

# MONTGOMERY COUNTY DEVELOPMENT REVIEW PROCESS WORKGROUP:

## REPORT AND RECOMMENDATIONS

OCTOBER 13, 2023

**Chair:**

Delegate Lesley Lopez (D-District 39)

**Representatives:**

Montgomery Planning

Montgomery Parks

Montgomery County Council

Montgomery County Executive's Office

Montgomery County Department of Permitting Services

Montgomery County Department of Transportation

Montgomery County Department of Environmental Protection

Montgomery County Office of Racial Equity & Social Justice

Maryland State Highway Administration

Washington Suburban Sanitary Commission

Development and Broader Community

Senator Ben Kramer's Office

# Montgomery County Development Review Process Workgroup: Report and Recommendations

The development review process is a critical and complex function of local government, essential for providing housing, attracting employment opportunities for residents, protecting the environment, fostering a sense of inclusion and equity, and maintaining the overall quality of life of a community. Montgomery County has created a quality of life that is widely admired.

However, in recent years there have been contentions by some in the development community that Montgomery County's processes for development are less timely than other jurisdictions in the region. At the same time some residents have expressed a need for more transparency and a need for increased focus on racial equity across the County. As part of the General Assembly's 2023 legislative session, as an alternative to proposed legislation, the Montgomery County Delegation of the House of Delegates referred the issue of streamlining and updating the development review processes to an informal workgroup for further study, chaired by Delegate Lesley Lopez. This informal workgroup was to be composed of members to be named jointly by the County Executive and the Chair of the Maryland-National Capital Park and Planning Commission (M-NCPPC).

County Executive Marc Elrich and then-Chair Jeff Zyontz of the M-NCPPC issued a Letter of Intent (attached) on February 6, 2023, which included the mission of the Development Review Process Workgroup ("Workgroup") and guidance on the categories of members to be assigned. The Workgroup membership was designed to have appropriate expertise and differing perspectives on development issues.

The mission of the Workgroup, as summarized in the Letter of Intent, was to work together in support of the following principles:

- Montgomery County residents and applicants for development approvals deserve the best and most efficient process, while neither minimizing public participation, racial equity and social justice, nor compromising on safety, transportation access, or environmental standards in approved plans.
- Montgomery County has the assets to be the best county in the region for economic development and improving the development review process will help ensure a better economic development environment for all.
- All parties are striving to create the best Montgomery County that we can and recognize that every person's past experience tells a story that needs to be respected.

The categories of representatives for the Workgroup in the Letter of Intent included the following:

- From M-NCPPC, staff from both Planning and Parks;

- From the County Executive Branch, staff from the Department of Permitting Services, Department of Transportation, Department of Environmental Protection, and the Office of Racial Equity and Inclusion, along with one representative of the County Executive Office (with one more County Executive Office staff added later);
- One Council staff (with one more Council staff added later);
- One representative from the State Highway Administration (SHA);
- One representative from the Washington Suburban Sanitary Commission (WSSC);
- Three developers active in the County (2 were selected);
- Three members of the broader community from different areas of the County (2 were selected); and
- A representative of State Senator Kramer.

Additional representatives of utilities were invited to be present for the deliberations to provide technical assistance.

The Committee was directed to begin as soon as practicable after the Legislative Session ended and to complete its work with a report to the Montgomery County Delegation recommending any needed state legislation on or before October 15, 2023, in time for introduction in the usual legislative process for the 2024 Legislative Session. A facilitator was engaged to assist in moving the issues forward on a prompt basis.

The Workgroup held three Public Listening Sessions and nine Public Workgroup Sessions. The Workgroup facilitator also identified a small Steering Subcommittee of six members to assist in setting agendas and to plan for the respective meetings. Both the Public Listening Sessions, at which the public was invited to speak in-person or via electronic testimony, and the public worksessions, were live streamed and recorded. The agendas were announced publicly in advance both on the County Executive Branch and M-NCPPC websites and were included in press announcements from both offices on a regular basis over the course of the Workgroup's deliberations.

The Workgroup held its first meeting on June 7, 2023, and set the schedule for the three public listening sessions for June 22, July 18, and August 2. The first two listening sessions were held in late afternoons as hybrid meetings with in-person testimony and virtual testimony opportunities available. The third listening session was held in the evening as a virtual meeting only. The Workgroup also accepted testimony via mail and email from shortly before the initial public meeting through September 1.

Witness testimony was extensive, and the entire schedule for the Workgroup was limited to four months to collect data, hear, and read witness testimony from over 45 individuals and organizations, and make recommendations. Many individuals and organizations expressed concerns and opinions about multiple issues, as well as support for the work the agencies perform. Because of the enormous amount of testimony from public listening sessions and from email, and the in-depth conversations on specific issues that testimony generated, it became

clear early in the process that the Workgroup would not be able to address each issue in depth and would be required to set priorities to cover as much as possible. In addition, some issues raised in the process appeared to be beyond the scope or available time frame of the Workgroup. As a result of the testimony received, the Workgroup decided that development review included both planning and permitting in order to evaluate the entirety of the process.

The Steering Subcommittee set up a spreadsheet to organize witness testimony and categorize the ideas and recommendations from the public into approximately 20 separate categories. The categories ranged from overarching subjects such as “Public Involvement”, “Governance”, “Agency Coordination/Lead Agency”, and “Utilities” to specific pieces of the development review process such as “Intake”, “State Timelines”, “Certified Site Plan”, “Permitting”, and “Record Plats”. In addition, some issues dealt with specific regions or processes such as East County or specific development projects. Finally, as noted above, some issues seemed to be beyond the scope of this Workgroup or would require more time to address in a meaningful way. The Workgroup therefore decided to prioritize those issues that either received the largest amount of testimony or appeared to be issues that were both within the scope of the Letter of Intent and were things on which the Workgroup might be able to make decisions and recommendations that could streamline the process in some subject areas.

The Workgroup did commit to address each issue raised by those providing testimony or correspondence either by recommending process changes, recommending the issue be referred to further study, or recommending that the issue be referred to the appropriate County or state agency to be addressed. For those issues that will be referred to other agencies for consideration or action, the referral to the appropriate agency will be listed in the final posted table alongside those issues (see Appendices C, D, and E).

After extensive discussions across the nine public worksessions, the Workgroup did draft and reach a consensus on 22 recommendations. For those issues for which the Workgroup is referring the issue to an agency, the Workgroup has provided general guidance on intent while leaving the specific action to be determined by further deliberations by the agencies or public bodies with the specific expertise and oversight.

This final report of the Committee includes an attached table listing those who submitted testimony in person and/or electronically, the issues raised, the Workgroup’s proposed disposition of those issues or the agency to which the issues have been referred for resolution or further study. The 22 specific recommendations on which the Workgroup reached a consensus are included in this report.

The Development Review Process Workgroup spent many hours listening to and considering testimony and correspondence, and in deliberating and discussing what actions to recommend based on that input over the last four months. The discussions were deliberated in a professional manner, and the Workgroup tried to cover as many recommendations as possible given the short time frame. The Workgroup is hopeful that the recommendations that have been adopted will

make some progress toward streamlining the development review process, will provide some additional level of certainty for those involved in it as to the standards and timeframes for decisions, and provide a sense of inclusion and equity for all residents of the County.

As noted in several of the recommendations, because of the limits on time and resources, more study and work will be needed to address some of the issues raised in the Workgroup hearings and deliberations as the County continues to press forward in the future to compete as effectively as possible for jobs and to ensure that the high quality of life for which the County has been known for many years is maintained.

## **Recommendations of the Development Review Process Workgroup**

### **State Law Recommendations**

1. Codify language in State Law limiting SHA review time to 30 days.

This change will align the SHA review time with County DOT review time and ensure the applicant has all transportation comments at the same time so they can address them efficiently while staying on schedule.

VOTE: PASS UNANIMOUSLY

2. Add specific language in State Law that allows for conditional Planning Board approval of plats.

This change would allow an applicant to receive Planning Board approval of a plat while the plat is still circulating for signatures and other administrative tasks. Once the plat is conditionally approved by the Planning Board, it does not need to go back if the conditions are met. This change will save up to 3 weeks for the applicant in the plat process.

VOTE: PASS UNANIMOUSLY

3. Explore the use of digital signatures on plats and allow for the archiving of digital plats.
  - a. Using digital signatures on plats could save time but future discussion and research is needed to see what changes can be made at the State level where mylars are required and discussion with engineering firms and surveyors need to occur to determine whether they have the ability to facilitate digital signatures. This will require action by the State, the Planning Board and DPS.
  - b. Propose a change to the Real Property Article to change State Law to allow the Archivist to accept digital plats.

VOTE: PASS UNANIMOUSLY

### **Non-State Recommendations**

#### **PUBLIC NOTICE**

4. Propose changes to the Administrative Procedures for Development Review and the Zoning Ordinance increasing notice requirements to HOAs and civic associations to 1 mile in all zones. This change will increase the number of HOAs and civic associations that will be noticed with each application. This will require action by the Planning Board and the County Council.

VOTE: PASS UNANIMOUSLY

5. Create an opt-in email list for notice of all projects, which will be used to send pre-submission meeting notices from the applicant, will be offered to pre-submission meeting attendees, and will be posted on the Planning Department website for individuals who wish to receive regular DRC agendas from the Planning Department. This will require action by the Planning Department.

VOTE: PASS UNANIMOUSLY

6. Update the sign template for clarity and include a QR code linked to the project for ease of access. This will require action by the Planning Department.

VOTE: PASS UNANIMOUSLY

#### INTAKE PROCESS

7. Evaluate the intake process to reduce the amount of time from the receipt of the initial application to the date of acceptance of the application by reducing the number of repeat submittals. This will require action by the Planning Department.

VOTE: PASS UNANIMOUSLY

8. Provide training on intake for applicants and their consultants that is recorded and uploaded to the Planning Department website for future reference. This will require action by the Planning Department.

VOTE: PASS UNANIMOUSLY

#### CERTIFIED SITE PLAN

9. Allow submittal of Certified Site Plans prior to issuance of the resolution clarifying that plans cannot be approved without the resolution. This will require action by the Planning Board and possibly the Council.

VOTE: PASS UNANIMOUSLY

#### DEPARTMENT OF PERMITTING SERVICES

10. Publish review timelines related to permitting processes on the Department of Permitting Services (DPS) website. This will require action by DPS.

VOTE: PASS UNANIMOUSLY

11. Pursue a Zoning Text Amendment to allow sediment control permits to be issued prior to site plan bonding. This will require action by the County Council.

VOTE: PASS UNANIMOUSLY

12. Allow a Right of Way bond to be based upon the approved Site Plan and 125% of the cost estimate. This will allow the Applicant to receive approval of a bond without

engineering construction documents. This change will speed up the Record Plat approval process since bonding is required prior to Record Plat approval. This will require action by DPS.

VOTE: PASS UNANIMOUSLY

#### AGENCY COORDINATION/LEAD AGENCY

13. Improve coordination between DPS and the Montgomery County Department of Transportation (MCDOT) to ensure consistency between comments made at Preliminary Plan and those made at Site Plan and make certain the Applicant is clear on who is responsible at each stage. This will require action by DPS and MCDOT.

VOTE: PASS UNANIMOUSLY

14. Update the Lead Agency Memorandum of Understanding (MOU) during fiscal year 2024 to address clarity on decisions and responsibilities/authority of MOU signatories – particularly for DPS, MCDOT, and Planning Board - related to improvements in the Right of Way, access and loading, traffic, safety, on-site development issues, and conflict resolution, consistent with state and county law. All signatories will also engage in an updating process to correct agency and other archaic references in the current Lead Agency MOU. Ensure that any related documents impacted by the update are also in agreement. This will require action by all parties of the original MOU.

VOTE: **PASS** – Yes -16, No-1

- Objection – WSSC (*not currently a part of MOU signatories*)

#### AMENDMENTS AND ADMINISTRATIVE PLANS

15. Evaluate the potential for a more streamlined review of administrative review processes. This will require action by the Planning Board and possibly the County Council.

VOTE: PASS UNANIMOUSLY

#### Public Involvement

16. Evaluate and address the representation of East County from a planning, permitting, infrastructure, economic development, and marketing perspective, and as part of this review, the Planning Department should evaluate whether to update its planning area maps to recognize East County as a distinct region. This will require coordinated action by the Planning Department, county agencies, and community stakeholders.

VOTE: **PASS** – Yes -15, No-1, Abstain -1

- Objection – Developer (*outside the scope of the development review process*)
- Abstained – Developer



17. Require an Applicant's affidavit from the pre-submission meeting be attached to the Staff Report. It should include a summary of concerns raised by the community at the pre-submittal meeting and the applicant's response to those concerns (issue addressed, change made, 'can't be done under current law', etc.). The staff report should also include a specific section on community concerns that have been raised and how these concerns were addressed by the applicant. This will require action by the Planning Department.

VOTE: PASS UNANIMOUSLY

18. Require Applicants to provide an overview of opportunities for public comment and participation during the application review process at the pre-submittal meeting. This will require action by the Planning Department.

VOTE: PASS UNANIMOUSLY

19. Establish a Planning and Development Citizens' Education Academy similar to the citizen education academies in Howard County and Baltimore City, with a priority to focus on regions of the County and population groups historically under-represented in the zoning, planning, and permitting processes, and support the establishment of a workgroup to recommend the scope and structure of the Academy. This will require action by the Planning Department and the Department of Permitting Services, in consultation with Montgomery County Department of Transportation (MCDOT) and the Office for Racial Equity and Social Justice (ORESJ).

VOTE: PASS UNANIMOUSLY

20. Investigate how to improve notice and inclusion practices for the Black, Indigenous and People of Color (BIPOC) community in the development review process. This will require action by the Planning Department.

VOTE: PASS UNANIMOUSLY

#### STAND ALONE RECOMMENDATIONS

21. Process applications for water and sewer category changes in a more timely manner; while not directly part of the Development Review Process, category changes can impact a property's ability to submit an application for development review. This will require action by the Montgomery County Department of Environmental Protection (DEP).

VOTE: PASS UNANIMOUSLY

22. Require clear response and communication with stakeholders whose comments were not reviewed by the workgroup due to insufficient time. Ensure that all comments submitted to the workgroup are included as an attachment to the main body of the report and that a county agency or the Planning Department is identified as the

responsible party to respond. This will require action by the Planning Department and county agencies.

VOTE: PASS UNANIMOUSLY

## **APPENDICES**

### **Appendix A: Letter of Intent**

A letter of intent was issued on February 6, 2023, by County Executive Marc Elrich and then-Chair Jeff Zyontz of the Montgomery County Planning Board.

### **Appendix B: Development Review Process Workgroup Members**

The workgroup was made up of 21 members. Only 18 were voting members, as the 3 utilities were appointed to provide technical assistance.

### **Appendix C - E: Testimony Received by the Development Review Process Workgroup**

The workgroup received over 35 letters and had over 25 speakers sign up to testify at the listening sessions. Both written and oral testimony was transcribed into 3 separate spreadsheets, resulting in over 300 separate comments. Based on the letter of intent, testimony was first divided into testimony that was within the purview of the workgroup, versus outside of the purview of the workgroup. The comments were also divided into subject categories. Lastly, a final column was added to note which body would be best able to address the comment.

Both the written testimony and recordings of the listening sessions can be found on the Planning Department's website, here:

<https://montgomeryplanning.org/development/development-review/development-review-workgroup/>.

### **Appendix C: Reviewed by the Workgroup**

Appendix C is a table containing all the comments that were reviewed during full workgroup meetings.

### **Appendix D: Testimony Not Reviewed by the Workgroup**

Appendix D is a table containing all the comments that were within the purview of the workgroup, but that the workgroup did not have time to review before its conclusion. For those who submitted these comments, follow-up will be done by the assigned agency or department.

### **Appendix E: Testimony Outside of the Scope of the Workgroup**

Appendix E is a table containing all the comments that were not within the purview of the workgroup. For those who submitted these comments, follow-up will be done by the assigned agency or department.

### **Appendix F: Development Review Process Workgroup Meeting Schedule**

Appendix B: Development Review Process Workgroup Members

<b>Member List Per Letter of Intent*</b>	<b>Name</b>	<b>Company/Organization</b>
Planning Development Review Representative	Robert Kronenberg	M-NCPPC
Planning Intake Division Representative	Christina Sorrento	M-NCPPC
Parks Representative	Henry Coppola	M-NCPPC
Office of CE Representative	Meredith Wellington	Montgomery County Govt
Office of CE Representative	Tom Lewis	Montgomery County Govt
County Council Representative	Pam Dunn	County Council
County Council Representative	Livhu Ndou	County Council
DPS Representative	Ehsan Motazed	Montgomery County Govt
DEP Representative	Steven Shofar	Montgomery County Govt
MCDOT Representative	Tim Cupples	Montgomery County Govt
Office of RESJ Representative	Tiffany Ward	Montgomery County Govt
SHA Representative	Kwesi Woodroffe	Maryland State Govt
WSSC Representative	Karem M. Carpio	Bi-County Commission Utility
Development Community Representative	Kate Kubit	Elm Street Development
Development Community Representative	Gary Unterberg	Rogers Consulting, Inc.
Community Representative	Amanda Farber	Resident
Community Representative	Charisse Scott	Resident
Office of Sen. Kramer Representative	Diane Schwartz Jones	Maryland State Senate
<b>Advisory</b>		
Washington Gas Representative	David Shults	Utility
PEPCO Representative	Danielle Freedman	Utility
Verizon Representative	n/a	Utility
<b>Facilitator</b>		
Public Engagement Associates (PEA)	Steve Brigham	PEA

**\* (modified by Delegate to include two representatives each from CE Office and County Council)**

## Appendix F: Development Review Process Workgroup Meeting Schedule

### Development Review Process Workgroup Listening Sessions

- **Thursday, June 22, 2023** – Occurred 2 to 4 p.m. at County Council Office Building, 100 Maryland Avenue, 3<sup>rd</sup> floor Hearing Room, Rockville, MD 20850.
- **Tuesday, July 18, 2023** – Occurred 2 to 4 p.m. at the M-NCPPC Wheaton Headquarters, 2425 Reddie Drive, 2<sup>nd</sup> floor, Wheaton, MD 20902.
- **Wednesday, August 2, 2023** – Virtual-only meeting was held from 6 to 8 p.m.

### Development Review Process Workgroup Worksessions\*

<b>Date</b>	<b>Time</b>
Friday June 9, 2023	10:00am – 12:00pm
Tuesday June 27, 2023	2:00pm - 6:00pm
Wednesday July 12, 2023	9:30am – 1:30pm
Friday July 28, 2023	9:30am – 1:30pm
Tuesday August 8, 2023	9:30am – 1:30pm
Thursday August 24, 2023	9:30am – 1:30pm
Wednesday September 13, 2023	9:30am – 12:30pm
Wednesday September 20, 2023	9:30am – 12:30pm
Wednesday September 27, 2023	9:30am – 12:30pm

\*All worksessions took place at the M-NCPPC Wheaton Headquarters