

AGENDA ITEM #13
July 28, 2009

Public Hearing

MEMORANDUM

July 24, 2009

TO: County Council

FROM: Jeffrey L. Zyontz, Legislative Attorney 

SUBJECT: Public Hearing: Subdivision Regulation Amendment 09-02,
Subdivision Approval – Conflict Resolution

On June 23, 2009 Subdivision Regulation Amendment (SRA) 09-02 was introduced at the request of Councilmember Floreen.

The 2008 Second Annual Report of the Montgomery County Citizens Advisory Committee to the Department of Permitting Services found that resolving conflicts between departments and agencies in the development approval process was a continuing problem. Conflicts often involve long delays, multiple meetings, and unnecessary expenditures of time and effort. SRA 09-02 would establish a procedure in the subdivision process to resolve conflicts between departments and agencies in an efficient manner.

The Planning, Housing, and Economic Development Committee will schedule a worksession at a later date.

Ordinance No.:
Subdivision Regulation Amend. No.: 09-02
Concerning: Subdivision Approval –
Conflict Resolution
Draft No. & Date: 3 - 6/19/09
Introduced: June 23, 2009
Public Hearing:
Adopted:
Effective:

**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 Floreen

An Amendment to the Subdivision Regulations to:

- (1) resolve certain conflicts between departments and agencies concerning the conditions of the approval of a preliminary subdivision plan; and,
- (2) generally revise the requirements for the approval of preliminary subdivision plan.

By amending:

Montgomery County Code
Chapter 50, Subdivision of Land
Section 50-35

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>

The County Council for Montgomery County, Maryland approves the following Act:

27 after the Subdivision Review Committee meeting at which the
28 conflict arose, the Planning Director must submit the conflict
29 within 35 days after that Subdivision Review Committee meeting
30 to a meeting of the Directors of all County Departments which
31 are represented at the Subdivision Review Committee. The
32 meeting must include the Director of:

33 (A) each appropriate County Department;

34 (B) the Planning Department; and

35 (C) if necessary to resolve the conflict, the Washington
36 Suburban Sanitary Commission.

37 (4) The Planning staff must document each issue submitted to the
38 Department Directors in the record of the subdivision plan.

39 (5) The Department Directors must meet to resolve each conflict
40 within 30 days after the conflict was submitted to them.

41 (6) The Department Directors must resolve each conflict and must
42 report their resolution of the conflict to the Planning Board within
43 5 days after their meeting.

44 (7) The Planning Staff must distribute the Department Directors'
45 report to the parties of record within 2 days after the Board
46 receives the report.

47 (d) *Road grade and road profile.* Before the Board finally approves a
48 preliminary plan, the subdivider must furnish road, and pedestrian path
49 grades and a street profile approved in preliminary form by the County
50 Department of Transportation.

- 51 (e) *Wells and septic systems.* Before the Board approves a plan for lots
52 with individual wells or septic systems, the plan must be approved by
53 the Department of Permitting Services.
- 54 (f) [*Presentation of plan to*] *Board action.* Every preliminary plan must be
55 presented to the Board for its review and action at the earliest regular
56 meeting after the Planning staff has completed its study and is ready to
57 make its recommendation, but not later than the first regular meeting
58 which occurs after 60 days after the Planning staff accepted the
59 application as complete. Any extension of time granted for review by
60 other agencies or for resolution of a conflict by the relevant Department
61 Directors must be added to the 60 days. The Board must take one of the
62 following actions:
- 63 (1) Approve, if the plan conforms to the purposes and other
64 requirements of this Chapter.
- 65 (2) Approve, with any conditions or modifications necessary to bring
66 the proposed development into compliance with all applicable
67 requirements.
- 68 (A) If it approves a preliminary plan for a cluster or MPDU
69 optional method development, the Board may require that,
70 to resolve specific environmental or compatibility issues,
71 certain detached dwellings must not be included in an
72 application for a record plat until a site plan is approved
73 under Division 59-D-3, and as required in Sections 59-C-
74 1.521 and 59-C-1.63.
- 75 (B) Any modification of a road or grades must be approved by
76 the County Department of Transportation.

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(C) If the Board approves a preliminary plan that involves a conflict which was resolved under subsection (c), the resolution of the conflict must be made a condition of approval and is binding on each participating department or agency.

(3) Disapprove, if contrary to the purposes and other requirements of these regulations. [, said] Any disapproval [to be by written notice to the applicant stating the reasons therefor] must specify each reason in writing and be sent to the applicant. The Board must not disapprove a plan because of any resolution of a conflict submitted to it under subsection (c).

[Following approval of] After the Board approves a preliminary plan [by the Board], [no] another agency [shall] must not require a substantial change in the plan[,] other than [those] a change which [may be] is required by [conditions] a condition of approval specified by the Board, [except upon amendment of] or as the Board later amends the plan[, approved by the Board,] or [under procedures for revocation of a plan as provided by] revokes its approval under subsection (i) [of this section, title, "revocation of approval."].

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date