

CB-3-2023 – Planning Board Analysis (Attachment 2)

This bill would amend the decision standards for the approval of detailed site plan (minor and major) and special exception applications to include master plan consistency as a required standard for site plan approval.

The Planning Board has the following comments for consideration by the District Council:

Bill Description:

CB-3-2023 would change the current decision standards for the approval of special exception applications from finding that the “proposed use will not substantially impair the integrity of any validly approved Area Master Plan, Sector Plan, or Functional Master Plan, or, in the absence of an Area Master Plan, Sector Plan, or Functional Master Plan, the General Plan” to finding the proposed use “is in substantial conformance with the relevant goals, policies, and strategies of the applicable Area Master Plan, Sector Plan, or Functional Master Plan....”

The bill would also add a new decision standard for the approval of detailed site plans – both minor and major – to find “substantial conformance with the relevant goals, policies, and strategies of the applicable Area Master Plan or Sector Plan, applicable Functional Master Plans, and the Growth Policy Map as it relates to centers as approved in the General Plan in effect on April 1, 2022; or, in the absence of an area master plan or sector plan, the current approved General Plan for the County”.

Policy Analysis:

Summary

The Planning Board defers to the Zoning Hearing Examiner on those portions of the bill that affect special exception applications.

Although the Planning Board supports the general purpose of CB-3-2023 to make comprehensive plans an important consideration in the development and redevelopment of the County, there are numerous challenges involved in applying comprehensive plan recommendations to a detailed site plan (DSP), because DSPs represent a very late stage in the development process, and because DSPs regulate technical site design elements that are far removed from the more general recommendations found in a comprehensive plan.

Substantial Conformance and Comprehensive Plan Recommendations

The term “substantial conformance” is not defined in the bill, and we do not know what this means. The Planning Board, Planning Department, and Legal Department are all very familiar with the conformance requirement of the prior and current Subdivision Regulations and can potentially work with this general level and expectation if applied to detailed site plans and/or special exceptions, but the phrase “substantial conformance” implies a higher bar. What level that bar sets is unknown.

The Planning Board recommends that the bill be amended (page 3, lines 19-23) to use the same language found in the Subdivision Regulations in section 24-4101(b)(1), requiring that applications "shall be consistent with the General Plan and shall conform to all applicable Area Master Plans, Sector Plans, or Functional Master Plans . . ." This language is well understood and has been applied for many years.

Even with the above change, assessing consistency in the DSP context will be challenging. A detailed site plan is a development procedure that occurs very late in the land development process and is intended for the approval of the location and design of buildings and site features (e.g., parking, loading, access, open spaces, signage, and landscaping). Comprehensive Plans, by contrast, focus on big picture issues that are already determined before a detailed site plan or special exception application is submitted and reviewed, such as land uses, zoning recommendations, and functional area considerations including environmental impacts (most of which are addressed through other parts of the County Code), transportation facilities, public facilities, and economic development recommendations oriented to the entirety of a plan area rather than specific sites.

Because of these facts and the point in time when a detailed site plan may be required, Planning staff is not sure how to evaluate whether a detailed site plan conforms to the high-level recommendations of a Comprehensive Plan because most of these recommendations are moot to a property-specific, physical development-oriented development application wherein the impactful decisions (e.g. zoning and permissible land use) have already been made.

The Planning Board notes that the key purpose of most Comprehensive Plans is to recommend appropriate zoning for specific properties or groups of properties. The best way for the Council to ensure that detailed site plans conform to the Comprehensive Plans is to always implement the zoning recommended in the Council's Comprehensive Plans, and to avoid text amendments that allow development to occur in ways that contradict the applied zone. This approach will be far more effective in advancing the goals of Comprehensive Plans than CB-3-2023. When the zoning is correct, and the standards of the zone remain in force, a detailed site plan will nearly always conform the Comprehensive Plan.

Limit requirement to post-Plan 2035 Comprehensive Plans

If this bill moves forward, the language on page 3, lines 19-23 should be further modified to require consistency only with Plan 2035 (and any future General Plan), and area master plans, sector plans or functional master plans that have been approved subsequent to Plan 2035's approval. Many earlier plans contain recommendations that are not consistent with Plan 2035, and not consistent with the zoning imposed by the Countywide Map Amendment (CMA) that implemented Plan 2035. Requiring consistency with outdated plans at the DSP stage will generate many irresolvable conflicts between an outdated plan, Plan 2035, and the property's current zoning.

Additional concerns

With the amendments discussed above, it may be possible to implement the goals of the bill, but it should be clearly understood that the Planning Board will not be able to utilize the consistency requirement to overrule specific design requirements of the Zoning Ordinance or other chapters of the County Code. Consistency will only be a factor when the Zoning Ordinance grants the Planning Board a zone of reasonable discretion over specific design elements.

Technical Issues

The terms “Area Master Plan,” “Sector Plan,” and “Functional Master Plans” on lines 19-23 on page 3 should be capitalized.

The phrase “or in the absence of an Area Master Plan, Sector Plan, or Functional Master Plan, the General Plan” on lines 14-15 on page 2 and lines 22-23 on page 3 is moot, can be deleted from the bill, and Zoning Ordinance. There is no part of the Regional District that is not subject to an Area Master Plan, Sector Plan, or Functional Master Plan.

Impacted Property:

CB-3-2023 would affect all property in that portion of the Regional District within Prince George’s County – all County property except the City of Laurel – when a detailed site plan (minor or major) or special exception is required pursuant to the regulations of the current Zoning Ordinance.

Following discussion, the Planning Board voted to oppose CB-3-2023, unless amended.