

PHED Committee #2  
October 31, 2016

## MEMORANDUM

October 27, 2016

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz, Senior Legislative Analyst

SUBJECT: Subdivision Regulation Amendment 16-01, Subdivision Regulations Rewrite,  
Worksession #5

On July 18, 2016, the Committee deferred its final recommendations on SRA 16-14 until September 12, 2016. The Committee did this to allow time for all interested parties to digest the 107-page revised SRA in the July 18 staff report for the Committee and provide comments.

On September 12, the Committee recommended changes to SRA 16-01 based on the issues raised in the staff memorandum. This memorandum has 5 sections:

- 1) Remaining issue from September 12 – public infrastructure easement
- 2) WSSC request concerning public utility easement requirements on private roads
- 3) Additional changes proposed by the development industry
- 4) Minutes from the September 12 PHED meeting
- 5) Other changes to the July 18 draft recommended by Staff but not discussed by the Committee.

Staff revised the July 18, 2016 draft of SRA 16-01 to include the Committee's recommendations (which change line numbers from the July 18 draft), including all changes to the July 18 draft recommended by Staff but not discussed by the Committee. Sections 4 and 5 are provided for documentation; these issues were already reviewed by the Committee.

### **1. Remaining Issue from September 12 – Public Infrastructure Easement**

The most significant unresolved issue from September 12 concerned the proposed requirements for a public infrastructure easement on private roads. Alternatives were presented on September 12, but the Committee did not take any action on this matter.

The ultraMontgomery requirements have been stated as follows for private roads:

- A 4-foot wide easement along a road for communications services.
- A 4-foot wide easement for communications services extending to each building.

- For a small residential unit (e.g., townhouse), the easement extending to the residential unit needs to reach a point where communications utilities will enter the dwelling.
- For large commercial or residential buildings, the easement needs to reach the communications room.
- For a commercial building or large multi-tenant building, require a second path to the building to allow diverse connections to the building.
- The easement should include installation of four 4-inch conduits along the right-of-way deeded to the County that the County may use for government or commercial use (the County should make at least two of the conduits available on an open access basis).
- For a commercial building or large multi-tenant building, there should also be four 4-inch conduits in the path extending to the building.
- If there is a requirement for a second diverse path easement to the building, that easement should also have four 4-inch conduits in the path extending to the building.
- If the conduit will be encased in concrete, then require access points, vaults, or handholds.

A far more general provision recommended by staff, which allows placement flexibility, would be to add a second provision as follows (**Lines 1696-1706**):

- b. The Board must also require the developer to provide a 4 foot wide public infrastructure easement area adjacent to private roads, or in other appropriate locations within the development to provide for future:
  - i. relocation of existing utilities permitted to remain in a road right-of-way; and
  - ii. installation of new telecommunication lines.
 When a structure is proposed under a private road, and the public infrastructure easement is located under the road, the easement must be established by the construction of conduits to the County’s specification.

Staff would note that the concern for a public infrastructure easement is most acute when public right-of-way is absent. The easement from the road to interior rooms will present legal issues for the County if it is required.

A representative from the building industry recommended deleting Subsection b entirely from SRA 16-01. In their opinion, the proposed requirements seem to be too broad, with unnecessary impacts.<sup>1</sup> The County could take time to develop the parameters for its ultraMontgomery initiative and then introduce a subdivision ordinance amendment that would be tailored to the program.

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<sup>1</sup> The statement is based on the following detailed comments:

- Effectively, over time this would widen every ROW by a minimum of 8’ (a minimum of 4’ on each side), though this widening could be greater because there’s no cap on the required easement width. This would have substantial impacts on net developable land, building location and streetscape design.
- The requirement is unpredictable because there’s no cap on the width of the required easement area. This would introduce more uncertainty into the planning of proposed projects, particularly in urban areas.
- What is the policy reason for imposing a new requirement that subdividers must provide easements for future relocations of existing utilities in adjacent road rights-of-way?
- This provision appears to be intended to secure easements for future utility grid work. Thus, from a practical standpoint, the option to locate the easements in “other appropriate locations” would not appear to be a viable option under most circumstances.

Councilmember Riemer recommends codifying ultraMontgomery’s specific requirements. The following is an alternative to section b, above:

- b. The Board must require the developer to provide a public infrastructure easement area abutting any private roads and going from the road to each building. The easement abutting the road must be 4 feet wide and include four 4-inch conduits and junction boxes built to County standards.
  - i. For all non-residential buildings and any multi-unit building:
    - (a) the four 4-inch conduits must extend from the easement abutting the road to the communications room; and
    - (b) a second easement with conduits from the road to either the building’s communications room or second communications stack, if constructed, must also be provided for any non-residential building larger than 100,000 square feet of gross floor area or any multi-unit building with more than 50 units.
  - ii. For all buildings not included in Subsection i, the easement from the road must reach a point where communications utilities will enter the building.
  - iii. The easements must be provided abutting both sides of any private road if the road is wider than 50 feet.

## **2. WSSC request concerning public utility easement requirements on private roads**

WSSC made one consistent point in staff level conversations concerning providing water and sewer service when private roads are allowed; the Commission would not agree to taking ownership of any pipe within the subdivision. WSSC would allow a connection from a point along a boarding public right-of-way or public utility easement but would not take responsibility for maintaining the on-site system.

On October 21, the Council received recommendations from WSSC concern public utility easements on private roads. WSSC recommends adding 4 substantive provisions to SRA 16-01<sup>2</sup>:

Prohibit any road containing existing or proposed WSSC water or sewer mains from being a private road, unless approved by WSSC through a Hydraulic Planning Analysis (if approved, Staff would recommend an addition of Subsection x. after line 1464);

Require any public utility easement to be 10 feet wide (a substitution to the word “area” in line 1689);

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<sup>2</sup> WSSC recommended putting all of the proposed provisions with the section of code describing when a private road was allowed, except one provision that would be located in the section on easements. Staff would place all of the provisions dealing with easements in the easement section. The Committee had previously agreed with the following text concerning public utility easements (lines 1684-1706):

Easements.

- a. The subdivider must establish utility easements, which must be shown on the record plat, to allow for installation of utility lines servicing the proposed subdivision, and the future extension thereof to any property adjoining the subdivision, which:
  - i. provides the minimum area needed to maintain each of the lines as determined by the Board with consultation from the utility provider; and
  - ii. is adjacent to, or accessible from, a road right-of-way.With County DPS permission, utilities may be placed within conduit in public road rights-of-way. Utilities placed within private road rights-of-way by a developer must also be in conduit.

Require a private road to have 10 foot public utility easements on each side of the road for dry utilities (if approved, Staff would recommend an addition of Subsection iii. after line 1692);

Prohibit a blanket easement for dry utilities under private roads (if approved, Staff would recommend an addition after line 1695).

WSSC staff will attend the Committee's October 31 meeting to explain their recommendation. The Planning Department's comments on this proposal (received at noon on October 27) are attached to this memorandum.

### **3. Additional changes proposed by the development industry**

#### **Line 652 Title Abstract**

This provision requires a title abstract with the supporting information for preliminary plan approval. The intent of the provision was to avoid problems during the record plat process when problematic easements are discovered (particularly on land intended to be dedicated for public right-of-way). The risk of not doing such a search may be long delays in the record plat approval process.

Development industry representatives would like this provision deleted. Staff has no objection as long as the development industry understands the risk of delay later in the process.

Planning Staff research indicates that the average cost of a typical title search is a few hundred dollars. In discussion of this topic with Council Staff, the representative implied that the major reason for not doing this was the burden for small developers. It seems more likely that the comment actually arises from worry by a large developer that exposing title issues in the early stages could affect the financing of the project. Larger developers who are well represented by experienced consultants and attorneys may be able to more quickly deal with title conflicts at the record plat stage, but small developers often aren't represented as well and would be better served by knowing at the early stages of their project about any issues they need to deal with. Planning Staff recommends keeping the requirement.

There is an alternative to requiring a title abstract. The applicant may be required to disclose any encumbrance of the property that would impact the proposed development (including any existing or proposed ROW). This would be better for Staff than reviewing the mind-numbing details of a title abstract. The applicant would still bear the risk of getting it wrong.

#### **Lines 671-673 Hearing Date**

The July 18 draft revised how the hearing date is determined. As introduced, the hearing date would be set 120 days after the Director accepts the application. The July 18 draft would set the date 120 days after the Development Review Committee meeting. The Department of Transportation (DOT) wanted the change because some applications accepted as complete by the Planning Department lacked critical information needed for their review. DOT proposed the change to permit them to use the initial two-week DRC review period to request any additionally needed information before starting the review clock.

The development industry representatives want the time to a public hearing measured from the time an application is accepted. This is consistent with the time period allowed for a site plan in the Zoning

Ordinance, which begins when the site plan is accepted as complete. The Planning Director is permitted under the proposed SRA to delay a hearing for just cause. Staff agrees with going back to the text as introduced.

**Lines 1684-1706** Easements:

The Committee had agreed to the following provision:

Easements.

- a. The subdivider must establish utility easements, which must be shown on the record plat, to allow for installation of utility lines servicing the proposed subdivision, and the future extension thereof to any property adjoining the subdivision, which...

A development industry representative had the following comments:

- Utilities servicing a proposed subdivision are not always located outside the right of way.
- Utilities servicing a proposed subdivision are not always placed in easements. It can depend upon the number of parcels and buildings in the subdivision and the particular utility's requirements.
- Dry utility companies work to their own schedules. Currently, dry utilities are not always engineered by the time of record plat.
- When an adjoining developed property is already serviced by utilities, why should an applicant be obligated to provide easements for future extensions of utilities to that adjoining property?

Proposed revision:

When a proposed subdivision will be serviced by utility lines located outside a public road right-of-way, the applicant must establish utility easements as required by the utility providers for the installation of these lines and, as necessary, for the future extension thereof to any undeveloped property adjoining the subdivision, which...

**Lines -1734-1741** Transportation Mitigation Agreement

The provision in question is part of the approval procedure for the Board's Adequate Public Facilities finding. The new section proposed by DOT staff would permit the Board to require additional measures to manage the transportation demands of a development project through a Traffic Mitigation Agreement in areas of the County that are outside of the designated TMDs. The section is proposed to read as follows:

If the Board finds, under criteria and standards adopted by the Council, that additional transportation facilities or traffic mitigation measures are necessary to ensure that transportation facilities will be adequate to serve the subdivision and to meet the transportation goals established by a master plan or the Subdivision Staging Policy for that portion of the County, the subdivision plan must be subject to the execution of a Traffic Mitigation Agreement (TMAg).

The development industry questioned whether a traffic mitigation agreement should be required if the proposed additional physical improvements solve the transportation adequacy problem.

Staff would want to make the reduction of traffic demand, through a traffic mitigation agreement, the first option for development that would otherwise fail the test for transportation adequacy. This could minimize solutions that add traffic capacity.

**Lines 1877 and following Measure to determine a valid plan**

SRA 16-01 as introduced uses a percentage of total approved peak-hour trips used by completed development as a measure to determine whether the validity period for a subdivision should be extended. The current code uses a percentage of floor area for that purpose. Every different land use has a different number of peak hour trips per square foot of floor area. A warehouse is assumed to produce much fewer trips per square foot of floor area than an office building.

The development industry recommends using a percentage of floor area because it is easy to determine without going to a traffic study which, in their opinion, may be hard to locate when an extension is requested.

Staff believes that a percentage of peak hour trips is a better measure. Density may be changed by a minor amendment if it does not result in more peak-hour trips. The approval record for the subdivision contains the traffic study with the trips that were assigned to the approved residential units and the non-residential square footage. It is not difficult to refer back to the record to determine what percentage of the trips would be on the road given which building permits have been issued for a project.

**4. Committee minutes from September 12, 2016**

The Committee agreed to the following changes to the July 18 draft of SRA 16-01.

**Lines 772-778** Revise as follows:

The Board must approve a resolution containing findings supporting its decision. Following approval of a preliminary plan by the Board, [no agency may require a] any substantial change in the plan [unless] may only be required by another agency in order to comply with a law or regulation. Any such change must be allowed by the Board's conditions of approval or a plan amendment under Section 4.2.F.

**Lines 1390-1394** Revise as follows:

In general, except when a private road is identified in a master plan, creation of public roads is preferred [in all circumstances; a developer]; an applicant must justify the use of a private road based upon the criteria below and the specific compelling circumstances of the property being developed.

**Lines 1396-1404** Replace to read as follows:

A subdivider who proposes a private road must provide a list of the proposed design elements that do not meet public road standards, including context-sensitive road design standards or a previously approved Design Exception, and justify why those design elements are necessary for the proposed development. The justification for a private road must not be based solely on the

installation of non-standard amenities that could be addressed under a Maintenance and Liability Agreement with the County.

**Line 1419** Add a new sentence at the end as follows:

If a road is allowed to be a private road, the approval of the road will not require the Department of Transportation to approve a Design Exception for any aspect of the road's design.

**Line 1423** Revise the first full sentence as follows:

When the Department of Transportation determines that the proposed road...

**Line 1445** Add the following at the beginning of the sentence:

Except where a Master Plan indicates that a Business District street could be private,...

**Lines 1465-1470** Revise the first sentence as follows:

- e. *Certification.* Before the Board may approve a preliminary plan, the subdivider must have an engineer certify that each private road has been designed to meet the standards required by this Section; however, when a site plan is required under Chapter 59, Article 59-7.3.4, the certification may be provided any time before the approval of the site plan.

(NOTE – The Committee agreed with requiring this certification before site plan approval with the understanding that all private roads require site plan approval, but all private roads do not, in fact, require site plan approval. In more rural settings, this text retains the requirement for certification of a preliminary plan when a site plan is not required.)

**Lines 1666-1679** Replace with the following:

- I. Public utilities. Pipelines, electric power and energy lines, and telecommunications lines must be provided by the developer in all subdivisions.
  1. Installation.
    - a. Within the property being subdivided, the developer must install any new pipelines, electric power and energy lines, and telecommunications lines underground.
    - b. The developer may also be required to underground any above-ground or overhead utilities that exist either within the property being subdivided or within the road right-of-way along the frontage of the property being subdivided, if the Board determines it is necessary based upon the size and density of a proposed subdivision.

**Lines 1684-1695** Replace with the following:

3. Easements.
  - a. The subdivider must establish utility easements, which must be shown on the record plat, to allow for installation of utility lines servicing the proposed subdivision, and the future extension thereof to any property adjoining the subdivision, which:
    - i. provides the minimum area needed to maintain each of the lines as determined by the Board with consultation from the utility provider; and
    - ii. is adjacent to, or accessible from, a road right-of-way.With County DPS permission, utilities may be placed within conduit in public road rights-of-way. Utilities placed within private road rights-of-way by a developer must also be in conduit.

(Note: The provision to add “a determination by the Board” was the way Staff responded to the Committee’s concern that the public utility may want an overly generous easement.)

**Line 2445** Add the following new provision:

- I. Unplatted Parcels with Existing Houses. In the R-90 and R-60 zones, an unplatted parcel containing an existing house may be converted into a lot under the minor subdivision procedure if:
  1. any required road dedication along the frontage of the proposed lot is shown on the record plat;
  2. there is adequate sewerage and water service to the property; and
  3. the principal use of the property is single-unit living and any new construction on the lot is limited to a detached house.

The Committee considered changing, but recommended retaining, the July 18 draft of SRA 16-01 concerning the following provisions:

Lines 1443-1444 that requires a finding that a private road will not negatively affect development of other properties.

Lines 1550-1551 concerning how private roads must be shown on a record plat.

Add an uncodified grandfathering provision to allow filed preliminary plan applications to proceed under the current code.

**5. Other changes to the July 18 draft recommended by Staff but not discussed by the Committee.**

**Detailed edits**

**Line 11**                    Revise as follows:

In particular, this Chapter provides a means to coordinate new [transportation] facilities with other existing and planned facilities and make a determination of adequate public facilities, land for public use, and the protection of natural resources and sensitive environmental features.

Reason – the word transportation limits the coordination of new facilities to a single type of facility.

**Line 59**                    Revise as follows:

For infrastructure under the jurisdiction of State or local municipalities, references in these regulations to County standards, policy, and procedures include the applicable standards, published policy, and procedures of the agency responsible for maintaining the infrastructure.

Reason – policies must be in writing to be discoverable and consistently applied.

**Line 218**                    Revise as follows:

An area of land shown on an ownership plat or on a record plat created only for the convenience of the owner under Section 7.1.D of this Chapter that reflects a deed, mortgage, or lease line but does not subdivide the underlying lot.

Reason – the code would require an ownership plat to lay out an ownership unit, but some ownership “lots” have already been created by record plat under the existing code.

**Lines 255-257**            Revise as follows:

*Right-of-Way:* Land intended for the passage of people, vehicles, or utilities, as shown on a record plat or described by a deed of dedication under Section 50.3.3.A.3.

Reason – the code without the change would exclude an allowed means to dedicate right-of-way. The original line reference mistakenly points to the definition of “Resubdivision”, not “Right-of-Way”.

**Line 259**                    Revise as follows:

The land area of a public right-of-way may be donated in fee to the County, state or other governmental body.

Reason – the County does not control all roads and all dedications.

**Lines 336-337**            Revise as follows:

3.     Advanced dedication or donation to the County, state, or other governmental body of master planned road rights-of-way.

**Line 433-437**          Revise as follows:

An unplatted parcel or a part of a previously platted lot used for reconstruction of a non-residential structure involuntarily demolished by [fire, wind, falling debris, water, or other] force of nature if the floor area, height, and footprint of the new replacement structure are not increased.

Reason – there is no reason to include some forces of nature (fire, wind, water) if all forces of nature (earthquake, snow) are also included.

**Lines 530-534**          Revise as follows:

- c.      all roads labeled as public or private with construction details. The subdivider must show the applicable [Chapter 49] Road Design and Construction Code design standards or typical sections for the proposed roads and must list any proposed modifications;

Reason – the Road Design and Construction Code is a defined term that includes Article 3 of Chapter 49 and any regulations that implement that Article.

**Lines 806-808**          Revise as follows:

A major amendment includes any requests to change density that results in greater adequate public facility impact; or...

Reason – a change in density that does not result in greater adequate public facility impact should be considered a minor amendment if it does not violate the other condition to be a minor amendment.

**Line 819-824**          Revise as follows:

A minor amendment to an approved preliminary plan includes any change that does not change density in a manner that results in greater adequate public facility impact; make major changes to lot configuration or location, or right-of-way width or alignment; or alter the intent, objectives, or requirements of the Board in approving the preliminary plan.

Reason – All density changes should not trigger a major amendment. A density change that results in the same or less adequate public facility impact should be considered a minor amendment.

All minor amendments to a preliminary plan must be acted upon by the Board at least on their consent agenda. Planning Staff is not opposed to the proposed change, since the Board will always have the opportunity to decide to remove the decision from the consent calendar and hold a hearing.

**Lines 1018-1023**      Revise as follows:

A preliminary plan that requires a site plan approval under Chapter 59, Article 59-7.3.4 may exceed any dwelling unit per acre or floor area ratio (FAR) limit recommended in a master plan, as provided in Chapter 59[, to permit construction of all MPDUs under Chapter 25A, or workforce housing units required under Chapter 59 or Chapter 29A].

Reason: Chapter 59 directs the density. The reasons for density increases may change in the future.

**Lines 1051-1060** Revise as follows:

*Lot dimensions.* Lot size, width, shape, and orientation must be appropriate for the location of the subdivision and for the type of development or use contemplated, considering the recommendations of the master plan and the applicable requirements of Chapter 59. The dimensions of a lot must be able to accommodate any proposed building and other infrastructure deemed necessary to serve the lot, including but not limited to any accessory structure, stormwater management, parking, access drive, and off-street service.

Reason – It was an oversight to not require a minimum dimension in terms of the lot’s functionality.

**Lines 1301-1304** Revise as follows:

Drainage [right-of-way] easement. The minimum for an enclosed drainage [right-of-way] easement must be 20 feet, unless otherwise determined by the Department of Permitting Services or other applicable public agency.

Reason: the standard incorrectly described a right-of-way when it is an easement.

**Lines 1481-1491** Revise as follows:

In approving a preliminary plan, the Board may, after considering the recommendation of the Department of Transportation or other applicable transportation agency, require a developer to provide a reasonable amount of off-site sidewalks, [bikeways,] or bikeway improvements. Off-site sidewalks, [bikeways,] or bikeway improvements may be required to provide necessary connections from the proposed development to an existing sidewalk or bikeway, an existing or master plan proposed bus or other public transit stop, an existing or proposed bikeshare station, or a public facility. ...

Reason – Bikeways are one type of a bikeway improvement.

**Line 1550-1551** Revise as follows:

The area for roads, when shown on a record plat, must be shown on a record plat to the full width of the required right-of-way.”

Reason – The prior draft did not allow for the possibility of a road not shown on a plat. This would occur for private roads with structures above or below the road. In this situation, the road would be an easement.

**Line 1553-1555** Revise as follows:

A private road must be platted as a road parcel, except as allowed by Subsection c, and remain open and unobstructed for use at all times as part of the project’s common area.

Reason – Subsection c allows a private road to be delineated within a lot.

**Lines 1680-1683**      Revise as follows:

The Board may not approve a final plat until the developer demonstrates that the applicable utility companies or public agencies are able to provide utility service to the subdivision and installation by the developer has been assured under Section 10.2.

Reason – DPS wants to assure actual service for fire/safety reasons.

**Lines 2703-2708**      Revise as follows:

1.      With the exception of a minor subdivision, as defined in this Chapter, no plat may be approved unless it complies with [the] an approved preliminary plan [as approved by the Board] or administrative subdivision plan; however, the Board may allow for minor modifications from [the preliminary plan] these plans which, in its opinion, do not alter the intent of [its] the previous approval.

Reason – Editorial.

**Lines 2709-2713**      Revise as follows:

2.      In those situations where a site plan is required, the Board may refuse to approve a plat until a site plan is approved under Section 59-7.3.4. Changes made to the lot layout of an approved preliminary plan, as part of a site plan approval, may be included on the plat without the need for amendment of the preliminary plan.

Reason – Clarifies intended flexibility.

**Line 3050-3054**      Revise as follows:

The Board's decision that a stop work order must continue [revokes] suspends any underlying Board approvals for the entire project or any part of the project as the Board specifies until the violation is corrected.

Reason – in the context of the sentence, the plan would not be revoked.

## **Grandfathering**

The development industry would want an option for all filed pending preliminary plans to proceed under the current code. Staff has no objection to an uncodified provision to that effect but notes that private streets may be more permissively allowed under the Planning Board's current administration of the subdivision regulations.

## **Waivers**

The proposed waiver provisions in SRA 16-01 allow the Planning Board to grant a waiver of any provision if it finds that "due to practical difficulty or unusual circumstances of a plan, the application of a specific

requirement of the Chapter is not needed to ensure the public health, safety, and general welfare.”<sup>3</sup> The development industry would want that provision expanded to include any case where the application of the provision leads to an undesirable result.

Staff does not recommend the expansion proposed by the development industry. If a provision produces an undesirable result due to the specific circumstances of the plan, the Board has the authority to waive a provision. If a provision consistently yields a bad result, then that provision should be brought to the Council’s attention and changed by the amendment process.

<b><u>This packet includes</u></b>	<b><u>© Number</u></b>
Redrafted SRA 16-01	1 – 109
WSSC Comments	110 – 111
Planning Department Comments	112 – 113

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<sup>3</sup> Line 2785.

Subdivision Regulation Amendment No.: 16-01  
Concerning: Subdivision Regulations Rewrite  
Draft No. & Date: 5 – 07/14/16  
Introduced: January 12, 2016  
Public Hearing: February 23, 2016  
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**

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Lead Sponsor: Council President Floreen at the request of the Planning Board

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**AN AMENDMENT to:**

All subdivision regulations in the County Code  
By deleting all of Chapter 50, Subdivision of Land; and  
Replacing Chapter 50, Subdivision of Land

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by introduced Subdivision Regulation Amendment.</i>
[Single boldface brackets]	<i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>
<u>Double underlining</u>	<i>Added to the Subdivision Regulation Amendment by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i>
* * *	<i>Existing law unaffected by Subdivision Regulation Amendment.</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.** Chapter 50 is repealed.

2        **Sec. 2.** Chapter 50 is replaced as follows:

3        **Chapter 50. SUBDIVISION OF LAND**

4        **Article I. In General**

5        **Division 50.1. Purpose**

6        **Section 1.1. Purpose of Chapter 50**

7        This Chapter provides for the legal division and subsequent transfer of land. The  
8        intent of this Chapter is to facilitate harmonious development and promote the  
9        health, safety, and welfare of the present and future inhabitants of the Maryland-  
10       Washington Regional District within Montgomery County under the General Plan.  
11       In particular, this Chapter provides a means to coordinate new [[transportation]]  
12       facilities with other existing and planned facilities and make a determination of  
13       adequate public facilities, land for public use, and the protection of natural  
14       resources and sensitive environmental features.

15       **Division 50.2. Interpretation and Defined Terms**

16       **Section 2.1. Rules of Interpretation**

17       The following rules of interpretation apply to this Chapter.

18       A. *How to Compute Periods Measured in Months.* If a period of time is  
19       measured in months, the period begins and ends on the same day of a month;  
20       however, if there are not enough days in the final month for this to be  
21       possible, the period ends on the final day of the final month.

22       B. *How to Compute Periods Measured in Days.* If this Chapter requires or  
23       allows a person to perform an act within a specific time period measured in  
24       days, the person must compute the deadline in the following manner:

25       1. If the period follows an event, count the day after the event as the first  
26       day of the period.

27           2.     Count the remaining number of calendar days in the period; however,  
28                     if the period is 7 days or fewer, omit Saturdays, Sundays, and legal  
29                     holidays.

30           3.     Do not count the last day if it is a Saturday, Sunday, legal holiday, or  
31                     if the office where the person must file a document or perform an act  
32                     is not open during the regular hours of that office on that day.

33     C.     Requirements to Act by a Specific Date.

34           1.     If the law requires or allows a person to perform an act by a specific  
35                     date, but the specific date is a Saturday, Sunday, or legal holiday, the  
36                     person may perform the act on the next day that is not a Saturday,  
37                     Sunday, or legal holiday.

38           2.     Any action required to be taken within a specific time period is  
39                     measured from the date of a final agency action, or, if a party seeks  
40                     judicial review of the agency action, from the date the court makes a  
41                     final decision.

42     D.     Signatures. The signature of a person may be the actual signature of the  
43                     person or a mark that the person has authorized.

44     E.     Singular and Plural. The singular includes the plural and the plural includes  
45                     the singular.

46     F.     Tense. The present tense includes the future tense.

47     G.     Use of "Or". "Or" indicates that the connected items, conditions, provisions,  
48                     or events may apply singularly or in any combination.

49     H.     Use of "Includes". "Includes" does not limit a term to the specific examples.

50     I.     Titles of Articles, Divisions, and Sections. Titles and captions are not part of  
51                     the law. They only advise the reader of the content of each Article, Division,  
52                     or Section.

53     J.     Use of "Chapter". "Chapter" means a numbered section in the Montgomery  
54                     County Code.

- 55 K. Use of “Section”. In this Chapter, “Section” means section or subsection, as  
56 the context indicates.
- 57 L. Use of “In Writing”. In this Chapter, written communication includes  
58 electronic communication.
- 59 M. Reference to County Standards. For infrastructure under the jurisdiction of  
60 State or local municipalities, references in these regulations to County  
61 standards, published policy, and procedures include the applicable standards,  
62 policy, and procedures of the agency responsible for maintaining the  
63 infrastructure.

64 **Section 2.2. Definitions**

65 All terms used in this Chapter that are defined in Chapter 59 or Chapter 49 have  
66 the same meanings as the definitions in those Chapters, unless otherwise defined  
67 here. In this Chapter, the following words and phrases have the meanings  
68 indicated.

69 A.

70 Adequate Public Facilities Ordinance (APFO): Section 4.3.J of this Chapter,  
71 which specifies that the Board must find that public facilities will be adequate to  
72 support and serve a proposed subdivision before approval.

73 Administrative Civil Penalty: A monetary penalty imposed by the Board after  
74 considering the factors in this Chapter for violating a Board action.

75 Administrative Subdivision Plan: A plan for a proposed subdivision prepared and  
76 submitted for [[Director]] the Director’s approval before the preparation of a plat.

77 Agricultural Land: Land classified in the Agricultural Reserve zone established by  
78 Division 4.2 of Chapter 59; and land in other zones containing at least 25 acres  
79 devoted to an agricultural use as defined in Chapter 59.

80 Applicant, Developer or Subdivider: An individual, partnership, corporation, or  
81 other legal entity and its agent that undertakes the subdivision of land or the  
82 activities covered by this Chapter. The terms include all persons involved in

83 successive stages of the project, even though such persons may change and  
84 ownership of the land may change. Each term includes the other.

85 B.

86 *Bikeshare Station or Stations:* A designated area on publicly or privately owned  
87 real property that contains one or more of the following items: bikeshare dock,  
88 terminal, technical platform, battery, and map frame.

89 *Bicycle Facilities:* Any infrastructure or amenity required to provide for or enhance  
90 use of bicycles for transportation or recreational purposes by the public, including  
91 but not limited to the following: bikeways, bicycle parking equipment or  
92 structures, bicycle repair stands, bikeshare stations, and end-of-trip services such as  
93 showers and changing rooms.

94 *Board:* The Montgomery County Planning Board of the Maryland-National Capital  
95 Commission.

96 *Block:* Land area bounded by roads, other rights-of-way, unsubdivided acreage,  
97 natural barriers, and any other barrier to the continuity of development.

98 *Building Restriction Line:* A line designating an area in which development or  
99 building is prohibited by the Board under Section 50.4.3.K of these regulations.

100 C.

101 *Citation:* A document noting a violation of a Board action, seeking to impose a  
102 civil fine or corrective action.

103 *Civil Fine:* A requirement to pay a predetermined sum of money specified in an  
104 administrative citation for violating a Board action.

105 *Commission:* The Maryland-National Capital Park and Planning Commission.

106 *Council:* The Montgomery County Council sitting as the District Council.

107 *County Executive:* The Montgomery County Executive.

108 D.

109 Department of Permitting Services: The Montgomery County Department of  
110 Permitting Services.

111 Department of Transportation: The Montgomery County Department of  
112 Transportation.

113 Development: The act of building structures and installing site improvements, both  
114 public and private, or the resulting structures and improvements.

115 Development Review Committee: A review committee to whom a plan is referred  
116 under the requirements of this Chapter. The Committee consists of Planning  
117 Department Staff and staff of any County, State, and Federal agency; municipality;  
118 and utility company and meets with applicants to facilitate review of the plan.

119 Developer: see "Applicant".

120 Development Rights: The potential for the improvement of a tract of land based on  
121 its zoning classification, measured in dwelling units or floor area.

122 Director: The Director of the Montgomery County Planning Department or such  
123 Director's designee.

124 District or Regional District: The Maryland-Washington Regional District,  
125 established by the Land Use Article of the Annotated Code of Maryland.

126 E.

127 Easement: A grant or reservation by the owner of land for the use of all or a  
128 portion of the land to others, including the public, for a specific purpose or  
129 purposes. The easement must be included in the conveyance of the encumbered  
130 land. For platting under this Chapter, an easement area is included within the  
131 dimensions and areas of the lots through which the easement may run, and is not  
132 separated from the lot as in the case of a dedicated right-of-way.

133 Easement, Slope: An easement to permit the creation and maintenance of slopes  
134 necessary to stabilize construction or to stabilize lands adjacent to construction.

135 Enforcement Agent: The Director, or the Director's designee responsible for  
136 determining compliance with a Planning Board Action.

137 Engineer: A professional engineer registered in Maryland.

138 Environmentally Sensitive Area: In this Chapter, environmentally sensitive areas  
139 are limited to: (a) slopes equal to or exceeding 25 percent, wetlands, streams, and  
140 associated buffers as defined in the latest version of the “Guidelines for  
141 Environmental Management of Development in Montgomery County”; and (b)  
142 critical habitats for threatened or endangered wildlife or plant species as defined in  
143 the Code of Maryland Regulations (COMAR) 08.03.08, or for species designated  
144 by the Maryland Wildlife and Heritage Service Natural Heritage Program,  
145 Department of Natural Resources as rare, watchlist, or in need of conservation.

146 F.

147 Floodplain: as defined in Chapter 19.

148 Floodplain, 100-year: as defined in Chapter 19.

149 G.

150 H.

151 I.

152 Improvements: Required public or private infrastructure needed to support the  
153 development, including the following: roads; alleys; grading; road pavement; curbs  
154 and gutters; sidewalks; pedestrian ways or paths; bicycle infrastructure, including  
155 bikeshare facilities; water mains; sanitary sewer lines; water supply and sewage  
156 disposal; storm drain facilities; curb returns; sidewalk and driveway entrances in  
157 right-of-way; guard rails; retaining walls; sodding; planting; street trees;  
158 monuments; street lights; and stormwater management.

159 Improvement, Public: Any improvements located on land dedicated to the public  
160 or within a dedicated right-of-way or public improvement easement.

161 J.

162 K.

163 L.

164 Licensed Land Surveyor: A land surveyor who is licensed in the State to “practice  
165 land surveying” as [[such terms are]] defined in the Maryland Business  
166 Occupations and Professions Code Ann. Section 15-101 (1995 Repl. Vol.), as  
167 amended.

168 Limit of Disturbance Line: A line designating an area beyond which land  
169 disturbance as defined in Chapter 19 is prohibited.

170 Lot: A discrete area of land that is described by a plat recorded in the land records  
171 for which the [[County]] Department of Permitting Services may issue a building  
172 permit.

173 [[Lot, Ownership: An area of land shown on a subdivision record plat created only  
174 for the convenience of the owner under Section 7.1.D of this Chapter that reflects a  
175 deed, mortgage, or lease line but does not subdivide the underlying lot.]]

176 M.

177 Maryland Coordinate System: The coordinate system defined in the Annotated  
178 Code of Maryland, Real Prop. §§14-401 through 14-407.

179 Maryland-Washington Regional District in Montgomery County: An area defined  
180 by the Land Use Article of the Annotated Code of Maryland as the entire County;  
181 however, subdivision, planning, and zoning matters within the jurisdictional  
182 boundaries of Brookeville, Poolesville, Laytonsville, Rockville, Barnesville,  
183 Gaithersburg, and Washington Grove are governed only by each municipality’s  
184 ordinance.

185 Master Plan: A plan of any portion of the General Plan that may consist of maps,  
186 data, and other descriptive matter that guides the physical development of the  
187 district or any portion of the district, including any amendments, extensions, or  
188 additions by the Commission, indicating the general locations for major roads,  
189 parks or other public spaces, public building sites, routes for public utilities, zones,  
190 or other similar information. Master plan includes a sector plan and any other type  
191 of master plan prepared by the Board and approved by the District Council. See  
192 Land Use Article of the Annotated Code of Maryland.

193 Mid-Block Right-of-Way: A [[dedicated or otherwise publicly accessible]]  
194 pedestrian or bike right-of-way within a block, which may include utilities where  
195 necessary, and from which motor vehicles are typically excluded.

196 Minor Subdivision: Creation of lots through the division, resubdivision, or  
197 assemblage of a lot, tract, or parcel of land, including minor adjustments to  
198 existing lot lines, that does not require the approval of a preliminary plan of  
199 subdivision. For the purpose of applying the State Growth Tier rules, a minor  
200 subdivision is separately defined in Section 4.3.F.3.a.i.

201 N.

202 Notice of Hearing: An administrative [[notice]] document issued by the Director  
203 that [[notifies]] informs an alleged violator where and when an enforcement  
204 hearing will be held by the Board or the Board's designee to address an alleged  
205 violation.

206 Notice of Violation: A [[notice]] document issued by an enforcement agent that  
207 [[notifies]] informs a recipient of a violation and specifies the remedial action that  
208 the recipient must take to avoid further enforcement action.

209 O.

210 Outlot: An area of land shown on a record plat [[that must not be occupied]] on  
211 which the construction of [[by]] a building or other structure requiring a building  
212 permit is prohibited.

213 Owner: A person or other legal entity holding a legal title in the land, not including  
214 a mortgagee, lienor, lessee, or contract purchaser.

215 Ownership Plat: A plat approved by the Board and recorded in the land records for  
216 the convenience of the property owner that designates land as separate units for  
217 purposes of ownership identification only.

218 Ownership unit: An area of land shown on an ownership plat or on a record plat  
219 created only for the convenience of the owner under Section 7.1.D of this Chapter  
220 that reflects a deed, mortgage, or lease line but does not subdivide the underlying  
221 lot.

222 P.

223 Parcel, Unplatted: A contiguous area of land described only in a deed recorded in  
224 the land records and not included on a record plat.

225 Person: An individual, partnership, corporation, organization, or other legal entity  
226 [[, or combination thereof]] that owns property or otherwise has an interest in a  
227 property.

228 Place of Worship: A meeting area for religious practices, including a church, a  
229 synagogue, a mosque, a convent, a temple, or a monastery.

230 Planning Board: see “Board”.

231 Planning Board Action: A final decision on a preliminary plan, site plan, project  
232 plan, sketch plan, water quality plan, or other plan, including all associated terms,  
233 conditions, requirements, and other obligations or limits, made by the Board under  
234 State law and Chapters 50 and 59, including any regulations issued under State or  
235 County law. For the purposes of an enforcement action, a Planning Board Action  
236 [[does not include]] excludes a decision made by the Board under Chapter 22A.

237 Plat: A drawing depicting some or all of an approved subdivision, prepared and  
238 submitted under this Chapter, and intended for recording in the land records after  
239 approval by the Board. A plat may consist of one or more sequentially numbered  
240 sheets. See also “Record Plat”.

241 Preliminary Plan: A [[plan]] drawing for a proposed subdivision prepared and  
242 submitted for Board approval before the preparation of a plat.

243 Pre-Preliminary Plan: A drawing for a proposed subdivision prepared and  
244 submitted for advice before the submission of a Preliminary Plan.

245 Q.

246 R.

247 Receiving Area: Land designated on the zoning map as qualified for more  
248 development than its base density through the transfer of development rights.

249 Record Plat: A plat of subdivision recorded in the land records under the  
250 requirements of this Chapter.

251 Resubdivision: A change to any lot line created by a previously recorded  
252 [[subdivision]] record plat or described by a deed of dedication under Section  
253 50.3.3.A.3. Resubdivision includes the assembly of recorded lots or parts of  
254 previously recorded lots. A resubdivision is a subdivision.

255 Right-of-Way: Land intended for the passage of people, vehicles, or utilities, as  
256 shown on a record plat or described by a deed of dedication under Section  
257 50.3.3.A.3. [[The maker of the plat must dedicate on the plat any right-of-way  
258 involving maintenance by a public agency to public use.]] Any right-of-way for a  
259 public road must be dedicated to public use by the maker of the plat. The land area  
260 of a public right-of-way may be donated in fee to the County, state or other  
261 governmental body. The parcel or area delineated on a plat for a private road is the  
262 private road right-of-way.

263 Road: Any street, highway, avenue, lane, alley, or viaduct, or any segment of any  
264 of them. Roads must be created by a subdivision plan under this Chapter and be  
265 shown on a record plat[[,]] or [[otherwise be]] deemed a road [[by]] under Chapter  
266 49.

267 Road, Centerline of: A line established as a centerline of a road right-of-way by  
268 any State, County, or other official agency or governing body with jurisdiction and  
269 shown on an officially adopted plan or recorded plat. In the absence of an official  
270 centerline, the Board must establish the centerline with consultation from the  
271 applicable agency with jurisdiction over the road.

272 Road Design and Construction Code: Article 3 of Chapter 49 and any regulation  
273 [[which]] that implements and amends that Article.

274 S.

275 State: The State of Maryland.

276 Stop Work Order: An administrative order issued by an enforcement agent that  
277 requires a person to discontinue any further development, construction, or other

278 land disturbance activity authorized by a Planning Board Action until a violation  
279 has been corrected.

280 Subdivider: see “Applicant”.

281 Subdivision (v.): The division or assemblage of a lot, tract, or parcel of land into  
282 one or more lots or parcels or other divisions for the purpose, whether immediate  
283 or future, of sale or development. The definition of subdivision does not include a  
284 bona fide division of exclusively agricultural land not for development purposes  
285 [[or the creation of an ownership lot]]. A resubdivision is a subdivision.

286 Subdivision (n.): The land or area subdivided.

287 Subdivision Regulations: Chapter 50 of the Montgomery County Code, also  
288 referred to as this Chapter.

289 Subdivision Staging Policy: The resolution or guidelines adopted by the District  
290 Council to determine the adequacy of public facilities and services.

291 T.

292 Tract: A contiguous area of land, including all proposed and existing rights-of-  
293 way, lots, parcels, and other land dedicated or donated in fee by the owner or a  
294 predecessor in title. A tract does not include land conveyed to a government for  
295 more than nominal consideration.

296 Turnaround: The termination of a road in the approximate shape of a “T”, built to  
297 allow vehicles to reverse direction using a 3-point turn. A temporary turnaround  
298 may become the permanent terminus of a public street when it is so approved by  
299 the Director of the Department of Transportation.

300 U.

301 V.

302 W.

303 Water Quality Plan: A plan, including supporting documents, required as part of a  
304 water quality review under Chapter 19 for certain projects located in a special  
305 protection area.

306 WMATA: The Washington Metropolitan Area Transit Authority.

307 WSSC: The Washington Suburban Sanitary Commission.

308 X.

309 Y.

310 Z.

311 **Division 50.3. General Requirements**

312 **Section 3.1. Applicability of the Chapter**

313 This Chapter applies to any subdivision of land within Montgomery County  
314 located within the Maryland-Washington Regional District, except for[[:

315 A. Any municipal corporation listed in Section 20-701 of the Land Use Article  
316 in the Maryland Code; and

317 B. A]] a good faith division of exclusively agricultural land that is not made for  
318 development purposes.

319 **Section 3.2. Record Plat Required**

320 A. Any subdivision of land must be included on a plat approved by the Board  
321 and recorded in the land records before transfer of any part of the subdivided  
322 land.

323 B. [[The County Department of Permitting Services may only issue a building  
324 permit for the construction of a building located]] Construction of a new  
325 principal building may only occur on a lot or parcel shown on a plat  
326 recorded in the County Land Records or on a property that is exempt under  
327 Section 3.3.B.

328 **Section 3.3. Exemptions to the Requirements of this Chapter**

329 A. An approved preliminary plan and recording of a plat under this Chapter are  
330 not required for the division or conveyance of unplatted land in the  
331 following instances:

- 332 1. Court action. Partition of land through action of a court of competent  
333 jurisdiction unless or until development of the land is proposed.
- 334 2. Utility rights-of-way. Land used as part of an electric transmission line  
335 right-of-way or other public utility right-of-way.
- 336 3. Advanced dedication or donation to the County, state, or other  
337 governmental body of master planned road rights-of-way.
- 338 B. Recordation of a plat before issuance of a building permit is not required for:
- 339 1. [[Certain uses on agricultural land:]] Agricultural land used for  
340 residential dwellings. An unplatted parcel of agricultural land at least  
341 25 acres in size used for a primary dwelling unit if density and  
342 development rights are available.
- 343 [[a. a dwelling unit on an unplatted parcel of agricultural land at  
344 least 25 acres in size, if density and development rights are  
345 available;
- 346 b. conditional uses associated with agriculture and approved under  
347 Chapter 59, unless a subdivision is required as a condition of  
348 the approval; and
- 349 c. any equestrian facility or other agricultural building on land  
350 classified in the Agricultural Reserve zone.]]
- 351 2. Public transfer. A part of a lot previously shown on a record plat that  
352 was created by transfer of part of the lot for public use by reference to  
353 a recorded instrument, if the outlines and dimensions of such  
354 remainder can be determined by reference to the previously recorded  
355 plat. This provision also applies to any property that qualified for an  
356 exemption under this Section before the transfer.
- 357 3. Adjoining property. A part of a lot created by deed recorded before  
358 May 19, 1997 between owners of adjoining platted properties for the  
359 purpose of small adjustments in boundaries. This applies only to an  
360 adjustment that was less than either a total of 2,000 square feet or one  
361 percent of the combined area, if additional lots were not created and

362 the total area of resulting ownership was not reduced below the  
363 minimum size required by this Chapter or by Chapter 59.

364 4. Property for Single-Unit Living:

365 a. [[One detached house on a]] An unplatted parcel [[not  
366 previously included on a record plat,]] or a part of a previously  
367 platted lot, proposed for single-unit living, which has not  
368 changed in size or shape since June 1, 1958, if a description and  
369 location of the property and proposed structure are submitted to  
370 the Planning Department, before issuance of a building permit,  
371 sufficient to:

372 i. locate the property on the tax maps of Montgomery  
373 County;

374 ii. show that the approval of the building permit application  
375 would not result in obstructing the future opening,  
376 extension, or widening of any necessary road, or  
377 otherwise jeopardize any planned public facility;

378 iii. show that the property and use comply with the zoning  
379 ordinance, and show the setbacks and any other  
380 information needed to check compliance with  
381 regulations, including provisions for water and sanitary  
382 service, and establishment of a building restriction line  
383 along any existing or proposed road sufficient to provide  
384 for future expansion or opening of such road to its  
385 ultimate width; and

386 iv. show that the approval of the permit would not adversely  
387 affect the General Plan.

388 b. [[Reconstruction]] An unplatted parcel or a part of a previously  
389 platted lot used for reconstruction of an existing detached house  
390 under Chapter 59, Section 7.7.1.

391 c. An unplatted parcel created by combining the entirety of two or  
392 more contiguous parcels that qualified for an exemption under  
393 Subsection (a).

394 ~~[[5.~~ Telecommunications facilities. Telecommunications towers/antennas,  
395 including associated accessory structures.]]

396 ~~[[6]]5.~~ Certain residential property in the City of Takoma Park.  
397 Property located in the portion of the City of Takoma Park annexed  
398 into Montgomery County on July 1, 1997 that was recorded by a deed  
399 before January 1, 1982 and remains otherwise buildable under the  
400 Prince George's County Zoning and Subdivision Regulations on June  
401 30, 1997, if a description and locational survey drawing of the  
402 property and proposed structure are submitted to locate them on the  
403 tax map of Montgomery County.

404 ~~[[7]]6.~~ Certain commercial properties adjoining State highways. An  
405 addition to a building on property zoned for commercial uses:

406 a. adjoining a State highway;

407 b. located within a State-approved Community Legacy Plan Area  
408 on October 30, 2012;

409 c. with less than 10,000 square feet of gross floor area on October  
410 30, 2012, where subsequent building permits cumulatively  
411 allow increases in total gross floor area by less than 2,000  
412 square feet; and

413 d. that includes a description and boundary survey drawing of the  
414 property and proposed structure at a 1-inch-equals-50-foot scale  
415 or another appropriate scale as determined by the Director that  
416 demonstrates that the additional floor area will not extend into  
417 any adopted master plan road right-of-way.

418 ~~[[8]]7.~~ Certain commercial properties adjoining State highways in Rural  
419 Village Overlay zones. An addition, reconstruction, or replacement of  
420 a building on commercially zoned property:

- 421 a. adjoining a State highway;  
422 b. located in the Rural Village Overlay zone;  
423 c. with less than 10,000 square feet of existing gross floor area  
424 where later building permits cumulatively allow net increases in  
425 total gross floor area of less than 2,000 square feet;  
426 d. that includes a description and boundary survey drawing of the  
427 property and proposed structure on a 1-inch-equals-50-foot  
428 scale or another appropriate scale, as determined by the  
429 Director, showing that the additional floor area will not extend  
430 into any adopted master plan road right-of-way; and  
431 e. that is submitted within one year after demolition or destruction  
432 of the previous building was substantially completed.  
433 8. *Certain non-residential properties. An unplatted parcel or a part of a*  
434 *previously platted lot used for reconstruction of a non-residential*  
435 *structure involuntarily demolished by [[fire, wind, falling debris,*  
436 *water, or other]] force of nature if the floor area, height, and footprint*  
437 *of the new replacement structure are not increased.*

438 **Section 3.4. Approving Authority**

439 The Board administers this Chapter.

440 **Section 3.5. Effect of Chapter on Other Ordinances**

441 This Chapter does not repeal or modify or otherwise affect any other ordinance,  
442 resolution, rule, or regulation of the County; however, wherever this Chapter  
443 imposes more stringent requirements, the provisions of this Chapter must prevail.

444 **Section 3.6. Submission Procedures for Subdivision Plans**

445 A. The Board will consider subdivision of land as follows:

- 446 1. Except for an administrative or minor subdivision under Divisions  
447 50.6 and 50.7, the subdivider must submit a complete preliminary  
448 plan application form and payment of the required fee.

449           2.     The plat of all or part of an approved subdivision plan must be  
450                     submitted with required supporting data and documents, a completed  
451                     application form, and payment of the required fee.

452     B.     Subdivision of part of a tract. The Director may reject a subdivision plan  
453             application for part of a tract if the size and shape of the property as  
454             submitted prevent designing a plan that will meet standards established by  
455             these regulations, and require all or a larger part of the tract to be platted to  
456             meet this Chapter, Chapter 49, or other laws or regulations.

457     C.     Properties with a pending water or sewer category change request. The  
458             Director may reject a subdivision plan application for a property undergoing  
459             review by the Council for a water or sewer category change request, and  
460             require Council action to approve the request before a preliminary plan  
461             application is accepted.

462     [[C]]D. Area within pending zoning map amendments. The Director may reject a  
463             subdivision plan if all or any part of the plan [lies] is located within the  
464             boundaries of a pending amendment to the zoning map. The subdivider may  
465             resubmit the plan immediately after the final disposition of the pending  
466             amendment. This Subsection must not apply if any map amendment is still  
467             pending 6 months after the date of the submission of the plan.

468     [[D]]E. Area within pending master plan. The Board may defer action on a  
469             proposed subdivision plan application, if all or any part of the plan is located  
470             in the boundaries of a pending master plan or master plan amendment. For  
471             purposes of this Section, a pending master plan or master plan amendment is  
472             the public hearing draft master plan or master plan amendment.

473           1.     The subdivider may resubmit a proposed subdivision plan deferred  
474                     under this Section to the Board either:

475                     a.     after the final disposition by the District Council of the pending  
476                             master plan or master plan amendment; or

477                     b.     no later than 12 months from the date the Board approves the  
478                             public hearing draft master plan or master plan amendment,  
479                             unless there is a determination by the Board that the subdivision

480 plan application presents a substantial conflict with the  
481 proposed public hearing draft master plan or master plan  
482 amendment, in which case the Board may defer a subdivision  
483 plan application for a maximum of 18 months from the date the  
484 Board approves the public hearing draft master plan or master  
485 plan amendment, but in no event beyond the period in  
486 Subsection (a).

487 **Article II. Subdivision Plans**

488 **Division 50.4. Preliminary Plan**

489 Except for an administrative or minor subdivision submitted under Divisions 50.6  
490 and 50.7, the subdivider must submit a proposed subdivision to the Board for  
491 approval in the form of a preliminary plan before the submission of a plat. The  
492 plan must show graphically, and supporting documents must demonstrate, the data  
493 needed for the Board to make the findings required by this Article.

494 **Section 4.1. Filing and Specifications**

495 **A. Application and fee.**

- 496 1. The subdivider must file the preliminary plan with the Board, together  
497 with the completed application form, supporting information, and  
498 payment of the required fee.
- 499 2. The subdivider must own the property or be authorized by the owner  
500 to file the application.
- 501 3. If property is owned or controlled by the State, Montgomery County,  
502 or another political subdivision, government entity or agency, or  
503 WMATA, the subdivider must obtain authorization from the  
504 government entity, agency or WMATA to include the property as part  
505 of the subdivision.

506 **B. The drawing.** The subdivider must submit a preliminary plan drawing in a  
507 form required by regulations of the Board. Details and information must  
508 include:

- 509 1. scaled drawing of [[at least]] a maximum of 100 feet to the inch, or as  
510 specified by the Director;
- 511 2. title block information;
- 512 3. certificate of [[registered professional]] an engineer [[and]] or licensed  
513 land surveyor to affirm the accuracy of boundary lines, topographic  
514 data, and other engineering or survey data, and to certify that the  
515 subdivision plans and supporting documents were prepared in a  
516 manner that satisfies all submission requirements and applicable  
517 agency standards, policies, and procedures;
- 518 4. locations and names of abutting and confronting subdivisions with lot,  
519 block, and record plat number of subdivided land, and deed references  
520 for unplatted land;
- 521 5. existing scenic easements, scenic vistas designated by the Rustic  
522 Roads Plan, or designated historic resources;
- 523 6. vicinity location map; and
- 524 7. graphic representation of the proposed subdivision, including:
- 525 a. bearings referenced to the Maryland Coordinate System, except  
526 that an application filed to correct an approved preliminary plan  
527 may be referenced to the plat meridian used on the original  
528 approved preliminary plan or the record plat;
- 529 b. lot and block layout;
- 530 c. all roads labeled as public or private with construction details.  
531 The subdivider must show the applicable [[Chapter 49]] Road  
532 Design and Construction Code design standards or typical  
533 sections for the proposed roads and must list any proposed  
534 modifications;
- 535 d. location of existing and proposed utilities;
- 536 e. existing topography with contour intervals of 5 feet or less;

- 537 f. location and width of existing and proposed pedestrian and  
538 bicycle facilities, including sidewalks, shared-use paths and on-  
539 road bicycle lanes and connections to existing off-site facilities;
- 540 g. sites for public uses and open spaces;
- 541 h. location, type, and width of all existing and proposed rights-of-  
542 way and easements, including roads, slopes, paths, utilities, on-  
543 and off-site storm drainage, and other improvements;
- 544 i. the proposed use of all lots on the preliminary plan and the  
545 scaled dimensions and approximate area of each use;
- 546 j. lines showing the limits of each zone, if the property is located  
547 in more than one zone; and
- 548 k. all existing topography, structures, and paving [[within 100 feet  
549 of]] on adjoining properties within 100 feet.

550 C. Supporting information.

- 551 1. An approved Natural Resources Inventory/Forest Stand Delineation.
- 552 2. A preliminary forest conservation plan or forest conservation  
553 exemption.
- 554 3. Verification from the County and other applicable agencies showing  
555 payment of any required fees in connection with the County's review  
556 process.
- 557 4. Concept road grade and profile. [[A]] For a public road, an  
558 [[registered]] engineer or [[registered professional]] a licensed land  
559 surveyor must prepare conceptual road grade and profile plans  
560 [[according to]] under the design criteria of [[Chapter 49]] the Road  
561 Design and Construction Code and indicate the percentage of tangent  
562 grades, lengths of crest and sag, vertical curves and elevations, and  
563 elevations of all intersecting roads. The plan must indicate the  
564 direction of water flow. Where the topography makes the

565 determination of the adequacy of the road grades difficult, the  
566 Director may require additional supporting information.

567 5. Storm drainage capacity and impact analysis. The concept road grade  
568 plan must be supported by a preliminary storm drain study prepared  
569 under the [[County's storm drain specifications]] drainage design  
570 criteria of the transportation or permitting agency with jurisdiction  
571 over the road.

572 6. Sight distance evaluation for all proposed driveways and proposed  
573 road intersections prepared under the criteria of the applicable State or  
574 County transportation agency.

575 7. Hydraulic Planning Analysis. For lots located in areas where the  
576 subdivider proposes connection to public water and sewer facilities,  
577 the subdivider must submit verification from WSSC that the  
578 subdivider has applied for a Hydraulic Planning Analysis.

579 [[7]]8. Wells and septic systems. For lots located in areas where the  
580 subdivider proposes the installation of individual wells and septic  
581 systems, the preliminary plan must also show:

582 a. the proposed locations of water wells for each lot and existing  
583 wells on the property and within 100 feet of the property;

584 b. a circular area with a radius of 100 feet around each well to  
585 denote clear space in which no final sewage system is to be  
586 located;

587 c. the "usable area" for sewage disposal that satisfies the  
588 Executive Regulations for on-site sewage disposal;

589 d. any existing sewage disposal systems located on the property  
590 and within 100 feet of the property;

591 e. wetlands, rock outcrops, and floodplains; and

592 f. a 10-foot zone surrounding the water service line to buildings,  
593 free and clear of any sewer lines, systems, or part thereof.



- 626 a. A preliminary plan for a property located in a receiving area  
627 that proposes to increase the density of the property by using  
628 transferred development rights must indicate:
- 629 i. the number of lots permitted for the tract by zoning  
630 without the use of density increases as allowed by  
631 Transferable Development Rights (TDR) or the  
632 Moderately Priced Dwelling Unit (MPDU) programs;
- 633 ii. the number of development rights to be conveyed to the  
634 receiving property;
- 635 iii. the number of Moderately Priced Dwelling Units to be  
636 provided as required by Chapter 25A;
- 637 iv. the total density, in dwelling units, of the proposed  
638 subdivision; and
- 639 v. the density recommended by the adopted master plan.
- 640 b. A preliminary plan that uses transferable development rights in  
641 the Rural Residential and Residential zones must include at  
642 least two-thirds of the number of development rights permitted  
643 to be transferred to the property under the appropriate master  
644 plan. However, the Board may reduce the two-thirds  
645 requirement if it finds the reduction is more appropriate for  
646 environmental or compatibility reasons.
- 647 ~~[[10]]~~11. Draft Traffic Mitigation Agreement. A preliminary plan  
648 application for property located in a Transportation Management  
649 District (TMD), designated under Chapter 42A, Article II, must  
650 contain a draft Traffic Mitigation Agreement (TMAg) prepared by the  
651 applicant that meets the requirements of that Article.
- 652 12. Title Search. A title abstract for the property identifying any  
653 easements or other encumbrances on the land being subdivided.
- 654 D. Application processing.

- 655 1. The applicant must submit an initial application to the Director. The  
656 Director must review the application for completeness within 10 days  
657 after receipt. An application is incomplete if any required element is  
658 missing or is facially defective, e.g., a drawing that is not to scale. An  
659 application filed without all required fees is also incomplete. The  
660 assessment of completeness must not address the merits of the  
661 application.
- 662 2. The applicant must submit any required revisions to the Director. The  
663 Director must review the revised application for completeness within  
664 10 days after receipt.
- 665 3. After the Director verifies that the application is complete, or if the  
666 review is not completed within 10 days after receipt, the Director will  
667 accept the application and establish a hearing date under Section  
668 4.1.E.
- 669 4. Public notice is required [[per]] to satisfy a regulation approved under  
670 Section 10.1.
- 671 E. Hearing date. The Board must schedule a public hearing to begin within 120  
672 days after the date [[the Director accepts an application]] of the scheduled  
673 Development Review Committee meeting on the application. The Director  
674 may postpone the public hearing by up to 30 days once without Board  
675 approval. The Director or applicant may request one or more extensions  
676 beyond the original 30 days with Board approval. The Board must notice the  
677 public hearing and indicate the new hearing date on the Board's agenda. An  
678 application that was filed before {effective date of legislation} is not subject  
679 to this subsection.

680 **Section 4.2. Approval Procedure**

- 681 A. Referral of plan. After accepting an application, the Director must send a  
682 copy to the Development Review Committee and other reviewing bodies,  
683 requesting each agency to submit a recommendation concerning the plan.  
684 The Director must send copies, as needed, to:
  - 685 1. WSSC, for water and sewer service;

- 686           2.     the [[County]] Department of Transportation, for roads, streets,  
687                 intersection locations, site access, sight distances, traffic calming,  
688                 paths, pedestrian and bicycle facilities (including bike share), parking,  
689                 transit facilities, transportation demand management elements, and  
690                 storm drainage within County-maintained rights-of-way and  
691                 easements;
- 692           3.     the [[County]] Department of Permitting Services, for stormwater  
693                 management, floodplain delineation, sanitation, wells, and septic  
694                 systems;
- 695           4.     the Montgomery County Department of Environmental Protection, for  
696                 water and sewer adequacy and tree variances;
- 697           5.     Montgomery County Fire and Rescue Service, for requirements for  
698                 adequate fire protection and access;
- 699           6.     the State Highway Administration, for right-of-way requirements and  
700                 access on state roads;
- 701           7.     any appropriate agency of the federal government;
- 702           8.     any municipality that has filed a request with the Board for an  
703                 opportunity to review subdivision or resubdivision plans for property  
704                 located in that municipality;
- 705           9.     Montgomery County Public Schools, for school site planning;
- 706           10.    any other Montgomery County Executive agency, for the adequacy of  
707                 public facilities and services and any proposed public use; and
- 708           11.    local utility providers.
- 709    B.    Review and recommendation.
- 710           1.     Timing of review.
- 711                 a.     [[Reviewing]] The Director must allow reviewing State and  
712                         County agencies and utilities [[must get]] a minimum of 14  
713                         days to review plans [[and]]. Those agencies and utilities must

714 submit initial comments to the Director before the Development  
715 Review Committee meeting when one is scheduled.

716 b. The applicant must submit revised drawings at least 65 days  
717 before the date of the hearing to address all comments received.  
718 The Director may extend the deadline if the applicant submits a  
719 written request within 15 days after the revised drawings were  
720 due. If no written request is received or if the requested  
721 extension is not granted, the application is deemed withdrawn.

722 c. State and County agencies and utilities must each submit their  
723 final recommendations on the application at least 45 days  
724 before the date of the Board hearing or must request an  
725 extension.

726 2. Approvals from public agencies. The following agency approvals are  
727 [[needed]] required before the Board approves the preliminary plan:

728 a. Design of County-maintained roads. The [[County]]  
729 Department of Transportation must approve in preliminary  
730 form the typical section, concept road profile, intersection and  
731 site access locations, sight distances, utility location, and storm  
732 drain adequacy for improvements along County-maintained  
733 roads and paths within its jurisdiction;

734 b. Wells and septic systems. The [[County]] Department of  
735 Permitting Services must approve lots with individual wells or  
736 septic systems, the well, and septic plan. Proposed wells and  
737 septic systems within existing rights-of-way or easements are  
738 prohibited;

739 c. Stormwater management. The [[County]] Department of  
740 Permitting Services must approve a stormwater management  
741 concept and floodplain delineation, if required under Chapter  
742 19;

743 d. Water Quality Plan. If a water quality plan is required under  
744 Chapter 19, the Board must not approve a preliminary plan or

745 any extension until all requirements of Chapter 19 for plan  
746 approval are satisfied. The Board must make the compliance  
747 with a required water quality plan, including any plan reviewed  
748 on a preliminary or final basis, a condition of any approved  
749 preliminary plan; and

750 e. Water and sewer service. If water and sewer are proposed to  
751 serve the property, the Board may approve a preliminary plan  
752 only if WSSC [[agrees with]] has reviewed the proposed water  
753 and sewer service layout.

754 3. Director. The Director must publish a report and recommendation at  
755 least 10 days before the Board hearing.

756 C. Planning Board Action.

757 1. The Director must present every preliminary plan to the Board for its  
758 review and action. The Board must take one of the following actions  
759 or defer action to obtain more information:

760 a. approve, if the plan conforms to the purposes and other  
761 requirements of this Chapter;

762 b. approve, with any conditions or modifications necessary to  
763 bring the proposed development into compliance with all  
764 applicable requirements; or

765 c. deny, if the plan is contrary to the purposes and other  
766 requirements of this Chapter.

767 2. All necessary improvements to support the development must be  
768 completed or assured, as specified in Section 10.2.

769 3. Where a site plan is required, the approval of the preliminary plan  
770 must not allow clearing or grading to occur before approval of the site  
771 plan, unless otherwise specified by the Board.

772 4. The Board must approve a resolution containing findings supporting  
773 its decision. Following approval of a preliminary plan by the Board,

774 [[no agency may require a]] any substantial change in the plan  
775 [[unless]] may only be required by another agency in order to comply  
776 with a law or regulation. Any such change must be allowed by the  
777 Board's conditions of approval or a plan amendment under Section  
778 4.2.F.

779 D. *Required Findings.* To approve a preliminary plan, the Board must find that:

780 1. *[[the preliminary plan substantially conforms to the master plan;]] the*  
781 *layout of the subdivision, including size, width, shape, orientation and*  
782 *density of lots, and location and design of roads is appropriate for the*  
783 *subdivision given its location and the type of development or use*  
784 *contemplated and the applicable requirements of Chapter 59;*

785 2. *[[public facilities will be adequate to support and service the area of*  
786 *the subdivision]] the preliminary plan substantially conforms to the*  
787 *master plan;*

788 3. *[[the layout of the subdivision, including size, width, shape,*  
789 *orientation and density of lots, and location and design of roads are*  
790 *appropriate for the subdivision given its location and the type of*  
791 *development or use contemplated, considering the recommendations*  
792 *included in the master plan and the applicable requirements of*  
793 *Chapter 59;]] public facilities will be adequate to support and service*  
794 *the area of the subdivision;*

795 4. *all Forest Conservation Law, Chapter 22A requirements are satisfied;*

796 5. *all stormwater management, water quality plan, and floodplain*  
797 *requirements of Chapter 19 are satisfied; and*

798 6. *any other applicable provision specific to the property and necessary*  
799 *for approval of the subdivision is satisfied.*

800 E. *Plan Certification.* Every preliminary plan approved by the Board must be  
801 *certified by the Director to confirm that the plan reflects the Board's*  
802 *approval. Any modification of the plan conditioned by the Board's approval*

803 must be included in the plan before receiving the approval stamp. The  
804 approved plan must be filed in the records of the Board.

805 F. *Amendments.*

806 1. A major amendment to an approved preliminary plan must follow the  
807 same procedures, meet the same criteria, and satisfy the same  
808 requirements as the original preliminary plan.

809 a. A major amendment includes any requests to change density  
810 that results in greater adequate public facility impact; or make  
811 major changes to lot configuration or location, or right-of-way  
812 width or alignment; or make a change to any condition of  
813 approval, except a change to validity period phasing as  
814 permitted in Section 4.2.F.2.

815 2. A minor amendment to an approved preliminary plan must follow the  
816 same procedures, meet the same criteria, and satisfy the same  
817 requirements as the original preliminary plan, except as modified  
818 under Section 4.2.F.2.b.

819 a. A minor amendment to an approved preliminary plan includes  
820 any change that does not change density in a manner that results  
821 in greater adequate public facility impact; make major changes  
822 to lot configuration or location, or right-of-way width or  
823 alignment; or alter the intent, objectives, or requirements of the  
824 Board in approving the preliminary plan.

825 b. The Board may approve a minor preliminary plan amendment  
826 without a public hearing if the Director publishes a report and  
827 recommendation on the amendment a minimum of 10 days  
828 before the Board meeting. The Director may also approve a  
829 minor amendment to change validity period phasing as  
830 permitted in Section 4.2.H.1.b.

831 G. *Plan Validity.*

- 832 1. Initiation date. The plan validity period for preliminary plans starts on  
833 the later of:
- 834 a. 30 days from the date of mailing indicated on the written  
835 resolution; or
- 836 b. if an administrative appeal is timely noted by any party  
837 authorized to file an appeal, the date upon which the court  
838 having final jurisdiction acts, including the running of any  
839 further applicable appeal periods.
- 840 2. Duration.
- 841 a. Single-phase project.
- 842 i. A preliminary plan approved after March 31, 2009 and  
843 before April 1, 2017 remains valid for 60 months after its  
844 initiation date.
- 845 ii. A preliminary plan approved after March 31, 2017  
846 remains valid for 36 months after its initiation date.
- 847 b. Multi-phase project.
- 848 i. An approved preliminary plan for a multi-phase project  
849 remains valid for the period of time allowed in the  
850 phasing schedule approved by the Board.
- 851 ii. The applicant must propose a phasing schedule and the  
852 duration of the validity period for each phase as part of  
853 an application for preliminary plan approval or  
854 amendment. The Board must assign each phase a validity  
855 period after considering the size, type, and location of the  
856 project.
- 857 iii. The time allocated to any phase must be 60 months or  
858 less after the initiation date for that particular phase for  
859 any preliminary plan approved after March 31, 2009, but  
860 before April 1, 2017, and 36 months after the initiation

861 date for that particular phase for any preliminary plan  
862 approved after March 31, 2017.

863 iv. The cumulative validity period of all phases must be  
864 shorter than or equal to the APFO validity period which  
865 begins on the initiation date of the first preliminary plan  
866 approval, including any extension granted under Section  
867 4.3.J.7.

868 v. If the recordation of an approved preliminary plan occurs  
869 within 5 years of approval for a multi-phase project that  
870 includes land or building space to be transferred to the  
871 County for an arts or entertainment use under Section 59-  
872 C-6.2356 of the zoning ordinance in effect on October  
873 29, 2014, all phases of the preliminary plan are validated.  
874 After approval, an amendment or modification to the  
875 phasing plan or the preliminary plan will not affect the  
876 validations if the requirements of this Subsection have  
877 otherwise been met.

878 3. Validation. A preliminary plan or phase of a preliminary plan is  
879 validated when the applicant has secured all government approvals  
880 necessary to record a plat, and a plat for all property shown on the  
881 plan or in that phase has been recorded in the County Land Records.

882 4. Effect of a preliminary plan amendment on validity period. For any  
883 action taken by the Board to amend a previously approved preliminary  
884 plan, the Board will determine, on a case-by-case basis, whether it  
885 should extend the validity period and, if so, for what duration. In  
886 making the determination, the Board must consider the nature and  
887 scope of the requested amendment.

888 H. Extension of plan validity period.

889 1. Extension request.

890 a. Only the Board is authorized to extend the validity period. The  
891 [[Board]] applicant must [[receive]] submit a request to extend

892 the validity period of an approved preliminary plan in writing  
893 before the previously established validity period expires. [[Only  
894 the Board is authorized to extend the validity period.]]

895 b. The Director may approve a request to amend the validity  
896 period phasing schedule of an approved preliminary plan if the  
897 length of the total validity period of the preliminary plan is not  
898 extended. The [[Director]] applicant must [[receive]] submit the  
899 request in writing before the previously established validity  
900 period of the phase expires.

901 c. The written request must detail all reasons to support the  
902 extension request and include the anticipated date by which the  
903 plan will be validated. The applicant must certify that the  
904 requested extension is the minimum additional time required to  
905 record all plats for the preliminary plan.

906 2. Effect of [[timing]] failure to submit a timely extension request.

907 a. The failure to submit a written extension request in a timely  
908 fashion voids all non-validated portions of the preliminary plan  
909 and, where applicable, an approved site plan.

910 b. Where a preliminary plan has been allowed to expire due to the  
911 applicant's failure to file a timely request for extension, the  
912 Board may reinstate the preliminary plan and establish a new  
913 validity period if practical difficulty or undue hardship is  
914 demonstrated by the applicant. The Board may require the  
915 applicant to get a new APFO review and approval by the Board  
916 as a prerequisite or condition of its action to extend an expired  
917 plan.

918 3. Grounds for extension.

919 a. The Board may only grant a request to extend the validity  
920 period of a preliminary plan if the Board finds that:

- 921 i. delays by the government or some other party after the  
922 plan approval have prevented the applicant from meeting  
923 terms or conditions of the plan approval and validating  
924 the plan, provided such delays are not caused by the  
925 applicant; or
- 926 ii. the occurrence of significant, unusual and unanticipated  
927 events, beyond the applicant's control and not caused by  
928 the applicant, have substantially impaired the applicant's  
929 ability to validate the plan, and exceptional or undue  
930 hardship (as evidenced, in part, by the efforts undertaken  
931 by the applicant to implement the terms and conditions of  
932 the plan approval in order to validate the plan) would  
933 result to the applicant if the plan were not extended.

934 b. The applicant bears the burden of establishing the grounds in  
935 support of the requested extension.

936 4. Planning Board considerations for extension.

937 a. The Board may condition the grant of an extension on a  
938 requirement that the applicant revise the plan to conform with  
939 changes to the requirements of this Chapter since the plan was  
940 approved.

941 b. The Board may deny the extension request if it finds that the  
942 project, as approved and conditioned, is no longer viable. The  
943 Board must consider whether the project is capable of being  
944 financed, constructed, and marketed within a reasonable time  
945 frame. The Applicant must demonstrate the project's viability  
946 upon request by the Board or the Director.

947 5. Planning Board action.

948 a. After a duly noticed public hearing [[for which notice was duly  
949 given]], the Board must determine whether it should grant a  
950 request for an extension. The requirements for noticing and

- 951 conducting a public hearing must follow the requirements for a  
952 preliminary plan.
- 953 b. If voting to approve an extension, the Board must only grant the  
954 minimum time it deems necessary for the applicant to validate  
955 the plan.
- 956 c. The Board may only grant an extension to a preliminary plan  
957 within the plan's APFO validity period, unless a further  
958 extension is allowed by law.
- 959 d. An applicant may request, and the Board may approve, more  
960 than one extension.
- 961 e. Once a phasing schedule is approved by the Board as part of a  
962 preliminary plan approval, the Board must treat any revision or  
963 alteration to the schedule other than an amendment approved  
964 under Section 4.3.J.7 as a minor amendment to the preliminary  
965 plan. Board approval of a revised phasing schedule is required  
966 to extend the total length of the validity period.
- 967 I. *Effect of failure to timely validate plan or secure an extension.*
- 968 1. If a preliminary plan is not timely validated in whole or in part before  
969 the expiration of the validity period, any remaining portion of the plan  
970 [[expires]] is void. For multi-phased plans, the failure on the part of an  
971 applicant to timely validate a phase, in whole or in part, voids the  
972 balance of the preliminary plan approval for that phase and all  
973 subsequent non-validated phases.
- 974 2. In those instances where an applicant has timely validated only a  
975 portion of a plan and no extension is granted, the applicant seeking to  
976 develop only that portion of the project remains responsible for fully  
977 complying with all of the terms, conditions, and other requirements  
978 associated with the portion of the plan approval that has been  
979 implemented.

980           3.     If a preliminary plan or a phase of the plan is not timely validated, any  
981           APFO determination made by the Board associated with the  
982           [[expired]] void portion of the preliminary plan is also [[expires]]  
983           void. In such event, the applicant loses any further rights to claim any  
984           vehicle trips associated with the expired APFO approval. The filing of  
985           a new preliminary plan application does not provide the basis for  
986           reclaiming vehicle trips lost by the termination of the APFO approval.

987           4.     A preliminary plan approval conditionally linked to a sketch plan or  
988           project plan approval under Chapter 59 expires if the sketch plan or  
989           project plan expires.

990     J.     Revocation of approval.

991           1.     The Board may revoke approval of a preliminary plan by resolution at  
992           any time before the Board approves the final plat covering the  
993           proposed preliminary plan.

994           2.     To revoke a preliminary plan approval, except in response to a  
995           violation of this Chapter, the Board must find that completing a  
996           portion of the plan has been rendered impractical by reason of an  
997           amendment to the General Plan, or by a conflict with a proposed  
998           public improvement or other conditions or circumstances not  
999           previously considered by the Board that make the plan contrary to  
1000           public health, safety, or welfare.

1001           3.     The Board must give a subdivider notice and an opportunity to be  
1002           heard by the Board before taking any action to revoke approval of a  
1003           preliminary plan [[by sending]]. Notice to the owner and subdivider  
1004           [[a notice]] must be sent by certified mail at least 30 days before the  
1005           date of the proposed action [[and]] giving the time and place of the  
1006           hearing. The notice must state the reasons for the proposed revocation.

1007     Section 4.3. Technical Review

1008     In making the findings under Section 4.2.D, the Board must [[review]] consider the  
1009     following [[technical]] aspects of the application.

1010 A. *Relation to master plan.*

1011 1. [[In determining whether to approve a preliminary plan, the Board  
1012 must consider the applicable master plan or Urban Renewal Plan.]] A  
1013 preliminary plan must substantially conform to the applicable master  
1014 plan or Urban Renewal Plan, including maps and text. However, if a  
1015 site plan is not required under Chapter 59, Article 59-7.3.4, the Board  
1016 may find that events have occurred to render the relevant master plan  
1017 or Urban Renewal Plan recommendation no longer appropriate.

1018 2. A preliminary plan that requires a site plan approval under Chapter  
1019 59, Article 59-7.3.4 may exceed any dwelling unit per acre or floor  
1020 area ratio (FAR) limit recommended in a master plan, as provided in  
1021 Chapter 59[[, to permit construction of all MPDUs under Chapter  
1022 25A, or workforce housing units required under Chapter 59 or  
1023 Chapter 29A]].

1024 B. *Block design.*

1025 1. *Residential blocks.* The Board must approve the length, width, and  
1026 shape of any residential block as follows:

1027 a. *Length.* The length of a residential block must be compatible  
1028 with existing development patterns and the land use goals for  
1029 the area of the subdivision. The maximum length of a block is  
1030 1,600 feet.

1031 b. *Width.* Blocks must be designed with sufficient width to  
1032 provide 2 tiers of lots. The Board may approve exceptions to  
1033 block width design for blocks adjacent to heavy traffic ways,  
1034 railroads, streams, drainage courses, or for land uses where it is  
1035 appropriate to establish blocks with 1 tier of lots.

1036 c. *Pedestrian paths.* The Board may require paths for pedestrian  
1037 access to schools, playgrounds, parks, and other public areas  
1038 and through long blocks.

1039 d. Multi-unit or apartment blocks. The Board must review and  
1040 approve the design and arrangement of access roads within a  
1041 subdivision for multi-unit or apartment dwellings, together with  
1042 the required parking facilities and pedestrian walks, to  
1043 determine that resulting blocks are a suitable length and width  
1044 for pedestrian and vehicle circulation.

1045 2. Nonresidential blocks. The Board must determine if the blocks  
1046 designed for business or industry are a suitable length and width,  
1047 including adequate provision for pedestrians, parking, deliveries, and  
1048 truck maneuvering.

1049 C. Lot design.

1050 1. General requirements.

1051 a. Lot dimensions. ~~[[The Board must find that lot]]~~ Lot size,  
1052 width, shape, and orientation ~~[[will]]~~ must be appropriate for  
1053 the location of the subdivision and for the type of development  
1054 or use contemplated, considering the recommendations of the  
1055 master plan and the applicable requirements of Chapter 59. The  
1056 dimensions of a lot must be able to accommodate any proposed  
1057 building and other infrastructure deemed necessary to serve the  
1058 lot, including but not limited to any accessory structure,  
1059 stormwater management, parking, access drive, and off-street  
1060 service.

1061 b. Lots to abut on a public or private road. Except as specified  
1062 below, every lot must abut on a public or private road. A public  
1063 road must be dedicated or donated to public use or have  
1064 acquired the status of a public road under Chapter 49. A private  
1065 road must be ~~[[created by]]~~ shown on a record plat ~~[[and be~~  
1066 made available for public use through an access easement]].

1067 i. The Board may approve a maximum of 2 lots that do not  
1068 abut a public or private road if the lots will be served by a

1069 private driveway that serves no other lots without  
1070 frontage.

1071 ii. The [[Board must find that]] access to lots with no road  
1072 frontage [[is]] must be adequate to serve the lots for  
1073 emergency vehicles and for installation of public utilities.  
1074 In addition, the [[Board must find that the]] lots [[are]]  
1075 must be accessible for other public services and [[are]]  
1076 not detrimental to future [[subdivision]] development of  
1077 adjacent lands.

1078 c. Side lines. Side lines of interior lots must to the extent possible  
1079 be aligned perpendicular to the road line or radial to a curved  
1080 road line.

1081 d. Through lots. The Board must not approve through lots, except  
1082 where unusual topography, orientation, or the size of the  
1083 subdivision permit no other feasible way to subdivide.

1084 e. Alley or pedestrian paths for residential lots. If a mid-block  
1085 alley or pedestrian right-of-way is provided in a residential  
1086 subdivision, the subdivider must increase the lot widths  
1087 adjoining the alley or right-of-way to provide for a parallel side  
1088 building restriction line 15 feet from the alley or right-of-way.

1089 D. Public sites and adequate open spaces. A preliminary plan must provide for  
1090 required public sites and adequate open space areas.

1091 1. Master planned sites. When a tract being subdivided includes a  
1092 proposed site for a park, playground, school, or other public use  
1093 recommended in the applicable master plan, and that use is deemed  
1094 necessary by the Board and applicable public agency, the preliminary  
1095 plan must show the site for the use for dedication or acquisition and  
1096 subsequent record plat. Land that is not dedicated may be acquired by  
1097 donation, purchase, or condemnation, or reserved under Subsection 5.

1098 2. Local recreation. The Board must require platting and dedication to  
1099 public use of adequate spaces for recreation wherever it is reasonable

1100 to do so, considering the recommendations in the applicable master  
1101 plan, the circumstances existing where a subdivision is located, and  
1102 the size and character of the subdivision. The subdivider may be  
1103 required to provide what is determined by the Board to be an area  
1104 relevant to the recreational needs of the present and future inhabitants  
1105 of the subdivision. Whenever the necessary recreational area is larger  
1106 than the subdivider is required to dedicate, the balance of the needed  
1107 area must be reserved for acquisition under Subsection 5.

1108 3. Area for public roads and associated utilities and storm drainage.

1109 a. Roads. In its consideration of the approval of a subdivision, the  
1110 Board must require dedication and platting of adequate area to  
1111 provide public roads and other public transportation facilities.  
1112 These must be coordinated with other existing, planned, or  
1113 platted roads, other features in the district, or with any road plan  
1114 adopted or approved as a part of the General Plan.

1115 b. Rights-of-way and easements other than roads. The Board may  
1116 require dedication to public use of rights-of-way or platting of  
1117 easements necessary for public uses, such as pedestrian paths,  
1118 equestrian trails, [[bicycle infrastructure (including, but not  
1119 limited to, bikeways and bike-share facilities)]] bicycle  
1120 facilities, water and sanitary sewer, and stormwater  
1121 management and storm drainage facilities. The Board must  
1122 approve the extent, location, and width of each pedestrian path,  
1123 equestrian trail, and bikeway right-of-way after considering the  
1124 master plan. The extent and width of water and sanitary sewer  
1125 rights-of-way must be determined by the Washington Suburban  
1126 Sanitary Commission in its jurisdiction. The extent and width  
1127 of drainage rights-of-way must be determined by the [[County]]  
1128 Department of Permitting Services after receipt of drainage  
1129 studies prepared by the applicant's engineer.

1130 4. Areas not suitable for public use.

1131 a. When a preliminary plan includes a proposed dedication of land  
1132 to public use, the Board must determine if the land is suitable  
1133 for the intended public use. In its evaluation, the Board must  
1134 consider, among other relevant factors, any criteria for the  
1135 intended use adopted by the receiving agency and the agency's  
1136 recommendations, the natural features of the site, and the extent  
1137 of site preparation work. Site preparation may include  
1138 excavation of rock, excessive grading, grading of steep slopes,  
1139 remedial environmental measures, and similar work required to  
1140 prepare the site for the public use. In evaluating the natural  
1141 features of a site, the Board may require the applicant to  
1142 perform soil borings or to provide other detailed topographical  
1143 or subsurface information not otherwise submitted under  
1144 Section 4.1.B. The applicant's engineer must certify the  
1145 information provided to the Board. Factors relevant to a  
1146 determination of the magnitude of site preparation work include  
1147 estimated costs, acreage, agency experience with similar sites  
1148 and construction industry practices.

1149 b. Based on the analysis, the Board may refuse to approve the  
1150 dedication and:

1151 i. require the rearrangement of lots in the subdivision to  
1152 provide for a suitable site;

1153 ii. permit the applicant to pay for additional site preparation  
1154 that makes the site suitable for the public use; or

1155 iii. with the concurrence of the receiving agency, permit the  
1156 applicant to provide an alternative location offsite.

1157 5. Reservation.

1158 a. Procedure. When the Board determines that a tract being  
1159 subdivided includes land that is necessary for public use but  
1160 will not immediately be acquired by donation, dedication,  
1161 purchase, or condemnation when the plat is recorded, the Board

- 1162 must determine the need to reserve the land. The Board may  
1163 require a reservation for a period of time less than 3 years [[or  
1164 less]] for road rights-of-way, public school and building sites,  
1165 parks, playgrounds, recreational areas, or other public purposes.
- 1166 i. Referral to agency concerned with acquisition. If a  
1167 reservation of land appears to be in the public interest,  
1168 the Board must refer the plan to the public agency  
1169 concerned with acquisition for consideration and report.  
1170 The Board may propose alternate areas for such  
1171 reservation and must allow such public agency 30 days  
1172 for reply. The agency's recommendation, if affirmative,  
1173 must include a map showing the boundaries and area of  
1174 land to be reserved and an estimate of the time required  
1175 to complete the acquisition.
- 1176 ii. Resolution. The Board must approve a declaration of  
1177 public reservation by resolution, stating the period during  
1178 which the reservation is effective. Notice of the same  
1179 must be carried once each in two newspapers of general  
1180 circulation in the County and a plat must be recorded in  
1181 the land records of the County showing in detail the land  
1182 so reserved. Certified copies of the resolution must be  
1183 sent to the property owner and to the agency concerned  
1184 with acquisition.
- 1185 iii. Taxes. The Board must advise taxing and assessing  
1186 bodies of all public reservations, and such public  
1187 reservations must be exempt from all State, County, and  
1188 local taxes during the reservation period.
- 1189 iv. Preservation. During the reservation period, any use of  
1190 the reserved land that involves constructing buildings or  
1191 structures, removing trees, or clearing and grading must  
1192 be approved by the Board. A person must not remove or  
1193 destroy trees, topsoil, or cover; grade; or build a storm

1194 drainage structure that discharges water on the reserved  
1195 land, except according to a storm drainage plan approved  
1196 by the [[County]] Department of Permitting Services or  
1197 the [[County]] Department of Transportation. Nothing in  
1198 this Section relieves the landowner from the  
1199 responsibility to maintain the property according to law  
1200 or prohibits the owner from removing weeds or trash  
1201 from reserved land or from selling the reserved land after  
1202 approval of the Board.

1203 v. Posting. The Board must post properties in reservation  
1204 with an appropriate sign, warning against violation of the  
1205 preservation provisions and the penalties for a violation.

1206 b. Expiration of plan. The expiration or revocation of approval of  
1207 a preliminary plan must not affect a reservation if, before the  
1208 expiration date, a reservation plat has been recorded in the Land  
1209 Records.

1210 E. Roads.

1211 1. Plan requirements.

1212 a. Master plan roads. Preliminary plans must include roads shown  
1213 on any adopted Master Plan of Highways, in satisfaction of the  
1214 Road Design and Construction Code. Where applicable, an  
1215 approved plan must include recommendations of the State  
1216 Highway Administration for construction and access to State  
1217 roads. Where private roads are specifically recommended by a  
1218 master plan, the roads must be provided to the standards for  
1219 private roads under this Section.

1220 b. Continuation of roads. The subdivision must provide for  
1221 continuation of any existing roads (constructed or recorded)  
1222 [[that satisfy]] in satisfaction of the Road Design and  
1223 Construction Code, unless otherwise determined by the Board,  
1224 considering the recommendations of other appropriate agencies.

- 1225 c. Future subdivisions. A tract in a preliminary plan application  
1226 must be divided to not preclude future road openings and  
1227 further logical subdivision of adjacent land.
- 1228 d. Alleys. The Board, in consultation with the appropriate  
1229 transportation agency, may require alleys where they are  
1230 necessary to provide access.
- 1231 e. Railroad crossings. A preliminary plan involving new or  
1232 existing roads crossing railroad tracks must provide an adequate  
1233 right-of-way, including approach right-of-way and slope  
1234 easements, for construction of an underpass or overpass unless  
1235 otherwise determined by the Board, considering the  
1236 recommendations of other appropriate agencies.
- 1237 f. Residential roads paralleling railroads. A residential road  
1238 paralleling a railroad must be located at least 160 feet from the  
1239 track to provide lots with sufficient depth backing to the  
1240 railroad right-of-way.
- 1241 g. Railroad tracks. Existing railroad tracks must not be included  
1242 within the rights-of-way of roads, except for crossings or rail  
1243 transit lines outside the paved traveled portion of the road.
- 1244 2. Design standards.
- 1245 a. Right-of-way. Area for a road on a subdivision plan must  
1246 include the full width of all rights-of-way recommended for the  
1247 applicable road classification in the adopted master plan and in  
1248 the Road Design and Construction Code.
- 1249 i. The Board may approve a narrower than standard road  
1250 right-of-way if it meets minimum fire access  
1251 requirements and the Board finds that a narrower right-  
1252 of-way is environmentally preferable, improves  
1253 compatibility with adjoining properties, or allows better  
1254 use of the tract under consideration.

- 1255                   ii.     In determining the width of a less than standard right-of-  
1256   way, the Board must consider:
- 1257                                   (a)    the recommendations of the [[County]]  
1258   Department of Transportation or other applicable  
1259   state or municipality transportation permitting  
1260   agency;
- 1261                                   (b)    the amount of traffic expected to use the proposed  
1262   roads;
- 1263                                   (c)    the maximum road right-of-way or improvement  
1264   required for the proposed land use; and
- 1265                                   (d)    the increased traffic, travel lane, and right-of-way  
1266   requirements that would be created by maximum  
1267   use and development of land using the road.
- 1268                   [[b.    Slope easement. When required for construction or road  
1269   maintenance, the subdivision plan must establish an easement  
1270   for a 2:1 slope along both sides of each road right-of-way for  
1271   public use. The easement must be at the front setback line per  
1272   zoning, or as determined by a site-specific slope study in  
1273   coordination with the road grade approved under this Chapter.]]
- 1274                   [[c]]b. New roads, sidewalks, etc. The subdivider must design and  
1275   construct the roads, alleys, bicycle facilities, sidewalks, and  
1276   pedestrian ways with drainage, street trees, and other integral  
1277   facilities in each new subdivision [[as required by the Road  
1278   Design and Construction Code or a municipality, whichever  
1279   applies]] as required by the appropriate transportation or  
1280   permitting agency.
- 1281                   [[d.    Existing public roads. In a preliminary plan or administrative  
1282   subdivision plan application containing lots fronting on an  
1283   existing State, County, or municipally maintained road, the  
1284   subdivider must provide any additional required right-of-way  
1285   dedication and reasonable improvement to the road in front of

1286 the subdivision, including sidewalks and bicycle facilities, as  
1287 required by the approved Master Plan, Road Design and  
1288 Construction Code or by a municipality, whichever applies.

1289 e. Private roads. Private roads must be built to the applicable  
1290 structural standard, grade, and typical section based on the  
1291 comparable functional classification in Chapter 49. Private  
1292 roads must conform to the horizontal alignment requirements of  
1293 this Chapter. The subdivider must have a registered engineer  
1294 certify to the County Department of Permitting Services that  
1295 each private road has been designed to meet the structural  
1296 standards required by this Section. The subdivider must then  
1297 certify to the County Department of Permitting Services that all  
1298 construction complies with the design.]]

1299 [[f]]c. Mid-block pedestrian right-of-way. The minimum right-of-way  
1300 must be 20 feet for a mid-block pedestrian right-of-way.

1301 [[g]]d. Drainage [[right-of-way]] easement. The minimum for an  
1302 enclosed drainage [[right-of-way]] easement must be 20 feet,  
1303 unless otherwise determined by the [[County]] Department of  
1304 Permitting Services or other applicable public agency.

1305 [[h]]e. Non-through roads. The Board must not approve any road that  
1306 does not connect to another road at its beginning and end,  
1307 unless a determination is made that:

1308 i. a through road is infeasible due to a property's unusual  
1309 shape, size, topography, environmentally sensitive areas,  
1310 or the characteristics of abutting property;

1311 ii. the road provides access to no more than 75 [[lots]]  
1312 dwelling units;

1313 iii. the road is properly terminated in a cul-de-sac or other  
1314 turnaround; and

1315                   iv.    the road is less than 500 feet in length, measured along  
1316                                   its centerline to the nearest through street, unless the  
1317                                   Board determines that a longer length is necessary  
1318                                   because of the unusual shape, size, topography, or  
1319                                   environmentally sensitive areas of the subdivision.

1320                   [[i]]f. Intersection.

1321                   i.    Roads must be laid out to intersect as nearly as possible  
1322                                   at right angles. The Board must not approve a proposed  
1323                                   intersection of new roads at an angle of less than 70  
1324                                   degrees.

1325                   ii.   Proposed road intersections, excluding alleys and  
1326                                   driveways, must be spaced as shown in the table below,  
1327                                   as measured from the centerline of the intersections[[,  
1328                                   except in an Urban Area as defined in Chapter 49]].  
1329                                   When the Board finds that a greater or lesser spacing is  
1330                                   appropriate, the Board may specify a greater or lesser  
1331                                   spacing than otherwise required after considering the  
1332                                   recommendation of the [[County Department of  
1333                                   Transportation]] transportation agency responsible for  
1334                                   maintaining the road.

1335

<u>Road Classification</u>	<u>Locale</u>	<u>Distance Between Intersections (FT)</u>
<u>Tertiary Residential</u>	<u>All</u>	<u>[[200]]150</u>
<u>Secondary Residential</u>	<u>Urban</u>	<u>[[300]]200</u>
	<u>Suburban</u>	<u>200</u>
	<u>Rural</u>	<u>200</u>
<u>Primary and Principal Secondary</u>	<u>Urban</u>	<u>[[400]]300</u>
	<u>Suburban</u>	<u>400</u>
	<u>Rural</u>	<u>400</u>
<u>Business District and Industrial</u>	<u>Urban</u>	<u>300*</u>
	<u>Suburban</u>	<u>400*</u>
	<u>Rural</u>	<u>400*</u>
<u>Country Road</u>		<u>400</u>
<u>Country Arterial</u>		<u>800</u>
<u>[[Arterial and]] Minor Arterial</u>	<u>Urban</u>	<u>[[500]]300</u>
	<u>Suburban</u>	<u>500</u>
	<u>Rural</u>	<u>800</u>
<u>Arterial</u>	<u>Urban</u>	<u>300*</u>
	<u>Suburban</u>	<u>600*</u>
	<u>Rural</u>	<u>800*</u>
<u>[[Controlled]] Major Highway[[, Major Highway and Parkway]]</u>	<u>Urban</u>	<u>[[1000]]300*</u>
	<u>Suburban</u>	<u>800*</u>

	<u>Rural</u>	<u>1000*</u>
<u>Controlled Major Highway</u>	<u>Urban</u>	<u>300*</u>
	<u>Suburban</u>	<u>1000*</u>
	<u>Rural</u>	<u>1000*</u>
<u>Parkway</u>	<u>Urban</u>	<u>300*</u>
	<u>Suburban</u>	<u>600*</u>
	<u>Rural</u>	<u>800*</u>

1336 \*NOTE: Median breaks on divided roadways must be no closer than 600 feet.

1337                   iii. Corner lots at an intersection must be truncated by  
 1338 straight lines joining points 25 feet back from the  
 1339 theoretical property line intersection in each quadrant.  
 1340 When more or less width is needed for traffic safety and  
 1341 operations, the Board may specify a greater or lesser  
 1342 truncation than otherwise required. Any alley intersection  
 1343 or abrupt change in alignment in a block must have the  
 1344 corners truncated sufficiently for safe vehicular turning.

1345 [[i]]g. Horizontal alignment. In all public and private primary,  
 1346 secondary and tertiary residential streets and culs-de-sac, the  
 1347 alignment must be designed so that all deflections in horizontal  
 1348 alignment are accomplished through segments of circular  
 1349 curves properly incorporated into the design. The minimum  
 1350 permitted centerline radii must be:

- 1351                   i. Primary roads . . . . . 300 feet
- 1352                   ii. Secondary roads . . . . 150 feet
- 1353                   iii. Tertiary roads . . . . . 100 feet

1354 The Board must specify greater radii when safety requires. A tangent  
 1355 at least 100 feet long must be used between two reverse curves, except  
 1356 in a secondary or tertiary residential street. The Board may specify a

1357 lesser radii when the Department of Transportation has previously  
1358 issued a design exception for a similar design.

1359 3. *Additional requirements for public roads.*

1360 a. *Slope easement.* When required for construction or road  
1361 maintenance, the subdivision plan must establish an easement  
1362 for a 2:1 slope along both sides of each public road right-of-  
1363 way for public use. If a Public Utility Easement (PUE) is  
1364 required along a road, that PUE is to be graded when the road is  
1365 constructed on a side slope not to exceed 4:1; the 2:1 maximum  
1366 side slope may commence outside the limit of the PUE. The  
1367 Slope Easement must provide adequate room for proper  
1368 transition grading at the toe or top of slope. The easement must  
1369 be at the front setback line per zoning, or as determined by a  
1370 site-specific slope study in coordination with the road grade  
1371 approved under this Chapter. A retaining wall instead of a slope  
1372 easement may be allowed by the reviewing agency.

1373 b. *Existing public roads.* In a preliminary plan or administrative  
1374 subdivision plan application containing lots fronting on an  
1375 existing State, County, or municipally maintained road, the  
1376 subdivider must provide any additional required right-of-way  
1377 dedication and reasonable improvement to the road in front of  
1378 the subdivision, including sidewalks and bicycle facilities, as  
1379 required by Master Plan, the Road Design and Construction  
1380 Code or by a municipality, whichever applies.

1381 c. *Storm drainage.* The subdivider must grade and provide  
1382 drainage structures and storm sewers according to a storm drain  
1383 plan and permit approved by the Department of Transportation  
1384 and Department of Permitting Services or applicable  
1385 municipality in coordination with the construction of public  
1386 roads.

1387

1388 4. Additional standards for private roads.

1389 a. Designating Private roads.

1390 In general, except when a private road is identified in a master  
1391 plan, the creation of public roads is preferred; an applicant must  
1392 justify the use of a private road based upon the criteria below  
1393 and the specific compelling circumstances of the property being  
1394 developed.

1395 b. Justification for a private road:

1396 A subdivider who proposes a private road must include a list of  
1397 proposed design elements that do not meet public road  
1398 standards, including context-sensitive road design standards or  
1399 a previously approved Design Exception, and justify why those  
1400 design elements are necessary for the proposed development.  
1401 The justification for a private road must not be based solely on  
1402 the installation of non-standard amenities that could be  
1403 addressed under a Maintenance and Liability Agreement with  
1404 the County.

1405 c. Standards. Private roads must be built to the construction  
1406 specifications of the corresponding public road concerning  
1407 paving detail and design data, including surface depth and  
1408 structural design. The road must be designed in accordance with  
1409 sound engineering principles for safe use including horizontal  
1410 and vertical alignments for the intended target speed, adequate  
1411 typical sections for vehicles, pedestrians, and bicyclists,  
1412 compliance with the Americans with Disabilities Act, drainage  
1413 and stormwater management facilities, intersection spacing and  
1414 driveway locations, parking, lighting, landscaping or street  
1415 trees, and utilities. The width and cross section of a private  
1416 road must meet the right-of-way specified in a master plan or be  
1417 equal to the corresponding public road standard unless modified  
1418 by the Board. Private roads must conform to the horizontal  
1419 alignment requirements of this Chapter. If a road is allowed to

1420 be a private road, the approval of the road will not require the  
1421 Department of Transportation to approve a Design Exception  
1422 for any aspect of the road's design.

1423 d. *Road Classifications.* When the Department of Transportation  
1424 determines that the proposed road is not needed to maintain  
1425 area circulation, provide continuous corridors to serve the  
1426 general public and quasi-public needs such as communication,  
1427 utility, and future potential transportation or other systemic  
1428 needs that serve the public on a long-term basis, and is not  
1429 needed to be part of the network modeled for area capacity,  
1430 consideration will be given to making the following roads  
1431 private:

1432 i. *Only roads classified as either Business District,*  
1433 *Industrial, Secondary, Tertiary, or Alley may be*  
1434 *considered by the Board to be private. All other road*  
1435 *classifications must be public unless specifically*  
1436 *permitted to be a private road by a master plan.*

1437 ii. *Private roads with improvements above or below the*  
1438 *pavement are only allowed in projects that require site*  
1439 *plan review and approval.*

1440 iii. *Private roads should not be permitted if they will create a*  
1441 *segmented road ownership pattern, unless approved by*  
1442 *the Planning Board.*

1443 iv. *Private roads must not be permitted if they will*  
1444 *negatively affect development of other properties.*

1445 v. *Except where a Master Plan indicates that a Business*  
1446 *District street could be private, a Business District road*  
1447 *may be a private road only when it is not required to*  
1448 *provide an adequate traffic level of service. A private*  
1449 *Business District street may be approved only when the*  
1450 *proposed road is not either a connector between two*

1451 higher classification roads or a road that is planned to  
1452 extend beyond the boundary of the preliminary plan.

1453 vi. An industrial road may a private road only when the road  
1454 is part of roads internal to the industrial site and the road  
1455 is not a connector between higher classified roads.

1456 vii. A secondary road may be a private road only when it  
1457 connects to no more than one higher classification road  
1458 and the road does not need to be extended onto adjacent  
1459 property to facilitate a future subdivision of land.

1460 viii. A tertiary road, when a cul-de-sac, must be less than 500  
1461 feet in length.

1462 ix. A private alley will not require an access easement if the  
1463 alley only serves one building or if the alley is a  
1464 secondary access to one-family residential dwellings.

1465 e. Certification. Before the Board may approve a preliminary  
1466 plan, the subdivider must have an engineer certify that each  
1467 private road has been designed to meet the standards required  
1468 by this Section; however, when a site plan is required under  
1469 Chapter 59, Article 59-7.3.4, the certification may be provided  
1470 anytime before the approval of the site plan. The subdivider  
1471 must then certify to the Department of Permitting Services that  
1472 all construction complies with the design before release of the  
1473 surety for the road.

1474 ~~[[3]]~~5. Additional roadway provisions.

1475 a. Road names. The Board must approve any road name before it  
1476 is used. The Board must not approve any road name that is  
1477 already used, or closely resembles any road name already used,  
1478 anywhere else in the County. If a new road is an extension of or  
1479 in a direct line with an existing road, the Board should continue  
1480 the name of the existing road.

1481            b.    *Off-site sidewalks and bikeways.* In approving a preliminary  
 1482            plan, the Board may, after considering the recommendation of  
 1483            the Department of Transportation or other applicable  
 1484            transportation agency, require a developer to provide a  
 1485            reasonable amount of off-site sidewalks, ~~[[bikeways, ]]~~ or  
 1486            bikeway improvements. Off-site sidewalks, ~~[[bikeways, ]]~~ or  
 1487            bikeway improvements may be required to provide necessary  
 1488            connections from the proposed development to an existing  
 1489            sidewalk or bikeway, an existing or master plan proposed bus  
 1490            or other public transit stop, an existing or proposed bikeshare  
 1491            station, or a public facility. The Board must find that such  
 1492            facilities will be used by residents or users of the development  
 1493            or for handicapped access. The developer must not be required  
 1494            to obtain any right-of-way to build or improve a sidewalk or  
 1495            bikeway unless required under another provision of law.

1496            c.    *Rustic roads.* In approving a preliminary plan, the Board must  
 1497            not require improvements that are contrary to Chapter 49,  
 1498            Article 8 or Executive Regulations governing rustic roads. The  
 1499            Board may waive any requirement of Sections 4.3.E.2. ~~[[c]]~~<sup>b</sup>  
 1500            and 4.3.E. ~~[[2.d]]~~<sup>3.b</sup> that is incompatible with the rustic road or  
 1501            substitute any alternative requirement that is consistent with the  
 1502            goals of the rustic roads law. The Board may only require those  
 1503            improvements that retain the significant features of the road  
 1504            identified by the Council for preservation. If the Board is  
 1505            otherwise directed by this Section to require improvements that  
 1506            are contrary to the rustic roads law or Executive Regulations,  
 1507            the Board must consider the recommendations of the Rustic  
 1508            Roads Advisory Committee and evaluate the feasibility of trip  
 1509            reduction and alternative road improvements to the local  
 1510            roadway network. If the Board determines that no feasible  
 1511            alternative exists, it may require improvements that are  
 1512            necessary for traffic safety ~~[[and]]~~ or operational requirements.

1513            d.    *Road grade approval.* No final grading, sidewalk or pavement  
 1514            construction, or installation of utilities must be permitted in the

1515 bed of any proposed public or private road in any preliminary  
1516 plan or administrative subdivision plan until the grade has been  
1517 approved under this Chapter.

1518 e. *Pedestrian paths.* When a pedestrian path is included in a  
1519 preliminary plan or administrative subdivision plan, the  
1520 subdivider must grade and construct the path according to the  
1521 plan approved by the Board, [[County]] Department of  
1522 Permitting Services, or applicable municipality.

1523 [[f. *Storm drainage.* The subdivider must grade and provide  
1524 drainage structures and storm sewers according to a plan  
1525 approved by the County Department of Transportation and  
1526 County Department of Permitting Services or applicable  
1527 municipality in coordination with the construction of new  
1528 roads.]]

1529 [[g]]f. *Street lights.* The subdivider must provide street lights under  
1530 the standards required by the Road Design and Construction  
1531 Code. The [[County]] Department of Transportation may waive  
1532 any requirement under this Subsection for any new subdivision  
1533 that abuts a rustic road if the requirement is incompatible with  
1534 the rustic road, or may substitute any alternative requirement  
1535 that is consistent with the goals of the rustic roads law.

1536 [[h]]g. *Traffic calming.* The Board, [[in consultation with]] after  
1537 considering the recommendation of the appropriate  
1538 transportation agency, may require any traffic calming feature  
1539 [[under Section 49-30]] as a condition of subdivision approval.

1540 [[4]]6. *Platting roads.* [[Area for roads must be shown on a record plat  
1541 to the full width of the required right-of-way. A public road must be  
1542 dedicated to public use. A private road must be platted as a road  
1543 parcel with an access easement for the public and remain open and  
1544 unobstructed for use at all times as part of the project common area.  
1545 In the Commercial/Residential, Employment, Industrial, and Planned  
1546 Unit Development zones, a private road may be platted by an

- 1547 easement alone delineated within a lot on the plat if the Board finds it  
1548 necessary to permit a structure that would otherwise cross a lot line  
1549 created by a road parcel.]]
- 1550 The area for roads, when shown on a record plat, must be shown on a  
1551 record plat to the full width of the required right-of-way.
- 1552 a. A public road must be dedicated to public use.
- 1553 b. A private road must be platted as a road parcel, except as  
1554 allowed by Subsection c, and remain open and unobstructed for  
1555 use at all times as part of the project's common area.
- 1556 c. In the Commercial/Residential, Employment, Industrial, and  
1557 Planned Unit Development zones, a private road may  
1558 delineated within a lot on the plat if the Board finds it  
1559 appropriate to permit a structure that would otherwise cross a  
1560 lot line created by a road parcel.
- 1561 d. Restrictive covenant for private roads. All private roads must  
1562 be recorded with a restrictive covenant approved by the Board  
1563 that at a minimum ensures:
- 1564 i. that the road is designed and constructed in a manner that  
1565 satisfies the requirements of this Chapter, and all  
1566 requirements made by the Montgomery County Fire  
1567 Marshal for emergency access, egress, and apparatus;
- 1568 ii. regular maintenance of the road by the property owner,  
1569 with certification of regular inspections, and appropriate  
1570 financial reserves required for short- and long-term  
1571 maintenance and capital repairs;
- 1572 iii. that the road remains open at all times unless approved  
1573 by the Department of Permitting Services and the Fire  
1574 Marshal; and

1575                    iv. that the County and the Commission must be fully  
1576                    indemnified from all liability claims, demands, losses, or  
1577                    damages to person or property.

1578    F. Water supply and sewage disposal facilities.

1579            1. General. Before approving a preliminary plan, the Board must  
1580            consider the availability of water and sewage facilities to the  
1581            subdivision. The Board must [[rely on]] consider the recommendation  
1582            of the Washington Suburban Sanitary Commission and the County  
1583            Department of Environmental Protection, as applicable, concerning  
1584            the proper type of water supply and sewage disposal.

1585            2. Requirements.

1586            a. The applicant must install or assure installation of any required  
1587            public or private water and sewage disposal systems for each  
1588            lot.

1589            b. Central water and sewer systems. All lots must have access to  
1590            public central water and sewer facilities, and necessary private  
1591            connections to such facilities, when conditions affecting the  
1592            subject property result in one of the following determinations:

1593            i. public water and sewer connections are available to the  
1594            proposed lots for existing mains;

1595            ii. existing public water and sewer mains can be extended to  
1596            serve the lots; or

1597            iii. the County Department of Environmental Protection  
1598            determines that an interim central water supply or sewage  
1599            disposal facility, or both, must be constructed for public  
1600            health and safety, pending future extension of the WSSC  
1601            system or other public system.

1602            c. Use of County roads and State roads. For locations of any  
1603            private connection to the public system within County or State  
1604            road rights-of-way, the subdivider must obtain necessary

1605 permits to use public roads from the County or State, as  
1606 applicable.

1607 3. *Septic tiers.*

1608 a. The Board must review any plan that includes residential lots  
1609 under the Growth Tier rules as follows:

1610 i. in this Subsection:

1611 (a) a major subdivision is a division of land that would  
1612 create 8 or more residential building lots; and

1613 (b) a minor subdivision is a division of land that  
1614 would create 7 or fewer residential building lots.

1615 b. The Board must not approve any subdivision that would be  
1616 served by one or more septic systems on land located in the  
1617 Tier I area.

1618 c. The Board must not approve any major subdivision that would  
1619 be served by one or more septic systems on land located in the  
1620 Tier II area.

1621 d. The Board may approve a subdivision for any number of  
1622 residential lots that would be served by one or more septic  
1623 systems on land located in the Tier III area.

1624 e. The Board may approve a minor subdivision that would be  
1625 served by one or more septic systems on land located in the  
1626 Tier IV area.

1627 f. The Board may approve a major subdivision that would be  
1628 served by one or more septic systems on land in the Tier IV  
1629 area.

1630 g. The official map displaying the Growth Tier areas as allowed  
1631 under the Maryland Sustainable Growth and Agricultural  
1632 Preservation Act of 2012 is located on the Planning Department  
1633 website. The Council may amend the official map either by:

- 1634 i. adopting Tiers in a General Plan amendment; or  
1635 ii. an amendment under Section 10.7.

1636 The latest version of the map may be accessed from the  
1637 Planning Department website at  
1638 www.montgomeryplanning.org.

1639 G. Markers and monuments.

- 1640 1. The subdivider must have metal property line markers, approximately  
1641 1/2-5/8 inch in diameter and 18 inches in length, or other generally  
1642 accepted survey markers, placed in the ground at all lot corners,  
1643 intersections of roads, intersections of roads and alleys with  
1644 [subdivision] record plat boundary lines, and at all points on road,  
1645 alley and boundary lines where there is a change in direction or  
1646 curvature, unless such point coincides with the location of a reference  
1647 monument. All markers must be properly set in the ground before the  
1648 roads and alleys are accepted for public maintenance. For projects that  
1649 do not include public roads, the owner and licensed land surveyor  
1650 must certify to the [[County]] Department of Permitting Services that  
1651 all property corner markers have been set by a licensed land surveyor.
- 1652 2. The licensed land surveyor hired by the owner must place markers  
1653 and monuments in the ground after road grading and paving in the  
1654 subdivision and grading and landscaping of adjacent lots are  
1655 completed. The markers and monuments must be located as specified  
1656 on the plat. The licensed land surveyor must certify to the [[County]]  
1657 Department of Permitting Services, or other appropriate governmental  
1658 agency or the municipality that all survey monuments and markers are  
1659 in place before the County or municipality accepts any road or alley  
1660 established by the plat for maintenance. The amenity bonds must not  
1661 be released by M-NCPPC until the licensed land surveyor certifies to  
1662 the Department of Permitting Services that all survey monuments are  
1663 in place.

- 1664 H. Stormwater management. All stormwater management requirements must  
1665 satisfy Chapter 19.
- 1666 I. Public utilities. Pipelines, electric power and energy lines, and  
1667 telecommunications lines must be ~~[[underground]]~~ provided by the  
1668 developer in all subdivisions.
- 1669 1. Installation. ~~[[Unless the Board determines that it is infeasible, the~~  
1670 developer must install new and existing utilities underground.]]
- 1671 a. Within the property being subdivided, the developer must  
1672 install any new pipelines, electric power and energy lines, and  
1673 telecommunications lines underground.
- 1674 b. The developer may also be required to underground any above-  
1675 ground or overhead utilities that exist either within the property  
1676 being subdivided or within the road right-of-way along the  
1677 frontage of the property being subdivided, if the Board  
1678 determines it is necessary based upon the size and density of a  
1679 proposed subdivision.
- 1680 2. Completion. The Board may not approve a final plat until the  
1681 developer demonstrates that the applicable utility companies or public  
1682 agencies are able to provide utility service to the subdivision and  
1683 installation by the developer has been assured under Section 10.2.
- 1684 3. Easements.
- 1685 a. The subdivider must establish utility easements, which must be  
1686 shown on the record plat, to allow for installation of utility lines  
1687 servicing the proposed subdivision, and the future extension  
1688 thereof to any property adjoining the subdivision, which:
- 1689 i. provides the minimum area needed to maintain each of  
1690 the lines as determined by the Board with consultation  
1691 from the utility provider; and
- 1692 ii. is adjacent to, or accessible from, a road right-of-way.

1693 With County DPS permission, utilities may be placed within conduit  
1694 in public road rights-of-way. Utilities placed within private road  
1695 rights-of-way by a developer must also be in conduit.

1696 b. The Board must also require the developer to provide an additional  
1697 public infrastructure area at least a 4 foot, adjacent to private roads, or  
1698 in other appropriate locations within the development to provide for  
1699 future:

1700 i. relocation of existing utilities permitted to remain in a road  
1701 right-of-way; and

1702 ii. installation of new telecommunication lines.

1703 When a structure is proposed under a private road, and the public  
1704 infrastructure easement is located in the road right-of-way, the  
1705 developer must construct conduits within the infrastructure easement  
1706 area to the County's specification.

1707 J. Adequate Public Facilities Ordinance (APFO).

1708 1. Definitions. Words and phrases used in this Subsection have the  
1709 meanings indicated in Chapter 8, Section 8-30.

1710 2. Applicability. The Board may only approve a preliminary plan when it  
1711 finds that public facilities will be adequate to support and service the  
1712 subdivision. Public facilities and services to be examined for  
1713 adequacy include roads and transportation facilities, sewer and water  
1714 service, schools, police stations, firehouses, and health clinics.

1715 3. Exemptions. The following developments are exempt from the  
1716 requirements of this Subsection:

1717 a. exclusively residential development on a lot or parcel recorded  
1718 by plat before July 25, 1989, or otherwise recorded in  
1719 conformance with a preliminary plan approved before that date;

- 1720            b.    any place of worship or use associated with a place of worship  
1721                   that does not generate peak hour vehicle trips that exceed the  
1722                   limits of the Subdivision Staging Policy traffic test; and
- 1723            c.    any addition to a school associated with a place of worship that  
1724                   existed before July 25, 1989.

1725            4.    Approval procedure.

- 1726            a.    Each applicant for a preliminary plan must submit sufficient  
1727                   information for the subdivision to demonstrate the expected  
1728                   impact on and use of public facilities and services by the  
1729                   subdivision.
- 1730            b.    The Board must consider the recommendations of the  
1731                   Executive and other agencies in determining the adequacy of  
1732                   public facilities and services under the Subdivision Staging  
1733                   Policy or other applicable guidelines.
- 1734            c.    If the Board finds, under criteria and standards adopted by the  
1735                   Council, that additional transportation facilities or traffic  
1736                   mitigation measures are necessary to ensure that [[public]]  
1737                   transportation facilities will be adequate to serve the  
1738                   subdivision and to meet the transportation goals established by  
1739                   a master plan or the Subdivision Staging Policy for that portion  
1740                   of the County, the subdivision plan must be subject to the  
1741                   execution of a Traffic Mitigation Agreement (TMAG).

1742            5.    Validity period.

- 1743            a.    A determination of adequate public facilities made under this  
1744                   Chapter is timely and remains valid:
- 1745                   i.    for 12 years after the preliminary plan is approved for  
1746                          any plan approved after July 24, 1989, but before  
1747                          October 19, 1999;
- 1748                   ii.   for no less than 5 and no more than 12 years after the  
1749                          preliminary plan is approved, as determined by the Board

- 1750 when it approved the plan, for any plan approved after  
1751 October 18, 1999, but before August 1, 2007;
- 1752 iii. for no less than 7 and no more than 12 years after the  
1753 preliminary plan is approved, as determined by the Board  
1754 when it approved the plan, for any plan approved after  
1755 March 31, 2009, but before April 1, 2017; and
- 1756 iv. for no less than 5 and no more than 10 years after the  
1757 preliminary plan is approved, as determined by the Board  
1758 when it approved the plan, for any plan approved after  
1759 July 31, 2007, and before April 1, 2009, or after March  
1760 31, 2017.
- 1761 b. If an applicant requests a longer validity period than the  
1762 minimum specified in 5.a, the applicant must submit a  
1763 development schedule or phasing plan for completion of the  
1764 project to the Board for its approval.
- 1765 i. At a minimum, the proposed development schedule or  
1766 phasing plan must show the minimum percentage of the  
1767 project that the applicant expects to complete in the first  
1768 5 or 7 years, whichever is the applicable minimum, after  
1769 the preliminary plan is approved.
- 1770 ii. To allow a validity period longer than the specified  
1771 minimum, the Board must find that the size or  
1772 complexity of the subdivision warrant the extended  
1773 validity period and would not be adverse to the public  
1774 interest. The Board must condition a validity period  
1775 longer than the specified minimum on adherence to the  
1776 proposed development schedule or phasing plan, and  
1777 may impose other improvements or mitigation conditions  
1778 if those conditions are needed to assure adequate levels  
1779 of transportation or school service during the validity  
1780 period.

- 1781           6.    Validity period – County arts or entertainment use.
- 1782           a.    A determination of adequate public facilities made under this  
1783           Chapter is timely and remains valid for 10 years after the date  
1784           of the conveyance of land to the County, or possession of  
1785           building space by the County for an arts or entertainment use,  
1786           under a preliminary plan for an optional method of  
1787           development project approved under Section 59-C-6.2356 of  
1788           the zoning ordinance in effect on October 29, 2014.
- 1789           b.    The Board must grant an application to extend the validity  
1790           period established under this paragraph for an additional 5 years  
1791           if:
- 1792           i.    at least 20 percent of the approved development,  
1793           excluding the arts or entertainment use, either separately  
1794           or in combination:
- 1795                   (a)   has been built;
- 1796                   (b)   is under construction;
- 1797                   (c)   is subject to building permits that have been  
1798                   issued;
- 1799                   (d)   is subject to a valid lease; or
- 1800                   (e)   has had a site plan approved under Sections 59-  
1801                   7.3.4 or 7.7.1.B; or
- 1802           ii.   at any time during the 24 months before the application  
1803           for extension being filed, the vacancy rate for class A  
1804           office buildings in the Central Business District in which  
1805           the project is located reaches 10 percent for direct and  
1806           sublet space combined, as measured by a commercial  
1807           Multiple Listings Service benchmark; or
- 1808           iii.   the applicant makes a binding commitment to the County  
1809           to make a contribution, as compensation for potential loss

1810 of property tax revenues, an amount equal to \$2 for each  
1811 square foot of approved taxable improvements and  
1812 thereafter makes the contribution within 6 months of  
1813 final approval of the extension.

1814 c. The validity period is extended for the duration of any  
1815 government imposed moratorium, or other government action  
1816 resulting in a similar effect, that would prevent the applicant  
1817 from:

1818 i. completing the regulatory approvals necessary for  
1819 obtaining a building permit; or

1820 ii. obtaining a building permit.

1821 d. If the applicant proposes to change a use in a project that is  
1822 approved under Section 59-C-6.2356 of the zoning ordinance in  
1823 effect on October 29, 2014, and the new use would have the  
1824 same or lesser impact as the original determination of adequate  
1825 public facilities, the adequate public facilities approval for the  
1826 project remains valid.

1827 7. Extensions.

1828 a. Application. Only the Board may extend the validity period for  
1829 a determination of adequate public facilities; however, a request  
1830 to amend any validity period phasing schedule may be  
1831 approved by the Director if the length of the total validity  
1832 period is not extended.

1833 i. The applicant must file an application for extension of an  
1834 adequate public facilities determination or amendment of  
1835 a phasing schedule before the applicable validity period  
1836 or validity period phase expires.

1837 ii. The applicant must submit a new development schedule  
1838 or phasing plan for completion of the project for  
1839 approval.

- 1840                    iii. For each extension of an adequate public facilities  
1841                    determination:
- 1842                    (a) the applicant must not propose any additional  
1843                    development above the amount approved in the  
1844                    original determination;
- 1845                    (b) the Board must not require any additional public  
1846                    improvements or other conditions beyond those  
1847                    required for the original preliminary plan;
- 1848                    (c) the Board may require the applicant to submit a  
1849                    traffic study to demonstrate how the extension  
1850                    would not be adverse to the public interest; and
- 1851                    (d) an application may be made to extend an adequate  
1852                    public facilities period for a lot within a  
1853                    subdivision covered by a previous adequate public  
1854                    facilities determination if the applicant provides  
1855                    sufficient evidence for the Board to determine the  
1856                    amount of previously approved development  
1857                    attributed to the lot.
- 1858                    b. The Board may approve an amendment to the new development  
1859                    schedule approved under paragraph 7.a.ii if the applicant shows  
1860                    that financing has been secured for either:
- 1861                    i. completion of at least one new building in the next stage  
1862                    of the amended development schedule; or
- 1863                    ii. completion of infrastructure required to serve the next  
1864                    stage of the amended development schedule.
- 1865                    c. Exclusively residential subdivisions. The Board may extend a  
1866                    determination of adequate public facilities for an exclusively  
1867                    residential subdivision beyond the otherwise applicable validity  
1868                    period if the [[County]] Department of Permitting Services has  
1869                    issued building permits for at least 50 percent of the entire

- 1870 subdivision before the application for extension is filed. The  
1871 Board may approve one or more extensions if the aggregate  
1872 length of all extensions for the development does not exceed:
- 1873 i. 2.5 years for a subdivision with an original validity  
1874 period of 7 years or less; or
- 1875 ii. 6 years for a subdivision with an original validity period  
1876 longer than 7 years.
- 1877 d. Nonresidential or mixed-use subdivisions.
- 1878 i. The Board may extend a determination of adequate  
1879 public facilities for a preliminary plan for nonresidential  
1880 or mixed-use development beyond the otherwise  
1881 applicable validity period if:
- 1882 (a) the [[County]] Department of Permitting Services  
1883 issued building permits for structures that will  
1884 generate at least 40% of the total approved peak-  
1885 hour vehicle trips associated with the development;
- 1886 (b) all of the infrastructure required by the conditions  
1887 of the original preliminary plan approval has been  
1888 constructed, or payments for its construction have  
1889 been made; and
- 1890 (c) the [[County]] Department of Permitting Services  
1891 either issued occupancy permits or completed a  
1892 final building permit inspection for:
- 1893 (1) structures that generate at least 10 percent of  
1894 the total peak-hour vehicular trips associated  
1895 with the project within the 4 years before an  
1896 extension request is filed; or
- 1897 (2) structures that generate at least 5 percent of  
1898 the total peak-hour vehicular trips associated  
1899 with the project within the 4 years before an



1930 share of the development to be built by that  
1931 applicant; or

1932 (b) the applicant will commit to reduce the amount of  
1933 unbuilt development by at least 10%, and the  
1934 validity period for the amount to be reduced will  
1935 expire as scheduled.

1936 e. The Board may extend a determination of adequate public  
1937 facilities once for up to 12 more years beyond the otherwise  
1938 applicable validity period if the Board finds that:

1939 i. the preliminary plan for the development required a  
1940 significant commitment of funds by the applicant,  
1941 amounting to at least \$3 million, as adjusted annually by  
1942 the consumer price index, to comply with specified  
1943 infrastructure conditions;

1944 ii. the applicant has met or exceeded the required  
1945 infrastructure conditions during the original validity  
1946 period; and

1947 iii. the applicant's satisfaction of the required infrastructure  
1948 conditions provides a significant and necessary public  
1949 benefit to the County by implementing infrastructure  
1950 goals of an applicable master plan.

1951 f. The validity period of a finding of adequate public facilities is  
1952 not automatically extended under any circumstance, including  
1953 when an applicant has completed all conditions imposed by the  
1954 Board at the time of preliminary plan approval to meet adequate  
1955 public facilities requirements.

1956 g. If a new adequate public facilities determination is required  
1957 under this Subsection, the procedures in Chapter 8, Section 8-  
1958 32 apply.

1959 K. Environment.

- 1960 1. Forest conservation. If a forest conservation plan is required under  
1961 Chapter 22A, the Board must not approve a preliminary plan or any  
1962 extension until all applicable requirements of that Chapter are  
1963 satisfied. The Board must make compliance with a required forest  
1964 conservation plan a condition of any approved preliminary plan,  
1965 including any plan reviewed on a preliminary or final basis.
- 1966 2. Restriction of subdivision for environmental protection.
- 1967 a. Affected land.
- 1968 i. Floodplains. The Board must restrict subdivision or  
1969 development of any property that is located in the 100-  
1970 year floodplain as required by the [[County]] Department  
1971 of Permitting Services under Chapter 19, Article III.
- 1972 ii. Unsafe Land. The Board must restrict the subdivision or  
1973 development of any land it finds to be unsafe for  
1974 development because of potential for flooding or stream  
1975 erosion, soils with structural limitations, unstabilized  
1976 slope or fill, steep slopes, or similar environmental or  
1977 topographical conditions.
- 1978 iii. Trees, forests, and environmentally sensitive areas. The  
1979 Board may restrict the subdivision or development of  
1980 land to protect environmentally sensitive areas and  
1981 achieve the objectives of Chapter 22A relating to  
1982 conservation of tree and forest resources.
- 1983 b. Restrictions.
- 1984 i. General. In addition to any requirement imposed under  
1985 Chapter 22A, the proposed preliminary plan or  
1986 administrative subdivision plan may be restricted under  
1987 this Section by:
- 1988 (a) deletion or rearrangement of proposed lots, roads,  
1989 utilities, and other facilities;

- 1990 (b) the establishment of building restriction and land  
1991 disturbance limit lines, and other protective  
1992 measures or conditions; or
- 1993 (c) requirement of conservation easements, deed  
1994 restrictions, or covenants over portions of lots or  
1995 unplatted parcels to be recorded.
- 1996 ii. Building restriction line. The Board may require a  
1997 building restriction line shown on the plat to protect  
1998 floodplain and other environmentally sensitive or unsafe  
1999 building areas.
- 2000 iii. Limit of disturbance line. The Board may require a limit  
2001 of disturbance line to protect environmentally sensitive  
2002 areas or unsafe land.
- 2003 iv. Floodplain or unsafe land on a lot. The Board may allow  
2004 a platted lot to contain floodplain or unsafe land when  
2005 there is sufficient safe ground to erect a building within  
2006 the required setbacks of the zoning classification. The  
2007 Board may require a building restriction line on the plat.  
2008 The restriction line must provide at least a 25-foot  
2009 setback between any building and the unsafe areas. A  
2010 greater setback must be provided where necessary for  
2011 positive drainage between the building and unsafe area.
- 2012 v. [[Denial of a building permit. The County Department of  
2013 Permitting Services must not issue a permit for a new  
2014 building within any area for which building or land  
2015 disturbance is restricted under this Section.]]
- 2016 Regulations. The Planning Board may use regulations  
2017 adopted under Chapter 22A to administer this Section.
- 2018 L. Residential cluster subdivision.

- 2019 1. Purpose. The cluster method of subdivision is intended to promote  
2020 both flexibility in lot size and variety of housing types in residential  
2021 communities without changing existing densities or neighborhood  
2022 character. This method of development is also intended to encourage  
2023 the preservation of existing topography, priority forests, and  
2024 environmentally sensitive areas while providing useful community  
2025 green or open space. [[The Board must approve the use of this  
2026 optional method of subdivision.]]
- 2027 2. Conditions for use. The use of the cluster method of development is  
2028 subject to Board approval and the following conditions and  
2029 requirements:
- 2030 a. the requirements in Chapter 59 in the applicable zone;
- 2031 b. except in the Rural Cluster zone or as recommended by a  
2032 master plan in the Residential Estate-2C zone, [[an applicant  
2033 may only propose a cluster development]] when WSSC will  
2034 serve the development by public water and sewer;
- 2035 c. the open space and green areas proposed by the applicant in the  
2036 cluster development must comply with the general purpose of  
2037 cluster development, and the application must include a plan  
2038 detailing the post-development maintenance responsibilities and  
2039 use of those areas; and
- 2040 d. the Board must count the land dedicated to public use for  
2041 school and park sites in the tract area for the purpose of  
2042 calculating density, and allow the use of the resulting density  
2043 development of the remaining land when this can be  
2044 accomplished in compliance with the purposes of this Section.
- 2045 3. Procedure for approval.
- 2046 a. In addition to any other required information in the preliminary  
2047 plan application, the applicant must include a statement  
2048 outlining the ownership and use of the common open space and  
2049 green area within the subdivision, and a plan showing the

- 2050 construction staging of all improvements. The Board must  
2051 make the staging plan part of the preliminary plan approval and  
2052 must be subject to approval by the Board.
- 2053 b. The Board must determine whether the site is appropriate for  
2054 cluster development and will accomplish the purposes of the  
2055 cluster method of development. In making this determination,  
2056 the Board must consider the following:
- 2057 i. the influence that the proposed development may have on  
2058 existing or future development in nearby areas;
- 2059 ii. the spatial relationship between the buildings and the  
2060 open space and green area;
- 2061 iii. the location, character, area, and dimensions of the open  
2062 space and green area and its usefulness for the common  
2063 recreational or other purposes for its intended use;
- 2064 iv. the adequacy of the staging plan;
- 2065 v. the nature of the site; and
- 2066 vi. the use and zoning of nearby land.

2067 **Division 50.5. Pre-Preliminary Submissions**

2068 **Section 5.1. Filing and Specifications**

- 2069 A. *Filing.* Before a subdivider submits a preliminary plan, the subdivider may  
2070 seek advice on limited aspects of a future subdivision plan from the Planning  
2071 Department Staff, the Development Review Committee, or the Board as  
2072 appropriate, or seek a binding decision from the Board. The Applicant must  
2073 file a pre-preliminary submission and applicable supporting information,  
2074 together with an application form and fee under Section 4.1.A.
- 2075 B. *The drawing.* A pre-preliminary drawing must contain the location of the  
2076 property and sufficient information concerning the issue on which advice or  
2077 a decision is requested. The drawing may include, but is not limited to:

- 2078 1. the generalized layout of the subdivision;
- 2079 2. the location and classification of roads, public rights-of-way, existing  
2080 and proposed easements, and dedications of land;
- 2081 3. the method of controlling erosion, sediment, and stormwater;
- 2082 4. the relationship to existing or planned subdivisions;
- 2083 5. the provisions for water and sewerage; and
- 2084 6. any other features or information the applicant chooses to submit.

2085 **Section 5.2. Approval Procedure**

- 2086 A. Referral. Application processing and referral of the plan must satisfy  
2087 Sections 4.1.D and 4.2.A.
- 2088 B. Hearing date. The Board must schedule a public hearing to begin within 90  
2089 days after the date an application is accepted. The Director may postpone the  
2090 public hearing once, by up to 30 days, without Board approval. The Director  
2091 or applicant may request an extension beyond the original 30 days with  
2092 Board approval. Any extension of the public hearing must be noticed and on  
2093 the Board's hearing agenda with the new public hearing date indicated.
- 2094 C. Action on a pre-preliminary submission.
  - 2095 1. Advisory. The Development Review Committee must provide  
2096 recommendations on the pre-preliminary plan on the day of the  
2097 scheduled committee meeting. Planning Department Staff must  
2098 transmit the recommendations provided by agencies outside of the  
2099 committee meeting to the applicant when they are received.
  - 2100 2. Binding.
    - 2101 a. After receiving the recommendations of the public agencies and  
2102 the advice of the Development Review Committee, the  
2103 Planning Department Staff must present the application to the  
2104 Board, together with its recommendations for approval,

2105 disapproval, or approval with conditions. The Board must act  
2106 to:

2107 i. approve the pre-preliminary submission;

2108 ii. disapprove it, stating in writing the reasons for  
2109 disapproval; or

2110 iii. approve it, subject to such conditions or modifications as  
2111 the Board finds necessary. Approval of any feature of a  
2112 pre-preliminary submission does not limit the ability of  
2113 the Board to impose further conditions at the time of  
2114 preliminary plan on features not included in the Board's  
2115 binding decision.

2116 3. *Modification of preliminary plan procedures after pre-preliminary*  
2117 *submission approval.*

2118 a. A subdivider must file an application for a preliminary plan  
2119 within 90 days after the date of mailing of the Board resolution  
2120 for the pre-preliminary plan; otherwise, the approval will  
2121 expire.

2122 b. The procedures in Sections 4.1 and 4.2 are modified as follows:

2123 i. the preliminary plan application must contain the  
2124 statement of the Board's action on the pre-preliminary  
2125 application;

2126 ii. in their review of the preliminary plan under Section 4.2,  
2127 the agencies to which the preliminary plan is referred and  
2128 the Planning Department Staff must not recommend  
2129 changes or modifications to the binding pre-preliminary  
2130 decision made by the Board, unless requested in writing  
2131 by the applicant or unless the applicant substantially  
2132 changes some feature of the approved pre-preliminary  
2133 submission. The Board must review any conditions  
2134 imposed as part of the Board's binding decision to

2135 determine that the preliminary plan satisfied those  
2136 conditions; and

2137 iii. the Board, in its review of the preliminary plan, must  
2138 consider only those features of the preliminary plan that  
2139 are not in conformity with the conditions imposed by the  
2140 Board in the pre-preliminary application review, plus any  
2141 features not considered or acted upon in that review.

2142 **Division 50.6. Administrative Subdivision Plan**

2143 **Section 6.1. Applicability**

2144 The subdivider may file an administrative subdivision plan application instead of a  
2145 preliminary plan under the following circumstances. The Director must review the  
2146 necessary technical requirements of the administrative subdivision plan under  
2147 Section 4.3.

2148 A. *Existing places of worship and institutional uses.* The Board may approve a  
2149 lot created for existing facilities such as: places of worship, private schools,  
2150 country clubs, private institutions, and similar uses located on unplatted  
2151 parcels, if:

2152 1. the applicable requirements for adequate public facilities under  
2153 Section 4.3.J are satisfied before approval of the plat;

2154 2. any required road dedications, or covenants for future dedications, are  
2155 shown on the record plat;

2156 3. requirements for meeting forest conservation, stormwater  
2157 management, and environmental protection, if applicable, are satisfied  
2158 before approval of the plat;

2159 4. it is located in a special protection area and all applicable special  
2160 protection area requirements and guidelines are satisfied before  
2161 approval of the plat;

2162 5. a landscaping and lighting plan including the parking lot layout is  
2163 submitted for Planning Department Staff approval before approval of  
2164 the plat; and

2165 6. the property is the subject of an approved conditional use and all  
2166 conditions of the conditional use approval remain in full force.

2167 B. Subdivision for creation of certain residential lots located in the  
2168 Agricultural Reserve zone. Up to 5 lots for detached houses are permitted  
2169 under these procedures in the AR zone if:

2170 1. written approval for a proposed well and septic area is received from  
2171 the [[County]] Department of Permitting Services before approval of  
2172 the plat;

2173 2. any required road dedications and public utility easements along the  
2174 frontage of the proposed lots are shown on the record plat, and the  
2175 applicant provides any required improvements;

2176 3. the requirements for adequate public facilities under Section 4.3.J are  
2177 satisfied before approval of the plat;

2178 4. a covenant is recorded for the unplatted balance of the tract noting that  
2179 density and development rights have been used for the new lots [[.  
2180 This covenant must be]] and noted on the record plat for the lots;

2181 5. lots created in the AR zone through this procedure are 5 acres or less,  
2182 unless approved by the Board; and

2183 6. forest conservation and environmental protection requirements are  
2184 satisfied before approval of the plat.

2185 C. Subdivision for creation of certain residential lots. Up to 3 lots for detached  
2186 houses are permitted in any residential zone under these procedures [[in the  
2187 Residential Estate-2, Rural, Rural Cluster, and Rural Neighborhood Cluster  
2188 zones, or one lot for a detached house created in any residential zone by  
2189 platting the entirety of one existing unplatted parcel created before October  
2190 8, 1985,]] if:

- 2191           1.     the lots are approved for standard method development;
- 2192           2.     written approval for any proposed well and septic area is received  
2193                 from the [[County]] Department of Permitting Services, Well and  
2194                 Septic Section before approval of the plat;
- 2195           3.     any required road dedications and associated public utility easements  
2196                 are shown on the plat and the applicant provides any required  
2197                 improvements;
- 2198           4.     the requirements for adequate public facilities under Section 4.3.J are  
2199                 satisfied before approval of the plat; and
- 2200           5.     forest conservation, stormwater management, and environmental  
2201                 protection requirements are satisfied before approval of the plat.
- 2202     D.     Consolidation of existing lots or parts of lots in a nonresidential zone. In a  
2203             nonresidential zone, a lot may be created by combining existing adjoining  
2204             lots, or a lot and a part of a previously platted lot, if:
- 2205           1.     the lots or parts of lots are:
- 2206                 a.     created by the same subdivision, and any applicable conditions  
2207                         of the original subdivision approval, including limits on  
2208                         density, remain in effect; or
- 2209                 b.     created by a subdivision approval without specific density  
2210                         limits and the new lot is limited to the density of the existing  
2211                         development;
- 2212           2.     any required road dedications and public utility easements along the  
2213                 frontage of the proposed lots are shown on the record plat, and the  
2214                 applicant must provide any required improvements;
- 2215           3.     where new development is proposed, the requirements for adequate  
2216                 public facilities under Section 4.3.J are satisfied before approval of the  
2217                 plat;

- 2218 4. forest conservation, stormwater management, and environmental  
2219 protection requirements, if applicable, are satisfied before approval of  
2220 the plat; and
- 2221 5. located in a special protection area, and all applicable special  
2222 protection area requirements and guidelines are satisfied before the  
2223 Board approves the plat.

2224 **Section 6.2. Filing Requirements**

2225 A. Filing. The Applicant must file the administrative subdivision plan and  
2226 applicable supporting information, together with an application form and fee  
2227 to satisfy Subsection 4.1.A.

2228 B. Application processing.

2229 1. The applicant must submit an initial application to the Director. The  
2230 Director must review the application for completeness within 5 days  
2231 after receipt. An application is incomplete if any required element is  
2232 missing or is facially defective, e.g., a drawing that is not to scale. The  
2233 assessment of completeness must not address the merits of the  
2234 application.

2235 2. The applicant must resubmit a revised application within 10 days from  
2236 the date of the written rejection, or the application will be  
2237 automatically withdrawn. The Director must review the revised  
2238 application for completeness within 5 days after receipt.

2239 3. The administrative subdivision plan is deemed filed when the  
2240 application has been accepted as complete for review.

2241 4. Public notice is required per a regulation approved under Section 10.1.

2242 C. The drawing. An administrative subdivision plan must contain sufficient  
2243 information relevant to the aspects of the submission. The plan must include  
2244 the generalized layout of the subdivision and any other features or  
2245 information needed to support submission of a plat.

2246 **Section 6.3. Approval Procedures**

2247 A. Referral of plan. Immediately after accepting an application, the Director  
2248 must send a copy to the Development Review Committee and other  
2249 reviewing agencies for the agencies' comments concerning the plan. The  
2250 Development Review Committee must provide recommendations to the  
2251 Director on the administrative subdivision plan at or before the committee  
2252 meeting.

2253 B. Action on an administrative subdivision plan.

2254 1. After receiving the recommendations of the Development Review  
2255 Committee and other reviewing agencies, and considering  
2256 correspondence from other interested parties, the Director must  
2257 approve or disapprove the administrative subdivision plan in writing.  
2258 In the alternative, the Director may require that the plan be acted on  
2259 by the Board. When applicable, the Director must schedule Board  
2260 action on its next available agenda. If approved, the plan will remain  
2261 valid under Section 4.2.G, by which time a plat must be recorded.

2262 2. All necessary improvements to support the development must be  
2263 completed or assured under Section 10.2.

2264 [[3. If correspondence is received, the Director must decide whether any  
2265 comment is substantive enough to require that the plan be acted on by  
2266 the Board. When applicable, the Director must schedule Board action  
2267 on its next available agenda. If approved, the plan will remain valid  
2268 under Section 4.2.G, by which time a plat must be recorded.]]

2269 [[4]]3. The Director must take action on an administrative subdivision plan  
2270 or schedule a public hearing within 90 days after the date an  
2271 application is accepted. The Director may postpone the public hearing  
2272 once, by up to 30 days, without Board approval. The Director or  
2273 applicant may request an extension beyond the original 30 days with  
2274 Board approval. Any extension of the public hearing must be noticed  
2275 and on the hearing agenda with the new public hearing date indicated.

2276 C. Appeal of an administrative subdivision plan.

2277 1. Appeal to the Planning Board. After the Director issues a written  
2278 decision on an administrative subdivision plan, an applicant or party  
2279 who [[received notice of the application and]] testified or submitted  
2280 testimony on the plan may appeal the decision to the Board within 30  
2281 days.

2282 2. Hearing. The Board must hold a *de novo* hearing on the appeal. The  
2283 Board must adopt a written resolution explaining its decision. For  
2284 purposes of judicial review, the decision of the Board is the final  
2285 agency action.

2286 **Division 50.7. Minor Subdivision**

2287 **Section 7.1. Applicability**

2288 The submission of a preliminary plan or administrative subdivision plan under  
2289 Sections 4.1 and 4.2, and Sections 6.1 and 6.2, is not required for:

2290 A. Minor lot line adjustment. The sale or exchange of part of a lot between  
2291 owners of adjoining lots for the purpose of small adjustments in boundaries,  
2292 if:

2293 1. the total area of the adjustment is 5 percent or less of the combined  
2294 area of the lots affected by the adjustment;

2295 2. additional lots are not created;

2296 3. the adjusted lot line is approximately parallel with the original lot line  
2297 or, if it is proposed to intersect with the original line, it does not  
2298 significantly change the shape of the lots involved;

2299 4. the owner submits a scaled drawing for review and approval by the  
2300 Director. The drawing may be a copy of the existing record plat and  
2301 must contain the following information:

2302 a. proposed lot line adjustment as a dashed line;

2303 b. any buildings, driveways, or other improvements located within  
2304 15 feet of the proposed adjusted lot line;

- 2305                   c.     any minimum building setback that would be altered by the  
2306                                   minor lot line adjustment; and
- 2307                   d.     the amount of lot area affected by the minor lot line adjustment;
- 2308                   5.     The drawing is approved, revised, or denied by the Director in writing  
2309                                   within 10 days after the drawing is submitted or it is deemed  
2310                                   approved.
- 2311                                   A record plat application must be submitted to the Director within 90  
2312                                   days after approval or the approval is void.
- 2313                   Any minor lot line adjustment between properties that occurred before May  
2314                   19, 1997 remains as an exemption to platting under Subsection 3.3.B.3.
- 2315     B.     Conversion of an outlot into a lot. An outlot may be converted into a lot if:
- 2316                   1.     the outlot is not required for open space or green area, or is otherwise  
2317                                   constrained in a manner that prevents it being converted into a  
2318                                   buildable lot;
- 2319                   2.     there is adequate sewerage and water service to accommodate  
2320                                   development on the lot;
- 2321                   3.     all applicable requirements or agreements under the Adequate Public  
2322                                   Facilities Ordinance in Subsection 4.3.J and the Subdivision Staging  
2323                                   Policy are satisfied before recording the plat;
- 2324                   4.     all applicable conditions or agreements applicable to the original  
2325                                   subdivision approval creating the outlot apply to the new lot. The  
2326                                   conditions and agreements may include, but are not limited to, any  
2327                                   adequate public facilities agreement, conservation easement, or  
2328                                   building restriction lines; and
- 2329                   5.     the outlot is located within a special protection area [[and]], all  
2330                                   applicable special protection area requirements and guidelines,  
2331                                   including the approval of a water quality plan, are satisfied before  
2332                                   recording the plat.

2333 C. Consolidation. Adjoining properties in the Rural Residential or Residential  
2334 Detached zones, not developed under cluster provisions, may be combined  
2335 in the following ways:

2336 1. by consolidating 2 or more lots into a single lot, consolidating lots and  
2337 an outlot into a single lot, or consolidating a lot and an abandoned  
2338 road right-of-way, if:

2339 a. any conditions applicable to the original subdivision remain in  
2340 effect;

2341 b. the number of trips generated on the new lot do not exceed  
2342 those permitted for the original lots; and

2343 c. all required right-of-way dedication is provided.

2344 2. by consolidating an existing platted lot or part of a lot that contains a  
2345 legally constructed detached house, with a piece of land created as a  
2346 result of a deed, if:

2347 a. the portion of land created by deed cannot itself be platted  
2348 under the area and dimensional standards of the zone;

2349 b. any conditions applicable to the existing lot remain in effect on  
2350 the new lot;

2351 c. any required road dedication is provided; and

2352 d. the existing platted lot was not identified as an outlot on a plat.

2353 D. Subdivision to reflect ownership. A recorded lot approved [[Plats]] for a  
2354 commercial, industrial, or multi-unit residential [[lot]] use may be  
2355 [[recorded]] resubdivided to create or delete an internal lot to reflect a  
2356 change in ownership, deed, mortgage, or lease line [[as follows:

2357 1. a plat may be filed to create or delete an internal lot or create  
2358 ownership lots within a previously recorded lot,]] if:

2359 [[a]] 1. all conditions of approval for the original subdivision that  
2360 created the lot remain in effect;

2361 [[b]]2. the total maximum number of trips generated on all new  
2362 lots [[or ownership lots]] created will not exceed the number of  
2363 trips approved for the lot in the original subdivision;

2364 [[c]]3.all land in the original subdivision lot is included in the plat;  
2365 and

2366 [[d]]4. all necessary code requirements of Chapters 8, 19, and 22  
2367 are met and any necessary cross easements, covenants, or other  
2368 deed restrictions necessary to implement all the conditions of  
2369 approval on the lot in the original subdivision are executed  
2370 before recording the plat.

2371 [[2. for ownership lots, the lot in the original subdivision is considered a  
2372 single lot of record. Any ownership lot created under this Subsection  
2373 is only for the convenience of the owner; an ownership lot is not:

2374 a. used to determine building setbacks or to establish conformance  
2375 with any other law or regulation;

2376 b. a bar to receiving a building permit or other approval necessary  
2377 to develop or use any of the ownership lots and structures on  
2378 such lots, including structures that cross an ownership line; and

2379 c. a change to any condition of approval for the subdivision that  
2380 created the lot in the original subdivision.

2381 3. ownership lots may not be used to create the outside boundaries of a  
2382 private road right-of-way parcel.]]

2383 E. *Ownership Plat.* An ownership plat may be recorded to delineate separate  
2384 ownership units within a lot approved for a commercial, industrial, or multi-  
2385 unit residential use as follows:

2386 1. Ownership units to reflect deed, mortgage, or lease lines may be  
2387 created by an ownership plat if:

- 2388            a.    the lot on which the ownership units are created is included on  
2389            a plat approved by the Board and has site plan approval under  
2390            Section 59-7.3.4;
- 2391            b.    the location and design of all structures on the ownership units  
2392            satisfy Chapters 8, 19, and 22;
- 2393            c.    the ownership units do not violate any other provision of law or  
2394            adversely affect any conditions of approval for the subdivision  
2395            plan that created the underlying lot or for the site plan;
- 2396            d.    any necessary cross easements, covenants, or other deed  
2397            restrictions necessary to implement all conditions of approval  
2398            are executed before recording the ownership plat; and
- 2399            e.    the ownership units are suitable for the type of development,  
2400            the use contemplated, and the available utilities and services.
- 2401            2.    Ownership units must be depicted on the ownership plat with metes  
2402            and bounds descriptions inside the boundary of the underlying lot as  
2403            shown on the record plat.
- 2404            3.    Private roads may not be delineated as a separate ownership unit on an  
2405            ownership plat.
- 2406            4.    No person can record an ownership plat, or sell any property with  
2407            reference to an ownership plat, until the plat has been approved by the  
2408            Board and recorded in the land records.
- 2409            5.    The Board may apply conditions to the approval of an ownership plat.
- 2410            6.    An ownership unit created under this section is not:
- 2411            a.    a change to any condition of approval for the subdivision that  
2412            created the lot in the original subdivision or the site plan; or
- 2413            b.    used to establish building setbacks or to establish conformance  
2414            with subdivision or zoning requirements.

2415 [[E]]F. Plat of correction. A plat of correction may be used for any of the  
2416 following:

2417 1. to correct inaccurate or incomplete information shown on a previously  
2418 recorded plat, such as drafting or dimensional errors on the drawing;  
2419 failure to include a required note, dedication, easement or other  
2420 restriction; incorrect or omitted signatures; or other information  
2421 normally required to be shown on a recorded plat. All owners and  
2422 trustees of the land affected by the correction must sign the revised  
2423 plat. In addition, the plat of correction must identify the original plat  
2424 [[that is being replaced]] and contain a note identifying the nature of  
2425 the correction;

2426 2. to revise easements to reflect a Board action;

2427 3. to improve clarity and legibility, the owner of any lands shown on a  
2428 record plat may record an exact copy of the plat, except for necessary  
2429 change of scale and the addition of any other necessary elements to  
2430 make the plat conform to the requirements of this Chapter. The new  
2431 plat must indicate that it is an exact copy of the original plat except for  
2432 the changes made under this Subsection.

2433 [[F]]G. Pre-1958 parcels. An unplatted parcel created by deed before June 1,  
2434 1958, if the parcel is developable for only one detached house.

2435 [[G]]H. Creation of a lot from a part of a lot. A part of a previously recorded  
2436 lot in a Residential Detached zone that was created as a result of a deed  
2437 transfer of land from the lot may be converted into a lot if:

2438 1. the part of lot was created by deed recorded before June 1, 1958, or

2439 2. the part of lot contains a legally constructed detached house; and

2440 3. all conditions or agreements applicable to the subdivision approval  
2441 creating the original lot apply to the new lot. The conditions and  
2442 agreements may include, but are not limited to, any adequate public  
2443 facilities agreement, conservation easement or building restriction  
2444 lines.

2445 I. Unplatted Parcels With Existing Houses. In the R-90 and R-60 zones,  
2446 an unplatted parcel containing an existing house may be converted  
2447 into a lot under the minor subdivision procedure if:

2448 1. any required road dedication along the frontage of the proposed  
2449 lot is shown on the record plat;

2450 2. there is adequate sewerage and water service to the property;  
2451 and

2452 3. the principal use of the property is single-unit living and any  
2453 new construction on the lot is limited to a detached house.

2454 **Section 7.2. Procedure for Platting Minor Subdivisions**

2455 The subdivider of a property that satisfies the requirements for a minor subdivision  
2456 under Section 7.1 may submit an application for record plat for approval under  
2457 Section 8.1 and Section 8.2.

2458 **A. Additional considerations.**

2459 1. In the case of minor subdivisions, no additional improvements beyond  
2460 those required for the original subdivision are required until [[new]]  
2461 development in excess of development in the original approval occurs.

2462 2. Any lot created through the minor subdivision process and any lot  
2463 replatted as part of a minor lot line adjustment must satisfy all  
2464 applicable zoning requirements in Chapter 59.

2465 **Article III. Plats**

2466 **Division 50.8. Plats – Generally**

2467 All subdivision of land must be recorded by plat in the County Land Records. The  
2468 Clerk of the Circuit Court must only record plats approved under this Chapter.

2469 **Section 8.1. Filing and Specifications**

2470 All boundaries, road right-of-way lines, lot lines, and any other pertinent lines must  
2471 be shown together with sufficient data to locate each line and property corner on  
2472 the ground.

- 2473 A. Application and fee. The subdivider must file the plat drawing with the  
2474 Board, together with the application form, supporting information, and the  
2475 required plat fee. Any fees required by other County agencies in connection  
2476 with their review of plats must also be paid.
- 2477 B. Specifications.
- 2478 1. The plat accompanying the application for approval must satisfy  
2479 Section 8.1.C. The lack of information under any item specified or  
2480 inadequate information supplied by the applicant may cause the Board  
2481 to disapprove a plat.
- 2482 2. The Board may approve guidelines for the preparation of a record  
2483 plat.
- 2484 C. Plat drawing. The plat drawing prepared with the application must be an 18-  
2485 inch by 24-inch sheet, including a margin of one-half inch outside ruled  
2486 border lines. It must be accurately drawn to a scale approved by the Board  
2487 and must include the following:
- 2488 1. Title block. The title block must appear in the lower right corner of the  
2489 sheet and must include the following information:
- 2490 a. the words “Subdivision Record Plat”;
- 2491 b. approved name of the subdivision and the Section thereof,  
2492 including blocks, lots, parcels, and outlots;
- 2493 c. election district, County and State, or name of town instead of  
2494 election district, if the subdivision is in an incorporated town;
- 2495 d. scale of drawing;
- 2496 e. name of firm of licensed land surveyor who prepared the plat  
2497 and date of completion; and
- 2498 f. a description of the general purpose of the plat, including,  
2499 without limitation, plat of correction or resubdivision.

- 2500            2.    Graphic details. The plat must show the following, as applicable in  
2501            each case:
- 2502            a.    all property boundary lines necessary to identify the property  
2503            included in the subdivision, with a reference to the previous  
2504            conveyance by which the property was acquired. Where the  
2505            subdivision is a part of such conveyance, the boundaries shown  
2506            must include the last complete line touched on by the  
2507            subdivision or an indicated dimension describing the remainder  
2508            of the complete line. Where a subdivision includes all or parts  
2509            of 2 or more conveyances, the boundaries of such separate deed  
2510            descriptions must be indicated by light lines running through  
2511            the subdivision, together with deed reference to each original  
2512            tract or unplatted parcel;
- 2513            b.    locations, widths, and names of all road rights-of-way located  
2514            in the subdivision;
- 2515            c.    locations and widths of alley and mid-block pedestrian rights-  
2516            of-way or parcels;
- 2517            d.    Existing and proposed encumbrances.
- 2518            i.    Existing. The area and recordation reference for recorded  
2519            easements or rights-of-way established for public  
2520            services, conservation purposes or utilities, and other  
2521            known encumbrances;
- 2522            ii.   Proposed. Sufficient dimensions to identify the location  
2523            of all easements or rights-of-way to be established by the  
2524            plat and, as to each such encumbrance, the general  
2525            purpose, and the grantee;
- 2526            iii.   Environmental. Description of any conservation  
2527            easement, in addition to any 100-year floodplain and  
2528            100-year floodplain building restriction line required  
2529            under Chapter 19, Article III;

- 2530 e. any areas to be reserved for common use by residents of the  
2531 subdivision or for general public use, with the purposes  
2532 indicated;
- 2533 f. bearings and lengths of all block and lot lines, together with the  
2534 length of radii, arcs, and chords with chord bearings and central  
2535 angles for all curves in the layout. A curve table must be used  
2536 containing these data and referenced to the overall curves  
2537 shown in the drawing.
- 2538 i. All bearings shown on plats must be referenced to the  
2539 Maryland Coordinate System, and the survey must be  
2540 accurately referenced to such system using conventional  
2541 survey methods or other technology acceptable to the  
2542 Board, except that a plat of resubdivision requiring no  
2543 preliminary plan approval and plats of correction may be  
2544 referenced to the plat meridian used on the original  
2545 record plat; and
- 2546 ii. in all cases, the meridian used must be noted alongside  
2547 the north arrow, which is required to be shown on each  
2548 plat;
- 2549 g. Maryland coordinate values, tied to the Maryland Coordinate  
2550 System, for at least 4 corners of the plan of subdivision shown  
2551 on the plat, unless the survey is referenced to a record plat  
2552 meridian. The identification names or numbers and coordinate  
2553 values for the control stations used must be shown. Coordinate  
2554 values and distance dimensions on plats must be expressed in  
2555 feet, based on the United States Survey Foot;
- 2556 h. the location and nature of existing property corner markers  
2557 found that coincide with property corners held referenced on  
2558 the plat must be labeled as such;
- 2559 i. lots numbered in sequential order. In tracts containing more  
2560 than one block, the blocks must be lettered in alphabetical

- 2561 order. In case there is a resubdivision of lots in any block, such  
2562 resubdivided lots must be numbered sequentially, beginning  
2563 with the number following the highest lot number in the block  
2564 and the original lot lines shown dashed and original lot numbers  
2565 shown dotted;
- 2566 j. area in square feet, or other units shown on the plat, of each lot,  
2567 outlot, parcel, or land dedicated to public use;
- 2568 k. building setback lines, shown [[graphically]] with dimensions,  
2569 where they exceed the minimum required in Chapter 59, and  
2570 any other building restriction lines that may apply;
- 2571 l. bearings and lengths of tie connections between all blocks and  
2572 the plat boundary;
- 2573 m. names and locations of adjoining subdivisions with lot and  
2574 block numbers of immediately adjoining lots, together with plat  
2575 references;
- 2576 n. location and apparent ownership of adjoining unsubdivided  
2577 property with land record reference, or County Register of  
2578 Wills or equity case references;
- 2579 o. vicinity map showing location of subdivision, with roads in the  
2580 immediate proximity labeled. In the case of a large subdivision  
2581 requiring multiple plats, a key map must be included to show  
2582 the location of the plat relative to the entire subdivision;
- 2583 p. bar scale;
- 2584 q. a note stating that the lots shown will have public water and  
2585 sewer, or have been approved by the [[County]] Department of  
2586 Permitting Services for the installation of individual water  
2587 supply systems or individual sewerage disposal systems;
- 2588 r. for lots developed using transferable development rights, a  
2589 statement concerning the number of development rights  
2590 transferred and the following information:

- 2591                    i.    the number of development rights transferred and the  
2592                           serial numbers of the development rights transferred;
- 2593                    ii.   liber and folio reference to the transfer of development  
2594                           rights easement; and
- 2595                    iii.   a notation of the recordation reference of a conveyance  
2596                           required by Section 59-4.9.15, as amended;
- 2597                    s.    file number of the preliminary plan and, as applicable, the file  
2598                           numbers of the site plan and project or sketch plan upon which  
2599                           the plat is based;
- 2600                    t.    tax map reference;
- 2601                    u.    a table containing the total number and area in square feet of  
2602                           lots, outlots, or parcels included on the plat and areas dedicated  
2603                           to public use; and
- 2604                    v.    any other element for inclusion on the plat that is authorized by  
2605                           law or regulation or required by the Board.
- 2606                    3.    Surveyor certificate. Certificate by the licensed land surveyor in a  
2607                           form required by the Board, certifying to the accuracy of the plat and  
2608                           to areas included on the plat and dedicated to public use. The  
2609                           certificate must also include conveyance information with recording  
2610                           references of the lands contained in the plat.
- 2611                    4.    Owner's Certificate. Certificate by the owner and all parties of  
2612                           interest, in a form required by the Board, adopting the plat; granting  
2613                           slope, utility, conservation, or any other easements; and establishing  
2614                           building restriction lines that are required to be drawn or noted on the  
2615                           plat per the conditions of the approved Preliminary Plan or  
2616                           Administrative Subdivision Plan and dedicating to public use roads,  
2617                           alleys, rights-of-way, and any other areas approved for dedication to  
2618                           public use by the Board. The owner must certify that a licensed land  
2619                           surveyor will be engaged to set all property corner markers under  
2620                           Subsection 4.3.G.

- 2621 5. Title information notice. A statement indicating that the plat does not  
2622 show every matter affecting or restricting the ownership and use of  
2623 the property, and does not replace an examination of title or that it  
2624 notes all matters affecting title.
- 2625 6. Approval box. An approval box in a form required by the Board must  
2626 be provided. The box must provide approval space for signatures by  
2627 the Board and the [[County]] Department of Permitting Services.
- 2628 D. Multiple plats for a single subdivision. A plat may include only a portion of  
2629 the approved preliminary plan if the portion covered is in substantial  
2630 compliance with the approved staging schedule. The public improvements to  
2631 be constructed in the area covered by the plat must be sufficient by  
2632 themselves to support the development and to provide adequately for the  
2633 health, safety, and convenience of the present and future residents and for  
2634 adequate access to contiguous areas, schools, and other public sites. Any plat  
2635 filed under this Subsection must show any dedication to the intersection of  
2636 all roads abutting corner lots or any other road.
- 2637 E. Other supporting information. The following supporting information is also  
2638 required with the plat application.
- 2639 1. Documents and plans. The following documents and plans must be  
2640 submitted:
- 2641 a. copies of all resolutions of approved sketch, project,  
2642 preliminary, and site plans upon which the plat is based;
- 2643 b. copies of any covenants, restrictions, or joint-use and  
2644 maintenance agreements that are in effect or may be recorded as  
2645 part of the subdivision must be filed with the Board, together  
2646 with any other supporting plans or documents required under  
2647 this Chapter and Chapter 22A;
- 2648 c. copies of approved, preliminary, or final forest conservation  
2649 plan, as appropriate, or exemption letter; and

- 2650 d. such other information required by the applicable resolutions of  
2651 the Board as a condition of approval of the preliminary plan,  
2652 project plan, sketch plan, or site plan or listed in the plat  
2653 application form.
- 2654 2. Preliminary plans using transferable development rights (TDRs). For  
2655 a subdivision designated in sewer category 3 conditioned upon  
2656 approval of a preliminary plan that uses TDRs, a new plat using less  
2657 than the requisite number of TDRs may not be approved until the  
2658 sewer category has been reconfirmed by the Council.
- 2659 3. Submission of digital plat data. Digital plat data must be submitted in  
2660 a format approved by the Director.
- 2661 4. Plat for a cluster subdivision.
- 2662 a. Any plat for a cluster subdivision must be accompanied by  
2663 covenants, agreements, or other documents showing the  
2664 ownership and method of maintenance and uses of areas that  
2665 are declared to be open space for common use. Development,  
2666 construction, or other rights in the open space areas must be  
2667 limited to the indicated recreational or scenic uses only. Public  
2668 access to these areas may be limited. Covenants or agreements  
2669 must be in perpetuity and must include necessary public utility  
2670 easements.
- 2671 b. Plats may be submitted in phases; however, density on any one  
2672 plat may not exceed 115 percent of the allowed density of the  
2673 area included on the plat.
- 2674 c. Plats must contain a statement that the land shown on the plat  
2675 lies within an approved cluster subdivision and resubdivision  
2676 that would result in the creation of additional lots is not  
2677 permitted after the property is platted.
- 2678 d. Covenants or joint use and maintenance agreements affecting  
2679 the common lands must be recorded simultaneously with the  
2680 plat.

2681 F. *Application processing.*

2682 1. The applicant must submit a plat application to the Director. The  
2683 Director must review the application for completeness within 5 days  
2684 after receipt. An application is incomplete if any required element is  
2685 missing. The assessment of completeness must not address the  
2686 accuracy of any of the elements or the merits of the application. The  
2687 Director has the authority to reject the plat application if it does not  
2688 contain the required information. The rejection must be in writing and  
2689 specify the deficiencies.

2690 2. The applicant must resubmit a revised plat application within 10 days  
2691 from the date of the written rejection, or the application will be  
2692 automatically withdrawn.

2693 **Section 8.2. Approval Procedure**

2694 A. *Referral of the plat application.* After accepting a plat application, the  
2695 Director must begin review and send a copy to each agency that has review  
2696 authority for roads, utilities, or other public services that will serve the  
2697 proposed subdivision, for the agency's recommendation concerning the plat.

2698 B. *Review and recommendation.* The Director and other reviewing agencies  
2699 must submit final recommendation on the plat application within 90 days  
2700 after the date the application is accepted.

2701 C. *Plat to comply with approved preliminary plan and site plan where*  
2702 *required.*

2703 1. With the exception of a minor subdivision, as defined in this Chapter,  
2704 no plat may be approved unless it complies with ~~[[the]]~~ an approved  
2705 preliminary plan ~~[[as approved by the Board]]~~ or an administrative  
2706 subdivision plan; however, the Board may allow for minor  
2707 modifications from ~~[[the preliminary plan]]~~ these plans which, in its  
2708 opinion, do not alter the intent of ~~[[its]]~~ previous approval.

2709 2. In those situations where a site plan is required, the Board may refuse  
2710 to approve a plat until a site plan is approved under Section 59-7.3.4.

2711 Changes made to the lot layout of an approved preliminary plan, as  
2712 part of a site plan approval, may be included on the plat without the  
2713 need for amendment of the preliminary plan.

2714 D. Road and storm drain plans. Before submitting a final plat, the applicant  
2715 must obtain approval from the appropriate agency for the following plans:

2716 1. final grade and profile plan for roads and pedestrian paths, except  
2717 where the grades of the roads have already been established; and

2718 2. a storm drainage concept plan.

2719 E. Final plat. The applicant must submit a final plat legibly printed in black ink  
2720 on a permanent, reproducible medium acceptable to the Director that  
2721 incorporates the recommendations of the reviewing agencies.

2722 F. Planning Board to act within 30 days. The Board must act to approve or  
2723 disapprove a final plat within 30 days after its submittal; otherwise, the plat  
2724 will be deemed approved. The applicant may waive this requirement and  
2725 consent to an extension. If the plat is disapproved, the reasons must be stated  
2726 in the minutes of the Board and provided to the applicant.

2727 G. Planning Board may hold hearing on any plat. The Board may, upon its  
2728 own motion, hold a hearing before acting upon any plat, with notice required  
2729 by the Board's Rules of Procedure.

2730 H. Planning Board may give conditional approval. In the case of a plat  
2731 requiring additional supporting data, the Board may give conditional  
2732 approval, requiring the applicant to provide the Board with the supporting  
2733 data.

2734 I. Signing. A plat must be signed by applicable County agencies with review  
2735 authority before Board action on the plat, unless the Board specifically  
2736 permits the signature to be added as a condition of its approval. The plat  
2737 must be signed by the authorized officers of the Board after the Board acts to  
2738 approve the plat or, in cases of conditional approval, when the conditions are  
2739 satisfied.

2740 **Section 8.3. Recording Procedure**

2741 A. Processing of plats.

2742 1. The Planning Department Staff must reproduce a sufficient number of  
2743 copies of an original approved plat for applicable local agencies and  
2744 the plat preparer.

2745 2. The official seal of the licensed land surveyor who prepared the plat  
2746 must be impressed upon the original approved plat and reproductions.

2747 B. Recordation. The reproductions required by the Clerk of the Circuit Court  
2748 must be transmitted with the appropriate recording fee within 7 days  
2749 following completion of processing for recordation in the land records. Once  
2750 recorded, the original approved plat must be filed in the vault provided by  
2751 the Commission and remain there, unless required by court order as an  
2752 exhibit.

2753 C. Indexing. The Clerk of the Circuit Court must record the plat and enter it in  
2754 the general index of the land records. All plats filed and recorded must be  
2755 indexed both in the name of the subdivision and in the name of the owners  
2756 signing the plat.

2757 D. Effect of filing. Plats, when filed and recorded under this Chapter, constitute  
2758 a part of the land records of the County and have the same effect as properly  
2759 recorded deeds.

2760 **Section 8.4. Abandonment of Land Dedicated for Public Use**

2761 A. Land dedicated to the County for public use. When a record plat contains  
2762 land dedicated to the County for public use, the dedication must be in  
2763 perpetuity and must not be altered or taken for private use. However, the  
2764 person who originally filed the plat, any successor in interest, or the County  
2765 may petition to abandon any land dedicated under this [[Subsection]]  
2766 Section. Abandonment of all or part of the dedicated land may be authorized  
2767 by:

2768 1. the Council under Section 49-63, if the land has been in public use; or

2769 2. the Board under Section 49-68, if the land has not been in public use.

2770 **B.** Land dedicated to other public entity. Land dedicated to a public entity other  
2771 than the County, including the Commission, may be abandoned according to  
2772 procedures adopted by or applicable to that public entity.

2773 **Article IV. Administration**

2774 **Division 50.9. Waivers from this Chapter**

2775 **Section 9.1. Authority of Planning Board**

2776 The Board may grant a waiver from a requirement of this Chapter after making the  
2777 required findings.

2778 **Section 9.2. Application**

2779 A request for a waiver must be submitted to the Board in writing, stating all facts  
2780 supporting approval of a waiver.

2781 **Section 9.3. Findings**

2782 **A.** To grant a waiver, the Board must find that:

2783 1. due to practical difficulty or unusual circumstances of a plan, the  
2784 application of a specific requirement of the Chapter is not needed to  
2785 ensure the public health, safety, and general welfare;

2786 2. the intent of the requirement is still met; and

2787 3. the waiver is:

2788 a. the minimum necessary to provide relief from the requirements;  
2789 and

2790 b. consistent with the purposes and objectives of the General Plan.

2791 **Section 9.4. Conditions**

2792 The Board may condition the waiver approval.

2793 **Section 9.5. Procedure for Granting Waivers**

- 2794 A. Referral for recommendations. The Director must send a copy of each  
2795 waiver request to the applicable Development Review Committee agencies  
2796 for investigation, report, and written recommendation before acting on the  
2797 request. For waivers requested as part of a preliminary plan, administrative  
2798 preliminary plan, or pre-application submission, ~~[[Those]]~~ those agencies  
2799 must submit any report and recommendation on the waiver in the timeframes  
2800 required for those plans. For separate waiver requests, final recommendation  
2801 must be provided to the Director within ~~[[20]]~~ 30 days after receiving the  
2802 request, or the recommendation must be treated as favorable.
- 2803 B. The Director must publish a report and recommendation at least 10 days  
2804 before the scheduled Board hearing. A waiver request filed under this  
2805 Section may be used as grounds for a request to extend the time  
2806 requirements in Sections 4.2 and 8.2.
- 2807 C. Resolution. The Board must make its decision by resolution.
- 2808 D. Non-waiver of other ordinances. When granting a waiver, the Board must  
2809 not change any other requirement of law.

2810 **Division 50.10. Administrative Procedures**

2811 **Section 10.1. Regulations**

2812 The Board may adopt regulations and necessary procedures under Chapter 2A,  
2813 Section 15, Method (2) to administer this Chapter.

2814 **Section 10.2. Bonding and Surety**

- 2815 A. Guarantee of completion of improvements before recording final plat.
- 2816 1. Before plat recordation, the Board or applicable public agency must  
2817 certify that the subdivider has obtained the necessary permits and  
2818 bonds or provided other surety that ensures completion of all required  
2819 public and private improvements on the land covered by the plat being  
2820 recorded.
- 2821 2. As an alternative to the requirements of Subsection 10.2.A.1, if  
2822 approved by the applicable public agency, a public improvement

2823 agreement may be executed between the applicant and the agency to  
2824 ensure completion of public improvements.

2825 3. When the subdivider or developer is required by regulations of the  
2826 WSSC to record a final plat dedicating public roads in excess of a  
2827 current building phase to obtain installation of water and sewer to the  
2828 site, surety as required by the Road Design and Construction Code for  
2829 road improvements for such excess platting may be delayed under the  
2830 approved timing sequence of the proposed development approved by  
2831 the applicable County agency.

2832 **Section 10.3. Establishment of Adequate Public Facilities Guidelines**

2833 A. The Council must establish by resolution, after public hearing, the process to  
2834 determine the adequacy of public facilities and services. A subdivision  
2835 staging policy approved by the Council may serve this purpose if it contains  
2836 those guidelines. To provide the basis for the Council resolution, the Board  
2837 and the County Executive must provide the following information and  
2838 recommendations to the Council:

2839 1. the Board must provide analyses of current growth and the amount of  
2840 additional growth that can be accommodated by public facilities and  
2841 services. The Board must also provide recommendations of any  
2842 changes in preliminary plan approval criteria it deems appropriate;  
2843 and

2844 2. the County Executive must provide comments on the Board's  
2845 analyses and recommendations and recommend criteria to determine  
2846 the adequacy of public facilities.

2847 **Section 10.4. Establishment of a Development Review Committee**

2848 The Board must establish a review committee consisting of Planning Department  
2849 Staff and staff of any County, State, and Federal agency; municipality; and utility  
2850 companies to which a plan has been referred. The committee must meet with  
2851 applicants and other interested persons to facilitate agency review of the plan, and  
2852 may reconcile conflicting requirements by different agencies. Each reviewing  
2853 agency must designate a representative to the committee. For the purpose of plan

2854 review, the head of any participating County agency must delegate authority to a  
2855 representative to speak for the agency.

2856 **Section 10.5. Establishment of Fees**

2857 The Board must approve by resolution the fees necessary to cover the cost of  
2858 administering this Chapter.

2859 **Section 10.6. Enforcement of Chapter**

2860 A. *Notice of violation.*

2861 1. The Director may issue a notice of violation to a person whom the  
2862 Director believes committed a violation of a Planning Board Action or  
2863 this Chapter. A notice of violation issued under this Subsection must  
2864 be served on the alleged violator personally, on the alleged violator's  
2865 agent at the site of the alleged violation, or by certified mail to the  
2866 alleged violator's last known address.

2867 2. The notice of violation must contain at least the following  
2868 information:

2869 a. the name of the person charged;

2870 b. the nature of the violation;

2871 c. the place where and the approximate date when the violation  
2872 occurred; and

2873 d. a statement advising the alleged violator of the corrective or  
2874 remedial action that must be taken and the date by which the  
2875 corrective or remedial action must be completed. The corrective  
2876 or remedial action may include a meeting with Planning  
2877 Department Staff to establish a compliance plan.

2878 B. *Administrative citation.*

2879 1. The Director may deliver an administrative citation to a person whom  
2880 the Director believes committed a violation of a Planning Board  
2881 action or this Chapter. The Director must attest to the truth of the facts

2882 and allegations in the administrative citation. An administrative  
2883 citation issued under this Subsection must be served on the alleged  
2884 violator personally, on the alleged violator's agent at the site of the  
2885 alleged violation, or by certified mail to the alleged violator's last  
2886 known address.

2887 2. The administrative citation must contain at least the following  
2888 information:

2889 a. the name and address of the person charged;

2890 b. the nature of the violation;

2891 c. the place where and the approximate date when the violation  
2892 occurred;

2893 d. the amount of fine assessed;

2894 e. where, when, and to whom the fine may be paid; and

2895 f. a statement advising the violator of the right to a hearing before  
2896 the Board or its designee.

2897 C. Notice of hearing.

2898 1. The Director may issue a notice of hearing to a person whom the  
2899 Director believes committed a violation of a Planning Board Action or  
2900 this Chapter. The notice of hearing must be served on the alleged  
2901 violator personally, on the alleged violator's agent at the site of the  
2902 alleged violation, or by certified mail to the alleged violator's last  
2903 known address.

2904 2. The notice of hearing must contain at least the following information:

2905 a. the name of the person charged;

2906 b. the nature of the violation;

2907 c. the place where and the approximate date when the violation  
2908 occurred; and

2909                    d.     a statement advising the alleged violator of the date, time, and  
2910                    location of the hearing before the Board or its designee.

2911    D.     *Civil fine and penalty.*

2912                    1.     A citation may require the recipient to pay a civil fine for a violation  
2913                    of a Planning Board action.

2914                    2.     The fine for each violation of a Planning Board action is the  
2915                    maximum allowed by the Land Use Article §23-505 of the Maryland  
2916                    Code for each day that the violation continues.

2917                    3.     Each day that a violation has not been corrected is a separate  
2918                    violation, and the applicable fine may continue to accrue each day  
2919                    until the violation is corrected without issuing a new citation each day.

2920                    4.     In addition to any other remedy under this Article, a person who  
2921                    violates this Chapter, a Planning Board Action, any applicable  
2922                    regulation or any associated agreement or restriction may be subject to  
2923                    an administrative civil penalty. The administrative civil penalty must  
2924                    not exceed 150 percent of the estimated cost to bring the violation into  
2925                    compliance.

2926                    5.     In setting the amount of the administrative civil penalty, the Board or  
2927                    its designee must consider:

2928                    a.     the willfulness of the violation;

2929                    b.     the degree of deviation from the approved Planning Board  
2930                    action;

2931                    c.     the cost of any needed corrective action or restoration;

2932                    d.     any adverse impact on the immediate neighborhood and the  
2933                    larger community;

2934                    e.     the extent to which the subject violation is part of a recurrent  
2935                    pattern of the same or similar violations committed by the  
2936                    violator;

- 2937 f. any economic benefit that accrued to the violator or any other  
2938 person as a result of the violation;
- 2939 g. the degree of cooperation shown, or voluntary mitigation  
2940 measures taken, by the violator;
- 2941 h. the extent to which any other person contributed to the  
2942 violation;
- 2943 i. the impact, if any, on the violator's ability to perform corrective  
2944 actions because of a change in ownership of the property; and
- 2945 j. any other relevant factor.
- 2946 6. The Board, after a public hearing on the violation, must adopt a  
2947 resolution specifying the amount of any administrative civil penalty  
2948 and the Board's reason for imposing the penalty.
- 2949 E. Nonpayment of fine.
- 2950 1. If a person who receives an administrative citation does not pay the  
2951 fine by the administrative citation's due date or file a request for  
2952 hearing, a notice must be sent to the person's last known address. If  
2953 the administrative citation is not satisfied within 15 days after the  
2954 notice is issued, the recipient is liable for an additional fine, as  
2955 specified in the notice. The additional fine must be less than twice the  
2956 original fine.
- 2957 2. If the fine due is not paid within 35 days from the date the notice is  
2958 issued, the Board may schedule and hold a hearing.
- 2959 F. Hearing.
- 2960 1. A person who receives a citation imposing a civil fine may elect a  
2961 hearing before the Board or its designee by filing a written request for  
2962 hearing with the Director. The request for a hearing must be received  
2963 by the Director within 15 days after the administrative citation was  
2964 issued. The filing of a request for a hearing does not stay an  
2965 administrative order to stop work, stabilize a site, or stop a violation.



2995 G. Enforcement rules; conduct of hearing.

2996 1. The Board must:

2997 a. adopt regulations to administer and enforce this Section as a  
2998 method (2) regulation, subject to Council review under Chapter  
2999 2A, Section 15; and

3000 b. conduct any proceeding under this Section as provided in those  
3001 regulations.

3002 H. Stop work order.

3003 1. The enforcement agent may issue a stop work order if the  
3004 enforcement agent reasonably finds that:

3005 a. a person is violating any element of a Planning Board Action;  
3006 and

3007 b. the violation threatens or may threaten the public health, safety,  
3008 or welfare.

3009 2. A stop work order must include the following information as  
3010 applicable:

3011 a. the name and address of the person charged;

3012 b. the nature of the violation;

3013 c. the place where and the approximate date when the violation  
3014 occurred; and

3015 d. a clear statement of the action that must be taken or  
3016 discontinued to cure the violation, including any requirement to  
3017 prepare a plan of compliance.

3018 3. The enforcement agent must attest to the truth of the facts and  
3019 allegations in the order.

3020 4. The enforcement agent must prominently display the order near where  
3021 the violation has occurred. In addition, the enforcement agent may

3022 deliver or mail a copy of the order to the last known address of the  
3023 person who secured approval of the Planning Board Action.

3024 5. When a stop work order is posted, the recipient must immediately  
3025 discontinue any further work activities until the order is rescinded. A  
3026 stop work order suspends the Board approval of the entire underlying  
3027 plan, unless:

3028 a. the Board approves phasing of the project; and

3029 b. the enforcement agent finds that the violation involves only:

3030 i. one or more phases of a project, but not other phases of  
3031 the same project; or

3032 ii. activities on a single lot or parcel.

3033 In these instances, the order may only suspend the Board's  
3034 approval as it relates to those phases or lots where the violation  
3035 exists.

3036 6. The recipient of a stop work order may request a hearing to contest  
3037 the validity of the order. If the enforcement agent finds that a hearing  
3038 before the Board is not practical in a reasonable time, the Chair or  
3039 Vice-Chair of the Board may review the order. A determination by the  
3040 Chair or Vice-Chair has the same effect as if the Board reviewed the  
3041 order. The Board or Chair, if applicable, must review the order *de*  
3042 *novo*. If the violation is corrected and a plan of compliance prepared  
3043 by the recipient of the order before the hearing is confirmed by the  
3044 enforcement agent, the hearing must be cancelled.

3045 7. At the Board hearing, the enforcement agent must justify to the Board  
3046 the grounds and reasoning for issuing the order. The recipient must  
3047 explain why the order should be discontinued and may propose a plan  
3048 of compliance indicating how and when the violations will be  
3049 corrected. The Board must decide if the order should be continued,  
3050 modified, or rescinded, and if a plan of compliance should be  
3051 approved. The Board's decision that a stop work order must continue

3052 [[revokes]] suspends any underlying Board approvals for the entire  
3053 project or any part of the project as the Board specifies until the  
3054 violation is corrected.

3055 8. A Board decision to continue or modify an order may be the subject  
3056 of a petition for judicial review to the Circuit Court under the rules for  
3057 the review of administrative agency actions.

3058 9. A stop work order must be rescinded when the Board or the  
3059 enforcement agent finds that all violations specified in the order have  
3060 been satisfactorily corrected, which determination must not be  
3061 unreasonably withheld, or the Board approves a compliance plan that  
3062 addresses any uncorrected violation.

3063 I. Other remedies. The authority in this Section to impose civil fines,  
3064 administrative civil penalties, and stop work orders is in addition to any  
3065 other authority of the Board to enforce its actions, including seeking  
3066 injunctive, declaratory, or other relief. The decision to pursue one remedy  
3067 does not preclude the Board from pursuing any other available remedy.

3068 J. Authority of the Office of the General Counsel. The General Counsel of the  
3069 Maryland-National Capital Park and Planning Commission may prosecute  
3070 and take any other necessary legal action regarding any violation under this  
3071 Section.

3072 K. Exclusive authority. The Board or its designee has exclusive authority to  
3073 enforce violations of a Planning Board action and any violations of this  
3074 Chapter. The authority granted in this Chapter supersedes any other  
3075 authority to enforce a Planning Board action granted to any other County or  
3076 State agency.

3077 **Section 10.7. Amendment of Chapter**

3078 A. Procedures. The procedures for amending Chapter 50 must satisfy Section  
3079 23-104 of the Land Use Article, Maryland Code, and the Council Rules of  
3080 Procedure.

3081 B. Hearing. A public hearing under the Council Rules of Procedure is required.

3082 C. Expiration. Any subdivision regulation introduced to amend this Chapter  
3083 expires 18 months after its introduction if it is not approved.

3084

3085 **Sec. 3. Effective Date.**

3086 This amendment takes effect 90 days after its approval by Council. The  
3087 amendment applies to any Planning Board action after the effective date of this  
3088 amendment.

3089

3090 **Sec. 4. Prior Approvals**

3091 The repeal of Chapter 50 does not affect the status of any preliminary plan or  
3092 record plat approved by the Planning Board before the effective date of this  
3093 amendment. Any violation of a Planning Board action, or the regulations  
3094 governing the applicable approval, may be enforced under Section 10.6 of this  
3095 amendment.

3096

3097 **Sec. 5. Filed Preliminary Plans**

3098 Any preliminary plan application filed and certified as complete before the  
3099 effective date of this amendment may, at the applicant's option, be reviewed under  
3100 the Subdivision Regulations in effect when the application was submitted.

3101

3102 *Approved:*

3103

3104

3105 \_\_\_\_\_  
Isiah Leggett, County Executive

\_\_\_\_\_ Date

3106 *This is a correct copy of Council action.*

3107

\_\_\_\_\_  
Linda M. Lauer, Clerk of the Council

\_\_\_\_\_ Date

SRA 16-01



14501 Sweltzer Lane • Laurel, Maryland 20707-5901

COMMISSIONERS

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Carla A. Reid

October 21, 2016

Councilmember Nancy Floreen  
President, Montgomery County Council  
Council Office Building  
100 Maryland Avenue, 6<sup>th</sup> Floor  
Rockville MD 20850

RECEIVED  
MONTGOMERY COUNTY  
COUNCIL  
2016 OCT 24 AM 7:53

Via Electronic Mail: Councilmember.Floreen@montgomerycountymd.gov

**Re: Subdivision Regulation Amendment 16-01, Subdivision Regulations Rewrite**

Dear President Floreen:

WSSC respectfully requests your support for amendments to Subdivision Regulation Amendment No. 16-01 that would require newly constructed private roads to have a 10 foot Public Utility Easement (PUE) on each side. By clearly defining the location of the PUE, it will provide WSSC clear and safe access to underground water and sewer facilities when repairs are necessary. Otherwise, navigating underground telecommunications and/or electrical facilities would result in higher costs and extended repair times as alternative methods will have to be utilized to avoid damaging the underground wiring. WSSC requests the PHED committee accept the following amendments:

1. Page 52 after line 1440 of the bill used in the September 12, 2016 work session, add:
  - x. A private road shall have a 10 foot Public Utility Easement (PUE) on each side for dry utilities.
  - xi. Dry utilities may not be placed in a blanket easement in a private road.
  - xii. All roads containing existing or proposed WSSC public water and/or sewer mains shall be Public unless otherwise specifically allowed by WSSC in the approved Hydraulic Planning Analysis (HPA Letter of Findings (LOF)).
2. Page 59, line 1647 strike "area" and substitute "a 10 foot Public Utility Easement (PUE)".

Washington Suburban Sanitary Commission

110

Councilmember Nancy Floreen  
October 21, 2015  
Page 2

WSSC appreciates the committee's consideration of the aforementioned amendments and will have representatives present to answer any questions at the next scheduled work session on October 31, 2016. In the meantime, please do not hesitate to contact the Intergovernmental Relations Office at 301-206-8228 should you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin F. Guy Andes IV". The signature is fluid and cursive, with a large, stylized initial "B" and "G".

Benjamin F. Guy Andes IV  
Government Relations Specialist

CC: Councilmember George Leventhal  
Councilmember Hans Riemer  
Jeff Zyontz



**MONTGOMERY COUNTY PLANNING DEPARTMENT**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

October 27, 2016

The Honorable Nancy Floreen, President  
Montgomery County Council  
Council Office Building  
100 Maryland Avenue, 6<sup>th</sup> Floor  
Rockville, MD 20850

Re: SRA 16-01, Subdivision Regulations Rewrite – Public Utility Easements for Private Roads

Dear Ms. Floreen:

The Planning Department would like to submit the following comments and recommendations for your consideration regarding the letter provided by WSSC on October 21, 2016. We believe that their proposed additional language to the Subdivision Regulations rewrite is not necessary and would not be beneficial.

For the last several years, the Planning Board and County Council have worked diligently in the master planning process to promote transit-oriented, mixed-use, urban centers of development that utilize existing infrastructure and are interesting and exciting places to be. A critical part of this vision is the creation of pedestrian-friendly streets that are framed by buildings and connect open spaces and cultural and retail destinations. Achieving this means that the street grid must contain walkable blocks and the street realm between the curb of the roads and the face of the buildings must be available for sidewalks, streetscape, and other special features. As such, there needs to be flexibility in the design of urban roads, including the placement of utilities, whether the roads are public or private. While the Planning Board supports the use of public roads wherever possible, for the reasons we have already discussed at length with the PHED Committee, we also need the ability to use private roads in some instances; especially in urban settings where underground parking structures need to be located below the roads.

WSSC's recommended requirement for a 10-foot Public Utility Easement for dry utilities on each side of a private road is not necessary. The amended language of Section 50.4.3.I that was proposed and discussed at the September 12, 2016 PHED Committee work session, and is contained at lines 1684-1709 of the SRA version included with the staff memo for the October 31 work session, includes provisions for utility easements.

Easements that are appropriately sized to permit necessary maintenance of utilities that are being installed underground as part of a development, must be located adjacent to, or accessible from, any road right-of-way. Any utilities that are permitted to be installed underground within a road right-of-way must be in conduit. As proposed in the SRA, the Board has discretion to permit existing overhead utility lines to remain in a road right-of-way, however in those instances, a utility easement must be created as part of the record plat that is outside the right-of-way and designated for the future undergrounding of those utilities.

The proposed language addresses WSSC's need for clear and safe access to any water and sewer facilities that are installed underground in a road right-of-way. There is no reason to treat private roads different from public roads because neither would be permitted to have overlapping dry utility easements, and any dry utilities that are permitted to be placed underground in a right-of-way must be installed in conduits.

We also think that the latest proposed SRA language addresses the need to prohibit placing dry utilities in a blanket easement in a private road. We acknowledge that such blanket easements have been permitted by the Board as part of past approvals, but the new provisions would be applicable to all future applications. Regarding WSSC's proposed provision "xii", we question whether it is needed. While we would not want to see WSSC require that all water and sewer lines within private roads be private systems, isn't the decision currently under their authority? The SRA contains a new provision that requires applicants to apply for approval of a Hydraulic Planning Analysis before submitting a preliminary plan, so WSSC's continued participation in the review of new applications should address this issue.

We appreciate the Committee's consideration of this justification in support of the establishment of utility easements as proposed in the latest version of the SRA draft, as opposed to WSSC's suggested language, and look forward to discussing this further with you at the next work session.

Sincerely,

A handwritten signature in cursive script that reads "Gwen Wright" followed by a smaller signature that appears to be "CPC 10/20/16".

Gwen Wright, Director  
Montgomery County Planning Department