

# ARTICLE 59-7. ADMINISTRATION AND PROCEDURES

## Division 7.1. Review Authority and Approvals Required

### Section 7.1.1. In General

The applicant has the burden of production and has the burden of proof by a preponderance of the evidence on all questions of fact.

### Section 7.1.2. Overview of Review and Approval Authority

The following table provides an overview of the authority granted the various bodies under this Chapter. This table does not define legal responsibilities and is only provided for the convenience of the reader.

Approval Requested	Section Reference	Authority						
		Sign Review Board	DPS Director or Staff	Planning Director or Staff	Planning Board	Hearing Examiner	Board of Appeals	District Council
<b>District Council Approvals</b>								
Local Map Amendment	7.2.1			R	R	R		D
Corrective Map Amendment	7.2.2			R	R			D
Sectional or District Map Amendment	7.2.3			R	R			D
Zoning Text Amendment	7.2.4		R	R	R			D
<b>Regulatory Approvals</b>								
Conditional Use	7.3.1			R	I	D	A	
Variance	7.3.2			I	I	I	D	
Sketch Plan	7.3.3			R	D			
Site Plan	7.3.4			R	D			
<b>Administrative Approvals</b>								
Building Permit	7.4.1		D			I	A	
Use-and-Occupancy and Temporary Use Permit	7.4.2		D			I	A	
Sign Permit	7.4.3		D			I	A	
Sign Variance	7.4.4	D				I	A	

**KEY:** A = Appeal D = Decision I = Review and recommendation if requested by a reviewing, deciding, or appellate body R = Review and recommendation

### Section 7.1.3. Overview of Approvals Required

The following table provides an overview of the approvals required under Article 59-7. Details of the submittal requirements and review criteria are discussed in the referenced Sections. These explanations are not legal definitions and are only provided for the convenience of the reader.

Application	Section Reference	Applicability
<b>District Council Approvals</b>		
Local Map Amendment	7.2.1	A local zoning change to apply a Floating or Euclidean zone to a specific property.
Corrective Map Amendment	7.2.2	Correction of an error in the application or mapping of a comprehensive rezoning.
Sectional or District Map Amendment	7.2.3	A comprehensive rezoning of an area or areas of the County.
Zoning Text Amendment	7.2.4	A change in the text of this Chapter.
<b>Regulatory Approvals</b>		
Conditional Use	7.3.1	Use of any property for a conditional use, as designated by Article 59-3.
Variance	7.3.2	A request to deviate from any requirement of this Chapter.
Sketch Plan	7.3.3	Required for development under the optional method.
Site Plan	7.3.4	Optional method development requires approval of a site plan after approval of a sketch plan. Development under a Floating zone requires approval of a site plan after approval of a Local Map Amendment. Development under standard method may require site plan approval under Section 7.3.4.
<b>Administrative Approvals</b>		
Building Permit	7.4.1	Required before any building or structure can be erected, moved, altered, or enlarged. See exemptions in Section 7.4.1.
Use-and-Occupancy and Temporary Use Permits	7.4.2	Required before any building, structure, or land can be used or can be converted, in whole or in part, from one use to another. See exemptions in Section 7.4.2.
Sign Permit	7.4.3	Required when a sign is constructed, erected, moved, enlarged, illuminated, or substantially altered. Routine maintenance, including painting, cleaning, changing copy where permitted, or changing copy that satisfies a sign concept plan, does not require a permit. See exemptions in Section 6.7.3.
Sign Variance	7.4.4	Any sign not listed in Division 6.7, or that does not satisfy the requirements in Division 6.7, may apply for a sign variance from the Sign Review Board.

## Division 7.2. District Council Approvals

### Section 7.2.1. Local Map Amendment

#### A. Applicability and Description

1. A zoning map change to apply a Floating or Euclidean zone to an individual property requires approval of a Local Map Amendment.
2. The Local Map Amendment application describes the property and the basis for the requested zoning change.
3. When requesting a Floating zone, an applicant may propose binding elements with a Local Map Amendment application. A binding element may include, but is not limited to, a restriction on use and building type that the zone would otherwise allow; a limit on a development standard to less than the maximum allowed; or a general development requirement beyond the minimum required. A binding element binds the applicant, and any successor or assign, unless lawfully amended.

#### B. Application Requirements

1. The applicant must be a government agency, own the subject property, or be authorized by the owner to file the application. If any land or right-of-way is owned or controlled by the State, County, or any other entity or agency, the applicant must submit written authorization from that entity or agency with the application.
2. The applicant must submit the following for review:
  - a. an application form and fees approved by the District Council;
  - b. the identity of each person who has a substantial interest in the property under the application, including any person with a share in the property amounting to 5% or more (whether held in an individual or corporate capacity) of the full cash value of the property after subtracting all mortgages, deeds of trusts, liens, and encumbrances. The application must also contain the names of any contract purchaser or person holding a mortgage, deed of trust, or option to purchase the property;
  - c. a statement disclosing political contributions to the treasurer or political committee of any candidate for County Council and County Executive or

slate that contributes to candidates for County Council or County Executive, under State law. The applicant must submit the disclosure statement on a form approved by the District Council;

- d. a statement explaining how the proposed development satisfies the criteria to grant the application;
- e. a certified zoning map;
- f. a description by metes and bounds, courses and distances of land or, if the boundaries conform to lot boundaries within a subdivision for which a plat is recorded in the land records of the County, then the lot, block, and subdivision designations with appropriate plat reference;
- g. for a Floating zone, a floating zone plan depicting:
  - i. building location, density, massing, height, and anticipated use;
  - ii. locations of open spaces and preliminary stormwater management strategy;
  - iii. pedestrian, bicycle, and vehicular circulation, parking, and loading;
  - iv. any binding element on the application. An applicant who proposes a binding element must submit an unexecuted covenant suitable for filing in the land records reflecting any restriction on the development standards, development program, or use that will be applicable to the property if the District Council approves the application; and
  - v. the following additional information:
    - (a) current and proposed zone;
    - (b) a plan certified by a licensed professional, showing existing site conditions and vicinity within 100 feet, including total tract area; existing topography; watershed in which the site is located; Special Protection or Primary Management areas; any floodplain, wetland, or perennial or intermittent stream, and any associated buffers; whether or not rare, threatened, or endangered species were observed on the property; whether or not the property is on the Locational Atlas and Index of Historic Sites; the aerial extent

- of forest and tree cover on the property; and date(s) field work was conducted;
- (c) existing or approved adjacent land uses, buildings, and rights-of-way;
- (d) a Traffic Study under the Planning Board’s LATR Guidelines if the incremental increase in vehicular peak-hour trips between the density of the base zoning and the density of the requested floating zone meets the minimum applicability requirement in the LATR Guidelines; and
- (e) general phasing of structures, uses, rights-of-way, sidewalks, dedications, and future preliminary and site plan applications;
- h. for a Euclidean zone application, exhibits showing:
  - i. the subject property and the proposed neighborhood, identifying uses and zoning; and
  - ii. an explanation of the changes that have occurred in the neighborhood since the original zoning or previous comprehensive rezoning, or evidence of the alleged mistake made by the District Council in the previous Sectional or District Map Amendment, in support of the requested Euclidean zone.
- 3. The applicant must submit an initial application to the Planning Director for approval of completeness. The Planning Director must review the application for completeness within 10 days after receipt. An application is incomplete if any required element is missing or is facially defective, e.g., a drawing that is not to scale or lacks proper signatures. The assessment of completeness must not address the merits of the application.
- 4. The applicant must submit any required revisions to the Planning Director. The Planning Director must review the revised application for completeness within 10 days after receipt.
- 5. After the Planning Director verifies that the application is complete, the applicant must file the final application with the Hearing Examiner, who will accept the application and establish a hearing date under [Section 7.2.1.C](#).
- 6. Public notice is required under [Division 7.5](#).

- 7. New public notice must be provided for any modification to an application requesting an increase in the area proposed to be reclassified or requesting a change to the zoning classification.
- 8. The Hearing Examiner must make applications available for public inspection during regular office hours.

### **C. Hearing Date**

- 1. The Hearing Examiner must schedule a public hearing to begin on a Local Map Amendment application within 120 days after the application was accepted.
- 2. The Hearing Examiner may postpone the public hearing if done a minimum of 10 days before the scheduled date unless extraordinary circumstances make such notice impossible, and must provide notice of the new hearing date.
- 3. The Hearing Examiner may issue a subpoena to compel the attendance of witnesses and production of documents at any public hearing and administer an oath to any witness.

### **D. Review and Recommendation**

#### **1. Planning Director Review**

The Planning Director must publish a report and recommendation a minimum of 10 days before the Planning Board public meeting.

#### **2. Planning Board Review**

- a. The Planning Board must hold a public meeting on the application.
- b. The Planning Board must provide a recommendation on the application to the Hearing Examiner a minimum of 7 days before the Hearing Examiner’s public hearing.

#### **3. Hearing Examiner Review**

- a. The Hearing Examiner must forward a report and recommendation to the District Council within 45 days after the close of the record of the public hearing. The Hearing Examiner must also make the report available to the applicant and public.

- b. The Hearing Examiner may extend the time to forward the report and recommendation once by up to 45 days without the District Council's approval and again by up to 45 days with the District Council's approval.
- c. Any party of record or aggrieved party may, within 10 days after the Hearing Examiner issues a report and recommendation, file a written request with the District Council to present oral argument.
  - i. Any party who submits a request for oral argument must send a copy of the request to all parties of record.
  - ii. The request must concisely state the matters desired to be presented at the oral argument. The District Council may grant or deny the request. The District Council may, on its own motion, require oral argument on any aspect of the case. When oral argument is allowed, the District Council must:
    - (a) set the day and time for oral argument;
    - (b) limit oral argument to specific topics;
    - (c) set time limits for oral argument; and
    - (d) specify the order of presentations.
  - iii. Each oral argument must be limited to matters contained in the record compiled by the Hearing Examiner.
  - iv. After oral argument, the District Council must either decide the application or remand the application to the Hearing Examiner for clarification or taking additional evidence.
  - v. Any interested party may, within 5 days after a request for oral argument is filed with the District Council, file a written opposition to a request for oral argument or request to participate in oral argument if oral argument is allowed. The opposition must be concise and limited to matters raised by the party who requested oral argument. Any party who files an opposition or request to participate must send a copy to all parties of record.

#### 4. Withdrawal of Application

The Hearing Examiner may allow an applicant to withdraw an application for a Local Map Amendment at any time before the Hearing Examiner issues the report.

#### E. Necessary Findings

1. A Floating zone application that satisfies Article 59-5 may not be sufficient to require approval of the application.
2. For a Floating zone application the District Council must find that the floating zone plan will:
  - a. substantially conform with the recommendations of the applicable master plan, general plan, and other applicable County plans;
  - b. further the public interest;
  - c. satisfy the intent, purposes, and standards of the proposed zone and requirements of this Chapter;
  - d. be compatible with existing and approved adjacent development;
  - e. generate traffic that does not exceed the critical lane volume or volume/capacity ratio standard as applicable under the Planning Board's LATR Guidelines, or, if traffic exceeds the applicable standard, that the applicant demonstrate an ability to mitigate such adverse impacts; and
  - f. when applying a non-Residential Floating zone to a property previously under a Residential Detached zone, not adversely affect the character of the surrounding neighborhood.
3. For a Euclidean zone application, the District Council must find:
  - a. a substantial change in the character of the neighborhood since the original zoning or comprehensive rezoning, or that a mistake was made by the District Council when it applied the existing zoning;
  - b. the requested zone is in the public interest; and
  - c. the requested zone is compatible with the surrounding area.

## F. Decision

1. The District Council must make its decision to approve, deny, or remand the application to the Hearing Examiner on the record.
2. Generally, an affirmative vote of 5 members of the District Council is required to approve an application; however, an affirmative vote of 6 members of the District Council is required to approve an application if:
  - a. approval would be contrary to the recommendation of the municipality in which the property is located; or
  - b. the Planning Board does not recommend approval of the application.

If the required number of affirmative votes is not obtained, the application is denied.

3. For a Floating zone:
  - a. Before the close of the administrative record the applicant must submit to the Hearing Examiner an executed covenant that reflects any restriction on the development standards, development program, or use in the approved floating zone plan.
  - b. The executed covenant must also state that the restricted development standards, development program, or use remain in full effect until the property is rezoned or the floating zone plan is amended and an amended covenant is executed and recorded.
  - c. The applicant must file the executed covenant in the land records of Montgomery County within 10 days after approval of the application by the District Council and submit certification of such filing to the Planning Board with the site plan application. The Planning Board must not accept a site plan application without this certification.
4. The District Council must issue a resolution and opinion reflecting its decision on the application within 60 days after the Hearing Examiner's transmittal to the District Council, unless such time is extended by the District Council, or remand the application to the Hearing Examiner for further consideration.
5. Any party aggrieved by a decision of the District Council may file a petition

for judicial review of the decision within 30 days after the District Council's action under the Land Use Article.

6. The decision of the District Council on any application for a Local Map Amendment is final, except that the District Council on its own motion may, within 30 days, reconsider its decision on any application. A decision to reconsider stays the time in which a party may file for petition for judicial review.
7. After giving the applicant 30 days' notice, the Hearing Examiner may recommend that the District Council dismiss an application if:
  - a. the application has been pending for 2 years or longer; and
  - b. the applicant has not actively pursued the application.

The District Council may dismiss the application unless the applicant shows good cause that the application should not be dismissed.

## G. Subsequent Actions

1. Filing of subsequent Local Map Amendment applications are limited as follows:
  - a. Filing a Local Map Amendment application is prohibited for land that was in whole or in part the subject of a previous zoning application decided on its merits within the last 18 months.
  - b. Filing a Local Map Amendment application is prohibited for land that was in whole or in part the subject of a previous zoning application for the same zoning classification filed within the last 36 months and decided on its merits.
  - c. The time limitations in [Section 7.2.1.G.1.a](#) and [Section 7.2.1.G.1.b](#) do not apply when the previous application, which would bar the filing of a new application, was filed by a governmental agency not at the owner's request.
  - d. The District Council may waive the time limitations in [Section 7.2.1.G.1.a](#) if an applicant submits a petition that shows substantial new facts that would warrant reapplication.

2. All development in a Floating zone requires site plan approval under **Section 7.3.4.**

## H. Recording Procedures

1. For a Local Map Amendment for a Floating zone:
  - a. If a floating zone plan includes a binding element, the applicant must file an executed covenant reflecting the binding element in the land records and provide certification of the filing to the Planning Board with any subsequent site plan application. The covenant must remain in effect until the District Council rezones the property or removes the binding element that the covenant reflects.
  - b. The applicant must provide the floating zone plan that satisfies the District Council's resolution to the Hearing Examiner for certification in a format approved by the Hearing Examiner, within 10 days after the District Council issues its resolution.
  - c. The Hearing Examiner must maintain the certified floating zone plan in the Hearing Examiner's permanent files, and publish an electronic copy.
  - d. The District Council must send a copy of the resolution to the Planning Board to update the zoning map. The District Council must also send a copy of the resolution to the applicant, all parties of record, DPS, the Supervisor of Assessments for Montgomery County, the Department of Finance, the Department of Environmental Protection, and the Board of Appeals.
2. For a Local Map Amendment for a Euclidean zone, the District Council must send a copy of the resolution to the Planning Board to update the zoning map. The District Council must also send a copy of the resolution to the applicant, all parties of record, DPS, the Supervisor of Assessments for Montgomery County, the Department of Finance, the Department of Environmental Protection, and the Board of Appeals.

## I. Amendment to a Floating Zone Plan

There are 2 ways to amend a floating zone plan:

1. A major amendment to an approved floating zone plan follows the same procedures as an original application. A major amendment includes any

request to increase density or height, add a previously disallowed use, decrease a setback, or make a change to any binding element of approval.

2. At site plan, the Planning Board may approve an amendment to an approved floating zone plan that does not increase density or height, add a previously disallowed use, decrease a setback, or change any binding element.

## J. Compliance and Enforcement

1. Any individual or governmental agency may file a complaint alleging non-compliance with any binding element of an approved floating zone plan with DPS. If the complaint is found to have reasonable cause, DPS must provide a notice of noncompliance to the complaining party, the property owner, and the Hearing Examiner.
2. Upon receipt of the notice of noncompliance, the Hearing Examiner must schedule a show cause hearing to determine whether the property owner has failed to comply with a binding element and whether any such failure merits sanctions including reversion to the previous zoning category. The hearing will be conducted after providing the parties and the public with 30 days notice. The Hearing Examiner must provide the District Council with a report and recommendation within 30 days after the close of the hearing record. A hearing is not required if the complaint is withdrawn or the alleged noncompliance is corrected to the satisfaction of DPS.
3. If the District Council finds, after consideration of the Hearing Examiner's report and recommendation, that a party has failed to satisfy any binding element of an approved floating zone plan, it may adopt a resolution providing appropriate sanctions including reversion to the previous zoning classification. Upon the property's reversion to the previous zoning classification, all development standards of the previous zone apply. The reversion sanction will not apply where the District Council finds substantial compliance with the binding elements.

## Section 7.2.2. Corrective Map Amendment

### A. Applicability and Description

1. Correction of an administrative or technical error in a Sectional or District Map Amendment requires approval of a Corrective Map Amendment.

2. A Corrective Map Amendment may cover one or more properties.
3. A Corrective Map Amendment is not a basis for determining change in the character of the neighborhood.

## **B. Application Requirements**

1. Only the Planning Board may file an application for a Corrective Map Amendment with the District Council.
2. Public notice is required under **Division 7.5**.

## **C. Review and Recommendation**

### **1. Planning Director Review**

- a. The Planning Director must publish a report and recommendation a minimum of 7 days before the Planning Board meeting.
- b. The Planning Director's report and recommendation must include:
  - i. A description of the area of land proposed for rezoning;
  - ii. A map depicting the existing and proposed zoning for the area of land; and
  - iii. A statement of reason for the zoning change.

### **2. Planning Board Review**

- a. The Planning Board may adopt the Planning Director's report and recommendation as a consent item on its agenda or hold a public meeting to consider the recommendation.
- b. The Planning Board must submit a recommendation on the application to the District Council.

## **D. Necessary Findings**

The Planning Board must show that there is an error or inaccurate depiction of the zoning boundary line on an adopted map.

## **E. Decision**

1. The District Council must conduct a public hearing and make its decision on the record to approve, deny, or remand the application to the Planning Board for further consideration.

2. An affirmative vote of 5 members of the District Council is required to approve a Corrective Map Amendment. If the required number of affirmative votes is not obtained, the application is denied.
3. The District Council must issue a resolution and opinion on the application within 60 days after the close of record, unless such time is extended by the District Council, or remand the application to the Planning Board for further consideration.
4. Any party aggrieved by a decision of the District Council may file a petition for judicial review of the decision within 30 days after the District Council's action under the Land Use Article.
5. A public hearing may be adjourned, continued, suspended, deferred, or postponed either to a time certain or for a reasonable period of time by the District Council on public announcement. The District Council, on its own or at the suggestion of the Planning Board, may determine that some or all of the proposed adjustments should be considered comprehensively as part of a future master plan review and therefore dismiss the application.

## **F. Recording Procedures**

1. The Planning Board must maintain the District Council's resolution on the Corrective Map Amendment in its permanent files.
2. The District Council must send a copy of the resolution and opinion to the Planning Board to update the zoning map and all property owners included in the application.

## **Section 7.2.3. Sectional and District Map Amendment**

### **A. Applicability and Description**

1. A Sectional Map Amendment rezones or confirms the zoning of a substantial area of the County.
2. A District Map Amendment rezones or confirms the zoning of the entire County.

### **B. Application Requirements**

1. Only the Planning Board or District Council may apply for a Sectional or District Map Amendment.

2. For a Sectional Map Amendment, the applicant must submit the following for review:
  - a. The designation or description of the area sufficient to identify:
    - i. the zone boundaries and existing and proposed zoning;
    - ii. all roads, streets, alleys, public parks or other areas in public ownership or on public rights-of-way, and all streams and railroad rights-of-way within the area covered by the map, and the names thereof.
  - b. A map or map series of the area prepared by a civil engineer, surveyor, or the Planning Board, and certified to be correct and satisfying Section 7.2.3.
  - c. A digital copy of the map indicating the existing zoning and the proposed zoning.
  - d. A statement of the reasons for the proposed zoning changes or adjustments. The application must include the total acres in the application, the acres proposed for rezoning, and the acres proposed for reconfirmation of existing zoning.
3. The District Council, or its designee, accepts the application for a Sectional or District Map Amendment. If the Planning Board is not the applicant the District Council must forward the application to the Planning Board within 5 days after acceptance for filing.
4. Public notice is required under [Division 7.5](#).

## C. Review and Recommendation

### 1. Planning Director Review

- a. The Planning Director must publish a report and recommendation a minimum of 10 days before the Planning Board public meeting.
- b. The Planning Director's report and recommendation must include:
  - i. A description of the area proposed for rezoning; and
  - ii. Maps depicting the proposed zoning.

### 2. Planning Board Review

- a. The Planning Board may consider the Planning Director's report and recommendation as a consent item on its agenda or hold a public meeting to consider the recommendation.
- b. The Planning Board must submit a recommendation on the application to the District Council.

## D. Decision

1. The District Council must conduct a public hearing and make its decision to approve with or without modification, deny, or remand the application to the Planning Board for additional analysis.
2. Generally, an affirmative vote of 5 members of the District Council is required to approve an application; however, an affirmative vote of 6 members of the District Council is required to approve an application if:
  - a. approval would be contrary to the recommendation of the municipality in which the property is located; or
  - b. the Planning Board does not recommend approval of the application.
3. The District Council must issue a resolution and opinion reflecting its decision on the application within 60 days after the close of record, unless the time is extended by the District Council.
4. The decision of the District Council on any application for a Sectional or District Map Amendment is final except that the District Council on its own motion may, within 30 days, reconsider its decision on any application.

## E. Recording Procedures

1. The Planning Board must maintain the District Council's resolution on the Sectional or District Map Amendment in its permanent files.
2. The District Council must send a copy of the resolution to the Planning Board to update the zoning map. The District Council must also send a copy of the resolution to all parties of record, DPS, the Supervisor of Assessments for Montgomery County, the Department of Finance, the Department of Environmental Protection, and the Board of Appeals.

## Section 7.2.4. Zoning Text Amendment

### A. Applicability and Description

A change in the text of this Chapter requires approval of a Zoning Text Amendment.

### B. Application Requirements

1. Any individual or government agency may request the District Council or an individual District Council member to sponsor a Zoning Text Amendment.
2. Only the District Council may introduce a Zoning Text Amendment.
3. The District Council must send the Zoning Text Amendment to the Planning Director, the County Executive, the Board of Appeals, and the Hearing Examiner and notify them of the District Council's public hearing date.
4. Public notice is required under **Division 7.5**.

### C. Review and Recommendation

#### 1. Planning Director Review

The Planning Director must publish a report and recommendation a minimum of 7 days before the Planning Board public meeting. The report and recommendation must be made available to the public.

#### 2. Planning Board Review

- a. The Planning Board may consider the Planning Director's report and recommendation as a consent item on its agenda or hold a public meeting to consider the recommendation.
- b. The Planning Board must submit a recommendation on the application to the District Council before the District Council Hearing. The recommendation must also be made available to the public.

#### 3. Other Agency Review

The County Executive, the Board of Appeals, or the Hearing Examiner may submit and make publicly available any recommendation on a Zoning Text Amendment to the District Council.

### D. Decision

1. The District Council must hold a public hearing within 60 days after introduction, unless the District Council extends the hearing date. A quorum of the District Council is not required to conduct a public hearing on a Zoning Text Amendment.
2. A minimum of 5 members of the District Council must vote in the affirmative to adopt a Zoning Text Amendment.
3. Any District Council member who was not present at the hearing must review the record and sign a statement that he or she reviewed the record before voting on the amendment.
4. A Zoning Text Amendment takes effect 20 days after the District Council adopts it, unless the resolution adopting it specifies a different date.
5. If the District Council does not act on a Zoning Text Amendment within the earlier of 2 years of the date of its public hearing or expiration of the term of office of the District Council that conducted the public hearing, it may not do so unless the Zoning Text Amendment is again introduced and set for public hearing.

## Division 7.3. Regulatory Approvals

### Section 7.3.1. Conditional Use

#### A. Applicability and Description

1. Use of any property for a conditional use under [Article 59-3](#) requires approval of a conditional use application.
2. A conditional use application may include all or part of a property.
3. A conditional use application must satisfy the conditions and binding elements of, and be consistent with, any effective previous approvals on the subject property.
4. An area covered by a conditional use approval requires a site plan only if:
  - a. the area is included in a sketch plan; or
  - b. the use standards in [Article 59-3](#) require it.

#### B. Application Requirements

1. Ownership:
  - a. An applicant must own the subject property or be authorized by the owner to file the application.
  - b. If any land or right-of-way is owned or controlled by the State, County, or any other entity or agency, written authorization from that entity or agency must be submitted with the application.
2. The applicant must submit the following for review:
  - a. application form and fees as approved by the District Council;
  - b. proof of ownership or authorization;
  - c. statement of how the proposed development satisfies the criteria to grant the application;
  - d. certified copy of official zoning vicinity map showing the area within at least 1,000 feet surrounding the subject property;
  - e. list of abutting and confronting property owners in the County tax records;
  - f. list of any civic and homeowners associations within 1/2 mile;
  - g. Traffic Statement or Study, accepted for review by the Planning Director;
  - h. map showing existing buildings, structures, circulation routes, significant natural features, historic resources, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
  - i. existing and proposed dry and wet utility plan if changes to these facilities are proposed;
  - j. written description of operational features of the proposed use;
  - k. if exterior changes are proposed, plans of the proposed development showing:
    - i. footprints, ground-floor layout, and heights of all buildings and structures;
    - ii. required open spaces and recreational amenities;
    - iii. layout of all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
    - iv. rough grading;
    - v. landscaping and lighting;
    - vi. approved Natural Resources Inventory/Forest Stand Delineation, if required under [Chapter 22A](#);
    - vii. Forest Conservation Plan application, if required under [Chapter 22A](#), or an approved preliminary forest conservation plan; telecommunication tower applications must include an approved Forest Conservation Plan or a letter from the Planning Department confirming that a Forest Conservation Plan is not required under [Chapter 22A](#);
    - viii. Stormwater Management Concept or Water Quality Plan application, if required under [Chapter 19](#); and
    - ix. supplementary documentation showing or describing how the application satisfies previous approvals and applicable requirements.

- l. development program and inspection schedule detailing any construction phasing for the project; and
  - m. for a telecommunication tower application, photographic simulations of the tower and site seen from areas with a direct view of the tower, including a minimum of at least 3 directions.
3. The applicant must submit an initial application to the Planning Director for approval of completeness. The Planning Director must review the application for completeness within 10 days after receipt. An application is incomplete if any required element is missing or is facially defective, e.g., a drawing that is not to scale or lacks proper signatures. The assessment of completeness must not address the merits of the application.
  4. The applicant must submit any required revisions to the Planning Director. The Planning Director must review the revised application for completeness within 10 days after receipt.
  5. After the Planning Director verifies that the application is complete, the applicant must file the final application with the Hearing Examiner, who will accept the application and establish a hearing date under **Section 7.3.1.C**.
  6. Public notice is required under **Division 7.5**.

### **C. Hearing Date**

1. The Hearing Examiner must schedule a public hearing to begin within 120 days after the date an application was accepted.
2. The Hearing Examiner may postpone the public hearing and must send notice to all parties of record of the new hearing date.
3. The Hearing Examiner may issue a subpoena to compel the attendance of witnesses at a public hearing and production of documents and administer an oath to any witness.

### **D. Review and Recommendation**

#### **1. Planning Director Review**

- a. The Planning Director may provide a report and recommendation for review by the Planning Board at a public meeting or issue a report and recommendation directly to the Hearing Examiner. The Planning Director

must provide a report and recommendation on a telecommunication tower application directly to the Hearing Examiner.

- b. If the Planning Director provides a report and recommendation to the Planning Board, the Planning Director must publish the report and recommendation a minimum of 10 days before the Planning Board public meeting.
- c. If the Planning Director provides a report and recommendation to the Hearing Examiner, the Planning Director must publish the report and recommendation a minimum of 10 days before the Hearing Examiner's public hearing.

#### **2. Planning Board Review**

- a. The Planning Board may consider the Planning Director's report and recommendation as a consent item on its agenda or hold a public meeting to consider the recommendation.
- b. The Planning Board must provide a recommendation on the application to the Hearing Examiner a minimum of 7 days before the Hearing Examiner's public hearing.

#### **3. Amendment of an Application**

- a. An applicant may amend the application before the hearing if the Hearing Examiner approves a motion to amend after giving 10 days' notice to all parties entitled to original notice of filing. If an amendment would materially alter an applicant's proposal or evidence, the Hearing Examiner may postpone the hearing to a date that permits all interested parties adequate time to review the amendment.
- b. The applicant must forward a copy of any proposed amendment to the Planning Board. The Hearing Examiner must keep the record open for no more than 30 days to provide an opportunity for the Planning Board or its staff to comment. Within that time, the Planning Board or its staff must comment on the amendment or state that no additional review and comment are necessary.

#### 4. Withdrawal of an Application

The Hearing Examiner or the Hearing Examiner's designee must send a notice to all parties entitled to notice of the hearing when an applicant withdraws an application for a conditional use.

#### E. Necessary Findings

1. To approve a conditional use application, the Hearing Examiner must find that the proposed development:
  - a. satisfies any applicable previous approval on the subject site or, if not, that the previous approval must be amended;
  - b. satisfies the requirements of the zone, use standards under [Article 59-3](#), and applicable general requirements under [Article 59-6](#);
  - c. substantially conforms with the recommendations of the applicable master plan;
  - d. is harmonious with and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan;
  - e. will not, when evaluated in conjunction with existing and approved conditional uses in any neighboring Residential Detached zone, increase the number, intensity, or scope of conditional uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area; a conditional use application that substantially conforms with the recommendations of a master plan does not alter the nature of an area;
  - f. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the conditional use is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required and:
    - ii. if a preliminary subdivision plan is filed concurrently or required subsequently, the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage; and
2. Any structure to be constructed, reconstructed, or altered under a conditional use in a Residential Detached zone must be compatible with the character of the residential neighborhood.
3. The fact that a proposed use satisfies all specific requirements to approve a conditional use does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require conditional use approval.
4. In evaluating the compatibility of an agricultural conditional use with surrounding Agricultural or Rural Residential zoned land, the Hearing Examiner must consider that the impact does not necessarily need to be controlled as stringently as if it were abutting a Residential zone.
5. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use to serve the population in the general neighborhood, considering the present availability of identical or similar uses to that neighborhood:
  - a. Filling Station;
  - b. Light Vehicle Sales and Rental (Outdoor);

- c. Swimming Pool (Community); and
  - d. the following Recreation and Entertainment Facility use: swimming pool, commercial.
6. The following conditional uses may only be approved when the Hearing Examiner finds from a preponderance of the evidence of record that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood:
- a. Funeral Home; Undertaker;
  - b. Hotel, Motel;
  - c. Shooting Range (Outdoor);
  - d. Drive-Thru
  - e. Landfill, Incinerator, or Transfer Station; and
  - f. a Public Use Helipad, Heliport or a Public Use Helistop.

## F. Decision

### 1. Hearing Examiner

- a. The Hearing Examiner must issue a report and decision no later than 30 days after the close of the record of the public hearing. The decision may recommend that the application be approved, approved with conditions, or denied. The Hearing Examiner may supplement the specific requirements of this Chapter with any other requirements necessary to protect nearby properties and the general neighborhood. The Hearing Examiner may by order extend the time to issue the report and decision.
- b. The Hearing Examiner must notify the Board of Appeals, the applicant, and all parties who participated in the hearing that the report and decision are complete and available for review. If a timely request for oral argument is not received under [Section 7.3.1.F.1.c](#), the Hearing Examiner's report and decision becomes the final decision.
- c. Any party of record or aggrieved party may file a written request to present oral argument before the Board of Appeals within 10 days after the

Office of Zoning and Administrative Hearings issues the Hearing Examiner's report and decision. The filing of such a request transfers jurisdiction over the matter from the Hearing Examiner to the Board of Appeals.

- i. A written request for oral argument must be filed with the Board of Appeals and the Hearing Examiner, and must concisely identify the matters to be presented at the oral argument.
- ii. Any party of record or aggrieved party may, no later than 5 days after a request for oral argument is filed, file a written opposition or request to participate in oral argument. An opposition to a request for oral argument must be sent to the Board of Appeals and all parties as listed by the Hearing Examiner, and must be concise and limited to matters raised by the party who requested oral argument.
- iii. The Board of Appeals may, in its discretion, grant or deny an oral argument request. If the Board of Appeals grants a request for oral argument, the argument must be limited to matters contained in the record compiled by the Hearing Examiner.
- iv. Regardless of whether the Board of Appeals has elected to hear oral argument, the Board of Appeals must, under [Section 7.3.1.F.2](#), approve or deny the conditional use application or remand it to the Hearing Examiner for clarification or the taking of additional evidence, if appropriate.

### 2. Board of Appeals

- a. If the Board of Appeals is deciding the application, it must make the necessary findings under [Section 7.3.1.E](#) and must:
  - i. vote in public session to approve, approve with conditions, or deny the application, or to remand the application to the Hearing Examiner for additional evidence or clarification. An affirmative vote of 4 members of the Board of Appeals is required to approve a conditional use when 5 members are present, otherwise an affirmative vote of 3 members is required. Any Board of Appeals member who votes on a conditional use and was not present for any portion of the oral argument must read and sign the transcript of that portion of the oral argument; and

- ii. issue a resolution reflecting the Board of Appeals' decision no later than 30 days after voting on the matter, unless such time is extended by the Board of Appeals.
- b. All matters decided under Section 7.3.1.F.2 must be decided on the basis of the evidence of record, but the Board of Appeals may decide any matter heard by the Hearing Examiner and presented to the Board of Appeals for decision solely on the basis of the Hearing Examiner's report and decision.
- c. The Board of Appeals may supplement the specific requirements of this Chapter with any other requirements necessary to protect nearby properties and the general neighborhood.

### G. Appeal

Any party aggrieved by a decision of the Board of Appeals may, within 30 days after the Board of Appeals' action, file a petition for judicial review of the decision under the [Land Use Article \(Section 22-403\)](#).

### H. Subsequent Actions

1. If the conditional use application is denied, a new application proposing substantially the same development for the same property may not be filed within 18 months after a final decision, unless the Hearing Examiner finds that the applicant provides material new facts that warrant reapplication.

#### 2. Conforming Permits

DPS must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement associated with a conditional use

- a. until the Hearing Examiner or Board of Appeals approves a conditional use; and
- b. unless any building, structure, or improvement satisfies the approved conditional use.

### 3. Permits Exempt from Conformance to Approved Conditional Uses

- a. On any property with an approved conditional use, DPS may, without a finding of conformance to the approved conditional use, issue a sediment control permit or building permit to:
  - i. construct an accessibility improvement;
  - ii. repair an existing structure without changing its height or footprint; or
  - iii. replace an existing structure to no more than the same footprint and height approved.
- b. DPS must submit a copy of any permit issued under [Section 7.3.1.H.3](#) to the Hearing Examiner and the Board of Appeals for inclusion in the record of the conditional use.
- c. Any modification or improvement allowed under [Section 7.3.1.H.3](#) does not require an amendment to the conditional use application.

### I. Duration of Approval

1. A conditional use that is not established or has not obtained a building permit within 24 months from the date of the issuance of the decision or resolution expires, unless a longer period is established by the decision or resolution.
2. The Board of Appeals or the Hearing Examiner may extend the time limit for a conditional use to be established or obtain a building permit if the evidence of record establishes that drawing of architectural plans, preparation of the land, or other factors involved in the particular use will delay the start of construction or the establishment of the use beyond the period of validity. An individual extension must not exceed 12 months. If the Board of Appeals or the Hearing Examiner grants an extension, it must set a date by which the erection or alteration of the building must begin or the use must be established.
3. Development activities under Section 7.3.1 must satisfy the approved conditional use and any conditions, including operational restrictions.
4. The conditional use holder must notify the Board of Appeals or the Hearing

Examiner of any change in land ownership or change in circumstances or conditions affecting the conditional use.

## **J. Recording Procedures**

1. The Hearing Examiner or the Board of Appeals must maintain in their permanent files any conditional use application that they approve along with any written decision.
2. A copy or notice of the decision of the Board of Appeals or Hearing Examiner on each conditional use application must be sent to the applicant, the Board of Appeals or Hearing Examiner, as appropriate, the Planning Board, DPS, the Department of Finance, all parties entitled to notice of filing, and any other parties of record.
3. The Planning Director must indicate the decision on the official zoning map by use of an appropriate code number or symbol.

## **K. Amendments**

### **1. Major Amendment**

- a. A major amendment to a conditional use is one that changes the nature, character, or intensity of the conditional use to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected, when considered in combination with the underlying conditional use.
- b. A major amendment to a conditional use follows the same procedures, must meet the same criteria, and must satisfy the same requirements as the original conditional use application, except that,
  - i. The public hearing must be limited to consideration of the proposed modifications specified in the notice of public hearing and to those aspects of the conditional use that are directly related to those proposals; and
  - ii. The Hearing Examiner or the Board of Appeals, as applicable, may require the underlying conditional use to satisfy the conditional use requirements of the applicable zone, to the extent necessary to avoid substantial adverse effects on the surrounding neighborhood.

### **2. Minor Amendment**

- a. A minor amendment to a conditional use may be approved administratively by the Hearing Examiner or Board of Appeals, as applicable, depending on which entity approved the conditional use. A minor amendment to a conditional use is one that does not change the nature, character, or intensity of the conditional use to an extent that substantial adverse effects on the surrounding neighborhood could reasonably be expected, when considered in combination with the underlying conditional use.
- b. When a minor amendment is granted, the Board of Appeals or Hearing Examiner must send a copy of the resolution or decision, as applicable, to the applicant, the Board of Appeals or Hearing Examiner, as appropriate, the Planning Board, DPS, the Department of Finance, all parties entitled to notice at the time of the original filing, and current abutting and confronting property owners. The resolution or decision, as applicable, must state that any party may request a public hearing on the Board of Appeals' or Hearing Examiner's action within 15 days after the resolution or decision is issued. The request for public hearing must be in writing, and must specify the reason for the request and the nature of the objection or relief desired. If a request for a hearing is received, the deciding body must suspend its administrative amendment and conduct a public hearing to consider whether the amendment substantially changes the nature, character, or intensity of the conditional use or its effect on the immediate neighborhood. If the Board of Appeals or Hearing Examiner determines that such impacts are likely, then the amendment application must be treated as a major amendment application. A decision of the Hearing Examiner may be appealed on the basis of the Hearing Examiner's record to the Board of Appeals.

## **L. Compliance and Enforcement**

1. DPS and the Board of Appeals must establish a regular inspection program for conditional uses. DPS must perform the inspections according to the established schedule, and must perform additional inspections if DPS, the Board of Appeals, or the Hearing Examiner receive a complaint alleging

failure to satisfy the terms or conditions of a conditional use. If a complaint is filed, DPS must inspect the premises of the conditional use within 21 days after receiving the complaint, or more promptly if requested by the Board of Appeals or the Hearing Examiner, to determine the validity of the complaint.

2. If the inspection finds a violation of the terms or conditions of the conditional use, DPS must direct the conditional use holder to correct the violation. When the time to correct the violation expires, DPS must reinspect the premises. If the violation has not been corrected, DPS must file a report with the Board of Appeals or the Hearing Examiner describing the nature of the violation, the corrective action ordered by DPS, and the time allowed to correct the violation.
3. If DPS finds that no violation exists, it must report to the Hearing Examiner or Board of Appeals that the conditional use satisfies the terms and conditions of the conditional use approval.
4. If the Board of Appeals or the Hearing Examiner receives a written notice from DPS that the conditional use holder is violating the terms or conditions of a conditional use or the terms, conditions, or restrictions attached to the grant of any permit issued under the conditional use approval, the Board of Appeals or the Hearing Examiner must order the conditional use holder and the property owner to appear before the Board of Appeals or the Hearing Examiner to show cause why the conditional use should not be revoked.
5. The notice of a show cause hearing must be issued to the conditional use holder and the property owner by certified mail, return receipt requested. Notification must also be sent to DPS, and to any party who submitted a written complaint concerning the conditional use, and must:
  - a. include the nature of the alleged violations;
  - b. state that the hearing is limited to a consideration and a determination of the validity of the allegations; and
  - c. advise the conditional use holder and the property owner that failure to attend and participate in the hearing may result in revocation of the conditional use.
6. The Board of Appeals or the Hearing Examiner must conduct a show cause hearing limited to consideration of the issues identified in the notice of hear-

ing. The Board of Appeals or the Hearing Examiner may reaffirm or revoke the conditional use or amend, add to, delete or modify the existing terms or conditions. The Board of Appeals or the Hearing Examiner must make a determination on the issues presented within 15 days after the close of record. The decision of the Board of Appeals or the Hearing Examiner must be by the adoption of a written resolution and copies of the resolution must be transmitted to the conditional use holder, the property owner, DPS, the Planning Director, and other relevant parties.

7. If DPS finds that a conditional use has been abandoned, DPS must forward written notice of its findings to the last recorded holder of the conditional use and to the property owner. The conditional use holder and property owner, within 60 days after the date of sending notice, must submit a written statement confirming the abandonment or challenging it and requesting that the use be continued.
  - a. If the conditional use holder and the property owner acknowledge that the conditional use has been abandoned, DPS must notify the Board of Appeals or the Hearing Examiner, as appropriate. The Board of Appeals or Hearing Examiner must adopt and issue a written resolution finding the conditional use to have been abandoned and ordering it revoked.
  - b. If either the conditional use holder or the property owner challenges the abandonment and requests that the conditional use be continued, DPS must notify the Board of Appeals or the Hearing Examiner, as appropriate, and the Board of Appeals or Hearing Examiner must convene a public show cause hearing to determine whether or not the conditional use was abandoned and whether it should be revoked.
  - c. If neither the conditional use holder nor the property owner responds, DPS must notify the Board of Appeals or Hearing Examiner of its findings, and the Board of Appeals or Hearing Examiner, as appropriate must issue to the conditional use holder and the property owner an order to appear before them to show cause why the conditional use should not be revoked.
  - d. If neither the conditional use holder nor the property owner appears before the Board of Appeals or Hearing Examiner, as appropriate, to show

cause why the conditional use should not be revoked, the deciding body must revoke the conditional use approval.

8. The Planning Director must note the revocation of any conditional use in the official zoning maps.

## Section 7.3.2. Variance

### A. Applicability and Description

The Board of Appeals may grant a variance from any requirement of this Chapter.

### B. Application Requirements

1. A property owner or another party authorized by the property owner may file a variance application with the Board of Appeals.
2. The applicant must submit the following for review:
  - a. application form and fees required by the Board of Appeals;
  - b. documentation of interest in the proposed development site under **Section 7.3.2.B.1**;
  - c. statement of justification outlining how the proposed development satisfies the criteria for approving the application;
  - d. survey plat or scaled drawing showing boundaries, frontage, and topography;
  - e. certified copy of official zoning vicinity map showing the area within at least 1,000 feet surrounding the subject property;
  - f. list of abutting and confronting property owners in the County tax records;
  - g. list of any civic and homeowners associations within 1/2 mile;
  - h. scale plans, illustrations, sections, elevations, or specifications showing all existing and proposed buildings and structures; and
  - i. supplementary documentation to be introduced in support of the application.
3. Public notice is required under **Division 7.5**.

### C. Hearing Date

The Board of Appeals must schedule a public hearing to begin no later within 60 days after the application was accepted, except that the hearing date may be extended to 120 days from acceptance if the Board of Appeals requests advice from the Planning Director, Planning Board, or the Hearing Examiner.

### D. Review and Recommendation

1. The Board of Appeals may request review by the Planning Director, Planning Board, or Hearing Examiner.
2. If the Board of Appeals requests review by the Planning Director, Planning Board, or Hearing Examiner the review follows the same procedure as a conditional use application.
3. When an error committed or discovered during the course of construction on a site where a property owner holds a valid building permit to construct a detached house or townhouse building type in a new residential subdivision results in the violation of a required setback, and a variance would involve less than 10% of the setback requirement, the Board of Appeals may hear the application for the variance at the next regularly scheduled hearing if:
  - a. the property owner makes a written request to the Board of Appeals; and
  - b. the Board of Appeals members present make a unanimous vote to allow the application.

### 4. Amendment of an Application

An applicant may amend the application before the hearing if the Board of Appeals approves a motion to amend after giving 10 days' notice to all parties entitled to original notice of filing. If an amendment would alter materially an applicant's proposal or evidence, the Board of Appeals may postpone the hearing to a date that permits all interested parties adequate time to review the amendment.

### E. Necessary Findings

Granting the variance may only authorize a use of land allowed by the underlying zone. To approve a variance, the Board of Appeals must find that:

1. denying the variance would result in no reasonable use of the property; or

2. each of the following apply:
  - a. one or more of the following unusual or extraordinary situations or conditions exist:
    - i. exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary conditions peculiar to a specific property;
    - ii. the proposed development uses an existing legal nonconforming property or structure;
    - iii. the proposed development contains environmentally sensitive features or buffers;
    - iv. the proposed development contains a historically significant property or structure; or
    - v. the proposed development substantially conforms with the established historic or traditional development pattern of a street or neighborhood;
  - b. the special circumstances or conditions are not the result of actions by the applicant;
  - c. the requested variance is the minimum necessary to overcome the practical difficulties that full compliance with this Chapter would impose due to the unusual or extraordinary situations or conditions on the property;
  - d. the variance can be granted without substantial impairment to the intent and integrity of the general plan and the applicable master plan; and
  - e. granting the variance will not be adverse to the use and enjoyment of abutting or confronting properties.

#### **F. Decision**

1. The Board of Appeals must act by an affirmative vote of 3 members to approve, approve with conditions, or deny the application within 30 days after the close of the record of the public hearing. If the required number of affirmative votes is not obtained, the application is denied.
2. Any party aggrieved by a decision of the Board of Appeals may file a petition

for judicial review of the decision within 30 days after the Board of Appeals action to the Circuit Court and thereafter to the Court of Special Appeals.

#### **G. Duration of Approval**

1. The applicant must submit an application for a building permit, site plan, or conditional use within 12 months after the issuance of a variance. If a decision on a variance is appealed to a court, this time limit runs from the date of the final court order in the appeal.
2. After approval of a variance, the Board of Appeals may extend the time limit to obtain a building permit or file an application for a site plan or conditional use if the evidence of record establishes that drawing of architectural plans, preparation of the land, or other factors involved in the particular use will delay the start of construction or the establishment of the use beyond the period of validity. If the Board of Appeals grants an extension, the Board of Appeals must set a date by which the erection or alteration of the building must be started or the use established.
3. Approval of a variance entitles the applicant or successor to obtain a building permit or file a site plan or conditional use application to the standard granted by the variance.
4. The conditions approved by the Board of Appeals are binding upon the applicant, successors, and assigns.

#### **H. Recording Procedures**

The Board of Appeals must maintain any resolution concerning a variance in its permanent files and must record an approved variance in the land records within 30 days after approval.

### **Section 7.3.3. Sketch Plan**

#### **A. Applicability and Description**

1. Development under optional method in the CRT, CR, EOF, or LSC zone requires approval of a sketch plan.
2. A sketch plan describes a project at an early stage to provide the public and the Planning Board the chance to review a proposed development for general design, density, circulation, public benefits, and relationship to the

master plan before a developer is required to expend significant resources on design and engineering.

## B. Application Requirements

1. An applicant must own the subject property or be authorized by the owner to file the application.
2. If any land or right-of-way encompassed by a sketch plan application is owned or controlled by the State, County, or any other private or public entity, a written agreement or authorization from that entity or agency must be submitted with the sketch plan application.
3. The applicant must submit the following for review:
  - a. application form and fees required by the Planning Director;
  - b. vicinity map at 1" = 200';
  - c. site map showing existing buildings, structures, circulation routes, significant natural features, historic resources, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
  - d. list of abutting and confronting property owners in the County tax records;
  - e. list of any civic and homeowners associations within 1/2 mile;
  - f. documentation of interest in the proposed development site under [Section 7.3.3.B.1](#) and [Section 7.3.3.B.2](#);
  - g. statement of justification outlining how the proposed development satisfies the standards and criteria required to grant the application; and
  - h. illustrative plans showing:
    - i. building densities, massing, heights, and the anticipated mix of uses;
    - ii. locations of public use and other open spaces;
    - iii. pedestrian, bicycle, and vehicular circulation, parking, and loading;
    - iv. estimated range of peak hour trips; and
    - v. relationships between existing or proposed adjacent buildings and rights-of-way;
4. The applicant must submit an initial application to the Planning Director for approval of completeness. The Planning Director must review the application for completeness within 10 days after receipt. An application is incomplete if any required element is missing or is facially defective, e.g., a drawing that is not to scale or lacks proper signatures. The assessment of completeness must not address the merits of the application.
5. The applicant must submit any required revisions to the Planning Director. The Planning Director must review the revised application for completeness within 10 days after receipt.
6. After the Planning Director verifies that the application is complete, the applicant must file the final application with the Planning Director, who will accept the application and establish a hearing date under [Section 7.3.3.C](#).
7. Public notice is required under [Division 7.5](#).

## C. Hearing Date

The Planning Board must schedule a public hearing to begin within 90 days after the date an application was accepted. The Planning Director may postpone the public hearing by up to 30 days once without Planning Board approval. The Planning Director or applicant may request an extension beyond the original 30 days with Planning Board approval. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.

## D. Review and Recommendation

The Planning Director must publish a report and recommendation a minimum of 10 days before the Planning Board public hearing. The report and recommendation must be made available to the applicant and public.

## E. Necessary Findings

To approve a sketch plan, the Planning Board must find that the following elements are appropriate in concept and appropriate for further detailed review at site plan. The sketch plan must:

1. meet the objectives, general requirements, and standards of this Chapter;
2. substantially conform with the recommendations of the applicable master plan;
3. satisfy under **Section 7.7.1.B.5** the binding elements of any development plan or schematic development plan in effect on October 29, 2014;
4. under **Section 7.7.1.B.5**, for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment, satisfy any green area requirement in effect on October 29, 2014; any green area under this provision includes and is not in addition to any open space requirement of the property's zoning on October 30, 2014;
5. achieve compatible internal and external relationships between existing and pending nearby development;
6. provide satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading;
7. propose an outline of public benefits that supports the requested incentive density and is appropriate for the specific community; and
8. establish a feasible and appropriate phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.

## F. Decision

The Planning Board must act within 30 days after the close of the record of the public hearing by majority vote of those present at the public hearing to approve; approve with modifications, conditions, or binding elements; or deny the application. A binding element may include, but is not limited to, a restriction on use or building type that the zone would otherwise allow; a limit on a development standard to less than the maximum allowed; a general development requirement beyond the minimum required; establishment of the public benefits that must be provided; or establishing the general layout and massing

of buildings, open space, and circulation. A binding element binds the applicant, and any successor or assign, unless lawfully amended.

## G. Subsequent Actions

If a sketch plan is approved, a site plan under **Section 7.3.4** must be submitted within 36 months after the date the resolution is sent, unless a longer period is established by the resolution.

## H. Recording Procedures

The Planning Board resolution must be maintained in the permanent files of the Planning Department.

## I. Amendments

During site plan review, the Planning Board may approve an amendment to any binding element or condition of an approved sketch plan.

1. An amendment to a binding element or condition of an approved sketch plan must be:
  - a. requested by the applicant;
  - b. recommended by the Planning Board staff and agreed to by the applicant; or
  - c. made by the Planning Board, based on a staff recommendation or on its own initiative, if the Planning Board finds that a change in material facts and circumstances since sketch plan approval demonstrates that the binding element or condition does not substantially conform with the recommendations of the applicable master plan or does not satisfy this Chapter.
2. Notice of a site plan application must include any proposed amendment to a binding element requested by the applicant. Notice of the site plan hearing must include any proposed amendment to a binding element recommended by Planning Board staff and agreed to by the applicant.
3. For any amendment to a binding element or condition, the Planning Board must make the applicable sketch plan findings in addition to the findings necessary to approve a site plan under Article 59-7.

## Section 7.3.4. Site Plan

### A. Applicability and Description

1. Development under the optional method requires approval of a site plan after approval of a sketch plan.
2. Development under a Floating zone requires approval of a site plan after approval of a floating zone plan.
3. Development under the standard method requires site plan approval as indicated in the table in [Section 7.3.4.A.8](#).
4. A site plan provides a detailed overview of the applicant's development. Site plan review will be used to determine if the proposed development satisfies current laws, regulations, and this Chapter, and substantially conforms with the recommendations of the applicable master plan and approved guidelines.
5. A site plan application may encompass all or any part of a property and must demonstrate its relation to and coordination with other applicable approvals or submittals.
6. Site plan applications must satisfy the conditions and binding elements of and be consistent with any and all previous approvals that apply to the subject property.
7. An area covered by a conditional use approval requires a site plan only if:
  - a. the area is included in a sketch plan; or
  - b. the use standards in [Article 59-3](#) require it.

8. A site plan is required under standard method development as follows:

Subject Property's Zone	Proposed Use	Proposed Intensity (units, gross floor area in SF, or building height in feet)	Abutting or Confronting Property's Zone (determined by base zone, not Overlay zone)	Site Plan Required
Agricultural, Rural Residential, or Residential Detached	Permitted	Any	Any	No
	Limited	Any	Any	Yes, if required for the use under Article 59-3; otherwise, site plan requirement follows the Permitted use requirement for same zone in this table.
Residential Townhouse or Residential Multi-Unit	Permitted	< 20 units and ≤ 40'	Any	No
		≥ 20 units or > 40'	Any	Yes
	Limited	< 20 units and ≤ 40'	Any	Yes, if required for the use under Article 59-3; otherwise, site plan requirement follows the Permitted use requirement for same zone in this table.
		≥ 20 units or > 40'	Any	Yes
Commercial/Residential or Employment	Permitted	< 10,000 SF and ≤ 40'	Any	No
		≥ 10,000 SF or > 40'	Agricultural, Rural Residential, Residential, or Residential Floating	Yes
			All other zones	No
	Limited	Any	Any	Yes, if required for the use under Article 59-3; otherwise, site plan requirement follows the Permitted use requirement for same zone in this table.
Industrial	Permitted	Any	Agricultural, Rural Residential, Residential, or Residential Floating	Yes
		> 40'	Commercial/Residential, Employment, Commercial/Residential Floating, or Employment Floating	Yes
		Any	Industrial or Industrial Floating	No
	Limited	Any	Any	Yes, if required for the use under Article 59-3; otherwise, site plan requirement follows the Permitted use requirement for same zone in this table.
Overlay	Any	Any	Any	If required by the applicable Overlay zone under Article 59-4 or if required by the underlying zone.

## B. Application Requirements

1. Ownership:
  - a. An applicant must own the subject property or be authorized by the owner to file the application.
  - b. If any land or right-of-way encompassed by a site plan application is owned or controlled by the State, County, or any other entity or agency, a written agreement or authorization from that entity or agency must be submitted with the site plan application.
2. The applicant must submit the following for review:
  - a. application form and fees required by the Planning Director;
  - b. vicinity map at 1" = 200';
  - c. site map showing existing buildings, structures, circulation routes, significant natural features, historic resources, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
  - d. list of abutting and confronting property owners in the County tax records;
  - e. list of any civic and homeowners associations within 1/2 mile;
  - f. documentation of interest in the proposed development site under [Section 7.3.4.B.1](#);
  - g. statement of justification outlining how the proposed development satisfies the standards and criteria required to grant the application;
  - h. verification that the applicant has posted notice on the property, notified affected parties, and held a pre-submittal meeting with the public under the Planning Department's Development Review Manual;
  - i. Traffic Statement or Study accepted by the Planning Director, if not submitted with a previous or concurrent application;
  - j. environmental documentation or exemption for:
    - i. an approved Natural Resources Inventory/Forest Stand Delineation;
    - ii. Stormwater Management Concept Application or, if required, a Water Quality Plan Application; and
    - iii. a final Forest Conservation Plan application;
  - k. existing and proposed dry and wet utility plan;
  - l. plans of proposed development showing:
    - i. footprints, ground-floor layout, and heights of all building and structures;
    - ii. required open spaces and recreational amenities;
    - iii. detailed layout and dimensions for all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
    - iv. grading;
    - v. landscaping and lighting; and
    - vi. documentation demonstrating how the application satisfies previous approvals and applicable requirements.
  - m. a development program and inspection schedule detailing the construction phasing for the project;
  - n. if a sketch plan was approved for the property, a table of proposed public benefits and the incentive density points approved for each; and
  - o. if common open space is required, a description of how the common use and adequate maintenance of common open space will be assured.
3. The applicant must submit an initial application to the Planning Director for approval of completeness. The Planning Director must review the application for completeness within 10 days after receipt. An application is incomplete if any required element is missing or is facially defective, e.g., a drawing that is not to scale or lacks proper signatures. The assessment of completeness must not address the merits of the application.
4. The applicant must submit any required revisions to the Planning Director. The Planning Director must review the revised application for completeness within 10 days after receipt.
5. After the Planning Director verifies that the application is complete, the applicant must file the final application with the Planning Director, who will accept the application and establish a hearing date under [Section 7.3.4.C](#).
6. Public notice is required under [Division 7.5](#).

### C. Hearing Date

The Planning Board must schedule a public hearing to begin within 120 days after the date an application is accepted. The Planning Director may postpone the public hearing by up to 30 days once without Planning Board approval. The Planning Director or applicant may request an extension beyond the original 30 days with Planning Board approval. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.

### D. Review and Recommendation

#### 1. State and County Agencies

- a. Reviewing State and County agencies and utilities must submit initial comments before the Development Review Committee meeting established under the Planning Department's Development Review Manual.
- b. The applicant must submit revised drawings to address the comments a minimum of 65 days before the date of the hearing. The Planning Director may extend the deadline if the applicant submits a written request within 15 days after the revised drawings were due. If no written request is received or an extension is not granted, the application is deemed withdrawn.
- c. State and County agencies and utilities must submit a final recommendation on the application a minimum of 45 days before the date of the hearing.

#### 2. Planning Director

The Planning Director must publish a report and recommendation a minimum of 10 days before the Planning Board hearing.

#### 3. Withdrawal of an Application

The Planning Board must send a notice to all parties entitled to notice of the hearing when an applicant withdraws an application for a site plan.

### E. Necessary Findings

1. When reviewing an application, the approval findings apply only to the site covered by the application.

2. To approve a site plan, the Planning Board must find that the proposed development:
  - a. satisfies any previous approval that applies to the site;
  - b. satisfies under **Section 7.7.1.B.5** the binding elements of any development plan or schematic development plan in effect on October 29, 2014;
  - c. satisfies under **Section 7.7.1.B.5** any green area requirement in effect on October 29, 2014 for a property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment;
  - d. satisfies applicable use standards, development standards, and general requirements under this Chapter;
  - e. satisfies the applicable requirements of:
    - i. **Chapter 19**, Erosion, Sediment Control, and Stormwater Management; and
    - ii. **Chapter 22A**, Forest Conservation.
  - f. provides safe, well-integrated parking, circulation patterns, building massing and, where required, open spaces and site amenities;
  - g. substantially conforms with the recommendations of the applicable master plan and any guidelines approved by the Planning Board that implement the applicable plan;
  - h. will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public facilities. If an approved adequate public facilities test is currently valid and the impact of the development is equal to or less than what was approved, a new adequate public facilities test is not required. If an adequate public facilities test is required the Planning Board must find that the proposed development will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, and storm drainage;
  - i. on a property in a Rural Residential or Residential zone, is compatible with the character of the residential neighborhood; and
  - j. on a property in all other zones, is compatible with existing and approved or pending adjacent development.

3. To approve a site plan for a Restaurant with a Drive-Thru, the Planning Board must also find that a need exists for the proposed use due to an insufficient number of similar uses presently serving existing population concentrations in the County, and the uses at the location proposed will not result in a multiplicity or saturation of similar uses in the same general neighborhood.
4. For a property zoned C-1 or C-2 on October 29, 2014 that has not been rezoned by Sectional Map Amendment or Local Map Amendment after October 30, 2014, if the proposed development includes less gross floor area for Retail/Service Establishment uses than the existing development, the Planning Board must consider if the decrease in gross floor area will have an adverse impact on the surrounding area.

## F. Decision

1. The Planning Board must act within 30 days after the close of the record of the public hearing by majority vote of those present at the public hearing to approve, approve with modifications or conditions, or deny the application. The Planning Board must issue a resolution reflecting its decision within this 30 day time period unless extended for up to an additional 30 days.
2. Any party aggrieved by a decision of the Planning Board may file a petition for judicial review of the decision within 30 days after the Planning Board's action to the Circuit Court and thereafter to the Court of Special Appeals.
3. The Planning Board may adopt regulations that allow an applicant to submit engineered drawings after the Planning Board acts on an application. These plans must be certified by the Planning Director to confirm that the drawings reflect the Planning Board's approval.

## G. Subsequent Actions

### 1. Conforming Permits

For any development requiring site plan approval, DPS must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement unless:

- a. the Planning Board has approved a site plan;
- b. a bond has been approved under [Section 7.3.4.K.3](#); and

- c. such building, structure, or improvement satisfies the certified site plan and conditions of approval.

## 2. Permits Exempt from Conformance to Approved Site Plans

- a. On any property covered by an approved site plan, DPS may issue a sediment control permit or building permit without finding of conformance to the approved site plan to:
  - i. construct a handicapped accessibility improvement;
  - ii. construct a bikeshare facility;
  - iii. install outdoor lighting with full cut-off fixtures;
  - iv. repair an existing structure to any extent allowed by the certified site plan; or
  - v. replace an existing structure to no more than the same footprint and height approved.
- b. DPS must submit a copy of any building or site permit approved under Section 7.3.4 to the Planning Director for inclusion in the record of the site plan.
- c. On a property where a site plan was approved, any owner or owners' association may, without finding of conformance to the approved site plan, change landscaping that was not required as a condition of approval for screening or install a site element or construct a paved surface or structure that meets all applicable development standards under [Article 59-4](#) and general requirements under [Article 59-6](#) and does not conflict with any conditions of approval.
- d. Any change allowed under Section 7.3.4.G.2 does not require an amendment to the site plan.

## H. Duration of Approval

1. A site plan expires unless a certified site plan, as defined and reviewed by the Planning Director, is approved within 24 months after the date the resolution is sent.
2. A site plan does not become effective until a record plat is recorded that satisfies any approved subdivision plan for the subject property.

3. A development must satisfy the zoning in effect at the time a building permit is issued as well as the requirements of a certified site plan.
4. Development activities under Section 7.3.4 must satisfy the certified site plan and any conditions of approval.

#### I. Recording Procedures

The certified site plan and Planning Board resolution must be maintained in the permanent files of the Planning Department.

#### J. Amendments

1. A major amendment to an approved site plan must follow the same procedures, meet the same criteria, and satisfy the same requirements as the original site plan, except as modified under Section 7.3.4.J.1.b.
  - a. A major amendment includes any request to increase density or height or to make a change to any condition of approval.
  - b. The Planning Board may approve an uncontested major amendment on its consent agenda if the Planning Director publishes a report and recommendation on the amendment a minimum of 10 days before the Planning Board meeting.
2. The Planning Director may approve a minor amendment to an approved site plan. A minor amendment includes any change that does not increase density or height; decrease a setback abutting a detached residential use; or alter the intent, objectives, or requirements of the Planning Board in approving the site plan. A minor amendment may also be approved to reduce the approved parking to satisfy Article 59-6.
  - a. Public notice is required under Division 7.5.
  - b. A public hearing is required if an objection to the application is received within 15 days after the notice of the filed application is sent. A public hearing must be held under the same procedures as an original application. If an objection to the application is not received within the 15 days, a public hearing is not required.

#### K. Compliance and Enforcement

1. If the Planning Board finds, after holding a public hearing or designating a hearing officer to hold a public hearing, that a property under development is not in compliance with a certified site plan, it may:
  - a. impose a civil fine or administrative civil penalty authorized by Chapter 50 (Section 50-41);
  - b. suspend or revoke site plan approval;
  - c. order a compliance program that would permit the applicant to take corrective action to satisfy the certified site plan;
  - d. allow the applicant to propose modifications to the certified site plan; or
  - e. take any combination of these actions.
2. If the Planning Board or its designee finds that the applicant has failed to comply with a compliance program approved under Section 7.3.4.k.1.c, the Planning Board may, without holding any further hearing, take any of the actions identified in Section 7.3.4.k.1.a. through Section 7.3.4.k.1.e.
3. If the Planning Board suspends or revokes a site plan, DPS must immediately suspend any applicable building permit under which construction has not been completed, or withhold any applicable use-and-occupancy permit, until the Planning Board reinstates the site plan or approves a new site plan for the development.
4. The Planning Board may require the applicant to post a commercially acceptable form of surety securing compliance with and full implementation of specified features of the certified site plan in an amount set by the Planning Board. If such surety is required, DPS must not issue a building permit or use-and-occupancy permit until such surety is accepted.

## Division 7.4. Administrative Approvals

### Section 7.4.1. Building Permit

#### A. Applicability

1. A building permit is required before any building or structure can be erected, moved, altered, or enlarged under [Chapter 8](#).
2. A building permit is not required for:
  - a. Any building or structure used exclusively for agricultural purposes on land used exclusively for agriculture, except for:
    - i. a building or structure used for a purpose that is not exclusively agricultural, including conditional uses, even though located on otherwise agricultural land; or
    - ii. an equestrian facility, building, or structure intended for use by participants or spectators at an equestrian event.
  - b. The following public utility equipment:
    - i. any structure and its attached cross arms carrying overhead electric power and energy transmission and distribution lines that carry 69,000 volts or less;
    - ii. equipment installed and maintained by a public utility under regulation by the State Public Service Commission; or
    - iii. poles or structures used for street lights, fire alarm boxes, traffic signals, or similar municipal equipment installed by the State or a local municipality.

#### B. Application Requirements

For projects that do not require site plan approval or conditional use approval and have more than 10 parking spaces, an application for building permit must include a plan showing the location and design of entrances and exits to public roads; the location and size of all buildings and structures; the location of parking spaces, directional markings, traffic-control devices and signs; and that it satisfies [Division 6.2](#).

#### C. Review and Recommendation

DPS must submit the application to the Planning Director for review for any building permit that requests:

1. construction of a new principal structure;
2. construction that increases the gross floor area of an existing commercial structure; or
3. construction that increases the gross floor area of any residential structure by more than 50% of the existing gross floor area.

The Planning Director must confirm in writing that the application satisfies this Chapter.

#### D. Approval Process

DPS accepts the applications for all building permits.

#### E. Necessary Findings for a Site with a Conditional Use

For a site with a conditional use:

1. DPS may allow minor adjustments during construction that do not substantially alter the size, location, or external appearance of any approved building, structure, or use. DPS must immediately notify the deciding body of any deviations from the approval of the deciding body.
2. Any change proposed during construction that would substantially alter the location or external appearance of any approved building, structure, or use requires an amendment under Article 59-7.

### Section 7.4.2. Use-and-Occupancy and Temporary Use Permits

#### A. Applicability

1. A use-and-occupancy permit is required before any building, structure, or land can be used or can be converted, wholly or in part, from one use to another.
2. Exemptions from use-and-occupancy permit requirement:

- a. land or buildings used exclusively for agricultural purposes;
- b. a use for which a valid occupancy permit was issued and not revoked before June 1, 1958;
- c. a Family Day Care (Up to 8 Persons); and
- d. a Transitory Use.

### **B. Application Requirements**

Each application for a use-and-occupancy permit must be accompanied by 2 copies of a plan drawn to scale showing:

- 1. the lot on which a use is proposed, lot dimensions, lot and block numbers and subdivision name, if any;
- 2. the location, extent, and layout for the proposed use and any other pertinent information; and
- 3. north point, date and scale of plan.

### **C. Approval Process**

DPS accepts the application for all use-and-occupancy and temporary use permits.

### **D. Necessary Findings**

- 1. DPS must certify compliance with this Chapter.
- 2. Any building, structure, or land on a site with any previous development approval must satisfy the requirements, representations, plans, and conditions contained in the decision or resolution of the deciding body.
- 3. On the basis of a final inspection, DPS must verify that construction or alteration has been completed according to the applicable decision or resolution.
- 4. A temporary use permit may be issued if the use satisfies the applicable use standards under [Article 59-3](#).

## **Section 7.4.3. Sign Permit**

### **A. Applicability**

- 1. A sign permit is required when a sign is constructed, erected, moved, enlarged, illuminated, or substantially altered. Routine maintenance, including painting, cleaning, changing copy where permitted, or changing copy that satisfies a sign concept plan, does not require a permit.
- 2. Signs listed in [Section 6.7.3](#) and [Section 6.7.12](#) are exempt from the sign permit requirement.

### **B. Application Requirements**

- 1. The property owner and the sign installer must file a joint application for the sign permit on forms provided by DPS. If the property owner has an agent or lessee, the agent and the lessee must also sign each permit form. The application must be accompanied by all required fees and the following:
  - a. a scale drawing of the sign showing all dimensions and visual characteristics, including structural and architectural supports;
  - b. a scale drawing of the site showing:
    - i. the proposed location of the sign, including setbacks;
    - ii. the location and size of all other signs on the property;
    - iii. the location, dimensions, and distance from property lines of all buildings on the site;
    - iv. the location and name of all streets that abut the property;
    - v. the frontage dimensions of the site along each street that abuts the property;
    - vi. the existing elevation and grade of the site and the proposed contour lines;
  - c. a valid electrical permit or a completed application for an electrical permit under [Chapter 17](#), if the application is for an illuminated sign;

- d. a completed building permit application under Chapter 8 for a sign requiring structural support;
  - e. payment of the sign permit fee as adopted by District Council Resolution;
  - f. other information that may be required by DPS to insure compliance with Division 6.7 or other sections of the Chapter; and
  - g. a sign concept plan if:
    - i. the lot or parcel is in a Commercial/Residential, Employment, or Industrial zone and is requesting more than 800 square feet of total sign area;
    - ii. the development consists of more than one lot or parcel in a Commercial/Residential, Employment, or Industrial zone developed under a management control plan where one or more individual lots or parcels is requesting more than 800 square feet of total sign area, even if such development includes one or more individual sites or parcels whose total sign area does not exceed 800 square feet; or
    - iii. the development uses optional method within an urban renewal area.
2. DPS must waive all required fees if:
    - a. the primary applicant is a non-profit organization that is on the Planning Board's list of civic and homeowners associations; and
    - b. the size of the proposed sign is smaller than the maximum size under Division 6.7.
  3. DPS may waive or reduce all required fees if:
    - a. the primary applicant is a non-profit organization that by law is exempt from federal income taxes and demonstrates that its annual revenue during its most recent fiscal year was less than an amount set by DPS under Method (2); and
    - b. the size of the proposed sign is smaller than the maximum size under Division 6.7.

### C. Approval Process

DPS accepts all sign permit applications.

### D. Necessary Findings

1. DPS may issue a sign permit based on one of the following:
  - a. its determination, upon review of the application, that the proposed sign or sign concept plan satisfies Division 6.7; or
  - b. submission of the application packet and a written certification by a sign installer that the proposed sign satisfies Division 6.7.
2. DPS has the authority to resolve any dispute or to interpret any ambiguity in Section 7.4.3.

### E. Validity

A sign permit becomes invalid when:

1. the sign for which the permit was issued is not erected within 6 months from the date of issuance;
2. the sign for which the permit was issued is moved or substantially altered;
3. DPS revokes the permit for failure to satisfy an order issued by DPS stipulating corrective action for improper maintenance;
4. the application for a sign permit contained inaccurate information; or
5. the terms of the permit have not been satisfied.

### F. Appeal

Any decision of DPS or the Sign Review Board may be appealed to the Board of Appeals within 30 days after the date of the action or decision appealed.

### G. Compliance and Enforcement

1. The sign permit must be displayed in a location on or near the sign that permits a person to read the permit while standing on the ground, including on the sign itself, on its supporting structure, or in another reasonable and visible location.
2. Compliance is the responsibility of the joint applicants for a sign permit, including the property owner or agent of the property where the sign is erected, along with the lessee, if any, and the sign installer. DPS may initiate enforcement proceedings against one or all of these individuals or entities, jointly or severally.

3. Upon identification and presentation of proper credentials, DPS may enter any site in the County during normal business hours to inspect a sign displayed on a building, structure, lot, or parcel to determine compliance with this Chapter.
4. DPS may order the removal of any sign that violates this Chapter, or interferes with traffic or public safety. The removal must be performed at the expense of the responsible party.
5. DPS may revoke, suspend, refuse to issue, or refuse to reissue any permit or license under this Chapter.

### Section 7.4.4. Sign Variance

#### A. Applicability

Any sign not listed in [Division 6.7](#), or which does not satisfy the requirements in [Division 6.7](#), may apply for a sign variance from DPS.

#### B. Application Requirements

DPS accepts all sign variance applications and a hearing date is scheduled with the Sign Review Board.

#### C. Necessary Findings

1. For all sign variances, the Sign Review Board must consider:
  - a. the sign's size, shape, color, design elements, location, or cost;
  - b. compatibility of the proposed sign with the surrounding property, the proximity of other signs, and the characteristics of the area; and
  - c. any recommendation of the Planning Board or its technical staff.
2. After a hearing, the Sign Review Board may approve an application for a sign variance from the sign requirements of [Division 6.7](#) if:
  - a. the strict application of the sign requirements of [Division 6.7](#) would result in a particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden on an applicant;
  - b. the sign variance is the minimum reasonably necessary to overcome any exceptional conditions; and
  - c. the sign variance can be granted without substantial impairment of the purpose of [Division 6.7](#).

3. After a hearing, the Sign Review Board may revoke a previously granted sign variance if:
  - a. the applicant supplied inaccurate information, or
  - b. the terms of a variance have not been followed.
4. The Sign Review Board is prohibited from approving a sign variance for any sign prohibited under [Section 6.7.4](#).
5. The Sign Review Board may approve a sign variance without a hearing if:
  - a. after receiving notice under [Section 7.5.2.E](#), no person has expressed an intention by a specified deadline to oppose the application or otherwise appear at the hearing; and
  - b. the Sign Review Board concludes that approval of a sign variance would not create any negative impact on the area where the sign is or would be located.
6. The Sign Review Board may approve a variance for a sign on property with a conditional use approval if the Hearing Examiner or Board of Appeals, as applicable, has approved the sign. Nothing in Section 7.4.4 prevents the Sign Review Board from imposing more restrictive conditions than the Hearing Examiner or Board of Appeals, but the Sign Review Board must not approve a sign variance that is less restrictive than any condition set by the Hearing Examiner or Board of Appeals.

#### D. Decision

1. The Sign Review Board may impose conditions and terms when approving a sign variance.
2. The Sign Review Board must notify each party of record of the sign variance decision when it is issued.
3. If a sign variance is approved, the applicant must apply for the appropriate sign permits.

#### E. Appeal

Any party of record may appeal any final decision of the Sign Review Board within 30 days after the action to the Board of Appeals under [Section 7.6.1](#).

#### F. Compliance and Enforcement

DPS must enforce the conditions and terms of a sign variance.

## Division 7.5. Notice Standards

### Section 7.5.1. Notice Required

Notice is required for each application according to the following table:

Application	Newspaper	Pre-Submittal Meeting	Application Sign	Application Notice	Hearing Notice	Resolution Notice	Building Permit Sign Notice	Website Posting
<b>District Council Approvals</b>								
Local Map Amendment			X		X			X
Corrective Map Amendment					X			X
Sectional or District Map Amendment	X							X
Zoning Text Amendment	X							X
<b>Regulatory Approvals</b>								
Conditional Use			X		X	X		X
Variance			X		X			
Sketch Plan		X	X		X	X		X
Site Plan		X	X		X	X		X
<b>Administrative Approvals</b>								
Building Permit							X	X
Use-and-Occupancy and Temporary Use Permit								
Sign Permit								
Sign Variance					X			
<b>Amendments to Approvals</b>								
Major Floating Zone Plan Amendment			X		X	X		X
Minor Floating Zone Plan Amendment			X	X				X
Major Conditional Use Amendment			X		X	X		X
Minor Conditional Use Amendment						X		X
Major Site Plan Amendment			X		X	X		X
Minor Site Plan Amendment				X				X

KEY: x = Required

## Section 7.5.2. Notice Specifications

The following notice requirements are the minimum necessary to ensure appropriate notice for communities affected by an application. For notice required under [Section 7.5.1](#), the following standards apply.

### A. Newspaper Notice

1. When an application is accepted, the intake body must publish a notice of the public hearing in at least 2 newspapers of general circulation in the County a minimum of 30 days before the hearing date.
2. The notice must include the date and place of hearing, applicant, application number and name, location of property, property size, zone, density of development, and telephone number and website for the applicable intake agency. The notice for a Zoning Text Amendment must also include a brief summary of the proposed amendment.

### B. Pre-Submittal Meeting

1. Before an application may be accepted, the applicant must hold a public meeting to present the proposed application and respond to questions and comments.
2. The applicant must post a sign advertising the pre-submittal meeting, equivalent to the requirement for an application sign, a minimum of 15 days before the meeting, but no more than 90 days before filing the application.
3. The applicant must send notice advertising the pre-submittal meeting to the same recipients required under [Section 7.5.2.E.1](#), hearing notice, a minimum 15 days before the meeting.
4. The notices must include the date and place of meeting, applicant, application number and name, location of property, property size, zone, proposed use and density of development, and phone and website for the applicable intake agency.
5. The applicant must submit a list of attendees and a record of the pre-submittal meeting with the application.

### C. Application Sign

1. The applicant must post at least one sign along every frontage within 5 days after an application is accepted; if the frontage is more than 500 feet, a sign must be posted at least every 500 feet.
2. The sign must be made of a durable material; a minimum of 24 inches tall by 36 inches wide; white or yellow in background color; with black lettering and characters at least 2 inches in height.
3. The sign must include:
  - a. the date of filing;
  - b. application number and name;
  - c. requested zone, if a Local Map Amendment;
  - d. proposed use, density, or structure description, if not a Local Map Amendment;
  - e. and telephone number and website for the applicable intake agency.

### D. Application Notice

1. When an application is accepted, the applicant must send notice of the application to all abutting and confronting property owners, civic and homeowners associations within 1/2 mile, any municipality within 1/2 mile, and pre-submittal meeting attendees if applicable. A condominium's council of unit owners may be notified instead of the owner and residents of each individual condominium.
2. The notice must include the applicant, application number and name, location of property, property size, zone (and requested zone, if applicable), proposed use and density of development, and telephone number and website for the applicable intake agency.

### E. Hearing Notice

1. The deciding body must send notice of the hearing within 5 days after an application is accepted to all abutting and confronting property owners, civic and homeowners associations within 1/2 mile, any municipality within 1/2

mile, and pre-submittal meeting attendees if applicable. A condominium's council of unit owners may be notified instead of the owner and residents of each individual condominium.

2. For a sign variance, the deciding body must also send notice of the hearing to any special taxing district in which the proposed sign would be located and the technical staff of the Planning Board if the sign would be located on a property with a site plan.
3. The notice must include the date and place of meeting, applicant, application number and name, location of property, property size, zone (and requested zone, if applicable), proposed use or density of development when applicable, and telephone number and website for the applicable intake agency.
4. A hearing may be postponed or continued if the time and place of the continued hearing is publicly announced at the time of the adjournment or notice is given to all parties of record as required for the original application.

#### **F. Resolution Notice**

1. The deciding body or its designee must provide notice of the approved resolution or opinion to all parties that were notified of the hearing and any additional parties of record within 10 days after a resolution or opinion is issued.
2. The notice must provide the date the decision was made, a summary of the decision, a copy of the resolution or opinion or a website link to a copy, and the phone number, address, and website of the applicable deciding body.

#### **G. Building Permit Sign Notice**

After a building permit is approved, the applicant must post a sign as required under [Chapter 8](#).

#### **H. Website Posting**

1. During review, the applicable intake agency or designee, must post the application on its website within 15 days after acceptance.
2. When the Planning Director provides a recommendation report on an application decided by the Planning Board, the Planning Director must post the recommendation report on the Planning Board's website a minimum of

10 days before the Planning Board hearing. In cases where an application is decided by the Hearing Examiner, the Board of Appeals, or the District Council, the Planning Director's recommendation report must be posted on the Planning Board's website a minimum of 7 days before the Planning Board meeting.

3. When the Hearing Examiner provides a recommendation report on an application decided by the Board of Appeals or the District Council, the Hearing Examiner must post the recommendation report on its website a minimum of 10 days before the Board of Appeals or the District Council hearing.
4. After a decision is made, the applicable deciding body or designee, must post on its website the resolution reflecting its decision and if approved, plans certified by the deciding body or designee, modified from the submitted plans to satisfy the decision.
5. When DPS accepts a building permit application, DPS must post on its website the application information and track the status of review. After a decision is made, DPS must post on the internet its decision and, if approved, a summary of the approval, including at least the approved use and gross floor area.

## Division 7.6. Special Provisions

### Section 7.6.1. Board of Appeals

#### A. Powers

In addition to any other power described in Division 7.6, the Board of Appeals may compel the attendance of witnesses at hearings or meetings, and the chair or another member may administer oaths.

#### B. Duties

In addition to any other duties described in Division 7.6, the Board of Appeals must:

1. ensure that a minimum of 3 members of the Board of Appeals are present when hearing or deciding any matter under this Chapter;
2. keep minutes of its proceedings, meetings and hearings; and
3. take each final action under this Chapter by written resolution. Each resolution must contain findings of fact and conclusions of law forming the basis for each decision. The members' votes must be recorded in the Board of Appeals minutes. Any action or decision of the Board of Appeals under this Chapter requires the affirmative vote of at least 3 members.

#### C. Filing of Appeals

1. Appeals to the Board of Appeals may be made:
  - a. by any person, board, association, corporation, or official allegedly aggrieved by the grant or refusal of a building or use-and-occupancy permit or by any other administrative decision based or claimed to be based, in whole or in part, upon this Chapter, including the zoning map, or
  - b. about property affected by the master plan of highways.
2. Appeals must be made on forms provided for that purpose. Completed forms must be filed with the clerk to the Board of Appeals, and the appellant must pay the clerk for expenses incidental to the appeal. The clerk will accept the form only if it contains all pertinent information and is accompanied by the required fee to defray expenses.
3. Except as otherwise specifically provided by statute, Board of Appeals review

of any action, inaction, decision or order of a department of the County government must be de novo.

4. DPS must satisfy the prehearing submission requirements of Chapter 2A.
5. When an administrative appeal is made, the Board of Appeals must send notice of the hearing within 5 days of the request for appeal to DPS, the State Highway Administration, the County Board of Education, all abutting and confronting property owners, civic and homeowners associations within ½ mile, any municipality within ½ mile, and pre-submittal attendees if applicable. A condominium's council of unit owners may be notified instead of the owner and residents of each individual condominium.

### Section 7.6.2. Hearing Examiner

#### A. Assignment of Hearing Examiner

1. The County Council, sitting as the District Council, may assign one or more Hearing Examiners in the Office of Zoning and Administrative Hearings to conduct hearings for Local Map Amendments.
2. Any Hearing Examiner assigned to conduct hearings for Local Map Amendments must not, within one year after serving as a Hearing Examiner, act as agent or attorney in any proceeding or other matter before any County agency or officer involving property that was the subject of a Local Map Amendment pending during the Hearing Examiner's service as Hearing Examiner.

#### B. Duties

1. The Hearing Examiner must recommend rules and procedures to the District Council to govern the conduct of public hearings and of other functions of the Hearing Examiner's office and must perform such other tasks and duties as the District Council from time to time may assign.
2. The Hearing Examiner schedules and conducts public hearings for all conditional use applications. The Hearing Examiner may schedule and conduct a hearing or write a report and recommendation for any other matter pending

before the Board of Appeals upon request of the Board of Appeals and with approval of 3 of its members.

3. The Hearing Examiner's office has the functions and duties of scheduling and conducting public hearings and rendering written reports and recommendations to the District Council for Local Map Amendments. The Hearing Examiner may:
  - a. postpone or continue a public hearing to a time certain or for a reasonable time if:
    - i. the Hearing Examiner finds that the pendency of any proposed master plan, plan amendment, highway plan, capital improvement program, zoning or planning study, zoning text amendment, pending court case, or other relevant matter may substantially affect the application under consideration; or
    - ii. the applicant or another party for good cause requests a postponement or continuance.
  - b. extend the time for closing the record, either to a time certain or for a reasonable time, if:
    - i. the Hearing Examiner finds additional information or government action is necessary on any relevant issue; or
    - ii. the applicant or another party requests a delay for good cause.
  - c. The District Council may, by resolution, order the Hearing Examiner to postpone or continue a public hearing or the issuance of a report and recommendation on a Local Map Amendment application, either to a time certain or for a reasonable time, when a delay is necessary to allow sufficient time for the District Council to approve any master plan, plan amendment, zoning or planning study, highway plan or project, zoning text amendment, sewer, water, or other capital improvements project, which may have a substantial effect on any Local Map Amendment application before the Hearing Examiner.
  - d. The District Council may by resolution, and for good cause shown, cancel, negate, void or suspend any order of the Hearing Examiner suspending, postponing, deferring, or continuing any public hearing.

### Section 7.6.3. Planning Board

- A. In addition to any other remedy provided by law, any violation of a Planning Board action, as defined in [Chapter 50 \(Section 50-41\)](#), may be enforced under [Division 7.8](#) or under [Chapter 50 \(Section 50-41\)](#), at the discretion of the Planning Board.
- B. The Planning Board may assign a hearing officer designated by the Planning Board, 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 any other Planning Board action as defined in [Chapter 50 \(Section 50-41\)](#). The hearing officer must submit the required report and recommendation to the Planning Board a maximum of 60 days after the hearing record closes, but the hearing officer may by order extend the time to file the report.
- C. Plan Review Schedule
  1. The Planning Board must annually adopt a Plan Review Schedule for the calendar year that reflects the timeframes established in [Section 7.3.3](#), Sketch Plan, and [Section 7.3.4](#), Site Plan.
  2. This schedule will set the following:
    - a. The date an accepted application will be distributed to the Development Review Committee,
    - b. The date that initial Staff and agency comments are due,
    - c. The date of the Development Review Committee meeting,
    - d. The date by which an applicant must resubmit plans addressing the Development Review Committee comments,
    - e. The date when final Staff and agency recommendations and conditions are due, and
    - f. The date of the public hearing.
  3. Extensions to these dates may be allowed at the request of either the applicant or the Planning Director as established under [Section 7.3.3.C](#), Hearing Date, for a sketch plan and [Section 7.3.4.C](#), Hearing Date, and [Section 7.3.4.D](#), Review and Recommendation, for a site plan.

4. If an applicant submits a sketch plan amendment and site plan together, the Plan Review Schedule follows the timeframes for a site plan.
- D. Any provision adopted by the Planning Board to implement Article 59-7 is subject to District Council review and disapproval as if the provision were submitted to the District Council under Method 2 of [Chapter 2 \(Section 2A-15\)](#).

## Section 7.6.4. Sign Review Board

### A. Composition

1. The Sign Review Board consists of 5 members:
  - a. appointed by the County Executive and confirmed by the District Council, and under [Chapter 2 \(Section 2-14.8\)](#);
  - b. who are residents of the County;
  - c. one of whom must operate a business in the County; and
  - d. one of whom must be an architect licensed in Maryland. The Executive must request from the Potomac Valley Chapter of Maryland, American Institute of Architects, recommendations of architects who are qualified to serve on the Board, but the Executive is not limited to the Chapter's recommendation.
2. One member must be designated as chair by the County Executive, and confirmed by the District Council.
3. Each member serves a 3-year term, except that an appointment to fill a vacancy occurring before a term expires is for the remainder of the unexpired term.

### B. Procedures

The Sign Review Board must:

1. meet a minimum of once a month at the call of the chair;
2. exercise its powers and duties only when a minimum of 3 members are present;
3. provide written decisions and actions of the Sign Review Board within 10 days after the decision or action in a format required by DPS; and

4. exercise its powers and duties according to the procedures adopted by District Council resolution. These procedures must include:
  - a. the keeping of records of meetings and hearings;
  - b. the establishment of requirements for hearing notification;
  - c. the orientation and training of new members;
  - d. the issuance of an annual report of activities and accomplishments;
  - e. standards of conduct regarding conflict of interest;
  - f. standards of ethics; and
  - g. the procedure for admission of evidence and testimony.

### C. Powers

The Sign Review Board may:

1. advise DPS whether an application for a permit satisfies this Chapter or needs a variance;
2. approve or revoke a sign variance under [Section 7.4.4](#);
3. order the appearance of a person or evidence at a hearing before them; and
4. approve a right-of-way sign under [Section 6.7.4.F.3](#) after receiving a recommendation from the appropriate transportation jurisdiction.

## Section 7.6.5. Fees

### A. Establishing Fees

1. Where DPS, the Hearing Examiner, the Board of Appeals, or the District Council is the deciding body, fees to cover the cost of administering this Chapter must be approved by District Council resolution. A resolution to establish or amend the filing fees may only be adopted after the District Council has held a public hearing after reasonable notice. A filing fee is not required for any application filed by the District Council or another government agency, unless the application is filed at the request of a person with a financial, contractual, or proprietary interest in the property.
2. Where the Planning Board is the deciding body, fees to cover the cost of administering this Chapter must be approved by resolution of the Planning Board.

3. For Local Map Amendments and conditional use applications, 25% of the established fee must be paid directly to the Planning Director and 75% must be paid directly to the Hearing Examiner, Board of Appeals, or District Council as applicable.

#### **B. Waiving or Refunding of Local Map Amendment Fees**

1. The District Council may waive or refund any Local Map Amendment required filing fee, in whole or in part, if:
  - a. the application has not been advertised for public hearing;
  - b. the application has been advertised for public hearing but the applicant files a request to withdraw it within 90 days after a master plan, Sectional Map Amendment, or Zoning Text Amendment that materially affects the property is approved, or condemnation proceedings or public acquisition of the subject property has been initiated; or
  - c. the applicant shows that undue hardship will result if the refund is not approved.
2. The Hearing Examiner may refund a Local Map Amendment filing fee of less than \$25,000, if any condition of [Section 7.6.5.B.1](#) is satisfied.

#### **C. Waiving or Refunding of Variance Fees**

If a variance is needed because of an error by a government agency in its approval of a site plan, the Board of Appeals may waive or refund all or part of the filing fee.

## Division 7.7. Exemptions and Nonconformities

### Section 7.7.1. Exemptions

#### A. Existing Structure, Site Design, or Use on October 30, 2014

##### 1. Structure and Site Design

A legal structure or site design existing on October 30, 2014 that does not meet the zoning standards on or after October 30, 2014 is conforming and may be continued, renovated, repaired, or reconstructed if the floor area, height, and footprint of the structure is not increased, except as provided for in [Section 7.7.1.C](#) for structures in Commercial/Residential, Employment or Industrial zones, or [Section 7.7.1.D.5](#) for structures in Residential Detached zones.

##### 2. Use

Except for a Registered Living Unit, any use that was conforming or not nonconforming on October 29, 2014 and that would otherwise be made nonconforming by the application of zoning on October 30, 2014 is conforming, but may not expand.

#### B. Application Approved or Filed for Approval before October 30, 2014

##### 1. Application in Progress before October 30, 2014

Any development plan, schematic development plan, diagrammatic plan, concept plan, project plan, sketch plan, preliminary plan, record plat, site plan, special exception, variance, or building permit filed or approved before October 30, 2014 must be reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. Any complete Local Map Amendment application submitted to the Hearing Examiner by May 1, 2014, must be reviewed under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014. If the District Council approves such an application after October 30, 2014 for a zone that is not retained in Chapter 59, then the zoning will automatically convert to the equivalent zone as translated under DMA G-956 when the Local Map Amendment is approved. The approval of any of these applications or amendments to these applications will allow the applicant to proceed through any other required applica-

tion or step in the process within the time allowed by law or plan approval, under the standards and procedures of the Zoning Ordinance in effect on October 29, 2014.

##### 2. Application Approved before October 30, 2014

Any structure or site design approved before October 30, 2014 may be implemented by the property owner under the terms of the applicable plan.

##### 3. Plan Amendment for Plans Approved or Pending before October 30, 2014

- a. Until October 30, 2039, an applicant may apply to amend any previously approved application (listed in [Section 7.7.1.B.1](#) or [Section 7.7.1.B.2](#)), under the development standards and procedures of the property's zoning on October 29, 2014, if the amendment:
  - i. does not increase the approved density or building height unless allowed under [Section 7.7.1.C](#); and
  - ii. either:
    - (a) retains at least the approved setback from property in a Residential Detached zone that is vacant or improved with a Single-Unit Living use; or
    - (b) satisfies the setback required by its zoning on the date the amendment or the permit is submitted.
- b. An applicant may apply for a minor site plan amendment to amend the parking requirements of a previously approved application (listed in [Section 7.7.1.B.1](#) or [7.7.1.B.2](#)) in a manner that satisfies the parking requirements of [Section 6.2.3](#) and [Section 6.2.4](#).

##### 4. Repair, Renovation, and Rebuilding Rights under Section 7.7.1.B

Any structure or site design implemented under Section 7.7.1.B is conforming and may be continued, renovated, repaired, or reconstructed.

**5. Development with a Development Plan or Schematic Development Plan Approved before October 30, 2014**

- a. Any development allowed on property where the zoning classification on October 29, 2014 was the result of a Local Map Amendment must satisfy any binding elements until:
  - i. the property is subject to a Sectional Map Amendment that implements a master plan approved after October 30, 2014;
  - ii. the property is rezoned by Local Map Amendment; or
  - iii. the binding element is revised by a development plan amendment under the procedures in effect on October 29, 2014.
- b. Any development on a property that was zoned H-M on October 29, 2014 must include 45% green area, under the zoning in effect on October 29, 2014, until the property is subject to a Sectional Map Amendment or rezoned by Local Map Amendment. The green area required under this provision satisfies, and is not in addition to, any open space requirement of the property's zoning on October 30, 2014.

**6. Density Transfers Approved before October 30, 2014**

On a property that is subject to an effective density transfer easement and density transfer deed, the total density or density associated with a commercial or residential use, including any density approved by an amendment of a previously approved application listed in [Section 7.7.1.B.1](#), may exceed that allowed by the existing zoning as long as the total density or density associated with a commercial or residential use does not exceed that allowed by the density transfer easement and density transfer deed.

**C. Expansion of Floor Area Existing on October 30, 2014**

**1. Limited Rights under Zoning before October 30, 2014**

Until October 30, 2039, on land that is located in a Commercial/Residential, Employment, or Industrial zone, an applicant for an amendment to an application listed in [Section 7.7.1.B.1](#) may increase the floor area on the site under Section 7.7.1.C.2 or 7.7.1.C.3 following the procedures and standards of the property's zoning on October 29, 2014:

- a. if the building does not exceed the height limits and density of the property's zoning in effect on October 29, 2014;
- b. if any building on the site is no closer to property in a Residential Detached zone that is vacant or improved with a Single-Unit Living use than any existing structure on the site on October 30, 2014, or satisfies the setbacks of the current zoning; and
- c. when a site plan or site plan amendment is required by the property's zoning on October 29, 2014, a site plan or a site plan amendment is approved under the standards of site plan approval on October 29, 2014.

**2. All Prior Zones**

Existing development in a Commercial/Residential, Employment, or Industrial zone may expand by up to the lesser of 10% of the gross floor area approved for the site on October 30, 2014 or 30,000 square feet, except for properties with 2,000 square feet or less of floor area, which may expand by up to 30% of the gross floor area approved for the site on October 30, 2014. Any expansion must satisfy Section 7.7.1.C.1.

**3. Prior Floating Zones**

- a. A property where the zoning on October 29, 2014 was the result of a Local Map Amendment with an approved development plan may expand as allowed under Section 7.7.1.C.3.b. Any expansion must satisfy Section 7.7.1.C.1.
- b. If the District Council approves a development plan amendment larger than allowed under Section 7.7.1.C.2, the zoning of the property subject to the amendment will automatically convert and be remapped to the equivalent zone as translated under DMA G-956, with the density and height approved in the amendment.

**4. Expansion above Section 7.7.1.C.2**

Any portion of an enlargement that exceeds [Section 7.7.1.C.2](#) must satisfy the applicable standards and procedures for the current zoning. After October 30, 2039, any amendment to a previously approved application must satisfy the applicable standards and procedures for the current zoning

to the extent of (a) any expansion, and (b) any other portion of an approved development that the amendment changes.

## D. Residential Lots and Parcels

### 1. Residential Lot

Unless adjoining lots have merged by virtue of ownership and zoning requirements, DPS may issue a building permit for a detached house on any Residential or Rural Residential zoned lot identified on a plat recorded before October 30, 2014 without regard to the street frontage and lot size requirements of its zoning, except as provided in [Section 7.7.1.D.3.b](#)

### 2. Pre-1958 Parcel

A detached house on a platted lot, parcel, or part of a previously platted lot that has not changed in size or shape since June 1, 1958, exclusive of changes due to public acquisition, may be:

- a. constructed under its current zoning without regard to the minimum lot width at the front lot line;
- b. reconstructed either on its current footprint and up to its current maximum building height; or
- c. constructed or reconstructed in a manner that satisfies the maximum building height, lot coverage and established building line of its zone when the building permit is submitted and the side yard and rear setback required by its pre- 1958 zoning in effect when the lot, parcel or part of a lot was first created.

### 3. Pre-1928 Lot

- a. In addition to the provisions of [Section 7.7.1.D.1](#), a new or reconstructed detached house on any lot recorded before 1928 must satisfy the front, rear, and side yard setbacks of the 1928 Zoning Ordinance; however, a new building must satisfy the established building line requirements under [Section 4.4.1.A](#) if applicable.
- b. Before DPS may issue a building permit for a new detached house on a lot less than 5,000 square feet in land area that was recorded before 1928

and adjoins vacant land in common ownership any time since November 8, 2012, the lot must be subdivided with such adjoining property.

### 4. Damage in Flood Plain

If a detached house that is located within a 100-year flood plain and abuts any waterway, is damaged or destroyed by flood to the extent of up to 75% of the reconstruction value of the building, the dwelling may be repaired or reconstructed to preexisting dimensions.

### 5. Additions to Dwellings

In addition to the authority to renovate, repair, and reconstruct under [Section 7.7.1.A.1](#) and without regard to the standards of its current zoning, the owner of a detached house that:

- a. is in a housing project constructed before January 1, 1945 that was owned by the government when constructed, may construct an addition to the detached house if, after the addition,
  - i. the front setback of the detached house on the subject property is equal to the average of all the front setbacks of the detached houses on the same side of the right-of-way;
  - ii. the minimum side setback between a detached house on an abutting lot and the subject detached house is 18 feet; and
  - iii. the minimum rear setback is 20 feet or the sum of the rear setbacks between any 2 detached houses is a minimum of 40 feet;
- b. was constructed under density control standards in the R-150 zone before October 30, 2014 may construct an addition to the dwelling if, after the addition,
  - i. the minimum front setback is 30 feet;
  - ii. the minimum side setback is 10 feet;
  - iii. the minimum rear setback is 25 feet; and
  - iv. the maximum lot coverage is 30%;
- c. was constructed under density control standards in the R-200, R-90 or RMH-200 zone before October 30, 2014 may construct an addition that

satisfies the development standards of their current zone under the standard method of development; or

- d. is in an area rezoned from R-60 to R-90 may construct an addition that satisfies the development standards of the R-60 zone under the standard method of development.

#### **6. Exempted Lots and Parcels in the RE-2C Zone**

A lot or parcel in the RE-2C zone, in addition to other exemptions in this subsection, is exempt from the area and dimension requirements of the RE-2C zone, but must satisfy the requirements of the zone applicable to it before its classification to the RE-2C zone if:

- a. the property owner held title to the property before March 17, 1982;
- b. a reduced lot size is required for a lot created for a detached house;
- c. the child of the property owner, or the spouse of a child, or the parents of the property owner will reside in the house on the additional lot; and
- d. the overall density of the tract owned on March 17, 1982 is 1.1 units per acre or lower.

#### **7. Exempted Lots and Parcels in the Rural Zone**

A lot or parcel in the Rural zone, in addition to other exemptions in this subsection, is exempt from the area and dimension requirements of the Rural zone, but must satisfy the requirements of the zone applicable to it before its classification to the Rural zone if:

- a. the property owner can establish that the owner had legal title on or before June 4, 1974;
- b. the child of the property owner, or the spouse of a child, or the parents of the property owner will reside in the house on the additional lot; and
- c. the overall density of the property does not exceed one dwelling unit per 5 acres in any subdivision.

#### **8. Exempted Lots and Parcels in the Rural Cluster Zone**

A lot or a parcel in the Rural Cluster (RC) zone, in addition to other exemptions in this subsection, is exempt from the minimum area requirements and dimension requirements of the Rural Cluster zone, but must satisfy the

requirements of the zone applicable to it before its classification to the RC zone if:

- a. the property owner held title to the property before June 4, 1974;
- b. a reduced lot size is required for a lot created for a detached house; and
- c. the child of the property owner, or the spouse of a child, or the parents of the property owner will reside in the house on the additional lot.

### **Section 7.7.2. Nonconforming Use**

A lawful nonconforming use may be continued under the following limits:

#### **A. Expansion**

A lawful nonconforming use of a structure or lot must not be expanded.

#### **B. Abandonment of Use**

Except for a Registered Living Unit allowed under the code in effect on October 29, 2014, which may be abandoned, removed, or terminated under the code in effect on October 29, 2014, a nonconforming use or a use deemed to be conforming under [Section 7.7.1.A.2](#) is abandoned if it ceases for at least 6 consecutive months. If a nonconforming use or a use deemed to be conforming under [Section 7.7.1.A.2](#) is abandoned, it must not be reestablished unless it is a historic resource and satisfies Section 7.7.2.C.

#### **C. Historic Resources**

Any nonconforming use that has ceased operations for at least 6 consecutive months may be reestablished if the use is:

1. located in a historic structure or on a historic site identified in the Master Plan for Historic Preservation; and
2. consistent with the historic use of the property as documented in the Locational Atlas of Historic Sites, the Master Plan for Historic Preservation, or the land records.

#### **D. Lawful Nonconforming Use Certification**

The owner of property who wishes to establish that a use on the property is lawfully nonconforming, under the provision of this Chapter, must submit an application in a form provided by DPS. A nonconforming use certification must be issued by DPS if DPS determines that the use of the property is a nonconforming use as defined herein.

## Division 7.8. Violations, Penalties, and Enforcement

### Section 7.8.1. Generally

- A. Any violation of this Chapter may be punished as provided in State law.
- B. In addition to all other remedies provided by law, any violation of this Chapter may, as an alternative, be punished by a civil fine equal to the maximum allowed by the [Maryland Land Use Article](#) as amended and any penalty allowed by regulation adopted under [Method \(2\)](#). Each day a violation continues is a separate offense.

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