

**BOARD OF APPEALS
SEPTEMBER 4, 2019**

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 7:00 p.m.

AGENDA

DOCKET NO. AP2019-019: An appeal made by Bowman 2000 LLC for a special exception to establish a truck stop on property owned by the Appellant and located at 11901 Greencastle Pike, Hagerstown, zoned Highway Interchange - **GRANTED**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Kathy Kroboth at 240-313-2469 Voice, 240-313-2130 Voice/TDD no later than August 26, 2019. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Paul Fulk, Chairman
Board of Zoning Appeals

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

BOWMAN 2000, LLC

Appeal No. AP2019-019

Applicant

OPINION

Bowman 2000, LLC (hereinafter "Applicant") applies for a special exception to establish a truck stop at the subject property. The subject property is an unimproved parcel of land located at 11901 Greencastle Pike, Hagerstown, Maryland; is owned by the Applicant; and is zoned Highway Interchange (HI). The Board held a public hearing on the matter on September 4, 2019.

Findings of Fact

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Applicant is the owner of a 119.578-acre parcel of unimproved land on the east side of Route 63, located at 11901 Greencastle Pike, Hagerstown, Maryland. The property is zoned Highway Interchange (HI).
2. Applicant proposes to subdivide the subject property resulting in a +/- 12.77-acre parcel which will be the resulting subject parcel for the proposed use.
3. The subject property will eventually be bisected by the proposed Halfway Boulevard Extension. The extension project has already been engineered and will extend

Halfway Boulevard to Greencastle Pike, with its terminus at a fully signalized intersection that also includes Business Parkway.

4. Applicant proposes to construct a truck stop that will consist of a retail store, two (2) restaurants, multiple spaces for car and large truck parking, washing stations for both cars and trucks, fueling stations for both cars and trucks, truck scales and a tire repair shop. The proposed use will be open seven (7) days per week and twenty-four (24) hours per day.

5. Applicant proposes to have pylon mounted signage at the access points to the subject property along both Greencastle Pike and Halfway Boulevard Extended.

6. Applicant proposes to use a combination of building mounted, pole mounted and under canopy mounted lighting, all to meet the specifications and standards set forth in the Ordinance.

7. The proposed use will have approximately eighty (80) employees, with a maximum of twenty (20) working during peak hours, and less at other times.

8. Upon development, the subject property will have access points along Greencastle Pike and Halfway Boulevard Extended. Regular vehicle traffic will be permitted at both access points; however, truck traffic will be restricted to the Halfway Boulevard Extended access point.

9. The subject property is located within the Urban Growth Area, Industrial Flex zone.

Rationale

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined

as “a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood.” Article 28A. In the instant case, the Board is called upon to consider a special exception request to establish a truck stop at the subject property.

The Ordinance defines a truck stop as:

...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.

Applicant’s proposed use clearly meets this definition and is a truck stop, for all purposes herein.

At the hearing there were several residents who testified about their concerns for the effect on traffic volume and patterns, given the introduction of heavy truck traffic to the proposed use. There were further concerns about the current traffic volume delaying travel time for the residents of Walnut Point Heights which is situated to the west of the subject property at the end of Business Parkway. Applicant’s counsel testified that the project would result in full signalization of the intersection of Business Parkway, which is likely to improve the traffic patterns and ensure safe ingress and egress in the area. While the concerns raised are legitimate, it does appear that improvements to the intersection are warranted and would serve to address traffic volume and control.

Despite those articulated traffic concerns, there is little else about the subject property or the surrounding properties that would produce more adverse effects at this location as opposed to somewhere else in the zone. This area is designated for intense

uses, with the expectation of through and destination traffic from the highways. While traffic may increase, such an event would be anticipated regardless of the use of the property and will be properly addressed during site plan approval. There is no evidence that excessive noise, odor, dust or gas will be produced that would adversely impact surrounding properties. The Board finds that the proposed use at the subject property will have no greater “adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone.” *Schultz v. Pritts*, 291 Md. 1, 15 (1981). For all of the reasons stated above, the proposed truck stop use has met the criteria for a special exception and should be approved.

Accordingly, the request for a special exception to establish a truck stop at the subject property is hereby GRANTED, by a vote of 5-0. The application is granted upon the condition that the proposed use be consistent with the testimony and evidence presented herein.

BOARD OF APPEALS

By: Paul Fulk, Chair

Date Issued: September 25, 2019