

**INTER-OFFICE MEMORANDUM**  
**PRINCE GEORGE'S COUNTY, MARYLAND**  
**ZONING HEARING EXAMINER OFFICE**

**TO:** Jackie Brown, Director  
Planning, Housing, and Economic Development Committee

**FROM:** Maurene Epps McNeil  
Chief Zoning Hearing Examiner

**DATE:** January 10, 2023

**RE:** CB-3-2023

This legislation will amend Section 27-3604 of the Zoning Ordinance to delete the requirement that a Special Exception Use not “substantially impair the integrity of any validly approved” Area Master Plan, Sector Plan, Functional Master Plan, or General Plan (where applicable ) and insert the requirement that the Special Exception Use be “in substantial conformance with the relevant goals, policies, and strategies of the applicable” Master, Sector, Functional, or General Plan .

“Conformance” is not defined in the Zoning Ordinance. Words that are not defined “shall be construed according to the common and generally recognized usage of the language” unless it is a technical term or other that has “acquired a peculiar and appropriate meaning in the law.” “Conformance” is defined in Dictionary.com as “in conformity with” and “conformity” is defined as “similarity in form or type; agreement in character.” Thus, the new language will require the proposed Special Exception to align with the relevant plan whereas the current language only proscribes a use that would substantially impair such plan. I believe the new language would prevent the District Council from approving a Special Exception Use (one that it has already ordained in the Use Tables to be permitted in a particular zone under certain circumstances) even when the applicable Plan is outdated and no longer reflects the Council’s/County’s goals for an area.

More importantly, caselaw recognizes a distinction between planning and zoning, with the former being “a broader term [that] indicates the development of a community, ... with respect to streets, parks, civic beauty, industrial and commercial undertaking, residential development and such other matter affecting the public convenience and welfare as may be properly embraced within the police power” while zoning “is essentially limited to the establishment of land use districts through the imposition of zoning classifications.” (Baltimore County v. Wesley Chapel Bluemount Ass’n, 110 Md. App. 585, 605 (1996) ) In short, planning involves setting future goals at a point static in time that furthers the police powers while zoning must consider, in real time, whether a

particular zone or use should be granted. This new language ties the two closer, ignoring the fact that they are not synonymous.

The development will also impose a new requirement in Section 27-3605 of the Zoning Ordinance that requires the reviewing body find that a Detailed Site Plan “is in 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.” Again, I would urge that the new standard for review of a Detailed Site Plan on page 3, lines 19-23 be removed for the reasons noted above (concerning Special Exceptions). I also believe the language is unnecessary since Section 27-2500 of the Zoning Ordinance defines “Detailed Site Plan” as “[a] development application for review of proposed project elements such as building design, site layout, and landscaping”. Accordingly, a decision has already been made that the uses are allowed and the Master Plans and the Growth Policy Map in the 2014 General Plan would have already been reviewed. If the sponsors determine that the language should remain, I recommend the following technical changes to this Section:

1. The plan terms on lines 20-21 should be capitalized in order to be uniform with the those used in Section 27-3604.
2. On page 3, line 19 should add “proposed “prior to “development” for consistency with the remainder of Section (e).
3. On page 3, line 22 should delete “as approved in the General Plan in effect on April 1, 2022” and insert “as approved in the 2014 General Plan (“Plan Prince George’s 2035”).
4. 4. On page 3, line 23 simply reference the General Plan and delete “the current approved” and “for the County”.