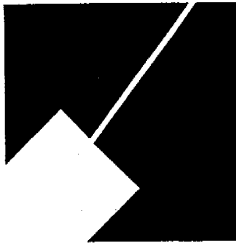


M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

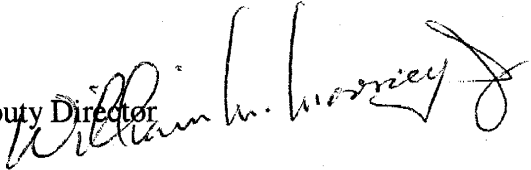
THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION


8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
12/15/05
Item B

December 12, 2005

TO: Montgomery County Planning Board

VIA: William M. Mooney, Jr., Acting Deputy Director
Department of Park and Planning 

FROM: Jeff Zyontz, Chief 
Assigned to the Development Review Division

SUBJECT: Pending Zoning Text Amendment 05-17, 05-18, 05-19, 05-20 and Subdivision
Regulation 05-04

Recommendation: Introductory discussion; staff to make final recommendation for the January 5 Planning Board agenda

Introduction

This agenda item is the first opportunity for the staff to discuss pending legislation before the Montgomery County Council with the Planning Board. The proposed legislation covers a number of topic raises by the Office of Legislative Oversight report on Clarksburg. You have already received the full text of these pending action.

The legislation is overlapping in scope and independent in its direction. The legislation concerns the Planning Board's authority as well as procedures for site plan approval. Rather than addressing the individual code proposals, staff proposes to address the major issues being raised in order to have a policy level dialog with the Planning Board. Staff will then come back to the Planning Board on January 5, 2006, with detailed recommendations. The County Council has scheduled hearings on this legislation on January 17, 2006. This schedule leaves time to prepare testimony in advance of the Council's hearing.

Staff has identified five major issues that are being addressed in the proposed legislation.

- 1) What is the procedure for Planning Board approval of a site plan?
- 2) What are the limits of discretion for staff approval of a site plan amendment?
- 3) What approvals control development?
- 4) Who should inspect for conformance to site plan conditions?
- 5) Who should be responsible for correcting violations?

The following section adds detail to those major issues, describes how the amendments resolve the issues and discusses possible options or questions for the Planning Board to consider.

This memo concludes with a very brief summary of the purpose of each individually proposed amendment.

Issue 1: Procedure for Planning Board Approval of a Site Plan

This is a very broad topic that has a number of more detailed issues. The following sections describe specific aspects of the site plan approval process raised by the legislation.

Certification for Compliance with Local Zoning Map Amendments

The legislation (05-20) requires a sworn statement by the applicant or attorney of the applicant that the application conforms to all binding elements of the zoning approval. Finding conformance can, however, be a matter of interpretation if there is ambiguity in the zoning conditions or alternative methods of counting or measuring specific standards. The alternative would be a description of the method by which the statement of conformance is made, if there are any questions.

This certification is more significant at the time that final documents are submitted (as these will be “controlling documents”), but that does not appear to be required. The approved documents will become controlling documents by virtue of the proposed legislation.

Conducting a Hearing

Staff notes that none of the proposed text amendments require evidence of a meeting to inform the public of the proposed application either before the submission of the application or before the Planning Board hearing.

Some of the text amendments propose a hearing examiner who may hear site plan applications and violations. This is proposed as a permissive alternative that can be used at the Planning Board’s discretion. The examiner would then present findings of fact and conclusions of law, which then must be forwarded to the Planning Board. There is no provision or prohibition in the legislation on requests for oral arguments, remands for additional findings or any other procedural aspects of using a hearing examiner.

Does the Planning Board want to legislatively require a public meeting before submission of an application?

Does the Planning Board object to the option of using a hearing examiner at their discretion?

Standards for Review of an Application

Under the proposed legislation (05-20), site plans must “conform” to an approved development plan or project plan. Currently, site plans must be “consistent with” those prior approvals. Staff notes with interest that consistency with the area Master Plan or the approved preliminary plan is not required now, nor is it required in the proposed legislation. (Yet the legislation later

explicitly states that the site plan controls even though it does not need to conform to a preliminary plan.)

There will be problems in determining how a more detailed site plan absolutely conforms to the general line work of a development plan. There is a middle ground that would require conformance to binding elements and conditions of approval but consistency with drawings and maps. The entire development process goes from general guidelines to detailed specifications. An unintended consequence of absolute conformance between approvals could be that all site plans will be paired with applications for project plan amendments in order to guarantee conformance in every detail.

Does the Plan Board want to add that site plans must be consistent with Master Plans and preliminary plans?

Does the Planning Board agree with absolute conformance to prior plans?

The proposed legislation also requires a finding that the application meets “any other applicable law”. Those laws might be interpreted to include the Fire Safety Code (Chapter 22) and the Road Code (Chapter 49). More clarity is warranted. Ultimately, this may be a work program issue as well.

Defining What Types of Future Amendments Will Require Planning Board Action

The legislation (05-20) permits the Planning Board define “binding elements” in the site plan. Any changes from those binding elements would require Planning Board approval. The Board would also be permitted to designate “other elements” which would have minimal effect and could be the subject of staff approved amendments (within defined limits). This concept for two designations, which leaves open the possibility that a designation of binding will mean that all non-mentioned items can be amended administratively or if it is not included in the minimal effect list, it must be binding.

It would be a great burden for the Planning Board to review all site plan amendments, but it is a possible option. Having all amendments go back to the Planning Board would eliminate the need to define “binding elements” and element of minimal effect. It would also eliminate the need to define the limits of a minor amendment, which is the next issue.

There is a possible option to permit a consent calendar review of amendments. If cleared by the Planning Board, those site plan amendments on the consent calendar would be approved administratively. If there is an objection to the site plan amendment being on the consent calendar by a Board member, the amendment would come back to the Planning Board for a hearing on the amendment. This has not been suggested by the pending ZTA’s.

Does the Planning Board desire the ability to have a consent calendar?

Issue 2: Limits of Discretion for Staff Approval of a Site Plan Amendment

The proposed text amendment 05-20 is very specific on the limits of a staff approved "minor" amendments. (This issue is the subject of an interim policy that is an agenda item for the evening of December 15. The Planning Board may wish to have a detailed substantive discussion on this topic at that time.) The legislation proposes first that the Board can declare any element fundamental to the approval. If the Planning Board designates a standard as having minimal affect, then such things as heights, set backs and building footprint can vary by 5%. The Prince George's County Planning Board gives their staff discretion in these areas up to 10%. The legislation proposed by Council does not give discretion for green space but if, there is to be any discretion on a practical basis, it should be included as a standard that has some discretion. The legislation does not seem to contemplate multiple requests for 5% discretion, which it probably should do.

The legislation also permits any affected party the ability to demand a Planning Board action, even if it is within the minor amendment guidelines. There is no provision for a modified procedure for minor amendments that do make it to the Planning Board. If the Planning Board has any modifications to the submitted minor amendment, the "minor" amendment would return to the Planning Board for a final approvable document (see Issue 3 below).

Between the requirements to designate the major and minor elements of a site plan and the extremely limited amount of discretion permitted to grant a minor amendment, at some point it will be easier to bring back every plan to the Planning Board that requests an amendment. Both the existing County code and the pending amendments to that code, however, continue to contemplate that minor amendments are permissible.

Issue 3: Controlling Documents

Although text amendment 05-20 calls for conformance between plans, it establishes the site plan as the single controlling document in the event conflicts are found between the project plan, urban renewal plan, or preliminary plan. In doing this it also requires that the Planning Board approve the final set of drawings. On a practical basis, this will lead to a two-stage site plan approval for the Planning Board. First is the process that exists today for hearing, developing conditions of approval, oral findings of fact and law. Thereafter, the Planning Board now memorializes the findings of fact and law in an "opinion". The applicant complies with the conditions of the Planning Board and redraws the site plan and data table as required. The Chief of Development Review then signs that plan without the Planning Board reviewing the revised plan. The controlling "document" will still be drawings tables and conditions that cannot be on the drawing (phasing, subsequent agreements that must be executed before building permit etc.)

Under text amendment 05-20, after the first Planning Board oral approval, the site plan (changed to meet the Planning Board's conditions) would go back to the Board with the memorialized findings of fact and conclusions of law. The proposed legislation incorporates the Planning Board adoption of its opinion and the staff review of changes to the drawings and data tables as required by the Planning Board determination after the public hearing into a second public affirmation of its decision.

The challenge will be to freeze the decision of Planning Board on their initial approval but then bring it all back to the Planning Board at a time that the public record is closed, for the sake of memorializing past actions. If this second approval is open for public testimony, there can be a

never-ending process for challenges drawing on the basis of non-compliance with the Planning Board's conditions.

Does the Planning Board believe that a two-step approval process is workable?

Issue 4: Responsibilities for Inspection for Conformance to Site Plan Conditions

Inspection responsibilities are granted to the Department of Permitting Services in some of the legislation proposed (05-04, 05-17 and 05-19). In those cases, there would still remain an inspection obligation for preliminary plans and forest conservation with Park and Planning but ALL other site plan aspects from zoning standard (height, set back, parking supply) to green space, grading, recreation facilities, private roads or alleys, sidewalks, landscaping and other amenities required would be inspected by DPS.

There could be a well-defined and communicated split of authority of where DPS is responsible for zoning code type standards related to buildings (height, set back, side yards). The standard DPS would need to use would be found in the site plan approval (as they are possibly more restrictive than the zoning standards). In some zones the basic standards for height and set back can only be found in the site plan approval. MNCPPC could still be responsible for the site aspects defined in the approved site plan, which go beyond individual buildings.

Given that we still have preliminary plans and forest conservation and water quality inspections in any event, what site plan inspection aspects does the Planning Board wish to retain?

Issue 5: Responsibility for Enforcement of Site Plan Violations

The most comprehensive text amendment, 05-20, retains the Planning Board's authority to find and resolve non-compliance to an approved site plan. Some of the legislation would transfer all responsibility to DPS for the correction of any violation found from the approved Site Plan (05-17 explicitly...05-04 with far less clarity). The pending statute transfers all of the Planning Board's current powers to stop work, void the site plan and approve a plan of compliance. In essence, DPS would be permitted to amend a Planning Board site plan in this process. There are no procedures by which the plan of compliance would be developed by DPS. There is no obligation for DPS to communicate the plan of compliance to MNCPPC. Where DPS has revoked the site plan and issued a plan of compliance, the legislation is not clear if a site plan amendment must be submitted to the Planning Board for review and approval prior to the issuance of additional building permits. There are more questions than answers available from the current legislation.

Other Issues addressed by the legislation

There are many details within the legislation that are important. They include the following:
Defining a Planning Director
"Conformance" of building permits to site plans
Site Plan Process time limits

**Summary of All Pending Text Amendments Related to the Site Plan Process
(The purpose of each amendment is repeated but augmented for addition detail.)**

AN AMENDMENT to the Montgomery County Zoning Ordinance (05-17) for the purpose of:

- requiring a use and occupancy permit for a building used exclusively as a one-family detached dwelling
- assigning site plan enforcement responsibility to the Department of Permitting Services
- generally amending provisions related to site plan review and enforcement that require conformance to the Planning Board Approved Site Plan, gives the Department of Permitting service the ability to revoke a site plan

AN AMENDMENT to the Montgomery County Zoning Ordinance (05-18) for the purpose of authorizing the Planning Board to assign a hearing examiner to conduct a public hearing on violations of a Planning Board action

AN AMENDMENT to the Montgomery County Zoning Ordinance (05-19) for the purpose of:

- adding a definition for the term “Zoning Administrator”
- amending the definition of Director to include the Zoning Administrator
- requiring use and occupancy permits for one-family detached dwellings
- requiring the Planning Board to forward to the Department of Permitting Services the Board’s Opinion and all site plan amendments
- assigning to the Department of Permitting Services responsibility for enforcing all features of the site plan
- authorizing the Department of Permitting Services to take all necessary actions to ensure compliance of the site plan during review of building permits and during construction.

AN AMENDMENT to the Montgomery County Zoning Ordinance (05-20) for the purpose of revising the process to approve, amend, and enforce site plans.

- Defines Planning Director- 59-A-2.1
- Limits site plan applicants to owners or contract purchasers 59-D-3.1.1
- Requires “conformance” with prior plans from “consistent with” 59-D-3.1.2 also 59-D-3.4 (c)
- Requires conformance to prior zoning actions 59-D-3.3
- Allows the use of a hearing examiner 59-D-3.4 (a) also 59-D-3.4 (g)
- Requires single controlling document and require Planning Board approval of signed plan 59-D-3.4 (b)
- Permits the designation of major elements of the approval and minor elements 59- D-3.4 (e)
- Eliminates applicant signature on approved plan 59-D- 3.4 (f)
- Establishes site plan as controlling document 59 – D- 3.5 (d)
- Allows hearing examiner to determine compliance failures 59-D- 3.6 (a)
- Defines minor site plan amendment 59-D-3.7 (c)
- Requires posted notice for minor site plan amendments and Planning Board review if requested by the public or Planning Director within 10 days from posting 59-D3.7 (d)

AN AMENDMENT to the Montgomery County Code (05-04) for the purpose of:

- reassigning and clarifying the enforcement of site plans approved by the Planning Board
- generally amending provisions related to site plan review and enforcement by making the Department of Permitting Services responsible for compliance with any condition of approval

JZ:kcw
Attachments

mno to mcpb re proposed text amendments.doc

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

8787 Georgia Avenue
Silver Spring, Maryland 20910-3760
301-495-4500, www.mncppc.org

MCPB
12/15/05
Item **B**

To: Montgomery County Planning Board

From: Jeff Zyontz, Chief
Assigned to the Development Review Division

Subject: **Zoning Text Amendments 05-17, 05-18, 05-19, 05-20 and Subdivision Regulation Amendment 05-04** Proposing amendments to site plan procedures and enforcement including; permitting the appointment of a Hearing Examiner, requiring conformance between project plans, preliminary plans, site plans and record plats, establishing site plans as controlling documents, requiring Planning Board approval of site plans as changed by the conditions of approval, giving the Department of Permitting Services site plan enforcement authority and requiring residential occupancy permits - *(Introductory discussion only. Staff recommendations will be available for the January 5, 2006 Planning Board Agenda)*

The purpose of this agenda item is to give the Planning Board a presentation on the highlights of this proposed legislation. Staff would like policy direction from the Planning Board before detailed comments are draft and presented.

Attached ,are the amendments noted above.

On Monday, December 12, 2005 a detailed memo will be available for the Planning Board.

Zoning Text Amendment No: 05-17
Concerning: Site Plan Enforcement
Draft No. & Date: 2 – 10/28/05
Introduced: November 1, 2005
Public Hearing: 12/6/05; 7:30 p.m.
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Denis, Floreen and Knapp

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- requiring a use and occupancy permit for a building used exclusively as a one-family detached dwelling,
- assigning site plan enforcement responsibility to the Department of Permitting Services, and
- generally amending provisions related to site plan review and enforcement.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-2	“DEFINITIONS AND INTERPRETATION”
Section 59-A-2.1	“Definitions”
DIVISION 59-A-3	“BUILDING AND USE-and-OCCUPANCY PERMITS; REGISTRATION OF CERTAIN USES”
Section 59-A-3.21	“Generally”
ARTICLE 59-D	“ZONING DISTRICTS—APPROVAL PROCEDURES”
Section 59-D-3.4	“Action by the Planning Board”
Section 59-D-3.5.	“Enforcement”
Section 59-D-3.6	“Failure to comply”

EXPLANATION: ***Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws
by the original text amendment.
[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.
Double underlining indicates text that is added to the text*

amendment by amendment.

*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that
portion of the Maryland-Washington Regional District in Montgomery County, Maryland,
approves the following ordinance:*

1 **Sec. 1. DIVISION 59-A-2 is amended as follows:**

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1 Definitions.**

4 In this Chapter, the following words and phrases have the meanings indicated:

5 * * *

6 **Department:** The Department of Permitting Services.

7 * * *

8 **Director:** The Director of the Department of Permitting Services or the Director's
9 designee.

10 * * *

11 **Sec. 2. DIVISION 59-A-3 is amended as follows:**

12 **DIVISION 59-A-3. BUILDING AND USE-AND-OCCUPANCY**

13 **PERMITS; REGISTRATION OF CERTAIN USES.**

14 * * *

15 **59-A-3.21. Generally.**

16 A use-and-occupancy permit certifying compliance with this Chapter must be
17 issued by the Director before any building, structure, or land can be used or can be
18 converted, wholly or in part, from one use to another. However, a use-and-
19 occupancy permit is not required for:

20 (a) [A building used exclusively as a one-family, detached dwelling or for
21 uses] Uses incidental to the residential use of a one-family, detached
22 dwelling. A registered home occupation [or] and a no-impact home
23 occupation [is deemed to be] are incidental to [the] a residential use.
24 A registered home health practitioner's office is not incidental to a
25 residential use; [it] and requires a use-and-occupancy permit unless [it
26 is subject to the exemption provisions of] exempted by Section 59-A-
27 6.1(d)(9). [The] A use-and-occupancy permit for a registered home

28 health practitioner [cannot] must not be issued unless the practitioner
29 has signed the Affidavit of Compliance required by Section 59-A-
30 3.42.

31 * * *

32 **Sec. 3. ARTICLE 59-D is amended as follows:**

33 **ARTICLE 59-D. ZONING DISTRICTS—APPROVAL PROCEDURES.**

34 * * *

35 **59-D-3.4. Action by Planning Board.**

36 * * *

37 (c) Upon approval, the site plan must be:

38 (1) Signed by the applicant agreeing to execute all the features and
39 requirements that are part of the site plan;

40 (2) Signed by the Chairman of the Planning Board, [or his designee,]
41 certifying Planning Board approval of the site plan; and

42 (3) Forwarded to the Department, with the Board's opinion and all
43 applicable amendments [for reference in issuing building permits
44 under Section 59-D-3.5].

45 **59-D-3.5. Effect of site plan.**

46 In the case of any land in a zone requiring site plan approval[, as provided in
47 article 59-C,] or any special exception for which site plan approval is a condition,
48 [as provided in sections 59-A-4.22 and 59-G-1.22(b)], a record plat [required by
49 chapter 50 of this Code, title "Subdivision of Land,"] must not be approved unless
50 it is in strict compliance with a site plan approved [as provided by this division 59-
51 D-3] by the Planning Board. [No] A sediment control permit, building permit, or
52 use-and-occupancy permit [may] must not be issued unless it is in strict
53 compliance with an approved site plan. All the requirements and features that are
54 part of the approved site plan must be executed in accordance with the applicant's

55 development program [required by section 59-D-3.23(m)]. A performance bond
56 securing compliance with and full execution of all features of the site plan may be
57 required to be posted with the Planning Board in an amount established by the
58 Planning Board. [In such cases, no] If a bond is required, a sediment control
59 permit, building permit, or use-and-occupancy permit [may] must not be issued
60 until this bond is posted.

61 **59-D-3.6. Enforcement.**

62 The Department must enforce each site plan approved by the Planning Board,
63 including any term, condition, requirement, agreement, or other obligation or limit
64 associated with a site plan. The Department may adopt regulations under Method
65 2 to implement the Department's site plan enforcement responsibilities.

66 **59-D-3.[6]7. Failure to comply.**

67 If the [Planning Board] Department finds, for any plan approved under this section,
68 on its own motion or after a complaint is filed with the Planning Board or the
69 Department, that any [of the terms, conditions or restrictions upon] term, condition,
70 or restriction which the site plan was approved [are] is not being complied with,
71 the [Planning Board] Department, after due notice to all parties concerned and a
72 hearing, may revoke [its approval of the] the site plan or approve a [plan of]
73 compliance program which would permit the applicant to take corrective action to
74 comply with the site plan. If at the end of the [term of the plan of] compliance
75 program the applicant has not taken sufficient corrective action [has not taken
76 place to cause compliance], the [Planning Board] Department may revoke [its
77 approval of] the site plan or take other action necessary to ensure compliance,
78 including imposing civil fines, penalties, stop work orders, and corrective orders
79 under [Chapter 50] Chapter 8. The [Planning Board] Department may request and
80 obtain investigations and reports as to compliance from appropriate County or
81 State agencies. [Upon decision by the Planning Board to revoke approval of] If the

82 Department revokes a site plan, any applicable building [permits] permit and use-
83 and-occupancy [permits issued pursuant to a prior Planning Board approval are
84 hereby declared invalid] permit is suspended until the site plan is reinstated or the
85 Planning Board approves a new site plan for the development.

86 **59-D-3.[7]8. Amendment of a site plan.**

87 * * *

88 **59-D-3.[8]9. Validity.**

89 * * *

90 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the
91 date of Council adoption.

92

93 This is a correct copy of Council action.

94

95

96

97

98 _____
Linda M. Lauer, Clerk of the Council

6

Zoning Text Amendment No: 05-18
Concerning: Hearing Examiner-Planning Board
Draft No. & Date: 1 – 10/28/05
Introduced: November 1, 2005
Public Hearing: 12/6/05; 7:30 p.m.
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Praisner

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- authorizing the Planning Board to assign a hearing examiner to conduct a public hearing on a violation of a Planning Board action; and
- generally amending provisions related to the Planning Board's authority to assign matters to a hearing examiner.

By adding the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-5 "COMPLIANCE REQUIRED"

Add a new section:

Section 59-A-5.8 "Planning Board-Assignment of a Hearing Examiner"

EXPLANATION: **Boldface** indicates a heading or a defined term.
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
* * * indicates existing law unaffected by the text amendment.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Division 59-A-5 is amended as follows:**

2 **DIVISION 59-A-5. COMPLIANCE REQUIRED.**

3 * * *

4 **59-A-5.8. Planning Board Public Hearing—Assignment of Hearing**

5 **Examiner.**

6 The Planning Board may assign a hearing examiner to conduct a public hearing and
7 provide a report and recommendation on a document noting a violation of a Planning
8 Board action including any terms, conditions, requirements, or other obligations or limits
9 made by the Planning Board under state law and Chapter 50 and Chapter 59 including any
10 regulation issued under state or County law.

11
12 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
13 date of Council adoption.

14
15 This is a correct copy of Council action.

16
17
18
19 _____
20 Linda M. Lauer, Clerk of the Council

Zoning Text Amendment No: 05-19
Concerning: Use and Occupancy
Permits and Site Plan Enforcement
Draft No. & Date: 1 – 10/28/05
Introduced: November 1, 2005
Public Hearing: 12/6/05; 7:30 p.m.
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Council President at the Request of the County Executive

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- adding a definition for the term “Zoning Administrator”
- amending the definition of Director to include the Zoning Administrator
- requiring use and occupancy permits for one-family detached dwellings;
- requiring the Planning Board to forward to the Department of Permitting Services the Board’s Opinion and all site plan amendments;
- assigning to the Department of Permitting Services responsibility for enforcing all features of the site plan; and
- authorizing the Executive to adopt regulations necessary to ensure site plan compliance.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 59-A-2	“Definitions and Interpretation”
Section 59-A-2.1	“Definitions”
Division 59-A-3	“Building and Use-and-Occupancy Permits; Registration of Certain Uses”
Section 59-A-3.21	“Use-and-Occupancy Permit”
Division 59-D-3	“Site Plan”
Section 59-D-3.4	“Action by Planning Board”
Section 59-D-3.5	“Enforcement of Site Plan”

EXPLANATION: **Boldface** indicates a heading or a feigned term.
 Underlining indicates text that is added to existing laws by the original text amendment.
 [Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
 Double underlining indicates text that is added to the text amendment by amendment.
 [[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
 *** indicates existing law unaffected by the text amendment

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

11

1 **Sec.1. Division 59-A-2 is amended as follows:**

2 **DIVISION 59-A-2. DEFINITIONS AND INTERPRETATION.**

3 **59-A-2.1. Definitions.**

4 * * *

5 **Administrator, Zoning:** The individual in the Department who has the
6 responsibility for administering, enforcing and interpreting the zoning ordinance,
7 reviewing plans for compliance with the Zoning Ordinance and site plans prior to
8 permit issuance, during and after construction and responding to citizen
9 complaints.

10 * * *

11 **Director:** The director of the Department of Permitting Services, the Director's
12 designee, or the Zoning Administrator.

13
14 **Sec. 2. Division 59-A-3 is amended as follows:**

15 **DIVISION 59-A-3. BUILDING AND USE-AND-OCCUPANCY**
16 **PERMITS: REGISTRATION OF CERTAIN USES**

17 * * *

18 **59-A-3.2. Use-and-occupancy permit.**

19 **59-A-3.2.1. Generally.**

20 A use-and-occupancy permit certifying compliance with this Chapter must be
21 issued by the Director before any building, structure, or land can be used or can be
22 converted, wholly or in part, from one use to another. However, a use-and-
23 occupancy permit is not required for:

- 24 (a) [A building used exclusively as a one-family, detached dwelling or for] Uses
25 incidental to the residential use. A registered home occupation or a no-
26 impact home occupation is deemed to be incidental to the residential use. A
27 registered home health practitioner's office is not incidental; it requires a

28 use-and-occupancy permit unless it is subject to the exemption provisions of
29 Section 59-A-6.1(d)(9). The use-and-occupancy permit cannot be issued
30 unless the practitioner has signed the Affidavit of Compliance required by
31 Section 59-A-3.42.

32 **Sec. 3. Division 59-D-3 is amended as follows:**

33 **DIVISION 59-D-3. SITE PLAN.**

34 * * *

35 **59-D-3.4. Action by Planning Board.**

36 * * *

37 (c) Upon approval, the site plan must be:

38 (1) Signed by the applicant agreeing to execute all the features and
39 requirements that are part of the site plan;

40 (2) Signed by the chairman of the Planning Board, or his designee,
41 certifying Planning Board approval of the site plan; and

42 [(3) Forwarded to the Department for reference in issuing building permits
43 under Section 59-D-3.5.]

44 (d) The Planning Board must forward to the Department its Opinion, the site
45 plan, and any site plan amendments for reference in issuing building permits
46 and for enforcing site plan requirements.

47
48 **59-D-3.5. [Effect] Enforcement of site plan.**

49
50 In the case of any land in a zone requiring site plan approval, as provided in article
51 59-[C]D, or any special exception for which site plan approval is a condition, as
52 provided in sections 59-A-4.22 and 59-G-1.22(b), a record plat required by chapter
53 50 of this Code, title "Subdivision of Land," must not be approved unless it is in
54 strict compliance with a site plans approved as provided by this division 59-D-3.

55 No sediment control permit, building permit or use-and-occupancy permit may be
56 issued unless it is in strict compliance with an approved site plan. All the
57 requirements and features that are part of the approved site plan must be executed
58 in accordance with the applicant's development program required by 59-D-
59 3.23(m). A performance bond securing compliance with and full execution of all
60 features of the site plan may be required to be posted with the planning board in an
61 amount established by the planning board. In such cases, no sediment control
62 permit, building permit or use-and-occupancy permit may be issued until this bond
63 is posted. The Department is responsible for enforcing compliance with all
64 features of the site plan during both plan review for building permits and during
65 construction and the Department may take all necessary actions to ensure
66 compliance including, but not limited to, stop work orders, corrective orders and
67 civil penalties.

68

69 **Sec. 4. Effective date.** This ordinance becomes effective 20 days after the
70 date of Council adoption.

71

72 This is a correct copy of Council action.

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76 _____
Linda M. Lauer, Clerk of the Council

Zoning Text Amendment No: 05-20
Concerning: Signs –Site Plans – Approval,
Amendment and Enforcement
Draft No. & Date: 3 11-23-05
Introduced: November 29, 2005
Public Hearing: January 17, 2006
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: County Council

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:
Revising the process to approve, amend, and enforce site plans.

By amending the following sections of the Montgomery County Zoning Ordinance,
Chapter 59 of the County Code:

DIVISION 59-A-2 Definitions and interpretation

Section 59-A-2.1

DIVISION 59-D-3 Site Plan

Sections 59-D-3.0 through 59-D-3.8

EXPLANATION: ***Boldface** indicates a heading or a defined term.*

*Underlining indicates text that is added to existing laws
by the original text amendment.*

*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*

*Double underlining indicates text that is added to the text
amendment by amendment.*

*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*

**** indicates existing law unaffected by the text amendment.*

ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that
portion of the Maryland-Washington Regional District in Montgomery County, Maryland,
approves the following ordinance:*

15

Sec. 1. Section 59-A-2.1 is amended as follows:

59-A-2.1. Definitions.

In this Chapter, the following words and phrases have the meanings indicated:

* * *

Planning Director: The staff member in the Department of Park and Planning who is in charge of all planning, zoning, and land development approval activities of the Department, and who reports directly to the Chair of the Planning Board.

* * *

Sec. 2. DIVISION 59-D-3 is amended as follows:

DIVISION 59-D-3. Site plan.

59-D-3.0. Generally.

In [the zones] any zone identified in Article 59-C as requiring site plan approval, [no] the Department must not issue a sediment control permit, [and no] building permit, or use-and-occupancy permit for [the construction or use of] any building or structure [may be issued]:

(a) until the Planning Board approves a site plan [is approved], and

(b) unless [it is in accordance with an] the building or structure conforms to the approved site plan.

59-D-3.1. Requirements.

59-D-3.1.1. Ownership; identity of applicant.

(a) [The] Each proposed site plan must be filed with the Planning Board; it]. A proposed site plan may cover all or any part of a lot or tract[, and].

(b) An application for site plan approval may be filed only by one or more persons with a financial, contractual, or proprietary interest in the property where the development would be located.

16

27 (c) If any land or right-of-way is owned or controlled by the State, the
 28 County, or another political subdivision or government entity,
 29 including the Washington Metropolitan Area Transit Authority
 30 ("WMATA"), a person who otherwise qualifies under subsection (b)
 31 may apply for site plan approval for development on that land if the
 32 application includes a final agency agreement or other written
 33 authorization from the government entity authorizing the person to
 34 include the public land or right-of-way in the application.

35 (d) If a property is located entirely in an area designated as an urban
 36 renewal area under Chapter 56, the landowner, a contract purchaser,
 37 or another legal entity or individual holding a legal interest in the
 38 land, in whole or in part, may file a site plan application that includes
 39 any other property that is also located entirely in the same urban
 40 renewal area.

41 **59-D-3.1.2. Conformity with previous actions.**

42 Each proposed site plan must meet the following requirements:

- 43 (a) If the land is classified in a zone that requires a development plan, the
 44 site plan must [be consistent with] conform to the approved
 45 development plan.
- 46 (b) If the site plan is for land classified under Section 59-H-2.5, [title
 47 "Contents of Optional Method of Application-Local Map
 48 Amendments,"] the site plan must [be consistent with] conform to
 49 each binding element of the approved schematic development plan[,
 50 development program,] and each recorded covenant.
- 51 (c) If the site plan is for the optional method of development in a CBD
 52 Zone, [it] the site plan must [be consistent with] conform to a project
 53 plan approved under Division 59-D-2.

54 (d) If the site plan is for land classified in the MXN Zone, [it] the site plan
 55 must [be consistent with] conform to a diagrammatic plan approved
 56 [in accordance with] under Division D-4.

57 (e) If the site plan does not cover the entire lot or tract or the entire area
 58 included in any [of the plans] plan cited in the preceding paragraphs,
 59 [it] the site plan must show how it is related to and coordinated with
 60 other site plans either approved, under consideration, or yet to be
 61 submitted.

62 [(f) An overlay zone must specify the required elements of the site plan,
 63 and the site plan must be consistent with all standards and regulations
 64 of the overlay zone.]

65 **59-D-3.2. Contents of proposed site plan.**

66 [The] Each proposed site plan must include the following, with all [of the]
 67 maps [being] drawn at a consistent scale:

68 **59-D-3.21. Subdivision plan information.**

69 The information required for the submission of a preliminary subdivision
 70 plan[, as set forth in] under Chapter 50. [An application for site plan approval
 71 must be filed with the planning board by a person with a financial, contractual, or
 72 proprietary interest in the property. If land or rights-of-way is owned or controlled
 73 by the State of Maryland, the county, or other political subdivision, government
 74 entity or agency, or the Washington Metropolitan Area Transit Authority
 75 ("WMATA"), a person may file an application for the land if the application
 76 includes an agency agreement or other written authorization from the government
 77 entity, agency or WMATA authorizing the person to include the public land or
 78 rights-of-way as part of the application. If a property lies entirely in an area
 79 designated as an urban renewal area under Chapter 56 the landowner, contract
 80 purchaser, a legal entity, or individual holding legal interest, whether in whole or

81 in part, may file a site plan application that may include any other property also
 82 located entirely in the urban renewal area.]

83 * * *

84 **59-D-3.3. [Reserved] Zoning certification.**

85 (a) If any part of the land included in the site plan is classified under a
 86 zone that was applied under a local map amendment, the applicant
 87 must submit a sworn statement, signed by the applicant or its counsel,
 88 certifying that the site plan conforms to all binding representations
 89 made to the District Council during the local map amendment process,
 90 including representations about type of use, density, building height,
 91 floor area ratio, setbacks, landscaping and parking, as well any other
 92 element on which the District Council expressly relied in reaching its
 93 decision.

94 (b) This certification does not relieve the Planning Board of its duty to
 95 independently determine that the site plan is consistent with any
 96 applicable development plan or the binding elements of any
 97 applicable schematic development plan.

98 **59-D-3.4. Action by Planning Board.**

99 (a) [A] The Planning Board, or a hearing officer designated by the Board,
 100 must hold a public hearing [must be held by the Planning Board] on
 101 each site plan application. The Planning Board must approve,
 102 approve [subject to modifications] with amendments, or disapprove
 103 the site plan not later than 45 days after [receipt of the site plan]
 104 receiving the application, unless the applicant agrees to extend the
 105 time for Board action, but [such action and notification is not
 106 required] the Planning Board need not act before [the approval of] a
 107 preliminary plan of subdivision involving the same property is

108 approved. The Planning Board [then] must notify the applicant in
109 writing of its action.

110 (b) The site plan approved by the Planning Board must be a single
111 document which controls what the applicant may build on the
112 specified site. The Planning Board must specify all applicable
113 conditions and requirements in the approved site plan. When the site
114 plan is approved by the Planning Board, it must contain all applicable
115 data, maps, drawings, and other information. The Planning Board's
116 opinion (when an opinion is legally required) is part of the approved
117 site plan, has no separate legal effect, and must briefly describe the
118 Board's findings and conclusions. The approved site plan must not
119 incorporate any other document by reference.

120 (c) In reaching its decision the Planning Board must [determine whether]
121 require that:

122 (1) the site plan [is consistent with] conforms to an approved
123 development plan or a project plan for the optional method of
124 development, if required, unless the Planning Board expressly
125 modifies any element of the project plan;

126 (2) the site plan meets all of the requirements of the zone in which
127 it is located, and where applicable [is consistent with] conforms
128 to an urban renewal plan approved under Chapter 56[.];

129 (3) the locations of [the] buildings and structures, [the] open
130 spaces, [the] landscaping, recreation facilities, and [the]
131 pedestrian and vehicular circulation systems are adequate, safe,
132 and efficient;

20

133 (4) each structure and use is compatible with other uses and other
 134 site plans, and with existing and proposed adjacent
 135 development; and

136 (5) the site plan meets all applicable requirements of Chapter 22A
 137 regarding forest conservation, [and] Chapter 19 regarding water
 138 resource protection, and any other applicable law.

139 [(b)] (d) The Planning Board [shall] must not approve the proposed site plan
 140 if it finds that the proposed development would not achieve a
 141 maximum of compatibility, safety, efficiency and attractiveness[; and
 142 the]. The fact that a proposed site plan [complies] may comply with
 143 all [of the stated general regulations,] applicable development
 144 standards or other specific requirements of the applicable zone [shall]
 145 does not, by itself, [be deemed to] create a presumption that the
 146 proposed site plan is, in fact, compatible with surrounding land uses
 147 and, in itself, [shall] is not [be] sufficient to require [approval of] the
 148 Planning Board to approve the proposed site plan.

149 (e) In approving a site plan, the Planning Board may expressly designate:
 150 (1) certain elements of the plan as binding elements that must not
 151 be modified without a plan amendment approved under Section
 152 59-D-3.7; and
 153 (2) other elements as guidelines that will have minimal effect on
 154 the overall design, layout, quality, or intent of the plan, and may
 155 be modified by minor plan amendments under Section 59-D-
 156 3.7(c)(6).

157 [(c)] (f) Upon approval, the site plan must be:

158 (1) [Signed by the applicant agreeing to execute all the features and
 159 requirements that are part of the site plan;

21

160 (2)] Signed by the Chairman of the Planning Board, or [his] the
 161 Board's designee, certifying Planning Board approval of the
 162 site plan; and

163 [(3)] (2) Forwarded to the Department for reference in issuing
 164 building permits under Section 59-D-3.5.

165 (g) When a hearing officer is designated to conduct a hearing under this
 166 Division, the officer must forward a written report, with a
 167 recommendation for decision, to the Planning Board, including
 168 findings of fact and conclusions of law where required or appropriate.

169 **59-D-3.5. Effect of site plan.**

170 (a) In the case of any land in a zone requiring site plan approval[, as
 171 provided in article 59-C,] or any special exception for which site plan
 172 approval is a condition, [as provided in sections 59-A-4.22 and 59-G-
 173 1.22(b),] a record plat [required by chapter 50 of this Code, title
 174 "Subdivision of Land,"] must not be approved unless [it is in strict
 175 compliance] the plat strictly complies with a site plan approved [as
 176 provided by this division 59-D-3] by the Planning Board.

177 (b) [No] A sediment control permit, building permit, or use-and-
 178 occupancy permit [may] must not be issued unless [it is in strict
 179 compliance] each strictly complies with an approved site plan.

180 (c) All [the] requirements and features that are part of the approved site
 181 plan must be executed [in accordance with] as specified in the
 182 [applicant's] development program required by section 59-D-3.23(m),
 183 as modified by the Planning Board in the approved site plan.

184 (d) If any part of an approved site plan conflicts with any previously
 185 approved project, urban renewal, or preliminary subdivision plan, the

186 site plan governs. In any conflict between 2 or more provisions of an
 187 approved site plan, the most rigorous provision governs.

188 (e) [A] The Planning Board may require the applicant to post a
 189 performance bond securing compliance with and full execution of all
 190 features of the site plan [may be required to be posted with the
 191 Planning Board] in an amount [established] set by the Planning Board.
 192 [In such cases, no] If a bond is required, the Department must not
 193 issue a sediment control permit, building permit, or use-and-
 194 occupancy permit [may be issued] until this bond is posted.

195 **59-D-3.6. Failure to comply.**

196 (a) If the Planning Board finds reason to conclude, for any site plan
 197 approved under this Section, on its own motion or after a complaint is
 198 filed with the Planning Board or the Department, that any [of the
 199 terms, conditions or restrictions upon which] term, condition, or
 200 restriction in the [site] plan [was approved are] is not being complied
 201 with, the Planning Board, after due notice to the applicant and all
 202 other parties concerned and a public hearing held by the Planning
 203 Board or a hearing officer designated by the Board, may suspend or
 204 revoke [its approval of the] the site plan or approve a [plan of]
 205 compliance program which would permit the applicant to take
 206 corrective action to comply with the site plan.

207 (b) If at the end of the [term of the plan] effective period of the
 208 compliance program approved by the Planning Board the applicant
 209 has not taken sufficient corrective action [has not taken place to cause
 210 compliance], the Planning Board may without holding further
 211 hearings revoke [its approval of] the site plan or take other action
 212 necessary to ensure compliance, including imposing civil fines,

23

213 penalties, stop work orders, and corrective orders under Chapter 50.
 214 The Planning Board may [request and] obtain investigations and
 215 reports as to compliance from appropriate County or State agencies.

216 (c) [Upon decision by the Planning Board to revoke approval of] If the
 217 Planning Board suspends or revokes a site plan, the Department must
 218 immediately suspend any applicable building [permits and] permit or
 219 use-and-occupancy [permits issued pursuant to a prior Planning Board
 220 approval are hereby declared invalid] permit until the Planning Board
 221 reinstates the site plan or approves a new site plan for the
 222 development.

223 **59-D-3.7. Amendment of a site plan.**

224 [A major plan amendment or minor plan amendment is defined as set forth
 225 in Sec. 59-D-2.6.]

226 (a) The owner of the property to which an approved site plan applies, the
 227 Director, or the Planning Director, may apply at any time for an
 228 amendment to an approved site plan. Each application for an
 229 amendment must show every proposed amendment, in a format
 230 approved by the Planning Board, on a copy of the approved site plan.
 231 The amendment process required in this Section is the only way an
 232 approved site plan may be changed.

233 (b) The Planning Board may approve any proposed site plan amendment
 234 after giving the applicant and any other affected person an opportunity
 235 for a public hearing before the Planning Board or a hearing officer
 236 designated by the Board. The Planning Director, but not any other
 237 member of the Planning staff, may approve a minor amendment as
 238 provided in this Section.

239 (c) A minor amendment is a site plan amendment that would only:

- 240 (1) increase or decrease the height, setback, or gross floor area of a
241 building by no more than 5 percent;
- 242 (2) increase or decrease the land area covered by a structure other
243 than a building by no more than 5 percent;
- 244 (3) redesign a parking or loading area in a way that does not
245 significantly affect any neighboring property;
- 246 (4) redesign a landscape plan in a way that does not alter basic
247 elements of the plan or significantly affect any public area or
248 neighboring property;
- 249 (5) approve any modification required by engineering necessity in
250 grading, utilities, stormwater management, or any similar plan
251 element, in a way that does not significantly affect any public
252 area or neighboring property; or
- 253 (6) modify any other plan element that the Planning Board, in
254 approving that site plan, designated as an element that will have
255 minimal effect on the overall design, layout, quality, or intent of
256 the plan.
- 257 (d) Along with any other notice required by the Planning Board's rules of
258 procedure, the applicant must post a conspicuous notice of each
259 proposed minor amendment within 3 days after filing the application
260 with the Planning Director at one or more places designated by the
261 Planning Director. If a written or electronic request for a public
262 hearing is not filed within 10 days after the notice is posted, the
263 Planning Director may act on the minor amendment. The Planning
264 Director must forward each minor amendment to the Department
265 immediately after approving it.

266 (e) Before approving a minor amendment, the Planning Director must
 267 make any finding that the Planning Board would be required to make
 268 if it reviewed the amendment. In approving a minor amendment, the
 269 Planning Director must not waive any requirement of law (unless the
 270 law otherwise allows that requirement to be waived) or modify any
 271 condition or requirement expressly imposed by the Planning Board
 272 when it approved the site plan.

273 (f) If the Planning Director declines to approve a minor amendment or
 274 any affected person files a timely request for a public hearing, the
 275 Planning Director must forward the amendment to the Planning Board
 276 for review under its procedures for amendment approval unless the
 277 applicant withdraws the amendment.

278 (g) The Planning Board Chair must sign any amendment to an approved
 279 site plan that the Planning Board approves. The Chair must forward
 280 each approved amendment to the Department immediately after
 281 signing it.

282 **59-D-3.8. Validity.**

283 (a) The [initiation date for commencing the validity] period during which
 284 [time] a site plan [must be validated,] is effective [is] starts on the
 285 later of:

286 (1) 30 days [from the date of mailing of the written opinion, as
 287 such date is printed on the opinion] after the Planning Board
 288 Chair notifies the applicant that the Chair has signed the plan;

289 or

290 (2) [in the event] if an administrative appeal is timely noted by any
 291 party who has standing [authorized] to [take an] appeal, the date

292 [upon which] when the court having final jurisdiction acts,
 293 including the running of any further applicable appeal periods.

294 (b) The [validity] effective period of an approved site plan [is
 295 conditionally tied to] depends on the expiration date of the underlying
 296 approved preliminary plan. The site plan [will validate upon the
 297 recordation of] takes effect when the final record plat is recorded for
 298 all of the property [delineated on] covered by the approved
 299 preliminary plan. Where phasing of development is [contemplated]
 300 required, [validation of phases will be treated in the same manner]
 301 each phase takes effect as provided in the preliminary plan. [Upon
 302 recordation of] After the record plat is recorded, the approved site
 303 plan [will] does not expire or require amendment [prior to the
 304 issuance of] before a building permit is issued unless:

- 305 (1) the project's APFO approval expires; or
 306 (2) changes to the applicable zoning map, [or] zoning text, or other
 307 applicable laws or regulations require [a modification of] the
 308 approved site plan to be modified.

309 [The forgoing] This subsection does not preclude an applicant from
 310 seeking an amendment to an approved site plan to address minor
 311 changes to the applicable zoning map, zoning text, or other applicable
 312 laws or regulations. In [such instances] that case, the approved site
 313 plan [will not be deemed to have expired] remains in effect.

314 (c) [Extensions.] If [an extension is approved for the] a preliminary
 315 subdivision plan is extended, then the site plan [will] must remain
 316 [valid to the extent that] in effect as long as the preliminary plan
 317 remains [valid] in effect.

318 **Sec. 3. Effective Date.**

319 This ordinance takes effect on March 1, 2006. Sections 59-D-3.1, 59-D-3.2,
320 and 59-D-3.4, as amended by this ordinance, apply to any site plan that the
321 Planning Board approves on or after that date. Sections 59-D-3.0, 59-D-3.5, 59-D-
322 3.6, 59-D-3.7, and 59-D-3.8, as amended by this ordinance, apply to all site plans
323 approved at any time before or after that date.

324

325 This is a correct copy of Council action.

326

327

328 Linda M. Lauer, Clerk of the Council

Date

Subdivision Regulation Amendment: 05-04
Concerning: Site Plan Enforcement
Draft No. & Date: 2 – 10/28/05
Introduced: November 1, 2005
Public Hearing: 12/6/05; 7:30 PM
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Denis, Floreen and Knapp

AN AMENDMENT to the Montgomery County Code for the purpose of:

- reassigning and clarifying the enforcement of site plans approved by the Planning Board, and
- generally amending provisions related to site plan review and enforcement

By amending the following section of the Montgomery County Subdivision Regulations, Chapter 50 of the Montgomery County Code:

Chapter 50	“SUBDIVISION OF LAND”
Article III	“Subdivision Regulations Generally”
Section 50-41	“Enforcement”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
**** indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Chapter 50 is amended as follows:

Chapter 50. SUBDIVISION OF LAND.

* * *

Article III. Subdivision Regulations Generally.

* * *

50-41. Enforcement.

(a) *Definitions.* In this section, these terms have the following meanings:

* * *

(3) *Enforcement Agent.* The Planning Board, or [designee] Department, responsible for determining compliance with [terms, conditions, requirements, agreements, and any other obligations or limitations] any term, condition, requirement, agreement, or other obligation or limit associated with a Planning Board Action. The Department of Permitting Services is responsible for determining compliance with any term, condition, requirement, agreement, or other obligation or limit associated with a site plan approved by the Planning Board.

* * *

(5) *Planning Board Action.* A final decision[,] on a preliminary plan, site plan, project plan, supplementary plan, water quality plan, or other plan, including all associated terms, conditions, requirements and other obligations or [limitations] limits, made by the Planning Board [pursuant to its authority] under [Article 28, Titles 7 and 8, Maryland Code Annotated] state law and Chapter 50 and 59, [of the Montgomery County Code] including any [regulations promulgated pursuant to this authority] regulation issued under state or County law. A [final decision for purposes of this section] Planning Board Action does not include a decision made by the [Planning] Board [pursuant to] under Chapter 22A.

* * *

Sec. 2. Effective date. This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Approved

Douglas M. Duncan, County Executive

Date