

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK & PLANNING

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

8787 Georgia Avenue  
Silver Spring, Maryland 20910-3760

**MCPB**  
**Items 3 & 4**  
**11/01/01**

**DATE:** October 26, 2001  
**TO:** Montgomery County Planning Board  
**VIA:** Michael Ma, Zoning Supervisor  
**FROM:** Greg Russ, Zoning Coordinator *GR*  
**REVIEW TYPE:** Transmittal to County Council for introduction as a 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:** Not applicable until introduced  
**REVIEW BASIS:** Advisory to the County Council sitting as the District Council, Chapter 59, the Zoning Ordinance and Chapter 50, Subdivision Regulations

**INTRODUCED BY:** N/A  
**INTRODUCED DATE:** N/A

**PLANNING BOARD REVIEW:** November 1, 2001  
**PUBLIC HEARING:** N/A

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**STAFF RECOMMENDATION:** TRANSMIT to County Council for introduction

**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**

- Staff is in the process of reviewing Section 59-D-3.4 of the Zoning Ordinance pertaining to action by the Planning Board on site plan applications. Specifically, no language currently exists that requires the site plan to conform to the 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(l)) need to be

amended also to provide similar language related to master plan conformance and its relationship to preliminary plans.

## ANALYSIS

As seen below, staff is recommending that the Zoning Ordinance language for Planning Board review of site plans be amended to 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 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.

### **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 transmitted to the County Council for introduction.

Attachments 1 and 2 depict the proposed amendments as proposed by staff.

GR

**Attachments**

1. Proposed Zoning Text Amendment
2. Proposed Subdivision Regulation Amendment

Zoning Text Amendment No:  
Concerning: Site Plan Conformance to  
General Plan  
Draft No. & Date: 1 – 10/26/01  
Introduced:  
Public Hearing:  
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: Councilmembers

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

- To clarify 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-D-3  
Section 59-D-3.4

“SITE PLAN”  
“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.*

**ORDINANCE**

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. DIVISION 59-D-3 is amended as follows:**

2   **DIVISION 59-D-3. SITE PLAN.**

3   \* \* \*

4   **59-D-3.4. “Action by Planning Board.”**

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

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13           (1) the site plan is consistent with previous Council or Planning  
14           Board approvals [an approved development plan or a project  
15           plan for the optional method of development, if required];

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17           (2) the site plan conforms to the General Plan and any amendments  
18           thereto, unless the Planning Board finds that events have  
19           occurred to render the recommendations of the General Plan  
20           and any amendments thereto no longer appropriate;

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22           ([2]3) the site plan meets all of the requirements of the zone in which  
23           it is located, and is consistent with an urban renewal plan  
24           approved under Chapter 56[.];

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26           ([3]4) the locations of the buildings and structures, the open spaces,  
27           the landscaping, recreation facilities, and the pedestrian and  
28           vehicular circulation systems are adequate, safe, and efficient;

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30           ([4]5) each structure and use is compatible with other uses and other  
31           site plans and with existing and proposed adjacent  
32           development; and

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34           ([5]6) the site plan meets all applicable requirements of Chapter 22A  
35           regarding forest conservation and Chapter 19 regarding water  
36           resource protection.  
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1           **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the  
2 date of Council adoption.

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4 This is a correct copy of Council action.

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9 Mary A. Edgar, CMC

10 Clerk of the Council

Subdivision Regulation Amendment No:  
Concerning: Preliminary Plan Conformance  
to General Plan

Draft No. & Date: 1 – 10/26/01

Introduced:

Public Hearing:

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: Councilmembers

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**AN AMENDMENT** to the Montgomery County Subdivision Regulations 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 Subdivision Regulations, Chapter 50 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.*



*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

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

2   **Article III. Subdivision Regulations Generally.**

3   \* \* \*

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

5   \*\*\*

6   (1)   *Relation to Master Plan.* In determining the acceptability of the preliminary  
7        plan submitted under the provisions of this Chapter, the Planning Board  
8        must consider the [applicable master plan, sector plan] General Plan and any  
9        amendments thereto, or an urban renewal plan approved in accordance with  
10       the provisions of Chapter 56. A preliminary plan must substantially  
11       conform to the [applicable master plan, sector plan] General Plan and any  
12       amendments thereto, or an urban renewal plan, including maps and text,  
13       unless the Planning Board finds that events have occurred to render the  
14       [relevant master plan, sector plan] recommendations of the General Plan and  
15       any amendments thereto, or an urban renewal plan [recommendation] no  
16       longer appropriate.  
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1           **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the  
2 date of Council adoption.

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