



FOR PLANNING COMMISSION USE ONLY  
 Rezoning No. \_\_\_\_\_  
 Date Filed: \_\_\_\_\_

WASHINGTON COUNTY PLANNING COMMISSION  
 ORDINANCE TEXT AMENDMENT APPLICATION

Washington County Board of County Commissioners \_\_\_\_\_

Applicant

100 W. Washington St., Hagerstown, MD 21740

Address

Jeff Cline, President

Primary Contact

same

Address

- Property Owner       Contract Purchaser  
 Attorney             Consultant  
 Other: Elected Body \_\_\_\_\_

240-313-2200

Phone Number

contactcommissioners@washco-md.net

E-mail Address

- Adequate Public Facilities Ordinance  
 Forest Conservation Ordinance  
 Subdivision Ordinance  
 Solid Waste Plan

- Water and Sewer Plan  
 Zoning Ordinance  
 Other \_\_\_\_\_

Articles 3, 12, 13, 14, 17, 18, 19, 19C, 21, & 28A  
 Section No. \_\_\_\_\_

Please provide the proposed text on a separate sheet of paper as follows: strike-through should be used for deletions [~~deletions~~], unchanged wording in regular type, and new wording should be underlined [new wording].

\_\_\_\_\_  
 Applicant's Signature

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires on \_\_\_\_\_

\_\_\_\_\_  
 Notary Public

FOR PLANNING COMMISSION USE ONLY	
<input type="checkbox"/> Application Form	<input type="checkbox"/> Proposed Text Changes
<input type="checkbox"/> Fee Worksheet	<input type="checkbox"/> 30 copies of complete Application
<input type="checkbox"/> Application Fee	

## Proposed Text Amendments for RZ-22-004

### ARTICLE 3. DISTRICTS ESTABLISHED; ZONING MAPS, DISTRICT BOUNDARIES; LAND USE REGULATIONS (RURAL AREA USES)

#### Section 3.3 Land Use Regulations

LAND USES	A(R)	EC	P	RV	RB	IM	Intensity of Use
<b>Q. Transportation and Warehousing</b>							
Airports, private or landing fields, and heliports, subject to the Provisions of Article 21.	SE	SE	SE	N	N	N	N/A
Commercial parking lot or garage	N	N	N	N	P	N	LOW
Contractor's equipment and Storage yards	SE	SE	SE	SE	P	N	MODERATE
Explosives Storage	SE	SE	SE	N	N	N	N/A
Mini-warehouses excluding outside storage or outside uses	N	N	N	N	P	N	LOW
Mixed use buildings including warehouses, wholesale and retail sale <u>where the gross building area is less than 1,000,000 sq. ft.</u>	N	N	N	N	P	N	MODERATE
<u>Mixed use buildings including warehouses, wholesale and retail sale where the gross building area is greater than or equal to 1,000,000 sq. ft.</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>SE</u>	<u>N</u>	<u>N/A</u>
Warehouses, <u>Gross building area less than 1,000,000 sq. ft.</u>	N	N	N	N	P	N	MODERATE
<u>Warehouses, Gross building area greater than or equal to 1,000,000 sq. ft.</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>SE</u>	<u>N</u>	<u>N/A</u>

### ARTICLE 12 "BG" BUSINESS, GENERAL DISTRICT

#### Section 12.1 Principal Permitted Uses

(a) Retail trades, businesses and services, including but not limited to the following and any use permitted in the BL District, subject to the use regulations specified in that district.

Wholesale business, warehousing with gross building area less than 1,000,000 sq. ft or service establishments, except as first allowed in an "IR" or "IG" District.

#### Section 12.2 Special Exception Uses (Requiring Board Authorization After Public Hearing)

(m) Wholesale business, warehousing with gross building area greater than or equal 1,000,000 sq. ft or service establishments, except as first allowed in an "IR" or "IG" District.

### ARTICLE 13 "IR" INDUSTRIAL, RESTRICTED DISTRICT

#### Section 13.1 Principal Permitted Uses

(a) Uses of a light industrial nature including, but not limited to the following:

Warehouses as defined in Article 28A with gross building area less than 1,000,000 sq. ft.

Section 13.2 Special Exception Uses (Requiring Board Authorization After Public Hearing)

Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

**ARTICLE 14 "IG" INDUSTRIAL, GENERAL DISTRICT**

Section 14.1 Principal Permitted Uses

(e) Any use permitted or as regulated as a principal permitted or special exception in the "IR" District, except as hereinafter modified.

Section 14.2 Special Exception Uses (Requiring Board Authorization After Public Hearing)

(c) Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

**ARTICLE 17 "PB" PLANNED BUSINESS DISTRICT (SHOPPING CENTERS)**

Section 17.1 Principal Permitted Uses

Only uses permitted in the BL or BG Districts shall be permitted. However, no animal hospitals, veterinary clinics, or kennels shall be permitted. No residential or industrial uses or Outdoor Advertising Signs shall be permitted. Only warehouses with gross building area less than 1,000,000 sq. ft. are principally permitted.

Section 17.1.1 Special Exception Uses (Requiring Board Authorization After Public Hearing)

(c) Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

**ARTICLE 18 "PI" PLANNED INDUSTRIAL DISTRICT (INDUSTRIAL PARK)**

Section 18.1 Principal Permitted Uses

(c) Wholesale warehousing establishments with gross building area less than 1,000,000 sq. ft. where no retail sales are permitted.

(d) Truck terminals or warehouses with gross building area less than 1,000,000 sq. ft.

Section 18.2 Prohibited Uses

(h) Special exception uses in "IR" and "IG" Districts, ~~with the exception of Solar Energy Generating Systems in accordance with Section 4.26.~~

Section 18.2.1 Special Exception Uses

(a) Solar Energy Generating Systems in accordance with Section 4.26.

(b) Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

**ARTICLE 19 "HI" HIGHWAY INTERCHANGE DISTRICT**

Section 19.2. Principal Permitted Uses

(a) All Principal Permitted Uses allowed in the BL, BG, PB, and ORT Districts. Also permitted are all Principal Permitted Uses in the IR District except heliports, warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft., and Commercial Communications Towers.

Section 19.3. Special Exception Uses (Requiring Board Authorization after Public Hearing)

(g) ~~Truck stops.~~ Warehouses as defined in Article 28A with gross building area greater than or equal to 1,000,000 sq. ft.

(h) Public utility buildings, structures, or uses not considered essential utility equipment, as defined in Article 28A.

(i) Commercial Communications Towers, subject to the requirements of Section 4.22.

**ARTICLE 19C - "SPECIAL ECONOMIC DEVELOPMENT DISTRICT"**

Section 19C.2. Principal Permitted Uses

Warehouses with gross building area less than 1,000,000 sq. ft.

Section 19C.3. Special Exception Uses

Warehousing with gross building area greater than or equal to 1,000,000 sq. ft

**ARTICLE 21 "AP" AIRPORT DISTRICT**

Section 21.4 AP - Airport District

Section 21.41 Principal Permitted Uses

(c) Uses of a light industrial nature including, but not limited to the following:

Wholesale warehousing establishments with gross building area less than 1,000,000 sq. ft. where no retail sales are permitted.

Truck terminals or warehouses with gross building area less than 1,000,000 sq. ft.

Section 21.42 Special Exception Uses (Requiring Board Authorization After Public Hearing)

(f) Warehousing with gross building area greater than or equal to 1,000,000 sq. ft

## ARTICLE 28A - DEFINITIONS

### **Truck Stop:**

~~A structure or land used or intended to be used primarily for the sale of fuel for trucks and, usually long-term truck parking, incidental service or repair of trucks, overnight accommodations, or restaurant facilities open to serve the general public; or a group of facilities consisting of such a use and attendant eating, repair, sleeping or truck parking facilities. As used in this definition, the term "trucks" does not include any vehicle whose maximum gross weight is 10,000 pounds or less, as rated by the State Motor Vehicle Administration.~~



DEPARTMENT OF PLANNING & ZONING  
COMPREHENSIVE PLANNING | LAND PRESERVATION | FOREST CONSERVATION | GIS

RZ-22-004

November 2022

**WASHINGTON COUNTY ZONING ORDINANCE  
STAFF REPORT AND ANALYSIS**

**ARTICLES 3, 12, 13, 14, 17, 18, 19, 19C, 21 & 28A**

**Proposal:** Application has been made by the Board of County Commissioners of Washington County to amend several sections of the Zoning Ordinance to remove truck stops as a special exception use in the Highway Interchange (HI) district and to require warehouses with gross building areas greater than or equal to 1,000,000 sq. ft. to be special exception uses in all districts where warehouses are currently permitted.

**Staff Report:** Electronic commerce (E-commerce) has rapidly expanded in recent years hastened by the social changes brought about by the COVID-19 pandemic. Two primary focus points of e-commerce is having a large supply inventory as well as fast delivery service. This has created increased demand for inventory warehousing, regional distribution facilities, and freight carriers.

As an expected side effect, there has been a proportional increase in truck and other freight delivery services on local road networks. In addition to localized truck traffic, there has been a continued increase in interstate through traffic especially on Interstate 81. It is projected that truck traffic on both I-70 and I-81 will continue to increase as e-commerce and consumer demand continues to increase. With increased truck traffic has also come the need for services related to those employed by this industry. This most frequently takes the form of truck stops, convenience stores, lodging facilities and parking facilities to assist truck drivers to meet federal limits on driving hours.

This has culminated in concerns from the public regarding traffic congestion, safety, and environmental concerns. In response to these concerns the applicant has proposed the afore referenced text amendments.

**Analysis:**

The proposed amendments effect two different use types currently included within the zoning ordinance. While the two uses are similar in their function, the impacts of the text amendments will have different effects, therefore staff will analyze the changes separately.

Warehouses/Distribution Facilities

Through September 2022, there have been numerous applications made for review of warehouse/distribution facility projects in the County. A total of 22 buildings have been proposed

with 4 currently under roof for a total of 3.1 million square feet in the County. The City of Hagerstown has also experienced an influx of warehouse projects including 7 buildings with 4 currently under roof for a total of nearly 2.2 million square feet.

While there is no singular data source that can predict how many more warehouses may want to locate to the area, it is generally accepted that as long as e-commerce continues to grow, so will the need for additional warehouse and distribution centers to accommodate consumer demand. Logically, the intersection of two of the most significant eastern seaboard interstates that have both north-south and east-west directionals would prove to be a highly desirable location for these types of facilities. This puts Washington County in particularly high demand for placement of these uses.

The County is not a stranger to this phenomenon. Our economic prosperity has always been heavily linked to the influences of transportation. Modes of transportation have changed over the years from horse drawn carriages, to railroads, to the C&O Canal, to now interstates. Freight movement is integral to the success of not just our local economy but to the overall national economy.

Of particular concern in the moment is the overbearing size of these new facilities, almost all new warehouses include at least 500,000 sq. ft. of area while some are ballooning to over 1 and even 2 million square feet. These significant projects have drawn the attention of the public as they typically convert large amounts (50 to 100 acres) of existing farmland or other urban open space. This has led to the perception that we are losing farmland too rapidly and not planning for the impacts on our road networks and environmental resources.

These public perceptions have led the applicant to the conclusion that larger warehouses, defined as 1,000,000 sq. ft. or larger should have additional public scrutiny in the form of a special exception use that requires a public hearing. This would permit an additional forum for public review and comment on projects that may have concerns related to the scale and compatibility of larger buildings on the community.

### Truck Stops

The applicant has stated that their reasoning for removing truck stops as a special exception use in the Highway Interchange zoning district was due to potential safety threats to County citizens such as human trafficking, traffic congestion, and vehicular accidents. There was also concern raised about already existing deficiencies in interstate capacities, specifically I-81, and local contribution to those deficiencies.

Several newspaper articles were cited as evidence that Washington County has a high rate of potential for human trafficking as well as fatalities on our roadways. Several articles have been published in the local newspaper, the Herald Mail, pertaining to various instances of criminal activity and vehicular fatalities associated with sections of interstate located within the county.

One effect of removing truck stops as a special exception use in the Highway Interchange zoning district is that there will no longer be any references to truck stops in the zoning ordinance in

totality. Therefore, the definition of a truck stop is also being stricken from the document in order to limit confusion as to having a definition of a use that isn't listed within the ordinance. While the perception is that this will effectively ban truck stop uses from being permitted in Washington County, the actual effect is that there will now be ambiguity in the ordinance as to what actually constitutes a truck stop. Without a definitive reference to a particular use within the ordinance, it is left up to interpretation what the definition of a truck stop is and where it could be appropriately located.

In addition to the administrative pit falls that this amendment could create, there is a lack of evidence provided to indicate why truck stops are believed to be a greater threat to our community than any other similar trucking or freight movement use in the Highway Interchange district. Evidence provided by the applicant included references to local newspaper stories and repeated statements by County and State elected officials that Interstate 81 has become dangerous and needs widening. One newspaper article cited by the applicant noted a recent application made by the State of Maryland to obtain Federal grant funding for the purpose of widening I-81. The statement made in the application is that "Maryland is recognized as having the most dangerous stretch of I-81 in the country...".<sup>1</sup> While this is compelling information, the grant application does not implicate any particular segment of the transportation economy as being a singular cause of highway capacity or safety issues. So while there has been evidence provided that I-81 has documented capacity and safety issues, it seems arbitrary and capricious to attribute these issues to just truck stops and/or warehouses.

Additional evidence cited by the applicant is another newspaper article that headlined a question asking "A unique sweet spot: Is Washington County becoming a hub for sex trafficking?". The article specifically mentions truck stops and lodging facilities that "can serve for clandestine meetings". The article provides no statistics on actual reported cases of human trafficking in the County but does reference that from January through August of 2022, 18 cases have been referred to anti-trafficking officials for assistance that include an undetermined mix of those who have been trafficked or of risk to be trafficked. No information was provided as to whether or not any of the 18 cases occurred on properties containing truck stops.

By citing this information, it further brings to light the arbitrary and capricious nature of the proposed amendments. If part of the reasoning for removing truck stops as a use in the Highway Interchange district is its attraction of human traffickers, then it stands to reason that any uses (i.e. lodging facilities) that could attract illicit behavior should also be removed as a permitted use.

**Staff Recommendation:** The primary concern addressed in these text amendments revolve around the fact that our County contains two of the most significant and heavily traveled interstates in the country. Our proximity to these facilities undoubtedly makes our area vulnerable to negative impacts such as traffic congestion, safety, and environmental concerns. Therefore, the question at hand is how we can protect the public health, safety and welfare of our community while also acknowledging the necessity and importance of interstate facilities to not just our local economy but the country's economy as well.

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<sup>1</sup> I-81/Halfway Boulevard Freight Connections: Providing Opportunities for Economic Growth, Equitable Job Access, and Improved Safety; FY 2021 INFRA grant application; March 19, 2021



This question is true of any land use and is first addressed through development of the Comprehensive Plan. It is within the development of a Land Use Plan for the County that citizens voice their opinions about growth and its impacts. Specific to the amendments being proposed in the case, the Comprehensive Plan contains a Transportation Element that expands upon the multi-modal aspects of transportation necessitated by the various types of land uses and their locations. As noted in the goods movement section of the transportation element, *“The intersection of two major interstate systems provides a logical impetus for development of truck transportation. Several national companies along with major regional carriers have large terminals or warehouse/distribution centers in the area. The total terminal capacity greatly exceeds local requirements, clearly showing the importance of Washington County in freight transfer operations.”*

Noting the need and expectation of the continued growth of economic development in and around interstate facilities, the plan includes a land use policy area called Industrial Flex. As stated in the plan, *“This classification [Industrial Flex] reflects a hybrid policy area comprised of different types of economic development associated land uses. It is an outgrowth of the change taking place in the workplace as more and more jobs move from manufacturing to the hi-tech and service sectors of the economy. Most of the land zoned Industrial Restricted, Planned Industrial, and Airport, as well as a large portion of the Highway Interchange One zoned area not developed or anticipated to be developed as commercial are located in this policy area. Existing and anticipated land uses associated with this policy area include light industrial parks, office parks, research and development facilities, hi-tech communication and technology facilities, trucking and distribution facilities, and commercial uses that support job centers. These policy areas are located around the interchanges on I-81 and I-70 in the Urban Growth area...”*

Following the adoption of the Comprehensive Plan, comprehensive evaluation of all zoning in the County was completed. It was conducted in three phases that started with the rural areas of the County that was adopted in 2005, followed by town growth areas in 2012 and finished with the urban growth area in 2015. Zoning was applied in accordance with the policy areas set forth in the Comprehensive Plan. It should be noted that nearly all locations where warehouses and/or truck stops have been developed or contemplated fall within the Industrial Flex policy areas delineated in the land use plan and were given appropriate zoning classifications to follow the guidance of the Industrial Flex policy area.

The Board of County Commissioners recommendation to require warehouses greater than or equal to 1,000,000 sq. ft. obtain special exception approval does not seem to be counterintuitive to the policies and recommendations of the Comprehensive Plan. The recommended amendments do not ban the use but applies more public scrutiny to larger developments that may have larger impacts on the community.

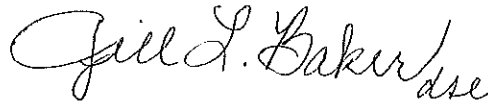
The recommendation to remove truck stops as a special exception use from the Highway Interchange district and consequently as a use entirely from the zoning ordinance does not appear to be in harmony with the policies and recommendations of the Comprehensive Plan or of the Zoning Ordinance. As a basic tenet of land use planning and zoning, it is never a preferred method to ban uses without significant evidence of public nuisance or harm. The public perception of

trucks stops attracting more criminal activity than other similar uses that are permitted within the Highway Interchange has not been substantiated with the evidence provided in this case.

Furthermore, the elimination of truck stops as a defined use; special exception or otherwise is in direct conflict with the policies of the Comprehensive Plan as stated previously as well as the purpose statement of the Highway Interchange zoning which reads, "*The Highway Interchange District is established to provide suitable locations for commercial activities or light industrial land uses that serve highway travelers, provide goods and services to a regional population, or uses that have a need to be located near the interstate highway system to facilitate access by a large number of employees, or the receipt or shipment of goods by highway vehicles.*"

For these stated reasons, Staff recommends denial of these amendments in order to provide consistent implementation of our land use policies and regulations.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jill L. Baker" followed by a small "dse" at the end.

Jill L. Baker, AICP  
Director