

ORDINANCE NO. ORD-2025-13

**AN ORDINANCE TO AMEND THE ZONING MAP
FOR WASHINGTON COUNTY, MARYLAND
(RZ-25-001)**

Pursuant to the provisions of Section 5E *et seq.* of the Zoning Ordinance for Washington County, Maryland (*Zoning Ordinance*), Myron and Hazel Horst, the Applicants, have petitioned the Board of County Commissioners of Washington County, Maryland (*Board*), seeking to apply the Rural Business (RB) floating zone over a 1.68-acre portion of their property located at 6821 Sharpsburg Pike, which is currently zoned Preservation (P) with Antietam Overlay 2 (AO-2) District.

The matter has been designated as Case No. RZ-25-001.

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 May 20, 2025, 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-25-001 be, and hereby is, designated as Preservation (P) with Antietam Overlay 2 (AO-2) District and 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.

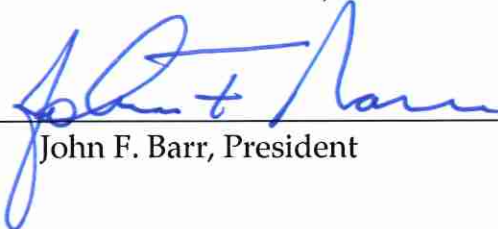
Adopted and effective this 3rd day of June, 2025.

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:


Aaron Weiss
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-25-001

Property Owner:	Myron and Hazel Horst
Applicants:	Myron and Hazel Horst
Requested Zoning Change:	Preservation (P) with Antietam Overlay 2 (AO-2) District and Rural Business (RB) overlay
Property:	6821 Sharpsburg Pike, Sharpsburg, Maryland 21782 (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 Applicant at a Public Hearing on April 7, 2025, 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:

The subject parcel is located on the east side of Sharpsburg Pike (MD-65) at its intersection with Taylors Landing Road. The property subject to this rezoning encompasses 10.7 acres of agricultural land, 1.68 acres of which would be encumbered with the Rural Business (RB) floating zone.

The property contains a single-family dwelling, barn, and a recently constructed garage/office building. The garage/office building was originally

permitted as an agricultural support building for various farm related purposes in 2020.

In addition to the Preservation (P) base zoning which is applied to the property, the parcel also falls within the Antietam Overlay-2 Zoning District (AO-2). The AO-2 District extends 1,000 feet east/west from the road centerline along this stretch of MD-65, encumbering multiple properties south of Bakersville Road and Keedysville Road for approximately 1 mile south of this intersection. It defines an approach buffer to Antietam National Battlefield which is designated to regulate the exterior appearance of all commercial and non-residential uses, excluding farm structures, to preserve the historic character of the road corridor on the approach to the Battlefield. The AO-2 is also applied to many other properties along three other road segments on MD-65 and MD-34 (Shepherdstown Pike), in or immediately around the Towns of Sharpsburg and Keedysville.

There are no known sensitive environmental areas on the property.

CRITERIA ANALYSIS

Availability of Public Facilities

Water and Sewer

The adopted Water and Sewerage Plan for the County establishes the policies and recommendations for public water and sewer infrastructure to help guide development in a manner that helps promote healthy and adequate service to citizens. By its own decree, the purpose of the Washington County Water and Sewerage Plan is "...to provide for the continued health and well-being of Washington Countians and our downstream neighbors..."¹ This is achieved through implementing recommendations within the County Comprehensive Plan and the Water and Sewerage Plan to provide for services in a timely and efficient manner and by establishing an inventory of existing and programmed services.

A. Water

¹ Washington County, Maryland Water and Sewerage Plan 2009 Update, Page I-2

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 on the property is depicted on Washington County Plat 4918, which subdivided the subject lot in 1996. The preliminary site plan in this application also locates the well. Well locations are approved by the Washington County Health Department. The Health Department is also responsible for monitoring wells for water quality issues.

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 the recorded plat noted above and on the Preliminary Site Plan (PSP). The Applicant's justification statement asserts that, "The intended use will not create any sewage disposal, water supply, stormwater or other issues that are not above and beyond impacts already accounted for by the current residential use onsite."

The Washington County Health Department is responsible for approving the location and method of sewage disposal on individual properties in the County. A copy of this rezoning application was routed for the Health Department for their review. They offered no substantive comment.

Stormwater Management

The applicant's Justification Statement comment regarding development related effects on stormwater was noted above. SWM facilities are not shown on the preliminary site plan included with the application.

The Washington County Department of Engineering had no comment when routed the application for review.

Floodplain

The proposed rezoning site does not contain floodplain area.

Bulk Regulations

Zoning setbacks are shown on the applicant's PSP and on the recorded plat for this lot previously discussed.

Fire and Emergency Services

The Fairplay Community Volunteer Fire Company of District 12 is the nearest emergency services provider to this site, located approximately 2 miles northwest. The Division of Emergency Services had no comment when routed a copy of the application.

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

The 2002 Comprehensive Plan designated this site as falling within the Preservation Policy Area in its Land Use Plan. This Policy Area is the focus of rural land preservation area efforts. It includes the County's designated Rural Legacy Area, federal lands, state parks, state wildlife management areas, county parks, Edgemont Watershed, and most of the mountaintops as well as the Potomac River. Purchase of development easements to support preservation efforts in this area is encouraged. Limited development to support the goals and objectives of preserving the resources of this area is a priority.

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.4 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 or more peak hour trips or where 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 to the Board of County Commissioners after 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 uses or structures.

To be established, RB districts must also meet bulk requirements outlined in Article 5E.5. A preliminary site plan which addresses the elements noted above and other criteria in 5E.6.a(3) in greater detail is also a required part of the application process. Finally, approval of the application to create an RB District shall only be for the use identified on the application and PSP. An approved RB District covers only the portion of the parcel or lot identified in the application. Changes to the use, intensity, or area covered by an approved RB District shall be

reviewed by the Planning Commission. A new public hearing may be required to approve the changed use.

Compatibility with Existing and Proposed Development in the Area

A. Zoning

As defined above, one purpose of the floating zone is to *"establish locations for businesses and facilities not otherwise permitted in the rural areas of the County."* "Auto Sales and Services" are listed together as a single principal permitted use within an RB Zoning District in the Table of Land Use Regulations for Rural Areas in Article 3 of the Zoning Ordinance. Under the current P zoning, the proposed use would not be permitted.

The applicant's Justification Statement also contends that the proposed tire repair shop would *"support the agricultural industry and farming community,"* fulfilling one of the other stated purposes of the RB Zoning District.

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 update.

B. Land Use in the Vicinity

The surrounding lands contain a mixture of rural zoning classifications and accompanying land uses as seen in the image at left. As noted previously, most properties in the immediate area are zoning Preservation (P). These properties include a mix of minor residential subdivisions along major roads, and larger agricultural parcels further away from MD-65.

The Antietam Overlay-2 zone (Battlefield Approach) encompasses the area previously described in the report introduction from Bakersville Road and Keedysville Road south along MD-65.

The Antietam Overlay-1 zone (Battlefield Buffer) follows to the south of the AO-2 corridor and encompasses the lands of Antietam National Battlefield.

The Historic Rural Village of Bakersville is found in the Rural Village Zoning District to the northwest of the subject property.

Larger agricultural parcels are then found in the Agricultural Rural (AR) lands to the north.

There are also two other existing RB Zoning Districts in the immediate vicinity providing prior precedent for commercial uses along this stretch of MD-65. These adjacent rural businesses include:

- Stoney Hollow Gifts at adjacent parcel to south – originally permitted as an antique shop, noted in Applicant's Justification Statement as being an auction house.
- 6508 Sharpsburg Pike – former Clara Bee Gift Shop with Antietam Battlefield diorama, currently used as an apartment building.

C. Historic Resources.

As the property is in close proximity to Antietam National Battlefield, there are numerous existing historic sites within ½ mile or less of this proposed rezoning site that should be considered in evaluating its compatibility. As previously discussed, the site lies within the AO-2 zoning overlay which encompasses the approach to Battlefield. The northern boundary of the Battlefield is roughly .25 miles south of the subject property.

Beyond the numerous historic resources pertaining to the Battlefield, there are 11 sites described in the Maryland Historic Trust Inventory of State Historic Sites as follows:

- WA-II-303: "Remsburg Farm" (400' southwest) – Early 20th century farm complex with 2-story frame house, bank barn, and several outbuildings
- WA-II-318: "Brick Church Building" (550' southwest) – Late 19th century brick building, formerly a Brethren Church that may have served as a temporary hospital after the Battle of Antietam, now converted to a dwelling.
- WA-II-1144: "Ritchie Property" (.5 miles southwest) – Mid-19th century farm complex with roughly a dozen contributing structures (2-story

stone dwelling, 2-story frame house, stone log house, stone bridge, family cemetery, variety of domestic outbuildings of frame, log and stone construction). These contributing structures encompass what were formerly multiple farmsteads including those listed under the following MHT listings:

- WA-II-1121: "Spring Wood Farm"
- WA-II-1136: "Jacob Coffman House and Cemetery"
- WA-II-359: "A. Hammond House/Sharon L. Hall Property" (.25 miles southeast) – Mid-19th century farm complex with 2-story brick farmhouse, frame barn, and outbuildings.
- WA-II-358: "Late 19th Century Farmstead" (.5 miles northeast) – Late 19th century farm complex with 2-story brick farmhouse, bank barn, and outbuildings.
- WA-II-453: "Mid-19th Century Brick Farm Complex" (.5 miles west) – Mid-19th century farm complex including 2-story brick farmhouse and frame barn.
- WA-II-325: "Eakle-Poffenberger House" (.33 miles north) – Early 20th century 2-story frame farmhouse and outbuildings.
- WA-II-329: "Mid-19th Century Brick Farmhouse" (.4 miles north) – Mid-19th century 2-story brick farmhouse with smoke house and bank barn.

D. Agricultural Land Preservation

The proposed rezoning site is located within the heart of the County's designated Rural Legacy Area (RL). The program was created to focus on some of Maryland's best natural, agricultural, historical, and cultural areas and Maryland's most significant rural landscapes. The Program encourages local governments and private land trusts to identify Rural Legacy Areas and to competitively apply for funds to complement existing lands and preservation efforts or to develop new ones. Easements are sought from willing landowners in order to protect areas vulnerable to sprawl development that can weaken an area's natural resources, thereby jeopardizing the economic value of farming, forestry, recreation, and tourism. The RL is heavily concentrated in this area of southern Washington County in the lands around Antietam Battlefield.

In service of the above objectives, the property itself is encumbered with an easement from the Maryland Environmental Trust (MET). MET works with the Maryland Department of Natural Resources to engage landowners who are willing to donate a conservation easement for tax deductions, tax credits, and land protection purposes. The purpose of the MET easement is, according to language contained in the deed of easement is for:

"...conserving the dominant scenic, cultural, rural, historical, archeological, agricultural, woodland, and wetland character of the Property...preventing the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its open-space condition and in protecting the viewshed and landscape surrounding the Antietam Battlefield."

Present and Future Transportation Patterns

A. Traffic Generation

Traffic counts on County and State roads in the vicinity of the rezoning site provide limited insight on traffic flow or congestion that might be impacted with an expanded business at this location. Single day traffic counts were collected for one 24-hour period in 2016 at three local road intersections with Sharpsburg Pike in the immediate vicinity of the subject site. The counts for these three locations are noted below:

- Taylors Landing Road at Sharpsburg Pike (300 feet west): 388 vehicles
- Bakersville Road at Sharpsburg Pike (.50 miles northwest): 722 vehicles
- Keedysville Road at Sharpsburg Pike (.50 miles northeast): 934 vehicles

Until 2020, the Maryland State Highway Administration (SHA) maintained a traffic counter approximately 2 miles north of the site, near the intersection of MD-65 and MD-63 (Spielman Road).

These counts indicate an increase in traffic traveling north/south on MD-65 during the last twenty years. A high of 9,363 vehicles was counted in 2019 after traffic remained largely steady at around 8,500 annual average daily traffic volumes (AADT). The 2019 figure represents a 20.4% increase in the last twenty years (or 1% annually).

As noted previously, the requirements of the RB District require 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 applicant's justification statement asserts that "*The intended use will not generate more than 15 peak hour trips.*"

B. Road and Site Circulation Improvements

The site is located directly on Sharpsburg Pike. The road is classified as an Other Principal Arterial (Non-Interstate) in the Functional Road Classification portion of the Transportation Element in the County's 2002 Comprehensive Plan. This classification accounts for mobility and access characteristics of the roadway in its categorization. Non-Interstate Arterial roads are designed to carry greater than 5,000 Average Daily Traffic in rural areas. The County's road classification system is based upon the Federal Highway Functional Classification System, but modified to reflect local road conditions.

A review of the County's 10-Year CIP and the State Highway Administration's Consolidated Transportation Plan did not note any road improvements in the vicinity of this proposed rezoning that would affect road capacity or traffic flow.

The Highways Plan in the 2002 Comprehensive Plan and in the current draft of the Comprehensive Plan update also do not propose notable road projects for this portion of MD-65. Much of the current attention for that roadway in transportation planning documents focuses on improvements to the MD-65/I-70 interchange, or widening of the state highway from that point to Lappans Rd.

The Hagerstown/Eastern Panhandle Metropolitan Planning Organization's current Long Range Transportation Plan does call for long-term widening of MD-65 all the way to the Town of Sharpsburg. This is, however, a long-term project, not slated for implementation prior to 2036.

The Applicant's preliminary site plan does not anticipate any access changes from the property to MD-65.

SHA and the Washington County Department of Engineering had no comment when routed the application for review.

Conclusion

Based on the information provided by the Applicants in the initial application, further analysis by Staff and the recommendation of the Planning Commission, 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 Preservation (P) 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 be required a new public hearing to approve the changes.

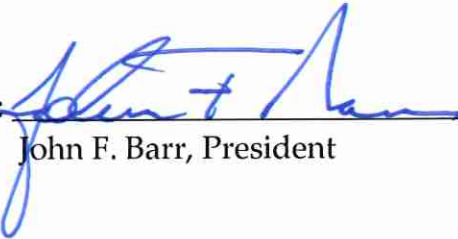
ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY,
MARYLAND



Dawn L. Marcus, Clerk

BY:



John F. Barr, President

Approved as to form and legal sufficiency:



Aaron Weiss
Assistant County Attorney