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Legislative District 18
Montgomery County

Health and Government Operations
Committee

Subcommittees

Insurance and Pharmaceuticals
Health Occupations and
Long-Term Care

The Maryland House of Delegates
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November 1, 2021

Open Meetings Compliance Board
c/o Attorney General's Office
200 St. Paul Place,
Baltimore, MD 21202
via email to OpenGov@oag.state.md.us

Re: Montgomery County Development Review Committee

I am writing to ask the Open Meetings Compliance Board to render an opinion on whether the Montgomery County Development Review Committee (DRC) is in compliance with the open meetings act. The DRC is a unit of government within the Montgomery County Planning Board of the Maryland National Capital Park and Planning Commission.

I believe that the DRC is a public body and fails to comply with several requirements of the act:

- DRC meeting agendas are posted online in advance but lack the "location" information that would allow members of the public to attend
- The DRC fails to post past meeting agendas/notices online or make them available for public inspection
- The DRC fails to approve meeting minutes or make them available online or make them available for public inspection

I reviewed DRC meeting materials for three past meetings: a physical meeting that took place on September 6, 2016 and a virtual ones that took place on April 13, 2021 and on October 26, 2021.

The DRC is a public body because it is created by law in the Montgomery County code, Chapter 50, Subdivision of Land:

ARTICLE I. IN GENERAL

DIVISION 50.1. PURPOSE, Section 2.2. Definitions

Board: The Montgomery County Planning Board of the Maryland-National Capital Commission.

ARTICLE IV, ADMINISTRATION.

DIVISION 50.10. ADMINISTRATIVE PROCEDURES

Section 10.4. Establishment of a Development Review Committee

The Board must establish a review committee consisting of Planning Department Staff and staff of any County, State, and Federal agency; municipality; and utility companies to which a plan has been referred. The committee must meet with applicants and other interested persons to facilitate agency review of the plan, and may reconcile conflicting requirements by different agencies. Each reviewing agency must designate a representative to the committee. For the purpose of plan review, the head of any participating County agency must delegate authority to a representative to speak for the agency. (Ord. No. 18-19, §2.)

The DRC normally meets about twice per month and consists of representatives of various agencies that review development applications. Public utilities are also included as participants. The Montgomery County Planning Board's Planning Department staffs and administers the DRC whose meetings serve as initial vetting for land use plans that later come before the Montgomery County Planning Board.

The Montgomery County Planning Department does post DRC meeting notices on their website in advance (<https://montgomeryplanning.org/development/development-review/>). The public is welcome to attend and observe, but notices for meetings conducted virtually such as on April 13, 2021 and on October 26, 2021, lack the "location" information that would allow a member of the public to "attend". Only DRC members and project applicants are provided with the information needed to view the meeting in real time.

Past meeting agendas/notices are available via MPIA request but are not linked on the website and are not easily obtained for public inspection as is required for agendas.

The DRC is not in the practice of approving the minutes of past meetings. There are no DRC meeting minutes posted to the website. DRC meeting notes/comments are available via MPIA request, but are not readily available for public inspection as is

required by the act for minutes. DRC meeting notes/comments obtained via MPIO request lack information that would normally be contained within minutes such as the meeting location.

Recordings of the DRC's virtual meetings are available via MPIO request but are not posted to the Board's website nor are they easily obtained for inspection as required by the act.

By contrast, meetings of the Montgomery Planning Board appear to be in better compliance with the act. Meetings are easily accessible via live streaming. Meeting agendas and recordings are posted on their website.

I contacted the Montgomery County Planning Department in June 2021 to ask if they would voluntarily bring the DRC into better compliance with the act. Planning Director Gwen Wright, her staff and I discussed the matter at a face-to-face meeting in June 2021 and also via email in August 2021. The DRC practices have remained unchanged.

It should not be burdensome for the Montgomery County Planning Board's Planning Department (which administers both the DRC and the Board) to bring the DRC into compliance with the act. I ask the Open Meetings Compliance Board to determine whether this is required.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Carr', with a stylized, cursive script.

Delegate Al Carr

attachments ([google drive folder](#))

- DRC meeting notices for September 6, 2016, April 13, 2021 and October 26, 2021
- DRC meeting "comments" from September 6, 2016 obtained via MPIO
- [Copy of recording of 4/13/21 DRC meeting item obtained via MPIO](#)