

ARTICLE 59-8 ADMINISTRATION AND PROCEDURES

The purpose of this article is to describe the procedures for filing and processing applications for development review. To develop or build on land in Montgomery County various plans must be submitted and approved. Which plans apply will depend on the development method, the zone of the property, use, density, height, and/or zone of the adjacent property. A description of each of the review bodies, necessary approvals, nonconformities, and enforcement regulations is discussed herein.

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This draft is intended to encourage discussion as a first step in a lengthy public engagement process. The suggestions put forth in this draft are not definitive and will evolve over time as the Zoning Code Rewrite project progresses towards the consolidated draft and public review phase. Staff is available to answer and address any questions or concerns you may have about this draft or the Rewrite project in general- contact Pamela Dunn, Project Manager, at 301-650-5649 or PamelaDunn@montgomeryplanning.org. Additionally, if you would like to comment on anything you have read in the draft, or about the project in general, please use our comment board, available at ZoningMontgomery.org.

DIV. 8.1. REVIEW AUTHORITY AND APPROVALS REQUIRED

Sec. 8.1.1. Overview of Review Authority

The various applications must be reviewed and approved by the established reviewing bodies. This table provides an overview of the authority granted the various bodies under this Chapter; additional authority may be granted elsewhere in the Montgomery County Code. Details of the required applications, noticing, meetings, hearings, and post-decision processes are discussed in subsequent Divisions.

| Approval Requested | Section Reference | Authority | | | | | | | |
|---------------------------------------|-------------------|-------------------|--|-----|------------------------------|----------------|------------------|------------------|------------------|
| | | Sign Review Board | Dep't of Permitting Services Director &/or Staff | DRC | Planning Director &/or Staff | Planning Board | Hearing Examiner | Board of Appeals | District Council |
| District Council Approvals | | | | | | | | | |
| Schematic Plan | | | | I | R | R | R | | D |
| Change or Mistake Map Amendment | | | | | R | R | R | | D |
| Minor Corrective Map Amendment | | | | | R | R | | | D |
| Major Corrective Map Amendment | | | | | R | R | R | | D |
| Sectional and District Map Amendment | | | | | R | R | | | D |
| Zoning Text Amendment | | | R | | R | R | | | D |
| Regulatory Approvals | | | | | | | | | |
| Conditional Use Plan | | | | I | I | I | R/D | D | |
| Conditional Use Plan Amendment | | | | I | I | I | R/D | D | |
| Variance | | | | | I | I | I | D | |
| Preliminary Subdivision Plan | Chap. 50 | | | R | R | D | | | |
| Sketch Plan | | | | R | R | D | | | |
| Site Plan | | | | R | R | D | | | |
| Consent and Major Site Plan Amendment | | | | I | R | D | | | |
| Administrative Site Plan Amendment | | | | I | D | A | | | |

| Approval Requested | Section Reference | Authority | | | | | | | |
|---|-------------------|-------------------|-------------------------|-----|------------------------------|----------------|------------------|------------------|------------------|
| | | Sign Review Board | DPS Director &/or Staff | DRC | Planning Director &/or Staff | Planning Board | Hearing Examiner | Board of Appeals | District Council |
| Administrative Approvals | | | | | | | | | |
| Temporary Use Permit | | | D | | | | I | A | |
| Building Permit | | | D | | | | I | A | |
| Use & Occupancy Permit | | | D | | | | I | A | |
| Sign Permit | | | D | | | | I | A | |
| Sign Permit Variance | | R | D | | | | I | A | |
| Written Interpretation | | | D | | R | R | | | |
| Key | | | | | | | | | |
| A = appeal D = decision I = if requested by a reviewing, deciding, or appellate body R = review and recommendation | | | | | | | | | |

Sec. 8.1.2. Overview of Approvals Required

Required approvals will depend on the development method, the zone of the property, use, density, height, and/or zone of the adjacent property. This table provides an overview of the approvals required under this Article. Details of the required submittal requirements and necessary criteria for approval are discussed in the sections referenced.

| Application | Section Reference | Applicability |
|-----------------------------------|-------------------|---|
| District Council Approvals | | |
| Schematic Plan | 8.3.2. | A local zoning change to apply a Floating Zone to a specific tract of land requires approval of a Schematic Plan. |
| Change or Mistake Map Amendment | 8.3.3. | A local zoning change to apply a “Euclidean” zone to a specific tract of land based on a change in the character of a neighborhood or a mistake in a comprehensive rezoning through a Sectional or District Map Amendment requires approval of a Change or Mistake Map Amendment. |
| Minor Corrective Map Amendment | 8.3.4. | Correction of an administrative or technical error in the application of a Sectional or District Map Amendment requires approval of a Minor Corrective Map Amendment. |
| Major Corrective Map Amendment | 8.3.5. | Correction of an error in the findings of fact in the application of a Sectional or District map Amendment requires approval of a Major Corrective Map Amendment. |
| Sectional Map Amendment | 8.3.6. | A comprehensive rezoning of an area of the County implementing a Master or Sector Plan requires approval of a Sectional Map Amendment. |
| District Map Amendment | 8.3.7. | A comprehensive rezoning of an area, areas, or the entire County implementing a comprehensive report or Functional Master Plan requires approval of a District Map Amendment. |
| Zoning Text Amendment | 8.3.8. | A change in the text of this Ordinance requires approval of a Zoning Text Amendment. |

| Application | Section Reference | Applicability |
|------------------------------|-------------------|--|
| Regulatory Approvals | | |
| Conditional Use Plan | 8.3.9. | Use of any property for a conditional use, as designated by Article 59-3, requires approval of a Conditional Use Plan. |
| Variance | 8.3.10. | A modification from any development standard below a minimum required or above a maximum allowed in this Ordinance, not subject to a waiver by the applicable deciding body, requires approval of a Variance. |
| Preliminary Subdivision Plan | Chapter 50 | If a site plan is not required, the subdivision or re-subdivision of land, as defined and regulated by Chapter 50, requires approval of a Preliminary Subdivision Plan. If a site plan is required, the subdivision or re-subdivision of land, as defined and regulated by chapter 50, does not require a separate approval of a Preliminary Subdivision Plan. |
| Sketch Plan | 8.3.11. | Development under the optional method requires approval of a Sketch Plan. |
| Site Plan | 8.3.12. | Development under the optional method 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 Development Plan. Development under the standard method requires Site Plan approval as indicated in Section 6.3.12.A1. |

| Application | Section Reference | Applicability |
|---------------------------------|-------------------|---------------|
| Administrative Approvals | | |
| Temporary Use Permit | 8.4.2. | |
| Building Permit | 8.4.3. | |
| Use & Occupancy Permit | 8.4.4. | |
| Sign Permit | 8.4.5. | |
| Sign Permit Variance | 8.4.6. | |
| Written Interpretation | 8.4.7. | |

DIV. 8.2. REVIEW BODIES

Sec. 8.2.1. District Council

A. Approval Authority

With respect to this Chapter, the District Council is responsible for the final decision regarding:

1. Schematic Plans;
2. Change or Mistake Map Amendments
3. Sectional Map Amendments;
4. District Map Amendments;
5. Minor and Major Corrective Map Amendments; and
6. Zoning Text Amendments.

B. Procedures

1. The District Council may establish and maintain Policies governing implementation of its authority granted by this Division; in the event of a conflict with any provision of this Article, this Article must govern.
2. Staffing
 - a. The Hearing Examiner and the Planning Director must provide staff to review and make recommendations on any applications decided by the District Council, if requested, to conduct its business in a timely and efficient manner.
 - b. The County Attorney serves as counsel to the Board of Appeals; additional counsel may be requested by the District Council, as necessary.

C. Enforcement

The DPS Director is responsible for inspection and enforcement of any decision on a development plan by the District Council.

D. Delegation of Authority

The District Council may delegate the review of any application for a hearing to the Hearing Examiner.

Sec. 8.2.2. Board of Appeals

A. Approval Authority

With respect to this Chapter, the Board of Appeals is responsible for final action regarding:

1. Conditional Use Plans, for those conditional uses delegated for decision to the Board of Appeals by this Ordinance;
2. Amendments to Conditional Use Plans that were decided by the Board of Appeals; and
3. Variances.

B. Appeal Authority

2. With respect to this Chapter, the Board of Appeals is responsible for appeals of:
 - a. Any decision of the DPS Director, unless restricted under Chapter 8.
3. An appeal must be filed in writing on the form required by the Board of Appeals within 30 days of the date of the action or decision appealed.

C. Procedures

1. The Board of Appeals must establish and maintain Rules of Procedure governing implementation of its authority granted by this Division; in the event of a conflict with any provision of this Article, this Article must govern.
2. Staffing
 - a. The Hearing Examiner and the Planning Director must provide staff to review and make recommendations on conditional use plans, amendments of conditional use plans, and variances decided by the Board of Appeals, if requested, to conduct its business in a timely and efficient manner.
 - b. The County Attorney serves as counsel to the Board of Appeals; additional counsel may be requested by the Board of Appeals, as necessary.

D. Enforcement

The DPS Director is responsible for inspection and enforcement of any decision by the Board of Appeals, except that approvals of accessory apartments are enforced by the Department of Housing and Community Affairs (DHCA).

E. Delegation of Authority

The Board of Appeals may delegate the review of any application for a hearing to the Hearing Examiner.

Sec. 8.2.3. Hearing Examiner

A. Approval Authority

With respect to this Chapter, the Hearing Examiner is responsible for final action regarding:

1. Conditional Use Plans, for those conditional uses delegated for decision to the Hearing Examiner by this Ordinance;
2. Amendments to Conditional Use Plans that were decided by the Hearing Examiner; and
3. Renewals of Conditional Uses.

B. Review Authority

With respect to this Chapter, the Hearing Examiner is responsible for reviewing and making recommendations to the applicable review body regarding:

1. Conditional Use Plans, not delegated for decision to the Hearing Examiner by this Ordinance or the Board of Appeals;
2. Schematic Plans;
3. Change or Mistake Map Amendments;
4. Major Corrective Map Amendments;
5. Variances, if requested by the Board of Appeals;
6. Amendments to any of the above, except Conditional Use Plans decided by the Board of Appeals and Variances only if requested by the Board of Appeals; and
7. Appeals of any application decided by the Board of Appeals, if requested by the Board of Appeals.

C. Procedures

1. The Hearing Examiner must establish and maintain Rules of Procedure governing implementation of its authority granted by this Division; in the event of a conflict with any provision of this Article, this Article must govern.
2. Staffing
 - a. The Planning Director must provide staff to review and make recommendations on applications to enable the Hearing Examiner to conduct its business in a timely and efficient manner.
 - b. The Hearing Examiner may request the review and recommendation of the DRC for any application under his or her approval or review authority.

D. Enforcement

The DPS Director is responsible for inspection and enforcement of any decisions made by the Hearing Examiner, except that approvals of accessory apartments are enforced by the Department of Housing and Community Affairs (DHCA).

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Sec. 8.2.4. Planning Board

A. Approval Authority

With respect to this Chapter, the Planning Board is responsible for final action regarding:

1. Sketch Plans;
2. Site Plans; and
3. Consent and Major Site Plan Amendments.

B. Review Authority

With respect to this Chapter, the Planning Board is responsible for reviewing and making recommendations to the applicable review body regarding:

1. Conditional Use Plans, if requested by a review body;
2. Schematic Plans;
3. Change or Mistake Map Amendments
4. Minor and Major Corrective Map Amendments;
5. Sectional Map Amendments;
6. District Map Amendments;
7. Zoning Text Amendments;
8. Variances, if requested by the Board of Appeals; and
9. Amendments to any of the above, if requested by a review body.

C. Appeal Authority

1. The Planning Board is responsible for appeals from any administrative decision of the Planning Director.
2. An appeal must be filed in writing on the form required by the Planning Board within 30 days of the date of the action or decision appealed.

D. Procedures

The Planning Board must establish and maintain Rules of Procedure governing implementation of its authority granted by this Division; in the event of a conflict with any provision of this Article, this Article must govern.

E. Enforcement

1. The DPS Director is responsible for inspection of any decision made by the Planning Board, except approvals granted under Chapter 22A, Forest Conservation Law, and any approvals where enforcement authority is expressly given to the Planning Director.
2. The Planning Board is responsible for enforcement of any decision made by the Planning Board.

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Sec. 8.2.5. Planning Director

A. Approval Authority

With respect to this Chapter, the Planning Director is responsible for final action regarding:

1. Administrative Site Plan Amendments.

B. Review Authority

With respect to this Chapter, the Planning Director is responsible for reviewing and providing a recommendation to the applicable review body regarding:

1. Written Interpretations,
2. Sketch Plans;
3. Site Plans;
4. Conditional Use Plans, if requested by a review body;
5. Schematic Plans;
6. Change or Mistake Map Amendments
7. Minor and Major Corrective Map Amendments;
8. Sectional Map Amendments;
9. District Map Amendments;
10. Zoning Text Amendments;
11. Variances, if requested by the Board of Appeals; and
12. Amendments to any of the above, except Conditional Use Plans and Variances only if requested by a review body.

C. Procedures

The Planning Director may establish and maintain Policies governing implementation of his or her authority granted by this Division; in the event of a conflict with any provision of this Article, this Article must govern.

D. Enforcement

1. The DPS Director is responsible for inspection of any decision made by the Planning Director, except approvals granted under Chapter 22A, Forest Conservation Law, and any approvals where inspection authority is expressly given to the Planning Director.
2. The Planning Board is responsible for enforcement of any decision made by the Planning Director.

E. Delegation of Authority

The Planning Director may designate any staff member to represent the Planning Director in any function assigned by this Chapter. The Planning Director remains responsible for any final action.

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Sec. 8.2.6. Department of Permitting Services (DPS) Director

A. Approval Authority

With respect to this Chapter, the DPS Director is responsible for final action regarding:

1. Temporary Use Permits;
2. Building Permits;
3. Use and Occupancy Permits;
4. Sign Permits and Sign Permit Variances; and
5. Written Interpretations.

B. Review Authority

With respect to this Chapter, the DPS Director is responsible for appointing representatives to the Development Review Committee.

C. Procedures

The DPS Director may establish and maintain Policies governing implementation of his or her authority granted by this Division; in the event of a conflict with any provision of this Article, this Article must govern.

D. Enforcement

1. The DPS Director is responsible for inspection and enforcement of any decisions regarding:
 - a. Temporary Use Permits;
 - b. Building Permits;
 - c. Use and Occupancy Permits;
 - d. Sign Permits;
 - e. Conditional Use Plans;
 - f. Development Plans;
 - g. Variances; and
 - h. Approved amendments to any of the above.
2. The DPS Director is responsible for inspection of any decisions regarding site plans, except approvals granted under Chapter 22A, Forest Conservation Law, and any approvals where inspection authority is expressly given to the Planning Director.

3. Upon identification and presentation of proper credentials, the DPS Director may enter a site during normal business hours to inspect a building, structure, or property to determine compliance with this Chapter.
4. The DPS Director may revoke, suspend, refuse to issue, or refuse to reissue any permit or license not in accord with this Chapter.

E. Delegation of Authority

The DPS Director may designate any staff member to represent the DPS Director in any function assigned by this Chapter. The DPS Director remains responsible for any final action.

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Sec. 8.2.7. Development Review Committee (DRC)

A. Review Authority

With respect to this Chapter, the DRC is responsible for reviewing and providing a recommendation to the applicable review body regarding:

1. Sketch Plans;
2. Site Plans;
3. Conditional Use Plans, if requested by a review body;
4. Schematic Plans, if requested by a review body;
5. Variances, if requested by the Board of Appeals; and
6. Amendments to any of the above, if requested by a review body.

B. Additional Authority

The DRC may, at its discretion, provide review and recommendation on development applications not listed above at the request of an applicant or a review body.

C. Procedures

1. Composition

The DRC consists of at least representatives of:

- a. The Department of Permitting Services Director;
- b. The Planning Director;
- c. The Department of Parks;
- d. The Department of Environmental Protection;
- e. The Department of Transportation;
- f. The Office of the Fire Marshall;
- g. Montgomery County Public Schools;
- h. The Department of Housing and Community Affairs;
- i. The Washington Suburban Sanitary Commission;
- j. The State Highway Administration;
- k. All public utility companies and agencies;
- l. Municipalities that have filed a request with the Planning Board for an opportunity to review the applicable plan(s); and

- m. Other agencies with jurisdiction over an application as determined by the Planning Director.
- 2. Staffing
 - The Planning Director must provide staff to enable the DRC to conduct its business in a timely and efficient manner in an autonomous setting.
- 3. The Planning Director may establish and maintain Policies governing implementation of the DRC's authority granted by this; in the event of a conflict with any provision of this Article, this Article must govern.

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Sec. 8.2.8. Sign Review Board

A. Review Authority

With respect to this Chapter, the Sign Review Board is responsible for reviewing and providing a recommendation to the Department of Permitting Services (DPS) Director regarding:

1. Sign Permit Variances.

B. Additional Authority

The Sign Review Board must approve the examination for the sign installer license administered by the DPS Director.

C. Procedures

1. Composition
 - a. The Sign Review Board consists of five members.
 - b. The members, one of whom must be designated chair, are to be appointed by the County Executive and confirmed by the District Council, under Section 2-148.
 - c. The members must be residents of the County and at least one must operate a business in the County and at least one must be an architect or landscape architect licensed in Maryland.
 - d. Each member serves a three-year term, except that an appointment to fill a vacancy occurring before a term expires is for the remainder of the unexpired term.
2. A quorum of the Sign Review Board is not less than three members.
3. Staffing
 - a. The Department of Permitting Services Director must provide staff to enable the Sign Review Board to conduct its business in a timely and efficient manner in an autonomous setting.
 - b. The County Attorney serves as counsel to the Sign Review Board.
4. The Sign Review Board must exercise its authority granted by this Division according to the procedures adopted by Council Resolution; in the event of a conflict with any provision of this Article, this Article must govern. These procedures must include:
 - a. Meeting schedules;
 - b. Keeping of records;

- c. Establishment of noticing requirements;
- d. Orientation and training of members;
- e. Annual reporting;
- f. Standards of conduct and ethics; and
- g. Procedure for admission of evidence and testimony.

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DIV. 8.3. DISTRICT COUNCIL AND REGULATORY APPROVALS

Sec. 8.3.1. Common Procedural Elements

This Section describes the procedural elements common to all applications. Each subsequent section will describe the following information and stages for each application type:

- A. Applicability:** when an application is required, the purpose of the application, and who may file.
- B. Application Requirements:** public notification, forms, information, and documentation required to review an application.
- C. Review and Recommendation:** review by appropriate staff, agencies, and/or boards; public hearings required.
- D. Approval Criteria:** the criteria for approval and findings that must be made for approval of a particular application. These criteria supplement and do not displace any other criteria required by this Chapter.
- E. Decision:** determination as to whether the application is approved, denied, or approved with conditions and appeal rights.
- F. Subsequent Applications:** provides time periods for processing extensions and filing required subsequent applications.
- G. Scope of Approval:** indicates the rights that an applicant obtains from approval or conditional approval of an application, what actions the development approval authorizes, and the time period for exercising rights under the approval.
- H. Recording Procedures:** how the decision on the application is recorded or filed in the public records.
- I. Amendments:** how the approved plan is modified.

Sec. 8.3.2. Schematic Plan

A. Applicability

1. A local zoning change to apply a Floating Zone to a specific tract of land requires approval of a Schematic Plan.
2. A Schematic Plan is the written and drawn description of a planned development using a Floating Zone, which is a flexible zoning designation and is intended to implement comprehensively planned and integrated developments with a mix of land uses and building types. This section enables the District Council, through the Planning Board, the Hearing Examiner, and the applicant, to collaborate in the processing of a Floating Zone application in order to enhance comprehensive, timely, and integrated analysis and review.
3. The Schematic Plan is intended to provide a broad overview of the applicant's projected land development. In this context, the application will be used to determine if the proposed development is in compliance with the general plan, the zoning ordinance, and, specifically, whether approval of the Schematic Plan would be in the public interest.

B. Application Requirements

1. An application for a Schematic Plan may be made only by a governmental agency or a person with a financial, contractual, or proprietary interest in the proposed development site.
2. Public Notice Required
 - a. A pre-application meeting with Planning Department Staff is recommended.
 - b. Posting of site.
 - c. Mailed notice of the Hearing Examiner public hearing.
 - d. Newspaper advertisement of the Hearing Examiner public hearing.
 - e. Posting of each report and recommendation for all public hearing agendas.
3. Submittal Requirements
 - a. Application form and fees as required by the Hearing Examiner.
 - b. Documentation of right to file a Schematic Plan for the entire site under Section 6.3.2.B1.
 - c. Statement of justification outlining how the proposed development satisfies the standards and criteria for the granting of the application.
 - d. Illustrative plans showing:
 - i. Existing site conditions and vicinity;
 - ii. Building densities, massing, heights, and the anticipated mix of uses;
 - iii. Locations of open spaces;

- iv. Pedestrian, bicycle, and vehicular circulation, parking, and loading; and
 - v. Relationships between existing or proposed adjacent buildings and rights-of-way; and
 - vi. A general phasing outline of structures, uses, rights-of-way, sidewalks, dedications, and future preliminary and site plan applications.
- e. Supporting plans and documentation as required by the Hearing Examiner.

C. Review and Recommendation

1. The Hearing Examiner provides the intake procedures for all Schematic Plan applications.
2. The date of the Hearing Examiner's public hearing on a Schematic Plan is established within 75 calendar days of the date an application is accepted.
3. Planning Director Review
 - a. Review by the DRC may be completed, if requested by the Planning Director or Hearing Examiner.
 - b. A report and recommendation must be issued by the Planning Director at least 10 calendar days before the Planning Board hearing.
4. Planning Board Review
 - a. A hearing on the Planning Director's report and recommendation must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
 - b. The Planning Board must file a recommendation on the application to the Hearing Examiner at least 15 calendar days before the Hearing Examiner's public hearing.
5. Hearing Examiner Review
 - a. A public hearing must be held by the Hearing Examiner in accordance with the Hearing Examiner's rules of procedure.
 - b. The Hearing Examiner may postpone the public hearing by 45 days once without District Council approval and by 45 days once again if the extension is approved by the District Council. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.
 - c. Within 45 calendar days of the close of the record of the public hearing, the Hearing Examiner must forward a report and recommendation to the District Council.
 - d. Within 10 days after transmittal of the Hearing Examiner's report any aggrieved party may file a written request for an opportunity to present oral argument before the District Council. The request must explicitly state the matters desired to be presented at the oral argument and, if oral argument is granted, the argument must be limited to matters contained in the record compiled by the hearing examiner. The District Council may, in its discretion, grant or deny an oral argument request. Thereafter, the matter must

be decided either as provided below, or remanded to the Hearing Examiner for clarification or the taking of additional evidence, if appropriate.

D. Approval Criteria

To approve a Schematic Plan, the District Council must find that the following elements are appropriate in concept and appropriate for further detailed review at site plan. The Schematic Plan must:

1. Further the objectives of the general plan and other applicable County plans and policies and not conflict with the objectives and recommendations of the applicable master or sector plan.
2. Be in the public interest by providing more environmentally, economically, or socially sustainable development than would be accomplished by developing under the underlying “Euclidean” zone(s);
3. Meet the standards, requirements, and purposes of the zone;
4. Be integrated and compatible with existing and approved adjacent development;
5. Propose adequate internal infrastructure, circulation, open space, public amenity, and pedestrian and/or transportation opportunities; and
6. Provide a development phasing program that is sufficient and practical.

E. Decision

1. A public hearing must be held by the District Council on the amendment in accordance with the District Council’s rules of procedure.
2. An affirmative vote of a majority of the District Council is required to adopt the Hearing Examiner’s recommendation with modifications, conditions, or binding elements and issue a resolution reflecting the District Council’s decision, except when the Floating Zone is not recommended by the applicable Master or Sector Plan and the Planning Board does not recommend approval of the application, in which case a vote of 6 members is required.
3. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
4. Any party aggrieved by a decision of the District Council may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent applications

1. If a Schematic Plan is denied, a new Schematic Plan proposing the same development for the same property may not be filed within 18 months after a final decision unless The District Council finds that the applicant has shown substantial new facts that would warrant reapplication.
2. All subsequent actions required by the applicant or an agency are measured from the date the District Council's resolution was issued or a final court action, as applicable.
3. If a Schematic Plan is approved, a site plan or site plans must be submitted under this Article within 36 months of date of the mailing of the Resolution.

G. Scope of approval

1. Approval of a Schematic Plan entitles the applicant or successor to file a site plan for the subject site.
2. The binding elements or conditions approved by the District Council are binding upon the applicant, successors, and assigns.

H. Recording procedures

1. A copy of the Schematic Plan revised in accord with the District Council's resolution must be provided to the Hearing Examiner for certification.
2. The certified Schematic Plan must be maintained in the permanent files of the Hearing Examiner.

I. Amendments

1. Major amendments to an approved Schematic Plan follow the same procedures, must meet the same criteria, and are subject to the same requirements as the original Schematic Plan. Major amendments include any requests to increase density or height or to make changes to any binding elements or conditions of approval.
2. Minor amendments to an approved Schematic Plan may be approved administratively by the Hearing Examiner. Minor amendments include any changes that do not increase density or height; decrease setbacks where abutting detached residential uses; or alter the intent, objectives, or requirements expressed or imposed by the District Council.

Sec. 8.3.3. Change or Mistake Map Amendment

A. Applicability

1. A local zoning change to apply a “Euclidean” zone to a specific tract of land based on a change in the character of a neighborhood or a mistake in a comprehensive rezoning through a Sectional or District Map Amendment requires approval of a Change or Mistake Map Amendment.
2. A Change or Mistake Map Amendment is the written and drawn description of a specific tract of land and the rationale in support of the application. This section enables the District Council, through the Planning Board, the Hearing Examiner, and the applicant, to collaborate in the processing of a Change or Mistake Map Amendment application in order to enhance comprehensive, timely, and integrated analysis and review.
3. The Change or Mistake Map Amendment is intended to provide a detailed rationale of the applicant’s case that a change in the character of a neighborhood has occurred since the previous rezoning or that a mistake was made during that rezoning. In this context, the application will be used to determine if the proposed local zoning change is in compliance with the general plan, the zoning ordinance, and, specifically, whether approval of the Change or Mistake Map Amendment would be in the public interest.

B. Application Requirements

1. An application for a Change or Mistake Map Amendment may be made only by a governmental agency or a person with a financial, contractual, or proprietary interest in the proposed development site.
2. Public Notice Required
 - a. Posting of site.
 - b. Mailed notice of the Hearing Examiner public hearing.
 - c. Newspaper advertisement of the Hearing Examiner public hearing.
 - d. Posting of each report and recommendation for all public hearing agendas.
3. Submittal Requirements
 - a. Application form and fees as required by the Hearing Examiner.
 - b. Documentation of right to file a Change or Mistake Map Amendment for the entire site under Section 6.3.3.B1.
 - c. Statement of justification and illustrative exhibits showing:
 - i. The proposed area considered the neighborhood showing uses and zoning;
 - ii. A description of the changes that have occurred in the neighborhood since the original zoning or previous comprehensive rezoning; and

- iii. A description of how the changes in the neighborhood have rendered the property without reasonable use under the current zoning.
- f. Supporting plans and documentation as required by the Hearing Examiner.

C. Review and Recommendation

1. The Hearing Examiner provides the intake procedures for all Change or Mistake Map Amendment applications.
2. The date of the Hearing Examiner's public hearing on a Change or Mistake Map Amendment is established within 75 calendar days of the date an application is accepted.
3. The date of the public hearing on a Change or Mistake Map Amendment is established when an application is accepted by the Hearing Examiner.
4. Planning Director Review
 - a. Review by the DRC may be completed, if requested by the Planning Director or Hearing Examiner.
 - b. A report and recommendation must be issued by the Planning Director.
5. Planning Board Review
 - a. A hearing on the Planning Director's report and recommendation must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
 - b. The Planning Board must file a recommendation on the application to the Hearing Examiner no later than 15 calendar days before the public hearing.
6. Hearing Examiner Review
 - a. A public hearing must be held by the Hearing Examiner in accordance with the Hearing Examiner's rules of procedure.
 - b. The Hearing Examiner may postpone the public hearing by 45 days once without District Council approval and by 45 days once again if the extension is approved by the District Council. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.
 - c. Within 45 calendar days of the close of the record of the public hearing, the Hearing Examiner must forward a report and recommendation to the District Council.
 - d. Within 10 days after transmittal of the Hearing Examiner's report any aggrieved party may file a written request for an opportunity to present oral argument before the District Council. The request must explicitly state the matters desired to be presented at the oral argument and, if oral argument is granted, the argument must be limited to matters contained in the record compiled by the hearing examiner. The District Council may, in its discretion, grant or deny an oral argument request. Thereafter, the matter must

be decided either as provided below, or remanded to the Hearing Examiner for clarification or the taking of additional evidence, if appropriate.

D. Approval Criteria

To approve a Change or Mistake Map Amendment, the District Council must find that, although the zoning established by the original zoning and/or comprehensive rezoning is presumed correct:

1. Evidence has been produced by the applicant of a substantial change in the character of the neighborhood since the original zoning or comprehensive rezoning; and
2. That for this reason, no reasonable use can be made of the property in its current zoning classification; or

E. Decision

1. A public hearing must be held by the District Council on the amendment in accordance with the District Council's rules of procedure.
2. An affirmative vote of a majority of the District Council is required to adopt the Hearing Examiner's recommendation with modifications, conditions, or binding elements and issue a resolution reflecting the District Council's decision.
3. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
4. Any party aggrieved by a decision of the District Council may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent applications

1. If a Change or Mistake Map Amendment is denied, a new Change or Mistake Map Amendment proposing the same development for the same property may not be filed within 18 months after a final decision unless The District Council finds that the applicant has shown substantial new facts that would warrant reapplication.
2. All subsequent actions required by the applicant or an agency are measured from the date the District Council's resolution was issued or a final court action, as applicable.

G. Scope of approval

1. Approval of a Change or Mistake Map Amendment entitles the applicant or successor to develop under the approved zone per the requirements of this Chapter.

2. The binding elements or conditions approved by the District Council are binding upon the applicant, successors, and assigns.

H. Recording procedures

1. A copy of the Change or Mistake Map Amendment revised in accord with the must be provided to the Hearing Examiner for certification.
2. The District Council's resolution on the Change or Mistake Map Amendment application must be maintained in the permanent files of the Hearing Examiner.
3. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

There are no amendments to a Change or Mistake Map Amendment.

Sec. 8.3.4. Minor Corrective Map Amendment

A. Applicability

1. Correction of an administrative or technical error in the application of a Sectional or District Map Amendment requires approval of a Minor Corrective Map Amendment.
2. A Minor Corrective Map Amendment may cover one or more tracts of land.
3. The purpose of a Minor Corrective Map Amendment is to enable the District Council, in lieu of a Sectional or District Map Amendment, to correct technical errors or inaccurate depictions of zoning boundary lines on an adopted map that are known as the result of mapping, surveying, or other technical information.
4. A Minor Corrective Map Amendment does not alter the prior comprehensive zoning as the basis for determining change in the character of the neighborhood.

B. Application Requirements

1. An application for a Minor Corrective Map Amendment may be made only by the Planning Board.
2. Public Notice Required
 - a. Newspaper advertisement of the District Council public hearing.

C. Review and Recommendation

1. There are no time limitations on Minor Corrective Map Amendment decisions.
2. Planning Director Review
 - a. A report and recommendation must be issued by the Planning Director at least 7 calendar days before the Planning Board hearing.
 - b. The Planning Director's report and recommendation must include:
 - i. A description of each subject area of land proposed for correction;
 - ii. A map depicting the existing and proposed zoning for each subject area of land; and
 - iii. A statement describing the rationale in support of the zoning corrections.
3. Planning Board Review
 - a. The Planning Board may adopt the Planning Director's report and recommendation as a consent item on its agenda.
 - b. If a hearing is held on the Planning Director's report and recommendation, it must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
 - c. The Planning Board must file a recommendation on the application to the District Council.

D. Approval Criteria

An application on a Minor Corrective Map Amendment must be decided on the evidence of the record by the District Council.

E. Decision

1. A public hearing must be held by the District Council on the amendment in accordance with the District Council's rules of procedure.
2. An affirmative vote of a majority of the District Council is required to adopt the Planning Board's recommendation in whole or in part; with or without modifications.
3. The District Council may remand the application to the Planning Board for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent applications

All subsequent actions required by the applicant or an agency are measured from the date the District Council's resolution was issued or a final court action, as applicable.

G. Scope of approval

Approval of a Minor Corrective Map Amendment entitles any affected property owner to develop under the approved zone per the requirements of this Chapter.

H. Recording procedures

1. The District Council's resolution on the Minor Corrective Map Amendment must be maintained in the permanent files of the Planning Director.
2. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

There are no amendments to a Minor Corrective Map Amendment.

Sec. 8.3.5. Major Corrective Map Amendment

A. Applicability

1. Correction of an error in the findings of fact in the application of a Sectional or District Map Amendment requires approval of a Major Corrective Map Amendment.
2. A Major Corrective Map Amendment may cover one or more tracts of land.
3. The purpose of a Major Corrective Map Amendment is to enable the District Council, in lieu of a Sectional or District Map Amendment, to correct errors or inaccurate depictions of zoning boundary lines or zoning designations on an adopted map that are known as the result an error or omission in the findings of fact during the District Council's proceedings for a Sectional or District Map Amendment.
4. A Major Corrective Map Amendment does not alter the prior comprehensive zoning as the basis for determining change in the character of the neighborhood.

B. Application Requirements

1. An application for a Major Corrective Map Amendment may be made only by the Planning Board.
2. Public Notice Required
 - a. Mailed notice of the Hearing Examiner public hearing.
 - b. Newspaper advertisement of the Hearing Examiner public hearing.
 - c. Posting of each report and recommendation for all public hearing agendas.

C. Review and Recommendation

1. There are no time limitations on Major Corrective Map Amendment decisions.
2. Planning Director Review
 - a. Except for the associated time limits, the Planning Director review process of a Major Corrective Map Amendment is the same as for a Schematic Plan.
 - b. The Planning Director's report and recommendation must include:
 - i. A description of each subject area of land proposed for correction;
 - ii. A map depicting the existing and proposed zoning for each subject area of land; and
 - iii. A statement describing the rationale in support of the zoning corrections.
3. Planning Board Review
 - a. The Planning Board may adopt the Planning Director's report and recommendation as a consent item on its agenda.

- b. If a hearing is held on the Planning Director's report and recommendation, it must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
- c. The Planning Board must file a recommendation on the application to the District Council.
- 4. Hearing Examiner Review
 - a. Except for the associated time limits, the Hearing Examiner review process of a Major Corrective Map Amendment is the same as for a Schematic Plan.

D. Approval Criteria

An application on a Major Corrective Map Amendment must be decided on the evidence of the record by the District Council.

E. Decision

- 1. A public hearing must be held by the District Council on the amendment in accordance with the District Council's rules of procedure.
- 2. An affirmative vote of a majority of the District Council is required to adopt the Hearing Examiner's recommendation in whole or in part; with or without modifications.
- 3. The District Council may remand the application to the Hearing Examiner for further consideration.
- 4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
- 5. Any party aggrieved by a decision of the District Council may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent applications

All subsequent actions required by the applicant or an agency are measured from the date the District Council's resolution was issued or a final court action, as applicable.

G. Scope of approval

Approval of a Major Corrective Map Amendment entitles any affected property owner to develop under the approved zone per the requirements of this Chapter.

H. Recording procedures

3. The District Council's resolution on the Major Corrective Map Amendment must be maintained in the permanent files of the Planning Director.
4. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

There are no amendments to a Major Corrective Map Amendment.

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Sec. 8.3.6. Sectional Map Amendment

A. Applicability

A comprehensive rezoning of an area of the County implementing a Master or Sector Plan requires approval of a Sectional Map Amendment.

B. Application Requirements

1. An application for a Sectional Map Amendment may be made only by the Planning Board or District Council.
2. Public Notice Required
 - a. Newspaper advertisement of the District Council public hearing.
 - b. Posting of each report and recommendation for all public hearing agendas.

C. Review and Recommendation

1. There are no time limitations on Sectional Map Amendment decisions.
2. Planning Director Review
 - a. A report and recommendation must be issued by the Planning Director at least 10 calendar days before the Planning Board hearing.
 - b. The Planning Director's report and recommendation must include:
 - i. A description of each subject area of land proposed for comprehensive rezoning; and
 - ii. Maps depicting the proposed zoning for each subject area of land.
3. Planning Board Review
 - a. A hearing on the Planning Director's report and recommendation must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
 - b. The Planning Board must file a recommendation on the application to the District Council.

D. Approval Criteria

Decisions on a Sectional Map Amendment must consider whether the proposed amendment:

1. Implements the County's approved general plan; or
2. Implements an approved Master or Sector plan.

E. Decision

1. A public hearing must be held by the District Council on the amendment in accordance with the District Council's rules of procedure.
2. An affirmative vote of a majority of the District Council is required to adopt the Planning Board's recommendation in whole or in part; with or without modifications.
3. The District Council may remand the application to the Planning Board for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent applications

All subsequent actions required by the applicant or an agency are measured from the date the District Council's resolution was issued or a final court action, as applicable.

G. Scope of approval

Approval of a Sectional Map Amendment entitles any affected property owner to develop under the approved zone per the requirements of this Chapter.

H. Recording procedures

1. The District Council's resolution on the Sectional Map Amendment must be maintained in the permanent files of the Planning Director.
2. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

There are no amendments to a Sectional Map Amendment.

Sec. 8.3.7. District Map Amendment

A. Applicability

A comprehensive rezoning of an area, areas, or the entire County implementing a comprehensive report or Functional Master Plan requires approval of a District Map Amendment.

B. Application Requirements

1. An application for a District Map Amendment may be made only by the Planning Board or District Council.
2. Public Notice Required
 - a. Newspaper advertisement of the District Council public hearing.
 - b. Posting of each report and recommendation for all public hearing agendas.

C. Review and Recommendation

1. There are no time limitations on District Map Amendment decisions.
2. Planning Director Review
 - a. A report and recommendation must be issued by the Planning Director at least 10 calendar days before the Planning Board hearing.
 - b. The Planning Director's report and recommendation must include:
 - i. Analysis of the policy issue that is the subject of the comprehensive report or Functional Master Plan;
 - ii. A description of each subject area of land proposed for comprehensive rezoning; and
 - iii. Maps depicting the proposed zoning for each subject area of land.
3. Planning Board Review
 - a. A hearing on the Planning Director's report and recommendation must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
 - b. The Planning Board must file a recommendation on the application to the District Council.

D. Approval Criteria

Decisions on a District Map Amendment must consider whether the proposed amendment:

1. Implements the County's approved general plan; or
2. Implements a comprehensive report or approved Functional Master Plan.

E. Decision

1. A public hearing must be held by the District Council on the amendment in accordance with the District Council's rules of procedure.
2. An affirmative vote of a majority of the District Council is required to adopt the Planning Board's recommendation in whole or in part; with or without modifications.
3. The District Council may remand the application to the Planning Board for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent applications

All subsequent actions required by the applicant or an agency are measured from the date the District Council's resolution was issued or a final court action, as applicable.

G. Scope of approval

Approval of a District Map Amendment entitles any affected property owner to develop under the approved zone per the requirements of this Chapter.

H. Recording procedures

3. The District Council's resolution on the District Map Amendment must be maintained in the permanent files of the Planning Director.
4. A copy of the District Council's resolution must be sent to the Planning Director to update the zoning map.

I. Amendments

There are no amendments to a District Map Amendment.

Sec. 8.3.8. Zoning Text Amendment

A. Applicability

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

B. Application Requirements

1. A request to introduce a Zoning Text Amendment may be made by any individual or governmental agency.
2. The District Council or any individual member(s) may introduce a Zoning Text Amendment.
3. Public Notice Required
 - a. Newspaper advertisement of the District Council public hearing.
 - b. Posting of each report and recommendation for all public hearing agendas.
4. Introduced Zoning Text Amendment
 - a. Proposed revisions of the Zoning Ordinance must be transmitted to the Planning Director, DPS Director, Board of Appeals, and Hearing Examiner within 5 days of introduction by the District Council.

C. Review and Recommendation

1. There are no time limitations on Zoning Text Amendment decisions.
2. Planning Director Review
 - a. The DPS Director, Board of Appeals, and Hearing Examiner must provide the Planning Director with their recommendation within 30 calendar days from receipt of the introduced Zoning Text Amendment.
 - b. A report and recommendation must be issued by the Planning Director at least 10 calendar days before the Planning Board hearing.
3. Planning Board Review
 - a. The Planning Board may adopt the Planning Director's report and recommendation as a consent item on its agenda.
 - b. If a hearing is held on the Planning Director's report and recommendation, it must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
 - c. The Planning Board must file a recommendation on the application to the District Council.

D. Approval Criteria

An application on a Zoning Text Amendment must be decided on the evidence of the record by the District Council.

E. Decision

1. A public hearing must be held by the District Council on the amendment in accordance with the District Council's rules of procedure.
2. An affirmative vote of a majority of the District Council is required to adopt the Planning Board's recommendation in whole or in part; with or without modifications.
3. The District Council may remand the application to the Planning Board for further consideration.
4. The District Council must issue a resolution on the application within 60 days of the close of the record, unless such time is extended by the District Council.
5. Any party aggrieved by a decision of the District Council may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent applications

All subsequent actions required by the applicant or an agency are measured from the date the District Council's resolution was issued or a final court action, as applicable.

G. Scope of approval

Approval of a Zoning Text Amendment entitles any affected property owner to develop under the Ordinance per the requirements of this Chapter.

H. Recording procedures

1. The District Council's resolution on the Zoning Text Amendment must be maintained in the permanent files of the Planning Director.
2. A copy of the District Council's resolution must be sent to the Planning Director, DPS Director, Board of Appeals, and Hearing Examiner.

I. Amendments

There are no amendments to a Sectional Map Amendment.

Sec. 8.3.9. Conditional Use Plan

A. Applicability

1. Use of any property for a conditional use, as designated by Article 59-3, requires approval of a Conditional Use Plan.
2. In this context, the conditional use plan will be used to determine if the proposed development is in compliance with this Chapter.
3. Conditional Use Plan applications may encompass all or any part of a lot or tract but when not inclusive of any previous approval that encompasses the entire lot or tract, the application must demonstrate its relation to and coordination with other approvals.
4. Conditional Use Plan applications must conform to the conditions and/or binding elements and be consistent with any and all previous approvals that encumber the subject property.
5. A Site Plan is not required if a Conditional Use Plan is required, unless the conditional use is restricted to a finite area within a property that otherwise requires a Site Plan. In the case of the latter situation, a Site Plan must be filed for that area of the site not housing the conditional use. A Site Plan may be required as a condition of approval by the Hearing Examiner or the Board of Appeals, in which case, the Applicant must file for approval under Section 6.3.12.

B. Application Requirements

1. An application for a conditional use plan may be made only by a governmental agency or a person with a financial, contractual, or proprietary interest in the proposed development site.
2. If any land or right-of-way encompassed by a conditional 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 conditional use plan application.
3. Public Notice Requirements
 - a. Posting of site.
 - b. Mailed notice of the Hearing Examiner public hearing.
 - c. Posting of each report and recommendation for all public hearing agendas.
4. Submittal Requirements
 - a. Application form and fees as required by the Hearing Examiner.
 - b. Documentation of right to file a Schematic Plan for the entire site under Section 6.3.9.B1 and B2.
 - c. Statement of justification outlining how the proposed development satisfies the standards and criteria for the granting of the application.
 - d. Additional submittal requirements:

- i. Vicinity map at 1" = 200';
- ii. Approved Natural Resources Inventory/Forest Stand Delineation plan, as determined by Staff;
- iii. Accepted Stormwater Management Concept application or, if required, a Water Quality Plan application, if required under Chapter 19 ;
- iv. Accepted Traffic Statement or Study, as determined by Staff;
- v. Site inventory map showing existing buildings, structures, circulation routes, significant natural features, historic features, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
- vi. Existing and proposed dry and wet utility plan;
- vii. Written description of operational features of the proposed use;
- viii. Plans of proposed development showing:
 - Footprints, ground-floor layout, and heights of all building and structures;
 - Required open spaces and recreational amenities;
 - Layout of all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
 - Rough grading;
 - Illustrative Landscaping and lighting; and
 - Supplementary documentation showing or describing the application's conformance to previous approvals and/or applicable requirements.
- ix. A development program and inspection schedule detailing the construction phasing for the project;
- x. A preliminary forest conservation plan, if required under Chapter 22; and
- xi. If a sketch plan was approved for the property, a table of proposed public benefits and the incentive density points requested for each.

C. Review and Recommendation

1. The Hearing Examiner provides the intake procedures for all Conditional Use Plan applications.
2. The date of the Hearing Examiner's public hearing on a Conditional Use Plan is established within 75 calendar days of the date an application is accepted.
3. Planning Director Review
 - a. Review by the DRC may be completed, if requested by the Planning Director or Hearing Examiner.
 - b. A report and recommendation must be issued by the Planning Director at least 10 calendar days before the Planning Board hearing.
4. Planning Board Review

- a. A hearing on the Planning Director's report and recommendation must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
- b. The Planning Board must file a recommendation on the application to the Hearing Examiner no later than 10 calendar days before the Hearing Examiner's public hearing.
5. Hearing Examiner Review if the Board of Appeals is the Deciding Body
 - a. A public hearing must be held by the Hearing Examiner in accordance with the Board of Appeal's rules of procedure.
 - b. The Hearing Examiner may postpone the public hearing by 30 days once without Board of Appeals approval and by 30 days once again if the extension is approved by the Board of Appeals. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.
 - c. Within 30 calendar days of the close of the record of the public hearing, the Hearing Examiner must forward a report and recommendation to the Board of Appeals.
 - d. Within 10 days after transmittal of the Hearing Examiner's report any aggrieved party may file a written request for an opportunity to present oral argument before the Board of Appeals. The request must explicitly state the matters desired to be presented at the oral argument and, if oral argument is granted, the argument must be limited to matters contained in the record compiled by the hearing examiner. The Board of Appeals may, in its discretion, grant or deny an oral argument request. Thereafter, the matter must be decided either as provided below or remanded to the Hearing Examiner for clarification or the taking of additional evidence, if appropriate.

D. Approval Criteria

1. To approve a conditional use plan, the Hearing Examiner or Board of Appeals must find that the proposed development:
 - a. Conforms to and is consistent with any previous approval(s) that encumbers the subject site;
 - b. Conforms to all applicable use standards, development standards, and general requirements required by the zoning ordinance;
 - c. Is consistent with the recommendations of the applicable master or sector plan and will not alter the character of the surrounding neighborhood in a manner inconsistent with the plan; and
 - d. Will not have any adverse effects in the following categories beyond those that are inherent in the use:
 - i. Adverse effects on the use, peaceful enjoyment, economic value or development potential of adjacent and confronting properties;
 - ii. Adverse impacts due to a lack of parking, traffic, noise, odors, dust or illumination; or
 - iii. Adverse effects on the health, safety, or welfare of neighboring residents, visitors, or employees.

- e. A special exception may be denied if it has non-inherent adverse effects in any of the above categories and the overall assessment of both inherent and non-inherent adverse impacts warrants denial to avoid undue harm to the general neighborhood.
- 2. If adequate public facilities are being tested:
 - a. And a Preliminary Subdivision Plan is not filed concurrently or required subsequently, the Hearing Examiner or Board of Appeals 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, as determined by the Planning Board if filed concurrently with a preliminary plan or the Hearing Examiner if filed alone; or
 - b. And 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.

E. Decision

- 1. If the Hearing Examiner is deciding the application, he or she must allow a continuance on the application or issue a decision on the application within 30 days of the close of the record to:
 - a. Approve;
 - b. Approve with conditions;
 - c. Disapprove the application.
- 2. If the Board of Appeals is deciding the Application:
 - a. An affirmative vote of at least four members of the Board of Appeals is required to allow a continuance on the application or adopt the Hearing Examiner's recommendation with modifications, conditions, or binding elements.
 - b. The Board of Appeals must issue a resolution reflecting the Board of Appeals' decision within 30 days of the close of the record.
- 3. Any party aggrieved by a decision of the Hearing Examiner or Board of Appeals may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

- 1. If the Conditional Use Plan is denied, a new conditional use plan proposing the same development for the same property may not be filed within 18 months after a final decision, unless the Hearing Examiner or Board of Appeals finds that the applicant has shown substantial new facts that would warrant re-application.

2. All subsequent actions required by the applicant or an agency are measured from the date the Hearing Examiner's or Board of Appeal's resolution was issued or a final court action, as applicable.

3. Conforming Permits

On any property where a conditional use plan approval is mandatory, the Department of Permitting Services must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement:

- a. Until the Hearing Examiner or Board of Appeals approves a conditional use; and
- b. Unless any building, structure, or improvement conforms to the approved conditional use plan.

4. Permits Exempt from Conformance to Approved Conditional Use Plans

- a. On any property where a conditional use plan was approved, the Department of Permitting Services may, without finding of conformance to the approved Conditional Use Plan, issue a sediment control permit or building permit to:
 - i. Construct an accessibility improvement;
 - ii. Repair an existing structure; or
 - iii. Replace an existing structure to no more than the same footprint and height approved.
- b. On a property where a conditional use plan was approved at least 3 years before a requested change, any owners' association may, without finding of conformance to the approved site plan, change landscaping that was not required for screening or buffering of adjoining properties and/or construct a paved surface or structure that does not exceed 500 square feet in sum and is not in a designated special protection area.
- c. On a residential lot created under the approval of a Conditional Use Plan and sold to a private homeowner, that owner may, without finding of conformance to the approved site plan, obtain a permit for improvements to landscaping and site elements that were not required for screening or buffering of adjoining properties and paved surfaces or structures that meet the required setbacks, coverage limitations, and other applicable standards and requirements.
- d. The Department of Permitting Services must submit a copy of any permit issued under this section to the Hearing Examiner or Board of Appeals for inclusion in the record of the Conditional Use Plan. Any modification to an improvement shown on an approved conditional use plan that is identified in this section does not require an amendment to the conditional use plan.

G. Scope of Approval

- 1. A Conditional Use Plan expires within 24 months from the date of the issuance of the decision or resolution if the use is not established or a building permit has not been obtained for the applicable use.
- 2. Development activities under this section must conform to the approved Conditional Use Plan and any conditions or operational restrictions.

H. Recording Procedures

The Conditional Use Plan Application and Hearing Examiner decision or Board of Appeals resolution must be maintained in the permanent files of the Hearing Examiner or the Board of Appeals, as applicable.

I. Amendments

1. Major amendments to an approved Conditional Use Plan follow the same procedures, must meet the same criteria, and are subject to the same requirements as the original Conditional Use Plan. Major amendments include any requests to increase density or height or to make changes to any binding elements or conditions of approval.
2. Minor amendments to an approved Conditional Use Plan may be approved administratively by the Hearing Examiner or Board of Appeals, depending on who was the original deciding body. Minor amendments include any changes that do not increase density or height; decrease setbacks where abutting detached residential uses; or alter the intent, objectives, or requirements expressed or imposed by the Hearing Examiner or Board of Appeals.

SEC. 8.3.10. Variance

A. Applicability

1. A modification from any development standard below a minimum required or above a maximum allowed in this Ordinance, not subject to a waiver by the applicable deciding body, requires approval of a Variance.

B. Application Requirements

1. An application for a variance may be made only by a governmental agency or a person with a financial, contractual, or proprietary interest in the proposed development site.
2. Public Notice Required
 - a. Posting of site.
 - b. Mailed notice of the Board of Appeals public hearing.
 - c. Posting of hearing agenda
3. Submittal Requirements
 - a. Requirements to apply for a variance are established by the Board of Appeals.

C. Review and Recommendation

1. Review by the Planning Director may be completed, if requested by the Board of Appeals.
2. Review by the Planning Board may be completed, if requested by the Board of Appeals
3. Review by the Hearing Examiner may be completed, if requested by the Board of Appeals.

D. Approval Criteria

To approve a variance, the Board of Appeals must find that:

1. By reason of unusual lot shape, topographical conditions, or other extraordinary situations or conditions peculiar to the specific proposed development site the strict application of the standards in this Chapter would impose unusual practical difficulties on the applicant.
2. The requested variance is the minimum reasonable necessary to overcome the practical difficulties imposed by the unusual or extraordinary situations or conditions;
3. The variance can be granted without substantial impairment to the intent and integrity of the general plan or the applicable Master or Sector plan; and

4. Granting the variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.

E. Decision

1. A public hearing must be held by the Board of Appeals in accordance with the Board of Appeals' rules of procedure.
2. Within 30 days after the close of the record of the public hearing, the Board of Appeals must act by a majority of those present at the public hearing to approve or disapprove the application.
3. Any party aggrieved by a decision of the Board of Appeals may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

1. If a variance is denied, a new variance proposing substantially the same development for the same property may not be filed within 18 months after a resolution is adopted unless the Board of Appeals finds that the applicant has shown substantial new facts that would warrant reapplication.
2. All subsequent actions required by the applicant or an agency are measured from the date the Board of Appeals' resolution was issued or a final court action, as applicable.

G. Scope of Approval

1. Approval of a variance entitles the applicant or successor to obtain a building permit or file a site plan or conditional use plan to the standard(s) granted by the variance within the allowances and limitations approved with the variance.
2. The binding elements or conditions approved by the Board of Appeals are binding upon the applicant, successors, and assigns.

H. Recording Procedures

The Board of Appeals' resolution must be maintained in the land records and permanent files of the Board of Appeals.

I. Amendment

There are no amendments to a Variance.

Sec. 8.3.11. Sketch Plan

A. Applicability

1. Development under the optional method requires approval of a Sketch Plan.
2. In this context, a sketch plan provides the opportunity for the Planning Board to consider the appropriate balance of public benefits and development rights.

B. Application Requirements

1. An application for a sketch plan may be made only by a governmental agency or a person with a financial, contractual, or proprietary interest in the proposed development site.
2. If any land or right-of-way encompassed by a conditional 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 conditional use plan application.
3. Public Notice Requirements
 - a. A pre-application meeting with Planning Department Staff is recommended.
 - b. Pre-submittal public meeting.
 - c. Posting of site.
 - d. Mailed notice of application.
 - e. Mailed notice of the Planning Board public hearing.
 - f. Posting of the report and recommendation on the hearing agenda.
4. Submittal Requirements
 - a. Application form and fees as required by the Planning Director.
 - b. Documentation of right to file a Sketch Plan for the entire site under Section 6.3.11.B1 and B2.
 - c. Statement of justification outlining how the proposed development satisfies the standards and criteria for the granting of the application.
 - d. Additional submittal requirements:
 - i. Vicinity map at 1" = 200';
 - ii. Site inventory map showing existing buildings, structures, circulation routes, significant natural features, historic features, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
 - e. Additional submittal requirements:

- i. Illustrative plans showing:
 - Building densities, massing, heights, and the anticipated mix of uses;
 - Locations of public use and other open spaces;
 - Pedestrian, bicycle, and vehicular circulation, parking, and loading; and
 - Relationships between existing or proposed adjacent buildings and rights-of-way;
- ii. A table of proposed public benefits and the incentive density points requested for each; and
- iii. A general phasing outline of structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.

C. Review and Recommendation

1. The Planning Director provides the intake procedures for all Sketch Plan applications.
2. The date of the Planning Board’s public hearing on a Sketch Plan is established within 90 calendar days of the date an application is accepted.
3. Planning Director Review
 - a. Review by the DRC must be completed within 45 days of the date an application is accepted.
 - b. A report and recommendation must be issued by the Planning Director at least 10 calendar days before the Planning Board hearing.
 - c. The Planning Director may postpone the public hearing by 30 days once without Planning Board approval and by 30 days once again if the extension is approved by the Planning Board. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.

D. Approval Criteria

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. Further the recommendations and objectives of the applicable master or sector plan;
3. Achieve compatible internal and external relationships between existing and pending nearby development;
4. Provide satisfactory general vehicular, pedestrian, and bicyclist access, circulation, parking, and loading;
5. Propose an outline of public benefits that supports the requested incentive density; and
6. Establish a feasible and appropriate provisional phasing plan for all structures, uses, rights-of-way, sidewalks, dedications, public benefits, and future preliminary and site plan applications.

E. Decision

1. A public hearing must be held by the Planning Board in accordance with the Planning Board's Rules of Procedure.
2. Within 30 days after the close of the record of the public hearing, the Planning Board must act by majority vote of those present at the public hearing to:
 - a. Approve;
 - b. Approve subject to modifications, conditions, or binding elements; or
 - c. Disapprove the application.
3. Any party aggrieved by a decision of the Planning Board may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

1. If a Sketch Plan is denied, a new Sketch Plan proposing the same development for the same property may not be filed within 18 months after a final decision.
2. All subsequent actions required by the applicant or an agency are measured from the date the Planning Board's resolution was mailed or a final court action, as applicable.
3. If a Sketch Plan is approved, a Site Plan(s) must be submitted under this Article within 36 months of date of the mailing of the Resolution.

G. Scope of Approval

1. Approval of a Sketch Plan entitles the applicant or successor to file a Site Plan under the optional method development standards and requirements and according to the conditions and binding elements approved with the Sketch Plan.
2. The binding elements or conditions approved by the Planning Board are binding upon the applicant, successors, and assigns.

H. Recording Procedures

The Sketch Plan application and 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 amendments to the binding elements or conditions of an approved sketch plan.

1. Amendments to the binding elements or conditions of an approved sketch plan may be approved if such amendments are:
 - 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 Board finds that a change in relevant facts and circumstances since sketch plan approval demonstrates that the binding element or condition is not consistent with the applicable master or sector plan or does not meet the requirements of this Chapter.
2. Notice of proposed amendments to the binding elements must be identified in the site plan application if requested by the applicant, or in the final notice of the site plan hearing if recommended by Planning Board staff and agreed to by the applicant.
 3. For any amendments to the binding elements or conditions, the Planning Board must make the applicable sketch plan findings in addition to the findings necessary to approve a site plan under this Article.

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Sec. 8.3.12. Site Plan

A. Applicability

1. Development under the optional method 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 Development Plan. Development under the standard method requires Site Plan approval as indicated in table below:

| Determining when a site plan is required: | | | | |
|---|--------------|--|---|-----------------------------|
| Subject Property's Zone | Proposed Use | Proposed Intensity (gross floor area, units, or building height) | Abutting or Confronting Property's Zone | Site Plan Required |
| Agricultural, Rural, or Residential Detached Unit | Any | Any | Any | No |
| Residential Townhouse or Multi-Family | Any | < 20 units or ≤ 40 feet | Any | No |
| | | ≥ 20 units or > 40 feet | Any | Yes |
| Commercial/Residential or Employment | Permitted | ≤ 10,000sf, ≤ 10 units, or ≤ 40 feet | Any | |
| | | > 10,000sf, > 10 units, or > 40 feet | Agricultural, Rural, Residential, or Floating | Yes |
| | Limited | Any | Com/Res, Employment, or Industrial | No |
| | | | Agricultural, Rural, Residential, or Floating | If required by Article 59-3 |
| Industrial | Any | Any | Com/Res, Employment, or Industrial | No |
| | | | Agricultural, Rural, Residential, or Floating | Yes |
| Overlay | Any | Any | Any | TBD |

2. A Site Plan provides a detailed overview of the applicant's projected land development. In this context, the Site Plan will be used to determine if the proposed development is in compliance with current laws, regulations, this ordinance, and specific Master plans and implementation guidelines.
3. Site Plan applications may encompass all or any part of a lot or tract but when not inclusive of any previous approval that encompasses the entire lot or tract, the application must demonstrate its relation to and coordination with other approvals or submittals.
4. Site Plan applications must conform to the conditions and/or binding elements and be consistent with any and all previous approvals that encumber the subject property.

5. A Site Plan is not required for any site or area within a site subject to a Conditional Use Plan, unless as conditioned by the Hearing Examiner or Board of Appeals.

B. Application Requirements

1. An application for a Site Plan may be made only by a governmental agency or a person with a financial, contractual, or proprietary interest in the proposed development site.
2. 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.
3. Public Notice Requirements
 - a. A pre-application meeting with Planning Department Staff is recommended.
 - b. Pre-submittal public meeting.
 - c. Posting of site.
 - d. Mailed notice of application.
 - e. Mailed notice of the Planning Board public hearing.
 - f. Posting of the report and recommendation on the hearing agenda.
4. Submittal Requirements
 - a. Application form and fees as required by the Planning Director.
 - b. Documentation of right to file a Site Plan for the entire site under Section 6.3.12.B1 and B2.
 - c. Statement of justification outlining how the proposed development satisfies the standards and criteria for the granting of the application.
 - d. Additional submittal requirements:
 - i. Vicinity map at 1" = 200';
 - ii. Approved Natural Resources Inventory/Forest Stand Delineation plan;
 - iii. Stormwater Management Concept Application or, if required, a Water Quality Plan Application;
 - iv. Accepted Traffic Statement or Study, as required by Staff;
 - v. Site inventory map showing existing buildings, structures, circulation routes, significant natural features, historic features, zoning, and legal descriptions on the proposed development site and within 500 feet of the perimeter boundary;
 - vi. Existing and proposed dry and wet utility plan;
 - vii. Plans of proposed development showing:
 - Footprints, ground-floor layout, and heights of all building and structures;

- Required open spaces and recreational amenities;
 - Detailed layout and dimensions for all sidewalks, trails, paths, roadways, parking, loading, and bicycle storage areas;
 - Grading;
 - Landscaping and lighting; and
 - Supplementary documentation showing or describing the application's conformance to previous approvals and/or applicable requirements.
- e. A development program and inspection schedule detailing the construction phasing for the project;
- f. A final forest conservation plan; and
- g. If a sketch plan was approved for the property, a table of proposed public benefits and the incentive density points requested for each.

C. Review and Recommendation

1. The Planning Director provides the intake procedures for all Site Plan applications.
2. The date of the Planning Board's public hearing on a Site Plan is established within 105 calendar days of the date an application is accepted.
3. Planning Director Review
 - a. Review by the DRC must be completed within 45 days of the date an application is accepted.
 - b. A report and recommendation must be issued by the Planning Director at least 10 calendar days before the Planning Board hearing.
 - c. The Planning Director may postpone the public hearing by 30 days once without Planning Board approval and by 30 days once again if the extension is approved by the Planning Board. Any extension of the public hearing must be noticed by mail and on the hearing agenda with the new public hearing date indicated.

D. Approval Criteria

To approve a site plan, the Planning Board must find that the proposed development:

- a. Conforms to and is consistent with any previous approval that encumbers the subject site;
- b. Conforms to all applicable use standards, development standards, and general requirements required by the zoning ordinance;
- c. Is substantially consistent with the recommendations of the applicable master or sector plan and any guidelines approved by the Planning Board that implement the applicable plan;
- d. Is compatible with existing and pending adjacent development;
- e. Provides safe, well-integrated circulation patterns and building massing and, where required, open spaces and site amenities; and

- f. Meets the requirements of other applicable sections of the Montgomery County Code under jurisdiction of the Planning Board, including:
 - a. Chapter 19, Erosion, Sediment Control, and Stormwater Management; and
 - b. Chapter 22A, Forest Conservation.

E. Decision

- 1. A public hearing must be held by the Planning Board in accordance with the Planning Board's rules of procedure.
- 2. Within 30 days after the close of the record of the public hearing, the Planning Board must act by majority vote of those present at the public hearing to:
 - a. Approve;
 - b. Approve subject to modifications or conditions; or
 - c. Disapprove the application.
- 3. Any party aggrieved by a decision of the Planning Board may appeal the decision within the time and manner prescribed within the Maryland Rules of Procedure relating to administrative appeals to Circuit Court and thereafter to the Court of Special Appeals.

F. Subsequent Applications

- 1. If the Site Plan is denied, a new Site Plan proposing the same development for the same property may not be filed within 18 months after a final decision.
- 2. All subsequent actions required by the applicant or an agency are measured from the date the Planning Board's resolution was mailed or a final court action, as applicable.
- 3. Conforming Permits
On any property where a Site Plan approval is mandatory, the Department of Permitting Services must not issue a sediment control permit, building permit, or use-and-occupancy permit for any building, structure, or improvement:
 - c. Until the Planning Board approves a Site Plan; and
 - d. Unless any building, structure, or improvement conforms to the approved Site Plan as certified by the Planning Department.
- 4. Permits Exempt from Conformance to Approved Site Plans
 - a. On any property where a Site Plan was approved the Department of Permitting Services may, without finding of conformance to the approved Site Plan, issue a sediment control permit or building permit to:
 - iv. Construct an accessibility improvement;
 - v. Repair an existing structure; or

- vi. Replace an existing structure to no more than the same footprint and height approved.
- b. On a property where a Site Plan was approved at least 3 years before a requested change, any owners' association may, without finding of conformance to the approved Site Plan, change landscaping that was not required for screening or buffering of adjoining properties and/or construct a paved surface or structure that does not exceed 500 square feet in sum and is not in a designated special protection area.
- c. On a residential lot created under the approval of a Site Plan and sold to a private homeowner, that owner may, without finding of conformance to the approved Site Plan, obtain a permit for improvements to landscaping and site elements that were not required for screening or buffering of adjoining properties and paved surfaces or structures that meet the required setbacks, coverage limitations, and other applicable standards and requirements.
- d. The Department of Permitting Services must submit a copy of any permit issued under this section to the Planning Director for inclusion in the record of the Site Plan. Any modification to an improvement shown on an approved site plan that is identified in this section does not require an amendment to the site plan.

G. Scope of Approval

- 2. A Site Plan expires unless a certified Site Plan is approved within 24 months of Planning Board approval, measured from the date the resolution is mailed.
- 3. A Site Plan does not become effective until the final record plat is recorded for any approved subdivision plan underlying the subject property.
- 4. A certified Site Plan does not expire unless the underlying subdivision plan's adequate public facilities review, as determined by section 50-35(d) of the Montgomery County Code, expires or changes to the applicable zoning map, text, or other applicable laws or regulations require the certified site plan to be modified.
- 5. Development activities under this section must conform to the approved Site Plan and any conditions or restrictions. Any deviation from the approved Site Plan, unless approved in advance and in writing and according to this Article.

H. Recording Procedures

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

I. Amendments

1. Major amendments to an approved Site Plan follow the same procedures, must meet the same criteria, and are subject to the same requirements as the original Conditional Use Plan.
 - a. Major amendments include any requests to increase density or height or to make changes to any binding elements or conditions of approval.
 - b. Uncontested major amendments may be approved on the Planning Board's consent agenda.
2. Minor amendments to an approved Site Plan may be approved administratively by the Planning Director. Minor amendments include any changes that do not increase density or height; decrease setbacks where abutting detached residential uses; or alter the intent, objectives, or requirements expressed or imposed by the Planning Board.

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DIV. 8.4. ADMINISTRATIVE APPROVALS

Sec. 8.4.1. Common Procedural Elements

Sec. 8.4.2. Temporary Use Permit

Sec. 8.4.3. Building Permit

Sec. 8.4.4. Use & Occupancy Permit

Sec. 8.4.5. Sign Permit

Sec. 8.4.6. Sign Permit Variance

Sec. 8.4.7. Written Interpretation

DIV. 8.5. NONCONFORMITIES

DIV. 8.6. ENFORCEMENT

Definitions

Aggrieved party: An aggrieved party includes any person or association appearing and participating in person, in writing, or by counsel at a hearing, or any party who would be aggrieved by the decision.