

Ordinance No: 18-04
Subdivision Regulation Amendment No.: 15-01
Concerning: Adequate Public Facilities –
Preliminary Subdivision Plans –
Validity Period
Draft No. & Date: 1 – 2/19/15
Introduced: March 3, 2015
Public Hearing: April 14, 2015
Adopted: June 9, 2015
Effective: March 31, 2015

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Leventhal
Co-Sponsors: Councilmembers Floreen, Navarro, Rice, Katz, Riemer, and Hucker

AN AMENDMENT to:

- (1) extend the validity period for a determination of adequate public facilities for certain developments;
- (2) extend the validity period for certain preliminary subdivision plans; and
- (3) otherwise revise the validity period for certain developments.

By amending

Montgomery County Code
Chapter 50, Subdivision of Land
Section 50-20 "Limits on the Issuance of Building Permit"
Section 50-35 "Preliminary Subdivision Plan-Approval Procedure"

| | |
|------------------------------|--|
| Boldface | <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> |

OPINION

Council President Leventhal is the lead sponsor of Subdivision Regulation Amendment (SRA) No. 15-01, introduced on March 3, 2015. Co-sponsors are Council Vice President Floreen and Councilmembers Navarro, Rice, Katz, Riemer, and Hucker.

SRA 15-01 would extend the validity period for adequate public facilities to 2 years from their current expiration dates. This extension is similar to SRA 09-01 (2009), SRA 11-01 (2011), and SRA 13-01 (2013).

In its report to the Council, the Montgomery County Planning Board recommended that the SRA be approved. Planning Staff did not recommend approval.

The Council held a public hearing on April 14, 2015 to receive testimony concerning the proposed SRA. The SRA was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession to review the SRA on May 18, 2015. The Committee recommended approval of the SRA as introduced. The Committee thought that the lingering effects of the 2008 economic downturn warranted the validity period extension.

The District Council reviewed Subdivision Regulation Amendment No. 15-01 at a worksession held on June 9, 2015 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Subdivision Regulation Amendment No. 15-01 will be approved as introduced.

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:

Sec. 1. Section 50-20 is amended as follows:

50-20. Limits on issuance of building permits.

* * *

(c) * * *

(3) (A) A determination of adequate public facilities made under this Chapter is timely and remains valid:

(i) for 12 years after the preliminary plan is approved for any plan approved on or after July 25, 1989, but before October 19, 1999;

(ii) for no less than 5 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after October 19, 1999, but before August 1, 2007;

(iii) for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, [2015] 2017; and

(iv) for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after August 1, 2007, and before April 1, 2009, or on or after April 1, [2015] 2017.

* * *

(4) The Planning Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the

28 otherwise applicable validity period if the Department has issued
29 building permits for at least 50 percent of the entire subdivision before
30 the application for extension is filed. The Board may approve one or
31 more extensions if the aggregate length of all extensions for the
32 development does not exceed:

33 (A) for a preliminary plan approved before April 1, 2009, or on or
34 after April 1, [2015] 2017:

35 (i) 2 ½ years for a subdivision with an original validity
36 period of 5 years; or

37 (ii) 6 years for a subdivision with an original validity period
38 longer than 5 years; and

39 (B) for a preliminary plan approved on or after April 1, 2009, and
40 before April 1, [2015] 2017:

41 (i) 2 ½ years for a subdivision with an original validity
42 period of 7 years; or

43 (ii) 6 years for a subdivision with an original validity period
44 longer than 7 years.

45 * * *

46 **Sec. 2. Section 50-35 is amended as follows:**

47 **50-35. Preliminary Subdivision Plan-Approval Procedure.**

48 * * *

49 (h) Duration of Validity Period and Actions Required to Validate the Plan.

50 * * *

51 (2) Duration of Validity Period.

52 (A) An approved preliminary plan for a single phase project
53 remains valid for 60 months after its Initiation Date for any
54 preliminary plan approved on or after April 1, 2009, but before

55 April 1, [2015] 2017, and for 36 months after its Initiation Date
56 for any preliminary plan approved on or after April 1, [2015]
57 2017. Before the validity period expires, the applicant must
58 have secured all government approvals necessary to record a
59 plat, and a final record plat for all property delineated on the
60 approved preliminary plan must have been recorded in the
61 County land records.

62 (B) An approved preliminary plan for a multi-phase project remains
63 valid for the period of time allowed in the phasing schedule
64 approved by the Planning Board. The Planning Board must
65 assign each phase a validity period on a case-by-case basis, the
66 duration of which the applicant must propose as part of an
67 application for preliminary plan approval, revision, or
68 amendment, after considering such factors as the size, type, and
69 location of the project. The time allocated to any phase must
70 not exceed 60 months after the initiation date for that particular
71 phase for any preliminary plan approved on or after April 1,
72 2009, but before April 1, [2015] 2017, and 36 months after the
73 initiation date for that particular phase for any preliminary plan
74 approved on or after April 1, [2015] 2017. The cumulative
75 validity period of all phases must not exceed the APFO validity
76 period which begins on the date of the initial preliminary plan
77 approval, including any extension granted under Section 50-
78 20(c)(5). A preliminary plan for a phase is validated when a
79 final record plat for all property delineated in that phase of the
80 approved preliminary plan is recorded in the County land
81 Records.

82 * * *

83 **Sec. 3. Effective Date.**

84 This amendment takes effect nunc pro tunc on March 31, 2015.

85

86 **Sec. 4. Automatic Extensions.**

87 (a) Notwithstanding any provision of Section 50-20(c) to the contrary, the
88 validity period of any determination of adequate public facilities that was
89 valid on March 31, 2009, or for which a timely application for an extension
90 of the validity period was pending on March 31, 2009 is automatically
91 extended for 8 years after the date when the validity period would otherwise
92 have expired. This 8-year extension includes any extension granted
93 automatically by any previous subdivision amendment and must be treated
94 for all purposes as part of the validity period that was extended.

95 (b) Notwithstanding any provision of Section 50-35(h) to the contrary, the
96 validity period of any preliminary subdivision plan that was valid on March
97 31, 2009, or for which a timely application for an extension of the validity
98 period was pending on March 31, 2009, including any separate phase of a
99 multi-phase plan, is automatically extended for 8 years after the date when
100 the validity period would otherwise have expired. This 8-year extension
101 includes any extension granted automatically by any previous subdivision
102 amendment and must be treated for all purposes as part of the validity period
103 that was extended.

104 (c) Notwithstanding any provision of Section 50-20(c) to the contrary, the
105 validity period of any determination of adequate public facilities that was
106 valid on March 31, 2011, or for which a timely application for an extension
107 of the validity period was pending on March 31, 2011, is automatically
108 extended for 6 years after the date when the validity period would otherwise

109 have expired. This 6-year extension includes any extension granted
110 automatically by any previous subdivision amendment and must be treated
111 for all purposes as part of the validity period that was extended.

112 (d) Notwithstanding any provision of Section 50-35(h) to the contrary, the
113 validity period of any preliminary subdivision plan that was valid on March
114 31, 2011, or for which a timely application for an extension of the validity
115 period was pending on March 31, 2011, including any separate phase of a
116 multi-phase plan, is automatically extended for 6 years after the date when
117 the validity period would otherwise have expired. This 6-year extension
118 includes any extension granted automatically by any previous subdivision
119 amendment and must be treated for all purposes as part of the validity period
120 that was extended.

121 (e) Notwithstanding any provision of Section 50-20(c) to the contrary, the
122 validity period of any determination of adequate public facilities that was
123 valid on March 31, 2013, or for which a timely application for an extension
124 of the validity period was pending on March 31, 2013, is automatically
125 extended for 4 years after the date when the validity period would otherwise
126 have expired. This 4-year extension includes any extension granted
127 automatically by any previous subdivision amendment and must be treated
128 for all purposes as part of the validity period that was extended.

129 (f) Notwithstanding any provision of Section 50-35(h) to the contrary, the
130 validity period of any preliminary subdivision plan that was valid on March
131 31, 2013, or for which a timely application for an extension of the validity
132 period was pending on March 31, 2013, including any separate phase of a
133 multi-phase plan, is automatically extended for 4 years after the date when
134 the validity period would otherwise have expired. This 4-year extension
135 includes any extension granted automatically by any previous subdivision

136 amendment, and must be treated for all purposes as part of the validity
137 period that was extended.

138 (g) Notwithstanding any provision of Section 50-20(c) to the contrary, the
139 validity period of any determination of adequate public facilities that was
140 valid on March 31, 2015 or for which a timely application for an extension
141 of the validity period was pending on March 31, 2015, is automatically
142 extended for 2 years after the date when the validity period would otherwise
143 have expired. This 2-year extension must be treated for all purposes as part
144 of the validity period that was extended.

145 (h) Notwithstanding any provision of Section 50-35(h) to the contrary, the
146 validity period of any preliminary subdivision plan that was valid on March
147 31, 2015, or for which a timely application for an extension of the validity
148 period was pending on March 31, 2015, including any separate phase of a
149 multi-phase plan, is automatically extended for 2 years after the date when
150 the validity period would otherwise have expired. This 2-year extension
151 must be treated for all purposes as part of the validity period that was
152 extended.

153

154 **Sec. 5. Repeal of prior uncodified provisions.**

155 The uncodified provisions of Ordinance Numbers 16-35, 17-04, and 17-31 are
156 repealed.

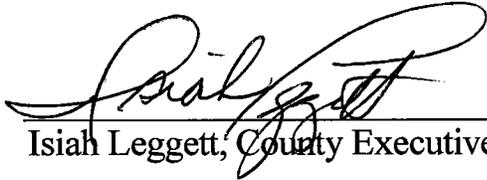
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159 *Approved:*

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162 Isiah Leggett, County Executive

June 17, 2015
Date

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

164



Linda M. Lauer, Clerk of the Council

June 18, 2015
Date