

# THE RULES OF THE GAME: MONTGOMERY COUNTY REVISES ITS PROCEDURES FOR DEVELOPMENT REVIEW

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On July 25, 2017, the Montgomery County Council (the Council) approved Montgomery County Planning Board (the Planning Board) Regulation 17-01 (COMCOR 50.10.01) concerning administrative procedures for development review (Regulation 17-01). (See Council Resolution 18-879). This regulation governs the application and review processes for development plans acted upon by the Planning Board or Planning Director of the Maryland-National Capital Park and Planning Commission (M-NCPPC).

To those familiar with M-NCPPC, however, a regulation clarifying the development review process is not a new concept. Since 2007, applicants have operated under the Planning Board's initial set of regulations published as the Montgomery County Planning Department's Manual of Development Review Procedures (December 2007) (the Development Manual). Following the Council's adoption of Zoning Text Amendment 13-04<sup>1</sup> and Subdivision Regulation Amendment No. 16-01<sup>2</sup> (SRA 16-01) and M-NCPPC's implementation of electronic application filing, the Development Manual needed updating. Thus, effective September 1, 2017, the Development Manual was superseded by Regulation 17-01. Here are some highlights of the changes to the administration of the development review process:

- An applicant may submit an objection to the staff report no later than one full business day (not three) prior to the Planning Board hearing. Code of Montgomery County Regulations (COMCOR) 50.10.01.06.D.4.
- Pre-submission meeting attendees now elect for inclusion in the application notice list rather than electing designation as a party of record. COMCOR 50.10.01.05.A.1.(a). iii.

- The identification of a preliminary or site plan amendment to change an associated forest conservation plan as a minor amendment. COMCOR 50.10.01.03.B.2.
- The requirement that forest conservation plan amendments involving changes to recorded conservation easements must be acted upon by the Planning Board and that the applicant must amend the applicable preliminary or site plan to reflect the conservation easement changes. COMCOR 50.10.01.03. B.2.
- A request to postpone a Planning Board hearing may be made in writing to the Planning Board Chair no

later than one full business day prior to the scheduled hearing date and the applicant must have an opportunity to respond. COMCOR 50.10.01.06.D.5.

- A requirement that an ownership unit plan, if applicable, must be certified along with the site or preliminary plan. COMCOR 50.10.01.08.B.

In addition to the foregoing, Regulation 17-01 memorializes the process for obtaining confirmation from M-NCPPC of an exemption to platting a property, which is typically relied upon by the Department of Permitting Services in issuing a building permit. COMCOR 50.10.01.10.F. This process includes submitting a written request to the M-NCPPC Development Applications and Regulatory Coordination (DARC) Division along with all supporting information as outlined in Section 50-3.3 of the Montgomery County Code. *Id.*



Regulation 17-01 also clarifies the administrative subdivision process that was introduced as part of SRA 16-01. The administrative subdivision process provides for preliminary plan of subdivision approval at the administrative level by the Planning Director and eliminates a Planning Board hearing for many uncontested preliminary plans. The administrative subdivision process is available for certain preliminary plans, including, without limitation, a one - three lot subdivision for detached houses in any residential zone. Regulation 17-01 specifically articulates the elements of the staff report to the Planning Director, the Planning Director's authority to schedule an administrative subdivision for a Planning Board hearing, the inclusion in the application notice that action will be taken without a hearing and that there is a 15 day public comment period, and that the Planning Director's approval may be by written memorandum or notice or countersignature on the staff report. COMCOR 50.10.01.07.B and C; 50.10.01.10.A.

Finally, Regulation 17-01 continues to promote public participation in the development review process. For example, it reiterates that the public is welcome to attend (not participate) in an applicant's development review committee meeting. COMCOR 50.10.01.06.C.

Before you file an application with MNCPPC, make sure you familiarize yourself with the changes to the development plan application and review processes set forth in Regulation 17-01 (COMCOR 50.10.01). ■

1. On March 4, 2014, the Council adopted Zoning Text Amendment 13-04, a comprehensive amendment to the Montgomery County Zoning Ordinance (Chapter 59 of the Montgomery County Code).
2. On November 15, 2016, the Council adopted SRA 16-01, a comprehensive amendment to the Montgomery County Subdivision Regulations (Chapter 50 of the Montgomery County Code).

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