



Gregory J. Swain, County Attorney

MEMORANDUM

To: Council Members, Anne Arundel County Council

From: Kelly Phillips Kenney, Supervising County Attorney /s/

Through: Lori L. Blair Klasmeier, Deputy County Attorney /s/

Date: January 17, 2023

Subject: Bill No. 3-23, Zoning – Small Business Districts – Religious Facilities

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 3-23.

Background. The County currently has a capital improvement project entitled “Race Road – Jessup Village H573100” to design, acquire rights-of-way, and construct improvements along MD 175 (Annapolis Road), Redbud Avenue, Champion Forest Avenue, Chestnut Avenue, Race Road, and National Business Parkway for the purpose of providing improved vehicle, bicycle, and pedestrian access to Jessup Elementary School (“Project”). The land abutting Redbud Avenue that is necessary for the improvements is currently owned by a third party and is improved with a church (the “Church property”). Pursuant to §13-2-102(a)(1), the County intends to obtain the Church property, in exchange for County-owned property across the street from the Church. The County-owned property that the Church will eventually own (and construct a new church upon) is zoned SB-Small Business District.¹

A “religious facility” is a permitted use in many other zoning districts in the County, but not in the SB-Small Business District. Prohibiting the construction of a church in the SB District may be a violation of the federal Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”). The land use provisions of RLUIPA, 42 U.S.C. §§ 2000cc, et seq., protect individuals, houses of worship, and other religious institutions from discrimination in zoning laws by requiring that they be allowed to operate and meet on properties where similarly sized secular

¹ The property upon which the Church currently sits is zoned C1-Local Commercial District and religious facilities are allowed.

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

groups are permitted to meet (e.g., theaters, meeting halls). RLUIPA is violated when zoning laws substantially burden religious institutions or assemblies unless those burdens are the least restrictive means of furthering a compelling governmental interest.

Purpose. The purpose of the Bill is to allow religious facilities as a permitted use in the SB District.

Bill provisions. The SB District use chart in § 18-9-402 is revised to add “religious facilities” as a permitted use in the zoning district.

Section 2. of the Bill provides that the Ordinance shall take effect 45 days from the date it becomes law.

The Office of Law is available to answer any additional questions regarding this Bill.

Thank you.

cc: Honorable Steuart Pittman, County Executive
Christine Anderson, Chief Administrative Officer
Peter Baron, Chief Strategy Officer
Jennifer Purcell, Deputy Chief Administrative Officer
Janssen Evelyn, Deputy Chief Administrative Officer
Mark Wedemeyer, Acting Planning and Zoning Officer
Lynn Miller, Assistant Planning and Zoning Officer
Chris Trumbauer, Budget Officer
Karen Henry, Acting Director, Department of Public Works