



Subdivision Regulation Amendment (SRA) No. 12-04, Minor Subdivisions- Ownership Lots

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Completed 1/10/13

Description

SRA No. 12-04 proposes to clarify the existing provisions of Chapter 50 for minor subdivisions pertaining to ownership lots. Currently, the creation of deed, mortgage or lease lines within a commercial, industrial or multi-family residential lot does not require the approval of a new subdivision plan. Within this type of subdivision and typically for the purpose of separately financing different portions of the subdivision, the owner can create or delete internal lots to reflect a new deed, mortgage or lease line and may plat under the minor subdivision procedure. All prior conditions of approval for the original subdivision remain in full force and effect and the number of trips generated on any new lot will not exceed those permitted for the original lot or as limited by an Adequate Public Facilities agreement. Any necessary cross-easements, covenants or other deed restrictions necessary to perpetuate previous approvals must be executed prior to recording the record plat.

SRA 12-04 clarifies that the creation or deletion of internal lots to reflect a deed, mortgage or lease line and the creation of ownership lots within a previously recorded lot (creating lines within lots or areas within a subdivision) are permitted under this minor subdivision provision. In either scenario, conditions of approval for the original subdivision must be maintained.

Summary

Staff recommends approval of SRA 12-04, with minor modifications/suggestions as discussed below.

Section (4)(A) of SRA 12-04 (lines 20-38) reorganizes and clarifies the existing language of the provision. Section (B) (lines 39-49) extends the ability to create internal ownership lines that are not actual lots of record (typically for commercial or multi-family uses). Staff has no issue with what the section accomplishes. However, we do find the use of the term ownership “lot” confusing and an inaccurate vernacular for these internal “non-lots” within subdivision terminology. More applicable terminology could be “ownership parcel”, “internal division of property”, or “ownership subplot”—distinguishing the internal ownership areas from the original subdivided “lot”. Staff has included the term “ownership subplot” as a suggestion in the SRA.

The language in Section B also makes clear that ownership lots are only for the convenience of the owner, are not to be used to determine building setbacks or to establish conformance with any other law or regulation and do not change any condition of approval for the subdivision that created the lot in the original subdivision.

GR/MD/am

ATTACHMENTS

1. SRA 12-04 as modified by staff

Ordinance No.:
Subdivision Regulation Amend. No.: 12-04
Concerning: Minor Subdivisions –
Ownership Lots
Revised: 12/4/12; Draft No. 1
Introduced: December 11, 2012
Public Hearing:
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Floreen

AN AMENDMENT to the Subdivision Regulations to:

- (1) clarify the provisions for ownership lots in the minor subdivision process; and
- (2) generally amend the provisions for ownership lots

By amending

Montgomery County Code
Chapter 50. SUBDIVISION OF LAND.
Section 50-35A. Minor Subdivisions — Approval Procedure.

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by introduced Subdivision Regulation Amendment.</i>
[Single boldface brackets]	<i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>
<u>Double underlining</u>	<i>Added to the Subdivision Regulation Amendment by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i>
* * *	<i>Existing law unaffected by Subdivision Regulation Amendment.</i>

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Section 50-35 is amended as follows:**

2 **Sec. 50-35A. Minor Subdivisions-Approval Procedure.**

3 (a) *Preliminary Plan Not Required.* The submission of a preliminary
4 subdivision plan, under Sec. 50-34 and Sec. 50-35, is not required for:

5 * * *

6 (4) Further Subdivision of a Commercial, Industrial, or Multi-Family
7 Residential Lot to Reflect a Change in Ownership, Deed, Mortgage or
8 Lease Line. [The creation of deed, mortgage or lease line within a
9 commercial, industrial or multi-family residential lot does not require
10 the approval of a new subdivision plan. At the owner’s discretion, the
11 creation or deletion of internal lots to reflect a new deed, mortgage or
12 lease line may be platted under the minor subdivision procedure. All
13 prior conditions of approval for the original subdivision remain in full
14 force and effect and the number of trips generated on any new lot will
15 not exceed those permitted for the original lot or as limited by an
16 Adequate Public Facilities agreement. Any necessary cross-
17 easements, covenants or other deed restrictions necessary to
18 perpetuate previous approvals must be executed prior to recording the
19 record plat.]

20 (A) A plat to:

- 21 — create or delete internal lots to reflect a deed, mortgage,
22 or lease line within a commercial, industrial, or multi-
23 family residential lot; or
24 — create ownership sublots within a previously recorded lot
25 may, at the owner’s discretion, be recorded under the
26 minor subdivision procedure if:

27 (i) all conditions of approval for the original subdivision that

- 28 created the lot remain in effect;
- 29 (ii) the total maximum number of trips generated on all new
- 30 lots or ownership sublots created will not exceed the
- 31 number of trips approved for the lot in the original
- 32 subdivision;
- 33 (iii) all land in the lot in the original subdivision is included in
- 34 the record plat; and
- 35 (iv) any necessary cross easements, covenants, or other deed
- 36 restrictions necessary to implement all the conditions of
- 37 approval on the lot in the original subdivision are
- 38 executed before recording the record plat or ownership
- 39 plat.
- 40 (B) For an ownership subplot, the lot in the original subdivision is
- 41 considered a single lot of record. Any ownership subplot created
- 42 under this subsection is only for the convenience of the owner;
- 43 an ownership subplot is not:
- 44 (i) used to determine building setbacks or to establish
- 45 conformance with any other law or regulation;
- 46 (ii) a bar to receiving a building permit or other approval
- 47 necessary to develop or use any of the ownership sublots
- 48 and structures on such lots;
- 49 (iii) a change to any condition of approval for the subdivision
- 50 that created the lot in the original subdivision.

51 * * *

52 **Sec. 2. Effective date.** This ordinance takes effect 20 days after on the date
53 the ordinance becomes law;

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date