



Prince George's County, Maryland
Inter-Office Memorandum
Office of Law

LEGISLATIVE COMMENT

DATE: March 31, 2021

TO: Robert J. Williams, Jr., Council Administrator
COW Committee

THRU: Rhonda L. Weaver, County Attorney

THRU: Joseph C. Ruddy, Deputy County Attorney

FROM: Amanda Denison, Associate County Attorney

RE: CB-21-2021

The Office of Law has reviewed the above referenced **bill** as it was **presented** on **March 16, 2021** and finds it to be in proper legislative form. The Office of Law sees a potential impediment to its enactment.

CB-21-2021 appears to be a spot zoning legislation. When reviewing potential zoning legislation, the Office of Law looks to ensure that the following criteria do not apply because if they do, there is a potential legal impediment due to spot zoning. Spot zones have the following characteristics:

1. The area of land is small in comparison to the districts surrounding the parcel in question.
 - a. Here the parcel in question would affect 26 properties within the R-A zone, of which 14 properties are located beyond the Plan 2035 Growth Boundary. Therefore, the proposed parcels in question are small in comparison to the greater R-A zone as a whole.
2. The proposed land use will permit a different classified use that is inconsistent with the surrounding area.

- a. Here, the proposed legislation would permit a commercial use, specifically Food and Beverage stores with a Gas Station, within the rural agricultural zone. The RA zone is designated “to provide for large lot, one-family detached residential subdivisions, while encouraging the retention of agriculture as a primary land use; to encourage the preservation of trees and open spaces, and to prevent soil erosion and stream valley flooding.” (Sec. 27-426)
3. The proposed legislation would confer a special benefit to property owners not commonly enjoyed by owners of similar property.
 - a. Here, the proposed legislation would confer a benefit to property owners within the R-A zone whose property aligns with the requirements set forth in Footnote 143. All other property owners would not enjoy the same benefits as their properties, whilst in the same R-A zone do not align with the same requirements. Thus, this benefit singles out certain properties and owners.
4. The new zoning conflicts with the existing master plan and future land use maps.
 - a. Here, the 14 properties affected by this proposed legislation are beyond the Plan 2035 Growth Boundary. The existing master plan, Plan 2035, recommends that R-A zones maintain the rural characteristics.

Authorities:

Prince George’s County Code Sec. 27-426

MBC Realty, LLC v. Mayor and City Council of Baltimore, 2004, 864 A.2d 218, 160 Md.App. 376

Trustees of McDonogh Ed. Fund and Institute v. Baltimore County, 1960, 158 A.2d 637, 221 Md. 550

Hewitt v. County Com'rs of Baltimore County, 1959, 151 A.2d 144, 220 Md. 48.