



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

Oct. 5, 2007

The Planning Board has begun work on a new set of rules that will govern the Planning Board's process of enforcing its decisions and laws over which it has jurisdiction.

The Board has scheduled a public hearing on the draft enforcement rules for Oct. 25, 2007.

The enforcement rules are the final installment in a three-part set of documents intended to clarify the process by which the Board accepts applications, conducts hearings, and enforces both its decisions and laws over which it has jurisdiction. The first two installments were the Board's Rules of Procedure and the Development Review Manual, which the Board adopted in January and September 2007, respectively.

The purpose of this memo is to provide a brief description of the draft enforcement rules, and to explain how interested parties can comment on the draft rules.

The Board's goal in drafting the enforcement rules is to develop a single set of fair, efficient, understandable, and easily administered rules that will apply to any alleged violation. Key elements of the draft rules include:

- All enforcement proceedings will be initiated by the issuance of a citation. Compliance with the citation terminates the enforcement process. Any challenge to a citation will be heard by a hearing officer.
- A hearing officer, with the authority to subpoena witnesses, order discovery, and swear witnesses, will conduct a hearing to develop a factual record. The hearing officer is responsible for issuing a

recommended decision concerning whether a violation has occurred, the appropriate level of any civil fine, and any corrective action.

- The hearing officer will transmit his or her recommended decision to the Planning Board, which may adopt the decision in whole or in part, modify it, or reject it. The Board's decision will be based on the factual record developed before the Hearing Officer, and on any written exceptions to the recommended decision and oral presentations received at a public hearing. Where the Board finds that additional facts are needed, it may also remand the matter to the hearing officer for further hearing.
- The Board's decision will constitute final agency action concerning an alleged violation.

The Board is interested in hearing from stakeholders – citizens, community groups, and developers – concerning the draft rules and any other objectives the Board should consider. The Board welcomes written comments and invites interested parties to participate in the public hearing concerning the draft enforcement rules.

The Board will review the draft enforcement rules and consider public comments as follows:

- **October 25, 2007 – Public Hearing**

The Board will hear public testimony concerning the draft enforcement rules.

- **November 16, 2007 – Deadline for Filing of Written Comments**

Written comments concerning the enforcement rules must be submitted to the Board by this date.

- **November 29, 2007 – Work session**

The Board will hold a work session to finalize and adopt the enforcement rules. No public testimony will be taken at this time.

The enforcement rules govern process only, and do not change the laws or regulations the Board enforces, such as the level of fines that the Board may impose. However, along with the adoption of a new set of enforcement rules, the Planning Board will seek changes to the Montgomery County Code necessary to implement the enforcement rules. Our goal is to consolidate the Board's enforcement authority, which is currently scattered throughout Sections 22A-16, 50-41, and 59-A-1.3 of the County Code, in Section 50-41, in a manner that will help to streamline the Board's enforcement activities.

We look forward to working with the Planning Board and the community to guide the Board's enforcement activities into the future.