

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 404

(Senator Hollinger, *et al.*)

Education, Health, and Environmental Affairs

Environmental Matters

Municipal Corporations - Annexations - Limitations on Uses of Land and
Densities of Development

This bill authorizes a municipal corporation to include in an annexation agreement limitations on the use and densities of development otherwise allowed in the zoning district where the land is located.

Fiscal Summary

State Effect: None.

Local Effect: Minimal increase in municipal revenues and expenditures in cases where property annexed to a municipality is zoned for a different use than under a county plan.

Small Business Effect: Minimal.

Analysis

Current Law: When land is zoned or rezoned, a local legislative body may impose any additional restrictions, conditions, or limitations that it considers appropriate to preserve, improve, or protect the general character and design of those lands and related improvements or the surrounding or adjacent lands and improvements.

When land is zoned or rezoned, a local legislative body may retain or reserve the power to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes made or to be made on that land to assure conformity with the intent and purpose of Article 66B – Land Use and of the local jurisdiction’s zoning ordinance.

A local legislative body must adopt an ordinance that includes enforcement procedures and requirements for adequate notice of public hearings and conditions sought to be imposed on the annexed land.

A local legislative body may divide the local jurisdiction into districts of any number, shape, and area that it considers best suited for appropriate land use. Within the districts created, the local legislative body may regulate and restrict development and all regulations must be uniform for each class or kind of development throughout each district, but the regulations in one district may differ from those in other districts.

Background: In 1997 property owners in Montgomery County approached the City of Rockville regarding annexation of their property. The property owners wanted to build a gas station on the property after annexation, but the property's zoning classification would not permit a gas station on the site. The City of Rockville approached Montgomery County to request the county council's approval of a municipal zoning classification that would allow the property owner to build a gas station after the property was annexed. The county believed that the other uses allowed by the city's proposed zoning classification would not be consistent with the county's master plan for land use. The county and the city worked with the property owners and ultimately agreed to zone the property under the city's I-1 service industrial classification. The City of Rockville requested approval of the zoning change, the county agreed, and the annexation proceeded.

When the zoning classification was changed on the property to be annexed, the owner of a gas station across the street from the annexed property filed suit in Montgomery County Circuit Court to block the proposed zoning change. The case moved through the court system and on December 31, 2002, the Maryland Court of Appeals issued a ruling in the case titled *Mayor and Council of Rockville, et al. v. Rylyns Enterprises, Inc.* The court held that a limitation within an annexation agreement restricting the use of a newly annexed property was considered unlawful conditional or contract zoning.

The bill is remedial legislation to clarify that a municipality may impose conditions on the zoning of land including the right to limit the uses that may be made of the land.

Local Fiscal Effect: To the extent that the bill makes future annexation of property by a municipality easier to complete, municipal revenues would increase minimally due to higher revenues from, including but not limited to, property taxes, income taxes, and highway user revenues. However, any such additional revenue would likely be expended on municipal services in the newly annexed areas.

Additional Information

Prior Introductions: None.

Cross File: HB 912 (Delegate Barve, *et al.*) – Environmental Matters.

Information Source(s): City of Laurel, Montgomery County, Caroline County, Howard County, Baltimore City, Maryland Municipal League, Department of Legislative Services

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