

Zoning Laws  
Judge Greg Galler  
July 11, 2017

If your neighborhood had one last open lot in it and you heard that new construction was soon to begin, would you prefer if a home were built that was similar in size and style to other homes in the area or would you prefer to have a dynamite factory constructed? Perhaps you'd like to hear that a rock crushing facility would open or a used tire dump was being proposed. Do some of those uses sound pretty absurd for a neighborhood? They are - because of zoning and land use planning laws.

The basic idea behind planning and zoning laws is to keep certain uses of land away from other uses. Some uses of land are considered compatible with other uses. For example, various retail businesses are usually grouped together, such as restaurants, movie theaters, gas stations, and shopping centers. Other uses are not considered as compatible. This is why factories and warehouses tend to be clustered in some areas of town; while single-family homes are located in others.

Zoning and planning have existed since people first began to live near each other. Records suggest that ancient peoples in China and India separated wealthy folks from impoverished ones. In Egypt, pyramids were built in certain areas while the workers were housed together in other areas. Medieval castles had walls that separated out the uses that needed to be protected at all costs from areas that were left partially protected - between walls - and others left totally unprotected outside the walls.

Modern zoning regulates uses of land by creating areas of land - called zones - where types of activities can take place. Common zones today include agricultural, commercial, residential, and industrial. There are also sub-zones - such as single-family residential and multi-family residential. In each zone, uses are either generally allowed, allowed with special conditions (known as "conditional uses"), or simply not allowed at all.

Zoning codes can also set up size and area restrictions. Those restrictions might regulate how tall a building can be, how close to a property line a building can be constructed, how large a lot must be to be built upon, or how much of a lot must be dedicated to green space or parking lot areas.

There is sometimes tension between the rights of private property owners to use their land as they wish and the need of the public to regulate the use of land. Sometimes land use regulations go too far.

Our law provides that if a regulation so restricts the land that it can no longer be used for any reasonable purpose, then a taking has occurred. It is treated the same as if the government had actually taken the land away from the owner. If this happens, then the landowner is entitled to compensation from the government.

Ideally, government, under its' police power to regulate the use of land, does so without unacceptably denying property owners the right to the reasonable use of the land that they own.

*Judge Galler is chambered in Washington County. If you have a general question about the law or courts for Judge Galler, send your question to the editor of this newspaper. Learn more about Judge Galler, or listen to a podcast of his columns at [www.judgegreggaller.com](http://www.judgegreggaller.com).*