

**MONTGOMERY COUNTY DEPARTMENT OF  
PARK AND PLANNING**

**UNIFORM STANDARDS FOR  
MANDATORY REFERRAL REVIEW**

Adopted: April 19, 2001  
Effective: October 1, 2001  
Updated: February 2002  
Updated: June 27, 2003  
Updated: March 25, 2004  
Updated: January 2, 2008



Montgomery County Department of Park and Planning  
Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, MD 20910

## **Section I: Introduction**

Section 7-112 of the Regional District Act, **Mandatory referrals and approval procedures after adoption of master plan of highways**, requires all federal, state, and local governments and public utilities to submit proposed projects for a Mandatory Referral review and approval by the Commission. Since in Montgomery County the Planning Board is the statutorily created body under Article 28, and performs the duties of “the Commission”, this document will use the term Planning Board, instead of the Commission.

The law is briefly stated but has a very broad application. It requires that the Planning Board review and approve the proposed location, character, grade and extent of any road, park, public way or ground, public (including federal) building or structure, or public utility (whether publicly or privately owned) prior to the project being located, constructed or authorized.

The Planning Board must also review the widening, extension, relocation, narrowing, vacation, abandonment or change of use of any road, park or public way or ground, and the acquisition or sale of any land by any public board, body or official.

The Planning Board must conduct its review within 60 days (of the submission of a complete application) unless a longer period is granted by the applicant. The Board’s failure to act within 60 days is deemed an approval, unless the applicant agrees to extend the review period. In case of disapproval, the law requires the Planning Board to communicate its reasons to the applicant agency. In practice, the Planning Board communicates its approval, approval with conditions, and disapproval, with the reasons for its actions to the applicant agency. Mandatory Referral review and comments by the Planning Board are advisory in that the statute allows the applicant to overrule the Planning Board’s disapproval, or any conditions attached to approval, and proceed.

See the attachment for the full text of the law.

## **Section II: Pre-submission Coordination**

1. The Department of Park and Planning staff (the staff) will advise the applicant to work with the staff in the early stages of a project’s program and design development. The staff will advise the applicant about potential impacts and concerns in terms of proposed land use, consistency with the area master plan, other related projects, and community issues.
2. The staff will advise the applicant to seek community input before formally

submitting the project for Mandatory Referral. This may include requesting the applicant to send appropriate, adequate and timely public notice to adjacent and adjoining property owners. The staff will help in the process as needed, including establishing review benchmarks.

3. The staff will work with the applicant to determine the information needed to review any proposal based on its nature and scope. A suggested list of possible plans and other items is included in this package (see Section III: Submission Requirements).
4. The staff will, after analysis of the project and consultation with the applicant and the community, determine and advise the applicant of the type of review needed consistent with Section IV: Types of Review.

### **Section III: Submission Requirements**

A list of suggested exhibits including narrative description, plans, sketches, photographs and other material that may be needed for the Mandatory Referral review is included here as a guide. Some of these items may be needed before others in the review process (e.g. NRI/FSD, Preliminary Forest Conservation Plan). Some may be needed only as preliminary concepts. Therefore, **applicants are advised to consult the staff to determine which exhibits will be needed in what sequence since not all proposals will need everything on the following list.** The plans and documents submitted for the Mandatory Referral should be at a scale sufficient to determine the compatibility, character, scope, quality and scale of a project. All formal requests and applications must be from the head of the applicant agency or a representative public official of the agency and addressed to the Director of the Department of Park and Planning. A complete application (number of copies to be determined by the staff) should be submitted to the Environmental Planning Unit, County-wide Planning Division, Montgomery County Department of Park and Planning, 8787 Georgia Avenue, Silver Spring, MD 20910.

1. Written narrative of the proposal generally describing the project location, access, surrounding land use and other existing conditions, proposed uses, scale and size of proposed structures, and other significant features of the proposal including, but not limited to, the following:
  - a. The hours of operation and the types of uses proposed within the structure(s) or on the property under consideration;
  - b. Whether the proposed project is in conformance with the county's General Plan, functional plans such as the master plan of highways, environmental guidelines, the approved and adopted

area master plan or sector plan, and other public plans or programs for the area. Any deviation/non-conformance should be fully explained;

- c. A Pedestrian and Bicycle Safety Impact Statement that includes an analysis of the effect of the project on pedestrian and bicyclist access and safety, and the identification of any capital and/or operating modifications that may be required to promote and maximize safe pedestrian and bicyclist access on the project site and in the surrounding area;
- d. Whether the proposed typical roadway section meets the applicable County standard. If not, the variances and the reasons for those variances should be described;
- e. The status of a Historic Work Permit application if the project would affect County-designated historic properties. For state or federally funded projects, indicate the status of comments by the Maryland Historical Trust. If any historical properties would be impacted, state the proposed measures to be undertaken to limit, and remedial measures to mitigate, the potential impacts;
- f. Phasing schedule or plan, if applicable;
- g. A description of the manner in which any land intended for common or quasi-public use, but not proposed to be in public ownership, will be held, owned, and maintained in perpetuity for the indicated purposes;
- h. Funding source for the project: county, state, federal, and/or private;
- i. A description of the potential impacts to public parkland or land owned by M-NCPPC, if applicable, and explain what efforts have been made to minimize these impacts and what mitigation will be undertaken: and
- i. For all projects involving buildings or other structures, a statement whether or not the proposed project will seek United States Green Building Council Leadership in Energy and Environmental Leadership (LEED) certification. State why if the project is not going to do seek LEED certification (the Planning Board has asked the staff to include it in staff reports on all applicable mandatory referral projects).

2. General location map showing the relationship of the subject property to existing and proposed surrounding development, land uses and zoning, park property, traffic network, public amenities, community facilities and historical properties (County and National Register).
3. Site plan describing the location of all new and existing uses and structures, size of subject property, existing land uses of the subject and surrounding property, park property lines, proposed limits of disturbance and quantitative assessment of the disturbed area, location and areas of all existing and proposed public and private open spaces, number of existing and proposed parking spaces, calculations of building coverage, the number and type of dwelling units, and square footage, height and number of stories of all buildings, and proposed signage.
4. Utilities and Right-of-Way map reflecting the location of tract boundaries, any utility or pipelines traversing the site, easements, and rights-of-way. All proposed permanent easements and right-of-way takings on park property must be quantified.
5. Pedestrian and vehicular circulation plan identifying existing roadway, site ingress and egress, sidewalks, trails (including equestrian), bikeways, transit facilities, and all on- and off-site connections to those facilities. Indicate paving widths and the location of any anticipated median breaks. Show existing and proposed signage, all striped cross walks, and provision of pedestrian push buttons and signal heads. If striped crosswalks are not provided on all legs of signalized intersection, indicate where and explain why not.
6. Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) plan that has been reviewed and approved by the M-NCPPC staff, depicting existing wooded areas, rock outcroppings, streams, stream buffers, major drainage courses, wetlands, wetland buffers, ultimate 100 year flood plain(s), stream use designation, environmentally sensitive areas and existing improvements as well as the identification of any rare, threatened, or endangered species. (see section VI: Planning Board Consideration, paragraph 5). **An approved NRI/FSD is valid for two years only. If it is more than two years old, it must be updated and submitted for staff's review and approval.**
7. Special Protection Area Map, Water Quality Plan or Letter from Department of Permitting Services exempting the project from the Water Quality Plan review process if the project is located within a designated Special Protection Area (see [www.mc-mncppc.org](http://www.mc-mncppc.org) for Special Protection Area maps). If the Planning Board is reviewing a mandatory referral more than once, the first submission should include a completed Preliminary

Water Quality Plan and the final submission should include a Final Water Quality Plan. If the Planning Board reviews a mandatory referral only once, the submission should include a combined Preliminary and Final Water Quality Plan. Preparation of these plans requires a pre-application meeting with the Department of Permitting Services, M-NCPPC, and the Department of Environmental Protection (see also Section VI: Planning Board Consideration, paragraph 6).

8. Preliminary Forest Conservation Plan based upon a correct and complete forest stand delineation. If a prior mandatory referral action on a project did not have an approved FCP, if required, then any subsequent mandatory referral review must have an approved FCP at the time of the Board review and action.
9. Topographic map depicting the general physical characteristics of the site or sites with contours at an interval no greater than five feet, slopes of 25% and greater, and slopes between 15% and 25% that are associated with erodible soils.
10. Preliminary Stormwater Management Concept plan(s) including runoff computations and pre-and post-development conditions, and off-site drainage areas.
11. Landscape and lighting plan delineating areas of existing vegetation to be retained, new and supplemental planting, paving, seating, street furniture and lighting. Show existing trees that are proposed to be removed and protection for those trees that are to remain within the limits of disturbance. Include a plant schedule indicating the proposed plant material.
12. Overall concept development plan if the proposed project or phase is a portion of a larger development plan.
13. Statement of compliance with Montgomery County's Noise Ordinance, Section 31 (b) of the County Code, and consistency with the Montgomery County Department of Park and Planning Noise Guidelines.
14. Architectural schematics of all buildings.
15. Traffic impact statement or traffic study conducted in accordance with the Department's Local Area Transportation Review Guidelines describing the effect, if any, on the local transportation system and the proposed means of addressing any unmitigated impacts on affected facilities.

#### **Section IV: Types of Review**

The staff, after analysis of the project and consultation with the applicant and the community, will decide which of the following types of Mandatory Referral review will be conducted:

1. Administrative review by the staff for minor projects; or
2. Full Planning Board review.

### **Administrative Review by the Staff for Minor Projects**

This type of review will normally be conducted for small additions, alterations, or renovations to existing facilities that do not create any significant impact on the surrounding community, parkland, or natural resources and are completely in compliance with applicable laws and regulations. Examples of projects that may qualify for administrative review are minor modifications as part of routine maintenance, placement of a small equipment shed on a site, paving of a parking area without adding any additional parking spaces, interior improvements that do not alter or increase the programming capacity of the facility, a bridge replacement in-kind, sidewalk construction that does not affect the roadway, minor roadway construction, and other such improvements that do not change the land use, character, intensity, scale or nature of the program or the facility under review.

No mandatory referral hearing or notification will be required for projects approved through administrative review procedures. A letter from the Director of the Department of Park and Planning will notify the applicant that no further review is required for the project.

### **Full Planning Board Review**

This type of review will be conducted for projects that do not fall in the first category and, therefore, will go through a full Planning Board review with mandatory referral hearing and notification as described in this package. The applicant should consult with the Park and Planning staff early in project development to determine when a project should be submitted for review. Projects should be submitted for Planning Board review as soon as all the necessary information is complete and there is still enough time to make changes, if needed, to address the Planning Board's recommendations. Generally, a project is to be submitted at 30-35% completion during the design development stage also referred to as facility planning or schematic design. All site selections and acquisitions, even if they are consistent with the relevant master plans, must be submitted for mandatory referral before they are finalized.

Some projects may need to be reviewed at more than one stage as a Mandatory

Referral depending upon the nature and type of development proposed. For example, a property may be reviewed by the Planning Board initially as site selection and later for approval of the proposed design of buildings and site improvements. For large or particularly sensitive projects, the Planning Board may require a second review when a more detailed design is available. Where appropriate, two or more actions by the Planning Board may be combined into one review, e.g. acquisition of land associated with right-of-way in CIP projects may be part of the full project review and not a separate mandatory referral.

Under the forest conservation law, approval authority for forest conservation plans has been delegated to the Montgomery County Planning Board. While the Planning Board's review of mandatory referrals is advisory, its authority to approve forest conservation plans is final and can have an impact on whether such projects can proceed. Section 22A-11(E) of the forest conservation law provides that sediment control permits for public projects subject to mandatory referral "must not be issued ...until a final forest conservation plan, if required, is approved..." The Planning Board will separately notice and act upon forest conservation plans that are required as part of the mandatory referral applications. Staff will package and present such forest conservation plans together with the associated mandatory referral to facilitate timely review of these projects.

Closed school properties reviewed in accordance with the Council Resolution 13-598\* are to be reviewed initially when the properties are transferred to the County and the County prepares a reuse proposal. They may be reviewed a second time when a specific use is selected and a detailed program of development and schematic design is prepared. These two steps may be combined into a single review if a specific use is proposed and schematic plans and other information needed to process the application are submitted for staff review in a timely manner.

(Note: Reuse of closed school properties differs from disposition in that properties designated for reuse remain the property of the County and are subject to long-term leases, whereas disposition entails selling the closed schools after, among other conditions, the Planning Board determines the site is not needed for park use.)

Section 59-G.2.19 (e)(2) of the Zoning Ordinance requires site plan review under Section 59-D.3. for construction of a private educational institution on vacant land owned or leased by Montgomery County, or any cumulative increase of more than 15% or 7,500 sf, whichever is less, in the gross floor area of a private school

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\* A copy of the Council Resolution 13-598 can be obtained from the Council=s Legislative Information Services at 240-777-7910.



located in a closed public school or a building owned or leased by the County. Such projects would not be reviewed as Mandatory Referrals.

In other cases when there may be a need for additional information, or the project could potentially be modified as it proceeds through the customary final design stages before construction, a follow up review by the staff may be needed. The staff will determine if the project needs to be brought back to the Planning Board for a full review unless a follow up review is requested by the Planning Board.

**Closed Sessions:** If an applicant agency is involved in sensitive negotiations (from a monetary aspect) for site selections or acquisition, and a full Mandatory Referral with public review and disclosure at that point may put the applicant agency at a disadvantage in its negotiations with the property owners, or if there is not enough time to conduct a full review as the available site may be sold to a private party before the review is complete, the staff may decide that a closed session consultation with the Planning Board is warranted. However, such a consultation would only be to provide the Board's informal comments for the applicant's information and consideration. A full review with public hearing and notification will be required before the proposed acquisition or sale is finalized. The comments provided in a closed session will be the Planning Board's initial response based on the information provided and may not be the Board's final decision or conditions.

(Note: Maryland Law permits the Planning Board to meet in closed session to "consider the acquisition of real property for a public purpose." (See Md. Code Ann., State Gov't Art., § 10-508.)

## **Section V: Mandatory Referral Hearing and Notification**

The Planning Board will conduct a hearing to receive community comments during its regularly scheduled sessions for all projects requiring a full review. The staff will notify the area civic associations when the project is accepted as a complete application and the 60-day clock starts. The notice will generally include, but may not be limited to, project name, applicant, location, a brief description, staff contact, and a tentative date of the Planning Board meeting at which public testimony will be taken. A final notice of the hearing will be published in the Planning Board's weekly agenda, which are available on the Internet at [www.mc-mncppc.org](http://www.mc-mncppc.org). It is strongly recommended that applicants' representatives attend the public hearing and be available to discuss the project and answer any questions from the Planning Board.

The Planning Board encourages the applicants to conduct adequate and timely community outreach and notification including noticing adjacent, abutting and confronting property owners. The staff will work with the applicant to determine

appropriate outreach in each case. Interagency coordination and public notification conducted pursuant to other laws and regulations is encouraged but would not be accepted in lieu of appropriate community outreach for Mandatory Referral processes.

## **Section VI: Planning Board Consideration**

During the mandatory referral hearing at the Planning Board's regularly scheduled meeting, the Board will review the proposal and may seek clarifications from the staff, the applicant, or the community, if necessary. The Planning Board will consider all relevant land use and planning aspects of the proposal including, but not limited to, the following:

1. whether the proposal is consistent with the County's General Plan, functional plans such as the master plan of highways, environmental guidelines, the approved and adopted area master plan or sector plan, and other public plans or programs for the area;
2. whether the proposal is consistent with the intent and the requirements of the zone in which it is located;
3. whether the nature of the proposed site and development, including its size, shape, scale, height, arrangement and design of structure, is compatible with the surrounding neighborhood and properties;
4. whether the locations of buildings and structures, the open spaces, the landscaping, recreation facilities, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;
5. whether the proposal has an approved NRI/FSD and a preliminary SWM concept plan, and meets the requirements of the Forest Conservation law (Chapter 22A of the County Code). Forest Conservation Plan, if applicable, must be approved by the Planning Board, either before or at the time of the Board's mandatory referral review and action on the project. Unlike the mandatory referral review by the Board, the conditions of the Forest Conservation Plan are binding on all county projects.
6. whether a Preliminary or a Final Water Quality Plan has been reviewed by the Planning Board if the project is located in a Special Protection Area. In addition, for a Water Quality Plan for a project on public property, the Board must determine if the plan meets the standards of Article V. WATER QUALITY REVIEW IN SPECIAL PROTECTION AREAS, of the County Code (pursuant to Section 19-65(d)(4));
7. whether or not the site would be needed for park use (pursuant to Section

11B-45(c)(4)(B) of the County Code) if the proposal is for disposition of a surplus school; and

8. whether alternatives or mitigation measures have been considered for the project if the proposal is inconsistent with the General Plan or other plans and policies for the area, or has negative impacts on the surrounding properties or neighborhood, the transportation network, the environment or other resources.

## **Section VII: The Planning Board Decision**

Based on the staff report, public comments and input, the applicant's rationale, and the findings and considerations described in Section VI of this document, the Planning Board will approve (with comments, if appropriate) or disapprove Mandatory Referral applications.

Following the Planning Board's review, the Chairman of the Planning Board will send a letter containing the Board's decision and its rationale to the head of the applicant public agency. The chairman's letter will also request a written response from the applicant agency stating how the agency will proceed with the proposal and explaining any variation from the Planning Board's decision and recommendations. It is recommended that the applicant agency advise the Board within 30 days as to whether it will accept the Board's decision. Because the Planning Board's decision and recommendations are advisory only, an applicant may overrule the Planning Board's disapproval and proceed with the proposed project. Furthermore, there is no judicial review of the matter.

**Section 7-112. Mandatory referrals and approval procedures after adoption of master plan of highways.**

When the Commission has adopted a master plan of highways of the regional district and has certified the plan to the County Council and clerk of the Circuit Court of Montgomery County and to the Board of County Commissioners and clerk of the Circuit Court of Prince George's County, thereafter no road, park, or other public way or ground, no public (including federal) buildings or structures, and no public utility, whether publicly or privately owned, shall be located, constructed, or authorized in the regional district until and unless the proposed location, character, grade and extent thereof has been submitted to and approved by the Commission. In case of disapproval, the Commission shall communicate its reason to the State, federal, county, municipal, or district board, body, or official proposing to locate, construct, or authorize such public way, ground, building, structure, or utility. Thereupon the board, body or official in its discretion may overrule the disapproval and proceed. The widening, extension, relocation, narrowing, vacation, abandonment, change of use of any road, park, or other public way or ground in the regional district, or the acquisition or sale of any land in the regional district by any public board, body, or official shall be subject to similar submission and approval; and the failure to approve may be similarly overruled. The failure of the Commission to act within 60 days from and after the date of official submission to it shall be deemed an approval, unless a longer period be granted by the submitting board, body, or official.

After appropriate public hearings, the Commission shall adopt uniform standards of review to be followed in reviewing changes to public property located in the regional district. The Commission shall publish a notice of the adoption of the standards of review in one newspaper of record that is published in each county. The notice shall include a summary of the purpose of the standards and the review process. The notice also shall identify a location and a phone number to contact for a complete copy of the standards of review.