



City of Annapolis

DEPARTMENT OF PLANNING AND ZONING

145 Gorman Street, 3<sup>rd</sup> Floor, Annapolis, Maryland 21401

Chartered 1708

Annapolis 410-260-2200 • FAX 410-263-1129 • TDD 410-263-7943

June 12, 2019

MEMORANDUM

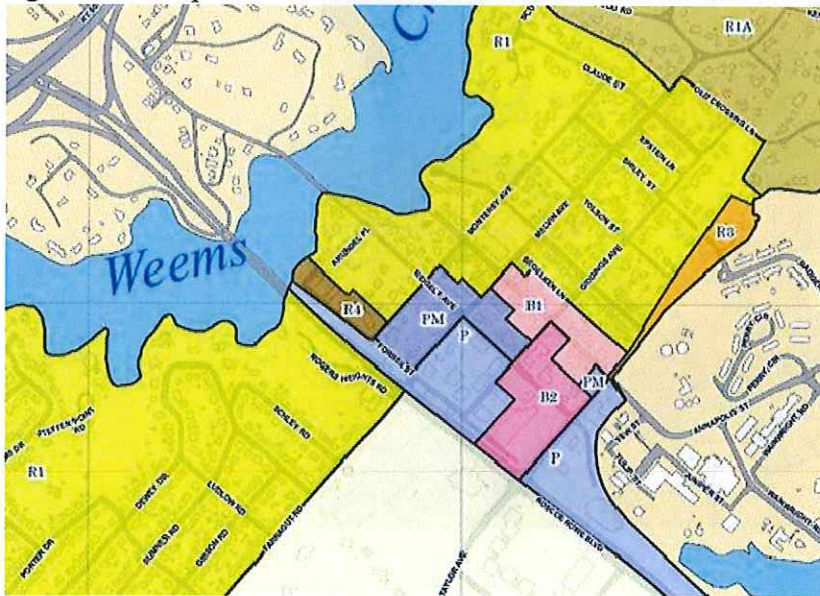
**To:** Planning Commission  
**From:** Sally Nash, Ph.D., AICP, Acting Director of Planning and Zoning  
**Re:** Ordinance O-20-19: Dwellings above the ground floor of nonresidential uses in the B1, Convenience Shopping District, and B2, Community Shopping District  
**Encl:** O-20-19

Purpose

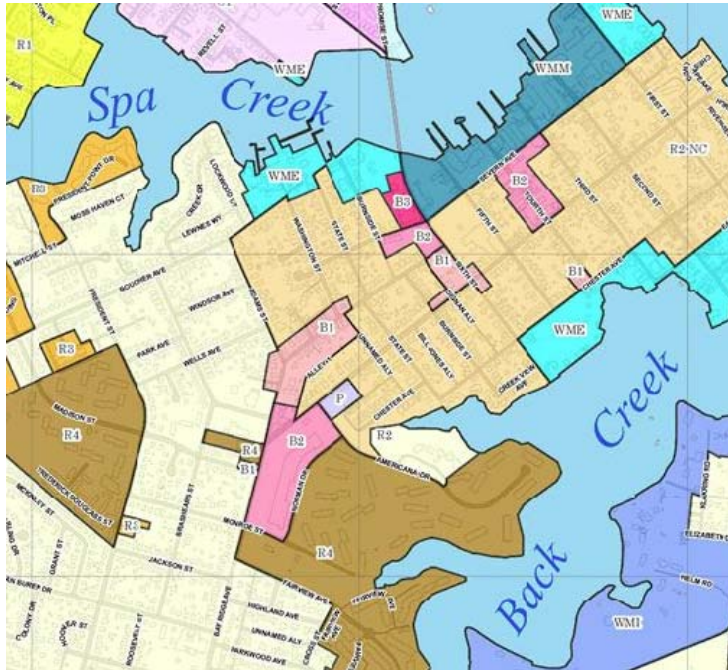
This legislation proposes to prohibit a dwelling unit use above specific ground floor commercial uses in the B1 Convenience Shopping District and the B2 Community Shopping District. The legislation also proposes to prohibit any ground floor dwelling uses in these zoning districts. Additionally, the legislation provides a definition of “ground floor” that would only apply to the new code section that is proposed.

Analysis

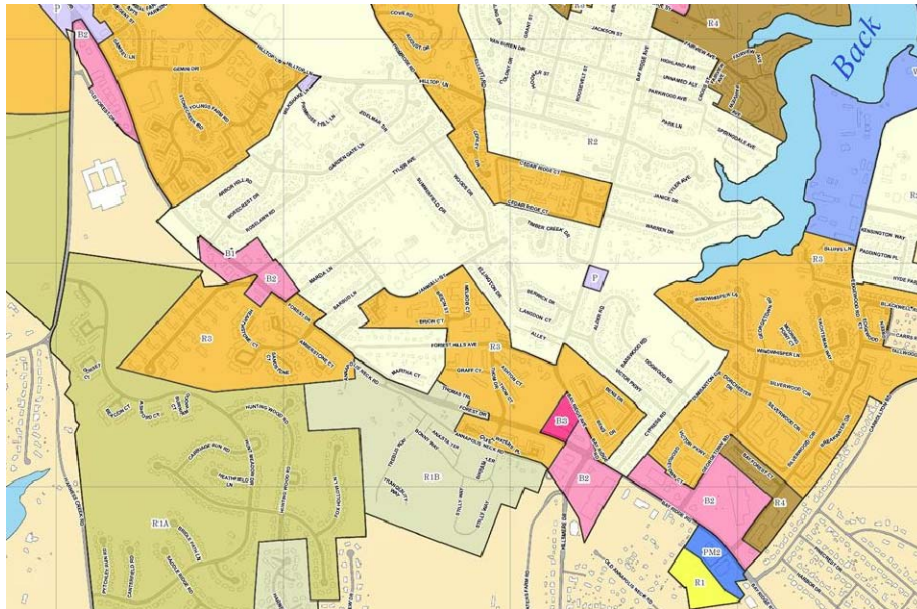
The B1 and B2 Districts are located in the following parts of the City, as the maps indicate in light and dark pink:



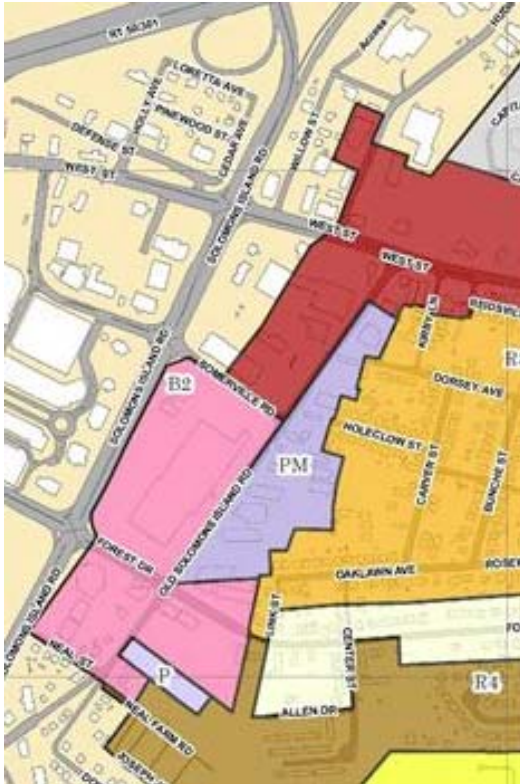
West Annapolis



Eastport



Forest Drive/Bay Ridge Road



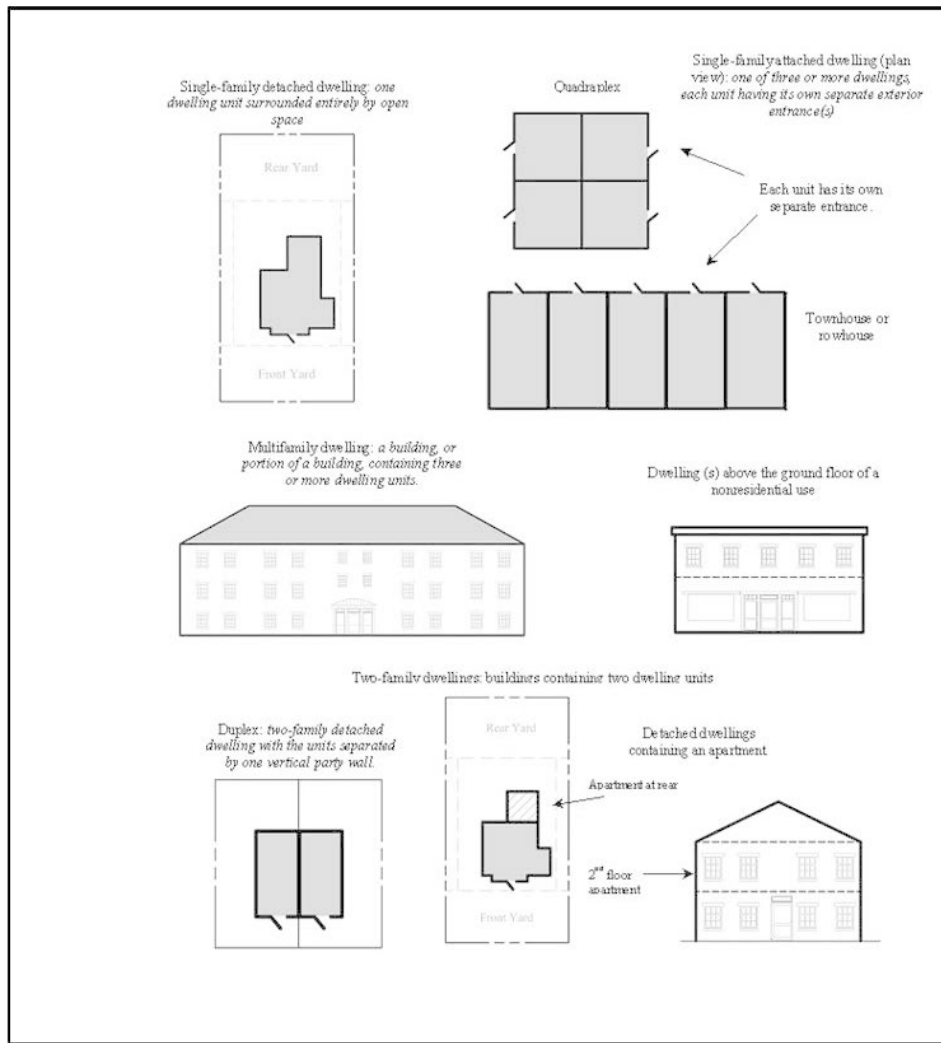
Old Solomon's Island Road

Currently, “Dwellings above the Ground Floor of Nonresidential Uses” is one of the five different types of dwelling units in the City. The others are single-family detached dwellings, single-family attached dwellings, multifamily dwellings, and two-family dwellings.

This use is also permitted in other commercial and mixed-use districts, including BCE (Business Corridor Enhancement), C2 (Conservation Business), C2A (Special Conservation Business), and MX (Mixed Use).

There is no definition for “Dwellings above the Ground Floor of Nonresidential Uses” in Chapter 21.72, unlike for the other dwelling types. An illustration is provided, though, as shown below:

Illustrations for Dwelling Unit Definitions



The ordinance proposes additional standards in a new section, Section 21.64.280, that would be applied to this dwelling unit type only in the B1 and B2 zoning districts. Dwellings above the following would be prohibited:

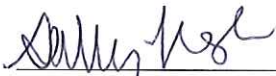
- Above ground parking lots;
- Above ground parking garages;
- Above ground loading and unloading areas;
- Above ground storm water management facilities;
- Exterior open space areas;
- Exterior property storage areas.

A dwelling unit would also not be permitted on the ground floor of any building, as measured from the highest adjacent grade on any side. In this section only, ground floor means the floor of a building at ground level.

One amendment that could be made to the legislation would be to add to Section 21.48.020 - Table of Uses—Commercial and Industrial Zoning Districts. Currently, “Dwellings above the Ground Floor of Nonresidential Uses” is a permitted use in B1 and B2. To make this a use subject to the standards proposed in Section 21.64.280, the City Code would need to be changed so that instead of “Permitted” the use is “Permitted Subject to Standards” or “P-STD”.

It is also unclear if the prohibition in this proposed ordinance against a dwelling unit on the ground floor of any building would apply to single-family detached dwellings, which are permitted in the B1 District. There is no other definition of dwelling on the ground floor in Title 21, although there is a definition of “Lot grade,” which means the average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

Report Prepared by



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Sally Nash, Ph.D., AICP  
Chief of Comprehensive Planning



1 **..Title**  
2 **Dwellings above the ground floor of nonresidential uses in the B1, Convenience Shopping**  
3 **District, and B2, Community Shopping District** – For the purpose of creating standards for  
4 dwellings permitted above nonresidential uses in certain commercial districts; and matters  
5 generally relating to regulation of such dwellings.

6 **..Body**

7  
8 **CITY COUNCIL OF THE**  
9 **CITY OF ANNAPOLIS**

10  
11 **Ordinance 20-19**

12  
13 **Introduced by: Alderman Arnett**

14  
15 **Referred to**  
16 **Planning Commission**  
17 **Rules and City Government Committee**

18  
19 **AN ORDINANCE** concerning

20  
21 **Dwellings above the ground floor of nonresidential uses in the**  
22 **B1, Convenience Shopping District, and B2, Community Shopping District**

23  
24 **FOR** the purpose of creating standards for dwellings permitted above nonresidential uses in  
25 certain commercial districts; and matters generally relating to regulation of such dwellings.

26  
27 **BY** adding the following portion to the Code of the City of Annapolis, 2019 Edition  
28 21.64.280

29  
30  
31 **SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY**  
32 **COUNCIL** that the Code of the City of Annapolis shall be amended to read as follows:

33  
34  
35 **TITLE 21 – PLANNING AND ZONING**  
36 **Chapter 21.64 – Standards for Uses Subject to Standards**

37  
38 **Section 21.64.280 – ~~Reserved~~ DWELLINGS ABOVE THE GROUND FLOOR OF**  
39 **NONRESIDENTIAL USES**

40  
41 **IN THE B1 AND B2 ZONING DISTRICTS:**

42  
43 **A. FOR PURPOSES OF THIS SECTION, GROUND FLOOR MEANS THE FLOOR OF**  
44 **A BUILDING AT GROUND LEVEL.**

1 B. DWELLINGS ARE NOT PERMITTED ABOVE THE FOLLOWING  
2 NONRESIDENTIAL USES IN THE BI, CONVENIENCE SHOPPING DISTRICT,  
3 AND IN THE B2, COMMUNITY SHOPPING DISTRICT:  
4

- 5 1. ABOVE GROUND PARKING LOTS;
- 6 2. ABOVE GROUND PARKING GARAGES;
- 7 3. ABOVE GROUND LOADING AND UNLOADING AREAS;
- 8 4. ABOVE GROUND STORM WATER MANAGEMENT FACILITIES;
- 9 5. EXTERIOR OPEN SPACE AREAS;
- 10 6. EXTERIOR PROPERTY STORAGE AREAS.

11  
12 C. DWELLINGS ARE NOT PERMITTED ON THE GROUND FLOOR OF ANY  
13 BUILDING, AS MEASURED FROM THE HIGHEST ADJACENT GRADE ON ANY  
14 SIDE.  
15

16 **SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE**  
17 **ANNAPOLIS CITY COUNCIL** that this Ordinance shall take effect from the date of its passage.  
18

19  
20 **EXPLANATION**

21 UPPERCASE indicates matter added to existing law.

22 ~~Strikethrough~~ indicates matter stricken from existing law.

23 Underlining indicates amendments.





## STAFF REPORT AND FISCAL IMPACT NOTE

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**Ordinance:** O-20-19

**Title:** Dwellings Above the Ground Floor of Nonresidential Uses in B1 and B2

**Date:** April 24, 2019

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### STAFF REPORT

This legislation proposes to prohibit a dwelling use above seven specific ground floor commercial uses in the B1, Convenience Shopping District, and the B2, Community Shopping District. The legislation also proposes to prohibit any ground floor dwelling uses in these zoning districts. Additionally, the legislation provides a definition of “ground floor.”

This ordinance takes effect on the date of its passage. According to Pete Gutwald, Director of Planning and Zoning, there are no developments pending approval that have already been submitted that would be affected by this ordinance. Future developments submitted with dwellings above the ground floor in B1 and B2 would be affected.

*Prepared by Gary M. Elson, Assistant City Attorney*

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### FISCAL IMPACT

This ordinance has no direct fiscal impact on the Planning and Zoning staff. We are unable to determine the impact of this ordinance on development in the City and future tax revenues.

*Prepared by Jodee Dickinson, Finance Director*