



Gregory J. Swain, County Attorney

MEMORANDUM

To: Council Members, Anne Arundel County Council

From: Kinley R. Bray, Senior Assistant County Attorney /s/

Via: Kelly Phillips Kenney, Supervising County Attorney /s/

Via: Gregory J. Swain, County Attorney /s/

Date: October 5, 2020

Subject: Bill No. 86-20 (Subdivision and Development – Subdivision – Site Development – Plan Review Timelines and Requirements)

Legislative Summary

This summary was prepared by the Anne Arundel County Office of Law for use by members of the Anne Arundel County Council during consideration of Bill No. 86-20, Subdivision and Development – Subdivision – Site Development – Plan Review Timelines and Requirements, a Bill that amends the time periods for certain development applications, amends the applicability of Site Development Plans, and amends the content of the Site Development Plan applications, among other changes to the Site Development Plan process.

Purpose.

The purpose of the Bill is to provide additional time for certain development application re-submittals; amending the applicability of Site Development Plans to provide exemptions to common, minor uses of land; to amend the process and time period for delivering comments to developers throughout the Site Development Plan process; amending the contents of the Site Development Plan application to reflect an updated checklist on file at the Office of Planning and Zoning; to require reservation of land for public facilities during the site development plan process as it is in the subdivision process; and extending the time requirements for duration of approval for adequate public facility testing for certain subdivisions, preliminary plans or site development plans. All of these changes will help streamline the development review processes, ensuring consistency across processes, and providing for additional time for developers to respond to comments from County agencies within those processes.

Note: This Legislative Summary provides a synopsis of the bill as introduced. It does not address subsequent amendments to the bill.

Background.

Article 17, Subdivision, generally provides for two main processes: subdivision and site plan development. Subdivision is required when two or more lots are created (or consolidated) and is generally a two-step process consisting of a Sketch Plan and a Final Plan. Site Development is required to develop property even when subdivision is not required, and is also broken down into a two-step process: Preliminary Plan and Site Development Plan. This bill seeks to extend the time periods for review by the County and resubmittal by developers for all of these processes; limit the number of time extensions that may be granted without showing good cause and/or meeting the standards for a modification from Article 17 found in §17-2-108, altering the contents of these plans by referring to a development checklist provided by the Office of Planning and Zoning, and generally streamlining the County Code so that these processes are clear both to developers and to the general public interested in following development within their communities.

SECTION 1.

Subsection 17-2-108(e) is repealed. This subsection sets forth a separate standard of approval for modifications relating to applications for “redevelopment” or for development within the town center districts. This is being removed to ensure that all modifications relating to site development and subdivision are reviewed under the same standards, found in §17-2-108.

Subsections 17-4-202(b) and (c) are repealed. These subsections listed the requirements and attachments required for all site development plan applications. Rather than have all of the requirements of the application listed in the County Code, the new language in these subsections will require the Office of Planning and Zoning to maintain a public development application checklist that will contain all of these requirements.

Subsections 17-4-203(b) and (c) are repealed. These subsections govern time extensions, and previously provided that the Office of Planning Zoning may give up to three time extensions before a modification is required in order to grant any further extensions. These sections are replaced with language allowing two time extensions prior to a modification being required.

SECTION 2.

Section 2 rennumbers existing Code language following the repeal of provisions in Section 1 above.

SECTION 3.

Subsection 17-3-203(c) is amended to provide 90 days, rather than the current 60 day time period, for a developer to re-submit a sketch application in response to a comment letter from the Office of Planning and Zoning (“OPZ”). The purpose of this amendment is to provide additional time to developers and thereby reduce the number of modification requests for extensions to this section. This amendment requires OPZ to also distribute a written report of findings, comments, and recommendations of the County to the developer’s representatives and all reviewing agencies. The developer has 90 days after the report is mailed to file a preliminary plan re-submittal that

addresses the information contained in the report. OPZ must promptly provide further comments and shall attempt to resolve inconsistencies. The 90 day clock and process is repeated until the application becomes void or a decision is provided.

Subsection 17-3-203(d) is amended to allow for a single, 180 day time extension without cause, a second request for time extension upon a showing of good cause, and to require additional time extensions be filed with an application for modification pursuant to §17-2-108. Essentially, developers are limited to two, rather than three, time extensions per development application before a modification is required.

Section 17-3-204 is amended to increase the validity period of a sketch plan approval (currently 12 months) to 18 months. It is also amended to clarify that if a sketch plan becomes void upon the failure to follow a development plan to fruition by filing an application for final plan approval, if a final plan approval application becomes void, or if an approved final plan becomes void, the underlying sketch plan approval is also void.

Subsection 17-3-303(b) governs the time period within which the County must provide comments on a final plan re-submittal and the time period by which a developer must file any additional re-submittal to address those comments. This bill increases the County's review period by 30 days (for a total of 60 days) for an application for minor subdivision or amended plat, and gives the developer an additional 30 days to file a final plan re-submittal upon receipt of a comment letter from the County.

Subsection 17-3-303(c) is amended to mirror the language in §17-3-203(d), above, to provide consistency in the validity period of approved applications and the availability of time extensions across application types.

Subsection 17-3-304(e) is amended to mirror the language in §17-3-204, above.

Section 17-4-101 currently provides the scope and applicability of the site development process. This Bill amends this section to provide exemptions for the following types of development. Some of the exemptions already exist in current law and are listed out in this Bill. They are noted below as either a new or existing exemption:

- (1) an Assisted Living Facility or an Assisted Living Facility I, Community Based with 8 beds or less in a new or existing single-family dwelling (new);
- (2) a Group Home I or Group Home II in a new or existing single-family dwelling (new);
- (3) single-family detached dwellings on existing platted residential lots (existing);
- (4) temporary uses, provided no more than 15 single-day events are held on the same property in one year (new);
- (5) a tenant permit in a structure previously approved by the county, where parking and other site improvements are adequate to support the use and any other uses on the site (existing);
- (6) a permit relating to a final infrastructure construction plan and lot clearing shown on an approved final plan previously approved under Article 17 (new);

- (7) a permit relating to improvements that do not result in leasable space (existing);
- (8) a permit or a development application that does not result in a test for adequate public facilities (existing);
- (9) a seasonal or permanent outdoor restaurant seating area of 10 seats or less (new);
- (10) a cumulative increase of impervious surface of no more than 5,000 square feet on property outside of the critical area or designated bog area as of the effective date of this bill (existing, but the threshold is increasing)
- (11) a non-residential agricultural building that does not require a permit (new); or
- (12) an accessory use as a produce market consisting of up to 1,200 square feet of floor area (new).

Section 17-4-201 is amended to expand the exemptions to the types of development requiring a preliminary plan. A preliminary plan will no longer be required for: (1) an application for minor expansion of floor area or other site improvements or use changes existing as of the effective date of this bill, for which the proposed cumulative limit of disturbance is 5,000 square feet; (2) a site with existing impervious coverage of 40% or more for which the Department of Inspections and Permits has approved a concept plan for stormwater management (a State Law requirement); or (3) development within the Parole Town Center Growth Management Area or the Odenton Town Center Growth Management Area. These changes are meant to streamline the development process for redevelopment and development within the town centers.

Subsection 17-4-201(b) is amended to clarify the scale at which plans provided in development applications should be prepared and to clarify that the most recent preliminary plan submittal and checklist documents will be maintained by the Office of Planning and Zoning. **Subsection 17-4-201(c)** is amended to mirror the language in §17-3-303(b) above, for consistency. **Subsection 17-4-201(d)** is amended to mirror the language in §17-3-203(d) above, for consistency. **Subsection 17-4-201(e)** is amended to clarify that the Office of Planning and Zoning may deny the application for failure to comply with the provisions of the County Code or other applicable law. This mirrors the language in existing § 17-4-201(c), which provides that the County will provide an approval or denial in writing. **Subsection 17-4-201(f)** is amended to mirror the language in §17-3-204, above, to note that if the final site development plan becomes void, the preliminary plan is also void and a new preliminary plan (and fees) are required.

Subsection 17-4-202(a) is amended to clarify that a site development plan application is required for all development that does not meet the exemptions in this title, and for development that does not require a permit. In **17-4-202(b)**, the site development plan checklist is removed from the Code and the new language requires the Office of Planning and Zoning to publish a Site Development Plan Submittal and Plan Checklist (similar to the requirements for preliminary plan discussed above).

Sections 17-4-203(a) and (b) are amended to provide consistency in time for review and resubmittals throughout this Bill.

Subsection 17-4-207(a) is amended to provide an 18 month (rather than 12 month) validity period for site development plans and to make other changes consistent with the language regarding sketch and final plan approvals throughout this Bill. **Subsection 17-4-207(c)** is amended

to require that the Office of Planning and Zoning provide the date of expiration of approval of a site development plan with the letter of recommendation or approval provided to the developer.

Section 17-4-301 is new, and provides that, like in the subdivision process, if the County Office of Planning and Zoning determines that land that is part of a site development plan is necessary for dedication or reservation for public use, such as schools, parks, transportation infrastructure, or other public facilities, that the developer will be required to enter into a reservation agreement with the County that will be recorded among the Land Records, that the reservation may continue no longer than three years without approval of all owners of the land reserved, that the period of time for which the land is reserved be specified in the reservation agreement, and that the land shall remain in its natural state and undeveloped during the reservation period except as noted and approved by OPZ. Additionally, **§17-4-301** requires that when land is reserved under this section, acquisition may be in consideration of density transferred from the reserved land to abutting or adjacent land under the same ownership, or at the unimproved value of the land before site development, plus expenses for taxes and maintenance only with interest at a rate of 6%. This mirrors the language governing reservations of land for public use during the subdivision process, found in §17-3-403.

Section 17-4-302 is new, and like §17-4-301 above, it mirrors the language of the public reservation process for subdivisions in Article 17, Title 3, to require that approval of a proposed site development plan does not constitute or imply the acceptance by the County of any road, right-of-way, easement, or facility. Acceptance shall occur only after construction of all improvements under a Public Works Agreement have been completed and accepted by the County.

Section 17-5-203 is amended for consistency – this would increase the validity period of an adequate public facilities approval for a major subdivision from 12 to 18 months and clarify that if a final plan is voided, the underlying sketch plan approval is also voided. The same changes are made in **§ 17-5-204** for minor subdivisions.

Finally, **§17-5-205(b)** is amended to clarify that failure to meet the requirements of §17-5-205(a) causes the adequate public facilities approval for a preliminary plan or site development plan to be void unless a modification is granted.

SECTION 4.

Section 4 (uncodified) states that references to “the effective date” of this Bill or words to that effect shall, upon codification, be replaced with the actual date on which the Ordinance takes effect under Section 307 of the County Charter as certified by the Administrative Officer of the County Council.

SECTION 5.

Section 5 (uncodified) provides that the bill takes effect 45 days after it becomes law.

The Office of Law is available to answer any additional questions regarding this Bill. Thank you.

cc: Honorable Steuart Pittman, County Executive
Matthew Power, Chief Administrative Officer
Dr. Kai Boggess-de Bruin, Chief of Staff
Lori Rhodes, Deputy Chief Administrative Officer for Land Use
Peter Baron, Legislative Liaison
Jim Beauchamp, Budget Officer
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