



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

**CODE INTERPRETATION POLICY**

<b>DATE</b>	<b>SECTION OF CODE</b>	<b>TITLE OF CODE/SUBSECTION/POLICY DEVELOPMENT STANDARDS</b>
7/25/24	50-4.2.E.2.	Approval Procedures – Plan Certification
<b>CODE PROVISION</b>		
<p><b>50-4.2.E</b></p> <p>E. Plan Certification</p> <p style="padding-left: 40px;">2. After conditional use approval and prior to certification of a preliminary plan, the Director may approve a minor change to a preliminary plan that was approved contingent on the approval of a conditional use application, if the minor change does not modify a condition of the preliminary plan. The Director may approve these minor changes without a public hearing if no objection to the application is received within 15 days after the conditional use is approved. If an objection is received within 15 days and the Director considers the objections relevant, a public hearing and action by the Board is required. The Director may also require the change to be acted on by the Board when no objection is received.</p>		
<b>STATEMENT/BACKGROUND OF ISSUE</b>		
<p>Section 50-4.2.E.2. is a new section of code that was added through SRA 23-02 and adopted by Ordinance 20-10, effective March 4, 2024. This section of code is intended to provide a Director-level process to allow minor revisions to approved preliminary plans that were concurrently reviewed by the Planning Board with a conditional use plan as long as the findings or conditions of approval for the preliminary plan are not modified. Nothing currently prohibits concurrent review of a conditional use plan with a preliminary plan, but these concurrent reviews are not completed in practice because a preliminary plan cannot take effect until the Hearing Examiner approves the conditional use. A policy is needed to delay certification of the concurrently reviewed and approved preliminary plan until after the Hearing Examiner has approved the conditional use. Further, the policy should allow certain revisions to the certified preliminary plan to comply with the conditional use approval.</p>		
<b>AGENCY INTERPRETATION/POLICY</b>		
<p>Montgomery Planning shall allow concurrent submission, review, and public hearing of both a conditional use plan and a preliminary plan, if requested by an applicant. The preliminary plan can be conditionally approved by the Planning Board contingent on a consistent approval by</p>		

the Hearing Examiner, and delegation of authority to Planning Staff to make certain minor changes are reflected on the certified preliminary plan as required by the conditional use approval. To implement this policy, two new conditions of approval will be added to all preliminary plans that are reviewed concurrently with a conditional use application.

The first condition of approval ensures the preliminary plan is not valid until the conditional use is approved by the Hearing Examiner.

1. This preliminary plan approval is contingent on approval of conditional use plan No. CU#####, for the proposed land use in a manner consistent with the preliminary plan application and findings.

The second condition of approval enacts Section 50-4.2.E.2. by allowing the Planning Director to approve minor changes to preliminary plans prior to certification. The condition prohibits any plan certification before the conditional use is approved and establishes a 15-day wait period if changes are required to the preliminary plan. If objections are raised to the changes, or if the changes are major and impact findings or conditions of the preliminary plan approval, the Board would need to take action at a new Public Hearing. This must be done through an amendment to the preliminary plan.

2. The preliminary plan must not be certified until Conditional Use No. CU##### is approved by the Hearing Examiner. If the conditional use approval necessitates minor changes to the preliminary plan drawings that do not impact findings or conditions of approval, the certified preliminary plan drawings may be updated to reflect those changes, but must not be certified until 16 days after the Hearing Examiner issues the CU approval. If the conditional use approval necessitates major changes to the preliminary plan drawings that impact findings or conditions of approval, or if relevant objections are received to the changes within 15 days of the conditional use approval date, the preliminary plan may not be certified and a preliminary plan amendment needs to be filed.

<b>INTERPRETATION/POLICY NO.</b> M-NCPPC 2024-04	<b>DATE</b>	<b>M-NCPPC LEGAL STAFF</b>
	<b>DATE</b>	<b>DIRECTOR</b>
	<b>DATE</b>	<b>PLANNING BOARD</b>