

INTER-OFFICE MEMORANDUM PRINCE GEORGE'S COUNTY, MARYLAND

OFFICE OF THE ZONING HEARING EXAMINER

June 3, 2025

TO: Rana Hightower, Director
Planning, Housing, and Economic Development Committee

FROM: Maurene McNeil
Chief Zoning Hearing Examiner

RE: CB-42-2025

The above-referenced legislation requires that Applicants requesting approval of a Special Exception show that the request is consistent with the General Plan and conforms with relevant goals, policies and strategies of the applicable Area Master Plan, Sector Plan, or functional Master Plan. The proposed revisions raise a few concerns.

The Zoning Ordinance does not provide a definition for "conformity". Accordingly, we must look to the generally recognized usage. Britannica defines it as "closely matching." Various Maryland appellate decisions have noted that the Master Plan will be considered a "binding" document when the local legislation requires conformity (See, Archers Glen Partners Inc. v. Garner, 176 Md. App. 292, 933 A.2d 405 (2007); Md.-Nat'l Cap. P. & P. Comm'n v. Greater Baden-Aquasco Citizens Ass'n, 412 Md. 73, 102, 985 A.2d 1160 (2009))

Sections 1-302, 1-303, and 1-304 of the Maryland Land Use Article provide a definition for "consistency" when reviewing Special Exception applications. Generally, the Special Exception must "further, and not be contrary to" the General or Master Plan's policies; timing of implementation of the plan; timing of implementation of development; timing of rezoning; development patterns; land uses; and, densities or intensities.

Use of these terms may make it difficult or impossible to approve a Special Exception located in areas not subject to a recently enacted Master Plan or General Plan.

It is generally held that Special Exceptions are uses permitted by the District Council, subject to certain conditions and subject to the provision of a quasi-evidentiary hearing at which the public is invited to share their thoughts and concerns. Requiring an Application to be consistent with or in conformity with plans that may be obsolete could hamper the implementation of the current goal/vision of the County Council sitting as the District Council.

For these reasons, I would urge retention of the “not substantially impair” standard of review. Thank you for the opportunity to comment.

cc: Rana Hightower
Charlotte Aheart