

FORMER LAND DEVELOPMENT REVIEW PROCESS PRIOR TO JANUARY 1, 2010

Ordinance 09-066 adopted by County Council on October 13, 2009 and effective on January 1, 2010 amended a number of Chapter 40, *New Castle County Code* sections related to the processing of land development plans. The sections and paragraphs amended are reprinted below in their original form prior to the effective date of Ord. 09-066. Sections 40.31.110 through 40.31.114 provide specific detail on the land development review process as it existed prior to January 1, 2010.

Sec. 40.01.130. Sunsetting of recorded subdivision or land development plans.

- A. Plans recorded after adoption of these regulations. Construction of development....
- B. Plans recorded before the adoption of these regulations. Construction of development....
- C. The applicant shall bear the burden of providing evidence....
- D. If construction has not commenced within five (5) years, the preliminary plan and the record plan shall be resubmitted and reviewed by the Technical Advisory Committee to determine if the conditions of approval of the original record major subdivision or land development plan have changed or have been altered by the subsequent adoption of, or amendments to, this Chapter. Based on the comments of the Technical Advisory Committee, the Department shall either:
 - 1. Reapprove the record plan, and give written notice to the owner....
 - 2. Disapprove the record plan and give written notice to the owner of the specific areas of noncompliance. The modifications necessary to bring the plan into compliance with this Chapter shall be incorporated into a revised preliminary plan and resubmitted. Upon approval of a revised preliminary plan, a new major subdivision or land development plan may be submitted for approval. The new plan approved and recorded pursuant to this Section shall have the effect of superseding the original record major subdivision or land development plan. The owner shall then have five (5) years from the date of notice made pursuant to this subsection to obtain building permits and commence construction.
 - 3. If a rezoning of the property occurred simultaneously with the approval of the preliminary plan and the Department has determined that a new revised preliminary plan is required, the zoning of the property shall revert to the previous zoning district. The processing of the revised preliminary plan shall require full compliance with the then current rezoning procedures.

Sec. 40.03.332. Limited waiver to Table 40.03.210A.

County Council may grant a waiver from the five hundred (500) foot distance from use provisions contained in Table 40.03.210A for commercial lodging and restaurants where Council is satisfied after a public hearing that a reduction in the five hundred (500) foot distance would not adversely impact the character of the existing development in the area or otherwise adversely impact existing development in the area. To obtain a waiver from the five hundred (500) foot distance requirement contained in Table 40.3.210A for commercial lodging and restaurants, the applicant must request in writing that County Council adopt an ordinance of approval. The request shall be forwarded to the Department for a recommendation. The Department shall then have twenty (20) days to issue its recommendation to County Council based upon the same criteria County Council must consider pursuant to this Section. A request for such a waiver shall not be considered by County Council until the applicant has obtained preliminary plan approval for the proposed development for which the waiver is sought.

Sec. 40.05.310. Water capacity calculation.

Prior to receiving a rezoning or record subdivision or land development final plan approval from the Department, the developer shall obtain from the water service provider the following form and certification (Form 40.05.310 Water Capacity Certification).

<i>Form 40.05.310 Water Capacity Certification</i>				
1. Water Service Provider	Name:			
2. Development	Name:			
3. Service Standards				
	Residential	Retail	Office	Industrial
Daily Peak - Lots less than 1 acre	400 gpd/detached du 250 gpd/attached du	0.5 gpd/sf.	0.3 gpd/sf.	0.5 gpd/sf. or actual whichever is more
Daily Peak - Lots 1 acre of more	500 gpd/du	0.5 gpd/sf.	0.3 gpd/sf.	0.5 gpd/sf. or actual whichever is more
Fire Flows gpm*	500 - 1000gpm	1000 gpm	1000 gpm	1500 gpm
Minimum Residual Pressure *	20 psi	20 psi	20 psi	20 psi
Minimum Service Pressure	25 psi	25 psi	25 psi	25 psi
4. Site Requirement	That the water supply system and proposed development improvements proposed by the subject development has met the service standards in 3.			
5. Storage Requirement	That the water storage and distribution facilities serving the proposed development can continue to provide service meeting the standards in 3 within the proposed development and all other areas served by those storage and distribution facilities.			
6. Line Requirement	That the distribution lines directly serving the proposed development can continue to provide service meeting the standards in 3 within the proposed development and all other existing and proposed future areas to be served by those distribution lines. (Proposed areas shall mean those areas for which a final plan has been approved by the Department).			

upon an approved preliminary plan may not be changed or altered by subsequent amendments of this Article unless the preliminary plan approval expires or the sunset provisions of this Chapter extinguish the record plan.

Sec. 40.07.311. Voluntary applicability.

- A. To secure a residential density bonus....
- B. Any plan submitted pursuant to this Division....
- C. Existing record plans may be resubmitted to the Department as revised minor land development plans for consideration under this Division, provided any increases are based only on the number of recorded lots. If the new plan proposes an increase of more than fifty (50) percent of the existing recorded units or more than one hundred (100) new units (whichever is less), then the plan will be classified as a major land development plan. Any recorded plan that was the subject of a rezoning or any modification or change to the recorded street right-of-way will disqualify the new plan as a minor land development plan. Regardless, if the former preliminary plan was approved pursuant to previous Code Section 40.03.319, no additional preliminary plan approval by County Council is required. The Department will work with the applicant in an effort to achieve plan approval for minor plans within twelve (12) months of application. All existing record plans revised pursuant to this section will require an exploratory plan hearing, certification from the Department of Education for the proposed additional units that there is capacity or that a voluntary assessment is agreed to, and County Council consent prior to recordation pursuant to Section 40.31.114 (C) of this Chapter.
- D. Applications must be served....

Sec. 40.07.333. Exterior appearance of workforce dwelling units.

The exterior appearance of the workforce dwelling units should be similar to market rate dwelling units of the same unit type, by providing similar architectural style and similar exterior building materials, finishes, and quality of construction. At preliminary plan submission for a major or record plan submission for a minor the applicant shall submit architectural renderings or design guidelines for the project that are in compliance with the standards of Article 25.

Sec. 40.11.120. Need for traffic analysis.

- A. If the Department and DelDOT find, based upon the information supplied pursuant to Section 40.31.112 (C) (2) and the standards set forth in this Section, that a proposed rezoning, subdivision, or land development could generate significant traffic impacts, the Department shall require the applicant to prepare and submit a traffic impact study to the Department and DelDOT. Significant impact shall be considered to exist and a traffic impact study required for a rezoning change or a major subdivision or land development if any of the following conditions exist.

1. The proposal exceeds the projected average....
2. The proposal is projected to generate more than....
3. The subject property is located....
4. The proposed development causes the total development
5. The proposed development will impact roadways....

Sec. 40.11.130. Traffic impact study requirements.

A. A traffic impact study shall be prepared by individuals or firms that perform traffic engineering which shall be reviewed and sealed by a professional engineer. The content and format of the study shall be as prescribed by Section 15 of DelDOT's "Rules and Regulations for Subdivision Streets" or any amendments thereto, and include all of the following additional requirements:

1. The anticipated trip generation....
2. New traffic counts will be required....
3. Currently planned traffic mitigation....
4. The projected peak hour level of service....
5. A geometric assessment of any roadways.....
6. If the proposed rezoning, subdivision, or land development....
7. Future traffic shall be projected by the inclusion of trip generation from projects with recorded plans, projects with preliminary plan approval, projects having had a zoning change approved within a three (3) year prior period, and projects containing deed restrictions requiring phasing to coincide with improvements to the transportation system. Future traffic shall also be projected by the inclusion of trip generation based upon a growth factor for background traffic. The Department shall provide DelDOT a list of all plans, projects, and rezonings described above.
8. A statement indicating whether the peak hour level of service....
9. Recommendations regarding what, if any....
10. A statement signed by the applicant and referenced....
11. Cross-reference should also be made....

Sec. 40.11.150. Subdivision or land development traffic impact study plan approval.

- A. Upon receipt of the traffic impact study and comments from DelDOT or individual or firm approved by the Department as provided in Section 40.11.140(B), the Department shall review the traffic impact study with regard to the following:
 - 1. The accuracy, completeness, and thoroughness....
 - 2. DelDOT's comments and recommendations.....
 - 3. The level of service requirements.....
 - 4. Appropriateness and adequacy.....
 - 5. Compatibility with regional.....
 - 6. Design principles and standards....
- B. Based upon the above criteria, the Department shall approve, approve with conditions....
- C. If the traffic impact study is approved or approved with conditions for a major plan, the applicant may proceed with the exploratory plan review and a preliminary plan submission as provided in Article 31. The applicant and future owners shall provide educational materials and conduct informational programs with employees and/or residents regarding available modes of transportation. This may include, but is not limited to, the explanation and availability of bus and train schedules, information on Ride Share Delaware, location of bike paths, etc. A note regarding the owner's responsibility to provide alternate mode of travel education shall be added to the Record Plan.

Sec. 40.20.231. Subdivision and street names.

- A. Subdivision names, street names and street name signs for all subdivisions and public or private streets shall be in conformance with the regulations of DelDOT. When determining proper subdivision and street names for new roads in a subdivision or land development, the Department shall check with the County 911 staff, the Post Office in the City of Wilmington, and the Post Office nearest the street or road concerned, to determine that there is no conflict with the proposed names that would result in confusion in providing emergency services or in delivery of mail. The proposed subdivision and street names should be submitted with the preliminary plan.
- B. The naming of unnamed existing public and private streets.....
- C. A copy of all such resolutions adopted by Council....
- D. A common driveway or easement established....

E. Installation of street name signs. To ensure that emergency vehicles....

Sec. 40.30.110. Responsibility.

The following codes are used in Table 40.30.110...

Table 40.30.110 PROCEDURAL RESPONSIBILITIES							
<i>Type of Action</i>	<i>County Council</i>	<i>Administrative Boards</i>			<i>Administrative Agents</i>		
		<i>Plan-ning Board</i>	<i>Board of Adjust-ment</i>	<i>Historic Review Board</i>	<i>Department of Land Use</i>	<i>Technical Advisory Committee</i>	<i>RPA - Technical Advisory Committee</i>
General Reviews (see Division 40.31.400 for standards)							
.....							

Sec. 40.30.410. Department of Land Use.

The Department General Manager and such other employees as the Department General Manager designates shall constitute the Department. The Department shall present Department recommendations to County Council, the Planning Board, the Board of Adjustment or the Historic Review Board. The Department shall have the following jurisdiction, authority, and duties under this Code.

- A. To hear, consider and decide upon applications for limited uses.
- B. To review, consider and render recommendations for the disposition of applications for limited use, zoning and administrative variance permits or approvals as indicated in Table 40.30.110.
- C. To make written interpretations of this Code....
-
- M. An appendix to this Code shall be maintained by the Department, and shall be amended from time to time as deemed necessary by the Department. (The Department of Law shall be required to approve all legal forms and documents which appear in the appendix, and shall be responsible for updating and making any amendments thereto)
- N. All other responsibilities and duties pursuant to 9 *Del. C.* § 1301.

Sec. 40.30.420. Technical Advisory Committee.

The Committee shall be responsible for the following:

- A. Review and make recommendations for major subdivision and land development plans.
- B. Review and make recommendations on zoning applications.

Sec. 40.31.110. Rezoning/major and minor plan review.

<i>Weeks</i>	<i>Stage/steps</i>	<i>Rezoning</i>	<i>Major Plan[w/o Rezoning</i>	<i>Minor Plan w/o Rezoning</i>
Exploratory Sketch Plan				
1	Exploratory Sketch Submission	Y	Y	Y
2	Exploratory Sketch Conference	Y	Optional	Optional
3-4	Department Review Report	Y	Y	<u>Y</u>
Rezoning/Preliminary Plan				
1	Rezoning\Preliminary Plan Submission	Y	Y	Optional
3	Dept. Notifies TAC agency	Y	Y	Optional
7	TAC Review	Y	Y	Optional
9	Dept. Report	Y	Y	Optional
12	Ordinance Introduction	Y	N	N
14	Dept./Planning Board Hearing	Y	Y	Optional
18	PB Business Meeting\Recommendation	Y	N	Optional
20	County Council Hearing\ Decision	Y	N	N
24	County Council Decision Deadline	Y	N	N
Record Plan Submission				
1	Record Plan Submission	Y	Y	Y
3	Department Review Approval	Y	Y	Y
4	Minor Plan Recordation	N	N	Y
8	Rezoing / Major Plan CC Consent	Y	Y	N
9	[Rezoning/Major Plan Recordation	Y	Y	N
* Week numbers are intended for guidance only. (Y-required, N-not required)				

Sec. 40.31.111. Actions on rezoning applications.

Applications (including county-initiated rezonings, pro-active rezonings, Hometown Overlay rezonings, and comprehensive rezonings) to amend the zoning map of New Castle County shall be heard and considered by the County Council only during its first regularly scheduled meeting in February, June and October of each calendar year. If County Council tables the rezoning ordinance for the purpose of obtaining more information, a final decision may be rendered outside the time constraints of the triannual rezoning dates. All rezoning amendment applications shall be processed in accordance with the provisions of this Article and the applicable provisions of this Code. To the extent that the Department review of an application is not completed prior to one (1) of the scheduled meeting dates, the application will be heard and considered at the next scheduled date. Historic Review Board initiated historic district overlay rezonings and land development plans that are classified as redevelopment or Brownfields pursuant to Section 40.08.130 (B) (6), may be heard and considered by County Council at any time.

Sec. 40.31.112. Exploratory sketch plan review/conference.

A. *Applicability.*

1. A pre-exploratory sketch plan review conference is required for all rezoning requests and major residential subdivisions. An applicant may request a pre-exploratory sketch plan review conference for all other major or minor plans at any time. Subsequent to the conference, an exploratory sketch plan with the level of detail listed in Appendix 1, Section 2 should be submitted within six (6) months to facilitate thorough Departmental review. This will result in the issuance of the exploratory sketch plan review letter upon which the timeframes of Section 40.31.390 are based.
2. An exploratory sketch plan review is required for all land development plans, including those proposals for which a rezoning is sought.

B. *Exemptions.* The Department shall have the authority to waive plan review requirements for County-initiated rezonings, administrative adjustments or rezonings not requiring a minor or major plan. The pre-exploratory sketch plan conference may also be waived when it is determined by the Department, after a review of the submission that no departmental concerns exist.

C. *Pre-exploratory sketch plan review conference.* The purpose of the pre-exploratory sketch plan review conference is to familiarize the applicant with principles of conservation design, departmental concerns and with the applicable provisions of this Chapter, as well as to permit the Department to assess the proposal and to identify any service problems or concerns in conjunction with the applicant's objectives. If additional studies and/or information are required for the proposed project, those studies and/or information must be provided to the Department prior to the rezoning/preliminary plan submission.

The Department shall use the pre-exploratory sketch plan review conference to also identify conservation, open space and development areas. Site design and management practices shall also be examined to determine how minimal disturbance can be achieved while maintaining a high standard of community design. Discussion points will include:

1. Greenway linkages on- and off-site (trails, biodiversity corridors, habitat areas, CNA's, etc.);
2. Interconnectivity issues (pedestrian, vehicular, mass transit, etc.) and access issues;
3. Open space linkages (parks, public and private open space and conservation areas);
4. Article 10 resource protection areas;
5. On-site, of regional scope (extending off-site), fully protected vs. partially protected resources;
6. Soil associations;
7. Farmland concentrations (agricultural districts, preservation easement purchases);
8. Existence and location of historic and cultural resources;
9. Scenic viewsheds or vistas into or out of the site (visual accents and vista points pursuant to County Scenic River and Highway Studies);
10. Natural drainage patterns (pre-development), boundaries and discharged points based on characteristics such as soils, topography, vegetation and other local watershed issues, and;
11. Development options given zoning district and resource protection objectives.

A pre-exploratory sketch plan review conference shall be scheduled by the Department or can be requested at anytime by the applicant.

D. *Submission requirements.*

1. All major residential subdivisions shall submit the required application materials pursuant to the provisions contained in this Section and Appendix 1, except that prior to the pre-exploratory sketch plan review conference, only the following information shall be required:
 - a. SLD – 1 form;

- b. Site analysis plan pursuant to Appendix 1 (3) (k);
 - c. One or more concept plans with defined conservation, open space and development areas;
 - d. All adjacent recorded subdivision and development plans;
 - e. Sanitary sewer location and all possible tie-ins;
 - f. All existing adjacent transportation, pedestrian and open space inter-connections;
 - g. The required review fee, and;
 - h. All requirements of D (4) and D (5) of this Section.
2. The applicant shall submit all exploratory sketch plan application materials pursuant to the provisions contained in Appendix 1, including the applicable fee and all other information required by this Chapter.
3. *Traffic impact study.* For all major plans and rezonings, the applicant shall submit traffic information including:
 - a. Approximate vehicle trips per day during the week and the weekend, and the a.m. and p.m. peak hour trips generated by the proposed development;
 - b. Road conditions and access geometry including roadway surface, horizontal, and vertical alignment conditions associated with the access and egress location(s) to the adjoining roadway;
 - c. Accident data within the area of influence for the last three (3) years for the roadway in which the development is proposed to have access and egress; and
 - d. Existing peak hour level of service at intersections in the area of influence of the proposed development, if available. In order to expedite the review of this information, the applicant may, at its option, provide the foregoing information to the Department and DeIDOT in advance of the scheduled preapplication conference.
4. It is the applicant's responsibility to inform the County of any known restrictions or legal impediments which would interfere with or prevent the implementation of the proposed development.
5. All current county taxes, school taxes and sewer service fees must be paid or not

delinquent at the time of the application.

6. The Department will return to the applicant any incomplete submission or those submissions that do not substantially comply with all provisions of the County Code.

E. *Public hearing for exploratory sketch plans.*

1. Upon a finding that the exploratory sketch plan is generally in compliance with this Chapter and prior to exploratory sketch plan approval, all major land development plans shall be subject to a public hearing. The Department shall schedule the application for the next available Planning Board public hearing with proper notice and posting. The sole purpose of the public hearing will be to elicit comments from the public concerning the proposed plan.
2. The applicant shall make a presentation of the proposed development at the public hearing. The public shall have the opportunity to comment and ask questions regarding compliance with the UDC and potential adverse impacts on adjoining lands and the community. Recommendations may be offered to enhance and complement transitions to nearby land uses that are consistent with and do not contradict requirements and standards of the UDC.
3. Following the public hearing, the Department shall prepare a report summarizing the comments received at the hearing. The comments from the report will be included in the Department's exploratory sketch plan review comments. The Department may require submission of a revised exploratory sketch plan addressing the comments contained in the report. The Department shall forward the report to specific TAC agencies, as applicable, to be addressed during preliminary plan review.

F. *Exploratory plan review letter.* The Department will issue a written review letter that identifies any concerns relating to Chapter compliance or other factors the applicant must consider.

The exploratory plan review letter shall inform the applicant of the Department's findings of plan approval, plan approval with modifications or plan denial.

1. The response shall list any other actions, environmental reports or other special studies required prior to subsequent plan submissions.
2. If applicable, the Department shall respond to the appropriateness of a rezoning request.
3. For rezonings and major plan reviews, the Department will determine if a traffic impact study is required. If a traffic impact study is required, a scoping meeting shall be scheduled pursuant to Article 11. In the event that a TIS is required, the

Department shall not be required to issue comments on the exploratory sketch plan until the TIS is found to comply with Article 11. If the TIS determines that the LOS requirements of Article 11 cannot be satisfied by the applicant, the Department may defer any further review and may not accept a rezoning or preliminary plan application.

4. For major residential subdivisions, the department shall not issue a formal review letter as a result of the pre-exploratory sketch plan review conference. The Department's exploratory sketch plan review letter will be issued after the detailed exploratory sketch plan submission is made with the level of detail required by Appendix 1, Section 2. Upon issuing a formal review letter, each subsequent submission shall be submitted with an additional review fee.
- G. *Subsequent submissions.* An applicant shall have twelve (12) months from the date of the exploratory plan review letter to proceed forward to the next review stage (i.e. the submission of a preliminary plan or record plan). For major plans and all rezonings, and upon completion of all studies, if any, and the exploratory sketch plan is approved, the applicant shall be entitled to file a rezoning/preliminary plan application with the Department. For minor land development plans, a record plan may be submitted if the exploratory sketch plan is approved.

For all major residential subdivisions, the applicant shall have six (6) months from the date of the pre-exploratory sketch plan review conference to submit an exploratory plan. The Department may require a new pre-exploratory sketch plan review conference if an exploratory sketch plan submission is not made within six (6) months.

Sec. 40.31.113. Rezoning/preliminary plan application.

- A. *Applicability.* Applications for rezonings must be submitted by the established deadline for the triannual rezoning process. Preliminary plans without a rezoning may be submitted at any time and will be scheduled for a public hearing. The plan shall not propose any development exceeding the limits included in the traffic impact study. If development is proposed beyond that which was evaluated in the TIS, the traffic impact study must be reevaluated by the Department and DelDOT prior to any further review.
- B. *Submission requirements.* The applicant shall submit a preliminary plan pursuant to the requirements of Appendix 1, including the applicable fee. The applicant shall provide all TAC agencies with copies of the rezoning application, preliminary plan and any required studies or reports. In the Traditional Neighborhood (TN) District, the design guideline for the entire development for architecture, signs, landscaping, streets, and public spaces shall be submitted.
- C. *Department and TAC review and.* The Department shall notify TAC agencies to submit comments for applications scheduled for public hearing. The Department shall review the TAC comments and shall prepare a preliminary plan and TAC report prior to the public hearing. An applicant shall have twelve (12) months from the date of the preliminary plan and TAC report to proceed forward to the next review stage (i.e. the submission of a

record plan). If applicable, the Department's report shall include a discussion as to the appropriateness of the rezoning.

- D. *County Council initiated rezonings.* At the applicant's request, the Department shall create a title and prepare the exhibits necessary for the introduction of a rezoning ordinance.
- E. *Department/Planning Board public hearing.*
 - 1. *Rezonings.* The Department shall establish public hearing dates based upon the triannual rezoning process. Following the introduction of a rezoning ordinance, an application shall be scheduled for the next triannual public hearing. Consideration of a rezoning shall include discussions of the plan's conformance with the Comprehensive Development Plan, impact upon the surrounding area and infrastructure, compatibility of land use, intensity and scale of proposed development, the technical aspects of the associated plan, and any other Chapter requirements.
 - 2. *Preliminary plans without rezoning.* The Department shall establish public hearing dates throughout the year. Following the issuance of the preliminary plan and TAC report, the preliminary plan shall be scheduled for the next public hearing. Consideration of plans shall include public comment, discussions of the technical aspects of the plan and Chapter compliance. It is not the purpose of this hearing to examine the appropriateness of the proposed use or its intensity and scale.
- F. *Recommendation report and/or preliminary plan report.*
 - 1. *Rezonings.* At a scheduled Planning Board business meeting, the Department and the Planning Board shall issue a recommendation to either approve the rezoning and the preliminary plan, deny the rezoning and/or find the plan unsatisfactory, in which case a revised preliminary plan must be submitted. A written recommendation of the Department and the Planning Board shall contain specific findings of fact resulting from the TAC report, the public hearing and Department analysis. In the event that a preliminary plan is found to be unsatisfactory, the processing of the application may result in a deferral to the next triannual rezoning cycle. The recommendation report, including an approved preliminary plan shall be transmitted to County Council for consideration.
 - 2. *Preliminary plans without rezoning.* The Department may either approve the preliminary plan or find it unsatisfactory, in which case a revised preliminary plan must be submitted. If a preliminary plan is approved by the Department, a record plan may be submitted.
- G. *Council hearing and decision.* Upon receipt of a rezoning recommendation report from the Department and Planning Board and within the time constraints of the triannual

rezoning process, County Council shall hold a public hearing and render a decision. A simple majority or seven (7) votes shall be required to approve the rezoning ordinance when the Department recommends approval. A two-thirds (2/3) majority or nine (9) votes shall be required to approve the rezoning ordinance when the Department recommends disapproval. If County Council tables the rezoning ordinance for the purpose of obtaining more information, a final decision may be rendered outside the time constraints of the triannual rezoning dates. If County Council adopts the rezoning based upon the associated preliminary plan, a record plan may be submitted to the Department. The record plan submitted to the Department shall be submitted in strict accordance with the development depicted on the approved preliminary plan that was relied upon by County Council when it granted the rezoning.

Sec. 40.31.114. Record plan submission.

Record plan submissions shall not be accepted if the date of Department receipt is greater than one (1) year from the date of the exploratory plan review letter for minors or preliminary plan and TAC report for majors or rezonings. The record plan shall be in strict conformity with the approved exploratory or preliminary plan. If the Department determines that the record plan is not in strict conformity with the approved exploratory or preliminary plan, the submission of a revised exploratory or preliminary plan shall be required. No development will be permitted until the record plan is submitted in strict conformity with the exploratory or preliminary plan. In addition, no resubdivision plan shall be accepted unless it is also in strict conformity with the exploratory plan.

- A. *Submission requirements.* The applicant shall submit a record plan pursuant to the requirements in Appendix 1, including the applicable fee. Any agreements, surety, maintenance declarations or any other legal documents required by this Chapter.
1. If the plan proposes changes to private open spaces or common facilities delineated on an existing plan, a petition supporting the record plan shall be included with the submission. The petition shall be executed by at least two-thirds (2/3) of the lot owners of the existing plan having an interest in the private open space or common facilities. In DPUD's or phased developments, if the private open space or common facility is predominately designed for use by lot owners of a delineated section or phase, consent of two-thirds (2/3) of the lot owners in the section or phase containing the private open space or community facility shall be required.
 2. In the Traditional Neighborhood (TN) District the final design guideline for the entire development for architecture, signs, landscaping, streets, and public spaces shall be submitted.
- B. *Department review/approval.* If the plan and all supporting documents comply with this Chapter and any other applicable regulations, the General Manager of the Department shall approve the record plan. The General Manager of the Department of Land Use shall have the ability to approve all minor land development plans on behalf of County

Council. Supporting documents shall include, but are not limited to:

1. Letter of approval from DeIDOT regarding transportation matters.
2. Letter of approval from the State Fire Marshal.
3. Approval from the Engineering Section of the Department regarding drainage and stormwater matters.

C. *Council consent.*

1. For major plans, the record plan shall be forwarded to County Council for its consent. Upon receipt of the plan, County Council shall schedule the matter for its next public hearing, and may take one (1) of the following actions:
 - a. Adopt a resolution approving the record major plan; or
 - b. Table and refer the plan back to the Department, no more than twice, with specific questions relating to technical compliance with this Chapter, State or Federal constitutional requirements, or any other statute or ordinance for which compliance is required. Upon receipt of a Department recommendation reaffirming approval of the plan, County Council shall adopt the resolution of approval, unless a second referral is made because of additional questions or concerns. Upon receipt of the Department's recommendation reaffirming approval of the plan after review of any additional concerns raised by County Council, Council shall adopt the resolution of approval.
2. County Council may use any one (1) or more of the above options subject to the limitations contained in each subparagraph.

D. *Action upon receipt of County Council referral.* Upon receipt of specific questions from County Council, the Department shall respond with its findings and a recommendation. The recommendation shall be one (1) of the following:

1. That the plan be approved, in which case County Council shall adopt the resolution of plan approval at its next scheduled meeting unless a second referral is made, in which case Council shall adopt the resolution of plan approval at its next scheduled meeting following the second approval.
2. That the Department has rescinded its previous approval of the plan for noncompliance, in which case County Council shall withdraw the resolution of plan approval.

E. *Recordation.* Upon final approval or consent pursuant to this Section, the plan shall be recorded at the Recorder of Deeds.

Sec. 40.31.370. Actions by boards or administrative bodies.

After the close of the public hearing before the Planning Board, Board of Adjustment, Historic Review Board or other administrative body, the body conducting the hearing shall consider the merits of the application, all relevant evidence and testimony, and the Department's report. The body conducting the hearing shall thereafter render a decision or recommendations, as appropriate, either to approve, approve with conditions, or disapprove the application based upon the criteria set forth in this Chapter.

- A. All boards or administrative bodies shall issue a written decision within twenty (20) days of the date of the hearing. Provided, however, that the board or body may announce an oral decision following the hearing to be supplemented by a written decision.
- B. All decisions or recommendations shall be set forth in writing and include the following:
 - 1. A statement of specific findings of fact including the basis upon which such facts were determined.
 - 2. A brief statement of the applicable provisions of this Chapter or any other relevant standards or regulations.
 - 3. An analysis based upon the applicable provisions of this Chapter and the findings of fact.
 - 4. A statement of approval, approval with conditions, or disapproval.
 - 5. Any other information deemed necessary by the board or administrative body.
- C. *Council votes.* Whenever County Council is required to vote on an action, a simple majority or seven (7) votes shall be required to approve any land use application when the Department recommends approval. A two-thirds (2/3) majority or nine (9) votes shall be required to approve the land use application when the Department recommends disapproval.

Sec. 40.31.390. Time limits and expiration.

- A. Land use application decisions are effective as of the date the written decision is issued. The decision may be either one of approval, conditional approval, or disapproval. The expiration time limits of a land use application decision contained in Table 40.31.390 shall commence on the date of the first written decision within each stage of the application review process. Where indicated in Table 40.31.390, the General Manager of the Department of Land Use may [~~twice~~] grant [~~a~~] three (3) month extension(s) of time for circumstances beyond the applicant's control and shall state in writing the reasons therefore.

**Table 40.31.390
TIME LIMITS**

<i>Application Type</i>	<i>Time Limitation (months)</i>	<i>Extensions</i>	<i>Action Required to Avoid Expiration</i>
Special use	24	0	The building, structure or parcel(s) has been used for the purposes set forth in the approval unless specified otherwise in the approval; the special use may also require periodic review at which time the approval could terminate; or the special use is utilized on a plan pursuing department approval or recordation; the special use shall expire if the plan expires or sunsets
Variance	24	0	Construction has commenced implementing the variance and is diligently pursued to completion; or the variance is utilized on a plan pursuing department approval or recordation; the variance shall expire if the plan expires or sunsets
Limited use	12	0	The building, structure or parcel(s) has been used for the purposes set forth in the approval
Zoning permit	12	0	Construction has commenced implementing the approved use and is diligently pursued to completion or the building, structure or parcel(s) has been used for the purposes set forth in the approval
Exploratory plan review letter	12	2	Submission of the next plan required (i.e. Preliminary Plan or Record Plan) is made
Preliminary plan report or for a rezoning the department/planning board rezoning recommendation report	12	2	Submission of the Record Plan is made
Record Plan Approval	18	2	Final approval of the Record Plan by the Department is obtained

B. After a rezoning of a property by County Council, no ordinance to amend the zoning map regarding the zoning designation of the property shall be considered until the expiration of three (3) years from the date of the rezoning except for zoning corrections pursuant to Section 40.02.110 C, New Castle County initiated rezonings, and comprehensive

rezonings. No zoning map amendment that would change the zoning designation of property depicted on a record plan shall be considered until the expiration of the time limit provided for a record plan in Table 40.31.390 above, except for zoning corrections pursuant to Section 40.02.110 C.

Division 40.33.300. General definitions.

This Division contains the definitions of words used in this Code.

Abandonment.....

Plan, preliminary. A plan of a subdivision or of a land development, including all required supplementary data, showing the approximate proposed street and lot or site layout, or a plan of existing private streets to be dedicated to public use, as a basis for consideration by the Department and the Technical Advisory Committee prior to the preparation of a record plan.

.....

Plans, construction. The architectural or engineering drawings showing the construction details and the types of material for the physical structures and facilities, excluding dwelling units, to be installed in conjunction with the development of the project.