

Ordinance No. _____
Subdivision Regulation Amend. No. 05-05
Concerning: Planning Board Actions -
Enforcement
Revised: 2-2-06 Draft No. 2
Introduced: December 13, 2005
Public Hearing: January 17, 2006
Adopted: _____
Effective: _____

**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: District Council

AN AMENDMENT to the Subdivision Regulations to:

- (1) clarify who is responsible for taking certain enforcement actions with respect to certain plans approved by the Planning Board;
- (2) update and repeal obsolete language and make corrective and stylistic changes; and
- (3) generally amend the law regarding enforcement of subdivision plans, site plans, and other Planning Board actions.

By amending the following sections of the Montgomery County Code, Chapter 50:
Section 50-41, Enforcement

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

OPINION

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:

Ordinance No. _____
Subdivision Regulation Amend. No. 05-06
Concerning: Subdivision and Site
Plans – Coordination with other
agencies
Revised: 12-12-05 Draft No. 2
Introduced: December 13, 2005
Public Hearing: January 17, 2006
Adopted: _____
Effective: _____

**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: Councilmember Silverman

AN AMENDMENT to the Subdivision Regulations to:

- (1) clarify the responsibilities of certain County agencies with respect to recommendations on proposed subdivision plans;
- (2) update and repeal obsolete language and make corrective and stylistic changes; and
- (3) generally amend the law regarding approval of subdivision plans, site plans, and similar Planning Board actions.

By amending the following sections of the Montgomery County Code, Chapter 50:
Section 50-35, Preliminary subdivision plans – Approval procedure

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

OPINION

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. Section 50-35 is amended as follows:**

2 **50-35. Preliminary subdivision plans-Approval procedure.**

3 (a) *Referral of plan.* [Two copies of the plan immediately must be
4 referred] Immediately after receiving a proposed plan, the Director
5 must send a copy to any of the following agencies that has a direct
6 interest in the installation or maintenance of utilities, roads, or other
7 public services that will serve the proposed subdivision, for the
8 agency's [review and] recommendation with respect to [approval of]
9 the plan.

10 (1) Washington Suburban Sanitary Commission, as to water and
11 sewer service and storm drainage.

12 (2) County Department of Public Works and Transportation, as to
13 roads, streets, crosswalks, paths and storm drainage.

14 (3) Department of Permitting Services, as to sanitation, wells,
15 septic systems, water and sewers.

16 (4) Montgomery County Fire and Rescue Service, as to
17 requirements for adequate fire protection and access;

18 [(4)] (5) State highway administration, as to right-of-way
19 requirements and access on state roads.

20 [(5)] (6) [Appropriate agencies] Any appropriate agency of the federal
21 government, as to federal projects.

22 [(6)] (7) Any municipality which has filed a request with the Board
23 for an opportunity to review subdivision or resubdivision plans
24 [within such] for property located in that municipality.

25 [(7)] (8) Board of Education, as to school site planning.

26 [(b)] The Board shall submit information regarding the subdivision
27 regulations to the department or office responsible for the compilation

28 and publication of the development manual required in section 2-27A
 29 for integration into such manual as needed for inclusion in the agenda
 30 of regulatory change called for in Section 2-27A.]

31 [(c)] (b) Recommendations from public agencies. Each County agency to
 32 which a [given] plan is referred [shall] under subsection (a) must
 33 return [one (1)] a copy of the plan to the Board within [thirty (30)] 30
 34 days after receiving it, with the agency's recommendations [noted
 35 thereon, such as "approval," "approval subject to modification" or
 36 "disapproval" for stated reasons] regarding any issue within the
 37 agency's jurisdiction. The Director may ask any federal, state, or
 38 municipal agency to which a plan is sent to respond within 30 days or
 39 another appropriate time. [If such recommendation is not made
 40 within the thirty-day period by an agency to whom referred, the plan
 41 shall be deemed to be approved by it, provided there has been
 42 compliance with the provisions of subsections (d) and (e) below.] The
 43 [period may be extended by the] Board may extend a County agency's
 44 comment period for an additional [thirty (30)] 30 days [upon request
 45 of such] if the agency [stating reasons therefor] requests an extension
 46 in writing and gives a substantial reason. If a County agency does not
 47 submit a recommendation within the allowed time, the Chair of the
 48 Board must immediately notify the County Executive and the Council
 49 President of that fact.

50 (c) The Board [shall] must establish a subdivision review committee
 51 consisting of Planning Department staff [of the Board] and staff of
 52 any [agencies] County agency to which a given plan has been
 53 referred, [for the purpose of meeting] to meet with applicants and
 54 other interested persons to facilitate agency review of the plan, or to

55 reconcile conflicting requirements by different agencies. Each
 56 County agency to which a preliminary subdivision plan is referred
 57 [shall] must designate a representative to the subdivision review
 58 committee. For the purpose of plan review, the head of any
 59 participating County agency [shall] must delegate authority to a
 60 representative to speak for the agency. After receiving the comment
 61 of [the agencies] each agency and any recommendation from
 62 members of the subdivision review committee, the [Board] Planning
 63 Department staff [shall] must prepare its recommendation to the
 64 Board with regard to public requirements [to be established] for the
 65 subdivision, the reconciliation of conflicting agency comments, and
 66 any other [matters upon which the Board should act to bring the
 67 proposed development into accord with these and other regulations]
 68 issue regarding compliance with applicable law and regulations.

* * *

70 **Sec. 2. Effective date.** This ordinance takes effect on March 1, 2006.
 71 Section 50-35, as amended by this ordinance, applies to any plan received by the
 72 Planning Board on or after that date.

73 *Approved:*

74

Douglas M. Duncan, County Executive Date

75 *This is a correct copy of Council action.*

76

Linda M. Lauer, Clerk of the Council Date

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:

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; and

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.

73

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76 _____
Linda M. Lauer, Clerk of the Council

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*

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] Δ 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.

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Linda M. Lauer, Clerk of the Council

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.*

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

Bill No. 35-05
Concerning: Permitting Services – Site
Plan Enforcement
Revised: 10-27-05 Draft No. 1
Introduced: November 1, 2005
Expires: May 1, 2007
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Denis, Floreen, and Knapp

AN ACT to:

- (1) direct the Department of Permitting Services to enforce the requirements of site plans adopted or amended by the Planning Board;
- (2) making conforming and technical changes in the law assigning duties to the Department; and
- (3) generally amend the law governing the functions and duties of the Department of Permitting Services.

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-42B

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 2-42B is amended as follows:**

2 **2-42B. Functions; Advisory Committee.**

3 (a) *Functions.* The Department of Permitting Services is responsible for:

4 * * *

5 (2) code enforcement, inspection, and licenses (except where those
6 functions are assigned by law to another department or agency),
7 including:

8 (A) administering, interpreting, and enforcing the zoning law
9 and other land use laws and regulations, including
10 enforcing all requirements of any site plan adopted or
11 amended by the Planning Board;

12 (B) administering, interpreting, and enforcing construction
13 codes, and laws and regulations governing sediment
14 control, stormwater management, floodplain management,
15 special protection areas, and pond and excavation safety;

16 (C) issuing building, electrical, stormwater discharge, and on-
17 site water supply and sewage disposal permits; and

18 (D) administering and enforcing agricultural preservation and
19 historic resources laws and regulations.

20 (b) *Advisory Committee.*

21 * * *

22 (3) The ex-officio, non-voting members must be nominated
23 respectively by the Director of Environmental Protection, the
24 Director of Housing and Community Affairs, the Director of
25 Public Works and Transportation, the Fire [Administrator] Chief,
26 the Planning Board, and the Washington Suburban Sanitary
27 Commission.

Public Hearing Testimony - Robert Hubbard, Director Department of Permitting Services
ZTA 05-19 Use and Occupancy Permits and Site Plan Enforcement
January 17, 2006 7:00pm

Good evening, I am speaking today on behalf of County Executive Douglas Duncan in support of Zoning Text Amendment 05-19 Use and Occupancy Permits and Site Plan Enforcement. The intent of the ZTA is to authorize the Department of Permitting Services (DPS) to inspect and enforce violations of site plans approved by the Planning Board and to require Use and Occupancy Certificates for single family dwellings.

DPS is an organization with enforcement responsibilities and experience. This proposed ZTA extends the responsibility of DPS to include the inspection of properties for compliance with conditions of site plan approval granted by the Planning Board. Further, the ZTA gives authority to DPS for the use of familiar tools such as notices of violations, stop work orders and citations to compel developers to comply with the site plan. One difference between ZTA 05-19 and ZTA 05-17 is that the Executive is not proposing to assume the authority to revoke a site plan previously approved by the Planning Board or otherwise adjudicate a plan of compliance. ZTA 05-19 preserves the site plan authority of the Planning Board with regard to content, approval and modification of the plan. ZTA 05-19 proposes only that DPS become the eyes of the Planning Board in the field during the implementation of the site plan. This approach is similar to and modeled after our Special Exception enforcement program with which the County Council may be more familiar. In special exception cases DPS is the enforcement arm of the Board of Appeals, while the Board of Appeals retains its adjudicatory responsibilities. That is the relationship that that will be forged between DPS and Park and Planning in site plan zones if ZTA 05-19 is adopted.

The enforcement of site plans and the requirement for single family dwellings to have Use and Occupancy Certificates are interrelated. In residential site plan developments, single family homes should not be occupied until the development is in compliance with the site plan. The requirement of a U&O is one more tool to ensure that a developer is maintaining compliance with the site plan. Likewise, it is a tool that can be used to ensure moderately priced dwelling units are being constructed and occupied in accordance with agreements and at a pace similar to market rate units within a development. The approval of this ZTA will provide DPS with the authority to review the overall development to make certain that it is in compliance with Planning Board approvals, building codes and other development related standards before developers can sell a home to a buyer. Homeowners, developers, builders and the County will benefit from this comprehensive review and approval.

Thank you for the opportunity to comment tonight. We are also in support of the other ZTA's and bills before the Council tonight that are consistent with ZTA 05-19 and my testimony this evening.

My staff and I look forward to participating in any upcoming discussions on this matter.