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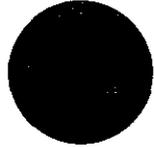
OFFICES OF THE COUNTY EXECUTIVE

Douglas M. Duncan  
County Executive

Bruce Romer  
Chief Administrative Officer

MEMORANDUM

September 9, 2005



017365

TO: Thomas E. Perez, President  
Montgomery County Council

FROM: Bruce Romer  
Chief Administrative Officer

WITH  
ENCL CHART

SUBJECT: Department of Permitting Services (DPS) and Maryland National Capital Park and Planning Commission (MNCPPC) Biweekly Report As Required by County Council Resolution 15-1125 Short-Term Measures to Assure Compliance with Site Plans

The County Council adopted Resolution 15-1125 Short-Term Measures to Assure Compliance with Site Plans on July 26, 2005. The following action is requested in the resolution.

"The County Council for Montgomery County, Maryland urges the Montgomery County Planning Board and the Department of Permitting Services to take these actions immediately. The Chair of the Planning Board and the Director of the Department of Permitting Services must provide biweekly reports to the Council updating the Council on their progress in implementing each step outlined in paragraph 7."

Attached you will find the third biweekly report which is a joint report from DPS and MNCPPC as required in the above section of the resolution.

If you have questions or need additional information please contact Robert Hubbard, Director DPS on 240-777-6363 or Charlie Loehr, Director MNCPPC on 301-495-4511.

Attachments

cc: Robert Hubbard  
Charles Loehr

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Department of Permitting Services and  
Maryland National Capital Park and Planning Commission  
Biweekly Update Report to the County Council on  
Resolution: 15-1125 Short-Term Measures to Assure Compliance with Site Plans  
Report Date: September 9, 2005

In response to the problems uncovered in Clarksburg, the Montgomery County Planning Board (MNCPPC) and the Department of Permitting Services (DPS) agreed to undertake a number of immediate actions to ensure thorough review and compliance of building permits with site plans while more comprehensive reviews of the planning and enforcement process are pending. In turn, the County Council asked for bi-weekly reports that would detail the progress made with respect to each proposed action. This constitutes the third of these biweekly reports.

**Action: No new building permits may be issued in the Clarksburg Town Center development until further review and certification of compliance with appropriate site plans by Park and Planning and the Department of Permitting Services.**

Progress Report:

- As stated in the first report, a process has been put in place that requires building permit applications to include a statement that the height and setbacks shown on the permit drawings comply with the height and setback standards in the site plan. This statement must be signed and sealed by a licensed design professional in the State of Maryland.
- No new building permits subject to this process have been issued in the Clarksburg Town Center.

**Action: All requests to amend site plans in Clarksburg must be deferred until reviews of what went wrong in Clarksburg and elsewhere are completed and the Council has an opportunity to take necessary actions.**

Progress Report:

- MNCPPC – The Planning Board originally scheduled the hearing to consider all other alleged violations on Thursday, September 15<sup>th</sup>. Since the number of allegations has continued to grow, a decision was made to postpone the hearing until the end of September (either Thursday, the 29<sup>th</sup>, or possibly, another day that week.) The Plan of Compliance hearing will then move to a date in October. OLO has received permission to delay the issuance of their report until November. In light of these new dates, requests to amend site plans in Clarksburg Town Center will continue to be pushed further back to ensure compliance with the above.

**Action: The Department of Permitting Services, Department of Public Works and Transportation, and the Planning Board must review the roads and other required infrastructure within the Clarksburg Town Center, and provide the Council with a report by August 15, 2005 regarding the status of the Implementation of the provisions of the Clarksburg Town Center site plans pertaining to road infrastructure, including recommendations for ensuring that the necessary road infrastructure is in place in a timely fashion.**

Progress Report:

- As required, MNCPPC, DPWT, and DPS submitted a report to the Council regarding the road infrastructure within the Clarksburg Town Center, including recommendations for ensuring that the necessary road infrastructure is in place in a timely fashion.
- Meetings were held between DPWT, DPS and several developers concerning the road construction issues in Clarksburg. DPS, DPWT and MNCPPC provided a more detailed progress report on some of the key roadways such as Clarksburg Road and Stringtown Road at the County Council T&E meeting on September 8, 2005.

**Action: A county wide freeze on issuance of Building Permits in site plan zones (residential and commercial) continues until height limit and setback requirements can be verified by the Department of Permitting Services.**

Progress Report:

- Two new commercial applications and ten new residential applications have been submitted by DPS to MNCPPC and are being reviewed.

**Action: Almost 200 building permit applications (residential and commercial) are currently pending with county authorities. No permits may be issued until each applicant resubmits site plans that disclose height and setback compliance. Department of Permitting Services and the Planning Board must verify the setback and height restrictions spelled out in the approved site plan.**

Progress Report:

- Letters were sent to applicants of the 200 building permit applications requesting them to resubmit their building permit site plans with information stating that it is in compliance with the MNCPPC site plan requirements.

A total of one hundred three have been sent on to MNCPPC for review. Of these 74 have been found to be in compliance with MNCPPC site plans, although 35 of these have not yet been sent back to DPS because MNCPPC has created a new checklist for building

permit review and these 35 must be reviewed yet again to ensure that all steps of the checklist have been followed. 17 of the 103 have been denied and 12 are still under review.

**Action: Any building permit application that uses the term “story” to describe the height of a building, instead of indicating proposed height by actual measurement of the building, must be rejected.**

Progress Report:

- No building permit applications have been received using the term “story” to describe the height of a building.

**Action: The Planning Board and Department of Permitting Services must conduct an immediate audit of site plans approved throughout Montgomery County since January 1, 2003 to ensure that work being done is in accordance with the specifications of the approved plans. Planning Board and Department of Permitting Services should immediately suspend development in any site plan where violations are uncovered.**

Progress Report:

- DPS and MNCPPC have determined that 118 site plans have been approved since January 1, 2003. See the attached table for inspection results.

DPS and MNCPPC hope to complete this audit by the end of September. It should be noted that construction has not yet been started in several of these projects.

**Action: Park and Planning mid-level personnel must no longer approve “administrative” or so-called minor amendments to site plans. The Director of Park and Planning must personally approve every amendment to a site plan that is not considered by the Planning Board and any site plan amendment review, major or minor, must include public notice.**

Progress Report:

- MNCPPC – As explained in the last report, a new procedure has been put in place for administrative amendments. All such amendments are now documented, publicly noticed, and can only be approved by the Director of Park and Planning.

**Action: Subject to Council approval the Department of Permitting Services and the Planning Board must submit to the county Council by July 30, 2005 a staffing plan to increase the number of personnel dedicated to site plan and other enforcement duties. The resources for additional personnel must come from increased fees on developers and builders, not from taxpayer funded sources.**

Progress Report:

- DPS and MNCPPC submitted staffing plans to the County Council

**Action: Existing personnel in the Department of Permitting Services and the Planning Board must be immediately redeployed to perform site plan inspections. The County Council will be provided with a plan for training new and redeployed employees.**

Progress Report:

- DPS has redeployed one inspector full time to perform site plan inspections.
- MNCPPC has taken steps to redeploy three individuals from County-Wide Planning to help with inspections. In addition, two individuals from Community Based Planning have been redeployed to assist with the review of Signature Set Documents, one site plan reviewer will be temporarily reassigned from Prince Georges, and a member of the Montgomery County Parks staff will also assist in site plan review. Finally, a staff member is being redeployed to assist with building permit review.
- DPS is training MNCPPC field staff to measure the height of buildings.

**Action: The Department of Permitting Services and the Planning Board must immediately begin the process of recruiting additional, qualified personnel to perform enforcement functions for the two agencies.**

Progress Report:

- DPS and MNCPPC have created and advertised positions outlined in their respective staffing plans.

**Action: The builders and developers involved in the proceeding pending before the Planning Board pertaining to the Clarksburg Town Center development have agreed to the community's request that the Planning Board investigate and adjudicate *all* allegations of violations prior to adjudication of the sanctions. The Council endorses this approach.**

Progress Report:

- MNCPPC – The Planning Board delayed the Plan of Compliance hearing with respect to height and setback violations that was originally scheduled for July 28<sup>th</sup> until the Planning Board has had a chance to review all of the alleged violations. That violation hearing is currently scheduled for the end of September.

