic resource represents an established and familiar visual feature of the neighborhood, community, or County, due to its singular physical characteristics, landscape or historical event.
6. The historic resource is the only example ever existing or remaining of a particular period, style, and material or construction technique.

Criteria Analysis:

The Applicants provided the MIHP documentation and references that highlight their justification and eligibility of the site for the HP Overlay District. The existing documentation supports the resources on the Property having significant character and value in the development and heritage of the County. The site is also identified with both the Rohrer and the Mong families who, as early settlers, influenced the County's development and the Property is a lasting example of the County's historic heritage. The documentation also indicates that the Property retains distinctive characteristics of local historic architecture for its stone construction and use of environmental features on the Property, namely its location over the spring. In addition to the Property's distinction as one of the County's last 18<sup>th</sup> century sites, it is also one of a few remaining examples of early 19<sup>th</sup> century stone architecture within the County's existing resources.

The Property and structures meet several of the criteria specified in Section 20.5 of the Zoning Ordinance for the establishment of the HP Overlay, namely:

(a) The Property is listed on the Maryland Historical Trust's Inventory of Historic Sites.

(b) Historical and Cultural Significance

- The historic resources have significant character, interest, or value as part of the development, heritage, or cultural characteristics of the County;
- The historic resources are identified with a person or persons who influenced early County society;
- The historic resources exemplify the cultural, economic, social, political, or historic heritage of the County and its communities.

(c) Architectural and Design Significance

- The historic resource embodies the distinctive characteristics of a type, period, and method of construction and architecture;
- The historic resource represents an established and familiar visual feature of the County in the historical stone farmhouse.

Based on the information presented and analysis prior to any input from a public meeting or hearing, the Planning staff recommended approval of the application to apply the HP Overlay District, as requested.

### Recommendations

The Washington County Planning Commission took action at its regular meeting held on Monday, October 2, 2023, to recommend approval of Map Amendment RZ-23-007 to the Board of County Commissioners. The Planning Commission considered the application, the supporting documentation submitted with the application, including the data required by 20.4(b) of the Zoning Ordinance, and the Applicants' presentation during the public information meeting. The Planning Commission also considered the Staff Report and Analysis, comments of interested parties received by the Planning Commission, and the specific criteria for establishment of an HP Overlay District in Section 20.5.


Based upon this information, the Planning Commission found that the application can meet criteria set forth in Section 20.5 of the County's Zoning Ordinance to place the HP Overlay District in this location; and, therefore, recommended approval of this application. The Board of County Commissioners has considered all of the foregoing, as well as information that was presented during the public hearing of this matter.

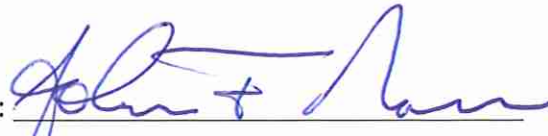
### Conclusion

Based on the information provided by the Applicants in the initial application, further analysis by Staff, and evidence presented at the public hearing, the Board of County Commissioners believes that there has been adequate evidence submitted to meet the various criteria that would support the application for Agricultural Rural with HP Overlay District to the subject property.

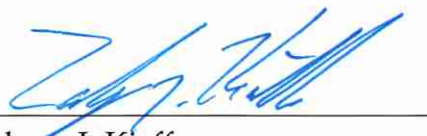
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