

ORDINANCE NO. ORD-2024-~~04~~

AN ORDINANCE TO AMEND THE ZONING MAP
FOR WASHINGTON COUNTY, MARYLAND
(RZ-23-006)

Pursuant to the provisions of Section 18.5 of the Zoning Ordinance for Washington County, Maryland (*Zoning Ordinance*), Ralph and Leah Martin, the Applicants, have petitioned the Board of County Commissioners of Washington County, Maryland (*Board*), seeking to apply the Rural Business (RB) Overlay on a two-acre tract of land, more or less, located at 19815 Reidtown Road, Hagerstown, Maryland 21742, which is currently zoned Rural Village (RV).

The matter has been designated as Case No. RZ-23-006.

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 January 30, 2024, 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-23-006 be, and hereby is, designated as Rural Village (RV) with a Rural Business (RB) 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 13th day of February, 2024.

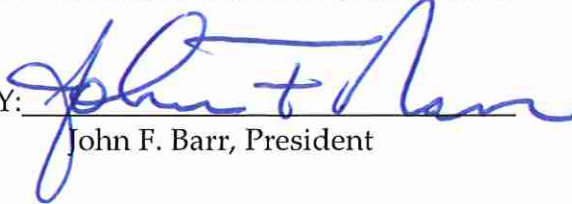
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, MARYLAND



Dawn L. Marcus, Clerk

BY:



John F. Barr, President

Approved as to form and
legal sufficiency:



Rosalinda Pascual
Assistant 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-23-006

Property Owner:	Ralph E. and Leah A. Martin
Applicants:	Ralph E. and Leah A. Martin
Requested Zoning Change:	Rural Village (RV) to Rural Village (RV) with Rural Business (RB) District Overlay
Property:	19815 Reidtown Road, Hagerstown, Maryland (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, the present and future transportation patterns, the relationship of the proposed reclassification to the Comprehensive Plan, and whether there has been convincing demonstration that the proposed rezoning would be appropriate and logical for the subject property. After considering the recommendation of the Planning Commission and hearing evidence presented by the Applicants at a Public Hearing on January 30, 2024, 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 with additional conditions.

Location and Physical Features:

This parcel is located on the south side of Reidtown Road between the CSX railroad line and Marsh Pike approximately one mile east of Hagerstown Regional Airport in the Rural Village of Reid. The property subject to this rezoning encompasses two acres of land and is owned by the Applicant. The property was composed of two adjoining tracts that were conveyed to the Applicants through a deed recorded in Liber 5400, Folio 422 among the Land Records of Washington County, Maryland. One of the two approximately 1-acre

tracts was improved by an existing single-family dwelling, while the associated accessory structures, including the garage and driveway for the dwelling, are built on the secondary tract. As noted on the Planning Commission Recommendation dated January 2, 2024, the two tracts are considered one combined parcel in accordance with the Doctrine of Zoning Merger. Additionally, the property owners hold out the two adjoining tracts as one merged parcel in their Zoning Ordinance Map Amendment Application and most of its supporting exhibits. The parcel is shown on Tax Map 11, Grid 20, as Parcel 31 (2 acres).

The site lies outside of both the Airport (AP) and Airport Overlay Zoning Districts that strictly govern land uses in the vicinity of the Airport. The land does, however, fall within the Hazardous Wildlife Attractant Management Overlay District that protects airport operations from wildlife hazards. The proposed land use (auto body repair) does not pose any threat to airport operations, however.

The Rural Business Zoning District (RB) is established to permit the continuation and development of businesses that support the agricultural industry and farming community, serve the needs of the rural residential population, provide for recreation and tourism opportunities, and to establish locations for businesses and facilities not otherwise permitted in the rural areas of the County. It is established as a "floating zone" which may be located on any parcel in an Agricultural, Environmental Conservation, Preservation, or Rural Village Zoning District. A floating zone is a zoning district that delineates conditions which must be met before that zoning district can be approved for an existing piece of land.

Section 5E.4b of the Rural Business Zoning District describes the criteria that must be met for the establishment of a new Rural Business Zoning District. These criteria include:

1. The proposed RB District is not within any designated growth area identified in the Washington County Comprehensive Plan;
2. The proposed RB District has safe and usable road access on a road that meets the standards under the "Policy of Determining Adequacy of Existing Roads". In addition, a traffic study may be required where

the proposed business, activity, or facility generates twenty-five (25) or more peak hour trips or where forty percent (40%) of the estimated vehicle trips are anticipated to be commercial truck traffic;

3. Onsite issues relating to sewage disposal, water supply, stormwater management, floodplains, etc. can be adequately addressed; and
4. The location of an RB District would not be incompatible with existing land uses, cultural or historic resources, or agricultural preservation efforts in the vicinity of the proposed district.

Section 5E.6c further expands upon the above noted criteria in describing the basis for which the Planning Commission should base its recommendation following the Public Information Meeting including:

1. The proposed district will accomplish the purpose of the RB District;
2. The proposed site development meets criteria identified in Section 5E.4 of this Article;
3. The roads providing access to the site are appropriate for serving the business-related traffic generated by the proposed RB land use;
4. Adequate sight distance along roads can be provided at proposed points of access;
5. The proposed landscaped areas can provide adequate buffering of the proposed RB land use from existing land uses in the vicinity;
6. The proposed land use is not of a scale, intensity, or character that would be incompatible with adjacent land uses or structures.

CRITERIA ANALYSIS

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

The requested proposed change will accomplish the purpose of the Rural Business (RB) District. The proposed auto body service facility is not a permitted land use in the underlying Rural Village (RV) Zoning District. Services are presently limited in the immediate vicinity of this property, given its location in a rural area of the County. Therefore, it has the potential to *"serve the needs of the rural residential population"*.

The proposed site of this rezoning is located outside of the County's current Urban Growth Area boundary. This status is not proposed to change in the forthcoming Comprehensive Plan (the "Plan") update.

Road and Traffic Considerations

The Applicant estimates that traffic generation from the proposed land use is to be less than fifteen trips per day. This trip generation estimate falls below the requirements of the RB District which necessitate a traffic study when the proposed business, activity, or facility generates *"25 or more peak hour trips or where 40% of the estimated vehicle trips are anticipated to be commercial truck traffic"*.

The proposed business is located on Reidtown Road, which is classified as a local road in the Transportation Element of the County's 2002 Comprehensive Plan. Parking is planned on the east side of the building that would be constructed to conduct the auto body repair service. The Applicant anticipates a second entrance onto Reidtown Road from the proposed use, separate from the current driveway that leads to the house.

The application was routed to several agencies, including the Washington County Engineering Department, for review and comment. The Engineering Department provided the following conclusion: *"... Should the project move forward, the applicant shall be required to have a Road Condition Survey and road widening plans prepared by a licensed professional to accompany the Site Plan submission. Adequate intersection sight distance will be required for any access that serves the commercial use in accordance County Policy and AASHTO standards. The access will require a Washington County Entrance Permit and must be upgraded/installed to commercial standards."*

There were comments provided by some community members expressing concerns regarding the road conditions and the addition of commercial traffic. While a traffic study may be unnecessary, a road condition survey is needed. There are additional requirements for Reidtown Road that would need to be addressed by the Applicant per comments from the Washington County Engineering Department.

Site Plan Considerations

A. Water.

The proposed rezoning site is designated as W-7 in the 2009 Water and Sewer Plan with no planned connection to public water. An existing well connected to the residential use is depicted on Applicant's Exhibit C.

The Applicant has stated, *"The intended use will not create any sewage disposal, water supply, stormwater or other issues that are above and beyond impacts already accounted for by the current residential and agricultural use onsite."* The Applicant stated during the Planning Commission's Public Input meeting that he will use a spill collection system to contain any impacts to ground water resources.

B. Sewer.

The proposed rezoning site is designated as S-7 in the 2009 Water and Sewer Plan with no planned connection to public sewer. An approximate location of the existing septic system is depicted on Applicant's Exhibit C.

C. Stormwater Management.

A stormwater management pond is proposed in the northwest corner of the property on the preliminary site plan to capture stormwater from the storage facility.

D. Floodplain.

The proposed rezoning site does not contain floodplain.

E. Bulk Regulations.

The Applicant's Justification Statement does not specifically address bulk requirements such as setbacks or lot coverage aside from a generalized parking area east of the proposed building.

Compatibility with Adjacent Land Uses

A. Land Use in the Vicinity.

The parcel is part of a block of properties zoned Rural Village (RV), some of which fall within the Rural Village of Reid. There is one other existing Rural Business (RB) Zoning District in the vicinity, at the Lehman's Mill Historic District to the east. All the surrounding lands are zoned Agricultural Rural A(R).

Land use conforms to the zoning, with small residential lots found within the RV District and along Marsh Pike. These lots give way to larger agricultural parcels on all sides in the immediate vicinity.

Given the prohibition on most commercial uses in rural areas of the County outside of an established RB Zoning District, services are limited in the vicinity. There is one other auto body shop in the vicinity of the rezoning site, on Marsh Haven Lane along the Pennsylvania border, located approximately one mile from the subject property. It was noted during the public hearing that the other auto body shop is quite popular and subsequently has long timeframes for completed work due to its large customer base.

B. Historic Resources.

There are six existing historic sites within ½ mile or less of this rezoning that have been considered in evaluating its compatibility. Two are located on immediately adjacent properties. Two other sites are found within the larger Lehman's Mill National Register Historic District. The others are within ¼ mile of the site, just west of the CSX railroad line. Three others are located approximately ½ mile south of the site across U.S. 40 near I-70 West. Four of the six sites were documented on the Maryland Historic Sites Inventory by the Maryland Historical Trust (MHT) but were not listed as National Historic Register Properties.

C. Agricultural Land Preservation

The rezoning site is located outside of the County's designated Priority Preservation Area (PPA). The PPA boundary terminates just east of the Rural

Village (RV) District shown previously. There will be no impact on County agricultural land preservation efforts as a result of this rezoning.

Additional Considerations

A. Emergency Services.

The Hagerstown Regional Airport's Fire Department (Station 35) is the nearest emergency services provider to this site, located approximately three miles west of the Airport.

B. Comprehensive Plan Design.

The 2002 Comprehensive Plan designated this site as falling within the Rural Village Policy Area in its Land Use Plan.

C. Hours of Operation, Employees.

The anticipated hours of operation for the proposed auto body repair shop are Monday through Friday, 8 a.m. to 8 p.m., with two onsite employees. The preliminary Site Plan estimates that the business will receive two daily customers and the same number of deliveries by small truck or van daily.

D. Parking Lot, Outward Appearance.

There were comments submitted by some members of the Rural Village, which expressed concern regarding the business becoming an "eyesore," lighting becoming a nuisance, and the business becoming a "used car lot." As it pertains to the general appearance of the parcel, the Applicants would still need to adhere to the Zoning Ordinance requirements of Section 5D for the portion of the parcel not receiving the Rural Business overlay and Section 5E for the portion of the parcel receiving the overlay. Section 5E has requirements pertaining to signage, lightning, and buffering, which would address most concerns. As it pertains to the business appearing like a "used car lot," this approved Rural Business District overlay can only be used for a body repair shop as that was the use identified on the application and preliminary site plan, in accordance with

section 5E.6(e). The Applicants noted in their justification statement that they likely would be working on 2-3 cars at time. . At the public hearing, the Applicants were agreeable to a limit of no more than 5 vehicles could remain outside in the parking lot, not including the applicant's personal vehicles, as a condition of approval of their application for map amendment.

Recommendations

The Washington County Planning Commission took action at its regular meeting held on December 4, 2023, to recommend approval of Map Amendment RZ-23-006 to the Board of County Commissioners. The Planning Commission considered the application, the supporting documentation submitted with the application, including the data required by 5E.6(a) 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 RB Overlay District in Section 5E.

Based upon this information, the Planning Commission found that the application can meet criteria set forth in Section 5E of the County's Zoning Ordinance to place the RB 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.

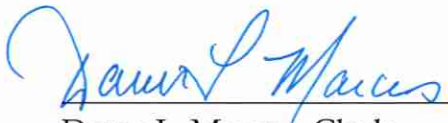
Conclusion

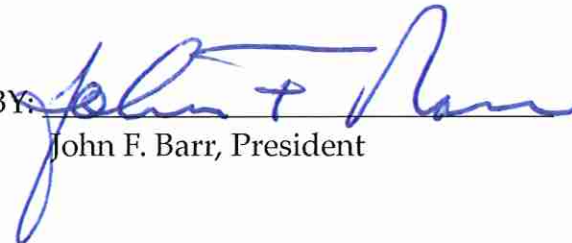
Pursuant to Zoning Ordinance section 5E.6(e), the Board may impose conditions to be addressed at the time of final site plan approval, which in this case would include the requirements outlined by the Washington County Engineering Department as it pertains to Reidtown Road improvements and to the proposed driveway for the Applicant's business. Pursuant to Zoning Ordinance section 27.4, the Board may impose conditions to preserve or protect the general character and design of the surrounding zoning district. In this case, such conditions are that parcel cannot be subdivided and cannot have more than 5 cars present outside, excluding the Applicants' personal vehicles.

Based on the information provided by the Applicants in the initial application, further analysis by Staff, and the conditions agreed to by the Applicant, the Board of County Commissioners believes that there is sufficient evidence submitted to meet the criteria outlined in Article 5E of the Zoning Ordinance, to support the application of a Rural Village (RV) with Rural Business (RB) District floating zone to the subject area. Changes to the use, intensity, or area covered by an approved Rural Business District Overlay shall be reviewed by the Planning Commission and may require a new public hearing to approve changes.

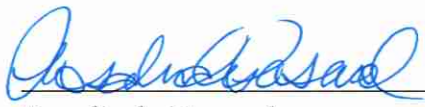
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