

M-NCPPC



**MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING**

THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION


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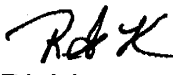
MCPB  
Item No. 12  
12/15/05

December 9, 2005

**MEMORANDUM**

TO: Montgomery County Planning Board

FROM:  Jeff Zyontz, Chief  
On assignment to Development Review Division

Rose Krasnow, Chief   
Development Review Division

SUBJECT: Interim guidelines for Minor Site Plan Amendment procedures and matters to be considered as minor

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*Staff recommends approval of the following procedures with respect to the minor amendment process and what matters may properly be considered as minor amendments.*

**DISCUSSION**

One of the lessons learned from the Clarksburg situation is the need to define the limits of staff discretion with respect to approving minor site plan amendments. We have informed the County Council that we will address the issue this month. This issue will be the matter of public debate next month since legislation has already been introduced at the County Council concerning this very issue. In advance of that discussion, staff seeks the approval of the Planning Board for the procedures described below.

Certainly, one option is to require every site plan amendment to be approved by the Planning Board, no matter how minor the change. This removes any ambiguity regarding staff discretion, but in staff's view, such a requirement would burden the Planning Board with many very small changes. The guidelines ensure the opportunity for public notice and comments without increasing administrative burdens to the Planning Board and the applicant.

In some instances, staff believes that site plan amendments considered minor in nature should be presented to the Planning Board in the form of a limited site plan amendment. We have not gone so far as to recommend this procedure for every minor amendment. The nature and scope of what staff is recommending as minor is in fact minor.

The Planning Board has already reviewed the procedural aspects of minor site plan amendments. They have been repeated herein to present a comprehensive description of that procedure and the proposed substantive standards for minor amendments. The proposed text below, however, has been from what the Planning Board has already reviewed to require notice to contract purchasers within the applying site plan area or any block, even if in another development, if adjacent to the change proposed.

Minor site plan amendments have already been defined in other venues. Staff has already presented to the Planning Board the standards for minor amendments in use in Prince George's County. Staff has also reviewed the standards recommended by County Council staff in pending legislation. To a large degree, the recommendations below are most in line with the pending legislation. The legislation as proposed, however, would require Planning Board approval if any affected party to the application so requests that procedure. At least on an interim basis, staff recommends that the Director of Park and Planning have a narrow range of discretion in this regard.

If legislation is passed by the County Council on defining a minor site plan amendment that legislation will pre-empt the guidelines proposed herein.

### **Procedure for Minor Amendments**

- Complete an application form
- Submit letter explaining the proposed change
- Submit three sets of plans
- Pay an application fee (\$300-\$1,500)

The Applicant should update their adjacent and adjoining property owners list and must send notice by mail to these entities and all other parties of record. Any contract purchasers within the site plan being amended or on a block adjacent to or abutting the area proposed for change must also be given notice.

The notice shall be specific on all changes being sought from the Planning Board approval and should include a copy of the site plan drawings as amended.

The notice shall include the Plan number, as assigned by Park and Planning, to make it easier for the noticed parties to obtain information or provide comments. Noticed parties shall give a date (30 days after the mailing date of the notice) by which comments must be submitted to Park & Planning.

Evidence of the notice and the parties who received it must be given to Park & Planning.

If no comments are received and staff has no issues with the proposed change, 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 approval. The Director of Park and Planning may then approve the minor amendment in writing.

If comments are received, staff and the Director will determine whether such comments are substantive enough to require that the amendment be submitted to the Planning Board.

A new signature set reflecting the amendment must be submitted before final approval is granted.

### **Matters Properly Considered as Minor Amendments**

The zoning ordinance at all times represents the absolute minimum requirements that cannot be violated. Conditions or other requirements imposed by the Board at the original site plan approval or through a binding element of a zoning approval may not be changed through a minor site plan amendment. Any change that requires a waiver of standards established in the zoning ordinance cannot be changed by a minor amendment.

Minor site plan amendments must be within the standards established by the zone and must meet the standards below to be eligible for consideration as minor amendments.

- 1) An increase in height by no more than 5% of the Planning Board approved height.
- 2) An increase in non-residential floor area of no more than 5%, as long as the traffic generated for the site does not increase from the level that the Planning Board approved for that activity on the site.
- 3) A decrease in set backs of no more than 5% from the setbacks approved by the Planning Board.
- 4) A decrease in green space by no more than 5% from the green space approved by the Planning Board, provided that recreation areas are not diminished.
- 5) A redesign of recreation areas that provide an equivalent amount of recreational amenities approved by the Planning Board.
- 6) A redesign of parking or loading areas that does not bring those areas any closer to a neighboring property.
- 7) A redesign of the landscape plan in a manner that remains consistent to the basic elements of the Planning Board approval and does not adversely affect public areas or neighboring property.

- 8) Modifications required by engineering necessity or agency requirements with respect to grading, utilities, or storm water management as long as such modifications do not adversely affect vehicular circulation, public areas or neighboring property.
- 9) Items specifically identified by the Planning Board in the approved site plan that may be changed by staff.

Notwithstanding the discretion identified above, any standard that was critical to the Planning Board's findings of compatibility must return to the Planning Board for their approval regardless of the change requested.

### **Limited Amendment**

The Director of Park and Planning may bring a site Plan Amendment to the Planning Board even if it is within the above standards. Staff recommends that such items be brought back to the Board in the form of a limited amendment. A full staff report would not be required; rather a memo would be prepared, outlining each request and accompanied by any necessary drawings and a summary of the Board's discussion with respect to the particular standard or requirement at the time of original approval. Should the Board approve the Limited Amendment, a revised opinion would need to be issued. If the issue is uncontested, the Planning Board may address limited site plan amendments as a consent item.

In addition, as approved plans go through signature set and record plat review and more detailed information about the project becomes known, it may be evident that certain standards or requirements set by the Board need to be modified to reflect updated information. This situation may be addressed by a limited site plan amendment.

JZ:gw

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