



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

MCPB
Item # 14/
06/14/07

MEMORANDUM

June 8, 2007

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Development Review Division

FROM: Catherine Conlon, Subdivision Supervisor (301-495-4542)
Development Review Division *CC*

SUBJECT: Final Draft Manual of Development Review Procedures

RECOMMENDATION: Approval

SUMMARY

Late last year, the Planning Board began an effort that is ongoing, to review and update their Rules of Procedure. As part of that discussion, it was recognized that some of the procedures included in the existing rules did not relate to the Board's process. Instead, they covered Planning Department practices related to the review and processing of development applications being brought to the Board. A decision was made to remove these types of items from the rules, and create a Manual of Development Review Procedures that combines them with the other staff practices in a document which summarizes the development review process.

The first draft of the manual was released for review and comment on November 6, 2006. Afterward, a focus group of selected individuals was formed to help facilitate the review. The focus group included attorneys, builders, project consultants and citizens (see Attachment A for the list of participants). With the help of the focus group, and based on comments received during both an open forum held on January 30, 2007, and the public hearing held on March 1, 2007, staff has prepared the attached final draft of the manual (Attachment B) for the Board's review and approval.

DISCUSSION

The manual covers the process and procedures for application and review of plans submitted to the M-NCPPC Development Review Division. It is organized in seven sections as follows:

Section 1. Purpose and Applicability

The manual sets forth administrative and procedural standards intended to facilitate accurate, comprehensive and timely review of submitted plans. The standards apply to the submission of pre-preliminary plans, preliminary plans, project plans, site plans, plan amendments, record plats, and requests for extensions or Subdivision Regulations waivers. This section outlines how staff and applicants are expected to participate in the process. In this final draft, the expectations for agency reviewers participating in the plan review process have been added. Applications that are reviewed by staff and the Planning Board for the Board of Appeals and District Council (i.e., special exceptions and zoning cases) may at some point also be included in this manual, but currently they continue to be accepted by county staff.

Section 2. Application Submittal

This section describes a new, two-step, standard application process for most plan submittals. The section also describes new requirements for written certification and a statement of justification by the applicant, attesting to the accuracy and completeness of their application, and summarizing the reasons they believe their application should be approved. The final draft includes added language that speaks to the consequences of submitting incomplete applications, and the actions to be taken when information in an application that is certified by a professional is found to be inaccurate or misleading.

Much has been said during the development of the manual about the need to substantiate the integrity and reliability of information on applications. It is staff's opinion that the two-step application process, along with the development of specific standards from accuracy, will address these concerns. Standards for accuracy have been deliberately excluded for this manual, but will be incorporated into the application forms and checklists for each application type. The current versions of these forms reflect the existing standards of the Subdivision Regulations and Zoning Ordinance and staff practice, but they need to be updated. In particular, the standards for which professional certification is required need to be clarified, and more specific language for the certification needs to be developed. This effort has begun, but is not complete for inclusion here. Staff would, therefore, request that the Board either authorize us to complete this effort without Board input or ask us to schedule another date to bring these items to you.

Section 3. Notice

This section includes the requirements for notice along with new requirements for pre-submittal citizen meetings and site posting. Pre-submittal meetings and site posting is required for site plans and site plan amendments per Chapter 59 of the Montgomery County Code, but

this manual expands the requirement to project plans, preliminary plans, and preliminary plan amendments. The section also updates the list of individuals who must be included on the notice list, and describes new noticing requirements for the Consent Agenda.

Changes that have been made in the final draft include: incorporating instances where the notice area may be expanded and requiring that notice be sent to area schools for posting on their listserv, if they choose; addition of a specific requirement for re-noticing of an application that is pending for more than one year; and, clarification that failure to properly maintain site posting will result in delay of a Planning Board hearing. There were also comments made during previous discussions about the content of the notice letters and the need to provide specific staff contacts and a better description of how citizens can participate in the process. To that end, staff is developing a new standard template for both application and public hearing notices.

Section 4. Evaluation of Applications

The section describes, for the most part, existing staff practices for review of applications. It discusses how inter-agency review occurs through the Development Review Committee (DRC), and assigns timeframes for the review process, including defined consequences for undue delays by the applicant. A detailed explanation of how citizens may participate in the process is also included. Finally, the section details how staff reports must be prepared, and the opportunities for applicants and citizens to critique them.

The existing statutory requirements for the timeframe of application review have been added to the final draft along with the circumstances under which they can be expanded. In addition, a requirement that all plan revisions be reviewed by the Development Review Intake Section for completeness and accuracy prior to acceptance has been included. In response to comments regarding the need to document the steps taken by the department to ensure integrity and reliability of the information on applications, a requirement has been added that each staff report include a summary of these efforts.

Section 5. Planning Board Hearing

The section describes how and when development applications are scheduled for public hearing, and sets forth requirements for exhibits presented at the hearing. Since the rules for conducting hearings and adopting resolutions or opinions are contained in the Planning Board's Rules of Procedure, the section makes reference to the rules to assist those looking for details on those procedures. This section has not been changed from earlier drafts. There was a previous comment that perhaps the manual should include specific timeframes for the adoption of Planning Board resolutions, however, current staffing issues in both Development Review and the Legal office make it very difficult for specific timeframes to be met. Rather than establish a timeframe that is not currently realistic, the final draft does not attempt to set one.

Section 6. Certified Plan Approvals

This section describes existing staff practices for the review and certification of preliminary plans and site plans. The final draft does not modify previous versions of this section.

Section 7. Alternative Procedures

The manual notes that there are certain applications that may be made after the Planning Board's approval of a development plan (e.g., record plats, plan extension requests and consent agenda amendments) or instead of that process (Subdivision Regulations waiver requests). The submittal and review of these types of applications are handled differently from the more standard development plan applications, and this section of the manual includes these alternative procedures; most of which are existing staff practices. The final draft of the manual modifies this section to include a description of the process for review of Limited Site Plan Amendments, and a discussion of other types of amendments that may be approved by staff, or don't need previous approval.

The description of the process for review of limited site plan amendments reflects current staff practice for implementing the current requirements of the County Code. The process for staff level amendment of a project plan is taken directly from the code and included in the manual for easier reference. In anticipation of a future zoning text amendment to permit certain Planning Director level amendments to a certified site plan, a section has also been added to this final draft to reference those provisions. If the Planning Board approves the development manual as expected, this section would be removed since action will not have been taken on the text amendment.

The new section covering site plan amendments that may not need prior approval has also been added to clarify the types of changes that fall into the category of maintenance, and to formally establish the current staff policy regarding recreation equipment substitutions, which are currently administrative amendments. Amendments that fall into the category of basic maintenance are described in this section as replacement of certain features with those of like kind. There are, however, other necessary improvements that can be classified as maintenance, but involve changes that alter an approved site plan slightly. Examples of this could include: re-striping a parking lot to allow the creation of a small number of additional parking spaces or addition a concrete pad around a drainage grate to facilitate the flow of water to the grate. These are items that were handled administratively prior to the recent amendments to the zoning ordinance, and the proposed language in this final draft would permit them once again. The currently pending zoning text amendment may need to be approved prior to actual adoption of this provision, so, like proposed section 7.F.(b), this section would be removed from the manual pending action on the text amendment.

CONCLUSION

This final draft of the Development Review Manual is a summary of the process currently followed by staff in the Development Review Division, with many improvements and

clarifications developed by staff with help from the focus group and the individuals who participated in the review of previous drafts. The resulting document establishes the procedures for filing and review of development applications, outlines the expectations for staff, agency reviewers, and applicants in implementing these procedures, and includes guidance for how citizens and other interested parties can participate. Hopefully, the Planning Board will agree that this manual refines the development review process to make it clearer and more accountable to all parties involved, and will approve the final draft for transmittal to the County Council.

Members of the Focus Group

Mr. Harry Lerch, attorney with Lerch, Early and Brewer
Mr. David Brown, attorney with Knopf and Brown
Ms. Amy Presley, citizen representative from Clarksburg Town Center Advisory Committee
Ms. Barbara Falcigno, citizen representative from Greater Olney Civic Association
Mr. Robert Spaulding, Miller & Smith Builders
Mr. David Weiss, Weiss Builders
Mr. Frank Bossong, Rodgers Consulting
Mr. Kevin Foster, Gutschik, Little and Weber

ATTACHMENT B

**Manual of Development Review Procedures
for Montgomery County, Maryland**

**ADMINISTRATIVE STANDARDS
for Plans Submitted to the Maryland-National Capital
Park and Planning Commission, Development Review Division
for Review and Approval by the Montgomery County Planning Board**

**Maryland-National Capital Park and Planning Commission
Montgomery County Planning Department, Development Review Division
May 2007**

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Section 1. Purpose and Applicability

The purpose of this manual is to set forth administrative and procedural standards intended to facilitate the accurate, comprehensive and timely review of all facts and circumstances relevant to any plan submitted to the Montgomery County Planning Department, Development Review Division pursuant to the Subdivision Regulations and Zoning Ordinance of Montgomery County. The procedures set forth are designed to provide the maximum amount of information feasible from all appropriate sources, so as to provide staff and the Planning Board an informed basis for a decision on the matter. The standards in this manual apply to the submission of Pre-preliminary Plans, Preliminary Plans, Project Plans, Site Plans, Plan Amendment Requests, Record Plats, and applications for Extensions and Subdivision Regulations Waivers.

To achieve this purpose, the Manual

- i. Seeks to establish a process that is clear, transparent and understandable by the staff, applicants and the community;
- ii. Makes clear when relevant information is to be provided by the applicant in order to be timely, and the submission procedures to be followed;
- iii. Provides for timely participation and input by public agencies; and
- iv. Provides for timely participation by citizens affected by the proposal, and by other members of the public, so that their views will be known by staff and the Board in advance of a decision.

1.A. Basic Planning Department Policies Concerning the Development Review Process

Expectations of the Staff

Planning Department staff will adhere to the following policies concerning the development review process:

- Staff will review applications carefully, fairly and in a timely manner.
- Staff will apply the applicable laws, regulations, and guidelines in a manner consistent with the original legislative intent.
- Staff review teams will work collaboratively with the community and applicants to present a recommendation to the Board that complies with the applicable standards of review.
- Staff will work with other agency staff, the applicant and the community in a cooperative manner to seek a mutually satisfactory resolution when problems or issues arise.

- Staff will attempt to identify issues early in the process and strive to resolve them as early as possible.
- Staff will work collaboratively with each other, actively seeking solutions that will benefit the project as a whole and achieve the County's planning and community-building goals.
- Staff will carry out the Planning Board's expectations in terms of:
 - Plans and policies, standards, guidelines and principles
 - Process and schedule
 - Submittal requirements
 - Expected levels of quality

Expectations of the Agency Reviewers

M-NCPPC and other agency staff who participate in the review of development applications will adhere to the following policies for referral and inter-agency consultation:

- Agency reviewers will review applications in a careful, fair and timely manner.
- Agency reviewers will participate in pre-DRC and DRC meetings, either in person or by transmitting written comments to the DRC chair.
- Agency reviewers will make reasonable efforts to participate, when necessary, in supplemental meetings on specific cases; as may be requested by either the lead reviewer or the applicant.
- Agency reviewers will work collaboratively to identify and seek mutually satisfactory resolutions for conflicting recommendations using the adopted lead-agency protocol.
- In the rare event that agency reviewers are unable to timely reach a mutually satisfactory recommendation on issues related to a development application, the recommendation of the designated lead agency will be forwarded to the Planning Board.

Expectations of the Applicants

- Applicants will conform to Planning Department and County policies, procedures, and regulations related to proposed development projects.
- Applicants will submit complete and accurate applications.
- Applicants will coordinate questions, issues and all revisions through the lead reviewer.
- Applicants will notify the lead reviewer promptly if there is a major change to a development project under review.
- Applicants will work with the staff and the community in a cooperative manner to seek a mutually satisfactory resolution when problems or issues arise.
- Applicants will select a development team of consultants appropriate for the project.

- Applicants will be committed to building enduring, well-designed, high quality communities.

Section 2. Application Submittal

The process for submitting an application to the Development Review Division varies depending upon the type of application being made. Most applications for new development must be submitted according to the standard submittal procedures outlined in this section, and will be reviewed and approved per the requirements contained in sections 4 and 5. These applications include:

- Project plans;
- Preliminary plans;
- Section 59-D-3 Site plans; and
- Plan Amendments that require Planning Board hearings

This manual also discusses certain non-standard applications that are subject to alternative submittal and review procedures as outlined in section 7. These applications include:

- Record plats;
- Requests to extend Preliminary plan or Adequate Public Facilities (APF) validity periods;
- Requests for waivers of the Subdivision Regulations; and
- Plan Amendments that do not require Planning Board hearings

2.A. Standard Application Submittal Procedure

There is a two-step application process for plans submitted for standard review and Planning Board approval. The first step involves filing an initial application which staff will review for accuracy and completeness. The second step involves filing the final application, along with prints for distribution, and supplemental information. The Development Review Division of the Maryland-National Capital Park and Planning Commission will accept a submitted plan as being complete only when all requirements set forth in this section of the manual have been met. There are also specific requirements for notice and site posting mentioned here, and covered in detail in section 3.

2.A.(a) Pre-submittal

Required Meeting with Citizens

Prior to submission of an initial application for Project Plans, Preliminary Plans, Site Plans, and Amendment Requests that require Planning Board hearings, an applicant is required to hold a pre-submittal meeting with citizens, as required in sections 3B and C.

Optional Meeting(s) with Staff

In certain instances, such as, where site constraints or other issues related to proposed development of a property raise questions pertaining to a future application, an applicant may request a pre-submittal meeting with staff. In general, these requests should be made to the supervisor of the Development Review Division section, or sections, which will have the lead role in review of the future application. Meetings to discuss specific aspects of a future application (such as, environmental, transportation, parks, historic preservation, or master plan) with the responsible division are also permitted. However, Development Review staff must be notified by the applicant when these meetings are

scheduled. Documentation of all pre-submittal meetings with staff must be included in the future application package. Staff advice to applicants concerning applications or specific aspects of the review does not bind the Board. All parties are urged to seek competent legal advice to determine what approvals are necessary for any given project.

2.A.(b) Initial Application

Applicant's Responsibility

An initial application must be submitted to the Development Review Division, Intake Section. The application package must be submitted, in duplicate, and must contain:

- an application;
- a plan drawing properly signed and certified by a licensed professional, and one (1) copy of all other submittal items included in the plan checklist attached to the application form; and
- the appropriate fee.

Plan Amendments

Plan amendment applications must be filed by the applicant in order to revise any approved plan or any findings, conclusions, or conditions associated with the plan. The applicant should contact Subdivision (preliminary plans) or Site Plan (project and site plans) review staff to determine the exact submittal requirements and applicable fees. The amended plan must clearly identify the items or areas of the approved plan, which are to be revised. The applications must include all information contained in the appropriate application checklist.

NOTE: Application forms and checklists are available on the Commission's website at www.mc-mncppc.org/development.

Staff's Responsibility

Staff must review the application within 10 working days and enumerate, with a mark-up of the application, all revisions or additional materials that will be required to make the application consistent with the submittal requirements and therefore acceptable for final submission. Upon completion of the mark-up, staff must notify the applicant that it is ready for pick up and schedule an appointment time for submittal of the final application.

Staff's review of the initial application is to determine whether the information being submitted is complete and meets Planning Department standards for accuracy. It is not a review of the merits of the case. The Board strongly encourages applicants to take great care to ensure that applications are accurate and complete, and discourages applicants from relying on the staff review to ensure the accuracy and completeness of their application. The staff must, at their discretion, decline to review particularly incomplete or incorrect application packages and return them to an applicant without refund of the initial application fee. In these instances, a new initial application and fee will be required.

In instances where the staff finds that information certified by a professional is inaccurate, misleading or false, either during application review or later in the review of the plan, staff must report the instances to the Planning Director. The Planning Director must review the report, provide the professional an opportunity to respond, and consider all relevant information to determine the matter. If the Planning Director determines that the professional submitted materially inaccurate, false or misleading information, the Director

may take appropriate action including, rejecting the application, and reporting the instance to the appropriate licensing board.

2.A.(c) Final Application

The final application must be tendered to the Development Review Division, Intake Section by appointment only. The final application package must contain:

- the mark-up of the initial application;
- the final application form signed and dated by the property owner or applicant;
- the plan submittal checklist;
- plan drawings properly signed and certified by a licensed professional, and all other items required by the plan checklist, in the specified numbers;
- documentation of pre-submittal meeting and site posting;
- a certificate of compliance;
- a statement of findings/justification; and
- the appropriate fee.

All full-sized plan drawings must be legible, including notes and specifications. Where reduced plans are required, at least the plan drawing must be legible. All reduced plans must include the modified graphic scale.

2.A.(c)(i) Certificates of Compliance

The applicant will prepare and submit with each application a written certificate attesting, to the best of the applicant's knowledge, information and reasonable belief, after reasonable investigation, that the application conforms to all applicable federal, state and local laws and regulations, and to all relevant previously approved plans for the subject property, including:

- all non-illustrative elements of an approved Development Plan;
- each binding element of an approved Schematic Development Plan;
- an approved Diagrammatic Plan pursuant to Division D-4 of the Zoning Ordinance;
- an approved Project Plan;
- all conditions of previous plan approvals imposed by the Planning Board, including project plans, preliminary plans, site plans and forest conservation plans; and
- the program of development proposed under each and every other application (including any application for amendment) that is concurrently filed by the applicant, or pending acceptance or approval, with respect to a development project that includes or otherwise relates to the subject property.

2.A.(c)(ii) Statements of Findings/Justification

The applicant must submit with each application, including plan amendments, a written statement to enumerate the findings of fact and conclusions of law that the applicant alleges support a Planning Board approval. When an application includes a request for waiver(s) of any applicable code or regulations requirement, the statement of findings/justification must enumerate each of the facts, and the legal grounds and necessary findings, for the requested waiver. The applicant is required to attach and incorporate by reference, any diagrammatic or illustrative materials that support the facts claimed in the statement of findings/justification. The applicant, or a representative of the applicant, must certify that the information set forth in each statement of

findings/justification is true, complete and correct to the best of their knowledge, information, and belief.

NOTE: Examples of the format for certificates of compliance and statements of findings/justification are available on the Commission's website at www.mc-mncppc.org/development.

2.A.(d) Fees

Fees will be charged for the review of all applications in accordance with the fee schedule worksheet included in the application form. A designated portion of the fee will be charged at the time of the initial application, and the remainder will be due with the final application. Fees must be paid by check made out to the Maryland-National Capital Park and Planning Commission (MNCPPC).

2.B. Acceptance of an Application

To be accepted for review, an application must be complete and otherwise comply with the filing procedures specified in section 2.A. Planning Board staff must provide the applicant written confirmation that the submittal has been accepted as complete at the final application appointment, or must enumerate, in writing, all revisions that are necessary for the application to be deemed complete. The acceptance of a plan means that it has been deemed to be complete and accurate for purposes of filing. Acceptance for filing in no way constitutes approval of the submitted plan. Staff may reject, or postpone the review of, an application that has been accepted for filing if it is determined at a later date to be inaccurate or incomplete.

All non-privileged information contained in the application file is part of the public record. All supporting materials presented to the Montgomery County Planning Board or otherwise incorporated into the plan by the Board at the time of the public hearing become part of the public record. By submitting a plan application, the applicant agrees to comply with the checklist of standard plan requirements included with each application form.

Section 3. Notice

3.A. Notice List

As part of an application, the applicant is required to submit a list containing the names and addresses of individuals who must receive notice pursuant to Section 3.D., below. The notice list must include:

3.A.(a) Adjacent and Confronting Property Owners

The applicant must obtain the names and addresses of all adjacent and confronting (properties separated from the development site by an intervening road or utility right of way) property owners. This list must be based on the latest available tax assessment ownership records from the Maryland Department of Assessments and Taxation, Real Property Data Base. The list must be compiled no more than 30 days prior to the date of the pre-submission meeting as described in section 3B, below, and must be updated no more than 30 days prior to the date the final application is submitted. When an adjacent or confronting property includes a multi-unit building, the list must include the property owner, the building management company, and the condominium association, if any (not individual unit owners or renters). When an adjacent and confronting property is common open space for cluster-type development, the list must include the homeowner's association and any

individual property owner within the cluster-type development located within 300 feet of the subject property.

3.A.(b) Civic, Community, Condominium and Homeowners Associations

The applicant must obtain from the Development Review Division, a list of the citizen, community, condominium and homeowner's associations that have registered with M-NCPPC, and are operating within a one-mile radius of the center point of the property for which an application is being submitted. At staff's discretion, this list may be expanded for large or unusually shaped properties, to include associations within a one-mile radius of the center point of each side of the property.

3.A.(c) Pre-submittal Meeting Participants

When a pre-submittal meeting is required, the applicant will compile a list of names and addresses of individuals who attend the pre-submittal meeting and indicate they wish to be included as a party of record.

3.A.(d) M-NCPPC

The list will include the M-NCPPC, Development Review Division, Intake Section.

3.A.(e) Other

Planning Board staff may also require the applicant to include on the list, registered common ownership associations and umbrella civic associations that staff determines confront a public facility not adjacent or in close proximity to the subject property that may require construction or improvement as a result of the subject application. If required, such notice must be directed to each designated association no later than 30 calendar days prior to the Planning Board's public hearing on the Application.

3.B. Pre-submittal Citizen Meetings

For a project plan, preliminary plan, site plan, or preliminary or site plan amendment, the applicant must host at least one pre-submittal meeting no more than 90 calendar days prior to the final application date. The purpose of the meeting is to explain the proposed project, address concerns about its impact on the community, and to notify those attending of their right to participate in the review process. The applicant must specifically invite all individuals who will receive notice of the application per section 3.A., above, and must also post signage on the property a minimum of 10 calendar days prior to the meeting, containing the meeting time, location, and developer contact information. The meeting must be held on an evening or a weekend, in a location convenient to the location of the proposed development site. At the time of the meeting, the applicant must provide a sign-in sheet so that attendees may identify themselves.

At the time of the application submittal, the applicant must provide the following pre-submittal meeting documentation:

- A notarized affidavit stating date, time and location of the meeting.
- A copy of the invitation letter with a typed list of invitees.
- A typed list of meeting attendees with an attached copy of the sign-in sheet (including names and addresses of those individuals who want to be included as a party of record).
- Meeting minutes, including a summary of any issues or concerns raised by those present.

3.C. Site Posting

In addition to site posting required for notice of the pre-submittal meeting, the applicant must post a sign at the development site prior to filing a final application for project plan, preliminary plan, site plan, or amendments thereto; and maintain the sign through review of the application. The applicant is responsible for all costs associated with the site posting requirements. A minimum of one sign must be placed along all adjacent streets. Signs must be posted every 600 feet when a street frontage adjacent to a site exceeds that distance. Signs must be placed parallel to the roadway. Signs must be placed on the property in the most visible location available in such a manner that landscaping or other obstructions do not impair the visibility of the signs from the street. The signs must not be placed on the public street right-of-way, however, the signs must not be placed more than 10 feet behind the property line adjacent to the right-of-way. The applicant must monitor the signs and replace damaged or illegible signs.

All posted signs must contain the following information:

- the project name as it will appear on the application
- the type of plan
- a short project description, including each use and its associated number of dwelling units or square footage
- applicant contact information
- Development Review Division contact information

The applicant and/or their sign vendor must access and apply the sign template and lettering specifications located on the Commission website at www.mc-mncppc.org/development. The sign must be a minimum 36" by 48" in size (1,728 square inches), on a weatherproof surface, with legible lettering. The bottom of a posted sign may not be less than 3 feet to the ground. Stakes (wood, steel, or other similar supports) must be driven into the ground approximately one (1) foot or to a depth that assures the sign remains upright. The Commission may modify these requirements where special circumstances exist in order to ensure that the signs will be visible to the general public.

At the time of application submittal, the applicant must provide the following documentation of site posting:

- a notarized affidavit stating the date and location of sign(s) posting;
- a plan drawing showing the location(s) of the sign(s); and
- a dated photograph showing the sign(s) on the development site at least ten (10) calendar days prior to submitting a final application.

After an application is submitted, the applicant must update the posted sign(s) with the MNCPPC plan number assigned for review and approval purposes. Failure to maintain a properly posted sign on the development site will result in postponement of a Planning Board hearing for the application until staff is satisfied that the site has been properly posted for at least thirty consecutive days.

3.D. Noticing Requirements

Individuals included on the notice list, and others who request to be added as a party of record to the application, must receive notice as described below. The applicant should also forward a copy of the application notice to all public schools in the applicable School Service Area for posting, if they choose to, on their listservs.

3.D.(a) Notice of Applications

The applicant must give notice of the filing of an application to parties on the Notice List in the following manner:

3.D.(a)(i) Project, Preliminary, and Site Plans, and Plan Amendments that require a Planning Board Hearing

The applicant must mail written notice of its Application to all parties on the notice list. The written notice, along with a legible 11X17 inch copy of the proposed development plan drawing, and the latest version of the Commission's brochure, "How to Participate in the Subdivision and/or Site Plan Process" must be sent by first class mail to these parties within 5 calendar days from the date of the final application submission. The applicant will retain each item of mail returned undelivered, and produce any item retained for inspection by the staff or the Planning Board upon request. If the Development Review Division has not received a copy of the required notice, the Development Review Committee meeting will be postponed until such time as the applicant demonstrates that notice was sent.

The notice list, as specified in 3.A. above, along with addresses for engineers, attorneys, and other representatives for the project, must be submitted as part of the application to the Development Review Division on two sets of printer labels with one paper copy of the labels.

The written notice must include the following information:

- the application reference number;
- the date the notice was sent;
- reference to the statute(s) pursuant to which the Application is filed;
- the street address or other easily understood geographical reference to the location of the property;
- a brief description of the project being proposed;
- a copy of the proposed land plan; and
- the telephone number and address of the Development Review Division of the Maryland-National Capital Park and Planning Commission, and the name and telephone number of an individual employed by the applicant who will be available to provide further information concerning the proposed development in response to any reasonable public request.

In the event an application is pending for more than one year, the applicant must update the adjacent and confronting property owners on the notice list, and re-send written notice (with the latest plan drawings) to all parties on the notice list. The applicant must submit a copy of the written notice, and the updated adjacent and confronting property owners list with two sets of labels, prior to the plan being scheduled for Planning Board consideration.

3.D.(a)(ii) Consent Agenda Plan Amendments

The applicant must mail written notice of its Application to all parties on the notice list. The written notice, along with a legible copy of the amended plan drawings and any

accompanying items must be sent by first class mail to these individuals within 5 calendar days from the final application submission date.

The notice list, as specified in 3.A. above, along with addresses for engineers, attorneys, and other representatives for the project, and all other parties of record noted in any previous case file(s), must be submitted as part of the application to the Development Review Division on two sets of printer labels with one paper copy of the labels.

The Applicant must update the list of adjacent and confronting property owners with any contract purchasers within the plan being amended, or on a block adjacent to or abutting the area proposed for change.

The written notice must include the following information:

- the application reference number;
- the date the notice was sent;
- the street address or other easily understood geographical reference to the location of the property;
- a summary of the specific changes being sought; and
- a date (at least 15 calendar days after the mailing date of the notice) by which comments must be submitted to Park and Planning regarding the amendment.

If comments are received, staff and the Director must determine whether such comments are substantive enough to require that the amendment be handled via a public hearing. If no public hearing is deemed necessary, staff must notify those making comments of the date the matter will be taken up on the consent agenda; and that any person may request that the Planning Board remove an item from the agenda, on or before that date. Only the Board may transfer an item on the consent agenda to the hearing agenda. The Chair, at the request of the applicant, may remove an item from the consent agenda before the scheduled date.

3.D.(b) Notice of Public Hearing

Not less than ten (10) calendar days before the date of scheduled public hearings, Development Review Division staff must send notice via first class mail to the individuals and locations included on the applicant's notice list, as described above, and to all other parties of record who have been identified during the review of the application. These other parties of record include individuals who have sent correspondence to the Planning Board or staff concerning the project, and any other individuals who have otherwise requested to become a party of record by providing their contact information.

3.D.(c) Notice for the Consent Agenda

Not less than ten (10) calendar days before the public meeting during which the Planning Board considers any Consent Agenda, Development Review Division staff must post a copy of the staff report for record plats and consent agenda amendments on the web.

Section 4. Evaluation of Applications

The planning staff must exercise due diligence, and impartial and independent judgment, to review and appropriately investigate the information presented by the applicant in each application. Upon acceptance of an application, a lead reviewer will be assigned by the supervisor of the Subdivision or Site Plan section, as applicable. The lead reviewer will coordinate review of the application, prepare the staff report, and present the case to the Planning Board.

4.A. Referral and Inter-Agency Consultation

Promptly upon the acceptance of each final application, the planning staff must provide a copy of the plan and necessary supporting information to designated offices of the Commission, and other government or public agencies for comment or approval as required under applicable local, state and federal laws. Within 3 weeks of such distribution, planning staff must conduct a Development Review Committee (DRC) meeting with agency reviewers and the applicant to discuss the application. The DRC meeting is chaired by the M-NCPPC Subdivision Supervisor, or designee. Each agency providing comments for the DRC meeting must do so in writing, and planning staff must ensure that those comments are included in the application file, along with a meeting summary and next steps. Even in the event any reviewing agency declines to participate or provide any substantive comment as part of the DRC meeting, planning staff must document that agency decision in the application file prior to the scheduling of the public hearing.

4.B. Review Timeframes

A minimum of 90 to 120 calendar days is generally required for administrative review of most applications. Non-controversial minor amendments, extensions and waivers generally require 30 to 60 calendar days. The review period will vary depending upon the number of issues identified as part of the review, and the need for plan revisions.

4.B.(a) Typical review

90 - 120 calendar days from plan distribution

Step 1: 3 weeks agency review prior to DRC

Step 2: DRC meeting

Step 3: 4-8 weeks for applicant revisions

Step 4: 3 weeks for agency review and approval of final revised plans

Step 5: 2-4 weeks for staff report draft

Step 6: 2 weeks posting of staff report before the Board hearing

NOTE: A tentative Planning Board date may be established at Step 2 if the Applicant commits to a timeframe for revisions based on the comments received.

Per statutory requirements of the Subdivision Regulations and Zoning Ordinance, project, preliminary and site plans must be presented to the Planning Board according to the following schedule, unless an extension is granted per section 4.B.(b), below.

- **Project plans** – not earlier than 60 days or later than 90 days after the Planning Department accepts a final application
- **Preliminary plans** – not later than the first regular meeting which occurs after 60 days have elapsed from the date a final plan has been submitted by

- the applicant
- **Site plans** – not later than 45 days after the Planning Department accepts a final application

4.B.(b) Extended review

Other types of applications may be reviewed concurrently with project, preliminary and site plan applications. However, review and action on the project, preliminary and site plans will be delayed pending action by the appropriate agency on these related applications, including: stormwater management concept and water quality plans; water and sewer category change requests; well and septic; special exception requests; rezoning requests; and master plan amendments or updates. Delays will also result if an applicant fails to submit necessary revisions or if revisions are not adequate, i.e., Steps 3 and 4 repeat.

The statutory review periods for preliminary and site plans may be extended by staff, with agreement by the applicant, for up to an additional 90 days to address necessary revisions and other agency approvals. The Planning Board must act to extend the review of a project plan if requested by interested parties or staff, for a time period the Board deems reasonable, provided that such extension must not constitute prejudice or undue hardship to any interested party.

4.B.(c) Application lapse deemed withdrawal

An applicant is responsible for timely response to agency comments, either in the form of plan revisions, or with a request for follow-up meeting(s) to resolve issues with appropriate members of the review team. The Development Review Committee or other meeting minutes must document the timeframe for response.

An application that has been pending for 365 calendar days with no substantial activity will be deemed withdrawn unless the applicant can demonstrate good cause for extending the application. Notice will be sent by staff to applicants whose plans have lapsed after 365 calendar days, and the applicant will have 30 calendar days to request an extension, after which, if the applicant does not request an extension, the application will be deemed withdrawn. Any request for an extension must state reasons for the delay, and the expected timeframe in which problems will be resolved. A new application and fee will be required for re-filing of any plan which is deemed withdrawn.

4.C. Plan Revisions in Response to Issues and Comments

4.C.(a) Applicant's Responsibility

The applicant must submit supplemental information or revised plans, in accordance with staff or other agency comments, within ten (10) working days of receiving the comments, unless another time period is agreed upon by staff and the applicant. The revisions must be submitted to the Development Review Division, Intake Section and all other agency reviewers as follows:

To Development Review Division, Intake Section -

- Copies of the revised plan, in the specified numbers, highlighting the specific revisions, showing the date(s) of each revision, and including the fact that the plan is a revision as part of the title information;
- A revised digital copy of the plan;

- Copies of a transmittal memo or cover sheet, in the specified numbers, identifying what is being submitted and why. The memo or cover sheet must refer to the M-NCPPC file number.

No appointment is necessary to submit supplemental information or plan revisions, however, the revisions must not be formally accepted until Intake staff have verified that the plans are complete and comply with all applicable standards for accuracy. Intake Section staff must notify the applicant within 2 business days that the revisions have been accepted. At that time, the applicant must distribute the revisions to other applicable agencies as specified below.

To other applicable reviewing agencies (after Planning Department acceptance) -

- At least one (1) copy of the revised plan highlighting the specific revisions, showing the date(s) of each revision, and including the fact that the plan is a revision as part of the title information;
- At least one (1) copy of a transmittal memo or cover sheet identifying what is being submitted and why. The memo or cover sheet must refer to the M-NCPPC file number.

4.C.(b) Agency Reviewer Responsibility

In most instances, agency staff reviewers will submit response to revisions directly to the applicant and the DRD lead reviewer. If comments necessitate major revisions to the plan, a second DRC meeting may be scheduled, at the lead reviewer's discretion. A conceptual plan, as agreed upon by staff and the applicant, may be submitted for further staff review before full revised plans are submitted.

Staff must require the applicant to re-send major plan revisions to all parties on the notice list. Major revision also requires resubmission of the application form (check revision box) if it involves a change in the acreage; number of lots or units; type of use or units proposed; a change in ownership, applicant or engineer; or method of development proposed. Final revised plans meeting the requirements of this manual must be submitted not less than 15 working days prior to the Planning Board public hearing, or the Planning Board's consideration of the development application will automatically be deferred.

4.D. Citizen Participation

All parties who have an interest in, or concerns about, a development application are encouraged to attend the pre-submittal meeting held by the applicant, and participate in the review process for that application. Comments regarding an application may be made to Development Review Division (DRD) staff in any manner at any time during the process, and must be addressed as part of the review. Written comments are preferred. The first formal meeting between applicants and agency reviewers is the inter-agency DRC meeting discussed in section 4.A., above. The meeting is generally held every three weeks, on Mondays. A DRC schedule containing items and the times they will be discussed, is posted on the Commission's website at www.mc-mncppc.org/development two weeks prior to the meeting. Citizen comments received prior to DRC will be discussed at the meeting, if applicable. The DRC meeting is not open to citizen participation, however, citizens may attend and listen to the discussion. In the event that more than a few individuals wish to attend the DRC meeting, prior notice to the M-NCPPC Subdivision Section Supervisor in DRD would be appreciated, so an appropriately sized location can be arranged.

Citizens are encouraged to contact the DRD lead reviewer at any time during the review

about concerns or questions. Upon request to either the lead reviewer, or the Subdivision and Site Plan Supervisors, as applicable, meetings with citizens will be scheduled for particular cases. For particularly complex or controversial cases, staff will initiate a citizens meeting. When appropriate, these meetings will be scheduled to include other agency representatives and/or the applicant. DRD staff will make every reasonable effort to resolve citizen's issues during the plan review, and citizens may present any unresolved concerns directly to the Planning Board as part of the public hearing for the application.

4.E. Consultation with Applicant and Other Interested Parties

Planning staff will organize and hold meetings during the application review period, as necessary or appropriate, to help evaluate the application. These meetings may include the applicant, other agencies, and the public or other interested parties. Minutes for each meeting must be included in the application file. Minutes must include the date, time and location of the meeting, a list of participants, major issues discussed, and any decisions made.

4.F. Staff Reports

DRD staff will prepare a report to summarize its proposed findings of fact and conclusions of law, and recommend that the Planning Board approve, approve subject to conditions, or deny the application, after completing with due diligence the investigation and review of each application, and receiving all required agency recommendations or approvals. In most instances, the staff report will be published on the Commission's website, and made available for pick-up upon request in the Development Review Division, a minimum of 10 calendar days prior to the scheduled public hearing. In exceptional circumstances, as determined by the Planning Director, the staff report may be published and made available up to 30 calendar days prior to the scheduled public hearing. These circumstances will generally be limited to exceptionally complicated applications that generate staff reports that require more review time because of their length and amount of supplemental information; or applications that are particularly controversial and involve large numbers of interested individuals who require time to coordinate their responses to the staff report.

4.F.(a) Contents of the Staff Report

Staff reports prepared for Planning Board consideration must include the following:

- A site description and overview of the project.
- Staff findings of fact and conclusions regarding all applicable requirements of the county code related to the plan, including a summary of steps taken to try to ensure the integrity and reliability of the information in the application.
- A summary of the major issues and concerns related to the application, and their resolution.
- Recommended conditions of approval, if applicable.

For amendments scheduled on a Consent Agenda, if no comments are received during the period designated in section 3.D(a)(ii), a memo will be written detailing the items being changed and making a finding that the change(s) will not alter the intent of the Board's prior approvals. The item will then be placed on the Planning Board's Consent Agenda for a

vote.

4.F.(b) Objections to the Staff Report

The applicant or other individuals may file objections to any of the findings or conclusions made in the staff report, no later than 3 days prior to the scheduled public hearing on the application for which the staff report has been written. Objections should be made in writing to the Planning Director, and must clearly identify and fully explain the basis for each disagreement. Any objection filed in this manner will be published immediately on the Commission website and distributed to the Planning Board members.

The applicant or other individuals may also object to any of the findings or conclusions made in the staff report during the scheduled public hearing on the application for which the staff report has been written.

4.F.(c) Postponement of Agenda Items

The applicant or other individuals may request postponement of a scheduled public hearing or Consent Calendar item after the staff report has been published, however, the request must be made in writing to the Planning Board. The written request must clearly identify and fully explain the basis for postponement. The applicant will be notified of postponement requests from other individuals and be given an opportunity to provide rebuttal.

A decision regarding postponement of a public hearing will be made by the Planning Board Chair. Any member of the Planning Board may pull an item off the consent agenda. If this is done, the item will be rescheduled for a future date, so that proper notice of a hearing can be sent to all affected parties and additional staff work can be undertaken, if necessary.

Section 5. Planning Board Hearing

5.A. Scheduling

Development applications will be given a tentative Planning Board date when the DRD lead reviewer has determined that:

- agency review is complete and written recommendations have been received;
- issues and concerns have been resolved, or must be raised to the Planning Board level for resolution; and
- a final plan has been submitted by the applicant (this plan will be date stamped by M-NCPPC and become the official plan for Board consideration).

The tentative Planning Board date is for M-NCPPC use as part of long-range agenda planning, and will generally not be published. The lead reviewer will share this date with the applicant and other interested parties who request the information and may, at their discretion, publish the tentative date on the Commission's website for particularly complex or controversial cases.

NOTE: Development applications will not be finally placed on a public hearing or

consent agenda until the staff report has been completed.

5.B. Exhibits

Applicants must submit the following exhibits to Development Review Division staff for use as part of the scheduled Planning Board hearing, at least 3 days prior to the scheduled date of the hearing:

- the rendered and mounted pre-preliminary plan, project plan, preliminary plan, site plan, or plan amendment, as applicable; and
- the rendered and mounted forest conservation and/or landscape plan, if applicable.

Other exhibits may be submitted at the hearing, but applicants and citizens are encouraged to submit them as early as possible. All exhibits must be entered into the record of a Planning Board hearing and be accepted by the Chairman. The exhibits must be labeled and made part of the permanent record of the case. As such, all exhibits submitted are the property of the Commission and must be collected by staff after the hearing and incorporated into the case file.

In general, the following guidelines should be used by applicants and individuals preparing exhibits for a Planning Board hearing:

- Visual exhibits must be presented in a format that can be clearly seen by the Planning Board, such as:
 - A plan drawing, a minimum of 30"x42" in size, and mounted, but not permanently affixed, on a display board (preferred).
 - A handout such as a reduced copy of a plan drawing (minimum of 8"x11" in size, 11"x17" preferred); minimum 12 copies must be provided for distribution.
 - Computer generated images (consult staff for acceptable formats).
- Visual exhibits must clearly delineate the boundary of the plan.
- Written exhibits or testimony should be presented on 8"x11" paper typed in at least 12pt font size.
- All computer generated images must be provided on a compact disc that will be retained by Planning Board staff after the hearing.
- All hard copy/display board applicant exhibits must also be provided as digital images (consult staff for acceptable formats).

5.C. Hearings and the Consent Agenda

Most hearings provide opportunity for testimonial evidence to be presented to the Board by staff, the applicant, and other interested parties. The Planning Board may also act without a public hearing to adopt any number of certain types of items as part of a consent agenda. Rules for the conduct of hearings before the Board are set forth in the Board's Rules of Procedure.

5.D. Resolutions and Opinions

The Planning Board will adopt a resolution or opinion to memorialize their action on plans. After adoption, a copy of the resolution/opinion will be mailed by staff to all parties of

record for the case. Rules for the adoption of resolutions/opinions are in the Board's Rules of Procedure.

Section 6. Certified Plan Approval

Preliminary and site plans (and amendments) that have been approved by the Planning Board are required to be certified by the M-NCPPC Development Review Division.

6.A. Preliminary Plan Requirements

The applicant must submit a reproducible copy of the preliminary plan as approved by the Board for certification by the Subdivision Supervisor upon receipt of the Planning Board resolution. Staff will affix the Planning Board's conditions of approval and record the Planning Board hearing and resolution/opinion dates. After Subdivision Supervisor signature, the certified plan will be returned to the applicant who must re-submit at least three (3) paper copies, and an electronic image on a compact disk, to be included in the application file and promptly made available to all parties via electronic access. Any required supplementary plans, such as forest conservation or landscape plans, will also be submitted in this manner.

6.B. Site Plan Requirements

The Certified Site Plan package must include the Planning Board's resolution (on the plan drawing), address all the conditions of approval, and include the required site plan information as noted in the site plan application checklist. The Applicant must submit four (4) copies (typical) of the Certified Site Plan package for review and approval. Staff will contact the applicant within 15 working days and enumerate any errors or omissions.

Four (4) sets of the corrected/completed Certified Site Plan must be submitted by the applicant for final signature. After signature by the Development Review Division Chief, a copy of the Certified Plan will be transmitted to the applicant who will scan the document and return an electronic image on compact disk to the Development Review Division. The scanned image will be promptly made available to all parties via electronic access.

Section 7. Alternative Procedures

There are certain types of applications that are subject to alternative procedures for submittal and review. These include record plats, requests for extension of plan validity, consent agenda plan amendments, and Subdivision Regulations waiver requests. These applications are made either supplemental to the Planning Board's approval of a development application (record plats, extensions and amendments), or instead of that process (waivers). These types of applications will be processed as follows.

7.A. Record Plats

The Subdivision Regulations require that a record plat be recorded within thirty-six (36) months of the date of mailing of the Planning Board's resolution for a preliminary plan of subdivision; or as otherwise stipulated in the resolution for phased approvals. A record plat application must be submitted to both the M-NCPPC Development Review Division (DRD) and the Montgomery County Department of Permitting Services (MCDPS) for review and approval.

7.A.(a) Pre-submittal requirements

Prior to submitting the record plat application, the applicant must contact the Records and Information Section of the Development Review Division for approval of the proposed subdivision name, lot and block designation and street name assignment.

7.A.(b) Application

A record plat application made to M-NCPPC may be submitted without an appointment to the DRD, Intake Section, and must include all items required on the application checklist and the appropriate fee. The application form must be filled out by the applicant's engineer/surveyor, who must sign the checklist certifying that the application and checklist are complete and ready for processing. The checklist must be submitted with the application form. Only complete applications will be accepted for review.

For properties that will be recorded by multiple plats, a separate application form will be required for each plat. Copies of a master application are acceptable provided that the appropriate information for each plat is supplied (i.e. number of lots, units, and area of each plat). One check for the total fee for a multiple plat submission is acceptable.

Any material or information submitted to DRD as part of a record plat application must be accompanied by a transmittal memorandum or cover sheet that identifies what is being submitted and why. If the material relates to a plat that has already been submitted, the memo or cover sheet must refer to the M-NCPPC file number.

Record plat applications will not be accepted until the Planning Board takes final action on the preliminary plan application and site plan application, if a site plan is required. In addition, a copy of the certified preliminary plan and the Planning Board's resolution/opinion on the preliminary plan must be submitted with the record plat application. A copy of the certified site plan and site plan resolution/opinion must be submitted for properties subject to site plan approval. At staff's discretion, a record plat application may be accepted without the Planning Board's resolution/opinion or copies of the certified plan(s); however, these items must be submitted by the applicant prior to approval of the plat by the Planning Board.

7.A.(c) Review and Approval

Upon acceptance of the application, the record plat will be reviewed by DRD staff and referred to others as appropriate. Reviewers outside DRD will be given 10 working days to provide their written comments. Upon completion of the review, staff will provide the applicant with a mark-up of the record plat that enumerates all necessary changes. The applicant will submit a revised record plat that incorporates these changes, along with any requested by MCDPS. The final plat submittal must include:

- the mark-up of the initial record plat;
- a mylar of the final record plat including original signatures of owner(s) and engineer/surveyor;
- a reduced copy of the final plat on 8 ½" x 11" paper;
- two (2) (typical) full-size, paper copies of the final plat; and
- an digital image of the final record plat on compact disk.

Upon acceptance of the final plat, DRD staff will schedule the application for Planning Board action on the next available Consent Agenda. A staff memorandum including a summary of staff's review and recommendations, a review checklist, a copy of the proposed plat, and a copy of the approved preliminary and site plans with the Planning Board resolutions/opinions (if applicable), will generally be posted on the Commission's website at least 10 calendar days prior to the scheduled date as required per section 3.D.(c), above. In limited circumstances, staff may add record plats to the Consent Agenda a minimum of 5 calendar days prior to the scheduled date. Record plat applications are not subject to other noticing requirements of section 3.

Montgomery County Department of Permitting Services (MCDPS) Plat Approval

After a final record plat has been approved by the Planning Board and signed by the Planning Board Chair, the final plat must be forwarded to MCDPS for verification of their approval. Upon completion of their final review, the plat must be signed by the Director and returned to MNCPPC for recordation.

7.B. Extension Requests

The date of mailing of the Planning Board's resolution for a preliminary plan establishes both the plan validity period and the validity period for the associated adequate public facilities review. The Planning Board is authorized to grant extensions to these validity periods pursuant to Section 50-20(c) and Section 50-35(h)(3) of the Subdivision Regulations.

7.B.(a) Application

An application to extend a plan validity period may be made without appointment to the DRD, Intake Section, and must include all items required on the application checklist and the appropriate fee. The application form and checklist must be filled out by the applicant or their representative, who must sign the checklist certifying that the application and checklist are complete and ready for processing. The checklist must be submitted with the application form. Only complete applications will be accepted for review.

An application for extension must include a letter from the applicant, or a representative of the applicant, which enumerates the findings of fact and conclusions of law that support a Planning Board approval of the request.

7.B.(b) Review and Approval

Upon acceptance of the extension request, DRD staff will prepare a staff report to summarize its proposed findings of fact and conclusions of law, and recommend that the Planning Board approve, approve subject to conditions, or deny the application. Upon completion of the report, staff will schedule a date for Planning Board hearing on the request.

Extension requests are subject to the noticing requirements of section 3.D.(b), above. Not less than ten (10) calendar days prior to the date of scheduled public hearing, DRD staff will send notice via first class mail to the individuals and locations included on the applicant's notice list. The staff report will also be published on the Commission's website, and made available for pick-up upon request in the Development Review Division, 10 calendar days prior to the scheduled public hearing.

7.C. Subdivision Regulations Waiver Requests

Section 50-38 of the Subdivision Regulations contains provisions for waivers that may be granted by the Planning Board. These waivers are generally reviewed as part of an application for a preliminary plan of subdivision. However, in extreme circumstances, a waiver of the requirement to submit a preliminary plan of subdivision may be requested. In that case, an independent subdivision waiver application is required.

7.C.(a) Application

An application for a Subdivision Regulations waiver may be made without appointment to the DRD, Intake Section, and must include all items required on the application checklist and the appropriate fee. The application form and checklist must be filled out by the applicant or their representative, who must sign the checklist certifying that the application and checklist are complete and ready for processing. The checklist must be submitted with the application form. Only complete applications will be accepted for review.

An application for extension must include a letter from the applicant, or a representative of the applicant, which enumerates the findings of fact and conclusions of law that support a Planning Board approval of the request.

7.C.(b) Review and Approval

Upon acceptance of the waiver request, DRD staff will prepare a staff report to summarize its proposed findings of fact and conclusions of law, and recommend that the Planning Board approve, approve subject to conditions, or deny the application. Upon completion of the report, staff will schedule a date for Planning Board hearing on the request.

Waiver requests are subject to the noticing requirements of section 3.D.(b), above. Not less than ten (10) calendar days prior to the date of scheduled public hearing, DRD staff will send notice via first class mail to the individuals and locations included on the applicant's notice list. The staff report will also be published on the Commission's website, and made available for pick-up upon request in the Development Review Division, 10 calendar days prior to the scheduled public hearing.

7.D. Consent Agenda Amendments

The Zoning Ordinance and the Planning Board's Rules of Procedure contain provisions for plan amendments by the Planning Board without holding a public hearing. Instead, the Planning Board acts on the amendment as part of a Consent Agenda. Certain project, preliminary and certified site plans may be amended in this manner.

7.D.(a) Application

Plan amendment applications must be filed by the applicant in order to revise any approved plan or any findings, conclusions, or conditions associated with the plan. Since the nature of the amendments will vary from project to project, the applicant must contact Subdivision or Site Plan review staff to determine whether it qualifies for action by Consent Agenda. An application for a Consent Agenda plan amendment may be made without appointment to the DRD – Intake Section, and must include all items required on the application checklist and the appropriate fee. The amended plan must clearly identify the

items or areas of the approved plan, which are to be revised. The application form and checklist must be filled out by the applicant or their representative, who must sign the checklist certifying that the application and checklist are complete and ready for processing. The checklist must be submitted with the application form. Only complete applications will be accepted for review.

7.D.(b) Noticing

Consent Agenda amendments are subject to the site posting and noticing requirements of sections 3.C. and 3.D.(a)(ii), above. A comment period of at least 15 calendar days must be established in the notice.

7.D.(c) Review and Approval

If no comments are received during the comment period, and staff has no issues with the proposed change, staff will place the item (and an accompanying resolution) on the Planning Board agenda and prepare a brief staff report explaining the proposed amendment.

If comments are received, staff and the Director will determine whether such comments are substantive enough to require that the amendment be handled via a public hearing. If no public hearing is deemed necessary, staff will notify those making comments of the date the matter will be taken up on the consent agenda; and that any person may request that an item be removed from the agenda, on or before that date. Only the Board may remove an item from the consent agenda for public hearing.

Once the Board has approved the amendment and resolution, a new signature set reflecting the amendment will need to be submitted before final approval is granted.

7.E. Limited Site Plan Amendments

Certain Site Plan amendments do not qualify as Consent Agenda Amendments described under section 7.D. above because the nature of the change requested is such that it would alter a fundamental aspect of the Board's approval. In those instances where such a change is being sought, but only one such aspect (example: height, setback, FAR) is being changed, the applicant may apply for a Limited Amendment. A Limited Amendment is handled very similarly to a full site plan amendment, except that the staff report does not need to be as comprehensive in scope.

7.E.(a) Application

Limited site plan amendment applications must be filed by the applicant in order to revise any approved plan or any findings, conclusions, or conditions associated with the plan. The applicant must contact Site Plan staff to see if the requested change qualifies for a Limited Site Plan Amendment. If the conclusion is reached that it so qualifies, the Applicant may submit the appropriate application without prior appointment with the DRD – Intake Section, including all items required on the application checklist and the appropriate fee. The application must clearly identify the item on the approved plan that is to be revised. The application form and checklist must be filled out by the applicant or their representative, who must sign the checklist certifying that the application and checklist are complete and ready for processing. The checklist must be submitted with the application form. Only

complete applications will be accepted for review.

7.E.(b) Noticing

Limited Site Plan amendments are subject to the site posting and noticing requirements of sections 3.C. and 3.D.(a)(i) above.

7.E.(c) Review and Approval

Upon acceptance of the Limited Site Plan Amendment application, DRD staff must prepare a limited staff report that summarizes their proposed findings of fact and conclusions of law, and recommend that the Planning Board approve, approve subject to conditions, or deny the application. Upon completion of the report, staff must schedule a date for the Planning Board hearing on the request.

Not less than ten (10) calendar days prior to the date of scheduled public hearing, DRD staff must send notice via first class mail to the individuals and locations included on the applicant's notice list. The staff report must also be published on the Commission's website, and made available for pick-up upon request in the Development Review Division, 10 calendar days prior to the scheduled public hearing.

7.F. Other Amendments

Certain project and site plan amendments may be approved by the Planning Director or designee, pursuant to Sections 59-D-2.6(a) and 59-D-3.7(*proposed language in ZTA 07-05*) of the Zoning Ordinance.

7.F.(a) Minor Project Plan Amendments

A minor amendment to a project plan is an amendment or revision to a plan or any findings, conclusions, or conditions associated with the plan that does not entail matters that are fundamental determinations assigned to the Planning Board. A minor amendment is an amendment that does not alter the intent, objectives, or requirements expressed or imposed by the Planning Board in its review of the plan.

7.F.(a)(i) Application

The applicant must contact Site Plan staff to see if the requested change qualifies for a Minor Project Plan Amendment. If the conclusion is reached that it so qualifies, the Applicant may submit the appropriate application without prior appointment with the DRD – Intake Section, including all items required on the application checklist and the appropriate fee. The application must clearly identify the item on the approved plan that is to be revised. The application form and checklist must be filled out by the applicant or their representative, who must sign the checklist certifying that the application and checklist are complete and ready for processing. The checklist must be submitted with the application form. Only complete applications will be accepted for review.

7.F.(a)(ii) Noticing

Minor project plan amendments are not subject to noticing requirements.

7.F.(a)(iii) Review and Approval

Upon acceptance of an application for minor amendment of a project plan, DRD staff must review the application and prepare a letter to the applicant containing staff's recommendations and any applicable conditions.

7.F.(b) 59-D-3.7(d) Amendments to Certified Site Plans

The Planning Director may approve in writing, amendments to certified site plans if the amendment falls into one of the categories included in Section 59-D-3.7(d) of the Zoning Ordinance.

7.F.(b)(i) Application

The applicant must contact Site Plan staff to see if the requested change qualifies for approval by the Planning Director. If the conclusion is reached that it so qualifies, the Applicant may submit the appropriate application without prior appointment with the DRD – Intake Section, including all items required on the application checklist, and the appropriate fee. The application must clearly identify the item on the approved plan that is to be revised. The application form and checklist must be filled out by the applicant or their representative, who must sign the checklist certifying that the application and checklist are complete and ready for processing. The checklist must be submitted with the application form. Only complete applications will be accepted for review.

7.F.(b)(ii) Noticing

Site Plan amendments approved by the Planning Director are subject to the site posting and noticing requirements of sections 3.C. and 3.D.(a)(i) above.

7.F.(b)(iii) Review and Approval

Upon acceptance of the Site Plan Amendment application, DRD staff must prepare a limited staff report that summarizes their proposed findings of fact and conclusions of law, and recommend that the Planning Director approve, approve subject to conditions, or deny the application. Confirmation of the Planning Director's decision must be made, in writing, to the applicant.

7.G. Site Plan Amendments That May Not Require Previous Approval

7.G.(a) Maintenance

After a residential project subject to site plan review has been constructed and sold, the developer turns over control of the project to a condominium or homeowners association. At that point, such an association may perform basic maintenance without applying for an amendment to the applicable site plan. Basic maintenance is the replacement of certain features (fences, trees, etc.) with those of like kind. Thus, a split rail fence may be replaced with another split rail fence in the same location. Balconies on a high rise may be replaced with similar balconies. Trees that have died may be replaced with trees of like kind.

The issue becomes more complex when certain improvements are needed that can be classified as maintenance, but involve changes that alter an approved site plan slightly. Examples of this include: re-stripping a parking lot to allow the creation of a small number of additional parking spaces, or adding a concrete pad around a drainage grate to facilitate the flow of water to the grate. Such changes need to be noted in the file, so a condominium or homeowners association planning to conduct this type of maintenance must submit, in writing, a description of the requested action. No application, application fee, posting or other such requirements apply. Planning staff must review the request within 10 business days, and notify the association if the request is not approved.

Note: Change to any essential features of a plan (landscaping, lighting, replacement of one type of fence with a fence of a different type, etc.) currently require either a consent agenda hearing or a full hearing by the Board.

7.G.(b) Policy Regarding Playground Equipment Substitution Requests

With respect to the substitution of playground equipment¹ for a site plan that has already received Board approval, the following rules apply:

- 1) An equipment substitution request must be completed and given to MNCPPC. Although the form may be filled out by the provider of the proposed playground equipment, it must be accompanied by a cover letter from the developer of the project stating that the current site plan applicant is, in fact, in support of the proposed substitution.
- 2) The site plan will be reviewed to see if, in addition to naming specific brand and model numbers, the clause "or approved equal" has been included.
- 3) If the phrase "or approved equal" is stated in the site plan, the substitution request will not need to go back to the Board for an amendment of any type and no application fee is applicable under the current rate structure. Rather, staff will review the substitution request to determine if the proposed equipment is equal in terms of capacity, features, age group served, and quality (including conformance with CPSC and ASTM² safety standards.³ Staff will have forty-five (45) days to render a decision as to whether the proposed substitution meets the "or approved equal" standard or it will be deemed approved. Once a decision has been reached, staff will reply, in writing, to the current site plan applicant. If the request is denied, the reply shall include in writing the specific reason(s) for the denial. A copy of the reply letter will be placed in the Site Plan file.
- 4) If the phrase "or approved equal" is not stated in the site plan, a developer will have to file for a consent agenda amendment in coordination with the substitution request. Under such circumstances, the application fee will be set by the applicant and staff in accordance with MNCPPC policy.

¹ Playground equipment includes benches, picnic tables, and trash receptacles.

² If there is a conflict between CPSC and ASTM standards, ASTM standards will govern.

³ The equipment substitution must also be able to fit in the space shown on the site plan. If the proposed substitution becomes so big that it no longer fits in the "play area" shown on the site plan, an amendment will be required.