



FOR PLANNING COMMISSION USE ONLY
Rezoning No. PZ-25-003
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WASHINGTON COUNTY PLANNING COMMISSION
ORDINANCE TEXT AMENDMENT APPLICATION

Washington Co Dept Planning and Zoning

Applicant
747 Northern Ave Hagerstown, MD
21742

Address
Kyla Shingleton

Primary Contact
Same

Address

- Property Owner
- Contract Purchaser
- Attorney
- Consultant
- Other: _____

240-313-2430

Phone Number
askplanning@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 _____

Section No. 4.3

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

- Application Form
- Fee Worksheet
- Application Fee
- Proposed Text Changes
- 30 copies of complete Application



DEPARTMENT OF PLANNING & ZONING

PLANNING | ZONING | LAND PRESERVATION | FOREST CONSERVATION | GIS

RZ-25-003

February 19, 2025

Section 4.3 Nonconforming Uses

Any building, structure or premises lawfully existing at the time of the adoption of this Ordinance, or lawfully existing at the time this Ordinance is subsequently amended, may continue to be used without further imposition of use, dimensional, buffer or other Ordinance requirements even though such building, structure or premises does not conform to use, dimensional, buffer or other Ordinance regulations of the zoning district in which it is located. ~~(Subject, however to the following provisions:)~~ All nonconforming uses shall be subject to the following provisions:

~~(a) Existing nonconforming single family dwellings in any district may expand without limitation in respect to area and shall meet the least restrictive setbacks for that district. Such dwellings shall be treated as principal permitted uses in that district.~~

~~(b a) All other nonconforming uses shall be subject to review and approval by the Board of Zoning Appeals. In all other zoning districts except the A(R), EC, P and BL districts, In all districts, the Board may approve the alteration, or the expansion of a nonconforming use provided the expansion is restricted to an additional area not exceeding thirty-five (35) percent of the existing use as it existed at the time of nonconforming and provided it meets the guidelines of Section 25.6 of the Ordinance. ~~In the HI district, the Board may approve an alteration or expansion greater than thirty-five (35) percent of a nonconforming mobile home park provided the proposed expansion is consistent with the Comprehensive Plan and meets the guidelines of Section 22.5 and 22.6 of this Ordinance.~~~~

~~(1) In the A(R), EC, P and BL districts, the Board may approve the alteration or the expansion of a nonconforming use without restriction to area provided the proposed expansion is consistent with the Plan for the County, and provided it meets the guidelines of Section 25.6 of the Ordinance. Existing nonconforming single-family dwellings in any district may expand without limitation in respect to area and shall meet the least restrictive setbacks for that district. Such dwellings shall be treated as principal permitted uses in that district.~~

~~(2) No extension expansion may be permitted for ~~(junk yards in accordance with this section)~~ nonconforming junk yards.~~

(b) A nonconforming use may be changed to another nonconforming use of less or equal intensity, provided documentation that the use was legally created, maintained and not abandoned is presented. Whenever a nonconforming use has been changed to a more appropriate use, in the opinion of the Board of Zoning Appeals, such use shall not thereafter be changed to a less appropriate use or classification.

~~(c) Whenever a nonconforming use has been changed to a more appropriate use, in the opinion of the Board, such use shall not thereafter be changed to a less appropriate use or classification.~~

~~(d c) No land, building, structure, or premises where a nonconforming use has ceased for six (6) months or more shall thereafter be used except in conformance with this Zoning Ordinance.~~ If a nonconforming use is discontinued or abandoned, or a nonconforming structure is unused or abandoned, for 6 consecutive months, the land or structure shall not thereafter be used except in conformity with the regulations of the district in which it is located. Cessation of the use for the purpose of repair or remodeling, or a temporary vacancy between occupants while the property is being actively marketed and maintained in good condition, shall not constitute discontinuance or abandonment.

Abandonment of nonconforming uses shall be defined by a lack of active and continuous operation during a 6-month period except as provided in the sections above. Subjective intent shall not be acknowledged as reasoning for continued use of a nonconforming use. Other tangible or mechanical actions that prove the owner's intent to continue the business must be provided to the Board of Zoning Appeals for their approval.

~~(e d) The owner or operator of any existing nonconforming use involving used car lots, service garages, or junk yards shall~~ require a license from the zoning administrator to continue operation of the nonconforming use; to maintain nonconforming status such licenses shall be renewed on an annual basis. ~~,not later than six (6) months, certify in writing, on a prescribed form, to the office of the Zoning Administrator, that such nonconforming use did exist on the adoption date of this Ordinance. In order that the exact nature and extent of such nonconforming use may be determined, a survey plat prepared by a professional engineer or registered surveyor shall accompany any prescribed form. The survey shall include the following:~~

~~(1) North arrow.~~

~~(2) Scale—One inch equal to one hundred feet.~~

~~(3) Election District.~~

~~(4) Outline of parcel or parcels upon which the nonconforming use is located.~~

~~(5) Bearings, distances, and acreage of that portion of the parcel or parcels expressly used for the nonconforming use on the effective date of this Ordinance.~~

~~(6) Use, dimensions, and location of all existing buildings.~~

~~(7) Certification and seal of professional engineer or registered surveyor.~~

(f e) Nothing in these regulations shall prevent the restoration of a nonconforming building or structure destroyed by fire, windstorm, and explosion, act of public enemy, accident, or prevent the continuance of the use thereof as it existed at the time of such destruction provided that a zoning certificate is obtained and restoration begun within one (1) year of said destruction. The zoning administrator may grant one (1) year extension for good cause.



DEPARTMENT OF PLANNING & ZONING
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RZ-25-003

February 28, 2025

WASHINGTON COUNTY ZONING ORDINANCE
STAFF REPORT AND ANALYSIS

Section 4.3

Proposal: This application is proposing to amend the Zoning Ordinance to add clarification to better define when a nonconforming use ceases to exist.

Staff Report: A nonconforming use is a land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. A nonconforming use is considered to be grandfathered into the new zoning district. Nonconforming uses may be changed to another nonconforming use of less or equal intensity but may not be changed back from a more appropriate use. However, if the use ceases there are certain terms that must be met to continue the nonconforming use after cessation. A nonconforming use must be unused or abandoned for twelve consecutive months to lose its nonconforming status.

Analysis: The Washington County Zoning Ordinance states that a nonconforming use is considered abandoned after the use has ceased for a six (6) month period. Case law researched by staff expands upon the cessation issue by finding that intent is needed to disprove abandonment after the cessation period. An example of intent is holding a valid liquor license for a business during a remodel to the business that lasts longer than twelve months. Another example of tangible intent is a property being actively marketed and maintained in good condition when between owners. Owner's subjective intent shall not be an acknowledged reason for the cessation of the use.

Section 4.3 of the ordinance sets forth provisions for nonconforming uses. Currently, the section does not contain language to establish when a nonconforming use has been abandoned. The proposed amendments to the section include multiple deletions and insertions. The deletions are to make the section more concise. The proposed insertions are to add clarifying language and introduce an abandonment clause to the section.

Staff Recommendation: Staff recommends approval of these amendments in order to provide necessary clarifications to the zoning ordinance.

Respectfully submitted,

Kyla M. Shingleton

Comprehensive Planner