

MEMORANDUM

October 26, 2010

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz, Legislative Attorney

SUBJECT: Subdivision Regulation Amendment 10-03; Master Plan Conformance – Roadway Classifications

Subdivision Regulation Amendment (SRA) 10-03, Master Plan Conformance – Roadway Classifications, sponsored by Councilmember Knapp, was introduced on October 19, 2010. A public hearing is scheduled for November 23 at 1:30 p.m. If issues are raised at the Council's public hearing that warrant additional consideration by the Committee, the Committee may hold an additional worksession.

Currently, a preliminary plan must substantially conform to the applicable master or sector plan unless the Planning Board finds that events have occurred to render the relevant master, sector, or urban renewal plan recommendation no longer appropriate. SRA 10-03 would explicitly allow the Planning Board to reduce roadway widths if events have occurred to render the relevant master, sector, or urban renewal plan recommendation no longer appropriate.

Issues

Is this SRA necessary?

The current provision for the conformance of subdivision to master plan states:

In determining the acceptability of a preliminary plan submitted under this Chapter, the Planning Board must consider the applicable master plan, sector plan, or urban renewal plan. A preliminary plan must substantially conform to the applicable master plan, sector plan, or urban renewal plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan, sector plan, or urban renewal plan recommendation no longer appropriate.

A roadway width is an element of a master plan. The Planning Board currently has the authority to allow a reduced roadway width if it finds that events have occurred to render the recommended roadway width no longer appropriate.

Staff does not recommend the adoption of SRA 10-03.

What is the problem?

After SRA 10-3 was introduced, staff was informed that the issue for a particular property was right-of-way width (not roadway width) and a roadway classification. The master planned right-of-way for an arterial roadway runs through a property owner's land. The master plan calls for a 100 foot right-of-way and a 4 lane roadway. The applicant wants a reduced right-of-way, a reduced roadway width, and driveways for single-family detached units directly on to the proposed arterial roadway. Other owners along the master planned arterial have provided a 100 foot right-of-way and 2 lanes of roadway.

Right-of-way width is an element of the master plan that could be changed under the current provision for master plan flexibility. The roadway classification presents a different set of concerns. It is the roadway classification that would prevent individual driveways from accessing the roadway.

If the Council wants to allow the planning Board to amend the roadway classification if events have occurred to render the recommended roadway width no longer appropriate, it could do so; however, it may have broad reaching effects that then call into question all aspects of the master plan. Planning Staff indicated that they do not believe that events have occurred to render a roadway classification no longer applicable.

Who makes the recommendation to the Planning Board that events have occurred to render the plan no longer appropriate?

The newly invigorated lead agency process defines which agency has lead responsibility for various aspects of a subdivision. Planning staff is the lead for street classifications; however, the SRA would not change the master plan designated classification. The SRA addresses roadway width.

The Department of Transportation (DOT) is the lead agency for modifications to roadway design standards. Planning Staff is stakeholder concerning roadway design standards. Planning Staff can trigger the conflict resolution process if they have a difference of opinion with DOT. Staff is not aware a conflict between the two departments exists on any roadway.

This packet contains:
SRA 10-03

Circle #
1 – 3

Subdivision Regulation Amend. No.: 10-03
Concerning: Master Plan Conformance –
Roadway Classifications
Revised: 10/1310; Draft No. 1
Introduced: October 19, 2010
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**

By: Councilmember Knapp

AN AMENDMENT to the Subdivision Regulations to:

- allow the Planning Board to approve a narrower roadway width than the width recommended in master plans under certain circumstances; and
- to generally amend the provision related to a subdivision's relationship to a master or sector plan

By amending

Montgomery County Code
Chapter 50, Subdivision of Land
Section 50-35(1), Relationship to Master Plan

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

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. Section 50-35 is amended as follows:**

2 **50-35. Preliminary subdivision plan-Approval procedure.**

3 * * *

4 (1) *Relation to Master Plan.* In determining the acceptability of a preliminary
5 plan submitted under this Chapter, the Planning Board must consider the
6 applicable master [plan], sector [plan], or urban renewal plan. [A] Except as
7 provided in Subsections (2) and (3), a preliminary plan must substantially
8 conform to the applicable master [plan], sector [plan], or urban renewal plan,
9 including maps and text, unless the Planning Board finds that events have
10 occurred to render the relevant master [plan], sector [plan], or urban renewal
11 plan recommendation no longer appropriate. [However:]

12 (1) If the Planning Board finds that events have occurred to render the
13 relevant master or sector plan's recommendation on a roadway width
14 no longer appropriate, then the Planning Board may narrow the
15 roadway width from the recommendation of the applicable master or
16 sector plan.

17 (2) To permit the construction of all MPDUs under Chapter 25A,
18 including any bonus density units, on-site in zones with a maximum
19 permitted density more than 39 dwelling units per acre or a residential
20 floor area ratio (FAR) more than .9, a preliminary plan may exceed:

21 * * *

22 [(2)] (3) To permit the construction of all workforce housing units
23 required under § 59-A-6.18 and Chapter 25B on-site, the Planning
24 Board must permit:

25 * * *

26 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
27 Council adoption.

28

29 *Approved:*

30

31

32 _____
Isiah Leggett, County Executive

Date

33

34 *This is a correct copy of Council action.*

35

36

37 _____
Linda M. Lauer, Clerk of the Council

Date