



Subdivision Regulation Amendment (SRA) No. 13-03, Record Plats – Approval

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Completed 10/2/14

Description

SRA No. 13-02 proposes to modify Chapter 50, the Subdivision Regulations, to limit the number of agencies that are required to approve a record plat and to generally amend the provisions relating to the approval of record plats. Specifically, Section 50-36 would be amended so that only Planning staff would need to review submitted plat drawings; an approval box need only be provided for the Planning Board and any other agency expressly required to approve a record plat (with the amendment, no other agency approval is required), and reference to DPS as the applicable County agency approving road and street profile plans is removed. Section 50-37 would be amended to state that Record Plats only need to be signed by the Planning Board, not by the Department of Permitting Services (DPS).

Analysis/Recommendation

Staff recommends that SRA 13-03 be tabled until the effect of recently implemented development review streamlining measures can be determined and discussions on the Office of Legislative Oversight report on the development review process are complete. Staff also questions the effectiveness of the SRA in reducing the amount of time it takes to approve record plats. Staff further notes that the SRA makes the Planning Board responsible for reviews that will still have to be done by other agencies even though the Board has no control over such agencies.

Discussion

When land is proposed to be subdivided or resubdivided, and before the land is sold or any development takes place, a plat of the subdivision must be approved by the Planning Board and recorded in the land records of the county. The plat must either, be in compliance with a previously approved preliminary plan of subdivision and, where required, a site plan; or meet the minor subdivision requirements of the subdivision regulations. A plat application is filed with the staff of the Board and reviewed for completeness and accuracy. Within 30 days of acceptance of a final plat submitted in response to staff's review, the Board must act to approve, conditionally approve, or deny the plat. Action on plats is typically taken as part of the Board's consent agenda, but the Board may, upon its own

motion, hold a hearing prior to acting on any plat.

Record plats first and foremost depict the surveyed boundaries of lots and the existing or proposed road rights of way on which they will be located, but they also contain many other necessary details. Depending upon the nature of the plat, some of these details need to be reviewed by other county departments or agencies. Examples of these details include:

- Limits of existing and proposed easements or rights of way and other encumbrances that are granted to the county that must be approved before Planning Board approval of a plat. These include: public improvement easements, slope easements for public road construction, floodplain building restriction lines, public storm drain easements, and stormwater management easements;
- Location and extent of approved well and septic systems that must be approved before Planning Board approval of a plat; and
- Supporting items needed prior to recordation of a plat, such as:
 - Covenants and agreements covering such details as, responsibilities for prorated share of future costs for construction of public improvements, and terms of use and maintenance for open space areas and private street right of ways depicted on a plat
 - Road and street profile plans for new public roads being dedicated by the plat
 - Storm drainage construction plans
 - Permits and Bonds for public improvements required to be constructed as part of the subdivision plan approval

The Subdivision Regulations require these reviews by the applicable county departments and also stipulate that the plats be signed by them and the Planning Board before recordation of the plat. The Department of Permitting Services is currently the authorized signatory for the County since they act as coordinator of all the reviews that need to be done by county departments. Up until very recently, separate plat applications were submitted to the Planning Department and to the Department of Permitting Services to facilitate the required reviews. As of July 1, 2014, the record plat review process was switched to the Planning Department's ePlans system and now one application is made through ePlans and reviewed by both agencies.

The proposed amendment to the Subdivision Regulations limits the review of a plat drawing to Planning Staff and removes the requirement that the plat be signed by County agencies. The purpose of the change is to reduce the timeframe that it is currently taking to review plats, but in staff's opinion it will not have the desired effect because review by County departments is still necessary whether they sign the plat or not.

There can be little doubt that the current record plat process takes too long and makes it difficult for developers to obtain financing and otherwise move forward with projects that are beneficial to the County. In recognition of this fact, the plat process was included in the discussions between various agencies, and with the Building Industry Association, as part of the most recent effort to streamline development review. With regard to plats, some improvements have already been identified and implemented. For example, there have been as many as 35 standard notes on every record plat but

after a thorough review, it was determined that at least half of them could be eliminated. In addition, for multi-page plats, it was agreed that all of the notes could be shown on a cover page rather than having to be repeated, and reviewed for consistency, on each individual page of the plat.

With the implementation of ePlans, we anticipate that overall review times will be reduced by eliminating the time-consuming transfer of paper comments and responses between reviewers and applicants and by facilitating more coordinated reviews between agencies. Coordination was also discussed between the agencies involved in the record plat process and staff of the Office of Legislative Oversight as part of their recent effort to examine the development review process. Each of the various agencies (MNCPPC, DPS, DOT and DEP) involved with record plats identified the reviews for which they are responsible and found little overlap. All feel strongly that they are the best qualified to undertake the reviews currently assigned to them. Therefore, even if DPS is no longer required to sign plats, they will still be doing the reviews they perform now. In other words, eliminating their signature on the plat will have little or no effect on the timeliness of the review process.

Another hindrance to improving review times is that the record plat process cannot be completed until a variety of other milestones are met. For example, a record plat cannot be approved until the provision of required public infrastructure improvements has been guaranteed. This typically means that design, permits and bonding must be completed with DPS. Similarly, a certified site plan must be approved, and this cannot be done until numerous other requirements, such as the approval of a transportation mitigation agreement, have been finalized. The question is whether there is a way to modify the process so that record plats are not held up by all of these other requirements.

In light of the OLO investigation, the move to ePlans, and other streamlining measures that are still being implemented or have been implemented too recently to assess their success, staff recommends that SRA 13-03 be tabled until the effect of recently implemented measures can be determined and discussions on the OLO report are complete.

ATTACHMENTS

1. SRA 13-03 as introduced
2. Chapter 50-36, Record plats-Specifications and supporting data
3. Chapter 50-36, Record plats-Procedure for approval and recording

ATTACHMENT 1

Subdivision Regulation Amendment No.: 13-03
Concerning: Record Plats – Approval
Draft No. & Date: 1 – 12/4/13
Introduced: December 10, 2013
Public Hearing:
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: Councilmember Riemer

AN AMENDMENT to the Subdivision Regulations to:

- (1) limit the number of agencies that are required to approve a record plat; and
- (2) generally amend the provisions relating to the approval of record plats

By amending the following sections of County Code Chapter 50:
Sections 50-36 and 50-37

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by introduced Subdivision Regulation Amendment.</i>
[Single boldface brackets]	<i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>
<u>Double underlining</u>	<i>Added to the Subdivision Regulation Amendment by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i>
* * *	<i>Existing law unaffected by Subdivision Regulation Amendment.</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 **50-36. Record plats-Specifications and supporting data.**

2 * * *

3 (d) *Drawing.* The Subdivision Record Plat must be accurately drawn to a
4 scale approved by the Planning Board. The Mylar drawing should not
5 be submitted until paper prints of the subdivision record plat,
6 submitted with the application, have been reviewed by the
7 [appropriate Departments and agencies] Planning staff and have been
8 returned to the licensed land surveyor. The subdivision record plat
9 drawing must include the following items:

10 * * *

11 (6) *Approval Box.* An approval box in a form required by the
12 Board must be provided. The box must provide approval space
13 for [the then authorized and applicable County agencies, such
14 as] the [County] Planning Board[, and the County Department
15 of Permitting Services] and any other agency expressly required
16 to approve a record plat.

17 (e) *Road and street profile plans.*

18 (1) *County Roads.* Complete road and crosswalk profile plans in a
19 manner acceptable to the applicable County agency[, such as
20 the County Department of Permitting Services,] must
21 accompany each Subdivision Record Plat submitted to the
22 Board, except [in cases] where the grades of the roads or streets
23 have already been established.

24 * * *

25 **50-37. Record plats-Procedure for approval and recording.**

26 * * *

27 (f) *Signing and reproducing [of] plats.*

1 (1) [All plats shall] Each plat must be signed by the authorized
2 officers of the Board as soon as the Board has acted to approve
3 [them] it, or [in cases of conditional approval] if the plat was
4 conditionally approved, as soon as [such] all conditions have
5 been complied with to the satisfaction of the Board.

6 (2) After a finally approved record plat is signed by the authorized
7 officers of the Board [and by the Department of Permitting
8 Services], the staff may complete [the] processing [of] the plat.

9 * * *

10 **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of
11 Council adoption.

12 *Approved:*

13

14

15 _____
Isiah Leggett, County Executive Date

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

17

Linda M. Lauer, Clerk of the Council Date

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(a) the applicability of any later-adopted Growth Policy or other adequate public facilities requirement to any preliminary subdivision plan for which an application was filed between January 1, 2007, and November 15, 2007; and

(b) the authority of the Planning Board to reopen any preliminary subdivision plan for which an application was filed on or after January 1, 2007, to assure that the plan will comply with all applicable Growth Policy and other adequate public facilities requirements.

Sec. 50-36. Record plats—Specifications and supporting data.

- (a) *Part of approved preliminary plan.* A Subdivision Record Plat may include only a portion of the approved preliminary plan provided that the portion covered is in substantial compliance with the approved staging schedule; and provided, that the public improvements to be constructed in the area covered by the Subdivision Record Plat are sufficient by and of themselves to accomplish a proper development and to provide adequately for the health, safety and convenience of the present and future residents therein and for adequate access to contiguous area, school and other public sites. Any portional Subdivision Record Plat filed must include dedication to the intersection of all roads abutting corner lots.
- (b) *Specifications.* The Subdivision Record Plat must be clearly and legibly drawn in black ink upon mylar. The size of the sheets must be eighteen (18) inches by twenty-four (24) inches, including a margin of one-half inch outside ruled border lines. The Subdivision Record Plat accompanying the application for approval must contain the following graphic and descriptive items. The lack of information under any item specified or improper information supplied by the applicant may be cited by the board as cause for disapproval of a Subdivision Record Plat. The Board may promulgate guidelines for the preparation of a Record Plat.
- (c) *Application.* Written application by the owner or the owner's agent for approval, on forms furnished by the Board, must accompany each Subdivision Record Plat and contain the following information:
- (1) Name of subdivision (subject to approval by the Board) and description of blocks and lots included on the Subdivision Record Plat.
 - (2) Location of subdivision by County, election district, town, special taxing area, place or locality name as applicable.
 - (3) Current name, date of approval and file number of the preliminary plan, and in the case of lots where individual water supply systems and/or individual sewage disposal systems are to be installed, the name of the preliminary plan shown on the original preliminary plan application, and, as applicable, the dates of approval and file numbers of the site plan and project plan upon which the Subdivision Record Plat is based.

- (4) Zoning classification of property, and if developed under the TDR option, the density limit as established by the applicable master plan and the selected development standards option, including the number of development rights transferred, and the serial numbers of the development rights transferred.
 - (5) Total number of lots, outlots or parcels included on the Subdivision Record Plat, including the number and type of buildings as allowed under the adequate public facilities ordinance agreement.
 - (6) Total area shown on the Subdivision Record Plat, including streets and total area dedicated to public use.
 - (7) References to existing, or identification of proposed covenants (including well and septic consent agreements), easements, rights-of-way and restrictions required as the result of preliminary plan, project plan or site plan approval.
 - (8) Name and address, including telephone, of owner, contract purchaser, and licensed land surveyor who prepared the Subdivision Record Plat.
 - (9) Copy of approved, preliminary or final forest conservation plan, as appropriate, or exemption letter.
 - (10) A list of all documents that must be approved and fully executed before the Subdivision Record Plat is recorded, as enumerated in the preliminary plan approval, and, as applicable, as enumerated in the project plan approval and the site plan approval.
 - (11) Such other information either enumerated in the opinion or opinions of the Board as a condition of approval of the preliminary plan, project plan and/or site plan or listed in the then current Subdivision Record Plat application form approved by the Board.
- (d) *Drawing.* The Subdivision Record Plat must be accurately drawn to a scale approved by the Planning Board. The Mylar drawing should not be submitted until paper prints of the subdivision record plat, submitted with the application, have been reviewed by the appropriate Departments and agencies and have been returned to the licensed land surveyor. The subdivision record plat drawing must include the following items:
- (1) Title Block. The title block must appear in the lower right-hand corner of the sheet, and must include the following information:
 - a. The words "Subdivision Record Plat."

- (2) Proposed. All easements or rights-of-way to be established by the Subdivision Record Plat and, as to each such encumbrance, the general purpose, the grantee and sufficient dimensions to identify the location.
 - (3) Environmental. The most restrictive conservation easement must be shown and described, and all other conservation easements must be shown, including, without limitation, 100-year floodplain, 100-year floodplain building restriction line and forest conservation easement.
- d. Accurate outlines of any areas to be reserved for common use by residents of the subdivision or for general public use, with the purposes indicated thereon.
- e. Accurate bearings and lengths of all block and lot lines, together with the length of radii, arcs and chords with chord bearings and central angles for all curves in the layout. A curve table must be used containing these data and referenced to the overall curves shown in the drawing.
- f. For Subdivision Record Plats filed six (6) months after (effective date of subdivision regulation amendment) [June 29, 1998], all bearings must be referenced to the Maryland Coordinate System and the survey must be accurately referenced to such system using conventional survey methods or other technology acceptable to the Board, with the following exceptions, which will continue to be exceptions six (6) months after (effective date of subdivision regulation amendment) [June 29, 1998]:
- (1) Subdivision Record Plat of resubdivision requiring no Preliminary Plan approval and Subdivision Record Plats of correction may be referenced to the "Plat Meridian," meaning that used on the original Subdivision Record Plat; and
 - (2) Subdivision Record Plats of subdivisions, involving no more than 2 lots, may be referenced to the "Deed Meridian" if there are no Maryland Coordinate System control points within one mile of the subdivision and/or the monumentation control is not available or practicable as determined by the Director, or its Designee.
 - (3) Notwithstanding the above, where a preliminary plan application is filed before the expiration of six (6) months after (effective date of subdivision regulation amendment) [June 29, 1998], and

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- m. Names and locations of adjoining subdivisions with lot and block numbers immediately adjoining, together with plat references.
- n. Location and apparent ownership of adjoining unsubdivided property with land record reference or County Register of Wills reference.
- o. Vicinity map showing location of subdivision. In addition, in the case of a large subdivision requiring multiple Subdivision Record Plats, a key map must be included which must show the location of the Subdivision Record Plat relative to the entire subdivision.
- p. On all lots where individual water supply systems and/or individual sewerage disposal systems are to be installed:
 - (1) the outline identifying the restricted areas reserved for the well location and two (2) alternate well locations;
 - (2) the outline of the approved sewage disposal area;
 - (3) the outline of the associated septic building restriction line;
 - (4) the name of the preliminary plan as shown on the original preliminary plan application, if different from the current name of the preliminary plan; and
 - (5) A notation providing as follows:
The well(s) and septic area shown are as depicted on the preliminary plan approved by the Department of Permitting Services.
- q. A statement setting forth the number of development rights transferred, and the following information:
 - (1) The zoning classification of property, and if developed under the TDR option, stating the density limit as established by the applicable master plan and identifying the selected development standards option, including the number of development rights transferred, and the serial numbers of the development rights transferred.
 - (2) The total number of lots, outlots or parcels included on the Subdivision Record Plat including the number and type of buildings as allowed in the adequate public facilities ordinance agreement.

- (e) *Road and street profile plans.*
- (1) County Roads. Complete road and crosswalk profile plans in a manner acceptable to the applicable County agency, such as the County Department of Permitting Services, must accompany each Subdivision Record Plat submitted to the Board, except in cases where the grades of the roads or streets have already been established.
 - (2) Other Roads and Streets. For roads and streets within the jurisdiction of other municipalities, complete road and street profile plans in form required by the Board must be submitted to the Board for approval. Road and street grades must be determined by the Board.
- (f) *Storm drainage construction plan.* Before the Board approves a Subdivision Record Plat, the subdivider must furnish a storm drainage concept plan approved by the County Department of Permitting Services or other appropriate County agency.
- (g) *Other supporting data.* Copies of any covenants, restrictions, or joint-use and maintenance agreements which the subdivider or developer may wish to record with its subdivision or which are in effect must be submitted to the Board with the application for approval of the Subdivision Record Plat, together with any other supporting plans or documents required pursuant to this Chapter, Chapter 22A, and other applicable laws or regulations.
- (h) *Preliminary plans using TDR's.* Preliminary plans using TDR's will be approved with the condition that ownership of the TDR's be shown at the time of Subdivision Record Plat recordation. For areas which have been designated in sewer category 3 by virtue of an approved preliminary plan that utilizes TDR's, a new Subdivision Record Plat not utilizing the requisite number of TDR's may not be approved until the sewer category has been reconfirmed by the County Council.
- (i) *Submission of digital plat data.* A computer disc containing digital plat data in a format approved by the Director, must be submitted with the Mylar drawing of the subdivision record plat to enable efficient entry of property line data into the County Geographic Information System (GIS). (Mont. Co. Code 1965, § 104-25; 1973 L.M.C., ch. 25, § 8; Ord. No. 8-73, § 3; Ord. No. 8-91, § 2; Ord. No. 9-23, § 2; Ord. No. 10-59, § 1; Ord. No. 12-16, § 1; Ord. No. 13-26, § 1; Ord. No. 13-29, § 1; Ord. No. 13-36, § 1; Ord. No. 13-91, § 5; Ord. No. 13-113, § 1; Ord. No. 14-37, § 1; Ord. No. 14-50, § 1.)

Editor's note—Section 50-36 is cited in Capital Commercial Properties, Inc. v. Montgomery County Planning Board, 158 Md. 88, 854 A.2d 283 (2004). Sections 50-34 to 50-36 [formerly §104-23 through §104-25] are quoted in Gruver-Cooley Jade Corporation v. Perlis, 252 Md. 684, 251 A.2d 589 (1969).

Sec. 50-37. Record plats—Procedure for approval and recording.

- (a) *Filing of plat with application and plat fee.*
- (1) The subdivider or his agent shall file the subdivision final (record) plat and all required supporting data, as specified herein, with the Board, together with application for its approval, and at the same time shall pay the required plat fee as established from time to time by resolution of the Board. Such fee shall not be more than the reasonable cost of processing and administration.
 - (2) The plat shall be deemed filed with the Board when it is filed with the staff of the Board; provided, that the staff shall have the authority to reject the plat within five (5) days of its receipt if it finds that it does not conform to the approved preliminary plan, except for minor modifications, or with this Chapter and the specifications and procedures adopted pursuant thereto, and further provided that his rejection is in writing and specifies the respects in which the plat is deficient.
 - (3) The applicant may resubmit such a rejected plat at any time after ten (10) days have elapsed from the date of the original submission, and any plat so resubmitted shall be considered by the Board without further rejection by the staff; provided, that the board may waive the ten-day period before resubmission of a plat whenever, in its opinion, such waiver is justified or if the plat in question has been revised to eliminate the cause of its rejection.
- (b) *Plat to comply with approved preliminary plan and site plan where required.*
- (1) With the exception of a minor subdivision, as defined in this Chapter, no final (record) plat of a subdivision shall be approved unless it complies with the preliminary plan as approved by the Board; except, that the board may allow for minor modifications in the plan which, in its opinion, do not alter the intent of its previous approval.
 - (2) In those situations where a site plan is required, the Board may refuse to approve a final (record) plat until a site plan is approved as set forth in Division 59-D-3 of the zoning ordinance.
 - (3) Area of the City of Takoma Park annexed into Montgomery County on July 1, 1997.
 - a. After March 30, 1997, any person may apply for preliminary plan approval for property within the Annexation Area as if the property were already within Montgomery County. The Board must accept, review and process any such application as if the property were already within

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Montgomery County; however, final approval of the application must not occur before July 1, 1997.

- b. For property within the area annexed to Montgomery County on July 1, 1997, the Board may approve a final (record) plat based upon a preliminary approval made under the development standards of Prince George's County if the Board finds that the earlier Prince George's approval fulfills substantially the same purpose as and offers substantially the same protection as its Montgomery County counterpart.

- (c) *Board to act within thirty days.* The Board shall approve or disapprove a final (record) plat within thirty (30) days after submission thereof or after resubmission; otherwise, such plat shall be deemed approved and on demand a certificate to that effect and the original record plat signed in form for recording shall be issued by the Board; provided, that the applicant may waive this requirement and consent to an extension of such period. If the plat is disapproved, the reasons therefor shall be stated in the minutes of the board and shall be promptly submitted in writing to the applicant.
- (d) *Board may hold hearing on any plan or plat.* The Board may, upon its own motion, hold a hearing prior to acting upon any record plat or preliminary subdivision plan, at such time and place and on such notice as the Board may designate. All interested parties shall be entitled to appear at any such hearing.
- (e) *Board may give conditional approval.* In the case of a record plat which requires supporting data, the Board may give approval to such a plat conditioned upon the applicant delivering to the Board all such supporting data.
- (f) *Signing and reproducing of plats.*
 - (1) All plats shall be signed by the authorized officers of the Board as soon as the Board has acted to approve them, or in cases of conditional approval, as soon as such conditions have been complied with to the satisfaction of the Board.
 - (2) After a finally approved record plat is signed by the authorized officers of the Board and by the Department of Permitting Services, the staff may complete the processing of the plat.
 - (3) The staff shall cause reproductions of each plat to be made, of a quality equal to the standard established by the County, and sufficient in number to meet current approved requests of local agencies, firms and individuals for such copies.
 - (4) The original tracing of each final plat and the reproductions thereof required by the clerk of court shall have the official seal of the registered land surveyor who prepared the plat impressed thereon; likewise, if the maker of the plat is a corporation, its corporate seal shall also be affixed to such plat and to the reproductions for recordation.
 - (5) The original tracing of each plat so recorded shall be filed in the vault provided by the Commission and shall remain there at all times unless required by court order as an exhibit. The reproductions required by the clerk of court shall be transmitted to him promptly upon completion of processing, for recordation in the land records, together with the appropriate recording fee.

- (g) *Completion or guarantee of public improvements before recording final plat.*
- (1) Prior to the recording by the Board or its staff of any approved final plat or portion thereof, the developer or subdivider shall present to the Board certificates from the County Department or public agency concerned that he has completed such arrangements, obtained such permits, bonds or provided such surety in accordance with applicable laws, regulations and requirements as will ensure final proper completion and installation of all public improvements as required in Section 50-24 on the land covered by such plat or portion thereof to be recorded.
 - (2) As an alternative to obtaining certificates to assure improvements as provided in paragraph (1), the following procedure may be used when the subdivider or developer has not previously been adjudicated a bankrupt or violated any previous agreement as provided in this paragraph. Before the Board or its staff record any approved final plat or portion of a plat, the developer or subdivider must present to the Board an agreement approved by the County to complete all public improvements as required in Section 50-24. The developer or subdivider must assure final completion by obtaining the permits or bonds and providing sureties as required by applicable laws, regulations, and requirements of the public agencies concerned. The agreement must provide that before any person occupies any building within the subdivision, the developer or subdivider must complete or obtain all necessary permits, and must post all sureties required to guarantee final completion of the improvements and all public facilities required to be constructed by the subdivider or developer to serve the buildings, including the roads, cross streets, drainage ways, and walkways to provide adequate traffic circulation and access to serve the buildings and that portion of the subdivision being developed. The County also may require, where applicable, the developer to obtain road permits and post surety for roads, drainage ways, and walkways in the subdivision which are necessary to provide access and traffic circulation to adjoining tracts of land, schools, and other public property. The agreement may be amended from time to time, as approved by the County, as to the timing of obtaining the permits and posting the sureties. The agreement may be amended or cancelled in whole or part where abandonment, change in zoning, or replanning requires resubdivision platting of undeveloped portions of the subdivision. A new agreement must be signed for the resubdivision. If the subdivider is a corporation, the agreement must be signed individually by the principal officers of the corporation as well as by the corporation. The requirement of individual signatures may be waived, wholly or in part, by the Director of the Department of Permitting Services, or an authorized designee, whenever a corporation presents evidence to show corporate viability and corporate net worth, and deemed sufficient to assure that the corporation, in its own name, is fiscally able to satisfy any enforcement actions taken hereunder.

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The decision of the Director of the Department of Permitting Services is final, subject only to review by the Chief Administrative Officer. The Board, the County, or any other public agency with jurisdiction may take any legal or other action necessary to enforce the provisions of an agreement, including, where applicable, withholding water and sewer service or suspending or revoking well or sewage disposal permits or authorizations.

- (3) In cases under paragraph (2) above wherein the subdivider or developer is required by regulations of the Washington Suburban Sanitary Commission to record a final plat dedicating to public use public roads in excess of his immediate building plans in order to obtain installation of water and sewer to the site of his proposed building operations, the agreement may provide that posting of surety required by the road construction code for road improvements for such excess platting may be delayed as approved by the County in accordance with a time sequence of proposed development set forth in the agreement. (Mont. Co. Code 1965, § 104-26; 1973 L.M.C., ch. 25, § 8; Ord. No. 7-41, § 4; Ord. No. 8-90, § 1; Ord. No. 10-12, § 3; Ord. No. 13-26, § 1; Ord. No. 13-36, § 1; Ord. No. 13-57, § 5; Ord. No. 13-62, § 1; Ord. No. 13-113, § 1; Ord. No. 14-37, § 1; Ord. No. 14-50, § 1.)

Editor's note—See County Attorney Opinion dated 9/7/07 discussing methods of acquiring the construction of infrastructure for development districts.

Sec. 50-38. Waivers from this chapter.

(a) *Authority of Board.*

- (1) The Board may grant a waiver from the requirements of this Chapter upon a determination that practical difficulties or unusual circumstances exist that prevent full compliance with the requirements from being achieved, and that the waiver is: 1) the minimum necessary to provide relief from the requirements; 2) not inconsistent with the purposes and objectives of the General Plan; and 3) not adverse to the public interest.
- (2) Large Scale Development or Preservation of Open Space, Forest and Tree Conservation, Environmentally Sensitive Areas, or Prevention of Soil Erosion. The standards and requirements of this Chapter may be modified by the Board if it determines that:
- a. a plan and program for a new town, a complete community or a neighborhood unit will provide adequate public spaces and improvements for the circulation of traffic, recreation, light, air, and