

# **MONTGOMERY PLANNING**

## **MANDATORY REFERRAL REVIEW**

## **UNIFORM STANDARDS**

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## **Section I: Introduction**

In 1927, the Maryland General Assembly created The Maryland-National Capital Park and Planning Commission to acquire land and implement plans for a system of parks and conservation areas, determine the location of highways and roadways, exercise control of the subdivision of land, and implement zoning regulations throughout Montgomery and Prince George's Counties. Division II of the Land Use Article of the Maryland Code provides the basic planning and zoning authority for the Commission and divides it into two separate Planning Boards for the respective counties. Through planning and regulatory review, the County Planning Boards work to manage physical growth, plan communities, and protect and steward natural, cultural, and historical resources.

Mandatory Referral review, as set forth in Subtitle 3 of the Land Use Article, is an advisory process intended to afford quality community planning and development advice to the public sector. At the same time, it supports transparency in government by allowing for a more thorough planning review of proposed development activities by public agencies than the financial review of capital improvement funding provided by the County Council.

The submission requirements for a complete Mandatory Referral application are determined by the Planning Department's Division of Intake and Regulatory Coordination (IRC) as part of the pre-submission process. A complete application is required in order to begin the review process.

## **Section II: Levels of Review (Determined through Pre-Submission Review)**

To determine the appropriate level of review, the Planning Staff ("Staff") will consider the land use, character, intensity, scale, and nature of the program. When the applicant consults with Staff to determine the appropriate level of review, it should be early enough in the project development process to allow Staff to advise the applicant as to when a project should be submitted for review and provide relevant assistance.

**Public Use versus Private Use.** In certain cases, both Mandatory Referral AND regulatory land use processes will apply. Although governmental entities must comply with the Mandatory Referral process for those activities set forth in the Land Use Article, the fact that a public entity owns the property on which the activity will occur does not exempt any private entity that uses or occupies such property from local zoning or subdivision ordinances/regulations. The public entity must submit to Mandatory Referral review for subject activities, and the private concern must submit to the relevant regulatory processes which would ordinarily apply to private entities (*e.g.*, sketch plan, site plan, etc.). Any regulatory processes required of the private entity may satisfy the intent and requirements of these Uniform Standards in the event the requirements overlap (in Staff's sole discretion). Substantive procedural duplication is to be avoided.

**Administrative Review by Staff for Minor Projects.** This type of review will normally be conducted for small additions or alterations to existing facilities that do not create any significant impact on the surrounding community, parkland, or natural resources, and are otherwise in compliance with applicable laws and regulations. No Planning Board hearing will be required for projects approved through administrative review procedures. A letter from the Planning Director with applicable comments and recommendations will be sent to the applicant at the conclusion of the process (within 60 days of acceptance of a complete application, unless extended by the applicant).

**Planning Board Review.** This type of review will be conducted for projects that warrant more than Staff-level review. The Planning Board must conduct its review within 60 days of acceptance of a complete application unless the applicant consents to a longer review period. A failure to act within 60 days will be deemed a Planning Board approval. If the 60-day mark falls within the month of August, during which the Planning Board is on recess, the project will be scheduled for the first Planning Board hearing in September and the applicable deadline automatically extended until that hearing date.

**Forest Conservation Plan Concurrent Review.** The Planning Board's authority to approve any related forest conservation plans is final pursuant to the Montgomery County Forest Conservation Law, which also 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 notice and act upon forest conservation plans that are required as part of Mandatory Referral applications. Staff will package and present such forest conservation plans together with the associated Mandatory Referral to facilitate timely review.

**Full Commission Review.** In the event an application is required to be reviewed by the Full Commission (the Montgomery and Prince George's Planning Boards sitting together constitute The Maryland-National Capital Park and Planning Commission - the "Full Commission"), the respective Mandatory Referral application shall be filed in the jurisdiction in which said project is located, and subsequently presented to the respective Planning Board for analysis and recommendation to the Full Commission, which shall review and act upon that recommendation at the next available hearing date.

**Park Facility and/or Park Development Plan processes meet the intent and requirements of these Uniform Standards.**

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

**Multiple Reviews.** Many public projects are complex, with multiple stages in development and implementation – from change in use of an existing facility or site selection for a new facility to eventual design and construction. Each stage in the life of a project raises different issues for the community, many of which are unknown at the earlier stages. Therefore, some proposed projects may require a Mandatory Referral review at the early planning stage and another Mandatory Referral review later as the

proposed project moves into the implementation stage. For example, a proposal may be reviewed by the Planning Board initially as a condition of site selection during which the Board will focus on master or sector plan conformance. All site selection, acquisition, or disposition actions, even if they are consistent with the relevant master plan(s), must then be submitted again for Mandatory Referral review for the design of buildings and site improvements before they are finalized. The Mandatory Referral review for each stage will require submission materials appropriate for the corresponding type of review.

**Required Pre-Submission Meeting.** An application will not be accepted as complete without proof of the applicant's attendance at the pre-submission meeting with Staff. Staff will provide the applicant with an application checklist which will identify the necessary submission requirements.

Staff will advise the applicant to seek community input before formally submitting the project for review. This may include requiring the applicant send appropriate, adequate, and timely public notice to adjoining and confronting property owners as well as nearby civic associations. Staff will assist in the process as needed, including establishing review benchmarks.

**Coordination Agreement.** Agencies that must submit multiple projects for Mandatory Referral review may enter into a coordination agreement with the Department. The coordination agreement allows Staff to review a description of upcoming projects and provides the applicant the opportunity to receive guidance on which projects qualify for an exemption, administrative review, or Board review.

#### **Section IV: Submission Requirements**

All the necessary information from the public body must be included in each submission so that the resulting comments are thorough, comprehensive, and appropriately address all issues and regulatory requirements prior to implementation. Applicants must consult with Staff to determine what exhibits and other application materials will be needed in order to submit a complete application allowing adequate review. The plans and documents submitted for Mandatory Referral should be at a scale sufficient to determine the compatibility, character, scope, quality, and scale of a project.

1. Written narrative or Statement of Justification of the proposal generally describing the project location, access, surrounding land uses and other existing conditions, proposed uses, scale and size of proposed structures, conformance with all applicable plans and explanations of any deviations, and other significant features of the proposal including, but not limited to:
  - a. Consistency with all applicable master plans, functional plans, and related design guidelines and explanations of any deviations;
  - b. Consistency with the intent and requirements of the applicable zone(s);

- 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, specifically relating to the County's Vision Zero Initiative and the approved Complete Streets Design Guide, 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 statutory and design standards. If not, any variation(s) and the reason(s) therefor must be described;
- e. Whether the project is consistent with and supports Countywide policies, including but not limited to the Climate Action Plan, the Vision Zero Action Plan, and the County's equity and resilience goals and requirements;
- f. The status of any Historic Work Permit application if the project is located on or within an historic site or district designated on the Master Plan for Historic Preservation or on the Locational Atlas and Index of Historic Sites;
- g. For state- or federally-funded projects, indicate the status of any comments by the Maryland Historical Trust and a statement of compliance with any applicable federal laws or regulations. If historic properties would be impacted, explain the proposed measures to be undertaken to limit, avoid, and/or minimize these impacts and what mitigation will be undertaken;
- h. A description of the potential impacts to any site located on the Planning Board's Burial Sites Inventory. If impacts are anticipated, include information on what efforts have been made to limit, avoid, and/or minimize these impacts and what mitigation will be undertaken;
- i. Phasing schedule or plan, if applicable;
- j. 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;
- k. Funding sources for the project: public and/or private;
- l. A description of the potential impacts to public parkland or land owned by M-NCPPC or Montgomery County, as applicable, and an explanation of what efforts have been made to minimize these impacts and what mitigation will be undertaken: and

- m. For all projects involving buildings or other structures, a statement whether or not the proposed project will seek any relevant or applicable environmental certification(s) and an explanation of said efforts.
- 2. General location map showing the relationship of the subject property to existing and proposed surrounding development, land uses and zoning, park property, the relevant traffic network, public amenities, community facilities, and historical properties (County and National Registers). For transportation projects, a second map should be submitted showing the subject project and all other future transportation projects currently planned or programmed in the site vicinity.
- 3. Site plan describing the location of all new and existing uses and structures, the size of the subject property, existing land uses of the subject and surrounding properties, park property lines, location of historically-designated properties, location of any burial sites of which the applicant has actual or constructive notice, 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, number and type of dwelling units, 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(s), site ingress and egress, loading and service operations, sidewalks, trails (including equestrian), bikeways, transit facilities, and all on- and off-site connections to those facilities. In accordance with the applicable Complete Streets Design Guide standards and any applicable circulation plans, indicate paving widths and the location of any anticipated median breaks. Show accessible routes along the property frontage, existing and proposed signage, striped crosswalks, accessible sidewalk ramps, and accessible pedestrian push buttons and signal heads. If pedestrian crossing infrastructure, including but not limited to accessible pedestrian signals, striped crosswalks, and accessible sidewalk ramps are not provided on all legs of signalized intersection(s), indicate where these deficiencies exist and why accessible pedestrian infrastructure is not being provided.
- 6. Natural Resource Inventory/Forest Stand Delineation (NRI/FSD) plan that has been reviewed and approved by Staff, depicting existing wooded areas, rock outcroppings, streams, stream buffers, major drainage courses, wetlands, wetland buffers, ultimate 100 year flood plain(s), stream use designations, environmentally-sensitive areas, existing improvements, and the identification of any rare, threatened, or endangered species. A NRI/FSD plan review is performed separately from the Mandatory Referral process and, absent re-

certification, an approved NRI/FSD is **valid for two years only**. If the approved NRI/FSD plan is more than two years old, it will not be accepted as part of the Mandatory Referral application and a current approved NRI/FSD plan must be submitted for Staff review before the application is considered complete.

7. Special Protection Area Map, Water Quality Plan or Letter from the County 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.montgomeryplanning.org](http://www.montgomeryplanning.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 County Departments of Permitting Services and Environmental Protection and M-NCPPC.
8. Appropriate Forest Conservation Plan based upon an approved NRI/FSD. If a prior Mandatory Referral action on a project did not have an approved FCP, then any subsequent Mandatory Referral review must have an approved FCP at the time of the Board review and action, if required.
9. Topographic map depicting the general physical characteristics of the site or sites with contours at an interval no greater than 5 feet, slopes of 25% and greater, and slopes between 15% and 25% that are associated with erodible soils.
10. Approved Stormwater Management Concept Plan(s) including runoff computations and pre-and post-development conditions, off-site drainage areas, and any comments which may have been received by the Department of Permitting Services.
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 Pl. Board's Noise Guidelines.
14. Architectural schematics, elevations, and sections of all buildings.
15. Transportation impact statement for projects which generate new person trips conducted in accordance with the Department's Local Area Transportation

Review Guidelines, describing the effect, if any, on local transportation system adequacy and the proposed means of addressing any unmitigated impacts on affected facilities, Growth and Infrastructure Policy standards, specific traffic improvements, etc.

16. School-capacity analysis reflecting the current student enrollment, prior enrollment caps, and proposed capacity increases.
17. Safe-fall zone plan for telecommunications towers/monopoles identifying the height of the tower and any safety hazards in proximity to adjoining properties.
18. Lighting study conducted in accordance with the Department's Local Area Transportation Review Guidelines describing the adequacy of street lighting.

**All relevant forms, guidance documents, and checklists related to Mandatory Referral can be found on the Planning Department website.**

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

The Planning Board will conduct a hearing to receive community comments during one of its regularly scheduled sessions. Staff will notify the area civic, homeowners, and/or renters associations registered with the Planning Department and located within one half-mile of the site, as well as adjoining and adjacent property owners, when the project is accepted as a complete application and the 60-day review clock starts. The notice will generally include, but may not necessarily be limited to, the project name, applicant, location, a brief description, Staff contact, and a tentative date of the Planning Board hearing at which public testimony will be taken. A final notice of the hearing will be published in the Planning Board's weekly agenda, accompanied by the Staff Report.

**Interagency coordination and public notification conducted pursuant to other laws and regulations is expected but will not be accepted in lieu of appropriate community outreach for Mandatory Referral review, as determined by Staff.**

**The applicant's representative(s) must attend the hearing.**

#### **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 Staff and the applicant, and hear any relevant testimony from the community. 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, the approved and adopted area master plan or sector

- plan and any associated design guidelines, and any other public plans, guidance documents, 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 but not limited to its size, shape, scale, height, arrangement, design of structure(s), massing, setback(s), site layout, and location(s) of parking is compatible with the surrounding neighborhood and properties;
  4. whether the locations of buildings and structures, open spaces, landscaping, recreation facilities, and 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 (Chapters 19 and 22A of the Montgomery County Code);
  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 on public property, the Board must determine if the plan meets any additional applicable standards for Special Protection Areas;
  7. whether or not the site would be needed for park use if the proposal is for disposition of a surplus public school or other publicly-owned property; 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 discernible negative impacts on the surrounding neighborhood, the transportation network, the environment, historic resources (including burial sites), 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 herein, the Planning Board will approve (with comments, as appropriate) or disapprove Mandatory Referral applications. Following the Planning Board's review, the Chair of the Planning Board will send a letter containing the Board's decision and its rationale to the head of the applicant public agency. If there is a companion Forest Conservation Plan, the Planning Board may approve, approve with conditions, or deny the Forest Conservation Plan, which might then require the Mandatory Referral to be amended and resubmitted.

**There is no judicial review of Mandatory Referral matters.**