



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

**MCPB**  
**Items 5&6**  
**06/20/02**

**DATE:** June 14, 2002  
**TO:** Montgomery County Planning Board  
**VIA:** Michael Ma, Zoning Supervisor *Ma*  
**FROM:** Greg Russ, Zoning Coordinator *GR*  
**REVIEW TYPE:** Zoning Text Amendment and a Subdivision Regulation Amendment  
**PURPOSE:** To clarify Zoning Ordinance and Subdivision Regulation language pertaining to site plan and preliminary plan conformance and consistency with the approved and adopted General Plan

**TEXT AMENDMENT:** No. 02-08  
**SUBDIVISION REGULATION AMENDMENT:** No. 02-2  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59, the Zoning Ordinance and Chapter 50, Subdivision Regulations  
**INTRODUCED BY:** District Council at the request of the Planning Board  
**INTRODUCED DATE:** May 23, 2002  
**PLANNING BOARD REVIEW:** June 20, 2002  
**PUBLIC HEARING:** July 9, 2002, 1:30 pm

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**STAFF RECOMMENDATION:** APPROVAL

#### **PURPOSE OF THE TEXT AMENDMENT**

- To clarify Zoning Ordinance and Subdivision Regulation language pertaining to site plan and preliminary plan conformance and consistency with the approved and adopted General Plan

#### **BACKGROUND**

- No language currently exists that requires site plans to conform to an approved and adopted sector or master plan. Additionally, there is no requirement that site plans are consistent with an approved preliminary plan, if required. The Subdivision Regulations (Sec. 50-35(1)) should be amended also to provide similarly consistent language, as related to master plan

conformance. As such, staff initiated the proposed zoning and subdivision regulation text amendments. On November 1, 2001, by a vote of 5-0, the Planning Board recommended that the proposed text amendment, as modified, be transmitted to the County Council for introduction (see Attachment 3).

## ANALYSIS

As seen below, staff is recommending that the Zoning Ordinance language for Planning Board review of site plans be amended to be consistent with previous County Council and Planning Board approvals. The definition for the term "General Plan" has been amended to clarify that master and sector plans and functional master plans are inclusive to the term. Additionally, a new findings (new finding (a)(2)) are proposed that require site plan conformance with the General Plan unless events have occurred to render the recommendations of the General Plan no longer appropriate. The proposed Subdivision Regulation Amendment proposes plain language changes to replace the terms "master plan" and "sector plan" with the comprehensive, all-inclusive term "General Plan".

The proposed zoning text amendment is as follows:

Underlining indicates text that is added to existing laws by the original text amendment. [Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.

### 59-A-2.1. "Definitions."

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**Plan, general:** [A] The General P[p]lan for the physical development of the Maryland-Washington Regional District in Montgomery County and Prince George's Counties (1964), and any amendments thereto, including but not limited to, amendments implemented through local master plans and sector plans, and functional master plans (e.g., highways, bikeways, historic resources).

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### Sec. 59-D-3.4. Action by Planning Board.

- (a) A public hearing must be held by the Planning Board on each site plan application. The Planning Board must approve, approve subject to modifications, or disapprove the site plan not later than 45 days after receipt of the site plan, but such action and notification is not required before the approval of a preliminary plan of subdivision involving the same property. The Planning Board then must notify the applicant in writing of its action. In reaching its decision the Planning Board must determine whether:
  - (1) the site plan is consistent with previous Council or Planning Board approvals [an approved development plan or a project plan for the optional method of development, if required];

- (2) the site plan conforms to the General Plan and any amendments thereto, unless the Planning Board finds that events have occurred to render the recommendations of the General Plan and any amendments thereto no longer appropriate;
- ([2]3) the site plan meets all of the requirements of the zone in which it is located, and is consistent with an urban renewal plan approved under Chapter 56[.];
- ([3]4) the locations of the buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;
- ([4]5) each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development; and
- ([5]6) the site plan meets all applicable requirements of Chapter 22A regarding forest conservation and Chapter 19 regarding water resource protection.

The proposed subdivision regulation amendment is as follows:

**Chapter 50 is amended as follows:**

**Chapter 50. SUBDIVISION OF LAND.**

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**Article III. Subdivision Regulations Generally.**

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**Sec. 50-35. Preliminary subdivision plans—Approval procedure**

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- (1) *Relation to Master Plan.* In determining the acceptability of the preliminary plan submitted under the provisions of this Chapter, the Planning Board must consider the [applicable master plan, sector plan] General Plan and any amendments thereto, or an urban renewal plan approved in accordance with the provisions of Chapter 56. A preliminary plan must substantially conform to the [applicable master plan, sector plan] General Plan and any amendments thereto, or an urban renewal plan, including maps and text, unless the Planning Board finds that events have occurred to render the [relevant master plan, sector plan] recommendations of the General Plan and any amendments thereto, or an urban renewal plan [recommendation] no longer appropriate.

Staff believes that the proposed changes to the Zoning Ordinance and Subdivision Regulations are consistent with the existing language and further clarifies the intent of both ordinances.

**RECOMMENDATION**

The staff recommends that the proposed amendments to clarify Zoning Ordinance and Subdivision Regulation language pertaining to site plan and preliminary plan conformance and consistency with the approved and adopted General Plan be approved as submitted and included in Attachments 1 and 2.

GR

**Attachments**

1. Proposed Zoning Text Amendment
2. Proposed Subdivision Regulation Amendment
3. Planning Board Transmittal Letter to County Council for Introduction of Amendments

Zoning Text Amendment No: 02-08  
Concerning: Site Plan Conformance to  
General Plan  
Draft No. & Date: 1 – 5/23/02  
Introduced: May 23, 2002  
Public Hearing: July 9, 2002, 1:30 PM  
Adopted:  
Effective:  
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: District Council at the request of the Planning Board

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AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- clarifying Zoning Ordinance language pertaining to site plan conformance and consistency with the approved and adopted General Plan.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2	“DEFINITIONS AND INTERPRETATION”
Section A-2.1	“Definitions”
DIVISION 59-D-3	“SITE PLAN”
Section 59-D-3.4	“Action by Planning Board”

**EXPLANATION:** *Boldface indicates a heading or a defined term.*  
*Underlining indicates text that is added to existing laws by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\*\*\* indicates existing law unaffected by the text amendment.*

**Sec. 1. Division 59-A-2 is amended as follows:**

**DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

\* \* \*

**59-A-2.1. Definitions.**

In this Chapter, the following words and phrases have the meaning indicated:

\* \* \*

**Plan, general:** [A] The General P[p]lan for the physical development of the Maryland-Washington Regional District in Montgomery County and Prince George's Counties (1964), and any amendments thereto, including but not limited to, amendments implemented through local master plans and sector plans, and functional master plans (e.g., highways, bikeways, historic resources.

**Sec. 2. Division 59-D is amended as follows:**

**DIVISION 59-D-3. SITE PLAN.**

\* \* \*

**59-D-3.4. Action by Planning Board.**

(a) A public hearing must be held by the Planning Board on each site plan application. The Planning Board must approve, approve subject to modification, or disapprove the site plan not later than 45 days after receipt of the site plan, but such action and notification is not required before the approval of a preliminary plan of subdivision involving the same property. The Planning Board then must notify the applicant in writing of its action. In reaching its decision the Planning Board must determine whether:

- (1) the site plan is consistent with previous Council or Planning Board approvals [an approved development plan or a project plan for the optional method of development, if required];
- (2) the site plan conforms to the General Plan and any amendments thereto, unless the Planning Board finds that events have occurred to

Subdivision Regulation Amendment: 02-2  
Concerning: Preliminary Plan Conformance  
To General Plan  
Draft No. & Date: 1 – 5/23/02  
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THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: District Council at the request of the Planning Board

---

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- clarifying subdivision regulation language pertaining to preliminary plan consistency with the approved and adopted General Plan.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Article III.                   “Subdivision Regulations Generally”  
Section 50-35               “Preliminary subdivision plans—Approval procedure”

**EXPLANATION:** *Boldface* indicates a heading or a defined term.  
*Underlining* indicates text that is added to existing laws by the original text amendment.  
*[Single boldface brackets]* indicate text that is deleted from existing law by the original text amendment.  
*Double underlining* indicates text that is added to the text amendment by amendment.  
*[[Double boldface brackets]]* indicate text that is deleted from the text amendment by amendment.  
*\*\*\** indicates existing law unaffected by the text amendment.

1       **Sec. 1. Chapter 50 is amended as follows:**

2       **Chapter 50. SUBDIVISION OF LAND.**

3       \* \* \*

4       **Article III. Subdivision Regulations Generally.**

5       \* \* \*

6       **50.35. Preliminary subdivisions plans—Approved procedure**

7       \* \* \*

8       (1) *Relation to Master Plan.* In determining the acceptability of the preliminary  
9       plan submitted under the provisions of this Chapter, the Planning Board  
10       must consider the [applicable master plan, sector plan] General Plan and any  
11       amendments thereto, or an urban renewal plan approved in accordance with  
12       the provisions of Chapter 56. A preliminary plan must substantially  
13       conform to the [applicable master plan, sector plan] General Plan and any  
14       amendments thereto, or an urban renewal plan, including maps and text,  
15       unless the Planning Board finds that events have occurred to render the  
16       [relevant master plan, sector plan] recommendations of the General Plan and  
17       any amendments thereto, or urban renewal plan [recommendation] no longer  
18       appropriate.

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
Office of the Chairman, Montgomery County Planning Board

February 13, 2002

The Honorable Steven Silverman, President  
Montgomery County Council  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 501  
Rockville, Maryland 20850

**Re: Planning Board Recommendation on Transmittal to County Council for Introduction of Zoning Text Amendment to clarify Zoning Ordinance and Subdivision Regulation language pertaining to site plan and preliminary plan conformance and consistency with the approved and adopted General Plan**

Dear Mr. Silverman and Councilmembers:

On November 1, 2001, by a vote of 5-0 the Board recommended that text amendments to clarify Zoning Ordinance and Subdivision Regulation language pertaining to site plan and preliminary plan conformance and consistency with the approved and adopted General Plan be transmitted to the County Council for introduction, as included in the technical staff report (see Appendix 1). The Board further directed the legal staff to amend the definition of the term "General Plan" to clarify that master and sector plans and functional master plans are inclusive to the term (see Appendix 2).

### **Background**

No language currently exists in the Zoning Ordinance that requires site plans to conform to the approved and adopted sector or master plan. Additionally, there is no requirement that site plans be consistent with an approved preliminary plan, if required. The Subdivision Regulations (Sec. 50-35(1)) are to be amended to provide similar language related to master plan conformance and its relationship to preliminary plans. Staff is recommending that the Zoning Ordinance language for Planning Board review of site plans be amended to be consistent with previous County Council and Planning Board approvals. Additionally, a new standard (new Standard (a)(2)) is proposed that requires site plan conformance with the General Plan unless events have occurred to render the recommendations of the General Plan no longer appropriate. The proposed Subdivision Regulation Amendment proposes plain language changes to replace the terms "master plan" and "sector plan" with the comprehensive, all-inclusive term "General Plan".

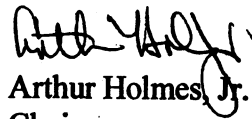
**The Honorable Steven Silverman**

**February 13, 2002**

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Members of the Planning Board and staff of the Department of Park and Planning are available to assist the Council in the review of the proposed text amendment necessary to implement our recommendations.

Sincerely,

  
Arthur Holmes, Jr.  
Chairman

AH:gr  
Attachments

cc: Planning Board  
Charles Loehr