



Delegate Lesley Lopez, Chair
Montgomery County Development Review Process Workgroup
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Dear Del. Lopez and working group members,

Thank you for the opportunity to submit testimony on the development review process in Montgomery County. The Sierra Club Montgomery County Group has observed several factors which, in our view, impede the ability of citizens from engaging meaningfully in the development review process. We find that the 1) Public notification of upcoming projects is insufficient; 2) Failure to examine climate change considerations leads to suboptimal decisions; 3) Improving participation rates of agencies and utilities in development application reviews would improve climate and project outcomes; 4) Finding relevant information from DPS and MNCPPC is difficult; 5) the County needs to address light pollution in the zoning code.

1. PUBLIC NOTIFICATION OF UPCOMING PROJECTS IS INSUFFICIENT. The current system by which interested parties are notified about upcoming projects is slow, inefficient, costly and excludes many affected stakeholders. Notices are printed on paper and mailed to adjacent property owners, community groups and registered civic / homeowners associations. There is currently no centralized place where such notices are promptly posted online and can be easily located. There is a time lag for documents posted to the planning department's DAIC system. As a countywide registered community group, Sierra Club Montgomery County Group receives a flood of paper notices mailed to our P.O. Box regarding upcoming development meetings. As a volunteer organization, we are only able to check our mail every couple weeks which means we often see notices too late. We would prefer to receive notices electronically so that we could get them more quickly and more easily disseminate them within our organization.

Even more concerning is the fact that many affected parties are excluded from notice. Current rules require that mailed notices are sent to adjacent property owners and registered civic/ homeowners associations within a certain radius. This means nearby renters are excluded. The planning department relies on a database of community groups, civic associations and homeowners associations to create mailing lists. But the terms civic association and homeowners association are not defined in law and there is not a good system to keep the database updated. Not every homeowner falls within a civic/homeowners association. The result is that many interested people receive no notice of opportunities to learn about and weigh in on projects proposed in their neighborhoods.

Examples:

- For the Flats at Knowles Station project in Kensington, the neighbors most affected did not receive direct notice of public hearings. Boundaries for the Kensington Estates Civic Association (CA0809) are incorrect. The West Kensington Civic Association (CA0103) has been nonexistent for decades and the listed contact died in 2011.
- For the MHP Nebel Street project in White Flint, adjacent condo owners were notified but adjacent renters were not

2. FAILURE TO EXAMINE CLIMATE CHANGE CONSIDERATIONS LEADS TO SUBOPTIMAL DECISIONS. Storms on July 28th and 29th are reminders of the vulnerability of the grid. Electrification of buildings and vehicles is key to the attainment of Montgomery County's aggressive climate goals. Electrification requires a transition to a more resilient grid which means that we must maximize opportunities to place overhead high voltage electric lines underground. However, this effort is hindered by the lack of consistency in development decisions and lack of expertise by planning staff on matters related to utility undergrounding. This is seen across the county and even within approved sector plans. As we highlighted in a recent letter, Pepco is absent from Development Review Committee meetings and Planning Board public hearings. Instead of being worked out in advance, the details of utility undergrounding decisions are left unresolved and consume an inordinate amount of the Planning Board's time and attention at public hearings. Some projects are quietly given waivers on sector plan requirements for undergrounding to the surprise of affected neighbors. Resulting decisions are haphazard, inconsistent and fail to maximize opportunities to make the grid more resilient.

One solution is for the County Council to advance the adoption of a Functional Utility Plan by including it in the Planning Board's work plan as recommended in the approved Complete Streets Design Guideline. Another solution is for utilities like Pepco to begin fully participating in meetings of the Development Review Committee.

Examples:

- Chevy Chase Lake Sector Plan (downcounty):
 - Block B quietly given a waiver of sector plan undergrounding requirements.
 - Toll Brothers project on Manor Road treated differently than nearby EYA/Lindley project on Chevy Chase Lake Drive. Planning staff were unable to answer Planning Board questions about the cost of undergrounding during the public hearing.
- White Flint Sector Plan (mid-county): Undergrounding for MHP Nebel Street project not coordinated with planned Pepco work at nearby substation. Project amended to allow for utility relocation instead of undergrounding.
- MARC Rail Communities Sector Plan (upcounty): Waters Village required to spend up to \$400,000 toward undergrounding of low voltage and telecom lines.
- Kensington Sector Plan (mid-county): Flats at Knowles Station project required to place utilities underground only along Knowles Ave frontage instead of the entire block.

3. IMPROVING PARTICIPATION RATES OF COUNTY AGENCIES AND UTILITY SERVICE PROVIDERS IN DEVELOPMENT APPLICATION REVIEWS WOULD IMPROVE PROJECT AND CLIMATE OUTCOMES.

The Development Review Committee is defined in Chapter 50 of the county code and its process is designed to include planning staff, the applicant, utilities, municipalities, Maryland State Highway Administration, Montgomery County Department of Transportation, the Department of Environment Protection, the Department of Permitting Services, etc. Agency roles are prescribed narrowly and there are additional agencies that should be included to give greater voice to climate change, resilience and environmental concerns. Some agencies and utilities fail to participate. As recommended in the draft pedestrian master plan, transferring ownership of state roads to the County would also streamline the development review process.

4. FINDING RELEVANT INFORMATION FROM DPS & MNCPPC IS DIFFICULT.

The Department of Permitting Services website is difficult to navigate by members of the public seeking information. For example, when searching for permits at an address, there is no date column so a searcher must click on each individual entry to learn whether a permit is from 1996 or 2023. The permit documents themselves are not online and must be requested separately. The requirement to enter a house number is constraining as some properties under development may not have a final address. A search for public rights of way permits for the MHP Nebel Street project revealed that many permits are missing from DPS' online activity map.

Information about past projects can be difficult to obtain from MNCPPC. When past records are requested the agency often defaults to an adversarial MPIA process and then cannot locate requested files. A better model is the approach used by the board of appeals. Any person can request the file for any past project.

5. NEED TO ADDRESS LIGHT POLLUTION IN THE ZONING CODE.

As mentioned in our recent letter to Pepco, we were disappointed by their choice of unshielded “wall pack” outdoor light fixtures at their recently-built but yet to be energized White Flint substation. Such poorly-designed fixtures hurt visibility and waste energy by directing light sideways and upwards, contributing to light pollution and sky glow. There are numerous loopholes in the zoning code that allow property owners to install poorly designed outdoor light fixtures.

Sincerely,

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Note: This testimony has the support of the majority of the Executive Committee of the Sierra Club Montgomery County Group. We will reconfirm at our upcoming Executive Committee meeting scheduled for August 14th.