

COUNCIL COMING ATTRACTIONS



Week of Sept. 12, 2016

Subdivision Regulation Rewrite, Zoning Changes, Open Data and Technology Update & Landlord-Tenant Obligations



Council Coming Attractions is a summary of some of the issues before the Council. All Council staff reports and additional information on each item scheduled for Council or Committee review can be viewed at: <http://www.montgomerycountymd.gov/council/packet/index.html> .

Also the Council meeting schedule may change from time to time. The current Council agenda can always be viewed at:

http://www.montgomerycountymd.gov/council/resources/files/agenda/col/current_agenda.pdf .

- 🌐 On Tuesday, Sept. 13, the Council Session is scheduled to begin at 11:15 a.m. with a proclamation recognizing the 50th anniversary of Leisure World presented by Councilmember Sidney Katz.
- 🌐 General business is scheduled to begin at 11:30 a.m.
- 🌐 Public hearings on 2016-2020 Subdivision Staging Policy and Bill 37-16, Taxation-Development Impact Tax-Transportation and Public School Improvements-Amendments begin at 7:30 p.m. on Sept. 13.

Council Committee Highlights

- 🌐 **SRA 16-01, Subdivision Regulations Rewrite**
On Sept. 12 at 9:30 a.m. the PHED Committee will continue their discussion of SRA 16-01, which is sponsored by Council President Floreen at the request of the Planning Board. At the last Committee meeting recommendations were deferred to give the public time to review the 107-

page revised SRA. The staff report and recommendations can be viewed at:

http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160912/20160912_PHED1.pdf .

SRA 16-01 is a complete rewrite of the subdivision code that modernizes provisions and allows for administrative subdivision approvals under certain circumstances. The Council must determine how much discretion to allow the Planning Board regarding the County's future transportation networks and building lot configurations. The substantive changes proposed include:

- ✓ specifications for private roads, including bonding requirements;
- ✓ an administrative plan approval process;
- ✓ deleting re-subdivision criteria that currently require consistency with lots in the neighborhood;
- ✓ allowances for the reconstruction of any dwelling unit;
- ✓ allowances for construction on part of a lot, if deeded before 1958;
- ✓ allowances for electronic communication (but electronic applications may be required by Planning Board procedures and would not be required by law);
- ✓ allowances for advanced land dedication without platting;
- ✓ a 120-day review period for preliminary plans;
- ✓ a list of Planning Board required findings for approval;
- ✓ an authorization for the Board to determine that events make the application of master plan recommendations inappropriate, when site plan approval is not required;
- ✓ clarifications for the minor and major plans processes;
- ✓ allowance for off-site location for a necessary public use;
- ✓ removal of the requirement for "unusual circumstances" for a waiver of subdivision standards; and
- ✓ clarifications of ancillary uses associated with religious institution that must meet adequate public facilities standards.

ZTA 16-12, Building Permits-Amendments

The Committee will review ZTA 16-12. The PHED Committee is the lead sponsor. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at: http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160912/20160912_PHED2.pdf .

ZTA 16-12 would delete building code requirements in the Zoning Code. The Subdivision Rewrite effort (Subdivision Regulation Amendment (SRA) 16-01) recognized building permit application regulations outside of the Code's building permit chapter (Chapter 8). The PHED Committee was persuaded that all building permit provisions should be in the building permit chapter of the Code.

Expedited Bill 34-16, Streets and Roads-Design

The Committee will review Expedited Bill 34-16. The PHED Committee is the lead sponsor. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at: http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160912/20160912_PHED3.pdf .

Bill 34-16 would define certain terms in Chapter 49, establish a permit requirement for closing a private road, clarify provisions for permanent structures approved in a site plan and establish road design criteria. These changes are needed because of revisions proposed in Subdivision Regulation Amendment (SRA) 16-01 and provides better coordination with Planning Board approvals.

Expedited Bill 35-16, Building Permits-Amendments

The Committee will review Expedited Bill 35-16. The PHED Committee is the lead sponsor. A public hearing is scheduled for Sept. 13 at 1:30 p.m. The staff report can be viewed at: http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160912/20160912_PHED4.pdf .

Expedited Bill 35-16 is tied to the approval of SRA 16-01 and ZTA 16-12. SRA 16-01 includes provisions for ownership units (previously called ownership lots). These ownership units may result in fire code violations, when there is a use certificate or a building on the parent lot. Expedited Bill 35-16 would require a permit when this situation occurs to avoid violations.

- SRA 16-01 would remove building permit provision in the Subdivision Code. Expedited Bill 35-16 includes the building permit provision deleted from that code.
- Expedited Bill 35-16 would also include the building permit provisions currently in Chapter 59, which will be deleted from Chapter 59 by ZTA 16-12.
- The intent of these amendments is to consolidate building permit provisions into one chapter of the County Code.

ZTA 16-07, Exemptions – Pre-1958 Lots

On Sept. 12 at 2 p.m. the PHED Committee will also meet. The Committee will review ZTA 16-07. The lead sponsor is Council President Floreen. The staff report can be viewed at:

http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160912/20160912_PHED5.pdf .

ZTA 16-07 would reinstitute provisions for pre-1958 lots and parts of lots that existed before the Zoning Ordinance rewrite. It has been the Council's policy to allow the reconstruction of existing dwellings despite any irregularities in the lot or parcel on which it is located.

- Zoning changes are needed for certain pre-1958 parcels where reconstruction would occur on parcels or parts of lots that do not meet the width requirements of their current zoning.
- The proposed ZTA clarifies that pre-1958 parts of lots are included, and permits reconstruction on pre-1958 parcels that do not meet lot width at the front building line as well as the front lot line.

ZTA 16-08, Commercial/Residential "T" Zones-Workforce Housing

The PHED Committee also will review ZTA 16-08. Council President Floreen is the lead sponsor. The staff report can be viewed at:

http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160912/20160912_PHED6.pdf .

ZTA 16-08 would allow density flexibility for the provision of workforce housing. ZTA 16-08 would also exclude the floor area devoted to a publicly owned or operated facility from height limits in Commercial/Residential (CR) "T" Zones.

- The Zoning Ordinance rewrite was implemented by a District Map Amendment that rezoned all properties within the Council's jurisdiction.
- Commercial/Residential (CR) "T" Zones were applied to properties in Central Business District (CBD) zones. CR zones were intended to have absolute height and density limits. CBD zones had some flexibility to exceed height and density limits.
- The Council used the "T" designation to distinguish properties formerly in the CBD family of zones and allowed them to retain height and density flexibility under certain circumstances.
- Height flexibility is allowed for the provision of workforce housing; density flexibility is not currently allowed.

ZTA 16-05, Telecommunications Towers-Limited Use

The Committee will review ZTA 16-05. Council President Floreen is the lead sponsor. ZTA 16-05 would allow poles, within the Zoning Ordinance's definition of Telecommunications Towers, no higher than 30 feet in various zones as a limited use.

The staff report can be viewed at:

http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160912/20160912_PHED7.pdf .

- The demand for wireless services has increased the need for wireless coverage in residential areas. The telecommunications industry can meet this need with small antennas on short poles; however, this new equipment cannot be supported on existing street lights. Also some neighborhoods have underground utilities.

- The current Zoning Ordinance requires a conditional use approval for every new pole, no matter how short the pole.
- Council President Floreen believes that the Council should set the standards for these structures, instead of subjecting each pole to the conditional use process.

 **ZTA 16-06, Prohibited Signs-Public Rights of Way**

The Committee will review ZTA 16-06. Councilmember Leventhal is the lead sponsor. Councilmembers Katz and Navarro are cosponsors. The staff report can be viewed at: http://www.montgomerycountymd.gov/council/Resources/Files/agenda/cm/2016/160912/20160912_PHED8.pdf.

ZTA 16-06 would prohibit all non-permanent signs in public rights-of-way and specify enforcement procedures for illegal signs in rights-of-way.

- All private temporary signs in the County's public rights-of-way are illegal. The current code allows for such signs by permit, but the Department of Permitting Services has no applications or permits on file.
- In the sponsor's opinion, the use of public rights-of-way for temporary signs is both a safety hazard and an eyesore.

 **Technology Services-Organizational Changes and IT Strategic Plan Review**

The GO Committee will meet on Sept. 15 at 9:30 a.m. The Committee will discuss organizational changes and the County's IT Strategic Plan. DTS will present the County's Technology Strategic Plan for calendar years 2016–2019. Volume one of the plan can be viewed at: https://www.montgomerycountymd.gov/DTS/Resources/Files/strategic/TechnologyStrategicPlan2016-2019_Vol1.pdf.

The IT Strategic Plan is viewed as a critical bridge between the County's technology investments of the past ten years and future needs at a time when technology systems and innovation are driving unprecedented change at the local, regional and national levels. The seven goals of the plan include:

- leveraging technology to continually strengthen delivery of public services and communications;
- selecting and deploying technology solutions that promote an open, transparent and accountable Government;
- investing in technology and implementing policy that protects stakeholders' confidential data and information;
- deploying technology solutions that improve stakeholder productivity;
- leveraging IT to create a dynamic, learning, workforce;
- improving agility of technology delivery and utilization; and
- innovating continually for a better future.

 **ITPCC-Open Data and Work Plan Update**

The Committee will also receive an update on open data and the work plan for ITPCC. In 2012 the Council enacted Bill 23-12, which required the County to make certain public data sets available on a single web portal on the internet, required the County to develop a technical standards manual for publishing public data sets, and required the County to develop an Open Data Implementation Plan. Councilmember Riemer was the lead sponsor of this initiative. Council President Floreen, Vice President Berliner and Councilmembers Leventhal and Navarro were cosponsors.

The Interagency Technology Policy and Coordination Committee (ITPCC) was chartered by the Council to promote strategic planning and coordination in the use of information technology among County agencies. The ITPCC facilitates interagency communication, evaluated and shares new technologies, and advises policy makers on the strategic uses of technology. The FY17-18 ITPCC Work Plan has 5 major elements:

- Digital Citizenship/Digital Montgomery-expand citizen and employee access to data information tools.
- Strengthening IT Infrastructure -provide high degree of accessibility, reliability, security and robustness to meet long-term needs.
- Sustainable Plan for Managing Interagency IT Assets -avoid “fix on fail”; maintain health of major systems and IT infrastructure.
- Continuity of Operations and Risk Management -strengthen preparedness and ability to respond to risks.
- Strategic Visioning and Planning -develop strategies and plan for the future.

 ZTA 16-13, Conditional Use – Screening

The PHED Committee will meet on Sept. 15 at 2 p.m. to review ZTA 16-13. Council President Floreen is the lead sponsor, at the request of OZAH. A public hearing is scheduled for Sept. 13 at 1:30 p.m. ZTA 16-13 would exempt single-family detached houses from most of the detailed screening standards for Conditional Uses, except for compatibility.

- The Hearing Examiner found that the detailed screening standards are never actually applied to applications for a conditional use in a detached house. In the opinion of the Hearing Examiner, it is misleading to the public to have statutory standards that are never appropriate to apply in a class of cases.

 Expedited Bill 29-16, Fire Safety Code-Administration-Reorganization

The Committee also will review Expedited Bill 29-16. Council President Floreen is the lead sponsor, at the request of the County Executive. Bill 29-16 would:

- transfer the Fire Code Compliance Section to the Department of Permitting Services and provide that certain duties performed by the Fire Code Compliance Section must be performed by the Department of Permitting Services;
- transfer to the Department of Permitting Services responsibility to implement certain fire prevention and fire code compliance obligations imposed under Chapter 22, Fire Safety Code;
- identify the duties and responsibilities of the fire code inspectors;
- provide that Montgomery County Fire and Rescue Service retains authority for fire and explosive investigations;
- identify who may become assistant State fire marshal, special assistant State fire marshal and deputy State fire marshal pursuant to State law; and
- generally amend the law related to the administration and enforcement of the Fire Safety Code.

 Executive Regulation 7-16, Fire Safety Code-Fire Protection Systems

The Committee will review Executive Regulation 7-16. The proposed regulation adopts and modifies certain standards published by the National Fire Protection Association (NFPA) involved with the installation, testing and maintenance of certain fire protection systems as required by the Montgomery County Building Code, the Montgomery County Fire Safety Code, and the Maryland State Fire Prevention Code.

- The changes do not retroactively apply to unaltered existing buildings, existing systems or existing conditions permitted or approved before the date of adoption of this regulation, unless inimical or distinct hazard exists.
- The Department of Permitting Services has been delegated the authority by the Fire Chief to adopt regulations with new buildings, new systems or new conditions. Existing buildings, existing systems or existing conditions that are altered are subject to this regulation to the extent required by the Maryland Building Rehabilitation Code, the Montgomery County Fire Safety Code and the Maryland State Fire Prevention Code.

- Unaltered existing buildings, existing systems or existing conditions are not subject to this regulation where no inimical or distinct hazard exists.

 Executive Regulation 8-16, Fire Safety Code-Building Construction

The Committee will review Executive Regulation 8-16. The proposed regulation adopts the applicable editions of various National Fire Protection Association (NFPA) standards – most notably NFPA 1, Uniform Fire Code and NFPA 101, Life Safety Code – as adopted by the Maryland State Fire Prevention Code.

- These codes and the associated codes and standards are adopted to set the minimum requirements to establish a reasonable level of safety from the hazards created by fire, explosion and dangerous conditions.
- The changes do not retroactively apply to unaltered existing buildings, existing systems or existing conditions permitted or approved before the date of adoption of this regulation unless inimical or distinct hazard exists.
- The Department of Permitting Services has been delegated the authority by the Fire Chief to adopt regulations with new buildings, new systems or new conditions. Existing buildings, existing systems or existing conditions, which are altered are subject to this regulation to the extent required by the Maryland Building Rehabilitation Code, the Montgomery County Fire Safety Code and the Maryland State Fire Prevention Code.
- Unaltered existing buildings, existing systems or existing conditions are not subject to this regulation where no inimical or distinct hazard exists.

 Executive Regulation 9-16, Fire Safety Code-Fire Department Apparatus and Water Supply

The Committee will review Executive Regulation 9-16. The provisions of Executive Regulation 29-08AM, which established the requirements for effective fire department apparatus and water supply in urban, suburban and rural setting in the County, are being incorporated into COMCOR 22.00.07 by Executive Regulation 9-16. Executive Regulation 29-08AM is being repealed to avoid duplication.

 Bill 19-15, Rental Housing-Landlord-Tenant Obligations

The Committee will continue their review of Bill 19-15. Councilmember Elrich is the lead sponsor. Councilmembers Navarro and Hucker are cosponsors. The staff report will be available on Sept. 13. The bill would make several changes to the landlord-tenant law, principally aimed at enhancing the existing rights of tenants and improving the quality of rental housing through increased inspections. The amendments fit generally into three categories: leases and landlord tenant obligations; licensing and data collection; and rent adjustments.

- Bill 19-15 would:
 - ✓ provide for annual inspection of certain residential rental properties;
 - ✓ require the use of a standard form lease and applicable optional provisions for certain residential rental properties;
 - ✓ require the publication of certain information related to rental housing;
 - ✓ require the Department of Housing and Community Affairs to review certain rent increases;
 - ✓ provide for certain remedies to be awarded by the Commission on Landlord-Tenant Affairs;
 - ✓ provide certain rights to tenants facing rent increases; and
 - ✓ generally amend the law related to landlord-tenant relations.