Proposed Omnibus Subdivision Regulations Amendment

Description

This report provides an overview of the proposed omnibus Subdivision Regulations Amendment that staff recommends be introduced by the County Council. This report is designed to give the Board and general public an overview of changes and provide an opportunity for discussion.

Summary

A comprehensive revision of Chapter 50, the Subdivision Regulations went into effect in February 2017. In the three years since the new chapter has been in effect, it has become clear that an additional amendment is necessary to further clarify language, correct mistakes, and add necessary missing provisions. While the vast majority of the proposed changes are minor, several substantive changes are also proposed, as noted below.

- New provisions for the approval of flag lots and lots without frontage
- New exemption from platting requirements for utility and telecommunication structures
- New provisions for vacating an approved subdivision plan
- New provision for extension of reservation of land for public use
- New provision to specify an initiation date for the adequate public facilities validity period, similar to the existing initiation date provisions for plan validity
- New requirement that a new determination of school adequacy is required for unbuilt units during review of an APF extension request
- New limitation on Planning Board approved APF extensions to a total of 12 years
- New provisions for administrative subdivision plans for approval procedures, required findings, plan certification, amendments, validity period, revocation, and vacation of approval
The minor changes include clarifications to existing text, changes to improve grammar and provide consistency in capitalization, updated citations for external laws and regulations, and consistency in section numbering.

**Discussion of Major Changes**

**Provisions for Flag Lots and Lots Without Frontage**

Flag lots are lots with a narrow strip that connects the main part of the lot to a public or private street right of way. Flag lots can be useful in designing a subdivision by allowing more efficient use of the land, but they can change the perceived character of an existing subdivision when they are created after the land has been initially subdivided. These same concerns also apply to lots without frontage. However, lots without frontage are less prevalent than flag lots, because they are limited to no more than two per subdivision by the current language of Chapter 50.

In order to limit the negative effects of flag lots and lots without frontage, new provisions are proposed that limit the creation of these types of lots.

**Section 50.4.3.C.1 Lot Design – General Requirements**

b. *Flag Lots.* The Board must not approve flag lots, except where unusual topography, environmental conditions, or the position of the tract in relation to surrounding properties and rights-of-way permit no other feasible way to subdivide and the Board determines that appropriate separation between building envelopes can be achieved. In approving a flag lot, the following provisions apply:

i. in residential zones, the Board must require building restriction lines as needed to provide separation of at least 80 feet between the building envelope of the proposed flag lot and the building envelopes of all lots that are adjacent to the rear lot line of the proposed flag lot or that are between the proposed flag lot and the road on which it fronts;

ii. the Board may require additional building restriction lines to ensure appropriate separation between building envelopes and to provide appropriate location of the building envelope within the lot; and

iii. all building restriction lines must be shown on the plat.

[b.] c. *Lots to abut on a public or private road.* Except as specified below, every lot must abut on a public or private road. A public road must be dedicated or donated to public use or have acquired the status of a public road under Chapter 49. A private road must be shown on a record plat.

[i.] The Board must not approve [a maximum of 2] lots that do not abut a public or private road, except where unusual topography, environmental conditions, or the position of the tract in relation to surrounding properties and rights-of-way permit no other feasible way to subdivide, and the Board determines that appropriate separation between building envelopes will be achieved. In approving a lot that does not abut a public or private road, the following provisions apply:

i. the Board must not approve more than two lots in a subdivision that do not abut a public or private road;

ii. the lots will be served by a private driveway that serves no other lots without frontage; and

iii. in residential zones, the Board must require building restriction lines as needed to provide separation of at least 80 feet between the building envelope of the proposed lot without frontage and the building envelopes of all lots that are adjacent to the rear lot line of the proposed lot without frontage or that are between the proposed lot without frontage and the road from which it is accessed;
iv. the Board may require additional building restriction lines to ensure appropriate separation between building envelopes and to provide appropriate location of the building envelope within the lot;
v. all building restriction lines must be shown on the plat; and
vi. The access to lots with no road frontage must be adequate to serve the lots for emergency vehicles and for installation of public utilities. In addition, the lots must be accessible for other public services and not detrimental to future development of adjacent lands.

![Figure 1 – flag lot with building restriction lines](image)

The proposed provisions require the Planning Board to find that flag lots or lots without frontage are necessary because of unusual topography, environmental conditions, or the position of the tract in relation to surrounding properties and rights-of-way that permit no other feasible way to subdivide the property. The Planning Board must also find that adequate separation will exist between the building envelope of the proposed flag lot or lot without frontage and building envelopes on surrounding existing or proposed lots. To provide adequate separation, the proposed provisions require a separation of at least 80 feet between the building envelope on the flag or no-frontage lot and the building envelopes of lots abutting to the front or rear. The Planning Board may also place additional building restriction lines to create greater separation and to control the side-to-side placement of a house on the lot. A definition of building envelope has been added to the definition list in support of this section.
Exemption from platting requirements for utility and telecommunication structures

Generally, Chapter 50 requires that a plat be recorded before issuance of a building permit. However, Section 50.3.3.B lists circumstances in which this requirement does not apply. Utility and telecommunication towers are proposed to be added to the list to clarify that these projects are exempt from platting requirements because they are not buildings.

Section 50.3.3.B Exemptions to Platting Requirements

9. Utility and Communication Structures. The construction of telecommunication towers, antennas, solar arrays, relay stations, or similar facilities, including their associated accessory structures, which are not intended for the shelter, support, or enclosure of persons, unless otherwise required by the Board or further development of the land requires a subdivision plan.

Provisions for vacating an approved subdivision plan

New provisions are proposed that create a procedure that allows an applicant to vacate a previously approved subdivision plan. This will allow an applicant to pursue a different course of action on the subject property, including potentially no development, without being subject to the conditions of approval of the approved subdivision plan. Vacation of an approved plan is an available option only if no plats have been recorded.

Section 50.4.2 Approval Procedures

K. Vacating an approved subdivision.

1. An applicant may request that the approval of a subdivision plan, for which no subsequent plats have been recorded, be vacated.
2. A request to vacate an approved subdivision plan must include proof of ownership and notarized signatures of all property owners or other persons who are authorized by the property owner.
3. The Director must approve the request to vacate the approved subdivision plan if the Director finds that the request is not contrary to the public interest.

Provision for extension of reservation of land for public use

Section 50.4.3.D.5 provides the Planning Board the authority to reserve land within a subdivision for future public use. Reservation may be used when the land in question is not been dedicated or otherwise acquired at the time of subdivision but is expected to be acquired by a public agency within the next three years following approval of the subdivision. The proposed new language allows the Planning Board to extend a reservation period for up to three years upon the request of the property owner.

Section 50.4.3.D.5.a Reservation – Procedure

vi. Extension. After the initial reservation period, the Board may extend the reservation period upon request of the property owner if the Board determines that the reserved land continues to be necessary for public use. Any extension must not exceed 3 years.
Provision to specify an initiation date for the adequate public facilities validity period

When a subdivision plan is approved, it typically has a plan validity period and an adequate public facilities review (APF) validity period. The standard length of these periods has varied over the years – it is currently set at three years for plan validity and five years for APF validity. Plan validity is the period of time during which a plat must be recorded and APF validity is the period of time in which building permits must be issued.

Section 50.4.2.G specifies that the plan validity period starts on the initiation date, which is, if no appeal has been filed, 30 days from the mailing date of the resolution. If an appeal has been filed, then the validity period is tolled until the final decision from the Court. Chapter 50 does not currently specify an initiation date for the APF validity period, which means that the APF validity period starts 30 days before the plan validity period starts and does not have a tolling period for appeals. In order to synchronize these two validity periods and ensure that the APF validity period does not expire due to an appeal, new provisions are proposed in Section 50.4.3J.5 that specify an initiation date for the APF validity period.

Section 50.4.3.J Adequate Public Facilities

5. Validity period.
   a. Initiation date. The adequate public facility validity period starts on the later of:
      i. 30 days from the date of mailing indicated on the written resolution; or
      ii. if an administrative appeal is timely noted by any party authorized to file an appeal, the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods.
   b. if a corrected resolution is issued, the initiation date remains the date of mailing indicated on the original resolution.

Requirement that a new determination of school adequacy is required for unbuilt units during review of an APF extension request

Section 50.4.3.J.7 specifies procedures for extending the validity period of an adequate public facilities review. With the recently proposed County Growth Policy, the Planning Board added a requirement that a new determination of school adequacy must be conducted for any unbuilt dwelling units during review of an APF validity extension request. That same new requirement is proposed here for consistency.

Section 50.4.3.J Adequate Public Facilities

7. Extensions.
   a. Application. Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.
      i. The applicant must file an application for extension of an adequate public facilities determination or amendment of a phasing schedule before the applicable validity period or validity period phase expires.
ii. The applicant must submit a new development schedule or phasing plan for completion of the project for approval.

iii. For each extension of an adequate public facilities determination:
   (a) the applicant must not propose any additional development above the amount approved in the original determination;
   (b) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;
   (c) the Board may require the applicant to submit a traffic study to demonstrate how the extension would not be adverse to the public interest; and
   (d) an application may be made to extend an adequate public facilities period for a lot within a subdivision covered by a previous adequate public facilities determination if the applicant provides sufficient evidence for the Board to determine the amount of previously approved development attributed to the lot.
   (e) a new adequate public facilities determination for school adequacy is required for the remaining unbuilt units under the school test in effect at the time of Board review.

Limitation on Planning Board approved APF extensions to a total of 12 years

Section 50.4.3.J.7 provides for extensions of the APF validity period, which may vary in length from two and half years to 12 years, depending on a variety of factors. Under the current regulations, a subdivision may be granted extensions in succession, with no limitation on the total length of the extension period. If the maximum length of currently allowable extensions is applied to an APF validity period, it could remain valid for up to 36 years. The additional extensions granted by the County Council would extend the validity period even more, currently up to an additional 10 years.

APF validity periods of this length for projects that are not proceeding in earnest tie up development capacity that might better be used by other projects. Therefore, a new provision is proposed that would limit the total length of any new APF validity extensions to a maximum of 12 years. This is in addition to any special validity period extensions granted by the County Council, such as the five two-year extensions that were enacted in response to adverse economic conditions.

Section 50.4.3.J.7 Adequate Public Facilities – Extensions

   h. No combination of extensions of APF validity approved under Section 4.3.J.7 may exceed a total of 12 years from the date of the original APF expiration.

Provisions for administrative subdivision plans for approval procedures, required findings, plan certification, amendments, validity period, revocation, and vacation of approval

With the adoption of the current version of Chapter 50 in 2017, a new type of subdivision plan, called an administrative subdivision plan, came into effect. Administrative subdivision plans are similar to preliminary plans, in that they can be used to subdivide property into a number of lots. However, they are typically acted on by the Planning Director instead of the Planning Board, have a 90-day review period instead of 120 days, have simplified procedures, and generally take less time to reach a decision than preliminary plans.
The current provisions for administrative subdivision plans do not include specific requirements for necessary findings for approval, plan certification, plan validity, revocation of an approved plan, and vacation of an approved plan. Due to this omission, administrative subdivision plans have been approved under the provisions and findings for preliminary plans. While this is legally sufficient, because administrative subdivision plans are a type of preliminary plan, creating separate approval procedures and findings provides greater clarity for applicants, staff, and the Planning Board. The approval procedures and findings are largely the same as those for preliminary plans, with small modifications to reflect the context of administrative subdivision plans.

Section 50.6.3 Approval Procedures

C. Required Findings. To approve an administrative subdivision plan, the Director or Board must make the following findings:

1. the layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59;
2. the administrative subdivision plan substantially conforms to the master plan;
3. public facilities will be adequate to support and service the area of the subdivision;
4. all Forest Conservation Law, Chapter 22A requirements are satisfied;
5. all stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied;
6. any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M; and
7. any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied.

D. Plan Certification

Every administrative subdivision plan approved by the Board or the Director must be certified by the Director to confirm that the plan reflects the approval. Any modification of the plan conditioned by the approval must be included in the plan before receiving the approval stamp. The approved plan must be filed in the records of the Board.

E. Amendments.

Any amendment to an approved administrative subdivision plan must follow the procedures, meet the criteria, and satisfy the requirements of this Division.

F. Plan Validity

1. Initiation date. The plan validity period for administrative subdivision plans starts on the later of:
   a. 30 days from the date of mailing indicated on the Director’s written approval or the Board’s resolution; or
   b. the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods, if an administrative appeal is timely noted by any party authorized to file an appeal.

If a corrected resolution is issued, the initiation date remains the date of mailing indicated on the original resolution.

2. Duration.
   a. An approved administrative subdivision plan remains valid for 3 years after its initiation date.
b. An administrative subdivision plan is validated when the applicant has secured all government approvals necessary to record a plat, and a plat for all property shown on the plan has been recorded in the County Land Records.

c. Any extension of the validity period must follow the procedures of Section 4.2.H.

d. For any action taken by the Director or Board to amend a previously approved administrative subdivision plan, the Director or Board will determine, on a case-by-case basis, whether the validity period should be extended and, if so, for what duration. In making the determination, the Director or Board must consider the nature and scope of the requested amendment.

e. Failure to timely validate or extend the validity period of an administrative subdivision plan is governed by the procedures of Section 4.2.I.

G. Revocation or Vacation of an Administrative Subdivision Plan

1. Revocation of an administrative subdivision plan must follow the procedures of Section 4.2.J.

2. Vacation of an administrative subdivision plan must follow the procedures of Section 4.2.K.

In addition to the standard procedures and findings needed for approval, new provisions are proposed to specify circumstances under which an administrative subdivision plan must be acted upon by the Planning Board instead of the Director. Under the existing chapter, the Director may decline to take action on an administrative subdivision plan that generates significant controversy, in which case the Planning Board would act on the plan. The proposed provisions specify that the Planning Board, and not the Director, must act on administrative subdivision plans that include flag lots or lots without frontage (because of their inherently controversial nature) or plans that propose reservation of land for public use (because only the Planning Board is authorized to approve reservations).

Section 50.6.3.B Approval Procedures – Action on An Administrative Subdivision Plan

5. In making the findings required in Section 6.3.C, the Director or Board must consider the technical requirements under Section 4.3. In performing this review, the Director is authorized to perform any relevant action that is permissible to the Board under Section 4.3, except for the following:

1. Section 4.3.C.1.b, with respect to flag lots;

2. Section 4.3.C.1.c, with respect to lots without frontage on a public or private road; and

3. Section 4.3.D.5, with respect to reservation of land for public use.

Recommendation

Staff recommends that the Planning Board request the County Council to introduce the proposed Subdivision Regulations Amendment.

Attachments:
Attachment A: Draft SRA for introduction
AN AMENDMENT to the Montgomery County Subdivision Regulations to:

- delete the definition of *Adequate Public Facilities Ordinance (APFO)*, *Licensed Land Surveyor*, *Subdivision Staging Policy*, and *Septic Tiers*;
- amend the definition of *Administrative Civil Penalty*, *Board*, *Building Restriction Line*, *Citation*, *Civil Fine*, *Enforcement Agent*, *Engineer*, *Preliminary Plan*, *Pre-Preliminary Plan*, *Centerline of Road*;
- add a definition for *Building Envelope*, *County Growth Policy*, *Director Action*, *Growth Tiers*, *Land Surveyor*, and *Utilities*;
- amend provisions concerning:
  - filing and approval procedures for preliminary plan submission
  - the lot design of flag lots, frontage on a public or private road, alleys or pedestrian paths for residential lots,
  - the exemption to certain requirements for *Utility and Communication Structures*;
  - the taxing provisions for all public reservations;
  - the extensions for all public reservations;
  - the access easements for alleys;
  - establishing utility easements in a subdivision;
  - adequate public facilities;
  - a residential cluster subdivision;
  - the approval of an administrative subdivision, a minor subdivision or a plat granting a waiver from any requirement of Chapter 50
- add a provision for places of worship and institutional uses, that a landscaping and lighting plan be submitted for review and approval concurrently with the preliminary plan; and
- generally amend the provisions governing Chapter 50.

By amending

Montgomery County Code

Chapter 50. “Subdivision of Land”
Division 50.2. “INTERPRETATION AND DEFINED TERMS”
Section 50.2.2. “Definitions”
Division 50.3. “GENERAL REQUIREMENTS”
Section 50.3.2. “Record Plat Required”
Section 50.3.3. “Exemptions to the Requirements of this Chapter”
Section 50.3.6. “Submission Procedures for Subdivision Plans”
Division 50.4. “PRELIMINARY PLAN”
Section 50.4.1. “Filing and Specifications”
Section 4.2. “Approval Procedure”
Section 4.3. “Technical Review”
Division 50.5. “PRE-PRELIMINARY SUBMISSIONS”
Section 50.5.2. “Approval Procedure”
Division 50.6. “ADMINISTRATIVE SUBDIVISION PLAN”
Section 50.6.1. “Applicability”
Section 50.6.2. “Filing Requirements”
Section 50.6.3. “Approval Procedures”
Division 50.7. “MINOR SUBDIVISION”
Section 50.7.1. “Applicability”
Section 50.7.2. “Procedure for Platting Minor Subdivisions”
Division 50.8. “PLATS – GENERALLY”
Section 50.8.1. “Filing and Specifications”
Section 50.8.2. “Approval Procedure”
Section 50.8.3. “Recording Procedure”
Division 50.9. “WAIVERS FROM THIS CHAPTER”
Section 50.9.5. “Procedure for Granting Waivers”
Division 50.10. “ADMINISTRATIVE PROCEDURES”
Section 50.10.2. “Bonding and Surety”
Section 50.10.6. “Enforcement of Chapter”

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ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following Ordinance:
Sec. 1. Division 50.2 is amended as follows:

* * *

DIVISION 50.2. INTERPRETATION AND DEFINED TERMS

* * *

Section 2.2. Definitions

All terms used in this Chapter that are defined in Chapter 59 or Chapter 49 have the same meanings as the definitions in those Chapters, unless otherwise defined here. In this Chapter, the following words and phrases have the meanings indicated.

A. [Adequate Public Facilities Ordinance (APFO): Section 4.3.J of this Chapter, which specifies that the Board must find that public facilities will be adequate to support and serve a proposed subdivision before approval.]

Administrative Civil Penalty: A monetary penalty imposed by the Board after considering the factors in this Chapter for violating a Planning Board [action] Action or Director Action.

Administrative Subdivision Plan: A preliminary plan [for a proposed subdivision prepared and] submitted for the Director’s approval before the preparation of a plat.

* * *

Building Envelope: The portion of a lot, enclosed by the front, rear, and side setback lines and any additional building restriction lines, in which a structure may be placed.

Building Restriction Line: A line designating an area in which development or building is prohibited [by the Board under Section 50.4.3.K of these regulations].

Citation: A document noting a violation of a Planning Board [action] Action or Director Action, seeking to impose a civil fine or corrective action.

Civil Fine: A requirement to pay a predetermined sum of money specified in an administrative citation for violating a Planning Board [action] Action or Director Action.

County Growth Policy: The resolution or law approved by the District Council to determine the adequacy of public facilities and services.

Director Action: A written decision on a preliminary plan, site plan, or other plan, including all associated terms, conditions, requirements, and other obligations or limits, made by the Director under State law and Chapters 50 and 59, including any regulations approved under State or County law. For the purposes of an enforcement action, a Director Action excludes a decision made by the Director under Chapter 22A.
Enforcement Agent: The Director, or the Director’s designee responsible for determining compliance with a Planning Board Action or Director Action.

Engineer: A professional engineer [registered] licensed in Maryland.

* * *

Growth Tiers: Tiers adopted by Montgomery County under Subtitle 5 of the Land Use Article.

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Pre-Preliminary Plan: A drawing for a proposed subdivision [prepared and] submitted for binding or non-binding advice before the submission of a [Preliminary Plan] preliminary plan.

* * *

Road, Centerline of: A line established as a centerline of a road right-of-way by any State, County, or other official agency or governing body with jurisdiction and shown on an officially adopted plan or recorded plat. In the absence of an official centerline, the Board or Director must establish the centerline with consultation from the applicable agency with jurisdiction over the road.
Stop Work Order: An administrative order issued by an enforcement agent that requires a person to discontinue any further development, construction, or other land disturbance activity authorized by a Planning Board Action or a Director Action until a violation has been corrected.

Subdivision Staging Policy: The resolution or guidelines adopted by the District Council to determine the adequacy of public facilities and services.]

Utilities: Water, sewage, gas, electric, energy, telecommunications, telephone, broadband, cable facilities, and similar facilities that serve the public.

Sec. 2. Division 50.3 is amended as follows:

DIVISION 50.3. GENERAL REQUIREMENTS

Section 3.2. Record Plat Required

B. [Construction of a new principal] A building permit may only [occur] be issued for a building located on a lot or parcel shown on a plat recorded in the County Land Records or on a [property that is] parcel exempt from recording requirements under Section [3.3.B.] 50-3.3.B.
Section 3.3. Exemptions to the Requirements of this Chapter

A. An approved preliminary plan and recording of a plat under this Chapter are not required for the division or conveyance of unplatted land in the following instances:

1. *Court action.* Partition of land by will or through action of a court of competent jurisdiction unless or until development of the land is proposed.

B. Recordation of a plat before issuance of a building permit is not required for:

1. *Agricultural land used for residential dwellings.* An unplatted parcel of agricultural land at least 25 acres in size used for a primary dwelling unit if density and development rights are available and the parcel is eligible to obtain any required sewage disposal permits.

9. *Utility and Communication Structures.* The construction of telecommunication towers, antennas, solar arrays, relay stations, or similar facilities, including their associated accessory structures, which are not intended for the shelter, support, or enclosure of persons, unless otherwise required by the Board or further development of the land requires a subdivision plan.

Section 3.6. Submission Procedures for Subdivision Plans

E. *Area within pending master plan.* The Board may defer action on a proposed subdivision plan application, if all or any part of the plan is located in the boundaries of a pending master plan or master plan amendment. For purposes of this Section, a pending master plan or master plan amendment is the public hearing draft master plan or master plan amendment.
1. The subdivider may resubmit a proposed subdivision plan deferred under this Section to the Board either:
   a. after the final disposition by the District Council of the pending master plan or master plan amendment; or
   b. no later than 12 months from the date the Board approves the public hearing draft master plan or master plan amendment, unless there is a determination by the Board that the subdivision plan application presents a substantial conflict with the proposed public hearing draft master plan or master plan amendment, in which case the Board may defer a subdivision plan application for a maximum of 18 months from the date the Board approves the public hearing draft master plan or master plan amendment, but in no event beyond the period in Subsection 3.6.E.1.a.

* * *

Sec. 3. Division 50.4 is amended as follows:

DIVISION 50.4. PRELIMINARY PLAN

* * *

Section 4.1. Filing and Specifications

* * *

B. The drawing. The subdivider must submit a preliminary plan drawing in a form required by regulations of the Board. Details and information must include:

* * *

3. certificate of an engineer or [licensed] land surveyor to affirm the accuracy of boundary lines, topographic data, and other engineering or survey data, and to certify that the subdivision plans and supporting
documents were prepared in a manner that satisfies all submission requirements and applicable agency standards, policies, and procedures;

C. Supporting information.

4. Concept road grade and profile. For a public road, an engineer or a licensed land surveyor must prepare conceptual road grade and profile plans under the design criteria [of the Road Design and Construction Code] approved by the Department of Transportation and indicate the percentage of tangent grades, lengths of crest and sag, vertical curves and elevations, and elevations of all intersecting roads. The plan must indicate the direction of water flow. Where the topography makes the determination of the adequacy of the road grades difficult, the Director may require additional supporting information.

6. Sight distance evaluation for all [proposed] driveways that will serve new development and [proposed] road intersections prepared under the criteria of the applicable State or County transportation agency.

11. Draft Traffic Mitigation Agreement. A preliminary plan application for property located in a Transportation Management District (TMD), designated under Chapter 42A, Article II, must contain a draft Traffic Mitigation Agreement (TMAg) or similar plan designated under Chapter 42A prepared by the applicant that meets the requirements of that Article.
E. **Hearing date.** The Board must schedule a public hearing to begin within 120 days after the date the Director accepts an application. The Director may postpone the public hearing by up to 30 days once without Board approval. The Director or applicant may request one or more extensions beyond the original 30 days with Board approval. The Board must notice the public hearing and indicate the new hearing date on the Board’s agenda. An application that was filed before [{effective date of legislation}] February 13, 2017, is not subject to this subsection.

* * *

Section 4.2. Approval [Procedure] Procedures

B. **Review and recommendation.**

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2. **Approvals from public agencies.** The following agency approvals are required before the Board approves the preliminary plan:

* * *

c. **Stormwater management.** The Department of Permitting Services must approve a stormwater management concept plan and floodplain delineation, if required under Chapter 19;

* * *

F. **Amendments.**

1. [A major] Any amendment to an approved preliminary plan must follow the [same] procedures, meet the [same] criteria, and satisfy the [same] requirements of this Division.

2. **Amendments are classified** as [the original preliminary plan] either major or minor.
a. A major amendment includes any requests to change density that results in greater adequate public facility impact; or make major changes to lot configuration or location, or right-of-way width or alignment; or make a change to any condition of approval, except a change to [validity period phasing as permitted in Section 4.2.F.2.] plan validity period or APF validity period.

[2. A minor amendment to an approved preliminary plan must follow the same procedures, meet the same criteria, and satisfy the same requirements as the original preliminary plan, except as modified under Section 4.2.F.2.b.]

b. A minor amendment to an approved preliminary plan includes any change that does not change density in a manner that results in greater adequate public facility impact; make major changes to lot configuration or location, or right-of-way width or alignment; or alter the intent, objectives, or requirements of the Board in approving the preliminary plan. **A change to plan validity period or APF validity period is a minor amendment.**

[b. The Board may approve a minor preliminary plan amendment without a public hearing if the Director publishes a report and recommendation on the amendment a minimum of 10 days before the Board meeting. The Director may also]

c. **The Director may approve a minor amendment to change validity period phasing as permitted in Section 4.2.H.1.b.**

G. **Plan Validity.**

1. **Initiation date.** The plan validity period for preliminary plans starts on the later of:
a. 30 days from the date of mailing indicated on the written resolution;  
or  
b. [if an administrative appeal is timely noted by any party authorized to  
file an appeal,] the date upon which the court having final jurisdiction  
acts, including the running of any further applicable appeal periods, if  
an administrative appeal is timely noted by any party authorized to  
file an appeal.  

If a corrected resolution is issued, the initiation date remains 30 days  
from the date of mailing indicated on the original resolution.  

2. *Duration.*  
   
   
i. A preliminary plan approved after March 31, 2009 and  
   before April 1, 2017 remains valid for [60 months] 5 years  
after its initiation date.  
   
ii. A preliminary plan approved after March 31, 2017 remains  
valid for [36 months] 3 years after its initiation date.  

b. *Multi-phase project.*  

   * iii. The time allocated to any phase must be [60 months] 5  
years or less after the initiation date for that particular phase  
for any preliminary plan approved after March 31, 2009,  
but before April 1, 2017, and [36 months] 3 years after the  
initiation date for that particular phase for any preliminary  
plan approved after March 31, 2017.  

iv. The cumulative validity period of all phases must be shorter  
than or equal to the APF[O] validity period which begins on
the initiation date of the first preliminary plan approval, including any extension granted under Section 4.3.J.7.

H. Extension of plan validity period.

2. Effect of failure to submit a timely extension request.

b. Where a preliminary plan has been allowed to expire due to the applicant’s failure to file a timely request for extension, the Board may reinstate the preliminary plan and establish a new validity period if practical difficulty or undue hardship is demonstrated by the applicant. The Board may require the applicant to get a new APF[O] review and approval by the Board as a prerequisite or condition of its action to extend an expired plan.


c. The Board may only grant an extension to a preliminary plan within the plan’s APF[O] validity period, unless a further extension is allowed by law.

I. Effect of failure to timely validate plan or secure an extension.

3. If a preliminary plan or a phase of the plan is not timely validated, any APF[O] determination made by the Board associated with the void portion of the preliminary plan is also void. In such event, the applicant loses any further rights to claim any vehicle trips associated with the expired APF[O]
approval. The filing of a new preliminary plan application does not provide the basis for reclaiming vehicle trips lost by the termination of the APF[O] approval.

K. * * *

K. Vacating an approved subdivision.

1. An applicant may request that the approval of a subdivision plan, for which no subsequent plats have been recorded, be vacated.

2. A request to vacate an approved subdivision plan must include proof of ownership and notarized signatures of all property owners or other persons who are authorized by the property owner.

3. The Director must approve the request to vacate the approved subdivision plan if the Director finds that the request is not contrary to the public interest.

* * *

Section 4.3. Technical Review

In making the findings under Section 4.2.D, the Board must consider the following aspects of the application.

* * *

B. Lot design.

1. General requirements.

   b. Flag Lots. The Board must not approve flag lots, except where unusual topography, environmental conditions, or the position of the tract in relation to surrounding properties and rights-of-way permit no other feasible way to subdivide and the Board determines that appropriate
separation between building envelopes can be achieved. In approving a
flag lot, the following provisions apply:

i. in residential zones, the Board must require building restriction lines
as needed to provide separation of at least 80 feet between the
building envelope of the proposed flag lot and the building envelopes
of all lots that are adjacent to the rear lot line of the proposed flag lot
or that are between the proposed flag lot and the road on which it
fronts;
ii. the Board may require additional building restriction lines to ensure
appropriate separation between building envelopes and to provide
appropriate location of the building envelope within the lot; and
iii. all building restriction lines must be shown on the plat.

[b.]c. Lots to abut on a public or private road. Except as specified below,
every lot must abut on a public or private road. A public road must be
dedicated or donated to public use or have acquired the status of a public
road under Chapter 49. A private road must be shown on a record plat.
[i.]The Board [may] must not approve [a maximum of 2] lots that do not
abut a public or private road [if], except where unusual topography,
environmental conditions, or the position of the tract in relation to
surrounding properties and rights-of-way permit no other feasible way to
subdivide, and the Board determines that appropriate separation between
building envelopes will be achieved. In approving a lot that does not
abut a public or private road, the following provisions apply:

i. the Board must not approve more than two lots in a subdivision that
do not abut a public or private road;
ii. the lots will be served by a private driveway that serves no other lots
without frontage[.].]
iii. in residential zones, the Board must require building restriction lines as needed to provide separation of at least 80 feet between the building envelope of the proposed lot without frontage and the building envelopes of all lots that are adjacent to the rear lot line of the proposed lot without frontage or that are between the proposed lot without frontage and the road from which it is accessed;

iv. the Board may require additional building restriction lines to ensure appropriate separation between building envelopes and to provide appropriate location of the building envelope within the lot;

v. all building restriction lines must be shown on the plat; and

vi. The access to lots with no road frontage must be adequate to serve the lots for emergency vehicles and for installation of public utilities. In addition, the lots must be accessible for other public services and not detrimental to future development of adjacent lands.

[c.]d. Side lines. Side lines of interior lots must to the extent possible be aligned perpendicular to the road line or radial to a curved road line. 

d.e. Through lots. The Board must not approve through lots, except where unusual topography, orientation, or the size of the subdivision permit no other feasible way to subdivide.

e.f. Alley or pedestrian paths for residential lots. If a mid-block alley or pedestrian right-of-way is provided in a residential subdivision for detached houses, the subdivider must increase the lot widths adjoining the alley or right-of-way to provide for a parallel side building restriction line 15 feet from the alley or right-of-way

* * *

D. Public sites and adequate open spaces. A preliminary plan must provide for required public sites and adequate open space areas.
5. Reservation.

a. Procedure. When the Board determines that a tract being subdivided includes land that is necessary for public use but will not immediately be acquired by donation, dedication, purchase, or condemnation when the plat is recorded, the Board must determine the need to reserve the land. The Board may require a reservation for a period of time [less than] up to 3 years for road rights-of-way, public school and building sites, parks, playgrounds, recreational areas, or other public purposes.

iii. Taxes. The Board must advise taxing and assessing bodies of all public reservations, and such public reservations must be exempt from all [State,] County[,] and local taxes during the reservation period.

vi. Extension. After the initial reservation period, the Board may extend the reservation period upon request of the property owner if the Board determines that the reserved land continues to be necessary for public use. Any extension must not exceed 3 years.

E. Roads.

2. Design standards.

e. Non-through roads. The Board must not approve any road that does not connect to another road at its beginning and end, unless a determination is made that:
iii. the road, excluding alleys, is properly terminated in a cul-de-sac or other turnaround; and

f. Intersection.

ii. [Proposed] The distance between proposed road intersections, excluding alleys and driveways, must be spaced as shown in the table below, as measured from the centerline of the intersections. When the Board finds that a greater or lesser [spacing] distance is appropriate, the Board may specify a greater or lesser [spacing] distance than otherwise required after considering the recommendation of the transportation agency responsible for maintaining the road.

3. Additional requirements for public roads.

b. Existing public roads. In a preliminary plan [or administrative subdivision plan] application containing lots fronting on an existing State, County, or municipally maintained road, the subdivider must provide any additional required right-of-way dedication and reasonable improvement to the road in front of the subdivision, including sidewalks and bicycle facilities, as required by Master Plan, the Road Design and Construction Code or by a municipality, whichever applies.

4. Additional standards for private roads.
d. **Road Classifications.** When the Department of Transportation determines that the proposed road is not needed to maintain area circulation, provide continuous corridors to serve the general public and quasi-public needs such as communication, utility, and future potential transportation or other systemic needs that serve the public on a long-term basis, and is not needed to be part of the network modeled for area capacity, consideration will be given to making the following roads private:

[ix. A private alley will not require an access easement if the alley only serves one building or if the alley is a secondary access to one-family residential dwellings.]

5. **Additional roadway provisions.**

   d. **Road grade approval.** No final grading, sidewalk or pavement construction, or installation of utilities must be permitted in the bed of any proposed public or private road in any preliminary plan [or administrative subdivision plan] until the grade has been approved under this Chapter.

   e. **Pedestrian paths.** When a pedestrian path is included in a preliminary plan [or administrative subdivision plan], the subdivider must grade and construct the path according to the plan approved by the Board, Department of Permitting Services, or applicable municipality.

F. **Water supply and sewage disposal facilities.**

   3. [Septic] **Growth tiers.**
d. The Board may approve a subdivision for any number of residential lots that would be served by one or more septic systems on land located in the Tier III or Tier IV area.

e. The Board may approve a minor subdivision that would be served by one or more septic systems on land located in the Tier IV area.

f. The Board may approve a major subdivision that would be served by one or more septic systems on land in the Tier IV area.

[g.] The official map displaying the Growth Tier areas as allowed under the Maryland Sustainable Growth and Agricultural Preservation Act of 2012 is located on the Planning Department website. The Council may amend the official map either by:
i. adopting Tiers in a General Plan amendment; or
   ii. an amendment under Section 10.7.

The latest version of the map may be accessed from the Planning Department website at www.montgomeryplanning.org.

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G. Markers and monuments.

1. The subdivider must have metal property line markers, approximately 1/2-5/8 inch in diameter and 18 inches in length, or other generally accepted survey markers, placed in the ground at all lot corners, intersections of roads, intersections of roads and alleys with record plat boundary lines, and at all points on road, alley and boundary lines where there is a change in direction or curvature, unless such point coincides with the location of a reference monument. All markers must be properly set in the ground before the roads and alleys are accepted for public maintenance. For projects that do not include public roads, the owner and [licensed] land surveyor must certify to
the Department of Permitting Services that all property corner markers have
been set by a [licensed] land surveyor.

2. The [licensed] land surveyor hired by the owner must place markers and
monuments in the ground after road grading and paving in the subdivision
and grading and landscaping of adjacent lots are completed. The markers
and monuments must be located as specified on the plat. The [licensed] land
surveyor must certify to the Department of Permitting Services, or other
appropriate governmental agency or the municipality that all survey
monuments and markers are in place before the County or municipality
accepts any road or alley established by the plat for maintenance. The
amenity bonds must not be released by M-NCPPC until the [licensed] land
surveyor certifies to the Department of Permitting Services that all survey
monuments are in place.

*     *     *

I. Public utilities. Pipelines, electric power and energy lines, and
telecommunications lines must be provided] Utilities. The developer must
ensure the installation of utilities [by the developer] in all subdivisions.

1. Installation.

   a. Within the property being subdivided, the developer must install any new
   [pipelines, electric power and energy lines, and telecommunications
   lines] utilities underground.

   *     *     *

2. Completion. The Board [may] must not approve a final plat until the
developer demonstrates that the applicable utility companies or public
agencies are able to provide utility [service] services to the subdivision and
installation by the developer has been assured under Section 10.2.

3. Easements.
a. The subdivider must establish utility easements, which must be shown on the record plat, to allow for installation of utility facilities servicing the proposed subdivision and the future extension thereof to any property adjoining the subdivision, which that:

i. provide the minimum area needed to maintain each of the facilities as determined by the Board in consultation from the utility provider; and

ii. are adjacent to, or accessible from, a road right-of-way; and

iii. are shown on the record plat.

[With County DPS permission] With Department of Permitting Services approval, utilities may be placed within conduit in public road rights-of-way. Utilities placed within private road rights-of-way by a developer must also be in conduit.

b. When a private road is allowed, the Board must also require the developer to provide to the County a covenant granting an additional public infrastructure area at least 3 feet wide, unless the Planning Board determines that a lesser amount will be sufficient. The public infrastructure area must be within or adjacent to private roads road rights-of-way or in other appropriate locations that create contiguous service corridors within the subdivision. The public infrastructure areas must connect to and be accessible from a public right-of-way to provide for installation of utility facilities. [future:

i. relocation of existing utilities permitted to remain in a road right-of-way; and

ii. installation of new communication facilities.

When a structure is proposed under a private road and the public infrastructure area is located in the road right-of-way, the The
developer must construct conduits within the infrastructure area to
the County’s specification.

J. Adequate Public Facilities [Ordinance] (APF[O]).

* * *

5. Validity period.

a. *Initiation date.* The adequate public facility validity period starts on the
later of:

i. 30 days from the date of mailing indicated on the written resolution;

or

ii. if an administrative appeal is timely noted by any party authorized to
file an appeal, the date upon which the court having final jurisdiction
acts, including the running of any further applicable appeal periods.

b. if a corrected resolution is issued, the initiation date remains the date of
mailing indicated on the original resolution.

[a.] c. A determination of adequate public facilities made under this Chapter
is timely and remains valid:

i. for 12 years after the [preliminary plan is approved] initiation
date for any plan approved after July 24, 1989, but before
October 19, 1999;

ii. for no less than 5 and no more than 12 years after the
[preliminary plan is approved] initiation date, as determined by
the Board when it approved the plan, for any plan approved after
October 18, 1999, but before August 1, 2007;

iii. for no less than 7 and no more than 12 years after the
[preliminary plan is approved] initiation date, as determined by
the Board when it approved the plan, for any plan approved after
March 31, 2009, but before April 1, 2017; and
iv. for no less than 5 and no more than 10 years after the preliminary plan is approved initiation date, as determined by the Board when it approved the plan, for any plan approved after July 31, 2007, and before April 1, 2009, or after March 31, 2017.

[b.] v. for no less than 5 and no more than 10 years after the application is approved, as determined by the Board when it approved the application, for any adequate public facilities determination made in association with a site plan under Chapter 59 or building permit under Chapter 8 approved after July 31, 2007, and before April 1, 2009, or after March 31, 2017.

d. If an applicant requests a longer validity period than the minimum specified in Section 4.3.J.5.a, the applicant must submit a development schedule or phasing plan for completion of the project to the Board for its approval.

* * *

6. Validity period – County arts or entertainment use.

* * *

b. The Board must grant an application to extend the validity period established under this paragraph for an additional 5 years if:

* * *

ii. at any time during the [24 months] 2 years before the application for extension being filed, the vacancy rate for class A office buildings in the Central Business District in which the project is located reaches 10 percent for direct and sublet space combined, as measured by a commercial Multiple Listings Service benchmark; or

* * *

7. Extensions.
a. Application. Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.

iii. For each extension of an adequate public facilities determination:

(e) a new adequate public facilities determination for school adequacy is required for the remaining unbuilt units under the school test in effect at the time of Board review.

b. The Board may approve an amendment to the new development schedule approved under [paragraph] Section 4.3.J.7.a.ii if the applicant shows that financing has been secured for either:

e. Applications with Significant Infrastructure Investment. The Board may extend [a] an initial determination of adequate public facilities once for up to 12 more years beyond the otherwise applicable validity period if the Board finds that:

i. the preliminary plan or APF approval for the development required a significant commitment of funds by the applicant, amounting to at least $3 million, as adjusted annually from February 2017 by the consumer price index, to comply with specified infrastructure conditions;

h. No combination of extensions of APF validity approved under Section 4.3.J.7 may exceed a total of 12 years from the date of the original APF expiration.
K. Environment.

2. Restriction of subdivision for environmental protection.

b. Restrictions.

i. General. In addition to any requirement imposed under Chapter 22A, the proposed preliminary plan [or administrative subdivision plan] may be restricted under this Section by:

L. Residential cluster subdivision.

2. Conditions for use. The use of the cluster method of development is subject to Board approval and the following conditions and requirements:

c. the open space and green areas proposed by the applicant in the cluster development must comply with the general purpose of cluster development, and the application must include a plan detailing the post-development maintenance responsibilities and use of those areas; [and]
d. the Board must count the land dedicated to public use for school and park sites in the tract area for the purpose of calculating density, and allow the use of the resulting density development of the remaining land when this can be accomplished in compliance with the purposes of this Section[.]; and

e. future subdivision of land within the approved cluster subdivision that would result in the creation of additional lots is not permitted after the property is platted.
N. Landscape and Lighting Plans

1. For places of worship and institutional uses, a landscaping and lighting plan, which must also include the parking lot layout, must be submitted for review and approval concurrently with the preliminary plan.

Sec. 4. Division 50.5 is amended as follows:

DIVISION 50.5. PRE-PRELIMINARY SUBMISSIONS

Section 5.2. Approval Procedure

C. Action on a pre-preliminary submission.

At the applicant’s discretion, action on a pre-preliminary plan may be either advisory if only reviewed by the Development Review Committee or binding if reviewed by the Board.

Sec. 5. Division 50.6 is amended as follows:

DIVISION 50.6. ADMINISTRATIVE SUBDIVISION PLAN

Section 6.1. Applicability

The subdivider may file an administrative subdivision plan application [instead of a preliminary plan] under the following circumstances. [The Director must review the necessary technical requirements of the administrative subdivision plan under Section 4.3.] Administrative subdivision plans may only be used to create lots, as expressly described below.

A. Existing places of worship and institutional uses. The Board may approve a lot created for existing facilities such as: places of worship, private schools,
country clubs, private institutions, and similar uses located on unplatted parcels, if:

* * *

3. [requirements for meeting] forest conservation[,] plan approval and
   stormwater management[,] and environmental protection requirements, if
   applicable, are satisfied before approval of the plat;

* * *

6. [the property is the subject of an approved conditional use and] all
   conditions of [the] any conditional use approval, to which the property
   may be subject, remain in full force.

B. **Subdivision for creation of certain residential lots located in the Agricultural Reserve zone.** Up to 5 lots for detached houses [are permitted] may be created under these procedures in the AR zone if:

* * *

6. forest conservation plan approval and stormwater management and
   environmental protection requirements, if applicable, are satisfied before
   approval of the plat.

C. **Subdivision for creation of certain residential lots.** Up to 3 lots for detached houses [are permitted] may be created in any residential or rural residential zone under these procedures if:

* * *

5. forest conservation[,] plan approval and stormwater management and
   environmental protection requirements, if applicable, are satisfied before
   approval of the plat.

D. **Consolidation of an existing [lots] lot with another lot or [parts] part of [lots] a lot in a nonresidential zone.** In a nonresidential zone, a lot may be created
by combining existing adjoining lots, or a lot and a part of a previously platted lot, if:

* * *

4. forest conservation plan, stormwater management, and environmental protection requirements, if applicable, are satisfied before approval of the plat; and

5. when located in a special protection area, all applicable special protection area requirements and guidelines are satisfied before the Board approves the plat.

For the purposes of this section, a part of a lot that qualifies for the exemption stated in section 50.3.3.B.2 may be used in lieu of a whole lot.

E. Subdivision application for property to be used as Signature Business Headquarters under Section 3.5.8.D of the Zoning Ordinance. A lot or lots created for a Signature Business Headquarters may be approved, if:

* * *

3. forest conservation plan approval and stormwater management and environmental protection requirements, if applicable, are satisfied before approval of the plat; and

4. when located in a special protection area, all special protection area requirements are satisfied before approval of the plat [, if the subject property is located in a special protection area].

Section 6.2. Filing Requirements

A. Filing. The Applicant must file the administrative subdivision plan and applicable supporting information under Section 50.4.1.C., together with an application form and fee to satisfy Subsection 4.1.A.

* * *

Section 6.3. Approval Procedures
B. **Action on an administrative subdivision plan.**

1. **Director Action.** An administrative subdivision plan may be approved by the Director without a public hearing if no objection to the application is received within 30 days after the application notice is sent. After receiving the recommendations of the Development Review Committee and other reviewing agencies, and considering correspondence from other interested parties, the Director must approve or disapprove the administrative subdivision plan in writing. [In the alternative, the Director may require that the plan be acted on by the Board. When applicable, the Director must schedule Board action on its next available agenda. If approved, the plan will remain valid under Section 4.2.G, by which time a plat must be recorded.]

2. **Planning Board Action.** If an objection is received within 30 days after the application notice is sent, and the Director considers the objection relevant, a public hearing and action by the Board is required. The Director may also require that the plan be acted on by the Board when no objection is received. When applicable, the Director must schedule a Board hearing on its next available agenda.

3. All necessary improvements to support the development must be completed or assured under Section 10.2.

4. The Director must take action on an administrative subdivision plan or schedule a public hearing within 90 days after the date an application is accepted. The Director may postpone the public hearing once, by up to 30 days, without Board approval. The Director or applicant may request an extension beyond the original 30 days with Board approval. Any
extension of the public hearing must be noticed on the hearing agenda with the new public hearing date indicated.

5. In making the findings required in Section 6.3.C, the Director or Board must consider the technical requirements under Section 4.3. In performing this review, the Director is authorized to perform any relevant action that is permissible to the Board under Section 4.3, except for the following:
   a. Section 4.3.C.1.b, with respect to flag lots;
   b. Section 4.3.C.1.c, with respect to lots without frontage on a public or private road; and
   c. Section 4.3.D.5, with respect to reservation of land for public use.

C. Required Findings. To approve an administrative subdivision plan, the Director or Board must make the following findings:

1. the layout of the subdivision, including size, width, shape, orientation and density of lots, and location and design of roads is appropriate for the subdivision given its location and the type of development or use contemplated and the applicable requirements of Chapter 59;

2. the administrative subdivision plan substantially conforms to the master plan;

3. public facilities will be adequate to support and service the area of the subdivision;

4. all Forest Conservation Law, Chapter 22A requirements are satisfied;

5. all stormwater management, water quality plan, and floodplain requirements of Chapter 19 are satisfied;

6. any burial site of which the applicant has actual notice or constructive notice or that is included in the Montgomery County Cemetery Inventory and located within the subdivision boundary is approved under Subsection 50-4.3.M; and
7. any other applicable provision specific to the property and necessary for approval of the subdivision is satisfied.

D. **Plan Certification**

Every administrative subdivision plan approved by the Board or the Director must be certified by the Director to confirm that the plan reflects the approval. Any modification of the plan conditioned by the approval must be included in the plan before receiving the approval stamp. The approved plan must be filed in the records of the Board.

E. **Amendments.**

Any amendment to an approved administrative subdivision plan must follow the procedures, meet the criteria, and satisfy the requirements of this Division.

F. **Plan Validity**

1. **Initiation date.** The plan validity period for administrative subdivision plans starts on the later of:

   a. 30 days from the date of mailing indicated on the Director’s written approval or the Board’s resolution; or

   b. the date upon which the court having final jurisdiction acts, including the running of any further applicable appeal periods, if an administrative appeal is timely noted by any party authorized to file an appeal.

   If a corrected resolution is issued, the initiation date remains the date of mailing indicated on the original resolution.

2. **Duration.**

   a. An approved administrative subdivision plan remains valid for 3 years after its initiation date.

   b. An administrative subdivision plan is validated when the applicant has secured all government approvals necessary to record a plat, and a plat
for all property shown on the plan has been recorded in the County Land Records.

c. Any extension of the validity period must follow the procedures of Section 4.2.H.

d. For any action taken by the Director or Board to amend a previously approved administrative subdivision plan, the Director or Board will determine, on a case-by-case basis, whether the validity period should be extended and, if so, for what duration. In making the determination, the Director or Board must consider the nature and scope of the requested amendment.

e. Failure to timely validate or extend the validity period of an administrative subdivision plan is governed by Section 4.2.I.

G. Revocation or Vacation of an Administrative Subdivision Plan

1. Revocation of an administrative subdivision plan must satisfy Section 4.2.J.

2. Vacation of an administrative subdivision plan must satisfy Section 4.2.K.

H. Appeal of an administrative subdivision plan.

* * *

Sec. 6. Division 50.7 is amended as follows:

DIVISION 50.7. MINOR SUBDIVISION

Section 7.1. Applicability

The submission of a preliminary plan [or administrative subdivision plan] under Sections 4.1 and 4.2, and Sections 6.1 and 6.2, is not required for:

* * *

B. Conversion of an outlot into a lot. An outlot may be converted into a lot if:

* * *
3. all applicable requirements or agreements under the Adequate Public Facilities [Ordinance] provisions in Subsection 4.3.J and the Subdivision Staging Policy are satisfied before recording the plat;

C. Consolidation. Adjoining properties in the Rural Residential or Residential Detached zones, not developed under cluster provisions, may be combined in the following ways:

1. by consolidating 2 or more lots into a single lot, consolidating lots and an outlot into a single lot, or consolidating a lot and an abandoned road right-of-way, if:

   c.[all] any required right-of-way dedication is provided.

2. by consolidating [an existing platted lot or] a part of a lot that contains a legally constructed detached house or an existing platted lot[,] with a piece of land created as a result of a deed, if:

E. Ownership Plat. An ownership plat may be recorded to delineate separate ownership units within a lot approved for any use except for single-unit living as follows:

3. Private roads [may] must not be delineated as a separate ownership unit on an ownership plat.

F. Plat of correction. A plat of correction may be used for any of the following:

2. to revise easements to reflect a Planning Board [action] Action, or as necessitated by a State or County agency or public utility;
Section 7.2. Procedure for Platting Minor Subdivisions

The subdivider of a property that satisfies the requirements for a minor subdivision under Section 7.1 may submit an application for record plat for approval under Section 8.1 and Section 8.2.

A. Additional considerations.

3. Any applicable requirements of Chapter 22A must be satisfied before approval of the plat by the Board.

Sec. 7. Division 50.8 is amended as follows:

DIVISION 50.8. PLATS – GENERALLY

Section 8.1. Filing and Specifications

C. Plat drawing. The plat drawing prepared with the application must be an 18-inch by 24-inch sheet, including a margin of one-half inch outside ruled border lines. It must be accurately drawn to a scale approved by the Board and must include the following:

1. Title block. The title block must appear in the lower right corner of the sheet and must include the following information:

   e. name of firm of [licensed] land surveyor who prepared the plat and date of completion; and
3. **Surveyor certificate.** Certificate by the [licensed] land surveyor in a form required by the Board, certifying to the accuracy of the plat and to areas included on the plat and dedicated to public use. The certificate must also include conveyance information with recording references of the lands contained in the plat.

4. **Owner’s Certificate.** Certificate by the owner and all parties of interest, in a form required by the Board, adopting the plat; granting slope, utility, conservation, or any other easements; and establishing building restriction lines that are required to be drawn or noted on the plat per the conditions of the approved [Preliminary Plan or Administrative Subdivision Plan] preliminary plan and dedicating to public use roads, alleys, rights-of-way, and any other areas approved for dedication to public use by the Board. The owner must certify that a [licensed] land surveyor will be engaged to set all property corner markers under Subsection 4.3.G.

E. **Other supporting information.** The following supporting information is also required with the plat application.

1. **Documents and plans.** The following documents and plans must be submitted:

   c. copies of approved[, preliminary or] final forest conservation plan[, as appropriate,] or exemption letter; and

2. **Preliminary plans using transferable development rights (TDRs).** For a subdivision designated in sewer category 3 conditioned upon approval of
a preliminary plan that uses TDRs, a new plat using less than the
requisite number of TDRs [may] must not be approved until the sewer
category has been reconfirmed by the Council.

* * *

4. Plat for a cluster subdivision.

* * *

b. Plats may be submitted in phases; however, density on any one plat
[may] must not exceed 115 percent of the allowed density of the area
included on the plat.

* * *

Section 8.2. Approval Procedure

* * *

C. 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
plat may be approved unless it complies with an approved preliminary
plan [or an administrative subdivision plan:]; however, the Board may
allow for minor modifications from [these plans] the plan which, in its
opinion, do not alter the intent of previous approval.

* * *

G. Planning Board may [hold hearing] hear testimony on any plat. The Board
may, upon its own motion, [hold a hearing] hear testimony before acting upon
any plat, in accordance with [notice required by] the Board’s Rules of
Procedure.

* * *

I. Signing. A plat must be signed by applicable County agencies with review
authority before Planning Board [action] Action on the plat, unless the Board
specifically permits the signature to be added as a condition of its approval.
The plat must be signed by the authorized officers of the Board after the Board acts to approve the plat or, in cases of conditional approval, when the conditions are satisfied.

* * *

Section 8.3. Recording Procedure

A. Processing of plats.

2. The official seal of the [licensed] land surveyor who prepared the plat must be impressed upon the original approved plat and reproductions

* * *

Sec. 8. Division 50.9 is amended as follows:

DIVISION 50.9. WAIVERS FROM THIS CHAPTER

* * *

Section 9.5. Procedure for Granting Waivers

A. Referral for recommendations. The Director must send a copy of each waiver request to the applicable Development Review Committee agencies for investigation, report, and written recommendation before acting on the request. For waivers requested as part of a preliminary plan[, administrative preliminary plan,] or [pre-application submission] pre-preliminary plan, those agencies must submit any report and recommendation on the waiver in the timeframes required for those plans. For separate waiver requests, final recommendation must be provided to the Director within 30 days after receiving the request, or the recommendation must be treated as favorable.

* * *

Sec. 9. Division 50.10 is amended as follows:

DIVISION 50.10. ADMINISTRATIVE PROCEDURES
Section 10.2. Bonding and Surety

A. Guarantee of completion of improvements before recording final plat.

1. Before plat recordation, the subdivider must demonstrate to the Board or [applicable public agency must certify] the Director that the subdivider has obtained the necessary permits and bonds or provided other surety that ensures completion of all required public and private improvements on the land covered by the plat being recorded.

Section 10.6. Enforcement of Chapter

B. Administrative citation.

1. The Director may deliver an administrative citation to a person whom the Director believes committed a violation of a Planning Board [action] Action, Director Action, or this Chapter. The Director must attest to the truth of the facts and allegations in the administrative citation. An administrative citation issued under this Subsection must be served on the alleged violator personally, on the alleged violator’s agent at the site of the alleged violation, or by certified mail to the alleged violator’s last known address.

C. Notice of Hearing.

1. The Director may issue a notice of hearing to a person whom the Director believes committed a violation of a Planning Board Action, Director Action, or this Chapter. The notice of hearing must be served on the alleged violator personally, on the alleged violator’s agent at the site of
the alleged violation, or by certified mail to the alleged violator’s last
known address.

* * *

D. Civil fine and penalty.

1. A citation may require the recipient to pay a civil fine for a violation of a
Planning Board [action] Action or Director Action.

2. The fine for each violation of a Planning Board [action] Action or
Director Action is the maximum allowed by the Land Use Article §23-
505 of the Maryland Code for each day that the violation continues.

* * *

5. In setting the amount of the administrative civil penalty, the Board or its
designee must consider:

* * *

b. the degree of deviation from the approved Planning Board [action] 
Action or Director Action;

* * *

F. Hearing.

* * *

3. The Board may assign a hearing officer, including a Hearing Examiner
from the Office of Zoning and Administrative Hearings, to conduct a
public hearing and submit a report and recommendation on any alleged
violation of this Chapter or a Planning Board [action] Action or Director 
Action. The hearing officer must submit the required report and
recommendation to the Board not later than 30 days after the hearing
record closes. The hearing officer may extend the time to file the report
by notifying all parties.

* * *
K. *Exclusive authority.* The Board or its designee has exclusive authority to enforce violations of a Planning Board [action] Action or Director Action and any violations of this Chapter. The authority granted in this Chapter supersedes any other authority to enforce a Planning Board [action] Action or Director Action granted to any other County or State agency.

* * *

**Sec. 10. Effective Date.** This amendment takes effect 20 days after the date of Council adoption.

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq.

Clerk of the Council

Date