RESIDENTIAL INFILL CONSTRUCTION: A REVIEW OF COUNTY LAWS, REGULATIONS, AND PRACTICES



OFFICE OF LEGISLATIVE OVERSIGHT

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THE ASSIGNMENT

The Council asked OLO to review current laws, regulations, and management practices related to residential infill construction in older, more established residential neighborhoods in the County. "Residential infill construction" was defined as construction occurring in the County's R-60 and R-90 zones; it includes:

- Demolishing an existing home and subsequently re-building a home on the same site;
- Constructing a new home on a vacant lot that has not been re-subdivided; and
- Additions or alterations to existing homes.

The specific objectives of this assignment were to:

- Identify the set of laws and regulations that govern residential infill construction;
- Review the Department of Permitting Services' (DPS) procedures and practices for interpreting and administering the relevant laws and regulations; and
- Summarize data on location, number, and type of residential infill construction.

LEGAL FRAMEWORK FOR RESIDENTIAL INFILL CONSTRUCTION

Under authority provided by State law, the County Code creates a governance framework that regulates residential infill construction primarily through the Building Code (Chapter 8) and the Zoning Ordinance (Chapter 59). The County's Zoning Ordinance established the R-60 and R-90 residential zones in 1954. Lots in these zones undergoing infill construction must meet building standards defined in the Zoning Ordinance, which include standards for height, setback, lot area, lot width, and lot coverage. Some of these standards vary based on when a lot was initially recorded, particularly for lots recorded before 1954.

Current height, lot coverage, and setback requirements in the Zoning Ordinance allow for:

- A home with over 5,000 square feet of floor area on a 6,000 square foot R-60 lot; and
- A home with over 6,000 square feet of floor area on a 9,000 square foot R-90 lot.

County law requires that all residential infill construction projects must receive a building permit from the Department of Permitting Services. Depending on the proposed activity, a project may also require a demolition, sediment control, right-of-way, and/or Historic Area Work Permit. County law establishes certain requirements related to review, notice, issuance, inspection, and appeals of these construction-related permits.

OLO found that County law is unclear with respect to the zoning requirements for construction activity on lots legally created before the County imposed zoning standards in 1928. The factors contributing to this confusion are: procedural errors related to the formal adoption of the Zoning Ordinances in both 1928 and 1930; and varying uses and interpretations over time by government authorities as to the zoning requirements outlined in these two ordinances.

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DEMOLITION AND NEW CONSTRUCTION PROJECTS

Since FY02, demolition and new construction projects have occurred in 28 different County zip codes.

Of the 1,181 permits issued for demolition and new construction projects in the R-60 and R-90 zones, three-fourths were located in the Bethesda area (54%), Chevy Chase (12%), and Kensington (9%). Table 1 provides a breakdown by zip code.

For the demolition and new construction projects, DPS conducted over 8,700 routine building inspections and over 1,000 complaint-based inspections. The most common types of complaints resulting in inspection were sediment control and building setback complaints.

Table 1: Demolition/Rebuilds since FY02

Location (Zip Code)	Number	% of Total
Bethesda (20817)	313	26%
Bethesda (20814)	228	19%
Chevy Chase (20815)	140	12%
Kensington (20895)	107	9%
Bethesda (20816)	103	9%
Silver Spring (20910)	43	3%
Colesville (20904)	41	3%
Cabin John (20818)	31	3%
Aspen Hill (20906)	27	2%
Wheaton (20902)	26	2%
Potomac (20854)	25	2%
All Other	97	4%
Total	**1,181**	**100%**

ADDITION AND RENOVATION PROJECTS

Since FY02, addition and renovation projects have occurred in 36 different County zip codes.

Of the 8,991 permits issued for addition and renovation projects in the R-60 and R-90 zones, nearly three-fourths were located in the Bethesda area (28%), the Silver Spring area (15%), Chevy Chase (13%), Kensington (9%), and Wheaton (8%). Table 2 provides a breakdown by zip code.

For the addition and renovation projects, DPS conducted over 43,000 routine building inspections and over 3,000 complaint-based inspections. The most common types of complaints resulting in inspection were building without a permit, building setback, and sediment control complaints.

Table 2: Addition/Renovations since FY02

Location (Zip Code)	Number	% of Total
Chevy Chase (20815)	1,204	13%
Bethesda (20817)	968	11%
Kensington (20895)	814	9%
Bethesda (20814)	785	9%
Wheaton (20902)	740	8%
Bethesda (20816)	733	8%
Silver Spring (20901)	671	8%
Silver Spring (20910)	645	7%
Takoma Park (20912)	442	4%
Aspen Hill (20906)	414	4%
Rockville (20853)	338	4%
Potomac (20854)	249	3%
All Other	752	8%
Total	**8,991**	**100%**

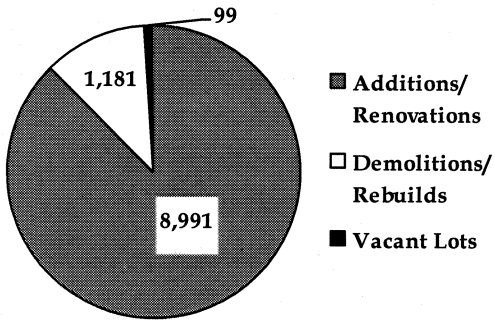
RESIDENTIAL INFILL CONSTRUCTION PERMIT DATA

Between July 2001 and November 2006, DPS issued 23,780 permits for single-family detached dwelling construction activity, i.e. new construction or additions/renovations, in all residential zones (an addition/renovation project can range from an addition that substantially increases the size of the home to an interior renovation of all or part of a home). 10,271 or 43% of these permits were issued for infill construction projects located in R-60 or R-90 zones. Of the permits issued:

- 88% were for additions or renovations;
- 11% were for demolition and rebuilds;
- 1% were for new construction on previously undeveloped lots.

In addition, DPS has conducted over 50,000 routine building inspections and nearly 4,300 complaint-based inspections related to residential infill construction projects since FY02.

Exhibit 1



DEPARTMENT OF PERMITTING SERVICES MANAGEMENT PRACTICES

DPS has developed a set of management practices to administer the permits associated with residential infill construction. DPS has written procedures and/or routine practices for:

- **Permit applications** – including standard application forms that list the information DPS requires to appropriately review the application.
- **Plan review** – including standardized sequencing of reviews, sharing of plan information with other agencies that must review plans, and formal sign-off on all necessary approvals before DPS will issue a permit.
- **Public notice** – including standardized procedures for distributing and verifying the posting of building permit signs and the mailing of written notice requirements.
- **Field inspections** – including both routine and complaint-based field inspections for all permits issued by the Department.

DPS also provides access to building permit and other information through an online database. In addition, the Department allows any interested party to view permit documents at DPS' offices. However, OLO found that DPS' document imaging practices do not guarantee that an approved set of building permit plans is available for immediate review at all times during a permit's 30-day appeal period.

DPS Code Interpretations. In an effort to ensure clear and consistent implementation of zoning and building laws by staff in the Department, DPS developed a set of official code interpretations. OLO found, however, that DPS does not have a written procedure for adopting these official interpretations, which range from technical explanations (e.g. written methodology and formulas) to legal interpretations (e.g. definition of terms). Pertinent to residential infill construction, DPS has official interpretations on: what constitutes new construction vs. an addition vs. an alteration; which zoning standards are used for lots created before 1928; when to use and how to calculate an established building line; how to calculate building height; and how to calculate whether a lower level is a basement or a cellar.

FEEDBACK FROM RESIDENTS AND BUILDING INDUSTRY REPRESENTATIVE

During the course of conducting this study, OLO consulted with representatives from building industry and civic groups, and individual County residents to receive information and other input about the County's legal and administrative structure for residential infill construction.

Many of the residents that OLO spoke with expressed general concern about the impact of residential infill development within neighborhoods and communities. In addition, some residents voiced specific concerns about DPS' management practices. Feedback from building industry representatives evidenced general support for DPS, but at the same time identified concerns related to both the legal structure and DPS management practices.

RECURRING CONCERNS VOICED BY BUILDING INDUSTRY REPRESENTATIVES:

- The length, cost, and unpredictable nature of the building permit application process.
- The length and cost associated with the building permit appeal process.
- DPS' process for establishing official code interpretations.

RECURRING CONCERNS VOICED BY RESIDENTS AND CIVIC GROUP REPRESENTATIVES:

- Inconsistent access to information and documents at DPS.
- DPS' process for establishing official code interpretations.
- DPS' complaint-based enforcement practices that rely on individual residents to find and report on permit violations.

OFFICE OF LEGISLATIVE OVERSIGHT RECOMMENDATIONS

The Office of Legislative Oversight found that, in general, DPS' procedures and practices for the review, issuance, and enforcement of residential infill construction permits align with current County laws and regulations. In particular, OLO found that DPS issues permits for residential infill construction located in the R-60 and R-90 zones based on the development standards in the Zoning Ordinance.

OLO offers four recommendations for Council action:

1) Adopt a Zoning Text Amendment to clarify the law related to implementation and related interpretations of the 1928 vs. 1930 versions of the Zoning Ordinance.
2) Discuss and decide whether the existing set of County laws and regulations governing residential infill construction reflect the Council's current preferences for development standards and permit issuance in the R-60 and R-90 zones.
3) Request that the Chief Administrative Officer develop a written procedure governing how DPS creates official code interpretations.
4) Request that the Chief Administrative Officer review DPS' procedures for public access to permit information and related documents, with a report back to the Council on specific actions taken for improvement.

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Chapter I: Authority, Scope, and Organization of Report

A. Authority

Council Resolution 15-1554, *FY 2007 Work Program of the Office of Legislative Oversight*, adopted July 25, 2006.

B. Purpose and Scope of Review

The Council asked OLO to review current laws, regulations, and management practices related to residential infill construction in older, more established residential neighborhoods in the County. For this project, OLO defined "residential infill construction" as construction occurring within the County's R-60 and R-90 residential zones and including: the demolition or teardown of an existing home and the subsequent re-building of a home on the same site; construction of a new home on a vacant infill lot that has not undergone re-subdivision; and additions/alterations to existing homes.

The Department of Permitting Services (DPS) has primary responsibility for permitting and regulating residential infill construction. Specific questions the Council asked OLO to examine with respect to DPS include:

- What written policies has DPS issued to interpret and administer the current laws and regulations related to residential infill construction?
- What practices does DPS follow to carry out its permit issuance, review, and enforcement responsibilities related to residential infill construction?
- How does DPS define a renovation versus new construction?
- What data are available from DPS on the number of residential infill construction projects since FY02?

The scope of this project focuses on reviewing the laws, regulations, and management practices related to demolition, reconstruction, and renovation activities for existing one-family detached dwellings in the R-60 and R-90 residential zones within the Montgomery County portion of the Maryland-Washington Regional District. Many of the laws, regulations, and DPS practices also apply to other types of projects or construction activities not covered in the scope of this particular report. This report only reviews how these laws, regulations, and practices affect residential infill construction activities.

For clarification, the scope of this OLO project does not include a review of the laws, regulations, and practices for:

- Municipalities in the county with separate zoning authority or additional zoning regulations;
- Any proposed residential development projects submitted to the Montgomery County Department of Planning for subdivision or site plan review; and
- Any existing or proposed multi-family or commercial construction.

C. Organization of Report

Chapter II, Legal Framework, introduces the key components of State and County laws and regulations that shape the legal framework related to residential infill construction;

Chapter III, Department of Permitting Services' Management Practices Related to Residential Infill Construction, reviews how the Department of Permitting Services carries out its management responsibilities related to residential infill construction;

Chapter IV, FY02-FY07 Data on Residential Infill Construction, summarizes available data related to residential infill construction in Montgomery County between July 1, 2001 and November 15, 2006;

Chapters V, Feedback from the Non-Governmental Sector, presents some of the views and recurring themes OLO heard from building industry representatives and civic or neighborhood representatives on residential infill construction;

Chapters VI and VII present OLO's Findings and Recommendations.

D. Methodology

Office of Legislative Oversight staff members Craig Howard, Kristen Latham, and Mike Kerr conducted this study. OLO gathered information through document reviews, general research, and interviews with staff members from the Department of Permitting Services, Board of Appeals, Office of Zoning and Administrative Hearings, and the Montgomery County Planning Board. OLO also met with various non-governmental groups (e.g. building industry representatives, civic group representatives) and/or other individuals that contacted OLO to provide information and other input for this study.

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: Assistant Chief Administrative Officer Paul Folkers; former Director Robert Hubbard, Acting Director Reggie Jetter, Susan Scala-Demby, Gail Lucas, Sandra Batterden, and Tom Laycock from the Department of Permitting Services; Planning Board Chair Royce Hanson and Gwen Wright from the Department of Park and Planning; Executive Director Katherine Freeman from the Board of Appeals; Director Francoise Carrier from the Office of Zoning and Administrative Hearings; Lisa Rother from the Offices of the County Executive; Acting County Attorney Marc Hansen; and Jeff Zyontz from the County Council Staff.

OLO would like to also thank the several non-governmental organizations and Montgomery County residents who provided information for this study. In particular, OLO would like to thank the following individuals: Arlene Bruhn, Tony Crane, Eileen Finnegan, Wayne Goldstein, Carol Green, Lisette Herdan, Jim Humphrey, Celesta Jurkovich, Brian Levite, Raquel Montenegro, Betty Petrides, Carol Placek, Mark Scott, Barbara Siegel, Chuck Sullivan and Rick Sullivan, Jr.

Chapter II: Legal Framework

This chapter introduces the key components of State and County laws and regulations that govern residential infill construction in Montgomery County. This Chapter is organized as follows:

- **Part A,** discusses the framework for land use regulation in State and County law;
- **Part B,** reviews the development standards pertinent to residential infill construction in the R-60 and R-90 zones;
- **Part C,** discusses the administrative structure for residential infill construction in the Montgomery County Code; and
- **Part D,** reviews the legally-established processes for requesting variances from development standards and appealing action by governmental entities.

A. Framework for Land Use Regulation in State and County Law

The governing framework for land use regulation balances an individual's right to own and develop private property with the authority of government to regulate the rights of private citizens to further the health, safety and welfare of the general public. The government's exercise of its police power includes the authority to zone, subdivide and regulate land.

The exercise of police power is vested with each State, and state legislatures enact enabling legislation that delegates broad decision making authority in land use matters to local governments. In Maryland, the State Constitution gives the General Assembly the authority to enact laws to protect the public health, safety and welfare. The General Assembly, in turn, enacts enabling legislation that establishes the parameters of local governments' authority.

1. Land Use Authority in State Law

The Maryland Code establishes Montgomery County's authority to regulate land use. The County's zoning and planning authority derives from Article 28 of the Maryland Code, known as the Regional District Act. The Regional District Act designates the bodies that are responsible for regulating land use in the County, assigns zoning, subdivision, regulatory and adjudicatory powers among them, and enumerates their duties.

The Regional District Act (RDA) establishes the bi-county Maryland-National Capital Park and Planning Commission (M-NCPPC), including the five member Montgomery County Planning Board. The RDA also establishes the County Councils of Montgomery and Prince George's County as the respective District Council for the portion of the regional district that is in each County.

The RDA assigns zoning powers to the Montgomery County Council as its designated District Council, including the authority to:

- Divide land into districts and zones to regulate the "erection, construction, reconstruction, alteration, and uses of buildings and structures and the uses of land";
- Adopt and amend a Zoning Ordinance to regulate development standards for buildings – including location, height, bulk, building lines, minimum frontages, and percentages of lots which may be occupied;
- Impose different regulations in different districts or zones;
- Adopt and amend the zoning code text and maps;
- Delegate decision-making on special exceptions, variances, and appeals of administrative actions to the Board of Appeals or an administrative office, or to decide such matters at the District Council level; and
- Impose regulations to protect historical structures or districts.

The RDA authorizes the Montgomery County Planning Board to prepare and adopt recommendations to the District Council with respect to zoning map amendments. Both the Commission and the Planning Board are authorized to make recommendations to the District Council concerning amendments to the zoning code and subdivision regulations.

The RDA also establishes the requirement to issue a building permit before the erection or alteration of a building within the Regional District (Maryland Code, Article 28, §§8-101; 8-110; and 8-119).

2. Framework for Regulating Residential Infill Construction Activity in Montgomery County

Several sections of the Montgomery County Code establish the body of law that creates a governance framework and establishes standards to regulate development activities, including residential infill construction. The relevant chapters of the County Code as they relate to residential infill construction are summarized briefly below:

- **Chapter 2,** titled Administration, creates the administrative structure for the County Government, including establishing the Department of Permitting Services and the County Board of Appeals.

- **Chapter 8** of the County Code, the Building Code, governs the construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings and structures in Montgomery County.

- **Chapter 19** of the County Code – titled Erosion, Sediment Control, and Stormwater Management – creates an administrative structure for regulating and issuing permits for land disturbing activities in Montgomery County.

- **Chapter 24A** of the County Code, titled Historic Resources Preservation, governs the identification, designation, and regulation of historic districts and historic structures in the County for the purposes of the protection and preservation of those sites and structures.

- **Chapter 49** of the County Code, titled Streets and Roads, governs the proper use, care, construction, improvement, grading, repair and maintenance of County roads, including public rights-of-way.

- **Chapter 59** of the County Code, the Zoning Ordinance, establishes zoning districts and regulations for all types of development in the Montgomery County portion of the Maryland-Washington Regional District to protect and promote the "health, safety, morals, comfort and welfare of the present and future inhabitants of the district."[1]

Several other chapters of the County Code relate to construction and development activities, but those actions are generally outside the scope of this report. Among others, those chapters include: Chapter 22A, Forest Conservation – Trees; and Chapter 50, Subdivision of Land.

B. Zoning, Development, and Building Standards for Residential Infill Construction in the Montgomery County Code

The zoning power that state enabling legislation assigns to a local government gives local legislators the power to regulate the use and density of private property to protect public health and safety. The local government exercises this power through the adoption of a zoning ordinance and a zoning map.

The zoning ordinance creates a system of districts and zones that define an owner's permitted private property development rights. For each zone, the ordinance establishes allowable uses and development standards, such as building height, setbacks, and lot coverage; plus regulations that address other development issues such as parking and signage. A zoning map graphically displays the zone of each parcel of land in a jurisdiction.

The Montgomery County Zoning Ordinance and Zoning Map, which are adopted and amended by the County Council sitting as the District Council, are the County's principal regulatory tools for managing residential infill construction. The Council can alter the Zoning Ordinance by either adopting an entirely new ordinance or by making specific changes to the current Ordinance through zoning text amendments (ZTA).

[1] The zoning regulations established by Chapter 59 expressly do not apply to the municipal corporations of Brookeville, Poolesville, Laytonsville, Rockville, Barnesville, Gaithersburg, and Washington Grove because these jurisdictions have their own planning and zoning authority.

Zoning Ordinance History. The Montgomery County Board of Commissioners, sitting as the District Council, first approved a Zoning Ordinance and zoning map in 1928 that established residential, commercial, and industrial zones and development standards for each zone. In 1930, the Board of Commissioners approved a new Zoning Ordinance that repealed and reenacted the 1928 ordinance. However, the public record indicates procedural errors that call into question whether either ordinance was adopted until 1932 as described below.

Zoning Ordinance Approval and Adoption History, 1928-1932

1928. On March 6, 1928 the minutes of the Board of Commissioners of Montgomery County indicated the approval of a Zoning Ordinance and map filed with the County Commissioners on January 17, 1928. However, the approved 1928 Zoning Ordinance was not reproduced in the Journal of the Board of Commissioner's minutes or ordinances despite the recitation within the adopting resolution that the Ordinance was "spread across the Journal."

1930. On October 28, 1930 the Board of Commissioners repealed and reenacted with amendments the 1928 Zoning Ordinance. The 1930 Ordinance is identifiable because of its citation to the 1928 Ordinance. The approved 1930 Ordinance, however, was also not "spread across the Journal."

1932. On July 21, 1932 the Board of Commissioners recognized that neither the 1928 Ordinance nor the 1930 Ordinance were ever published in the Board's Journal and took action to correct that oversight. On July 26, 1932, a *nunc pro tunc* (i.e. retroactive to the earlier date) entry was made of the entire text of the 1928 Ordinance and the 1930 Ordinance into Journal "E" (December 1, 1931-November 17, 1932) at pages 275 through 301.

The District Council reenacted the Zoning Ordinance in 1941, 1952, 1954, and 1958. Between 1928 and 1954, single-family detached homes generally fell into the Residential "A" zone and were governed by the standards for that zone. The 1954 Zoning Ordinance adopted the R-60 and R-90 single-family residential zones, which are the current underlying zones for many of the County's older, established residential neighborhoods.

Each version of the zoning ordinance either retained prior standards for each zone or established new standards. The adoption of new standards in a zone often caused a property or home to become "non-conforming" because it no longer met current standards. To address non-conformance, provisions were included in the zoning ordinances that allow some construction activities to meet some or all of the standards of older zoning ordinances instead of the current zoning ordinance.

1. Development Standards in the R-60 and R-90 Single Family Zones

The Zoning Ordinance includes specific development standards in the R-60 and R-90 zones, including standards for:

- Minimum net lot area;
- Minimum lot width;
- Minimum setbacks from lot lines;
- Maximum building height; and
- Maximum lot coverage.

In addition to the current standards, §59-B-5 of the Zoning Ordinance allows single family residential construction on lots recorded before 1958 to use the zoning standards in effect when the lot was recorded instead of the current zoning standards (§59-B-5) except that:

- Lots recorded before March 16, 1928 must meet the standards in the 1928 Zoning Ordinance;
- The maximum building height and maximum building coverage must comply with the standards of the lot's underlying zone at the time of construction; and
- An established building line setback must conform to the standards for determining the established building line at the time of construction.

Table 1: Selected Current Development Standards for One-Family Detached Dwellings in the R-60 and R-90 Zones

Development Standards	R-60 Zone	R-90 Zone	R-60 or R-90: Lot recorded before 12/31/1954
Minimum net lot area	6,000 sq. ft.	9,000 sq. ft.	5,000 sq. ft.[2]
Minimum lot width: **-At front building line** **-At street line**	60 ft. 25 ft.	75 ft. 25 ft.	50 ft.[3] --
Minimum setback from street (front)	25 ft. or EBL	30 ft. or EBL	25 ft. or EBL
Minimum setback from sides of lot	• 8 ft. on one side; and • 18 ft. on both sides combined	• 8 ft. on one side; and • 25 ft. on both sides combined	• 7 ft. if lot recorded before 12/31/54; or • 5 ft. if lot recorded between 10/28/1930 and 9/30/1941 and the lot width is at least 40 ft. but less than 50 ft.; or • 5 ft. if lot recorded before 3/16/1928 and the lot width is less than 40 ft.
Minimum setback from rear of lot	20 feet	25 feet	20 feet[4]
Maximum building height	• 35 feet to the highest point of roof regardless of roof type; or • 30 feet to the mean height between the eaves and ridge of a gable, hip, mansard, or gambrel roof; and • Must not exceed 2½ stories.		
Maximum building coverage of net lot area	35%	30%	Same as current zone

Sources: Montgomery County Code, Chapter 59; Department of Permitting Services

Building envelope established by development standards. The development standards create a "building envelope" for any particular property (i.e. the potential size and location of a structure that could be built on that lot). Based on the standards listed in Table 1, it is possible to calculate the potential square feet of floor area that could be constructed by multiplying the lot size, maximum lot coverage, and number of allowable stories.

[2] For lots recorded between 10/28/30 and 12/31/54 with a lot width at least 40 feet but less than 50 feet, no minimum lot area is required.
[3] For lots recorded before 3/16/28, a lot can have a lot width of less than 40 feet. For lots recorded between 10/28/30 and 9/30/41, a lot can have a width of at least 40 feet.
[4] For lots recorded under 1941 and 1952 Zoning Ordinances, the rear yard must have a minimum average depth of 20 feet with no point closer than 15 feet.

Based on the current standards, the Zoning Ordinance allows for the potential to build on a non-sloping lot:

- A home with 5,460 square feet of floor area on a 6,000 square foot R-60 lot;
- A home with 4,550 square feet of floor area on a 5,000 square foot lot recorded before 1954 and in a R-60 underlying zone; and
- A home with 7,020 square feet of floor area on a 9,000 square foot R-90 lot.

Established Building Line (EBL). The EBL supplements the minimum front (street) setback requirements in certain residential zones. The EBL may require that a building comply with a front setback that is greater than the minimum listed in the Zoning Ordinance. An EBL for any given lot is calculated by averaging the existing front setback of all nearby homes that are:

- Within 300 feet of the side property line of the proposed construction site;
- Along the same side of the street;
- Between intersecting streets; and
- Existing at the time when the building permit application is filed.

Any nonconforming buildings or those located on a pipestem or flag-shaped lot are not included in the EBL calculation.

Chapter 59 requires calculation of an EBL if at least two and more than 50% of the abovementioned eligible building have front setbacks greater than the minimum front setback for the zone. If that is the case, the average front setback of the eligible buildings is the EBL. The EBL then becomes the minimum front setback for the proposed dwelling (§59-A-5.33).

Sloping lot. The Zoning Ordinance also allows additional stories on sloping lots. Specifically, stories in addition to the number permitted in the zone are permitted on the downhill side on any sloping lot, but the height limit is not increased above that specified in the zone (§59-A-5.41).

2. Overlay Zones

Chapter 59 also includes overlay zones that have been adopted by the District Council as map amendments to the Zoning Ordinance. Development in overlay zones must conform with the standards of the underlying zone, except as specifically modified by the standards and regulations of the overlay zone. Chapter 59 states that overlay zones:

- Provide regulations and standards that are necessary to achieve the planning goals and objectives for development or redevelopment of an area; and
- Provide uniform comprehensive development regulations for an area. (§§59-C-18)

Of the 14 overlay zones in the Zoning Ordinance, one applies directly to single family residential lots. This section describes the development standards for that overlay zone.

Town of Garrett Park overlay zone. The Garrett Park overlay zone adopts development standards that apply to alterations, renovations, and enlargements to existing single-family dwellings as well as new construction (§59-C-18.112). The overlay zone adopts R-90 development standards with the following changes:

- New buildings or additions cannot project beyond the front yard setback line previously established by the buildings on the adjoining lots;
- Increased side yard setbacks of 10 feet on one side, and a lower required sum of both side setbacks to 20 feet if a lot that has less than 60 feet front building width;
- Decreased minimum rear yard setbacks for lots less than 90 feet in depth;
- A lower maximum building coverage of net lot area (20%); and
- The addition of a maximum floor area ratio of 0.375. (§59-C-18.113)

3. Other Zoning Provisions – Exemptions from Development Standards

The Zoning Ordinance exempts several specific building features or structures from certain development standards. These exemptions do not change a development standard; instead the exempted feature is not considered when determining whether a building meets that particular standard.

Roof features. For height purposes, the law exempts certain roof features from the calculation of height limits – such as belfries, chimneys, cupolas, domes, flagpoles, flues, and television antennae – as long as the features has a total area less than 25% of the total roof area (§59-B-1.1).

Fences and retaining walls. County law exempts walls or fences from setback requirements as long as the wall or fence is:

- A retaining wall made necessary by changes in street grade, width, or alignment;
- Deer fencing (in the rear and side yards only for residential zones); or
- No higher than 6 ½ feet. (§59-B-2.1)

Additionally, a fence or wall (other than a retaining wall) on a corner lot in any residential zone must not have a height greater than three feet above the curb level for a distance of 15 feet from the intersection of the front and side street lines (§59-B-2.1).

Non-enclosed porches, steps, stoops, stairways, and terraces. The Zoning Ordinance provides exemptions for open steps, stoops, exterior stairways, terraces, and porches projecting from a building into a minimum front, side, or rear setback. By law, these features:

- May extend into any minimum front or rear yard not more than 9 feet;
- May extend into any minimum side yard not more than 3 feet, unless the lot is a corner lot;
- May extend into any minimum side yard not more than 9 feet for a corner lot with a side yard of 25 feet or more; and
- May not extend into the minimum side yard at all for a corner lot with a side yard of less than 25 feet. (§59-B-3.1)

The Zoning Ordinance states that steps, stoops, exterior stairways, and terraces that do extend into a minimum setback may be roofed but must not be enclosed. Any roof covering these features must not extend more than three feet into the minimum setback, even if the feature extends farther. A porch that extends into a minimum front or rear setback may also be roofed but not enclosed, however the roof can extend the full allowable 9 feet of the porch. The law states that for a porch extending into the minimum front setback, the 9 feet is measured from the face of the building parallel to the front lot line (§59-B-3.1).

Bay windows. The Zoning Ordinance also provides a specific exemption for bay windows projecting into front or rear yards. The laws states that in any residential zone, a bay window, oriel, entrance, vestibule, or balcony 10 feet or less in width may project not more than three feet into any minimum front or rear setback (§59-B-3.2).

Other exempted projections into setbacks. County law also provides exemptions for cornices, eaves, outside stairways, chimneys, air conditioners, and heat pumps projecting into a minimum setback. The code provides that cornices and eaves may project 2 ½ feet over any court or yard, but the projection cannot be less than 2 feet from the vertical plane of a lot line. Ornamental features, such as sills, leaders, and belt courses, may not project more than six inches over a court or yard (§59-B-3.3).

The law provides that fire escapes may project not more than five feet over any minimum setback, while outside stairways may project not more than five feet over a minimum rear setback only. Chimneys in any one-family residential zone may project not more than 24 inches into any minimum front, rear, or side setback; but chimneys used as walls may not project into any minimum setback. Air conditioners and heat pumps may project not more than five feet into any minimum front or rear yard (§59-B-3.3). An accessibility improvement is also not subject to setback, or lot coverage limitations if the size of the accessibility improvement does not exceed the minimum design specifications in the Maryland Accessibility Code and Montgomery County Building Code (§59-B-7.1).

C. Administrative Structure for Residential Infill Construction in the Montgomery County Code

The chapters in the Montgomery County Code that address zoning, land use regulation, and permitting activities, create a system of government officials and citizen boards who are charged with administering, permitting, and enforcing development activities, including residential infill construction.

1. Administrative Authority

Pertinent to residential infill construction, County law provides administrative authority to the Department of Permitting Services, the Historic Preservation Commission, and the Board of Appeals. County law also provides certain administrative authority for development and construction to the Maryland-National Capital Park and Planning Commission (M-NCPPC). The administrative authority provided to M-NCPPC, such as managing the subdivision and site plan approval process, is not included within the scope of this review.

Department of Permitting Services. The Department of Permitting Services (DPS) is established in Chapter 2, Article III, Division 7B of County Code. Except for where specific functions are assigned to another department or agency, the law assigns DPS responsibility for:

- Administering, interpreting and enforcing zoning law and other land use laws and regulations;
- Administering, interpreting, and enforcing construction codes, and laws and regulations governing sediment control, stormwater management, floodplain management, special protection areas, and pond and excavation safety;
- Administering and enforcing agricultural preservation and historic resources laws and regulations; and
- Issuing building, electrical stormwater discharge, and on-site water supply and sewage disposal permits. (§2-42B)

Other chapters in the County Code establish specific authority within DPS that pertain to residential infill construction projects. Chapter 8 establishes the authority of the Director of DPS to enforce and administer the County's Building Code, including the authority to:

- Issue building and demolition permits;
- Ensure compliance with permit conditions and requirements;
- Conduct required inspections;
- Recommend written regulations for the administration of the provisions of the Chapter, including a schedule of fees;
- Issue a stop work order; and
- Issue a Notice of Violation. (§§8-12, 8-13, 8-17, 8-20 to 8-22)

Chapter 19 establishes the authority of DPS to issue sediment control permits, ensure compliance with permit conditions, conduct required inspections, and issue notices of violation or stop work orders (§§19-2, 19-9, 19-12). Chapter 24A establishes the authority of DPS to issue Historic Area Work Permits (§24A-8) and Chapter 49 authorizes DPS to issue right-of-way permits (§49-18).

Chapter 59 requires DPS to enforce zoning laws through its issuance of building permits, stating that DPS may only issue building permits for proposed work that conforms to the uses and amount of development authorized within Chapter 59 (§59-A-3.1).

Historic Preservation Commission. The Historic Preservation Commission (HPC) is a nine-member citizen board established in Chapter 24A of the County Code. County law authorizes the HPC to:

- Evaluate applications for a Historic Area Work Permit (HAWP), including holding a public meeting to consider the application and make a public decision on the application; and

- Instruct the Director of DPS to issue or deny a HAWP permit or to require the Director to issue the permit with reasonable conditions necessary to assure that work under the permit does not harm the historic resource. (§24A-4 to -8)

Board of Appeals. The Board of Appeals is a five-member citizen board established in Chapter 2 of the County Code. Among other functions, the law authorizes the Board of Appeals to:

- Receive, review and decide requests for variances from the development standards in the Zoning Ordinance; and

- Hear appeals of decisions made by DPS or the HPC. For example, the Board of Appeals can hear an appeal of a DPS decision to issue or deny a building permit. (§§59-A-4.1, 24A-7)

2. Permit Requirements

To comply with the County Code, a property owner proposing a residential infill construction project may be required to obtain several different permits. The number and types of permits established in the County Code that regulate residential infill construction activity will vary, depending on the nature of the infill activity.

For the purposes of this study, this section reviews the different requirements established in County Code related to the application, review, issuance, and compliance with a building, demolition, sediment control, right-of-way, or Historic Area Work Permit.

Building Permits. All residential infill construction projects require a building permit as the County Code requires receipt of a permit before constructing, enlarging, altering, removing, or demolishing a building. The issuance of building permits by DPS must comply with several requirements contained in Chapter 8, Building Code. An application for a permit must include a description of the proposed work, plans and specifications, a plot diagram, and engineering details. By law, the plot diagram must be drawn to scale and include:

- The location and dimensions of the lot upon which the proposed building is to be erected;
- The name and width of abutting streets;
- The location, dimensions, and proposed use of buildings for which a permit is requested; and
- Front and rear yard widths. (§8-24)

There are two sections of law outside of Chapter 8 that require some level of building permit review by the Maryland-National Capital Park and Planning Commission:

- Article 28, Title 8 of the State of Maryland Code requires that "in Montgomery County, all building permit applications shall be referred to the Commission for review and recommendations as to zoning requirements" (§8-119); and

- Chapter 59 of the County Code states that the Director of DPS must not issue a building permit for the construction of a new principal structure or construction that substantially increases the gross floor area of a one-family structure until the application has been submitted to the Commission for review for conformity with this Chapter (§59-A-3.34).

The law assigns DPS limited discretion to attach conditions to or amend a building permit application. Instead, the law requires DPS to act on each application for a permit, by either rejecting or issuing the permit, after reviewing the application's conformance to all applicable laws and regulations. Specifically, the law states that:

> "If the application or the plans do not conform to all requirements of this Chapter, the Director must reject the application in writing and specify the reasons for rejecting it. If the proposed work conforms to all the requirements of this chapter and all other applicable laws and regulations, the Director must issue a permit for the work as soon as practicable (§8-25)."

Once issued, the law provides two constraining time limits on a building permit. The Code states that a building permit becomes invalid unless one approved inspection is recorded by DPS within 12 months and a second approved inspection is recorded within 14 months after issuance of the permit. The other factor that would explicitly invalidate a building permit under Chapter 8 is if the authorized work is suspended or abandoned for a period of 6 months (§8-25).

Chapter 8 requires maintaining two complete sets of the approved building plans upon which a building permit was issued, one set kept by DPS and one set kept at the building site. The law requires the set at the building site to be open to inspection by the DPS director or authorized representative at all reasonable times (§8-25).

The Building Code also provides specific requirements that all permit recipients must follow and as well as limitations to the authority granted by permit issuance. These include:

- The issuance of a permit shall not prevent DPS from requiring a correction of errors in plans, errors of construction, or violations of any applicable laws or ordinance;
- DPS shall accept certification by a certified engineer as evidence that the plans and specifications are in compliance with Chapter 8;
- The building or structure must comply with all applicable zoning regulations, and the issuance of a permit by DPS does not affect an otherwise applicable zoning regulation; and
- Before beginning first floor construction, DPS must receive from the permittee a certified location drawing that shows the actual location of the foundation walls in relation to the property lines and any existing buildings or structures on the property. (§8-26)

Recent legislation enacted by the County Council on October 17, 2006 (Bill 26-05) will add new building application and permit review requirements to Chapter 8 as of March 1, 2007. Bill 26-05 requires DPS to review plans for stormwater runoff between private properties as part of the building permit review process. To do so, the legislation requires:

- Plot diagrams submitted as part of a building permit application to include the location of any existing or proposed drainage structure and the general flow of water to and from each structure; and
- Building plans submitted to DPS as part of the permit application package provide for the safe conveyance or control of any increased water runoff that would drain onto any adjacent or nearby property before DPS can issue a building permit. This requirement applies to a one- or two-family residential building on a lot smaller than 15,000 square feet, or an addition to a one- or two-family residential building that would increase the building lot coverage by more than 400 square feet.

Demolition Permits. The issuance of a demolition permit also has specific requirements set forth in Chapter 8. As noted above, the Code requires application for and receipt of a permit prior to constructing, enlarging, altering, removing, or demolishing a building (§8-24).

Chapter 8 defines demolish as "to tear down or destroy an entire building or structure, or all of a building or structure except a single wall or facade." The law requires that before DPS can issue a demolition permit, the applicant must provide a written release from each applicable public utility stating that all service connections have been safely disconnected and sealed (§8-27).

Each applicant for a demolition permit must also file a performance bond or surety equal to the cost of the demolition. The law requires this bond to "assure the safe and expedient demolition or removal of the building or structure and clearing of the site" (§8-27).

Chapter 8 includes four other conditions associated with the issuance of a demolition permit that requires permit recipients to:

- Exterminate any rodents or other pests before demolishing the building;
- Clear all construction and demolition debris after the demolition;
- Restore the established grade of the surrounding land, unless a sediment control permit is otherwise required; and
- Keep the site free from any unsafe condition at all times. (§8-27)

Sediment Control Permits. Chapter 19 governs issuance of a sediment control permit. Chapter 19 requires obtaining a sediment control permit for all "land-disturbing activity" associated with all new residential construction and for all additions to existing homes that involve 100 or more cubic yards of earth movement or disturb 5,000 or more square feet of surface area. The law requires that DPS issue any required sediment control permit before issuing a building permit (§§19-2, 8-26).

The law provides that an application for a sediment control permit must include an erosion and sediment control plan prepared by a certified engineer or other person qualified and approved by DPS. However, DPS can waive the sediment control plan requirement if DPS finds that the information on the permit application is sufficient to show the proposed work will conform to sediment control requirements (§19-4).

County regulations adopted to implement Chapter 19 provide criteria for DPS to waive the engineered sediment control plan requirement. The Department can waive the requirement if the activity complies with the limitations of the "Small Land Disturbing Activities Agreement." Those limitations are as follows for residential property:

- The property must not be disturbed more than 30,000 square feet for residential development at any one time;
- Proposed impervious surfaces on the property must not total greater than 15,000 square feet;
- Volume of earth movement on the property must be less than 1,000 cubic yards; and
- Not more than 3 contiguous lots or parcels must be approved for development at one time under one ownership. (COMCOR 19.10.02)

Chapter 19 also allows DPS to attach any conditions to a sediment control permit that are reasonably necessary to prevent sedimentation to public or private property or any sewer, storm drain, or watercourse; to prevent the operation from being conducted in a manner hazardous to life or property, or in a manner likely to create a nuisance (§19-7). The issuance of a sediment control permit on a tract of land at least 40,000 square feet or for land disturbance activity that would threaten the viability of a champion tree requires Forest Conservation review and approval from M-NCPPC (§22A-4).

Historic Area Work Permits. Chapter 24A governs issuance of a Historic Area Work Permit (HAWP), required by law before any construction, demolition, land disturbance, or alteration to exterior features of any historic site or historic resource located within any historic district (§24A-6).

For permit issuance, the law provides that DPS receive applications for a HAWP and issue the permit if approved by the Historic Preservation Commission (HPC). Chapter 24A requires the HPC to review the permit application, hold a public meeting to consider the application, and instruct DPS to approve or deny the permit application (§24A-7).

The Code also provides specific criteria for the HPC to use when determining whether to approve a HAWP; Chapter 24A, Section 8 provides that the HPC shall approve a permit request if:

- The proposal will not substantially alter the exterior features of an historic site or historic resource within an historic district; or
- The proposal is compatible in character and nature with the historical, archeological, architectural or cultural features of the historic site or the historic district; or

- The proposal would enhance or aid in the protection, preservation and public or private utilization of the historic site resource in a manner compatible with the historical, archeological, architectural or cultural value of the historic site, resource, or district; or
- The proposal is necessary in order that unsafe conditions or health hazards be remedied; or
- The proposal is necessary in order that the owner of the subject property not be deprived of reasonable use of the property or suffer undue hardship; or
- In balancing the interests of the public in preserving the historic site or resource with the interests of the public from the use and benefit of the alternative proposal, the general public welfare is better served by granting the permit.

Chapter 24A also allows the HPC to instruct DPS to issue a permit subject to specific conditions that the HPC finds necessary to insure conformity with the purposes and requirements of the Chapter (§24A-8).

Right-of-Way Permits. Chapter 49 of the County Code governs issuance of right-of-way permits. The law provides that a person may only place any structure, fence, post, or other object (other than mail or newspaper boxes) in the public right-of-way under written agreement with DPS (§49-17). The law also authorizes DPS to issue permits for reconstruction or repairing a sidewalk; and for installing, repairing, locating, or replacing underground utilities under a sidewalk (§49-18).

3. Procedural Requirements – Public Notice

Local jurisdictions often include certain procedural requirements for public notice into the law in order to obtain reasonable levels of consistency, transparency, and fairness into governmental actions. The Montgomery County Code includes several procedural requirements that apply to residential infill construction projects, primarily related to the review and issuance of permits.

Building permits. Chapter 8 establishes procedures for public notice for recently issued residential building permits. If DPS issues a building permit for residential new construction or for an addition that affects the footprint or height of an existing home, the Code requires the permit holder to post a sign on the property. The sign must describe the proposed construction and specify the 30-day time limit to appeal the issuance of the permit to the Board of Appeals. The specific design, content, size, and location requirements for the sign are established by County Regulation (§8-25A).

The permit holder must post the sign within three days after DPS releases the permit and the sign must remain up for 30 days after the permit release date (§8-25A). County Regulation defines "release date" as the day that a building permit is paid for and received by the applicant (COMCOR, 08.25A.01).

The law also states that if a permit holder does not post the required sign within three days, the building permit is automatically suspended until the sign is posted. If this occurs, the 30-day time limit to appeal the permit does not begin until the sign is posted. If a permit holder begins work under the permit without having posted the sign, DPS must immediately issue a stop work order (§8-25A).

Demolition permits. Chapter 8 also establishes specific public notice requirements for demolition permits. At least 10 days prior to issuance of a demolition permit, DPS must mail a written notice to the owner of each adjacent and confronting lot that identifies the building to be removed and specifies the process for appealing issuance of the permit. The Code requires that the permit applicant provide DPS with the names and addresses of the lot owners (§8-27).

The law includes an additional public notice requirement (publication of the address on DPS website) for buildings more than 25 years old; however, this requirement does not apply to single-family dwellings (§8-27).

Historic Area Work Permits. Chapter 24A includes public notice procedural requirements related to the Historic Preservation Commission's public meeting to consider a permit application. The law requires that the HPC notify any citizen or organization that the Commission reasonably determines has an interest in the application of the time and place of the public meeting (§24A-7). County Regulation further defines the public notice procedures by requiring that approximately 14 days prior to a public meeting on a HAWP application:

- The Commission must publish a notice of the meeting in a newspaper of general circulation within the County; and
- The Commission shall mail notice of the meeting to the applicant, any existing Local Advisory Panel, adjoining and confronting property owners, and other interested parties.

4. Compliance and Enforcement Tools

Establishing a permitting process to administer land use and development regulations requires a system of inspection and enforcement to assure that permitted work complies with the approved plans and conditions. For residential infill construction activities, inspection and enforcement are the responsibility of the Department of Permitting Services.

Building/Demolition permits. Chapter 8, Section 17 provides DPS with both general and mandatory inspection authority related to any permit issued under the Chapter, including:

- DPS may conduct inspections from time to time during completion of work for which DPS has issued a permit, and must maintain a record of all such inspections and any violations found;

- The Director of DPS may accept reports of approved inspection services which satisfy the Director's requirements as to qualifications and reliability; and
- DPS must conduct a final inspection after completion of a building or structure and before issuance of a certificate of use and occupancy.

Chapter 8 also provides DPS with general enforcement authority related to requirements of Chapter 8 and permit conditions. Specifically:

- DPS may issue a Stop Work Order if it determines that work on a building or structure is in violation of Chapter 8 requirements or the conditions of a permit;
- DPS shall issue a Notice of Violation to the person responsible for any building activity in violation of federal, State, or County law or in violation of an approved permit condition. The notice shall include a set time period within which the violation must be discontinued or corrected;
- DPS may subject a responsible party to punishment for a Class A violation if the violation is not discontinued or corrected within the time frame established by the Notice of Violation; and
- DPS may revoke any permit or approval issued under Chapter 8 for any violation of the conditions upon which the permit was issued. (§§8-20, 8-21, 8-22)

Sediment control permits. Chapter 19 assigns DPS both inspection and enforcement authority for sediment control permits. The law authorizes DPS to conduct sediment control inspections at any time, and requires the permit holder to notify DPS 48 hours before commencing any land disturbing activity and to hold a pre-construction meeting with DPS. If the permit requires an engineered erosion and sediment control plan, DPS must inspect the property at a minimum of five different stages of the project. If no plan is required, the only mandatory inspection is the final inspection upon completion of the project (§§19-12, 19-14).

Chapter 19 also provides DPS with enforcement authority related to violations of Chapter 19 or sediment control permits conditions. These enforcement authorities include:

- Revoking or suspending a sediment control permit;
- Issuing a Stop Work Order;
- Issuing a Notice of Violation that states the nature of the violation, required corrective action, and a time-frame for compliance. (§§19-9, 19-12)

Historic Area Work Permits. Chapter 24A does not include specific inspection requirements; however it requires that DPS enforce the provisions of the Chapter. Additionally, the law states that persons who violate a provision or requirement of Chapter 24A are subject to punishment for a Class A violation (§§24A-7, 24A-11).

D. Administrative Remedies - Variance and Appeal Procedures

As part of a system of land-use regulation, local jurisdictions often establish systems to hear and decide requests for relief from the strict application of development standards and to appeal government agency decisions made under the land-use framework. As noted on Page 13, the County Code authorizes the Board of Appeals to hear and decide on requests for variances from development standards, and administrative appeals of decisions of DPS and the HPC. Additionally, the law allows that a party may further appeal any decision of the Board of Appeals to the Circuit Court.

Variance Procedures. The Zoning Ordinance includes specific procedures for filing a petition for a variance. An applicant can file a petition for a variance at any time, regardless of whether a building permit application has been rejected by DPS, and the law prescribes the specific information the petition for a variance must include (§59-A-4.23).

Additionally, the law provides that within seven days after the filing of a variance, the Board of Appeals must forward a complete copy of the filing to the Planning Board and must forward notice of the filing to DPS, the owners of properties contiguous to the applicant's property, the owners of properties opposite the applicant's property measured at right angles to the intervening street(s), and any local citizens association (§59-A-4.46). The applicant must also post a sign on the property within three days after filing for a variance that specifies the requested variance and the assigned Board of Appeals case number.

The Zoning Ordinance also provides specific criteria for the Board of Appeals to use when making a determination on a request for a variance (§59-G-3.1). A variance granted by the Board of Appeals is valid for a period of 12 months, during which time a building permit must be obtained and the erection or alteration of the building started (§59-A-4.53).

Administrative Appeal Procedures. The County Code includes requirements related to who can lawfully file an administrative appeal, the conditions that can trigger an appeal, the timeframe to file an appeal, and notice of filing for the appeal.

Chapter 8 provides that any person aggrieved by a DPS decision to issue, deny, renew, or revoke a building or demolition permit or any other decision or order of DPS under Chapter 8, may file an appeal within 30 days of the action. The law states that after notice and hearing, the Board of Appeals may then affirm, modify, or reverse DPS' order or decision in question (§8-23). The law does not state whether the issuance of a stop work order or a permit revision during the 30-day appeal period pauses or re-starts the appeal period.

Similarly, Chapter 24A provides that within 30 days after the Historic Preservation Commission makes a public decision on an application, an aggrieved party may appeal the Commission's decision to the Board of Appeals. The Board can also affirm, modify, or reverse the Commission's decision (§24A-7).

The Zoning Ordinance also provides that an appeal can be made to the Board by any party aggrieved by the issuance or denial of a building permit or other administrative decision by DPS based upon the requirements of the Zoning Ordinance (§§59-A-4.3).

As with a variance request, the Zoning Ordinance provides that within seven days after the filing of a administrative appeal, the Board of Appeals must forward a complete copy of the filing to the Planning Board and must forward notice of the filing to DPS, the owners of properties contiguous to the applicant's property, the owners of properties opposite the applicant's property measured at right angles to the intervening street(s), and any local citizens association (§59-A-4.46).

The Board of Appeal Rules of Procedure – enacted by the Board, approved by the County Council, and published as Appendix J in the County Code – also allow any party to file a motion to dismiss an administrative appeal on the grounds that there is "no genuine issue of material fact to be resolved and that dismissal or other appropriate relief should be rendered as a matter of law" (County Code Appendix J, 3.2.2).

Chapter III: Department of Permitting Services' Management Practices Related to Residential Infill Construction

As part of this study, the Council asked OLO to examine how DPS carries out its management responsibilities related to residential infill construction. As explained in Chapter II, the County Code assigns DPS responsibilities for both zoning enforcement and permit issuance. This chapter describes DPS' policies, interpretations, practices, and procedures for each of these responsibilities. The chapter is organized as follows:

- **Part A,** provides an overview of DPS' procedures for administering permits typically associated with residential infill construction activities;
- **Part B**, outlines DPS' practices related to zoning enforcement, including Zoning Ordinance interpretations;
- **Part C,** reviews DPS' procedures and practices for permit inspections and enforcement;
- **Part D,** describes DPS' practices for making permit and other information available to the general public; and
- **Part E,** reviews the procedures for filing an administrative appeal of a DPS action.

A. DPS Permit Administration Practices

As explained earlier, a property owner who undertakes a residential infill construction project may be required to obtain one or more permits. All residential infill construction projects require a building permit. A project may also require a right-of-way permit, a sediment control permit, a demolition permit, and/or a Historic Area Work Permit. This section describes DPS' practices for administering these permit processes.

1. Right-of-Way Permit

When an applicant applies for a demolition permit or a building permit, DPS staff consults with the applicant to determine whether the law also requires a right-of-way permit for the applicant's proposed project. DPS requires a right-of-way permit for projects that:

- Propose to create a temporary construction entrance for the property;
- Place a crane, construction fence, or dumpster within the public right-of-way during construction; or
- Propose any other type of work within the public right-of-way (e.g. sidewalks, storm drains, etc.).

If it is determined that a right-of-way permit is needed, the applicant completes an *Application for Work in Public Right-of-way Permit* (Appendix A, ©1) form. The application lists standard "Conditions of the Permit" that apply to any right-of-way permit issued by DPS. These conditions include that:

- A permit from the State of Maryland is required for any removal or planting of trees on improved public rights-of-way;
- Any damage done to the existing right-of-way must be repaired before the release of the permit; and
- Proper precautions must be taken to keep existing roadways free of mud, debris, and other obstructions.

2. Sediment Control Permit

When an applicant applies for a demolition permit or a building permit, DPS staff consults with the applicant to determine whether the law also requires a sediment control permit for the applicant's proposed project. DPS requires application for a sediment control permit for any proposed demolition, and any proposed new construction, or a proposed addition to an existing home that involves 100 or more cubic yards of earth movement or disturbs 5,000 or more square feet of surface area.

A copy of DPS' *Application for Sediment Control Permit* form is included in the Appendix (Appendix B, ©3). The application lists standard "Conditions of Approval" that apply to any sediment control permit issued by DPS. These conditions include that all sediment control work must comply with, written requirements, the applicant's approved sediment control plan, and/or all violation notices which may be issued by DPS.

The type of sediment control permit generally issued for residential infill construction projects is a Small Land Disturbance Sediment Control Permit. A need for an engineered sediment control plan as part of the Small Land Disturbance Sediment Control Permit is determined at the discretion of the DPS plan reviewer.

3. Demolition Permit

Many residential infill construction projects involve tearing down an existing home and rebuilding a new home in its place. As described in Chapter II, the County Code requires a property owner or an authorized agent of the property owner to obtain a permit to demolish an existing home. The Code defines demolish as "to tear down or destroy an entire building or structure, or all of a building or structure except a single wall or facade" (§8-27). This section describes DPS' procedures and practices related to issuing permits and regulating demolitions of buildings.

Permit application and review. DPS publishes a document entitled *Demolition Submittal Guidelines* (Appendix C, ©5) that describes a 14-step demolition process; 11 of these 14 steps must be completed prior to issuance of a permit. DPS uses a single

application form, *Application for Residential Building Permit* (Appendix D, ©9), to capture information for both construction and demolition permits. The form includes checkboxes to indicate which permit(s) the applicant would like to apply for. DPS staff report that applicants who plan to tear down a home and rebuild on the same site often apply for demolition and construction permits at the same time.

Public notice of proposed demolition. As part of the demolition permit application, the applicant must provide DPS with the names and addresses of adjacent and confronting property owners. DPS sends written notice of the proposed demolition by both regular and registered mail to each of the property owners at least 10 days before DPS issues the demolition permit. The notice identifies the home to be demolished, specifies DPS' process for issuing the permit, and specifies the time limit to appeal the issuance of the permit to the Board of Appeals. Along with the required notice, DPS also provides the neighboring property owners a copy of DPS' *Demolition in Your Residential Neighborhood* handout (Appendix E, ©11) that provides information and resources on the demolition process.

If an adjacent and confronting lot is used as a rental property, DPS sends the notice to the owner of the dwelling and not the current occupant. As of November 2006, DPS staff report that they now use property tax records to verify the accuracy and completeness of the addresses and names submitted by the applicant.

Demolition bond. An applicant must obtain and submit to DPS a bond in the same amount as the estimated cost of the demolition (minimum $400). The four types of bonds an applicant can obtain are:

- A Performance Bond executed by an insurance company;
- A Letter of Credit executed by a bank;
- A Cash Bond in the form of cash, check or money orders; or
- A Certificate of Guarantee obtainable by members of the Maryland Development of Guarantee Group.

If a permit holder fails to complete the demolition or fails to meet other permit requirements (e.g. site clean-up requirements), the law allows DPS to use the bond to fund completion of those activities.

Disconnect utilities. To ensure that all utility service connections and equipment are safely disconnected and sealed before demolition, the applicant must obtain a written release from each applicable utility company stating that the disconnection is complete. The applicant must provide copies of these written releases to DPS before DPS will issue the demolition permit.

Other requirements. Depending on the characteristics of the site, the law may require an applicant to submit other information or documentation to DPS before the issuance of a demolition permit:

- For all sites, an applicant must submit a signed affidavit from a Maryland Department of Agriculture-licensed company stating that the property has been inspected and is free of any rodents or other pests;
- If applicable, an applicant must cap any wells located on the property and submit a well completion report;
- If applicable, an applicant must remove any asbestos or other hazardous material in accordance with Maryland Department of the Environment regulations; and
- If the building is listed on the Master Plan for Historic Preservation or located in a Master Plan historic district, a Historic Area Work Permit is required to move, demolish, or alter the exterior.

Issue permit. After DPS has reviewed the documentation to verify the applicant has complied with the law's requirements, DPS will issue the demolition permit. DPS uses its permitting database to track the information received and verify all necessary steps have been completed prior to issuing the permit. DPS designed the database to track the status of utility disconnection, the rodent/pest extermination, the bond posting, the date the written notices were mailed to adjacent property owners, and the issuance of the sediment control permit.

As with all permits issued by DPS, the issuance of a demolition permit may be appealed to the Board of Appeals within 30 days of the permits issuance. However, no provision in the law prevents the demolition from occurring even if an appeal has been filed.

A demolition permit is valid for one year, during which the demolition must be completed, unless the applicant requests a permit extension. DPS reports that most demolitions are completed within one month after a permit is issued.

4. Building Permit

Residential infill construction involves both building new homes after demolishing an existing home or constructing major additions to existing homes. As described in Chapter II, the County Code includes specific permitting and other requirements related to the residential home construction. This section describes DPS' procedures and practices related to the issuance of permits for construction of new homes and additions.

Sequencing with other required permits. When an applicant begins the application process for a building permit, DPS staff first determine if a sediment control permit or a right-of-way permit is required for the site. If so, those permits must be approved before DPS can issue the building permit. For new construction, DPS always requires both sediment control and right-of-way permits.

Building permit application. To apply for a building permit in Montgomery County, an applicant must submit a completed permit application package, containing all required supporting documentation. DPS utilizes a single application form, entitled *Application for Residential Building Permit* (Appendix D, ©9), for both construction and demolition permits. The form includes checkboxes to indicate the permit(s) the applicant is applying for. The form also asks the applicant to indicate whether the application is for new construction, an addition, or an alteration.

For new single-family dwellings, DPS requires the applicant to submit two complete sets of bound and legible prints containing floor plans, construction details, general notes and technical specifications. A list of minimum plan submittal requirements is included in DPS' *Plan Submittal Guideline – New attached and detached single-family dwellings* (Appendix F, ©12). The plans must be drawn to scale and dimensioned to show the scope of the proposed work. DPS review staff have the option of requiring any structural aspects of the proposal to be signed and sealed by the responsible Maryland Licensed Registered Architect or Professional Engineer. DPS also requires applicants to submit five site plans depicting the proposed location of the dwelling on the lot.

For additions or alterations, DPS requires the applicant to submit two set of plans with detailed floor plan information, general notes, and technical specifications. A list of minimum plan submittal requirements is included in DPS' *Plan Submittal Guidelines – Additions/Alterations* (Appendix G, ©14). The submission for additions or alterations must include both architectural and structural plans for the existing building as well as the proposed addition/alteration. DPS review staff have the option of requiring any structural aspects of the proposal to be signed and sealed by the responsible Maryland Licensed Registered Architect or Professional Engineer.

When applicants submit a building permit application, DPS intake staff conduct an initial review to assure it includes all required documents and information. If not, DPS staff immediately return the application and inform the applicant what other materials are needed before DPS can accept the application and began its review process.

DPS staff report that prior to submission of a building permit application, applicants will sometimes request to meet with DPS staff to discuss an upcoming submission and receive feedback on whether the plans generally seem to meet County requirements. DPS staff report that "pre-application" meetings often lead to more complete permit applications with less errors once they are formally submitted.

Review of the permit application. After an applicant submits an application for a residential building permit, the application undergoes a detailed review process before permit issuance or denial. As part of the initial screening process, DPS conducts a well and septic review if applicable. After the initial screening is completed, all permit applications receive a zoning review followed by a building plan review.

Zoning review. After accepting a permit application, DPS reviews the submitted plans for compliance with the applicable zoning and development standards for that property. As part of the zoning review, the assigned DPS plan reviewer fills out a standardized *Zoning Worksheet* (Appendix H, ©16). The worksheet includes space to enter the underlying zone for the property as well as when the lot was recorded to determine which development standards apply on the lot. DPS staff input data directly from the submitted building and site plans onto the worksheet to review against the applicable zoning standards for height, stories, setbacks, lot coverage, and lot width. DPS staff include the completed *Zoning Worksheet* as part of the official file for each building permit application.

Per the guidelines in the 2006 Memorandum of Understanding (MOU) between DPS and the Montgomery County Planning Board, DPS forwards all building permit applications for new construction to M-NCPPC to verify that all conditions of a site plan (if applicable) have been met. After this verification, M-NCPPC issues its "approval" directly into DPS' permitting database. DPS staff report that they also used to send permit applications for additions and alterations to M-NCPPC, but agreed to change this practice upon request from M-NCPPC based on the high volume of addition/alteration permits.

If DPS staff find that a building permit application does not comply with zoning standards, DPS will inform the applicant of the specific aspects of the proposal that are not in compliance. At that point the applicant can re-submit the proposal with the necessary changes to comply with the zoning standards. If the applicant does not want to make any changes, DPS denies the application for a building permit in writing and informs the applicant that the structure as proposed would require a zoning variance from the Board of Appeals before DPS could issue the building permit.

Building plan review. DPS' plan review process consists of reviewing the construction documents and supporting information submitted as part of the permit application. The plan review process also includes necessary reviews and approvals from other agencies, such as the Washington Suburban Sanitary Commission (WSSC).

For both new construction and addition/alteration permit applications, DPS reviews the submitted architectural and structural plans for compliance with applicable building code standards. DPS' architectural and structural review is an engineering review of the proposed structure and not a design review.

For new construction, Montgomery County Regulations adopt the *2003 International Residential Code*, with local amendments, as the building standards for Montgomery County. For additions or alterations to a residence at least one year old, the Montgomery County Regulations allow for those buildings to comply with the construction standards of the *Maryland Building Rehabilitation Code* (COMCOR 08.00.02).

Issuance of the permit. After a building permit is issued by DPS, the actual permit must be posted in front of the site or house and be visible from the main road or entrance. Additionally, a sign (provided by DPS) noticing the issuance of the building permit must be posted on the property within 3 calendar days after the release date of the permit and must remain posted for 30 calendar days. DPS will not perform any building inspections before verifying the sign posting.

As with all permits issued by DPS, the law provides that an aggrieved party may appeal the issuance of a building permit to the Board of Appeals within 30 days of the permits release. If the permit holder does not post the required sign on the property within three days of the permit release, the 30-day appeal period does not begin until the sign is posted. DPS staff report that a permit holder may, at their own risk, began construction activities during the 30-day appeal period or even while a permit is under appeal.

5. Historic Areas Work Permits

Public or private properties listed on the Montgomery County Master Plan for Historic Preservation, either as individual historic sites or as properties within a historic district, require the approval of the Montgomery County Historic Preservation Commission (HPC) for any modification or change to the exterior features or alteration to the environmental setting. As noted in Chapter II, Chapter 24A of the County Code provides for protection and regulation of historic areas and outlines the Historic Area Work Permit (HAWP) application and review process. The HPC receives staff support from the Historic Preservation Section of the Maryland-National Capital Park and Planning Commission (M-NCPPC).

Both DPS and the HPC have a role in approving and issuing a Historic Area Work Permit. DPS receives the HAWP application and issues the permit along with any other needed permits, but the HPC approves the type and scope of work done under the Historic Area Work Permit.

Application process. For most types of construction work on a designated historic structure or a structure within a designated historic district, the property owner needs to receive a HAWP as well as the appropriate type of building permit. Applicants must first file an application for a HAWP with DPS, and DPS subsequently forwards the application to the Historic Preservation Commission for review. DPS will not consider or review a building permit application for a structure that requires a HAWP until the HAWP application is decided upon. DPS' permitting database includes data from Park and Planning on historic structures and historic districts that flags properties that would require a HAWP in case a building permit application is submitted without one.

Some of the work for which a HAWP is required includes: constructing additions; removing or enclosing porches; installing siding; permanently removing shutters; and adding, removing or changing architectural features, including size, shape and placement of windows. A HAWP is not required for ordinary maintenance projects, such as painting, minor landscaping, roof repair with duplicate materials, and window repairs (but not window replacement).

The application requirements depend on the nature of the proposed project The HPC publishes a document titled *Instructions for Filing a Historic Area Work Permit Application* (Appendix I, ©17) that summarizes the application and review process and indicates the application information required based on the type of proposed project. The HPC encourages applicants to discuss proposals for major work with M-NCPPC Planning Department staff in advance of filing an application for a HAWP. Once an application is completed, submitted to DPS, and forwarded to HPC, the Commission schedules a meeting to review the application.

Review process. Every HAWP application goes before the HPC at a public meeting, typically held on the second and fourth Wednesdays of each month. The HPC notifies the applicant by mail of the scheduled meeting date, time, and location. The HPC must also send notice of the meeting date to the DPS Director, any adjacent and confronting property owners, and any citizens or organizations that the Commission reasonably believes has an interest in the issuance of the permit.

Some historic districts have Local Advisory Panels (LAPs), which are groups of volunteer citizens which assist the Commission by reviewing HAWP applications prior to the meeting and forwarding comments for the public record.

The Commission must make a public decision on the application no later than 45 days after the application is filed or 15 days after the Commission closed the record on the application, whichever is earlier. If the Commission approves the HAWP application, it forwards the permit approval information to DPS along with any permit conditions and DPS issues the HAWP. The property owner may then submit an application for a building permit. If a building permit is not required for the project, the owner may commence work.

If the Commission denies the HAWP application, applicants are notified in writing why the application was denied. If applicant does not agree with the decision of the Commission, he/she can submit a revised application or appeal the HPC decision to the County Board of Appeals.

B. DPS Zoning Enforcement Practices

As explained in Chapter II, the County Code ties building permit approval to compliance with all applicable standards and regulations, including zoning regulations. The system that DPS has instituted to carry out its zoning administration responsibilities consist of standard zoning review practices and a set of written code interpretations.

1. DPS Code Interpretation Process

To ensure clear and consistent interpretation and implementation of the zoning code by multiple staff in the Department, DPS has instituted a set of written code interpretations. DPS' written interpretations are not legally mandated; instead they are developed at the discretion of the Department and in consultation with the County Attorney's Office.

DPS' Division of Casework Management develops written Code Interpretations/Policies. Several of DPS' interpretations are presented on a standardized form that includes:

- An Interpretation/Policy Number;
- A description of what the interpretation is intended to clarify;
- A statement of how DPS will interpret the issue; and
- Signatures from the DPS Director, appropriate Division Chief, and Assistant County Attorney.

DPS also has Interpretation/Policies that are not presented on the standardized form but consist of one or more pages of diagrams and written text. These do not receive formal Interpretation/Policy numbers or any signatures.

DPS does not have a written procedure for creating written interpretations; however staff report that DPS follows the same general internal process in each case. New code interpretations/policies usually come from staff at various levels of DPS requesting guidance in how a section of the code should be implemented or administered. If DPS management agrees that a written interpretation is the most appropriate option:

1. DPS staff develop a draft interpretation/policy.
2. DPS management and the Assistant County Attorney assigned to DPS review and approve the draft interpretation.
3. DPS staff finalize the interpretation and it is signed by the Chief of the Division of Casework Management, the Assistant County Attorney, and the DPS Director.
4. DPS publishes the new interpretation on its website.

DPS staff report that they do not currently have either a formal or informal process to seek any outside comments and/or feedback on a draft before finalizing the code interpretation.

2. DPS Code Interpretations/Policies Relevant to Residential Infill Construction

DPS' website lists 14 different official interpretations. Table 2 lists and briefly summarizes eight DPS' Code Interpretations/Policies that are particularly relevant to residential infill construction. This section also describes each of the selected interpretations in more detail. Appendices J-S contain the full copies of the code interpretations/polices.

TABLE 2: SUMMARY OF SELECTED DPS CODE INTERPRETATIONS/POLICIES

Title	Summary of Interpretation
1928-30 Interpretation/Policy (ZP0404-1)	States that the language of the 1928 Zoning Ordinance as originally enacted will be the single reference point for determining development standards on lots recorded prior to March 16, 1928.
Addition Interpretation/Policy (ZP0204)	Defines the terms "alteration", "addition", and "new construction" for use in reviewing a building permit application related to an existing single family dwelling.
Basement/Cellar, How to Determine	Provides a written methodology and formula to determine whether the lowest level of a single-family dwelling qualifies as a basement or a cellar.
Bay Windows Interpretation/Policy (ZP0927)	Provides criteria to determine whether a projection from a building qualifies as a bay window or oriel.
Building Across Lot Lines (ZP0404-4)	States that when a property consists of two or more lots that are referenced in the County tax records under one tax identification number and are improved with a single-family dwelling, proposed additions will be permitted to cross internal lot lines. Proposed new construction would need to meet County subdivision requirements.
Building Height, How to Measure	Provides separate diagrams with text describing how to measure building height in: 1) the R-60 and R-90 zones, measuring to the highest point of roof; 2) the R-60 and R-90 zones, measuring to the mean height between the eaves and ridge of roof; and 3) All zones except R-60 and R-90 using average front elevation or using street grade elevation.
Established Building Line (ZP0404-2)	Specifies when calculation of the established building line is required and the method for calculating the established building line. Includes a listing of the specific lot or building types that are excluded from the established building line calculation.
Corner Lots, Yard Requirements (ZP0404-3)	Provides criteria for determining the applicable front, side, and rear yard setback requirements for existing or proposed single-family dwellings located on corner lots.

Source: DPS, 2006

1928-30 Interpretation/Policy (ZP0404-1) This interpretation/policy addresses the provision of the Zoning Ordinance (§59-B-5) that allows lots recorded prior to March 16, 1928 to meet the development standards in the 1928 Zoning Ordinance instead of current development standards.

As noted in Chapter II, the Montgomery County Board of Commissioners first approved a Zoning Ordinance and then attempted to repeal and reenact the Zoning Ordinance in 1930. The public record indicates procedural errors with the adoption process for each ordinance. Both the 1928 and 1930 ordinances included the same basic development standards for residential lots, but each ordinance had different exceptions for lots recorded before the passage of the ordinance as noted below:

- The 1928 Zoning Ordinance included a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, and a minimum side yard setback of seven feet. The 1928 ordinance included an exception that lots recorded before the passage of the ordinance with a lot width of 40 feet or less could have side yard setbacks of five feet.

- The 1930 Zoning Ordinance also included a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, and a minimum side yard setback of seven feet. The 1930 ordinance included an exception that lots recorded before the passage of the ordinance with a lot width between 40 and 50 feet could have side yard setbacks of five feet and exempted those lots from the minimum lot size requirement.

Over time, both the 1928 and 1930 versions of the Zoning Ordinance were used as the "1928 Zoning Ordinance," causing confusion for both DPS and the general public over which ordinance and development standards apply for lots recorded prior to March 1928, particularly for lots smaller than 5,000 square feet. Specifically:

- In 1990, the District Council approved a zoning text amendment (ZTA90002) that in part stated that lots recorded prior to March 16, 1928 must meet the development standards in the 1928 Zoning Ordinance (§59-B-5.1).

- In 1998, a Board of Appeals ruling (Case No. A-4851) stated "the effective 1928 Zoning Ordinance is actually the ordinance adopted in 1930. It superseded the 1928 ordinance, and the intention expressed in the 1930 ordinance was to grandfather lots recorded before zoning was imposed."

As a result, DPS adopted the 1928/30 policy in 2004 at the recommendation of the County Attorney. The 1928/30 Interpretation/Policy states that, for purposes of clarification and consistency, the DPS will use the language of the 1928 Zoning Ordinance as originally enacted as the single reference point for determining development standards on lots recorded prior to March 16, 1928.

Addition Interpretation/Policy (ZP0204). This interpretation/policy defines the terms "alteration", "addition", and "new construction" when applied to proposed changes to existing single-family dwellings.[1] Neither the Zoning Ordinance nor the Building Code define these terms, however the distinctions may impact the type of permit needed, the development standards that apply to a building, and the construction standards that a building must meet. For example, as stated on page x new construction must comply with the *International Residential Code* standards, while additions and renovations must comply with the *Maryland Building Rehabilitation Code*.

[1] The Addition Interpretation/Policy identifies §59-A-5.33, which discusses established building line requirements, as the section of the County Code it is interpreting. DPS staff reports that this is because DPS needed definitions for addition, alteration, and new construction to correctly implement the established building line requirement in the County Code.

The interpretation defines ***alteration*** as a modification to a building which does not change the footprint or floor area of an existing building. ***Addition*** is defined as a modification to an existing building that changes the footprint or floor area provided that:

- The construction footprint must not exceed the existing footprint by more than 100%;
- At least 50% of the existing first floor exterior walls, in their entirety and compromising the footprint of the existing building, must remain as exterior walls. To count as a first floor exterior wall, the wall must have its finished floor surface entirely above grade; and
- Any increase in building height is subject to current zoning standards.

The interpretation defines ***new construction*** as any change to an existing building that exceeds the definition of an alteration or an addition.

Basement/Cellar, How to Determine. This interpretation addresses how to determine whether the lowest level of a single-family dwelling qualifies as a basement or a cellar. Development standards in the R-60 and R-90 zones limit houses to 30 or 35 feet in height (depending on the method of measurement) and a maximum of 2½ stories. According to the Zoning Ordinance, a basement counts as a story but a cellar does not.

This interpretation provides:

- DPS' written methodology for how to conduct a basement/cellar calculation;
- DPS' written formula to use for conducting the basement/cellar calculation; and
- A sample site plan diagram and sample basement/cellar calculation based on the diagram to exemplify the calculation process.

Bay Windows Interpretation/Policy (ZP0927). This interpretation/policy addresses bay windows that are allowed to project into a front or rear setback by the Zoning Ordinance (§59-B-3.2). The interpretation defines what a bay window is, including a description of how one is typically constructed. The interpretation also states if a building has two or more bay windows projecting from any one side (front or back), the bay windows combined may not cover more than 50% of the linear width of that side.

Building Across Lot Lines (ZP0404-4). This interpretation/policy addresses existing single-family dwellings situated on two or more lots and whether proposed additions may cross the internal lot line without requiring a minor subdivision process.

The interpretation states that, if a property consists of two or more lots or parts of lots that are referenced in the Montgomery County tax records under one tax identification number, a proposed addition to a single-family dwelling can cross internal lot lines. This interpretation applies to dwellings that already cross the internal line or those where only the proposed addition will cross the internal lot line.

Building Height, How to Measure. This interpretation/policy describes DPS' method of measuring building height as specified in the Zoning Ordinance for different zone types. DPS revised this interpretation in 2006 based on Council legislation that changed the height limits and height measurement methodology for single-family homes in the R-60 and R-90 zones. The interpretation consists of five different diagrams combined with written text.

DPS' developed the final version of this building height interpretation in conjunction with representatives of the Montgomery County Civic Federation (MCCF) and other residents. After DPS published an interpretation based on the new legislation, MCCF contacted DPS and expressed concerns that some language in the interpretation was confusing and did not appear to meet the entire intent of the legislation. Based on these concerns, DPS revised the interpretation to it current format.

For building height measurement in the R-60 and R-90 zones, the interpretation includes separate diagrams for both methods of measurement allowed by the Zoning Ordinance – from the average elevation of the finished grade to either the highest point of the roof or the mean height between the eaves and ridge of the roof. Written text underneath each diagram includes the methodology for how to calculate the average elevation of the finished grade. The text also states that the average front elevation used will be based on either pre-development grade or finished grade, whichever is lower at any given point along the front wall.

Established Building Line (ZP0404-2). (Appendix P, ©35) This interpretation/policy describes the method DPS uses to calculate established building line (EBL) and addresses when the EBL is utilized as a development standard. This interpretation includes the definition of EBL from the Zoning Ordinance, as well as the provision that the EBL applies in the R-60, R-90, R-150, R-200 zones. The interpretation states that calculation of the EBL is required in the aforementioned zones for:

- All new construction of houses and main buildings; and
- All proposed additions that extend beyond the front of the building.

The interpretation also describes the method for calculating the EBL, including a list of the types of buildings or lots that are specifically excluded from EBL calculations. The interpretation includes one diagram that illustrates a sample EBL calculation, and three additional diagrams that illustrate sample EBL calculations for cul-de-sac lots.

Corner Lot, Yard Requirements (ZP0404-3). This interpretation/policy addresses criteria for determining the applicable front, side, and rear yard setbacks for existing or proposed single-family dwellings located on corner lots. The interpretation states that:

- Corner lots have two front yards and therefore require a front yard setback from each street. In limited circumstances when one adjoining lot is also a corner lot, a reduced side street setback will be applied;
- For new construction, the applicant may choose which interior lot lines will be considered the side or rear lot line, provided that both a side yard and rear yard are created for setback purposes; and
- For an addition to an existing single-family dwelling, setback requirements for side and rear yards have already been determined based upon original construction. The proposed addition must maintain the applicable side or rear setback for the underlying zone.

The interpretation also includes six different diagrams illustrating the corner lot setback requirements for main dwellings that adjoin another corner lot, and for accessory structures.

C. DPS Inspection and Enforcement Practices

A local jurisdiction institutes a permitting process to ensure a property owner plans and constructs a project that complies with its zoning regulations and building codes. The inspection phase of a permitting process allows a building inspector to monitor a project and ensure compliance at key project milestones as the project is built. This section describes the routine inspections DPS conducts for building and other permits associated with residential infill construction projects. It also describes DPS' practices for conducting complaint-based inspections.

1. Routine Building Permit Inspections

DPS requires several different inspections as part of an approved building permit. The County Codes provides DPS with the authority to enforce any violations of a building permit through the use of notices of violation and/or stop work orders and citations.

Required inspections during construction. After approval of a building permit, the permittee receives a *Notice of Required Residential Building Inspections* form (Appendix R, ©47) that DPS attaches to the approved plans. This form, which is available on DPS' website, lists which building inspections must be performed as a condition of that permit's issuance. The types of inspections required may differ for new construction permits and addition/alteration permits.

Permit holders also receive a *Residential Inspection Timing Checklist* (Appendix S, ©49), which provides detailed information on all potential types of building, electrical, and mechanical inspections required as part of the construction approval process. The

checklist, available on DPS' website, also indicates any timing requirements for inspections. The timing requirements include:

- What building construction activities cannot occur until a certain inspection has been approved (e.g. a foundation cannot be poured until approval of a footings inspection); and
- What other types of required inspections (i.e. mechanical, electrical, and plumbing/gas inspections) must be approved before scheduling a certain building inspection.

The checklist also indicates who can conduct each of the inspection types; including whether an inspection can be conducted by a licensed design professional as a 3rd party inspection. Table 3 below describes some of the different building inspections.

TABLE 3: SUMMARY OF SELECTED BUILDING INSPECTIONS

Type of Building Inspection	Summary of Inspection	3rd Party Inspection Allowed
Sign	Field inspection by DPS after release of a residential building permit to ensure that the required sign is posted on the property within 3 days. DPS will not conduct any other building inspections until approved.	No
Footings	Field inspection conducted prior to concrete placement and after any excavation is completed, reinforcement is in place, and installation of sediment control measures.	Yes
Foundation/Parging or Backfill	Field inspection conducted after the foundation has been poured, the walls are waterproofed and braced, and the exterior foundation drainage system is installed.	Yes
Concrete Slab-on-Ground Floor	Field inspection conducted after installation of the slab base and associated radon gas control system.	Yes
Wall Check	Certified house location survey provided to DPS after the foundation has been poured and before first floor framing begins. DPS zoning staff check the survey results showing the actual location of the foundation against the approved location, and redo all zoning standards calculations based on the actual location.	Yes
Framing (close-in)	Field inspection conducted after completion of all framing, roof construction, exterior sheeting, rough wiring, etc. but before installation of drywall and insulation.	No
Building Height	Field inspection conducted to verify the actual height of the structure as built for homes within R-60, R-90, and Site Plan zones.	Yes
Final	Field inspection conducted after the building (or addition) is completed and ready for occupancy. Before requesting DPS' final inspection, any final inspection approvals from other departments or agencies must be obtained.	No

Source: DPS' *Residential Inspection Timing Checklist* and *Notice of Required Residential Building Inspections*

Requesting inspections and re-inspections. Other than the sign inspection, which DPS automatically conducts for every applicable building permit issued, DPS requires the permittee to schedule each inspection when ready. Inspection requests can be made via phone, through DPS' Interactive Voice Response System, or on DPS' web site. DPS reports that inspections requests received before 12:00 noon are scheduled for the following business day, while requests received after 12:00 noon are scheduled to occur within two business days. Inspection requests must include the street address, permit number, and the type of inspection needed. Further, inspections will not be performed without a set of original County approved plans on site.

A scheduled inspection where work is incomplete or that cannot be performed because the inspector cannot gain access to the construction is considered a failed inspection. If an inspection fails, the permittee must request a re-inspection until that inspection receives DPS approval. Once any building inspection fails twice, DPS requires the permittee to pay a re-inspection fee of $110 prior to requesting any future inspections.

Third party inspections. As noted in Table 3, certain inspections can be conducted by a third party inspector that is a licensed design professional enrolled in the Montgomery County Inspectors Certification Program. Third party inspectors certify that the work conforms to building requirements and is in accordance with the approved plans associated with the building permit. Additionally, all house location surveys prepared for the wall check inspection must be prepared and certified by a Maryland Registered Land Surveyor or a Registered Professional Engineer.

After conducting on-site inspections, a third party inspector completes a *Residential Special Inspection Report/Certification* form (Appendix T, ©56) and provides the report to the permittee or property owner for submission to DPS. DPS staff report that sometimes permit holders do not provide DPS with the third party inspection certification form until scheduling the framing inspection. As a result, some inspections may not be entered into DPS' permit database in a timely fashion.

Field revisions. DPS allows its inspectors to authorize "minor" field revisions to approved plans during an inspection as long as the footprint of the structure does not change. DPS staff report that any alteration to the size or shape of the house or major structural revision would require a formal permit revision. According to DPS staff, the types of field revisions that inspectors generally use their discretion to approve or disapprove include changes to windows or doors. Third party inspectors are not allowed to make field revisions.

2. Other Routine Permit Inspections

DPS also conducts some routine inspections for other types of permits, described below.

- **Demolition Permit Inspections** – The final inspection is the only mandatory DPS inspection for a demolition permit. After the demolition is complete, the permittee contacts DPS to schedule a final inspection. DPS conducts the final

inspection to verify that the demolition occurred and to ensure that the site is free from demolition debris. Once the demolition site passes the final inspection, DPS releases the bond to the applicant. DPS does not require a property owner to complete a final inspection on a demolition permit before beginning new construction on the site. However, DPS staff report that a demolition permit holder will generally schedule a final inspection as soon as possible after the demolition is completed to facilitate return of their bond.

- **Sediment Control Permit Inspections** – All sediment control permits require a pre-construction meeting at the site with the permit holder and a DPS representative as well as a final inspection. In between, DPS reports inspecting sediment control permit sites approximately once every two weeks.

- **Right-of-Way Permit Inspections** – All right-of-way permits receive a minimum of one routine inspection. The total number of routine inspections depends on the specific purpose of the permit. For example, right-of-way permits related to utility installation will receive more routine inspections than permits related to placing a dumpster in the right-of-way.

- **Historic Area Work Permit Inspections** – DPS does not conduct routine inspection specifically related to Historic Area Work Permits. However, these permits also have an associated building permit and received routine building inspections as described previously.

3. Enforcement Actions

The County Code authorizes DPS to take enforcement actions for illegal construction activities or violations of permits issues by DPS. If DPS determines during an inspection that construction is occurring illegally, either without a permit or without the correct permit, DPS will take enforcement action and require the property owner to obtain the correct permit. If the structure is still in the process of construction, DPS will issue a Notice of Violation and a Stop Work Order. If the structure is already constructed, DPS will issue a Notice of Violation.

Additionally, DPS reports that any construction work that is performed before receiving a necessary inspection approval is done at the risk of the permittee. DPS' general practice is not to issue a Notice of Violation or a Stop Work Order if, for example, a permittee begins first floor framing before receiving wall check approval. However, DPS will not schedule the next inspection until the prior required inspection is approved. Additionally, any construction work done at the permittee's risk may have to be altered or torn down based on the outcome of the inspection.

For other types of permit violations (e.g. if an inspector finds a sediment control fence has fallen down), DPS staff either provide verbal notice, a written Notice of Violation, or a written Stop Work Order that requires taking corrective action by a specific deadline.

DPS staff report a general practice, depending on the severity and type of the violation, of initially providing verbal notice to the permit holder to correct the problem within a set period of time and then re-inspecting the site at that time.

4. DPS' Procedures for Complaint-Based Inspections

In addition to routine inspections, DPS also conducts inspections in response to complaints from residents. This section describes DPS processes for complaint-based inspections.

Any County resident is able to file a building or zoning complaint with DPS related to a building permit. According to DPS, zoning complaints typically involve allegations of improper uses or activities in specific zones and violations of building restrictions such as setbacks, lot coverage, and building height. Building complaints generally relate to construction work done without permits, but also include right-of-way and sediment control complaints. DPS maintains a phone line for residents to request inspections of suspected zoning violations and illegal/improper construction activities. Residents may also access a complaint form on DPS' website and submit the form via fax, email or regular mail.

After a complaint is filed, complaints are assigned to zoning/building inspectors who, if they find violations, instruct the violators to take corrective action. This may include seeking a variance from the Board of Appeals or tearing down an illegal structure. If a violation is not corrected within a reasonable time, the inspector will issue a notice of violation or stop work order. If requested, complainants' names are kept confidential by the department.

DPS reports that the staff member investigating the complaint will inform the complainant of developments in the case and its final outcome. DPS aims to begin the investigation within one to three days from the receipt of the complaint, but the entire investigation time may vary according to workload and/or complexity of the complaint.

D. DPS' Public Information Practices

DPS provides access to building permit and other information through publishing information and data on its website and allowing any interested party to view permit information and files at DPS' offices.

DPS' website provides access to real-time information maintained in the DPS Permit System. The status of the permit, the reviews that are planned/in progress/completed, and inspection information is available for each permit. The permit system can be searched by application type and permit number, by zip code, or by address. When searching by address, each permit associated with that address is displayed.

To view permit information or the set of approved plans associated with a permit, any individual can make an appointment with DPS staff or can walk-in to DPS' offices during normal business hours. DPS keeps one set of the final approved plans in microfilm and microfiche format (for all plans before 2001) or electronic format (for all plans beginning in 2001). DPS staff report that the only time a new set of approved plans are not immediately available is when the plans are being converted into electronic format.

After a building permit is issued, DPS sends the complete paper set of approved building plans out for conversion into electronic format at the Montgomery County Detention Center in Clarksburg. DPS maintains the electronic version of the plans as its official set of approved building plans; the paper copies are not kept after the imaging process. DPS staff report that it takes 10 days (on average) for a set of building permit plans to be imaged and loaded into DPS' computer system. As a result, it is possible that an approved set of plans may not be available for viewing at DPS offices at all times during the 30-day appeal period for a building permit.

DPS reports that if an individual request to see permit documents that are out for imaging and cannot wait until imaging is completed due to time constraints, DPS will have the plans returned to DPS offices within 48 hours. If the individual is not under a time constraint to view the plans, DPS reports that it will mail or email copies of the plans to the individual as soon as the imaging is complete.

DPS also adheres to County Regulations that govern response procedures for public information requests for all County Departments. To formally request copies of any documents maintained by DPS, individuals must fill out a *Request for Public Information* form. DPS staff report that the processing time for information requests varies according to workload and the complexity of the request. While most requests are processed in no more than ten workdays; many can be processed on the day of the request. County Regulation (COMCOR Misc. 01) requires DPS (and other Executive Brach departments) to respond to public information requests within 30 days.

DPS staff report that if they are aware that an information request is time sensitive, they attempt to fill that request as soon as practicable. Specifically, DPS moves to the top of its queue any request for information that DPS knows is related to an existing or potential permit appeal.

E. Procedures for Filing an Appeal of a DPS Decision

As explained in Chapter II, the County's governance structure for zoning and development assigns the Board of Appeals (BOA) authority to hear administrative appeals of DPS decisions. An administrative appeal is the formal process by which a resident can disagree with an action or decision of a county agency. An appellant files an application, asserting that an agency acted improperly. The BOA conducts a public hearing in which there is an opportunity for both parties to present evidence and testimony. The agency whose action is questioned is generally represented by an attorney from the County Attorney's office.

If an administrative appeal of DPS' decision to issue or deny a building permit is filed, the party appealing the decision (the Appellant) fills out and submits the required forms, Administrative Appeal Application Forms (Appendix U, ©57) along with a $200 filing fee to the Board of Appeals. The BOA will not accept an administrative appeal if it is incomplete (i.e. all required information is not provided). If the appeal clearly falls outside of the 30-day appeal period, BOA staff report that the appeal application is generally not refused; but the date of filing becomes an issue for the parties to raise at the hearing.

After accepting the application, BOA staff assign the case a number and schedule a hearing no sooner than 30 days after the filing date. Before the hearing, the appellant may withdraw the appeal at any time. Additionally, the County Attorney that represents DPS may file a request for the BOA to dismiss the case at any time before the hearing.

As long as the appeal is not withdrawn or dismissed, the BOA holds a formal hearing on the appeal. BOA staff report that the hearings can require more than one day, depending upon the complexity of the case. After the hearing(s), the BOA decides whether to grant or deny the appeal. If the Board denies the appeal, the permit is upheld as issued by DPS. If the Board grants the appeal (or part of the appeal), the Board's action may invalidate the permit or require modification of the permit as originally issued.

The Board's decision is not official until the Board issue a written opinion memorializing the decision. The BOA is required by their adopted Rules of Procedure (County Code, Appendix J, 9.1) to issue a written opinion within 45 days after an administrative appeal is decided. However, the BOA's most recent performance data for FY05 indicate an average of 61 days to issue an opinion for administrative appeal cases.[2] Any decision made by the Board of Appeals is appealable to the Circuit Court for Montgomery County.

[2] http://www.montgomerycountymd.gov/content/omb/FY07/mmurec/boa.pdf

Chapter IV: FY02-FY07 Data on Residential Infill Construction

This chapter summarizes available data related to residential infill construction in Montgomery County since FY02, from July 1, 2001 to November 15, 2006. At OLO's request, DPS provided OLO with permit, inspection, and enforcement data for properties in the R-60 and R-90 zones that underwent demolition and new construction, or an addition/renovation. The data cover five full fiscal years, FY02 to FY06, plus partial year data for FY07. The chapter also includes Board of Appeals data on administrative appeals of building permits. The chapter is organized as follows:

- **Part A,** provides an overview of residential infill construction permit data since FY02;
- **Part B,** summarizes DPS data on demolition and new construction activities within the R-60 and R-90 zones since FY02;
- **Part C,** presents DPS data on addition/renovation activities within the R-60 and R-90 zones since FY02; and
- **Part D,** summarizes annual Board of Appeals data since FY02 on administrative appeals of the issuance or denial of building permits.

This chapter presents certain data by zip code to show the locations of various residential infill construction activities. A map showing the location of all zip codes in Montgomery County is available in Appendix V (©62). For this chapter, OLO uses the term "demolition and new construction" to mean the tearing down or demolishing of an existing house and replacing it with a newly constructed house at the same site.

A. Overview of Residential Infill Construction Permit Data

Table 4 shows the annual number of building permits issued by DPS for residential infill construction since FY02 compared with the annual number of building permits issued in all residential zones for single-family detached dwellings (SFD). The data show:

- DPS has issued between 1,800 and 2,000 building permits for residential infill construction in R-60 and R-90 zones each year since FY02, for a total of 10,271 permits; and
- The over 10,000 residential infill construction permits account for 43% of all SFD construction activity since FY02.

TABLE 4: NUMBER OF SINGLE FAMILY DETACHED (SFD) CONSTRUCTION PERMITS IN R-60/R-90 AND ALL OTHER ZONES SINCE FY02

SFD Permit for:	FY02	FY03	FY04	FY05	FY06	FY07*	Total
R-60/R-90 Zone Infill Construction *(% of total)*	1,796 *(39%)*	1,780 *(42%)*	2,075 *(42%)*	2,008 *(42%)*	1,924 *(49%)*	694 *(50%)*	**10,271** ***(43%)***
Construction in All Other Residential Zones *(% of total)*	2,775 *(61%)*	2,437 *(58%)*	2,854 *(58%)*	2,776 *(58%)*	1,984 *(51%)*	683 *(50%)*	**13,509** ***(57%)***
Total SFD Construction Permits Issued	**4,571**	**4,217**	**4,929**	**4,784**	**3,908**	**1,377**	**23,780**

*FY07 data through November 15, 2006
Source: DPS, December 2006

Table 5 further breaks down the number of permits for residential infill construction activities in the R-60/R-90 zones by type of construction activity. Of the 10,271 permits issued since FY02:

- 8,991 (88%) permits were issued for renovations and additions[1];
- 1,181 (11%) permits were issued for demolition and new construction on the same site; and
- 99 (1%) permits were issued for new construction on vacant lots.

TABLE 5: NUMBER OF RESIDENTIAL INFILL CONSTRUCTION PERMITS IN R-60 AND R-90 ZONES SINCE FY02 BY TYPE OF CONSTRUCTION ACTIVITY

Type of Residential Infill Construction Activity	FY02	FY03	FY04	FY05	FY06	FY07*	Total
Addition and Renovation	1,572	1,604	1,862	1,704	1,646	609	**8,991**
Demolition and New Construction on Same Site	173	155	205	290	275	83	**1,181**
New Construction on Vacant Lot	51	21	8	14	3	2	**99**
Total	**1,796**	**1,780**	**2,075**	**2,008**	**1,924**	**694**	**10,271**

*FY07 data through November 15, 2006
Source: DPS, December 2006

[1] An addition/renovation project can range from an addition that substantially increases the size of a home to an interior renovation of all or part of a home.

B. Demolitions and New Construction in R-60 and R-90 Zones, FY02-FY07

In addition to the number of demolition and new construction projects shown in Table 5, DPS also provided data on location, inspections, zoning complaints, construction complaints, and enforcement actions related to the demolition and new construction projects.

1. Demolition and New Construction by Location

Table 6 shows the distribution of the nearly 1,200 R-60/R-90 demolition and new construction projects since FY02 by zip code. Exhibit 1 follows by illustrating the distribution using a map of Montgomery County zip codes.

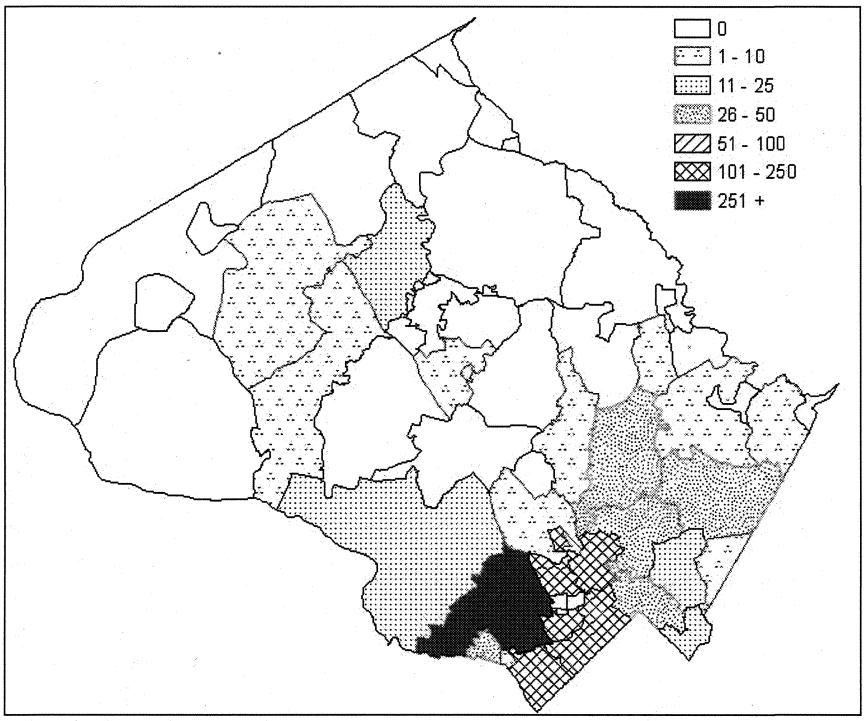
Since FY02, over 75% of the R-60/R-90 demolition and new construction projects have occurred in five zip codes that cover Bethesda (54%), Chevy Chase (12%), and Kensington (9%).

TABLE 6: NUMBER OF DEMOLITION AND NEW CONSTRUCTION PROJECTS IN R-60 AND R-90 ZONES BY ZIP CODE SINCE FY02*

Location	Zip Code	R-60/R-90 Demolitions and Rebuilds	Percent of Total
Bethesda	20817	313	26%
Bethesda	20814	228	19%
Chevy Chase	20815	140	12%
Kensington	20895	107	9%
Bethesda	20816	103	9%
Silver Spring	20910	43	3%
Colesville	20904	41	3%
Cabin John	20818	31	3%
Aspen Hill	20906	27	2%
Wheaton	20902	26	2%
Potomac	20854	25	2%
All Other		97	4%
Total		**1,181**	**100%**

*Data is through November 15, 2006
Source: DPS, December 2006

EXHIBIT 1: NUMBER OF DEMOLITION AND NEW CONSTRUCTION PROJECTS IN R-60 AND R-90 ZONES BY ZIP CODE SINCE FY02*



*Data is through November 15, 2006
Source: DPS, December 2006

2. Inspections, Complaints, and Enforcement Actions

As noted in Chapter III, DPS conducts a number of routine inspections during construction of a new home. Additionally, DPS conducts complaint-based inspections related to construction activities. This section provides data on both required building inspections and complaint-based inspections for the 1,182 demolition and new construction projects since FY02.

Building inspections and outcomes. Table 7 displays the annual number of DPS routine building inspections for properties in the R-60 and R-90 zones with new construction following a demolition from FY02 to FY07. The data does not include mechanical inspections, electrical inspections, or any inspection conducted by other departments or agencies. The data indicate:

- A total of 8,735 routine building inspections conducted since FY02; and
- Building inspections (including both initial inspections and re-inspections) exhibit a passing rate of approximately 79% since FY02.

TABLE 7: ANNUAL NUMBER OF ROUTINE BUILDING PERMIT INSPECTIONS FOR R-60/R-90 ZONE DEMOLITION AND NEW CONSTRUCTION PROJECTS IN SINCE FY02

Demolition and New Construction Projects	FY02	FY03	FY04	FY05	FY06	FY07*	Total
Number of Routine Building Permit Inspections	620	953	1,562	2,092	2,485	1,023	**8,735**
Number of Building Permits Inspected**	107	149	218	296	299	99	--
Inspection Passing Rate	87%	78%	78%	84%	77%	69%	**79%**

*FY07 data through November 15, 2006
**A building permit may receive inspections in more than one fiscal year.
Source: DPS, December 2006

Table 8 further breaks down the outlines the number and passing rate of routine building inspections for demolition and new construction projects by inspection type since FY02. The highest numbers of routine inspections were for framing and final inspections, both of which had the lowest passing rates.

TABLE 8: NUMBER OF ROUTINE BUILDING INSPECTIONS AND PASSING RATE BY INSPECTION TYPE FOR DEMOLITION AND NEW CONSTRUCTION PROJECTS SINCE FY02*

Building Inspection Type	Total Inspections Completed	Percent Passing
Framing or Close-in	1,658	59%
Final	1,401	58%
Concrete (Slab-on-ground)	1,292	94%
Footings	1,249	90%
Permit Notification Sign	1,122	74%
Foundation/Parging or Backfill	928	91%
Wall Check	928	98%
Building Height (beginning March 2005)	146	96%
Other**	11	73%
Total	**8,735**	**79%**

*Data through November 15, 2006
**Other Includes: Setback, Special Inspection, and Retaining Wall Footing
Source: DPS, December 2006

Complaints, Notices of Violation, and Stop Work Orders. As described in Chapter III DPS maintains an intake process for complaints about construction or building activities. DPS categorizes complaints as either a zoning complaint or a construction complaint. Zoning complaints are those related to requirements of the Zoning Ordinance, while construction complaints are those related to the Building Code, stormwater or sediment requirements, right-of-way requirements, or historic preservation requirements.

Table 9 shows the number and type of zoning complaints since FY02 associated with demolitions and new construction projects in the R-60 and R-90 zones. It also shows the total number of Notices of Violation or Stop Work Orders issued based on the complaints. The data indicate:

- Of the 380 total zoning complaints received, 68% were verified and 32% were dismissed after an inspection;
- DPS issued a total of 50 Notices of Violation and 13 Stop Work Orders for the 257 verified complaints; and
- Building setback complaints represented 47% of the 380 zoning complaints received since FY02. Setback complaints led to eight of the Stop Work Orders issued.

TABLE 9: NUMBER, TYPE, AND ENFORCEMENT ACTIONS FROM ZONING COMPLAINTS FOR DEMOLITION AND NEW CONSTRUCTION PROJECTS SINCE FY02*

Type of Zoning Complaint	Total Zoning Complaints			Enforcement Actions	
	Received	Verified	Dismissed	Notice of Violation	Stop Work Order
Setbacks	179	112	67	10	8
Building Height	66	40	26	1	0
Other Zoning**	50	34	16	22	0
Home Occupation	40	38	2	13	0
Zoning Enforcement	21	20	1	2	4
Development Standards-Residential	23	12	11	2	1
Lot Coverage	1	1	0	0	0
Total	**380**	**257**	**123**	**50**	**13**
Percent of Total	**100%**	**68%**	**32%**	--	--

*Data through November 15, 2006.
**Other Zoning includes: Improper Use of Community Property, Landscaping, Screening, Light, Residential- Number of People Residing in a Home, Animals in Residential Zone, Vehicles in Residential Zone, Landscaping, Signs in Right-of-Way, and No Permit for Sign
Source: DPS, December 2006

Table 10 shows DPS data on the number and type of construction complaints since FY02 associated with demolition and new construction projects in the R-60 and R-90 zones. It also shows the number of Notices of Violation or Stop Work Orders issued based on the complaints. The data indicate:

- Of the 738 total construction complaints received, 60% were verified and 40% were dismissed after an inspection;
- DPS issued a total of 31 Notices of Violation and 26 Stop Work Orders for the 440 verified complaints; and
- Sediment control complaints represented 46% of the 738 construction complaints received since FY02. Sediment control complaints also led to 42% of the Notices of Violation and 35% of the Stop Work Orders.

TABLE 10: NUMBER, TYPE, AND ENFORCEMENT ACTIONS FROM CONSTRUCTION COMPLAINTS FOR DEMOLITION AND NEW CONSTRUCTION PROJECTS SINCE FY02*

Type of Construction Complaint	Total Construction Complaints			Enforcement Actions	
	Received	Verified	Dismissed	Notice of Violation	Stop Work Order
Sediment Control	342	200	142	13	9
Building	111	72	39	3	4
Drainage	67	30	37	1	1
No Building Permit	68	53	15	5	8
Right-of-Way Obstruction or Violation	60	29	31	4	2
Other**	35	16	19	2	2
Fence/Retaining Wall	28	22	6	3	0
Flooding	27	18	9	0	0
Total	**738**	**440**	**298**	**31**	**26**
Percent of Total	**100%**	**60%**	**40%**	**--**	**--**

*Data through November 15, 2006.
**Other includes: Swimming Pool, Well and Septic, and Other Building Violation
Source: DPS, November 2006

C. Additions and Renovations in R-60 and R-90 Zones, FY02-FY07

In addition to the total number of addition/renovation projects shown in Table 5, DPS also provided data on the location, inspections, zoning complaints, construction complaints, and enforcement actions related to the addition and renovation permits.

1. Additions and Renovations by Location

Table 11 shows the distribution of the nearly 9,000 addition and renovation projects in R-60 and R-90 zones since FY02 by zip code. An addition/renovation project can range from an addition that substantially increases the size of a home to an interior renovation of all or part of a home. Exhibit 2 follows by illustrating the distribution using a map of Montgomery County zip codes.

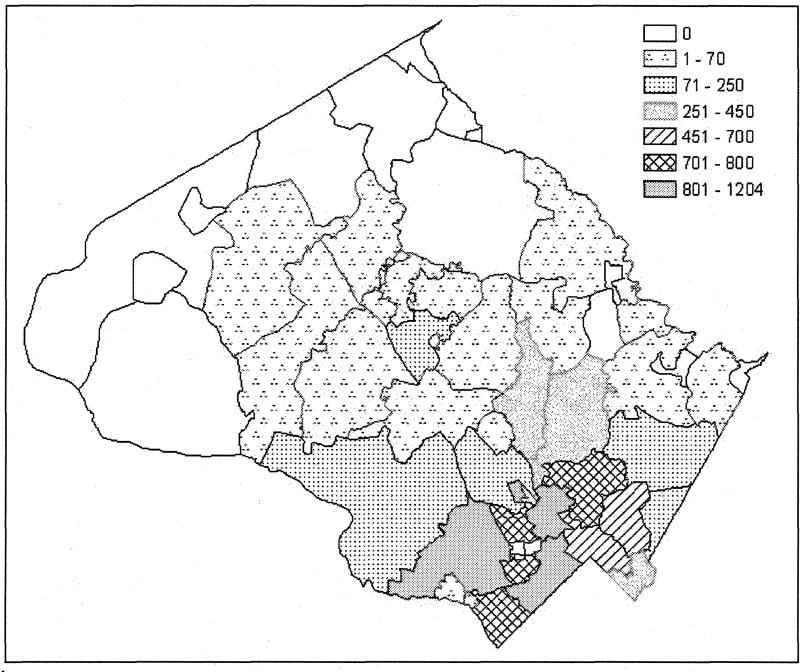
The data show that since FY02, over 73% of the R-60/R-90 additions and renovations have occurred in eight zip codes that cover Bethesda (28%), Silver Spring (15%), Chevy Chase (13%), Kensington (9%), and Wheaton (8%).

TABLE 11: TOTAL NUMBER OF ADDITIONS AND RENOVATIONS IN R-60 AND R-90 ZONES BY ZIP CODE SINCE FY02*

Location	Zip Code	R-60/R-90 Additions and Renovations	Percent of Total
Chevy Chase	20815	1,204	13%
Bethesda	20817	968	11%
Kensington	20895	814	9%
Bethesda	20814	785	9%
Wheaton	20902	740	8%
Bethesda	20816	733	8%
Silver Spring	20901	671	8%
Silver Spring	20910	645	7%
Takoma Park	20912	442	4%
Aspen Hill	20906	414	4%
Rockville	20853	338	4%
Potomac	20854	249	3%
All Other		752	8%
Total		**8,991**	**100%**

*Data through November 15, 2006
Source: DPS, December 2006

EXHIBIT 2: NUMBER OF ADDITIONS AND RENOVATIONS IN THE R-60 AND R-90 ZONES BY ZIP CODE SINCE FY02*



*Data through November 15, 2006
Source: DPS, December 2006

2. Inspections, Complaints, and Enforcement Actions

As noted in Chapter III, DPS conducts a number of required inspections during the course of renovating a home. Additionally, DPS conducts complaint-based inspections related to construction or building activities. This section provides data on both required building inspections and complaint-based zoning and construction inspections for the 8,991 addition and renovation projects since FY02.

Building inspections and outcomes. Table 12 outlines the annual number of DPS routine building inspections for properties in the R-60 and R-90 zones with an addition or renovation building permit and the passing rates of those inspections. The data does not include mechanical inspections, electrical inspections, or any inspections conducted by other departments or agencies. The data show:

- A total of 43,307 routine building inspections conducted since FY02; and
- Addition/renovation permit building inspections (including both initial inspections and re-inspections) exhibit a passing rate of 72% since FY02.

TABLE 12: ANNUAL NUMBER OF ROUTINE BUILDING PERMIT INSPECTIONS FOR ADDITION AND RENOVATION PROJECTS IN R-60 AND R-90 ZONES SINCE FY02

Addition/Renovation Projects	FY02	FY03	FY04	FY05	FY06	FY07*	Total
Number of Routine Building Permit Inspections	4,759	6,620	8,932	9,645	10,054	3,296	**43,306**
Number of Building Permits Inspected**	1,610	1,738	2,103	2,030	1,826	536	--
Inspection Passing Rate	78%	73%	71%	73%	69%	69%	**72%**

*FY07 data through November 15, 2006
**A building permit may receive inspections in more than one fiscal year.
Source: DPS, December 2006

Table 13 further breaks down the number and passing rate of routine building inspections for Addition/Renovation projects by inspection type. The highest number of inspections was for framing inspections, which had a 68% passing rate.

TABLE 13: NUMBER OF ROUTINE BUILDING INSPECTIONS AND PASSING RATE BY INSPECTION TYPE FOR ADDITIONS AND RENOVATIONS SINCE FY02*

Building Inspection Type	Total Inspections Completed	Percent Passing
Framing or Close-in	14,259	68%
Footings/Piers/Foundation	8,816	81%
Final	8,500	63%
Permit Notification Sign	8,174	71%
Concrete Slab	2,147	87%
Parging/Backfilling/Waterproofing	1,323	82%
Wall Check	43	100%
Other**	42	79%
Building Height (beginning March 2005)	3	100%
Total	**43,307**	**72%**

*Data through November 15, 2006
**Other includes: Concrete Poured Wall, Footings/Rebar, Permit Extension Six Months, Retaining Wall Footing, Setback, Special Inspection, and Temp Pending Final
Source: DPS, December 2006

Complaints, Notices of Violations, and Stop Work Orders. DPS provided OLO with data for both zoning complaints and construction complaints related to addition and renovation permits.

Table 14 shows the number and type of zoning complaints since FY02 associated with additions and renovations in the R-60 and R-90 zones. It also shows the number of Notices of Violation and Stop Work Orders issued based on the complaints. The data indicate:

- Of the 1,006 total zoning complaints received, 75% were verified and 25% were dismissed after an inspection;
- DPS issued a total of 326 Notices of Violation and 146 Stop Work Orders for the 824 verified complaints; and
- Building setback complaints represented 40% of the zoning complaints received since FY02. Setback complaints led to 48% of the Stop Work Orders issued by DPS.

TABLE 14: NUMBER, TYPE, AND ENFORCEMENT ACTIONS FROM ZONING COMPLAINTS FOR ADDITIONS AND RENOVATIONS SINCE FY02*

Type of Zoning Complaint	Total Zoning Complaints			Enforcement Actions	
	Received	Verified	Dismissed	Notice of Violation	Stop Work Order
Setbacks	406	315	91	84	71
Home Occupation	239	214	25	93	26
Other**	88	71	17	33	8
Development Standards – Residential	78	67	11	27	18
Number of People Residing in a Home	71	51	20	27	13
Commercial Vehicles in Residential Zone	62	50	12	31	4
Zoning Enforcement	50	45	5	24	4
Lot Coverage	12	11	1	7	2
Total	**1,006**	**824**	**182**	**326**	**146**
Percent of Total	**100%**	**75%**	**25%**	--	--

*Data through November 15, 2006.
*Other includes: Home Health Practitioners, No permit for signs, Signs in ROW/Other, Swimming Pools, Special Exceptions, Landscaping, U/O Permit Residential, Religious Issues, Child Day Care, Animals in a Residential Zone.
Source: DPS, December 2006

In addition to the data presented in Table 14, DPS reports issuing 23 Notices of Violation and 14 Stop Work Orders since FY02 for addition/renovation zoning violations that did not result from a complaint.

Table 15 shows DPS data on the number and type of construction complaints since FY02 associated with addition and renovation permits in the R-60 and R-90 zones. It also shows the number of Notices of Violation and Stop Work Orders issued based on the complaints. The data indicate:

- Of the 2,139 total construction complaints received, 66% were verified and 34% were dismissed after an inspection;
- DPS issued a total of 564 Notices of Violation and 385 Stop Work Orders for the 1,416 verified complaints; and
- Complaints of construction without a valid building permit represent 42% of the complaints received since FY02, and led to 72% of the Notices of Violation and 75% of the Stop Work Orders issued by DPS.

TABLE 15: NUMBER, TYPE, AND ENFORCEMENT ACTIONS FROM CONSTRUCTION COMPLAINTS FOR ADDITIONS AND RENOVATIONS SINCE FY02*

Type of Construction Complaint	Total Construction Complaints			Enforcement Actions	
	Received	Verified	Dismissed	Notice of Violation	Stop Work Order
No Building Permit	891	699	192	406	288
Building	350	259	91	51	33
Sediment Control	346	189	157	25	22
Other**	182	72	110	35	21
Right-of-Way Obstruction or Violation	114	54	60	10	8
Fence/Retaining Wall	98	51	47	17	6
Drainage	87	44	43	6	5
Flooding	47	29	18	7	1
Historic Preservation	24	19	5	7	1
Total	**2,139**	**1,416**	**723**	**564**	**385**
Percent of Total	**100%**	**66%**	**34%**	**--**	**--**

*Data through November 15, 2006.
**Other includes: Swimming Pool, Well and Septic, and Other Building Violation
Source: DPS, December 2006

In addition to the information presented in Table 15, DPS data reports five Notices of Violation issued since FY02 for addition/renovation construction violations that did not result from a complaint

D. Administrative Appeals of Building Permits

County law provides that an aggrieved party may appeal DPS' issuance or denial of a building permit to the Board of Appeals with 30 days of the permits release through filing an administrative appeal. The Board of Appeals provided OLO with data on the number and outcome of administrative appeals of building permits from FY02 to the present.

Since FY02, Board of Appeals data show 40 administrative appeals were filed to contest DPS' action on a building permit.[2] Over one-half of these appeals (21 or 53%) were dismissed by the Board of Appeals or withdrawn by the applicant before the Board held a hearing. Of the 17 appeals that went to a formal hearing, the Board of Appeals:

- Upheld DPS's building permit decision in 8 cases;
- Granted the appeal and overturned DPS's permit decision in 4 cases;
- Partially granted the appeal in 3 cases. In these cases, the Board upheld the issuance of the permit but required one or more specific permit modifications; and
- Continued 2 cases, which have yet to be decided.

Table 16 shows the number of building permit issues and number of appeals filed between FY02 and FY07. The data show the number of appeals filed varies considerably each year.

TABLE 16: ANNUAL NUMBER OF BUILDING PERMITS ADMINISTRATIVE APPEALS SINCE FY02

Year	Building Permit Appeals Filed
FY02	7
FY03	13
FY04	3
FY05	2
FY06	12
FY07*	3
Total	**40**

*FY07 data as of December 29, 2006
Source: DPS, December 2006

[2] Totals do not include two additional cases that have been filed and are currently pending before the Board.

Chapter V: Feedback from the Non-Governmental Sector

During the course of gathering information for this project, OLO spoke with several non-governmental groups (e.g. building industry representatives, civic group representatives) and/or individual Montgomery County residents to receive information and other input about residential infill construction for this study.

The chapter summarizes and presents some of the views and recurring themes OLO heard from building industry representatives and civic or neighborhood representatives (including residents who are not associated with any particular organization). Each individual or group that met with OLO was asked to discuss their views on:

- The County's legal structure related to residential infill construction; and
- DPS' policies and practices for permitting and regulating residential infill construction.

This chapter presents the direct views and experiences of individuals or general views of the groups/organizations that OLO spoke with; however, it does not assess how widely these views are shared among other individuals or groups who reside or conduct business in Montgomery County.

1. Feedback from Building Industry Representatives

OLO spoke with building industry representatives from the Maryland-National Capital Building Industry Association (MNCBIA) and the Montgomery County branch of the National Association of the Remodeling Industry (NARI). MNCBIA is a regional organization of the building and development industry which advises its members of legislative and regulatory changes and how these changes can affect building practices. NARI represents contractors and property owners who undertake residential infill building construction.

Overall, building industry representatives stated their belief that DPS' policies and procedures for permitting demolition and new construction are generally efficient and effective. Several builders commented that they do business in multiple D.C. metro-area jurisdictions and that Montgomery County had been one of the best jurisdictions to work in primarily because of DPS' competency and efficiency. However, they also stated that many procedural and legislative changes over the past few years have made the building permit process lengthier, more unpredictable, and more expensive.

Laws and DPS zoning interpretations/policies. According to building community representatives, it has required substantial time, effort, and sometimes cost to adjust building practices when new laws are passed related to residential infill construction. In order to better facilitate this transition period in the future, the builders suggested that all zoning text amendments adopted by the Council should:

- Include a clear, quantifiable, and measurable objective and purpose;
- Grandfather in existing and/or approved applications and permits so that plans that met the requirements at time of application can proceed under the original standards;
- Require a review and/or evaluation period to determine if the amendment is meeting its intended purpose; and
- Establish an effective date that provides enough notice to allow property owners to incorporate the new requirements without a disproportionate economic cost.

The builders also report that they do not always receive notice when DPS puts into effect a change in rules or interpretation. As a result, the building community further believes that DPS should adopt a more formalized process to establish a written code interpretation. The building representatives agreed that a process should include a forum for public input similar to the process used for Executive Regulations. In addition, if DPS changes or revises an existing Interpretation/Policy for any reason, the builders believe that DPS should provide formal public notice to ensure that all DPS customers are aware of the new regulation, new Interpretation/Policy, or new standard.

DPS staff. Overall, building industry representatives report that over time, DPS staff have generally provided consistent zoning interpretations; however, they also feel that DPS staff has become less willing to make decisions on issues that are not clear-cut and are not covered by a written DPS Interpretation/Policy. As an example, several builders commented that from their perspective, DPS staff often seek the opinion of legal staff before making decisions.

Because of this changing environment, builders state that they can not always rely on past experience and decisions to predict how the same issue will be interpreted by DPS staff in the future. Building representatives also report that some DPS inspectors have the technical skills or expertise to make and approve field changes during an inspection. The builders note that this practice results in greater efficiency for both the builder and DPS and avoids a failed inspection which can unnecessarily delay construction and increase costs.

Permitting and regulation process. The building industry representatives agreed that DPS has an efficient demolition permitting process, especially when compared to other jurisdictions. However, the builders feel that the application for a building permit has become lengthier and more demanding over the past few years. Specifically, they note that:

- Applications now go sequentially through a pre-screen submission, a zoning review, and a plan review. In the past, the builders report that the zoning and plan reviews were completed concurrently.
- More information is required on a building permit application, increasing the cost and time to complete an application.

The building industry representatives also discussed concerns about the building permit appeals process. They feel that during the appeal process, the property owner is often displaced for an indeterminate period of time and placed at risk of losing construction financing (for failing to comply with the terms). The builders expressed the following specific concerns with the building permit process:

- The law does not provide criteria for filing an administrative appeal of a building permit;
- The Board of Appeals is not required to schedule the case for a hearing within a specific time frame, nor is it required to project how long deliberations can or should take; and
- The Board of Appeals does not adhere to the time requirement for producing a written opinion of the Board's decision, leaving the builder to wait even if the permit decision was upheld.

2. Feedback from Residents and Members of Civic Groups

OLO received feedback from several individual Montgomery County residents as well as representatives of civic or neighborhood associations. Many of the residents that contacted OLO expressed concerns about the general impact of residential infill construction within their neighborhoods and communities. Overall, residents raised concerns about:

- Neighborhood aesthetics, in particular the bulk and height of some new construction compared to older homes;
- Removal of trees and loss of tree canopy;
- Stormwater drainage and sedimentation; and
- Impacts of construction activities within an existing neighborhood (e.g. noise; damage to streets, sidewalks, or other infrastructure; increased traffic, etc.)

Residents and civic group representatives also provided OLO with specific views about the legal and policy framework for residential infill construction, access to information from DPS, and DPS' permitting and regulation practices. The sections below summarize the common themes OLO heard about each of these areas.

Laws and DPS zoning interpretations/policies. Individuals and groups from the community held a variety of views and opinions on the law and policy framework of residential infill construction. Several residents stated that DPS does not always provide consistent interpretations of zoning requirements or standards. Those residents feel that this may occur due to a lack of written policies. Other residents felt that DPS exceeds its authority in developing certain interpretations, such as interpretations that define terms. More specifically, the individuals and civic groups OLO spoke with generally agreed that:

- DPS should adopt a formal rulemaking and/or administrative regulations process for interpretations. This process should include public input and also include formal notice when revising an interpretation.
- In some neighborhoods, many properties have undergone some type of residential infill construction activity. As a result, several residents feel that the impact is similar to building a new subdivision while the law does not require the same type and level of review as would be required for a new subdivision.

Access to DPS. Residents' perceptions of customer service and access to information at DPS are uneven. Some residents report they have had no difficulty accessing staff and permit documents; while other residents report they were unable to access documents or information in a timely manner.

In particular, several residents report that they were unable to obtain approved construction plans for a building permit because DPS' only copy of the approved plans had been sent out for imaging. These residents report that this sometimes occurred during the 30 day appeal period for the permit.

Some residents expressed frustration in attempting to contact DPS. They report often being sent to voicemail and a general difficulty connecting with a staff member unless a resident dials a direct line. Residents further report that DPS's responsiveness in returning calls varies, ranging from a couple of days to a few weeks, if at all. Residents suggest creating a single point of contact for all questions and concerns, along with a deadline on how long it will take DPS to return phone calls.

In addition, several residents who filed a building or zoning complaint through DPS' complaint-handling system report they did not receive follow-up information from DPS on the outcome of their complaint.

Permitting and regulation process. Several residents feel that DPS does not enforce zoning standards consistently. In addition, several residents feel that DPS primarily conducts complaint-based enforcement, and should instead move towards more proactive enforcement. Specific issues raised by residents include:

- DPS's routine inspections for a permit, which are listed in the on-line permitting database, do not always seem to follow the timing requirements for inspections which DPS lists on its website. This creates confusion for residents about whether construction is occurring legally.
- DPS should require chain-link fencing instead of orange "snow-fencing" as a safety measure at demolition sites and building sites where a hole is dug for the foundation, especially in neighborhoods with elementary schools.
- Several residents report often seeing sediment control fences in disrepair and sediment moving onto other properties or the street.

Chapter VI: Findings

This study, conducted by the Office of Legislative Oversight, reviews the current laws, regulations, and practices related to "residential infill construction" in older, more established neighborhoods in the County. The objective of this project was to:

- Identify the set of laws and regulations that govern residential infill construction;
- Review the Department of Permitting Services procedures and practices for interpreting and administering the laws and regulations; and
- Summarize available data on residential infill construction projects since FY02.

For purposes of conducting this study, OLO defined "residential infill construction" as construction occurring within the County's R-60 and R-90 residential zones and including: the demolition or teardown of an existing home and the subsequent re-building of a home on the same site; construction of a new home on a vacant infill lot that has not undergone re-subdivision; and additions/alterations to existing homes.

LEGAL FRAMEWORK

Finding #1: Under authorities provided by State law, the County Code creates a governance framework that regulates residential infill construction primarily through the Building Code (Chapter 8) and the Zoning Ordinance (Chapter 59).

The Maryland Code establishes Montgomery County's authority to regulate land use. The County's zoning and planning authority derives from Article 28 of the Maryland Code, known as the Regional District Act.

The Montgomery County Code in turn establishes a legal framework for regulating construction and development activities. Several chapters of the County Code establish authority or standards that relate to residential infill construction. The two chapters most applicable to residential infill construction are the:

- Building Code (Chapter 8), which governs any construction, alteration, addition, removal, and demolition of a building or structure; and
- Zoning Ordinance (Chapter 59), which creates a system of districts and zones that define allowable uses and development standards for specific properties.

Other chapters of the County Code particularly relevant to residential infill construction include Chapters 2, 19, and 24A. Those chapters establish the administrative structure to administer the Building Code and Zoning Ordinance; create regulations and standards for land disturbing activities; and establish additional regulatory requirements for construction within historic districts or on historic structures.

Finding #2: The County's Zoning Ordinance established the R-60 and R-90 residential zones in 1954. Lots in these zones undergoing infill construction must meet a specific set of building standards defined in the Zoning Ordinance. Certain standards vary based on when a lot was recorded.

The Montgomery County District Council has adopted new or revised zoning ordinances in 1928, 1930, 1941, 1952, 1954, and 1958. The 1954 Zoning Ordinance created a set of residential zones including the current R-60 and R-90 zones. The R-60 and R-90 zones are the underlying zones for many of the County's older, established residential neighborhoods.

The Zoning Ordinance establishes a set of minimum and maximum development standards that apply to properties within the R-60 and R-90 zones. Many of the R-60 and R-90 zone building standards have not changed since 1954. Current standards include:

- Minimum lot area;
- Minimum lot width;
- Minimum building setbacks from lot lines;
- Maximum building height; and
- Maximum building coverage of lot area.

For lots legally recorded before 1954, the Zoning Ordinance includes provisions that allow construction based on some or all of the development standards that were in place at the time of lot recordation and/or original construction.

The Zoning Ordinance also includes exemptions from height and/or setback standards for several specific building features (e.g. porches, steps, bay windows, chimneys).

Finding #3: All residential infill construction projects must receive a building permit from DPS. County law establishes requirements for review, notice, and issuance of building permits.

County law requires a building permit provided by the Department of Permitting Services before legally constructing, adding onto, or renovating a home. The Building Code specifies information that must be submitted to DPS as part of a building permit application, including a description of the proposed work, plans and specifications, a plot diagram, and engineering details.

County law requires DPS to review building permit applications for compliance with both applicable building and construction standards established by the Building Code and zoning standards established by the Zoning Ordinance. The law requires that DPS must then either reject or approve each building permit application based solely on the permit's conformance to applicable laws and regulations. The law assigns DPS limited discretion to attach conditions to or amend a building permit application.

Any building permit issued by DPS for new construction or an addition that affects the footprint or height of an existing home must be publicly noticed through placement of a DPS-provided sign on the subject property for 30 days. The permit holder must post the sign within three days after DPS releases the permit (i.e. when the permit is paid for and received by the applicant).

Finding #4: In addition to a building permit, residential infill construction projects may also require a demolition, sediment control, right-of-way, and/or Historic Area Work Permit. County law establishes varying requirements related to the review, notice, and issuance of these additional permits.

Other permits that may be required for a residential infill construction project include:

Demolition Permit – Any project that includes demolishing an existing house or tearing down all but one wall of an existing house requires a demolition permit from DPS. County law provides several requirements that must be met by the applicant before DPS issues a demolition permit. The law also requires DPS to provide written notice of a proposed demolition to adjacent and confronting property owners at least 10 days prior to issuance of a demolition permit.

Sediment Control Permit – County law requires a sediment control permit for all land-disturbing activity associated with demolitions, all new residential construction, and for certain additions to existing homes. The law requires that DPS issue any required sediment control permit before issuing a building or demolition permit. The law also allows DPS the authority to attach conditions to a sediment control permit.

Historic Area Work Permits (HAWP) – Any residential infill construction project within a designated historic district or on a designated historic structure requires a HAWP. DPS receives applications for and issues or denies Historic Area Work Permits, but Historic Preservation Commission (HPC) – a nine-member citizen board – reviews applications and makes approval decisions. County law provides specific criteria for determining whether to approve a HAWP, allows the HPC to attach conditions to a HAWP, and requires the HPC to hold public meetings to consider HAWP applications.

Right-of-Way Permit – Any residential infill construction project that proposes to place an obstruction in the public right-of-way (e.g. a dumpster), construct a temporary driveway for construction vehicle access to the property, conduct sidewalk repair or reconstruction, or work on underground utilities through a public right-of-way requires a right-of-way permit from DPS.

Finding #5: County law provides DPS with certain inspection and enforcement authority related to issuing of permits for residential infill construction.

For building and demolition permits, County law provides DPS with the authority to conduct both routine and unplanned inspections to verify compliance with applicable laws, regulations, and permit conditions. The Building Code also provides DPS with enforcement authority for non-compliance; DPS is able to revoke any building or demolition permit, issue a Stop Work Order, issue a Notice of Violation, or issue a Class A violation.

Similarly, County law assigns DPS both inspection and enforcement authority for sediment control permits. The law authorizes DPS to conduct sediment control inspections at any time, and provides DPS with the enforcement authorities to revoke or suspend a sediment control permit, issue a Stop Work Order, or issue a Notice of Violation.

County law also authorizes DPS to enforce the provisions of historic preservation law, which includes Historic Area Work Permits, and issue Class A violations for non-compliance.

Finding #6: County law establishes specific authority and processes for appealing permit actions or decisions of DPS and for requesting variances from development standards.

County law establishes the Board of Appeals, a five-member board of residents appointed by the Council. The law assigns the Board of Appeals duties to hear and decide administrative appeals of decisions or actions made by DPS or the HPC, including permit decisions; and to review and decide requests for variances from zoning standards.

County law provides that any person "aggrieved" by a DPS permit decision or other action authorized under the Building Code or the Zoning Ordinance may file an appeal within 30 days of the action. This includes decisions or permits related to residential infill construction. The law states that after notice and hearing, the Board of Appeals may affirm, modify, or reverse DPS' order or decision in question. Similarly, decisions of the Historic Preservation Commission may also be appealed to the Board of Appeals within 30 days of the action.

The Zoning Ordinance provides that an applicant can file a variance petition with the Board of Appeals at any time to request "relief" from the "strict application" of zoning standards for a particular property. The Zoning Ordinance also provides specific criteria for the Board of Appeals to use when making a determination on a request for a variance. If the Board grants a variance, then DPS must issue a building permit as long as all other standards are met.

Finding #7: County zoning law creates confusion over the zoning requirements for construction activity on certain lots legally created before the County imposed zoning standards in 1928. Several factors contribute to the confusion.

The Montgomery County Board of Commissioners, sitting as the District Council, first approved a Zoning Ordinance and zoning map in 1928. The District Council subsequently repealed and reenacted the Zoning Ordinance in 1930. The 1928 and 1930 ordinances required the same minimum lot size of 5,000 square feet and minimum lot width of 50 feet, but each ordinance had different exceptions to these requirements for lots recorded before the passage of the ordinance:

- The 1928 ordinance allowed lots with a width of 40 feet or less to have a smaller side yard setback.
- The 1930 ordinance allowed lots with a width between 40 and 50 feet to have a smaller side yard setback and exempted those lots from the minimum lot size requirement.

The public record indicates procedural errors with the adoption process for each ordinance. After approval, neither the 1928 or the 1930 ordinance was published in the Journal of the Board of Commissioners despite the recitation in the Board's approval that the text of the ordinance would be "spread upon the Journal." In 1932, the Board of Commissioners realized its error and made a *nunc pro tunc* (i.e. retroactive to the earlier date) entry of both the 1928 and 1930 ordinances into the Journal.

Over time, different interpretations of this sequencing of events has caused confusion both for DPS and for the general public over which ordinance and development standards apply for lots recorded prior to March 1928, particularly for lots smaller than 5,000 square feet. These events include:

- In 1990, the District Council approved a zoning text amendment (ZTA90002) that in part stated that lots recorded prior to March 16, 1928 must meet the development standards in the 1928 Zoning Ordinance (§ 59-B-5.1).

- In 1998, a Board of Appeals ruling (Case No. A-4851) stated "the effective 1928 Zoning Ordinance is actually the ordinance adopted in 1930. It superseded the 1928 ordinance, and the intention expressed in the 1930 ordinance was to grandfather lots recorded before zoning was imposed."

- In 2004, at the recommendation of the County Attorney, DPS adopted a Code Interpretation/Policy (ZP0404-1) stating that "the language of the 1928 Zoning Ordinance as originally enacted will be the single reference point for determining development standards on lots recorded prior to March 16, 1928." As a result, DPS' current policy does not exempt pre-1928 recorded lots from the 5,000 square foot minimum.

DPS MANAGEMENT PRACTICES RELATED TO RESIDENTIAL INFILL CONSTRUCTION

Finding #8: DPS has developed a set of management practices to administer the permits associated with residential infill construction.

To administer permits that conform to legal requirements, DPS has developed written procedures and/or routine practices for:

- *Permit applications* – including standard application forms that list the information DPS requires both legally and practically to appropriately review the application;
- *Plan review* – including standardized sequencing of reviews, sharing of plan information with other agencies that must review plans (including M-NCPPC), and formal sign-off on all necessary approvals before DPS will issue a permit; and
- *Public notice* – including standardized procedures for distributing and verifying the posting of building permit signs and the mailing of written notice requirements.

DPS maintains a permit database that tracks the status of the permit administration process and allows for automated approvals.

Finding #9: DPS' system of zoning administration includes the development of written zoning interpretations and policies on an "as-needed" basis. DPS does not have a written procedure for adopting official interpretations.

In an effort to ensure clear and consistent implementation of zoning and building laws by staff in the Department, DPS has developed a set of written code interpretations or policies.

DPS' written interpretations are not legally mandated; instead they are developed at the discretion of the Department and in consultation with the County Attorney's Office. DPS does not have a written procedure for adopting official interpretations. However, DPS staff report following the same general internal process in each case. Several DPS interpretations are presented on a standardized Code Interpretation/Policy form while others consist of diagrams and written text.

DPS staff report that they do not currently have either a formal or informal process to seek any outside comments and/or feedback on a draft before finalizing the code interpretation. DPS also does not send out any public notice after it creates or revises an interpretation/policy.

Written DPS interpretations range from technical explanations (e.g. written methodology and formulas DPS uses for specific calculations) to legal interpretations (e.g. definition of specific terms, zoning standards that govern during specific timeframes).

Some DPS Code Interpretations/Polices with particular relevance to residential infill construction (described in detail in Chapter III) include:

- 1928-30 Interpretation/Policy;
- Addition Interpretation/Policy;
- Established Building Line Interpretation/Policy;
- How to Determine Basement/Cellar Interpretation/Policy; and
- How to Measure Building Height Interpretation/Policy.

Finding #10: DPS conducts both routine and complaint-based field inspections for all permits issued by the Department.

DPS conducts routine (i.e. planned) field inspections for all right-of-way, sediment control, demolition, and building permits. While each of these permits receives at least one routine inspection, building permits require multiple inspections throughout the construction process. Each building permit holder receives a list of building inspections that must be performed as a condition of that permit's issuance. If a building fails a routine inspection, the permit holder must correct any deficiencies and pass a re-inspection before the next type of inspection can occur.

DPS conducts complaint-based inspections in response to any potential law or permit violation received via DPS' complaint-handling system. A DPS inspector conducts a field inspection to either verify or dismiss each complaint.

If a DPS inspector finds a violation of law or permit as part of a complaint-based inspection or a routine inspection, DPS reports that the enforcement action staff takes depends on the nature of the violation. Enforcement actions include:

- A verbal request to take corrective action within a set period of time; and/or
- A Notice of Violation the requires corrective action within a set period of time; and/or
- A Stop Work Order that requires corrective action within a set period of time.

Finding #11: DPS' document imaging practices do not guarantee that an approved set of building permit plans is available for immediate review at all times during a permit's 30-day appeal period.

After a building permit is issued, DPS sends the complete paper set of approved building plans out for conversion into electronic format at the Montgomery County Detention Center in Clarksburg. DPS maintains the electronic version of the plans as its official set of approved building plans; the paper copies are not kept after the imaging process.

DPS staff report that it takes 10 days (on average) for a set of building permit plans to be imaged and loaded into DPS' computer system. As noted in Finding #6, the law allows an aggrieved party to appeal the issuance of a building permit within 30 days of the permit's issuance. As a result, an approved set of permit plans could be unavailable for immediate viewing at DPS offices for one-third of the 30-day appeal period.

DPS reports that if an individual requests to see permit documents that are out for imaging, DPS will have the original paper plans returned to DPS offices within 48 hours; all other information requests follow the process established by County Regulation for responding to public information requests.

DPS Compliance with Legal Requirements

Finding #12: DPS issues permits for residential infill construction in alignment with the existing set of County laws and regulations.

DPS' procedures and practices for the review, issuance, and enforcement of residential infill construction permits align with current County laws and regulations. DPS is a large department with a high volume of work to process. As in any similar organization, staff mistakes do occur; however, OLO's review did not find any evidence to suggest that DPS staff practices routinely violate Departmental procedures.

Specifically, OLO found that DPS issues permits for residential infill construction located in the R-60 and R-90 zones based on the development standards in the Zoning Ordinance. Based on the current height, lot coverage, and setback requirements, the Zoning Ordinance allows for the potential to build:

- A home with over 5,000 square feet of floor area on a 6,000 square foot R-60 lot;
- A home with over 6,000 square feet of floor area on a 9,000 square foot R-90 lot; and
- A home within 5 feet of a neighbor's property line and within 10 feet of a neighbors dwelling.

Board of Appeals data also indicate DPS building permit decisions conform to legal requirements. The data show very few administrative appeals filed (40 since July 1, 2001) related to the issuance of residential building permits. Of the appeals filed, four resulted in the Board overturning DPS' decision to issue a building permit; and three resulted in the Board requiring a partial revision to the building permit.

DATA ON RESIDENTIAL INFILL CONSTRUCTION

Finding #13: Since FY02, DPS has permitted over 10,000 residential infill construction projects in the R-60 and R-90 zones. These permits represent 43% of single-family detached home construction activity, and most were for additions/renovations to existing homes.

Between July 1, 2001 and November 15, 2006, DPS issued 23,780 permits for single-family detached dwelling construction activity (i.e. new construction or additions/renovations) in all residential zones. 10,271 (or 43%) of these permits were issued for infill construction projects within R-60 and R-90 zones, including:

- 8,991 permits for building additions or renovations (an addition/renovation project can range from an addition that substantially increases the size of a home to an interior renovation of all or part of a home);
- 1,181 permits for the demolition of a house followed by a new construction permit for a house on the same lot; and
- 99 new construction permits issued for previously undeveloped lots.

Finding #14: More than one-fourth of permitted additions/renovations and more than one-half of permitted demolition and new construction projects in the R-60 and R-90 zones were for properties located in three Bethesda zip codes. Other zip code areas with high levels of residential infill construction include Chevy Chase, Kensington, Silver Spring, and Wheaton.

Of the 8,991 permits issued by DPS for addition/renovation projects in the R-60 and R-90 zones since FY02:

- 2,486 (28%) occurred in Bethesda zip codes 20814, 20816, and 20817;
- 1,316 (15%) occurred in Silver Spring zip codes 20901 and 20910;
- 1,205 (13%) occurred in Chevy Chase zip code 20815;
- 814 (9%) occurred in Kensington zip code 20895; and
- 740 (8%) occurred in Wheaton zip code 20902.

Of the 1,181 permits issued by DPS for demolition and rebuild projects in the R-60 and R-90 zones since FY02:

- 644 (55%) occurred in Bethesda zip codes 20814, 20816, and 20817;
- 140 (12%) occurred in Chevy Chase zip code 20815; and
- 107 (9%) occurred in Kensington zip code 20895.

Finding #15: DPS has conducted over 50,000 routine building inspections for permits related to residential infill construction since FY02.

Between July 1, 2001 and November 15, 2006, DPS reports conducting 52,041 routine building inspections related to residential infill construction in the R-60 and R-90 zones. Of this total, 42,306 inspections (83%) were for addition/renovation permits and 8,735 (17%) inspections were for new construction permits. Additionally:

- For addition/renovation permits, the annual number of inspections increased from 4,759 in FY02 to 10,054 in FY06; and
- For new construction, the annual number of inspections increased from 620 in FY02 to 2,485 in FY06.

Finding #16: DPS has conducted nearly 4,300 complaint-based inspections related to residential infill construction projects since FY02. DPS staff verified 70% of complaints after inspection.

Between July 1, 2001 and November 15, 2006, DPS reports conducting 4,263 complaint-based inspections related to residential infill construction projects in the R-60 and R-90 zones. Of this total, 2,937 (69%) of the complaints were verified after inspection and required corrective action. The remaining 1,326 (31%) were dismissed after the inspector did not find an actual violation.

Based on the 2,937 complaints verified by DPS inspectors since FY02, DPS issued a total of 971 Notices of Violation and a total of 570 Stop Work Orders. 406 (42%) of the Notices of Violation and 288 (51%) of the Stop Work Orders were linked to complaints of "building without a permit."

DPS categorizes complaints as either construction complaints (e.g. those that relate to the actual construction of a building and its impacts) or zoning complaints (e.g. those that relate to the allowable uses or zoning standards of a property). The most common type of zoning complaints have been for alleged violations of "building setbacks"; and the most common types of construction complaints have been for alleged violations of "building without a permit" and "sediment control."

FEEDBACK FROM THE NON-GOVERNMENTAL SECTOR

Finding #17: Feedback from building industry representatives about the County's legal and administrative structure for residential infill construction shows support for DPS services. However, builders expressed concerns about DPS' interpretation process, increased permit review times, and the building permit appeal process.

Many of the building industry representative that OLO spoke with during the course of this study view DPS' policies and procedures for issuing demolition and construction permits as efficient and effective. At the same time, representatives of the building community expressed some concerns related to both the legal structure and DPS practices for issuing permits for residential infill construction. Some of the commonly-voiced concerns and/or suggestions from building industry representatives include:

- The building permit application process has become lengthier, more costly, and more unpredictable over the past few years due to both legislative and procedural changes;
- The building permit appeal process can be time-consuming and create financial and other difficulties for the builder and/or property owner, and as a result the process should include additional criteria that must be met to file an appeal; and
- The DPS process for establishing Code Interpretations/Policies is inadequate; DPS should adopt a more formalized process that includes a forum for public input.

Finding #18: Feedback from individual residents and civic group representatives about the County's legal and administrative structure for issuing permits for residential infill construction included concerns with DPS' interpretation process, DPS' zoning enforcement practices, and mixed views about access to information and services from DPS.

Many of the residents that OLO spoke with during the course of the study expressed general concern about the impact of residential infill development within neighborhoods and communities. This included concerns of neighborhood character, tree loss, stormwater drainage, and infrastructure damage.

Overall, residents report that access to information at DPS is inconsistent. Some residents report little difficulty accessing staff and permit documents; while other residents report frustration due to an inability to access documents or information in a timely manner. Particular concerns were expressed about accessing copies of building plans when the permit documents are out for imaging.

Some of the other recurring concerns and/or suggestions voiced by individual residents and civic group representatives include:

- DPS should adopt a formal rulemaking and/or administrative regulations process for interpretations. This process should include formal notice when revising an interpretation; and
- DPS primarily conducts complaint-based enforcement that relies on individual residents to find permit violations. DPS should instead move toward more proactive enforcement.

Chapter VII: Recommendations

Based on review of the laws, regulations, policies, and procedures that govern residential infill construction in the County's older, more established neighborhoods, the Office of Legislative Oversight offers four recommendations for Council action:

1) Adopt a Zoning Text Amendment to clarify the law related to implementation and related interpretations of the 1928 vs. 1930 versions of the Zoning Ordinance;
2) Discuss and decide whether the existing set of County laws and regulations governing residential infill construction reflect the Council's current preferences for development standards and permit issuance in the R-60 and R-90 zones;
3) Request that the Chief Administrative Officer develop a written procedure governing how DPS creates official code interpretations; and
4) Request that the Chief Administrative Officer review DPS' procedures for public access to permit information and related documents, with a report back to the Council on specific actions taken for improvement.

Recommendation #1: Adopt a Zoning Text Amendment to clarify the law related to implementation and related interpretations of the 1928 vs. 1930 versions of the Zoning Ordinance.

The Zoning Ordinance allows that lots recorded prior to June 1, 1958 are buildable for one-family dwellings and may be developed under the zoning standards in effect at the time the lot was recorded, even if the lot has less than the minimum area for its residential zone.

However, the law creates confusion over the applicable development standards for lots legally created before the County imposed zoning standards in 1928. Factors that contribute to the confusion include:

- Current Zoning Ordinance language that lots recorded before March 16, 1928 must meet the development standards in the 1928 Zoning Ordinance;
- Procedural errors related to the formal adoption of County Zoning Ordinances in both 1928 and 1930; and
- The varying use and interpretation of the 1928 and 1930 requirements over time by government authorities, including the Department of Permitting Services and the County Board of Appeals.

The County Council, sitting as the District Council should adopt a Zoning Text Amendment (ZTA) that clarifies the set of residential development standards the Council intends for DPS to enforce for proposed construction on lots legally recorded before 1928. Specifically, the ZTA should clarify whether lots recorded before March 16, 1928:

- Are buildable and may be developed under the development standards in the 1928 Zoning Ordinance. The 1928 ordinance does not include an exception for building on undersized residential lots (i.e. less than 5,000 square feet); or
- Are buildable and may be developed under the development standards in the 1930 Zoning Ordinance. The 1930 ordinance includes an exception for building on undersized residential lots (i.e. less than 5,000 square feet).

Recommendation #2: Discuss and decide whether the existing set of County laws and regulations governing residential infill construction reflect the Council's current preferences for development standards and permit issuance in the R-60 and R-90 zones.

The development standards for the R-60 and R-90 zones have remained essentially unchanged since the Zoning Ordinance established these two zones in 1954. Due to market forces, residential infill construction projects built in recent years tend to more frequently maximize the use of the allowable building envelope established by the development standards.

DPS processes a high volume permit requests for residential infill construction in the County's older, more established neighborhoods. Since FY02, DPS' has issued more than 10,000 addition/renovation or new construction building permits in the R-60 and R-90 zones. Many of these permits were for properties located in three Bethesda zip codes, with Chevy Chase, Silver Spring, Kensington, and Wheaton zip codes also experiencing significant levels of residential infill construction.

Given the high volume of activity and the trend toward increased use of the allowable building envelope in the R-60 and R-90 zones, the Council should determine whether the existing set of laws and regulations governing residential infill development reflects the Council's current preferences for development standards and/or permit issuance.

#2A: If "yes," then the Council should concentrate its oversight on ensuring agency practices align with the law.

The Council's Planning, Housing, and Economic Development (PHED) Committee has already initiated efforts that would fall into this category with its plans during 2007 to review and/or discuss DPS' official zoning interpretations and the current practices related to zoning text amendments.

OLO also recommends that the Council request regular updates from DPS on changes in permit issuance practices.

#2B: If "no," then the Council should embark upon a deliberative process of exploring and adopting alternative standards or permit issuance requirements.

If the current set of laws and regulations does not meet the Council's preference for development standards and/or issuing permits in the R-60 and R-90 zones, the next step should be a deliberative process of exploring alternatives. An examination of alternative options should include both mandatory and non-mandatory approaches, and should directly involve input from the Planning Board and its staff, DPS and other Executive Branch staff, and members of the community.

One appropriate forum for these efforts may be as part of a comprehensive zoning review led by Planning Board staff. As of this writing, the Planning Board has informed the Council that the agency plans to recommend a Planning Board work program item to comprehensively rewrite the zoning ordinance as part of its FY08 funding request.

Alternatively, the Council could request these efforts be conducted as a stand-alone project led by Planning Board, DPS, or Council staff.

Recommendation #3: Request that the Chief Administrative Officer, no later than April 2007, develop a written procedure governing how DPS creates official code interpretations. The procedure should include an opportunity for public review and comment.

DPS' use of written code interpretations is a good management practice intended to ensure clear and consistent interpretation and implementation of the zoning code by multiple staff in the Department. However, DPS does not have a written procedure for creating these written code interpretations; does not use a consistent format for all written interpretations; and does not seek any outside comments and/or feedback on a draft before finalizing the written code interpretation.

OLO recommends that the Council request the Chief Administrative Officer develop a written procedure for how DPS creates or revises an official interpretation/policy. The procedure should address:

- The overall transparency of the formal code interpretation/policy process;
- Consideration of methods to allow interested parties to provide views on a draft code interpretation/policy before it is finalized and implemented; and
- Consistency in format for all code interpretations/policies.

OLO recommends that the Council ask the CAO to develop this policy and present it to the Council by **April 2007.**

Recommendation #4: Request that the Chief Administrative Officer review DPS' procedures for public access to permit information and related documents, with a report back to the Council in April 2007 on specific actions taken for improvement.

DPS has established several mechanisms to provide public access to permit information and documents, including publishing data and information on its website and allowing any interested party to view permit information and files at DPS' offices. DPS also adheres to County Regulations that govern response procedures for public information requests for all County Departments.

At the same time, a recurring theme voiced by community representatives that OLO spoke with was uneven customer service and access to information at DPS. While some residents report little difficulty accessing DPS staff and documents; others expressed frustration with accessing documents or information in a timely manner. Additionally, DPS' document imaging practices do not guarantee the availability of approved permit plans for immediate viewing at DPS offices at all times during a permit's appeal period.

Despite the range of views, OLO heard enough concerns to conclude that the issue of public access to DPS information and documents deserves management's attention; specifically to examine ways to improve current procedures.

OLO recommends that the Council request that the CAO review DPS' current practices and procedures for public access to permit information and documents, in particular access to building permit documents during the permit's 30-day appeal period. Based on the review, the CAO should then determine what changes to these practices and procedures are necessary.

OLO recommends that the Council ask the CAO to report back to the Council on the review and any specific improvement actions taken by **April 2007.**

Chapter VIII: Agency Comments

The Office of Legislative Oversight circulated a final draft of this report to the Chief Administrative Officer for Montgomery County, the Montgomery County Board of Appeals, and the Montgomery County Department of Park and Planning. OLO appreciates the time taken by agency representatives to review the draft report and provide comments. OLO's final report incorporates technical corrections provided by agency staff.

The written comments received from the Chief Administrative Officer are attached in their entirety, beginning on the following page.

OFFICES OF THE COUNTY EXECUTIVE

Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

February 2, 2007

TO: Karen Orlansky, Director
Office of Legislative Oversight

FROM: Timothy L. Firestine
Chief Administrative Officer

SUBJECT: OLO Report Number 2007-4
Residential Infill Construction: A Review of County Laws, Regulations, and Practices

We have reviewed Draft OLO Report 2007-4, Residential Infill Construction: A Review of County Laws, Regulations, and Practices and concur with the report's findings and recommendations. We want to acknowledge the excellent work of OLO staff, Craig Howard and Kristen Latham, in pulling together many complex details into a document that is clear, concise, and direct.

The Department of Permitting Services (DPS) will develop written procedures governing how it creates official code interpretations as requested in recommendation three. I will review DPS procedures for public access to permit information and related documents and report back to the Council on specific actions taken for improvement as requested in recommendation four. The report identified mixed feedback about DPS procedures from builders, individual residents, and civic group representatives. Our goal is to have policies and procedures that are fair, understood by the public, and implemented in a consistent manner. We will use the recommendations in this report as a means to reach that goal. Attached is a listing of recommended technical edits.

We look forward to working with the Council and OLO in discussing the report and its findings.

TLF:dar

Attachment

OLO Report 2007-4, Residential Infill Construction: A Review of County Laws, Regulations, and Practices - Technical Edits

The following are recommended technical edits to the report:

Page 25 ".Sequencing with other required permits."
DPS requires all applicants for new construction of single family dwellings to submit applications for right of way permits and sediment control permits, and for these permits to be issued prior to the building permit being issued.

Page 8
Table 1 is accurate for most cases but not all. For instance, on lots recorded under 1941 and 1952 zoning ordinances, the rear yard must have a minimum <u>average</u> depth of 20 feet with no point closer than 15.

Page 9 top of page
The numbers for potential square footage of floor area are not correct as they do not take into account that a half story can be up to 60% of floor below and also, additional stories can be allowed on sloping lot with resultant increase in square footage.

Page 26 " Review of the permit application."
A well and septic review is only done when a well and/or septic system is on the property.
Add "building" to the last sentence. "After the initial screening process is completed, all permit applications receive a zoning review followed by a <u>building</u> plan review.

Page 27 " Plan review."
Add "building" to title. <u>Building</u> plan review

Page 36 Table 3: Summary of Selected Building Inspections – Building Height
As of May 2006, height inspections have been and will continue to be conducted for all building permits for single family dwellings in R60 and R90 zones.

Page 37 " Requesting inspections and re-inspections."
Anyone may call DPS between 7:30am and 4:00pm and speak to a live person to schedule an inspection in addition to scheduling inspections online and through the interactive voice response system.

Page 37 2. Other Routine Permit Inspections
At a minimum, sediment control inspections and complaints are done according to the following procedure:

> COMAR 26.17.01.09 Inspection and Enforcement.
> D.(2) Ensure that every active site having a designed erosion and sediment control plan is inspected for compliance with the approved plan on the average of once every 2 weeks.
>
> And,

D.(6) Any erosion and sediment control complaint received shall be acted upon, routinely within 3 working days, and the complainant shall be notified of any action or proposed action routinely within 7 working days after receipt of the complaint.

Page 38 3. Enforcement Actions
If DPS determines during an inspection that construction is occurring illegally, either without a permit or without the correct permit, DPS will issue a Notice of Violation and a Stop Work order and require the property owner to obtain the correct permit.

Page 39 top of page
At a minimum, sediment control inspections and complaints are done according to the following procedure:

COMAR 26.17.01.09 Inspection and Enforcement.
D.(2) Ensure that every active site having a designed erosion and sediment control plan is inspected for compliance with the approved plan on the average of once every 2 weeks.

And,

D.(6) Any erosion and sediment control complaint received shall be acted upon, routinely within 3 working days, and the complainant shall be notified of any action or proposed action routinely within 7 working days after receipt of the complaint.

Page 39 4. DPS' Procedures for Complaint Based Inspections
DPS also receives complaints from the DPS email address located on their web page dps@montgomerycountymd.gov

Page 40 first paragraph
DPS has permit applications and drawings on microfilm and microfiche as well as imaged documents.

Page 47 top of page – add the following
"construction complaints are those related to the Building Code, construction in the right-of-way, stormwater or sediment requirements, or historic preservation requirements."

Page 60, middle of page
Reference to lots recorded before 1954 should be 1958.

Page 60 Fourth paragraph
Porches, steps, bay windows are not considered in setback standards since they get an exemption into the setback. However, they are included in lot coverage calculations which is a development standard.

Page 65 Finding #10 add the underlined phrase
"While each type of permit, except fence permits, receives at least one inspection"

Page 66 Finding #12
The numbers for potential square footage of floor area are not correct as they do not take into account that a half story can be up to 60% of floor below and also, additional stories can be allowed on sloping lot with resultant increase in square footage.

Page 72 Recommendation #2

Consideration should be given to clarify the provisions of Section 59-B-5.3 dealing with additions and enlargements to existing homes and to replacement homes on lots recorded before June 1, 1958. For instance, do second story additions on existing homes need to meet EBL if it meets the minimum or do replacement homes with same front foundation need to do EBL if it meets the minimum setback for zone. This section plays a major role in many infill construction projects.

Consideration should also be given to platting requirements on older lots as many homes have been built across lot lines. The lots have become merged for zoning purposes and they should also be excused from having to go through the time consuming and very expensive process of subdivision and new record plat when a new home is being built as a replacement on the same merged lot.

RESIDENTIAL INFILL CONSTRUCTION: A REVIEW OF COUNTY LAWS, REGULATIONS, AND PRACTICES

Appendix	List of Appendices*	Beginning at Page ©#
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C	Demolition Submittal Guidelines	5
D	Application for Residential Building Permit	9
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I	Park and Planning's *Instructions for Filing a Historic Area Work Permit Application*	17
J	1928-30 Interpretation/Policy (ZP0404-1)	24
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* Unless otherwise noted, all Appendix documents are Department of Permitting Services documents.

Montgomery County Maryland
Department of Permitting Services

255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4153
(240) 777-6320 Fax (240) 777-6262
http://permittingservices.montgomerycountymd.gov

Application for Work in Public Right-of-Way Permit

Use Permit # _____ **Building Permit #** _____

CONTACT INFORMATION: **Contact #:** _____

Name of Applicant _____

Address _____ City _____ State _____ Zip _____

Daytime Phone #_____ Fax # _____ Email _____

LOCATION OF WORK:

Address _____
House Number Street Name City State Zip

Lot _____ Block _____ Subdivision Name _____

TYPE OF WORK: ***(check all that apply)*** ☐ New ☐ Existing ☐ Residential ☐ Commercial

Note: **For all work, provide two copies of the Record Plat and/or two copies of the preliminary plan if development is approved by MNCPPC. Include two site plans and/or construction drawing(s) showing proposed work.**

☐ Existing Right of Way Permit Number: _____ ☐ Driveway ☐ GP (Grading/Paving)
Note: Letter of Permission will be required if applicant requests building permit release under an existing driveway or GP permit.

☐ Temporary Construction Entrance: Existing Entrance _____ New Entrance _____

☐ Additional work in the public right-of-way is required for this site (sidewalk, storm drain, street trees, etc.).
Explain: _____

☐ A ☐ crane ☐ construction fence ☐ dumpster to be placed within the public right-of-way during construction.

☐ The public sidewalk and/or a travel/parking lane will require closure during construction.
Note: If checked, a Traffic Control Plan is required.

☐ Other (explain): _____

The proposed work shall be performed in accordance with the conditions of this permit, subject to the provisions of the Montgomery County Road Construction Code, Standards, Specifications and Inspection and Control of the Director of the Department of Permitting Services.

Print Name **Applicant Signature** **Date**

FOR STAFF REVIEW AND INFORMATION
FIELD REPORT – DRIVEWAY APRONS – CONDITIONS:

No. of Driveways: _____ MC.DPW&T Std. No.: _____ Pipe Size: _____

Sight Distance: ☐ Checked: _____ ☐ Required: _____ ☐ Rural Rustic Road: _____

Modification/Additional Work Required (Explain): _____

Bond Amount: $_____ Permit Fee: $_____ **(9.383% of BOND amount plus 10% Automation Fee)**

Date: _____ Inspector: _____

CONDITIONS OF THE PERMIT

1. The permittee agrees to save harmless the County from all liability arising from the construction associated with this permit.

2. This permit is non-transferable.

3. Unless otherwise noted, this permit automatically expires 18 months from the date of its issuance unless extended in writing by the Director of the Department of Permitting Services. An extension is granted after a request is made in writing and the appropriate fees are paid prior to the expiration date of the permit.

4. All work done under this permit shall comply with written requirements or directions which may be issued by the Director of the Department of Permitting Services relating to the particular project. If the conditions of this permit are being violated, this permit is subject to revocation by the Director of the Department of Permitting Services.

5. The work, materials, plans and specifications shall be available at all times for inspection by duly authorized officials of Montgomery County.

6. Driveway apron(s) constructed under this permit are for the purpose of providing access to lots adjacent to the right of way. Maintenance will be the responsibility of the property owner.

7. No permit shall be issued for construction unless the right of way has been acquired by the County or has been dedicated to public use and such acquisition or dedication has been recorded among the land records of Montgomery County.

8. If the Director of the Department of Permitting Services finds that the original plans, standards and specifications under which this permit is issued are inadequate or inappropriate for the particular project, he may require different or additional plans, standards and specifications and they shall thereafter, or modification thereof, become a part and condition of this permit.

9. A permit from the State of Maryland Forest, Park and Wildlife Service is required for the removal, and/or planting of any trees on improved public rights of way. Contact (301) 854-6060.

10. The relocation and/or adjustment of any public or private utility shall be the responsibility of the permittee prior to any construction authorized by this permit.

11. Coordinate the relocation of any traffic control signs, parking meters or signalization devices with the Division of Traffic and Parking Services. Contract (240) 777-2190.

12. Construction materials and equipment must not be stored or parked on the public right of way, unless otherwise noted as a condition of this permit.

13. Prior to the release of this permit, complete repair (restoration of right of way) shall be made of any and all damages done to the existing improvements in the public right of way caused by construction operations on this site. All disturbed areas shall be fine graded and sodded.

14. Proper precautions must be taken to keep existing roadways free of mud, debris and other obstructions.

15. Notify "Miss Utility" at 1-800-257-7777 prior to any excavation in the public right-of way.

Montgomery County Maryland
Department of Permitting Services

255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4153
(240) 777-6300 Fax (240) 777-6262
http://permits.emontgomery.gov

Application for Sediment Control Permit

Stormwater Concept #: _____ **Preliminary Plan #:** _____ **Sediment Control Permit #** _____

Project Information:

Subdivision/Project Name: _____

Property Size/Area: _____ Square Feet (Acres for Forest Harvest Permits)

Property Address/Location: _____

Lot(s):_____Block(s):_____Parcel(s):_____Watershed: _____

Property Owner Information:

Name _____ _____
Property Owner's Name Contact ID #

Mailing Address _____
City State Zip Code

Telephone #: _____ Fax #: _____Email: _____

Engineer Information:

Name _____ _____
Firm Name and/or Contact Person Contact ID #

Mailing Address _____
City State Zip Code

Telephone #: _____ Fax #: _____Email: _____

Type of Application *(Please Check Item that applies to desired permit)*

☐ **Small Land Disturbance** Total Disturbed Area: _____Square Feet.

Note: A copy of an approved stormwater management Concept letter must be submitted with this application. If this site does not have an approved stormwater management concept, the Department of Permitting Services will determine if one is needed during the review of this application

☐ **Engineered Sediment Control** Total Disturbed Area: _____Square Feet.

☐ Rough Grading Only ☐ Full Construction
For Plans requiring Stormwater Management - Estimated Stormwater Mgmt Costs: $_____.
(Attach copy of Estimate)

☐ **Builders Sediment Control/Ownership Transfer**

Note: Department of Permitting Services' Transfer Form must be provided.

☐ **Forest Harvest** ☐ **Post-Construction Monitoring**

☐ **Stormwater Maintenance**

☐ **Revision to Previously Approved Sediment Control Plan***

*** Revision Plan Type:** **Original Sediment Control Permit #** _____

☐ Remove Rough Grading Only/Add Bldg. Construction ☐ Add/Revise Stormwater Mgmt.

☐ Revise Sediment Control and/or Site Development Plan ☐ As-Built Submission

☐ Other _____

Total Additional Disturbed Area _____ Square Feet.

Total Revised Disturbed Area _____ Square Feet.

Change in estimated Stormwater Management Costs: $ _____

(Attach copy of Estimate)

- Is the land disturbing activity within/near the 100–year floodplain limits of a channel, drainageway, stream or creek? ☐ Yes ☐ No

- If YES, provide the drainage area to the property above the construction activity (in acres) _____. If the drainage area is 30 acres or greater a Floodplain District Permit is required.

- Is the proposed land disturbing activity within a designated wetland? ☐ Yes ☐ No

I declare and affirm, under penalty of perjury, that to the best of my knowledge, information and belief all matters and facts in this application are correct. I declare that I am the owner of the property or duly authorized to make this application on behalf of the owner and the standard conditions on the reverse side are made part of the approved Sediment Control Plans.

Signature: _____

Signature Property Owner or Authorized Agent Printed Name Date

Conditions of approval:

1. All sediment control work must comply with written requirements, the approved Sediment Control Plan, "Standards and Specifications for Soil Erosion and Sediment Control" and /or all violation notices, which may be issued by the Department.
2. The site, work, materials, plans, and specifications shall be available at all times for inspection by the Department.
3. The sediment control permit is subject to revocation or suspension whenever determination is made and after notice is given that the applicant is in violation of State and County sediment control laws or any rules and regulations promulgated under those laws. This includes conditions specified on the approved plan.
4. If the Department finds that the original sediment control plans are inadequate or inappropriate, then additional plans or modifications thereof will be required.
5. A grading permit must be obtained prior to start of any earthwork, construction, etc., within dedicated street right-of-ways.
6. Any temporary sediment basin or trap which will pond water in a pool greater than 9 feet in diameter and 18 inches in depth must be surrounded by permanent, semi-permanent or portable fences not less than 42 inches in height with openings not greater than three inches in width. This fence must be firmly anchored and constructed in a manner to prevent sagging and maintained in good condition.

Montgomery County Department of Permitting Services
255 Rockville Pike, 2nd Floor, Rockville, MD 20850
240-777-6370 Fax: 240-777- 6262
http://permittingservices.montgomerycountymd.gov

DEMOLITION SUBMITTAL GUIDELINES

1. APPLY FOR A SEDIMENT CONTROL PERMIT, IF YOU ARE DISTURBING 5,000 SQUARE FEET OR GREATER AND PAY THE APPROPRIATE FILING FEE.
2. SUBMIT COMPLETED APPLICATION (PLEASE PROVIDE NAME OF CONTACT PERSON) EITHER BY MAIL OR IN PERSON TO: **Montgomery County, Department of Permitting Services, 255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850-4166**. OFFICE HOURS ARE 7:30 A.M. TO 4 P.M., MONDAY THRU FRIDAY. **MAKE SURE YOU HAVE READ SECTION 8.27 OF THE MONTGOMERY COUNTY CODE THAT DESCRIBES THE DEMOLITION AND REMOVAL OF BUILDINGS** (copy of the code is attached).
3. PAY A NON-REFUNDABLE APPLICATION FEE[1] OF $205[2] to $325[3] (PLUS a 10% automation enhancement fee) WITH YOUR APPLICATION.
4. OBTAIN A BOND IN THE SAME AMOUNT AS THE ESTIMATED COST OF THE DEMOLITION (MINIMUM $400) AND SUBMIT THIS AS SOON AS POSSIBLE.
   There are four types of bonds:
   1. **Performance Bond** executed by the Insurance Company according to the forms provided by the County; which includes a Power-of-Attorney statement and a Certification form completed by the Clerk of the Circuit Court (must be attached).
   2. **Letter of Credit** executed by the bank, in the form provided by the County.
   3. **Cash Bonds** may be posted in the form of cash, check, or money orders.
   4. **Certificate of Guarantee** obtainable by members of the Maryland Development of Guarantee Group (**ONLY**).
5. PROVIDE A LIST OF ADJACENT AND CONFRONTING PROPERTY OWNERS NAME AND ADDRESSES (see attached diagram).
6. CAP ANY WELL(S) LOCATED ON THE PROPERTY AND SUBMIT A WELL COMPLETION REPORT TO OUR OFFICE (if applicable).
7. CONTACT THE UTILITY COMPANIES TO REQUEST DISCONNECTIONS. SUBMIT COPIES OF DISCONNECTION LETTERS TO THE DEPARTMENT OF PERMITTING SERVICES. FAXED COPIES WILL BE ACCEPTED (see back for address listings).
8. SUBMIT A SIGNED AFFIDAVIT FROM A COMPANY LICENSED BY THE STATE OF MARYLAND, DEPARTMENT OF AGRICULTURE, LICENSED UNDER THE CATEGORY OF INDUSTRIAL, INSTITUTIONAL, STRUCTURAL AND HEALTH RELATED (RODENTS), STATING THAT THE PROPERTY HAS BEEN INSPECTED AND IS FREE OF ANY RODENTS OR OTHER PESTS.
9. REMOVE ANY ASBESTOS OR OTHER HAZARDOUS MATERIALS IN ACCORDANCE WITH THE MARYLAND DEPARTMENT OF THE ENVIRONMENT REGULATIONS **PRIOR** TO DEMOLITION. FOR MORE INFORMATION, CALL **1-800-633-6101**.
10. ACCESS TO PROPERTY BY CONSTRUCTION VEHICLES MUST BE THROUGH A DPS PERMITTED CONSTRUCTION ENTRANCE OR AN EXISTING PERMITTED DRIVEWAY.
11. FOLLOW UP ON ALL REQUIRED APPROVALS AND SUBMIT TO THIS OFFICE UNTIL PERMIT IS OBTAINED.

AFTER THE PERMIT IS ISSUED:

12. DEMOLISH THE BUILDING(S).
13. CLEAN UP THE LOT.
14. ARRANGE FOR INSPECTION BY CALLING **240-777-6210** BETWEEN 7:30 A.M. - 4 P.M., MONDAY THRU FRIDAY.

NOTE: BE SURE TO ARRANGE FOR FINAL INSPECTION. ONCE THE INSPECTION IS PASSED, THE BOND WILL BE RETURNED.

[1] Fees as shown in (DPS) EO-10-06.
[2] If the site address is located in the Department of Permitting Services plan review area.
[3] If the site address is located in the Maryland – National Capital Park and Planning Commission plan review area.

MAILING LIST

PEPCO
(POTOMAC ELECTRIC POWER CO)
MONTGOMERY CO. REGIONAL OFFICE
CUSTOMER SERVICE CENTER
210 WEST GUDE DRIVE
ROCKVILLE, MARYLAND 20850
MONDAY – FRIDAY, 10 a.m. - 2 p.m.
ATTN: ELIZA HEMINGWAY
TELEPHONE: **301-548-4300**
FAX: **301-670-8718**
MISS UTILITY: **1-800-257-7777**

HISTORICAL SOCIETY
1209 SPRING STREET
SILVER SPRING, MARYLAND 20910
ATTN: GWEN WRIGHT
TELEPHONE: **301-563-3400**
FAX NO: **301-495-1370**

BALTIMORE GAS & ELECTRIC CO. (BG&E)
SOUTHERN DISTRIBUTOR DEPT.
PARKWAY INDUSTRIAL CENTER
731 PARKWAY DRIVE, SOUTH
HANOVER, MARYLAND 21076
ATTN: EXPEDITING
TELEPHONE: **410-850-4620**
FAX NO: **410-859-9354**

ALLEGHENY POWER
INFORMATION CENTER
421 E. PATRICK STREET
P.O. BOX 488
FREDERICK, MARYLAND 21701
ATTN: DANE ROBINSON
TELEPHONE: **301-694-4450**
FAX NO: **301-694-4440**
(DAMASCUS/POOLESVILLE)

WASHINGTON GAS LIGHT CO.
SPRINGFIELD OPERATION CENTER
6801 INDUSTRIAL RD. ROOM 206
SPRINGFIELD, VIRGINIA 22151
ATTN: RAZING DESK
TELEPHONE: **703-750-4314**
FAX NO: **703-750-7570**

WSSC
14501 SWEITZER LANE
LOBBY LEVEL
LAUREL, MARYLAND 20707
ATTN: JACKIE SWAN/LOUIS PATIA
TELEPHONE: **301-206-8634**
FAX NO: **301-206-8114**

VERIZON
3901 CALVERTON BLVD., 3RD FLOOR
BELTSVILLE, MARYLAND 20705
ATTN: TERRI MARCOUX
TELEPHONE: **301-595-6122**
FAX NO: **301-595-3227**

VERIZON
ENGINEERING DEPARTMENT
92 THOMAS JOHNSON DRIVE
FREDERICK, MARYLAND 21702
TELEPHONE: **301-694-3996**
(POOLESVILLE/DICKERSON)

WELL & SEPTIC SYSTEM
MONTGOMERY CO.
PERMITTING SERVICES
255 ROCKVILLE PIKE, 2ND FLOOR
ROCKVILLE, MARYLAND 20850-4166
ATTN: JAY BEATTY
TELEPHONE: **240-777-6320**
FAX NO. **240-777-6314**

Sec. 8-27. Demolition or removal of buildings.

(a) Notice. The Director must mail written notice, at least 10 days before the Director issues a permit to remove or demolish a building or structure, to the owner of each adjacent and confronting lot. The applicant must give the Department the name and address of the owner of each adjacent and confronting lot. The notice must identify the building or structure to be demolished or removed, specify the process for issuing the permit and the time limit to appeal the issuance of a permit to the Board of Appeals, and include any other information the Director finds useful. The Director need not deliver this notice if unsafe conditions require immediate demolition or removal of the building or structure.

(b) Signage. The Director need not deliver the notice required by subsection (a) if, at least 10 days before the Director issues a permit to remove or demolish a building or structure, the applicant posts at a conspicuous location on the lot a sign describing the proposed demolition or removal, specifying the process for issuing the permit and the time limit to appeal the issuance of a permit to the Board of Appeals, and including any other information the Director requires. The sign must conform to design, content, size, and location requirements set by regulation under Section 8-13(a).

(c) Special notice for older buildings. At least 30 days before the Director issues a permit to demolish or remove a building, other than a single-family dwelling, that will be more than 25 years old when it is demolished or removed, the Director must list the address of the property on a properly designated website or other widely available form of electronic notice.

(d) Notice to utilities. Before the Director may issue a demolition or removal permit, the applicant must notify each connected public utility and obtain a written release confirming that all service connections and appurtenant equipment, such as meters and regulators, have been safely disconnected and sealed.

(e) Permit requirement; conditions. A person must not demolish or remove a building or structure unless the Director has issued a permit to do so under this Section. Each demolition or removal permit must require the applicant to:

(1) before demolishing or removing a building or structure, exterminate any rodents or other pests in it;

(2) after demolition or removal, clear all construction and demolition debris;

(3) restore the established grade of the surrounding land, unless a sediment control permit is otherwise required; and

(4) at all times keep the site free from any unsafe condition.

(f) Bond or surety. Each applicant for a demolition or removal permit must file a performance bond, cash, certificate of guarantee, or surety with the Department, in an amount equal to the cost of demolition or removal, to assure the safe and expedient demolition or removal of the building or structure and clearing of the site. If the building or structure is not demolished or removed and the site is not cleared of all debris within the time specified in the permit, but not sooner than 60 days after the permit is issued, the Director may enter the property, demolish or remove the building or structure, clear the site of debris, and take action to forfeit the performance bond, enforce the guarantee, or otherwise reimburse the Department for its cost.

(g) Definitions. As used in this Section:

(1) remove means to move a building or structure substantially intact from or within a site; and

(2) demolish means to tear down or destroy an entire building or structure, or all of a building or structure except a single wall or facade. (1975 L.M.C., ch. 1, § 3; 2002 L.M.C., ch. 24, § 1.)

MUST BE ON COMPANY LETTER HEAD

DATE

Department of Permitting Services
255 Rockville Pike
Rockville, Maryland 20850

Attention Division of Casework Management:

Re: Property Address of Demolition
Address
Address

(Name of Company) is licensed with the Maryland Department of Agriculture in the category of "Industrial, Institutional, Structural & Related – Rodent". You will find our company listed with the following information:

Business Name:
Business License Number:
Expiration Date:

(Name of Company) has inspected (property address) and finds that it is free of any rodents or other pests.

Montgomery County Maryland
Department of Permitting Services
255 Rockville Pike, 2nd Floor
Rockville, Maryland 20850-4166
(240) 777-6300 Fax (240) 777-6262
http://permittingservices.montgomerycountymd.gov

APPLICATION FOR RESIDENTIAL BUILDING PERMIT

Sediment Control # _____ **Building AP #(s)** _____ **Demolition #** _____

DESCRIPTION OF WORK: (check all that apply)

- ☐ ADD
- ☐ ALTER
- ☐ CONSTRUCT
- ☐ DEMOLISH
- ☐ MOVE
- ☐ FOUNDATION ONLY
- ☐ RESTORE and/or REPAIR

Gross Sq. Ft. of Area Created or Affected by this Action: _____
Estimated Cost: $ _____
Disturbed Land Area: _____

USE OF STRUCTURE:

- ☐ SINGLE FAMILY DWELLING
- ☐ TOWNHOUSE
- ☐ FENCE*
- ☐ RETAINING WALL
- ☐ TRAILER**
- ☐ MODULAR HOME**
- ☐ HOT TUB
- ☐ OTHER _____
- ☐ DECK
- ☐ DUPLEX
- ☐ BASEMENT
- ☐ POOL IN GROUND
- ☐ POOL ABOVE GROUND
- ☐ DETACHED GARAGE
- ☐ SHED

IF BUILDING A FENCE OR RETAINING WALL

HEIGHT: _____ ft. _____ in. **Note:** (A signed approval letter from the adjacent lot owner(s) is required)

☐ Located entirely on the land of the owner ☐ Public Right of Way/Easement ☐ Located on the lot line

**NOTE: _____

Manufacturer's Name and Model # for All Trailers and Modular Homes

MODEL HOUSE PROGRAM: *to build new homes*

- ☐ INITIAL SUBMITTAL or
- ☐ PREVIOUSLY APPROVED PERMIT # _____

REFER-BACK SYSTEM: *to build new homes & pools*

- ☐ INITIAL SUBMITTAL or
- ☐ PREVIOUSLY APPROVED PERMIT # _____

New Home Model Name or # _____

REVISION *to* ORIGINAL PERMIT # _____
Original permit has been issued and is active)

☐ SITE ☐ STRUCTURAL ☐ HOUSE TYPE ☐ OTHER: _____

BUILDING PREMISE ADDRESS: *Add'l. House #'s If building **new** townhouses:* _____

House Number _____ Street _____ City _____ Zip _____

Lot(s) _____ Block _____ Subdivision _____

Nearest Cross Street _____

APPLICANT INFORMATION: ***Contact ID #:*** _____ Fax #: _____ Email: _____

Name of Applicant _____ Daytime Phone #: _____
(Permit will be issued to Applicant)

Address _____ City _____ State _____ Zip _____

CONTACT INFORMATION: ***Contact ID #:*** _____ Fax #: _____ Email: _____

Contact Person _____ Daytime Phone # _____
(If other than Applicant)

Address _____ City _____ State _____ Zip _____

Contractor _____ MHIC **or** Montgomery County Builders License # _____

Contractor Address _____ Daytime Phone # _____

EXPEDITED PLAN REVIEW: ☐ **I request an Expedited Plan Review, when available, which is subjected to additional fees.**

_____ _____
(Applicant's Signature) Date (Print Name)

ADDITIONAL APPROVALS:
Properties located within historic districts, municipalities and special taxing districts may require additional approvals beyond the required Department of Permitting Services (DPS) building permit.
For projects located in the City of Takoma Park's Commercial Revitalization Overlay, certain permits must be approved by the City prior to commencing construction.
Please refer to "*Permit Procedures for Properties within a Montgomery County Municipality*" for more information.

TYPE OF WATER SUPPLY ☐ **WSSC** ☐ **WELL** ☐ **OTHER** (specify) _____

SEWAGE DISPOSAL ☐ **WSSC** ☐ **SEPTIC** ☐ **OTHER** (specify) _____

MPDU ... 20% of this **new home** development will be built as Moderately Priced Dwelling Units ☐ **Yes** ☐ **No**

IMPACT TAX ... **New Homes** will be assessed an Impact Tax based on the area where the house is built ... (see Impact Tax guide)
☐ ***I will exercise an approved Impact Tax Credit, a copy of which is attached***

DAP & EDAET AGREEMENTS....Agreement **must** be attached for new homes when applicable.

SPECIAL EXCEPTION: Is this lot subject to a Special Exception? ☐ **Yes**, Case # _____ ☐ **No**

VARIANCE: Has a Variance been granted to perform this work? ☐ **Yes,** Variance # _____ ☐ **No**

HISTORIC AREA IN ATLAS or MASTER PLAN: Is the property a Historic resource? ☐ **Yes** ☐ **No**

AUTHORIZED AGENT AFFIDAVIT: ***I hereby declare and affirm, under the penalty of perjury, that:***

1. I am duly authorized to make this permit application on behalf of: _____
(please print property owner's name)
2. The work proposed by this building permit application is authorized by the property owner; and
3. All matters and facts set forth in this Affidavit are true and correct to the best of my knowledge, information and belief.

_____ _____ _____
(Signature of Authorized Agent) Date (Print Name)

HOMEOWNER ACTING AS <u>NEW HOME</u> BUILDER AFFIDAVIT:
By this instrument, I, as the property owner, am applying for an exemption from the licensing requirements for a building contractor, I hereby declare and affirm, under the penalty of perjury that:

1. I or a member of my immediate family will perform any and all construction associated with the foregoing building permit application; and
2. The type of improvement indicated on the building permit application is designed for use as a residence or dwelling place for my own or my immediate family's use; and
3. I take full responsibility for all and any code violations.
4. All matters and facts set forth in this affidavit are true and correct to the best of my knowledge, information, and belief.

_____ _____ _____
(Signature of Property Owner) Date (Print Name)

TO BE READ BY THE APPLICANT:
Any information that the applicant has set forth in this application that is false or misleading may result in the rejection of the application. A condition for the issuance of this permit is that the proposed construction will comply at all times with the plans as approved by all applicable government agencies. I hereby declare and affirm, under the penalty of perjury, that all matters and facts set forth in the building permit application are true and correct to the best of my knowledge, information and belief.

_____ _____ _____
(Applicant's Signature) Date (Print Name)

FOR OFFICE USE ONLY: Permit Fee: $ _____ + Impact Tax, DAP or EDAET: $ _____ Balance: $_____
Bldg.appl.res.6/03

Montgomery County Department of Permitting Services
255 Rockville Pike, 2nd Floor
Rockville, MD 20850
240-777-6300 Fax: 240-777-6262
http://permittingservices.montgomerycountymd.gov

DEMOLITION IN YOUR RESIDENTIAL NEIGHBORHOOD

INFORMATION AND RESOURCES FOR NEIGHBORS AND CONTRACTORS

ASBESTOS REMOVAL – Asbestos should be removed BEFORE the building is demolished. For more information contact the Maryland State Department of Environmental Protection at 1-800-633-6101.

AIR, DUST AND ODOR COMPLAINTS related to demolition should be directed to the Department of Environmental Protection 240 777-7700.

CONSTRUCTION NOISE – The Noise Control Ordinance allows construction work to begin as early as 7:00am on weekdays and 9:00am on weekends. You may contact DEP by phone at 240 777-7700 or by email at dep.askdep@montgomerycountymd.gov.

DAMAGE TO NEIGHBORING PROPERITES – by demolition contractors is a civil matter to be resolved by the affected parties.

DEMOLITION PERMITS are required whenever you 1) move a building, intact, from or within a site: or 2) you tear down or destroy an entire building or structure, or all of a building or structure except a single wall or façade. Demolition permit application and issuance requirements can be found at http://permittingservices.montgomerycountymd.gov or by calling 240 777-6370.

DEMOLITION WITHOUT A PERMIT – should be reported to the Department of Permitting Services 240 777-6259.

HISTORIC HOMES AND SITES – If a building or site has been designated historic or is on the historic atlas for Montgomery County, approval for the demolition must be given by the Montgomery County Historic Preservation Commission 301 563-3400.

NEIGHBORS AND CONTRACTORS are encouraged to talk to each other prior to a home being demolished. When both parties know the date, duration and extent of the demolition each can prepare for this activity. This information will be provided to adjacent and confronting neighbors of the demolition along with the name and telephone number of the applicant for the demolition permit.

PORTABLE TOILETS – are required for workers by the Maryland Occupational Safety and Health Administration. Call 410 767-2189 for more information.

SEDIMENT/MUD should not leave the site due to demolition. Contractors are responsible for maintaining sediment on-site. A sediment control permit may be required from the Department of Permitting Services. Call 240 777-6320 for more information.

WASTE CONTAINERS IN THE RIGHT-OF-WAY require a permit from the Department of Permitting Services to block the right-of-way. Call 240 777-6320.

Montgomery County Department of Permitting Services
255 Rockville Pike
Rockville, MD 20850

PLAN SUBMITTAL GUIDELINES
New attached and detached single-family dwellings

Two complete sets of neatly bound and legible prints (suitable for electronic scanning) containing floor plans, details, general notes and technical specifications (including building code analysis), drawn to scale and dimensioned, sufficiently complete and detailed to show clearly the scope of the work to be performed. Clouds, if used, must be identified and dated. Preferred print sizes are between 18" X 24" to 30" X 42". The original seal and signature of the responsible Maryland Licensed Registered Architect or Professional Engineer, as appropriate, is required on all attached single-family dwellings (townhouses) drawings and manufactured industrialized/manufactured houses (as approved by the State of Maryland). For detached single-family dwellings, the plan reviewer may require such engineering certification as a condition of permit approval when the plans and documents are difficult or complicated.

Drawings shall contain, but not be limited to the following information, as applicable:

S = single family dwellings
T = townhouse

A. SITE PLAN(S)

Please visit http://permittingservices.montgomerycountymd.gov/dpstmpl.asp?url=/permitting/z/zoning.asp for requirements.

B. ARCHITECTURAL PLANS – minimum scale 1/8", preferred 1/4"

1.	Name and address of project	S	T
2.	Names, addresses and telephone numbers of owner(s), architect(s), contractor(s) and consultants(s)	S	T
3.	Index of drawings	S	T
4.	List of material symbols used on drawings		T
5.	Specifications		
	a. Design criteria as required by the International Residential Code (IRC) 2003 as amended by Montgomery County for: floor load, roof load, ground snow load, wind loads, seismic design category, frost line depth, decay protection measures, flood-resistant construction provisions, if any, see information on our website at http://www.montgomerycountymd.gov/mc/services/permitting/bc/nfbldc.htm	S	T
	b. Species/grades of framing lumber;	S	T
	c. Grades/classes of other structural elements; and	S	T
	d. Grades/types of construction materials and finishes	S	T
6.	Construction notes	S	T
7.	Scaled and dimensioned floor plans – one plan for each floor - showing the use of all spaces/rooms and means of egress	S	T
8.	Clear indication of firewall locations and ratings. Include listed/approved design number used		T
9.	Scaled roof plans clearly showing all openings	S	T
10.	Exterior elevations, showing all openings and covering materials		
11.	Indicate method, amount of bracing, location of braced wall lines and braced wall panels on each story	S	T
12.	Interior elevations, as appropriate	S	T
13.	Complete cross-sections and details for foundations, floors, walls and roofs, properly cross-referenced showing the type of construction and bracing method used	S	T
14.	Window and door schedules or dimensions of these openings	S	T

15. Detailed stairway and/or ramp plans and sections, including guards and handrails with all dimensions shown	S	T
16. Flame-spread rating, smoke development, separation of foam plastic materials	S	T
17. Location of fireplace/chimneys	S	T
18. Location of smoke detectors	S	T

C. STRUCTURAL PLANS – minimum scale 1/4"

1. Scaled and dimensioned footing/foundation plans	S	T
2. Scaled and dimensioned floor – one plan for each floor, line drawn structural framing		
3. Roof framing plans	S	T
4. Elevations, sections and details, properly cross-referenced- minimum ½" scale for sections and details	S	T
5. Column and footing schedules	S	T
6. Load calculations, if applicable, e.g. pier footing, or other engineering data/computations required to complete plan review	S	T
7. Reinforcing steel for slabs, retaining walls, grade beams, foundations walls and/or schedules	S	T
8. Engineered wood girders, headers, steel beams and lintels adequately identified	S	T

D. ENERGY EFFICIENCY REQUIREMENTS

1. Energy conservation analysis/computations based on the International Energy Conservation Code 2003	S	T
2. Montgomery County prescriptive package issued by Department of Permitting Services	S	T

ADDITIONALREQUIREMENTS

1. If dwelling is in historic location, provide stamped plans and letter of conditions from Historic Preservation Commission.

2. For zones R-60, R-90 there may be height limitations, contact zoning office at 240-777-6320.

3. Three supplemental sets of site and landscape plans (5 total). NOTE: If building is on well and septic, four supplemental sets of site development plans (6 total) are required.

4. Application to Montgomery County for construction of property dedicated to public use (driveway apron). Provide street address, subdivision name, lot and block or parcel. In most cases, a bond will be required; you will be notified of the amount. For state highways, follow the instructions of the State Highway Administration (SHA) application, which may be obtained from the SHA at 301-333-1350.

5. Application for Stormwater Management and Sediment Control processing.

6. Building permit applications must be accompanied by a non-refundable filing fee.

7. If property is on well and/or septic, submit an application to the Well and Septic Section at 255 Rockville Pike, Rockville, Maryland (240) 777-6320.

8. If connecting to public water and/or sewer, the original (pink slip) copy of the plumbing permit will be required prior to the issuance of a building permit.

NOTE: Properties that lie within incorporated areas typically require building permits from the municipality in addition to Montgomery County Department of Permitting Services (DPS), see **Permit Procedures for Properties Within a Montgomery County Municipality** document issued by DPS.

Failure to comply with these guidelines may result in your plan(s) not being accepted for review.

Montgomery County Department of Permitting Services
255 Rockville Pike
Rockville, MD 20850

PLAN SUBMITTAL GUIDELINES
Additions/Alterations

These guidelines contain a list of plan details, specifications, and technical information generally required for plan review for additions/alterations to single family dwellings (attached or detached). This list is not all-inclusive and detailed, further information may be required if needed at the time of plan review. The plan reviewer may require such engineering certification as a condition or permit approval when the plans and documents are difficult or complicated.

A. General requirements

1. Two complete sets of plans, including site plans, assembled in a logical sequence and bound neatly.
2. Plans and documents must be suitable for electronic scanning (no dark background, no faint copies, no blurred lines or lettering, no lined paper, or graph paper.)
3. Clouds, if used, must be identified and dated.
4. Plans that are pieced/taped together will not be accepted.
5. Provide door and window schedule(s) with size, glazing type (tempered, for example), and U-value.
6. Provide location of smoke detectors.
7. Note the year the ***existing*** building was built.

B. Site plan (two sets) drawn to scale and dimensioned

Please visit
http://permittingservices.montgomerycountymd.gov/dpstmpl.asp?url=/permitting/z/zoning.asp for requirements.

C. Architectural/structural plan (two sets) drawn to scale and dimensioned.

1. Architectural floor plans - one plan for each floor (Scale: 1/8" = 1', preferred 1/4"=1')
   a. Label floor plan(s) of ***existing*** building (basement, first story, etc.) affected by the addition/alteration, including dimensions, use of each space, stairways, doors, windows, construction materials, means of egress, etc.
   b. Label floor plan(s) of ***proposed*** addition/alteration including dimensions, use of space, stairways, doors, windows, construction materials, means of egress, etc.
   c. Provide the gross square feet of new space (basement, each floor, and attic).
   d. Indicate method, amount of bracing, location of braced wall lines and braced wall panels on each story.

2. Foundation plan and structural framing plan – one structural plan for each floor (Scale: 1/4" = 1')

   a. Show ***existing*** footing/foundation and floor/roof structural framing affected by the addition/alteration. Indicate location, size, spacing, and material of all structural and framing elements (sheathing, rafters, trusses, joists, beams, posts, bearing walls, foundation walls, footings, etc.).
   b. Show footing/foundation and floor/roof structural (line drawing) framing of ***proposed*** addition/alteration. Indicate location, size, spacing, and material of all structural and framing elements (sheathing, rafters, trusses, joists, beams, posts, bearing walls, foundation walls, footings, etc.), and soil data, if necessary, such as type of soil and bearing capacity.
   c. When using wood trusses, provide truss design drawings showing depth, span, spacing, bearing widths, design loads, and connections on framing plans.
   d. Provide a steel lintel schedule, if any, for the support of the brick veneer.

3. Elevations of existing building and proposed addition (Scale: 1/4" =1')

   a. Show doors, windows, other exterior openings, exterior structural elements, gables, dormers, stairways, chimneys, other exterior architectural features/details, and exterior finish materials.
   b. Show exterior proposed grade, roof pitch, and vertical dimensions of all construction elements and architectural features.
   c. Show crawl space, if any, including elevations and vents
   d. Indicate braced wall lines and braced wall panels.

4. Cross-sections (Scale: 1/4" = 1')

   a. Show existing and proposed work affected by the addition/alteration
   b. Show vertical dimensions of all significant construction elements (ceiling heights, duct/beam clearances, door/window openings, headroom, door/window heights, sill heights, etc.)
   c. Show size, spacing, and material of all structural elements (footings, foundation walls, bearing walls, posts, beams, joists, rafters, trusses, sheathing, etc.)
   d. Show special areas/features (stairs, fireplace/chimney, etc.)

5. Details (Scale: 1/2" = 1')

   a. Show footings, retaining walls, unusual structural arrangements and/or connections, indicating materials and size, type, location, and spacing of reinforcing, connectors, etc.
   b. Show stairway construction (including spiral/circular) indicating materials and dimensions of all treads, risers, landings, winders, guards, handrails, headroom, etc.

D. Technical information required

1. Specifications

   a. Design criteria as required by the International Residential Code (IRC) 2003 as amended by Montgomery County for: floor load, roof load, ground snow load, wind loads, seismic design category, frost line depth, decay protection measures, flood-resistant construction provisions, if any, see information on our website at http://www.montgomerycountymd.gov/mc/services/permitting/bc/nfbldc.html
   b. Species/grades of framing lumber;
   c. Grades/classes of other structural elements; and
   d. Grades/types of construction materials and finishes

2. Engineering data/computations required to complete plan review
3. The plan reviewer, at his/her discretion, may require that the structural aspects of the construction documents be signed and sealed by an Architect or Professional Engineer licensed in Maryland

E. Energy efficiency requirements

1. Energy conservation analysis/computations based on the International Energy Conservation Code 2003
2. Montgomery County prescriptive package issued by Department of Permitting Services.

NOTE: Properties that lie within incorporated areas typically require building permits from the municipality in addition to Montgomery County Department of Permitting Services (DPS), see **Permit Procedures for Properties Within a Montgomery County Municipality** document issued by DPS.

Failure to comply with these guidelines may result in your plan(s) not being accepted for review.

ZONING WORKSHEET

Permit #

Zone:	Sheet:	DPS or P&P	Lot Size:	Year House Built:
Plat:	Lot Rec:	Lot:	Block:	Lgl. Desc:

Height	Max.			Mean		Peak		
	Avg. Front Elev.			FF Elev.				
	Roof Ht.	/ 2 =		Provided				
Stories	Max.			Provided				
Half Story	2nd Fl. Area		÷	3rd Fl. Area		=		%
	60% of 2nd fl. Y/N	Rf. gable/hip/gambrel		2' Wall Plts. Y/N	Truss/Rafter w/min. 5 ft. walls			
Cellar vs. Bsmt.	Cellar			Basement	Crawl Space			
Front	Min.			Provided				
	Corner Lot	Provided		EBL				
Rear	Min.			Provided				
Left Side	Min.			Provided				
Rt. Side	Min.			Provided				
	Total			Provided				
Lot Coverage	Max.	%		Provided				%
	Bldg. Footprint	÷		Lot Size	=			%
Lot Width-Bldg.	Min.			Provided				
Lot Width-St.	Min.			Provided				

ACCESSORY STRUCTURES:

Rear Yard Cover	Max.		Provided			
R-60/90 20% or>	Access. Bldg. Footprint	÷	Rear Yard Area	=		%
All zones 50% or>	Access. Bldg. Footprint	÷	Main Bldg. Footprint	=		%
Front	Min.		Provided			
	Corner Lot		Provided			
R-60/90 over 24' lg	Add 2' for every 2' over 24' length		Additional required			
R-60/90 over 15' ht	Add 2' for every 1' over 15' (mean)		Additional required			
Rear	Min.		Provided			
Left Side	Min.		Provided			
Right Side	Min.		Provided			
Height	Max.		Provided			
Stories	Max.		Provided			

ADDITION vs. NEW CONSTRUCTION:

Add vs. New Const 100% Rule	Addition Footprint:		Existing Footprint:		Add. – Y / N New – Y / N
Retain 50% Exterior 1st Fl. Walls	Remaining Walls:	÷	Existing Walls:	=	%Retained
Uses	RLU - Yes / No		Accessory Apartment - Yes / No		
Exempted Items					

INSTRUCTIONS FOR FILING A HISTORIC AREA WORK PERMIT APPLICATION

All applications for proposed exterior work involving properties listen on the Montgomery County Master Plan for Historic Preservation, either as individual historic sites or as properties within a historic district, require the approval of the Montgomery County Historic Preservation Commission (HPC).

The HPC, staffed by Historic Preservation Planners who work at M-NCPPC, reviews proposals for new construction, demolition, and exterior alterations through the mechanism of the Historic Area Work Permit (HAWP) process. You are encouraged to discuss proposals for major work with the staff in advance of filing a HAWP. For information or to make an appointment, call the HPC staff at M-NCPPC: 301.563.3400.

The HAWP Application Process

***** HAWP applications are obtained from and returned to the Department of Permitting Services (DPS), 255 Rockville Pike, Rockville, 240.777.6370. The application requirements depend on the nature of the proposed project and are listed on the attached checklist. Your application must be complete before it will be accepted by DPS staff. DO NOT FILE YOUR APPLICATION AT M-NCPPC!

Typically, HPC public meetings are held on the second and fourth Wednesdays of each month. A current schedule of meetings can be found on our website: http://www.mc-mncppc.org/historic/commission/meetings.shtm. The firm deadline for filing a HAWP is the Wednesday three weeks prior to each meeting. You are notified by mail of the scheduled meeting date, time, and location, and are normally expected to attend.

Some historic districts have Local Advisory Panels (LAPs), groups of volunteer citizens which assist the HPC by reviewing HAWP applications and forwarding comments for the public record. Further information on Local Advisory Panels an their role in the HAWP review can be provided by the HPC staff. In addition, adjacent and confronting property owners, whose names and addresses are provided by you on the application, are notified by mail that you have filed a HAWP application.

Actions After HAWP Review Hearing

If the HPC approved the HAWP application, it is returned to DPS for issuance of the HAWP. **Subsequently, a copy of the approved HAWP and the stamped plans are mailed to the property owner and must be presented to DPS officials in order to obtain a Building Permit.**

If you are not satisfied with the decision of the HPC, you can submit a revised application or appeal the decision to the County Board of Appeals, which will hear the original

application de novo (that is, starting fresh with a new hearing) and render its own decision.

HISTORIC AREA WORK PERMIT
CHECKLIST OF APPLICATION REQUIREMENTS

	Required Attachments						
Proposed Work	1. Written Description	2. Site Plan	3. Plans/ Elevations	4. Material Specifications	5. Photographs	6. Tree Survey	7. Property Owner Addresses
New Construction	*	*	*	*	*	*	*
Additions/ Alterations	*	*	*	*	*		*
Demolition	*	*			*		*
Deck/Porch	*	*	*	*	*		*
Fence/Wall	*	*	*	*	*	*	*
Driveway/ Parking Area	*	*		*	*	*	*
Major Landscaping/ Grading	*	*		*	*	*	*
Tree Removal	*	*		*	*	*	*
Siding/ Roof Changes	*	*	*	*	*		*
Window/ Door Changes	*	*	*	*	*		*
Masonry Repair/ Repoint	*	*	*	*	*		*
Signs	*	*	*	*	*		*

PLEASE SEE INSTRUCTIONS ON DPS' HAWP APPLICATION FOR FURTHER DETAILS REGARDING APPLICATION REQUIREMENTS.

NOTE: Historic Area Work Permits are not required for ordinary maintenance projects, such as painting, gutter repair, roof repair with duplicate materials, and window repairs. All replacement materials must match the original exactly and be of the same dimensions.

ALL HAWPS MUST BE FILED AT DPS:
255 ROCKVILLE PIKE,
ROCKVILLE, MARYLAND, 20850.

HAWP APPLICATION: MAILING ADDRESSES FOR NOTIFING [Owner, Owner's Agent, Adjacent and Confronting Property Owners]	
Owner's mailing address	**Owner's Agent's** mailing address
Adjacent and confronting Property Owners mailing addresses	

APPLICATION FOR HISTORIC AREA WORK PERMIT

Contact Person: _____

Daytime Phone No.: _____

Tax Account No.: _____

Name of Property Owner: _____ Daytime Phone No.: _____

Address: _____
Street Number *City* *Staet* *Zip Code*

Contractorr: _____ Phone No.: _____

Contractor Registration No.: _____

Agent for Owner: _____ Daytime Phone No.: _____

LOCATION OF BUILDING/PREMISE

House Number: _____ Street: _____

Town/City: _____ Nearest Cross Street: _____

Lot: _____ Block: _____ Subdivision: _____

Liber: _____ Folio: _____ Parcel: _____

PART ONE: TYPE OF PERMIT ACTION AND USE

1A. CHECK ALL APPLICABLE:

☐ Construct ☐ Extend ☐ Alter/Renovate

☐ Move ☐ Install ☐ Wreck/Raze

☐ Revision ☐ Repair ☐ Revocable

CHECK ALL APPLICABLE:

☐ A/C ☐ Slab ☐ Room Addition ☐ Porch ☐ Deck ☐ Shed

☐ Solar ☐ Fireplace ☐ Woodburning Stove ☐ Single Family

☐ Fence/Wall (complete Section 4) ☐ Other: _____

1B. Construction cost estimate: $ _____

1C. If this is a revision of a previously approved active permit, see Permit # _____

PART TWO: COMPLETE FOR NEW CONSTRUCTION AND EXTEND/ADDITIONS

2A. Type of sewage disposal: 01 ☐ WSSC 02 ☐ Septic 03 ☐ Other: _____

2B. Type of water supply: 01 ☐ WSSC 02 ☐ Well 03 ☐ Other: _____

PART THREE: COMPLETE ONLY FOR FENCE/RETAINING WALL

3A. Height _____ feet _____ inches

3B. Indicate whether the fence or retaining wall is to be constructed on one of the following locations:

☐ On party line/property line ☐ Entirely on land of owner ☐ On public right of way/easement

I hereby certify that I have the authority to make the foregoing application, that the application is correct, and that the construction will comply with plans approved by all agencies listed and I hereby acknowledge and accept this to be a condition for the issuance of this permit.

_____ _____
Signature of owner or authorized agent *Date*

Approved: _____ _____ *For Chairperson, Historic Preservation Commission*

1. **WRITTEN DESCRIPTION OF PROJECT**

a. **Description of existing structure(s) and environmental setting, including their historical features and significance:**

b. **General description of project and its effect on the historic resource(s), the environmental setting, and, where applicable, the historic district:**

2. **SITE PLAN**

Site and environmental setting, drawn to scale. You may use your plat. Your site plan must include:

a. the scale, north arrow, and date;

b. dimensions of all existing and proposed structures; and

c. site features such as walkways, driveways, fences, ponds, streams, trash dumpsters, mechanical equipment, and landscaping.

3. **PLANS AND ELEVATIONS**

You must submit 2 copies of plans and elevations in a format no larger than 11" x 17". Plans on 8 1/2" x 11" paper are preferred.

a. ***Schematic construction plans***, with marked dimensions, indicating location, size and general type of walls, window and door openings, and other fixed features of both the existing resource(s) and the proposed work.

b. Elevations (facades), with marked dimensions, clearly indicating proposed work in relation to existing construction and, when appropriate, context. All materials and fixtures proposed for the exterior must be noted on the elevations drawings. An existing and a proposed elevation drawing of each facade affected by the proposed work is required.

4. **MATERIALS SPECIFICATIONS**

General description of materials and manufactured items proposed for incorporation in the work of the project. This information may be included on your design drawings.

5. **PHOTOGRAPHS**

a. Clearly labeled photographic prints of each facade of existing resource, including details of the affected portions. All labels should be placed on the front of photographs.

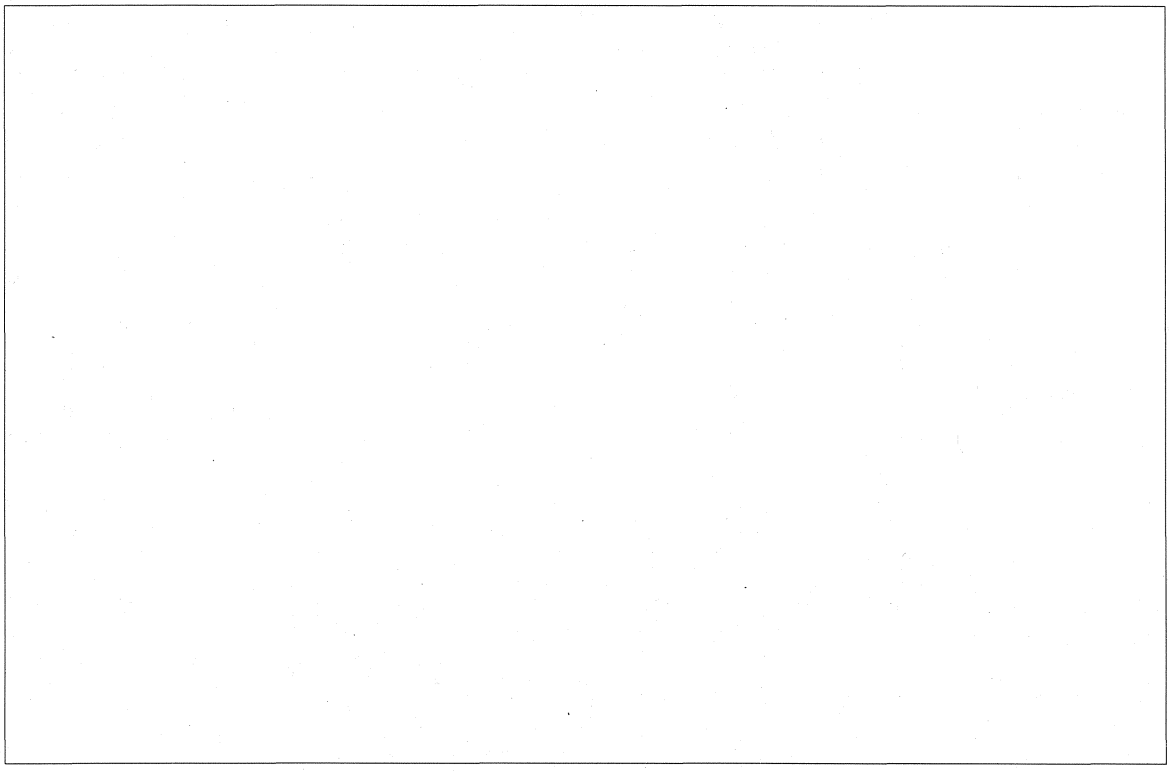
b. Clearly label photographic prints of the resource as viewed from the public right-of-way and of the adjoining properties. All labels should be placed on the front of photographs.

6. **TREE SURVEY**

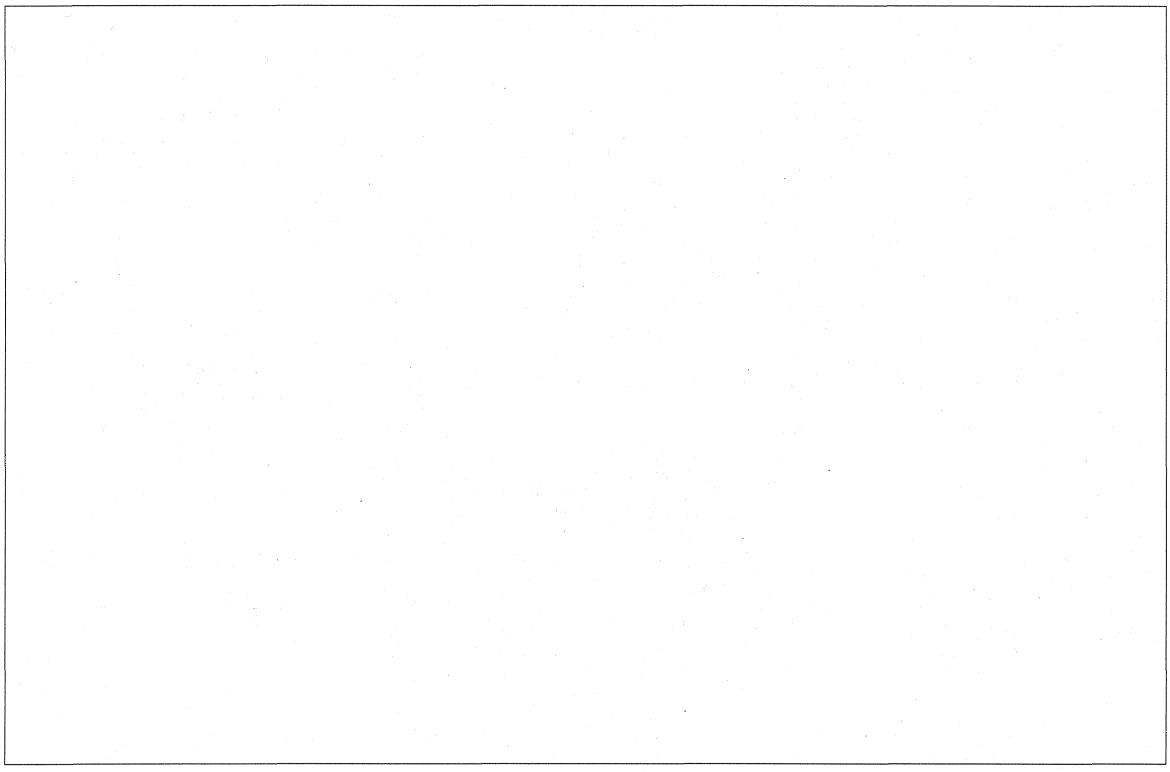
If you are proposing construction adjacent to or within the dripline of any tree 6" or larger in diameter (at approximately 4 feet above the ground), you must file an accurate tree survey identifying the size, location, and species of each tree of at least that dimension.

7. **ADDRESSES OF ADJACENT AND CONFRONTING PROPERTY OWNERS**

Existing Property Condition Photographs (duplicate as needed)

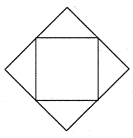


Detail:_____



Detail:_____

Site Plan



Shade portion to indicate North

Department of Permitting Services
Division of Casework Management
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850

CODE INTERPRETATION/POLICY

Code/Year	Section of Code	Title of Code Section/Subsection/Policy
2004	59-B-5.1 and 59-B-5.3	Exemptions from Controls

Statement/Background of Issue

Lots recorded prior to 1928 are subject to different development standards for new construction or additions than those required under today's Zoning Ordinance. Historically, the Department has had to interpret whether the original 1928 Zoning Ordinance controls development or if subsequent reenactments of the 1928 Code take precedent, particularly the 1930 Zoning Ordinance or amendments thereto.

Division Interpretation/Policy

For purposes of clarification and consistency, the Department has determined that the language of the 1928 Zoning Ordinance as originally enacted will be the single reference point for determining development standards on lots recorded prior to March 16, 1928. This is the code citation referenced in the current Zoning Ordinance and accurately reflects the language contained in the Zoning Text Amendment which amended Sections 59-B-5.1 and 59-B-5.3. Therefore, standards including minimum lot area and setbacks must comply with the provisions of the 1928 Code.

Interpretation/Policy No.	Date	Division Chief
ZP0404-1	5/3/04	Reginald T. Jetter
Interpretation/Policy No.	Date	Assistant County Attorney
	5/3/04	Malcolm F. Spicer
Interpretation/Policy No.	Date	Director
	5/5/04	Robert C. Hubbard

Department of Permitting Services
Division of Casework management
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850

CODE INTERPRETATION/POLICY

Code/Year	Section of Code	Title of Code Section/Subsection/Policy
2004	59-A-5.33	ADDITIONS

Statement/Background of Issue

In order to provide clarity and consistency for development approval by this Department and other agencies, this policy will establish definitions for the terms "alteration", "addition", and "new construction" when applied to existing single-family dwellings.

Division Interpretation/Policy

The following definitions must be used in the determination of a proposed building permit action to a *single-family dwelling*:

A. ALTERATION – a modification to a building which does not change the footprint or floor area of an existing building.

B. ADDITION – a modification to an existing building which changes the footprint or floor area provided that:

* **The construction must not, at time of application, exceed the existing footprint, by more than 100%.**
* **At least 50% of the existing first floor exterior walls, in their entirety, (measured in linear feet) and comprising the footprint of the existing building and must remain as exterior walls. The determination of first floor exterior walls is that it must have its finished floor surface entirely above grade.**
* **Any increase in building height is subject to current zoning standards and may occur provided that the construction is within the above criteria.**

C. NEW CONSTRUCTION – any change to an existing building which exceeds the definition of an alteration or addition as stated above.

Interpretation/Policy No.	Date	Division Chief
ZP0204	2/25/04	Reginald T. Jetter
	Date 2/25/04	Assistant County Attorney Malcolm F. Spicer
	Date 2/25/04	Director Robert C. Hubbard

METHODOLOGY FOR BASEMENT/CELLAR DETERMINATION:

This calculation must be done using average **finished grades** and **pre-development grade elevations.**

1. Determine the grades along perimeter of house. This is done by multiplying each wall section length times the grade adjacent to that section. The grade used for this determination is whichever is lower, either finished grade or pre-development grade at any point along the perimeter walls. Add all the products together and divide by the total perimeter to obtain the average finished grade.
2. Determine the elevation of the lowest level (basement or cellar slab elevation) from site plan or floor plan.
3. Subtract 2 from 1 to get the average height of finished grade above basement floor.
4. Determine the distance from basement floor slab to the bottom of first floor joists. This is the height of the foundation wall plus the sill plate.
5. Divide the result of #4 by 2 to get the midpoint.
6. If #3 is greater than #5 it is a cellar and therefore not a story.

Calculations:

1.

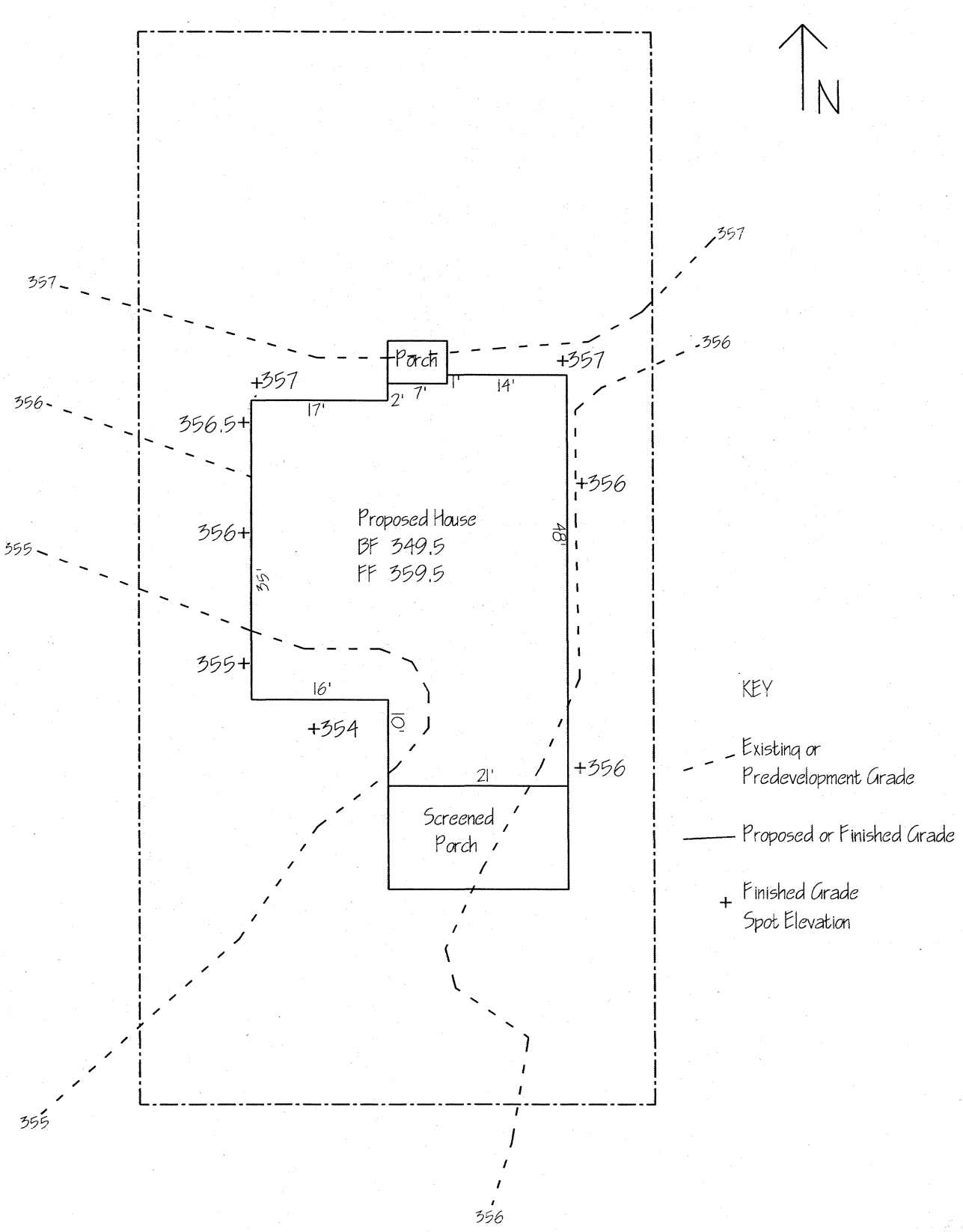
2. Basement or Cellar elevation:
3. (1) - (2) =
4. Height of foundation wall from basement/cellar to bottom of 1st floor joists:
5. (4) / 2 =
6. (3) (< or >) (5)
   Basement or Cellar

EXAMPLE OF METHODOLOGY FOR BASEMENT/CELLAR DETERMINATION:

SEE SAMPLE SITE PLAN ON NEXT PAGE

FINISHED & PRE-DEV. GRADES--Perimeter of House (in ft.)		Elevation	Total		
Along entire front wall of house:	41	357	14637		
East side wall:	48	356	17088		
Rear of house, not screened porch:	21	356	7476		
Rear of house:	10	354	3540		
Rear of house:	16	354	5664		
West side wall, along contour line at 355:	8	355	2840		
West side wall, along contour line at 356:	18	356	6408		
West side wall, between contour lines at 356 & 357:	9	356.5	3208.5		
	171	/	60861.5	=	355.91
Avg. Elevation of Finished & Pre-dev. Grades Around House		355.91			
Basement/Cellar Elevation		349.5			
Avg. Ht. of Finished & Pre-dev. Grades Above Basement/Cellar		6.41			
Distance from floor to btm. of 1st flr. joists-Ht. of wall & sillplate		8.33			
Midpoint of Foundation Wall		4.16			
Lowest level is a cellar		TRUE			
Lowest level is a basement		FALSE			

AMPLE SITE PLAN FOR BASEMENT/ CELLAR DETERMINATION



07/14/06

Department of Permitting Services
Division of Casework Management
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850

CODE INTERPRETATION/POLICY

Code/Year	Section of Code	Title of Code Section/Subsection/Policy
2004	59-B-3.2	Development Standards Bay Windows

Statement/Background of Issue

Bay windows are allowed to project not more than 3 feet into a required front or rear setback. What criteria should be applied by the Department to determine bay window characteristics and limitations?

Division Interpretation/Policy

A bay window or oriel, not greater than 10 feet in width, may project up to 3 feet into a required front or rear setback. For purposes of clarification, a bay window is considered to be an outward projection from the main wall of a building that forms a bay or alcove in a room. This type of window typically has canted sides and is supported by brackets, cables or similar attachments (cantilevered) or a foundation.

If two or more bay windows project *from any one side (front or back)* of the main building, not more than 50% of the linear width of the front or back, as applicable, of the building may be utilized for such projections.

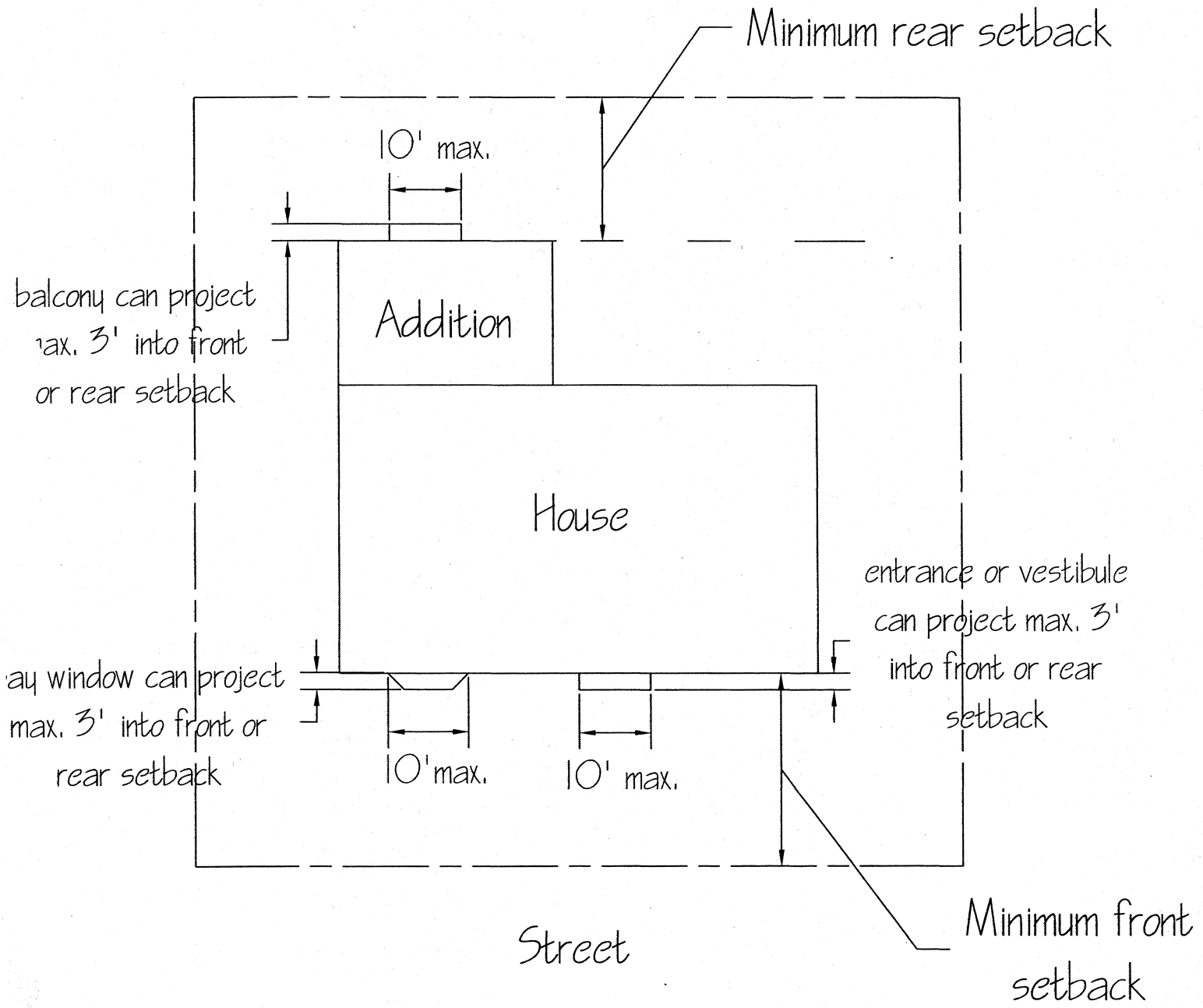
Interpretation/Policy No.	Date	Division Chief
ZP0927	10/1/04	Reginald T. Jetter
Interpretation/Policy No.	Date	Assistant County Attorney
	10/1/04	Malcolm F. Spicer
Interpretation/Policy No.	Date	Director
	10/5/04	Robert C. Hubbard

MINIMUM SETBACK REQUIREMENTS

Exemptions for Projections

Montgomery County Zoning Ordinance Section 59-B-3.2

Bay Windows, Balconies, Vestibules



Department of Permitting Services
Division of Casework Management
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850

CODE INTERPRETATION/POLICY

Code/Year	Section of Code	Title of Code Section/Subsection/Policy
2004		Building Across Lot Lines

Statement/Background of Issue

In certain areas of the County, single-family dwellings are situated on two or more lots or parts of lots. Clarification is necessary to determine if proposed additions to existing dwellings may cross internal lot lines without requiring a minor subdivision process.

Division Interpretation/Policy

When a property consists of two or more lots or parts of lots as referenced in the tax records of Montgomery County under one tax identification number, and is improved by a single-family dwelling, proposed additions to the building will be permitted to cross internal lot lines. This interpretation applies to dwellings which already cross internal lines or to additions which will extend across these lines. Setback requirements will be measured from the outer boundaries of the subject property as indicated on the tax records.

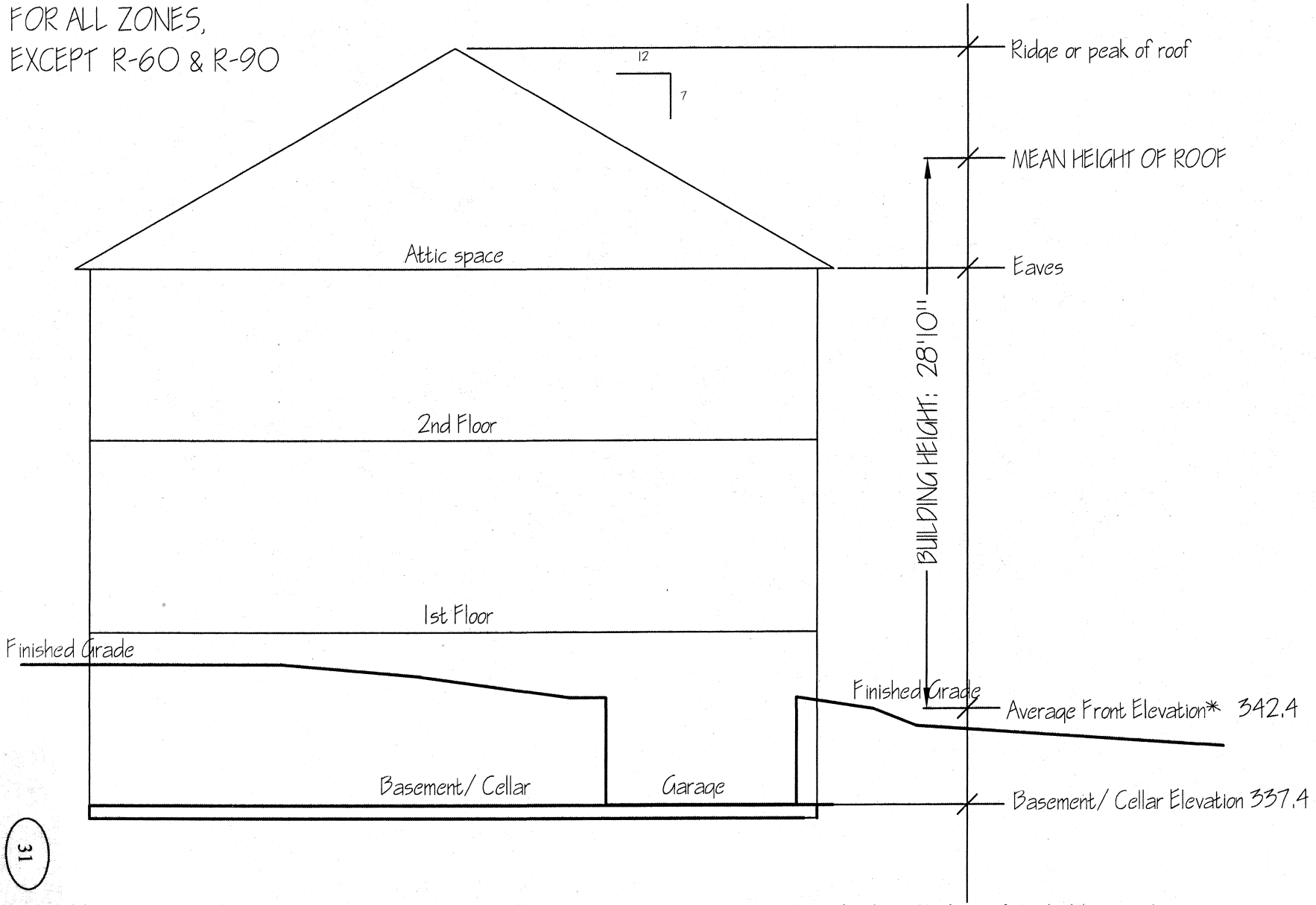
This policy applies to proposed additions to single family dwellings only. A permit application that is determined by this Department to be new construction will be required to meet subdivision regulations referenced in Chapter 50 of the Montgomery County Code.

Interpretation/Policy No.	Date	Division Chief
ZP0404-4	5/3/04	Reginald t. Jetter
Interpretation/Policy No.	Date	Assistant County Attorney
	5/3/04	Malcolm F. Spicer
Interpretation/Policy No.	Date	Director
	5/5/04	Robert C. Hubbard

BUILDING HEIGHT MEASUREMENT

BUILDING SETBACK FROM STREET LINE MORE THAN 35 FT.--USE AVERAGE FRONT ELEVATION

FOR ALL ZONES,
EXCEPT R-60 & R-90



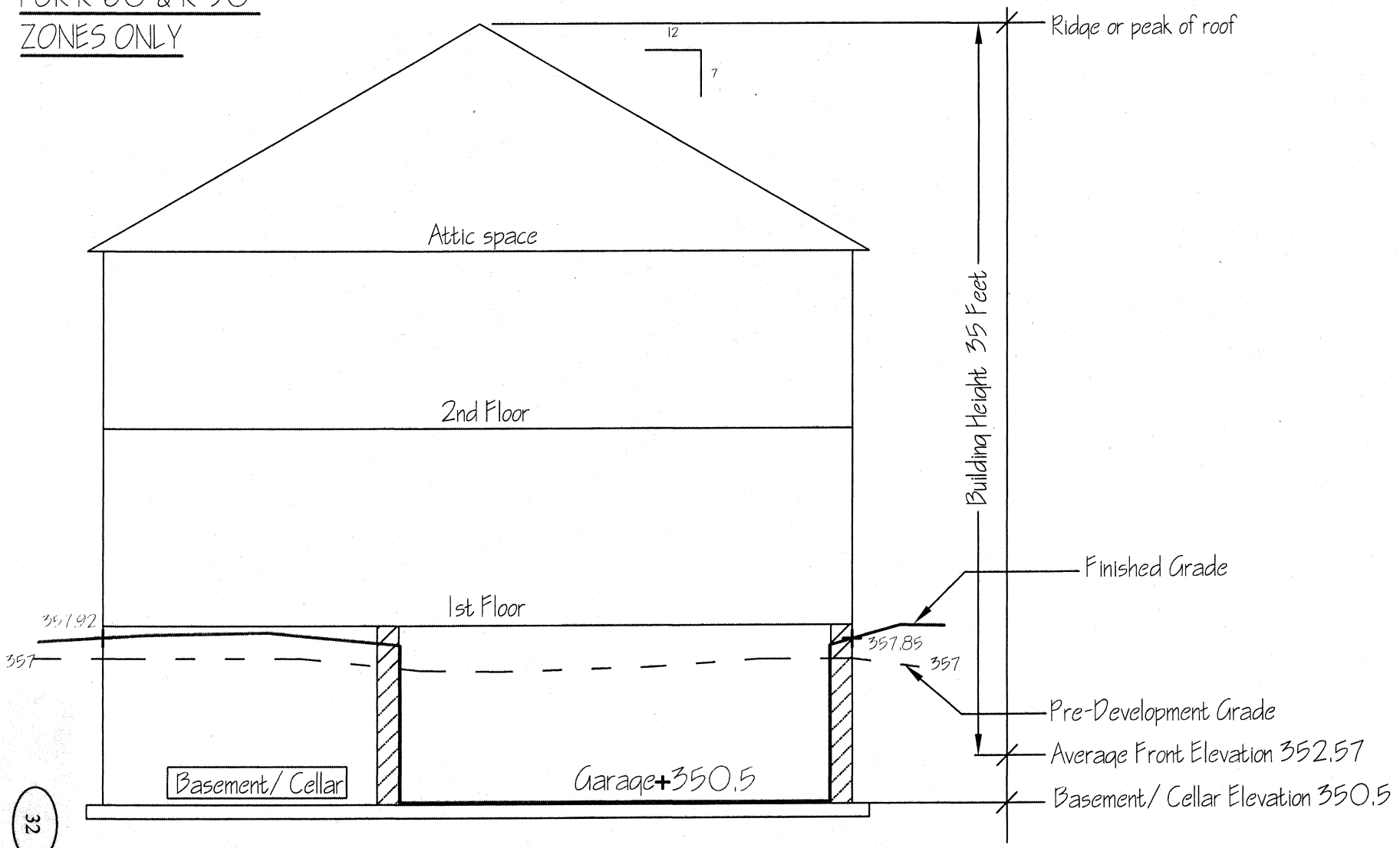
Building Height is the vertical distance measured from the average elevation* of finished grade along the front of the building, to the highest point of roof surface of a flat roof, to the mean height between the eaves and ridge of a gable, hip, gambrel or mansard roof. *Average elevation is determined by multiplying each wall section of front facing planes, times the finished grade elevation adjacent to that section. Add all products together and divide by the total length of the front wall. This result is the average finished grade along the front of the building.

Revised 07/27/06

BUILDING HEIGHT MEASUREMENT:

FOR R-60 & R-90 ZONES ONLY

METHOD 1: Average Elevation of Finished Grade Along Front of Bldg. to Highest Point of Roof



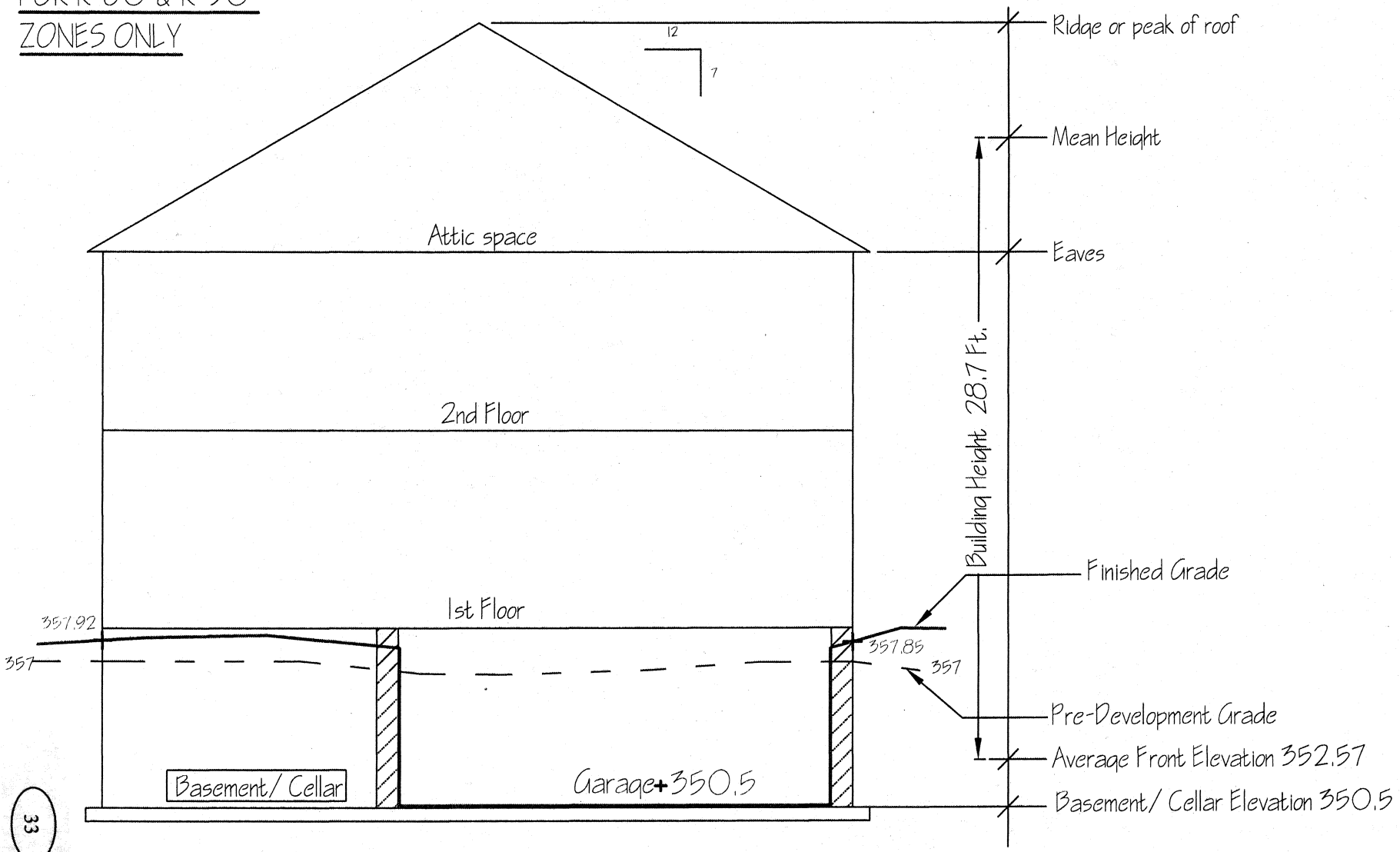
In the R-60 & R-90 zones, bldg. ht. is the vertical distance measured from average elevation* of finished grades along front of the bldg., to the highest point of any roof surface. Maximum bldg. ht. is 35 ft. For the purpose of determining bldg. ht. the average front elevation used will be based on either pre-development grade (existing grade) or finished grade whichever is lower at any given point along the front wall.* Average elevation is determined by multiplying each wall section of front facing planes, times the grade elevation adjacent to that section. Add all products together and divide by the total length of the front wall. This result is the average grade along the front of the bldg. See SAMPLE SITE PLAN FOR BUILIDNG HEIGHT MEASUREMENT.

Revised 07/14/06

BUILDING HEIGHT MEASUREMENT:

METHOD 2: Average Elevation of Finished Grade Along Front of Bldg. to Mean Height Between Eaves and Ridge of Roof

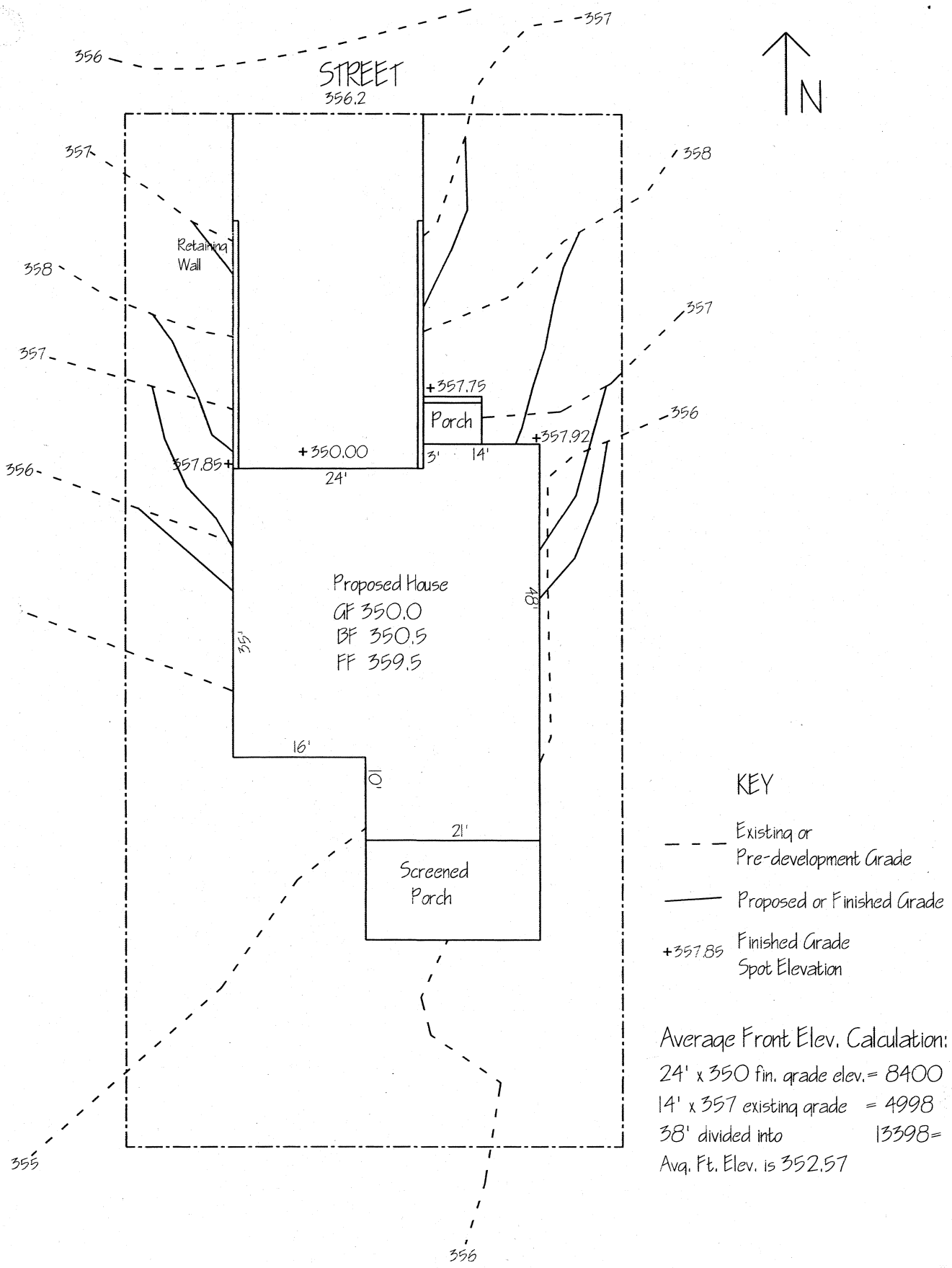
FOR R-60 & R-90 ZONES ONLY



In the R-60 & R-90 zones, bldg. ht. is the vertical distance measured from average elevation* of finished grades along front of the bldg., to the mean ht. between eaves and ridge of a gable, hip or mansard roof. Maximum bldg. ht. is 30 ft. For the purpose of determining bldg. ht. the average front elevation used will be based on either pre-development grade (existing grade) or finished grade whichever is lower at any given point along the front wall.* Average elevation is determined by multiplying each wall section of front facing planes, times the grade elevation adjacent to that section. Add all products together and divide by the total length of the front wall. This result is the average grade along the front of the bldg. See SAMPLE SITE PLAN FOR BUILDING HEIGHT MEASUREMENT.

Revised 07/14/06

AMPLE SITE PLAN FOR BUILDING HEIGHT MEASUREMENT



Average Front Elev. Calculation:

24' x 350 fin. grade elev.= 8400

14' x 357 existing grade = 4998

38' divided into 13398=

Avg. Ft. Elev. is 352.57

07/14/06

Department of Permitting Services
Division of Building Construction
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850

CODE INTERPRETATION/POLICY

Code/Year	Section of Code	Title of Code Section/Subsection/Policy
ZONING ORDINANCE 2004	**59-A-5.33**	**ESTABLISHED BUILDING LINE**

Statement/Background of Issue

This policy is written to clarify the method by which the established building line is calculated.

Division Interpretation/Policy

The established building line is the front yard building line which is greater than the minimum setback required for structures in a designated zone.

The established building line is required in the R-60, R-90, R-150, and R-200 zones (except R-200 zones with well and septic in the front.) for:

1. All new construction of houses and main buildings
2. All proposed additions that extend beyond the front of the building.

Corner lots will have an **established building line** on both streets.

The process for calculation of the **established building line** is as follows:
Identify all the main buildings that are within 300 feet of the side lot lines on the subject property that are, on the same side of the street, between intersecting streets and in the same block as the subject property.

For each building within 300 of the subject property exclude:

i. The subject property
ii. Buildings on corner lots
iii. Buildings subject to a front yard variance
iv. Buildings with a nonconforming front setback
v. Buildings set back less than the required minimum front yard setback
vi. Illegal buildings.
vii. Houses on pipe stem or flag shaped lots
viii. Houses on lots not meeting the minimum width at the minimum front setback.

Measure the shortest distance from the front property line of each building to it's nearest

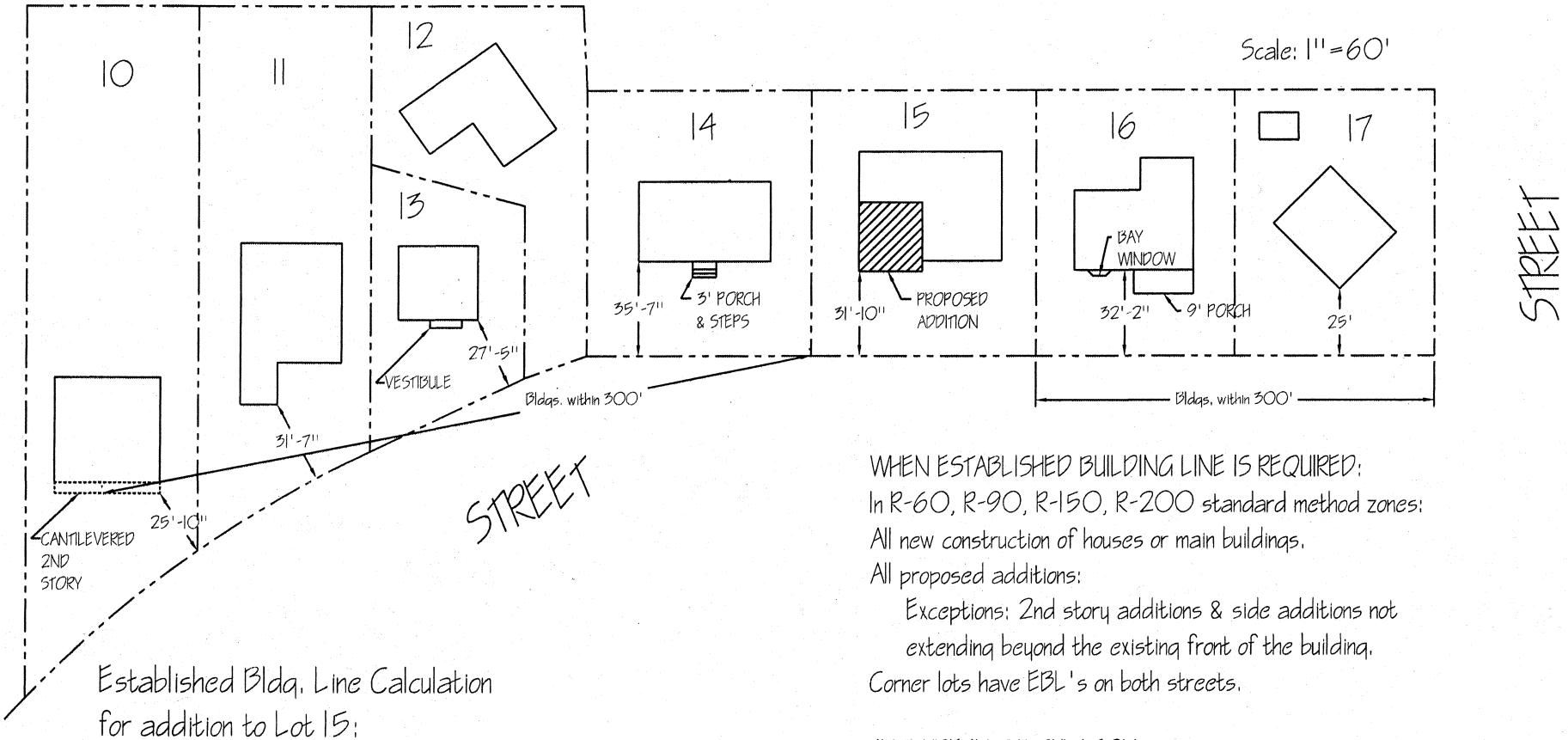
i. Foundation wall
ii. Cantilevered floor

The measurement must be taken at a 90 degree angle from the front property line. This measurement is the front yard setback for that building.

Add all of the front yard setbacks together and divide by the number of houses included in your calculation. The result is the **established building line.**

An example is attached.

Interpretation/Policy No. **ZP0404-2 Rev 8/30/06**	**Date**	**Division Chief** **Reginald T. Jetter**
Interpretation/Policy No.	**Date**	**Assistant County Attorney** **Malcolm F. Spicer**
Interpretation/Policy No.	**Date**	**Director** **Robert C. Hubbard**



Established Bldg. Line Calculation
for addition to Lot 15:

Lot 10	25' 10"	or 25.83'
Lot 11	31' 7"	or 31.58'
Lot 12	not included, pipestem lot	
Lot 13	27' 5"	or 27.41'
Lot 14	35' 7"	or 35.58'
Lot 15	not included, subject property	
Lot 16	32' 2"	or 32.16'
Lot 17	not included, corner lot	
TOTAL =	152' 7"	or 152.56' divided
by 5 lots =	30.51' is EBL	

ESTABLISHED BUILDING LINE

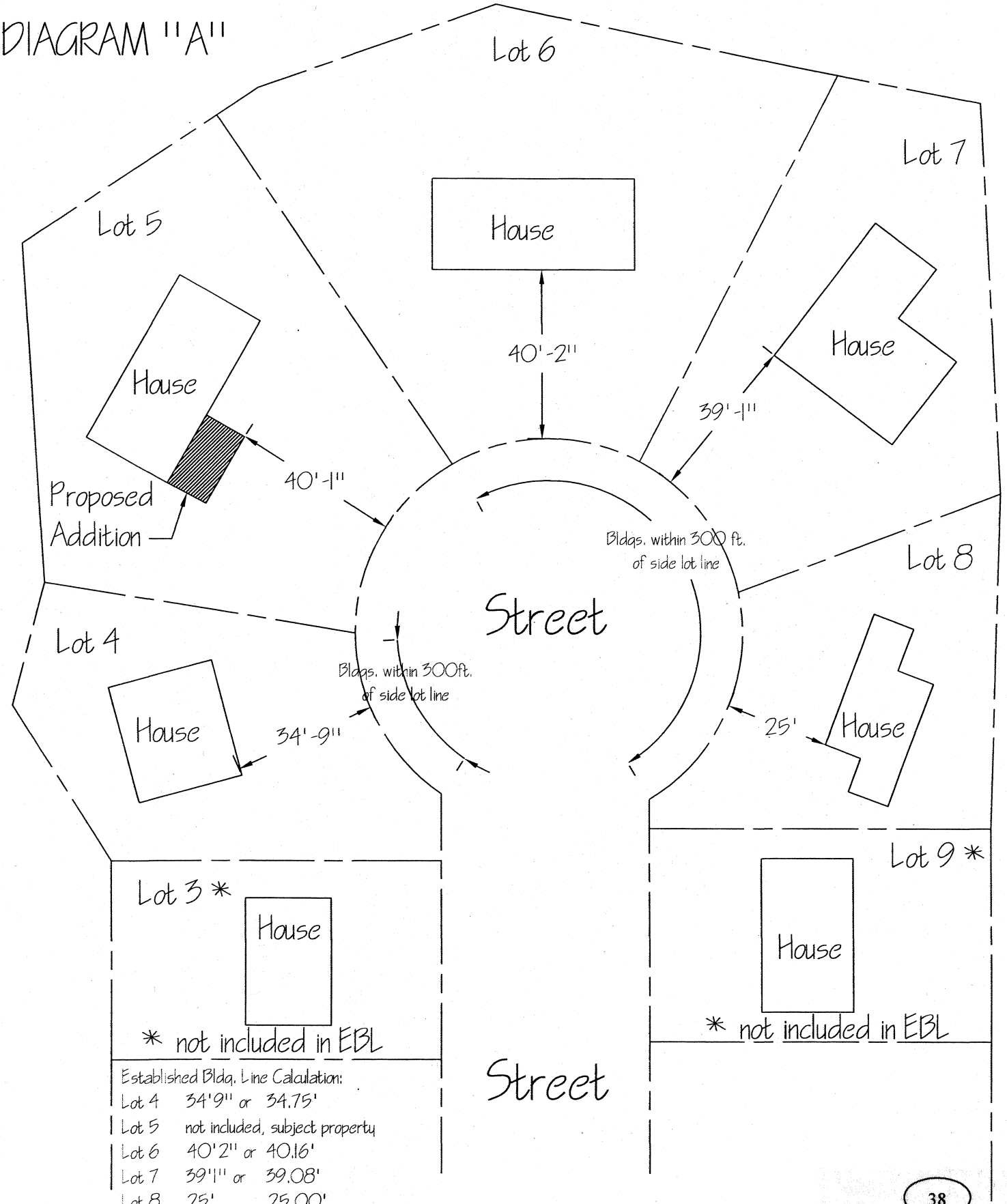
WHEN ESTABLISHED BUILDING LINE IS REQUIRED:
In R-60, R-90, R-150, R-200 standard method zones:
All new construction of houses or main buildings.
All proposed additions:
Exceptions: 2nd story additions & side additions not extending beyond the existing front of the building.
Corner lots have EBL's on both streets.

INCLUDE IN CALCULATION:
When 2 or more buildings meet the following:
All bldgs. within 300' of side property lines of subject property.
Between intersecting streets and within the same block.
Buildings existing at time permit application is filed.
Measure the distance between front property line and foundation wall of house or any cantilevered second story.

EXCLUDE FROM CALCULATION:
Subject property.
Corner lots.
Pipestem, flag-shaped or lots not meeting minimum lot width at minimum front setback.
Buildings with front setback variances.
Buildings with nonconforming front yard setbacks.

ESTABLISHED BUILDING LINE FOR CUL-DE-SAC LOTS

DIAGRAM "A"

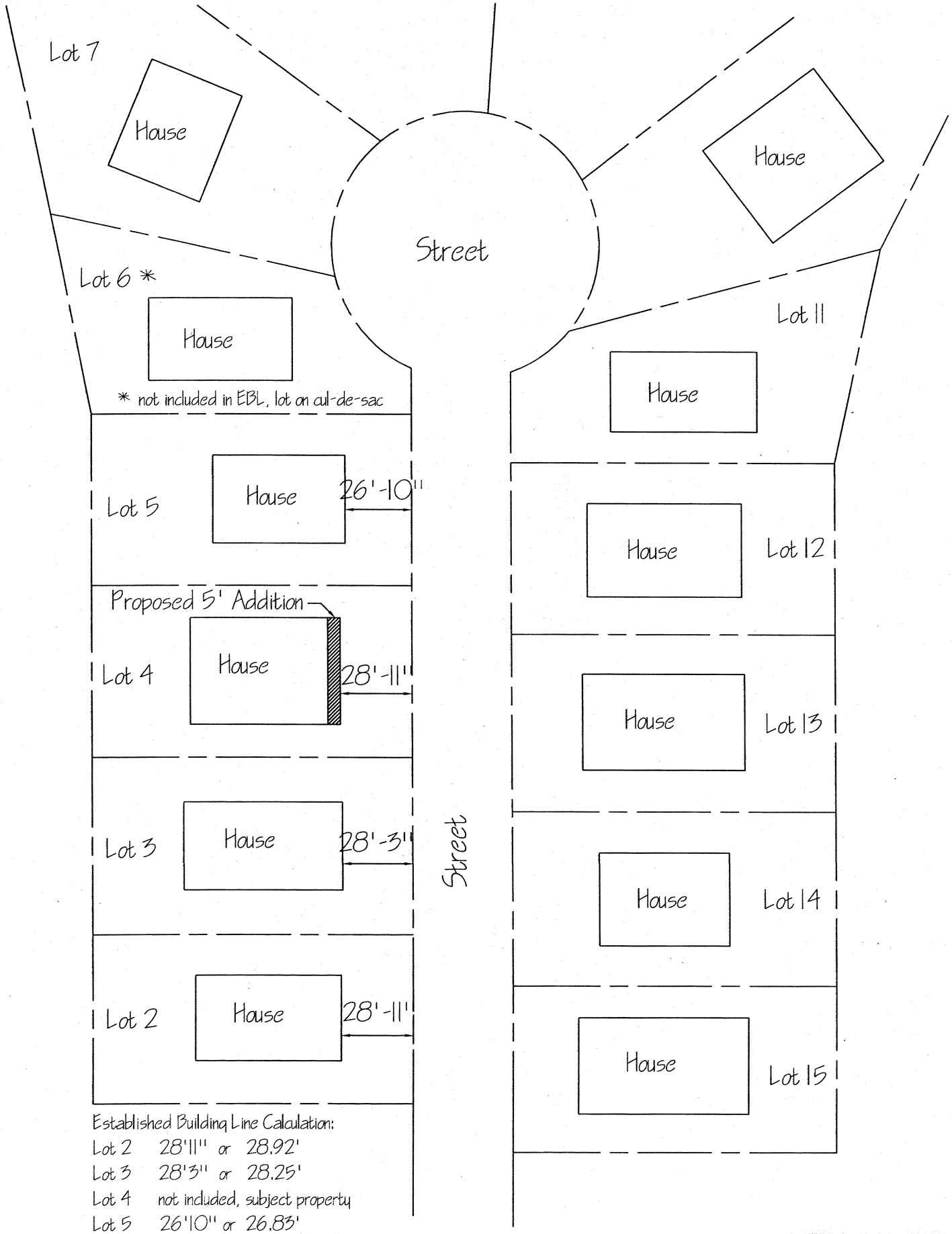


Established Bldg. Line Calculation:

Lot 4	34'9" or	34.75'
Lot 5	not included, subject property	
Lot 6	40'2" or	40.16'
Lot 7	39'1" or	39.08'
Lot 8	25'	25.00'

TOTAL 139' divided by 4 lots = 34.75' is EBL

DIAGRAM "B"

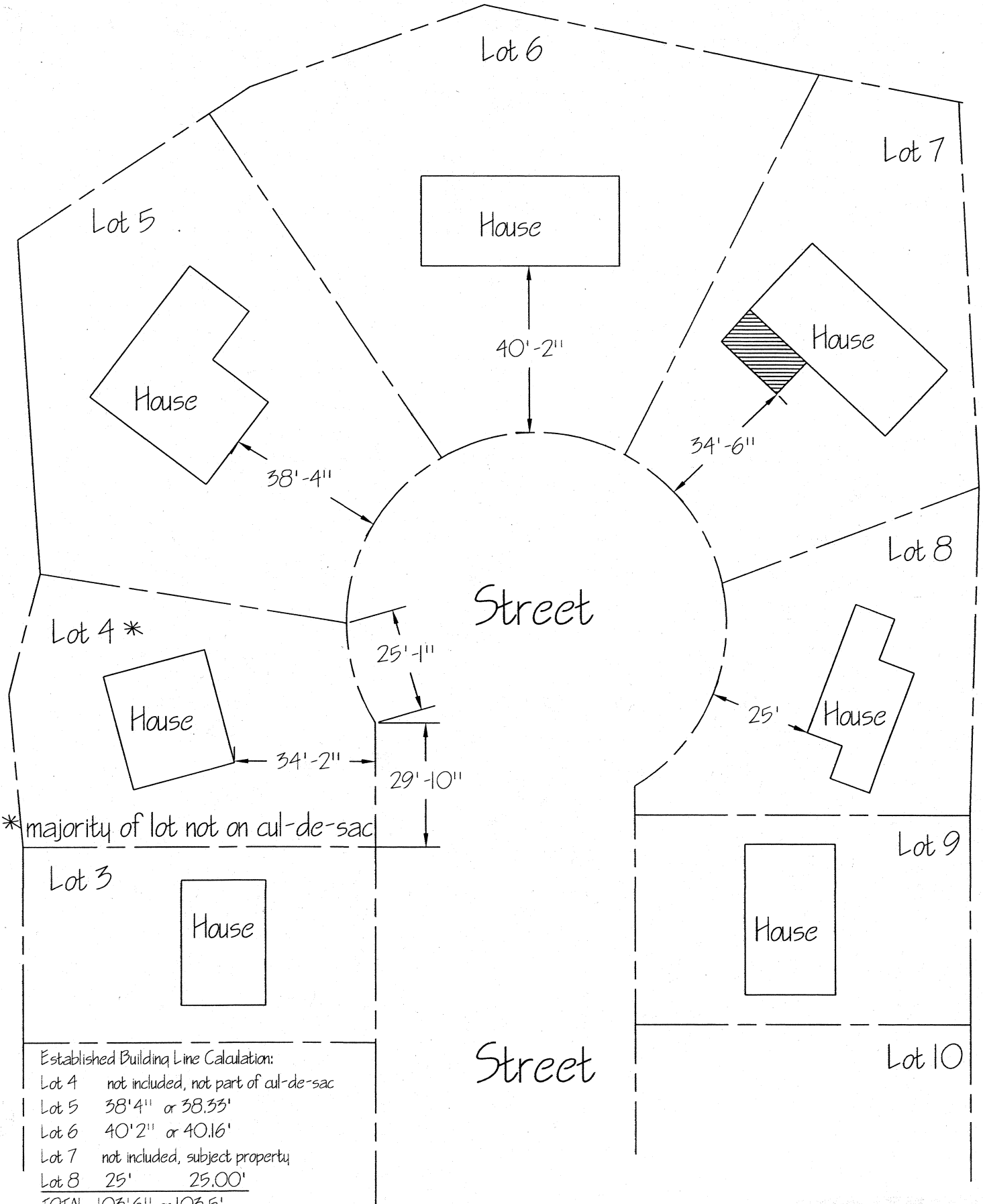


Established Building Line Calculation:

Lot 2 28'11" or 28.92'
Lot 3 28'3" or 28.25'
Lot 4 not included, subject property
Lot 5 26'10" or 26.83'
Lot 6 not included, lot on cul-de-sac

TOTAL 84' divided by 3 lots = 28' is EBL

DIAGRAM "C"



Established Building Line Calculation:

Lot 4	not included, not part of cul-de-sac	
Lot 5	38'4"	or 38.33'
Lot 6	40'2"	or 40.16'
Lot 7	not included, subject property	
Lot 8	25'	25.00'
TOTAL	103'6"	or 103.5'

divided by 3 lots = 34.33'

Department of Permitting Services
Division of Casework Management
255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850

CODE INTERPRETATION/POLICY

Code/Year	Section of Code	Title of Code Section/Subsection/Policy
2004	59-C-1.323	Yard Requirement: Corner Lots

Statement/Background of Issue

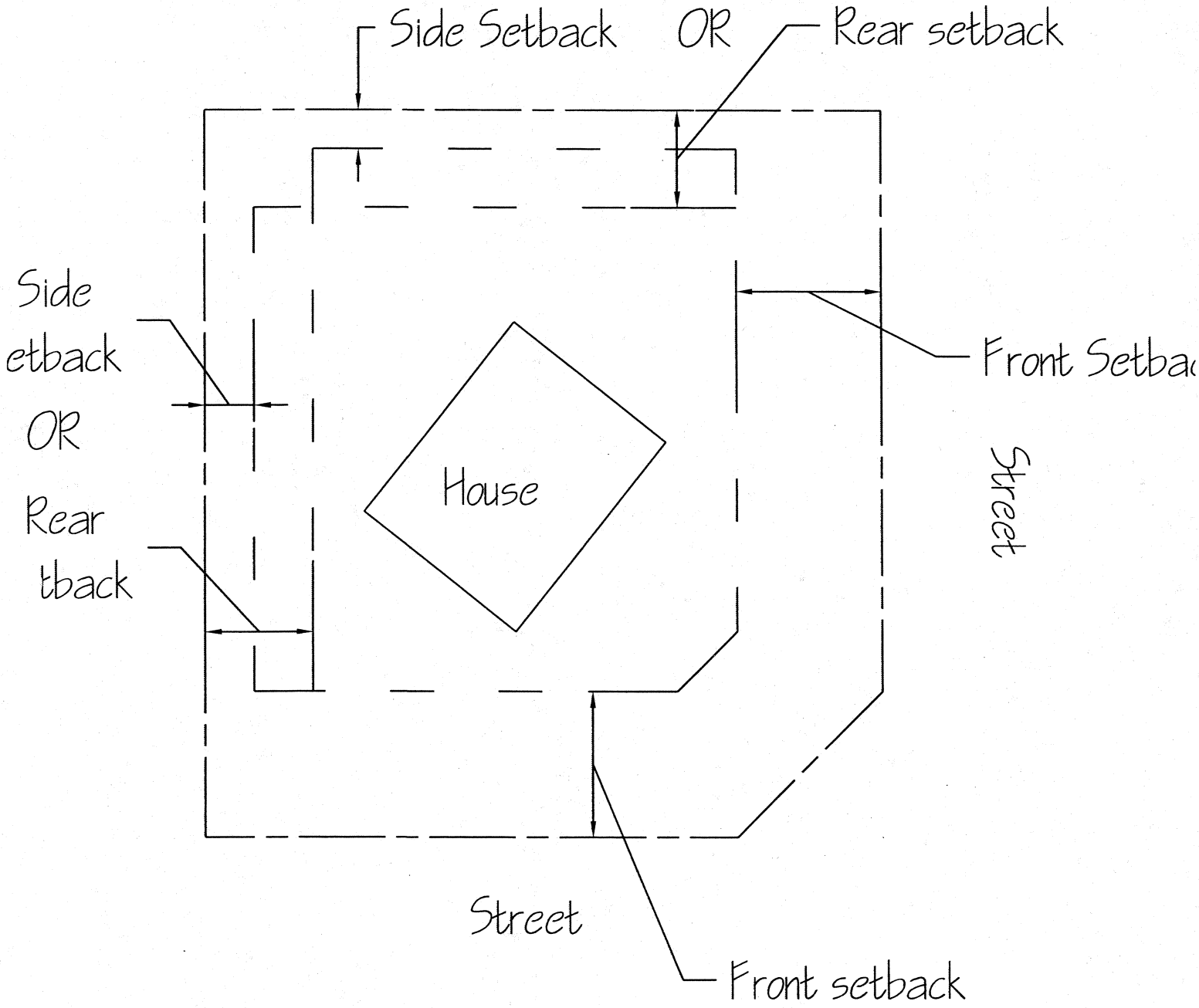
What criteria determines setback requirements for existing or proposed one-family dwellings (main buildings) located on a corner lot?

Division Interpretation/Policy The Department is frequently required to identify the applicable front, side, and rear yard setbacks for dwellings situated on corner lots. For purposes of clarity and consistency, the following criteria will be employed for such determination:

- Each corner lot has two front yards and therefore requires a front yard setback from each street. In limited circumstances when one adjoining lot is also a corner lot, a reduced side street setback will be applied.
- For new construction, the applicant may choose which interior lot lines will be considered the side or rear lot line, provided that both a side and a rear yard are created for setback purposes. The orientation of the front entrance or access from the street does not always determine which side yard will be considered the rear.
- For an addition to an existing one-family dwelling, setback requirements for side and rear yards have already been determined based upon original construction. The proposed addition must maintain the applicable side or rear setback for the underlying zone. If the less restrictive rear yard setback is met in both yards, the applicant may choose either yard for the more restrictive side yard setback.

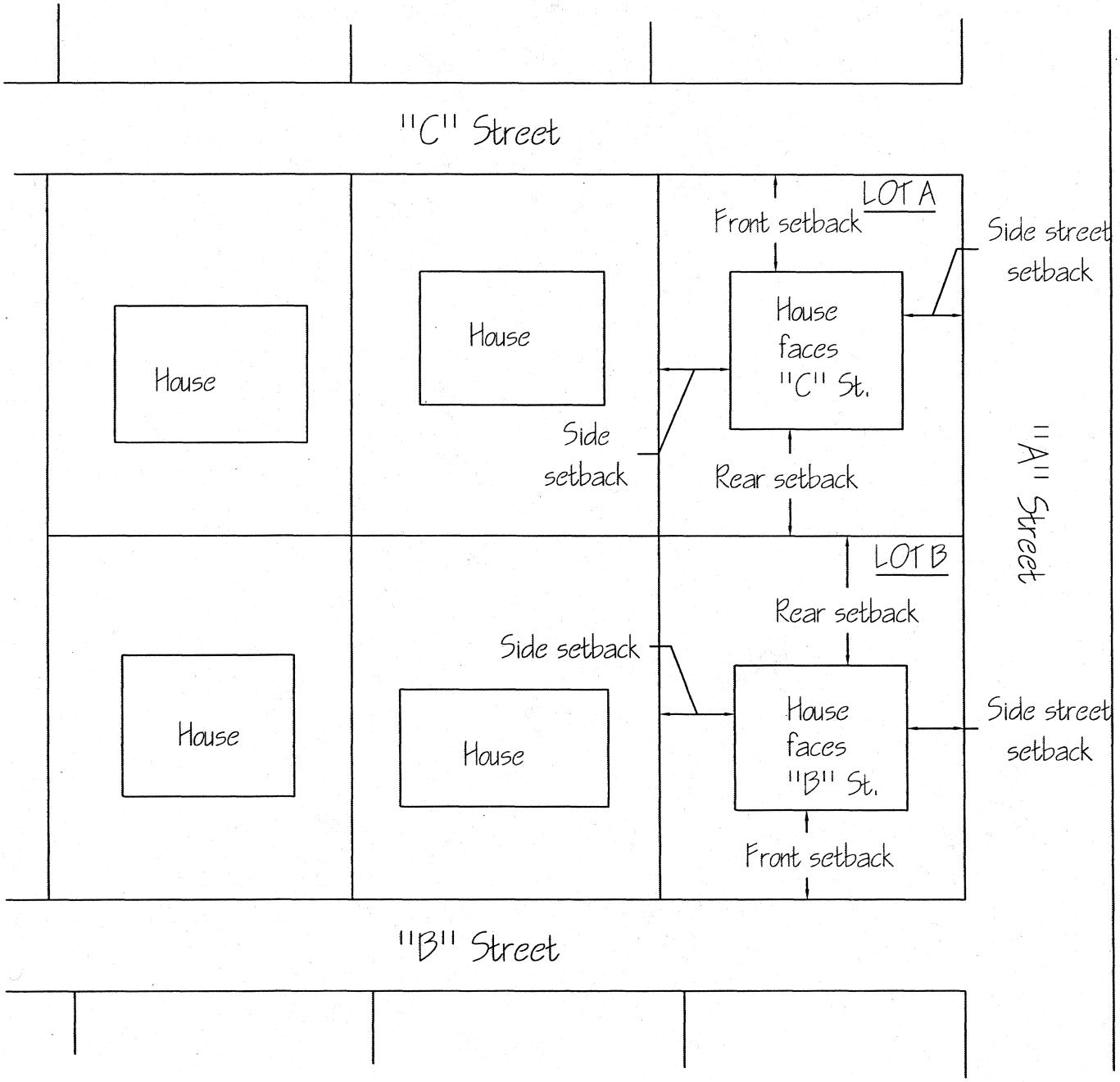
Interpretation/Policy No.	Date	Division Chief
ZP0404-3	5/3/04	Reginald T. Jetter
	Date 5/3/04	Assistant County Attorney Malcolm F. Spicer
	Date 5/5/04	Director Robert C. Hubbard

CORNER LOT SETBACKS FOR MAIN DWELLINGS



NOTE: If setbacks from both interior lot lines meet the rear yard minimum, and there is no accessory structure on the lot, then either yard may be selected as a side yard for future additions. On this lot, you may choose which is a side and a rear yard, but you must have both a side and a rear setback on the lot.

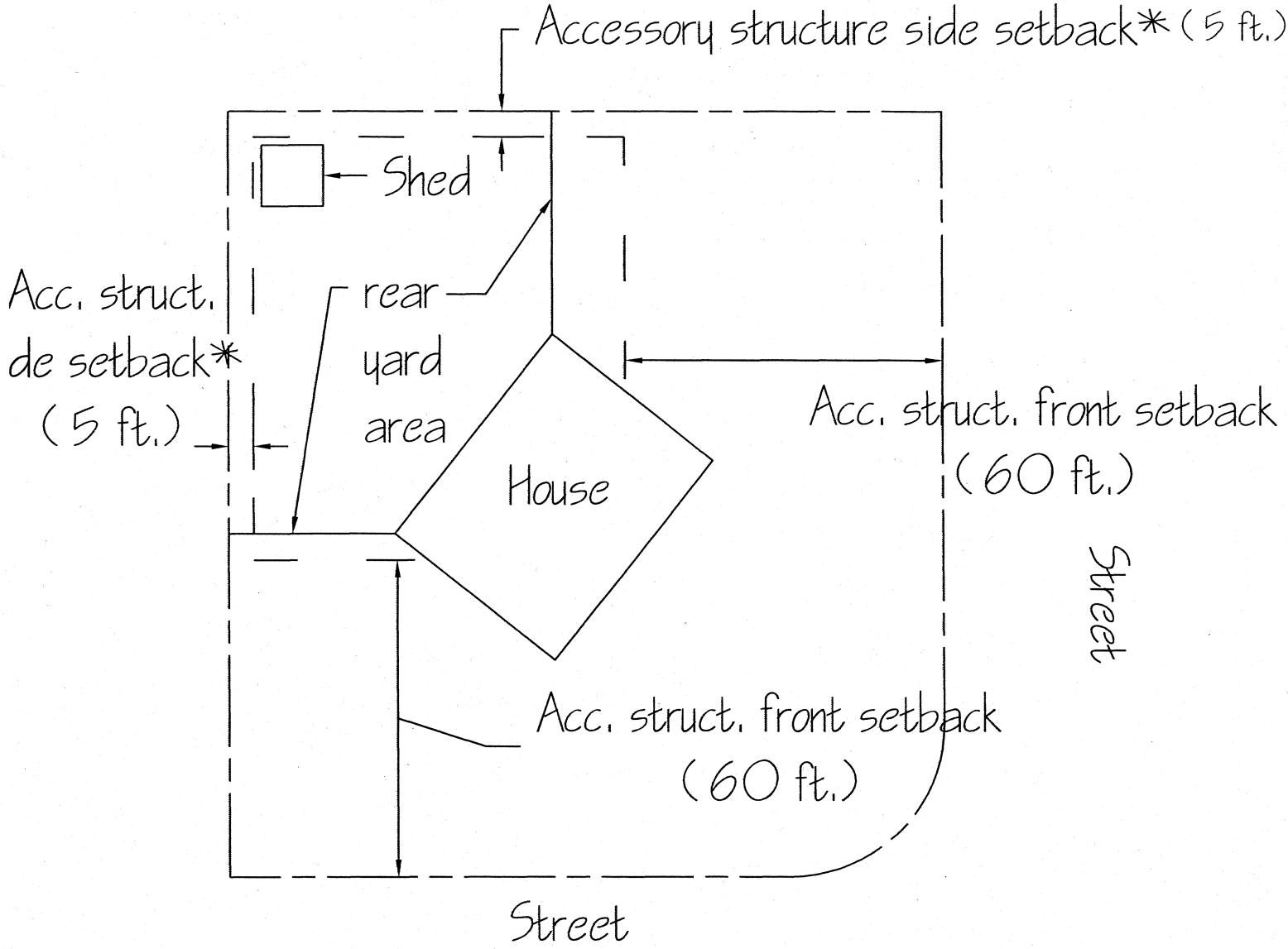
CORNER LOT SETBACKS FOR MAIN DWELLINGS SIDE STREET REQUIREMENT



In the case of a corner lot (Lot A), if the adjoining lot (Lot B) on one of the streets either does not front on that street or is in a nonresidential zone, then the setback from that side street line must be at least 15 ft. in the R-60, R-90, R-150 & R-200 zones, and at least 20 ft. in the RE-1, RE-2C & RE-2 zones.

CORNER LOT SETBACKS
FOR ACCESSORY STRUCTURES

Diagram A-Mont. Co. Zoning Ord. Sec. 59-C-1.326(a)



R-60 Zone Example:

Accessory building must not exceed 50% of the footprint of the residence.

In Diagram A, the accessory structure must be located in the rear yard, behind the house.

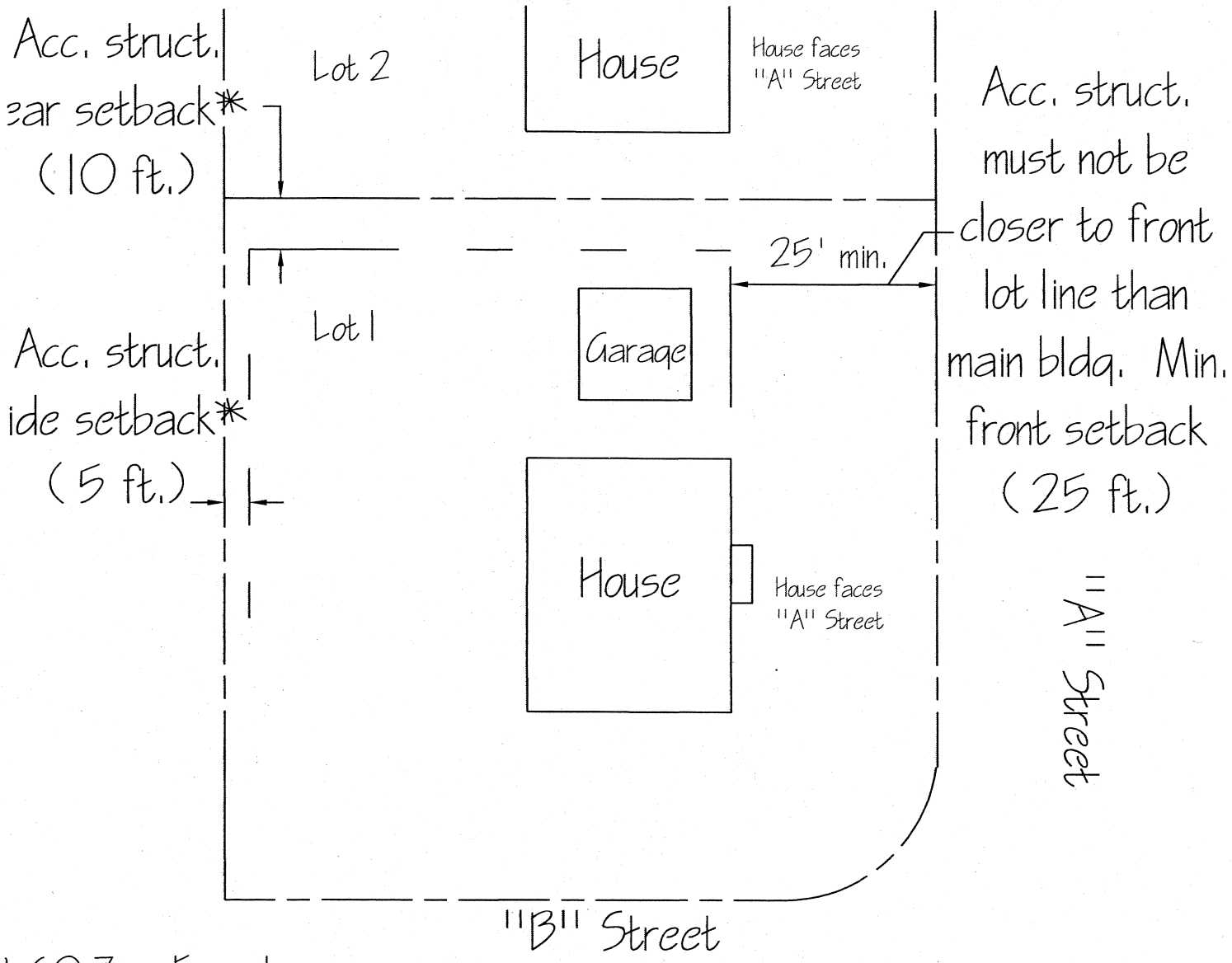
. \ccessory structures shall meet the minimum setbacks shown in Diagram A. or Diagram B or Diagram C, whichever corner lot situation is applicable.

* Additional setbacks required if structure is over 24' in length or over 15' in height.

REVISED: 08/31/06

CORNER LOT SETBACKS
FOR ACCESSORY STRUCTURES

'iaqram B-Mont. Co. Zoninq Ord. Sec. 59-C-1.326(b)(1)&(2)



:-60 Zone Example:

\ccessory buildinq must not exceed 50% of the footprint of the residence.

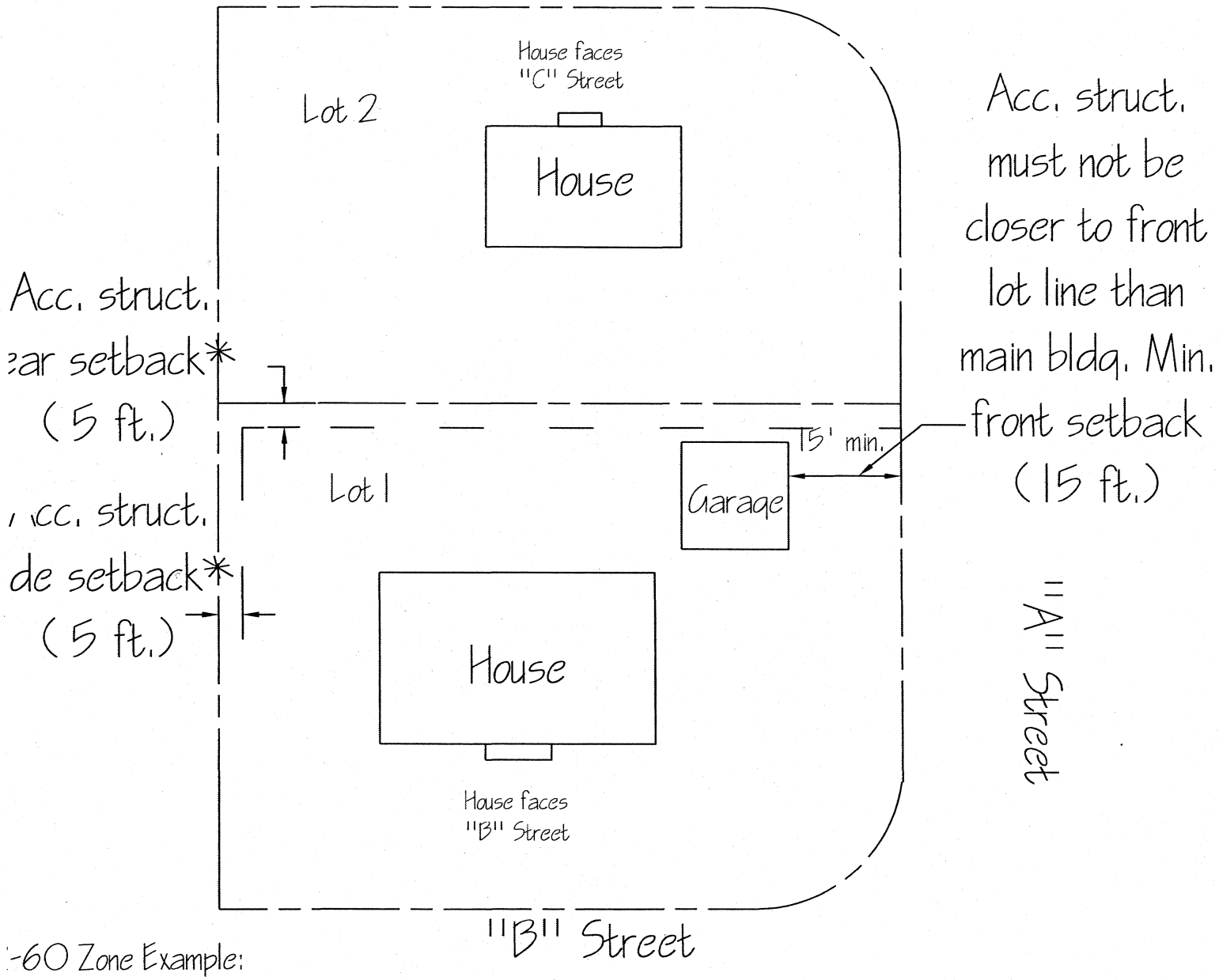
1 Diaqram B, if the adjoininq lot (Lot 2) on a side street has frontaqe on the side treet, the setback from the side street line is 25', but the buildinq must not be loser to the street line than the main buildinq.

\ccessory structures shall meet the minimum setbacks shown in Diaqram A, Diaqram B r Diaqram C, whichever corner lot situation is applicable.

* Additional setbacks required if structure is over 24' in length or over 15' in height. REVISED 08/31/06

CORNER LOT SETBACKS
FOR ACCESSORY STRUCTURES

'iaqram C-Mont. Co. Zoninq Ord. Sec. 59-C-1.326(b)(1)&(3)



-60 Zone Example:

ccessory buildinq must not exceed 50% of the footprint of the residence.

Diaqram C, if the adjoininq lot (Lot 2) on a side street does not have frontaqe on the side street, he setback from the side street line is 15', but the buildinq must not be closer to the street line than main buildinq.

ccessory structures shall meet the minimum setbacks shown in Diaqram A, Diaqram B or Diaqram C, hichever corner lot situation is applicable.

* Additional setbacks required if structure is over 24' in lenath or over 15' in heiaht. REVISED 08/31/06

Montgomery County Department of Permitting Services
255 Rockville Pike, 2nd Floor, Rockville, MD 20850
240-777-6300 Fax: 240-777-6262
http://permittingservices.montgomerycountymd.gov

NOTICE OF REQUIRED RESIDENTIAL BUILDING INSPECTIONS

You are being provided with this Notice so that you will understand which BUILDING INSPECTION(S) must be performed as a condition of a permit issuance. You must arrange for the inspection(s) according to the procedures specified below. Please call 240-777-6210 between the hours of 7:30 a.m. – 4:00 p.m. Monday to Friday, if you have any questions about the required inspection(s). If you have job specific questions during construction please call the inspector assigned to the area in which the project is located.

Inspections shall be requested at least 24 hours prior to the date the inspection is needed. To schedule an inspection, call 240-777-6210. Inspection requests must include the street address, permit number, and the type of inspection needed. Inspection requests made before 12 noon will be scheduled for the next working day, requests made after 12:00 noon will be scheduled within two working days. *A specific time for an inspection cannot be given at the time that the inspection is scheduled.*

The permit must be posted in front of the site or house and be visible from the main road or entrance. If house numbers are not shown on the house or structure, the address must be posted in the same area as the permit and must be displayed in large four-inch letters on a temporary card or the window. *FOR ALL INSPECTIONS, A SET OF APPROVED PLANS STAMPED BY MONTGOMERY COUNTY MUST BE ON THE JOB SITE FOR INSPECTOR'S REVIEW.*

BEFORE YOU DIG call MISS UTILITY 1-800-257-7777 (2 day notice is required). Please note that the Maryland High Voltage Line Act prohibits any person or object from getting closer than 10 feet from high voltage power lines.

The following INSPECTIONS are required for your building permit number _____

☐ 555 SIGN – The sign must be posted on the property within 3 days after the permit issuance date and must remain posted on the property for 30 days. The sign must be located on the side of the lot/parcel, which provides principal access to the street or right-of-the-way. It must be conspicuously posted not more than 5 feet from the front property line and mounted at least 30 inches, but not more than 60 inches, above the ground. NO BUILDING INSPECTION WILL BE PERFORMED PRIOR TO THE APPROVAL OF THIS INSPECTION.

☐ 001(1) FOOTINGS –Conducted prior to concrete placement and after excavation for wall footings, retaining wall footing (sometimes), column/pier footings, or thickened slabs have been completed; after grade stakes, reinforcing steel, concrete-encased electrode (for new homes) are in place; and after sediment control measures are installed according to the approved sediment control plans.

☐ 402 REBAR, DEADMAN, GEOGRID PLACEMENT – Conducted prior to pouring/backfilling retaining walls.

☐ 002(1) FOUNDATION/PARGING OR BACKFILL – Conducted after walls have been waterproofed and exterior foundation drainage system has been installed. If interior drain tiles are to be used, weep holes (2 in. minimum diameter, 6 feet on center) must be installed. A second inspection may be required prior to backfilling the interior drainage system.

☐ 011(1) CONCRETE SLAB-ON-GROUND FLOOR –After the installation of the slab base, vapor retarder, slab edge insulation, and a minimum 3 in. schedule 40 PVC, or equivalent gas tight pipe inserted into a 3 in. tee embedded into the slab base for the venting of RADON GAS and labeled adequately. Where the sump crock is to be used for the venting of RADON GAS, it must be in place at the time of the inspection. Additions to an existing building that has the final inspection older than a year does not require a radon control system.

☐ 003[2] Wall Check (House Location Survey) – Required at foundation completion prior to framing installation. This inspection is not performed by a county inspector. A wall check will not be accepted unless the permit number and premise address identify it.

☐ 006 MASONRY FIREPLACE/CHIMNEY – Conducted after the chimney/fireplace and the first flue liner has been installed.

☐ 004 FRAMING (CLOSE-IN) – Conducted after the completion of all framing, rough wiring, fire sprinkler system installation and ☐ 041[3] testing[4], plumbing and mechanical distribution systems, if required, but prior to installing insulation and drywall. When plumbing work is part of the construction, a Washington Suburban Sanitary Commission (WSSC) plumbing inspection must be approved before requesting a framing inspection. WHEN FLOOR FRAMING IS LESS THAN 36 IN. ABOVE THE SURFACE BELOW, A FRAMING INSPECTION MUST BE REQUESTED PRIOR TO INSTALLATION OF ANY FLOOR MATERIALS.

☐ 012 SWIMMING POOL BONDING – Conducted when the pool has been formed with the rebar installed and bonded prior to placement of concrete or backfill. During construction pool excavations must be completely enclosed by a 42 in. high safety fence AT ALL TIMES when work is not being performed in the pool.

☐ 251 FINAL – Conducted after building (or portion thereof) is completed and ready for occupancy. Before requesting the final inspection, the fire sprinkler system must be approved[5], all conditions of well and septic permits, if any, must be satisfied and WSSC approved final inspection for plumbing/gas installations must be obtained. The address numbers must be displayed in accordance with the requirements of the fire code. If an owner refuses access within a reasonable time after the house is completed, the building official may close the permit file, but this action will not relieve the owner from any obligation to comply with applicable building codes. For new construction, to allow the purchaser to go to settlement before the final inspection is completed, the home owner must provide a signed copy of the Final Inspection Waiver to the Department of Permitting Services. However, the final inspection must be requested and approved before building (or portion thereof) is used and occupied.

REINSPECTION FEE –A re-inspection fee will be required after a building or electrical ($110.00) or mechanical ($38.50) inspection has been disapproved twice. A 50% of fire sprinkler inspection fee will be required after a fire sprinkler system inspection has been disapproved once. To alert you of the reinspection fee the inspector will leave a disapproval sticker indicating a fee is due and outlining the payment procedure. This fee must be paid prior to requesting any future inspections. Inspections which cannot be performed because the inspector cannot gain access to the construction, or where work is incomplete, will be considered disapproved, counting toward the two allowed disapprovals. To avoid reinspection fees, footing, parging and slab inspections not ready due to weather conditions, may be cancelled by phone or upon the inspector's arrival up to 8:30 a.m. on the scheduled day. All other inspections must be cancelled prior to inspector's arrival on the job site. To cancel an inspection call 240-777-6210 and provide the permit number, address and type of inspection.

FRAMING (CLOSE-IN) and FINAL building inspections must be requested at the same time with electrical and mechanical inspections under the relevant Electrical and Mechanical Permits, if any of these permits is required. If all inspections are not properly requested, the inspector will disapprove the scheduled inspections.

For more information on scheduling inspections, please visit
http://permittingservices.montgomerycountymd.gov/permitting/bc/TimingOfInspections(Residential).pdf

(1) A licensed design professional enrolled in the Montgomery County Inspectors Certification Program may carry out the inspection

(2) Owner must have a house location survey prepared and certified by a Maryland Registered Land Surveyor or a Registered Professional Engineer (where the property lines and corners are already existing and determined on the ground) and must furnish a copy to the Land Use Compliance Section (LUC) for approval before any further inspections may be scheduled. For questions about wall checks please call LUC at 240-777-6240.

(3) For construction of new single-family dwellings and townhouses only.

(4) Inspections must be arranged through the Department of Fire and Rescue Services, 240-777-2457, between 8:00 a.m. and 4:00 p.m., Monday-Friday. A hydro test must be approved prior to scheduling the framing (close-in) inspection.

(5) The final sprinkler inspection must be approved prior to scheduling the final building inspection.

Montgomery County Department of Permitting Services
255 Rockville Pike, 2nd Floor, Rockville, MD 20850
240-777-6370 Fax: 240-777- 6262
http://permittingservices.montgomerycountymd.gov

RESIDENTIAL INSPECTION TIMING CHECKLIST

The Code of Montgomery County (Chapter 8 and 17) requires that new homes and their accessory structures comply with the Montgomery County Building Code. Montgomery County Building Code incorporates and amends by Executive Regulation:

Code	Permit Type	Code/Standards	Effective Date
Building	Building	International Residential Code, 2003	06-01-2005
Mechanical	Mechanical	International Residential Code, 2003	06-01-2205
Energy Conservation	Building	International Residential Code, 2003	06-01-2005
Electrical	Electrical	National Electrical Code, 2002	06-01-2005

Rehabilitation work, such as additions, renovations, restorations, on buildings that have the final approved inspection older than one year, must comply with Maryland Rehabilitation Building Code. By reviewing plans, issuing permits and performing inspections under these building codes, the Department of Permitting Services (DPS) can help in complying with the provisions of the law.

Permits must be posted in front of the site or house and be visible from the main road or entrance. If house numbers are not shown on the house or structure, the address must be posted in the same area as the permit and must be displayed in large four-inch letters on a temporary card or the window. *Inspections will not be performed without a set of original County approved plans on the job site.*

Approved plans issued by DPS have a Notice of Required Residential Inspections form attached to them. On that form, the required inspections for the type of construction work are indicated. First table indicates the scheduling order of those required building inspections. Similarly, the second and third tables show the required mechanical and electrical inspections, respectively. Some of the mechanical and electrical inspections are prerequisite for scheduling building inspections (and vice versa) and are cross referenced accordingly.

Montgomery County residential inspectors are cross trained in building, mechanical and electrical inspections, therefore the close-in and final building, electrical, and mechanical must be combined. However, close-in and final inspections must be requested under the relevant Building, Electrical, and Mechanical Permits. If all trades are not ready, the inspector will disapprove the scheduled inspections.

When issued a Building Permit Notice must be posted within 3 calendar days after the release date and must remain posted for 30 calendar days. No other inspections will be performed prior to approval of the posting requirements of the sign.

Montgomery County Department of Permitting Services
Residential Inspection Timing Checklist

REQUIRED BUILDING INSPECTIONS

Building Inspection Codes and Types		Prior to Inspection Request		Inspection performed by		Inspection approval required prior to
Code	Type	Work to be Completed	Approved Inspections	County Inspector	Others	
001	Footings	1. Excavation for wall footings, retaining wall footing (sometimes), column/pier footings, or thickened slabs completed 2. Grade stakes, reinforcing steel, concrete-encased electrode (for new homes) in place 3. Sediment control measures installed according to the approved sediment control plans	Before you dig call MISS UTILITY 800-257-7777 (2 day notice required)	Yes	Licensed Design Professional[1]	• Placing of concrete
402	Rebar, deadman, geogrid placement	1. Excavation for wall footings, retaining wall footing, column/pier footings, or thickened slabs completed 2. Grade stakes, reinforcing steel, concrete-encased electrode (for new homes) in place 3. Sediment control measures installed according to the approved sediment control plans	• 001	Yes		• Installing and backfilling retaining walls
002	Foundation/Parging or Backfill	1. Walls waterproofed 2. Exterior foundation drainage system installed 3. If interior drain tiles are to be used, weep holes (2 in. minimum diameter, 6 feet on center) installed[(2)] 4. Walls strong enough or braced	• 001	Yes	Licensed Design Professional[1]	• Backfilling
011	Concrete slab-on-ground floor	1. Sewer and water and sewer pipe installed 2. Installation of slab base, vapor retarder, slab edge insulation 3. A minimum 3 in. schedule 40 PVC, or equivalent gas tight pipe inserted into a 3 in. tee embedded into the slab base for the venting of radon gas and labeled adequately 4. Installed sump crock, if necessary for the venting of radon gas	• 001 • WSSC#1	Yes	WSSC[(3)] Licensed Design Professional[1]	• Placing of concrete
003	Wall check (house location survey)	1. Sill plates installed 2. Certified house location survey (new houses only)	• 001, 002	Yes	Survey prepared and certified by a Maryland Registered Land Surveyor or a Licensed Design Professional[(4)]	• Framing the first floor

Montgomery County Department of Permitting Services
Residential Inspection Timing Checklist

REQUIRED BUILDING INSPECTIONS

Building Inspection Codes and Types		Prior to Inspection Request		Inspection performed by		Inspection approval required prior to
Code	Type	Work to be Completed	Approved Inspections	County Inspector	Others	
006	Masonry Fireplace/Chimney	Chimney/fireplace and the first flue liner installed	• 001	Yes		• Installing additional liners • Framing (close-in) inspection
WSSC#2	Plumbing/Gas rough-in	Check with WSSC[3]	•		WSSC	• Installing insulation and drywall • Framing (close-in) inspection
041	Framing (close-in)[5][6]	1. All framing installed 2. Roof and components installed 3. All stairs in place 4. Fire stopping and draft stopping installed 5. Building is watertight 6. Exterior sheeting installed 7. Windows, doors installed	• 001, 002, 003, 011 • WSSC#2, 008, 104	Yes	WSSC	• Installation of insulation and drywall • Installation of outlets, switches, fixtures, appliances
012	Swimming pool bonding	Pool has been formed with the rebar installed and bonded prior to placement of concrete or backfill.	•	Yes		• Placing of concrete
251	Final[7][8]	1. All attic, basement, crawl space insulation installed, if required 2. Floor covering installed 3. Trim in place 4. All surfaces inside the house finished 5. Al exterior finishes are complete (siding, soffits, fascia, trim) 6. Street address attached to the building	• 001, 002, 003, 011, 041, 102 • Final Electrical • Final mechanical	Yes	• WSSC • Fire Department	• Prior to the issuance of Certificate of Final Inspection • Using plumbing, gas, mechanical systems • Occupying any part of building

REQUIRED BUILDING INSPECTIONS

(1) Montgomery County Inspectors Certification Program (ICP) maintains a list of Maryland registered professional engineers & architects certified for this type of inspection

(2) A second inspection may be required prior to backfilling the interior drainage system.

(3) Washington Suburban Sanitary Commission (WSSC) provides permits and performs inspections on plumbing and natural gas piping and appliance installation. Montgomery County inspectors will not conduct a close-in inspection without an approved WSSC rough-in inspection

(4) Owner must have a house location survey prepared and certified by a Maryland registered Land Surveyor or a registered Professional Engineer (where the property lines and corners are already existing and determined on the ground) and must furnish a copy to the Zoning Section for approval before any further inspections may be scheduled. For questions about wall checks please call Zoning Section at 240-777-6240. A wall check will not be accepted unless the permit number and premise address identify it.

(5) When floor framing is less than 36 in. above the surface below, a framing inspection must be requested prior to installation of any floor materials

(6) For new construction, the framing - 041, rough wiring -104, and mechanical inspections - 008 must be requested at the same time

(7) The final mechanical and electrical inspection must be requested with the final building inspection

(8) For new construction, conducted after the building is completed and ready for occupancy, but prior to settlement on the house, unless the contract owner waives the requirements and provides, in writing, the Department of Permitting Services with a signed copy of the waiver form provided by the County.

For other than new construction, or when the scope of the work does not involve structural modifications to the building a rough wiring inspection must be requested prior to concealment and approved prior to the framing inspection, or both may be requested at the same time.

If an owner refuses access within a reasonable time after the house is completed, the building official may close the permit file, but this action will not relieve the owner of from any obligation to comply with applicable building codes.

REQUIRED MECHANICAL INSPECTIONS

Mechanical Inspection Codes and Types		Prior to Inspection Request		Inspection performed by		Inspection approval required prior to
				County Inspector	Others	
Code	**Type**	**Work to be Completed**	**Approved Inspections**			
008	Mechanical close-in	1. Kitchen and bathroom ventilation installed 2. Dryer vents installed 3.Equipment working space provided 4. Attic furnace installed, if any 5. Combustion air provided 6. Vents and connectors installed 7. Duct supports and joints installed 8. Factory-built fireplaces and flue chimneys installed in accordance with manufacturer's specifications. 9. Wood stoves installed in accordance with the manufacturer's specifications	• 001, 002, 003, WSSC#2	Yes		• Installing insulation and drywall • Framing inspection • Mechanical final • Concealing flue or chimney connectors • Concealing ductwork, piping and vents
251	Mechanical final	1. Grilles installed 2. All equipment installed 3.Concrete pad for the condensing unit 4. Dryer vent installed 5. Range hood installed 6. Refrigerant line cover installed 7. Gas vents to be connected to appliances 8. Electrical disconnects installed 9. All HVAC units must be installed and operating.	• 008	Yes		• Building final

REQUIRED ELECTRICAL INSPECTIONS

Electrical Inspection Codes and Type		Prior to Inspection Request		Inspections Performed by...		Inspection approval required prior to
Code	**Type**	**Work to be Completed**	**Approved Inspections**	**County Inspector**	**Others**	
101	Heavy-up	1. Adequate Working Clearance 2. SEC must be sized correctly and secured 3. Grounding completed 4. Neutral Bonding completed 5. Installed panel size per sec 230-50c (amended) 6. Inhibitor installed 7. Connection to water pipe must be complete 4. No. of mains per executive regulation or code whichever is applicable 5. Sleeve installed		Yes		• Electrical final
102	Temporary Pending Final (TPF)	1. Adequate Working Clearance 2. SEC must be sized correctly and secured 3. Grounding completed 4. Neutral bonding completed 5. Installed panel size per executive regulation or code which ever is applicable 6. Inhibitor installed 7. Connection to water pipe completed 8. No. of mains installed 9. Sleeve Installed		Yes		• Electrical final
103	Temporary for construction (T4C)	1. Pole height (Overhead service minimum height 12') 2. Pole anchored and braced 3. Pole size per code 4. Weatherproof enclosure per code 5. Lockable 6. Size of SEC per code 7. Grounding completed 8. Neutral Bonding must be complete 9. Panel per Code 10. Inhibitor per code 11. GFCI installed		Yes		• Electrical final
104	Concealment/Electrical rough-in	1. Conduits and junctions boxes installed and supported 2. Junctions boxes installed in accordance with their listing 3. Grounding continuity maintained 4. Approved grounding conductor must be installed		Yes		• Framing (close-in)
251	Final	1. All appliances, fixtures, outlets, panels, switches installed 2. All electrical wiring complete 3. Circuits identified in the panel index	• 001, 002, WSSC#2, 003, 011, 102, 104, 004	Yes		• Using any equipment • Building final

Inspections shall be requested at least 24 hours prior to the date the inspection is needed

- To schedule an inspection, call 240-777-6210 between the hours of 7:30 a.m. – 4:00 p.m. Monday to Friday. Inspection requests must include the street address, permit number, and the type of inspection needed. Inspection requests made before 12 noon will be scheduled for the next business day, requests made after 12:00 noon will be scheduled within two working days. A specific time for an inspection cannot be given at the time that the inspection is scheduled.
- To schedule inspections, you must have the appropriate permit number(s) available when you call.
- You may also schedule inspections via internet at http://permittingservices.montgomerycountymd.gov
- If you have job specific questions during construction please call the inspector assigned to the area in which the project is located.
- Reinspection Fee: A reinspection fee will be required after a building, electrical or mechanical inspection has been disapproved twice. To alert you of the reinspection fee the inspector will leave a disapproval sticker indicating a fee is due. This fee must be paid prior to requesting any future inspections
- Inspections which cannot be performed because the inspector cannot gain access to the construction, or where work is incomplete, will be considered disapproved, counting toward the two allowed disapprovals. To avoid reinspection fees, inspections may be cancelled by phone prior to inspector's arrival. To cancel an inspection call 240-777-6210 and provide the permit number, address and type of inspection.

ADDITIONAL IMPORTANT INFORMATION

- For information on Well and Septic permits and required inspections call 240-777-6320.
- For information on Sediment Control permits and inspections call 240-777-6320.
- For information on Subdivision permits and inspections call 240-777-6320.
- Be certain that your projects are clearly marked with a lot number or address. If the lot is not marked the inspection will be rejected.
- If you need assistance, please contact us at 240-777-6370.

Montgomery County, Maryland
Department of Permitting Services
255 Rockville Pike, Rockville, MD 20850-4166

RESIDENTIAL SPECIAL INSPECTION REPORT/CERTIFICATION

This report is submitted in conformance with procedures governing special inspection report/certification established by the Department of Permitting Services (DPS). As such, DPS will accept this report/certification in lieu of inspecting the work noted below.

I hereby certify that I have authority to sign this report/certification in the name of the following permittee _____ and I certify the report is a true report of jobsite conditions, the laws and building code of Montgomery County are being followed, and that I am currently approved by the Montgomery County DPS to submit this report/certification.

FOOTINGS	Elevation at bottom of excavation, as per approved plans or as noted _____	APPROVED □
	Footings located in natural ground, soil conditions adequate to carry the design load	□
	Footings located on controlled fill compacted to at least 95% of the maximum dry density per ASTM D-698 - attach compaction report(s)	□
	Width and depth of footing trench below frost line, rebar placement	□
	Concrete-encased electrode in place with a minimum 2 ft. accessible length outside the footing.	□ ½" STEEL REBARS □ #4 SOLID CU
PARGING	Parging material, thickness and application	□
	Exterior foundation drains	□
	Interior foundation drains, weep holes 2" min. diameter, 6' on center	□
CONCRETE FLOORS	□ BASEMENT □ GARAGE	
	Elevation as per approved plans or as noted _____	□
	Floor located on natural subgrade/soil, soil conditions adequate	□
	Floor located on controlled fill compacted to at least 95% of the maximum dry density as per ASTM-D698 – attach compaction report(s)	□
	4-inch-thick base course of clean graded sand, gravel, crushed stone on prepared subgrade	□
	Vapor retarder, adequate thickness with joints lapped 6 inches	□
	Reinforcement, if required, adequate	□
	Radon control system installed	□

DATE INSPECTED _____ PERMIT NUMBER _____

LOT _____ BLOCK _____ SUBDIVISION _____

PREMISE ADDRESS _____

_____ _____
NAME (print) of DPS CERTIFIED INDIVIDUAL SIGNATURE

_____ _____
ADDRESS INSPECTOR NUMBER

_____ SEAL

This certification to be given to inspector at the time of the framing or temporary pending final (TPF). Otherwise deliver to DPS prior to scheduling a framing or TPF inspection.

6-12-2006

REGARDING APPEALS CHARGING ERROR IN ADMINISTRATIVE ACTION OR DETERMINATION

PLEASE TAKE NOTICE

Effective immediately, all parties who make submissions, after an initial filing, in Special Exception, Variance and **Administrative Appeals** cases, must furnish copies of the submission to all other parties in the case. For the purposes of this requirement, a party includes:

1. Counsel of record who have formally entered their appearance;

2. The People's Counsel for Montgomery County if he has filed a Notice of Intention to Participate in a case;

3. Any person to whom the Board has granted Intervener status and;

4. The Applicant, Petitioner or Appellant in the case.

Submissions must be accompanied by a written statement certifying that copies have been sent to all parties.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

REGARDING APPEALS CHARGING ADMINISTRATIVE ERROR

PLEASE TAKE NOTICE

(1) That the parties may be represented by counsel or represent themselves.

(2) That the parties have the opportunity to present witnesses; cross-examine witnesses, and present supporting documentation.

(3) That there are pre-hearing procedure requirements as set forth in Section 2A-7, Montgomery County Code, 1994, as amended.

(4) That the parties may request a continuance of the hearing by written request if made not less than five (5) days prior to the date of hearing.

(5) That a verbatim record and transcript of the hearing will be made where said record and transcript is required by law; or, in the alternative, that any party may request that such record of the transcription be made at his or her expense.

(6) That there is a right, subject to the provisions of the State Public Information Law, to inspect and copy at the requesting party's own expense, documents of any party, administrative authority or investigating governmental agency involved where such inspection is not otherwise prohibited by law.

BOA Form 3 (Revised 07/09/03)

Docket No. A- _____
Date Filed _____
Hearing Date _____
Time _____

BOARD OF APPEALS
FOR
MONTGOMERY COUNTY, MARYLAND
(240) 777-6600

APPEAL CHARGING ERROR IN ADMINISTRATIVE ACTION OR DETERMINATION

Please note instructions on reverse side.
Attach additional sheets if required for answers.

Appeal is hereby made pursuant to Section 2-112 of the Montgomery County Code 1994, as amended, from the decision or other action of an official or agency of Montgomery County specified below which Appellant contends was erroneous.

Official or agency from whose action or determination this appeal is made: _____

Brief description of action or determination from which this appeal is made (attach document indicating such action or determination) _____

Date of that action or determination: _____
Brief description of what, in appellant's view, the ruling or action should have been: _____

Number of Section, and Subsection, if any, of the Montgomery County Code l994, as amended, or citation or other statutory provision, which appellant contends was misinterpreted: _____
Reason for appeal: _____

Description of real property, if any, involved in this appeal: Lot_____, Block_____ Parcel _____
Subdivision _____, Street and Number _____
City _____Zip _____, Zone Classification_____

Name of Property owner: _____
Mailing address of property owner if different from above address: _____

Appellant's present legal interest in above property, if any: ____Owner (including joint owner-ship) _____Lessee
____ Contract to lease or rent _____ Contract to purchase _____ Neighbor _____ Civic Association _____ Other

Explain _____

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

_____
Signature of Attorney ***(Please print next to signature)***

_____
Address of Attorney

_____ _____
Telephone Number

_____
Signature of Appellant(s) ***(Please print next to signature)***

_____
Address of Appellant(s)

_____
Home Telephone Number

_____
Work Telephone Number

(OVER)

INSTRUCTION FOR FILING APPEAL CHARGING ERROR

IN ADMINISTRATIVE RULING OR ACTION

1. Address all correspondence to: Chairman, Montgomery County Board of Appeals, Stella B. Werner Council Office Building, l00 Maryland Avenue, Room 217, Rockville, Maryland, 20850. Phone (240) 777-6600.

2. Send with the appeal a check or money order made payable to MONTGOMERY COUNTY, MARYLAND, to cover filing fee. Cash cannot be accepted.

   $200.00* - residential property

   $800.00* - commercial property

   * Refundable if appeal is granted.

INFORMATION TO ACCOMPANY APPEAL

1. An original and three (3) copies of Appeal Application (BOA Form 3).

2. A listing of the names and mailing addresses of the adjoining and confronting property owners (see Section 59-A-4.46) who are entitled to notice of the filing. This information is available from the State Department of Assessments and Taxation, 51 Monroe Street, Third Floor, Rockville, Maryland, 20850, (Phone: 301-279-1355). Please also list any local citizens associations and any municipality or special taxing district within which the property is located. Please use BOA Form 5.

3. Four (4) copies of the ruling or other document indicating official or agency action from which this appeal is made.

SUGGESTION FOR APPELLANTS

It is suggested that appellants consult Chapter 2A (1)–(11) of the Montgomery County Code 1994, as amended.

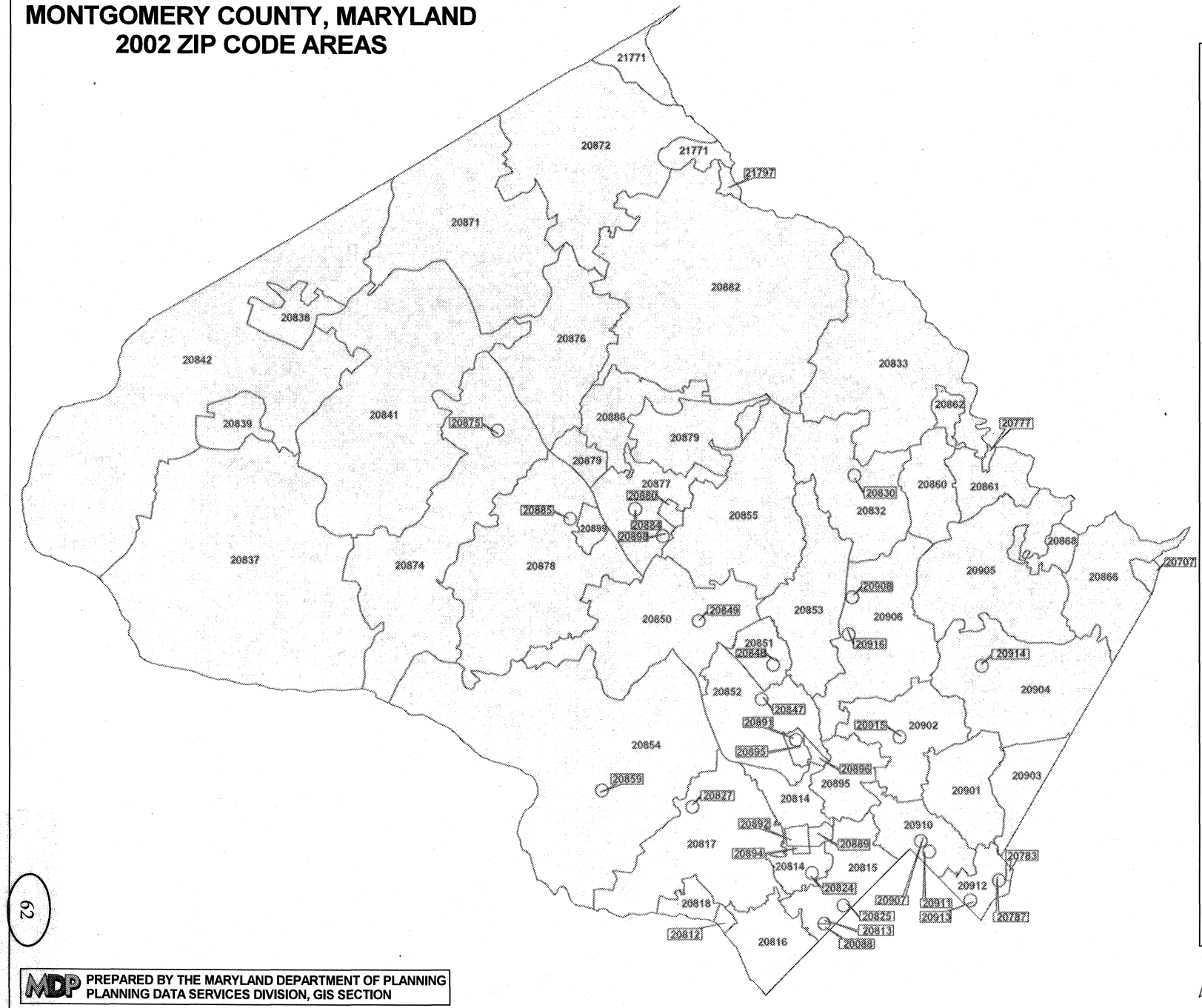
Form 5 (Revised 3/2000)

BOARD OF APPEALS FOR MONTGOMERY COUNTY, MARYLAND

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS
(Please see information on reverse side)

NAME	ADDRESS (Please add Zip Code)	LOT/PARCEL	BLOCK

MONTGOMERY COUNTY, MARYLAND
2002 ZIP CODE AREAS



2002 ZIP CODE AREAS

20088 Bethesda - Friendship Heights
20707 Laurel
20777 Highland
20783 Hyattsville - Adelphi
20787 Hyattsville - Langley Park
20812 Glen Echo
20813 Bethesda - Friendship Heights
20814 Bethesda
20815 Chevy Chase
20816 Bethesda - Annex
20817 Bethesda - West Bethesda
20818 Cabin John
20824 Bethesda
20825 Bethesda - Chevy Chase
20827 Bethesda - West Bethesda
20830 Olney (Downtown)
20832 Olney
20833 Brookeville
20837 Poolesville
20838 Barnesville
20839 Beallsville
20841 Boyds
20842 Dickerson
20847 Rockville - Pike
20848 Rockville - Twinbrook
20849 Rockville (Downtown)
20850 Rockville
20851 Rockville - Twinbrook
20852 Rockville - Pike
20853 Rockville - Twinbrook
20854 Rockville - Potomac
20855 Rockville - Derwood
20859 Rockville - Potomac (Downtown)
20860 Sandy Spring
20861 Ashton
20862 Brinklow
20866 Burtonsville
20868 Spencerville
20871 Clarksburg
20872 Damascus
20874 Germantown
20875 Germantown (MARC)
20876 Germantown
20877 Gaithersburg - Summit Avenue
20878 Gaithersburg - Diamond Farms
20879 Gaithersburg - Metro Annex
20880 Washington Grove
20882 Gaithersburg - Laytonsville
20884 Gaithersburg (MARC)
20885 Gaithersburg - Diamond Farms
20886 Gaithersburg - Montgomery Village
20889 Bethesda - Natl Naval Medical Ctr
20891 Kensington - White Flint Plaza
20892 Bethesda - Natl Inst of Health
20894 Bethesda - Natl Library of Medicine
20895 Kensington
20896 Garrett Park
20898 Gaithersburg - Suburban MD Proc Dist Ctr
20899 Gaithersburg - Natl Inst of Stand & Tech
20901 Silver Spring - Four Corners
20902 Silver Spring - Wheaton
20903 Silver Spring - Woodmoor
20904 Silver Spring - Colesville
20905 Silver Spring - Colesville
20906 Silver Spring - Aspen Hill
20907 Silver Spring
20908 Silver Spring - Leisure World
20910 Silver Spring - Blair
20911 Silver Spring - Finance Station
20912 Silver Spring - Takoma Park
20913 Silver Spring - Takoma Park
20914 Silver Spring - Colesville
20915 Silver Spring - Wheaton
20916 Silver Spring - Aspen Hill
21771 Mount Airy
21797 Woodbine

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MDP PREPARED BY THE MARYLAND DEPARTMENT OF PLANNING
PLANNING DATA SERVICES DIVISION, GIS SECTION

COMPARATIVE STUDIES – RESIDENTIAL INFILL CONSTRUCTION

For this report, OLO examined approaches used by other jurisdictions to address residential infill construction. This research focused on studies produced by local government agencies that outline residential infill construction planning and regulatory tools. This appendix summarizes these studies. The studies can also be found on OLO's website at http://www.montgomerycountymd.gov/csltmpl.asp?url=/content/council/olo/index.asp.

Arlington County, Virginia. *Lot Coverage Study*. March 2005.
http://www.arlingtonva.us/Departments/CPHD/forums/lotcoverage/pdf/lotcoverage_toc.pdf

City of Alexandria, Virginia. *Residential Infill Development in Alexandria.* March 2006.
http://alexandriava.gov/planningandzoning/pdf/infill_development_study.pdf

City of Atlanta, Georgia. *The Recommendations of the Atlanta Infill Development Panel*. June 2006.
http://www.aiaatlanta.org/Independent/atlantainfill/AtlantaInfillDevelopmentPanelRecommendations_2006_06013.pdf)

City of Rockville, Maryland. *Mansionization – White Paper Discussion*. July 2005.
http://www.rockvillemd.gov/zoning/mansionization-wp.pdf

Maryland-National Capital Park and Planning Commission. *Teardown/Mansionization Bulletin – Protecting Older Neighborhoods with Newer Tools.* August 2006.
http://www.mc-mncppc.org/historic/pdfs/teardown.pdf

JURISDICTION/AGENCY: ARLINGTON COUNTY, VIRGINIA
REPORT TITLE: *LOT COVERAGE STUDY (MARCH 2005)*
(Available at http://www.arlingtonva.us/Departments/CPHD/forums/lotcoverage/pdf/lotcoverage_toc.pdf)

PURPOSE

The Arlington County Board directed the Zoning Ordinance Committee (ZORC) and Planning Department staff to examine reasonable coverage limits that would limit house size in the future but still allow reasonable sized houses to meet market demands. The study also recommended new guidelines for lot coverage related to infill development in established neighborhoods.

FINDINGS

The Arlington study found that the current maximum lot coverage requirement was the same for all five of the County's single-family residential zoning districts. Additionally, an analysis of GIS data for all lots in the County with single-family, detached houses found that relatively few were out of compliance with the existing regulations.

RECOMMENDATIONS

The report recommended that Arlington County should:

- Adopt a sliding scale lot coverage requirement to reduce overall coverage but still allow larger coverage on smaller lots. If this recommendation was adopted, homes at the new maximum would be limited in how much additional footprint could be added unless it was a front porch or detached garage in the rear yard. Homes exceeding the new maximum would be referred to as "nonconforming" and would be unable to add to their existing footprints.

- Encourage and reward building forms compatible with existing Arlington neighborhoods.

JURISDICTION/AGENCY: CITY OF ALEXANDRIA, VIRGINIA
REPORT TITLE: *RESIDENTIAL INFILL DEVELOPMENT IN ALEXANDRIA (MARCH 2006)*
(Available at http://alexandriava.gov/planningandzoning/pdf/infill_development_study.pdf)

PURPOSE

The City of Alexandria's Department of Planning and Zoning conducted this study to assess existing zoning restrictions and formulate potential zoning policy changes related to the trend towards the construction of larger homes within existing neighborhoods.

FINDINGS

The Alexandria report found that residential infill construction is multifaceted and complex, defying a "one size fits all" approach. Since residential infill construction involves the application of technical and detailed zoning regulations as well as matters of design and subjective taste, the report found that the issue of residential development was best addressed on a case by case basis.

The report identified two important factors that would define the success of new residential construction in existing neighborhoods:

- The design of the construction; and
- The aggregate loss of critical land resulting from the construction of an "oversized" house.

The report also found that Alexandria's existing zoning ordinance and development review process were effective, and therefore that it would be unwise to require discretionary review for every new or expanded single family house. On the other hand, the report found that the City's regulatory tools were difficult to administer and in need of improvement.

RECOMMENDATIONS

The Alexandria report recommended that the City:

- Review four specific regulatory areas for potential amendments to the zoning ordinance: steep slope restrictions, subdivision regulations, lot coverage limitations, and floor area ratio calculations;
- Create a residential conservation design pattern book with design guidelines for builders and architects on infill projects; and
- Do not require discretionary review for every new or expanded single-family house.

JURISDICTION/AGENCY: CITY OF ATLANTA, GEORGIA
REPORT TITLE: *THE RECOMMENDATIONS OF THE ATLANTA INFILL DEVELOPMENT PANEL (JUNE 2006)*
(Available at
http://www.aiaatlanta.org/Independent/atlantainfill/AtlantaInfillDevelopmentPanelRecommendations_2006_06013.pdf)

PURPOSE

The Atlanta Infill Development Panel was created to begin a comprehensive update of Atlanta's zoning ordinance. The work of the panel included reviewing the zoning ordinance, various legislation from other jurisdictions, hypothetical case studies developed by members of the panel, and specific issues affecting infill development within the City of Atlanta.

FINDINGS

The Atlanta study found that:

- Any residential zoning changes must balance property rights with the need for change;
- Existing bulk restrictions on residential homes were inconsistent across the zoning ordinance; and
- New tools were needed to allow neighborhoods to adopt building restrictions greater that currently allowed but less restrictive than in historic districts.

RECOMMENDATIONS

The Atlanta study included both zoning and planning recommendations. The zoning recommendations addressed the overall mass (bulk) of new buildings on a given residential lot. These recommendations included:

- Provide consistent bulk limitations across all residential zone ordinances through adjustments to the existing ordinances; and
- Allow neighborhoods to voluntarily adopt a zoning overlay restricting the bulk of new residential buildings.

The planning recommendations were intended to allow neighborhoods to opt into an overlay that would further address development issues other than bulk. These recommendations included:

- Formulate a clear and consistent statement of goals on how infill development should be guided within the City of Atlanta;
- Give neighborhoods a set of defined overlay tools to customize development review to their needs;
- Increase public access to relevant development review information and improve flow of information between the City and the community; and
- Increase the consistency and transparency of zoning and code enforcement.

JURISDICTION/AGENCY: CITY OF ROCKVILLE, MARYLAND
REPORT TITLE: *MANSIONIZATION – WHITE PAPER DISCUSSION (JULY 2005)*
(Available at http://www.rockvillemd.gov/zoning/mansionization-wp.pdf)

PURPOSE

The Rockville study was conducted to identify issues that surrounded the development/redevelopment of existing homes and home sites. The study's goal was to find a way to respect current property owners' community values while still allowing for appropriate growth and change within the City of Rockville.

SUMMARY OF REPORT FINDINGS

The Rockville study identified several potential concerns with "mansionization" and several potential benefits of "mansionization" in the areas of property value, infrastructure, environment, and compatibility.

The study also discussed and analyzed alternative courses of action that other jurisdictions have adopted specifically related to infill construction. The study looked at: 1) mass regulations (including building envelope regulations, floor area ratio, cubic content ration, second story regulations, and daylight plane regulations); 2) architectural requirements (including requirements for rooflines, entries, facades, and windows); and 3) implementation techniques (including additional building review, overlay districts, and new zoning definitions and permitting requirements).

SUMMARY OF REPORT RECOMMENDATIONS

The study made a series of recommendations including:

- Limit any mansionization regulations to the three smallest lot zones;
- Modify and add definitions for "demolition" and "substantial alteration" to the zoning ordinance;
- Establish policies and procedures for the establishment of neighborhood conservation districts;
- Consider requiring additional side yard setbacks for when height reaches a certain level; and
- Revise bulk standards in the zoning code for smaller residential districts, especially height requirements and the measurement of height.

JURISDICTION/AGENCY: MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
REPORT TITLE: *TEARDOWN/MANSIONIZATION BULLETIN – PROTECTING OLDER NEIGHBORHOODS WITH NEWER TOOLS (AUGUST 2006)*
(Available at http://www.mc-mncppc.org/historic/pdfs/teardown.pdf)

PURPOSE

The Historic Preservation Section of the Montgomery County Department of Planning prepared the Bulletin to provide a case study that outlines a variety of planning and regulatory tools available to address the issue of teardowns and infill development. The work on this bulletin was partially funded by a grant from the Maryland Historical Trust's Certified Local Government fund.

FINDINGS

The M-NCPPC bulletin describes a number of different tools or options that are available to address issues associated with teardowns and infill development. They include:

- Traditional Historic Districts: If designated a historic district, any exterior alteration to a structure other than routine maintenance requires an application for a Historic Area Work Permit (HAWP).

- Overlay Zones: A jurisdiction can protect a neighborhood's existing character through the adoption and enforcement of stricter building requirements than those that are established under the regular zoning code.

- Architectural Covenants: Covenants are restrictions attached to the deed that are typically created at the time of a neighborhood's establishment and typically include a set of standards that can be legally enforced by covenant beneficiaries.

- Neighborhood Conservation Districts (NCDs): These are self determined tools that provide physical and environmental protections for neighborhoods that are not registered as local historic districts. NCDs may be established as zoning overlay districts or actual re-zonings.

- Improving Builder/Resident Communication: Based on discussions with builders and residents, the bulletin provides a checklist for builders and residents to go over when undertaking a demolition or new construction project in an established neighborhood.