

CHAPTER 50

MONTGOMERY COUNTY SUBDIVISION REGULATIONS

Effective February 13, 2017

Sec. 3. Effective Date.

This amendment takes effect on February 13, 2017. The amendment applies to any Planning Board action after the effective date of this amendment.

Sec. 4. Prior Approvals

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

Sec. 5. Filed Preliminary Plans

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

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Article I. In General

Division 50.1. Purpose

Section 1.1. Purpose of Chapter 50

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

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Division 50.2. Interpretation and Defined Terms

Section 2.1. Rules of Interpretation

The following rules of interpretation apply to this Chapter.

- A. *How to Compute Periods Measured in Months.* If a period of time is measured in months, the period begins and ends on the same day of a month; however, if there are not enough days in the final month for this to be possible, the period ends on the final day of the final month.
- B. *How to Compute Periods Measured in Days.* If this Chapter requires or allows a person to perform an act within a specific time period measured in days, the person must compute the deadline in the following manner:
 - 1. If the period follows an event, count the day after the event as the first day of the period.
 - 2. Count the remaining number of calendar days in the period; however, if the period is 7 days or fewer, omit Saturdays, Sundays, and legal holidays.
 - 3. Do not count the last day if it is a Saturday, Sunday, legal holiday, or if the office where the person must file a document or perform an act is not open during the regular hours of that office on that day.
- C. *Requirements to Act by a Specific Date.*
 - 1. If the law requires or allows a person to perform an act by a specific date, but the specific date is a Saturday, Sunday, or legal holiday, the person may perform the act on the next day that is not a Saturday, Sunday, or legal holiday.
 - 2. Any action required to be taken within a specific time period is measured from the date of a final agency action, or, if a party seeks judicial review of the agency action, from the date the court makes a final decision.
- D. *Signatures.* The signature of a person may be the actual signature of the person or a mark that the person has authorized.
- E. *Singular and Plural.* The singular includes the plural and the plural includes the singular.
- F. *Tense.* The present tense includes the future tense.
- G. *Use of "Or".* "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
- H. *Use of "Includes".* "Includes" does not limit a term to the specific examples.
- I. *Titles of Articles, Divisions, and Sections.* Titles and captions are not part of the law. They only advise the reader of the content of each Article, Division, or Section.

- J. *Use of “Chapter”*. “Chapter” means a numbered section in the Montgomery County Code.
- K. *Use of “Section”*. In this Chapter, “Section” means section or subsection, as the context indicates.
- L. *Use of “In Writing”*. In this Chapter, written communication includes electronic communication.
- M. *Reference to County Standards*. For infrastructure under the jurisdiction of State or local municipalities, references in these regulations to County standards, published policy, and procedures include the applicable standards, policy, and procedures of the agency responsible for maintaining the infrastructure.

Section 2.2. Definitions

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

A.

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

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

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

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

Applicant, Developer or Subdivider: An individual, partnership, corporation, or other legal entity and its agent that undertakes the subdivision of land or the activities covered by this Chapter. The terms include all persons involved in successive stages of the project, even though such persons may change and ownership of the land may change. Each term includes the other.

B.

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

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

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

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

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

C.

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

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

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

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

County Executive: The Montgomery County Executive.

D.

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

Department of Transportation: The Montgomery County Department of Transportation.

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

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

Developer: see "Applicant".

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

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

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

E.

Easement: A grant or reservation by the owner of land for the use of all or a portion of the land to others, including the public, for a specific purpose or purposes. The easement must be

included in the conveyance of the encumbered land. For platting under this Chapter, an easement area is included within the dimensions and areas of the lots through which the easement may run, and is not separated from the lot as in the case of a dedicated right-of-way.

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

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

Engineer: A professional engineer registered in Maryland.

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

F.

Floodplain: as defined in Chapter 19.

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

G.

H.

I.

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

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

J.

K.

L.

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

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

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

M.

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

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

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

Mid-Block Right-of-Way: A pedestrian or bike right-of-way within a block, which may include utilities where necessary, and from which motor vehicles are typically excluded.

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

N.

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

Notice of Violation: A document issued by an enforcement agent that informs a recipient of a violation and specifies the remedial action that the recipient must take to avoid further enforcement action.

O.

Outlot: An area of land shown on a record plat on which the construction of a building or other structure requiring a building permit is prohibited.

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

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

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

P.

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

Person: An individual, partnership, corporation, organization, or other legal entity that owns property or otherwise has an interest in a property.

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

Planning Board: see “Board”.

Planning Board Action: A final decision on a preliminary plan, site plan, project plan, sketch plan, water quality plan, or other plan, including all associated terms, conditions, requirements, and other obligations or limits, made by the Board under State law and Chapters 50 and 59, including any regulations issued under State or County law. For the purposes of an enforcement action, a Planning Board Action excludes a decision made by the Board under Chapter 22A.

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

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

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

Q.

R.

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

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

Resubdivision: A change to any lot line created by a previously recorded record plat. Resubdivision includes the assembly of recorded lots or parts of previously recorded lots. A

resubdivision is a subdivision.

Right-of-Way: Land intended for the passage of people, vehicles, or utilities, as shown on a record plat or described by a deed of dedication under Section 50.3.3.A.3. Any right-of-way for a public road must be dedicated to public use by the maker of the plat. The land area of a public right-of-way may be donated in fee to the County, state, or other governmental body. The parcel or area delineated on a plat for a private road is the private road right-of-way.

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

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

Road Design and Construction Code: Article 3 of Chapter 49 and any regulation that implements and amends that Article.

S.

State: The State of Maryland.

Stop Work Order: An administrative order issued by an enforcement agent that requires a person to discontinue any further development, construction or other land disturbance activity authorized by a Planning Board Action until a violation has been corrected.

Subdivider: see “Applicant”.

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

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

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

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

T.

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

Turnaround: The termination of a road in the approximate shape of a “T”, built to allow vehicles

to reverse direction using a 3-point turn. A temporary turnaround may become the permanent terminus of a public street when it is so approved by the Director of the Department of Transportation.

U.

V.

W.

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

WMATA: The Washington Metropolitan Area Transit Authority.

WSSC: The Washington Suburban Sanitary Commission.

X.

Y.

Z.

Division 50.3. General Requirements

Section 3.1. Applicability of the Chapter

This Chapter applies to any subdivision of land within Montgomery County located within the Maryland-Washington Regional District, except for a good faith division of exclusively agricultural land that is not made for development purposes.

Section 3.2. Record Plat Required

- A. Any subdivision of land must be included on a plat approved by the Board and recorded in the land records before transfer of any part of the subdivided land.
- B. Construction of a new principal building may only occur on a lot or parcel shown on a plat recorded in the County Land Records or on a property that is exempt under Section 3.3.B.

Section 3.3. Exemptions to the Requirements of this Chapter

- A. An approved preliminary plan and recording of a plat under this Chapter are not required for the division or conveyance of unplatted land in the following instances:
 - 1. *Court action.* Partition of land through action of a court of competent jurisdiction unless or until development of the land is proposed.
 - 2. *Utility rights-of-way.* Land used as part of an electric transmission line right-of-way or other public utility right-of-way.
 - 3. Advanced dedication or donation to the County, state, or other governmental body of master planned road rights-of-way.
- B. Recordation of a plat before issuance of a building permit is not required for:
 - 1. *Agricultural land used for residential dwellings.* An unplatted parcel of agricultural land at least 25 acres in size used for a primary dwelling unit if density and development rights are available.
 - 2. *Public transfer.* A part of a lot previously shown on a record plat that was created by transfer of part of the lot for public use by reference to a recorded instrument, if the outlines and dimensions of such remainder can be determined by reference to the previously recorded plat. This provision also applies to any property that qualified for an exemption under this Section before the transfer.
 - 3. *Adjoining property.* A part of a lot created by deed recorded before May 19, 1997 between owners of adjoining platted properties for the purpose of small adjustments in boundaries. This applies only to an adjustment that was less than either a total of 2,000 square feet or one percent of the combined area, if additional lots were not created and the total area of resulting ownership was not reduced below the minimum size required by this Chapter or by Chapter 59.
 - 4. *Property for Single-Unit Living:*

- a. An unplatted parcel or a part of a previously platted lot, proposed for single-unit living, which has not changed in size or shape since June 1, 1958, if a description and location of the property and proposed structure are submitted to the Planning Department, before issuance of a building permit, sufficient to:
 - i. locate the property on the tax maps of Montgomery County;
 - ii. show that the approval of the building permit application would not result in obstructing the future opening, extension, or widening of any necessary road, or otherwise jeopardize any planned public facility;
 - iii. show that the property and use comply with the zoning ordinance, and show the setbacks and any other information needed to check compliance with regulations, including provisions for water and sanitary service, and establishment of a building restriction line along any existing or proposed road sufficient to provide for future expansion or opening of such road to its ultimate width; and
 - iv. show that the approval of the permit would not adversely affect the General Plan.
 - b. An unplatted parcel or a part of a previously platted lot used for reconstruction of an existing detached house under Chapter 59, Section 7.7.1.
 - c. An unplatted parcel created by combining the entirety of two or more contiguous parcels that qualified for an exemption under Subsection (a).
5. *Certain residential property in the City of Takoma Park.* Property located in the portion of the City of Takoma Park annexed into Montgomery County on July 1, 1997 that was recorded by a deed before January 1, 1982 and remains otherwise buildable under the Prince George’s County Zoning and Subdivision Regulations on June 30, 1997, if a description and locational survey drawing of the property and proposed structure are submitted to locate them on the tax map of Montgomery County.
6. *Certain commercial properties adjoining State highways.* An addition to a building on property zoned for commercial uses:
- a. adjoining a State highway;
 - b. located within a State-approved Community Legacy Plan Area on October 30, 2012;
 - c. with less than 10,000 square feet of gross floor area on October 30, 2012, where subsequent building permits cumulatively allow increases in total gross floor area by less than 2,000 square feet; and

- d. that includes a description and boundary survey drawing of the property and proposed structure at a 1-inch-equals-50-foot scale or another appropriate scale as determined by the Director that demonstrates that the additional floor area will not extend into any adopted master plan road right-of-way.
7. *Certain commercial properties adjoining State highways in Rural Village Overlay zones.* An addition, reconstruction, or replacement of a building on commercially zoned property:
- a. adjoining a State highway;
 - b. located in the Rural Village Overlay zone;
 - c. with less than 10,000 square feet of existing gross floor area where later building permits cumulatively allow net increases in total gross floor area of less than 2,000 square feet;
 - d. that includes a description and boundary survey drawing of the property and proposed structure on a 1-inch-equals-50-foot scale or another appropriate scale, as determined by the Director, showing that the additional floor area will not extend into any adopted master plan road right-of-way; and
 - e. that is submitted within one year after demolition or destruction of the previous building was substantially completed.
8. *Certain non-residential properties.* An unplatted parcel or a part of a previously platted lot used for reconstruction of a non-residential structure involuntarily demolished by force of nature if the floor area, height, and footprint of the new replacement structure are not increased.

Section 3.4. Approving Authority

The Board administers this Chapter.

Section 3.5. Effect of Chapter on Other Ordinances

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

Section 3.6. Submission Procedures for Subdivision Plans

- A. The Board will consider subdivision of land as follows:
- 1. Except for an administrative or minor subdivision under Divisions 50.6 and 50.7, the subdivider must submit a complete preliminary plan application form and payment of the required fee.
 - 2. The plat of all or part of an approved subdivision plan must be submitted with required supporting data and documents, a completed application form, and payment of the required fee.

- B. *Subdivision of part of a tract.* The Director may reject a subdivision plan application for part of a tract if the size and shape of the property as submitted prevent designing a plan that will meet standards established by these regulations, and require all or a larger part of the tract to be platted to meet this Chapter, Chapter 49, or other laws or regulations.
- C. *Properties with a pending water or sewer category change request.* The Director may reject a subdivision plan application for a property undergoing review by the Council for a water or sewer category change request, and require Council action to approve the request before a preliminary plan application is accepted.
- D. *Area within pending zoning map amendments.* The Director may reject a subdivision plan if all or any part of the plan is located within the boundaries of a pending amendment to the zoning map. The subdivider may resubmit the plan immediately after the final disposition of the pending amendment. This Subsection must not apply if any map amendment is still pending 6 months after the date of the submission of the plan.
- E. *Area within pending master plan.* The Board may defer action on a proposed subdivision plan application, if all or any part of the plan is located in the boundaries of a pending master plan or master plan amendment. For purposes of this Section, a pending master plan or master plan amendment is the public hearing draft master plan or master plan amendment.
 - 1. The subdivider may resubmit a proposed subdivision plan deferred under this Section to the Board either:
 - a. after the final disposition by the District Council of the pending master plan or master plan amendment; or
 - b. no later than 12 months from the date the Board approves the public hearing draft master plan or master plan amendment, unless there is a determination by the Board that the subdivision plan application presents a substantial conflict with the proposed public hearing draft master plan or master plan amendment, in which case the Board may defer a subdivision plan application for a maximum of 18 months from the date the Board approves the public hearing draft master plan or master plan amendment, but in no event beyond the period in Subsection a.

Article II. Subdivision Plans.

Division 50.4. Preliminary Plan

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

Section 4.1. Filing and Specifications

A. *Application and fee.*

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

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

1. scaled drawing of a maximum of 100 feet to the inch, or as specified by the Director;
2. title block information;
3. certificate of an engineer or licensed land surveyor to affirm the accuracy of boundary lines, topographic data, and other engineering or survey data, and to certify that the subdivision plans and supporting documents were prepared in a manner that satisfies all submission requirements and applicable agency standards, policies, and procedures;
4. locations and names of abutting and confronting subdivisions with lot, block, and record plat number of subdivided land, and deed references for unplatted land;
5. existing scenic easements, scenic vistas designated by the Rustic Roads Plan, or designated historic resources;
6. vicinity location map; and
7. graphic representation of the proposed subdivision, including:

- a. bearings referenced to the Maryland Coordinate System, except that an application filed to correct an approved preliminary plan may be referenced to the plat meridian used on the original approved preliminary plan or the record plat;
- b. lot and block layout;
- c. all roads labeled as public or private with construction details. The subdivider must show the applicable Road Design and Construction Code design standards or typical sections for the proposed roads and must list any proposed modifications;
- d. location of existing and proposed utilities;
- e. existing topography with contour intervals of 5 feet or less;
- f. location and width of existing and proposed pedestrian and bicycle facilities, including sidewalks, shared-use paths and on-road bicycle lanes and connections to existing off-site facilities;
- g. sites for public uses and open spaces;
- h. location, type, and width of all existing and proposed rights-of-way and easements, including roads, slopes, paths, utilities, on-and off-site storm drainage, and other improvements;
- i. the proposed use of all lots on the preliminary plan and the scaled dimensions and approximate area of each use;
- j. lines showing the limits of each zone, if the property is located in more than one zone; and
- k. all existing topography, structures, and paving on adjoining properties within 100 feet.

C. *Supporting information.*

- 1. An approved Natural Resources Inventory/Forest Stand Delineation.
- 2. A preliminary forest conservation plan or forest conservation exemption.
- 3. Verification from the County and other applicable agencies showing payment of any required fees in connection with the County's review process.
- 4. *Concept road grade and profile.* For a public road, an engineer or a licensed land surveyor must prepare conceptual road grade and profile plans under the design criteria of the Road Design and Construction Code and indicate the percentage of tangent

grades, lengths of crest and sag, vertical curves and elevations, and elevations of all intersecting roads. The plan must indicate the direction of water flow. Where the topography makes the determination of the adequacy of the road grades difficult, the Director may require additional supporting information.

5. *Storm drainage capacity and impact analysis.* The concept road grade plan must be supported by a preliminary storm drain study prepared under the drainage design criteria of the transportation or permitting agency with jurisdiction over the road.
6. Sight distance evaluation for all proposed driveways and proposed road intersections prepared under the criteria of the applicable State or County transportation agency.
7. *Hydraulic Planning Analysis.* For lots located in areas where the subdivider proposes connection to public water and sewer facilities, the subdivider must submit verification from WSSC that the subdivider has applied for a Hydraulic Planning Analysis.
8. *Wells and septic systems.* For lots located in areas where the subdivider proposes the installation of individual wells and septic systems, the preliminary plan must also show:
 - a. the proposed locations of water wells for each lot and existing wells on the property and within 100 feet of the property;
 - b. a circular area with a radius of 100 feet around each well to denote clear space in which no final sewage system is to be located;
 - c. the “usable area” for sewage disposal that satisfies the Executive Regulations for on-site sewage disposal;
 - d. any existing sewage disposal systems located on the property and within 100 feet of the property;
 - e. wetlands, rock outcrops, and floodplains; and
 - f. a 10-foot zone surrounding the water service line to buildings, free and clear of any sewer lines, systems, or part thereof.
9. *Phasing schedule.*
 - a. The preliminary plan approval establishes the plan validity and adequate public facilities validity periods for the entire project.
 - b. Where the subdivider proposes a phased project that will cumulatively exceed the minimum validity periods under Sections 4.2.G.2.a and 4.3.J.5.a, the applicant must submit a recording and construction phasing schedule as part of the preliminary plan for approval by the Board. The schedule must indicate the portions of the preliminary plan for which record plats and building permits will

be obtained during each of the proposed phases, up to the expiration of the maximum adequate public facilities validity period under Section 4.3.J.5.a.

- c. When applicable, the phasing schedule must identify the timing for the completion of construction and conveyance to unit owners of such things as common open areas and recreational facilities. In addition, the phasing schedule must indicate the timing for the provision of moderately priced dwelling units, and infrastructure improvements associated with each phase. The subdivider must design such a phasing schedule to minimize dependence on features (other than community-wide facilities) that will be provided in subsequent phases and have minimal impact during construction on phases already built and occupied.
- d. If a phasing plan for a preliminary plan included land or building space that the County accepted for an arts or entertainment use under Section 59-C-6.2356 of the zoning ordinance in effect on October 29, 2014, approval of a site plan under Section 59-7.3.4 for the phase containing that land or building space validates all remaining phases of the preliminary plan and the project plan for the purpose of Section 59-D-2.7(b) of the zoning ordinance in effect on October 29, 2014.

10. *Transfer of development rights.*

- a. A preliminary plan for a property located in a receiving area that proposes to increase the density of the property by using transferred development rights must indicate:
 - i. the number of lots permitted for the tract by zoning without the use of density increases as allowed by Transferable Development Rights (TDR) or the Moderately Priced Dwelling Unit (MPDU) programs;
 - ii. the number of development rights to be conveyed to the receiving property;
 - iii. the number of Moderately Priced Dwelling Units to be provided as required by Chapter 25A;
 - iv. the total density, in dwelling units, of the proposed subdivision; and
 - v. the density recommended by the adopted master plan.
- b. A preliminary plan that uses transferable development rights in the Rural Residential and Residential zones must include at least two-thirds of the number of development rights permitted to be transferred to the property under the appropriate master plan. However, the Board may reduce the two-thirds

requirement if it finds the reduction is more appropriate for environmental or compatibility reasons.

11. *Draft Traffic Mitigation Agreement.* A preliminary plan application for property located in a Transportation Management District (TMD), designated under Chapter 42A, Article II, must contain a draft Traffic Mitigation Agreement (TMAg) prepared by the applicant that meets the requirements of that Article.
 12. *Encumbrance.* The applicant must identify the existence of and the location of any encumbrance that would impact the proposed development, including encumbrances on existing or proposed right of way.
- D. *Application processing*
1. The applicant must submit an initial application to the Director. The Director must review the application for completeness within 10 days after receipt. An application is incomplete if any required element is missing or is facially defective, e.g., a drawing that is not to scale. An application filed without all required fees is also incomplete. The assessment of completeness must not address the merits of the application.
 2. The applicant must submit any required revisions to the Director. The Director must review the revised application for completeness within 10 days after receipt.
 3. After the Director verifies that the application is complete, or if the review is not completed within 10 days after receipt, the Director will accept the application and establish a hearing date under Section 4.1.E.
 4. Public notice is required to satisfy a regulation approved under Section 10.1.
- E. *Hearing date.* The Board must schedule a public hearing to begin within 120 days after the date the Director accepts an application. The Director may postpone the public hearing by up to 30 days once without Board approval. The Director or applicant may request one or more extensions beyond the original 30 days with Board approval. The Board must notice the public hearing and indicate the new hearing date on the Board's agenda. An application that was filed before {effective date of legislation} is not subject to this subsection.

Section 4.2. Approval Procedure

- A. *Referral of plan.* After accepting an application, the Director must send a copy to the Development Review Committee and other reviewing bodies, requesting each agency to submit a recommendation concerning the plan. The Director must send copies, as needed, to:
1. WSSC, for water and sewer service;
 2. the Department of Transportation, for roads, streets, intersection locations, site access, sight distances, traffic calming, paths, pedestrian and bicycle facilities (including bike

share), parking, transit facilities, transportation demand management elements, and storm drainage within County-maintained rights-of-way and easements;

3. the Department of Permitting Services, for stormwater management, floodplain delineation, sanitation, wells, and septic systems;
4. the Montgomery County Department of Environmental Protection, for water and sewer adequacy and tree variances;
5. Montgomery County Fire and Rescue Service, for requirements for adequate fire protection and access;
6. the State Highway Administration, for right-of-way requirements and access on state roads;
7. any appropriate agency of the federal government;
8. any municipality that has filed a request with the Board for an opportunity to review subdivision or resubdivision plans for property located in that municipality;
9. Montgomery County Public Schools, for school site planning;
10. any other Montgomery County Executive agency, for the adequacy of public facilities and services and any proposed public use; and
11. local utility providers.

B. *Review and recommendation.*

1. *Timing of review.*
 - a. The Director must allow reviewing State and County agencies and utilities a minimum of 14 days to review plans. Those agencies and utilities must submit initial comments to the Director before the Development Review Committee meeting when one is scheduled.
 - b. The applicant must submit revised drawings at least 65 days before the date of the hearing to address all comments received. The Director may extend the deadline if the applicant submits a written request within 15 days after the revised drawings were due. If no written request is received or if the requested extension is not granted, the application is deemed withdrawn.
 - c. State and County agencies and utilities must each submit their final recommendations on the application at least 45 days before the date of the Board hearing or must request an extension.

2. *Approvals from public agencies.* The following agency approvals are required before the Board approves the preliminary plan:
 - a. *Design of County-maintained roads.* The Department of Transportation must approve in preliminary form the typical section, concept road profile, intersection and site access locations, sight distances, utility location, and storm drain adequacy for improvements along County-maintained roads and paths within its jurisdiction;
 - b. *Wells and septic systems.* The Department of Permitting Services must approve lots with individual wells or septic systems, the well, and septic plan. Proposed wells and septic systems within existing rights-of-way or easements are prohibited;
 - c. *Stormwater management.* The Department of Permitting Services must approve a stormwater management concept and floodplain delineation, if required under Chapter 19;
 - d. *Water Quality Plan.* If a water quality plan is required under Chapter 19, the Board must not approve a preliminary plan or any extension until all requirements of Chapter 19 for plan approval are satisfied. The Board must make the compliance with a required water quality plan, including any plan reviewed on a preliminary or final basis, a condition of any approved preliminary plan; and
 - e. *Water and sewer service.* If water and sewer are proposed to serve the property, the Board may approve a preliminary plan only if WSSC has reviewed the proposed water and sewer service layout.
3. *Director.* The Director must publish a report and recommendation at least 10 days before the Board hearing.

C. *Planning Board Action.*

1. The Director must present every preliminary plan to the Board for its review and action. The Board must take one of the following actions or defer action to obtain more information:
 - a. approve, if the plan conforms to the purposes and other requirements of this Chapter;
 - b. approve, with any conditions or modifications necessary to bring the proposed development into compliance with all applicable requirements; or

- c. deny, if the plan is contrary to the purposes and other requirements of this Chapter.
 - 2. All necessary improvements to support the development must be completed or assured as specified in Section 10.2.
 - 3. Where a site plan is required, the approval of the preliminary plan must not allow clearing or grading to occur before approval of the site plan, unless otherwise specified by the Board.
 - 4. The Board must approve a resolution containing findings supporting its decision. Following approval of a preliminary plan by the Board, any substantial change in the plan may only be required by another agency in order to comply with a law or regulation. Any such change must be allowed by the Board's conditions of approval or a plan amendment under Section 4.2.F.
- D. *Required Findings.* To approve a preliminary plan, the Board must find that:
- 1. the layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59;
 - 2. the preliminary plan substantially conforms to the master plan;
 - 3. public facilities will be adequate to support and service the area of the subdivision;
 - 4. all Forest Conservation Law, Chapter 22A requirements are satisfied;
 - 5. all stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied; and
 - 6. any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied.
- E. *Plan Certification.* Every preliminary plan approved by the Board must be certified by the Director to confirm that the plan reflects the Board's approval. Any modification of the plan conditioned by the Board's approval must be included in the plan before receiving the approval stamp. The approved plan must be filed in the records of the Board.
- F. Amendments.
- 1. A major amendment to an approved preliminary plan must follow the same procedures, meet the same criteria, and satisfy the same requirements as the original preliminary plan.

- a. A major amendment includes any requests to change density that results in greater adequate public facility impact; or make major changes to lot configuration or location, or right-of-way width or alignment; or make a change to any condition of approval, except a change to validity period phasing as permitted in Section 4.2.F.2.
- 2. A minor amendment to an approved preliminary plan must follow the same procedures, meet the same criteria, and satisfy the same requirements as the original preliminary plan, except as modified under Section 4.2.F.2.b.
 - a. A minor amendment to an approved preliminary plan includes any change that does not change density in a manner that results in greater adequate public facility impact; make major changes to lot configuration or location, or right-of-way width or alignment; or alter the intent, objectives, or requirements of the Board in approving the preliminary plan.
 - b. The Board may approve a minor preliminary plan amendment without a public hearing if the Director publishes a report and recommendation on the amendment a minimum of 10 days before the Board meeting. The Director may also approve a minor amendment to change validity period phasing as permitted in Section 4.2.H.1.b.

G. *Plan Validity.*

- 1. *Initiation date.* The plan validity period for preliminary plans starts on the later of:
 - a. 30 days from the date of mailing indicated on the written resolution; or
 - b. if an administrative appeal is timely noted by any party authorized to file an appeal, the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods.
- 2. *Duration.*
 - a. *Single-phase project.*
 - i. A preliminary plan approved after March 31, 2009 and before April 1, 2017 remains valid for 60 months after its initiation date.
 - ii. A preliminary plan approved after March 31, 2017 remains valid for 36 months after its initiation date.
 - b. *Multi-phase project.*

- i. An approved preliminary plan for a multi-phase project remains valid for the period of time allowed in the phasing schedule approved by the Board.
 - ii. The applicant must propose a phasing schedule and the duration of the validity period for each phase as part of an application for preliminary plan approval or amendment. The Board must assign each phase a validity period after considering the size, type, and location of the project.
 - iii. The time allocated to any phase must be 60 months or less after the initiation date for that particular phase for any preliminary plan approved after March 31, 2009, but before April 1, 2017, and 36 months after the initiation date for that particular phase for any preliminary plan approved after March 31, 2017.
 - iv. The cumulative validity period of all phases must be shorter than or equal to the APFO validity period which begins on the initiation date of the first preliminary plan approval, including any extension granted under Section 4.3.J.7.
 - v. If the recordation of an approved preliminary plan occurs within 5 years of approval for a multi-phase project that includes land or building space to be transferred to the County for an arts or entertainment use under Section 59-C-6.2356 of the zoning ordinance in effect on October 29, 2014, all phases of the preliminary plan are validated. After approval, an amendment or modification to the phasing plan or the preliminary plan will not affect the validations if the requirements of this Subsection have otherwise been met.
3. *Validation.* A preliminary plan or phase of a preliminary plan is validated when the applicant has secured all government approvals necessary to record a plat, and a plat for all property shown on the plan or in that phase has been recorded in the County Land Records.
4. *Effect of a preliminary plan amendment on validity period.* For any action taken by the Board to amend a previously approved preliminary plan, the Board will determine, on a case-by-case basis, whether it should extend the validity period and, if so, for what duration. In making the determination, the Board must consider the nature and scope of the requested amendment.
- H. *Extension of plan validity period.*
- 1. *Extension request.*

- a. Only the Board is authorized to extend the validity period. The applicant must submit a request to extend the validity period of an approved preliminary plan in writing before the previously established validity period expires.
- b. The Director may approve a request to amend the validity period phasing schedule of an approved preliminary plan if the length of the total validity period of the preliminary plan is not extended. The applicant must submit the request in writing before the previously established validity period of the phase expires.
- c. The written request must detail all reasons to support the extension request and include the anticipated date by which the plan will be validated. The applicant must certify that the requested extension is the minimum additional time required to record all plats for the preliminary plan.

2. *Effect of failure to submit a timely extension request.*

- a. The failure to submit a written extension request in a timely fashion voids all non-validated portions of the preliminary plan and, where applicable, an approved site plan.
- b. Where a preliminary plan has been allowed to expire due to the applicant's failure to file a timely request for extension, the Board may reinstate the preliminary plan and establish a new validity period if practical difficulty or undue hardship is demonstrated by the applicant. The Board may require the applicant to get a new APFO review and approval by the Board as a prerequisite or condition of its action to extend an expired plan.

3. *Grounds for extension.*

- a. The Board may only grant a request to extend the validity period of a preliminary plan if the Board finds that:
 - i. delays by the government or some other party after the plan approval have prevented the applicant from meeting terms or conditions of the plan approval and validating the plan, provided such delays are not caused by the applicant; or
 - ii. the occurrence of significant, unusual and unanticipated events, beyond the applicant's control and not caused by the applicant, have substantially impaired the applicant's ability to validate the plan, and exceptional or undue hardship (as evidenced, in part, by the efforts undertaken by the applicant to implement the terms and conditions of

the plan approval in order to validate the plan) would result to the applicant if the plan were not extended.

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

4. *Planning Board considerations for extension.*

- a. The Board may condition the grant of an extension on a requirement that the applicant revise the plan to conform with changes to the requirements of this Chapter since the plan was approved.
- b. The Board may deny the extension request if it finds that the project, as approved and conditioned, is no longer viable. The Board must consider whether the project is capable of being financed, constructed, and marketed within a reasonable time frame. The Applicant must demonstrate the project's viability upon request by the Board or the Director.

5. *Planning Board action.*

- a. After a duly noticed public hearing, the Board must determine whether it should grant a request for an extension. The requirements for noticing and conducting a public hearing must follow the requirements for a preliminary plan.
- b. If voting to approve an extension, the Board must only grant the minimum time it deems necessary for the applicant to validate the plan.
- c. The Board may only grant an extension to a preliminary plan within the plan's APFO validity period, unless a further extension is allowed by law.
- d. An applicant may request, and the Board may approve, more than one extension.
- e. Once a phasing schedule is approved by the Board as part of a preliminary plan approval, the Board must treat any revision or alteration to the schedule other than an amendment approved under Section 4.3.J.7 as a minor amendment to the preliminary plan. Board approval of a revised phasing schedule is required to extend the total length of the validity period.

I. *Effect of failure to timely validate plan or secure an extension.*

- 1. If a preliminary plan is not timely validated in whole or in part before the expiration of the validity period, any remaining portion of the plan is void. For multi-phased plans, the failure on the part of an applicant to timely validate a phase, in whole or in part, voids the balance of the preliminary plan approval for that phase and all subsequent non-validated phases.

2. In those instances where an applicant has timely validated only a portion of a plan and no extension is granted, the applicant seeking to develop only that portion of the project remains responsible for fully complying with all of the terms, conditions, and other requirements associated with the portion of the plan approval that has been implemented.
3. If a preliminary plan or a phase of the plan is not timely validated, any APFO determination made by the Board associated with the void portion of the preliminary plan is also void. In such event, the applicant loses any further rights to claim any vehicle trips associated with the expired APFO approval. The filing of a new preliminary plan application does not provide the basis for reclaiming vehicle trips lost by the termination of the APFO approval.
4. A preliminary plan approval conditionally linked to a sketch plan or project plan approval under Chapter 59 expires if the sketch plan or project plan expires.

J. *Revocation of approval.*

1. The Board may revoke approval of a preliminary plan by resolution at any time before the Board approves the final plat covering the proposed preliminary plan.
2. To revoke a preliminary plan approval, except in response to a violation of this Chapter, the Board must find that completing a portion of the plan has been rendered impractical by reason of an amendment to the General Plan, or by a conflict with a proposed public improvement or other conditions or circumstances not previously considered by the Board that make the plan contrary to public health, safety, or welfare.
3. The Board must give a subdivider notice and an opportunity to be heard by the Board before taking any action to revoke approval of a preliminary plan. Notice to the owner and subdivider must be sent by certified mail at least 30 days before the date of the proposed action giving the time and place of the hearing. The notice must state the reasons for the proposed revocation.

Section 4.3. Technical Review

In making the findings under Section 4.2.D. the Board must consider the following aspects of the application.

A. *Relation to master plan.*

1. A preliminary plan must substantially conform to the applicable master plan or Urban Renewal Plan, including maps and text. However, if a site plan is not required under Chapter 59, Article 59-7.3.4, the Board may find that events have occurred to render the relevant master plan or Urban Renewal Plan recommendation no longer appropriate.

2. A preliminary plan that requires a site plan approval under Chapter 59, Article 59-7.3.4 may exceed any dwelling unit per acre or floor area ratio (FAR) limit recommended in a master plan, as provided in Chapter 59.

B. Block design.

1. *Residential blocks.* The Board must approve the length, width, and shape of any residential block as follows:
 - a. *Length.* The length of a residential block must be compatible with existing development patterns and the land use goals for the area of the subdivision. The maximum length of a block is 1,600 feet.
 - b. *Width.* Blocks must be designed with sufficient width to provide 2 tiers of lots. The Board may approve exceptions to block width design for blocks adjacent to heavy traffic ways, railroads, streams, drainage courses, or for land uses where it is appropriate to establish blocks with 1 tier of lots.
 - c. *Pedestrian paths.* The Board may require paths for pedestrian access to schools, playgrounds, parks, and other public areas and through long blocks.
 - d. *Multi-unit or apartment blocks.* The Board must review and approve the design and arrangement of access roads within a subdivision for multi-unit or apartment dwellings, together with the required parking facilities and pedestrian walks, to determine that resulting blocks are a suitable length and width for pedestrian and vehicle circulation.
2. *Nonresidential blocks.* The Board must determine if the blocks designed for business or industry are a suitable length and width, including adequate provision for pedestrians, parking, deliveries, and truck maneuvering.

C. Lot design.

1. *General requirements.*
 - a. *Lot dimensions.* Lot size, width, shape, and orientation must be appropriate for the location of the subdivision and for the type of development or use contemplated, considering the recommendations of the master plan and the applicable requirements of Chapter 59. The dimensions of a lot must be able to accommodate any proposed building and other infrastructure deemed necessary to serve the lot, including but not limited to any accessory structure, stormwater management, parking, access drive, and off-street service.
 - b. *Lots to abut on a public or private road.* Except as specified below, every lot must abut on a public or private road. A public road must be dedicated or

donated to public use or have acquired the status of a public road under Chapter 49. A private road must be shown on a record plat.

- i. The Board may approve a maximum of 2 lots that do not abut a public or private road if the lots will be served by a private driveway that serves no other lots without frontage.
 - ii. The access to lots with no road frontage must be adequate to serve the lots for emergency vehicles and for installation of public utilities. In addition, the lots must be accessible for other public services and not detrimental to future development of adjacent lands.
 - c. *Side lines.* Side lines of interior lots must to the extent possible be aligned perpendicular to the road line or radial to a curved road line.
 - d. *Through lots.* The Board must not approve through lots, except where unusual topography, orientation, or the size of the subdivision permit no other feasible way to subdivide.
 - e. *Alley or pedestrian paths for residential lots.* If a mid-block alley or pedestrian right-of-way is provided in a residential subdivision, the subdivider must increase the lot widths adjoining the alley or right-of-way to provide for a parallel side building restriction line 15 feet from the alley or right-of-way.
- D. *Public sites and adequate open spaces.* A preliminary plan must provide for required public sites and adequate open space areas.
- 1. *Master planned sites.* When a tract being subdivided includes a proposed site for a park, playground, school, or other public use recommended in the applicable master plan, and that use is deemed necessary by the Board and applicable public agency, the preliminary plan must show the site for the use for dedication or acquisition and subsequent record plat. Land that is not dedicated may be acquired by donation, purchase, or condemnation, or reserved under Subsection 5.
 - 2. *Local recreation.* The Board must require platting and dedication to public use of adequate spaces for recreation wherever it is reasonable to do so, considering the recommendations in the applicable master plan, the circumstances existing where a subdivision is located, and the size and character of the subdivision. The subdivider may be required to provide what is determined by the Board to be an area relevant to the recreational needs of the present and future inhabitants of the subdivision. Whenever the necessary recreational area is larger than the subdivider is required to dedicate, the balance of the needed area must be reserved for acquisition under Subsection 5.

3. *Area for public roads and associated utilities and storm drainage.*
 - a. *Roads.* In its consideration of the approval of a subdivision, the Board must require dedication and platting of adequate area to provide public roads and other public transportation facilities. These must be coordinated with other existing, planned, or platted roads, other features in the district, or with any road plan adopted or approved as a part of the General Plan.
 - b. *Rights-of-way and easements other than roads.* The Board may require dedication to public use of rights-of-way or platting of easements necessary for public uses, such as pedestrian paths, equestrian trails, bicycle facilities, water and sanitary sewer, and stormwater management and storm drainage facilities. The Board must approve the extent, location, and width of each pedestrian path, equestrian trail, and bikeway right-of-way after considering the master plan. The extent and width of water and sanitary sewer rights-of-way must be determined by the Washington Suburban Sanitary Commission in its jurisdiction. The extent and width of drainage rights-of-way must be determined by the Department of Permitting Services after receipt of drainage studies prepared by the applicant's engineer.

4. *Areas not suitable for public use.*
 - a. When a preliminary plan includes a proposed dedication of land to public use, the Board must determine if the land is suitable for the intended public use. In its evaluation, the Board must consider, among other relevant factors, any criteria for the intended use adopted by the receiving agency and the agency's recommendations, the natural features of the site, and the extent of site preparation work. Site preparation may include excavation of rock, excessive grading, grading of steep slopes, remedial environmental measures, and similar work required to prepare the site for the public use. In evaluating the natural features of a site, the Board may require the applicant to perform soil borings or to provide other detailed topographical or subsurface information not otherwise submitted under Section 4.1.B. The applicant's engineer must certify the information provided to the Board. Factors relevant to a determination of the magnitude of site preparation work include estimated costs, acreage, agency experience with similar sites and construction industry practices.
 - b. Based on the analysis, the Board may refuse to approve the dedication and:
 - i. require the rearrangement of lots in the subdivision to provide for a suitable site;
 - ii. permit the applicant to pay for additional site preparation that makes the site suitable for the public use; or

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

5. *Reservation.*

- a. *Procedure.* When the Board determines that a tract being subdivided includes land that is necessary for public use but will not immediately be acquired by donation, dedication, purchase, or condemnation when the plat is recorded, the Board must determine the need to reserve the land. The Board may require a reservation for a period of time less than 3 years for road rights-of-way, public school and building sites, parks, playgrounds, recreational areas, or other public purposes.
 - i. *Referral to agency concerned with acquisition.* If a reservation of land appears to be in the public interest, the Board must refer the plan to the public agency concerned with acquisition for consideration and report. The Board may propose alternate areas for such reservation and must allow such public agency 30 days for reply. The agency's recommendation, if affirmative, must include a map showing the boundaries and area of land to be reserved and an estimate of the time required to complete the acquisition.
 - ii. *Resolution.* The Board must approve a declaration of public reservation by resolution, stating the period during which the reservation is effective. Notice of the same must be carried once each in two newspapers of general circulation in the County and a plat must be recorded in the land records of the County showing in detail the land so reserved. Certified copies of the resolution must be sent to the property owner and to the agency concerned with acquisition.
 - iii. *Taxes.* The Board must advise taxing and assessing bodies of all public reservations, and such public reservations must be exempt from all State, County, and local taxes during the reservation period.
 - iv. *Preservation.* During the reservation period, any use of the reserved land that involves constructing buildings or structures, removing trees, or clearing and grading must be approved by the Board. A person must not remove or destroy trees, topsoil, or cover; grade; or build a storm drainage structure that discharges water on the reserved land, except according to a storm drainage plan approved by the Department of Permitting Services or the Department of Transportation. Nothing in this Section relieves the landowner from the responsibility to maintain the property according to law or prohibits the owner from removing

weeds or trash from reserved land or from selling the reserved land after approval of the Board.

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

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

E. *Roads.*

1. *Plan requirements.*

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

b. *Continuation of roads.* The subdivision must provide for continuation of any existing roads (constructed or recorded) in satisfaction of the Road Design and Construction Code, unless otherwise determined by the Board, considering the recommendations of other appropriate agencies.

c. *Future subdivisions.* A tract in a preliminary plan application must be divided to not preclude future road openings and further logical subdivision of adjacent land.

d. *Alleys.* The Board, in consultation with the appropriate transportation agency, may require alleys where they are necessary to provide access.

e. *Railroad crossings.* A preliminary plan involving new or existing roads crossing railroad tracks must provide an adequate right-of-way, including approach right-of-way and slope easements, for construction of an underpass or overpass unless otherwise determined by the Board, considering the recommendations of other appropriate agencies.

f. *Residential roads paralleling railroads.* A residential road paralleling a railroad must be located at least 160 feet from the track to provide lots with sufficient depth backing to the railroad right-of-way.

- g. *Railroad tracks.* Existing railroad tracks must not be included within the rights-of-way of roads, except for crossings or rail transit lines outside the paved traveled portion of the road.

2. *Design standards.*

- a. *Right-of-way.* Area for a road on a subdivision plan must include the full width of all rights-of-way recommended for the applicable road classification in the adopted master plan and in the Road Design and Construction Code.
 - i. The Board may approve a narrower than standard road right-of-way if it meets minimum fire access requirements and the Board finds that a narrower right-of-way is environmentally preferable, improves compatibility with adjoining properties, or allows better use of the tract under consideration.
 - ii. In determining the width of a less than standard right-of-way, the Board must consider:
 - (a) the recommendations of the Department of Transportation or other applicable state or municipality transportation permitting agency;
 - (b) the amount of traffic expected to use the proposed roads;
 - (c) the maximum road right-of-way or improvement required for the proposed land use; and
 - (d) the increased traffic, travel lane, and right-of-way requirements that would be created by maximum use and development of land using the road.
- b. *New roads, sidewalks, etc.* The subdivider must design and construct the roads, alleys, bicycle facilities, sidewalks, and pedestrian ways with drainage, street trees, and other integral facilities in each new subdivision as required by the appropriate transportation or permitting agency.
- c. *Mid-block pedestrian right-of-way.* The minimum right-of-way must be 20 feet for a mid-block pedestrian right-of-way.
- d. *Drainage easement.* The minimum for an enclosed drainage easement must be 20 feet, unless otherwise determined by the Department of Permitting Services or other applicable public agency.

- e. *Non-through roads.* The Board must not approve any road that does not connect to another road at its beginning and end, unless a determination is made that:
 - i. a through road is infeasible due to a property’s unusual shape, size, topography, environmentally sensitive areas, or the characteristics of abutting property;
 - ii. the road provides access to no more than 75 dwelling units;
 - iii. the road is properly terminated in a cul-de-sac or other turnaround; and
 - iv. the road is less than 500 feet in length, measured along its centerline to the nearest through street, unless the Board determines that a longer length is necessary because of the unusual shape, size, topography, or environmentally sensitive areas of the subdivision.

- f. *Intersection.*
 - i. Roads must be laid out to intersect as nearly as possible at right angles. The Board must not approve a proposed intersection of new roads at an angle of less than 70 degrees.
 - ii. Proposed road intersections, excluding alleys and driveways, must be spaced as shown in the table below, as measured from the centerline of the intersections. When the Board finds that a greater or lesser spacing is appropriate, the Board may specify a greater or lesser spacing than otherwise required after considering the recommendation of the transportation agency responsible for maintaining the road.

Road Classification	Locale	Distance Between Intersections (FT)
Tertiary Residential	All	150
Secondary Residential	Urban	200
	Suburban	200
	Rural	200
Primary and Principal Secondary	Urban	300
	Suburban	400
	Rural	400
Business District and Industrial	Urban	300*
	Suburban	400*
	Rural	400*
Country Road		400
Country Arterial		800
Minor Arterial	Urban	300
	Suburban	500

	Rural	800
Arterial	Urban	300*
	Suburban	600*
	Rural	800*
Major Highway	Urban	300*
	Suburban	800*
	Rural	1000*
Controlled Major Highway	Urban	300*
	Suburban	1000*
	Rural	1000*
Parkway	Urban	300*
	Suburban	600*
	Rural	800*

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

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

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

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

The Board must specify greater radii when safety requires. A tangent at least 100 feet long must be used between two reverse curves, except in a secondary or tertiary residential street. The Board may specify a lesser radius when the Department of Transportation has previously issued a design exception for a similar design.

3. *Additional requirements for public roads.*

- a. *Slope easement.* When required for construction or road maintenance, the subdivision plan must establish an easement for a 2:1 slope along both sides of

each public road right-of-way for public use. If a Public Utility Easement (PUE) is required along a road, that PUE is to be graded when the road is constructed on a side slope not to exceed 4:1; the 2:1 maximum side slope may commence outside the limit of the PUE. The Slope Easement must provide adequate room for proper transition grading at the toe or top of slope. The easement must be at the front setback line per zoning, or as determined by a site-specific slope study in coordination with the road grade approved under this Chapter. A retaining wall instead of a slope easement may be allowed by the reviewing agency.

- b. *Existing public roads.* In a preliminary plan or administrative subdivision plan application containing lots fronting on an existing State, County, or municipally maintained road, the subdivider must provide any additional required right-of-way dedication and reasonable improvement to the road in front of the subdivision, including sidewalks and bicycle facilities, as required by Master Plan, the Road Design and Construction Code or by a municipality, whichever applies.
- c. *Storm drainage.* The subdivider must grade and provide drainage structures and storm sewers according to a storm drain plan and permit approved by the Department of Transportation and Department of Permitting Services or applicable municipality, in coordination with the construction of public roads.

4. *Additional standards for private roads.*

a. *Designating Private roads.*

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

b. *Justification for a private road.*

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

- c. *Standards.* Private roads must be built to the construction specifications of the corresponding public road concerning paving detail and design data, including

surface depth and structural design. The road must be designed in accordance with sound engineering principles for safe use, including: horizontal and vertical alignments for the intended target speed; adequate typical sections for vehicles, pedestrians, and bicyclists; compliance with the Americans with Disabilities Act; drainage and stormwater management facilities; intersection spacing and driveway locations; parking; lighting; landscaping or street trees; and utilities. The width and cross section of a private road must meet the right-of-way specified in a master plan or be equal to the corresponding public road standard unless modified by the Board. Private roads must conform to the horizontal alignment requirements of this Chapter. If a road is allowed to be a private road, the approval of the road will not require the Department of Transportation to approve a Design Exception for any aspect of the road's design.

- d. *Road Classifications.* When the Department of Transportation determines that the proposed road is not needed to maintain area circulation, provide continuous corridors to serve the general public and quasi-public needs such as communication, utility, and future potential transportation or other systemic needs that serve the public on a long-term basis, and is not needed to be part of the network modeled for area capacity, consideration will be given to making the following roads private:
- i. Only roads classified as either Business District, Industrial, Secondary, Tertiary, or Alley may be considered by the Board to be private. All other road classifications must be public unless specifically permitted to be a private road by a master plan.
 - ii. Private roads with improvements above or below the pavement are only allowed in projects that require site plan review and approval.
 - iii. Private roads should not be permitted if they will create a segmented road ownership pattern, unless approved by the Planning Board.
 - iv. Private roads must not be permitted if they will negatively affect development of other properties.
 - v. Except where a Master Plan indicates that a Business District street could be private, a Business District road may be a private road only when it is not required to provide an adequate traffic level of service. A private Business District street may be approved only when the proposed road is either not a connector between two higher classification roads or a road that is not planned to extend beyond the boundary of the preliminary plan.

- vi. An industrial road may be a private road only when the road is part of roads internal to the industrial site and the road is not a connector between higher classified roads.
 - vii. A secondary road may be a private road only when it connects to no more than one higher classification road and the road does not need to be extended onto adjacent property to facilitate a future subdivision of land.
 - viii. A tertiary road, when a cul-de-sac, must be less than 500 feet in length.
 - ix. A private alley will not require an access easement if the alley only serves one building or if the alley is a secondary access to one-family residential dwellings.
- e. *Certification.* Before the Board may approve a preliminary plan, the subdivider must have an engineer certify that each private road has been designed to meet the standards required by this Section; however, when a site plan is required under Chapter 59, Article 59-7.3.4, the certification may be provided anytime before the approval of the site plan. The subdivider must then certify to the Department of Permitting Services that all construction complies with the design before release of the surety for the road.

5. *Additional roadway provisions.*

- a. *Road names.* The Board must approve any road name before it is used. The Board must not approve any road name that is already used, or closely resembles any road name already used, anywhere else in the County. If a new road is an extension of or in a direct line with an existing road, the Board should continue the name of the existing road.
- b. *Off-site sidewalks and bikeways.* In approving a preliminary plan, the Board may, after considering the recommendation of the Department of Transportation or other applicable transportation agency, require a developer to provide a reasonable amount of off-site sidewalks or bikeway improvements. Off-site sidewalks or bikeway improvements may be required to provide necessary connections from the proposed development to an existing sidewalk or bikeway, an existing or master plan proposed bus or other public transit stop, an existing or proposed bikeshare station, or a public facility. The Board must find that such facilities will be used by residents or users of the development or for handicapped access. The developer must not be required to obtain any right-of-way to build or improve a sidewalk or bikeway unless required under another provision of law.

- c. *Rustic roads.* In approving a preliminary plan, the Board must not require improvements that are contrary to Chapter 49, Article 8 or Executive Regulations governing rustic roads. The Board may waive any requirement of Sections 4.3.E.2.b and 4.3.E.3.b that is incompatible with the rustic road or substitute any alternative requirement that is consistent with the goals of the rustic roads law. The Board may only require those improvements that retain the significant features of the road identified by the Council for preservation. If the Board is otherwise directed by this Section to require improvements that are contrary to the rustic roads law or Executive Regulations, the Board must consider the recommendations of the Rustic Roads Advisory Committee and evaluate the feasibility of trip reduction and alternative road improvements to the local roadway network. If the Board determines that no feasible alternative exists, it may require improvements that are necessary for traffic safety or operational requirements.
 - d. *Road grade approval.* No final grading, sidewalk or pavement construction, or installation of utilities must be permitted in the bed of any proposed public or private road in any preliminary plan or administrative subdivision plan until the grade has been approved under this Chapter.
 - e. *Pedestrian paths.* When a pedestrian path is included in a preliminary plan or administrative subdivision plan, the subdivider must grade and construct the path according to the plan approved by the Board, Department of Permitting Services, or applicable municipality.
 - f. *Street lights.* The subdivider must provide street lights under the standards required by the Road Design and Construction Code. The Department of Transportation may waive any requirement under this Subsection for any new subdivision that abuts a rustic road if the requirement is incompatible with the rustic road, or may substitute any alternative requirement that is consistent with the goals of the rustic roads law.
 - g. *Traffic calming.* The Board, after considering the recommendation of the appropriate transportation agency, may require any traffic calming feature as a condition of subdivision approval.
6. *Platting roads.* The area for roads, when shown on a record plat, must be shown on a record plat to the full width of the required right-of-way.
- a. A public road must be dedicated to public use.
 - b. A private road must be platted as a road parcel, except as allowed by Subsection c, and remain open and unobstructed for use at all times as part of the project's common area.

- c. In the Commercial/Residential, Employment, Industrial, and Planned Unit Development zones, a private road may be delineated within a lot on the plat if the Board finds it appropriate to permit a structure that would otherwise cross a lot line created by a road parcel.
- d. *Restrictive covenant for private roads.* All private roads must be recorded with a restrictive covenant approved by the Board that at a minimum ensures:
 - i. that the road is designed and constructed in a manner that satisfies the requirements of this Chapter, and all requirements made by the Montgomery County Fire Marshal for emergency access, egress, and apparatus;
 - ii. regular maintenance of the road by the property owner, with certification of regular inspections, and appropriate financial reserves required for short- and long-term maintenance and capital repairs;
 - iii. that the road remains open at all times, unless approved by the Department of Permitting Services and the Fire Marshal; and
 - iv. that the County and the Commission must be fully indemnified from all liability claims, demands, losses, or damages to person or property.

F. *Water supply and sewage disposal facilities.*

- 1. *General.* Before approving a preliminary plan, the Board must consider the availability of water and sewage facilities to the subdivision. The Board must consider the recommendation of the Washington Suburban Sanitary Commission and the County Department of Environmental Protection, as applicable, concerning the proper type of water supply and sewage disposal.
- 2. *Requirements.*
 - a. The applicant must install or assure installation of any required public or private water and sewage disposal systems for each lot.
 - b. *Central water and sewer systems.* All lots must have access to public central water and sewer facilities, and necessary private connections to such facilities, when conditions affecting the subject property result in one of the following determinations:
 - i. public water and sewer connections are available to the proposed lots for existing mains;
 - ii. existing public water and sewer mains can be extended to serve the lots; or

- iii. the County Department of Environmental Protection determines that an interim central water supply or sewage disposal facility, or both, must be constructed for public health and safety, pending future extension of the WSSC system or other public system.
 - c. *Use of County roads and State roads.* For locations of any private connection to the public system within County or State road rights-of-way, the subdivider must obtain necessary permits to use public roads from the County or State, as applicable.
- 3. *Septic tiers.*
 - a. The Board must review any plan that includes residential lots under the Growth Tier rules as follows:
 - i. in this Subsection:
 - (a) a major subdivision is a division of land that would create 8 or more residential building lots; and
 - (b) a minor subdivision is a division of land that would create 7 or fewer residential building lots.
 - b. The Board must not approve any subdivision that would be served by one or more septic systems on land located in the Tier I area.
 - c. The Board must not approve any major subdivision that would be served by one or more septic systems on land located in the Tier II area.
 - d. The Board may approve a subdivision for any number of residential lots that would be served by one or more septic systems on land located in the Tier III area.
 - e. The Board may approve a minor subdivision that would be served by one or more septic systems on land located in the Tier IV area.
 - f. The Board may approve a major subdivision that would be served by one or more septic systems on land in the Tier IV area.
 - g. The official map displaying the Growth Tier areas as allowed under the Maryland Sustainable Growth and Agricultural Preservation Act of 2012 is located on the Planning Department website. The Council may amend the official map either by:
 - i. adopting Tiers in a General Plan amendment; or
 - ii. an amendment under Section 10.7.

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

G. *Markers and monuments.*

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

H. *Stormwater management.* All stormwater management requirements must satisfy Chapter 19.

I. *Public utilities.* Pipelines, electric power and energy lines, and telecommunications lines must be provided by the developer in all subdivisions.

1. *Installation.*

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

2. *Completion.* The Board may not approve a final plat until the developer demonstrates that the applicable utility companies or public agencies are able to provide utility service

to the subdivision and installation by the developer has been assured under Section 10.2.

3. *Easements.*

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

- i. provide the minimum area needed to maintain each of the lines as determined by the Board with consultation from the utility provider; and
- ii. are adjacent to, or accessible from, a road right-of-way.

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

b. When a private road is allowed, the Board must also require the developer to provide to the County an additional public infrastructure area at least 4 feet wide, adjacent to private roads, or in other appropriate locations that create contiguous service corridors within the development that connect to and are accessible from a public right-of-way, to provide for future:

- i. relocation of existing utilities permitted to remain in a road right-of-way; and
- ii. installation of new communication facilities.

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

J. *Adequate Public Facilities Ordinance (APFO).*

1. *Definitions.* Words and phrases used in this Subsection have the meanings indicated in Chapter 8, Section 8-30.
2. *Applicability.* The Board may only approve a preliminary plan when it finds that public facilities will be adequate to support and service the subdivision. Public facilities and services to be examined for adequacy include roads and transportation facilities, sewer and water service, schools, police stations, firehouses, and health clinics.

3. *Exemptions.* The following developments are exempt from the requirements of this Subsection:
 - a. exclusively residential development on a lot or parcel recorded by plat before July 25, 1989, or otherwise recorded in conformance with a preliminary plan approved before that date;
 - b. any place of worship or use associated with a place of worship that does not generate peak hour vehicle trips that exceed the limits of the Subdivision Staging Policy traffic test; and
 - c. any addition to a school associated with a place of worship that existed before July 25, 1989.
4. *Approval procedure.*
 - a. Each applicant for a preliminary plan must submit sufficient information for the subdivision to demonstrate the expected impact on and use of public facilities and services by the subdivision.
 - b. The Board must consider the recommendations of the Executive and other agencies in determining the adequacy of public facilities and services under the Subdivision Staging Policy or other applicable guidelines.
 - c. If the Board finds, under criteria and standards adopted by the Council, that additional transportation facilities or traffic mitigation measures are necessary to ensure that transportation facilities will be adequate to serve the subdivision and to meet the transportation goals established by a master plan or the Subdivision Staging Policy for that portion of the County, the subdivision plan may also be subject to the execution of a Traffic Mitigation Agreement (TMAg) at the discretion of the Board.
5. *Validity period.*
 - a. A determination of adequate public facilities made under this Chapter is timely and remains valid:
 - i. for 12 years after the preliminary plan is approved for any plan approved after July 24, 1989, but before October 19, 1999;
 - ii. for no less than 5 and no more than 12 years after the preliminary plan is approved, as determined by the Board when it approved the plan, for any plan approved after October 18, 1999, but before August 1, 2007;

- iii. for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Board when it approved the plan, for any plan approved after March 31, 2009, but before April 1, 2017; and
 - iv. for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board when it approved the plan, for any plan approved after July 31, 2007, and before April 1, 2009, or after March 31, 2017.
- b. If an applicant requests a longer validity period than the minimum specified in 5.a, the applicant must submit a development schedule or phasing plan for completion of the project to the Board for its approval.
- i. At a minimum, the proposed development schedule or phasing plan must show the minimum percentage of the project that the applicant expects to complete in the first 5 or 7 years, whichever is the applicable minimum, after the preliminary plan is approved.
 - ii. To allow a validity period longer than the specified minimum, the Board must find that the size or complexity of the subdivision warrant the extended validity period and would not be adverse to the public interest. The Board must condition a validity period longer than the specified minimum on adherence to the proposed development schedule or phasing plan, and may impose other improvements or mitigation conditions if those conditions are needed to assure adequate levels of transportation or school service during the validity period.

6. *Validity period – County arts or entertainment use.*

- a. A determination of adequate public facilities made under this Chapter is timely and remains valid for 10 years after the date of the conveyance of land to the County, or possession of building space by the County for an arts or entertainment use, under a preliminary plan for an optional method of development project approved under Section 59-C-6.2356 of the zoning ordinance in effect on October 29, 2014.
- b. The Board must grant an application to extend the validity period established under this paragraph for an additional 5 years if:
 - i. at least 20 percent of the approved development, excluding the arts or entertainment use, either separately or in combination:
 - (a) has been built;
 - (b) is under construction;

- (c) is subject to building permits that have been issued;
 - (d) is subject to a valid lease; or
 - (e) has had a site plan approved under Sections 59-7.3.4 or 7.7.1.B; or
- ii. at any time during the 24 months before the application for extension being filed, the vacancy rate for class A office buildings in the Central Business District in which the project is located reaches 10 percent for direct and sublet space combined, as measured by a commercial Multiple Listings Service benchmark; or
 - iii. the applicant makes a binding commitment to the County to make a contribution, as compensation for potential loss of property tax revenues, an amount equal to \$2 for each square foot of approved taxable improvements and thereafter makes the contribution within 6 months of final approval of the extension.
- c. The validity period is extended for the duration of any government imposed moratorium, or other government action resulting in a similar effect, that would prevent the applicant from:
 - i. completing the regulatory approvals necessary for obtaining a building permit; or
 - ii. obtaining a building permit.
 - d. If the applicant proposes to change a use in a project that is approved under Section 59-C-6.2356 of the zoning ordinance in effect on October 29, 2014, and the new use would have the same or lesser impact as the original determination of adequate public facilities, the adequate public facilities approval for the project remains valid.

7. *Extensions.*

- a. *Application.* Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.
 - i. The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period phase expires.

- ii. The applicant must submit a new development schedule or phasing plan for completion of the project for approval.
- iii. For each extension of an adequate public facilities determination:
 - (a) the applicant must not propose any additional development above the amount approved in the original determination;
 - (b) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;
 - (c) the Board may require the applicant to submit a traffic study to demonstrate how the extension would not be adverse to the public interest; and
 - (d) an application may be made to extend an adequate public facilities period for a lot within a subdivision covered by a previous adequate public facilities determination if the applicant provides sufficient evidence for the Board to determine the amount of previously approved development attributed to the lot.
- b. The Board may approve an amendment to the new development schedule approved under paragraph 7.a.ii if the applicant shows that financing has been secured for either:
 - i. completion of at least one new building in the next stage of the amended development schedule; or
 - ii. completion of infrastructure required to serve the next stage of the amended development schedule.
- c. *Exclusively residential subdivisions.* The Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department of Permitting Services has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:
 - i. 2.5 years for a subdivision with an original validity period of 7 years or less; or

- ii. 6 years for a subdivision with an original validity period longer than 7 years.
- d. *Nonresidential or mixed-use subdivisions.*
- i. The Board may extend a determination of adequate public facilities for a preliminary plan for nonresidential or mixed-use development beyond the otherwise applicable validity period if:
 - (a) the Department of Permitting Services issued building permits for structures that comprise at least 40% of the total approved gross floor area for the project;
 - (b) all of the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made; and
 - (c) the Department of Permitting Services either issued occupancy permits or completed a final building permit inspection for:
 - (1) structures that comprise at least 10 percent of the total gross floor area approved for the project within the 4 years before an extension request is filed; or
 - (2) structures that comprise at least 5 percent of the total gross floor area approved for the project within the 4 years before an extension request is filed, if structures that comprise at least 60 percent of the total gross floor area approved for the project have been built or are under construction.
 - ii. For any development that consists of more than one preliminary plan, the requirements of 7.d.i apply to the combined project. A project consists of more than one preliminary plan if the properties covered by the preliminary plans of subdivision are contiguous and were approved at the same time.
 - iii. The length of any extension of the validity period granted under 7.d.i must be based on the approved new development schedule under 7.a.ii, but must not exceed:
 - (a) 2.5 years for a subdivision with an original validity period of 7 years or less; or

- (b) 6 years for a subdivision with an original validity period longer than 7 years.
- iv. The extension expires if the applicant has not timely requested an extension and the development is not proceeding in accordance with the phasing plan, unless the Board or the Director has approved a revision to the schedule or phasing plan.
- v. In addition to the extension permitted under 7.d.iii, the Board may approve one or more additional extensions of a determination of adequate public facilities, not to exceed a total of 2.5 or 6 years, as applicable, if:
 - (a) development that comprises 30% or less of the total approved gross floor area for the project remains to be built of either the entire approved development or the share of the development to be built by that applicant; or
 - (b) the applicant will commit to reduce the amount of unbuilt development by at least 10%, and the validity period for the amount to be reduced will expire as scheduled.
- e. The Board may extend a determination of adequate public facilities once for up to 12 more years beyond the otherwise applicable validity period if the Board finds that:
 - i. the preliminary plan for the development required a significant commitment of funds by the applicant, amounting to at least \$3 million, as adjusted annually by the consumer price index, to comply with specified infrastructure conditions;
 - ii. the applicant has met or exceeded the required infrastructure conditions during the original validity period; and
 - iii. the applicant's satisfaction of the required infrastructure conditions provides a significant and necessary public benefit to the County by implementing infrastructure goals of an applicable master plan.
- f. The validity period of a finding of adequate public facilities is not automatically extended under any circumstance, including when an applicant has completed all conditions imposed by the Board at the time of preliminary plan approval to meet adequate public facilities requirements.
- g. If a new adequate public facilities determination is required under this Subsection, the procedures in Chapter 8, Section 8-32 apply.

K. *Environment.*

1. *Forest conservation.* If a forest conservation plan is required under Chapter 22A, the Board must not approve a preliminary plan or any extension until all applicable requirements of that Chapter are satisfied. The Board must make compliance with a required forest conservation plan a condition of any approved preliminary plan, including any plan reviewed on a preliminary or final basis.
2. *Restriction of subdivision for environmental protection.*
 - a. *Affected land.*
 - i. *Floodplains.* The Board must restrict subdivision or development of any property that is located in the 100-year floodplain as required by the Department of Permitting Services under Chapter 19, Article III.
 - ii. *Unsafe Land.* The Board must restrict the subdivision or development of any land it finds to be unsafe for development because of potential for flooding or stream erosion, soils with structural limitations, unstabilized slope or fill, steep slopes, or similar environmental or topographical conditions.
 - iii. *Trees, forests, and environmentally sensitive areas.* The Board may restrict the subdivision or development of land to protect environmentally sensitive areas and achieve the objectives of Chapter 22A relating to conservation of tree and forest resources.
 - b. *Restrictions.*
 - i. *General.* In addition to any requirement imposed under Chapter 22A, the proposed preliminary plan or administrative subdivision plan may be restricted under this Section by:
 - (a) deletion or rearrangement of proposed lots, roads, utilities, and other facilities;
 - (b) the establishment of building restriction and land disturbance limit lines, and other protective measures or conditions; or
 - (c) requirement of conservation easements, deed restrictions, or covenants over portions of lots or unplatted parcels to be recorded.
 - ii. *Building restriction line.* The Board may require a building restriction line shown on the plat to protect floodplain and other environmentally sensitive or unsafe building areas.

- iii. *Limit of disturbance line.* The Board may require a limit of disturbance line to protect environmentally sensitive areas or unsafe land.
- iv. *Floodplain or unsafe land on a lot.* The Board may allow a platted lot to contain floodplain or unsafe land when there is sufficient safe ground to erect a building within the required setbacks of the zoning classification. The Board may require a building restriction line on the plat. The restriction line must provide at least a 25-foot setback between any building and the unsafe areas. A greater setback must be provided where necessary for positive drainage between the building and unsafe area.
- v. *Regulations.* The Planning Board may use regulations adopted under Chapter 22A to administer this Section.

L. *Residential cluster subdivision.*

- 1. *Purpose.* The cluster method of subdivision is intended to promote both flexibility in lot size and variety of housing types in residential communities without changing existing densities or neighborhood character. This method of development is also intended to encourage the preservation of existing topography, priority forests, and environmentally sensitive areas while providing useful community green or open space.
- 2. *Conditions for use.* The use of the cluster method of development is subject to Board approval and the following conditions and requirements:
 - a. the requirements in Chapter 59 in the applicable zone;
 - b. except in the Rural Cluster zone or as recommended by a master plan in the Residential Estate-2C zone, when WSSC will serve the development by public water and sewer;
 - c. the open space and green areas proposed by the applicant in the cluster development must comply with the general purpose of cluster development, and the application must include a plan detailing the post-development maintenance responsibilities and use of those areas; and
 - d. the Board must count the land dedicated to public use for school and park sites in the tract area for the purpose of calculating density, and allow the use of the resulting density development of the remaining land when this can be accomplished in compliance with the purposes of this Section.
- 3. *Procedure for approval.*

- a. In addition to any other required information in the preliminary plan application, the applicant must include a statement outlining the ownership and use of the common open space and green area within the subdivision, and a plan showing the construction staging of all improvements. The Board must make the staging plan part of the preliminary plan approval and must be subject to approval by the Board.
- b. The Board must determine whether the site is appropriate for cluster development and will accomplish the purposes of the cluster method of development. In making this determination, the Board must consider the following:
 - i. the influence that the proposed development may have on existing or future development in nearby areas;
 - ii. the spatial relationship between the buildings and the open space and green area;
 - iii. the location, character, area, and dimensions of the open space and green area and its usefulness for the common recreational or other purposes for its intended use;
 - iv. the adequacy of the staging plan;
 - v. the nature of the site; and
 - vi. the use and zoning of nearby land.

Division 50.5. Pre-Preliminary Submissions

Section 5.1. Filing and Specifications

- A. *Filing.* Before a subdivider submits a preliminary plan, the subdivider may seek advice on limited aspects of a future subdivision plan from the Planning Department Staff, the Development Review Committee, or the Board as appropriate, or seek a binding decision from the Board. The Applicant must file a pre-preliminary submission and applicable supporting information, together with an application form and fee under Section 4.1.A.
- B. *The drawing.* A pre-preliminary drawing must contain the location of the property and sufficient information concerning the issue on which advice or a decision is requested. The drawing may include, but is not limited to:
1. the generalized layout of the subdivision;
 2. the location and classification of roads, public rights-of-way, existing and proposed easements, and dedications of land;
 3. the method of controlling erosion, sediment, and stormwater;
 4. the relationship to existing or planned subdivisions;
 5. the provisions for water and sewerage; and
 6. any other features or information the applicant chooses to submit.

Section 5.2. Approval Procedure

- A. *Referral.* Application processing and referral of the plan must satisfy Sections 4.1.D. and 4.2.A.
- B. *Hearing date.* The Board must schedule a public hearing to begin within 90 days after the date an application is accepted. The Director may postpone the public hearing once, by up to 30 days, without Board approval. The Director or applicant may request an extension beyond the original 30 days with Board approval. Any extension of the public hearing must be noticed and on the Board's hearing agenda with the new public hearing date indicated.
- C. *Action on a pre-preliminary submission.*
1. *Advisory.* The Development Review Committee must provide recommendations on the pre-preliminary plan on the day of the scheduled committee meeting. Planning Department Staff must transmit the recommendations provided by agencies outside of the committee meeting to the applicant when they are received.
 2. *Binding.*
 - a. After receiving the recommendations of the public agencies and the advice of the Development Review Committee, the Planning Department Staff must

present the application to the Board, together with its recommendations for approval, disapproval, or approval with conditions. The Board must act to:

- i. approve the pre-preliminary submission;
- ii. disapprove it, stating in writing the reasons for disapproval; or
- iii. approve it, subject to such conditions or modifications as the Board finds necessary. Approval of any feature of a pre-preliminary submission does not limit the ability of the Board to impose further conditions at the time of preliminary plan on features not included in the Board's binding decision.

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

- a. A subdivider must file an application for a preliminary plan within 90 days after the date of mailing of the Board resolution for the pre-preliminary plan; otherwise, the approval will expire.
- b. The procedures in Sections 4.1 and 4.2 are modified as follows:
 - i. the preliminary plan application must contain the statement of the Board's action on the pre-preliminary application;
 - ii. in their review of the preliminary plan under Section 4.2, the agencies to which the preliminary plan is referred and the Planning Department Staff must not recommend changes or modifications to the binding pre-preliminary decision made by the Board, unless requested in writing by the applicant or unless the applicant substantially changes some feature of the approved pre-preliminary submission. The Board must review any conditions imposed as part of the Board's binding decision to determine that the preliminary plan satisfied those conditions; and
 - iii. the Board, in its review of the preliminary plan, must consider only those features of the preliminary plan that are not in conformity with the conditions imposed by the Board in the pre-preliminary application review, plus any features not considered or acted upon in that review.

Division 50.6. Administrative Subdivision Plan

Section 6.1. Applicability

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

- A. *Existing places of worship and institutional uses.* The Board may approve a lot created for existing facilities such as: places of worship, private schools, country clubs, private institutions, and similar uses located on unplatted parcels, if:
1. the applicable requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat;
 2. any required road dedications, or covenants for future dedications, are shown on the record plat;
 3. requirements for meeting forest conservation, stormwater management, and environmental protection, if applicable, are satisfied before approval of the plat;
 4. it is located in a special protection area and all applicable special protection area requirements and guidelines are satisfied before approval of the plat;
 5. a landscaping and lighting plan including the parking lot layout is submitted for Planning Department Staff approval before approval of the plat; and
 6. the property is the subject of an approved conditional use and all conditions of the conditional use approval remain in full force.
- B. *Subdivision for creation of certain residential lots located in the Agricultural Reserve zone.* Up to 5 lots for detached houses are permitted under these procedures in the AR zone if:
1. written approval for a proposed well and septic area is received from the Department of Permitting Services before approval of the plat;
 2. any required road dedications and public utility easements along the frontage of the proposed lots are shown on the record plat, and the applicant provides any required improvements;
 3. the requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat;
 4. a covenant is recorded for the unplatted balance of the tract noting that density and development rights have been used for the new lots and noted on the record plat for the lots;

5. lots created in the AR zone through this procedure are 5 acres or less, unless approved by the Board; and
 6. forest conservation and environmental protection requirements are satisfied before approval of the plat.
- C. *Subdivision for creation of certain residential lots.* Up to 3 lots for detached houses are permitted in any residential zone under these procedures if:
1. the lots are approved for standard method development;
 2. written approval for any proposed well and septic area is received from the Department of Permitting Services, Well and Septic Section before approval of the plat;
 3. any required road dedications and associated public utility easements are shown on the plat and the applicant provides any required improvements;
 4. the requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat; and
 5. forest conservation, stormwater management, and environmental protection requirements are satisfied before approval of the plat.
- D. *Consolidation of existing lots or parts of lots in a nonresidential zone.* In a nonresidential zone, a lot may be created by combining existing adjoining lots, or a lot and a part of a previously platted lot, if:
1. the lots or parts of lots are:
 - a. created by the same subdivision, and any applicable conditions of the original subdivision approval, including limits on density, remain in effect; or
 - b. created by a subdivision approval without specific density limits and the new lot is limited to the density of the existing development;
 2. any required road dedications and public utility easements along the frontage of the proposed lots are shown on the record plat, and the applicant must provide any required improvements;
 3. where new development is proposed, the requirements for adequate public facilities under Section 4.3.J are satisfied before approval of the plat;
 4. forest conservation, stormwater management, and environmental protection requirements, if applicable, are satisfied before approval of the plat; and
 5. located in a special protection area, and all applicable special protection area requirements and guidelines are satisfied before the Board approves the plat.

Section 6.2. Filing Requirements

- A. *Filing.* The Applicant must file the administrative subdivision plan and applicable supporting information, together with an application form and fee to satisfy Subsection 4.1.A.
- B. *Application processing.*
1. The applicant must submit an initial application to the Director. The Director must review the application for completeness within 5 days after receipt. An application is incomplete if any required element is missing or is facially defective, e.g., a drawing that is not to scale. The assessment of completeness must not address the merits of the application.
 2. The applicant must resubmit a revised application within 10 days from the date of the written rejection, or the application will be automatically withdrawn. The Director must review the revised application for completeness within 5 days after receipt.
 3. The administrative subdivision plan is deemed filed when the application has been accepted as complete for review.
 4. Public notice is required per a regulation approved under Section 10.1.
- C. *The drawing.* An administrative subdivision plan must contain sufficient information relevant to the aspects of the submission. The plan must include the generalized layout of the subdivision and any other features or information needed to support submission of a plat.

Section 6.3. Approval Procedures

- A. *Referral of plan.* Immediately after accepting an application, the Director must send a copy to the Development Review Committee and other reviewing agencies for the agencies' comments concerning the plan. The Development Review Committee must provide recommendations to the Director on the administrative subdivision plan at or before the committee meeting.
- B. *Action on an administrative subdivision plan.*
1. After receiving the recommendations of the Development Review Committee and other reviewing agencies, and considering correspondence from other interested parties, the Director must approve or disapprove the administrative subdivision plan in writing. In the alternative, the Director may require that the plan be acted on by the Board. When applicable, the Director must schedule Board action on its next available agenda. If approved, the plan will remain valid under Section 4.2.G, by which time a plat must be recorded.
 2. All necessary improvements to support the development must be completed or assured under Section 10.2.

3. The Director must take action on an administrative subdivision plan or schedule a public hearing within 90 days after the date an application is accepted. The Director may postpone the public hearing once, by up to 30 days, without Board approval. The Director or applicant may request an extension beyond the original 30 days with Board approval. Any extension of the public hearing must be noticed on the hearing agenda with the new public hearing date indicated.
- C. *Appeal of an administrative subdivision plan.*
1. *Appeal to the Planning Board.* After the Director issues a written decision on an administrative subdivision plan, an applicant or party who testified or submitted testimony on the plan may appeal the decision to the Board within 30 days.
 2. *Hearing.* The Board must hold a *de novo* hearing on the appeal. The Board must adopt a written resolution explaining its decision. For purposes of judicial review, the decision of the Board is the final agency action.

Division 50.7. Minor Subdivision

Section 7.1. Applicability

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

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

1. the total area of the adjustment is 5 percent or less of the combined area of the lots affected by the adjustment;
2. additional lots are not created;
3. the adjusted lot line is approximately parallel with the original lot line or, if it is proposed to intersect with the original line, it does not significantly change the shape of the lots involved;
4. the owner submits a scaled drawing for review and approval by the Director. The drawing may be a copy of the existing record plat and must contain the following information:
 - a. proposed lot line adjustment as a dashed line;
 - b. any buildings, driveways, or other improvements located within 15 feet of the proposed adjusted lot line;
 - c. any minimum building setback that would be altered by the minor lot line adjustment; and
 - d. the amount of lot area affected by the minor lot line adjustment;
5. The drawing is approved, revised, or denied by the Director in writing within 10 days after the drawing is submitted or it is deemed approved.

A record plat application must be submitted to the Director within 90 days after approval or the approval is void.

Any minor lot line adjustment between properties that occurred before May 19, 1997 remains as an exemption to platting under Subsection 3.3.B.3.

B. *Conversion of an outlot into a lot.* An outlot may be converted into a lot if:

1. the outlot is not required for open space or green area, or is otherwise constrained in a manner that prevents it being converted into a buildable lot;

2. there is adequate sewerage and water service to accommodate development on the lot;
 3. all applicable requirements or agreements under the Adequate Public Facilities Ordinance in Subsection 4.3.J and the Subdivision Staging Policy are satisfied before recording the plat;
 4. all applicable conditions or agreements applicable to the original subdivision approval creating the outlot apply to the new lot. The conditions and agreements may include, but are not limited to, any adequate public facilities agreement, conservation easement, or building restriction lines; and
 5. if the outlot is located within a special protection area, all applicable special protection area requirements and guidelines, including the approval of a water quality plan, are satisfied before recording the plat.
- C. *Consolidation.* Adjoining properties in the Rural Residential or Residential Detached zones, not developed under cluster provisions, may be combined in the following ways:
1. by consolidating 2 or more lots into a single lot, consolidating lots and an outlot into a single lot, or consolidating a lot and an abandoned road right-of-way, if:
 - a. any conditions applicable to the original subdivision remain in effect;
 - b. the number of trips generated on the new lot do not exceed those permitted for the original lots; and
 - c. all required right-of-way dedication is provided.
 2. by consolidating an existing platted lot or part of a lot that contains a legally constructed detached house, with a piece of land created as a result of a deed, if:
 - a. the portion of land created by deed cannot itself be platted under the area and dimensional standards of the zone;
 - b. any conditions applicable to the existing lot remain in effect on the new lot;
 - c. any required road dedication is provided; and
 - d. the existing platted lot was not identified as an outlot on a plat.
- D. *Subdivision to reflect ownership.* A recorded lot approved for a commercial, industrial, or multi-unit residential use may be resubdivided to create or delete an internal lot to reflect a change in ownership, deed, mortgage, or lease line if:
1. all conditions of approval for the original subdivision that created the lot remain in effect;

2. the total maximum number of trips generated on all new lots created will not exceed the number of trips approved for the lot in the original subdivision;
 3. all land in the original subdivision lot is included in the plat; and
 4. all necessary code requirements of Chapters 8, 19, and 22 are met and any necessary cross easements, covenants, or other deed restrictions necessary to implement all the conditions of approval on the lot in the original subdivision are executed before recording the plat.
- E. *Ownership Plat.* An ownership plat may be recorded to delineate separate ownership units within a lot approved for a commercial, industrial, or multi-unit residential use as follows:
1. Ownership units to reflect deed, mortgage, or lease lines may be created by an ownership plat if:
 - a. the lot on which the ownership units are created is included on a plat approved by the Board and has site plan approval under Section 59-7.3.4;
 - b. the location and design of all structures on the ownership units satisfy Chapters 8, 19, and 22;
 - c. the ownership units do not violate any other provision of law or adversely affect any conditions of approval for the subdivision plan that created the underlying lot or for the site plan;
 - d. any necessary cross easements, covenants, or other deed restrictions necessary to implement all conditions of approval are executed before recording the ownership plat; and
 - e. the ownership units are suitable for the type of development, the use contemplated, and the available utilities and services.
 2. Ownership units must be depicted on the ownership plat with metes and bounds descriptions inside the boundary of the underlying lot as shown on the record plat.
 3. Private roads may not be delineated as a separate ownership unit on an ownership plat.
 4. No person can record an ownership plat, or sell any property with reference to an ownership plat, until the plat has been approved by the Board and recorded in the land records.
 5. The Board may apply conditions to the approval of an ownership plat.
 6. An ownership unit created under this section is not:

- a. a change to any condition of approval for the subdivision that created the lot in the original subdivision or the site plan; or
- b. used to establish building setbacks or to establish conformance with subdivision or zoning requirements.

F. *Plat of correction.* A plat of correction may be used for any of the following:

- 1. to correct inaccurate or incomplete information shown on a previously recorded plat, such as drafting or dimensional errors on the drawing; failure to include a required note, dedication, easement or other restriction; incorrect or omitted signatures; or other information normally required to be shown on a recorded plat. All owners and trustees of the land affected by the correction must sign the revised plat. In addition, the plat of correction must identify the original plat and contain a note identifying the nature of the correction;
- 2. to revise easements to reflect a Board action;
- 3. to improve clarity and legibility, the owner of any lands shown on a record plat may record an exact copy of the plat, except for necessary change of scale and the addition of any other necessary elements to make the plat conform to the requirements of this Chapter. The new plat must indicate that it is an exact copy of the original plat except for the changes made under this Subsection

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

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

- 1. the part of lot was created by deed recorded before June 1, 1958, or
- 2. the part of lot contains a legally constructed detached house; and
- 3. all conditions or agreements applicable to the subdivision approval creating the original lot apply to the new lot. The conditions and agreements may include, but are not limited to, any adequate public facilities agreement, conservation easement or building restriction lines.

I. *Unplatted parcels with existing houses.* In the R-90 and R-60 zones, an unplatted parcel containing an existing house may be converted into a lot under the minor subdivision procedure if:

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

2. there is adequate sewerage and water service to the property; and
3. the principal use of the property is single-unit living and any new construction on the lot is limited to a detached house.

Section 7.2. Procedure for Platting Minor Subdivisions

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

A. Additional considerations.

1. In the case of minor subdivisions, no additional improvements beyond those required for the original subdivision are required until development in excess of development in the original approval occurs.
2. Any lot created through the minor subdivision process and any lot replatted as part of a minor lot line adjustment must satisfy all applicable zoning requirements in Chapter 59.

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Article III. Plats

Division 50.8. Plats – Generally

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

Section 8.1. Filing and Specifications

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

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

2. *Graphic details.* The plat must show the following, as applicable in each case:
- a. all property boundary lines necessary to identify the property included in the subdivision, with a reference to the previous conveyance by which the property was acquired. Where the subdivision is a part of such conveyance, the boundaries shown must include the last complete line touched on by the subdivision or an indicated dimension describing the remainder of the complete line. Where a subdivision includes all or parts of 2 or more conveyances, the boundaries of such separate deed descriptions must be indicated by light lines running through the subdivision, together with deed reference to each original tract or unplatted parcel;
 - b. locations, widths, and names of all road rights-of-way located in the subdivision;
 - c. locations and widths of alley and mid-block pedestrian rights-of-way or parcels;
 - d. *Existing and proposed encumbrances.*
 - i. *Existing.* The area and recordation reference for recorded easements or rights-of-way established for public services, conservation purposes or utilities, and other known encumbrances;
 - ii. *Proposed.* Sufficient dimensions to identify the location of all easements or rights-of-way to be established by the plat and, as to each such encumbrance, the general purpose, and the grantee;
 - iii. *Environmental.* Description of any conservation easement, in addition to any 100-year floodplain and 100-year floodplain building restriction line required under Chapter 19, Article III;
 - e. any areas to be reserved for common use by residents of the subdivision or for general public use, with the purposes indicated;
 - f. bearings and lengths of all block and lot lines, together with the length of radii, arcs, and chords with chord bearings and central angles for all curves in the layout. A curve table must be used containing these data and referenced to the overall curves shown in the drawing.
 - i. All bearings shown on plats must be referenced to the Maryland Coordinate System, and the survey must be accurately referenced to such system using conventional survey methods or other technology acceptable to the Board, except that a plat of resubdivision requiring no preliminary plan approval and plats of correction may be referenced to the plat meridian used on the original record plat; and

- ii. in all cases, the meridian used must be noted alongside the north arrow, which is required to be shown on each plat;
- g. Maryland coordinate values, tied to the Maryland Coordinate System, for at least 4 corners of the plan of subdivision shown on the plat, unless the survey is referenced to a record plat meridian. The identification names or numbers and coordinate values for the control stations used must be shown. Coordinate values and distance dimensions on plats must be expressed in feet, based on the United States Survey Foot;
- h. the location and nature of existing property corner markers found that coincide with property corners held referenced on the plat must be labeled as such;
- i. lots numbered in sequential order. In tracts containing more than one block, the blocks must be lettered in alphabetical order. In case there is a resubdivision of lots in any block, such resubdivided lots must be numbered sequentially, beginning with the number following the highest lot number in the block and the original lot lines shown dashed and original lot numbers shown dotted;
- j. area in square feet, or other units shown on the plat, of each lot, outlot, parcel, or land dedicated to public use;
- k. building setback lines, shown with dimensions, where they exceed the minimum required in Chapter 59, and any other building restriction lines that may apply;
- l. bearings and lengths of tie connections between all blocks and the plat boundary;
- m. names and locations of adjoining subdivisions with lot and block numbers of immediately adjoining lots, together with plat references;
- n. location and apparent ownership of adjoining unsubdivided property with land record reference, or County Register of Wills or equity case references;
- o. vicinity map showing location of subdivision, with roads in the immediate proximity labeled. In the case of a large subdivision requiring multiple plats, a key map must be included to show the location of the plat relative to the entire subdivision;
- p. bar scale;
- q. a note stating that the lots shown will have public water and sewer, or have been approved by the Department of Permitting Services for the installation of individual water supply systems or individual sewerage disposal systems;

- r. for lots developed using transferable development rights, a statement concerning the number of development rights transferred and the following information:
 - i. the number of development rights transferred and the serial numbers of the development rights transferred;
 - ii. liber and folio reference to the transfer of development rights easement; and
 - iii. a notation of the recordation reference of a conveyance required by Section 59-4.9.15, as amended;
 - s. file number of the preliminary plan and, as applicable, the file numbers of the site plan and project or sketch plan upon which the plat is based;
 - t. tax map reference;
 - u. a table containing the total number and area in square feet of lots, outlots, or parcels included on the plat and areas dedicated to public use; and
 - v. any other element for inclusion on the plat that is authorized by law or regulation or required by the Board.
3. *Surveyor certificate.* Certificate by the licensed land surveyor in a form required by the Board, certifying to the accuracy of the plat and to areas included on the plat and dedicated to public use. The certificate must also include conveyance information with recording references of the lands contained in the plat.
 4. *Owner's certificate.* Certificate by the owner and all parties of interest, in a form required by the Board, adopting the plat; granting slope, utility, conservation, or any other easements; and establishing building restriction lines that are required to be drawn or noted on the plat per the conditions of the approved Preliminary Plan or Administrative Subdivision Plan and dedicating to public use roads, alleys, rights-of-way, and any other areas approved for dedication to public use by the Board. The owner must certify that a licensed land surveyor will be engaged to set all property corner markers under Subsection 4.3.G.
 5. *Title information notice.* A statement indicating that the plat does not show every matter affecting or restricting the ownership and use of the property, and does not replace an examination of title or that it notes all matters affecting title.
 6. *Approval box.* An approval box in a form required by the Board must be provided. The box must provide approval space for signatures by the Board and the Department of Permitting Services.

- D. *Multiple plats for a single subdivision.* A plat may include only a portion of the approved preliminary plan if the portion covered is in substantial compliance with the approved staging schedule. The public improvements to be constructed in the area covered by the plat must be sufficient by themselves to support the development and to provide adequately for the health, safety, and convenience of the present and future residents and for adequate access to contiguous areas, schools, and other public sites. Any plat filed under this Subsection must show any dedication to the intersection of all roads abutting corner lots or any other road.
- E. *Other supporting information.* The following supporting information is also required with the plat application.
1. *Documents and plans.* The following documents and plans must be submitted:
 - a. copies of all resolutions of approved sketch, project, preliminary, and site plans upon which the plat is based;
 - b. copies of any covenants, restrictions, or joint-use and maintenance agreements that are in effect or may be recorded as part of the subdivision must be filed with the Board, together with any other supporting plans or documents required under this Chapter and Chapter 22A;
 - c. copies of approved, preliminary, or final forest conservation plan, as appropriate, or exemption letter; and
 - d. such other information required by the applicable resolutions of the Board as a condition of approval of the preliminary plan, project plan, sketch plan, or site plan or listed in the plat application form.
 2. *Preliminary plans using transferable development rights (TDRs).* For a subdivision designated in sewer category 3 conditioned upon approval of a preliminary plan that uses TDRs, a new plat using less than the requisite number of TDRs may not be approved until the sewer category has been reconfirmed by the Council.
 3. *Submission of digital plat data.* Digital plat data must be submitted in a format approved by the Director.
 4. *Plat for a cluster subdivision.*
 - a. Any plat for a cluster subdivision must be accompanied by covenants, agreements, or other documents showing the ownership and method of maintenance and uses of areas that are declared to be open space for common use. Development, construction, or other rights in the open space areas must be limited to the indicated recreational or scenic uses only. Public access to these areas may be limited. Covenants or agreements must be in perpetuity and must include necessary public utility easements.

- b. Plats may be submitted in phases; however, density on any one plat may not exceed 115 percent of the allowed density of the area included on the plat.
 - c. Plats must contain a statement that the land shown on the plat lies within an approved cluster subdivision and resubdivision that would result in the creation of additional lots is not permitted after the property is platted.
 - d. Covenants or joint use and maintenance agreements affecting the common lands must be recorded simultaneously with the plat.
- F. *Application processing.*
- 1. The applicant must submit a plat application to the Director. The Director must review the application for completeness within 5 days after receipt. An application is incomplete if any required element is missing. The assessment of completeness must not address the accuracy of any of the elements or the merits of the application. The Director has the authority to reject the plat application if it does not contain the required information. The rejection must be in writing and specify the deficiencies.
 - 2. The applicant must resubmit a revised plat application within 10 days from the date of the written rejection, or the application will be automatically withdrawn.

Section 8.2. Approval Procedure

- A. *Referral of the plat application.* After accepting a plat application, the Director must begin review and send a copy to each agency that has review authority for roads, utilities, or other public services that will serve the proposed subdivision, for the agency's recommendation concerning the plat.
- B. *Review and recommendation.* The Director and other reviewing agencies must submit final recommendation on the plat application within 90 days after the date the application is accepted.
- C. *Plat to comply with approved preliminary plan and site plan where required.*
 - 1. With the exception of a minor subdivision, as defined in this Chapter, no plat may be approved unless it complies with an approved preliminary plan or an administrative subdivision plan; however, the Board may allow for minor modifications from these plans which, in its opinion, do not alter the intent of previous approval.
 - 2. In those situations where a site plan is required, the Board may refuse to approve a plat until a site plan is approved under Section 59-7.3.4. Changes made to the lot layout of an approved preliminary plan as part of a site plan approval may be included on the plat without the need for amendment of the preliminary plan.

- D. *Road and storm drain plans.* Before submitting a final plat, the applicant must obtain approval from the appropriate agency for the following plans:
1. final grade and profile plan for roads and pedestrian paths, except where the grades of the roads have already been established; and
 2. a storm drainage concept plan.
- E. *Final plat.* The applicant must submit a final plat legibly printed in black ink on a permanent, reproducible medium acceptable to the Director that incorporates the recommendations of the reviewing agencies.
- F. *Planning Board to act within 30 days.* The Board must act to approve or disapprove a final plat within 30 days after its submittal; otherwise, the plat will be deemed approved. The applicant may waive this requirement and consent to an extension. If the plat is disapproved, the reasons must be stated in the minutes of the Board and provided to the applicant.
- G. *Planning Board may hold hearing on any plat.* The Board may, upon its own motion, hold a hearing before acting upon any plat, with notice required by the Board's Rules of Procedure.
- H. *Planning Board may give conditional approval.* In the case of a plat requiring additional supporting data, the Board may give conditional approval, requiring the applicant to provide the Board with the supporting data.
- I. *Signing.* A plat must be signed by applicable County agencies with review authority before Board action on the plat, unless the Board specifically permits the signature to be added as a condition of its approval. The plat must be signed by the authorized officers of the Board after the Board acts to approve the plat or, in cases of conditional approval, when the conditions are satisfied.

Section 8.3. Recording Procedure

- A. *Processing of plats.*
1. The Planning Department Staff must reproduce a sufficient number of copies of an original approved plat for applicable local agencies and the plat preparer.
 2. The official seal of the licensed land surveyor who prepared the plat must be impressed upon the original approved plat and reproductions.
- B. *Recordation.* The reproductions required by the Clerk of the Circuit Court must be transmitted with the appropriate recording fee within 7 days following completion of processing for recordation in the land records. Once recorded, the original approved plat must be filed in the vault provided by the Commission and remain there, unless required by court order as an exhibit.

- C. *Indexing.* The Clerk of the Circuit Court must record the plat and enter it in the general index of the land records. All plats filed and recorded must be indexed both in the name of the subdivision and in the name of the owners signing the plat.
- D. *Effect of filing.* Plats, when filed and recorded under this Chapter, constitute a part of the land records of the County and have the same effect as properly recorded deeds.

Section 8.4. Abandonment of Land Dedicated for Public Use

- A. *Land dedicated to the County for public use.* When a record plat contains land dedicated to the County for public use, the dedication must be in perpetuity and must not be altered or taken for private use. However, the person who originally filed the plat, any successor in interest, or the County may petition to abandon any land dedicated under this Section. Abandonment of all or part of the dedicated land may be authorized by:
 - 1. the Council under Section 49-63, if the land has been in public use; or
 - 2. the Board under Section 49-68, if the land has not been in public use.
- B. *Land dedicated to other public entity.* Land dedicated to a public entity other than the County, including the Commission, may be abandoned according to procedures adopted by or applicable to that public entity.

Article IV. Administration.

Division 50.9. Waivers from this Chapter

Section 9.1. Authority of Planning Board

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

Section 9.2. Application

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

Section 9.3. Findings

- A. To grant a waiver, the Board must find that:
1. due to practical difficulty or unusual circumstances of a plan, the application of a specific requirement of the Chapter is not needed to ensure the public health, safety, and general welfare;
 2. the intent of the requirement is still met; and
 3. the waiver is:
 - a. the minimum necessary to provide relief from the requirements; and
 - b. consistent with the purposes and objectives of the General Plan.

Section 9.4. Conditions

The Board may condition the waiver approval.

Section 9.5. Procedure for Granting Waivers

- A. *Referral for recommendations.* The Director must send a copy of each waiver request to the applicable Development Review Committee agencies for investigation, report, and written recommendation before acting on the request. For waivers requested as part of a preliminary plan, administrative preliminary plan, or pre-application submission, those agencies must submit any report and recommendation on the waiver in the timeframes required for those plans. For separate waiver requests, final recommendation must be provided to the Director within 30 days after receiving the request, or the recommendation must be treated as favorable.
- B. The Director must publish a report and recommendation at least 10 days before the scheduled Board hearing. A waiver request filed under this Section may be used as grounds for a request to extend the time requirements in Sections 4.2 and 8.2.
- C. *Resolution.* The Board must make its decision by resolution.

- D. *Non-waiver of other ordinances.* When granting a waiver, the Board must not change any other requirement of law.

Division 50.10. Administrative Procedures

Section 10.1. Regulations

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

Section 10.2. Bonding and Surety

- A. *Guarantee of completion of improvements before recording final plat.*
1. Before plat recordation, the Board or applicable public agency must certify that the subdivider has obtained the necessary permits and bonds or provided other surety that ensures completion of all required public and private improvements on the land covered by the plat being recorded.
 2. As an alternative to the requirements of Subsection 10.2.A.1, if approved by the applicable public agency, a public improvement agreement may be executed between the applicant and the agency to ensure completion of public improvements.
 3. When the subdivider or developer is required by regulations of the WSSC to record a final plat dedicating public roads in excess of a current building phase to obtain installation of water and sewer to the site, surety as required by the Road Design and Construction Code for road improvements for such excess platting may be delayed under the approved timing sequence of the proposed development approved by the applicable County agency.

Section 10.3. Establishment of Adequate Public Facilities Guidelines

- A. The Council must establish by resolution, after public hearing, the process to determine the adequacy of public facilities and services. A subdivision staging policy approved by the Council may serve this purpose if it contains those guidelines. To provide the basis for the Council resolution, the Board and the County Executive must provide the following information and recommendations to the Council:
1. the Board must provide analyses of current growth and the amount of additional growth that can be accommodated by public facilities and services. The Board must also provide recommendations of any changes in preliminary plan approval criteria it deems appropriate; and
 2. the County Executive must provide comments on the Board's analyses and recommendations and recommend criteria to determine the adequacy of public facilities.

Section 10.4. Establishment of a Development Review Committee

The Board must establish a review committee consisting of Planning Department Staff and staff of any County, State, and Federal agency; municipality; and utility companies to which a plan has been referred. The committee must meet with applicants and other interested persons to facilitate agency

review of the plan, and may reconcile conflicting requirements by different agencies. Each reviewing agency must designate a representative to the committee. For the purpose of plan review, the head of any participating County agency must delegate authority to a representative to speak for the agency.

Section 10.5. Establishment of Fees

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

Section 10.6. Enforcement of Chapter

A. *Notice of violation.*

1. The Director may issue a notice of violation to a person whom the Director believes committed a violation of a Planning Board Action or this Chapter. A notice of violation issued under this Subsection must be served on the alleged violator personally, on the alleged violator's agent at the site of the alleged violation, or by certified mail to the alleged violator's last known address.
2. The notice of violation must contain at least the following information:
 - a. the name of the person charged;
 - b. the nature of the violation;
 - c. the place where and the approximate date when the violation occurred; and
 - d. a statement advising the alleged violator of the corrective or remedial action that must be taken and the date by which the corrective or remedial action must be completed. The corrective or remedial action may include a meeting with Planning Department Staff to establish a compliance plan.

B. *Administrative citation.*

1. The Director may deliver an administrative citation to a person whom the Director believes committed a violation of a Planning Board action or this Chapter. The Director must attest to the truth of the facts and allegations in the administrative citation. An administrative citation issued under this Subsection must be served on the alleged violator personally, on the alleged violator's agent at the site of the alleged violation, or by certified mail to the alleged violator's last known address.
2. The administrative citation must contain at least the following information:
 - a. the name and address of the person charged;
 - b. the nature of the violation;

- c. the place where and the approximate date when the violation occurred;
- d. the amount of fine assessed;
- e. where, when, and to whom the fine may be paid; and
- f. a statement advising the violator of the right to a hearing before the Board or its designee.

C. *Notice of hearing.*

1. The Director may issue a notice of hearing to a person whom the Director believes committed a violation of a Planning Board Action or this Chapter. The notice of hearing must be served on the alleged violator personally, on the alleged violator's agent at the site of the alleged violation, or by certified mail to the alleged violator's last known address.
2. The notice of hearing must contain at least the following information:
 - a. the name of the person charged;
 - b. the nature of the violation;
 - c. the place where and the approximate date when the violation occurred; and
 - d. a statement advising the alleged violator of the date, time, and location of the hearing before the Board or its designee.

D. *Civil fine and penalty.*

1. A citation may require the recipient to pay a civil fine for a violation of a Planning Board action.
2. The fine for each violation of a Planning Board action is the maximum allowed by the Land Use Article §23-505 of the Maryland Code for each day that the violation continues.
3. Each day that a violation has not been corrected is a separate violation, and the applicable fine may continue to accrue each day until the violation is corrected without issuing a new citation each day.
4. In addition to any other remedy under this Article, a person who violates this Chapter, a Planning Board Action, any applicable regulation or any associated agreement or restriction may be subject to an administrative civil penalty. The administrative civil penalty must not exceed 150 percent of the estimated cost to bring the violation into compliance.

5. In setting the amount of the administrative civil penalty, the Board or its designee must consider:
 - a. the willfulness of the violation;
 - b. the degree of deviation from the approved Planning Board action;
 - c. the cost of any needed corrective action or restoration;
 - d. any adverse impact on the immediate neighborhood and the larger community;
 - e. the extent to which the subject violation is part of a recurrent pattern of the same or similar violations committed by the violator;
 - f. any economic benefit that accrued to the violator or any other person as a result of the violation;
 - g. the degree of cooperation shown, or voluntary mitigation measures taken, by the violator;
 - h. the extent to which any other person contributed to the violation;
 - i. the impact, if any, on the violator's ability to perform corrective actions because of a change in ownership of the property; and
 - j. any other relevant factor.
 6. The Board, after a public hearing on the violation, must adopt a resolution specifying the amount of any administrative civil penalty and the Board's reason for imposing the penalty.
- E. *Nonpayment of fine.*
1. If a person who receives an administrative citation does not pay the fine by the administrative citation's due date or file a request for hearing, a notice must be sent to the person's last known address. If the administrative citation is not satisfied within 15 days after the notice is issued, the recipient is liable for an additional fine, as specified in the notice. The additional fine must be less than twice the original fine.
 2. If the fine due is not paid within 35 days from the date the notice is issued, the Board may schedule and hold a hearing.
- F. *Hearing.*
1. A person who receives a citation imposing a civil fine may elect a hearing before the Board or its designee by filing a written request for hearing with the Director. The request for a hearing must be received by the Director within 15 days after the

administrative citation was issued. The filing of a request for a hearing does not stay an administrative order to stop work, stabilize a site, or stop a violation.

2. If the Director receives a request to hold a hearing under this Article, the Director must promptly schedule a hearing, unless the requestor consents to a delay, and must issue a notice of hearing.
3. The Board may assign a hearing officer, including a Hearing Examiner from the Office of Zoning and Administrative Hearings, to conduct a public hearing and submit a report and recommendation on any alleged violation of this Chapter or a Planning Board action. The hearing officer must submit the required report and recommendation to the Board not later than 30 days after the hearing record closes. The hearing officer may extend the time to file the report by notifying all parties.
4. After holding the hearing, the Board may impose any civil fine or administrative civil penalty authorized by this Section, and also may:
 - a. suspend or revoke the plan that is the subject of a Planning Board Action;
 - b. approve a compliance program that lists each remedial action that must be taken;
 - c. require the violator to post a bond or other surety to guarantee completion of a compliance program;
 - d. allow the violator to propose modifications to the plan; or
 - e. take any combination of these actions.
5. All fines, penalties, or forfeitures collected under this Section must be remitted to the Board and placed in the general funds.
6. The Board may spend funds from fines and penalties for project corrections, plan enforcement or, subject to Council appropriations, other Board purposes. The Board, in its sole discretion, may spend collected fines or penalties to perform or correct some or all violations noted in an administrative citation without obligating the Board, instead of the person responsible, to correct any violation.

G. *Enforcement rules; conduct of hearing.*

1. The Board must:
 - a. adopt regulations to administer and enforce this Section as a method (2) regulation, subject to Council review under Chapter 2A, Section 15; and
 - b. conduct any proceeding under this Section as provided in those regulations.

H. *Stop work order.*

1. The enforcement agent may issue a stop work order if the enforcement agent reasonably finds that:
 - a. a person is violating any element of a Planning Board Action; and
 - b. the violation threatens or may threaten the public health, safety, or welfare.
2. A stop work order must include the following information as applicable:
 - a. the name and address of the person charged;
 - b. the nature of the violation;
 - c. the place where and the approximate date when the violation occurred; and
 - d. a clear statement of the action that must be taken or discontinued to cure the violation, including any requirement to prepare a plan of compliance.
3. The enforcement agent must attest to the truth of the facts and allegations in the order.
4. The enforcement agent must prominently display the order near where the violation has occurred. In addition, the enforcement agent may deliver or mail a copy of the order to the last known address of the person who secured approval of the Planning Board Action.
5. When a stop work order is posted, the recipient must immediately discontinue any further work activities until the order is rescinded. A stop work order suspends the Board approval of the entire underlying plan, unless:
 - a. the Board approves phasing of the project; and
 - b. the enforcement agent finds that the violation involves only:
 - i. one or more phases of a project, but not other phases of the same project; or
 - ii. activities on a single lot or parcel.

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

6. The recipient of a stop work order may request a hearing to contest the validity of the order. If the enforcement agent finds that a hearing before the Board is not practical in a reasonable time, the Chair or Vice-Chair of the Board may review the order. A determination by the Chair or Vice-Chair has the same effect as if the Board reviewed the order. The Board or Chair, if applicable, must review the order de novo. If the

violation is corrected and a plan of compliance prepared by the recipient of the order before the hearing is confirmed by the enforcement agent, the hearing must be cancelled.

7. At the Board hearing, the enforcement agent must justify to the Board the grounds and reasoning for issuing the order. The recipient must explain why the order should be discontinued and may propose a plan of compliance indicating how and when the violations will be corrected. The Board must decide if the order should be continued, modified, or rescinded, and if a plan of compliance should be approved. The Board's decision that a stop work order must continue suspends any underlying Board approvals for the entire project or any part of the project as the Board specifies until the violation is corrected.
 8. A Board decision to continue or modify an order may be the subject of a petition for judicial review to the Circuit Court under the rules for the review of administrative agency actions.
 9. A stop work order must be rescinded when the Board or the enforcement agent finds that all violations specified in the order have been satisfactorily corrected, which determination must not be unreasonably withheld, or the Board approves a compliance plan that addresses any uncorrected violation.
- I. *Other remedies.* The authority in this Section to impose civil fines, administrative civil penalties, and stop work orders is in addition to any other authority of the Board to enforce its actions, including seeking injunctive, declaratory, or other relief. The decision to pursue one remedy does not preclude the Board from pursuing any other available remedy.
 - J. *Authority of the Office of the General Counsel.* The General Counsel of the Maryland-National Capital Park and Planning Commission may prosecute and take any other necessary legal action regarding any violation under this Section.
 - K. *Exclusive authority.* The Board or its designee has exclusive authority to enforce violations of a Planning Board action and any violations of this Chapter. The authority granted in this Chapter supersedes any other authority to enforce a Planning Board action granted to any other County or State agency.

Section 10.7. Amendment of Chapter

- A. *Procedures.* The procedures for amending Chapter 50 must satisfy Section 23-104 of the Land Use Article, Maryland Code, and the Council Rules of Procedure.
- B. *Hearing.* A public hearing under the Council Rules of Procedure is required.
- C. *Expiration.* Any subdivision regulation introduced to amend this Chapter expires 18 months after its introduction if it is not approved.