



## City of Annapolis

Planning Commission  
Department of Planning & Zoning  
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September 7, 2017

**To: Annapolis City Council**  
**From: Planning Commission**  
**Re: Findings for O-26-17: Zoning District Boundary Adjustments**

### SUMMARY

The purpose of Ordinance O-26-17 is to amend Chapter 21.20 of the City Code to alter how landowners with split-zoned property may petition the Board of Appeals for the ability to apply the zoning regulations from one part of their property to the other part of the property that has a different zoning designation. Currently, landowners may petition the Board of Appeals, under Chapter 21.20, only if the new zoning regulation would apply to a small portion of the property (the lesser of twenty percent of the total area of the tract or five thousand square feet) and is in the same zoning subsection<sup>1</sup>.

This ordinance proposes to remove the size limitation as well as one of the review criteria the Board of Appeals uses to determine whether such a boundary adjustment should be granted. An amendment to this ordinance proposed by the Planning Commission (Amendment 2, which will be discussed later in this report) would also eliminate the restriction on applying the regulations from one zoning subsection to another. Therefore, anyone with a split-zoned property could now apply to the Board of Appeals so that the property owners could develop the land under one set of regulations.

### BACKGROUND AND ANALYSIS

Currently there are 502 parcels in the City that are split-zoned. These parcels occur throughout the City and the proportion of the splits range in size. The origin of the split-zoned parcels dates back to the period when zoning was first determined. In the 1970s, zoning districts were not drawn on maps that also showed property lines. When zoning maps and property line maps were merged in the 1990s, it became apparent that numerous properties were split-zoned.

It is not clear if some parcels were intentionally split-zoned in order to create a buffer between a commercially-zoned parcel and a residentially-zoned parcel, for example. Under current City Code requirements, these parcels could only be rezoned with one zoning designation through a zoning map amendment per Chapter 21.34. Zoning map amendments are undertaken following a sector study of the area, a comprehensive rezoning of the entire city following a comprehensive review of all parcels fitting a certain criteria, or a local map

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<sup>1</sup> There are four "zoning subsection" in Title 21: residential districts; commercial and industrial districts; office and mixed use districts; and waterfront maritime districts. This concept is explained further in this staff report in the fourth paragraph under "Background."

amendment based on a mistake made during the City zoning process or a change in the character of the neighborhood. These requirements are mandated by state law.

Prior to 2016, there were 583 split-zoned parcels that were rezoned under Ordinance O-41-15A as part of a general update of zoning maps based on improved mapping technology. These split-zoned parcels included only those parcels where there was less than five feet of difference between a parcel line and a zoning line.

The original intent of the “Zoning Boundary Adjustments” regulations adopted in 1970 was to provide relief to property owners in a situation where a small amount of their property was zoned something different from the majority of the property. For example, if a property owner has a parcel with less than twenty percent of that parcel zoned R1 and the rest of the property zoned R2, the property owner could apply for a boundary adjustment and to develop all of the property under R2 regulations (i.e., the regulations of the larger section of the property). The main implication for this would be smaller required setbacks, as both R1 and R2 are limited to single-family dwellings. Without relief, the property owners would have to apply the larger R1 setbacks to the twenty percent portion of their property (including any house or garage) that is located in the R1 area. It should be noted that currently Chapter 21.20 does not allow a property owner to apply the zoning regulation of the small portion to the entire property.

As currently written, Chapter 21.20 only allows zoning regulations from one district listed in the same subsection of Section 21.06.010 to apply to the rest of the property. Section 21.06.010 establishes the zoning districts and separates them into four “subsections” including residential districts; commercial and industrial districts; office and mixed use districts; and waterfront maritime districts. (The section also lists overlay districts). This means that regulations in a residentially-zoned property under Chapter 21.20 could be applied only in another residentially-zoned property, or the regulations could apply for one commercial district to another commercial district.

The zoning district subsections are shown below:

21.06.010 - Establishment of zoning districts.

For the purpose of this Zoning Code the City is organized into the following zoning districts:

A. Residence districts:

R1	Single-Family Residence
R1-A	Single-Family Residence
R1-B	Single-Family Residence
R2	Single-Family Residence
R2-NC	Single-Family Residence Neighborhood Conservation
R3	General Residence
R3-NC	General Residence Neighborhood Conservation
R3-NC2	General Residence Neighborhood Conservation 2
R3-R	General Residence Neighborhood Revitalization
R4	General Residence
R4-R	General Residence Neighborhood Revitalization
CI	Conservation Residence
CI A	Special Conservation Residence

B. Commercial and industrial districts:

B1	Convenience Shopping
B2	Community Shopping
B3	General Commercial
B3 CD	General Commercial Corridor Design
BCE	Business Corridor Enhancement
BR	Business Revitalization
C2	Conservation Business
C2A	Special Conservation Business
PM2	Professional Mixed Office Park
I1	Light Industrial

C. Office and mixed use districts:

P	Professional Office
MX	Mixed Use
PM	Professional Mixed Office
C2P	Special Conservation Professional

D. Waterfront maritime districts:

WMC	Waterfront Maritime Conservation
WMM	Waterfront Mixed Maritime
WMI	Waterfront Maritime Industrial
WME	Waterfront Maritime Eastport

If the restriction on applying regulations from one subsection to another were removed, more owners with split-zoned property could file for relief. For example, there are parcels on Fourth Street where the lots are split between R2-NC and B2. Previously, if property owners wanted to be able to develop their property as all B2, they would not be able to for up to five reasons:

1. The property owner is not eligible for a local map amendment because the zoning was intentional and there has not been a change in the character of the neighborhood.
2. There is no sectional or comprehensive zoning map amendment effort underway to address all split-zoned parcels in the city.
3. The split portion of the lot exceeded the lesser of twenty percent of the total area of the tract or five thousand square feet
4. The zones were not in the same "subsection" of the zoning code.

The property owner could not meet all of the review criteria including "unique conditions" which is stated as "conditions upon which an application for a zoning district boundary adjustment are unique to the property and are not applicable, generally, to other property within the same zoning classification."

As written, the proposed ordinance would allow property owners to no longer be required to meet "unique conditions" review criteria. The code currently reads:

21.20.030 - Review criteria and findings.

The Board of Appeals may grant a zoning district boundary adjustment based upon the following findings:

- A. Unique Conditions. The conditions upon which an application for a zoning district boundary adjustment are unique to the property and are not applicable, generally, to other property within the same zoning classification.
- B. Public Welfare and Safety. The granting of the district boundary adjustment will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- C. Surrounding Properties. The proposed adjustment will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values with the neighborhood.

The proposed ordinance would remove the first criteria. The Commission recommends that instead of removing this criteria completely, that it be altered to be in accordance with state code that allows that variances "may be only allowed where, owing to conditions peculiar to the property and not because of any action taken by the applicant, a literal enforcement of the zoning law would result in unnecessary hardship or practical difficulty as specified in the zoning law" (Md. LAND USE Code Ann. § 4-206.02).

**RECOMMENDATION**

**Amendment 1**

21.20.030 - Review criteria and findings.

The Board of Appeals may grant a zoning district boundary adjustment based upon the following findings:

- A. Unique Conditions. ~~The conditions upon which an application for a zoning district boundary adjustment are unique to the property and are not applicable, generally, to other property within the same zoning~~

classification. OWING TO CONDITIONS PECULIAR TO THE PROPERTY AND NOT BECAUSE OF ANY ACTION TAKEN BY THE APPLICANT, A LITERAL ENFORCEMENT OF THE ZONING LAW WOULD RESULT IN UNNECESSARY HARDSHIP OR PRACTICAL DIFFICULTY AS SPECIFIED IN THE ZONING LAW.

- B. Public Welfare and Safety. The granting of the district boundary adjustment will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- C. Surrounding Properties. The proposed adjustment will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values with the neighborhood.

The next set of amendments are technical in nature. The proposed ordinance also allows property owners to proceed with a map amendment despite the sizes of the portions of the land that are the split-zoned. The Planning Commission offers two alterations to help clarify and further the goals of the ordinance.

**Alteration 1:** A proposed amendment would also eliminate the restriction on applying the regulations from one zoning subsection to another. Therefore, anyone with a split-zoned property could now apply to the Board of Appeals so that the property owner could develop the land under one set of regulations.

Therefore, currently proposed Section 21.20.010:

21.20.010 - Purpose and authority.

Where a zoning district boundary divides a tract in single ownership, the Board of Appeals, in accordance with the procedures below, may approve an application to extend the zoning district regulations for either portion of the tract to any contiguous portion of the tract included in a zoning district listed in the same subsection of Section 21.06.010 as the regulations being extended; ~~provided, however, that the Board shall not extend the regulations to an extent greater than twenty percent of the total area of the tract or five thousand square feet, whichever is less.~~

would now read:

21.20.010 - Purpose and authority.

Where a zoning district boundary divides a tract in single ownership, the Board of Appeals, in accordance with the procedures below, may approve an application to extend the zoning district regulations for either portion of the tract to any contiguous portion of the tract included in a zoning district listed in the same subsection of Section 21.06.010 as the regulations being extended; ~~provided, however, that the Board shall not extend the regulations to an extent greater than twenty percent of the total area of the tract or five thousand square feet, whichever is less.~~

**Alteration 2:** However, this could create a situation where the owners of a parcel with a small amount of commercial, but majority residentially-zoned property could petition to apply the commercial regulations to the entire parcel, despite the majority residential zone. Therefore, a second amendment would further alter this section to:

21.20.010 - Purpose and authority.

Where a zoning district boundary divides a tract in single ownership, the Board of Appeals, in accordance with the procedures below, may approve an application to extend the zoning district regulations for ~~either portion~~ THE MAJORITY of the tract to any contiguous portion of the tract included in a zoning district listed in the same subsection of Section 21.06.010 as the regulations being extended; ~~provided, however, that the Board shall not extend the regulations to an extent greater than twenty percent of the total area of the tract or five thousand square feet, whichever is less.~~

The Commission proposes both alterations be made under "Amendment 2."

**Amendment 2**

21.20.010 - Purpose and authority.

Where a zoning district boundary divides a tract in single ownership, the Board of Appeals, in accordance with the procedures below, may approve an application to extend the zoning district regulations for ~~either portion~~ THE MAJORITY of the tract to any contiguous portion of the tract ~~included in a zoning district listed in the same subsection of Section 21.06.010 as the regulations being extended;~~ provided, however, that the Board shall not extend the regulations to an extent greater than twenty percent of the total area of the tract or five thousand square feet, whichever is less.

An additional amendment is to update Section 21.06.040 to read the same as Amendment 2. This section of the code has similar language as Section 21.20.010, however it appears in Chapter 21.06 - Zoning Districts and Mapping. The Planning Commission recommends the following code section is changed from:

21.06.040 - Lots divided by zoning district boundaries.

Where a district boundary divides a tract in single ownership, the Board of Appeals, in accordance with the procedures established in Division II, Chapter 21.20 may approve an application to extend the regulations for either portion of the tract to any contiguous portion of the tract included in a zoning district listed in the same subsection of Section 21.06.010 as the regulations being extended; provided, however, that the Board shall not extend the regulations to an extent greater than twenty percent of the total area of the tract or five thousand square feet, whichever is less.

To:

**Amendment 3:**

21.06.040 - Lots divided by zoning district boundaries.

Where a ZONING district boundary divides a tract in single ownership, the Board of Appeals, in accordance with the procedures established in Division II, Chapter 21.20 may approve an application to extend the regulations for ~~either portion~~ THE MAJORITY of the tract to any contiguous portion of the tract included in a zoning district listed in the same subsection of Section 21.06.010 as the regulations being extended; provided, however, that the Board shall not extend the regulations to an extent greater than twenty percent of the total area of the tract or five thousand square feet, whichever is less.

The Planning Commission additionally recommends the establishment of a phased implementation of this ordinance based on a threshold lot size. Smaller parcels should be allowed to go forward with their application, but the impact for larger parcels should be further researched. Initially, the ordinance should be limited to parcels less than an acre in size. The ordinance should also sunset in three years to allow review of the implementation.

On July 6, 2017, the Planning Commission held a public hearing on O-6-17 and subsequently moved to recommend that the City Council adopt ordinance O-6-17. The recommendation was approved with amendments with a vote of 7 to 0

Adopted this 7<sup>th</sup> day of September, 2017



David Iams, Chair