

Review and Approval Times for Preliminary Plans, Site Plans, and Record Plats

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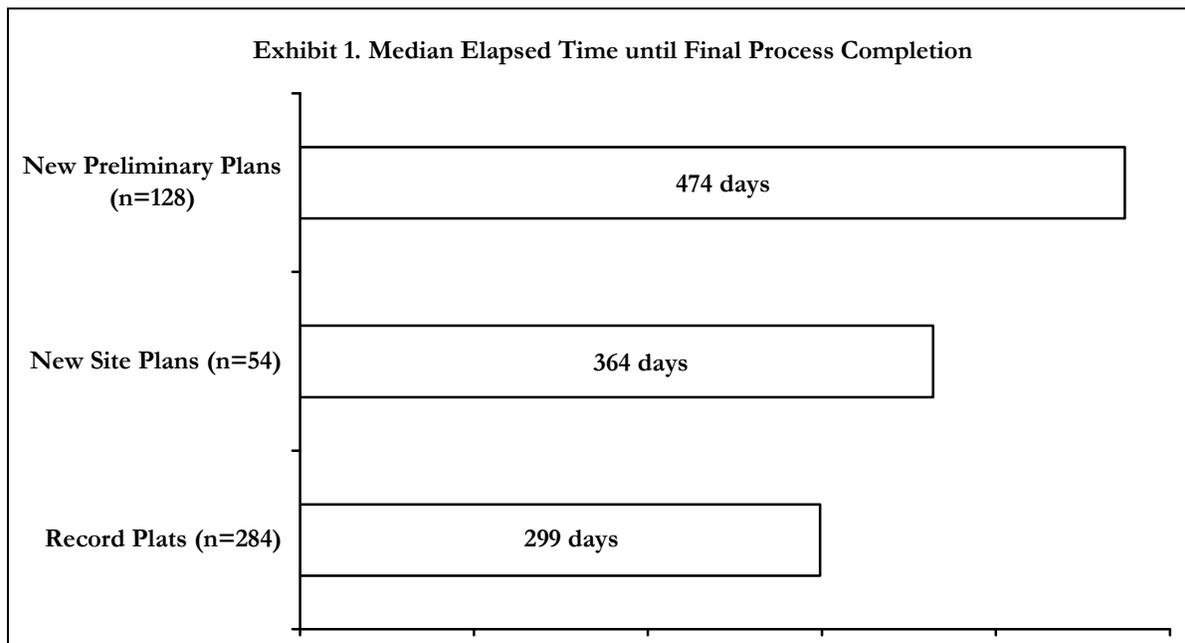
EXECUTIVE SUMMARY

This OLO report examines review and approval time for preliminary plans, site plans, and record plats in Montgomery County. It responds to the County Council's request for a better understanding of how long it takes to receive certain types of approvals and some of the factors that influence the predictability of the County's regulatory land use processes. OLO recommends the Council create an online system of benchmarks and processing time metrics to strengthen its oversight of regulatory land use approvals and shorten approval timeframes.

Median Approval Times for Preliminary Plans, Site Plans, and Record Plats

A regulatory land use approval is a structured administrative review that achieves compliance with multiple sets of codified development standards. OLO compiled a dataset of 415 preliminary and site plan applications (both new applications and amendments to existing approvals) completed between FY10 and mid-year FY14, and a dataset of 284 record plats approved by the Planning Board and DPS during FY12 and FY13 and subsequently recorded.

Exhibit 1 shows these reviews typically take 15 months for a new preliminary plan; 12 months for a new site plan and 9-10 months for a record plat. Approvals for a project that requires all three reviews could take over three years. OLO found that, for each type of approval, a relatively small number of "outliers" with the longest approval timeframes disproportionately affect the average. As a result the median is a better measure of a "typical" timeframe.



Process Predictability. Ranges for the County's regulatory approval processes are large, indicating a more variable and less predictable process. Approval timeframes ranged from 119 to 3,128 days for new preliminary plans; 151 to 3,128 days for new site plans; and 65 to 2,383 days for record plats.

Allocation of Agency Staff Review and Applicant Response Time within Review Processes

The elapsed time data for each approval type shown above captures both time attributable to agency staff (i.e., the amount of time an application is with staff either awaiting or undergoing review) and applicant response time (i.e., the amount of time it takes the applicant to make requested revisions and formally resubmit an application after agency review). How much review time is attributable to each party is a frequent source of discussion.

Preliminary and Site Plans. The Planning Department uses “stop days” to track the period(s) of time when an applicant’s revisions are pending and Planning staff is not actively reviewing a plan. Despite some data limitations, these data show higher shares of agency staff review days for site plans (71% staff review days and 29% applicant response days) than for preliminary plans (44% agency staff review days and 56% applicant response days.)

Table 1. Estimated Distribution of Approval Time Data

Application Type	% Agency Staff Review Days	% Applicant Response Days
New Site Plans	71%	29%
New Preliminary Plans	44%	56%

Record Plat Case Studies. Since the reviewing agencies do not regularly collect and report data that measures the activity that occurs during the record plat review process, Planning Department and DPS staff provided detailed information from case files on the actual review process for 19 case studies. OLO used this information to create timeline charts for 17 of the case studies that estimate the percent of time a record plat was under review by Planning and/or DPS compared to with the applicant for response/revision. Notably, among the case studies:

- The estimated percent of time a record plat was with a review agency ranged from 8% to 97%. Similarly, time assigned to an applicant ranged from 3% to 92%.
- The 10 plats below the median approval timeframe of 299 days all had agency review time exceeding 50%, while the seven plats above the median timeframe all had applicant time exceeding 50%.

Timeframe Data Within the Preliminary Plan and Site Plan Review Processes

OLO also calculated processing times for the phases or review cycles within each process.

Preliminary and Site Plans. These approvals have four parts: a pre-decision phase has a **pre-DRC period** (time from a completed application to the first DRC meeting) and a **post-DRC period** (time from the first DRC meeting to the hearing date); a post-decision phase has a **resolution period** (time from the hearing date to the resolution mailing date) and a **plan certification period** (time from the resolution mailing date to the certified plan signature date).

Table 2 shows that the post-DRC and plan certification periods are the most lengthy for site plans, while the post-DRC period is the longest for preliminary plans.

Table 2. Approval Timeframes by Review Period

Approval Type	Median
New Site Plans (n=54)	
Pre-Decision Phase	
Pre-DRC Period	39 days
Post-DRC Period	129 days
Post-Decision Phase	
Resolution Period	40 days
Plan Certification	110 days
New Preliminary Plans (n=128)	
Pre-Decision Phase	
Pre-DRC Period	40 days
Post-DRC Period	315 days
Post-Decision Phase	
Resolution Period	50 days
Plan Certification	41 days

Record plat case studies. Record plat reviews have one or more review cycles. Each cycle has both an agency review and an applicant's corresponding revisions. For each of the 19 record plat case studies, OLO calculated the number of days it took for each department and the applicant to complete a review cycle. The data in Table 3 show applicant response times can be as long (or longer) than agency review times.

Table 3. Median Record Plat Review Cycle Times from Case Studies

Action	MNCPPC Review		MCG Review	
	Planning Department	Applicant	DPS	Applicant
1st Review Cycle	47 days	43 days	33 days	99 days
2nd Review Cycle	21 days	35 days	20 days	64 days
3rd+ Review Cycle	2 days	20 days	11 days	47 days
Review Cycles Combined	37 days	35 days	26 days	79 days

For the Planning Department, 50% of the case studies required one review cycle, 33% required two review cycles, and 17% required three or more. For DPS, 32% of the case studies required one review cycle, 32% required two review cycles, and 36% required three or more.

Efforts to Streamline and/or Improve the Development Approval Process

Efforts to streamline or improve Montgomery County's development approval process are not new, as several different reports or initiatives have addressed this issue in the recent past and others are ongoing. Notable current efforts include:

- **Implementation of electronic plan review (ePlans).** ePlans was implemented for preliminary and site plans in March 2013 and record plats in July 2014. Agency staff report that ePlans will allow for greater data tracking and reporting as well as better coordination between reviewing departments.
- **Streamlining the Development Process Initiative.** This cross-agency initiative has identified and continues to work on a list of 67 potential streamlining improvements, including efforts to develop revised review timeframe and/or performance targets.
- **Process Time Reporting.** Under Resolution 17-859, the Council requested that the agencies began regular reporting of certain review time metrics.

Timeframes and Metrics in Other Jurisdictions

A review of preliminary plans, site plans, and record plats in surrounding County jurisdictions (Fairfax, Howard, Frederick, and Prince George's counties) show different approaches exist for managing approval processes. Examples include: agency and/or applicant review times established in law or policy, pre-set review and approval calendars, and specified definitions for how to count agency versus applicant time.

OLO also found examples of other jurisdictions that regularly publish development review process metrics and/or performance measures online. These systems include comparisons of actual review time against benchmarks.

Office of Legislative Oversight Recommendations

While current initiatives hold promise for improvement, ongoing Council oversight and attention to development approval processing is warranted. OLO's recommendations for Council action include two parts.

PART I: COUNCIL OVERSIGHT STRUCTURE FOR DEVELOPMENT APPROVALS

OLO recommends that the Council use a performance management approach to convey clear expectations for development approval outcomes and commit to periodic results monitoring with agency staff and industry representatives.

Recommendation #1: Establish pre-set development approval timeframes and targets for record plat, preliminary plan, and site plan approval processes - including metrics for review cycles, phases, and periods within each process

The Council should request that DPS and the Planning Department's new metrics include agency review time targets for each review component, applicant response time targets, and performance standards for each component of the process.

Recommendation #2: Establish a data system that captures and reports accurate agency and applicant review times

With the move toward electronic plan submission and review under ePlans, the Council should request that the review agencies ensure that the data systems are set up to collect and track data on each component of the review process and that staff are trained to implement data fields consistently.

Recommendation #3: Create a regular reporting structure to the Council and the public to enhance transparency of and accountability for the development review processing data.

The Council should hold a performance improvement worksession every six months with agency staff and industry representatives to address issues related to the design and implementation of this data oversight structure; to review the actual performance results; and to address the relationship of the oversight structure to other ongoing efforts. Similar to other jurisdictions, the Council should also request that the reviewing agencies develop a single, online location to publish detailed data on review timeframes.

PART II: ENHANCED COMMUNICATION AND INFORMATION STRUCTURE FOR RECORD PLATS

Recommendation #4. Request that DPS and the Planning Department jointly improve communication and information delivery processes for record plats, including a coordinated online presence.

The Council should request that DPS and the Planning Department enhance the communication and information delivery structure for record plats by: consolidating all information into a single website or mirrored sites; eliminating the need for multiple applications; establishing and publishing a clear checklist of materials/information that will be required; and committing to a proactive communication structure for notification of changes in review policies or guidelines.

Office of Legislative Oversight Report 2014-10

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Table of Contents

Executive Summary

I. Authority, Scope, and Organization of Report 1

II. Overview of Land Use Regulation and Development Approval Framework..... 3

III. Recent History of Development Approval Streamlining Efforts 7

IV. Preliminary and Site Plans 16

V. Record Plats 31

VI. Review Timeframes and Metrics in Other Jurisdictions..... 62

VII. Findings 71

VIII. Recommendations..... 81

IX. Agency Comments on Final Draft 84

Chapter I. Authority, Scope, and Organization of Report

A. Authority

Council Resolution 17-830, *Fiscal Year 2014 Work Program of the Office of Legislative Oversight*, adopted July 30, 2013.

B. Purpose and Scope of Report

In September 2012, the Council received a briefing on a cross-agency initiative to streamline the development process sponsored by the County Executive, the Council President, and the PHED Committee Chair. At that time, the Director of the Department of Permitting Services reported that this initiative had identified 67 items across nine issue areas since it began. In some cases, stakeholders and agency representatives have developed potential solutions that are being implemented; in other cases, more work is needed.

The purpose of this report is to present the Council with the information it needs to provide oversight of the County's development process, explain the cross-agency process steps, and suggest metrics to measure outcomes. Specifically, this report:

- Reviews past and ongoing efforts related to streamlining and/or improving Montgomery County's development approval process;
- Analyzes available data on the actual time it takes to complete the preliminary plan, site plan, and record plat review and approval processes;
- Identifies existing performance monitoring and measurement efforts related to the development approval process; and
- Describes timeframe and performance metric structures and/or models in other jurisdictions.

C. Organization of Report

Chapter II, Overview of Land Use Regulation and Development Approval Framework, broadly describes Montgomery County's regulatory framework for land use and development approvals.

Chapter III, Recent History of Development Streamlining Efforts, summarizes eight key reports, studies, work groups, initiatives, and legislation since 1992 that address development approvals.

Chapter IV, Preliminary and Site Plans, reviews the procedures and timeframes for review and approval of preliminary and site plans in Montgomery County.

Chapter V, Record Plats, reviews the procedures and timeframes of the Planning Department, Planning Board, and Department of Permitting Services in reviewing and approving a record plat.

Chapter V, Review Timelines and Metrics in Other Jurisdictions, provides information on development review metrics and timeframes for counties geographically surrounding Montgomery County and for selected non-regional jurisdictions that actively publish performance data.

Chapters VI and VII present OLO's Findings and Recommendations to the Council

Chapter VIII contains **Agency Comments** on the final draft of this report from the Deputy Director of the Montgomery County Planning Department and from the Chief Administrative Officer of Montgomery County Government.

D. Methodology

Office of Legislative Oversight (OLO) staff members Craig Howard and Sue Richards conducted this study. OLO gathered information through document reviews and interviews with staff from the County Government's Department of Permitting Services, Department of Transportation, Department of Environmental Protection, and Montgomery County Fire and Rescue Services; the Maryland-National Capital Park and Planning Commission's Montgomery County Department of Planning; the Maryland National Capital Building Industry Association; and general literature and document searches.

E. Acknowledgements

OLO received a high level of cooperation from everyone involved in this study. OLO appreciates the information shared and the insights provided by all staff who participated. In particular, OLO thanks: Fariba Kassiri, Assistant Chief Administrative Officer; Diane Schwartz Jones, Atiq Panjshiri, and Henry Emery from the Department of Permitting Services; Planning Board Chair Françoise Carrier, and Gwen Wright, Rose Krasnow, Cathy Conlon, Mark Pfefferle, and Stephen Smith from the M-NCPPC Montgomery County Department of Planning; Art Holmes, Al Roshdieh, Edgar Gonzalez, Greg Leck, Emil Wolanin, and Bruce Johnston from the Department of Transportation; Kathleen Boucher, Stan Edwards, and Alan Soukup from the Department of Environmental Protection; and David Steckel, Maria Labaw, and Richard Merck from the Montgomery County Fire and Rescue Services. OLO would like to also thank the following individuals for their participation and assistance: Bob Kaufman, Jennifer Russel, Bill Kominers, Bob Spaulding, Clark Wagner, Tim Quinn, and Eric Soter.

Chapter II. Overview of Land Use Regulation and Development Approval Framework

Land development refers to a series of activities carried out to construct buildings and supporting infrastructure on a parcel of land, including a set of interrelated approvals from government authorities a property owner must seek. The development approval process refers to the collective sequence of procedural activities (e.g., project design, plan application and review, decision hearings and documentation, permits and inspections) that an owner follows to receive these government approvals. This chapter provides an overview of Montgomery County’s regulatory framework for land use and development approvals, and is organized as follows:

- **Section A** provides a broad overview of the land development governance structure in Montgomery County;
- **Section B** details the administrative entities and land use hearing procedures established in State and County law; and
- **Section C** summarizes the structure and purpose of land development process regulations.

A. Montgomery County’s Land Development Governance Structure

A local government’s exercise of its land planning and regulatory land use powers typically derives from state enabling legislation that delegates broad decision making authority to the local government. In general, the governance framework for the exercise of this authority has three interrelated components:

- A local legislative body that exercises zoning and subdivision powers granted to it through state enabling legislation;
- Locally established administrative entities that conduct land use hearings to decide land development applications or appeals; and
- A mix of federal, state and local standards and regulations that guide the process and decision-making of the administrative bodies.

Montgomery County’s land use governance structure is atypical, as state law splits the exercise of zoning and subdivision powers between two entities: the County Council and the Montgomery County Planning Board, an entity which is one-half of a bi-county commission established in State law. The County’s authority to regulate land is found in the Maryland Constitution and two Articles of the Maryland Code.

- **Local Government Article, Title 10, Express Powers Act.** As a home rule charter county, Montgomery County may exercise local legislative power granted by the Express Powers Act of the Maryland Code. This Act contains the County’s authority to “enact local laws relating to zoning and planning” and to establish a Board of Appeals.
- **Land Use Article.** Division II of the Land Use Article establishes a bi-county Maryland-National Capital Park and Planning Commission (M-NCPPC) that consists of two five-member Planning Boards, one for Montgomery County and one for Prince Georges’ County.

State powers assigned to the local legislative body. The Land Use Article assigns zoning and subdivision powers to the County Council as the designated District Council for Montgomery County.

- The District Council’s **zoning powers** include the authority to divide land into districts and zones; the authority to impose different regulations in different zones; the authority to adopt and amend the zoning code text and maps; the authority to delegate decision-making or decide on special exceptions and variances; and the authority to provide for the issuance of use and occupancy permits or for certificates in zoning regulations.
- The District Council’s **subdivision powers** include the authority to adopt regulations and amendments governing the division and assembly of land parcels and the authority to adopt ordinances to protect historic sites.

State powers assigned to the Montgomery County Planning Board. Under Section 7-111 of Article 28, the responsibilities generally assigned to the Planning Boards include:

...planning, platting and zoning functions primarily local in scope, as distinguished from the regional planning functions of the Commission relating to or affecting the regional district as a planning unit. The local functions exclusively within the jurisdiction of the respective planning boards include, but are not limited to, the administration of subdivision regulations, the preparation and adoption of recommendations to the district council with respect to zoning map amendments, and the assignment of street names and house numbers within the regional district.

The Regional District Act also specifies that in Montgomery County, to the extent authorized by County law, ordinance, or resolution, the Planning Board may administer and enforce any adopted growth policy or forest conservation program and provide staffing assistance on historic preservation matters.

B. Administrative Entities and Land Use Hearings

The three administrative entities responsible for hearing and deciding land development matters are the Montgomery County Planning Board, established in state law, and the Board of Appeals and Office of Zoning and Administrative Hearings (OZAH), established in County law. As authorized in State and County law, the Planning Board may hear and decide applications for preliminary plans, site plans, sketch plans, and project plans; administer the annual growth policy; and administer forest conservation matters and historic area work permits.

The Board of Appeals may hear and decide applications for variances and special exceptions, and appeals related to licenses, orders, and permits. The OZAH may hear and make recommendations on applications for local map amendments and development plan amendments which the District Council decides, and on special exceptions referred by the Board of Appeals. OZAH also conducts hearings on any appeal or other matters assigned by law, the County Council, or the County Executive.

Ensuring fairness and procedural due process. The enabling legislation that confers land use decision authority on local governments specifies that a government’s land development regulations must serve a legitimate public purpose. In addition the land development decision making process must be fair and fact-based so that an owner’s property rights are protected. Common characteristics of the due process hearings that provide these protections include:

- Notice provisions;
- A hearing conducted in a manner that provides for the presentation of factual evidence and helps the decision maker arrive at a fair, legal and complete decision;
- A decision that is based on an official record of the hearing; and
- A decision that is based on findings of fact and conclusions of law.

The administrative provisions that structure the County's land development approval procedures are not uniform; instead they vary by the type of approval sought and the administrative entity that conducts the hearing. For example:

- Preliminary plans and site plans heard by the Planning Board are governed by provisions in County Zoning and Subdivision Ordinances, Rules of Procedure that the Planning Board adopts for itself, and a Manual of Development Review Procedures approved by the County Council and approved and adopted by the Planning Board.¹
- Board of Appeal's hearings are governed by the County's Administrative Procedures Act (APA); specific Rules of Procedure for the Board of Appeals are approved by the County Council and appended to the County Code.
- Local map amendments, special exceptions and variances hearing procedures are governed by the Zoning Ordinance; specific Rules of Procedure for the Hearing Examiner are approved by the County Council and appended to the County Code.

C. Land Development Process Regulations

The law that regulates land development activities includes a mix of policies, procedures, standards and restrictions. Together, this regulatory system is designed to establish:

- A coherent pattern of land use and development;
- A fair and fact based decision making structure; and
- Standards to ensure safe buildings and roads while implementing other public policy objectives such as affordable housing, forest conservation, and water quality protection.

A coherent pattern of land use and development. Zoning maps and districts, subdivision plans and plats, and site plan drawings are all methods designed to ensure that a private owner's development of their property complies with land use controls established in law. Maintaining the procedural compatibility of these interrelated approvals is a key challenge of administering an effective development approval process. In brief:

- The system of zones and uses in a **zoning ordinance** defines an owner's permitted private property rights, including allowable uses, building heights, lot coverage, parking, signage, and landscaping.
- The **subdivision ordinance** specifies the set of approvals and procedures that a property owner must follow to assemble or subdivide a parcel of land. Regulating the layout of land establishes buildable lots and assures adequate space for roads, connectivity with surrounding parcels, preservation of forest and steep slopes, and control of development in a floodplain.
- A **site plan** is a drawing that shows the arrangement, design and proposed use of individual or multiple land parcels, including the location of buildings and accessory structures, access roads, parking lots, sidewalks, landscape, lighting, recreation areas, and buffering.

A fair and fact based decision making structure. As noted earlier, procedures for hearing and deciding land development applications, including preliminary plan and site plan approvals decided by the Planning Board, must ensure due process.

¹ <http://www.montgomeryplanningboard.org/agenda/2007/documents/RulesFINAL3.21.07.pdf>

Standards to ensure safe building and roads and achieve other public policy objectives. A legislative body establishes standards to limit the discretionary authority that a designated entity or official exercises in their administrative decision making capacity. The types of standards vary based on the subject of the regulations, local values, and the technical expertise that supports the procedural review process.

The purposes behind various standards differ as well. For example, the controls that regulate land development and building construction activities reflect professional and technical standards that address land stability and structural soundness to ensure public safety. The professional and technical standards that control use and design activities exist to provide the benefits of beauty, convenience, compatibility and flow that good design produces.

As the number and complexity of land use regulations evolves, its not unusual for regulations to contradict or conflict with one another. As local governments assign more policy objectives to land development approvals, the importance of a well designed, fair, effective and efficient development approval system increases. Many different strategies exist to meet this challenge. Common legislative strategies include authorizing an entity to identify and resolve conflicts, requiring periodic reviews to clean up the body of law and regulations, and recognizing the varying significance of different standards in the sequencing of development approvals.

Local governments use organizational strategies to address this challenge as well. Historically, local government administration of land development and building standards was determined by its organizational structure. For example, the land development, public works, roads or building departments were separately responsible for administering the applications, plan reviews, permitting, inspections and enforcement activities for their respective functions.

More recently, local governments have consolidated these functions to create one-stop shops. In 1996, the County Council, in response to an initiative of the County Executive, approved a re-organization of the Department of Permitting Services that consolidated many County Government plan review, permitting, inspection, and code enforcement functions. In 2006, the Department of Permitting Services and the Montgomery County Planning Board signed a memorandum of understanding that assigned responsibility for site plan enforcement inspections to DPS.

Chapter III. Recent History of Development Approval Streamlining Efforts

Efforts to improve or streamline Montgomery County’s development approval process are not new. Several different reports or initiatives have addressed streamlining issues in the recent past, and others are ongoing. This chapter briefly summarizes eight key reports, working groups, initiatives, and legislation since the early 1990’s directly or indirectly related to development approval streamlining or timeframes.

- ❖ 1992 Development Authorization Process Report
- ❖ 2006 Development Review Improvement Project Report
- ❖ 2008 and 2009 Reports of the Montgomery County Citizens Advisory Committee to the Department of Permitting Services
- ❖ 2009 Proposed Subdivision Regulation Amendment 09-02, Subdivision Approval – Conflict Resolution
- ❖ 2010 Report of the Conflict Resolution Workgroup on ways to Improve the Development Approval Process
- ❖ 2012 Streamlining the Development Process Initiative
- ❖ 2013 Council Resolution on Joint Reporting on the Processing Time for Development Applications
- ❖ 2014 Adoption of the Zoning Ordinance Rewrite

A. 1992 Development Authorization Process Report

In the early 1990’s the County Council appointed an inter-departmental Steering Committee to study problems with the land use development authorization process (DAP). The Committee was charged with identifying ways to streamline regulatory approvals that were characterized as time consuming, complex, lacking predictability, and duplicative.

The Committee’s report, *The Implementation Report: Streamlining Montgomery County’s Development Authorization*, included a major focus on the delegation of lead agency responsibilities and the sequencing of regulatory decisions to eliminate issues being decided and subsequently re-opened. Specific recommendations addressed:

- The clear assignment of responsibilities, including the designation of lead agencies;
- Clear, current, and consistent published development standards, guidelines, and submission requirements;
- A funnel review process that narrowed the issues to be resolved as plan reviews progressed;
- Concurrent reviews where feasible;
- Certainty of review times;
- Effective systems to resolve conflicts; and
- An ongoing framework and effort to maintain an efficient system.

The Council’s oversight of efforts to implement the Steering Committee’s recommendations lasted for six years, from 1992 to 1998. During this time, the Council’s PHED Committee met periodically with the Steering Committee to track its progress, and the Steering Committee also submitted annual progress reports to Council.

B. 2006 Development Review Improvement Project Report

In 2005, as one component of the agency's response to violations that occurred in the Clarksburg Town Center development, MNCPPC hired Management Partners, Inc. to "conduct an analysis of the development review process and to lead an improvement initiative."¹ The 2006 Management Partners Report included 65 recommendations to improve the quality, timeliness, and responsiveness of the development review process within the five components of agency operations listed below:

- The core development review process;
- The role of the regulatory agencies outside of M-NCPPC;
- The community involvement dimension of development review;
- Personnel resources; and
- The use of technology in the development review process.

The report's Executive Summary notes that "one of the inherent challenges in reforming the development review process is the unique organizational arrangement of Park and Planning as a separate entity. One of the fundamental issues – lack of management control over many of the public agency representatives participating in the development review process – is an issue that must be addressed to assure the necessary changes will be made."²

C. 2008 and 2009 Reports of the Montgomery County Citizens Advisory Committee to the Department of Permitting Services

By the mid-2000s, the DAP lead agency practice had fallen out of use; the number of land use regulations and policies had grown; interagency conflicts had multiplied; and DAP approval timeframes had increased. The PHED Committee asked the Montgomery County Citizens Advisory Committee (CAC) to the Department of Permitting Services to revisit the lead agency issue. The PHED Committee received a preliminary report from the CAC Policy and Procedures Ad Hoc Subcommittee in 2008, and a follow-up report in 2009 which focused on lead agency issues within the land use approval process.

The Lead Agency Issue. The CAC Report defined the lead agency issue as follows:

Where a land development project is to be reviewed and approved by more than one agency sometimes a conflict arises between agencies. Resolution of the interagency conflict often involves long delays, duplication of effort, multiple meetings, and unnecessary expenditures to the applicant, the involved agencies, and the County government at large. A Lead Agency program, if properly created and assigned authority, could resolve conflicts in an effective and efficient manner.³

The CAC compiled a partial list of agency participants in land development project reviews that identified six public utilities and 15 different units in three public agencies: M-NCPPC (six units), Montgomery County Government (seven units), and the State of Maryland (two units).

¹ Management Partners, Incorporated. *Maryland-National Capital Park and Planning Commission: Development Review Improvement Project Report*, June 2006, pg. 1.

² Ibid.

³ Montgomery County Citizens Advisory Committee to the Department of Permitting Services. 2008 Second Annual Committee Report. February 17, 2009. Cited in the *Report of the Conflict Resolution Workgroup on Ways to Improve the Development Approval Process in Montgomery County, MD*. March 2010.

The CAC identified M-NCPPC as the tacit lead agency for land development but noted that M-NCPPC's lack of statutory authority and organizational control limited its ability to resolve interagency conflicts. It reported the process to resolve comparable conflicts in other jurisdictions is short and efficient because most departments participating in project approval answer to one authority. The CAC's recommendation to resolve the lead agency issue was for the Council to act either legislatively or through organizational restructuring.

- For the legislative route, the CAC proposed tasking a small group of experienced representatives from M-NCPPC, DPS, DOT, WSSC and PEPCO with preparing a report and recommendation of provisions that would be adopted by ordinance or executive regulation, followed by the establishment of a lead agency program.
- For the organizational restructuring route, the CAC proposed placing M-NCPPC in whole or in part under the authority of the Executive, for the purposes of existing Lead Agency authority. The CAC noted this would require substantial changes to the State's Regional District Act enabling authority to Montgomery County in Article 28 of the Maryland Annotated Code.

Proposal for a lead agency hearing board. The CAC proposed establishment of an administrative hearing board of three to five people. The board would meet monthly or more frequently to resolve agency conflicts on land use applications and issue final written decisions on conflicts within 30 days of a hearing. Membership of the Board could either consist of experienced land development professionals, or rotating memberships selected from the current Development Review Committee. Attorneys from M-NCPPC and the County Attorney's Office would be available to advise the Board on statutory conflicts.

D. 2009 Proposed Subdivision Regulation Amendment 09-02, *Subdivision Approval – Conflict Resolution*

In June 2009, Councilmember Floreen introduced Subdivision Regulation Amendment (SRA) 09-02. This SRA sought to codify procedural and timing guidelines for department directors to resolve Development Review Committee conflicts by specifying that:

- DRC participants had 30 days to resolve a conflict after it was first identified at a DRC meeting before it would be submitted to Department Directors for resolution; and
- DRC Department Directors had 35 days to meet and resolve the conflict and report the resolution to the Planning Board.

The SRA proposed that if the Board approved a preliminary plan that involved a resolved conflict, the resolution must be made a condition of approval and be binding on each DRC department or agency. Finally, it prohibited an agency from requiring a substantial change to the plan after it was approved by the Board unless it was later amendment by the Board. The amendment also proposed that the time attributable to the conflict resolution procedure be added to existing preliminary plan approval times.

The Council's public hearing on SRA 09-02 was held in July 2009. Both the Planning Board and the Executive urged that the Council not adopt SRA 09-02 because: other, non-legislative streamlining options existed; it might increase conflict resolution times; and concerns about the legal issues it raised. In September 2009, at a PHED Committee worksession on SRA 09-02 the Planning Board Chair and the Director of the Department of Transportation agreed to meet with building representatives to discuss the issues addressed in the SRA. The PHED Committee requested that this group:

- 1) Establish principles for improving conflict resolution in the development review process that may include a renewal of the lead agency concept;
- 2) Review internal deadlines or other ideas to speed the review of projects;
- 3) Identify legislative impediments to a timely review of applications.

E. 2010 Report of the Conflict Resolution Workgroup on ways to Improve the Development Approval Process

Stemming from the meetings set up in response to the proposed SRA 09-02, the Planning Board Chair and the Director of Transportation submitted a written proposal to the PHED Committee to address the Council's concern about regulatory conflicts and their effect on development approval timeframes. The proposal called for a review by a workgroup of key agency representatives and other stakeholders to:

- Redefine and re-establish lead agency roles based on current agency structure;
- Recommend ways to reduce delays due to regulatory conflicts including the identification of inherent conflicts;
- Develop a procedure for resolution of disagreements within and among agencies, and between applicants and an agency; and
- Analyze the current operations of the DRC to determine where improvements can be made.

The Conflict Resolution Work Group membership included 24 public agency representatives from MNCPPC, County Government, and WSSC; three PEPCO representatives; and five representatives of stakeholder groups (including the Maryland National Capital Building Industry Association, a land use engineering firm, a land use law firm, a land developer, and a former Chief of the Development Review Committee). The Work Group's report, released in April 2010, included an updated and expanded set of Lead Agency Designation Tables and an Interagency Conflict Resolution Process and Flowchart.

Lead agency tables. While the intent of the DAP lead agency charts in 1992 were to clarify lines of authority in the decision process, the intent of the Work Group's tables shifted to designate a lead agency and also "identify the other stakeholders that have a vested interest or regulatory authority in an outcome." The report noted significant increases in both the number of agencies responsible for making decisions and the number of laws, regulations and guidelines governing the approval process since 1992. It noted that this expansion of actors and authorities made it more challenging for a lead agency to make a decision. For each of the subject areas below, the expanded set of Work Group tables identified the lead agency, supporting stakeholders with regulatory authority, and other supporting agencies for: environmental reviews, non-APF transportation reviews, APF transportation reviews, site design and layout, and private street reviews.

Conflict resolution process and flowchart. The Work Group's conflict resolution process consists of specific decision timeframes and a decision-tree flow chart that identifies process steps to resolve regulatory conflicts. The expectation is that a mechanism that elevates conflicts to agency principals will quickly bring all necessary parties together to identify win-win situations. The conflict resolution process is layered on top of the existing project application review process. The Work Group's conflict resolution procedures add the following steps to existing review procedures:

- If the pre-DRC meeting identifies regulatory conflicts, before the end of that week, the lead agency staff will convene a meeting of stakeholder agencies to resolve the issue.

- If the DRC meeting identifies regulatory conflicts, within four weeks of the DRC meeting, the lead agency staff will try to broker a solution among the parties including the applicant. If this effort fails, the lead agency will make the decision.
- If the decision of the lead agency conflicts with the regulatory authority of another stakeholder agency, within four weeks of the original lead agency decision, the lead agency will refer it to the principals of the conflicting agencies.

The Planning Staff report will include a discussion of any regulatory conflicts and the Planning Board will address these issues as part of its action on the project application. The Work Group’s process identifies three possible outcomes following the Board’s hearing:

- 1) The Planning Board **agrees** with the lead agency decision and the plan is **approved**;
- 2) The Planning Board **disagrees** with the lead agency decision and as long as the Board’s disagreement **does not** contradict any legal or regulatory requirements, the plan is **approved**; or
- 3) The Planning Board’s **disagrees** with the lead agency decision and this disagreement **does** contradict a legal or regulatory requirement, in which case a decision on the application should be **deferred** to see if a compromise between the Planning Board position and lead agency decision can be worked out.

The Work Group report identified the following suggested times for specific steps in the conflict resolution process:

Time for lead agency staff to convene, discuss and attempt to resolve regulatory conflicts identified at pre-DRC meeting.	10 days
Time for lead agency staff to discuss and attempt to resolve unresolved issues with applicant and other stakeholder agencies after DRC.	4 weeks
Time for lead agency staff to make final decision if brokering is unsuccessful.	Not defined
Time for principals of conflicting agencies to make final decision on a matter where the lead agency decision conflicts with the regulatory authority of another stakeholder agency.	4 weeks

Implementation. In May 2010, M-NCPPC, MCG, WSSC, and PEPCO drafted a Memorandum of Understanding to memorialize the recommendations in its April 2010 Work Group Report. In October 2010, the PHED Committee received a briefing from the Work Group on its report and draft MOU. The agencies stated that MOU was intended to be a living document that would be updated regularly. They anticipated that the MOU would be used to resolve regulatory conflicts on a case by case basis and that the use of timeframes would make issues resolvable. The Planning Department also envisioned greater participation of lead agency staff in Planning Board worksessions.

The PHED Committee endorsed the MOU with reservations, suggesting that SRA 09-02 be kept available pending future Work Group updates. The PHED Committee requested and the Work Group agreed to provide annual reports. The MOU was officially signed in April 2011 and includes:

- A provision that staff reports to the Planning Board would identify all inter-agency review conflicts that required lead agency decisions and the process used by the lead agencies to resolve the conflicts;

- A provision that the Workgroup, other stakeholders, and development community representatives will reconvene in the spring of 2011 and periodically thereafter to determine if revisions are needed; and
- A provision for an annual report to Council that will highlight examples of Lead Agency decisions, steps taken to resolve issues, and recommendations for revisions to either the MOU or the Work Group report.

F. 2012 Streamlining the Development Process Initiative

In January 2012, the County Executive launched a cross-agency initiative (led by the County Government's Department of Permitting Services) intended to "make meaningful changes to the development application process by streamlining reviews and inspections."⁴ Thirteen county and state department or agencies are participating in the initiative:

- Board of Appeals
- County Council
- Department of Permitting Services
- Department of Economic Development
- Department of Environmental Protection
- Department of Fire and Rescue Services
- Department of Transportation
- Department of Housing and Community Affairs
- Maryland National Capital Park and Planning Commission
- Office of the County Attorney
- Office of Zoning and Administrative Hearings
- State Highway Administration
- Washington Suburban Sanitary Commission

The streamlining initiative began by gathering information through two public forums, an online survey, and requesting comments and feedback from stakeholders to "identify areas of the development process that can be simplified or streamlined to reduce time, eliminate bottlenecks, duplication of reviews, inconsistencies and inefficiencies."⁵ Following the information gathering, a roundtable discussion was held and workgroups were formed (with both public sector and private sector stakeholders) to discuss specific issues and recommended solutions within the following seven topic areas:

- 1) Environment, Stormwater and Sediment Control Permits
- 2) Transportation and Utilities
- 3) Pre-Development Review Committee, Development Review Committee, Pre-Preliminary Plan, Preliminary Plan, Site Plan, Montgomery County Planning Board Resolutions
- 4) Special Exceptions and Rezonings
- 5) Record Plats and Right of Way Permits
- 6) Building Permits
- 7) Bonds

The end result of these initial steps was the publication of a draft list of 67 potential streamlining items.⁶ Each of the 67 items includes a problem description, recommended solution, description of any projected financial or timeframe costs or savings, a consensus position of agency staff on the issue, and a potential timeframe for implementation. In September 2012, the Council received a briefing on the status of the cross-agency initiative. At that briefing, DPS staff reported that implementation had begun on some of the issues, while more work was needed on others.

⁴ <http://permittingervices.montgomerycountymd.gov/DPS/streamlinedevelopment/StreamliningDevelopment.aspx>

⁵ Ibid.

⁶ <http://permittingervices.montgomerycountymd.gov/DPS/pdf/StreamliningInterimTable9-25-12.pdf>

Current status. DPS staff report that they are currently working on a report that will finalize the list of streamlining items the initiative will address, provide a status update for each, and quantify the potential cost savings to developers/builders and potential benefits to the County from reducing approval timeframes. In addition, a Streamlining Executive Oversight Committee Agency continues to meet and staff continue to work on the streamlining issues while the final report is being written. An updated Streamlining Initiative Results table is attached beginning at ©26. Some of the streamlining issues agency staff reported having implemented at the September 2012 update includes:

- Consolidating permit inspections for fire alarm and fire protection systems done by DPS and MCFRS, reducing the time to schedule an inspection by two weeks;
- Eliminating MNCPPC's requirement for a forest conservation pre-construction meeting prior to issuance of a building permit, reducing building permit issuance time by around two weeks;
- Modifying MNCPPC's bond approval process, reducing lag time up to two weeks;
- Creating a weekly report of DPS expedited/green tape applications provided to DPS Land Development Division, MNCPPC, and WSSC;
- Modifying DOT's website to include the Context Sensitive Road Design Standards;
- Revising four DOT approved design standards for cul-de-sacs and temporary turnarounds to accommodate emergency vehicle access concerns from MCFRS; and
- Planning Board approval of most resolutions the same day as the development application is approved, potentially saving as much as four to six months of time.

DPS staff also provided OLO with an updated list of additional streamlining accomplishments:

Additional Streamlining Initiative Accomplishments as of 7/21/14 (Source: DPS)

1. Waiver of MNCPPC signoff on recorded lot rebuilds to eliminate redundancy.
2. Creation and posting of common design mistakes lists to improve quality of submissions.
3. Changes to DRC and preliminary/site plan processing to include:
 - Sharing of comments with applicant in advance of DRC
 - DRC timelines, issue resolution ownership and agency participation reports
 - Hearing dates established at end of DRC
 - Traffic studies are distributed at beginning of DRC instead of at the end
 - Zoning Rewrite sets landscape and lighting guidelines
 - ProjectDox has been launched with improved access to agency comments
4. SPA monitoring changes have been adopted.
5. Metrics created by DPS for processing stormwater management as-builts; record plats; etc.
6. Signature authority on all development documents required to be signed by the County has been delegated to the Director of DPS eliminating steps in process and movement of documents between departments in the County.
7. Record Plat changes have been implemented – i) DPS has eliminated backlog entirely; ii) Signature sequence has changed with DPS signing plats before they go to the Planning Board for signature; iii) Plats Committee has reviewed and simplified notes on plats; iv) Cover page with notes has been created for multi-page plats and will be published as a DPS Policy 30 days prior to taking effect; v) MNCPPC is working on review/revision of Chapter 50; and vi) MNCPPC launched ePlans for Record Plats on July 1, 2014.
8. Zoning Rewrite has been adopted and simplifies and reduces approach to special exceptions including intake which will occur at MNCPPC.
9. Office of Zoning and Administrative Hearings is revising its rules of procedure to simplify for conditional uses and special exceptions; hearings to be assigned within 4 months of completion of application.
10. Design and construction standards for several ESD practices have been published and MDE also recently issued design guidance.

G. 2013 Resolution on Joint Reporting on the Processing Time for Development Applications

On September 10, 2013, the County Council passed Resolution 17-859, *Request by County Council for joint reporting on the processing time for development applications by Executive Departments, the Planning Department, and other agencies*. The resolution, sponsored by Councilmembers Reimer, Floreen, Elrich, Leventhal, and Berliner, contains the action items detailed below:

- The Montgomery County Council requests that the Department of Permitting Services, the Department of Transportation, the Montgomery County Planning Department, the Board of Appeals, and the Office of Zoning and Administrative Hearings develop a coordinated schedule of reports using application and permit tracking tools to measure the processing times for various development approvals and permits, broken down by agency review time, time awaiting reviews, and time with applicants/others. The reports shall reflect average time and outliers.
- The Montgomery County Council requests that other outside entities involved in the approval and permitting of land development and construction in Montgomery County develop a schedule of reports, using their permit tracking tools, to measure the processing times for various development approvals and permit processes, broken down by agency review time, time awaiting reviews, and time with applicants/others. The reports shall reflect average times and outliers. The outside entities referenced include: WSSC, State Highway Administration, Maryland Department of Transportation, Pepco, Washington Gas, Baltimore Gas and Electric Company, and Potomac Edison Co.
- That the reports requested be provided to the County Council the first Monday in December 2013, and every 6 months thereafter for the next 4 years.

On December 2, 2013, the Council received the first consolidated report under the resolution. Of note, the cover memo to the consolidated report states:

“The reports that are generated largely come from the reporting processes within each agency. As many reporting agencies implement various work processes for electronic plans and become more experienced with its capabilities, we are hoping that we will be able to provide reports that give more of an overall perspective of processing times and related interagency reviews. Additionally, some agencies are in the process of developing further reporting capabilities in connection with the Cross-Agency Streamlining initiative and performance measures and to reflect the information called for in Council Resolution 17-859.”

H. 2014 Adoption of the Zoning Ordinance Rewrite

On March 6, 2014, the County Council adopted a revised Zoning Ordinance, the first major changes in the ordinance since 1978. This culminated a process that began in 2007 when the Council tasked the Planning Department with a comprehensive rewrite of the zoning code with the following basic goals:⁷

- Simplify and consolidate;
- Improve clarity and consistency;
- Accommodate changing markets and demographics, while protecting established neighborhoods;
- Reflect more sustainable policy goals; and
- Provide the tools necessary to shift from greenfield development to infill, mixed-use development.

As a comprehensive rewrite, the revised ordinance includes a substantial number of changes across all areas (a summary of all Planning Department staff reports, Planning Board Hearings, Council PHED Committee hearings, and full Council hearings are available at www.zoningmontgomery.org).

⁷ http://montgomerycountymd.granicus.com/MetaViewer.php?view_id=6&event_id=2304&meta_id=58070

Sketch and site plan review schedules. Of particular note for streamlining and development approvals, the revised ordinance includes new plan review schedule and timeline requirements (typically maximum agency review times) for various components of the sketch and site plan review processes as detailed in the table below:

Table 1. Timeframe Requirements for Certain Regulatory Approvals by the Planning Board (PB) or Planning Director (PD)

Type of Approval	Intake Review	Plan Review and Recommendation Reports	Administrative Public Hearing	Public Hearing Report or Decision	Time from Complete Application to Decision
Sketch Plan ⁸	<ul style="list-style-type: none"> • 10 days for initial review • 10 days for follow-up review 	PD report at least 10 days before PB hearing	Within 90 days of complete application date ⁹	PB must act within 30 days of close of public hearing record	120 days
Site Plans and Major Site Plan Amendments	<ul style="list-style-type: none"> • 10 days for initial review • 10 days for follow-up review 	<ul style="list-style-type: none"> • Public agencies and utilities must submit initial comments before 1st DRC meeting and final comments at least 45 days before PB hearing • Applicants must submit revisions at least 65 days before the PB hearing¹⁰ • PD report at least 10 days before PB hearing 	Within 120 days of complete application date ⁹	<ul style="list-style-type: none"> • PB must act within 30 days of close of the public hearing record • PB must issue a resolution reflecting its decision within this 30 day time period 	150 days
Minor Site Plan Amendments	n/a	n/a	PB hearing must be requested within 15 days after notice of filed app. is sent	n/a	n/a

The zoning ordinance re-write contains a new provision that requires the Planning Board to adopt a plan review schedule for approvals that reflects the sketch and site plan timeframe requirements detailed above. Specifically, Section 7.6.3.C of the revised ordinance states:

- The Planning Board must annually adopt a Plan Review Schedule for the calendar year that reflects the timeframes established in Section 7.3.3, Sketch Plan, and Section 7.3.4, Site Plan. The schedule will set: the date an accepted application will be distributed to DRC; the date initial staff and agency comments are due; the DRC meeting date; the applicant resubmission date; the date final staff and agency comments are due and the public hearing date.
- Extensions to Sketch Plan and Site Plan hearing dates and Site Plan report and recommendation dates allowed at request of the Planning Director or Applicant.

⁸ For optional method developments in the CRT, CR, EOF, or LSC zones.

⁹ The Planning Director may postpone the public hearing up to 30 days once without Planning Board approval, and the Director or the applicant may request an extension beyond the original 30 days postponement with Planning Board approval.

¹⁰ The Planning Director can deem the application withdrawn if the applicant does not file a written request for an extension within 15 days after revisions were due.

Chapter IV. Preliminary Plans and Site Plans

This chapter reviews the procedures and timeframes for review and approval of preliminary and site plans in Montgomery County. This chapter is organized as follows:

- **Section A** provides a overview of the purpose and function of preliminary plans and site plans as part of the land development process;
- **Section B** describes the preliminary and site plan review and approval process in Montgomery County;
- **Section C** provides detailed preliminary plan and site plan approval and processing data for FY10 through mid-year FY14; and
- **Section D** summarizes feedback on the review process and timeframe data from agency staff and from representatives of the building and land development community.

A. Overview of Preliminary Plans and Site Plans

Two products of a development approval process are a preliminary plan of subdivision and a site plan.

- A **preliminary plan** is a drawing that shows the proposed number and layout of lots, and future rights of way and land dedications. It is the first part of a two-part land subdivision process that also includes a final record plat.¹
- A **site plan** is a drawing that shows the arrangement, design and proposed use of lots. It is the final, most detailed plan in an approval process that can include a development plan and a project plan. It establishes a project footprint and its design and landscaping features; the documentation package for a site plan can include a landscape plan, a stormwater management concept plan, and a phasing plan in addition to the site plan drawing.

The regulations that govern County's subdivision approvals are in Chapter 50 of the County Code and the regulations that govern site plan approvals are in Chapter 59.

Chapter 50. Land subdivision is the division or assembly of a land parcel into one or more plots, tracts or parcels for the purpose of sale or building. Chapter 50 of the County Code, along with provisions in Maryland Code, govern the Planning Board's approval determination for a preliminary plan of subdivision application. The key provisions in Chapter 50 that affect the structure and timing of the preliminary plan review and approval process are highlighted below.

- The Planning Director must refer a plan to any agency that has a direct interest in any feature of the plan for its review and recommendations, which the agency must provide to the board in writing within 30 days."²
- The agency comment period may be extended for an additional 30 days by the Board if it receives a written extension request. The law states that the Board Chair must notify the Executive and the Council if a County agency does not submit a recommendation with the allowable time limits.

¹ §50-34 of the County Code requires a plan to "show graphically all facts needed to enable the board and other public agencies to determine whether the proposed layout of the land in question is satisfactory from the standpoint of the public health, safety and welfare and the regulations, ordinances and laws applicable."

² Listed agencies include: Washington Suburban Sanitary Commission; County Department of Transportation; County Department of Permitting Services; Montgomery County Fire and Rescue Service; State Highway Administration; any appropriate federal agency; any municipality; and Montgomery County Public Schools.

- The Board must establish a Subdivision Review Committee with representation from each County agency that receives plans for referral. Each agency head must delegate authority to its representative to speak for the agency.
- The recommendation that the Planning Department staff prepares for the Board must take into account “public requirements for the subdivision, the reconciliation of conflicting agency comments, and any other issue regarding compliance with applicable law and regulations.”
- A plan must be presented to the Board for action no later than 60 days after staff has accepted the application as complete. Any extensions of time granted by the Board for agency review must be added to this 60 day limit.³

Provisions in Chapter 50 also govern the sequence of development approvals by specifying how a preliminary plan approval relates to other approvals or permits. For example:

- The law prohibits approval of a building permit unless the lot is shown on a recorded plat;
- The Planning Board must not approve a subdivision without a determination of adequate public facilities;
- If a development requires a site plan, a preliminary plan of subdivision must specify that no clearing or grading can occur before the site plan is approved unless its specified in the preliminary plan approval; and
- The Planning Board must not approve a preliminary plan before all requirements of the County’s forest conservation law and water quality law for plan approval are satisfied.

Chapter 59. Zoning is a legal tool of local government that regulates use and density of private property to protect public health and safety by establishing regulatory controls that govern land use and the location, height, bulk and size of buildings and other structures.

A zoning ordinance creates a system of districts and zones that define private property development rights and a system of permit types, and procedures a private property owner may pursue to develop a special use, modify building and lot standards, increase density or change a zone. The zoning ordinance also addresses issues of zoning administration including the rules and procedures for receiving and reviewing applications and conducting hearings.

As noted in Chapter III, in March 2014, the Council adopted a revised Zoning Ordinance that is scheduled to take effect in October 2014. Of note:

- The revised Ordinance states site plan review will be used to determine if the proposed development satisfies current laws and regulations and substantially conforms with the recommendations of the applicable master plan and approved guidelines;
- More site plan approvals are required. Examples of these include site plans for optional method development after a sketch plan is approved; for development under a floating zone after a local map amendment is approved; and for certain standard method developments.

³ Planning staff note that the 2007 Development Manual clarifies that the starting point of the 30 and 60 day time limit in Chapter 50 are tracked from the acceptance date of the final revised plan, not the acceptance date of the application.

- The time limits for the processing of site plan applications include two 10 day limits on the intake process, a requirement that final DRC public agency comments be submitted at least 45 days before the hearing, and a requirement for a hearing within 120 days of a complete application.

The revised ordinance also requires all sketch and site plan applications to satisfy the conditions of any and all previous approvals that apply to the subject property, and to satisfy any binding elements for property whose zoning classification on October 29, 2014 was the result of a Local Map Amendment.

B. Review and Approval Procedures for Preliminary Plans and Site Plans

The key procedures that guide preliminary plan and site plan approvals are found in the Planning Board's adopted Rules of Procedure and the Manual of Development Review, adopted and approved by the Planning Board in December 2007. This section provides an overview of the review and approval processes based on these sources. The information in this section provides useful context for the data presented in the next section.

1. Rules of Procedure

The Planning Board's Rules of Procedure⁴ consists of five chapters with provisions that address definitions, conflicts of interest and ex parte communications, and procedural rules for public hearings. The procedural rules apply to hearings that the Planning Board conducts to decide eight types of approvals (including preliminary and site plans), any amendments to these approvals, and any alleged violations. Of note:

- The Rules are intended to “establish a reasonable and consistent process for the Planning Board to consider, hear, and act upon certain regulatory matters under the Regional District Act and the Montgomery County Code” (Section 1.2).
- The Board must hold a public hearing to receive testimony for any matter governed by the Rules at least 10 days after the staff report is published on the Board's website. A public hearing may be postponed at the discretion of the Board Chairman or in response to a requests from any Board member, Planning Staff, or Party of Record (Sections 4.1, 4.4).
- The Rules establish a Consent Agenda and authorize Board actions to approve an amendment to a previously approved plan if there is Planning Staff support and no opposition (Section 4.13).

2. Manual of Development Review Procedures

The Manual of Development Review Procedures contains eight sections of administrative standards for plan submissions to be heard and decided by the Planning Board. The Manual was approved by the Council in September 2007⁵ before it was approved and adopted by the Planning Board. The Manual “establishes administrative procedures to facilitate accurate, comprehensive and timely review of all plans ... under the Subdivision Regulations and Zoning Ordinance. These procedures are designed to provide accurate and complete information as a basis for staff and Planning Board decisions.”⁶

⁴ <http://www.montgomeryplanningboard.org/agenda/2007/documents/RulesFINAL3.21.07.pdf>

⁵ The Manual implements revisions codified in two zoning text amendments – ZTA 05-20 and ZTA 07-05 – that were adopted by the County Council to address issues identified in OLO Report 2006-3, A Fact-Finding Review of the Clarksburg Town Center Project.

⁶ Manual of Development Review Procedures, p. 7.

a) Procedures for new preliminary plan and site plans applications.

Three sections in the Manual establish procedural standards for the submission, notice, and review of preliminary plans and site plans; another section specifies post-approval requirements. Of note:

Public pre-submission meeting. Preliminary and site plan applicants must hold at least one public pre-submission meeting to explain the project and address community concerns. The meeting must be held no more than 90 days before the initial application date in a convenient location near the proposed site at a convenient time (i.e., an evening or weekend).

Intake. There is a two-step intake process. After an initial application is submitted to the Intake Section, staff has 10 working days to determine if the application meets the requirements of the application checklist and/or mark up the application and identify what additional materials are required to make the application complete. When the application is deemed complete, the applicant must make an appointment with the Intake Section to file the final application. (ePlan applications do not need an appointment.)

Evaluation review and inter-agency consultation. A typical review cycle has six steps: 1) a pre-DRC meeting, 2) DRC meeting, 3) subsequent applicant revisions; 4) agency review and approval of each final revised plan; 5) staff report preparation; and 6) public posting of the staff report 10 days before the Board hearing. Review periods vary by the number of issues identified and plan revisions required. Of note:⁷

- If an applicant submits to a timeframe for revisions based on the comments received, a tentative hearing date may be scheduled at Step 2;
- The applicant has 10 days to submit plan revisions;
- Agency reviewers must submit responses to plan revisions directly to the applicant and the lead reviewer;
- If needed, the lead reviewer may schedule a second DRC meeting;
- The statutory review periods begin on the date that the final revised plan is accepted; and
- Any final revised plan must be submitted at least 30 business days before the tentative Planning Board date.

Agenda scheduling and tentative hearing dates. As part of its long-range agenda planning, the Commission maintains an unpublished schedule of tentative hearing dates and a final public hearing agenda that is publically posted. The procedural rules specify that a lead reviewer cannot request a tentative hearing date until: 1) other agency reviews are completed and written comments are received; 2) all issues are either resolved or being presented to the Planning Board for resolution; 3) the applicant has submitted a final plan that MNCPPC has date stamped to indicate it is the official plan for the record. Additionally, the plan cannot be placed on the final public hearing agenda until the staff report is complete.⁸

Post-decision requirements. Preliminary plans and site plans require a Planning Board resolution and approval of a certified plan. After the applicant receives the Board's approved preliminary plan resolution, a reproducible copy of the preliminary plan approved by the Board must be submitted to the Area Chief for certification. The Board hearing and resolution dates and any conditions of approval must be affixed to the plan.⁹ The rules specify the contents of a certified site plan package and a two-step certification process. After an applicant submits four copies of a certified site plan package for review and approval, staff has up to 15 working days to notify the applicant of any errors or omissions.¹⁰

⁷ Manual of Development Review Procedures, Section 5.B-C, pg. 19-20

⁸ Ibid, Section 6.A., pg. 21

⁹ Section 7.A, p. 22.

¹⁰ Section 7.B., p. 23.

ePlans implementation. On March 1, 2013, the Planning Department implemented electronic plans processing software for preliminary plans and site plans. Currently, an applicant has the option to file plan applications manually or electronically. An applicant who files electronically does not make an appointment with Intake to file a final application since the plan is submitted electronically. Procedures for the post-decision requirements differ as well. Planning Department data shows as of May 14, 2014, 129 ePlan applications have been accepted, including 24 new preliminary plans and 16 new site plans.

b) Policies for participants in application review

When a complete application is filed, Planning Department supervisors assign a lead reviewer who is responsible for coordinating the review, preparing a staff report and presenting the case to the Planning Board. The Manual enumerates 19 policies for Planning Department staff (8), other agency staff (5) and the applicant (6) who participate in application reviews.

- The **department staff policies** call for the consistent application of laws, regulations and guidelines; early identification of issues; and cooperation among all parties to seek mutually satisfactory resolutions and achievement of County and Planning Board policies with attention, in part, to Master plans, applicable regulations, and the promotion of design excellence.
- The **other agency staff policies** call for the careful fair and timely review of applications; participation in all Development Review Committee (DRC) and supplemental meetings as needed; collaboration; use of the lead agency protocol for conflicting recommendations; and the reporting of contrary recommendations to the Planning Board.
- The **policies for the applicants** address the need to follow Department and County policies and regulations; the submission of complete and accurate applications; and keeping the lead reviewer informed of questions and revisions.

c) Procedures for consent and limited amendments

After an approval, a property owner may wish to make a minor change to an approval. The procedural rules differentiate changes that require Planning Board Action and those that do not.

Consent amendments. The County Zoning Ordinance and the Board's Rules of Procedure provide for Board approval of de minimus amendments or revisions that do not fundamentally alter a plan element. Applications filed manually require an intake appointment while ePlan applications do not. An applicant must follow standard notice and posting requirements, allowing for a 15-day comment period. If no comments are received during the 15-day period, Planning Department staff may prepare a report and resolution explaining the proposed amendment and schedule the item for the consent calendar. If comments are received, the Director must decide if a public hearing is warranted. After the Board approves the amendment and resolution, the applicant must have a new plan certified.

Limited amendments. If a requested revision alters only one fundamental element of an approved plan or does not significantly alter the plan, an applicant can apply for a limited amendment. Limited amendments must follow the rules for notice and for findings but the staff report is less comprehensive: it summarizes the findings and conclusions the Board must reach and recommend Board action on the amendment. After a completed staff report is posted, a public hearing date, which must be at least 10 days later, is set.

C. Approval Data for Preliminary Plans and Site Plans

Ongoing concerns exist about how long the hearing and decision process for development approvals takes. This section presents timeframe data for preliminary plan and site plan approvals from FY10 through mid-year FY14, including:

- Overall approval timeframes for new preliminary and site plan application as well as amendments to previously approved plans;
- Analysis of the amount of overall approval time plans are under active review by agency staff compared to the time a plan is with the applicant for revision; and
- Analysis of new preliminary and site plan approval timeframes by process phase.

General methodology. The data tables in this section are based on a dataset of 415 plan applications that completed a regulatory hearing and approval process between FY10 and mid-FY14. Approximately 45% were new applications, including 128 preliminary plan and 54 site plan approvals; and 55% were plan amendments, including 111 administrative site plans (approved by the Planning Director), 32 consent amendments (approved by the Board), and 81 limited amendments (approved by the Board).

Each of the 415 approval records, provided by Planning Department staff at OLO's request, include five key milestone dates: 1) the completed application date; 2) the first DRC meeting date; 3) the hearing date; 4) the resolution mailing date; 5) the certified plan date. OLO used the dates to calculate completion times for:

- The entire approval process (certified plan date minus complete application date);
- The "pre-decision phase" process (hearing date minus complete application date); and
- The "post-decision phase process" (certified plan date minus hearing date).

Use of stop days data. In addition to the key milestone dates mentioned above, each approval record also included data on stop days. The Planning Department defines stop days as the period of time during the evaluation phase (between the first DRC meeting data and the hearing date) when an applicant's revisions are pending and Planning staff are not actively reviewing the plan. As a result, stop days reflect the Planning Department's determination of what portion of the overall review time is the responsibility of the applicant. The lead reviewer for each plan is responsible for determining whether and when a project merits activating a stop days designation.

Stop days typically account for the time an applicant is preparing plan revisions to address issues or concerns raised by staff; however, other factors can "pause" the review cycle and trigger a stop days designation. For example, changes in the economic climate, the establishment of a moratorium, or a change in an applicant's consulting team. Also, builder/developer representatives observe that stop days can also include days that an applicant who is brokering a solution and waits for a response from other agency staff before re-submitting a revision to the lead reviewer. While acknowledging these data caveats, OLO used the stop days data to distribute the time within the evaluation phase into two categories: staff review days and applicant response days.

1. Preliminary and site plan approval timeframes for new applications and amendments

Table 2 summarizes the data on total elapsed time (in calendar days) from the completed application date to the certified plan date for new plan approvals and amendments since FY10 by showing the average, median, and range for elapsed time for each application type.¹¹ The data show:

- A wide range of approval timeframes – from 119 to 3,128 days for new plans, and from 24 to 1,072 days for amendments. For both new approvals and amendments, the median times are lower than the average, indicating that the distribution of approval timeframes is skewed and the median value may be more reflective of a “typical” approval timeframe.
- For new plan approvals, the median completion time is nearly one year (364 days) for site plans and over 15 months (474 days) for preliminary plans.
- Median approval timeframes for amendments were shorter in many cases, but still ranged from nearly four months (111 days) for an administrative site plan to over one year (396 days) for a major site plan amendment.

Table 2. Timeframe Data for New Plan Approvals and Amendments since FY10

Application Type	# of Plans	Approval Timeframes (in days)			
		# of Total Days	Average	Median	Range (Min-Max)
New Plan Approvals					
New Site Plans	54	26,170	485	364	119 - 3,128
New Preliminary Plans	128	83,907	656	474	151 - 3,128
Amendments					
Administrative Site Plans	111	18,331	165	111	24 - 1,072
Consent Preliminary Plans	8	1,366	171	134	39 - 374
Consent Site Plans	25	5,967	239	169	77 - 937
Limited Preliminary Plans	42	10,975	261	229	23 - 629
Limited Site Plans	39	11,109	285	198	80 - 1,204
Major Site Plans	8	3,452	432	396	222 - 790

Table 3 details the portion of the total approval timeframe attributable to agency staff processing and review days and application response days for each application type. While these data may not capture the exact breakdown of staff and applicant clock times for each individual application, taken as a whole the data provide a general indication of whether the burden of resolving the issues necessary to transform a completed application into an approval falls on agency staff or the applicant. The data show:

- For new site plan approvals, the agency staff share of total completion time is 71%.
- For new preliminary plan approvals, the applicant’s share of total completion time is 56%, compared to a 44% share for agency staff.

¹¹ Note these measures exclude the elapsed time at the beginning of the process from an initial application submission to a completed application.

- For the six plan amendment application types, the majority of elapsed time falls under agency staff review, ranging from 72% for limited preliminary plan approvals to 97% for consent site plan approvals.

Table 3. Agency and Applicant Review Time for New Plan Approvals and Amendments since FY10

Application Type	Approval Timeframes			
	Agency Days	Applicant Days	% Agency Days	% Applicant Days
New Approvals				
New Site Plans	18,458	7,712	71%	29%
New Preliminary Plans	36,672	47,235	44%	56%
Amendments				
Administrative Site Plans	14,720	3,611	80%	20%
Consent Preliminary Plans	1,244	122	91%	9%
Consent Site Plans	5,780	187	97%	3%
Limited Preliminary Plans	7,912	3,063	72%	28%
Limited Site Plans	9,096	2,013	82%	18%
Major Site Plans	3,095	357	90%	10%

As described in the previous section, the pre-decision phase (from completed application date to the hearing date) and post-decision phase (from the hearing date to the certified plan date) procedural rules and activities vary by plan type. For each application type, Table 4 compares the amount of total review time that occurs during the pre-decision phase versus the amount that occurs during the post-decision phase. The data show:

- For new site plan approvals, the pre-decision phase (56%) takes slightly longer than the post-decision phase (44%);
- For new preliminary plan approvals, the pre-decision phase (78%) is more than three times the post-decision phase (22%); and
- For amendments, the post-decision phase accounts for over half of the processing time for four of the six application types, i.e., both types of consent plans, limited site plans and major site plans.

Table 4. Pre-and Post-Decision Approval Timeframes for New Plan Approvals and Amendments since FY10

Application Type	Approval Timeframes			
	Pre-Decision Phase Days	Post-Decision Phase Days	% Pre-Decision Days	% Post-Decision Days
New Approvals				
New Site Plans	14,686	11,484	56%	44%
New Preliminary Plans	65,124	18,783	78%	22%
Amendments				
Administrative Site Plans	10,136	8,195	55%	45%
Consent Preliminary Plans	594	772	43%	57%
Consent Site Plans	1,706	4,261	29%	71%
Limited Preliminary Plans	6,765	4,210	62%	38%
Limited Site Plans	4,791	6,318	43%	57%
Major Site Plans	1,066	2,386	31%	69%

2. Approval timeframes by phase for new preliminary and site plans

Ongoing concerns about approval processing times have focused on new approvals, particularly the time it takes complete the evaluation of an application. Other concerns have been raised about the time it takes to complete the post-decision process. The data confirm that completion times for new preliminary plan approvals are long and that the pre-decision phase accounts for more than three-fourths of this time. This section provides more detailed data for new preliminary plan and site plan approvals by phase.

Specifically, data for the pre-decision phase is broken down into the **pre-DRC period** (time from a completed application to the first DRC meeting) and **post-DRC period** (time from the first DRC meeting to the hearing date). Data for the post-decision phase is broken down into the **resolution period** (time from the hearing date to the resolution mailing date) and the **plan certification period** (time from the resolution mailing date to the certified plan signature date).

Table 5 summarizes the data by review period for new site plan and preliminary plan approvals. Of note:

- Site plans and preliminary plans have similar elapsed time measures for the pre-DRC period and the resolution period timeframes;
- Preliminary plan timeframes for the post-DRC period are significantly higher than the comparable measures for the post-DRC timeframes for site plans;
- Site plan timeframes for the certification period are higher than the comparable numbers for the preliminary plan certification period.

Table 5. Approval Timeframes for New Site and Preliminary Plan Applications by Phase (in Days)

New Approval Type	Average	Median	Range (Min-Max)
Site Plans (n=54)			
Pre-Decision Phase			
Pre-DRC Period	41	39	0-154 ¹²
Post-DRC Period	238	129	52-2,886
Post-Decision Phase			
Resolution Period	56	40	5-178
Plan Certification	156	110	7-1,490
Preliminary Plans (n=128)			
Pre-Decision Phase			
Pre-DRC Period	55	40	25-1,571 ¹³
Post DRC Period	466	315	15-2,901
Post-Decision Phase			
Resolution Period	59	50	5-313
Plan Certification	91	41	0-893

Distribution of Timeframes for Phase Completion. Tables 6 and 7 on the next pages show the distribution of site plan and preliminary plan completions by each of the four review periods in 30-day intervals. Each table displays three distributions for each phase: the number of applications; the share of total applications for each interval; and the cumulative share of applications.

Comparing these data with some of the processing times identified in County law, the Planning Board’s procedural rules or practices or the 2010 Memorandum of Understanding shows disconnects exist between these various processing assumptions and actual approval times over the past four years. Specifically:

- The **pre-DRC period** covers the timeframe between the completed plan application date and the 1st DRC meeting. A DRC meeting is scheduled every 21 days which suggests some applications could be heard in 30 days or less. Tables 6 and 7 display completion rates in 30 day intervals for all phases of each approval process. These data show 5% of new site plans and 1% of new preliminary plans met the 30 day or less timeframe; and most plans (94% of site plans and 96% of preliminary plans) completed this phase at the end of 60 days.

Planning staff report their working assumption for the pre-DRC period is that most applications will be heard at DRC within a five week (35-day) period. The basis for this assumption is to allow time for reviewers to review the material before DRC and also allow flexibility to bundle related applications for a particular meeting. OLO’s analysis of the data for new site plans and new preliminary plans show 46% of site plans and 26% of preliminary plans met the 35 day timeframe.

¹² The 154 day period reflects time that it took the applicant to acquire an additional parcel of land after their application was accepted for processing. In this case, the applicant asked to delay the DRC meeting.

¹³ The 1,571 day period reflects the imposition of a moratorium in the Clarksburg School cluster after the application was accepted for processing. The plan proceeded to DRC after the Council lifted the moratorium.

- The **post-DRC period** covers the timeframe from the first DRC meeting to the hearing date. The Development Review Manual states applicants are expected to submit requested revisions within 10 working days (or 14 calendar days). According to the Manual, posting of the staff report before the hearing would account for 10 days of this period. The Manual also notes that these timeframes vary depending on the number of issues identified and the complexity of the resolution. The process established in the 2010 Memorandum of Understanding anticipated it would take a lead reviewer 35 days to resolve a regulatory conflict, or it could take Department Directors an additional 35 days. These various time limits suggest an assumption of 90 to 120 days to complete this phase would be reasonable. The site plan data show 27% of approvals complete this phase in 90 days or less and 42% complete it in 120 days or less. For preliminary plans, the 8% of approval complete this phase in 90 days or less and 12% in 120 days or less.
- The **resolution period** covers the timeframe from the hearing date to the resolution mailing date. The previous Board Chair suggested that a two-week turnaround time for this phase is reasonable.¹⁴ Tables 6 and 7 display results for the entire dataset which covers a 4.5 year period from FY10 through mid FY14. The data shows 37% of site plan approvals and 34% of preliminary plan approvals completed resolutions in 30 days or less.

In the spring of 2012, the current Board Chair instituted a practice of approving resolutions on the same day as the hearing. OLO's analysis of resolutions mailed since July 2013 shows completion rates have improved. Specifically, 47% of resolutions for new site plan approvals and 55% of those for new preliminary plan approvals were completed in 30 days or less.¹⁵

- The **plan certification period** covers the timeframe from the resolution mailing date to the signature date on the certified plan. The procedures in the Development Review Manual specify that it is a two step process. No time limits for this period are identified. If 60 days were used as the desired timeframe for this phase, the data show 26% of site plans and 61% of preliminary plans would have met that goal.

Combining the specified or assumed timeframes for each phase (35 days for the pre-DRC; 90 to 120 days for the post-DRC; 15 days for the resolution; and 60 days for the plan certification) yields a total processing time of 200 to 220 days or 6 or 7 months. The actual median times for the entire site plan process (364 days) and the entire preliminary plan process (474 days) are well above those times.

¹⁴ Memorandum from Royce Hanson to the Montgomery County Council dated January 12, 2006 in PHED Committee packet dated January 30, 2006.

¹⁵ Since July 2012, 19 new site plan 40 new preliminary plan resolutions have been mailed.

Table 6. New Site Plan Approval Completions by Phase and 30-Day Intervals (n=54)

Completion Timeframe	Pre-Decision Phase		Post-Decision Phase	
	Pre-DRC Period	Post-DRC Period	Resolution Period	Plan Certification
Number of Application Completed within Each Interval				
Under 30 Days	5	0	20	8
31 to 60	46	4	13	6
61 to 90	1	10	10	9
91 to 120	1	8	5	9
120 to 150	0	8	4	3
150 to 180	1	5	2	7
Over 180	0	17	0	12
Percent of Applications Completed within Each Interval				
Under 30 Days	9%	0%	37%	15%
31 to 60	85%	8%	24%	11%
61 to 90	2%	19%	19%	17%
91 to 120	2%	15%	9%	17%
120 to 150	0%	15%	7%	6%
150 to 180	2%	10%	4%	13%
Over 180	0%	33%	0%	22%
Cumulative Percent of Applications Completed Within Each Interval				
Under 30 Days	9%	0%	37%	15%
31 to 60	94%	8%	61%	26%
61 to 90	96%	27%	80%	43%
91 to 120	98%	42%	89%	60%
120 to 150	98%	58%	96%	66%
150 to 180	100%	67%	100%	79%

Table 7. New Preliminary Plan Approval Completions by Phase and 30-Day Intervals (n=128)

Completion Timeframe	Pre-Decision Phase		Post-Decision Phase	
	Pre-DRC Review	Post-DRC Review	Resolution Period	Plan Certification
Number of Application Completed within Each Interval				
Under 30 Days	2	1	44	52
31 to 60	119	6	30	26
61 to 90	5	3	26	14
91 to 120	1	5	17	5
120 to 150	0	16	8	5
150 to 180	0	6	1	5
Over 180	1	91	2	21
Percent of Applications Completed within Each Interval				
Under 30 Days	2%	1%	34%	41%
31 to 60	93%	5%	23%	20%
61 to 90	4%	2%	20%	11%
91 to 120	1%	4%	13%	4%
120 to 150	0%	13%	6%	4%
150 to 180	0%	5%	1%	4%
Over 180	1%	71%	2%	16%
Cumulative Percent of Applications Completed Within Each Interval				
Under 30 Days	2%	1%	34%	41%
31 to 60	95%	5%	58%	61%
61 to 90	98%	8%	78%	72%
91 to 120	99%	12%	91%	76%
120 to 150	99%	24%	98%	80%
150 to 180	99%	29%	98%	84%

D. Feedback on Preliminary and Site Plan review timeframes

OLO met with staff from the departments involved in the preliminary and site plan review process and representatives of the building and development industry to get feedback on the review process in general, and specifically on the review timeframe data compiled by OLO.

1. Summary of issues/concerns from agency staff

In discussing the preliminary and site plan review process and timeframes, common themes OLO heard from agency staff include:

- **The number and complexity of land development regulations in the County are a factor in extending review times.** Agency staff observe that the many regulations that apply to land development proposals at times necessitate long review periods to ensure plans are in conformance. While the various regulations all have important public policy objectives, the interrelationship between them often adds to the complexity of a review. Staff cite the ongoing problems in Clarksburg as an example of the costs to the County when everything is not checked.

- **Development proposals that differ from adopted plans or existing standards require additional review time.** Agency staff note the developers in Montgomery County at times submit proposals that have variations from an adopted Master Plan, road code standards, environmental requirements, etc. While staff recognize that it is reasonable for developers to want to do new or different things, it requires more time and effort from staff to review and determine whether the proposal can be approved.
- **Agency discussions to address the time limits in the new Zoning Ordinance are pending.** Staff acknowledge the differences between current review times and the time limits in the Zoning Ordinance re-write are large, but staff from the DRC agencies have not yet met to discuss the new limits. Staff note that preliminary plans are not included and that time limits for an entire project will be longer when all plan types are included, and also that the filing of consolidated plan applications (e.g. filing a preliminary and site plan application simultaneously) have been increasing. Agency staff expect a lot of extension requests from developers when the new time limits take effect.
- **Since current DRC practices are not achieving better results, they need to be revisited.** Staff recognizes the role DRC plays in excessive review times and cited the following issues as contributing factors: a 21-day interval between meetings allows for inter-agency communication but can be problematic for applicants who miss a scheduling window; using the first DRC meeting to vet issues that an applicant must subsequently resolve does not flag intractable issues which usually emerge later in the process; and the effect of the 2010 Memorandum of Understanding is unclear – issues are getting worked out but may be taking longer. Designating one person to decide conflicts and/or reemphasizing the purpose of the MOU may help.
- **Staff views on the value of tracking data are mixed.** Staff recognize the importance of data but have concerns that it not be over-emphasized because it may not cover every scenario. For example, if staff resolves issues offline and uploads revisions after the fact, ePlans fails to capture workflow information such as the number of revision cycles or the clock time for each entity. Staff also cautions there are always outliers, usually with reasonable explanations behind them, that can skew the data.
- **Concept plans are a promising way to reduce plan review times but previous experience suggests getting unanimous buy-in from agency staff is difficult.** Concept plans are low-cost simplified plans that map major project features and site constraints to generate a list of issues and deal breakers before an applicant invests in the preparation of a preliminary plan or site plan. In Alexandria, concept plans cut project review times by an estimated six months to a year. The Planning Department investigated a similar idea in 2009. Despite working with DRC members for over a year to develop a submittal checklist, the Department could not get buy-in from all agencies.
- **Case management services have improved customer satisfaction and provide for more efficient reviews.** DPS reports its case management services for building permits have worked effectively to help some applicants navigate the permitting process. An applicant who decides to use case management must bring their design team to the kickoff meeting. Planning and DPS staff have discussed a possible pilot program to provide case management services from development approval application through building permit occupancy.

2. Summary of issues/concerns from representatives of the building and development community

In discussing the preliminary and site plan review process and timeframes, common theme OLO heard from these representatives include:

- **The current management of the preliminary and site plan review processes lacks effective time limit controls, focusing on results at the expense of timeliness.** An emphasis on achieving best outcomes instead of compliance with the law or code permeates the development review process and motivates the work of County Government and Planning Department staff. The practicalities of economic impact – that come with seeking balance among competing policies – are not a part of the mission. The main improvement to the lengthy and unpredictable process that exists now would be to set timeframes and measure performance. Having pre-set time limits would help establish a contained process and generate the problem solving that is needed to achieve practical compromises.
- **The “stop days” calculation during a plan review can be impacted by an applicant waiting to receive feedback on a proposal or option from agency staff.** Industry representatives agree that tracking “stop days” to disaggregate agency review time from applicant response or revision time makes sense. They note that in some cases the number of “stop days” may seem high because an applicant who is attempting to develop an acceptable solution with one or more departments is waiting for feedback from staff before making a formal resubmission. Representatives feel that the time lost to coordinating the resolution of conflicting agency requirements needs to be recognized.
- **Experiences in other jurisdictions with more stringent development review timeframes has been positive – greater certainty for applicants and high quality developments comparable to those in Montgomery County for the community.** Industry representatives feel that jurisdictions with pre-set development review timeframes, such as Frederick County, are able to manage successful development review processes that meet complex regulatory and policy guidelines while still providing predictability for the applicant. Time guidelines provide a greater sense of organizational accountability than occurs in Montgomery County. County timeframes could provide a measurable element to evaluate a reviewer’s responsiveness and could also provide a basis for accountability.
- **Development applications can often be complex with difficult issues, and as a result review timelines can be extended because County agencies are wary of making a “wrong” decision.** Building and development representatives feel, particularly since Clarksburg, that county agencies are hesitant to make decisions if a set precedent does not exist and/or make changes to existing practices even if a particular issue does not apply to the specific development plan under review. This factor lengthens review times, particularly when an issues crosses into the decision-making authority of multiple departments or agencies. Also, peer review needs to occur early in the process.
- **The Development Review Committee (DRC) process remains lengthy and cumbersome and intake remains a serious problem.** Industry representative think the 2010 Memorandum of Understanding that was intended to address DRC delays laid out a useful process; but it falls short in practice since the County’s bifurcated governance structure means no single entity has the ability to enforce the process. Other DRC factors that lengthen review time are: that applicants do not receive comments ahead of time and cannot respond to issues raised by staff at the first DRC meeting at that meeting, and that it often takes up to two weeks to schedule a meeting with staff to discuss an issue. Representative note that intake remains a problem. The 10 day rule is consistently ignored, which in turn hurts DRC predictability.
- **Decisions made at the preliminary plan stage are sometimes revisited during site plan review and can require resubmission.** Representatives report that sometimes issues that were approved and/or finalized during preliminary plan are re-visited during subsequent approvals, even if the applicant is proposing any changes to those elements. Reopening a previously resolved issue unnecessarily extends review timeframes. Granting stronger entitlements at preliminary plan approval followed by fewer hearings and more administrative changes could save time.

Chapter V. Record Plats

This chapter reviews the procedures and timeframes of the Montgomery County Planning Department, the Planning Board, and the Department of Permitting Services in reviewing and approving a record plat in Montgomery County. This chapter is organized as follows:

- **Section A** provides a overview of record plats and their legal function and purpose;
- **Section B** describes the record plat review and approval process in Montgomery County;
- **Section C** provides detailed record plat approval and processing data for FY12-13, including an in-depth review of process times and actions for 19 case studies; and
- **Section D** summarizes feedback on the record plat review process and timeframe data from agency staff and from representatives of the building and land development community.

A. Overview of Record Plats

A record plat is a picture of a legally recorded subdivision prepared by a surveyor that contains the boundaries and locations of building lots, streets, and easements and sites for public dedication. A plat shows the property boundaries, lot lines, and locations and widths of streets, alleys, sidewalks, and utility rights-of-way. In Montgomery County, similar to most local jurisdictions, a record plat is the final step in a process that enables the orderly development of land by creating a public record of the subdivision.

The County's subdivision regulations (Chapter 50 of the County Code) establish procedures and rules for the submission, review, approval, and recordation of plats. After the Planning Board approves a subdivision or re-subdivision of land via preliminary plan, the landowner must prepare and submit a plat of subdivision (or record plat) to be recorded among the land records of the County. A landowner must also submit a record plat for various types of land subdivision that qualify under Chapter 50 as a minor subdivision and do not require a preliminary plan.¹ In either case, a plat must receive approval from both the Planning Board and the Department of Permitting Services before it can be recorded.

As detailed in the previous chapter, the purpose of the subdivision regulation is multi-fold: ensuring the orderly and harmonious development of land; preservation of forest land and environmentally sensitive area; ensuring adequate space for traffic, recreation, utilities, and other public services; protecting historic and cultural features; reservations of lands for public buildings or other public purposes, etc. As a result, the record plat review and approval process in Montgomery County seeks to protect the public interest by ensuring that:

- The record plat creates legal lots that are buildable and transferable;
- All required open space, conservation, park, or other similar easements and dedications are acceptable to MNCPPC and align with Planning Board conditions of approval; and
- All required public improvements (paved streets, storm drainage systems, sidewalks, streetlights, etc.) are acceptable to the County Government and are guaranteed by the posting of a construction bond by the developer or by a legally binding Public Improvement Agreement.

¹ Under Chapter 50, a preliminary plan is not required for 11 categories of minor subdivision: 1) minor lot line adjustment; 2) outlot conversion to a lot; 3) consolidation of lots or parts of lots; 4) further subdivision of commercial/industrial/multi-family residential; 5) plat of correction; 6) residential property deed created prior to 1958; 7) existing places of worship, private schools, country clubs, private institutions, or similar, on unplatted parcels; 8) residential lots in RDT zone; 9) deed parcels containing existing one-family residential dwellings; 10) combining a lot and adjoining property; and 11) parts of lots containing existing one-family dwellings.

B. Montgomery County Record Plat Review and Approval Process

The County Code (§§50-36, 50-37) establishes the framework for record plat submittal, review, and approval as part of the subdivision process. This section summarizes the current agency review and approval process (which was in place during the timeframe of the data reported in Section C of the chapter), and then discusses planned changes to the review process once record plats become part of ePlans – the electronic plan submission and review system used by both DPS and MNCPPC.

1. Current agency review and approval process

Three different departments from two agencies (M-NCPPC and Montgomery County Government) have a formal review and approval role for record plat applications: the Montgomery County Planning Department (on behalf of the Planning Board), the Department of Permitting Services (DPS), and the Department of Environmental Protection (DEP). By law, the Planning Board and DPS must approve and sign a record plat before it can be recorded. DEP's review and approval is incorporated into DPS' process. A brief description of the process is below.

- **Application submittal and intake** – To initiate the process, an applicant fills out and submits a *Record Plat Application* (©1) to the Planning Department along with all required information and materials. The Planning Department publishes a *Record Plat Submission Requirements* document (©6) that details the required information based on the type of plat, and the application includes a checklist of required information that the applicant must fill out and sign. The Submission Requirements document notes that plat applications will not be accepted until the Planning Board takes final action on a preliminary plan application and a site plan application, if required. Planning Department intake staff review the application to ensure all required materials are included, and if so formally accept the application and assign it an M-NCPPC file number. If the application is missing any materials, intake staff notify the applicant that additional materials are required before the application can be accepted. Once the Planning Department accepts the record plat application, the applicant must fill out and submit separate application forms for DEP (©15) and DPS (©16) along with any required materials. Planning Department staff sends copies of the record plat application to utility companies and any outside agencies (e.g., State Highway Administration, MCPS).
- **Review, comment, and resubmission** – After receiving a complete application, the Planning Department and DPS begin separate review processes consisting of one or more review cycles. Staff from each department review the proposed plat and related materials and then submit comments, corrections, or questions about the plat directly to the applicant. The applicant then re-submits a revised plat to the commenting department(s) that addresses any issues raised by staff. Each department's review and resubmission process continues until the applicant has satisfactorily addressed all the issues raised by staff. The Planning Department's review process incorporates any comments or issues submitted by utility companies or outside agencies, while DPS' process incorporates any comments or issues from DEP.
- **Mylar submittal and review** – After all corrections have been made to the satisfaction of both departments, Planning Department staff notify the applicant to prepare the final mylar version of the record plat.² Planning staff will review the submitted mylar to verify that it includes any corrections required during the review process. If anything is incorrect or missing, staff will send the mylar back to the applicant for correction and resubmission. Once the mylar is complete, staff schedule the record plat for Planning Board approval (typically via the Board's consent calendar).

² Mylar refers to a type of transparent, reproducible thin plastic sheet or film. The final version of a record plat that is signed and recorded must be drawn on mylar sheets.

- **Planning Board and DPS approval/signature** – After the Planning Board approves a plat at a Thursday meeting, the Planning Board Chair will sign the plat (typically no later than the following Monday) and staff will notify the applicant that the signed mylar is ready for pick-up. The applicant is then responsible for picking up the mylar from the Planning Department and delivering it to DPS for signature. DPS staff will review that the mylar incorporates all of their required changes, and then approve the mylar for the DPS Director's signature.
- **Recordation of the plat** – After the DPS Director signs the plat, the applicant is responsible for picking up the signed mylar from DPS and delivering it back to the Planning Department. Planning staff make seven copies of the signed mylar, and notify the surveyor of record for the plat to come in and put their official seal on each copy of the plat. After the approved plat is sealed by the surveyor, the plat is ready for recordation. Once a week, a courier takes all signed and sealed plats from the Planning Department to the Circuit Court's Land Records Office for official recordation.

2. Planned updates/revisions to agency review process with ePlans

The Planning Department and DPS are in the midst of implementing ePlans³, a web-based electronic application submission and review system, for various development review and permit applications. The Planning Department has implemented ePlans for Preliminary and Site Plan applications. DPS has implemented ePlans for new home construction and right-of-way permits, and ePermits for electrical and deck permits. Planning staff anticipate implementing ePlans for record plats in July 2014. Significant planned changes to the record plat review and approval process under ePlans are highlighted below.

- **Automated submission of record plat applications to all agencies and/or departments** – Once the application submitted under ePlans is accepted by Planning Department intake staff, all the required reviewers will receive a notification that the application is ready for review and can immediately log in and see all the application materials. This change transfers distribution responsibilities to the Planning Department, eliminating the current requirement for an applicant to submit separate applications to DPS and DEP after acceptance of the application by the Planning Department.
- **Consolidated reviews and comments** – Under ePlans, Planning Department and DPS staff will work under a common review cycle instead of the application proceeding under parallel but separate review tracks. Each reviewer will upload any comments, required corrections, or questions directly into the ePlans system, so all review staff from the different agencies/departments will be able to view each other's comments. Additionally, at the end of each review cycle the Planning Department's lead reviewer will formally send the accumulated set of comments to the applicant as one package. Similarly, when the applicant re-submits the plat after addressing the comments it will be re-distributed to each department.
- **Approval and signature order** – After the final review cycle is complete and each required reviewer approves the application, the applicant will be notified and then will be responsible for submitting the final mylar to DPS. After the DPS Director signs the mylar, the applicant will be notified to pick up the mylar for submission to the Planning Board and it will be scheduled for Planning Board approval. After Planning Board approval and signature by the Board's chair, Planning Department staff will notify the surveyor of record to come in and put their official seal on the plat and then submit the plat for recordation. Having DPS approve and sign the plat before the Planning Board Chair will reduce the number of times an applicant has to pick-up and drop off the plat between the two agencies.

³ Also referred to as ProjectDox, which is the name of the software program both departments are using to implement the ePlans system.

3. Roles and responsibilities during review process

As noted above, three different agencies/departments have a formal role in the review and approval process for record plat applications: the Montgomery County Planning Department, DPS, and DEP. Other departments or agencies may participate in the review process depending on the specific application. Table 8 details the various items and information reviewed during the record plat process, which department(s) conduct the review, and whether that review element is required by law. OLO separated the review items into four general categories: 1) verify inclusion of standard, required record plat elements, 2) review for compliance with prior Planning Board approvals, 3) review the completeness and accuracy of the subdivision plan drawing, and 4) review for compliance with existing or newly required easements, agreements, covenants, etc.

Overall, the table shows that few of the review items (eight of the 50 potential review items) are examined by both the Planning Department and DPS. Additionally, most of the review items (41 of 50) are required by law. The remaining review items, those not directly required by law, result from departmental policy, guidelines, and/or practice.

Table 8: Record Plat Review Items by Responsible Reviewing Department

Review Item	Reviewing Department:			Required by Law
	Planning	DPS	DEP	
Verify inclusion of standard, required Record Plat elements				
Vicinity map	✓			X
Coordinates/north arrow	✓			X
Scale	✓			X
Tax map reference	✓			X
Election district	✓			X
Street names	✓			X
Bearings/distances/line tables	✓	✓		X
Surveyors certificate	✓	✓		X
Owners certificate	✓	✓		X
Review for compliance with prior Planning Board approvals				
Preliminary/Site Plan references	✓			X
Planning Board conditions of Project, Site, Preliminary Plans	✓			X
DOT/DPS conditions of Preliminary, Site Plans		✓		X
Review the completeness and accuracy of the subdivision plan drawing				
Lot configuration	✓			X
Zoning category/dimensional requirements	✓			X
Subdivision name/block designation/lot number	✓			X
Horizontal alignment of new public roads; curve data	✓			X
Reservations for future rights-of-way	✓			X
Park trails/Acquisition	✓			
Rural Open Space requirements	✓			X
Non-standard building restriction lines	✓			X
Child lot notes	✓			

Table 8, con't: Record Plat Review Items by Responsible Reviewing Department.

Review Item	Reviewing Department:			Required by Law
	Planning	DPS	DEP	
Cluster/Minor subdivision notes	✓			X
Road right-of way width (dedication)	✓			X
Adjoining property reference	✓	✓		X
General notes	✓	✓		
Existing rights-of-way references		✓		X
Floodplain delineation and notes		✓		X
Road/driveway access notes		✓		
Denial of access notes		✓		
Owner's deed reference		✓		X
Verify well/septic area(s) and notes		✓		X
Verify water and sewer categories and public service notes			✓	X
Review for compliance with existing and proposed easements, agreements, covenants, etc.				
Rural Density Transfer covenants/affidavits	✓			
Conservation easements and notes	✓			X
Transfer of Development Rights easements and notes	✓			X
Public utility easements (copy sent to PEPCO)	✓			X
Covenants - open space	✓	✓		X
Ingress/egress easements	✓	✓		X
Release/relocate conflicting easements	✓	✓		
Public improvement easements		✓		X
Public improvements agreements		✓		X
Permit and bond for the required public improvements		✓		X
Grade establishment plan review and approval		✓		X
Paving & storm drainage plan review and approval		✓		X
Subordination right-of-way agreements		✓		
County Council road abandonments		✓		X
Slope easements		✓		X
Storm drain easements		✓		X
Storm water management easements		✓		X
Covenant for prorata share of future construction		✓		

C. Record Plate Review and Approval Process - Data and Timeframes

This section describes agency record plat timeframe goals and targets, reviews elapsed time data between acceptance and formal approvals for record plats approved by the Planning Board in FY12-13, and provides a detailed analysis of 19 record plat case studies to examine the timeframe data as a record plat moves through the review process.

1. Timeframe goals, targets, and reporting

Record plat review timelines in law. Both State of Maryland and County law establish record plat review timelines. The Maryland Code requires that a county planning board must approve or disapprove a subdivision plat within 30 days after submittal unless the applicant consents to an extension, and that if a planning board does not take action within 30 days the plat “shall be considered approved” (Article 28, §23-201). Chapter 50 of the Montgomery County Code contains a provision that requires the Planning Board to act on a record plat application within 30 days of its submission, although it allows for that time to be extended indefinitely. In practice, the Planning Department typically does not use a formal “waiver” process for an applicant to consent to an extension of the approval period.

The Board shall approve or disapprove a final (record) plat within thirty (30) days after submission thereof or after resubmission; otherwise, such plat shall be deemed approved and on demand a certificate to that effect and the original record plat signed in form for recording shall be issued by the Board; provided, that the applicant may waive this requirement and consent to an extension of such period. If the plat is disapproved, the reasons therefore shall be stated in the minutes of the board and shall be promptly submitted in writing to the applicant. (§50-37c).

Record plat timelines in agency documents. The Planning Department publishes a “Record Plat Approval Process” flowchart (last updated in May 2009) on its website⁴ that lists estimated timeframes for the different components of the approval process. The flowchart provides an estimated timeframe of 14 weeks, which is equivalent to 98 days, for the entire approval process from application acceptance to recordation of the approval plat. The document qualifies the timeframe estimate by stating: “14 weeks is the optimum time. Actual time from plat submission to recordation will vary based on project complexity.” Of the 14 week timeframe, the flowchart estimates three weeks for agency review, three weeks for applicant corrections and resubmission, and eight weeks for final approvals and processing.

The Planning Department’s 2007 *Manual of Development Review Procedures* states that while record plats are not subject to the same formal notice requirements as other development approvals, a plat “generally must be posted on the Commission’s website at least 10 calendar days before the scheduled Board action date.”⁵ The DPS webpage describing record plat reviews states that “the goal of DPS is to maintain average review times of two and a half weeks, or fewer. Actual review times vary according to workload, project complexity and other special circumstances.”⁶

Proposed new targets and data reporting. As part of the County Executive’s 2012 streamlining development initiative, DPS and MCNPPC have initiated plans to update and revise the how they track and report data on record plat approvals, including new performance targets. Data collection and reporting on processing times for record plats (and other land development approvals) is done at the individual agency and/or department level. For record plats, MNCPPC has published data on the amount of time it takes from application acceptance until Planning Board approval as part of its Annual Report on Development Application Submissions and Processing.

In the first joint agency report on processing time submitted under Resolution 17-859 (detailed in Chapter III) on December 16, 2013, the Planning Department included data on record plat review time similar to the data provided as part of its annual report described above. DPS did not include data on record plat reviews, but noted that they were in the process of developing this type of data for inclusion in future submissions. DPS also reports that they are developing a new performance headline measure for record plat reviews as part of the department’s performance reporting with CountyStat.

⁴ http://montgomeryplanning.org/development/forms/Record_Plat_Approval_Process.pdf

⁵ http://montgomeryplanning.org/development/forms/Manual_of_Development_Review_Procedures.pdf, pg. 24

⁶ <http://permittingervices.montgomerycountymd.gov/DPS/road/SubdivisionRecordPlat.aspx>

2. FY12-13 record plat review, approval, and processing data

In order to examine timeframe data on the entire record plat approval process (including approval by the planning Board, approval by DPS, and the actual plat recordation) OLO developed a data set using all the record plats that were approved by the Planning Board in FY12 and FY13. OLO used Planning Board agendas, the Planning Department’s online Development Activity Information Center database, and a copy of each record plat available online through the Montgomery County Circuit Court electronic archives to obtain the following key milestone dates in the record plat approval process:

- Date each record plat application was accepted by the Planning Department;
- Date the application was approved by the Planning Board and signed by the Chair;
- Date the application was approved by DPS and signed by the DPS Director; and
- Date the plat was recorded by the Clerk of the Circuit Court.

OLO used these key milestone dates to calculate the elapsed time (in calendar days) between application acceptance and each of the approval and recordation actions. Table 9 summarizes the record plat approval timeframe data for FY12 and FY13 by showing the average, median, and range for elapsed time within the data set. Of note:

- The range of approval timeframes is extremely large, with the longest timeframe until final recordation (2,383 days) nearly 37 times longer than the shortest timeframe (65 days).
- The elapsed time from application acceptance until the first approval by the Planning Board was 378 days on average with a median of 245 days, and the total time until recordation was 423 days on average with a 299 day median.
- For each approval/recordation action, the median elapsed time is around 130 days lower than the average. This indicates that the distribution of approval timeframes is “skewed” to the right and therefore the median value may be more reflective of a “typical” approval timeframe.
- The median approval timeframe was over twice as long for record plats that were required as part of a preliminary plan compared to plats that qualified as a minor subdivision and were not associated with a preliminary plan.

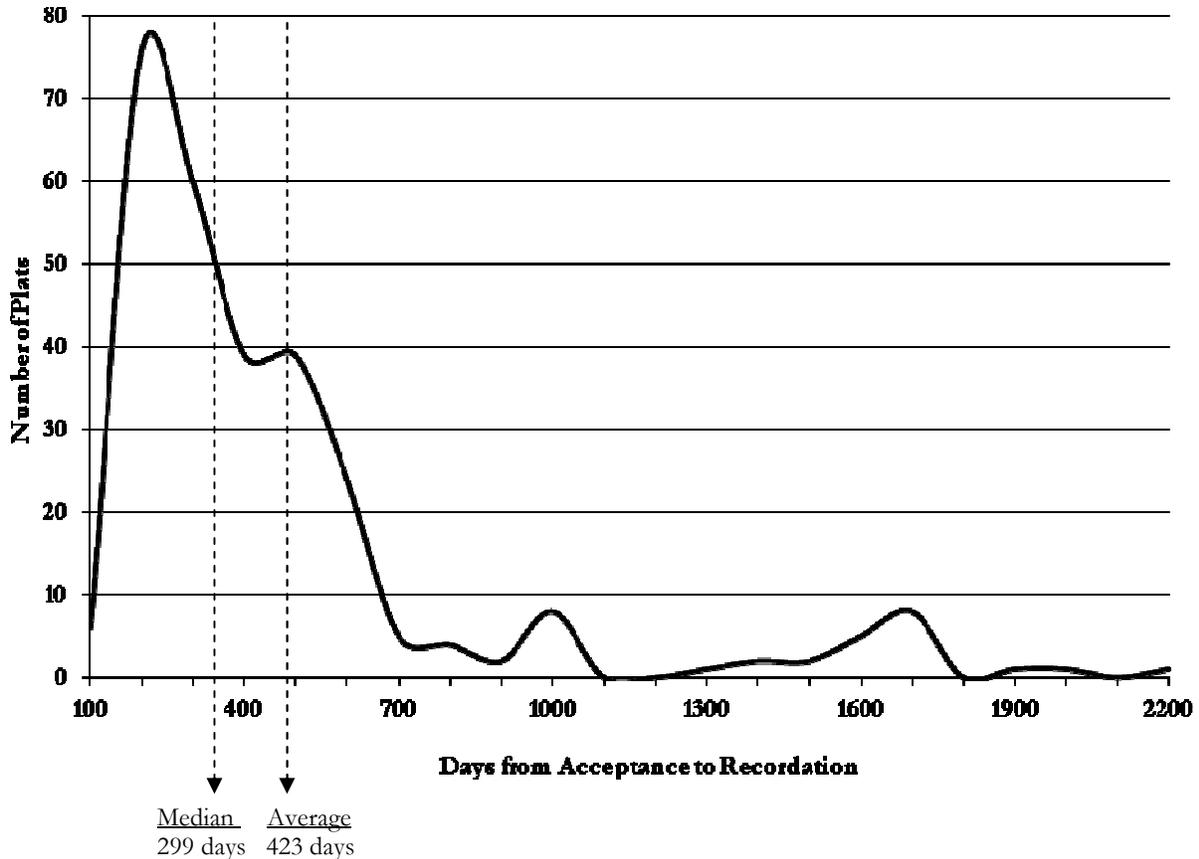
Table 9. Data for Record Plats approved by the Planning Board in FY12 and FY13

	Days Between Acceptance and:		
	Planning Board Approval	DPS Approval	Date Recorded
# of Plats*	305	284	284
Range	45-2,334 days	56-2,352 days	65-2,383 days
Average	378 days	399 days	423 days
Median	245 days	268 days	299 days
Median for plats <u>with</u> Preliminary Plan	317 days	337 days	363 days
Median for plats <u>without</u> Preliminary Plan	139 days	154 days	179 days

*21 plats that were approved by the Planning Board in FY12/13 were not yet recorded and/or not yet uploaded into the Montgomery County Circuit Court electronic land records database at the time of data collection.

A frequency distribution for the record plat data displayed in Chart 1 below, showing the number of record plats completed (from acceptance until recordation) by 100 day increments, confirms that the distribution is skewed to the right. This means that a relatively small number of plats with the longest recordation timeframes are disproportionately affecting the average and the median is a better indicator of a “typical” timeframe. Specifically, the tail of this record plat data set (plats with over 600 days of elapsed time until recordation) represents about 14% of the plats recorded but 41% of the total elapsed time.

Chart 1. Frequency Distribution for FY12-13 Record Plat Approvals
(elapsed time until recordation)



3. Record plat case studies

While data are available on the overall timeframe for record plat approvals, the reviewing agencies do not regularly collect and report data that measures the activity that occurs during the review process. For example, data on number of review cycles, how long agency staff take to conduct reviews, how long applicants take to make required revisions and resubmit the plat, etc. This makes it difficult to answer a key question about record plat approval timeframes: what amount of the review timeframe is the responsibility of the reviewing departments and what amount is the responsibility of the applicant?

To address this question, OLO selected a series of individual record plats to use as case studies for how the timing and sequencing of record plat approvals works in practice. OLO chose the case studies to cover the range of approval timeframes and plat characteristics in the dataset (e.g., outliers on both the short and long ends of the timeframe, plats with and without preliminary plans, plats submitted individually and as part of a group, and plats that fit the average and median timeframes).

At OLO's request, Planning Department and DPS staff provided detailed information from electronic and/or hard copy case files on 19 total case studies. Since the case studies are based on agency files going as far back as 2005, not all case studies had the same level of data and/or detail. OLO analyzed the case study data by:

- Creating timeline charts that provide a visual representation of how a record plat application moved through each department's distinct review process, using the actual elapsed time for each step of the process.
- Determining the number of review cycles required for each plat before approval and estimating the approximate portion of the total elapsed time that an application was with one or both of the reviewing agencies compared to the portion of time the application was with the applicant.
- Developing summary data on average and median number of days it took for each department and the applicant to complete each review phase.

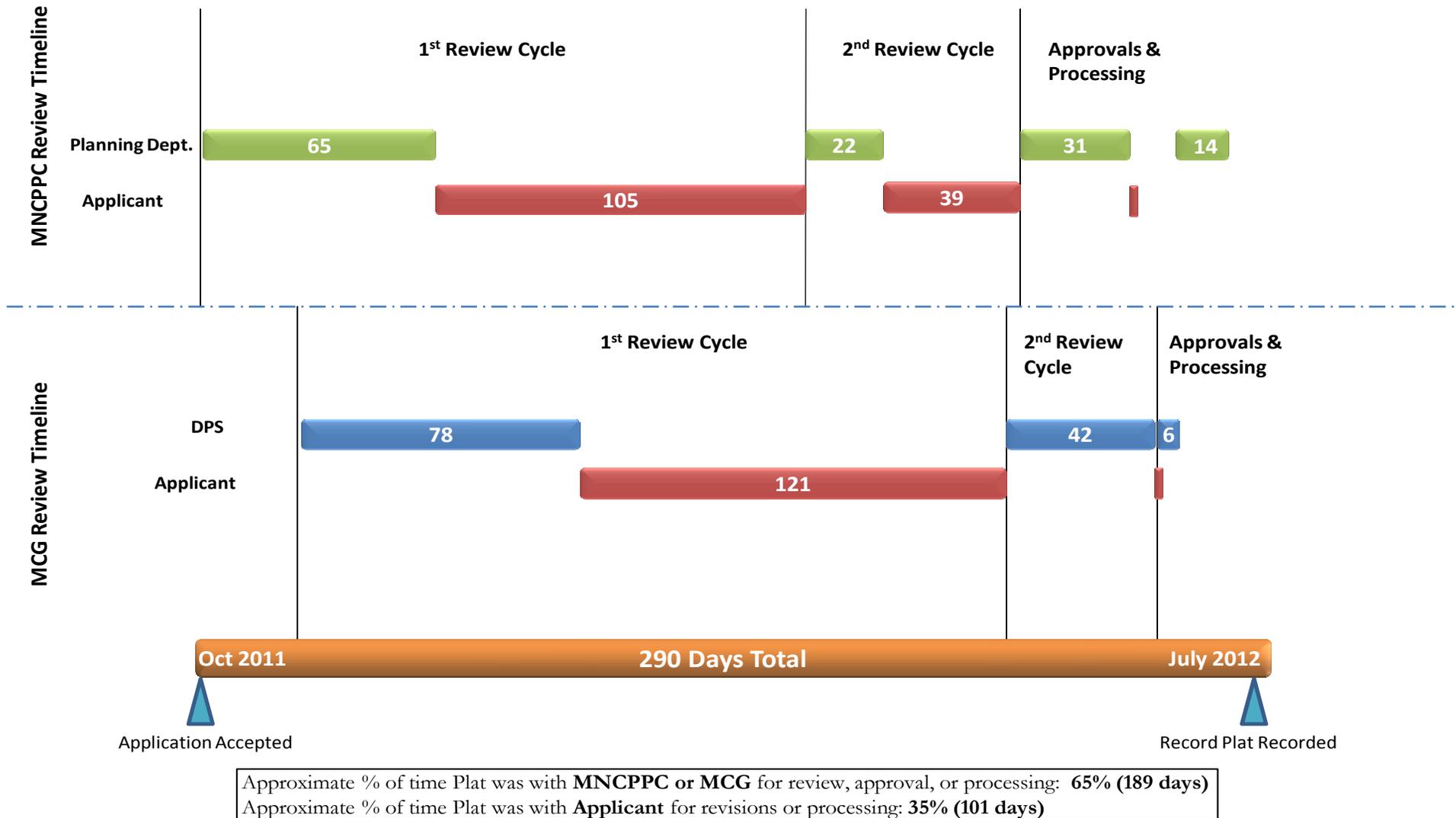
Record plat timeline charts. 17 of the 19 case studies had sufficient data and information to develop detailed timeline charts. One of the timeline charts is displayed on the next page, and a description of how to read the chart and interpret the information starts below. The remaining 16 timeline charts are displayed beginning on page 46.

For each department, the timeline chart shows the time for each review cycle and for the time for approval and processing. A review cycle consists of a departmental review that requires revision or additional information from the applicant and the corresponding resubmission. Approval and processing time includes each department's final review of the submitted mylar that does not result in any changes, Planning Board approval (including time to comply with the Board's agenda posting requirements), the applicant picking up and dropping off the plat between departments, and the time awaiting recordation.

Plat #24452 fits the profile of a record plat with a median total review time. The timeline chart uses process data from each agency and shows the following:

- The orange bar, the bottom-most bar on the chart, indicates the total elapsed time from application acceptance to recordation. For this plat, the Planning Board accepted the application in October 2011 and the plat was recorded in July 2012 for a total elapsed time of 290 days.
- MNCPPC's review process is shown in the top half of the picture. Planning staff and/or Planning Board review and approval time is shown by the green bars, and applicant time is shown by the red bars. For this plat review, Planning Department staff took 65 days to send the first set of corrections/comments to the applicant; the applicant took 105 days to respond with a revised plat. Planning staff took 22 days for its second and final review, and the applicant submitted a final mylar 39 days later. Under the approval and processing category, review of the mylar by Planning staff and formal Planning Board approval and signature took 31 days; the applicant picked up the signed mylar for DPS signature one day after Planning Board approval; and it took 14 days after DPS approval for the actual recordation of the plat.
- The County Government review process is shown in the bottom half of the picture. DPS' review and approval time is shown by the blue bars, and applicant time is shown by the red bars. DPS' review timeline begins later than the Planning Department; in this particular case it took 28 days for the applicant to submit the application materials to DPS after acceptance. DPS' first review lasted 78 days, with the applicant taking 121 days to make revisions. DPS' second and final review took 42 days, with the applicant only taking one day to respond. DPS then took six days for final approval and signature.

Plat #24452 (Name: Clarksburg Village at Little Seneca & Snowden Farm Pkwy, Type: Preliminary Plan)



- The box at the bottom of each timeline chart displays OLO’s estimate of the proportion of the total elapsed time the application was with an approving agency versus the applicant. For this case study, OLO estimates that the plat was with MNCPPC, DPS, or both for review, approval, or processing 65% of the time (189 of the 290 days) and was with the applicant for revisions or processing 35% of the time (101 of the 290 days). Since the agencies’ review cycles are not concurrent, OLO only assigned time to the applicant when the applicant had the plat for revision and neither agency had the plat for review at the same time.

Timeline chart data summary. Table 10 summarizes the data derived from each of the 17 record plat timeline charts. The table also indicates if the plat resulted from an approved preliminary plan, and if construction approvals for grading, paving, and/or stormwater management plans were required in conjunction with the plat review. Overall, the data show:

- In the 17 case studies, the estimated percent of time a record plat was with a review agency compared to the applicant ranged widely and no two plats reviewed had the same percent breakdown. The estimated percent of time a record plat was with a review agency ranged from 8% to 97%. Similarly, time assigned to an applicant ranged from 3% to 92%.
- Among the case studies, all of the plats below the median approval timeframe of 299 days had agency review time exceeding 50%, while all the plats above the median timeframe had applicant time exceeding 50%.
- Plats with more review cycles tended to have greater total timeframes, but not in every case.

Table 10. Record Plat Timeline Data Summary

Plat #	Preliminary Plan	Construction Approvals Required	Days until Recordation	# of Review Cycles		% of Days Plat was with:	
				Planning	DPS	Planning or DPS	Applicant
24269	no	yes	65	1	1	97%	3%
24358	yes	yes	94	1	2	79%	21%
24527	yes	yes	154	1	1	81%	19%
24531	yes	no	160	1	1	76%	24%
24491	no	yes	177	1	1	58%	42%
24500	yes	yes	177	1	2	55%*	9%*
24589	yes	no	205	2	3	77%	23%
24599	yes	yes	232	3	3	61%	39%
24598	no	no	253	2	4	75%	25%
24452	yes	yes	290	2	2	65%	35%
24628	no	no	330	1	1	42%	58%
24537	yes	yes	377	2	2	27%	73%
24435	yes	yes	420	2	2	39%	61%
24584	no	no	450	1	1	17%	83%
24532	yes	yes	519	3	2	23%	77%
24460	yes	no**	967	3	3	31%	69%
24580	yes	no	1953	1	5	8%	92%

*This plat was held by the Planning Department following final review until the Planning Board had approved the certified Site Plan. Typically, when a certified Site Plan is required a record plat application is not accepted until that approval is received. The remaining 36% of the elapsed time from plat 24500 is categorized on the timeline chart as “held awaiting other approvals.”

**This plat had a formal Public Improvement Agreement.

Summary data for review process steps. Tables 11 and 12 summarize the elapsed time data from the case studies for the Planning Department, DPS, and the applicant for each of the review and approval steps. These tables display data on each agency’s review process independently. OLO included both the average and median timeframes for each step in the process. Similar to the data set for all FY12-13 approved plats, the large range combined with many of the median values being lower than the average indicates that the median may be a better indicator of a “typical” case. Among the case studies, the data for the MNCPPC review process show:

- A median timeframe of 47 days for the Planning Department to complete its first review, and 43 days for the applicant to respond with corrections or additional information;
- Review timeframes decreased for both the Planning Department and the applicant in subsequent review cycles;
- The range of review cycle times was much larger for the applicant than for the Planning Department; and
- 50% of the record plat case studies were completed with one Planning Department review cycle, 33% with two review cycles, 11% with three review cycles, and 6% with four or more cycles.

Table 11. MNCPPC Record Plat Review Process: Summary of Elapsed Time Data from Case Studies

Action	# of Plats	Average (days)	Median (days)	Range (min-max days)
Planning Department Time				
Intake Processing	19	7	3	0-67
1st Review Cycle	18	53	47	15-150
2nd Review Cycle	9	27	21	0-70
3rd+ Review Cycle	4	15	2	0-56
Review Cycles Combined		40	37	0-150
Mylar Review	16	11	10	0-37
PB Approval & Signature	18	15	10	7-62
Recordation	19	16	17	6-34
Applicant Time				
1st Review Cycle	18	172	43	1-1,628
2nd Review Cycle	7	95	35	21-357
3rd+ Review Cycle	6	50	20	15-216
Review Cycles Combined		131	35	0-1,628
Pickup for DPS Signature	19	23	5	0-371

Among the case studies, the data for the DPS review process show:

- A median timeframe of 33 days for DPS to complete its first review, and 99 days for the applicant to respond with corrections or additional information;
- Median review timeframes decreased for DPS and the applicant in subsequent review cycles;
- The range of review cycle times was much larger for the applicant than for DPS; and
- 32% of the record plat case studies were completed with one DPS review cycle, 32% with two review cycles, 21% with three review cycles, and 16% with four or more cycles.

Table 12. DPS Record Plat Review Process: Summary of Elapsed Time Data from Case Studies

Action	# of Plats	Average (days)	Median (days)	Range (min-max days)
DPS Time				
1st Review Cycle	19	40	33	6-90
2nd Review Cycle	13	28	20	1-84
3rd+ Review Cycle	13	28	11	2-184
Review Cycles Combined		33	26	1-184
DPS Approval	19	6	4	0-21
Applicant Time				
Submit to DPS after Accepted	19	14	6	1-120
1st Review Cycle	19	201	99	11-1,918
2nd Review Cycle	13	235	64	1-1,333
3rd+ Review Cycle	12	99	47	1-571
Review Cycles Combined		183	79	1-1,918

D. Feedback on record plat review timeframes

OLO met with staff from the departments involved in the review process (Planning Department, DPS, and DEP) and representatives of the building and development community to get feedback on the record plat review process in general, and specifically on the review timeframe data compiled by OLO.

1. Summary of record plat issues/concerns from agency staff

Overall, agency staff agree that the current time it takes for a record plat to be approved and recorded is long and that they are interested in seeking ways to improve those timeframes while still ensuring that the record plats meet all legal requirements and protect the public interest. In discussing the record plat review process and timeframes, common themes OLO heard from agency staff include:

- **Applicants can lengthen overall review timelines by not submitting corrections in a timely manner.** Agency staff note that sometimes a lengthy review timeframe results when an applicant holds on to a plat for many months between receiving an agency’s comments and submitting a revised plat that corrects or addresses these comments. Neither agency has an established response deadline or time limit within which an applicant must respond to review comments.

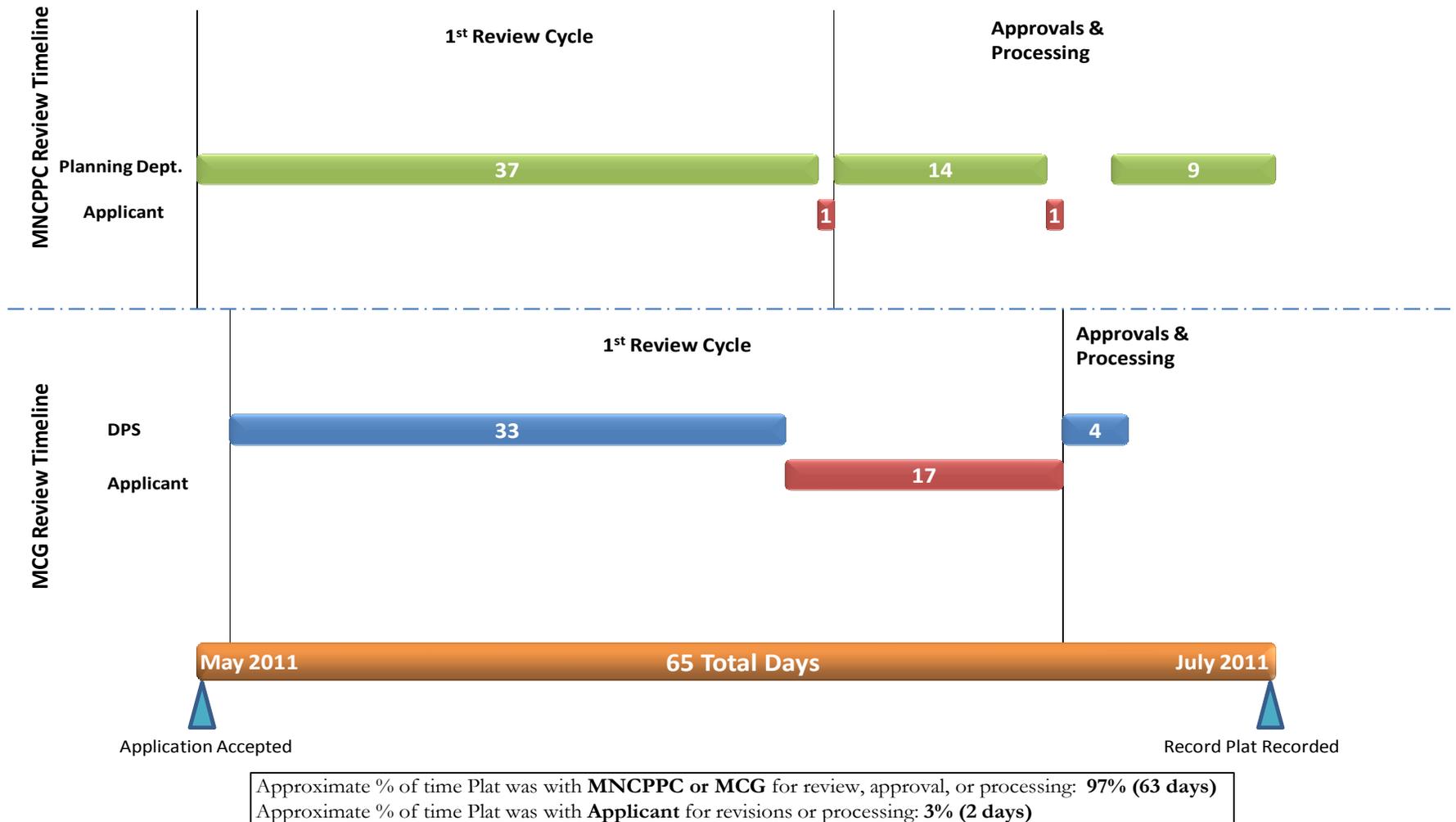
- **Initial record plat submittals can be “incomplete” in terms of having sufficient detail to complete the first agency review.** While Planning Department intake staff review plat applications prior to acceptance, this non-substantive review only verifies that an application includes all the required forms and documents. When applicants submit the required materials but those documents do not contain all the necessary details, the lack of complete documentation adds to the review time as agency staff then have to request that information.
 - **Multiple reviews cycles can result due to insufficient applicant responses to agency comments.** Agency staff note that some record plat applicants do not respond to or address all the department’s comments or required revisions, which may lead to additional review cycles.
 - **Quality of technical expertise varies widely among applicants.** Agency staff report that while some applicants and their consultants are well-versed in the record plat process and requirements, others do not have a high level of expertise in the process or in the technical details of preparing the required materials. Applicants with lower levels of technical expertise on their team tend to submit materials that require longer reviews and more review cycles.
 - **Not all agency review time is spent actually reviewing the plat.** A factor that plays into the length of agency review cycle times is the time the plat spends in the agency’s “queue” awaiting review. Both DPS and Planning review plats in the order received. Both agencies report that they have taken steps to reduce or eliminate the typical waiting times. DPS assigned additional staff resources to record plat reviews and eliminated its review backlog in February 2014. Similarly, the Planning Department is in the process of filling an additional record plat reviewer position to help address the current and projected volume of plat applications.
 - **Waiting for prior or concurrent required approvals can lengthen the agency review time.** Staff note that sometimes a long agency review period may reflect the agency waiting for the applicant to finalize a different required approval. As part of DPS’ review process, an applicant must have grading, paving, and stormwater management plans approved and the bond and fee for road construction posted (if required) prior to plat approval, even though the permit for those construction activities cannot be issued until after the plat is recorded. Planning staff report that applicants will at times request staff to begin reviewing a record plat prior to approval of the Site Plan Signature Set.
- 2. Summary of record plat issues/concerns from representatives of the building and development community**

Overall, representatives from the building/development community that OLO spoke with recognized the necessary role of government agency review and approval of record plats, but were in agreement that the review process can and should move more quickly. In discussing the record plat review process and timeframes, common themes OLO heard from these representatives include:

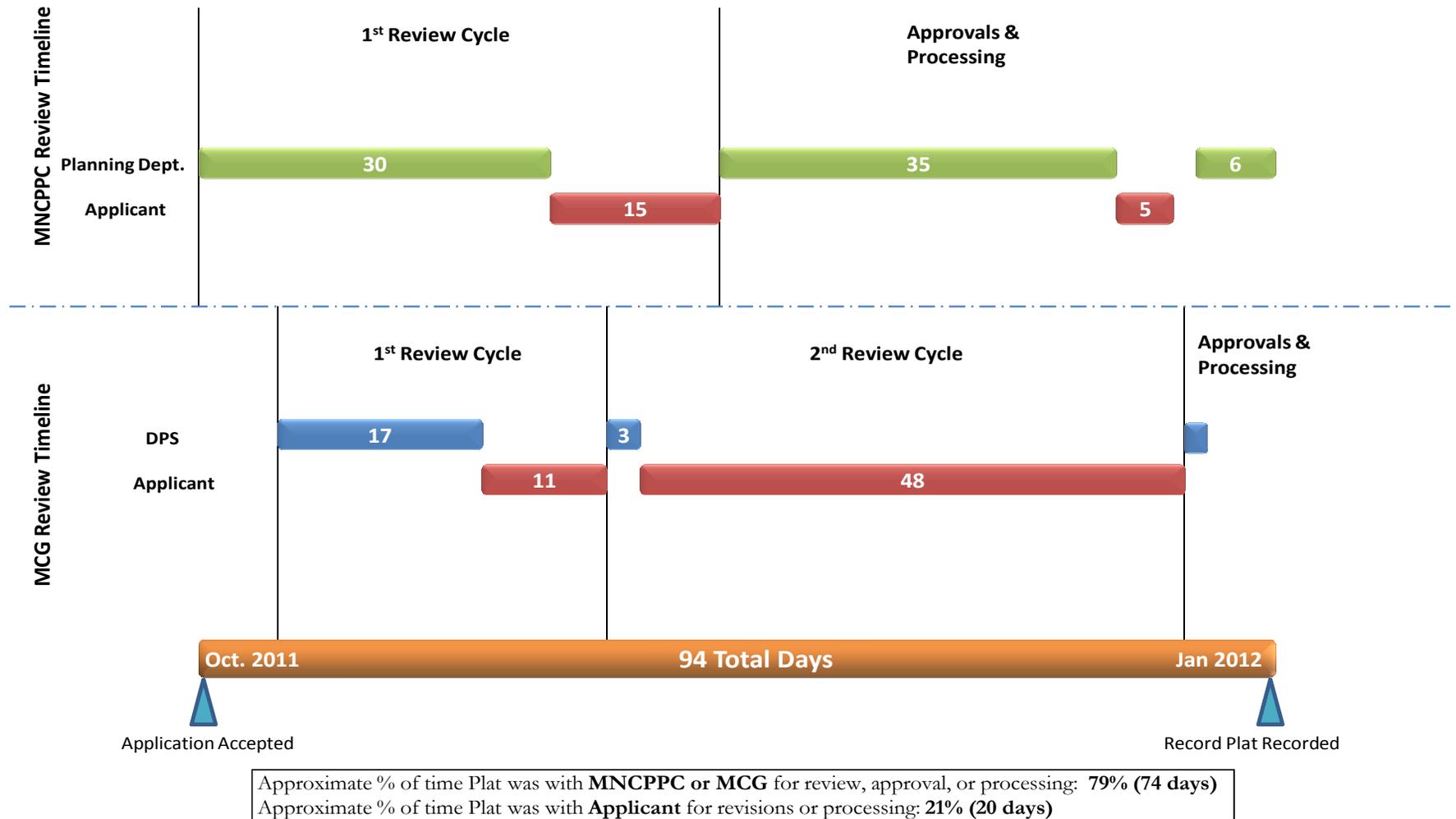
- **DPS and Planning review times can be excessive and unpredictable.** Building/development representatives note that department review times, in particular for the first review cycle, take longer than they feel is necessary even when applicants submit all requested materials and information. They find that the wide range of agency review times evidence the unpredictability in the process for applicants. The lack of cross-training among agency staff in record plat reviews was also cited as a factor adding to the backlog of plats awaiting review and thus the overall review time.

- **DPS and Planning lack a standardized system for establishing and communicating record plat review guidelines, leading to uncertainty for the applicant during the process.** The building and development representatives report that sometimes agencies will ask for information that the applicant did not know was relevant to the record plat review process or that the applicant had not been asked for during prior plat reviews. The representatives also find that there is not always a clear distinction on which agency is responsible for reviewing and commenting on each plat element.
- **At times, DPS and Planning change a record plat review “policy” without sufficient notification.** Building/development representatives feel that the Planning Department and DPS do not provide sufficient notification, formal or informal, when changing a policy or guideline about how a specific record plat issue will be reviewed and/or how an item must be depicted or described on the plat. As a result, applicants are not aware that they need to change how they show an item on a plat until they get review comments back. Building representatives commented that they hear about changes in process requirements most often through word of mouth from their colleagues.
- **Planning and DPS are inconsistent in the timing of when they ask for and require items during the review process.** Sometimes agency staff require additional information or revisions during the second review cycle that was not identified or requested during the initial review (and did not result from the changes requested as part of the first review). This lengthens the review process by adding another review cycle when the applicant could have provided the information during a prior review had they known it would be required. Building/development representatives perceive that in some cases they are being asked to provide an excessive level of detail in their responses.
- **Electronic plan submission and review can improve efficiency, but requires sufficient advance notice and training to maximize effectiveness.** The building/development representatives support agency efforts to use electronic submission and review as a streamlining tool, but caution that without sufficient training and testing these changes can actually increase timeframes in the short term. Additionally, electronic submissions will work better with a clear and objective checklist of submission requirements. The representative felt that with other reviews that DPS and/or Planning have already implemented via ePlans, there was a large learning curve for the applicant and the departments, as well as some initial technical glitches in the submission process. The representatives feel that some staff are less comfortable with the new review approach than other, which reinforces the need for training.
- **The multiple times an applicant has to pick-up and drop-off the record plat between the two reviewing agencies is inefficient.** Since the reviewing departments are not part of the same County agency and are not located together, applicants are responsible distributing materials back and forth between the departments on multiple occasions – a cumbersome and time-consuming process. The electronic submission process should reduce the need for some of the back and forth.
- **Small changes or improvements could help to reduce review times.** Some suggestions for improvement from the building/development representatives include giving priority review to re-submitted plats; having regular reports on how long it takes for each review, final approval, and recording; and making Planning Board approval an administrative act to reduce the time a plat waits to be placed on a formal consent agenda.

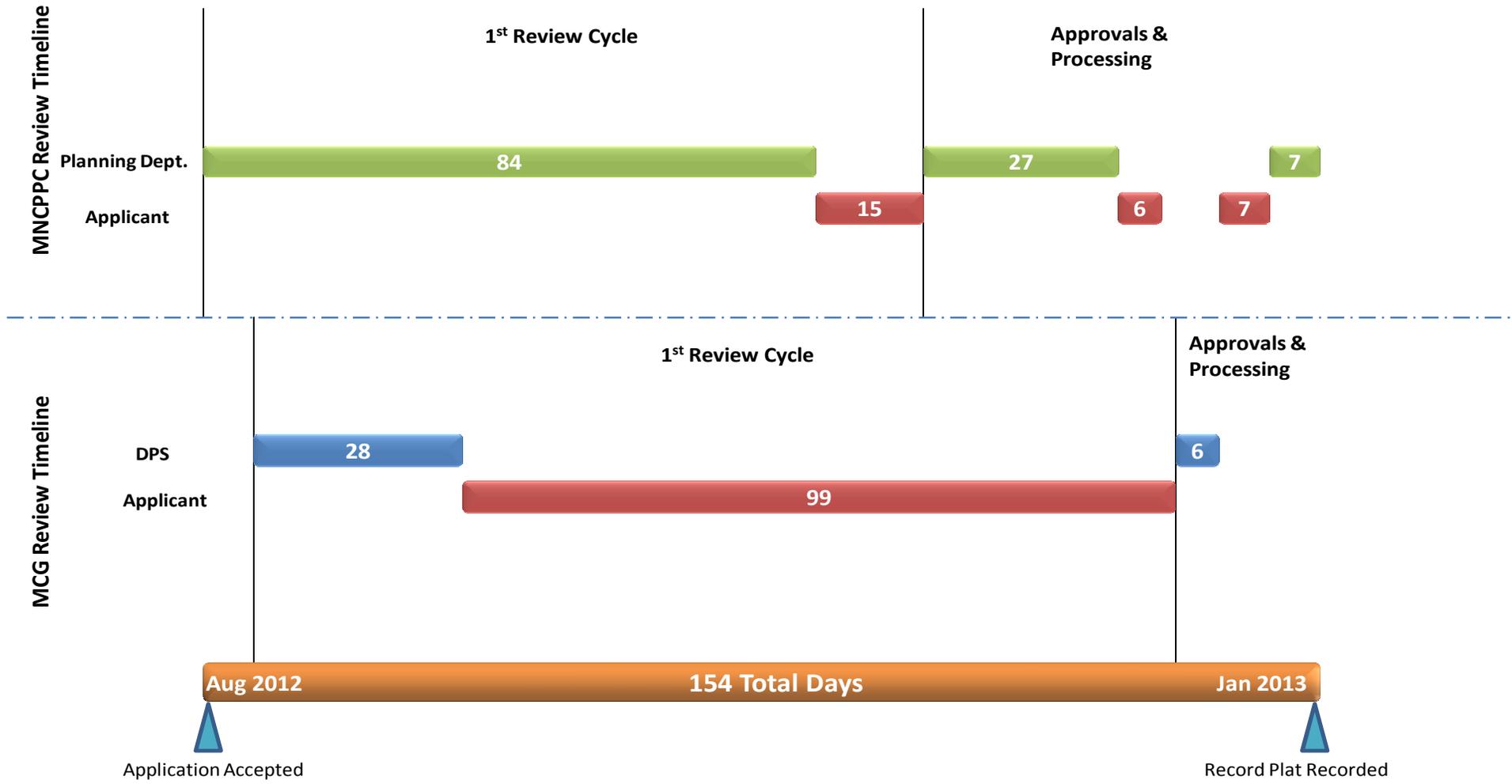
Plat #24269 (Name: Poplar Run, Type: Minor Subdivision Type 1)



Plat #24358 (Name: Harry M. Martin Tract, Type: Minor Subdivision Type 3)

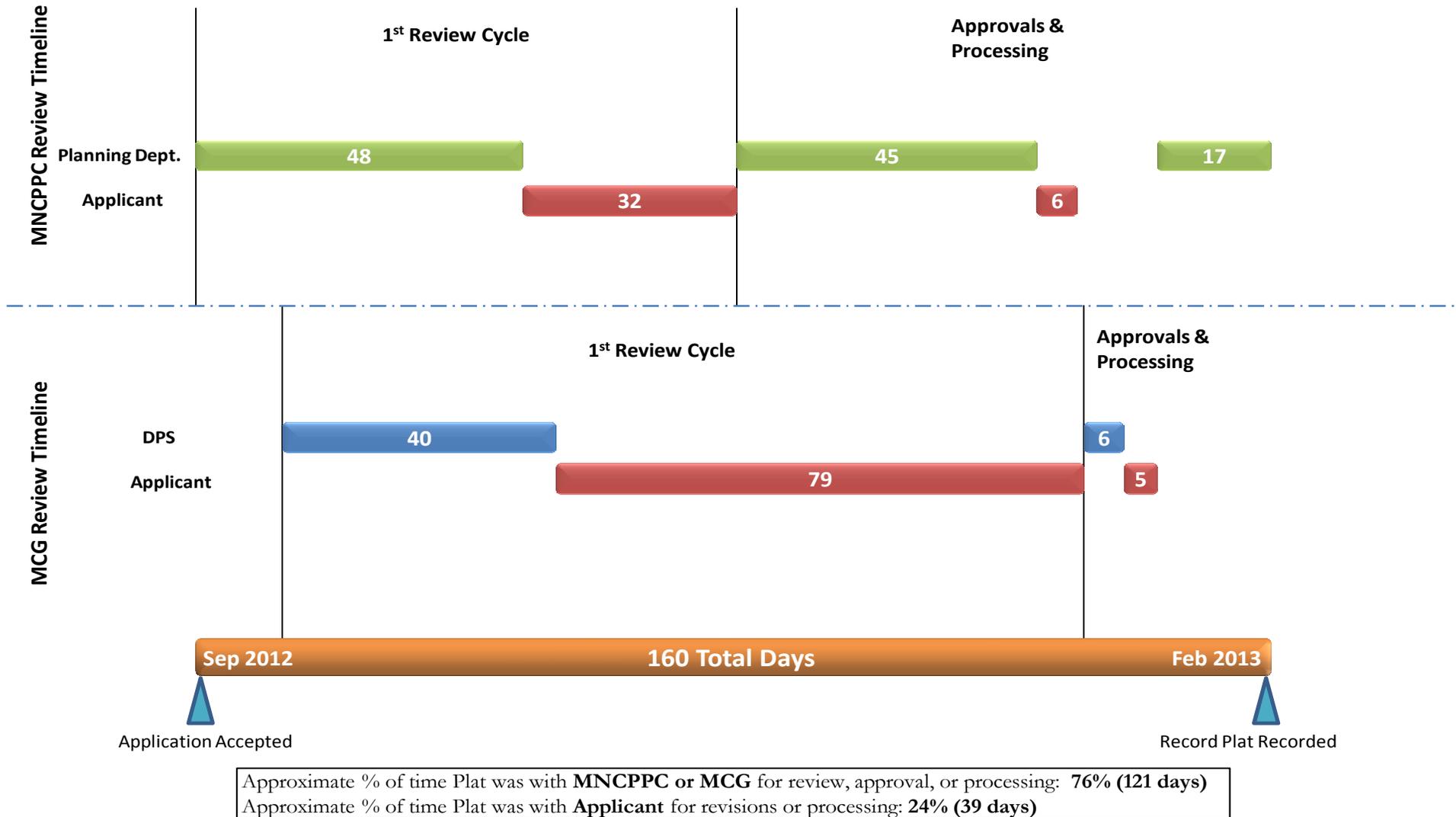


Plat #24527 (Name: Glen Meadows, Type: Minor Subdivision Type 1)

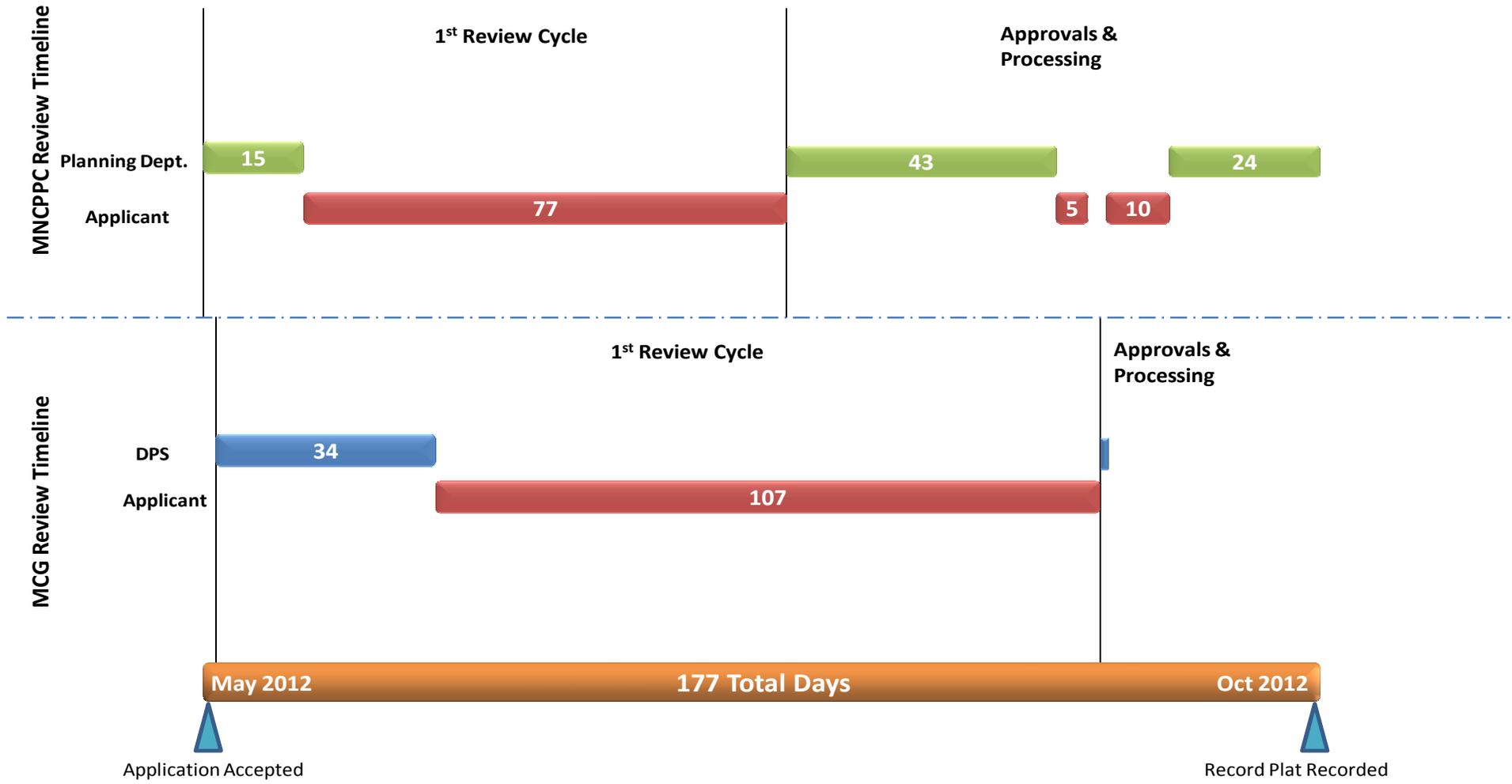


Approximate % of time Plat was with MNCPPC or MCG for review, approval, or processing: 81% (124 days)
 Approximate % of time Plat was with Applicant for revisions or processing: 19% (30 days)

Plat #24531 (Name: Palatine, Type: Preliminary Plan)

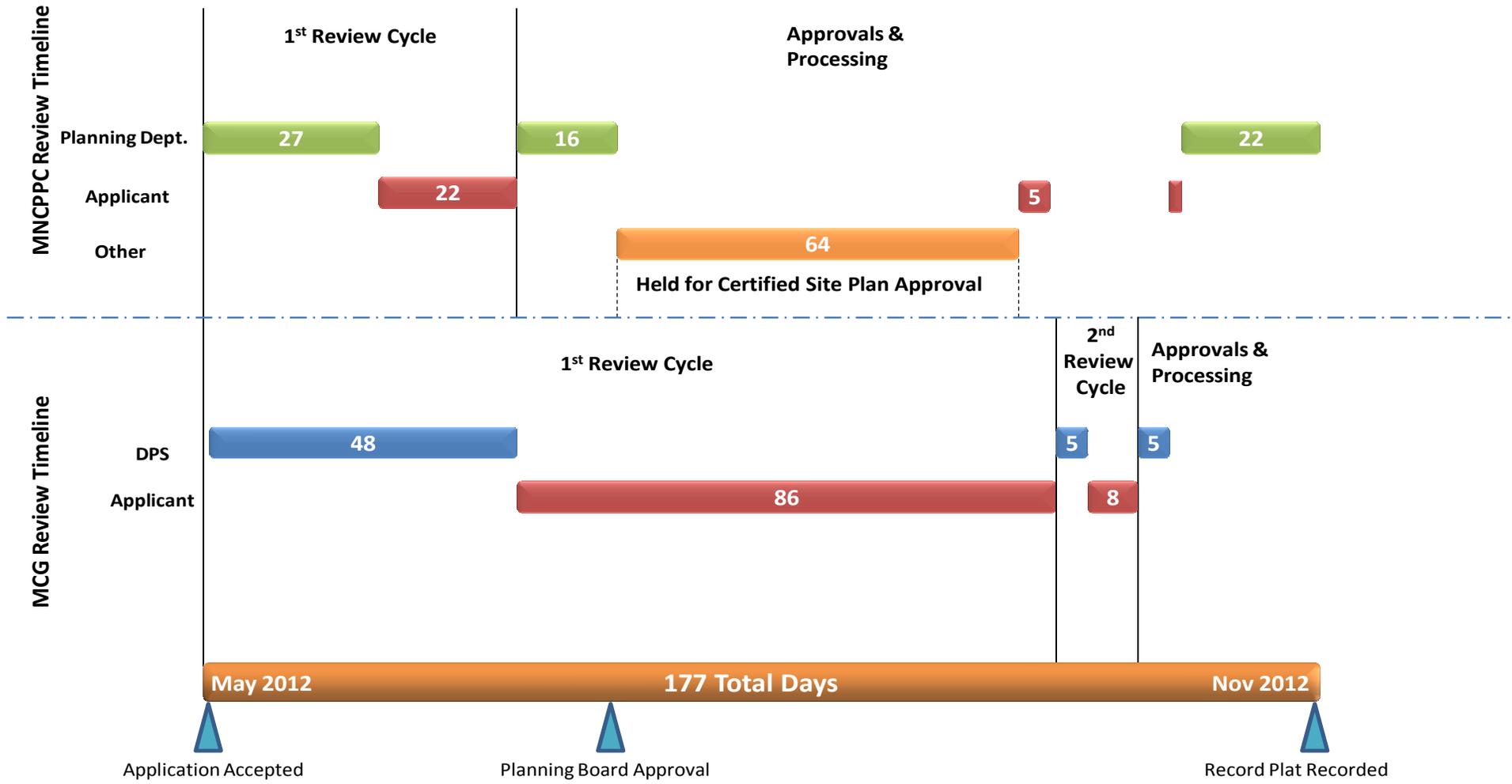


Plat #24491 (Name: West Chevy Chase Heights, Type: Minor Subdivision Type 3)



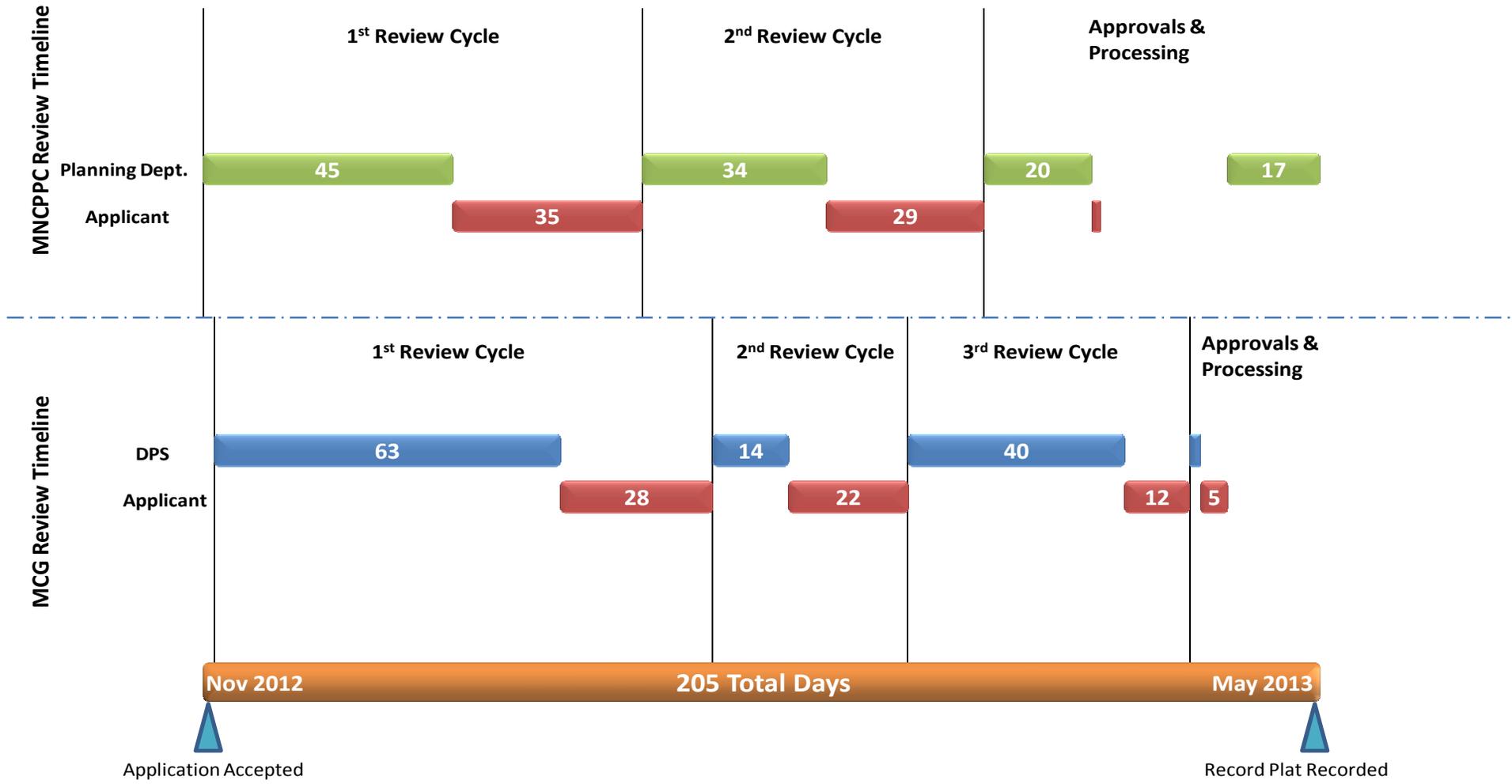
Approximate % of time Plat was with **MNCPPC or MCG** for review, approval, or processing: **58% (103 days)**
 Approximate % of time Plat was with **Applicant** for revisions or processing: **42% (74 days)**

Plat #24500 (Name: Brookshire - 1 of 3, Type: Preliminary Plan)



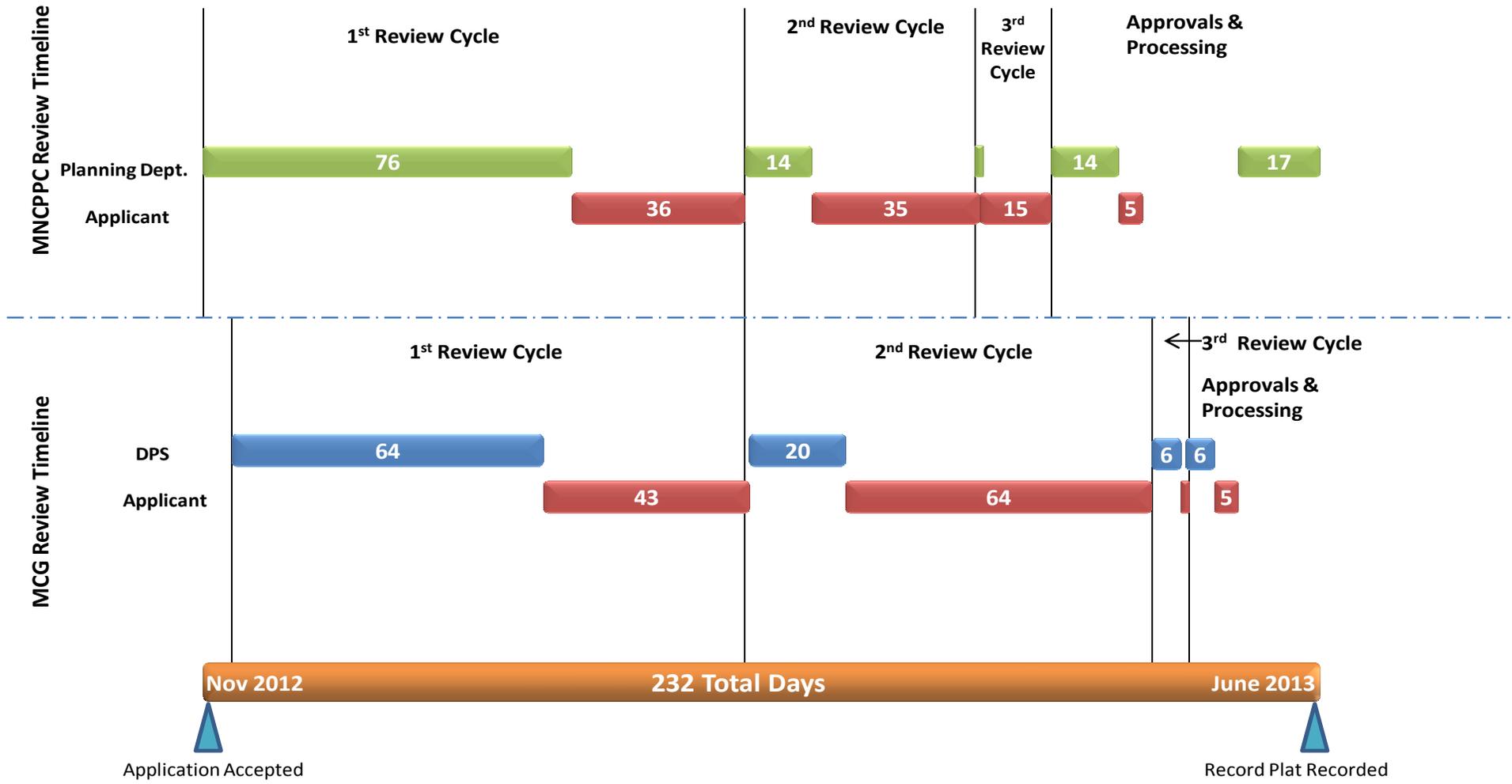
Approximate % of time Plat was with **MNCPPC or MCG** for review, approval, or processing: **55% (97 days)**
 Approximate % of time Plat was with **Applicant** for revisions or processing: **9% (16 days)**
 Approximate % of time held awaiting other approvals: **36% (64 days)**

Plat #24589 (Name: Hoyt Subdivision, Type: Preliminary Plan)



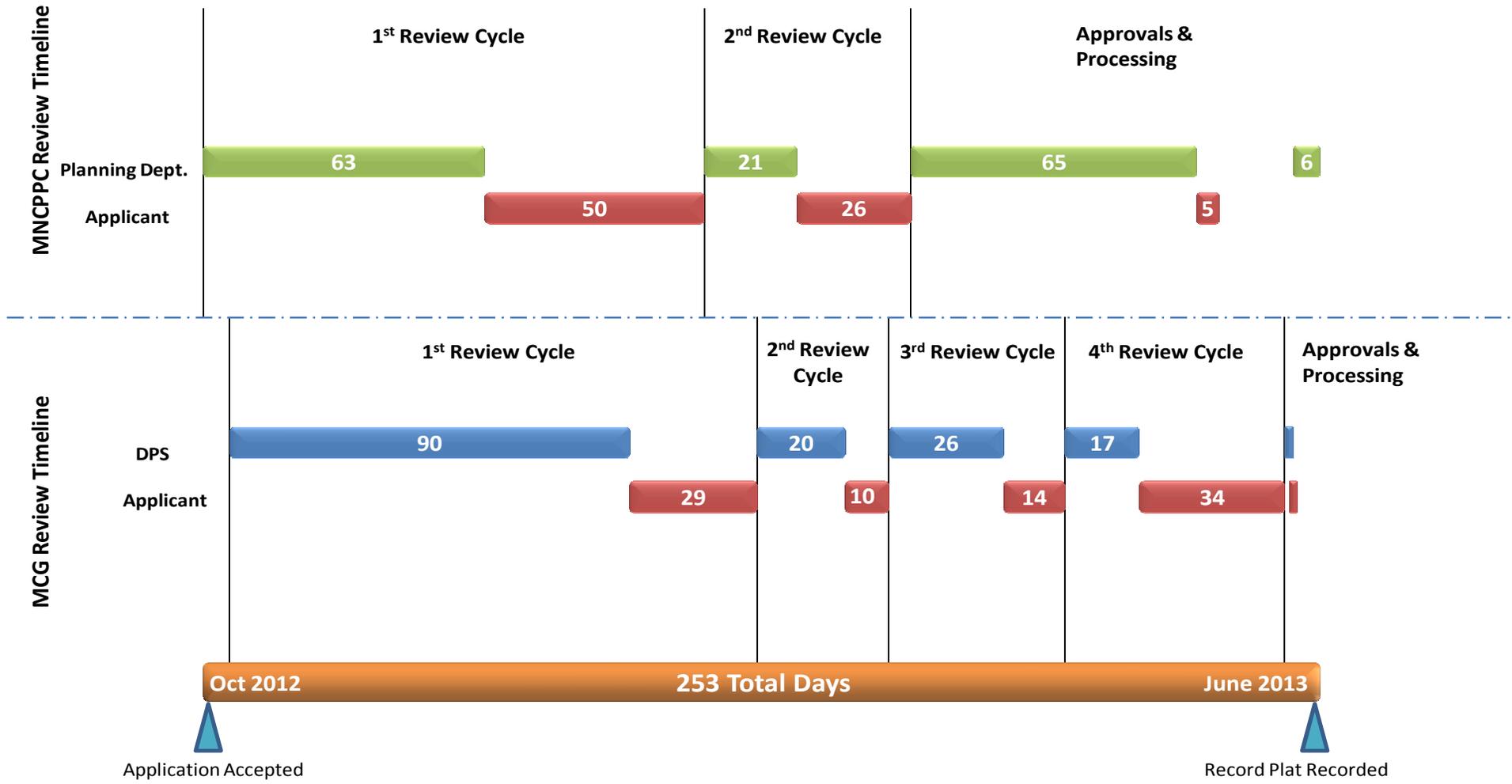
Approximate % of time Plat was with **MNCPPC or MCG** for review, approval, or processing: **77% (158 days)**
 Approximate % of time Plat was with **Applicant** for revisions or processing: **23% (47 days)**

Plat #24599 (Name: Residence at Shady Grove Station – 1 of 2, Type: Preliminary Plan)



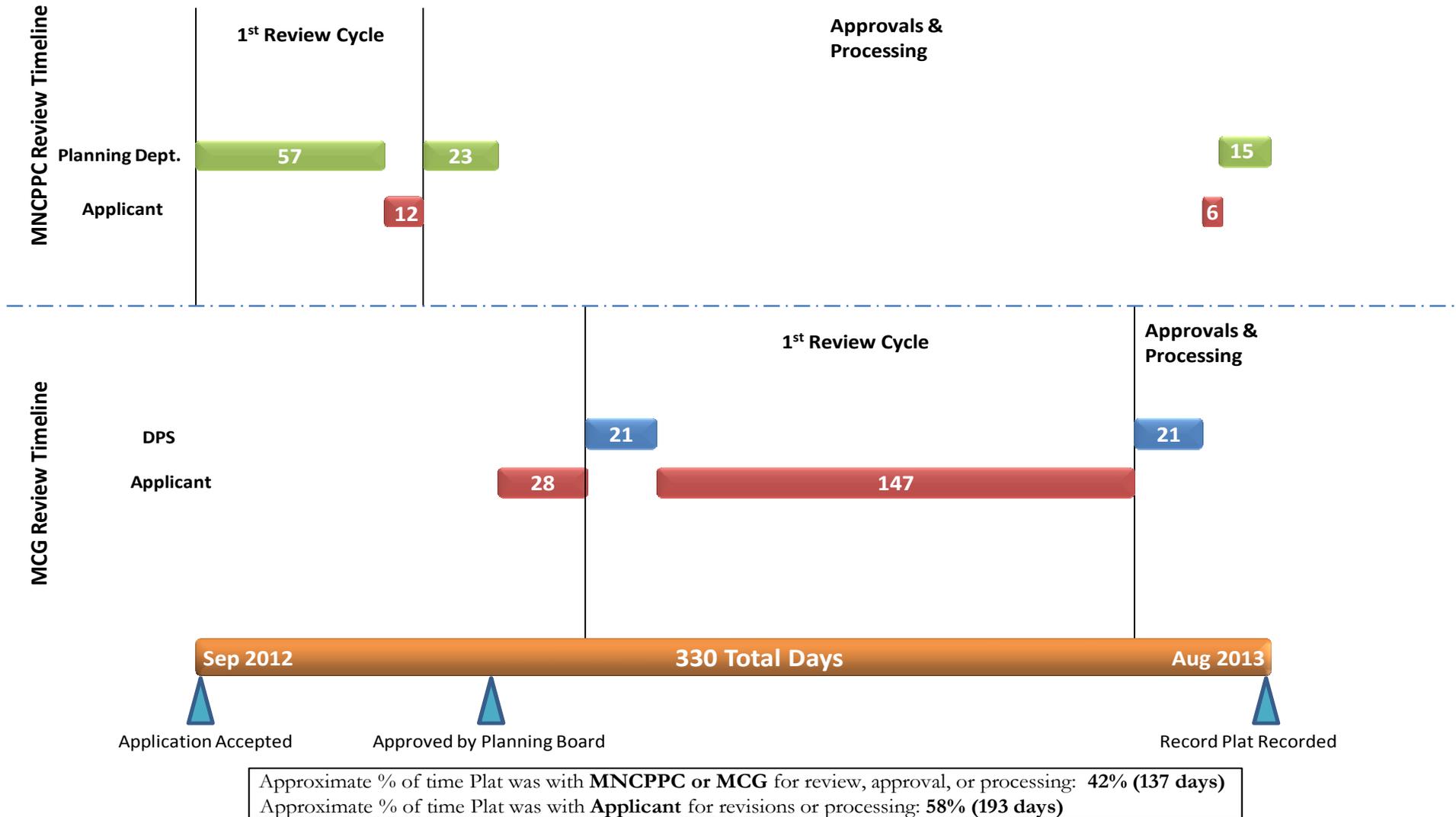
Approximate % of time Plat was with MNCPPC or MCG for review, approval, or processing: **61% (141 days)**
 Approximate % of time Plat was with Applicant for revisions or processing: **39% (91 days)**

Plat #24598 (Name: Oak Grove, Type: Minor Subdivision Type 1)

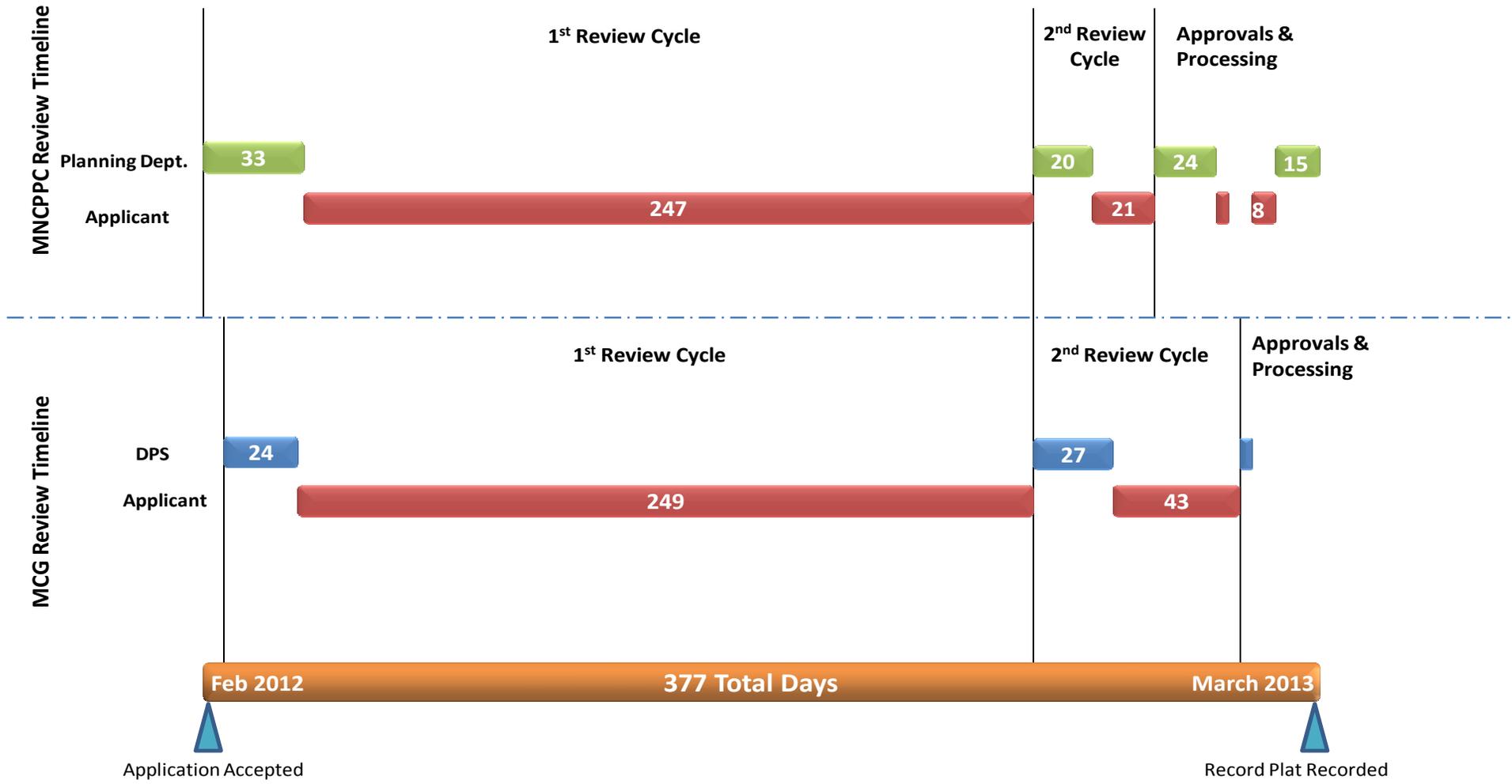


Approximate % of time Plat was with **MNCPPC or MCG** for review, approval, or processing: **75% (190 days)**
 Approximate % of time Plat was with **Applicant** for revisions or processing: **25% (63 days)**

Plat #24628 (Name: **BF Gilbert's Addition to Takoma Park**, Type: **Minor Subdivision Type 3**)

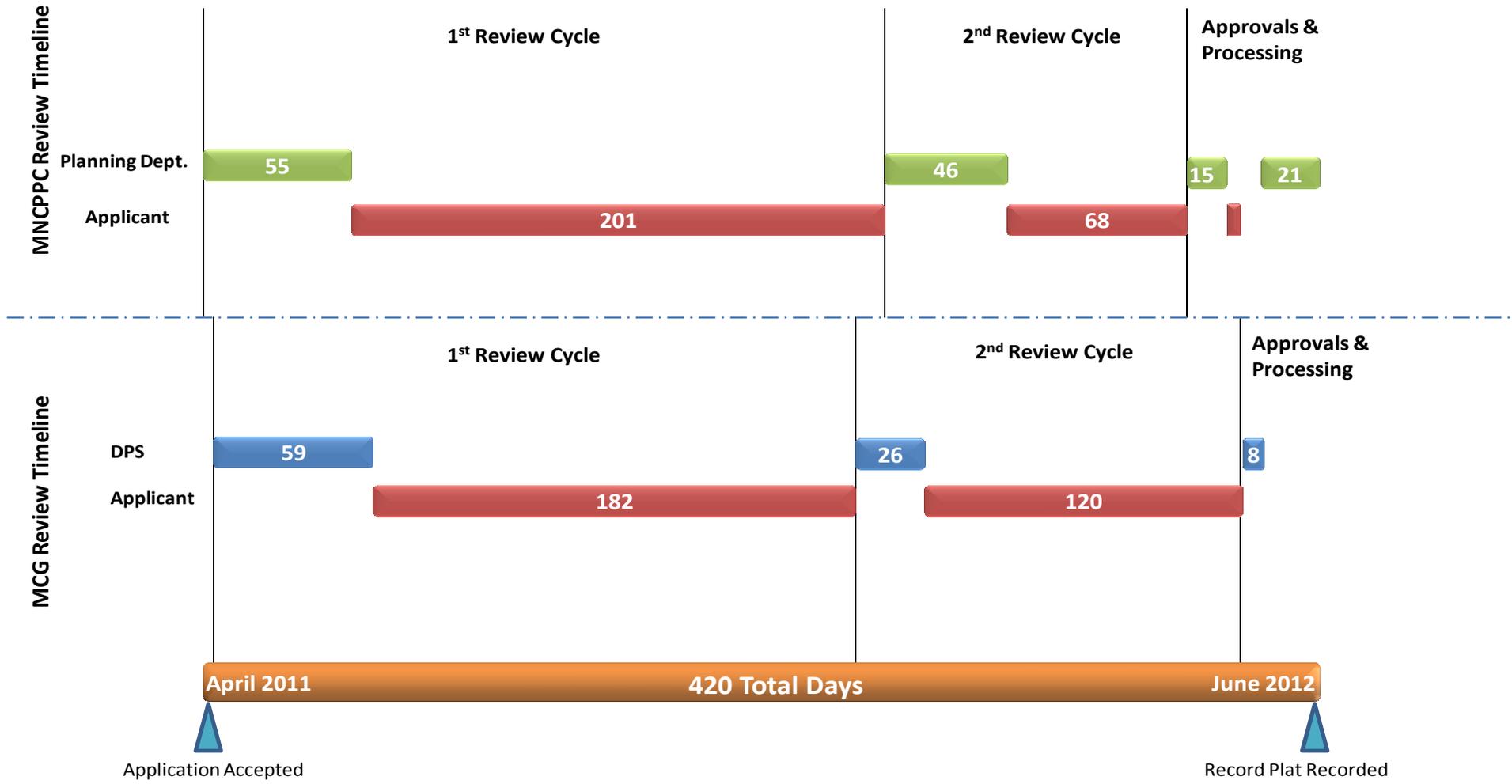


Plat #24537 (Name: Churchill Town Sector Germantown, Type: Minor Subdivision Type 4)



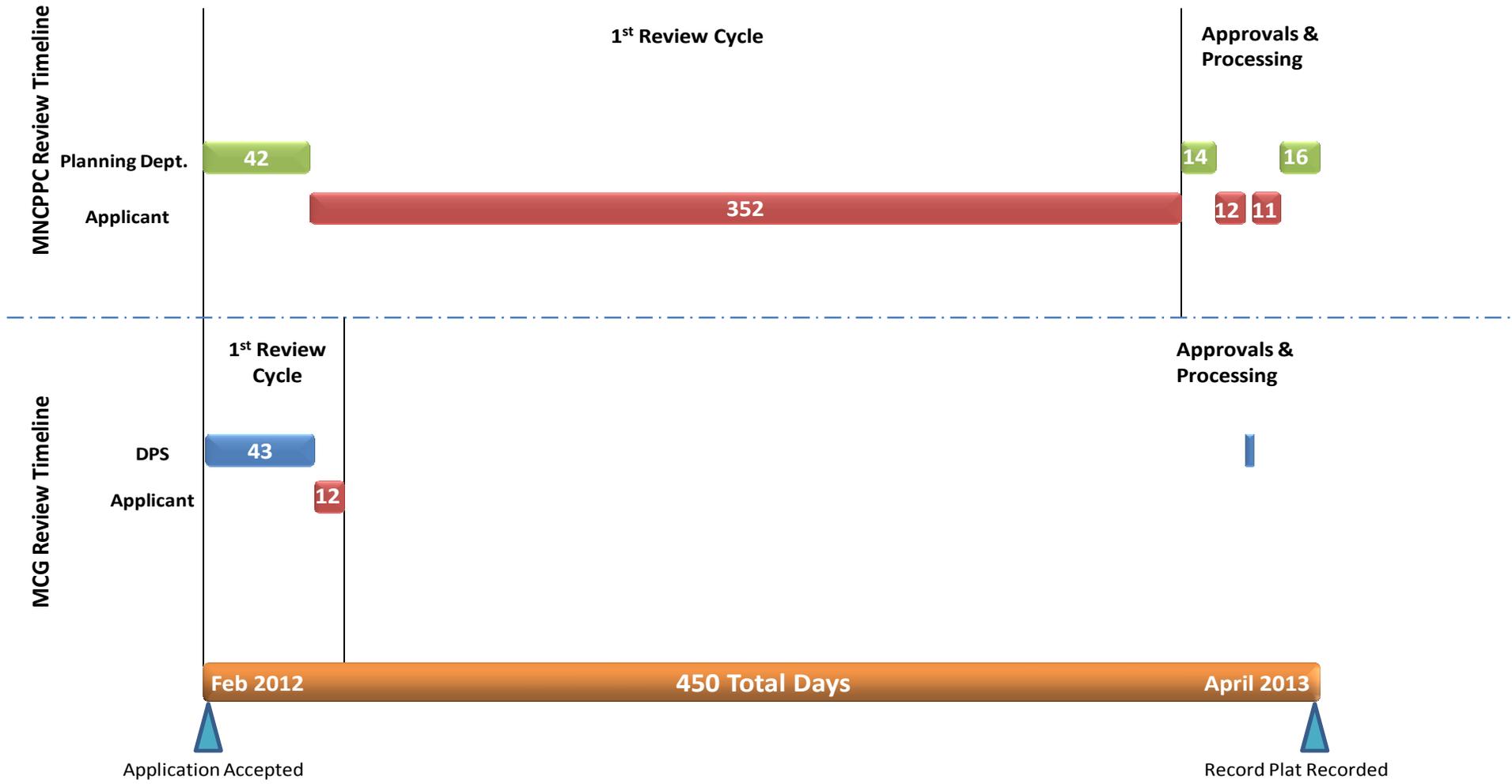
Approximate % of time Plat was with **MNCPPC or MCG** for review, approval, or processing: **27% (103 days)**
 Approximate % of time Plat was with **Applicant** for revisions or processing: **73% (274 days)**

Plat #24435 (Name: Clarksburg Village on New Cut Rd, Type: Preliminary Plan)



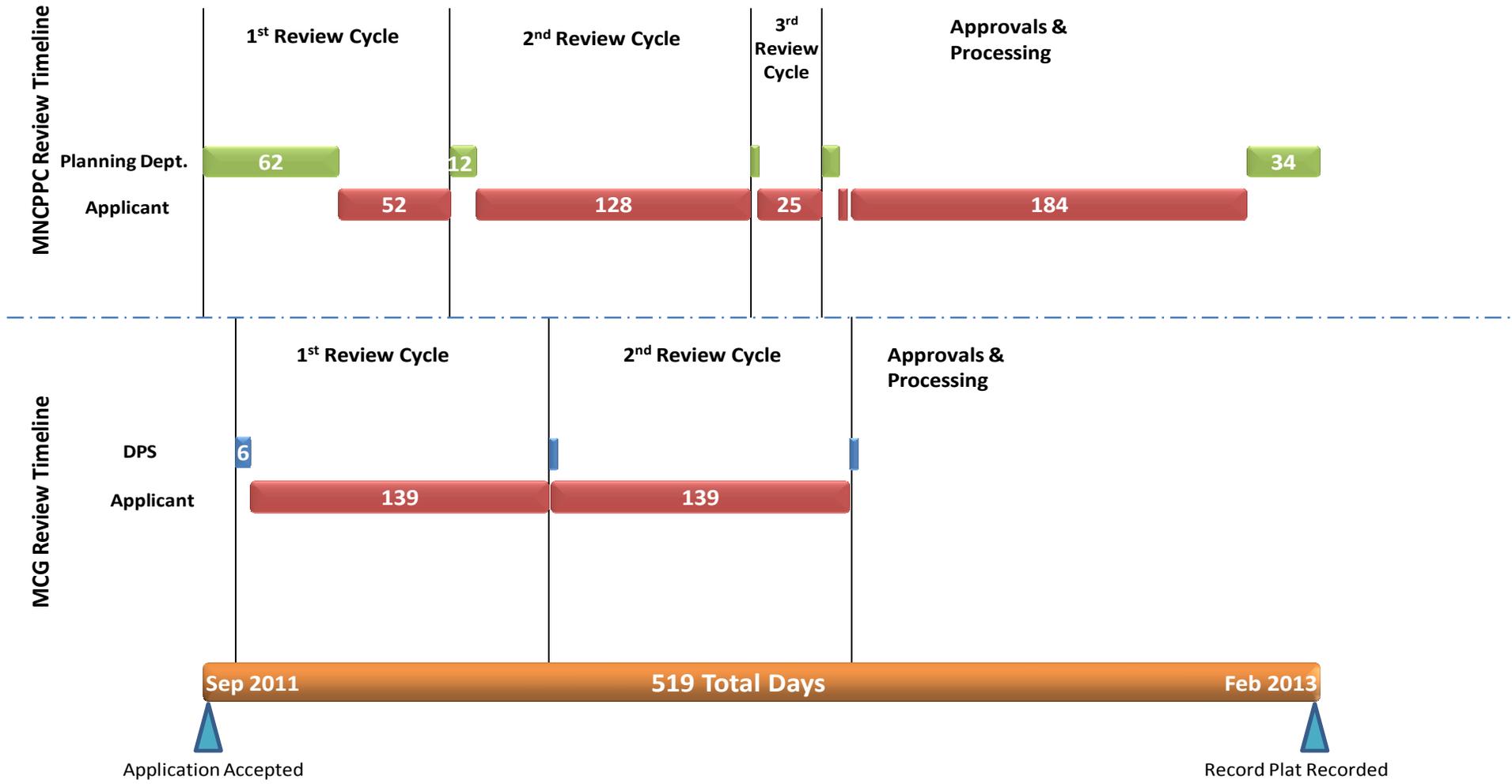
Approximate % of time Plat was with MNCPPC or MCG for review, approval, or processing: 39% (165 days)
 Approximate % of time Plat was with Applicant for revisions or processing: 61% (255 days)

Plat #24584 (Name: Alta Vista Knoll & Alta Vista Terrace, Type: Minor Subdivision Type 1)



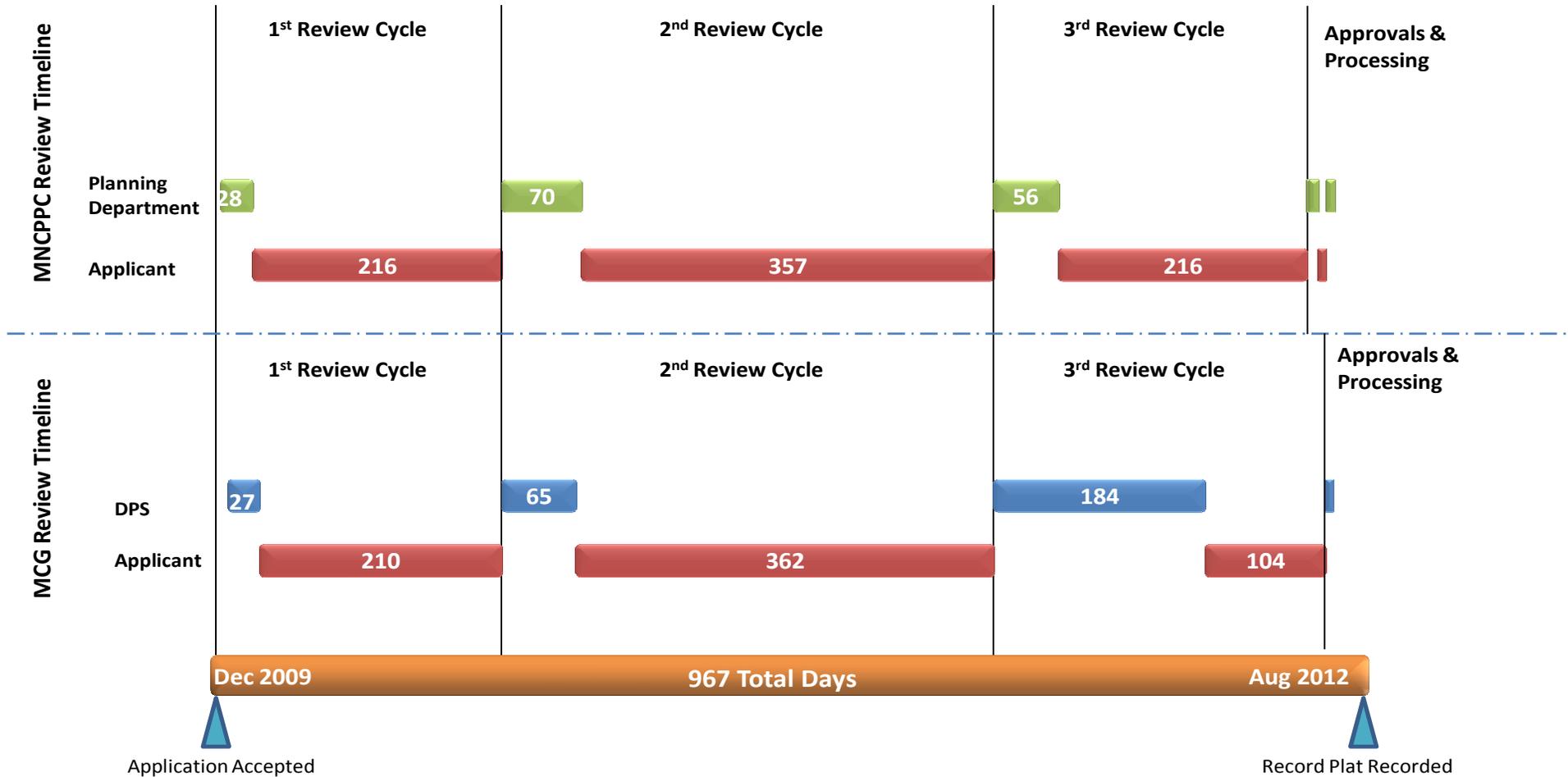
Approximate % of time Plat was with **MNCPPC or MCG** for review, approval, or processing: **17% (76 days)**
 Approximate % of time Plat was with **Applicant** for revisions or processing: **83% (374 days)**

Plat #24532 (Name: Country Club Village, Type: Preliminary Plan)



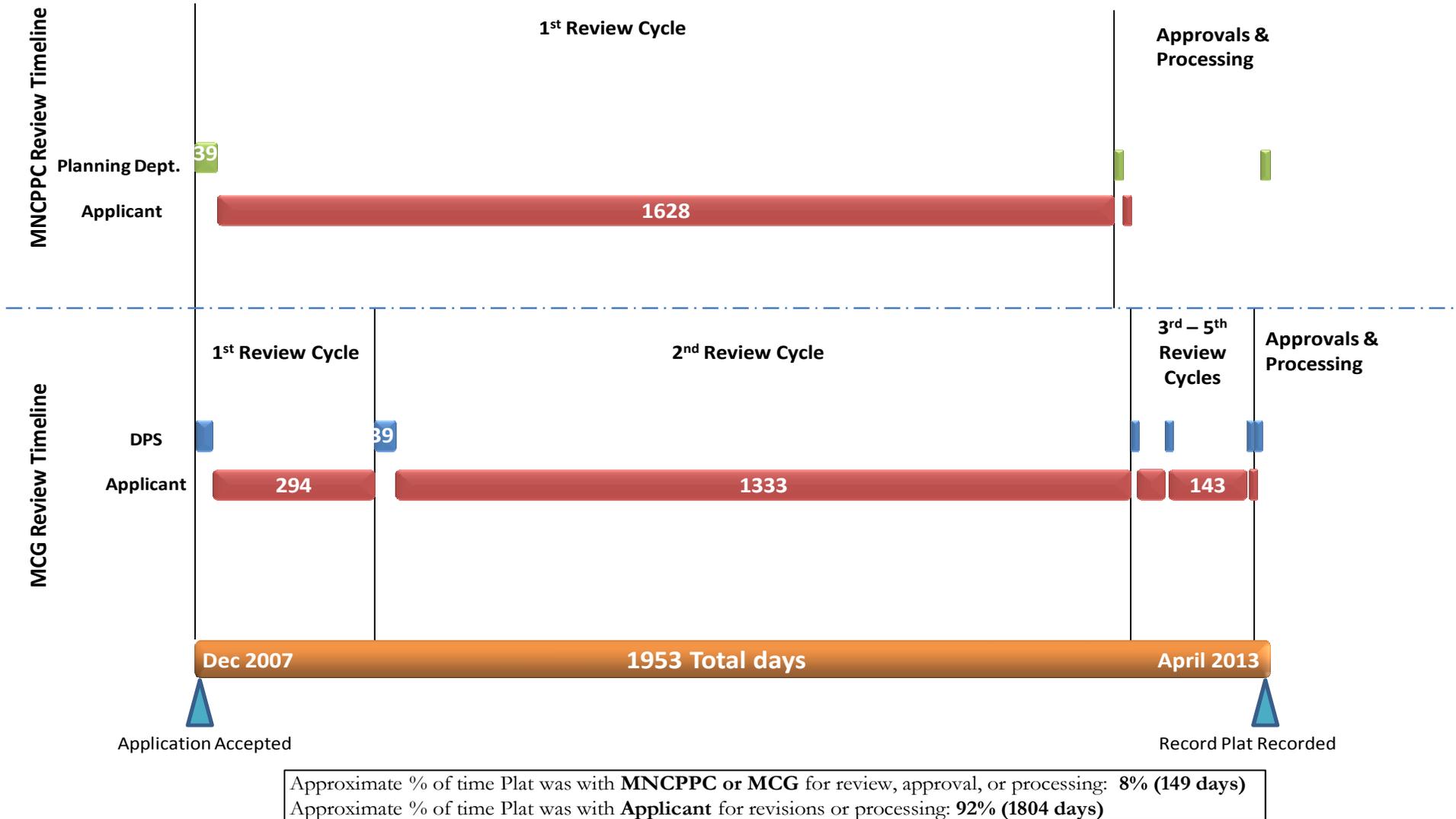
Approximate % of time Plat was with **MNCPPC or MCG** for review, approval, or processing: **23% (119 days)**
 Approximate % of time Plat was with **Applicant** for revisions or processing: **77% (400 days)**

Plat #24460 (Name: Blenheim – 1 of 5, Type: Preliminary Plan)



Approximate % of time Plat was with **MNCPPC or MCG** for review, approval, or processing: **31% (299 days)**
 Approximate % of time Plat was with **Applicant** for revisions or processing: **69% (668 days)**

Plat #24580 (Name: Piedmont Acres, Type: Preliminary Plan)



Chapter VI. Review Timelines and Metrics on Other Jurisdictions

This chapter provides comparative information on development review process timeframes and metrics for counties geographically surrounding Montgomery County, as well as for other jurisdictions that actively report and publish development review performance metrics. The chapter is organized as follows:

- **Section A** details development review timeframes included in the laws or policies of four surrounding Counties; and
- **Section B** provides three examples of development review timeframe, metrics, and/or performance reporting models used in jurisdictions outside of the Washington DC metropolitan region.

A. Legal and Policy Structures for Review Timeframe in Surrounding Jurisdictions

OLO reviewed the development review timeframe goals and/or requirements for preliminary plans, site plans, and record plats (or there equivalent) included in the laws or policies of four surrounding jurisdictions: Fairfax County, VA; Howard County, MD; Prince George’s County, MD; and Frederick County, MD.

1. Fairfax County

Virginia State Code establishes maximum review timeframes for site plans, record plats, and plans of development, which are then incorporated into the Fairfax County Code. The law does not establish absolute time limits for the entire review process; instead, it establishes time limits for review cycles.

State legal framework. Title 15.2, Chapter 22 of the Virginia State Code establishes a 60 day decision deadline for a local planning commission to either approve or disapprove a proposed plat, site plan, or plan of development and a subsequent 45 day deadline to act on a previously disapproved plat or plan that is resubmitted with corrections. There is no limit within the law on the number of review cycles (i.e. disapprovals and resubmittals) a plat can undergo. Specifically, the law states:

“the local planning commission or other agent shall act on any proposed plat, site plan, or plan of development within 60 days after it has been officially submitted for approval by either approving or disapproving the plat in writing and giving the latter specific reasons therefor. ... The local planning commission or other agent shall act on any proposed plat, site plan, or plan of development that it has previously disapproved within 45 days after the plat has been modified, corrected and resubmitted for approval. The failure of a local planning commission or other agent to approve or disapprove a resubmitted plat or plan within the time periods required by this section shall cause the plat or plan to be deemed approved.” (VA Code §15.2-2259-A-3)

The State law also includes a review time maximum of 45 days for any state agency or public authority reviewing a plat or plan to complete its review, while providing that the local agent has 35 days to act after receiving the results of the state agency’s review (VA Code §15.2-2259-B). As a result, a plat or plan requiring review by another state agency could take up to 80 days before a planning commission must make a decision. If the Planning Commission does not make an approval or disapproval decision within the 60, 45, or 35 day timeframe as applicable, the applicant, “after 10-days written notice to the commission, may petition the circuit court for the locality in which the land involved is located to decide whether the plat should or should not be approved” (VA Code §15.2-2259-C).

County legal framework. Fairfax County Code reinforces the 60 day plat review maximum and adds an exception for “abnormal circumstances” (not defined in the Code) by stating: “Final plats shall be acted upon within sixty days, except under abnormal circumstances, from receipt thereof. If disapproved, the reason or reasons for such disapproval shall be shown on the plat or in a separate document. The reasons for disapproval shall identify all deficiencies in the plat which cause the disapproval by reference to specific duly adopted ordinance, regulations, or policies, and shall generally identify such modifications or corrections as will permit approval of the plat” (Fairfax Code §101-2-5-d-1).

For site plans, the Fairfax County Zoning Ordinance requires that all “administrative reviews are completed on time and that action is taken by the approving authority on the site plan within 60 days from receipt of a complete submission thereof, except under abnormal circumstances....The calculation of the review period shall include only that time the site plan is in for County review, and shall not include such time as may be required for revisions or modifications in order to comply with ordinance requirements” (Fairfax Code §112-17-108-2).

Published review timelines and/or metrics. Fairfax County publishes online two different review metrics related to subdivision plans, site plans, and/or record plats. A process chart of the County’s entire site and subdivision plan review process, last updated in October 2011, notes that the average length of time to complete the review process is 4-5 months.¹

More recently, in October 2013, Fairfax County begin publishing average departmental review times for site plans, subdivision plans, public improvement plans, and infill lot grading plans by submission. The County notes that posting the review times online is intended “to assist industry and homeowners who submit these plans with planning their future projects,” and that review time for other types of plans will be added in the future.² The average review times posted as of June 3, 2014 are shown below:³

Plan Type	Average Review Time
Major (Site, Subdivision, Public Improvement), First Submission	69 days
Major (Site, Subdivision, Public Improvement), DPE Subsequent Submission	38 days
Major (Site, Subdivision, Public Improvement), Non-DPE Subsequent Submission	75 days
Infill Lot Grading Plan (nonbonded single family)	26 days

Fairfax reports that the average review times are based on plans processed in the preceding three months, and that the average may not reflect the actual experience of an applicant. Additionally, the website states that the average review times will be updated on a “regular basis”, but does not indicate when the data were last updated.

2. Howard County

Howard County’s Subdivision and Land Development Regulations (Title 16, Subtitle 1 of the Howard County Code) establish a system of maximum review and approval timeframes for both the County and the developer/applicant for each stage of the subdivision and land development process. Depending on the proposed development, a developer in Howard County must go through one or more of the following stages: Sketch Plan, Preliminary Equivalent Sketch Plan, Preliminary Plan, Final Plan, and Site Development Plan. A record plat is included as part of a Final Plan or Site Development Plan.

¹ http://www.fairfaxcounty.gov/dpwes/develop/site_subdivision_reviewprocess.pdf

² <http://www.fairfaxcounty.gov/dpwes/publications/lti/siteplanreviewtimes.htm>

³ http://www.fairfaxcounty.gov/dpwes/sitedevelopment/site_review_times.htm

Processing time definition. Howard County’s subdivision regulations include a definition of “active processing time” to delineate government versus applicant review/processing time:

Active processing time: The period of time after formal application for approval of a sketch plan, preliminary equivalent sketch plan, preliminary plan, final plan and plat, or site development plan during which the County is required to determine whether or not the development of subdivision plan or plat and attendant documents conform to County regulations. If a reviewing agency makes a written request to the developer for additional data or information, the time between issuance of the request and receipt of the reply is not part of the active processing time. (Howard Code §16.108-b-1)

Plan review deadlines. The timeframe deadlines for plan review are the same for each type of plan. After a plan is submitted, the Department of Planning and Zoning (DPZ) must make a decision on the technical completeness of the plan within 60 active processing days. DPZ can determine that the plan is: 1) technically complete; 2) technically complete with modifications; or 3) in need of revisions. If DPZ requires plan revisions, the applicant must submit the revisions within 45 days. DPZ must then make a decision on technical completeness of the plan within 45 days of receiving the revisions. Neither the code nor the County’s summary of the subdivision and land development review process include any limits on the number of times a plan can be sent back to the applicant for revision.

Once a plan is determined to be technically complete by DPZ, and receives Planning Board approval if required, the subdivision regulations include deadlines within which the applicant must submit final mylars for signature, pay processing fees, and execute development agreements as detailed below:

- 45 days after approval for submitting Sketch, Preliminary Equivalent Sketch, and Preliminary plan originals;
- 60 days after a Final Plan approval for submitting construction drawings, supplemental plans, and water and sewer drawings;
- 120 days after a Final Plan approval for paying all required fees, posting any required bond or surety, and executing the Developer’s Agreement associated with the subdivision;
- 180 days after a Final Plan approval for submitting the final subdivision plat for signatures and recordation; and
- 180 days after a Site Development Plan approval for paying fees, posting bonds, and submitting the original mylar plans.

Missed deadlines. The subdivision regulations include provisions for automatic approval or disapproval if the deadlines are missed. From the government perspective, “If the Department does not act on a subdivision or site development plan within the time limits of this Subtitle, the plan shall have automatic approval” (Howard Code §16.103-d). Similarly, if the applicant misses a response deadline or a post-approval information submission deadline – except where the delay is caused by government action – the regulations state that the plan shall be denied or the application for plan approval shall be considered withdrawn (Howard Code §16.144-r).

3. Prince George’s County

The Prince George’s County Code includes review and approval timeframe requirements for Preliminary Plans, Conceptual and Detailed Site Plans, and record plats. Specifically:

- For **preliminary plans**, the code establishes a timeframe of 70-140 days for the Planning Board to act on an application. The law provides that the Planning Board shall take “final action” within 70 calendar days of acceptance, and the time period may be extended for an additional 70 calendar days with the written consent of the applicant (Prince George’s Code §2-119-d-4).

- For **conceptual and detailed site plans**, the law establishes the same requirement for Planning Board action within 70 calendar days of submittal, and allows that the applicant may waive the 70 day requirement “to provide for some longer specified review period.” If the Planning Board does not meet the 70 day requirement and the applicant does not consent to waive the requirement, the site plan “shall be deemed to have been approved” (Prince George’s Code §§27-276-c, 27-285-c).
- For preliminary and site plans, the law specifies that the month of August and the period of December 20 to January 3 shall not be included in calculating the time periods.
- For a **record plat**, the code requires the Planning Board to take final action within 30 calendar days of acceptance, with the ability to extend to time period for an additional 30 calendar days with the written consent of the applicant. Additionally, the law requires that a final plat must be recorded among the land records of Prince George’s County within 180 days of the Planning Board’s notice of approval or that plat will no longer be valid (Prince George’s Code §24-119e-f).

The Prince George’s County Planning Department does not have an online reporting mechanism to show actual review times. The department’s flow chart for the preliminary plan process published online lists an approximate process time of 70-140 days, the same as required in the code.⁴ The flow chart for conceptual and detailed site plans lists an approximate process time of 3-4 months, or 90-120 days.⁵

4. Frederick County

Frederick County does not establish review timeframes in law, but instead has developed a pre-set review calendar. The Frederick County Community Development Division, Department of Planning and Development Review has established a three month (or approximately 90 day) schedule for review and approval of preliminary plans, site plans, record plats, and other approvals. The review schedule is set in advance for the entire year based on initial submission dates that occur once a month. From the initial submittal date, each application has pre-determined due dates for each agency review step, each applicant response or resubmittal step, and a date for approval by the Frederick County Planning Commission. As a result, an applicant will know approximately when a plan will be approved as long as all deadlines are met within the review process.

The Department of Planning and Development Review publishes the calendar online, and the 2014 review schedule is reproduced on the next page. The schedule builds into the review timeline the following components:

- Two formal staff review and comment periods, with three weeks allowed for the first period and two weeks allowed for the second period;
- Three formal submissions by the applicant, the initial submission plus two submissions in response to staff comments (the applicant is given approximately two weeks for responses); and
- Two Technical Advisory Committee meetings (similar to the Development Review Committee meetings in Montgomery County) that occur after both the second and third applicant submission.

If an applicant misses a deadline, the application is moved down one level to the next date on the calendar for that process step (but does not have to re-start the entire process). Similarly, the Department can put the application on a shorter review cycle by moving it up a level on the calendar if warranted.

⁴ <http://www.pgplanning.org/Assets/Planning/Development+Review/Subdivision-Preliminary+Plan+Chart.pdf>

⁵ <http://www.pgplanning.org/Assets/Planning/Development+Review/Conceptual+and+Detailed+Site+Plan+Chart.pdf>

COMMUNITY DEVELOPMENT DIVISION DEPARTMENT OF PLANNING AND DEVELOPMENT REVIEW

2014 Staff submittal schedule for items on 3 month review for Frederick County Planning Commission

3 Month Review Items: Preliminary Plats, Site Plans, Preliminary Plat Extension with Water/Sewer or Traffic APFO Tests, Planned Industrial/Commercial Plans, PUD Phase II Plans MXD Plans

Initial Submission ¹ (1 st Thursday)	Staff Meeting (Friday)	Staff Comments 3 week review (Thursday)	1st TAC Meeting ² (Mon-Wed)	2 nd Submission ^{6,7} (2 weeks from 1 st comments due)	2nd Submission Staff Comments (2 week review)	2nd TAC Meeting ^{2,4} (Mon - Tue)	3rd/Final Submission ^{5,6} (Monday)	Sign Posting ⁸ (Monday)	FCPC Submittal Materials and Project Renderings ^{5,6} (Monday)	FCPC MEETING ⁹ (2nd Wed)
January 2, 2014	January 10	January 23	January 27	February 6	February 20	February 24	March 3	March 10	March 17	April 9
February 6, 2014	February 14	February 27	March 3	March 13	March 27	March 31	April 7	April 14	April 21	May 14
March 6, 2014	March 14	March 27	March 31	April 10	April 24	April 28	May 5	May 12	May 19	June 11
April 3, 2014	April 11	April 24	April 28	May 8	May 22	May 27	June 2	June 9	June 16	July 9
May 1, 2014	May 9	May 22	May 26	June 5	June 19	June 23	July 7	July 14	July 21	August 13
June 5, 2014	June 13	June 26	June 30	July 10	July 24	July 28	August 4	August 11	August 18	September 10
July 3, 2014	July 11	July 24	July 28	August 7	August 21	August 25	September 2	September 8	September 15	October 8
August 7, 2014	August 15	August 28	September 1	September 11	September 25	September 29	October 6	October 13	October 20	November 12
September 4, 2014	September 12	September 25	September 29	October 9	October 23	October 27	November 3	November 10	November 17	December 10
October 2, 2014	October 10	October 23	October 27	November 6	November 20	December 1	December 8	December 15	December 22	January 14, 2015
November 6, 2014	November 14	November 27	December 1	December 11	December 25	December 29	January 5, 2015	January 12	January 19	February 11
December 4, 2014	December 12	December 25	December 29	January 8, 2015	January 22	January 26	February 2	February 9	February 16	March 11
2015										
January 1	January 9	January 22	January 26	February 5	February 19	February 23	March 2	March 9	March 16	April 8

1 - Application submittals will not be accepted after 12:00 pm (noon) of the date of Initial Submittal. Applications submitted after 12:00 pm (noon) of the date of Initial Submittal will be placed on the subsequent Initial 3 month review. Applications that do not meet the Initial Submittal requirements, which are 1) minimum submission requirements per the Zoning Ordinance, Subdivision Ordinance and relevant submission checklists and 2) payment of all appropriate fees (see fee ordinance), will be deemed incomplete and will not be accepted for review. At such time all minimum submission requirements are met, the application will be placed on the subsequent or appropriate Initial Submittal Schedule.

2 - Meeting dates can vary but should be scheduled within this timeframe, excluding weekends. Applicant will be notified of the time and date of the TAC meeting.

3 - Unless otherwise specified, Submission due falls on a date upon which County offices are closed, Items will be due the following business day.

4 - The 2nd TAC meeting is required unless the applicant is otherwise notified by the project planner. At the conclusion of the 2nd TAC meeting the project planner will make a determination whether the application can reasonably meet the upcoming 3rd submittal and sign posting deadline.

5 - Rendered site plans, modification justification statement, elevations, photographs and any additional information required by the planner assign to an application are due from the applicant and/or applicant's representative by this date.

6 - Any plan that is not submitted by the required Resubmittal Deadline may not be accepted and may be placed on the subsequent Initial Submittal schedule by the planner assigned the application, or his/her supervisor.

7 - The planner assigned the application or his/her supervisor may place an application on a shorter review cycle, if the application meets all Initial Submittal requirements (see item 1) and is not denied by any agency and is satisfactory to the planner assigned the application.

8 - Signs may be withheld if the planner assigned the application, or his/her supervisor, determines that there are substantial remaining conditions of approval and/or denials from a review agency.

9 - Applications may be withheld from FcPc meeting if the planner assigned the application, or his/her supervisor, determines that there are substantial remaining conditions of approval and/or denials from a review agency.

Source: <http://www.frederickcountymd.gov/index.aspx?nid=3456>

B. Development Review Metrics in Other Jurisdictions

This section provides examples of three jurisdictions – City of Raleigh, NC; Clark County, NV, and City of Austin, TX – that publish development review process metrics and/or performance measures. OLO specifically sought examples of jurisdictions that post and regularly update information online, as opposed to those that may collect and analyze these data for internal use or that provide performance measures as part of an annual budget submission. The three jurisdiction’s OLO summarizes below include slightly different models for publishing performance metrics:

- A single website dedicated to reporting performance metrics, which resulted from a larger effort to improve measurement and reporting.
- The creation of a “virtual” department to consolidate information on the development review process from multiple departments.
- Metrics that are published as part of a broader performance measurement initiative.

1. City of Raleigh, NC

In 2008, the Raleigh City Council formed a Development Services Advisory Committee (DSAC) to “review administrative policies and procedures to ensure consistent compliance with the City’s development standards, while proposing new ways to do so in measureable, predictable, transparent, cost-effective, seamless and efficient ways that provide the level of services that customers define.” The DSAC includes over 70 members from different fields within the land development industry, and is led by a 12-member Executive Leadership Group.

In 2009, the DSAC published a report with recommendations to improve Raleigh’s development services based around a set of five guiding principles: 1) predictability; 2) transparency; 3) efficiency; 4) consistency; 5) accountability. Some of the key recommendations from the DSAC report included:⁶

- Establish performance benchmarks that provide the review team with sufficient time for a complete review and provide the customer with a predictable process. Staff should establish a specific time period for each sequence and each queue in the plan review process, including a reasonable time for the customer’s consultants to respond to comments.
- Meet or exceed the established benchmark for response time for each review function 90% of the time within the first year following reorganization, with a 1% incremental improvement each year thereafter.
- Include regular, periodic reporting to an internet portal where the customer can see the progression of every plan review from discipline to discipline, including his/her own project plan review, without having to call or e-mail the review staff.
- The data collected from the on-line tracking system should be used for monitoring and reporting the effectiveness of the process, to identify obstructions and solutions to improving the process, as well as compare efficiency month-to-month and year-over-year to make sure the system adapts to changes in demand and continues to be effective.
- Once a set of plans are approved, the plans should remain approved and not subject to re-review by the same disciplines at another level of the development plan review process.

⁶ <http://www.tricc.org/docs/DSACreport020609.pdf>

Performance metrics. The City of Raleigh’s Office of Development Services has an online site dedicated to development review process performance.⁷ The site includes current and historical review process data, updated quarterly, that compare actual review time against benchmarks, detail plan approval rates per review cycle, and show the number of permits issued.

Raleigh’s quarterly performance reports include data on approximately 28 different review types. To exemplify the type and format of performance data, the table below summarizes the data on Preliminary Development Plan Reviews (required for preliminary and site plans) by review cycle for the first quarter of FY14. The entire set of first quarter reports from FY14 are included in the appendix at ©20.

**City of Raleigh Performance Data on Review Timeframes for Preliminary Development Plans
1st Quarter FY14 (7/1/13-9/20/13)**

# of Plans	Review Time			Number of Days Late				% Approved During Review Cycle
	Benchmark	Average Actual	% Meeting Benchmark	1-2 Days	3-4 Days	5+ Days	Not Yet Complete	
1st Review Cycle								
48	12 days	10.04 days	78%	8	2	0	1	0%
2nd Review Cycle								
27	12 days	9.30 days	74%	1	2	0	4	41%
3rd Review Cycle								
10	12 days	9.56 days	70%	0	2	0	1	30%
4th Review Cycle								
5	12 days	9.50 days	83%	1	0	0	0	26%

2. Clark County, NV

Clark County has two notable components related to the development review process, a web portal to create a “virtual” consolidated development and construction department and regular online performance reporting for certain review processes.

Virtual department. Clark County has developed an online site called PIER (Permit Inspections Electronic Reviews) that is a centralized web portal for all development and construction services across multiple County departments. PIER is described as “a one-stop, virtual department, combining online services for customers of Comprehensive Planning, Building Department, Fire Prevention, Public Works, and Water Reclamation”⁸ and directs users to the appropriate locations for:

- Land use applications;
- Paperless plan submittal and review;
- Electronic permits;
- Monitoring plan review status; and
- Managing inspections.

⁷ <http://www.raleighnc.gov/business/content/PlanDev/Articles/DevServ/DSPerformanceReports.html>

⁸ http://www.clarkcountynv.gov/depts/construction_svcs/pages/default.aspx

Online performance data. The County’s Building Department, which is responsible for construction plan review, permitting, and inspections, publishes an online dashboard that includes monthly and annual reports on workload and plan review performance against targets. The department publishes data on engineering plans review, construction plans review, inspections, and construction value.

The Department’s Plan Review Timeliness Report lists the time goal for each review type, the number of plans undergoing a first review, the average review time, and the percent of reviews that met the time goal broken down by project type and review type. The County’s performance goal is to complete 90% of first reviews for each review type within the time goal. To exemplify how Clark County reports performance data, the table below excerpts data from the April 2014 report (entire report in the appendix at ©25).

Clark County Performance Data on Select Plan Review Timelines, April 2014

Review Type	Time Goal	Plans Reviewed	Avg. Review Time	# of Plans not Meeting Goal	Target Goal %	% Goal Achieved
Commercial Projects						
Architectural	42 days	62	11 days	1	90%	98%
Structural		45	3 days	0		100%
Electrical		52	10 days	0		100%
Minor Commercial Projects						
Architectural	21 days	138	11 days	52	90%	62%
Structural		114	2 days	0		100%
Electrical		126	8 days	18		86%

3. City of Austin, TX

The City of Austin publishes development review performance data as part of a larger set of performance measurement information covering all City departments and services.

Review requirements in law. The Austin City Code (§§25-4, 25-5) establishes review timelines for multiple components of the City’s land development and permitting process, including:

- Initial staff review periods for a preliminary plan that differ based on size of the plan – a 21 day review period for a project less than 60 acres in size, a 28 day review for projects from 60 to 250 acres, and a 35 day review for project of more than 250 acres.
- Staff must provide a written report with comments and recommendation on an application for plat approval no later than 21 days after the application is filed.
- For most site plans, a decision from the Department of Planning and Development Review Director is required within 28 days after application filed, and 14 days after an application update is filed.
- For residential and commercial building plan reviews as part of the permitting process, the deadline for an initial review is seven days for residential new construction and 21 days for commercial new construction.

The code also allows the City to extend a review period one time with agreement of the applicant (§25-1-87), with no specific time limit on the extension referenced.

Performance metrics. Austin has published an online performance measures database since 2005 that “provides the public an opportunity to review the measures of each city department and helps maintain open communication and transparency with Austin residents.”⁹ For each of the measures in the database, Austin includes historical data by fiscal year and monthly tracking data for the current fiscal year.

The database includes measures for the Department of Planning and Development Review that detail how well the department meets some of the review timeframes established in the code and overall review cycle time, as shown in the table below.

City of Austin Plan Review Related Performance Data

Category and Measure	FY11 Actual	FY12 Actual	FY13 Actual	FY14 Target
Land Use Review				
% of on-time subdivision and site plan initial reviews	66%	47%	42%	50%
Residential Review				
% of on-time initial new residential zoning reviews	91%	84%	81%	85%
Cycle time for new residential zoning reviews	15 days	14 days	21 days	15 days
Commercial Building Plan Review				
% of initial commercial building plan reviews completed within 21 days	56%	22%	25%	80%
Average initial review time for new commercial construction	17 days	33 days	33 days	35 days
Cycle time for new commercial construction	75 days	77 days	96 days	70 days

⁹ <http://www.austintexas.gov/budget/eperf/index.cfm?fuseaction=home.MAIN>

Chapter VII. Findings

This chapter presents the Office of Legislative Oversight’s findings from our review of the preliminary plan, site plan, and record plat approval processes and timeframes organized to parallel the structure of chapters in the report.

Prior Development Streamlining Efforts

Finding #1. Efforts to streamline Montgomery County’s development approval process are not new, and a desire to reduce approval timeframes has been a consistent theme.

OLO reviewed eight different former or ongoing studies, reports, work groups, initiatives, and legislation since 1992 that directly or indirectly address streamlining the development approval process. Taken together, these various efforts show:

- A long-term, sustained interest in improving the function of the County’s development approval process. Substantial time, effort, and work have been put into these efforts by staff of multiple governmental entities, appointed and elected officials, and members of the public.
- Despite the implementation of many process improvements or fixes, similar issues seem to arise over and over again.
- Decreasing the amount of time it takes to complete development approval processes is a common goal listed in many of the efforts. However, except for the 1992 DAP study, none of the prior studies have conducted a detailed timeframe analysis as part of the scope of work.

Preliminary and Site Plans

Finding #2: For preliminary and site plans approved by the Planning Board since FY10, a typical new plan takes 12 to 15 months to complete the process and a typical amendment takes between four to 12 months.

To examine timeframe data for preliminary and site plan approvals, OLO used data collected by the Planning Department to develop a dataset of 415 plan applications that completed a regulatory hearing and approval process between FY10 and mid-year FY14. OLO calculated the total elapsed time from the date an application was deemed complete by Planning Department staff to the certified plan date for both new plan applications and amendments to previously approved plans.

Completion Data for Amendments and New Plan Approvals since FY10

Application Type	# of Plans	Approval Timeframes	
		Median	Range (Min-Max)
New Plan Approvals			
New Site Plans	54	364 days	119-3,128 days
New Preliminary Plans	128	474 days	151-3,128 days
Amendments			
Administrative Site Plans	111	111 days	24-1,072 days
Consent Preliminary Plans	8	134 days	39-374 days
Consent Site Plans	25	169 days	77-937 days
Limited Preliminary Plans	42	229 days	23-629 days
Limited Site Plans	39	198 days	80-1,204 days
Major Site Plans	8	396 days	222-790 days

Of note, the data show a wide range of approval timeframes – from 119 days to 3,128 days for new plans, and 24 days to 1,072 days for amendments. For both new approvals and amendments, a comparison of average versus median timeframe data indicates that the median value is more reflective of a “typical” approval timeframe.

Finding #3: An analysis of approval data by Planning Department review time versus applicant response time indicates that, except for new preliminary plans, applications spend at least 70% of approval days undergoing staff review.

The Planning Department tracks “stop days” for each application, defined as the period(s) of time between the first DRC meeting date and the hearing date when an applicant’s revisions are pending and Planning staff are not actively reviewing the plan. As a result, stop days reflect the Planning Department’s determination of what portion of the overall review time is the responsibility of the applicant. While the determination of stop days can be subjective and may not capture the exact breakdown of staff and applicant clock times for each individual application, taken as a whole the data does provide a general indication of how the distribution of review time varies by application type and whether the burden of resolving review issues falls on Planning staff or the applicant.

Data showing the estimated staff review time versus applicant response time is displayed below. For new preliminary plan applications, the applicant’s share of total completion time is estimated at 56% and the agency staff’s share is 44%. For the seven other application types, the agency staff shares are 70% or more. This may indicate that for preliminary plans, applicants are required to bear more responsibility for resolving the issues necessary to transform a completed application into an approval.

Estimated Distribution of Approval Time Data for Amendments and New Approvals

Application Type	Planning Staff Review Days		Applicant Response Days	
	Total	%	Total	%
New Plan Approvals				
New Site Plans	18,458	71%	7,712	29%
New Preliminary Plans	36,672	44%	47,235	56%
Amendments				
Administrative Site Plans	14,720	80%	3,611	20%
Consent Preliminary Plans	1,244	91%	122	9%
Consent Site Plans	5,780	97%	187	3%
Limited Preliminary Plans	7,912	72%	3,063	28%
Limited Site Plans	9,096	82%	2,013	18%
Major Site Plans	3,095	90%	357	10%

Finding #4. For new preliminary and site plan applications, the post-Development Review Committee (DRC) period takes the most time. The median time to complete this period was 129 days for site plans and 315 days for preliminary plans.

Preliminary and site plan reviews include both a pre-decision and post-decision phase. The pre-decision phase is from the completed application date to the hearing date, and includes a **pre-DRC review period** (time from a completed application to the first DRC meeting) and the **post-DRC review period** (time from the first DRC meeting to the hearing date).

The post-decision phase is from the hearing date to the certified plan date, and includes the **resolution period** (time from the hearing date to the resolution mailing date) and the **plan certification period** (time from the resolution mailing date to the certified plan signature date). Approval data by phase for new preliminary and site plan application shows:

- Approximately 56% of new site plan approval time is spent in the pre-decision phase, with 44% in the post-decision phase. The lengthiest review periods occur during DRC evaluation and plan certification.
- Approximately 78% of new preliminary plan time is spent in the pre-decision phase with 22% in the post-decision phase. The DRC evaluation is by far the lengthiest review period.

Approval Timeframes for New Site and Preliminary Plan Applications by Phase

New Approval Type	Median	Range (Min-Max)
Site Plans (n=54)		
Pre-Decision Phase		
Pre-DRC Review Period	39 days	0-154 days
DRC Evaluation	129 days	52-2,886 days
Post-Decision Phase		
Resolution Period	40 days	5-178 days
Plan Certification	110 days	7-1,490 days
Preliminary Plans (n=128)		
Pre-Decision Phase		
Pre-DRC Review Period	40 days	25-1,571 days
DRC Evaluation	315 days	15-2,901 days
Post-Decision Phase		
Resolution Period	50 days	5-313 days
Plan Certification	41 days	0-893 days

Finding #5. Actual processing time data for new preliminary and site plans phases exceeds various processing time assumptions identified in County law, the Planning Board’s procedural rules, or agency memorandums of understanding.

Comparing the distribution of site plan and preliminary plan completion data by the four process periods with processing times identified in County law, the Planning Board’s procedural rules or the 2010 Memorandum of Understanding shows that disconnects exist between these various processing assumptions and actual approval times over the past four years. Specifically:

- **Pre-DRC period.** The Planning Board’s Development Review Manual states a DRC meeting is scheduled every 21 days, and Planning staff report a working assumption of 35 days to complete the pre-DRC period. The data show that only 46% of site plans and 26% of preliminary plans met this 35-day timeframe.
- **Post-DRC period.** Combining timeframes found in the Development Review Manual and the 2010 lead agency conflict resolution MOU suggest an assumption of 90 to 120 days to complete this phase is reasonable. The site plan data show 27% of approvals completed this phase in 90 days or less and 42% complete it in 120 days or less. For preliminary plans, 8% of approvals completed this phase in 90 days or less and 12% in 120 days or less.

- **Resolution period.** The previous Board Chair have suggested that a two-week turnaround time for this phase is reasonable. The data shows 37% of site plan approvals and 34% of preliminary plan approvals complete this phase is 30 days or less. In the spring of 2012, the current Board Chair instituted a practice of approving resolutions on the same day as the hearing. Resolutions mailed since July 2013 shows completion rates have improved. Specifically, 47% of resolutions for site plan approvals and 55% of those for preliminary plan approvals were completed in 30 days or less.
- **Plan certification period.** The procedures in the Development Review Manual specify that it is a two step process, but no time limits for this period are identified. A further limitation is that Planning staff review work on plan certification cannot begin until the applicant has received the approved resolution. If 60 days were assumed as a reasonable timeframe for plan certification, the data show 26% of site plans and 61% of preliminary plans would have met that goal.

Combining specified or assumed timeframes for each phase (30 days for the pre-DRC review; 90 to 120 days for the DRC evaluation; 15 days for the resolution period; and 60 days for the plan certification) yields a total processing time of 195 to 215 days or 6 or 7 months. The actual median times for the entire site plan process (364 days) and the entire preliminary plan process (474 days) are well above those times.

Finding #6. Feedback from agency staff and representatives of the building/development industry identify several factors that can impact the timeline for preliminary and site plan reviews.

OLO met with staff from the departments involved in the preliminary and site plan review process and representatives of the building and development industry to get feedback on the review process in general, and specifically on the review timeframe data compiled by OLO. Common themes on factors impacting review timelines from each group are listed in the table below.

Agency Staff	Building/Development Industry Representatives
<ul style="list-style-type: none"> • The number and complexity of land development regulations in the County are a factor in extending review times. • Development proposals that differ from adopted plans or existing standards require additional review time. • Agency discussions to address the time limits in the new Zoning Ordinance are pending. • Since current DRC practices are not achieving better results, they need to be revisited. • Staff recognize the importance of tracking data but note that it does not cover every scenario. • Concept plans are a promising way to reduce plan review times but previous experience suggests getting unanimous buy-in from agency staff is difficult. • Case management services have improved customer satisfaction but their effect on review times is unknown. 	<ul style="list-style-type: none"> • The current management of the preliminary and site plan review processes does not include effective time limit controls, focusing on end results at the expense of timeliness. • The “stop days” calculation during a plan review can be impacted by an applicant waiting to receive feedback on a proposal or option from agency staff. • Experiences in other jurisdictions with more stringent development review timeframes has been positive – greater certainty for applicants and high quality developments for the community. • Development applications are often complex, and review timelines can be extended because County agencies are wary of making a “wrong” decision. • The Development Review Committee (DRC) process remains lengthy and cumbersome, and intake review remains a problem. • Decisions made at the preliminary plan stage are sometimes revisited during site plan review and can require resubmission.

Record Plats

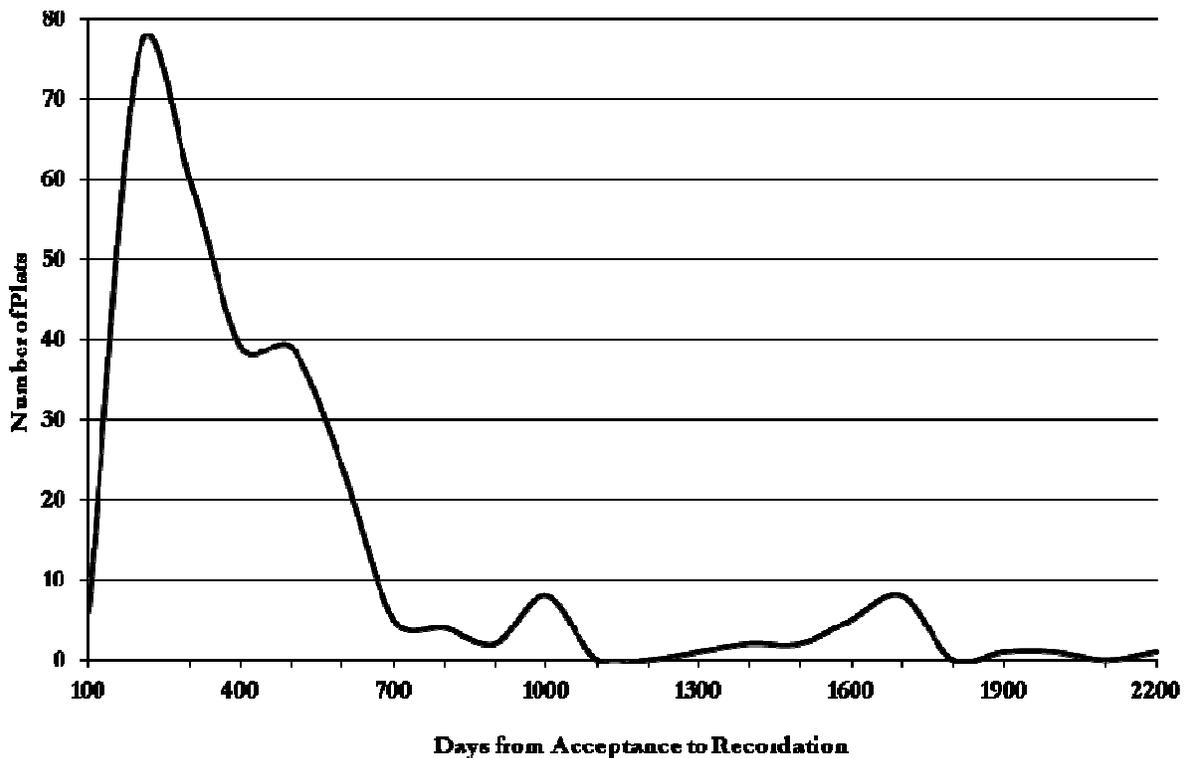
Finding #7. Data on record plats approved during FY12 and FY13 indicates that the review and approval process lacks reliable and consistent timing. The median elapsed time from application acceptance to recordation was 299 days, with the range extending from a low of 65 days to a high of 2,383 days.

To examine timeframe data on the entire record plat approval process (including approval by the planning Board, approval by DPS, and the actual plat recordation) OLO developed an independent data set using all the record plats that were approved by the Planning Board in FY12 and FY13. OLO calculated the elapsed time (in calendar days) between application acceptance and Planning Board approval, DPS approval, and final recordation. Key information from the dataset includes:

- The range of approval timeframes is extremely large, with the longest timeframe until final recordation (2,383 days) nearly 37 times longer than the shortest timeframe (65 days).
- The median elapsed time from application acceptance until recordation was 299 days. The average time until recordation was substantially higher, 423 days, indicating a skewed (i.e., non-normal) distribution.
- The median approval timeframe was over twice as long for record plats that were required as part of a preliminary plan compared to plats that qualified as a minor subdivision.

A frequency distribution for the record plat data displayed in the chart below shows that the distribution is skewed to the right. As a result, the median (as opposed to the average) is the best indicator of a “typical” timeframe for these record plat data.

Frequency Distribution for FY12-13 Record Plat Approvals (elapsed time until recordation)



Finding #8. Actual record plat review and approval timeframes during FY12-13 substantially exceed published agency guidelines. However, the total elapsed time data combines active agency review time with applicant revision/resubmittal time.

Data collection and reporting on record plat review and processing times is done at the individual agency/department level. Data on record plat approval timeframes were not routinely tracked and reported by either reviewing agency until the Planning Department began publishing data on the average time from application acceptance until Planning Board approval as part of its Annual Report on Development Application Submissions and Processing.

While not performance targets, there are review time guidelines included in the County Code and in published agency process documents. The record plat review data from FY12-13 indicate that those published guidelines are not met. Specifically:

- None of the record plats approved by the Planning Board fell within the 30 day approval window established in Chapter 50 of the County Code.
- Only five of 284 plats were recorded within the 14 week, or 98 day, estimated approval timeframe from the *Record Plat Approval Process* flowchart last updated in May 2009.

One issue related to using total elapsed time until plat approval and/or recordation as a performance measure, however, is that it does not make a distinction between the amount of time an application is under active review by an agency versus the time it is with the applicant to make revisions and corrections as required by the reviewing department.

Staff from both the Planning Department and DPS acknowledge that the existing review targets or guidelines are out of date and do not reflect current experience. As a result, the agencies' have begun developing revised review timeframes and/or performance targets through the Executive's Streamlining Development Initiative. Additionally, agency staff report that the ePlans system will allow for tracking and reporting data that distinguishes between agency and applicant time during the review process.

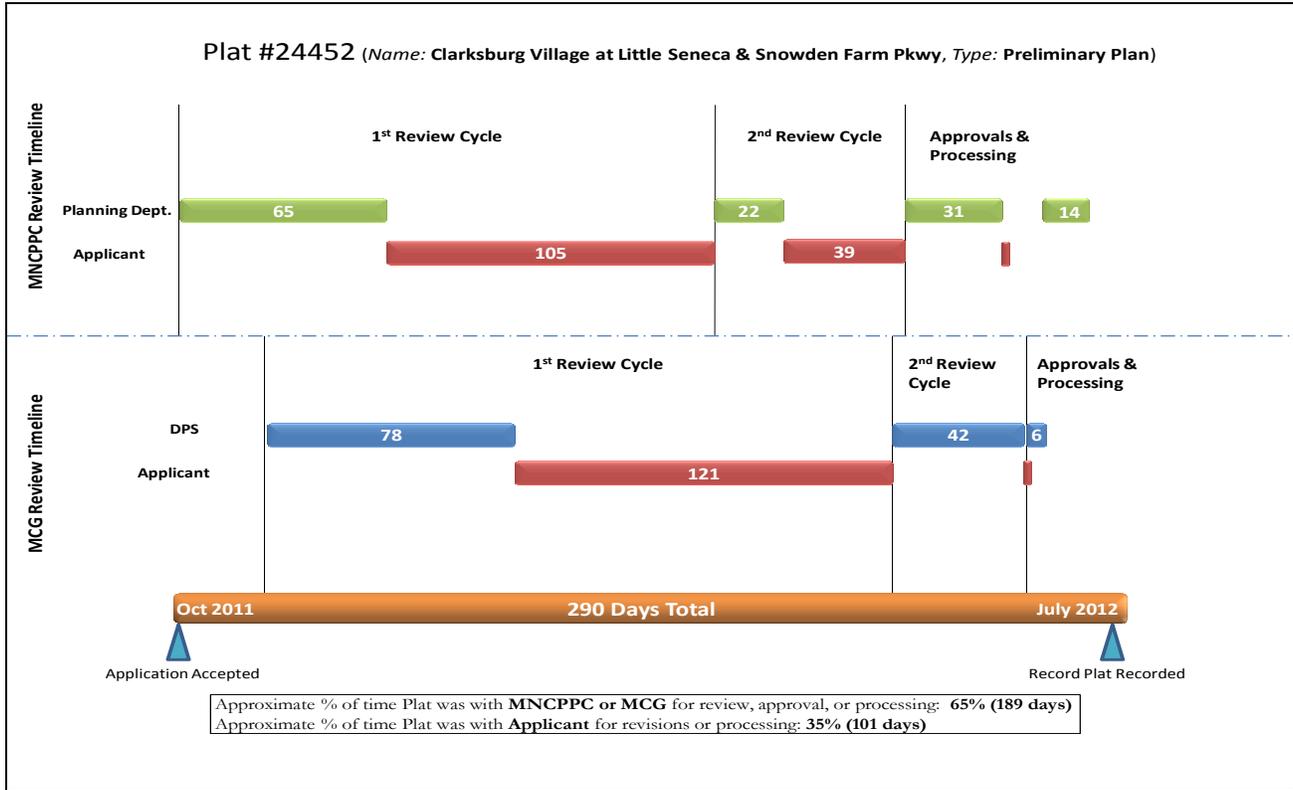
Finding #9. Record plat review process data from 19 case studies indicate a high degree of variability within review cycle timeframes and the amount of time the application is with reviewing agencies versus the applicant.

Planning Department and DPS staff provided detailed information from case files on the actual review process for 19 case studies. OLO used this information to create timeline charts (for 17 of the case studies) that break down the actual time for each stage in the review process and to develop summary data on review cycle times (for all 19 case studies).

Data derived from the record plat timeline charts (example below, for all charts see Chapter IV) show that the estimated percent of time a record plat was under review by Planning and/or DPS compared to with the applicant for response/revision ranged widely with no two case studies having the same percent breakdown. Notably, among the case studies:

- The estimated percent of time a record plat was with a review agency ranged from 8% to 97%. Similarly, time assigned to an applicant ranged from 3% to 92%.

- The 10 plats below the median approval timeframe of 299 days all had agency review time exceeding 50%, while the seven plats above the median timeframe all had applicant time exceeding 50%.



The case study data also shows variability for review cycle time at each stage and for each participant of the process. For the Planning Department, 50% of the case studies required one review cycle, 33% required two review cycles, and 17% required three or more. For DPS, 32% of the case studies required one review cycle, 32% required two review cycles, and 36% required three or more. In terms of review cycle timeframes:

- The Planning Department had a median timeframe of 47 days to complete its first review, with a median of 43 days for the applicant to respond. Review cycle timeframes decreased for both the Planning Department and the applicant in subsequent review cycles.
- For all review cycles, Planning Department review times ranged from zero to 150 days while the applicant response times ranged from zero to 1,628 days.
- DPS had a median timeframe of 33 days to complete its first review, with a median of 99 days for the applicant to respond. Review cycle timeframes decreased for both DPS and the applicant in subsequent review cycles.
- For all review cycles, DPS review times ranged from one to 184 days while the applicant response times ranged from one to 1,918 days.

Finding #10. There is little overlap among the issues and items reviewed by the Planning Department and DPS during the record plat review process.

Under County law, record plats in Montgomery County must be approved by both the Planning Board and the Department of Permitting Services before being recorded. When reviewing a record plat application, agency staff review up to 50 items or issues that generally fall into four categories:

- Verify inclusion of standard, required record plat elements;
- Review for compliance with prior Planning Board approvals;
- Review the completeness and accuracy of the subdivision plan drawing; and
- Review for compliance with existing or newly required easements, agreements, covenants, or other necessary documents.

OLO found that, while the agency review processes overlap, there is little redundancy among the specific items and issues staff from each agency review. That is, in most cases staff from different agencies are not reviewing the same elements on the record plat. The table on page 34 shows the division of review responsibilities, as well as which review elements stem from legal requirements and which stem from agency policy or practice.

Finding #11. The record plat review process lacks consistent coordination between the approving agencies. Implementation of ePlans for record plat review provides an opportunity to improve inter-agency coordination.

Once a record plat application is accepted, the Planning Department and DPS begin (mostly) simultaneous but separate review processes. While Planning and DPS staff note that they communicate about individual applications during the review process as needed, the current process structure does not result in consistent coordination between the agencies.

Reviewing the timeline graphs for the record plat case studies shows that the agency review cycles do not typically occur concurrently (i.e., they do not begin and end at the same time). As a result, review staff from the two departments may not be aware of required plat corrections the applicant has received from the other agency, and the applicant may have to prepare multiple sets of revisions.

Additionally, in one of the case studies reviewed by OLO the record plat application was approved and signed by the Planning Board before the applicant ever submitted the application to DPS for review. While this was likely a unique circumstance, it highlights the coordination and communication issues that can arise under this review structure.

The planned revisions to the review process under ePlans could go a long way toward improving these coordination issues by: 1) synchronizing the Planning Department and DPS review cycles; 2) coordinating the comments/corrections required by agency review staff into a single submission; 3) eliminating the need for applicants to submit an additional set of application materials to DPS once the application is accepted by the Planning Department; and 4) requiring DPS to approve and sign a plat before Planning Board approval.

Finding #12. Feedback from agency staff and representatives of the building/development industry identify several factors that can impact the timeline for record plat reviews. A review of the data confirms many of these observations.

OLO met with staff from the departments involved in the review process and representatives from the building and development industry to get feedback on the record plat review process in general, and specifically on the review time data compiled by OLO. Common themes on factors impacting review timelines from each group are listed in the table below.

Agency Staff	Building/Development Industry Representatives
<ul style="list-style-type: none"> • Applicants can lengthen overall review timelines by not submitting corrections in a timely manner. • Initial record plat submittals can be “incomplete” and lack sufficient detail, adding additional review cycle to the process. • Multiple reviews cycles can result due to insufficient applicant responses to agency comments. • Quality of technical expertise varies widely among applicants, with lower levels expertise resulting in submittals with longer reviews. • Not all agency review time is spent actually reviewing the plat, as workload volume impacts how long it takes staff to begin the review. • Waiting for prior or concurrent required approvals (such as grading and paving plan approvals) can lengthen the agency review time. 	<ul style="list-style-type: none"> • DPS and Planning review times can be excessive and unpredictable, in particular for the first review cycle. • DPS and Planning lack a standardized system for establishing and communicating record plat review guidelines, leading to uncertainty for the applicant during the process. • At times, DPS and Planning change a record plat review “policy” without sufficient notification. • Planning and DPS are inconsistent in the timing of when they ask for and require items during the review process. • Electronic plan submission and review can improve efficiency, but requires sufficient advance notice and training to maximize effectiveness. • The multiple times an applicant has to pick-up and drop-off the record plat between the two reviewing agencies is inefficient. • Small changes or improvements could help to reduce review times.

OLO was able to find examples in the case studies of many factors cited as causing potential delays, indicating that there is not a single factor or point in the process that is responsible for lengthening review and approval time. Instead, it is a combination of multiple factors that can occur independently or simultaneously.

Timeframes and Metrics in Other Jurisdictions

Finding #13. Surrounding County jurisdictions have different approaches to development review timeframe goals and requirements. Additionally, multiple approaches exist for ongoing reporting of development review performance metrics.

OLO reviewed the development review timeframe goals and/or requirements for preliminary plans, site plans, and record plats included in the laws or policies of four surrounding jurisdictions. Notable elements for timeframe goals, requirements, and/or reporting for each are summarized below.

- **Fairfax County**, based on State and County law, has a 60 day action deadline to approve or disapprove a plan or plat and then a 45 day action deadline for a plan or plat that has been resubmitted after disapproval. In effect, these deadlines create time limits for review cycles but not necessarily the entire approval process. In 2013, Fairfax began publishing online the average departmental review times for certain plan type, including site and subdivision plans, “to assist industry and homeowners who submit these plans with planning their future projects.”
- **Howard County** establishes a system of maximum review and approval timeframes for both the County and the developer/applicant via its Subdivision Regulations, specifically: 60 days of “active processing time” for an initial County decision, 45 days for the applicant to submit any revisions, and 45 days for the decision on the resubmission. The law defines “active processing time” to exclude time waiting for additional information or revisions from the applicant, and also includes provisions for automatic approval or disapproval if the deadlines are missed by the County or the applicant. Similar to Fairfax, the law does not limit the number of review cycles.
- **Frederick County** does not establish review timeframes in law, but instead has developed a pre-set, three-month review and approval calendar. The review schedule is set in advance for the entire year based on initial submission deadlines that occur once a month, with pre-determined due dates for each agency review step, each applicant response or resubmission step, and final Planning Commission approval. If an applicant misses a deadline, the application is moved down one level to the next date on the calendar for that process step (but does not have to re-start the entire process). Similarly, an application can be moved up a level on the calendar if warranted for a shorter review cycle.
- **Prince George’s County** includes review and approval timeframe requirements in law ranging from 30 to 140 days depending on plan or plat type. The law does allow for time extensions with the consent of the applicant, and for preliminary and site plans it notes that the month of August and the period of Dec. 20 to Jan. 3 are not included in calculating review timeframes.

OLO also sought examples of jurisdictions that regularly publish development review process metrics and/or performance measure online, and found different models for this as well.

- The **City of Raleigh, NC** has a dedicated webpage for quarterly reporting on development performance metrics, including comparisons of actual review times against benchmarks.
- **Clark County, NV** publishes an online dashboard with monthly and annual data on plan review performance against targets, and also has started a “virtual department” – a centralized web portal that consolidates information on the development review process from multiple departments
- The **City of Austin, TX** publishes annual and monthly development review performance data as part of an online performance measurement initiative covering all City departments and services.

Chapter VIII. Recommendations

The Office of Legislative Oversight's analysis of preliminary plan, site plan, and record plat approvals in Montgomery County shows lengthy and highly variable completion times. Despite numerous sustained efforts to streamline the development approval process, achieving shorter approval timeframes has been an elusive goal. Current initiatives hold promise for improvement in several areas; however, ongoing Council oversight and attention to development approval processing is warranted, particularly given Montgomery County's multi-agency governance structure for administering development approvals.

This chapter presents OLO's recommendations for Council actions in two parts:

- Part 1 proposes a Council structure for oversight of development approvals, i.e., review process metrics and performance targets, a data system, and a reporting structure; and
- Part 2 proposes an enhanced communication and information delivery structure for record plats.

PART I: COUNCIL OVERSIGHT STRUCTURE FOR DEVELOPMENT APPROVALS

Experience from other jurisdictions suggests establishing, publicizing, and regularly reporting on realistic timeframe targets can lead to greater reliability and more predictability for both applicants and the reviewing agencies. OLO recommends that the Council use a performance management approach to strengthen its oversight of development approval processing times.

The pre-requisite steps for a sturdy performance management system include defining a set of performance benchmarks and targets, instituting a reliable data system, and developing a structure for periodic performance reports. To address the issues identified in this report, OLO proposes establishing a three-part Council oversight structure that has: 1) pre-set development approval timeframes and performance targets; 2) a data system that captures and reports accurate agency and applicant review times; and 3) a reporting framework that holds both agency staff and applicants accountable for results.

The premise of this approach is that the Council must convey clear expectations for development approval outcomes and commit to periodic results monitoring with agency staff and industry representatives to achieve shorter development approval times.

Recommendation #1: Establish pre-set development approval timeframes and targets for record plat, preliminary plan, and site plan approval processes - including metrics for review cycles, phases, and periods within each process

Agency development and reporting of performance metrics is a work in progress. As part of the Executive's Streamlining Initiative, DPS and Planning Department staff report that they are developing new performance metrics for development review approvals. Additionally, Council Resolution 17-859 on the joint reporting of development processing times requires a series of regular reports to the Council over the next four years on development approval timeframes.

These agency data efforts may provide a useful starting point for the Council's establishment of approval timeframes and performance targets for record plat, preliminary plan and site plan approvals. This set of metrics should include timeframes for both an entire approval process and its sub-parts.

To more closely align these agency efforts with the development of a Council oversight structure, OLO recommends that the Council request that DPS and the Planning Department's new metrics include review cycle metrics for record plats and phase and period metrics for preliminary plans and site plans and that these proposed approval timeframes and targets include the components detailed below.

Record Plats. Target approval timeframes for the record plat process should reflect joint agency times instead of disaggregated time for each agency, to help create greater predictability and clarity in the review process for both agency staff and applicants. In addition to reporting total timeframes, the data should focus on the component parts of the review:

- Specific agency review time targets for each phase of the review process, i.e. each review cycle and approval/processing time.
- Agency review time targets for each review cycle that decrease after the first cycle. For example, if the agency review target was 28 days for the first review cycle, the timeframe might reduce to 21 days for the second review cycle, and 14 days for the third or greater review cycle.
- Maximum resubmission timeframe targets within each review cycle for applicants, and giving priority follow-up review to resubmissions that meet the timeframe targets.
- Establish agency performance standards for each step of the process. Similar to examples OLO found in other jurisdictions, in addition to establishing targets the agencies should develop a performance standard for meeting the target timeframes for each step (e.g. 70% of reviews meet the target in year 1, 75% in year 2, etc.).

Preliminary and Site Plans. Pre-set target timeframes for these approvals should be developed in conjunction with the overall time limits in the new zoning ordinance and other published documents. These should include specific agency review time targets for each phase (pre-decision and post-decision) and period (pre-DRC review, DRC evaluation, resolution period, and plan certification).

Recommendation #2: Establish a data system that captures and reports accurate agency and applicant review times

In the past, data has not been readily available for preliminary plans, site plans, and record plats to accurately assess agency review time versus applicant response time. The move towards electronic plan application and review under ePlans will allow for tracking, collecting, and reporting of this data.

A performance management structure can only be as good as the data that supports it. As such, it is important to ensure that agency data systems are set up to collect and track data that aligns with the desired outcome results and that all agency staff who use the system are trained to implement data fields (e.g., stop days) consistently. As a result, OLO recommends that the Council request that the review agencies establish a data system that will track and collect the same types of detailed timeframe information developed by OLO along with the information requested as part of the pre-set timeline targets in Recommendation #1. Additionally, the data system should be able to capture workload data to see how workload flows impact review timeframes and to help the agencies determine and adjust staffing levels.

Recommendation #3: Create a regular reporting structure to the Council and the public to enhance transparency of and accountability for the development review processing data.

In addition to receiving the processing time reports under Council Resolution 17-859, the Council (via the PHED Committee) should hold a performance improvement worksession every six months with agency staff and industry representatives to address issues related to the design and implementation of this data oversight structure; to review the actual performance results; and to address the relationship of the oversight structure to other ongoing efforts.

Performance metrics alone will not shorten development approvals; an ongoing management presence is required. Since it is likely that the process time improvements will be gradual, a series of ongoing worksessions will be required. These meetings will also allow the Council to combine oversight of approval timeframes to other ongoing management improvement efforts of agency staff.

Finally, an oversight approach that tracks performance improvements over time will also allow the Council to re-assess the approval timeframe metrics and performance results one or two years after the full implementation of ePlans. If the results continue to fall short of expectations at that future date, the Council can re-consider the other alternative ways to shorten approval times that various streamlining efforts have suggested over the years such as adopting more stringent review timeframes in law, re-visiting the governance structure for development approval review authority, etc.

Online process time reporting. Similar to other jurisdictions, the Council should also request that the reviewing agencies develop a single, online location to make detailed data on review timeframes (including agency and applicant performance metrics) available to the public. This data should be regularly updated in conjunction with reports provided to the Council.

PART II: ENHANCED COMMUNICATION AND INFORMATION STRUCTURE FOR RECORD PLATS

Recommendation #4. Request that DPS and the Planning Department jointly improve communication and information delivery processes for record plats, including a coordinated online presence.

A byproduct of Montgomery County's multi-agency governance structure for development approvals is that information and details on the record plat review and approval process is dispersed across multiple departmental websites. Additionally, feedback from representative of the building and development community indicate that communication can be a source of frustration and delay.

OLO recommends that the Council request DPS and the Planning Department enhance the communication and information delivery structure for record plats as follows:

- Develop an enhanced online location for all record plat application and review materials and information to include a published list of review responsibilities. This could include creating a single web portal for all record plat information, or creating "mirrored" sites on both departments' websites so that the same information is available on both.
- As part of the transition to ePlans, eliminate the need for an applicant to fill out and submit record plat applications to three different reviewing agencies. Instead, develop a single application that includes all information needed.
- Establish and publish a clear checklist of what materials/information will be required during the review process, including a list of additional materials that may be required if certain circumstances apply (e.g., title report).
- Commit to a proactive communication structure that provides notification to the building and development community whenever a department changes a record plat review policy, practice, or guideline (e.g., changes in how reviews will be conducted, what is required for a review, review responsibilities, etc.).



MEMORANDUM

To: Sue Richards, Senior Legislative Analyst
Craig Howard, Legislative Analyst
From: Rose Krasnow, Deputy Director
Date: July 23, 2014
Subject: Review of Final Draft OLO Report 2014-10: Review and Approval Times for Preliminary Plans, Site Plans and Record Plats.

Thank you for the opportunity to comment on the Final Draft of OLO Report 2014-10. Planning staff sent technical comments on July 18, 2014, and this Memorandum is the agency's written response to the content of the report. I wish to address preliminary and site plan review times separately from record plat review times since the ways we have addressed these issues are different.

Preliminary and Site Plans.

The report does an excellent job of describing our process and establishing the fact that our review times are too long. However, it fails to take into account the many changes that have been put in place over the last two years that we believe have already improved the review times for preliminary and site plans as well as several ongoing changes that should continue to do so. First, using ePlans for the electronic submission and review of plans ensures that all reviewers are looking at the same set of plans, that they can see the comments made by other agencies to more quickly identify possible conflicts, and that applicants will receive a single, consolidated list of comments that can then be addressed all at once, instead of receiving comments piecemeal from each agency. Second, the new zoning ordinance should save additional time because it greatly simplifies the language, meaning that less time will be spent in trying to interpret the meaning of the code. It also calls for reviews to occur within a 120 day time period, which means that agencies will have to resolve their differences in a timely manner. We anticipate that this will result in the MOU which was signed by all of the agencies and sets forth who has Lead Agency authority for each issue and how to elevate certain issues to a higher level of management when staff cannot work out a solution in a timely manner being invoked on a regular basis. To meet the time frame called for by the code, the Planning Department will be publishing a schedule beginning in 2015 that will specify the dates that need to be met for each step in the process, from initial acceptance of an application to the Planning Board Hearing date. This will also include time frames for applicant resubmissions that address staff comments, something which does not exist today. The changes called for in the new code give us an excellent opportunity to launch further procedural changes to the development review process. Our Director, Gwen Wright, has made streamlining the review process one of her top priorities for FY '15, incorporating some of the ideas she put in place during her tenure as Development Review Chief in Alexandria. The Planning Department hopes to initiate new processes, such as asking applicants to voluntarily submit a concept plan prior to any formal

plan submission so that the reviewing Agencies can provide applicants with meaningful input about possible deal breakers. Working these issues out in advance of plan submittal should enable expedited reviews of preliminary plans. Of course, in order for this effort to be successful, we will need cooperation from all agencies and for review staff to be empowered to make decisions that will not be altered or questioned at later stages.

Record Plats

We strongly believe that our review times for record plats will be greatly improved with changes we have already implemented. Since 2012, and as part of the County's Streamlining efforts, the Planning Department and DPS have worked with representatives of MNCBIA to clarify the information that must be shown on record plats. A working group was formed that identified which notes need to be included on plats and then standardized all those notes. In addition, we have developed a format for multi-page plats, which developers have told us will be beneficial. The biggest change which we are in the process of implementing now is the electronic submission and review of record plats. We believe that ePlans will address many of the OLO staff concerns. The changes include:

1. Applicants submit plat applications, drawings, and all supporting documentation directly to the Planning Department.
2. Once the application is deemed complete, the Planning Department assigns the plat to appropriate agencies for review, thereby eliminating the need for applicants to make a separate submission to DPS.
3. All review agencies electronically review and comment on the same drawing with each reviewing agency being able to see other agency comments.
4. Once each reviewing Agency completes their reviews the Planning Department's lead reviewer sends consolidated comments to Applicants. Applicant receives all comments at the same time.
5. Applicant resubmits the revised record plat through ePlans and plats are reassigned to each review Agency to repeat the process until complete.
6. Since plats require the signature of both the Planning Board Chairman and DPS, we have instituted a requirement that all plats must be signed by DPS before the Planning Board hearing occurs. This will prevent plats from having to return to the Planning Board for the County Executive Agencies will have already concurred with the plat before the Planning Board approves the plat.

We believe these changes will make for greater transparency and accountability during the plat review process. The process changes enabled by ePlans will also allow the Planning Department to determine who is causing delays during the review process. Right now applicants receive comments separately from the review agencies, and they submit revised plats directly to the commenting Agency. Under the ePlans process there is only one entry portal and all applicants will be required to use this avenue to make initial submissions and resubmissions, which is an improvement from the previous system.

On a more general note, we again want to stress how much the outliers can affect the average

review times. If you review 10 plans in 60 days each, but one plan takes 1500 days, the average for all of the plans goes up to 190 days. Although the report states that it is better to look at the median rather than the average times, we are concerned that this still does not capture our more usual review times. As we discussed when we met with you, in almost every case, there is a perfectly good explanation for the extremely long amounts of time involved in completing reviews for these outliers. In one case in Clarksburg, for example, the area went into moratorium due to a lack of school capacity so even though the plan had been submitted, we could not take it to the Board. In the case of record plats, the Council has tried to protect the entitlements of developers during these difficult economic times by extending their validity periods for up to six years. This means that many developers have approved record plats that they have not yet recorded, so the calculated time between submission and recordation stretches on and on. It would be a worthwhile endeavor to eliminate the outliers to get a better snapshot of our usual processing times.

We also would like to point out that while you include the schedules and time frames of other jurisdictions, we do not have any evidence that they actually meet these time frames. As a search of the literature indicates, every jurisdiction seems to be looking for ways to streamline their review process.

Once again, we thank you for the opportunity to comment on the Final Draft, and we look forward to instituting changes that will improve review times for all regulatory plans and record plats.



OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

July 24, 2014

TO: Chris Cihlar, Director, Office of Legislative Oversight

FROM: Timothy L. Firestine, Chief Administrative Officer *Timothy L. Firestine*

SUBJECT: OLO Draft Report 2014-10: Review and Approval Times for Preliminary Plans, Site Plans, and Record Plats

Thank you for providing a copy of OLO Draft Report 2014-10, which examines challenges in the development review process. It is exactly these challenges that led the County Executive to launch the recent Cross-Agency Streamlining Initiative in cooperation with the County Council and the Montgomery County Planning Board (MCPB).

While the OLO report focuses on the discreet areas of preliminary plans, site plans, and record plats, it did not capture the many improvements that have resulted from the Cross-Agency Streamlining Initiative over the past two years. Nonetheless, we agree with the recommendations and believe that the performance measure and metric recommendations of your report, if adopted, will provide useful predictability and help us measure the progress that has been made since the initiative began as well as future progress.

Per Report 2014-10, the data analyzed for preliminary plans and site plans dates back to 2010 through mid Fiscal Year 2014 and the data reviewed for record plats pertains predominantly to residential plats in FYs 2012 and 2013 (July 1, 2011 through June 30, 2013). The timeline analysis is a good start and is helpful, but due to the way the data set is aggregated, it does not reflect: time savings resulting from streamlining improvements that have been made in 2013 and 2014; delays resulting from economic relief legislation at both the State and County levels that extended the life of applications by effectively allowing them to be dormant with the agencies during portions of the study time; and the impact of staff reductions during extremely poor revenue years and staff restoration in recent years. It is also notable that both public and private sectors contribute significantly to the time that it takes to get through the approval process.

Models identified in the report require performance timelines for the private sector as well as the public sector. This makes sense for more effective predictability of the review process. To implement all four of the report recommendations, I urge the non-Executive Branch agencies to utilize CountyStat to help agencies with the development of coordinated

performance measures and reporting. CountyStat is already in place and is well-used as a centralized location to report, measure, access, and understand government performance. It is a best practice and it makes sense to optimize our use of this centralized tool.

The information from other jurisdictions is very useful and can help the Council, the agencies, and the stakeholders work out an approach that will provide better predictability in the County. However, the information needs to be fully understood for an “apples to apples” comparison. For example, Fairfax County advises that it has a very different site plan and preliminary plan process with preliminary plan and site plan reviews being made by a plans reviewer and manager and not the planning commission. So, where a target is 60 days, that target time does not arise until after the concept has been through the zoning process which adds materially more time.

As you note in your draft report, many different studies have been undertaken over the years. Each of these studies has resulted in meaningful improvements. A common challenge recognized in these studies is the structure of governance and the myriad of overlapping regulations that apply to development. It is clear that improvements continue to be needed and these improvements can and should take a variety of forms. While performance metrics, measures, and reporting are critical for a responsible and accountable government, the County Executive believes it is necessary to explore further changes to the development review process, including the structuring of agencies involved in the process.

Comments concerning the report findings and recommendations are found below.

General Comments: The development process would benefit from further changes such as: a more focused one stop shop which may result in realignment of responsibilities; clear, transparent regulations to address matters that are currently left to time consuming negotiations of development-related contracts; expansion of categories of minor plans subject to simplified process to encourage minor investment in properties; and expanded County oversight.

The report does a very nice job of summarizing a complicated process. It reflects an understanding of the balance between the need for efficient processing of development applications and the importance of County laws and requirements. As additional changes are pursued, care must be given so that substantive protections for orderly development that achieve project commitments to communities and end users are not sacrificed in the pursuit of more predictable timelines and reviews for development. These protections include:

- A. Ensuring that roads and sidewalks are constructed and completed by the developers and not shifted to homeowners or businesses for construction at a later time. Development must provide safe access and egress both for the community and the public safety responders who may need to serve them.

For this reason, reviews to ensure that elevations and engineering lines match is critically important, as is knowing that the grading and paving permits and necessary bonds to ensure completion of infrastructure and amenities are in place.

- B. Permanent, undisturbed public access to roads and sidewalks is also critically important. Reviews ensure that pre-existing easements and rights of others cannot up-end the permanent public interest that is required to be provided.

- C. Reviews assure orderly development to ensure compliance with laws adopted by the County Council and assure consumers that amenities and infrastructure will be completed.

Additionally, it is not clear from the report who in the private sector was consulted. For example, while it is clear that single family interests were consulted, much of the development occurring now is mixed use/multi-family. Projects have moved forward in White Flint under the new White Flint Sector Plan and experience has shown that approvals were achieved in a much shorter time frame than what is indicated in the report. It may be helpful to understand how projects have moved through the process utilizing sketch plans before moving to site plan; however, this would not change the need for defined time frames for performance.

In addition to what has already been said, we have a concern with the confusing way that the data is presented. The timelines in the tables do not reflect review times for the Department of Permitting Services, which for FY14 averages 14 days.

As noted above, the Cross-Agency Streamlining Initiative is one of the most recent efforts at reforming the development review process. Notable accomplishments include, but are not limited to the following:

- Consolidating fire alarm and fire protection systems inspections, reducing the time to schedule an inspection by as much as six weeks
- Eliminating MCPB's requirement for a Forest Conservation pre-construction meeting prior to issuance of a building permit, reducing building permit issuance time by approximately two weeks
- Modifying MCPB's bond approval process, reducing lag time by up to two weeks
- Creating a weekly report of DPS expedited/green tape applications for agencies
- Posting Context Sensitive Road Design Standards online
- Updating certain DOT design standards for cul-de-sacs and temporary turnarounds Modifying the Planning Board resolution process so that most are the same day the application is approved, saving as much as four to six months of time
- Initiating a WSSC program for requested releases of permits prior to project completion
- Waiver of MCPB signoff on recorded lot rebuilds to eliminate redundancy
- Posting common design mistakes lists to improve the quality of submissions
- Changes to the Development Review Committee (DRC) for preliminary/site plan processing include:
 - Sharing of comments with the applicant in advance of DRC
 - DRC timelines, issue resolution ownership, and agency participation reports
 - Hearing dates established at the end of DRC
 - Traffic studies distributed at the beginning of DRC instead of at the end
 - ProjectDox has been launched with improved access to agency comments
 - Special Protection Area monitoring changes have been adopted
 - Metrics created by DPS for processing stormwater management as-builts; record plats, etc.
 - Signature authority on all development documents required to be signed by the County has been delegated to the Director of DPS eliminating steps in process and movement of documents between departments in the County
 - Record Plat changes have been implemented
 - DPS has mostly eliminated backlog
 - Signature sequence has changed with DPS signing plats before they go to the Planning Board for signature
 - Plats Committee has reviewed and simplified notes on plats

- Cover page with notes has been created for multi-page plats and will be published as a DPS Policy 30 days prior to taking effect
- MCPB is working on review/revision of Chapter 50
- MCPB launched ePlans for Record Plats on July 1, 2014
- Zoning Rewrite has been adopted and simplifies and reduces approach to special exceptions including intake which will occur at MCPB
- Office of Zoning and Administrative Hearings is revising its rules of procedure to simplify for conditional uses and special exceptions; hearings to be assigned within 4 months of completion of application
- Design and construction standards for several Environmental Site Design practices have been published and Maryland Department of the Environment also recently issued design guidance

Responses to Selected Findings

Finding # 1: Efforts to streamline Montgomery County’s development approval process are not new, and a desire to reduce approval timeframes has been a consistent theme.

CAO Response: We agree and further point out that many of the recommendations of the various efforts have been implemented and the County continues to seek ways to improve. It is worth noting that the County has continued to enjoy significant development activity. While there is room for improvement, there are many success stories in Montgomery County.

Finding # 6: Feedback from agency staff and representatives of the building/development industry identify several factors that can impact the timeline for preliminary and site plan reviews.

CAO Response: As a result of the Cross-Agency Streamlining Initiative, the Development Review Process has been revisited with several changes implemented. The recommendations for review times and performance metrics discussed later in the report will provide additional improvements. It may be worthwhile to understand recent complex projects that have obtained site plan approval in White Flint as these projects have shown some significant improvements.

It also may be worthwhile to flesh out projects that are submitted and that do not adhere to adopted master plans, road design standards or other regulatory requirements. These projects need more time to review what is required to achieve compliance.

Finding #13: Surrounding County jurisdictions have different approaches to development review timeframe goals and requirements. Additionally, multiple approaches exist for ongoing reporting of development review performance metrics.

CAO Response: Understanding how other jurisdictions have tackled review timelines is informative, as long as relative similarities and differences are kept in mind. As pointed out, Fairfax County has a very different approach and the referenced timelines are for different processes than in Montgomery County. We note that per the report, “published timelines” is not the same as “performance timelines,” and while we do not have anecdotal benchmarking information from jurisdictions outside of the Metropolitan area, we know that other jurisdictions in this area also struggle to efficiently processing applications. The need for timelines and related performance measures is clear.

Responses to Recommendations

Recommendation #1: Establish pre-set development approval time frames and targets for record plat, preliminary and site plan approval processes, including metrics for record plat review cycles and preliminary and site plan phases and periods.

CAO Response: We agree with this recommendation. Permitting Services has incorporated, and in some cases improved, the metrics targets agreed to as part of the Cross-Agency Streamlining Initiative into its performance measures. As mentioned earlier, CountyStat could be very helpful in establishing performance measures for all agencies involved in the development approval process and provides a known site for accessing performance reports.

We find the data assembled very telling with respect to new preliminary and site plans as opposed to Amendments. The Zoning Rewrite has further simplified some of the processes. Following implementation of the Zoning Rewrite, periodic reviews should be undertaken to determine if there are additional categories of applications that could be processed through more simplified reviews, less costly studies, and with simplified plans.

Recommendation #2: Establish a data system that captures and reports accurate agency and applicant review times.

CAO Response: We agree with this recommendation. MCPB and DPS both utilize Hansen and the ProjectDox software for ePlans. DPS has also developed a plans tracking program to track review times as plans move through the review process for permits. The benefits of identifying types of applications that have reduced process requirements merits further exploration as well. The agencies should continue to collaborate and work together to determine a single reporting approach and a means for applicants to readily access information.

Recommendation #3: Create a regular reporting structure to the Council and the public to enhance transparency of and accountability for the development review processing data.

CAO Response: We agree with this recommendation and urge the agencies and the Council to consider bringing other non-County agencies into the CountyStat framework.

Recommendation #4: Request that DPS and the Planning Department jointly improve communication and information delivery processes for record plats, including a coordinated online presence.

CAO Response: The launch of ePlans for record plats should accomplish the objective of this recommendation for improved coordination, a single point of submission and distributions for reviews. Furthermore, as part of ePlans, a single, combined checklist will be utilized for record plats. A strategy should be developed to require submissions via ePlans.

We do not agree that policy changes have been adopted without advance notice to the industry. Nonetheless, we agree that advance notice and ongoing positive communications among stakeholders and regulators is very important. There is a long established Record Plats Committee that meets monthly and is comprised of agency and private sector representatives. This Committee has been very helpful in instituting some of the recommendations coming out of the Cross-Agency Streamlining Initiative.

You and your staff have done a very commendable job of presenting an analysis of the review timelines involved in preliminary plan, site plan, and record plat approvals. We look

Chris Cihlar, Director, Office of Legislative Oversight
July 24, 2014
Page 6

forward to working with you and the Council as further steps are taken to improve the development process. Thank you for the opportunity to review the draft report and present our comments.

TLF:dj

cc: Fariba Kassiri, Assistant Chief Administrative Officer
Bonnie Kirkland, Assistant Chief Administrative Officer
Diane Jones, Director, Department of Permitting Services